

THE PLACE OF RELIGION IN EDUCATION IN ROMANIA

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1. 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.

All primary, lower-secondary, and upper-secondary public and private schools in Romania must offer religious education classes during school hours.

Since early 2011 Romania has a new Law on National Education (henceforth “the Law on National Education”, the “new Law”, or the “2011 Law”), replacing the first post-communist education law adopted in 1995. Despite the convoluted and contested nature of the old law’s provisions on religious education (RE), the new act has not changed anything in the way RE is organized and taught in the schools of this country. Indeed, the stipulations on religious education in primary and secondary schools are one of the more conservative parts of the new Law.

As it is difficult to understand the organization of religious education in Romanian schools without reference to the 1995 education law, both the new and, where necessary, the old law will be mentioned below, together with other relevant legal provisions.

The 2011 Law on National Education contains a mere three paragraphs (Art. 18) on religious education in primary and secondary schools (this statement does not refer to the so-called “theological” schools, which are typically public, train church personnel, and are not the subject of this presentation). The article in question reads as follows:²

- (1) The framework curricula for primary, lower secondary, high school and professional education include the subject Religion as a part of the core curriculum. Students who belong to state-recognized religious denominations [*culte*] are ensured, irrespective of their number, their constitutional right to attend Religion classes in accordance with their own religious faith.
- (2) Upon the written request of students of the age of majority, or of the parents or legal guardians in the case of minors, students shall be entitled not to attend Religion classes. In such cases, the general average grade is computed without said subject. The same shall be true of students for whom the conditions necessary for the attendance of Religion classes could not be ensured.
- (3) The subject Religion may be taught exclusively by qualified teaching staff, as provided in this Law and under the protocols concluded between the Ministry of Education, Youth and Sports and the officially recognized religious denominations.

In order to better grasp the full meaning of the rather sketchy provisions above it is necessary to provide some additional explanations. The fact that Religion is “part of the core curriculum” in all forms and levels of pre-tertiary education means that all schools and high schools, private and public, must offer this subject. The phrase “part of the core curriculum”

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² Author’s translation. I have done my best to remain true to the original wording.

carried over from the 1995 education law and reflects the strange status of RE in Romania: while the “core curriculum” consists exclusively of subjects that are “compulsory” (Art. 65 of the 2011 Law), in the sense that they must all be taken by any student in order to advance through school, Religion is evidently not compulsory in this sense, as attendance is optional.³

Secondly, the phrase “part of the core curriculum” also implies that the subject Religion is *not offered as an alternative* to other subjects, whether somehow educationally related or not (more on this below).

Finally, although this is not immediately evident from the wording, paragraph (1) of Art. 18 also sets out that Religion is a *confessional* subject, that is, it consists of the teachings and doctrines of one particular denomination. The other relevant legal norm in force, the Law on Religious Freedom and the Status of Denominations (no. 489 of 2006, henceforth “the Religious Freedom Law”), similarly provides that only the officially acknowledged denominations or *culțe* may offer Religion classes. In other words, children belonging to other religious associations and groups, as these entities are defined under the abovementioned Religious Freedom Law, do not enjoy the “constitutional right” enshrined in Art. 18 of the Law on National Education.⁴ (How an organic law can proclaim a constitutional right – the Romanian Constitution itself does not mention this right⁵ – is another matter.)

Under the second paragraph of said article, students may be exempted from attending RE classes on the written request of the parent or, if they are of the age of majority, upon their own written request.⁶ This, again implicitly, sets forth that – as it has always been the case over the past two decades – students are registered for Religion classes *by default*. They are not formally requested to opt in or out, and may only do the latter subsequently, i.e., after being “presumed enrolled” in RE.

