



First Edition

Islam (Instruction) in State-Funded Schools

COUNTRY REPORTS

Gracienne Lauwers, Jan De Groof, Paul De Hert



iBooks Author

Preface

Series on Human Rights in Education

**Gracienne Lauwers,
Jan De Groof,
Paul De Hert**



This project has been funded with support from the European Commission. This publication reflects the views only of the author, and the Commission cannot be held responsible for any use which may be made of the information contained therein.



ISBN: 9789491600036

Section 1

Conclusions by the Project Coordinators

Characterized by rationalization, functionalism, and individualism, the European public sphere also offers space for communal life although to a different degree and with variations in each member state, as reflected in the so-called “margin of appreciation” doctrine of the European courts.

One can distinguish traditionally a number of players in community life and in education.

There are the traditional Christian churches. However secular European politicians may be in their outlook, they have often regarded faith and religious institutions as pillars of public order. European policy and decisions of national and European courts have fundamentally affected the relations of the churches with the respective states and societies. Nevertheless, although at present many churches have lost influence on social life, they may continue to play a significant role in education.

Although in general public schools are kept quite separate from the churches, in many European countries they offer religious instruction as a means for inculcating moral principles and historical traditions.

Denominational schools have in many cases been brought under the influence or even the control of government through public funding and requirements that they emulate many of the organizational and curricular standards of public schools. To what extent they may continue to exercise a distinctive mission is a question for public policy; to what extent they seek to do so is an equally interesting question in sociology.

There are also communal frameworks with a religious character developed by migrants, particularly those from predominantly Muslim countries. Many Muslims seek to be at home in Europe but remain marginalized. To what extent the religious institutions which migrants create sustain community life and nurture youth but also isolate them from the host society is a question of vital importance.

Many migrants and their children born in Europe could be described as having a ‘denationalised identity,’ belonging comfortably neither in their country of origin nor in the country in which they live, compelled to accept European values, legislation and administrative structures. They have the right to practice their faith, but not as the basis of exemptions from the principles of

the secular state. For many, the norms of Western secular culture based on individual rights and freedoms are in conflict with deeply-held communal values.

This tension is also reflected in legal doctrines. European policy and courts have accommodated national identities resulting from national histories based on the doctrine of the “margin of appreciation”, but this failed to accommodate ‘denationalised identities’ defined by culture and religion that are not part of a country’s history.

Europe has come to understand its public life as functioning in a secularized sphere in which religion does not play a significant role, having been relegated to the realm of private choice and practice. The presence of communities based upon migration that define their identity in religious terms and seek to make this the basis of their participation in public life, often invoking human rights principles of freedom of conscience and of culture, offers a fundamental challenge to European policy-makers, educators, and legal experts.

Gracienne Lauwers (Universiteit Antwerpen)

Jan De Groof (Europacollege/ European Association for Education Law and Policy)

Paul De Hert (Vrije Universiteit Brussel)

Section 2

Pictures of project events

Kick-off symposium on 'Religion and the public sphere' (Tilburg, 28 April 2010)

International workshop on 'Religion, Beliefs, Philosophical Convictions and Education' (Bruges, 7-9 December 2010)

International Conference on 'Islam (Instruction) in Education' (Antwerp, 8-12 February 2012)



Comparative analyses

2

Gracienne Lauwers

RELIGIOUS INSTRUCTION IN PUBLIC SCHOOLS

Religious instruction is in principle compulsory during the school hours with the possibility to opt-out or to attend alternative classes.

Where religious instruction in public schools is compulsory, three different models can be summarized in various countries, which provide for:

- teaching only one single religion, with a possibility for pupils or through their parents to opt-out;
- confessional religious education of several religions and pupils or parents may choose the teaching they intend to follow. Often this includes the choice of a course on ethics;
- a form of non-denominational religious education, focusing on learning the basic characteristics of the major religions. In some countries it is compulsory, in other countries pupils or parents can opt out;

Some countries have a combination of these models in their educational system.

[illegible]

ISLAMIC INSTRUCTION IN PUBLIC SCHOOLS

There are several ways to accommodate the request of Islamic instruction in schools.

- Some countries organize Islamic instruction depending on the number of Muslims attending the class or school. If this number is too small, the pupils may have to have their religious instruction together with children from other classes or other schools or the number of hours they spend in school is shortened;
- Some countries allow Muslim pupils and parents who are given the opportunity to receive Islamic instruction in school to opt-out and eventually receive most of their Islamic instruction in their local communities;
- Finally, some countries allow Muslim parents to make arrangements for their children to receive religious education away from school, during school hours.

Organize Islamic instruction depending on the number of Muslims attending the class or school or on the region	Muslims get their Islamic instruction in their local communities during the school hours	Muslims get their Islamic instruction in their local communities outside the school hours
<ul style="list-style-type: none"> • Austria • Bulgaria • Finland • Flemish Community of Belgium • Germany - some of the Länder, e.g. Northrhine-Westfalia • Greece – region of Trace • Lithuania • Netherlands • Poland • Romania 	<ul style="list-style-type: none"> • USA 	<ul style="list-style-type: none"> • Albania • Denmark • Estonia • France • Germany • Italy • Lithuania • Norway • Russia • Slovenia • Sweden • Ukraine

WEARING OF RELIGIOUS ATTIRE OR SYMBOLS IN PUBLIC SCHOOLS		
<p>Countries have legislated on religious clothing or religious symbols in school.</p> <ul style="list-style-type: none"> - Some prohibit students from wearing religious attire or symbols. - Other countries have dress codes which allows the wearing of religious attire or symbols unless if prohibited in the school regulations. - Others allow the wearing of religious attire or symbols as a fundamental right. 		
Prohibition	Allowed unless if prohibited by the school regulations	Allowed
<ul style="list-style-type: none"> • France • Turkey 	<ul style="list-style-type: none"> • Denmark • Flemish Community of Belgium • Lithuania • Netherlands (safety reasons) • Russia • USA 	<ul style="list-style-type: none"> • Albania • Austria • Bulgaria • Estonia • Finland • Germany • Greece • Italy • Norway • Poland • Romania • Sweden • Ukraine

ARE CRUCIFIXES IN THE CLASSROOM OF PUBLIC SCHOOLS ALLOWED OR BANNED?			
Compulsory	Compulsory except if objections are made	Allows crucifixes in the classroom except if objections are made	Crucifixes are banned from the classroom
<ul style="list-style-type: none"> • Greece • Italy 	<ul style="list-style-type: none"> • Germany - depending on the School Act of the Region 	<ul style="list-style-type: none"> • Austria • Bulgaria • Denmark • Finland • Germany - depending on the School Act of the Region • Lithuania • Poland • Romania • Sweden 	<ul style="list-style-type: none"> • Albania • Estonia • Flemish Community of Belgium • France • Netherlands • Norway • Russia • USA

STATE FUNDED PRIVATE SCHOOLS			
Less than 7% of total number of schools	Between 7 and 12% of total number of schools	Between 12 and 25% of total number of schools	More than 40% of total number of schools
<ul style="list-style-type: none"> • Czech Republic • Germany • Greece • Italy • Luxembourg • Poland • Portugal 	<ul style="list-style-type: none"> • Denmark • Finland • Hungary • Norway • Slovak Republic • Sweden 	<ul style="list-style-type: none"> • France • Spain • UK 	<ul style="list-style-type: none"> • Belgium • Ireland • Netherlands

STATE FUNDED ISLAMIC SCHOOLS	
<p>The number of Islamic schools differs significantly between European countries. In some countries with large Islamic communities, few Islamic schools are recognized or few are supported by the State if they exist at all.</p>	
No Islamic schools recognized and/or supported by the state	Few Islamic schools recognized and/or supported by the state
<ul style="list-style-type: none"> • Albania (no any Islamic school is supported by the state) • Estonia • Finland • Flemish Community of Belgium • Lithuania • Norway • Poland • Russia • Slovenia • Sweden • Ukraine • USA 	<ul style="list-style-type: none"> • Albania (few Islamic schools are recognized by the state) • Austria • Bulgaria • Denmark • France • Germany - only in Berlin • Greece – only in Trace • Italy • Netherlands • Romania • Sweden

ACCESS TO PRIVATE STATE FUNDED SCHOOLS

One can distinguish four legislative models:

- obliges schools to accept all pupils;
- allowing state-funded denominational schools to refuse pupils of other beliefs;
- permitting state-funded denominational schools to refuse pupils of other beliefs; but if officials in these schools accept such pupils, they are obliged to provide religious instruction in other denominations;
- obliging schools to accept all pupils but there is no obligation to teach denominations other than their own religion.

Allowed to reject pupils with another conviction/belief	Allowed to reject pupils with another conviction/belief but if pupils are accepted, schools have the obligation to provide religious instruction in their denomination	Legal obligation to accept all pupils but no legal obligation to provide religious instruction except for the own denomination of the school	Legal obligation to accept all pupils
<ul style="list-style-type: none">• Bulgaria• Denmark• Estonia• Germany• Netherlands• Russia• USA	<ul style="list-style-type: none">• Austria	<ul style="list-style-type: none">• Flemish Community of Belgium• Poland• Sweden	<ul style="list-style-type: none">• Finland• France• Greece• Italy• Lithuania• Norway• Romania• Slovenia• Sweden• Ukraine

Questionnaires

3

**The place of religion
in education**

The place of religion in education in Austria

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 Austria religious instruction is organised during school hours in lower and secondary education in public schools as well as in specific private schools (those private schools which are recognized as equal to public schools and which nearly have the same legal standing as public schools have). For those pupils who are a member of a denomination which is lawfully acknowl-

edged in Austria it is obligatory to take part in that religious instruction (unless they visit one of those schools mentioned in Article 1 § 3 Religious Instruction Act, e.g. vocational schools; in that case it is up to the pupils if they choose the subject or not). Parents of pupils under 14 years and pupils over 14 years have the right to opt out from religious instruction at the beginning of each school year.

(see Article 1 § 1 Religious Instruction Act (Religionsunterrichtsgesetz))

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

Answer:

Pursuant to Article 1 § 1 Religious Instruction Act (Religionsunterrichtsgesetz) and due to the fact that the Islamic community is lawfully acknowledged in Austria, pupils who are a member of the Islamic community can choose in principle for Islam instruction in the official education sector as well as in recognized private schools. However the organization of that (Islam) religious instruction could differ depending on the number of Islamic pupils attending the class or school. That means (for example) that if this number is too low it could happen that these pupils have to have their religious instruction together with pupils from

other classes or other schools or that the number of school hours is shortened (see Article 7a Religious Instruction Act (Religionsunterrichtsgesetz))

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:

At the moment (state 2007) 8 (private) Islamic schools exist in Austria.

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:

The Austrian legal system draws a distinction between different types of private schools. A private school can receive a similar

legal standing as public schools have (especially concerning the legal effect of certificates) if they fulfill all necessary qualifications. In that case religious instructions are performed by the religious community and under its responsibility; the supervision by the government is restricted to organizational and disciplinary matters. In so called “free private schools” (which are not trying to achieve the same status as public schools have) religious instructions are performed und supervised by the religious community.

(see Article 22 Private School Act (Privatschulgesetz))

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:

Pursuant to Article 4 § 3 School Organization Act (Schulorganisationsgesetz) the governing board of a confessional school could refuse pupils because of their belief, language or gender.

In practice however catholic schools in Austria have already started to admit also pupils of another denomination.

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?

Answer:

Yes (see above I/5)

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:

In the Austrian legal system lawfully acknowledged religious communities (such as the Catholic community) have a legal title to be subsidized by the government if they run a private school, which nearly has the same legal standing as public schools have (see Article 17 Private School Act (Privatschulgesetz)). If such a confessional (catholic) private school fulfill these qualifications the governing board of that school is obligated (by law) to teach religious instruction for all lawfully acknowledged religious communities (including the Islamic Community) which are represented in the class (see Article 1 § 1 Religious Instruction Act (Religionsunterrichtsgesetz)). From this it follows that a request of parents or pupils for islam instruction is not necessary.

(for details concerning the organization of such a religious instruction in private catholic schools compare I./2)

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:

This legal obligation exists for all lawfully acknowledged religious communities in Austria.

In Austria there is no a legal obligation (neither for public schools nor for private schools) to provide an alternative ethical

course, but for the time being some schools in Austria are taking part in a pilot project teaching alternative ethical courses in schools.

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

Answer:

- K. Pabel, *Religion im öffentlichen Schulwesen*, in: Prisching/Lenz/Hauser: Bildung und Religion, 37-76 (2006)
- B. Schinkele, *Umfang und Bedeutung des kirchlichen Privatschulwesens im österreichischen Schulsystem*, in: A. Rinnerthaler: Das kirchliche Privatschulwesen – historische, pastorale, rechtliche und ökonomische Aspekte, 287-314 (2007)
- H. Kalb, *Arten von Privatschulen, deren Öffentlichkeitsrecht und die Rechtsstellung von Lehrern und Schülern – ein Überblick*, in: A. Rinnerthaler: Das kirchliche Privatschulwesen – historische, pastorale, rechtliche und ökonomische Aspekte, 315 – 343 (2007)
- W. Rees, *Beaufsichtigung und Finanzierung kirchlicher Privatschulen und die Existenz von gesetzlichen Interessensvertretungen an diesen Einrichtungen*, in: A. Rinnerthaler: Das kirchliche Privatschulwesen – historische,

pastorale, rechtliche und ökonomische Aspekte, 345 - 416 (2007)

- H. Kalb, *Verfassungsrechtliche und einfachgesetzliche Verankerung des Religionsunterrichts*, in: A. Rinnerthaler, Historische und rechtliche Aspekte des Religionsunterrichts, 209 – 239 (2004)
- A. A. Bucher, *Ethikunterricht in Österreich: noch einiges unklar*, in: A. Rinnerthaler, Historische und rechtliche Aspekte des Religionsunterrichts, 297-310 (2004)

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. . .

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 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:

For the moment there does not exist any general decision by such a(n) (catholic) agency mentioned above. But as already mentioned, Islam instruction is offered in all catholic schools which fulfill the qualifications (mentioned above). Some bishops responsible for catholic schools in their region ask Islam parents to agree to Islam religious instruction when their children attend a catholic school.

Bibliography

See Literature above

Annex

Internetsite where one could consult the appropriate legislation:

<http://www.ris2.bka.gv.at/>

The place of religion in education in the Flemish Community of Belgium

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 lower education, 326.253 pupils follow catholic religious instruction (of which 240.266 in public financed private schools), 2482 pupils follow protestant religious instruction, 1320 students follow Jewish religious instruction (of which 1269 in public financed private schools), 15861 pupils follow Islam religious instruction (of which 14726 in public schools), 5 pupils follow or-

thodox religion, 2.345 study moral of which 1238 in public schools), 110 study culture, and 30 are exempted.

53200 students attend public schools. 246291 students public subsidised private institutions. 259 students attend schools from provinces. 87407 attend schools from localities.

In secondary education, 362386 pupils follow catholic religious instruction (of which 329550 in public financed private schools), 1299 pupils follow protestant religious instruction, 1007 students follow Jewish religious instruction (of which 826 in public financed private schools), 12537 pupils follow Islam religious instruction (of which 11891 in public schools), 396 pupils follow orthodox religion, 24 Anglican religious instruction, 58716 study moral of which 57377 in public schools), 1184 study culture, and 1789 are exempted.

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

Answer:

Yes

II. State funded denominational schools and state supervision

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:

One in Brussels as annex of the Islamic Cultural centre at the end of the '80. One for girls opened in 2007 with prohibition of sex education and compulsory wearing of the headscarf. Both are French speaking. Interference of the courts Islam instruction is provided in schools in Schaarbeek en Sint-Gillis.

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:

Yes, but the content of religious education is not subject to control by the inspectorate.

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:

Not anymore if they subscribe to the pedagogical project of the school and sign the project (Equal educational Opportunities Decree)

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?

Answer:

No, see the answer to the last question.

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

Answer:

<http://www.ond.vlaanderen.be/edulex/database/document/document.asp?docid=13298>

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

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 statistics mention 1.135 Muslim students receiving Islam religious instruction in public funded private educational institutions. It does not specify which institutions provide Islam religious instruction.

Jenia Peteva¹

Constitutional and legal aspects of teaching about religion in the Bulgarian school

Introduction

This paper originated from a contribution to the “Conference on Religion, Beliefs, Philosophical Convictions and Education - From Passive Toleration to Active Appreciation of Diversity” held in Bruges in December 2010. It reflects on the debates held during the conference and provides an overview of the issues raised in the context of the Bulgarian legal system.

Teaching of religion in schools reflects the history of a society, its cultural heritage and the constitutional system of the country. It also reflects the protection of human rights the respect of which is enforced by the constitution and the international law, and particularly by the European Convention on Human Rights.

The main question is whether religion should be necessarily a part of the school curriculum and if so what would be the guarantees that right to education and freedom of religion are enforced in a balanced and proportionate way.

These questions are explored below in their constitutional and legal context and the concrete rules of the legislation in force.

Constitutional Law and Practice

The Bulgarian Constitution of 1991 recognises the right to education and freedom of religion as human rights. It also sets up the principle of a secular state where the Orthodox Christianity is a traditional religion. The Law on Religious Denominations adopted in 2002 clarifies and lays down detailed provisions on the status of denominations and the scope of the freedom of religion.

Right to education

Article 53 of the Constitution recognises that everyone shall have a right to education and sets up the conditions for the establishment of schools and the financial commitment of the state:

Article 53

- (1) Everyone shall have a right to education
- (2) The school education shall be compulsory as up to 16 years of age
- (3) The primary and secondary education in the state and municipal schools shall be free of charge.

(4) ...

(5) Citizens and organisations may set up schools under conditions and by a way as established by law. Instruction in these schools must comply with the requirements as set up by the state.

(6) The State shall encourage the education by setting up and financing schools, supporting gifted pupils and students, creating conditions for vocational training and re-qualification. It shall control over all schools of every type and grade.

Article 6 (6) on the Law on Religious Denominations recognises the right to give and receive religious education in any language as a matter within the scope of freedom of religion. This is separate and independent from the teaching of religion in places considered appropriate by religious denominations in accordance with paragraph 7 of the same article.

At the same time the right to accede to cultural heritage has a constitutional status:

Article 54

(1) Everyone shall be able to benefit from the national and universal cultural heritage and to develop his or her culture in ac-

cordance with his or her ethnic belonging. This right shall be recognised and guaranteed by law.

Therefore, the Bulgarian constitution sets up the right of education in relation to the respect for that part of human conscience that shapes also the sense of belonging to a certain community.

In a similar way the Constitution sets up a framework for tolerance among people belonging to different faiths and religions.

Status of Religions

Article 13 of the Bulgarian Constitution lays down the principles regarding the place of religion in the public life. Accordingly, religious denominations are free but their institutions are separated from the state. In addition, paragraph 3 recognizes the Orthodox Christianity as the traditional religion in Bulgaria.

The Constitutional Court consistently held that this provision establishes a separation between the state and religious denomination and the autonomy and independence of the latter.²

The Constitutional Court pointed out that the recognition of the Orthodox Christianity as a traditional religion is an *essential* feature of the Bulgarian Constitution. It clarifies that this provision sets our Constitution in the group of the states with established churches where the state supports the predominant religion.³

The Court, however, does not go that far as to conclude that this provision obliges the state to support actively the Orthodox Christianity in a way similar to the relations between Church and State in the countries with established churches. The Court explains the special historical role of the Orthodox Church in the Bulgarian national history. At the same time it clarified that the constitutional status of the Orthodox Christian Church is a *moderate* expression of the special role of established churches in the “European constitutional tradition”.

This interpretation refrains from attributing wide privileges and powers of the Orthodox Church as regards its active involvement in the public decision taking and functioning of the public institutions. Nor does it imply any obligations for the citizens to contribute directly to the finances and activities of the Church. It follows, however, that if a decision regarding religion, such as teaching religion in schools, is to be taken, Orthodox Christianity may take a prior role.

Freedom of Religion

Article 37 of the Constitution recognises freedom of religion as a human right:

Article 37

- (1) Freedom of conscience, thought and religion and the choice of religion or religious or atheistic convictions shall be inviolable. The State contributes to the keeping up of the tolerance and respect between believers from different denominations as well as between believers and non-believers.
- (2) The freedom of thought, conscience and religion shall not aim against national security, public order, and public health or against rights and freedoms of other citizens.

In line with the established case-law of the European Court of Human Rights, the Bulgarian Constitutional Court recognises two aspects of this right:

- the internal one, the so-called “*forum internum*” related to personal beliefs and convictions that is inviolable, and
- the manifestation and expression of the freedom of religion that must respect beliefs of others and could be subject to certain restrictions when these are lawful and proportionate.⁴

The Law on Religious Denominations clarifies further

A specific element of the scope of the constitutional right is the obligation for the state to uphold tolerance and respect for people of different religion. In this way, Articles 13, 37 and 54 of the Constitution establish the principle of a neutral secular state recognising Orthodox Christianity as a traditional religion but promoting tolerance and respect for the right to be of a different belonging. The specific legal framework regarding teaching religion in public schools has to comply with this framework. This paper explores only the place of religion in state-funded educational institutions.

Religion in State-Funded Educational Institutions

Main Legal Acts

The general rules and principles of the educational policy in Bulgaria are laid down in the Constitution and the Law on National Enlightenment⁵ and its implementing rules⁶. These implementing rules create further a legal basis for the adoption of detailed instructions regarding teaching of religion by the Minister of Education. These instructions were adopted in 2003 and are still in force.⁷

Main Principles

Secular subject

The place of religion in school curricula in Bulgaria is similar to the French concept of teaching about “religious facts” as adopted in 2002.⁸

By virtue of Article 5 of the Law on the National Enlightenment and in accordance with the constitutional principle of separation of church and state, education in Bulgaria is secular. Religion is taught both in primary and in secondary schools.⁹

Article 4 of the Implementing rules of the law prohibits religious indoctrination in schools and requires that religions are to be studied in their historic, philosophic and cultural plan through the content of the curriculum of various subjects. This provision applies to secular schools only and does not inhibit the right of denominations to set up special educational institutions in line with the specific precepts of their religion.¹⁰

Non-compulsory subject

Religion can be taught in two types of classes that do not form a part of the core school curriculum:

- in classes referred to as “optional with an obligation to choose”, meaning that pupils have to attend a certain number of those classes at their choice, or

-
- in classes referred to as “fully optional” meaning that those are classes which may be chosen completely at the discretion of pupil.¹¹

As a school discipline, religion is taught as a comparative subject covering more than one religion. The religious views of the pupils and their parents are taken into account. Once chosen as a subject, religion is taught in one class per week. There is an option to study “Religion-Christianity” focused mainly on the Orthodox Church. These classes are in the upper primary and in secondary school. In the primary school there are also classes in “Religion-Islam”. There is a subject “World Religions”. It is taught in the last school year.¹²

There are areas in Bulgaria where the predominant part of the population adheres to the Islamic faith.

Teachers must have an appropriate education in humanities or must have graduated from a theological Christian faculty or from the High Islamic Institute.¹³

Future changes

There is an on-going public debate about the introduction of the subject “religion” as a compulsory school discipline.¹⁴ The question refers to teaching religion as such. Although the question is voiced by the Orthodox Church and the Christian community, teaching of Islam for those who wish this has never been ques-

tioned. The main arguments of the supporters of this idea are the positive ethical impact that religion would have on young people.

The Ministry of Education is working on a new general law on education. The government has established that the legal framework on the primary and secondary education needs more comprehensive changes. The main elements of the draft law are:

- defining religion as “an overview of the basic religions in the world” for the sake of better understanding of cultural differences among people,
- compulsory teaching of religion, and
- introduction of a class on religious faith albeit taught in a secular way, that must be a part of the classes among those a number of which must be chosen¹⁵

Nevertheless, the public debate is still ongoing and both the protagonists and the opponents of the idea to have compulsory classes on religion are well represented.

Role of the State

The state may support denominations in their educational activities and it has certain control over the content of the subjects taught.

Support

The state may stimulate educational activities by the religious denominations through financial or other means.¹⁶ More specifically, religious denominations, may receive financial support in the form of tax and customs reliefs, credit or other financial or economic stimuli. These forms of financial support are subject to the audit applicable to the non-governmental organisations. Administrative and criminal sanctions apply to any breach of these rules.¹⁷

The main form of state support for religious denominations is the state subsidy allocated and apportioned to all registered denominations under the annual law on the budget¹⁸. The subsidy covers also educational activities of the religious denominations. The apportionment is based on the representativeness of the denominations that have asked for a support.

Denominational Schools

There are five secondary denominational institutions in Bulgaria. Of those two are Christian and three are Muslim. In addition, there are three Christian faculties and one Islamic Institute.¹⁹ The education in these schools is on the same footing as the one received in secular schools on the condition that it does not obstruct the obtainment of the obligatory stages of the state education.²⁰

State Control

Teaching religion as a school subject is based on a concept developed by the Ministry of Education. It is subject to the state supervision applied to all schools.

Denominational schools avail of more freedom as regards their curricula but in order to be recognised they must comply with certain general requirements applied to all schools.

In addition a special Department at the Council of Ministers may take action against instances of indoctrination and other acts that may prejudice the exercise of religious freedoms.²¹ There have been cases where investigation took place on the suspicion of teaching of radical Islam. These claims, however, were not proved.

Religious symbols

There are no legal restrictions to wear religious symbols at school.

In 2008 the Commission on the Protection against Discrimination²² considered a case where there were that discriminatory oral warnings against wearing a scarf as well as threats for exclusion from school. The Commission recommended that in so far as there is no law on this issue, the legislator should make a thorough review of the current legal situation and set forth appropriate measures accordingly.²³ The Supreme Administrative

Court upheld the decision but annulled that part of it that obliges the Minister on Education to put forth a legislative proposal.

The prohibition of religious symbols, however, is still under discussion and will be considered in the context of discussions of a new law on primary and secondary education.

Legal Analysis

Due to the role of the specific local culture and traditions education is often managed by decentralisation. This is recognised also by the Treaty of the Functioning of the EU (“TFEU”) and the law and practice of the protection of human rights in accordance with the jurisprudence of the European Court of Human Rights in the light of the European Convention on the Protection of Human Rights (“the Convention”) and the Charter on Fundamental Rights (“the Charter”).

More specifically, Article 165 TFEU recognises that the EU supports cooperation as regards teaching but education remains under “the full responsibility of the Member States”.

In a similar way the European Court on Human Rights in the case *Leyla Sahin*²⁴ pointed out that states dispose of a large margin of appreciation: “where questions concerning relationship between state and religions are at stake, on which opinion in a democratic society may differ widely, the role of the na-

tional decision-making body must be given special importance... Accordingly the choice of the extent and form such regulations should take must inevitably be left up to a point to the state concerned, as it will depend on the domestic context”.

This principle applies also when there is issue regarding the right to education protected under Article 1 of Protocol 2 to the Convention. Not only does the court recognize the discretion but, as in the *Leyla Sahin* case, it evaluates the situation in case in the light of the constitutional framework in Turkey. Furthermore, when one of the religions, such as Orthodox Christianity has a predominant role, this does not conflict in itself with Article 9 of the Convention.²⁵

The Convention, however, imposes certain limits on the discretion of the State:

- firstly, education on or about religion must be done in an objective, critical and pluralistic where there can be no place for misplaced proselytism²⁶,
- the state remains an “impartial organiser of the exercise of various religions, faiths and beliefs”²⁷,
- the right to education does not impose a financial commitment on the state²⁸,
- education must take into account the parents convictions and exemptions from education must be given,

-
- right to education must not conflict with other rights recognised by the Convention such as the prohibition of discrimination²⁹.

In this context the regulation of teaching on and about religion in Bulgaria is not in conflict with international legal standard. The right to object on religious grounds and to be exempted from attending religious classes as well wearing of religious symbols in public places, however, would require a special attention in the course of the adoption of the new law on primary and secondary education. This would be an issue especially in places where Muslims or Christians are distinct minority and exposure to religious symbolism would be a form of indoctrination.

Conclusion

The constitutional and legal framework in Bulgaria is founded on secularism but has two distinct albeit seemingly contradictory features. On the one hand the Constitution recognises the Orthodox Religion as a predominant religion.

These general principles reflect the principles of human rights as adopted under the European Convention of Human Rights. The principles would be maintained and developed under the future law on primary and secondary education. At the same time the new law may change significantly the place of religion in public schools making it an obligatory subject. This law should ensure a balanced enforcement of human rights with a

specific attention to the right to object and be exempted from religious classes as well as to the issue of wearing religious symbols in public institutions.

Endnotes

1. Former assistant professor lecturer in Constitutional Law, Sofia University and former lecturer in European Constitutional Law and International Protection of Human Rights, New Bulgarian University, Sofia. At present, a member of the statutory staff of the European Commission. The views expressed in this paper are exclusively those of the author and may not be considered in any form whatsoever as an expression of the position of the European Commission.
2. Decision N 5 of 1992 and Decision N 12 of 2003.
3. Decision N 12 of 2003.
4. Decision N 5 of 1992 and Decision N 12 of 2003
5. Promulgated in State Gazette N 86 of 18 October 1991, last amendment came into force on 5 October 2010
6. Implementing Rules of the Law on National Enlightenment, passed by the Minister of Education and published in State Gazette N 68 of 30.07.1999, last amendment came into force on 8 June 2010
7. Instruction N 2 of 23.06.2003 regarding teaching of the school subject "Religion", issued by the Minister of Education and Culture, promulgated in State Gazette N 60 of 4.07.2003, in force as of 4.07.2003.

-
8. For a comparative analysis of the various system of teaching religion in state schools see Luce Pepin “Teaching about Religions in European School Systems- Policy Issues and Trends”, published by NEF Initiative on Religion and Democracy in Europe.
 9. Articles 6 and 7 of of Instruction N 2 concerning teaching of the subject “religion”
 10. Article 33 of the Law on Religious Denominations allows for the establishment of such educational institutions by denominations that are duly registered.
 11. Article 1 of Instruction N 2 concerning teaching of the subject “religion”
 12. Data available in the paper “The Pedagogical Experience in an Education of Interreligious Tolerance” by Svetla Shapkarova, to be found on line in Bulgarian
 13. Article 11 of Instruction N 2 concerning teaching of the subject “religion”
 14. See for instance the discussion held in 2008 by the Open Society Institute, available at <http://politiki.bg>, 3/2008 in Bulgarian
 15. The work on a draft law on education has been mentioned by Mrs Svetlana Lomeva, Vice-Minister on Education at the Ministry of Education, Youth and Sport during the parliamentary debates on the proposed amendments to the Law on the National Enlightenment, minutes N 954-01-18 of 15.09.2009, 41-st National Assembly
 16. Article 25 (1) of the Law on Religious Denominations
 17. Article 25 of the Law on the Denominations
 18. Article 28 of the Law on Denominations
 19. Data available in the paper “The Pedagogical Experience in an Education of Interreligious Tolerance” by Svetla Shapkarova, to be found on line in Bulgarian and at <http://bg.islam.blogspot.com>. Legal basis is established by Article 33 of the Law on Religious Denominations
 20. Article 33 (2) and (5) of the Law on Denominations
 21. The powers of the directorate are set up under Title VI of the Law on Religious Denominations
 22. A specialised quasi-jurisprudential body competent on issues of discrimination, set up in 2004
 23. Decision 38 of 22.02.2008, file N 37/2007
 24. Leyla Sahin v. Turkey, N 44774/98
 25. See for instance Angelini v Sweden case, application 10491/83
 26. For instance case Kjelsen, Busk Madsen and Pedersen v. Denmark, appl. 5095/71, 5920/72, 5926/72
 27. See Leyla Sahin v. Turkey, N 44774/98 as well as Hasan and Chaush v. Bulgaria, appl. 30985/96 and Kokkinakis v. Greece, appl. 14307/88
 28. Belgian Linguistics case, appl. 1474/62, 1677/62, 1769/63, 1994/63, 2126/64
 29. Belgian Linguistics case, appl. 1474/62, 1677/62, 1769/63, 1994/63, 2126/64

The place of religion in education in Cyprus

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:

Religious instruction is organised during the school hours in both primary and secondary education. Religious lessons given in primary and secondary schools follow the doctrine of the Eastern Orthodox Church. In secondary education, the courses are given by graduates of university schools of divinity, while in primary education they are given by the class teacher. Atten-

dance is compulsory for Orthodox pupils; atheists or members of other religions, however, may be excused. In the 1996 Curriculum of the Ministry of Education and Culture, the subject of religious education is under the title 'Christian Orthodox Education' and it is provided that the aim of the lesson is to enable the students to realise that they are members of the Christian Orthodox Church, to learn the fundamental truths of Christianity and to experience a loving relationship with God. According to the Curriculum pupils should be assisted to understand the presence of God throughout history and the apocalypse of God as an answer to the fundamental questions of human existence; they should experience the figure and teachings of Jesus Christ and experience the Christian way of love towards all people, regardless of colour, religion and race.

It is further provided that pupils ought to be introduced to the basic aspects of other religions and develop a critical attitude towards them, so as to become able to understand and respect the religious beliefs of others. Orthodox education should provide pupils, according to the Curriculum, with the skills to appreciate the meaning of the Orthodox ethics, traditions and prayer, and the beneficial influence of the Church to the development and progress of civilisation. In addition to the above, Orthodox education should develop the understanding of the collective worships of the Church and encourage the students to participate in such worships and teach them to respect the value and

importance of the various ecclesiastical monuments. It should also promote each individual's responsibilities for the continuation of the Orthodox faith and way of life.²

Some of the textbooks used in Cypriot schools are edited by the Ministry of Education of Cyprus, while some other textbooks are edited by the Ministry of Education of Greece. The aims of religious education in the Greek curriculum are nearly identical to the aims of religious education in the Cypriot curriculum, namely to teach the pupils the Christian Orthodox way of life, tradition and values, to develop their religious identity and to enrich their relationship with God. In addition Orthodox education in Greece aims to teach children the meaning, the symbols and tradition of the Orthodox faith, the meaning of the Gospels and the moral and spiritual values of Orthodox Christianity.

Religious education textbooks are written by committees appointed by the Government of Cyprus, or Greece respectively. Cypriot textbooks are edited by the Ministry of Education and Culture and distributed to every pupil in public schools for free. Teachers of theology in public schools are required to teach the content of such textbooks in order to promote the aims of the Curriculum; certain teachers of theology are even members of the clergy. Textbooks include topics from the Bible, both the Old and the New Testament, the history of the Orthodox Church, the lives of the Saints, hymnography and hagiography, as well as moral teachings.

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

Answer:

There is not a possibility of religious education for members of other religions in public schools, with the exception of Maronites and Turkish Cypriots; the religious instruction of Maronite children who attend public schools is taught by Maronite priests who receive a monthly salary by the state. Similarly, where there is an adequate number, Turkish Cypriot pupils may be religiously educated in their mother language and in their own religion, even in Greek - speaking schools. The fact that the State cannot offer religious education consistent with every single individual religion or creed is not of course surprising; the great majority of pupils in each non -Turkish public school adhere to the Orthodox Christian religion and thus, it would be practically unfeasible for the State to provide religious education which would meet the demands of all parents. This is why the State has opted to assist children belonging to religious groups to attend private schools of their choice, if they so desire, and further why non Orthodox Christians pupils may request to be exempted from religious education, including collective worship.

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:

The right of religious groups to set up and operate their own schools is safeguarded, and such schools are financially assisted by the State. It could be well argued that there is a continuous effort to maintain the special characteristics of the various religious communities with regard to education. In principle financial assistance is provided to the three religious groups of the island (Maronite, Roman Catholic and Armenian); religions and creeds, other than the five major religions of the island (Orthodox, Islamic, Maronite, Roman Catholic and Armenian), may set up and operate their own schools if they so wish, but will not be financially assisted by the State. The numeric importance of state funded denominational schools is very limited and it is estimated that students who attend these schools are less than 0.1% of the student ratio. Islamic state funded schools are very few due to the fact that most Turkish Cypriots (Muslims) do not reside to the areas controlled by the Republic of Cyprus due to the abnormal situation pertaining in the island since 1974.

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:

The Orthodox Church and the other Christian creeds operate Sunday schools, without State intervention; the right to operate Sunday schools, or provide private religious education in houses or other establishments is allowed for all religions and creeds. The hieratic school '*Apostolos Vanavas*', bearing the name of the founder of the Orthodox Church of Cyprus, operates in Nicosia, under the supervision of the Holy Synod, as a dependence of the Monastery of Kykkos. The school also functions as a boarding house for those pupils who wish to stay there during their courses. All expenses of the school are covered by the Monastery of Kykkos. Non-state funded denominational schools, that are not Sunday schools, is a virtually non-existing phenomenon in Cyprus.

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:

The authorities do not control the content of teaching in state funded denominational schools. However, the State may safeguard that the level of teaching corresponds to that of public schools.

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:

The issue has never arisen due to the fact that confessional schools are very rare in Cyprus.

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?

Answer:

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:

As already state, denominational education is a very rare phenomenon for Cyprus. There are no pupils of Islamic religion in denominational education. In public education, classes of Islamic religion might be taught if there is a minimum number of pupils for whom a request has been made.

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:

See above

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:

Objections have been raised with respect to the doctrinal character of religious education in Cyprus; undoubtedly, religious education in Cypriot schools does not refer to an objective study of the various religions and creeds, but rather consists of a purely doctrinal presentation from the point of view of the Orthodox Church. This becomes obvious not only from a mere reading of the purposes of the curriculum of the Ministry of Education and Culture of the Republic of Cyprus, but also from the everyday manner religious education is carried out in Greek speaking primary, or secondary schools. In addition collective worship only takes place in Orthodox Christian churches, collective prayer is based on the Orthodox tradition, while school religious festivities follow the Orthodox tradition. It could be argued that substituting such doctrinal character of religious education with lessons of neutral religiosity, or neutral religiosity in addition to doctrinal education, could be more education - friendly towards non Orthodox pupils and would promote pluralism.

It could be further argued that religion is a private matter and as such, it is not appropriate within a state funded public school; there is no doubt that such an educational reform would definitely be strictly opposed by the Church. Actual criticism of the content of religious education in Cyprus has been rather rare until now, a situation which could be explained by the fact that the State assists pupils belonging to religious groups to attend private schools of their choice, by covering all fees and expenses of such students, and by the fact that non - Orthodox Christian pupils had until recently been few in Greek - speaking primary and secondary schools.

In order to avoid the possibility of discrimination there are two possible ways of reforming the system: either religious education could consist of neutral religiosity instead of doctrinal education, or, if the doctrinal character of religious education is to be retained, students could be asked to opt religious education as a non - compulsory course; the latter option would have the advantage of allowing parents to ensure that their children receive religious education according to their own religion, while at the same time avoiding, or at least restricting circumstances of indirect discrimination on grounds of religion. A solution intends in principle to achieve a balance between the will of the majority to have a religious education of its choice on the one hand, and the right of the minority not to be embarrassed on the other.

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

Answer:

Article 20 of the Constitution provides that every person has the right to receive, and every person or institution has the right to give instruction or education subject to such formalities, conditions or restrictions as are in accordance with the relevant communal law and are necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or the standard and quality of education or for the protection of the rights and liberties of others including the right of the parents to secure for their children such education as is in conformity with their religious convictions.

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:

As already mentioned there are virtually no denominational schools in Cyprus and there is no teaching of Islam in such schools. The number of Catholics in Cyprus is not really high.

VI. Religious symbols in public schools

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

Answer:

They are allowed.

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:

The issue has never actually arisen in practice.

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:

The issue has never actually arisen in practice.

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

Answer:

The Ministry of Education issues guidelines on the dress code in schools.

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:

The issue has never arisen.

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

Answer:

The Ministry of Education.

Bibliography

A. Emilianides, Law and Religion in Cyprus, Kluwer, 2010.

Endnotes

1. Cyprus Institute of State and Church Relations (University of Nicosia)
2. Ministry of Education, The National Curriculum of Cyprus (Nicosia, 1996, in Greek): 128 (in Greek).

Jenny Berglund¹

Muslim schools in the Nordic countries²

State-funded Muslim schools has since the 1980s emerged in Europe. In several countries, there among the Nordic ones, there has been considerable debate about these schools. In Norway, the only Muslim school closed down in 2004 after a couple of years, but at least two schools who have received permission to start in 2012. In Denmark, who has the longest tradition of Muslim schools among the Nordic countries there has been considerable attention given to these schools and acquisitions of extremist teaching. In Sweden, the debate about these schools was very intense for a while, in recent years the National Agency of Education has intensified the control of denominational schools, the debate has calmed down. In Finland, where Muslims have the right to Islamic Religious Education (IRE) in public schools, there are so far no Muslim schools.

In this paper I intend to describe and analyze the establishment of Muslim schools in the Nordic countries. Since my own research concerns Muslim schools in Sweden and the content of

Islamic religious education (IRE), there will be a special emphasis on the Swedish situation.

BACKGROUND

The populations of the Nordic countries are today estimated to 9 million in Sweden; 4,6 million in Norway; 5,5 million in Denmark and 5,2 million in Finland. Sweden, Norway and Denmark are constitutional monarchies.³ Finland is a republic, with a president and a prime minister. Denmark, Finland and Sweden, are members of the European Union, while Norway remains outside but closely follows EU policies. In terms of religion the Nordic countries are dominated by Lutheran Protestantism. Norway and Denmark have Lutheran state churches, while Finland and Sweden have separated the ties between the former Lutheran state churches and the state. Instead they have been turned into “national churches” i.e. churches which are identified with the nation and its history, but which are no longer governed by state ministries.

The Nordic countries are often characterized as welfare states according to a model where the state to a large extent is the supplier of social services where benefits tend to be defined at the individual level, but with differences depending on each per-

sons history on the labour market. The state finances social services by taxes and fees.⁴

This has importance for our discussion, since schooling, both public and the so called “independent schools”⁵ which is the category that Muslim schools belong to in the Nordic countries, are financed by the state.

Immigration

After the Second World War, Sweden, Norway and Denmark became immigration countries. Finland was instead a emigration country until the nineteen eighties. Labour migration, mainly between the Nordic countries and from southern and eastern Europe, made an essential input to the Swedish, Norwegian and Danish economies between the fifties and seventies. Immigration policies changed from being focused on labour migration to refugees and asylum seekers in the beginning of the eighties,. Around 2005, approximately 12 percent of Sweden’s population was foreign born; 7 percent in Norway; in Denmark 8 percent; and in Finland around 3 percent.⁶ Of these Muslims constitute around 3,8–4,4 percent of the national population in Sweden; 3,5 percent in Denmark; Norway 2,5 percent; and in Finland 0,8 percent.⁷

ISLAM IN THE NORDIC COUNTRIES

Islam is today the largest non-Christian religion in the Nordic countries. Geographically, nationally and socially, Muslims in the Nordic countries come from diverse areas, although the number of Muslims born there is steadily increasing. The theological and political differences are very large, which means that Muslims in the Nordic countries must be categorized as a very heterogeneous group.

Muslims in Sweden

The presence of Muslims in Sweden is relatively recent, with the Tartars having been the first to arrive at the end of the 1940s. The 1960s marked the beginning of Muslim labour migration; and when the need for labour decreased at the end of the 1970s, immigration policy once again became more restrictive.⁸ At present, there are no reliable statistics regarding how many Muslims currently reside in Sweden. However, with as many as one hundred established communities, Islam has clearly become this country’s largest non-Christian religion. Available data indicates that the Swedish Muslim population stands at about 400,000.⁹ Of these, approximately half are held to be secularised¹⁰, an estimated one-third are considered to be school age and younger, and around 110,000 are said to belong to some kind of “registered” Muslim organisation.¹¹ In Sweden, as in many European countries today, issues relating to Islam and Muslims have been the focus of intense public de-

bate. The establishment of Muslim schools has been one such issue.¹²

Muslims in Norway

As already mentioned, in Norway the church is not separated from the state which among other things mean that the church budget is integrated with the municipal and state funding. A compensatory system has been created that gives other registered churches and religious organisations as much state aid per member as the state church (Leirvik 2003:122). This system has contributed to the fact that a larger proportion of the Muslim minority is registered in Muslim organizations than in the neighbouring countries. The number of members of the registered Muslim organizations was in 2010 99 000 which is about 60 per cent of the Muslim population (Leirvik 2012).

Muslims in Denmark

Most Muslims in Denmark as in Sweden and Norway either economic migrants or refugees. The number of Muslims in Denmark is assumed to be approximately 175-200 (Helquist & Sebian). Organizational patterns are usually members' ethnicity, while the sub-units are organized for religious or political differences (Svanberg 1999:389). In 2010, 21 different Muslim relig-

ious organizations had status of official recognized religious societies, something that gives them tax benefits.¹³

Muslims in Finland

Finland has had no labour immigration in the post-war period, making the number of Muslims far fewer than in the other Nordic countries. But due to Finland's EU membership this has changed over the last decades leading to a whole new situation affected by global migration. The number of Muslims in Finland is now estimated to be 45 000 (Martikainen 2012). Finland is the only Nordic country which has a Muslim population of older date than around the sixties, namely the Tatars. They fought in the Russian army and settled in Finland in the end of the 19th century. In 1925, after Finland's independence, the Tatar Muslims gained official recognition as a religious body.¹⁴ Minority religions were granted rights in the Religious Freedom Act in 1922, although Lutheran and Orthodox Christianity have historically had a privileged position.¹⁵ All registered religious congregations receive financial assistance from the State (Olin 2000:111). The fact that most of the Muslim immigration to Finland is of late date means that the establishment of organizations is just starting to take off although the Tatars have had special organizations since the early 1900's.

RELIGIOUS EDUCATION

For Muslims as a religious minority in the Nordic countries there are many challenges. One such challenge is the question of Islamic education and instruction. How to "transmit" religious tradition to the coming generation is known as one of the most important questions for survival of a religious minority.¹⁶ Some Muslim children attend supplementary classes in afternoons and weekends to learn about their religious tradition, others are taught at home. A crucial question in this discussion is who should have responsibility for this instruction and what interpretation of Islam should be taught.

In the second article of the First Additional Protocol of the European Convention of Human Rights (ECHR), we can read the following:

No one shall be denied the right to education. In the exercise of the activities the State may incur in terms of upbringing and education, the State shall respect the right of parents to ensure their children's upbringing and teaching in conformity with their religious and philosophical convictions. (Council of Europe 1995)

ECHR guarantees parents the right to choose philosophical or religious education for their children. There are several ways for states to deal with this issue which has importance for our dis-

cussion about Islamic instruction and Muslims schools. Within each country, religious education has been shaped by a multiplicity of forces, including the specific structure of its educational system as well as its history, politics and so forth. In Europe, two models for RE can be discerned within the public school sector: 1) the denominational (sometimes confessional) approach; and, 2) the Religious Studies approach. A primary distinction between these types concerns who is ultimately responsible for determining the content, developing the curricula, selecting the materials and training the teachers. In countries that have adopted the denominational approach, these responsibilities are handled by the denominations themselves or denominations together with the state. In those countries, such as Sweden, that have adopted the Religious Studies approach, they are handled by the state.¹⁷ It is here important to note that regardless of the approach adopted, the state is presumed to be neutral relative to the matter of religious conviction. With the denominational approach, the state's neutrality is said to manifest in the fact that it grants the denomination responsibility for RE-content development and makes RE attendance only an option that parents can either accept or reject. With the Religious Studies approach, the state's neutrality is displayed by providing school courses that are intended to be neutral respecting religions, thus guaranteeing that religious education is made acceptable to persons of all faiths. Most often countries that adopt the denominational approach have separate RE, i.e. students

with different religious belongings are taught RE in separate classrooms and those countries that have Religious Studies approach have integrative teaching, i.e. pupils are taught RE together irrespectively of their religious belonging.

Sweden

The Nordic countries have a long history of Christian education related to the Lutheran State Church. In the case of Sweden schooling was made compulsory for all children in 1842. Back then, the most important school subject was religious instruction *into* Lutheran Christianity and this remained the case in Sweden until a major curriculum adjustment in the year 1919, the starting point of the secularization of Swedish schools. Thereafter, religious instruction was reduced by fifty percent, other subjects were introduced to balance the difference, and “[f]ostering for national citizenship instead of the Lutheran faith became the task of the school system” (Hartman 2007: 260).

In 1962, a school reform in Sweden required the subject of Christianity to maintain a “neutral” profile with respect to questions of faith; and in 1969, the subject’s name was changed from Christianity to “Religious Knowledge” (*religionskunskap*), indicating the transition from a denominational to a non-nondenominational form of religious education that prioritized teaching *about* religion—including different religions—from a

Study of Religions perspective. The current Swedish national curriculum contains the following statement:

Education in the Swedish school system shall be non-denominational. The task of the school is to encourage all pupils to discover their own uniqueness as individuals and thereby actively participate in social life by giving of their best in responsible freedom (*Curriculum for the Compulsory School System, the Pre-school Class and the Leisure-time Centre* 2006).¹⁸

The use of the term non-denominational (*icke-konfessionell*) in the above quotation is meant to imply that in the Swedish school system religious education is to be presented such that no particular worldview is prioritized and pupils from all cultural, ethnic and religious backgrounds would feel comfortable in attendance. This neutrality, however, does not extend to the realm of what is described as society’s “foundational values”, the mediation of which the national curriculum considers a primary task of Sweden’s educational system. This is one of the reasons why RE is taught in terms of the Religious Studies approach and, in 1996, was made obligatory for all pupils. The following quotation from the national curriculum explains:

The school has the important task of imparting, instilling and forming in pupils those foundational values on which our society is based. The inviolability of human life, individual freedom and integrity, the equal value of all people, equality between women and men and solidarity with the weak and vulnerable are all val-

ues that the school should represent and impart. In accordance with the ethics borne by Christian tradition and Western humanism, this is achieved by fostering in the individual a sense of justice, generosity of spirit, tolerance and responsibility.

An aim with the non-confessional religious education that is stipulated by the Swedish national syllabus is to learn *about* different religious traditions and worldviews. It is clear that school should not teach the pupils to practice any specific religion; instead it is supposed to be “neutral” in relation to religious traditions. The “neutrality” of religious education has been highly questioned and it has been claimed that the non-denominational religious education rather is an education *into* secularism, or at least that it has a very strong secular bias. It has also been suggested that to claim a certain “value foundation” independent of religion is as much an expression of faith as any religion, since it makes a truth claim that is binding for everyone.

As mentioned above it is since 1996 no longer possible to be exempted from RE in Sweden, because of its non-denominational character. This is from a European perspective, a unique phenomenon. In almost all other European countries, it is possible to be exempted from the municipal or state religion taught in school if parents so wish. The aim of the RE school subject in the Swedish curriculum is supposed to be in line with the European Convention (Kilkelly 2004).

Norway

As for religious education in schools, the Norwegian school system has had a stronger connection to Christianity than Sweden. Religious education was until 1997 Christian instruction and teaching (CRE). Students could be excused from CRE if they had at least one parent who did not belong to the state church. The schools who had a large number of exempted students organized “world view orientation” (*livssynskunnskap*) as an alternative (Opsal & Skauge 1996). In 1997 however, Norway changed the Christian religious education to “Knowledge about Christianity with religion and worldview orientation” (KRL). Despite this change, the government had to introduce yet another school subject (2008) with a stronger Religious Studies approach after the European Court of Human Rights in Strasbourg had ruled that Norway was violating the principle of freedom of religion with the former obligatory RE school subject. The Norwegian way to deal with RE in state schools thus came closer to the Swedish model.

Denmark

In Denmark CRE is a compulsory subject in primary and secondary school. Parents have the right for exemption if they take responsibility for the child's religious education themselves. Pub-

lic school CRE teaches about different religious traditions but the primarily focus is on Christianity. Parents can ask for exemption for their children from these classes. Recently suggestions have been made that there should be cooperation between the Ministry of Education and Muslim organizations in the curriculum development.

Finland

Finland has a system of Religious Education where pupils are taught according to the religious tradition they belong to. A majority of the pupils in Finland belong to the Evangelical Lutheran church and are therefore taught Lutheran RE (LRE) in school. Since the 90ies when a new school law was passed certain minorities, such as the Muslim, have the right to their own religious education if there is at least three minority pupils who require a certain RE. Since then there is also a common framework for all religious education in comprehensive schools was also established. According to its aims, all pupils were to attain “religious literacy”, either from RE connected to their own religion or through Finland’s non-denominational alternative (Kallioniemi 2011).

In 2003 the Finnish parliament reformed the *Religious Freedom Act*. This included a shift from “confessional religious education” to “religious education according to one’s own religion” and

placed the different REs on the same level, with the intention of promoting religious equality (Seppo 2003: 177-179.). Pupils cannot ask for exemption but those who do not belong to a religious community should be provided a non-denominational alternative. The Finnish system is unique from a Nordic perspective since it gives children from religious minorities the right to participate in RE according to their own religion within public schools. What should also be mentioned though is that in practice, organizing several forms of religious education is often difficult but also expensive.

In Finland, like in Denmark, education and not schooling is compulsory. This means that there are opportunities for home schooling but homeschooling has to be paid by parents in contrast to public schools that are free of charge. Children who are taught at home must pass special tests every year to prove that they reach the required national level.

THE ESTABLISHMENT OF MUSLIM SCHOOLS

Sweden

In Sweden it has, with few exceptions, not been permitted to establish denominational schools, although there are a few exceptions.¹⁹ In 1992 the educational policies were adjusted its to make it possible for a range of private actors, including relig-

ious denominations, to obtain state funding for independent schools. In 1993 Sweden’s first Muslim school opened in the southern city of Malmö; to date, that number has increased to fifteen. Of these, nine have been classified as “Islamic” by the Swedish National Agency for Education (see table below) and six have been classified as “Swedish-Arabic” or the like. Because a number of the schools characterized as “Swedish-Arabic” provide some sort of Islamic Religious Education (IRE)—e.g., lessons in the Quran—here called “Muslim” as well.²⁰ Each Muslim school currently educates between 20 and 250 pupils.

Even though a small number of Christian schools as well as one Jewish school existed in Sweden before the 90-ies, the policy change lead to a vast increase of denominational schools:

	Christian	Muslim	Jewish
Compulsory schools	54	9	3
Upper secondary schools	6	0	0

Denominational schools in Sweden (2006)

Although the above table only lists schools designated as “denominational” (*religiösa friskolor*) by Sweden’s National Agency for Education, it nonetheless indicates that the number of Mus-

lim schools is far less than the number of Christian schools. It also shows that Muslim schools are presently confined to the compulsory segment of the Swedish school system, since no Muslim upper secondary schools (not compulsory in Sweden, but nearly all pupils continue to upper secondary school) have been established.

According to the Education Act, independent schools must open their doors to everyone, regardless of faith, and must be approved by the National Agency for Education. While run privately, Sweden’s Independent schools are as already mentioned subsidized by the state. The nature of one denominational school may be extremely different from another, and a distinction is often drawn between those that have “strong” and those that have “weak” profiles. These classifications pertain to the degree of impact that a specific religion has on the profile of the school.

In most cases “denominational profile”²¹ means that schools are adding specific substances, such as reading Quran, Arabic, Islamic history and Islamic singing in Muslim schools (Berglund 2010). An independent school is private in the sense that it has a private owner, however, it is funded by the state. The Muslim independent schools run by different local Muslim organizations.

In accordance with Sweden’s Education Act, the so called “foun-

dational values” as well as the general goals outlined in the national curriculum (see above) are meant to be achieved in both non-denominational and denominational settings, and thus the “objectivity” of education is not to be intruded upon by indoctrination or tendentious modes of discourse, regardless of the school’s profile—denominational or otherwise. In pursuit of these aims, most schools with denominational profiles arrange only a small number of hours per week for the introduction of certain religious subjects. In the specific case of Muslim schools, this number amounts to one to three hours per week of Islamic religious education (IRE). And since there are no national syllabi for such subjects, local syllabi must be written instead. These, however, must also adhere to the above described “foundational values”, which tend to be interpreted differently by different schools. In combination with the fact that those who have established Muslim schools belong to different theological traditions, this means that the local syllabi and what is taught in different IRE classrooms can differ widely (for examples see Berglund 2010).

