Jean Monnet Centre of Excellence "European Constitutionalism and Religion(s)"

Aristotle University of Thessaloniki
54124 Thessaloniki, Greece

Newsletter #5
January – November 2021

News and Activities of the AUTH's Jean Monnet Centre of Excellence

- Scientific Conferences - Seminars - Summer School
- Activities of research group members - Working papers
- Bibliography - Articles
- Case law
- Legal news

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The newsletter # 5 was drafted and edited by the collaborators of the Centre of Excellence Ms. Lydia Papagiannopoulou, Student at LLM of the Faculty of Law of the Aristotle University of Thessaloniki and Ms. Loukia Tremma, Undergraduate Student of the Faculty of Law of the Aristotle University of Thessaloniki.

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Scientific Conferences – Seminars – Summer School

ONLINE SEMINARS
on
«Law and Religion»

Jean Monnet Centre of Excellence "European Constitutionalism and Religion(s)", in collaboration with the European Consortium for Church and State Research and the Law School of Nicosia University

❖ **Friday 29 January 2021, 16.00**

Topic: Corona – Christmas – Religious life in exception
Speakers: Professor Matthias Pulte, Johannes Gutenberg - Universität Mainz, Germany
Professor Schanda Balázs, Pázmány Péter Catholic University of Budapest, Hungary

❖ **Friday 18 February 2021, 16.00**

Topic: Religious Freedoms and Covid19: The case of Belgium, France, Luxembourg and Switzerland: Neo-institutionalism & Comparative Approach
Speaker: Professor Philippe Poirier, University of Luxembourg

❖ **Thursday 18 March 2021, 16.00**

Topic: The Atlas of religious minorities
Ομιλητής: Καθηγητής Silvio Ferrari, University of Milan, Italy

❖ **Thursday 15 April 2021, 16.00**

Topic: Legal status of ministers of religion in the ECHR case-law
Speakers: Agustín Motilla, University Carlos III, Madrid, Spain
Miguel Rodríguez Blanco, University of Alcalá, Spain


The European Consortium for Church and State Research
The Jean Monnet Centre of Excellence "European Constitutionalism and Religion(s)
The Law School of Nicosia University, Cyprus

Organize a series of webinars on ZOOM

Join Zoom Meeting https://authgr.zoom.us/j/93434485984
Meeting ID: 934 3448 5984

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Organized by:

Aristovoulos Manesis Association

Jean Monnet Centre of Excellence "European Constitutionalism and Religion(s)",

DISCUSSION on:

"European identity and cultural diversity: constitutional issues of coexistence"

Wednesday 7 April 2021, 19:00

Chair: Lina Papadopoulou,
Associate professor of Constitutional Law at AUTh
Holder of a Jean Monnet Chair for European Constitutional Law and Culture of AUTh

You can watch the recorded discussion here

Dimitris Zakalkas

Lawyer, Dr. of Constitutional Law, Writer of the book "Immigrants' access to Greek citizenship and the bet of real integration"

Ethnic minorities are distinguished from immigrant minorities, as the latter are later after the 1970s, and have no claim to territorial autonomy. The policies pursued with regard to minorities are divided into assimilation policies, which seek the gradual disappearance of the minority, and multicultural policies, which accept the existence of minorities. When in 1919, with the Treaty of Versailles, which was considered the victory of nationalism, three empires collapsed, no homogenized states were created. The next steps in dealing with minorities were either violent extermination or covered via conventions violence such as population exchange either homogenization. The League of Nations provided for collective rights for minorities, such as education, but in Europe they were treated like a phalanx and even their human

rights were undermined. The protection system could not be described as adequate. After the Second World War the course of the international community changed and because the system of minorities did not work, universal human rights were upheld, resulting in the weakening of the protection of minorities mainly cultural. And the international pact for individual and political rights only in art. 27 provides cultural protection, in the form of negative, and not positive, rights and only in individual, not collective, context. There was a change after the Second World War, with the recognition that minorities came to stay and therefore positive measures must be taken. Multicultural policies were adopted through federalism or territorial autonomy. There were four common features that contributed to the acceptance of multiculturalism: the democratic government - established with multiple levels of support - the liberal features of minority claims, the lack of fears of geopolitical security and the redistributive policies of the welfare state. In general, until the destabilization of the 1990s, minority problems were dormant. The framework convention for the protection of national minorities is a step forward, which gives great scope to the states and protects the individual, but not the minority. Two typical examples: the existence of streets, roads and signs in the language of the minority, when there is a minority population, and the education of the minority in its language. They are not addressed to large minorities, but to semi-assimilated ones. There were, of course, ad hoc interventions because of the fear of armed conflict, but democratic claims were not cultivated. In Greece there was no special protective framework due to geopolitical fear. Only the religious minority was accepted, mainly because of the Treaty of Lausanne. After the 1980s, to protect minorities, measures to avoid minorities suppression were addressed and some steps were taken. Article 27 was passed, but Greece refused to sign the European Charter for Regional or Minority Languages. The Greek constitution in 1995 did not provide positive measures for minorities and when in 1998 an issue was raised in view of women's rights it was based on 4.2 & 116.2 of Constitution. In Thrace Sharia was applied with reference to the Treaty of Lausanne. The obligation to implement resulted in the violation of the rights of women, children, the right to a fair trial, etc., despite the fact that the courts of first instance accepted cooperative jurisdiction of the Mufti and the possibility of appealing to the civil courts, the Supreme Court argued that it is mandatory to appeal to the Mufti. Of course, these judgments had to be reviewed for their constitutionality in the civil courts, which in fact did not happen. Thus, the European Court of Human Rights (hereinafter: ECtHR or Court) in the Mola Sali case

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stood only on the part of the obligation, the choice of the Muslim and established indirect discrimination that led to the condemnation of Greece. Greece, meanwhile, has legalized recourse to the Mufti as optional.

Finally, one limitation that cannot be violated by liberal states of law regarding minority protection is the commitment to the preservation of culture. However, the right to choose is offered for the evolution of cultures and the continuous creation of cultural identities. The real question here is what we shall do when minorities choose to be unfree.

Ioannis Papadopoulos

Associate Professor of Modern and Contemporary Political Philosophy and European Policies, Director of the Center for Research on Democracy and Law (CEDLAW), University of Macedonia

The subject of the bill, which has already been passed by the National Assembly and is being debated by the Senate, is the fight against Islamist separatist tendencies. The term "secession" was introduced by Macron in public debate. When he was elected in 2017, he spoke only of communitarianism, but the turning point for the use of the above term was the attack on the police in 2019, when he began to use it to refer to an open cultural war of Islam with social practices and morals of the West, especially with the rules of the French secular state. Macron's famous speech in Miró in October 2020 laid the groundwork for the law and things took their course after the assassination of Professor Patti. The bill symbolizes Macron's shift to a strong republican conception of state sovereignty. It brings changes to old and well-established laws of the French Republic, some of which are conceived as constitutional, such as the 1882 law on public education, which gave freedom of choice in public, private school or home teaching, the 1901 law on the right to associate, the 1905 law on the secular nature of the state (laïcité).