Last but not least, under Art. 18(3), which repeats an older provision of the Teaching Staff Law (no. 128/1997) that the Law on National Education abrogated, religion is taught by trained teaching staff recognized by both the Ministry of Education and the denominations. In practice, this *suggests* that (confessional) Religion is taught in schools of all levels by graduates of (confessional) Theology Schools in the country’s public and private universities, specifically by graduates of “Didactic [i.e., Teaching] Theology” programs. However, under the pre-existing arrangement “qualified teaching staff” also included clergy with *or without* real educational training.

³ The 1995 education law originally defined Religion as an “obligatory” subject which was “part of the core curriculum”. This provision was challenged before the Constitutional Court in the year of the law’s adoption. The Court decided (ruling no. 72 of 18 July 1995) that the term “obligatory”, in the context of the law, referred not to the obligation of students to attend Religion classes, but to the obligation *of schools* to offer them. In effect, the decision saved the constitutionality of the term “obligatory” by re-interpreting it to mean something different from what the drafters of the law had in mind.

⁴ Art. 32 of the Religious Freedom Law sets out: “(1) The teaching of religion in the public and private education system is guaranteed by law for recognized denominations. (2) The religion-teaching staff in public schools shall be appointed in agreement with the denomination they represent, under the law. (3) In case a teacher commits serious violations of his denomination’s doctrine or morals, that denomination can withdraw its agreement that he teach religion, which will lead to the termination of that person’s labor contract. (4) On request, in the situation where the school cannot provide teachers of religion who are members of the denomination the students are members of, such students can produce evidence of studies in their respective religion that is provided by the denomination they are members of.” Official translation, available on www.culte.ro.

⁵ According to the relevant provision of the Romanian Constitution, “The State shall ensure the freedom of religious education, in accordance with the specific requirements of each religious cult. In public schools, religious education is organized and guaranteed by law.” (Art. 32(7)). Official translation. The term “religious cult” refers to recognized denominations.

⁶ The Religious Freedom Law states under Art. 3(2) that “The religion of a child who has turned 14 years of age cannot be changed without his/her agreement; a child who has turned 16 years of age shall have the right to choose his/her own religion.” This implies that at 16 (rather than 18, the age of majority) students may request to be exempt from Religion classes.

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

Religious education in Romanian schools is open to, and only to all of the currently 18 acknowledged religious denominations.⁷ These include both so-called “traditional” and more recent churches, as well as numerically large and (sometimes very) small churches. Religious associations (*asociatii religioase*), which under the Religious Freedom Law are defined as an intermediary category between acknowledged denominations (*culte*) and religious groups (*grupuri religioase*) and must comply with specific terms such as a minimum of 300 members, do not have access to RE in schools, at least not during school hours.

Two matters are worth mentioning in this context. First, some religious associations with an important worldwide following (such as the Baha’i) and with a small but significant presence in Romania (such as, for example, the Church of Jesus Christ of Latter-day Saints), do not qualify for RE under the current terms and organization. This is the case despite the fact that some exceed in size several of the numerically modest *culte*. Secondly, while becoming a religious denomination was an under-regulated and confusing process until a few years ago, the Religious Freedom Law, which came into force in early 2007, established a clear process and unambiguous criteria to this end. But the new standards for becoming an acknowledged denomination are rather onerous.⁸ The conditions concerning membership in particular are not met – not even remotely – by many of the current denominations. In other words, it will be extremely difficult for religious groups and associations, including those which are well-established worldwide, to be treated on an equal footing with the recognized denominations as far as RE is concerned.

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

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

In the matter of public funding, the status of denominational schools is rather intricate, so II.1 and II.2 will be discussed together. In Romania, denominational schools are theoretically private, that is, church-affiliated, yet there is at least one type of faith school that is “public” in name (i.e., a “state school”) – so-called “theological” high schools (not to be confused with the university-grade theological institutes or faculties) for seminarians and other church personnel. These are in effect vocational institutions run by the churches for their own purposes and funded by the state under special mechanisms, though they offer a diploma equivalent to the baccalaureate (high school diploma). The matter is further complicated by the existence of nominally “theological” high schools which are funded by the state and run by the churches, but which also enrol elementary-grade and lower-secondary pupils.

