

CHURCH AND STATE IN THE NEW MEMBER COUNTRIES OF THE EUROPEAN UNION

BALÁZS SCHANDA

Lecturer, Pázmány Péter Catholic University, Budapest

In May 2004 eight former communist Central and Eastern European countries joined the European Union. Written constitutions in the region now contain guarantees on freedom of religion together with fundamental statements on Church-State relations. Since the fall of communism a net of bilateral agreements has been negotiated with the Holy See. Of the established members of the EU only Austria, Germany, Italy, Portugal and Spain had concordats whilst France and Luxembourg were partly bound by such treaties. Amongst the new member states only the predominantly Orthodox Cyprus has no contractual relationship with the Vatican. A pragmatic reason for this may be that the new members went through a very rapid legal transition marked by considerable uncertainties after the fall of communism. The Catholic Church did not seek privileges with the agreements, but rather legal certainty. The standards of religious freedom in the new member states are generally good compared with the rest of Europe. None of the new member states adopted a state church model, and none of them followed a rigid separation model either. Most new member states chose 'benevolent separation' or 'co-operation' models. Religious freedom seems to be particularly valued by those who experienced forced secularism during communist rule.

On 1 May 2004 ten countries joined the European Union. Two candidate countries – Bulgaria and Romania – are to join the EU in a few years. Croatia is also likely to do so in the near future and Turkey now qualifies as a candidate country.¹ Whereas Cyprus and Malta have their particular Church-State regimes, the new Central and Eastern European countries share at least one common historic experience: four decades of communist governance. All new members states (except Cyprus) have a history and an identity linked to Western Christianity. The new member states are rather small; the average size of new member states is well under the present EU average and the population of Poland is more than that of the nine others put together.

RELIGIOUS FEATURES OF THE NEW MEMBER STATES

The historic background and the effects of the forceful secularisation of society reveals great differences. In Poland, and also in Lithuania, Catholicism played a significant role safeguarding the national conscience. Also Slovenia is predominantly Catholic, but religiosity is definitely

¹ The complex issues raised by its possible accession are not the subject of this paper.

lower than in Poland or Slovakia. Estonia is the only new member where Lutherans outnumber Catholics, whereas Hungary and Slovakia have a Catholic majority, with firmly established Protestant minorities (Calvinists in Hungary and Lutherans in Slovakia). Latvians are divided between Catholics and Protestants. Orthodoxy in the new member states is linked to the national minorities, especially to Russians in the Baltics. The Czech Republic is the most secular country among the new members, and thus became the most secularized country within the Union, closely followed by Estonia. After enlargement the proportion of Catholics has risen within the EU. No new member country has a significant Muslim population; Bulgaria as a candidate country has one, whereas the Cypriot government in practice does not exercise sovereignty over the Muslim inhabitants of the island. Hungary is the only new member country where a significant mainstream Jewish community remained. New religious movements were active throughout the region in the 90s, but their presence did not bring significant changes to the denominational landscape. It is to be noted that notions of church membership vary from country to country as well as from denomination to denomination. Consequently it is not really possible to make meaningful comparisons as to the proportion of various denominations. Churches – despite the heavy losses they suffered during the communist rule – were among the most respected and trusted social institutions at the time of transition.

CONSTITUTIONAL PROVISIONS CONCERNING CHURCH-STATE RELATIONS

Countries in transition after the fall of communism generally adopted new written constitutions that recognised religious freedom, often explicitly underlining the correlative right not to profess a religion. Constitutions also came to reflect the fundamental characteristics of Church-State relations.

The Constitution of Slovenia provides for the freedom of conscience with the following wording:

Religious and other beliefs may be freely professed in private and public life. No one shall be obliged to declare his religious or other beliefs. Parents have the right to provide their children with a religious and moral upbringing in accordance with their beliefs. The religious and moral guidance given to children must be appropriate to their age and maturity, and be consistent with their free conscience and religious and other beliefs or convictions.²

Concerning the relations between State and Church it is stated that:

The state and religious communities shall be separate. Religious communities shall enjoy equal rights; they shall pursue their activities freely.³

² Constitution of Slovenia (1991), Article 41.

³ Ibid Article 7.

