



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

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Funding religious heritage

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Abstract

Places of worship and the ‘movable goods’ within them are a familiar and important part of the cultural heritage of Europe. With some exceptions, one can observe many common points in the way European countries manage and preserve these goods, particularly from a financial point of view. As a result, in many countries, the heritage dimension of places of worship makes them eligible for additional funding.

Moreover, dealing with this issue means meeting two major challenges: the religious/cultural divide and the recurrent and widespread lack of funds.

A question remains open that paves the way for further investigation: does the shared concern for preserving religious heritage lead to a common pattern of funding in Europe? Or do the domestic specificities of church-state relations prevail?

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This paper deals with the issue of state support for religious heritage. By state support we mean all kinds of public funding, including that given by public authorities and bodies, not only where the central state and cultural institutions are the source. Indeed, many countries have their cultural policies governed by the principle of subsidiarity, whereby the state intervenes directly in cultural matters only through general regulation and the granting of funds.

By focusing on religious heritage, we intend to consider ancient monuments still in use for a religious purpose, mainly as places of worship. The funding of new places of worship is not covered here. The issue of religious ‘objects’ and the specific questions related to their mobile nature will not be addressed in detail here either.

As for the notion of cultural heritage, it is usually considered as a twofold concept: the material preservation of monuments and the promotion to citizens of their artistic and historical value. Both these aspects might justify public funding but also raise specific questions in terms of religious heritage.

Historically, the movement to secularise ecclesiastical property that took place in some European countries in the 19th century coincided with the raising of a ‘heritage consciousness’. Accordingly, while the current models of funding were imposed for churches and religious denominations, competent administrative authorities were created that endeavoured to protect the historical and artistic qualities of cultural monuments, often through the enactment of appropriate legislation. The intervention of these newly created administrative bodies relied – and still relies today – on the following enforceable system: the preservation of the monument embodying an historical or artistic interest, which is different from the original use of the buildings, gives rise to a commitment by the state to ensure this preservation. The protection of this interest justifies the authorisation of preservation works and the necessary related funding. This protection followed the development in parallel of two potentially different approaches to places of worship, based on the different aims pursued.

This observation raises the basic question of how much the funding of places of worship is influenced by an additional cultural dimension. When dealing with religious heritage, do we encounter the notion of heterogeneity that defines state support for religious groups in Europe? In other words, is there a shift among the categories, which can be established according to the levels and means of funding?

The second question leads us to investigate the religious/cultural divide that is an unavoidable part of religious heritage. More precisely, it leads us to question the border between funding cultural heritage and funding religious freedom.

1. Models of religious heritage funding

It would be tedious to merely list the laws pertaining to cultural heritage and places of worship. Before suggesting a categorisation that combines both the general models of funding for places of worship and state support for cultural heritage, two main features that are common to all countries can be identified:

- The first is the responsibility of public authorities to preserve cultural heritage and recognise cultural rights. There is a widely held agreement on the necessity to maintain the integrity of heritage.

- The second is that all places of worship benefit from direct or indirect public funding,¹ be it the consequence of an inherited legal framework applicable after the historical expropriation of churches (public authorities are now the owners) or because they represent a place to exert freedom of religion or an indirect consequence of the social role played by religious denominations.²

Bearing in mind that all the countries studied here bring state support to religious denominations, two models could emerge from bringing together the relevant legal frameworks.

i) The cultural dimension means additional public funds on cultural grounds

Belgium. Since numerous Catholic buildings belong to the public authorities, their conservation and maintenance are a compulsory part of ownership. Other religious communities that own their places of worship benefit from tax exemptions in this field.

The responsibility for cultural heritage in Belgium is fragmented among the various regional governments (the Flemish Minister of Culture, the Walloon Minister of Heritage and the Minister of Culture of the French Community of Belgium). Each community and region has its own legislation, co-existing with the federal government's legislation. Places of worship are also funded as historical monuments and additional subsidies come from the tourism budget.³

Bulgaria. The Constitution recognises religious pluralism and the separation of Church and State. The same constitutional provisions (Article 13) recognise Eastern orthodox Christianity as the traditional religion in the Republic of Bulgaria: "this statement however, does not imply a dominant or privileged position for the Orthodox Church".⁴ According to a decision of the constitutional court, what is recognised is only its "cultural and historical role and merit for the Bulgarian State as well as its contemporary significance for the nation as reflected mostly in the system of official holidays", (Dec. n°2 of 11 June 1992, case n°11/92).⁵ Various state subsidies and funds are assigned to the recognised religious denominations, which may, *a priori*, be used for places of worship (see Article 25 of the Religious Denominations Act, 2002).

