

History

The Relationships between the State and the Church and their Legal Regime. Rules of International and National Law

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ABSTRACT. Since Antiquity, religious Cults have been dealt with in terms of both Public Law and "Jus gentium", i.e. International Law. However, the legal Status of religious Cults and their relationships with the secular authorities were perceived and stipulated differently, from one period to another. This legal Status, expressed over the centuries – which involved the obligation to specify and stipulate the relationships between State and religious Cults in legislative texts and in their daily relationships – differs even nowadays in some EU States, as also revealed by our study, hence its particular scientific contribution. © 2018 Bull. Georg. Natl. Acad. Sci.

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Religious Cults had (and still have) a well-defined legal status not only in the national public law but also in international law, being considered both "subjects of public law" and "subjects of international law" [1: 163]. Moreover, since the Roman-Byzantine era, the Orthodox Catholic (Ecumenical) Church – acknowledged by the State since Emperor Constantine the Great († 337) [2] – has been considered a public utility institution, invested with legal personality under the public law.

Regarding the relationships between State and Church – which, in fact, characterize in the most appropriate way the autonomy of religious Cults from the State – the Church was guided by an old ecclesiological principle, enunciated by an Orthodox bishop of Proconsular Africa, with a solid

training in Roman Law, i.e. Optat of Mileve († 397). Among other things, Optat de Mileve reminded some schismatics and anarchists from the North Africa of his time that "*non enim Republica est in Ecclesia, sed Ecclesia in Republica*" [3] (not the State is located within the Church, but the Church carries out its activities within the State).

The African bishop's statement (who was a Latin speaker) - which acquired the status of legal principle – has been serving the Ecumenical Church "as a reminder, guiding it by the truth expressed in its legislation, applying state laws in its work and requiring all its members to observe the same attitude, which became traditional and common to the entire Orthodoxy" [4].

Established by God's Will, "the Church is not a state institution". However, "it cannot be placed

among private societies or institutions, nor is it similar to them; in any case it must be placed alongside the public ones, but only by the assimilation with them" [1: 187]. This ecclesiological and canonical conception of the Eastern Church, according to which the Church is named a "divine-human institution" and not a "society", it is not unfortunately present in the Latin Canon Code and in the canonical doctrine of the Roman-Catholic Church. For example, in Canon 204, par. 2 of this Canon Code, it is indeed stipulated that the Church is "*in hoc mundo ut societas constituta et ordinata*" [5: 146-147] (established and organized in this world as a society). And, according to Roman-Catholic jurists, Canon 204 reveals that "*la Chiesa non è solo una realtà spirituale (una communio), non è solo una realtà sociologica (il populus Dei), ma è anche una realtà juridica (una societas perfecta)*" [6: 111] (The Church is not only a spiritual (a communion) and sociological reality (God's people), but it is also a legal reality (a perfect society) ...).

About "those embedded in Christ through Baptism", i.e. "*Christi-fideles*" (Christian believers) (can. 204, par. 1), the Roman-Catholic canonists assert that they also enjoy "*une condition commune, appelée statut juridique du fidèle*" (a common condition, called the believer's legal status), which consists of "*ensemble des droits et des devoirs*" [7: 138] (a whole of rights and duties). However, the same jurists state that "the Church could exist in the world independent of any structure or norms" [8: 247]. Indeed, the Church is not a state institution, nor a "society" established and organized in this world, but a divine-human institution. As such, the Church is "autonomous" by its very origin and nature. And autonomy which the Church expresses in its relationships with the State is known in the literature of specialty as "external autonomy" [9].

The constitutions of EU Member States [10] (including Romania) expressly stipulate that all acknowledged religious Cults are "autonomous from the State". However, in his commentary on

Article 29 of the Romanian Constitution, a well-known Romanian constitutionalist stated that – in its fundamental law – the Romanian State adopted "a position of indifference towards religions and, avoiding favoring or countering them, it oversees that the Cults' activities do not disturb public order. The Romanian Constitution, securing the separation of State and Church, guarantees the autonomy of religious Cults, but obliges the State – the Romanian constitutionalist concludes – to support Cults, also by facilitating religious assistance in the army, hospitals, penitentiaries, asylums and orphanages" [11: 285].