The Slovak Constitution refers in its preamble to 'the sense of the spiritual heritage of Cyril and Methodius'. Article 1 of the Constitution defines the Slovak State as 'a sovereign, democratic, and law-governed state. It is not linked to any ideology or religious belief'. This is a unique expression of religious neutrality.

Concerning freedom of religion the Constitution provides:

- (1) The freedoms of thought, conscience, religion, and faith are guaranteed. This right also comprises the possibility to change one's religious belief or faith. Everyone has the right to be without religious belief. Everyone has the right publicly to express his opinion.
- (2) Everyone has the right freely to express his religion or faith on his own or together with others, privately or publicly, by means of divine and religious services, by observing religious rites, or by participating in the teaching of religion
- (3) Churches and religious communities administer their own affairs. In particular, they constitute their own bodies, inaugurate their clergymen, organise the teaching of religion, and establish religious orders and other church institutions independently of state bodies.
- (4) Conditions for exercising rights according to Sections (1) - (3) can be limited only by law, if such a measure is unavoidable in a democratic society to protect public order, health, morality, or the rights and liberties of others.⁴

The Constitution of the Czech Republic (1993) does not contain a chapter on human rights, but a separate Charter of Fundamental Rights and Freedoms was adopted. The Preamble of the Constitution refers to human dignity and freedom; Article 1 refers to respect for the rights and freedoms of the individual and citizen; Article 10 states that:

ratified and promulgated international accords on human rights and fundamental freedoms, to which the Czech Republic has committed itself, are immediately binding and are superior to law.

The Charter of Fundamental Rights declares that 'the State is founded on democratic values and must not be bound either by an exclusive ideology or by a particular religion'.⁵ Religious freedom is guaranteed with the following wording:

- (1) Freedom of thought, conscience and religious conviction is guaranteed. Everybody has the right to change his or her religion or faith, or to have no religious conviction.⁶

⁴ Constitution of Slovakia (1992), Article 24.

⁵ Czech Charter of Fundamental Rights, Article 2.1.

⁶ Ibid Article 15.

In addition Article 16 provides:

- (1) Everybody has the right to profess freely his or her religion or faith either alone or jointly with others, privately or in public, through religious service, instruction, religious acts, or religious ritual.
- (2) Churches and religious societies administer their own affairs, in particular appoint their organs and their priests, and establish religious orders and other church institutions, independently of organs of the State.
- (3) The conditions of religious instruction at state schools shall be set by law.
- (4) Exercise of the aforesaid rights may be limited by law in the case of measures which are essential in a democratic society for protection of public security and order, health and morality, or the rights and freedoms of others.⁷

The Polish Constitution contains the following, which defines and declares the Polish Nation as being:

all citizens of the Republic, both those who believe in God as the source of truth, justice, good and beauty, as well as those not sharing such faith but respecting those universal values as arising from other source.⁸

Concerning the freedom of religion the Constitution of Poland provides:

- (1) Churches and other religious organisations shall have equal rights.
- (2) Public authorities in the Republic of Poland shall be impartial in matters of personal conviction, whether religious or philosophical, or in relation to outlooks on life, and shall ensure their freedom of expression within public life.
- (3) The relationship between the State and Churches and other religious organisations shall be based on the principle of respect for their autonomy and the mutual independence of each in its own sphere, as well as on the principle of co-operation for the individual and the common good.
- (4) The relations between the Republic of Poland and the Roman Catholic Church shall be determined by international treaty concluded with the Holy See, and by statute.
- (5) The relations between the Republic of Poland and other Churches and religious organisations shall be determined by statutes adopted pursuant to agreements concluded between their appropriate representatives and the Council of Ministers.⁹

⁷ Ibid Article 16.

⁸ Constitution of Poland (1997), Preamble. A similar broad and all-embracing reference to God was discussed for possible inclusion in the Constitution of the European Union.

⁹ Constitution of Poland (1997), Article 25.

