



**Université libre de Bruxelles**

**Observatory of Religions and Secularism  
(ORELA)**

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RELIGION AND SECULARISM IN THE EUROPEAN UNION

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**Report**

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Caroline Sägesser

Jan Nelis

Jean-Philippe Schreiber

Cécile Vanderpelen-Diagre

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## Foreword

Since 2012, the Observatory of Religions and Secularism (ORELA) has been offering online analyses pertaining to religions and beliefs and to church-state relations, written by experts from the CIERL and various European universities. ORELA also offers a daily press review on religion and beliefs, covering Belgium but also Europe and beyond. Thanks to a network of experts in the 28 EU member states, ORELA also provides a summary of every national situation.<sup>1</sup>

ORELA has published annual reports on religion and secularism in Belgium, since 2013.

Today ORELA also offers a report on religion and secularism in the European Union. This first report focuses on events that took place between January 2014 and December 2016. It has mainly been established on the basis of the ORELA press review and on analyses provided by ORELA correspondents. We hereby wish to express our most sincere gratitude to these correspondents: **Ann af Burén** (Södertörn University), **Milda Alisauskiene** (Vytautas Magnus University, Kaunas), **Anthony Bradney** (Keele University), **Giuseppe Casuscelli** (Università degli Studi di Milano), **Henrik Reintoft Christensen** (Aarhus University), **Brian Conway** (Maynooth University), **Michał Czelny**, **Marta Ordon** and **Michał Zawiślak** (John Paul II Catholic University, Lublin), **Olivier Gillet** (Université libre de Bruxelles), **Daniela Kalkandjieva** (Sofia University St. Kliment Ohridski), **Henrique Machado-Jorge** (Lusofona University of Humanities and Technologies, Lisbon), **Julia Martínez-Ariño** (Max Planck Institute for the Study of Religious and Ethnic Diversity, Göttingen), **Konstantinos Papastathis** (University of Luxembourg), **Egon Pelikan** (Institute for Historical Studies, Koper), **Richard Potz** (Vienna University), **Ringo Ringvee** (University of Tartu), **Gergely Rosta** (University of Münster), **Antoinette Reuter** (Centre de Documentation sur les Migrations humaines, Luxembourg), **Victor Roudometof** (University of Cyprus), **Anita Stasulane** (Daugavpils University), **Agnieszka Szumigalska** (Masaryk University/VU University Amsterdam), **Teemu Taira** (University of Helsinki), **Miroslav Třížik** (Institute for Sociology, Slovak Academy of Sciences), **Sylvie Toscer-Angot** (Université Paris Est Créteil, GSRL-CNRS), **Mario Vassallo** (University of Malta), **Roman Vido** (Masaryk University), **Siniša Zrinščak** (University of Zagreb), **Anne-Laure Zwilling** (CNRS & University of Strasbourg).

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<sup>1</sup> ORELA analyses and reports are freely accessible on this website : <http://www.o-re-la.org/index.php>

## I. Religious diversity and secularization in the Old World

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At the start of the 21<sup>st</sup> century, Europe's religious landscape is characterized by the reality of a large share of the population that no longer adheres to any religion and by the coexistence of a growing number of religious denominations, mainly as a result of immigration during the past century.

### I.1. The secularization of the West ... and of the East

Over the last decades, religious practice has been declining everywhere in Europe. The Old World appears to be the least religious region of the planet, sometimes nicknamed the “godless continent”. In January 2016, a survey conducted by a humanist organization even claimed that in Iceland, 0% of the population believed that the universe had been created by God.<sup>2</sup> Nevertheless, people have recently questioned this trend: they claim that new migrations in the West and a newfound piety in the East — in the former communist countries — might have put an end to secularization. This view is partial and oriented: evidence shows that secularization is still progressing, that immigrants, while indeed more religiously inclined than the old-stock population, are also permeable to secularization. In November 2016, a report published by the French *Institut National d'Études Démographiques* (INED) indicated that religious practice among Muslim families was also declining among the younger generation.<sup>3</sup>

Twenty-five years — a generation — after the fall of communism, countries formerly part of the “atheist bloc” have digested the religious revival brought about by democracy and also display signs of secularization. Yet the European Union remains highly diversified when it comes to religious beliefs and practices, and this diversity may very well be the continent's most significant characteristic. In 2010, a Eurobarometer poll on biotechnology sought to correlate people's attitudes to new technologies with their religious background, asking whether or not people believed in a personal God or some sort of spirit.<sup>4</sup> The survey showed wide differences in the proportion of people who believed in God, ranging from 94% in Malta to 16% in the Czech Republic. Generally speaking, the southern part of the continent appears to hold a higher proportion of believers (regardless of whether they are Catholic or Orthodox) than the northern part, with the notable exceptions of Ireland (70% of believers) and Poland (79% of believers). It is often stated

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<sup>2</sup> Lífsskoðanir-Íslendinga-Siðmennt, November 2015, <http://sidmennt.is/wp-content/uploads/L%C3%ADfssko%C3%B0anir-%C3%8DsIslendinga-Si%C3%B0mennt.pdf> (accessed 10 October 2017).

<sup>3</sup> Cris BEAUCHEMIN, Christelle HAMEL et Patrick SIMON (dir). *Trajectoires et origines. Enquête sur la diversité des populations en France*. Ined éditions, coll. Grandes enquêtes, Novembre 2016

<sup>4</sup> Special Eurobarometer 341, *Biotechnology report*, October 2010, pp. 203–204. [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_341\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_341_en.pdf) (accessed 15 July 2016).

that former communist countries have a lower percentage of believers; indeed, this survey found 52% of believers in the former West Germany, but only 19% of them in the former East Germany. But Romania, Poland, Croatia and Slovakia, where a large share of the population believe in God, contradict this assertion. Yet the average proportion of people in the EU who believe in God, one out of two, is the lowest of any region on the planet.

Country	Believe there is a God	Believe there is some sort of spirit or life force	Don't believe there is any sort of spirit, God or life force	Don't know
Austria	44	38	12	6
Belgium	37	31	27	5
Bulgaria	36	43	15	6
Croatia	69	22	7	2
Cyprus	88	8	3	1
Czech Republic	16	44	37	3
Denmark	28	47	24	1
Estonia	18	50	29	3
Finland	33	42	22	3
France	27	27	40	6
Germany	44	25	27	4
Greece	79	16	4	1
Hungary	45	34	20	1
Ireland	70	20	7	3
Italy	74	20	6	0
Latvia	38	48	11	3
Lithuania	47	37	12	4
Luxembourg	46	22	24	8
Malta	94	4	2	0
Netherlands	28	39	30	3
Poland	79	14	5	2
Portugal	70	15	12	3
Romania	92	7	1	0
Slovakia	63	23	13	1
Slovenia	32	36	26	6
Spain	59	20	19	2
Sweden	18	45	34	3
UK	37	33	25	5
EU	51	26	20	3

Proportion of people who believe in God or some sort of spirit / life force (2010)<sup>5</sup>

The same survey targeted people's religious affiliation, again showing wide differences between countries. In Malta, 96% of the population self-identified as Catholic, and in neighbouring Cyprus, 93% of them declared themselves Christian Orthodox. In the Czech Republic, 61% identified as

<sup>5</sup> Special Eurobarometer 341, *Biotechnology report*, October 2010, p. 203. [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_341\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_341_en.pdf) (accessed 15 July 2016).

atheist or non-believers, but only 7% in Austria. In Estonia, 30% of the population did not know how to self-identify, while in Greece, nobody experienced that difficulty.<sup>6</sup>

Interestingly, Christianity remains by far the religion of a majority of European citizens; 70% of them identify as Christians, while only 51% believe there is a God. In recent years, a growing proportion of people began seeing religion as much a part of their cultural identity as of their faith.

It must be stressed that such a survey, polling limited numbers of people from each country, carries larger margins of error for smaller denominational groups. More detailed statistical data is provided by regular European Value Study (EVS) surveys, of which national results are analysed in individual contributions in a book recently published by ORELA.<sup>7</sup>

## I.2. The Catholic Church under the leadership of its first non-European pope

In the 1960s, the Second Vatican Council brought about a revolution in church practices. Yet what appeared to be a promising adaptation to modernity failed to deliver. At the start of the 21<sup>st</sup> century, the Catholic Church in Europe appeared more distant than ever from its followers, under the leadership of a conservative theologian, Pope Benedict XVI (Joseph Ratzinger). The membership of the Catholic Church, as well as its future, seemed to lie in other continents, mainly in America. This may explain why in the spring of 2013 the cardinals elected as the successor to Pope Benedict XVI Jorge Mario Bergoglio, a bishop from Argentina, the first ever pope to come from the southern hemisphere. Yet, since his election, Pope Francis has sparked enthusiasm in Europe as well, prompting some commentators to note a “Catholic revival”. While it may still be too early to call, Pope Francis above all seems to stand for a change in style rather than substance; it has led media around the globe to define “Papa Bergoglio”, who was chosen as *TIME* magazine’s man of the year in December 2013, as a new, modern kind of pope, despite the fact that he has yet not enacted any significant change in the Church’s position on crucial matters. “*Symbolic actions such as refusing to live in the Vatican papal apartments, driving around in an open hood, low-cost papamobile, having himself photographed in the company of and by admiring youngsters: all this has contributed to the creation and worldwide diffusion of a pop star-like image, that of the cuddly, smiling pope. However, this status as something of an icon also hides a less colorful picture, as Francis’s concrete impact seems to be mainly limited to an inwardly directed operation*”.<sup>8</sup> Perhaps

6 Special Eurobarometer 341, *Biotechnology report*, October 2010, p. 204. [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_341\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_341_en.pdf) (accessed 15 July 2016).

7 J. NELIS, C. SÄGESSER & J-P. SCHREIBER (eds), *Religions and secularism in the EU: state of affairs and current debates*, Peter Lang, Bern-Berlin-Bruxelles-Frankfurt am Main-New York-Wien, 2017.

8 Jan NELIS, “A groovy kind of Catholicism: Jorge Mario Bergoglio in the Vatican, between substance and style”, [http://www.o-re-la.org/index.php?option=com\\_k2&view=item&id=1156%3Aa-groovy-kind-of-Catholicism-jose-mario-bergoglio-in-the-vatican-between-substance-and-style&Itemid=85&lang=fr](http://www.o-re-la.org/index.php?option=com_k2&view=item&id=1156%3Aa-groovy-kind-of-Catholicism-jose-mario-bergoglio-in-the-vatican-between-substance-and-style&Itemid=85&lang=fr) (accessed 15 July 2016)

the modernity of Pope Francis is best illustrated by his use of modern technology; for example, his various Twitter accounts (@Pontifex) in different languages attract millions of followers.<sup>9</sup>

The first encyclical issued by Pope Francis, *Lumen fidei*, in 2013, was largely the work of his predecessor, Benedict XVI. Therefore, the first text reflecting the new Pope's vision is *Laudato Si* ("Praise be to you"), released in June 2015. In *Laudato Si*, the Pope criticizes consumerism and irresponsible development, and calls on the people of the world to take "swift and unified global action" against environmental degradation and climate change.<sup>10</sup> Because of its topic, and because of Pope Francis's popularity, media interest was wide, and the encyclical was generally well received.<sup>11</sup> Its content was praised by many scientists and groups active in the struggle against global warming. However, some observers pointed out that the encyclical also repeated the Church's opposition to abortion and contraception and "gender theory", advocating valuing one's own body in its femininity or masculinity.

Perhaps it was therefore unrealistic to hope for significant changes in the Church's stance on issues such as LGBT rights, divorce and contraception following the *Synod on the Family* (4 to 25 October 2015). The theme of the synod was "the vocation and mission of the family in the Church and in the contemporary world". The synod had been prepared one year before during the 2014 third extraordinary General Assembly of the Synod of Bishops, and hopes among the faithful were high. It can be compared to the expectations raised during the Second Vatican Council (1962–1965) and prior to the announcement of the encyclical *Humanae Vitae* (1968). In the mid-sixties, many Catholics hoped for – and expected - an opening of the Church on issues such as birth control. Instead, in *Humanae Vitae*, Pope Paul VI re-affirmed the orthodox teaching of the Catholic Church regarding married love, and the prohibition of artificial contraception, despite the conclusions of the Pontifical Commission on Birth Control established by his predecessor, Pope John XXIII. The method used by the Church to prepare for the synod was similar to the one used prior to the release of *Humanae Vitae*: it carried out a wide consultation of Catholics by questionnaire (3,000 pages gathered for the Synod). It induced in the laity the near-certainty to see the gap separating them from the clergy narrowed. They hoped that the opportunity had come to reconcile, at least partially, practices and doctrine, in their personal life and sexuality, and to bridge the gap opened by *Humanae Vitae*. Yet it was not to be.<sup>12</sup> A few days before the opening of the synod, Vatican priest

9 « Les quinze millions de followers du pape sur twitter », *Le Figaro*, 18 August 2014, <http://www.lefigaro.fr/flash-actu/2014/08/18/97001-20140818FILWWW00180-twitter-le-pape-a-15-millions-de-followers.php> (accessed 15 July 2016).

10 [http://w2.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco\\_20150524\\_enciclica-laudato-si.html](http://w2.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html) (accessed 15 July 2016).

11 "Pope Francis, in Sweeping Encyclical, Calls for Swift Action on Climate Change" wrote *The New York Times* on its first page.

12 David PATERNOTTE et Cécile VANDERPELEN-DIAGRE, "Le synode sur la famille : la montagne qui accouche d'une souris ?" *Analyse ORELA*. [http://www.o-re-la.org/index.php?option=com\\_k2&view=item&id=1397%3Ale-synode-sur-la-famille-la-montagne-qui-accouche-d-une-souris-%3F&Itemid=85&lang=fr](http://www.o-re-la.org/index.php?option=com_k2&view=item&id=1397%3Ale-synode-sur-la-famille-la-montagne-qui-accouche-d-une-souris-%3F&Itemid=85&lang=fr) (accessed 15 July 2016).



Krzysztof Charamsa came out as gay, announcing his intention to fight the Church's "backward" attitude to homosexuality. He was promptly suspended from carrying out any sacraments, but his coming-out attracted worldwide attention.<sup>13</sup>

Following the two Synods on the Family held in 2014 and 2015, the apostolic exhortation *Amoris Laetitia* (*The Joy of Love*) was issued on 8 April 2016.<sup>14</sup> While not proposing major changes on the Church's stance on subjects like divorce, gay marriage or contraception, the Pope, in the introduction to the text, left room for different interpretations: "*Unity of teaching and practice is certainly necessary in the Church, but this does not preclude various ways of interpreting some aspects of that teaching or drawing certain consequences from it. This will always be the case as the Spirit guides us towards the entire truth...(..) Each country or region, moreover, can seek solutions better suited to its culture and sensitive to its traditions and local needs*".<sup>15</sup> One of the biggest challenges facing the Catholic Church is indeed to maintain a balance between the more progressive aspirations — at least as regards moral issues related to personal life — of the faithful in the wealthy dioceses of Western Europe and North America and the more conservative leaning of the dioceses in the rest of the world. The passage of the text advocating pastors "*to become aware of the need to integrate the divorced and remarried into the life of the Church*" has led to speculations about whether or not the Pope wished to allow those remarried divorcees to communion.

In July 2016 a group of 45 theologians and clergymen petitioned the College of Cardinals to ask for a clarification to prevent heretical interpretations of some excerpts of the encyclical, fearing "a fast and easy spreading of heterodox doctrines concerning marriage and moral law".<sup>16</sup> On the other hand, some observers pointed out that the Pope did not depart from traditional conservatism in this encyclical, particularly as far as the role and position of women were considered.<sup>17</sup> Highly negative public comments made by Pope Francis about gender studies in October 2016 came to support the view of a fairly conservative pontiff.<sup>18</sup>

13 "Vatican fires priest after he came out as gay" *NYDaily News*, 5 October 2015, <http://www.nydailynews.com/news/world/vatican-fires-priest-gay-article-1.2383991> (accessed 15 July 2016).

14 [https://w2.vatican.va/content/dam/francesco/pdf/apost\\_exhortations/documents/papa-francesco\\_esortazione-ap\\_20160319\\_amoris-laetitia\\_en.pdf](https://w2.vatican.va/content/dam/francesco/pdf/apost_exhortations/documents/papa-francesco_esortazione-ap_20160319_amoris-laetitia_en.pdf) (accessed 10 October 2017).

15 *Amoris Laetitia*, paragraph 3.

16 D. HITCHENS, "Theologians: Amoris Laetitia needs clarification against 'heretical' interpretations", *The Catholic Herald*, 18 July 2016, <http://www.catholicherald.co.uk/news/2016/07/18/theologians-amoris-laetitia-needs-clarification/> (accessed 10 March 2017).

17 Mary Ann CASE, "Le patriarcat chez le pape François, et en particulier dans *Amoris Laetitia*", in C. VANDERPELEN-DIAGRE et C. SAGESSE (eds), *La Sainte Famille. Sexualité, filiation et parentalité dans l'Église catholique*, Problèmes d'Histoire des Religions, Bruxelles, Ed. de l'Université de Bruxelles, 2017, pp. 193-208.

18 "Le pape et la théorie du genre: la polémique en cinq questions", *Le Figaro*, 3 October 2016.

Apart from *Amoris Laetitia*, it should be noted that on two delicate subjects at least, the Pope appears to have left the door ajar: the possibility for priests to marry<sup>19</sup> and the ordination of female deacons.<sup>20</sup> In an interview published by the Italian newspaper *La Repubblica* in July 2014,<sup>21</sup> the Pope supposedly declared that he would “find solutions” to the question of celibacy imposed on priests, but that the process would require time. The Vatican press office later denied the content of the interview. Nevertheless, rumours about the Pope’s willingness to change the celibacy rule kept surfacing. In December 2015, Oscar Crespo, a long-time friend of the Pope from Buenos Aires, claimed that the Pope had confided in him that he intended to do away with this archaic law.<sup>22</sup> In August 2016, the Pope established the *Study Commission on the Women’s Diaconate* to review the theology and history of the office of deacon in the Roman Catholic Church, and to examine the question whether women might be allowed to become deacons.<sup>23</sup>

While the Pope did not deliver on the Church’s position on ethical subjects, he is indeed introducing substantial changes in the management of the Church and the organization of the *Curia*. The key words of the reform are coordination and rationalization.<sup>24</sup> The Pope has appointed by pontifical decree a college of nine cardinals — known as the C9 — to draft a new Apostolic Constitution on the Curia, to replace *Pastor Bonus*, enacted by John Paul II in 1988. In the meantime, following their recommendation, in February 2014, the Pope issued the *motu proprio* titled *Fidelis Dispensator et Prudens* establishing a new coordinating agency for the economic and administrative affairs of the Holy See and the Vatican City State.<sup>25</sup>

Indeed, the most important reform undertaken by Pope Francis, shortly after his election, is probably that of the Vatican’s finances. In July 2014, he announced the replacement of Ernst von

19 “le pape promet des solutions pour la question du célibat des prêtres”, *La Libre Belgique*, 13 July 2014, <http://www.lalibre.be/actu/international/le-pape-promet-des-solutions-pour-la-question-du-celibat-des-pretres-53c26b8b3570667a6389efe1> (accessed 15 July 2016).

20 “Francis to create commission to study female deacons in Catholic Church”, *National Catholic Reporter*, <https://www.ncronline.org/news/vatican/francis-create-commission-study-female-deacons-Catholic-church> (accessed 15 July 2016).

21 “Il Papa: Come Gesù userò il bastone contro i preti pedofili” *La Repubblica*, 13 Luglio 2014. [http://www.repubblica.it/cultura/2014/07/13/news/il\\_papa\\_come\\_ges\\_user\\_il\\_bastone\\_contro\\_i\\_preti\\_pedofili-91416624/](http://www.repubblica.it/cultura/2014/07/13/news/il_papa_come_ges_user_il_bastone_contro_i_preti_pedofili-91416624/) (accessed 20 October 2016)

22 “Pope Francis wants to change two major Catholic laws he sees as ‘archaic’”, 3 December 2015, <http://www.Catholic.org/news/hf/faith/story.php?id=59123> (accessed 15 July 2016)

23 Joshua Mc ELWEE, “Francis institutes commission to study female deacons, appointing gender-balanced membership”, *The National Catholic Reporter*, 2 August, 2016.

24 S. MAILLARD, “Le pape François reconfigure sa curie”, <http://www.la-croix.com/Religion/Actualite/Le-pape-Francois-reconfigure-sa-Curie-2014-07-06-1175216> (accessed October 20, 2016).

25 *Apostolic Letter Fidelis Dispensator Et Prudens* 24 February 2014. [http://w2.vatican.va/content/francesco/en/motu\\_proprio/documents/papa-francesco-motu-proprio\\_20140224\\_fidelis-dispensator-et-prudens.html](http://w2.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio_20140224_fidelis-dispensator-et-prudens.html) (accessed 20 October 2016).

Freyberg at the head of the *Istituto per le Opere di Religione* (IOR), the bank of the Vatican, by Jean-Baptiste de Franssu, to be in charge of the second phase of the bank's reform.<sup>26</sup>

Pope Francis has also taken up the fight against the mafia, announcing automatic excommunication for its criminal leaders.<sup>27</sup>

In addition, the Pope appears determined to revitalize the social doctrine of the Church, as is evident in his apostolic exhortation *Evangelii gaudium*, released in November 2013.<sup>28</sup>

In this text, the Pope addresses the obligations of Christians towards the poor and their duty to establish a just economic, political and legal order; he calls for action to address the structural causes of inequality. Reflecting the Pope's social concern, the establishment of the *Dicastery for Promoting Integral Human Development* was announced by *motu proprio* on 17 August 2016. This dicastery combines the work of four Pontifical Councils established following the Second Vatican Council: Justice and Peace, Pastoral Care of Migrants and Itinerant People, Pastoral Assistance to Health Care Workers, and *Cor Unum*. The Pope has given it responsibility for "*issues regarding migrants, those in need, the sick, the excluded and marginalized, the imprisoned and the unemployed, as well as victims of armed conflict, natural disasters, and all forms of slavery and torture*".<sup>29</sup>

On 13 March 2015, Pope Francis announced a jubilee year: The Extraordinary Jubilee of Mercy started with the 2015 Feast of the Immaculate Conception (8 December), an opening day that was also the fiftieth anniversary of the closing of the Second Vatican Council. During the Jubilee year, the Pope exceptionally granted ordinary priests the ability to absolve the sin of abortion, which is normally a prerogative of bishops only. At the closure of the Jubilee, Pope Francis published the pastoral letter *Misericordia et Misera*. Commenting the letter, Mgr Rino Fisichella, president of the Pontifical Council for Promoting the New Evangelization, explained that the Pope intended to make this ability

26 "Finances, médias, retraites : réformes tous azimuts au Vatican", *La Vie*, 9 July 2014, [http://www.lavie.fr/religion/cath%20oliticisme/finances-medias-retraites-reformes-tous-azimuts-au-vatican-09-07-2014-54749\\_16.php](http://www.lavie.fr/religion/cath%20oliticisme/finances-medias-retraites-reformes-tous-azimuts-au-vatican-09-07-2014-54749_16.php) (accessed 20 October 2016).

27 "Le pape excommunie les mafieux de Calabre", *La Croix*, 22 June 2014. <http://www.la-croix.com/Religion/Actualite/Le-pape-excommunie-les-mafieux-de-Calabre-2014-06-22-1168216> (accessed 15 July 2016) ; "guerre ouverte entre l'Eglise italienne et les mafias", 7 July 2014, <http://www.lefigaro.fr/international/2014/07/07/01003-20140707ARTFIG00314-guerre-ouverte-entre-l-eglise-italienne-et-les-mafias.php> (accessed 15 July 2016).

28 *Apostolic exhortation Evangelii Gaudium, to the Bishops, clergy, consecrated persons and the lay faithful* [https://w2.vatican.va/content/francesco/en/apost\\_exhortations/documents/papa-francesco\\_esortazione-ap\\_20131124\\_evangelii-gaudium.html](https://w2.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20131124_evangelii-gaudium.html) (accessed 20 October 2016).

29 "Migrants and refugees at the heart of Pope's new 'Motu Proprio'", *Vatican Radio*, 31 August 2016. [http://en.radiovaticana.va/news/2016/08/31/migrants\\_and\\_refugees\\_at\\_heart\\_of\\_popes\\_new\\_motu\\_proprio/1254747](http://en.radiovaticana.va/news/2016/08/31/migrants_and_refugees_at_heart_of_popes_new_motu_proprio/1254747) (accessed 29 December 2017).

of ordinary priests permanent, meaning canon law was to be updated; this would constitute a significant step.<sup>30</sup>

Pope Francis is well loved by the media; the canonization of former Popes John XXIII and John-Paul II on 27 April 2014 attracted massive media coverage, as do the Pope's travels around the world, much as had been the case at the start of the papacy of John-Paul II. In 2014–2015, Francis travelled to Israel, Jordan, Palestine, South Korea, Albania, France, Turkey, Sri Lanka and the Philippines, Bosnia, Bolivia, Ecuador, Paraguay, Cuba, the US, Kenya, Uganda and Central Africa. He has assumed a role slightly more political than his predecessor: he has taken steps to normalize relations with China,<sup>31</sup> declared himself willing to visit Iraq<sup>32</sup> and repeatedly expressed his support for Christians in the Middle East.<sup>33</sup>

Yet issues that have been tormenting the Catholic Church for many years are still very much present, including the legacy of child abuse by members of the clergy. This issue was once again front-page news when, in August 2014, Cardinal Sean Brady, having reached the age limit of 75, renounced his position as Archbishop of Armagh and Primate of All Ireland.<sup>34</sup> In the past, Brady had resisted pressure to resign in the face of accusations regarding his role in an alleged cover-up of child abuse by priests in his jurisdiction. Pope Francis has taken a firm stand on paedophilia. In July 2014, acknowledging that paedophile priests had been very numerous and included bishops and cardinals, he very strongly condemned the Church's conduct of the past.<sup>35</sup>

Another issue facing the Catholic Church in Europe is the decline in attendance. In most EU countries, the downward trend in church attendance is continuing, despite the fact that occasional (holy days) practice rates remain higher, and that popular manifestations like pilgrimages draw a

30 I. SCARAMUZZI, "Canon law on abortion is going to change, says Fisichella", *La Stampa*, 21 November 2016, <http://www.lastampa.it/2016/11/21/vaticaninsider/eng/the-vatican/canon-law-on-abortion-is-going-to-change-says-fisichella-MLsOz6rLmtKAUSsblusmdO/pagina.html> (accessed 29 December, 2017).

31 "Le pape propose un dialogue fraternel aux pays comme la Chine et le Vietnam", *La Libre.be*, 17 August 2014, <http://www.lalibre.be/dernieres-depeches/afp/le-pape-propose-un-dialogue-fraternel-aux-pays-comme-la-chine-et-le-vietnam-53f077123570667a6393c1e4> (accessed 15 July 2016).

32 "le pape François prêt à se rendre en Irak", *Le Soir*, 18 August 2014, <http://www.lesoir.be/629359/article/actualite/fil-info/fil-info-monde/2014-08-18/pape-francois-pret-se-rendre-en-irak> (accessed 15 July 2016).

33 "Le Vatican passe du moralisme à la morale internationale", *La Vie*, 14 August 2014, [http://www.lavie.fr/religion/Catholicisme/le-vatican-passe-du-moralisme-a-la-morale-internationale-14-08-2014-55421\\_16.php](http://www.lavie.fr/religion/Catholicisme/le-vatican-passe-du-moralisme-a-la-morale-internationale-14-08-2014-55421_16.php) (accessed 15 July 2016).

34 "Le cardinal Sean Brady renonce à sa charge", *La Croix*, 15 August 2014, <http://www.la-croix.com/Religion/Actualite/Le-cardinal-irlandais-Sean-Brady-renonce-a-sa-charge-2014-08-15-1192569> (accessed 15 July 2016).

35 "Pope Francis's Comments on Pedophilia in the Church Spark Debate", 14 July 2014, <https://www.onfaith.co/onfaith/2014/07/14/pope-franciss-comments-on-pedophilia-in-the-church-spark-debate/33056> (accessed on October 20, 2016); "Pédophilie : le coup de colère du pape François contre la terrible obscurité de l'Église", *le Figaro*, 7 July 2014 <http://www.lefigaro.fr/actualite-france/2014/07/07/01016-20140707ARTFIG00275-pedophilie-le-coup-de-colere-du-pape-francois-contre-la-terrible-obscurite-de-l-eglise.php> (accessed 20 October 2016).

lot of success. The UN World Tourism Organization estimates that 330 million travellers are interested in places of worship.<sup>36</sup>

In 2010, a Eurobarometer survey asked Europeans how often they attended a religious ceremony outside weddings or funerals:<sup>37</sup>

Country	More than 1 x/week	1 x/week	1 x/month	1 x/2-3 months	Only on special Holy days	1 x/year	Less often	Never	DK
Austria	1	9	13	7	24	9	19	17	1
Belgium	2	8	5	6	14	7	17	40	1
Bulgaria	1	4	8	10	38	7	15	15	2
Croatia	4	18	14	10	28	7	9	9	1
Cyprus	7	17	17	15	35	5	2	2	0
Czech Republic	0	5	3	2	9	5	14	61	1
Denmark	1	3	6	6	20	18	21	25	0
Estonia	1	1	3	3	17	19	21	34	1
Finland	1	1	4	6	23	19	28	17	1
France	1	5	5	3	13	10	9	53	1
Germany	2	7	9	9	19	13	12	41	0
Greece	2	13	17	17	35	5	7	4	0
Hungary	1	8	6	6	18	9	20	30	2
Ireland	7	32	13	10	7	7	11	12	1
Italy	5	22	12	10	25	6	10	9	1
Latvia	1	3	8	6	21	17	18	25	1
Lithuania	1	8	10	11	37	10	14	9	0
Luxembourg	3	10	7	7	26	13	13	20	1
Malta	27	45	8	2	5	4	4	5	0
The Netherlands	4	8	5	7	9	11	10	46	0
Poland	6	45	19	8	9	2	3	5	3
Portugal	3	20	12	8	24	5	9	18	1
Romania	3	18	19	13	20	5	17	3	2
Slovakia	12	28	8	4	13	5	10	19	1
Slovenia	3	10	6	5	22	6	19	28	1
Spain	2	12	6	6	14	4	15	41	0
Sweden	1	4	5	8	20	12	20	30	0
UK	3	9	6	5	7	9	14	46	1
EU	3	14	9	7	17	8	12	29	1

While it should be noted that the survey did not distinguish between the different religions (Christian or other), it does provide a good illustration of a trend concerning all religious denominations. Nearly 30% of Europeans never attend a religious ceremony, while 17% do so every week or more frequently. A large proportion of them attend religious ceremonies on holidays and other special days.

<sup>36</sup> Laurent-Sébastien FOURNIER, *L'Europe pèlerine. Religion et tourisme*. Paris, L'Harmattan, 2017.

<sup>37</sup> Special Eurobarometer 341, *Biotechnology report*, October 2010, p. 207. [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_341\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_341_en.pdf) (accessed 15 July 2016).

European society today is characterized, on the religious level, by a recomposition of beliefs. Religious identities are fluctuating and shifting. Practices are personalized and individualized. We seem to have gone beyond the stage of post-modernity, which was characterized by a deep disenchantment with the world and its institutions, including religion. Nowadays, in a context where more and more citizens are mobilizing to defend themes such as the environment, they are reorganizing themselves into new structures, including on a spiritual level.<sup>38</sup>

### I.3. The increasing diversity of Christian denominations

#### I.3.a. Orthodox Churches

Enlargement has brought some predominantly Orthodox countries into the EU. Orthodoxy in Europe is prominent in Greece and Cyprus, on the one hand, and in Bulgaria and Romania (and to a much lesser extent in Estonia), on the other. Yet, due to migration, Orthodox communities are now present in all EU countries. Russian, Syrian and Ukrainian Orthodox populations are also found in the EU; the recent erection of a new Russian cathedral in Paris is an illustration of the growing importance of such communities.

As far as religion is concerned, Greece and Cyprus are highly homogeneous countries. In Greece, out of a total population of nearly 11 million, some 95% of all inhabitants are Orthodox Christians, and there are an additional 700,000 to 1 million Old Calendarists (traditionalist Orthodoxy).<sup>39</sup> In Cyprus, according to the 2008 European Values Study survey, 96.9% of the population are Orthodox (Orthodox Church of Cyprus). Most members of the Catholic and Muslim minorities in Cyprus are non-EU citizens.

In both countries, the influence of the Orthodox Church remains very strong. Indeed, historically the role attributed to the Church in the construction and crystallization of Greek national identity has been pivotal.<sup>40</sup> Orthodoxy was represented as the cohesive element, the symbolic reference point of the nation. Thus “Helleno-Orthodoxy” is a truly hegemonic identity, and it has continued to act as such throughout the 20<sup>th</sup> century.

While secularization trends have been observed in recent years in Greece, the consequences of the global economic crisis have moved religious issues to the background. Indeed, since 2010 Greece

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38 French sociologist Jean-Paul Willaime calls the era ultra-modernity, a time witnessing ‘a reinvention of the religious who testifies through groups and networks of activists, in tension with society, from a structuring subculture’. (Sociologie des religions, 1999).

39 Source: Eurel, Sociological and legal data on religions in Europe, <http://www.eurel.info/spip.php?rubrique683> (accessed 15 March 2016).

40 On Orthodoxy and Greek national thought in public discourse (and education), see Trine Stauning Willert, *New Voices in Greek Orthodox Thought: Untying the Bond between Nation and Religion*, 2014, Ashgate, Farnham.

has had to deal with an unprecedented financial and humanitarian crisis. Within this context, the Church faced four major social and political challenges: the promotion of a charity agenda; defining its discourse in respect to *Troika* policies; defining its strategy in relation to the growth of *Syriza* (the political representative of the most secular segments of Greek society); and defining its political stance towards the radical right, i.e. the neo-fascist *Golden Dawn* party. Whereas the Church's position towards the radical left (*Syriza*) and right (*Golden Dawn*) has been rather ambivalent,<sup>41</sup> it has achieved some success through the development of charitable activities — in 2012, for example, 250,000 people are alleged to have received food on a daily basis.<sup>42</sup> Yet, on a purely financial level, the Church appeared highly reluctant to use its wealth to support the country's near-bankrupt economy.

In Cyprus, the Orthodox Church has provided large-scale social aid for the impoverished, thus maintaining and arguably even strengthening its traditional omnipresence. Indeed, since the 2006 ascension of 'reformist' Chrysostomos II on the archiepiscopal throne,<sup>43</sup> the Church's influence does not seem to have diminished. At least for the time being, the new archbishop, who notoriously announced cuts in the salaries of clergy members — including his own<sup>44</sup> — and offered to put his Church's riches at the service of the nation,<sup>45</sup> has succeeded in maintaining the traditional image of the Orthodox Church as a safeguard of the nation, the incarnation of Cypriot identity and culture.<sup>46</sup>

With the joining of Bulgaria and Romania in 2007, the EU gained two more countries in which Christian Orthodoxy is the dominant religion, albeit with different proportions. In 2011, while 60%

41 On religion and the radical right in Greece, see Konstantinos Papastathis, "Religious Discourse and Radical Right Politics in Contemporary Greece, 2010–2014", *Politics, Religion & Ideology* 16/2–3, 2015, p. 218–247.

42 "Greek homeless shelters take in casualties of debt crisis", *The Guardian*, 10 February 2012, <http://www.theguardian.com/world/2012/feb/10/greek-homeless-shelters-debt-crisis> (accessed 15 March 2016). In addition, for the position of the Church in the debate on migration, see Elisabeth A. Diamantopoulou, "Migration and Ethno-Religious Identity in Contemporary Greece: The Role of the Orthodox Church", in: Helena Vilaça/Enzo Pace/Inger Furseth/Per Pettersson (eds), *The Changing Soul of Europe. Religions and Migrations in Northern and Southern Europe*, 2014, Ashgate, Farnham-Burlington, p. 69-88.

43 Following Chrysostomos' election, a new Constitutional Charter was enacted (2010). It increased the overall number of episcopal and metropolitan eparchies, whereby allowing the Church to enjoy full institutional autonomy. It also decreased the laity's participation in metropolitan elections, giving more power to the Synod. In this context, see Victor Roudometof, "Orthodoxy and Modernity in Cyprus: The 2006 Archiepiscopal Elections in Historical Perspective", *Journal of Contemporary Religion* 24/2, 2009, p. 189–204.

44 "Cypriot priests warned they face pay cuts because of Eurozone crisis", *The Daily Mail*, 21 August 2012, <http://www.dailymail.co.uk/news/article-2191547/Eurozone-crisis-Cypriot-priests-warned-face-pay-cuts.html> (accessed on 15 March 2016).

45 "L'Église Orthodoxe chypriote, au cœur de la vie politique", *Le Monde*, 25 March 2013, [http://www.lemonde.fr/economie/article/2013/03/25/l-eglise-Orthodoxe-chypriote-au-coeur-de-la-vie-politique\\_1853702\\_3234.html](http://www.lemonde.fr/economie/article/2013/03/25/l-eglise-Orthodoxe-chypriote-au-coeur-de-la-vie-politique_1853702_3234.html) (accessed 15 March 2016). See also "Cyprus Seeks Divine Intervention to Financial Crisis", *ABC News*, March 20, 2013, <http://abcnews.go.com/Business/cyprus-church-pledges-bailout-funds/story?id=18775337> (accessed 15 March 2016).

46 For the Orthodox Church's role in cultural heritage, see Victor Roudometof/Irene Dietzel, "The Orthodox Church of Cyprus", in: Lucian N. Leustean (ed.), *Eastern Christianity and Politics in the Twenty-First Century*, 2014, Routledge, London-New York, p. 170–174.



of Bulgaria's 7,364,570 inhabitants declared themselves Orthodox,<sup>47</sup> they were more than 80% in Romania.<sup>48</sup> The second-largest religious group in Bulgaria is Islam, with around 8% of the population, while in Romania it is the Catholic Church, with around 4% of the population.

While they do not present religious' landscapes as homogeneous as those of Greece or Cyprus, Bulgaria and Romania are countries in which the Orthodox Church plays a prominent role and enjoys a special status. Over the years, the national Orthodox Churches have tried to regain their pre-communist, dominant status. With this goal in mind, they consistently overemphasize their centuries-old role as "guardians" of the nation and identity.

As a consequence, the Bulgarian Orthodox Church has on different occasions depicted religious minorities as un-Bulgarian and launched initiatives that are of an openly anti-secular nature. In Romania, the controversial<sup>49</sup> construction of the so-called People's Salvation Cathedral in Bucharest, built next to the Romanian Parliament, showcases the willingness of Orthodox Church authorities to impose their Church as a national and ethnically Romanian Church. The building of the cathedral, which will literally tower over Parliament (which is also Nicolae Ceaușescu's former People's House), is not an isolated initiative. On the contrary, it is part of a nationwide drive to build new places of worship.<sup>50</sup>

In both countries, "new religions" also are often met with distrust — in June 2015, for example, the Bulgarian Orthodox Church criticized governmental "laxism vis-à-vis heresies" such as yoga<sup>51</sup> —, whereby Islam seems to represent the most sensitive religious issue. Since the beginning of the refugee crisis in 2014, both countries have witnessed a significant rise in outbreaks of xenophobia and hostility towards Muslims, as is also the case in many other Eastern and Southern European countries.<sup>52</sup>

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47 Contrary to previous censuses held in 1992 and 2001, in the 2001 census the section on religion was no longer mandatory. It is unclear whether those who skipped this section preserved their previous religious affiliation, adopted a different faith, or became non-religious. For more information, see [http://www.nsi.bg/census2011/PDOCS2/Census2011final\\_en.pdf](http://www.nsi.bg/census2011/PDOCS2/Census2011final_en.pdf) (accessed 14 March 2016).

48 Source: Eurel, Sociological and legal data on religions in Europe, [http://www.eurel.info/IMG/pdf/population\\_stable\\_selon\\_la\\_religion.pdf](http://www.eurel.info/IMG/pdf/population_stable_selon_la_religion.pdf) (accessed 14 March 2016).

49 "La cathédrale qui sème la discorde à Bucarest", *Le Figaro*, 12 January 2013, <http://www.lefigaro.fr/international/2013/01/12/01003-20130112ARTFIG00309-la-cathedrale-qui-seme-la-discorde-a-bucarest.php> (accessed 14 March 2016).

50 "Romania's costly passion for building churches", *BBC News*, 7 August 2013, <http://www.bbc.com/news/magazine-23420668> (accessed 14 March 2016).

51 "Le yoga, jugé hérétique par l'Église Orthodoxe bulgare", *Le Vif*, 25 June 2015, <http://weekend.levif.be/lifestyle/beaute/bien-etre/le-yoga-juge-heretique-par-l-eglise-Orthodoxe-bulgare/article-normal-402413.html> (accessed 14 March 2016).

52 "Islamophobia in East-Central Europe", *The Huffington Post*, 1 June 2015, [http://www.huffingtonpost.com/john-feffer/Islamophobia-in-east-cent\\_b\\_7483100.html](http://www.huffingtonpost.com/john-feffer/Islamophobia-in-east-cent_b_7483100.html) (accessed 14 March 2016). For the general context, see also Anna Krasteva, "Les Bulgares musulmans, une identité crucifiée", *Cahiers Balkaniques* 25, 1998, p. 27-39.



In this context, while Romanian government representatives have refrained from stigmatizing the massive influx of immigrant refugees, whereby mainly asking for the right to join the Schengen Area as a compensation for accepting refugee quota (in a common Romanian-Bulgarian move)<sup>53</sup>, Romanian Orthodox Church officials have stated that it is “easily understood that, when one of our peers is in difficulty, he/she should be helped and supported. [...] last year, the Romanian Patriarchy organised a fund r[ai]se in all Romanian churches and monasteries in the country and abroad and donated EUR 500,000 to the Patriarchy of Antiochia and the Whole East to help the victims of the bloody conflict in Syria. Naturally, anyone who needs help has to be helped”.<sup>54</sup>

Even if it should be noted that the above reaction is somewhat biased by the fact that Christian refugees are privileged,<sup>55</sup> the Romanian Orthodox Church effectively holds to its charitable agenda. By contrast, however, the Bulgarian Orthodox Church has openly called on authorities to refuse entry to migrants. It used arguments that echo its identitarian stance, as the arrival of refugees “raises questions about the stability and existence of the Bulgarian state”. In addition, refugees allegedly constitute a “wave, which has acquired all the signs of an invasion”.<sup>56</sup>

In Estonia, the smallest of the so-called Baltic States, Christian Orthodoxy is the largest religious group, while claiming only 16% of the population; the country is one of the continent’s most secularized, with 54% of all Estonians declaring not to adhere to any particular creed (2011).<sup>57</sup> Partly the result of decades of communist rule, Estonian secularism is also the result of a historical process dating back to the 19<sup>th</sup> century. At that time the majority of the population adhered to the Germany-oriented Lutheran Church, which remained largely hostile to the population’s Unitarian aspirations,<sup>58</sup> whereas in the early 20<sup>th</sup> century the cultural, literary and artistic elite of the Young

53 “Romania States its Price For Taking in Refugees”, *BalkanInsight*, 8 September 2015, <http://www.balkaninsight.com/en/article/romania-to-limit-number-of-accepted-refugee-09-07-2015> (accessed 14 March 2016), and “Now Romania and Bulgaria will use migrant crisis to gain free movement across EU”, *Express*, 16 September 2015, <http://www.express.co.uk/news/world/605519/Schengen-Area-Romania-Bulgaria-Victor-Ponta-European-Union-Meglena-Kuneva> (accessed 14 March 2016).

54 Constantin Stoica, spokesman for the Romanian Patriarchy, in “Romanian Orthodox Church, first reaction to refugee crisis”, *Nine O’Clock. ro*, 3 September 2015, <http://www.nineoclock.ro/romanian-Orthodox-church-first-reaction-to-refugee-crisis/> (accessed 4 March 2016).

55 *Ibid.*

56 “Bulgarian Orthodox Church tells government: Don’t admit more refugees”, *The Sofia Globe*, 25 September 2015, <http://sofiaglobe.com/2015/09/25/bulgarian-Orthodox-church-tells-government-dont-admit-more-refugees/> (accessed 14 March 2016).

57 Jose Casanova, “Rethinking Secularization: A Global Comparative Perspective”, in: Peter Beyer/Lori Beaman (eds), *Religion, Globalization and Culture*, 2007, Brill, Leiden-Boston, p. 101–120. For a general discussion, see Atko Rimmel/Marko Uibu, “Outside Conventional Forms: Religion and Non-Religion in Estonia”, *Religion and Society in Central and Eastern Europe* 8/1, 2015, p. 5–20. See also “Is Estonia really the least religious country in the world?”, *The Guardian*, 16 September 2011, <http://www.theguardian.com/commentisfree/belief/2011/sep/16/estonia-least-religious-country-world> (accessed 9 March 2016). For an impression of the recent diversification of the Estonian spiritual landscape, see also “Estonian believers shop a spiritual ‘marketplace’”, *The Christian Science Monitor*, 7 June 2013, <http://www.csmonitor.com/World/Europe/2013/0607/Estonian-believers-shop-a-spiritual-marketplace> (accessed 19 March 2016). On religious belonging in Estonia, see also Ringo Ringvee, “Religion: Not declining but changing: What do the population censuses and surveys say about religion in Estonia?”, *Religion* 44/3, 2014, p. 502-515.

