religions

MDPI

Article

State and Church Relationships under the European Convention on Human Rights: A Value Framework for State Action

Moncef Chaibi

Centro Antonio Papisca for Human Rights, University of Padua, Via Martiri della Libertà, 2, 35137 Padova, PD, Italy; moncef.chaibi@studenti.unipd.it

Abstract: As they impact the condition of religious groups, and in fine that of the very individuals composing them, state-church relationships are an important dimension of religious freedom. The way states interact with religious groups, communities, and associations has a decisive impact on the religious condition of their members, in their effort to develop their religious beliefs or practices. Therefore, the purpose of this article is to explore the European Court of Human Rights' regulation of state-church relationships. The research focuses on ECtHR's judgments issued on article 9, either autonomously or in connection with article 11 of the European Convention on Human Rights. It also considers cases adjudicated upon article 2 of Protocol I to the Convention. For optimal consistency with Europe's social evolution, however, special attention was given to those cases issued from early 2011. The article argues that behind the margin of appreciation granted for states to enact any system they see fit, the Court puts forward limits they cannot trespass. Indeed, the systems adopted have to abide by the values underlying the Convention as a whole. The article argues said values materialize a global framework that unifies states into one European global approach, thus giving a further illustration of the oligopolistic Pluralism that the Court develops in its regulation of individual religious freedom.

Keywords: ECtHR; state and church relationships; European values; European model; European convention on human rights; religious minorities; religious communities; religious freedom

Citation: Chaibi, Moncef. 2022. State and Church Relationships under the European Convention on Human Rights: A Value Framework for State Action. *Religions* 13: 797. https://doi.org/10.3390/rel13090797

Academic Editors: Giuseppe Giordan and Enzo Pace

Received: 8 May 2022
Accepted: 24 August 2022
Published: 29 August 2022

1. Introduction

Throughout European civilisation, states and churches have always enjoyed a dynamic relationship characterised by mutual influence and conflicts.[1] Being the institutional incarnations of the Temporal and Spiritual orders in society, their constant frictions within domestic realms have constantly been evolving and formalizing, moving from formal or informal Protocols to legal procedures enshrined into positive law.

With the evolution of European societies and that of religion as a social fact within the latter, states were progressively enacting specific legal regulations impacting the religious dimension of individuals and groups. The religious freedom guarantees thus provided to individuals, along with those granted to religious groups and communities, and their underlying principles, eventually formed what is referred to as the 'state and church relationships model'. Said in other words, church-state relationships, as they exist today, consist of a set of rules and procedures that a state adopts, at a given time, to manage its internal religious affairs. Rules and procedures enshrined into its positive law, with view to regulating religion, individual religious freedom, and the interactions between state authorities and religious groups and communities.

Regardless of the religion in question, the communities concerned, the nature of the advantages granted to the latter or the type of procedures for them to follow when interacting with domestic authorities, every European state provided for a set of legal principles meant at regulating religion in the society under its jurisdiction. That is why

state and church relationships models, throughout Europe, differ widely in their conception and structural principles. Indeed, in present times, within Europe, there are diverging approaches to the regulation of religious freedom. These divergences result in divergent dynamic interactions between the state and churches.

Depending on their conceptual premises, state treatment of religions can vary on various grounds. They can tend to favor the majority religion or traditional religions; they can amount to disfavoring religious minorities or ignoring what they might conceive as historically alien religions, etc. Consequently, the treatment of religion is constantly subject to questioning and critique, and even litigation. In fact, many state-church relationships systems around Europe have been brought to the attention of the courts, for their impact on the religious rights of individuals and religious communities. Some of the cases thus brought to courts ultimately reached the European Court of Human Rights (the Court/ECtHR), which had to settle the litigation.

The object of this article is to explore how the ECtHR construes state and church relationships. It intends to explore what state-church relationships system emanates from the Court's jurisprudence, what the Court requires from states in matters of state and church relationships. The European Convention on Human Rights (Convention/ECHR) does not make any reference regarding how states must accommodate, handle, or deal with religions and religious communities. As a general human rights treaty, it only states the rights of individuals in relation to the state. Therefore, individuals question domestic state-church relationship systems only when the latter impact their rights. Accordingly, the article focuses exclusively on the Court's case-law; any elaboration on domestic systems, their regulations and evolution would exceed the scope of the article.

On several occasions, the Court examined individual complaints questioning the system of state and church relationships adopted by states. In these cases, applicants argued that state measures, taken in application of the domestic system, resulted in treatments breaching their Convention rights. Consequently, the Court examined procedures, advantages and privileges provided by state-church relationships systems at multiple times. In some cases, it even confronted the very conceptual foundations underlying a system, consequently ruling upon the conformity of the latter as a whole to the European Convention on Human Rights.

The variety of cases thus brought before the Court along the years has allowed the latter to build a substantial, complex and nuanced edifice, touching upon various aspects of state and church relationships.[2] A state of fact that leads the Court to lay its proper legal regime on religious freedom and state-church relationships. Yet, despite the number of judgments, academic literature on the subject still seems to be lacking.

More specifically, studies on the European regulation of state-church relationships focus mainly on the *de facto* impossibility for the Court to enact any system of its own, mainly explaining and detailing its resort to the margin of appreciation doctrine.[3] In doing so, the academic literature does not sufficiently explore the limits set, by the Court, to said regulations. That is, it does not dwell on the limits of the margin of appreciation and its contours. It does not explore the contours of the Court's control, nor the global model that stems from its regulations. More precisely, when assessing a state restriction measure, the Court examines the latter's conformity to the limitation clause contained in the second paragraph of article 9. The grounds provided by this limitation clause, such as public order and the rights and freedoms of others for example, remain quite broad (Chaibi 2022, p. 14; Pinto 2020, pp. 111–16). The Court did not specify their content or their meaning.[4] Such absence blurs the lines of assessment in relation to the proportionality of the limitation measures, and their necessity in a democratic society.

Hence, the academic literature does not seem to dwell on the content of the limitation clause in cases concerning state and church relationships. Few studies endeavor to systemize the application of this clause by the Court. Few studies dwell on the model of secularism developed by the Court and its—emerging—standards (Temperman 2010, 382p; Calo 2010–2011, pp. 261–80; Morini 2010; Evans and Thomas 2006, pp. 699–726; Brubaker 2016;

Medda-Windischer 2017, pp. 216–31; Ringelheim 2017, pp. 24–47). Rather, the academic literature seems to focus on the impact of case-law on individuals, on the resulting magnitude of individual religious freedom, on the consequent—sometimes potential—contradictions with other articles of the Convention, or on the viewpoint taken by the Court when assessing cases.

Consequently, this article intends to contribute to exploring what system of state and church relationships emanates from the Court's jurisprudence. The object of this study is to explore what system the Court puts forward, in its judgments, regarding state and church relationships. Parting from the limits by which the Court circumscribes states' national margin of appreciation, it explores how the Court intends its member-states to act in the matter. Consequently, it emerges with the Court's proper regulations on state and church relationships, the principles on which said regulations rely, and attempts at systematizing the whole approach into one global framework. The article argues that the Court requires states to abide by a certain set of values when interacting with religions, regardless of what system they choose to enact. In this effort, as the article will conclude, it seeks to unify European states into a common approach to religion, that ultimately materializes what religious Market Economy theories term as a religious oligopoly.

