

The issues of efficient governance in the area of Church-State relations: cases of Belarus and Estonia

Sergei A. Mudrov, PhD

Introduction

Belarus and Estonia entered the early 1990s, when they gained their independence, with some similar state of affairs in the area of Church-State relations. The official policy in the USSR, where both countries belonged to, was aimed at the complete removal of religion from the public and private sphere. Religious organisations were not allowed to appear in the mass-media, educational establishments, medical institutions, etc., and their functioning was perceived by the authorities as alien towards the dominant communist ideology, which actively promoted atheism.

The collapse of the state system, which was founded on this ideology, brought substantial changes to the governance in the area of Church-State relations. Religious organisations obtained the degree of freedom, which was unimaginable for them just several years before. The number of religious organisations began to grow, thus reflecting their rising significance and influence. Certainly, the authorities were facing some new challenges and were required to react to these new situations, now known before. Therefore the need to establish the efficient governance in the area of Church-State relations came to the agenda.

This paper analyses how the system of Church-State relations in Belarus and Estonia was established, how it functions, especially in the light of the necessity for efficient governance in this sensitive area. The structure of this paper is as follows. First, we discuss the theoretical foundations for Church-State relations, as reflected in the writings of contemporary scholars, working in this field. Second, we analyse the main developments in this area in Belarus and Estonia, including practical aspects of Church-State relations. Finally, two case studies are compared, with the formulation of practical recommendations to Belarusian policy-makers.

Church-State relations: the theoretical models

The formation of Church-State systems has been a long and complicated process, not without its own conflicts and disputes. The modern models of Church-State relations were mostly developed in the 20th century, since in earlier centuries '[c]hurch and state institutions were closely intertwined'.¹ In fact, in many countries monarchs had generally dominated the Church, even assuming the right to appoint bishops and, furthermore, to interfere in doctrinal issues.² Thus, relations between Church and state were largely unequal; and this inequality was disadvantageous for Churches.³

Overall, one should not underestimate the importance of Church-State relations in the development of modern state. Some scholars (e.g. Leustean, 2008) argue that '[c]hurch-state relations form the basis of contact between religious and political actors at both national and supranational level'.⁴ As Lucian Leustean explains 'These relations have deep historical roots and are moulded on the national differences of religious and political realms'.⁵ Zsolt Enyedi maintains that the peculiarities of Church-State relations 'affect three types of interests: the interests of states, Churches, and of non-believers'.⁶

¹ Sabine Riedel (2008) 'Models of Church-State Relations in European Democracies', *Journal of Religion in Europe*, Vol.1, No.3, p.252

² Ibid., pp.253-255

³ Ibid., p.252

⁴ Lucian Leustean (2008) 'Challenges to Church-State Relations in Contemporary Europe: Introduction', *Journal of Religion in Europe*, Vol.1, No.3, p.248

⁵ Ibid., p.247

⁶ Zsolt Enyedi (2003) 'Conclusion: emerging issues in the study of church-state relations', *West European Politics*, 26(1), p.226

There is a substantial degree of agreement among scholars on the typology of Church-State relations. Leustean cites three models (or systems): the state Church, the cooperationist (or hybrid) and the secular (or separation).⁷ If one religious denomination is predominant and is regarded as a “national” or “established” Church, this will form the state Church model. The cooperationist model exists where there is a formal separation between Church and state, normally with agreements which regulate the status of Churches. Finally, the secular model exists where no particular religion is favoured by the state and no established Church exists.⁸

Christopher Soper and Joel Fetzer assert the notion of *laïcité*, which is the opposite of an established Church, and expound on the idea of an intermediate system. They describe two main categories of *laïcité*: strict and soft. The first version implies that ‘[c]itizens may, in their private life, believe what they will about religion. In public, however, religious individuals face more restrictions’. According to the second version, ‘[t]he state should respect all religious beliefs but also foster the free exercise of religion by, for example, funding private religious schools’.⁹ The third (intermediate) system is located between these two polar cases, where there is no established Church by law, but national legislation guarantees the patterns of cooperation between Church and state. As Soper and Fetzer explain ‘The German Basic Law establishes a formal separation between Church and state, but at the same time the constitution secures cooperation between the two institutions in such areas as education and social welfare provision’.¹⁰

Gerhard Robbers (2005) posits three ‘basic types of civil ecclesiastical law systems’: state Church or predominant religion, strict separation, and basic separation, where the existence of common tasks for both sides is recognised.¹¹ John Francis offers a broader explanation, describing five main models of Church-State relations:

[t]he Erastian model, in which the state has assumed responsibility for the direction of the church; the liberal model, in which the state is secular and neutral in its relationships with the church(es) found in its society; the theocratic model, in which the church has achieved supremacy in religious and secular affairs; the spheres model, in which the church prevails in some spheres and the state in other spheres of society; and the anti-church model, in which the state stands in opposition to the church and seeks to curtail or eliminate religion.¹²

In summary, all of these approaches can be fitted into the three main regimes: state Church, strict separation and the cooperationist model. However, as Sandberg argues, the position of the Church under the same type of system in different countries varies a great deal.¹³ For instance, in Denmark, within the state Church system, there is a high degree of state control over the Lutheran Church, while in Greece the Orthodox Church is a self-governing structure.¹⁴ Overall, in agreement with Madeley, we can claim that the pattern of Church-State relations can be explained, at least partly, by the confessional distribution in society.¹⁵

