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Fscire Fondazione per le scienze religiose
via San Vitale 114 – 40125 Bologna
via U. Maddalena 112 – 90137 Palermo
(Ric. con DPR 06/04/1990)
www.fscire.it

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BRUNO KESSLER



REDESM

*Religioni, Diritti ed Economie nello Spazio
Mediterraneo*

Inclusion of religious minorities
and development of multicultural
dialogue for the growth of democracy.
The potentialities of the Italian model
in the Mediterranean area (MiReDiaDe)

Final Report | September 2023



MiReDiaDe
Religious Minorities and Dialogue for Democracy

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The MiReDiaDe research project has been directed by Rossella Bottoni. This Final Report includes contributions by Pasquale Annicchino, Rossella Bottoni, Davide N. Carnevale, Gabriele Fattori, Alessandro Ferrari, Silvio Ferrari, Mino Mirshahvalad, Anna Parrilli and Alessia Passarelli.

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The MiReDiaDe project is linked to the project *Atlas of Religious or Belief Minority Rights*, devoted to mapping and measuring religious/belief minority rights in the European Union countries. For this reason, this report contains some references to materials published on the Atlas website (<https://atlasminorityrights.eu>).

Abbreviations

In this report the following abbreviations are used:

ECtHR = European Court of Human Rights

FoRB = freedom of religion or belief

RE = religious education

RM = religious minority

RO = religious organization

The countries taken into consideration in the research are indicated with the expression MiReDiaDe countries.

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1. Executive Summary and Key Findings

by **Rossella Bottoni**

1.1 Executive Summary

The research is the continuation of the ReMinEM project (“Preventing discrimination and persecution. Models of inclusion of religious minorities in the Euro-mediterranean space”). It compares the rights of RMs in five countries on the northern and southern shores of the Mediterranean Sea and reveals some significant differences that highlight the need for policy and legal reforms.

Although no MiReDiaDe country has a religion-based personal law system, Algerian civil law is heavily influenced by Islamic norms, which causes the subjection of RM members to rules of a religion other than their own.

Türkiye is marked by a significant violation of the international standards of FoRB protection, produced by the refusal to recognize any form of legal personality to RMs. It should be stressed that RMs do not ask for a special recognition as minorities, but only demand to be able to exist and operate legally within a country’s legal framework. Violations have also been found in those school systems where RE is substantively (albeit not necessarily formally) a ‘teaching of religion’ (the majoritarian one), and students belonging to RMs cannot obtain an exemption or have to face obstacles when asking for it. Even Algeria’s lack of provision to open faith-based private schools does not seem consistent with international standards of FoRB protection.

In other cases, RM rights are respected (that is, there are no violations of the international standards of FoRB protection), but there are areas for improvement as regards their promotion. This is the case of the needed extension of advantages that are recognized only to a handful of RMs. In the area of marriage, Croatia and the Republic of Cyprus provide for state recognition of religious marriages, but not all RMs have this possibility.

With regards to faith-based private schools, Türkiye relies on a controversial interpretation of the Treaty of Lausanne to make a distinction between ‘recognized’ and ‘non-recognized’ RMs. Accordingly, only RMs alleged to fall in the ‘recognized’ category can open and run faith-based private schools. However, even the RMs that fall in the ‘recognized’ category do not have legal personality). The same dynamics of selective cooperation can be detected as regards the possibility for RMs to have a teaching of their own religion in public schools in Croatia and in the Republic of Cyprus.

While respecting the different religious and cultural traditions of the MiReDiaDe countries, the research points to some policy and legal reforms that would guarantee RMs the right to participate in public life and develop their identity without creating discrimination.



1.2 Key Findings

a) General

1. Unlike some countries considered in the ReMinEM project, no MiReDiaDe country regulates family law through religion-based systems of personal law, but the constitution of the Republic of Cyprus still bears traces of the Ottoman heritage, characterized by the institution of the millet, and in Algeria civil law is deeply influenced by the Islamic legal tradition. The latter situation is especially problematic, as it causes the subjection of RM members to the rules of a religion other than their own.
2. Legal systems that regulate social relationships through uniform laws that are independent from citizens' religious affiliation can better promote RM identity if they recognize the right to perform the corresponding acts in a way that respects RMs' religious rules, when these do not contradict fundamental principles of the state's legal system.
3. Among the MiReDiaDe countries, only Türkiye does not provide for any form of legal personality to RMs, which in any case do not ask for a special recognition as RMs but only demand to legally exist and operate as ROs. Without such a recognition, even the most basic collective manifestations of religious freedom are impaired.
4. In countries that provide for different legal regulations of recognized and unrecognized RMs, members of the latter do not always enjoy the individual right to FoRB that must be granted to each person regardless of religious affiliation.

b) Marriage and family

5. Unlike some ReMinEM countries, all MiReDiaDe countries recognize civil marriage.
6. Only in Croatia and in the Republic of Cyprus, RM members can celebrate a marriage according to the rules of their religion that is valid under state law, if some conditions are met. However, this right is not recognized to all RMs.
7. In all MireDiaDe countries, only a state authority can decree the dissolution and annulment of marriages celebrated by RM members.
8. In all MiReDiaDe countries, inheritance, child custody, and adoption are governed by state rules, but Algerian civil law is heavily influenced by Islamic norms. Consequently, members of RMs can find themselves subject to rules of a religion other than their own.
9. In Croatia, France, the Republic of Cyprus and Türkiye, differences in religion between spouses are irrelevant for the celebration of a marriage that is valid for the state. In Algeria, a non-Muslim man is not allowed to marry a Muslim woman; a non-Muslim woman may marry a Muslim man provided that she belongs to one of the 'Peoples of the Book', that is, Judaism and Christianity

c) Public and Faith-Based Private Schools

10. In Algeria, the French region of Alsace-Moselle, Croatia, the Republic of Cyprus and Türkiye, RE is part of the instruction provided by public schools and is given through a system of teaching of one or more specific religions ('teaching of religions'). The system of 'teaching about religions' is only followed in the rest of France, where it is taught as a transversal subject.



11. The possibility for RMs to teach their own religion in public schools is limited: none can do so in Algeria and Türkiye, and only a small number of them have this opportunity in the French region of Alsace-Moselle, Croatia and the Republic of Cyprus.
12. In Algeria and Türkiye, students belonging to a minority religion are not exempted from the attendance of the teaching of the majority religion, which constitutes a breach of the international standards of FoRB protection.
13. The right to open and manage faith-based private schools is granted to all RMs in France, only to the recognized ones in Croatia, the Republic of Cyprus and Türkiye, to none in Algeria.



2. Introduction

by **Rossella Bottoni** and **Alessia Passarelli**

2.1 Research Question

This project is a continuation of ReMiNem (Preventing discrimination and persecution. Models of inclusion of religious minorities in the Euro-mediterranean space), whose research results are available at <https://atlasminorityrights.eu/reminem>. Like ReMiNem, MiReDiaDe compares the legal systems of respect and promotion of RM rights in five countries of the northern and southern shores of the Mediterranean Sea: Algeria, Croatia, France, the Republic of Cyprus and Türkiye. These countries are characterized by very different cultural backgrounds, religious traditions, political systems and social conditions. The way the two rights underlying the protection of minorities combine reflect such differences: the *right to be equal* to other citizens, and thus not to be discriminated against because of one's religion, and the *right to be different* from other citizens and thus to be able to develop one's specific cultural and religious identity. Since the promotion of minorities requires that both rights (that of being equal and that of being different) be respected, the central issue becomes how to ensure the promotion of cultural and religious diversity without creating discrimination. To answer this question, which is at the heart of the MiReDiaDe project, it is helpful to examine and compare the different political strategies and legal regulations that have been born out of each country's cultural and religious traditions. As it might be expected, these strategies and regulations are not the same. Given the differences among them, it is important to assess whether and to what extent they are compatible with the international standards set for the respect and promotion of RM rights.

MiReDiaDe's hypothesis is that the inclusion of RMs in the social, political and cultural life of a country is a precondition for the development of a multicultural dialogue, in order to favor the growth of democracy through the participation of subjects expressing different *Weltanschauungen*. The models of inclusion of RMs of the countries concerned by this research will be compared to the Italian one, in order to evaluate whether the latter can be a reference point for the Mediterranean area.