Indeed, as it is known, the Romanian Constitution makes no mention of the Romanian State's "indifferent" position towards acknowledged religious Cults, or of "the separation of Church and State". As such, the Romanian constitutionalists' statements are denied by the Constitution itself, which provides and guarantees the "freedom of conscience" (Art. 29, par. 2) and the Cults' freedom to organize themselves "under their own statutes" (Art. 29, par. 3). Moreover, it also provides for their autonomy from the State in the following terms: "Religious Cults are autonomous from the state" (Art. 29, par. 5). Consequently, the assertions of some Romanian jurists, professing that the Romanian State would have the legal right to manifest an "indifferent" attitude towards acknowledged religious Cults, or to apply a "separation" policy against them, are denied by the constitutional text itself, which provides "*expressis verbis*" that "in State schools, religious education is organized and guaranteed by the law" (Art. 32, par. 7). Therefore, we could say that even the fact that the Romanian State organizes and guarantees – by law – the religious education in State Schools proves "à l'évidence" that this State has not an "indifferent" or a "neutral" attitude towards the religious Cults, but, on the contrary, it expresses his relationship with these ones, which are "autonomous from the State", in different forms of manifestations.

Nowadays, some Church jurists speak not only about the Church's "autonomy" from the State, but

also about a so-called "State autonomy from Cults", which, according to them, "does not necessarily mean neutrality and in no case indifference to the religious phenomenon" [12]. But, regarding a such kind of autonomy of the State towards religious Cults, it could be happened only in a timeless world. Therefore, we could rather speak about the neutrality of the State vis-à-vis of the religious domain, that "it excludes any appreciation by state authorities of the legitimacy of religious faiths, as well as of their expression ways" [13: 298]. This State's obligation of neutrality prohibits indeed any kind of "arbitrary interference by the State" [14] in the spiritual-religious life of a community. As such, in its relationships with the Church, respectively with these "Communities" or with acknowledged religious Cults, the State does not have the legal right to rule on the legitimacy of religious beliefs and their means of expression. In the same time, its obligation of "neutrality" and "impartiality" forbids the commission of any "arbitrary interference" act in the spiritual-religious life of Cults.

The Romanian State's obligation of neutrality was perceived by the current head of the State Secretariat for Cults as an "equality before the law", and consequently he sees this autonomy as the Cults' "right" "to be administered according to their own statutes or canonical codes, without any interference from public authorities" [15: 272]. But, the same head of the State Secretariat for Cults also speaks of a "positive neutrality regime", which, according to his statement, "is characterized, among other things, by a combination of forms of direct and indirect public funding for Cults" [15: 274]. All the 18 acknowledged religious Cults – from Romania – benefit indeed from this direct and indirect public funding, "in proportion to the number of believers recorded in the last census, and according to the real needs of each Cult" [15: 274-275]. And, as in other EU countries, such as Germany, Austria, Belgium, the Czech Republic etc., in Romania there are direct funds granted to religious Cults as "compensation" for "the

confiscations of assets" or for "the nationalization of ecclesiastical properties", made by state authorities "over the last two centuries" [15: 275], and mostly during the communist political regime (1947-1989). And, the last, but not the least, the same state authorities declared that this funding is also due to the fact that the Romanian State acknowledges the Religious Cults' "public utility nature, their status as social peace factors and their status as partners in spiritual, social, education etc." [15: 274]. Indeed, in Romania, religious Cults are expressly acknowledged as "social service providers" [15: 276].

It has also to be taken in consideration the fact that both the EU legislation and the legislation of its Member States do not refer to the phrase "State autonomy". It is only mentioned that "the State" is "free" to adopt the policy that it wishes to instrument in its relationships with Churches or acknowledged Cults. As such, it can be said that the State is "free" in its relationships with the Church, *recte* with the religious Cults, officially approved; however, it is not "autonomous" by virtue of a legal norm from its national law.

Regarding Church (*recte* Religious Cults) "autonomy" [16: 831-915, 17], it is noteworthy that it is stipulated mainly in State law; however, in reality, it is actually limited by several factors (political, economic, social etc.). Suffice it to recall that "depending on the State's financial support", religious Cults "are compelled to accept a "*modus vivendi*" that limits their autonomy", hence the legitimate finding that "the State must create the conditions for the real autonomy of Cults, which is formulated as a principle" [12]. In other words, in order to be real, the autonomy of religious Cults (acknowledged by the State) should not remain only at the level of a legal or canonical principle – whether envisioned by the respective state and church legislation – but, on the contrary, it should be expressed and asserted both in the daily relationships between State and Church, and in their concrete actions.