Indeed, as stemming from the Court's case-law, European regulation of state and church relationships seems to follow one objective: to set a large field within which diverse systems can exist, be enacted and developed. The 'field' set being a field, however, it is surrounded by limits not to overpass. In legal words, if the Court leaves the issue for states to settle individually, via their margin of appreciation, it nevertheless draws limits for them not to overstep, in order to remain in line with the Convention. After all, were the margin of appreciation to encompass all state actions and regulations in the matter, there would not be any violation at all. As the following sections will demonstrate, dwelling on these limits shows the Court follows a specific rationale when ruling upon systems regulating state and church relationships. In the final sections, the article argues the Court, in doing so, acts as guarantor of a European order governed by the European Convention on Human Rights.

More precisely, the methodology followed in this contribution consists of a chronological reading of the Court's judgments issued ever since the incipient beginnings of its religious jurisprudence—the 1990s. The judgments considered were issued on the two main provisions regulating religious freedom. That is, on the one hand, article 9 of the Convention, both autonomously and, when domestic systems allow, in connection with article 11. On the other hand, article 2 of Protocol I, which brings forth key issues relating to the development of state and church relationships in public schools. A chronological reading of these judgments draws a precise image of the Court's regulation of state and church relationships. It precisely shows the Court's expectations and sketches the evolution of its position along the years. It reveals the Court's rationale and its evolution in time, thus providing a better understanding of its use of the margin of appreciation doctrine, and the scope it endows the latter with.

That being said, it must be added that Court's cases relating to church and state relationships do not put in question the systems as such. That is, litigants do not bring forth a 'system' for the Court to examine, since the latter are the realm of states' margin of appreciation. Rather, applicants tend to bring into litigation some features of said systems. They bring, for the attention of the Court, measures that were opposed to the applicants. These measures being applications of a particular system, they ultimately amount to questioning the system as a whole. Following this, Court's key judgments and cases will be exposed in order to make the article's findings explicit.

Indeed, as these examples will demonstrate, the Court leaves the modalities of interaction between states and religions for domestic decision makers to establish, provided they be enacted in execution of a specific set of social values. In other words, for states to abide by the Convention, the regulations they freely enact (2) must not exceed the Convention's framework, which is made of a precise set of social values (3). Through this approach,

the Court tends to include its member-states into a global construct, a European block, following European traditions of interaction between states and churches.[5]

2. Inclusion of Diverse European Traditions

Religion is quite a specific social force. In fact, it is arguably one of the most powerful social forces. Reduced to its most essential substance, Religion is a set of ideas—whose specificity is to deliver truths upon such concepts as Life, Death, and '*another-world (behind, below, above)*' (Nietzsche 1974, para. 151, p. 196), which gives meaning to the material world.

In addition, distinct from any other corpus of meaning of a same or similar nature, one of the core distinctive features of religions is their institutionalization and incorporation into secular society. For they seek to teach complex doctrines to all members of a society and accompany them throughout their existence, religions tend to manifest through statutory authorities, communities, churches, temples or leading scholars in order to supply believers with the necessary services.

Henceforth, throughout history, religions have had to adapt and deal with established centers of power, ranging from public institutions and governing entities to popular ideas and ideologies. In other words, religions have constantly had to deal with both a socio-cultural configuration on the one hand, with its practices and ways of thinking, and power holders on the other hand, which can considerably affect religions' development within society.

It seems indeed the fate of religions to undergo this dual process, caught between the dynamics of state regulation and those of social recognition. These dynamics, which are proper to each society, ultimately settle the fate of a religion in therein. They are the terms upon which a religion negotiates its presence therein.

More precisely, the historical trajectory of societies, the importance of religion within societies, the influence of ecclesiastical figures upon states or governing authorities and the modalities organizing the corresponding interactions, the progressive rationalization and formalization of these interactions and the ways taken by one or the other authority to dominate their counterpart; all these factors intervened directly in the gradual formalizing process that culminated in modern church-state relationships. Being multi-dimensional historical constructs, the process underlying their emergence and development appears to be a decisive factor explaining their present heterogeneity.[6]

Court's judgments show explicit acknowledgement of these dynamics and their complexity. In various cases, the Court found that 'any such scheme [of state and church relationships] normally belongs to the historical-constitutional traditions of those countries which operate it, and a State-Church system may be considered compatible with Article 9 of the Convention in particular if it is part of a situation pre-dating the Contracting State's ratification of the Convention'.[7] That is, article 9 does not require member-states to create any particular legal framework, nor does it mandate states to endow religious communities with a special status or specific privileges.[8] Rather, states enjoy 'a margin of appreciation in choosing the forms of cooperation with the various religious communities'.[9]

As an example, in *Wasmuth v. Germany*, the applicant requested the municipality to issue him a new taxation card, one that would not mention his religious affiliation.[10] The municipality refused his request,[11] for such an information aimed at preventing him from being subject to the Church tax.[12] When assessing the case, the Court did not dwell on the possibility for churches to raise taxes via the state, or on the correct modality for states to finance churches, or whether state financing was in line with state neutrality on religious matters. Instead, it found the measure in conformity with article 9 requirements, 'given the margin of appreciation granted to states concerning relationships between state and religions in the absence of common regulations in matters of financing Churches and religions'[13] [unofficial translation]. Then it added: 'these matters [are] closely linked to the History and traditions of each country'[14] [unofficial translation].

In *Sindicatul 'Pãstorul Cel Bun' v. Rumania*, 32 Orthodox priests, joined with lay employees of the same archdiocese, had formed a trade union in order to assist clergy members and lay workers in their interactions with Church's hierarchy and the Ministry of Religious Affairs.[15] The creation of the trade union was challenged by the Archdiocese before the courts, which argued that issues involving clergy and lay people working for the Church were exclusive jurisdiction of the Church.[16] Thus, the Court was facing a complex case where autonomy of religious communities was in conflict with the right of individuals to freedom of assembly through trade unions.

Consequently, the Court proceeded first with acknowledging the wide variety of constitutional models governing the relations between States and religious denominations in Europe.[17] Then it stated that, '[h]aving regard to the lack of a European consensus on this matter (. . .), it consider[ed] that the State enjoys a wider margin of appreciation in this sphere, encompassing the right to decide whether or not to recognise trade unions that operate within religious communities and pursue aims that might hinder the exercise of such communities'autonomy'.[18]

Lastly, the said margin of appreciation extends even to public education, when curricula provide for teachings on religion. When assessing this issue, the Court indeed 'bears in mind that the States enjoy a considerable margin of appreciation concerning matters relating to the relationship between the State and religions and the significance to be attached to religion in society, particularly where these matters arise in the sphere of teaching and State education'.[19] Consequently, it declared that providing religious education was in line with the Convention—provided there be exemption procedures.[20]

As case-law indicates, the Court is not willing to enact any one system regulating state and Church relationships for all its member-states. It leaves them free to construct any system they see fit according to their historical dynamics. In other words, the Court's approach in this matter seems to be that of accompanying states in their evolution, starting from their proper regulations, rather than controlling their fate by imposing any one single conception for all of them. Similarly to individual religious freedom, the Court's choice is to enact a common regulation only when member-states share a common vision, a common approach, or similar sets of regulations.[21] It can even take into account the common values stemming from their practice for that purpose.[22] When such commonalities do not appear, however, the Court leaves each state to act individually, and independently of every other.