¹ Direct funding (mainly maintenance and conservation): Turkey (Sunnite), Bulgaria, Germany, Italy, Spain, Belgium and France (places of worship belonging to public authorities: compulsory repair and conservation expenses).

Indirect funding/state contributions (church tax, tax exemptions): through tax reductions or exemptions for goods of religious communities or from publicly funded religious organisations: France, Netherlands, Denmark and the United Kingdom.

No funding: Turkey for religious denominations other than Sunnite.

² A quick overview of the relevant law reveals that the religious use and destination of the places of worship are often legally protected.

³ J.-F. Husson, "Le financement des cultes reconnus et des organisations laïques en Belgique", in B. Basdevant and S. Berlingo, *Financing of Religious Communities in the European Union*, Leuven: Peeters, 2009, p. 105.

⁴ J. Peteva, "The legal status of church and religion in the Republic of Bulgaria", in Francis Messner, *The Status of religious confessions of the states applying for membership to the European Union*, Milano: Giuffrè, 2000, p. 226.

⁵ *Idem*.

The current *Culture Heritage Act* (2009), which replaced a former Act of 1969, sets up a new national system for protection, management and sustainable use and recognises the responsibility of the state and society to protect and preserve the cultural heritage of Bulgaria.

Religious cultural heritage is likely to be granted public subsidies through various public authorities: i) the budget of the Ministry of Culture (for cultural heritage properties with world significance and national significance, owned by the state, the Orthodox Church and by other religious communities). The criterion is here the level of significance of the building and its state of conservation; ii) through the budget of the Ministry of Finance; iii) through the budget of the municipalities (monuments owned by the municipality and for certain cultural monuments owned by the Bulgarian Orthodox Church and by some other religious communities; iv) through the *Religious Denominations Directorate* with the Council of Ministers. The main criterion for allocating funds within this line is that the property is an open place of worship.

France. It should be emphasised that the overwhelming majority of religious heritage is Catholic and, for historical reasons, is public property. This public property implies a commitment by the state and local authorities to fund the conservation of places of worship. The funds come from their own budget or from the Culture Ministry. The other religious denominations, still for historical reasons, do not benefit from this system and remain, in theory, subject to the 9th December 1905 Act on the Separation of Church and State, which forbids public funding (there are exceptions to these provisions, nevertheless). In fact, since an Act of 1942 (modifying the 1905 Act), the religious associations (“associations culturelles”) may apply for subsidies granted for the repair of the places of worship, be they historical monuments or not.⁶

Germany. Most generally, the places of worship belong to churches and their maintenance is funded through church taxation, donations by the church members, subsidies from the federal state, the *Länder* and the municipalities.⁷

The conservation of cultural monuments and their funding is the competence of the public authorities, mainly at the Land level (Art. 70 *Grundgesetz*, or Constitution). It is the duty of the *Länder* to preserve such monuments and provide funds for this purpose.⁸ In this framework, conventions and concordats are concluded between the *Länder* and church authority. The treatment and place granted to religious monuments varies according to the *Länder*. Before the reunification of Germany, three ‘categories’ of religious heritage regulation could be defined. In the first, ancient religious buildings are preserved by the state (Land) but the religious use and interests must prevail over conservation interests. The second

⁶ On this issue, see A. Fornerod, *Le régime juridique du patrimoine religieux*, Paris: L’Harmattan, 2011.

⁷ G. Robbers, “Financing religion in Germany”, in B. Basdevant and S. Berlingo, *Financing of Religious Communities in the European Union*, Leuven: Peeters, 2009, p. 175.