58 For more information, see Ringo Ringvee, “Religion and Nation Building in Estonia: Some Perspectives on Secular Society”, in: Greg Simons/David Westerlund (eds), *Religion, Politics and Nation-Building in Post-Communist Countries*, 2015, Ashgate, Farnham, p. 144–161.

Estonia movement looked for inspiration to Europe, where anticlerical sentiment was gaining momentum. This relative absence of religion from public life continued under communist rule, and it was only during the process of national reawakening that started in the late 1980s that religion and spirituality finally returned to the public sphere, whereby religion gradually met with greater acceptance.

In other countries that used to be part of the USSR, or under its sphere of influence, sizeable Christian Orthodox minorities are present. The most important are found in Croatia (4.44%) and Lithuania (4.1%).

In the Western part of the EU, immigration brought the development of Orthodox communities belonging to one or another national Church. Some countries had already witnessed an influx of Russian refugees after the revolution of 1917, and the arrival of Greek workers after World War II. In the 1990s and 2000s, more Orthodox Christians settled, originating from Central Europe. This situation has put the Orthodox world into a new position: Churches with a strong tie to national identity now have their members scattered over other countries. The “Orthodox diaspora” is a new phenomenon Orthodoxy has just started to tackle. In this context, one of the major challenges it faces is the existence of multiple overlapping jurisdictions, a phenomenon that contradicts the canonical tradition that any given piece of territory should fall under a single authority.

In March 2014, patriarchs and archbishops of Orthodox Churches met in Istanbul and announced the organization of a Pan-Orthodox Council in 2016. This was indeed a historical event, as the last Pan-Orthodox Council convened in Constantinople in 879–880. Many in the Orthodox world actually believed that this fourth Council of Constantinople was to be the last ecumenical council.

An inter-Orthodox preparatory committee was tasked with preparing the summit, while the issue of representation had already been settled: contrary to the proposal put forward by the Patriarch of Moscow that all Orthodox bishops should take part in the council, a proposal that would have given the Russian Orthodox Church a clear majority, it was agreed that each Church would send a limited number of bishop delegates. To balance this representation, the decision was taken to opt for consensus rather than respect the majority rule when taking major decisions.<sup>59</sup> In this context, one of “the main questions facing the 2016 council will be how to balance relations among the Orthodox now that the Russian church, after seven decades of subjugation under communism, has re-emerged as an influential voice in world Christianity”.<sup>60</sup> In October 2015, at the 5<sup>th</sup> Pan-Orthodox

<sup>59</sup> Cyril Hovorun, “The Fragile Promise of the Pan-Orthodox Council”, *Catholic world report*, 14 March 2014, [http://www.Catholicworldreport.com/Item/3001/the\\_fragile\\_promise\\_of\\_the\\_panOrthodox\\_council.aspx](http://www.Catholicworldreport.com/Item/3001/the_fragile_promise_of_the_panOrthodox_council.aspx) (accessed 20 July, 2016).

<sup>60</sup> Dasha Afanasieva and Tom Heneghan, “Orthodox Churches Will Hold First Ecumenical Council In 1,200 Years In Istanbul”, *Huffington Post*, 3 September 2014, [http://www.huffingtonpost.com/2014/03/10/Orthodox-church-council\\_n\\_4931391.html](http://www.huffingtonpost.com/2014/03/10/Orthodox-church-council_n_4931391.html) (accessed 20 July, 2016).

Pre-Conciliar Conference in Chambésy, a decision was also reached on a statement regarding the relations of the Orthodox Church with the rest of the Christian world and in favour of Christian unity.<sup>61</sup>

A few days before the opening of the Pan-Orthodox Council, on 13 June 2016, the Russian Orthodox Church authorities announced that they supported the Churches of Antioch, Bulgaria, Serbia and Georgia in their request for postponement of the Pan-Orthodox Council, failing which they would not participate. The council took place under the leadership of Ecumenical Patriarch from Constantinople Bartholomew, but the importance of the event was greatly reduced due to the absence of four Churches making up around half of Orthodoxy (130 million believers).<sup>62</sup>

Earlier in 2016, the patriarch of Moscow, Cyril, had met Pope Francis at the airport of Havana during the Pope's visit to Cuba. This historical encounter reinforced the authority of the Russian Church in the Orthodox world and could be seen retrospectively as announcing the decision of the Russian Church to act more independently from the Patriarchate of Constantinople.

For many European Orthodox Churches, currently the most important issue is mobilization for the Christian communities in the Middle East (Syria and Egypt).

### I.3.b Protestant Churches

Immigration and conversions have led to the development of a great variety of often very dynamic Protestant denominations. While in the face of modernity, established reformed and Lutheran Churches, mostly in Scandinavia and Germany, are confronted with a similar crisis as the Catholic Church, Protestant revival and Pentecostal Churches are experiencing a dynamic growth.

The established reformed and Lutheran Churches are globally losing members. In Germany, the *Konfessionslose* now represent an important part of the population. The post-unification religious tax increase clearly played a decisive role in the growing number of so-called *Kirchenaustritte* or "Church exits", whereas also part of more generalized secularization tendencies, i.e. a decrease of religious practice and belief as well as a decline of institutional Christianity.<sup>63</sup> Since the mid-1990s, the number of *Austritte* has stabilized at around 100,000 per year for the two largest Christian denominations. However, they have recently known a significant increase<sup>64</sup> due to widespread child

61 "Relations of the Orthodox Church with the rest of the Christian world. Decision", 15 October 2015, [https://www.holycouncil.org/-/preconciliar-relations?\\_101\\_INSTANCE\\_VAOWE2pZ4Y0I\\_languageld=en\\_US](https://www.holycouncil.org/-/preconciliar-relations?_101_INSTANCE_VAOWE2pZ4Y0I_languageld=en_US)

62 S. LIEVEN, "La Russie ne participera pas au concile panorthodoxe", *La Croix*, 14 June 2016.

63 On these issues, cf. also Gert PICKEL/Kornelia SAMMET (eds.), *Religion und Religiosität im vereinigten Deutschland. Zwanzig Jahre nach dem Umbruch*, Springer, Wiesbaden, 2011.

64 "Kirchenaustritte auf Rekordniveau", *Frankfurter Allgemeine*, 7 July 2015, <http://www.faz.net/aktuell/politik/inland/kirchenaustritte-auf-rekordniveau-13708307.html> (accessed 28 March 2016), and "Zahl der Kirchenaustritte so hoch wie nie", *Die Zeit*, 17 July 2015, <http://www.zeit.de/gesellschaft/2015->

abuse involving clergy members,<sup>65</sup> whereas the financial scandal involving Franz-Peter Tebartz-van Elst, dubbed the “Bishop of Bling” of Limburg, no doubt also contributed to rising criticism of the German Catholic Church.<sup>66</sup>

In Scandinavia, in recent years the historically established Lutheran Churches faced significant changes. They both had to adapt to gradually losing their status as national Churches (see point II.3) and to adjust to modern values. The liberal attitudes that characterize Scandinavian societies — in 2013, the Church of Sweden notably elected its first female archbishop<sup>67</sup> — seem to indicate that the religious and public spheres above all seem to be willing to accommodate one another.

Hence, in Swedish society, episodes such as the highly mediatized April 2014 conversion of a charismatic “megachurch” leader<sup>68</sup> and even the recent anti-Semitic attacks on a Malmö rabbi and synagogue<sup>69</sup> have been dealt with in a rather serene manner. Therefore, the way in which Sweden has so far (largely) succeeded in isolating the religious argument from national politics might serve as a model for other EU countries.

By contrast, Pentecostalism and other forms of evangelical Protestantism, a form of Christianity where special emphasis is put on a direct personal experience of God, and the doctrine of salvation by grace through faith in Jesus Christ, are experiencing rapid growth. Pentecostalism started later in Eastern European countries but is now the fastest growing religion in Romania and Bulgaria. In Western Europe it relies more on immigrants, mostly Africans; in some neighbourhoods, a process of re-evangelization can be observed. Countries such as the UK, Germany and the Netherlands are currently witnessing the development of “mega churches” as a result of missionary work. Some

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[07/katholische-kirche-austritte-anstieg](#) (accessed 28 March 2016). For exact numbers, see

[http://fowid.de/fileadmin/datenarchiv/Kirchenein\\_austritte/Kirchenaustritte\\_kath\\_evang\\_2014.pdf](http://fowid.de/fileadmin/datenarchiv/Kirchenein_austritte/Kirchenaustritte_kath_evang_2014.pdf) (accessed 28 March 2016).

65 “Lawyer: 231 children abused in German Catholic choir”, *USA Today*, January 9, 2016,

<http://www.usatoday.com/story/news/world/2016/01/09/children-abuse-german-Catholic-choir-pope-benedict-xvi/78554334/> (accessed 28 March 2016).

66 Cf. “‘Bishop of Bling’ To Be Held Accountable For Excesses”, *The Huffington Post*, 25 July 2015, [http://www.huffingtonpost.com/entry/bishop-of-bling-bankruptcy\\_us\\_55b2b942e4b0224d8832643e](http://www.huffingtonpost.com/entry/bishop-of-bling-bankruptcy_us_55b2b942e4b0224d8832643e) (accessed 28 March 2016), “Franz-Peter Tebartz-van Elst: Germany’s ‘Bishop of Bling’ in new scandal over penthouse flat in Rome”, *The Independent*, 13 September 2015, <http://www.independent.co.uk/news/world/europe/franz-peter-tebartz-van-elst-germanys-bishop-of-bling-in-new-scandal-over-penthouse-flat-in-rome-10499076.html> (accessed 28 March 2016), and “Spending Scandal: Pope Francis Banishes Bishop of Limburg”, *Der Spiegel*, 23 October 2013, <http://www.spiegel.de/international/germany/pope-francis-suspends-tebartz-van-elst-over-spending-scandal-a-929515.html> (accessed 28 March 2016).

67 “Antje Jackelen elected Sweden’s first woman archbishop”, *BBC News*, 15 October 2013, <http://www.bbc.com/news/world-europe-24540442> (accessed 22 March 2016).

68 “Swedish megachurch pastor Ulf Ekman: why I am becoming a Catholic”, *The Telegraph*, 24 April 2014,

<http://blogs.telegraph.co.uk/news/damianthompson/100268991/swedish-megachurch-pastor-ulf-ekman-why-i-am-becoming-a-Catholic/> (accessed 22 March 2016).

69 “Rabbi, congregant attacked in Malmo days after synagogue vandalized”, *Jewish Telegraphic Agency*, August 4, 2014,

<http://www.jta.org/2014/08/04/news-opinion/world/rabbi-congregant-attacked-in-malmo-days-after-synagogue-vandalized> (accessed 22 March 2016).

analysts even see this trend as representing a new form of Christianity, distinct from the Protestant tradition, and embodying supernaturalism and neo-orthodoxy, and likely to become dominant.<sup>70</sup>

These new Christian Churches are also characterized by their rapid and constant evolution. For example, the Swedish Church *Livets Ord* (Word of Life) was an extremely successful movement when founded in 1983 by pastor Ulf Ekman. Ekman served as its leader until 2000, when he started devoting himself to the international expansion of the Church. However, in March 2014, the above announcement of Ekman's decision to leave *Livets Ord* and to convert to Catholicism — he claimed to have been influenced by a video message from Pope Francis urging the Reformation to come to an end — delivered a near fatal blow to the Church.

The European Evangelical Alliance, part of the World Evangelical Alliance (WEA), claims to represent 20 million European evangelicals. It is based in Brussels, as their "*main aim is to influence EU policies by seeking to advance biblical beliefs and values and to be advocates for justice seen from a biblical standpoint*".<sup>71</sup>

The success of evangelical Protestantism is rooted in globalization; the roots of the movement are firmly established in the US, yet their troops nowadays come predominantly from Latin America and Africa; in Europe these two dimensions meet.<sup>72</sup> The year 2017 saw the commemoration of the 500<sup>th</sup> anniversary of the publication of Martin Luther's 95 Theses and was likely to spark a renewed interest in the history of Protestantism.

### I.3.c. Anglicanism

Born in the 16<sup>th</sup> century through an act of secession of the Church of England, Anglicanism has since spread far beyond the British Isles. It is now believed to be the third-largest Christian communion in the world, after Catholicism and Orthodoxy. The Anglican Communion is made up of 39 autonomous provinces, each with their own primate and governing structure. The Archbishop of Canterbury, recognized as *primus inter pares*, has a precedence of honour over the other primates of the Anglican Communion, but does not exercise any direct authority in any province outside England. While it is often stated that the British king or queen is the head of the Anglican Church, the role of the monarch is only that of "Supreme Governor" of the Church of England, and as such he or she is mostly in charge of appointing bishops, selected from a list presented by the Church.

<sup>70</sup> See for instance Phillip JENKINS, *The Next Christendom: The Coming of Global Christianity*. New York, Oxford, 2002. This coming of a new Christian age has been theorized by Walbert BUHLMAN as early as the late 1970's: *The Coming of the Third Church: An Analysis of the Present and Future of the Church*. Maryknoll, Orbis, 1977.

<sup>71</sup> <http://www.europeanea.org/index.php/brussels/> (accessed 12 March 2017).

<sup>72</sup> See R. Alex NEFF, *Évangéliques en réseau. Trajectoires identitaires entre la France et les États-Unis*, Paris, L'Harmattan, 2016.

Continental Anglican Churches form the largest diocese in the Anglican Communion, the Diocese of Gibraltar in Europe. Its seat is in the Cathedral of the Holy Trinity in Gibraltar, and there are two Pro-Cathedrals in Malta and Brussels. The current bishop in Europe is Reverend Robert Innes, formerly head of the central committee of the Anglican Church in Belgium, consecrated on 20 July 2014. The Diocese of Gibraltar is divided into seven archdeacons. Except for the archdeaconry of Switzerland, they cover a number of EU countries: the Eastern Archdeaconry (Austria, Bulgaria, Croatia, Czech Republic, Greece, Hungary, Poland, Romania, Slovakia and Slovenia), the Archdeaconry of Germany and Northern Europe (Denmark, Estonia, Finland, Germany, Latvia, Lithuania and Sweden), the Archdeaconry of France, the Archdeaconry of Gibraltar (Portugal and Spain), the Archdeaconry of Italy and Malta, and the Archdeaconry of Northwest Europe (Belgium, Luxembourg and the Netherlands). Originating in a politically rather than religiously motivated schism (the 1534 Act of Supremacy) by which the English Parliament declared King Henry VIII to be the Supreme Head of the Church of England, Anglicanism retained more similarities with Catholic theology and liturgy throughout the centuries than other reformist traditions. Yet in recent years, new Anglican leadership has moved towards modernity, allowing its priests to marry and opening up priesthood to women and homosexuals. In July 2014, the General Synod of the Church of England also approved female bishops.<sup>73</sup> It should be noted that this decision is valid only for the Church of England and those dioceses that choose to apply this decision; many provinces outside Europe have not. More recently, those functions were also opened up to homosexuals. In January 2015, the Church of England consecrated its first female bishop: Libby Lane, 48, was made Bishop of Stockport.<sup>74</sup>

This evolution also reflects a power shift within the Church, giving more weight to the laity.<sup>75</sup>

While the Church of England is thus firmly geared towards modern values, in some places there is a development of grass-roots fundamentalism. Additionally, in recent years, Anglican parishes in England and Anglican communities in continental Europe have experienced a growth in attendance from recently immigrated worshippers. Coming from more traditional communities, like those of sub-Saharan Africa, they often position themselves against the current liberal stance of both the Church of England and the Church of Scotland on gender equality and LGBT issues. In a context where liberal American and European Churches clash with conservative African and Latin American

73 "Church of England General Synod approves female bishops", 14 July 2014 <https://www.theguardian.com/world/2014/jul/14/church-england-general-synod-approves-female-bishops> (accessed 12 March 2017).

74 "Libby Lane: First female Church of England bishop consecrated", *BBC News*, 26 January 2015. <http://www.bbc.com/news/uk-politics-30974547> (accessed 12 March 2017).

75 "Liberalism increases as power shifts to the laity in the Church of England", 13 July 2014 <https://www.theguardian.com/world/2014/jul/13/church-of-england-power-shifts-laity-liberalism> (accessed 12 March 2017).

Churches over morality on sexual issues, the Archbishop of Canterbury, Justin Welby, has announced plans to reform the bitterly divided worldwide Anglican Communion and replace it with a much looser cupola.<sup>76</sup>

#### I.3.d. Other Christian denominations

Many other Christian denominations coexist in Europe. Among them, two groups originating in North America adapted to Europe in the early 20<sup>th</sup> century and are now being transformed by immigration, mainly from Africa and South America: Jehovah's Witnesses and Mormons.

Jehovah's Witnesses emerged from the Bible Student movement, founded in the late 19<sup>th</sup> century in the US. They adopted the name Jehovah's Witnesses in the 1930s to distinguish themselves from other Bible Student groups. They are best known for their door-to-door preaching, notably distributing literature like *The Watchtower*. However, in Western Europe, Jehovah's Witnesses are now more often engaging people in the street or in train stations rather than on their doorstep. According to Andrew Holden, author of *Jehovah's Witnesses: Portrait of a Contemporary Religious Movement*, the Witnesses, with a global membership of almost eight million people, believe that we are now living in the "end times", but that this will only be fulfilled when the "true word of God" has been ministered to the ends of the earth. "The street drive is, in the Jehovah's Witnesses' terms, the final push for converts before the millenarian age begins".<sup>77</sup>

Many observers believe that in recent years the Jehovah's Witnesses have been losing members. However, annual international meetings still bring together large crowds; on 27–29 June 2014, the "Keep Seeking First God's Kingdom!" International Convention was held at the Olympic Stadium of Athens, with an attendance of more than 35,000.

European membership numbers of the Jehovah's Witnesses have been changing in recent years; conversions are fewer, but immigration has brought new members. Services are often held in many languages, some of them extra-European. For instance, several hundreds of thousands of people of Filipino origin now live in Europe; many Jehovah's Witnesses congregations throughout Europe hold meetings in Tagalog; on 24 to 26 July 2015, thousands of Tagalog-speaking Jehovah's Witnesses gathered in Rome for a convention.

<sup>76</sup> "Archbishop of Canterbury plans to loosen ties of divided Anglican Communion", *The Guardian*, 16 September 2015.

<sup>77</sup> "The Jehovah's Witnesses' new tactic" 8 July 2014, <http://www.bbc.com/news/magazine-28166192> (accessed 10 September 2017).



In the UK, a scandal involving sexual abuse committed by a member erupted in December 2015.<sup>78</sup> The Jehovah's Witnesses were accused of having covered up the man's crimes for more than two decades.

Jehovah's Witnesses were among the groups persecuted by the Nazi regime; in recent years this has been increasingly acknowledged. On 13 April 2014, a memorial plaque was unveiled in recognition of the 450 Witnesses imprisoned by the Nazis in the Mauthausen and Gusen concentration camps in Austria.<sup>79</sup>

The historical headquarters of the Jehovah's Witnesses were in Brooklyn, US. However, in August 2016, the group sold its properties in New York City and relocated to a newly built facility in Warwick, New York State.

Another American-based Church is the Church of Jesus Christ of Latter-day Saints (informally, the Mormon Church), which has its headquarters in Salt Lake City, Utah. It has established congregations ("wards" or "branches") and built temples worldwide.

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78 "Jehovah's Witnesses accused of covering up historic sex abuse" *The Telegraph*, 29 December 2015, <http://www.telegraph.co.uk/news/uknews/crime/12073247/Jehovahs-Witnesses-accused-of-covering-up-historic-sex-abuse.html> (accessed 10 September 2017).

79 "Jehovah's Witnesses Honored at the Gusen Concentration Camp Memorial", 21 July 2014, <https://www.jw.org/en/news/releases/by-region/austria/mauthausen-gusen-concentration-camps/>



According to the Church, on 31 December 2015, membership numbers in EU countries were as follows:<sup>80</sup>

Country	Membership	Congregations
Austria	4.641	17
Belgium	6.756	17
Bulgaria	2.424	9
Croatia	597	6
Czech Republic	2.503	13
Denmark	4.410	23
Estonia	1.123	4
Finland	4.961	30
France	37.996	108
Germany	39.726	166
Greece	759	4
Hungary	5.176	22
Ireland	3.437	13
Italy	26.246	103
Latvia	1.215	5
Lithuania	982	5
Luxembourg	427	1
Malta	189	1
Netherlands	9.017	33
Poland	1.861	13
Portugal	43.240	74
Romania	3.043	16
Slovakia	255	4
Slovenia	433	5
Spain	53.933	142
Sweden	9.541	40
UK	186.423	332

Mormon Temples are currently being built in Rome and Paris. The giant structure in Rome is supposed to be completed in 2018; the temple in Paris was inaugurated in May 2017. This brought the number of Mormon temples in Europe to nine.<sup>81</sup>

In late 2015, a controversy surrounding Church policy on same-sex couples attracted much media attention and prompted some gay members to leave the Church. Remaining firmly opposed to same-sex relationships, the Church had promulgated a rule prohibiting natural or adopted children of a parent engaged in a same-sex relationship to receive a name and a blessing. The uproar against this decision led the Church to relax its position, making it possible for children of parents engaged in a same-sex relationship to join the Church.<sup>82</sup> Efforts to promote gender equality within the Church

<sup>80</sup> <http://www.mormonnewsroom.org/facts-and-statistics#>

<sup>81</sup> The other temples are to be found in Bern, Copenhagen, Frankfurt, Freiberg, Helsinki, Lisbon and Madrid.

<sup>82</sup> J. RIESS, "Mormon leaders soften policy on same-sex families, but controversy continues", 14 November 2015, <http://religionnews.com/2015/11/14/mormon-leaders-soften-policy-on-same-sex-families-but-controversy-continues/> (accessed 20 July 2016).

also met with fierce opposition: in June 2014, the Church excommunicated the founder of Ordain Women, a feminist organization that seeks equal standing for women in the Church.<sup>83</sup>

Finally, both the Jehovah's Witnesses and the Mormons have been under investigation in various countries as harmful sectarian organizations; in England, in 2015, a former Mormon filed a fraud case over Church teachings.<sup>84</sup>

#### I.4. Importance and diversity of Muslim groups

With the impact of immigration, Islam has become the second religion in the EU, after Christianity; today, Islam is the only monotheism to experience growth in Europe. According to the Pew Research Centre's latest population estimates,<sup>85</sup> Germany has the largest Muslim population among EU member countries, with 4.8 million Muslims (5.8% of the country's population). With 4.7 million Muslims, France has the second-largest Muslim population, and the highest percentage of Muslims among its population (7.5%) of all Western European countries. With respectively 2,960,000 and 2,200,000 Muslims, the UK and Italy harbour the 3<sup>rd</sup> and 4<sup>th</sup> largest Muslim populations in the EU. With 25.3% of the population, the Republic of Cyprus has the highest percentage of Muslims in its population, followed by Bulgaria (13.7%). In these two countries, Islam has been established for centuries, while in Western Europe the presence of a Muslim population is the result of 20<sup>th</sup>-century immigration. Immigration should raise the percentage of Muslims in the EU, according to another estimate by the Pew Research Centre:

	2010 est. population	% in 2010	2050 proj. population	% in 2050	% increase 2010–50
<i>Christians</i>	553,280	74.5 %	454,090	65,2 %	-17.9 %
<i>Muslims</i>	43,470	5.9 %	70,870	10,2 %	+ 63 %
<i>Total population</i>	742,550	100 %	696,330	100 %	-6.2 %

Size and projected growth of Christian and Muslim populations in Europe (2010–2050)<sup>86</sup>

83 T. CONNOR, "Mormon Women's Group Founder Kate Kelly Excommunicated", *NBC News*, 24 June 2014 <http://www.nbcnews.com/news/us-news/mormon-womens-group-founder-kate-kelly-excommunicated-n138746> (accessed 20 June 2016).

84 <http://www.usatoday.com/story/news/nation/2014/02/04/mormon-president-ordered-to-court/5216645/> (accessed 20 July 2016).

85 <http://www.pewresearch.org/fact-tank/2016/07/19/5-facts-about-the-Muslim-population-in-europe/> (accessed 20 July 2016).

86 Pew Research Centre, The future of world religions. Population growth 2010–2050.

Today some EU countries have very small Muslim minorities: Estonia, Latvia, Lithuania, Poland, Hungary, Slovakia, the Czech Republic — all have Muslim communities of fewer than 10,000 members at the time of polling (2010).

While relations with authorities depend mostly on the national model of state and church relations and on national history, the origin of the Muslim populations found in each country also influences those relations, as illustrated by the contrast between the French-Muslim communities originating mostly from the Maghreb and the German community where Muslims of Turkish origin are dominant. A country like Luxembourg, where the Muslim community is mostly of European (Balkan) origin, also presents a different image. Muslims in Western Europe are now mostly second- and third-generation immigrants. In recent years, they have set up many Muslim organizations. Those organizations fall into three categories: umbrella organizations for representing the Muslim community to the authorities; interest groups and lobbies that defend Muslim interests (among them, the right to wear the *hijab*); cultural or educational organizations (including schools).

In a context marked by Islamist terrorism and by the departure of many young people from France, the UK and the Benelux but also Italy, Spain and Germany to go and fight in Syria, security became a top political priority. With the proclamation of the Islamic State and the terrorist attacks in France, Belgium and the UK, public security became a main preoccupation. Fighting and preventing Islamist radicalization is now at the core of the public authorities' policies. As a result, the production of books and audio-visual material aimed at promoting a modern, democratic vision of Islam has increased with the support of public authorities. Public authorities are increasingly interested in the organization of Islamic worship in Europe and in the promotion of the so-called European Islam, the term referring to a form of Islam fully compatible with democracy and human rights, including gender equality. In several countries, initiatives have been taken with that goal in mind, among them establishing or supporting higher education degrees in Islamic theology or Islamic studies. Such programmes are mostly geared towards future Muslim leaders — imams or religious education teachers. These programmes have had mixed results. The problems faced include the implication of local Muslim leaders in the elaboration of the programmes and the selection of the teachers, this selection itself, and sometimes the lack of interest among European Muslims. In the Netherlands, the *Hogeschool Inholland*, which in 2006 had inaugurated a comprehensive course to train Dutch imams, nicknamed "polder imams" in the press, in 2013 announced the termination of the programme within a few years. The low level of the training's success was mostly due to a very high rate of students abandoning their studies or choosing to pursue them abroad, in an institution offering training more in keeping with their traditional view of Islamic theology. A gap between the recognized need for imams trained in the Netherlands and the employment opportunities offered

by mosques was also noted.<sup>87</sup> This failure has not discouraged initiatives in other countries, such as Austria and Greece, where the department of Islamic Studies of the School of Theology, Aristotle University of Thessaloniki was officially established in September 2016.

### Hostility towards Muslims

In this context of terrorist activity on European soil, it comes as no surprise that hostility towards Muslims is increasing in all European countries. It takes several forms. Firstly, discrimination against Muslims when applying for a job or housing is commonplace. Secondly, hate speech is also on the rise and frequent on the Internet, whereas some political forces on the far right of the spectrum have also integrated elements of hostility to Islam and Muslims in their programmes, drawing important scores at the elections in several countries. In states where one religion is dominant and closely linked to national identity, the relationship with minority religions like Islam is clearly flawed and asymmetrical. Such is the case between the Bulgarian Orthodox Church (BOC) and the Bulgarian Muslim community. In 2006, for instance, several female Muslim students refused to remove their headscarves, whereupon they were forced to leave school, while no such sanctions were taken against students wearing Christian symbols.<sup>88</sup>

Since the start of the massive refugee crisis that the EU has witnessed since 2014, the question of xenophobia and Islamophobia has moved to the foreground, not only in Bulgaria but also in many other Eastern and Southern European countries.<sup>89</sup> The Bulgarian Orthodox Church has called on authorities to refuse entry to migrants, as the arrival of refugees “raises questions about the stability and existence of the Bulgarian state”. In addition, refugees allegedly constitute a “wave, which has acquired all the signs of an invasion”.<sup>90</sup> Most probably, the way in which both the Bulgarian government and the Church position themselves towards the refugee crisis will be decisive for the fate not only of believers of various backgrounds in Bulgaria, but also for those who have recently arrived in the country, and will likely continue to do so in the foreseeable future. That is also valid for countries such as Hungary and the Czech Republic. Romania’s stance on the refugee crisis has also dominated media attention since 2014. Compared to Bulgaria, the public debates

87 “Maar weinig ‘polder-imams’ maken opleiding af”, *Algemeen Dagblad*, 2 April 2013, <https://www.ad.nl/binnenland/maar-weinig-polder-imams-maken-opleiding-af-a9294ee6/> (accessed 15 October, 2017)

88 For more information, see Daniela KALKANDJIEVA, “‘Secular Orthodox Christianity’ versus ‘Religious Islam’ in Post-communist Bulgaria”, *Religion, State & Society* 36/4, 2008, p. 423–434. A complaint by the Organization for Islamic Development and Culture ensued, but the ban was upheld, cf. <http://www.rferl.org/content/article/1070196.html> (accessed 14 March 2016).

89 “Islamophobia in East-Central Europe”, *The Huffington Post*, 1 June 2015, [http://www.huffingtonpost.com/john-feffer/Islamophobia-in-east-cent\\_b\\_7483100.html](http://www.huffingtonpost.com/john-feffer/Islamophobia-in-east-cent_b_7483100.html) (accessed 14 March 2016). For the general context, see also Anna KRASTEVA, “Les Bulgares musulmans, une identité crucifiée”, *Cahiers Balkaniques* 25, 1998, p. 27–39.

90 “Bulgarian Orthodox Church tells government: ‘Don’t admit more refugee’”, *The Sofia Globe*, 25 September 2015, <http://sofiaglobe.com/2015/09/25/bulgarian-Orthodox-church-tells-government-dont-admit-more-refugees/> (accessed 14 March 2016).

and discourses on the topic are rather moderate in tone. Indeed, while Romanian government representatives have refrained from stigmatizing the massive influx of immigrant refugees, whereby mainly asking for the right to join the Schengen Area as a compensation for accepting refugee quotas,<sup>91</sup> Romanian Orthodox Church officials have declared that it is “easily understood that, when one of our peers is in difficulty, he/she should be helped and supported. [...] last year, the Romanian Patriarchy organised a fund r[a]ise in all Romanian churches and monasteries in the country and abroad and donated EUR 500,000 to the Patriarchy of Antiochia and the Whole East to help the victims of the bloody conflict in Syria. Naturally, anyone who needs help has to be helped”.<sup>92</sup> While it should be noted that this reaction is somewhat biased by the fact that Christian refugees are privileged, the Romanian Orthodox Church seems to be holding on to its charitable agenda.<sup>93</sup>

In Hungary, xenophobia and Islamophobia have been on the rise ever since Viktor Orbán’s ultranationalist *Fidesz* party came to power in 2010. Hungary’s PM has attracted increasing international media attention following repeated stigmatization of ethnic and religious “newcomers”, especially in the context of the current refugee crisis. Labeling the influx of mainly Muslim refugees a “threat to Europe’s Christian identity”<sup>94</sup> and an “army”,<sup>95</sup> Orbán has not refrained from echoing interwar anti-Semitic discourse, notably suggesting the creation of migrant labour camps.<sup>96</sup> Such populist, religiously inspired rhetoric on Hungarian national and religious identity seems to be in phase with the Hungarian Church’s strategy in matters of immigration: in December 2015, despite Pope Francis’s call to welcome refugees,<sup>97</sup> the Hungarian Catholic clergy expressed support for the government’s closed-border policies.<sup>98</sup>

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91 “Romania States its Price For Taking in Refugees”, *BalkanInsight*, 8 September 2015, <http://www.balkaninsight.com/en/article/romania-to-limit-number-of-accepted-refugee-09-07-2015> (accessed March 14, 2016), and ‘Now Romania and Bulgaria will use migrant crisis to gain free movement across EU’, *Express*, September 16, 2015, <http://www.express.co.uk/news/world/605519/Schengen-Area-Romania-Bulgaria-Victor-Ponta-European-Union-Meglena-Kuneva> (accessed 14 March 2016).

92 Constantin STOICA, spokesman for the Romanian Patriarchy, in “Romanian Orthodox Church, first reaction to refugee crisis”, *Nine O’Clock.ro*, September 3, 2015, <http://www.nineoclock.ro/romanian-Orthodox-church-first-reaction-to-refugee-crisis/> (accessed 14 March 2016).

93 *Ibid.*

94 “Migration crisis: Hungary PM says Europe in grip of madness”, *The Guardian*, 3 September 2015, <http://www.theguardian.com/world/2015/sep/03/migration-crisis-hungary-pm-viktor-orban-europe-response-madness> (accessed 16 March 2016).

95 “Refugees ‘look like an army’, says Hungarian PM Viktor Orbán”, *The Guardian*, 23 October 2015, <http://www.theguardian.com/world/2015/oct/23/refugees-look-like-an-army-says-hungarian-pm-viktor-orban> (accessed 16 March 2016).

96 “Hungary PM: bring back death penalty and build work camps for immigrants”, *The Guardian*, 29 April 2015, <http://www.theguardian.com/world/2015/apr/29/hungary-pm-death-penalty-work-camps-for-immigrants-viktor-orban> (accessed 16 March 2016).

97 “Pope Francis urges Europe’s churches to house refugees”, *New York Post*, 6 September 2015, <http://nypost.com/2015/09/06/pope-francis-urges-europes-churches-to-house-refugees/> (accessed 16 March 2016).

98 “Pour l’Église de Hongrie, ce n’est pas des réfugiés, mais une invasion”, *Libération*, 9 September 2015, [http://www.liberation.fr/planete/2015/09/09/pour-l-eglise-de-hongrie-ce-n-est-pas-des-refugies-mais-une-invasion\\_1378992](http://www.liberation.fr/planete/2015/09/09/pour-l-eglise-de-hongrie-ce-n-est-pas-des-refugies-mais-une-invasion_1378992) (accessed 16 March 2016), and «Les catholiques hongrois sont réticents à accueillir les migrants”, *La Croix*, December 12, 2015, <http://www.la-croix.com/Religion/Actualite/Les-catholiques-hongrois-sont-reticents-a-accueillir-les-migrants-2015-12-04-1388785> (accessed 16 March 2016).

In Poland, Catholics also seem to be divided regarding the current refugee crisis.<sup>99</sup> Even if Polish bishops have insisted upon Poland's readiness and capacity to deal with the current influx of migrants,<sup>100</sup> the positions of the nationalist Law and Justice party, which can count on the explicit support of Catholic media,<sup>101</sup> makes it look extremely unlikely that the situation will evolve in the sense of more openness towards non-Christian foreigners. Indeed, an increasingly inward-looking mentality seems to be spreading throughout the country, following a similar pattern as that observed in Hungary.

In the Czech Republic too, Islam is an increasingly hot topic in public and political debates. Although Muslims constitute a very small minority of the population,<sup>102</sup> the majority of Czechs seem to perceive them as a major threat to their country. This can be observed through the increasing public activities of the Facebook platform *We don't want Islam in the Czech Republic*, as well as by the emergence of a series of minor political parties and movements such as *Dawn of Direct Democracy*, and also through the presence of the Pegida movement. Thus the issue of religious freedom is currently at stake in the Czech Republic, being increasingly undermined by Islamophobia<sup>103</sup> and xenophobia.<sup>104</sup>

In Slovakia, representatives of the Muslim minority estimate the total number of Muslims living in the country at only 5,000, most of them of foreign origin. This figure is unlikely to rise much, as the Slovak government have refused to take in Muslim refugees, arguing that the country cannot provide suitable places of worship<sup>105</sup> and that Muslims would "not feel at home" in Slovakia.<sup>106</sup>

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99 "Poland's Catholics are ambiguous over Francis' call to help refugees", *Cruix*, 14 September 2015, <http://www.cruixnow.com/life/2015/09/14/polands-catholics-are-ambiguous-over-francis-call-to-help-refugees/> (accessed 16 March 2016).

100 "Italian, Polish bishops welcome papal appeal to house refugees", *Catholic Culture*, 8 September 2015, <https://www.catholicculture.org/news/headlines/index.cfm?storyid=26050> (accessed 16 March 2016).

101 "Fear and xenophobia poison Polish polls", *The Guardian*, 23 October 2015, <http://www.theguardian.com/world/2015/oct/23/poland-election-law-and-justice-party> (accessed 16 March 2016).

102 It is estimated that about 20,000 Muslims live in the Czech Republic. Most of them are immigrants from Bosnia, post-Soviet republics or countries such as Syria and Iraq.

103 "Islamophobia on the rise", *Prague Post*, 31 December 2014, <http://www.praguepost.com/czech-news/43563-Islamophobia-on-the-rise> (accessed 17 March 2016), and "Islamophobia in East-Central Europe", *The Huffington Post*, 1 June 2015, [http://www.huffingtonpost.com/john-feffer/Islamophobia-in-east-cent\\_b\\_7483100.html](http://www.huffingtonpost.com/john-feffer/Islamophobia-in-east-cent_b_7483100.html) (accessed 17 March 2016).

104 "Academics warning of growing xenophobia", *Prague Daily Monitor*, 18 August 2015, <http://praguemonitor.com/2015/08/18/academics-warning-growing-xenophobia> (accessed 17 March 2016).

105 "Slovakia bans Muslim migrants because country has no mosques (but they'll take Christians)", *Express*, August 20, 2015, <http://www.express.co.uk/news/world/599520/migrant-crisis-immigrant-EU-Slovakia-Muslim-Syria-Christian-European-Union> (accessed 18 March 2016).

106 "Slovakia will take in 200 Syrian refugees, but they have to be Christian", *The Washington Post*, 19 August 2015, <https://www.washingtonpost.com/news/worldviews/wp/2015/08/19/slovakia-will-take-in-200-syrian-refugees-but-they-have-to-be-Christian/> (accessed 18 March 2016).

Christian refugees, by contrast, are said to possess “great integrative capacities”,<sup>107</sup> thus complying with Slovakia’s politics of “inclusive” immigration.<sup>108</sup>

In Slovenia, where after years of debate and not without incidents, the first mosque will finally be built,<sup>109</sup> an increasingly conservative, Church-backed discourse on moral and ethical issues has also started to gain ground recently, notably catalysed by the activities of civil society groups.

In Denmark, despite the prominent role of religious traditions, there is also significant political emphasis on secularism. Islam, whose precepts and social expressions are considered by some to be incompatible with mainstream culture, is often at the centre of controversy. This has most notably been the case with headscarves,<sup>110</sup> “halal” meals and individual shower booths in public institutions.<sup>111</sup> Following the 2005 Muhammad cartoons debate,<sup>112</sup> another crucial topic is the discussion on the extent and limits of free speech. In this context, in 2014 the Danish government notably issued a ban on religious slaughter,<sup>113</sup> stirring controversy both at the national<sup>114</sup> and international<sup>115</sup> level. Whereas Jewish and Muslim groups have vowed to fight the ban in court,<sup>116</sup> the February 2015 terror attacks<sup>117</sup> against a café and a synagogue, perpetrated by a “home-grown”

107 “La Slovaquie veut seulement accueillir des réfugiés chrétiens de Syrie”, *La Croix*, 21 August 2015, <http://www.la-croix.com/Religion/Actualite/La-Slovaquie-veut-seulement-accueillir-des-refugies-chretiens-de-Syrie-2015-08-21-1346707> (accessed 18 March 2016).

108 “Migrants crisis: Slovakia ‘will only accept Christians’”, *BBC News*, 19 August 2015, <http://www.bbc.com/news/world-europe-33986738> (accessed 18 March 2016).

109 “Slovenia starts work on first mosque after wait of over 40 years”, *Reuters*, 14 September 2013, <http://www.reuters.com/article/us-slovenia-mosque-idUSBRE98D07620130914> (accessed 18 March 2016).

110 Cf. for example “The Islamic headscarf in Denmark. Covering up”, *The Economist*, May 29, 2008, <http://www.economist.com/node/11461714> (accessed 22 March 2016).

111 “Majority of Muslims want special treatment for their children”, *The Copenhagen Post*, October 21, 2015, <http://cphpost.dk/news/a-majority-of-Muslims-want-special-treatment-for-their-children.html> (accessed 22 March 2016).

112 On this issue, see Lene KÜHLE, “We are in this together’: How the Cartoon Crisis Changed Relations Between the Danish State and the Muslim Danes”, in: Samuel M. BEHLOUL et al. (eds), *Debating Islam: Negotiating Religion, Europe, and the Self*, 2013, Transcript Verlag, Bielefeld, p. 243–262.

113 “Denmark bans kosher and halal slaughter as minister says ‘animal rights come before religion’”, *The Independent*, February 18, 2014, <http://www.independent.co.uk/news/world/europe/denmark-bans-halal-and-kosher-slaughter-as-minister-says-animal-rights-come-before-religion-9135580.html> (accessed 22 March 2016).

114 “Denmark accused of anti-Semitism as it bans religious slaughter of animals for kosher and halal meat”, *The Daily Mail*, February 18, 2014, <http://www.dailymail.co.uk/news/article-2562350/Denmark-accused-anti-Semitism-bans-religious-slaughter-animals-kosher-halal-meat.html> (accessed 22 March 2016).

115 “Denmark’s ritual slaughter ban says more about human hypocrisy than animal welfare”, *The Guardian*, February 20, 2014, <http://www.theguardian.com/commentisfree/andrewbrown/2014/feb/20/denmark-halal-kosha-slaughter-hypocrisy-animal-welfare> (accessed 22 March 2016).

116 “Danish Jews, Muslims fight for exemption to ritual slaughter ban”, *The Washington Post*, February 25, 2014, [https://www.washingtonpost.com/national/religion/danish-jews-Muslims-fight-for-exemption-to-ritual-slaughter-ban/2014/02/25/6672ecde-9e5a-11e3-878c-65222df220eb\\_story.html](https://www.washingtonpost.com/national/religion/danish-jews-Muslims-fight-for-exemption-to-ritual-slaughter-ban/2014/02/25/6672ecde-9e5a-11e3-878c-65222df220eb_story.html) (accessed 22 March 2016).

117 “Copenhagen attacks: Danish police charge two men”, *The Guardian*, February 16, 2015, <http://www.theguardian.com/world/2015/feb/16/copenhagen-attacks-danish-police-charge-two-men> (accessed 22 March 2016).



self-radicalized young man,<sup>118</sup> have added Denmark to the growing list of European countries to which the Middle Eastern political and religious conflict seems to have been exported.<sup>119</sup>

In Finland, public opinion seems to have become more outspoken in recent years as regards Islam. In this context, there have been sporadic outbreaks of violence against (mainly Muslim) asylum seekers;<sup>120</sup> recently “civilian patrols” have also been organized in order to intimidate refugees (psychologically as well as physically).<sup>121</sup>

As shown already, the most recent events in Austrian religious life concern the growing presence of Islam. The most important issue in this context is the renewed Act on Islamic Societies that was announced in 2014.<sup>122</sup> The Act, implemented the following year,<sup>123</sup> offers long overdue legal security to Muslims,<sup>124</sup> but it has also met with widespread criticism, mainly because it displays a certain mistrust towards Islam, for instance by expressly reminding Muslims to comply with the state’s legal order.<sup>125</sup> Another controversial measure is the ban on foreign funding for mosques and imams, intended to counter religious extremism and to create a grass-roots level, “inclusive” kind of European Islam.<sup>126</sup> While it remains to be seen whether such measures will benefit or harm both Austrian Muslims and society at large, it should be noted in this regard that the anti-Islam and xenophobic Pegida movement has also recently been imported from neighbouring Germany. The first demonstration on Austrian soil took place in February 2015.<sup>127</sup> While this seems to indicate that anti-Islam and anti-immigration feelings are on the rise, there also seems to be a bright side to the story, as far-right activists were largely outnumbered by a counter-manifestation.<sup>128</sup>

118 “Terror attacks By a Native Son Rock Denmark”, *The New York Times*, February 15, 2015,

[http://www.nytimes.com/2015/02/16/world/europe/copenhagen-attacks-suspect-is-killed-police-say.html?\\_r=0](http://www.nytimes.com/2015/02/16/world/europe/copenhagen-attacks-suspect-is-killed-police-say.html?_r=0) (accessed 22 March 2016).

119 On Islam in Denmark, see Jørgen S. NIELSEN (ed.), *Islam in Denmark: The Challenge of Diversity*, 2012, Lexington Books, Lanham-Boulder-New York-Toronto-Plymouth.

120 “Nationalists in Finland Hurl Rocks at Iraqis Seeking Asylum”, *The New York Times*, September 25, 2015,

[http://www.nytimes.com/2015/09/26/world/europe/nationalists-in-finland-hurl-rocks-at-iraqis-seeking-asylum.html?\\_r=0](http://www.nytimes.com/2015/09/26/world/europe/nationalists-in-finland-hurl-rocks-at-iraqis-seeking-asylum.html?_r=0) (accessed 23 March 2016).

121 “Soldiers of Odin’ white supremacist group searching Finland towns for Islamic migrants”, *The Express*, January 14, 2016,

<http://www.express.co.uk/news/world/634867/soldiers-Odin-white-supremacist-Finland-towns-Islamic-migrants> (accessed 23 March 2016).

122 “Facing fears over extremism, Austria unveils new law on Islam”, *Reuters*, October 2, 2014,

<http://ca.reuters.com/article/topNews/idCAKCN0HR27320141002?pageNumber=1&virtualBrandChannel=0> (accessed 27 March 2016).

