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Religion and the Secular State in the Czech Republic

I. SOCIAL CONTEXT

The membership of religious communities (denominations) in the Czech Republic is governed by the communities' own statutes, which are set up independently of State authorities. There are no State provisions for registering members of religious bodies. Moreover, there are no official State statistics regarding members of religious communities. The data used in this article were compiled through an anonymous questionnaire – basically, an opinion poll – conducted by the State Statistical Office.

Currently, there are thirty-one religious communities registered in the Czech Republic. By registering with the State, religious communities acquire legal personality and some tax advantages. Among the above mentioned thirty-one religious communities, there are twenty-one with other “special” rights provided by Act No. 3/2002 Sb. on Churches and Religious Societies.¹

Approximately one-third of the inhabitants of the Czech Republic belong to one of the registered religious communities. In spite of that fact, which, in comparison with other countries, can be considered low, the religious communities play quite an important role in Czech society. Membership in religious communities is more or less an expression of personal profession. The main tendency since the time of the communist dictatorship is to be non-confessional.

The Czech non-denominationalism is then mostly agnostic and only partly atheist. The number of real atheists is about 10–20 percent, according to different opinion polls. The relationship between the main religious stream, Roman Catholicism, and the other denomination is approximately 85 to 15.

To illustrate the demographics of the different denominations in the Czech Republic, we can look to the data published by the Czech State Statistical Office in 2001. The table of religious adherence has thus only relative informative value. A survey of 10.3 million inhabitants of the Czech Republic revealed the denominational breakdown shown in Table 1.

II. THEORETICAL AND SCHOLARLY CONTEXT

We can differentiate two main streams in the opinions of Czech intellectuals – including lawyers – regarding church-state relations. One line of thinking is based on a tradition of a great personal distance to all things that are connected with religion. This view stems from the forty years of atheist dictatorship by the communist party from 1948–1989. The second line of thinking is open to the idea of supporting the social importance of religion and is connected with the former opponents of the communist regime. Of course, religious believers, who are only a minority of society, and their sympathizers subscribe to this second viewpoint.

Both groups hold the conviction that neutrality between the State, religion, and non-religion is necessary. There is a common consensus regarding the constitutional principles of religious freedom and autonomy of religious communities in relation to the State, as with the constitutional prohibition of propaganda for some religious community or atheism by state institutions.

Both groups support the idea of a State that is secular but not hostile to religious communities. The idea of severe separation of church and state is not a living issue.

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1. Sb. = Sbírka zákonů, Collection of Laws of Czechoslovakia and since 1 January 1993 only the Czech Republic.

However, the difference between both groups is the question of how far the autonomy of religious communities should extend concerning things such as charitable, social, and health-related activities. The first group, which is more critical to religious communities, is afraid that religious communities can use these avenues to gain more influence. In addition, there is an open question regarding how to fully compensate religious communities for their property that was secularized after 1948.

The polarization is not extreme because there is a lack of information about real life in religious communities. This area was taboo for more than forty years, and therefore, even intellectuals have insufficient knowledge about the history and practical life of religious communities.

Table 1. Religious adherence among 10.3 million inhabitants of the Czech Republic, 2001

Roman Catholic Church	2,740,780
Evangelical Church of Czech Brethren	117,212
Czechoslovak Hussite Church	99,103
Silesian Evangelical Church A. C.	14,020
Lutheran Evangelical Church A. C. in the Czech Republic	5,412
Evangelical Church A. C. in the Czech Republic	14,885
Eastern Orthodox Church in the Czech Lands and Slovakia	22,968
Religious Society of Jehovah's Witnesses	23,162
Church of the Seventh Day Adventists	9,757
Greek Catholics	7,675
Christian Congregations	6,927
Methodist Church	2,694
Church of Brethren (Congregationalists)	9,931
Old Catholic Church	1,605
Union of Baptists	3,622
Unity of Brethren (Moravian Brethren)	3,426
Apostolic Church (Pentecostal Church)	4,565
Federation of Jewish Communities in the Czech Republic	1,515
New Apostolic Church	449
Religious Society of Unitarians	302
Church of Jesus Christ of the Latter-day Saints	1,366
Other responses and imprecise responses	196,712

III. CONSTITUTIONAL CONTEXT

A. History of Church and State Relations

The Czech Constitution begins with the words:

We, the citizens of the Czech Republic in Bohemia, Moravia and Silesia, at this time of the reconstitution of an independent Czech State, true to all the sound traditions of the ancient statehood of the Lands of the Crown of Bohemia as well as of Czechoslovak statehood, resolved to build, protect and advance the Czech Republic in the spirit of the inalienable values of human dignity and freedom as

the home of equal and free citizens who are aware of their obligations towards others and of their responsibility to the community, as a free and democratic State²

The first inhabitants of the three Czech lands – i.e., Čechy/Bohemia, Morava/Moravia, and Slezsko/Silesia (the Czech part) – were Celtic. The Celtic tribe of Boii gave its name to the Latin expression for Čechy – Bohemia. After the era of the Germanic Markomanns' settlement between the 1st and 5th centuries, the West-Slavonic ethnics penetrated the territory from the North during the 6th century and brought the whole territory of the contemporary Czech lands under their control.

A West Slavonic settlement in the territory of the present Czech lands accepted Christianity under the influence of the Irish, Franconian, and Greek-Slavonic missions during the 9th century. It was the first common state of future Czechs and Slovaks, the Great Moravian Empire, which lasted for about one hundred years.

The later Czech (Bohemian) Principality and Kingdom, ruled by Dukes and Kings from the house of Premysl since the 10th century holders of the St Wenceslas Crown, entered into a free union with the Holy Roman Empire. There were four dynasties at the Bohemian throne: the Premyslides, Luxembourgs, Jagellonians, and Hapsburgs.

From the Hussite Reformation at the beginning of the 15th century, there were two recognised denominations in the Kingdom: the Catholic minority and the Utraquist (Calixtin) majority. During the 16th century, the Utraquist Church came under Lutheran influence. The Unity of Brethren, a small denomination founded in 1457, inclined during the 16th century to Calvinism.

The re-Catholicization after the Battle of White Mountain (1620) was connected with the victorious House of Hapsburg. Protestantism was forbidden. The unification of the Czech lands with the Austrian and other hereditary Hapsburg lands followed. The sovereign of this union appropriated the *iura maiestica circa sacra*. Consequently, the Catholic Church lost an essential part of its autonomy.

Josef II published his "Letter of Tolerance" for his hereditary lands in the Roman Empire in 1781. At that time, 2 percent of the inhabitants of the Czech lands professed Protestantism – either the Helvetic Confession (the majority) or the Augsburg Confession.

A process of emancipating the religious communities from the State started in 1848. In December 1867 a new liberal constitution came into being for the Cisleithan Regions of the reconstituted Austrian Empire, changed at this time to the Austrian-Hungarian monarchy. The basis of this constitution was a secularized state – on the principle of cooperation with religious communities and on their parity. Administrative provisions in the school and army systems conserved, however, the dominance of Catholicism.

The right to be recognized by the State was given to all religious communities that respected its legal demands (1874). Not only the Protestants, of both confessions, and Jews could join in teaching religion in public schools and taking religious services in the army, but the newly recognised religious communities could also join – e.g., the Old Catholic Church (1877) and Moravian Brethren-Herrnhut Church (1880). The stipends for priests, pastors, and rabbis were financed partly by the religious communities and partly by the State (*congrua* or subsidies). The acknowledged religious communities were supported by the State in proportion to the number of official declarations of religious affiliation made to the municipalities.

The Republic of Czechoslovakia, founded in 1918 with the dissolution of the Austrian Hungarian Empire, adopted the legislation of the Hapsburg monarchy. From 1920, the Constitution declared the freedom of religion to individuals. Children who belonged to religious communities were obliged to attend lessons in religious education in public schools.

Because the suffering of people during World War I was high and the Catholic Church was accused of having too close of a relationship with the Hapsburg dynasty,

2. Constitutional act No. 1/1993 Sb.

more than 20 percent of the Czech people renounced their membership in the Catholic Church. Approximately one half of them founded the new Czechoslovak Church, a smaller part converted to Protestantism, and a much smaller group to East Orthodoxy. The rest became non denominational. A total of 75 percent of the Czech people stayed in the Roman Catholic Church.

On 17 December 1918, the Czech Protestants of the Augsburg and Helvetic confessions unified as the Evangelic Church of Czech Brethren. The legal order of this Church was Presbyterian.