⁷ The Romanian Orthodox Church; Serbian Orthodox Bishopric of Timisoara; Roman-Catholic Church; Romanian Church United with Rome, Greek-Catholic; Archbishopric of the Armenian Church; Russian Old-Rite Christian Church of Romania; Reformed Church of Romania; Evangelical Church of Romania; Evangelical Lutheran Church of Romania; Unitarian Church of Transylvania; Union of Christian Baptist Churches of Romania; Christian Church of the Gospel in Romania – Union of Christian Churches of the Gospel in Romania; Romanian Evangelical Church; Pentecostal Union – The Apostolic Church of God of Romania; Adventist Seventh-Day Christian Church of Romania; Federation of Jewish Communities of Romania; Muslim Denomination; and the Religious Organization Jehovah’s Witnesses.

⁸ See Andreescu, L. (2008), ‘Romania’s New Law on Religious Freedom and Religious Denominations’, *Religion, State & Society*, 36.2, pp. 139-161.

Furthermore, there are private denominational schools which, though they may not receive dependable state funding under the schemes reserved for either public schools or theological schools, do get public funds through either the State Secretariat for Religious Affairs⁹ or the local authorities.

The final and most serious complication, as far as the public funding of denominational schools is concerned, is of recent date: under Art. 8 of the 2011 Law on National Education the state shall provide basic funding for all students in accredited public and private schools, including denominational schools. This type of “basic funding” is based on a *per capita* scheme. Another relevant provision sets out that accredited “private and confessional” educational institutions “will be supported by the state” under terms “to be defined through Government Decisions” (Art. 60(5) of the 2011 Law). Presumably, this refers to support beyond the “basic funding” available to all schools.

The *per capita* basic-funding system, which is yet to be implemented, constitutes a radical change from the previous arrangement, in which the state did not typically fund private educational institutions (but see the preceding paragraphs). In other words, since early this year, in theory all private schools are state-funded simply by matriculating students (unless they explicitly refuse public money). Since this change is far-reaching, it is likely that it will affect denominational education quite significantly. On the other hand, the extent and direction of the coming changes are impossible to estimate at this point, as the Law is merely a few months old and the new funding scheme has not been introduced yet.

With regard to the current situation of denominational schools, until early this year they were governed by Art. 9(4) of the (now superseded) 1995 education law, which is therefore responsible for the current organization. Under said article, all *culte* could establish their own private schools, which, like all private schools in Romania, were obligated to follow the relevant national school curricula (more on this in a subsequent section). Most of the numerically important denominations, including the majority Romanian Orthodox Church (ROC), have established denominational primary, lower-secondary and high schools. However, the number of students enrolled in denominational schools is quite low if judged against the country’s total student population (and often even against the membership of the individual denomination in question). Unfortunately, statistical data on denominational schools are not easily available. Some of the figures below were requested and obtained from the churches themselves in 2010. To serve as a reference point, there were some 4,700 schools in Romania in 2010 matriculating some 3 million students.

Another clarification is in order at this point. Romania is a multi-ethnic country, and some religious communities are in fact part of national groups or ethno-religious groups with a faith different from the majority (the Hungarians, for instance, are typically Roman Catholic or Reformed, while Turks and Tatars are generally Muslim etc.). Under the current legislation on national minorities, there are both public and private schools with teaching in the national minorities’ languages. Most students in public schools and high schools with teaching in national minorities’ mother tongues study the faith associated with their ethnic community as part of regular RE curricula (e.g., in Turkish-language schools or classes many pupils study Islam). Arguably, this reduces the need for denominational schools, especially since the latter have had to follow the same standard national curricula anyway.

