



Religious Diversity and  
Secular Models in Europe –  
Innovative Approaches  
to Law and Policy

# Religare Newsletter

1st issue 2010

Religious Diversity  
and Secular Models  
in Europe  
Innovative Approaches  
to Law and Policy



Funded under Socio-economic Sciences & Humanities

## Introduction to RELIGARE project

RELIGARE is about religions, belonging, beliefs and secularism. This new socio-legal European FP7 project investigates the diversity of convictions in contemporary Europe with a focus on law and on questions relating to management of pluralism under State Law.

Secular State law is an important constitutional principle in many European States and Turkey. However, modulations of this principle differ to a large extent. Today, European societies are being challenged by a new diversity of religions and other beliefs. This diversity has been brought about by many factors, including the EU's expansion and important migration fluxes. The result is that many people now hold beliefs and values that were unknown before and/or that are different from historically protected religions or convictions. Not surprisingly, these people are seeking recognition of their identities. By doing so, they test the boundaries, in practice, of secular State law.

The divide between the public and the private spheres lies at the core of RELIGARE's research. However, this borderline is not clear-cut and it is not at the same place in everyone's perception. Can the public sphere be simultaneously neutral and tolerant? Can new world views, social patterns and lifestyles be accommodated and/or incorporated in the public sphere? How respectful is the law of the private sphere?



*Religare members in Leuven*

RELIGARE examines the current realities, including the legal rules protecting or limiting (constraining) the experiences of religious or other belief-based communities. Where the practices of communities or individuals do not conform to State law requirements, or where communities turn to their own legal regimes or tribunals, the reasons behind these developments need to be understood.

The purpose of RELIGARE is to explore adequate policy responses. Adequate policies seek meeting points between the realities and expectations of communities and the protection of human rights in terms of equality and freedom of thought, conscience and religion.

## Kick-Off Meeting

Leuven and Brussels, 4-5 February 2010

The RELIGARE project was officially launched at the beginning of February.

The members were welcomed by Marie-Claire Foblets of the Katholieke Universiteit Leuven (KU Leuven), coordinator of the project, in the medieval beguinage in Leuven. The first day of the meeting enabled the RELIGARE partners to get to know each other better and, above all, to further discuss the main theoretical axes which underlie the already undergoing research.

This day ended with an evening lecture by Prof. Tariq Modood, at Old City hall. This talk was followed by reactions by W. Menski, J. Cesari, M. Ridouani and J.-F. Gaudreault-Desbiens, moderated by Prof. S. Ferrari.

The meeting continued in Brussels at the CEPS (Centre for European Policy Studies). Several workshops were dedicated to the work packages composing the theoretical and thematic framework of the RELIGARE project.



*Work session in Leuven*

The views expressed during the execution of the RELIGARE project, in whatever form and or by whatever medium, are the sole responsibility of the authors. The European Union is not liable for any use that may be made of the information contained therein.



Religious Diversity and  
Secular Models in Europe –  
Innovative Approaches  
to Law and Policy

## About RELIGARE - Project Identity

10 countries represented:

Belgium • Bulgaria • Denmark • France • Germany • Italy • the Netherlands • Spain • Turkey • the United Kingdom

These countries represent diverse religious convictions

- Most countries have between 3 and 7% of people adhering to Islam. In Bulgaria, that figure is 13% and in Turkey it is over 90%.
- In France between 23 and 26% of the population is 'without religion' or atheist, in Germany 33%, and in Belgium as much as 42%. Only 1% of Bulgaria's population falls in this category.
- In Italy 87% of the population is Catholic, while this is true for only 32% of Germans.
- Catholicism and Protestantism accounts for the largest portion of Christians in Europe. In Bulgaria, on the other hand, 85% of the population is Orthodox Christian.