2.2 Research Fields (Policy Areas, Countries and RMs)

The MiReDiaDe project compares the rights of RMs in two policy areas: marriage and family relations, and public and faith-based private schools. These areas of inquiry have been chosen because they are particularly relevant to the respect and promotion of RM rights.

These policy areas have been analyzed in relation to five countries on the northern and southern shores of the Mediterranean Sea, which reflect the variety of religious and cultural traditions in the geographical space concerned: two countries with a Muslim majority but with two very different legal histories (Algeria and Türkiye),



one with a Catholic majority (Croatia), one with an Orthodox Christian majority (the Republic of Cyprus), and one whose legal system has been deeply influenced by the principle of secularism or *laïcité* (France).

In each of these countries, different RMs have been taken into consideration, since the religious community that is a minority in one country may be the majority in another. Jehovah's Witnesses, Jews and Muslims have been taken into account in Croatia, France and the Republic of Cyprus, in addition to two Christian minorities (Orthodox Christians and Protestants in Croatia and France, and Catholics and again Protestants in the Republic of Cyprus). In Algeria and Türkiye, where religious pluralism is more limited and the gathering of information has sometimes proved rather troublesome, the RMs concerned have been the Catholic and the Protestant ones. All these RMs represent a group of people gathered in common membership who constitute less than half of the population of a state and who are bound together by the intent to preserve and advance their religious identity. This definition of RM has been adopted in the *Atlas*, ReMinEm and MiReDiaDe projects and is explained in more detail in the section Methodology of the page 'About' in the *Atlas of religious or belief minority rights* website (<https://atlasminorityrights.eu>).

For statistics regarding the number of adherents of each RM, MiReDiaDe makes use of the data provided by the *World Religion Database*.

2.3 Methodology

MiReDiaDe's data and information have been collected through two sets of questionnaires concerning the rights enjoyed by RMs in the following policy areas: marriage and family, public and faith-based private schools. The first set was sent to legal experts in the countries considered in the research. Their responses provide an analytical picture of the rights enjoyed by RMs in each country. The second set of questionnaires, focused on the de facto implementation of these rights, was sent to the RM representatives in the same countries. The term representative refers to a person who has a role within the religious organization – possibly at the national level – and has knowledge of the structure, its position vis-à-vis the state and the challenges it faces. Their answers give also an insight into the extent to which the members of each RM feel they are being discriminated against.

Each response was checked by the MiReDiaDe team to ensure that the legal experts and RM representatives correctly understood the questions and replied in a manner consistent with the responses given by the experts and representatives in the other countries. When ambiguity was found or doubts arose, the MiReDiaDe team asked the experts and representatives for additional information and, when further investigation was needed, consulted other experts.

The questionnaire directed to RMs was disseminated either through official channels (including European representations of some RMs and contacting their national offices) or by using contacts provided by legal experts, other religious communities and universities. Several attempts have been made to get in touch with all the RMs concerned by the research project. The responses that have been collected are shown in the table below. Obtaining them proved complex and challenging and this may be indicative of the challenges RMs have to face when giving voice to their problems and it signals the possible gap between the legal system and the actual enjoyment of rights.



MiReDiaDe country	RMs who have responded to the questionnaire (in alphabetical order)
Algeria	Catholic Church
	Evangelical Churches (i.e. Non-denominational, Pentecostal and Charismatic Churches)
Croatia	Evangelical Churches (i.e. Non-denominational, Pentecostal and Charismatic Churches)
	Mainline Protestant Churches (i.e. Anglican, Lutheran, Reformed, Methodist Churches)
	Muslim communities
France	Evangelical Churches (i.e. Non-denominational, Pentecostal and Charismatic Churches)
	Jehovah's Witnesses
	Mainline Protestant Churches (i.e. Anglican, Lutheran, Reformed, Methodist Churches)
Republic of Cyprus	Catholic Church
	Jewish communities
Türkiye	Catholic Church

The replies to the legal questionnaire (and the legal experts' comments, when some clarifications were needed) have been collected in two tables which make it possible to compare at a glance the legal provisions in force in each country. The comparative tables are available on the page 'Policy areas' of the MiReDiaDe website (<https://atlasminorityrights.eu/mirediade/>).

2.4 Benchmark (International Standards)

The information collected through the questionnaires was analyzed against the benchmark consisting of the international standards for the protection of religious freedom (OHCHR, International standards on freedom of religion or belief) and the promotion of minority rights (OHCHR, Minority Rights: International Standards and Guidance for Implementation). Particular attention was paid to the historical, political, legal, cultural and religious context in which these international standards are to be applied. The MiReDiaDe project is founded on the belief that the elaboration of the international standards should be conceived as a bottom-up process. This process starts from the knowledge of the history and characteristics of each country, by identifying the elements that, once properly developed, allow international standards to be met in a way that is peculiar to each nation. For this reason, relevant regional conventions



were also considered. They are the European Convention of Human Rights (ECHR), the Arab Charter on Human Rights (ACHR), the African Charter on Human and Peoples' Rights (ACHPR), the African Charter on the rights and welfare of the child (ACRWC). The international standards applicable to each area of the project are indicated in more detail on the page 'Policy areas' of the MiReDiaDe website (<https://atlasminorityrights.eu/mirediade/>).

2.5 Selected References

The full list of bibliographical references is available on the MiReDiaDe website (<https://atlasminorityrights.eu/mirediade/>).

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3. Marriage and Family

3.1 Introduction

by **Rossella Bottoni**

Religion has historically been a major factor in determining the definition of marriage and family. The legal regulations and social norms within each state regarding this area are typically influenced by the majority's religious traditions. This influence has affected and still affects RMs, where their specific notions differ from the majority's ones.

Marriage and family are considered intrinsically linked, as the basic units composing society. As such, they have a great importance in all the countries considered in the MiReDiaDe research. At the same time, they are characterized by significant differences concerning the understanding of what marriage and family are – not least because of the divergences among the majority religions, as well as the outcomes of the processes of legal and social secularization.

Marriage and family involve the most private aspects of human life but, as noted, they also have a fundamental collective dimension as one of the foundations of society and, in some instances, also as pillars of communitarian identity. The latter is especially applicable to countries characterized by personal status laws based on religion. In fact, none of the MiReDiaDe countries has enforced personal status laws, but in Algeria civil law is deeply influenced by the Islamic legal tradition, whereas in the Republic of Cyprus there are still traces of the Ottoman heritage, characterized by the institution of the millet. Although today this has little practical importance, the Cypriot constitution still distinguishes between “the Greek Community compris[ing] all citizens of the Republic who are of Greek origin and whose mother tongue is Greek or who share the Greek cultural traditions or who are members of the Greek-Orthodox Church”, and “the Turkish Community compris[ing] all citizens of the Republic who are of Turkish origin and whose mother tongue is Turkish or who share the Turkish cultural traditions or who are Moslems” (Art. 2(1-2)).

3.2 Croatia, France and the Republic of Cyprus

3.2.1 Legal Analysis

by **Anna Parrilli**

a) Celebration and validity of marriage

In Croatia, France and the Republic of Cyprus civil marriages can be celebrated irrespective of the religion of the spouses. None of these countries has legal rules



preventing the celebration of mixed marriages, i.e., marriages between individuals affiliated to different RMs.

In France, marriage is only recognized on completion of a civil ceremony celebrated before the competent state official. Moreover, it is compulsory to celebrate a civil marriage before the religious marriage. The religious minister who habitually performs religious marriage ceremonies without having been given proof of the marriage certificate previously received by the civil registrar is punished under Arts. 433-21 of the penal code.

In Croatia and the Republic of Cyprus, it is possible to perform a religious marriage that is valid for the state, if certain conditions established by state law are respected. However, in Croatia religious marriages can be only celebrated by those RMs having an agreement signed with the state stipulating that a marriage performed according to the rites of a religion obtains civil effects.

In the Republic of Cyprus, religious marriages can be celebrated by a registered priest of the Greek Orthodox Church, a representative of the Muslim community, the “religious groups” officially recognized by the Constitution (Art. 2) or “whose doctrines or rites are not secret” (Art. 18(2) Const.). The religious ministers of the latter are recorded (upon their application) in a special register kept by the Ministry of Interior. The conditions prescribed by the legal systems of Croatia and the Republic of Cyprus prevent the recognition of civil effect to religious polygamous marriages and marriages between underage people, even if they have reached marriageable age according to their religious laws.