Norway

In Norway, the political debate on private and independent schools has been ongoing since the 1920s (Flateby 2003:61-62). The law that gives the possibility to establish private schools has strong links with international laws regarding

parental rights i.e. Article 2 of the ECHR (see above). In 2003 a new law made it easier to establish independent schools. The requirement was that the independent school should be a religious, ethical or substance educational alternative to public school (Bergesen 2003:51).

In 2010 there were 95 Christian schools but no Muslim ones in Norway. Nevertheless several attempts have been made to establish such schools and Urtehaugen Muslim school functioned in Oslo for a number of years. The first attempt to establish a Muslim school was turned down in 1995 on the grounds that it would have negative impacts on integration. According to Carolyn Midsem the refusal was a violation of the prohibition of discrimination, since similar arguments have never been used when Christian schools have been established in Norway (Midsem 2003:21). The refusal was never legally tested (Midsem 2003:21). In 1999 the same application was amended by a new government (Christian democratic instead of Social democratic) and Urtehaugen Muslim school could open. However, the school closed down after a couple of years due to internal problems. Since then there have been discussions about establishing other Muslim schools in Norway and in 2009 the ministry of education approved an application to establish a Muslim school in Oslo, but the municipal government later turned the local application down. At the moment at least two schools have been given permission to start during 2012.

Denmark

In terms of denominational schools, Denmark differs from the other Nordic countries since they have a long tradition of independent denominational schools. As early as in the middle of the 19th century a large number of denominational schools characterized by the so called “Grundtwig revival” (the 19th century) were founded (Ihle 2007: 29).²² Independent schools have been disputed, but are considered an integral part of the Danish school system. The strong tradition of these schools in Denmark is also related to the fact that the Danish Constitution that imposes compulsory education, but not that children have to attend school, as is the case in for example Sweden. Independent schools in Denmark are not totally financed by the state as in Sweden but partly by individual contributions. Approximately 15 percent of all children attend independent schools in Denmark.

In view of Denmark's long tradition of independent schools, it is no coincidence that it was in Denmark that the first Muslim independent school in the Nordic countries was founded (1978), today there are around 20 schools (Nielsen 2004:82; Ihle 2007:54). A difference compared to Sweden is that Muslim schools, like other independent schools in Denmark, are not fully financed by the state, instead parents have to contribute by paying a fee (in 2004/2005 the monthly fee was approximately

40€). Another difference is that they are not inspected by a national agency of education, instead they are supervised by an external examination board chosen by the parents as well as the ministry of Education (Ihle 2007:39-45).

Finland

In Finland the Tartars ran a Muslim school in Helsinki from 1948 to 1969 (Martikainen 2004:116). Today there are no Muslim schools in Finland but the Rabita mosque in Helsinki performs home schooling with a small number of pupils since several years back.

REASONS FOR CHOOSING A MUSLIM SCHOOL

Considering the reasons for establishing Muslim schools in Sweden, a study conducted in 1997 by the Swedish National Agency for Education concluded that certain Muslim parents send their children to Muslim schools because of negatively biased and inaccurate views of Islam in municipal schools and schoolbooks, disregard for common Islamic rules regarding diet, dress, prayer, chastity, fasting, and so forth, poor religious education by the standards of Islam, insufficient discipline, fear of exposure to narcotics and alcohol and too great a diversity of immigrant groups in the neighbouring municipal schools. An-

other important reason concerns the difficulties encountered by Muslim parents in their interactions with municipal school officials and staffs—interactions that had left them feeling humiliated, alienated and shamed. Reportedly, it was such incidents that had convinced them that it was impossible to effectively execute their parental responsibilities within the municipal school framework; thus they opted to send their children to a Muslim school instead. A more recent study concerning the matter of “choice of school” indicates the same thing: parents choose to send their children to Muslim schools more for purposes of security and well-being than for the purpose of religion although the criticism against the perceived “neutral” position also exists (Bunar & Kallstenius 2006). Thus their choice might be seen as one way of avoiding discrimination and obtaining acceptance of difference—i.e., as primarily involving concerns over power of influence and democratic rights. It is impossible to exclude such considerations from any comprehensive discussion regarding Muslim schools in Sweden and Ajagan-Lester even claims that the establishment of Muslim schools in Sweden might be seen as a reaction against municipal schools as they have nothing else than heteronomy and submission to offer to minority pupils. Whether or not one accepts the validity of the preceding reasoning, it is also of importance to many Muslim parents to locate an educational environment in which their children can be educated not only *about* Islam via RE textbooks based on a secularized religious studies approach, but also *into*

Islam via confessional lessons in which Islam is the norm and the child learns about the “good life” from the Islamic point of view. Notably, choosing an education *into* could alongside the above arguments also be understood in terms of opposition to an education *into* secularism, which is the “neutrality” that municipal schools is considered to uphold. A surprising circumstance for this discussion is that there is up to date no available statistics comparing the performances of Muslim pupils in Muslim and municipal schools which of course also would be interesting for the present discussion.

Although, as indicated above, the decision to send one’s child to a Muslim school is not usually based on the fact that it offers IRE, the appearance of this extracurricular subject in the school syllabi is nonetheless significant in terms of drawing a formal distinction between Muslim and non-Muslim schools in Sweden, Denmark and presumably Norway. The case of Finland is somewhat different since it is possible for Muslims to get IRE within the public school. Never the less, to claim that this would be a the reason for not establishing Muslim schools in Finland would be a simplification since the Muslim immigration is of far later date than in the other discussed countries and could thereby not

Reasons for the choice of Muslim independent school in the other Nordic countries are similar in many respects one another (see for example Ejrnæs & Shooting 1987 and Olesen 1987;

Ihle 2007). In Denmark (as for example in the Netherlands) many Muslim parents choose to put their children in Christian, especially Catholic, schools instead of public schools. This is considered mainly due to the Christian schools' positive attitude to religion, the strict discipline and a lower proportion of children of foreign origin (Shadid & Koningsveld 1995:106). However, it is important to remember that there are Muslims in Sweden as in other Nordic countries that are opposed to both religious and Muslim schools. These opponents warn that the Muslim private schools at risk of becoming isolated islands in the society, which increases the already widespread segregation. Some also believe that there is a danger that Muslim schools are recruiting for "extremist" Muslim groups (see for example Pekgul 2005).

CONTROVERCIES

In 2003 and 2004 Swedish National Agency for Education conducted, extensive inspection of the Muslim and Arab independent schools. This was to a large extent a consequence of a television program which showed the existence of problems and violations in a number of Muslim schools. The results of the first inspection conducted in autumn 2003 was that two of the reviewed schools' permissions were withdrawn, and that six schools were requested to report improvement (Skoverket 2003-12-18). In 2004, the National Agency made follow-up vis-

its. In a "result-memorandum" they write "The interviewed students generally express that they are happy in their schools and feel secure during their school day." Furthermore, it appears that all schools have taken action in the areas where the National Agency previously identified deficiencies. These measures are considered to have led to "significant improvement" in the schools (National Agency for Education 2004-05-12). Nevertheless, the TV program led to increased debate about Muslim schools in Sweden. Even those schools that were not criticized in the program experienced the effects of the program, in terms of negative attitudes from society. Many Muslim parents and teachers at Muslim schools thought that the program is part of a "conspiracy" on Muslims in Swedish society (interview with Parent, May 2004). However, there are others who share the program's criticism, and who think it is good that the situation in the schools was investigated. It is also clear from interviews with staff at some Muslim schools that the debate after the programs have led to increased awareness and discussion of how the curricula and syllabi should be realized. This makes it possible to assert that the critical debate has had a positive effect by initiating a discussion on professionalization at some Muslim schools.

Urtehogens Muslim School in Oslo was while running also under considerable debate. In the spring term of 2004, about a 100 of the pupils at home by their parents because they wanted

to show his distrust of school management. Even the teachers were protesting against the management by taking sick leave (Norsk Utdanning 2004-04-21). The County Governor of Oslo was asked to investigate the school's problems (Aftenposten 2004-07-16) and criticized the way school dealt with its finances. As a consequence, Urtehagens headmaster decided to close the school.

During the early 1990s, the Danish media took an interest in Muslim schools which led to a strong criticism of schools. The criticism can be summarized in three different levels: a) criticism of management and economics, b) critique of education level, c) criticism of the values and standards. As a consequence of the debate the law on independent schools was altered. According to Jensen, the changes could be construed as a consequence of the rancorous debate that raged in both media and among politicians about the integration of Muslims in Denmark. The change in the law meant that schools must prepare students to live in a society with "Freedom and democracy." In addition, it requires that the school management has to be able to speak and write Danish and that the teaching of all subjects that should be part of elementary school teaching should also be conducted in Danish (Jensen 2004:82). In 2003-2004, the Danish Ministry of Education visited, a large number of "independent schools for Children with two languages". This led to even further regulatory requirements.

CONCLUDING DISKUSSION

The establishment of Muslim schools could be understood as one of many initiatives taken by some Muslims in the Nordic countries to facilitate the ability to live life according to Islam in a Nordic context. The Muslim private schools activities may be one of several ways to convey Islam as the norm for both learning and living. However, it is important to remember that the differences between various Muslim schools are great in many ways. According to Waardenburg (2003) first-generation Muslims often formulate their Islam in the new country in accordance with the ideas offered in the home country. He argues that future generations, and especially women see new needs in relation to the new country and thereby make changes that can either mean that they become "secular" Muslims or, for example, seek authoritative answers to the newly arising issues directly in the Quran and *hadith* literature. Others reinterpret and study to include the religious texts in new ways, for example, by freeing themselves from traditional forms of textual interpretation (Waardenburg 2003:326-327). It should be noted however, that while all Muslims share a few basic rules and doctrines, Islam can be formulated and practiced in a variety of ways. This variation is combined with national, social or individual characteristics (Waardenburg 2003: chapter 11). In the Nordic countries yet another variable will be added, since the exis-



tent variants will be combined with the cultural, social and individual conditions which are characteristic of each country. This dual or rather three-dimensional variation in living conditions, lifestyles and interpretations make it impossible to speak about Islam in the Nordic countries, as well as of Islam in Muslim schools, in generalized terms. This means that not only different schools represent different theological traditions within Islam (to some extent they sometimes compete with each other) but also that how they function and what the content of IRE is very extensively between schools (see Berglund 2010). Awareness of what these differences between various Muslim schools may mean is very low in the Nordic countries. How much of the school day that is influenced by religion also vary widely between the schools. In some schools the religious element is only one lesson with IRE a week and leave at Muslim holidays while in other schools it is more important and shape many activities in one way or the other. A concrete example of this variation may occur is how different Muslim schools handle the teaching of the Quran. In some schools, it is an integral part of IRE, in other schools there is none at all. In some schools every single word the students learn to recite is translated into Swedish while in yet other schools teachers argue that pupils should first learn the meaning of what is “proper Islam” and then learn to understand the words in the recited verses (for further discussion of Quran teaching see Berglund 2010).

One of many things that is interesting about independent schools and IRE is that Islam is not the only norm. Schools must also live up to their respective national educational objectives. This means that yet another dimension that shapes what actually can be taught. The significance of independent schools and/or the formulation of IRE within the educational system will vary. The requirement to meet the national goals of education may act as an “incentive” to formulate an Islam that takes the Nordic social aspects seriously. Schools could therefore help in responding to newly emerging issues on how to live life as a Muslim in the best way.

Endnotes

1. Department of Study of Religions, School of Gender, Culture and History, Södertörn University, Stockholm, Sweden
2. Here I use “Nordic countries” for Sweden, Norway, Denmark and Finland, i.e. I have chosen not to include Iceland.
3. I.e. the monarch is a symbolic head of state, the head of government is the prime minister.
4. Andersen and Molander 2003:10.
5. The word independent here refers to the fact that the schools are run independently, i.e. they are run privately, not by the municipality or the state.

-
6. Migration Information 2006b; Migration Information 2005; Migration Information 2004.
 7. Larsson, 'Introduction', 3. Note that these figures must be considered very rough.
 8. Svanberg & Westerlund 1999:13 ff.
 9. Larsson & Sander 2007:71; Otterbeck & Bevelander 2006:16.
 10. Hjärpe 2004:153.
 11. Those organisations that are "registered" receive financial support from the Commission for State Grants to Religious Communities [Samarbetsnämnden för stöd till trossamfund], see Otterbeck & Bevelander 2006:15. Communities that are not organised in relation to the Islamic Cooperation Council are dependent on voluntary membership support and/or support from organisations located in Muslim counties. For a description of the process of Muslim institutionalization in Sweden, see Larsson & Sander 2007:169 ff.
 12. Other issues that have instigated fierce public debate concern the establishment of mosques, veiling, halal-slaughter, male circumcision, infibulations and the matter of so-called "honour-crimes", see Larsson & Sander 2007; Otterbeck & Bevelander 2006.
 13. <http://www.familiestyrelsen.dk/11/godkendte-trossamfund-og-menigheder/islamske-og-islam-inspirerede-trossamfund-og-menigheder>
 14. The majority of Finland's Muslims came with immigration from the 1980s, and today represents around 20 nationalities, roughly corresponding to those in Denmark and Sweden. Martikainen, 'Finland', 76–7, 79, 81.
 15. Mårtensson and Larsson 2012.
 16. See Berglund 2011 where the term "transmit" is criticized for giving an inaccurate view of religious instruction.
 17. See the introduction chapter of this publication about RE in the other Nordic countries.
 18. This is the official English translation, the word used in Swedish for non-denominational is icke-konfessionell, which could also be translated into non-confessional.
 19. There are a few examples of denominational independent schools before 1992, such as the Jewish Hillel School was established in 1955, Ekeby Holm school run by Seventh Day Adventists and Anna School in Jönköping (see for example Algotsson 1975:461, Johansson 2007, Peste 2007, Atkins 2007). Today, independent schools in Sweden have to respond "to the general objectives and values that apply to education in the public school system" (Education Act in practice: designs and comments 2005:117).
 20. One reason that the Arab private schools in the agency's statistics described as ethnic language may be, that the application process has shown that it is easier for linguistic-ethnic schools to get permission to establish themselves than for denominational private schools (Abdelcader 1998).
 21. Municipal Schools might also have a profile for example, football, arts or a specific pedagogy. So far though, there are no Municipal Schools that have chosen (or even tried to) establish a denominational profile in Sweden.

22. Christian movement that is considered to have been of great importance for the development of democracy in Denmark and for the development of particular folk high school and friskolerörelsen (Jensen 2004:80; Lundgren & Teachers 1996:222).

Tore Vincents Olsen

The place of religion in education in Denmark

Affiliation: Department of Political Science and Government, Aarhus University, Denmark.

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.

Yes, non-confessional teaching in religion takes place in both lower and secondary education ('basic school', grades 1 to 10 in the form of 'Christianity Studies'; In high school or Gymnasium as 'Religion' grade 10 to 12, non-mandatory education).

Law on the People's School, articles 5 and 6; Laws on Gymnasium (General High School) and Higher Preparatory Exams (High School courses for adults) respectively.

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

Answer:

No confessional teaching is offered. The Christianity Studies emphasises the Evangelic- Lutheran strand within Christianity (the fundamental teaching of the Danish People's Church, see below). Other religions are introduced, again on a non-confessional basis, from grade 8 and up. The exception is that in grade 7, Christianity Studies are usually suspended to the benefit of students attending confessional religious teaching by the local Evangelic-Lutheran priest in order to prepare them for the so-called 'Confirmation'. Attendance is, however, voluntary, since 'Confirmation' relies on the active choice of each student and his/her parents. Moreover, the latter presupposes that you are a member of the Danish People's Church (state church). You become a member through baptism and you can relinquish your membership at any point of time (and save the state collected church tax). About 80 percent (and declining) of the Danish population are members of the People's Church which is for-

mally headed by the Danish Queen (or King) and has a special status in the Danish constitution.

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

About 14 percent of Danish students (grade 0 to 9) attend state subsidized private schools. 14 percent of 14 ethnic Danish students attend such schools, while the number is 15 percent among students with immigrant background. Many of the students of immigrant background attend specific immigrant schools many of which are categorised as Muslim private schools according to a recent news paper article (*Politiken*, 30 January 2012). Whether and how many of these Muslim private schools are Islamic schools, i.e. schools actively teaching Islam in a non-confessional or a confessional manner, is uncertain. Statistics on the latter is not ready available. In the school year 2006/7 it was estimated that there were 22 active Muslim

schools, most of which taught Islam in a confessional or non-confessional manner (Ihle 2007: 74, 53). This number is likely to have increased in the mean-time.

According to some observers, many immigrant schools have ethnic Danes as teachers. Students and parents choose them because of academic results and out of concern with educational environment and the reinforcement of students' cultural and religious identity (*Politiken*, 30 January 2012).

It is important to note that in order to receive state subsidy in Denmark private schools have to be independent units. They cannot be run by larger organisations, for example churches or religious organisations. In the 1990s one school was closed because it was run by the Lebanese organisation A.I.C.P.

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

Non-state funded denominational schools are second to none in Denmark.

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:

In general the parents have the responsibility for the monitoring and evaluation of individual private schools. According to a recent legislative change, they can either decide to apply a state approved a self-evaluation model or they can select a state certified inspector to carry out the evaluation. Should the parents or the inspector find shortcomings and not get any appropriate response from the school in due time (three months), they can bring the case to the Ministry of Education who can then choose to subject the school to its own monitoring. The Ministry may also initiate monitoring on the basis of random selection, low academic results and information from students, parents or third parties (e.g. through the press). Should the Ministry find reason for special concern about a particular school's ability to meet academic standards or the civic education requirement stipulated in the law on private schools (called 'free primary schools'), it can subject the school to an especially thorough monitoring exercise involving interviews with staff and many hours of observing classes at the school.

Cf. Law on Free primary Schools (private schools), chapter 3.

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.

Yes. Discrimination on the basis of sex or ethnic origin is illegal, but selection on the basis of religion is not.

The laws on free primary schools state 'private schools decide freely which students they admit to the school as long as they do not discriminate contrary to existing rules about discrimination' (art 1.1.2)

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?

Answer:

Yes. cf above.

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?

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

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?

This has not been a widely debated topic, if debated as all, most likely because denominational schools are not so dominating in the Danish educational system and because it is relatively easy to establish your own school with state subsidy, if you should want to. The Danish school system does not compare to for example the Irish school system in which Catholic schools are very dominant and many students do not have any real alternatives. And, as mentioned, the Danish public schools only offer non-confessional religious teaching. So the basis or premise for raising claims of 'unequal treatment' with regard to this 'right to religious education' in terms of political debate is 'absent' as it were in Denmark. It is hard to put on the agenda. In addition in Denmark claims about rights for immigrants generally have been difficult to voice (Lindekilde 2009).

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

Answer:

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. . .

This will have to be the topic of further research, but it is unlikely since private schools have to be independent units. They cannot be run by larger organisations such as churches or other religious organisations. So the basis for issuing such guidelines seems to be somewhat missing.

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:

This will have to be the topic of further research, however, see above.

VI. Religious symbols in public schools

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

This is unregulated in the law. It depends on a decision by the local school board (each school has one consisting of representatives of staff, parents and pupils). Hence as a starting point it is allowed.

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

Yes. However, religious clothing can be forbidden by decisions of the local school board, but only on objective grounds such as the likely obstruction of communication between student and

teacher. The latter is more likely to be relevant with regard to for example burqas or niqabs.

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

Yes. However, religious clothing can be forbidden by decisions of the local school board, but only on objective grounds such as the likely obstruction of communication between student and teacher. The latter is more likely to be relevant with regard to for example burqas or niqabs.

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

Local school boards decide on dress codes. Cf. Law on the People's School, article 44.4.

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?

Since it is unlikely that any school board would be able to get away with a ban on headscarves, exemptions are unlikely as well.

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

The municipalities are responsible for running and monitoring the public schools in Denmark. Ultimately the Ministry of Education. However, prima facie, this would be an issue for the Danish Equality Board dealing with discrimination on all grounds, labour courts (as regards teachers) and the court system in general.

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?

These are set by the local school boards (if set at all) and possibly vary. There are about 1530 public schools in Denmark.

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

Answer:

This will have to be the topic of further research. According to somewhat dated information from the 1990s there are a number of Islamic organizations which run Quran schools in Denmark (Mikkelsen 2002). Among them are the Diyanet (Turkish state organization), Milli Görüş (Turkish Non-state), Minhaj ul-Quran (founded in Pakistan) (ibid). Some of the state subsidized private Islamic schools have Quran schools after regular schools hours at the school premises and they sometime function as after school clubs taking care of students while parents are at work (Ihle 2007: 50). In some cases there are overlaps between both teachers and the teaching material used in the private school and the Quran school respectively (ibid.). Also, students do not always distinguish between the two types organizations (ibid.).

There is no ready available statistics of how many students of which age attend Quran schools.

How the quality of the religious teaching is ensured will have to be the topic of further research. Since these are private activities there is no supervision from the Danish state, although according to the legislation on private schools dating from 2005 it is grounds for losing state subsidy if 'fundamentalist or extremist actions... which contradict human rights and fundamental freedoms, including gender equality[...]take place at or from' a

private school (quote from the legislative bill 2004/2 LF 105, emphasis added).

I am disinclined to characterize the debate without a thorough analysis of it. However, the issue feeds into a general apprehension in the recent 10 to 15 years in Denmark towards the development of 'parallel societies' and religious Islamic fundamentalism and concerns that Islam generally contradicts the fundamental values of liberal democratic societies. The 2005 legislative change in the law on private schools, cited just above, and the schools' obligation to prepare students to live in a society with 'freedom and democracy' (i.e. to give them civic education) introduced in 2002 testify to this concern.

XI. Bibliography

Ihle, A. H. 2007 *Magt, Medborgerskab og Muslimske Friskoler I Danmark – Traditioner, Idealer og Politikker*, Copenhagen University, Institut for Tværkulturelle og Regionale Studier.

Lindekilde, L. 2009. *Political Participation, Organization and Representation of Ethnic Minorities in Denmark: Recent Developments and Future Challenges*. Athens: ELIAMEP.

Mikkelsen, F. 2002 *Indvandrere og civilsamfund. En forskningsoversigt vedrørende etniske minoriteters deltagelse i civilsamfundet samt kulturmødet mellem minoriteter og*

danskere på arbejdspladsen, i boligområder og i foreninger,
Aalborg University, AMID Working Paper Series 19/2002.

Olsen, T. & Ahlgren, S. 2011 *(In)Tolerance and Accommodation of Difference in Danish Public and Private Schools*, ACCEPT PLURALISM Working Paper 9/2011, Florence: European University Institute Robert Schuman Centre for Advanced Studies

The place of religion in education in Estonia

Introduction/Statistics

Total Population	approximately 1.3 million
Estonians	67.9%
Russians	25.6%
Ukrainians	2.1%
Byelorussians	1.3%
Finns	0.9%
Other nationalities	2.2%

Estonia can be considered as one of the least religious countries in Europe (together with former Eastern Germany and the Czech Republic). According to the last population census from the year 2000, only approximately 29% of the adult population, (those aged 15 and above, total questioned 1, 121, 582) considered themselves adherent to any particular creed.² Of this figure, about 13.6% declared themselves to be Lutherans. The majority of Lutherans are ethnic Estonians. The Lutheran Church

has been the largest religious institution in Estonia since the sixteenth century. The second largest religious tradition in Estonia is that of the Orthodox Church. Of the 29% of the population (aged 15 and above) following any creed, 12.8% considered themselves as Orthodox. However, some new data suggests that the Orthodox community may have grown in numbers and become a fraction bigger than the historically dominant Lutheran church.³ The Orthodox community in Estonia is divided (also ethnically) between the Estonian Apostolic Orthodox Church and the Estonian Orthodox Church of Moscow Patriarchate. Most orthodox believers belong to the latter church. All other Christian and non-Christian religious communities have adherents of approximately 2.6% of the adult population (aged 15 and above).⁴ The largest religious communities among those are Roman Catholics, Old Believers,⁵ Baptists, Pentecostals, and Jehovah’s Witnesses. Considering the above figures the percentage of atheists is surprisingly low – approximately 6 %. According to the Euro barometer survey (‘Social Values Science and Technology’), carried out in 2005, Estonia was shown to be the most sceptical country in Europe in regard to belief in the existence of God. Less than one in five people declared any belief in God (approximately 16%). This probably shows a relative coolness towards traditional and institutional forms of religions. However, more than 54% believed in a non-traditional concept of ‘some sort of spirit or life force’.⁶ It also needs to be noted that one way or another, some beliefs or practices of in-

digenous religious tradition are popular and important for many in Estonia. Today, low religiosity in Estonia has also been attributed to the relative success in economic transition among post-communist societies. For example, Norris and Inglehart by comparing Estonia and the Czech Republic with Albania and Romania have come to this conclusion.⁷ Additionally, Kilp points out that historic religious traditions and national identity have been weakly connected both for Czechs and Estonians compared to Lithuanians and Poles.⁸

Although there are discrepancies between different surveys, they seem to suggest that a large segment of society is indifferent to religion, but also that religion is both an individual and private matter in Estonia (believing without belonging). These surveys also give one confidence in saying that the majority of the Estonian population is not hostile to religion. The new comprehensive census of the Estonian population, which will also ask questions about religious affiliation, will take place in 2011.⁹

Muslims have lived on Estonian territory since approximately the eighteenth century. The majority of Muslims are ethnic Tatars who arrived in Estonia during the late nineteenth and early twentieth century. During the first independence period (1918-1940) there were two registered Muslim communities in Estonia. The Tatar community established two mosques and some graveyards, and followed their particular Islamic cultural and religious life.¹⁰ In 1940 the Soviet regime prohibited the activities

of the communities. During the occupation the Muslim community carried on its activities unofficially. The ethnic composition of the Muslim community changed during the Soviet period due to new arrivals from other republics of the former Soviet Union, such as Azerbaijan, Uzbekistan, Kazakhstan and other traditionally Muslim nations of the Caucasus and Central Asia. However, Tatars maintained their leading role in cultural and religious activity.¹¹

In the late 1980s with a more liberal political atmosphere and the independence movement in Estonia, ethnic minorities started to organise (re-establish) cultural and religious societies. In 1989 the Tatar cultural society re-established the Estonian Islamic Congregation. The community was registered in 1994. Currently there are two registered Muslim religious associations. The Estonian Islam Congregation has approximately 1400 members and has quite a unique nature. In the same congregation there are both Sunnites and Shiites. In 1995, 13 believers left the congregation and formed the Estonian Muslim Sunni Congregation. All 13 persons left the Estonian Islam Congregation, not for religious reasons, but rather because of personal misunderstandings.¹² The majority of the Estonian Muslim community is still made up of individuals who came from the territory of the former Soviet Union: Tatars, Chechens, Azers etc. They have integrated well into Estonian society and there is no reason to associate them with radical Islam. Linnas has pointed out that Islam in Estonia is liberal and has lost many of its spe-

cific features. She also notes that Estonian society is tolerant of Muslims which she attributes to the traditionally indifferent attitude of Estonians to religious matters in general.¹³

Before Estonia joined the European Union in 2004 there were discussions on the possible influx of migrants from traditionally Muslim countries, or Muslims from other EU countries¹⁴. So far there has only been a limited number of new arrivals.¹⁵ They are from different regions globally, and do not form any significant ethnic religious communities. Estonia does not yet have any of the challenges related to the growing Muslim communities as experienced in other European countries.

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:

Religious education (hereinafter RE) is provided during school hours in (lower (basic) and secondary school).¹⁶ However, it has been exceptional for schools to offer systematic religious education classes in all grades. It also needs to be noted that as the curriculum has been overloaded, RE has often been pushed to the fringe of the school day.

As to statistics, in 2006-2007 there were about 50 schools, out of a total of 601, teaching a subject related to religion, mostly for a year or two for 7–10 year old students or a year in upper secondary school (16–19 year old students). In 2009 of 575¹⁷ basic education or upper secondary schools, 47 provided religious education and 84 provided related or some alternative subjects to religious education.¹⁸ Students who have chosen such classes normally have an extra lesson at the end of the school day. Some schools have religious education as a compulsory¹⁹ subject, calling it the ‘choice of the school’ and terming it religious studies, history of religions, or cultural studies.²⁰ Although essentials of the compulsory school system are regulated centrally, schools have had relative freedom to develop their own profiles and curriculum within the given framework. However, there are some changes to this as described later on in this section.

The Estonian school system consists mainly of state or municipal schools. Thus, the primary place for religious education is in public schools. Religious education is a voluntary, non-

confessional (non-denominational) subject. Unlike other countries with non-confessional models of religious education, in Estonia religious education is an elective, not a required course. As to the typology of RE, it is intended to be a mix of teaching about religions and ethics.²¹ The type of RE reflects Estonian constitutional principles of neutrality/separation of the State and Church ('There is no State Church', Art. 40 Estonian Constitution), non-discrimination and freedom of religion and belief.²²

Religious education has been one of the most contested issues regarding religion in Estonia today, and in fact, throughout its history as an independent State (1918-1940 and 1991-present). During the first independence period (1918-1940), Estonia was one of the first countries where, after furious debates and a referendum²³, a model of non-confessional religious education was introduced. The subject included learning about different world religions. A clear distinction was made between religious education at schools and religious instruction in churches.

In addition to the above there are several background factors which seem to influence the debate today. In Estonia, the absence of experience in providing or receiving religious education for some 50 years due to Soviet occupation and State atheism, is probably one of the most important factors. However, the relatively low religiosity of the Estonian population plays a significant role as well.

To summarise the debate, there is some agreement as to the need to teach students about religions. However, there are different opinions as to how religious education should be taught. There are also some additional practical and broader structural problems which relate to the school curriculum and teaching methods as a whole. According to some estimations the curriculum is overloaded. It is also fact oriented, leaving little time for students to develop discussion skills and form their own opinion. Although reforming the educational system in Estonia has been slowly moving from a teacher centred to a student centred approach, the reform is still in progress. As described below, a new law has been adopted recently to facilitate this process and to reform the school system generally.

Regarding religious education specifically, the views vary regarding the age at which religion needs to be introduced in schools and by whom it needs to be taught. There has been a concern that teachers of religious education have a mostly Christian background, and thus cannot deliver instruction objectively. In his 2003 report the Chancellor of Justice expressed the opinion that the State does not have to guarantee absolutely equal presentation of world religions in the curriculum. He stated that it is justified to include Christianity in the curriculum because of the cultural and historic background of Estonia.²⁴ But he also pointed out that presentation of Christianity should not become the prevailing subject in the curriculum. He warned that the majority of qualified teachers are of a Christian back-

ground and this can offset the balance.²⁵ These concerns are very similar to those expressed in the 1920s and thus cannot be completely attributed to Soviet propaganda during the 50 years of occupation. Thus, the major concern has been the content and purpose of RE and how one should strike a balance between Christianity and other world views. In this regard, the primary concern has been the protection of freedom of religion or belief of students and parents, both non-believers and non-Christians. For this reason ideas of compulsory non-denominational RE have persistently received a negative response. These concerns also seem to relate to rather controversial attempts to re-build national identity after the Soviet occupation. Strong political/governmental favouritism of traditional Christian religions has added an extra dimension to this debate. However, after protracted intense discussion over about 18 years, a compromise seems to have been achieved. Before returning to discuss the compromise, some information may be useful as to the legal framework for religious education.

As to the law on education, Article 37 of the Estonian Constitution²⁶ creates the basis for the entire school system.²⁷ More specifically Article 2 of the Education Act²⁸ (EA, *Haridusseadus*) sets objectives and levels of education, stating *inter alia* that: the fundamental principles of education are based on the recognition of universal and national values, of the individual and of freedom of religion and conscience. According to the Estonian Constitution provision of education is supervised by the State.

The laws specifically relevant to RE, are the EA and the Act of Basic Schools and Gymnasiums (BSG, *Põhikooli- ja gümnaasiumiseadus*).²⁹ The laws affecting RE have been changed recently. Until 1 September 2010, Article 4 (4) of the EA set forth that the study and teaching of religion in general education schools is voluntary and non-confessional.³⁰ The Act of Basic Schools and Gymnasiums (BSG) set forth that religious education is compulsory for the school if at least fifteen pupils wish it to be taught.³¹ Article 3 (4) of this Act also specified that religious education is non-confessional and voluntary.³² There was no unified curriculum provided by the State, however, there were guidelines.

The new BSG, adopted on 9 June 2010, took effect on 1 September 2010.³³ There are many aspects to this new law which are unclear and need to be tested out in practice. It is also likely that some further amendments to the law are needed.

The new BSG³⁴ introduced a few changes to the school system in Estonia generally. As to the RE, the above mentioned provisions in the EA and BSG have been removed. The new BSG mentions RE as one of the voluntary subjects (Art 15 (4)). Although schools have relative freedom to provide and design their voluntary courses, the courses on RE have to follow the State provided syllabus (Art 15 (4)). This is a result of intensive debates on RE which were held since the end of the Soviet occupation in 1991, and it seems to be an attempt to unify and es-

establish control over the content of religious education nationally. There is another change relating to RE: in gymnasiums (upper secondary schools) depending on the modules the student chooses RE may become compulsory once chosen. Although, the law entered into force on 1 September 2010, the latter provision does not necessarily take effect in all schools until 1 September 2013 (BSG, Art 89 (1)).

According to Article 15 (2) of the BSG the Government has adopted two regulations setting forth the National Curriculum for Basic Schools (*Põhikooli riiklik õppekava*)³⁵ and the National Curriculum for Gymnasiums (*Gümnaasiumi riiklik õppekava*).³⁶ According to Article 11 (4) of the National Curriculum for Gymnasiums the school has to provide at least two optional courses on RE during the three year period of study. The obligation to provide RE is not clearly pronounced in the National Curriculum for Basic Schools. However, the school seems to be obliged to provide some optional courses (Art 15 (4), one of which could be RE. There are still some discrepancies in the new BSG and between the BSG and governmental regulations. The BSG and the regulations still need to be synchronized/harmonized. The matter is also complicated by the fact that both the law and regulations take effect gradually over the three year period.

As to the content of RE in basic³⁷ and secondary schools³⁸, it is (or will be, as the laws take effect gradually) a mix of learning about religions and ethics (broadly defined). The aim is to give

a non-confessional overview of world religions and to help students to understand the impact of different religions in world culture, and most importantly, to prepare them for life in a pluralistic and multicultural world. Not only are religious world views covered, but also non-religious views. Topics such as secularisation and the relationship between science and religion are also included. The syllabus seems to be aimed at teaching tolerance. It is intended to develop religious literacy and readiness for dialogue by introducing different world religions/views. An interesting aspect is that students are encouraged to recognize and understand religious discrimination and analyze both positive and problematic religious manifestation in context. Discussions are also held about existential questions. There are obviously differences in methods of teaching and learning according to the age of students.

The preambles of basic school and also upper secondary school's syllabuses emphasise that religious education is founded on the UN Declaration of Human Rights. Religious education is a precondition for protection of freedom of religion or belief. The aim of religious education is to provide knowledge about religion in order to help students understand the world, its culture and the role of the religious dimension in human life. It also emphasises the importance of learning about local religions and cultural heritage. An important aim of religious education is to support the moral development of pupils and special attention must be paid to the problems they experience in every-

day life, and answering their questions. The syllabus seems to take into account some of the Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools adopted by OSCE/ODIHR in 2007.³⁹

Thus, there is a strong emphasis on learning how to navigate in a multi-religious world, while remaining open minded and critical at the same time. Dialogue and respect seem to be the keywords which characterise both the curriculum of basic schools and gymnasiums. As to the methods of teaching, there seems to be a strong emphasis on a student centred approach. All in all, it seems to be a rather convincing syllabus which should satisfy people from different backgrounds. However, it is rather ambitious and it remains to be seen how it will work in practice. Also the lack of adequately qualified teachers and course materials to actualize this syllabus is still an issue.

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

Answer:

According to the law, RE in public schools is/will be based on the national syllabus as described above. Schools have relative freedom to offer additional voluntary courses provided that the

means, time and human resources are available. As noted above some schools have provided additional courses related to religion. However, indoctrination into religion in public schools is strongly questionable under the Estonian Constitutional framework. It would most likely trigger social outcry also, with emerging questions about neutrality and the financing of such RE. Thus, the content and method of teaching of additional voluntary courses related to religion matters.

There is no legal basis to provide denominational education in public schools. This option only existed during the first independence period (1918-1940). In classes where students had the same religious background, the confessional element was allowed to be brought in. In multi-religious schools the grouping of students according to their confession was allowed.⁴⁰

According to Art 17 (4) of the BSG, the school may also take into account (accept) that a student takes classes in another school (basic or upper secondary), provided there is an agreement between his parents and the school's director. This provision may become relevant as regards RE. For example, in cases where a student wishes to take confessional RE in a denominational basic or upper secondary school. However, interpretation of this provision is not clear yet.

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

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:

Private/denominational schools have some access to public funding. There are no private confessional schools which are completely funded by the State. There is no difference in funding between private basic schools (confessional or non-confessional).

Confessional religious education is provided for children by Sunday and Bible schools operated and mostly financed by religious organisations. Additionally religious communities can set up private educational institutions.⁴¹ The Private Schools Act (PSA, *Erakooliseadus*) regulates the establishment of private educational institutions at all school levels (pre-school, basic, secondary, vocational and higher education).⁴² These private schools need to obtain a licence from the Ministry of Education and Research (PSA, Art 5 (1)). Sunday or Bible schools run by churches and congregations do not need the licence.

The licence is issued for a certain period of time for up to five years (PSA, § 5 (2¹)). It is also important in order to apply for funding and projects financed by the State or municipal government.

Only a very few religious organisations have established schools in accordance with the Private Schools Act. Currently there are two registered kindergartens (preschools), one run by Tallinn Toompea Kaarli Congregation of the Estonian Evangelical Lutheran Church and another run by the Catholic Educational Centre in Tartu. There are three basic schools, run by the Word of Life (*Elusõna*) Tartu Congregation⁴³, by the Society of Orthodox Education called 'Resurrection' and by the Catholic community in Tartu. There is one gymnasium – Tallinn Jewish School (*Tallinna Juudi Kool*). There are also three professional higher education institutions (*rakenduskõrgkool*) run by the Esto-

nian Methodist Church, the Union of Free Evangelical and Baptist Churches of Estonia, and by the non-profit organisation Tartu Academy of Theology. The Estonian Evangelical Lutheran Church has one university in Tallinn.

There is no statistical information available as to the exact number of Sunday and Bible schools operated by religious organisations. The statistical information and documents of private schools (registered according to the PSA) can be obtained online.⁴⁴

There are no Islamic basic or upper secondary schools established under the Private Schools Act.

As noted above, according to the Estonian Constitution (Art 37), provision of education is supervised by the State.⁴⁵ In law there is no difference in control over private basic or upper secondary schools (confessional or non confessional). If as a result of State supervision, it becomes evident that the schooling and education provided at the private school do not comply with the statutes of the private school or that the standard of education does not correspond to the level of education specified in the education licence or does not meet the requirements established for this type of private school by law, the agency exercising State supervision has the right to issue a precept to the head of the school for the elimination of deficiencies and for the improvement of schooling and education (§ 23 (2) PSA). If the private school fails to comply with the precept during the term

specified in the warning, the state supervisory agency may impose a penalty pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Act⁴⁶ (*Asendustäitmise ja sunniraha seadus*). Issuing the above mentioned precept is not at the discretion of the State agency and the manager of the school has the right to contest it.

As to the actual teaching or content of RE in private schools, State control is most likely to happen *ex post facto*. So far there have been no reported conflicts of interests or concerns related to teaching RE in private schools or in Sunday or bible schools. There have been reported problems relating to RE in public schools.⁴⁷

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.

III.2. Question: Does the head of a state funded denominational (e.g. Catholic) school the authority to limit the num-

ber of pupils from other religious beliefs (e.g. Muslim pupils) in order to support the specificity of the project?

Answer:

The conditions for the admission of students are determined by the school. Admission to a basic school, upper secondary school, vocational educational institution, and an institution of professional higher education is subject to the admission conditions established by law for state and municipal educational institutions or universities in public law of the same type. However, the board of a private school has the right to establish additional requirements (PSA, § 12). It is possible, however, that if the refusal is based on religious prescription which contradicts some fundamental values in a democratic society it could be contested on the basis of criminal law or anti-discrimination law. For example, it is possible, that when the refusal is based solely on racial grounds, the law and the courts may need to react to it. The latter is simply a speculation. There is no case law clarifying this yet.⁴⁸

It is possible (although exact statistical information is not available) that non-religious parents enrol their children in denominational schools for educational purposes.

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?

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

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?

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

Answer:

The issues behind the above questions have not come under the spotlight in Estonia yet. In fact, there are no clear pro or contra standpoints expressed in public discussion or by the authorities on these matters. As to the law, there is no legal obligation to provide the teaching of Islam or other beliefs (confessional RE) in denominational schools.

Private schools have relative freedom as regards curriculum, ethos and admissions. The manager of a private school approves the curriculum. The curriculum is entered into the Estonian Education Information System upon the issuing of a licence (PSA, § 11 (2)).

According to the amendments applicable from 1 September 2010, Art 11 (5) of the PSA explicitly sets forth that it is allowed to provide confessional religious education in private educational institutions (previously there was no explicit mentioning of this).⁴⁹ This is a general provision which applies to all private schools, not just confessional ones. The PSA further states that confessional RE is voluntary. Thus, it is clear from this that there is no legal obligation to provide confessional RE and even in confessional schools, which provide State licensed basic or upper secondary education, confessional RE must be voluntary. There is no provision as to the number of students needed for this kind of course. Confessional RE is provided according to the conditions and rules established by the school.

Private educational institutions when providing State licensed/ state supervised basic or upper secondary education have to follow the standards set in the National Curriculum for Basic Schools or Gymnasiums. As to compulsory subjects and some optional courses the National Curriculum applies to all schools non dependent on their legal status (public or private), if specific laws do not provide different regulation (for example, PSA). This means that according to the new law and regulations, private educational institutions (including confessional schools) may be required to provide non-confessional RE to their students as set forth in the BSG and in the National Curriculum. This can be seen as justified considering the need to prepare students for a multi-religious/cultural society with an emphasis on respect and dialogue. However, application of the law in this matter is not entirely clear yet. All basic and upper secondary schools have the relative freedom to offer additional voluntary courses provided that the means, time and human resources are available.

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:

The Estonian Council of Churches⁵⁰ has been very active in contributing to policies and projects regarding religious education in public schools. However, to the best knowledge of the author of this article no religious institution has provided guidelines as to how other religions should be taught at confessional schools (private schools or Sunday schools). Teaching Islam as a separate course in private schools is likely to be very rare or completely absent. Background factors like the small Islamic community and/or absence of any challenges experienced in many other European states may play a role in this.

VI. Religious symbols in public schools

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

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

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

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

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?

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

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?

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

Answer:

Religious symbols in public schools (e.g. crucifix or a cross) are not explicitly forbidden under Estonian law. However, displaying such a symbol in public schools (by a school) would be in contradiction to the constitutional principles of separation of State and Church (neutrality), non-discrimination (Art. 12 of the Constitution) and freedom of religion and belief (Art. 40). This would stand despite the fact that separation of State and Church is not interpreted as a strict separation such as disestablishment in the United States or the principle of *laïcité* in France.⁵¹

As to the socio-political and cultural dimension of the question, it should be emphasised that the displaying of such symbols in public schools does not have a strong historical or cultural tradition (as e.g. in Italy). This is not solely due to atheistic indoctrination and the strict separation policy of State and Church as practiced during the Soviet occupation (1940-1941; 1944-1991). There is also very little public debate going on in this regard.

As mentioned above, Estonia does not have significant immigration from any country, including countries with a Muslim population. Thus, it does not face any of the challenges of other European nations. There are no rules prohibiting the wearing of religious garb in state schools by a pupil. This tolerance is perhaps a reaction to Soviet times when all schoolchildren were obliged to wear school uniforms. However, both state schools and pri-

vate schools have the right to establish internal rules of the school (BSG, Art 68). Today many private schools require school uniforms and so far this requirement has not been disputed. There are also no rules prohibiting the wearing of religious garb by teachers, and no reports of any difficulties at this time. It is currently speculative as to how the Estonian legislature, court or public would react if someone (e.g. parents) disputed the wearing of religious garb in state schools either by students or by teachers. The ideal may be to teach children to respect differences and bring them up in an atmosphere of mutual respect.

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:

Especially after the re-gaining of Estonian independence from the Soviet Union, the Muslim community in Estonia has been more focused on their specific ethnic-cultural traditions rather than religion. As stated in the introduction, in the late 1980s, eth-

nic minorities started to organise (re-establish) cultural and religious societies. Most after school activities (Sunday schools) are organised by cultural societies. As a rule these Sunday schools are open to anybody interested in particular minority culture (Azerbaijani, Tatar etc). As a rule none of these Sunday schools specifically mention Islamic teaching. The focus is on teaching language, culture, history, traditions, dances, folk songs and even cuisine. They welcome students from different backgrounds. The aim is to spread knowledge about their culture and customs in Estonian society. The Sunday schools are receiving some financial support from the State. This support should be seen in the light of the protection of minority cultures/ethnic minorities in Estonia. It is also part of the Government's integration strategy. The Islamic community in Estonia has seen itself as an ambassador for the ethnic minorities in the country.⁵²

For example, since 1989 there is an Azerbaijani Sunday school in Tallinn (for ages 5-20). The aim of the school is to teach their children their mother tongue, culture and history (including Azerbaijani and Estonian history). In music classes children are taught their national songs and dances. The school has been financed by grants allocated by *Eestimaa Rahvuste Ühendus* (Estonian League of National/Ethnic Minorities). The League has been financed by State and municipal budgets and from the Integration Fund (*Integratsioonifond*). Parents have been giving symbolic contributions. The Estonian Tatar community

has been teaching their children the Tatar language, history and religion since 1989. The Sunday school was based on the enthusiasm of teachers. Parents made symbolic contributions here also. Due to the lack of children, this Sunday school currently does not function. However, Tatar language/culture is introduced by a new Sunday school run by Turkish Peoples Cultural Society. This society also provides courses in the Azerbaijani language. The Uzbek Sunday school was opened in 1992. This school ran into financial difficulties.⁵³ However, there are now two Uzbek Sunday schools one providing cultural education to all ages since 1994 and another to students up to 18 years of age. There is also a Sunday school run by the Kabardino society for 7-18 year old students. Their main focus is folk dancing, but they also teach language, history, culture and traditions.

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

Answer:

There is no Islamic teaching into religion in primary education (public or private basic schools registered under the PSA). However, Islam is introduced as one of the world religions within the RE as described above. According to the PSA private schools are allowed to provide confessional RE. There is no information on private schools providing Islamic instruction. See question IV and V above.

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

Answer:

There is no Islamic teaching in secondary education (public or private basic schools registered under the PSA). See also question VII.2 above.

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

Answer:

There is no exact data available. See question VII.1 above.

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

Answer:

There are no statistics available as to how many students have been attending Sunday schools and how many non-Muslim children have been attending the activities of these communities. See question VII.1 above.

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

Answer:

The exact data is not available.

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

Answer:

There is no public debate on Islamic instruction after school hours yet.

VIII. Additional comments

It seems that different factions of Estonian society have finally agreed that good general education also includes knowledge about religions. More importantly there seems to be an agreement now as to the proportions and methods of teaching about religions and ethics. However, the implementation of the new BSG and National Curriculum is a process. There are many aspects to this new law which are unclear and need to be tested in practice. There is no case law yet to clarify aspects of RE which have risen in other European states. This may be indicative of relatively non-problematic relationships between religious communities, State and secular community. However, it

may also be indicative of the fact that religion does not play a prominent role in Estonian society.

XI. Bibliography

Khair Al-Din, R. 'Eesti Euroopa Liiduga ühinemise protsess: Moslemi vähemuse õiguste kaitse islami õiguse seisukohast'. *Akadeemia* 12 (2000): 2616-2628.

Kilemit, L. & U. Nõmmik. 'Eesti elanike suhtumisest religiooni'. In *Mitut usku Eesti II. Valik usundiloolisi uurimusi: kristluse eri*, edited by L. Altnurme (Tartu: TÜ Kirjastus 2007).

Kiviorg, M. 'Estonia' in R. Torfs (ed) *International Encyclopaedia of Laws: Religion* (Kluwer Law International, 2011).

Kiviorg, M. 'Religious Education in Estonia', Proceedings of the Conference on 'Religion in Public Education', European Consortium for Church and State Research, 11-14 Nov 2010, Trier (Peeters, forthcoming 2011).

Kiviorg, M. 'State and Church in Estonia'. In *State and Church in the European Union*. 2nd ed. Edited by G. Robbers (Baden-Baden, Nomos, 2005).

M. Kiviorg & L. Roots, 'Immigration, Asylum and Religion Estonia', in *Immigration, Asylum and Religion in Europe*, ed. A. Mottilla (Leuven: Peeters, forthcoming 2011).

Kozyrev, F. & Schihalejev, O. 'Religious Education in Estonia and Russia: Resemblances and Differences'. In *Encountering Religious Pluralism in School and Society: a Qualitative Study of Teenage Perspectives in Europe*, edited by T. Knauth, et al (Münster, Waxmann, 2008).

Linnas, R. 'Islam Eestis'. In *Mitut usku Eesti II. Valik usundiloolisi uurimusi: kristluse eri*, edited by L. Altnurme (Tartu: TÜ Kirjastus, 2007).

Ringvee, R. 'Islam in Estonia'. In *Islam v Európe*. Centrom pre európsku politiku: Bratislava, 2005.

Schihalejev, O. *Estonian Young People, Religion and Religious Diversity: Personal Views and the Role of the School* (Tartu: University of Tartu Press, 2009).

Vakker, T. & Rohtmets, P. 'Estonia: Relations between Christian and Non-Christian Religious Organisations and the State of Religious Freedom'. *Religion, State & Society* 36, no. 1 (2008): 45-53.

Valk, P. 'Development of the Status of Religious Education in Estonian School. European and Local Perspectives'. Conference on Law, Religion and Democratic Society. Estonia, University of Tartu, 1999.

Endnotes

1. Wolfson College, University of Oxford.
2. The total population of Estonia is currently 1 340 122, Statistics Estonia, <www.stat.ee> 14 February 2011.
3. Information about current membership of religious organizations is based on data from the Ministry of Internal Affairs. Ministry of Internal Affairs <<http://www.siseministeerium.ee/37356>>, 01 January 2010.
4. Statistical Office of Estonia, '2000 Population and Housing Census: Education. Religion' (Tallinn, Statistical Office 2002), 40.
5. The Old Believers are Russians who fled to Estonia because of religious persecution. 'In 1652, Patriarch Nikon of the Russian Orthodox Church introduced a number of reforms aimed at centralizing his power and bringing the rituals and doctrines of Russian Orthodoxy in line with those of the Greek Orthodox Church. Old Believers rejected Nikon's reforms. Consequently, the Old Believers were cruelly persecuted, exiled, tortured and executed all over Russia. Their churches, icons and homes were burnt. As a result they took refuge abroad.' Estonia. Official Gateway to Estonia <<http://estonia.eu/about-estonia/society/russian-old-believers-in-estonia.html>>, 2 February 2010.
6. European Commission, 'Special Eurobarometer: Social values, Science and Technology' (2005), 11.
7. R. Inglehart & P. Norris, *Rising Tide: Gender Equality and Cultural Change around the World* (Cambridge: Cambridge University Press, 2003), 127. See also Part V below.
8. A. Kilp, 'Secularisation of Society after Communism: Ten Catholic-Protestant Societies', in *Religion and Politics in Multicultural Europe*, ed. A. Saumets & A. Kilp (Tartu: Tartu University Press, 2009), 226.
9. Statistics Estonia, <www.stat.ee/39106>, 25 April 2010.
10. R. Ringvee, 'Islam in Estonia', in *Islam v Európe (Centrom pre európsku politiku: Bratislava, 2005)*, 242-243.
11. Ibid.
12. Islam Eestis, <www.islam.pri.ee/ieestis.php>, 26 April 2010; I. Au & R. Ringvee, *Usulised ühendused Eestis [Religious Associations in Estonia]*, (Tallinn: Allika, 2007).
13. R. Linnas, 'Islam Eestis' [Islam in Estonia], in *Mitut usku Eesti*, ed. L. Altnurme (Tartu: Tartu Ülikooli Kirjastus, 2004), 65.
14. R. Khair Al-Din, 'Eesti Euroopa Liiduga ühinemise protsess: Moslemi vähemuse õiguste kaitse islami õiguse seisukohast', *Akadeemia* 12 (2000): 2616-2628.
15. According to public information provided by the Estonian Security Police, the number of Muslim immigrants arriving from the so-called risky countries (from the standpoint of counter-terrorism: North-Africa, the Middle East and Islamic Asian countries) is on the increase. Interest by such persons in coming to Estonia has increased due to Estonia's joining the Schengen zone at the end of 2007. There have been more cases of persons applying for an Estonian visa with the aim of entering the Schengen area and continuing from here to some other EU member state. Estonian Security Police, Ministry of Internal Affairs,

<www.kapo.ee/eng/areas-of-activity/terrorism/situation-in-estonia>, 1 April 2010.

16. Compulsory school attendance begins when a child reaches the age of seven and ends when he or she has acquired basic education (stage I-III) or becomes 17 years old (BSG, Art. 9 (2)). Basic education school is divided into three stages of study (BSG Art 2 (1)): stage I - grades 1-3 (7-10 year olds), stage II - grades 4-6 (10-13 year olds) and stage III - grades 7-9 (13-16 year olds). After basic school students may attend upper secondary school (gymnasium), a secondary vocational school or enter a profession. Only basic school is compulsory.
17. Haridus- ja Teadusministeerium, <www.hm.ee>, 24 June 2010.
18. Interview with Ms. Kristel Vahter from Ministry of Education and Research, 22 June 2010.
19. There was one case in the practice of the Chancellor of Justice in 2006 where he noted a violation of law regarding requirement that religious education has to be voluntary. Õiguskantsleri 2006. aasta tegevuse ülevaade (Tallinn, 2007), 102, Chancellor of Justice, <www.oiguskantsler.ee>, 1 May 2010.
20. O. Schihalejev, 'Dialogue in Religious Education Lessons – Possibilities and Hindrances in the Estonian Context', *British Journal of Religious Education* 31, no. 3 (2009): 280.
21. According to the classification provided by C. Evans, it can be argued that RE in Estonia fits most comfortably within the category of 'plural religious education', in which students learn about the basic practices, beliefs, rituals etc of a variety of religions. They are presented with information about these religious traditions, but are not taught

that any of them are true or untrue. The instruction also extends to philosophies and beliefs of a non-religious nature. C. Evans, 'Religious Education in Public Schools: An International Human Rights Perspective' HRLR 8 (2008) 461. Religion in Estonian schools is also taught within other subjects, for example, art, history and literature (Evans calls it 'incidental RE') to the extent necessary to understand certain topics or visual art.

