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Plichtová, Jana; Costantini, Dino; Petrjánošová, Magda

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The State, Religious Pluralism and its Legal Instruments in Italy and Slovakia[1]

Jana Plichtová, Dino Costantini, Magda Petrjánošová

Abstract: *In this paper we analyse how Italy and Slovakia have dealt in practice with the idea of religious pluralism and what legal instruments they have used to ensure it. The history of state-church relationships in Slovakia has been full of abrupt changes due to political changes; in Italy the development has been more straightforward, but in both countries the Catholic Church has had a privileged position. We offer a few suggestions for how today's increasing religious plurality might be handled in a more transparent and just way, using a rather different legal and institutional framework and thus promoting real religious pluralism.*

Keywords: ***religious pluralism, state-church relationship, Slovakia, Italy***

1. Introduction

Europe is becoming a more and more multicultural society. The peaceful coexistence of the different cultures present on its territory is clearly linked to the capability of European states to provide the conditions for equal economic, social, political and symbolic treatment of all minorities. In this sense, an important corollary of its increasing plurality is the fact that the European society is also becoming more and more multi-religious. Thus, the equal treatment of religious groups appears to be a fundamental social and political challenge of today's Europe. But are the European states ready to take it on? And, in particular, do those states that are traditionally mono-religious and without a long history of immigration have the institutional sensitivity necessary to tackle such issues?

In comparing the Italian and the Slovak cases, we will examine two countries of deeply Catholic tradition, with a short history of immigration[2] or none at all. Though the principles of religious liberty and plurality are constitutionally recognized in both countries, in both countries Christianity is considered to be one of the pillars of national identity. This fact has direct consequences for the institutional

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[2] After having been a country of emigration for a century, Italy has only recently started to attract a consistent number of immigrants; Slovakia is still waiting for the phenomenon to begin on a large scale.

frameworks adopted to regulate relations with religious groups. In Italy, the Constitutional Court clearly affirmed the general principle of *laicità* as a fundamental cornerstone of the Italian Republic, defining it not as a strict separation regime, as it is in the well-known case of France, but as an active role of the state in promoting and guaranteeing religious liberty and plurality.[3] The Preamble of the Slovak Constitution goes beyond this, defining the Slovak nation as "the spiritual heritage of Cyril and Methodius", the missioners who brought Christianity to the territory in the 9th century.[4] In Italy, the practical aspects of the relationship between the state and the various churches and religious groups are regulated by special bilateral legislations: the *Concordato*, for the very peculiar case of the Roman Catholic Church, and the *Intese*, agreements signed with representatives of other faithss. A similar situation exists in Slovakia, with the Basic Treaty regulating the relationship with the Holy See, and the Agreement between the Slovak Republic and the Registered Churches and Religious Societies dealing with all other beliefs.

We will first compare the contrasting geneses of these legal instruments. Secondly, we will provide a brief presentation of how they practically play out regarding equal treatment of different groups. Finally we will try to answer the question whether the present institutional frameworks are apt to serve the needs of the increasing religious plurality of today's societies or whether this plurality might be better tackled through different instruments.

2. Historical Note on the Development of State-Church Relations in Italy

From the Separation to the Concordat

One may say that the history of Italy as a modern nation-state begins on September 20, 1870, when Italian troops entered Rome, thus putting an end to the temporal power of the Catholic Church. This violent baptism brought a strict, and in many ways hostile, separation in relations between the new born Italian state and the Church, with the latter representing the great majority of Italy's nationals

[3] See Constitutional Court, Sentence n. 203/1989, posing *laicità* as a "superior principle" of the Italian constitutional system. Other relevant sentences are n. 13/1991, n. 149/1995, n. 334/1996, n. 329/1997, n. 508/2000, n. 327/2002. On the active or *positive* concept of *laicità* in the Italian institutional framework, see S. Lariccia, *La laicità delle istituzioni repubblicane italiane*, in "Democrazia e diritto", n. 2/2006, pp. 89–110.

[4] The missionaries were sent to Great Moravia (western part of present-day Slovakia was part of it) by Michal III, emperor of the Byzantine Empire, on the request of the Moravian ruler Mojmír in 863. To facilitate the diffusion of Christianity among Slavs the missioners created the first Slavic alphabet – the Glagolitic alphabet (later Cyrilic) and translated liturgical texts into the Old Church Slavonic language which was then recognized by Pope Hadrian II (868) as the fourth liturgical language. In 894, when the last king of Great Moravia Svätopluk died, the empire was dissolved and in the liturgy Old Church Slavonic was replaced by Latin.

at the time. The new state was unilaterally regulated through the so called *Legge delle guarentigie* (May 13th 1871). The law gave the Pope a personal legal status similar to that of the Italian King and provided the Church with full diplomatic prerogatives, an annual revenue and a solid independence both in organizational and in spiritual matters. No territorial sovereignty of the Church was recognized, as the immunity of Vatican Palaces was just liberally conceded by the Italian State. The Italian State considered this solution as adequate to guarantee both its own recently acquired territorial and political sovereignty and the spiritual independence of the Church, as the motto "a free Church in a free State" expresses clearly. The intentions of Italian legislators were harshly contrasted by Catholic hierarchies, which refused the legitimacy of the Italian regime, excommunicated its representatives, and prohibited believers from taking active part in the political life of the country until 1913.