Church-State relations in independent Belarus

Belarus approached the end of the Soviet era with a heavy legacy of the communist atheist policy, which was aimed at the complete removal of religion from the public and private spheres. In 1988 the number of believers in one of the then republics of the USSR ranged

⁷ Leustean 2008, p.247

⁸ Ibid., pp.247-248

⁹ Christopher J. Soper and Joel S. Fetzer (2007) ‘Religious Institutions, Church-State History and Muslim Mobilisation in Britain, France and Germany’, *Journal of Ethnic and Migration Studies*, 33(6), p.937

¹⁰ Ibid., p.938

¹¹ Gerhard Robbers (ed.) (2005) *State and Church in the European Union*. Nomos Verlagsgesellschaft, pp.578-579

¹² John Francis (1992) ‘The Evolving Regulatory Structure of European Church-State Relationships’, *Journal of Church and State*, Vol. 34, Issue 4, p.800

¹³ Russell Sandberg (2008) ‘Church-State Relations in Europe: from Legal Models to an Interdisciplinary Approach’, *Journal of Religion in Europe*, Vol.1, No.3, p.336

¹⁴ Ibid., p.331

¹⁵ John Madeley (2003) ‘A framework for the comparative analysis of church-state relations in Europe’, *West European Politics*, 26(1), p.34

between 10 and 15 percent.¹⁶ Religious communities were not allowed to take part in public life; their access to mass media was virtually non-existent. Many Church buildings, confiscated by the state, were used as libraries, entertainment clubs or even storehouses. Some of them were ruined or abandoned. No seminary functioned in Belarus; therefore those who wished to receive theological education had no option other than to go to one of the few seminaries in other parts of the USSR.

With the beginning of the perestroika and after the Chernobyl tragedy in 1986, which severely affected Belarus, the religiosity of the Belarusian people began to grow. In 1988, marked by the celebration of the 1000th anniversary of the Baptism of Rus', the attitude of the communist authorities towards religious communities began to change, with some important restrictions removed. For example, clergy were given some access to the mass media; they were also allowed to speak to a wider audience in various institutions. After the decades of decline, the prospects for religious revival looked promising, especially for the dominant Orthodox confession. However, the formal legislative changes occurred only after Belarus became independent after the dissolution of the USSR in December 1991.

One year later, in December 1992, the Belarusian Parliament (Supreme Soviet of the 12th convocation) adopted the first democratic law in the area of religion, 'On the Freedom of Religions and Religious Organisations'. This law established a principle of equality of religions and denominations, specifying in Article 6 that 'All religions and denominations are equal before law. No denomination is given advantages or restrictions, compared with others'. Article 3 proclaimed that 'according to the right of the freedom of conscience every citizen personally determines his attitude towards religion; he can individually or with others belong to any religion or not; and express and spread conviction'.¹⁷

The new Constitution of Belarus, adopted in March 1994, repeated the main principles of the Law of 1992, stating that all religions have equal status before the law. In November 1996 the Constitution was drastically altered in a referendum, with the substantially increased power of the President. The Supreme Soviet was abolished, with the establishment of the bicameral Parliament: the National Assembly, consisting of the House of Representatives (lower chamber) and the Council of the Republic (upper chamber). In this new version of the Constitution, changes were introduced into the main regulatory principle, concerning relations with religious organisations. Article 16 specified that 'Relations between the State and religious organisations shall be regulated by law with regard to their influence on the formation of spiritual, cultural and state traditions of the Belarusian people'.¹⁸ This provision in general undermined the idea of the strict separation of the Church and the state (heavily endorsed by the communist regime), and it recognised implicitly that churches could be meaningful and influential in the public domain.

A new Law on religion (the Law on the Freedom of Conscience and Religious Organisations) was introduced in 2002, almost six years after the amended Constitution came into force. In June 2002, the House of Representatives adopted the draft proposal, which became law after being approved in October 2002 by the Council of the Republic and signed by the President. According to Igor Kotliarov and Leonid Zemliakov, this Law '[c]ame as a result of numerous discussions, compromises in the Belarusian Parliament, among the branches of power and among confessions'.¹⁹ Although it was not perceived positively by all religious groups, the most influential denominations and religions (Orthodox, Catholic, Lutheran, Jewish and Muslim) supported the adoption of the new Law.²⁰ In principle, it repeated some provisions of the 1992 Law (proclaiming the freedom of conscience and religions and the equality of different religions before the law), but it also contained

¹⁶See 'Rol gosudarstva v dostizhenii obschestvennogo soglasiya' [The role of the state in achieving societal agreement], p.8, http://un.by/pdf/nhdr/1997_ru_chapter_5.pdf

¹⁷ *Verkhovni Sovet Respubliki Belarus. Zakon Respubliki Belarus o svobode veroispovedaniy i religioznych organizatsiyakh* [Supreme Soviet of the Republic of Belarus. The Law of the Republic of Belarus on the Freedom of Religions and Religious Organisations], 1992.

¹⁸ Constitution of the Republic of Belarus (see <http://president.gov.by/en/press19329.htm#doc>).