⁸ Despite the primary role of the *Länder* in monument conservation, a programme has been operating at the federal level since 1950 to promote monument conservation measures and preserve and restore immovable cultural monuments of national significance. This involves federal co-financing of those cultural monuments that are significant for Germany as a whole. The federal and *Länder* authorities work together in the *German National Committee for Monument Protection*. Private sector activities in the area of monument conservation are of great importance. There are a substantial number of volunteer monument conservators in Germany who work hand in hand with the respective public authorities. Furthermore, private funding has become indispensable in this field. *The German Foundation for the Protection of Monuments* works as a useful and effective link between public and private sector activities in this area. Subsidies are allocated to bodies aiming to protect and promote heritage.

one is characterised by the application of the common legislation to all buildings. Lastly, the third category includes religious cultural buildings, which are treated separately from the others and where the Church rules are applicable. After 1989, the constitutions of the new *Länder* provide that the protection of monuments falls within the competence of the state. Nevertheless, the religious dimension has consequences and prevents the state from acting as with other monuments. Despite the variations among *Länder* legislations, it seems that the religious use of historical buildings benefits from a high level of protection, and is often given priority over the conservation aim enshrined in the conservation legislation. At least it is foreseen that the religious authorities are consulted before any intervention for such purpose.

Italy. Since 1985, a renewed funding system of the places of worship has been in place in Italy. The Catholic Church and the religious denominations that have an agreement with the state may use a percentage of the income tax (eight out of a thousand) they are assigned to finance the conservation of their places of worship. In addition, all religious denominations might theoretically benefit from regional public funding (S. Pastorelli).⁹

A specific public body should be mentioned here, the ‘Places of Worship’ fund of the Home Office (*Fondo Edifici di Culto del Ministero dell'Interno*). Its patrimony comprises over 700 buildings confiscated from the Church in the 19th century and nowadays run by the central Ministry and the Prefectures at the regional level, but whose use has now been left to the Catholic Church. The responsibility for these buildings includes the conservation, restoration and promotion to the public.

The Netherlands. The Netherlands is another country in which there was a loss of Church property due to government expropriation in the past. Despite the current system of separation between Church and State, ‘incidental specific support’ is in place today, which concerns the places of worship.¹⁰ The Dutch funding system combines direct (chaplancies, religious education ...) and indirect subsidies. The latter mostly consist of fiscal benefits and tax exemptions for Church buildings. But the religious communities mostly rely on their own financial resources. One “category of indirect financing is that of ancient monument care, which includes ancient Church monuments. Subsidies for maintenance and restoration of these monuments are very important, however, they do not cover the costs of the upkeep of these buildings. As for many Churches that own such buildings, the future care of them is a matter of concern”.¹¹

The settlement of a specific administration and a legislation pertaining to historic monuments in the Netherlands is very similar to what happened in other European countries during the same period (Ashworth, p.p. 45-54). The national service for the care of monuments (*Rijksdienst voor Monumentenzorg*) was established in 1875. The Monument Act (*Monumentenwet*) of 1961 consolidated previous legislation about individual monuments and increased the possibilities of governmental subsidy for restoration. As a result finance for restoration and maintenance correspond to a combination of relatively generous direct public subsidy and tax exemptions.

⁹ The Jewish Communities Union and the Christian Evangelical Baptist Communities Union have decided not to participate in this system, which would conflict with their autonomy.

¹⁰ S. van Bijsterveld, “The financing of religious communities in the Netherlands”, in B. Basdevant and S. Berlingo, *Financing of Religious Communities in the European Union*, Leuven: Peeters, 2009, p. 271.

¹¹ *Idem*, p. 271.

Spain.¹² The Catholic Church is the sole Church to receive direct state funding (0.5% of the income tax may be allocated). The historical justification for public funding of the Church “lies in the compensation for the expropriation to which it was subjected”.¹³ In addition, the “assets acquired for religious or care purposes by the Catholic Church and the three minorities with an agreement are exempt from property tax.”¹⁴ The places of worship are regulated under a legal system because they are linked to the freedom of religion. They have a social utility that should be protected by law. Accordingly, they benefit from tax exemptions and public subsidies for their construction and maintenance. Historically, the Spanish state used to take charge of the funding of the building and maintenance of places of worship. Since 1990, this line disappeared from the state budget. Nevertheless, numerous autonomous communities still grant subsidies.