A first and still partially effective restructuring of this initial separation occurred during the fascist regime. The school system reform of 1923 (the so called *Gentile Reform*), gave a great place to Catholic faith in primary education, making it compulsory and placing it together as its "fundament" and "crowning piece". The preference given to Catholic faith was a sign of fascist interest towards its *nationalization*, *c'est-à-dire* towards its mobilization as a means of building consensus for the regime itself. On the side of the Catholic Church, fascism – and not only the Italian variant[5] – was perceived as a possible important ally in the international struggle against the spread of modernity[6] and of its most redoubtable by-product, atheistic communism. The result of this convergence of interests were the Lateran Pacts, signed on February 11, 1929. The Pacts profoundly modified the post unitary separation regime, recognizing Roman Catholicism as the only religion of the State, as stated in Article 1. The implications of the new confessional form taken by the State touched a wide range of issues, giving the Catholic Church substantial privileges.[7] At the same time, the State obtained a strengthened link between the Church

[5] This is well documented by the Concordats signed with Austria and Germany (1933), Portugal (1940) and Spain (1953). See Cardia 2002. The Slovak case is presented hereafter.

[6] The most notable anti-modern manifesto produced by the Catholic Church is the *Syllabus complectens praecipuos nostrae aetatis errores,* an annex to the encyclical *Quanta cura* (1864). The idea of an equal respect due to all religions (proposition XV to XIX) was considered an error, as that of the independence of the State from religious power (proposition XXXIX). Catholic Church did not definitively abandon Syllabus' anti-liberal positions until 1965.

[7] Article 34 of the Concordat gave civil validity to Catholic weddings, granting the Church full judicial powers in eventual controversies; article 36 extended compulsory teaching of Catholic religion to secondary schools; article 3 provided religious personnel privileges in relation to the military service; etc. The confessional turn affected the Penal Code too, and in particular its Articles 402–406 and 724: a religious oath was introduced as well as a crime of blasphemy. The code created a crime of "public defamation of religion" that provided for stronger measures in case the offences were committed against the Catholic religion (see Cardia 1996).

and the national army, gained political control over the nomination of bishops and priests, and forbade direct political engagement by all religious personnel.

The Concordat profoundly undermined the principle of equality of all religions, creating a two level system with Catholicism as the privileged state religion on one side and all other faiths perceived as tolerated presences on the other. The discipline of the "admitted groups" was regulated by Law 1159 of June 29, 1929, a law, as we'll see hereafter, which still has perverse effects on religious freedom and equality in Italy (Leziroli 2004). In the following years, religious freedom was severely restricted in practice. Before the approval of the well-known racial laws that struck Jewish communities in 1938, the Buffarini-Guidi Circular had already banned the Pentecostal Church for being "contrary to social order" and "harmful for the physical and psychological integrity of the race".[8] In 1939, it was the Jehovah's Witnesses' turn to be declared illegal and in 1940, the same fate befell the Holy Bible Students' Association.

The Republican Transition

In 1946, the authors of the Italian Republican Constitution inherited from the fascist regime a country where religious liberty was highly compromised. The effort to rebuild its legal preconditions had to confront the societal and political necessities of national reconstruction that advised against contesting the Lateran Pacts and reopening the Roman Question. This was not only for reasons of practical opportunity. A return to the separation regime would not have been fit for a republic whose strong social profile recognizes and guarantees the "inviolable rights of the person" not only "as an individual" but also "in the social groups where human personality is expressed" (Art. 2). At the same time, the State took on not only a duty to formally respect liberty and equality, but also a duty to concretely "remove those obstacles of an economic or social nature which constrain the freedom and equality of citizens, thereby impeding the full development of the human person" (Art. 3).

Though the Republican Constitution provides for ample guarantees for the individual (Arts. 2 and 3) as well as for religious (Arts. 8, 19 and 20) liberty and equality, the separation regime was not re-established, both for theoretical and practical reasons. After stating that "the State and the Catholic Church are independent and sovereign, each within its own sphere", Article 7 provides for their relations to be governed by the Lateran Pacts. The possible contrast between the principle of equal freedom of all religions and the special place that Article 7 left to the Catholic Church in the very heart of the constitution was clearly perceived by the founding

[8] Ministry of Interior, Circular 600/158 of April 9, 1935. The persecution of Pentecostals survived the death of the fascist state, to end only in 1958.

fathers of the Italian republic. The imagined solution to the problem of equality of treatment was built upon the bilateral character of the Lateran Pacts. The idea, expressed through article 8, was that the Republic had to extend the instrument of the agreements to the relationship between the state and all non-catholic groups: the spreading of bilateral agreements would have thus given to all religions the same dignity and privileges enjoyed by the Catholics.[9]

The particular influence of the Catholic Church on Italian political and social life retarded consistently the process of this progressive extension of constitutional protection to religious groups other than Catholicism. On the contrary, a sort of *neo-confessional*[10] mood suggested during the 1950s a *theistic* (Cardia 1996: p.172) interpretation of the constitution, which, having strong political and societal support, enabled a delay in the application of constitutional principles until the 1980s (Cardia 1980, 2002; Lariccia 1981).

