



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



CHALLENGES OF RELIGIOUS ACCOMMODATION IN FAMILY-LAW, LABOR-LAW AND LEGAL REGULATION OF PUBLIC SPACE AND PUBLIC FUNDING

BULGARIAN SOCIO-LEGAL RESEARCH REPORT

Maya Grekova, Iva Kyurkchieva, Maya Kosseva

IMIR



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Executive summary

The objective of this report is to examine the main tensions in contemporary Bulgarian society concerning the intertwining of religion and secularism. These tensions are manifested in the relations between the secular nation state on the one hand, and different religious organizations and individuals professing various religions on the other.

The study combines a presentation of the national historical context, an overview of the relevant legislation and an analysis of the current social debates based on socio-anthropological fieldwork. The central tensions in the Bulgarian case coincide with the main issues of RELIGARE project: family law, labour law, public and private space (religious private schools, places of worship, religious dress code), state-religion relations, and state funding for religious organisations. The examined topics are presented according to the descending order of their intensity in the Bulgarian public discussions.

The research reveals the influence of different historical factors, trends in legislation and the ethno/religious structure of the Bulgarian society on the religion-state relations. The opinion of the respondents helps to outline the correlation between the formal regulation of the investigated issues and the current social discourse.

Respondents for the fieldwork were selected as representatives of different viewpoints and positions on issues dealing with religion, relations between state and religion, and rights of believers and non-believers. Different positions of respondents are most strongly influenced by their identification with one of the religions practiced in Bulgaria. They feel it is very important to declare and manifest tolerance towards other religions. They are reluctant to discuss issues concerning other faiths and perceive it as interference in their affairs. What matters to them is that all religions coexist without problems.

In our conclusion, we can state that the coexistence of various religious denominations is not a source of significant tensions or conflicts in the Bulgarian society today – both at individual and institutional level. However, there are issues outlined in the report that could be marked as problematic.

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I. Introduction

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The report combines a presentation of the national historical context, an overview of the relevant legislation and an analysis of the current social debates based on socio-anthropological fieldwork. The central tensions in the Bulgarian case coincide with the main issues of RELIGARE project: family law, labour law, public and private space (religious private schools, places of worship, religious dress code), state-religion relations, and state funding for religious organisations. The examined topics are presented according to the descending order of their intensity in the Bulgarian public discussions.

The relations between the state and different religions in modern Bulgaria are defined by a specific legislative base and the multi-faced social trends from the past. The main historical factors that influence these relations are: the Eastern Orthodox affiliation, the legacy of the Ottoman Empire, the construction of modern nation state, the socialist regime, the post-socialist democratization and the integration into the European political space. Within the millet system of the Ottoman Empire, the Eastern Orthodox Bulgarians were under the jurisdiction of the Greek Patriarchy of Constantinople and used to enjoy certain rights. At that time, the Bulgarian society was not mono-religious. The Orthodox Bulgarians coexisted with Muslims (Sunnis and Alevi), representatives of different ethnic groups – Turks, Gypsies, Jews and Armenians, with Catholics and Protestants. The modern nation state building after 1878 was accompanied by a tendency of constructing both religiously and ethnically unified Bulgarian nation.

The research reveals the influence of different historical factors, trends in legislation and the ethno/religious structure of the Bulgarian society on the religion-state relations. The opinion of the respondents helps to outline the correlation between the formal regulation of the investigated issues and the current social discourse.

II. Methodology

Religion and its relations with the state are not topics attracting a continuous public interest in contemporary Bulgaria. As a rule, such interest is aroused only by certain provocative events. Such events can be, for example, cases when representatives of the clergy “scandalously” deviate from their obligations and from the religious norms; or when state institutions inadmissibly interfere in the affairs of the legally recognised religious communities; or when the extreme nationalistic organisations aggressively violate the rights of the believers (in most cases the victims are Muslims). This situation, on the one hand, predetermined the selection of respondents – people whose position makes them socially influential in cases when a problem occurs in the state-religion relations, or if rights of the believers are infringed.

On the other hand, such selection also had its disadvantage. In many cases, respondents concentrated on those issues they evaluated as the most important, and ignored other issues, sometimes bluntly declaring that they were irrelevant for the situation in Bulgaria. More precisely, many stated that there were no problems related to religion in the family and labour relations.

The selected methodology also confined the results of the research. The respondents were intentionally selected among people with higher standing within the state and religious institutions, and among the informal community leaders. Therefore, no interviews were done with the ordinary citizens that could supplement the analysis of the situation in a possible study in the future.

Twenty-five semi-structured interviews were conducted in the course of the fieldwork. Annex I represents their social profiles.

As seen from the list of the respondents, the main difficulty was to persuade high-ranking representatives of the Bulgarian Orthodox Church to take part in the project. Despite the numerous calls

and talks, we succeeded in taking interviews only with priests from several churches, but not with persons of higher positions. We believe, though, that the interview with the dean of the Faculty of Theology of the Sofia University, as well as the ones with the former director of the Directorate of Religious Affairs and with an Archon of the Church to a certain extent compensate this deficiency. In addition, the commissioner from the equality body is a graduate of the Theology Faculty of the Sofia University.

It was also difficult to arrange interviews with deputies from the current Parliament. Only one active member of the National Parliament and one Bulgarian representative in the European Parliament were interviewed. However, interviews were done with three former MPs. In contrast, the Islamic representatives at all levels of the religious hierarchy were truly willing to share their positions, although sometimes voicing a preference for remaining anonymous. It was obvious that they had the desire to express their position, so that their opinion was properly heard in the society. We did not expect the reluctance of journalists to give interviews: we reckon that this is due, on the one hand, to their professional position (usually they are those who conduct interviews), and on the other, on their insufficient qualification to discuss this sphere of problems. The only journalist we interviewed is an author of a TV program on religious issues.

Numerous potential respondents were much interested in the issues raised in our study. However, the initial decision not to grant anonymity made it difficult to persuade some people to talk. During the second stage of the fieldwork, we did guarantee anonymity to some respondents in order to have an interview. Finally, this became a reason why our team decided not to cite the respondents with their full names but to use codes, presenting only their profile. Those who are recognizable because of their position were explicitly asked and agreed to not being anonymous.

The interviews did not follow a structured questionnaire but were conducted as an open dialogue over the topics list (see Annex II). We believe that the respondents openly shared their views, freely answered our questions, and their wish for anonymity in several of the cases only contributed to the calm and profound conversation. In our opinion, the conducted interviews adequately cover various views on the topics included in the research. At the same time, the geography of our study includes the largest public and political centres of Bulgaria as Sofia and Plovdiv, as well as smaller settlements (four villages in western and southern Bulgaria).

The careful reading of the interviews allows us to point out several positions common for all the respondents. Of course, they are all expressed in different manner and at different points of the conversation. These positions of the respondents sometimes come into conflict with other views they shared within the interview, but we will focus on these contradictions later.

- The religion as an overall conception about the world, the people and their relationships; the religiousness as a belief and as an institution are not key factors that define the public life in Bulgaria.
- The coexistence of different religions and various religious practices in Bulgaria is not a source of pressure and problems among the people who confess these religions.
- The Eastern Orthodox Christianity is the traditional religion¹ in Bulgaria – as stated in the Constitution. The respondents do not question this historically gained status. They oppose, however, its leading role in present day, a role that is attributed to it and on which it encroaches. According to them and the Constitution, all religions are equally valuable.

The succeeding sections of the report are arranged according to significance of the problems in the Bulgarian context.

¹ “Traditional religion” is used in the Constitution in the sense of “religion professed by Bulgarians.” The majority of Bulgarians have been Orthodox Christians, both in the periods when they had their own state and when they lived under the Ottoman rule. The designation of the Orthodox Christianity as a “traditional” religion in Bulgaria on the one hand avoids the politically incorrect label of “official religion,” but on the other firmly asserts that the Orthodox Christianity is *the* religion of Bulgarians, regardless of the fact that Bulgarian citizens profess other religions as well.

III. Relations between Nation State and Religion

1. Historical context and legislation

Orthodox Christianity is one of the most important identity markers around which the modern Bulgarian national identity was constructed. The Bulgarian struggle for the national self-awareness and independence from the Ottoman Empire had two main forms. One was based on the efforts to establish and spread the Bulgarian national identity through education and culture, while the goal of the other was the establishment of the independent Bulgarian church emancipated from the Greek Patriarchate in Constantinople. Thus, the national Bulgarian Orthodox Exarchate was actually the first national institution founded in 1870 with a Sultan's *ferman* (decree) – eight years before the foundation of the modern Bulgarian state (1878). In addition to this fact it should be mentioned that the Orthodox Christianity follows the model of Constantinople Patriarchy of Byzantine Empire, which is characterized by persistent political interweaving between both institutions – State and Church (the State dominates this relationship).

After the Liberation from the Ottoman Empire, the Bulgarian Church was one of the important factors engaged in constructing the new state and national identity. Although within the new Bulgarian borders, the society was ethnically and religiously diverse as a legacy from the Ottoman Empire, state institutions and intellectuals led a policy for establishing a strong nation state based on Bulgarian ethnicity and Orthodox Christianity.

In the Constitution of 1879, the Orthodox Christianity was defined as “dominating faith in the Bulgarian principality” (Ch. 9, Art. 37). The Holy Synod exercised the supreme spiritual power. All other religions enjoyed freedom if “the performance of their rituals did not violate the existing laws” (Ch. 9, Art. 39, 40). An important point of the Constitution was that all religious organizations were under the supervision of the corresponding minister (Ch. 9, Art. 42) (Методиев, Стоянов 1990: 24).

The researchers of the period before the World War II conclude that the church was subordinated to the state. There was a tendency of direct interference in the financial and internal church matters.² When the Eparchial Statute was revised to function in the new conditions of the nation state, the church matters were divided into “spiritual” (dogmatic-liturgical) and “non spiritual” (secular), the latter associated with material and financial condition of the Church. Based on this idea, the Eparchial Statute from 1883 allowed the participation of the state power in the church government, in particular when it came to its property (Даскалов 2005: 445).

The researchers of the church-state relations reckon that these relations were under a strong influence of the political discourse and were marked by a series of conflicts (Цанков 1938-1939: 108-131, 158-172). Evidence for this is the extreme nationalistic bias in the Bulgarian society during the 1930s that tried to establish the notion that the state was responsible for creation of the judicial and administrative organization of the church. The Holy Synod on its part attempted to protect its autonomous position towards the secular power (Габровски 1932: 168-182; Стоянова 1933: 110-118). The difficulties were predetermined by the internal conflicts within the church and by the lack of reformation capacity. On the one hand, the government of the church was in the hands of the oligarchic-minded bishops, on the other, the low clergy lagged behind educationally and spiritually. To all this, the persistent shortage of financial resources was added. Because of those facts by the mid-twentieth century, the church did not achieve significant success in attracting the laity and organizing the social Christian activity (Даскалов 2005: 460).

The Islamic religion was constituted through “Statute for the spiritual leadership of the Muslims in the Kingdom of Bulgaria” of 1919. Head of the community was the Chief Mufti. The regions had

² One of the examples is connected with the government of the Bulgarian Agrarian National Union, headed by Alexandar Stamboliyski. It directly interfered in the matters of the Synod, extended the financial control over the church and even transformed the building of the Sofia Seminary into Agronomical Faculty (Даскалов 2005: 452).

religious communes whose muftis were directly elected by Muslims. The researchers agree that between 1880 and 1934 the attitude towards Islam was comparatively liberal and the treatment of Muslims was tolerant. Despite that, the Muslim community stayed isolated, confined within its own boundaries and in the periphery of the political process.

After 1934, the state politics changed and the freedom of Muslims was limited. In that period, restrictive measures were taken by the political authorities towards all religious institutions in the country. A tendency of the state to actively interfere in and administratively control the affairs of the religious organizations seems to have appeared in this period.

The socialist Constitutions (1947 and 1971) regulated the relations between state and religion in Art. 78 (1947) and Art. 53 (1971) respectively. Those articles guaranteed the freedom of religion and religious rites. The church was legally separated from the state. A separate law governed the legal status and the material support as well as the internal self-government of the different religious communities (Методиев, Стоянов 1990: 50, 65). The use of “church and religion for political goals and the formation of political organizations on religious grounds” was prohibited (Методиев, Стоянов 1990: 50, 65). It is clear that the term “Church” stood for the Orthodox Church, but in contrast to the previous period its leading role was not explicitly stated. The second “socialist” Constitution added that the citizens could take part in anti-religious propaganda (Методиев, Стоянов 1990: 65). Throughout the entire socialist period, the atheism dominated unconditionally and its main goal was “withering away of the religion,” although in both Constitutions formal legal basis for religious freedom was present (Груйкин 2004).

The Constitution of 1991³ (last amended in 2007) guarantees the religious freedom and rights of the citizens of the Republic of Bulgaria, thus reflecting the democratic changes in the state system and government. Art. 13 states:

- (1) The practicing of any religion shall be unrestricted.
- (2) Religious institutions shall be separate from the State.
- (3) Eastern Orthodox Christianity shall be considered the traditional religion in the Republic of Bulgaria.
- (4) Religious institutions and communities, and religious beliefs shall not be used to political ends.

It is also added:

Art. 37. (1) The freedom of conscience, the freedom of thought and the choice of religion and of religious or atheistic views shall be inviolable. The State shall assist the maintenance of tolerance and respect among the believers from different denominations, and among believers and non-believers.

(2) The freedom of conscience and religion shall not be practised to the detriment of national security, public order, public health and morals, or of the rights and freedoms of others.

Art. 58. (1) All citizens shall observe and implement the Constitution and the laws. They shall respect the rights and the legitimate interests of others.

(2) Obligations established by the Constitution and the law shall not be defaulted upon on grounds of religious or other convictions.

After 1989, the equal treatment of all denominations has been regulated legally for the first time. At the same time the Eastern Orthodoxy was defined as “*traditional religion in the Republic of Bulgaria*.” Bulgaria is the only former socialist Eastern European state that determined the Orthodoxy as a traditional national religion (Ferrari 2003: 414-415). Some researchers believe that this definition contradicts the declared division between state and church (Ferrari 2003; Груйкин 2004).

The relations between religion and state are more precisely regulated through the Denominations Act of 2002 (last amended in 2009).⁴ In this law, the attitude towards the Eastern Orthodox Church and the other religions is again differentiated. On the one hand, the autonomy of different religions is guaranteed, as no state interference is allowed in their matters: “Religious denominations shall be free and equal. Religious institutions shall be separate from the state.” (Art. 4 (1)); the registered denominations have access to the state subsidy distributed from the budget (Art. 28). On the other hand, the law emphasizes on the specific position of the Orthodox Church, based on its

³ <http://www.parliament.bg/en/const>

⁴ <http://www.lex.bg/bg/laws/ldoc/2135462355>

tradition, historic role and significance for the state development (Art. 10 (1)).⁵ The denominations are obliged to register in Sofia City Court as legal persons under the Civil Procedure Code (Art. 15 (1)), while the status of the Orthodox Church is determined by the law (Art. 10 (2)).⁶ The next paragraph of the same law states that “Par. (1) and (2) cannot be the basis for granting privileges or any advantages” (Art. 10 (3)).