This being said, such liberty remains enshrined into certain limits. Indeed, the Court also 'emphasises (. . .) that the reference to a tradition cannot relieve a Contracting State of its obligation to respect the rights and freedoms enshrined in the Convention and its Protocols'.[23] Hence, the Court controls that, even when acting within their margin of appreciation, states do not hamper the basic principles on which the Convention rests. As with individual behavior and the exercise of religious freedom (Chaibi 2022, pp. 25–33), it is through these principles that the Court proceeds to unifying and integrating European states into one global space of shared practices.

3. Unification of Diverse European Traditions

In order to ensure states domestic systems abide by Convention requirements, the Court exercises control on the basis of the Convention. More precisely, it controls that the systems respect the fundamental values of European society, which are the basic principles upon which the Convention rests (A). There lies its primary concern: according to the Court, sharing the same premises as the Convention shows whether a system is in line with the Convention or not, whichever the concrete procedures that compose it. Only then, when the nature of domestic systems allows, the Court delves further into the concrete provisions and procedures provided for (B).

Doing so enshrines the systems in force within the Court's jurisdiction into a global framework of values, ensuring they be consistent with the Convention. Eventually, in order for this action to be carried on all dimensions involved by state and church relationships, the

values serving as basis for Court's control tend to vary from one case to another, according to the dimensions the latter bring forth (C).

A. An external—European—container: As mentioned above, several cases have been raised to the Court's attention that questioned, in multiple ways, domestic church-state relationships systems' conformity to the Convention. In *Dogru v. France*, for example, a secondary school pupil was required by the school authorities to take off her veil during physical education classes.[24] The Court therefore had to confront the pupil's claim for religious freedom—wearing her religious garment—with the mandate expressed by school authorities not to proceed, justified as a Laïcité commandment.[25] At the heart of the case, therefore, was the Laïcité system as such, given it was the basis of the measures taken by school authorities.[26]

In *Ebrahimian v. France*, the Court had to face the claim of a hospital agent, whose contract renewal was denied for she was wearing a head covering that 'resembles a scarf or an Islamic veil'.[27] In other words, her head covering being a 'headscarf', as interpreted by domestic Courts,[28] she was in breach of public hospital regulations stemming from Laïcité principle.[29]

In yet another seminal case, *Refah Partisi v. Turkey*,[30] the Court examined a dissolution measure pronounced by the Turkish Constitutional Court against a political party which had become a centre 'of activities contrary to the principles of secularism'.[31] Based on speeches and discourses of some of its members,[32] the Constitutional Court had found the party's activities violated Turkish constitutional principle of secularism.

Despite their diversity, and despite the diversity in claims and contextual backgrounds, all these cases directly questioned the principle of secularism in relation to the Convention. They brought, for the Court to examine, the application of the said principle to the specific facts at hand.[33] In *Dogru v. France*, the parties were contending on whether the measure applied to the pupil was consistent with the Convention, on the one hand, and whether it was a lawful application of the constitutional principle of secularism on the other hand.[34] In other words, the case questioned whether the government's interpretation of secularism principle was in line with the Convention, which carried along the issue of which interpretation—the one advocated by the applicant or the one defended by the government—to endow secularism, as a principle, within the French context.

Similarly, in *Ebrahimian v. France*, the applicant was arguing that French Laïcité did not prevent workers such as her, who were not civil servants, from wearing any religious clothes at work.[35] Therefore, her understanding of Laïcité being distinct from the defending government's, the Court was to settle which interpretation was consistent with the Convention before dwelling on the case itself.

When addressing the case, however, the Court did not respond to this specific issue. In fact, the Court did not address it; it did not lay out any analysis thereof. Instead, it elaborated on a larger dimension, more global, which encompasses the issue without touching upon it directly. It is through these large and abstract elaborations that the Court gave its answer to the issue at stake. Precisely, it emphasized 'the State's role as the neutral and impartial organiser of the exercise of various religions, faiths and beliefs, and stated that this role is conducive to public order, religious harmony and tolerance in a democratic society'.[36] A stance, as the Court went on affirming, that required the state to ensure tolerance in between stake-holders rather than to 'remove the cause of tension by eliminating pluralism'.[37]

Likewise, when assessing the measure forbidding a student to sit her exam in *Leyla Sahin v. Turkey*, the Court declared 'the role of the authorities (. . .) is not to remove the cause of tension by eliminating pluralism, but to ensure that the competing groups tolerate each other'.[38] Then it went down to elaborating on how a state, in such circumstances as those of the case, had to conceal different views, arbitrate between competing claims, ensure the exercise of conflicting rights in order to respect '[p]luralism, tolerance and broadmindedness [which] are hallmarks of a "democratic society"'.[39]

In both of the latter cases, the Court elaborated on an abstract dimension, detached from the facts at hand, to deliver its final solution to the case. In both cases, it found the limitation of the claimant's right in keeping with the Convention. In its own words: 'the impugned interference can be regarded as proportionate to the aims pursued'.[40] In other words, given the authorities' limitation measures aimed at safeguarding such values as tolerance, pluralism, broadmindedness, religious harmony, said measures were in keeping with the Convention. The Court's assessment gravitated exclusively around the principles inspiring the measures, instead of dwelling on the measures themselves or their consequences on the applicant's individual condition. That is how the Court seems to proceed when the applicants question the very system regulating the interactions between states and religions. It controls which principles said systems seek to protect and guarantee, without further elaboration. That is, its concern is primarily the principles by which the said systems abide. It controls whether they respect the fundamental values upon which the whole convention rests, and, depending on whether they do abide by them or not, it gives its conclusions on the legal issue.

Given its reluctance to control any state and church relationships system in itself, the Court does not prescribe any procedure or modality as such for states to follow in that matter. Rather, it focuses on the latter's conformity to the global framework of the Convention. The idea being that whenever a system is in line with Convention's conceptual premises, it is, by way of consequence, in line with its legal requirements. Hence, the Court controls whether the patterns of the system are identical to those of the Convention, whether the adopted system aims at fulfilling the fundamental values upon which the Convention rests. This is what determines the Court's solution to the cases: abiding by Convention values entails, *ipso facto*, that the measures imposed on litigants be lawful with regards to the Convention.[41]

That is how, in the aforementioned *Ebrahimian v. France*, the Court had first stressed 'that upholding the principle of secularism is an objective that is compatible with the values underlying the Convention'.[42] The French principle of secularism obeys the same rationale, values and ideals, as the Convention. Consequently, the measures opposed to applicants could 'be regarded as proportionate to the aims pursued'[43]— They sought to safeguard Convention values.[44]

European values appear to be the bases on which the Convention is built, the patterns unifying its provisions, and the primary aims states have to pursue when applying the Convention (Chaibi 2022). In fact, values are so important for Convention's application that the Court found 'freedom to manifest one's religion [under the European Convention of Human Rights] could be restricted in order to defend those values'.[45]

In the cases discussed, the Court has adopted an external stance when exploring the impugned systems. It did not delve into the systems, their procedures and modalities. Rather, it proceeded to determine whether they abide by Convention's basic values and principles exclusively. In other words, it only examined their conceptual premises, delimiting the external constraints states have to respect. In those cases mentioned so far, the systems involved formed part of those which do not recognize religion or endow it with any special status.[46] As a consequence, they do not provide any procedure for the Court to examine; the latter can only assess the systems' conformity to the Convention through their aims and governing patterns. That is, the Court examined these systems almost exclusively on the philosophical level, for lack of any further procedure or modality. From this external assessment, it ruled on the measures adopted. When addressing systems which recognize religion and regulate it, however, the Court still shows the same type of control, but goes further this time: it also examines the procedures in force themselves.

