

## THE PLACE OF RELIGION IN EDUCATION IN ITALY

Roberto Toniatti<sup>1</sup>

### *I. Religious instruction organised during the school hours (in lower and in secondary education) in state funded schools*

**I.1 Question: Religious instruction organised during the school hours (in lower and in secondary education) in state funded schools. Is – and if affirmative please refer to the provisions in the law (add the text separately) – the teaching of religion in your country organised during school time in public educational institutions: in primary education, in secondary education.**

**Answer:**

In Italy, the teaching of catholic religion is provided in state funded schools, as stated by law 25 March 1985, n. 121, ratifying the 1984 agreement between Italy and the Holy See (modifying the previous agreement concluded on 11 February 1929).

According to art. 30 of the 1984 concordat, state funded schools provide for the teaching of catholic religion both in primary as well as in secondary educational institutions (the article explicitly refers to “*every public school, except for Universities*”).

State funded schools provide only for Catholic religion and students have right to choose whether they want to attend religious classes or not, as stated by the law, “*without any discrimination*”.

It must be underlined, that this law has a “*quasi-constitutional status*”, as it may infringe the provisions of the Constitution, except for its “*basic features*”, as it has been stated by the Italian Constitutional Court (see for example: dec. n. 30/1971 and dec. n. 18/1982). This “*quasi-constitutional status*” derives from Article 7 of the Constitution, which explicitly considers the agreement between Italy and the Holy See as it follows: “*The State and the Catholic Church are independent and sovereign, each within its own sphere. Their relations are regulated by the Lateran pacts. Amendments to such Pacts which are accepted by both parties shall not require the procedure of constitutional amendments*”.

**I.2 Question: What choices amongst the religious education possibilities are offered in public educational institutions , e.g. catholic religion, Islamic teaching, ....**

**Answer:**

State funded schools provide only for Catholic religion, but the students have right to choose whether they want to attend religious classes or not.

In its 1989 (dec. n. 203) and 1991 (dec. n. 13) decisions, the Italian Constitutional Court stated that non-attending students were not compelled to attend an alternative teaching, as their choice was to be considered as an expression of religious freedom, which is constitutionally protected by art. 19 of the Constitution.

If it is clear that an alternative teaching to religion is not to be imposed by the school, yet it is questioned if an alternative teaching could be claimed by non-attending students.

For example, a recent decision of the Council of State (n. 2749 of 2010) stated that schools must provide for alternative teaching to religion, although they cannot compel students to attend them.

This same year, a Tribunal in Padova condemned a primary school as well as the State department for education to pay 1.500 euro to a couple, for the school had not provided for any alternative teaching for their non-attending child (see Tribunal of Padova, 30 July 2010).

It should be underlined that some of the agreement between the State and other religious denominations foresee the possibility to provide for religious teaching as a part of “*cultural activities*” by members of their own church, if requested by students, their families or school bodies and provided that they entirely bear the cost (see art. 11, Law 29 November 1995, n. 520

agreement with the Evangelical Lutheran Church in Italy; art. 9, law 12 April 1995, n. 116 agreement with the Christian Evangelical Baptist Union of Italy; art. 12, L. 22 November 1988, n. 516

agreement with union of the Adventist Italian Churches; art. 9 L. 22 November 1988, n. 517

agreement with the Assembly of God Church in Italy; art. 11, law 8 March 1989, n. 101

agreement with the Union of Italian Jewish Communities).

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<sup>1</sup> University of Trento, Italy

## ***II. State funded denominational schools and state supervision***

**II.1. Question: Are there state funded denominational schools in your country? If affirmative, what is the numeric importance of state funded schools. If affirmative, what is the numeric importance of Islamic state funded schools. Please refer to statistical information on-line**

**Answer:**

According to law 10 March 2000, n. 62, issued in implementation of Article 33 of the Constitution, primary and secondary private schools can ask the State for the recognition of the “equality” and to become part of the “public” national educational system.

These schools now receive public money in different forms (see, for example, Decree of Ministry of Education, n. 34 of 2009).

There are direct subsidies for the management of kindergartens and primary schools (formerly officially recognized). The State (but not only: some municipalities too) finance projects aimed at uplifting the quality and effectiveness of educational offerings (in general) and secondary schools (in particular). In addition there are contributions (vouchers from State and Regions too) for families: formally, these contributions are used to facilitate the “right of choice” of the school.

The majority of the state funded schools is made up of catholic institutions: currently (2008-2009) there are 7.116 catholic schools in Italy (students: 587.806 units; teachers: 50.000 units; non-teaching staff: 15.000 units).

There are 12.532 (students: 920.214) private schools.

At this moment there aren't in Italy Islamic state funded schools. There was in 2005 an attempt to establish an Islamic state funded school in Milano. But that institution didn't receive recognition from the State.

