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THE PRACTICE OF RELIGIOUS FREEDOM IN ITALY

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1 – IntroduCTION

1.1 – Recipients and target of the work

The affirmation of religious pluralism daily posed institutions before cases involving the concreteness of personal and family life of Italian, communitarian and non communitarian citizens, that stick out for their novelty and for the common characteristic of having origin from a religious affiliation. Even in the face of situations that are part of the ordinary sphere of human life, such as nutrition or (although tragic) burials, or others, which relate to extraordinary circumstances (such in a prison restriction), one may find himself in the need of ensuring the exercise of the right to religious freedom.

We are not always prepared for that. It is well known that the spiritual dimension touches deep cords of the personal identity and that of the community and that, for many, even the claim of community spaces and rights made by "others", sometimes prompts such a paradoxical reactivity, since in deep contrast with the premises of those same reactions. Institutions which are closer to citizens, especially town halls, are called upon to perform the fundamental role of vehicle of knowledge, of normalization of situations, of integration of the different souls of the citizenship that lives on their territory. A role, therefore, that must necessarily be an enlightened one and that finds its light source in the constitutional principles and guarantees, frame and condition for a peaceful cohabitation that respects both the deepest needs of the individuals and that of the familiar and social communities in which they are living.

Therefore we considered it useful to propose a small compendium on the aspects of religious freedom covered by normative discipline, so as to lay out in a synthetic – but we hope – exhaustive way, its contents. A working tool then that can serve as a first orientation for those who, starting from the institutional subjects called upon to guarantee the application of laws, find themselves in the position of responding to a perhaps unedited need of the community they represent. The recipients can then be the same religious communities, especially if of recent origin: in such a case we hope this volume will be the vehicle of transmission of our culture that expresses in the law – even if always in an imperfect manner – the universal values of freedom and equality that not rarely are indeed characteristics of religions themselves.

1.2 – Constitutional and normative scheme

Freedom of religion in Italy is guaranteed by the fundamental law of the State, the Constitution, on which rests the entire normative currently in force on this subject, and the methods through which the State regulates its relations with the different religious denominations present on the Italian territory to safeguard such rights, take inspiration from it.

Before the implementation of the republican Constitution, article 1 of the Statuto Albertino *(NofT: Statute named after King Carlo Alberto di Savoia)* of 4th March 1848 (that in 1861, as a consequence of the process of the national unification, became the constitution of the Kingdom of Italy), was defining the Catholic Apostolic and Roman religion as the only State religion, envisioning on an official level a confessional State with a regime of tolerance for other faiths. One could not therefore talk about "religious freedom" in the current meaning of the term, even though, in parallel with the Statute, the so called "Sineo law" of 19th June 1848 was establishing that the affiliation to a different faith was not excluding one from "the enjoyment of civil and political rights and to the access to civil and military offices". Despite the "confessionalist" form of article 1 of the Statute, however, the State relations with the Church, in the united Italy, were based since the

beginning on a rigid separation, sometimes pinpointed by very openly anti-clerical tones (in alignment with the legislation of jurisdictional nature already implemented by Premier Cavour in the Kingdom of Sardinia) which tended to bring back the Church under common law. Such a separatist setting resulted in more than one occasion in the repression of some fundamental rights (starting from the right of association) and in the intrusion of the State in the internal organization of the Church that, moreover, was contesting the process of unification of Italy.

In the decades that followed we witnessed a slow but progressive improvement in the relations between State and Church until when – in the years of the Fascist regime – they reached a phase of re-confessionalization (and repression of the rights guaranteed to minority denominations) of the Italian State, that took place through a privileged regulation of the relations between the State and the Catholic Church (concluded with the Treaty and the Concordat with the Holy See in 1929) and with the parallel adoption of legislative measures aimed to regulate the relations with the so called "admitted faiths" (law of 24th June 1928, #1159 – that was proposing again the only article of "Sineo law" and of Royal Decree of 28th February 1930, #289). It was just with the drafting, approval and implementation of our Constitutional Chart that in Italy the full recognition of religious freedom, in its fullest meaning, was established. Such a right was explicated and clarified during the years by interpretative interventions of the Constitutional Court (see further on).

The articles of the Constitution directly dealing with religious freedom are articles 3, 7, 8, 19, 20. The provisions they contain sanction: the principle of non discrimination due to religious affiliation (article 3), the equality of all denominations in front of the law (article 8), the freedom of professing one's creed, both on individual and collective basis, the promotion, dissemination and celebration of one's faith, both publicly and privately, so long as the rituals are not contrary to good morals (article 19) and, last, the prohibition of any form of discrimination or enforcement of special fiscal burdens on religious associations or institutions because of their confessional affiliation (article 20).

Next to these articles there are others indirectly concerning freedom of religion. Specifically: article 2 that recognizes and guarantees the inviolable rights of man (among which, thus, that of freedom of religion and belief) and articles 17, 18 and 21 that guarantees freedom of expression, of assembly and gathering and freedom of organizing religious associations.

Additionally, the Constitution also covers specific aspects of religious freedom, like in the case of article 7 sanctioning that the State and the Catholic Church are, each one in their systems, independent and sovereign, and that their relations are regulated by the Lateran Pacts and by article 8, third paragraph, that indicates the Treaty as the instrument to discipline the relations of the religious denominations other than the Catholic.

To be thorough, the constitutional normative structure related to religious freedom, that will be laid out in details in the current compendium, contains a last significant provision in article 117, second paragraph, letter c) that leaves up to the exclusive legislative power of the State the regulation of the relations with the religious denominations.

The protection of religious freedom, however, is not sufficiently guaranteed by the simple enunciation of a binding normative text: it is necessary that the individual provisions are actually applied and that, in case of litigations, they can be acted upon by justice. In the constitutional scheme in force, as an additional clarification of the regulations contained in the Chart, the Constitutional Court intervened with its rulings that traced an actual interpretative itinerary of the above mentioned articles, which, throughout the time, have undergone amendments, due to the change of social needs and the changed perception of religious feeling. In its interpretation work, the Court also benefitted from the normative scheme of references resulted from the evolution of the international regulations about fundamental rights, both those elaborated by the United Nations and those of the Council of Europe and European Union, in order to pursue the actual practice of freedom of religion and belief.