On 8 January 1920, the Czechoslovak Church was founded by 150 Catholic priests. This Church united both Catholic and Protestant aspects of worship and teaching and emphasized the spiritual connection with the revived Hussite tradition. This Church has used the name "The Czechoslovak Hussite Church" since 1971.

In 1927, a *modus vivendi* was concluded between the representatives of the Czechoslovak Government and the Apostolic See. It concerned the processes for appointing diocesan bishops in Czechoslovakia.

During the Nazi occupation from 1939-45, Catholics in the Czech lands actively participated in the resistance against the Nazis and were persecuted by them. It helped to rehabilitate their reputation in the minds of the Czech public. Protestant churches and the Czechoslovak Church participated in the resistance as well. Many parsons tried to help Jews by issuing false baptism testimonies of their ancestors and thus saving them from deportation. The East Orthodox Church in Prague hid the Czechoslovak soldiers from the United Kingdom, who killed Reichsprotektor in the crypt of its church.

After World War II, in the time of renewed democracy between 1945 and 1948, religious communities, including the Roman Catholic Church, became popular in Czech society. Almost all State ecclesiastical legal provisions that were in force before 1939 remained in force. Religious freedom was as it had been before 1939.

A radical change came after the Communist coup d'état in February 1948. All spheres of public life had to accept the "scientific" – i.e., the Marxist ideology – which included atheism. During 1948-89, atheism played the role of the state "religion."

Religious communities became the only alternatively thinking institutions whose existence was somewhat tolerated. The ultimate aim of the regime was, of course, the entire liquidation of all religious communities.

New acts establishing state control over the churches came into force on 1 November 1949. That legislation brought obligatory – but very low – stipends for clergy, which were paid by the State, regardless of the wishes of the religious communities, as a compensation for nationalization of Church property (1948), cancelling congrua and dotation subsidies (1949). Any religious activity by clergy or lay preachers needed State permission, which was granted only for a geographically limited territory. Moreover, this State permission could be revoked without explanation. Offenses under this Act were punishable with imprisonment according to the provisions of the Penal Codes of 1950 and 1961.

Obligatory civil marriage was established in January 1950 for the first time in the history of the Czech lands.

During two nights in April 1950, all friars were deported without legal title to centralization camps. Monasteries remained empty and were later used for different civic and military activities. This situation lasted until 1990. During autumn 1950, friars were sent to forced labor units for three or four years and then dispersed as workers.

From August 1950, whole convents of sisters were sent to camps in the remote border regions; they were not allowed to admit novices and were obliged to work mostly in factories. This state of affairs lasted until 1990. During 1950, all Church schools and seminaries were abolished. Clergy training was provided at only three State theological faculties (one for Catholics, one for Protestants, and one for the Czechoslovak Church) and with a limited number of admissions. Hundreds of activists from most religious communities, including Roman Catholics, Greek Catholics, Baptists, Adventists, and Jehovah's Witnesses, were sentenced in framed processes to thousands of years of

imprisonment in 1950s. Almost all the Catholic bishops were imprisoned or interned.

In spite of the prosecution, religious training in schools remained an obligatory subject for all child members of religious communities until 1953 (it was about 90 percent of all school children). Since that year, it has been permitted only as a voluntary subject; there was a move to have it removed from schools altogether, for lack of interest, which happened in several regions. Children attending religious education lessons were discriminated against.

Only at the time of “the Prague Spring liberalization” in 1968, and even some months after the Soviet and Warsaw Pact occupation of Czechoslovakia of 21 August 1968, could the religious sisters in the border camps admit novices. The number of children attending the voluntary religious education classes increased at that time, and their presence there did not attract adverse consequences for them. Furthermore, friars began to work underground.

However, from 1971, the persecution of religious communities was revived. All religious communities, especially the Catholic Church, became symbols of resistance during the communist regime. They created many underground activities, founded secret religious and lay groups, organized unofficial theological trainings (flat seminars) and ordinations, and printed home prepared religious literature. They were supported by all dissidents, and, on the other hand, many Catholic and Protestant priests and laymen took part in the civic resistance movement Charter 77.

Both the official and underground Catholics organized a Pilgrimage to Velehrad, a famous east Moravian pilgrimage place and memorial to St. Cyril and Methodius mission, in July 1985. About 250,000 Catholics demonstrated their desire for religious freedom. They did it in the presence of the State Secretary of the Holy See and the Czech Minister of Culture.