The Denominations Act of 2002 changed the system of registration of denominations. While in the 1949 Law (valid with amendments until 2002), they became legal persons from the moment when their statutes were approved by the Council of Ministers, in the current law their registration is transferred to the courts. Despite the formal transfer of the control over religions from the executive to the considered to be independent judicial system, the practice shows that the political interference is still preserved. The main problems and contradictions come from the uncertainties in the interpretation of the applicability of the new rules of registration in terms of the existing local entities. This results in numerous cases of legal contestations against the legitimacy of the different religious governing bodies and allows significant influence of the political conjuncture over the status of the religious institutions.⁷

We can conclude that even though the independence of the Orthodox Church and the other registered religious organizations from the state is declared at all legal levels, the relations between state and the religious institutions have always been and still are ambivalent. In the past, state institutions like the Ministry of Interior or the Ministry of Foreign Affairs and Denominations have supervised and controlled all the creeds. Today, the Council of Ministers’ Directorate “Religions” (which was actually constituted during the socialist period) undertakes these functions.

Between 1945 and 1989, Bulgaria adopted many international and European documents related to the religious freedoms and individual human rights. These processes significantly intensified after 1989 and especially during the EU accession period (1997 – 2007). The issues of tolerance, equality of the citizens and the fight against discrimination are treated by the Bulgarian legislation: the Constitution; the Denominations Act; the Law on Political Parties; the Protection Against Discrimination Act; the Criminal Code. Specialized bodies were established for application of this legal framework: National Council for Cooperation on Ethnic and Demographic Issues in 1997; Ombudsman of Bulgaria in 2003 and Commission for Protection against Discrimination in 2005.

The European Commission against Racism and Intolerance (ECRI) has monitored tolerance and anti-discrimination practices in Bulgaria since 1998. While expressing certain reservations, the ECRI believes that the Constitution adequately ensures equality of the Bulgarian citizens. Regarding the Denominations Act and the Law on the Political Parties, the ECRI reckons that these freedoms are guaranteed, but more work should be done to better implement them in practice (ECRI 2009). However, there are numerous recommendations for the application of the Criminal Code on crimes on racial or religious grounds. These recommendations are addressed mostly to the case law, because there are no convictions under the articles that treat these problems.

The ECRI report gives the most favourable evaluation to the activity of the Commission for Protection against Discrimination as it has considered numerous complaints and has passed judgments in short time. ECRI recommended that its staff should be expanded and that more local offices should be established because of the increasing volume of work. Additional recommendation deals with certain documents that have yet to be ratified (European Charter on Regional Minorities and 12th Protocol of the European Convention on Human Rights – International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families).

Since 1989, the Bulgarian state has made a considerable effort to adapt its legislation to European agreements and directives, as well as the essential international laws. The implementation of

⁵ Art. 10 (1) states: “The traditional religion in the Republic of Bulgaria is the Eastern Orthodoxy. It plays a historic role in Bulgarian statehood and has actual meaning in the state’s life.”

⁶ Art. 10 (2) states: “The Bulgarian Orthodox Church is a legal person. Its structure and management are established by its bylaws.”

⁷ <http://sites.google.com/site/pravosver/home/vks/vks-tlk-1-2010/vks-tlk-1-2010-p>

the legislation in practice, though, is flawed, mainly because of administrative obstacles and lack of political will.

2. State policy, legislative and financial support

The Denomination Act regulates the role of the state Directorate on “Religions” which is responsible for the communication between the state and all registered denominations:

Art. 35. Directorate "Religions" shall be a specialised administration of the Council of Ministers, which shall:

1. co-ordinate the relations of the executive power with the religions;
2. support the Council of Ministers in implementing the state policy of maintaining tolerance and respect between the different religions;
3. organise and manage the work of an expert consultative commission for the problems of the religions;
4. give expert conclusions and statements, when this is provided in this law;
5. give statements about request for permission for stay in the country of foreign religious servants, invited by the central management of the registered religions;
6. check signals and complaints of citizens about violation of their rights and liberties or rights and liberties of their close by misuse of the right to religion on behalf of third persons;
7. verify the observance of the religious rights and freedoms by the state officials;
8. check signals and appeals about implementing illegal religious activity in connection with Art. 7 of this law and if necessary notify the bodies of prosecution.
9. make proposals to the Council of Ministers on the distribution of the governmental subsidy directed to the registered religions and ensure accountability.”

The Denomination Act states in Art. 21 that those religions and their divisions, which have acquired a status of a corporate body on the basis of the law, have the right to own property. The state and the municipalities can concede to the religious institutions and their local divisions the right to use state and municipal properties, as well as to support them with subsidies, provided from the state or the municipal budget. The law defines state funding as desirable: “Art. 25. (1) The state can support and encourage religions registered under this Act in their religious, social, educational and health activities through tax, credit and interest rate preferences, customs, and other financial and economical relief under the conditions and procedure established in the respective specialised legislation.”

All denominations are entitled to state subsidy.⁸ Such funds are allocated annually, but are extremely insufficient. Subsidies are given to the central bodies of the religious organizations, which decide how to distribute them to their local structures.

The following subsidies “for religious denominations registered pursuant to the Denominations Act” are listed in the State Budget of the Republic of Bulgaria Act of 2011:⁹

1. For the repair of churches, support of the Bulgarian Orthodox church communities abroad and the clergymen working abroad – 700,000 leva.¹⁰
2. For the Bulgarian Orthodox Church (in the country) 1,660,000 leva.
3. For the Muslim denomination in the Republic of Bulgaria 180,000 leva.
4. For the Central Jewish Religious Council 30,000 leva.
5. For the Armenian Apostolic Orthodox Church 40,000 leva.
6. For other registered religious denominations¹¹ 40,000 leva.
7. For the repair of church buildings of national significance 300,000 leva.
8. For the publishing of religious publications, scientific and sociological surveys 50,000 leva.

⁸ Art. 28: “The annual State Budget Act shall determine the amount and distribution of the state subsidy for registered religious denominations” - <http://www.lex.bg/bg/laws/ldoc/2135462355>

⁹ See: State Gazette, vol. 99, 17/12/2010, p. 39-40; <http://www.minfin.bg/bg/page/645>

¹⁰ 1 Euro = 1,95 BGL

¹¹ The fact that it is written “other” and not “THE other” gives the opportunity not all of the registered denominations to receive subsidy from the state budget.

Total: 3, 000, 000 leva.

This shows that the shares of the public funding do not correspond with the size of the religious communities according to the official census data.¹² Usually the subsidy is not sufficient for maintaining the activities of religious institutions and they seek other financial contributions from private donors including foreign organizations. The only chance for financial independence is the optimal use of the properties, which have been restored to the religious institutions after 1989.

The Denomination Act states in Art. 30 (1) that the registered religions can set up health, social and education establishments. These establishments are, according to the Art. 31, supervised by the Ministry of Health, the Ministry of Labour and Social Policy and the Ministry of Education, Youth and Science respectively. Art. 32 further regulates that the access to such health or social establishments cannot depend on the affiliation to the respective religious community.

In practice, only a small number of such local and national organisations exist. They deal with charity and human rights issues, but their activity is not well known in the society. Their existence is not provoking any public tensions and they were not commented in the interviews.

3. “Land-mark” court cases regarding the state-religion relations

According to many politicians, representatives of the clergy and a large share of the public, the adoption of Denominations Act in 2002 has significantly contributed to ending the schism in the Bulgarian Orthodox Church. The Act also introduced a better regulation of the status of the denominations as a result of different recommendations of the EU. However, numerous imperfections in this law still allow state interference in the matters of the religious denominations (Груйкин 2004). This is evident from the decision of the European Court of Human Rights (ECHR) from 2010 in the case “Holy Synod of the Bulgarian Orthodox Church (Bishop Inokentii) and others against Bulgaria” (complaints № 412/03 and № 35677/04).¹³ According to the court, Bulgaria should amend the Denominations Act, in particular those articles that require unified governing bodies for all religious denominations, including the Bulgarian Orthodox Church.¹⁴ The amended Denominations Act should guarantee that the controversies over the leadership of religious communities are resolved solely within the corresponding community, and that all ensuing civil disputes are resolved in the courts.¹⁵ A human rights lawyer commented on the occasion of this case that “the Denominations Act contradicts the constitutional principle of religious freedom and division of state and religious institutions... and in practice designates the “correct” Synod and the “correct” Patriarch.”¹⁶

The Muslim denomination has similar problems. This is evident from the interviews conducted for the project. The controversy started in 1992 when the National Conference of the Muslims in Bulgaria was held. The Conference adopted a new statute and elected a new governing body of the Muslim community. Fikri Sali Hasan was elected a Chief Mufti. In November 1994, the former Mufti Nedim Gendzhev organized an alternative conference, which adopted a different statute and approved a different governing body. The Deputy Prime Minister in charge of the religions intervened in the conflict and declared the November 1994 conference as legal. Until 1997, the Council of Ministers

¹² See p. 12 of this report.

¹³ There is a judgment on the same case from 2009. The court in Strasbourg finds violation of Art. 9 of the European Convention on Human Rights (freedom of religion) as through the expulsion of the so called “alternative synod” the state has illegally obliged the Orthodox Christians in Bulgaria to be under one sole government. With its second decision from 2010, the court accepted that the complaint of the representatives of the “alternative synod” was on behalf of all those who were their followers. Because of this it adjudicated a sum total of 50,000 euro for non-property damages in the name of Bishop Inokentii (Ivan Stoyanov Petrov) - <http://dnes.dir.bg/news/svetia-sinod-alternativen-sinod-sadat-strasburg-mitropolit-inokentiy-7100479>

¹⁴ The magistrates emphasize that even though the registration of the Bulgarian Orthodox Church through a law is generally not in contradiction with the European Convention on Human Rights, the introduction of this rule in a period of deep division within the church and the Orthodox community, is equivalent to compulsion of the believers to accept a government against their will.

¹⁵ http://www.dnevnik.bg/bulgaria/2010/09/16/961682_sudut_v_strasburg_dade_na_sinoda_na_inokentii_50_hil/

¹⁶ <http://temanews.com/index.php?p=tema&iid=532&aid=12844>

refused Fikri Hasan's registration despite the fact that the Supreme Administrative Court ruled twice (following Hasan's complaints) that the refusal of registration was illegal.¹⁷ The dispute reached the European Court of Human Rights in Strasbourg. The case "Hasan and Chaush versus Bulgaria" (complaint № 30985/96) and the Court's decision of October 26, 2000 gave a clear signal that the state interference in the religious matters was unacceptable.¹⁸ The court adjudicated that state interfered in the internal organization of the Muslim religious community, protected under Art. 9 of the European Convention on Human Rights. Despite this ruling, the Muslim community remained divided and to date, two Chief Muftis argue for legitimacy due to different and contradictory court decisions.

Researchers say that despite the clearly defined constitutional principles on division of state and religion, in practice state continues to interfere in affairs of the two most important religions in Bulgaria. This is possible because of the non-binding formulations in the Denominations Act, which enable the authorities to influence the selection of people heading the religious institutions (Груйкин 2004).

4. Religious minorities and the state-religion relations

It is important to bear in mind that the Bulgarian society has never been religious in the canonical sense of the word. The scientists and the experts usually prefer definitions like "traditional Christianity" and "traditional Islam" to explain the specifics of the religiousness in Bulgaria – often characterized as a mixture of pagan beliefs and practices covered by a thin layer of official religion (Zhelyazkova, Nielsen, Kepel 1995). These trends have dominated during the socialist period as well, when the practice of religion was restricted and persecuted by the state. After the democratic changes in 1989, many people returned to "their" religion in response to the imposed restrictions in the previous period.

According to the results of the 2011 census, 76% of those who answered the question about their religion identify themselves as Eastern Orthodox Christians and 10% as Muslims (including Turks, Bulgarians and Roma). The other religious communities are very small: Protestants 1.1%, Catholics (including Uniates) 0.8%, Armenian-Gregorians 0.03%, and Jews 0.01%. 4.7% said that they did not have particular religion and 7.1% refused to religiously identify themselves.¹⁹ It should be noted that not all who declared themselves as Eastern Orthodox are baptized or follow the religious prescriptions. The religious self-identification is often perceived as ethnic or cultural identification marker. Sociological researches prove that this self-identification is based on the tradition and/or the family background and upbringing rather than on the actual belonging to a particular faith (Peteva 2003: 38).

The number of immigrants in Bulgaria is small – in 2010 approximately 1.4 % of the population.²⁰ The majority of the Muslim immigrants are men from Arab, African, Turkish, Kurdish, Afghan, and Iranian communities. The reasons for the gender imbalance can be found in the cultural and social norms in the countries of origin, where the migration of women is possible only in the presence of a man in the family (БХК 2004: 21). Most of the immigrants in Bulgaria live in cities, where employment opportunities are better and where the atmosphere is more cosmopolitan (НСИ 2005: 307).

The official state policy towards the traditional Muslim minorities in Bulgaria has always been highly inconstant. Periods of free and liberal expression of traditional religion have alternated with repression and assimilation attempts throughout the entire 20th century. It is important to clarify that the Muslim minorities inhabit compact peripheral and predominantly rural regions of the country. After 1948, the main goal of the government was to integrate them in the unitary socialist nation. The

¹⁷ <http://old.bghelsinki.org/index.php?module=news&lg=bg&id=9>

¹⁸ Case of Hasan and Chaush v. Bulgaria (application no. 30985/96). Strasbourg: The European Court of Human Rights, 2000 - <http://www.minorityrights.org/download.php?id=382>

¹⁹ <http://www.nsi.bg/EPDOCS/Census2011final.pdf>

²⁰ Bulgaria Country profile (1990-2010) (Trends in International Migrant Stock: The 2008 Revision. United Nations database, POP/DB/MIG/Stock/Rev.2008) - <http://esa.un.org/migration/p2k0data.asp>

authorities imposed strict regulation of the religious denominations that included administrative interference in their internal matters (Peteva 2003: 40). The Muslim practices and traditions were subject of pressure from two sides: on the one hand, the religion was officially persecuted as incompatible with the socialist ideology and values; on the other, Islam was seen as basis for maintaining identity different from the Bulgarian one. It should be noted that internal division of Muslims on Sunni and Alevi has never been officially recognized and all Muslims have always been dominated by the Chief Mufti's Office, which is Sunni. This affected also the state politics that did not make difference between the two communities.

The State undertook several assimilation campaigns against Turks and the Muslim Bulgarians during the 1970s and 1980s: Muslim names were forcibly changed, the religious practices and customs were persecuted, the traditional Muslim clothing was prohibited (Груев, Калъонски 2008; Кръстева-Благоева 2001; Konstantinov, Alhaug 1995). As a result of this policy, within the Muslim communities evolved a process of encapsulation and restoration of some traditional cultural characteristics connected with Islam, which withered during the modernization period (Желязкова 1998: 371-397).

The totalitarian state repressed also the non-Orthodox Christian communities – Catholics and Protestants. Their priests were persecuted in a series of show trials in the 1950s (Елджъров 2002: 666-672). Monsignor Bossilkov, one of the most prominent Catholic leaders, was executed, and his canonization as a saint by Pope John Paul II in 1998 was a recognition of the repressive character of these policies.