22. For a more detailed account on religion in Estonia see e.g. M. Kiviorg, 'Estonia' in R. Torfs (ed) *International Encyclopaedia of Laws: Religion* (Kluwer Law International, 2011).
23. The referendum on religious education took place on 17-19 February 1923. It was the first referendum in the history of the independent Estonian Republic. 66% of the voting population participated in the referendum. 71.9% voted for state financed religious education as a voluntary topic in all schools. From then on religious education was voluntary for students and teachers, but compulsory for schools. Riigikogu juhatus otsus rahvaalgatamise korras esitatud algkooli seaduse muutmise seaduseelnõu, mis Riigikogu poolt 19. detsembril s.a. tagasi lükatud rahvahääletusele panemise kohta, RT I 1923, 1/2, 23. detsembrist 1922.a.
24. His statement is in conformity with the approach taken by the European Court of Human Rights. The Court has pointed out that the fact that knowledge about Christianity represents a greater part of the curriculum for primary and lower secondary schools than knowledge about other religions and philosophies cannot of its own be viewed as a departure from the principle that the curriculum should be conveyed in an objective, critical and pluralistic manner. See e.g. *Folgerø v Norway* (App no 15472/02) ECHR 29 Jun 2007.

25. Õiguskantsleri 2003.-2004. aasta tegevuse ülevaade, Tallinn, 2004, 169. Available at <http://www.oiguskantsler.ee>.

26. RT I 1992, 26, 349.

27. Article 37 of the Estonian Constitution:

(1) Everyone has the right to education. Education is compulsory for school-aged children to the extent specified by law, and shall be free of charge in state and local government general education schools.

(2) In order to make education accessible, the state and local government shall maintain the requisite number of educational institutions. Other educational institutions, including private schools, may also be established and maintained pursuant to law.

(3) Parents shall have the final decision in the choice of education for their children.

(4) Everyone has the right to receive education in Estonian. The language of instruction in national minority educational institutions shall be chosen by the educational institution.

(5) The provision of education shall be supervised by the State.

28. RT I 1992, 12, 192; RT I 2010, 41, 240 (last amended).

29. RT I 2010, 41, 240.

30. RT I 1992, 12, 192; RT I 2007, 12, 66.

31. This provision was introduced in 1999. Before the adoption of this provision it was likely that schools just did not provide religious education even if there were pupils who wished to be taught. The rea-

sons for this varied (financial, lack of human resources, etc.). RT I 1993, 63, 892.

32. RT I 1999, 24, 358.

33. Parliamentary debates at the time of processing the law focused on the structure of the school system and regional development. Intensive debates were held on how the reform influences the survival of rural areas and financial issues relating to reform. There was surprisingly little debate regarding the RE considering furious debates held in the past 18 years. See XI Riigikogu Stenogramm, V Istungjärk, 25.03.2009; XI Riigikogu Stenogramm, VI Istungjärk, 25.11.2009; XI Riigikogu Stenogramm, VII Istungjärk, 02.06.2010; XI Riigikogu Stenogramm, VII Istungjärk, 09.06.2010. Available at < www.riigikogu.ee>, 1 December 2010.

34. RT I 2010, 41, 240 (entered into force 01.09.2010, some provisions, however, enter into force at a later date).

35. RT I, 14.01.2011, 1.

36. RT I, 14.01.2011, 2.

37. National Curriculum for Basic Schools (Põhikooli riiklik õppekava), RT I, 14.01.2011, 1, Lisa 9.

38. National Curriculum for Gymnasiums (Gümnaasiumi riiklik õppekava), RT I, 14.01.2011, 1, Lisa 8.

39. Toledo Guiding Principles on Teaching About Religions and Beliefs in Public Schools (Warsaw: OSCE 2007).

40. Haridusministeeriumi ringkirjad (Tallinn: Haridusministeerium, 1932): 79-80.

-
41. Private schools can be established inter alia by non-profit organisations (PSA, Art 21), including religious associations.
 42. RT I 1998, 57, 859; RT I 2010, 41, 240 (last amended).
 43. Tartu Elusõna Kogusus is a sister congregation of the Uppsala Livets Ord.
 44. Eesti Hariduse Infosüsteem [Estonian Education Information System], 'Koolid', <www.ehis.ee/>, 1 December 2010
 45. See Art 37 of the Estonian Constitution (n 27 above).
 46. RT I 2001, 50, 283, RT I 2007, 24, 127 (last amended).
 47. When public schools became open to religious education (after soviet occupation), many eager people without pedagogical experience and professional skills rushed to teach it. Sometimes religious education turned into confessional instruction in schools. Valk, P., Development of the Status of Religious Education in Estonian School. European and Local Perspectives, Paper given at the Conference on Law, Religion and Democratic Society (Estonia, University of Tartu, 1999).
 48. See, for example, controversial case about admission policy of the Jewish Free School in the UK Supreme Court. R (on the application of E) (Respondent) v. The Governing Body of JFS and the Admissions Appeal Panel of JFS and others (Appellants) [2009] UKSC 15.
 49. This provision was included by the new BSG which amended several paragraphs of the PSA (See Art 105 of the BSG).
 50. The Estonian Council of Churches is a rather unusual ecumenical organisation (registered as a non-profit organisation) which has mem-

bers who normally are not interested in ecumenical cooperation. It also includes churches with a relatively short history.

51. There is no explicit mentioning of secularism in the constitutional framework of Estonia. The typology of the system can be described as co-operational. For a more detailed account of State and Church relationship in Estonia see Kiviorg, M. 'Estonia' in R. Torfs (ed) International Encyclopaedia of Laws: Religion (Kluwer Law International, 2011) pp. 42-43.
52. The Chairman of the Islamic Congregation has been the president of the Estonian Union of National Minorities. His work for national minorities was recognised by the State. He was rewarded with the Estonian State Honour in 2004 (5th Class order of the White Star). R. Ringvee, 'Islam in Estonia', in Islam v Európe (Centrom pre európsku politiku: Bratislava, 2005), 245.
53. R Linnas, 'Islam Eestis'. In Mitut usku Eesti II. Valik usundiloolisi uurimusi: kristluse eri, edited by L. Altnurme. Tartu: TÜ Kirjastus, 2007, 44-45.

The place of religion in education in Finland

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.

Yes, religious instruction is organised during the school hours in state funded schools:

- in basic education (ages 7-15/16);
- in the general (academic) track of upper secondary education (ages 15/16 - 18/19).

- in pre-school education, to which each child permanently residing in Finland has a subjective right (but no obligation) during the year preceding the beginning of compulsory schooling

In vocational track of secondary education, there is no instruction in religion.

The relevant provisions in Basic Education Act (628/1998) read as follows:

Section 11.1. “The basic education syllabus shall contain, ... the following core subjects: ... religious education or ethics, ... “

Section 13.1. (Amendment 454/2003). The provider of basic education shall provide religious education in accordance with the religion of the majority of pupils. In this case, religious education is arranged in conformity with the religious community to which the majority of pupils belong. A pupil who does not belong to this religious community may attend the said religious education after the provider of basic education has been notified of the matter by the parent/carer. Section 13.4. 4. If a pupil belongs to more than one religious community, the pupil's parent/carer shall decide in which religious education the pupil will participate.

Upper Secondary Education Act, Section 9.1. (6.6.2003/455) is similar to Basic Education Act, except that the pupils themselves may make the choices instead of their parents.

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

Answer:

In Finland, the Evangelical Lutheran Church and the Greek Orthodox Church are governed by special legislation. Denominational teaching other than Evangelical-Lutheran and the Orthodox is given if there are at least three pupils belonging to the same religious community, registered as an association, and their parents request it. In Upper secondary school the request is to be made by the student herself/himself.

The relevant provisions in Basic Education Act (628/1998, Amendment 454/2003) read as follows:

Section 13.2. Three or more pupils belonging to the Evangelical-Lutheran Church or the Orthodox Church who do not participate in religious education referred to in subsection 1 shall be provided education in accordance with their own religion.

Section 13.3. Three or more pupils belonging to a religious community other than those referred to in subsection 2 who do not participate in religious education referred to in subsection 1 shall be provided religious education in accordance with their own religion, if their parents/carers so request.

Pupils/students that are not members of any congregation or religious group are provided instruction in secular ethics. The relevant provisions in Basic Education Act (628/1998) read as follows:

Section 13.5. Pupils who do not belong to any religious community and do not take part in religious education referred to in subsection 1 shall be taught ethics. A pupil belonging to a religious community who is not provided religious education in accordance with his or her religion shall be taught ethics when requested by his or her parent/carer. The provider of basic education shall organise ethics education if there are at least three pupils entitled to it.

Section 13.6. A pupil who does not belong to any religious community may, at the request of his or her parent/carer, also participate in religious education provided by the provider of basic education which, in view of his or her upbringing and cultural background, evidently corresponds to his or her religious beliefs.

Students that begin upper secondary school when they have reached the age of 18 may choose whether they wish to study RE or ethics. A non-Lutheran pupil may take part in Lutheran RE if their guardians so request. In the case of the Orthodox instruction, a parental request is not needed: instruction is provided once there are at least 3 Orthodox children in municipality schools.

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

Yes. There are state-funded denominational schools in Finland, but the numeric importance of these schools is reportedly insignificant. Less than 3% of pupils in compulsory school age attend private schools.

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

The number of private schools providing basic education is currently 75, of which denominational Christian schools compose 5% and Steiner/Freinet or other, faith-related, schools 8%. The average size of private schools is reportedly small. Homeschooling is allowed but rare. In general, Finnish schools are not based on religion or supported by a religion. There are no Islamic state-funded schools in Finland.

There are no non-state-funded denominational schools in Finland.

For statistical information on-line, see
http://www.stat.fi/til/kou_en.html

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.

The authorities control the teaching in state-funded denominational schools in the following ways:

- All private registered associations or foundations that want to provide basic education shall receive an authorization from the State Government.
- All Finnish teachers are required to be Master's degree graduates, no matter whether they teach primary or secondary students. The majority of subject teachers in RE are Masters of Theology who have specialized in teaching.
- All RE must have a curriculum which needs to be accepted by the National Board of Education. There are 11 different curricula for the RE.

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.

Non-Discrimination Act (21/2004, amended by several acts) aims to foster and safeguard equality and non-discrimination in several sectors of public and private activities, but it is not unambiguous whether the Non-Discrimination Act is applicable to school enrolment procedures. The English translation of the Non-Discrimination Act mentions “training” – but not “education” – among the contexts in which the Act shall apply (Section 2.3). Section 3.1 explicitly mentions that the Non-Discrimination Act does not apply to “the aims or content of education or the education system”.

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?

n/a (see III.1. above)

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?

a. no.

b. yes. Schools must give instruction in Islam or any other religions other than Lutheran faith if there is a minimum of three pupils representing the faith in the school. The religion in question must be registered in Finland and the students’ family must belong to the religion (see above, I.2).

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

a. yes. The religion in question must be registered in Finland and the students’ family must belong to the religion.

b. yes.

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?

Pro: religious education is a fundamental right; as an essential part of religious freedom. There has also been public debate on the establishment of an Islamic School in Finland. Those arguing for it say that it is a better alternative than Islamic parents sending their children to Islamic schools abroad.

Con: religious education does not belong to public sphere; belief is a private issue. For instance, the Minister of Immigration (April 2007 to date) has stated as her opinion that no Islamic schools shall be established in Finland. Rather, more efforts should be spent in training of teachers of Islam (Helsingin Sanomat 6.2.2010).

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

Answer:

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.

All providers of basic education shall receive an authorization from the State Government, and all RE must have a curriculum which needs to be accepted by the National Board of Education.

V.2. Question: If affirmative, does the guideline imply 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?)

The law stipulates that whenever parents/guardians of three or more pupils belonging to a registered religious community so request, their children shall be provided religious education in accordance with their own religion.

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: n/a

VI. Religious symbols in public schools

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

Religious symbols in public schools are allowed, but not compulsory.

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

there are no legal rules on dress codes in public schools.

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

there are no legal rules on dress codes in public schools.

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

no legal regulation exist on this particular topic

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?

no

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

not defined by law

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.

No case-law on religious symbols in public schools can be found in the databases of the Supreme Court, nor the Supreme Administrative Court.

VII. Additional comments

RE in Finland is non-confessional. According to the Criteria for Good Learning Practice at the fifth grade concerning Lutheran RE, as defined by the National Board of Education in 2003, the pupils should be able to perceive religion as a cultural phenomenon and understand the nature of religious language usage and recognize religious symbols, concepts, and metaphors.

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: Morning and afternoon activities (or Before and After School Activities) are provided for children in grades 1–2 of basic education and for children admitted or transferred to special needs education in all grades. Improving the well-being of pupils is at the core of the provision of morning and afternoon activities. Pre-primary and basic education, morning and evening activities and basic art education build the foundation for the growth, learning and comprehensive well-being of children and young people.

There is no obligation to the local authorities to organise these activities. If a local authority organises morning and afternoon activities, it may provide these itself or may purchase services from other local authorities, joint municipal authorities, organisations working with children and young people, associations and parishes, etc.

The National Core Curriculum for Before- and After-school Activities for Schoolchildren is defined by the Finnish National Board of Education.

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

Answer: The Islamic Council of Finland has a board for youth and student issues. The promotion of good quality Islamic teaching is mentioned as one of the board tasks. No reply to the e-mail question on the scale of their activities. <http://www.sine.fi/>

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

Answer: n/a (see VII.2 above).

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

Answer: n/a (see VII.2 above).

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

Answer: n/a (see VII.2 above).

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

Answer: n/a (see VII.2 above).

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

Answer: no public debate on this topic

VIII. Additional comments

XI. Bibliography

Aikonen, Risto (2009). Orthodox Religious Education in Finland – Principles and Basis (unprinted)

Honkaheimo, Marja & Luodeslampi, Juha (2009) Religious Education in Finland
http://www.mmiweb.org.uk/eftre/reeurope/finland_2009.html

Sakaranaho, Tuula (2006). Religious freedom, multiculturalism, Islam. Cross-reading Finland and Ireland (Brill).

Statutes and supplementary provisions:

Basic Education Act 628/1998

Upper Secondary School Act 629/1998

Freedom of Religion Act (453/2003)

National core curriculum for basic education (2004). Finnish National Board of Education.

http://www.oph.fi/english/publications/2009/national_core_curricula_for_basic_education

National core curriculum for upper secondary education (2003). Finnish National Board of Education.

http://www.oph.fi/download/47678_core_curricula_upper_secondary_education.pdf

Endnotes

1. University of Jyväskylä, Finland

The place of religion in education in France

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.

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

Answer:

Il existe en France deux sortes d'établissements privés. Certains (art. L. 442-1 code éducatif.) sont liés à l'Etat par contrat, les autres (art. L. 442-2 code éducatif.) non.

La plupart des premiers ont conclu un contrat d'association à l'enseignement public pour tout ou partie de leurs classes (art. L. 442-5 code éducatif.). Pour les classes sous contrat, l'Etat finance les dépenses de personnel enseignant et les collectivités territoriales les dépenses de fonctionnement dans les mêmes conditions que celles des classes correspondantes de l'enseignement public. En contrepartie, ces établissements doivent, pour les classes en question, respecter les règles et programmes de l'enseignement public, la liberté de conscience de leurs élèves et ils ne peuvent pas pratiquer de discrimination dans le choix de leurs élèves. La très grande majorité des établissements sous contrat sont catholiques.

Les seconds ont au contraire une très grande liberté dans le choix de leurs élèves et le contenu de leurs enseignements. Mais ils ne sont pas subventionnés par l'Etat. « Le contrôle de l'Etat sur les établissements d'enseignement qui ne sont pas liés à l'Etat par contrat se limite aux titres exigés des directeurs et des maîtres, à l'obligation scolaire, au respect de l'ordre public et des bonnes mœurs, à la protection sanitaire et sociale » (art. L. 442-2 code éducatif.). Les élèves souhaitant recevoir un enseignement particulier en langue régionale sont scolarisés dans

des établissements de ce type (écoles Ikastolak au Pays basque ; Diwan en Bretagne ...).

Dans tous les cas, le financement de l'Etat ou des collectivités territoriales ne peut jamais concerner un enseignement religieux. Sous réserve du cas particulier de la région alsacienne et mosellane, « l'enseignement religieux ne peut être donné aux enfants inscrits dans les écoles publiques qu'en dehors des heures de classe » (art. L. 141-4 code éducatif) et en dehors des locaux scolaires. Selon l'art. 141-3 du code éducatif, « l'enseignement religieux est facultatif dans les écoles privées ». Lorsqu'il existe, il est obligatoirement placé en dehors du contrat. Cela implique en particulier que d'éventuelles heures de catéchèse ne sauraient entrer dans la quotité de service d'un enseignant prise en charge par l'Etat. Cela vaut pour toutes les religions, Islam compris. La jurisprudence a donc essentiellement concerné la question de la libération du temps dans les écoles publiques, pour permettre l'enseignement religieux en dehors du temps scolaire.

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

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:

Il y a très peu d'établissements scolaires islamiques en France (à ma connaissance une petite dizaine scolarisant 5 à 6 à élèves : deux lycées à Lille et à Lyon, trois ou quatre collèges ...). L'ouverture des deux lycées a été entourée de difficultés administratives, liées en particulier à la vérification des conditions de sécurité des locaux. Pour l'heure, aucun établissement musulman n'est sous contrat, dans la mesure où aucun ne respectait jusqu'ici une condition essentielle prévue par la loi : cinq ans de fonctionnement.

5 et 6. S'agissant d'établissements hors contrat, oui, sous réserve que le refus ne repose pas sur des motifs de discrimination raciale. S'agissant des établissements sous contrat, non : l'établissement « doit donner son enseignement dans le respect total de la liberté de conscience. Tous les enfants sans distinction d'origine, d'opinion ou de croyances y ont accès » (art. L. 442-1 code éducatif.). Certains établissements catholiques ont ainsi, après le vote de la loi de 2004, accueilli des jeunes filles musulmanes qui souhaitaient porter le foulard islamique dans les locaux scolaires et ne pouvaient plus le faire dans une école publique.

Dans la pratique, cependant, les choses ne sont pas aussi simples. On sait par exemple que certains établissements israélites n'acceptent pas d'élèves étrangers à leur confession.

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.

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?

Answer:

Les développements précédents répondent aux questions posées.

Pièce 7. Code de l'éducation.

Article L141-2 : Suivant les principes définis dans la Constitution, l'Etat assure aux enfants et adolescents dans les établissements publics d'enseignement la possibilité de recevoir un enseignement conforme à leurs aptitudes dans un égal respect de toutes les croyances.

L'Etat prend toutes dispositions utiles pour assurer aux élèves de l'enseignement public la liberté des cultes et de l'instruction religieuse.

Article L141-3 : Les écoles élémentaires publiques vacent un jour par semaine en outre du dimanche, afin de permettre aux parents de faire donner, s'ils le désirent, à leurs enfants l'instruction religieuse, en dehors des édifices scolaires.

L'enseignement religieux est facultatif dans les écoles privées.

Article L141-4 : L'enseignement religieux ne peut être donné aux enfants inscrits dans les écoles publiques qu'en dehors des heures de classe.

Article L141-5 : Dans les établissements du premier degré publics, l'enseignement est exclusivement confié à un personnel laïque.

Pièce 8. Conseil d'Etat, req. n° 100792 100920, 27 juillet 1990, *Association pour une nouvelle organisation du temps scolaire*.

Considérant, d'une part, qu'aux termes de l'article 2 de la loi du 28 mars 1882 : "Les écoles primaires publiques vaqueront un jour par semaine, en outre du dimanche, afin de permettre aux parents de faire donner, s'ils le désirent, à leurs enfants, l'instruction religieuse en dehors des édifices scolaires" ; qu'un arrêté du ministre de l'éducation nationale du 2 mai 1972 pris pour l'application de cette loi fixe, en dernier lieu, au mercredi le jour d'interruption des classes de l'enseignement primaire ;

Considérant, d'autre part, qu'aux termes de l'article 8 de la loi du 11 juillet 1975 relative à l'éducation : "l'organisation et le contenu des formations sont définis respectivement par des décrets et des arrêtés du ministre de l'éducation" ; qu'en application de ce texte, un arrêté du 23 avril 1985 du ministre de l'éducation nationale fixe la durée hebdomadaire de la scolarité à l'école élémentaire à 27 heures réparties conformément à un tab-

leau annexé et prévoit des aménagements afin de permettre la répartition de ces horaires sur plusieurs semaines et l'enseignement de la langue et de la culture d'origine et d'apport ;

Considérant, enfin, qu'aux termes du premier alinéa, de l'article 15 du décret du 28 décembre 1976 relatif à l'organisation de la formation dans les écoles maternelles et élémentaires : "les heures d'entrée et de sortie des écoles maternelles et élémentaires sont fixées par le règlement départemental" ; qu'aux termes des deuxième et troisième alinéas de ce même texte, dans la rédaction que leur a donnée le décret du 13 mai 1985 pris pour l'application de la loi du 22 juillet 1983 relative à la répartition des compétences entre les communes, les départements, les régions et l'Etat : "Le maire peut, après avis de l'inspecteur départemental de l'éducation nationale, modifier les heures d'entrée et de sortie des écoles maternelles et élémentaires en raison des circonstances locales. L'organisation du temps scolaire peut être aménagée pour chaque école pour une durée limitée par l'inspecteur d'académie, directeur des services départementaux de l'éducation, à la demande de la majorité des membres du conseil d'école et en accord avec la ou les collectivités intéressés" ;

Considérant que si cette dernière disposition a pu légalement déléguer à l'inspecteur d'académie le soin de procéder aux aménagements d'horaires prévus notamment par l'arrêté du 23 avril 1985, elle n'a pas pour objet de lui donner compétence

pour écarter la règle fixée, pour l'interruption hebdomadaire des cours, par l'arrêté précité du 2 mai 1972 ; qu'il suit de là que le ministre d'Etat, ministre de l'éducation nationale, de la jeunesse et des sports et l'association pour une nouvelle organisation du temps scolaire ne sont pas fondés à soutenir que c'est à tort que, par le jugement attaqué, le tribunal administratif d'Orléans a annulé la décision de l'inspecteur d'académie du Cher autorisant le transfert des cours du samedi matin au mercredi matin, à compter de la rentrée scolaire de 1987 dans sept écoles publiques de la ville de Bourges en tant qu'elle concerne 29 classes de l'enseignement primaire.

Pièce 9. Conseil d'Etat, n° 125148, ASSEMBLEE, 14 avril 1995, *Consistoire central des israélites de France*.

Considérant, en troisième lieu, qu'aux termes de l'article 10 de la loi du 10 juillet 1989 susvisée : "Les obligations des élèves consistent dans l'accomplissement des tâches inhérentes à leurs études ; elles incluent l'assiduité et le respect des règles de fonctionnement et de la vie collective des établissements" ; qu'aux termes de l'article 3-5 ajouté au décret du 30 août 1985 par l'article 8 du décret attaqué du 18 février 1991 : "L'obligation d'assiduité mentionnée à l'article 10 de la loi du 10 juillet 1989 susvisée consiste, pour les élèves, à se soumettre aux horaires d'enseignement définis par l'emploi du temps de l'établissement ; elle s'impose pour les enseignements obligatoires et pour les enseignements facultatifs dès lors que les élèves se

sont inscrits à ces derniers. - Les élèves doivent accomplir les travaux écrits et oraux qui leur sont demandés par les enseignants, respecter le contenu des programmes et se soumettre aux modalités de contrôle des connaissances qui leur sont imposées - Le règlement intérieur de l'établissement détermine les modalités d'application du présent article" ; que si les requérants soutiennent que ces dispositions réglementaires portent atteinte à la liberté religieuse garantie aux élèves par les dispositions précitées, en donnant à l'obligation de respecter les horaires définis par l'emploi du temps de l'établissement un caractère général et absolu, sans prévoir la possibilité de dérogations fondées sur la pratique religieuse, lesdites dispositions n'ont pas eu pour objet et ne sauraient avoir légalement pour effet d'interdire aux élèves qui en font la demande de bénéficier individuellement des autorisations d'absence nécessaires à l'exercice d'un culte ou à la célébration d'une fête religieuse, dans le cas où ces absences sont compatibles avec l'accomplissement des tâches inhérentes à leurs études et avec le respect de l'ordre public dans l'établissement ; que par suite, l'article 8 du décret attaqué ne méconnaît aucun des principes ni aucune des dispositions invoqués par les requérants.

Endnotes

1. Professor, Former rector of Université Paris X, France

The place of religion in education in Germany

Introduction by Hermann Avenarius on the constitutional and political context

1. According to article 7, section 3 of the Basic Law of the Federal Republic of Germany religious instruction shall form part of the regular curriculum in state schools, excepting secular schools (which are a rare exception). Without prejudice to the state's right of supervision, it shall be given in accordance with the tenets of the religious community concerned.

Religious instruction is therefore a regular teaching subject. As such it is compulsory. Parents and guardians, however, have the right to decide whether children shall receive religious instruction (article 7, section 2 of the Basic Law). The still valid Law on Religious Education of Children ("Gesetz über die religiöse Kindererziehung") from 1921 regulates that even minor students have their own rights in this matter. After the age of 11 a child may not be educated in another than his or her previous denomination against his or her will; therefore the child without

his or her consent may neither be exempted from any religious instruction nor sent to religious instruction in another denomination. After the age of 13 students are self-responsible. They decide themselves whether to receive religious instruction or not. For those students who are exempted from religious instruction most Länder have introduced ethics as an obligatory teaching subject.

As regular part of the state school curriculum religious instruction is as any other subject in the responsibility of the state and subordinate to the state supervisory school authority. On the other hand, religious instruction has to be taught "in accordance with the tenets of the religious community concerned". Therefore it is not a neutral presentation of religion(s), not a lecture in morals and ethics, but bound by a specific denominational creed. Its content is determined by the preaching of the respective religious community. The agreement clause ("in accordance with the tenets of the religious community concerned") guarantees the religious communities the right to cooperation in designing syllabuses and in selecting textbooks. The term "religious community" traditionally has been more or less synonymous with "church". So the churches are entitled to send authorized representatives for visitations to inspect quality and compatibility of religious instruction. Above all, they have the right to collaborate with the state in selecting and appointing teachers for religious instruction. Accordingly, teachers need a specific

mandate by their respective church. The state is forbidden to consign a teacher to teach religious instruction whose suitability is not or not any more approved by his or her church. On the other hand, teachers may not be obliged against their will to give religious instruction (article 7, section 3, sentence 3 of the Basic Law).

2. When the founding fathers and mothers of the Basic Law passed the constitution in 1949 they could not imagine that almost sixty years later religious instruction based on other than Christian denominations could be envisaged. But time and circumstances have changed and a vital and effective constitution has to cope with new challenges and unexpected developments.

Article 7, section 3, sentence 1 of the Basic Law („Religious instruction shall form part of the regular curriculum in state schools“), taken verbally, cannot exclude Islam. However, the already quoted second sentence of section 3 causes problems: „Without prejudice to the state’s right of supervision, religious instruction shall be given in accordance with the tenets of the religious community concerned“. The term “religious community” is not restricted to Christian churches but includes any association which comprises believers of a faith in order to fulfil jointly the tasks of that faith. Besides it must have an accepted authority which is able to state the conformity of religious instruction with the tenets of the association. While in Austria e.g.

the Islam Community (islamische Glaubensgemeinschaft) is even recognised by the state as a corporation under public law which does serve as the state’s counterpart, the existing Muslim associations and their umbrella organisations in Germany appear to be not so much religious communities but rather national and/or political organisations which are not in a position to determine what contents should be taught in Islam religious instruction. In some cases the aims of such associations may even contradict fundamental principles of the Basic Law.

What can be done in this situation? Facing the great number of children and youth with Islam religious origin it appears of utmost importance, particularly under the aspect of a successful integration policy, to give them the chance of receiving religious instruction corresponding to their faith. It is quite clear that Koran schools where students usually merely recite passages from the Koran without any critical comments do not fulfil this function. Under these circumstances – as long as there are no competent Islam religious communities with binding authority for the tenets of their respective creed – it may be acceptable to look for interim solutions, e.g. in the form of project groups initiated and coordinated by the respective Education Ministry which prepare curricula in cooperation with interested Muslim associations and Islam scientists. Islam religious instruction based on such preliminary approaches may not entirely correspond to the constitutional prerequisites but could approximate the rulings of the Basic Law more than a complete absence of

religious instruction. Accordingly, most Länder of the Federal Republic have started trial programmes where curricula are being developed by teams of experts and Muslim associations under the responsibility of the respective Education Ministry. The biggest problem appears to be the lack of a sufficient number of qualified teachers.

3. Catholic schools as any other denominational schools usually are private schools¹. One has to add that private schools in Germany, compared to most other European countries, do not play an important role in the education system since only 7.3% of the students attend them.

According to article 7, section 4 of the Basic Law private schools, as a substitute for state schools, shall require the approval of the state. Such approval shall be given where private schools are not inferior to the state schools in their educational aims, their facilities and the professional training of their teaching staff, and where segregation of students according to the means of the parents is not encouraged thereby. Approval shall be withheld where the economic and legal position of the teaching staff is not sufficiently assured. Article 7, section 5 states that a private elementary school shall be permitted only where the state school authority finds that it serves a special pedagogic interest, or where, on the application of parents, it is to be established as an interdenominational school (Gemeinschaftsschule) or as a denominational school or as a Weltan-

schauungsschule and a state elementary school of this type does not exist in the commune (Gemeinde).

Questionnaire by Hans-Peter Füssel²

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 Germany religious instruction is part of the regular curriculum of the state-schools, Art.7 Para 3 of the German Basic Law (see Appendix); this includes that the religious instruction-lessons are included in the ordinary school hours.

Religious instruction is, in the words of the Federal Constitutional Court (1987), a “common matter” of state and churches

where “the areas of responsibilities of both institutions are closely interlinked”

An exception is set in the Federal Constitution also, Art.141 of the German Basic Law: where on 1 January 1949 a different legal rule was already in function the general rule of Art.7 Para3 will not apply. This exception is of relevance for the *Land* Bremen (that is the reason why that exception is called “Bremen-Clause”) and the *Land* Berlin; if it also would apply for the *Land* Brandenburg had not been decided by the Federal Constitutional Court.

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

Answer:

In general all religious institution may offer religious instruction but in practice only these churches and religious organisations who have an adequate organisational structure are accepted as “partners” of the state for organising religious instruction.

Not only the Christian Churches may offer religious instruction in schools but also other Christian (f.e. (Greek-)Orthodox Religious Instruction in the *Land Northrhine-Westfalia*) or Islamic communities (including religious instruction f.e. for the Alevit

Community in primary schools in the *Länder Bavaria, Hesse, Northrhine-Westfalia*).

Also an instruction based on a particular philosophical conviction may be offered in state-schools; some very few offers in the big cities can be observed.

The State has the right to offer a compulsory ethical (non-religious) education in schools.

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:

In general the type of state-schools in the *Länder* is the Christian Community Schools, not orientated to a single Christian conviction.

Only in the *Länder* of *Lower Saxonia* and *Northrhine-Westfalia* some denominational primary schools still exist.

In general it had to be mentioned that also private schools based a particular philosophical conviction (and not only based on religious convictions) may be founded.

There are only very few schools of that type, they are of no importance any more for the general structure of the school-system.

There are only some very few Islamic Private (Primary) Schools; they will be funded like any other school (see a)

No statistical data are available.

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

Answer:

92,4 % of all pupils had been in 2008/2007 in state schools, 91,1 % of all schools are state-schools.

The most of the private schools are organised by the (Christian) Churches or other religious institutions (like Foundations or Fraternities).

Nevertheless also private schools may receive state-subsidies as long as they offer education instead of state-schools.

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:

The “common matter” of religious instruction (see I 2) includes that there are two different systems of controlling : the more general, especially didactic-orientated control of the religious instruction and the teachers by the state-authorities and the controlling of the accordance of religious instruction with the beliefs of the religious institutions by these institutions – see Art.7 Para.3 Sent.2 of the German basic Law (in annex).

In advance teachers of religious instruction in state-schools need a double competence and authorisation : as teachers given by the state-run teachers-training institutions and for the religious aspects the acceptance by the religious institutions, called “vocatio” (by the Evangelical Church) or “missio canonica” (by the Catholic Church).

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:

The admission of pupils of another religious conviction to religious instruction-lessons belongs to this part of responsibilities the religious institutions may decide on – the Federal Constitutional Court ruled in 1987.

This rule applies also to these very few still existing denominational schools

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?

Answer:

For the *Land of Lower Saxonia* f.e. the Ministry of Education has allowed no more than 20 % of pupils of other beliefs to the denominational schools, in exceptional cases this percentage may reach 25 % (see § 1 of the Verordnung über die Aufnahme bekenntnisfremder Schülerinnen und Schüler in Grundschulen für Schülerinnen und Schüler des gleichen Bekenntnisses, vom 19.Februar 1999 - Nds.GVBl. S.51 - und vom 6.6.2009 - Nds.GVBl. Nr.14/2009 S.242-).

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?

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

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?

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

Answer:

That question has not been discussed.

VI. Religious symbols in public schools

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

Answer:

The Federal Constitutional Court decided in 1995 that the use of the crucifix in state-schools is not acceptable because that may come in conflict with the freedom of faith and conscience (Art.4 Basic Law).

Therefore the (Bavarian) School Act includes now an “appeal-solution” (Art.7 Para.3 Bavarian School Act)): in principle a crucifix will be installed in each class-room; if parents contradict, a solution should be found in that particular school. If this seems not possible the crucifix may be abolished. This rule had been accepted by the Federal Administrative Court in 1999.

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:

For teachers the wearing of a headscarf as expression of religion (Art.4 Basic Law) must be decided by the school-ac, the Federal Constitutional Court decide in 2005. The decision in the school-act may also include the prohibition of wearing the headscarf for teachers because of their professional obligation of neutrality.

Teachers in training must be treated differently because they Right of occupational Freedom (Art.12 Basic Law) gives them

the right to fulfil the professional training and work later outside the state-system.

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:

Pupils are allowed to wear a headscarf because of their religious conviction (Art.4 Basic Law).

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

Answer:

There is no dress-code in schools in Germany, also some single schools has discussed it.

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:

See No.18.

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

Answer:

See No 18.

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:

See No.18.

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

Answer:

There are no legal discussions or decisions by now.

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

No available information

Appendix

Article 4 of the German Basic Law (German Federal Constitution)

[Freedom of faith and conscience]

(1) Freedom of faith and of conscience, and freedom to profess a religious or philosophical creed, shall be inviolable.

(2) The undisturbed practice of religion shall be guaranteed.

...

Article 7 of the German Basic Law

[School system]

(1) The entire school system shall be under the supervision of the state.

(2) Parents and guardians shall have the right to decide whether children shall receive religious instruction.

(3) Religious instruction shall form part of the regular curriculum in state schools, with the exception of non-denominational schools. Without prejudice to the state's right of supervision, religious instruction shall be given in accordance with the tenets of the religious community concerned. Teachers may not be obliged against their will to give religious instruction.

(4) The right to establish private schools shall be guaranteed. Private schools that serve as alternatives to state schools shall require the approval of the state and shall be subject to the laws of the *Länder*. Such approval shall be given when private schools are not inferior to the state schools in terms of their educational aims, their facilities, or the professional training of their teaching staff, and when segregation of pupils according to the means of their parents will not be encouraged thereby. Approval shall be withheld if the economic and legal position of the teaching staff is not adequately assured.

(5) A private elementary school shall be approved only if the educational authority finds that it serves a special pedagogical interest or if, on the application of parents or guardians, it is to be established as a denominational or interdenominational school or as a school based on a particular philosophy and no state elementary school of that type exists in the municipality.

(6) Preparatory schools shall remain abolished.

Article 12 of the German Basic Law

[Occupational freedom]

(1) All Germans shall have the right freely to choose their occupation or profession, their place of work and their place of training. The practice of an occupation or profession may be regulated by or pursuant to a law.

...

Article 141 of the German Basic Law (German Federal Constitution)

[“Bremen Clause”]

The first sentence of paragraph (3) of Article 7 shall not apply in any *Land* in which *Land* law otherwise provided on 1 January 1949.

Endnotes

1. There are exceptions in Northrhine-Westphalia and Lower Saxony. In Northrhine-Westphalia primary schools and so-called Hauptschulen may be erected on the application of parents under specific conditions as denominational schools. In Lower Saxony this alternative applies to primary schools.
2. Professor, German Institute for International Educational Research, Humboldt University, Berlin, Germany

The place of religion in education in Greece

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 order to understand the contrary opinions that the theory and the jurisprudence have adopted, it is necessary to present the relevant constitutional provisions.

Article 3 of the Constitution provides that

«1. The prevailing religion in Greece is that of the Eastern Orthodox Church of Christ».

Article 13 provides that:

«1. Freedom of religious conscience is inviolable. The enjoyment of civil rights and liberties does not depend on the individual's religious beliefs.

2. All known religions shall be free and their rites of worship shall be performed unhindered and under the protection of the law. The practice of rites of worship is not allowed to offend public order or the good usages. Proselytism is prohibited».

Article 16 par. 2:

«2. Education constitutes a basic mission for the State and shall aim at the moral, intellectual, professional and physical training of Greeks, the development of national and religious consciousness and at their formation as free and responsible citizens»

The prevailing opinion in case law and a part of theorists³ adopts the combined interpretation of articles 3 and 16 par. 2 of the Constitution. According to this opinion, since the Constitution recognizes a religion as prevailing, the development of religious conscience through religious instruction (as provided by the article 16 par. 2 of the Constitution) must be in line with the prevailing religion. Applying this opinion the Council of State annulled a ministerial decision that reduced the religious instruction in lyceum from two hours to one weekly, on the base that

one hour of instruction is not sufficient to provide for the constitutionally required development of the students' religious conscience (Council of State No. 2176/1998). Moreover case-law supports that in case an application for exemption from the religious lesson is filed by a student, the director of the school shall examine the validity of the application's allegations in order to decide if it should be accepted⁴.

On the other hand, the greatest part of the theorists⁵ supports the opposite opinion. According to them, articles 13 of the Constitution, 9⁶ of the European Convention⁷ on Human Rights (ECHR) and 2 of the first Additional Protocol to ECHR⁸ should be taken into consideration, apart from articles 3 and 16 par. 2 of the Constitution, in order to determine the precise content of religious instruction at schools. Moreover article 5 par. 1, which rules that each person's personality should be freely developed, leads to the conclusion that in order for the personality of the students to be developed unobstructed is necessary that the educational system does not enforce a specific dogma. According to this opinion article 16 par. 2 does not impose a specific direction of religious instruction, but with the term "development of religious conscience", refers to every dogma regarding God. Namely, article 16 par. 2 can be considered as imposing a lesson consisting of a simple presentation of the main religions and dogmas or even atheistic theories, or it could be considered as an optional lesson.

The theorists insist on the constitutional base of the right of exception of the religious lesson at school. They especially recognize to lyceum grade students that they have a right of exception irrespectively of the religious conscience of their parents⁹.

The case law opinion, concerning the obligation of schools' directors to examine the validity of the allegations that are contained in the applications for exemption of the religious lessons, has also been criticized by the theorists. The power to examine the applicant's conscience does not comply with the religious freedom and each person's right to not reveal his religious conscience. Following the decision No. 510/17 of the Hellenic Data Protection Authority of 15-5-2000¹⁰, which regulated that "religion, which refers to the inner world of the person and which can change at any moment, cannot be written on the identity card of the citizens", the religion is not anymore written on the identity cards.

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

Answer:

The Greek educational system consists of the primary and secondary education. Primary education lasts for six years while secondary consists of two educational circles, each lasting for three years, gymnasium and lyceum. The compulsory educa-

tion, provided by article 16 par. 3 of the Greek Constitution, consists of primary education and Gymnasium.

In Greece, the religious lesson is obligatory from the third grade of the primary education to the last grade of lyceum for those, who adopt the doctrine of the Eastern Orthodox Church of Christ.

Law 1566/1985¹¹, which regulates the structure and the operation of primary and secondary education, sets the basic principles of the Greek educational system. Particularly the provision of article 1 par. 1 verse a, provides that the primary and secondary education helps the students:

“To become free, responsible, democratic citizens, to defend the national independence, the territorial integrity of the country and the democracy, to be inspired by love towards man, life and nature and to be faithful towards the mother country and the genuine elements of the Christian orthodox tradition. The freedom of religious consciousness is inviolable...”

Article 4 par. 1 e of the same statute provides, among others, for a more specific target of primary education:

“...(the students) to be gradually familiarized with the moral, religious, national, humane and other values and to organize them in a virtue system”

Article 5 par. 1 provides that:

“The aim of the gymnasium is to advance, according to the general spirit of education, the spherical development of students in relation to the abilities of their age and the corresponding demands of life.

Particularly gymnasium helps the students:

a) To broaden their system of values (moral, religious, national, humane and others) in order to adjust their attitude to a corresponding way. To control and direct their sentimental world to creative aims and humanistic acts.”

Article 6 par. 2 verse b sets, among others, as aim of the lyceum to help the students:

“To realize the deeper meaning of Christian Orthodox ethos and the determined dedication to universal humane values and to understand the significance of democratic dialog and of participation in collective activities”.

The Greek educational system does not offer the opportunity for the instruction of Islam¹² in common public schools, however the possibility of exemption is provided at request of the interested party and concerns not only the exemption from the religious instruction, but also from morning pray and church attendance.

Specifically, article 13 par. 10 of the Presidential Decree 201/1998 that regulates the organization and the operation of primary schools, provides for the heterodoxies pupils:

“10. Non orthodox students

a. Students who belong to another doctrine or religion do not participate in church attendance, when their parents have filed a written declaration. When one of the parents belongs to another doctrine, in order for the exemption to take place, a common declaration of the parents is required. In case that the parents are divorced, the declaration is filed by the parent who has the custody of the child, according to article 8 par. 2 of this Presidential Decree.

The parents of non orthodox students are informed in advance about the day and the time of the church attendance, in order for the students to come to school after its completion. When church attendance takes place unexpectedly or without informing the parents and the guardians of the above mentioned students, falls under the school is responsible for the surveillance of the students

b. The above mentioned students are exempted from the religious lesson and their occupation, inside or outside or in another classroom, during the lesson, is determined by decision of the teacher's association.

c. If the parents wish to be indicated on the official papers or books of the school the fact, that they belong to another dogma or religion, they should file a certification of the Register or of the List of citizens on which is reported that they belong to another dogma.

d. The above mentioned students, in case they arrive to school before the morning prayer, they stand with the class, in which they belong, at the place of the assembly, without participating to the prayer, maintaining a district silence, respecting the praying teachers and classmates.”

In Greek educational system there are no schools as the foreign confessional (catholic) schools.

As it was mentioned above, (see supra I) according to the interpretation of the Greek courts, the religious lesson in Greek schools can only be consisted of the instruction of the dogma of the East Orthodox Church of Christ. Only under this definition could the Greek public schools be characterized as confessional. The legislation does not provide for the teaching of another religion in public schools. The Greek legislation does not allow the rejection of a pupil of another conviction, irrespectively of the number of heterodoxies studying in the school. The pupil can request an exemption from the religious lesson.

Apart from the public common schools, there are also ecclesiastical schools. Law 3432/2006¹³ rules the structure and the op-

eration of these schools. Ecclesiastical schools are productive units of the Greek Orthodox Church and are supervised by the Ministry of National Education and Religious Affairs (article 1 par. 1 of Law 3432/2006). According to the provision of article 2 of Statute 3432/2006, the purpose of Ecclesiastical Education is: "...the designation and the education of Cleric and Laic officers of Greek Orthodox Church, of high educational level and Christian ethos".

Due to these schools' aim, it is obvious that heterodoxies cannot be accepted. It could be said that the ecclesiastical schools of the Greek Orthodox Church fulfill a function comparable to Muslim religious schools (see *infra*).

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

Answer:

Articles 37-45 of Treaty of Lausanne¹⁴, which was signed on 24-7-1923, set the obligations of Turkey, concerning the rights of the non-Muslim minorities, which reside at Turkish territory. According to article 45 "the rights conferred by the provisions of the present Section on the non-Muslim minorities of Turkey will be similarly conferred by Greece on the Muslim minority in her territory". Practically this means that the Greek State is obliged (according to article 41 of the Treaty) to provide to the Muslim minority of Thrace education in its native-language. Turkish is considered as the native language of the Muslim minority, despite the fact that not all of the Muslims originate from Turkey. The Muslim minority is the only one that has been internationally recognized by Greece¹⁵.

Greek legislation offers two options to Muslim pupils residing in Thrace, as far as primary and secondary education is concerned. The first option¹⁶ is to attend a common public school, requesting at the same time the exemption from the religious lesson (although in practice only seldom an exemption is requested). The second choice is to attend a minority school¹⁷. At present there are 197 primary minority schools, two minority gymnasiums and two minority lyceums.

Teaching in minority schools is bilingual. One part of the program is taught in Greek, and the other part, which includes the teaching of the Koran, is taught in Turkish. The teachers of the Turkish program are graduates of the Special Pedagogic Academy of Thessaloniki (founded by the Royal Decree 33/1968¹⁸), which aims to train the Muslims teachers of minority schools.

Apart from minority schools, there are in Thrace two Muslim religious schools (one in Komotini and one in Ehino of Ksanthi). The purpose of Muslim religious schools is to provide religious education to Muslim students. The teaching program of Muslim religious schools consists of the lessons taught in common public schools, and four additional lessons relevant to the study of Islam, namely Koran teaching, Arabic, Turkish and Muslim religious history.

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:

A distinction should be made concerning the state supervision of minority and Muslim religious schools between (a) the supervision of the foundation and the operation of the schools and (b) the content of lessons relevant to Islam.

a) Article 3 of Law 694/1977¹⁹ provides that the operation of minority schools is under the supervision of the Ministry of National Education and Religious Affairs. Moreover, article 4 provides that “The provisions on private schools are applied also on the foundation, operation, inspection and supervision of primary minority schools”. Namely, the supervision that is exercised on minority schools is the same as that of private schools.

b) Law 1566/1985 sets the basic principles of the educational system. These principles are qualified through analytical programs of studies, which define the content of every lesson taught in primary and secondary education. The analytical programs of public schools are applied also in minority schools with some disparities which are approved by the Ministry of National Education and Religion Affaires. These disparities are caused by the international obligations of Greece and by the profound religious character of these schools²⁰. Moreover the assignment of writing the books for these lessons does not follow the usual procedure of contest but the work is directly assigned to the writer²¹ by decision of MNERA, following suggestion of the Coordinator of Minority Schools²².

It is obvious, from the above analysis, that although the Greek State has special attention of the supervision of the content of Islam schools, exercises it with respect to the religious conscience of Muslim students.

Bibliography²³

Beys C. (ed.), Religious Freedom, Eunomia, Athens, 1998 (in Greek)

Briolas D. – Fortsakis Th., L' égalité dans l' éducation en Grèce, European Journal for Education Law and Policy, Journal of the European Association for Education Law and Policy, ELA, Kluwer Law International, vol. 5, 1-2 2001, p. 103-113 (in French).

Chrysogonos C., Civil and Social Rights, Nomiki Vivliothiki, Athens, 2006, 3rd edition (in Greek).

Chrysogonos C., Religious Instruction and Dominant Religion, To Syntagma, Athens – Komotini, 1998 (in Greek).

Dagtoglou P., Constitutional Law. Human Rights, Ant. N. Sakkoulas, Athens – Komotini, 2005, 2nd edition (in Greek).

Fortsakis Th. – Spyropoulos Ph., Constitutional Law in Hellas, Kluwer Law International – The Hague, London, Boston, To be published (in English).

Fortsakis Th. – Velegrakis Em., L' instruction religieuse dans l' enseignement public primaire et secondaire en Grèce in Religious Education, in Public Schools: Study of Comparative Law, M. Lopez-Muniz et al. (eds.), Springer, 2006, p. 241 et seq. (in French).

Marinos A., Constitution, Democracy and religious instruction, Ant. N. Sakkoulas, Athens, 1981 (in Greek).

Poulis P., Education Law and Institution, Sakkoulas, Thessaloniki, 2001 (in Greek).

Skouris V., Koutoupa-Regkakou E., Education Law, Sakkoulas, Thessaloniki, 2007 (in Greek).

Sotirelis G., Religion and Education, Ant. N. Sakkoulas, Athens – Komotini, 1993 (in Greek).

Tsatsos D., Constitutional Law, (Volume 3 – Fundamental Rights), Ant. N. Sakkoulas, Athens – Komotini, 1988 (in Greek).

Zambeta E., School and Religion, Themelio, Athens, 2003 (in Greek).

Endnotes

1. Professor, Deputy President of the Faculty of Law, School of Law, Economical and Political Sciences, National and Kapodistrian University of Athens, Greece
2. LLM of European Law, Faculty of Law of the University of Athens.
Attorney at Law
3. Marinos A., Constitution, Democracy and religious instruction, Ant. N. Sakkoulas, Athens, 1981 (in Greek).

4. Fortsakis Th. – Velegrakis Em., L' instruction religieuse dans l' enseignement public primaire et secondaire en Grèce in Religious Education In Public Schools: Study of Comparative Law, M. Lopez-Muniz et al. (eds.), Springer, 2006, p. 241 et seq.
5. Tsatsos D., Constitutional Law, (Volume 3 – Fundamental Rights), Ant. N. Sakkoulas, Athens – Komotini, 1988, p. 323 -324 (in Greek); Dagtoglou P., Constitutional Law, Human Rights, Ant. N. Sakkoulas, Athens – Komotini, 2nd ed., 2005, p. 447 et seq. (in Greek) ; Chrysogonos C., Civil and Social Rights, Nomiki Vivliothiki, 3rd edition, 2006, p. 275 et seq. (in Greek); Sotirelis G., Religion and Education, Ant. N. Sakkoulas, Athens – Komotini, 1993, p. 213 et seq. (in Greek).
6. Article 9 of ECHR reads as follow:
 - “1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
 2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or the protection of the rights and freedoms of others.”
7. European Convention on Human rights was ratified by Law No. 53/1974 (Official Gazette, Vol. A, No. 256).
8. Article 2 of the first additional Protocol to ECHR provides that:

“No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religions and philosophical convictions.”

9. Chrysogonos C., Religious Instruction and Dominant Religion, To Syntagma, 1999, p. 993 et seq. (in Greek).
10. www.dpa.gr
11. Official Gazette, Vol. A, No. 167.
12. Or any other religion rather than the prevailing religion.
13. Official Gazette, Vol. A, No. 14.
14. The Treaty was ratified by the Legislative Decree of 25-8-1923 (Official Gazette, Vol. A, No. 238).
15. Minaidis P., The freedom of religion of Muslims in the Greek legal order, Ant. N. Sakkoulas, Athens – Komotini, 1990, p. 93 et seq. Poulis P., Education Law and Institution, Sakkoulas, Thessaloniki, 2001, p. 227.
16. And the only choice of the Muslims that does not reside in Thrace.
17. The fundamental statutes concerning the minority education are Law 694/1977 (Official Gazette, Vol A, No. 264) and Law 695/1977 (Official Gazette, Vol. A, No. 264).
18. Official Gazette, Vol. A, No. 285.
19. Official Gazette, Vol. A, No. 264.

20. Poulis P., Education Law and Institutions, Sakkoulas, Thessaloniki, 2001, p. 249 et seq.

21. Usually a teacher in minority schools.

22. Ibid, page 250, Ministerial Decision Z2/283/1982 (Official Gazette, Vol. B, No. 888).

23. On the constitutional framework of religious instruction.

The place of religion in state-funded educational institutions in Hungary

Introduction

Ever since education in the country has become an issue, the Church – after the Reformation the various denominations, especially the Calvinist (Reformed) Church besides the Catholic Church – have played a determinative role in organizing and providing education. Also since the introduction of compulsory elementary education by the ‘Ratio educationes’ of Queen Maria Theresa issued in 1777 schools serving the public and the state were maintained by church communities. Public schools only emerged in the 19th century. When education was nationalized in course of the communist takeover in 1948 2/3 of all elementary schools and 1/3 of secondary schools were run by churches. In public schools denominational religious education remained compulsory until 1949. The possibility of optional religious education at schools has been recognized, but due to the systematic harassment of clergy, as well as parents and children who tried to invoke this right it is rather a dead letter than a real right (by the 1980ies only 4% pupils at elementary schools

had religious education at school, mostly in rural areas, whereas since the 1970ies religious education at church premises was tolerated to some extent). During the four decades of communist rule (1949-89) education was totally controlled and provided by the state (only ten denominational secondary schools prevailed due to agreements concluded with the Bishops’ Conference in 1950 and the Reformed Church as well as the Alliance of Jewish Communities in 1948). Churches made huge efforts to overcome the legacy of the communist system, but took the present social context – the fact of secularization – in consideration. In this way church run schools have become an important alternative to public schools but churches did not aim at restoring their earlier role in education.

Funding is an important indicator of the relations between state and religion, it does not, however, determine the nature of education in itself. Educational institutions run by public entities (state, local communities, minority self-governments) are bound by the principle of neutrality with regard to religion, whereas institutions run by churches are not. The place of religion is quite different in these institutions, but church run institutions are entitled to the national average of public spending on schools that means the local spending besides the central subsidy – for this they cannot collect tuition. Private schools (that may be neutral with regard to religion, but are not necessarily neutral) are also

entitled to certain public subsidies, but they are not fully funded by the state budget.

Religious instruction in public schools

1. The possibility for children/students to participate in optional religious education and instruction organised by a church legal entity in state and council educational-teaching institutions has to be ensured. Church legal entities may organise religious education and instruction on demand of the parents at kindergartens and on demand of the parents and the pupils at schools and halls of residence. Religious education and instruction at kindergartens may be organised separately from kindergarten activities, also taking account of the daily routine at the kindergarten. It may be organised at schools in conformity as compulsory curricular activities. It is the task of church legal entities to define the content of the religious education and instruction, to employ and supervise religious education teachers and to execute the acts of administration related to the religious education and instruction with special regard to the organisation of the application for religious education and instruction, the issuance of progress reports and certificates and the supervision of lessons. The school, dormitory or kindergarten is obliged to provide the necessary material conditions for religious education and instruction, using the tools available at the educational-teaching institution, with special consideration to the proper use

of rooms and the necessary conditions for application and operation. The kindergarten, school or dormitory shall co-operate with the interested church legal entity in the course of the performance of the tasks related to the optional religious education and instruction organised by the church legal entity.² The reality of religious education at public schools shows great regional differences. In certain rural areas the large majority of children at elementary schools follow religious instruction classes at school, whereas in urban areas, especially at secondary schools level religious instruction is not even offered, but held on church premises. Certainly at secondary school level the offer of church run schools provides an alternative in most major cities.

Public schools (both primary and secondary) have to provide space for religious communities to offer religious education at their premises in a 'protected' time frame, that is, after 7AM and before 3PM, when there are no concurring obligatory classes (a school choir or a sports event could concur with religion classes.)

Act IV/1990 on the Freedom of Conscience and Religion, and the Churches

§ 5. Parents and guardians are entitled to decide on the moral and religious education of their minor children, and to provide for it appropriately.

§ 17. (1) A church legal entity may pursue all educational, teaching, cultural, social, health-care activities, as well as activities related to sports and children's or youth protection, which are not reserved by law exclusively for the State or for a state agency (institution). Within the sphere of these activities, the church legal entity may establish and maintain institutions.

(2) A church legal entity may provide religious education in public education institutions on a non-compulsory basis (as an optional subject), according to the demand of the students and parents.

