

The Models of Church and State Relations in a Secularised Society of European Union

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ABSTRACT--- *EU has reached enormous progress in economy and politics. It is a union of nations on the basis of legal, democratic grounds. A feature of each democracy is the protection of human rights. The test-paper showing a real freedom is depicted by the regulations of a state. These regulations delineate the freedom of religious belief, the relation of churches and religious communities with a state. EU already has a formed European model of relations between Church and a state. It leaves such traditions and a legal base in each state that has been formed by the people of the nation during long decades. There are three models: the status of „state religion“ but it does not do any harm to democratic attitudes. It does not discriminate persons who do not belong to the main religion; the second, a model of cooperation of Church and a state, the third is more strict, separation of Church. EU Lisbon Treaty is much more favourable to religious communities than EU Constitution used to be. As EU member states belong to European Council, the regulations of which on religion were remarkably perfect than those of EU Agreements, EU leaders had to be more precise with the position of the Holy See in Nice Agreement of the Charter of Human Rights. Unfortunately, some people from European continent are devoted to the flow of secularised society which is not able to measure the heritage of Christianity. Due to this misunderstandings and cases appear in the European Court of Human Rights concerning religious practise in public institutions.*

Keywords--- European Union, globalisation, religion, law, Church and State Relations

Abbreviations:

Artc. – Article
EC – European Council
EU – European Union
ECHR – European Convention on Human Rights
Ibidem - The same
LR– The Republic of Lithuania
LVK - The Conference of Lithuanian Bishops'
Ref. - Reference

1. INTRODUCTION

The article aims to describe the relations of Church and a state in European Union. As Catholic Church is not dominant in all states, the formula has to be cleared up: state relations with churches and religious communities.

In 1957 Rome Treaty united 6 states: Belgium, Italy, Luxemburg, the Netherlands, France and the Federation Republic of Germany into three communities: European Stone and Steel Community, European Economical Community and European Atomic Energy Community. Today, EU became one institution and one juridical person uniting already 28 states and having over half a billion of inhabitants. The roots for unification are spiritual values as the protection of human rights, superiority of laws, spiritual, national traditions and habits. The most important issue is stable institutions of states able to protect democratic –legal composition of states. Church as the protector of Christian heritage, religious communities and people having believes brought a big contribution in creating EU. The exam of History is passed – EU satisfied the hopes of Europeans. Thanks to NATO and also EU peace remained, a cold war was won: without blood Germany was united and Eastern and Middle European countries were liberated. Enslaved nations were liberated from Soviet camp. Despite of economical recession (the community of the whole world faced it) EU economical indicators are amazing. In 2008 the Gross Domestic Product was the largest in the world and reached 12506,08 billions Euros¹.

¹ Végèlè I. *Europos Sajungos Teisė*, Vilnius, 2011, p. 23.

In legal terms, a legal state regulates the principles of religious freedom and in a certain way, the models of Church and state relations are influenced by secularisation. This concept meaning “a runaway” from God, moving religion from the centre of public to the “edge” of a private person will not be analysed separately. We shall detect it by empirical way. In XXIst century the attitude of a European can obviously be felt in over viewing the main EU documents. Only certain EU states will be touched upon as every nation has its history and the traditions of belief and self-expression in culture. Due to this it is impossible to analyse the norms of public church rights of 28 states in one topic. The prevailing models of Church and state relations will be determined.

2. REGULATIONS OF RELIGIOUS COMMUNITIES IN THE AGREEMENTS OF EUROPEAN UNION

In 1949 the Council of Europe was established. It aimed at human rights. In 1993 Lithuania also became the member of the Council of Europe, in 1995 Albania, Andorra, Latvia, Macedonia, Moldova, Rumania, Ukraine joined EC, and in 1996 –Russian Federation – in total 47 states. The Court of Human Rights and Parliamentary Assembly belong to the Council of Europe. They observe the situation of religious freedom in the states. Parliamentary Assembly adopted three decisions in specific fields: concerning the military services, concerning sects or spreading of new religious movements, the relation of religion and democracy. Parliamentary Assembly expressed disapproval for the spreading of new sects as it most often it is harmful to health of people or the order determined by the society. That is why the National Governments were advised to take care about objective information about different religions, to apply educational tools that tolerance could flourish, to establish informational centres which could help the National Governments of all the states to exchange information about the quality of religious movements, democracy or deviation from moral norms.

Parliamentary Assembly stresses the protection of religious rights for the strengthening of democracy. There is a danger for democracy not from the believers but from extremism which could function as a sect or a new religious movement. Parliamentary Assembly announced also the recommendations concerning the rights of churches and religious organisations which can obtain a juridical status in accordance to the fulfilled conditions of national laws. At the same time praying homes may exist where people can freely express their belief.