The bill changes these three laws into five main dimensions. First, strengthening the neutrality of public services. Laïcité imposes a strict religious neutrality on the public sphere, which some today escape. The a. 1, therefore, extended this obligation of neutrality to private organizations, when they provide a public service, expanding even the wider public sector.

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Two interesting amendments introduced in the Civil Servants Code compulsory education at laïcité and a training program for all teachers on religious issues.

The second keystone identifies actions to prevent terrorism and threats to life and physical integrity. After the assassination of Pati, passed the a. 4 for conviction of discriminatory treatment due to beliefs and a new misdemeanor for dissemination of information that allows the identification of a person for himself or his family in order to infringe on his life or physical integrity or property.

The third keystone concerns the right to associate. Associations that receive public subsidies are bound, according to art. 6, by a new convention of democratic commitment to respect the principles and fundamental symbols of Democracy. In case of violation, the organization that gave the grant revokes it and seeks a refund. The opposition reacted very strongly due to the restriction of the right to associate and argued that it is not usual for the enemies of freedom to ask for public money. It is also not clear whether the body responsible for revocation is acting in a binding capacity or at its discretion.

The fourth keystone is the regulation of the organization of the operation of religious associations. In France, a law of 1905 established a form of religious association that operates places of worship with a special binding regime of governance and transparency. Their financial transactions are controlled by chartered accountants, and they cannot accept state subsidies, but they can accept tax-free donations and legacies, while in the 1901 law on unions financial control and transparency are exercised more loosely and can have educational activity. The paradox is that dioceses, temples, iconostasis, Israeli communities are governed by law 1905, but Islamic mosques are governed by law 1901. The bill provides incentives to transfer their legal status to law 1901. Any funding, of course, comes from a third country and exceeds ten thousand euros must be pre-approved by the prefect, who can oppose if he deems that a fundamental interest of society is threatened, while for the common unions of law 1901 if they exceed 153,000 per year. Also, any transfer of a church to a foreign state, organization or tax resident abroad must be declared in advance and the administration may object to the sale in case of a real, immediate, sufficiently serious threat to a fundamental interest of society.

Finally, the fifth keystone is related to education. The law of 1882 established home teaching. Previously, the declaration to the ministry was sufficient for the withdrawal from school, if it met the pedagogical criterion that the ministry controlled every year, while now the status of the declaration changes to the status of the previous licensing, if there are reasons of health or disability of the child , a long distance from home from a school complex or family mobility, particularly intense artistic or sports activities of the student and educational plan, and is in the general interest of the student. This change was made to reduce the phenomenon of being pulled out of the system to enter suspicious schools.

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Themistocles Raptopoulos
Dr. Of Constitutional Law, University Panthéon-Assas (Paris II)

The relationship between laïcité and freedom of expression. Laïcité is first mentioned in the 1905 law, but only explicitly in later constitutional texts on the popular character of the state. The question is whether laïcité arises from the 1905 law or simply sets out part of this normative principle of neutrality. Although it is accepted that the laïcité establishes state relations, the 1905 law also criminalizes interpersonal relations, since the exercise of religious freedom is impeded, which has probably never been implemented and has never initiated criminal proceedings based on that provision. The second part that has been implemented concerns the same separation of church state and what this regulation normally means, that is, an absolute guarantee of religious conscience and protection of expression, which, however, is subject to restrictions of public order and of other rights. From the principle of freedom of religious expression and the differentiation of church and state, it can be concluded that the first functions neutrally as a guarantor. The same rapporteurs of the law saw in the neutrality of the state the conceptually necessary guarantee of religious freedom. There can be no effective guarantee if the state itself is not strictly neutral. There is no distinction of purposes. Equality ensured by neutrality is what in turn ensures religious freedom. It is understood that there is a need to restrict religious expression, as certain modes of expression may in fact have such an impact that they may affect their own exercise of religious freedom.

Both in France (Declaration 1789) and in the ECHR there are two different provisions on freedom of expression and religious freedom (see art.9 and 10 ECHR). Two types of expression: speech and behavior. As far as laïcité is concerned, first of all it is not about the linguistic energy, but mainly attitudes expressive of religious beliefs. In 2004 there was a law that forbade students to wear emphatic religious symbols with two arguments, real and ethical. The first is that these are schoolgirls who were socially pressured to wear headscarves and the second is that youth should grow up in an environment where one should be free to shape one's religious beliefs. The question is the limits of the scope of laïcité. Except the

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narrow core of interaction, can laïcité impose restrictions in other wider areas of the public sphere, for example the accompanying mother of her child with a handkerchief? And can the logic of neutrality be applied if it offends the individual's claim not to offend the sense of religious freedom as an individual? However, the legislator has specially regulated the possibility for private companies to provide for the prohibition of obvious religious symbols in their internal regulations.

Eleni Kalampakou
Lawyer, Dr. of Constitutional Law

Patti's assassination intensified the dialogue in defense of freedom of expression, but also the contradiction in it when the headscarf and burqa are banned in a public sphere with strong anti-Muslim rhetoric and the greatest far-right force in Europe. In such cases, the actions of the perpetrators should not be considered to be due to their insult by the cartoons, as it would underestimate European Muslims who may accept insults and restrictions, but do not endorse or approve of violence. It also leads to silencing through self-censorship or even state censorship for fear of inciting terrorism.

In relation to religion, the case law of the ECtHR on the restriction of art and expression could be said to be conservative. It was confirmed by a relevant decision in 2018, which does not concern the freedom of art, but the insult of the Prophet Muhammad. The decision is the E.S. v. Austria and refers to the following: when a far-right party organized seminars entitled "Introduction to Islam", open to the general public after a simple registration, the rapporteur, Mrs E.S. characterized, among others, Mohammed a warlord, a pedophile and unsuitable as a role model. That is why a journalist sued in the prosecutor's office, prosecuting her for inciting hatred, but it was withdrawn for lack of sufficient grounds. However, the court reversed the charge and convicted Ms. E.S. to a fine for defamation of a person of religious worship.
Mrs. E.S. appealed to Strasbourg invoking a.10 ECHR. In short, the reasoning of the Court was that the believers of any religion should tolerate criticism, denial of their beliefs or even hostile views on them. The state has an obligation to safeguard their religious feelings and to ensure peaceful coexistence. That is why it can restrict freedom of expression. The holder of right has the responsibility to avoid as far as possible statements that are unjustifiably offensive and contemptuous in relation to persons of worship. In this case, statements are criminalized that can hurt religious feelings and cause justified indignation in the faithful by endangering

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religious tolerance. The seminars were open to non-party members and the title was misleading with reference to objective information. So, those who watched, were exposed, without being able to predict it, to statements that could hurt the feelings of the faithful or even cause their justified indignation. There was not a sufficient real basis, while the historical context of the time is not taken into account and therefore it is not objective. Thus, on the basis of a wide margin of appreciation recognized to the State, the authorities can decide whether restricting freedom of expression is necessary to ensure religious peace, and it has been found that there has been no violation of Article 10.