The Reform of the Concordat of 1984: Putting Article 8 into Practice

The necessity of a reform gained momentum in the public sphere during the late 1960s. A first proposal of reform was discussed by the parliament in 1967. In 1968, a study Commission (the Gonnella Commission) was formed that led to no result. In the meantime the contradiction between the progressive secularisation of society and the old-fashioned confessionalism of the Concordat became more and more evident. The Concordat, for example, left only to the Church the power to dissolve marriages according to its complicated casuistry. The Fortuna-Baslini Law[11] introduced for the first time a limited possibility of civil divorce. The Catholic Democratic Party organised an abrogative referendum in 1974. The defeat of the anti-divorce party showed clearly that Italian society was moving towards secularization faster than the norm.

In 1976, the Catholic Church and the state agreed to open real negotiations. Six drafts were produced, until an agreement was reached on February, 18, 1984. The revised Concordat abolished Article 1 of the Lateran Tract that established Catholicism as the official state religion. However, the new Concordat substantially confirmed the privileged institutional position of the Catholic Church. For example, while abolishing compulsory religion classes in Italian primary and secondary schools, it extended its facultative teaching to nursery schools. These teachers are chosen and can be fired by the Church – in cases of moral conduct contradicting Catholic principles. For example, they can be fired if they get married in a civil procedure, or if they chose to live together with someone without getting married,

9 Cfr. Art. 8, comma 2 and 3.
10 Cfr. Cassazione, Sentence 2651, of October 23, 1964.
11 Law 898 of December 1, 1970.

or if they give born to a baby out of wedlock but the cost is covered by the Italian State.[12]

Another example comes from the new financing system introduced by the revised Concordat. The new system, based on a voluntary contribution by taxpayers of 8/1000 of their payable personal income taxes, is apparently respectful of individual religious preferences. The procedure for distribution of the funds however, leaves a substantial privilege to the Catholic Church. Even if only 35 % of the taxpayers indicate the Catholic Church as their chosen recipient, 89 % of the funds collected is given to the *Italian Episcopal Conference*, for a total amount of one billion Euros per year.[13] In addition, the Catholic Church is publicly funded through many other indirect instruments: funding of confessional schools[14] and universities, regional conventions on religious assistance in hospitals, fiscal exemptions on estate taxes, etc.

Regardless of its limits, the revision of the Concordat was an occasion to start putting constitutional principles into practice. The beginning of the negotiations with the Vatican coincides with the opening of parallel negotiations with other groups for the production of the bilateral agreements (*Intese*) provided for by the constitution, but never realized before. Three days after the reform of the Concordat the first agreement was signed with the Waldenses Community. In subsequent years several other agreements were signed, in particular with the Assemblies of God in Italy, the Union of Seventh-day Adventist Churches, the Union of Jewish Communities in Italy, the Christian Evangelic Baptist Union and the Lutheran Evangelic Church in Italy.

On April 4, 2007 the Italian government modified its agreements with the Waldenses and the Seventh-day Adventists and signed new agreements with the Apostolic Church in Italy, the Church of Jesus Christ of Latter-day Saints, the Holy Archdiocese and Exarchate of Southern Europe, the Buddhist Italian Union, the Hinduist Italian Union and the Jehovah's Witnesses. These agreements still require laws to become effective.[15]

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12 In 2001, 25,000 teachers, for a cost of 620,000,000 . The data comes from the UAAR website (http://www.uaar.it), which contains useful information on this subject.

13 Data UAAR 2003, relative to fiscal year 2002.

14 Public funding of parochial schools, the great majority being Catholic, has been progressively increased, especially after the approval of Law 62/2000, integrating private schools as part of the national educational system. In 2005, the total public contribution to private schools amounted to 500 million Euros (see Ministry of Education, Circular n. 38 of March 22, 2005). This contradicts Art. 33 of the Italian Constitution that permits the existence of private schools, but "at no cost to the state".

15 On April 18, 2001 Italy opened a procedure – which still has not been completed – in order to reach an agreement with the Italian Buddhist Institute Soka Gakkai. A complete and more detailed list can be found here: http://www.governo.it/Presidenza/USRI/confessioni/intese_indice.html.

3. Historical Note on the Development of State-Church Relations in Slovakia

Czechoslovak Republic (1918–1938)

After the dissolution of the Austro-Hungarian Empire, as one of the successor states, the Czechoslovak Republic had a chance for new state-church relations.[16] The new republic's draft constitution even included separation of state and church, but finally the parliament supported the principle of sovereignty of the state over churches and religious communities (Constitution Charter, § 123). The state took the role of guaranteeing the equality of religious faiths, but also the right to intervene in the internal affairs of churches (through the formulation of norms for the future management of the internal affairs of churches).

In addition, Czechoslovakia was bound by the Saint-Germain Agreement (1919) to guarantee freedom of religion to all citizens irrespective of their ethnicity, language or church affinity. In education the state was inspired by the French concept of a neutral state (*laicité*) – education must not contradict the results of scientific research, but there were religion classes at schools (Constitution Charter, § 119). Also, the rights of minority churches were protected by the constitution, in the same way as the rights of ethnic and racial (in the language of the period) minorities.