In 1953, European Convention on Human Rights came into power. It was signed by all the member states of European Council, among them also the states of EU. European Human Rights' Commission has a rather perfect Article 9 where the freedom of thought, conscience and religion is fixed. Freedom to change religion and attitudes, declare their religion in public or personally in practising belief is obvious. Freedom to declare the religion or attitudes can be limited by law, if it is necessary in a democratic society for the interests of its protection, public order, health of human beings and morality or to protect the rights and freedom of other person². Article 9 of European Human Rights' Commission protects religious freedom as an individual and collective right. International law documents approve and guarantee collective or community religious freedom: in teaching, practising, doing services, performing services during prayers. In order Church communities and religious communities could implement their activities; they have to function in nowadays law society as a legal subject³. Primary EU agreements and especially EU Constitution lacked it. So, the state has to guarantee a freedom of community religion that is the right to get a status of juridical person.

The 2nd paragraph of the 9th Article of European Human Rights Court explains that religious freedom in certain cases can be restricted. It is necessary in a democratic society for its security, public order, health and morality or for the protection of the rights and freedom of other persons⁴. In each case the law has to restrict the aim and the basis and it is valid for all communities. State institutions have to prove the necessity of such restricting measures that in certain circumstances democratic order is protected. The provided religious practices are necessary to be confined. The believers do not need to prove that their actions connected with religion do not raise any danger to public order. Article 14 forbids any forms of discrimination by consolidating the principle of equality which covers also the prohibition of discrimination on religious basis. These provisions of European Human Rights Court commit to obey to the obligatory requirements of a common character which are “neutral“ in religious altitude. So, the rules of the Council of Europe are definitely closer to the strategy of the Holy See.

² European convention on Human Rights. Strasbourg, Cedex. 1999. Article 9: „Everyone has the right of thought, conscience and religion; this right includes freedom to change one’s religion or belief and freedom, either in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance“.

³About the forms of expression of collective freedom and religion as the approval of a subject, ref. Religion in Lithuania, Gapšienė Ž. Religion in Lithuania. http://www.tm.lt/rel_static/rel_zinynas/knyga_valstybe.html

⁴ European convention on Human Rights. Strasbourg, Cedex. 1999. Article 9, 2: „Freedom to manifest one’s religion or beliefs is a subject only to such limitations as are foreseen by law and are necessary in a democratic society for the interest of public safety, for the protection of public order, health or morality, or for the protection of the rights and freedoms of others.“

The leaders of Christians reached the result that respect to human rights and freedom was included into the Maastricht Agreement in 1992. It united all three European Communities into European Union. EU member states took into consideration the 9th Article of European Human Rights Court. Though, nothing was mentioned about religious discrimination, no word was said about religion and Church. The leaders of the Holy See delegations wanted that Church life could be legitimated and defined. At a certain time the leaders of EU should not bend Church for political aims or restrict its influence in the society.

The See of Apostles influenced the 11th Article of Amsterdam Treaty in 1997 „discrimination concerning religion, believes, disabilities, age or sexual orientation is forbidden“. Already the words Church and religion as the subjects of EU law were mentioned separately. Declaration about the status of Church and non-religious organisations was added to Amsterdam Treaty. At last, this provision was fixed in Article I-52 of EU Constitution and is repeated in the Item 30 of the Article 2 of Lisboan Treaty: „1) the Union respects and does not violate the status of churches and religious associations or communities of member states determined in accordance to national law. [...] 3) In approving uniqueness and a concrete contribution of these churches and organisations, the Union supports an open, transparent, constant dialogue with them“⁵. Then, the French delegation asked to write “respected philosophical organisations” into the second paragraph. This was a strong expression of French secularisation.

The Council Directive 2000/78/EB of November 27, 2000 determining the general elements of the same attitude to occupation and professional sphere by forbidding discrimination fixes Article 11 of this declaration: „discrimination about religion or belief, disability, age or sexual orientation can be harmful to the implementation of aims of European Community, especially in achieving rather high employment and social protection level, to improve the level of living and life quality, to reach economical and social cohesion, unity and free movement of persons “6. No doubt, discrimination would offend not just a concrete person or their group but also would make obstacles in implementing the aims of EU Treaty, the growth of human economical and spiritual welfare. Article 12 of this Directive additionally determines the level of any discrimination: „Due to that any direct or indirect discrimination concerning religion or belief, disability, age or sexual orientation“⁷. These provisions of the declaration were supported by Austrians, Italian, Portuguese, Spanish delegations and the Conference of Catholic Bishops of Germany together with the Evangel Church. Though, one thing has to be noticed. In EU laws, agreements the same line implies religion or belief... and all of a sudden concerning „sexual orientation“. As if spiritual things of belief can be compared with sexual orientation. Similar was done by the officers of secret services of Soviet Union, e.g., not allowed things to be transported in the country: guns, ammunition; books against states, religious literature encouraging national hatred and pornographic publications... Religion had to be described in a separate line but not mix with sexual orientations.