¹⁹ Igor Kotliarov and Leonid Zemliakov. *Respublika Belarus v konfessionalnom izmerenii* [The Republic of Belarus from a confessional dimension], Minsk: Izdatelstvo MIU, 2004, p. 165.

²⁰ *Belorusskiy Parlament prinial odobrenniy veduschimi konfessiyami strani noviy zakon o svobode veroispovedaniy* [The Belarusian Parliament adopted a new Law on the freedom of religions, which was supported by the main confessions of the country], 02 October 2002, <http://www.pravoslavie.ru/news/020930/01.htm>

important innovations, developing the context of Article 16 of the Constitution. Indeed, the Law recognises the 'determining role of the Orthodox Church in the historical formation and development of spiritual, cultural and state traditions of the Belarusian people'. Furthermore, it points to the 'spiritual, cultural and historical role of the Catholic Church on the territory of Belarus' and the 'inseparability of the history of the people of Belarus from the Evangelical Lutheran Church, Judaism and Islam'.²¹

The Law on religion established a three-tiered structure of religious organisations: religious communities, religious associations and republican religious associations. Religious communities are the basic units. For official registration they must comprise at least twenty people over the age of eighteen who live in the neighbouring areas. Religious associations, according to the Law, are comprised of ten communities and at least one of them should have been active in the country for a minimum of twenty years. Only religious associations enjoy the right to create monasteries, religious brotherhoods and sisterhoods, spiritual missions and theological educational establishments (with the exception of Sunday schools, which can be created by religious communities). Religious issues in Belarus are regulated by the Office of the Plenipotentiary Representative for Religious and Nationality Affairs (*Apparat upolnomochennogo po delam religiy i natsionalnosti*). This Office (which is a governmental body) appeared in 2006, after the abolition of the Committee on Religious and National Affairs of the Council of Ministers. The current head of office, Leonid Guliako, regards himself as an Orthodox Christian, although he also mentioned in an interview that he is not a particularly religious individual.²²

The new Law, which highlighted the important role of the Orthodox Church, paved the way for the signing of a special Agreement between the Church and State in June 2003, less than a year after the Law had come into force. In this Agreement, the state recognised the Orthodox Church as 'one of the most important social institutions' in the country and provided guarantees for the 'freedom of [its] internal organisation'. The Church emphasised that 'cooperation with the state helps to strengthen the spiritual and social activity of the Church and to improve the opportunities for the common opposition to the pseudo-religious structures, which create danger for the individual and society'.²³ The Agreement gives priority to the cooperation between Church and State in the spheres of education, culture, charitable work, family and family values, morality, etc. As was stated by Stanislav Buko, then Chairman of the Committee on Religious and National Affairs, 'the signing of the Agreement with the Orthodox Church is a recognition of its merits and its role in the cultural and spiritual tradition of the Belarusian people'.²⁴ Metropolitan Philaret, then the Head of the Belarusian Orthodox Church, emphasised that 'the Church lives with its life and does not intend to acquire state features or functions, as we are sometimes accused of [...] The Agreement between the Belarusian Orthodox Church and the state [...] defines the main principles of our bilateral relations and the mutual perception of each other'.²⁵

It is worth noting that this general Agreement of the Church and State allowed the Orthodox Church to sign a substantial number of more specific agreements with various governmental agencies and institutions.²⁶ The substantial number of participating ministries is explained mainly by pragmatic reasons. Governmental agencies and ministries heavily control various aspects of everyday life and close cooperation is necessary in order to reach even the basic objectives of any religious organisation, regarding, for example growing Church involvement in societal activities.

²¹ *Natsionalnoye sobraniye Respubliki Belarus. Zakon Respubliki Belarus o svobode sovesti i religioznikh organizatsiyakh* [National Assembly of the Republic of Belarus. The Law of the Republic of Belarus on the Freedom of Conscience and Religious Organisations], 2002, <http://pravo.by/main.aspx?guid=3871&p0=v19202054&p2={NRPA}>

²² Leonid Guliako, TV interview. 21 November 2011 <http://churchby.info/bel/741/>

²³ *Soglasheniye o sotrudnichestve mezhdru Respublikoi Belarus i Belorusskoi Pravoslavnoi Tserkoviyu* [The Agreement on cooperation between the Republic of Belarus and the Belarusian Orthodox Church] <http://www.church.by/resource/Dir0009/Dir0015/index.html>

²⁴ Galina Ulitenok, *Gosudarstvo i pravoslavnaya tserkov ofornili svoi otnosheniya* [The State and the Orthodox Church Legalised their Relations] *Sovetskaya Belorussiya*, 13 June 2003.

²⁵ Philaret, *Vospitaniye veri* [Upbringing of the faith]. NG-Religiya, 06 August 2003.

²⁶ For example, the Belarusian Orthodox Church adopted the programmes of cooperation with the National Academy of Sciences, Committee on the prevention of the consequences of the Chernobyl nuclear disaster and with the Ministries of Interior; Health; Information; Culture; Defence; Education; Emergencies; Natural Resources; Sport and Tourism; and Labour and Social protection.