Cultural Heritage protection is governed by Act 16/1985 on Spanish Cultural Heritage, although autonomous regions have developed their own legislation. Indeed, if the Ministry of Culture is responsible for National Cultural Heritage, including a few national museums, and coordinates international activities, the responsibility for cultural heritage in Spain is mainly fragmented at the level of the different regions.¹⁵ Related funds can derive from different national ministries and regional governments, the national and regional heritage institutes, local governments (cities) and private entities (foundations, banks, Catholic Church, etc.). Estimating the amount of funds devoted to cultural heritage is a difficult task. In addition to the budget of the public sector, there is a significant contribution to the works of restoration and conservation of cultural heritage by the private sector, mainly the Catholic Church and private foundations.

As owner of the buildings, the Catholic Church is bound to ensure their conservation. For its part, the state is responsible under the Constitution (Article 46) to ensure the conservation of cultural heritage. This leads to numerous conventions between the Church (through the dioceses and the episcopal conference) and local public authorities. One of the most important is the national plan for cathedrals, which explicitly provides that the state will partly fund the restoration and conservation of the cathedrals targeted in this plan.¹⁶ The funding varies according to the convention.

The United Kingdom. Although it is the established Church, the Church of England does not receive any direct public funding. Its main resources come from donations and the income of its patrimony. However, the religious denominations benefit from indirect public funds, consisting of subsidies for places of worship and an attractive tax system (charity status). Under the 1969 Act related to religious buildings and places of worship that are no longer in use, the *Maintenance of Churches Fund* can receive public funds (France, Senate, *Report on religious denominations funding in Europe*, 2001).

¹² Miguel Rodríguez Blanco, “Les lieux de culte en droit espagnol”, in Magalie Flores-Lonjou and Francis Messner, *Les lieux de culte en France et en Europe*, Paris, Leuven: Peeters, 2007, pp. 187-200.

¹³ I. Iban, “The financing of religious communities in Spain”, in B. Basdevant and S. Berlingo, *Financing of Religious Communities in the European Union*, Leuven: Peeters, 2009, p. 315.

¹⁴ *Idem*, p. 316.

¹⁵ The ministry has two sub-directorates devoted to cultural heritage conservation: General Sub-directorate for Historical Heritage Protection and General Sub-directorate of the Institute for Cultural Heritage of Spain. The first one is responsible for the application of Regulation on the Protection of Historical Heritage, while the Institute for Cultural Heritage of Spain elaborates and executes conservation strategies, among other functions.

¹⁶ See <http://www.mcu.es/patrimonio/MC/IPHE/PlanesNac/PlanCatedrales/PlanCatedrales.html>; last accessed, 19/06/2010.

From an institutional point of view, cultural heritage is partly the task of *English Heritage*, which is a non-departmental public body, linked to the Culture, Media and Sports Department. It was created by the *National Heritage Act* of 1983¹⁷ and is in charge of heritage protection, gives advice to the government and grants subsidies. Its income is both private and public since it receives money from the Culture Department.¹⁸ Churches and cathedrals still in use may benefit from those funds for conservation works, even if, in practice, the Church of England is the main beneficiary. The state contribution would amount to 10% of the expenses invested by the Church for the maintenance of such places of worship.

National public funding also comes from the National Heritage Memorial Fund and the Heritage Lottery Fund. In Wales, subsidies are allocated via the Cadw (Welsh historic monuments, which is equivalent to English Heritage) and after consultation with the Historic Buildings Council for Wales *via* the Cadw. Places of worship are assigned a part of those funds.

ii) The cultural dimension does not affect the origin of the funds

In this category, if the property is religious, the maintenance of the places of worship is the obligation of the religious communities. Being a part of cultural heritage seemingly has no influence. Nevertheless, the commitment of the religious bodies might go beyond what is required for the purposes of worship and has to take into account the maintenance of the place as a cultural building. It is all the more surprising that the overwhelming majority of European countries have placed at the core of their cultural policies the conservation of cultural heritage. Could this be seen as a kind of withdrawal of the state from a field in which it is supposed to have responsibility? This model applies in Denmark and for the Turkish religious minorities.

Turkey.¹⁹ The legal system of religious denominations funding consists of three levels or categories: the places of worship of the Sunnite Islam community are the property of the state and their construction and their maintenance are ensured as cultural heritage.