This decision was criticized by the theory, because it continues a long case law of the ECtHR starting from the Otto-Preminger-Institut case and several other decisions with a party state mainly Turkey and the ECtHR to judge ad hoc. The E.S. recognizes a wide margin of appreciation in the states because it argues that there is no common European understanding of the terms of protection against attacks on religious beliefs. This, however, is not the case, because at least 4 Council of Europe texts state that it is neither necessary nor desirable offenses to offend religious sentiment, without the element of incitement to hatred, that the crime of blasphemy must be abolished and that this that should be punished criminally is incitement to religious hatred. In the decision of the ECtHR, therefore, the blasphemy indirectly returns, criminalizing the expression that offends the feelings of the faithful. Another point of criticism is the confusion of the jurisprudence on the protection of religious sentiment with that on protection against defamation. The ECtHR considers the direct link between the insult that Muslims may suffer and the possible damage to religious tolerance and social peace. As if there is a perception that believers cannot tolerate opposing or even offensive expressions about their religion, while the crucial thing is whether the speech that is made public with intent incites violence or discrimination or insults a person or group of people based on their religion.

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Summer School
on
"Religion(s) in the European Constitutional Legal Order"

20-25 September 2021
Konstantopoulos Conference Hall, Faculty of Law of the Aristotle University of Thessaloniki

Organized by:
Jean Monnet Centre of Excellene "European Constitutionalism and Religion(s)"
in collaboration with the Law School of Nicosia University, Cyprus, and Center for religious studies at Fondazione Bruno Kessler, Italy

PROGRAM

MONDAY 20 SEPTEMBER 2021:

- **Christos Tsironis, "Religious Traditions in Late Modernity: The challenges of Modernity"**

- **Despina Anagnostopoulou, "Inter-religious dialogue frameworks in the European Union"**

The interfaith or interreligious dialogue aiming at peacebuilding, understanding and cooperation between churches, religious associations or communities and philosophical and non-confessional organizations has been demonstrated through the years by various initiatives such as The Ecumenical Patriarchate of Constantinople, the Catholic Church, and international organizations, but also by unions formed by churches to represent them in the European Union and the United Nations.

The dialogue was established as churches were no longer efficient only on the national level but were increasingly affected by the decisions of the European Institutions as European Unio (hereinafter: EU) had become an influential political entity and on the other hand, EU had to

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face the increase in migration and religious minorities, extremism and security, but also intended to come closer to Society, institute principles and values and gain legitimization. It must be mentioned that the dialogue under Article 17(3) TFEU differs from the EU dialogue with representative organizations and civil society under Article 11(2) TEU. Although both have the same characteristics (open, transparent, and regular), the first one is considered a distinct form of wider dialogue with civil society. However, it is considered that the dialogue referred to in Article 17 TFEU may, in certain cases, be substituted for dialogue with civil society.

The European Commission maintains a regular dialogue with interlocutors at various levels. It is clarified by the European Commission that the interlocutors must fulfil just two conditions: be recognized or registered at national level and respect European values (without having to demonstrate that they comply with them in their internal operation). Regarding the European Parliament, whose President shall give a Vice-President the responsibility to conduct the dialogue and to submit an annual report to the Parliament's Bureau, it shall conduct the dialogue at annual conferences, as well as in public and internal meetings with experts with the help of a secretariat to administer the dialogue and further administrative support. The Parliament hosts several high-level conferences each year and there are dedicated pages of Parliament's website to increase transparency and awareness.

Intercultural dialogue (ICD) is framed as an alternative policy response to globalization-induced challenges of cultural diversity. ICD encourages a way of thinking beyond a mere "tolerance of the other" involving creative abilities that convert challenges and insights into innovation processes and into new forms of expression. European citizens, and all those living in the EU temporarily or permanently, should therefore have the opportunity to take part in ICD and fulfil their potential in a diverse, pluralist, solidarity-based and dynamic society. Contemporary societies must cope with the crisis of democracy in many forms, as for example marginalization of "other" ethnic origin or religious minorities, extremism, xenophobia, populism. To reduce these phenomena, one should seek solutions among reducing resentment (reducing austerity), opposing racism and reducing social division and injustice, increasing security of citizens, launching a communication strategy in favor of migrants and minorities.

Since the Treaty of Amsterdam and especially since 2015 the European Union has intensified its work on the development of intercultural dialogue and of intercultural skills, especially in the framework of the refugee crisis and the terrorist attacks. Therefore, the Commission proposes at national and European level the development of constructive intercultural dialogue with religious and humanist organizations and public discourse and promoting inter- and intra-faith dialogue platforms. The participation of immigrants in the democratic process and in the formulation of integration policies supports their integration.

ICD is important for social cohesion, intergroup solidarity, and intercultural understanding,

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but these objectives are undermined due to lockdown rules and the restrictions on almost all forms of direct human contact and mobility. In addition, the pandemic itself has unfortunately generated new forms of ethno-cultural racism, intensified inequalities, and further exposed systematic structural. To confront Covid-19 cross-cultural, inter-group solidarity must be promoted, [as religious leaders from 13 different faith traditions around the world did by holding virtual interfaith exchanges 'for hope and solidarity' broadcasted widely on Facebook.] Furthermore, local government interventions must be organized to support vulnerable communities by providing direct material support such as housing and micro-finance; facilitating recreational and creative inter-generational projects; and targeting support for migrants and foreign workers. But also,
should enhance engagement in anti-racism activism.

In conclusion, the power of religion, religious communities and religious leaders continues to be great in our societies and enjoy an autonomous status in our societies incorporating the beacons for the values we live for. On the other side, the EU maintains formal religious dialogue with the religious leaders and enhances a typical inter-religious dialogue with the members of different faiths to deal with human rights, dignity and non-discrimination, migration, and social cohesion for a democratic pluralist "European Society".

- **Nicolaos Maggioros, "Church-State Relations in Europe and in Greece. A study based on the Proceedings of the Greek Parliament"**

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TUESDAY 21 SEPTEMBER 2021:

- **Ioannis Papadopoulos, "The Notion of 'Reasonable Accommodation of Religion' in American and French law, and Social Practices"**

Since the moment that in the West faith in God ceased to be the regulator of social life, we entered the field of Modernity. Modernity is characterized by a radical desacralization, which today reaches the limits of resacralization. However, this elimination of the metaphysical element has created a vacuum, the management of which raises a variety of problems in democracy.

With the rise of Modernity, attachment to God ceased to be self-evident and the church-state separation built the foundations of a secular society that secularized life in all its forms. In essence, this replacement was experienced as a liberation of freedom of conscience from the shackles of socially imposed religion. This release, however, is accompanied by a metaphysical crack, a sense of abandonment of innocence.

Comparing the Modernity of the 16th century with the Postmodernity of the 21st century, there are two points of intersection: First, a new religion appears that overturns the Western data until then (the 16th century is marked by Protestantism, while the 21st century by the establishment of European Islam) and secondly, the source, dissemination and control of knowledge is deregulated, given that in the 16th century typography appeared, while in the 21st century, respectively, the Internet plays a radical role.