The inconstant state policy towards the minorities and the periodical repressions over their cultural identity forced them to seek strategies for survival and preservation. This affected their behaviour in the public and private space, as they tried to manoeuvre and adapt to the existing order.

5. Basic tensions in the state-religion relation revealed in the course of the fieldwork

The main tension is a result of the opposition between the loudly proclaimed division of secular state and religion on the one hand, and the real policy of state interference in the internal matters of various faiths on the other. This interference is most evident in the matters of the Orthodox Church and Islam, as these are the two denominations with the most significant number of “followers.” We use the term “followers” instead of believers because the respondents express their doubt about the “quality” of the religious faith of the citizens, who define themselves either as Christians (the majority) or as Muslims (the minority).²¹

“There is a tradition that the state commands, tramples on religion. In the first years of the democracy, the religious communities excessively, intrusively, I would say even aggressively, demonstrated their disdain towards the state institutions. I believe we are in a period of calm. This is because of the newly adopted law, which is better than the former one. At present as if there are no such contradictions as those that existed in the 90s. In the 90s, there were conflicts between the state and the various denominations at all levels. There was disunity within the Orthodoxy, there was a struggle for power among Muslims, new religious movements appeared to which the society reacted quite emotionally. The people blamed the state for not doing anything. I believe now the situation is at least seemingly calm.”
(R-IMIR-9)

The review of the legal acts that regulate the state-religion relations has revealed that several interrelated areas are the principal source of tension:

²¹ In the section V. 2, where we discuss Family Law in the context of state-religion relations, we will take a closer look at one of the indicators of the weak (or lack thereof) religiosity among those defining themselves as Christians or Muslims – the rising share of family cohabitation without marriage.

- Only the Orthodox Church is implicitly recognized by law.²² All other religious denominations have to request and obtain court registration in order to be legitimate and to receive official recognition.²³

This, according to the representatives of all other denominations²⁴, automatically results in the privileged position of the Orthodox Church, which is unfair to others.

„It seems that the Bulgarian Orthodox Church considers itself as the only existing religious institution in the country. It does not recognize, in my opinion, the presence of other religious communities.” (R-IMIR-12)

Some of the respondents, who are Eastern Orthodox, share the same conception about the privileged position of the Orthodox Church, but they believe that this is historically justified.

- The state institutions favour the Orthodox Church because the Orthodoxy is constitutionally declared as “*traditional religion*” and the largest part of the population defines itself as “*Eastern Orthodox Christians*.”

The respondents do not oppose this actual situation – both those who identify themselves as Eastern Orthodox, and those who are followers of other religions. However, the representatives of other denominations question the grounds of such constitutionally secured privileged position of the Orthodoxy, as well as the share of “Eastern Orthodox” in the national census. If the religions are equal, their recognition should be a result of the same procedure. During the previous censuses, when e-census (electronic enumeration via Internet) was not available, it often happened that enumerators filling the questionnaires automatically listed all members of the household as Eastern Orthodox in cases when respondents did not explicitly declared their religion.

“The attitude of the state towards the religions is not clear, simply because in the new Constitution of 1991 we [the respondent was member of the Parliament at that time] included the formulation that the Eastern Orthodoxy is a traditional religion in Bulgaria. We [Muslims] argued and debated a lot on this topic. Initially there were suggestions that it should be declared as an official religion. We were convinced that if we accept the term traditional religion, no legal effect would follow. We [Muslims] agreed and I signed the Constitution... The old parties which were re-established after the November 10th [1989] insisted on this – the former Social Democrats, the Agrarians, etc., there were deputies among the socialists who supported this term as well. – And what did they aim by calling it “traditional”? – First of all this was due to political considerations; they wanted to gain the support of religion followers. ... After the adoption of the Constitution, this point was included in the Denominations Act as well and hence the issue with the registration arose. According to the law, the Eastern Orthodoxy, because it is traditional, does not need an obligatory registration. All other religions, though, should register. And you know what happened with our denomination. What is important is that the principle of equality of religions is not observed. ... Preconditions were created that allow the interference of the state in the internal matters of the religions, mainly through this registration.” (R-IMIR-11)

²² Denomination Act: Art. 10, paragraph 1. “The traditional religion in the Republic of Bulgaria is the Eastern Orthodox. It plays a historic role in Bulgarian statehood and has actual meaning in the state’s life. Its voice and representative is the autocephalous Bulgarian Orthodox Church, which under the name Patriarchy, is the successor of the Bulgarian Exarchate and is a member of the United, Holy, Congregational, and Apostolic Church. It is led by the Holy Synod and is represented by the Bulgarian Patriarch who is Metropolitan of Sofia.” Paragraph 2 “The Bulgarian Orthodox Church is a legal person. Its structure and management are established by its bylaws.”

Paragraph 3 “Paragraph 1 and 2 cannot be the basis to grant privileges or any advantages [to the Bulgarian Orthodox Church] over other denominations by a law or sub-law [normative administrative act].”

²³ Denomination Act: Art. 14. “Religious communities shall acquire status of a legal person on the conditions and according to the procedures of this law.”

Art. 15. “Registration of religious communities as a legal person shall be accomplished by the Sofia City Court.”

Art. 16. “Legal procedures for registration shall be carried out following the procedures of Chapter 46 of Civil Procedure Code.”

²⁴ Further in the text “other denominations” will be used in order to avoid the more precise but longer “all registered denominations excluding Eastern Orthodoxy.”

- According to the Denominations Act, the state may (but is not obliged to) support the religions with annual subsidy. The respondents believe that the mere possibility of legally regulated state subsidy makes the faiths dependent on the secular/state power.

Most of the representatives of “other” religions discuss the amount of the state funding, as well as the distribution of the money among the different denominations. In their opinion, the subsidy for the Bulgarian Orthodox Church is unacceptably large when compared with the extremely small one for their religions. Although the law explicitly states that the status of the Orthodox Church cannot be basis for any advantages,²⁵ they see the large funding exactly as such advantage. Some respondents that we assume are Orthodox Christians also share dissatisfaction with the manner of distribution of the state subsidy. Some of them reckon that religions should not be financially supported by the state.

“First of all, the state has allocated funds for all religions. The state pays salaries. There is Directorate “Religions, which is a state agency. It distributes the funds not very successfully, in my opinion. I do not know how they distribute funds among the different religions, I have not heard about any contradictions, but these funds are not well distributed between the churches and the eparchies. I have tried to intercede for certain churches and no matter if a help was promised or not, it was not given. These funds are insufficient. In principle, the religious rites, the religious temples, they should be financed by the believers, not by the state. ... But when the believers grant the main share of the funds, another danger exists – misappropriation. Phoneyes pretending to be believers take the money are use it for other purposes...” (R-IMIR-3)

“In Bulgaria things slightly differ from the European standards. In principle, our legislation follows the lines of the international legislation. This means, the state may support the religions if it wishes to, and may not support them if not. The state allocates certain funds from the budget for the denominations. And part of the funds going to the Eastern Orthodox Church is given to the two religious schools – the seminaries. You know that the academy was transformed into a faculty; there are two faculties in Bulgaria, several departments as well. They belong to the corresponding universities and are correspondingly supported by the university or the state budget. The rest of the schools are private. They are not that many, we [Muslims] have four. The Evangelists have one. The state does not pay for them – neither directly nor indirectly. In principle, they [Muslim schools] should be financed by the Chief Mufti’s Office. In the last three years, an educational fund was established, where some money is saved. This money is extremely insufficient. Our schools are mainly financed by foreign foundations. They know this in the Directorate “Religions.” I do not remember exactly, it was probably in 1999 or 2000, on my initiative, me and the director of the Directorate “Religions,” went to Turkey. We signed a collaboration protocol, which had to be confirmed by both governments. We continue this collaboration based on this protocol. ... They have a government foundation. This foundation supports us, in virtue of this protocol. Of course, this has its strong and weak points. I was recently in the Directorate “Religions” and I told the people there that the way to solve this problem was if they helped the Higher Islamic Institute to be financed by the state budget. ... Funds are allocated for all religions and after that, they are distributed between the different denominations. But first of all, the proportion is not observed. The Muslims are about 12 percent, but only 8 percent of the budget is provided for them. For 2010 from this 8 percent, which was equal to 250,000 leva, they gave us 180,000. This is utterly insufficient for the financial needs of the Chief Mufti’s Office. What shall we do? I believe about one million comes from the waqf properties. But each month, we spend about 60,000 leva only for the imams. Probably about two thirds of the imams rely on the support of the believers. The people collect money and pay them some salaries.” (R-IMIR-11)

“The state funds the religions, but in practice it funds only the Orthodox Church. By law it is entitled to give money, which is not that much. Still I am not aware of cases when the state has funded the construction of a mosque or a protestant temple. It is obvious that the Protestants have money. They probably receive financial support from America and so on. They themselves are more engaged, the community itself can collect money; that is true. The Muslims have money. The state helps the Orthodox, insufficiently, but it helps for the building of churches despite the fact that the law does not make such a distinction. The law does not say that the state helps only the Orthodox Church. – And if

²⁵ See: Art. 10, Par. 3 in Footnote 22

the law states that it should help all, why this is not the case? – Because not all want to. Such are my impressions. I have not seen, we can ask in the Directorate “Religions, but I have not seen a request for funding from the Protestant Denomination. I have also not seen a request from the Muslim Denomination. Only Orthodox trustees ask for money.” (R-IMIR-9)

“In my opinion the state should not fund them. It is better to give some money for a church, or other temple, or for a cultural monument of national significance. In such cases, it is good to help because the communities themselves sometimes cannot afford to maintain buildings of such importance. The state can support in cases like those, but not directly the religion itself... The Catholic Church does not receive subsidy from the state. I only found out that once, I do not know how many years ago, the Directorate “Religions” has supported the roof renovation of one of our [Catholic] churches.” (R-IMIR-15)

Although the respondents consider that the state subsidy are distributed in a way that privileges the Orthodox Church, they all point out that there has not been, there is not and there cannot be tensions and disagreements between the religions in Bulgaria: *“The denominations do not have any problems among one another” (R-IMIR-3).*

In the recent years, however, there has been a distinguishable estrangement of the Orthodox Church from the other denominations. A National Council of the Religious Communities in Bulgaria was founded in 2008, but no representative of the Orthodox Church attended any of its meetings.

“It [The National Council of the Religious Communities in Bulgaria] was registered two years ago, but we have not entered the public sphere because of the simple reason that the Bulgarian Orthodox Church has not appointed its representative to it. We believe that without the BOC, we are not a National Council, but just a council. In the National Council, there should be representatives of all the denominations. We enjoy superb dialogue, understanding, and friendly relations. In such a calm atmosphere, we can discuss the problems and find the best solutions.” (R-IMIR-7)

The interviewed representatives of other religions are discontent with the insignificant state subsidy, but this does not sour their attitude towards the Orthodox Church or its clergy. Interviewed priests and imams outside Sofia say that money from the state subsidy is minimal and is received irregularly. They rely mainly on the believers from the respective place. The annual fees set by the trustees make the maintenance of the place of worship possible. They largely accept the local self-supporting as something normal. The only occasions when they would like to receive money from the central governing bodies of the denomination and the state is the funding of the expensive restoration of places of worship. The usual practice to date has been to rely on wealthy donors to provide money for this.

Another problematic issue are the complicated court procedures that impede the restitution of lands and buildings – a matter troubling all denominations (apart from those that have appeared only after 1989). The complete restitution would allow better management of the places of worship and would guarantee to a greater extent their financial independence from the state and the private donors.

While the respondents emphasize that there are no tensions and problems between the religions in Bulgaria, almost all of them mention the internal contradictions within the Orthodox Church and the Muslim denomination. These problems have occurred and repeated regularly during the last twenty years, according to the respondents, as a result of the state interference in the structure and organization of the two denominations. Such state interference in fact violates both the Constitution and the Denominations Act. Although the state institutions officially deny such interference, they use all available political means to pressure and manipulate the governing bodies of various religions. The respondents who identify themselves either as followers of Orthodoxy or Islam talk extensively and with pain about the artificially created problems within their religious institutions and communities. These problems have led to schism in the institutions and disunited the believers. For Orthodox and Muslims, this is the most destructive form of state interference.

“Numerous current bishops are absolute non-believers. And these are the people who will select the next Patriarch. The political system that governed us for 45 years has ruined the Orthodox religion. These are people who have lost their perception of time... The BOC is destroyed, it is sad...” (R-IMIR-3)

“My impressions are that the conflicts within the denominations are deeper than those among them. There are only several exceptions when some Orthodox priests or bishops sharply criticize the Protestants or some new religious communities. But this opposition is only on a verbal level, no other conflict exists. I have not noticed other conflicts. Within the denominations, though, there are conflicts associated with the fight for power. The Orthodox Church was a textbook example. The Muslim denomination as well. From time to time, there are such conflicts within the Protestant denominations as well. Probably they do not exist only in the Catholic Church... The largest religions – Orthodoxy and Islam – they do not want conflicts between each other. Just on the contrary, they express sympathy and understanding towards each other’s problems.” (R-IMIR-9)

“In my opinion the tension is much more evident within the denominations. We are witnesses of those troubles that the BOC had to go through. As far as I know, finally the problem with the two Synods is resolved. Right now, we have a problem with Islam. It is hard to say if there is a state interference, because the court is an independent institution and it should decide independently. But all this has led to the awkward situation when the entire Muslim denomination is ignorant and does not know where to go and what to do. At their conference I heard about a lot of problems, which no one knows how to solve.” (R-IMIR-7)

IV. Public and Private Space and the State-Religion Relations

1. Religious dress code

1.1. National context²⁶

We will focus on several specific cases where religious dress code served as a catalyst for raising questions about the state-religion relations in education. Specifically, we talk about the religious clothing of Muslim women and cases when they (try to) wear such clothing in public schools.

The first case is about girls from the Muslim Bulgarian community (Pomaks), attending the upper classes in a secondary school. They come from the village of Gyovren and study in the town of Devin (See: Grekova, Kyurkchieva, Kosseva, Avramov 2010). The girls visited school with the clothing specific for Muslims (headscarves and overcoats), but were verbally warned by the headmaster not to wear those religious symbols at school. In 2008, they have submitted a complaint about discrimination on religious grounds to the Commission for Protection against Discrimination (CPD).²⁷ The CPD ruled that there was no discrimination involved – neither in headmaster’s warning, nor in the regulations of the regional education inspectorate, as the access of the students to the classes was not restricted. In the decision of the case, however, the CPD recommended to the Minister of Education and Science²⁸ to prepare a comprehensive analysis of the Bulgarian educational system in the context of observing anti-discrimination legislation and ensuring the freedom of religions. The decision of the CPD was appealed at the Supreme Administrative Court (SAC). The SAC stated that the CPD decision was devoid of purpose and was in violation of the Protection against Discrimination Act, according to which the CPD should prevent or stop violations rather than issue recommendations. Because of this, the SAC cancelled this part of the Commission’s decision.