As far as Romanian Orthodox denominational schools are concerned, they enrolled a mere 80 students in primary and lower-secondary grades in the 2009-2010 academic year (exclusive of the additional 10 vocational schools for religious singers). The Orthodox Church nominally

⁹ An agency in the Ministry of Culture which, among others, disburses funds for the recognized denominations for a variety of purposes, from church construction and maintenance to support for other denominational institutions, including schools.

accounts for 87 percent of the country's population of 22 million according to the latest (otherwise very problematic) census. The ROC also operates 5 Orthodox high schools (not including the 33 upper-secondary theological seminaries and high schools).

The Pentecostal church, the fifth-largest denomination and the second-largest Protestant church in Romania, operates several schools and six high schools (in Oradea, Baia Mare, Arad, Timisoara, Pitesti and Bucharest) enrolling several hundred students. Several of these high schools also teach elementary-grade and lower-secondary pupils.

The Seventh Day Adventist Church operates 7 accredited schools (of which three primary, and four primary and lower-secondary), enrolling a little over 570 students. There are also 5 Adventist high schools in the country with some 750 students. A little over half of the primary and lower-secondary pupils, and a little over three quarters of high school students have at least one Adventist parent.¹⁰

Baptist churches independently operate 7 Baptist high schools in as many cities, and a dozen schools. All Baptist high schools enrol students belonging to one or more different Christian denominations.

Besides relatively numerous theological high schools for seminarians and other church staff, the Roman-Catholic Church operates a few schools and non-theological high schools and one vocational high school for social workers.¹¹ The Greek-rite Catholic Church also runs non-theological denominational high schools in Bucharest and Oradea.

There are two private Islamic schools, established specifically to cater to Muslim children: the elementary Crescent School (with teaching in Romanian and/or Arabic), and the Jordanian Ar-Rahman primary and secondary school, with teaching in Arabic.

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.

According to the New Law on Education, private schools in Romania must meet the same criteria and standards – down to the same performance indicators – as public schools. Under Art. 65(8), the curricula in private schools are the same as in public schools, i.e., the national curricula approved by the Ministry of Education. However, the new Law introduces a novel option in this respect, which was absent from the previous legal arrangement: alternative curricula for private education (which must also secure an approval from the Ministry). Also, Art. 60(6) states that “The State shall support *and coordinate* private and denominational education...” As with other matters pertaining to the 2011 Law, the impact of the option to draft alternative curricula for schools will only become apparent over the coming years. As of this writing, the curricula in all private schools, including denominational ones, are still the same as in public schools, i.e., based on a national standard.

Under Art. 9(5) of the (old) 1995 education law, all private (including denominational) schools had to comply with the general provisions applying to educational curricula, for which the Ministry of Education held the primary responsibility (under Art. 13(3)). Under Art. 105 of said law, the curricula of private schools had to meet the same criteria (including criteria concerning the organization of educational processes, size of study groups etc.) as those in public schools, and had to be approved by the Ministry of Education. Given the

¹⁰ Data obtained directly from the Adventist Church's Union of Conferences.

¹¹ Data for each of the 6 Roman Catholic (arch)dioceses is available at <http://www.catholica.ro/biserica-romano-catolica/>.

markedly centralized nature of Romanian primary and secondary education, a guiding principle of which has been that every student everywhere in the country should study in very similar institutions very similar things at very similar times,¹² these restrictions have not raised special problems as far as religious discrimination is concerned. Most significantly, in the design of RE curricula and textbooks used in public as well as denominational schools, the Ministry of Education has systematically deferred to the denominations.

Indeed, if there is any concern with respect to RE, it is the reverse of that suggested by the question: the Ministry of Education does not control enough the teaching of Religion in *public* schools. As currently taught, RE betrays an educational approach that is at odds with modern educational philosophies, and in some cases (frequently in Orthodox textbooks, but occasionally also in Catholic ones) is disparaging of other denominations or religious traditions (see below).¹³

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 have the right to refuse pupils from other religious beliefs? Please refer to the provisions in the law.