The Lithuanian Constitution of 1992 provides for freedom of religion as follows:

- (1) Freedom of thought, conscience, and religion shall not be restricted.
- (2) Every person shall have the right freely to choose any religion or faith and, either individually or with others, in public or in private, to manifest his or her religion or faith in worship, observance, practice or teaching.
- (3) No person may coerce another person or be subject to coercion to adopt or profess any religion or faith.
- (4) A person's freedom to profess and propagate his or her religion or faith may be subject only to those limitations prescribed by law and only when such restrictions are necessary to protect the safety of society, public order, a person's health or morals, or the fundamental rights and freedoms of others.
- (5) Parents and legal guardians shall have the liberty to ensure the religious and moral education of their children in conformity with their own convictions.¹⁰

Furthermore, the constitution states that 'A person's convictions, professed religion or faith may justify neither the commission of a crime nor the violation of law'.¹¹

The Constitution of Latvia of 1992 provides explicitly for the separation of Church and State: 'Everyone has the right to freedom of thought, conscience and religion. The Church shall be separate from the State'.¹² The country has a separate constitutional law on 'The Rights and Obligations of a Citizen and a Person'. This law restates the separation and provides more detailed provisions on the content of the freedom of religion:

- (1) The State is separate from the Church.
- (2) The State guarantees the freedom of religious persuasion.
- (3) People or their associations have the right to practise religious rituals and ceremonies.
- (4) No one may be forced to participate in religious rituals and ceremonies, or to learn religious doctrine.
- (5) Religious or ideological motives do not free anyone from their responsibilities to the State and the necessity of observing the law.¹³

The Constitution of Estonia (1992) has detailed provisions on the Church-State relations:

Article 40

- (1) Everyone shall have freedom of conscience, religion and thought.

¹⁰ Constitution of Lithuania (1992), Article 26

¹¹ Ibid Article 27.

¹² Constitution of Latvia (1992), Article 99.

¹³ The Law on the Rights and Obligations of a Citizen and a Person 1991. section 35.

- (2) Everyone may freely belong to a Church or a religious association. There shall be no State Church.
- (3) Everyone shall have the freedom, either alone or in community with others and in public or private to practice his or her religion, unless it endangers public order, health or morals.

Article 41

- (1) Everyone shall have the right to hold his or her opinions and persuasions. No one may be coerced to change them.
- (2) Persuasions cannot be pleaded as an excuse for a legal offence.
- (3) No one may be legally charged because of his or her persuasions.

Article 42

No state or local government authority or their officials may collect or store information on the persuasions of any Estonian citizen against his or her free will.¹⁴

In Malta, Catholicism traditionally enjoyed a special role. The Constitution (1964 – amended several times) declares the role of Catholicism in Malta:

- (1) The religion of Malta is the Roman Catholic Apostolic Religion.
- (2) The authorities of the Roman Catholic Apostolic Church have the duty and the right to teach which principles are right and which are wrong.
- (3) Religious teaching of the Roman Catholic Apostolic Faith shall be provided in all State schools as part of compulsory education.¹⁵

This is to be regarded as a descriptive rather than a prescriptive statement. Full freedom of religion is guaranteed:

- (1) All persons in Malta shall have full freedom of conscience and enjoy the free exercise of their respective mode of religious worship.
- (2) No person shall be required to receive instruction in religion or to show knowledge or proficiency in religion if, in the case of a person who has not attained the age of sixteen years, objection to such requirement is made by the person who according to law has authority over him and, in any other case, if the person so required objects thereto: Provided that no such requirement shall be held to be inconsistent with or in contravention of this section to the extent that the knowledge of, or the proficiency or instruction in, religion is required for the teaching of such religion, or for admission to the priesthood or to a religious order, or for other religious purposes and except so far as that requirement is shown not to be reasonably justifiable in a democratic society.
- (3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1), to

¹⁴ The Constitution of Estonia (1992).

¹⁵ The Constitution of Malta, section 2.

the extent that the law in question makes provision that is reasonably required in the interests of public safety, public order, public morality or decency, public health, or the protection of the rights and freedoms of others, and except so far as that provision or, as the case may be, the thing done under the authority thereof, is shown not to be reasonably justifiable in a democratic society.¹⁶

The Constitution of Hungary (amended in 1989) contains the following provision:

- (1) In the Republic of Hungary everyone has the right to freedom of thought, conscience and religion.
- (2) This right includes the free choice or acceptance of a religion or other conscientious convictions, and the freedom for everyone to manifest, or to abstain from manifesting, to exercise or to teach their religion and conviction in public or in private, either individually, or together with others, through religious acts and ceremonies or in other ways.
- (3) In the Republic of Hungary the Church shall operate in separation from the State.