Act LXXIX/1993 on Public Education

§ 4. (4) It shall be rendered possible that the child or the student may participate in an optional religious education organized by the church legal entity at state and local government teaching-educational institutions. The church legal entity may organize religious education by considering the demands of the parents, in the case of kindergartens, and in the case of schools and dormitories, by considering

the demands of students and parents. In the kindergarten, religious education shall be organized in separation from other kindergarten activities, taking into consideration the daily routine of the kindergarten, and in schools it shall be organized in a way that accommodates to the compulsory teaching hours. The church legal personality shall be responsible for the contents of religious education, for employing and monitoring the teacher of religious education, for the administration of tasks related to religious education with special regard to application for religious education, reports on the child's progress, the issue of certificates as well as the monitoring of the teaching process. The school, dormitory or kindergarten – out of the devices and instruments at the institution's disposal – shall provide the necessary material conditions for religious education, with special regard to the appropriate use of premises, and the necessary conditions for application and operation. Concerning the employment of the teacher of religion, provisions of section 17 of this Act may be disregarded. The kindergarten, school and dormitory shall, in the execution of the tasks related to optional religious education organized by the church legal entity, cooperate with the church legal entity concerned.

2. All religious communities (at present close to 200) have the right to offer religious education at public schools. Practically the traditional mainstream denominations (the Catholic Church, the Reformed Church and the Lutheran Church) may do so if the local circumstances are opportune.

II. State funded denominational schools and state supervision

3. Denominational schools run by registered churches or religious communities, as well as their organs (religious orders, dioceses etc.) enjoy full public funding.

The following charts show that church run schools have a relatively important role as secondary general schools (a school type close to the German 'Gymnasium'), where over 20% of pupils frequents a church run school.³

Number of institutions

	Public	Ecclesiastical	Other
Kindergartens	2,216 on 3,992 sites	134 on 141 sites	212 on 222 sites
Primary schools	2,081 on 3,007 sites	183 on 213 sites	111 on 143 sites
Vocational schools	317 on 361 sites	24 on 32 sites	110 on 193 sites

Number of pupils (in full time education)

	Public	Ecclesiastical	Other
Kindergartens	306,683	10,757	8,237
Primary schools	728,237	46,789	14,364
Vocational schools	105,847	3,874	15,144
Secondary general schools	155,831	35,051	12,720
Secondary vocational schools	201,221	4,846	30,451

So far no Islamic community has established a school. Over 60% of church run schools is Catholic, 25% Reformed, 10% Lutheran, 1% Jewish. This means, that the engagement of Protestant denominations in education is stronger than their denominational share.

4. For financial reasons it is not likely that denominational schools would be run by a private entity instead of a church legal entity. Private schools often offer special pedagogic programs (languages, sports, arts), and may have a special relig-

ious identity. As registering a religious entity is a merely formal act, a school run by such an entity would enjoy significantly more favorable financial conditions than a private school. So far there are no Islamic private schools in Hungary.

5. 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.

Denominational schools – run by churches, but funded from the state budget – underlie the same control than public schools. All schools are bound by a national core curriculum that, however, provides space for the curricula set up by schools independently.

III. Limitations on admission to confessional schools

6. Public (neutral) schools have to be available to all pupils without an undue burden. Church run schools have the right to denominational exclusivity, but usually do not make use of this right.

Act LXXIX/1993 on Public Education

§ 81. § (1) If an educational-teaching institution is not maintained by a local council or a state organ,

a) the educational-teaching institution may also operate as a committed institution with regard to religion or ideology and, in compliance with that, it may stipulate that children / students should accept a certain religion or ideology as a precondition for admission, build the philosophical, ethical and cultural knowledge corresponding to the religious or ideological commitment into its pedagogical programme, restrict or exclude the exercise of the right regulated in Subsection d) of Section (1) of Article 19 of this Act and establish rights and obligations in relation to the practice of religion for the children / students in the rules of the house;

7. Church run schools had the right to limit admission, but in practice parents from different faith communities are not likely to send their children to a church run school.

IV. Teaching of Islam in denominational education

8. Public authorities shall not organize any kind of religious instruction. It is up to the school to admit adherents from different denominations to the school and to provide space for religious instructors of other denominations to offer religious instruction. In practice, Catholic, Reformed and Lutheran Churches enable mutually religious instruction in their schools. At present there is no Islamic instruction neither in public, nor in denominational schools.

As religious education is not part of the curriculum at public schools, there is no alternative class of conception of life, philosophy or ethics provided. Ethics classes can be provided at schools, but not as an alternative to religious education, but alongside it.

VI. Religious symbols in public schools

There are no religious symbols at public institutions in Hungary, as public schools are bound by the principle of neutrality.

Inmates, pupils and students, could, however, post religious symbols at their own stake if these do not disturb others (like a cross above their bed in a dormitory).

With regard to teachers it could be argued that a religious-neutral appearance could be regarded as a general condition of their profession, but there were no cases or disputes on the issue so far. Teachers, in general may manifest their religion, but shall not advocate for it in a public school.

Act LXXIX/1993 on Public Education

§ 19. In relation with his/her job, the teacher is entitled to

d) carry out – by observing section 4, subsection (2) – his/her educational and teaching activity in accordance with

his/her own world-view and set of values without forcing to or making the child, the student accept it.

According to the law the pupil has the right to have his religious convictions respected and to express his conviction or belief in ways that do not violate the law, does not violate the similar rights of others and does not infringe the right to study of his or her mates.⁴ Due to the limited number of Muslims in the country headscarves have not yet become an issue in Hungary, but there is no dress code that would rule them out.

Schools – the teachers' conference upon the proposal of the director – have the right to regulate certain aspects of appearance, and they do so with the consent of the parents' union.⁵ Dress codes only rule out extreme appearance (e.g. piercing) in schools, endangering the safety or the health of the pupil. In Hungary there are no school uniforms.

Dress codes – passed by the schools – could be subject of court procedures.

In case of serious misconduct against the house rules an expulsion could be the sanction. This last sanction with minors (under 18) can only be invoked if there is an other school that provides place for the pupil. Disputes could end up at courts.

There is no case-law in Hungary with regard to dress-codes of schools.

VII. Additional comments

The number of Muslims in Hungary is relatively small. At the census in 2001 only 2,907 persons declared to be Muslims.⁶ The real and present number is likely to be higher (about 10% of the residents did not respond to the question about religion at the census). Muslims in Hungary do not constitute a homogeneous group, besides Turkish and Arab immigrants there are some Hungarians who converted to Islam. In the tax assignment system the largest Muslim community got the support of 320 taxpayers, the two further Muslim communities got 255 and 208 assignments respectively, 7 what means that not more than 1,000 taxpayers (out of more than 4 million income taxpayers) declared to be part of a Muslim community. The issue of Islamic education in schools has not been risen so far, and as long as religious education in public schools is optional, it is not likely to become an issue.

VIII. Bibliography

Office of the Commissioner for the Educational Rights –
www.oktbiztos.hu

Act on Public Education –

http://www.nefmi.gov.hu/letolt/english/act_lxxxix_1993_091103.pdf

Endnotes

1. Pázmány Péter Catholic University, Budapest
2. Act LXXIX/1993, § 4 (4)
3. A bilingual (Hungarian-English) overview of the system of education is available at:

http://www.okm.gov.hu/letolt/statisztika/okt_evkonyv_2008_2009_091207.pdf
4. Act LXXIX/1993, § 11 (1) h)
5. Act LXXIX/1993, § 40 (2)
6. Data were published indicating regions, settlements, correlation to marital status and age. Központi Statisztikai Hivatal, 2001, évi népszámlálás, 5. Vallás, felekezet. Budapest, Központi Statisztikai Hivatal 2002; Hungarian Central Statistical Office, Population census 2001, 5. Religion, denomination, Budapest, Hungarian Central Statistical Office, 2002;
<http://www.nepszamlalas2001.hu/dokumentumok/pdfs/vallas.pdf>.
7. http://apeh.hu/szja1_1/kimutat/2010_rend_egyh_kiem.html

Oliver Mahon

The place of religion in education in Ireland

Affiliation: former school principal & self-employed lawyer Ireland, specialising in Education Law. Tutor in Education Law on the MAME programme at Waterford Institute of Technology Ireland.

Introduction and general historical background information on primary and post-primary (i.e. second-level) education in Ireland:

1.1 For a small country with a very small population, the Irish system of education at first and second-levels is highly complex. This is due in the main to historical and economic factors which are too complicated to set out here in any detail. Therefore these notes are merely the most cursory of outlines which it is hoped will sketch in the general picture in order to make the answers to the various questions hereunder reasonably comprehensible; without some background knowledge many of the answers would either make little sense or even mislead if read in

isolation. For any understanding of the Irish system and the tensions (religious, political, economic and social) that are a feature of it, it is necessary to keep in mind at all times that it has been evolving over a long period encompassing significant political and economic change (from being part of a union with Great Britain to independence, first as a Free State within the British Commonwealth and later as a republic and through one significant famine and a number of political rebellions), and its complexity (which is itself a significant administrative burden) is largely the result of competing interests, each trying to stake a claim for itself to a piece of the national educational landscape. It has been a feature of Irish history that education has been employed – successfully in some instances, unsuccessfully in others – as a weapon to proselytise or subjugate persons of other faiths or none, and this fact has left a legacy of ingrained attitudes that is still a factor to be considered.

1.2 The tradition of formal instruction in a school-like setting (which is the sense in which “education” is used in these notes and in this questionnaire) in Ireland is a long one. Dr Farry¹ begins his survey in pre-Christian times² and records that vocational training was provided for and regulated in detail under the indigenous legal system known as the Brehon Laws³. The growth of monastic settlements after approximately 500 A.D. was marked by the establishment of monastic schools⁴ where students were instructed in a variety of accomplishments. Many

of these survived the ravages of the Vikings and various inter-neicene and, after the commencement of the Norman conquest in 1169, inter-racial conflicts until well into the Middle Ages. Privately-organised formal structured education began to be used, with very little success, as a means of conversion of the Catholic population after the Reformation, and later there was a period when Catholic teachers were forbidden by Act of Parliament to practice and were forced into an unofficial underground type ("system" would be a misnomer, as these schools were not in any way systematised) of commercialised instruction known generically as the "Hedge Schools". This system of repressive laws, which affected other areas of life also and was intended to impact on Protestant Dissenters as well as Catholics, was gradually relaxed, repealed or allowed to lapse and eventually the State, as much to get control of this impromptu and *ad hoc* schooling as anything else (since it was unable to suppress it), and also as a social and educational experiment for a similar initiative in Britain later, stepped in and established a state-funded and centrally organised system, the National Schools.

1.3 At the post-primary level, private initiative by the various churches (principally Catholic and Church of Ireland) as well as by other bodies established a number of independent voluntary schools, both before and after political independence was obtained, and the State was generally very happy to allow this administrative and financial burden to be taken up by volunteers: hence the preponderance of voluntary schools in the Irish

second-level system in comparison to the number of State schools, to which my colleague Dr Glendenning has already referred in her paper. Only with reluctance did the State come forward quite late in the process with the system of vocational and technical education established by the *Vocational Education Act 1930* and which is at present in the process of the first significant structural reorganisation since it was established. Within the last thirty years there has been the development of the various school types to which Dr Glendenning has referred, and the Irish education scene today has a surprising diversity for such a small population of different models at primary and post-primary levels.

Some significant features of the Irish education system:

Recognised and unrecognised schools:

All schools in Ireland fall into one of two categories, recognised and unrecognised. "Recognised" means recognised by the Minister for Education and Skills⁵ pursuant to section 10 of the *Education Act 1998* ("the 1998 Act"). The main practical effect of recognition is that funding from the State (in the form of teachers' salaries, capitation grants in respect of eligible students, grants towards on-going costs, capital funding etc) becomes payable to the school. Another effect is that the various education statutes⁶ only apply to recognised schools. Lack of recognition

means that no form of state funding is available to the school (s. 12(3) of the 1998 Act) and it must finance its own activities from private sources and local initiative. Recognition can be lost in certain defined circumstances, *per* s. 11 of the Act, and correspondingly an unrecognised school can apply through its patron to the Minister for, and gain, recognition (s.10(1)), provided certain conditions are met (s. 10(2)). The great majority of Irish schools are recognised schools, although unrecognised schools are to be found at both the primary and post primary levels. (The application of a rigid points system for admission to third-level education until very recently led to the emergence of “grind schools” at second level which specialised in cramming students for the Leaving Certificate examination (the public examination taken at the end of second-level education), which was used as the means by which entrance points to third-level education were calculated. These schools are unrecognised.

School patronage:

A very important feature of Irish education is the system of school patronage, which arises from the origins of the state-funded education system early in the nineteenth century. Every recognised school must have a patron (s. 8 of the 1998 Act). The patron may be an individual (s. 8(1)), a group of persons who may be recognised as joint patrons (s. 8(5)) or a corporate body (s. 8(4)). To be designated as a patron it is necessary to

be recognised as such by the Minister (s. 8(1)). It is possible for one person, legal or human, to be the patron of a large number of separate schools; for example for national schools in Catholic ownership, the Ordinary of the diocese (i.e. the bishop) is normally the patron of almost all the national schools in that diocese. One of the patron’s functions is to request the minister to recognise a school (section 8(2)), and so the role of the patron is vital in the preliminary stages of the establishment of a new school. Other very significant functions are the establishment of the board of management of a school (s. 14(1) of the 1998 Act), the appointment and removal of the members of the board and, very significantly in the context of this paper, the determination of the characteristic spirit (another expression for ethos) of the school (see below); the board is answerable to the patron for the maintenance of the school’s characteristic spirit (s.15 (2)(b)).

The importance of the school’s ethos or “characteristic spirit”:

The ethos of a recognised school is specifically provided for in the 1998 Act in section 15(2)(b), where the expression “characteristic spirit” is employed; it is stated that the “characteristic spirit of the school [is] determined by the cultural, educational, moral, religious, social, educational, linguistic and spiritual values and traditions which inform and are characteristic of the objectives and conduct of the school...” “Characteristic Spirit” is

simply a synonym for “ethos”⁷; it may be that the phrase was preferred to the word because there is likely to be a wide perception that only denominational schools can properly have an ethos, as the word has come through usage and association to be particularly attached to church-owned institutions such as voluntary hospitals and voluntary schools, and so the word “ethos” is carefully avoided in the 1998 Act⁸, presumably to get away from the association in the popular mind with denominational institutions. However this is a misconception, and there is no reason why any school cannot have a perfectly valid characteristic spirit, based on one or more of the other factors listed in section 15(2)(b) of the 1998 Act and quoted above. Section 15(2) (b) states that the components making up the school’s “characteristic spirit” are to “inform and [be] characteristic of the *objectives and conduct* of the school...” (emphasis added). Any school, including a State school, can have a characteristic spirit: there are seven possible components of such a spirit listed in section 15(2)(b), of which “religious” is only one. (This means in practice that a school’s ethos could be based on a combination of some or all of the other six; it is not clear from the Act if this list is intended to be exhaustive.) In other words, it is perfectly feasible for a secular school to have an ethos which is just as real and binding as that of a religious school. Once this ethos is reduced to writing and published by the patron, it must have the same standing and effect as the ethos of a denominational school

Applied to a school, an ethos statement is essentially a statement of fundamental values, and the statement of the “characteristic spirit of the school” is to be based on at least some of the factors set out in section 15(2)(b) of the 1998 Act. Determining it is a function of the patron, not the board, and the board’s only function in relation to it is to uphold it. (The board must not and cannot in law vary this ethos.) This is clear from section 15; subsection (1) requires the board “to manage the school on behalf of the patron...” and subsection (2)(b) obliges the board to “uphold, and be accountable to the patron for so upholding, the characteristic spirit of the school...”

The ethos statement once formulated is supposed to be the philosophical basis on which the school operates, encapsulating (as it should if properly drafted) the values which the school states that it most respects; the school is intended to be conducted day-to-day in the light of that ethos, and it should at all times inform the work of the school. In view of its fundamental importance in the general scheme of school governance, many patrons are surprisingly casual in relation to formulating the ethos statement for the school

If the statement is included in the school’s Admission Policy, brought to the attention of parents so that they can familiarize themselves with it before committing their child to the school, and they have had the opportunity to appraise themselves of the school’s characteristic spirit, are informed that this state-

ment of ethos colours all the work of the school, and then enrol their child in that knowledge, the theory is that they are doing so in full knowledge of what the nature of the school is and therefore cannot take issue with it afterwards.

The school's ethos is also very relevant to and for incoming teachers, so that they fully appreciate that they are being employed by an institution which has a clear character, values and aspirations. While this might be presumed to be obvious in relation to a school owned and operated by and on behalf of one of the churches, it is also important for the (much smaller) number of state-owned schools. Just because a school is a state school does not mean that it is in some way values-free and may not have a valid characteristic spirit; there are secular values as well as religious ones.

Ethos statements are not empty formalities requiring a mere token obeisance, but each one is a legal document in its own right with real significance for the way the school is operated. An example of this significance would be the provision in the *Equal Status Act 2000* (section 7(3)(c)) that one of the few grounds on which a school may refuse to admit a student is where such a refusal "is essential to maintain the ethos of the school." The ethos statement has implications in relation to teachers, boards of management and students and their parents.

The preponderance of denominational voluntary schools in Ireland:

In Ireland, although all recognised schools are funded by the State, the number of state schools proper is small in comparison with the total, and the preponderance of schools are voluntary foundations (at second-level) and denominational national schools at primary level. Until relatively recently the preponderance of the denominational model was much greater, but the trend particularly at second level is towards the establishment of non-denominational schools.

Mainstream⁹ first and second-level education in Ireland:

Primary schools:

- (a) *The National School system:* Ireland saw the establishment of a state-funded system of primary education earlier than most European states. In 1831 the Chief Secretary for Ireland E.C. Stanley wrote a letter to the Duke of Leinster inviting him to become¹⁰ President of the Board of Commissioners for Education in Ireland. This led ultimately to the establishment of the system of National Schools: a system of schools to be established and funded by the State and administered through a dedicated body, the Commissioners, established for that purpose. Subsequent to the writing of the Stanley letter, the system of national education was established and gradually extended across the island. This was

anything but a simple matter of educational administration, as might have been imagined, but was fraught with difficulties and confrontations that might have caused the project to collapse at various times during the inception phase. (Details of the battles fought, and the identities of the chief protagonists, can be read in any of the standard works of history listed in the bibliography, and do not need be recited here.) It is sufficient to note that the national school system was originally designed by Stanley as a non-denominational one, but by the middle of the century it had been forced into becoming denominational. Dr. Glendenning summarises the outcome as follows: “As a result of the demographic pattern in Ireland, the schools catered almost entirely for pupils of one faith. With the passage of time, therefore, each denomination stamped its individual character on the body of schools under its jurisdiction.¹¹” As the churches became progressively dissatisfied with the system they gradually withdrew their support and if it was to survive at all it had to adapt to the realities of inter-church rivalries. The outcome of all this was the forced evolution (forced that is by agents outside the system itself) of the national schools into the firmly denominational mould, which was the model inherited by the Irish Free State when it assumed control of the system in 1922. Relatively little has changed since as regards the essential denominational character of the system, and the National Schools provide primary education to the great

majority of children throughout the State. Until 1975 the manager of the individual school was usually a local clergyman, answerable to the patron; since that date a local board of management, appointed by and also answerable to the patron (see note on “patronage” above) has discharged management functions; this arrangement was only put on a statutory footing by section 14 of the *Education Act 1998*.

- (b) *The Educate Together School System*: Established as a humanist alternative to denominational education in Ireland, the Educate Together movement originated in Dublin and has since spread throughout the State, although the number of schools, all at primary level to date, is tiny in comparison to those controlled by the principal religions. The movement is really an off-shoot of the national school system, and indeed the schools are officially national schools, established by persons who were broadly happy with the academic and curricular content of primary education but unhappy with the denominational aspect and particularly the fact that the influence of the religious denomination is supposed to be pervasive throughout the other subjects of the curriculum. The Educate Together organisation (a company limited by guarantee with charitable status) secured recognition as a school patron as a necessary preliminary to establishing its own system of schools (see note on “patronage” above). At the time of writing there are sixty functioning Educate Together National Schools throughout the State with others in

the pipeline, and there are advanced moves to establish its first post-primary school; it is unlikely to be its last. The movement was slow to grow in its early years mainly due to the quite homogenous nature of Irish society and the high levels of religious (particularly Catholic) belief and practice. However there has in recent years been an accelerating trend away from the adherence to and practice of organised religion; the 2006 census results show 186,000 persons stated “no religion” as their option in that section and a further 70,000 declined or omitted to answer. In addition substantial numbers of immigrants, who were not the traditional returned emigrants of earlier years but rather “real” immigrants, began to become a significant feature of society, and Educate Together undoubtedly received an impetus from this as the numbers of its schools has increased significantly in recent years. The ethos of the Educate Together that the schools are multi-denominational with an equal right of access for all, co-educational, child-centred and democratically-run with active participation by local parents in school organisation and management. A core code of ethics is taught as a formal subject and facilities are made available after school hours for those who wish to organise formal denominational instruction. The long-term aim is to expand the movement further, and particularly into second-level and pre-school education.

- (c) *Gaelscoileanna* (Irish-language schools): These are also recognised national schools delivering the normal range of subjects across the curriculum but the distinguishing feature is that the everyday language of the school and the medium of instruction is the Irish language. Admission to the school is on the understanding and acceptance that this is part of its characteristic spirit. There are a number of Irish-language schools at the post-primary level also. The popularity of these schools has been growing and due to parental demand there has been an expansion in numbers across the State.
- (d) *Community National Schools*: this type is the most recent to come into being, and arose out of necessity. Due mainly to bad planning and lack of school provision, the situation arose that some children, mostly the children of immigrants who could not find a place in denominational schools, were left with no options at all, and the Community National School was created to meet this need. They are owned and operated by the vocational education committees (see below) and five have been established to date. They are national schools but without denominational control and so there are no priorities of religious belief at the point of entry. They are the only mainstream State schools at the primary level.

Second-level schools:

(a) *Voluntary secondary schools*: See par. 1.3 above. They are private schools owned and operated by a church, religious order or other body; the majority are in Catholic ownership and management but other churches and bodies also maintain voluntary schools. They deliver the curriculum prescribed by the Minister pursuant to section 30 of the 1998 Act and in return are recognised by the Minister, with the financial and other consequences of recognition as explained above. The Islamic community has recently announced that it plans to expand its faith-based education at second level by means of its first voluntary school.

(b) *Vocational schools*: When it became apparent that the economic development of the Irish Free State was being retarded by the lack of workers with technical and vocational skills (there was a more than adequate supply of the academically proficient from the voluntary schools) the State rather reluctantly enacted the *Vocational Education Act 1930* (“the 1930 Act”) to establish a system of schools providing continuation and technical education. The state was divided geographically into vocational education areas, each under the control of a local vocational education committee (colloquially “a VEC”) which was funded and charged with the responsibility of establishing “vocational schools” to remedy the national deficiency in technical skills. These schools initially provided a rather rudimentary level of education and training at the lower end of the second-level cycle but were

enormously empowered when they were permitted to put candidates forward for the state examinations (Intermediate Certificate¹² and Leaving Certificate) and in that sense put them on a par with the voluntary schools. Today they are largely indistinguishable from the more plentiful voluntary schools as regards the provision of the prescribed curriculum and are the only truly State schools at second level in Ireland.

(c) *Community colleges*: an amendment¹³ to the 1930 Act provided for the amalgamation of vocational schools with one or more voluntary secondary schools to form a composite entity known as a community college. This was done as a practical response to a particular problem: the great number of very small vocational and voluntary schools situated in small towns which were becoming less viable on foot of changes to and the expansion of the national curriculum. These amalgamations allowed for the creation of more rational school units. They are under the control and management of the local VEC.

(d) *Comprehensive schools*: this type was essentially a copy of an English model; only thirteen have been built. They are all under denominational patronage and whatever about the name as regards the delivery of educational services pretty well indistinguishable from any other second-level schools.

(e) *Community schools*: this is another amalgamated type, again taking in a vocational school and one or more voluntary secondary schools. It is under religious patronage and again delivers the regular prescribed curriculum.

(Types (d) and (e) are generally classified together and cooperate as regards representation at management level nationally.)

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: All recognised schools are state-funded and so this question refers to all of the school types, both primary and post-primary, set out above. The expression “public school” is unhelpful in an Irish context since all recognised schools are to an extent “public” in that they are subject to inspection and evaluation by the State and receive public money, as explained above.

(a) *Primary*:

National schools and *gaelscoileanna*: religious instruction takes place during the school day.

Educate together national schools: religious instruction is delivered to those who want it outside the school day using school facilities, as explained above.

Community national schools: cccccccccccccc

(b) *Post-primary*:

Voluntary schools: Religious instruction along denominational lines is delivered during the school day but some schools are moving towards a more generalised ethics-type of instructional material.

Vocational schools, community schools, community colleges & comprehensive schools: the state-prescribed religious education programme is taught during the day. This is Religious Education rather than Religious Instruction.

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

Answer: In relation to the use of “public”, see answer to Q. 1.1 above. Choices are generally not offered in voluntary schools, Gaelscoileanna or national schools, which, being denominational in character, teach the faith of that denomination. Religious Education (as distinct from religious Instruction) is offered in vocational, community and comprehensive schools and community colleges; this is a non-denominational course prescribed by the State. Educate Together schools offer an ethics-based course during school hours with options after school for those who want them.

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: Yes, at primary and post-primary levels. (All recognised schools are state-funded.)

(a) Primary: there are 3165 state-funded primary schools, of which 2 are Islamic, 60 are Educate Together and describe

themselves as “multi-denominational” and 5 are community national schools. This leaves by my calculation 3100 state-funded denominational primary schools.

(b) Post primary: there are 729 state-funded post primary schools, of which 383 are voluntary schools, 254 are vocational schools and 92 are community-comprehensive schools.

There are two Islamic primary schools funded by the State and no second-level Islamic school; please see the explanatory notes above.

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: the private (i.e. unrecognised schools of which I am aware are mainly at second level and are very much examination-oriented. They are not denominational. I am not aware of the existence of unrecognised denominational schools and since they would be unrecognised and therefore outside the remit of the State, information of this sort is not available. I am unaware of any private (i.e. unrecognised Islamic schools.)

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: In order to qualify for recognition as a school by the Minister (please see note on “recognition” above) it is necessary for the patron of the proposed school to give certain undertakings to the Minister. One of these is that the curriculum prescribed by the Minister will be delivered and that regular inspection and evaluation of the school will be permitted. However this inspection relates to the prescribed (i.e. secular) curriculum only. State inspectors do not examine or evaluate the programmes of religious instruction where delivered.

Statutory provision: Section 10 of the *Education Act 1998*:

“10(2) The Minister may designate a school or a proposed school to be a school recognised for the purposes of the Act where the Minister is satisfied that

(c) The patron undertakes that the school shall provide the curriculum as determined in accordance with section 30;

(d) The patron agrees to permit and co-operate with regular inspection and evaluation by the Inspectorate....

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: This would only arise where a school was over-subscribed (i.e. where there were more applicants for places than the school is able to accommodate). In that situation the practice currently is that school draws up a table of priorities and then allocates places based on those priorities. In a denominational school, either primary or post-primary, one of these might be religious adherence. If the school has places available however this could not arise and would be illegal. This area is governed by the *Equal Status Acts 2000 – 2004*. Section 3 of this Act prohibits discrimination on any one of ten stated grounds (“the discriminatory grounds”) one of which is religion. The provision is:

“3 – (1) For the purposes of this Act, discrimination shall be taken to occur where –

On any of the grounds specified in subsection (2) (in this Act referred to as “the discriminatory grounds”).... a person is treated less favourably than another person is, has been or would be treated....

(2) As between two persons the discriminatory grounds (and the descriptions of those grounds for the purposes of this Act) are

(e) that one has a different religious belief from the other, or that one has a religious belief and the other has not (the “religion ground”).....

Where a school has more applicants than places, a table of priorities is drawn up. The first priority is invariably in my experience given to siblings of students already attending the school, and next to children of staff members; this is done as a means of supporting the Family unit. Next, children living within the school’s traditional catchment area (defined in various ways) and then usually the faith criterion is applied. There is no prescribed way of doing this scheme of priorities, and any refusal to admit an applicant can be appealed to an appeals committee established by the Secretary General of the Department of Education and Skills pursuant to section 29 of the 1998 Act.

Statutory provision:

“29 – (1) Where a board or a person acting on behalf of the board-

Refuses to enroll a student.....

The parent of the student, or in the case of a person who has reached the age of 18 years, the student, may.....appeal the decision to the Secretary General of the Department....and that appeal shall be heard by a committee appointed under subsection (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?

Answer: No, and a refusal of a place on foot of the imposition of a quota of that nature would be in breach of the law and would be overturned on appeal. (See the provision of the Equal Status Act set out above under Q III.1.)

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 de-

nominal (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: Currently there is no such legal obligation and it would be at the discretion of the board of management of the school in question. (This is true of all the denominations not just in relation to Catholic schools.)

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: There is no such obligation.

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: As there is no obligation, no debate has taken place as yet.

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

Answer: I am unaware of the existence of any material of this nature.

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: At present there is no such guideline of which I am aware. I understand that the matter may be under discussion.

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: Not applicable; please see previous answer.

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: There is no guideline, but I have been told that at least one Catholic school has or is about to embark on such a course (i.e. arranging for the teaching of Islam to those who want it.). No statistics or data are available on this point.

VI. Religious symbols in public schools

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

Answer: The use of the expression “public school” is rather unhelpful in relation to Ireland as all recognised schools are publicly funded and to that extent are “public”. There is no regulation or law on this point of which I am aware and such matters are at the discretion of the individual school authority. Such symbols would be a very much a feature of denominational schools both primary and post-primary. One would not expect to find them in multi or non denominational schools, although artworks with a religious theme might occasionally be found.

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: There is no regulation by the State on this point. If it arose as an issue it would be a matter for the individual school authority. (As Islamic headscarves are worn without problems by staff working in hospitals, both public and private, I doubt if it would be an issue in a school.)

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: The State has not issued any guidelines or regulations in relation to headscarves. There have been no issues of which I am aware and the general attitude appears to be *laissez faire* and general tolerance. Headscarves are regularly worn by Islamic students in denominational and non-denominational schools without any problems.

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

Answer: Dress codes and school attire generally are a matter for the board of management of the individual school. In practice the Parents’ Association of the individual school appears to be the main driver of this process in most schools, although cer-

tain of the religious orders that own and control some of the denominational schools have a traditional association with a particular colour. Irish law does not address this point.

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: It would be a matter for the board of management of the individual school. There is no law or state regulation on this point. In the case of a VEC school, it would be for the VEC to set down a policy for its area.

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

Answer: The board of management of the school, or the VEC in the case of a VEC school.

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 have been no such disciplinary issues in relation to teachers that have come into the public domain. Breaches of rules on school uniform would be taken up first with the pupil and if necessary with the parents/guardians. It would not be a problem to be exempt from such rules on religious grounds.

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

Answer: none to date.

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: As explained, the terms “public” and “private” are unhelpful in an Irish context. “Recognised” and “unrecognised” are much more appropriate; please see the explanatory notes above in the Introduction to this document. I am not aware of any school that has done this, but as it would be a matter for local management, there are no statistics and no information available.

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

Answer: Apart from the two Islamic primary schools that exist at the moment, I am not aware of any.

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

Answer: None of which I am aware.

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

Answer: I am not aware of any.

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

Answer: No information to hand and I am not aware of any such.

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

Answer: There is no control or inspection of such instruction if it even takes place

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

Answer: There is no public debate.

VIII. Additional comments

There is significant diversity of school types in Ireland and a great number of bodies involved in the delivery of Education. It has long been State policy to provide for education rather than to provide it directly, and this was written into the Constitution when it was enacted in 1937 and has not been changed. Article 42.4 opens by saying:

“The State shall provide for free primary education and shall endeavour to supplement and give reasonable aid to private and corporate educational initiative....” and this model of provision is firmly ingrained in Irish life: hence the preponderance of denominational and voluntary schools at both primary and secondary levels.

XI. Bibliography

Akenson, Donald, *The Irish Education Experiment*, London, 1970.

Casey, James P., *Constitutional Law in Ireland*, Dublin, 2000.

Coolahan, John, *Irish Education, History and Structure*, Dublin 1981.

Farry, M., *Education and the Constitution*, Dublin, 1996.

Farry, M., *Vocational Teachers and the Law*, Dublin, 1998.

Foster, R.F., *Modrn Ireland 1600 – 1972*, London 1989.

Glendenning, D., *Education and the Law*, Dublin, 1999.

Gldenning, D., *Religion, Education and the Law*, Dublin, 2008.

Gaire E., and Mahon O., *Primary Options*, Dublin, 2005.

Kelly, J.M., *The Irish Constitution*, ed. G Hogan and G Whyte, Dublin 2003.

Lee, J.J., *Ireland 1912-1985, Politics and Society*, Cambridge, 1989.

Lyons, F.S.L., *Ireland Since the Famine*,

Mahon, O., *The Principal's Legal Handbook*, Dublin, 2002.

Ross, David, *Ireland, History of a Nation*, New Lanark, 2005.

Endnotes

5. Farry, Michael, *Vocational Teachers and the Law*, Dublin, 1998, Chapter 1.

6. It is conventional but incorrect to say that St Patrick (d. 469) introduced Christianity to Ireland. This cannot be correct, as it is established that Patrick was already a bishop at the time he commenced his mission in Ireland in 432; it was the practice only to dispatch a cleric of that rank to places where there was already an established community of believers. It took a lengthy period before Christianity gained anything like universal acceptance in Ireland, and so the expression “pre-Christian times” is itself very vague, but would certainly mean before 400 A.D.
7. The native legal system that prevailed in Ireland from very early times before being gradually displaced by English Common Law, as first Anglo-Norman and later English influence spread cross the country. The final defeat of the remaining Gaelic clans at the battle of Kinsale (1601) is generally regarded as the final nail in the coffin of the native Gaelic administrative and legal order.
8. Ross, David, *Ireland History of a Nation*. Writing of the monastic foundation at Clonmacnoise, Ross notes that at its peak in the eighth century, “it possessed a school, a scriptorium or writing room, and a library, as well as numerous churches.” Clonmacnoise was only one of several establishments of similar size and eminence. As to the standards of scholarship in the monastic schools, he points out that “[T]eaching was an important aspect of their work, and a high standard of literacy in Latin was maintained, which included the study of pre-Christian writers such as Virgil. They imported books from far-off centres of learning like Antioch and Alexandria and also created books” (p. 81).
9. Currently Mr Ruairi Quinn TD, a member of the Labour Party which has formed a coalition government with the Fine Gael party.



-
10. Of which there have been several since the end of the last century: the Education Act 1998, the Education (Welfare) Act 2000, the Teaching Council Act 2001, the Education for Persons with Special Educational Needs Act 2004, the Education (Miscellaneous Provisions) Act 2007 as well as other enactments that while not education acts nevertheless had an impact on education to a greater or lesser degree.
 11. The dictionary definitions of “ethos”, which is derived from a Greek word meaning “habit”, are: Concise Oxford Dictionary: “Characteristic spirit of community, people or system.” Collins English Dictionary & Thesaurus: “The distinctive character, spirit and attitudes of a people, culture, era etc.” Fowler’s note on “ethos” is in part as follows: “It means the characteristic spirit informing a nation, an age, a literature, an institution, or any similar unit...” (H.W. Fowler, A Dictionary of Modern English Usage, second edition, 1977.)
 12. Interesting, the word “ethos” is used in this context in the two equality acts: the Equal Status Act 1998 – 2004, section 7 and the Employment Equality Act 1998, section 37 and “characteristic spirit” does not appear at all. Presumably the reason for this is that the education legislation originated in the Department of Education whereas the equality legislation emanated from the Department of Justice.)
 13. Special education and special schools are being omitted from these notes for the sake of brevity.
 14. The text of the “Stanley Letter” is reproduced in Glendenning, op. cit., pp. 571 – 574.
 15. Glendenning, D., Education and the Law, Dublin, 1999, par. 2.30, p. 20.

16. Since re-configured and renamed the Junior Certificate.
17. The Vocational Education (Amendment) Act 1970, section 1.

The place of religion in education in Italy

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).

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

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_stat ali.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 teach-

ing 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 denoimational 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, accord-

ing 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 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).

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

F. Cortese, *Il crocefisso egli "imbarazzi" del giurista*, in 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.

Endnotes

1. University of Trento, Italy



The place of religion in education in Latvia

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.

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

Answer:

Under Article 6 of the Law on Religious Organizations², the Christian religion may be taught in state and municipal schools

to persons who have requested it in a written application. It is important to note that according to the law Christian religion in accordance with the curriculum approved by the Ministry of Education and Science may be taught by teachers of the Evangelical Lutheran, Roman Catholic, Orthodox, Old Believers or Baptist denominations, if not less than 10 students of the same school have expressed their wish to study the religious teaching of the relevant denomination. Applications by minors to be taught Christian religion must be approved by parents or guardians. If the minor is under 14 years of age, the minor's parents or guardians submit the application.

Students at statesupported national minority schools may also receive education in the religion "characteristic of the national minority" on a voluntary basis.³ Other denominations may provide religious education in private schools only. Those organisations that have no rights to teach religion in schools put their emphasis on Sunday schools. For example, on Sundays parents go to mass while children aged 3 -10 years are taught in Sunday school.⁴ Many denominations have developed comprehensive system of Sunday Schools. For example the Baptist congregations in Latvia, embracing more than 6 200 members have Sunday Schools attended by approximately 5 000 children.⁵ Thus, for example, Jews or Muslims, whose religion is not mentioned in the Law on Religios Organizations, can ensure religion classes for their children.

Because of the historical predominance of Christianity in Latvia, this law provides only for the teaching of the Christian religion.⁶ The concept of Christian religious instruction does not include and cannot include the Islam or other denominations. However, it is only a question of time that we shall encounter a problem related to non-Christian religion instruction. Due to the very small amount of Muslim and Jewish students, neither the parochial management of the Muslim nor Jewish parish has been interested in teaching their faith in schools, but there are other religious organisations which have expressed interest in teaching their religion in schools, i.e. Latvian pagans (*Dievturi*), Seven day Adventist and others.⁷

Ethics is offered as an alternative to religious instruction. In Latvia if a student does not want to learn the religious teaching he has to choose teaching of ethics. Religion as subject and other for Latvia untraditional religion subjects, such as Islam are not compulsory in Latvia. Each school may offer these subjects as electives.⁸ The Standard in these subjects is formed through the coordination with the Ministry of Science and Education. Because of Latvia agreement with Holy See⁹ for Bishops'Conference of Latvia have some duties in these field.¹⁰ The contents of the education is regulated by the Law of Education, adopted in 1998. Articles 32-35 of this Law state that the contents of the subjects (lessons) is regulated by the standards of the subjects. According to the generally approved order such subjects as Religion, History of culture, Christian lesson, Ethics, Christian eth-

ics are considered as value-educational which help to form the paradigm of education.

From September 1, 2004, either of Ethics or Religion will be offered as compulsory subjects to grades 1-3, where the parents of pupils have to choose one of the mentioned subjects beforehand. The amount of the compulsory subjects and their content¹¹ in educational programmes of the institutions run by the local governments providing general education and private educational institutions that carry out licensed general elementary or secondary education programmes of the Republic of Latvia is defined by the Regulations No.1027 of the Cabinet of Ministers of December 19, 2006 "Regulations on the State elementary education standard and elementary education subject standard" and Regulations No.715 of the Cabinet of Ministers of September 2, 2008 "Regulations on the State general secondary education standard and general secondary education subject standards" The standards of the subjects included in these regulations define the basic demands for the subjects' acquirement when finishing grades 3, 6, 9 and 12 but they do not define the order of their acquirement. In the examples of the educational programmes publicized by the State Educational Content Centre the order of the teachable subject themes is provided by school years as well as information of methodological character, nevertheless those are recommendatory documents and are not legally mandatory to the educational institutions that do not act under the supervision of the Ministry of Educa-

tion and Science and for this reason are not considered as instructions.

In the Christian teaching students gain knowledge and understanding about the order of the world created by God; learn to master the skills of the Christian life (praying, serving, and commonwealth); create motivation of action based on Christian values. For example, the Evangelical Lutheran Church declares that by learning the Christian teaching under democratic circumstances students will be able to create their own world outlook. According to the Law on Religious Organisations (Article 1.6.)¹² everyone shall be entitled to acquire religious teaching, either individually or together with others in the educational institutions of religious organisations, but in the state and municipal schools only Christian religion may be taught to persons who have expressed such wish. Since 1998 the Law has been supplemented by Article 6(5), which provides that religious teaching and ethics classes are financed from the state budget. By taking a broader perspective on the interpretation of the Law on Religious Organisations – Christian teaching is the teaching of the common Christian faith principles in the Bible, values and manifestations in the development of the world culture of the 5 traditional Christian confessions (Lutheran, Catholic, Baptist, Orthodox, Old-believer). Christian teaching is interdenominational; it concentrates on the essentials of Christianity, important to both the state and society. In Christ's teaching the open society model is with God in its centre and human as the highest value

in it.¹³ The standard of religious teaching and ethics subjects is coordinated with the Ministry of Science and Education, therefore free practice of religion is regulated by the national Law of education.

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:

Latvia has 8 private schools with religious specialization (Lutheran, Jewish and Baptist). In Latvia the control of the content of teaching in state-funded denominational schools is done by the Ministry of Education and Science. The Ministry of Education and Science has the State Service of Education Quality which controls the quality of education in Latvia and monitor the observation of laws and regulations in the field of education, licences educational programmes, assesses the professional activity of teachers at the national level, gives recommendations to the State, local governments and other institutions, to ensure, contribute and improve the observation of laws and regulations in the field of education and science.

Such issues, which are currently on agenda in Scandinavia, e.g. co-educational swimming instruction for Muslim girls, are still uncommon in Latvia. According to the Ministry of Education and Science, it had not received requests yet (situation as of May 2010¹⁴) from Muslims to organize separate groups for boys and girls in the subject “Sports”¹⁵.

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

Because of the small quantity of Muslim pupils, problems with teaching of Islam in denominational (e.g. Catholic) schools have not arisen.

VI. Religious symbols in public schools

In the Constitution of the Republic of Latvia (*Satversme*) religion/church is mentioned in the Article 99, where state declares that: “Everyone has the right to freedom of thought, conscience and religion. The Church shall be separate from the State.” The State does not associate itself with any specific religion, but in practice it is clear that Latvia is a partial separation state, where constitutionally declared separation of church and state does not consistently work in practice.¹⁶ The teachers as

well as schoolchildren are allowed to wear the Islamic headscarf and manifest their religion. In Latvia there are no case-law in these fields. Disposition of religious signs and symbols is up to the administration of each religion concerned school. The same rule applies also to Christian public schools, private schools and Judaism private schools.¹⁷ The Ministry of Education and Science admits¹⁸ that it is not legally able to determine the norms of behaviour of students in comprehensive schools, or their internal regulations, special requirements regarding teachers’ or students’ clothing, times of festivities or meetings etc. The code of conduct, adhering to laws and regulations, can be determined by the founders of each school – the local governments or private bodies (for private schools), confirming the internal regulations of each specific school. The use of religious symbols is up to the administration of each religiously oriented school, both in Christian public and private schools, and minority schools, for example, the Jewish private school. These norms can be determined in greater detail by the principal of each school.¹⁹

Prayer is a part of every religion, thus it is one of the practical actions to be learnt by the student. Therefore, religiously oriented schools include morning prayers, and, on religious holidays, students are welcome to go to the church on a voluntary basis.

Latvian laws and regulations do not include requirements regarding the clothing or the use of symbols by the academic personnel; these, including norms of behaviour, can be included in the internal regulations of each school by the founders of the institution of higher education or its main administrative bodies. Religious ceremonies and rituals in comprehensive schools can be done with the consent of parents, and, without their permission, no actions of religious nature can be carried about in schools.

3. Statistical information on-line of schools

In the academic year of 2010 in total, there were 948 schools of comprehensive curriculum in the state, 45 of these were primary schools, 463 – elementary schools, 377 – high schools, 63 – special schools. In Latvia only 19 denominational educational institutions have received state licence in 2009. All of them are Christian denomination. In Latvia there are no registered Islamic schools. From these 19 schools 12 are state funded schools.²⁰ The others are preschool institutions (for example, the Christian consultative and play centre of the Jesus parish "Lamb"). There are also elementary schools of untraditional religions – elementary school of Prieka vests "Harmonija"²¹ which includes grades 1 to 6.

4. Requirements for teachers of religion

In order to be able to teach Christianity, the teacher has to have a degree in pedagogy as well as they have to have graduated from or enrolled in one of the aforementioned schools (until 2009, a B1 certificate from courses of professional development was sufficient (36 hours), which were financed by the state – 17 teachers were hired by the state to teach other teachers in the whole country). Since 2004, more than 700 teachers have received the certificate asserting their rights to teach Christianity. Until 2009, the teacher had to receive a permit from the higher leadership of their denomination under the responsibility of the parish priest (with the aim of not letting representatives of different sects into the schools). When starting work, the teachers are not asked about their religious leaning of beliefs.

It's be added that according the agreement between Latvia and Holy See Teachers and other employees in officially recognised Catholic Schools, as well as students and their parents, shall enjoy the same rights and have the same obligations as their counterparts in State and local government schools.²²

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

No information available

VIII. Additional comments

It must be noted that on the 4 June 2010²³ meeting of the Council of Spiritual Affairs²⁴, chaired by the Prime Minister, the agenda included ensuring the teaching of Christian faith in schools. Discussing teaching of Christian values in comprehensive secondary schools, the representatives of religious denominations praised the cooperation with the Ministry of Education and Science on developing the syllabus for the teaching of Christianity. At the end of the discussion, the Council of Spiritual Affairs agreed on appealing to the schools to find extra opportunities for the representatives of the traditional religious denominations to organize guest lectures several times during the school year, including Christmas and Easter.²⁵

Additionally it should be mentioned that In Latvia, there are two types of legal agreements between the church and the State: international and national. The international agreement - and in the Latvian case there is only one – signed with the Holy See in 2000, unlike national agreements that were signed with local

churches in 2004, has higher rank (legal power) than laws. Moreover we will see that the legal status of the agreements of 2004 can be called into question.

International Agreement with Holy See. The Latvian Parliament on 12 September 2002 ratified the agreement with the Holy See. In accordance with agreements article 15 of the agreement between the Republic of Latvia and the Holy See, the teaching of the Catholic religion shall be conducted exclusively on the basis of a programme approved by the Bishops' Conference of Latvia, in agreement with the Ministry of Education and Science, and must be undertaken only by qualified teachers who possess a certificate of competence issued by the Bishops' Conference of Latvia; the revocation of the certificate carries with it the immediate loss of the right to teach the Catholic religion. In accordance with this agreement Article 9 (a) "With respect to the laws of the Republic of Latvia and in view of its legitimate pastoral undertakings, to the Catholic Church shall be guaranteed freedom of access to the media and freedom of speech, including the establishment of its own means of social communication and access to those of the State, in accordance with the legislation of the Republic of Latvia." According to this agreement Articles 16, 18 and 19 in conformity with the legislation of the Republic of Latvia, the Catholic Church has the right to found institutions of higher formation for teachers of religion which will grant civilly recognized diplomas. The Catholic Church has the right to establish and manage schools at

every level, in conformity with the laws of the Republic of Latvia and the norms of Canon Law. The foundation of Catholic Schools shall be requested by the Bishops' Conference of Latvia the latter acting on behalf of the local Ordinary. Catholic Schools, as well as institutions of higher formation, shall observe the laws of the Republic of Latvia concerning the general norms relating to the national curriculum, to their management and the granting of civilly recognised diplomas. Catholic Schools are entitled to financial support, in accordance with the laws of the Republic of Latvia. Teachers and other employees in officially recognised Catholic Schools, as well as students and their parents, shall enjoy the same rights and have the same obligations as their counterparts in State and local government schools.²⁶ Considering that issues Roman Catholic church was interested in have been included in an international agreement between the Holy See and the Republic of Latvia, no agreement was made with the Catholics and thus no special law was adopted. Agreements between the Latvian government and churches. Agreements of 2004, between the Cabinet of Ministers and churches were made due to the discontentment of the traditional churches regarding the exclusiveness of Roman Catholics that stemmed from the 2000 agreement with the Holy See. Each of these agreements has a preamble recognizing the special role of the Church in the existence of the legal system of the country and system of values of the society, as well as its significant contribution to the morale and process

of socialization of the society.²⁷ In every agreement there was also implemented the right to teach religion in schools run by the state and local government. For example according to the Agreement which signed on June 8, 2004, between the Republic of Latvia and the Evangelic Lutheran Church of Latvia [article 14. Religious lessons] the Evangelic Lutheran Church of Latvia has the right to teach religious lessons in line with the regulatory enactments of the Republic of Latvia according to a curriculum jointly approved by the Ministry of Education and Science and the Evangelic Lutheran Church of Latvia. In others agreements with the Churches we can notice similar regulation. Although the agreements were made based on the experience of Spain, Italy, Hungary and Poland in this sphere²⁸, agreements had to be implemented in laws so that in accordance with the demands of the Latvian legal system they would acquire legal power. On the basis of the request from the Saeima Legal Office, under the leadership of the author of this article, the Ministry of Justice prepared 7 special laws which were accepted in parliament in 2007 – 2008.²⁹ The primary reason for draft laws was to strengthen relationship included in agreements of 2004 between the Republic of Latvia and its traditional churches. After long and difficult negotiations that took place between the representatives of church, deputies and legal service of the parliament it was relatively accomplished. In the end, questions regarding Sabbath were not included in the laws of Seventh-day

Adventists and Judaists and the Lutheran Church did not succeed in including tax breaks in their laws.

Special Law's considering the long-standing existence and spread of the Church as a traditional religious organisation in the territory of Latvia and recognizing *"its contribution to and rich experience in the areas of society's physical and mental health, education, culture, social support and other areas."*³⁰ Basically legal regulations regarding education in all special laws are nalaogical. So according to the Latvian Old Believers' Pomor Church Article 12. [The Church and education] Church shall have the right to educate its priests and the Church shall possess the right to provide religion lessons in state or municipal educational establishments under the procedure stipulated in the relevant laws and regulations.

Finally, when comparing the rights of traditional churches that have been established by the law, it can be seen that the Roman Catholic Church has the largest number of issues mentioned in the law regarding education, despite the face that it does not have a special law.

N o	Issues in the law	Ad v	Bapt .	Me t	Jew s	Old- B	Luth .	Orth.	Cath.
1.	Education	14. §	14.§	12. §	-	12.§	14.§	15.§	14-20. §

Special laws and the comparative table of the Holy See regarding issues of education.

Teaching religion in the institutions of higher education

Part 3 of Article 4 of the Law on Institutions of Higher Education states that each institution can independently determine the content and standards of their study programmes. Study programmes are regulated by the description of their content and realization, which, according to the type and level of education, includes the aim of each programme, planned results, the content of offered education, compulsory subjects and electives, and the division of time among them, and the means of control and their regulations. According to Article 55 of the Law on Institutions of Higher Education, one fourth of the total study programmes is determined by the senate of the highest council of the institution. Hence, it is under the authority of the founders and the highest organs of administration of each institution to include religious themes in their study programmes, determining their content, extent and order of teaching. Therefore, specific institutions should be consulted to find the share of religious themes in the total body of all study programmes.

XI. Bibliography

Balodis R. School - Religion Relations: Republic of Latvia. - Revue. Europeenne de Droit Public, 2005; Vol. 17 (1) spring

Balodis R. State and Church in the Latvia/ State and Church in the Baltic States: 2001. - R.: Reliģijas Brīvības Asociācija, 2001

Balodis R. Church and State in Latvia in 2003. *European Journal for Church and State Research 2004* – Volume 11// Peeters, Belgium 2008. p.

Balodis R. School - Religion Relations: Republic of Latvia. - Revue. Europeenne de Droit Public, 2005; Vol. 17 (1) spring p. 397 – 408

Balodis R. The recent developments of Latvian model of Church and State relationship: Constitutional changes without revising of Constitution/ Jurisprudencija 2009, 3 (117)

State and Church in the European Union. European Consortium for State and Church research, Nomos Verlagsgesellschaft, Baden – Baden second ed., 2005.

Law and Religion in Post-Communist Europe (Ed. Silvio Ferrari, W.Cole Durham). PEETERS, LEUVEN – PARIS – DUDLEY, MA 2003

Wolfgang Lienemann.Hans-Richard Reuter (Hrsg.) Das Recht der Religionsgemeinschaften in Mittel-, Ost – und

Südosteuropa/ Nomos Verlagsgesellschaft, Baden – Baden 2005.

Religion and the Secular State. *Interim National Reports issued for the occasion of XVIIIth International Congress on Comparative Law* The international Center for Law and Religion Studies Brigham Young University Provo, Utah, Washington, D.C. 2010

Balodis R. LAS RELACIONES ENTRE EL ESTADO DE LETONIA Y LAS ORGANIZACIONES RELIGIOSAS: DE LA REALIDAD SOVIÉTICA AL MODELO DE ESPAÑA E ITALIA. Revista General de Derecho Canónico y Derecho Eclesiástico del Estado 21 (2009)
<http://www.iustel.com/v2/revistas/detalle_revista.asp?numero=21&id=2>

Education: Latvia/Sociological and legal data on religions in Europe//

<http://www.eurel.info/EN/index.php?pais=59&rubrique=658>

General presentation: Latvia/Sociological and legal data on religions in Europe//

<http://www.eurel.info/EN/index.php?pais=59&rubrique=662>

Endnotes

1. University of Latvia

2. Article 6. Religious organisations and education

(1) Everyone shall be entitled to acquire religious teaching, either individually or together with others in the educational institutions of religious organisations.

(2) In the state and municipal schools Christian religion may be taught to persons who have expressed such wish in a written application. Applications by minors to be taught Christian religion shall be approved of by parents or guardians. If the minor is under 14 years of age, the minor's parents or guardians submit the application.

(3) Christian religion in accordance with the curriculum approved by the Ministry of Education and Science may be taught by teachers of Evangelic Lutheran, Roman Catholic, Orthodox, Old Believers or Baptist denominations, if not less than 10 students of the same school have expressed their wish to study the religious teaching of the relevant denomination. The teachers shall be selected by the denomination leaders and shall be approved by the Ministry of Education and Science.

(4) In national minority schools supervised by the state or municipalities, if such is the wish of the students and their parents or guardians, it is allowed to teach the religion typical to the particular national minority in compliance with the procedure set by the Ministry of Education and Science.

(5) The teaching of Christian religion and ethics shall be financed out of the state budget.

3. Balodis R. Das Recht der Religionsgemeinschaften in Letland/ Wolfgang Lienemann. Hans-Richard Reuter (Hrsg.) Das Recht der Religionsgemeinschaften in Mittel-, Ost – und Südosteuropa/ Nomos Verlagsgesellschaft, Baden – Baden 2005. s. 246-249

4. <http://www.priekavests.lv/lv/izglitiba/svetdienasskola?read=3730>

5. Balodis R. School - Religion Relations: Republic of Latvia. - Revue. Europeenne de Droit Public, 2005; Vol. 17 (1) spring p. 397 – 408

6. Balodis R. Church and State in Latvia. Law and Religion in Post-Communist Europe (Ed. Silvio Ferrari, W.Cole Durham). PEETERS, LEUVEN – PARIS – DUDLEY, MA 2003 p. 168

7. Balodis R. State and Church in the Latvia/ State and Church in the Baltic States: 2001. - R.: Reliģijas Brīvības Asociācija, 2001.p. 36

8. Balodis R. The Constitutional and Administrative Aspects of State and Church Regulation in the Republic of Latvia. Religion and the Secular State. Interim National Reports issued for the occasion of XVIIIth International Congress on Comparative Law The international Center for Law and Religion Studies Brigham Young University Provo, Utah, Washington, D.C. 2010 p. 484

9. Balodis R. Church and State in Latvia. State and Church in the European Union. European Consortium for State and Church research, Nomos Verlagsgesellschaft, Baden – Baden second ed., 2005. p. 269

10. According to the Agreement between the Republic of Latvia and the Holy See Article 15 the teaching of the Catholic religion shall be conducted exclusively on the basis of a programme approved by the Bishops' Conference of Latvia, in agreement with the Ministry of Educa-

tion and Science, and shall be undertaken only by qualified teachers who possess a certificate of competence issued by the Bishops' Conference of Latvia; the revocation of which signifies the immediate loss of the right to teach the Catholic religion.