In 1988, a Moravian railwayman, Augustin Navrátil, prepared a petition of Religious Liberties in thirty-one articles. With the consent of the Prague Archbishop, it was signed by 650,000 Czechoslovak citizens.

Many protest actions were prepared in the time of the canonization of the Blessed Agnes of Bohemia (12 November 1989).

On 17 November 1989, the 50th anniversary of the closure of the Czech universities by the Nazis, communist police brutally interrupted the students’ commemorative procession in Prague. The events, later called “the Velvet Revolution,” were followed by all of Czechoslovakia. The 10th of December, 1989 may be called a day of upheaval. On that day, the last Communist president appointed a non-communist government. The following day he resigned. The Government voted for a policy of legal continuity and of value discontinuity between the new and old regimes.

Parliament repealed the legal enactments that were contrary to human rights. The Act of December 13, 1989 repealed the anti Church enactments of the Penal Code. In January 1990, the legal provision allowing State interference in the appointment of clergy, preachers, and all Church employees was repealed.³

B. Current Constitutional Provisions

The Constitution of the Czech Republic, Act. No. 1/1993 Sb., refers to the earlier federal Charter of Fundamental Rights and Liberties from 9 January 1991. The Constitution incorporates it in the constitutional order of the Czech Republic to the date of foundation of the Czech Republic as an independent State on 1 January 1993.⁴ The Charter was published again under No. 2/1993 Sb. and has the same legal effect as the Constitution of the Czech Republic. In reality, it has a position as the second part of the

3. See Tretera, Jiří Rajmund, *Die Grundlagen des Verhältnisses von Staat und Religionsgemeinschaften*, in: Potz/Schinkele/Schwarz/Synek/Wieshaider (eds.), Wieshaider, Wolfgang, Tretera, Jiří Rajmund (coord.), Recht und Religion in Mittel- und Osteuropa, Band 2: Tschechien, WUV Universitätsverlag, Wien, 2004, 36–38.

4. See Tretera, Jiří Rajmund, *Church and State in the Czech Republic*, in: Ferrari, Silvio, Durham, W. Cole, Jr., (eds.), *Law and Religion in Post-Communist Europe*, Peeters, Leuven – Paris – Dudley MA, 2003, 82–85.

Constitution.

The main constitutional provisions in Czech State ecclesiastical law are Articles 15(1) and 16 of above mentioned Charter of Fundamental Rights and Liberties.

Article 15 Paragraph 1 reads: "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."

Article 16 reads:

(1) Everyone 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.

According to Article 10 of the Constitution, promulgated international agreements, the ratification of which have been approved by Parliament, are binding for the Czech Republic and constitute a part of the Czech legal order; additionally, should an international agreement make a provision contrary to Czech law, the international agreement is to be applied. An important international treaty that is a source of Czech state ecclesiastical law is the International Agreement on Civil and Political Rights from 19 December 1966, which was ratified by the Czechoslovak Socialist Republic in November of 1975. Further are the Convention of the Rights of the Child from November 1989, accepted by Czech and Slovak Federal Republic (CSFR) in September 1990, and the European Convention on Human Rights from 1950, accepted by CSFR in 1992.

From 2000-02, the representatives of the Czech Republic and the Apostolic See prepared an international agreement. It was signed in July 2002. However, the House of Deputies of the Parliament did not recommend the agreement for ratification (by 110 votes from 200 members). The proposal for such a recommendation can be repeated at a more favorable time.⁵

State cooperation with religion is not specifically mentioned in Czech law, but there is a cooperative model of relations for (or maybe with) state-religion in the Czech Republic. The term "separation of church and state" has never been mentioned in Czech legal sources. Moreover, there is not a preferred or privileged religion or group of religions in the Czech Republic. Nor is there any reference to religion as a foundation or source of state law. The specific mention of state neutrality on religious issues, and of the principle of equality when dealing with religions, is not specifically mentioned, but it can be derived from the Articles 15(1) and 16 of the Charter of Fundamental Rights and Liberties.