In the second case from 2006, a local religious Muslim organization submitted a complaint to the CPD over the fact that in a secondary school in Smolyan, the internal regulations forced students to

²⁶ The religious dress code topic is closely examined in the paper Maya Kosseva and Iva Kyurkchieva “Religious Dress Codes. The Bulgarian case”. – In: S. Ferrari, S. Pastorelli (eds.) *Religion and the Public-Private Divide*, Ashgate, 2012 (in print).

²⁷ The Commission is a state administrative body, which acts as court. It was founded by the Parliament in 2005 on the basis of the Protection against Discrimination Act (PADA) of 2004. CPD has the authority to accept and examine complaints under PADA. The procedure in CPD includes its own investigation of the cases, legal support, hearing of the parties. This procedure is fast and free of charge. The Commission decisions can be appealed at the Supreme Administrative Court.

²⁸ At that time the Ministry of Education, Youth and Science was called Ministry of Education and Science.

wear school uniforms. The organization perceived this as an intentional effort to prevent the wearing of religious clothing. The headmaster of the school declared, however, that she has not restricted the access of female Muslim students to the classes. With its decision, CPD not only denied the presence of discriminatory act, but also stated that the headmaster has allowed a violation of the school regulations, which has led to unequal treatment of the rest of the students. The CPD fined the school governing body, the Ministry of Education and Science, and the organization that has submitted the complaint as it has ruled that their actions have incited discrimination.

The third case is from 2009 and it did not reach the court, but provoked only the reaction of the local education authorities. It referred to a female teacher of French and Turkish languages at a primary school of the village of Kovachevo (Pazardzhik region). She wore a black robe and a headscarf in class. After a municipal councillor secretly photographed her, the media intervened. The parents, the colleagues and the headmaster supported her entirely, saying that she was a gifted teacher, who fulfilled her duties excellently.²⁹ Despite the seemingly favourable outcome, in 2011 a respondent informed us that she was gradually and informally forced to quit her job.

Those examples clearly demonstrate that there is still no comprehensive state policy and strategy, and no uniformed legal provisions that address such cases.³⁰ We can conclude that the state institutions show low level of willingness to introduce any changes – prohibitions or permissions. Through acceptance or rejection of the religious code, the limits of the toleration and integration in the state policy should be drawn. The examined cases explicitly show that despite the lack of a clear legal framework, the religious-secular relations are regulated either under the existing legal norms, or in favour of the moderate and tolerant solution for the individual. The media demonstrate a desire to question the existing practices and to provoke the sharpening of the contradictions. Nevertheless, the topic of religious dress code has not become an important issue in the public discourse. The only loud voice in the public space is the explicit negative attitude of the nationalistic organizations. The religious organizations, in turn, try to take care of the observance of the individual and collective religious rights of the people.

1.2. Basic tensions revealed in the course of the fieldwork

The opinions shared by the respondents have outlined four dominant discursive topoi about the religious dress code:

- Religious symbols do not represent a problem in Bulgaria. Despite being viewed as a distinguishable sign of belonging to a particular religion, the religious clothing is accepted as something “traditional” – as a part of the Bulgarian history. As such, it does not cause objections and rejection. In addition, there is also a strong self-perception among the Bulgarians that “We are tolerant.”

“In Bulgaria this was never a problem. We have nuns who freely wear their clothing. They are students in the University and they go there with their specific garment. I have not heard this to cause any kind of resentment because it is a demonstration of religiosity. This issue has never been discussed seriously in Bulgaria. Apart from this case from a village, with the headscarves... In my opinion, they should not be banned... If there is a freedom of religion, each person has the right to express his own religious belonging. We do not talk here about some kind of proselytism or propaganda. If according to the religious beliefs of the community, the clothing should be such, for me personally, it is not a problem if someone wears a headscarf and feels protected this way.” (R-IMIR-15)

²⁹ “It is neither me, nor the headmaster of the school where she teaches, who will make her take away the headscarf. I believe that there is no violation in her activities, apart from the secular characteristics of the education. But what does the headscarf mean...” – an interview with B.M., head of Regional Inspectorate of Education, Pazardzhik. - <http://republika.bg/index.php?id=13376>

³⁰ It is quite indicative that the media regularly raise the question about the voluntary covering of the heads of students in the schools of Smolyan, as well as the fact that the head of the Regional Inspectorate of Education tries to restrict the wearing of headscarves in school. - <http://republika.bg/index.php?id=13376>

“There is a change in the clothing itself. If you remember, probably you have been in Velingrad when you were younger. There is a traditional market on Sunday there and many Muslim Bulgarians come with exceptionally beautiful national costumes. This clothing is perceived as a kind of costume, not as something that bears religious symbolism, these are the customs of the people.” (R-IMIR-7)

- All citizens of the country should accept and observe a publicly valid dress code, and should not try to demonstrate their (religious) difference. The religious symbols belong to the private space and the places of religious worship, not in the public space. The headscarves of the female Muslims are perceived by “the others” as a demonstration and “ostentation”, and as unacceptable in the “civilized world.”

“I believe that they can observe this way of clothing where their rituals take place, where their families are, at the unofficial public places. But in the public spaces, my personal opinion is that one should show consideration for others. Because otherwise it means that the minority imposes its will over the majority. We talk about tolerance. As the majority should show some tolerance, so should do the minority as well. I do not know how did it all end, but we had such an argument about the personal documents – the Muslim women insisted on photographs with their headscarves. This is not right as well, because the picture for the official documents should show the face clearly, because of terrorism, of changed identities.” (R-IMIR-23)

- There is a reaction, inspired by cases in other European countries – mainly France (the decision of the French authorities to prohibit veils in public places). This reaction is also caused to some extent by the change that the respondents notice in the traditional clothing of the Muslim women – the long one-colour robe and the more peculiar mode of head-covering are perceived as a mark of possible transition from the familiar traditional Islam to Islamism. The complete covering of the face does not allow identification and thus endangers the security of the citizens and the state order.

“But these headscarves that appear now, they are not traditional for Bulgaria. The covering behind the ears and the uncovered face – this is absolutely different way of covering. But now, if you look carefully, you will see that they wear scarves, which have this specific hint of fundamentalism that comes from Turkey and other countries. Such kind of covering is not typical for Bulgaria. That is why such a difference exists. We perceive our kind of headscarves as part of the customs, as way of dressing, etc. No one has ever paid attention that a woman has a headscarf on her hair. This covering though, this is alien, this is not typical... I feel quite uncomfortable to assess other religions. The girls are brought up [that way] since they are very young. The family or the father insists on that. In my opinion, this is not only a personal decision – to start wearing a headscarf and those long one-coloured robes. This is not our clothing. This is a type, which has never existed in Bulgaria.” (R-IMIR-7)

“As long as a belief exists in a society that these things do not always happen voluntarily, but under certain pressure, not gratuitously, but against payment, as long as the ignorance is exploited, such suspicions would exist on both sides. This in reality is used by one or another religion as a tool, as an open showing of pressure over the others. This is actually the big problem. In principle, no one would oppose the use of some of the symbols. However, when everyone from all countries and religions are convinced that all this is a matter of personal choice... When there are suspicions from one of the sides that this is being used by certain elites, religious-political elites for achieving certain goals that have nothing to do with spirituality, which is expressed in the temple. It is then when these mutual suspicions come up, this secrecy of the intentions that results in mutual mistrust. Here, perhaps, as I already said, the religious education does not have a place in the secular schools, and there should be a regulation about the students’ behaviour as well. This is also an expression of some kind of belonging and the state should, in my opinion, have an attitude towards these issues.” (R-IMIR-12)

“To wear a burqa when you have to be, let’s say, identified... This is still a secular society. And Bulgaria... It may sound extreme, but I am a supporter of the French model, especially in the schools. There should be no such intrusive showing of religious symbols in public institutions, if we advocate pluralism... When you cover yourself from top to bottom, when only your eyes are visible, then who are you? This contradicts..., we still talk about united Europe, where there are certain civilizational parameters. I am tolerant towards the others, but this is too much. The person, who wants to live in Europe, should adopt to some extent the local traditions as well...” (R-IMIR-9)

- The opinion of the Muslims: the head-covering of the Muslim women is not a symbol; this is a religious “duty.” If the Muslim women are not allowed to wear headscarves, this means that the state restricts their right to profess their faith. When it comes to the photos for the official documents, a compromise was reached, but as it often happens in Bulgaria, the situation was exploited by some to spread suspicions towards Muslims and provoke fear of the alleged spread of extreme Islamism.

“First of all, I want to explain the difference between something, which is a symbol of the religion and something, which is obligatory. The cross – it is a kind of a symbol. When a man wears a cross, we can say from a distance that he is a Christian. The same logic we have when it comes to wearing a crescent, this is a symbol. But when we talk about the headscarf, it is not a symbol. It is part of the religion itself; it is an order from the Quran.” (R-IMIR-16)

“... when a Muslim girl is restricted, then there is no opportunity for a child to understand that her schoolmate with the headscarf is the same one with whom they play, talk, study, that there is nothing wrong in wearing it. But if they know each other, tomorrow, the day after tomorrow, when they meet in the street, in the post office, in the hospital, this child would not treat her oddly or differently. It would know her from school. It would be familiar with her way of living, culture, way of thinking; it would be ready to say that Ayse with the headscarf is not different from Maria without the headscarf. The only thing that makes them different is the piece of cloth, which is not an attribute or a symbol, but an obligation. If a Muslim woman is restricted to wear headscarf in public places or in school, then her religion is restricted. Therefore, we can say, yes, religions are free, you can demonstrate your religiosity everywhere, but... Which, however, is not democratic. Of course such restrictions can exist and the Muslim women will comply with this ban. But then no one should state that we are a truly democratic society. We, the Muslim community, are ready to give up on many of our legal rights, if necessary. We agree not to have a mosque, we agree not to have a Friday prayer, we agree to give up the headscarves. But then it should be noted in the Constitution that Muslims do not have the right to be fully free. Or at least it should be publicly stated. Let them say, yes, Muslims are free, but not that much. Muslims are free, but only in their homes. They are not free in the street.” (R-IMIR-6)

It needs to be underlined once more that the variety of opinions expressed by our respondents rarely appears in the public debates although these opinions undoubtedly represent the public dispositions in Bulgaria today. In fact, a genuine public debate on the issue of religious dress code, in particular the Muslim clothing, has yet to occur in the country. However, our respondents highlighted the viewpoints that would probably be expressed in such a (future) public debate.

2. Places of worship

2.1. National context and legislation

Just like the status of the religious organizations, the creation and the maintenance of places of religious worship and religious cemeteries are regulated under the Denominations Act.³¹ Art. 12 (1) states that “religions may establish places for public religious worship and service in buildings or spaces that the religious institution or its local branch own or rent. Buildings of religious denominations shall be built in compliance with the Territorial Land Development Act and the secondary legislation for its implementation.” Par. (2) adds that “religions may also organize public activities outside of their places of worship.”

Art. 21 authorizes the religious organization to own property. According to the same article, the state and local authorities can support the building of a place of worship – by providing space for construction, or financial support for repair and maintenance. In small villages and towns with mixed population (Christians and Muslims), the mayors usually try to maintain the balance and support both communities. In Sofia and other larger cities however, the local authorities often come up with different technical excuses to prevent the construction of new mosques. In Sofia, the Chief Mufti office has its

³¹ <http://lex.bg/laws/ldoc/2135462355>

own land, but has been unable to obtain an official license for the construction of a second mosque for years.

The maintenance of the places of worship is a duty of the corresponding religious community and mainly of the temple trustees.³² The trustees of all denominations managed to restore the ownership of the major part of their lands nationalized after 1944. During the communist period, many places of worship were destroyed and no care was taken for the rest. After 1989, when many people returned to traditions and religion, restoration of old temples and construction of new ones began. In most cases, people relied on sponsorship of private companies or individual donors. In many Muslim villages, old mosques were renovated or new ones were built with money from foreign foundations – mainly from Turkey and Saudi Arabia. This often resulted in discontent and fear among Bulgarians about the spread of Islamic influences.

There are no restrictions when it comes to the divine service apart from several exceptions generally formulated in the Denominations Act (Art. 7): “(1) The freedom of religions shall not be directed against the national security, public order, public health and morals, or the rights and freedoms of other persons. (2) Religious communities and institutions, and religious beliefs cannot be used for political purposes. (3) The right of religious beliefs cannot be restricted in cases different from those in Par. 1 and 2.”

According to Art. 12 (2) “religions may organize public activities outside of places of worship as well.” For this purpose, they should receive explicit permission of the local authorities. This is the reason why each Friday, the Chief Mufti asks the mayor of Sofia for a special permission to use the space outside the mosque, which cannot accommodate the large number of believers attending the Friday Prayer.

The allegedly too loud muezzin’s call to prayer has recently become a contentious issue in public debates and even a cause for a protest. There is no special regulation regarding the sound level around the places of worship (the church bells or the muezzin’s song) apart from the general local regulations for the permissible noise. Following the May 2011 incident at the Sofia mosque, the Sofia mayor ordered measurements to determine whether the loudspeakers on the minaret were excessively loud.

On May 21, 2011, a group of activists of the ultra-right nationalistic party Ataka (Attack, 9.36% at the National Parliament elections in 2009) organized a demonstration in front of the Sofia Banya Bashi mosque during the Friday prayer. Their demands were against praying outside the temple and the loudness of muezzin’s songs. They provoked the believers by attacking them and engaging them in a fight. Muslims were shocked by this openly aggressive behaviour. Although suspicions towards and non-acceptance of Muslims in certain circles of the Bulgarian society is a long-established fact, to date it was expressed mainly through latent forms of threats and indirect pressure. Even demonstrations in front of the mosques and similar actions have occurred in the past. However, such an aggressive attack has no precedence. The Ataka party’s act at the Sofia mosque was the first ever public manifestation of such open and drastic intolerance. The event was widely covered by the media and unanimously condemned by all public actors. The society, including even the patriotic and nationalistic formations, also expressed a strong disapproval of the event. In its aftermath, many Ataka members, including several MPs, resigned from the party, citing this unacceptable intolerant act among many other arguments.

There are no specific regulations concerning the cemeteries and the funeral rituals apart from the Art. 24 of Denominations Act: “Registered religions shall have the right to own and maintain cemeteries at their own expense.” In cities and towns, cemeteries are managed by the municipalities. Cemeteries are divided into plots for different denominations. People can follow their own religious ceremonies and the religious officials have the right to carry out their respective burial rites. For example, Muslims can bury the deceased in their traditional way – wrapped in a white cloth without a coffin. In the smaller villages, where the population is religiously homogeneous, the local church or mosque trustees are responsible for the ceremony and the cemetery.

³² Art. 22. “Disposal of the properties of the religions shall be as provided in their statute.”

The central cemetery in Sofia has separate sections for Muslim and Jewish funerals. However, since several years ago, there have been no vacant plots. The new municipal cemetery has no separate parts for different religions. According to our respondent from the Chief Mufti office, they would like to have a separate section with a small building for performing their religious burial practices. Another Muslim respondent expressed dissatisfaction with the fact that sometimes when funerals coincide, a priest and an imam are performing their rituals next to each other, which is awkward for the bereaved families.