Practical aspects of Church-State relations in Belarus

As mentioned earlier, the Orthodox Church is the only Church in Belarus which signed a special agreement with the state, which, in its turn, paved the way for the signing of more specific agreements. However, the practicalities of cooperation between the Orthodox Church and governmental institutions have varied in their scope and intensity. For example, cooperation with the Ministry of Information has provided a number of opportunities for interaction between the Church and the mass media. The Ministry of Culture has cooperated with the Church in the area of caring for objects of cultural and religious heritage. Cooperation with the Ministry of Labour and Social Protection has been necessary, inter alia, to guarantee the access of priests to geriatric homes, in order to help the elderly people accommodated there. The Ministry of Defence has allowed priests to be present in military units, although not on a full-time basis. In fact, the institution of army chaplains has never developed in Belarus; therefore those priests who conduct their pastoral duties in the army do this on a voluntary basis. The same refers to pastoral work in prisons and hospitals.

The most productive cooperation has developed with the Ministry of Education. In fact, this Ministry was the first governmental institution to sign, as early as in June 1996, the Agreement on Cooperation with the Orthodox Church.²⁷ The first Programme of Cooperation, established in 2004, was completed in 2010. Both sides praised its outcome, especially the organising, as stated by Minister of Education, Sergei Maskevich, of 'many events on the moral and patriotic upbringing of the youth, on the familiarising of young people with the historical role of Orthodoxy in the formation of culture and statehood of the Belarusian people'.²⁸ The second programme was signed on 8 April 2011, covering the period from 2011 to 2014²⁹; its outcome will be assessed later this year.

Overall, one needs to note not only the adequate level of interaction of clergy with governmental institutions, but also the existence in Belarus of an established pattern of cooperation between the top state officials and the Orthodox and Catholic Churches. President Alexander Lukashenko has underlined repeatedly that he relied on Christian values as a foundation of Belarusian state ideology.³⁰ The President also attends (at least once a year) sessions of the Synod of the Belarusian Orthodox Church, where he usually praises the activity of the Church and underlines the importance of its cooperation with the state. These are not just ceremonial meetings; discussions on practical issues also take place. In his speech at the Orthodox Church Synod's session in April 2011, Lukashenko mentioned specifically that the Church 'should live by the interests of the country', and in order to defend these interests, the Church needs to use, if necessary, all its contacts and its international reputation.³¹ A similar request was addressed to the Roman Catholic Church. At the meeting in Minsk on 14 November 2011 with the President of the Pontifical Council for Promoting Christian Unity, Cardinal Kurt Koch, Lukashenko stated that 'we expect more from the Catholic Church and personally Pope Benedict XVI³² regarding the defence of our interests, especially in the West'.³³

The positive rhetoric of top officials, however, is not always turned into adequate action. For example, in 2006 the President did not support metropolitan Philaret's idea to tighten abortion law in Belarus, in order to prevent 'unjustified and massive use of abortion'.³⁴ Also, the Orthodox Church did not succeed in introducing lessons with a religious content (such as the 'Basis of Orthodox culture' or on the 'Spiritual and moral upbringing of the Orthodox traditions of the Belarusian people') at schools as part of the curriculum (they can only be taught as optional subjects, at the request of parents). The problem of non-recognition of Doctoral

²⁷ *Razvitiye Pravoslavnogo obrazovaniya v Respublike Belarus* [The development of the Orthodox education in the Republic of Belarus], Minsk: Izdatelstvo MIU, 2006, p. 7.

²⁸ Yulia Vanina, *Minobrazovaniya i BPTs podpisali programmu sotrudnichestva na 2011-2014 godi* [Ministry of Education and the Belarusian Orthodox Church signed the programme of cooperation for 2011-2014], 2011, <http://news.tut.by/society/222785.html>

²⁹ *Ibid.*

³⁰ Igor Kolchenko and Vitaliy Volianiuk, *Bez dukhovnosti net cheloveka...* [The human does not exist without spirituality...], 2009, <http://www.sb.by/post/91604/>

³¹ Vitaliy Volianiuk, *Glavnoye—ostavatsia ludmi* [The main thing is to remain human], 2011, <http://www.sb.by/post/115410/>

³² In office until February 2013

³³ Arhiv soobschneiy press-sluzhby. [The archive of press-service communications. Alexander Lukashenko met cardinal Kurt Koch and metropolitan of Minsk and Slutsk Philaret]. 14 November 2011, <http://www.president.gov.by/press132446.html>

³⁴ Siarhei Karalevich, *Aliaksand Lukashenka: 'U dziarzhvi i tsarkvi adni i tiya zhe meti—gramadskaya zghoda i adzinstva naroda* [Alexander Lukashenko: 'Both state and Church have the same goals: civil unity and the unity of the people'], *Zviazda*, 22 December 2006.

Degrees in Theology, awarded by the ecclesiastical educational establishments in Belarus (such as the Theological Academy of the Orthodox Church), is still on the agenda. These degrees are not validated by the Higher Attestation Commission (VAK). Interestingly, Lukashenko spoke in favour of recognition of the Doctoral Degrees in Theology in a March 2009 meeting with members of the Synod,³⁵ but the President's favourable attitude (at least in words) towards the solution of this problem did not bring much change. This is surprising in a country where the President enjoys enormous influence and power.