In political life the principle of neutrality and cooperation between the state and the churches worked quite well, except for a few cases. Firstly, there were the political activities of clerics in Slovakia who actively participated in politics (maybe because of the lack of intelligentsia in general) and used their sermons for political goals (see Bušek 1931). Secondly, there was an attempt (supported by politicians) to found a new religious tradition which would compete with Catholicism. This role was supposed to be played by the Evangelical Church of Czech Brethren (formed in 1918 through the unification of the Protestant churches of the Lutheran and Reformed confessions) and by the Czechoslovak Hussite Church (which separated from the Roman Catholic Church in 1920). The Hussite Church drew on the general popularity of Jan Hus and Hussite reformers in the Czech lands and in 1921 had already over half a million members. Later, it even had more than one million members, but it never really succeeded in threatening the dominant position of the Roman Catholic Church.

Some years later (1927/28), a *Modus Vivendi* agreement was signed between the Holy See and the Czechoslovak Republic. The Holy See was bound to let

[16] The Habsburgs' policy of political and cultural allegiance with the Catholic Church had utilised Catholicism as a source of common identity for the multinational state and as protection against both national movements and liberalism (Evans, 1979).

the Czechoslovak government assess the political acceptability of new church dignitaries before appointing them and interestingly, Czechoslovakia was NOT bound to guarantee religion classes in schools or church property. The agreement mainly helped to reach congruence between the borders of the dioceses and the borders of the new state.

The Slovak State (1939–1945)

A radical shift in the church-state relations came when, after the Munich agreement (1938), the territorial and political integrity of the Czechoslovak state was compromised. That is, the Czech and Moravian lands were occupied and thus part of the German Reich (1939), and, in accordance with Hitler's plans, Slovakia became an independent state. Jozef Tiso, a Catholic priest and chairman of the Hlinka's Slovak People's Party (HSĽS), became the new Slovak Prime Minister and later President. The ideology of this party – Christian nationalism – conceived nations as God's creations (Tiso 1930/1997). According to it, since religion is above politics, a just government has to conform to its dictates. The integration of the church and state became the cornerstone of the state ideology and helped to justify its politics (Nedelsky 2001). This special relationship could be seen also on a personal level – not only the President, but also several other important functionaries and more than one fifth of the Slovak Diet (parliament) were priests.

Earlier religious (and political) pluralism was fast replaced by the dominance of the Catholic Church, which played an important role in the struggle against ideological enemies – Communists and Liberals. A strong criticism of the principles of liberal democracy and political pluralism can be found in various speeches by Slovak representatives (Nedelsky 2001, Lipták 1999). Tiso himself saw in political pluralism a danger dividing the nation into fighting fractions (Tiso, 1939/1997). Thus, already at the very beginning of the existence of this state, political pluralism was eliminated. All political parties (except for the Communist party which was abolished) had to join the HSĽS party, which was later designated by the constitution as the only true national party. The only exceptions were parties representing the German and Hungarian minorities.

In the preamble to the new constitution (from July 21, 1939) Slovakia openly adhered to the theistic principle – the superiority of God and his will over earthly matters. By replacing the sovereignty of the people by that of God, the Slovak Constitution denied the basic principle of liberal democracy (Jelinek, 1976). The representative leadership was later replaced by an authoritarian elite whose main role was to unify the nation, to protect its unity and to govern with a God-given legitimacy (Kirschbaum 1940/1997). This authoritarian ideology was objectified in Article 58 of the constitution according to which the power of Hlinka's Slovak

People's Party is delegated to its leader without popular consent. In 1942 the Diet (the Assembly) passed a law which established the fascist leader principle according to which the party leader had the supreme right to speak for and make decisions on behalf of the party and, thereby, also on behalf of the whole nation (Lettrich 1955). Freedom of thought was of course severely restricted. It was admitted only when it was in harmony with conscience and Catholic convictions.

Under the influence of National Socialism of Nazi Germany the official doctrine of the state – Christian nationalism – incorporated in its teaching the racist principle. Due to this, Slovak nationalism became ethnically-oriented and exclusive rather than Christian and inclusive. Persecution of Roma and Jewish minorities was very severe, violating all provisions of the Charter of civic and political rights (which was part of the Slovak Constitution). Later the parliament passed one of the cruellest anti-Jewish laws in Europe (Kamenec 1991/2007) legalizing persecution, including deportations of Jews, taking away their Slovak citizenship and confiscating their property (May 15, 1942). Not one of the priests who were members of parliament protested. Throughout the period, the Vatican was very well informed and of course knew that the anti-Semitism of the priest Tiso and of several others bishops and clerics in the Slovak government as well as the parliament compromised the Catholic Church itself. Nevertheless, it did not ask Tiso to renounce his presidency or his priesthood. Nor did Vatican cut its diplomatic relations with the Slovak State or protest against the human rights violations and limitations of religious freedoms for Jews. But it intervened several times to try to help Slovak Jews who converted to Catholicism. The efforts of the Vatican intensified during the Second World War and finally it demanded respect for human rights of all Jews, not only those who had converted (Kamenec et al. 1992). Nevertheless, by the end of the war the Slovak State under the Catholic president had deported 70,000 Jews, of whom 67,000 died in Nazi extermination camps.