As it is obvious from the quoted legal regulations, the issues of places of worship and divine service are settled only in most common frameworks. The observing and the implementation of the declared rights are largely dependent on the good will of the local and central authorities.

2.2 Basic tensions revealed in the course of the fieldwork

The issue about the presence and functioning of the places of religious worship in Bulgaria is slightly more controversial than the one concerning the religious clothing (of the Muslims). The places of worship, in particular the mosques, are much more obvious within the public space in comparison with the relatively small number of non-traditionally veiled women, and as such often provoke negative reactions among the citizens, who are not Muslims. There are two issues that in particular arouse public backlash:

- Increase in the number of believers, especially those attending the Friday prayers, results in occupying public space outside the mosque. This is typical mainly for Sofia, where there is only one mosque, which is too small to accommodate all believers. The flow of Muslims into the city, both construction workers from the countryside and immigrants, has been growing during the last years. Another issue is also the loudness of the prayer calling of the muezzin.
- Increase in the number of mosques in many towns and villages inhabited by Muslims. During the communist regime, public demonstration of belonging to Islam was restricted. Since 1989, Muslims have openly expressed their wish to have more places of worship and constructed them with their own efforts and funds.

We should emphasize that not all reactions towards the growing number of Muslim believers and their mosques are negative. Many non-Muslims we interviewed are tolerant towards this evident manifestation of Islam; they acknowledged that religious communities are free to build as many places of worship as they want to, if they respect the existing laws.

“The discontent, as far as I have observed, is not exactly a result from the presence of a mosque. It is more a result of the fact that the number and structure of the mosques do not reflect the actual influence of the Muslim religion in Bulgaria, i.e. they are more and they are sometimes more intrusive than they should be... The society is secular and one is “secularly” involved by wearing a costume for example, while a mosque is a symbol of religiosity, it demonstrates its presence. Much has been said that foreign foundations sponsored them. I, personally, cannot say if it is so or not. It is highly probable though, as this is an expensive enterprise. When we think about how intensive the construction works are, we can figure it out that it is not only with own resources. Money comes from outside, whether from Saudi Arabia or elsewhere in the Arab world, whether from Turkey. Actually less money comes from Turkey, which is an additional irritating factor. This is a big problem for the Bulgarian Islam. Once some wise guys decided that it should not be connected with Turkey, but with the Arab world and now we can see the consequences. People go there and nobody knows what they teach them. They apparently get into Wahhabi environment and after that, they come back. A true danger exists now, because of these Arabic connections that have been promoted recently.” (R-IMIR-9)

“They [the mosques] are constructed mainly thanks to sponsorship, to donations, and not to local resources, which are not sufficient even for the maintenance of these temples. But actually, I was really surprised, I was in Smolyan and I saw a really beautiful church, which was granted to the city by

Ahmed Dogan.³³ *So mosques are built, but also churches, including by Muslims. I do not consider who Ahmed Dogan is, but as a man he is a Muslim who granted a Christian church to the town.*” (R-IMIR-23)

“Back in 1990 it was announced that in a neighbourhood of Sarnitsa village a mosque would be constructed and those who want could donate money. It was publicly announced that funds, donations were collected for the construction of a mosque. And within several months, we collected about 65,000 leva. Back at this time, this money was enough and we built this mosque, which you can now see and photograph. It is really a big one. The money was sufficient, because people participated not only with donations, with financial support, but with labour as well. It was built entirely on voluntary basis. All the people who had some skills in construction took part and we, in fact, paid only the materials. Everything else was built on voluntary basis. From this perspective, it was much cheaper, because we did not pay the people’s labour. This is how we built it.” (R-IMIR-17)

“... there are people who are irritated that the construction, for example, of a mosque in a Christian state is not linked to a construction of a Christian church in an Islamic state. We tell them that we have acknowledged their right to enjoy freedom of religion and to have their own house of prayer. The fact that they do not let us build a church in some Arabic state cannot make us deny them to construct a mosque in our own Christian state. Because, as I told you, this is a matter of internal conviction, i.e. our attitude is not based on their response; it is based on our personal vision on the issue. This is the truth for us and we have accepted it. And what the other one would do is not of our interest, if we can say so... No, I would not put a ban on the construction of houses of prayers, when the respective religious community needs them. There is freedom, the state, as I told you, is secular, and so there is no legal ground to ban the construction. When there is a state religion, then the construction of such temple can be perceived as a threat or invasion of a foreign religion. But provided that the state is secular and this is not a threat for the society, no bans should be put. Of course a control should be exerted so that no violence, racism and other inhuman deeds occur.” (R-IMIR-15)

“It is now said that mosques, but no churches, are built. I believe that the reason churches are not build is in the Christian population, they are not united. But if they decide to make one..., for example in the neighbouring village Christians are 10%, they decided to build a church, and Muslims collected money and helped them. The mayor of (...), (...) also gave money from the municipal budget for this church. In (...) village a colleague of mine became a mayor two mandates ago. He began renewing the pavements and started with the one in front of the church, so that people would not say he treated Christians and Muslim differently.” (R-IMIR-21)

“The good thing is that in the recent years, new places of worship are built, old churches are renovated, this is good... Let them build mosques, what is the problem? We say all the time that when there are religious temples, when there are places where people gather, these places make people better, make them treat one another in a better way. What is the problem that more mosques are built? Let more churches be built.” (R-IMIR-3)

Usually there are no administrative obstacles for the building of places of worship. On the contrary, the local authorities often support it. The situation is quite different with the construction of Higher Islamic Institute building in Sofia. At first glance, there are no grounds for such a problem to arise – the legislative framework permits the religious communities to establish their own educational institutions. The problem is of symbolic rather than legal nature. Sofia is the capital of the country and all national institutions are situated here. The number of permanent or temporary residents professing Islam has grown only in the last twenty years. For all these reasons, the majority of ethnic Bulgarians-Christians cannot accept neither an increase of the number of mosques, nor the construction of Higher Islamic Institute building in Sofia. Although the law cannot restrict the free movement of citizens in the country or construction of a mosque/school building, the local authorities delay the beginning of the works through numerous administrative obstacles. No politician apart from those representing the

³³ Ahmed Dogan is the leader of the Movement for Rights and Freedom. This party is considered to be a representative for the Muslim minority in Bulgaria.

nationalistic parties would publicly confess that these obstacles are a result of fear and actual rejection of presence of “the different” within the space around us, especially when it comes to Islam.

“In order to be modern, our Higher Islamic Institute should get an accreditation. In order to get an accreditation, 70% of the lecturers should have an academic rank. OK, but in order to give them such, the institute should have accreditation. Do you see the discrepancy? Or they set such a condition: to get accreditation, the school should have its own building. OK, we wanted to build our own building. We have our own piece of land, we have the funding, we have a promise as well, but we cannot receive construction permission... Yane Yanev, and “Ataka” party [nationalistic politicians] posed the question about the mosque. We gave up on the mosque, and then new problems arose... I have told this to the media, instead of helping us, you create artificial obstacles. If you want, we can send abroad all those who wish to study. But where is better – here or there? Everyone says here is better. Well then, some things should be considered. Obviously they will not help us for the accreditation; at least they can eliminate the problems with the building. We do not have permission... the mayor and the municipal architect should sanction the project and afterwards we can start the construction works... - On what grounds do they not sanction it? – They put forward most various reasons. There will be a mosque; there will be a minaret. This will be a centre for the Islamisation of all Europe, etc.” (R-IMIR-11)

“If I were not a politician, I would have told you: Let them have as many mosques as they need, let them have them. But the politics made me familiar with some other problems as well; I should tell you that this is really sensitive topic here in this moment. There can be a reverse effect and a negative attitude of the people... If something is banned, it means the problem is not settled, it is just postponed. And it gets worse as an internal tension arises. I reckon that as such need exists, a second mosque should be built. But I would repeat once more, the topic is extremely delicate.” (R-IMIR-2)

3. Teaching religion and private schools

3.1. National context and legislation

At the end of the 19th century, “the Law of God” became a part of the school curriculum under the constitutional definition of the Orthodoxy as the “dominating” religion. The teaching process encountered all kinds of difficulties: resistance of teachers, students, anti-religiously orientated intellectuals. Gradually the number of the classes decreased, and the teaching remained in the hands of secular individuals (Даскалов 2005: 450). In the 1930s, the political situation changed and the state placed great hope in the church for the moral-religious education of the students. The Holy Synod insisted on two religion classes per week. A new subject was introduced – “Religion and History of the Bulgarian Church,” taught by the graduates of the Theological Faculty (Даскалов 2005: 457).

The Muslims had religious schools in their native language with the status of “private” schools. The Chief Mufti and the regional Muftis inspected the schools. The state required that some of the subjects had to be taught in Bulgarian language (Желязкова to be published 2013).

During the socialist period, the religious education in secular school was completely rejected as part of the plan for the construction of new atheistic socialist morals and education. The Bulgarian Orthodox Church could not fulfil its educational and social activities. The Denominations Act (1949) allowed the establishment of secondary and higher religious schools for the education of clergy. This was possible only after the permission of the Council of Ministers or authorisation of Vice-Chairman of the Cabinet. The structure and the curriculum of these schools were also arranged by the Denominations Act of 1949 (Art. 14).

After the political changes in the beginning of the 1990s, the students in primary schools and their parents have the right to choose the optional “Religion” subject. The form and content of this subject is arranged by a special regulation act of the Ministry of Education and Science (Димитров 2004).

According to the National Education Act (1991, last amended in 2009), religious institutions in the country can, with the permission of the Minister of National Education, open theological schools for their ritual needs for children having completed their basic education (Art. 30 (1)). The education

received in theological schools is given the same status as secular education, provided the state educational requirements for the given level of education have been observed (Art. 30 (2)).³⁴ The Denominations Act (2002)³⁵ regulates the establishment and maintenance of secondary and high religious schools of the different denominations (Art. 33; amend. - SG 74/09, in force from 15.09.2009):

(1) The registered religions can open ecclesiastical schools for their ritual needs in compliance with the National Education Act with permission by the Minister of Education, Youth and Science.

(2) The education, received at the ecclesiastical schools, shall be equalled to the secular in compliance with the National Education Act.

(3) The registered religions can open secondary general education schools under the conditions and by the order, provided in the National Education Act for the private schools.

(4) The admission to the schools of Par. 1, 2 and 3 shall take place with written application by the parents or the guardians, except the cases, when the student has rounded 18 years.

(5) The education establishments of the registered religions cannot hinder the conceding of the obligatory degrees of state education, provided in the Constitution and in the law.

(6) The registered religions can open higher school under the conditions and by the order of the Law of the Higher Education.

(7) Higher ecclesiastical schools shall be opened upon proposal by the management of the registered religions with a permission by the Council of Ministers.”

According to the Denominations Act, the religions therefore have the right to organize their own schools. In practice, however, there are no such viable possibilities and no existing mechanisms for exercising these declared rights. To date neither the Higher Islamic Institute, nor the Higher Evangelical Theological Institute enjoy full rights and their status is unclear from the legal point of view (Груйкин 2004).

The status of the private schools in Bulgaria is defined in Art. 11 in the National Education Act. They are obliged to present a curriculum conforming to the state educational requirements valid for the state and municipal schools.

The debate about the introduction of religious teaching in the curriculum has started in the 1990s, and the discussions in the media and society periodically intensify. The main opposition is between two viewpoints. On the one hand, the representatives of the religious institutions wish the introduction of the canonical study of various religions, depending on the religious affiliation of the children. On the other, the experts are of the opinion that the familiarization with the history of the various religions as cultural phenomena can be introduced in the curriculum, but only if it is with clearly secular purpose and is taught by secular specialists.

For the moment, mainly the representatives of the Bulgarian Orthodox Church and the Chief Mufti insist on the regulation of the religious education in schools on national level. The smaller faiths settle this question by organizing courses in out-of-school time in the respective places of worship. Muslims organize such courses as well.

3.2. Basic tensions revealed in the course of the fieldwork – teaching religion

The topic of the teaching of religion in the secondary schools is very up-to-date and specific for the field of state-religion relations in Bulgaria. The question should religion be introduced as a compulsory optional subject³⁶ or even as a compulsory one provoked several levels of discussions in the Bulgarian

³⁴ <http://www.lex.bg/bg/laws/ldoc/2132585473>

³⁵ <http://lex.bg/laws/ldoc/2135462355>

³⁶ The curriculum is prepared by each school for the coming school year. It should, however, consider the following correlations between compulsory (CS), compulsory optional (COS) and optional subjects (OS): for primary school – 90% CS, 10% COS; for junior high school – 89% CS, 11% COS; for secondary school – 50% CS, 50% COS (See: Димитрова 2000). The difference between “obligatory optional subjects” and “optional subjects” is that the position of the former is regulated and there is a curriculum, while the place and the programme of the latter depend only on the good will, and human and financial resources of each school.

society and has not been resolved yet. In addition to the general question, there are also other more specific ones:

- How to teach religion: to all students together regardless of their/chosen by their parents religion or to separate groups, divided according to religion?
- In which grades to teach religion – in the primary or the secondary school?
- Who should teach religion – religious or secular persons?
- What should be the subject's workload?
- And of course, the main question: what should be taught as “religion” – history of religions (which religions), or specifics of the religious beliefs and practices (of which religions)?

At the start of the debates, some Eastern Orthodox priests shared the view that not religion, but religious doctrines should be taught – in particular the Eastern Orthodox one. They based this idea on the tradition from periods before the communist regime. These extreme ideas were not supported by the public and relatively quickly disappeared among the various other views on each of the questions.

Our respondents support two ideas about the key question if and how “religion” should be introduced in school:

- Representatives of the other denominations share the opinion that religion is already a part of the school programme as an optional subject and more is not necessary. This is not because the children do not need spiritual guidance and religious faith (all the respondents stress the negative consequences that the atheism forced by the communist regime has for the morals and values in today's Bulgarian society), but because the religious institutions should fulfil their duties, to preach faith and to attract the young people not within the public school, but within the places of religious worship.

“I do not believe that we should teach religion in school in order to make the young people followers of one religion or another. We should teach them a culture, an understanding about the origin of religion and its significance, the different currents, the different religions, etc. The main stress should be such: religion should teach the morals in the society and should be a role model for the young people... There is one more thing that is extremely important, and nobody talks about it at this moment – who will teach. It is really easy to say: we introduce religion as a subject from the next 15th of September. But how many well-educated teachers do we have? In how many schools can we start simultaneously? I do not know, probably the church has priests who can be sent, but I do not know if this is appropriate.” (R-IMIR-7)

“In my opinion, the religion is something that makes people better, to treat each other better. This means that the religious education is a necessity. A person, who does not have appropriate religious education, can be considered as somehow disabled. We cannot accept the atheism as a norm that should be supported at any cost. If someone wants to be an atheist, this is his right. To believe in an idea is not bad and hence, I think that the religious education is something good and that all religions should be taught... because the teaching of only one religion, in a Catholic or a Muslim school, only disunities the people, it does not make them closer.” (R-IMIR-3)

“I think that in Bulgaria the subject should not be compulsory, but facultative or optional. We have the so-called Sunday school. So the religious teaching is in the church. The children attend it each Sunday after the liturgy. I believe this is the better option, because in school one depends on the teacher. If he is a fanatic, the children can be even traumatized. Just as an example, if a teacher finds out that the child is not Orthodox, he can oppose it to the others. I am concerned to some extent about what the approach will be.” (R-IMIR-15)

“In our opinion... the religious education should take place outside schools. The reason is quite simple; there are students that belong to different religious communities. It is technically impossible. But this explanation is elementary. Such an approach is illogical: to use the school for work in the sense a church or a denomination sees it. Apart from the Bulgarian Orthodox Church, I would also name here the Muslim denomination. The representatives of both, and even of other religions, have a similar way

of thinking. Each of these denominations unfortunately still draws a line between itself and the others. They reject each other. Something that is not appropriate for the secular school practice in the 21st century. It would be much more normal if the work among the religious communities took place in the temples. This is our opinion.” (R-IMIR-12)

- The respondents that identify themselves as Eastern Orthodox or Muslims (regardless of whether they declared themselves as believers) are more likely to recognize the necessity of introducing the religion as compulsory optional subject. The courses should start in primary school and should continue with different content (in accordance with children’s age) in secondary school.