[http://www.istat.it/lavoro/sistema\\_istruzione/tavolescolastico.html](http://www.istat.it/lavoro/sistema_istruzione/tavolescolastico.html)

**II.2. Question: Are there non-state funded denominational schools in your country (private)? If affirmative, what is the numeric importance of private schools. If affirmative, what is the numeric importance of Islamic private schools. Please refer to statistical information on-line**

**Answer:**

Yes and there are also non-denominational private schools like, for example, culturally motivated schools (e.g. Steiner schools or Montessori schools) or for-profit schools (e.g. language schools).

According to an “old” report (2007) of the Italian Government, there are in Italy 88 Islamic private schools.

[http://archivio.pubblica.istruzione.it/anagrafica\\_scuole/non\\_statali.shtml](http://archivio.pubblica.istruzione.it/anagrafica_scuole/non_statali.shtml)

**II.3. Question: How do the authorities control the teaching in state funded denominational schools and are there any special questions about the control of the content of teaching in state-funded denominational schools? Please refer to the provisions in the law.**

**Answer:**

According to law n. 62 of 2000, primary and secondary state funded denominational schools might be recognized by the State (with a formal administrative act) if they respect some principles (e.g. educational programs respecting the Constitution, convenient spaces and structures, representative boards, respect of disability laws and so on: see art. 4 of the law).

## ***III. Refusal or limitations on the number of pupils of another conviction/belief by the governing board of a confessional (catholic) school***

**III.1. Question: Does the head of a state funded denominational (e.g. Catholic) school has the right to refuse pupils from other religious beliefs? Please refer to the provisions in the law.**

**Answer:**

If the private school aims at being officially recognized by the State, it has to comply with law n. 62 of 2000, whose article 3 provides that private schools which are recognized by the State are free to choose their cultural and educational trend, according to constitutional freedoms. Enrollment approval is given upon the compliance with the educational project.

**III.2. Question:** Does the head of a state funded denominational (e.g. Catholic) school have the authority to limit the number of pupils from other religious beliefs (e.g. Muslim pupils) in order to support the specificity of the project?

**Answer:**

If pupils accept the educational project of the specific private institution, it's forbidden for the single school to limit the numbers of students from other religious beliefs.

**IV. Point of views of the authorities concerning the teaching of Islam in denominational (Catholic) education, Islam instruction or instruction on other convictions/beliefs in denominational (catholic) schools for (a number of pupils requesting it) and alternative ethical course**

**IV.1. Question.** Is there a legal obligation to organise, if parents ask for, classes of Islamic religion in denominational (Catholic) education funded by public authorities? a. for any pupil for whom a request has been made? b. from a minimum number of pupils for whom a request has been made?

**Answer:**

No.

**IV.2. Question.** Does the same obligation exist for the offer of (a) other religions and/or philosophical convictions, (b) an alternative class of conception of life, philosophy, ethics

**Answer:**

No.

**IV.3. Question.** Can you shortly mention the pro and contra standpoints that have been expressed concerning the respect of fundamental rights (among others, freedom of education and right to education) in relation with this obligation?

**Answer:**

There isn't any obligation.

**IV.4. Question.** Reference to the legal basis, with Website address, and also if possible to the parliamentary preparation of texts.

**Answer:**

None.

**V. Teaching of Islam in denominational (e.g. Catholic) schools at their own initiative**

**V.1. Question:** Is there in your country a general guideline for teaching of Islam in denominational (e.g. Catholic) schools at their own initiative defined by (a) the Bishops' Conference, (b) another body, namely. . .

**Answer:** No.

**V.2. Question:** If affirmative, does the guideline implies that (a) the teaching of other religions is organised when: one parent asks for, or a sufficient number of parents ask for (how many?), (b) only teaching of Islam is offered as alternative religion when one parent asks for or a sufficient number of parents ask for (how many?)

**Answer:** There is no guideline.

**V.3. Question:** There is no guideline and: (a) in fact, teaching of Islam is never proposed in Catholic schools, or (b) the teaching of Islam is organised in some schools, which have taken themselves the initiative. If possible, explain the importance of this option

**Answer:**

The first alternative is correct; the second is theoretically possible.

**VI. Religious symbols in public schools**

**VI.1. Question:** Are religious symbols (e.g. crucifix) in public schools compulsory, allowed, or forbidden?

**Answer:**

In Italy, article 118 of Royal Decree no. 965 of 30 April 1924 states that in each school there should be the national flag, a crucifix and the King's portrait and article 119 of Royal Decree no. 1297 of 26 April 1928 listed crucifix among the necessary equipment in classrooms. These two provisions have been considered still in force for example by the Italian Council of state (in its 15 february 2006 opinion).

According to the Council of State (n. 556 of 2006), the displaying of crucifix in public schools is not to be deemed unconstitutional as it does not infringe the basic value of "laicità", being an expression of Italian culture, more than an expression of catholic religion itself. Indeed for the Council of State crucifix is a sort of material and substantial symbol of the Italian Republic, because its story represents values of equality and solidarity (wich are established in Articles 2 and 3 of the Constitution too).