Regarding gender-neutral marriages, Croatia and the Republic of Cyprus have not introduced them; therefore, those celebrated by RMs – when this is possible under their respective doctrinal rules – cannot obtain civil effects. France has introduced gender-neutral civil marriage (Law No. 2013-404 of 17 May 2013) but, as noted, it does not recognize civil effects to religious marriages (including any that may be celebrated between two persons of the same sex).

b) Dissolution and annulment of marriage

In Croatia and the Republic of Cyprus, the decree of dissolution and/or annulment of a religious marriage with civil effects can be issued only by a state authority.

In Croatia, regarding religious marriages celebrated according to the rites of the Catholic Church, which constitutes the majority RO, the decree of annulment can be issued by the religious authority, but it must be validated by the state authority to obtain civil effects (Art. 13.4 of the Agreement between the Holy See and the Republic of Croatia on legal matters of 1996).

c) Inheritance and dowry

In Croatia, France and the Republic of Cyprus the regulation of inheritance remains under the monopoly of the State, irrespective of the religious affiliation of the deceased. Religious rules concerning inheritance are not prevented from acquiring validity in the state legal system, as long as they are not in conflict with civil rules. Dowry is not regulated by state law and religious rules have no relevance in the state legal system.

d) Rites to enter a religious community

None of the three countries places obstacles to the celebration of religious rites (e.g., baptism, circumcision etc.) to enter a religious community.



In all three countries, children born of religious marriages, whether recognized or not by the state, enjoy the same rights. In case of dissolution of the marriage, when courts choose the spouse to whom children are to be entrusted, religion is only considered as a component of the child's best interest.

RMs may prescribe some rules concerning medical treatments that are to be respected by their members. Regarding pediatric healthcare, the parents are not entitled to have these rules respected by the public healthcare institutions where their children are treated if the rules endanger the child's life. It is, for instance, the case of parents withholding blood transfusion from their children.

3.2.2 Perceptions from RM Representatives

by **Davide N. Carnevale**, **Minoo Mirshahvalad** and **Alessia Passarelli**

The representatives from non-denominational Evangelical congregations and from the Islamic Sunni community in Croatia affirmed that they faced some challenges in performing rituals and expressing their religious identity in public. At the same time, they underlined – as the other respondents – that they are fully recognized as ROs by the state. Respondents from Croatian RMs gave conflicting answers regarding the opportunity to have a religion-based personal law system; nonetheless, they all said that they did not encounter problems with celebrating a valid marriage, having it dissolved or getting legal recognition of both celebration and dissolution. They also never faced difficulties in complying with state regulations concerning inheritance, dowry, adoptions and religious rites of initiation.

In the Republic of Cyprus, neither Jewish nor Catholic marriages are recognized by the state. The only recognized marriage between members of these RMs is the one registered at a local municipality. As a consequence, the dissolution of a marriage, which has only been celebrated according to their religious rules, is not recognized by the state. RMs do not face problems when they want to celebrate rituals of entrance to religious communities for their young children. The respondents underlined that, following divorce, Catholic parents often face problems concerning the custody of their children.

In France, members of RMs affirm that they do not encounter problems with the celebration of a valid marriage or the registration of its dissolution. Moreover, they do not witness any hindrance in complying with state rules concerning inheritance and dowry. Children of RMs can undergo the rites of initiation without any problem. Some RMs may face problems with child custody after divorce. Members of most of RMs can adopt children without any problem. Only Jehovah's Witnesses may encounter difficulties when they seek to adopt children.

3.3 Algeria and Türkiye

3.3.1 Legal Analysis

by **Alessandro Ferrari**

In both Algeria and Türkiye, only civil marriage has legal effects. Only state authorities have the power to celebrate civil marriages and to declare their invalidity or their dissolution by divorce. In both countries, moreover, a religious marriage (always without legal effects) can only follow a civil marriage, and never precede it. However, in Algeria, the Muslim marriage model in shaping the corresponding civil-state model is particularly evident – far more than in Türkiye, which adopted the Swiss civil code in 1926 (revised in 2002). In Türkiye, therefore, polygamy is not allowed, and mixed



marriages are permitted. The dowry, regulated in Algeria by state law, has no place in Turkish law.

Algeria and Türkiye formally place no obstacles to the celebration of the rites marking an individual's entrance into an RM. As for the problems related to the custody of children in the event of the termination of the marriage, in Türkiye the case law is not influenced by the religious affiliation of the spouses, whereas in Algeria some bias in favor of the Muslim side is visible. In fact, Algerian law prescribes that children be brought up in the religion of the father, meaning Sunni Islam, and the non-Muslim (Christian) mother loses priority in child custody, especially if she is converted from Islam. Moreover, adoption is forbidden in Algeria and only kafala may be used. Inheritance in Türkiye is governed by state law, which does not provide for exceptions based on religion. In Algeria, on the other hand, state law regulating inheritance is deeply influenced by Islamic law: for example, it prevents non-Muslims from inheriting from a deceased Muslim.

3.3.2 Perceptions from RM Representatives

by **Davide N. Carnevale**, **Minoo Mirshahvalad** and **Alessia Passarelli**

In Algeria, marriages celebrated according to the Christian Catholic and Evangelical rituals are not recognized by the state. Both Catholics and Evangelical Protestants face problems concerning the recognition of the dissolution of their marriage by the state. Moreover, the Algerian inheritance law clashes with some principles of their Churches. In the context of divorce, Christians can hardly obtain custody of their children. In addition, they cannot adopt children, as Algerian law does not permit adoption. However, Christians do not face any problems concerning dowry and the rites to enter their religious communities.

In Türkiye, as in Algeria, religious marriages have no civil effects. According to representatives from the Catholic Church, the lack of recognition “sometimes” is an obstacle. The same can be said for inheritance issues. As for dissolution of marriage, “sometimes” problems arise especially if one of the contracting parties is not Turkish. A similar situation is found concerning adoptions: according to the Catholic respondent, the court often decides in favor of Turkish citizens and since Christians residing in the country are not always Turkish nationals, they are disfavored. Finally, when asked about perceived discrimination in relation to children's initiation rites, the Catholic respondent's affirmative answer, “often”, is accompanied by the comment that “these are not legal but cultural problems”.

3.4 Comparative Remarks

by **Rossella Bottoni**

a) *Personal laws.* No MiReDiaDe country regulates family law through religion-based systems of personal laws, but the constitution of the Republic of Cyprus still bears traces of the Ottoman heritage, characterized by the institution of the millet. Suffice it to mention Art. 111(1) of the Cypriot constitution, under which “Subject to the provisions of this Constitution any matter relating to betrothal, marriage, nullity of marriage of members of the Greek-Orthodox Church or of a religious group to which the provisions of paragraph 3 of Article 2 shall apply shall, on and after the date of the coming into operation of this Constitution, be governed by the law of the Greek-Orthodox Church or of the Church of such religious group, as the case may be. A Law shall provide for an attempt of reconciliation or of spiritual dissolution of marriage to be made before a Bishop”. In Algeria civil law is deeply influenced by the Islamic legal tradition. In one country (Croatia), respondents from RMs have expressed conflicting opinions regarding the desirability to have a religion-based personal law system.