In 1949, i.e. after two years after the Communist regime was settled on the banks of Dâmbovița, the late Professor Liviu Stan († 1973) stated that, in terms of "the relationship between State and Church, autonomy means – in canonical terminology – the Church's full independence from the State, in all respects. This independence derives from the Church's origin and special nature, as well as from its special means and aims, as compared to those that belong to the State" [18: 642]. The same Romanian erudite canonist and jurist wanted to point out that "State sovereignty gives it the right to oversee and control any manifestation, any action within its territory, so that in principle such control cannot be limited by anything. However, the State, admitting that "*de internis non judicat praetor*", limits its control only to the external one, to the external manifestations of religious beliefs, without hindering those of internal, spiritual nature" [18: 643-644].

But how is the legal regime of the autonomy of religious Cults from the State perceived and expressed today?! In what terms do Romanian jurists speak about the legal status of the autonomy of religious Cults?! In what terms is the so-called State "neutrality" towards religious Cults expressed in the case law of the European Court of Justice?! First of all, it should be noted that in some EU States, including Romania, the State has not yet been defined – in any constitutional text – as a "secular" State, or as an anti-Christian State, but only as a "National, sovereign and independent, unitary and indivisible state", and as a "rule of law, democratic and social state" (see Art. 1 and 2 of the Romanian Constitution). And, since the Romanian Constitution does not stipulate that the Romanian State is a "secular state", as expressly provided by the French or Turkish Constitutions, we could say "that the Romanian State is secular only insofar as it is headed by laity, i.e. it is not headed by the clergy"; insofar as "it is not headed directly by God, as in ancient Israel, in the Judges' times, or by someone proclaimed His substitute on earth, such

as the heads of the Vatican State or of Iran, Tibet" [19].

Instead, the Romanian Constitution explicitly provides that all acknowledged religious Cults "enjoy its support, including by facilitating religious assistance in the army, hospitals, penitentiaries, asylums and orphanages" (Art. 29, par. 5), hence the "obligation to support them" [19].

Since the "religious Cults are free and organize themselves according to their own statutes, under the law", they are therefore "autonomous" (Art. 29, par. 3, the Romanian Constitution). Yet, in the opinion of some Romanian jurists' "the concept of "*Cult autonomy*" was triggered by the separation of State and Church" [20: 143], even though the concept of Church "autonomy" from the State has been provided since the 4th century AD [2]. Indeed, the canonical ecumenical Legislation from the first millennium [16: 287-382] explicitly provided it in some canons (see Can. 4, 6, 7 Synod I ec.; 2, 3 Synod II ec.) [21], which from Justinian's time (527-565) they had also a preeminent character towards to the State Legislation of the Byzantine Empire [22] whenever their provisions collided with the provisions of the imperial State Legislation.

It is also noteworthy that the phrase "the separation of State and Church" was put into circulation by the French Revolution of 1789. However, it does not appear in these terms, not even in the Law published in 1905 [23] in France, whereby reference was made only to the division of fields (i.e. the telluric and the ecclesiastical ones), and not to the division of the two main institutions of the European society (since the 4th century AD), i.e. State and Church. In fact, even some contemporary French historians confirm that the Law of the French Republic (1905) – which remained in history under an inadequate name, i.e. the "Law on the Separation" of the French State and the Roman Catholic Church – "underlined the principle of the absolute independence between State and Churches. Nevertheless, at the same time,

its text also reveals that it is impossible for the State and the Catholic Church to ignore each other" [24: 163]. In fact, the same French historians asserted that, "as far as the Catholic Church is concerned, the 1905 Law can be regarded as a purely theoretical text that has never really known its true application" [24: 163].

In order to highlight the so-called "state neutrality towards religious Cults, some Romanian jurists also referred to a Decision of the European Court of Human Rights (issued on November 3, 2009 (case *Lout and C. Italy*), by which it was provided for "the State's obligation of neutrality in the exercise of public authority, especially in education, by not displaying the religious symbols of a particular Cult in classrooms" [20: 143]. Therefore, Decision issued by the European Court cannot be seen as a testimony or as the basis for the European Court's case law on the so-called state neutrality towards religious Cults. On the contrary, it can be invoked as a peremptory proof of the need for a clear separation of the two fields, i.e. the secular (telluric) and the spiritual-religious ones, and for the assertion of the religious Cults' autonomy from the State.