IV. LEGAL CONTEXT

The regulatory framework of Czech state ecclesiastical law is based on the Act No. 3/2002 Sb. of 7 January 2002 on Freedom of Religious Expressions and the Position of Churches and Religious Societies (Act on Churches and Religious Societies), as later amended by the Act No. 495/2005 Sb. Some provisions of the original text of the Act were annulled by the Czech Constitutional Court of 2002.⁶ The Act on the Economic Assurance of Churches by the State No. 218/1949 Sb. from the time of communist totality is still valid with its amendment No. 23/1990 Sb., by which the provision on the granting

5. See Tretera, Jiří Rajmund, *State and Church in the Czech Republic*, in Robbers, Gerhard (ed.), *State and Church in the European Union*, 2nd ed., Nomos, Baden Baden, 2005, 42.

6. Constitutional Court struck down provisions restricting the Churches in possibility to create charitable organizations and using incomes to other than strictly religious aims.

of State approval for performance of pastoral service was abolished.

The remaining part of the Czech State ecclesiastical law is dispersed throughout different laws, decrees, and administrative regulations on specialized matters relating to religious communities.

There are several church-state treaties on the internal level in present Czech law:

1. The Agreement on Cooperation between the Ministry of Defence of the Czech Republic, the Ecumenical Council of Churches in Czech Republic, and the Czech Bishops' Conference (1998).

2. The Agreement on Cooperation between the Czech Radio, the Czech Bishops' Conference, and the Ecumenical Council of Churches in the Czech Republic (1999).

3. The Agreement on the Participation of Persons Conducting Spiritual Services in the System of Provision of Post-traumatic Interventional Care for Officers of the Police of the Czech Republic between the Ministry of Interior of the Czech Republic, the Ecumenical Council of Churches in the Czech Republic, and the Czech Bishops' Conference (2002).

4. The Agreement on Pastoral Service in Prisons between the Prison Administration of the Czech Republic, the Ecumenical Council of Churches in the Czech Republic, and the Czech Bishops' Conference from 2008, which replaced the older ones from 1994 and 1999.

The Ministry of Culture of the Czech Republic (its Department for Churches) is a competent body of state administration that deals with religious affairs and religious communities. It registers churches, religious societies,⁷ and unions of churches and religious societies.

A church or a religious society and their unions acquire legal personality and some tax advantages by this registration.⁸ A registered church or religious society has the right to create derived legal persons.

The Ministry of Culture holds three public registers of religious bodies:

1. The register of churches and religious societies.
2. The register of the unions of churches and religious societies.
3. The register of legal persons derived from churches and religious societies, which evidence is taken by the Ministry of Culture.

The third register was created in 1994. Churches and religious societies announce the creation of every derived legal person to the Ministry of Culture. The Ministry has an obligation to enlist such legal persons in the register. Among the derived legal persons, there are "core" religious institutions, like parishes, dioceses, or monasteries, and special institutions for providing of charitable services.

The Ministry of Culture can also grant "special rights" to already registered churches and religious societies. These rights are enlisted in the registry of churches and religious societies. There are the following special rights according to the Act No. 3/2002 Sb.:

- teaching religion in public schools and founding church schools,
- pastoral care in prisons and the army,
- gaining state subsidies for minister's salaries,
- the right to celebrate marriages with civil effects,
- to maintain confessional confidentiality, if the religious community proves that such confidentiality has been practised for at least fifty years.⁹

There are 21 registered churches and religious societies with special rights, ten other

7. In fact, there is not a legal difference in Czech law between the word "church" and the term "religious society."

8. See Act No. Act No. 3/2002 Sb. and Tretera, Jiří Rajmund, *Religious Entities as Legal Persons – Czech Republic*, in Friedner, Lars (edit.), Churches and Other Religious Organisations as Legal Persons, Proceedings of the 17th Meeting of the European Consortium for Church and State Research, Höör (Sweden), 17–20 November 2005, Peeters, Leuven – Paris – Dudley, MA, 2007, 55–59.

9. Art. 7 of the Act No. 3/2002 Sb.

registered churches and religious societies, and two unions of churches and religious societies (The Ecumenical Council of Churches in the Czech Republic and Military Spiritual Service).¹⁰

The Department of Churches of the Ministry of Culture invites an independent expert advisory council. The actual functioning of this council, in terms of protection of freedom of religion or belief of individuals and communities, is satisfactory.

In cases of necessity, the state organs enter into negotiations with representatives of religious communities and their unions. In the case of the Roman Catholic Church, they contact the Czech Bishop's Conference and the Conference of Superiors of Religious Orders. On the international level, they contact the Apostolic See from the Czech Embassy to the Apostolic See in Rome and the Apostolic nuncio in Prague. The law does not regulate any state duty to a specific form of dialogue with churches and religious societies.