- b) Civil marriage.** All MiReDiaDe countries have introduced the institution of civil marriage.
- c) State-recognized religious marriages.** MiReDiaDe countries may be divided into two categories. One includes Croatia and the Republic of Cyprus, where religious marriages may be recognized by the state. However, this possibility is open only to some RMs. In Croatia, only RMs having signed an agreement with the state, where such a possibility is explicitly provided, may celebrate a religious marriage that can obtain civil effects. Thus, Jews, Muslims, Orthodox Christians and Protestants may do so, whereas Jehovah's Witnesses may not. In the Republic of Cyprus, religious marriages recognized by the state can only be celebrated by a representative of the Muslim community or a "religious group" officially recognized by the Constitution (Art. 2) or "whose doctrines or rites are not secret" (Art. 18(2) Const.). Catholics, Jehovah's Witnesses, Muslims and Protestants are included, but not Jews. In the second group of countries (Algeria, France and Türkiye), religious marriages can be celebrated but they cannot obtain civil effects. Moreover, they can be celebrated only after the performance of the civil wedding.
- d) Polygamous and under-age marriages.** In Croatia, France, the Republic of Cyprus and Türkiye polygamous marriages may not have civil effects, whereas the Algerian civil code allows men to have up to four wives. The marriageable age for both women and men is 19 in Algeria, 18 in Croatia, France and the Republic of Cyprus, and 17 in Türkiye. The prohibition of polygamous marriages and the requirement on the marriageable age apply also to religious marriages recognized by Croatia and the Republic of Cyprus.
- e) Inter-religious marriages.** Only Algeria limits the celebration of inter-religious marriages, which can be freely performed in the other MiReDiaDe countries. Consistently with Islamic principles of family law, in Algeria a Muslim woman may only marry a Muslim man, whereas a Muslim man may marry a non-Muslim woman provided that she belongs to one of the 'People of the Book', that is, Judaism and Christianity.
- f) Dissolution of marriage.** No MiReDiaDe country recognizes legal validity to RM courts' decisions concerning the dissolution of marriages concluded according to their rites. All marriages can be dissolved only by a state court or administrative authority (this rule does not fully apply to Catholic marriages in Croatia; however, Catholicism is the majority religion).
- g) Inheritance.** As with other areas, there is a difference between Croatia, France, the Republic of Cyprus and Türkiye, on the one side, where inheritance is regulated by state law making religious affiliation irrelevant, and Algeria, on the other side, where the influence of Islamic rules determines the prohibition for non-Muslims to inherit from a deceased Muslim. Both Catholics and Evangelical Protestants have reported problems concerning inheritance, because of the conflict between the Algerian law and some principles of their Churches, as well as of the obstacles posed by the authorities in the exercise of some rights envisaged by these RMs.
- h) Rites of passage.** No MiReDiaDe country formally places obstacles to the celebration of the rites marking an individual's entrance into an RM.
- i) Children.** Only in Algeria adoption is not allowed (and the institution of kafala is resorted to instead), consistently with Islamic principles of family law. In the other MiReDiaDe countries, where family law has experienced a process of secularization, adoption is regulated by state law and the religion of the adoptive parents and of the adopted child does not play any role, unless it is indirectly relevant as a factor



contributing to determine the best interest of the adopted child, which is the guiding principle in this field. As regards child custody after separation or divorce, Algeria favors the Muslim side: the law stipulates that children must be brought up in the religion of the father, which implies that the non-Muslim mother, especially if she is converted from Islam, is disfavored in child custody. In the Republic of Cyprus, respondents of the Catholic Church have reported problems concerning the custody of their children after divorce. The same has been reported by some RMs in France, where only Jehovah's Witnesses reportedly face some difficulties when they seek to adopt children.



4. Public and Faith-Based Private Schools

4.1 Introduction

by **Rossella Bottoni**

This part of the report discusses the recognition of RM rights in the educational sphere, focusing on both public and faith-based private schools. The former are schools “whose organization, financing and management are primarily the responsibility of, or under the primary oversight of, a public body (state, regional, municipal, etc.)” (ODIHR Advisory Council of Experts on Freedom of Religion or Belief, *Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools*, Warsaw, OSCE/ODIHR, 2007, p. 20). Private schools are those that are “not operated by a public authority but controlled and managed, whether for profit or not, by a private body (e.g. non-governmental organisation, religious body, special interest group, foundation or business enterprise)” (UNESCO, *Global Education Monitoring Report 2021/2: Non-state actors in education: Who chooses? Who loses?*, Paris, UNESCO, 2021, p. 33). Some private schools provide education based on the principles of a particular religion: in this report, they are called ‘faith-based private schools’.

Despite a variety of hybrid solutions, RE in public schools is imparted mainly in accordance with two models. In the first, case students can choose to attend the teaching of a particular religion, which is taught by members of that religious tradition and/or under the supervision of institutions representing it. The expression ‘teaching of religions’ has been used to describe this system. In the second case, students obtain information and knowledge about different religions and beliefs and about the role they play in the historical, cultural and social development of a nation. This teaching is usually provided under the supervision of state authorities and is subject to the rules that apply to other teachings provided in public schools. The expression ‘teaching about religions’ has been used to describe this system, which – in France – has the peculiarities described below. Although the border between these two approaches to RE is often blurred, the distinction is meaningful because it reflects different conceptions of the educational role of public schools. In the first case, the school is considered primarily as an institution serving families and students: if they ask to be educated in a specific religious tradition, public schools must do everything they can to provide this. In the second case, the school is seen as an institution that has the task to serve society as a whole: if social changes require a wider knowledge of the different religions that exist in a country, the school must meet this need. Both approaches are worthy of attention. ‘Teaching about religions’ provides students with information and knowledge that are increasingly needed in societies that have long been multi-religious or where there are significant RMs. ‘Teaching of religions’ allows students to deepen the knowledge of their own religious tradition, thus helping to safeguard and promote the identity of RMs.



4.2 Croatia, France and the Republic of Cyprus

4.2.1 Legal Analysis

by **Anna Parrilli**

a) RE in public schools

The three countries display different approaches regarding RE in public schools. In France – except for Alsace-Moselle – the *enseignement des faits religieux* in primary and secondary public schools takes place not as a specific school subject but as a transversal theme within the teaching of other subjects. RE can only be given to children enrolled in public schools outside school hours (Art. L141.4 of the French education code). In Alsace-Moselle, a different state-religious denominations regime (*cultes reconnus*) is in place. Primary and secondary schools must include the teaching of religion of each *culte reconnu* (that is, Catholic, Protestant and Jewish) in the school timetable (one hour per week). However, attendance is not compulsory, and students are granted an exemption if they ask for it.

In the Republic of Cyprus and Croatia, the ‘teaching of religions’ model is in place and different religions are taught.

In the Republic of Cyprus, although the law does not expressly provide for any denominational teaching, RE curriculum is predominantly based on Orthodox Christianity. It is further provided that students ought to be introduced to some basic aspects of other religions. RE is an integral part of the centralized education system that employs unified national curricula and official textbooks. Some textbooks are edited by the Ministry of Education of the Republic of Cyprus, while others are edited by the Ministry of Education of Greece. RE is mandatory in pre-primary, primary, and secondary schools. While in primary schools, classes on religion are given by the class teacher, in secondary schools the lectures are given by graduates of university schools of divinity. With regard to RMs, except for Maronites and Turkish Cypriots, there is no possibility for students of other RMs to receive RE in public schools. RE of Maronites attending public schools is taught by Maronite priests, whose salary is paid by the state. As for Muslim students, mainly belonging to the Turkish Cypriot community, they can receive RE in their mother tongue, if there is an adequate number of requests. Parents or lawful guardians have the right to request their children to be exempted from RE and collective worship. Students who opt out from RE are not obliged to attend alternative courses. The right to exemption does not apply to Orthodox Christian students.

In Croatia, religious communities who have agreements with the state can have their religion taught in all primary and secondary public schools. RE is taught within regular school hours, under the same conditions as all other subjects. It is assigned two hours per week in primary and secondary public schools. Textbooks are chosen by the RM authorities, but they must be registered by the Ministry of Education and their content must be approved by state authorities. Similarly, RMs have the right to define the syllabus content, provided that it complies with state laws and values. RE teachers receive a salary from the state. Students can choose to attend RE at the beginning of each school year. If they choose not to attend RE, students in primary schools are not obliged to take other courses, while students in secondary education must choose another subject, such as ethics.

b) Faith-based private schools

In France, a distinction must be made between faith-based schools with and without a contract signed with the state. The contract between faith-based private schools and the state obliges the school to accept children regardless of origin, opinion or



belief, and to teach in accordance with the rules, curricula, and timetable of national education. The state supervises teaching and pays the teachers, while the local authorities fund the running costs. In these schools, all students (thus, including those belonging to RMs) can be exempted from RE. As for faith-based private schools that are not under contract, they are free to choose their curricula and textbooks. However, the state retains control over some issues, for example, the qualifications required for teachers, compliance with public order and morality, health, and safety issues. No administrative and financial aspects are controlled by the state. Compliance with constitutional principles as well as with rules on academic qualifications is required. As the school diploma can only be issued by the state, faith-based private schools, whether under contract or not, can only issue schooling certificates, which are not diplomas. However, they prepare students for official examinations.