11. <http://visc.gov.lv/saturs/vispizgl/standarti.shtml> ;
<http://visc.gov.lv/saturs/vispizgl/programmas.shtml>
12. 25.09.2002., Nr.137 3.1995.gada 7.septembra Reliģisko organizāciju likums (Law on Religious Organisations of 7th September 1995) // Latvijas Vēstnesis 26.09.1995., Nr.146
13. <http://www.lēlb.lv/lv/?ct=skolas>
14. The letter number 1.-12/3426 on 18 May 2010 by M. Gruskevics, the Secretary of State in the Ministry of Education and Science, to R. Balodis, the Chair of the State Law Department of the Faculty of Law of the University of Latvia.
15. It must be noted that the current laws and regulations allow dividing students into groups during lessons, including divisions based on gender. The division into groups, given the funding allocated to each institution, falls under the authority of the founder.
16. Balodis R. The Constitutional and Administrative Aspects of State and Church Regulation in the Republic of Latvia. Religion and the Secular State. Interim National Reports issued for the occasion of XVIIIth International Congress on Comparative Law The international Center for Law and Religion Studies Brigham Young University Provo, Utah, Washington, D.C. 2010 p.476
17. Education: Latvia/Sociological and legal data on religions in Europe//

<http://www.eurel.info/EN/index.php?pais=59&rubrique=658>

18. The letter number 1.-12/3426 on 18 May 2010 by M. Gruskevics, the Secretary of State in the Ministry of Education and Science, to R. Balodis, the Chair of the State Law Department of the Faculty of Law of the University of Latvia.
19. Taking into consideration that the standard syllabus of each subject has to be coordinated with the Ministry of Education and Science.
20. Baltinava Christian special boarding elementary school, Riga Christian high school, Bauska city Christian elementary school, Talsu Christian high school, Dobeles Christian elementary school, Rezekne Catholic high school, Kalnezeru Catholic elementary school, Liepāja Catholic elementary school, Riga Catholic gymnasium, Aglona Catholic gymnasium, Ogres St.Meinard's Catholic elementary school, Graveru elementary school of Riga and Latvia Metropolitan Aleksander (Kudrjasov).
21. http://www.priekavests.lv/lv/izglitiba/privatskola_harmonija?read=131
22. Balodis R. Church and State in Latvia in 2003. European Journal for Church and State Research 2004 – Volume 11// PEETERS, Belgium 2008. p. p.162
23. Prime Minister: Attending the meeting of the Council of Spiritual Affairs/ Latvijas Vēstnesis, 6 June 2010
24. The Council of Spiritual Affairs is an independent, consultative institution for coordinating the cooperation between the state and the church, with the aim to promote harmony and understanding among

the followers of different religious denominations and beliefs in the Latvian society.

25. Prime Minister: Attending the meeting of the Council of Spiritual Affairs/ Latvijas Vēstnesis, 6 June 2010
26. Balodis R. School - Religion Relations: Republic of Latvia. - Revue. Europeenne de Droit Public, 2005; Vol. 17 (1) spring p. 397 – 408
27. General presentation: Latvia/Sociological and legal data on religions in Europe//
<http://www.eurel.info/EN/index.php?pais=59&rubrique=662>
28. Balodis R. The recent developments of Latvian model of Church and State relationship: Constitutional changes without revising of Constitution/ Jurisprudencija 2009, 3 (117), p-19.
29. Law on Latvian Association of Seventh-day Adventist Communities: LR likums. Latvijas Vēstnesis, 2007. 12.jūnijs nr.93 (3669); Latvian Baptist Community Association Law: LR likums. Latvijas Vēstnesis, 2007. 30.maijs nr. 86 (3662); Riga Jewish Religious Community Law: LR likums. Latvijas Vēstnesis, 2007. 20.jūnijs 98 (3674); Latvian Joint Methodist Church Law: LR likums. Latvijas Vēstnesis, 2007. 6.jūlijs 91 (3667); Latvian Old-Believers Pomor Church Law: LR likums. Latvijas Vēstnesis, 2007. 20.jūnijs 98 (3674), Latvian Evangelical Lutheran Church Law: LR likums. Latvijas Vēstnesis, 2008. 20.novembris 188 (3972), Latvian Orthodox Church Law: LR likums. Latvijas Vēstnesis, 2008. 13.novembris 188 (3972)
30. Balodis R. LAS RELACIONES ENTRE EL ESTADO DE LETONIA Y LAS ORGANIZACIONES RELIGIOSAS: DE LA REALIDAD SOVIÉTICA AL MODELO DE ESPAÑA E ITALIA. Revista General de Dere-

cho Canónico y Derecho Eclesiástico del Estado 21 (2009)
<http://www.iustel.com/v2/revistas/detalle_revista.asp?numero=21&id=2>

Teaching of religion in Lithuania

Religious instruction organized during the school hours (in lower and in secondary education) in state funded schools

I.1 Question: Religious instruction organized 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 organized during school time in public educational institutions: in primary education, in secondary education.

Answer:

Teaching of religion is organized during school time in public educational institutions both in primary and in secondary levels.

Constitutional provisions:

Article 26 of the Constitution of Lithuania provides for freedom of thought, conscience and religion; each human being has the right to freely choose any religion or belief and, either alone or with others, in private or in public, to profess his religion, to perform religious practices, to practice and teach his belief; no one may compel another person or be compelled to choose or profess any religion or belief; freedom of a human being to profess and spread his religion or belief may not be limited otherwise than by law and only when this is necessary to guarantee the security of society, the public order, the health and morals of the people as well as other basic rights and freedoms of the person; parents and guardians shall, without restrictions, take care of the religious and moral education of their children and wards according to their own convictions.

Article 29.2 of the Constitution states that the rights of the human being may not be restricted, nor may he be granted any privileges on the ground of gender, race, nationality, language, origin, social status, belief, convictions, or views.

Article 40.1 of the Constitution also provides that state and municipal educational institutions are secular, and on request of parents provide religious education. Article 40.2 of the Constitution provides that non-state establishments of

teaching and education may be founded according to the procedure established by law.

Article 41.1 of the Constitution also states that education is compulsory for persons under the age of 16. According to Article 43.1 of the Constitution the state recognizes traditional churches and religious organizations, and other churches and religious organizations (if they have support within community, and their teachings and practice does not confer with law and moral).

Article 43.3 states that churches and religious organizations shall be free to proclaim their teaching, perform their practices, and have houses of prayer, charity establishments, and schools for the training of the clergy. Article 43.6 provides that teachings proclaimed by churches and religious organizations, other religious activities and houses of prayer may not be used for purposes which are in conflict with the Constitution and laws. Article 43.7 of the Constitution of Lithuania provides that there is no state religion in Lithuania.³

The Law on Religious Associations and Communities⁴ further provides for a more detailed regulation of religious studies. Article 5 of the above mentioned law states that there are nine traditional religious associations and communities

(based on historical, spiritual and social heritage): roman catholic, Greek orthodox, evangelic Lutheran, evangelic reformat, orthodox, old believers, Jewish, Muslim Sunnite, and Karait. According to Article 5.1 of the same law religious education is chosen as part of moral education. Moral education is part of primary, main and secondary education. On request of parents (guardians) the subject of religious education can be included in the pre-school education on the child. Non-formal religious education and self education can be carried out as well. Article 5.2 of the same Law further provides that a student of primary, main and secondary educational institution that has reached the age of 14 year has a right to choose one of the compulsory subjects of moral education: religion of traditional religious association or community, or ethics. Article 5.3 states that parents (guardians); or state institutions that provide foster care (if the child is an orphan), based on religious views practiced by the relatives of the child, choose between the subject of religious education or ethics for the students younger than 14 year of age.

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

Answer:

Article 9 of the Law on Religious Associations and Communities provides more detailed regulation related to the course of religious education as such. The article states that religious education can be taught in prayer houses, public and non-public educational institutions, as well as other premises and places. Article 9.2 of the same law provides that religions of traditional and other state recognized religious associations and communities in public educational institutions can be taught on request on parents (guardians). According to Article 9.3 the State also recognizes teaching of religion of traditional and other state recognized religious associations and communities in confessional educational institutions (Sunday schools or other educational groups) provided that the religious education program is registered in the ministry of Education and Science of Republic of Lithuania and proof of teachers religious qualification is also provided along with the request from the senior member of the religious association or community. The order of teaching of religious education is regulated by other laws of education, as provided by article 9.5 of the same Law.

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:

II.1. There is few denominational schools that are partially funded by the state. Such schools are supported from tuition paid by the students and also receive a state subsidy for each student from the state. State funded denominational schools comprise a rather small number of all state funded schools. Statistical on-line information regarding this matter is currently unavailable, because the State does not gather such information. Statistical information related to religious matter is systematically collected only about numeric outcome of traditional and other recognized religious associations and communities, prayer houses clergy members. There are currently no Islamic state funded schools. There are 5 prayer Islamic prayer houses, 7 Islamic communities and 7 clergy men⁵.

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:

II.2. In general there are 7 so-called Sunday schools that teach Islamic religion. However, these Sunday school are not state funded, therefore do not fall within the framework of state funded educational system. These are private denominational schools. Their numeric importance is not significant. Arabic language and history of Islam are taught in these Sunday schools⁶.

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 Article 9.3 of the Law on Religious Associations and Communities the State also recognizes teaching of religion of traditional and other state recognized religious associations and communities in confessional educational institutions (Sunday schools or other educational groups) provided that the religious education program is registered in the ministry of Education and Science of Republic of Lithuania and proof of teachers religious qualification is also provided along with the request from the senior member of the religious association or community. Article 5 of the same Law contains provisions for the educational programs related to religion. Article 5.4 of the Law states that the religious education program in a formal educational institution (excluding higher education institutions) is prepared by a corresponding traditional or other recognized religious association or community, which is later evaluated by the senior member of that association or community as well as the Ministry of Education and Science and Minister of Education and Science. According to Article 5.5 a person is eligible to teach any formal education program (excluding higher education) if he or she has higher or vocational education degree and qualification of an educator, or has an adequate special training required. Such person is required to have a permit to teach religion issued by and according to order

provided by the traditional religious association of community.

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.

Answer:

The head of a state funded denominational school does not have a right to refuse pupils from other religious beliefs. However, Article 29 of the Law on Education provides that priority to get accepted to a state funded state or municipal school remains with the students who live within the territory that is serviced by that particular school.⁷

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:

No, he does not have such a right.

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 organize, 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:

Article 40.1 of the Constitution also provides that state and municipal educational institutions are secular, and on request of parents provide religious education. That means

that it is compulsory for a state funded educational institution to organize classes of Islamic religion in this case. However, there is a requirement for a minimum quota of the students for the class, which are at least 5 students.

According to Article 5.6 of the Law on Religious Associations and Communities, a school which is unable to provide a class of religious teaching of the traditional religion of association or community requested by the parents (guardians) of the students, is required to accept as credit the religious teaching provided at the Sunday school or other religious education group according to requirements set forth in provisions 5 and 4 of the same Article.

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, and ethics?

Answer:

(a) Yes, if it is one of the religions of traditional or other recognized religious associations or communities.

(b) Yes.

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:

Organizing a class is strictly tied with the certain minimum requirements that have to be met in order to register a new subject to be taught, like for example, minimum amount a students, qualitative requirements for the subject teacher etc. There are very few students with Islamic religion and generally these students would acquire their knowledge in Sunday schools or cultural centers or the like. Therefore there have been no opinions expressed regarding the above mentioned obligation.

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

Answer:

<http://www3.lrs.lt/home/Konstitucija/Constitution.htm>

http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=363706

http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=395640

http://www.islamas.8m.com/islamas_lietuvoje.html

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:

V.1. There is no precise guideline for teaching of Islam, but the Law on Religious Associations and Communities provides for general guidelines for religious teachings. Islam is among nine religions that are recognized by the state of Lithuania, therefore the guidelines of the Law on Religious

Associations and Communities regarding the teaching of religious studies apply to the teaching of Islam.

V.2. Question: If affirmative, does the guideline implies that (a) the teaching of other religions is organized 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:

V.2. As stated above, any school, on request of the parents has to provide for a religious study course, however, there is a minimum quota required for a teaching course. Therefore, a separate class for any religion would not be established upon request of solely one parent.

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 organized in some schools, which have taken themselves the initiative. If possible, explain the importance of this option

Answer:

V.3. Both cases of a) and b) are possible. In general, there is no large population of Islamic religion; therefore, the issue as such is not a frequent one if at all possible. Depending on the need, any school individually would be responsible for organizing classes of Islamic religion. More generally religious education of such small religious communities is exercised in cultural centers or similar.

Religious symbols in public schools

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

Answer:

VI.1. Religious symbols are allowed.

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:

VI.2. Teachers would be allowed to wear Islamic headscarf and manifest her religion, because there are no rules at all regarding this matter.

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:

VI.3. It depends whether the board of the school has confirmed rules of wearing a uniform. If there are no confirmed rules regarding a mandatory uniform, then the headscarf would be allowed. However, if there are confirmed rules – the pupils would be required to wear a uniform. Manifestation of her religion in other ways unrelated to headscarf would be allowed.

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

Answer:

VI.4. The dress code of the school is usually chosen by the community of the school and confirmed by the council of the school.

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:

VI.5. Such described cases would be decided individually and it would largely depend on the internal code of each school individually.

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

Answer:

VI.6. The regulatory authority in this sphere is the council and or administration of each school individually.

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:

VI.7. That depends on the rules of each school individually.

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

Answer:

[specification of the case law needed – headscarves, uniforms – No, case law regarding the latter.]

**After-school education in private religious institutions.
Islamic instruction organized 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 coun-

try organized after school time in private religious institutions:

Answer:

YES.

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

Answer:

YES.

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

Answer:

YES.

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

Answer:

7 private institutions.⁸

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

Answer:

133 children take part in religious teachings of such institutions.⁹

The instructors are students from Turkey with certain degree of religious background, and each institution individually is responsible for the quality of teaching by their selected instructors.

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

Answer:

There is currently no public debate regarding the teaching of Islam.

XI. Bibliography

Constitution of the Republic of Lithuania,
<http://www3.lrs.lt/home/Konstitucija/Constitution.htm>

Law on Religious Associations and communities of the Republic of Lithuania,
http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=363706

Law on Education of the Republic of Lithuania,
http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=395640

Islam in Lithuania,
<http://www.islamas.8m.com/islamasi Lietuvoje.html>

Endnotes

1. Head of Law department, Public Security Faculty, Mykolas Romeris university, Lithuania

2. lecturer of Law department, Public Security Faculty, Mykolas Romeris university, Lithuania
3. <http://www3.lrs.lt/home/Konstitucija/Constitution.htm>
4. http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=363706
5. <http://db1.stat.gov.lt/statbank/selectvarval/saveselections.asp?MainTable=M3190101&PLanguage=0&TableStyle=&Buttons=&PXSID=13429&IQY=&TC=&ST=ST&rvar0=&rvar1=&rvar2=&rvar3=&rvar4=&rvar5=&rvar6=&rvar7=&rvar8=&rvar9=&rvar10=&rvar11=&rvar12=&rvar13=&rvar14=>
6. <http://www.islamas.8m.com/islamasi Lietuvoje.html>
7. http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=395640
8. <http://www.islamas.8m.com/islamasi Lietuvoje.html>
9. <http://www.islamas.8m.com/islamasi Lietuvoje.html>

The place of religion in education in Luxembourg

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:

Enseignement fondamental (préscolaire et primaire)

A l'enseignement préscolaire une éducation aux valeurs se fait dans un cadre transversal de la socialisation des petits

Loi du 6 février 2009 portant organisation de l'enseignement fondamental

Art. 7. Le premier cycle de l'enseignement fondamental (préscolaire) comprend les domaines de développement et d'apprentissage suivants:

1. le raisonnement logique et mathématique....
6. la vie en commun et les valeurs.

A l'enseignement primaire tous les élèves suivent soit le cours d'instruction religieuse (catholique) soit un cours de formation morale et sociale

Les deuxième, troisième et quatrième cycles de l'enseignement fondamental (primaire) comprennent les domaines de développement et d'apprentissage suivants:

1. l'alphabétisation, les langues allemande, française et luxembourgeoise, ainsi que l'ouverture aux langues...
6. la vie en commun et les valeurs enseignées à travers l'éducation morale et sociale ou l'instruction religieuse et morale. Les élèves des classes primaires sont inscrits sur demande des parents soit dans le cours d'éducation morale et sociale, soit dans le cours d'instruction religieuse et morale.

Enseignement secondaire (également secondaire technique)

Tous les élèves du secondaire I ainsi que des 2 premières années du secondaire II doivent suivre soit un cours d'instruction religieuse (catholique) soit un cours de formation morale et social. La possibilité de ne suivre aucun de ce cours (3^e possibilité) a été abolie en 2001.

Loi du 10 mai 1968 portant réforme de l'enseignement, titre VI: de l'enseignement secondaire (modifiée par la loi du 2 juillet 2002)

Art. 48. L'enseignement secondaire comporte un cours d'instruction religieuse et morale et un cours de formation morale et sociale. Sur déclaration écrite adressée au directeur de l'établissement par la personne investie du droit d'éducation ou l'élève majeur, tout élève est inscrit soit au cours d'instruction religieuse et morale, soit au cours de formation morale et sociale.

(classes de 7^e à 11^e)

2. Parmi les cultes légalement reconnus (catholique, protestant, juif, orthodoxe), seule la religion catholique est enseignée dans le cours d'instruction religieuse. Pour l'heure, le culte islamique n'a pas encore fait l'objet d'une procédure de reconnaissance légale. Les élèves des confessions non catholiques doivent s'inscrire soit dans le cours d'instruction religieuse (il n'existe pas de disposition légale réservant l'accès à ce cours aux seuls élèves de confession catholique) soit dans le cours de forma-

tion morale et sociale. Pour les élèves de confession juive ou musulmane qui le souhaitent, les communautés organisent une formation dans les lieux du culte (synagogue, mosquée).

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

Answer:

II. State funded denominational schools (les écoles confessionnelles) 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:

A l'école primaire l'importance de l'école confessionnelle est insignifiante. A l'enseignement secondaire l'enseignement confessionnel représente 5% ; son importance est en régression. A l'enseignement secondaire technique la part des écoles confessionnelles est plus importante. Les écoles confessionnelles (sauf une) accueillent exclusivement des jeunes filles.

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:

Il n'existe pas d'école confessionnelle islamique

Dans le tableau statistique les écoles confessionnelles figurent à la rubrique « enseignement privé qui suit les programmes officiels de l'Education nationale ».

www.men.public.lu/publications/etudes_statistiques/chiffres_cles/

Il n'existe pas d'écoles confessionnelles qui ne sont pas subventionnées par l'Etat. Les écoles privées qui suivent les programmes officiels peuvent recevoir un maximum des subsides (90% des frais de personnel).

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:

L'enseignement dans les écoles privées confessionnelles subventionnées par l'Etat est soumis au contrôle de l'Etat. Pour l'enseignement primaire ce contrôle est effectué par l'inspecteur

Loi du 6 février 2009 portant organisation de l'enseignement fondamental

Art. 60. L'inspecteur de l'enseignement fondamental assure la surveillance des écoles de l'enseignement fondamental, publiques et privées, et de l'enseignement à domicile dans son arrondissement.

Pour l'enseignement secondaire et secondaire technique la supervision se fait par une commission

Loi du 13 juin 2003 concernant les relations entre l'État et l'enseignement privé

Art. 31. Il est institué auprès du ministre ayant l'Éducation nationale dans ses attributions une commission de contrôle de six membres désignés par le Gouvernement en conseil. Trois des membres sont désignés sur proposition du ministre et trois autres sont désignés sur proposition du ministre ayant le Budget dans ses attributions, dont un choisi parmi les fonctionnaires de la Direction du contrôle financier et un choisi parmi les fonctionnaires de l'Inspection générale des finances.

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:

En principe le directeur d'une école confessionnelle subventionnée par l'Etat n'a pas le droit de refuser un élève au motif de sa religion ou conviction philosophique.

Loi du 13 juin 2003 concernant les relations entre l'État et l'enseignement privé

Art. 18. Les établissements privés dispensant un enseignement préscolaire, primaire ou postprimaire et qui appliquent les programmes de l'enseignement public luxembourgeois doivent:

.....

d) appliquer les critères d'admission et de promotion en vigueur dans les classes correspondantes de

l'enseignement public.

Dans les faits :

a) Les écoles confessionnelles offrent uniquement un cours d'instruction religieuse

b) il arrive que des parents musulmans préfèrent inscrire leur fille plutôt à une école confessionnelle (catholique) plutôt qu'à l'école publique

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?

Answer:

Ce cas de figure n'est pas prévu

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 de-

nominal (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?

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:

Un cours d'instruction religieuse islamique n'est pas dispensé étant donné que le culte islamique n'est, à ce stade, pas reconnu. Il n'y a donc pas d'obligation légale de donner suite à une demande émanant de parents. La Constitution luxembourgeoise n'évoque pas de droit des parents (ou des enfants) à pouvoir suivre une cours d'instruction religieuse à l'école, ni d'obligation pour l'Etat d'offrir des cours d'instruction religieuse à l'école publique.

Ces questions ont fait et font toujours l'objet de vifs débats.

Historiquement :

- La formation morale et sociale (morale laïque) a été introduite dans l'enseignement dans les années 60.
- Dans les années 80, le débat a tourné autour de la question si les élèves qui ne souhaitaient pas suivre les cours d'instruction religieuse devaient s'inscrire dans le cours de formation morale. Vers la fin des années 80 on a introduit la possibilité d'opter pour aucun de ces cours (3^e possibilité).
- En 2001 cette 3^e possibilité a été abolie.
- Pendant la législature 1999-2004 la question s'il fallait un jour ouvrir l'instruction religieuse à d'autres confessions a du moins été posée théoriquement. Dans la législation il n'est plus question du chef du culte (qu'on assimilait autrefois implicitement au chef du culte catholique) mais du chef du culte concerné. Toujours est-il qu'il n'y a pas de demande de la part des cultes reconnus d'introduire un enseignement religieux correspondant à l'école.
- À ce stade, les règlements régissant aussi bien l'instruction religieuse que le cours de formation morale stipulent expressis verbis que les religions les plus marquantes doivent être étudiées. (Règlements grand-ducaux du 10 août 1991).
- Pendant la législature 2004-2009 (gouvernement de coalition parti chrétien-social et parti socialiste) une expérience d'une

éducation aux valeurs se substituant à la fois à l'instruction religieuse et à la formation morale et sociale a été mise en œuvre dans un lycée pilote à journée à temps plein (Ganztagsschule).

Loi du 25 juillet 2005 portant création d'un lycée-pilote,

Art. 4. À l'exception des cours de formation morale et sociale et d'instruction religieuse et morale dont les contenus et finalités sont assurés par l'éducation aux valeurs, les matières enseignées sont les mêmes que celles prévues pour les classes de septième à quatrième de l'enseignement secondaire et de septième à neuvième de l'enseignement secondaire technique. L'éducation aux valeurs, prenant en compte aussi bien la diversité croissante des cultures et des convictions religieuses et philosophiques que la nécessité de veiller à l'intégration de ces diversités dans un climat de respect et de tolérance réciproques, a pour mission de transmettre aux élèves une connaissance appropriée des grandes religions et familles de pensée au plan mondial. Elle tient spécialement compte des réalités de la société luxembourgeoise en réservant une place adéquate à la présentation authentique des divers courants de pensée religieuse et humaniste présents dans le pays.

La mise en place de ce cours a été accompagnée par une commission composée de représentants des religions catholique, juive et musulmane ainsi que de personnalités oeuvrant pour la

laïcité.

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

Answer:

www.legilux.public.lu/leg/textescoordonnes/compilation/code_education_nationale/PAGE_DE_GARDE.pdf

Voici les principales dispositions légales qui ont fait l'objet de débats parlementaires ces dernières années/

Loi du 12.07.2002 portant réforme de l'enseignement secondaire et secondaire technique : abolition de la 3^e possibilité.
Dossier parlementaire 4894

Loi du 25.07.2005 portant création d'un lycée pilote : introduction d'un cours d'éducation aux valeurs. Dossier parlementaire : 5434

Loi du 6.02.2009 relative à l'obligation scolaire : interdiction pour les enseignants de manifester par la tenue vestimentaire ou le port de signes leur appartenant à une doctrine religieuse ou politique. Dossier parlementaire : 5758

Les dossiers parlementaires peuvent être consultés sur le site de la Chambre des députés

www.chd.lu –Travail à la Chambre – Rôle des affaires – No du dossier

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:

Comme les écoles confessionnelles suivent les programmes de l'école publique, l'instruction religieuse qui y est dispensée s'oriente sur le programme du cours prévu pour l'école publique. Le règlement grand-ducal du 10 août 1991 concernant les lignes directrices du programme, la durée et l'organisation du cours d'instruction religieuse et morale ainsi que la formation des enseignants chargés de ce cours.

Art.1.....2. Dans les classes de la division supérieure, l'élève étudiera le phénomène religieux en général, ses expressions dans les différentes croyances et la mise en question de la religion par les athéismes, les idéologies et les courants philosophiques et scientifiques. Le cours insistera sur les raisons de croire, d'espérer et d'aimer.

VI. Religious symbols in public schools

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

Answer:

Les écoles primaires appartiennent aux communes ; il n'existe pas de réglementation interdisant le crucifix dans les écoles primaires. Les lycées d'enseignement secondaire appartiennent à l'Etat. Dans les bâtiments publics la neutralité est exigée.

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:

Le port du voile islamique ou d'un autre signe religieux par des enseignants autres que ceux qui enseigneraient l'instruction religieuse est interdit dans l'école publique

Loi du 6 février 2009 relative à l'obligation scolaire.

Art. 4. Dans le respect de la liberté de conscience des élèves et à l'exception des cours d'instruction religieuse et morale, la formation scolaire ne privilégie aucune doctrine religieuse ou politique.

Art. 5. À l'exception de l'enseignant titulaire d'un cours d'instruction religieuse et morale, l'enseignant ne peut manifester ostensiblement par sa tenue vestimentaire ou le port de signes son appartenance à une doctrine religieuse ou politique.

Pour faire passer cette disposition il fallait éviter de déclencher une discussion sur les droits fondamentaux à savoir si le fait de porter une tenue vestimentaire particulière était un droit fondamental et si le fait de prescrire à l'école des tenues vestimen-

taires à tous les membres de la communauté violerait un droit fondamental;

C'était la discussion qui avait été menée en France (signe ostentatoire d'appartenance religieuse) et en Turquie (arrêt de la cour européenne des droits de l'Homme du 10.11.2005 concluant que le fait que les universités turques prescrivaient une tenue vestimentaire particulière ne constituait pas une violation des Droits de l'Homme)

L'argumentaire se fondait exclusivement sur la déontologie professionnelle

1. la personne qui se décide à devenir enseignant fonctionnaire se range en premier lieu du côté de l'État dont la mission la plus noble consiste à sauvegarder à l'École les droits fondamentaux des élèves (droit à un enseignement objectif). Le fonctionnaire ne peut donc pas invoquer ces mêmes droits pour les mettre en question auprès d'autrui

2. son devoir consiste à promouvoir la mise en œuvre des lois démocratiquement votées et des mesures prises par le Gouvernement démocratiquement constitué. Il doit donc postposer ses aspirations individuelles lorsque son développement personnel risque d'entrer en conflit avec la mise en œuvre de la volonté démocratiquement

Dans le commentaire des articles de la loi cette argumentation pédagogique est illustrée par les mots qu'a employés Jules Ferry dans sa lettre du 27 novembre 1883 aux enseignants: „... Vous

êtes l'auxiliaire et, à certains égards, le suppléant du père de famille. Parlez donc à son enfant comme

vous voudriez qu'on parlât au vôtre. Au moment de proposer aux élèves un précepte, demandez-vous

s'il se trouve un seul honnête homme qui puisse être froissé de ce que vous allez dire. Demandez-vous si un père de famille, je dis un seul, présent à votre classe et vous écoutant, pourrait de bonne foi refuser son assentiment à ce qu'il vous entendrait dire. Si oui, abstenez-vous. Vous ne toucherez jamais avec trop de scrupule à cette chose délicate et sacrée, qui est la conscience de l'enfant.

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:

Une élève peut porter le foulard islamique. L'attitude de l'école et de la direction est ici dictée par le pragmatisme qui vise à

fidéliser les personnes originaires de l'immigration à la société luxembourgeoise. Il s'agit de ne pas heurter dès le début des personnes fraîchement immigrées ou de mettre une jeune fille dans une position impossible entre l'école et les exigences de sa famille. On part de l'idée que tôt ou tard la jeune fille renoncera au port du foulard. Le seul cas connu qui aurait pu dégénérer dans une « affaire » était le cas d'un enseignant qui refusait d'enseigner devant une jeune fille qui portait le foulard.

Les réactions des autorités devant le port du voile ou de la burka seraient certainement moins pragmatiques. Il se peut qu'en ayant été souple quant au port du foulard, les autorités n'ont pas eu besoin jusqu'à présent d'être catégoriques sur le port du voile ou de la burka .

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

Answer:

La tenue vestimentaire dans les écoles est déterminée par la législation et la réglementation de la discipline et l'ordre intérieur dans les écoles

Règlement grand-ducal du 23 décembre 2004 concernant l'ordre intérieur et la discipline dans les lycées et lycées techniques.

Art. 6. La tenue vestimentaire des élèves doit être correcte. Des tenues spéciales peuvent être prescrites pour les cours d'éducation physique, d'éducation artistique et les séances de travaux manuels et de travaux pratiques.

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?

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

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:

La problématique ne se résout pas aux questions vestimentaires. Il existe des cas où des élèves souhaitent ne pas participer au cours de gymnastique ou au cours de biologie. Il existe des cas où les conflits entre groupes d'élèves dans les cours de récréation sont autrement plus graves que ceux qui se déroulent avec les autorités scolaires dans les salles de classe. Des dispositions correspondantes ont été introduites à titre préventif dans les nouvelles lois.

1. Les élèves sont obligés de participer à toutes les activités scolaires

Loi du 6 février 2009 relative à l'obligation scolaire Art. 8. La formation scolaire obligatoire s'accomplit dans les établissements scolaires publics. Elle consiste en la participation régulière à tous les cours et activités scolaires.

2. La législation énumère les infractions qui peuvent faire l'objet de la sanction maximale c'est-à-dire le renvoi de l'école. Parmi celles-ci on trouve aussi - l'incitation à la haine raciale, à la xénophobie et à l'intolérance religieuse

Loi du 25 juin 2004 portant organisation des lycées et lycées techniques Art. 42

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

Answer:

À ce stade il n'existe pas encore de jurisprudence à Luxembourg.

The place of religion in education in The Netherlands

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.

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

Answer:

On 1 August 1998 a new *Primary Education Act* (WPO) went into effect in the Netherlands, replacing former Education Acts.

In 1993 ‘core objectives’ (*kerndoelen*) were established. Since 1 August 2006, under the terms of the revised Primary Education Act, Dutch primary schools must provide teaching in six curriculum areas. The attainment targets relate to, among other things, healthy living, social structures (including political studies) and *religious and ideological movements*.

According to current legislation, all primary schools (public and private) have to pay attention to the religious, philosophical and social current values in the Dutch society. Pupils (in public education) should learn to understand and to recognize the diversity of those values (see Article 46 of the WPO, the Primary Education Act). This command includes the obligation of primary schools to offer a subject called ‘religious and other spiritual movements’. State funded schools for lower secondary education are also obliged to pay attention to the different cultural and religious worldviews in the Dutch society.

In both cases, it concerns education with a strong cognitive perspective (i.e. ‘teaching about religion’). The most important aim is to get pupils acquainted with current religious and ideological movements. In case of public state schools this education should have no preference in favour of one specific religion of worldview. Schools are free to choose how they organise the teaching of cultures and worldviews, for instance as a part of ‘history’ or as a part of ‘society and culture’. Several public schools for secondary educations offer subjects like ‘religion/

worldviews' and 'philosophy' as optional subjects. Students are free to choose one of those subjects, in addition to the compulsory core curriculum.

Since 1857 parents have the right of religious education or humanistic education on public primary schools. This is enshrined in article 50 and 51 of the Primary Education Act, which states that parents can request for education in their chosen religion or belief. Thus, parents whose children visit a non-denominational (public) primary school, may still ask for extra lessons religious or worldview education in line with their own religion or convictions. Provided that a sufficient amount of parents want a specific kind of religious education, such education is delivered by churches and religious organisations. In practice Catholic, Protestant, Humanistic, Islamic, and Jewish religious education is delivered at public state schools, at the request of the parents. This kind of religious education is paid by local authorities (the municipality). The instruction itself is beyond the responsibility of the public school. Teachers delivering this religious education do have to meet some qualifications, as well as a certificate of good character. For more information: see <http://www.gvoenhvo.nl/wat-is-gvo-en-hvo.html> and: <http://www.ikoslandelijk.nl/Basis.htm>

Muslim parents use this legal opportunity only in exceptional cases. Some municipalities (like Rotterdam), however, subsidize religious education. School authorities retain the power to

choose which language courses are taught in, which has limited the development of Islamic religious instruction.

Private state funded schools, i.e. denominational schools, offer religious education in line with their denominational basis. In primary education 17 religious types (denominations) are distinguished: Catholic, Protestant, four varieties of more conservative Protestant, Anthroposophic (Steiner); Orthodox Jewish, Liberal Jewish, Platonic, Rosicrucian, Orthodox Muslim, Liberal Muslim, Orthodox Hindu, Liberal Hindu, evangelical, and Harnhutter.³ At the secondary level there are currently six religious varieties: Catholic, Protestant, two varieties of more conservative Protestant, Muslim and Orthodox Jewish.

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**

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:

As stated above, denominational schools in the Netherlands are fully public funded (see also the appendix). At primary and secondary level two thirds of the schools are privately run. In 2009 there were 6.882 primary schools in the Netherlands; 32% of these are public schools; 30% are Catholic schools and 26% are Protestant schools. For more detailed information, see: <http://www.stamos.nl/index.bms?verb=showitem&item=3.24.3>

Further on, there were 657 secondary schools in 2009. 30,8% of these are Protestant schools; 20,9% are Reformed schools (more orthodox Protestant) and 28% are so called 'Collaboration schools' (Samenwerkingsschool). This is an integrated co-operative providing for public (neutral) education and private denominational education within one and the same school.⁴ 1,3% of all secondary schools is Catholic and only 0,2% are public schools. For more detailed information, see: <http://www.stamos.nl/index.bms?verb=showitem&item=5.24.3>

The amount of private, non-state funded schools in the Netherlands (whether denominational or not) is very small, international schools excluded. Only 0.04 % of all pupils in primary and secondary education visit a private, non-state funded school. Based on information of the Dutch Educational Inspectorate, in 2010 there are about 20 private schools for primary education and about 12 private schools for secondary education.

For more information: see:

<http://www.onderwijsinspectie.nl/onderwijs/Particulier+onderwijs/B3-scholen>

The Dutch Constitution provides that independent schools will be funded by the same standards as public schools; this has been taken to mean that independent schools should be funded fully, provided that they provide a level of education corresponding to, but not identical with that in public schools.

Section 5 and 6 of Article 23 (see appendix) describe the regulations concerning quality standards for denominational schools. Section 6 states that any conditions attached to funding independent schools must respect in particular the freedom of private schools to choose their teaching aids (that is: educational materials), and to appoint teachers as they see fit.

As a consequence, state funded denominational schools in the Netherlands do not have to meet additional requirements. In this respect, formally speaking, the authorities do not control the content or way of teaching in denominational schools. It

would not be appropriate for government to include attitudinal or desired opinions among the required goals of schooling, even for public schools, which are required to respect each pupil religious or other convictions about life. Prescribing particular books or materials could lead in the same direction.⁵

However, denominational schools have to meet the same requirements as public state schools and the Constitution gives legislators the competence to impose quality standards in education. The government is responsible for the quality of education. In 1993, for instance, the Parliament established a series of national outcome standards, so-called ‘core goals’ (*kerndoelen*), for which schools are to be held accountable. And teachers in all state funded schools must have the necessary academic qualifications, as well as a certificate of good character. During the last decades, these requirements have been extended considerably. At the moment there is a large body of requirements (national outcome standards, aims and criteria) for state funded schools laid down in statutes and regulations.

We can conclude that in exchange for the full financial support that privately-run schools in the Netherlands receive, schools are restricted by many rules and requirements. It can also be concluded that there is a considerable tension between the responsibility of the government for educational quality on the one hand, and the freedom to organize teaching as the school wishes, on the other hand.

The Dutch Ministry of Education recognizes and finances 37 Islamic primary schools and one secondary school in Rotterdam, established in August 2000. The majority of the day in these schools must offer courses that follow the national curriculum, and a few hours per week may be allotted to religious lessons and ceremonies. In the beginning of 2007, all Dutch Islamic primary schools were provided with an official Islamic teaching curriculum for pupils ages 4 through.

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.

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?

Answer:

While government must accept the sincerity of a parent’s choice for a particular religious or philosophical schooling, the

obligation does not extend to publicly-subsidized independent (denominational) schools. The board responsible for each independent school or group of schools has the authority to admit or deny admittance.

This right was upheld in the case of a Jewish school which, on religious grounds, refused admission of a pupil to the school. The Maimonides-judgment of the Supreme Court stated that article 23 of the Dutch Constitution guaranteed a freedom for school boards to preserve a distinctive religious or philosophical character (*vrijheid van richting*), taking into account article 6 Constitution and article 9 ECHR. Unless there are special circumstances -which was not the case here-the parents of a child must meet the institution's standards of religious nature "and are not eligible for admission, even if those parents (...) have a strong preference and even though the institution concerned is the only one providing the education concerned".⁶ The ruling of the Maimonides lyceum was affirmed in a case concerning the Hoornbeek College in Amersfoort, a Dutch-Reformed educational institution of secondary vocational education. The school board refused a 16-year-old pupil enrolment because the parents didn't subscribe the identity of the school, due to a divergent view on Christian lifestyle. The disagreement focused on the fact that there was a television and an open Internet connection in the family home, that the parents thought differently about co-determination in the school and the biblical distinction between man and woman (the sister wore pants). The refusal

of admission led to the case in which the Maimonides-judgment from 1988 was acknowledged.

The Court of Appeals in Amsterdam ruled that the policy was not consistent.⁷ The Court notes that other students were admitted in the past, while their parents also had another vision considering the identity of the school. The school stated in defense that it is not possible to start their own research into whether the questionnaire by the parents is filled in correctly and whether the parents during the admission interview are telling the truth, but the Court rejected this argument. In the first place, the parents in this case demonstrated that in the past pupils were allowed, in which cases the school knew that there was a different conception of the identity. Apart from that, the Court argued that it is required that denominational schools, based on religious grounds, have a consistent admission policy, which they consistently maintain, having regard to the great value that they claim to this policy.

The conclusions in the Hoornbeek judgement are far reaching. For example, the admission standards of religious nature extend apparently in principle also to the autonomous private living rules, for example by stating that girls should not wear pants and that families should not possess a television at home. Besides, it must be remembered that in the Hoornbeek-case there was no disagreement about the Reformed disposition of the parents. On the other hand, at the Maimonides-judgment the ques-

tion was whether the competent authority of the Orthodox Jewish school had the right to refuse a student because in the view of the school board his mother was not Jewish, although the father of the boy was a former pupil of the school.

Also relevant in this matter is the General Equal Treatment Act (GETA), with an exception clause for denominational education: article 7, second paragraph, GETA provides that institutions for denominational education are entitled to the admission and participation requirements, which for the purposes of the institution are necessary for the achievement of its base, where these requirements should not lead to discrimination on the grounds of the mere fact of political adherence, race, gender, nationality, sexual orientation or marital status. The equal treatment Commission adheres to a strict criterion (following the Maimonides ruling). Religious schools are required to have a very clear and consistent policy aimed at preserving the religious identity of the school, f.i. concerning the appointment of teachers. If not, the school board may not rely on the exception clause.

An example was a case on admission to a Catholic School of a pupil who had not been baptized. The Commission stated that the policy “may be deemed appropriate for the achievement of the base, but is not consistently implemented and maintained”. Neither the website nor the school guide mentioned the fact that only baptised pupils were admitted. Although the school argued that they had followed a strengthened policy in recent

years, there was no practical evidence of this claim. Moreover, because teachers did not have to meet the explicit requirement of being Catholic, and because it was not required that the Members of the Board were in majority Roman Catholic themselves, the Equal Treatment Commission concluded that there was a violation of the Equal Treatment Act.

Limitation of the number of pupils in order to support the specificity the distinctive identity of the school

Schools are free to limit the admission of pupils, but only when certain, restricted criteria are met. In a case that met the Equal Treatment Commission, the Commission considered it generally legitimate for a school to take restrictive measures to confirm its basis as this is reflected in the policies of the school and the consistent implementation.⁸ In sum: schools have the right to refuse pupils, when they have clear rules and do apply these rules consistently. In a particular case, a Catholic secondary school favoured pupils from Catholic and Protestant elementary schools. The Commission considered that in respect of its basis, the board did not follow a very clear and consistent policy. Besides, it was argued that in daily practice the school paid little specific attention to its religious identity. The Commission noted that the admission policy of the school was not consistent with its aims. This policy resulted in the fact that certain groups of Catholic pupils were not admitted, namely Catholic pupils coming from a public elementary school. Moreover, the admission

policy of the school was inconsistent, as non-Catholic pupils were also eligible for admission, in the case they came from a Catholic elementary school. As a result, Protestant pupils were given priority. The commission did not understand how the Catholic denomination of the school could be preserved, by favouring Protestant pupils from Protestant primary schools, over Catholic children from public elementary schools. The Commission “considers that the defendant can also choose another selection criterion rather than the signature of the elementary school where a pupil originated”.

Sometimes the law explicitly states that selection on denominational grounds is not permitted. If within a certain distance no opportunity exists to follow for public education (i.e. a ‘regional monopoly’), admission to the (denominational) school cannot be refused on the basis of religious affiliation or belief, according to for instance article 58 of the Primary Education Act.

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?

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

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?

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

Answer:

Because of the variation of denominational schools in the Netherlands (Catholic, Protestant, Reformed, Muslim, etc.), there is no necessity to offer parents in denominational schools a possibility for specific religious education, different from the one the school is based on. Denominational schools in the Netherlands offer religious education or religious instruction which is in line

with their denominational basis. In case of 'Collaboration schools', two options are offered, e.g. Catholic or Protestant religious education and a more general ethical education, e.g. from a humanistic perspective.

Catholic and Protestants school boards are free to make their own admission policy. Many Catholic and Protestant schools have an open admission policy: they don't ask parents to endorse the Catholic or Protestant faith nor to subscribe the religious identity of the school. As a consequence, many Catholic and Protestant schools have numerous Islamic pupils, especially in urban areas. As far as is known, these schools do not offer Islamic religious education. In practice, religious education of these schools frequently has a broad character, but the schools do not provide specific religious education for religious minorities.

The only exception is – as far as we know- the Free University in Amsterdam. When it was founded in 1880, it had close links with the Dutch Reformed Church. Since then the University developed as an open, liberal Christian (Oecumenical) institution. Today, students and staff of all faiths and religious traditions are welcome. Driven by respect for one another's convictions and standpoints, the university offers students a range of religious facilities and services. These include the Student Chaplaincy, a meditation room and an Islamic prayer room. The faculty of Theology also offers master's courses in Islam.

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:

There is no guideline. In a document delivered by the Dutch Bishops Conference, titled *Animated and Confident, a policy memorandum with a view to a new dynamism and a shared vision of Catholic education* (2002)⁹, are some statements about

how Catholic schools should deal with pupils with other religious beliefs (but there is no explicit reference to Islam or Islamic pupils). According to the document, it should be avoided that the catholic identity is imposed upon these pupils of other faiths. On the other hand, the Catholic identity should not be covered, because of (large numbers of) these pupils in the Catholic school. Religious instruction should not be ‘a melting pot’, in which differences between religions are ‘neutralized’. Inter religious celebrations should be restrained, according to the document. Apart from the Free University (mentioned above), there are no examples known of teaching Islam in denominational (non-Islamic) schools.

VI. Religious symbols in public schools

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

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

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

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

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?

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

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?

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

Answer:

Religious symbols

Article 23, section 3 of the Dutch constitution states that public education shall be regulated by law, paying due respect to each person’s religion or belief (see appendix). Article 46 of the Dutch Primary Education Act, as an elaboration, states that “Public education contributes to the development of the pupils with attention for the religious, philosophical and social values which are present in the Dutch society and in recognition of the

importance of the diversity of those values”, and second: public schools are open to all children without discrimination of religion or belief. Third: public education is given with respect for everyone's religion or belief.

It is forbidden for teachers of public schools to convert pupils or trying to do so. Teachers in public schools can, in the name of the neutrality of public education, be required to refrain from starting class with a prayer. There are no specific rules on religious symbols. In a case that was brought before the Equal Treatment Commission (case 2000-51), two Islamic students of a public secondary school requested a classroom for prayer during breaks. The school board refused. The Commission argued that the provision of education in general also includes the use of premises for educational activities and related activities for and by the students. The law prohibits discrimination on the grounds of religious expressions, such as praying. The Commission believes that the neutral character of a public school does not imply that the law on equal treatment is violated. The deprivation of opportunities or space for prayer may be a case of direct discrimination. But the Commission also argued that neither the text nor the parliamentary history of the General Equal Treatment Law or any other law puts a *positive* obligation on the school board of a public school to provide a room for prayer. The governing board, also of a public school, has the pedagogi-

cal and organizational freedom to run the school in their own way, and therefore, to provide a room for prayer or not.

Wearing headscarves

The General Equal Treatment Act prohibits both direct and indirect discrimination. *Direct* discrimination is prohibited, unless the Act itself makes an exception. Indirect discrimination is permitted only if there are good reasons (an 'objective justification') for such discrimination. If a school refuses admission to students or refuses appointment to teachers, because of the religion of these persons, this is a case of direct discrimination. Denominational schools have the right to impose requirements which, having regard to the establishment's aim, are necessary for the fulfilment of its principles (Section 7, subsection 2 of the Equal Treatment Act). This means that denominational schools may prohibit expressions in clothing of students or teachers, f.i. headscarves and niqaabs, that are viewed as incompatible with the school's religious principles.

The exception made for denominational education does not apply to public non-denominational schools. This means that public non-denominational (public) schools may not require that teachers and students do not wear headscarves. However, these schools are free to ask for an attitude of neutrality of the teachers in line with the public nature of these schools. If a

teacher wears a headscarf this does not necessarily mean, however, that she is unable to teach in a manner that is in accordance with the public nature of the school (opinion 1999-18).

Indirect discrimination is at stake when the school does not admit students or does not appoint teachers, because of an apparently neutral rule, but which actually mainly affects the adherents of one specific religion.

The law imposes stringent conditions on the objective justification which makes indirect discrimination permissible. First of all the aim of the rule must be sufficiently important and non-discriminatory. Secondly, such a rule must be appropriate and necessary to achieve that aim. This means that the rule will actually serve to achieve the aim and that the rule in question must be reasonably proportionate to the aim. Moreover, it must be clear that the aim cannot be achieved with another rule, which is less injurious to the affected group. This means that the school must prove that it is impossible to make another rule which does harm adherents of one specific religion. Only when all these conditions have been satisfied, an objective justification can be said to exist.

Recently, much attention has been paid to schools prohibiting their pupils from wearing veils covering the entire face - known as niqaabs - or headscarves.¹⁰ The school board may formulate a dress code, but must be aware that some clothing regulations may harm/ disadvantage adherents of a specific religion.

Prohibiting niqaabs, headscarves and other headgear worn for religious reasons (such as a turban) may be at odds with equal treatment legislation, because such a prohibition results in discrimination on the grounds of religion. Unlike wearing a baseball cap or a balaclava, wearing a headscarf, turban or niqaab is a manifestation of religion and a prohibition will in particular affect the adherents of the religion in question. This means that in such cases there is indirect discrimination on the grounds of religion (Section 1, subsection c of the Equal Treatment Act). This is not affected by the fact that not all adherents of the religion consider this manifestation as an obligation. Because the courts and the Equal Treatment Commission (so the Supreme Court has ruled) may not review differences of opinion on theological doctrines, they will only examine whether a manifestation *may* constitute a manifestation of religion. In principle, therefore, it is not permitted to prohibit headscarves and niqaabs. There are some exceptions to this general rule.

A school board is allowed to make requirements on clothing. Dress codes and codes of conduct are even quite ordinary. But if those rules restrict religious expressions, they are only allowed if there are serious interests at stake. It is, for example, in cases where the rights and freedoms of others are at stake. In cases where by the way they wear their clothes pupils hamper the learning process, the school may lay down restrictions.

In education (non-verbal) communication plays a major role. Pupils and teachers must be able to talk with each other and see each others facial expressions. That is why fully face covering accessories, such as a chador or a burqa can be prohibited by the school. Safety in schools can benefit from certain clothing requirements. Schools may continue to draw up, for example, pupils dress codes in order to be able to identify students or fraud in examinations and examinations.

The Equal Treatment Commission has examined clothing regulations by these criteria more than once. Recently, it discussed a case in which a school prohibited students to wear a niqaab.

The reason for the ban the school put forward was that a niqaab was an obstacle to good communication. Another reason was that students wearing a niqaab could not be identified. As a consequence, unauthorized persons could enter the school building. The Commission concluded that in this case discrimination was justified (opinion 2003-40). In another case, however, the Commission held that the school had insufficient arguments to substantiate its allegation that wearing a niqaab caused a problem (opinion 2000-63). These opinions are available on the web site (www.cgb.nl).

In a case of the Equal Treatment Commission on admission to a Catholic school, there was a ban for students to wear clothing, which could be associated with non-Catholic or non-Christian religious beliefs, such as a headscarf. This ban was

included in the school guide in the school rules, and pupils had received a copy. The Equal Treatment Commission concludes the dress code was necessary to maintain the specific religious identity of the school) and was also founded on a consistent, statutory policy.

In 2005, the issue on burqas surfaced when Parliament adopted a resolution urging the Government to ban the public wearing of face coverings. However, the integration minister stated that a comprehensive ban was not possible under the law—instead, he said that the ban may be permissible in case-specific scenarios such as in public schools¹¹.

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:

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

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

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

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

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

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

Answer:

There are Koranic schools active in the Netherlands, mainly in the (larger) cities. There is however no systematic research into Koranic schools in the Netherlands. We think this is partly due to the not so well-cut definition of a Koranic school. Recently, an attempt to investigate on behalf of the government, got stuck because the mosques refused to cooperate.

A research report from 2004¹² indicates that a large majority of Turks and Moroccans are in favour of Islamic teaching in Koranic schools. The report states that 'the actual range of children visiting religious [Koranic] schools was estimated from 20% to 25% of all Turkish and Moroccan children'. Research

from 2008¹³ in Rotterdam indicates that the pedagogical quality of education provided in mosques is not adequate. There is for instance no connection between education provided in regular (state funded) schools and religious instruction in mosques. The Inspectorate has no jurisdiction concerning the quality of religious instruction. There might be a criminal investigation if religious instruction is violating the law (that is: inciting hatred).

The debate around religious instruction in mosques is characterized by suspicion and incidents. Youth Health Care of the Health Service in The Hague (YHC) for instance began early 2009 a systematic inquiry of signs of child abuse during Koran lessons.¹⁴ The reason for this was the striking number of signals of such abuse in late 2008 during regular targeted prevention research. The municipality used two tracks to stop the abuse: first by actions aimed at individual children and families, secondly by urging governing boards of the mosques to stop the abuse. For some parents, this led to action, such as switching to another mosque or raising questions about the behaviour of the teacher. The municipality has however noted that despite the calls and promised measures, still signals are coming from different districts. Following the investigation of the Director of the Public Health Service, the Public Prosecutor conducted a criminal investigation (with no results, so far).

Recently, there are indications¹⁵ that providing religious Islamic instruction in public schools is not a success; parents still prefer

religious instruction provided by the mosques, although the discussion concerning abuse of children and a possible ‘breeding ground’ for radicalization is still present.

VIII. Additional comments

XI. Bibliography

European Commission (Eurydice). *Organisation of the education system in the Netherlands 2008/09*. Downloaded from: http://eacea.ec.europa.eu/education/eurydice/documents/eurybase/eurybase_full_reports/NL_EN.pdf

Glenn, Ch. and J. de Groof (2002). *Finding the Right Balance. Freedom, Autonomy and Accountability in Education*. Utrecht: LEMMA publishers (the Netherlands).

Huisman, P.W.A (2010). ‘Van wie is de onderwijsvrijheid? Een grensverkenning in een tijd van botsende (grond)rechten’, *Tijdschrift voor onderwijsrecht en onderwijsbeleid (T.O.R.B)*, mei-juni 2010, p. 401-424.

Mentink, D. (1995). *Artikel 23 van de grondwet: de vrijheid van richting en de dragers van de vrijheid van onderwijs. Onderwijs-juridisch preadvies in opdracht van de Onderwijsraad*, The Hague (the Netherlands).

Palet, K, Ter Wal, J. (2004). *Moslim in Nederland. Een onderzoek naar de religieuze betrokkenheid van Turken en Marokkanen*. Sociaal Cultureel Planbureau, The Hague (the Netherlands)

Pels, T, Gruijter, de, M, Lahri, F. (2008). *Jongeren en hun Islam. Jongeren over hun ondersteuning als moslim in Nederland*. Verwey Jonker instituut, Utrecht (the Netherlands).

Postma, A. (1994). ‘The Principle of Subsidiarity in Dutch Educational Law’. In: J. De Groof (ed.) *Subsidiarity and Education Aspects of Comparative Educational Law*. Acco: Leuven (Belgium).

Vermeulen, B. P. (1998). ‘Country report: Recent developments in Dutch legislation and case law on education’. In: *European Journal for Education Law and Policy 2*, Kluwer Law International. (pp 155157).

Appendix: Article 23 of the Dutch Constitution, ‘Freedom of Education’

Freedom of education, included in the 23rd article of the Dutch Constitution, has been a basic civic right in the Netherlands for one and a half century now. This freedom allows denominational organisations to found schools based on their own system of beliefs. Private schools that satisfy the conditions laid

down by law are financed from public funds according to the same standards as public-authority schools.

Article 23 of the Constitution (last amended in 2002) provides that:

Section 1: “Education shall be the constant concern of the Government.

Section 2: All persons shall be free to provide education, without prejudice to the authorities’ right of supervision and, with regard to legally-designated forms of education, its right to examine the competence and moral integrity of teachers, to be regulated by law.

Section 3: Education provided by public subsidies shall be regulated by law, paying due respect to each person’s religion or belief.

Section 4. The authorities shall ensure that primary education is provided in a sufficient number of public schools in every municipality. Deviations from this provision may be permitted under rules to be established by law on condition that there is opportunity to receive the said form of education.

Section 5. The standards required of schools financed either in part or in full from public funds shall be regulated by law, with due regard, in the case of private schools, to the freedom to provide education according to religious or other belief.

Section 6. The requirements for primary education shall be such that the standards both of private schools fully financed from public funds and of public-authority schools are fully guaranteed. The relevant provisions shall respect in particular the freedom of private schools to choose their teaching aids and to appoint teachers as they see fit.