One more issue of concern has been related to restrictions, reportedly imposed on pastoral visits to political prisoners.³⁶ At least, this issue was on the agenda in 2011, when attempts to get access to some of these people failed.³⁷ This occurred in spite of the agreement between the Orthodox Church and the appropriate governmental institutions, and in the light of the repeated requests from priests and even assistant bishop of Minsk Diocese – bishop Veniamin (Tupeko).³⁸ However, this problem has not undermined the principle of cooperation in this and other areas.

Overall, Churches have endeavoured to work not only with governmental institutions, but also with non-governmental organisations. In the scope of this work, the Council on moral issues was established in 2009, on the initiative of the Belarusian Orthodox Church and the Union of Writers of Belarus. It now includes representatives of the Orthodox and Catholic Churches, writers, representatives of the educational establishments and top officials. Its main objective is to identify if publications, films, various events (concerts and so on) meet the standards of morality.³⁹ Although the decisions of the Council are not mandatory, they are normally respected and can be used by official institutions as a justification for certain actions, protecting public morality in Belarus.

Finally, it is worth mentioning that the state has provided some limited support to ecclesiastical institutions, especially to the Orthodox and Catholic Churches. For example, archbishop Kondrusiewicz of the Roman Catholic Church pointed out that 'the state helps with the restoration of churches, regarded as historical monuments'.⁴⁰ However, the total help from the state can hardly be regarded as substantial, especially if one notes that many buildings, confiscated (and used) by the communist authorities, were returned to Churches in poor condition. As archpriest Alexander Shimbaliy emphasised, 'we needed to renovate everything or build anew. The state helps only partially'.⁴¹ In fact, the state has never attempted to return in full all the property, which was confiscated from the Churches in the Soviet era.

Estonia: the development of Church-State relations

One needs to note that Estonia is known as one of the most secularised countries in the European Union, with the low share of believers and the low level of church attendance (only 18 percent of Estonians say they believe in God, although around 50 percent claim they believe 'there is some sort of spirit or life force').⁴² However, this does not stipulate that religion is totally excluded from the public sphere and politics. On the contrary, as Alar Kilp claims:

[s]ince the accession of Estonia to the European Union in 2004, there has been a small shift towards desecularisation in the dimension of collective cultural identities, where the increasing sacralisation of ethnic identities in Estonian electoral campaigns has been accompanied by increasing use of religious objects, institutions and ceremonies as symbolic representations of cultural identity.⁴³

³⁵ Vitaliy Volianiuk, *Dukh ponimaniya* [The spirit of understanding], 2009, <http://www.sb.by/post/83092/>

³⁶ For the list of political prisoners in Belarus see <http://www.lphr.org/en/news/news-details/article/liste-der-politischen-gefangenen-angeklagten-und-rechtswidrig-verurteilten-in-belarus//3/> The Belarusian authorities deny that these people have been prosecuted for political reasons.

³⁷ *Da Yaromenka ne puskayut sviatara* [No priest is allowed to meet Yaromenok], 28 June 2011, <http://nn.by/?c=ar&i=56491>

³⁸ Natalia Vasilevich, *Falshiviye notki tserkovno-gosudarstvennoi simfonii* [The false notes of the Church-state symphony], 2011, <http://churchby.info/rus/702/>

³⁹ See <http://news.tut.by/society/146565.html>

⁴⁰ <http://www.interfax.by/article/97254>

⁴¹ Fr Alexander Shimbaliy, *Nichego strashnogo, esli vse mrakobesiye uidet v podpoliye* [There is nothing dangerous if obscurantism goes underground], 2008 <http://news.tut.by/society/114840.html>

⁴² See http://ec.europa.eu/public_opinion/archives/ebs/ebs_341_en.pdf

⁴³ Alar Kilp (2013) 'Lutheran and Russian Orthodox Church Buildings as Symbols of Cultural Identity in the Estonian Parliamentary Elections of 2011', *Religion, State & Society*, 41:3, p.314

However, Kilp at the same time admits that '[t]he small shift towards desecularisation of ethnic identities has not spilled over and affected the highly secular nature of Estonian culture and other dimensions of politics'.⁴⁴ Therefore the secular character of Estonian society has basically remained unchanged.

The revival of religion in Estonia was first noticed in the second half of 1980s, with the development of perestroika and increasing democratisation in the country. From 1985 to 1988 there were only 'minor changes' in Church-State relations in Estonia, which, in fact, was quite reflective of the general state of affairs in the USSR as a whole.⁴⁵ However, in the first few months of 1988, some substantial political changes occurred in Estonia, with the establishment of a number of important social and political associations. Notably, the clergy was also participating in the activities of these associations and even established its own association.⁴⁶ During winter and spring of 1988 most of the clergy who participated in the activities of social and political movements contributed to the work of the Estonian Heritage Society (EHS). After the idea of setting up the Estonian Popular Front (EPF) was announced, clergymen started to participate in EPF support groups as well, which, like the EHS clubs, were set up in villages and cities all over Estonia. There were also groups formed on the basis of profession or organisation.⁴⁷ The clergy (mainly Lutheran and sometimes Orthodox) also conducted ceremonies at the construction of monuments to commemorate those Estonian soldiers who died in 1918-1920 Independence War.