B. A European rationalization of proceedings: Systems recognizing religions are characterized by two main features. First, they establish procedures for religions to follow in order to pursue legal recognition. Second, they grant thus recognized religions a certain number of services, favors, and privileges. Therefore, issues can arise in relation to recogni-

tion procedures; and the very existence of privileges can induce a breach of equal treatment between religions.

Lithuania, for example, recognizes three types of religious communities: traditional religious associations, non-traditional religious associations recognized by the State, and other religious associations.[47] Following the official recognition of several religious communities,[48] a religious association of old Baltic pagan faiths introduced a demand for official recognition as well.[49] The demand was subject to a political debate in the Lithuanian Parliament, which, despite Ministry of Justice's approval, yielded in a refusal.[50] In other words, the process of recognition involved a political debate in Parliament, a procedure of a political nature, and involved representatives of the majority religion.[51] Consequently, the refusal was challenged before domestic courts and reached the European Court of Human Rights.

The Court faced this issue in several cases, involving several state-parties. Several religious communities were denied recognition by states, for distinct reasons.[52] Faithful to its basic stance in front of such cases, the Court did not dwell in its judgments on the existing procedures for recognition. That is, it did not examine the modalities making-up these procedures or the criteria they lay down. Rather, it tended to make sure that states, in carrying them through, were adopting the suitable stance. In other words, the procedures for recognizing religious communities, or the criteria set for the said recognition to be granted, were not relevant in themselves for the Court. What was important for the Court was that states, when executing these procedures, abided by the basic principles to adopt when interacting with religious communities.

In the aforementioned *Ancient Baltic Religious Association Romuva v. Lithuania*, the Court pointed to the absence of objective criteria governing the recognition procedure,[53] which was, furthermore, carried-out by a political body—the Lithuanian Parliament—and consequently bore the risk of politicization.[54] In addition, recognition required the authorization of a recognized ecclesiastical authority, which happened to be that of the majoritarian Catholic Church.[55] As a result, the existing procedure lacked objectivity, and aimed at questioning the 'religious nature' of the applicant association.[56] Lithuanian authorities were thus in breach of their 'duty of neutrality and impartiality'[57] in religious matters.

Similarly, in *Metodiev v. Bulgaria*, state authorities had denied registration to a newly constituted religious association, for said registration 'would lead them to enter into a theological debate on the issue of whether the Ahmadis [community] formed indeed part of Islam or not'[58] [unofficial translation]. They further stressed that said registration 'would create a schism within Muslim community and spread a form of Islam that was not in the tradition of Bulgaria'[59] [unofficial translation]. In other words, in order to avoid addressing a theological issue, to prevent a non-traditional form of Bulgarian religiosity from spreading into society, and to avoid causing a schism within an already existing religious community, domestic authorities refused the association's application for registration. Accordingly, for domestic authorities, the refusal aimed at safeguarding public order and the rights and freedoms of others as provided in the second paragraph of article 9 of the Convention.

When addressing the case, the European Court of Human Rights started recalling that autonomy of religious communities and associations was indispensable for religious pluralism in a democratic society.[60] Thus, the absence of registration, in the Bulgarian context, amounts directly to preventing a religious community from fulfilling its *raison d'être* with relation to its members. Without it, a community is unable to have a legal personality, to possess goods and places of worship, bank accounts . . . [61] Therefore, the Court continues, if the aims pursued by the registration procedure could be found legitimate, applying such a procedure in such a strict way would amount to imposing one single recognized association per religion and lead domestic courts to assess themselves the—theological—differences separating distinct religious communities.[62] Such a situation breaches state obligations, which 'must remain neutral and impartial'[63] [unofficial translation].

As these examples show, the Court examined the issues at stake through the principles that states must adopt when facing religious communities: neutrality, tolerance, pluralism, objectivity. Principles the Court adopts systematically in its assessment of recognition procedures,[64] as well as when ruling upon conformity to the Convention of the very privileges granted. In some cases, indeed, these privileges have amounted to discriminations against religious minorities.[65]

Therefore, as case-law indicates, Convention values govern state action. Given they are the basic values on which the whole Convention rests, they are the limits within which domestic state-church relationships systems can exist. At the same time, when said systems allow for a more in-depth judicial examination, values also govern state recognition and registration procedures. In other words, Convention values govern both the procedures state-church relationships systems provide, and the very conceptual premises that structure them. They govern the external shape and the internal dynamics of domestic systems—their philosophical premises as well as their concrete procedures. Being so, values rationalize said systems into one global, comprehensive framework, constituting the European model of state-church relationships.

Lastly, values are deployed on every domain that said systems touch upon. They govern every dimension of state treatment of religious matters. Therefore, the Court uses these values when assessing any religious issue, any dimension of state-church relationships brought before it. Depending on the case and its characteristics, the Court selects the suitable values and conducts its assessment accordingly.

C. Application to distinct dimensions: Being Convention's basic constituents, the values of the Court form a global—comprehensive and consistent—set. They are the basic patterns of the framework underlying the Convention—its conceptual premises.

Yet, the Court's case-law does not state the whole set of values. Nor do the Court's basic documents lay it in its entirety.[66] Values the Court has been using in its case-law appear to be a construction of the latter, in an effort to better substantiate the content of the Convention.[67] That is why, absent from its basic documents, they tend to appear gradually in its jurisprudence, according to the specific circumstances of each case. It is the content of the case at hand that determines whether—and which—values be resorted to.

In cases where secularism, as a system of regulating state-church relationships, was the centre of litigation, the key element for the Court was the necessity for states to respect objectivity, to remain neutral, and hence ensure pluralism, religious harmony and equality of treatment between religions. All of the values quoted by the Court were governing the specific aspect raised before it, which was state's attitude towards religions. Therefore, when considering other aspects of society, the reasoning was based on other social values.

For example, such cases as *Dahlab v. Switzerland*, *Osmanoğlu et Kocabaş v. Switzerland*, *Lautsi v. Italy*, were an opportunity for the Court to state other values, specifically related to school and its environment. In *Dahlab v. Switzerland*, the Court upheld state restriction for a teacher to wear a headscarf, for the latter was 'difficult to reconcile (. . .) with the message of tolerance, respect for others and, above all, equality and non-discrimination that all teachers in a democratic society must convey to their pupils'.[68] Completing these findings, *Osmanoğlu et Kocabaş v. Switzerland* gave the Court an opportunity to add that schools and collective lessons were an important factor for social integration into society. Consequently, it lead to social integration being a legal limit for parents' right to see their children brought-up in respect of their religious beliefs.[69] Moreover, to complement these two dimensions, *Lautsi v. Italy* and related cases allowed the Court to add that states were under the obligation to ensure that, whether of a religious nature or not, 'information or knowledge (. . .) is conveyed in an objective, critical and pluralistic manner, enabling pupils to develop a critical mind particularly with regard to religion in a calm atmosphere free of any proselytism'.[70] Depending on the factual background of a case, and the considered dimensions of state-church relationships, the Court resorts to specific values in order to give its ruling. In these cases relating to religious freedom in school, the different issues brought forth allowed it to state the principles presiding over the school environment, and

the corresponding limits of individual religious freedom. By doing so, the Court sketched a value framework for school premises—conceived as micro societies in themselves. In other words, it sketched the ideal social order, according to the Convention, for school environment.