In particular starting from the '70ies, the Court – repeatedly called upon to give its opinion on this issue – abandoned its initial reluctances to progressively arrive, 20 years later, to assign to religious freedom its more ample meaning, clarifying those points of the legal system which were shadowy, and taking the move – like it always happens in these cases – from contingent situations involving from time to time one of the aspects of religious freedom. The rulings in which the Court's evaluation are contained are in fact related to cases of conscientious objection to the mandatory military service, to the oath formulas in use to testify in Court during trials, to vilification, to marriage, to construction of places of worship, to freedom of belief.

Pursuant to the constitutional principles scheme so far mentioned, the respect of religious freedom in our legal system is granted especially through the specialized civil law, directly or indirectly concerning this issue.

Yet, in our legal system there is an already quoted regulatory discipline, Royal Decree 28th February 1930, #289, titled "Provisions for the implementation of law 24th June 1928, #1159, concerning the faiths admitted in the State and for its coordination with the other laws of the State" that, despite having been developed before the republican era, is still currently serving as a useful legal scheme to guarantee religious freedom in Italy. The republican legislator, aware of the need of overcoming such provisions that still talk about "admitted faiths" referring to a concept of "tolerance" – nowadays out of date – has done several attempts in the past to supply our legal system with an organic law on the subject of religious freedom (that disciplines therefore all its possible declinations), but the parliamentary discussion of the various law bills has not had, so far, a positive outcome.

The relations between State and religious denominations (that fall under, to say it with the legislation contained in the pre-constitutional law, the "admitted faiths", whose recognition is under the Ministry of Interior's jurisdiction) are currently regulated by the system of Treaties, with the introduction of article 8 of the Constitution, aimed to discipline the relevant aspects of the relation between the denomination and the State.

This treaty regime was created in analogy with the agreement pattern in force between the Italian State and the Catholic Church, with particular regard to the revision of the Lateran Pacts concluded in 1984. Differently from the Treaties with other religious denominations that the Republic undersigned pursuant to the constitutional dictate, the Concordat, in light of the "original legal system" recognized to the Catholic Church also by the Constitutional Assembly and in consideration of the international legal personality that the Holy See enjoys (that along with the Italian State is the other party that subscribed the Treaty), has the value of an international treaty and it is therefore subject – as far as its effects and application are concerned – to the applicable rules of the international law. The system of treaties and the detailed analysis of the relations between the State and the denominations will be object of a further examination.

To complete the constitutional scheme within which we are operating, it is worthwhile, eventually, to make a quick mention to other two dimensions of the legal system that are relevant for the protection of religious freedom: the community and administrative systems of the local and autonomous public powers and, in particular, those of the regional ones.

With regard to the European Union legal system, it becomes quite evident what appears to be a clause of safeguard, related to the protection of the legal regimes of the faiths, which are an expression of the peculiar traditions of the different European countries. This is article 17, paragraph 1, of the treaty in force on the operation of the European Union according to which "The Union respects and does not jeopardize the status enjoyed by churches and associations or religious communities in the Members States, pursuant to national law". Risking to make an excessive simplification, but giving particular attention to the interpretation that the Community bodies gives to this directive, more than to the statement of a principle of "communitarian incompetence on religious matters", we are facing a rule of maintenance or conservation (of safeguard,

indeed) of the particular national normative regimes concerned with religious experience. In the communitarian environment, moreover, freedom of religion is not protected and guaranteed only by the Treaties, but also by the Chart of the Fundamental Rights of the European Union (and therefore actionable before the Court of Justice of the European Union), without prejudice to what dictated by the provisions of safeguard sanctioned by article 17 above mentioned.

As to the local dimension, which will be covered in detail further on, it is instead opportune to remind that pursuant to what provided for by article 117, second paragraph, letter c) of the Constitution, the relations between the State and the religious denominations are exclusively reserved to the State.

Such a reserve is meant to underline that one is facing a matter strictly tied to the practice of a fundamental freedom, in respect to which the State has to pose itself the problem of guaranteeing a uniformed "level of performances" all over the national territory.

The constitutional and communitarian provisions quoted so far – even if rapidly –, form the scheme of legislation reference within which the Italian legislator acts and which he has to take into account in order to grant an actual protection of freedom of religion and belief. In the following chapters its specific aspects and how their enjoyment by all members of religious denominations present on our national territory are conditioned, will be individually examined.

2 – SUBJECTS

2.1 – The Catholic Church: the Concordat

The main normative tool governing the legal position of the Catholic Church in Italy and its relations with the Italian State is the Treaty of Revision of the Lateran Concordat, signed on 18th February 1984 at Villa Madama *(NofT: One of the Government palaces in Roma)* by the Italian Republic, represented by Premier Bettino Craxi, and by the Holy See, represented by the Secretary of the Vatican State, cardinal Agostino Casaroli. The Treaty, put in force with law 25th March 1985, #121, has actually replaced the first Concordat, which was part of the so called Lateran Pacts signed between the Kingdom of Italy and the Holy See on 11th February 1929 in the Lateran Palace in Roma by cardinal Pietro Gasparri, Vatican State Secretary, and Benito Mussolini, Italian Premier, which was put in force with law 27th May 1929, #810.

The Pacts represented, as is well known, the conclusion of a troubled phase in relations between Church and State, a consequence of the national unity which lead to the annexation of Rome and the dissolution of the Papal State. The intention of the Italian State of regulating with a one-sided law the relations with the Church, actualized with law 13th May 1871, #214 (the so called "Law of the Guarantees"), was rejected by Pope Pio IX that in 1874, moreover, proclaimed the *"Non Expedit",* which is to say, the prohibition to the Catholics to take part in the political life of the new State.

Following a significant phase of détente in the bilateral relations, started during the papacy of Benedetto XV, the Pacts of 1929 put an end to the so called "Roman issue", with the reciprocal recognition of the Italian State by Pope Pio XI and by that of the City of the Vatican by King Vittorio Emanuele II and Mussolini.

The Pacts consisted of a Treaty, a Concordat and a Financial Agreement. With the Treaty the Holy See was recognizing the Italian State and its Capital and in turn the Vatican State got its sovereignty internationally recognized; additionally, it was stating that the Catholic religion was the only religion in the Kingdom of Italy (article 1), forecasting special legal prerogatives; it was also granting to ecclesiastic decisions – concerning spiritual or disciplinary matters relating to ecclesiastic persons – civil effect also in the Italian State (article 23) and it was granting the Vatican the right of active and passive legation right (article 12).