Section 7. Private primary schools that satisfy the conditions laid down by law shall be financed from public funds according to the same standards as public-authority schools. The conditions under which private secondary education and pre-university education shall receive contributions from public funds shall be laid down by law.

Section 8. The Government shall submit annual reports on the state of education to Parliament”

Endnotes

1. Dr., Dutch Education Council, the Netherlands
2. Professor, Erasmus School of Law, senior lecturer The Hague University of applied sciences , the Netherlands.
3. Postma, Andries (1995), The Principle of Subsidiarity in Dutch Educational Law’. In: J. De Groof (ed.) Subsidiarity and Education Aspects of Comparative Educational Law. Acco: Leuven (Belgium), p. 128.

-
4. Vermeulen , B.P. (1998), Country report: Recent developments in Dutch legislation and case law on education'. In: European Journal for Education Law and Policy 2, Kluwer Law International 155-57.
 5. Postma, A. (1995), ib id, p. 136.
 6. Maimonides case Dutch High Court, 22 jan. 1988, administratieve rechtelijke beslissingen, 1988, 96.
 7. Court of Appeals Amsterdam 25 juli 2007, NJCM-Bulletin 2008, nr. 4, p. 498-506.
 8. Decision 2003-134.
 9. http://www.katholiek nederland.nl/documents/kn_698427_bezielde%20en%20zelfbewust.pdf
 10. The next paragraphs are derived from the Commission on Equal Treatment, www.cgb.nl
 11. A bill on face covering clothing in education is still to be submitted.
 12. Palet, K, Ter Wal, J. (2004). Moslim in Nederland. Een onderzoek naar de religieuze betrokkenheid van Turken en Marokkanen. Sociaal Cultureel Planbureau, The Hague (the Netherlands).
 13. Pels, T, Gruijter, de, M, Lahri, F. (2008). Jongeren en hun Islam. Jongeren over hun ondersteuning als moslim in Nederland. Verwey Jonker instituut, Utrecht (the Netherlands), p.88.
 14. See Aanhangsel Handelingen II, 2009-2010. nr. 1232 (questions asked by members of parliament)
 15. http://www.eo.nl/programma/ditisdedag/2009-2010/page/Islamless_op_school_verliest_het_van_koranschool/articles/article.esp?article=12502412

The place of religion in education in Poland

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.

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

Answer:

In Polish state funded schools is organised according to the *Ordinance of the Minister of National Education on terms and*

forms of organizing religious instruction in public kindergartens and schools of 14th April 1992. In case of primary school (6/7–12-year-olds) and lower secondary schools (gymnasium; 13–16-year-olds) the classes are organised at parents or legal guardians' request, in case of post-primary and post-gymnasium education the request can be expressed by the parents (or legal guardians) or by the pupils themselves, after attaining majority (18 years of age). According to the Ordinance the request shall be submitted as a statement and does not have to be renewed in next years, though it can be changed (§1.2). Pupils can choose between religious instruction and ethics, but they are also free to abstain from any of the classes (§1.3); if needed school shall provide them with guidance (§3.3).

Poland is a homogenous country in terms of its ethnic and religious structure, with 90% Christians (including 88% Catholics)². This translates into the practice of religious offer. Catholic instruction is offered 'automatically' as the religion of the majority of the population. The classes are usually attended by the majority of pupils. Most of them participate in the class for religious reasons, but some might have no other option: there might be no teacher for ethics, or religious classes are organized in the middle of the timetable, so that the pupil would have a 45 minutes of free time between the classes, or participation in the class is a social norm one tends to obey. This might be the

case in small cities and villages, especially in Eastern and South-Eastern part of the country, traditionally more conservative and religious. While class attendance used to be very high reaching around 80–90% of all pupils, it started to decrease in mid-00s, when the generation of young Poles born after the transformation of 1989 reached post-gymnasium education. While pupils of primary schools and gymnasiums are still sent to Catholic religion class, after attaining majority they can decide on their own. However, abstaining from Catholic religion instruction by a whole class is still an exception, as such information reaches even national media³.

The choices among religious education have not been enumerated in the Ordinance, which only refers to ‘religion’ and ‘ethics’. If there are more than seven pupils of a particular denomination in a class, a separate religious instruction should be organized for them by the school; if there are more than seven pupils in the whole school – an inter-class religious education should be organized (§2.1). If there are less than seven pupils of a particular denomination in the whole school it shall organize – in collaboration with the respective religious community or Church – an intra-school religious education in so called religious education point, REP (*punkt katechetyczny*). The number of pupils in such class shall not be less than 3 (§2.2). These classes can take place at school after regular classes and the school shall provide the room free of charge to the religious communities or Churches.

The Ministry of Education does not collect the data on the type of religious offer provided at schools. The offer is shaped on the demand of pupils of respective denominations (if willing to apply for a class of their own).

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

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:

Churches and religious communities, if they acquired the status of a legal entity and have respective regulation in their statute, can run their own schools. This refers among others to the Catholic Church, which signed a Concordat of 28th July 1993 with the State of Poland (ratified on 23rd February 1998). According to §14.1 the Catholic Church has the right to establish and run educational institutions, including schools and kindergartens. However, they have to fulfil the educational standards in obligatory subjects (in other subjects they follow church regulations) and in terms of the teaching staff (§14.3). Their public character is defined by Polish law (§14.2). These schools are funded by the State of Poland or municipal governments (§14.4).

There are two types of schools in Poland – public and non-public. The latter have started to emerge from late 80s, after the transformation. *The Law on the education system of 7th September 1991* regulates the conditions which a non-public school has to fulfil in order to obtain the entitlements of a public school (i.e. issue school certificates recognized by the state), which are: fulfilling the curricula in scope and time not shorter than in the respective type of a public school, classification and promotion of pupils – as defined by the respective minister (except for the entrance exam), collect documents on the teaching process like in public schools, and employ teachers of obligatory courses, who have proper qualifications (§7.3). Since education is obligatory up to the 18 years of age, and not below the level

of gymnasium, in practice all primary schools and gymnasiums – regardless if public or non-public – have to fulfil the regulations of the Law of 7th September 1991. Their denominational character can only be reflected in their educational guidelines which might refer to a particular value system.

Most of denominational schools are Catholic, what reflects the dominant position of Catholic Church in the society. There are currently 539 Catholic schools with around 58 thousand pupils, all assembled in an umbrella organization Council of Catholic Schools (*Rada Szkół Katolickich*, a church organ established in 1994, see: <http://www.rsk.edu.pl>). They constitute only a small fraction of around 28.5 thousand schools in Poland (primary, up to secondary level)⁴. Other denominations run only a dozen or so of schools Poland-wide, e.g. the second biggest denominational group in Poland, the Orthodox community, established its first school only in 2007 (a non-public one in the city of Białystok); on the other hand the Evangelic education is quite well developed, comprising around 15 schools on all levels, mostly in southern Poland.

Around half of all denominational schools constitute private (non-public) schools. There are neither any Islamic public or private schools. There used to be at least two schools at embassies of Islamic countries (Iraq, Libya), which provided Islamic educations, but they are closed now, due to lack of pupils and funding. Islamic instruction is apparently offered to Turkish pu-

pils at Meridian International School (a non-public bilingual school with Turkish capital seated in Warsaw, with a branch in Łódź), however no mention about religious instruction as such, nor about Turkish language class is to be found on the school's website.

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.

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?

Answer:

As mentioned above (II) denominational schools have to follow the same rules as the state ones when it comes to learning outcomes, grading and enrolment; they only differ in the 'ethical added value'. Therefore they cannot refuse any pupil basing on his/her denomination. However, while being enrolled pupils of

other denominations are aware of this 'added value', reflected in the school approach (even if there is supposedly no compulsion to religious observance at school, as stated in one interview; however, another interviewee mentioned that at one Catholic school every class started with a prayer and that they were compulsory).

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?

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

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?

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

Answer:

Considering the marginal number of denominational schools in Poland and the marginal number of Muslims (around 35 thousand in a country of 38 million citizens, i.e. less than 0.1%) it would be hard to imagine a significant number of Muslim pupils entering a Catholic school. The whole Islamic education in Poland takes place outside the classrooms, in REPs. For that reason there has not yet been any debate in Poland on teaching other religions or convictions in denominational schools. The debate focuses rather on the place of Catholic religion in the educational system. The argument is whether religion should be taught at schools or outside the school system (which was the case before the transformation till 1990), and whether Catholic religion ought to maintain the dominant position (there are some voices raised that one has to declare unwillingness to participate in religious – i.e. Catholic – instruction, against regulation states in the Ordinance, which was mentioned in point I).

Another angle of the discussion is the decreasing ratio of pupils participating in religious education.

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:

As mentioned above the marginal number of Muslim pupils in Poland and small number of denominational schools in Poland makes it unnecessary to propose Islam in a Catholic (or any other denominational) school. Current efforts are rather focused on developing teaching materials for Islamic education carried out by the two Islamic religious communities with the status of legal entities, that is the Muslim Religious Union (MRU, *Muzułmański Związek Religijny*) and the Muslim League (ML, *Liga Muzułmańska*).

VI. Religious symbols in public schools

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

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

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

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

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?

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

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?

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

Answer:

A crucifix is allowed in schools according to the *Ordinance of the Minister of National Education on conditions and ways of organizing religion in public kindergartens and schools* of 14th April 1992 (§12). There might also be prayers said at the beginning and end of each class, at pupils collective wish. The Ordinance doesn't mention symbols of any other religion.

There are probably not more than two dozen or so teachers wearing Islamic headscarves in Poland, what has to do with the marginal number of Muslims in Poland and the fact that many of them tend to assimilate (i.e. women don't cover their hair). The majority of teachers wearing a headscarf are native Polish converts to Islam (most of the Tatars don't cover their hair ex-

cept for religious purposes, while the immigrants do not speak Polish fluent enough to work in Polish schools, and many of the second generation immigrants are assimilated and don't cover their hair). Teachers are allowed to wear the Islamic headscarf and there are no legal restrictions. However, the practice depends on individual situation. In several cases the teacher came to the interview wearing the headscarf, got the position and still could wear the headscarf. However, at least in one case the teacher had to remove the headscarf while entering the school building.

Pupils are also allowed to wear Islamic headscarves and some of them do so. The individual practice is also worked out by the school and the parents, e.g. in physical education, at swimming pool etc. No cases of bullying have been officially reported (what doesn't mean they don't exist), even though pupils wearing headscarves or looking ethnically different do stick out (see e.g. Grzymała-Moszczyńska and Trojanek 2011).

There are no universal regulations on dress code in public schools. The dress code might be regulated by school's statute (e.g. a school uniform), but this refers to non-public schools (if at all). In any case there are no regulations prohibiting the Islamic headscarf and it has never been a direct reason of exempting a teacher or a pupil. In the above-mentioned case of the teacher, who had to remove the headscarf, her work contract has not been renewed (despite of good teaching results as

she claimed) without mentioning the reason. There was also one case of a teacher wearing headscarf who wanted to run for elections for the school director but was told not to do so. In this case the scarf/Islam argument was used, but in an informal setting.

So far there have been no court cases in this matter, nor any other school problem related to Muslims. The community is too small and the adopted strategy – form what could be observed from the few interviews conducted on this purpose – is to adjust as much as possible and negotiate individually with school authorities. This refers predominantly to the converts and immigrants, comparing with the Tatars who have been living in Poland for over 600 years and grew into local communities.

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:

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

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

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

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

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

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

Answer:

Every religious community that enjoys the status of a legal church entity is entitled to teach religion. The community itself designs the teaching programme and provides its own teachers. The programme is forwarded to the Ministry of Education, but only for information, since the Ministry is not entitled to interfere in the teaching content.

There is at least one (but not much more) private Islamic religious institution that provides religious instruction – the Iqra Foun-

dation based in Warsaw. The foundation started its activity only recently. It combines Arabic classes with Islamic instruction and serves the youngest (around primary school age).

Most of the Islamic teaching (if not whole) takes place in REPs in several Polish cities. It is based either at schools or in local Islamic centres and carried out by two biggest religious communities with legal entitlement (MRU and ML). Since the number of REPs is limited, and the points serve also pupils from surrounding areas, cover all educational levels (from primary to secondary), and sometimes even organise parallel classes for the parents. Pupils who live far from the closest Islamic education point take part in the classes occasionally and study more on their own.

In at least one case Islamic education takes place in a private house, even though the class is subscribed to a religious educational centre in other city. According to one of the informants, the parents tried to establish a REP in their own city, but were refused by the respective department of education, even though they fulfilled the criteria of having over 7 pupils interested in such class. These pupils are subscribed to an existing religious education point in a city over 70 km away from the city in which they live. The parents had tried to drive their children to the religious instruction for around a year, but gave up and decided to set up the class on their own. It is the only known case of refusal to establish a REP.

MRU provides after school Islamic education in the cities of Białystok, Bydgoszcz, Gdańsk, Poznań and Warszawa (two communities – at the prayer house in Wiertnicza St. and Warszawa-Fatih community), and in the village of Bohoniki. The courses take place either on Saturdays or Sundays, usually 2 hours per week at local schools or in prayer houses. In some cases, as in Białystok and Bohoniki (where the largest Tatar community lives) there are also activity clubs and courses on Tatar history and culture. In Warszawa classes are attended by non-Tatar students, while in Warszawa-Fatih – by local Turkish community. In other places Tatar and other Muslim pupils are attending the class together. The ML runs currently five REPs in the cities of Lublin, Katowice, Poznań, Warszawa and Wrocław. In all cases except for Warszawa, education takes place in local Islamic centres; in Warszawa it is a primary school (Kopeć 2010).

The number of institutions providing Islamic after school education in Poland is probably around five, but only two (ML and MRU) run a network of REPs (five and seven respectively). The other are the Iqra Foundation and Meridian International School both seated in Warsaw.

The number of children is hard to estimate, since no institution collects data on the types and number of religions taught at schools or by private institutions. In fact, even both Islamic religious unions don't have any accurate data on the exact number

of pupils. These numbers are known only on the local level of a particular REP. From the data collected it seems that each religious education point has from around 15 up to 70 pupils⁵, i.e. around 400 pupils in the whole country. The number used to be far higher in the case of the Tatar population – e.g. in Białystok there used to be over 200 pupils in early 90s. After the general decline of population began the number of pupils shrank to around 50.

Both Muslim religious communities developed their own curricula only recently. In the case of the MRU it was in 2009. A group of Islamic religion teachers, an imam and an educator prepared a curriculum which was accepted by the Mufti of Poland and the Highest Council of the MRU (Nalborczyk 2011: 172). The ML also developed its own curricula (the main difference is the lack of focus on Tatars, since the League unites mostly immigrants and converts to Islam) and published a textbook.

A REP it is a joint initiative of a school and a legal church entity, in which the religion teacher is sent by the religious community, but employed by the school. Both MRU and the ML state that their teachers are university graduates (often in pedagogical studies) with religious knowledge. In order to secure the quality of education the ML provides their teachers with a (facultative) course. The teachers are appointed by the Highest Council of the MRU or the Board of Imams of the ML. Therefore the qual-

ity is maintained predominantly at the level of the religious community itself, but also partly on the school level – since it employs the teacher.

So far there has been no public debate on teaching Islamic instruction after the school hours or about Muslims pupils in the educational system. Most of the current debate on Islam can be qualified as ‘transplanted discourse’ (Górak-Sosnowska 2011) – i.e. referring predominantly to issues and events related to Muslims living in Western Europe and/or countries with Muslim majority.

VIII. Additional comments

This survey provides rather an insight into theory than diagnoses the reality. With around 35 thousand Muslims constituting less than 0.1% of the total population there are not many Muslim pupils entering the educational system. Moreover, out of the 35 thousand 3–5 thousand are Tatars (assimilated, perceived as autochthonous population) and around 5 thousand – Chechens (who fit into the category of ‘refugee’). This means that the number of cases involving interaction between Muslim pupils and non-Muslim school environment is limited and the legal framework not fully explored and tested in practice yet.

There is hardly any written information on contemporary Islamic instruction in Polish schools (except for Nalborczyk 2011). That is why a significant source of information were interviews carried out by phone or e-mail with representatives of the Ministry of Education, Catholic Schools Council and two Islamic religious communities which – as legal church entities – have the right to conduct religious education in Polish schools. They are:

Iwona Abi Issa, plenipotentiary for education of the Muslim League, 12.12.2011 (phone).

Musa Czachorowski, spokesman of the Muslim Religious Union, 7.12.2011 (e-mail).

Jolanta Kopacz, head of the Women and Children Department of the Muslim League, 8.12.2011 (phone).

Grażyna Płoszańska, Department of General Education, Ministry of National Education, 8.12.2011 (phone).

Dagmara Sulkiewicz, Islamic religion teacher, Muslim Religious Union, 14.12.2011 (e-mail).

Halina Szahidewicz, head of the Islamic community of Białystok, Muslim Religious Union, 8.12.2011 (phone).

Sister Maksymiliana Wojnar, secretary of the management board of the Catholic Schools Council, 8.12.2011 (phone).

Since the interviews have not been recorded (just noted down) or authorized, none of the interviewees is mentioned in the main text, or directly quoted. As additional source an online Internet forum for Muslims on Facebook was used.

XI. Bibliography

Legal documents:

The Constitution of the Republic of Poland of 2nd April 1997.

The Law on the education system of 7th September 1991.

The Ordinance of the Minister of National Education on conditions and ways of organizing religion in public kindergartens and schools of 14th April 1992.

Other references:

Concise Statistical Yearbook of Poland (2011). Warsaw: Central Statistical Office.

Górak-Sosnowska, K. (2011). 'Muslims in Europe: different communities, one discourse? Adding the Central and Eastern European perspective'. In: *Muslims in Poland and Eastern Europe. Widening the European Discourse on Islam*. K. Górak-Sosnowska (ed.). Warsaw: University of Warsaw.

Grzymała-Moszczyńska, H. and Trojanek, M. (2011). 'Image of the world and themselves built by young Chechens living in Polish refugee centers. Intercultural conflict'. In: *Muslims in Poland and Eastern Europe. Widening the European Discourse on Islam*. K. Górak-Sosnowska (ed.). Warsaw: University of Warsaw.

Hodak, M. (2008, September 18th). Dzieci coraz częściej rezygnują z religii. "Polska", <http://www.polskatimes.pl/stronaglowna/46048,dzieci-coraz-czesciej-rezygnuja-z-lekcji-religii,2,id,t,sa.html>.

Kopeć, J. (2010, March 13th). "As Salam Alejkum" – zajęcia z religii muzułmańskiej, "Gazeta", 13.03.2010, http://warszawa.gazeta.pl/warszawa/1,34875,8367303,_As_Salam_Alejkum____zajecia_z_religii_muzulmanskiej.html.

Nalborczyk, A.S. (2011). 'Islamic religious education in Poland – curricula and textbooks'. In: *Islamic textbooks and curricula in Europe*, E. Aslan (ed.), Frankfurt: Peter Lang, 181–196.

Endnotes

1. Department of Economic Sociology, Warsaw School of Economics, and Department of Arabic and Islamic Studies, University of Warsaw
2. Own calculation basing on the Concise Statistical Yearbook of Poland (2011: 133).

-
3. One of the early examples was a first grade class of a post-gymnasium school in the city of Łódź, which collectively chose ethics, see Hodak (2008).
 4. Own calculation basing on the Concise Statistical Yearbook of Poland (2011: 234).
 5. For Muslim League: 70 in Warsaw and 30–40 in the four Islamic centres; for Muslim Religious Union: 30 in Bohoniki, 50 in Białystok, 15 in Bydgoszcz, 15 in Gdańsk, and 20+10 in Warsaw.

The place of religion in education in Romania

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.

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 con-

tested 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 [*culțe*] 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” 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 *culte* 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.

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 (*asociații religioase*), which under the Religious Freedom Law are defined as an intermediary category between acknowledged denominations (*culțe*) and religious groups (*grupuri religioase*) and must comply with specific terms such as a minimum of 300 mem-

bers, 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 *culțe*. 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. Furthermore, there are pri-

vate 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 com-

ing 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 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 stu-

dents. 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 Minis-

try 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 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 (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”.

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 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 sym-

bols 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 relig-

ious 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.

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 catechetic, 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 crea-

tionist 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 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 stu-

dents 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.

XI. Bibliography

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.

Andreescu, L. (2008), 'Romania's New Law on Religious Freedom and Religious Denominations', *Religion, State & Society*, 36.2, pp. 139–161.

Enache, Smaranda et al. (2007), *Educatia religioasa in scolile publice (Religious Education in Public Schools)*, Targu-Mures, Pro Europa.

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.

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.

Vlasceanu, Lazar et al. (2010), *Stiinta si societate: Interese si perceptii ale publicului privind cercetarea stiintifica si rezultatele cercetarii. Raport de cercetare (Science and society: Public interest in and perception of scientific research and findings. Research report)*, Bucharest.

Endnotes

1. Associate Professor, Spiru Haret University, Bucharest, Romania.
2. Author's translation. I have done my best to remain true to the original wording.
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.
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.
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.
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/>.
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 Turc-

escu, 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."
15. Enache et al., op. cit.
16. Stan and Turcescu, op. cit., p. 395.
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.
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.
19. Vlasceanu, Lazar et al. (2010), *Stiinta si societate: Interese si perceptii ale publicului privind cercetarea stiintifica si rezultatele cercetarii. 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.

PhDr. Daniela Drobna, PhD

The place of religion in education in Slovakia

Affiliation: Faculty of Political Sciences and International Relations, University of Matej Bel in Banská Bystrica

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.

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

Answer:

Despite the fact that religion was not accepted in state doctrine of the socialist regime before 1989, there was the Church department at the Ministry of Culture of the Slovak Socialist Republic which dealt with church matters at the national level, it

controlled way of religion services and paid operation costs as well as salaries of registered churches. The religion education was not a part of curricula at primary and secondary, neither tertiary education institutions during socialist regime.

Situation in Slovakia in terms of religion and free expression of belief has been changed after the 'Velvet revolution', the fall of iron curtain and totalitarian regimes in all countries of Central and Eastern Europe.

From 1989 there were evident various problems depending on the particular sectors in the state. In the beginning of nineties there was very important for the educational sector to establish new- more democratic institutions, to set up new pedagogical objective and trajectories, to start with the reform process in educational area, changes in curricula, in the methodology of teaching and learning, initial and in-service training of teachers and open the opportunities to give chance to children and their parents to decide on religion instruction being potentially placed directly at school.

Slovak constitution (1992)¹ and the following legislation i.e. the Concord with the Vatican, signed in 2003 and the Agreement of all registered churches with the state, signed in 2004 – creates a legal basis for the cooperation between the state and churches in the provision of Religious Education. The churches have the right to educate the whole range of generations via

a) church education in church parishes;

- b) establishing their own schools;*
- c) teaching religious education to all children that are registered for this subject by their parents, in public schools;*
- d) influencing young generation via leisure/out of school activities.*

In the Article 24 of the Slovak Constitution there is expressed that freedom of thought, conscience, religion and belief shall be guaranteed. This right shall include the right to change religion or belief and the right to refrain from a religious affiliation. Everyone shall have the right to express his or her mind publicly. In general it means that everyone has the right to manifest freely his or her religion or belief either alone or in association with others, privately or publicly, in worship, religious acts, maintaining ceremonies or to participate in teaching.. Churches and ecclesiastical communities shall administer their own affairs themselves; in particular, they shall establish their bodies, appoint clericals, provide for theological education and establish religious orders and other clerical institutions independent from the state authorities. In the Constitution there is also mentioned that exercise of rights may be restricted, but only by a law, if it is regarding a measure necessary in a democratic society for the protection of public order, health and morals or for the protection of the rights and freedoms of others.

Nowadays the practice in Slovakia is that there are two parallel alternatives for all children in public schools: Religion Education (further on RE) and Ethical Education (further on Ethics). At the level of lower secondary education (age 10 - 15) and the first

two years of the upper secondary education level (age 15 - 17) the choice of the families between these two alternative subjects for their children has been compulsory. At the beginning both RE and Ethics were electives in the early primary years (age 6-10) and the last years at the secondary school (age 17 - 19). According to the School Act from 2004 the compulsory choice between RE and Ethics applies already to the primary level (age 6-10). In the last two school years at the secondary level RE lessons are still voluntary. Until 2008 the number of RE lessons used to be one lesson per week. Since 2008 when the new school reform started to take place the state education programme guarantees only one lesson once in two weeks. More lessons can be added according to the particular school educational programme which reflects more freedom for any given school. Each school can decide in close cooperation with wider community, parents, teachers, representatives of local employer organisations, public authorities and other stakeholders on more flexible educational programme of a specific school.

*Religious education (RE) in Slovakia has always been confessional. It has been focused primarily on teaching into a specific religious confession. It has always resembled the way of teaching religious education in church schools and even the church catechesis in parishes. For years the Slovak curricula of religious education have been aiming to develop children's involvement in a certain, just Christian denomination – nowadays they can practically choose from **Roman Catholic, Greek Catholic, Lutheran, Orthodox or Reformed religious education**. But also there are very rare exceptions (in cities) when the school*

decided to fulfil children's spiritual needs by a wider and more general approach to religion. Anyway, the children in Slovak schools are expected to learn their faith not only cognitively, but mainly "from inside". The partial aims are to develop children's inner religiosity, their personal relation to God through Jesus Christ, not only on cognitive but as well non-cognitive dimension of acquiring Christian faith, on the experiential learning about God and the Bible, on the positive concept of truth, etc. This approach requires the implementation of a wide range of adequate cognitive, affective and expressive teaching methods. The teachers, though paid from the state budget, should be members of a certain denomination. The evidence of it is a canonical commission from their own church who they represent.

*From 2009 there are available syllaby and national standards for **Roman Catholic, Greek Catholic, Lutheran, Orthodox or Reformed religious education** which have been prepared by expert teams and these documents serve as the pedagogical tools for teaching and learning religion at all leveles of primary and secondary education.² In the educational area "Man and value" we can find except above mentioned four curches also Ethics. Parents and their children are allowed to choose either Ethics or one of the churches as the specific subjec related to values which might be the part of the competences of human being in the nowadays societies*

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

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:

Education and training at clerical and private schools and school facilities that may be established by the churches or religious communities recognized by the state, or by another legal entity or natural person: Education obtained in these schools is equivalent to the education provided at other schools and tuition can be charged. The goal of clerical and private schools is to provide, in addition to quality education and training, alternative content, methods, and formats in education and training.

The financing of regional education is established on normative principles, with the goals of :

- introducing a normative system of financing per student,
- changing the centralized system of financing to a two-level decentralized system,
- motivating founders to more effectively use existing capacities and financial sources,
- introducing multi-source financing of regional education,
- supporting equality of all school founders.

Budget chapters of the Ministry of Education of the Slovak Republic finance apply to:

- all schools regardless of their founder,
- school facilities within the foundation scope of the Regional Education Office

Since January 1, 2005, the school facilities within the foundation scope of municipalities and VÚC are financed via share taxes in terms of the Act No. 564/2004 Coll. and regulation of the government No. 668/2004 Coll. and since January 1, 2007, the school facilities within the foundation scope of clerical and private founders financed via share taxes in terms of the Act No. 596/2003 Coll. As amended³.

Public authorities can control the teaching in state funded denominational schools especially regarding the quality of teaching process, progression of pupils and other issues determined by the law in state-funded denominational schools. The main body responsible for this is State school inspection State School Inspection in the Slovak Republic has been set by law on the 1st January 2000.

The State School Inspection (further on SSI) is independent in its work and acts in accordance with laws and other valid legal norms, acts and decrees, especially Act No 596/2003 . The school inspectorate supervises and observes the quality of education and it is responsible for evaluating the quality of school management, the teaching and learning process, the material and technical conditions including practical training in schools and other educational facilities.

SSI registrated headquarters are situated in Bratislava and 8 regional SSI centres which are the executive branches of the State School Inspection in the Slovak Republic. SSI and its

branches are financed from the budget of the Ministry of Education.

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.

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?

Answer:

Criteria for admission of pupils are approved by the school founder, founder also determines number of pupils who will be admitted.. Denominational schools are regulated by the legislation of specific church (church acts and decrees) as well as by public educational legislation. According to the Act on state administration in education and school autonomy and the Act on financing schools from 2003⁴ the co-governing body is also school governing board which can be established also at the denominational school and can contribute to the methodology of school admission - criteria and number of pupils for the schooling. The second act and its amendment is very closely related to the methodology of financing the denominational schools from public sources .In fact in Slovakia there is no sepa-

ration of state and church and some disparities between financing of public and private/denominational schools are deepened.

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?

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

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?

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

Answer:

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:

In Slovakia there are either general, or even specific guidelines for teaching of Islam in denominational or public schools. Community of Muslims is however small in Slovakia. Those living in Slovakia established Islamic foundation in Slovakia. They act as a confessional organization of Muslims and provide space to all Muslim people in the country including converted Slovak citizens. The foundation is financed from its own sources. Main activities of Islamic foundation in Slovakia are related to the religion: it organizes worships, increases knowledge about Muslim community in Slovakia, informs about Islam, and alike. The foundation operates its own internet web page, organizes cultural activities, works with the Slovak media, helps applicants for asylum from Muslim countries, and cooperates with the initiative People against racism.

Muslims in general do not have in Slovakia enough space for practising of their religion education and services. They do not have a mosque in the whole country, only in Bratislava (the capital of the Slovak Republic) are some rooms to the disposal in the building which serves to other occasions.

Islam is not registered church in Slovakia. According to existing national legislation only in case of at least 20000 members of the given church there is possible to achieve approval for building up own temple. As in Slovakia lives approximately (according to unofficial information) 7000 Muslims, they do not have their own temple. At present there is initiative to decrease a number of believers up to 10000.

VI. Religious symbols in public schools

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

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

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

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

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?

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

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?

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

Answer:

No religion symbols are used in public schools. The same is valid regarding demonstration/manifestation of faith, presentation of belonging to any kind of belief, religion by using special wearing. Teachers are considered as representatives of public authorities and they are obliged to promote understanding of diversity and value for it.

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

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

Answer:

Muslim community can organise its own Islamic teaching in leisure of children in after school hours. They are not monitored by any public authority because of freedom of expression religion.

We do not have official data on the number of children who take part in such events

VIII. Additional comments

XI. Bibliography

DROBNÁ, D. (2005) Author of the report in charge of Slovakia in: *EURYDICE Comparative study Citizenship education at school in Europe*. EURYDICE 2005. Brussels. ISBN 92-894-9467-0

HANESOVÁ, D. (2001) *Náboženská výchova v školách (Religious Education in Schools)*. Banská Bystrica : PF UMB. 200 s. ISBN 80-8055-494-3.

HANESOVÁ, D. (2005) *Náboženská výchova v školách*. 2nd revised edition. Banská Bystrica : PF UMB, 2005. 212 s. ISBN 80-8033-121-1.

HANESOVÁ, D. (2008). Slovak Churches and Education after Collapse of Communism. In *Dynamizing Evangelical Witness in Post-Communist Era*. Praha : ECM, 2008, s. 15-34. ISBN 978-80-73656-019-5.

HANESOVÁ, D. (2008). The Educational Role of Church-maintained Education in Slovakia after 1989. In

PUSZTAI, G. (ed.) *Education and Church in Central- and Eastern-Europe at First Glance : Region and education III (Régió és Oktatás III)*. Debrecen : University of Debrecen, CHERD, 2008, s. 54-71. ISBN 978-96-3473-102-3.

JURAN, J.: *Religion in Slovakia*. (2001).
<http://www.slovakia.culturalprofiles.net/?id=-6841>

<http://www.eureca-online.org/en/news/index.html> European Educators' Christian Association

<http://www.islamweb.sk/stranky/start.html>

<http://www.facebook.com/IslamOnline.sk>

<http://www.minedu.sk/index.php?lang=en&rootId=29>

www.statpedu.sk

Endnotes

1. Constitution of the Slovak Republic No. 466/1992 Coll. has entered into force on the 1st of October 1992 , the complete version is available at : http://www.vop.gov.sk/en/legal_basis/constitution.html
2. National standards and description of educational framework are composed in so called national educational programme which can be used for the further development in school educational programmes. All subjects are composed in educational areas. There are as follows: Language and communication, Math and the work with information, Man and nature, Man and society, Man and value, Man and the world of labour, Art and culture and Health and movement . The detailed information is available at : www.statpedu.sk but unfortunately not in English.
3. The Act No. 596/2003 on State administration in education and school autonomy
4. The Act No. 597/2003 on financing primary and secondary schools and educational facilities, the Act No. 179/2009 on the changes in financing denominational schools from public sources

The place of religion in education in Portugal

Affiliation Law Department of the Human Resources for Education and Science Ministry

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.

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

Answer: In Portugal, religious instruction is organised during the school hours, in lower and in secondary education.

In public educational institutions students and parents has the opportunity to choose religion instruction. Called “moral and religious instruction” is opcional and not alternative. The function of this lecture, in any religious confession, depends of a minimum number of students (after 16 years old, the student decide) or parents (untill that age) to ask for it.

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

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: We don't have state funded denominational schools. Our state is non confessional and can not pronounce about any kind of religious issues. Our constitutional law (article 41.º) establish religious freedom, and refer that no one can be asked about their religion; establish also the non confessional state, and assure that everyone can be instructed on their own religion.

We have private funded denominational schools, most of all catholic ones. However, many times, these schools are chosen because their instruction quality. The religious instruction is optional at private catholic schools.

We have only one Islamic private school, but students are not obliged to follow the lectures of Islamic instruction; these lectures are optional.

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.

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?

Answer: As I told Portugal don't have state funded denominational schools. However, even the private ones, can not refuse pupils from any religious beliefs. They are not obliged to ensure religious instruction. Catholic schools can provide religious instruction as an optional lecture. They are not obliged to ensure instruction of 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?

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

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?

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

Answer: The Catholic private schools can provide religious instruction as an optional lecture. They are not obliged to ensure instruction of other religious beliefs; teaching other philosophical conviction is always optional, and not alternative.

The Portuguese Constitutional Law (C.R.P.), is very clear about religious instruction: the 41.º article, says that every

one has the right to their philosophical convictions or religion; religious communities are free to be organised as they want, respecting the Portuguese laws; The Portuguese State ensures the freedom to teach all the religions according to their confessional rules and believes.

We have another law called “Religious freedom law” (Law n.º 16/2001, from 22t June). In this law (article 4.º) is said that Portuguese Sate can not organise culture and education under any religious confession; but must cooperate with churches and religious communities according to their representativity in Portugal (article 5.º); parents has the right to educate their children in the same religious convictions in respect of moral, health and physical integrity (article 11.º);

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: Islam, or another confessional religion must be taught according to the rules and beliefs of the religion and teachers are nominated by the religious authority. However, a religious teacher can not teach, at the same time, to the same students, another area even they have the qualification for that (for example, a catholic teacher can not teach Math, or History at the same time, to the same students): article 24.º

Religious instruction (e.g. Catholic), on public schools, depends on a minimum of students who expresses the wish to attend religious instruction (article 24.º);

Students can have their religion holidays and are allowed to miss school according to that. If an exam occurs on a holiday for them, they have the possibility to remark it (article 14.º).

VI. Religious symbols in public schools

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

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

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

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

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?

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

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?

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

Answer: It is forbidden any religious symbols in public schools, because Portugal is a non confessional sate.

Teachers and students are allowed to wear Islamic headscarf or any other religious symbol, because the constitutional law sais that no one can be forbidden to express their philosophical beliefs or religion. Everyone has the right to assume, in public, their believes.

There is no dress code in public schools, only in some private ones. Even on privates schools teachers and students are allowed to wear Islamic headscarf or any other religious symbol.

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 organized after school time in private religious institutions:

I suppose there is Islamic teaching organized after school hours at the Islamic community.

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

Yes, at the private Islamic school (optional) and at the Islamic community.

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

Yes, I suppose, at the Islamic community, and at the only Islamic private school we have in Portugal.

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

I can not respond. The Ministry of Education and Science don't have that information

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

I can not respond. The Ministry of Education and Science don't have that information.

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

Teachers are nominated by the religious authority, and programs are made by religious authorities, after permission of the Ministry of Education and Science and according to the main rules of Portuguese education.

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

Answer: In spite Portugal don't have, yet, a large Islamic community, it is accurate to have a public debate on this issue. We don't have any control about the instruction organized after school hours in Islamic community (as well as other religious communities) and it might be a problem in order to assure that all children must have instructing according to the values defending by the Portuguese constitution.

VIII. Additional comments

XI. Bibliography

Portuguese Constitutional Law

“Religious freedom law” – Law n.º 16/2001, of 22 June

www.gepe.min-edu.pt – site for the Portuguese education statics

Blaž Ivanc¹

The place of religion in education in Slovenia

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:

The question concerning the role of religion and religious education in public schools has been and remains one of the most disputed issues in Slovenia. Slovenia, together with Bulgaria, Ireland, Latvia, Lithuania, Romania and Turkey, is among the countries where almost all pupils/students (98 % or more) attend public institutions. Only 1.5 % of all educational institutions are

private institutions. Most of them are government - dependent (*Source: Eurostat, UOE; data extracted July 2008*). The basis for the modern Slovenian School Law is given by the relevant fundamental constitutional provisions which regulate the education. The Constitution of the Republic of Slovenia (hereinafter: the Constitution)² in the Art. 57 ensures the freedom of education and sets up a compulsory primary education, which is publicly financed. The state has to create the opportunities for citizens to obtain a proper education.³ Thus, the State has a duty to create the necessary legal framework for the establishment and operation of private schools and to recognize the public validity of an education obtained from private schools. The prohibition of private schools would not be consistent with the notion of a democratic society.⁴ In Slovenia, basic education (ISCED level 1 and ISCED level 2) lasts 9 years and overlaps with compulsory education. The same institution (Grammar School) provides education in all 9 grades. The structure of upper secondary education in Slovenia includes: general upper secondary education (»gimnazija«), technical education and vocational upper secondary education.⁵

The *Organization and Financing of Upbringing and Education Act* (hereinafter: the *Education Act*)⁶ regulates the relations between public and private school systems, the internal organization of schools and their financing.⁷ According to the Education Act, religious communities may establish kindergartens and

schools under the same conditions as other private-law subjects. Private educational institutions may be financed in two ways: they are either granted licenses or financed directly under statute. In order to receive a license the private school (or kindergarten) has to include itself in the public network and execute only a public programme. Non-licensed private kindergartens, private elementary and music schools and private general secondary schools (but not also professional schools), which carry out public programs and comply with statutory conditions, have the right to public funds to the extent of 85% of the funds that the State or local community allocates for salaries and material costs per student in public schools.⁸

The status of religious instruction is first determined by the article 41 of the Constitution, which provides for freedom of conscience and belief (hereinafter: the right to religious freedom). The provision broadly protects the freedom of self-definition and it refers not only to religious beliefs but also to moral, philosophical and other worldviews. This article gives the assurance of freedom of conscience (the positive entitlement), the right of a person not to have any religious or other beliefs, or to not manifest such beliefs (the negative entitlement), and the right of parents to determine their children's upbringing in the area of freedom of conscience.⁹ The Article 7 of the Constitution of the Republic of Slovenia¹⁰ enshrines: (1) the principle of separation of the state and religious communities, (2) the principle of equality among

religious communities, and (3) the principle of free activity (autonomy) of religious communities within the legal order.¹¹

Statutory provisions concerning the status of religious instructions are enshrined in Chapter XI. of the Education Act. The chapter has only one article (Art. 72) that regulates the "Autonomy of School Premises". The stated provision is highly controversial, because of imposed prohibition of not only religious teaching, but also of any other kind of denominational activity in public schools and kindergartens. The Paras. 3 and 4 of Art. 72 of the Education Act (as first enacted by the National Assembly) determined as follows:

"(3) Denominational activities are not permitted in public kindergartens and schools or in licensed kindergartens and schools.

(4) Denominational activities determined in the previous paragraph of this article encompass:

- religious lessons or denominational religious lessons aimed at raising students in that religion,
- lessons in which a religious community decides on the substance, textbooks, teachers' education and the suitability of individual teachers for teaching,
- organized religious rites."

From the relevant statutory provision follows that the Legislator did not first regulate the manner of ensuring the positive aspect of religious freedom and consequently introduced also some limitations or measures in order to protect the negative aspect of religious freedom (e.g.: the prohibition of mandatory attendance of religious lessons; the organization of religious lessons to be organized prior to the beginning of or after lessons so that the students who do not want to take part in such lessons may uninterruptedly leave etc.).¹² On the contrary, the Legislator not only embraced the idea of French secular school (*l'école laïque*)¹³ or the United States of Americas' model,¹⁴ but surpassed them by introducing an ultra-strict model of separation of religion and state/school, which is quite different from that of the majority of European countries where the laws guarantee religious instruction within the framework of the public school.¹⁵

In the case *Mihael Jarc et al.* No. U–I–68/98 (November 2001) the Court reviewed the question of whether the provisions of the Education Act interfere with the positive aspect of the freedom of religion¹⁶, the principle of equality¹⁷, the right of parents¹⁸ and the right to free education¹⁹. The Court first declared that the general prohibition of denominational activities in public schools²⁰ is not inconsistent with the Constitution and the ECHR. The only inconsistency with the Constitution is the prohibition of denominational activities in licensed kindergartens and private schools in regard to the denominational activities which take place outside the scope of the execution of a valid public

program financed from State funds.²¹ The Court instructed the National Assembly to remedy the established inconsistency in a time limit of one year and the Legislator consequently changed the provision of the Art. 72 of the Education Act by allowing the licensed kindergartens and schools to carry out denominational activities which take place outside the scope of the execution of a public service.

The Principle of Separation vs. the Right to Religious Freedom

The Court first acknowledged that the Constitution »does not specially regulate denominational activities in (public and licensed) schools, which means that it neither prohibits nor requires such...«. This would (rightly) suggest that the matter was left to be regulated by the Legislator. However, the Court then argued that the general principle of the separation of the State and religious communities (on the basis of which the State is bound to neutrality, tolerance and a non-missionary manner of operation)²² means that in the school area the religious content cannot be part of public lessons (i.e. neither part of lessons in a public school, nor part of teaching in the framework of the public service of a licensed private school). For the Court, teaching of religion *in* as well as *by* public schools would be intolerable.

As a consequence of the Courts' initial standpoint a dilemma regarding the criterion for review turned up: whether the principle of separation should be interpreted in the light of the right to religious freedom or is the main criterion for review the right to re-

ligious freedom, (which ought to be interpreted in the light of the principle of separation).²³ Since the constitutional right to religious freedom is one of few most hierarchically protected rights and unconditionally protected constitutional values (it may in no case be abolished and it can only be limited under very strict conditions),²⁴ there should not have been any doubt that it cannot be outranked by to the principle of separation. Thus, the Court's above mentioned conclusion could not be deduced from the principle of separation alone. However, as the main criterion for judicial review of the general prohibition of denominational activities in public kindergartens and schools served the principle of separation.²⁵

In reviewing the provision prohibiting the denominational activities in public kindergartens and schools the Court did refer to the right to religious freedom, but failed to make a consistent test of proportionality, which includes a careful and profound balancing between the positive and the negative aspect of the right to religious freedom. In the Courts' argumentation prevailed strict interpretation of the principle of separation, which pushed aside a full-scale balancing of both constitutionally protected aspects of the right to religious freedom;

»According to Art. 41.2 of the Constitution, citizens have the right not to declare their religious beliefs and to require that the State prevent any forced confrontation of the individual with any kind of religious belief. A democratic State (Art. 1 of the Constitu-

tion) is, on the basis of the separation of the State and the Church (Art. 7 of the Constitution), obliged in providing public services and in public institutions to ensure its neutrality and prevent one religion or philosophical belief from prevailing over another, since no one has the right to require that the State support them in the professing of their religion. To reach this goal it is constitutionally admissible that the State takes such statutory measures as are necessary to protect the negative aspect of freedom of religion and thereby realize the obligation of neutrality. ... Furthermore, the interference with the positive aspect of freedom of religion cannot be considered inappropriate as thereby the forced confrontation of non-religious persons or persons of other denominations with a religion they do not belong to can be prevented. This interference is also proportionate, in the narrow sense of the word, in so far as it relates to the prohibition of denominational activities in public kindergartens and schools. These are namely public (State) institutions financed by the State and are as such the symbols which represent the State externally and which make the individual aware of it. Therefore, it is legitimate that the principle of the separation of the State and religious communities and thereby the neutrality of the State be in this context extremely consistently and strictly implemented. Considering the fact that a public kindergarten or a public school do not represent the State only in carrying out their educational and upbringing activities (public services) but also as public premises, the principled prohibition of denomina-

tional activities does not constitute an inadmissible disproportionality between the positive aspect of the freedom of religion and the rights of parents to raise their children in accordance with their religious persuasion on one hand and the negative aspect of freedom of religion on the other hand.«

However, in reviewing the general prohibition of denominational activities in licensed kindergartens and schools which take place outside the scope of the execution of a valid public program financed from State funds, the Court relied on the right to religious freedom as the main criterion for review. In order to determine a proper balance between the negative and the positive aspect of religious freedom the Court now carried out the test of proportionality more accurately. According to the Constitution, human rights and fundamental freedoms are limited only by the rights of others and in such cases as determined by the Constitution.²⁶ The Court reviewed whether the interference, as enacted by the Education Act, with the positive aspect of the freedom of religion (conscience) of an individual and the right of parents is admissible to ensure the protection of the constitutional rights of others. The Court stressed that:

»in reviewing proportionality in the narrow sense we must weigh in a concrete case the protection of the negative aspect of the freedom of religion (or freedom of conscience) of non-believers or the followers of other religions on one hand against the weight of the consequences ensuing from an interference

with the positive aspect of freedom of religion and the rights of parents determined in Art. 41.3 of the Constitution on the other. There is no such proportionality if we generally prohibit any denominational activity in a licensed kindergarten and school. By such prohibition the legislature respected only the negative freedom of religion, although its protection, despite the establishment of certain positive religious freedoms and the rights of parents to provide their children a religious upbringing, could as well be achieved by a milder measure.«

For the Court, teaching of religion *in* licensed schools as a matter of principle is tolerable. However, teaching of religion *by* licensed schools is only being tolerable in the case it is not performed in the scope of public service.

However, the legislator decided that teaching about religion should not be entirely set aside. The provision of the article 17 of the Primary School Act determines that the subject Religions and Ethics has to be included into the primary school curriculum as a mandatory optional subject. According to the provision every school is obliged to offer the subject as an optional subject, but its realization basically depends on the number of applications. A pupil may decide to take the subject Religions and Ethics in last three years of grammar school. Also in the area of upper secondary education the subject Religions and Ethics remains an optional subject (having totally 15 hours per year).

Churches and religious communities do not have any influence on the content or the execution of the mentioned subjects.

In the 2006/07 school year, the optional subject Religions and Ethics was taught in 65 out of 447 primary schools and was attended by 1,774 pupils. Forty primary schools taught the subject Religions and Ethics in one of the three classes of the last triennium, 18 primary schools in two of the three classes, and in 7 primary schools in all three classes. Religious content is also learnt in mandatory subjects, such as Slovenian language, history, civic education and ethics, geography, fine arts and foreign languages.²⁷

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

Answer:

A non-confessional subject Religions and Ethics enshrines all major religions and worldviews. The emphasis is on the dominant or traditional religion (Christianity).

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:

In Slovenia denominational schools can only operate as private schools. Private schools, which are set up by private entities (e.g. Churches or other religious communities) and provide education according to state approved programmes, are subsidised by the state (according to the article 85 of the Education act the grant rate is approximately 85 % for non-licensed private schools; licensed schools receive full funding). In the school year 2009/10, there were 849 compulsory schools of which three were private (two Waldorf schools, one Catholic). In the area of upper secondary education there were 136 public and 6 private schools.²⁸ In 2009 only 468 pupils out of 161.805 were enrolled in primary school with regular curriculum (Source: Statistical Office of the Republic of Slovenia). Despite the poor numeric importance of state funded (denominational) private schools, the Education act in the provision of the article 87 provides that the state funding should stay, if the existence of the only public school in the school district is endangered by the enrolment of pupils to the private school.

Islamic schools have not yet been established in Slovenia.

[Http://eacea.ec.europa.eu/education/eurydice/documents/eurybase/national_summary_sheets/047_SI_EN.pdf](http://eacea.ec.europa.eu/education/eurydice/documents/eurybase/national_summary_sheets/047_SI_EN.pdf)

<http://www.stat.si/>

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:

See answer above.

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:

The School Inspection has the power to control the teaching in state funded denominational schools.²⁹

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:

The head of a licensed (this is fully state funded) denominational school does not have the right to refuse pupils from other religious beliefs. The pupils have to be enrolled according to the article 48 (para. 1) of the Primary School Act, that determines that enrolment of pupils is of mandatory nature. The bill does not regulate the situation when a pupil or his/her parents oppose to the declared educational programme of a denominational school. A non-licensed private school is not obliged to enrol a pupil (last paragraph of the article 48 is an exception from the first para.).

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?

Answer:

See answer to the question no. III. 6.

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:

The School bills do not impose a legal obligation to organise (if parents ask for) classes of Islamic religion in denominational

schools. In licensed denominational schools such classes would be contrary to the article 72 of the Education act, if they would take place inside the scope of the execution of a public service. Thus, statutory provisions do not regulate a minimal number of pupils etc.

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:

The issue of regulating the same obligation in respect of other religions and/or philosophical convictions or an alternative class of conception of life, philosophy, ethics, is not addressed by the statute, which is inadequate.

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:

The Education act and its provisions on religious instruction reflect mainly the views of libertine thinkers that were in favour of strict separation. E.g. the Catholic Church was not in favour to move religious instruction from parish to school, but demanded that instruction in religion should be acknowledged as an optional subject. The Catholic Church was in favour of the subject Religions and Ethics and it is critical, because the subject is not provided for on the national level.

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

Answer:

<http://zakonodaja.gov.si/>

The National Assembly:

<http://www.dz-rs.si/index.php?id=69>

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:

No sufficient data to provide an answer.

VI. Religious symbols in public schools

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

Answer:

The public school law does not enshrine specific provisions that regulate religious symbols at public schools. The article 72 of the Education Act prohibits organized religious rites (e.g. religious service) in public schools and does not address other manners of religiously motivated behaviour of pupils, teachers and staff.

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:

There are no specific provisions in the public school law concerning religious garments at public schools. The statute deals with religious elements within the framework of working conditions of teachers and other staff.

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:

There are no specific dress codes in public and private schools in Slovenia. The issue is not legally regulated.

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

Answer:

See answer above.

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:

See answer above.

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

Answer:

There are basically two regulatory authorities that might engage in the relevant issue: 1. the head of a school and 2. the Ministry of education. The head has a certain field of autonomy (especially in the case of non-licensed private school), but the School Inspection, being a special organ of the Ministry of education,

lacks concrete legal provisions that would regulate dress code and its powers in this respect.

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:

No disciplinary measures and proceedings are foreseen by the school legislation against a pupil or teacher that would fail to comply with the rules on dress codes.

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

Answer:

At the moment there is no relevant case-law.

VIII. Additional comments

Concerning the religious instruction in public schools the legislator with the provision concerning the “Autonomy of School Premises” (Art. 72. of the Education act) opted for favouritism of the negative aspect of religious freedom, which turned out to be a very elusive approach. It is a great tool to run down the constitutional right of parents to determine their children's upbringing in the area of freedom of conscience.

XI. Bibliography

Zdenko KODELJA, *The Teaching about Religion at Slovene Public Schools*, The School Field, Vol. X, No. 3/4, 1999, pp. 153-158.

Barbara NOVAK, *Šola in otrokove pravice (The School and Childs' Rights)*, Zbirka Pravna obzorja št. 26, Cankarjeva založba, Ljubljana, 2004.

Drago ČEPAR, Blaž IVANC (Eds.): *Legal Aspects Of Religious Freedom – Les Aspects Juridiques De La Liberté Confessionnelle*, International Conference, September 15 and 18, 2008 – Conférence Internationale, 15 – 18 Septembre 2008, Office of the Government of the Republic of Slovenia for Religious Communities – Bureau du Gouvernement de la

République de Slovénie des communautés religieuses, Ljubljana, 2008.

Blaž, IVANC.: *A values dilemma in Slovenian public school law: missed balancing of negative and positive aspect of religious freedom in public schools* in: *Secularism and Beyond : International Conference, May 29th to June 1st 2007*. København: Københavns Universitet, 2007, http://www.ku.dk/satsning/Religion/sekularism_and_beyond/pdf/Paper_Ivanc.pdf

Gerhard ROBBERS (ed.), *State and Church in the European Union*, Second Edition, Nomos, Baden-Baden, 2005.

Jacques ROBERT and Jean DUFFAR, *Droits de L'Homme et Libertés fondamentales*, Editions Montchrestien E.J.A., Paris, 1996.

Metoda OREHAR IVANC, *Svoboda religije proti ločitvi države in religije (Freedom of Religion against the separation of the State and Religion)* in: Lovro ŠTURM (ed.), *Cerkev in država. Pravna ureditev razmerja med državo in cerkvijo (Church and State. Legal regulation of the relationship between the state and the church)*, Comparative survey, Nova revija, Ljubljana, 2000, p. 17–49.

Metoda OREHAR IVANC, *Commentary on the Art. 41 of the Constitution of the Republic of Slovenia* in: Šturm, L. (eds.),

Komentar Ustave Republike Slovenije (Commentary on the Constitution of the Republic of Slovenia), Faculty of Post-Graduate State and European Studies, Ljubljana, 2002, p. 444-459.

Lovro ŠTURM, *Church-State Relations and the Legal Status of Religious Communities in Slovenia*, Brigham Young University Law Review, Number 2, Volume 2004, p. 607-650.

Endnotes

1. Assistant Professor, Pro-dean of the Faculty of Health Sciences, University of Ljubljana, Slovenia
2. The Constitution of the Republic of Slovenia (1991).
3. Art. 57 of the Constitution: » (1) Freedom of education shall be guaranteed. (2) Primary education is compulsory and shall be financed from public funds. The state shall create the opportunities for citizens to obtain a proper education.«.
4. Šturm (2002), p. 582.
5. See Structure of Education System in Slovenia: http://www.eurydice.si/images/stories/Diagram_Tatjana_Plevnik_1564.pdf
6. Organization and Financing of Upbringing and Education Act (Zakon o organizaciji in financiranju vzgoje in izobraževanja), Official Gazette RS, Nos. 12/96, 23/96 - corr., 101/1999, 22/2000, 64/

2001, 101/2001, 108/2002, 34/2003, 79/2003, 65/2005, 117/2005, 129/2006.

7. The Education Act is supplemented by the Kindergartens Act (Official Gazette RS, No. 12/96 et seq.), the Primary School Act (Official Gazette RS, No. 12/96 et seq.) and the Technical Education Act (Official Gazette RS, No. 12/96 et seq.).
8. Art. 86 of the Education Act. About transitional rules on funding of the private religious schools and their staff that were granted licenses before adoption of the Education Act and were/are provided with 100% state funding see detailed in: Šturm (2004), p. 632.
9. Art. 41 of the Constitution: » (1) Religious and other beliefs may be freely professed in private and public life.

(2) No one shall be obliged to declare his religious or other beliefs.

(3) Parents have the right to provide their children with a religious and moral upbringing in accordance with their beliefs. The religious and moral guidance given to children must be appropriate to their age and maturity, and be consistent with their free conscience and religious and other beliefs or convictions. «
10. The Constitution of the Republic of Slovenia (1991); Para. 1 Art. 41.
11. Art. 7 of the Constitution: » (1) The state and religious communities shall be separate. (2) Religious communities shall enjoy equal rights; they shall pursue their activities freely. «.
12. Umek, S. (2004) p. 22.
13. Detailed about the notion of *Läicité* and the current development towards a *Läicité nouvelle*: Robert, J. and Duffar, J. (1996), p. 552.