(Source: US report on religious freedom, 2008 and European Values Survey, 1999)

- W. Cole Durham Jr., Professor of Law, Brigham Young University, USA
- Pierre Gannagé, Professor of Law and Political Science, Saint Joseph University, Beirut, Lebanon
- Jean-François Gaudreault-Desbiens, Canada Research Chair, Faculty of law, University of Montreal, Canada
- Alvaro Gil-Robles, Former Commissioner for Human Rights at the Council of Europe
- Juliane Kokott, Advocate General at the European Court of Justice
- Werner Menski, Professor of South Asian Laws, School for Oriental and Asian Studies, University of London, United Kingdom
- Tariq Modood, Professor of Sociology, Politics and Public Policy, University of Bristol, United Kingdom
- Andras Sajó, Judge at the European Court of Human Rights
- Nadjma Yassari, Senior fellow and head of Department of Civil Laws in Islamic Countries, Max Planck Institute for Comparative and International Private Law in Hamburg, Germany
- Linda Woodhead, Professor of Sociology of Religion, Lancaster University, United Kingdom

## RELIGARE partners

- Katholieke Universiteit Leuven (Belgium) - Coordinators
- Université Catholique de Louvain (Belgium)
- Centre for European Policy Studies (Belgium)
- International Center for Minority Studies and Intercultural Relations, Sofia (Bulgaria)
- Københavns Universitet (Denmark)
- Centre National de la Recherche Scientifique: PRISME (France)
- Universität Erlangen-Nürnberg (Germany)
- Università Degli Studi di Milano (Italy)
- Vrije Universiteit Amsterdam (Netherlands)
- Universiteit van Amsterdam (Netherlands)
- Universidad Complutense Madrid (Spain)
- Middle East Technical University (Turkey)
- Queen Mary University of London (United Kingdom)

## RELIGARE Advisory Board

- Romani Prodi, former President of the European Commission and former prime minister of Italy (Chair)
- Thomas Bennett, Professor of Law, University of Cape Town, South Africa
- Jocelyne Cesari, Associated Research Fellow, Center for Middle Eastern studies and Center for European Studies, Harvard University, USA
- Grace Davie, Professor of Sociology, University of Exeter, United Kingdom

## The RELIGARE project focuses on 4 specific research themes

*These themes have been selected since they permit an examination of the concrete cases that are particularly relevant and that have the potential of showing where the hotspots are and of proposing possible solutions for the conflicts between religious and secular values.*

### THE FAMILY ...

This research area deals with personal status and family affairs. Given that secular systems still contain religiously-based institutions (e.g. the definition of «marriage»), it is no surprise that issues that call into question family models are under debate and give rise to lively polemics between religious and secular groups in several European countries.

The issues investigated include religious marriages and divorces, as well as custody over children and the adoption of children when religious and formal legal prescriptions clash. The institution by some communities of parallel dispute settlement bodies to deal with family-related disputes is also investigated.



*European Court of Human Rights*

## THE WORK PLACE ...

This research area covers access to the labour market, labour relations, and the accommodation afforded to practices and duties based on religions or beliefs. On the one hand, this research deals with the relation between labour law and collective religious organisations, in order to assess the level of autonomy – e.g. exemptions and derogations - provided to particular organisations with regard to state regulations.

On the other hand, religious practices and beliefs of individual employees are taken into account, including conscientious objections, alternative dispute resolution and reasonable accommodations.

## THE PUBLIC SPACE ...

Following a preliminary reflection on the scope of the public space, the research within this theme concentrates on religious and other symbols in the public space and on the fundamental questions of ownership of and access to the public space.

It will consider places of worship and sacred sites, religious dress codes, and private (religious) schools. It aims at providing inputs about how to rethink and restructure the public space in order to cope with the increasing religious and cultural plurality of European societies.

## STATE SUPPORT...

This theme encompasses State support to religious and secular groups. The research aims at assessing the reasons that justify – or not – the public funding that is in place today. The State position and the religious communities' point of view will be taken into account. The research will consider several issues: training and remuneration of the religious leaders, media, religious heritage and the current taxation typology.

## Focus on case law

ECHR, Ahmet Arslan and others v. Turkey, n°41135/98, 23/02/2010 – Article 9 ECHR

Collecting the relevant case law related to the issues addressed by the project will be an important asset of RELIGARE. Accordingly, each newsletter offers to focus on an important decision handed out recently.

The facts - The applicants are a group of over a hundred Turkish citizens who belong to a religious group known as Aczimendi tarikaty. This belonging implies the wearing of a distinctive dress made up of a turban, a tunic and a stick. Following various incidents created by their ceremony held at a mosque, they were brought before the State security Court where they appeared dressed according to this religious code.