“We share the same opinion on this topic with the Faculty of Theology. We [representatives of the Muslim denomination] support the idea that it should be introduced as compulsory subject. There are several contentious issues. We believe religion should be introduced as compulsory subject or at least as compulsory optional one. Now it is only optional. There are also a few places where it is compulsory optional. The second main question is what the character of this subject should be. Should it be a subject that provides information and knowledge about all religions without aiming to make children true believers; who should teach it – philosophers, historians, or theologians? We support the idea that children from different denominations should learn their own religion. ... We should first answer the question why do we want to introduce religious teaching in schools? The shortest answer is: because the foundations of ethics and moral are undermined. There are such deeds in school that do not correspond to the universal moral values – aggressiveness, etc. And if we want to overcome this, our children should learn the respective religion and if it is possible, to believe in the existence of a moral authority. This is the God who will judge them tomorrow. What I mean is that just information about religions, about their culture cannot solve this problem. But since the current government came in power this discussion died.” (R-IMIR-11)

“They [the Orthodox Church] always grasp the education in “Religion” as education in Orthodox doctrines, which is really narrow. The Protestants have a broader conception about that, but most of them have graduated abroad, in the States or elsewhere and have this experience. The Orthodox Church does not possess the experience, it is accustomed to the tradition that the state does its job, and it has no specialists. They are used to be idle, with little exceptions... it is easier to introduce the subject into the school programme and let things go their own way. In addition, the Orthodox community is the largest, but most amorphous. The Protestant one is the smallest, but most active, motivated and this explains the situation. The Orthodox community in Bulgaria is the community of “household Orthodoxy,” a large share of this 77-88% who have identified themselves as Eastern Orthodox, are not active believers, they do not practice religion, they do not take communion, which is not really the same.” (R-IMIR-9)

Only a few other respondents express different opinions: the students should learn religion together, otherwise the subject could cause disunity; the teachers should be specially trained persons who are religiously affected, and yet who can put their faith aside when they teach; they should be persons who have also pedagogic training and skills.

It is important to know that the possibility to study religion as optional or compulsory optional subject is provided in the Regulation for implementation of the National Education Act.³⁷ However, the curriculum for all grades of the Bulgarian school, published on the website of the Ministry of Education, Youth and Science, contains no programme for religion³⁸; therefore it is not officially recognized as a compulsory optional subject.

³⁷ Art. 4 “(1) Secular education does not allow imposing ideological and religious doctrines upon the pupils.

(2) In secular schools religions are studied in historical, philosophical and cultural context as part of the curricula of different school subjects.

(3) (amended in 2003) In secular schools, religion could be studied in the “obligatory optional subjects” or “optional subjects.” Education of “religion” is in accordance with an instruction issued by the Minister of Education and Science.”

http://www.mon.bg/opencms/export/sites/mon/left_menu/documents/regulations/prvlnk_zkn_prosveta.pdf

³⁸ See: http://www.mon.bg/top_menu/general/

3.3. Basic tensions revealed in the course of the fieldwork – private schools

Some respondents are not aware of the existence of private religious schools in Bulgaria, although they know that the law permits their establishment. Others are familiar with the issue and know about such schools. Some contemplated what precisely the term meant. For example, can Sunday schools be considered private religious schools? Is it possible to have public religious schools in a country where state and religion are constitutionally separated? In general, almost all respondents support the existence of private religious schools, but they insist that the state should control them.

“The schools are private. They are not many; we [the Muslims] have four such schools. The Evangelists have one. The state does not allocate money for them neither directly nor indirectly... The way they are organized now, these schools help the religious pluralism. I have two things in mind. First of all, along with the official Eastern Orthodox schools, other religious schools exist. Muslim, Evangelist, etc., i.e. there is an opportunity for education, for knowledge. And second, no matter how difficult it is, we try to implant in children’s mind this feeling, this understanding of religious pluralism and tolerance.” (R-IMIR-11)

“In principle, the clergy should receive appropriate theological education. It is another question that in some cases, there are extreme views. I assume that we talk about all kinds of spiritual establishments, both Christian and Muslim. In this way of thinking, approved curriculum, principles, positions should exist, within the framework of which such a process can take place. So the state should have its role in this whole process.” (R-IMIR-12)

“If there was a well developed network of private schools, which belonged to the official denominations, this whole debate about the introduction of the “Religion” subject in one form or another in the secular schools would disappear. I believe that such a system would correspond well to the secular nature of our education, i.e. segregation between the religious teaching and the secular education. I strongly support this and as far as it concerns me, I advocate it. Does it exist now? In this moment – partly yes, partly no. Most Protestant denominations have well functioning schools... When we say private religious schools, I understand: schools, which are under the aegis of the Church and do not serve for giving official diploma, but for additional education or for the training of staff for divine services, i.e. of preachers... The Nyuvab and the Higher Islamic Institute have a different status. They are officially sanctioned by the state, by the Parliament, by the Council of Ministers and they give diplomas for secondary and college education. I understand this question in a different manner: should the Churches have their own system of education. And my answer: “Yes.” – So you believe that the best option is that they completely exit the system of secondary education? – Yes. This is the best option. The problem is that the Orthodox Church does not do this or does not do this in a good way and this is where the tension starts – religious education, religion, etc. – Why the Orthodox Church does not do this? – In my opinion there are two reasons. The first one is that it has lost the experience during the years, when religious education was forbidden. The second reason, they do not have trained staff who could teach and contribute to a normal educational process.” (R-IMIR-9)

Respondents, who we assumed to be or who identify themselves as Eastern Orthodox, find the explanation of the problem in the inaction of the Orthodox Church – it does not want and/or is not capable of working with the people and the children, and does not want and/or is not capable of finding strategies to attract the youth to faith, beyond the church attendance on religious holidays.

“[The Orthodox] Church has a great debt to the young people and in my opinion, while waiting for twenty years for the introduction of religion in the curriculum, it could have easily established Sunday schools, the way the other denominations have done. The Orthodox Church has them as well, but it is not a mass practice. For instance, in our parish there is no such school. I would, for example, if a child showed interest, send him to attend Sunday school or at least to some kind of such lessons. The Church is simply closed for the families and the children. That is its biggest problem...” (R-IMIR-24)

“The Jewish community does not have religious schools. We have only one school, but it is not ours, it is Ministry of Education’s state school, where the Hebrew language is taught as a mother tongue. There, as in all Bulgarian schools, the religion is not being taught. There we only give explanation

about the holidays and traditions through the texts used to teach the language. These texts are coordinated with the Ministry of Education, they are approved, there is no religious content in them. Our supreme clerics, the rabbis, they are trained in Israel or in the USA in special high schools. They receive certificates there, as well as the right to teach... I believe that if there is a freedom of religion, each has the right to teach unless it leads to fanaticism. This, in my opinion, is obligation of the Ministry of Education – to control the respective schools... If we claim that the state should stay separate from the religion, the way it is in Bulgaria, each denomination has to develop freely, provided it is officially recognized. Right now, according to the Denominations Act this happens in the court. The denomination has the right of spiritual services in a manner that corresponds to the traditions of the denomination itself. When it comes to issue about establishing private schools, I believe that the curriculum should be coordinated with the Ministry of Education.” (R-IMIR-7)

There is another point of view, which does not accept the existence of private religious schools in Bulgaria, as they would lead to disunity of the children, not their integration. But such positions are not extreme. There is no ambition for the change of the legislation to ban the existing religious schools and prevent the establishment of new ones.

“In principle, I do not believe that private religious schools can support the process of integration of people. The private school is usually bound to a particular religion and this disunites the people, it does not unite them. That is why private religious schools should be such to draw the communities closer. If a school is based on Catholic, or Muslim, or Orthodox principles, then I do not believe this is good, it cannot lead to anything positive. But I don’t think that these schools should be banned.” (R-IMIR-3)

Several of the interviews make it obvious, however, that a more radical viewpoint exists in the society, although it is not clear how widespread it is. It is a result of politicians’ abuse of people’s fear from the religion of “the other” such as Islam.

“... in Bulgaria some people are scared of the development of the Muslim community. But if something does not develop, its alternative appears. This means that if we do not do our job, other people appear and do it instead of us. For example, in P. region there are thirty villages. From thirty villages, realistically, I have ten where there are Muslim trustees. Yes, but in the other twenty villages, where Eastern Orthodox and Catholic Christians live, there are also people from a minority, who we call Gypsies although they do not speak Gypsy, but Turkish as a mother tongue. They come to us and say that they want a mosque. OK, but in order to build a mosque, we have to set up a Muslim board of trustees. When we do this, certain people in the municipality say: ‘In this village Islamisation takes place.’ These people have migrated there during the regime of Todor Zhivkov [communist period] in order to work in the agricultural cooperative societies. They are a community of hundred families and we should take care of them. If we do not do this, the mayor of T. village, who is a former policeman says: ‘Come and see our people. Some people come here and read them sermons, but we have no idea who these people are’.” (R-IMIR-14)

This anxiety about the different should be a concern of all persons involved with religions. If actions were not taken to address this problem, it would be not only preserved, but could deepen. The result could be fear and distrust of neighbours, co-villagers and fellow-citizens, who have different faith and who “we” see as different because of their religious symbols, rites and temples.

V. Family Law and the State-Religion Relations

1. Historical context and legislation

The Bulgarian Orthodox Church had jurisdiction over marriages and divorces of Christians up until the end of the World War II.³⁹ In the same period, Sharia courts existed for Muslims, and the mufti

³⁹ The Eparchial Statute was prepared in 1883. In its Addition, part V “On the Marriages,” the marriage rights were settled on clearly religious basis. In the Eparchial Statute of 1895, the part about the marriages was not included. A memorandum of the Holy Synod was issued (№ 220 from March 21st, 1895) on the temporary

jurisdiction covered a wide range of issues: marriage and divorce, wills, inheritance, guardianship (Желязкова to be published 2013). Many lawyers sharply criticized the church justice in matrimonial matters and believed that it did not correspond to the modern trends: it did not allow religiously mixed marriages, the cases were conducted by incompetent persons who had difficulties coping with more complicated legal matters, and the property issues in principle were settled in civil courts. Throughout this period, the question of the obligatory civil marriage was periodically discussed, including in the Parliament, but the clergy and certain public organizations opposed it (Даскалов 2005: 453-455).

The church tried to cope with certain deep-rooted traditional practices by either denying them, or confirming them through similar religious rites. Thus the church law adapted to the reality. For instance, there was the endeavour to replace traditional wedding ceremonies with church marriages. The church law, which in the beginning excluded divorce by mutual consent of the spouses, later permitted them for certain reasons, present in the tradition. The church and the common law regulated the relations between the man and the woman in the family in a traditional pattern. The civil legislation dealt with property and inheritance relations within the family (Даскалов 2005: 61-67).⁴⁰ It can be concluded that when it came to marriage and family, women were in a subordinated position (until the middle of the 20th century). This was most obvious regarding the succession. According to the traditional perceptions in the society, a woman was mainly assigned to be a mother, a housewife and a wife (Даскалова 1999: 80-82, 88).

One of the first provisions of the socialist government after 1944 introduced the civil marriage as the only legal one. This happened through a Decree-law on marriage in 1945, where the church ceremony was not considered as illegal, but had “no legal effect” and could be performed only if a document of civil marriage was presented. A priest bore criminal liability if he performed a wedding ceremony without a document for civil marriage. The repressive attitude of the authorities created an impression that church marriages were prohibited and the number of people willing to get married in churches visibly reduced. The young people, wanting to appear modern and to prove their independence from their parents, often preferred to contract only a civil marriage.

The Constitution from 1947 stated that “women had equal rights as men,” which still placed men higher in the hierarchy, as women were “equalized” with them. The Constitution of 1971 rectified this with Art. 36: “Women and men in the People’s Republic of Bulgaria have equal rights.” Yet, the declared equality did not mean its fulfilment in the social practices and relations, and the society kept its traditional perception of woman as a mother and a housewife (Пачаманова 2009: 80-85; Vodenicharov 2001: 209).

After the democratic changes in 1989, there was a consensus on the policy approaches to achieving gender equality both in the political and in the public debates. The judicial and normative bases were made consistent with the European and international legislation, and the attempts were made to apply and realise this principle in practice. Despite that, in the 1990s the social researchers observed a paradoxical situation where the traditional female roles were reinforced and strengthened by a process claiming to lead the society to modernization (Brunnbauer 2001: 220). In the transition period, the social security was often lost and this provoked a return to old models, roles and values (Јулева 2006: 40).

The Family Code from 2009 states as a basic principle “the equality of husband and wife” (Ch. 2, Art. 2). The spouses have equal rights and liabilities in their marriage (Art. 13). According to the Code, “only the civil marriage concluded in the form prescribed by the Code is legally recognised as marriage” (Ch. 4 (1)), while “the religious ceremony does not have a legal effect” (Ch. 4 (2)). In the previous Family Code (1985, last amended in 2007), there was an imperative regulation that “A religious ceremony may be performed only after the contraction of a civil marriage” (Беров 2009: 67-68). Nowadays numerous young people (Eastern Orthodox) choose to have a marriage ceremony in the

synodical positions that should help the eparchial spiritual councils, when they considered cases like broken engagements, dissolution of legally conducted marriages and abolishment of illegal ones. In 1897, these positions were replaced by the restored (under law from March 21st, 1897) part III of the Eparchial Statute “Marriages.” This part was used until 1945 (Пачаманова 2009: 61-85).

⁴⁰ See the literature cited there.

church after the civil registration. In the Muslim communities, it became customary since 1989 to have a religious marriage (“nikah”) on the eve of or several days before the official civil marriage. Religious ceremonies remain in the domain of family and personal relations. One of the respondents (a Christian cleric) mentioned that he performs religious marriage ceremonies without the civil marriage license, but he is aware that such marriage is not legally recognized.

The respondents do not comment the topic of religious divorce as it is not an issue in the society and the only legal divorce is the civil one. The mentioning of divorce is mainly in order to stress the importance of civil marriage for court cases. Property ownership and child custody matters are resolved in civil courts. Orthodox Christians can file for religious divorce in Eparchial court, but there is no data how many have done this. Among Muslims, the local community and the religious leaders regulate these issues and there is no data about potential problems. In the files of the Commission for Protection against Discrimination, there are no complaints concerning religious divorce.