4. Conclusions

Whether regarding individual religious freedom or state-church relationships, the Court's developments on religion seem to revolve around European social values. The latter form the Court's heuristic framework when interpreting the Convention, when elaborating on religious rights in all dimensions. That is, whether it interprets article 9, 11, article 2 of Protocol No. I, or any other. European social values seem to form a matrix through which the Court approaches the cases, hence making its heuristic framework for case adjudication.

A chronological analysis of the Court's religious case-law, from the incipient beginnings of 1990s, shows a constant evolution towards more precision, substance and nuances. Constantly facing newer and more complex issues, its religious edifice has been constantly enriching. The Court's choice for confronting these issues seems to consist in laying out the Convention's actual, most basic content—its core values—and examining the cases parting from it. Such a way of proceeding participates in orienting domestic dynamics, in both social and institutional dimensions towards a specific aim. It enhances states to develop a common institutional approach when it comes to interacting with religions, and thus harmonize their approaches to state and church relationships.

In addition, following the same rationale when adjudicating upon individual religious freedom, its jurisprudence tends to foster particular dynamics within domestic societies. In short, it tends to harmonize the social landscape of domestic societies subject to its jurisdiction (Chaibi 2022).

In both cases, for individual religious freedom as much as institutional state and church relationships, European social values are the cornerstones of Court's action. They are, at the same time, a heuristic framework for Court's assessment and legal principles for states to abide by. In those conditions, applying the Convention results in materializing a specific social order. Determined by Convention's core values, said social order tends to unify Convention's member-states into a proper society and set the boundaries of the latter at the same time. In that it unifies their institutional approaches to religion and harmonizes their social landscapes in terms of religious manifestations, values set the boundaries of the acceptable religious manifestations and state proceedings. In fact, they delimit the contours of religious freedom, both for individuals and religious communities. To use the terms of religious Market Economy, such a delineation translates into fostering a socio-religious oligopoly (Yang 2010, pp. 201–3; Giordan and Pace 2012, 203p; Jelen 2002, 215p), comprising behaviors which are in keeping with European social values and excluding those which contravene the latter.

Funding: This research received no external funding.

Institutional Review Board Statement: Not applicable.

Informed Consent Statement: Not applicable.

Data Availability Statement: Publicly available datasets were analyzed in this study. This data can be found here: https://hudoc.echr.coe.int/eng. Last accessed on 18 May 2022.

Conflicts of Interest: The author declares no conflict of interest.

Notes

[1] This contribution is a sequel to (Chaibi 2022). An article that analyses religious Pluralism as stemming from European Court of Human Rights' jurisprudence, and particularly its regulation of individual religious freedom. Therefore, this contribution completes the latter article by providing the Court's approach to the collective dimension of religious freedom, in the realm of state and Church relationships.

[2] The religious jurisprudence of the Court started formally in the middle of the 1990s, notably from ECtHR, Chamber, Judgment, 25/05/1993, *Kokkinakis v. Greece*, Application no. 14307/88. Before then, its religious case-law was scarce and limited in scope. From its start in the middle of the 1990s, the development of its religious jurisprudence seems to have followed three main steps: the grounding, which took place during the 1990; the development, which followed during the beginnings of the 200 decade; and its confrontation with multi-dimensional religious alterity from the middle of 2000 decade to date. The variety of issues it has accordingly faced along the years has brought the Court to build a substantial, complex and nuanced edifice concerning religious freedom and state-church relationships.

[3] For an overview on the state of literature, (Morini 2010, pp. 611–30; Ferri 2017, pp. 186–202; Barras 2012, pp. 263–79; Bratza 2012, pp. 256–71; Berry 2017, pp. 198–209; Callamard 2017, pp. 153–63; Medda-Windischer 2010, pp. 453–96).

[4] Pinto (2020, pp. 117–20). As the author argues, "First, the scrutiny of proportionality says little about the nature of an interference (. . .). Second, proportionality does not help States to set standards based on ECtHR jurisprudence (. . .). Third, the proportionality analysis can have adverse effects when used to balance the right to freedom of religion or belief against abstract principles" such as values.

[5] For a discussion on a European model of interaction between states and churches, see (Remond 2001, 311p), where the author argues these interactions are a Roman leg. The resulting model, the author contends, seems to be unique in the world.

[6] Indeed, systems in force in Europe seem to emanate from a basic conceptual divide regarding the role of the state when facing religions. This divide, between an interventionist stance and a more liberal individualistic posture, gives way to two major legal approaches. On the one hand, some states recognize religions as special phenomena, and grant them specific status and prerogatives in accordance with their needs. On the other hand, other states consider religions as mere socio-intellectual phenomena, and therefore treat them as any other socio-intellectual phenomena such as ideologies. The Spanish model of 'Aconfesionalidad', for example, recognizes and cooperates with religions on a scale which depends on the category in which the latter fall, which depends on their proper characteristics. *See*, Pleno, STC 46/2001 of 15 February 2001, Amparo Application no. 3083/96, Fundamentos Jurídicos 3–9. See also, Díez De Velasco (2010, pp. 246–48). The Polish system, on the other hand, which legally recognizes religious communities on an equal footing, seems to be *de facto* favoring the Catholic Cristian community due to a lack of religious diversity in society. See, Topidi (2019, pp. 300–9). In contrast to this type of 'recognition' systems, the second type proceeds to a sort of leveling of religions with ideologies. Such is the case with the French and the Belgian systems, for example, which are two alternative approaches to 'Laïcité' concept. 1905 French law on religious neutrality of the state does not endow religions with the special features that distinguish them from ideologies or systems of thought. It deprives religions from said features, therefore neutralizing the power they could behold when addressing institutions and state entities. See, Briand (1908, 346p). The Belgian Constitution and 2002 law on non-religious communities and their representatives, for their part, consider Laïcité as a proper belief—therefore the belief of non-believers—, equal to religious beliefs.

[7] ECtHR, Second Section, 08/04/2014, *Magyar Keresztény Mennonita Egyház and Others v. Hungary*, Applications no. 0945/11, 23611/12, 26998/12, 41150/12, 41155/12, 41463/12, 41553/12, 54977/12 and 56581/12, para. 100. *See* also, on various themes, ECtHR, Fifth Section, Judgment, 17/02/2011, *Wasmuth v. Germany*, Application no. 12884/03 para. 63; ECtHR, Grand Chamber, Judgment, 09/07/2013, *Sindicatul 'Pãstorul Cel Bun' v. Rumania*, Application no. 2330/09, para. 133, *in fine*; ECtHR, Fourth Section, Decision, 14/06/2001, *Alujer Fernandez and Caballero García v. Spain*, Application no. 53072/99; ECtHR, Third Section, Decision, 29/03/2007, *Spampinato v. Italy*, Application no. 23123/04; ECtHR, Fifth Section, Judgment, 04/12/2008, *Kervanci v. France*, Application no. 31645/04, para. 71; ECtHR, Fifth Section, Judgment, 04/12/2008, *Dogru v. France*, Application no. 27058/05, para. 72; ECtHR, 27/06/2000, Judgment, *Cha'are Shalom Ve Tsedek v. France*, Application no. 27417/95, para. 84.