Under Art. 12(2) of the 1995 education law denominational schools *were* exempted from the provision prohibiting discrimination on religious criteria in education.¹⁴ That is to say, these schools could in principle discriminate in admissions on the basis of religious faith. However, such a stipulation no longer exists in the new Law on National Education. This may or may not be due to the fact that under the 2011 Law all schools, public and private, non-denominational as well as confessional, receive basic funding from the state. This being said, the implications of the absence of such a stipulation cannot be determined until the relevant case law arises.

Nonetheless, even under the previous arrangement, which exempted denominational schools from the non-discrimination clause, many denominational schools accepted children of a different religious persuasion than the one of the governing church (see II.1 and II.2).

III.2. Question: Does the head of a state funded denominational (e.g. Catholic) school 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?

As discussed above, denominational schools were, until 2011, expressly exempted from the clause mandating non-discrimination in education. No such express exemption exists now, but it is difficult to predict how this will affect the freedom of religiously-affiliated schools to impose quotas on pupils from other religious faiths, especially in the new context of public funding for all schools. In the view of this author, it is likely that this will not pose a significant practical problem in the near future.

IV. Point of views of the authorities concerning the teaching of Islam in denominational

¹² While efforts have been recently made towards decentralization, including more room for institutional choice in curricular matters, so far decentralization has remained mainly theoretical.

¹³ See Enache, Smaranda et al. (2007), *Educatia religioasa in scolile publice (Religious Education in Public Schools)*, Targu-Mures, Pro Europa; Moise, E. (2004), 'Relatia stat-biserica in privinta educatiei religioase in scolile publice din Romania' ('Church-state relations from the perspective of RE in Romanian state schools'), *Journal for the Study of Religions & Ideologies*, 7, pp. 77-100; Stan, L. and Turcescu, L. (2005), 'Religious Education in Romania', *Communist and Post-Communist Studies*, 38.3, pp. 381-401.

¹⁴ Art. 13(2): "The organization and contents of education may not be structured on the basis of exclusivist and discriminatory criteria, be they ideological, political, religious, or ethnic. The educational institutions established to respond to religious and linguistic needs, in which the teaching is in accordance with the choices of parents or legal guardians, are not considered structured on the basis of exclusivist and discriminatory criteria."

(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

Since the teaching of Islam is not a particularly relevant or pressing problem in Romania at this moment, the questions under IV will be addressed in the context of all religious denominations (Islam included).

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?

While establishing that all students who are members of recognized denominations shall be provided with RE classes in their faith, the new Law, unlike the old one, is completely silent on the exemption of denominational schools from the non-discrimination clause (see III.2). In other words, it *appears* that denominational schools will not be free to discriminate in admissions based on faith. This *suggests* that denominational schools (e.g., Catholic) will be obligated to offer RE classes in, for example, Islam to Muslim students upon their request. More will be known when relevant case law builds up.

As to the minimum number of students required for RE classes, as discussed under I.1 this is a problematic matter. A Ministry of Education Order dated 2005 (no. 19283) specifies that the obligation of schools to provide RE is conditional on the existence of a group of 10 students of the relevant faith, yet the Order also admits of groups consisting of 7 pupils “under special circumstances”. In practice, RE classes have occasionally been organized for even smaller groups.

This numeric condition is not mentioned in the new Law. On the contrary, Art. 18(1) establishes that all students “who belong to state-recognized religious denominations are ensured, *irrespective of their number*, a constitutional right to attend Religion classes”. Nonetheless, Art. 18(2) stipulates immediately thereafter that the general average grade is computed without the Religion grade in the case of “students *for whom the conditions necessary for the attendance of Religion classes could not be ensured*.” Also, Art. 32(4) of the Religious Freedom Law sets out that, upon request, “in the situation where the school cannot provide teachers of religion who are members of the denomination”, students may produce evidence of religious studies provided by their church. As a result, it appears that schools may comply with the law even if, despite the relevant requests, they do not provide RE classes to minority students – at least if they can prove that they were not able, despite their best efforts, to secure the requisite teachers.

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.