Anyway, in 2009 the European Courts of Human Rights ruled that the displaying of crucifix was to be considered as a violation of Article 2 of Protocol No. 1 taken together with Article 9 of the Convention (see *Lautsi v. Italy*, application no. 30814/06). Yet, this is not the final decision as the referral to the grande chambre is still pending.

**VI.2. Question: Is a teacher allowed to wear the Islamic headscarf and manifest her religion? Please explain if not allowed on which grounds.**

**Answer:**

In Italy, the only regulation of religious symbols at school regards the crucifix. There are no laws prohibiting "personal" religious symbols, which are included in the constitutional protection of religious freedom (art. 19 of the Constitution).

**VI.3. Question: Is a pupil allowed to wear the Islamic headscarf and manifest her religion? Please explain if not allowed on which grounds.**

**Answer:**

In Italy, the only regulation of religious symbols at school regards the crucifix. There are no laws prohibiting "personal" religious symbols, which are included in the constitutional protection of religious freedom (art. 19 of the Constitution).

**VI.4. Question: Who decides on the dress code in schools. Please refer to the law.**

**Answer:**

At present, the law does not provide for dress code at school: there is a case-by-case approach by schools, failing a general legal regulation.

**VI.5. Question: Can a pupil and/or a teacher be exempted from the dress code when she considers it her religious duty to wear the Islamic headscarf?**

**Answer:**

At present, the law does not provide for dress code at school: there is a case-by-case approach by schools, failing a general legal regulation.

**VI.6. Question: Who is the regulatory authority in this sphere?**

**Answer:**

There aren't specific rules.

**VI.7. Question: What kind of disciplinary measures and proceedings are taken if the pupil or teacher fails to comply with the rules on dress codes?**

**Answer:**

There aren't specific rules.

**VI.8. Question: Please describe the case-law in your country.**

**Answer:**

The attempts of some mayors to ban burqua and chador have been deemed unlawful, exceeding their jurisdiction; but they did not entail educational aspects as the ban regarded all citizens (see e.g. TAR Friuli-Venezia Giulia, decision n. 645, 16 October 2006).

**VII. After-school education in private religious institutions. Islamic instruction organised after the school hours (age 6-18)**

**VII.1. Question: Is there any form of Islamic teaching (for children and youngsters of age 6-18) in your country organised after school time in private religious institutions:**

**Answer:**

**VII.2. Question: Is there any form of Islamic teaching in your country organised in primary education age (6-12)**

**Answer:**

**VII.3. Question: Is there any form of Islamic teaching in your country organised in secondary education age (12-18)**

**Answer:**

**VII.4. Question: How many such institutions are there in your country providing Islamic instruction organised after the school hours?**

**Answer:**

**VII.5. Question: How many children take part in the activities of Islamic instruction organised after the school hours?**

**Answer:**

**VII.6. Question: How is the pedagogical quality of Islamic instruction organised after the school hours safeguarded?**

**Answer:**

**VII.7. Question: How would you characterize the public debate about this form of Islamic instruction organised after the school hours?**

**Answer:**

### **VIII. Additional comments**

### **XI. Bibliography**

R. Botta, *Bibbia, bibbie e l'insegnamento della religione nella scuola pubblica: profili sostanziali*, in *Corriere giuridico*, 2009, 253.

O. Chessa, *La laicità come uguale rispetto e considerazione*, in *Rivista di Diritto Costituzionale*, 2006, 27.

F. Cortese, *Brevi osservazioni sul crocifisso come simbolo «affermativo e confermativo del principio della laicità dello Stato repubblicano»*, in [www.costituzionalismo.it](http://www.costituzionalismo.it)

F. Cortese, *Il crocifisso e gli "imbarazzi" del giurista*, in [www.forumcostituzionale.it](http://www.forumcostituzionale.it)

M. Luciani, *La problematica laicità italiana*, in *Democrazia e diritto*, 2008, 2, 105.

E. Minnei, *Scuola pubblica e scuola privata. Gli oneri per lo Stato*, I e II, Padova, Cedam, 2004

B. Randazzo, *Il crocifisso come simbolo di laicità: un paradosso. Quando è oltrepassato il confine tra diritto e politica*, in *I diritti dell'uomo*, 2006, 3, 78.

A. Sandulli, *Istruzione*, in S. Cassese (Edited by), *Dizionario di diritto pubblico*, IV, Milano, Giuffrè, 3305.

A. Travi, *Simboli religiosi e giudice amministrativo*, in *Foro italiano*, 2006, I, 181.

J.H.H. Weiler, *Il crocifisso a Strasburgo: una sentenza imbarazzante*, in *Quaderni costituzionali*, 2010, 148.