The legally binding instruments for regulating relations between the state and churches are parts of the agreements. For example, according to Article 5 of the Agreement on Pastoral Service in Prisons, the Council for Pastoral Service in Prisons was created in 2008. It is competent for solving basic interreligious and conception questions regarding pastoral service in prisons. The members of the Council include a deputy of Czech Bishops' Conference, a deputy of the Ecumenical Council of Churches, head of the cabinet of general director of the Prison Administration of the Czech Republic, chairman of the Pastoral Prison Service, and a Chief Chaplain. The Council has the right to propose conception solutions to the Commission for Spiritual Care of the Director of Prison Administration of the Czech Republic.

V. THE STATE AND RELIGIOUS AUTONOMY

The public authorities cannot intervene in the life or organization of religious communities, according to Article 15(1) and Article 16(2) of the Charter of Fundamental Rights and Liberties. The secular law protects the autonomy of religious communities, allowing them to govern themselves and act freely in the secular sphere. There are no legal or political instruments designed to control the religious life or choices of citizens.

VI. RELIGION AND THE AUTONOMY OF THE STATE

The autonomy of the State is secured by Article 2(1) of the Charter of Fundamental Rights and Liberties, which declares that the Czech State is founded on democratic values and not bound to a particular ideology or religion. Therefore, no religious community has a specific role in the secular governance of the country, and no particular religion is given power to control other religious communities under State law.

VII. LEGAL REGULATION OF RELIGION AS A SOCIAL PHENOMENON

State law does not exert any pressure on churches and religious societies. It respects individual freedom. Therefore, the State regulates religion specifically in terms that are different from other social phenomena.

There is registration of religious entities.¹¹ There are also special provisions concerning the legal status of church schools, teaching of religion in public schools, faculties of theology at State universities, property, taxation, slaughtering of animals, etc. Compared to other social phenomena, this specific regulation is neither more restrictive nor more cooperative with religion. Only in certain instances is it more favorable for churches and religious societies (e.g., places of worship are exempt from real estate tax).

10. See Tretera, Jiří Rajmund, Horák, Záboj, *Czech Republic, Legal Status of Religions*, at Eurel, Sociological and Legal Data on Religions in Europe, <http://eurel.info>. See also internet pages of the Ministry of Culture of the Czech Republic at http://www3.mkcr.cz/cns_internet.

11. See Part IV, *supra*.

The State does not have any record of individual's religious affiliations. Moreover, an individual's religious affiliation has no legal consequences under state law. There is not any regulation or conscientious objection in the Czech Republic to exemptions from laws or contractual clauses of general applicability.

VIII. STATE FINANCIAL SUPPORT FOR RELIGION

The Czech State subsidizes church activities by providing financial support to pay clergy salaries of registered churches and religious societies, which have special rights according to Act No. 218/1949 Sb. The subsidies for clergy salaries are meant as compensation for religious communities' non-restored property that was expropriated during the Communist Regime.¹² State authorities prepared a bill on settlement of property relations in 2008. This bill was prepared with the consent of church and religious society representatives, but it has not been approved by Parliament.

Remuneration for spiritual assistance for members of the armed forces and, partly for prisoners is provided directly to the spiritual ministers, considered State employees, and so not through the headquarters of religious communities. Spiritual assistance for ill persons is not remunerated. The staff of confessional schools are paid from the State budget.¹³ Religion teachers at public schools are also paid by the State.

The State subsidizes to some extent maintenance of some religious buildings that have historical or cultural value (churches, monasteries etc.). Also, municipalities can subsidize religious buildings according to their own measures. The State controls or regulations on State funding do not impose constraints on religious autonomy.

IX. CIVIL LEGAL EFFECTS OF RELIGIOUS ACTS

Czech secular law recognizes legal effects to marriages that were celebrated before registered churches or religious societies with a "special right" to perform marriage ceremonies under the Family Act of 1963. "Nowadays there is a free choice between the religious and civil forms of marriage in the Czech Republic. But decisions of the Church courts on nullity are not recognized by the State."¹⁴ Secular courts do not enforce decisions adopted by religious courts or hierarchical bodies.