Communist Czechoslovakia (1945–1989)

After the Second World War when Czechoslovakia was unified once again, the political situation looked quite different. Collaboration by Hlinka's Slovak People's Party (and the Catholic Church) with Nazi Germany weakened their position and strengthened the leftist parties, including the Communist party, whose many members actively participated in the antifascist movement.

After the communist coup d'état in February 1948, the Communist Party of Czechoslovakia (KSČ) was eager to minimize the influence of the Vatican and the power of the Catholic church itself and tried to change it into a national church subordinated to the state and Marxist ideology. First, the Communist party limited political pluralism and outlawed or neutralized all other political parties. Then, having

all the power in parliament it very quickly pushed through several laws that changed the position of churches.

First the parliament passed Laws 142/1947 Coll. and 46/1948 Coll. introducing a land reform which left the churches without any agricultural grounds, gardens or orchards bigger than 5 acres (2 hectares). The laws stipulated financial compensations, but the churches never got any (Kalný 1995, Kaplan 1995). Then came Law 95/1948 on the secularisation of schools. Under it, religion classes still existed and schools were supposed to organise classes for pupils of different faiths through the parishes, but it was all under the auspices of the regional, so-called people's committees ("*národný výbor"*). This new institutional structure was created by the Communist party in order to control daily life in detail, even at the level of small village communities (Hrdina 2006).

In general, the communist strategic plan for the struggle against churches was based on indirect and gradual steps, because the party understood that it is not sensible to try to eliminate religion openly and directly. The KSČ's Central Committee worked out a plan to dissolve the churches from inside, including discrediting them in the eyes of the public, using different interests of the church hierarchy and simple clerics, disrupting relationships among different churches by showing preference for some and handicapping others. For the majority Catholic Church the plan did not foresee a separation of state and church but a separation of the Catholic Church from the Vatican, with the idea of using such a church (independent from Rome) in the interest of the regime (Hrdina 2006).

The Communist government succeeded in confusing all its critics (from Vatican as well as from the group of Slovak bishops) by passing of two laws – the Law no. 218/1949 Coll. on financing of churches and the Law no. 217/1949 Coll. on the establishing of the Governmental Office for Religious Affairs. In the first law the state transformed the status of priests into that of civil servants/employees of the state. The state took responsibility to pay their wages, as well as all administration costs, and costs covering religious services, however, only priests who were approved by the state got paid, and the state approved only priests who were Czechoslovak citizens, loyal to the Communist regime, etc. In this way the priests became directly controlled by the state. The second law established an office that had a total control over both internal and external affairs of churches (for more details see Hrdina 2006).

In 1954, the state even officially stopped taking into account personal affiliations to various religions, as they were understood as a completely private matter. However, the regional and district committees of the party continued to monitor all activities of clerics, and were supposed to stop them from trying to persuade any young people to join any churches (Kaplan 1993).

The constitution of 1960 (Law No. 100/1960 Coll.) proclaimed human rights and freedoms, including the freedom of religion, but it also declared Marxism-Leninism to be the official ideology of the state. In practice, religious freedoms were restricted through various decrees by the government and ministries and through court decisions.

Then, in the 1970s, came another step in the effort to compromise the Catholic Church – the establishment of the *Pacem in terris* movement, a union of Catholic clergymen collaborating with the Communist regime. At first, not many were interested, but through oppression and intimidation, some clergymen became members. The movement helped the regime to enforce its interests within the Catholic Church and also became an unofficial representative of the churches in negotiations with the state.

At the end of the 1980s, the churches finally protested against the regime, but from a comparative perspective, we can say that the Catholic Church in Slovakia recovered very slowly from its disintegration. It began to contest the power of the communist regimes much later than the Polish and Lithuanian churches and did it less vigorously. In the Czech lands, where the civic resistance against the communist regime was traditionally stronger than in Slovakia (Charta 77), the Catholic Church was rather passive. Conversely, it was the Charta 77 movement that demanded religious freedom in addition to human rights. Similarly, the movement for democracy in Slovenia and Croatia was mainly inspired by non-religious leftist intellectuals and nationalists (Plichtová 2008).

After 1989

Immediately after the Velvet Revolution, the political elites discussed the separation of the church from the state once again, but again the political will to do so was lacking for several reasons.[17] However, the bill of human rights guaranteeing the "right to profess any religious faith or to be without religious conviction, and to practice religious acts excluding those that contravene the law" was approved unanimously during the first session of the new government. In 1991, the Law on the freedom of religious belief and on the position of churches and religious communities (no. 308 /1991 Coll., later amended by Law 394/2000 Coll.) and the Constitutional Law 460/1992 Coll. provided a legal anchor of for freedom of belief and made possible full restoration of the autonomy of churches and religious communities (for details, see Moravčíková 2003). However, in 1992 a new law

[17] It seems it has been tempting to conduct politics using the support of the churches, especially the Catholic Church. The churches also profit from this silent agreement. Today, they are still paid from the taxes of all taxpayers, regardless of whether they claim any religious affiliation.

(no. 192/1992 Coll.) came into force, which limited the possibilities for official registration of new churches, when it introduced the requirement of 20,000 adult members and supporters.[18] Even if state control over affairs of churches and religious communities was abolished (Law no. 217/1949 Coll.), Law no. 218/1949 Coll. from the Communist period on financing of churches remained valid in a revised form (No.522/1992). According to it, clerics are still paid (like other civil servants) from the state budget.