In December 1988 the Estonian Christian Union (ECU) was established, as a fulfilment of the idea, expressed earlier that year by the three priests, representing Orthodox, Lutheran and Catholic confessions.⁴⁸ Representatives of the Lutheran clergy took part in the foundation of the Estonian National Independence Party (ENIP), which plainly demanded the independence for Estonia. In 1989, ECU was transformed into a political party (Estonian Christian-Democratic Union) and those who disagreed with this idea formed another organisation, Estonian Christian Society.⁴⁹ In February 1989, with the substantial support of the then metropolitan of Tallinn Alexiy (later the Patriarch of Moscow, from 1990 to 2008) the Estonian Council of Churches was formed, as an ecumenical organisation, representing most Christian confessions in Estonia. In the Congress of Estonia, elected in 1990 by the 'citizens of Estonia', were 24 clergy (only Lutheran), and its work began and ended with prayers. In the 1990 elections to the Estonian Supreme Soviet two clergymen (Lutheran) were elected.

Since the changes, which occurred in the Estonian society, were rapid and substantial, it is not surprising that the attitudes of authorities towards religious organisations turned into less harsh and oppressive direction. This became noticeable in 1989. Since then, the Council on Religious Affairs (CRA) largely refrained from the intervening in the activities of religious organisations, and some new religious groups emerged (for example, Charismatic Pentecostals). Moreover, from the early 1989 the Commissioner on Religious Affairs made his focus on the elaboration of a new legislation in the area of religion.⁵⁰ As a result of these developments the discriminatory 1977 Law on religious associations was abolished in 1990, by the decision of the Estonian Parliament (Supreme Soviet). For the regulatory purposes in the area of governing the religious organisations, the 1989 Civic Societies Act had to be used. The Soviet-invented institution of the Commissioner on Religious Affairs ceased its functioning in 1990. Subsequently, it was the Ministry of Culture which assumed its duties, with the establishment, in 1990, the Board of Religious Affairs.⁵¹ In 1993 this Board moved to the Ministry of Interior, and in 1996 it became the Department of Religious Affairs, remaining at the same Ministry.⁵²

⁴⁴ Ibid

⁴⁵ Prit Rohtmets & Ringo Ringvee (2013) 'Religious Revival and the Political Activity of Religious Communities in Estonia During the Process of Liberation and the Collapse of the Soviet Union 1985–1991', *Religion, State & Society*, 41:4, p.357

⁴⁶ Ibid, p.364

⁴⁷ Ibid, p.365

⁴⁸ Ibid, p.366

⁴⁹ Ibid, pp.367-368

⁵⁰ Ibid, pp.384-385

⁵¹ Ringo Ringvee (2008) 'State, religion and the legal framework in Estonia', *Religion, State & Society*, 36:2, p.183

⁵² <https://www.siseministerium.ee/36748/>

Church-State relations in independent Estonia

Although on the way to independence Estonia experienced the general growth of religiosity and Church membership, this religious enthusiasm, as Merilin Kiviorg claims, 'ended quickly and the extensive growth of membership of religious organizations stopped. Estonia can be considered as quite a secularized country today'.⁵³ In fact, it was quite a contrasting situation compared to Belarus and most other countries of the former USSR, where the role of religion and the Church membership was on the rise after getting independence and, in many cases, continue to grow. One of the explanations for that is the dominance of the Lutheran culture, deformed by the encounter with the communist regime.

The main principal, governing Church-State relations in Estonia, was reflected in the Estonian Constitution, adopted in June 1992. The article 40 of this Constitution states:

Everyone has freedom of conscience, religion and thought. Everyone may freely belong to churches and religious associations. There is no state church.

Everyone has the freedom to practise his or her religion, both alone and in a community with others, in public or in private, unless this is detrimental to public order, health or morals.⁵⁴

On the basis of these principles, the new Law on religion was elaborated in early 1990s, and it was formally adopted as the 'Churches and Congregations Act' in 1993. A special working group was set up for drafting this law; and the group included state officials and the representatives of major confessions. During the drafting process, there was, as Kiviorg claims, '[p]ressure from the EELC [Estonian Evangelical Lutheran Church] for special legal status'.⁵⁵ However, archbishop Andres Pöder, the current head of the Estonian Lutheran Church and the then member of this working group, emphasised that there were serious doubts and discussions in the Lutheran Church if this status was indeed necessary. In fact, the Lutheran Church experienced some negative feelings from the existence of the special status before the 1940, since the Estonian Government at that time did not hesitate to interfere into the internal affairs of the Church, even up to the suspension of a bishop.⁵⁶

This new Law was quite liberal and unlike the Estonian legislation before 1940, it did not provide any preferential treatments to the most numerous or historical confessions. Ringo Ringvee emphasised that 'All religious associations were treated equally before the law regardless of their membership numbers or length of existence'.⁵⁷ According to law, religious organisations had to be registered by the Ministry of Interior, to be included in the Register of Churches, Congregations and Unions of Congregations. The 1990s were marked by the unwillingness of the Ministry of Interior to register the Orthodox Church of Moscow Patriarchate and the subsequent conflict, provoked by this decision. Estonian Orthodox Church of the Moscow Patriarchate had to struggle for almost a decade for its rights⁵⁸, before it eventually obtained the official registration, in 2002.⁵⁹