123 “Austria passes controversial reforms to 1912 Islam law”, *BBC News*, February 25, 2015, <http://www.bbc.com/news/world-europe-31629543> (accessed

27 March 2016), and “Austria defends new law on foreign funding of mosques”, *The Guardian*, March 8, 2015,

<http://www.theguardian.com/world/2015/mar/08/austria-foreign-minister-Islam-funding-law-restricting> (accessed 27 March 2016).

124 In this context, see Barbara GARTNER, *Der religionsrechtliche Status Islamischer und Islamistischer Gemeinschaften*, 2011, Springer, Vienna-New York.

125 For criticism of the draft law, cf. [http://www.parlament.gv.at/PAKT/VHG/XXV/ME/ME\\_00069/index.shtml](http://www.parlament.gv.at/PAKT/VHG/XXV/ME/ME_00069/index.shtml) (accessed 27 March 2016).

126 “Will Austria’s experiment with Islam work for grassroots believers?”, *The Guardian*, February 26, 2015,

<http://www.theguardian.com/commentisfree/2015/feb/26/austria-experiment-Islam-grassroots-believers> (accessed 27 March 2016).

127 “Pegida supporters hold ‘anti-Islamisation’ march in Vienna”, *The Guardian*, February 3, 2015,

<http://www.theguardian.com/world/video/2015/feb/03/pegida-austria-anti-Islam-march-vienna-video> (accessed 27 March 2016).

128 “Autriche: le mouvement Islamophobe Pegida submergé par une contre-manifestation”, *La Libre Belgique*, February 2, 2015,

<http://www.lalibre.be/actu/international/autriche-le-mouvement-Islamophobe-pegida-submerge-par-une-contre-manifestation->



In Germany, discrimination of Muslims has also recently been catalysed by the massive influx of overseas migrants and refugees, which has notably fuelled the success of the above Pegida movement (*Patriotische Europäer gegen die Islamisierung des Abendlandes*),<sup>129</sup> an anti-Islam organization that was founded in Dresden and has recently been exported to a number of other European countries.<sup>130</sup> The increasingly negative discourse on Muslims — allegedly nearly 60% of the German population consider Islam to be a threat to society<sup>131</sup> — fed by Pegida but also by a hybrid mix of far-right organizations has led to attacks on asylum shelters<sup>132</sup> and to repeated acts of intimidation aimed at the Muslim community.<sup>133</sup>

In the Netherlands, the situation seems to be one of the most contrasted in the EU: for example, while in 2009 the country's second-largest city elected its first foreign-born mayor<sup>134</sup> in the person of the son of a Moroccan preacher who does not seem afraid to speak out on issues such as religious extremism and integration,<sup>135</sup> far-right populist demagogue Geert Wilders, founder and president of the Freedom Party, has repeatedly provoked and insulted immigrant populations, for example by pledging that he would rid the Netherlands of Moroccans.<sup>136</sup> While he is to stand trial following such statements,<sup>137</sup> in May 2015 Wilders also participated in a Texas "draw a Muhammad" contest which

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[54cfe0ba35701001a18267c5](https://www.spiegel.de/politik/ausland/wien-polizei-ermittelt-wegen-hitler-gruessen-bei-pegida-demo-a-1016527.html) (accessed 27 March 2016), and "Österreich: Wiener Polizei ermittelt wegen Hitlergrüssen bei Pegida-demo", *Der Spiegel*, February 3, 2015, <http://www.spiegel.de/politik/ausland/wien-polizei-ermittelt-wegen-hitler-gruessen-bei-pegida-demo-a-1016527.html> (accessed 27 March 2016). This was also the case during a subsequent rally, cf. "Zweite Pegida-Kundgebung in Wien", *Wiener Zeitung*, April 19, 2015, [http://www.wienerzeitung.at/nachrichten/wien/stadtpolitik/747378\\_Zweite-Pegida-Kundgebung-in-Wien.html](http://www.wienerzeitung.at/nachrichten/wien/stadtpolitik/747378_Zweite-Pegida-Kundgebung-in-Wien.html) (accessed on March 27, 2016), and "Pegida-Demo in Wien: Mehrere Anzeigen, zwei wegen Hitlergrusses", *der Standard*, April 19, 2015, <http://derstandard.at/2000014511042/Zweite-Pegida-Demo-in-Wien> (accessed 27 March 2016).

129 Cf. the Pegida-website on <https://pegidaoffiziell.wordpress.com/> (accessed 28 March 2016).

130 "Exportschlagler Pegida", *Süddeutsche Zeitung*, January 16, 2015, <http://www.sueddeutsche.de/politik/Islamfeindliche-bewegung-exportschlagler-pegida-1.2305945> (accessed on March 28, 2016), and "Anti-Islam Organization PEGIDA Is Exporting Hate Across Europe", *Newsweek*, February 15, 2016, <http://europe.newsweek.com/anti-islam-organization-pegida-exporting-hate-across-europe-426805?rm=eu> (accessed 28 March 2016).

131 "Muslim teachers may wear headscarves in class, German court rules", *The Guardian*, March 13, 2015, <http://www.theguardian.com/world/2015/mar/13/Muslim-teachers-can-wear-headscarves-german-court-rules> (accessed 28 March 2016).

132 "Angela Merkel to visit asylum shelter after wave of far-right attacks", *The Guardian*, August 25, 2015, <http://www.theguardian.com/world/2015/aug/25/angela-merkel-visit-asylum-shelter-attacks> (accessed 28 March 2016).

133 Cf. for example the repeated anonymous symbolic actions against the construction of a mosque in Leipzig: "Allemagne: le chantier de la future mosquée de Leipzig souillé par des têtes de porc", *Oumma.com*, November 18, 2013, <http://oumma.com/200929/alle-magne-chantier-de-future-mosquee-de-leipzig-souil> (accessed 28 March 2016), and "Germany: Dead pig with Angela Merkel's name daubed on it found at mosque site", *International Business Times*, February 25, 2016, <http://www.ibtimes.co.uk/germany-dead-pig-angela-merkels-name-daubed-it-found-dumped-mosque-site-1546065> (accessed 28 March 2016).

134 "Holland's first immigrant mayor is hailed as 'Obama on the Maas'", *The Guardian*, 11 January 2009, <http://www.theguardian.com/world/2009/jan/11/netherlands-rotterdam-race-ahmed-aboutaleb> (accessed 28 March 2016).

135 "Moroccan-born mayor of Rotterdam tells fellow Muslims who do not appreciate the 'freedoms' of living in the West to 'pack your bags and f\*\*\* off' on live TV", *The Daily Mail*, 13 January 2015, <http://www.dailymail.co.uk/news/article-2907941/Moroccan-born-mayor-Rotterdam-tells-fellow-Muslims-not-appreciate-freedoms-living-West-pack-bags-f-live-TV.html> (accessed 28 March 2016).

136 "Dutch politician Geert Wilders takes aim at Moroccans and sparks outrage", *The Guardian*, 20 March 2014, <http://www.theguardian.com/world/2014/mar/20/dutch-politician-geert-wilders-moroccans-outrage-pvv-party-anti-islam> (accessed 28 March 2016).

137 "Geert Wilders faces charges over 'anti-Moroccan' speech", *The Guardian*, 18 December 2014, <http://www.bbc.com/news/world-europe-30532882> (accessed 28 March 2016).

was the target of a terrorist attack.<sup>138</sup> In light of all this it seems fair to say that Dutch society, which in recent years has also witnessed the assassination, for apparent reasons of ethnically and religiously inspired extremism, of populist politician Pim Fortuyn (2002) and controversial artist Theo van Gogh (2004), is currently at a crossroads, a point in which elementary humanist values of ethnic and religious tolerance are the object of intense negotiation. Indeed, whereas issues such as the discussion regarding the Black Peter character have re-problematized racism and colonialism,<sup>139</sup> the cocktail of xenophobia and islamophobia illustrated above, present in large parts of Dutch society, presents a serious threat to a society that until recently was considered one of the most open-minded on the European continent.

Finally, in Italy, a case that has drawn considerable media attention is the so-called anti-mosque law: in 2015, the Lombard administration passed a regulation that made it much more complicated for Muslims to build mosques, notably due to very stringent logistical requirements (obligatory parking lots, camera surveillance, etc.).<sup>140</sup> The Renzi administration recently took aim at the law, which is largely seen as discriminatory towards the country's Muslim minority.<sup>141</sup> In February 2016, the Constitutional Court invalidated the legislation.<sup>142</sup> Yet this did not discourage the region of Liguria from enacting similar anti-mosque legislation in 2016, despite the fact that purpose-built mosques are rare in Italy.<sup>143</sup>

## I.5. The Jewish communities of Europe

While according to the Jewish People Policy Institute,<sup>144</sup> the Jewish global population is approaching pre-World War II levels, the current Jewish population within the EU is estimated at around

138 "Texas shooting: Two gunmen shot dead outside Muhammad exhibition—rolling coverage", *The Guardian*, May 4, 2015, <http://www.theguardian.com/us-news/live/2015/may/04/two-gunmen-shot-dead-in-texas-outside-muhammad-cartoon-exhibition-rolling-coverage> (accessed 28 March 2016).

139 Cf. for example "U.N. Urges the Netherlands to Stop Portrayals of 'Black Pete' Character", *The New York Times*, 28 August 2015, [http://www.nytimes.com/2015/08/29/world/europe/zwarte-piet-netherlands-united-nations.html?\\_r=0](http://www.nytimes.com/2015/08/29/world/europe/zwarte-piet-netherlands-united-nations.html?_r=0) (accessed 14 April 2016), and "Dutch 'Black Pete' makes annual arrival to howls of protest", *The Telegraph*, 15 November 2015, <http://www.telegraph.co.uk/news/worldnews/europe/netherlands/11996588/Dutch-Black-Pete-makes-annual-arrival-to-howls-of-protest.html> (accessed 14 April 2016).

140 Cf. for example "Pirellone, passa la legge 'anti-moschee': regole più rigide e telecamere obbligatorie", *La Repubblica*, January 27, 2015, [http://milano.repubblica.it/cronaca/2015/01/27/news/pirellone\\_passa\\_la\\_legge\\_anti\\_moschee\\_regole\\_urbanistiche\\_pi\\_rigide\\_e\\_telecamere\\_obbligatorie-105933778/](http://milano.repubblica.it/cronaca/2015/01/27/news/pirellone_passa_la_legge_anti_moschee_regole_urbanistiche_pi_rigide_e_telecamere_obbligatorie-105933778/) (accessed 14 April 2016).

141 "Anti-Mosque Law: Italian PM Renzi Trying To Stop Discriminatory Building Code; Italy Doesn't Recognize Islam", *International Business Times*, March 13, 2015, <http://www.ibtimes.com/anti-mosque-law-italian-pm-renzi-trying-stop-discriminatory-building-code-italy-1846794> (accessed 14 April 2016).

142 "La Consulta bocchia Maroni, stop alla legge anti-moschee", *La Repubblica*, 24 February 2016, [http://www.repubblica.it/politica/2016/02/24/news/consulta\\_bocchia\\_legge\\_anti\\_moschee\\_maroni-134123640/](http://www.repubblica.it/politica/2016/02/24/news/consulta_bocchia_legge_anti_moschee_maroni-134123640/) (accessed 14 April 2016).

143 "Northern Italian region approves anti-mosque laws", *The Local*, 28 September 2016, <https://www.thelocal.it/20160928/anti-mosque-proposals-in-northern-italy-liguria> (accessed 15 October 2017).

144 "Jewish global population approaches pre-Holocaust levels", *The Guardian*, 28 June 2015.

2,000,000, less than a quarter of what it was in 1939. Some estimations place the figure even lower, at around 1,400,000 individuals.<sup>145</sup> With roughly 500,000 members, France has the largest Jewish community of the EU, followed by the UK (between 200,000 and 300,000 members) and Germany (around 100,000). All other EU countries have small Jewish communities (fewer than 50,000 members). After the genocide, emigration and assimilation kept pushing the figures downwards. But in Germany, the number of Jews has been increasing in recent years. Post-reunification Germany welcomed many Jews from the former Soviet Union and public authorities increased financial support for religious organizations. Indeed, the tragic history of Judaism in Europe continues to influence public policies; in June 2015, the Spanish Parliament passed a law enabling descendants of Jews expelled from Spain in 1492 to easily obtain nationality, "to repair a historical error".<sup>146</sup> The Portuguese authorities had already enacted similar legislation in 2013.

In the past century, secularization had a massive impact on European Jewry; secular organizations, pursuing cultural, educational, political or simply recreational goals have tended to become more numerous than synagogues. This observation has led to a questioning of what constitutes Jewish identity.

In the last three years, Jewish communities throughout Europe have been most concerned by the risk of terrorist attacks and the rise of anti-Semitism. While some forms have always been noted (such as vandalism in cemeteries), there are now strong indications of a rise in incidents apart from the most violent acts. The attack on a Jewish school in Toulouse (France) in 2012, at the Jewish Museum in Brussels (May 2014) or at a kosher supermarket in Paris (January 2015) triggered a strengthening of security measures around all Jewish institutions in the EU. Yet individuals remain vulnerable in their daily life. In October 2014, the European Agency for Fundamental Rights published a summary overview of the data available in the EU concerning anti-Semitism between 2003 and 2013.<sup>147</sup> While not all EU member countries collect data on anti-Semitism, those who do generally encountered a marked increase in the number of incidents reported.

In 2012, the European Agency for Fundamental Rights (FRA) conducted a survey asking self-identified Jews about anti-Semitism; 26% of all respondents reported experiencing at least one incident involving verbal insult or harassment because they were Jewish in the last 12 months; 4%

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145 Michael LIPKA, "The continuing decline of Europe's Jewish population", *Pew Research Center*, 9 February, 2015. <http://www.pewresearch.org/fact-tank/2015/02/09/europes-jewish-population/>

146 "Spain passes citizenship plan for descendants of Jews exiled centuries ago", *BBC News*, 11 June 2015, <http://www.bbc.com/news/world-europe-33102891> (accessed 25 August 2017)

147 [http://fra.europa.eu/sites/default/files/fra-2014\\_antisemitism-update-2003-2013\\_web.pdf](http://fra.europa.eu/sites/default/files/fra-2014_antisemitism-update-2003-2013_web.pdf) (accessed 28 August 2016)

experienced physical violence or threats of violence. In Denmark, the February 2015 terror attacks<sup>148</sup> against a café and a synagogue, perpetrated by a “home-grown” self-radicalized young man,<sup>149</sup> have furthermore added Denmark to the growing list of European countries to which the Middle Eastern political and religious conflict seems to have been exported.<sup>150</sup> Released in February 2015, a study by the Pew Research Center indicated that in 2013, the most recent year covered by the study, harassment of Jews in Europe had reached a seven-year high.<sup>151</sup>

Analysts of the rise in anti-Semitism often link it to events in the Middle East and attribute a large part of it to the Muslim minority. Anti-Semitic slogans can be heard in the context of demonstrations protesting Israel's policies and defending the rights of the Palestinian people.<sup>152</sup> Verbal attacks against Jews, vandalism such as graffiti on Jewish places of worship, cemeteries or even businesses have been more frequently reported since 2000.<sup>153</sup> They reached a peak during the summer of 2014 during the Israeli operation called “Protective Edge” in the Gaza Strip. UN General Secretary Ban Ki-Moon expressed concern over the rise of anti-Semitism in Europe.<sup>154</sup> On 14 April 2015 the European Parliament Working Group on Anti-Semitism discussed the rising problem of anti-Semitism within Muslim Communities.<sup>155</sup> The fights against both anti-Semitism and Muslim-hatred are often linked, as in the theme of the first Annual Colloquium on Fundamental Rights in the EU hosted by Commissioner Frans Timmermans on 1–2 October 2015: *Tolerance and respect: preventing and combating anti-Semitic and anti-Muslim hatred in Europe*.<sup>156</sup>

There is concern among European Jewish communities about the extension of the ban on animal slaughtering without prior stunning and about the debate regarding ritual circumcision in some EU states.

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148 “Copenhagen attacks: Danish police charge two men”, *The Guardian*, 16 February 2015, <http://www.theguardian.com/world/2015/feb/16/copenhagen-attacks-danish-police-charge-two-men> (accessed 22 March 2016).

149 “Terror attacks By a Native Son Rock Denmark”, *The New York Times*, 15 February 2015, [http://www.nytimes.com/2015/02/16/world/europe/copenhagen-attacks-suspect-is-killed-police-say.html?\\_r=0](http://www.nytimes.com/2015/02/16/world/europe/copenhagen-attacks-suspect-is-killed-police-say.html?_r=0) (accessed 22 March 2016).

150 On Islam in Denmark, see Jørgen S. NIELSEN (ed.), *Islam in Denmark: The Challenge of Diversity*, 2012, Lexington Books, Lanham-Boulder-New York-Toronto-Plymouth.

151 “Latest Trends in Religious Restrictions and Hostilities. Overall Decline in Social Hostilities in 2013, though Harassment of Jews Worldwide Reached a Seven-Year High” 26 February 2015. <http://www.pewforum.org/2015/02/26/religious-hostilities/> (accessed 27 December 2017).

152 <http://www.lalibre.be/debats/opinions/mort-aux-juifs-scandent-ils-53d7559e35702004f7d9ef84>; [http://www.huffingtonpost.fr/jeanmarc-chouraqui/antisemitisme-dans-les-manifestations-pro-gaza\\_b\\_5670795.html?utm\\_hp\\_ref=france](http://www.huffingtonpost.fr/jeanmarc-chouraqui/antisemitisme-dans-les-manifestations-pro-gaza_b_5670795.html?utm_hp_ref=france) (accessed 27 December 2017).

153 <http://www.levif.be/actualite/belgique/antisemitisme-les-signalements-ont-quintuple-en-belgique/article-normal-18713.html>; <http://www.theguardian.com/society/2014/aug/01/sharp-rise-uk-antisemitic-attacks-gaza-conflict> (accessed 27 December 2017).

154 “UN leader deplores rise of anti-Semitism” 4 August 2014, <http://www.sbs.com.au/news/article/2014/08/04/un-leader-deplores-rise-anti-semitism> (accessed 28 August 2016).

155 <http://www.antisem.eu/antisemitism-in-europe/> (accessed 28 August 2016).

156 [http://ec.europa.eu/justice/events/colloquium-fundamental-rights-2015/index\\_en.htm](http://ec.europa.eu/justice/events/colloquium-fundamental-rights-2015/index_en.htm) (accessed 28 August 2016).

## I.6 The “newcomers” – oriental philosophies and religions / other groups

Oriental philosophies such as Buddhism and Hinduism came to the attention of Western intellectuals in the second half of the 19<sup>th</sup> century. During the following century, the number of their followers grew, mostly in Western Europe (Germany, Italy, France, the UK and the Benelux). It is therefore more thanks to “conversions” of Europeans rather than to the arrival of Asian followers that these communities developed on European soil. This is especially true of Buddhism.

### Buddhism

While some have described the emergence of Buddhism in non-Asian settings as creating a second type of Buddhism and a gulf between Buddhist immigrants and converts, others argue that the line between traditional and modern Buddhism is not drawn on an ethnic basis.<sup>157</sup> The exact number of followers of a Buddhist tradition in Europe is not known; considered by most as a philosophy rather than a religion, following a Buddhist tradition can be combined with adherence to another faith. Observers generally agree that Buddhism is on the rise in Europe, especially in the Western part of the continent. The oldest and largest Theravada Buddhist centre in Europe is located in Berlin (Germany). It was built in 1924.

*Das Buddhistische Haus* was declared a National Heritage site in 2004. In October 2014, the largest Buddhist temple in Europe was inaugurated on the outskirts of Milan.<sup>158</sup>

The European Buddhist Union is the umbrella association of national Buddhist organizations in Europe; while Buddhism is present all over Europe, there are fewer Buddhist organizations in the Eastern part of the Union.<sup>159</sup>

The popularity enjoyed by the Dalai Lama in Europe has been a source of constraint in relations with China. In late 2014, Pope Francis’s refusal to meet with the Dalai Lama because of the delicate situation in China attracted media attention.<sup>160</sup> In September 2016, the Dalai Lama paid his fifth visit to the European Parliament in Strasbourg.<sup>161</sup> The warm welcome received by the monk was strongly

157 Martin BAUMANN, “Global Buddhism and a new analytical perspective”, *Journal of Global Buddhism*, 2(2001), I, 43. [https://web.archive.org/web/20140207192704/http://archiv.ub.uni-heidelberg.de/savifadok/128/1/Global\\_Buddhism.pdf](https://web.archive.org/web/20140207192704/http://archiv.ub.uni-heidelberg.de/savifadok/128/1/Global_Buddhism.pdf) (accessed 28 August 2016).

158 “Italy Legend Roberto Baggio Opens Biggest Buddhist Centre In Europe”, <http://forzaitalianfootball.com/2014/10/italy-legend-roberto-baggio-opens-biggest-buddhist-centre-in-europe/> (accessed 28 August 2016).

159 <http://europeanbuddhism.org/members/> (accessed 30 December 2017).

160 “Pope declines Dalai Lama meeting in Rome”, 12 December 2014, <http://www.bbc.com/news/world-europe-30455187> (accessed 28 August 2016)

161 <http://www.europarl.europa.eu/news/fr/headlines/eu-affairs/20160909STO41741/le-dalai-lama-en-visite-au-parlement-europeen-a-strasbourg> (accessed 30 December 2017).

criticized by the Chinese government, but did not appear to draw criticism among European secularist groups, contrary to the reactions to Pope Francis's visit.<sup>162</sup>

## Hinduism

While Hinduism is the world's fourth major religion, it remains discreet on the European continent. According to figures from the Pew Research Center, Hinduism has about 1.3 million followers in Europe, the largest community (around 800,000) being found in the UK.<sup>163</sup> The largest Hindu temple in Europe is also located in the UK; it opened in 2006 in Tividale (West Midlands). The number of Hindus in Europe is expected to double by 2050; contrary to Buddhism, which attracts many conversions, the growth of Hinduism is attributed only to immigration.<sup>164</sup> In 2015, the question of the existence of caste discrimination in Britain and the opportunity to enact a law prohibiting it arose in a debate between the two major political parties.<sup>165</sup> Outside Britain, four Hindu temples opened in 2015, in Switzerland, Norway, Scotland and Germany.<sup>166</sup>

### I.7. Secular or atheist groups

In April 2016, *National Geographic* featured an article titled "The World's Newest Major Religion: No Religion".<sup>167</sup> While statistics show a marked increase in the number of Europeans who do not believe in God or who do not practice any religion, sometimes constituting the first or second-largest convictional group in a country, atheists or agnostics are not often structured in organizations. For a long time, non-believers were not the subject of scientific studies; a new trend is currently emerging in scholarship, submitting secular people to scrutiny.<sup>168</sup>

The European Humanist Federation (EHF) affiliates around 50 organizations, spreading among 21 EU member countries; while some of these are strong organizations, others are made of small, discreet groups often engaged in promoting the separation of state and church in countries still

162 "Pékin dénonce la réception du dalaï-lama au Parlement européen", *Le Figaro*, 19 September 2016.

163 Pew Research center, "The Global religious landscape—Hindus", 18 December 2012 <http://www.pewforum.org/2012/12/18/global-religious-landscape-hindu/> (accessed 28 August 2016).

164 <http://indianexpress.com/article/india/india-others/hindus-to-be-worlds-third-largest-population-by-2050-report/> (accessed 28 August 2016).

165 <http://www.economist.com/blogs/erasmus/2015/11/hinduism-britain-and-caste> (accessed 28 August 2016).

166 <http://www.rajasthannews1.com/2015/06/four-hindu-temples-launched-in-europe.html> (accessed 28 August 2016).

167 <http://news.nationalgeographic.com/2016/04/160422-atheism-agnostic-secular-nones-rising-religion/> (accessed 28 August 2016).

168 For an overview of existing research, see P. ZUCKERMANN, L.W. GALEN and F.L. PASQUALE, *The Nonreligious: Understanding Secular People and Societies*, Oxford, Oxford University Press 2016.

marked by deep religiosity (Greece, Poland, etc.).<sup>169</sup> In 2015, the EHF campaigned to promote pluralistic public education systems.<sup>170</sup>

While atheists do not face persecution or arrest in the EU, unlike in other regions of the world, they still face social discrimination in several countries, as documented by the 2016 Freedom of Thought Report, published by the International Humanist and Ethical Union.<sup>171</sup>

Another meaningful phenomenon with regard to increasing secularism are the so-called Sunday Assemblies, which have been labelled “the UK’s first atheist Church”.<sup>172</sup> While these radically non-belief oriented gatherings demonstrate that British society is increasingly secularized, at the same time, and paradoxically, they have maintained religion at the centre of public attention, stripping it of much of its contents, but preserving its stress on community feeling (singing, speeches, meetings, etc.).<sup>173</sup> One should also mention Pastafarism, or *the Church of the flying spaghetti monster*. Born in the US, where the “Flying Spaghetti Monster” was first described in a satirical letter written by Bobby Henderson in 2005 to protest the Kansas State Board of Education decision to permit teaching intelligent design as an alternative to evolution in public schools, which quickly became an Internet phenomenon, Pastafarism has spread to the EU. This satire of traditional religions has continued its demonstration by requesting official recognition as such in several countries. The *Kerk van de vliegende Spaghettimonster* was officially registered as such in the Netherlands in early 2016, while the British Church of the Flying Spaghetti Monster was fighting for the right to wear a colander on driving licence photos.<sup>174</sup> In 2011, after the 2001 census had seen a number of people self-identifying as “knights of the Jedi”, there was a call for people to put “pastafarian” as their religion in the 2011 UK census.<sup>175</sup>

169 <http://humanistfederation.eu/membres.php> (accessed 24 March 2016).

170 EHF 2015-16 Annual report. <https://humanistfederation.eu/wp-content/uploads/2017/04/EHF-Annual-Report-2015-2016-.pdf> (accessed 24 March 2016).

171 <http://freethoughtreport.com/download-the-report/>

172 “Comedians of the Antichrist give first atheist church their blessing”, *The Independent*, 6 January 2013, <http://www.independent.co.uk/news/uk/home-news/comedians-of-the-antichrist-give-first-atheist-church-their-blessing-8440194.html> (accessed 24 March 2016).

173 “Like the idea of church, but don’t believe in God? Try a Sunday Assembly”, *The Guardian*, 14 December 2014, <http://www.theguardian.com/lifeandstyle/2014/dec/14/like-idea-church-believe-god-sunday-assembly> (accessed on 24 March 2016), and “Atheist Sunday Assembly prepares for first ‘synod’ as expansion continues”, *The Guardian*, 29 April 2014, <http://www.theguardian.com/world/2014/apr/29/atheist-sunday-assembly-first-synod> (accessed 24 March 2016).

174 “We zijn officieel ingeschreven bij de KVK!”, 26 January 2016, <https://www.kerkvanhetvliegendspaghettimonster.nl/uncategorized/we-zijn-officieel-ingeschreven-bij-de-kvk/> (accessed 30 December 2017).

175 “Jedis And Pastafarians: Real Religion Or Just A Joke?”, *The Huffington Post*, 13 August 2011, [https://www.huffingtonpost.com/2011/08/13/jedis-and-pastafarians-re\\_n\\_925801.html?quccounter=1](https://www.huffingtonpost.com/2011/08/13/jedis-and-pastafarians-re_n_925801.html?quccounter=1) (accessed 21 September 2018).



## II. Coping with diversity: impact on public policies, legislation and debates

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### II.1. Religion in the public space

Religion in the public space has once again become the subject of much debate and conflict in Europe as well as the subject of intense academic research. The presence of religion in the public space is being challenged on two fronts: on the one hand, by groups of non-religious citizens wishing to remove the presence of religions from the public space and, on the other hand, by representatives from minority religions wishing to assert their presence in a similar way to that enjoyed by previously dominant religions.

Many of the issues — but far from all — concern the dress code of Muslim women. Some discussions also seem to obliterate the distinction between the public space, open to all, and the sphere of the public authorities, where specific restrictions can apply. Other concepts distinguish between common space, political space and institutional space.<sup>176</sup>

#### II.1.a. Assessing the neutrality of the public authorities

##### Displaying religious signs in public administrations/school buildings

What used to be a debate between Church followers and anticlerical militants has evolved into a debate between mainstream society and religious minorities ... The debate is indeed complexified by the fact that the issue was in many cases not resolved at the start of the confrontation. Crosses remaining on the walls of official buildings are now being considered in some instances as pertinent cultural symbols while Muslim signs of faith are being banned from the same premises. Poland, for example, has seen ongoing controversy concerning the presence of religious symbols in the public space.

Recently a court case was filed by a group of MPs who demanded that a cross be removed from Parliament.<sup>177</sup> Most significantly in this context, a parliamentary debate on 3 December 2009 addressed the questions of the protection of freedom of conscience and of the promotion of values based on a “common European heritage”. It emphasized, among other things, that “the cross is not only a religious symbol and a symbol of God’s love for the people, but in the public sphere it also reiterates readiness to sacrifice for one’s fellow man, thereby fostering respect for the dignity and

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<sup>176</sup> Dominique WOLTON, “Espace public, commun et politique” <http://www.wolton.cnrs.fr/spip.php?article214>

<sup>177</sup> “Polish parliament cross should go, says Palikot party”, *BBC News*, 9 November 2011, <http://www.bbc.com/news/world-europe-15663605> (accessed 16 March 2016).



rights of every human being".<sup>178</sup> While a subsequent senatorial resolution (2010) contained similar wordings, the case was finally taken to the Regional Court in Warsaw, which in 2013 saw no legal grounds to remove the crucifix.<sup>179</sup>

In Malta, the presence of crucifixes in state school classrooms has also led to intense debate, which only ended when a European Court of Human Rights (ECHR) decision decreed that the display of crucifixes in classrooms does not constitute a human rights breach. The Maltese government's position on the matter was and is clear: the cross is "a symbol of European identity and heritage".<sup>180</sup>

In France as in other European countries with a strong secular tradition, the presence of nativity scenes in public buildings at Christmas time has been repeatedly challenged. In November 2016, the French *Conseil d'État* decided to allow nativity scenes in public buildings. While beginning by referring to the law of 1905 which prohibits the installation of religious signs by a public person, the administrative judges said that the nativity cribs carried "a plurality of meaning": Christian scenes of the Nativity but also "elements of profane decoration". Following this argument, a crèche could be authorized if several criteria were met: its installation must be temporary, during the holidays, and it must present "a cultural, artistic or festive character" and not express "the recognition of a cult or a religious preference".<sup>181</sup>

The French concept of *laïcité* (secularism) is sometimes interpreted by public officials as a prohibition of any kind of state intervention in favour of groups where religious belief can be expressed. In July 2016, the municipal council of Aix-en-Provence adopted a "*Charte de la laïcité et des valeurs de la République*" to be respected by the partners and associations supported by the city. According to the text, subsidies would from now on be given only to groups who agreed to ban every expression of religious or political opinions. The text was successfully challenged by the *Ligue des Droits de l'Homme* in court, and in a ruling rendered on 14 October 2016, the court suspended the city's decision.<sup>182</sup> In France still, a commission was installed by the government of PM Manuel Valls (PS) in June 2016 to examine the difficulties met by public servants regarding the application of the principle of secularism and religious requests. The commission, presided by former minister

178 *Monitor Polski* 2009, no. 78, item 962, <http://www.monitorpolski.gov.pl/MP/2009/s/78/962/1> (accessed 16 March 2015).

179 "Polish court rejects call to remove crucifix from parliament", *Reuters*, 15 January 2013, <http://www.reuters.com/article/us-poland-cross-idUSBRE90EOM620130115> (accessed 16 March 2016).

180 "Crucifix in state classrooms 'no breach of human rights'", *Times of Malta*, 19 March 2011, <http://www.timesofmalta.com/articles/view/20110319/local/crucifix-in-state-classrooms-no-breach-of-human-rights.355455> (accessed 26 March 2016). In this context, see also 'Malta's Archbishop Against crucifix ban', *Malta Independent*, 5 November 2009, <http://www.independent.com.mt/articles/2009-11-05/news/maltas-archbishop-against-crucifix-ban-265795/> (accessed 26 March 2016).

181 Conseil d'État, décision du 9 novembre 2016, n° 395122.

182 B. GORCE, "La justice suspend une charte de la laïcité", *LaCroix.com*, 19 October 2016, <https://www.la-croix.com/France/Justice/La-justice-suspend-charte-laicite-2016-10-19-1200797425> (accessed 23 September, 2017).

Emile Zuccarelli, published its report on 9 December 2016.<sup>183</sup> Prominent among the recommendations of the commission was the development of information and training for public servants confronted with such problems.

#### Prohibiting the wearing of religious signs/clothing by civil servants

Apart from the display of religious signs in the public space, a subsequent issue is the wearing of such signs by public servants. In recent years, several countries have taken steps to ban the display of obvious religious signs by state employees in order to respect the neutrality of the state. Yet the perimeter of the prohibition varies. Some have attempted to draw a distinction between back- and front-office functions, depending on whether or not the person is in contact with the public.<sup>184</sup> Others distinguish between positions of authority or not, while yet others wish to extend the ban to state-sponsored organizations. One such case attracted a lot of media attention: the “Baby-Loup” affair, about a woman who was fired from a day-care centre in France in 2008 because she refused to stop wearing her headscarf. The legitimacy of the dismissal was confirmed at the end of a long judiciary saga by a decision by the French Supreme Court (*Cour de Cassation*, 25 June 2014) rejecting the woman’s appeal. Similar bans are in force in some of Germany’s *Länder*, and Austria and the Netherlands are studying strict new legislation on the matter as well.

#### **II.1.b. Religion and the dress code**

Restrictions to the wearing of religiously associated clothing at the workplace or in schools is also being debated in several European countries and has led to many judiciary decisions, of which some have been taken at the ECHR level (see chapter VI).

#### Public schools

In 2004 France enacted a law prohibiting the wearing of any ostentatious religious sign in public schools. The French law of 2004 drew worldwide attention and is now applied without any further commotion. Other countries have regulations or practices, sometimes validated by case law, amounting to the same result.

Recently the question has been raised as to whether the same prohibition could extend to parents accompanying their children during extracurricular activities.

<sup>183</sup> *Laïcité et fonction publique*, travaux de la commission présidée par M. Emile Zuccarelli. Décembre 2016. <https://www.fonction-publique.gouv.fr/files/files/publications/rapports-missionnes/Rapport-Laicite-et-Fonction-publique.pdf> (accessed 23 September, 2017).

<sup>184</sup> Katayoun ALIDADI, “From Front-Office to Back-Office: religious dress crossing the public-private divide in the workplace” in Silvio FERRARI & Sabrina PASTORELLI (eds), *Religion in public spaces. A European perspective*. London, Ashgate, 2012.

Many German *Länder* have enacted similar bans, while sometimes allowing Christian signs only. In Germany and in England, attempts by a young woman to wear a *niqab* at school led to the banning of such attire in the classroom in 2016.<sup>185</sup>

#### Other public spaces

In France there have also been some attempts to ban religious dressing in general public spaces, such as the beach. In the summer of 2014, the mayor of Wissous banned the wearing of all religious signs from a leisure centre, Wissous-Plage. Women wearing a headscarf were no longer admitted to the centre. The ban was later suspended by the Court.<sup>186</sup>

#### Banning the *burqa*?

As illustrated, issues related to Islam in Europe increasingly concern dress codes. Among them, the full-face veil, *burqa* or *niqab*,<sup>187</sup> has drawn much attention in recent years. The political significance of this issue, the media attention it draws, contrasts sharply with the number of women actually concerned, as wearing a *burqa* or a *niqab* remains the choice of a very small minority of Muslim women in Europe, despite some evidence that the practice is increasing, at least in the UK.<sup>188</sup>

In many EU countries, a debate is ongoing about the opportunity to legally ban full-face veils in the public space. Supporters of the prohibition base their case on a variety of reasons. Public safety is probably the one that is most easily articulated within existing legislation; it echoes security concerns in a post-September 2001 world: one must be identifiable while in a public space. Yet, for many people, banning the *burqa* and the *niqab* also means setting up boundaries regarding the expression of religious diversity. When freedom of religion is seen as an obstacle to the fulfilment of other fundamental principles — such as gender equality and human dignity —, according to those who are in favour of banning full-face veils from the streets of Europe it can and must be limited.

Opponents to the ban see no legitimate reason to justify this infringement on the principle of freedom of religion. They do not believe that the ban is aimed at solving concrete problems arising from the wearing of face-covering garments: rather, in the words of Silvio Ferrari, “such a ban is

185 <http://www.bbc.com/news/education-35413363> ; <http://www.independent.co.uk/news/world/europe/germany-burqa-ban-niqab-veil-schools-warned-muslim-students-isolated-merkel-maziere-law-a7207151.html>

186 [http://www.lemonde.fr/societe/article/2014/08/12/le-reglement-controverse-de-wissous-plage-a-nouveau-suspendu-par-la-justice\\_4470635\\_3224.html](http://www.lemonde.fr/societe/article/2014/08/12/le-reglement-controverse-de-wissous-plage-a-nouveau-suspendu-par-la-justice_4470635_3224.html)

187 When thinking about full-face covering, it is often referred to the *burqa* only, which is a full-body garment, including head covering, with a grid or eye-holes allowing vision, such as imposed by the Taliban in Afghanistan. It is extremely rare in Europe, where the issue would rather concern the *niqab*, a long dress covering the head, combined with a veil covering the face below the eyes.

188 N. MEER, C. DWYER and T. MODOOD, “Embodying Nationhood? Conceptions of British National Identity, Citizenship, and Gender in the ‘Veil Affair’”. *Sociological Review*, 2010, 58(1), pp. 84–111; [http://www.nasarmeer.com/uploads/7/7/4/6/7746984/embodiment\\_nationhood.pdf](http://www.nasarmeer.com/uploads/7/7/4/6/7746984/embodiment_nationhood.pdf) (accessed 26 June 2014).

intended to communicate a message of condemnation of a religion and of a culture that are considered backward compared to others which are viewed as more respectful of the dignity of a human being, women's rights and gender equality".<sup>189</sup>

By the end of 2016, only France, Belgium and Bulgaria had passed a specific law banning the full-face veil, with the Netherlands being in the final stage of adopting such a law. It came as no surprise that France became the first country to ban full-face veils. For many years, the country had been concerned with increasing demands for the recognition of religious differences (in schools, in hospitals, and in the workplace) and the challenge they presented to the principle of *laïcité*. In 2003, the Stasi Commission concluded that while diversity should be respected, the principle of *laïcité* in the public sphere should be reaffirmed.

Following this recommendation, in March 2004, France enacted a law prohibiting pupils in public schools from wearing ostentatiously religious symbols. The discussion around banning the full veil arose from a widely publicized decision by the Council of State: in its 27 June 2008 ruling, the Council judged that the adoption of French nationality could be denied to a woman wearing a full veil, as she had "*adopted a radical practice of her religion, incompatible with the key values of the French community*".<sup>190</sup> A parliamentary mission was appointed in January 2009, led by communist MP André Gérin, who had initially demanded a parliamentary inquiry into the subject. He was supported by many MPs, mostly on the right of the political spectrum.

In its report, the Gérin mission advocated the adoption of a resolution solemnly and firmly reaffirming Republican principles. President Sarkozy supported the idea of a law prohibiting the full veil and the government introduced a proposal on 19 May 2010, following several parliamentary initiatives on the subject. Following the recommendation of the *Conseil d'Etat*, the proposal did not specifically target the full veil but proposed a more general prohibition of concealing one's face in public. The law was adopted by the French National Assembly with a wide majority consisting mostly of deputies from the right-wing governmental majority (336 votes in favour, only one against). Most socialists and ecologists abstained. The first two articles:

Article 1

No one shall, in any public space, wear clothing designed to conceal the face.

Article 2

I – For the purposes of the application of Section 1, the public space shall be composed of the public highway and premises open to the public or used for the provision of a public service.

<sup>189</sup> S. FERRARI, "In Praise of Pragmatism", in A. FERRARI & S. PASTORELLI (eds) *The Burqa Affair Across Europe. Between Public and Private Space*, RELIGARE/Ashgate, 2013, pp. 5–14 [p.6].

<sup>190</sup> Conseil d'Etat, 27 June 2008, Madame M. n° 286798. As quoted by A. FORNEROD "The Burqa Affair in France" in A. FERRARI & S. PASTORELLI (eds), *The Burqa Affair Across Europe. Between Public and Private Space*, RELIGARE/Ashgate, 2013, pp. 59–76, [p.60]

II - The prohibition set forth in the above Section 1 shall not apply if such clothing is prescribed or authorized by legislative or regulatory provisions, is authorized to protect the anonymity of the person concerned, is justified for health reasons or on professional grounds, or is part of sporting, artistic or traditional festivities or events.

The law introduced new offences in the Penal Code. Persons who conceal their face in public spaces were now subject to a maximum fine of €150. Compelling another person “by means of threats, duress or constraint, undue influence or misuse of authority [...] by reason of the sex of said person to conceal their face” became punishable by one year’s imprisonment and a fine of €30,000; these punishments are doubled if the person compelled is a minor. Circulars issued in March 2011 detailed the list of exceptions to the prohibition: one is allowed to conceal one’s face if engaged in some form of sporting activities, festivals, artistic or traditional events (see above Article 2.II).

The law was quickly dubbed the “*Burqa ban*” law and it is referred to as such even in official communication, like that of the French embassy in the UK.<sup>191</sup> It came into force on 12 April 2011.

The Belgian Law of 1 June 2011, which prohibits “*the wearing of any clothing entirely or substantially concealing the face*”, inserted the following provision into the Belgian Criminal Code:

“Art. 563bis. Persons who, unless otherwise provided by law, appear in a place that is accessible to the public with their faces completely or partially covered or hidden, such as not to be identifiable, shall be liable to a fine of between fifteen and twenty-five euros and imprisonment of between one and seven days, or only one of those sanctions.

However, paragraph 1 hereof shall not concern persons who are present in a place that is accessible to the public with their faces completely or partially covered or hidden where this is provided for by employment regulations or by an administrative ordinance in connection with festive events.”

The law came into being following a controversy about the validity of municipal regulations prohibiting the concealing of one’s face. Many Belgian cities had such regulations prohibiting wearing masks and using other means of hiding one’s face outside of Carnival season. Doubts cast about the legality of such prohibitions in the absence of a legislative framework prompted many politicians to seek the adoption of a law to validate such city ordinances. A first proposal was adopted by the Chamber in the spring of 2010, in other words before the French law was passed, but the collapse of the Belgian government prevented the proposal from becoming law. It was reintroduced in Parliament after the June 2010 elections. It was adopted with a very large majority, covering both members of the ruling coalition and the opposition.

<sup>191</sup> <http://www.ambafrance-uk.org/Burqa-ban-FAQs> (accessed 26 June 2014)

Two applications for the annulment of the Belgian law were lodged with the Belgian Constitutional Court, mostly on the basis of Article 9 of the European Convention on Human Rights. On 6 December 2012, the Belgian Constitutional Court dismissed the applications in a judgement that found the law compatible with the right to freedom of thought, conscience and religion.<sup>192</sup> In its decision, the Court underlined that the chief motive behind the enactment of the law had been to defend “a societal model where the individual took precedence over his philosophical, cultural or religious ties, with a view to fostering integration for all and to ensuring that citizens shared a common heritage of fundamental values such as the right to life, the right to freedom of conscience, democracy, gender equality, or the principle of separation between Church and State”.

Based on an examination of the legislative process, the Court said that the three aims pursued – public safety, gender equality and a certain conception of “living together” in society – were *legitimate* and fell within the category of those enumerated in Article 9 of the Convention, comprising the maintenance of public safety, the protection of public order and the protection of the rights and freedoms of others.

In September 2016, Bulgaria’s Parliament also banned face veils in public. The vote followed the enactment of full-face veil bans in public in several Bulgarian towns and was supported by the nationalist Patriotic Front coalition. Offenders face a fine of up to 1,500 levs (around €750), but also the suspension of social benefits; Muslims make up a little over 10% of Bulgaria’s population, most of them belonging to an ethnically Turkish community established in the country for centuries. The law has been severely criticized by Amnesty International.<sup>193</sup>

Despite the large majorities that passed those laws, and despite the general support they enjoy in the population and the global media, many organizations and experts disagree with the legitimacy and usefulness of prohibiting the full veil. Surveys were conducted in France and Belgium among a few dozen women who wore the full veil; they generally did so of their own free will.<sup>194</sup> According to the authors of the studies, the ban did not serve its stated purpose of gender equality: the women avoided going out, leading to a deterioration of their social life.

Opponents of the ban further argue that it generates discrimination on grounds of religion and sex, “endorsed stereotypes and disregarded the fact that veiled women made up a vulnerable minority group which required particular attention”.<sup>195</sup> It is also sustained that the laws, while banning all

192 Arrêt n° 145/2012 du 6 décembre 2012 <http://www.const-court.be/public/f/2012/2012-145f.pdf> (accessed 10 July 2016).

193 “Bulgaria imposes burqa ban—and will cut benefits of women who defy it”, *The Independent*, 1 October 2016, <http://www.independent.co.uk/news/world/europe/bulgaria-burka-ban-benefits-cut-burkini-niqab-a7340601.html> (accessed 21 November, 2016).