A majority of two-thirds of the votes of the Members of Parliament present is required to pass the act on the freedom of conscience and religion.¹⁷

In short, all constitutions in the region contain provisions on freedom of religion and Church-State relations. Special recognition is afforded to one traditional, national religious community only in the constitutions of Malta and Poland, the latter being of a rather technical nature. Separation of Church and State is explicitly stated by the constitutions of Bulgaria, Croatia, Hungary and Latvia. The Slovak Constitution recognises that religious communities administer themselves independently from the State, whereas the Czech Charter of Fundamental Rights states that Churches and religious societies administer their own affairs. The Polish Constitution follows the Italian model by making a reference to the concordat with the Holy See and the system of agreement-based laws regulating the relation of the State with other religious communities.

BILATERAL LEGAL RELATIONS WITH THE HOLY SEE

All the new member states established or re-established diplomatic relations with the Holy See after the fall of communism. Generally nuncios became the deans of the diplomatic corps, Cyprus, Estonia and Latvia being exceptions. Since the fall of communism the Holy See entered into a web of agreements with the countries in transition: concordatarian agreements stretch from Albania¹⁸ to Kazakhstan.¹⁹ All new Central and Eastern

¹⁶ Ibid section 40.

¹⁷ Constitution of Hungary, Article 60.

¹⁸ Agreement concluded on 8 July 2002.

¹⁹ Agreement concluded on 24 September 1998, ratified in 1999.

European member states of the EU have some kind of concordatarian settlements: the types of the agreements vary from that of Poland,²⁰ where the impact of the Catholic Church cannot be overstated, which comprised a solemn convention or concordat, to that of Estonia²¹ where an exchange of letters with the Holy See regulates the functioning of the tiny Catholic community. The Czech Republic,²² Latvia²³ and Slovenia²⁴ concluded comprehensive agreements with the Holy See, while Lithuania²⁵ and Slovakia²⁶ concluded a set of agreements.²⁷ Hungary has three agreements, each of a highly technical nature.²⁸ Conventions or treaties with the Holy See as well as domestic agreements with other religious communities are typical of several European countries, for example Germany, Italy and Spain. From the established member states of the EU, however, the majority, namely Belgium, Denmark, Greece, Finland, Ireland, Luxembourg, the Netherlands, Sweden and the United Kingdom, have no bilateral agreements with the Holy See,²⁹ whereas in the new member states this relationship seems to be the norm.

The general legal form of recent treaties is ‘agreement’ — the Holy See did not seek formal concordats but opted rather for this more flexible solution, as in the earlier case of Spain or, more recently, Croatia.³⁰ The following chart provides an overview of agreements between the Holy See and the former communist member states of the EU:

²⁰ *Acta Apostolicae Sedis* (1998) 310-329.

²¹ *Acta Apostolicae Sedis* (1999) 414-418.

²² Agreement signed on 25 July 2002.

²³ *Acta Apostolicae Sedis* 95 (2003) 102-120.

²⁴ Signed on 14 December 2001; ratified by Parliament on 28 January 2004, after the Constitutional Court raised no objection. The court stated that in the case of conflict state law was to prevail.

²⁵ Lithuania: Agreement concerning the Juridical Aspects of the Relations between the Catholic Church and the State (*Acta Apostolicae Sedis* (2000) 783-816); Agreement on the Co-operation in Education and Culture (*Acta Apostolicae Sedis* (2000) 783-795); Agreement on the Pastoral Care of Catholics serving in the Army (*Acta Apostolicae Sedis* (2000) 809-816).

²⁶ Basic Agreement (*Acta Apostolicae Sedis* (2001) 136-155). Separate agreements were signed on the army chaplaincy (2002) and on education (signed in 2003, ratified in 2004).

²⁷ The first convention with Slovakia bears the title ‘basic agreement’.

²⁸ These include the Agreement on the Pastoral Care in the Army and the Border Guard (*Acta Apostolicae Sedis* (1994) 574-579); Agreement on Financial Issues (*Acta Apostolicae Sedis* (1998) 330-340).

²⁹ Despite the fact that Belgium and Ireland have strong Catholic majorities.