In the Republic of Cyprus, RMs officially recognized by the state can establish and operate their own faith-based private schools provided that they comply with the law and do not discriminate among students. Faith-based private schools established by recognized RMs are financially assisted by the state. RMs other than the five major religions can set up their own schools, but they do not receive public financing. The Ministry of Education is responsible for the supervision of all educational institutions. In Croatia, religious communities that have signed agreements with the state can set up faith-based private schools. These schools can operate in accordance with the national curriculum and teaching plan or choose their own curriculum. The latter must be approved by the Ministry of Education and monitored by educational inspectors, as is the case with public schools. With regard to funding, there is no difference between the majority religion and RMs. Pursuant to the agreements between the religious communities and the state, public funds are allocated for the salaries, allowances, and contributions of teachers, as well as other material agreed under the collective agreement. The internal organization of the private schools must comply with the state law as well as the basic principles of each religion. With regard to the enrolment of students, Catholic schools independently decide on this matter, while other schools are obliged to follow the enrolment procedure. School diplomas issued by private institutions are recognized as those offered by public institutions. RE teachers are appointed by the RO's institutions, under the conditions established by the agreements between the ROs and the state. Teachers are trained in RO's institutions except for the Catholic Church, whose teaching personnel is trained in institutions jointly managed with the public authorities.

In all three countries, teachers in faith-based private schools can be dismissed if they do not conform their behavior to the principles of the school. Consistently with the ECtHR's case law, this measure must be necessary and proportionate to the role of the teacher, and it must not infringe upon the teachers' right to respect for their private life.

c) Religious symbols in public schools

Only France prohibits the official display of religious symbols in public schools. In both Croatia and the Republic of Cyprus, the display of religious symbols of the majority RO is not mandatory, but it is allowed. In the Republic of Cyprus, public schools usually display symbols of Orthodox Christianity – i.e., the majority religion – for example, the cross or icons of Jesus Christ. Moreover, public schools often engage in activities that promote Orthodox Christianity (e.g., collective prayers and religious services in the nearest Orthodox church, blessing of school buildings).

Regarding the right to wear religious symbols, in France a distinction must be made between teachers and students. Teachers in public schools cannot wear religious symbols. As for students in all public schools with the exception of universities, only 'conspicuous' religious symbols are forbidden, for example, the Islamic veil, the Sikh turban, the kippa (Law 15 March 2004), while 'discrete' religious symbols, such as the



star of David, small crosses and small Fatma's hands are allowed (Art. 141.5.1 of the education code).

In Croatia and the Republic of Cyprus, both students and teachers can wear religious symbols in public schools.

d) Right to abstain from teaching and school attendance on religious holidays

In France, teachers who are members of a religious community can refrain from giving classes on occasion of the festivities of their religion, consistently with the proper functioning of the public education service. The same applies to RMs students, who can refrain from attending classes on occasion of their religious festivity. Similarly, in Croatia, the teachers of religious communities that have signed an agreement with the state are granted the right to abstain from teaching and school attendance on religious holidays.

In the Republic of Cyprus, religious festivities follow the Greek Orthodox tradition and neither teachers nor students of RMs are allowed to refrain from giving/attending classes on occasion of their religious festivities.

e) Students' right to obtain food that is not forbidden by religious rules

In all the three countries, public school canteens do not have the obligation to provide food that is conform to religious dietary rules (e.g., halal or kosher for Muslim and Jewish students). However, canteens usually make it possible to obtain food which is not forbidden by religious dietary rules by providing alternative menus (i.e., vegetarian) or allowing students to eat food brought from home.

4.2.2 Perceptions from RM Representatives

by **Davide N. Carnevale**, **Minoo Mirshahvalad** and **Alessia Passarelli**

Respondents from Croatian RMs affirm that religion in public schools is taught effectively and extensively as a specific school subject, and all of them deem the public system of RE satisfactory. They consider it very important to implement the teaching about different religions in public schools, as a place that accommodates different cultural, ethnic and religious backgrounds and where most RM members are inclined to enroll their children. At the same time, the RM representatives who responded to the questionnaire do not emphasize the role of faith-based private schools. Both Muslim and Evangelical students and teachers have faced, even if rarely, forms of discrimination in public schools concerning respectively religious symbols and rules on food consumption, as well as the content of the teaching.

In the Republic of Cyprus, the school curricula do not include teaching regarding the Jewish faith or Holocaust history. Both Catholics and Jewish leaders express dissatisfaction towards the ways in which religions are taught in public schools in the country. Although religious leaders attribute great importance to the teaching of their religion at school, only 10% of students attend lessons on Catholicism. Catholic and Jewish students and teachers often face episodes of discrimination in public schools. If students want to opt out the teaching of the majority religion, they have to ask a specific permission that entails bureaucratic complications. Jewish pupils and students experience discrimination regarding food consumption in public schools, because they do not provide kosher food. Episodes of discrimination also arise in relation to religious symbols and the content of RE teaching. As a result, Jewish children are not willing to attend public schools where students and families have diverse cultural and religious backgrounds. Despite the RMs' dissatisfaction with the ways in which they are treated in public schools, they are not allowed to open their own school where they can teach their religious principles freely.



In France, as described previously, there is a difference between the system of RE in place in the majority of the country (RE as a transversal theme) and the region of Alsace-Moselle (RE as a school subject). RM representatives have different opinions in relation to their satisfaction of the RE system: while Jehovah's Witnesses do not take a clear position, Protestants are dissatisfied. However, in Alsace-Moselle representatives of Evangelical Churches, in general, are satisfied with the system of RE but their religion is only "occasionally" taught in schools. When asked about possible discrimination or problems experienced by students or teachers because of their faith, RMs' answers vary between "sometimes" and "seldom". According to the representative of the Evangelical Churches, discrimination might be related to the content of teaching, especially regarding gender issues and sexual orientation. It is possible for RMs of the various Protestant denominations to open faith-based private schools. Respondents of the Jehovah's Witnesses and Protestants do not think that the issue related to the display of symbols and the possibility of wearing them in public schools is a concern, as symbols that are not 'conspicuous' can be used. RM representatives have also been interviewed concerning their position and experience with interreligious dialogue, which national and international actors regard as an increasingly important value to teach to new generations, in order to promote peaceful coexistence. However, as regards the question of whether interreligious dialogue is a relevant topic in the RE provided by public and faith-based private schools, almost 45% of the respondents have affirmed that interreligious dialogue is not a relevant topic. It is possible that these results underestimate the different position that RE has in faith-based private schools; nonetheless, data shows that continued efforts are needed to make interreligious dialogue more accessible to pupils and students.

Another question was whether the need for interreligious dialogue is perceived as a priority within the concerned RM. The majority of the respondents gave consistency to the idea that the access to shared knowledge about cultural and religious diversity can help to build mutual understanding and harmony and to break down tensions and divisions in local communities. The need for interreligious dialogue is perceived as a priority within RMs to a very large extent for around the 55% of respondents, to a large extent for the 20%, and to a low or moderate extent for around the 25%.

As regards the question "Who sponsors interreligious dialogue most?", respondents have indicated equally religious organizations at the local level and civil society actors such as local associations and universities. Governmental and international organizations appear less prominent, or less effective in promoting these activities. A note of caution is due here since the differences in the national contexts imply great differentiations in the involvement of various stakeholders, among many other variables. These results therefore need to be interpreted according to the contexts in which inter-faith relations are implemented. The data also show that the leaders or RMs are more engaged in these activities at the level of local and small-scale interfaith relations.

Finally, the main topics that are privileged in interreligious dialogue conducted by RMs are social and economic issues (an option pointed out by the 70% of respondents), followed by moral and ethical topics (around 50%). Both theological and environmental issues are selected by approximately 30% of respondents.