The modern post-modern era is characterized by an ardent search for the resacralization of social life. The two crucial Latin terms, regilare (meaning "reconnect") and credo (that is, I put one in a reciprocal relationship, where I believe in "his vital force" and the other in mine) are the cornerstones of a social contract. , which has been gradually broken since the 16th century with the arrival of Modernity. This gradual rupture turned into a rift in the 18th century with the advent of the Enlightenment and the French Revolution. The primary project of the French Revolution was the end of religious rule in public life, while at the same time the trilogy of disbelief (Marx, Nietzsche, Freud) appeared, which aimed at complete independence from religion. This goal was largely achieved with Modernity. It is worth noting, of course, that the ultimate goal of the French Revolution was not social atheism. In essence, they sought to subjugate religion into the hands of the political and to replace the Christian faith with the establishment of the worship of an indefinite and deistic "Supreme Being."

One should not ignore the innate need of the individual to believe, in order to be able to form his own identity and personality. Inevitably, it is considered impossible to build a society cut off from any faith. It is, therefore, obvious the reversal that has taken place today in comparison with the frenzy of Modernity. However, faith has acquired a different, broader and often amorphous conceptual content compared to the pre-existence of Modernity. That

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is, there is no talk of belief in a religion or some gods, but it could be portrayed as the irresistible mental need that pushes us to build a common ideological society together.

The main goal of Modernity was the replacement of religion by science and the achievement of desacralization. In fact, religion and science are not two completely different concepts, given that science perceives itself as an omnipotent and absolute regulator of everything. It is therefore a continuation of the old Judeo-Christian religion with secular elements.

The modern triptych "science - technology - politics" is going through a period of crisis in the post - modern era. Prosperous scientific and technological progress, and especially technological, has reformed societies, giving them an even colder and more mechanistic character. However, this condition brought about by science and technology is based in part on unsubstantiated foundations, as is the case with religion (eg the capitalist belief in the "invisible hand of the market", that is, the market is self-regulating and that it will find on its own a rational point of equilibrium). In other words, science and technology have at their foundations a desacralized religious faith. Science reflects the last remaining fortress of all those secularized religions that have lost their credibility. However, it needs to be emphasized that science is not omnipotent and cannot explain everything, contrary to the notion adopted at the height of Modernity. Science must be reconciled, but at different levels of discourse, with religious belief.

The postmodern condition is stigmatized by the following paradox: the simultaneous need for faith on the one hand and the impossibility of faith on the other. This is an extremely suffocating condition, according to which societies are in a crisis of faith, but at the same time realize how unbearable the lack of possibility of faith is.

In parallel, however, the post-modern treaty has established moral relativism, which undermines democracy. Moral relativism stems from skepticism, according to which everything is questioned, and applied in an anarchic way to all areas of knowledge and social life. Now, this inability to establish a hierarchy outcomes into nothing being believed or everything being made credible as well as the attribution of the same moral value to everything, in the absence of an acceptable value system. The need for faith is replaced by an extremely dangerous and malicious conspiracy theories, with the Covid-19 pandemic as a typical example, where everyone adopts their own truth and opinion about vaccines. There is no commonly accepted right reason. Instead, there is a very high level of distrust and difficulty in accepting the authorities. In this context, from the modern man, who did not believe in anything, in order to abandon the religious faith, there was a transition to the post-modern man, who believes in everything and makes his impulse knowledge. In this anarchic landscape of deregulation, there is a nostalgia for the control of the priesthood, which at least delimited and controlled the faith. Democracy has become a "democracy of the righteous" and is dominated by the paganism of images, among which it becomes extremely difficult to see what is really worthwhile.

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The result of this total deregulation is the dark side of faith: religious fanaticism (fundamentalism) and religious radicalization. This development is found in the West mainly with the Islamic Jihad. Jihad reflects a perverted, convincing to death retrieval of the experience of faith that is fundamental to human existence. Jihadism gives a reason to unite Europeans, who have no orientation or reference point, and re-invades the sanctuary. This re-invasion, however, is not a return to the religious faith and the classical religious belief as we knew them, but in fact it is a desperate search for a certainty where the certainties have collapsed. In this way, faith is understood in a completely different way and religion has been extreme and radically individualized as the ultimate expression of our individuality. In contrast to the past, where secular or religious ideals united (religare) the individuals of a society, in modern times there is an identical and enclosed belief, which everyone forms with their own personalized tools of faith and leads not only to alienation, but even in the desire to neutralize the rest as enemies.

Finally, a reinterpretation of the concept of faith, of the sense of sanctity, is required, without necessarily bearing a religious sign, in order to renew the need for faith. In order to deal with the current condition, we are required to give a new content to the sanctuary, which combines connection (religare) and renewed morality. In other words, the modern meaning of the sanctuary is a moral attitude of connection with the rest. Modernity has taken us out of religion, but not out of the need for faith and transcendence, whether it is secular or religious. In essence, this is an exit from classical religion and a re-entry into a universe where this opposition between reason and faith will be abandoned forever. Otherwise, man will never be able to be complete.

- **Dafni Lima, "Combating Discrimination through Criminal Law: European Union Legislative Initiative on Hate Crime, Hate Speech and Discrimination on the basis of Religion and Other Characteristics"**

The issue at hand is the crime of intolerance and discrimination based on religion and other protected goods. In these crimes, the motive, the choice of the specific victim is what is contrary to the dogma of criminal law about the punishment of the act itself and requires special attention, so that there is no extension of criminal repression. In Greece, there has been a ban on discrimination based on racial or ethnic origin since 1970, in 2008 there was a framework decision to combat racism and xenophobia, especially hate crimes, while in 2013 the European Parliament passed a resolution to strengthen the fight against racism, not only in the legal context of hate crime, but in mechanisms of visibility by adopting a political commitment.

The types of these crimes are divided into hate crimes, hate speech, malicious denial, approval or humiliation of international crimes and discrimination in the transaction of goods and

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services. The term "hate crime" first appears in the US and is associated with prejudice. In this crime, however, there is the danger of expanding the repression, which is contrary to the principle of proportionality, because of the empirically felt. It does not matter if the discrimination is real or perceived by the perpetrator. The question of the extent of the above-mentioned crime arises in relation to victims by association, such as for example a married to a Christian Muslim. Hate rhetoric needs classification, which is resolved by the Council of Europe and the ECtHR. Its limits are blurred, especially regarding freedom of expression, and a restrictive interpretation of the provisions criminalizing speech is required. The third case is a rare case of a crime of opinion, hence the historicity of the instrumentalization of a pseudo-historical point of view as means of exclusion and oppression, as well as the degree of intensity of the relevant oppression, can serve as a guide. Discrimination in transactions, abolished under the new Greek penal code, consisted in the practical contempt of the victim, the denial of his or her own human capacity. According to the author, the core of human dignity should be protected as a legal good.

Finally, despite the steps in the fight against discrimination, there are points that can be corrected, such as the establishment of atheism and religious beliefs in general as a protected feature, especially in a country like Greece, where there is no complete separation of state and Church. After all, criminalization is the ultimate means of social control and rather indicative of a failure of state and social anti-discrimination mechanisms.