In 2001, in Nice the Charter of the Main Rights was adopted not as a legal act but more as a declaration of political kind. The Courts of European Union are based on this Charter. The 1st part of Article 10 of European Charter of Main Rights states that „everybody has the right to the freedom of thought, conscience and religion. This right covers the freedom to change their own religion or belief, also the freedom to have own belief or religion for one person or for each person separately, publicly or separately by attending praying, by teaching the belief, by practising it or performing services“. A legal statement clearly proves the freedom of thought, conscience and religion, and also the refusal of belief or an equal right to change it. Such a statement, especially when other documents, ensuring the freedom of religion are added, suits well with democratic principles, a personal decision of a human being. Part 2 of Article 10 of the Charter concerning the military services provides the power to decide for national law: „the right to refuse the functions connected with inner belief is recognised in accordance to the national laws regulated by the implementation of this right“. In Lithuania the one attending the seminary or the one who already is a priest is indemnified from military services. The 21st Article of the Charter „any discrimination concerning human gender, race, skin colour, national or social origin, genetic features, religion or belief, political or other attitudes, national minorities, status of welfare, birth, disability, age. Sexual orientation is forbidden.“ Part 2 of Article 21 forbids discrimination concerning citizenship: „In the field of contract application without violation of certain provisions of it, any discrimination concerning the citizenship of a human being is prohibited“. EU citizen is a citizen of each member state. If he/she does not have a citizenship in EU state, automatically EU institutions cannot provide it to him. It is just the state where he resides. In EU territory nobody can be persecuted because of one's belief. The 22nd Article of the Charter expresses respect to the diversity of nations: „the Union respects the diversity of cultures, religions and languages“. EU Charter of the Main Rights does not separate any confession or religion, as the introduction of Nice document evaluated cultural, humanistic and spiritual heritage positively in common.

⁵The article of Lisboan Treaty about religion is included into the Treaty on EU actions redakcija// [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0047:0200:lt:PDF\(Ref. 07 09 2013\)](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0047:0200:lt:PDF(Ref. 07 09 2013))

⁶ Council Directive 2000/78/EC Directive of the Council 2000/78/EB of 27 November 2000. Art. 11. (Ref. 07 09 2013)

⁷ The same

Such legal statements about religion are democratic and acceptable to the Holy See, though some politicians in their interpretations try to find ways how to push away the word religion from the conscience of human beings, e.g., French and Englishmen in their translations use the word *spiritual* and explain it not in religious sense but as a spiritual heritage.

At last, Lisbon Treaty which came into power on December 1st, 2009, enabled EU leaders and the representatives of church came to a common position. The statement of the Conference of EU Bishops positively talks about the content of Article 17 of Lisbon Treaty: 1. § announces that EU respects the order and the national laws which describe the status of churches in each state of European Union. 2§ stresses that EU also respects the status which is provided to other world-view organisations by the laws of member-states. 3 § says that by approving the importance of Church and world-view organisations and a special contribution, European Union commits to keep an open, public and regular dialogue with them⁸.

The review of just several Treaties of EU Constitutions shows that religious freedom makes the EU constitutional tradition and at the same time it is a part of EU common law. These rights are directly perceived as a free practice of religion, a freedom to organise internal life, to perform services, to do educational activities, internal autonomy, provision of church duties in accordance to the rules of own community, freedom of cult, spreading of religious thoughts by means of communication, just in case when it is not against provisions of national constitution and the directives of EU agreements. EU legal acts respect the national identity of member-states.

EU citizens or religious communities have the right to apply to the court institutions of their states, if human rights are violated. If national courts cannot help to solve the problems, there is a possibility to apply to EU institutions, and especially the European Court of Human Rights (it is established not by EU but by EC) - to Strasbourg to protect civic rights.

3. THE MODELS OF RELATIONS BETWEEN A STATE AND CHURCH IN EUROPEAN UNION

A believer usually belongs to certain church or religious community. That's why the state has to regulate the rights and duties of such communities. The sphere of state law in Italy and Germany is considered an independent part of state law, while in France, Belgium and Great Britain it is not independent. Religious diversity and legal regulation of EU member-states, activities of religious communities show what a great influence Christian religion used to have in forming national identity. The constitutions of some EU states start with the name of God, by such a way, the necessity of God blessing in the life of a nation – the highest entity is confessed. How meaningful is the new Constitution of Hungary: „ God, bless Hungarians. We boast that our King St. Stephan built the state of Hungary one thousand years ago on a very firm basement and made our country a part of Christian Europe. We declare the role of Christianity in keeping up the statehood. We appreciate various religious traditions of our country. Hungary protects the institution of marriage as the union of a man and a woman, made by free decision, and a family as the basis of nation survival. Hungary encourages the commitments to have children“⁹.