The second category comprises the places of worship of the Alevi community, which does not benefit from public funding because it is not a religious denomination, either for the places of worship in general or for those with a cultural dimension. Lastly, the other religions and in particular the non-Muslim ones,²⁰ are sponsored mostly through religious foundations (*vakif*),

¹⁷ Ch. de Noblet, *Protection du patrimoine architectural aux États-Unis et au Royaume-Uni - Initiative privée à but non lucratif*, Paris: L'Harmattan, 2009, p. 314. The Ancient Monuments Protection Act 1882 is the first conservation law in the UK (Black, p. 15). Even if it was preceded by a public interest in those monuments, the first real investment of public authorities came long after the private initiatives. The National Trust, created in 1894, solved the lack of public initiative. The principle is: the owner makes a donation to the NT and is allowed to stay in his home, for example, on condition that it is open to the public. This donation is tax free. Given the success of the National Trust, a private funding body, it was decided that it would more economical for the English government to delegate this task to an independent agency. Therefore, English Heritage was created in 1984 (Noblet, p. 61).

¹⁸ *Ibid.*, p. 283.

¹⁹ The developments on Denmark are mainly due to the help of Prof. Samim Akgönül (University of Strasbourg).

²⁰ On this issue, see ECommissionHR, 19 January 1988, *Institute of French priests and others v. Turkey*, n°26308/95: the Institute of French priests in Turkey gave a domain for rent. The sum received allowed the Institute to fund the maintenance of its places of worship. The Turkish Treasury confiscated this domain on the grounds that the Institute did not have the required status to receive such funds, which were contrary to its religious nature. The Institute argued that, contrary to the mosques funded by state, it was the only source of

which also give support to their cultural and religious heritage. The cultural funding system is seemingly a reflection of the religious funding system.

Denmark.²¹ According to the constitutional provisions (section 4), “The Evangelical Lutheran Church shall be the Established Church of Denmark, and, as such, it shall be supported by the State.” In addition, § 82 of the Constitution provides that “No one shall be liable to make personal contributions to any denomination other than the one to which he adheres [...]”. As a matter of fact, the cultural heritage of religious denominations other than the Evangelical Lutheran Church is very limited in number.²² The Danish funding system applies to maintenance and restoration and for both the evangelical-Lutheran established church (82%), the recognised churches and for approved religious communities. More precisely, for the Lutheran established church, they are mostly financed via these church taxes (taxes paid by the church members). They are collected together with the common municipality and state taxes, but the competences regarding the budget are – in relation to buildings – entirely with the church councils, not with state or municipality. Accordingly, in this system, there is no distinction made according to the use of the building (religious rituals v. cultural use). It follows that those funds will be used for religious as well as for cultural purposes.²³ To be precise, the state budget disburses a limited number of subsidies, for which poor church councils with many very ancient churches (dating from the 12th century) can apply.

2. Funding religious heritage and the religious/cultural divide

There is a potential tension within the issue of funding religious heritage, especially when the places of worship are still in use. Two legitimate aims are at stake in the same place: ensuring effective religious freedom and preserving cultural heritage. Such tensions might be analysed through the main issue of the cultural/religious divide.

It is not the point of this paper to investigate the possibility of reaching a relevant distinction between culture and religion; two spheres that have been intrinsically linked for centuries. Nevertheless, this divide matters in order to know what is fundable and to what extent, but also to find out what degree of autonomy the religious denominations can preserve.

The main illustration lies in the preservation legislation, which consists of obtaining the authorisation of the competent administrative body before carrying out any conservation works, and is quite common to many countries. The financial intervention aims here at enabling restoration and conservation, which are at the heart of the state’s commitment to preserve cultural heritage. State funding might imply control over the way the building is restored, for example, through the basic demand of authorisation before carrying out the works. How much does this fundamental principle of monument legislation affect the

income. After the appeal was judged admissible before the Court, the parties reached an amicable [out of court] agreement.

²¹ The section on Denmark is in part the contribution of L. Christoffersen. See also Haynes, N. (2008), *Research report on church-state relationships in selected European countries*, Historic Environment Advisory Council for Scotland (HEACS), p. 22-23, <http://www.heacs.org.uk/documents/2009/church-state-relationships.pdf>, last accessed on 24 June 2011.