In Czechoslovakia as in other post-communist countries, the traditional Christian churches quickly resumed much of their power lost after 1945. They re-established their official ties with states (in the case of the Catholic Church, by international agreements with the Holy See), they re-entered public schools and revitalized their pastoral and charitable activities in hospitals and other social institutions. In Slovakia much of their property was returned to them (according to Law no. 282/1993 Coll. on Restitution of property) and they gained many privileges (for details see Moravčíková 2003, Zrinščak 2004).

After the division of Czechoslovakia into the Czech and Slovak Republics in 1993, the new Slovak Constitution came into force. According to Article 1, the Slovak Republic is not linked to any ideology or religious belief. Religious freedom, however, is protected by the detailed Article 24 (freedom of thought, conscience, religion and faith, the right to freely express one's own faith, self-governance of churches and religious communities) and the equal status of different religious beliefs is guaranteed by Article 12 (basic rights and liberties are guaranteed to everyone regardless of sex, race, colour of skin, language, creed and religion, etc.). Article 23 of the constitution guarantees the right to religious education and responsibility for that is delegated to churches and religious communities.

[18] Of the 14 religious groups registered by then, only five could claim 20,000 or more members. This contributed to the perception of the law as arbitrary and discriminatory, putting newer or smaller religious communities at a disadvantage and perpetuating the existing hierarchy of religious organisations. Currently (in 2008), eighteen religious groups are registered and therefore eligible for preferential treatment – the Apostolic Church, the Baptist Union, the Brethren Church, the Czechoslovak Hussite Church, the Orthodox Church, the Reformed Christian Church, the Old Catholic Church, the Evangelical Church of Augsburg Confession, the United Methodist Church, the Greek (Byzantine) Catholic Church, the Roman Catholic Church, the Central Union of Jewish Religious Communities, the Seventh-Day Adventist Church, the Religious Society of Jehovah's Witnesses, the New Apostolic Church, The Church of Jesus Christ of Latter-day Saints, the Bahai Community, the Christian Corps (but among these religious groups the last five named do not accept any payments from the state for their clerics' wages or for administration, and the Seventh-Day Adventist Church accepts only state money for administrative costs). The 20,000 person requirement is the highest numerical threshold for registration in any of the 55 member states in the Organization for Security and Cooperation in Europe (OSCE). In Slovakia, the registration requirement is especially significant because non-registered religious communities are denied legality (and a lot of advantages) as religious organisations.

4. Problems and Perspectives of Religious Freedom and Equality

In November 2000, Slovakia signed a Basic Treaty between the Slovak Republic and the Holy See (hereafter "the Basic Treaty") regarding the general relationship between the state and the Catholic Church (the text is in the collection of Slovak laws under Notice of the Ministry of Foreign Affairs No. 326/2001). It should be followed by several smaller treaties about specific areas, e.g. conscientious objection. The treaty details a number of duties incumbent upon the Slovak Republic with respect to the Catholic Church, including a number of financial obligations and rights held by the Catholic Church primarily in the field of education in general and in religious education in particular, in all types of schools, in the establishment and administration of its own schools of different stages and in providing space in the public service media (for more details, see Kliment 2001).

Two years after the treaty (also known as a Concordat) was signed, the President of the Slovak Republic signed an agreement with eleven churches and religious communities registered in the Slovak Republic (Law no. 250/2002 Coll.). However, the Basic Treaty with the Holy See is treated, according to a government resolution (Resolution of the Slovak Government No. 1130 of November 28, 2001), as an international agreement on human rights and therefore has precedence over Slovak laws, while the Agreement between the Slovak Republic and the Registered Churches and Religious Societies ratified in 2002 is only a domestic agreement within a traditional contractual framework. Freedom of conscience of those not registered is protected by other legal norms adopted later in Parliamentary Act 365/2004 on equal treatment in specific areas, on protection against discrimination and on changes and amendments to several Acts of Law (the Non-Discrimination Act) and the new amendment to the Labour Code. Since freedom of religion in general was sufficiently protected by the constitution and international documents, it seems perfectly legitimate to question the political sense of signing the Basic Treaty.

Public discussion and protests were launched only after the ratification of the treaty (probably due to the long-standing and unpublicised treaty preparation and very fast ratification by the parliament) when the public learned how the treaty would change the character of relations between the state and the church in Slovakia (Zavacká 2000, 2003).

The situation was completely different when in 2003 the Slovak Republic was preparing for the signature of one of the specific treaties with the Vatican – the Special Treaty on conscientious objection. There was a major outcry against the draft treaty from Slovak and international politicians, organizations and NGOs. There were heated discussions in the media between its defenders and critics ranging from lay argumentation to analyses by lawyers and petitions both against and

for were organised, etc. Finally, the Special Treaty was not signed and the current government (2008) has no intention of doing so.