[8] ECtHR, Second Section, Judgment, 08/06/2021, *Ancient Baltic Religious Association Romuva v. Lithuania*, Application no. 48329/19, para. 126.

[9] *Ancient Baltic Religious Association Romuva v. Lithuania*, para. 126; *Magyar Keresztény Mennonita Egyház and Others v. Hungary*, para. 108. Moreover, referring to religious expressions rather than religious communities exclusively, *see* ECtHR, Third Section, Judgment, 10/01/2017, *Osmanoğlu et Kocabaş v. Switzerland*, Application no. 29086/12, para. 88; ECtHR, Grand Chamber, Judgment, 10/11/2005, *Leyla Şahin v. Turquie*, Application no. 44774/98, para. 109.

[10] *Wasmuth v. Germany*, para. 9.

[11] Ibid.

[12] Ibid., para. 62.

[13] See, ibid., para. 63. *See* also ECtHR, Chamber, Judgment, 23/10/1990, *Darby v. Sweden*, Application no. 11581/85, a case where the Court found a state-Church system in keeping with the Conventions' requirements.

[14] The original *dictum*, in French language, reads as follows: 'eu égard à la marge d'appréciation dont bénéficient les Etats notamment en ce qui concerne les rapports entre l'Etat et les religions en l'absence de normes communes en matière de financement des Eglises et cultes, ces questions étant étroitement liées à l'histoire et aux traditions de chaque pays'. *See*, *Wasmuth v. Germany*, para. 63.

[15] *Sindicatul 'Pãstorul Cel Bun' v. Rumania*, para. 10.

[16] Ibid., paras. 13, 17, 20, 24 *in fine*.

17 Ibid., para. 177.

18 Ibid.

19 *Osmanoğlu et Kocabaş v. Switzerland*, para. 95.

20 *See*, *inter alia*, ECtHR, Grand Chamber, Judgment, 29/06/2007, *Folgerø and Others v. Norway*, Application no. 15472/02.

21 *Osmanoğlu et Kocabaş v. Switzerland*, para. 89.

22 Ibid.; ECtHR, Fourth Section, Judgment, 05/12/2017, *Hamidović v. Bosnia and Herzegovina*, Application no. 57792/15, para. 38; ECtHR, Grand Chamber, Judgment, 01/07/2014, *S.A.S. v. France*, Application no. 43835/11, paras. 129–31; ECtHR, Grand Chamber, Judgment, 07/07/2011, *Bayatyan v. Armenia*, Application no. 23459/03, para. 122; ECtHR, Second Section, Judgment, 11/07/2017, *Dakir v. Belgium*, Application no. 4619/12, para. 54; ECtHR, Second Section, Judgment, 11/07/2017, *Belcacemi and Oussar v. Belgium*, Application no. 37798/13, para. 54.

23 ECtHR, Grand Chamber, Judgment, 18/03/2011, *Lautsi and Others v. Italy*, Application no. 30814/06, para. 68.

24 *Dogru v. France*, para. 7.

25 Before the Court, the French government had indeed argued 'the measure in question had mainly been based on the constitutional principles of secularism and gender equality. In that connection they submitted that the French conception of secularism respected the principles and values protected by the Convention. It permitted the peaceful coexistence of people belonging to different faiths, while maintaining the neutrality of the public arena'. *See*, *Dogru v. France*, para. 37. In fact, the defending government pointed even to the similarities of the case with a former case that had given way, a couple of years earlier, to one of the most basic judgments of the Court: *Leyla Sahin*. In this latter case, indeed, Turkish university 'invigilators [denied the applicant access] to a written examination (. . .) because she was wearing the Islamic headscarf'. *See*, *Leyla Şahin v. Turquie*, para. 17. On the other side of the litigation, the applicant had argued that the interference she had undergone was not mandated by any legally binding document—the facts occurred before 2004 Law banning religious manifestations in schools. *See*, *Dogru v. France*, paras. 43–44. The heart of the case, as raised before the Court, was therefore the French Laïcité model as such: the issue was the first to settle before passing to any other.

26 *Dogru v. France*, para. 37.

27 ECtHR, Fifth Section, Judgment, 26/11/2015, *Ebrahimian v. France*, Application no. 64846/11, para. 46.

28 Ibid.

29 Ibid., paras. 47, 50–51, 53.

30 ECtHR, Grand Chamber, Judgment, 13/02/2003, *Refah Partisi (Welfare Party) v. Turkey*, Application no. 41340/98, 41342/98, 41343/98 and 41344/98.

31 Ibid., para. 12.

32 Ibid.

33 *Dogru v. France*, para. 37.

34 Ibid., paras. 35–38, 43–44.

35 *Ebrahimian v. France*, para. 36.

36 Ibid., para. 55.

37 Ibid.

38 *Leyla Şahin v. Turkey*, para. 107.

39 Ibid., para. 108.

40 Ibid., para. 72 and 122.

41 Henceforth being 'proportionate in a democratic society', as Article 9–2 states. Such an approach yields in obliterating litigants' condition and proper context behind abstract developments on values which put aside the issue of their concrete religious freedom. See Burgorgue-Larsen and Dubout (2006, p. 197). Moreover, Chaibi (2017, pp. 48–49).

42 *Ebrahimian v. France*, para. 53.

43 Ibid., para. 72. The Court developed the same rationale in the aforementioned *Dogru v. France*, para. 66 and *Leyla Sahin v. France*, paras. 112–15. *See* also, *inter alia*, ECtHR, Fifth Section, Judgment, 04/12/2008, *Kervanci v. France*, Application no. 31645/04; ECtHR, Grand Chamber, Judgment, 13/02/2003, *Refah Partisi (Welfare Party) v. Turkey*, Application no. 41340/98, 41342/98, 41343/98 and 41344/98; ECtHR, Fifth Section, Judgment, 04/12/2008, *Dogru v. France*, Application no. 27058/05; ECtHR, Fourth Section, Judgment, 05/12/2017, *Hamidović v. Bosnia and Herzegovina*, Application no. 57792/15; ECtHR, Second Section, Decision, 24/01/2006, *Şefika Köse and 93 Others v. Turkey*, Application no. 26625/02; ECtHR, Third Section, Judgment, 10/01/2017, *Osmanoğlu et Kocabaş v. Switzerland*, Application no. 29086/12; ECtHR, Grand Chamber, Judgment, 19/12/2018, *Molla Sali v. Greece*, Application no. 20452/14.

44 *Ebrahimian v. France*, paras. 60–71.

45 *Leyla Sahin v. France*, paras. 112–15. The subsequent judgments quote this case as precedent.

46 See, footnote 6.

47 *Ancient Baltic Religious Association Romuva v. Lithuania*, para. 4.

48 Ibid., paras. 8–13.

49 Ibid., para. 16.

50 Ibid., paras. 18–19, 31.

51 A letter of the president of the Lithuanian Bishops'Conference was sent to members of the Parliament and circulated among them. *See*, Ibid., paras. 25–29.

