EQUALITY PRINCIPLE AND STATUS OF PREDOMINANT RELIGION (TRADITIONAL RELIGIOUS DENOMINATION) IN THE BALTIC STATES

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As nations go, we may be small in numbers or in the landmass that we control, but never do we need to be small in spirit. May we be ardent in our heart’s desire, may we be steadfast in our determination, and may we be indomitable in our common will.

(President of Republic of Latvia Vaira Vīķe Freiberga)¹

Summary. The public polls in all the Baltic States show that in average about 70% of citizens believe in Churches and that’s are incredibly more then for Parliament or Parties. The according to the Lithuania Law on Religious Communities and Associations traditional religious communities and associations are those which are part of the historical, spiritual and social heritage of Lithuania. There is no state religion in Latvia as well. The Constitution of the Republic of Latvia (Satversme) does not mention any specific religion. The Latvian legislation (unlike that of Lithuanian) contains no concept of ”traditional” denominations. No such distinction is drawn in the Law on Religious Organisations and that Law does not list religions or religious denominations that are regarded as traditional. In the Estonia, the church – state relations are governed not only by general laws, but also by formal agreements between the State and Churches.

Key words: principle of equality, religious freedom, constitutional regulation of religion, principle of the separation of the State and the Church.

INTRODUCTION

According to the Black Law dictionary² equality is the condition of possessing substantially the same rights, privileges, and immunities, and being liable to substantially the same duties. In United States of America constitutional provision of religion and constitutional principle of equality are understandable like one legal guarantee. The First Amendment of U.S. Constitution mandates that “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof…” and Supreme Court of U.S.³ declared that the First Amendment forbids not only practices that “aid one religion” or prefer one religion over another”, but also those that “aid all religions”. This American position is maintained till this day.

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³ Everson v Board of Education 330 U.S. 1, 15 (1947).
Of course in Europe same as in U.S. the constitutional guarantee of “equal protection of the laws” means that no person or class of persons shall be denied the same protection of the laws which is enjoyed by other persons or other classes in like circumstances in their property, nationality or religion. Actually we can be sure that equality guaranteed under equal protection clauses in EU or in U.S. is the same in one it is equality under the same conditions and among persons similarly situated. Same as in U.S. also in EU widely accepted religious freedom. As in previously mentioned First Amendment in U.S. also in European Union are The European Convention on Human Rights Article 9 (1) prescribes that “everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.” Despite their basic similarity with regard to individual religious rights, the United States model and that of Europe appear to be significantly different in the field of collective rights, and in particular with respect to the legal treatment of religious communities. The European model Church are greater involved with State in multiples affairs. From comparative point of view professor W.Cole Durham (United States of America) note⁶ that in the world exist three models of churches in the states, which characterized regimes of the states:

- Cooperationist Regimes;
- Accommodationist Regimes;
- Separationist Regimes.

In the European Union according to the Professor Gerhard Robbers (Germany)⁶ exist three basic types of civil ecclesiastical law system:

- Existence of a State Church of predominant religion (England, Denmark, Greece, Malta and Finland);
- Strict separation of State and Church (for instance France, Netherlands);
- Basic separation of State and Church while simultaneously recognizing a multitude of common tasks, in the fulfillment of which State and Church activity are linked (Belgium, Spain, Italy, Hungary, Austria, Portugal).

Based on the level of state co-operation with religious organisations, all states I would speak about five groups:

- Church States – states of religious dictate, which associate themselves with only one religion (Islam states);
- partial separation states, where a constitutionally declared separation of church and state can exist, however, it does not work in practice. States of this model do not associate themselves with any of specific religions, and there exists religious tolerance;
- complete separation states (US, France) where the borderline between the state and church is strictly marked;
- National Church states, where there is a definite Church of the State (United Kingdom);
- anti-Church states (former USSR).

According to the previously mentioned models if we look to the Baltic States from a broad perspective we can to draw a conclusion that in the Baltic States are developed cooperationist regimes where existed religious freedom,⁸ and there is no state religion in Baltic States, but the same time list of the Churches (not just one) in the Lithuania, Latvia and Estonia are linked with State with some tasks. However, some religious groups enjoy government benefits not available to others. So despite that Baltic states have religious freedom clauses⁹ in their constitutions legislation the reality show us that interpretation of basic separation in the Baltic States would call as partly separation. In all of these constitutions are implemented principles of General Equality and, no Discrimination. If we speak about benefits in Baltic States we mean traditionalism. Traditionality opposite “state church” model where on church dominated mean multi-confessional dominant.

For all Baltic States are common, that state and church systems are based on the common:
1) Social background;
2) Historical background (close historical connections with Russia and post soviet Republic status);
3) Background of Christianity;
4) Development from socialist Law model to countries which belong European Union.