The Concordat was regulating the internal relations between Church and State; it was granting the Church the free practice of spiritual and worship power, as well as ecclesiastic jurisdiction, granting the clergy, for the deeds performed in his spiritual office, the defense by the Italian authorities (article1); it was granting the clergy special prerogatives – for example exemption from the obligation of releasing to magistrates or other authorities information on people or matters they came to know in the performance of their ministerial duties (article 7, later on restated by article 64 of the Treaty of 1984) –, it reordered, in favor of the Church, the complex situation of the ecclesiastic properties and that of the financial support to the clergy (articles 29 and 30), it declared the free appointment of bishops – even though requiring the prior communication of the chosen names to the Government (article 19) – it recognized the civil effect of the religious marriages and of the decisions of nullification issued by the Ecclesiastic Courts (article 34), it extended to the secondary school the teaching of the Catholic religion (article 36) – already reintroduced in the primary schools since 1923 – and it limited the freedom of the organizations depending from *"Azione Cattolica",* establishing that they could continue to perform their activities but outside of any political party (article 43).

Finally, with the Financial Treaty, the Italian Government was committing itself to pay the Pope a strong allowance (one billion lira in State bonds and 750 millions of lira in cash) as compensation for the loss of the Papal State, whose territories were annexed to the Kingdom of Italy.

The debate on the regulation of relations between State and Church reawakened again at the beginning of 1947 when, during the works of the Constitutional Assembly, a proposal by the Democratic Christian party was submitted by the expert of Canon Law Giuseppe Dossetti (with the unofficial blessing of the Vatican) with which he was asking for the inclusion in the Constitution of an article stating that the relations between State and Church would have been regulated by the Concordat signed in 1929 between the Holy See and the Kingdom of Italy; in other words, the decision to be made was that of including the Lateran Pacts as an essential part of the new republican Constitution, or excluding it from it. The core of the theory asserted by Dossetti was the comparison of the Canon Law system to the international legal system, both considered "original" and, as such, independent from the legal system of the State. Under this perspective the issue of the relations between State and Church was not pertinent to the subjective right of freedom of religion (that in fact in the final text of the Constitution was eventually clarified by another provision) but rather in that of international law. In this way he wanted to protect the Lateran Pacts against evaluations of political or ideological nature.

The proposal, for which initially the Democratic Christians were fearing a hair's breadth success that would have risked to upset the delicate balance among the forces represented in the Constitutional Assembly thus invalidating the subsequent works, received instead an ample majority (350 yes and 149 no, with 57 among those who did not vote and who were not present), as a consequence of the announcement of the favorable vote of the Communist Group that Palmiro Togliatti, at that time Secretary of the PCI (Italian Communist Party), motivated with the will of respecting the religious feeling of the Italian people and avoiding fractures within the masses.

However, the inclusion of article 7 of the Constitution was not intended as a mean to place the content of the Lateran Pacts on the same level of the constitutional laws, but rather that of getting the Concordat principle included in the constitution (this point created a relevant agreement between Dossetti and Togliatti); in this way the Pacts got included among the atypical sources of the Italian law, for which the provisions they contained would have enjoyed a degree of resistance grater than the sources of first degree, and may be subject to change through the ordinary procedure in the case of mutual consent between State and Church, or aggravated through the process of the constitutional laws, in case of unilateral will of the State.

The first republican period (1948 – 1960) was characterized by Democratic-Christian governments who engaged in an extensive application of the standards of the Concordat. The sixties led to a gradual change of mentality, caused on one hand by the transformation of the government majority – the center-left – and, on the other hand, by the new ecclesial climate brought about by Vatican Council II. The new vision of the foundations of the relations between the Church and political Institutions took into account in particular the Declaration on Religious Freedom *Dignitatis humanae* (NofT Human dignity), promulgated by Pope Paul VI on 7th December 1865, which recognized the right of religious freedom as a universal natural law and, as such, poignant to each human being, anytime, anywhere.

In turn, the Declaration constituted the necessary premise for the promulgation, on 8th December 1965, of the Pastoral Constitution on the Church in the Modern World, *"Gaudium et spes"* (NofT Joy and hope) which states that "the political community and the Church are autonomous and independent one from the other in their respective fields" (#76). Hoverer the most significant indicator of a change of mentality in Italy was the approval of law of 1st December 1970, #898 that admitted the possibility of divorce both for the civil and religious marriages (recognized through the Concordat) and even more, the outcome of the abrogative referendum done on 12 and 13 March 1974 which recorded an overwhelming victory of those who were against the abrogation of the law.

In the meantime, the works begun in 1967 - in view of a revision of the Concordat – were ongoing. In 1968 the Minister of Justice, Hon. Gonella, established a Ministerial Commission which he personally chaired,

entrusted with the task of studying the revision of the Concordat and preparing what necessary to advise the Government, in view of the negotiations to engage with the Holy See.

In 1971 an Oder of the Day of the PCI called on the Government to commit itself to request to the Holy See for the bilateral revision of the Concordat, a first draft was submitted to the Chamber of Deputies in 1976 when the majority of the Deputies declared themselves favorable to the continuation of the negotiations with the Holy See. Only after long and laborious negotiations and six preparatory drafts, the final text was attained and signed on 18th February 1984 at Villa Madama.

Contrary to the initial expectations of those who, at the end of the ‘sixties believed it sufficient to modify only some clauses in the text of 1929 (the so called “dead leaves”), the revision of the Lateran Concordat becomes, in fact, a new Concordat: the first paragraph of article 13 provides that “the provisions of the Lateran Concordat not reproduced in this text are repealed”. The new Concordat is configured as a “framework agreement” of fundamental principles that define some of the contents of the respective orders of the State and of the Church, recalling specific constitutional cornerstones on which to rebuild the system of their relationships and deferring to additional agreements between the competent authorities of both parties the definition of particular aspects. The novelty represented by this type of “framework agreement” and the enhancement of the role of the Episcopal Council have made of the Treaty of 18th February 1984 one of the main “concordat models” attained during the pontificate of John Paul II.

The Treaty intended to adjust the relationship between the State and the Catholic Church to the principles of the Republican Constitution, recognizing the centrality of the principle of religious freedom. The removal of what provided for at article 1 of the Lateran Treaty – the recognition of the Catholic as the State religion – traces back to this. It was done to lay the foundations for a development of the principle of secularism of the Italian Republic which will be enucleated by the Constitutional Court starting from 1989. To this is dedicated the first article of the additional Protocol, contextually signed at the conclusion of the Treaty.