52 *See*, *inter alia*, ECtHR, Fifth Section, Judgment, 15/06/2017, *Metodiev and others v. Bulgaria*, Application no. 58088/08 and ECtHR, Fifth Section, Judgment, 23/03/2017, *Genov v. Bulgaria*, Application no. 40524/08 and also ECtHR, Third Section, Judgment, 17/07/2012, *Fusu Arcadie and Others v. The Republic of Moldova*, Application no. 22218/06, all involving state authorities denying recognition for a religious community because of the existence of a similar community professing the same religion; ECtHR, First Section, Judgment, 02/20/2014, *Church of Scientology of St Petersburg and Others v. Russia*, Application no. 47191/06, where state authorities proved to be somewhat reluctant to grant recognition; ECtHR, Fifth Section, Judgment, 27/01/2011, *Boychev and Others v. Bulgaria*, Application no. 77185/01, where state authorities supposedly remained silent before the community's demand; ECtHR, Second Section, 08/04/2014, *Magyar Keresztény Mennonita Egyház and Others v. Hungary*, Applications no. 0945/11, 23611/12, 26998/12, 41150/12, 41155/12, 41463/12, 41553/12, 54977/12 and 56581/12, where a change in legislation lead a community to losing its status of recognized religious community.

53 *Ancient Baltic Religious Association Romuva v. Lithuania*, para. 133.

54 Ibid., para. 134.

55 Ibid., para. 144.

56 Ibid., para. 134.

57 Ibid., para. 144. The Court goes even further, stating the fact of contradicting the majority religion is no objective or reasonable reason for any differentiation to take place in treating religious communities. In its proper words: 'the Court is unable to accept that the existence of a religion to which the majority of the population adheres, or any alleged tension between the applicant association and the majority religion, or the opposition of an authority of that religion, could constitute objective and reasonable justification for refusing State recognition to the applicant association (. . .). Lastly, with regard to the Government's contention that in most Catholic countries of Europe no pagan movements enjoy any sort of privileged status in their relationship with the State (. . .), the Court observes that it has never held in its case-law that the scope of the States'margin of appreciation (. . .) could be broader or narrower, depending on the nature of the religious beliefs (. . .). Therefore, the difference in the treatment of the applicant association compared to that of other religious associations in a similar situation could not be justified by the nature of its faith'. *See*, ibid., paras. 144–45.

58 *Metodiev and others v. Bulgaria*, para. 8.

59 The original wording of these two quotations, drafted in French language, reads as follows: 'si l'enregistrement sous le nom de "Communauté musulmane Ahmadiyya" devait être accepté par les juridictions, cela entraînerait celles-ci dans un débat théologique sur la question de savoir si les ahmadis relevaient ou non de la religion musulmane. Elle considérait par ailleurs que l'enregistrement aurait pour conséquence de créer un schisme au sein de la communauté musulmane et de diffuser un islam non traditionnel pour la Bulgarie'. *See*, *Metodiev and others v. Bulgaria*, para. 8.

60 Ibid., para. 33.

61 Ibid., para. 36.

62 The Bulgarian system does not provide for any other procedure allowing religious communities to pursue and enjoy legal personality. See, ibid., paras. 45–46.

63 Ibid., para. 46.

64 The procedures are impugned only when they lead states to breach these values. Their concrete modalities appear to be irrelevant in themselves, they can be impugned only 'indirectly', when they breach stated values and principles. *See* cases in footnote 52.

65 ECtHR, Fourth Section, Decision, 18/09/2012, *Ásatrúarfélagid v. Iceland*, Application no. 22897/08; ECtHR, First Section, Judgment, 25/09/2012, *Jehovas Zeugen in Österreich v. Austria*, Application no. 27540/05.

66 Some values appear in the Preamble to the European Convention of Human Rights, but these values do not encompass those developed by the Court in its case-law, which appear to be constructed by the Court. The courts judgments, on the other hand, do not show any methodology or reasoning that yield in the Court finding these values as the heart of the Convention. A state of fact that may claim for further research on the axiological content of the Convention and the Court's *modus operandi* in applying it. See (Chaibi 2017, pp. 53–57).

67 Specifically the content of grounds laid in the limitation clause—that is, article 9–2 of the Convention. See (Chaibi 2022; Chaibi 2017, pp. 28–34).

68 ECtHR, Second Section, Decision, 15/02/2001, *Dahlab v. Switzerland*, Application no. 42393/98, English Version, p. 13.

[69] The parents were seeking dispense, for their children, from physical education classes. As school authorities refused to grant it, the parents argued a breach for their right to raise their children in conformity with their religious beliefs, as covers by Protocol I-article 2. *See*, *Osmanoğlu et Kocabaş v. Switzerland*, para. 97.

[70] *Lautsi and Others v. Italy*, para. 62; ECtHR, Chamber, Judgment, 07/12/1976, *Kjeldsen, Busk Madsen and Pedersen v. Denmark*, Application no. 5095/71, 5920/72, 5926/72, para. 53; *Folgerø and Others v. Norway*, para. 84; ECtHR, Former Second Section, Judgment, 09/10/2007, *Hasan et Eylem Zengin v. Turkey*, Application no. 1448/04, para. 52.