- **Konstantinos Papastathis, "Religion and the Radical Right in Greece: Discourse Analysis and Electoral Behaviour"**

The main thematic axis of Mr. Papastathis' presentation is the theoretical and empirical investigation of the relations between the Greek radical right party family and the institutional Orthodox Church of Greece during the last two decades (2000 - 2021). The radical right parties that fall within the scope of this research are the Popular Orthodox Rally (LAOS, 2000 - 2015), Golden Dawn (1980 - 2020), Independent Greeks (ANEL, 2012 - 2019) and Greek Solution (2016 -).

As a preliminary, a dominance of the ideological axioms of the radical right and a hegemonic role of the Greek Orthodox Church is established, which is analyzed in the following three dimensions: the 'established' religious institution (legal perspective), high religious commitment (structural perspective) and the relatively strong influence of the split of secularism (political perspective). The data to be used for the research are drawn from party documents, church documents and the European Election Studies dataset. The methodology used is Essex School of Discourse Analysis.

The first question that arises concerns the concept and the place that the radical right parties attribute to the Orthodox Church in their dialogue. In broad strokes, the family of the Greek

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radical right promotes the non-secular character of the Greek political operation. On the one hand, for Golden Dawn, the religious agenda constituted part of its 'identity politics' strategy and orthodoxy was more associated with national 'belonging' than with 'faith' per se. On the other hand, the parties of LAOS, ANEL and Hellenic Solution are inextricably linked to the Church. Their religious agenda is equally based on both 'belonging' and 'faith'.

As regard to nationalism, the radical right parties equate Christianity with the national belonging and/or European identity and Orthodoxy becomes a criterion of exclusion. However, being secular or agnostic is not a criterion of exclusion, because what mainly matters is cultural otherness. For the parties of LAOS, Golden Dawn and Greek Solution, this conceptualization of Christianity reinforces xenophobia in their political agenda. On the other hand, ANEL followed a more pro-immigrant attitude, basically due to their alliance with SYRIZA, and The identification of religion and nation, was more conceptualized as a tool for cultural self-determination, rather than as implying a spirit of hardline exclusionism. Hence, a distinction between hardline and soft radical right parties emerges.

Regarding Islamophobia, LAOS, Golden Dawn and Greek Solution consider Islam as an enemy that threatens the Christian value frame. In fact, according to Golden Dawn, Muslims should be targeted by the party's militia. While ANEL perceives Islam as a threat, but they do not use hate speech or representation of Muslims as terrorists.

Examining the populism of the radical right, the "people" is identified with the Greek nation and being Orthodox is a requirement to be part of the "people". The interaction between RR populism and the religious repertoire is based on the politicization of the traditional value system, as a pool for defining the 'enemy' in cultural terms, blending with conspiracy theories and Euroscepticism. The clergy is not part of the elites, but of the "people".

The protection of church agenda forms a "signature" issue of the radical rights platform. In this context, Orthodox Church as the official state religion, enjoying a preferential status, tax privileges and state funding, limited religious freedom (especially by Golden Dawn and the Greek Solution), compulsory religious education of confessional character, and the family value setting are promoted.

Analyzing the relationship between religiosity and electoral support for radical right parties based on data drawn from European Election Studies for the years 2009, 2014, 2019, we conclude that the effect of stronger religiosity on the probability of the individual to vote for a radical right party follows an ascending path: in the 2009 European elections it is observed that stronger religiosity did not exert a significant influence, in 2014 it increases to a small extent the probability of the individual to vote for radical right party, while in 2019 it plays a decisive role in the voting of such parties.

The empirical findings demonstrate the absence of substantial support by the religious electorate in favor of the party family. This result is contrary to our hypothesis that the religious electorate has aligned itself to the RR parties, due to the ideological proximity.

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In addition, the religious discourse has contributed as a 'cultural' factor to the radical right parties' growth. In particular, Orthodoxy has become an element of national identity, intensifying nationalism, promoting orthodox anti-Westernism, fostering Euroscepticism and fostering Islamophobia.

In the context of religious discourse, there is a division within the Church on the refugee issue. The parties of the radical right and the Orthodox Church converge in the area of human rights, LGBTI rights, ethnic and religious minorities. The Church refrains from any participation in the cordon sanitaire against the part family both in terms of ideology and political alliance, and has not condemned officially the agenda and the practices of the radical right parties.

From the above it can be concluded that the parties of the radical right are differentiated regarding the use of the religious value frame in the context of their political discourse.

It seems that LAOS, ANEL and Greek Solution employ religion not only instrumentally, but genuinely as well. Moreover, although there is no homogeneous religious discourse regarding the radical right political platform, the orthodox religious discourse has partially contributed to the social legitimization of the latter's propaganda. Lastly, despite the ideological overlap and the Church's neutrality vis-à-vis the radical right, the empirical evidence suggests that the religious electorate has not aligned itself to any of the radical right parties since 2009.

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WEDNESDAY 22 SEPTEMBER 2021

- **Angeliki Ziaka, "Islamic Law and Human Rights. Local realities and global impacts"**

- **Lina Papadopoulou, "Freedom of Speech and Religion"**

Starting from a historical look, we observe the transition from the heresies to the identification of state and church, followed by the transition to a multi-religious society and a liberal state. In some countries blasphemy and / or defamation of religions are criminalized, for example in Greece blasphemy and defamation of religion was penalized with imprisonment until 2019, when the relevant Article was abolished. In general, there is a tendency in modern western states to abolish this delict. In this context, the following question arises: Which is the protected good in such delicts?

According to the definition adopted by the Recommendation (97) 20 of the Committee of Ministers of the Council of Europe, the term "hate speech" covers all forms of expression, which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred, based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin."

It is worth noting that hate speech relates also to religion. At EU level, Council Framework Decision 2008/913/JHA "on combating certain forms and expressions of racism and xenophobia by means of criminal law" widened the constituent elements of the offence of hate speech with regard to religion, as well as hate speech by ministers or other representatives of religious communities.

Considering hate speech as a deviation from freedom of expression, the latter is not only a fundamental right, but a cornerstone of a democratic society. Its protective scope includes shocking, disturbing and offensive speech. Nevertheless, Article 10 para 2 ECHR allows for restrictions which are prescribed by law and proportionate, suitable to promote legitimate aims pursued and necessary in a democratic society. States enjoy a margin of appreciation checked upon by the Court.

The case law of the ECtHR deals with hate speech in two ways: when the speech endangers or negates the fundamental values underpinning the Convention, it is considered as falling outside the protective field of Article 10 ECHR and Article 17 of the Convention (prohibition of the abuse of rights) is used as the legal basis. On the other hand, when the hate speech is not capable of undermining the convention values, it may be limited based on Article 10 para 2 of the Convention.

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The rationale of prohibiting hate speech is preserving the equal dignity of all. Professor Silvio Ferrari refers to the 'right' to self-preservance. The issue that emerges is whether procedural or substantive democracy and freedom is preferred. It is notable that the latter is protectionist and paternalistic, while the former may result to exclusion of minorities of all kinds. In essence, the prohibition of hate speech is the price democracy has to pay in order to secure itself.

Within this framework, a number of questions arise: should free speech of those expressing religious hatred, be narrower, so that the protection of the religious communities is enhanced compared with "communities" of national, ethnic, gender, or sexual minorities, or wider? Should free speech of religious ministers be wider or narrower against other groups? Can they rely on religious freedom and autonomy of religious communities in order to enhance their right to free speech?