History influenced the composition of church law: long years of cooperation and conflicts, times of crusade wars and even persecution of believers; culture, psychology of nations, traditions of countries. Though EU constitutional provisions pay little attention to this sphere of law but it is an inseparable part of legal system of EU member-states. In the context of church and state relations, each EU state determines the relations of churches and states in their national law¹⁰. Today, three state and church community relations exist but we shall name five known in the doctrine: states with state religion belong to the first group. The dictatorship of religious leaders exists in these states. The best example for that is Islamic Republic of Iran managed by the Shias priest. The laws of Sharia function there. The second group is connected with anti-Church or atheistic states. Such were the Soviet Union, Albania, and is North Korea, partially Vietnam and China.

A) **The model of “State Shurch”** with Greece, the United Kingdom, Finland and Denmark. The 4th Article of Danish Constitution states: „ Lutheran Evangelic Church is a national church of Denmark“. Secularisation is also influencing a Danish nation. Today, 23 ministers out 16 from Central Left National Government belong to Danish Church, the so

⁸ Ref. EU Bishops: the Treaty of Lisbon opens the road for cooperation //www.bernardinai.lt/...es-vyskupu...lisabonos.../3632... (Ref. 07 09 2013)

⁹ <http://dievogarba.wordpress.com/2012/01/03/kuo-baisi-vengrijos-konstitucija/> (Ref. 07 09 2013)

¹⁰ Gapšienė Ž. Ibidem. „ The decision of EU not to interfere into legal provisions of EU member-states in relations with religious communities and communities. There are no attempts to create any unified system of religious freedom, which could influence the losing of identity of member-states“.

called *Folkekirke*. Earlier, all members of Central Left Cabinet used to belong to it¹¹. Other confessions and religious communities which are protected by Article 67 of the constitution also exist in Denmark. This article provides each citizen the freedom of religion, the possibility to be a member of different communities and believe in God in one's own way. Only Danish Lutheran Evangelic Church gets financial support from the state. The support is composed from the fee of Church members and state payments.

B)The model of State and Church mutual cooperation where the separation of churches is partial. This style was implemented by Portugal, Spain, Italy, Belgium, Austria, Germany, and Lithuania. In the year of 2000 church was separated from state in Sweden by moving to a mutual close cooperation level. When state, church and religious communities cooperate in healthy way, they strengthen the society itself. This is the situation of Church in Belgium where the relations were determined by a „compromise“ Constitution adopted between Catholics and Liberals in 1831. It guarantees the freedom of religion. Even 4 articles of the Constitution define the status of all the confessions in the state: Catholic, Protestants, Jews, and Anglican, Islamic, Greek Orthodox. Belgian law theoretically approves the equality of all religious confessions. Though different confessions received juridical approval by the law taking into consideration the social contribution of each confession⁹. In Belgium the priests doing a pastoral work get the salary from the state. The National Government supports financially the priests to renovate the buildings of cult. Approved confessions have a free entrance to the means of communications, appoint the chaplains in the military services, imprisonment institutions and they receive salaries from the budget.

Spain used to be a very Catholic country till 1978. Though Catholic religion at present does not have official status, for a long time it is already the main national religion There used to be the system of mutual support between the state and Church. This system was replaced by 4 Constitutional principles: a) freedom of religion – it is the commitment of state in guaranteeing the freedom of religion to the citizens or not, also providing the same conditions to functioning religious communities. The task of the Constitutional Court in analysing the arising legal disputes of religious sphere b) equality means that religious and non-religious belief are equal and cannot be discriminated due to the world attitudes. All religious organisations are equal against the law. Persons are not committed to confess about their religious belief. This cannot be asked by any state institution. c) the neutrality of the state is understood as there is no official religion and at the same time, the state institutions cannot consider the doctrines of church communities, except social results of religious groups in the society or its activities d) cooperation – it is the trial of the state to have a strict separation like in France and USA, to cooperate with Catholic Church and other confessions.