Since the applicable laws (particularly, the Law on National Education and the Religious Freedom Law) guarantee RE only to the 18 recognized denominations, there is no obligation to offer RE classes in other faiths or alternative classes in other philosophical worldviews – in either private or public schools.

Ever since it was first offered in public schools in 1990, religious education has been strongly confessional in nature and not offered as part of a system of elective subjects; this is what is meant by RE being “part of the core curriculum”. There are and have been no alternatives to Religion, whether on religious or moral or philosophical issues or not, and systematic efforts have been made by schools to enrol students in this subject (e.g., registration by default,

absence of an alternative option, administrative pressure, RE classes placed in the middle of the schedule a.s.o.). This is, in fact, part and parcel of the philosophy guiding the organization of RE in Romania, the main justification for which is not educational (introducing students to religious and philosophical issues, perhaps with a focus on their own religious faith), but confessional (providing churches and parents with an opportunity to ensure catechetical instruction).

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?

Generally, debates on the nature of RE have revolved around two issues: their quasi-mandatory status and the substance of what is taught (also see “Additional comments”). As currently organized, RE has been accused of being incompatible with freedom of religion and conscience, as exhibiting a fear- and punishment-based educational philosophy (mainly in the case of Orthodox Religion), and as painting an unfavourable image of other denominations and faiths.

In relation to the “quasi-mandatory” status of religious education, it has been observed that, though in theory a subject from which withdrawal is permitted, RE is in practice difficult to avoid for a number of reasons, among which:¹⁵

- (a) the confusing wording in the original 1995 education law (thereafter amended) and in a Constitutional Court decision of the same year (no. 72 of 18 July 1995), which defined RE as “compulsory” – a label which has stuck (for example, until recently the website of the Romanian Orthodox Patriarchate referred to RE as a “compulsory subject”);
- (b) the puzzling status of RE, which is part of the core curriculum (the nationwide set of compulsory school subjects), although attendance is optional;
- (c) the documented systematic peer, teacher, and administrative pressures on students of all faiths and of no faith to study Religion, sometimes even the religion of a faith which was not even nominally their own;
- (d) other widespread arrangements favouring RE (Religion classes are typically placed mid-schedule, grade inflation in RE is rampant, there are no formal alternatives to RE, registration in RE classes is by default and a formal request is needed to withdraw).

As for the contents of religious education as currently taught, RE has been considered catechetical in style and substance¹⁶ and at odds with modern educational philosophies. The moral outlook espoused in Orthodox RE textbooks particularly has been described as based on fear and retribution, and as frequently presenting other religious groups – the Evangelical denominations especially, but also Greek-rite Catholicism – in a strongly unfavourable light. Furthermore, changes have been made to other (secular) subjects in order to bring them in line with a religious worldview (e.g., the Ministry of Education simultaneously eliminated the theory of evolution from biology curricula and the section on “God” from philosophy curricula).

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

See section above and “Additional Comments”.

¹⁵ Enache et al., *op. cit.*

¹⁶ Stan and Turcescu, *op. cit.*, p. 395.

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. . .

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?)

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:

Since the teaching of Islam is currently not a particularly pressing problem in Romania, all the questions under V are addressed together below.

First, it is important to point out that most of the Muslims in Romania are of Turkish and Tatar descent (including Turkified Tatars) and that, furthermore, they are members of traditional (historical), officially recognized “national minorities”. In this latter capacity, they benefit from, among others, education in their language, which is organized either in public schools with teaching in the mother tongue or in special classes with teaching in the minority language. Like all acknowledged denominations, Muslims have access to religious education in public schools in their own faith. Equally importantly, most Muslims (some 80 percent) are concentrated in the Dobrogea region. This is significant because it means that it is easier to organize religious education classes teaching Islam in public schools, whether elementary or lower- and upper-secondary. As a result, there has been no significant need to establish private denominational schools for Muslim children in the areas where the majority of these children are located. The rest of the Muslim community, consisting mostly of immigrants, already operates its own private educational institutions, some accredited and some not (such as those in Bucharest).