²² See Jensen, T. (2007), “Religious pluralism in Denmark”, *Res Cogitans*, No. 4, Vol. 2 p.2.

²³ See also Jensen (2007), p. 5 on this point.

autonomy of the religious denominations? Is the cultural dimension of the places of worship still an opportunity for religious institutions?

Some examples indicate how the implementation of this system can vary from one country to another. In France and Belgium, the religious dimension of the monument has no real influence.²⁴ In Germany, on the other hand, the legislation on monuments should comply with the constitutional demands regarding the freedom of art (Art. 5,3 of the fundamental law, applicable to historical monuments) and the right to self-organisation of Churches (Art. 140). The legislation related to the protection of cultural heritage provides specifically that the interaction between the state responsibility for the protection of heritage and the liberty of the Church is appropriately taken into account and that the consequences for the Church are right.²⁵

Finally, the English situation is interesting because since the Ecclesiastical Exemption Order of 1994, only six religious denominations²⁶ are expressly exempted from abiding by the rules related to works on historic monuments (exempt from Listed Building and Conservation Area controls in relation to works affecting listed Church buildings), under the condition that the building is used for worship and that any work project is submitted to the control of an internal body.²⁷

The public financial contribution might also be justified by the will to open the place to the public, which is considered as the legitimate heir of the monuments. In addition, from a practical point of view, opening up the place to the public is synonymous with financial resources. It is very often argued that the conservation of heritage is a huge burden on public budgets. Here the margin for refusing access for cultural uses could be considerably reduced.

Double use of places of worship

The issue of maintaining physical, material property cannot be distinguished from the ‘use’ question, which corresponds to the second basic dimension of cultural heritage, its promotion to the public. The right of the public to have access to heritage, which might be qualified as a cultural right, is at stake here, even if the right to culture or cultural rights is not recognised, effectively implemented or given priority. Indeed there is quite an uncertainty about this right and perhaps a kind of reluctance to give full effect to it, quite apart from the practical and material difficulties of implementation. In France the case law provides no recognition of such a right despite the constitutional provisions. In Germany, the recognition of the state commitment in the cultural field at a constitutional level recently failed. The use of places of

²⁴ In Belgium, see the Council of State Decision, 16.05.2007, n.171.268. In France, see Administrative Court of Lille, 29 November 1972, *Sieur Henry, Rec.*, p. 932.

²⁵ The right of the Church to organise itself was proclaimed in a 2003 case delivered by the administrative court of Mannheim (VGH) (30.01.2003, 1 S 1083/00).

²⁶ The Baptist Union of Great Britain; The Catholic Church in England and Wales; The Church in Wales; The Church of England (and Council for the Care of Churches); The Methodist Church; The United Reformed Church. Each of the six denominations benefiting from ecclesiastical exemption has its own system of control over its listed buildings.

²⁷ Ch. de Noblet, *Protection du patrimoine architectural aux États-Unis et au Royaume-Uni - Initiative privée à but non lucratif*, Paris: L'Harmattan, 2009, p. 314. J.D.C. Harte, “Les lieux de culte: une perspective anglaise”, in Magalie Flores-Lonjou and Francis Messner, *Les lieux de culte en France et en Europe*, Paris, Leuven: Peeters, 2007, p. 157.

worship for cultural purposes may nevertheless lead to tension with the religious freedom, since we face the situation in which two liberties may be implemented in the same space.

It has been proved that the regular use of a historic monument, complying with its ‘normal’ use contributes to its conservation. Nevertheless, many European countries challenge the same situation: a waning Christian community, depriving places of worship of their natural/traditional occupants and replaced by tourists; a substantial rise in public interest for heritage, religious activities replaced or cohabitating with cultural uses.²⁸ The growing pressure to limit maintenance expenses and to find resources other than public funds inevitably raises the question of use. How long will religious communities be entitled to claim that the religious use of places of worship be respected? To what extent can the religious communities assert their freedom of religion toward public authorities who fund the buildings, when they are increasingly empty? Despite the firm protection of the religious destination, the need for funds necessitates opening up the places of worship to other uses and users. This leads us to consider and assess the degree/level of secularisation of these places of worship. If places of worship represent a religious place in the public sphere, does this still correspond with a real religious purpose and what are the consequences from a financial point of view? Might the decrease in religious practice allow the public authorities to demand or impose a cultural use, which represents an undeniable financial income? The fees required to enter churches to attend a cultural event or to visit them illustrate the kind of pressure existing today (France, Italy).²⁹ But to a greater extent, this pressure is illustrated by the tendency to put an end to the religious nature of these buildings to allow non-religious re-uses, such as exclusively cultural places or as housing (England, Belgium, France ...).