Answering the first question, it is necessary to clarify that blasphemy and religious defamation are not forms of hate speech. In particular, both blasphemy and defamation of religion attack ideas, beliefs and practices, unlike hate speech, which leads to attacks on individuals, including incitement to hatred and even violence. However, serious doubts are raised as to the conceptual possibility of such a differentiation. Only on a case-by-case (ad hoc) such a distinction basis is possible. The difference between blasphemy and religious defamation on the one hand and hate speech on the other lies in the fact that the offences of blasphemy and defamation are possible enemies of free speech, while the prohibition of hate speech is a legal means in order to protect the equal access of all individuals to the public discourse, thus securing freedom of expression.

Regarding the question of the relationship between religious communities and other racial, ethnic, or other minorities, the argument in favour of differentiation is that membership of a religious group has been chosen or can be changed by everyone, as opposed to race, colour, descent or nationality. There are, however, conceptual and empirical objections.

With regard to the third question, it should be underlined that the religious ministers' role is to guide faithful persons. Under no circumstances may they abuse this competence and adopt hate speech against non-members of the community not contained. A typical example is the case of the Metropolitan of Kalavryta, Amvrosios, who made improper characterizations against homosexuals and encouraged indecent behaviour against them on his website. According to Article 196 of the Greek Penal Code every religious minister who, while exercising his duties, or publicly abusing his position, incites to hatred against other persons is punished with imprisonment up to three years. Also, Article 1 para 1 of the anti-racist law forbids hate speech against persons based amongst other characteristics also sexual orientation. In 2008, Amvrosios was found "not guilty" initially. In its decision No. 858/2020, the Supreme Civil and

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Criminal Court of Greece found the Metropolitan guilty of using hate speech. Such cases should and can be differentiated from expression of religious belief, guiding the members of the community and the firm opposition against, for example, homosexuality as such.
In conclusion, the basic dilemma ultimately lies in: procedural or substantive democracy and freedom?

- **Mark Hill QC**, "**Legal entity status: Challenges for churches and states"**

The issues raised in the context of Mark Hill's presentation are: the rationale for entity status, international rules on legal entity status and registration, and the relevant ECtHR case law. The rationale of establishing legal entity status lies in facilitating religious freedom through the granting of privileges and benefits, as well as controlling religious groups by imposing restrictions. According to Article 18 of the Universal Declaration of Human Rights, religious freedom includes freedom to manifest one's religion or religious beliefs in community with others.
Freedom of religion is inextricably linked to autonomy and self-determination. Doctrine is not justiciable and it is necessary to define the extent of the State's legitimate interest in the exercise of this fundamental right.

But why exercise the right to entity status? The answer is to be found in the various benefits it offers, such as entering into contracts, hiring employees, application for permits, grants and tax exemptions. The absence of entity status would mean the inability to manifest the associational or communitarian aspect of freedom of religion, as emphasized in the Guidelines on the Legal Personality of Religious or Belief Communities (2014).
It is worth underlining that acquiring entity status is a right, and not an obligation, i.e. its protective scope includes the freedom not to register and acquire legal entity status, removal and re-registration, while no penalty is imposed in case of non-registration.
The right to entity status is protected by several safeguards set out by both the European Court of Human Rights and the Guidelines of the Organization for Security and Cooperation in Europe, in order to limit state power and prevent any arbitrary action by the state. Nevertheless, certain conditions for acquiring a legal entity are still provided for which are in fact used as mechanisms to prevent registration, e.g High minimum membership requirements, long period of presence in the country.

Additionally, it is impermissible to refuse registration to legal entities with foreign headquarters and overseas leadership. Registration should not include a substantive review of the truth or legitimacy of religious beliefs, while at the same time enquiry into doctrine or delegation to "expert panel" or secular body is prohibited. Registration should not require structuring the religious body in a particular manner.
Finally, the case law of the ECtHR is of particular interest, which stresses the fundamental importance of the acquisition of legal personality for the exercise of religious freedom in a pluralistic society and enshrines the prohibition of unjustified state interference.

THURSDAY 23 SEPTEMBER 2021:

- **Vincent De Gaetano, "Misconceptions about the European Court of Human Rights - an insider's view (with a focus on religious freedom cases)"**

Mr. De Gaetano's presentation sets out the guidelines laid down by the ECtHR with regard to the right to religious freedom, with particular emphasis on the following judgments:
In *Lachiri v. Belgium*, the applicant was excluded from the courtroom because of her refusal to remove her Islamic headscarf. Building on its reasoning, the Court confirms its previous case law, according to which wearing the hijab can be regarded as an act motivated or inspired by a religion or religious belief. In this context, the applicant's expulsion from the courtroom because of the refusal to remove her hijab constitutes an interference with the exercise of her right to religious freedom. This restrictive measure must be examined in the light of Article 9 para 2 of the ECHR, namely whether it is prescribed by law, whether it serves one or more legitimate aims set out and whether it is necessary in a democratic society for the pursuit of this aim or aims. Given that the restriction is required to be provided for by a domestic law accessible to the applicant and foreseeable as to its effects, the Court expressed doubts as to as to whether this condition is fulfilled in this case, because of its inconsistent application.
However, the Court does not insist on this issue, since the infringement of Ms. Lachiri's religious freedom violates the Convention, because it cannot be deemed necessary in a democratic society. In particular, the imposition of the restrictive measure in question was not aimed at defending secularism and democratic values, but at preventing a demonstration of disrespect for the Court or disruption of the orderly conduct of the trial. The objective pursued was considered to fall within the protection of public order, as defined in Article 9 para 2 of the ECHR. As regards the necessity of the measure in question, however, the Court observed that the applicant was not a representative of the state and therefore, she was not subject to the obligation of discretion when manifesting her religious beliefs in a public place. Moreover, although it was established that a Court is a public institution, in which the

protection of religious neutrality could prevail over the expression of religious beliefs, in the present case this objective was not served, but only the safeguarding of public order. In that regard, it has not been established that the applicant's attitude was disrespectful to the court or likely to obstruct the smooth conduct of the proceedings. Thus, there was a breach of the Convention.

The importance of the protection of secularism is illustrated in *Dogru v. France*. The starting point of the case was the expulsion of the minor applicant from school because of her repeated refusal to remove her headscarf so that she could participate in physical education and sport classes. In the present case, however, the Court held that the restrictive measure at issue did not violate the Convention because it served to the safeguarding of secularism in public education. Secularism provides the guarantees for the respect of women's rights and reflects one of the fundamental principles in harmony with the rule of law and democracy, setting safeguards for the equal treatment of all citizens. In a democratic society, where many religions coexist, the expression of religious freedom could be limited in order to reconcile the various interests at stake for all groups and to safeguard respect for the beliefs of all individuals. In this context, it is for the national authorities' responsibility to ensure that in accordance with the principle of respect for pluralism and the freedom of others, the manifestation by pupils of their religious beliefs on school premises does not take on the nature of an ostentatious act that would constitute a source of pressure and exclusion. Consequently, the penalty at issue was compatible with the Convention.