Moreover, wherever there are sufficiently many Muslim children (around 7) to organize an Islamic RE class in a public school, the latter is obligated to provide this service (or to acknowledge religious education provided in other environments). Last but not least, as a (mostly) historical ethno-religious minority, the Muslims have not usually – in communist and post-communist times – been the subject of adversity from other traditional religious groups, as has been the case with the Evangelical churches or the Jehovah's Witnesses. More recently, concerns have been occasionally expressed over Islamic fundamentalism in Romania, but this is still far from reaching the status of a public issue comparable to what is happening in Western Europe. Once again, the nature of the Muslim community in Romania – a traditional ethno-religious community without a fundamentalist tradition, with many non-theistic members and strong Turkish connections – and of its religious leadership (particularly a moderate Mufti)¹⁷ are most likely responsible for this state of affairs.

As far as the question of guidelines for the teaching of Islam is concerned, as with every other religious denomination there are national RE standards with which all public and private schools must comply. A part of these standards is confession-specific and established by the Ministry of Education in cooperation with each relevant denomination – and so far the former has systematically deferred to the latter. Indeed, the textbooks used in schools must be jointly approved by the leadership of each denomination and the Ministry. In other words, the

¹⁷ For example, after the Danish cartoons scandal the Mufti of the Muslim Denomination invited his followers to exercise restraint; and, unlike the head of the ROC, he stopped short of explicitly condemning Salman Rushdie's visit to Romania on a book tour.

official representatives of each *cult*, the Muslim Denomination included, closely control religious education in their faith, with little substantive interference from the state.

VI. Religious symbols in public schools

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

Religious symbols are allowed in Romanian public schools – and, in fact, Eastern Orthodox icons but also Christian crosses more generally are virtually ubiquitous. There is no provision on this issue in the Law on National Education just as there was none in the old education law. In spite of a 2006 resolution by the National Council for Combating Discrimination to the effect that religious symbols may only be displayed in public schools during RE classes (see below), schools have remained in practice free to decide whether they will display such symbols or not. Furthermore, there is no formal procedure for such decisions; symbols are commonly placed on school premises by individual teachers, students, or parents, often without official or explicit approval from the school.

In Romania the Supreme Court set aside a decision of the National Council for the Prevention of Discrimination of 21 November 2006 recommending to the Ministry of Education that it should regulate the question of the presence of religious symbols in publicly run educational establishments and, in particular, authorise the display of such symbols only during religious studies lessons or in rooms used for religious instruction. The Supreme Court held in particular that the decision to display such symbols in educational establishments should be a matter for the community formed by teachers, pupils and pupils' parents (11 June 2008; no. 2393).

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

The wearing of Islamic headscarves does not constitute a problem and does occasionally occur in areas with a substantial Muslim minority (but mostly in Bucharest, with immigrant Arabs and Kurds, rather than in Dobrogea). Dress code in public schools is a matter for the school's decision and is often relatively liberal, so adding a headscarf would not be considered a violation.

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

Same as above.

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

Dress code in public and private schools is decided by the school. The Law on National Education does not contain any stipulations on this matter, which is regulated through lower-level instruments.

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?

To the knowledge of this author this issue has not been raised (although Romania as a very active National Council for Combating Discrimination which receives numerous complaints on all sorts of issues). As of this writing, a headscarf would not be considered contrary to a school's dress code. Such codes are never that restrictive.

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

As noted, it is the school which takes such decisions.

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?