194 Open Society Foundations, “Why 32 Muslim Women Wear the Full-Face Veil in France”, April 2011; E. BREMS, (ed.), *The Experiences of Face Veil Wearers in Europe and the Law*, Cambridge University Press, 2014.

195 Audition of the Human Rights Centre of Ghent University at the public hearing of the ECHR Grand Chamber, *S.A.S. v. FRANCE JUDGMENT*, pp. 42–43.

full-face covering, actually targeted Muslim women wearing the *burqa* or the *niqab*, that their adoption had been accompanied by very negative comments and thus reinforced hostility towards Islam in Europe.

#### The ECHR Decision on the French law

On 11 April 2011, a French woman, a practising Muslim born in Pakistan, challenged the French law prohibiting the concealment of one's face in public places before the ECHR in Strasbourg. The plaintiff said that she wore the veil in accordance with her religious faith, culture and personal convictions. She emphasized that neither her husband nor any other member of her family pressured her to dress in this manner. At a November 2013 public hearing, various NGOs, including Amnesty International, were authorized to intervene as third parties, along with the Belgian government which, considering that Belgium has adopted a similar law, had an interest in the outcome of the case.

The ECHR dismissed the claim with arguments similar to those offered by the Belgian Constitutional Court. On 1 July 2014, the Grand Chamber of the Court ruled that the French law banning the wearing in public of clothing designed to conceal one's face did not breach the Convention.<sup>196</sup> There had been no violation of Article 8 (right to respect for private and family life), Article 9 (right to respect for freedom of thought, conscience and religion), and Article 14 (prohibition of discrimination).

Interestingly, the French government had argued that the ban constituted a measure to protect the rights and freedoms of others, and a response to the need to ensure "respect for the minimum set of values of an open democratic society", listing three values in that connection: respect for gender equality, respect for human dignity, and respect for the minimum requirements of life in society (or of "living together"). The Court dismissed the arguments relating to the first two of those values, but agreed that full-face veiling could undermine the notion of "living together", as the face played a significant role in social interaction.

Amnesty International called the court ruling "*a profound retreat for the right to freedom of expression and religion*".<sup>197</sup> Among other negative reactions to the decision, we should mention the opinion of Pinchas Goldschmidt, chief rabbi of Moscow and president of the Conference of

<sup>196</sup> ECHR, Grand Chamber, case of S.A.S vs. France, 1 July 2014, (Application no. 43835/11). <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-145466> (accessed 8 July 2014).

<sup>197</sup> "European Court ruling on full-face veils punishes women for expressing their beliefs" statement by Amnesty International, 1 July 2014. <http://www.amnesty.org/en/news/european-court-ruling-full-face-veils-punishes-women-expressing-their-religion-2014-07-01> (accessed 8 July 2014).

European Rabbis, published in *The Telegraph*. He suggested that the ruling threatened religious freedom, and he did not believe that it was a useful step in the struggle against fundamentalism.<sup>198</sup>

Meanwhile, in an article published in July 2014, *The Economist* tried to explain “Why the French are so strict about Islamic head coverings”.<sup>199</sup> According to the journalist, the French “breathed a collective sigh of relief on July 1st when the European Court of Human Rights upheld the country’s 2010 ban on the wearing of full-faced veils in public places”. In France, such restrictions meet with wide popular approval, which is “often misunderstood in countries where liberal multiculturalism is the established creed”. The article went on to explain that “it is part of an unapologetic effort to keep religious expression private, and to uphold the country’s republican secular identity”.

#### The debate in other countries

The opportunity of adopting legislation to ban the concealing of one’s face in public has been or is being discussed in several other European states.

In Italy, proposals for legislation banning the *burqa* and the *niqab* have been lying in Parliament for years. The controversy started in 2004, when two municipalities issued ordinances banning the wearing of helmets and all other means to hinder recognition, including “the veil that covers the face”. Such ordinances, which were seldom, if ever, implemented, were rooted in laws enacted in the 1970s, when Italy was struck by political terrorism, to prevent anyone from going around in public spaces masked or with their face otherwise covered.<sup>200</sup> The annulment of one such city ordinance by the higher administrative authority (the Prefect of Pordenone) led the Council of State to examine the legality of such bans as implemented by the municipalities. In a decision dated 18 June 2008, the Council upheld the annulment and concluded that the interpretation of the laws had been overextended.

This decision prompted a political response, and several proposals for a ban on the *burqa* and the *niqab* were presented at the Chamber of Deputies in early April 2008. They originated from all sides of the political spectrum, the proposals from the right generally asking for more severe sanctions. The debate did not attract much public attention, and the main opposition to the proposals came from legal experts.<sup>201</sup> Also, the Catholic Church did not support the proposals.

198 P. GOLDSCHMIDT, “Arguments against the burka are deeply suspicious” <http://www.telegraph.co.uk/news/religion/10942051/Arguments-against-the-burka-are-deeply-suspicious.html> (accessed 9 July 2014).

199 <http://www.economist.com/blogs/economist-explains/2014/07/economist-explains-2?fsrc=scn/fb/wl/bl/ee/whyfrenchstrictIslamic#sthash.OwHCYXwt.dpuf> (accessed 8 July 2014).

200 The legge Reale of May 22nd, 1975, n° 152 and The Testo Unico of the Laws on Public Safety (TULPS)

201 A. FERRARI, “Religious freedom and the Italian War on the Burqa and the Niqab”, in A. FERRARI & S. PASTORELLI (eds), *The Burqa Affair Across Europe. Between Public and Private Space*, RELIGARE/Ashgate, 2013, pp. 37–58.



One proposal, to prohibit women from being in the public space wearing a *burqa*, a *niqab* or any other garment covering the face, was approved by the Chamber's Commission on Constitutional Affairs in August 2011. Women violators would face fines, and people found guilty of coercing women to cover their faces would face up to 12 months of imprisonment. To this day, the proposal has not made it to the plenary session. Only the north-eastern region of Lombardy has amended legislation in order to outlaw the burqa from public offices and hospitals, starting January 1<sup>st</sup>, 2016<sup>202</sup>.

In Switzerland, on 23 September 2013 the Canton of Ticino voted in favour of similar legislation. The law still has to be validated by the Federal Assembly, which in September 2012 had rejected a similar initiative of the Canton of Aargau. The Swiss People's Party (UDC) intends to launch a national referendum on a *burqa* ban in 2019, a plan that the decision of the ECHR upholding the French law has reinforced.<sup>203</sup>

In the Netherlands, the Council of State has expressed negative opinions on several proposals for legislation banning or restricting face-veiling garments. The first three proposals (21 September 2007, 6 May 2009 and 2 December 2009) initiated by MPs aimed at specifically banning the *burqa*, or all clothing covering the face, or at banning them only in schools. The last advice of the Council of State, issued on 28 November 2011, concerned a bill proposal introduced by the government and similar to those enacted in France and Belgium: it aims to ban, on pain of criminal sanctions, the wearing in public places and places accessible to the public (except those used for religious purposes) of clothing completely covering the face, leaving only the eyes visible or preventing the person's identification. The proposal was justified by the need to guarantee open communication, which is seen as essential for social interaction, by public safety concerns, but also by the principle of gender equality.

The banning of the *burqa* was part of the agreement between the minority government and the populist Freedom Party (PVV) led by Geert Wilders, which agreed to support the government in Parliament. The Council of State indicated that it was not convinced by the necessity of such a ban, the government having failed to demonstrate not only that there exists a pressing social need, but also that clothing covering the face is fundamentally incompatible with social order. The Council also dismissed the gender equality argument, as the choice to wear a garment had been left to the women concerned. Nevertheless, in late January 2012 the government decided to move forward with

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202 "Italy's Lombardy bans burqas after terror attacks", *The Telegraph*, 11 December 2015, <https://www.telegraph.co.uk/news/worldnews/europe/italy/12046221/Italys-Lombardy-bans-burqas-after-terror-attacks.html> (accessed 21 September 2018).

203 "Les opposants à la burqa se sentent pousser des ailes" *24 heures*, 2 July 2014, <http://www.24heures.ch/suisse/interdiction-burqa-suisse-redevient-dactualite/story/14681083> (accessed 8 July 2014).

the ban. However, the withdrawal of PVV support and the collapse of the government froze the proposed bill in its tracks. Towards the end of 2016, a new proposal, to ban the *burqa* from hospitals, schools and public transportation was adopted by the lower house of the Dutch Parliament.<sup>204</sup>

Many municipalities in Spain have adopted regulations banning full coverage of the face. Among them, the city of Lérida adopted a “municipal ordinance on civic rights and responsibilities and living together” (2010), authorizing regulations to limit or prohibit access to municipal areas or premises used for public services for persons wearing full-face veils, helmets or other forms of clothing preventing or hindering identification and visual communication. On the same day, regulations relating to the city offices and public transport were modified with that aim. An application for an annulment was lodged with the Catalonia High Court of Justice and rejected. However, on 6 February 2013, the Spanish Supreme Court quashed the judgement of the Catalonia High Court of Justice, and annulled the amendments to the general municipal ordinance and to the specific rules concerning the municipal offices.<sup>205</sup> The Court pointed out that fundamental rights could be limited only by a law in the formal sense, which is one of the reasons for the enactment of the French and Belgian laws.

However, the judgement of the Spanish Supreme Court went on to rebuke the idea that the protection of “public tranquility”, “public safety” or “public order” had been “legitimate aims” of the ban, since there was no evidence that the wearing of the full-face veil was detrimental to them. In addition, there was no proof that the “protection of rights and freedoms of others” demanded such measures. It remains to be seen whether the Supreme Court will uphold this opinion if a law passed by the Cortez (Spanish federal Parliament) came under its scrutiny. It is to be noted that the Court did not abrogate the amendment concerning public transport, observing that it merely obliged users benefiting from reduced-rate tickets to identify themselves.

Despite the argument that a restriction of religious freedom can only be legally enforced, some countries manage to walk the path of a pragmatic approach, where bans are specific and limited. Such is the case in Denmark, where court sentences have established the legitimacy of partial bans, despite the lack of ad hoc legislation, for instance for staff working in the Danish judicial system.

In this context, the ECHR decision to uphold the French law on 1 July 2014 may inspire other countries to adopt similar legislation. Indeed, whereas two Danish proposals to ban the *burqa* were defeated

204 “Nederlands boerkaverbod in trein, ziekenhuis en op school” *Het Belang Van Limburg*, 23 November 2016, [http://www.hbvl.be/cnt/dmf20161123\\_02586911/nederlands-boerkaverbod-in-trein-ziekenhuis-en-op-school](http://www.hbvl.be/cnt/dmf20161123_02586911/nederlands-boerkaverbod-in-trein-ziekenhuis-en-op-school) (accessed 8 July 2014).

205 S. KERN, “Spain: Supreme Court Overturns Burqa Ban”, Gatestone Institute, 4 March 2013. <http://www.gatestoneinstitute.org/3610/spain-burqa-ban> (accessed 8 July 2014)

in 2004 and 2009, currently there is, apart from the above partial bans, renewed political interest in a law similar to the French one, not specifically targeting *burqas* and *niqabs*, but enacting a general ban on covering the face in public.<sup>206</sup> Norway's Labour and Progress parties both have also announced that they would consider revisiting the issue of a Muslim veil ban,<sup>207</sup> whereas in Austria, the right-wing Austrian Freedom Party (FPÖ) announced that they would be introducing a similar proposal in Parliament.<sup>208</sup>

In the UK, where a traditionally high level of accommodation to religious diversity is observed, no political faction, apart from the far right, seems willing to ban the full veil. Be that as it may, several polls have shown that the majority of the population would agree with a prohibition<sup>209</sup>.

As shown, "Banning the *burqa*" has become a political issue and a media topic in many EU countries. Despite the fact that wearing a full veil is not common at all in Europe, according to R. Grillo and P. Shah, rather than providing an answer to a problem, the "legislation which has criminalized face-veiling has clearly originated with the belief, for one or more of the reasons outlined earlier, that face-veiling does not fit with European society, culture and values, and has all manner of disagreeable if not downright dangerous implications, especially for women".<sup>210</sup> In Germany, Chancellor Angela Merkel, while campaigning for re-election in 2016, called for banning the *burqa* in Germany "wherever legally possible", which has been interpreted as support for the earlier proposal by Interior Minister Thomas de Maizière to outlaw full-face veils in public buildings.<sup>211</sup> At the end of 2016, proposals to ban the *burqa* were being examined in Austria, Denmark and Latvia.

The wide consensus on the unacceptable character of the *burqa* and the *niqab* has allowed authorities to act on the ban in two countries, and the ECHR's decision may signify that there will be more in the future. On other issues related to Islam in Europe, such as restricting the wearing of the

206 A. JAKOBSEN, "Denmark may enact French burqa ban", *the Copenhagen Post*, 2 July 2014. <http://cphpost.dk/news/denmark-may-enact-french-burqa-ban.10086.html> (accessed 8 July 2014).

207 "Norway braced for new burqa ban debate", *The Local, Norway's news in English*, 2 July 2014 <http://www.thelocal.no/20140702/norway-braced-for-burqa-ban-debate> (accessed 8 July 2014).

208 According to *The Local, Austria's news in English*, 7 July 2014. <http://www.thelocal.at/20140707/burqa-ban-isnt-enough-says-strache> (accessed 8 July 2014).

209 M. HILL "legal and social Issues concerning the wearing of the burqa and other head coverings in the United Kingdom", in A. FERRARI & S. PASTORELLI (eds), *The Burqa Affair... op. cit.*, pp. 77–99, [p.87].

210 R. GRILLO and P. SHAH, "Reasons to Ban? The Anti-Burqa Movement in Western Europe" in *MMG Working Papers* WP 12-05, Max Planck Institute for the Study of Religious and Ethnic Diversity, April 2012 [http://www.mmg.mpg.de/fileadmin/user\\_upload/documents/wp/WP\\_12-05\\_Grillo\\_Reasons-to-Ban.pdf](http://www.mmg.mpg.de/fileadmin/user_upload/documents/wp/WP_12-05_Grillo_Reasons-to-Ban.pdf) (accessed 26 June 2014).

211 "Angela Merkel endorses burka ban 'wherever legally possible'", *Bbc.com*, 6 December 2016, <http://www.bbc.com/news/world-europe-38226081> (accessed 12 December 2017).

*hijab* or simple veil in selected circumstances, allowing or not halal food in public schools, adjusting calendars to suit Muslim holidays, such consensus is far less evident.

### II.1.c Places of worship

While freedom of religion is respected in all European countries, the right to create and maintain places of worship does suffer from restrictions in some countries, whether ancient (like in Greece) or more recent (like the Swiss ban on minarets). The key question is naturally the visibility of mosques in European cities (Islam being up to now a predominantly urban phenomenon). The most high-profile mosques are found in the Netherlands and in Germany; in every country, the construction of a new mosque usually attracts attention and becomes controversial, especially when the projected building is of large proportions. In October 2015, local authorities finally ended a battle around the construction of a 9,000-capacity mosque in London by denying building permission; the project, initiated in 2007, had convinced 250,000 people to sign an online petition opposing the plans.<sup>212</sup> The East London mosque (established in 1910 and enlarged in the 2000s) with room for 7,000 worshippers remains one of the largest in Europe, following the mosque of Rome. Financed by the King of Saudi Arabia, the mosque of Rome can host 12,000 worshippers and was inaugurated in 1994.

Twenty years later, in Denmark, the inauguration of a 6000 sq m mosque with a 22m high minaret in the capital, Copenhagen, drew a lot of attention in July 2014. The mosque was financed by Qatar. The financing of places of worship by foreign states or organizations is a subject of concern across Europe. An alternative would be to secure the conversion of existing places of worship (Christian or in some cases Jewish) into Muslim places of worship, but authorities and the general public remain hostile to this perspective. On a related subject, the Catholic Church and the city of Cordoba (Spain) are engaged in a legal battle to determine who is the rightful owner of the world-famous ancient mosque of Cordoba ...

### II.1.d. Freedom of expression

In recent years, freedom of expression has come under pressure from religious groups, the most violent of those attacks being the terrorist murders of the team of the satirical magazine *Charlie Hebdo* in France in January 2015. Apart from this attack, religiously grounded challenges to freedom of expression have been ongoing at least since the controversy surrounding the publication of caricatures of the Prophet Muhammad in a Danish newspaper. It should be underlined that several EU member states still have so-called anti-blasphemy legislation. Blasphemy refers to a serious

<sup>212</sup> "Plans for 9,000-capacity mosque in east London rejected", *The Guardian*, 29 October 2015, <https://www.theguardian.com/politics/2015/oct/29/plans-for-9000-capacity-mosque-in-east-london-rejected> (accessed 2 July 2017).

offence committed by a member of a religious group, so this legislation should rather be referred to as legislation granting special protection to religion or limiting freedom of expression where religion is concerned. While such laws remain in force in Austria, Denmark, Germany, Spain and Poland, today they are rarely enforced.

Yet, in February 2016, a man was fined €500 for displaying anti-Christian bumper stickers on his vehicle in Germany.<sup>213</sup> In 2014, the Netherlands removed the offence against religious beliefs from its criminal code,<sup>214</sup> and in July 2016, the Parliament of Malta repealed Articles 163 and 164 of its Criminal Code, ensuring that vilification of religion is no longer a crime.<sup>215</sup>

## II.2. Non-discrimination, religious accommodations, neutrality

### II. 2. a. Dealing with requests based on religious conviction

Again, many requests for an exemption to the rules or special accommodation on a religious basis involve the dress code at work, and they often end up in court. Highly publicized cases in recent years involve the shopping firm HEMA in the Netherlands and Belgium, and British Airways in the UK. Similar incidents have taken place in other countries as well.

In Finland, in January 2014, there was the case of a Sikh bus driver who was initially not allowed to wear the turban during work hours,<sup>216</sup> but finally succeeded in overturning the ban in court.<sup>217</sup> A few months later, the issue of Islamic headwear also stirred some debate.<sup>218</sup> Most significantly, and while the political majority is not in favour of banning Islamic headwear, such a move can count on considerable popular support.<sup>219</sup>

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213 "Germany fines man for 'blasphemous' car bumper stickers", *The Telegraph*, 26 February 2016, <http://www.telegraph.co.uk/news/worldnews/europe/germany/12174806/Germany-fines-man-for-blasphemous-car-bumper-stickers.html> (accessed 20 December 2017)

214 Wet van 23 januari 2014 tot wijziging van het Wetboek van Strafrecht in verband met het laten vervallen van het verbod op godslastering

215 "Repealing blasphemy law a victory for freedom of speech, says Humanist Association", *Times of Malta*, 14 July 2016, <https://www.timesofmalta.com/articles/view/20160714/local/repealing-blasphemy-law-a-victory-for-freedom-of-speech-says-humanist.618859> (accessed 20 December 2017).

216 "Bus driver files criminal complaint on turban ban", *The Helsinki Times*, 8 January 2014, <http://www.helsinkitimes.fi/finland/finland-news/domestic/8887-bus-driver-files-criminal-complaint-on-turban-ban.html> (accessed 23 March 2016).

217 "Sikh bus driver finally overturns Vantaa turban ban", *Yle Uutiset*, 25 February 2014, [http://yle.fi/uutiset/hs\\_sikh\\_bus\\_driver\\_finally\\_overturns\\_vantaa\\_turban\\_ban/7106527](http://yle.fi/uutiset/hs_sikh_bus_driver_finally_overturns_vantaa_turban_ban/7106527) (accessed 23 March 2016).

218 "Helsinki headscarf ruling could have broad impact", *Yle Uutiset*, March 25, 2014, [http://yle.fi/uutiset/helsinki\\_headscarf\\_ruling\\_could\\_have\\_broad\\_impact/7154917](http://yle.fi/uutiset/helsinki_headscarf_ruling_could_have_broad_impact/7154917) (accessed 23 March 2016).

219 "A majority of parliamentary group leaders do not support the idea of banning niqab, but the vast majority of readers voted for such restriction", *The Helsinki Times*, no date [after 17 February 2014], <http://www.helsinkitimes.fi/component/acepolls/poll/53-in-a-poll-by-iltalehti-a-majority-of-parliamentary-group-leaders-do-not-support-the-idea-of-banning-niqab-but-the-vast-majority-of-readers-voted-for-such-restriction-would-you-ban-Muslim-women-from-wearing-a-face-covering-niqab-if-worn-voluntarily.html> (accessed 23 March 2016).

Other requests can concern the work schedule or meals. In schools the requests may concern exemption from sports lessons or challenges to certain subjects (e.g. biology, gender studies).

Sometimes there is no formal request as such, and yet there can be concern about a possible interference between faith-related behaviour and successful completion of work obligations. This is an issue commonly raised about bus drivers and other jobs with responsibilities during the Ramadan; in 2014 concerns grew during the football World Cup: would Muslim players be able to perform if they fasted all day or would they choose not to fast? The European press published many articles on this issue ...

While permission to divert from established practice is often asked for oneself on religious grounds, the request is in fact often aimed at somebody else, for example when demanding that medical care be provided by members of the same sex only on religious grounds.

It should also be noted that in response to expectations from certain groups, specific services are being offered or developed by providers and services; such is the case of *sharia*-compatible financial services offered by banks in the UK or in Luxembourg,<sup>220</sup> or specific forms of charities.

In this context, the questions surrounding the ritual slaughter of animals to comply with kosher and/or halal requirements take on special importance.

#### Ritual slaughter

The issue of ritual slaughter opposes two principles: freedom of worship and animal rights. An EU directive requires animals to be stunned prior to killing, but makes an exception for religious slaughter. EU members can choose to allow ritual slaughter, provided it takes place in a permanent slaughterhouse.<sup>221</sup> Slaughtering at home is allowed under no circumstances. The EU market for kosher and halal meat is important and rising. In the UK, it has been estimated that 4% of cattle, 30% of poultry and 50% of sheep and goats killed were ritually slaughtered.<sup>222</sup>

Some countries have banned slaughtering without stunning entirely: Sweden, and most recently, Denmark. In 2014 the Danish government issued a ban on religious slaughter,<sup>223</sup> stirring controversy

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220 "La voie est ouverte pour le lancement du sukuk", *L'Essentiel*, 9 July 2014, <http://www.lesentiel.lu/fr/economie/story/26652651> (accessed 23 March 2016).

221 EC regulation 1099/2009 on the protection of animals at the time of killing came into force on 1 January 2013.

222 Library of the European Parliament, *Religious slaughter of animals in the EU* 15 November 2012.

223 "Denmark bans kosher and halal slaughter as minister says 'animal rights come before religion'", *The Independent*, 18 February 2014, <http://www.independent.co.uk/news/world/europe/denmark-bans-halal-and-kosher-slaughter-as-minister-says-animal-rights-come-before-religion-9135580.html> (accessed 22 March 2016).

both at the national<sup>224</sup> and international<sup>225</sup> level. The issue was also discussed in Poland, where a series of court procedures were launched in order to ban religious slaughter. It should be noted that the Polish Catholic Church<sup>226</sup> explicitly positioned itself against such a prohibition, in the name of freedom of religion. Thus, whereas ritual slaughter was initially banned,<sup>227</sup> this ban was overturned in 2014, when the Constitutional Tribunal judged that freedom of religion, and especially the right to express one's religion, includes the right of religious organizations to practise ritual slaughter.<sup>228</sup>

In Germany, no-stunning permission is granted to slaughterhouses, but only if they demonstrate that they have local religious customers for the request.

### Circumcision

Another issue where freedom of worship confronts another principle is ritual circumcision. Proponents of a ban on ritual circumcision invoke the rights of children, among which respect for their physical integrity. Following this trend, a 2013 recommendation of the Council of Europe Assembly on a circumcision ban drew a lot of criticism from Jewish and Muslim communities across the continent. In the fall of 2015, the Assembly adopted another resolution, this time urging European governments to ban the act "except when performed by a person with the requisite training and skill" and in a medical environment.<sup>229</sup> In many EU countries, medical academies or associations recommend not to perform circumcision without clear medical indications; on 30 September 2013, the Children's ombudsmen of all five Nordic countries (Sweden, Norway, Finland, Denmark and Iceland) issued a statement calling for a ban on the circumcision of minors for non-medical reasons, stating that those circumcisions violate the rights of children.<sup>230</sup> However, no country has yet taken steps to ban religiously based circumcision.

224 "Denmark accused of anti-Semitism as it bans religious slaughter of animals for kosher and halal meat", *The Daily Mail*, 18 February 2014, <http://www.dailymail.co.uk/news/article-2562350/Denmark-accused-anti-Semitism-bans-religious-slaughter-animals-kosher-halal-meat.html> (accessed 22 March 2016).

225 "Denmark's ritual slaughter ban says more about human hypocrisy than animal welfare", *The Guardian*, February 20, 2014, <http://www.theguardian.com/commentisfree/andrewbrown/2014/feb/20/denmark-halal-kosha-slaughter-hypocrisy-animal-welfare> (accessed 22 March 2016).

226 "Poland: Catholic Church Defends Ritual Slaughter", *Israelnationalnews.com*, 3 October 2013, <http://www.israelnationalnews.com/News/News.aspx/172484> (accessed 16 March 2016).

227 "Polish parliament upholds ban on ritual slaughter—but it's nothing to do with Judaism", *The Independent*, 16 July 2013, <http://www.independent.co.uk/voices/comment/polish-parliament-upholds-ban-on-ritual-slaughter-but-its-nothing-to-do-with-judaism-8711120.html> (accessed 16 March 2016). On the issue of religious slaughter, see Agnieszka SZUMIGALSKA/Monika BAZAN, "Ritual Slaughter Issue in Poland: Between Religious Freedom, Legal Order and Economic-political Interests", *Religion and Society in Central and Eastern Europe* 7/1, 2014, p. 53-69.

228 "Polish ban on kosher slaughter of animals is overturned", *BBC News*, December 10, 2014, <http://www.bbc.com/news/world-europe-30412551> (accessed 16 March 2016).

229 CoE Assembly, "Freedom of religion and living together in a democratic society", resolution 2076, 30 September 2015.

230 "Let boys decide for themselves whether or not they want to be circumcised" <https://www.crin.org/en/library/news-archive/male-circumcision-nordic-ombudspersons-seek-ban-non-therapeutic-male> (accessed 16 March 2016).



## II.2.b The role of governmental agencies in implementing non-discrimination legislation and practice

EU directive 2000/78/EC of 27 November 2000 prohibits discrimination on grounds of religion or belief (alongside disability, age or sexual orientation) in employment and occupation. Member states must transfer these provisions in their own legislative order, including the obligation to empower associations or legal entities to engage in proceedings either on behalf or in support of any victim. A further directive proposal on implementing the principle of equal treatment between persons irrespective of religion or belief (and disability, age or sexual orientation) in every field, not only unemployment, has been under discussion since 2008 but has so far failed to gain consensus.

Several agencies engage in protection against discrimination at the European and national levels; quite often their main focus is the fight against racism, but recent developments have seen them include discrimination against Muslims in the scope of their preoccupation.

## II. 3. Impact on state-church relationship models

### II.3.a. The vanishing state-church model

Protestant countries in the North (Scandinavia and the UK) and Greek Orthodox countries and Malta in the South have known the system of one official Church. While in the north of Europe, the model is vanishing or changing to accommodate religious pluralism, change is slower in the Mediterranean.

In Denmark, the Evangelical Lutheran Church is the Danish national Church (*Folkekirken*), supported by the government according to Article 4 of the Constitution. Many laws regulate the organization of the Church. Other religions can be acknowledged and can apply for tax exemptions and wedding recognition: apart from the national Church, a number of religious groups, among them many non-Christian, and a community which believes in ancient Nordic Gods, now have authority to perform marriages. Recognition entails considerable fiscal advantages as well, whereas it also offers public legitimization, in so doing increasing the symbolic capital of faith communities. Currently there are more than 90 recognized faith communities, divided into six categories: Christian, Muslim, Buddhist, Hindu, Jewish and "other". These numbers point to a relatively open society, but at the same time the Lutheran Church's dominance remains near total (at least at the religious level) in a country that has, for example, only very recently erected its first mosque — most significantly, politicians snubbed the opening ceremony.<sup>231</sup>

<sup>231</sup> "Denmark's first mosque opens amid controversy", *Al Jazeera*, 22 June 2014, <http://www.aljazeera.com/indepth/features/2014/06/denmark-first-mosque-opens-amid-controversy-2014620122224383831.html> (accessed March 22, 2016).



Furthermore, Denmark knows freedom of religion, but there is no religious equality. Indeed, apart from its obligations, as a state church the national Church benefits from a series of exceptional privileges. Until 1998, the bishop of Copenhagen, for example, advised government on the recognition of other faith communities, whereas the Lutheran Church's "cultural" role is also evident in many public schools, where pupils often celebrate Christmas in the local church. Danish MPs also attend a church service at the annual opening of Parliament.<sup>232</sup>

Some countries that do not have a state church but an institutionalized relationship with several religions through conventions or other forms of recognition nevertheless maintain close ties with one historically dominant religion, usually Catholicism. This is the case in Italy or Spain.

Furthermore, what used to be a strong tie between monarchies and churches now appears to have been severed. The abdications of Queen Beatrix (Netherlands), King Albert (Belgium) and King Juan-Carlos (Spain) were followed by secular ceremonies; no mass marked the coronation of the new sovereign.

In the UK, Christianity is embedded in social and political life. It has recently been joined by minority religions like, first and foremost, Islam. As a consequence, apart from the presence of religions in the media — the BBC notably dedicates considerable attention to religious broadcasting —, large numbers of state schools continue to have partly religious foundations, historically once solely Christian or Jewish but now also including the Muslim, Hindu and Sikh faiths. Equally there is the fact that the Church of England has the right to have bishops and archbishops as members of the House of Lords, whereas Parliament starts its daily sessions with Christian prayers. While the state does not provide direct financial support for churches,<sup>233</sup> tax regimes have been relatively favourable towards them. In this context, places of public religious worship are exempt from the council tax, while until recently churches were also entitled to a range of financial and other benefits if they registered as charities. To this should be added the churches' interest in the educational system, notably through the existence of state schools with a religious foundation but also of privately run religious schools. Arguably, the latter have lost none of their traditional appeal, or

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<sup>232</sup> For more information on the Church-State relationship, see Lisbeth CHRISTOFFERSEN, "State, Church, and Religion in Denmark", in: Lisbeth CHRISTOFFERSEN/Kjell MODEER/Svend ANDERSEN (eds), *Law and Religion in the 21<sup>st</sup> Century—Nordic Perspectives*, 2011, DJØF Publishing, Copenhagen, p. 145–161, and Marie VEJRUP NIELSEN/Lene KUHLE, "Religion and State in Denmark: Exception among Exceptions", *Nordic Journal of Religion and Society* 24/2, 2011, p. 173-188. For an impression of what could be termed 'cultural lutheranism' in Denmark (and Sweden), see for example "Scandinavian Nonbelievers, Which Is Not to Say Atheists", *The New York Times*, February 27, 2009, [http://www.nytimes.com/2009/02/28/us/28beliefs.html?\\_r=0](http://www.nytimes.com/2009/02/28/us/28beliefs.html?_r=0) (accessed 22 March 2016).

<sup>233</sup> On these issues, see Anthony BRADNEY, "Religion and the Secular State in the United Kingdom", in: Donlu D. THAYER (ed.), *Religion and the Secular State: National Reports*, 2015, Servicio de Publicaciones Facultad de Derecho, Universidad Complutense de Madrid, Madrid, p. 787-789.

political backing: most significantly, the country's Education Secretary recently reaffirmed the importance of teaching about Britain's mainly Christian roots.<sup>234</sup>

Public life in Sweden cannot be considered totally devoid of religion(s). Indeed, the Church of Sweden has a "semi-official" status, whereby the 2000 process of increasing church-state separation that was also (somewhat controversially) dubbed "disestablishment" also had the effect of increasing cooperation between the Church and public authorities.<sup>235</sup> Indeed, from this point of view the Church's presence in the public sphere does not seem to have been affected by disestablishment,<sup>236</sup> whereby it has even been argued that Sweden is currently witnessing a prudent religious "revival". Such a tendency seems to be the consequence of the identification between religion and widespread moral and ethical values,<sup>237</sup> and it has also been catalysed by issues such as gay marriage, which since 2009 is accepted by the Church of Sweden, even if it cannot count on the approval of clergy members.<sup>238</sup>

As for Greece, the relationship between the Greek government and the Orthodox Church is regulated according to the "state-law rule" system. Structured on the principle of the state's primacy, this legal framework does not define a mutual relationship between church and state as equal partners, but one between dominant and dominated. On the one hand, the Constitution defines Parliament as the authority that is competent on church affairs. On the other, it stipulates that the Orthodox Church represents the "prevailing" religion.<sup>239</sup> However, even if legally the state is the dominant actor in religious affairs, it also has the obligation to stimulate "religious consciousness" (art. 16 of the Constitution). Moreover, it pays the salaries of clergy members as well as those of laymen, provides tax exemptions and exemption from military service, offers social benefits, and finances

234 "Britain is a CHRISTIAN country and children should be taught that, urges Nicky Morgan", *The Express*, 28 December 2015, <http://www.express.co.uk/news/politics/629730/Education-Secretary-Nicky-Morgan-Christianity-religion> (accessed 24 March 2016).

235 Maarit JÄNTERÄ-JAREBORG, "Religion and the Secular State in Sweden", in: Donlu D. THAYER (ed.), *Religion and the Secular State: National Reports*, 2015, Servicio de Publicaciones Facultad de Derecho, Universidad Complutense de Madrid, Madrid, p. 705-712.

236 Thomas GIRMALM/Marie ROSENIUS, "From state church to faith community: An analysis of worldly and spiritual power in the Church of Sweden", *International Journal for the Study of the Christian Church* 13/1, 2013, p. 48-58.

237 "Signs of hope in a 'secular' land", *Church Times*, 7 August 2015, <https://www.churchtimes.co.uk/articles/2015/7-august/comment/opinion/signs-of-hope-in-a-secular-land> (accessed 22 March 2016). In this context, see also Anders BÄCKSTRÖM/Ninna EDGARDH/Per PETERSSON, *Religious change in Northern Europe: The case of Sweden: from state church to free folk church*. Final report, 2004, Verbum, Stockholm.

238 "Swedish church not so gay-friendly", *The Guardian*, 25 October 2009, <http://www.theguardian.com/commentisfree/belief/2009/oct/25/church-sweden-gay-weddings> (accessed 22 March 2016).

239 Charalambos K. PAPANATHIS/Nikos MAGHIOROS, "Greece: A Faithful Orthodox Christian State. The Orthodox church in the hellenic republic", in: Donlu D. THAYER (ed.), *Religion and the Secular State: National Reports*, 2015, Servicio de Publicaciones Facultad de Derecho, Universidad Complutense de Madrid, Madrid, p. 345-347. For more information, see also Nicos ALIVIZATOS, "A New Role for the Greek Church?", *Journal of Modern Greek Studies* 17, 1999, p. 23-40, and Charalambos PAPANATHIS, "State and Church in Greece", in: Gerhard ROBBERS (ed.), *State and Church in the European Union*, 2005, Nomos Verlag, Baden-Baden, p. 115-138.

state religious schools.<sup>240</sup> In Greece, minority religions have fewer privileges than Orthodox Christianity. Indeed, until 2014 only the Muslim minority, which mainly consists of migrants and some 100,000 to 150,000 Muslims living in Thrace, enjoyed a special status and was recognized as a legal person under public law. That being said, even Muslims remain highly disadvantaged, as is exemplified by the difficulties which the Athenian Muslim community experienced when plans for the building of the first mosque in the capital were unveiled.<sup>241</sup>

The second country to have a Greek Orthodox majority, the Republic of Cyprus, has adopted the principle of state-church separation at the institutional level.<sup>242</sup> Nevertheless, Cypriots at the time seemed to have opted for a rather flexible interpretation of church-state separation, as the country's first president was Archbishop Makarios. Indeed, in spite of the formal church-state division, and even if the Church of Cyprus is self-governed, it has what can be termed an "ethnarchic" role in Cypriot society, with the archbishop continuously issuing political statements.<sup>243</sup>

The situation is very different in the other EU island state, Malta. There, the Constitution states that the Roman Catholic apostolic religion is the official religion of the country, that the authorities of the Roman Catholic apostolic Church have the duty and the right to teach which principles are right and which are wrong, and that religious teaching of the Roman Catholic apostolic faith shall be provided in all state schools as part of compulsory education — even if there is an opt-out possibility. In addition, there is full freedom of conscience, and everyone has the right to freely exercise his or her religion. However, there is no public financing of Churches.

### II.3.b. Recognition or convention models

Most former communist countries adopted some form of recognition mechanism for religious organizations. Under communist rule, religious organizations were required to register with the authorities to receive permission to be active in the country; after 1989, most countries maintained a similar system, often modifying the legal dispositions after a few years.

The federal act 308/1991 of the Czech and Slovak republic, which made registration by religious communities mandatory, was replaced by the Czech Republic in 2002.<sup>244</sup> The new legislation

240 On Orthodoxy's dominance over religious education in Greece, see Nikos MAGHIOROS, "Religion in Public Education in Greece", in: Gerhard ROBBERS (ed.), *Religion in Public Education*, 2011, European Consortium for Church and State Research, Trier, p. 195–216.

241 "Les musulmans de Grèce appellent le nouveau gouvernement à doter Athènes d'une mosquée et d'un carré musulman", *Oumma*, 10 July 2015, <http://oumma.com/221000/musulmans-de-grece-appellent-nouveau-gouvernement-a-d> (accessed 15 March 2016).

242 In this context, see Victor ROUDOMETOF (ed.), "Negotiating Church-State Relations in Cyprus", *Social Compass* 56/1, 2009, p. 5–83.

243 "Chrysostome II, saint patron de Chypre", *Voxeurope* (< *Le Figaro*), 28 June 2013, <http://www.voxeurop.eu/fr/content/article/3921131-chrysostome-ii-saint-patron-de-chypre> (accessed 15 March 2016).

244 Act n°3/2002 7.01.2002 on Freedom of religious expressions and the position of Churches and Religious Societies.

reduced minimal membership for registration from 10,000 to 300. It also created two categories within registered communities; some, which were previously registered, enjoy “special rights”, such as state subsidies, religious education in schools, pastoral care in prisons and the army ...

In Romania, while there is pronounced religious diversity, the Orthodox Church, due to its specific historical nature and because it largely outnumbers other confessions, dominates the religious landscape. Indeed, even if Article 7 of Law 489/2006 stipulates that the state of Romania recognizes the historical importance of not only the Romanian Orthodox Church, but also that of other churches and denominations, and as is also the case in Bulgaria, the role of the Orthodox Church as a “national Church”<sup>245</sup> remains essential for a good understanding of Romanian Orthodoxy. Apart from so-called new religious movements, most of which have not yet been recognized, in Romania all religions have the same rights, whereby recognized religions act as “social partners of the State”.<sup>246</sup> This affects welfare and charity initiatives, whereas it also entails certain provisions that facilitate spiritual care in governmental offices.

The churches, and first and foremost the Catholic Church, have also remained omnipresent in Hungarian public life. Whereas the model that emerged during the 1990s is one of state neutrality and “benevolent separation”,<sup>247</sup> in recent years especially the latter aspect seems to be gaining the upper hand.<sup>248</sup> The country’s Constitution, which for example recognizes “the role of Christianity in preserving nationhood”, is illustrative of the contrast between, on the one hand, legal separation between religious and state structures — at least at a superficial level<sup>249</sup> — and, on the other hand, the constant, and currently also increasing, visibility of religion in Hungarian society.

A first example of this trend is the marked increase in religious education in public schools as well as in the number of church-run schools. Indeed, whereas before 1990, only 10 church-run schools existed, their number has witnessed a dramatic increase, especially since the national-conservative

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245 In this context, see Cristian ROMOCEA, *Church and State. Religious Nationalism and State Identification in Post-Communist Romania*, 2011, Continuum International Publishing Group, London-New York, and Olivier GILLET, “Athéisme, Orthodoxie et identité nationale en Europe orientale”, *Observatory of Religions and Secularism*, February 17, 2015, [http://www.o-re-la.org/index.php?option=com\\_k2&view=item&id=1142%3Aath%C3%A9isme-Orthodoxie-et-identit%C3%A9-nationale-en-europe-orientale&Itemid=85&lang=en](http://www.o-re-la.org/index.php?option=com_k2&view=item&id=1142%3Aath%C3%A9isme-Orthodoxie-et-identit%C3%A9-nationale-en-europe-orientale&Itemid=85&lang=en) (accessed 14 March 2016).

246 In this context, see Lucian TURCESCU/Lavinia STAN, “The Romanian Orthodox Church”, in: Lucian N. LEUSTEAN (ed.), *Eastern Christianity and Politics in the Twenty-First Century*, 2014, Routledge, London-New York, p. 105–107. See also Lavinia STAN/Lucian TURCESCU, *Religion and Politics in Post-Communist Romania*, 2007, Oxford University Press, Oxford-New York.

247 See Balázs SCHANDA, “The neutrality of the state”, in *Eurel, Sociological and legal data on religions in Europe*, <http://www.eurel.info/spip.php?rubrique292> (accessed 16 March 2016).

248 For more information on the issue of Church-State separation, see Balázs SCHANDA, “Religion and the Secular State in Hungary”, in: Donlu D. THAYER (ed.), *Religion and the Secular State: National Reports*, 2015, Servicio de Publicaciones Facultad de Derecho, Universidad Complutense de Madrid, Madrid, p. 387-388.

249 In this context, see Balázs SCHANDA, “The Freedom of Religious Association in Hungary: Recent Developments”, *Religion and Human Rights* 8, 2013, p. 65–75, and Gábor HALMAI, *Religion and Constitutionalism. MTA Law Working Papers 2015/5*, 2015, Hungarian Academy of Sciences, Budapest.

government came to power in 2010 — by 2014 there were already 972 church-run schools. Even if the increase in confessional schooling is, in part, the consequence of local authorities handing over schools to churches for financial reasons, this tendency is met with great distrust on the part of non-religious Hungarians, especially since a growing number of local communities can no longer rely on non-denominational schools.<sup>250</sup> Indeed, the financing of church-run schools is fully secured by the state, as laid down in the 1997 Agreement between Hungary and the Holy See. This regulation also applies to non-Catholic denominational schools. As a result, in recent years numerous municipalities have handed over schools to churches in order to avoid the burden of co-financing.

In addition, whereas in January 2015, the protection of Sunday as a universal day of rest was legally confirmed — a move that was both inspired by the Government's nationalist and pro-religious discourse<sup>251</sup> — in recent years the issue of religion has also repeatedly been at the centre of the Hungarian government's politics in matters of migration. In this context, ever since Viktor Orbán's ultranationalist *Fidesz* party came to power in 2010, official political discourse has contained a mixture of traditionalist, religiously identitarian, Islamophobic and xenophobic rhetoric.

In Poland, the Constitution does not explicitly refer to the principle of church-state separation. Thus the Polish configuration has been labelled a "friendly model of church-state separation".<sup>252</sup> As in the Hungarian case, the adjective rather than the noun contains the key to understanding the situation... Indeed, church-state relations in Poland seem to be characterized above all by the principles of bilateralism and cooperation, besides those of impartiality, equality of rights, autonomy and independence.

In Slovenia, despite its mandatory nature, it seems that the principle of church-state separation<sup>253</sup> is precisely that: a principle, not an absolute reality. Moreover, the Church, which is heavily dependent on the restitution of formerly nationalized properties, can also count on massive state support in the form of general state funding for churches and religious communities. Not only are churches exempt from a series of taxes (property, income, etc.), they also greatly benefit from a fiscal regulation that resembles the Italian *otto per mille* rule, as taxpayers can choose to transfer 0.5% of their income taxes to a religious institution of their choice.<sup>254</sup>

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250 Éva SZOLÁR, "Change, continuity and path-dependency in Hungarian public education", *European Educational Research Journal* 14/3–4, 2015, p. 331–346. For more information on Church-run education in Hungary, see Gabriella PUSZTAI, "Expansion, Systematization and Social Commitment of Church-run Education in Hungary", *Hungarian Educational Research Journal* 2/4, 2013, p. 1–15.

251 "Sunday closure could deal new blow to Hungary's foreign retailers", *Reuters*, 10 December 2014, <http://www.reuters.com/article/hungary-retail-idUSL6N0TH1SM20141210> (accessed 16 March 2016)

252 See EUREL, *Sociological and legal data on religions in Europe*, <http://www.eurel.info/spip.php?rubrique427> (accessed 16 March 2016).

253 For more information on this issue, see Lovro STURM, "Church-State Relations and the Legal Status of Religious Communities in Slovenia", *Brigham Young University Law Review* 2, 2004, p. 620–622.

254 For the so-called *otto per mille* tax, cf. *infra*.

Today Estonia is an independent national state (since 1991) in which there is freedom of religion and belief, but no state church. In spite of the country's secular outlook, state policies regarding matters of religion are not only to be egalitarian towards, but also "cooperationist" with, religious associations, especially in areas of mutual interest. Thus churches are for example allowed to contract civilly valid marriages, whereas, as the largest religious institution — the country's two Orthodox Churches are divided on a great number of issues<sup>255</sup> —, the Estonian Evangelical Lutheran Church (EELC) has a "special relationship" with the state.