According to the testimony given by the Head of the State Secretariat for Cults (Romania), the relationships between the State and the 18 acknowledged religious Cults are regulated "mainly by the Romanian Constitution and by the Law 489/2006 on religious freedom and the general regime of Cults", whereby "Romania affirms its neutrality towards Religious Cults. At the same time, as it acknowledges the social importance of religious manifestations, it also establishes a system for the recognition of religious organizations and a system for the cooperation with the most important ones (numerically and as a social presence)" [15: 271]. In its relationships with religious Cults, the Romanian State would therefore pursue a policy of neutrality towards the religious Denominations (Cults), but, in the same time, the State established both a system of

recognition and the cooperation with them. However, in the Romanian Constitution there is no any reference made to the so-called neutrality of the Romanian State towards religious Cults, but only about the "principle of separation and balance of powers – legislative, executive and judicial – within constitutional democracy" (Art. 1, par. 4).

The Law no. 489/28. 12. 2006 on religious freedom and the general regime of Cults expressly stipulates however that "there is no State Religion in Romania; the State is neutral towards any religious belief or atheistic ideology" (Art. 9, par. 1). Therefore, under Law 489/2006 – whose authors inspired themselves from the French legislation, wherefrom they took over the phrase on State "neutrality" – by the State's neutrality we have to understand its neutral attitude towards any religious belief or atheistic ideology, but not in its relation with institutional religious Cults, hence the Romanian legislator's express reference made in the next paragraph of Article 9 of the Cult Law: "The denominations", that is religious Cults, "are equal before the law and public authorities. The State, through its authorities, shall neither promote nor support the granting of privileges or the instatement discrimination towards any denomination" (Art. 9, par. 2).

There is no explicit reference to the so-called "neutrality" neither in the EU law. This kind of neutrality is only mentioned by the European Court's case law, and from there it was taken over "tale-quale" by some Romanian constitutionalists. But, it has not to be ignored the fact that in its decisions, on various cases, even the European Court of Justice ruled mostly on the autonomy of religious Cults. For example, among other things, the judges from the European Court of Justice considered that the provisions of Article 9 of the European Convention on Human Rights – on every person's right to freedom of thought, conscience and religion – "should be interpreted in the light of Article 11 of the Convention, which protects the associative life from any unjustified interference by

the State: from this perspective, the natural persons' right to freedom of religion (...) also includes their right to (...) freely associate themselves without any arbitrary interference by state authorities" [25: 744]. Moreover, even though in the jurisprudence of the European Court we find out that "in the exercise of its regulatory prerogative in the field and in its relationships with various religions, cults and beliefs, the State shall remain neutral and impartial" [25: 745], in fact, as a Romanian constitutionalist, Prof. Radu Chiriță, pointed out, "the Court is particularly restrictive" and considers that "an interference" between the State and religious Cults "is inevitable" [26: 530]. Therefore, practically, even a real "separation" of State and religious Cults is not practically possible.

According to the opinion of others Romanian jurists, "in applying the principle of Cult autonomy, the constituent legislator left at their discretion (sic) the establishment of specific regulations on their organization and operation, as well as of their own rules on the internal disciplinary liability" [20: 144]. However, neither their forms of organization and functioning, nor their canonical Legislation, Statutes and Regulations of Religious Cults, are not a gift of the State. Moreover, they are neither an act of indulgence whereby the State would "grant" a part of its sovereignty. All these realities are only due to their distinct origin and nature, and to its particular means and unique purpose, i.e. "*animarum salus*" [5: 476], which make the Church to differ from any form of state organization. Consequently, the State can only take note of its existence and acknowledge its right to organize and working under its own canonical legislation and *ipso facto* under the provisions of its own Statute [27: 13], as provided by the Constitution in force and by the Law of Cults (no. 489/2006).

Therefore, the relationships between State and Church cannot be expressed in terms of the State's condescension towards the Church, nor in terms of "separation" or "neutrality", but only in terms of the "separation of fields", i.e. the telluric from the

religious one. However, this involves "*volens-nolens*" the collaboration between the two main institutions of the Romanian society, as confirmed by the collaboration Protocols [28] signed by the official representatives of the two parties, i.e. the Romanian State and the religious Cults acknowledged by it.

We could also retain the fact, that in terms of religious Cults, the fundamental Law of Romania reveals the following facts: a) Religious cults are "free"; b) They can be organized according to their own statutes, but "under the law", i.e. the Law of Cults (no. 489/2006); c) Religious Cults are "autonomous from the State"; d) They enjoy the "support" of the Romanian State, including the facilities it can offer to religious Cults in terms of religious assistance in the army, hospitals, prisons, asylums and orphanages; e) In Romania, the Constitution does not provide for the regime of the State's neutrality towards the Church, i.e. to the Religious Cults acknowledged under the law. This fact is confirmed even by the specification that the respective religious Cults enjoy State "support". And, as regards the legal nature and the content of the adjective "free", it should be noted from the outset that they were not defined by the legislator; more likely, this adjective actually refers to the religious Cults' autonomy from the State.