However, this new Law did not exist for long: its amendment was needed in the light of the Non-Profit Associations and Unions Act, adopted in 1996. In fact, it was even required by the Government-- from the Ministry of Interior. Ringvee emphasised that 'A new law was needed because of changes in other laws and the separation of judicial and executive powers'.⁶⁰ The process of the drafting of new law was long and complicated; the final document was prepared only in 2001. Representatives of the registered religious associations were included in the drafting committee, and the representatives of the Lutheran Church were pursuing their ideas in support of a special status for the most numerous denominations. Although the committee was initially willing to endorse this idea, it was finally rejected, mainly on the grounds that no other confession supported the Lutherans' claim. In fact, archbishop Pöder

⁵³ Merilin Kiviorg, *'Religion and Law in Estonia'*, Kluwer Law International, 2011, p.15

⁵⁴ See <http://www.president.ee/en/republic-of-estonia/the-constitution/>

⁵⁵ Kiviorg 2011, p.36

⁵⁶ Interview with archbishop Andres Pöder. Tallinn, 14.02.2014

⁵⁷ Ringvee 2008, p.185

⁵⁸ Igor Prekup (1998) 'Pravoslavie v Estoniyi (kratkiy istoricheskiy ocherk)' [Orthodoxy in Estonia: short history], 'Trukis' AS TRUKIS

⁵⁹ Pravoslavie v Estoniyi. Issledovaniya i dokumenti. Tom vtoroi [Orthodoxy in Estonia. Research and documents. Second volume]. Moscow, 2010.

⁶⁰ Ringvee 2008, p.186

has expressed his surprise that neither Orthodox, nor Catholics raised their voices in favour; although, in case of the Orthodox, he attributed this to the jurisdictional disputes which created the climate of uncertainty.⁶¹ In 2002, the new law was adopted; it is worth mentioning that it was initially vetoed by President and only later passed with some amendments. The argumentation behind the veto was that the article 14(3) 'prohibited registration of religious communities whose administrative or economic governance takes place or whose decisions are approved by a body outside Estonia'.⁶²

Practical aspects of the governance in Church-State relations

The Churches and Congregations Act establishes a number of important legal terms, which are important for Church-State relations in Estonia. It is emphasised that 'Churches, congregations, associations of congregations and monasteries are religious associations'. The following definitions are present in the text of this law:

- (1) church is an association of at least three voluntarily joined congregations which has an episcopal structure and is doctrinally related to three ecumenical creeds or is divided into at least three congregations and which operates on the basis of its statutes, is managed by an elected or appointed management board and is entered in the register in the cases and pursuant to the procedure prescribed by this Act.
- (2) congregation is a voluntary association of natural persons who profess the same faith, which operates on the basis of its statutes, is managed by an elected or appointed management board and is entered in the register in the cases and pursuant to the procedure prescribed by this Act.
- (3) association of congregations is an association of at least three voluntarily joined congregations which profess the same faith and which operates on the basis of its statutes, is managed by an elected or appointed management board and is entered in the register pursuant to the procedure prescribed by this Act.
- (4) monastery is a voluntary communal association of natural persons who profess the same faith, which operates on the basis of the statutes of the corresponding church or independent statutes, is managed by an elected or appointed superior of the monastery and is entered in the register in the cases and pursuant to the procedure prescribed by this Act.⁶³

There are some important points, which, on the basis of legislation and in the light of the current model of Church-State relations, reflect the existing mechanism of the governance in this area. First, religious associations are exempt from some taxes, namely income tax and land (property) tax (this exemption does not apply to secular non-profit organisations). Until 2007 they had discount on paying the VAT (does not exist anymore).⁶⁴ The state also helps churches in preserving their buildings, which have the historical value, with the provision of certain financial resources for their restoration. For example, in the framework of the programme 'Preservation and development of places of worship', held in 2004-2013, the amount of 9.230 mln. euros was provided.⁶⁵

Second, there is a well-established chaplaincy service, including chaplaincies in the armed forces, prisons and police. One of the distinct features is the presence of full-time chaplains, who are regarded as civil servants and are paid by the state. However, the state introduces some strict requirements to the candidates to chaplain posts: they must be EU/EEA nationals (in some cases, only nationals of Estonia) and they should possess excellent language skills, i.e. they should have the native or near-native level of knowledge of Estonian. At times, this prevents non-Estonian priests (mainly of the Russian origin) from getting these full-time positions, since their knowledge of Estonian is not always sufficient to obtain the highest

⁶¹ Interview with Pöder

⁶² Kiviorg 2011, p.58

⁶³ See <https://www.rigiteataja.ee/en/eli/530102013065/consolide>

⁶⁴ Kiviorg 2011, p.108

⁶⁵ Pühakodade säilitamine ja areng Riiklik programm 2003-2013. Tallinn 2013, p.133

category. There are, however, options to be chaplains on the voluntary, non-paid basis; these options are also used by Churches.⁶⁶

Third, the state provides regular subsidies for the Estonian Council of Churches, and the Council decides how these will be allocated to member Churches and used. The amount provided in 2014 will be 456 thousand euros.⁶⁷ However, the Council formally needs to apply to this subsidy every year and needs to submit a written report on how the funding was used, although the state normally does not interfere in the internal decisions of the Council of Churches, regarding the distribution of this funding.