Before 1944, when religious marriage was legal, there were cases of polygyny in the Muslim community. Men who were rich enough could have more than one wife if they were able to support them and their children. The consent of previous wives was also needed. This practice was not widespread and such cases were very rare (Кюркчиева 2004: 211-212). After WWII, when the civil marriage became the only legal possibility, the polygyny was not legal any more. Because of the widespread poverty and the legal persecution, this traditional practice faded away.

According to the socialist legislation, the homosexual relations were criminalized (Criminal Code from 1951: for “carnal knowledge or sexual activity between persons of the same gender” the punishment is deprivation of liberty up to 3 years – Art. 176). After 1989, this article was abandoned. Nowadays, the media often raise the question about public attitude towards the homosexual relations and possibility for legalization of such marriages. The present debate is provoked mainly by the gay parades, organized in Sofia during the last years. In this discussion, the majority of positions are conservative and negative. Nevertheless, some public figures (only artists) have announced their homosexuality and same-sex relationships, and were accepted by the society.

The Commission for Protection against Discrimination has not dealt with any cases concerning homosexual partnerships. Complaints concerning sexual orientation are mostly related to discrimination and harassment at the work place.

Experts say that the debates preceding the adoption of the Family Code in 2009 included views supporting the legal regulation of cohabitation without marriage. The intention was to give cohabitation the same legal status as marriage. These ideas though were not realized. Some of the respondents state that the Bulgarian society is significantly lagging behind regarding these issues compared to the processes, ideas and debates taking place in the rest of Europe.

2. Basic tensions revealed in the course of the fieldwork

All respondents unconditionally report that the civil law is the valid regulator in the field of family relations. Only the civil marriage is legal – it is an obligatory precondition for the religious marriage. In the recent years, the number of people who contract religious marriages has been rising. However, not all respondents share the view that religious marriage should have an equal status as the civil one.

“The issue is resolved in the following manner. First one should have a civil marriage, then a religious one. Several years ago it was a crime if we contracted a church marriage without a civil one. Now it is still prohibited, but is not a criminal act... I.e. there is a purely legal change that shows softening of the severity. Sometimes it happens so that people do not want to contract a civil marriage because of property matters, companies, as after the marriage they become common. Sometimes people want to keep separate ownership. And then they come to us and suggest that we marry them without the civil marriage so that some inconveniences are avoided. There are countries, where the church marriage is recognized as a civil one. The parish priest in such cases goes with all the documents to the city hall and legalizes them there... This was the case here years ago, before September 9th [1944].” (R-IMIR-15)

“The church marriage is a sacrament, but it is not followed by any legal consequence... While the official who has contracted the civil marriage observes certain order. Now, for instance, the issue about the marriage settlements comes up, which is also quite important. Our law, we introduced it at the end of the term of the 40th Parliament, allows the settlements to be signed before and after the marriage, the settlements arrange and alter the relationship between the spouses: the common property, which belongs to whom.” (R-IMIR-3)

“In my opinion the civil registration is obligatory, as it arranges in a way all legal and property relations between two persons. I can marry you in the synagogue, but with this Ketubah, our marriage certificate, you cannot file any property claims, any claims about divorce, it is not legal.” (R-IMIR-7)

“... now in the democratic period, the religious marriage after the civil one, as the law provides, is again widely practiced... People contract marriage and after that they go to the imam... I, personally, do not have a feeling that any contradiction between the Sharia and the secular law has occurred. I think that when people divide their inheritance, they settle the question in advance – that this division would follow the Islamic law, and after that they go and officially register it. So tensions in this direction do not exist, I do not have such information.” (R-IMIR-11)

However, we should not forget that the abovementioned increase in the number of religious marriages comes against the background of practical absence of such marriages during the socialist period. At the same time, it is claimed that the number of cohabitations without marriage has also been increasing significantly⁴¹ – and without a civil marriage, it is not possible to conduct a religious one. Therefore, on the one hand it appears that there are grounds for the claim that a „return” to religion is underway regarding the regulation of family relations. On the other hand, more and more people live in partnerships without having the need for the official, and consequently also for a religious, authorisation of their cohabitation.

All respondents support the gender equality, regardless of the way they identify themselves in religious terms. The notion of the suppressed position of a woman, according to the respondents, refers to the patriarchal way of living, not to the religious beliefs.

“I am not sure if there is [gender equality] in Christianity. We usually refer to Islam here. A lot of different things are told, but in the country there is a male domination among Christians as well... It is rather a tradition of life. The official representatives of Islam always say that Islam respects women, etc. I do not see much respect in some cases, but we can assume that this is an old tradition in all religions in this part of Europe. This is an old patriarchy. I remember in my family as well, when my grandfather was eating, my grandmother was standing. And she did not grasp this as inequality, but as something normal... Now, another aspect is that in the Muslim families a man works, and a woman is a housewife. In such a situation, it is normal that the one who dominates is the one who makes money. Especially in the regions populated by minorities – at least some time ago – he makes the money, she cultivates the tobacco [the traditional crop in these regions] and thus he is dominating. I do not have the feeling that there is a religious basis in this.” (R-IMIR-9)

Same-sex marriages are absolutely unacceptable from the perspective of any religion, as well as among the believers, including the most tolerant ones – they could accept the shared household, regardless of the gender, but they cannot accept the legalisation of the homosexual marriage.

“I do not think that cohabitation should be prohibited for people with homosexual orientation. It is categorically proved that a child who lives in a homosexual environment does not necessarily becomes such. This depends on the internal attitude, as long as there is no violence. This is another question and here the society, the non-governmental organizations have their role. In my opinion, there are a lot of prejudices about this topic in the Bulgarian society.” (R-IMIR-3)

“In principle, this is a common vision of the Christian faith, that cohabitation, let’s call it sexual, which is without marriage, is improper. From a purely religious point of view, for us respectively, this

⁴¹ This tendency is accepted as an unquestionable fact, although no data about such families are available. The 2011 census treated the couples sharing a household as families, regardless of the fact if they were legally married or not (see http://www.nsi.bg/census2011/PDOCS2/karta_Census2011.pdf). This does not offer any information about the share of any of these two family types, and makes it impossible to verify the abovementioned tendency.

is something improper, when it exists without marriage. This [the same-sex marriages] as well. The Bible states it explicitly and the pederasty and sodomy are listed among worst sins. The position of the Church is absolutely clear. It is based on the Holy Scripture and on the very essence of the marriage. The same is our attitude towards polygamy. If we start allowing same-sex marriages, then people can say: if the marriage is just a contract between two persons who live together, then why should it not be between three or four persons.” (R-IMIR-15)

VI. Labour Law and State-Religion Relations

1. National context and legislation

The existing labour legislation does not treat in details the question about the religious affiliation. The Constitution states that “labour shall be guaranteed and protected by law” (Art. 16).

In the Labour Code⁴² (last amended in 2009), all human and civil rights of employees are guaranteed, including the freedom of religion (Art. 8). The official public holidays, specified in the Labour Code, closely follow the Eastern Orthodox Christian religious calendar. Employees from different denominations have the right to use holidays “by their own choice, as a part of their annual paid leave, or as an unpaid leave on the days of the respective religious holidays, but not more than the number of days for the Eastern Orthodox Christian holidays” (Art. 173, 4 and 5). This regulation once again emphasizes the desire to support the privileged status of the Bulgarian Orthodox Church.

The Eparchial Statute of the Bulgarian Orthodox Church regulated the status of the clergymen until the end of the World War II. The state placed certain restriction on the civil rights of the clergy between 1878 and the mid-20th century. Under special laws, which were often in conflict with the Constitution, clergymen could not be elected as deputies (since 1889) or into school boards (1909-1924). A major problem during this period was the insufficient number of priests and the relatively low level of their erudition and training (Даскалов 2005: 447-448). In 1904, priests established a professional organization – the Priest Union. In 1911, they founded an independent union, which had religious and social mission and whose aim was the fight for civil and political rights (Даскалов 2005: 446).

The problem of the payment of the parish priests was persistent. Sources of these funds were usually the fees for the divine services, the state budget and the church income. The state often interfered in the management of these funds. For instance, a special law came into power in 1926, under which the pension fund governed by the Holy Synod was merged with the one governed by the state. Nevertheless, the bishops and the employees in the central church administration enjoyed relatively good support from the state budget (Даскалов 2005: 459-460).

This trend has been preserved to the present day. Art. 29 of the Denominations Act states that “labour relations of the clergy and the officers of the religious institution are arranged according to the statute of the religious institutions [in conformity with] the labour and social laws.” Under the Social Insurance Code from 2004, compulsorily insured are the “persons performing work and receiving income from elective office, with the exception of the persons referred to in Items 1 and 7, as well as the ministers holding a spiritual title of the Bulgarian Orthodox Church and other registered denominations under the Religious Denominations Act” (Art. 4, par. 8) (Беров 2009: 55).

The Commission for Protection against Discrimination (CPD, see p. 9), the national equality body, has investigated 98 complaints about discrimination at work in the 2006-2008 period, and 50 (out of 173 submitted) in 2009-2010. There were no cases concerning religious dress code or symbols in private sector employment. When people (Turks, Roma, Pomaks) complain about being discriminated at the work place, they emphasize that it is on grounds of ethnicity, minority origin or political affiliation, but not on the grounds of religion and faith. Complaints of women are usually on the grounds of gender, age or ethnicity, but not religion and faith. Most of the cases of complaints about

⁴² <http://www.lex.bg/bg/laws/ldoc/1594373121>

discrimination at the work place are from employees at the state institutions – municipalities, cultural centres and other local structures.

2. Basic tensions revealed in the course of the fieldwork

In the field of labour-legal relations, the respondents are adamant: there are no problems, which are related or provoked by the religion. Potentially, tensions could occur in the relations between employers and employees, or among the employees, who profess different religion. Problems could arise also in connection with the non-Christian religious holidays. Respondents say they are not familiar with any such problems. The Constitution and the Protection against Discrimination Act do not allow any discrimination on religious basis. Employees with religion other than the Eastern Orthodox Christianity have a right to use their annual leave when their denomination has a holiday. Although only the Orthodox Christian holidays are official state holidays, the respondents perceive this as something normal.

“We do not have many rules in the Labour Law to distinguish the rights of employees and workers on religious basis. There are some norms, for instance, I remember the one about the annual leave for workers who profess a religion other than the Orthodox Christianity – they can take a leave on their religious holidays. This text comes to my mind now. Which means that when it comes to the other big issue, related with the regulation of the labour relations, there are no such norms that distinguish one worker from the other.” (R-IMIR-22)

“I think that religion is not involved in labour-law relations, in my opinion there is no way for it to be involved.” (R- IMIR-2)

“At our place three Muslim women work; no one feels that they are different.” (R-IMIR-3)

“This right is written in the Constitution and Directorate “Religions implements it strictly. Each year each denomination declares its holidays when people do not work and they are announced as non-presence days in the State Gazette. By law people have the right not to go to work on those days, but they should use their annual leave. For example, on Yom Kippur one is allowed not to go to work, but he should declare his wish and the employer is obliged to grant him absence.” (R-IMIR-7)

In areas with a compact Muslim population, the employers respect the traditional religious holidays. Usually, when employers are locals, they are also Muslims. Even when they are not locals, they respect the right of the employees to abide by their traditions. In cases where the employer is a Muslim and the employees are Christians, there are no problems because official holidays are based on the Christian festive calendar. The respondents from different religions quote no specific cases. Some of the Muslim respondents from a small village explained that there is no problem with prayer breaks because they coincide with the regulated work time breaks (R-IMIR-16, R-IMIR-17).

However, the respondent from the CPD (R-IMIR-25) thinks that such problem exists in bigger towns and cities. She remembered that they have received a complaint from an employee of a private corporation (in a big town) who asked for time and place for his prayers. The CPD’s instruction to the employer was to provide such place and to allow the complainant to have 5-minute breaks. The argumentation was that such practice is widespread in Europe. This information remains to be verified.

The field research (interviews and observations) has established that there are no problems with dress code at the workplace in the Muslim villages.⁴³ In areas with a compact Muslim population, the religious affiliation and traditional clothing are accepted by everyone, including the employers. The respondents (from the Chief Mufti office and its regional structures, as well as village imams) did not report about problems in towns and larger settlements either. It is very probable that women, especially those employed in the private sector, refrain from filing complaints even if they have problems due to the fear of losing their jobs. Additionally, in Bulgaria there is a traditional distrust towards the justice system as means for problem resolution. The legal proceedings are perceived as slow, expensive and

⁴³ The same conclusions have been established during different studies conducted over the years by IMIR teams. The materials are available in the IMIR archive.

subjective. The cases of discontent are resolved on the personal level or with the assistance of the local religious leaders. The interviews do not provide specific examples but mostly general opinions of the respondents.

The other issue in the field of labour-law relations refers to the status of the clergy. In Eastern Orthodox Christianity and some other religions all clergymen and other employees work with employment contract; in other cases they are either on part-time employment contract, or they fulfil their religious obligations on voluntary grounds.

“Patriarch – he appoints them [the Orthodox priests]. This is according to the labour-law relations.” (R-IMIR-10)

“There is Labour Code in Bulgaria. It is strictly observed. Everyone [Evangelist pastors] is appointed with employment contracts. And respectively, they have to pay all the pension, health, social and other insurances... This is an obligation for the Church, categorically.” (R-IMIR-8)

“Muslims collect money, they send it to the Chief Mufti’s Office bank account and from there, their wages and insurances are paid... This is a new procedure, since a year and a half, maybe two years ago. Until recently there was not even one imam with an employment contract. With the exception of just several people in the big cities where a large waqf property exists. Like Sofia, Plovdiv. But now we have, as far as I remember, five hundred imams with employment contract. This is out of 920-1000 imams altogether. Old, young, all ages. About five hundred of them have employment contract; the others rely on fees, without insurances. Mainly old-aged people, pensioners. There are even such people who work on voluntary basis and do not want even fees. They work absolutely for free. There are plenty of them, especially the old-aged ones.” (R-IMIR-6)

“In principle, in Bulgaria we provide for the employees in the Synagogue, but the other part comes mainly from donations. We really depend on them. We would really want to have more freedom and possibilities, but it is very hard to achieve financial freedom... For us, the problem is a little bit more complicated, as the only rabbi we have is an Israeli citizen and he came here within a special programme. The Synagogue itself is serviced by employees, Bulgarian citizens with the minimal wages and regular employment contract. We do not have so many people as the church [Orthodox one] does, hundreds of priest.” (R-IMIR-7)

“We [Catholic priests] are, so to say, self-supporting. As priests we do not receive salaries, we do not have any labour law relations with an employer, the bishop in our case. We do not have any contracts. Only the health insurance, which is obligatory and each of us submits it. We rely on the parishioners, and religious services. Also on friends from abroad who help us... We do not have any labour law relations.” (R-IMIR-15)

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The analysis presented in this report is based on the historical-legislative overview of the place of religion in the contemporary Bulgarian state and society, and on the information provided by the respondents. Before drawing conclusions from this analysis, the picture needed to be supplemented by several additional explanations. This facilitated a better understanding of the situation in Bulgaria today and above all helped to explain why in contrast to many other European countries, the coexistence of different religions had not become a source of problems.