Though, Article 16 of Spanish Constitution mentions cooperation with Catholic Church specifically as the society is mainly Catholic. In order to keep this balance the politicians calmed down by this Catholic phrase by fixing cultural Catholic heritage. It is important to notice that Spanish Communist Party used to be anti-Clerical till 1978. Though, in this case they voted for cooperation with Catholic Church. In 1980 the law of religious freedom developed the principle of religious freedom by naming two specific ways of cooperation. Article 8 of the law establishes the Commission of Advisors on the questions of religious freedom. The Advisory Governmental Institution is comprised of the National Government, the most influential religious communities and experts. The other way of cooperation in accordance to Article 7 is giving the right to the most influential religious communities to negotiate with the National Government concerning the making of a formal, separate agreement. Such exceptionally two-sided cooperation agreement with Catholic Church was made in 1980¹². The conclusion is very important: Spain became a democratic state from a confessional one. It respects the communities of all religious attitudes and especially cooperates with Catholic Church. Though, it is noticed that in Spain youth is moving away from Church while the elder generation of the society is bending towards religion despite of the fact that the laws are democratic. True, here it is hard to rely on objectiveness of this sociological research but it is felt that youth is less bending towards religion¹³.

¹¹ Ref. Danish recede from their Church, ELTA and the daily “ Lietuvos Rytas ” : www.lrytas.lt/-13280178951326288031-danai-tolsta-nuo-savo-baznycio. (Ref. 07 092013)

¹² Thoughts about the relations of Church with the state in Spain are take from the lecture of the professor Javier Martinez-Torron , Comptense University, Law Faculty, conference *RELIGION AND LAW IN CIVIC SOCIETY* 7-8 12 2000 in Vilnius, the Ministry of Justice. http://www.tm.lt/rel_static/konf_medziaga/index.html. The topic on religion from the Internet site of the Ministry of Justice.

¹³ More than half of youngsters from Spain reject religion ELTA// <http://petras.blogas.lt/daugiau-kaip-puse-ispnijos-januoliu-salinasi-religijos-291.html>: „Spanish rely least on Catholic Church from all the institutions, much more less than multinational institutions or NATO, which was described as a very rich one by one eighth of the respondents. Though, 43% still want to get married in Church comparing with 22 % of those choosing civil marriage. Ref. *Religione e Comunità Spagna*: www.spagna.it/cultura-societa/religione-comunita: Approximately 76 % of population consider themselves Christians, 4 % are the members of other religions and 19 % do not believe in anything. 54 % of Spanish believers go to Church seldom or never, 15 % visit Church several times a year, 10 % – several times per month and 19 % – every Sunday or several times per week. Generally, 22 % of the whole population of Spain visit Church once per month. Though, the Spanish community in recent decades became less religious, strong believers- the immigrants from Latin America helped the Catholic Church to rebirth.

Till the middle of the XXth century approximately 98 % of Swedish residents belonged to Lutheran Church. Lately, already 84 % belong to the national church. It is hard to tell how much secularisation or emigration influenced this decrease where other confessions and religions prevail. Up till 1994 a religious dependency of a newly born child was mainly decided by the principle: if at least one of parents is a Lutheran, the newly born child has to be baptised in Lutheran Church. The proposed reforms of the Government which started in 1979 were stopped due to these reasons: a) most of the people were afraid that Church, being independent, will reject the reform of 1959 which allows women to become priests. b) the second, the parish will lose the possibility to manage its own cemetery c) The third, management of register as the functions of civil registering was performed by the Vicar of the Parish. Parliamentary commission proposed to change the order radically that public servants could perform all functions of civil registering. d). the fourth problem, it is purely of legal status and it is connected with the state and church relations. This reform aimed at the independence of Church by providing democratic central authority structure and the power to influence state laws. The reform was started in 1984. The authorities of Church enlarged the number of delegates of General Synod from 96 to 251 that each parish could be represented but not through direct elections. The new General Synod elected the Central Council, a purely new institution approving Church decisions. Concerning the taxes each believer states in written that the payment of a Church member will be deducted together with other payments. Since January 1, 2001 a lot of members of Swedish free Churches can also support their chosen Church by the state tax system. Swedish Church has protected all its property. By the decision of the Committee of the Parliament, the state donates financial means for the parishes which have difficulties in keeping up their architectural monuments. The changes in the Constitution and both new laws influenced the amendments of 1200 paragraphs in national legal acts. In 1994, under the proposition of Church, the Parliament decided that the Swedish citizens will not be the members of Swedish Church since birth as membership is acquired by the act of baptising in Sweden. Under the request of parents a child is considered the member of Swedish Church but when a person is 18, the one consults with the priest and tells him if he wants to be the member of Church despite of the fact he is baptised. At last, after a long discussion the Parliament provided the Swedish Church with independent status from the Central and local authorities. Parishes, charity organisations and other religious organisations had to remain juridical persons but lost a status of local authorities and the right to impose taxes on the parish members. A new Church situation in Sweden was approved by a constitutional act and a special act of Swedish Church. A new legal form was established- „denomination“ registered. Other denominations can also apply the same method of tax collection. Though each church has the right to foresee the tax, e.g. the members of the churches of Methodists and the Sandor Mission are proposed to pay one per cent from the taxed income. In such a way, 30% of the collected money is provided to the central administration of church and 70 % to local congregation. Other denominations can choose different models of distribution in percentage. So, since the year of 2000 Swedish Church is managed not by the Parliament but parishes themselves through their representatives elected in a direct way in all management institutions, also in the General Synod¹⁴.