14. Kodelja, Z. (1999), p. 153.

15. Judge of the Constitutional Court F. Testen in his separate opinion stressed that: "Ultimately also the traditionally lay-oriented France allowed e.g. the founding of vicariates in public (secondary) schools, and the U.S. Supreme Court ordered the New York public school district to enable a student group to organize on the premises of the public school outside school hours meetings for students to pray and study the Holy Bible. In these countries school premises as State symbols were not thereby given religious connotations." See the decision of the Constitutional Court Mihael Jarc et al. No. U-I-68/98.
16. Para. 1 Art. 41. of the Constitution.
17. Art. 14 of the Constitution.
18. Para. 3 Art. 41. of the Constitution and Art. 2 of Protocol No. 1 to Convention for the Protection of Human Rights and Fundamental Freedoms.
19. Art. 57 of the Constitution.
20. Para. 4 Art. 72 of the Education Act.
21. Para. 3. Art. 72 of the Education Act.
22. Art. 7 of the Constitution.
23. Orehar Ivanc, M. (2000), p. 48.
24. Art. 16. of the Constitution.
25. Judge Tresten opposed to the selected mode of review (Para. 1 Art. 7 of the Constitution) insofar as it referred to the premises of public



kindergartens and schools. In his opinion, in the case of licensed kindergartens and schools, the freedom of the founders of these schools to profess the religion should also have been considered as a necessary criterion for review.

26. Art. 15 of the Constitution.

27. Movrin, p. 23.

28. Source:

[Http://eacea.ec.europa.eu/education/eurydice/documents/eurybase/national_summary_sheets/047_SI_EN.pdf](http://eacea.ec.europa.eu/education/eurydice/documents/eurybase/national_summary_sheets/047_SI_EN.pdf)

29. See articles 2 and 12 of the School Inspection Act (<http://www.uradni-list.si/1/objava.jsp?urlid=199629&stevilka=1827>).

The place of religion in education in Spain

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:

Teaching Catholic religion is compulsory for schools (*Centros docentes*) and attendance is optional for pupils at all levels of basic education (cf. *LOE*, 2006, *Disposición Adicional Segunda*). This is an obligation for all schools financed by the state. In denominational Centres under consortium (i.e., Centres which are under private ownership, but are financed by the

state) optional courses on minority religions can be offered, as long as they are not at odds with the beliefs of the Centre. Opt-out activities (called “educational assistance”) must be made available if parents require them. (cf. *Real Decreto* 1513/2006, *Disposición Adicional Primera*, Art. 3).

Concerning secondary education, the teaching of Catholic religion is compulsory for Centres; attendance is optional for pupils (cf. *LOE*, 2006 *Disposición Adicional Segunda*). A course on “History and Culture of Religions” for those pupils who do not wish to study Catholicism should be available as well. This is an obligation for all schools financed by the state. In denominational Centres under consortium (i.e. Centers under private-ownership, but financed by the state) options for offering courses on minority religions can be set up, if it is not contrary to the beliefs of the Center. Opt-out activities (“educational assistance”) must be designed if parents require them (cf. *Real Decreto* 1631/2006 *Disposición Adicional Primera*, Art. 3).

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

Answer:

In primary schools, four religion courses can be offered: Catholicism, Judaism, Protestantism and Islam. Those students who do not wish to attend a religion course can opt out for alternative activities defined as “educational assistance”, which are organized by the schools themselves.

In secondary schools, four religion courses can be offered: Catholicism, Judaism, Protestantism, Islam. Furthermore, there can be offered a general course on “History and Culture of Religions”. Those students who do not wish to attend a religious course can opt out for alternative activities defined as “educational assistance” which are organized by the schools themselves.

All other denominations/religions that do not have an agreement with the Spanish state do not have access to religious education. An attempt to reform the *Ley Orgánica de la Libertad Religiosa*, 7/1980 (Law of Religious Freedom, Annex 9) was promoted by the Socialist Party starting with in 2004, but it was blocked in 2010. According to this failed attempt of reform, the 1980 Law of Religious Freedom was extended so as to incorporate Agreements with Buddhists, Yehova’s Witnesses, Mormons and Christian Orthodox believers.

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:

Four types of private schools exist in Spain which offer compulsory schooling (primary and secondary, E.S.O): denominational under consortia, denominational under no consortia, secular under consortia and secular under consortia. The consortium is a legal model of public-private partnership aimed at running public services in several sectors in Spain. The state finances the services to provide citizens free access to them, yet the ownership of the facilities and the management of the services can be private (including religious foundations) or mixed.

The state finances denominational schools once they are under a consortium. The Catholic Church runs the vast majority of “concerted schools”. There are a couple of Jewish schools in Melilla and Madrid, as well as several Protestant schools in Barcelona, Valencia and Madrid.

If affirmative, what is the proportion of state funded schools? There are no official statistics on the ownership of the centres, and their importance varies from region to region. However, secular schools are a minority in the concerted formula, and

that minority religions' foundations which own a school are also in a small proportion. In Spain, private concerted schools are on average around 55% of the total of centres that offer compulsory schooling, private schools with no consortium are around 7%, and public-owned centres are about 38%. Some Autonomous Communities (A.A. C.C.) deviate from the mean, for example in Basque Country, Catalonia and La Rioja concerted centres are above 65%, while in Andalusia, Canary Islands and Melilla public centres are above 50%. See later Table 1, Ownership of Schools in Basic Education in Spain for detail data on each Spanish region.

If affirmative, what is the proportion of Islamic state funded schools? There are no Islamic schools funded by the state. The *Comisión Islámica de España* (Islamic Commission of Spain) entered negotiations so as to open the first Islamic primary school in Granada. The project started in 2009.

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:

An important number of non-state funded denominational schools are run by the Catholic Church. A small number of centres are administered by representatives of minority religions. Approximate numbers account for one Jewish institute in Barcelona, and a couple of Protestant schools in Madrid and Barcelona. As a general rule, "concerted schools" initiate their activities at a purely private level. In accordance with the demand and to a wish of fulfilling specific criteria demanded by the educational authorities, they can opt for applying to be part of the network of schools under consortium.

The most conservative sector of the Catholic members normally attends private schools under no consortium. This has led to the fact that the confessional schools that are under the consortium model adopt a more secular character. The importance of the Catholic Church in the ownership of schools is, in part, a legacy of the dictatorship period, where the close ties between the Church and the state allowed the first to expand its network of services in the geographic areas where the state ownership of facilities was small. Due to this historical legacy, many non-Catholic families send their children to "concerted schools" run by the Catholic Church.

In practice, there is a selection-bias in having access to schooling. The majority of lower social sectors attend public-owned schools. Middle-income families attend concerted schools, both confessional and secular, especially when the family does not

belong to any denomination. And high income families tend to send their children to schools under consortia or private schools.

Another important criterion for selecting a school in Spain is home proximity. In those AA. CC. where the number of public-owned schools is historically low, children attend confessional schools regardless their affiliation to them. Members of minority religions, as well as non-confessional families, attend public or private schools under consortium. However, in some cases, parents have rejected confessional concerted schools and have asked the authorities to reallocate their children in secular or public ones.

If affirmative, what is the numeric importance of private schools. See Table 1, Ownership of Schools in Basic Education in Spain. However, no official statistics were found in the ownership of centres.

If affirmative, what is the numeric importance of Islamic private schools. There are no Islamic private schools in Spain.

Please refer to statistical information on-line. See Table 1, Ownership of Schools in Basic Education in Spain. However, no official statistics were found in the ownership of centres. Other possible sources are:

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:

Primary education

The *LOE* (2006) and the *Real Decreto* 1513/2006 (Real Decree), establish a minimum of criteria for the contents of primary education (See Annex 1, for detailed articles in the Decree). Parents should declare at the beginning of each period if they wish or not that their children attend the different religious courses on offer at the school. The contents of religion courses are decided by each religious community according to an Agreement (Catholic, Jewish, Protestants and Islamic). Teachers are also appointed by the religious representatives of each community.

The *Comisión Episcopal Española* (Spanish Episcopal Commission) decides on the content of the course on Catholicism; the *Federación de Entidades Religiosas Evangélicas de España* (Protestant Federation of Spain) decides on the content of the course on Protestantism; the *Federación de Comunidades Israelitas de España* (Federation of Hebrew Communities of Spain) establishes the content of the

course on Judaism and, the *Comisión Islámica de España* (Islamic Commission of Spain) establishes the content of the course on Islam.

The Law specifies that the evaluation of the course on Catholicism will be in the “same terms and with the same effects” of other areas of primary education. For courses on other religions, the *Royal Decree* establishes that they will follow Cooperation Agreements signed between the Spanish state and the recognized denominations. However, none of the existing Agreements provides guidelines for the evaluation of religion courses (See Annex 4, Annex 5 and Annex 6 for full content of the Agreements).

Secondary education

The *LOE* (2006) and the *Real Decreto* 1631/2006 (*Royal Decree*) establish the minimum criteria for the contents of secondary compulsory education (See Annex 2, for detailed articles in the Decree). The model of religion courses in secondary school is the same as in primary enrolment, except that in the later case, pupils who do not wish to study a specific religion, can still opt for a course on religion organized by the educational authorities on “History and Culture of Religions.” As in primary schools pupils can also opt for “educational assistance”, not clearly specified by the legal framework.

According to the existing regulations, on the minimum content of primary and secondary compulsory education the minimum hours are for each level: primary education: 105 hours; first three courses of secondary school: 140; fourth course of secondary school: 35; High school: 70.

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:

The Decrees 1513/2006 and 1631/2006 have been largely debated as they did not establish clear and definite criteria for those pupils who choose opt out alternatives. At the primary school level, the Decree establishes that:

“Los centros docentes dispondrán las medidas organizativas para que los alumnos y las alumnas cuyos padres o tutores no hayan optado por que cursen enseñanzas de religión reciban la debida atención educativa, a fin de que la elección de una u otra opción no suponga discriminación alguna. Dicha atención, en ningún caso, comportará el aprendizaje de contenidos curriculares asociados al conocimiento del hecho religioso ni a

cualquier area de la etapa. Las medidas organizativas que dispongan los centros deberan ser incluidas en su proyecto educativo para que padres y tutores las conozcan con anterioridad.” (Real Decreto 1513/2006 Disposición Adicional Primera, Art. 3; Real Decreto 1631/2006 Disposición Adicional Segunda, Art.4;)

According to the Law, the Centers will facilitate “educational assistance” for students who have opt out from religion courses. Schools interpret this mandate in different ways, and some of them have not clearly designed specific activities for students. There is a wide debate on the activities that students who do not choose religion courses in primary and secondary schooling might do. The range of options is wide: in many centres, the students spent the class doing “anything,” while in other centres the school organizes activities of local folklore. It depends on the region and on the Centre.

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:

Confessional schools (under consortia) which are financed by the state cannot discriminate students on the basis of their religious beliefs. However, there may be limitations in the offer of religious courses. The Laws 24/1992, 25/1992 y 26/1992 (BOE 12.11.92) approved the *Acuerdos de Cooperación* signed between Spain and representatives of three religions. According to the Agreements, pupils have the right to receive in public and concerted centres religions education according with their conviction. The Agreements specify that in the Centres under consortia, this right will be implemented if there is no contradiction with their own beliefs.

This provision means in practice that even if the students from minority religions have the right to receive religious education, this right might not be implemented in all public-financed Centres. If there is a tension between parents’ requirements and the Centre, the educational authorities can reallocate the student. In addition, the school’s authorities of concerted Centres have more freedom to select students. To illustrate, this is done through an order-point-list that enhances the status quo. This process of “adverse” or “conservative selection” does not automatically mean that schools’ authorities apply discretionary criteria when they face religious differences, but this could very well occur.

According to Art. 84 of the *LOE* on Admission of Pupils (see Annex 8), the priority criteria for selecting pupils (when there is demand and scarcity of places) are as follows: 1) sibling attendance, or parents or tutors working on the Centre; 2) home proximity or parents' work place proximity; 3) annual income (large families); 4) disability in the student or in one of their siblings. The Law specifies that it is not possible to discriminate students for origin, race, sex, religion, opinion, etc. As the process of enhancing specific regulations is decentralized in the AA. CC., a variety of formulas are accepted, including, for instance, gendered schools financed by the state.

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?

Answer:

No. However, the Agreement signed between the Vatican authorities and Spain establishes that the education system in Spain will be respectful of the Christian principles. Due to the right of conscience, pupils belonging to other religions or non-confessional at all can attend to confessional private centres under consortia without discrimination, they can decide if they participate or not in the activities. Normally they are excluded of a

large part of the network of public-financed centres (they attend public-owned schools) as they would have to accept attendance to a school against their convictions. Even if the Law does not discriminate attendance they should respect the educational project of the Centre. (*Report 2008-2009*). The confessional character of the majority of Centres under consortia, makes Catholic ideology present in other practices that religious course. Those practices include services organized by the school such as messes, the first Holy Communion and other worship rituals.

In addition, there is no provision that guarantees that the student will receive alternative religious education, if she opts for this choice and the school does not offer it, she can be reallocated to another Centre.

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. On the basis of the Agreements, the state guarantees the offer of religious education in four different options for primary education and in five options for secondary school. However, the state does not obligate all the Centres to provide it if it goes against the educational project of the Center.

There is lack of clarity in the Spanish system regarding religious education, given that the *LOE* (2006) specifies that the Centres are obliged to provide religious education and that it is optional for students, however the Agreements state that the right to religious education with respect to minority religions can be implemented when it does not contradict the educational project of the Centre. This has resulted in differences across centres and regions. This lack of clarity is due to the fact that, until 2006, another Law (@reference) stipulated the principles of religious education where the Catholic Church was clearly more favoured. The 2006 Law was a first step in the Reform process; however, the government has stopped the Reform project in 2010 so the current system lacks clarity. Until 2004, few denominational centres offer other religious courses than Catholicism except in Ceuta and Melilla where a large part of the population is Muslim. From 2004 onwards, more Centres offer several options. Centres that are more pluralistic (even when they have a

denominational origin) normally offer different courses if parents require that. This stand could be explained by the density of public funded schools in addition to the migrant population in a specific community.

If a centre offers courses on minority religions, it normally offers them for one or a group of students, upon parental request. As a general rule, students are organized in “homogenous groups”, and students for confessional concerted Centres which do not offer this option might be reallocated.

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:

Only for Protestants and Jewish members. A Reform attempt initiated in 2004 but stopped in 2010 (see supra) attempted to formalize the links to Buddhism, Yehova’s Witnesses Christian Orthodox and Mormons by considering them recognized denominations by the state in the educational system.

Only in secondary level, the offer of the course on “History and Culture of Religions” is compulsory for all centres regardless their ownership and legal status.

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 is an increasing debate between minority religions and secular sectors and the authorities on the prerogatives that the Catholic Church has in Spain.

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

Answer:

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:

There is no general guideline defined by the Bishops' Conference. Centres have autonomy (which depend on the Order that owns the School) to decide if they offer or not courses on Islam.

Other bodies can define guidelines. The contents of courses of minority religions are regulated by the Agreements signed by Spain and each minority religion representative body/board. Those boards decide the contents of the courses and appoint professors, who have to participate in a public competition.

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 information found on these issues. See also 9. b

There is no guideline and in fact. Some of these schools are more plural-oriented and offer courses on minority religions. It depends on the number of students from other religions settle in the community.

The teaching of Islam is organised in some schools, which have taken themselves the initiative. It depends on the options of other public-funded schools and in the density of migrant population.

VI. Religious symbols in public schools

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

Answer:

In confessional Catholic schools financed by the state, they are allowed. After the ECtHR's *Lautsi v Italy*, the Low Chamber in Spain insisted in translating this jurisprudence on religious symbols in public schools (2009@). This proposition was built in the context of an initiative prepared by the PSOE (party in government) to reform the Law on Religious Liberty (approved in 1981).

The initiative attempted to limit some of the prerogatives that the Catholic church has, especially in the educational system where its presence is larger. The initiative also attempted to recognize four religions through Agreements: Yehova's Witnesses, Mormons, Buddhists and Christian Orthodox believers; however, most of the benefits of the Catholic Church agreed on in 1979 remain in place.

One relevant case concerning religious symbols was sentenced by the Court of Justice in an AC where a group of parents demanded the school (private confessional under consortia) to ban crucifixes. They appealed inter alia to Article 9 of the European Convention of Human Rights. The Tribunal Superior de Justicia de Castilla y León (TSJCyL, Court of Justice of Castilla y León) supported the ban of the crucifix in a school financed by the state (even if confessional). However, the decision established that the school must ban the religious symbols only in the classrooms and common spaces where children attend classes and spend their free time. The Tribunal Superior argued that the jurisprudence of the ECtHR served as one of the basis of its argumentation.

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:

There is no common ground or norm in Spain concerning the dressing code in schools. This function is decentralized in the AA. CC. and they have given the Centres the mandate/authority to establish rules on dressing, as part of their autonomy. Normally, children of public schools do not wear uniform, although

some private schools ask for it. Some schools allow the headscarf, while others do not.

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:

Schools establish rules on dress coding, thus it depends on the Centre, some of them allow pupils to wear the Islamic headscarf; others do not. After the Najwas case the Spanish Ministry of Education stated that Spain will not regulate the dress code in schools, and the decision on this issue is part of the autonomy of Centres. Presidents of some AA. CC. supported publicly this statement.

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

Answer:

The schools themselves,. There is no prohibition or norm in this respect. Dressing codes are part of the autonomy of schools.

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:

It depends on the school.

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

Answer:

The academic authorities of schools, and educational authorities of the AA. CC. (Consejerías de Educación) attempt to solve tensions when they emerge.

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:

Pupils can be expelled from the centre. The state authorities should reallocate students in other Centres where there is no prohibition of the Islamic headscarf.

Endnotes

1. Lecturer in Political Theory at the Department of Social and Political Science, Universitat Pompeu Fabra, Spain
2. Junior researcher at RECSM Research and Expertise Centre for Survey Methodology, Universitat Pompeu Fabra, Spain

Lars Friedner¹

The place of religion in education in Sweden

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.

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

Answer:

In Sweden, teaching of religion is organized during school time in public educational institutions, in primary education as well

as secondary education². It must be noticed, however, that the teaching is supposed to be comprehensive and scientifically based. The education aims at teaching *about* religions, but no *religious instruction* or confessional elements are comprised. The education goal is to give the pupils a good knowledge of the main world religions (Christianity, Islam, Judaism, Hinduism, Buddhism)³. At the time of writing, there is an ongoing discussion concerning the importance that should be paid to the different religions. The Government has just decided on new curricula for the primary and secondary schools⁴, and the Minister for Education has publicly criticized the proposals from the *Swedish National Agency for Education* for not paying enough attention to Christianity⁵. Thus, the decision from the Government has somewhat changed the proposal. As an effect of the system where all the main religions are covered, there are no possibilities for the pupils to choose between different directions of the teaching about religions.

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**

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:

The school system in Sweden is based on the obligation for the municipalities to organize primary, secondary, and upper secondary schools for all children and youth⁶. Historically, the municipalities have taken their responsibility through the running of public schools. In recent years, however, there has been a development towards more private schools. This has been made possible as the School Act states that the municipalities are obliged to give, in principle, the same economic support to the private schools as to the public schools⁷. A couple of these private schools are denominational⁸. There is no public information available on the matter, but – as the financing of schools fol-

low the mentioned pattern – it is not likely that there are any private schools which are not publicly funded⁹.

All schools within the school system – public as well as private – are supervised by the *Swedish Schools Inspectorate* and are obliged to take part in the follow-up and evaluation arranged by the *Swedish National Agency for Education*¹⁰.

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.

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?

Answer:

A denominational school – or any private school – has no right to refuse pupils of other conviction or to limit the number of them. The education in every school has to follow the state de-

cided curricula, which means that the education should be comprehensive and scientifically based. If a denominational school, beside the activities that are stated in the curricula, as well as has confessional elements, these have to be voluntary for the pupils, so that pupils of other conviction can abstain¹¹. It is obvious, on the other hand, that parents who want to have their child in a denominational school, normally prefer this school because of the conviction of the family.

IV – V. As already mentioned, the curriculum for religious teaching in private as well as public schools is based on comprehensiveness. The curriculum contains teaching regarding Islam, and such teaching shall take place in all schools. There has been no public debate on the matter.

VI. Religious symbols are not compulsory in public schools. The question whether they are allowed or not has not been raised. As the education in the public schools is intended to be religiously neutral, the answer would probably be no, if the matter was brought up.

So far, the question of a teacher in a public school wearing the Islam headscarf has not been raised. Probably some teachers in Islamic denominational schools wear headscarves, but the matter has caused no public debate.

It has been stated by the *Swedish National Agency for Education* that a pupil is allowed to wear the Islam headscarf at

school, at least in primary and secondary schools, which are compulsory¹². There is as well a statement from the *Agency* concerning a pupil wearing a burqa, i.e. a totally covering dress, or a niqab, i.e. a dress where only free space for the eyes is left¹³. The *Agency* states that it is necessary that the teacher can see the face of each pupil, so that the teacher is able to recognize if the pupil has understood what the teacher has said. It is also necessary that the teacher can identify the pupil, so that the teacher continuously can judge the pupil's knowledge of the subject¹⁴.

There is no official dress-code for Swedish schools, although some private schools may have some kind of dress-codes. In the above mentioned statements by the *Swedish National Agency for Education* the Agency makes the question of how the pupils are dressed to a matter of order. If a pupil (or a group of pupils) dress in a way that disturbs the order of the school, the head-teacher is supposed to act for bringing order in the school, either by prescribing general rules or by enforcing individual pupils to change their behavior¹⁵.

A pupil, who does not follow general rules of the school or rules given to him or her individually, shall be reproved by the teacher¹⁶. The teacher has also the possibility of sending the pupil out of the class-room for the rest of a lesson¹⁷. In the primary and secondary school, the teacher can contact the pupil's guardian or let the pupil stay in school extra hours after (or be-

fore) the lessons¹⁸. In the upper secondary school, which is not compulsory, the pupil can be reproved by the head-teacher. The head-teacher may also give the pupil a warning¹⁹. There the pupil can as well be excluded from school for a limited time or banished from the schools of the municipality²⁰²¹.

Labour law measures can apply to a teacher who does not follow the instructions given to him or her by the head-teacher or other management of the school, just as it can apply to any employee.

VII. There is an ongoing debate in Sweden, whether a school breaking-up ceremony can be held in a church, which has been a tradition in Sweden. The position of the *Swedish School Inspectorate* is that a breaking-up ceremony of a school may be held in a church as long as it has its focus on being together and tradition and does not contain any elements of prayer, creed, or benediction. Some municipalities have been criticized by the *Inspectorate* for having accepted “confessional elements”²².

Endnotes

- 1.
2. This report focuses on the primary, secondary, and upper secondary schools. The Swedish school system also contains other kinds of

schools: pre-school classes, pre-school activities, welfare for school children, Sami schools, special schools, schools for the people with learning disabilities, upper secondary education for adults, and Swedish for immigrants.

3. I.e. Ordinance on Curriculum for the Primary and Secondary School, the Pre-School Class, and the Leisure-Time Centre, SKOLFS 2010:37 (Sw. Förordning om läroplan för grundskolan, förskoleklassen och fritidshemmet)
4. Ibid.
5. www.regeringen.se
6. 1:4 School Act, 1985:1100 (Sw. Skollagen); a new School Act (2010:800) will come into effect on July 1; 2011, it contains the same order in 2:2.
7. 9:6 School Act 1985:1100; new School Act (2010:800) i.e. 10:38
8. The statistics point out that 1.8 percent of the primary and secondary schools have a religious aim and that 0.9 percent of the pupils attend such schools; the statistics do not mention any upper secondary school as having a religious aim; although some of the schools with a religious aim obviously have an Islamic direction, there are no statistics measuring this; www.skolverket.se
9. Different churches and other religious communities have often some kind of education for their child and youth members. But this is no part of the school system with primary, secondary, and upper secondary schools.

-
10. 2-3 §§ Ordinance on Instructions for the Swedish Schools Inspectorate, 2009:1215 (Sw. Förordning med instruktion för Statens skolin- spektion); 26:3, 19, 24 new School Act (2010:800)
 11. 1:6-7 new School Act (2010:800); although included in an act of Par- liament at first through the new School Act, this is the standpoint of the law already today.
 12. Decision May 22, 2006 by Swedish National Agency for Education, 52-2006:689
 13. Writ October 23, 2003 by Swedish National Agency for Education, 58-2003:2567
 14. Ibid; the Equality Ombudsman has at the time of writing just de- cided a case, where a lady wearing a niqab was ordered to take it off, if she would attend an upper secondary school for adults – on the other hand, the school decided that she was accepted to continue her education, when waiting for a decision from the Ombudsman; the Ombudsman concluded that she would not bring the case to court, as the lady had been able to fulfil her education at the school (decision November 30, 2010, 2009/103).
 15. 58-2003:2567, 52-2006:689
 16. 6:9 Primary and Secondary School Ordinance, 1994:1194 (Sw. grundskoleförordningen), 6:21 Upper Secondary School Ordinance, 1992:394 (Sw. gymnasieförordningen)
 17. Ibid.
 18. 6:9 Primary and Secondary School Ordinance
 19. 6:22 Upper Secondary School Ordinance

20. 6:23 Upper Secondary School Ordinance

21. The new School Act, 2010:800, in effect from July 1, 2011, changes the disciplinary measures to some extent: The measures are mostly the same in the primary and secondary schools as in the upper sec- ondary schools – reproving, sending the pupil out for the rest of a les- son, extra hours, warning, and exclusion. There are also some new possible measures – temporary replacing to another class and tempo- rary replacing to another school. The current disciplinary measure of banishing a pupil will not exist any longer. If a pupil in the primary or secondary school, which is compulsory, is excluded, it is necessary that the school in another way gives the pupil the education he or she has a right to (5:6-20).
22. Decisions by the Swedish School Inspectorate, i.e. November 23, 2010 41-2010:3865, July 29, 2010 41-2010:3833

Neville Harris¹

The place of religion under education law in England

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:

Religious education is compulsory as part of the 'basic curriculum' that all state maintained schools in England and Wales must ensure is provided to pupils up to the age of 16. Another part of the statutory basic curriculum is the 'National Curriculum', which is separate from religious education.² The content of religious education is determined locally, unlike the

National Curriculum which is mostly imposed by central government. Schools must also organise a daily act of collective worship for pupils which (unless the school has applied for exemption) must, most of the time, be 'wholly or mainly of a broadly Christian character'. Parents have a right to withdraw their children from both religious education and collective worship.³ Since 2006, pupils in years 12 and 13 (known as 'sixth form', basically ages 16-18) enjoy the right to withdraw themselves from religious worship at school.⁴

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

Answer:

The opportunity to receive religious instruction in Islam at school will depend upon a number of factors.⁵ Generally religious syllabuses ('agreed syllabuses') used in community (ie non-denominational) schools will cover a range of different religions, on the basis that it is considered desirable for pupils to learn about other faiths or belief systems to those of their own families or community groups. Guidance on this has been published in the form of *The Non-statutory Framework for Religious Education* (2004). The same approach is also often

applied in voluntary controlled (Church of England) schools as well, some of which will follow the same locally agreed syllabus as the community schools.

In 2007 the inspection agency 'Ofsted' (the Office for Standards in Education, Children's Services and Skills) published a review of religious education (RE) in schools other than voluntary aided schools. (Many of the Roman Catholic schools are voluntary aided.) It found the standard of RE to be generally good, but made the following rather critical comment:

"The curriculum and teaching in RE do not place sufficient emphasis on exploring the changing political and social significance of religion in the modern world. As a result, the subject's potential to contribute to community cohesion, education for diversity and citizenship is not being fully realized."⁶

The report says that as a result of the broader religious education syllabuses now used, "many pupils had acquired have a new view of RE's importance in helping them to understand religious diversity and develop respect and tolerance". However, it also notes that "[o]n occasion... some parents have made requests to withdraw their child from visits to particular places of worship or from learning about specific religions",⁷ suggesting that some parents are not sympathetic to multicultural religious education.

The religious education curriculum in Roman Catholic voluntary aided schools may also cover other religions such as Islam, but this is not a legal requirement. Religious education in these schools is usually based on the trust deed for the school. A small number of voluntary aided schools are Islamic or Jewish schools, which will have their own approved religious education syllabus usually based on the school's trust deed and will clearly focus on their own religion.

In relation to all state schools, parents also have the right to make arrangements for their children to receive religious education away from school, during school hours, if they cannot reasonably conveniently attend another school where religious education of the kind the parent prefers would be provided.⁸ Although, in some non-Islamic schools which are voluntary aided, Muslim pupils may be given the opportunity to receive Islamic education as an alternative to Christian education, it will often be the case that they are more likely to receive most of their Islamic religious education in the local community.

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:

Of 20,303 state-funded primary and secondary schools (including academies) in England in 2010, 13,471 (66 per cent) were non-religious in the sense that they had no religious affiliation.⁹ There were 6,832 schools which were affiliated to a religion. The latter schools fall into different legal categories which reflect and influence their arrangements for governance and the degree of autonomy that their governing bodies enjoy. Among these schools there is a preponderance of Church of England and Roman Catholic schools.

**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:

There were 2,375 independent (non-state funded, private) schools in England in 2010.¹⁰ They educate approximately 7% of the school population. Among them are over 100 schools described as following Christian traditions, approximately 60

Jewish independent schools and approximately 150 Islamic schools, varying widely in the number of pupils.¹¹ There are two Sikh schools in the independent sector and a small number of Hindu schools.

All independent schools, including Muslim schools, must be registered in a register kept by the Secretary of State for Education and must ensure that they meet the prescribed standards.¹² Although independent schools are not as fully regulated as those in the state sector, those not operating to appropriate standards can ultimately be de-registered and forced to close. (State schools are also subject to a range of sanctions if the quality of their education is below standard, ranging from warnings to loss of budgetary autonomy and even closure, although this is rare.)

Individual inspection reports on all schools, including Muslim schools, whether private or state schools, are published by Ofsted (see I.2 above). A review by this writer of a selection of these reports has found that most of the schools have been praised by inspectors for the quality of their education and the way that pupils are offered a broad social and cultural perspective. One of the few criticisms, in a report on one school, is that “[w]hilst tolerance and harmony between different cultures are promoted not all pupils are provided with the opportunity to fully appreciate different cultures and traditions because current arrangements are inconsistent”.¹³ However, a

general report by Ofsted in 2009 found that within the independent faith schools which were surveyed –

“There was general agreement that young people should know about the city in which they lived, the country and its institutions, and the wider world. Christian, Jewish and Muslim schools, to different degrees, were striving to protect their young people from the perceived negative influences of the wider secular society. All accepted and taught about diversity and saw the promotion of community cohesion as requiring respect and acceptance of other faiths while remaining distinct in their own faith, rather than being a homogeneous cultural mix.”¹⁴

Nevertheless, in relation to the above one of the requirements under the 2003 regulations on independent school standards, stating that independent schools must “encourage pupils to accept responsibility for their behaviour, show initiative and understand how they can contribute to community life” (above), Ofsted found that “Each faith tradition had a range of views about the extent to which pupils should participate in the wider secular community and their understanding about ‘community life’ (Regulation 2c) was different.”¹⁵

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:

Teaching in state-funded denominational schools in England is covered by the same legal requirements as those applicable to state-funded non-denominational schools, with the exception of religious education (discussed in I.2 above).

Local authorities have no control over the content of teaching. Head teachers have a duty to formulate a policy on the secular curriculum at the school, but this is subject to the policy agreed by the governing body.¹⁶ (Every state school must have a governing body, comprising a board of around 12-20 people with representatives of various prescribed groups, such as teachers, parents, representatives of the local authority, members of local community/business and, if the school is denominational, religious foundation members.) There is a separate duty on the school’s governing body to have a policy on sex education at the school, and in primary schools the governing body must decide whether sex education should form part of the curriculum.¹⁷

Despite the existence of these individual school policies, all state schools are bound by a statutory framework. The framework establishes a basic principle that the curriculum at a

school must be “balanced and broadly based” and promote the spiritual, moral, cultural, mental and physical development of pupils and of society as well as preparing pupils for the opportunities, responsibilities and experiences of later life.¹⁸ It also requires every state-maintained school (whether denominational or not) to have a “basic curriculum”, including religious education,¹⁹ sex education (at the secondary education stage) and the National Curriculum.²⁰ In Wales the basic curriculum also includes (i) personal and social education for pupils aged five or over; and (ii) work-related education for pupils aged 11-16.²¹ The National Curriculum in England and Wales comprises core subjects and other foundation subjects. For each subject there are prescribed “attainment targets” for pupils of different abilities and maturities, related to what pupils would be expected to achieve by the end of the four key stages in their education (that is, by the age of 7, 11, 14 and 16 respectively). Also prescribed by law are the associated “programmes of study” and “assessment arrangements”.²²

Separate arrangements apply to the education of children below compulsory school age (that is, the age of five). In England, this stage is termed that ‘Early Years Foundation Stage’.

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.

Answer:

The head teacher does not have responsibility for admissions to the school. The school’s governing body will generally have this function, as the school’s ‘admissions authority’. Pupils from other religious faiths (or none) can be refused admission, but only if the school is oversubscribed and its admissions policy permits it to give preference on the basis of religion.²³ Decisions on admission to denominational schools with such policies are exempt from the provisions of the Equality Act 2010 prohibiting religious discrimination.²⁴

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?

Answer:

It is very doubtful that it would be lawful to single out one particular religious group in this way unless there was a specific justification based on, for example, the constituents of the local population (see below). Normally, while it would be lawful to restrict the number of non-Catholics to a prescribed percentage, in order to preserve the character of the school,²⁵ it may be of very dubious legality to restrict the number of members of one minority faith only.

However, the case of one school whose admission arrangements has imposed restrictions is interesting in this respect. The school is the Archbishop Blanch School in Liverpool. It is a Church of England School, not a Catholic school, but like most Catholic Schools it is a voluntary aided school and therefore in the same legal category. Its published admission arrangements for 2009-10 stated that it would admit any number of children in public care (regardless of religion) as the first priority; the law in fact requires such children to be given first priority in all schools' admissions policies. The school's policy then restricted the number of children admitted in other different categories, as follows:

- 104 Christians
- 10 Muslims
- 2 Other World Faith applicants

- 10 with Aptitude in Music
- 4 with Aptitude in Art
- 10 with special medical or social reasons.

This school therefore reserved more places for Muslim pupils than those of other non-Christian faiths. That continued for admissions scheduled for September 2011; this policy scheme has the same numbers in each category as for 2009 although states that of places for Muslim children 8 are reserved for Shia Muslims and 2 for Sunni Muslims.²⁶ According to the school, the policy's preference for Muslim applicants over those of other world faiths has reflected the make-up of and level of demand from the local community. Although that preference might appear nevertheless to be discriminatory, the Schools Adjudicator ruled in one case that denominational schools' exemption from the the non-discrimination duty (applicable to religion) under the Equality Act 2006 (now in the Equality Act 2010) meant that "such a school [is] not prevented from giving priority to pupils of a faith other than the school's before pupils of no faith at all". He also implied that a school is not confined to giving priority only to those of the faith that is the designated faith of the school.²⁷ That certainly seems to be the effect of the Equality Act exemption, which simply dis-applies the non-discrimination duty in relation to admission decisions. Moreover, if the situation in this school were judged with reference to Article 14 of the European Convention on Human Rights (ECHR),

the reasons behind the policy may enable the school to rely on the justification argument in any event.

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:

There is otherwise no specific obligation on Roman Catholic schools to make such arrangements for teaching specifically in Islam. As was stated above, most Roman Catholic schools are in the category ‘voluntary aided’ schools. In these schools, if the parents of any pupils wish that these pupils receive religious education based on the local ‘agreed syllabus’ (that is the syllabus, generally multi-faith, adopted for non-denominational (community) schools in the area), and cannot with reasonable

convenience cause those pupils to attend another school which uses that syllabus, the governing body (or, in default, the local authority) must (unless special circumstances make it unreasonable for them to do so) make arrangements for this to happen.²⁸ As the ‘agreed syllabus’ for the local area will almost certainly be very broad and non-denominational, it may cover aspects of the Muslim faith but will also cover other faiths.

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:

As noted above (see IV.1), in the case of any children attending a Roman Catholic voluntary aided school whose parents want them follow, instead of the syllabus applied by the school, the agreed syllabus for the area, the governing body of the school must normally make arrangements for them to receive it.²⁹ There is no right to receive religious education pertaining to their own (as opposed to the school’s) faith, other than the right of withdrawal of the child by the parents to receive such education during school hours elsewhere.³⁰

However, in some cases voluntary arrangements are made for religious teachers to visit schools to teach pupils of minority faiths. Nevertheless, it has been suggested that the lack of a *duty* to make alternative arrangements could amount to unjustifiable discrimination for the purposes of the ECHR Article 2 of Protocol 1 read with Article 14, but that the additional cost involved in making such arrangements might provide legal justification. In practice, it is common for alternative moral education or the study of religions or ethics to be provided for pupils of minority faiths.

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:

The main debates in this area have concerned the place of religion in state funded schools. Some favour an approach of secularity, as in the United States, on the grounds that it better reflects the less prominent place of religion in much of society today and also prevents the privileging of one particular faith or belief system. Others believe that the inclusion of religion is important in order to reflect its underpinning of many cultural

traditions and aspects of morality. Government in the UK has on the whole favoured the latter perspective. There is also a wider debate about multi-cultural or inter-cultural education which extends to religious education and also to the question of how far the education system can and should cater for minority faiths or wishes. This is discussed in detail in N. Harris, *Educaiton, Law and Diversity* (2007), chapter 7.

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

Answer:

Relevant legal and other references have be made in footnotes. Acts of Parliament can be accessed via <http://www.statutelaw.gov.uk/>

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:

See below.

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:

See below.

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 *Religious Education Curriculum Directory for Roman Catholic Schools*,³¹ published in 1996, set out a framework for religious education across Catholic schools. It did not make

mention of arrangements for pupils of other faiths. It nevertheless had been the case for some time that pupils in Roman Catholic schools in some areas, such as some parts of London, included pupils from other faith backgrounds such as the Muslim faith. In 1997, however, the Bishop's Conference published *Catholic Schools and Other Faiths*, which contained guidance but placed a strong emphasis on the maintenance of a Catholic ethos and made no requirement that religious education in Islam be provided. Nevertheless, many Roman Catholic schools have covered Islam and other faiths within their religious education syllabus in accordance with local Diocesan guidance.

Since 2007, governing bodies of all state-maintained schools in England have held a general duty, in conducting the school, to "promote community cohesion".³² The introduction of this duty prompted, in 2008, guidance for Roman Catholic schools published by the Catholic Bishops' Conference and the Catholic Education Service of England and Wales.³³ The guidance emphasises and promotes the idea that Catholic institutions need to have "dialogue with other faiths" and it addressed "questions which are arising from the increasing numbers of children of other faiths present in our Catholic schools".³⁴ Rather than enabling pupils from minority faiths to advance their religious knowledge and faith commitment through separate arrangements, the guidance seeks to identify ways in which religious practices and ideals can be used to further

knowledge and understanding among the entire school community. For example, it refers to “[g]iving pupils knowledge and opportunity to be aware of one another’s religious festivals and celebrations” and “inviting pupils and parents from other faiths to share their beliefs with various members of the school community in an age-appropriate way, along with gatherings where pupils and parents could be addressed by, and meet informally, faith leaders from the local community (e.g. a ‘bring and share’ supper)”.

VI. Religious symbols in public schools

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

Answer:

Religious symbols are not expressly forbidden, but see the discussion of the case law in VI.8 below.

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:

The question of employment and employers’ policies on the wearing of religious dress would require a very long discussion for proper analysis, but for a teacher the basic position can be stated as this: he or she would normally have a right to wear the headscarf as a manifestation of her belief or cultural background. The position might be different in relation to the niqab (veil covering much of the face). In *Azmi v Kirklees Metropolitan Borough Council*⁶⁵ the complainant was employed as a Bilingual Support Worker assisting in helping with teaching support. This meant that she was working in the classroom supporting the main class teacher. She was a devout Muslim. She did not wear a face covering at her job interview, nor was any mention made of her wish to wear it. After she was appointed to the post she asked the school to be allowed to wear the veil when in the presence of a male member of the school staff. However, the school formed the view that wearing the veil reduced her effectiveness in her work. The Employment Appeal Tribunal held, among other things, that the school’s requirement that she removed the veil when teaching the children was proportionate, especially since the school would enable her to wear the veil at other times, such as generally when on the school premises.

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:

Yes, in relation to the headscarf, since such a restriction could amount to religious or racial discrimination and it would be very difficult for a school to succeed with a an argument that such a restriction is in pursuit of a justifiable policy such as to downplay religious differences between pupils in the interests of a harmonious environment. Such an argument was unsuccessful in a case which reached the highest court in the UK in 1993, *Mandla v Dowell Lee*, when a school had sought to ban a Sikh pupil from wearing a turban to school.³⁶ With regard to other forms of dress, such as the niqab and jilbab, see the case law below.

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

Answer:

The school's policy and rules on school uniform will be drawn up by the head teacher in consultation with the school's governing body. Ultimately, the policy falls within the remit of the

school governing body with regard to the conduct of the school, its ethos and its disciplinary environment.

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:

As the wearing of the headscarf is not able to be prevented this question does not apply. With regard to other forms of religious dress, see VI.8 below.

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

Answer:

Questions concerning the wearing of school uniform in school, where the governing body is unwilling to accommodate the wearing of a particular form of apparel, would have to be resolved either (i) via complaint to the Secretary of State, who has a power to issue directions to a governing body that is acting in default of its duty or unreasonably (in the sense of acting beyond its powers – *ultra vires*); (ii) through a complaint of religious or racial discrimination in the county court; or (iii) via an ap-

plication for judicial review in the Queen's Bench Division (Administrative Court) of the High Court.

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:

With regard to a teacher, it would fall under the standard disciplinary procedure for employees. In the *Azmi* case (see VI.2 above), the assistant was disciplined for breach of her employer's instructions.

So far as a pupil is concerned, it would be dealt with under the individual school's disciplinary policy or rules. However, schools are also required to have regard to the government's official guidance on behaviour and discipline.³⁷ This states, among other things, that pupils should not be excluded from school for "breaches of school uniform rules or rules on appearance... except where these are persistent and in open defiance of such rules".³⁸

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

Answer:

The case-law on the rights of pupils in respect of school uniform has mostly centred on the Human Rights Act 1998 and European Convention on Human Rights (ECHR), typically involving not only the right to education under Article 2 of Protocol 1 – in particular the recognition of individual religious or philosophical preferences under its second sentence – and Article 9, on religious freedom. The 1998 Act in effect prohibits public authorities (which term includes a state school³⁹) in the UK from acting in a way that is incompatible with the Convention rights. It also requires the courts to have regard to Strasbourg case law when interpreting any question before it that concerns a Convention right; and it also requires UK primary and subordinate law to be read and given effect to in a way that is consistent with the Convention and the Strasbourg case law.⁴⁰

The most important case to date concerning school uniform in the UK is *R (Begum) v Headteacher and Governors of Denbigh High School* in 2006.⁴¹ Shabina Begum, a Muslim, was aged 15. The pupils at the school she attended came from 21 different ethnic groups and nearly four out of every five classed themselves as Muslim. The school's governing body drew up its school uniform policy in consultation with the local community. It decided to permit the wearing of the shalwar kameeze but not to permit the wearing of the jilbab, which is a full length garment also covering the legs and arms. The school was concerned to

prevent pupils from being placed under pressure from others into wearing more extreme forms of religious dress. Miss Begum wore the shalwar kameez during her first two years at the school but by the age 14 she had formed a commitment to wear the jilbab. When permission to wear the jilbab was not granted by the school she refused to attend school. She contended that by virtue of the school's decision she had been unlawfully excluded contrary to the ECHR Article 2 of Protocol 1 and that her right to manifest her religion under Article 9 had also been violated. Her claim failed in the High Court but she won an appeal to the Court of Appeal, whose decision that was considered to have significant implications for schools. It in effect meant that a number were at risk of being in breach of the 1998 Act and the Court of Appeal had signified that they would need more guidance on their duties under the Act from central government.⁴²

The headteacher and governing body appealed to the House of Lords. The House of Lords decided by a majority that there had been no interference with Miss Begum's Article 9 right, since she was free to transfer to a different school in the area which permitted the wearing of the jilbab. (The two minority judges considered that such a transfer would be problematic on social and other grounds and that she did not therefore have complete liberty to move school.) Nevertheless, their lordships were unanimous in agreeing that the school's rules on pupil uniform gave rise to an interference that was justifiable for the purposes

of Article 9(2). The House of Lords did not consider that Miss Begum had been excluded from school, since it was her choice to wear the jilbab in contravention of the school's rules and she had the right to return to the school provided wore the approved form of dress.

Crucial to the outcome in *Begum* was the way in which the school had approached the drawing up of its policy on uniform and had applied it. As Lord Bingham said, it "did not reject the respondent's request out of hand: it took advice, and was told that the existing policy conformed with the requirements of mainstream Muslim opinion"; and it "had taken immense pains to devise a uniform policy which respected Muslim beliefs, but did so in an inclusive, unthreatening and uncompetitive way..."⁴³

Eleven months after *Begum* came another case concerned with the wearing of Muslim dress at school by a pupil in the pursuit of religious faith: *R (X) v Y School*.⁴⁴ This time the pupil in question, X, a Muslim aged 12 years, wanted to wear the niqab (veil) to school. Her two older sisters had previously been pupils at the school and had been permitted to wear the niqab. X contended that as a result she had had a legitimate expectation that she would be able to wear it. This argument was rejected in the High Court by Silber J, in part on the ground that there was a justifiable interference with this expectation. So far as her right under Article 9 of the ECHR was concerned, the court held that there had been no interference since she could attend an-

other local school which permitted the wearing of the jilbab, indeed she had been offered a place there. The court also accepted that there was a justification under Article 9(2) for the restriction. In particular, there was an educational element, since teachers needed to see her face; there was also a social element, as the uniform policy promoted “uniformity and an ethos of equality and cohesion”; and there was a security-related factor, in enabling the school to identify a pupil. The policy also aimed to avoid pressure on girls to wear the niqab. The school uniform restriction was considered proportionate.⁴⁵

As in *Begum*, therefore, the court in *X* considered that where the pupil has an ‘exit’ option, in the sense that he or she may receive education elsewhere without being prevented from wearing clothing that was consistent with their religious beliefs, it is unlikely that they will be able to claim an interference with their right to manifest their beliefs for the purposes of Article 9. Moreover, even if there *is* considered to be such an interference, it can be justified within the terms of Article 9(2) with reference to legitimate aims that serve wider social purposes, where the school has adopted a proportional approach.

Two other cases decided subsequently have concerned the wearing of a religious symbol. In the first, *Playfoot*,⁴⁶ a 16 year old girl wanted to wear a ring known as the ‘Silver Ring Purity Thing’, as a symbol of her Christian belief in abstinence from sexual intercourse before marriage. The school’s policy on jew-

ellery prohibited all forms of it apart from plain ear studs. The claimant argued that the school’s refusal to permit her to wear it violated her right to manifest her beliefs under Article 9 of the ECHR. She also contended that the school was discriminating against her as a Christian (contrary to Article 9 read with Article 14) because, whilst she could not wear her purity ring, the school permitted Muslim girls to wear head scarves. The first question was whether the wearing of the ring was an expression or manifestation of a religious belief. The court did not consider that it was. Judge Supperstone QC considered that for the purposes of Article 9 the practice, in this case the wearing of the ring, needed to be “intimately linked” to the belief. He did not consider that to be the case here, since she was under no obligation, by virtue of holding the belief, to wear the ring. The court did not accept that the ring was a religious artifact rather than an item of jewellery per se. As in the earlier cases (above), the court also considered that there were alternative means open to the pupil to manifest her belief, so that for the purposes of Article 9 there had been no interference with it. She could, for example, display the purity ring on a key ring or by attaching it to her bag.

There is also a consistency with the earlier cases in how the court identified, for the purposes of Article 9(2), a justification for the interference. The school’s policy aimed to foster “the school identity and an atmosphere of allegiance, discipline, equality and cohesion”; children were to “learn in an environment which

minimises the pressures which result from marking differences on grounds of wealth and status”; the policy “reduces the risks from bullying at school, which may arise where social pressures develop around clothes and jewellery through peer expectations”; it also “assists in promoting the highest standards of achievement in all aspects of a young girl’s life”; and there were health and safety reasons for not allowing jewelry to be worn.⁴⁷ The court also rejected the argument that there had been religious discrimination, concluding that the school did not practise blanket discrimination against Christians, since it had permitted a member of the Plymouth Brethren to wear a scarf. The judge found that the school had considered individual circumstances carefully and had been sensitive to individual religious needs where human rights were at issue, for example by permitting a Muslim girl to wear a headscarf and two Sikh girls to wear a Kara bangle.

The wearing of the Kara was in fact the subject of the second case concerned with a pupil wishing to wear a religious symbol, *Watkins Singh* in 2008.⁴⁸ This case was mostly argued under UK statute law, although Article 8 of the ECHR (the right to respect for privacy and family life) was also invoked. The claimant was a 14 year old girl. She followed the Sikh religion and in pursuit of it wished to wear the Kara to school. The school had a similar policy to the school in *Playfoot* (above), banning all jewellery apart from plain ear studs but permitting the wearing of a wrist watch. The school’s view was that if the claimant would be

permitted to wear the Kara it would give rise to discrimination against other, Christian, pupils who were not permitted to wear a cross. The school contended that wearing the Kara was “roughly similar” to wearing the Welsh flag: “something which engenders emotion, perhaps strong emotion but is not something which either her religion or culture requires her to wear”. The claimant was told that she could attend school wearing the Kara but only if she was segregated from the other pupils and taught separately. This, she later claimed, had upset her and violated her right to private and family life for the purposes of Article 8 (a facet of her claim that the court subsequently rejected due to evidence that she was reasonably content at school notwithstanding the segregation, although she may have been unhappy at home⁴⁹). Meanwhile, a school panel refused her request for exemption from the no-jewellery policy, on the grounds that it did not consider that it was a religious requirement for her to wear the Kara on her wrist; that if she was singled out for exemption she might be bullied by some of her peers; and there were health and safety reasons for the ban. After a further attempt to secure an exemption and after further fixed term exclusions, the pupil was informed that she could not attend school if she wore the Kara.

The girl pursued an application for judicial review in the High Court. Although part of her claim concerned the exclusion processes followed by the school, the critical issues surrounded the claim that the girl had been subjected to indirect unlawful racial

and religious discrimination and that the school had failed in its duty under the Race Relations Act 1976 to promote racial harmony. In order for there to be discrimination there had to be “a particular disadvantage” or a “detriment” suffered through being prevented from wearing the Kara. Silber J said that it was not necessary, in order to establish that there was such a disadvantage or detriment, for the wearing of the Kara to be *required* by the religion in question. It would be sufficient if –

“(a) [the] person genuinely believed that wearing it was of *exceptional* importance to his or her racial identity or his or her religious belief; and (b) the wearing of this item can be shown objectively to be of *exceptional* importance to his or *her religion or race*.”⁵⁰

The court considered that on the facts of the case both (a) and (b) were satisfied in relation to the wearing of the Kara by the claimant.

The court also differentiated between the Kara in this case and the apparel in question in *Begum*, *X* and *Playfoot*. In contrast to the niqab and the jilbab, the Kara was, according to Silber J, very small and unostentatious – 50mm wide and not visible if the claimant had long sleeves. Therefore many of justifications for the restrictions on dress which the courts had accepted in the earlier cases were inapplicable where the Kara was concerned. Even the health and safety argument did not hold sway, since the pupil was willing to remove the bangle or cover it over

securely in circumstances where health and safety might be an issue. The court also refused to accept the argument that permitting the girl to wear the Kara would prevent bullying or avoid the difficulty in trying to explain such an exception to pupils. Bodies such as schools had an obligation to remove tensions not by seeking to downplay pluralism but by promoting tolerance. They were under a duty under UK law, when carrying out their functions, to have “due regard to the need... to promote equality of opportunity and good relations between people of different racial groups”.⁵¹

Silber J also offered some interesting comments about the role of a school in a pluralistic society:

“[T]here is a very important obligation imposed on the school to ensure that its pupils are first tolerant as to the religious rites and beliefs of other races and other religions and second to respect other people’s religious wishes. Without those principles being adopted in a school, it is difficult to see how a cohesive and tolerant multicultural society can be built in this country. In any event, insofar as the intention of the uniform policy is to eliminate bullying, there is no rational connection between this objective and eliminating signs of difference.

“This shows clearly first that the defendant and the school should not have sought to remove the potential cause of tension by refusing to allow the claimant to wear the Kara, but second that instead it should have taken steps to ensure that

the other pupils understood the importance of wearing the Kara to the claimant and to other Sikhs so that they would then tolerate and accept the claimant when wearing the Kara”.⁵

The above cases have demonstrated the issues that schools need to weigh up when determining their school uniform policies. An outright ban on all religious dress is unlikely to be upheld by the courts in the UK, and while restrictions may be considered lawful where there are cogent justifications based on the pursuit of aims which are legitimate and serve wider social interests, the courts will expect schools to have considered the matter carefully and consulted appropriately among the communities they serve. Schools are also likely to be expected to have had regard to the government’s guidance on school uniform policies, whose publication seems, at least in part, to have been prompted by the above cases. It recommends wide consultation by schools in drawing up their school uniform policies and that schools document the consultation process that they have carried out.⁵³ The guidance also emphasizes that schools must have regard to the Human Rights Act and anti-discrimination legislation. With regard to the factors that might outweigh the needs of individual pupils, the guidance identifies: health and safety; security (capacity to identify pupils easily); teaching and learning (face covering hinders teacher’s capacity to judge pupil’s engagement with learning etc); protection from external pressure to wear particular form of clothing; the desirability of

promoting a strong, cohesive, school identity and also a sense of identity among pupils; the need to “promote harmony” between different groups. These are factors that were variously accepted as legitimate by the courts across the above cases.

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:

Religious institutions commonly organize religious classes for children. There are three forms of what are described as ‘supplementary schools’ known as ‘madrassas’ operating in the UK: the largest group comprises classes run by local mosques; secondly, there are madrassas run by local volunteers in hired community centres or school halls; and thirdly there are informal classes which are held in people’s private homes.⁵⁴

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

Answer:

See II above.

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

Answer:

See II above.

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

Answer:

One report, by the Muslim Parliament of Great Britain, indicates that there were approximately 700 madrassas, some with as many as 500 pupils.⁵⁵ Another report states that according to the Mosques and Imams' National Advisory Board there are approximately 2,000 madrassas in the UK which are known to local authorities.⁵⁶ Unofficial madrassas operated in people's homes are additional to this number.