Fourth, the clergy is given the right to conduct marriages, which are recognised as such by the state. This allows to avoid the situation of double marriage ceremonies, when the couple who wants to be married in the church, needs at the same time to be registered by the official body, for a formal recognition of their family union. In Estonia the couple is officially recognised as a family after the Church ceremony is conducted by the authorised priest, with all legal rights and duties arising from this status.

On the basis of interviews, conducted with the leaders of the most numerous and influential confessions in Estonia (Orthodox, Lutheran and Catholic), as well as with representatives of the Estonian Council of Churches and the Department of Religious Affairs, it is fair to claim that, in general, the efficiency of Church-State relations in Estonia remains on the adequate level. However, the authorities are not that willing to listen to the united voice of Estonian Churches on the issues of moral and ethical character. It appears that the common statements on moral issues, adopted by the Council of Churches, did not bring much change into the current Estonian legislation and the viewpoint of the Government in that respect is of more secular nature, without due respect to Christian moral values. One needs to note though that the Government was willing to take into account the Churches' perspective on the issue of homosexuality (where all confessions have been united in their resistance to the recognition of homosexual marriages), but this could also be attributed to the negative perception of homosexual unions from the general public in Estonia.

Comparison and recommendations

Overall, there is obvious difference in how the governance in the area of Church-State relations is organised in Estonia and Belarus. In Estonia, at least according to current legislation, all religions are regarded equal before the law, with no formal preference given to any denomination. In Belarus, these arrangements are different, with the specific mentioning in the 2002 Law of Orthodox, Catholic and Lutheran Churches as well as Judaism and Islam. There are some differences in the registration procedures of religious communities: registration is conducted by courts in Estonia and by the local authorities in Belarus; at least twenty members are required for the registration of congregation in Belarus, while this figure equals to twelve in Estonia. Interestingly, in Estonia religious organisations are not prohibited to act even if they have not obtained the official registration, while in Belarus the activity of unregistered organisations is forbidden.

In the societal settings, it appears that clergy in Estonia is given more rights than clergy in Belarus: it is allowed to conduct marriage ceremonies which are recognised by the state; the chaplains in armed forces, prisons and police are paid by the state. In addition, there are regular subsidies from the state to the Estonian Council of Churches; and the Council is able to decide on its own how this subsidy will be used. It is also worth mentioning that in Estonia the state adopted the policy of full restitution, when the property confiscated by the communist authorities was returned to religious communities. The programme of restoration was also pursued, with the substantial support provided to some Churches. Also, some tax exemption policy has been in force in Estonia, such as the exemption of religious associations from income tax. Until 2007 they had discount on paying the VAT (does not exist anymore). Religious associations are exempt from land (property) tax (this exemption does not apply to secular non-profit organisations).

⁶⁶ Interview with priest Alexander Sarapik, chaplain at the Armed Forces. Tallinn, 21.02.2014

⁶⁷ Interview with bishop Einar Soone. Tallinn, 21.02.2014

On the basis of this research, the following recommendations are offered to the Belarusian government, which, in our view, will help to improve the state of affairs in the area of governance of religious organisations.

First, it is advisable to pursue the policy of the full restitution of the confiscated property, with the provision of additional funds to religious organisations for the appropriate restoration of the property, which was returned in poor condition.

Second, it will be on the positive side if the marriage ceremonies conducted in churches are recognised by the state and the couples married in the church (and issued with the appropriate certificates) are regarded as official spouses, with all relevant rights and responsibilities.

Third, it is necessary to introduce full-time chaplain posts in the army, prisons and, possibly, police forces and hospitals. These chaplaincy services should be funded by the state.

Fourth, it is recommended that compulsory religious education classes are introduced at schools; its content should reflect the current religious situation in Belarus and the dominance of Christian-inspired culture.

Finally, it is advisable that the state will eventually establish procedures for the recognition of the Doctor of Theology degrees, awarded by the ecclesiastical educational establishments in Belarus, especially by such respected institution as the Theological Academy of the Belarusian Orthodox Church.

Overall, in our view, these proposals will reflect those positive sides in the governance of Church-State relations in Estonia, which were uncovered during this research and will allow to shift to more efficient side the governance in the area of Church-State relations in Belarus.

© SYMPA, Sergei A. Mudrov. Minsk, Tallinn. March, 2014

DISCLAIMER

This article is an output of the author's internship at the Institute of Political Science and Governance (Tallinn, Estonia) arranged under the aegis of the School of Young Managers in Public Administration (Minsk, Belarus). The views expressed by the author do not necessarily reflect the views of SYMPA.

[SYMPA](#) – the School of Young Managers in Public Administration aims at formation in Belarus a community of young people competent in public administration to play a future role as managers and policy makers in a democratic Belarus. The School was founded in 2008 in cooperation with the Swedish Institute for Public Administration (SIPU International). Now it has core staff members and a rich pool of experts contributing into the SYMPA educational programme which has been conducted on an annual basis since 2008 for open minded public servants, political and civic activists, and businessmen aiming at improving system of governance in Belarus. SYMPA alumni club has more than 100 members.

In 2013, SYMPA experts formed a filial think tank – Belarusian Institute for Public Administration Reform and Transformation (BIPART). Outstanding SYMPA graduates took part in its research activities.

Since May 2013, SYMPA is an institutional member of the Network of Institutes and Schools of Public Administration in Central and Eastern Europe (NISPAcee).