Article 40 of the Estonian Constitution states that, „Everyone has the freedom of conscience, religion and thought. Everyone can freely choose a church or religious communities. There is no state church. Everyone has the freedom to practice own religion alone or in a community with others, privately or in public, if it does not interfere with public order, health and morality “. Mr. Ringo Ringvee, the Expert of the Department of Religious Affairs of the Ministry of Interior of the Republic of Estonia states: „, this does not mean separation of Church from the state strictly. From the perspective of the state, there are many fields where religious communities can and have to cooperate with the state. This means that religious organisations can get financial support from the state for the activities aimed and helping the whole society and not just the members of certain religious community, e.g. the establishment of hospitals, rehabilitation centres“¹⁵. There is no practice in Estonia to divide religious communities into traditional and non-traditional ones. All communities, despite the numbers of members they have, are equal to law. The Law of Churches and Congregations of Estonia indicates the statement „less control, more trust“. The Department of Religious Affairs cannot interfere with the activities of religious communities till it does not violate the law. The duty of the Department is to solve conflicts, taking place among religious communities and the institutions of civil authorities. The Department observes the religious life in Estonia.

Dr. Ringolds Balomis, the Governor of the Board of Religious Affairs of the Republic of Latvia describes religious situation in the state in the following way. Latvia is a many-confessional country. The largest denomination is Lutherans, Catholics and Orthodoxies. The largest community of Old Believers in the world is in Latvia and the majority of Russian speaking population belong to Orthodox Church. In total there are about 170 different religious groups in Latvia. Formally, Latvia belongs to the model of state and church cooperation. Article 99 of Latvian Constitution informs about the separation of state from church. Three main features of separation are: state institutions do

¹⁴ About the situation in Sweden, *Religion and Law in a Civic Society* Ibidem. The heading of religion on the web site of the Ministry of Justice. Urban Gibson. Transformation of relations of Church and State in Sweden. (01 25 2013) The report is provided by Urban Gibson who is the member of the Council of Experts of Religion and Freedom of Belief of European Security and Cooperation Organisation of Democratic Institutions and Human Rights Bureau .

¹⁵ Ibidem. The heading of religion on the web site of the Ministry of Justice. Mr. Ringo Ringvee. The relations of Church and the State in Estonia. (Ref. 01 25 2013)

not have the right to control the relations of inhabitants with religion and to register the religious dependency of inhabitants; the National Government does not interfere with the internal life of Church and religious organisations, if the latter do not violate the laws; Church cannot interfere with the matters of the state and the National Government has the right to protect legal actions of Church. In Latvia, in the practice of public administration, the Confession Council of Traditional Religious Organisations functions by the Ministry of Justice. It is formed by the Minister of Justice and the members are appointed by the National Government. The National Government gives the right to register marriages only to certain religious communities the priests of which can perform the functions of civil servants. Employers cannot discriminate employees due to religion. Some misunderstandings occur at schools because due to teaching of religion as the state pays salaries to teachers. Then the critics propose to introduce also the lessons of Ethics or the History of Religions. Lawyers would like to re-establish such a legal regulation of religious communities as it used to be up to 1940¹⁶.

Lithuania is a legal state and its laws respect the freedom of conscience, religious freedom and approve the freedom of self-control of Church. Religious freedom is mostly perceived when the citizens have the possibility not only to take part in cult ceremonies but also educate children in accordance to the belief, to express religious attitudes in the society and be free from persecution. Freedom of Church exists when each confession does the things in accordance to their right without any violation of the state laws, e.g., Bishops have a seminarian, if they have a wish, they can publish a newspaper, when there is a need, and they go to Rome to report the Pope. 26 Article of the Constitution of Lithuania fixes the implementation of freedom of human belief and express the principle provision of the state towards religious communities. This article adds to the 43rd Article of the Constitution which guarantees the freedom of conscience when a citizen can freely choose and form own belief, what kind of religion to practice? The Constitution proves that each person and especially the civil servant of the state have to respect all human rights, religious rights as well. The main provisions of the 43rd Article of the Constitution are as follows:

1. The state acclaims traditional Churches in Lithuania and religious organisations, other Churches and religious organisations are accepted as well, if they have support in the society and their teachings, ceremonies are not against the law and honour.