Among the most relevant provisions of the Treaty – innovative that the ones of the previous Concordat – there is article 1, stating “The Italian Republic and the Holy See reaffirm that the State and the Catholic Church are, each one in his own order, independent and sovereign, committed to the full compliance with this principle in their relations and mutual collaboration for the advancement of humanity and the greatest good of the Country”.

Article 2 recognizes the Catholic Church “...full freedom to carry out its pastoral, educational, charitable, evangelization and sanctification mission”, defining the scope, mentioning the “freedom of organization, of public exercise of worship, exercise of teaching and spiritual ministry as well as jurisdiction in ecclesiastic matters” and guarantees to the Catholics and their associations and organizations full freedom of assembly, speech and press.

Article 3 states that “The appointment of holders of ecclesiastic offices is freely made by the ecclesiastic authority”, thus abrogating the provision that made it necessary a control by the Italian Government.

Article 7, expressly evoking article 20 of the Constitution, reaffirms that “ … the ecclesiastical nature and the purpose of religion or worship of an association or institution may not be a cause for special limitations in law, nor for special taxation for its institutions, legal status or any form of activity”. Paragraph 3 of the articles adds: “… for tax purposes the ecclesiastic entities with religion or worship purposes – as well as the activities aimed at these purposes, have to be treated as those having charitable or education purposes”. Lastly, paragraph 6 provides that “when signing … the Parties establish a Joint Commission for the formulation of policies to be submitted to their approval, to discipline the entire issue of ecclesiastic entities and assets and for the revision of the financial commitments of the Italian State and its intervention in the patrimonial management of ecclesiastic entities”.

The result of the works of this Commission were the “Dispositions on the ecclesiastic institutions and assets in Italy and for the support of the Catholic clergy serving in the diocese”, transposed into law 20th May 1985, #222, which is intended to establish the modalities for the recognition of legal personality of ecclesiastic bodies and to rearrange the previous system of benefices, establishing a new system of indirect funding, which recognizes to the taxpayers the faculty of allocating a share of his annual tax revenue (the 8 per thousand of income tax of physical persons) to the activities of the Catholic Church and to deduct from their income, up to a prefixed amount, the donations made for the support of the clergy.

Furthermore, article 8 of the Treaty provides for the recognition of civil effects to marriages contracted according to the rules of the canon law, but specifying that the transcription cannot take place when the couple does not meet the requirements of civil law about the age required for the celebration, or when there is an obstacle between the spouses that civil law considers a binding one.

For what concerns instead the judgments of nullity pronounced by the ecclesiastic courts, it is established that – at the request of the parties or of one of them and in the presence of certain requirements – they are declared effective by the judgment issued by the competent Court of Appeals.

Article 9, after confirming the right of the Catholic Church to establish schools of all levels – at which pupils is assured an education equal to that of pupils of State schools –, states that “The Italian Republic, recognizing the value of religious culture and taking into account that the principles of the Catholicism are part of the historical heritage of the Italian people, will continue to ensure, within the framework of the aims of the school, the teaching of the Catholic religion in public, non-academic schools of all levels …” specifying that “ … while respecting the freedom of conscience and responsibility of parents in education, is guaranteed to each individual the right to choose whether or not to make use of that teaching …”, choice to be when enrolling and without this “…giving rise to any form of discrimination”.

When the Treaty was signed, the parties concurred on the need to provide the text with an additional Protocol with the aims of “ … guaranteeing with necessary clarifications the best application of the Lateran Pacts and of the agreed upon amendments, so to avoid difficulties of interpretation …”; article 1 of the Protocol – as already mentioned –in fact enshrines one of the most innovative principles compared to the Lateran Treaty: “The principle originally contained in the Lateran Pacts – based on which the Catholic was the only State religion – is no longer in force.”

Moreover, the Constitutional Court itself has highlighted the supreme principle of the secular State in its judgment of 12th April 1989, #203 and – making explicit reference to the of the additional Protocol of 1984 – said: “The principle of secularism, clearly stated in articles 2, 3, 7, 8, 19 and 20 of the Constitution, does not imply an indifference of the State for religions, but a guarantee by the State for the protection of freedom of religion, under a regime of confessional and cultural pluralism” (decision #203 of 1989).

The Treaty of 1984 was followed by a series of agreements on specific issues: reform of ecclesiastic institutions and properties, of the system of support of the clergy, of the appointment of holders of ecclesiastic offices, of religious holidays, of the Catholic religious education in schools, of the recognition of academic titles of the faculties recognized by the Holy See, of the spiritual assistance to the State Police, of the protection of the cultural heritage of religious interest and of ecclesiastic archives and libraries. Those agreements, concluded between State and ecclesiastical authorities, will be examined in the course of this work.

Main law references

- Law 27th May 1929, #810 (Implementation of the Treaty, of the four attached annexes and of the Concordat, signed in Rome between the Holy See and Italy on 11th February 1929).

NOTE: The Treaty is still currently in force with the exception of the principle of the Catholic religion being the only State religion, as per article 1 of the Treaty itself.

The provisions of the Lateran Concordat not reproduced in the Treaty of Revision of the Lateran Concordat and in the addition Protocol are abrogated, except as provided in article 7, #6.

- Law of 27th May 1929, #847 (Provisions for the implementation of the Concordat of 11th February1929 between the Holy See and Italy, part related to the marriage)
- Law of 25th March 1985, #121 (Ratification and implementation of the Treaty, with additional Protocol, signed in Rome on 18th February 1984 amending the Lateran Concordat of 11th February 1929, between the Italian Republic and the Holy See)
- Law of 20th May 1985, #222 (Provisions on the ecclesiastic entities and assets in Italy and for the support to the Catholic clergy on service in the dioceses)

2.2 – Religious denominations other than the Catholic: the Treaties

In parallel with the signing of the Treaty of 1984 that, as already seen, has regulated the legal status of the Catholic Church in Italy, the Italian State has started the signing of a series of bilateral agreements, the Treaties, based on the terminology contained in article 8 of the Constitution, with which the specific regime of rights and freedoms laid out by the Constitution has been applied also to the religious denominations other than the Catholic.

As already noted, in itself, the legal discipline of religious denominations other than the Catholic is still contained in law 24th June 1929, #1159 and its implementation regulations, Royal Decree 28th February 1930, #289, of pre-republican era. Pursuant to article 1 of law #1159 "In the Kingdom are admitted faiths different from the Catholic Apostolic and Roman one, provided that they do not profess principles and do not follow rites contrary to public order or to good morals. The exercise of these faiths – also public – is free".