Respondents for the fieldwork were selected as representatives of different viewpoints and positions on issues dealing with religion, relations between state and religion, and rights of believers and non-believers. Different positions of respondents are most strongly influenced by their identification with one of the religions practiced in Bulgaria. Regardless of how strong this identification is (whether they are “genuine” or “traditional” believers), respondents perceive themselves as representatives of a given religion. As such, they feel it is very important to declare and manifest tolerance towards other religions. They are reluctant to discuss issues concerning other faiths and perceive it as interference in their affairs. What matters to them is that all religions coexist without problems.

“Problemless coexistence” combines two different, yet connected aspects. After 1989, religion in general and the recognised faiths in particular, acquired the right to exist without any limitations regarding religious practices – in sharp contrast to the previous period under the communist regime. Against such a grand background of change, representatives of different religions are not inclined to focus on “small” problems, nor they feel it is up to them to scrutinise the activities of other denominations.

The second aspect has a longer historical tail. Ever since the establishment of the Bulgarian nation state in 1878, the ethnic differences were incomparably more significant than the religious ones. The basis of the Bulgarian national self-awareness was “othering” of Turks – putting a clear division line between the two communities. For Bulgarians today, Islam/Muslims remain largely synonyms for Turkish/Turks. This has slowly started to change only a few years ago, with the emergence of the global discourse on Islamic fundamentalism. In the Bulgarian case, this has led to a new differentiation: between “our Turks” and “foreign Muslims.”

VII. Conclusion

In our conclusion, we can state that the coexistence of various religious denominations is not a source of significant tensions or conflicts in the Bulgarian society today – both at individual and institutional level. However, there are several issues that could be marked as problematic.

Bulgarian state continues its traditional practice of interfering with the internal religious matters of the Eastern Orthodox Church and Islam. In the recent years, this interference provoked serious problems in both denominations. The partial budgetary funding of the religions, although extremely insufficient, can also be perceived as a way of controlling them. On the other hand, it is also an instrument for giving privileges to the Orthodox Church, which receives disproportionately large part of the subsidies. The privileged status of the Orthodox Church, granted by the Constitution (1991) and confirmed by the Denominations Act (2002), is also problematic (Orthodox Christianity is declared a “traditional religion” of the republic of Bulgaria). All denominations except the BOC have to obtain a court registration, which puts them in a disadvantaged position.

Apart from this disadvantage / discrimination, there are no testimonies about other problems experienced by representatives of minority religions (with the exception of Islam – see below). There is no evidence for abuse of religious freedom of any believer (again – apart from Muslims).

All Islam-related problems seem to have a common root – the desire of the Muslim community to assert its constitutionally guaranteed right to equality and to be visible in all domains of public life. The non-Muslims tend to perceive the changing (different from the tradition) practice of veiling of the Muslim women as a sign of the mobilisation of Islam. They also believe that the Muslim girls are under pressure from their families to demonstrate their belonging to Islam. Construction of new mosques, especially in settlements where, according to the non-Muslims, “there is no need for a new mosque” or where place “is not appropriate” for a mosque, is perceived in a similar way.

Many non-Muslims are irritated by the cases of female students who come to school with headscarves, This is perceived as “demonstration” of belonging to Islam and a sign of Islamism. Even the traditional dress code of the Muslim women is considered as a religious symbol, and in reaction, the secular nature of the Bulgarian school is re-confirmed. There is, however, also another point of view. If the face is not fully veiled, i.e. the identification is possible, then each person has the right to dress the way they want. Denial of this right is equal to violation of religious freedom.

Those who are most worried about the recent mobilisation of Islam, expressed by the above-mentioned signs, believe that the state institutions should be on alert as it was possible that the Muslims started behaving in a way that would put in danger the security of the citizens and the public order. As an example, some respondents complain that Muslim believers were occupying public space around the Sofia mosque (the mosque is not large enough to accommodate them). The loudspeakers on the minarets are another “demonstration” of Islamic belonging stirring the waters of the public opinion and there is an increasing number of angry voices, demanding that the loudspeakers significantly decrease their volume or are removed altogether.

In general, it can be concluded that the most problematic area is the increasing “othering” of Islam and the related growth of apprehensions that Islam was taking over too much public space. Other (small) religious communities are not perceived as a problem and are rarely discussed in public debates on relations between state and religion.

Annex I – List of respondents

<i>Religare code</i>	<i>Position</i>	<i>Religious affiliation</i>	<i>Gender</i>	<i>Remarks</i>
R-IMIR-1	Member of Parliament	Eastern Orthodox	Male	Rightist party; former Minister of Education
R-IMIR- 2	Member of European Parliament	Eastern Orthodox	Male	Archon of the Bulgarian Orthodox Church; Nationalist party
R-IMIR-3	Member of Parliament	Eastern Orthodox	Male	Former MP 2001 – 2009; Liberal (governing coalition)
R-IMIR- 4	Member of Parliament	Muslim	Female	Former MP 2005 – 2009; Liberal (governing coalition)
R-IMIR-5	Chair of the Eparchy Council of Armenian Apostolic Orthodox Church	Armenian Orthodox	Male	Former MP 2001 – 2009; Liberal (governing coalition)
R-IMIR-6	Executive Secretary of Chief Mufti of the Muslim Denomination	Muslim	Male	
R-IMIR-7	Chairman of Jewish Religious Council	Jewish	Male	
R-IMIR-8	Chairman of Evangelical Alliance	Evangelist	Male	
R-IMIR-9	History Professor	Eastern Orthodox	Male	Former Director of Directorate “Religions”
R-IMIR-10	Dean of the Faculty of Theology	Eastern Orthodox	Male	
R-IMIR-11	Dean of the Higher Islamic Institute	Muslim	Male	
R-IMIR-12	Chairman of All Bulgarian Foundation	Eastern Orthodox	Male	Nationalistic NGO involved in strengthening Bulgarian identity
R-IMIR-13	Religious leader	Muslim	Male	Former Chief Mufti
R-IMIR-14	Regional Mufti	Muslim	Male	
R-IMIR-15	Religious leader – priest	Catholic	Male	
R-IMIR-16	Religious leader – imam in a village	Muslim	Male	Higher education in Mecca
R-IMIR-17	Religious leader – imam in a village	Muslim	Male	Higher education in Mecca
R-IMIR-18	Religious leader – priest	Eastern Orthodox	Male	
R-IMIR-19	Religious leader – priest in a village	Eastern Orthodox	Male	Former member of Evangelist Church
R-IMIR-20	Religious leader – priest in a village	Eastern Orthodox	Male	
R-IMIR-21	Mayor of a village	Muslim	Male	
R-IMIR-22	Executive secretary of Confederation of Independent Trade Unions	Eastern Orthodox	Male	
R-IMIR-23	Expert at Confederation of Independent Trade Unions	Eastern Orthodox	Female	
R-IMIR-24	Journalist	Eastern Orthodox	Male	Bulgarian National Television
R-IMIR-25	Commissioner at the Commission for Protection against Discrimination	Eastern Orthodox	Female	Bulgarian Equality Body; MA at Theology Faculty of Sofia University

Annex II - Topics list

Family Law

1. Basic Tensions in cases in which rules and practices of (minority or majority) *religious family and divorce laws and customs* are at odds with basic principles of international family and divorce law and general civil or state marriage and divorce law: *equality between the sexes and favor divortii* (marriage, divorce, custody (and inheritance, excluded from WP 3) [It has already been decided in the RELIGARE project proposal that we do not research cases of conflicts with rules and practices of modern criminal law such as wife beating, child beating, genital mutilation, honour killing]. Because of the increasing importance which the ‘legal regulation of intimate relations’ has recently gained with issues of same-sex marriage and adoption, we include issues of polygamy and same-sex marriage and the respective challenges and defenses of the ‘norm’ of monogamy and nuclear family.

Domains: (i) **Private International Law (PIL);** (ii) **domestic religious law(s) versus state law;** (iii) **Alternative Dispute Resolution (ADR)** (e.g. Islamic Arbitration Tribunals)

Items:

(i) Private International Law (PIL):

- (1) In case of difference between nationality and residence of the persons involved should the legal order of the former or the latter prevail (or should there be the option of choice)?
- (2) If traditional practice and customary marriage- and divorce- and adoption law of religious communities (e.g. Hindu-Law in India; *kefala*) is not legally recognized by ‘modern’ (e.g. English) PIL law, how do judges deal with such cases?
- (3) Should Private International Law rules be more flexible and if so, how?
- (4) What is the place of the principle of the separation of religion and State in private international law? What is the relevance of reasonable accommodation?

(ii) domestic religious law(s) versus state law:

- (1) is there/should there be ‘one civil marriage and divorce law only’ for all citizens/residents and, if so, why?
- (2) Is there/should there be the option of religious marriage and divorce law parallel to or as a replacement for civil marriage and divorce law? If parallel, under which conditions and limitations? If religious marriage and divorce laws only, under which conditions and limitations? (Include: *voluntariness* vs. marriage under duress; *freedom of exit* (favor *divortii*); *equality* amongst the spouses (in all types of possible ‘marriages’: monogamous, polygamous, same-sex, civil partnerships (in its different forms, eg PACS: *pacte civil de solidarité*); *minimal responsibilities for childrearing*)

(iii) Alternative Dispute Resolution (ADR):

- (1) is there/should there be separate religious dispute resolution and, if so, why?
- (2) Is there, should there be state recognition of religious court? Of religious arbitration tribunals? Of religious arbitrators? Of arbitral awards? Under which conditions and limitations?

Labour Law

Basic Tensions: religious interests of employees versus interests of other interested parties (employer, co-workers, customers, general public) and other liberal values such as secularism, non-discrimination (sex and gender equality) (the *individual religious freedom cluster*). Collective autonomy (practices of majority or minority religious organizations and associations that are protected by collective religious freedoms) versus labour law principles of non-discrimination on the basis of religion, gender, sexual orientation (and possibly race) (the *collective religious freedom cluster*).

Domains: (i) ‘non-religious’ or not ‘faith-based’ workplaces (including private, semi-private and public employers) (ii) (organized) religions (including the whole variety of religious core-organizations as employers, not only ‘churches’) (iii) ‘Faith-based’ organizations as employers (including not only ‘religion’-based ‘ethos’ employers but all non-religious ‘ethos’ employers)

Items with regard to legal/legitimate *exemptions from general labour law rules and standards*:

(1) Is there/should there be a special (non-) employment status of church staff (ranging from ministers of cult to lay cleaning and gardening staff) and what is/should be the role of existing/ developing (member-state and European) law and jurisprudence?

(2) What is/should be the role of labour union advocacy in this regard?

(3) How are claims for the accommodation of religious exemptions in the workplace (dress codes, food-prescriptions, prayer-facilities, time schedules etc.) and for equal access and inclusion in the labour market perceived and dealt with and what is/should be the role of existing/developing law and jurisprudence in this regard?

Public Space

Basic Tension: Basic principles of liberal democratic constitutionalism (such as ‘**state neutrality**’ (as ‘strict’ or ‘formal’ versus ‘benevolent’ or ‘relational neutrality’; as ‘neutrality by subtraction’ or ‘by addition’) and **fairness** (as ‘hands-off’ or as ‘even-handedness’) **versus traditional historical ethno-religious ‘national (majority) culture’** (and quite often highly questionable assumptions regarding ‘necessary *social cohesion*’ and ‘*political unity*’). The reluctance to or rejection of reasonable accommodation is based on (i) intrinsic problems of all forms of *pragmatic*, administrative accommodation (working out practices by way of talking and negotiating) and (ii) on more or less deeply entrenched cultural majority-bias opposed to public *symbolic recognition*. Both reasons work out very differently in countries and ‘national jurisdictions’. The core conflict is how ‘neutrality and fairness’ are interpreted and how much weight is given to legitimate claims to protect/develop ‘national culture’. The core normative issue is – given all this (legitimate) variety – to defend and implement accommodation that is minimally required in countries characterized by wide and deep religious diversity.

Domains: (i) religiously oriented private schools; (ii) dress codes; (iii) building/maintaining places of worship

Items:

(i) Non-governmental religious schools: (1) Does/Can the state forbid or limit the existence of non-governmental schools? Which is/should be the justification of the limitations or conditions that the State impose on the existence or management of this type of schools? Does the State treat differently governmental and non-governmental schools and if so, why? (2) What is/could be their contribution to plurality in education? (3) to learning and practicing minimal civic virtues and liberal-democratic virtues? (4) Do they threaten minimal social cohesion and national unity and, if so, why? How can/should the state ensure that they do not threaten minimal social cohesion and national unity?

(ii) Dress codes: (1) Are there/should there be any legal prescriptions against wearing religiously prescribed dress codes in public spaces and, if so, which dress and in which spaces, and why (again: social cohesion, national identity and, in addition: equality and security)? What is/should be the role of member-states and EU courts in balancing individual and collective religious freedoms with other basic rights and with ‘national values’?

(iii) Building and maintenance of places of worship:

(1) Should every religious community have the right to build a place of worship? On what conditions? (2) Should the government consult the citizens of the area where the place of worship is planned to be build? (3) Should the government cover the costs for maintenance when a place of worship is a monument? (4) Should the place of worship then be open to the public? (5) Do you consider a place of worship in general as a public place ? (6) Is the use of a building that is abandoned as a place of worship open to the choice of the seller, or should he former religious use be respected in some way?

State Support

Basic Tensions: (i) ‘**strict neutrality**’ = **no financing and recognition** (obviously only in an imaginable world, not in any existing regime of religious governance) versus **relational neutrality and equality as fairness:** (ii) if any public money, then ‘**equality before the law**’ instead of privileging the

entrenched majority religion(s) and/or ‘**substantive equality**’ minimally requires to take history into account (e.g. in cases of very recent ‘disestablishments’ or the many hidden forms of financing churches via ‘cultural heritage’). (iii) For religious and religion related organizations: (a) *autonomy dilemma: trade-off between autonomy and privileges*. Less or no scrutiny and control by the state, on the one hand, and money and other privileges (connected to public/political scrutiny and control) and political influence, on the other; (b) *organization and mobilization dilemma* (see Bader (2007), p. 228f). (iv) Basic tensions for liberal-democratic states (p. 229-31).

Domains: (i) religious core organizations; (ii) FBO’s (such as religious schools, media)

Items

1. Should there be a public funding of religions and FBO’s? Why?
2. Do you feel that all religions and FBO’s are entitled to public funding?
3. What kind of public funding for religions and FBO’s is available in your country? What type of funding can it be compared to? Which would be the best way for the State to finance religions and FBO’s? (Suggested Typology for (organized) religions): (i) subventions to the sustained religions (ii) subventions granted according to precise projects (iii) tax deduction granted to religious institutions (iv) church tax according to the religious affiliation (v) possibility to grant a part of the income tax to religious denominations
4. Is there a control over the use of the public support? Is there a demand of transparency / accountability? If so, how do religious bodies deal with it?

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