The 5th Article of the Law on the Religious Communities says: „The state acclaims nine traditional, historical, spiritual and social heritage religious communities of Lithuania: Catholic with Latin ceremony, Evangelist Lutheran, Evangelist Reformats, Orthodox (Eastern Orthodox Church), Old Believers, Judaism, Muslims, Sunnites and Karaites.“

2. The Churches approved by the state and other religious organisations have the rights of juridical person.

3. Churches and religious organisations freely announce their studies, performs services, have praying homes, charity organisations and schools where priests are educated.

4. Churches and religious organisations have a free inner management in accordance to their canons and statutes.

5. The status of churches and other religious organisations is determined by an agreement or law.

6. Declaration of studies of churches and other religious organisations, other religious activity, also praying homes cannot be used for the purposes which are against the Constitution and laws.

7. There is no state religion in Lithuania¹⁷. So, none of the confessions have exceptional rights but the Catholic Church, being a prevailing one, cooperates more with governmental institutions. Lithuania is in the middle concerning the cooperation model. Lithuania accepts religion as an important public phenomenon but leaves it in private sphere. After regaining the independence, since 1990 Lithuania has adopted various legal acts regulating the activities of Churches and other religious communities in the frames of a legal state. The Law on Religious Communities and associations was adopted on 04 10 1995, Nr. I-1057. The Agreement of the Holy See and the Republic of Lithuania concerning the relations between Catholic Church and the legal aspects of the state was signed on 05 05 2000. So, a sustainable cooperation model of Church and the state was valid in Lithuania.

A different scale of cooperation of state with various religious communities does not violate ECHR. Especially in case, when cooperation or support differences are legally properly proved, based on the whole history and traditions and when by proper means generous aims are achieved. In some states a certain confessional majority prevail. First of all, a legal status of church of the majority of inhabitants or the relations between state and church in each country depend upon the existing social and cultural conditions. So, special privileges, exclusive right which many of churches have in many European countries are coordinated with ECHR and the Court of Human Rights approves it.

C) Separation of Churches from a State. It is a strict division between a state and the believers. These are such states as France, the Netherlands, and USA. Historical development of Church was extremely hard in France. On December 9th, 1905 a law was issued which separated the Church from the state. The state recognised the freedom of cult and abolished „the acknowledged confessions“. None of a church was given the status of juridical priority. The principles of this law were included into the nowadays Constitution of France: a free performance of cult, recognition of freedom of

¹⁶ About the situation in Latvia. *Religion and Law in a civic society*. Ibidem. The heading of religion on the web site of the Ministry of Justice. Mr. Ringolds Balomis. The relations of Church and the State in Latvia. (Ref. 01 25 2013)

¹⁷ Ref. About the 43rd analysis of the Constitution of the Republic of Lithuania, <http://tm.infolex.lt/religija/1.htm> (Ref. 09 10 2013)

conscience and the right to religious education in accordance to one's belief. The freedom of religious teaching was recognised as the Constitutional principle even for two times. In 11 23 1977 and 01 18 1985 the Constitutional Court of France decided that the right to get the education of one's religion is one of the essential principles acknowledged by the laws of the Republic. In the XIXth century the freedom of teaching was regulated by different laws prepared in accordance to the political peculiarities of that time between the Church and the state: allocation of finances to different private schools, the level of education. Today, about 16 % of students go to private schools, out of them 90% are Catholic, and others- Protestant or Jewish. The studies of private confessional schools are integrated into the national system of education of France¹⁸. Such state model might partially be influenced by a great percentage of unbelievers among the inhabitants. By all means, they want that religion would not exist in the society¹⁹.

Though, the National Government of France has approved Article 51 of the Treaty where the status of Church and religious organisations is discussed. Up till now there was no such equivalent neither in French nor EU law²⁰. The Constitutional Court of France has approved the prohibition of marriage of gays by acknowledging that this does not violate the Constitution of France²¹.

Despite of the system of state relations, the Constitutional regulations of EU concerning religions and belief are favourable to Church. State and church act on mutually independent ways and face the principle of Church and state separation. All confessions and religious communities use the same rights but the difference between acknowledged and non-acknowledged confessions

exists. Catholic Church use the primary right where the majority of inhabitants are Catholics. EU law has formed a common European state and Church cooperation style. Secularisation process has changed Church and State relations step by step. When the influence of religion decreased in a society, Church autonomy has been limited in different sectors. Despite of appearing differences in EU states, all their legal systems have more similarities. Slowly, anti-Church attitudes lost their opposition by providing more freedom and possibilities to act to religious communities. Religion became an important element of social life in a modern society. Despite of sometimes more strict separation of religious communities from the state, secularisation was not able to cover the features of religious life. Though a French model of a more strict separation has more secularism, it also has such positive peculiarities as the respect to the concept of a family. The most respectful attitude towards religion and philosophical trends, tolerance to the representatives of different confessions and religions, equal treatment of various religious communities by law, taking into consideration also the respect to a human being, prevails in EU societies. (In broadcasting a religious show on TV, it is not allowed to have an advertising break in half an hour; it is forbidden to insult the feelings of believers in advertisements).