The so called "law on the admitted faiths" has represented the main regulation tool on the issue of religious denominations until the implementation of the Constitution that, at article 8 – after having reaffirmed the equality of religious denominations before the law – has sanctioned: "The religious denominations other than the Catholic, have the right to organize themselves according to their own statutes, provided they are not in conflict with the Italian legal system. Their relations with the State are regulated by law on the basis of treaties with their respective representatives". A problem of incompatibility for the law #1159 came up with article 19 of the new constitutional text, already mentioned, that set as the only limit to the exercise of worship that of the "rites contrary to good morals", without ever referring to the "principles" professed or to "public order".

In the first phase of implementation of these provisions, the procedure for the conclusion of the treaties was not governed by legislation, but followed a practice which was given legal force only with the law of 23th August 1988, #400, "Discipline of the activity of Government and set of rules of the Presidency of the Council of Ministers" and with the Legislative Decree of 30th July 1999, #303, "Set of rules of the Presidency of the Council of Ministers, pursuant to article 11 of law of 15th March 1997, #59.

In order for religious denomination to start the procedure for the conclusion of a treaty, the praxis foresees the prior recognition of legal personality of the denomination by the Ministry of Interior, based on the law of 24th June 1928, #1159 (paragraph 2.4 – The recognition of legal personality of worship entities).

The competence to begin negotiations is held by the Government: the concerned denominations, after having achieved the recognition of legal personality, must apply by motion to the President of the Council of Ministers, which entrusted the tasks of conducting negotiations with the representatives of religious denominations to the Undersecretary of the Presidency of the Council of Ministers, with functions of Secretary of the Council of Ministers. The Undersecretary relies on special Inter-ministerial Commission, entrusted with the task of preparing a draft of treaty together with the representatives of the applicant religious denominations. The Inter-Ministerial Commission for the treaties with religious denominations is composed of government representatives which are mostly interested in the contents of the treaty, such as the Ministries of Interior, Justice, Economy and Finance, Defense, University, Education and Research, Cultural Properties and Activities and Health. The delegation of the religious denomination is freely designated and is chaired by a representative with a mandate to conduct negotiations. On the draft of the treaty developed by the parties an opinion is expressed by the Advisory Commission for Religious Freedom (established with a Decree of the President of the Council of Ministers in 1997). This Commission is formed by experts and academics and has the task of examining any issues related to the preparation of treaties and to develop general guidelines for their execution. After the conclusion of negotiations on the text of the treaty, signed by the Undersecretary of the Presidency of the Council of Ministers and by the representative of the religious denomination, it shall be submitted to the President of the Council of Ministers for authorization to sign it. After the signature of the President of the Council of Ministers and that of the representative of the religious denomination, the bill of approval of the treaty is submitted to the Parliament.

The process described above, foreseen first by the Decree of the President of the Council of Ministers of 24th April 1985 and then by the Decree of the President of the Council of Ministers of 19th March 1992, culminates in the enactment by the Parliament of a law of approval that, unlike the laws implementing international treaties – usually consisting of only one article containing the formula for the implementation of the treaty which is attached to the law – are usually made up by a series of articles that, except for some formal changes, reproduces the text of the treaty, also annexed to the law.

In two cases the Council of Ministers – through its deliberation – decided, for various reasons, not to open negotiations for the conclusion of the treaty.

The first of these decisions was appealed before the TAR of Lazio *(NofT: TAR – Tribunale Amministrativo Regionale - Regional Administrative Court)* who, in 2008, declared the appeal inadmissible for absolute lack of jurisdiction, opposing the political nature of the act, and as such, considered final.

The State Council, granting the appeal of the concerned Association, in 2011, overturned the first instance ruling. The Supreme Court, on 28th June 2013, rejected the appeal lodged by the President of the Council of Ministers who argued the inadmissibility of the original appeal, considering the denial a political act.

Currently, the following treaties with the Italian State have been concluded and approved by law, pursuant to article 8 of the Constitution with the Waldensian Board and subsequent amending treaties (signed on 21st February 1984, on 25th January 1993 and on 4th April 2007 and respectively approved by laws #449/1993 and #68/2009); with the Union of the 7th Day Christian Adventist Churches and subsequent amending treaties (signed on 29th December 1986, on 6th November 1996 and on 4th April 2007 and respectively approved by laws #516/1988, #637/1996 and #67/2008); with the Assemblies of God in Italy (signed on 29th December 1986 and approved by law #517/1988); with the Union of the Italian Jewish Communities and

subsequent amending treaties (signed on 27th February 1987 and 6th November 1996 and respectively approved by laws #101/1989 and #638/1996); with the Christian Evangelic Baptist Union of Italy and the subsequent amending treaties (signed on 29th March 1993 and on 6th July 2010 and respectively approved by laws #116/1995 and #520/1995); with the Evangelic Lutheran Church in Italy (signed on 20th April 1993 and approved by law #520/1995); with the Holy Orthodox Archdiocese of Italy and Exarchate of Southern Europe (signed on 4th April 2007 and approved by law #126/2012); with the Church of Jesus Christ of Latter Days Saints (signed on 4th April 2007 and approved by law #127/2012); with the Apostolic Church in Italy (signed on 4th April 2007 and approved by law #128/2012); with the Italian Buddhist Union (signed on 4th April 2007 and approved by law #245/2012) and with the Italian Hindu Union (signed on 4th April 2007 and approved by law #246/2012)

The treaty between the Italian State and the Christian Congregation of the Jehovah's Witnesses has been signed but not yet approved by law.

The treaties concluded so far have analogous contents both in the preamble – which contains general statements designed to explain the position of the religious denomination on issues of particular relevance – and in the text of the treaty which regulates certain specific matters.

Among these, we remind:

- Treatment centers and prisons; provisions on education, to ensure the right not to make use of religious education, the recognition of diplomas released by institutes of Theological Studies and the right to freely establish schools of all types as well as educational institutions.
- Provisions for the recognition of civil effects of marriages celebrated in front of Ministers of Worship of the respective religious denominations;
- Provisions disciplining the tax treatment of religious denominations and their financial relationships with the State, on models outlined for the Catholic Church by law of 20th May 1985, #222 "Provisions on ecclesiastical institutions and patrimony in Italy and for the support of the Catholic clergy serving in the diocese";
- Rules for the protection places of worship and for the enhancement of assets afferent to the historical and cultural heritage of each denomination, as a guarantee of their cultural identities;
- Provisions related to the free practice of their ministry on the part of the Ministers of Worship appointed by the religious denomination;
- Provisions for the recognition of religious holidays of each religious denomination.