Concerning the organization of religious Cults only "according to their own Statutes", the legislator should have also known and clarified that those who already have their own legislation, *recte* a canonical Legislation, as is the case with the three Churches (Orthodox, Roman-Catholic and Greek-Catholic), are organized according to the principle provisions stipulated by it (i.e. the canonical Legislation). These provisions are expressly stipulated in the Organization Statute of each of the three historical Churches. Moreover, this is also confirmed by the Law of Cults (no 489/2006), which contains an entire Chapter on "the relationships between State and Cults" (Chapter II). Therefore, in order to perform an even more

convincing analysis of how the Church's "autonomy" from the State was perceived and expressed in the Romanian State Legislation, we will also make a succinct assessment of the Law of Cults, i.e. Law 489/2006.

About "the acknowledged Cults", Law no. 489/2006 states that they "are legal entities of public utility" and that "they are organized and operate under the constitutional provisions and under this law, autonomously, according to their own Statutes or canonic Codes" (Art. 8, par. 1). Therefore, according to Law 489/2006, the religious Cults from Romania are organized and operate "autonomously". However, the Romanian legislator asserted that "the State is neutral to any religious belief" (Art. 9, par. 1). On the other hand, the same law provides that "public authorities cooperate with Cults in areas of common interest and support their activities" (Art. 9, par. 3). And, the same "Romanian State, through its competent public authorities, supports the spiritual-cultural and social activity carried out abroad by the Cults acknowledged in Romania" (Art. 9, par. 4). Consequently, it is noteworthy that the phrase on the State's neutrality towards acknowledged religious Cults is an import one, taken over tale-quale from the banks of the Seine, and it does not have coverage in the Romanian reality, where "acknowledged Cults" can also conclude "Partnerships in areas of common interest" (Art. 9, par. 5) with "public authorities". Moreover, the same Romanian State "promotes the support offered to Cults by citizens, by deductions from the income tax, and encourages sponsorship to Cults" (Art. 10, par. 3). At the same time, "the State supports, upon request, by contributions, in relation to the number of believers – Romanian citizens – and to the real subsistence and activity needs, the salary of the clerical and non-clerical staff of acknowledged Cults. The State supports, with higher contributions, the salaries of the staff of low-income Cults" (Art. 10, par. 4). The same Law stipulates that "upon request, acknowledged Cults

may receive financial State support for the expenses related to the operation of worship units, for new repairs and constructions" (Art. 10, par. 6); moreover, "the State's support also consists in granting tax incentives" (Art. 11).

Therefore, we can underline the fact that in Romania the Church "autonomy" from the State is provided by both the Constitution and the Law of Cults. Nevertheless, according to some Romanian jurists, this would only be reduced to the "capacity" of the Church or of religious Cults (acknowledged by the State) "to legislate and to rule according to their own Statutes" [20: 144]. As for the statement that the State is "separated" from the Church, it must be said that it is unfortunate and has no coverage in the Romanian reality. Of course, the "State" must be "neutral to any religious belief" (Art. 9, par. 1, Law no. 489/2006), but not "separated" from Religious Cults, and, *ipso facto*, indifferent to the problems of its citizens who share or profess a religious belief, because "the freedom of religious belief cannot be restricted in any way" (Art. 29, par. 1, the Romanian Constitution).

In the EU Constitution (2004), there is also an article entitled "Status of churches and non-confessional organizations" (Art I-52), which expressly states that "the Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States" (Art. I-52, par. 1). In the same article of the EU Constitution (2004), it was stipulated that the European Union acknowledges and respects the "autonomy" enjoyed by religious Cults in their relations with the EU States, "under national law", i.e. the Constitution, the Law of Cults, etc. (See Art. I-52, par. 1). In the "Declaration" adopted by the Amsterdam European Conference (1997), it was also reiterated that "the European Union does no prejudice the status that the Churches, Associations or Religious Communities in the Member States enjoy under national law" [29]. The Churches and the religious Associations from the EU Member States are therefore governed by national law. Only the

principles set forth in the EU legislation must also be provided by the legislation of these EU Member States, but the "autonomy" of religious Cults – provided and guaranteed by the national law of EU Member States – cannot be prejudiced by the European Union through its bodies or laws. However, it has not be ignored the fact that, by its case law, the EU Court of Justice asserted the principle of the supremacy of the European law over the constitutional law of the EU States. This led to "the violation of the fundamental rights established by national Constitutions" [30], hence the reaction of some EU States (Germany, Italy etc.) against this violation and the assertion of their constitutional values.