In Italy, twenty-four years after the revision of the Concordat, the question on the table is whether entering into bilateral agreements has brought the desired equal treatment of the various faiths present in the country. Such a question must be posed keeping in mind that Italian society has profoundly changed since 1948. Whatever the intentions of the republican founding fathers might have been, they were confronted with the needs of a different country. In recent years the religious diversity of Italian society has drastically increased. Italy is rapidly becoming a multicultural country, destined to host an increasing population of non-western origin and varied religious background. According to CESNUR,[19] nowadays 1,124,300 Italians (1.92% of the population) profess a faith other then Catholicism. This number might seem modest, but it increases to 2,663,300 (4.4%) if we count residents instead of citizens. CESNUR uses data from a Caritas survey of 2005 (Caritas/Migrantes 2005). If we confront this data with data from 2007 (Caritas/Migrantes 2007), it is easy to appreciate how rapidly Italy is becoming a multi-religious country:

Table 1: Religious Composition of Immigrant Population in Italy

Religious affiliation of immigrant population	**Numerically (2005)**	**%**	**Numerically (2007)**	**%**	**Increase**
Muslims	919,492	33%	1,202,395	32.6%	+ 30.8%
Catholics	629,713	22.6%	685,128	18.6%	+ 8.8%
Orthodox	565,627	20.3%	918,375	24.9%	+ 62.4%
Protestants (and other Christians)	183,898	6.6%	188,254	5.1%	+ 2.4%
Hindus	66,872	2.4%	99,194	2.7%	+ 48.3%
Buddhists	52,940	1.9%	67,978	1.8%	+ 28.4%
Traditional religions (“animists”)	33,436	1.2%	41,366	1.1%	+ 23.7%
Jewish	8,359	0.3%	8,943	0.2%	+ 6.7%
Others	326,003	11.7%	478,419	13%	+ 46.8%
TOTAL	2,663,300	100%	3,690,052	100%	+ 38.6%

[19] See <http://www.cesnur.org/religioni_italia/introduzione_01.htm>.

As the sociology of immigration demonstrates well (Basso – Perocco 2003), the great majority of these persons are going to settle in Italy, thus modifying permanently the religious composition of the Italian population. Such a prospect lends a particular urgency to the issue of actually implementing constitutional commitments to religious freedom and equality. As instruments, the agreements themselves do not seem capable of satisfying this need for several reasons.

The agreements have proved to be very similar in their outcomes, which often have a merely symbolic content. When they recognize the right of people to "profess their faith, and to practice it freely in any form, individual or associated, to propagate it and to exercise its faith in private or in public" – a formula that recurs – they are only reaffirming a right that the Italian Constitution already guarantees for all citizens.

Moreover, the proliferation of such "xerox agreements" (Fiorita 2007; Guazzarotti 2007), seems to have worsened the relative position of the religious communities who have not reached an agreement. These are still governed by fascist law on admitted groups, and are excluded from many direct and indirect benefits,[20] of which the most important one is obtaining their potential share of the 8/1000 contribution.

These religious groups' situation is worsened by the fact that, the complex procedure needed to open an agreement is exposed to political discretionary power both at the beginning (only the government has the right to open the consultative procedure) and at the end (to enter into force, agreements need to be transposed into laws). Any subsequent amendments must follow the same procedure, which can take years to be completed. In addition, since the political decision necessary to conclude a new agreement and enact it as a law has important economic consequences, lobbies close to Catholic Church have created a particularly perverse political obstruction to the recognition of the most numerically consistent minorities. This, together with a cultural preference for religions institutionally organised according to the Church model (*i.e.* with a professional clergy and a centralized organisation) has considerably slowed the process of recognition of many groups, and in particular of non-western religions. This way, the agreement system, instead of recognising and fostering the integration of religious communities in the state, has become an instrument of unpredictable, discretionary governmental power, which acts as a monopoly in the selection of legitimate religious subjects (see Guazzarotti 2002).

Since 1992, a heated discussion has taken place on the necessity of substituting Law 1159/1929 with a new framework law on religious freedom (Nardini – di Nucci

[20] This is true not only at a national level. Many regional laws granting funds (especially to build religious structures) or fiscal exemptions to religious institutions, limit their benefits to those groups that have reached an agreement with the state. The Constitutional Court has declared such a limitation unconstitutional (see Constitutional Court, Sentence no. 195/1993; Tozzi 2005).

2001). Proposed new laws have been presented several times since then, the last being in 2007, with no concrete result, but the increasing diversity of Italian society makes the adoption of such a framework law highly desirable.

Conclusions

Both Italy and Slovakia are secular states with a constitutional system that defines their relationships with religious groups as neutral, and thus capable of respecting their autonomy and pluralism. This common constitutional commitment not to be bound to any religion or ideology does not prevent Italy and Slovakia from supporting the activities of the various recognised religious groups directly (from tax income) as well as indirectly (through various tax allowances).

There is no contradiction for a secular state in financing religious groups. Such support is part of the role of a state that respects not only the existence of individuals, but also the existence of social groups. An effort should be made, however, to respect the principle of equal dignity of the different religious groups present in the society. Similarly, this should be achieved by distributing evenly the financial support that the social role of religious groups implies. This is far from the reality in both Slovakia and Italy.

In both countries the Concordat accords to the Catholic Church several privileges not accessible to other churches. The laws on registration of churches as well as the agreements system used in both countries with an aim to guarantee religious pluralism, seems to have strengthened a hierarchical order of religious groups rather than encouraging their equality.