As we have seen, the group of religious denominations who have concluded a treaty with the Italian State does not include Islam, with which – despite representing the most numerous non-Catholic community in Italy – to date no negotiations have been started pursuant to article 8 of the Constitution. The reasons are essentially related to the multiform aspect of the Islamic world and to the lack of a subject, recognized by all, with whom to start negotiations. The Government has promoted various initiatives aimed at to favor the aggregation of Islamic communities and mutual understanding between their representatives and State Administration agencies: in 2005 the pro-tempore Minister of Interior established the Council for Islam in Italy, where, in 2007, the "Chart of Values, Citizenship and Integration" was drafted and, in 2008, the "Declaration of intents for the federation of Italian Islam". By Decree of the Minister of Interior of 2nd February 2010, the Committee for the Italian Islam was established. Some of the representatives of Islamic organizations part of this Committee have become members of the Council for religions, culture and integration, that took office under the chairmanship of the Minister for Integration and the International Cooperation on 19th March 2012.

Main law references

- Law 11th August 1984, #449 (Provisions for the regulation of the relations between the State and the churches represented by the Waldensian Board) amended by law of 5th October 1993, #409 (Integration of the treaty between the Government of the Italian Republic and the Waldensian Board, in actualization of article 8, third paragraph of the Constitution), and by laws 8th June 2009, #68 (amendment of the law of 5th October 1993, #409, approving the treaty between the Government of the Italian Republic and the Waldensian Board, in actualization of article 8, third paragraph of the Constitution)
- Law 22nd November 1988, #516 (Provisions for the regulation of the relations between the State and the Union of the 7th Day Christian Adventist Churches), amended by law 20th December 1996, #637 (amendment of the law of 22nd November 1988, #516, approving the treaty between the Government of the Italian Republic and the Union of the 7th Day Christian Adventist Churches, in actualization of article 8, third paragraph of the Constitution)
- Law of 22nd November 1988, #517 (Provisions for the regulations of the relations between the State and the Assemblies of God in Italy)
- Law of 8th March 1989, #101 (Provisions for the regulation of the relations between the State and the Union of the Italian Jewish Communities), amended by law 20th December 1996, #638 (amendment of the treaty between the Government of the Italian Republic and the Union of the 7th Day Christian Adventist Churches, in actualization of article 8, third paragraph of the Constitution)
- Law 12th April 1995, #116 (Provisions for the regulation of the relations between the State and the Christian Evangelic Baptist Union of Italy (UCEBI), amended by law 12th March 2012, #34 (amendment of the law of 12th April 1995, #116, approving the treaty between the Government of the Italian Republic and the Christian Evangelic Baptist Union of Italy, in actualization of article 8, third paragraph of the Constitution)
- Law 29th November 1995, #520 (Provisions for the regulation of the relations between the State and the Evangelic Lutheran Church in Italy (CELI)
- Law of 30th July 2012, #126 (Provisions of the regulation of the relations between the State and the Holy Orthodox Archiocese of Italy and Exarchate for Southern Europe, in actuation of article 8, third paragraph of the Constitution)
- Law of 30th July 2012, #127 (Provisions for the regulation of the relations between the State and the Church of Jesus Christ of the Saints of Latter Days, in actuation of article 8, third paragraph of the Constitution)
- Law of 30th July 2012, #128 (Provisions for the regulation of the relations between the State and the Apostolic Church in Italy, in actuation of article 8, third paragraph of the Constitution)
- Law 31st December 2012, #245 (Provisions for the regulation of the relations between the State and the Italian Buddhist Union, in actuation of article 8, third paragraph of the Constitution)
- Law 31st December 2012, #246 (Provisions for the regulation of the relations between the State and the Italian Hindu Union, Sanatana Dharma Samgha, in actuation of article 8, third paragraph of the Constitution)
- Law 24th June 1929, #1159 (Regulations on the practice of the faiths admitted in the State and on the marriage celebrated before of the concerned faiths)
- Royal Decree of 28th February 1930, #289 (Regulations for the implementation of law 24th June 1929, #1159, on the faiths admitted in the State and for its coordination with the other laws of the State)

Treaties signed but not yet approved by law:

- Christian Congregation of the Jehovah's Witnesses, signed on 4th April 2007.

2.3 – Legal regime for religious denominations without a treaty

Compared to the so called denominations with a treaty, there is a different discipline in force both for the denominations that have not concluded a treaty with the Italian State – and that, therefore, do not enjoy the same liberties granted to the Catholic faith or to other religious denominations with a treaty, but that received the recognition of legal personality – and for the worship entities that do not have such a recognition: the first ones enjoy greater freedoms than the second ones that, lacking legal personality, are not considered legal entities by the Italian legal system.

However, both the religious denominations whose legal personality was recognized and those without legal personality, have their right of free exercized of religious freedom guaranteed and regulated at constitutional level, through the protection of their fundamental rights (see paragraph 1.2), at common law level, based on the law of 24th June 1929, #1159 ("Regulations on the activity of the faiths admitted in the State and on marriages celebrated before the respective Ministers of Worship") and its implementing regulation approved by Royal Decree of 28th February 1930, #289 ("Rules for the implementation of law 24th June 1929, #1158, on the faiths admitted in the State and for its coordination with the other laws of the State"), which no longer apply only to faiths who have signed treaties.

As already mentioned, article 1 of the so called "law on the admitted faiths" – main legislative tool on this subject until the implementation of the Italian Constitution – establishes that "In the Kingdom are admitted faiths different from the Catholic Apostolic and Roman one, provided that they do not practice principles and do not follow rites which are in conflict with public order or good morals. The performance of such faiths – even public – is free".

The equal freedom of religious denominations – both for those who received recognition of legal personality and those who didn't – guarantees them the right to organize themselves according to their own statutes, provided that such statutes are not in conflict with the Italian legal system – and to appoint Ministers of Worship that, if approved by the competent Minister of Interior, can perform acts that have a relevance in the Italian legal system (example: to celebrate marriages).