It should also be pointed out and noted that, in EU legislator's perspective, there are only two categories of confessional organizations, i.e. Churches and Religious Associations or Communities. However, according to Law no. 489/2006, in Romania (as well as to other Laws of Cults from EU States), there are three confessional organizations, namely: a) religious Cults; b) religious Associations; c) Religious groups. Yet, in accordance to the opinion of the Secretary of State for Cults, in Romania are recognized four types of religious communities, namely: a) religious Groups; B) Associations and Foundations; C) religious Associations; D) religious Cults [15: 272]. Regarding "religious Groups", it has to be mentioned the fact that these ones do not have legal personality; they enjoy the freedom of belief and the free exercise of their religious Cult without State intervention. The religious communities usually originating from over the Ocean, organized within Associations or Foundations, under the law of non-governmental Organizations, also enjoy all the opportunities offered by the Romanian State. Religious associations, which are registered under the Law of Cults, also benefit from some tax exemptions for their religious activities. Finally, the Religious Cults officially acknowledged by the

Romanian State are "its main partners in the religious sphere" [15: 272].

According to the provisions of the current Constitution of the Russian Federation (December 30, 2008) [31], "the Russian Federation is a secular state", and "religious associations shall be separated from the State and shall be equal before the law" (Art. 14). Fortunately, the Romanian Constitution does not specify that the Romanian State is a secular State and that religious Associations are separated from the State; hence the fact that the Romanian State can't be considered that it has an attitude or a legal regime of "neutrality" or "separation" towards Religious Cults. On the contrary, both the Constitution and the Law of Cults assert the principle of the Church's autonomy from the State, which makes "the Romanian system of the relationships between Cults and State" to "circumscribe in the overall coordinates of the European model, granting priority to the Cults' religious freedom, autonomy and freedom in the public space" [15: 278].

The same head of the State Secretariat for Cults, Mr. Victor Opaschi, spoke also about a "preoccupation for the development of the cooperation between State and Religious Cults". Certainly, this cooperation contributes to the fact that the Romanian system of the relationships between State and Cults is similar to the "Belgian and German systems, but also partly to the Italian or Spanish ones, but it retains the specificity given by the local institutional and cultural tradition" [15: 278]. Indeed, just to this specificity of its national identity [32] - determined by its institutional and cultural traditions - that the Romanian State cannot be "neutral" towards the religious domain. On the contrary, this entails the imperative necessity of the Romanian State to provide and guarantee the Church's autonomy in the spirit of the Byzantine legislation [33], and not in the spirit of the foreign import legislation, not even of West-European origin, as we find out expressly in the Law of Cults (no. 489/2006).

ისტორია

სახელმწიფოსა და ეკლესიის ურთიერთობები და მათი სამართლებრივი რეჟიმი. საერთაშორისო და ეროვნული კანონმდებლობის ნორმები

ნ. ვ. დურა

რუმინეთის მეცნიერებათა აკადემიის სრულუფლებიანი წევრი
საქართველოს მეცნიერებათა ეროვნული აკადემიის უცხოელი წევრი

ანტიკური ხანიდან მოყოლებული რელიგიურ კულტებს განიხილავდნენ როგორც საჯარო, ასევე საერთაშორისო სამართლის (“Jus gentium”) კუთხით. თუმცა, რელიგიური კულტების სამართლებრივ სტატუსსა და საერო ხელისუფლებასთან მათ მიმართებას სხვადასხვა პერიოდში სხვადასხვაგვარად აფასებდნენ და განსაზღვრავდნენ. ეს სამართლებრივი სტატუსი, რომელიც საუკუნეების განმავლობაში ვლინდებოდა და სახელმწიფოსა და რელიგიურ კულტებს შორის ყოველდღიურ ურთიერთობას საკანონმდებლო ტექსტებით განსაზღვრავდა, დღესაც კი განსხვავდება ევროკავშირის ზოგიერთ ქვეყანაში. სწორედ ამ სხვაობათა გამოჩვენება წარმოადგენს ჩვენი კვლევის განსაკუთრებულ სამეცნიერო წვლილს.

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