This issue becomes more acute at times of economic crisis, which very often entails a reduction of the overall budget, including that for culture. The public authorities will be all the more reluctant to grant subsidies, and more willing to find resources through opening the monuments up to the public in order to fund the conservation of cultural heritage. A satisfying – and attainable – solution is part of the perspective associated with this topic.

3. European and national perspectives

Several challenges should be mentioned here.

The lack of funds

In crisis periods the state and public authorities in general tend to financially withdraw from activities or sectors that are non-priority, such as culture. Now, the act of protection “incurs few direct costs but it implies a responsibility for maintenance that is both intrinsically

²⁸ As previously mentioned, we include in those cultural practices the visits of the places of worship for cultural purpose and all cultural events, which might take place in those buildings, such as concerts or exhibitions.

²⁹ The concern about economic resources would lead to an infringement of the common legislation which requires the opening of religious buildings to anyone and without charge. This could also be considered for the Catholic places of worship as a mark of secularisation. For Italy, see Carlo Cardia, “Lo spirito dell’accordo”, pp. 29-47, in Michele Madonna (ed.), *Patrimonio culturale di interesse religioso in Italia*, Marcanum Press, 2007, p. 45. Regarding the Catholic churches it is expressly provided by the civil code (Art. 831) that the financial advantages are submitted to the free access of the public. There would be about 85 historical places of worship in Italy where access would be subject to the payment of an entrance ticket. The commission in charge of the control of the eight out of thousand tax has already stated that this state of affairs is incompatible with the applicable law in this field.

expensive, increases steadily as the building ages and is unending” (Ashworth, p.50). Could a wider opening to private funds be a solution? This is only a partial answer to the lack of public means. Indeed, the duty of the public authorities to maintain the national and local heritage cannot be totally neglected. Even in the UK, which has a deeper level of involvement of private bodies, the role of the state has been strengthening in recent years, since “a legislative and practical framework for the conservation of historic buildings and areas is now an accepted part of national policy in the UK, attracting strong popular support for what are widely recognised to be assets of immense historical, cultural and social value.”³⁰

To reconcile religious and cultural uses

How could this tension be resolved? And how can worshippers’ interests and the growing tourism interest in such sites be reconciled? For the parties involved it very often implies reaching an agreement on the practical modalities of state intervention, be it for works of conservation and/or the organisation of the cultural use of such places. This kind of partnership already exists, either through the agreement of specific competent bodies or through appropriate conventions/agreements. Opening to cultural visits would look to be the most appropriate solution before the other extreme of the definitive closing of the place, or indeed its demolition.

Pluralism

As a matter of fact, religious heritage in all countries is mainly composed of the buildings belonging or used by the historical, traditional or dominant religious denominations.

If we look back to the 19th century, it is interesting to compare both processes of the secularisation of the Churches and the development of an administration specifically dedicated to heritage protection. Indeed, the monument conservation policies allow the state to place major restrictions on the property rights of individuals in the name of the wider national interest. In several European countries, this was also a time of Church property expropriation. It is perhaps not by chance that Church buildings occupied such an important place on the first lists of monuments presenting such a cultural public interest in the 19th century. Therein could lie the explanation why religious buildings very often made up a major part of national heritage.

This might be significant when raising the question of the state of support to religious minorities’ heritage. From the point of view of public funding, the weight of history and its consequences on property plays a key role. Alongside the artistic interest, the age of the monument is a basic criterion of protection. One has to reckon with the fact that the criterion of history prevails over the artistic one in adding new religious places of worship to the list of the monuments. Accordingly, for the more recently established religions, only the passing of time counts towards ‘creating’ a piece of heritage. In other words, the religious nature of the building considered as a potential element of cultural heritage won’t have any bearing on the funding, which appears here as ‘secularised’ funding.