³⁰ Since Vatican II only Columbia (1973), Lower Saxony (1973), Poland, and recently Portugal, have concluded agreements entitled ‘concordat’. Some authors refer to all international agreements signed by the Holy See as concordats: eg FH Köck, *Die völkerrechtliche Stellung des Heiligen Stuhls* (Berlin, 1975), 316. Others distinguish between concordats in the strict sense (being general, complex and solemn agreements) and concordats in the broad sense, embracing all conventions signed by the Holy See with states and international organisations: eg JTM de Agar, *Raccolta di concordati 1950-1999* (Città del Vaticano, 2000) 10. Other authors use the term concordat only for agreements so entitled, distinguishing them from other types of convention executed by the Holy See: eg P Erdő, *Egyházjog* (Budapest, 1992), 63.

	Type	Scope	Date of signature	Entry into force
Czech Republic	Agreement	Comprehensive	25-07-2002	Ratification failed
Estonia	Exchange of Letters	Comprehensive	12-03-1999	-
Hungary	Agreement	Diplomatic relations	9-02-1990	-
	Agreement	Military chaplaincies	10-01-1994	26-04-1994
	Agreement	Financial issues	20-06-1997	3-04-1998
Latvia	Agreement	Comprehensive	8-11-2000	25-10-2002
Lithuania	Agreement	Juridical issues	5-05-2000	16-09-2000
	Agreement	Education and culture	5-05-2000	16-09-2000
	Agreement	Military chaplaincies	5-05-2000	16-09-2000
Poland	Concordat	Comprehensive	28-07-1993	25-03-1998
Slovakia	Basic agreement	Comprehensive	24-11-2000	18-12-2000
	Agreement	Military chaplaincies	21-08-2001	28-10-2002
	Agreement	Education	13-05-2003	9-07-2004
Slovenia	Agreement	Comprehensive	14-12-2001	28-01-2004

POLITICAL OBJECTIONS

Concordats and similar agreements did not come about without controversy. The time gap between signature and ratification is suggestive of this. Slovakia ratified its treaties with the Holy See very swiftly, showing that the government which signed the agreement had the clear backing of Parliament for so doing. In Poland the concordat waited for ratification for a whole legislative session. In Slovenia the agreement was referred to the Constitutional Court for preliminary review: Parliament voted two years later, once the court cleared the way for ratification. In the Czech Republic the ratification failed: the terms, elaborated at length in debate, did not command the assent of the majority in Parliament.³¹

The preference for the concordat model was dictated in some countries by history and tradition, since this had been the position before the Second World War in such countries as Latvia and Poland. In other cases the conclusion of a convention was an expression of the national conscience, especially in newly emerging states like Slovakia. Some agreements are couched in identical terms, being almost translations; whereas others were obviously framed for the particular country concerned. The Agreement on

³¹ It remains open for the Czech Parliament to revisit the matter.

the Pastoral Care of Catholics Serving in the Army of Lithuania (2000) and the agreement with Slovakia (2002) is almost the same as that with Hungary (1994).³² The agreement with Latvia is very much in line with those for Lithuania (both 2000), although consolidated in a single document. The Convention with Slovakia (2000) follows – although with a more concise wording – the concordat with Poland (1993). The agreement with Slovenia adheres closely to the wording of the first part of the agreement with Croatia (1996) concerning juridical aspects of the relation of Church and State; however this agreement only repeats the constitutional safeguards of religious freedom, without granting additional ones to the Church, such as holy days, recognition of canonical marriage, and army chaplaincy. The Czech agreement is characterised even more by this type of restraint – even the non-confessional character of the State is expressly recorded. The agreement with Hungary on financial issues (1997) is exceptional by dint of its highly technical nature.

A pragmatic reason for the nature and content of these treaty regulations may be that the countries concerned went through a very rapid legal transition, riddled with uncertainty following the fall of communism. Whereas under a more stable and continuing legal system the emerging problems are resolved as and when they arise, in the former communist countries the legal order had to be reconstructed in a very short period of time. The Catholic Church did not seek privileges within the agreements, but rather legal certainty. Bilateral agreements were favoured as safeguarding the rights of the Church in rapidly changing circumstances, giving certain guarantees in politically uncertain conditions. This proved beneficial for all religious communities. Many agreements postpone some ‘sensitive’ issues for subsequent agreements with the Holy See³³ or – in less delicate matters – the Bishops’ Conference.³⁴ In transitional circumstances the Holy See preferred to settle at least some (or most) issues rather than leave issues pending until all questions were finally resolved. For example the agreement with Latvia leaves open the issue of the Catholic Theological Faculty at Riga University, and financial issues are left to later agreements with both Latvia and Slovakia.³⁵

³² A minor difference may be that whereas the Hungarian government has the right to raise political objections in relation to a candidate for the office of bishop, in Lithuania the President receives prior notification as to the nominee, but has no right to raise objection. In Slovakia there is no such procedure. Agreements on the pastoral care of Catholics serving in the army (police, border guard) are very similar (Bolivia 1986, Brasilia 1989, Croatia 1996) since the relevant Apostolic Constitution *Spirituali Militum Curae* was promulgated in 1986.