As a result, as from 1995 the EELC and the government created a joint commission that is notably responsible for conservation of cultural heritage and social and educational affairs. In addition, in 2002 the government also signed an agreement with the Estonian Council of Churches (ECC), an ecumenical umbrella organization for the ten largest Christian Churches in the country. Matters of mutual interest were defined as, among other things, spiritual care in public and closed institutions, social care, education and cultural heritage.<sup>256</sup> To this it should be added that as regards the financial side of church-state relations, the ECC, which represents almost 90% of the religiously affiliated population, receives annual allocations from the state budget,<sup>257</sup> while church buildings and religious sites often benefit from indirect funding through local development and heritage protection programmes.<sup>258</sup>

In Latvia, one of few religion-related issues that have recently drawn some media attention is the recognition of Orthodox Christmas Day as an official holiday, as part of a discussion that has been ongoing since national independence (1991). As had been the case in previous years,<sup>259</sup> on Christmas Eve 2014 the opposition proposed to recognize 7 January as a state holiday. Whereas Parliament voted against the proposal,<sup>260</sup> Latvian law still allows local councils to allocate holidays of their choice to their employees.<sup>261</sup>

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255 In this context, see Sebastian RIMESTAD, "Orthodox churches in Estonia", in: Lucian N. LEUSTEAN (ed.), *Eastern Christianity and Politics in the Twenty-First Century*, 2014, Routledge, London-New York, p. 295–311.

256 For more information, see Ringo RINGVEE, "Religious involvement in public sphere in a secular state: institutions, interests and attitudes", *International Review of Sociology* 25/2, 2015, p. 252–261, and Merilin KIVIORG, "Religion and the Secular State in Estonia", in: Donlu D. THAYER (ed.), *Religion and the Secular State: National Reports*, 2015, Servicio de Publicaciones Facultad de Derecho, Universidad Complutense de Madrid, Madrid, p. 248–261.

257 For more information, see Ringo RINGVEE, "Regulating Religion in a Neoliberal Context: The Transformation of Estonia", in: Tuomas MARTIKAINEN/François GAUTHIER (eds), *Religion in the Neoliberal Age: Political Economy and Modes of Governance*, 2013, Ashgate, Farnham, p. 143–160.

258 For more information, see Ringo RINGVEE, "Funding Religious Heritage in Estonia: From Sacred Buildings to Sacred Groves", in: Anne Fornerod (ed.), *Funding Religious Heritage*, 2015, Ashgate, Farnham, p. 113–125.

259 In this context, see for example «Latvia Snubs Orthodox Christmas as Official Holiday», *Sputnik News*, March 1, 2012, <http://sputniknews.com/world/20120301/171666571.html> (accessed 20 March 2016).

260 Source: [http://www.egliserusse.eu/blogdiscussion/Pas-de-jour-ferie-pour-le-Noel-julien-en-Estonie-et-Lettonie\\_a4138.html](http://www.egliserusse.eu/blogdiscussion/Pas-de-jour-ferie-pour-le-Noel-julien-en-Estonie-et-Lettonie_a4138.html) (accessed 12 October 2016).

261 On the position of the Orthodox Church in Latvia, see Inese RUNCE/Jelena AVANESOVA, "The Latvian Orthodox Church", in: Lucian N. LEUSTEAN (ed.), *Eastern Christianity and Politics in the Twenty-First Century*, 2014, Routledge, London-New York, p. 374–377.



At the institutional level, Finland's Constitution provides for church-state separation,<sup>262</sup> but the dominant Lutheran and Orthodox Churches have a privileged statute.<sup>263</sup> They are "public corporations under law", while other religious communities can only obtain the "registered association" statute. The two main Churches notably have the right to tax their members, offering them considerable financial advantages.<sup>264</sup> Whereas together with, for example, Austria (see below), Finland has witnessed some (limited) debate on this issue,<sup>265</sup> there seems to be no widespread popular backing for measures curbing church privileges.

Despite growing religious diversity in the country, for historical reasons the Catholic Church's position in Spanish society is highly privileged.<sup>266</sup> Indeed, while the 1978 Constitution — and the 1980 Religious Freedom Act — defined Spain as a non-confessional state and recognized equality for all citizens, it also granted special status to the Church in light of its "historical rootedness". While this leads, for example, to intense media coverage of Catholicism-related events — the Catholic Church is notably the only denomination that airs its own TV programmes —, this latter principle also underlies an unequal recognition system of religions, which guarantees Catholicism's position in society. The most important advantage for the Catholic Church lies in income-tax regulations, as both Catholics and non-Catholics can assign 0.7% of their income tax to the Church (see also above and below for partly similar provisions in Slovenia and Italy).<sup>267</sup>

In Austria, apart from repressive measures against the growing influence of sects and sectarian organizations,<sup>268</sup> the state has taken specific legislative measures to address the emergence of new religious movements. This notably led to the 1998 Act on the registration of denominational religious communities, which provided legal status for communities which do not enjoy the "privileges" granted by law to legally recognized churches and religious societies.

Indeed, while there is no general state funding, recognized churches and communities can rely on a series of benefits such as, first and foremost, obligatory compensation for Nazi-era losses due to

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262 For more information, see Kimmo KAARIANEN, "Religion and State in Finland", *Nordic Journal of Religion and Society* 24/2, 2011, p. 155–171.

263 On increasing ecumenism between these two Churches, see Teuvo LAITILA, "The Finnish Orthodox Church", in: Lucian N. LEUSTEAN (ed.), *Eastern Christianity and Politics in the Twenty-First Century*, 2014, Routledge, London-New York, p. 283–285.

264 On these issues, see Teemu TAIRA, *Väärin uskottu? Ateismin uusi näkyvyys*, 2014, Eetos, Turku.

265 See for example "Secularists call for separation of church and state in Finland", *Christian Today*, January 22, 2014, <http://www.Christiantoday.com/article/secularists.call.for.separation.of.church.and.state.in.finland/35501.htm> (accessed 23 March 2016).

266 On this issue, see Alfonso PÉREZ-AGOTE, "Religious Change in Spain", *Social Compass* 57/2, 2010, p. 224–234.

267 In this context, see Zoila COMBALIA/María ROCA, "Religion and the Secular State in Spain", in: Donlu D. THAYER (ed.), *Religion and the Secular State: National Reports*, 2015, Servicio de Publicaciones Facultad de Derecho, Universidad Complutense de Madrid, Madrid, p. 656–673.

268 A public-law institute for documentation and information on sects and similar institutions was also established by law in 1998. In this context, see Herbert KALB/Richard POTZ/Brigitte SCHINKELE, "Das Bundesgesetz über die Einrichtung einer Dokumentations- und Informationsstelle für Sektenfragen (EDISG)", *Österreichisches Archiv für Recht und Religion* 46, 1999, p. 353–400.



the nationalization of church funds and the suppression of state grants, as well as to the loss of notably Jewish cultural objects and sites. Furthermore, a plethora of additional forms of financing exist, for example in the shape of grants for social services and tax exemptions. This “preferential” system of church privileges, which notably excludes non-religious philosophical communities, has been criticized by secular associations, which in 2013 succeeded in obtaining the organization of a referendum that aimed at curbing church privileges. However, as the required minimum of 100,000 votes was not reached, the referendum’s result was deemed invalid.<sup>269</sup>

Finally, as a result of its privileged position, the Catholic Church is also a key dialogue partner within Austrian civil society. Thus it is not only involved in discussions on state legislation regarding religion-related issues — e.g. family law, monument protection, data protection, registration law and the inclusion of religion in national censuses—, but it is also represented on several advisory councils and committees, where it acts as an official “cooperating partner”.

In Italy, the Constitution is inspired by “secular” values such as equality before the law without religious distinction, equal religious liberty for all confessions, church-state separation, the organization of bilateral relations between different confessions, and the prohibition of discrimination between religious associations. It also recognizes the specific contribution of the religious factor and encourages its realization.

Notwithstanding such pluralistic provisions, Catholicism is undeniably the dominant worldview. Indeed, in many respects the Church’s privileged position has remained intact.<sup>270</sup> This is illustrated, for example, by the display of crucifixes in public schools: in spite of a 2000 Court of Cassation arrest, in 2006 administrative jurisprudence decreed that their presence is not in violation of the Constitution, as the cross is allegedly above all seen as a symbol of Italian culture and identity. While in 2009 the ECHR rejected this decision based on a violation of the European Convention on Human Rights,<sup>271</sup> two years later its Grand Chamber reversed the latter court’s decision.<sup>272</sup>

269 “En Autriche, échec d’une initiative populaire ‘contre les privilèges des Églises’”, *La Vie*, April 24, 2013, [http://www.lavie.fr/religion/lamatinale/en-autriche-echec-d-une-initiative-populaire-contre-les-privileges-des-eglises-24-04-2013-39571\\_400.php](http://www.lavie.fr/religion/lamatinale/en-autriche-echec-d-une-initiative-populaire-contre-les-privileges-des-eglises-24-04-2013-39571_400.php) (accessed 12 October 2016).

270 For general information on religion and secularisation in Italy, see Sara DOMIANELLO (ed.), *Diritto e religione in Italia. Rapporto nazionale sulla salvaguardia della libertà religiosa in regime di pluralismo confessionale e culturale*, 2012, il Mulino, Bologna, Enzo Pace (ed.), *Le religioni nell’Italia che cambia*, 2013, Carocci, Roma, and [various authors], “Blande riforme e isterismi radicali - Decimo rapporto sulla secolarizzazione in Italia”, *Critica liberale* 21/224, 2015.

271 “Human rights ruling against classroom crucifixes angers Italy”, *The Guardian*, November 3, 2009, <http://www.theguardian.com/world/2009/nov/03/italy-classroom-crucifixes-human-rights> (accessed 29 March 2016).

272 “European Court of Human Rights rules crucifixes are allowed in state schools”, *The Guardian*, March 18, 2011, <http://www.theguardian.com/law/2011/mar/18/european-court-human-rights-crucifixes-allowed> (accessed 29 March 2016). On this case, which goes back to 2002, see Grégor PUPPINCK, “Il caso Lautsi contro l’Italia”, *Stato, Chiese e pluralismo confessionale*, February 13, 2012, [http://www.statoechiese.it/images/stories/2012.2/puppinck\\_il\\_casom2.pdf](http://www.statoechiese.it/images/stories/2012.2/puppinck_il_casom2.pdf) (accessed 29 March 2016).

The country's fiscal regulations also add to the Catholic Church's dominance and power, notably through the so-called *otto per mille* tax. This system is characterized by a mechanism by which taxpayers have to attribute 0.8% of their imposable income to one of the "state-accepted" confessions or to another non-profit organization. The Catholic Church remains the main beneficiary : its national Episcopal Conference is currently one of the world's richest.<sup>273</sup>

In Luxembourg, the government headed by the liberal Xavier Bettel has undergone a reform of the conventional model that had already opened state financial support to the Protestant, Anglican, Orthodox and Jewish faiths alongside the Catholic Church, which remains an important authority in the country; this reform was made possible by the composition of the first government since 1979 not to include the Christian Democrats. However, the Bettel government stopped short of implementing a full church-state separation, maybe wary of public opinion, and opted for a reform that cancels the old institution of the church fabrics and drastically reduces public funding. Church ministers will no longer be paid directly by the state; instead, every religious group that signs a convention with the state will receive a lump sum to allocate as it sees fit. For the first time, the Muslim community is among the beneficiaries.

In Belgium, after many years of talks surrounding a possible reform of a system of state funding based on legislation dating from the 19th century, the topic has been taken off the political agenda. The inclusion of so-called non-confessional philosophical organizations among the beneficiaries contributed to gather support for the existing system. Currently, six religions and two philosophies enjoy state funding: Catholicism, Protestantism, Anglicanism, Orthodoxy, Judaism, and Islam are recognized and funded as religions, while secular humanism and Buddhism are recognized as philosophies. The recognition of Buddhism is not yet fully implemented as no law to that effect has been adopted by Parliament. The Belgian Buddhist Union receives a lump sum as a temporary measure.

### II.3.c. State funds for religions in question

Countries which opted for a strict separation between state and church are not immune to challenges from minority groups pointing at a situation where historical convictions still enjoy benefits denied to other confessions. Such is the case in France, where Muslims often face difficulties in financing the construction of places of worship while the Catholic Church enjoys the free disposal of buildings maintained by the authorities.

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<sup>273</sup> For an incisive analysis, see Anne MORELLI, "Le système italien de financement des cultes constitue-t-il un 'modèle'?", *Observatory of Religions and Secularism*, June 12, 2012, [http://www.o-re-la.org/index.php?option=com\\_k2&view=item&id=291%3Ale-syst%C3%A8me-italien-de-financement-des-cultes-constitue-t-il-un-mod%C3%A8le-%3F&Itemid=85&lang=en](http://www.o-re-la.org/index.php?option=com_k2&view=item&id=291%3Ale-syst%C3%A8me-italien-de-financement-des-cultes-constitue-t-il-un-mod%C3%A8le-%3F&Itemid=85&lang=en) (accessed 29 March 2016).

State funds appropriated for religions and, in some rare cases, for philosophical organizations are increasingly questioned in a profoundly secularized and diversified society with “new” religious groups which sometimes do not benefit from mechanisms set up in different times. Public funding of religions was developed in Europe in the aftermath of the transfer of church properties to public authorities. This mechanism has been questioned in the 20<sup>th</sup> century in the context of increasing secularization and emphasis on state neutrality and separation of state and church. Today it is again being questioned in the framework of a new religious landscape. Two possibly conflicting trends exist: diminishing funding and enlarging the perimeter of beneficiaries.

Regardless of the model chosen to formalize state funding, most EU states also implement forms of tax exemption to the benefit of faith-based organizations, often alongside other non-profit organizations. They may be ancient, such as the exemption from real-estate tax in Belgium, or more recent, such as the exemption granted to the Orthodox Church in Greece in 2011, when a new property tax was established to help curb the deficit. In this case, the exemption was heavily criticized.

#### II.4 Attitudes towards so-called sectarian organizations

The attitude of the authorities towards organizations perceived as sectarian vary widely from country to country. From the 1990s onwards, several European countries set up state agencies or state-sponsored organizations in charge of observing and/or opposing the development of sectarian organizations. In France, the “Miviludes” (Interministerial Mission for Monitoring and Combatting Sectarian Tendencies) has been monitoring and analysing data about sectarian organizations since 1998 but also coordinates efforts against such organizations.<sup>274</sup> By contrast, the CIAOSN (Centre for Information and Advice on Harmful Sectarian Organizations), established in Belgium in 1999, has a purely informative mission.<sup>275</sup> Some countries have established an information centre similar to that of Belgium; but in many others, private organizations of victims and parents of victims of sectarian organizations collect information. The European Federation of Centres of Research and Information on Cults and Sects federates those national centres; its headquarters are in Paris.<sup>276</sup>

<sup>274</sup> Brigitte BASDEVANT-GAUDEMET, « Les pouvoirs publics face aux sectes en France », in Francis MESSNER (ed.), *Les Sectes et le Droit en France*, Paris, Presses Universitaires de France, 1999, pp. 191-196.

<sup>275</sup> Henri DE CORDES, *L'État belge face aux dérives sectaires*, Brussels, CRISP, 2006 (Courrier hebdomadaire, No. 1908).

<sup>276</sup> [www.fecris.org](http://www.fecris.org)

In that context, the organization that drew the most attention in recent years is the Church of Scientology. In early 2014, in Slovakia, accusations that presidential candidate Andrej Kiska was a member of Scientology resurfaced without preventing his election to the high office.<sup>277</sup>

In October 2015, a new trial against the Church of Scientology opened in Brussels. The charges were: forgery, fraud, illegal practice of medicine, breaches of privacy laws and criminal organization. On 11 March 2016, the Court declared "inadmissible" all charges against the Belgian branch of the Church of Scientology and eleven of its members. The court described the prosecutor's findings as incomplete, failing to provide evidence that offences had been committed, and stressed that if the defendants had been prosecuted, it was primarily because they were followers of Scientology. This judgement represented a snub for the Federal Prosecution, which had investigated the case against the Church since 1997; the judgement was not appealed.<sup>278</sup>

Until 2015 the departure of many young people from France, the UK and the Benelux but also Italy, Spain and Germany to go and fight in Syria retained the authorities' attention but was hardly a top political priority. Yet, in July 2014, EU counter-terrorism coordinator, Gilles de Kerchove, estimated that around 2,000 jihadists from Europe were active in Syria. With the proclamation of the Islamic State and with the terrorist attacks in France, public security became a main preoccupation. Fighting and preventing Islamist radicalization is now at the core of public authorities' policies. As a result, the production of books and audiovisual material aimed at promoting a modern, democratic vision of Islam has increased with the support of public authorities.

### III. Religion and school

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The relationship between churches and education in Europe has often been conflictual, whether it concerned the role of religious authorities in the organization of schools or the place of religious education in public schools. In the late 20<sup>th</sup> century this opposition had seemed to fade, alongside the decrease of religious influence on daily life and society as a whole. Today secularism and religious diversification have led the authorities to reopen the debate around religious education and to introduce reforms to bring the system into harmony with contemporary religious identities. In recent years, an additional concern has surfaced the need to prevent Muslim radicalization by presenting youths with an appeased version of their religion.

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277 "Fico accuses Kiska of Scientology ties; Kiska submits criminal complaint", 18 March 2014, <https://spectator.sme.sk/c/20050146/fico-accuses-kiska-of-scientology-ties-kiska-submits-criminal-complaint.html> (accessed on 20 August, 2018).

278 Caroline SÄGESSER, Jean-Philippe SCHREIBER, Cécile VANDERPELEN-DIAGRE, *Les religions et la laïcité en Belgique*, Rapport Orela 2016, June 2017, p. 39.

### III.1 Public and confessional schools across the continent: old issues, new vision?

In recent years, the number of religious families actively seeking a religious education for their children has dwindled; in many Catholic schools, the population is composed of a majority of non-practitioners or even non-believers attracted by the schools' reputation or quality independently of their religious orientation. This evolution has not gone unnoticed by the Catholic Church. In December 2013, the Congregation for Catholic Education issued a document titled *Educating to Intercultural Dialogue in Catholic Schools: Living in Harmony for a Civilization of Love*,<sup>279</sup> acknowledging that in times of globalization and of cultural and religious pluralism, Catholic schools educate many non-Catholic pupils, and should do so while fostering interfaith dialogue but without renouncing the specific identity they bear witness to.

It may also provide an opportunity for public authorities to re-examine the relationship they have with confessional schools. In France, where the 1959 Debré Act organizes state subsidies on a contractual basis, schools have been reminded of the obligation they have to respect the pupils' freedom of conscience.<sup>280</sup>

When there is a shortage of space in schools, or when faith-based education is considered to achieve a higher performance level, a controversy can arise around admission criteria. In November 2016, it was reported that the British Catholic Church was suing the government's schools admissions watchdog to protect the rights of priests to determine whether pupils were eligible for a place on the basis of their faith.<sup>281</sup>

In Hungary, many public schools are being transferred to religious institutions; these schools have reintroduced the singing of religious hymns as well as morning prayers. The reason for such transfers is often financial:<sup>282</sup> schools maintained by churches receive more direct state funding than those maintained by municipalities, in application of the concordat with the Vatican signed in 1997 which demands full state funding for Catholic schools. Following the principle of equal treatment, schools based on other religious denominations receive funding equal to Catholic institutions. Religious-run schools in Hungary are generally not aimed specifically at their faith community. For instance, a Greek Catholic primary school was closed down by court order in

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279 *Educating to Intercultural Dialogue in Catholic Schools. Living in Harmony for a Civilization of Love*, *Vatican City* 2013, [http://www.vatican.va/roman\\_curia/congregations/ccatheduc/documents/rc\\_con\\_ccatheduc\\_doc\\_20131028\\_dialogo-interculturale\\_en.html](http://www.vatican.va/roman_curia/congregations/ccatheduc/documents/rc_con_ccatheduc_doc_20131028_dialogo-interculturale_en.html) (accessed 17 June 2014).

280 <http://fait-religieux.com/quand-l-u2019ecole-catholique-oublie-le-donnant-donnant> (accessed 25 March 2014).

281 "Court battle looms over priests' right to pick pupils for Catholic schools", *The Guardian*, 20 November 2016. <https://www.theguardian.com/education/2016/nov/20/catholic-church-court-priests-faith-school-places>

282 <http://secularhungary.wordpress.com/2011/06/03/less-school-more-religion/>

February 2014 because it violated non-discrimination principles by catering mostly — if not exclusively — to Roma children.<sup>283</sup>

In Slovakia, churches are also particularly active in the national educational system, which since the 1990s has progressively and at all levels integrated religious actors. Whereas all schools — public, church and private — receive funding according to student numbers, especially in urbanized and wealthy regions church schools are highly competitive. In 2010 they employed more than 10% of all teachers, although only representing 5% of all educational institutions. As of 2015, they are responsible for the education of 15% of the country's students. Not surprisingly the Catholic Church is the most prolific player in the field: (mainly Catholic) religious courses are taught at all levels and in all three educational systems. Teacher salaries and training are covered by public funds.<sup>284</sup>

In Slovenia, despite unconditional and indeed pioneering Vatican support for national independence, the Church was unable to penetrate all layers of social life, notably experiencing resistance at the educational level.<sup>285</sup> That being said, even at this level the Catholic Church is all but side-lined. Indeed, notwithstanding the principle of church-state separation, and while both political and church activities are not allowed in schools, the Religions and Ethics course which is taught in elementary schools and can, for example, include lectures by theologians does not seem to be affected. In addition, the state finances up to 85% of private Catholic schools' expenses, whereas the Catholic Church has also established its own network of ecclesiastic schooling.

A final interesting case is the UK, where Christianity is embedded in social and political life. It has recently been joined by minority religions like, first and foremost, Islam. As a consequence, and as stated above, apart from the presence of religion in the media — the BBC notably dedicates considerable attention to religious broadcasting —, large numbers of state schools continue to have partly religious foundations, historically once solely Christian or Jewish but now also including the Muslim, Hindu and Sikh faiths.

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283 Nick Thorpe, "Hungary court orders school closure over Roma segregation", *BBC.com*, 28 February 2014. <http://www.bbc.com/news/world-europe-26390357>

284 On religion and education in Slovakia, see Marek SMID, "Religion in public education—Slovakia", in: Gerhard ROBBERS (ed.), *Religion in Public education—La religion dans l'éducation publique*, 2011, European Consortium for Church and State Research, Trier, p. 443–454. For a comparative perspective, see Dana HANESOVA, "Religiosity and Its Current Educational Context in Slovakia and in the Czech Republic", *Hungarian Educational Research Journal* 4, 2013, [http://herj.lib.unideb.hu/file/3/55d2e7d8569a3/szerzo/eredeti\\_2014\\_04\\_14\\_hanesova.pdf](http://herj.lib.unideb.hu/file/3/55d2e7d8569a3/szerzo/eredeti_2014_04_14_hanesova.pdf) (accessed on March 18, 2016).

285 "Vatican Formally Recognizes Independence of Croatia and Slovenia", *The New York Times*, January 14, 1992, <http://www.nytimes.com/1992/01/14/world/vatican-formally-recognizes-independence-of-croatia-and-slovenia.html> (accessed 18 March 2016).

### III. 2. Religious education in public-funded schools: towards deconfessionalization?

Increased secularism and religious diversity naturally questioned the organization of Religious Education (RE) in Europe. Unlike the US, Europe, with few exceptions, generally has a tradition of including RE in public school curricula. Among EU member states, only France and Slovenia have banned RE from their public schools, in application of the separation between state and church and on a prevailing understanding that religion is primarily a private matter.

Very often, RE is still confessional, and religious organizations are involved in elaborating programmes or selecting teachers. In Italy, the 1984 concordat with the Vatican states that the Roman Catholic faith must be taught in Italian schools, the teachers being recruited by the Church, but paid by public authorities. The Church is also responsible for the programme and the textbooks used. However, an opt-out possibility exists, but no alternative subject is offered. A similar situation is to be found in Malta, while in Greece and Cyprus, instruction in the Orthodox religion is mandatory, with a possibility of exemption.

The state-church proximity, however historically rooted, does not always dictate that RE should remain confessional. In the UK, the official status of the Church of England has not prevented RE from becoming non-confessional and multifaith. In Scandinavia, where separation between the state and the Lutheran Church recently took place (except Denmark), RE is following a similar evolution from becoming non-confessional and open to the diversity of religious and non-religious worldviews. At the moment, non-confessional RE seems more prominent in countries with a Protestant tradition.

Nowadays confessional RE is increasingly considered inadequate, in a context in which the question of RE is seen as crucial, in the perspective of educating citizens who will be living in a society that is ever more multicultural.

One option could be to remove RE entirely from the curriculum; some argue that in a neutral and impartial state, religious education does not have a place in public or state-funded schools. But many consider that favouring religious ignorance is not a good step towards promoting mutual understanding of people from different backgrounds. As early as 2002, in secular France, essayist Régis Debray warned about the consequences of a lack of RE in public schools: the growing ignorance about religion in young people does not serve them well to understand their own heritage, but also to grasp today's world.<sup>286</sup> In his report, Debray recommended that all pupils receive some form of instruction about religious facts and history. The perspective that religious education is

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<sup>286</sup> Régis DEBRAY, *L'enseignement du fait religieux dans l'école laïque*, Rapport, 2002.



increasingly relevant at a time of greater religious diversity among the European population has gained momentum. RE is gradually becoming a part of the general education and is no longer seen as promoting faith.

The Parliamentary Assembly of the Council of Europe also favours this approach, and it has done so since 1999, when it invited member states to promote the teaching of comparative religious history.<sup>287</sup> In a 2005 recommendation, the Assembly observed that knowledge “of religions is an integral part of knowledge of the history of mankind and civilizations. It is altogether distinct from belief in a specific religion and its observance. Even countries where one religion predominates should teach about the origins of all religions rather than favour a single one or encourage proselytizing”, and recommended member states to have religious studies taught at primary and secondary levels of state education.<sup>288</sup> Two years later, the 22<sup>nd</sup> session of the Standing Conference of European Ministers of Education, held in Istanbul, reaffirmed “*the importance of measures to promote a better understanding between cultural and/or religious communities through school education, on the basis of shared principles of ethics and democratic citizenship*”, and noted that “*regardless of the religious education system that exists in a particular country, children must receive tuition that takes account of religious and philosophical diversity as part of their intercultural education*”.<sup>289</sup>

In December 2008, following suit, the Council of Europe’s Committee of Ministers adopted a recommendation to member states on the dimension of religions and non-religious convictions within intercultural education. Among the principles put forward in the text was the agreement that “religions and non-religious convictions are at least ‘cultural facts’ that contribute, along with other elements such as language and historical and cultural traditions to social and individual life” and that “information on and knowledge of religions and non-religious convictions which influence the behaviour of individuals in public life should be taught in order to develop tolerance as well as mutual understanding and trust”.<sup>290</sup> The recommendation also observed that religious and non-religious convictions develop on the basis of individual learning and experience, and are not only dependent on family-given orientation.

In 2007, the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE) released the *Toledo Guiding Principles on Teaching*

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287 Assembly of the COE, Religion and democracy, Recommendation 1396 (1999), 27 January 1999.

288 Assembly of the COE, Education and religion, Recommendation 1720 (2005), 4 October 2005.

289 Standing Conference of European Ministers of Education, 22<sup>nd</sup> session—Building a more humane and inclusive Europe: role of education policies— Istanbul, Turkey, 4–5 May 2007, Final declaration.

290 Recommendation CM/Rec (2008) 12 of the Committee of Ministers to member states on the dimension of religions and non-religious convictions within intercultural education, 10 December 2008.

*about Religions and Beliefs in Public Schools*. These guidelines, developed by the ODIHR Advisory Council of Experts on Freedom of Religion or Belief in co-operation with education experts, were aimed at teaching about religions and beliefs in a manner sensitive to human rights concerns. Therefore, one of its goals is to ensure that the right to freedom of conscience is respected, and that children are not submitted to a religious education that may violate their freedom or that of their parents. However, the Toledo principles also recognized that teaching about religions and beliefs is an essential part of education, necessary to understanding history, literature and art; it was also suggested that religious knowledge be promoted as a valuable tool to reduce conflicts.<sup>291</sup>

The jurisprudence of the ECHR is in line with the Toledo principles. In a highly publicized decision, the *Folgerø* case, this court agreed with the plaintiffs that the subject “Christian knowledge and religious ethical education”, implemented in Norwegian public schools, violated parents’ freedom to educate children in conformity with their own religious and philosophical convictions.<sup>292</sup> Norway has since changed the name of the subject to “Religions, world views and ethics” and removed the emphasis on Christianity.

Between 2006 and 2009, the EU-funded REDCo research programme investigated RE in a selection of EU countries presenting various approaches to its organization. The findings of the REDCo consortium supported the recommendations of the Council of Europe and the Toledo principles guidelines.<sup>293</sup> However, they recommended greater flexibility in implementing those guidelines, taking into account EU members’ national diversity. Great emphasis was put on supporting dialogue and interaction between pupils and students of different religious and non-religious backgrounds (with the clear aim of fostering active tolerance), but the consortium stopped short of recommending a global religious sciences education programme: it recommended including religious and non-religious worldviews into general intercultural education.

Other EU-sponsored projects have followed in REDCo’s footsteps: Teaching Religion in a Multicultural European Society (TRES) is a consortium looking for “Models of best practice of Interreligious Learning in Europe”, based on the assumption that religious identity is of great importance for individuals but also for society.<sup>294</sup>

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291 Toledo Guiding Principles on Teaching about Religion and Beliefs in public schools, *OSCE/ODHIR*, November 2007, p. 76 and after.

292 ECHR Grand Chamber, case of *Folgerø and others vs Norway*, application no. 15472/02, 29 June 2007, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-81356#iitemid:001-81356>

293 Religion in Education; Contribution to Dialogue. Policy recommendations of the REDCo research project. 19 March, 2009. See also <http://www.redco.uni-hamburg.de/web/3480/3481/index.html>

294 <http://www.tres-network.eu/>

In recent years, the subject of RE and the changes that should occur within it have given rise to an abundant literature, and to several international meetings.<sup>295</sup> In Europe, RE is also the subject of several networks, such as the International Civic and Citizenship Education Study (ICCS), the European Forum for Teachers of Religious Education (EFTRE), and the Coordination Group for Religion and Education in Europe (CoGree). The European Network for Religious Education in Europe through Contextual Approaches (ENRECA), set up in 1999, brings together European scholars engaged in both theoretical and empirical research on religion and education in a multicultural framework. The European Association for World Religions in Education (EAWRE) wishes to promote knowledge of different religions in European classrooms.

In the last two years, the debate about reforming RE in schools has reached the political agenda in several countries.

In Luxembourg, the government that took office on 4 December 2013, headed by the liberal Xavier Bettel, has moved the deconfessionalization of RE to its agenda, along with a global reform of the church-state relationship in a country that still very much bears the marks of the historically dominant Catholic Church. Until now, public schools in Luxembourg offered a choice between Roman Catholic religion and non-denominational ethics. The reform aims to replace both by a mandatory class on *Values Education*.

In Belgium, the debate about reforming RE, ongoing since the 1990s, took a (probably) decisive turn in late 2012-early 2013, as parliaments in both the French-speaking and Flemish Communities — responsible for education — conducted auditions on the subject.<sup>296</sup> On 17 May 2013, leaders of the five recognized religions which are taught in French-speaking schools in Belgium publicly presented new guidelines for religious programmes in the public schools of the French-speaking Community. These guidelines include principles common to all religious classes and, to some extent, include the three structuring axes put forward as desirable by Minister of Education Simonet in 2012: philosophical questioning, interfaith dialogue, and citizenship education. However, the guidelines were presented in very succinct documents and according to many observers they were too small a step to improve what ails the Belgian RE system, namely the control by religious bodies of curricula and teachers, and the separation of pupils according to their parents' convictional choice.

A radical reform was on the agenda of the government of the French-speaking Community set up on 22 July 2014, with the aim to introduce a course on citizenship education, replacing one of the two

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<sup>295</sup> Among recent titles: J.-P. WILLAIME. (ed.) *Le défi de l'enseignement des faits religieux à l'école. Réponses européennes et québécoises*, Paris, Riveneuve éditions, 2014; L. FRANKEN & P. LOOBUYCK (ed.), *Religious education in a Plural, Secularised Society. A Paradigm Shift*, London, Waxmann, 2011.

<sup>296</sup> In Belgium, the Communities have been fully competent for education since 1989. While the two large Communities, Flemish and French-speaking, have opened the debate, the smaller German-speaking Community has not tackled the issue yet.

weekly hours of religion or non-confessional ethics. In early 2015, two events accelerated the implementation of the reform. On the one hand, the attacks in Paris led to a renewed interest in this proposal: citizenship education was now being seen as part of the fight against radicalization of religious origin. On the other hand, a decision by the Constitutional Court dated 12 March 2015 gave parents the right to obtain an exemption from any course of religion or ethics. The course of education in philosophy and citizenship (EPC) was organized by decree in October 2015, and was introduced at the primary level in September 2016. In public schools, all pupils receive one hour of EPC and can opt for a second hour of EPC or choose one hour of religious education or non-confessional ethics.<sup>297</sup>

Sometimes, the evolution may take another turn. In Spain, the right-wing government led by Mariano Rajoy (*Partido Popular*) reinforced the position of religious instruction in a recent education reform. Previously the government consulted the autonomous Spanish provinces. Most notably, in Aragon, the department of Education wished to reintroduce compulsory Catholic religious education for everyone, thus returning to the model that was in place under the Francoist dictatorship, at least in the opinion of left-wing politicians.<sup>298</sup> The Spanish government fell short of taking such a step: on 17 May 2013, it approved a draft educational reform supported by the Spanish bishops, placing Catholic instruction education on the core curriculum, but leaving the possibility for children to opt for “social and cultural values” classes in primary school and “ethical values” classes in secondary school. Nevertheless, the reform has met with widespread criticism, especially from left-wing opposition party PSOE.<sup>299</sup>

In Hungary, where a new law on National Public Education was enacted in 2011, religious or ethics instruction became an obligatory part of the state school curriculum in September 2013. Religious instruction will be given to instructors sent by the religious authorities and taught according to instructional material of their choice.

The debate around the deconfessionalization of RE mainly focuses on the opportunity to replace teaching *into religion* by teaching *about religion*, thus replacing faith transmission by instruction in religious facts. There is, however, another side to RE that has to do with ethics. Some countries integrate ethics and citizenship education in their reflection on RE reform; others see ethics as a separate issue.

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<sup>297</sup> Caroline SÂGESSER, Jean-Philippe SCHREIBER, Cécile VANDERPELEN-DIAGRE, *Les religions et la laïcité en Belgique*, Rapport ORELA 2016, June 2017, p. 57-58.

<sup>298</sup> <http://fait-religieux.com/en-espagne-les-cours-de-religion-entre-protection-et-contestation>

<sup>299</sup> J. A. AUNIÓN, “La Iglesia gana la reforma educativa”, *El País*, 05/17/2013; F. TRÉCOURT, “Les cours de religion seraient à nouveau cotés en Espagne”, *Le Monde des Religions*, 23 May 2013, [http://www.lemondedesreligions.fr/actualite/les-cours-de-religion-seraient-a-nouveau-notes-en-espagne-23-05-2013-3137\\_118.php](http://www.lemondedesreligions.fr/actualite/les-cours-de-religion-seraient-a-nouveau-notes-en-espagne-23-05-2013-3137_118.php) (accessed 25 April 2016).

In France, the introduction of *secular morality* in the curriculum has sparked controversy surrounding the contents of teachings. In April 2013, a mission appointed by the French government to reflect on the opportunity to introduce such a subject and what it should cover published a report which underlined the necessity to introduce a topic focused on non-confessional ethics, in connection with citizenship education, and promoting the values upon which the French Republic rests: freedom, equality, solidarity.<sup>300</sup>

Gradually introduced in the Bulgarian school system since 1997, facultative Orthodoxy (and Islam) courses have been made available as of 2003 to students in all twelve grades. Still unsatisfied with this situation, the Orthodox Holy Synod, along with the Grand Muftiate, made attempts to persuade the Ministry of Science and Education to making the study of religion mandatory for all students. Such attempts were joined by initiatives like a 2010 national procession in defence of the study of religion at school. The procession was attended by some 10,000 clerics and citizens from all of the country's Orthodox dioceses. That being said, even if a considerable part of public opinion seemed to be in favour of the Bulgarian Orthodox Church's projects, this has not led to a revival of religious instruction, as only 1% of the student population opts for it.<sup>301</sup>

In Croatia, religious instruction has also stirred considerable controversy.<sup>302</sup> Introduced as an optional subject in public schools in 1991–1992, Catholic religious instruction was only fully legalized in 1996, and it was followed by the other main confessions. Currently, about 95% of all pupils opt for religious instruction. The majority chooses Catholicism (93%), for convictional reasons, but also because in many primary schools there simply is no alternative. The major point of controversy is the introduction of a health education curriculum in January 2013. This was harshly criticized by religious communities and Church-based organizations, the main objection being that parts of the curriculum were seen as promoting “gender ideology”, homosexuality and “irresponsible” sexual behaviour, that “natural” sexual differences were denied, and that parents

300 “Morale laïque : pour un enseignement laïque de la morale”, 22 April 2014, rapport remis à Vincent Peillon, ministre de l'Éducation nationale, [http://cache.media.education.gouv.fr/file/04\\_Avril/64/5/Rapport\\_pour\\_un\\_enseignement\\_laïque\\_de\\_la\\_morale\\_249645.pdf](http://cache.media.education.gouv.fr/file/04_Avril/64/5/Rapport_pour_un_enseignement_laïque_de_la_morale_249645.pdf) (accessed 25 April 2016).

301 Maria SCHNITTER/Daniela KALKANDJEVA, ‘Teaching Religion in Bulgarian Schools: Historical Experience and Post-Atheist Developments’, in: Adam SELIGMAN (ed.), *Religious Education and the Challenge of Pluralism*, 2014, Oxford University Press, New York, p. 70–95. On the march, see “Bulgarian clergy marches to demand religion classes”, *The Sofia Echo*, September 24, 2010, [http://sofiaecho.com/2010/09/24/965440\\_bulgarian-clergy-marches-to-demand-religion-classes](http://sofiaecho.com/2010/09/24/965440_bulgarian-clergy-marches-to-demand-religion-classes) (accessed 14 March 2016).

302 Siniša ZRINŠČAK/Dinka MARINOVIĆ-JEROLIMOV/Ankica MARINOVIĆ/Branko ANČIĆ, “Church and State in Croatia: Legal Framework, Religious Instruction, and Social Expectations”, in: Sabrina Ramet (ed.), *Religion and Politics in Post-Socialist Central and Southeastern Europe. Challenges since 1989*, 2014, Palgrave Macmillan, Basingstoke, p. 131–154. See also Ankica Marinović-Bobinac/Dinka Marinović Jerolimov, “Religious Education in Croatia”, in: Zorica KUBURIĆ/Christian MOE (eds), *Religion and Pluralism in Education: Comparative Approaches in the Western Balkans*, 2006, CEIR, Novi Sad, p. 39–71. In addition, a rare and unsuccessful episode of opposition against State Church funding took place in September 2014: “Croatia Campaigners Urge Church Funding Cut”, *Balkan Insight*, September 22, 2014, <http://www.balkaninsight.com/en/article/croatian-citizens-seeking-secularism-terminating-agreements> (accessed 19 March 2016).

lost the right to choose the appropriate education for their children. As a result of widespread Church-backed opposition, the Constitutional Court abolished the decree in May 2013.<sup>303</sup>

Finally, whereas voluntary non-confessional teaching about religions was introduced in Estonian public schools in 1992, the school system is also one of the main areas in which both religious and secular forces negotiate their place in Latvian society.<sup>304</sup> As a result, since 2004, compulsory, publicly funded Christian teachings and ethics classes have been introduced in state primary schools — parents have to choose between one of both options. Religious teachers are representatives of their respective denomination, and their teachings have to be approved by the Ministry of Education and Science, which leaves the selection of teachers to the respective denominations' official representatives. Generally, the contents of religious courses are of an outspokenly conservative nature and, despite the Ministry's competence in the matter, they generally dedicate little or no attention to notions such as human rights and civic awareness.<sup>305</sup> Notwithstanding such tendencies, a 2010 proposal to introduce Bible studies as a mandatory part of primary education was firmly rejected by Parliament.<sup>306</sup>

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<sup>303</sup> "Croatia Suspends Sex Education In Schools After Staunch Church Opposition", *The Huffington Post*, May 24, 2013, [http://www.huffingtonpost.com/2013/05/24/croatia-sex-education-Catholic-church-court-ruling\\_n\\_3332518.html](http://www.huffingtonpost.com/2013/05/24/croatia-sex-education-Catholic-church-court-ruling_n_3332518.html) (accessed 19 March 2016).

<sup>304</sup> On this issue, see Olga SCHIHAEJEV, «Religious Education at Schools in Estonia», in: Martin ROTHGANGEL/Geir SKEIE/Martin JAGGLE (eds.), *Religious Education at Schools in Europe*, 2014, Vandenhoeck & Ruprecht, Vienna, p. 75–104. See also Merilin KIVIORG, «Religious Education in Estonia», [http://www.uni-trier.de/fileadmin/fb5/inst/IEVR/Arbeitsmaterialien/Staatskirchenrecht/Europa/Konferenz\\_2010/Estonia.pdf](http://www.uni-trier.de/fileadmin/fb5/inst/IEVR/Arbeitsmaterialien/Staatskirchenrecht/Europa/Konferenz_2010/Estonia.pdf) (accessed 19 March 2016).

<sup>305</sup> Laima GEIKINA, "Religious Education at Schools in Latvia", in: Martin ROTHGANGEL/Geir SKEIE/Martin JAGGLE (eds.), *Religious Education at Schools in Europe: Northern Europe*, 2014, V&R Unipress, Göttingen, p. 169. On the issue of religion and human rights in Latvia, see Ringolds BALODIS, "The Constitutional and Administrative Aspects of State and Church Regulation in the Republic of Latvia", in: Donlu D. THAYER (ed.), *Religion and the Secular State: National Reports*, 2015, Servicio de Publicaciones Facultad de Derecho, Universidad Complutense de Madrid, Madrid, p. 489-490.

<sup>306</sup> "Bible studies law shut down", *The Baltic Times*, September 3, 2010, <http://www.baltictimes.com/news/articles/26904/> (accessed 20 March 2016). For more information on religion in the Latvian school system, see Ringolds BALODIS, "School-Religion Relations: Republic of Latvia", *European Review of Public Law* 17/1, 2005, p. 397-407.

## IV. (Re)new(ed) religious conservatism and ethical questions across Europe

### IV. 1. Women's rights — gender equality

#### Reproductive rights (abortion)

Europe is often seen as a progressive continent where abortion is generally allowed. Indeed, discussions on the subject do not reach the intensity they do across the Atlantic. Yet, recent years have seen no further progress on extending women's rights to safe abortion, while the reopening of the debate in a number of countries has actually produced a series of setbacks.

Only one European country maintains a total ban on abortion: Malta. Under Maltese law, abortion is forbidden even when the mother's life is at risk.<sup>307</sup> The island imposes a penalty ranging from 18 months to three years' imprisonment.

Other EU countries have restrictive legislation. In Cyprus, abortion is illegal, but permitted in cases of rape and incest, or when two doctors certify that the pregnancy carries a threat to the life of the woman or to the health of the unborn child.

Two bastions of Catholicism in Europe, Poland and Ireland, also have restrictive legislation. In Poland, abortion is only allowed in cases of rape and incest, or in the case of danger to the life of the mother or deformity of the foetus. As a result, there has been a rise in the number of illegally induced abortions, while Polish women who can afford to do so often go to Germany or elsewhere to have an abortion. Despite the very restrictive conditions put on abortion, in June 2011, Polish pro-life NGOs collected over 500,000 signatures for a proposed bill to tighten the legislation and ban abortion in Poland altogether. Since then, the debate has been ongoing. In September 2015, a proposal to introduce a complete ban on abortion was narrowly rejected in the lower house of the Polish Parliament. In April 2016, Polish organizations again proposed amended legislation to ban abortion in all cases except to save the woman's life, including penalties to abortion providers with up to five years' imprisonment. The debate started in Parliament on 22 September 2016. In protest, Polish women organizations initiated the "Black Monday" strike: Polish women went on strike on Monday 3 October, boycotting work and school across the country.<sup>308</sup> Pro-choice protesters

<sup>307</sup> Cf. for example "Malta now only EU country without life-saving abortion law", *Malta Independent*, July 14, 2013, <http://www.independent.com.mt/articles/2013-07-14/news/malta-now-only-eu-country-without-life-saving-abortion-law-2068054030/> (accessed 26 March 2016), and "Updated: Malta 'on the cusp of attempting to legalise abortion' foundation says", *Times of Malta*, September 8, 2015, <http://www.timesofmalta.com/articles/view/20150908/local/updated-malta-on-the-cusp-of-attempting-to-legalise-abortion.583663> (accessed 26 March 2016).

<sup>308</sup> "Polish Women Hold 'Black Monday' Strike To Protest Proposed Abortion Ban", 4 October 2016, <https://www.npr.org/sections/thetwo-way/2016/10/04/496526099/polish-women-hold-black-monday-strike-to-protest-proposed-abortion-ban> (accessed 29 March, 2016).



marched in Warsaw and other Polish cities; demonstrators across Europe marched in solidarity. In consequence, the draft law was rejected by the ruling party and voted down on 6 October.