They were then convicted for a breach both of the law on the wearing of headgear and of the rules on the wearing of certain garments, specifically religious garments, in public other than for religious ceremonies. Relying on Article 9, the applicants complained that they had been convicted under criminal law for manifesting their religion through their clothing.

The ECHR decision - According to the European Court of Human Rights' decision, the applicants' conviction for having worn the clothing in question fell within the ambit of Article 9 – which protected, among other things, the freedom to manifest one's religious beliefs – since the applicants were members of a religious group and considered that their religion required them to dress in that manner.

This case concerns punishment for the wearing of particular dress in public areas that were open to all, and not regulation of the wearing of religious symbols in public establishments, where religious neutrality might take precedence over the right to manifest one's religion.

Hence, the legal basis of the Turkish courts' decisions interference in the applicants' freedom of conscience and religion was not contested (the law on the wearing of headgear and regulations on the wearing of certain garments in public). It could be accepted, particularly given the importance of the principle of secularism for the democratic system in Turkey, that this interference pursued the legitimate aims of protection of public safety, prevention of disorder and protection of the rights and freedoms of others.

However, the weakness of the Turkish courts' reasoning and the lack of evidence of the applicants representing a threat for public order or being involved in proselytism lead the ECHR to conclude to a violation of article 9. Indeed, the necessity for the disputed restriction had not been convincingly established by the Turkish Government, and the interference with the applicants' right of freedom to manifest their convictions had not been based on sufficient reasons.



Religious Diversity and  
Secular Models in Europe –  
Innovative Approaches  
to Law and Policy

## Bibliography

- CHRISTOFFERSEN, Lisbet; RAUN IVERSEN, Hans; PETERSEN, Hanne; WARBURG, Margit, *Religion in the 21st Century. Challenges and transformations*, Ashgate, 2010
- NIELSEN, Jørgen S. and CHRISTOFFERSEN, Lisbet, *Shari'a As Discourse. Legal Traditions and the Encounter with Europe*, Ashgate, 2010
- «Yearbook of Muslims in Europe», Jørgen S. Nielsen, Samim Akgönül, Ahmet Alibašić, Brigitte Maréchal, Christian Moe, vol.1, 2009; vol.2, October 2010
- CESARI, Jocelyne, *Muslims in the West after 9/11. Religion, Politics and Law*, Routledge, 2009
- DENEKEN, Michel ; MESSNER, Francis, *La théologie à l'Université*, Labor et Fides, 2009
- ROHE, Mathias, *Das islamische Recht: Geschichte und Gegenwart*, 1<sup>st</sup> and 2<sup>nd</sup> revised ed., C.H. Beck, München, 2009

## RELIGARE EVENTS

What	When	Where
Religion and the public-private divide	June, 24th-25th, 2010	<i>Queen Mary University of London</i> This expert seminar gathered the RELIGARE members on the various topics dealt with for three years. Besides a report on the various research areas, issues such as visible religious signs or alternative dispute resolution mechanisms will be discussed.
Religion and the public-private divide	October 7th-8th, 2010	<i>Università degli Studi dell'Insubria (Como)</i> As part of the research area «Public space», this workshop will focus on several issues (dress code, religiously oriented schools, places of worship), in the light of the public/private border.
Scholars meet Strasbourg Judges	October 22nd-23rd, 2010	<i>Università degli Studi del Piemonte Orientale (Alessandria)</i> This conference aims at comparing the Right of Religious Freedom in the ECHR System. Strasbourg judges and jurists will meet in a roundtable discussion on article 9 of the European Convention of Human Rights.
State support. Historical approach	December 13th-14th, 2010	<i>CNRS and University of Strasbourg</i> This seminar related to the WP «State support» aims at enlightening the historical roots of the current patterns of public funding to religions in various European countries.

## RELATED EVENTS

Title	Date	Venue
Muslims and political participation in Europe	October 6th-8th, 2010	<i>Center for European Islamic Thought (University of Copenhagen) and Eurislam Network</i> The conference will address various dimensions of the topic such as : the processes and realities of Muslim participation in local and national politics; internal Muslim debates about political participation in Europe; political participation as a method or consequence of integration; state policies regarding Muslim political participation; relationship between participation and citizenship.