³³ For example that of Slovakia (2000) in relation to conscientious objection, army chaplaincy, education, and financial issues.

³⁴ For example that of Hungary (1997) on the funding of new institutions of higher education, and the subsidy for the preservation of ecclesiastical cultural heritage.

³⁵ JTM de Agar, *Studio Comparativo die Concordati tra la Santa Sede e gli Stati dell’Europa Centrale e Orientale*, in M Šmid and C Vasil’ (eds), *International Bilateral Legal Relations between the Holy See and States of Central and Eastern Europe: Experiences and Perspectives* (Vatican, 2003), 61-88.

THE CONTENT OF AGREEMENTS

(i) *Mutual recognition, religious freedom, and legal personality*

Juridical persons in canon law enjoy legal personality in the civil law of Estonia, Latvia, Lithuania, Poland, Slovakia and Slovenia by virtue of the agreements concluded with the Holy See. They need to be registered by the competent state authority in Estonia and Slovenia, and communicated to the competent civil authorities in Latvia. Similar obligations apply in Lithuania and Poland, but recognition is apparently automatic in Slovakia. The agreement with the Czech Republic remains silent on this issue, whereas in Hungary juridical personality of composite church entities is acknowledged by law.

The agreements generally maintain that the establishment, modification, recognition and suppression of dioceses is within the exclusive jurisdiction of the Church – an issue of institutional freedom which has long been sensitive. Some agreements prescribe that the nomination of bishops (who must be citizens of the given country³⁶ in Latvia, Lithuania and Poland) is to be communicated to the governments (Estonia, Poland, and Slovakia³⁷) or to the head of state (Latvia, and Lithuania) out of courtesy. Other countries (such as the Czech Republic and Slovenia), where the State maintains a greater distance from religious communities, seem to be less interested in the citizenship of a bishop or in knowing in advance the nominee of the Holy See. Diocesan boundaries may not cross state borders (Czech Republic, Lithuania, Poland, Slovakia, and Slovenia). The agreements comply with the claim of independence underlined by the Second Vatican Council³⁸ and canon law³⁹ as the agreements do not grant any rights to civil authorities to influence the nomination of bishops.

(ii) *Education and culture*

Agreements give primary recognition to the rights of the parents. The programme of the teaching of Catholic religion in public schools is conducted on the basis of a curriculum approved by the Bishops' Conference in agreement with the competent state authorities.⁴⁰ In Poland the ecclesiastical authority only has to let the competent civil authority know the syllabus and the textbooks.⁴¹ Religious education is an 'obligatory option' in Slovakia.⁴² Alternatives to religious teaching in the form of ethics are envisaged in Lithuania.⁴³ Teachers of Catholic religion require a certificate of competence issued by the Bishops' Conference in

³⁶ Whether this stipulation infringes freedom of movement in the labour market remains to be seen.

³⁷ The Slovak agreement even contains an express prohibition on the government expressing any opinion.

³⁸ Eg *Christus Dominus* 19–20.

³⁹ Code of Canon Law (1983), Canon 377 §5.

⁴⁰ Latvia (Agreement), Art 15; Lithuania (Agreement on Co-operation in Education and Culture) Art 6 §1.

⁴¹ Poland (Concordat) Art 12 §2.

⁴² Slovakia (Agreement on Education) Art II §4.

⁴³ Lithuania (Agreement on Co-operation in Education and Culture) Art 3 §1.

Latvia,⁴⁴ a written authorisation of the local bishop (*missio canonica*),⁴⁵ or some other authorisation from the Catholic Church.⁴⁶ Equal funding for church schools is granted in Hungary,⁴⁷ Lithuania,⁴⁸ and Slovakia,⁴⁹ financial support is anticipated in Latvia,⁵⁰ whereas in Poland the criteria for subventions are to be determined by the civil law.⁵¹ The Slovene state is supposed to grant equal public subsidies to church schools as to private schools.