Ireland has recently lifted the previously total ban on abortion: a new law passed in July 2013 allows abortion in cases of “real and significant” danger to the woman’s life. The law was adopted after a highly mediatized case of a young woman who died after she had been refused an abortion. The Irish law is applied very restrictively; in early August 2014, the press reported on the situation of a young woman who was forced to give birth to a baby that was the result of rape. Indeed, access to abortion in Ireland remains highly restrictive,<sup>309</sup> whereby the phenomenon of what could be termed “abortion tourism” has continued unabatedly.<sup>310</sup>

In Italy, the number of conscientious objectors who refuse to perform abortions is extremely high, rendering abortion practically impossible in certain regions.<sup>311</sup> That being said, despite this general climate of (in part religiously motivated)<sup>312</sup> conservatism, minor progress has been made at the level of IVF legislation after the 2004 law on medically assisted procreation was for the greater part declared unconstitutional.<sup>313</sup>

Most other EU countries have “liberal” legislation, generally allowing abortion up to 10 to 12 weeks of pregnancy (up to 24 weeks in the Netherlands and the UK, up to 18 weeks in Sweden). Nevertheless, such legislation is also coming under scrutiny and being challenged by conservative, religiously motivated groups. In Portugal, where abortion was legalized as recently as 2007, following a referendum — the Church fiercely opposed any new legislation<sup>314</sup> —, the centre-right government tightened existing legislation in July 2015, in a move that opposition politicians saw as

<sup>309</sup> “Ireland’s abortion law tortures women. It needs to be legal”, *The Guardian*, 10 June 2015,

<http://www.theguardian.com/commentisfree/2015/jun/10/irelands-abortion-law-tortures-women-amnesty-report> (accessed 23 March 2016).

<sup>310</sup> “12 women a day travel from Ireland to Britain to get abortions”, *The Irish Post*, 13 June 2014, <http://irishpost.co.uk/12-women-day-travel-ireland-britain-get-abortion/> (accessed 23 March 2016).

<sup>311</sup> Recently Italian conscientious objectors have also obtained the explicit support of Pope Francis, who labelled conscientious objection a «human right», cf. “Pope Francis says conscientious objection a ‘human right’”, *Los Angeles Times*, 28 September 2015, <http://www.latimes.com/nation/la-na-pope-visit-papal-plane-20150928-story.html> (accessed 29 March 2016).

<sup>312</sup> Mentioning the numerous newspaper and scholarly articles dedicated to such issues would take up too much space in the context of the current report. The so-called *Family Day* manifestations, which attract hundreds of thousands of supporters, aptly illustrate the Vatican’s active radius in Italian debate on family-, sex- and life-related issues. See for example “Family Day 2015, cattolici in piazza contro le unioni gay: ‘Siamo un milione’. Viminale: ‘400mila presenze’. Scalfarotto: ‘Evento inaccettabile’”, *il Fatto Quotidiano*, 20 June 2015, <http://www.ilfattoquotidiano.it/2015/06/20/family-day-cattolici-a-roma-contro-le-unioni-gay-scalfarotto-evento-inaccettabile/1798167/> (accessed 29 March 2016).

<sup>313</sup> “Italian court overturns divisive ban on donor eggs”, *Reuters*, 9 April 2014, <http://www.reuters.com/article/us-italy-fertility-idUSBREA381BG20140409> (accessed 29 March 2016).

<sup>314</sup> “Catholic church fights to keep its grip as Portugal votes on legalising abortion”, *The Guardian*, 9 February 2007, <http://www.theguardian.com/world/2007/feb/09/religion.uk> (accessed 26 March 2016), and «Portugal to Vote on Putting End to Abortion Ban», *The New York Times*, 11 February 2007, [http://www.nytimes.com/2007/02/11/world/europe/11portugal.html?\\_r=0](http://www.nytimes.com/2007/02/11/world/europe/11portugal.html?_r=0) (accessed 26 March 2016).

“humiliating [to] Portuguese women”.<sup>315</sup> Under the new legislation, women are notably required to have counselling before having recourse to abortion, whereas they also have to pay a fee.<sup>316</sup> However, the country’s otherwise pernicious volatile political situation might also have a positive effect, as the recently elected centre-left government intends to revoke the controversial provisions.<sup>317</sup>

In Spain, where, despite repeated clerical sex abuse scandals — the most recent one in Granada<sup>318</sup> —ethical and life-related issues are systematically being forced onto the political agenda by conservative parties that draw inspiration from Catholic values, first and foremost by the *Partido Popular*, a proposition to reverse abortion legislation was defeated in 2014.<sup>319</sup> While the move was finally abandoned,<sup>320</sup> apparently the topic has not been dropped entirely from the political agenda.<sup>321</sup>

Across the EU, “pro-life” activists regularly organize anti-abortion demonstrations. Such religiously motivated groups generally enjoy the support of established churches. The Catholic Church is often also actively involved in the organization of such events. For example, in 2013 the Slovakian Catholic Church organized an anti-abortion “National March for Life” in Košice.<sup>322</sup> The march was attended by tens of thousands of participants, mainly from Slovakia, but also from Poland, Hungary and the Czech Republic. In France, towards the end of 2016, the government announced its wish to have the National Assembly adopt a law criminalizing the digital impediment to abortion. The

<sup>315</sup> “In a move to tighten abortion laws, Portugal makes women pay to terminate pregnancies”, *The New York Times*, 23 July 2015,

<http://nytlive.nytimes.com/womenintheworld/2015/07/23/in-a-move-to-tighten-abortion-laws-portugal-makes-women-pay-to-terminate-pregnancies/> (accessed 26 March 2016).

<sup>316</sup> “Portugal tightens abortion laws, forcing women to pay to end pregnancies”, *The Guardian*, 23 July 2015,

<http://www.theguardian.com/world/2015/jul/23/portugal-tightens-abortion-laws-women-pay-end-pregnancies> (accessed 26 March 2016).

<sup>317</sup> “António Costa: ‘In 2016 Portugal will begin to end austerity’”, *Culture of Peace News Network*, 26 January 2016, <http://cpnn-world.org/new/?p=5053> (accessed 26 March 2016).

<sup>318</sup> Cf. “Spain arrests three priests, layman in Granada sexual abuse ring”, *Reuters*, 24 November 2014, <http://www.reuters.com/article/us-spain-priests-idUSKCN0J81AZ20141124> (accessed 25 March 2016). For the outcome –only the ringleader is being persecuted–, see “Granada sexual abuse case only to continue against priest ringleader”, *El País*, 17 February 2015, [http://elpais.com/elpais/2015/02/17/inenglish/1424171198\\_994753.html](http://elpais.com/elpais/2015/02/17/inenglish/1424171198_994753.html) (accessed 25 March 2016).

<sup>319</sup> “Spain abortion: Rajoy scraps tighter law”, *The Guardian*, 23 September 2014, <http://www.bbc.com/news/world-europe-29322561> (accessed 20 May 2016).

<sup>320</sup> “Spain abandons plan to introduce tough new abortion laws”, *The Guardian*, 23 September 2014, <http://www.theguardian.com/world/2014/sep/23/spain-abandons-plan-introduce-tough-new-abortion-laws> (accessed 25 March 2016). See also “Spain ‘heading for self-made mess’ with abortion ban”, *CNN*, 18 February 2014, <http://edition.cnn.com/2014/02/18/opinion/spain-abortion-ban-furedi/> (accessed 20 May 2016).

<sup>321</sup> “Spanish government proposes reform of abortion law”, *The Irish Times*, 19 February 2015, <http://www.irishtimes.com/news/world/europe/spanish-government-proposes-reform-of-abortion-law-1.2108803> (accessed 20 May 2016), and “Femen activist interrupts Senate abortion debate with topless demo”, *El País*, September 9, 2015, [http://elpais.com/elpais/2015/09/09/inenglish/1441811000\\_749015.html](http://elpais.com/elpais/2015/09/09/inenglish/1441811000_749015.html) (accessed 25 March 2016). See also, for clerical involvement in the matter, “Priests take to the streets as Spain drops abortion plan”, *The Times*, 22 September 2014, <http://www.thetimes.co.uk/tto/news/world/europe/article4213561.ece> (accessed 20 May 2016).

<sup>322</sup> “First ever Slovak March for Life shatters expectations, draws huge crowd of 80,000”, *Life Site*, September 23, 2013, <https://www.lifesitenews.com/news/first-ever-slovak-march-for-life-shatter-expectations-draws-huge-crowd-of-8> (accessed 18 March 2016).

proposal aims to prevent websites from “deliberately misleading, intimidating and/or exerting psychological or moral pressure to discourage the use of abortion”. The offence of hindering abortion has existed in France since 1993. The Catholic Church strongly opposed the proposed bill that would extend the offence to include website contents. On 22 November 2016, Georges Pontier, Archbishop of Marseilles, President of the Conference of Bishops of France, wrote a letter of protest to President François Hollande. The new legislation is nevertheless expected to be adopted in early 2017.<sup>323</sup>

While legal prescriptions are important, national mentalities and religious cultures also matter: in Italy, more and more doctors today refuse to carry out abortions. In Romania, which by European standards has very high abortion rates,<sup>324</sup> this does not imply the presence of widespread liberal attitudes on the subject, as is exemplified by the decision, taken by some 30 gynaecologists in the city of Timisoara, to stop performing abortions during the Orthodox Easter period. Their underlying motivation: not to upset God.<sup>325</sup>

### Embryonic cell research

Opposition to embryonic cell research often has roots in an anti-abortion stance, more common in Catholic countries. Thus, in 2005, Slovakia joined countries such as Malta and Italy in its opposition to EU funding of embryonic stem cell research.<sup>326</sup> Even though this initiative did not achieve its intended goal — a constitutional amendment rendering abortion illegal —, it is indicative of a steadily expanding, explicitly conservative, religiously motivated agenda on ethical and sex-related questions.

Another highly sensitive issue is *in vitro* fertilization. Under pressure from the European Commission,<sup>327</sup> the Polish government has for several years been trying to pass legislation on the matter. When in June 2015, this was finally translated into a concrete law that would allow IVF treatment as of 1 November 2015, the Catholic Church expressed its great disappointment and

<sup>323</sup> The letter can be found here: <https://www.paris.catholique.fr/delit-d-entrave-numerique-a-l-ivg.html> (accessed 22 December 2017).

<sup>324</sup> “Romania Leads Europe in Abortion Rate”, *BalkanInsight*, 6 March 2012, <http://www.balkaninsight.com/en/article/romania-has-highest-abortion-rate-in-europe> (accessed 14 March 2016).

<sup>325</sup> “IVG: ‘ne pas chagriner Dieu’ à Pâques”, *Le Figaro*, 7 April 2015, <http://www.lefigaro.fr/flash-actu/2015/04/07/97001-20150407FILWWW00084-ivgroumanie-ne-pas-chagriner-dieu-a-paques.php> (accessed 14 March 2016).

<sup>326</sup> “Malta, Italy, Germany, Poland and Slovakia Object to EU Funding of Embryonic Stem Cell Research”, *Life Site*, 29 November 2005, <https://www.lifesitenews.com/news/malta-italy-germany-poland-and-slovakia-object-to-eu-funding-of-embryonic-s> (accessed 18 March 2016). See also, on the final 2006 deal, ‘EU to finance stem cell research’, *The New York Times*, 25 July 2006, [http://www.nytimes.com/2006/07/25/world/europe/25iht-union.2285608.html?\\_r=0](http://www.nytimes.com/2006/07/25/world/europe/25iht-union.2285608.html?_r=0) (accessed 18 March 2016).

<sup>327</sup> On the Polish Catholic Church and EU integration, see Agnieszka SZUMIGALSKA, “The Polish Catholic Church’s perception of the processes of EU integration and Europeanisation in the context of traditional norms and values”, *Religion, State & Society* 43/4, 2015, p. 342–356.

disapproval.<sup>328</sup> Consequently, the issue has remained at the heart of the political debate, as in December 2015 the recently elected government decided to end state funding for IVF treatment, partly, it seems, under Church pressure.<sup>329</sup>

## IV. 2. LGBT rights

Homophobia remains widespread in the EU and is a prime target of EU-supported anti-discrimination policies. Yet the EU does not have authority in family matters and cannot advise member states on how to treat homosexual partnerships. In recent years, however, same-sex marriage or legal partnership is gradually being recognized in most EU member states.

On 31 December 2016, same-sex marriage was legal in ten EU member states (Belgium, Denmark, France, Ireland, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the UK); thirteen others had adopted some form of recognition of same-sex partnership (Austria, Croatia, Cyprus, Czech Republic, Estonia, Finland, Germany, Greece, Hungary, Italy, Malta and Slovenia). Six countries did not offer any kind of legal sanction for same-sex partners (Bulgaria, Latvia, Lithuania, Poland, Romania and Slovakia). It has been pointed out that some form of East/West divide could be observed.<sup>330</sup>

It should be noted that opposition to granting equal rights to same-sex couples is often religiously grounded and supported by religious organizations. In France, the *mariage pour tous* met with intense opposition, notably from the Catholic Church. In recent years, public debate on religion in France has not only contributed to the reaffirmation of the principle of *laïcité*, but also to an exploration of its limits. Indeed, religion has retained considerable influence in French society, as is illustrated by the 2013 phenomenon of massive anti-same-sex marriage demonstrations.<sup>331</sup> These so-called *Manifs pour Tous*, supported by the Catholic Church and a plethora of civil organizations,<sup>332</sup> showed France and the world that while *laïcité* is an inherent part of the nation's DNA, religiously inspired values are no less to be reckoned with.

328 "Polish government backs bill to regulate IVF treatment", *The Daily Mail*, 10 March 2015, <http://www.dailymail.co.uk/wires/reuters/article-2988390/Polish-government-backs-bill-regulate-IVF-treatment.html> (accessed 16 March 2016).

329 "Poland to end state funding for IVF treatment", *The Guardian*, 2 December 2015, <http://www.theguardian.com/world/2015/dec/02/poland-end-state-funding-ivf-treatment> (accessed 16 March 2016).

330 <https://freedomhouse.org/blog/east-west-divide-lgbt-rights-europe>

331 In this context, see for example "An Anti-Gay Marriage Tea Party, French Style?", *The New Yorker*, 18 March 2014, <http://www.newyorker.com/news/news-desk/an-anti-gay-marriage-tea-party-french-style> (accessed 30 March 2016).

332 In this context, see for example "Les leçons à retenir de la Manif pour tous", *Slate*, 10 April 2015, <http://www.slate.fr/story/100207/lecons-retenir-manif-pour-tous> (accessed 30 March 2016).

A rather similar observation can be made in Portugal, where gay marriage was legalized as early as 2010, in a move that met with opposition not only from conservative political factions but also from the Catholic Church: while visiting the country only days before the actual ratification, Benedict XVI labelled same-sex unions and abortion “insidious and dangerous”.<sup>333</sup> Currently, same-sex couples are expected to be allowed to adopt children in the near future — a draft law was approved by Parliament in November 2015.<sup>334</sup>

With the exception of Northern Ireland, same-sex marriage is now legal in the UK.<sup>335</sup> However, it has not been backed by the main churches. While the Church of England has recently elected its first female bishop<sup>336</sup> in a move that is widely seen as reflecting its openness and liberalism,<sup>337</sup> women’s and LGBT rights remain strictly separate issues: shortly after being appointed, Archbishop Libby Lane made it clear that her election would not affect the Anglican Church’s stance on the issue of gay marriage.<sup>338</sup> Nevertheless, some churches within the Anglican Communion do allow same-sex marriage — the Episcopalian Church in the US has allowed gay marriage since 2015 — and the discussion is ongoing within the Church of England.

The issue is sometimes put to the voters. In Ireland, after years of fiery debate, in May 2015 a referendum was organized on the issue. As participants overwhelmingly voted in favour, Ireland has become the first country in which same-sex marriage has been legalized after popular consultation. As a result, in November 2015 Irish same-sex couples finally obtained the same marriage rights as heterosexuals,<sup>339</sup> after both houses of Parliament voted in favour of extending marital law.<sup>340</sup> The Catholic Church expressed its profound regret at a decision which Vatican Secretary of State Pietro

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333 “Portugal ratifies gay marriage law”, *The Independent*, 18 May 2010, <http://www.independent.co.uk/news/world/europe/portugal-ratifies-gay-marriage-law-1975790.html> (accessed 26 March 2016).

334 “Portugal just equalised its adoption laws for gay couples”, *Pink News*, 20 November 2015, <http://www.pinknews.co.uk/2015/11/20/portugal-just-equalised-its-adoption-laws-for-gay-couples/> (accessed 26 March 2016).

335 “First gay marriages in the UK will take place at the stroke of midnight tonight”, *The Independent*, 28 March 2014, <http://www.independent.co.uk/news/uk/home-news/first-gay-marriages-in-the-uk-will-take-place-tonight-9220985.html> (accessed 24 March 2016).

336 “First female bishop announced as Rev Libby Lane by Church of England”, *The Independent*, 27 January 2015, <http://www.independent.co.uk/news/uk/home-news/rev-libby-lane-church-of-englands-first-female-bishop-revealed-9930304.html> (accessed 24 March 2016).

337 Cf. for example “Liberalism increases as power shifts to the laity in the Church of England”, *The Guardian*, 13 July 2014, <http://www.theguardian.com/world/2014/jul/13/church-of-england-power-shifts-laity-liberalism> (accessed 24 March 2016).

338 “Libby Lane: ‘Whatever the Church’s failings, I really think this is where God has put me’”, *The Guardian*, March 21, 2015, <http://www.theguardian.com/theguardian/2015/mar/21/first-woman-bishop-libby-lane-interview> (accessed 24 March 2016).

339 “Same-sex marriage is now legal in Republic of Ireland”, *BBC News*, 16 November 2015, <http://www.bbc.com/news/world-europe-34810598> (accessed 23 March 2016).

340 “Ireland step closer to same-sex marriage”, *CNN*, 22 October 2015, <http://edition.cnn.com/2015/10/22/europe/ireland-same-sex-marriage/> (accessed 23 March 2016).

Parolin notoriously called a “defeat for humanity”.<sup>341</sup> The issue has notably made Church authorities increasingly aware of the “growing gap between Irish young people and the church”.<sup>342</sup>

In Slovakia, a 2014 constitutional amendment defined marriage as the union of a man and a woman,<sup>343</sup> before being put to the test of a popular vote by the organization of a national referendum “on family” held in February 2015. Backed by various Catholic organizations and by the Pope,<sup>344</sup> voters massively rallied to the no-to-gay-marriage camp, even though the poll was ultimately declared invalid because the required 50% minimum turnout was not reached.<sup>345</sup> Be that as it may, the issue once again highlights the continuing presence of religiously motivated politics in a society in which Catholic values seem to have lost only very little of their traditional appeal.

Other countries have adopted legislation or constitutional amendments to define marriage as the union of a man and a woman. This is notably the case in Croatia, Poland, Hungary, Latvia and Lithuania. In some cases (Slovakia, Croatia and Poland), the Catholic Church was a driving force, in others (Hungary, Latvia and Lithuania) it was not.

In Croatia, where same-sex partnerships have been legal since 2003, the centre-left government suggested to tackle the issue of marriage after it rose to power in December 2011; vivid public debate ensued. In a short period of time, and with Church support, an ad hoc civil organization collected 749,316 signatures asking for a constitutional referendum. The referendum, which the political majority saw as a “threat to people’s right to happiness and choice”,<sup>346</sup> was held on 1 December 2013. Although only 37.9% of citizens voted, the minimum turnout was reached. As most participants voted in favour of the central question — a move that has been qualified as indicative of a “possible slide-back to the worst nightmares of the 20<sup>th</sup> century”<sup>347</sup> —, the Constitution now defines marriage as the union of a man and a woman.

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341 “Catholic Church ‘bereavement’ after same-sex marriage vote”, *The Irish Times*, 2 June 2015, <http://www.irishtimes.com/news/social-affairs/religion-and-beliefs/Catholic-church-bereavement-after-same-sex-marriage-vote-1.2234500> (accessed 23 March 2016).

342 The archbishop of Dublin, quoted in “Catholic Church Ponders Future After Same-Sex Marriage Vote in Ireland”, *The New York Times*, 24 May 2015, <http://www.nytimes.com/2015/05/25/world/europe/church-faces-murky-future-as-irish-support-same-sex-marriage.html> (accessed 23 March 2016).

343 “Slovak constitution amended to specifically ban same-sex relationships”, *Pink News*, 4 June 2014, <http://www.pinknews.co.uk/2014/06/04/slovak-constitution-amended-to-specifically-ban-same-sex-relationships/> (accessed 18 March 2016).

344 “Pope Francis Backs Slovakia’s Referendum Against Same-Sex Marriage, Adoption Rights”, *The Huffington Post*, 6 February 2015, [http://www.huffingtonpost.com/2015/02/06/pope-slovakia-referendum\\_n\\_6630876.html](http://www.huffingtonpost.com/2015/02/06/pope-slovakia-referendum_n_6630876.html) (accessed 18 March 2016).

345 “Referendum to entrench gay marriage ban in Slovakia overwhelmingly supported but fails due to low turnout”, *The Independent*, 8 February 2015, <http://www.independent.co.uk/news/world/europe/referendum-to-entrench-gay-marriage-ban-in-slovakia-overwhelmingly-supported-but-fails-due-to-low-10031769.html> (accessed 18 March 2016).

346 “Croats back same-sex marriage ban in referendum”, *BBC News*, December 2, 2013, <http://www.bbc.com/news/world-europe-25172778> (accessed 19 March 2016).

347 “Croatia’s vote forbidding gay marriage: a sign of the rotten heart of Europe”, *The Guardian*, December 4, 2013, <http://www.theguardian.com/commentisfree/2013/dec/04/croatia-gay-marriage-vote-europe-rotten-heart> (accessed 19 March 2016).



Even so, some progress has been made, as in 2014 the government passed a new “Law on the Life Union of Same-Sex Persons” which, while still excluding marriage and adoption, granted many additional rights to same-sex partners. It has manifested its intention to extend some of this law’s provisions in 2016.<sup>348</sup>

In Finland, same-sex marriage is one of the issues that have had the deepest impact on both Finnish society and on the country’s main church. While Finland legalized civil partnership in 2002, gay marriage indeed remains a highly sensitive issue. After a long legal<sup>349</sup> and public debate, in November 2014 Parliament finally voted in favour of legalizing same-sex marriage.<sup>350</sup> The vote was signed into law by the country’s president in February 2015, allowing same-sex marriages to be contracted from 2017 onwards.<sup>351</sup> However, the debate does not seem to be over yet, as a recent petition has forced Parliament to renew discussions on the matter.<sup>352</sup> Most significantly, the archbishop’s approval of same-sex marriage led to a surge in Church exits,<sup>353</sup> while recently LGBT rights also provoked a (minor) diplomatic incident with Russia.<sup>354</sup> Thus it seems fair to say that such episodes are indicative of the persistence, in certain strata of Finnish society, of a reactionary, religiously inspired agenda.

In 2015, Luxembourg also legalized same-sex marriage. The country’s PM notably is the first EU leader to have contracted such a union.<sup>355</sup>

While the EU is not competent to define legal unions, the ECHR now takes the view that not offering some form of legalized partnership to same-sex couples constitutes a form of discrimination. Thus Greece has been condemned on charges of discrimination by the ECHR (27 November 2013), as it

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<sup>348</sup> For a more general discussion on religion and family in Croatia, see Krunoslav NIKOĐEM, “Religiosity and Marriage/Family Attitudes in Croatia”, in: Gert PICKEL/Kornelia SAMMET (eds), *Transformation of Religiosity in Eastern Europe 1989–2010*, 2012, Springer VS, Wiesbaden, p. 175–196.

<sup>349</sup> “Finland votes against gay marriage”, *Gay Star News*, March 1, 2013, <http://www.gaystarnews.com/article/finland-votes-against-gay-marriage010313/#gs.9D9PrgY> (accessed 23 March 2016).

<sup>350</sup> “Finland Parliament Passes Law Permitting Same-Sex Marriage”, *International Business Times*, November 28, 2014, <http://www.ibtimes.com/finland-parliament-passes-law-permitting-same-sex-marriage-1730611> (accessed 23 March 2016).

<sup>351</sup> “President of Finland signs same-sex marriage law”, *Pink News*, February 20, 2015, <http://www.pinknews.co.uk/2015/02/20/president-of-finland-signs-same-sex-marriage-law/> (accessed 23 March 2016).

<sup>352</sup> “Petition forces Finland’s parliament to debate reversing same-sex marriage”, *Pink News*, July 19, 2015, <http://www.pinknews.co.uk/2015/07/19/petition-forces-finlands-parliament-to-debate-reversing-same-sex-marriage/> (accessed 23 March 2016).

<sup>353</sup> “Thousands quit Lutheran church in Finland after its Archbishop came out in favour of same-sex marriage”, *The Independent*, December 1, 2014, <http://www.independent.co.uk/news/world/europe/thousands-quit-lutheran-church-in-finland-after-its-archbishop-came-out-in-favour-of-same-sex-9896339.html> (accessed 23 March 2016).

<sup>354</sup> “Russia complains over ‘gay bar’ on president’s plot in Finland”, *The Guardian*, September 17, 2015, <http://www.theguardian.com/world/2015/sep/16/russia-complains-gay-bar-president-plot-finland> (accessed 23 March 2016).

<sup>355</sup> “Luxembourg Prime Minister marries his male partner one year after tiny Catholic nation approved law allowing same-sex marriage”, *The Daily Mail*, May 15, 2015, <http://www.dailymail.co.uk/news/article-3083944/Luxembourg-Prime-Minister-marries-partner-one-year-tiny-Catholic-nation-approved-law-allowing-sex-marriage.html> (accessed 29 March 2016).



does not provide any kind of partnership to same-sex couples, prompting the Venizelos government to introduce an ad hoc bill. In December, an Orthodox bishop threatened to excommunicate MPs who would vote in favour of the proposal,<sup>356</sup> whereas the bishop of Thessaloniki labelled homosexuality “a perversion of human existence”.<sup>357</sup> But with the arrival of *Syriza* in the government, a bill to legalize civil unions for same-sex couples was approved by Parliament in December 2015.<sup>358</sup>

A similar evolution happened in Cyprus. When the first ever gay pride events took place in the capital in 2014<sup>359</sup> and 2015,<sup>360</sup> — some 3,000 to 4,000 people participated —, Church authorities labelled such events signs of “illness” and of “the human being’s fall from grace”.<sup>361</sup> Be that as it may, in November 2015, a bill legalizing same-sex partnership was adopted<sup>362</sup>. Thus it seems that, while Cypriot society remains highly attached to its Orthodox identity, and while the Orthodox Church continues to be one of the most important power brokers in society, the Church’s authority on moral and ethical issues might slowly be declining. This does not appear to be the case in Romania, where a same-sex partnership bill, proposed in 2014 by Remus Cernea, an independent member of Parliament who provocatively used biblical quotations to strengthen his argument, was unanimously rejected by Parliament.<sup>363</sup>

Estonia is the only Baltic state to have introduced a form of legalization of same-sex partnerships. On the occasion of this debate, religion has entered the public domain. The introduction of a Family Law Act, which confers all legal rights of heterosexual marriage to same-sex couples — even if officially their union is a “partnership” —, was announced in May 2014.<sup>364</sup> While speaking of a

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<sup>356</sup> “Bishop threatens to excommunicate Greek MPs who vote for gay unions”, *The Guardian*, December 4, 2013,

<http://www.theguardian.com/world/2013/dec/04/greek-bishop-threatens-excommunicate-gay-unions> (accessed 15 March 2016).

<sup>357</sup> “Greek justice minister denounces gay marriage”, *The Guardian*, December 2, 2014, <http://www.theguardian.com/world/2014/dec/02/greek-justice-minister-gay-marriage> (accessed 15 March 2016).

<sup>358</sup> “Greece passes bill allowing civil partnerships for same-sex couples”, *The Guardian*, December 23, 2015, <http://www.theguardian.com/world/2015/dec/23/greece-passes-bill-allowing-same-sex-civil-partnerships> (accessed 15 March 2016).

<sup>359</sup> “Cyprus’ Gay Pride Parade Draws Thousands In Debut Year”, *The Huffington Post*, June 2, 2014, [http://www.huffingtonpost.com/2014/06/02/cyprus-gay-pride-parade-n\\_5430472.html](http://www.huffingtonpost.com/2014/06/02/cyprus-gay-pride-parade-n_5430472.html) (accessed 15 March 2016).

<sup>360</sup> “Thousands turn out for Cyprus’ 2<sup>nd</sup> gay pride parade” *The Daily Mail*, June 6, 2015, <http://www.dailymail.co.uk/wires/ap/article-3113719/Thousands-turn-Cyprus-2nd-gay-pride-parade.html> (accessed 15 March 2016).

<sup>361</sup> “Cyprus’ First Gay Pride Festival To Take Place May 31”, *The Huffington Post*, May 16, 2014, [http://www.huffingtonpost.com/2014/05/16/cyprus-gay-pride-n\\_5339323.html](http://www.huffingtonpost.com/2014/05/16/cyprus-gay-pride-n_5339323.html) (accessed 15 March 2016).

<sup>362</sup> “House passes historic civil partnerships bill”, *Cyprus Mail*, November 26, 2015, <http://cyprus-mail.com/2015/11/26/house-passes-htnerships-bill/> (accessed 15 March 2016).

<sup>363</sup> “Romania: same-sex partnerships bill unanimously rejected by parliament committee”, *Pink News*, March 18, 2014, <http://www.pinknews.co.uk/2014/03/18/romania-sex-unions-bill-unanimously-rejected-parliament-committee/> (accessed 14 March 2016).

<sup>364</sup> “Estonian government supports cohabitation law” *The Baltic Course*, 22 May 2014, <http://www.baltic-course.com/eng/legislation/?doc=91938> (accessed 19 March 2016).

“culture war”, the opponents of the Act saw it as an attempt to redefine the traditional understanding of family as monogamous heterosexual marriage.<sup>365</sup> As did a score of other religious communities and institutions, the Estonian Council of Churches explicitly stated that it was opposed to the draft,<sup>366</sup> and a rally was organized in Tallinn on 5 October 2014. Notwithstanding opposition, the draft law was voted by Parliament, albeit with only a very narrow margin.<sup>367</sup>

However, a series of legal loopholes still have to be dealt with before the law can (ideally) be implemented in 2016.<sup>368</sup> Especially since in March 2015, conservative forces have joined the government, it remains to be seen whether or not this deadline will be met. But for now at least, it seems fair to say that despite the hotly debated same-sex partnership issue, Estonia is clearly one of the EU countries in which no single church or religious movement has so far been able to dictate national politics. Indeed, in many respects the issue of religion still seems to “come bottom in most people’s list of priorities”.<sup>369</sup>

The issue of LGBT rights has also been at the centre of public debate in Lithuania, where the issue has topped the country’s political and religious agenda in recent years. Proposals for the adoption of a more liberal family concept have met with fierce opposition on the part of (mainly Catholic) conservative non-governmental organizations. Indeed, in 2008 the traditional, heterosexual family concept even made it into the governmental “Family Policy Concept” document. After progressive strata in Lithuanian society had harshly criticized this move, the document was finally declared illegal by the Constitutional Court (2011),<sup>370</sup> which the decision’s opponents consequently labelled “a judicial junta” and “a Belarusian-type court”.<sup>371</sup>

The discussion on LGBT rights in Lithuania is ongoing: in 2014, the country’s PM publicly declared that the concept of family rests on the traditional union of a man and a woman, while at the same

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<sup>365</sup> See for example the website of the Foundation for the Protection of Family and Tradition: <http://saptk.ee/blog/2015/07/01/saptk-suvinge-ringreis-keskendub-kultuurisoja-teemale/> (accessed 19 March 2016).

<sup>366</sup> [http://www.ekn.ee/doc/uudised/Kiri\\_Riigikogule\\_2904\\_RL.pdf](http://www.ekn.ee/doc/uudised/Kiri_Riigikogule_2904_RL.pdf) (accessed 19 March 2016).

<sup>367</sup> “Estonia recognizes same sex marriage in historic ruling”, *The Baltic Times*, 10 October 2014, <http://www.baltictimes.com/news/articles/35664/> (accessed 19 March 2016).

<sup>368</sup> “Estonia’s Same-Sex Law Confuses People: Couples to Hold Until Everything is Clear”, *Lawyer Herald*, 4 January 2016, <http://www.lawyerherald.com/articles/24857/20160104/estonia-same-sex-law-confuses-people-couples-hold-until-everything-clear.htm> (accessed 19 March 2016), and “Estonia’s New Same-Sex Partnerships Law Prompts Legal Confusion”, *The Huffington Post*, 3 January 2016, [http://www.huffingtonpost.com/entry/estonia-gay-partnerships-law\\_us\\_56895697e4b014efe0dab799](http://www.huffingtonpost.com/entry/estonia-gay-partnerships-law_us_56895697e4b014efe0dab799) (accessed 19 March 2016).

<sup>369</sup> “Spirituality in Estonia—the world’s ‘least religious’ country”, *BBC News*, 26 August 2011, <http://www.bbc.com/news/world-europe-14635021> (accessed 19 March 2016).

<sup>370</sup> “Constitutional Court—family concept contradicts the Constitution”, *the Lithuania Tribune*, 9 October 2011, <http://www.lithuaniantribune.com/8469/constitutional-court-family-concept-contradicts-the-constitution-20118469/> (accessed 21 March 2016).

<sup>371</sup> “Challenged definition of family has sent tremors throughout the conservative landscape”, *The Baltic Times*, October 12, 2011, <http://www.baltictimes.com/news/articles/29789/> (accessed 21 March 2016).

time favouring the legalization of civil partnerships, including the same-sex variant.<sup>372</sup> In a country in which, in a not so distant past, the “legislation of gay hate” was a major preoccupation for the conservative political establishment, leading, for example, to measures against what was termed the “promotion of homosexuality”<sup>373</sup> — in 2015, this provision was finally revoked<sup>374</sup> —, the issue remains highly sensitive. As a result, in recent years no significant progress has been made in this domain: on the contrary, under pressure from the Catholic Church, which notably reaffirmed its teachings on traditional family values at the start of Lithuania’s EU presidency in July 2013,<sup>375</sup> Parliament has backed laws that discriminate against homosexuals,<sup>376</sup> whereas public events such as gay pride events continue to show very limited attendance rates, mainly due to the absence of popular consensus.<sup>377</sup>

Latvia is a country in which a system of rather strict church-state separation is combined with traditional, mainly Christian values, as well as with a certain degree of religious pluralism and freedom. In November 2014, the country’s foreign minister openly — via Twitter<sup>378</sup> — revealed to be homosexual.<sup>379</sup> In so doing he raised significant hope for future increased awareness of LGBT issues in a country that has an arguably rather poor case record in the matter,<sup>380</sup> whereas the recent organization of the EuroPride festival in Riga also seems to point in the direction of increasing openness in the field of sex- and gender-related issues.<sup>381</sup>

<sup>372</sup> “Family is between man and woman—Lithuanian PM”, *the Lithuania Tribune*, 28 May 2014, <http://www.lithuaniatribune.com/68561/family-is-between-man-and-woman-lithuanian-pm-201468561/> (accessed 21 March 2016).

<sup>373</sup> “Legislating gay hate in Lithuania”, *The Guardian*, 14 September 2009, <http://www.theguardian.com/commentisfree/2009/sep/14/gay-hate-laws-lithuania> (accessed 21 March 2016).

<sup>374</sup> “Lithuania lawmakers refuse to vote for Russian-style anti-gay propaganda-laws”, *Gay Times*, 12 November 2015, <https://www.gaytimes.co.uk/news/16678/lithuania-lawmakers-refuse-to-vote-for-russian-style-anti-gay-propaganda-laws/> (accessed 21 March 2016).

<sup>375</sup> “L’Église de Lituanie appelle l’Union européenne à ‘une approche juste de la personne humaine’”, *La Croix*, 2 July 2013, <http://www.la-croix.com/Religion/Actualite/L-Eglise-de-Lituanie-appelle-l-Union-europeenne-a-une-approche-juste-de-la-personne-humaine-2013-07-02-981316> (accessed 21 March 2016).

<sup>376</sup> “Lithuanian Parliament backs anti-gay proposal despite rejection by Human Rights Committee”, *the Lithuania Tribune*, 29 November 2013, <http://www.lithuaniatribune.com/58299/lithuanian-parliament-backs-anti-gay-proposal-despite-rejection-by-human-rights-committee-201358299/> (accessed 21 March 2016). This notably led to severe EU criticism, cf. <https://www.article19.org/resources.php/resource/37097/en/eu-sustained-pressure-needed-against-%E2%80%9Chomosexual-propaganda%E2%80%9D-bans> (accessed 21 March 2016).

<sup>377</sup> “Vilnius to hold Baltic Pride 2016”, *The Baltic Times*, 22 October 22 2015, [http://www.baltictimes.com/vilnius\\_to\\_hold\\_baltic\\_pride\\_2016/](http://www.baltictimes.com/vilnius_to_hold_baltic_pride_2016/) (accessed 21 March 2016). See for example also “Lithuania: Court overturns ban on Baltic Pride”, *Pink News*, 5 July 2013, <http://www.pinknews.co.uk/2013/07/05/lithuania-court-overturns-ban-on-baltic-pride/> (accessed 21 March 2016).

<sup>378</sup> <https://twitter.com/edgarsrinkevics> (accessed 20 March 2016).

<sup>379</sup> “Latvian foreign minister comes out as gay on Twitter”, *Newsweek*, 7 November 2014, <http://europe.newsweek.com/edgars-rinkevics-latvia-estonia-eastern-europe-lgbt-gay-russia-283000?rm=eu> (accessed 20 March 2016).

<sup>380</sup> See “The Eastern European Gay Rights Movement Is Struggling To Be More Than a Western Cause”, *Vice*, 16 September 2015, <http://www.vice.com/read/where-pride-means-protest-0000746-v22n9> (accessed 20 March 2016).

<sup>381</sup> “Gay pride festival heads for pastures new in Latvia”, *Reuters*, 10 April 2015, <http://www.reuters.com/article/us-latvia-europride-idUSKBN00Y820150410> (accessed 20 March 2016).

Italy is another country with a Catholic heritage where debates around same-sex couples have been heated and fuelled by the Church. For a long time, even though various draft law projects had been submitted to Parliament, both legal cohabitation and same-sex unions remained impossible. Indeed, even though Italians were largely in favour of attributing limited<sup>382</sup> civil rights to same-sex partners, politicians were extremely cautious on the issue. Even so, the ruling left-wing coalition had promised to push through with same-sex legislation,<sup>383</sup> partly as a result of European pressure,<sup>384</sup> and despite considerable opposition from right-wing political factions, a bill to legalize civil unions for same-sex couples was approved on 13 May 2016 by the Italian Parliament.

Finally, whereas Malta only legalized divorce in 2011 following a popular referendum,<sup>385</sup> it started contracting same-sex unions in 2014.<sup>386</sup>

### IV. 3. Euthanasia

Since the adoption of new legislation in Luxembourg in 2009, the Benelux countries remain the only ones in the EU to have fully legalized the practice of euthanasia. Others (like Germany) admit passive euthanasia. Both meet the steady opposition of the Catholic Church and most other religious groups. In Belgium, the extension of the possibility of euthanasia for minors was voted in 2014, despite vocal Church opposition.

Parliamentary debates are also taking place in Estonia and in Germany, while in the Czech Republic a bill legalizing euthanasia has been rejected. In France, the political debate was not opened, despite President Hollande's commitment to do so. However, the country in which in recent years the debate on euthanasia has clearly drawn the most media attention is Italy. In this context, and despite vivid public debate on euthanasia following cases such as that of Eluana Englaro, a

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<sup>382</sup> "Italy: Poll reveals majority opposed to gay adoption and same-sex marriage", *Gay Star News*, 2 February 2015, <http://www.gaystarnews.com/article/italy-poll-reveals-majority-opposed-gay-adoption-and-same-sex-marriage020215/#gs.caT5XNE> (accessed 29 March 2016).

<sup>383</sup> "Gay unions: Italy set to spurn church", *The Local*, 19 October 2015, <http://www.thelocal.it/20151019/gay-unions-italy-set-to-spurn-church> (accessed 29 March 2016).

<sup>384</sup> "European court tells Rome: Introduce civil union for gay couples", *The Telegraph*, 21 July 2015, <http://www.telegraph.co.uk/news/worldnews/europe/italy/11753807/European-court-tells-Rome-Introduce-civil-union-for-gay-couples.html> (accessed 29 March 2016).

<sup>385</sup> "Malta votes 'Yes' in divorce referendum", *BBC News*, May 29, 2011, <http://www.bbc.com/news/world-europe-13588834> (accessed 26 March 2016).

<sup>386</sup> "Malta Legalizes Gay Partnerships, Adoption Rights", *The Huffington Post*, 14 April 2014, [http://www.huffingtonpost.com/2014/04/15/malta-gay-partnerships\\_n\\_5148866.html](http://www.huffingtonpost.com/2014/04/15/malta-gay-partnerships_n_5148866.html) (accessed 26 March 2016).

comatose patient who was repeatedly refused access to life-ending measures, “right to die” discussions have come to a near-total standstill.<sup>387</sup>

Meanwhile, Romania, Greece, Poland and Ireland still enforce the total prohibition of euthanasia in their criminal codes.

On the other hand, it should also be noted that some religious authorities show openness to the idea of euthanasia. In England, the former archbishop of Canterbury, Dr George Carey, announced his support for a bill proposing to legalize assisted dying as a way of preventing “needless suffering”.<sup>388</sup> In Belgium, a famous Catholic priest, Gabriel Ringlet, published in September 2015 a book about his own experience in assisting terminally ill patients through the process of euthanasia.<sup>389</sup>

## V. Convictional organizations and the EU

In the early 2000s, the proposed preamble to the Treaty establishing a European Constitution sparked a heated controversy over the possible inclusion of a reference to God or to the continent’s Christian roots.<sup>390</sup> A first stage of the document drafted by former French president Valéry Giscard d’Estaing contained such a mention; yet, it was the French government that, in application of the principle of *laïcité*, objected the most to the mention of this Christian heritage in the European Constitution, soon joined by the Belgian government, while German Chancellor Angela Merkel, and the Polish government, led the “pro-God” movement. The final wording of the beginning of the preamble left God and Christianity out, reading as such: “Drawing inspiration from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law”.

<sup>387</sup> Even if active euthanasia is prohibited, doctors were finally allowed to stop feeding the patient, cf. “Comatose woman in euthanasia debate dies”, *CNN*, 10 February 2009, <http://edition.cnn.com/2009/HEALTH/02/09/italy.euthanasia/> (accessed 29 March 2016), and “Italy seeks clarity on euthanasia”, *BBC News*, 10 February 2009, <http://news.bbc.co.uk/2/hi/europe/7881441.stm> (accessed 29 March 2016). Episodes such as the ‘Eluana case’ have notably led to a growing number of Italians seeking access to euthanasia in neighbouring Switzerland, cf. ‘460 Italians sought ‘right to die’ in 2013’, *The Local*, 4 November 2014, <http://www.thelocal.it/20141104/hundreds-of-italians-sought-right-to-die-in-2013> (accessed 29 March 2016).

<sup>388</sup> Former archbishop lends his support to campaign to legalise right to die 12 July 2014, <https://www.theguardian.com/society/2014/jul/12/archbishop-canterbury-carey-support-assisted-dying-proposal> (accessed 29 March 2016).

<sup>389</sup> Gabriel RINGLET, *Vous me coucherez nu sur la terre nue*, Albin Michel, 2015.

<sup>390</sup> The Treaty establishing a Constitution for Europe (commonly referred to as the European Constitution) was an international treaty intended to create a consolidated constitution for the European Union. It would have replaced the existing European Union treaties with a single text. Signed on 29 October 2004 by representatives of the then 25 member states of the European Union, and later ratified by 18 member states, the treaty was rejected by French and Dutch voters in referendums. The Treaty of Lisbon was later adopted to replace the Constitutional Treaty.

Despite leaving God out of the proposed EU Constitution, the question of a religious inspiration for the process of European unification keeps surfacing. Some critics point out that the process of unification was initiated and geared in its first decades by Christian Democrats, and they look at the EU flag as being reminiscent of the figure of the Virgin Mary. Many of them criticized the warm welcome received by the Pope at the European Parliament in Strasbourg on 25 November 2014, in the first visit of a pope to the EU assembly since John-Paul II in 1988. They may also have been displeased by the awarding of the 2016 Charlemagne Prize to Pope Francis. This prestigious prize has been given since 1950 by the city of Aachen to a personality who has contributed to the unity of Europe. Jean-Claude Juncker, President of the European Commission and Martin Schulz, President of the European Parliament, gave the prize to Pope Francis, stressing that “the soul of Europe lies in its values; that’s what the Pope wants to remind us of”.<sup>391</sup>

EU countries are free to set up their own legislation regarding the status of religious organizations and state intervention. The EU has no competence over religion and allows every member state to determine its own legislation on those matters. However, since the Lisbon Treaty, the EU has maintained official dialogue with religious and philosophical organizations. At the same time, many churches and faith-based organizations have developed intense lobbying activities at the EU level, to secure their own position and defend their own interests, but also to try and influence legislation and the global political process.