4.3 Algeria and Türkiye

4.3.1 Legal Analysis

by **Alessandro Ferrari**

a) Public schools

In Algeria, public schools provide two hours a week of teaching of Muslim religion in its Sunni tradition. This teaching is entirely organized and controlled by the state authorities, which choose the textbooks, the syllabus and the contents and pay the teachers. It is a compulsory teaching for all, no importance is given to the religious affiliation of the students: even non-Muslims are, therefore, required to attend this teaching. Turkish state schools, too, which also offer teaching on citizenship and living together, have religious teaching paid for by the state. The teaching is called ‘Religious Culture and Moral Education’ and, as in Algeria, provides two hours of teaching per week. Although the name of the RE teaching seems to suggest that it is a ‘teaching about religion’ – aimed mainly at the Muslim religion but not excluding other religious traditions – its denominational nature has been assessed by the ECtHR (Hasan and Eylem Zengin v. Türkiye, application no. 1448/04, 9 October 2007). Following a Constitutional Court ruling in 2022, non-Muslim students can request exemption from this teaching without having to take alternative courses.

In Turkish and Algerian schools, teachers are allowed to wear religious symbols, although in Algeria this possibility only applies to Muslim teachers (the headscarf) and not to non-Muslim ones. Algerian non-Muslim students are not allowed to wear religious signs, whereas this possibility is allowed for Muslims, especially veiled girls. In Türkiye all secondary and high school students can enjoy this freedom, while for pre-school and primary schools the Regulation on the Clothing of School Students of the Ministry of National Education requires all students to have their heads uncovered. In any case, public schools in both Algeria and Türkiye do not officially display religious symbols (this is formally prohibited in Türkiye).

During the main Muslim (Sunni and Shiite) religious holidays, all Algerian schools remain closed, as in Türkiye in the case of holidays officially recognized by the state. In both countries, religious holidays of minorities are not grounds for students and teachers to be absent from school. However, in Türkiye, a High Education Council circular allows this issue to be regulated locally in primary and secondary schools, at least for Armenian Gregorian and Jewish students and staff.

No regulation explicitly considers the dietary needs of students and school staff, which, in Algeria, are modelled on Muslim needs. In Türkiye, non-Muslim students can bring their own food from home or buy appropriate food inside or outside the school.

b) Faith-based private schools

RMs are not allowed to open their own schools in Algeria.

In Türkiye pre-primary, primary and secondary schools for Greeks, Armenians, and Jews, licensed to award state-recognized qualifications and organized on the basis of the ministerial curriculum and calendar (with the same holidays as public schools), are protected by the Treaty of Lausanne. The teachers at these schools, who must have the same qualifications as their colleagues in state schools, are chosen by the RMs themselves, sometimes with a procedure that also involves the state authorities, especially in the case of the teachers of Turkish language and Turkish culture, who must receive specific governmental approval. Subject to government control, these schools may also employ foreign teachers. They can dismiss their teachers if they do not conform to the religious principles of the community running the school, but, in



any case, all their activities are subject to the power of control of the Inspection Board of the Ministry of National Education. The state exercises particularly strict control over textbooks, especially when these are translated into languages other than Turkish. Turkish faith-based private schools are usually for co-religionists and can refuse admission to students of a different religious denomination. Although Article 41 of the Treaty of Lausanne provides for public funding for these schools, in reality this is very low or non-existent: it is the schools that pay their teachers. In these institutions, the teaching of religions is a specific school subject (two hours a week), with no possibility of formal exemption. They also organize courses on citizenship and education on coexistence. Teachers and students may wear religious symbols specific to the school's religious tradition during lessons, but faith-based private schools are prohibited from displaying religious symbols (including those of the school's religious denomination). As regards the teaching of RE, it should be noted that Türkiye directly trains Muslim ministers of religion, while RMs train theirs through the internal circuits of their religious organizations without any public support or recognition of their qualifications.

4.3.2 Perceptions from RM Representatives

by **Daide N. Carnevale, Minoo Mirshahvalad and Alessia Passarelli**

Although representatives of Catholic and Evangelical Churches are keen to incorporate their religious teachings into school curricula, their desire cannot be fulfilled. In Algeria, from elementary to high schools, only Islamic doctrines are taught. Since 1990, Islamic education has become an obligatory subject for obtaining a diploma. Christians cannot open their own private schools where they would be able to teach their tenets. In public schools, Christian students and teachers always face discrimination due to their religious beliefs and symbols. These students do not have the right to opt out of Islamic teachings. Due to these reasons, Catholics and Evangelical protestants expressed dissatisfaction regarding the ways in which religions are taught at the Algerian schools.

In Türkiye, RE is taught as 'Religious Culture and Moral Education' and although it can address other religious traditions it is primarily based on Islamic teachings. Because of this and the RMs' inability/impossibility to bring their own teaching, the representative of the Catholic Church is very dissatisfied with the system in place in Turkish schools. In relation to perceived discrimination by RMs in school, it emerges that sometimes students feel discriminated against on religious grounds specifically in relation to the content of the RE course. Religious symbols cannot be displayed in public schools, but students and teachers can wear them.

4.4 Comparative Remarks

by **Rossella Bottoni**

a) *RE in public schools.* In Algeria, the French-region of Alsace-Moselle, Croatia, the Republic of Cyprus and Türkiye, RE is part of the education provided by public schools as a 'teaching of religions'. In the rest of France, it is 'teaching about religions' and it is a transversal subject. In Alsace-Moselle, Croatia and the Republic of Cyprus, only some RMs can teach their religion in public schools. In Algeria and in Türkiye, only the majority religion is taught. According to international standards of FoRB protection, the teaching of a particular religion should not be imposed on students who do not wish to receive it. In Algeria students belonging to a different religion are not exempted, whereas in Türkiye RM members have gone through judicial battles to obtain exemption. The ECtHR itself has found Türkiye's violations of the Convention in cases originated by applications lodged from individuals, which have complained about



the authorities' refusal to grant an exemption or about the discriminatory modalities to request the exemption (for example in *Mansur Yalçın and Others v. Türkiye*, application no. 21163/11, 16 September 2014).

b) *Religious symbols in public schools.* In Croatia and the Republic of Cyprus, both students and teachers can wear religious symbols in public schools. In France, there is a total prohibition for teachers, whereas students are only allowed to wear religious symbols that are not 'conspicuous' (a characteristic that nevertheless is vague, opens to arbitrary and discriminatory interpretation and seems to be grounded more on sociological than legal arguments). This limitation applies to schools at all levels, with the exception of universities. In Algeria, only Muslim teachers and students can wear religious symbols, whereas in Türkiye this right can be exercised regardless of one's religious belonging. No MiReDiaDe country has legal rules prescribing the display of religious symbols in public schools: in France and Türkiye this is expressly prohibited, whereas in the other countries – where there is neither an obligation nor a prohibition – one may find symbols of the majority religion displayed in public schools.

c) *Religious holidays in public schools.* In Algeria and the Republic of Cyprus, the right to refrain from teaching/attending school on religious holidays is not recognized, neither to teachers nor to students. It is recognized in Croatia to members of RMs that have signed an agreement with the state, and in Türkiye to Armenian Gregorian and Jewish students and teachers if the local administration of the school allows so. It may be also exercised in a non-selective way in France if this does not impair the proper functioning of the public education service.

d) *Religious dietary rules in public schools.* No MiReDiaDe country has formalized the right of students to receive food not prohibited by their own religious rules in school canteens. However, public schools tend to either provide special menus or allow students to eat food brought from home.

e) *Opening and managing faith-based private schools.* Only in Algeria are RMs not allowed to open their own schools. In France this right is recognized to any RMs complying with the requirements stipulated by the law, whereas Croatia, the Republic of Cyprus and Türkiye grant the exercise of this right in a selective way, which does not appear to be consistent with international standards of FoRB protection, only to recognized RMs. This category is especially problematic in Türkiye, which relies on a controversial interpretation of the Treaty of Lausanne. Although the latter generically mentions "non-Muslim minorities" in Arts. 39-43 and 45 (under the heading "Protection of minorities"), Turkish authorities have argued since the foundation of the Republic that those clauses make a distinction between 'recognized' and 'non-recognized' RMs. Accordingly, only RMs falling in the 'recognized' category can open and run faith-based private schools.