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

Answer:

There are no official data on the overall numbers of children who receive such instruction. According to a report in *The Times*, at the end of 2008, there were an estimated 200,000 children in Great Britain attending madrassas on weekday evenings.⁵⁷ It is reported that in one city with a substantial Muslim population, Leicester, 80-90 per cent of local Muslim pupils or students attend a local madrassa.⁵⁸

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

Answer:

The pedagogic quality of the education provided in madrassas is not subject to external regulation. Child protection legislation applies, however, and the Independent Safeguarding Authority is to maintain a list of people who are barred from working with children.⁵⁹ Health and safety laws also apply. However, these safeguards are not guaranteed in arrangements in private homes. According to a recent report by the independent Institute for Public Policy Research (IPPR): "Since so many madras-

drassas in the UK operate privately and are not subject to public oversight, the government has a fairly limited ability to regulate the way in which they are run”.⁶⁰

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

Answer:

The public debate about Islamic instruction outside the framework of state or regulated private education has focussed on the need for greater regulation to ensure suitable standards of provision and to prevent extremist views being promoted to children and young people. It has also encompassed the issue of whether participation in madrassas has a negative impact on community cohesion. In the case of unofficial madrassas operated in private homes there is an additional concern about child welfare, such as the risk of physical punishment.⁶¹ The British media have generally presented a negative view of madrassas and this seems to have influenced the tenor of public debate. A report by the IPPR has, however, commented that media coverage may not be presenting a wholly accurate picture and that there is a lack of objective evidence on madrassas and their local impact, including on the radicalisation of young people.⁶² The IPPR is currently conducting an independent study of ma-

drassas which is due to report in September 2011. The IPPR says that “In general, government initiatives to engage with or support madrassas remain fragmented and often reactive to either child protection or security concerns.”⁶³

VIII. Additional comments

XI. Bibliography

Literature on this topic

N. Harris, *Education, Law and Diversity* (Hart, 2007)

J. Fortin, *Children’s Rights and the Developing Law* 3rd edn (Cambridge University Press, 2009)

See also endnotes references.

Endnotes

1. Professor of Law at the University of Manchester, UK.
neville.harris@manchester.ac.uk
2. Education Act 2002, s.80.
3. School Standards and Framework Act 1998, s.71.

-
4. Ibid.
 5. School Standards and Framework Act 1998, schedule 19.
 6. Ofsted, Making Sense of Religion Ref 070045 (London: Ofsted, 2007), p.7.
 7. Ibid
 8. School Standards and Framework Act 1998, s.71(3).
 9. Department for Education, Statistical First Release, Schools, Pupils and their Characteristics, January 2010 (Provisional), SFR 09/2010 (Department for Education, 2010):

<http://www.education.gov.uk/rsgateway/DB/SFR/s000925/sfr09-2010.pdf> [accessed 21 April 2011].
 10. See note 6, table 2A.
 11. Ofsted, Types of Independent Schools (Ofsted, 2011), at [http://www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Types-of-independent-schools/\(language\)/eng-GB](http://www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Types-of-independent-schools/(language)/eng-GB) [accessed 21 April 2011].
 12. Education Act 2002, Part 10; Education (Independent School Standards) (England) Regulations 2003, SI 2003/1910, Schedule. This framework remains in force, as the new framework in place of this one that has been created by the Education and Skills Act 2008 is not yet in force.
 13. Ofsted, Inspection Report, Abu Bakr Independent School, December 2007, p.5
 14. para.14.
 15. Ibid, para.16.
 16. School Standards and Framework Act 1998 Act s.38(3) and the Education (School Government) (Terms of Reference) (England) Regulations 2000 (SI 2000/2122) reg.8.
 17. Education Act 1996, ss.371 and 404.
 18. Education Act 2002, ss 78 and 79 (as amended).
 19. Note that arrangements must be made so that so far as practicable every pupil attending a maintained special school receives religious education unless withdrawn by their parent: Education (Special Educational Needs) (England) (Consolidation) Regulations 2001 (SI 2001/3455) reg.5A.
 20. Education Act 2002, s.80 as amended.
 21. Education Act 2002, s.101, as amended.
 22. Education Act 2002, ss 87 and 108.
 23. Choudhury and Another v Governors of Bishop Challoner Roman Catholic Comprehensive School [1992] 3 All ER 277.
 24. This exemption is in the Equality Act 2010, s.89 and schedule 11.
 25. It seemed to be sanctioned by the DfES, School Admissions Code (2007) and implicitly falls within the exception to the non-discrimination duty under the Equality Act 2010 (above). See also the Department for Education, School Admissions Code (2010), which currently applies: “Where a faith school gives priority for a pro-

portion of places to those of other or no faith in their admission arrangements they must be clear how this will work and what oversubscription criteria will be used in their published admission arrangements for each group of places. If the number of applications for one group is less than the number of places available for that group, those places must be offered to other children” (para 2.54, original emphasis).

26. <http://www.abblanch.com/Policies> [accessed 27 April 2011].
27. Determination ADA/001396, 12 September 2008.
28. School Standards and Framework Act 1998, schedule 19 para.4.
29. School Standards and Framework Act 1998, schedule 19 para 4.
30. Ibid, s.71.
31. Bishop’s Conference for England and Wales (Catholic Education Service, 1996).
32. Education Act 2002, s.21(5), inserted by the Education and Inspections Act 2006 s.38(1).
33. Catholic Education Service, Catholic Schools and Community Cohesion (Catholic Education Service for England and Wales, 2008); and Catholic Schools, Children of Other Faiths and Community Cohesion: Cherishing Education for Human Growth (Catholic Education Service for England and Wales, 2008).
34. Ibid (Children of Other Faiths), p.4.
35. [2007] ELR 339.

36. [1983] 1 All ER 1062.
37. The Education (Pupil Exclusions and Appeals) (Maintained Schools) (England) Regulations 2002 (SI 2002/3178), reg 7(2) (duty on governing bodies and LEAs to have regard to official guidance).
38. Department for Education and Skills, Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units, DfES/02017/2006 (DfES, 2006), amended 2007 and updated 2008:
<http://www.teachernet.gov.uk/wholeschool/behaviour/exclusion/>
39. Ali v Headteacher and Governors of Lord Grey School [[2006] UKHL 14, [2006] ELR 223, at 79 (per Baroness Hale).
40. Human Rights Act 1998, ss 2, 3 and 6.
41. [2006] UKHL 15, [2006] ELR 273.
42. R(SB) v Headteacher and Governors of Denbigh High School [2005] ELR 198, per Brooke LJ at [82].
43. Note 42 above, at [33]-[34].
44. R (X) v Y School [2007] EWHC 298 (Admin), [2007] ELR 278.
45. Ibid, at [78].
46. R (Playfoot) v Governing Body of Millais School [2007] EWHC 1698 (Admin), [2007] ELR 484.
47. Ibid, at [36].
48. R (Watkins-Singh) v Governing Body of Aberdare Girls’ High School and Rhondda Cynon Taf Unitary Authority [2008] ELR 561.

-
49. Ibid at [131]-[137].
50. Ibid at [56B], judge's emphasis.
51. Ibid at [81] and [82], referring to the Race Relations Act 1976, s.71.
52. At [84] and [85].
53. Department for Education, Guidance for schools on school uniform and related policies (2011 edition)
<http://www.education.gov.uk/schools/leadership/schoolethos/a0014144/guidance-for-schools-on-school-uniform-and-related-policies> [accessed 27 April 2011].
54. Reported in M. Cherti, A. Glennie and L. Bradley, "Madressas" in the British media (IPPR, 2011)
<http://www.ippr.org.uk/publicationsandreports/publication.asp?id=805> [accessed 27 April 2011].
55. http://www.muslimparliament.org.uk/Childprotect_MuslimWeekly.html [accessed 8 October 2008].
56. 'Call for more checks on madrassas'
<http://news.bbc.co.uk/1/hi/education/8305318.stm> [accessed 27 April 2011].
57. R. Kerbaj, 'Teachers "beat and abuse" Muslim children in British Koran class', The Times Online, 10 December 2008:
<http://www.timesonline.co.uk/tol/comment/faith/article5315021.ece> [accessed 27 April 2011].
58. M. Cherti, A. Glennie and L. Bradley, "Madressas" in the British media (IPPR, 2011)
<http://www.ippr.org.uk/publicationsandreports/publication.asp?id=805> [accessed 27 April 2011], p.2.
59. See the Safeguarding Vulnerable Groups Act 2006 as amended by the Police and Crime Act 2009.
60. M. Cherti, A. Glennie and L. Bradley, "Madressas" in the British media (IPPR, 2011)
<http://www.ippr.org.uk/publicationsandreports/publication.asp?id=805> [accessed 27 April 2011], p.2.
61. See note 57 above. See also R. Kerbaj, 'Teachers "beat and abuse" Muslim children in British Koran class', The Times Online, 10 December 2008:
<http://www.timesonline.co.uk/tol/comment/faith/article5315021.ece> [accessed 27 April 2011].
62. M. Cherti, A. Glennie and L. Bradley, "Madressas" in the British media (IPPR, 2011)
<http://www.ippr.org.uk/publicationsandreports/publication.asp?id=805> [accessed 27 April 2011].
63. Ibid, p.3.

The place of religion in education in Albania

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

I. 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: The public education in Albania is secular. This feature of the public education is determined by Constitution of the Republic of Albania.

Based on the Constitution some others laws regulate the relationship between education and religion. (See Annex 1)

The main legal documents³ that regulate the right to religious education and freedom of religion in schools in Albania are:

- Law No.7952, date 21.6.1995 On Pre-University Education System, changed by Law No.8387, date 30.7.1998 For Some Changes in the Law No.7952, date 21.6.1995 On Pre-University Education System;
- Decision of Council of Ministers No. 248, date 28.05.1999 On Criteria and Procedures of giving permission for functioning of non-public education institutions and complementary education institutions that teach religious subjects or the language of instruction is a foreign language;
- Law No. 8902, date 23.05.2002 For Ratification of the "Agreement Between the Holy See and the Republic of Albania on the regulation of the mutual relations";
- Law No. 9365, date 31.05.2005 On Procedures of Recognizing of the Legal of the religious of the Holy See;
- Agreement between Government and Islamic Community (Muslim Sunni), Government and Orthodox Community, Government and Bektashi (Muslim Shiite), 2008.

The legislation regulates the right to religion and religious education; the relationship between the state and the non-public schools that offer religious subjects as well; relationship be-

tween the state and the religion communities; set the requirements for establishing and controlling the activity of non-public schools that offer religious subjects; foresees rules to the teachers and parents in exercising the right to religion.

Based on this legislation, in Albania there are two types of schools of the pre-university education system: public secular and non-public that offer religious subjects as well.

Article 10, points 1, 2 and 4 of the Constitution sanction the principles: The Republic of Albania shall have no official religion. The State shall be impartial regarding issues of religion and conscience, and shall guarantee the freedom to express them in public life..." "The state and religious communities ... cooperate to the good of each and all."

The Article 24 sanction : "Freedom of conscience and religion shall be guaranteed. Each and every citizen shall be free to choose or change religion or belief, as well as to display them individually or collectively, in public or in private life, through cult, education, practices, or rituals."

So, the article 24 of the Constitution permits the exercise of religion through education. This establishes the freedom of religious education both through religious schools and by permitting information of religion to be treated in public schools.

This means that the position of the Albanian state in the field of religious education must be not only a neutral and unbiased one, but must also include positive interventions to ensure freedom of education in the religious field. The legal formula of the solution is given by the Constitution and it is realized through agreements between the state and four main religious communities in Albania.

Article 57, paragraph 6 of the Constitution of Republic of Albania, which recognizes the right of students to education in non-public schools at all levels, must be seen as closely linked to

Article No. 5 of the Law No.7952, date 21.6.1995 On Pre-University Education System, changed by Law No.8387, date 30.7.1998 For Some Changes in the Law No.7952, date 21.6.1995 On Pre-University Education System, states that the Ministry of Education and Sciences (hereinafter MOES) is responsible for the enforcement of the state policy on secular education, approved by the Council of Ministers. So, MOES is not taking responsibility for the religious part of the private schools that offer religious subjects as well nor for the religious schools.

Article No. 14 of the Law No.7952, date 21.6.1995 On Pre-University Education System, changed by Law No.8387, date 30.7.1998 For Some Changes in the Law No.7952, date 21.6.1995 On Pre-University Education System, prohibits teachers from influencing students' social, political and religious beliefs.

The procedure for establishing a secular private school, according to the Pre-University Education Law and the Decision of Council of Ministers No. No. 248, date 28.05.1999, is different from establishing a religious school. While a secular private school, where classes are taught in Albanian, receives its license from the Ministry of Education, the approval of the Council of Ministers is needed for a non-public school that offer religious subjects and for a non-public school where classes are taught in a foreign language.

Currently, according to the MOES data⁴, the main religious communities in Albania have established institutions for the respective religious education. For example, the Albanian Muslim Community (Sunni version) has under its subordination 4 me-dresses and 3 joint schools (elementary and secondary). The Orthodox community administers 1 secondary school.

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

Answer:

Regarding the access that religious information has in public school programs at the pre-university level, it must be emphasized that significant improvements have been made in compari-

son with the past. Once, such information was “heretical.” Currently, the public school curricula of all levels of schooling transmit knowledge on religious philosophy, on the history of the development of religions, their geographical distribution and actual problems of cohabitation in different regions. The information on religion is integrated in the different subjects that are compulsory and students can’t opt out. Optional religious subjects are not a case in Albanian schools.

The place that religions have in pre-university public school textbook systems are limited and conditioned by plans and programs developed by the Institute of Curriculum and approved by MOES.

Problems related to religion: the birth of religions, their essence, their role in history, etc., are partially addressed in the textbooks of a 9-year history system of secondary education (Gymnasium) and in texts "Social Education" "Knowledge Society", "History of Literature" and texts related to the arts. Religions do not represent any point of reference⁵.

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:

No, there are no state funded denomination schools in Albania.

II.2. Question: Are there non-state funded denominational schools in your country (private)?

Answer:

Yes, there are non-public schools that offer religious subjects and private religious schools funded by religion communities.

The Ministry of Education and Science declares that during 2009-2010 school year, from 518 private educational institutions only 8 (equal to 1,9 %) are non - state denominational schools.

From 8 non-state denominational private schools only one belongs to Orthodox religion. From 2079 students that attend non-public schools that offer religious subjects 2044 equal to 98% attend Islamic private schools.

See the attached file in Annex 2. Source: Ministry of Education and Science (rmerdani@mash.gov.al)

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:

In Albania there are foreseen some rules on controlling the non-public schools that offer religious subjects. The following are two main articles related to this issues taken from the Law No.7952, date 21.6.1995 On Pre-University Education System, changed by Law No.8387, date 30.7.1998 For some Changes in the Law No.7952, date 21.6.1995 On Pre-University Education System

Article 45

45.1 MOES determines equivalency for recognition of the transcript of a private grade or a private school. If the private school offers the religious subjects as well, the MOES determines the equivalency for the recognition of the laic part of the curriculum at the end of a private grade or a private school.

Article 47

Ministry of Education and Science and its education organs in districts control regularly the laic education process in the private school in order to verify accomplishment of the requirements of the curricula and the education programs approved by the Ministry of Education and Sciences.

More detailed requirements related to the control are included in the Decision of Council of Ministers No. 248, date 28.05.1999 On Criteria and Procedures of Giving Permission for Functioning of Non-public Education Institutions and Complementary Education Institutions that Offer Religious Subjects or Instruction is given in a Foreign Language.

Point 2 of this document requires from non-public school that offer religious subjects, submitting to the MOES the following documents:

- Curriculum and syllabi. Structure of the school year of non-public education institutions that offer religious subjects or instruction is given in a foreign language has to be equivalent to the structure of the public school of the same level. The complementary non-public institutions that offer religious subjects or instruction is given in a foreign language, it is required the determination of the duration, structure, levels and modules will be taught.

- List of main texts will be used from that institution. The set of texts will be in disposal of the education organs if it is required by them.
- List of compulsory subjects that are the same as of the public schools.
- List of subjects that differ from the curriculum of the public schools of the same level.
- List of optional and elective subjects.
- Approval by the State Religion Secretariat of the religious part of the curriculum, syllabi of religious subjects, texts that will be used for the religious subjects.
- Non-public education institution and complementary non-public education institution that offer religious subjects or that offer instruction in a foreign language are required to inform educational organs on various extracurricular activities that they organize.

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

III.1 and 2 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.

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?

Answer:

In Albania there are no legal provisions related to the right to refuse pupils 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 and 2. 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?

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

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?

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

Answer:

There are no legal provisions and there are no practices of this approach in Albania.

There is a rare practice that pupils attend study in a non-public school that offer religious subjects different from their religion. According to a testimony of an inspector of the Ministry of Education and Sciences, ten students that belonged to the Christian religion were accepted to study in the school that belonged to Islamic community in Kavaja city. The reason of this choice was the quality of that school.

IV.3. Question. Can you shortly mention the pro and contra standpoints that have been expressed concerning the re-

spect of fundamental rights (among others, freedom of education and right to education) in relation with this obligation?

Answer:

The religion tolerance is one of the best values of the Albanian society. Two major religions: Christianity (catholic & orthodox) and Islam (Muslim Sunni & Muslim Shiite) have co-existed in Albania, historically. Tolerance and the fact that Albanians are not fanatic believers have created a positive background for the respect of different religions. But the fact that the right to religion was forbidden for 23 years created a passive attitude to religious education.

In Albania there is no discussion on including the religious education in the public schools.

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

Answer:

See bibliography

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. 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. 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:

In practice, non-public schools that offer subjects of one religion do not teach the subjects of another religion.

VI. Religious symbols in public schools

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

Answer:

The Public education in Albania is secular and it is conditioned by the secular character of the state. In this context, the religious symbols are forbidden in our public schools.

In the Law No.7952, date 21.6.1995 "On Pre-university Education System", Article 7 sanctions:

7.1 Public pre-university education is secular.

7.2 In public education institution the ideological and religious indoctrination is forbidden.

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:

There is an expressed rule prohibiting the wearing of Islamic headscarf teachers. But on the other hand, there is the practice where a citizen who had applied for work as a teacher and was wearing the Islamic headscarf, was denied the right to work as a teacher.⁶

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:

The wearing of the Islamic headscarf and manifestation of religion in public schools, is one of the more debated questions in Albanian reality.

The pupils, who wear the Islamic headscarf are allowed in the areas of the schools, based on the provisions of law " On Pre-University Education System " which sanctions the secular character of public education in Albanian (Art.6) and "Normative Provisions For Pre-University education", which in Article 40, letter (j) entitled the duties of student, sanctions: His/her dress and appearance is correct, without excess, appropriate to the age that he/she has, in accordance with the norms of coexistence in society and domestic regulation school.

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

Answer:

As mentioned above (VI.3), the public school is obliged to respect the law for secularism of the education. According to Art. 5 of the Law “On Pre-University Education System”: The Ministry of Education and Sciences is responsible for the enforcement of the state policy on secular education, approved by the Council of Ministers.

On the other hand, every school has its “Regulations”, which describe the rights, duties and responsibility for pupils and teachers. These Regulations, sanction the responsibility of pupils to respect the dress code of the school according to the standards established by the Directorate of School.

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:

In reality, there are cases where pupils who wear the Islamic headscarf are not allowed to participate in the educational process, but there is no official data that they are forced to remove the Islamic headscarf.

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

Answer:

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:

The pupils / teachers that fail to comply with the rules on dress codes are forbidden to participate in the educational process.

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

Answer:

There are no such law- cases that have become the subject of proceedings in the Albanian courts. But these cases have become the object of activity of the People’s Advocate.

VIII. Additional comments

As mentioned above the wearing of the Islamic headscarf and manifestation of religion in public schools is one of the more debated questions in Albanian reality.

The only institutional documents which deal with this issue are the annual reports of the People's Advocate⁷.

The People's Advocate issued its first annual report in 2001 and then it was followed by the annual reports of 2004, 2006, 2007, and 2008.

Making reference to these 5 reports issued by the People's Advocate, the problems related to the issue of religious symbols in Albania's public schools, including secondary education, pre-university education, and higher education may be classified in two main groups:

1. Wearing of the Islamic veil from Muslim believers, such as pupils, students, and teachers;
2. Distinctive appearance, such as a beard peculiar to Muslim believers.

On the other hand, in the coherence of the activity of the People's Advocate through recommendations proposed in the course of time, it can be said that the treatment of the above mentioned cases was dealt with only in the context of adminis-

trative violation or not. The lack of the administrative act in accordance with the requirements of the Code of Administrative Procedure of the Republic of Albania has eventually produced the invalidity of the above mentioned actions. The majority of cases presented as complaint to the People's Advocate, have not been dealt with comprehensively. The lack of formality served always as the necessary legal basis to consider whether the actions made by state institutions were valid or not.

It is understandable that in its constitutional position, the People's Advocate can only make recommendations in the event it observes violations of the fundamental human rights and freedoms (Article 63, point 3, Constitution of the Republic of Albania), but they remain just to serve as recommendations and the experience has shown these recommendations have not been considered in time or have not been considered at all⁸.

XI. Bibliography

Albanian Constitution, approved by the Albanian Parliament on 21 October 1998, available at <http://www.president.al/english/pub/kushtetuta.asp>

Law No.7952, date 21.6.1995 For Pre-University Education System, changed by Law No.8387, date 30.7.1998 For some

changes in the Law No.7952, date 21.6.1995 For Pre-University Education System , available at <http://www.mash.gov.al>

Decision No. 248, date 28.05.1999 On Criteria and Procedures of Giving Permission for Functioning of Non-public Education Institutions and Complementary Education Institutions that Teach Religious Subjects or the Language of Instruction is a Foreign Language, available at <http://www.mash.gov.al/VKMnr.248,dt.28.05.1999.htm>

Law No. 8902, date 23.05.2002 For the Ratification of the "Agreement Between the Holy See and the Republic of Albania on the Regulation of the Mutual Relations", available at [http:// www.qpz.gov.al](http://www.qpz.gov.al)

Law No. 9365, date 31.05.2005 On Procedures of Recognizing the Legal Ability of the Religious Legal Persons of the Catholic Church, available at [http:// www.qpz.gov.al](http://www.qpz.gov.al)

The People's Advocate. Annual reports of 2001, 2004, 2006, 2007, and 2008. Avokati i Popullit, available at <http://www.avokatipopullit.gov.al>

Adrian Klosi *at all*, *Feja dhe shkolla ne Shqiperi (The religion and schools in Albania)*, Soros Fondation in Albania, 2010, available at <http://www.soros.al>

<http://www.ligjet.org>

www.instat.gov.al

Endnotes

1. Lawyer, Specialist for the higher education law, Professor of private law, Tirana University, Faculty of Law, Albania.
2. Professor of Education, Tirana University, Faculty of Social Sciences, Albania.
3. Qendra e Publikimeve Zyrtare (Official Publication Centre), available at <http://www.qpz.gov.al>
4. Ministria e Arsimit dhe Shkences se Republikes se Shqiperise (Ministry of Education and Science of the Republic of Albania), available at <http://www.mash.gov.al>
5. Adrian Klosi at all, *Feja dhe shkolla ne Shqiperi (The religion and schools in Albania)*, Soros Foundation in Albania, 2010, available at <http://www.soros.al>
6. The People's Advocate. Annual reports of 2001, 2004, 2006, 2007, and 2008. Avokati i Popullit, available at <http://www.avokatipopullit.gov.al>
7. The People's Advocate, as a constitutional institution was established pursuant to Law No.8454 of 04.02.1999 "On the People's Advocate" (as amended). Official webpage of The People's Advocate of the Republic of Albania, available at <http://www.avokatipopullit.gov.al>
8. People's Advocate 2008 annual report. Recommendation: "On the initiation of issuing a law on the regulation of religious symbols in

public schools.” To the Prime Minister and the Minister of Education and Science, 26.04.2001.

Recommendations to the Parliament of Albania in the 200-2008 period, on additions or amendments to laws. Official webpage of The People’s Advocate of the Republic of Albania, available at .
<http://www.avokatipopullit.gov.al>

Svein Egil Vestre¹

The place of religion in education in Norway

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:

According to The Education Act and The National Curriculum shall Religion, Philosophies of life and Ethics be an ordinary school subject normally attended by all pupils. The teaching in Religion, Philosophies of life and Ethics shall provide knowledge of Christianity, other world religions and philosophies of

life, knowledge of the significance of Christianity as a cultural heritage and of ethical and philosophical topics.

The teaching in Religion, Philosophies of life and Ethics shall present different world religions and philosophies of life in an objective, critical and pluralistic manner. The teaching in the different topics shall be founded on the same educational principles.

The school shall respect the religious and philosophical beliefs of pupils and parents and ensure their right to an equal education.

(Education Act § 2-3 and §2-4).

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

Answer:

There is no possibility for choices amongst the religious education in public schools. The education is meant to be common for all pupils. But it is possible to opt out if parents ask for that. Following written notification by parents, pupils shall be exempted from attending those parts of the teaching at the individual school that they, on the basis of their own religion or own phi-

losophy of life, perceive as being the practice of another religion or adherence to another philosophy of life, or that they on the same basis find objectionable or offensive. It is not necessary to give grounds for notification of exemption. (Ed. Act § 2-3a)

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: No, only private schools (see hereunder)

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. Private schools are state funded 85 pct. at fixed subsidy rates; and parents/pupils pay the rest.

Less than 3 pct. of the pupils are in private schools. We have two types of private schools: (A) religious schools : 63 christian schools primary/lower secondary (10 years) and 28 secondary schools (3 years). 3 muslim schools have asked for approval. (B) Pedagogical alternatives: 33 Steiner-/Waldorfschools and 47 Montessori schools. (Year 2010)

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:

Private schools must follow The National Curriculum with some exceptions. The Ministry provides advice and guidance in order to ensure the provision of good and equivalent educational facilities in compliance with statutes and regulations.

The Ministry supervises activities pursuant to the Act and shall in this connection have access to school premises and documentation. (Education Act § 14-1)

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: No. State funded private schools must be open to all and accept applicants from the whole country. (Act about private schools, § 3-1)

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?

Answer:

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 de-

nominal (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

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: Not known

VI. Religious symbols in public schools

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

Answer: Allowed

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:

Teachers can wear religious symbols

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:

Pupils can wear religious symbols

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

Answer: we have no dress code in Norwegian schools

Bibliography

Reference to the legal basis, with Website address:

<http://www.regjeringen.no/en/doc/Laws/Acts/education-act.html?id=213315>

Endnotes

1. Institute of Educational Research, University of Oslo

The place of religion in education in the Russian Federation

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:

Both in primary and secondary education in state-funded schools religious instruction cannot be introduced into the compulsory part of the curriculum , i.e. in the federal educational standard.

Article 14 of the Russian Constitution²

1. The Russian Federation is a secular state. No religion may be established as a state or obligatory one.
2. Religious associations shall be separated from the State and shall be equal before the law.

Federal Law on Education³ Article 1.5.

Any religious activity in state-owned and local public educational establishments, as well as in regional and local educational authorities, is prohibited.

Article 5 of the Federal Law on the Freedom of Conscience and Religious Associations⁴

Everyone is entitled to receive religious education of own choice in individual or collective manner. Upbringing and education of children are carried out by their parents (or their legal substitutes) with the view of the child's freedom of conscience. Religious organizations are entitled to act as founders of educational institutions according to their charters. Upon parental request and with the child's consent administration of state-owned and local public schools enables a religious organization to conduct extra-curriculum religion classes, subject to the local authorities' agreement.

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

Answer:

As stated above, a religious component of a certain religion in compulsory education, i.e. in the federal educational standard, cannot be introduced due to Constitutional guarantee of secularity. Nevertheless, certain attempts were made lately by Russian Orthodox Church and the Ministry of Education and Science to introduce “Basics of Orthodox Religion” (later changed to “Basics of Orthodox Culture”) as a compulsory discipline in all public schools.

Since the late 90-ies this initiative brought about heated discussions among teachers, politicians and civil society leaders, as well as serious concern of parents. After a series of research on the history and culture of Orthodox religion in education the Ministry of Education and Science issued a letter No. 03-1584 of 13 July 2007 addressed to regional educational administrations, enclosing a standard cooperation agreement to be concluded with the regional branch of Russian Orthodox Church with a view to “form integral outlook and conception of Orthodox culture as an important area of Russian and worldwide culture,

develop a spiritual and ethical approach in education, and elaborate the pedagogical tradition in the system of education”.⁵

Later on, despite the contradictions of the supporters and opponents of the religious-oriented compulsory discipline, a Concept of introducing the “Basics of Orthodox Culture” discipline into the new part of state secondary education standard “Spiritual and Ethical Culture” was approved at a dedicated conference with official participation of Ministry of Education and Science representatives.⁶ Several textbooks on the new discipline were collectively written by clergymen, not by educational specialists, and approved by the Ministry. The main requirement for such approval was a lack of statements that could be used as an argument to prove superiority or dominance of any religion. The course was therefore renamed as “Basics of Religion and Secular Ethics” and approved as a compulsory part of the state standard since 1 April 2010. It includes 6 separate modules allowing the children and/or their parents to choose either Orthodox, Islam, Buddhist, or Jewish culture basics, or either an overview of all world-spread religions, or secular ethics.

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

No, due to the guarantees of separation of the church and the state.

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. According to Data from the Unified State Register of Legal Entities of the Federal Revenue Service⁷ there are 14 068 Russian Orthodox educational institutions including around 200 in Moscow.⁸

Orthodox educational institutions traditionally include Sunday schools and Orthodox gymnasiums for children and higher Orthodox educational institutions - for ministry-oriented professionals. These educational institutions are established either by religious organizations – churches,⁹ or by individuals.

Strictly speaking Sunday schools are not considered educational institutions by Russian legislation, for they do not issue any certificates or diplomas and, therefore, are not subject to obtaining a license.¹⁰ Sunday schools aim to tell children, usually in an easy and narrative form, the basics of religion, teach them the main commandments and how to strengthen in faith. They bear more cultural approach than educational.

In opposition to a Sunday school, an Orthodox gymnasium is an educational institution of general education. It normally has a license and operates just like a common primary, secondary or high school. It may be state-accredited and carry on the educational activity according to the federal standard of general education, while adding supplementary religious disciplines and maintaining overall Orthodox-oriented atmosphere, including appropriate appearance, collective prayer, manifestation of religion by pupils and teachers, abstentious meal, etc. If the gymnasium does not obtain a state accreditation, its students may graduate with a state-recognized high school certificate from any secular state-accredited high school.

Once state-accredited, an Orthodox gymnasium may apply for state funding on common basis.

According to Data from the Unified State Register of Legal Entities of the Federal Revenue Service¹¹ there are 223 Islamic edu-

cational institutions including 106 Madrasahs (*arab.*: “a place to learn”).

Madrasahs for children are not considered educational institutions if they do not issue any certificates or diplomas.

Data from the Unified State Register of Legal Entities of the Federal Revenue Service as of 21 May 2010
<http://egrul.nalog.ru/fns/index.php>

Official list of Moscow Sunday schools
<http://www.voskresnayashkola.ru/index-spisok.html>

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:

State funded denominational schools are prohibited by Russian legislation. As for private denominational schools, they are subject to regional and local control as are any non-denominational private schools. There're no additional areas of control for religious instruction in such schools.

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:

State funded denominational schools are prohibited by Russian legislation.

According to the Law on Education article 16.1.1. “*Enrolment regulations of any educational institution are defined by the founder of the institution and are fixed in the charter of the institution. Enrolment regulations of both state-funded and local-funded educational institutions of general education and vocational training must ensure enrollment of all children residing on a certain territory and are entitled to obtain education of the mentioned level*”.

As for private denominational schools, they are entitled to issue their own enrolment procedures, complying with the general provisions of the Law on Education.

Therefore, private schools are not obliged by law to admit all of the residents of a certain territory regardless of their religious

beliefs. A denominational private school may accept enrollment regulations allowing the principle to refuse a pupil's application on the basis of his or her religion.

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?

Answer:

See above.

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:

As long as there are no state funded denominational schools in Russia, all privately owned religious schools are of a single confession. Therefore, a Catholic private school will not open an Islamic class and vice versa.

Non-denominational public schools may introduce classes of a certain religion only within the framework of the "Basics of Religion and Secular Ethics" compulsory course or as an extra-curriculum non-compulsory activity.

According to the Law on Education article 7.1. *"In Russian Federation federal state educational standards are set forth, outlining the compulsory requirements for the basic educational programs of general education, professional training, higher and postgraduate education, executed by the state-accredited educational institutions"*.

According to the Law on Education article 29.1.5.2. *"Regional authorities of the federal subjects of Russian Federation are entitled to participate in working out of the model basic educational programs of a certain level and specialization (including regional, ethnic, and cultural peculiarities) on the basis of federal state educational standards"*.

Considering the possibilities of the newly introduced "Basics of Religion and Secular Ethics" compulsory course, any public

school may organize classes of Islamic education upon request of an unspecified number of parents. However the initiative of introducing Islamic religious component in schools (both compulsory and facultative) more often comes from the religious community.

For example, in traditionally Islamic regions of North Caucasus the “Basics of Islam” is taught as an elective course in public schools within the framework of the regional component of the basic educational program, based on the federal state educational standard since 2005.¹²

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:

The situation is the same for other main religions.

The course “Basics of Religion and Secular Ethics” includes 6 separate modules allowing the children and/or their parents to choose either Orthodox, Islam, Buddhist, or Jewish culture basics, or either an overview of all world-spread religions, or secular ethics.

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:

The compulsory course “Basics of Religion and Secular Ethics” is the consensus-based result of a very long and hard dispute over both the name and the contents of the course, as well as its obligatory status.

It includes: basics of orthodox religion, basics of orthodox culture, spiritual and ethical culture, to end with basics of religions and secular ethics.

The fiercest discussion surrounded the first version of the course – “Basics of Orthodox Religion”, later renamed as “Basics of Religion and Secular Ethics” (without major changes). In general terms this discussion represents the concentrated concern of the basic rights, including the right to education and the freedom of conscience:

Answer:

The full text of the textbook of the compulsory course “Basics of Religion and Secular Ethics”
(<http://www.pravmir.ru/osnovy-pravoslavnoj-kultury-%E2%80%93-3-polnyj-tekst-uchebnika/>)

“Basics of Orthodox Religion” in Wikipedia
(http://ru.wikipedia.org/wiki/%D0%9E%D1%81%D0%BD%D0%BE%D0%B2%D1%8B_%D0%BF%D1%80%D0%B0%D0%B2%D0%BE%D1%81%D0%BB%D0%B0%D0%B2%D0%BD%D0%BE%D0%B9_%D0%BA%D1%83%D0%BB%D1%8C%D1%82%D1%83%D1%80%D1%8B))

The letter by 10 academicians (short of "Open letter from the Members of the Russian Academy of Sciences to the President") is an open letter to the President of the Russian Federation in which 10 notable scientists express their concern about rapid clericalization of Russian society. It was published on July 22, 2007 (http://sceptsis.ru/eng/articles/id_8.php, English)

List of textbooks on the “Basics of Orthodox Religion”
(http://ru.wikipedia.org/wiki/%D0%A1%D0%BF%D0%B8%D1%81%D0%BE%D0%BA_%D0%BB%D0%B8%D1%82%D0%B5%D1%80%D0%B0%D1%82%D1%83%D1%80%D1%8B_%D0%BF%D0%BE_%D0%BA%D1%83%D1%80%D1%81%D1%83%D1%82%D1%81%D0%BD%D0%BE%D0%B2%D1%8B_%D0%BF%D1%80%D0%B0%D0%B2%D0%BE%D1%81%D0%BB%D0%B0%D0%B2%D0%BD%D0%BE%D0%B9%D0%BA%D1%83%D0%BB%D1%8C%D1%82%D1%83%D1%80%D1%8B%C2%BB))

Parliamentary texts are not available, because the decisions were made on executive, not legislative level.

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 alter-

native 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:

As stated above regardless of the initiative, as long as there are no state funded denominational schools in Russia, all privately owned religious schools are of a single confession. Therefore, the answers concern only private religious schools. Teaching Islam or another religion in an Orthodox private school is impossible, while doing so in a state-owned or local public school within the framework of the state standard, namely the “Basics of Religions and Secular Ethics” compulsory course, is possible on the equality basis. Therefore, there is no guideline explaining how to propose teaching Islam in Orthodox school, however, there are general guidelines on choosing one of the six modules of the course.

As demonstrated by the experience of several of experimental regions, parents’ choice of the modules ranges as follows¹³:

Parental choice of the modules of the “Basics of Religions and Secular Ethics” compulsory course

Secular ethics: 14646 (58,2%)

Overview of all world-spread religions: 5417 (21,5%)

Orthodox culture: 4804 (19,1%)

Islam culture: 231 (0,92%)

Buddhist culture: 26 (0,1%)

Jewish culture: 22 (0,1%)

VIII. Additional comments

Russian Orthodox Church is a very powerful and wealthy organization in Russia, what makes it hard to maintain the basic constitutional principle of secularization. Participations of Russia’s chief executives in the main Orthodox celebrations heavily covered by mass media, as well as their public meetings with the Church leaders are negatively referred to by most Russians (74 % of respondents),¹⁴ who do not believe in genuine religious feelings expressed on public, but rather consider such behavior as political publicity. All these political actions, therefore, prove obviously ineffective, for absolute

majority of Russians (53 % of respondents) believe that the Church and the State must remain separated.

The issues of religious education in a secular country with no officially recognized state religion but with ideological, cultural, and ethnic diversity remain sharp and up-to-date and should be provided with adequate and consistent legal groundwork. The public outrage accompanying any measures concerning religious and ideological aspects of education should also be taken into consideration.

Russian educational system ensures the right to education for everyone, despite religious beliefs. Public schools and professional educational institutions established by federal, regional, or local authorities must be kept ideologically and politically neutral. The federal educational standard must not contain any statements, describing any religion as having dominance above the others, or being an absolute truth. At the same time, various disciplines equally outlining the basics of wide-spread religions and cultures may be introduced in the federal educational standard. The overall atmosphere of a secular educational institution is normally tolerant to believers, but doesn't ensure his or her special religious needs. Religious reasons for opting out the compulsory educational process are generally not considered sufficient.

Privately-owned schools and professional educational institutions may be established by individuals and/or by legal

bodies, including religious organizations, churches. Private schools may either introduce religious disciplines in addition to the compulsory educational component according to the Federal standard, or provide totally religion-oriented education. Professional religious (ecclesiastical) educational institutions aim at preparation of priesthood and clergy of a certain religion. State-accredited ecclesiastical educational institutions issue qualification diplomas equivalent to a university or non-university professional degree.

The freedom of choice is legally guaranteed to all parents, who decide to provide either secular or religious education to their children according to their own beliefs and cultural traditions of the region. As long as Russia is proclaimed a secular state, a balance must be maintained between the right to education and the freedom of conscience, both guaranteed by Russian Constitution.

XI. Bibliography

Russian Constitution, Adopted at National Voting on December 12, 1993, officially published in Rossiiskaya Gazeta newspaper as of December 25, 1993.

Federal Law on Education No. 3266-1 of 10 July 1992 (as amended by the Federal Law No. 121-FZ of 17 June 2010).

Federal Law on the Freedom of Conscience and Religious Associations No.125-FZ of 26 September 1997 (as amended by the Federal Law No. 160-FZ of 23 July 2008).

Letter of Ministry of Education and Science No. 03-1584 of 13 July 2007 On sending a standard cooperation agreement to be concluded between regional educational administrations and a centrally-controlled religious organization. // Official Documents on Education, No. 31, 2007.

Regulations on Educational Activity Licensing as approved by Government Decree No. 277 of 31 March 2009, article 2.

Basics of Religions and Secular Ethics course official portal, Russian <http://www.prosv.ru/umk/orb>

Federal Educational Portal, Russian <http://www.edu.ru>

Nikolai Mitrohin "Clericalism in Education in Russia: On Public Discussion on Introducing of the "Basics of Orthodox Religion" as a compulsory course in secondary schools", <http://krotov.info/history/21/1/2006mitrohin.htm>

Endnotes

1. Federal Center for Educational Legislation, Russia

2. Adopted at National Voting on December 12, 1993, officially published in Rossiiskaya Gazeta newspaper as of December 25, 1993.
3. The Federal Law on Education No. 3266-1 of 10 July 1992 (as amended by the Federal Law No. 121-FZ of 17 June 2010), hereinafter referred to as "Law on Education".
4. Federal Law on the Freedom of Conscience and Religious Associations No.125-FZ of 26 September 1997 (as amended by the Federal Law No. 160-FZ of 23 July 2008).
5. Letter of Ministry of Education and Science No. 03-1584 of 13 July 2007 On sending a standard cooperation agreement to be concluded between regional educational administrations and a centrally-controlled religious organization. // Official Documents on Education, No. 31, 2007.
6. The Resolution of the Conference was published on the official website of Ministry of Education and Science as of 26 December 2007 // <http://mon.gov.ru/press/reliz/4376/>
7. Data from the Unified State Register of Legal Entities of the Federal Revenue Service as of 21 May 2010 <http://egrul.nalog.ru/fns/index.php>
8. Official list of Moscow Sunday schools <http://www.voskresnayashkola.ru/index-spisok.html>
9. Religious organizations are entitled to establish educational institutions provided the Federal Law on the Freedom of Conscience and Religious Associations article 18.2.
10. Regulations on Educational Activity Licensing as approved by Government Decree No. 277 of 31 March 2009, article 2.



-
11. Data from the Unified State Register of Legal Entities of the Federal Revenue Service as of 21 May 2010
<http://egrul.nalog.ru/fns/index.php>
 12. Article in the Rossiyskaya Gazeta
<http://www.rg.ru/2005/01/12/islam-anons.html>
 13. As reported by the Federal Educational Portal,
http://www.edu.ru/index.php?page_id=5&topic_id=3&date=&sid=11613&ntype=nuke and
http://www.edu.ru/index.php?page_id=5&topic_id=3&date=&sid=13138&ntype=nuke
 14. Public Opinion Foundation Database. “State and Religion”, results of national urban and rural opinion poll, 7-8 April 2001 //
http://bd.fom.ru/report/cat/cult/rel_rel/religion/ddo11431.

The place of religion in education in South Africa⁴

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:

It is possible but not organised by the government and not as part of the formal school curriculum. Schools are encouraged to make their facilities available for such instruction to be undertaken by clergy or certified members of the religious persuasion itself (National policy para 54 – 57)

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

Answer:

Theoretically there is no limitation but permission (concurrence) from the school governing body is necessary (SASA, sections 7 (the power of the governing body to make rules for religious observances), 20(1)(c) (the power to develop the mission statement (ethos) of the school), AND 20(1)(k) (the discretion to allow the reasonable use under fair conditions determined by the Head of Department of the facilities of the school for educational programmes not conducted by the school).

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:

In 2008 366 201 (2.6%) of South Africa's learners (at all levels including higher education) were in independent schools compared to 11 873 162 in public schools (84.1%)⁵

There are *subsidised and funded* schools. Sections 29(3) and (4) of the Constitution read as follows:

“(3) Everyone has the right to establish and maintain, at their own expense, independent educational institutions that-

- (a) do not discriminate on the basis of race;
 - (b) are registered with the state; and
 - (c) maintain standards that are not inferior to standards at comparable public educational institutions.
- (4) Subsection (3) does not preclude state subsidies for independent educational institutions.”

In order to qualify to receive subsidies independent schools need to be registered in terms of section 46 of the South African Schools Act, 1996 (which registration may be withdrawn in terms of section 47). Section 48 of the Act provides as follows regarding subsidies to independent schools:

- (1) The Minister may, by notice in the *Government Gazette*, determine norms and minimum standards for the granting of

subsidies to independent schools after consultation with the Council of Education Ministers and the Financial and Fiscal Commission and with the concurrence of the Minister of Finance.

- (2) The Member of the Executive Council may, out of funds appropriated by the provincial legislature for that purpose, grant a subsidy to an independent school.

- (3) If a condition subject to which a subsidy was granted has not been complied with, the Head of Department may terminate or reduce the subsidy from a date determined by him or her.

- (4) The Head of Department may not terminate or reduce a subsidy under subsection (3) unless-

- (a) the owner of such independent school has been furnished with a notice of intention to terminate or reduce the subsidy and the reasons therefor;
- (b) such owner has been granted an opportunity to make written representations as to why the subsidy should not be terminated or reduced; and
- (c) any such representations received have been duly considered.

(5) The owner of an independent school may appeal to the Member of the Executive Council against the termination or reduction of a subsidy to such independent school.

No doubt some of the independent schools are faith-based but statistics on exactly how many of them are faith-based as opposed to e.g. language based are hard to obtain. From figures on the websites of the Jewish Board of Education, the Association of Muslim Schools and the Catholic Institute of Education it is clear that numbers seldom exceed 100 and seldom go beyond 300 nationally seen.

On reading the question put forward in the questionnaire a South African could tend to conceive of denominational schools as independent schools.

However, Colditz⁶ argues that faith-based (denominational schools) need not be private or independent and he argues compellingly that most public (State) schools are denominational as they are “entitled to have a particular religious ethos but without exclusion or discrimination of or against non-believers or adherents of other religions. The so-called Catholic schools have all been declared public schools and most of them continue to exist on private property.

Schools with a particular religious ethos are not necessarily denominational schools but can be – as is the case with the Catholic schools. Most of the Anglican schools that were transferred to the state during the 60’s and 70’s of the previous century also continue to exist as public schools but with a very close link with the Anglican church.

Very much the same applies to many Dutch Reformed and (presently) Uniting Reformed Church and schools established by the Islamic community.”

In the rest of our responses we will try and reflect both possible interpretations of denominational schools.

In summary then: there are funded public denominational schools and subsidized independent schools. Viewed against this background, the majority of public schools are probably denominational while some independent schools may be subsidized by the state although the state is not compelled to subsidize (fund) them.

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:

It is very likely, considering the money that has to be spent on expanding the public system.

If affirmative, what is the numeric importance of private schools: between 2 and 3%⁷

If affirmative, what is the numeric importance of Islamic private schools: fewer than 100 country wide

See the websites of the education departments (www.education.gov.za; the Jewish Board of Education; the Catholic Institute of Education, the “Christelik Volkseie” (“Christian National” – *authors’ translation*) schools, international Christian schools like the Accelerated Christian Education (ACE) schools, etc

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:

Two comments, one from Davies and one from Colditz, will suffice here:

Davies:

“The mechanism is that independent schools have to be registered with the authorities and have to satisfy the registration requirements laid down by them (see eg Ch 5 of SASA). Some of the provinces also have promulgated provisions in their provincial education legislation and policies - these would have to be studied, for there will be differences between them.

“From our experience a requirement is that schools follow an approved basic curriculum - in the case of South Africa the National Curriculum Statement - and they add to that their own denominational concerns.

“The Gr 12 examination [school-leaving high school exam (Gr 12)] for those with secondary divisions can be an important restriction as they write under the aegis of one of the 11 public exam bodies approved by Umalusi [the national examinations quality assurance body] - the Independent Examinations Board is also quite popular. “Some of the schools don't write local exams, others do both local and foreign ones. In some provinces it seems as though there is some limited attempt to check on quality, in others not at all.” ...

“My view is that “control of content of teaching” by the state in subsidised independent schools is not direct and is probably not very systematised. On “control the teaching” one could refer to the SACE Act which in theory requires all teachers no mat-

ter where employed to be registered with them and subject to their disciplinary and professional codes. ... Going by what happens in public schools, I'm not sure that there is a thorough-going application of that legislation in the independent schools either.”⁸

Colditz

Colditz maintains that section 6A(1-2) of SASA encapsulates the government's approach in this regard. These sections provide as follows:

- 1) The Minister must, by notice in the Government Gazette, determine-
 - (a) a national curriculum statement indicating the minimum outcomes or standards; and
 - (b) a national process and procedures for the assessment of learner achievement.
- 2) The curriculum and the process for the assessment of learner achievement contemplated in subsection (1) must be applicable to public and independent schools.

Davies and Colditz talk to the same issue and strategy but Davies provides considerably more practical detail.

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:

Yes but unfair discrimination on religious grounds is not allowed (section 9 of the Constitution and section 5 of SASA)

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?

Answer:

Only if discrimination as set out in 5 above is avoided. The religious profile and distribution of religions in South Africa may this highly unlikely.

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:

See above. Such instruction is not a part of the formal curriculum and school programme.

The law requires equitable treatment but there are no numeric provisions in this regard. The discretion of the governing body is moiré important than numerical issues.

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:

These are covered under the term religion education which is explained above. Religion education is a study of religions whether they be majority or minority without favouring any faith.

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:

Government's point of view is contained in the National policy that this is not the school's responsibility but that of the parents and the faith communities. Article 7 of the Charter contends that every person has the right to be educated or to educate their children, or have them educated, in accordance with their religious or philosophical convictions.

It also asserts (article 7.1) that the state, including any public school, has the duty to respect this right and to inform and consult with parents on these matters. Parents may withdraw their children from school activities or programs inconsistent with their religious or philosophical convictions.

Article 7.2 makes the point that every educational institution may adopt a particular religious or other ethos, as long as it is observed in an equitable, free, voluntary and non-discriminatory way, and with due regard to the rights of minorities.

In article 7.3 the Charter says that every private educational institution established on the basis of a particular religion, philosophy or faith may impart its religious or other convictions to all children enrolled in that institution, and may refuse to promote, teach or practice any religious or other conviction other than its own. Children enrolled in that institution (or their parents) who do not subscribe to the religious or other convictions practised in that institution waive their right to insist not to participate in the religious activities of the institution.

The only significant differences between the National Policy and the Charter appear to be the following:

- The Charter's assertion that parents have a right to be consulted – in terms of the National Policy Religion Education is compulsory for all learners

- Likewise the Charter maintains that a private school may refuse to teach, practise or promote religious practices other than their own – this runs contrary to the National Policy's proposal of Religion Education.

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

Answer:

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:

We are not aware of such guidelines which would, in our opinion, be unnecessary and superfluous given the guidelines emanating from the National Policy, SASA and the Constitution and also from the functions and powers of governing bodies of public schools and trustees of independent schools.

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:

Not applicable

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:

Not applicable. If there were such guidelines, it is unlikely that they would only refer to Islam.

Islam forms part of Religion Education

It may be organised but the initiative comes from the faith community with concurrence of the governing body.

Bibliography

Some websites:

Catholic Institute of Education: <http://www.cie.org.za/>

Association of Muslim Schools of South Africa:
<http://www.ams-sa.org/>

South African Board of Jewish Education:
<http://www.sabje.co.za/>

Association of Christian National Schools ("Christelik Volkseie Skole"): <http://www.bcvo.co.za/pages/skole.php>

Department of Basic Education: <http://www.education.gov.za/>

Further reading:

Chidester, David (2008). Unity in Diversity: Religion Education and Public Pedagogy in South Africa, *Numen*, 55 (2-3):272-299.

Chidester, David (2003). Religion Education in South Africa: Teaching and Learning about Religion, Religions, and Religious Diversity, *British Journal of Religious Education*, 25(4): 261 – 278.

Kumar, P. (2006). Religious Pluralism and Religion Education in South Africa *Method & Theory in the Study of Religion*, 18(3):273-293.

Info:

A. Religious instruction

This term refers to instruction in a particular faith or belief in order to inculcate that faith or belief (National Policy on Religion and Education (Annexure C), par 54). In terms of policy it is not the responsibility of the school and should be offered clergy or persons accredited by faith communities and may not form part of the formal school programme (National Policy on Religion and Education, par 55). However the policy (par 57) encourages the provision of religious instruction by religious bodies and other accredited groups **outside the formal school curriculum** on school premises, provided that opportunities be afforded in an equitable manner to all religious bodies represented in a school, that no denigration or caricaturing of any other religion take place, and that attendance at such instruction be **voluntary**. Persons offering Religious Instruction would do so under the authority of the religious body.

B. Religious studies (which is named “religion studies” in the latest Revised National Curriculum Statement) (para 2.1 and 2.2 of Section 2 of the Curriculum and Assessment Policy Statement (CAPS) (Annexure D))

The subject Religion Studies (Grades 10 to 12) studies religion as a universal human phenomenon and the religions found in a variety of cultures. It neither favours nor discriminates against any religion and does not promote adherence to any particular religion. It is intended to lead to the recognition, understanding and appreciation of a variety of religions within a common humanity and also aims to develop religious literacy.

The subject contains the following four topics:

- (i) Variety of religions
- (ii) Common features of religion as a generic and unique phenomenon
- (iii) Topical issues in society
- (iv) Research into and across religions

The four topics of Religion Studies allow for specialisation in a specific religion in Grade 12. Specialisation in a religion must come after the various religions have been explored.

The subject has the following specific aims namely to:

- (i) enhance the constitutional values of citizenship, human rights, equality, freedom from discrimination and freedom of conscience, religion, thought, belief and opinion;
- (ii) develop the learner holistically, that is, intellectually, physically, socially, emotionally and spiritually;
- (iii) inculcate knowledge, skills and values necessary for the enrichment of each learner, interpersonal relationships and an open and democratic society;
- (iv) equip the learner with knowledge and understanding of a variety of religions and how they relate to one another; and
- (v) equip the learner with knowledge and skills for research into religion as a social phenomenon, and across religions as well as to relate and systematise universal dimensions of religion.

C. Religion education⁹

Religion education is part of a compulsory formal examinable learning area of the curriculum (National Policy on Religion and Education (Annexure C), par 42). It is a curricular programme

for learning about religion, religions and religious diversity in South Africa and in the world (par 17). It teaches the common values that all religions promote such as tolerance, understanding and the reduction of prejudice (par 18).

D. Religious observances¹⁰

The Governing Bodies of public schools may make their facilities available for religious observances, in the context of free and voluntary association, and provided that facilities are made available on an equitable basis (National Policy on Religion and Education (Annexure C), par 58). Although such religious observances take place on the school property, they are not part of the official educational function of the public school (par 60).

School Governing Bodies are required to determine the nature and content of religious observances for teachers and pupils. They may also determine that a policy of no religious observances be followed. Where religious observances are held, these may be at any time determined by the school, and may be part of a school assembly. An assembly is not necessarily the only occasion for religious observance, which may take place at other times of the day, and in other ways, including specific dress requirements or dietary injunctions. Where a religious observance is organised as an official part of the school

day it must accommodate and reflect the multi-religious nature of the country in an appropriate manner (par 61).

Appropriate and equitable means of acknowledging the multi-religious nature of a school community may include the following:

The separation of learners according to religion, where the observance takes place outside of the context of a school assembly, and with equitably supported opportunities for observance by all faiths, and appropriate use of the time for those holding secular or humanist beliefs;

Rotation of opportunities for observance, in proportion to the representation of different religions in the school;

Selected readings from various texts emanating from different religions;

The use of a universal prayer; or

A period of silence (par 62).

Where the segregation of pupils is contemplated, a school must consider and mitigate the impact of peer pressure on children, and its negative influence on the willingness of children to be identified as “different” (par 62).

A school assembly has the potential for affirming and celebrating unity in diversity, and should be used for this purpose. Pub-

lic schools may not violate the religious freedom of pupils and teachers by imposing religious uniformity on a religiously diverse school population in school assemblies. Where a religious observance is included in a school assembly, pupils may be excused on grounds of conscience from attending a religious observance component, and equitable arrangements must be made for these pupils (par 63)..

Endnotes

1. Professor, Department of Education Management and Policy Studies of the Faculty of Education, University of Pretoria, South Africa
2. Professor, Department of Education Management and Policy Studies of the Faculty of Education, University of Pretoria, South Africa
3. Department of Education Management and Policy Studies of the Faculty of Education, University of Pretoria, South Africa
4. The authors thank Mr Paul Colditz and Dr Huw Davies for their invaluable assistance.
5. Department of Education. 2010. Education statistics in South Africa 2008.
<http://www.education.gov.za/emis/emisweb/o8stats/Education%20Statistics%20in%20South%20Africa%202008.pdf>, accessed on 14 November 2010.
6. E-mail to J Beckmann 14 November 2010.

-
7. The Catholic Institute of Education, for instance, is associated with 353 schools country wide.
 8. E-mail to J Beckmann, 16 November 2010.
 9. Also see Wittmann v Deutscher Schulverein, Pretoria and Others, 1998 (4) SA 423 (T)
 10. Ibid.