Article 2 of the law #1159 of 1929 furthermore provides that "Worship institutions different from the State religion can be incorporated as moral entities …", filing an application for the recognition of legal personality with the competent Prefect's Office, "equipped with the statute of the entity defining its aim, its administrative bodies, the rules on which it operates and the financial means it has to achieve its own aims", pursuant to article 10, second paragraph of Royal Decree #289 of 1930.

Also the recognition of legal personality of the worship institutions (entities, associations or foundations) is therefore conditioned by the fact that they are religious denominations whose principles and whose external manifestations are not in contrast with the legal system of the State, and this entails the possibility for the worship entity to become a legal person and also to file an application to conclude the treaty. The recognition is granted after a proper investigation carried out by the competent Office, by Decree of the President of the Republic, pursuant to the proposal of the Minister of Interior, after having heard the State Council and the Council of Ministers (see 2.4)

Main law references

- Articles 2, 3, 7, 8, 18,19, 20 and 21 of the Constitution
- Law of 24th June 1929, #1159 (Regulations on the practice of the faiths admitted in the State and on the marriage celebrated in front of the concerned faith's Ministers of Worship)

- Royal Decree 28th February 1930, #289 (Provisions for the implementation of law 24th June 1929, #1158, on the faiths admitted in the State and for its coordination with the other laws of the State)

2.4 – The recognition of legal personality of the worship entities

(Source Ministry of Interior)

Article 2 of the law of 24th June 1929, #1159 provides that the worship institutes (nowadays these are most broadly referred to as "worship entities") different from the Catholic religion can be established as moral entities. This means that a religious denomination – in its quality of worship institute or entity – can apply for the recognition of legal personality, provided that they are religions whose principles and external manifestations (rites) are not in contrast with the legal system of the State. The recognition entails the possibility for the religious denomination to become a legal person.

The procedure for the recognition of legal personality of the worship entities different from the Catholic faith is regulated by the law of 24th June 1929, #1159 and by the Royal Decree of 28th February 1030, #289. This procedure has been simplified by law #127 of 1997 that, in article 17, paragraph 26, has abrogated any rule foreseeing the mandatory acquisition of the opinion of the State Council. However, in the praxis, these applications for the recognition of the legal personality are still being submitted to the State Council, due to the high impartiality that such contributions represent and for the verification of the conformity of the statutes with the Italian legal system.

For additional details we refer to the newsletter #111 of 20th April 1998 issued by the competent Directorate General of the Religious Affairs of the Ministry of Interior. The newsletter is indeed related to the "simplification of the procedures for the recognition of Catholic entities, of worship entities other than the Catholics and related legal affairs". Attached to the newsletter there are forms with the indication of the documentation to submit to apply for the recognition of legal personality of the religious organization.

The application to get recognition of legal personality is to be submitted to the competent Prefect's Office and must be equipped with the statute of the entity, defining its purpose, its administrative bodies, the rules on which it operates and the financial means it has to achieve its aims (as per article 10, second paragraph of Royal Decree #289 of 1930).

Specifically, the application with the stamp, dated and signed by the legal representatives must be sent to the Prefect under whose jurisdiction the Entity is located and it must indicate:

a) Denomination and seat;
b) Indication of the legal nature of the Entity;
c) List of the documentation attached.

The documentation to attach is as follows:

1. Certificate of incorporation drafted in front of a notary public in form of public deed. It must be submitted in 5 certified copies, of which 2 stamped, and it must contain: the denomination of the entity, the indication of its aim, of its patrimony and of its seat as well as its policy and system of administration. The certificate of incorporation and the statute must also determine, when it comes to associations, the rights and obligations of the associates and the condition for their admission; the statute must moreover contain the rules related to the closure of the entity and to the devolution of its patrimony.

2. Report on the religious principles on which the Entity bases its activities, signed by the legal representative, stating: if the religious principles are manifested in rites, if it is envisioned the role of a Minister of Worship, any religious authority by which the entity depends, the list of possible Italian seats in Italy and abroad with the names of those responsible and the numerical consistency of the followers.

3. Deed or contract showing the availability of the seat (copy): availability shall have to be guaranteed for a congruous period of time (example: a rent contract).

4. Financial grids indicating revenues and expenses for each of the last three years or less, if the entity exists since a shorter time.

5. Declaration from a credit institution proving the consistency of the movable assets at the disposal of the entity.

6. Declaration by the legal representative of having an Italian citizenship or a domicile in Italy (may be a certified one).

Article 2 of law #1159 of 1929, as it is to date after the various amendments occurred throughout the time, foresees that the recognition, after a careful and articulated investigation by the competent Office, gets granted by Decree of the President of the Republic, on proposal of the Minister of Interior, having heard the State Council and the Council of Ministers.

Once the recognition of legal personality is granted, subsequent amendments of the certificate of incorporation and of the statute (a substantial change of its aim, of the destination of its patrimony and of the pattern of operation of a worship entity), must undergo an analogue procedure, that is equally concluded with the emanation of a Decree of the President of the Republic.

The stamped application, dated and signed by the legal representative, must be sent to the Prefect's Office of the province where the Entity is seated and it must contain:

α) the denomination and seat;
β) the indication of the provision of the recognition of legal personality of the Entity;
χ) the list of the documentation attached.

The documentation to attach is as follows:

1. Amended statute drafted in front of a notary public in form of a public deed. It must be submitted in 5 certified copies, of which 2 stamped and it must contain: the denomination of the entity, the indication of its aim, of its patrimony and of its seat, as well as its policy and system of administration. The certificate of incorporation and the statute must also determine, when it comes to associations, the rights and obligations of the associates and the condition for their admission; the statute must moreover contain the rules related to the closure of the entity and to the devolution of its patrimony.

2. Report written by the legal representative on the reasons that determined the change as well as on the activity currently performed by the entity.

The process so far described, intended for new religious realities, is not obviously to be confused with the recognition of legal personality, covered by specific law references, for the entities of the Catholic faith and for the entities of religious denominations whose relations with the Italian State are regulated by treaties pursuant to article 8, third paragraph, of the Constitution.

As regards the institutions of Catholic faith, these are entities constituted or approved by the Ecclesiastic Authority, established in Italy and having a religious or worship purpose. They can obtain civil legal personality, subject to administrative investigation by the Prefect's Offices, by Decree of the Minister of Interior published in the Official Gazette; subsequently, they must be registered in the registry of legal persons.