Baltic States nowadays are one of the post-Soviet societies with the experience of the Soviet Marxist-atheist ideology. The forceful atheist propaganda with rapid urbanization affected seriously traditional reli-

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⁸ The Constitutions of all three States provides for freedom of religion, and as the usually US Department in their annual religious freedom report write: “Government generally respects this right in practice”. Religious freedom as one of the most important values of open society, in all Baltic states is confirmed in the Constitutions. According to it, every man in Baltic States has a right to freely choose any religion or faith and to profess it alone or with others, privately or publicly, to perform religious rituals, to practice and promulgate the faith. For sample in Constitution of the Republic of Lithuania are Article 25 (4) – “Freedom to express convictions or impart information shall be incompatible with criminal actions – the instigation of national, racial, religious, or social hatred, violence, or discrimination, the dissemination of slander, or misinformation.”
⁹ Balodis R. Church and State in the Baltic States: registration and basic principles of formation of religious organisations/ European journal for Church and state Research/European Consortium for Church-State research Belgium 2000. 339 – 358.
Baltic States, Estonia and Lithuania, have very good relations with Finland, Estonia and Latvia, and the Finns and Hungarians. Unlike Estonia and Latvia, Lithuanian cultural development was affected by Poland rather than Germany and Estonia. Balto-Finnic group of the Finno-Ugric peoples, as do Prussian languages, belongs to the Baltic branch of the Indo-European language family. Estonians belong to the Balto-Finnic group of the Finno-Ugric peoples, as do the Finns and Hungarians. Unlike Estonia and Latvia, Lithuania's cultural development was affected by Poland rather than Germany and Estonia. There are some differences between the states: the Latvian and Lithuanian (like Old Prussian) languages belong to the Baltic branch of the Indo-European language family, Estonians belong to the Balto-Finnic group of the Finno-Ugric peoples, as do the Finns and Hungarians. Unlike Estonia and Latvia, Lithuania's cultural development was affected by Poland rather than Germany and Estonia.
right know parliament discussing about such possible amendments. For all that, the confessions included in the Article 51 of the Civil Law, as having the right to solemnize the marriages of their members, are called "traditional". These are the Lutheran, Catholic, Orthodox, Old Believer, Methodist, Baptist, Seventh Day Adventist churches and the Jewish religious communities. With Holy See Latvian Government agreement sign on 9 October 2000, which ratified on 12 September 2002, but with other (except Jewish) denomination Government sign agreement on 8 June 2004. Because of the decision of Parliament this agreements was convert like Laws. The first Parliament reading for this Laws will take place on next week – 1 June 2006.

CONCLUSIONS

All Baltic States is definitely a secular states, but Estonian government is not officially tied to a particular religion. That’s of course are different from Lithuania and Latvia where state-church relationship based on the traditional churches. But Estonia has non-governmental church association – Estonian Council of Churches, where limited denomination takes part and which serves for Estonian government for same target. In the Council are represented Estonian Lutheran Church, Estonian Adventist Church, Estonian Baptist Church, Estonian Methodist Church, Roman Catholic Church, Armenian Apostolic Church and Orthodox Churches Moscow and Estonian. In Estonia, church – state relations are governed not only by general laws but also by formal agreements between the State and Churches. Some expert for sample Merilin Kiviorg suppose that in facto Estonia has a State Church – Estonian Evangelical Lutheran Church which in fact enjoyed a certain amount of preferential treatment from a State.

Not everything that is legal meets moral or religious standards. Hegel has provided a very precise description of preconditions for good interrelations between state and church. He considered that if a religion is genuine and true, if it does not deny the state and has no intention to raise disputes, if it recognizes and supports the state, this religion (church) “should be entitled to its own property as well as an opportunity to express its opinions, and, taking into consideration that the religious cult consists of teaching and practice, the church, apart from the above said, should also have the right to control its followers, i.e. individuals who admit their adherence to this religious community and attend their services.” From other side the state should follow that its citizen freedom manifestations do not collide with the interests of society, however, restriction of religious freedom is admissible if it complies with the following three conditions. First, any restrictions are set down by law (based on regulations that in the respective national legislation have the status of law). Secondly, these regulations should be accessible to people and transparent. In this respect, the legislation of the Baltic States is very close to European standards. At the end I would like notice, that Public polls in all Baltic States show that in average about 70% of citizens believe in Churches and that’s are incredibly more then for Parliament or Parties.

LITERATURE


15 "Article 51. If the persons to be married belong to the Evangelical Lutheran, Roman Catholic, Orthodox, Old Believers, Methodist, Baptist, Seventh Day Adventist or believers in Moses (Judaism) denomination and wish to be married by a minister of their denomination who is authorised by the leaders of the denomination concerned, the publication shall take place in accordance with the procedures of the denomination concerned."
18 Hegel, Философия права (Philosophy of Law)– М. Мысль, 1990. p. 298.
LYGIATEISIŠKUMO PRINCIPAS IR RELIGIJOS LAISVĖ BALTIJOS VALSTYBĖSE

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Pagrindinės sąvokos: lygybės principas; religijos laisvė; religijos konstitucinis reguliavimas; valstybės ir bažnyčios atskyrimo principas.

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