(iii) *Marriage*

Canonical marriage has civil effect in Estonia,⁵² Latvia,⁵³ Lithuania,⁵⁴ Poland,⁵⁵ and Slovakia;⁵⁶ but Czechs also have a free choice between church and civil weddings. In Lithuania and Slovakia the decisions of ecclesiastical tribunals on the nullity of marriage are recognised by the State, whereas in Poland the civil effects of canonical marriages depend upon the explicit wish of the couple. Civil and canonical marriage law are wholly separate in Hungary and Slovenia. The Church and the State, as contracting parties, are required to co-operate in the defence of the institutions of marriage and of family according to the agreements with Poland and Slovakia.

(iv) *National peculiarities*

While the content of recent agreements seem to be similar in terms of form, language and content, the respective preambles provide an opportunity for paying tribute to matters of history and tradition and to national idiosyncracies. The solemn language of the preamble of the Agreement on Juridical Matters concerning Lithuania, the basic agreement with Slovakia, and, particularly, the concordat with Poland are striking examples. The Latvian agreement contains a special section on the Shrine of Aglona; and the agreement with Estonia ensures that foreign priests, members of religious congregations, and lay persons invited by the ecclesiastical authority to fulfil the duties of pastoral ministry, receive residence and work permits in Estonia.

AGREEMENTS WITH OTHER DENOMINATIONS

Some of the former communist counties, in the interests of parity, also concluded agreements with other denominations. The Hungarian

⁴⁴ Latvia (Agreement) Art 15.

⁴⁵ Poland (Concordat) Art 12; Lithuania (Agreement on Co-operation in Education and Culture) Art 3 §2.

⁴⁶ Slovakia (Basic Agreement) Art 13 §5, (Agreement on Education) Art III §1.

⁴⁷ Hungary (Agreement on Financial Issues) Part I, Art 2.

⁴⁸ Lithuania (Agreement on Co-operation in Education and Culture) Art 9 §1.

⁴⁹ Slovakia (Basic Agreement) Art 13 §2, (Agreement on Education) Art I §8.

⁵⁰ Latvia (Agreement) Art 19.

⁵¹ Poland (Concordat) Art 14 §4.

⁵² Estonia (Exchange of Letters) §8.

⁵³ Latvia (Agreement) Art 8.

⁵⁴ Lithuania (Agreement Concerning Juridical Matters) Art 13.

⁵⁵ Poland (Concordat) Art 10.

⁵⁶ Slovakia (Basic Agreement) Art 10.

government signed agreements with the Reformed (Calvinist) Church, the Lutherans, the Baptists and the Serbian Orthodox as well as the Alliance of Jewish Communities. The Slovak government concluded two common agreements with registered denominations, although a small Christian community and the Jehovah's Witnesses declined to join. In 1999, the Government of Slovenia signed an agreement with the Bishops' Conference of the Catholic Church in Slovenia, and a year later with the Bishops' Conference of the Evangelical (Lutheran) Church in Slovenia. There are also current negotiations with the Serbian Orthodox Church, the Adventist Church, and the Islamic Religious Community in Slovenia. Under the Polish Constitution of 1997:

the relations between the Republic of Poland and other churches and religious organisations shall be determined by statutes adopted pursuant to agreements concluded between their appropriate representatives and the Council of Ministers.⁵⁷

Poland seems to follow the Italian model of laws based upon agreements, traditionally dating from the mid-war period. At present fifteen statutes of this nature are in force.

CONCLUSION

The standards of religious freedom in the new member states of the European Union generally comply well with European standards. So far no such country has been the respondent to a case concerning freedom of religion before the European Court of Human Rights. None of the new member states chose to adopt a state church model, but equally none opted for a rigid separation model (*laïcité*). Pre-war traditions did play their part, but church/state relations were generally created afresh rather than reaching back to old laws. Most new member states established models that can be described as 'benevolent separation' or 'co-operation' models. Religious freedom now seems to be uniquely valued by those who experienced forced secularism. Europe is enriched by the variations in tradition and history as between different approaches of its member states towards complex issues of church and state.

⁵⁷ Constitution of Poland (1997), Art 25 §5.