

Human Rights Without Frontiers

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Conference: State and Church in Joined Europe

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Introductory paper to the workshop

Financing of religion, a human rights perspective

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Financing of religion cannot be separated from the status of religions and more broadly of the relationships between state and religions.

My scope will be limited to the issue of discriminatory practices towards religious groups and of individuals on the basis of their religious affiliation in state financing of religion and a number of questions will be proposed for the debate.

The main component of such inequality of treatment is rooted in the system of state recognition of religions, which was questioned last year by Mr Abdefattah Amor, UN Special Rapporteur on freedom of religion, after his visit *in situ* in Romania.

State-recognition of religions and financing of religions: UN Special Rapporteur's stand

It is certainly worth quoting the part of his report devoted to the distinction between recognized religions and unrecognized religions, or religious or faith-based communities, and to the discrimination generated by systems of hierarchies of religions.

94. (...) the Special Rapporteur considers that the principle of freedom of religion or belief, as enshrined in international human rights law, is difficult to reconcile with a formal or legal distinction between different kinds of religious or faith-based communities insofar as such a distinction in their status must imply a difference in rights or treatment, which may, in some cases, constitute discrimination that is incompatible with the exercise of human rights.

95. **The Special Rapporteur notes that this distinction between two kinds of religious or faith-based communities means that the financial contributions made to recognized religions are not available to non-recognized religions, that non-recognized religions, unlike recognized religions, (...) non-recognized religions cannot provide religious instruction in State schools in the same way as recognized religions. The problem is not just that such discrimination may be contrary to international human rights law, particularly since it is not certain that the criteria used by the authorities to decide whether a religion should be recognized are objective from the viewpoint of international law, but that such discrimination amounts to restrictions that may, in certain circumstances, constitute a violation of the right to freedom of religion or belief.**

96. **In the light of this, the Special Rapporteur would like to encourage the Romanian Government to abolish the distinction between recognized and non-recognized religions, possibly when it adopts the new law on religions (...). In any case, the Government should ensure that this distinction does not lead to discrimination that is incompatible with international human rights law (...).**

Through this statement, the Special Rapporteur stresses that double-tiered and multi-tiered systems intrinsically entail various forms of discrimination at the individual and collective levels, including in the financing of religions, and that one of the solutions would be to abolish the system of state recognition. Policy-makers in a number of European countries should certainly meditate on Mr Amor's statement.

Question: Is the distinction, in theory and in practice, between recognized and non-recognized religions compatible and/or reconcilable with an equal treatment of religions and worldviews and their adherents?

State-recognition and discriminatory financing

State-recognition of religions is selective and is systematically used as a basis to grant more rights and material advantages to one category of religions than to any other. And even within the most privileged category, some religions complain of a discriminatory treatment when compared to a dominant Church.

In a state-recognition system, recognized religions and unrecognized religions, or religious or faith-based communities, do not have equal opportunities, and their members are subject to discrimination. For example, some religions receive state subsidy and others do not. Moreover, in some countries, the faithful of unrecognized religions may be required to contribute to the financing of recognized religions without their consent. This, for instance, is the case in Belgium where taxpayers who wish to finance their unrecognized religion are not able to do so but are unable to prevent the state using their tax money to support the religion of others.

Questions: Is it acceptable that taxpayers cannot finance the religion of their choice because it is not state-sanctioned. Is it acceptable that the state uses a citizen's income tax to finance a religion he does not profess or he may even be opposed to?

From state financing to individual financing of religions

Some countries have become aware of the inadequacy of such policies and have tried to involve their citizens in the choice of the religion they want to support through the income tax system. Italy has opened that possibility to a limited number of religions. Spain has restricted the option to the Catholic Church, and therefore, members of other religions have no other choice than to leave their “church tax” in the coffers of the state. In 1998, Hungary allowed its citizens to choose the religion to which the state could give 1% of their income tax, a voluntary additional tax. About 70 religious communities benefited from the new system.

Question: Are the financing systems in force in Italy, Spain or Hungary satisfactory answers to the issue of equal opportunities for religious communities and equal treatment for believers as well as for non-believers?

The disconnection of the financing system from the classification of religions: an intermediary stage to be explored?

Abolition of hierarchy of religions, as a prerequisite for a reform of a financing system, might be a long, uneasy, if not impossible, task, for political, constitutional or legal reasons. Political will would be needed; political majorities would be to be found; resistance from privileged religions would be to be overcome.

Question: Is it possible to disconnect the state financing of religions and worldviews from their hierarchical classification?

A theoretical model open to discussion

As a starting point for your last reflection, I will propose you a theoretical model open to discussion in which some strict prerequisites will be respected: focus on the individual choice, on confidentiality of personal data and the financial status of a community of believers, on equal opportunities of access to the financing system by all registered faith and belief communities, and on fair funding.

Individual choice: equal treatment of believers as well as non-believers

Scenario. Along with their tax return, all taxpayers receive a separate envelope containing a form on which they can tick anonymously on a pre-established list which church, religious community or belief system will be the beneficiary of their tax assignment. The taxpayers then put the form in the anonymous envelope, seal it, add it to the envelope containing their tax return and send them both back to the tax administration. Tax officers register the reception of the envelopes and mix them up while they are still sealed so as to avoid any individual religious identification at further stages of the procedure. Taxpayers can also fail to opt for any religion or belief system.

Equal opportunities of access to the financing system by all registered faith and belief communities

To guarantee equal opportunities for all registered faith and belief communities applying for state financing, they must be identified by their name and a registration number. This official list is to be drawn up and regularly updated by the state.

The Norwegian system that I will briefly describe could be an interesting source of inspiration.

In Norway, in addition to the state church, about 420 faith communities which do not threaten democracy and public order have been registered. Denominations with congregations in various regions either register as one entity under one name or let their congregations register separately. Some communities choose to have one central registration, e.g., the Roman Catholic Church or the Methodist Church, whereas others let each local congregation take care of their own registration—two examples being the Muslim communities and the Pentecostal congregations. The Norwegian Humanist Association is also registered as a belief system. In Norway, a registered faith community has the right to receive governmental funding but must apply for this to regional authorities every year before 1 April.

Spain also has a register with thousands of faith communities.

Fair funding

In Norway, the amounts allotted to faith communities depend on their membership. In the year 2000, the state gave each community 30 EUR per member. The state grants must be used for "religious purposes". The communities must record their expenses and submit their accounting to the County Governor every year before 1 March. The accounting must be signed by the community board or a registered accountant. Abuses can be sanctioned by the loss of the benefits from the financing system.

In countries where churches and religious communities do not have any certified internal registration of their members, the individual choices for the "church tax" pledge are another option for the calculation of the budget to be granted to the various churches, religious communities and belief systems. A control of the accounting is also to be provided.

With any of these suggestions, the transition from one system of financing to another may entail some difficulties or produce unwanted effects, in particular, financial viability of state-financed religions may be jeopardized. In some countries, a transition period of 5 to 10 years, during which temporary compensation mechanisms have been put in place..

Last question: Does such a theoretical system better provide for equal opportunities for religious communities and for equal treatment of believers as well as non-believers?

The debate is open.