5. Conclusions and Recommendations

by **Rossella Bottoni**

According to international standards of FoRB protection, the legal treatment of RMs and their members is – or at least should be – inspired by two interrelated, but distinct, principles: respect and promotion. The former is related to the right to be equal and ensures that the rights recognized by the state laws or international norms are not violated. In particular, it prohibits individuals' discrimination on the ground of their belonging to an RM. Thus, it entails that RM members are not deprived of rights that are recognized to the majority of the population. Promotion, which is related to the right to be different, means something more: it puts into place the conditions facilitating the enjoyment of human rights and fostering the development of RM identity as well as their participation in the country's social, cultural and political life. In other words, promotion adds some more faculties to the 'standard package of rights' that everybody is entitled to in contemporary democracies.

Legal and social approaches emphasizing the right to equality do entail the prohibition of discrimination on religious grounds. In no contemporary democracy would it be admissible to deprive members of RMs of their civil and political rights, as it happened in the past, merely on the ground of a difference of religion. However, these approaches tend to be ill-disposed toward the recognition of the possibility for RM members to regulate entire areas of their life according to their religious rules. In fact, this is regarded as a threat to the state's monopoly of law and makes the promotion of RM rights more challenging than that of ethnic or linguistic minorities which do not raise the issue of the recognition of heteronomous legal rules, the origin of which are attributed to an external authority regarded as superior to human lawmakers. In principle, this applies also to majority ROs, but their historically important role in shaping not only the national legal system but also the national identity results in a stronger opposition to (real or alleged) non-traditional religious rules (see Silvio Ferrari, *Religious Rules and Legal Pluralism: An Introduction*, in R. Bottoni, R. Cristofori, S. Ferrari (eds.), *Religious Rules, State Law, and Normative Pluralism – A Comparative Overview*, Springer, 2016, pp. 1-25).

In fact, as concerns the heritage of Christianity in Europe, one has to consider the effects of the process of secularization of Christian theological or doctrinal tenets, such as the observance of Sunday as the day of rest. In the greatest part of the European space, a 'secular' social norm derives from Christianity, but it is perceived as religiously neutral because it is now part of the majority's cultural heritage. Thus, the issue of RM rights addresses directly the challenge posed by the inclusion of religious diversity within the European space: while European values incarnate the universality of human rights and include pluralism, they are also particular manifestations of a paradigm of national identity, where the influence of specific religious traditions is unescapable. This applies also to countries such as France, where the legal regulation of religion is strongly influenced by the principle of secularism (*laïcité*). Those RMs characterized by practices that cannot be assimilated into the ideal-type of national identity are the first ones to be hit by the 'impartial' application of the 'neutral' law



by an ‘ethically indifferent’ state. Croatia, France and the Republic of Cyprus – albeit in different forms and degrees – are characterized by what Silvio Ferrari has termed ‘selective cooperation’. A typical feature of democratic states is cooperation with social groups – a category including religious denominations. In fact, the state cooperates with religious denominations in the same way as it cooperates with other social groups, but it does not cooperate with all religious denominations in the same way. The more they are regarded as having values shared by the (majority of) society, the higher their chances of cooperating with the state, which means having access to forms of promotion of RM rights. As shall be detailed below, the dynamics of selective cooperation can be appreciated regarding recognized RMs in Croatia and the Republic of Cyprus, and the system of *cultes reconnus* in the French region of Alsace-Moselle. In these countries, it is recommended that the opportunities granted to a handful of ROs are extended also to other RMs, including those having practices not shared by the majority of the population.

The general position of RMs is far worse in contexts such as the Turkish one, where secularism (*laiklik*) is coupled with nationalism in the building of an ideal citizen (an ethnic Turk and Sunni Muslim), whereby all ‘heterodox’ cultural and religious manifestations are limited or prohibited. Although the Turkish legal system was shaped after Western models and its civil and criminal laws bear no trace of the Islamic legal tradition (in fact, the only surviving Islamic institution is the office of mufti), Türkiye is the only country in the whole European space that does not recognize any form of legal personality to RMs, which consequently cannot legally exist or operate as ROs in the country. This situation breaches international standards of FoRB protection. Further, Turkish authorities have relied since the foundation of the Republic on a controversial interpretation of the Treaty of Lausanne. Although the latter generically mentions “non-Muslim minorities” in Arts. 39-43 and 45 (under the heading “Protection of minorities”), Turkish authorities have argued that those clauses make a distinction between ‘recognized’ RMs (the Orthodox-Greek, Armenian Gregorian and Jewish communities) and ‘non-recognized’ RMs, which further restricts the rights of most RMs. From the legal point of view, a remedy can be easily introduced but this may not happen until a deep change in the state ideology and the ensuing notion of national identity takes place. As long as RMs continue to be seen as an existential threat to the state and the (Turkish-Sunni Muslim) nation, no effective solution bringing Türkiye in line with the international standards of FoRB protection can be imagined.

Algeria – like Croatia and the Republic of Cyprus – is influenced by the legal tradition of a specific religion (Islam), but – unlike its European counterparts, including Türkiye – has not undergone a significant process of secularization. Civil law (including the regulation of marriage and family) remains heavily inspired by Islamic principles and norms. This, in turn, makes non-Muslims subjected to the rules of a religion other than their own. While one may not expect to see the influence of Islam on Algeria’s legal system decreasing in the medium term, it may still be recommended that members of RMs are given the possibility to opt out the application of Islamic rules in marriage and family as well as the teaching of Islam in public schools.

As regards specifically the areas investigated by MiReDiaDE, the legal systems of all the countries concerned provide for civil marriage. In Croatia, France, the Republic of Cyprus and Türkiye, this institution has strengthened the protection of the right to equality. By making the spouses’ religion irrelevant, it has enabled everybody to marry without having to accept the rules and perform the rites of a religion, which they do not profess or even reject. Also, while numerous religious traditions prohibit or discourage religiously mixed marriages, civil marriage allows a legal union between people belonging to different religions. By contrast, in Algeria a non-Muslim man is not allowed to marry a Muslim woman; a non-Muslim woman may marry a Muslim man provided that she belongs to one of the ‘Peoples of the Book’, that is, Judaism and Christianity.

Only two countries – Croatia and the Republic of Cyprus – recognize civil effects to marriages celebrated according to the rules of the majority religion and a number of RMs: this possibility is granted to Jews, Muslims, Orthodox Christians and Protestants (but not Jehovah’s Witnesses) in Croatia; and to Catholics, Jehovah’s Witnesses, Muslims and Protestants (but not Jews) in the Republic of Cyprus. This does not mean that a marriage valid according to, say, Islamic law would be automatically valid also in the state legal system of Croatia or the Republic of Cyprus. Religious marriages can be legally recognized only insofar as they do not breach fundamental principles, inter alia on the minimum age of the spouses and the monogamous nature of the union. In this area, a better promotion of RM rights can be achieved by extending this possibility also to other RMs.

In Croatia, France, the Republic of Cyprus and Türkiye, the dissolution of marriage and the regulation of inheritance remain under the monopoly of state law, whereas dowry is today irrelevant in the state legal system. Because of the recognition of both the right to equality and the right to FoRB, conversion is not legally regulated (again, in the state legal system), which in turn results in the RMs’ freedom to celebrate the rites required to enter a religion. In controversies over child custody, religious principles are irrelevant: what matters is their practical impact on the child(ren)’s physical and moral health. This is another area, however, where legal experts and RM representatives have noted the existence of some bias in case law against RMs regarded as non-traditional or following principles and practices not shared by the majority of society. The situation in Algeria is different. The dissolution of marriage is under the monopoly of state law, too, but this area of law is heavily influenced by Islamic principles and norms. The same applies to inheritance and dowry. In child custody controversies, Muslim fathers are favored over non-Muslim mothers. However, the right to be different requires that all individuals are able to regulate the same legal relations (marriage, divorce, adoption etc.) according to the norms of their own religion, and that the acts so performed should be valid for the state legal system, at least as long as they do not conflict with any of its fundamental principles.

Education is less sensitive to the application of religious rules than marriage and family. At the same time, it is the area where interreligious dialogue can be better appreciated.