The Court followed the same path in *Ebrahimian v. France*. In that case, the applicant was recruited on a fixed-term contract within the public hospital service as a social worker in a public hospital and her contract was not renewed as a disciplinary measure imposed because of her refusal to stop wearing her veil and the complaints made by a number of patients of the hospital. The measure in question constitutes an interference with her right to manifest her religious beliefs. The legitimate aim of its imposition is secularism, namely the safeguarding of the religious beliefs and spiritual orientations of all patients in the hospital, thus promoting equal treatment of them. Therefore, the national authorities, within the wide margin of appreciation accorded to them, gave precedence to the neutrality of the public hospital service and prohibited public servants from expressing their religious beliefs in discharging their duties. Against this background, according to the majority of the Court, the measure in question was legitimately adopted when it was found that there was no possibility of reconciling the

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applicant's religious convictions with the obligation not to manifest them, giving priority to the need for neutrality and impartiality of the State.

Mr. De Gaetano expressed a different view, arguing that Article 9 of the Convention had been violated in this case. In particular, he described as quite weak to contradictory the attempt to specify in this case the abstract principle of secularism which requires a blanket prohibition on the wearing of religious symbols by public officials during the performance of their duties. The core of the decision seems to be the impossibility of guaranteeing an impartial service by public servants who manifest their religion in the slightest way, even though quite often, from the very name of the official displayed on the desk or elsewhere, one can be reasonably certain of the religious affiliation of that official. In conclusion, Mr. De Gaetano stresses that the wide margin of appreciation of the States is subject to limits and the case at hand is dangerously close to the deification of a constitutional value, undermining the principles underpinning the Convention.

The judgment in *Eweida and Others v. the United Kingdom* was a landmark decision of the Court. The case concerned four Christian applicants who complained about the failure of domestic law to safeguard their freedom of expression of religious belief. In particular, the first applicant, Ms. Eweida, a British Airways worker, and the second applicant, Ms. Chaplin, a nurse in a geriatric clinic, alleged that their employers had prohibited them from wearing visibly Christian crosses around their necks while at work. The third applicant, Ms. Ladele, a Registrar of the Births, Deaths and Marriages Registry, and the fourth applicant, Mr. McFarlane, a counsellor with a confidential sexual therapy and relationship counselling service, complained that they had been dismissed because of their refusal to carry out certain of their duties, which they considered to be incompatible with their religious beliefs.

As regards the first applicant, the interference with religious freedom, given that it was not directly attributable to the respondent State, was examined in the light of Article 9 ECHR. In this context, the restrictive measure was found to be Convention incompatible, as the cross was distinctive and in no way detracted from her professional appearance, nor did it have a negative impact on British Airway's brand or image. The domestic courts accorded too much weight to the aim pursued, namely to communicate a certain image of the company and to promote recognition of its brand and staff. Consequently, the domestic authorities failed to comply with their positive obligation to protect the right to freedom of expression as provided for in Article 9 ECHR.

The Court reached a different conclusion in the case of the second applicant. Considering that the restriction in question pursued the legitimate aim of protecting the health and safety of nurses and patients (e.g. there was a risk of a disturbed patient seizing and pulling the chain with a risk of injury), the purpose of the restriction was inherently of greater magnitude than that pursued in the case of the first applicant. Moreover, the clinic had been following the same practice with other employees, and Ms Chaplin had been offered alternatives (e.g.

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wearing a cross in the form of a brooch attached to her uniform), which she refused. Here the authorities enjoy a wide margin of appreciation and therefore the measure imposed did not violate Article 9 ECHR alone or in conjunction with Article 14. Similarly, as regards the third applicant, the Court held that the national authorities had not exceeded the margin of appreciation available to them. Examining the facts in the light of Article 9 in conjunction with Article 14 of the Convention, it was found that there was interference with the right to exercise religious freedom in comparison with a registrar with no religious objection to same-sex unions and that the consequences of the local authority's requirement that all registrars of births, marriages and deaths be designated also as civil-partnership registrars had had a particularly detrimental impact on the applicant because of her religious beliefs.. Nevertheless, the local authority's policy aimed to secure the rights of others which were also protected under the Convention, which are also protected by the Convention, and a wide margin of appreciation is recognized for the domestic authorities to strike a balance between the conflicting Convention interests.

Lastly, in the case of the fourth applicant, the Court held that there had been no violation of Article 9 of the Convention, since the authorities had acted within the furthest limits of their margin of appreciation. According to the Court, the most important factor to be taken into account was that the employer's action to fire the applicant because of his refusal to provide psycho-sexual counselling to same-sex couples was intended to secure the implementation of its policy of providing a service without discrimination. The State authorities had not exceeded the wide margin of appreciation in deciding where to strike the balance between the fourth applicant's right to manifest his religious belief and the employer's interest in securing the rights of other.

The Court's judgment in the case of *Hamidovic v. Bosnia and Herzegovina* is also noteworthy. The applicant, a member of a local group that advocated the Wahhabi/Salafi version of Islam, was called to appear as a witness to testify at the criminal trial of other members of the group, accused of terrorist offences. He appeared, as summoned, but he refused to remove his skullcap when asked. His refusal was perceived as contempt of court and he was ordered to pay a fine, which was converted to thirty days' imprisonment because of his refusal to pay it. In this case, the ECtHR held that Article 9 of the Convention was violated. After drawing a clear distinction between the wearing of religious symbols by a witness in a criminal trial on the one hand and by a public official at the workplace on the other, the Court stressed that the authorities were required not to neglect the specific features of different religions and the importance of religious freedom both in a pluralistic and democratic society and for each individual who may be motivated by the need to communicate his or her religious beliefs with other people. In this case, the applicant's entire behavior demonstrated his clear submission to the laws and courts of the country. Hence, his punishment for contempt of court on the

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sole ground of his refusal to remove his skullcap was not necessary in a democratic society and the national authorities acted beyond their margin of appreciation.

- **Marco Ventura, "The Formula 'Freedom of Religion or Belief' in the Laboratory of the European Union"**

The formula 'freedom of religion or belief' in the laboratory of the European Union. The approach was based on Article 9 ECHR. 1950-1993, the formula 'freedom of religion or belief' after 1989, and the EU laboratory Outline. It is consisted of a focus on the formula «freedom of religion or belief» (FoRB), a genealogy, historical and conceptual, a hypothesis on the success of the formula, and an inquiry into the formula in the EU laboratory. The sources that have been used are official documents (norms, guidelines, case law), literature, experience in the international organisations (esp. OSCE), but also personal exchanges Mr. Ventura had. It aims to achieve an article in English for the international community, an article for Polish (Catholic) legal experts, and an article acknowledging and discussing the success of the formula FoRB. On the book on Super-religion (M. Ventura, Nelle mani di Dio. La super-religione del mondo che verrà (il Mulino, aprile 2021)) can be found the demand for a bigger (quantitative) and more powerful (qualitative) global religion for sustainable development and the future of mankind and the planet. Religion(s) were pushed beyond consolidated, modern, Western borders (economy, ecology, science, and technology), and so there was a need of a Freedom key to religion(s) engagement and agency, that made a new religious freedom to rise. The formula 'freedom of religion or belief' after 1989 took into account the rise of violence in the name of God, exporting liberal-democracy and human rights, the international mobilization for religious freedom, the American model, and international religious freedom. The role of International organizations, United Nations ('Articles' 18, UDHR and ICCPR), and OSCE should also be mentioned. The raised questioning in particular are the need to include, the definition, religious transformation, belief and non-religion after communist atheism, but also spirituality and lifestyles. Regarding the EU laboratory, it can take many forms, as integration through religious freedom (ECHR system) and integration through the (free) single market of religion (EU). Europe can be seen as a laboratory of nones (unaffiliated) and their rights, as a laboratory of resistence to convergence within and activism outside (2013 guidelines on FoRB outside the EU), and also as a laboratory of translation, linguistic, cultural, and law.