N/A

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

In the matter of religious displays, a complaint was lodged in 2006 with the National Council for Combating Discrimination by professor and religious freedom activist Emil Moise, who alleged (inter alia) that such displays constitute a form of discrimination on the basis of religion and conscience.¹⁸ The Council found with the plaintiff, underlining that the presence of crucifixes and other religious iconography is permitted only during religious education classes, and ordered the Ministry of Education to pass an order to that effect. The Ministry refused to comply. The NCCD decision was appealed in two separate cases. In the first, the High Court of Cassation and Justice overturned the Council's decision. In the second, the Bucharest Court of Appeals upheld the NCCD decision and, since this ruling was not appealed, it is now binding. Therefore there are, at present, two final court decisions in Romania concerning the display of religious icons in public schools – and they contradict each other. Mr. Moise has complained to the ECtHR after the High Court decision and is currently awaiting an answer.

As far as the Islamic headscarf is concerned, so far this has not been an issue in Romania. Teachers wearing headscarves may and do teach in public schools. The only complaints I am aware of in this respect are that sometimes militant Islamic women wearing headscarves in public institutions are allegedly regarded with suspicion – but they have not been subjected to vilification, harassment, or exclusion.

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:

Not typically, assuming the question concerns denominational schools belonging to other religious schools. This is most likely because there is no such demand (the relevant ethno-religious communities have their own public and private schools – see above), and because religious instruction received in the church is recognized for school purposes.

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

Yes: in public and private schools where there is sufficient demand, as well as in Turkish-language public and private schools and other schools belonging to the various Muslim communities.

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

¹⁸ See Andreescu, G. and Andreescu, L. (2010), 'The European Court of Human Rights' *Lautsi* Decision: Context, Contents, Consequences', *Journal for the Study of Religions & Ideologies*, 9.26, pp. 47-74; Horváth, G. and Bakó, R. (2009), 'Religious Icons in Romanian Schools: Text and Context', *Journal for the Study of Religions and Ideologies*, 8.24, pp. 189-206.

Same as above.

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

N/A

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

N/A

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

N/A

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

As absent (not an issue).

VIII. Additional comments

As far as the author of these lines is concerned, the main problems arising in connection with the place of religion in Romanian schools chiefly pertain to the organization of religious education and the presence of religious symbols in public educational institutions.

As currently organized, RE is catechetical, that is, it aims to impart religious beliefs rather than to educate about a variety of religious doctrines and religious history, about relevant moral and political issues, or about pertinent philosophical and lifestyle questions. Not only do religious curricula fail to conform to broader educational goals, it is the latter which have been tailored to fit confessional beliefs (e.g., the elimination of the theory of evolution from biology curricula and of the section on God from philosophy curricula; the teaching of a variety of creationist or young-earth theories during RE classes as the scientific truth). In part as a result of this by now two-decade old system of religious instruction, recent sociological surveys have identified a worrying lack of basic scientific knowledge among Romanians.¹⁹

Furthermore, religious education is organized in such a manner that, despite a formal possibility to request an exemption, such an act is systematically and actively discouraged. Not only has RE been formally defined as “obligatory” for a number of years, but it has been labelled as such by the majority church for more than a decade, and is still believed to be so by a majority of teachers.²⁰ Pupils are enrolled in Religion classes automatically and need to file a special request in order to obtain an exemption. Numerous cases of pressure from administrators and other teachers to enrol in RE have been documented through the years.

The question of religious symbols in public schools – both crucifixes and (mostly Eastern Orthodox) icons – is directly relevant to the matter above, as the religious impregnation of schools constitutes a direct pressure on students to attend Religion classes. Many public classrooms used for teaching a variety of subjects are virtually wallpapered with religious

¹⁹ Vlasceanu, Lazar et al. (2010), *Știința și societate: Interese și percepții ale publicului privind cercetarea științifică și rezultatele cercetării. Raport de cercetare (Science and society: Public interest in and perception of scientific research and findings. Research report)*, Bucharest.

²⁰ See Enache et al., *op. cit.*, chapter 3.3.

symbols. Not only may these symbols offend the sensibilities and convictions of some religious minorities (e.g., those who consider the worship of images inappropriate) and of non-religious or atheist students and parents, but they convey the general idea that schooling and religion are closely connected, and that religious ideals must inform and even govern educational ones.

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