In all MiReDiaDe countries, RE is part of the education provided by public schools. In Algeria, the French region of Alsace-Moselle, Croatia, the Republic of Cyprus and Türkiye, it is given through a system of ‘teaching of religions’ (although in Türkiye the teaching is termed in such a way as to suggest it is a ‘teaching about religions’). The latter is only followed in the rest of France, where it is a transversal subject. In Algeria and Türkiye, only the majority religion is taught. Algerian students belonging to an RM are not exempted, whereas in Türkiye RM members have gone through judicial battles to obtain exemption. Both situations constitute a breach of the international standards of FoRB protection, as reiterated – in the case of Türkiye – by the ECtHR case law. In Alsace-Moselle, Croatia and the Republic of Cyprus, only some RMs can teach their religion in public schools. This selectivity generates disparities that can easily translate into discrimination and points to a deficiency that countries where a system of teaching of religions is in force should remedy. Without a reform of the legal system, this deficiency makes it impossible to guarantee a sufficient level of inclusion of RMs in the social and cultural life of a country and, in the most serious cases, it causes unjustified differences that result in discrimination.

No MiReDiaDe country officially displays religious symbols in public schools, although those of the majority religion may be allowed in Algeria, Croatia and the Republic of Cyprus. Only in some cases do public schools recognize the right to refrain from teaching and attending school on religious holidays. No MiReDiaDe country explicitly guarantees the students’ right to receive food that is not prohibited by their own religious rules in school canteens, although public schools tend to either provide special menus or allow students to eat food brought from home.



As concerns the right to open and manage faith-based private schools, the countries concerned may be divided into three categories. France and Algeria can be placed at the two opposite ends: the former recognizes this right to all RMs (complying with the requirements prescribed by law) and the latter to none. An intermediate position is occupied by Croatia, the Republic of Cyprus and Türkiye, where only recognized RMs are entitled to open and manage faith-based private schools. The gap between two groups of RMs significantly limits RMs' rights to equality and to difference.

In the field of education, some measures may be recommended to remedy the gap between the majority RO and RMs, as well as between the favored RMs and the non-privileged ones. The introduction of a teaching about religions is advisable, in order to enhance the knowledge and, thus, the acceptance of difference. For the same reason, education on citizenship and living together should be introduced or increased in schools (especially public ones). Where a system of teaching of religions exists and it is not possible to integrate it with a system of teaching about religions, the former should be made accessible to all RMs – instead of the majority RO alone or a selected number of RMs. Consistently with the international standards of FoRB protection, this teaching should not be made compulsory to those who belong to a different religion. The thorny issue of the wearing and display of religious symbols should be regulated so as to respect the equal right of RM members to be different – that is, avoiding unjustified, unnecessary and disproportionate differences in treatment. All RMs complying with religiously neutral requirements established by law must have their right to open and manage faith-based private schools recognized.

To sum up, none of the countries concerned has a system that is the best in absolute terms: even those that seem to better respect and promote RM rights can be improved. There is no universal 'recipe', mixing perfectly the rights to equality and to difference, which can be applied everywhere: national and local conditions – produced by different historical, social, cultural, political and even economic characteristics – can cause a solution to fail in one country, despite having been successful elsewhere.

Nevertheless there are some minimum levels of protection that need to be recognized by each and every country according to the international standards of human rights protection. The respect for RM rights requires the recognition of the possibility for RMs to acquire legal personality in Türkiye, and for their members to be exempted from the application of Islamic rules in Algeria, whereas the promotion of RM rights can only be achieved by overcoming as far as possible the pattern of 'selective cooperation' and extending the advantages offered to a handful of RMs to a greater number of them.

6. Policy Reflections and Messages

by **Pasquale Annicchino** and **Gabriele Fattori**

The promotion and protection of the right to freedom of religion or belief has become an important field of action in the foreign policy of different States. The Italian government has made the promotion and protection of freedom of religion or belief an increasingly active area of its foreign policy also through the institutionalization of the Special Envoy for FoRB Protection and Interreligious Dialogue. As in the case of other initiatives, Italy has attributed a global mandate to this position. However, it is clear that the greater Mediterranean region is likely to be a major area of policy interest and active engagement. This is the result of Italy's geopolitical interests, but also a reality given by the special role that religion and religious groups play in the region. In this context, the data and insights provided the research efforts undertaken in the context of the MiReDiaDe project contribute to shape the understanding of a growing field of analysis and policy, which focuses on the role of religion and religious groups, often in fragile democracies and political contexts, with important security and political implications also for Italy. As underlined by the research findings, in many cases family law is a complex area of regulation, which is heavily influenced by the cultural and religious trajectories of any given State. This is even more complex in cases where the state and religious legal regimes overlap and influence each other. This, for instance, would be the case of Algeria where “the dissolution of marriage is under the monopoly of state law but this area of law is heavily influence by Islamic principles and norms”. The recognition of religious minorities rights in the educational sphere offers yet another example of the legacy and role of majoritarian religion which can lead to breach of international standards of FoRB protection (like in the cases of Algeria and Turkey) and to discrimination that does not guarantee a sufficient level of social inclusion of religious minorities. Variations are registered among the countries object of the research as this is a common pattern in every field of interaction of law and religion. As stressed in the findings of the research, “national and local conditions – produced by different historical, social, cultural, political and even economic characteristics – can cause a solution to fail in one country, despite having been successful elsewhere”. The research findings confirm the basic intuition that was at the basis of the historical analysis made by Fernand Braudel on the idea of the “Mediterranean” that needs to be understood based on its plurality, which can also lead to cultural contradictions. As Braudel reminded us, the Mediterranean must be understood as a unity born out of its diversity. Given the complexity of the legal regimes on education, family and marriage and their consequences on the status of religious minorities, we should ask ourselves which role Italy can play in its foreign policy in this scenario and what are the best tools at its disposal to foster the promotion and protection of human rights and its national interest. The findings of the MiReDiaDe project confirm the relevant persistence of religious discrimination in the greater Mediterranean space especially in fields of law like education and family where the intervention of the State is a central factor in the development of any policy.



A mainstream (and short-term) policy option would be based on the constant call for the respect of established international human such standards for the protection of religious minorities and advocacy for national legal reform where the standards are not met. Given the current geopolitical scenario, this approach, especially in some countries, is often met with resistance as it is understood to be based on the promotion of human rights standards based on so-called “Western values” conceived as emphasizing the individual dimension human rights and not taking sufficiently into account the communitarian perspective in the epistemology of human rights. Italy has a unique opportunity to develop a medium-long term strategy which could position its policy options in a more promising framework by pivoting to a strategy that could take into account the following points in its foreign policy:

- Religion has to be taken seriously and religious groups, especially those with transnational networks, can become important partner in advancing a conversation in rights promotion and protection.
- In order to guarantee a level playing field and to widen the possibility of engagement in the greater Mediterranean region, Italy could consider widening its language in human rights promotion and protection. This includes, beside the language of international human rights, arguments based on the concepts of “human dignity” and “inclusive citizenship”, which are recognized by different religious traditions and encounter less risks of being labeled as a tool of Western imperialism. A focus on human dignity builds on the human rights *acquis*, but also offers the possibility of engagement with stakeholders who are skeptical of the human rights discourse.
- Based on its longstanding involvement in promotion and protection of freedom of religion or belief, Italy could consider investing a significant effort in networking activities with religious groups and religious leaders in the area through inter-religious dialogues initiatives. The research findings of the project confirm the perception of this dialogue as a priority also for religious minorities (see par. 5).
- Especially in the field of religion and education, Italian universities can play a decisive role in offering training to young leaders of Euro-Mediterranean countries which could impact their domestic policies. Italian authorities could consider establishing a program like the International Visitor Leadership Programme in cooperation with Italian Universities for Mediterranean countries current and emerging leaders.
- Discriminations and inequalities in education and family law have often an impact on women, also in countries where the population faces less repressive conditions. Italy could consider devoting particular attention to the empowerment of women’s groups in its foreign policy engagement.

As underlined in previous research, the findings and the comparative analysis of the MiReDiaDe project confirm the complexity of the legal regimes where law and religion interact and the need to avoid building policy actions and messages on stereotypes and oversimplifications. The findings also confirm the need to improve the religious and FoRB literacy of officials working in foreign policy and are called to engage with States where religions have an important public dimension.



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