### V.1. Official dialogue conducted with the EU

Article 17 of the 2007 Lisbon Treaty, which became law on 1 December 2009, reads as follows:

“1. The Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States. 2. The Union equally respects the status under national law of philosophical and non-confessional organizations. 3. Recognizing their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organizations”.<sup>392</sup>

The article was the result of a long and laborious negotiation in which the question of whether a direct mention of God or of the EU’s supposedly Christian (or Judaeo-Christian) roots was weighed

<sup>391</sup> “L’âme de l’Europe, ce sont ses valeurs ; c’est ce que le pape veut nous rappeler” *Le Monde*, 5 mai 2016,

[http://www.lemonde.fr/idees/article/2016/05/05/le-pape-francois-symbole-d-une-europe-unie\\_4914410\\_3232.html#fv2k7f1y50kB438.99](http://www.lemonde.fr/idees/article/2016/05/05/le-pape-francois-symbole-d-une-europe-unie_4914410_3232.html#fv2k7f1y50kB438.99) (accessed 29 December 2017).

<sup>392</sup> For the consolidated Treaty text, see <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%206655%202008%20INIT> (accessed 10 April 2016).

up against the option of a less symbolic, more direct role attributed to religious organizations.<sup>393</sup> While secular associations such as the European Humanist Federation (EHF) were against this latter possibility, Church representatives asked themselves the following question: “Would God be serviced best if (secular) European policymakers were to draw inspiration from His text in their day to day professional activities or if His men [...] would make a contribution on His behalf during relevant meetings/settings? In other words, was the inspiration of God not better translated (and possibly distorted) by God’s men themselves rather than left to others?”<sup>394</sup> The answer was affirmative, and as a result, no reference to God or to the EU’s religious roots was made in the Treaty. Official dialogue with religions, on the other hand, arguably the most advantageous option for churches and religious communities, was legally sanctified.

Such dialogue has existed since the days of Jacques Delors at the head of the EU Commission. By the late 1980s, the will to revitalize a European project, perceived as essentially technocratic by many people, led the European Commission to develop a dialogue with civil society, including religious movements, and seek to provide the European construction with an ethical dimension. This would later give birth to the “A Soul for Europe” initiative (1994). *A Soul for Europe* is incidentally also the title of a book recently published by the Commission of the Bishops’ Conferences of the European Community (COMECE), under the direction of historian Jean-Pierre Delville, who is also the bishop of Liège. The book draws the history of the continent from the christening of Clovis, and emphasizes the Christian roots of the process of unification.<sup>395</sup> Indeed, the Christian convictions of the “Founding Fathers” (Robert Schuman, Konrad Adenauer, Jean Monnet or Alcide De Gasperi) have often been underlined.

For humanist associations, Article 17 represented no less a defeat than the “God in the Constitution” option. Indeed, not only did dialogue seminars between Church and EU officials take off on a regular basis, but, more importantly so, there were now also “formal and structured high level meeting[s]”<sup>396</sup> between religious officials and the presidents of the European Commission, Parliament and Council. In other words, a structured dialogue system has been put in place, which

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<sup>393</sup> On this latter issue, see for example <http://www.iris-france.org/wp-content/uploads/2016/03/RW-rethinking-the-place-of-religion.pdf> (accessed 10 April 2016).

<sup>394</sup> Pieter-Jan DE VLIÉGER, *Lobbying in the service of God and Church. The adaptation of church representations to the European Union’s interest group system*, unpublished doctoral thesis, Vrije Universiteit Brussel, 2011–2012, p. 451. For a previous overall assessment of religious and humanist lobbies at the EU level, see also Bérengère MASSIGNON, *Des dieux et des fonctionnaires. Religions et laïcités face au défi de la construction européenne*, 2007, Presses Universitaires de Rennes, Rennes, and Lucian N. LEUSTEAN (ed.), *Representing Religion in the European Union. Does God matter?*, 2012, Routledge, London.

<sup>395</sup> Mgr Jean-Pierre DELVILLE (dir.), *Quelle âme pour l’Europe ?*, with contributions from Gérard-François DUMONT, Vincent DUJARDIN and Jan DE VOLDER, Bruxelles, Editions Lumen Vitae, 2016.

<sup>396</sup> Pieter-Jan DE VLIÉGER, *Lobbying in the service of God and Church. The adaptation of church representations to the European Union’s interest group system*, unpublished doctoral thesis, Vrije Universiteit Brussel, 2011–2012, p. 455.



allows religious communities “at any given time and on their request, [to] substantively present their interests and their concerns.”<sup>397</sup>

Article 17 officializes what had so far been unofficial: churches, religious communities and non-confessional organizations obtained an “*open, transparent and regular dialogue*” with all European institutions. Long before the Lisbon Treaty, European institutions, and in particular the European Commission, had indeed developed unofficial relations with different churches and, to a lesser extent, non-confessional interest groups.<sup>398</sup> Such relations consisted of, among other things, biannual dialogue seminars, i.e. meetings in which themes of joint interest were discussed by both Commission officials and church delegates. In addition to this, the Commission official responsible for relations with churches, religious communities and non-confessional organizations, a position created in 1982, equally invited them to seminars and briefing sessions within the Commission.

The above provisions of the Lisbon Treaty passed the several renegotiations of the Constitutional Treaty unscathed, guaranteeing churches and non-confessional organizations official and privileged access — they were explicitly mentioned, contrary to other civil society actors — to EU policymaking. This, however, does not imply that the faithful are adequately represented. Indeed reference is only made to religious organizations, not to their members or in any case those whom they claim to represent.<sup>399</sup> Thus it has rightly been suggested that “church interest groups do not lobby in the service of society but in the service of God and church”.<sup>400</sup>

As the Lisbon Treaty provided for institutionalized dialogue between EU authorities and religious representatives, recent years have indeed effectively witnessed an increase in, and professionalization of, the activities of religious groups, notably at the level of dialogue with the European Commission.<sup>401</sup> Rather than peripheric, such exchanges are crucial for religious

<sup>397</sup> Pieter-Jan DE VLEIEGER/Irina TANASESCU, “Changing Forms of Interactions between the European Commission and Interest Groups: The Case of Religious Lobbying”, *European Integration* 34/5, 2012, p. 448.

<sup>398</sup> More than 80 religious and humanist interest groups are estimated to be active today. Leustean has identified a total of around 120 since the Schuman Declaration, cf. <http://www.aston.ac.uk/research/case-studies/politics-of-religious-lobbies-in-the-european-union/> (accessed 9 April 2016). See also Lucian N. LEUSTEAN, “Representing Religion in the European Union. A Typology of Actors”, *Politics, Religion & Ideology* 12/3, 2011, p. 295-315.

<sup>399</sup> This is much to the disappointment of initiatives such as for example the G3i, an intercultural and interconfessional think tank which notably has the intention to formulate an alternative to ‘traditional’ Christian lobbies. In this context, see Monique WEIS, “Pour un dialogue interconvictionnel au niveau européen: l’action du G3i”, *Observatory of Religions and Secularism*, November 18, 2013, [http://www.o-re-la.org/index.php?option=com\\_k2&view=item&id=742%3Apour-un-dialogue-interconvictionnel-au-niveau-europ%C3%A9en-l%E2%80%99action-du-g3i&Itemid=85&lang=en](http://www.o-re-la.org/index.php?option=com_k2&view=item&id=742%3Apour-un-dialogue-interconvictionnel-au-niveau-europ%C3%A9en-l%E2%80%99action-du-g3i&Itemid=85&lang=en) (accessed 9 April 2016). See also the G3i’s appeal intended “to promote interconvictional methods at all levels of reflection and decision” (<http://partenia2000.over-blog.com/2014/05/l-interconvictionnalite-une-chance-pour-l-europe.html> (accessed 9 April 2016)) at [http://data.over-blog-kiwi.com/0/55/11/39/20140519/ob\\_e230ac\\_appel-g3i-anglais.pdf](http://data.over-blog-kiwi.com/0/55/11/39/20140519/ob_e230ac_appel-g3i-anglais.pdf) (accessed 9 April 2016).

<sup>400</sup> Pieter-Jan DE VLEIEGER, *Lobbying in the service of God and Church. The adaptation of church representations to the European Union’s interest group system*, unpublished doctoral thesis, Vrije Universiteit Brussel, 2011–2012, p. 20.

<sup>401</sup> The Commission is the ideal instance to lobby, as it has considerably more power and authority than other EU bodies, especially since it holds the monopoly over legislative initiative. By lobbying the Commission, interest groups can target European policy while it is still in a developmental, ‘embryonic stage’,

communities who, in the words of Massignon, have the feeling that they are up against a “sacred profane: the Human Rights, a common denominator which constitutes a minimal yet restrictive rule, which constrains religions’ access to the public sphere. Each religious group is called upon to imagine transactions and to formulate compromises between democratic, secularized pluralist society and its claim to incarnate the truth by a reference to the transcendental and to tradition”.<sup>402</sup>

The official dialogue with religious organizations was initially entrusted to the Bureau of European Policy Advisers (BEPA). Christian churches were naturally the best represented, organized and listened to. Jewish and Islamic organizations had only little weight, and above all, they defended a specific agenda on issues such as ritual slaughter and circumcision. While the Christian churches had the ambition to exert influence on all subjects and to actively participate in the definition of European values, secular humanists had to battle to gain access to those meetings as well.

At present, the BEPA no longer exists; it has been replaced by the European Political Strategy Centre (EPSC). In 2013, the Commission adopted guidelines for the implementation of dialogue under Article 17, which stated that it should contribute to policy-making and be held regularly in various configurations or levels, aiming to cover topics, agreed upon by all parties, related to the EU agenda.<sup>403</sup>

Within the Juncker Commission, the dialogue with religious and humanist organizations is no longer the competence of the president; Juncker has delegated this responsibility to first vice-president Frans Timmermans. Two annual meetings take place, one with religious organizations, and one with representatives of secular humanism. In 2015, those meetings took place respectively on June 2 and June 16 around the theme “Living together and disagreeing well”. On 2 June 2015, Frans Timmermans and European Parliament Vice-President Antonio Tajani gathered eleven representatives of “philosophical and non-confessional” organizations. A majority of them were representatives of freemasonry. On 16 June 2015, Timmermans and Tajani gathered fifteen religious leaders from Christian, Jewish, Muslim, Hindu, Buddhist and Mormon communities. On this occasion, Commissioner Timmermans declared: “This dialogue has never been more important. Our societies face fundamental challenges, and churches and religions are among the actors that can play an important role in promoting social cohesion and bridging divides. The leaders here today

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i.e. at a moment when fundamental change is still an option. Cf. Pieter BOUWEN, ‘The European Commission’, in: David COEN/Jeremy RICHARDSON (eds), *Lobbying the European Union: institutions, actors and issues*, 2009, Oxford University Press, Oxford, p. 19–38.

<sup>402</sup> Bérengère MASSIGNON, “The European Compromise: Between Immanence and Transcendence”, *Social Compass* 54/4, 2007, p. 580.

<sup>403</sup> *Guidelines on the implementation of Article 17 TFEU by the European Commission*, <http://ec.europa.eu/archives/bepa/pdf/dialogues/guidelines-implementation-art-17.pdf> (accessed 8 July 2016).

are partners for the European Commission as they can share their experience in fighting against fundamentalism, discrimination and in building mutual trust and understanding".<sup>404</sup>

Recently, the dialogue with convictional organizations has been geared towards the EU policy on fundamental rights and non-discrimination. On 1 and 2 October 2015, the first *Annual Colloquium on Fundamental Rights in the EU* was held on the main theme of the Colloquium: "Tolerance and respect: preventing and combating anti-Semitism and anti-Muslim hatred in Europe".

In 2016, meetings with religious leaders and non-confessional representatives took place on 30 June and 29 November; the main topic on the agenda was "migrations, integration and European values". Belgian representatives were prominent among those attending. They made up four of the ten leaders attending the non-confessional organizations meeting: Yvan Biefnot, President of the European Association for Free Thought; Pierre Galand, President of the European Humanist Federation; Marc Menschaert, President of the Alliance Maçonique Européenne and Grand Master of the Grand Orient de Belgique; Oscar de Wandel, Grand Master of the Grand Lodge of Belgium.<sup>405</sup>

Among the 15 religious leaders attending, three were also representatives of their religion in Belgium: Metropolitan Athenagoras of Belgium, Exarch of the Netherlands and Luxembourg; Albert Guigui, Chief Rabbi of Brussels and Permanent Representative to the EU Conference of European Rabbis; Jean Kockerols, Auxiliary Bishop of the Archdiocese of Malines-Brussels and First Vice-President of COMECE. A fourth one, Reverend Bishop Robert Innes, Anglican Bishop in Europe, was formerly head of the Central Anglican committee in Belgium.<sup>406</sup>

## V.2. Intensive lobbying by religious, and non-religious, interest groups

Between 1998 and 2002, a total of 674 pieces of legislation were enacted with an implicit or explicit relevance for religions, against 386 between 1978 and 1997. In consequence, churches increasingly started to consider the EU as a political force to be reckoned with. Indeed, if "Church organizations wanted to retain influence on this additional type of Europe-wide legislation, they had to expand their role in Brussels and build up a positive reputation"<sup>407</sup>. And this is what they have been trying

<sup>404</sup> "Commission brings together religious leaders to discuss «Living together and disagreeing well", Press release, 16/06/2015. [http://ec.europa.eu/justice/newsroom/fundamental-rights/news/150616\\_en.htm](http://ec.europa.eu/justice/newsroom/fundamental-rights/news/150616_en.htm) (accessed 8 July 2016).

<sup>405</sup> European Commission—Press release "Commission brings together non-confessional organisations to discuss Migration, integration and European values: putting values into action" Brussels, 30 June 2016. [http://europa.eu/rapid/press-release\\_IP-16-2362\\_en.htm](http://europa.eu/rapid/press-release_IP-16-2362_en.htm) (accessed 30 December 2017).

<sup>406</sup> European Commission—Press release "Commission brings together religious leaders to discuss migration, integration and European values" Brussels, 29 November 2016. [http://europa.eu/rapid/press-release\\_IP-16-4002\\_en.htm](http://europa.eu/rapid/press-release_IP-16-4002_en.htm) (accessed 30 December 2017).

<sup>407</sup> Pieter-Jan DE VLIÉGER/Irina TANASESCU, "Changing Forms of Interactions between the European Commission and Interest Groups: The Case of Religious Lobbying", *European Integration* 34/5, 2012, p. 456.

to achieve over the past few years, with varying results. The official dialogue conducted with the EU Commission, along the provisions of Article 17 of the Lisbon Treaty, has yielded insufficient results, from the position of the churches. The formal meetings of representatives with EU officials answer to a very general agenda, while the issues potentially of interest to religions are numerous. Next to those regular meetings, religious representatives and church-propelled lobbies developed their activities aimed at MEPs and the general public.

Rough estimates place the number of religious and humanist lobbyist organizations present in Brussels at more than 80, not all of which are very active or operate professionally. Many consist of a single volunteer who observes European politics and policymaking, reporting back to his organization's members. Others operate as discussion platforms and invite European officials to clarify elements of European policymaking, but offer limited or no relevant feedback. Still others gather officials from all institutions around a common faith and discuss religion or the relation between religion and politics, with little direct policy focus.

Ultimately, the number of true religious and humanist lobbies — organizations that try to influence policy formulation and decision-making processes — is quite limited. As far as the Catholic Church is concerned, the Commission of the Bishops' Conferences of the European Community (COMECE) is the central organization. Protestant, Anglican and Orthodox Churches are gathered in the Conference of European Churches (CEC), although the Evangelical Church in Germany EKD (*Evangelische Kirche in Deutschland*) has its own bureau and most Orthodox Churches have opted to open their own representation, namely the Greek, Cypriot, Russian and Romanian Orthodox Churches and the Ecumenical Patriarchate.<sup>408</sup>

While EKD closely cooperates with CEC, Orthodox representations often work in opposition to CEC, notably where family issues are concerned. Be that as it may, in spite of their relative demographic weight, Orthodox believers (or rather their representatives) are not very visible.<sup>409</sup> This is also true of Muslim representatives: the Muslim Council for Cooperation in Europe was founded in 1996 to represent the Islamic faith at the EU level but has not succeeded in developing a coordinated activity. There are several Jewish organizations at the EU level. The most important are the Conference of European Rabbis (CER), the European Jewish Congress (ECJ) and the *Centre Européen Juif d'Information*. Finally, national humanist groups are bundled in the mentioned European Humanist Federation (EHF).

<sup>408</sup> In this context, see Bérengère MASSIGNON, "Les représentations Orthodoxes auprès de l'Union Européenne: entre concurrence inter-Orthodoxe et dynamiques d'Européanisation", *Balkanologie* 9/1–2, 2005, p. 265–287.

<sup>409</sup> François FORET, "Religion at the European Parliament: an overview", *Religion, State & Society* 42/2-3, 2014, p. 139.

The Commission of the Bishops' Conferences of the European Community (COMECE, in Latin "Commissio Episcopatum Communitatis Europensis") consists of bishops delegated by the Catholic Bishops' Conferences of the 28 member states.<sup>410</sup> In accordance with its mission as defined in its statutes, COMECE "monitors the political process of the European Union in all areas of interest to the Church" and aims to "communicate to the EU institutions the concerns and opinions of the Catholic Bishops in their own fields of interest relating to the construction of a peaceful and prosperous Europe for all".<sup>411</sup>

The decision to establish COMECE was made in 1979, in the context of the first direct elections of the European Parliament. Since 2012, COMECE has been presided by Cardinal Reinhard Marx, archbishop of Munich and Freising (Germany). Its vice-presidents are currently Mgr Jean Kockerols, auxiliary bishop of Malines-Brussels (Belgium), Mgr Gianni Ambrosio, bishop of Piacenza-Bobbio (Italy), Mgr Czeslaw Kozon, bishop of Copenhagen (Denmark), and Mgr Rimantas Norvila, bishop of Vilnius (Lithuania). Since September 2016, his general secretary is Olivier Poquillon, a Dominican, who has a degree in international public law.

Together with the Jesuit European Office (OCIPE), COMECE publishes a monthly newsletter: *Europe Infos*,<sup>412</sup> available in English, French and German. Since 2008, it also releases an annual report. The 2014 annual COMECE report reflected on the general orientation of EU integration in an electoral year which also saw the installation of the Juncker Commission — COMECE issued an election statement and later estimated that it was "good to see how neatly the COMECE election statement dovetailed with the ten-point policy objective paper of Mr Juncker".<sup>413</sup> COMECE also rejoiced at the significance of Pope Francis's visit to the European Parliament. The 2015 report insists on two topics: migration (refugees and asylum seekers) and COP 21.<sup>414</sup>

Founded in 1959, the Conference of European Churches (CEC) regroups the Christian Churches of Europe that are not Catholic. Today it claims a membership of some 114 Orthodox, Protestant, Anglican and Old Catholic Churches, plus 40 national councils of churches and organizations in partnership. In July 2013, the CEC approved a new status establishing a governing board as main governing body, and elected the Anglican bishop of Guildford, Rev. Christopher Hill, as president; the dean of Gothenburg in the Church of Sweden (Rev. Karin Burstrand) and the Metropolitan

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<sup>410</sup> A single bishop represents Denmark, Sweden, and Finland, while the bishops' conference of the United Kingdom is represented by two bishops: one delegated by the bishops' conference of England and Wales, and one by the Scottish bishops' conference.

<sup>411</sup> <http://www.comece.eu/site/en/ourmission> (accessed 9 July 2016).

<sup>412</sup> <http://www.europe-infos.eu> (accessed 9 July 2016).

<sup>413</sup> [http://www.comece.eu/dl/qtkoKJnnMKJqx4KJK/2014\\_Annual\\_Report\\_FINAL\\_small.pdf](http://www.comece.eu/dl/qtkoKJnnMKJqx4KJK/2014_Annual_Report_FINAL_small.pdf) (accessed 11 July 2016).

<sup>414</sup> [http://www.comece.eu/dl/LrouJKJnnlnJqx4IJK/Comece\\_rapport\\_annuel\\_2015\\_corrected.pdf](http://www.comece.eu/dl/LrouJKJnnlnJqx4IJK/Comece_rapport_annuel_2015_corrected.pdf) (accessed 11 July 2016).

Emmanuel of the Greek Orthodox Church of France became vice-presidents. Hence, representatives from the three main non-Catholic traditions, Anglicanism, Lutheranism and Orthodoxy, share responsibilities at the head of CEC.

The CEC's main focus is on human rights and ethics, as illustrated in its last annual report, covering the year 2014. This report also emphasizes the importance of ecumenical relations and of cooperation with COMECE, formalized in the signing of an agreement.<sup>415</sup> The CEC has a publishing partnership with Globethics.net; in 2015, the CEC published *The New CEC: The Churches' Engagement with a Changing Europe*, edited by Guy Liagre.<sup>416</sup>

The European Humanist Federation (EHF) was created in 1991 and unites more than 60 humanist and secularist organizations from EU countries, but not exclusively (e.g. Russia and Switzerland are also represented); currently some EU countries do not have secularist organizations. Since 2012, EHF has been presided by Pierre Galand, former president of the *Centre d'Action Laïque* (CAL, Belgium). A recent annual EHF report, *Humanism on the move* (covering 2014), outlined the main recent topics of interest of the federation: defending the rights of non-believers and freedom of expression, fighting for women's rights and opposing extreme religious activism.<sup>417</sup>

COMECE, CEC and EHF have a long-standing tradition in Brussels and have co-shaped the relations between the European institutions, on the one hand, and religious and humanist organizations, on the other, CEC and COMECE in search of more church-state cooperation and EHF in opposition to these endeavours. Indeed, whereas COMECE and CEC mainly seem to be putting their energy into the development of a "positive" message, EHF, which was (and is) opposed to the system of official dialogue between political and religious/philosophical interest groups, above all aims at countering religious lobbies' influence, mainly (but not exclusively) in the field of ethics.<sup>418</sup> This viewpoint is clearly outlined on the EHF website: "When the EU regrettably agreed [...] separate consultation arrangements for churches and non-confessional organizations, EHF had to decide whether to take up the possibility of consultation offered to it as a 'philosophical and non-confessional organization'. We decided that it was right to do so, while making our principled objections clear: the alternative was to leave the churches an unopposed channel of influence at the highest level in the EU".<sup>419</sup>

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<sup>415</sup> [http://www.ceceurope.org/wp-content/uploads/2016/04/CEC\\_KEK-Annual-Report-2014.pdf](http://www.ceceurope.org/wp-content/uploads/2016/04/CEC_KEK-Annual-Report-2014.pdf) (accessed 11 July 2016).

<sup>416</sup> [http://www.globethics.net/documents/4289936/18192155/GE\\_CEC\\_Flash\\_1\\_web.pdf/97b73e85-b05d-44ad-818b-b9fc536d520a](http://www.globethics.net/documents/4289936/18192155/GE_CEC_Flash_1_web.pdf/97b73e85-b05d-44ad-818b-b9fc536d520a) (accessed 11 July 2016).

<sup>417</sup> <http://humanistfederation.eu/our-work.php?page=annual-reports> (accessed 11 July 2016).

<sup>418</sup> For EHF's main areas of interest, see <http://humanistfederation.eu/our-position.php> (accessed 9 April 2016).

<sup>419</sup> <http://humanistfederation.eu/our-position.php?page=secular-europe> (accessed 9 April 2016).

The task EHF has set itself is arduous, as it is confronted with some very well-equipped and well-funded church lobbies that in addition often speak with one voice. Whereas civil pressure groups with no official religious affiliation such as the anti-choice “One of Us” initiative occasionally meet with some success (and Church backing),<sup>420</sup> in this context the most effective and influential organizations are undeniably CSC and above all COMECE.

Even if for financial reasons this is to a somewhat lesser extent the case for CEC,<sup>421</sup> over time COMECE and CEC have professionalized their secretariats, notably creating expert groups that prepare input and attracting professional employees with a thorough knowledge of European institutions. Such a tendency is very outspoken in the case of COMECE, to such a point that when consulting the COMECE website — which, in passing, is considerably more appealing from an aesthetic point of view than the CSC homepage —, one is immediately struck by the seeming absence of clergymen, much to the advantage of lay staff members and personnel.

The above observation is a direct result of COMECE’s development of an increasingly EU-centred discourse, whereby the focus has shifted to the development and provision of expertise, information, support and legitimacy. Indeed church expertise and information are no longer mainly of a theological or theoretical nature but rather practical in intent, as church lobbies invite (church) experts on social issues, environmental issues or research to have in-depth discussions with the relevant directorates within the European Commission.<sup>422</sup> By learning to act proactively and constructively, church lobbies, and first and foremost COMECE,<sup>423</sup> thus showcase their intent to offer the professional expertise and information that EU institutions require.<sup>424</sup>

In this context, both COMECE and CSC have effectively integrated “Eurospeak” in their discourse and communication policies, presenting legitimacy and support to the European institutions and

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<sup>420</sup> In this context, see the websites of COMECE (<http://www.comece.eu/site/en/ourwork/pressreleases/2014/article/7836.html> (accessed on April 9, 2016)) and EHF (<http://humanistfederation.eu/our-work.php?page=oppose-the-anti-choice-citizen-initiative-one-of-us> (accessed 9 April 2016)). See also Emilie BRÉBANT, “Anti-Choice Religious Groups and European Institutions: A reframing of Language”, *Observatory of Religions and Secularism*, 13 December 2013, [http://www.o-re-la.org/index.php?option=com\\_k2&view=item&id=768%3Aanti-choice-religious-groups-and-european-institutions-a-reframing-of-language&Itemid=85&lang=en](http://www.o-re-la.org/index.php?option=com_k2&view=item&id=768%3Aanti-choice-religious-groups-and-european-institutions-a-reframing-of-language&Itemid=85&lang=en) (accessed 9 April 2016).

<sup>421</sup> Pieter-Jan DE VLEIGER, *Lobbying in the service of God and Church. The adaptation of church representations to the European Union’s interest group system*, unpublished doctoral thesis, Vrije Universiteit Brussel, 2011–2012, p. 170–178. A quick glance at the CSC website, and notably at the all but up to date news section, confirms CSC’s less active role: <http://csc.ceceurope.org/news/> (accessed 10 April 2016).

<sup>422</sup> For an overview of COMECE and CSC’s main areas of interest, see <http://www.comece.eu/site/en/ourtopics> (accessed 10 April 2016), and <http://csc.ceceurope.org/issues/> (accessed 10 April 2016).

<sup>423</sup> Whereas COMECE output is «written as to contribute to European policy-making», CSC, which gathers some 120 Churches, seems more inward-looking, and in this sense less tactical, than COMECE, as decisions often seem to «answer what churches want rather than what European institutions need or what churches can contribute.» Cf. Pieter-Jan DE VLEIGER (2011-2012), *op.cit.*, p. 458, 199.

<sup>424</sup> Pieter-Jan DE VLEIGER/Irina TANASESCU, “Changing Forms of Interactions between the European Commission and Interest Groups: The Case of Religious Lobbying”, *European Integration* 34/5, 2012, p. 449.



contributing to the EU's self-portrait as a value-based community. They stress the importance of values for the EU and are willing to strengthen the values discourse of the European institutions. Rather than proof of churches' innate pro-Europeanism, this seems to be the outcome of a deliberate, and necessary, strategy. Indeed, it seems that church lobbies are very much aware of the fact that they "have to use the language of the European Commission and the political world in order to be heard: arguments rather than dogmas, Europeak rather than theological ramblings."<sup>425</sup>

For an institution like the European Commission, confronted with a democratic deficit and a relative absence of expertise, since Lisbon that kind of support has been rather warmly welcomed.<sup>426</sup> Indeed, whereas religious organizations have asked for a more direct role in the decision-making process, as said, EU institutions are in great need of external input to stay in touch with micro-level developments, i.e. with civil society. In this regard, the perception is that religious interest groups can provide "viable input on how legislation or soft law mechanisms are perceived by a number of grass-roots organizations", and as such can act as "intermediary actors who can help develop a closer relation with EU citizens and civil society".<sup>427</sup> Of course whether this fully justifies the provisions contained by the Lisbon Treaty remains subject to debate.

Recently a number of new religious lobby groups have also been created — e.g. Catholics for a Free Choice and Scientology<sup>428</sup> —, but none have so far reached the standing/reputation, professionalism and extensive network of COMECE, CSC and to a minor extent also EHF. However, making use of the possibilities offered by the Internet, such groups are able to mobilize in all EU countries with few financial means.

### V.3. Religion-based campaigns on the Internet

In the past, faith-based associations have often organized themselves around issues such as euthanasia and, most of all, abortion. Because abortion is not yet legal in all 28 member states (see above), transnational associations organize events to support the ban in countries that still maintain it, and to try to reform legislation in others or to prevent any easing in the access to abortion.<sup>429</sup>

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<sup>425</sup> Pieter-Jan DE VLEGER, *Lobbying in the service of God and Church. The adaptation of church representations to the European Union's interest group system*, unpublished doctoral thesis, Vrije Universiteit Brussel, 2011–2012, p. 394.

<sup>426</sup> Pieter-Jan DE VLEGER/Irina TANASESCU, "Changing Forms of Interactions between the European Commission and Interest Groups: The Case of Religious Lobbying", *European Integration* 34/5, 2012, p. 449.

<sup>427</sup> Pieter-Jan DE VLEGER/Irina TANASESCU, (2012), *op.cit.*, p. 457.

<sup>428</sup> On the EU and new religious movements, see Sabrina PASTORELLI, "The European Union and the New Religious Movements", *Religion, State & Society* 37/1–2, 2009, p. 193–206.

<sup>429</sup> See above, paragraph IV.2.

Another ethical focal point is research on stem cells and embryos. In this context, the “One of us” campaign was launched to halt all EU funds for any activities that potentially involve the destruction of the human embryo. It was based on the European Citizens Initiative (ECI), a procedure introduced in 2012 which allows EU citizens to propose legislation on matters where the EU has legislative competence. A citizens’ initiative has to be backed by at least one million EU citizens from at least seven member states. “One of Us” is one of three such initiatives that reached the 1,000,000 signatures goal by 1 January 2016. The other two were concerned with ending vivisection (experiments on animals) and making access to water a basic human right. The proposition was addressed, and rejected, by the Commission on 25 May 2014.<sup>430</sup>

Since this rejection, the “One of Us” campaign has announced its transformation into a permanent structure. The newly created federation, “One of Us Forum”, numbers around thirty member associations, most of which are active in the fight against abortive rights.

“One of Us” has joined the long list of faith-based organizations that are active on the Internet, whether aiming to influence European MPs or officials or to mobilize public opinion. Such organizations rarely present themselves openly as faith-based lobbying agents, but rather as “human rights activists” or organizations working to defend life and family in Europe. They often use neutral names and websites. Some examples include CARE for Europe (Christian Action Research and Education), CitizenGo, Civitas, European Center for Law and Justice, or European Dignity Watch. In 2014, the EHF conducted a study on these initiatives.<sup>431</sup>

#### V.4 Religion at the European Parliament

Between 2009 and 2014, a team of researchers led by ULB scholar François Foret set out to analyse the presence, and possible impact, of religions at the European Parliament (EP). The purpose of the RelEP project was to investigate the beliefs of MEPs. Interviews were carried out with 167 MEPs, i.e. 22.69% of the representatives elected in 2009.<sup>432</sup> Geographical coverage was relatively wide. However, MEPs from Baltic and Scandinavian countries, as well as from Portugal, Malta, Cyprus, Slovenia and Slovakia did not participate, either by outrightly refusing or simply by ignoring the call for participation.<sup>433</sup>

<sup>430</sup> <http://ec.europa.eu/transparency/regdoc/rep/1/2014/EN/1-2014-355-EN-F1-1.Pdf> (accessed 11 July 2016).

<sup>431</sup> “Anti-human rights lobbying in Europe. Meet some active campaigners”. <http://humanistfederation.eu/our-work.php?page=anti-human-rights-lobbying-in-europe-meet-some-active-campaigners-> (accessed 11 July 2016).

<sup>432</sup> François FORET, “Religion at the European Parliament’: purposes, scope and limits of a survey on the religious beliefs of MEPs’, *Religion, State & Society* 42/2–3, 2014, p. 112.

<sup>433</sup> François FORET, (2014), *op.cit.*, p. 113.

One of the reasons for this might be that even though results were treated in an anonymous manner, scholarly interpretations often indicate participants' country of origin and political affiliation, whereas the questionnaire itself was not anonymous.<sup>434</sup> Research questions included: are European elites more secularized than everyday EU citizens; what effects does religion have on the political socialization of MEPs (cross-party structures, religious lobbies) and, conversely, what is the EP's influence on religion; and how do religion, coalition and decision-making interact at the European level?

RelEP highlighted the fact that religion is still very national and depends heavily on the domestic history of church-state relationships. In addition, it seems that at the EP, religion is neither a matrix framing individual or collective preferences nor a sufficient basis to mobilize. However, it remains a significant symbolic resource of distinction to build a political and media profile and to demarcate oneself from competition. In deliberative arenas and in decision-making processes, the occurrence of religion is discreet and elusive, but still tangible. It exists as a cultural background, a lobbying justified by the association of civil society with the definition of the public good in a participatory democracy (see above regarding the European Commission and interest groups), and the expertise attributed to religious and philosophical NGOs in terms of ethical affairs.

In this context, it should be observed that religious lobbies are considerably less active at the parliamentary level. Apart from the Commission's "ideal profile" as a "target" for religious lobbying, one of the reasons for this might be the EP's clear attachment to the principle of church-state separation, as is evidenced, for example, by the existence of an all-party parliamentary Working Group on the Separation of Religion and Politics. The Group aims, among other things, to take "action, where appropriate, to counter any attempts to undermine democracy, human rights and in particular women's rights and minority rights, sexual and reproductive health and rights, pluralism and the rule of law".<sup>435</sup> In light of such preoccupations, the EP indeed hardly seems to be the ideal niche for pressure groups such as CSC and above all COMECE.

RelEP has shown that MEPs display a clear attachment to the principle of separation between religion and politics, whatever institutional form this may take. Indeed, while there is a consensus regarding the fact that there should be no religious influence on the selection of political rulers, opinions are more divided as to whether churches should make their voices heard on political

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<sup>434</sup> For the questionnaire, see François FORET (2014), *op.cit.*, p. 124–129. For the final results, see the special issue (42/2–3, 2014) of the journal *Religion, State & Society*, entitled *Religion at the European Parliament and in European Multi-Level Governance*, as well as François FORET, *Religion and politics in the European Union. The Secular Canopy*, 2015, Cambridge University Press, Cambridge.

<sup>435</sup> Martin STEVEN, "Religious Lobbies in the European Union: from Dominant Church to Faith-Based Organization?", *Religion, State & Society* 37/1–2, 2009, p. 185.

options. In addition, MEPs are also polarized on questions requiring arbitration between the neutrality of institutions or rules and individual freedom of choice (e.g. the right of a nurse not to perform abortions).

Be that as it may, in many cases religion still seems to play a preponderant role as a constitutive element of identity, whereby MEPs notably consider that religion has a profound impact on the EU's relationship with the rest of the world. The case of Turkey is the quintessential example of this *prise de conscience*.

The positions of MEPs regarding the possible EU accession of this majority Muslim country effectively seem to suggest what has already been observed several times in the context of the current refugee crisis, i.e. that religion, "in situations of confrontation with otherness", can have a divisive potential at the social but also at the political level. Indeed, a "very large majority of MEPs (77.2%) say that religion has [...] framed the way the Turkish candidature has been dealt with in the EU, although it is not an official parameter. For some MEPs, the problem may be not that Turkey is a Muslim country but how it protects religious liberties. However, in many of the qualitative interviews, the cultural [i.e. religious] argument is recurrent."<sup>436</sup>

In consequence to the relative absence of religion-related politics and legislation at the EU level, churches are and will be confronted with a serious challenge, as one of the main results of increasing integrative processes at the EU level is precisely the growing need "*to justify the 'established' place traditionally held by various types of national, state or dominant church[es] in Western Europe—and in two key ways. First, the development of supranational legislation in policy areas where emphasis is placed upon the shared and uniform fundamental rights of citizens across the EU has had a significant impact on the nature of this role. Churches are finding it increasingly difficult to justify their automatic right to unique political privileges such as state funding or legal exemptions—particularly in policy areas relating to education and employment where EU legislation seeks to ensure equal opportunities. Second, the wider 'hollowing out' of the conventional parameters of the nation-state has led to Europe-wide political issues in the twenty-first century rendering the conventional model of church and state relations more peripheral*".<sup>437</sup>

<sup>436</sup> François FORET, "Religion at the European Parliament: an overview", *Religion, State & Society*42/2-3, 2014, p. 141.

<sup>437</sup> Martin STEVEN, "Religious Lobbies in the European Union: from Dominant Church to Faith-Based Organization?", *Religion, State & Society*37/1–2, 2009, p. 182.

## VI. The role of the European Court of Human Rights and the Court of Justice of the European Union<sup>438</sup>

On the European level, the judicial protection of the human rights of freedom of religion and equality in the field of religious beliefs has primarily developed within the framework of the Council of Europe. Freedom of religion, equality and non-discrimination based on religion or belief are fundamental rights firmly enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms adopted in 1950.

The EU has drawn heavily on the Council of Europe in its endeavour to promote fundamental rights, which it has done most notably in adopting binding anti-discrimination directives; control over the respect of such directives by legislation enacted by national states can be exerted by the Court of Strasbourg, given the relative passivity of the Court of Justice of the European Union so far.

### Freedom of religion<sup>439</sup>

Article 9 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) stipulates that:

“everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance”.

The EU equally adopted a Charter of Fundamental Rights recognizing freedom of religion;<sup>440</sup> within this framework, freedom of religion has the same meaning and the same scope as those of the European Convention on Human Rights.

The European Convention on Human Rights distinguishes between, on the one hand, the absolute right to the autonomy of conscience in religious matters (internal dimension) and, on the other, the right to manifest one’s convictions (external dimension). The first dimension concerns the personal convictions and does not tolerate any exception, whereas the second dimension relates to practices and can be restricted under certain conditions. Therefore, the question arises as to what behaviours are guaranteed and which ones, on the contrary, can be excluded from the scope of this freedom.

<sup>438</sup> This chapter is based on a report written by Gabrielle CACERES for ORELA in March 2016; the full report can be downloaded here : [http://www.o-re-la.org/index.php?option=com\\_k2&view=item&id=1546:religion-and-beliefs-fundamental-rights-guaranteed-by-the-echr-and-eu-law&Itemid=114&lang=fr](http://www.o-re-la.org/index.php?option=com_k2&view=item&id=1546:religion-and-beliefs-fundamental-rights-guaranteed-by-the-echr-and-eu-law&Itemid=114&lang=fr) (accessed 11 July 2016).

<sup>439</sup> Freedom of religion refers both to the freedom of conscience and thought in the field of religious and philosophical convictions and to the right to free exercise of worship and public expression of faith.

<sup>440</sup> Charter of Fundamental Rights of the European Union, proclaimed in Nice on 7 December 2000, entry into force on 1 December 2009, art. 10.

If freedom of religion primarily provides protection for the individual, it also has a collective dimension that enables it to be mobilized by a variety of churches or religious communities. As a continuation of Article 11 of the Convention, which guarantees the freedom of assembly and association, Article 9 recognizes an organizational autonomy to religious communities. Besides, within the framework of the EU, Article 4(2) of the Directive 2000/78/EC allows for an exception to the prohibition of discrimination on the grounds of religion or belief for the benefit of churches and other public or private organizations whose ethos is based on religion or belief (“ethos-based organization”). The Court of Justice of the European Union has not yet clarified the meaning of this provision, but the ECHR has referred to it on several occasions in order to interpret the organizational autonomy that it concedes to the different religious communities.

In the case of *Sindicatul Păstorul*, decided in 2013, the ECHR considered that the Romanian Orthodox Church could oppose the formation of a trade union by a group of Orthodox priests and of laypersons that it employed.<sup>441</sup> Although admitting that members of the clergy did not escape the internal norms of labour law and that they accomplished their missions within the framework of an employment relationship, the court considered that the balance established between the fundamental rights at stake (on the one hand, the freedom of religion of the Orthodox Church and, on the other hand, the freedom of association of its employees) did not contravene the Convention.

This case law was confirmed in 2014 in the judgement *Fernández Martínez*. Here, the court found the dismissal of a priest, teaching a class in Catholic religion within a Spanish public secondary school, to be in line with the Convention.<sup>442</sup> In this case, the ecclesiastic authorities had stated a “risk of scandal” because of Mr Fernández Martínez’s marital situation. He was married and the father of five children and he had participated at a demonstration of the “Movement for Optional Celibacy” which had been spread by the local press. The Ministry of Education had dismissed the teacher following a note transmitted by the Diocese of Cartagena. In this case, the European Court balanced the freedom of religion invoked by the Catholic Church, on the one hand, and the right to the respect of private and family life put forward by the discharged employee, on the other. The court held, by a very narrow majority, that the exclusion of the Catholic priest was justified within the scope of the autonomy that Article 9 of the Convention grants religious organizations.

In general, when an individual or a religious organization invokes Article 9 of the Convention, the Court first has to assess whether there has been an infringement of the freedom of religion. This presupposes the establishment of the existence of a religion or a belief protected by the

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<sup>441</sup> ECtHR, judgment *Sindicatul «Păstorul cel Bun» v. România*, Grand Chamber, 9 July 2013, appl. No. 2330/09.

<sup>442</sup> ECtHR, judgment *Fernández Martínez v. Spain*, Grand Chamber, 12 June 2014, appl. No. 56030/07.

Convention, as well as the manifestation of the said religion or belief. If the court considers that Article 9 of the Convention applies, it then needs to examine whether the established restriction is justified. That is, whether it is prescribed by law and pursues a legitimate objective in a proportionate manner.

At the first stage of the analysis, the European Court has developed a relatively broad definition of the notion of “religion or belief”. This allowed the Court to include religious beliefs, non-religious beliefs, or the absence of beliefs on an equal footing, and, beyond the traditional religions of the majority, to touch upon the currents that are recently established, in minority, marginal or even in complete isolation.<sup>443</sup> In this way, the protecting bodies of the Convention have recognized the religious or convictional status of several movements, such as Jehovah’s Witnesses, Druidism, Krishna Consciousness, the Moon sect, the Osho movement, the Divine Light Zentrum, atheism, and even pacifism or veganism.

Once the existence of a protected belief has been established, a manifestation of this belief needs to exist for the Convention to be breached. Article 9 aims explicitly at “worship, teaching, practice and observance”. Traditionally, the European case law considered this provision to protect only those acts directly expressing a religion or a belief, to the exclusion of those that were merely motivated or inspired by these. Thus, in the case of *Arrowsmith*, the ECHR decided that pacifism was a belief protected by Article 9 of the Convention; however, the distribution of leaflets to British soldiers in order to convince them not to go fighting in Northern Ireland was not considered a manifestation of this belief, even though there was a link.<sup>444</sup>

For a long time, the decisions of the Strasbourg bodies proved to be rather restrictive in their appraisal of this question. In several cases, they attempted to assess the imperative or necessary character of the examined practice in the eyes of the invoked belief. On this basis, they notably considered that there was no manifestation of belief when a person wished to observe a weekly day of rest or a religious festival.<sup>445</sup> Furthermore, the European bodies have judged that the existence of a religious manifestation could be influenced by the applicants’ situation and, more specifically, the fact that they have deliberately entered into a contractual or statutory relationship.<sup>446</sup> They

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<sup>443</sup> Relating to this, see J. MURDOCH, *La protection du droit à la liberté de pensée, de conscience et de religion par la Convention européenne des droits de l’homme*, Série des précis sur les droits de l’homme du Conseil de l’Europe, Strasbourg, Conseil de l’Europe, 2012, pp. 19-20.

<sup>444</sup> European Commission of Human Rights, decision *Arrowsmith v. the United Kingdom*, 12 October 1978, appl. no. 7050/75.

<sup>445</sup> European Commission of Human Rights, decision *Konttinen v. Finland*, 3 December 1996, appl. no. 24949/94; European Commission of Human Rights, decision *Stedman v. the United Kingdom*, 9 April 1997, appl. no. 29107/95; ECtHR, judgment *Kosteski v. the former Yugoslav Republic of Macedonia*, 13 April 2006, appl. 55170/00, par. 38; ECtHR, judgment *Francesco Sessa v. Italy*, 3 April 2012, appl. no. 28790/08.

<sup>446</sup> European Commission of Human Rights, decision *X. v. the United Kingdom*, 12 March 1981, appl. no. 8160/78, par. 9–12.



decided likewise with regards to the choice of a university whose regulations banned religious clothing.<sup>447</sup>

The Convention's protecting bodies have thus had little inclination to accept the existence of a violation of Article 9. This so-called case law of "non-interference" has been criticized on the grounds that it would lead to a "contractualization" of freedom of religion, without the acceptance of the right to change one's belief and without the position of weakness of the worker or student being taken into account.<sup>448</sup> Besides, this case law questions the contours of the judge's discretionary power with respect to the essential or accessory character of a practice in the light of a system of beliefs, but also the limits of freedom of religion and of the law in general so as to take charge of the diversity and subjectivity of religious or philosophical behaviours. Finally, the European approach has not always been coherent over the years. It has led to a certain confusion between the determination of the acts expressing a belief and the question of the acceptable limits to these.