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International Conference

Islam and Human Rights in the European Union

In Memoriam of Prof. Charalambos Papastathis, Emeritus Professor of AUTh

and member of European Consortium for Church and State Research

Organized by:
European Consortium for Church and State Research,
Jean Monnet Centre of Excellence "European Constitutionalism and Religion(s)"
Faculty of Law and School of Theology of the Aristotle University Thessaloniki

Thursday 23 September 2021, Alexander the Great VIP Lounge, Capsis Hotel

Lina Papadopoulou, Associate Professor of Law, Aristotle University of Thessaloniki, Academic Coordinator of the Centre of Excellence Jean Monnet AUTh, **Welcome by Lina Papadopoulou on behalf of the organizing Committee**

1st Session: "Social framework and legal recognition"
Coordination: Miguel Rodríguez Blanco, University Alcalá, Spain

Francis Messner, University of Strasburg,
"Respect human rights by reconciling the rights of Muslim communities and the religious policies of the State"

Konstantinos Tsitselikis,
University of Macedonia
"Old and New Islam: A general framework"

Angeliki Ziaka, AUTh,
"Cultural views on the application of Sharia in Europe and Greece"

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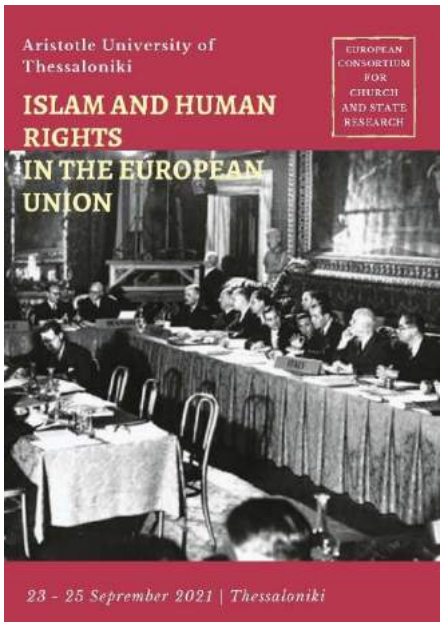
Friday 24 September 2021, AUTh, Faculty of Philosophy, Conference Hall

- **Message by Ecumenical Patriarch Bartholomew (video)**

GREETINGS

- **Ioannis Chrysoulakis,** Secretary General of Greeks Abroad and Public Diplomacy
- **Nikos Papaioannou,** Rector of the Aristotle University of Thessaloniki
- **Mark Hill QC,** Acting President of the Consortium
- **Panagiotis Glavinis,** Dean of Faculty of Law of the Aristotle University of Thessaloniki
- **Nikos Maghioros,** Head of the School of Theology of the Aristotle University of Thessaloniki



You can watch the greetings here

The acting President of the Consortium, Prof. Mark Hill QC offers to Mrs. Despina Tsourka - Papastathis the volume "Proceedings of the XXXth Annual Conference of the European Consortium for Church and State Research" as a symbolic thanking gesture.

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Friday 24 September 2021, AUTh, Faculty of Philosophy, Conference Hall

2nd Session: "Muslims in Europe and in the Islamic World"

Chair: Lina Papadopoulou, Associate Professor of Law, Aristotle University of Thessaloniki, Academic Coordinator of the Centre of Excellence Jean Monnet AUTh – Nikos Maghioros, Head of the School of Theology of the Aristotle University of Thessaloniki

You can watch the 2nd Session here

Evangelos Venizelos, Professor at the Faculty of Law, AUTh, Former Vice-President of the Greek Government

"A general introduction to the topic and a note in memory of Professor Papastathis"

Silvio Ferrari, University of Milan

"Presentation about Islam in Europe based on the data of the Atlas of minorities"

Mr. Ferrari developed his presentation on the basis of a project entitled "The Atlas of Religious or Belief Minority Rights". This project researches both the legal safeguarding and practical implementation of the rights of religious minorities in the countries of the European Union. In his presentation, Mr. Ferrari focuses exclusively on the legal aspects of the project, i.e. the legal establishment of the rights of religious minorities, irrespective of their practical implementation.

The presentation is structured in two sections: the first concerns the promotion of the rights of religious minorities by member states and the second refers to the equal treatment of religious minorities.

Starting with the examination of the first section, the following question arises: to what extent are the rights of Muslim communities promoted in three policy areas: spiritual assistance, education and religious symbols? The countries where the promotion of the aforementioned rights is most encouraged are Sweden, Spain, Estonia and Romania, despite their different legal, cultural and religious background. By contrast, in Italy, Belgium, Greece (excluding Thrace) and France, the protection of the rights of religious minorities is least promoted. This is due to the fact that in the legal orders of France and Belgium the wearing of religious

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symbols, especially those covering the face, is prohibited, resulting in the poor promotion of the rights of Muslim communities in the field of religious symbols. In Greece and Italy, on the other hand, the deprivation of the right of Muslim communities to teach their religion in public schools inevitably leads to the reduced promotion of the rights in question in the policy area of education.

Proceeding to a comparative assessment of the promotion of the rights of the Islamic and Jewish communities, it can be observed that the Jewish communities enjoy a slightly more favourable protection than the Muslim communities, with a couple of exceptions, such as Estonia and Spain. The gap in favour of the Jewish communities is widened even more in Italy, where Jews, unlike Muslims, are entitled to teach their religion in public schools, and in Hungary, where Jews are allowed to have chaplains in public institutions, while Muslims are not. It is worth noting that in Hungary the real reason for this difference is not due to the fact that Jews are more numerous than Muslims, but to the prisons of the Jewish communities in Hungary date back a long time, while the Islamic communities have only started to operate in the last few decades.

Moving on to the next category, that of equal treatment of religious minorities, it is found that Muslim communities in the field of spiritual assistance and education occupy the second place, after the Judeo-Christian community and before Asian religions and new religious movements. However, in the field of religious symbols, they rank last.

From the above, the following conclusions can be drawn, according to Mr. Ferrari: First of all, the rights of Muslims are more restricted in the policy area of education and religious symbols and less restricted in the field of spiritual assistance in public institutions. Secondly, the restrictions on the rights of the Muslim communities in the area of education and religious symbols are imposed in a limited number of countries. This implies that the same problems have been successfully addressed in other countries. Last but not least, the Islamic communities enjoy fewer rights than those recognized for the Christian and Jewish communities.