X. RELIGIOUS EDUCATION OF THE YOUTH

There are three categories of Czech primary and secondary schools:

1. Public schools (a majority), established by municipalities and regional authorities or, exceptionally, by the State (Ministry of Education, Ministry of Defense, Ministry of Interior);
2. Schools established by churches and religious communities that have a "special right" to create church schools;¹⁵
3. Private schools, which are established by individuals or by private legal entities, among them also by religious organizations of all types.

The curricula and diplomas of church schools are recognized by secular law. However, church schools are different from private schools. For example, church school costs are mostly paid by the State, and their church founder normally donates a building and appoints a director.

The students are admitted on the results of admission tests, not by reference to their confession. Teachers can be non-denominational or members of another religious

12. See Tretera, Jiří Rajmund, Horák, Záboj, *The Financing of Religious Communities in the Czech Republic*, in: Basdevant-Gaudemet, Brigitte, Berlingò, Salvatore (eds.), *The Financing of Religious Communities in the European Union/Le financement des religions dans les pays de l'Union européenne*, Peeters, Leuven-Paris-Dudley, MA, 2009, 123.

13. Id. at 126.

14. Supra n. 5 at 50.

15. Art. 7(1), lit. e) of the Act No. 3/2002 Sb.

community, although a basic loyalty to the Church that founded the school is presumed. This arrangement is considered to be suitable for the deeply secularized Czech people: Church schools enjoy great popularity.¹⁶

There are 138 Church schools in the Czech Republic, 99 founded by Catholic authorities and 39 by authorities of other churches or religious societies.¹⁷

The public schools' curricula include denominational religious instruction as a specific subject.¹⁸ Yet, it is an optional subject. Teachers must be authorized by some church or religious society from among the 21 religious communities that are registered with special rights. The School Act of 2004 provides the possibility of common authorization of a teacher by two or more registered churches. The teachers are employees by the school, which pays their salary. All students may attend religious classes, even if they are not members of any church. There are two reasons for this: first, there is no public registration of confession (and a school does not know who among its students is a member of a particular church or who is non-denominational). Second, religious communities support this practice because of ecumenical cooperation, common need, and their offer to public. Thus, non-denominational students may also take classes in religious education if they, or their parents, so desire. The reason for this might be the interest in the deepening of education.

XI. RELIGIOUS SYMBOLS IN PUBLIC PLACES

Citizens, and other inhabitants, are free to wear religious symbols in public places. There is no official restriction in this regard, and such a restriction should be considered as a measure contrary to religious freedom, which is secured by the Constitution. On the other hand, it is to be emphasized that inhabitants of the Republic usually do not wear such symbols in extreme ways. There is a tradition to be civil in this regard. Even the Conference of Catholic Bishops recommends that the clergy wear church clothes or collar shirts only to such events when it is socially reasonable (yet, the decision is up to the feeling of a particular clergyman). As to the scarves of Muslim women, it is not clear how these scarves would differ from common usage by women in the Czech countryside.

Institutional use of religious symbols in public facilities has been out of practice for so long that perhaps nobody should want to introduce their usage now. The only exception is the use of the crucifix in some spaces of Catholic theological faculties, church schools or charities, and, in a very reserved form, in church hospitals.

XII. FREEDOM OF EXPRESSION AND OFFENSES AGAINST RELIGION

There is no protection of God's honor – i.e., there is no offense of "blasphemy." Further, there is no interest in renewing it after the long period of atheist rule.

There is a protection of the human dignity of believers and their conviction. This protection is applied equally to all religions and beliefs, including atheism.

Defamation of religion or atheism, religious hate speech, and anti-religious hate speech can be punished, if it is used in extreme way.

The new Criminal Code Act. No. 40/2009 Sb., in force from 1 January 2010, contains such provisions as Restriction of Freedom of Religion (§176), Incitement of Hatred to a Group of Persons or Restriction of their Rights and Liberties (§356), Genocide (§400), Assault against Humanity (§401), Apartheid and Discrimination of a Group of People (§402), Founding, Support and Propagation of a Movement Aiming at Oppressing of Human Rights and Liberties (§403), Expression of Affection for a Movement Aiming at Oppressing of Human Rights and Liberties (§404), Denial, Casting Doubts on, Conniving and Justifying of Genocide (§405), Persecution of Inhabitants (§413).

16. Supra n. 5 at 47.

17. Most of these are Protestant, but there are also Eastern Orthodox, Hussite, and Jewish schools.

18. See art. 16(3) of the Charter of Fundamental Rights and Liberties.