References

Archive Sources

ECtHR, Chamber, Judgment, 23/10/1990, *Darby v. Sweden*, Application no. 11581/85.
ECtHR, Chamber, Judgment, 25/05/1993, *Kokkinakis v. Greece*, Application no. 14307/88.
ECtHR, 27/06/2000, Judgment, *Cha'are Shalom Ve Tsedek v. France*, Application no. 27417/95.
Pleno, STC 46/2001 of 15 February 2001, Amparo Application no. 3083/96.
ECtHR, Second Section, Decision, 15/02/2001, *Dahlab v. Switzerland*, Application no. 42393/98.
ECtHR, Fourth Section, Decision, 14/06/2001, *Alujer Fernandez and Caballero García v. Spain*, Application no. 53072/99.
ECtHR, Grand Chamber, Judgment, 13/02/2003, *Refah Partisi (Welfare Party) v. Turkey*, Application no. 41340/98, 41342/98, 41343/98 and 41344/98.
ECtHR, Grand Chamber, Judgment, 10/11/2005, *Leyla Şahin v. Turquie*, Application no. 44774/98.
ECtHR, Second Section, Decision, 24/01/2006, *Şefika Köse and 93 Others v. Turkey*, Application no. 26625/02.
ECtHR, Third Section, Decision, 29/03/2007, *Spampinato v. Italy*, Application no. 23123/04.
ECtHR, Grand Chamber, Judgment, 29/06/2007, *Folgerø and Others v. Norway*, Application no. 15472/02.
ECtHR, Former Second Section, Judgment, 09/10/2007, *Hasan et Eylem Zengin v. Turkey*, Application no. 1448/04.
ECtHR, Fifth Section, Judgment, 04/12/2008, *Kervanci v. France*, Application no. 31645/04.
ECtHR, Fifth Section, Judgment, 04/12/2008, *Dogru v. France*, Application no. 27058/05.
ECtHR, Fifth Section, Judgment, 27/01/2011, *Boychev and Others v. Bulgaria*, Application no. 77185/01.
ECtHR, Fifth Section, Judgment, 17/02/2011, *Wasmuth v. Germany*, Application no. 12884/03.
ECtHR, Grand Chamber, Judgment, 18/03/2011, *Lautsi and Others v. Italy*, Application no. 30814/06.
ECtHR, Grand Chamber, Judgment, 07/07/2011, *Bayatyan v. Armenia*, Application no. 23459/03.
ECtHR, Third Section, Judgment, 17/07/2012, *Fusu Arcadie and Others v. The Republic of Moldova*, Application no. 22218/06.
ECtHR, Fourth Section, Decision, 18/09/2012, *Ásatrúarfélagid v. Iceland*, Application no. 22897/08.
ECtHR, First Section, Judgment, 25/09/2012, *Jehovas Zeugen in Österreich v. Austria*, Application no. 27540/05.
ECtHR, Grand Chamber, Judgment, 09/07/2013, *Sindicatul 'Pãstorul Cel Bun' v. Rumania*, Application no. 2330/09.
ECtHR, Second Section, 08/04/2014, *Magyar Keresztény Mennonita Egyház and Others v. Hungary*, Applications no. 0945/11, 23611/12, 26998/12, 41150/12, 41155/12, 41463/12, 41553/12, 54977/12 and 56581/12.
ECtHR, Grand Chamber, Judgment, 01/07/2014, *S.A.S. v. France*, Application no. 43835/11.
ECtHR, First Section, Judgment, 02/20/2014, *Church of Scientology of St Petersburg and Others v. Russia,* Application no. 47191/06.
ECtHR, Fifth Section, Judgment, 26/11/2015, *Ebrahimian v. France*, Application no. 64846/11.
ECtHR, Fifth Section, Judgment, 23/03/2017, *Genov v. Bulgaria*, Application no. 40524/08.
ECtHR, Third Section, Judgment, 10/01/2017, *Osmanoğlu et Kocabaş v. Switzerland*, Application no. 29086/12.
ECtHR, Fifth Section, Judgment, 15/06/2017, *Metodiev and others v. Bulgaria*, Application no. 58088/08.
ECtHR, Second Section, Judgment, 11/07/2017, *Dakir v. Belgium*, Application no. 4619/12.
ECtHR, Second Section, Judgment, 11/07/2017, *Belcacemi and Oussar v. Belgium*, Application no. 37798/13.
ECtHR, Fourth Section, Judgment, 05/12/2017, *Hamidović v. Bosnia and Herzegovina*, Application no. 57792/15.
ECtHR, Grand Chamber, Judgment, 19/12/2018, *Molla Sali v. Greece*, Application no. 20452/14.
ECtHR, Second Section, Judgment, 08/06/2021, *Ancient Baltic Religious Association Romuva v. Lithuania*, Application no. 48329/19.

Academic Literature

Barras, Amélie. 2012. Transnational Understandings of Secularisms and Their Impact on the Right to Religious Freedom—Exploring Religious Symbols Cases at the UN and ECHR. *Journal of Human Rights* 11: 263–79. [CrossRef]
Berry, Stephanie E. 2017. Religious Freedom and the European Court of Human Right' Two Margins of Appreciation. *Religion and Human Rights* 12: 198–209. [CrossRef]
Bratza, Nicolas. 2012. The 'Precious Asset': Freedom of Religion Under the European Convention on Human Rights. *Ecclesiastical Law Journal* 14: 256–71. [CrossRef]
Briand, Aristide. 1908. *La Séparation. Discussion de la Loi*. Paris: Bibliothèque Charpentier. 346p.
Brubaker, Rogers. 2016. A new 'Christianist' Secularism in Europe. In *The Immanent Frame. Secularism, Religion and the Public Sphere*. Available online: https://tif.ssrc.org/2016/10/11/a-new-christianist-secularism-in-europe/ (accessed on 21 November 2021).
Burgorgue-Larsen, Laurence, and Edouard Dubout. 2006. Le port du voile à l'université. Libres propos sur l'arrêt de la Grande Chambre *Leyla Sahin c. Turquie* du 10 novembre 2005. *Revue Trimestrielle des Droits de l'Homme* 66: 183–215.

Callamard, Agnés. 2017. The Expression of Religious Beliefs: In the Name of Pluralism, although Not Quite Religious. *Religion and Human Rights* 12: 153–63. [CrossRef]
Calo, Zachary R. 2010–2011. Pluralism, Secularism, and the European Court of Human Rights. *Journal of Law and Religion* 26: 261–80. [CrossRef]
Chaibi, Moncef. 2017. L'Islam dans la jurisprudence de la Cour Européenne des droits de l'Homme. Master's thesis, Université Lille II, Lille, France; 119p.
Chaibi, Moncef. 2022. Protection of European Values at the International Level: The European Court of Human Rights and Freedom of Religion. *Peace and Human Rights Governance* 6: 9–38.
Díez De Velasco, Francisco. 2010. The Visibilization of Religious Minorities in Spain. *Social Compass* 57: 235–52. [CrossRef]
Evans, Carolyn, and Christopher A. Thomas. 2006. Church-State Relations in the European Court of Human Rights. *Birmingham Young University Law Review* 2006: 699–726.
Ferri, Marcella. 2017. The freedom to wear religious clothing in the case law of the European Court of Human Rights: An appraisal in the light of states' positive obligations. *Religion, State and Society* 45: 186–202. [CrossRef]
Giordan, Giuseppe, and Enzo Pace, eds. 2012. *Religious Pluralism. Framing Religious Diversity in the Contemporary World*. Brill: Leiden. 203p.
Jelen, Ted G., ed. 2002. *Sacred Markets, Sacred Canopies. Essays On Religious Markets and Religious Pluralism*. Oxford: Rowman & Littlefield Publishers. 215p.
Medda-Windischer, Roberta. 2010. The Contribution of the European Court of Human Rights to Contemporary Religious-Related Dilemmas. *European Yearbook of Minority Issues* 9: 453–96. [CrossRef]
Medda-Windischer, Roberta. 2017. Militant or pluralist secularism? The European Court of Human Rights facing religious diversity. *Religion, State and Society* 45: 216–31. [CrossRef]
Morini, Claudia. 2010. Secularism And Freedom of Religion: The Approach of the European Court of Human Rights. *Israel Law Review* 43: 611–30. [CrossRef]
Nietzsche, Friedrich Wilhelm. 1974. *The Gay Science*. New York: Vintage Books. 396p.
Pinto, Thiago Alves. 2020. An Empirical Investigation of the Use of Limitations to Freedom of Religion or Belief at the European Court of Human Rights. *Religion and Human Rights* 15: 96–133. [CrossRef]
Remond, René. 2001. *Religion et Société en Europe. La sécularisation aux XIXe et XXe siècles 1780–2000*. Paris: Editions du Seuil. 311p.
Ringelheim, Julie. 2017. State Religious Neutrality as a Common European Standard? Reappraising the European Court of Human Rights Approach. *Oxford Journal of Law and Religion* 6: 24–47.
Temperman, Jeroen, ed. 2010. *State-Religion Relationships and Human Rights Law. Towards a Right to Religiously Neutral Governance*. Leiden: Martinus Nijhoff Publishers. 382p.
Topidi, Kyriaki. 2019. Religious Freedom, National Identity, and the Polish Catholic Church: Converging Visions of Nation and God. *Religions* 10: 293. [CrossRef]
Yang, Fenggang. 2010. Oligopoly Dynamics: Consequences of Religious Regulation. *Social Compass* 57: 201–3. [CrossRef]