In Slovakia, churches which have managed to register or to sign an agreement live under very unfavourable economic conditions. The Slovak requirement (for registration, see above) of 20 000 adult members, shows the lack of political will to create conditions of real religious freedom including newer and smaller religious groups. Nonetheless, since state support depends only on fulfilment of the registration criteria for churches, the procedure is easier and less dependent on political power in comparison to Italy.

In both cases however, traditional religions seem to be full of apprehension about "newcomers", with whom they would be obliged to share the financial support from the state. This apprehension is often transformed (by political lobbies close to the interests of traditional churches) into suspicion-building public discourse – e.g. on the so-called sects,[21] or on the alleged inability of Islam to share democratic values – that often overlap with xenophobic or racist discourse on immigration,

[21] This is what the new religious communities are consequently called, for more details see Tížik, 2006).

and help spread the *clash of civilisations* doctrine. The threat to democratic values posed by similar political speculation fosters the need for general reflection on the relationship between the state and religious communities which would lead to the state being capable of dealing with increasingly multicultural conditions.

Such a reflection cannot be made here, because it broadly exceeds the scope of this paper. We can, however, indicate at least three points that a further investigation should take into account:

1) Bilateral agreements appear not to be an instrument which is, in itself, sufficient to fulfil the commitment to the protection of religious liberty and equality. The obvious reasons for this are the complexity of its approval process, its submission to political discretionary power and the rigidity of its often symbolic content. If the principle of religious pluralism should be not only proclaimed but also applied, registration of new religious groups should be liberalised. Furthermore, the increasing multicultural structure of our societies suggests the need for a common legislative framework, in which the state is bound to support all religious groups in the same way (i.e. allocating finances proportionally according to the size of the different religious communities).

The bilateral agreement system – and even more evidently the Concordats – appears outdated. There is no need to abolish it, but there is an absolutely urgent need to reconsider its form and contents. At the moment, it contents and structure follows the Concordat, which is not an approach mirroring real religious pluralism and equality. Agreements should be freed from their tendency to be transformed into manifestos, and used carefully only to regulate particularly controversial matters in the relations between religious groups and the state.

2) Citizens without a religious faith should be more adequately considered. As the international conventions on religious liberty already provide for, the affiliation to a religious group should be strictly voluntary and always retractable. No one should be assigned permanently to any religious group, and the possibility of leaving a group should be adequately protected. For the same reason, the state should not, as is the case now, force (or trick) anyone to participate in the support of religious groups they do not intend to belong to. Contributions to the funding of religious groups should be strictly voluntary and individual. From this point of view, it would be just for the state to finance the churches and nongovernmental civic organisations in the same way, by introducing a system of tax income redistribution, in which the citizens themselves can decide which church or secular humanist organization or cultural/educational institute they want to support with their taxes. Such a law would express respect towards all citizens, including those without religious affiliation and atheists, whose freedom and decisions should be protected exactly in the same way as those of believers.

3) Religions recognised by the state have the right to offer religion classes in primary and secondary schools taught by a person chosen and paid by the respective church. Furthermore, these religions have the right to establish schools that are run by the specific church (mainly the Catholic and, in the Slovak case, the Evangelical Church are active), but financed by the state. Given the limits of the agreement system, and from the perspective of a neutral state which will have to face the increasing religious pluralism of our societies, it would be more appropriate to teach religion studies in schools and to practice (or not practice) a specific religion in private.

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***Jana Plichtová**, Department of Psychology, Faculty of Philosophy, Comenius University Bratislava; Department of Social and Biological Communication, Slovak Academy of Sciences and Centre of Excellence for Research on Citizenship and Participation, Slovak Academy of Sciences.*

Jana Plichtová is professor of Social Psychology at the Comenius University. Her theoretical interests include topics like social psychology of democracy, deliberation in small groups, social representations of political and economic phenomena. She is co-author of several papers on social representations of democracy published in Culture and Psychology, European Journal of Social Psychology, Bulletin de Psychologie, Journal of Community and Applied Social Psychology. She is editor of several books (e.g. Minorities in Politics) and co-author of two books published by Slovak publishers.

E-mail: plichtova@fphil.uniba.sk

***Dino Costantini**, Department of Philosophy, History and Heritage, Faculty of Humanities and Philosophy, University of Trento, and Faculty of Humanities and Philosophy, Ca' Foscari University of Venice.*

Dino Costantini is PhD in Political Philosophy and in Political Science. He studied in Venice, Pisa and Paris. Besides cooperating as Research Fellow to the EuroEthos Project he's lecturer of Sociological Theories at the Ca'Foscari University in Venice. He has worked on Locke's political theory, citizenship and migrations in Europe, French colonial and postcolonial thought and on the politics of memory.

E-mail: iodio@unive.it

***Magda Petrjánošová**, Department of Psychology, Faculty of Philosophy, Comenius University Bratislava and Centre of Excellence for Research on Citizenship and Participation, Slovak Academy of Sciences*

Magda Petrjánošová is doctoral candidate in social psychology at Comenius University in Bratislava, Slovakia. Her research interests include social and national identities in different contexts, deliberation about ethically problematic issues and qualitative approaches in general.

E-mail: petrjanosova@fphil.uniba.sk