Nevertheless, the ECHR has progressively broken away from that classic case law. For instance, in the cases of *Dahlab vs Switzerland* (2001), *Leyla Sahin vs Turkey* (2005) and *Dogru vs France* (2008), which concerned the wearing of a headscarf respectively by a primary school teacher, a university student, and a secondary school pupil, the court did not examine the question as to whether wearing the *hijab* was an imperative of the Muslim faith. Likewise, in the judgements *Bayatyan vs Turkey* (2011) and *Erçep vs Turkey* (2011), it held that the refusal of the Jehovah's Witnesses to complete the military service was a manifestation of beliefs protected by the Convention. Since then, the court has gradually favoured a subjective approach resting on the applicant's sincerity to find an interference with Article 9 of the Convention.

The European Court abandoned its traditional approach in respect of the violation of freedom of religion even more clearly in its judgement *Eweida and others* (2013). On the one hand, this judgement has decided the cases of a British Airways employee (Eweida) and of a nurse in a public hospital (Chaplin) wishing to wear a crucifix around their neck, and, on the other hand, the situation of a civil official (Ladele) and of a marriage counsellor (MacFarlane) refusing to provide their services to homosexual couples on account of their Christian beliefs. In the four cases, the court considered that there was an interference with Article 9 of the Convention. In this respect, it clarified that the qualification of the "manifestation", within the meaning of this provision, implied the existence of

<sup>447</sup> European Commission of Human Rights, decision *Karaduman v. Turkey*, 3 May 1993, appl. no. 16278/90.

<sup>448</sup> See notably, P. EDGE, "Current Problems in Article 9 of the European Convention on Human Rights", 1996, *Juridical Review*, pp. 42–47; S. KNIGHTS, *Freedom of Religion, Minorities and the Law*, Oxford, Oxford University Press, 2007, esp. p. 45; SIR J. DINGEMANS, C. YEGINSU, T. CROSS et H. MASOOD, *The Protections for Religious Rights. Law and Practice, op. cit.*, pp. 90–91.

a sufficiently close link between the act and the underlying belief. However, the applicant was in no way required to establish that he had acted in compliance with a commandment of the religion in question.<sup>449</sup>

At the second stage of the analysis, when the Court has found that Article 9 applies, it needs to assess whether the restriction is imposed by a law and is necessary in a democratic society with a view to realizing a legitimate objective; in other words, whether the contentious measure answers to a pressing social need in a proportionate manner. The European Convention features an exhaustive list of goals that justify these types of limitations (protection of public safety, of public order, health or morals, or of the rights and freedoms of others), but its protecting bodies interpret these motives rather broadly. The same applies with respect to the requirement of a “law”, which is generally satisfied when there is a rule of behaviour sufficiently accessible and precise, even if it is unwritten. As regards the appraisal of the proportionality of the means applied in order to achieve the pursued objectives, the ECHR traditionally grants a wide margin of appreciation to the national decision-makers when religion or beliefs are at stake.

This approach was sometimes opposed to that applied by the UN Human Rights Committee in cases that were nevertheless utterly similar.<sup>450</sup> Thus, with respect to the French prohibition of the Sikh turban on official identification documents or in public secondary schools, the UN Human Rights Committee found a violation of the freedom of religion,<sup>451</sup> whereas the ECHR considered these limitations justified.<sup>452</sup>

In more recent decisions, the Court has proceeded to more contextualized examination of the proportionality of the breaches of Article 9 of the Convention. In the case of *Jakóbski* (2010), the refusal of the Polish prison authorities to provide for vegetarian menus to a Buddhist inmate was

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<sup>449</sup> ECtHR, judgment *Eweida and others v. the United Kingdom*, 15 January 2013, appl. no. 48420/10, 59842/10, 51671/10 and 36516/10, par. 82. For a commentary, see in particular M. PEARSON, “Article 9 at a Crossroads: Interference Before and After Eweida”, *Human Rights Law Review*, 2013, Vol. 13, no. 3, pp. 580–602.

<sup>450</sup> For a comparison of the UN and the European guarantees of the freedom of religion, see P. M. TAYLOR, *Freedom of religion. UN and European Human Rights Law and Practice*, Cambridge, Cambridge University Press, 2005.

<sup>451</sup> Human Rights Committee, observations *Shingara Mann Singh v. France*, 19 July 2013, communication no. 1928/2010, CCPR/C/108/D/1928/2010 (passport); Human Rights Committee, observations *Ranjit Singh v. France*, 27 September 2011, communication no. 1876/2009, CCPR/C/102/1876/2009 (permanent resident card); Human Rights Committee, observations *Bikramjit Singh v. France*, 1 November 2012, communication no. 1852/2008, CCPR/C/106/D/1852/2008 (public school).

<sup>452</sup> ECtHR, judgment *Shingara Mann Singh v. France*, 13 November 2008, appl. no. 43563/08 (driving licence); ECtHR, judgment *Jasvir Singh v. France*, 30 June 2009, appl. no. 25463/08 (public school); ECtHR, decision *Ranjit Singh v. France*, 30 June 2009, appl. no. 27561/08 (public school). On this dissonance between the case law of the European and UN jurisdictions, see E. BREMS, E. BRIBOSIA, I. RORIVE, S. VAN DROOGHENBROECK, “Le port de signes religieux dans l’espace public : vérité à Strasbourg, erreur à Genève?”, *J.T.*, 2012, pp. 602–603; E. BRIBOSIA, G. CACERES and I. RORIVE, “Les signes religieux au cœur d’un bras de fer : la saga Singh”, *Rev. trim. dr. h.*, n° 98/2014, pp. 495–513.

found to be contrary to the freedom of religion.<sup>453</sup> The applicant's situation of detention certainly was an important element in the court's assessment, but its approach has proved to be more pragmatic than its prior decisions based on Article 9. In this way, it has underlined the relatively low burden that represented a meat-free diet and the fact that no alternative had been suggested.

This reasoning was reiterated in the case of *Eweida and others*, (2013), which this time concerned the field of employment. The ECHR insisted on the importance to substantially balance the rights and interests at stake in this type of litigation.<sup>454</sup> As regards the balance between an employee's wish to wear a visible cross around the neck and the desire of an airline to convey a brand image, the court judged that too great a weight had been attached to the second to the detriment of the first. In particular, the court took into consideration the fact that wearing other religious symbols, such as the Islamic headscarf or the Sikh turban, was authorized within the company. Conversely, concerning the case of a nurse in a geriatric service, the court held that the requirements with respect to health and security had carried more weight in the balance than the desire to wear a visible crucifix around the neck. The circumstance that the hospital had proposed alternatives, like wearing a cross in the form of a brooch attached to the uniform or tucked under a high-necked blouse, played a role in the weighing of the respective claims. Thus, the court seems to favour looking for measures that are less detrimental to freedom of religion albeit allowing to attain the pursued objective.

In relation to the refusal of a registrar to officiate at the union between persons of the same sex and that of a marriage counsellor to guide homosexual couples with regards to sexual questions, the court decided that the dismissals of those persons were justified by the pursuit of an anti-discriminatory policy that aimed to protect the rights of others. In this regard, it considered that the British authorities had not exceeded their margin of appreciation in their balancing of conflicting rights. Following this decision, religious beliefs cannot serve as a pretext to adopt a discriminatory behaviour based on sexual orientation. In this case, the court confirmed that the states have a positive obligation to protect freedom of religion in the relations between private individuals, notably through the intervention of their judiciaries, which is, however, not without limits.<sup>455</sup>

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<sup>453</sup> ECtHR, judgment *Jakóbski v. Poland*, 7 December 2010, no. 18429/06, par. 42–55.

<sup>454</sup> The aforementioned judgment *Eweida and others*, par. 83.

<sup>455</sup> The aforementioned judgment of *Eweida and others*, par. 84.

## Equality and non-discrimination based on religion or belief

Apart from freedom of religion, the European instruments of human rights protection also consolidate the right to equality and non-discrimination in the field of religion or beliefs. Article 14 of the European Convention on Human Rights requires the respect for this principle in the enjoyment of the rights guaranteed by the Convention. Hence, in order to denounce an unjustly differential treatment based on beliefs, Article 14 needs to be invoked in combination with another provision, such as Article 9 that establishes freedom of religion. This is notable in the case when a religious organization considers itself victim of a discrimination relating to its recognition or to the attribution of certain advantages.

In the case of *Church of Jesus Christ of Latter-Day Saints vs the UK* (2014), the ECHR found that a Mormon Church was not the subject of discrimination because the British authorities refused to grant a total exemption from the council tax for one of its temples that was not open to the public.<sup>456</sup> In the case at hand, the temple benefited from a tax exemption to the amount of 80% because it was used for charitable purposes. It did not enjoy a total tax exemption, which was reserved for places of “public religious worship”. Indeed, the temple in question was only open to the most fervent members of this church, those holding a “recommend”. The court judged that the Mormon Church did not suffer a differential treatment in relation to the other religious organizations in the same situation, since these fiscal rules applied to all types of worship, including the Church of England (concerning its private chapels). The court also held that the condition of public access to benefit from the total exemption was justified by reasonable and objective grounds. Consequently, the European Court considered unanimously that there was no violation of Article 14 of the Convention.

By contrast, in the case of *Vakf vs Turkey* (2014), the Court regarded the exemption scheme concerning the payment of electricity bills — available to worship sites under Turkish law — to be discriminatory with respect to the Alevist community, a heterodox minority branch of Islam.<sup>457</sup> In this case, the Turkish courts had refused to grant an exemption foreseen by law as they considered that the Alevist confession was not a religion and that the *cemevis* — in which the Alevists gathered to pray — were not places of worship. After having observed that the *cemevis* met the same conditions as the places of worship to which Turkish law granted an exemption, the court held that the refusal to allow them this qualification constituted a difference of treatment that was not

<sup>456</sup> ECtHR, judgment *Church of Jesus Christ of Latter-Day Saints v. the United Kingdom*, 4 March 2014, appl. no. 7552/09.

<sup>457</sup> ECtHR, judgment *Cumhuriyetçilegim Ve Kültür Merkezi Vakfı v. Turkey*, 2 December 2014, appl. no. 32093/10.

objectively and reasonably justified. Therefore, it held unanimously that there was a violation of Article 14 (non-discrimination) in combination with Article 9 (freedom of religion).

In another case, decided two months earlier, the court also gave its view on the question of the recognition of religious associations. In the case of *Church of Scientology of St Petersburg vs Russia* (2014), it found that the condition that a religious organization had to have existed for at least 15 years on Russian territory in order to obtain the status of a legal entity presented a violation of Article 9 (freedom of religion), interpreted in the light of Article 11 (freedom of association).<sup>458</sup> The Court stated that this long waiting period only affected the religious groups that were recently set up and were not part of a hierarchical ecclesiastic structure; such a differential treatment was not justified.

The European Convention prohibits religious discriminations in relatively general terms. Nonetheless, the European Court has advanced this legal term by prohibiting not only the attitudes openly directed against religion or any other reason for discrimination, but also those that, although resulting from seemingly neutral measures, are liable to harm certain individuals or groups on account of their religion or any other prohibited criterion.<sup>459</sup> The prohibition of indirect discrimination<sup>460</sup> as well as positive actions<sup>461</sup> or the legal concept of “reasonable accommodation” are in line with this new dimension of the right to equality.<sup>462</sup>

<sup>458</sup> ECtHR, judgment *Church of Scientology of St Petersburg v. Russia*, 2 October 2014, appl. no. 47191/06, esp. par. 47–48. See also, ECtHR, judgment *Church of Scientology Moscow v. Russia*, 5 April 2007, appl. no. 18147/02, par. 64; ECtHR, judgment *Kimlya and others v. Russia*, 1 October 2009, appl. no. 76836/01 and no. 32782/03, par. 79.

<sup>459</sup> See ECtHR, judgment *Thlimmenos v. Greece*, 6 April 2000, no. 34369/97, par. 44–48; ECtHR, decision *Hoogendijk v. the Netherlands*, 6 January 2005, no. 58641/00; ECtHR, judgment *D.H. and others v. the Czech Republic*, 13 November 2007, no. 57325/00, par. 184 (see É. DUBOUT, «L’interdiction des discriminations indirectes par la Cour européenne des droits de l’homme : rénovation ou révolution?», *Rev. trim. dr. h.*, no. 75/2008, pp. 821–856)—It has to be noted that, in Europe, the concept of indirect discrimination has first been developed by the Court of Justice of the European Union, see esp. CJEU, *Jenkins v. Kingsgate*, 31 March 1981, case 96/80; CJEU, *Bilka-Kaufhaus GmbH v. Weber von Hartz*, 13 May 1986, case 170/84; CJUE, *Danfoss*, 17 October 1989, case 109/88; CJEU, *Nicole Seymour Smith*, 9 February 1999, case C-167/97.

<sup>460</sup> See European Union Agency for Fundamental Rights, *Handbook on European non-discrimination law*, Luxembourg, Publications Office of the European Union, 2011, pp. 29–31; C. TOBLER, *Limites et potentiel du concept de discrimination indirecte*, Réseau européen des experts juridiques en matière de non-discrimination, Luxembourg, Office des publications officielles des Communautés européennes, 2009, pp.16-17; É. DUBOUT, «L’interdiction des discriminations indirectes par la Cour européenne des droits de l’homme : rénovation ou révolution?», *op. cit.*, pp. 824-826; F. AST, “Les cadres légaux européens répondant à la diversité et au besoin de changement institutionnel. La discrimination indirecte comme outil de protection du pluralisme : enjeux et limites”, in *Accommodements institutionnels et citoyens : cadres juridiques et politiques pour interagir dans des sociétés plurielles*, Tendances de la cohésion sociales no. 21, Strasbourg, Éditions du Conseil de l’Europe, 2010, pp. 89-93; D. SCHIEK, “Indirect discrimination”, in D. SCHIEK, L. WADDINGTON et M. BELL (eds.), *Nondiscrimination law*, Oxford, Art publishing, 2007, pp. 323–475.

<sup>461</sup> For an in-depth comparative analysis of the positive action, see M. DE VOS, *Au-delà de l’égalité formelle. L’action positive au titre des directives 2000/43/CE et 2000/78/CE*, Réseau européen des experts juridiques en matière de non-discrimination, Luxembourg, Office des publications officielles des Communautés européennes, 2008.

<sup>462</sup> E. BRIBOSIA, I. RORIVE and J. RINGELHEIM, “Aménager la diversité : le droit à l’égalité face à la pluralité religieuse”, *Rev. trim. dr. h.*, no. 78/2009, p. 323; P. BOSSET, “Les fondements juridiques et l’évolution de l’obligation d’accommodement raisonnable”, in M. JÉZÉQUIEL, *Les accommodements raisonnables : quoi, comment, jusqu’où? Des outils pour tous*, Cowansville, Yvon Blais, 2007, pp. 3-10; J. J. PREECE, “Emergence de normes en matière d’accommodement raisonnable en faveur des minorités en Europe?”, in *Accommodements institutionnels et citoyens : cadres juridiques et politiques pour interagir dans des sociétés plurielles*, Publications du Conseil de l’Europe, Tendances de la cohésion sociale, no. 21, 2009, p. 118; K. HENRARD,

In Europe, the fight against discrimination has developed chiefly within the framework of the EU. The EU institutions have progressively prohibited direct as well as indirect discrimination in diverse areas of community life, and this regards both vertical and horizontal relationships. This fight against discrimination has become a reality thanks to the successive amendment of treaties, the adoption of specific directives, and the judicial work of the Court of Justice. In the beginning, it was essentially a matter of avoiding the distortions of competition by introducing equal payment for men and women, but this principle, little by little, has extended to other areas than employment and to grounds other than gender.

The major evolution took place in 1997 with the conclusion of the Treaty of Amsterdam, which allowed the EU institutions to adopt directives "*to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.*" In a climate influenced by the rise of the far right in Austria, two anti-discriminatory directives were adopted in 2000. Directive 2000/78/EC of 27 November 2000 establishes a general framework for equal treatment in employment and occupation regardless of religious beliefs, disability, age or sexual orientation, and Directive 2000/43/EC of 29 June 2000 implements the principle of equal treatment between persons irrespective of racial or ethnic origin in the field of employment, social protection, education as well as goods and services. Directive 2000/78/CE requires states to prohibit religious discrimination in the professional sector in the broad sense, which notably includes the training courses that provide access to employment or affiliation with a trade union. However, certain national transpositions extended this prohibition to other domains. Thus, in the UK and Belgium, anti-discrimination legislation also applies to education and the access to goods and services.<sup>463</sup> On the other hand, in France, this prohibition is limited to the field of employment.<sup>464</sup>

Directive 2000/78/EC compels the member states to transpose the prohibition of direct and indirect discrimination into their legislation, notably on the basis of religion or beliefs. According to the Directive, direct discrimination occurs when, on the basis of a protected criterion, "*one person is treated less favorably than another is, has been or would be treated in a comparable situation.*" For instance, a person is denied an employment or a promotion because of his or her religion. This differential treatment can nevertheless be justified "*where, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constitutes a genuine and determining occupational requirement*" and as far as the

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"Duties of Reasonable Accommodation in Relation to Religion and the European Court of Human Rights : A Closer Look at the Prohibition of Discrimination, the Freedom of Religion and Related Duties of State Neutrality", *Erasmus Law Review*, Vol. 5, no. 1, 2012, p. 62.

<sup>463</sup> Equality Act 2010 (United Kingdom); Loi du 10 mai 2007 tendant à lutter contre certaines formes de discrimination (Art. 5(1)) (Belgium).

<sup>464</sup> Code du travail, Art. L. 1132-1 et seq. (France).

objective is legitimate and the requirement is proportionate. Furthermore, Directive 2000/78/EC provides that

“in the case of occupational activities within churches and other public or private organizations the ethos of which is based on religion or belief, a difference of treatment based on a person’s religion or belief shall not constitute discrimination where, by reason of the nature of these activities or of the context in which they are carried out, a person’s religion or belief constitute a genuine, legitimate and justified occupational requirement, having regard to the organization’s ethos”.<sup>465</sup>

This ground of justification refers to the situation of the so-called ethos-based organizations, mainly the churches and faith schools that can require their personnel to adopt an attitude of good faith towards the ethos on which they rest. On the part of the Council of Europe, the ECHR has developed this notion as well. In a number of cases, it ruled that “*an employer whose ethos is based on religion or on a philosophical belief may impose specific duties of loyalty on its employees*” taking into account the nature of the position in question and effectively balancing the interests at stake in the light of the principle of proportionality.<sup>466</sup> Yet this is a notion whose interpretation gives rise to controversy. Some consider that, in order to enjoy the status of “ethos-based organization”, an organization must have as an objective to promote a specific belief. Others hold that it is sufficient that the organization is founded on a specific belief even though pursuing another objective, notably profit. The first, more restrictive definition — it essentially targets churches, faith schools, political parties, trade unions — was favoured in the initial project of the European Commission Directive.<sup>467</sup> The second definition, which is much broader, was formally integrated into the Directive 2000/78/EC, even though the Court of Justice of the European Union has not yet clarified the meaning of this provision.<sup>468</sup> On the other hand, the ECHR has also developed a body of case

<sup>465</sup> Directive 2000/78/EC, Art. 4(2)—The States can only have recourse to this exception if it follows from legislation in force or national practices in place at the moment of the adoption of the Directive.

<sup>466</sup> ECtHR, judgment *Schüth v. Germany*, 23 September 2010, appl. no. 1620/03, par. 69. See also ECtHR, judgment *Obst v. Germany*, 23 September 2010, appl. no. 425/03, par. 27; ECtHR, judgment *Lombardi Vallauri v. Italy*, 20 October 2009, appl. no. 39128/05, par. 41; ECtHR, judgment *Siebenhaar v. Germany*, 3 February 2011, appl. no. 18136/02, par. 46; ECtHR, judgment *Fernández Martínez v. Spain*, Grand Chamber, 12 June 2014, appl. no. 56030/07, par. 143. See E. BRIBOSIA and I. RORIVE, «Chronique – Droit de l’égalité et de la non-discrimination», *J.E.D.H.*, 2015, Vol. 2, pp. 237–240.

<sup>467</sup> See Proposal for a Council Directive establishing a general framework for equal treatment in employment and occupation, 2000/C 177 E/07, COM(1999) 565 final, presented by the Commission on 6 January 2000, Art. 4(2) (“*Member States may provide that, in the case of public or private organizations which pursue directly and essentially the aim of ideological guidance in the field of religion or belief with respect to education, information and the expression of opinions, and for the particular occupational activities within those organizations which are directly and essentially related to that aim, a difference of treatment based on a relevant characteristic related to religion or belief shall not constitute discrimination where, by reason of the nature of these activities, the characteristic constitutes a genuine occupational qualification*”. emphasis added).

<sup>468</sup> This second interpretation was also favoured by the American Supreme Court in its judgment *Hobby Lobby*, rendered on 30 June 2014. See *Burwell v. Hobby Lobby*, 573 U.S. (2014).



law on the notion of “ethos-based organization”, repeatedly denying an organization with a view to profit from the invocation of Article 9 of the European Convention on Human Rights.<sup>469</sup>

As to indirect discrimination, it refers to a seemingly neutral provision, criterion or practice that is liable to bring about a particular disadvantage for the persons of a certain religion or belief in relation to other individuals. For example, the internal regulation of a hospital could prohibit its employees from wearing any headgear, or require them to wear a specific headgear, when being in the surgery suite. This measure does not specifically target the individuals on the basis of their beliefs but, in practice, it can be detrimental to those whose faith implies wearing a distinctive symbol, such as the Islamic headscarf, the Sikh turban or the Jewish kippa. This kind of provision can nevertheless be objectively justified, in case of the pursuit of a legitimate objective through appropriate and necessary means. In the previous example, the clothing requirement could be justified by security reasons and be judged proportionate, in particular if there is no less harmful measure allowing to realize the security objective.<sup>470</sup>

The Court of Justice of the European Union has not yet ruled on the notions of direct or indirect discrimination included in Directive 2000/78/EC regarding the ground of religion or beliefs. The application of these concepts in the religious field is thus largely dependent on the interpretation by the national courts. Nonetheless, the Court of Justice has received two references for a preliminary ruling on this issue. The first, transmitted on 9 March 2015 by the Belgian Court of Cassation, seeks to determine whether prohibiting a Muslim from wearing the headscarf in the workplace would not constitute a direct discrimination when the employer has prohibited all the workers from wearing external political, philosophical, or religious symbols in the workplace.<sup>471</sup> The second, submitted on 9 April 2015 by the French Court of Cassation, seeks to clarify whether a customer’s desire not to be served by a company’s employee wearing an Islamic headscarf can be considered a genuine and determining occupational requirement, by reason of the nature of the occupational activity or the context in which they are carried out.<sup>472</sup> Judgements are expected in early 2017.

Pending an answer to these questions, the only decision of the Court of Justice in the field of religious discrimination dates back to the case of *Vivien Prais*, decided in 1976. At the time, the

<sup>469</sup> On this point, see G. CALVÉS, “Devoir de réserve imposé aux salariés de la crèche Baby Loup. Quelle lecture européenne du problème ? », *Revue de droit du travail*, 2014, no. 2, pp. 94-100.

<sup>470</sup> See E. BRIBOSIA, J. RINGELHEIM and I. RORIVE, “Aménager la diversité : le droit de l’égalité face à la pluralité religieuse”, *op. cit.*, pp. 361–362.

<sup>471</sup> Cass., 9 March 2015, no. S.12.0062.N (Belgium) (“l’interdiction pour une musulmane de porter le foulard sur le lieu du travail ne constitue pas une discrimination directe lorsque l’employeur a prévu une interdiction pour tous les travailleurs de porter sur le lieu du travail des signes extérieurs d’appartenance politique, philosophique ou religieuse”).

<sup>472</sup> Cass. soc., 9 April 2015, appeal no. 13–19.855, *SA Micropole Univers* (France).

statute of European officials provided that these should be chosen without distinction of race, faith or sex. On this basis, the Court of Justice had refused to follow up on the request to adjourn an exam that coincided with the Jewish holiday of *Shavuot*. This was because the applicant had not informed the responsible authorities in due course, that is, before the notification of the other candidates.<sup>473</sup> However, the court maintained that it was "*desirable that an appointing authority informs itself in a general way of dates which might be unsuitable for religious reasons, and seeks to avoid fixing such dates for tests*".

To conclude, at present, the articulation between the sources stemming from the Council of Europe and those from the EU make it possible to guarantee a large organizational autonomy to the worship groups and to ensure, within certain limits, the public manifestation of numerous beliefs. The proliferation of legal concepts aiming to protect religion or beliefs (indirect discrimination, ethos-based organization, etc.) and case law that refers to these (especially that of the ECHR, and of the Court of Justice of the European Union) can give rise to the challenge of their coherence.<sup>474</sup> On the whole, the EU has drawn heavily on the Council of Europe in its endeavour to promote fundamental rights, but it was the former that eventually obliged the states to adopt legislation to fight discrimination. Nevertheless, the Court of Justice of the European Union has remained relatively silent with respect to the interpretation of these instruments, at least concerning the motives for the religious or philosophical beliefs.

Hence, the ECHR has itself taken over the concepts stemming from EU law, sometimes replacing the Luxembourg case law. In this respect, the recent judgements *Fernández Martínez* (2014) and *Eweida* (2013)<sup>475</sup> seem to reveal a willingness to strengthen the protection of religion in Europe, whether in its collective or individual dimension. Nevertheless, it has to be observed that the case law of the different European states is not always in agreement with that of the ECHR and that the latter has for a long time granted an important margin of appreciation to the member states in this matter.

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<sup>473</sup> CJEU, *Vivien Prais*, 27 October 1976, case 130-75, par. 18.

<sup>474</sup> As far as the articulation between the case law of the United Nations Human Rights Committee and the European Court of Human Rights of the Council of Europe are concerned, in relation to the French prohibition of the Sikh turban, on the official identification documents or in public secondary schools, see E. BREMS, E. BRIBOSIA, I. RORIVE and S. VAN DROOGHENBROECK, "Le port de signes religieux dans l'espace public : vérité à Strasbourg, erreur à Genève?", *J.T.*, 2012, pp. 602–603 ; E. BRIBOSIA, G. CACERES and I. RORIVE, "Les signes religieux au cœur d'un bras de fer : la saga Singh", *Rev. trim. dr. h.*, no. 98/2014, pp. 495–513.

<sup>475</sup> In the case of *Fernández Martínez*, the European Court of Human Rights has given its view on the organizational autonomy granted to worship groups from the angle of Article 9 of the European Convention, which guarantees freedom of religion. To this end, it has explicitly referred to Article 4(2) of the Directive 2000/78/EC introducing the exception of « ethos-based organizations ». In the case of *Eweida*, the European Court of Human Rights had to judge applications concerning cases decided in the United Kingdom from the angle of anti-discrimination legislation, and, more specifically, of the concept of indirect discrimination in religious matters. By way of a subjective and individualist interpretation of what amounts to a belief protected by Article 9 of the Convention (freedom of religion), resting on the sincerity of the invoked belief, the European Court has influenced the interpretation of the concept of indirect discrimination based on religion or belief.

## VII. Conclusion

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### Religion in the European Union

For many decades, Europe has been undergoing a constant and pronounced secularization process, one that largely contrasts with the situation in Africa, Asia or South America. Indeed, at the global level, the European situation is rather exceptional. The erosion of religious adhesion is especially evident among the young, and the demographic, social and private behaviour of Europeans is currently all but in line with the principles of the main institutionalized religions. This phenomenon, characterized by generational variations and deeply tied to both demographic and cultural changes, has accelerated considerably since the 1980s and 1990s.

However, the general picture is of a contrasting and often paradoxical nature: religious indifference can go hand in hand with the persistence and even the reinvention of certain practices. New forms of spirituality have emerged, alongside religious individualization; a great variability in traditional Christian practices and rites is also manifest (baptism, communion and confirmation, weddings, funerals, certain feasts and celebrations) ... At the same time, large-scale manifestations of religiosity such as pilgrimages, festivals and popular gatherings sometimes gain momentum, even in areas where secularization is advanced.

These phenomena are very complex, given the frequent combination of relatively high levels of religiosity with low levels of practice or affiliation. Moreover, substantial differences exist between countries, sometimes also between different regions within the same country, between cities and the countryside, or between city districts. In addition, serious disparities can be observed between Northern and Southern Europe, and above all, between Western Europe, on the one hand, and Central and Eastern Europe, on the other — with the exceptions of the Czech Republic and Estonia, two of Europe's most secularized societies. Dissimilarities between generations are also manifest, as well as between social classes, ethnic groups, etc. In other words, no single European model of secularization seems to exist — on the contrary.

Europe, which culturally remains predominantly Christian, with its various and often intertwining denominations (Catholic, Anglican, Lutheran, Orthodox, etc.), is nevertheless characterized by relative deconfessionalization and de-Christianization, as well as by the loss of secular religious culture. The combined effect of the separation between culture and religion and of pluralization has led to a situation whereby, even if it remains a reference in terms of identity for the majority of the population, Christianity today has the traits of a subculture, a community among others within a pluralist society. Only societies of Orthodox tradition generally do not fit in this picture, characterized as they are by a less pronounced secularization. In certain regions, a process of

redistribution is also at work between Christian confessions, in some cases even outright competition or rivalry between churches, in a space, which is progressively turning into a “religious market”.

Generally speaking, the estrangement of Europeans from religious prescriptions and morals is more pronounced than their estrangement from religious institutions or culture. Even when affiliation is declared, the distance from norms promoted by established religions is great, especially norms regarding the family (marriage, filiation, sexuality, contraception, abortion, etc.). There are also strong variations between countries where the social significance of religion is strong, such as Poland, Malta or Greece, and countries where they no longer play a significant role, such as the Czech Republic, Sweden and Estonia.

Today many Europeans, imbued as they are with the deregulation of believing, are in fact neither religious nor completely irreligious, whereby religion no longer plays an important role in their lives. When manifest, their adhesion is rather horizontal, and not vertical. Sociologists of religion thus distinguish between believing and belonging. In this context, one of the keenest observers of the religious field, Grace Davie, has highlighted the development of the phenomenon of believing without belonging, religion being a choice rather than a heritage. The reverse situation, i.e. belonging without believing, also manifests itself through an identitarian tendency and through tradition, as is for example the case in Eastern European countries and in Scandinavia.

## **European pluralism**

In Europe, religious and convictional pluralism is pronounced and subject to strong regional variations. In Western Europe especially, societies have become multi-confessional and cities often de facto multicultural, leading to competition between religions. Relations between the political and religious fields are tense, not only because of religious pluralization and more particularly the growing presence of Islam, but also because of the consequences of secularization and of the new balance between society, religion and culture. Most European nations have thus experienced profound transformations in this area.

Today, the tools formerly created by EU member states to appease tense church-state relations are no longer effective in matters of state regulation of religion, notably because of the difficulties arising from the need to accommodate a steadily increasing variety of values. Thus, when European states adopt or advocate progressive legislative measures in matters of ethical choices, measures that notably challenge the family model promoted by monotheism, church opposition is often fierce. At times, they even go so far as to influence the political decision-making process. This in turn creates tensions, sometimes even deep cleavages within religious currents, leading to the

reconfiguration — and even the polarization — of the latter according to believers' or confessional currents' relation to secularization and modernity.

Thus in Europe there is no clash of cultures, but rather a cultural clash, a clash between European values inherited from the Enlightenment and religious values and morals, against the backdrop of a deep cultural crisis in increasingly deculturalized Western societies and of the political crisis of the liberal social state model. This situation has led to a growing presence of religions in public life, to a growing desire among religious minorities for visibility, and to a change in their perception. Indeed, the confusion between dealing with religious and ethnic diversity is increasingly pronounced, particularly where Islam and Muslims are concerned. In many EU countries, Islam has effectively become the second or third religion in terms of adherence, whereby the word Muslim is nowadays often used to refer to those who were formerly designated by their original nationality and ethnicity.

It is undeniable that Islam is having trouble imposing itself as a European religion like any other. However, when Islam is taken into account in state regulation of the religious field, at times 'Gallican'-type politics of active interference by the authorities in the institutional emergence of Islam can be observed (Belgium, France, etc.) — whether concerning the implementation of representative structures and their inner functioning, the choice of dialogue partners considered legitimate, or the proactive promotion of a local Islam. This tendency contrasts with the often outspoken longing for church independence and liberty that can be observed elsewhere. Thus, church-state separation is often challenged, in a paradoxical context in which interference and autonomy can effectively coexist in certain EU member states, in contrast to some other countries' more liberal policies. This leads to a questioning of the place of religions and of the religious in the public space, fed by discussions that often focus on the symbolic rather than the institutional or political side of this presence, a questioning that, as shown by national and international jurisprudence, is increasingly moving from the public sphere towards the management of religion in companies and organizations.

In many countries, such questions have arisen in schools, especially over the past twenty years, due to the wearing of religious signs or the presence of religious symbols, but also due to respect for religion-based dietary restrictions, for diversity and reluctance towards the contents of certain teachings. The example of schools, which since the 19th century have been the locus par excellence of tensions between politics and religion, illustrates the fact that even though it is evolving, the relation with religious culture remains present. However, while still crystallizing certain tensions, in many countries, and especially regarding religion-related courses, they have also undergone a clear evolution (both at the level of curricula and objectives), sometimes even radical transformations, as has for example recently been the case in Luxembourg.

Even if variations exist, the loss of church influence is also political and institutional. However, churches remain partners in public dialogue and in political decision-making, under the guise of their social usefulness — “the social utility of churches” remains a key concept that allows for certain religious institutions to retain their prominent role, notably at the social level. In order to create social cohesion, the state takes into account the confessional dimension and considers religion to be a catalyst of community harmony; the same holds for the promotion of religious pluralism, as well as for interreligious and interconvictional dialogue by public authorities. Thus, politics often provides for recognition of the educational, social, cultural and civic role of religious institutions, a role that is to be understood in the light of the reconfiguration of the state’s role and the redefinition of its functions. In certain countries, this can in turn contribute to a process of re-institutionalization of religion, despite the fact that it was progressively receding in the face of the secularization of institutions.

By virtue of the principle of subsidiarity, in various EU regions (Germany being the best-known and most noteworthy example), the state effectively delegates missions of public interest to certain churches, in a context, it has to be said, marked by a crisis of the welfare state, of weakening public authority and of the implementation of neo-liberal policies that affect sovereign powers. Far beyond the case of civilly valid religious marriages, such transfers of power can extend to social action, healthcare or also, for example, mandatory teaching, to such an extent that churches not only become important economic actors, but also major, if not essential, employers ...

Here too, such a tendency displayed by public authorities is based on the idea of the social utility of churches or of their “positive social role”, different from other civil society organizations, and their capacity to affect social order, to bolster class harmony and, sometimes, to promote tradition. All this in the context of citizens’ trust in religions, which are seen as contributing to social cohesion — others, on the contrary, see churches and religious institutions as causes of social division. Religion can sometimes also be mobilized to contribute to the moralization of public life, the economy or culture. This tendency points to a certain political and at times juridical pragmatism by both state and religious actors, a pragmatism which often plays with the legal principle of increasingly porous church-state separation.

### **State and religion cooperation**

The loss of church influence on individuals and on society (which varies from one country to the next) does not necessarily imply a weakening of their public and political role. As for the institutional role assigned to religions in EU countries, it comes in many shapes and forms, whether in matters of financing or status (recognition, registration, different kinds of conventions, etc.). The weight of each country’s individual history plays a key role here, based on the evolution of the

nation-building process. Consequently, no dominant model can be singled out, and Europe remains characterized by a patchwork of solutions that are often all but compatible and comparable.

Thus, there are European countries where minority religions are effectively recognized, whereas in others they have a hard time penetrating the public space. The same holds for the unequal way in which some states treat different convictional currents, whereas in most EU regions there is also not always genuine equality of rights and genuine state impartiality in religion-related matters. Indeed, when there is no *de jure* dominant religion, there is often a *de facto* one. Hence, at the political and cultural level, the difference between states where this factual preponderance is perpetuated and states where an officially established religion subsists — England, Scotland, Denmark, Greece, etc. — is often difficult to discern.

Whether or not they bear the name of concordats, the conventions that have been signed between the Holy See and several EU member states (Croatia, Hungary, Italy, Lithuania, Portugal, Slovakia, Slovenia, Spain and certain German Länder) reinforce the privileged character of certain dominant churches as well as the unequal treatment of faiths by the public authorities. In many countries, conventions signed by public authorities with certain churches (and not with others), most often in favour of historically established currents, can be added to this. Even where a tradition of unilateralism exists (public authorities recognize and help religions), today the latter has made way for constant dialogue and negotiated solutions.

Through its symbolic power and strong social capital, religion thus contributes to the political decision-making process, with significant differences between countries where religious institutions had formerly been linked to power but have since emancipated or distanced themselves and countries where religions were a force of opposition against established regimes, making a comeback once the latter had been overthrown — for twenty-five years this has clearly been the case in Central and Eastern European countries. Even more so than on a national level, religions are present on the international stage, notably at the level of European political institutions, where they nurture the expansion of “religious transnational” actors that act as active and organized lobby groups, capable of establishing effective political influence.

Furthermore, one of the issues at stake today is directly linked to the pluralization of convictional actors as well as to the types of recognition from which they can benefit, while at the same time the concept of religion itself is distending. Whereas in a number of countries freedom of religion tends to evolve towards the larger concept of convictional liberty, Belgium as well as certain German Länder are already evolving, with various degrees of intensity, towards an equalization of collective rights, in favour of secular humanists. Not to mention that adherents of peripheral religions are also trying to obtain equal application of the principles of religious and convictional freedom, as



protected by national law and/or the European Convention on Human Rights and the Charter of Fundamental Rights. As Gabrielle Caceres writes, the “European Court has developed a relatively broad definition of the notion of ‘religion or belief’. This allowed the Court to include religious beliefs, nonreligious beliefs, or the absence of beliefs on an equal footing, and, beyond the traditional religions of the majority, to touch upon the currents that are recently established, in minority, marginal or even in complete isolation” .

All this notably points to the fact that relations between states and convictions of all sorts are increasingly, and universally, characterized by negotiation. Possibly non-confessional philosophical communities or para-religious phenomena will in the near future benefit from this transactional tendency and be recognized or even subsidized, in a context in which the law would increasingly have to address, in an obviously heterogeneous manner, the necessary but arduous definition of the term ‘religion’...

### **Identity and societal debates**

In many EU regions, religion remains a powerful marker of national identity as well as a politically mobilized reference. One cannot ignore the fact that until recently, religion was an important factor in many European conflicts, whether in the Balkans, Cyprus or Northern Ireland. Today it participates in the war of words that animates the mobilization of European populists against Islam. European values, and especially human rights, are also very often brandished not because of their universal vocation, but because of their cultural rootedness. To the point that over the past fifteen years, the thesis of Europe’s Christian roots has imposed itself in the public debate, dismissing the fact that the continent’s roots are as much Greek as Christian, as well as defying free thought, which since the Renaissance — and even more so since the Enlightenment — has progressively opposed its secularized and universalist political philosophy to Christianity’s theological and political discourse.

While there has been a conversion of religious assertion as identity, today’s religion also accompanies the identity ‘revival’ of many nations, in the context of a global crisis that has also affected Europe, and of a return of populisms and conservatisms. Sometimes the rejection of Islam involves the recusal of what some see as foreign to Europe’s territorial and symbolic landscape (mosques, minarets, burqas or face veils), whereby religious symbols are remobilized as cultural and identity markers, and for some republican civility or militant laïcité promoted as bulwarks of civilization. Therefore, today culture and identity are often at the heart of the public debate and of popular mobilization, sometimes even more so than economic or social issues.

In Europe, there is no consensus on dominant values. This is both a strength and a weakness. In recent years, the debate has been lively and polarized, and it has revealed differences of opinion among Europeans as well as, at times, a gap between the choices of the public authorities and those of part of the population, notably concerning end-of-life measures, abortion, bioethics, in vitro fertilization, same-sex marriage or also the place of religious symbols in the public sphere. This was joined by the highly sensitive issue of the perception of Islam and of Muslims, which are seen as threats to national or European identity, to the homogeneity of society and to its social cohesion.

These debates, especially those on bioethical questions, reproductive rights, sex and relationship education, etc. have also revealed tensions between European norms and those of conservative states, particularly in Central and Eastern Europe. This shows that due to the phenomenon of political integration (which has cultural consequences), the process of Europeanization has the potential to stimulate the evolution of fundamental rights and equality of citizens, urging local actors to manoeuvre and adjust. Except when the EU itself is the object of active and efficient lobbying by churches, which aim to become actors of dialogue and political partners not only at the level of convictions and ethical choices, but even at the economic and social level — a role that was institutionalized and pluralized as a result of European treaties and of the European Commission's informal politics. This path had already been paved through the degree of liberty — protected by a 2000 European directive — granted to so-called faith-based organizations, in the first place churches and confessional schools, which are dispensed from observing the Amsterdam Treaty as well as the principle of non-discrimination, applying, in a perfectly legal way, a direct differential treatment based on religion or conviction.

These problems are all the more acute since state courts and tribunals, but also, henceforth, European courts and especially the European Court of Human Rights (ECHR), have produced a highly fragmented body of jurisprudence in matters involving religions and convictions. The results are differing interpretations of religious freedom and of its place in the hierarchy of rights. This is due to internal law, but also to sometimes contradictory judgements by the ECHR which, contrary to the situation in the past (when its decisions on such issues were often homogeneous), at the level of religion nowadays delivers judgements that go in very different directions. This holds for hot topic issues such as circumcision and ritual slaughter.

Thus, in a highly intricate manner, we observe the intertwining of an anthropological debate that touches upon the deepest convictions of citizens; of a political debate that mobilizes issues that are increasingly sensitive to Europeans such as immigration, identity, the very concept of nation and of Europe; of a juridical debate that orbits around the extension of religious freedom and conscience-related provisions, as well as around minority rights and the regulation of negative but

also positive discrimination; and finally also of a philosophical debate on the notion of citizenship and on the relation between individuals and communities.

## **Managing religious pluralism**

When it comes to managing convictional pluralism, Europe is a highly diverse continent. Be that as it may, one element stands out as highly recurrent in the observation of religions in Europe, i.e. its paradoxical and complex nature. Indeed, at the start of the 21st century, religion often occupies a paradoxical position, whether at the level of the relation Europeans have towards religion or at the level of the relation between politics and religion throughout the EU, in countries which present a complex tissue of social and cultural evolutions, and of anthropological and juridical transitions.

Europe's relation to religion is thus characterized by paradox. Paradox between secularization and alternative forms of religiosity, between state interference and the autonomy of religious institutions, between the fact that most EU countries are at the same time solidly rooted in their Christian tradition but also secularized and marked by confessional or convictional pluralism. Another paradox is to be found in the fact that in a globalized world, religion is torn between politicization and deterritorialization, that nowadays it is less powerful because of secularization and more visible because of the very nature of our societies' evolution, that it is more political and public but at the same time more private and personal, and finally that socialization is much less the work of religion than it once was.

That being said, the challenge is the same everywhere: to accommodate the protection of freedom of conscience and religion, state impartiality and the equal or egalitarian treatment of the different convictional options, in a context of ever more diverse allegiances. A challenge that is complex notably because states are at times confronted with the (sometimes difficult to manage) opposition between religious freedom and human rights. States which have to deal not only with their historical roots, but also with new cultural influences, with the mobility of the populations by which they have been marked, and which produce distinct models of secularization: between North and South, East and West, between traditionally Catholic, Lutheran or Orthodox countries. However, the challenge of organizing religious pluralism and of regulating it in and by means of the law is the same everywhere, because the trouble spots are transnational.

In other words, Europe does not seem to be divided between religious or convictional currents, but rather between those who place religious norms in the realm of the individual conscience and those (conservatives of all types, whether Catholic, Protestant, evangelical or Muslim) who invite them into the core of the political debate and decision-making process. The conflict between pro-life and pro-choice has clearly illustrated this, as has the conflict surrounding the limits of free speech, two

areas that are basic constituents of societal values. The hardening of the Catholic Church, which wants to be a part of modernity but at the same time forcefully reaffirms its prohibitions in matters of family, sexuality and procreation in the face of evolving mores and above all of increasing secularization of societies, is indicative of the fact that it is especially at the level of values, and thus of culture, that the gap dividing Europeans remains wide.

Steadily, and more than ever, relations between politics and religion are being readjusted. We have entered a new era in matters of religious configuration and reconfiguration, an era qualified since the 2000s by sociologist Jean-Paul Willaime as ultramodern, an era in which religion acutely questions the public space of European societies. Thus, Europe has to make it its duty to rethink the ties between politics and religion, in a context in which religious freedom is subjected to centripetal forces and where there is no longer any apparent consensus on common values. The various instances of compromise — because there has never been true consensus in these matters — which we have witnessed in the past, with the intention of putting an end, in various countries, to the conflicting relations between state and church(es), are today often obsolete, because of the changes that have taken place in societies, as well as of the cultural tensions provoked by these changes.

Insofar as there no longer exists a shared European idea of the common good, today the only solution to make fundamentally antagonistic ways of considering norms and values commensurate in a single political space seems to be compromise. This raises the question as to whether a Europe that is keen on integration will settle for this fragile and narrow arbitration, or whether it will find the spirit necessary to impose a project and a common meaning, whereby the possible accommodation of the religious convictions of part of the social fabric does not involve a regime of exemptions or conscientious objections, let alone collective rights. No doubt, these are the limits of the regime of separation, when the primacy of civil law can be contested to the benefit of an à la carte law that would dilute civil equality.

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