³⁰ G. Black, “The conservation of the Built Environment in the UK”, in Angela Phelps, G.J. Ashworth and Bengt O.H. Johansson, *The construction of built heritage. A north European perspective on policies, practices and outcomes*, Ashgate, 2002. p. 13.

European perspective

European Union legislation does not really affect this issue or, more precisely, has limited consequences. In fact, this legislation mainly addresses movable cultural heritage through the enactment of protection measures to take into account the specificity of this category of heritage. Indeed, the greatest threat to the nation's movable cultural heritage is the loss of specific treasures, especially through their sale abroad. Accordingly, and contrary to the generally prescribed free movement of goods within the EU internal market – a restriction on trade and movement in the case of “cultural objects classified is expressly stipulated as national cultural treasures possessing artistic, historical or archaeological value”.³¹

In the same vein, although the European Court of Human Rights case law does not offer adequate solutions to the present issue, it may indirectly be of great interest. The places of worship are addressed by the Court under Article 9 and Protocol n°. 1, when a question of property arises. For example, the European case law recognises the tax advantages granted to a religious organisation for its places of worship. In one decision, the Court had to assess the Spanish system, which enables tax-payers to allocate a part of the tax income to a religious organisation (ECourtHR, 14 June 2001, *Alujer Fernandez and Caballero Garcia*, n° 53072/99). In fact, this was not open to the applicant since the religious organisation he had chosen had not met the state convention criteria making such a tax system possible.

According to the Court, the Catholic Church could benefit from this system since “in practice the situation of the Catholic Church, which has entered into a subsisting convention with the Spanish State and has the largest number of practising members and responsibility for a vast historical and cultural heritage, is different to that of the Baptist Evangelical Church, which has no convention or cooperation agreement with the Spanish State and does not satisfy the other condition it was in charge”.

The most interesting perspective offered by the Court’s case law lies in the cases brought by applicants from the former socialist States, if we consider that the comparison is, to some extent, sustainable. Nevertheless it needs to be further investigated.

Conclusion

On the one hand it is striking to observe how much the various European countries under scrutiny here have in common in terms of the preservation of religious heritage, be it the significance accorded to it or the constant and concerning lack of funds. On the other hand, the complex system of religious heritage funding does not offer any clear vision on the assignment of funds, making the question of “what is funded?” rather difficult.

Accordingly, a question remains open that paves the way for further investigation: does the shared concern for preserving religious heritage lead to a possible common pattern of funding in Europe? Or do the domestic specificities of the church-state relations prevail? Further study of the relations between religion and cultural heritage in Central Europe is necessary in order to arrive at a new approach of the religious heritage in general.

³¹ See Council Directive [93/7/EEC](#) of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a member state.

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Project Managers:	Dr. Jogchum Vrielink Dr. Myriam Witvrouw
Duration:	1 February 2010 – 31 January 2013 (36 months)
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Short Description:	The RELIGARE project is about religions, belonging, beliefs and secularism. It examines the current realities in Europe, including the legal rules protecting or limiting (constraining) the experiences of religious or other belief-based communities. Where the practices of communities or individuals do not conform to State law requirements, or where communities turn to their own legal regimes or tribunals, the reasons behind these developments need to be understood.
Partners:	13 (10 countries)
Consortium:	Centre for European Policy Studies (CEPS), Belgium Université Catholique de Louvain (UCL), Belgium International Center for Minority Studies and Intercultural Relations (IMIR), Bulgaria University of Copenhagen (UCPH), Denmark Centre National de la Recherche Scientifique: Politique, religion, institutions et sociétés: mutations européennes (PRISME), France Universität Erlangen-Nürnberg (UEN), Germany Università Degli Studi di Milano (UNIMI), Italy Vrije Universiteit Amsterdam (VUA), The Netherlands Universiteit van Amsterdam (UvA), The Netherlands Universidad Complutense Madrid (UCM), Spain Middle East Technical University (METU), Turkey Queen Mary, University of London (QMUL), U.K.
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