Conclusions. From the analysis of the sufficiently provided facts, agreements and laws, the conclusions can be made in the following thoughts. Despite the system of relations of the state, EU constitutional attitudes towards religions and belief are favourable to Church. A state and Church both function independently. They have a feature of being separated. All confessions and religious communities use the same rights but there is a difference between accepted and non-accepted confessions. Catholic Church use the primary right in the place where most of inhabitants are Catholics. EU law has formed a common European cooperation style of a state and Church. After long discussions between the Holy See and EU leaders, the struggle of French and Dutch nations against EU Constitution, the present Lisbon Treaty, which came into power in 2009, is much more favourable towards religious communities, more open to Christian culture and the dialogue between a state and Church. The relations of states and religious communities became similar to the so called European style, which does not attempt to overwhelm its model to the other state.

¹⁸ About the situation of church in France, Leziroli G. *Relazioni fra Chiesa cattolica e potere politico*. Torino. 1998. P. 253-254.

¹⁹ Ref. [Statistiche: Religioni e ateismo nel mondo III - Uaar](http://www.uaar.it/ateismo/statistiche/religioni_nel_mondo_ii/) www.uaar.it/ateismo/statistiche/religioni_nel_mondo_ii/ and Ref. [L'anima della religione? La concorrenza...- Cesnur](http://www.cesnur.org/2003/mi_stark8.htm) www.cesnur.org/2003/mi_stark8.htm (Ref. 01 08 2013): 51 % of the inhabitants in France are Catholics, 31 % – agnostics or atheists, 10 % – representatives of other religions, 4 % – Muslims, 3 % – Orthodox, 1 % – Buddhist believers, 1 % – Jewish. 34 % of the inhabitants in France believe that „the God exists“, 27 % „believe that there is some spirit or spiritual energy“ and 33 % „do not believe in any Gods, spirits or spiritual energies“. In accordance to that data, France is one of less religious EU countries and has the largest percentage of non-believers in any Gods... energies.

²⁰ About the attitude of French, LVKS information. European Bishops: Christianity – a force of European unity. 11 06 2002. //lvk.lcn.it/nauijenos/,34. (Ref. 01 08 2013)

²¹ <http://www.bernardinai.it/straipsnis/01-28-2011prancuzijos-konstitucinis-teismas-patvirtino-geju-santuoku-draudima/56995/comments> (Ref. 01 08 2013)

Secularisation process has changed the relations of Church and State step by step. When the influence of religion is becoming weaker in a society, the autonomy of Church is limited in different sectors. Despite of appearing differences in EU states, all their legal systems have more similarities. Slowly, the anti-Church attitudes lost their antagonism, by providing more freedom and possibilities for activities. In a modern state, religion became an important element of social life. Despite of sometimes more strict separation of religious communities from state, secularisation was not able to overwhelm the features of religious life. Though a French more strict separation model has much of secularisation but it also possesses positive peculiarities as the respect of a family concept. Mostly respectful attitude towards certain religion or philosophical dimensions, tolerance to the representatives of all confessions or religions, equal law attitude towards different religious communities taking into consideration also personal respect is prevailing in EU societies.

EU is established on the will of free nations and people. EU will be so strong and unified, as EU leaders will be able to cherish national identity of continent nations and the freedoms of religious consciousness and belief. EU commitment to respect national diversity and identity which is most often depicted by religion is described by laws. „In present process of transformation Europe, first of all, is invited to find its real national identity a new. Though being very diverse, Europe has to build a new model of identity in a diverse space. It would be a community of peaceful nations open to other continents and involved into nowadays processes of globalisation“²². Church and religious communities brought a great input in establishing EU. They have a proved moral right to cherish their traditions and belief freely. EU societies have to reach not just material values but, first of all, people should feel a common culture, typical to EU – a Christian one. EU forms a free and democratic society where all Christian confessions and the believers of all religions would be respected. Any form of discrimination due to religious belief is strictly forbidden. Still, sometimes happens in practice that it is forbidden to wear religious Christian sign in public. That is already violation of human dignity and is against the freedom of religious belief. This does not go together with the principles of democracy. People who are coming from other states to EU and are welcomed in a hospitable way also have to behave in a tolerant way and feel respect to the Christian values and traditions cherished here for thousands of years. Nobody has the right to violate Islamic culture and accept anti-Islamic laws in such cultural space. Those coming to EU for living have to obey our laws. It is not possible to compare Christians with the religions which have only small part of their representatives in EU territory. Besides, they did not take part in the whole process of European history.

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