The application can be submitted by parishes, churches, seminaries, religious institutes, apostolic life societies, public associations of followers, foundations and confraternities. The documentation to be submitted is as follows:

1. Stamped application signed by the legal representative or by the competent ecclesiastic Authority that must be submitted to the Prefect's Office of the province where the entity is seated and it must contain:

- Personal details of the legal representative
- Legal nature of the Entity
- Denomination and seat
- List of the documentation attached

2. Approval of the recognition of legal personality by the competent ecclesiastic Authority (can be put in the footnote of the application or as a separate act); it is not needed when the application is directly drafted by the ecclesiastic Authority.

3. Decree of canonical establishment or approval (if written in Latin a translation into Italian will have to be provided). For the Confraternities, lacking a canonical provision, a substitute such as the attestation of the priest responsible for the diocese is valid evidence.

- To a similar procedure, where foreseen, undergo the entities of the religious denominations with which treaties approved by law have been concluded. Such a discipline can be found in articles 12 and 13 of the law 11th August 1984, #449 for the Waldensian Board; in article 21 and 22 of the law of 22nd November 1988, #516 for the Union of the 7th Day Christian Adventist Churches; in article 18 of law 22nd November 1988, #517 for the Assemblies of God in Italy (that however does not foresees new establishment of entities with legal personality); in articles 18, paragraph 4 and 22 of the law of 8th March 1989, #101 for the Union of the Italian Jewish Communities; in article 11 of law 12th April 1995, for the Christian Evangelic Baptist Union of Italy; in article 24th of the law 29 November, #520, for the Evangelic Lutheran Church in Italy; in articles 14 and 19 paragraph 3 of law 30th July 2012, #126 for the Holy Archdiocese of Italy and Exarchate of Southern Europe ; in articles 17 and 18 paragraph 3 of law 30th July 2012, #127 for the Church of Jesus Christ of the Latter-Days Saints; in articles 15 and 19 of law 30th July 2012, #128 for the Apostolic Church in Italy; in articles 10, 11 and 12 of law 31st December 2012, #245 for the Italian Buddhist Union and in articles 11, 12 and 13 of law 31st December 2012, #246 for the Italian Hindu Union.

To be thorough, we remind what provided for by article 20 of the Constitution, that states "the ecclesiastic nature and the religious or worship aim of an association or institution cannot be the cause of special legislative limitations, nor of special fiscal burdens for its establishment, legal status and any other form of activity". This is a rule that limits the enforcement power of the State on the entities of "religious inspiration", whatever the denominational belonging is.

Main law references

- Law of 20th May 1985, #222 (Provisions on the ecclesiastic entities and assets in Italy and for the support to the Catholic clergy on service in the dioceses);
- Law of 11th August 1984, #449 (Provisions for the regulation of the relations between the State and the churches represented by the Waldensian Board);
- Law of 22nd November 1988, #516 (Provisions for the regulation of the relations between the State and the Union of the 7th Day Christian Adventist Churches);
- Law of 22nd November 1988, #517 (Provisions for the regulation of the relations between the State and the Assemblies of God in Italy);
- Law of 8th March 1989, #101 (Provisions for the regulation of the relations between the State and the Union of the Italian Jewish Communities), articles 18 and 22;
- Law of 12th April 1995, #116 (Provisions for the regulation of the relations between the State and the Christian Evangelic Baptist Union of Italy), article 11;
- Law of 29th November 1995, #520 (Provisions for the regulation of the relations between the State and the Evangelic Lutheran Church in Italy (CELI), articles 18 and 19;
- Law of 30th July 2012, #126 (Provisions for the regulation of the relations between the State and the Holy Archdiocese of Italy and Exarchate of Southern Europe, in implementation of article 8, third paragraph of the Constitution), articles 14 and 19;
- Law 30th July 2012, #127 (Provisions for the regulation of the relations between the State and the Church of Jesus Christ of Latter-Days Saints, in implementation of article 8, third paragraph of the Constitution), articles 17 and 18;
- Law of 30th July 2012, #128 (Provisions for the regulation of the relations between the State and the Apostolic Church in Italy, in implementation of article 8, third paragraph of the Constitution), articles 15 and 19;
- Law of 31st December 2012, #245 (Provisions for the regulation of the relations between the State and Italian Buddhist Union, in implementation of article 8, third paragraph of the Constitution), articles 10, 11 and 12;
- Law of 31st December 2012, #246 (Provisions for the regulation of the relations between the State and Italian Hindu Union, Sanatana Dharma Samgha, in implementation of article 8, third paragraph of the Constitution), articles 11, 12 and 13;
- Law of 24th June 1929, #1159 (Regulations on the practice of the faiths admitted in the State and on the marriage celebrated in front of the concerned faiths' Ministers of Worship);
- Royal Decree of 28th February 1930, #289 (Regulations for the implementation of Law 24th June 1929, #1159, on the faiths admitted in the State and for its coordination with the other laws of the State), article 10 and following ones;
- Law of 15th May 1997, #127 (Urgent measures for the streamlining of the administrative activity and of decision and control procedures), article 17.

3 – ASPECTS OF RELIGIOUS FREEDOM

3.1 – Prohibition of religious discrimination and freedom of expression

3.1.1 – The provisions on the prohibition of religious discrimination

Like many other fundamental rights, freedom of religion is strictly connected to the principle of non discrimination, principle established by article 3 of our Constitution. In order to guarantee the actual enjoyment of the principle of equality, the State has the duty of adopting the pertinent measures to favor the practice of religious freedom, particularly in the sphere of actions aimed to contrast religious discrimination. Among these are included the national law provisions that will be examined further on.

Before starting the analysis of the national law regulations, it is opportune to remind that the international law, and particularly that of the European Community – independent but integrated with the national laws – contrasts with specific provisions religious discrimination, that coincides with the actions of the European Union to guarantee religious freedom and get rid of discrimination based on religious belonging.

With the adoption and implementation of the Treaty of Lisbon and with the obligatoriness of the Chart of the Fundamental Rights of the European Union, despite remaining a prerogative of the national legal system of each member State that to define the status enjoyed by religious denominations, associations and communities, explicit communitarian regulations have been set to safeguard religious freedom and to contrast religious discrimination. They form the legal basis for action of the European Union in this field.

With regard to the Treaties, articles 10 and 17 of the Treaty on the functioning of the European Union (TFUE) define the Union's commitment in pursuing the fight against discriminations – including that based on religious belief –, in the elaboration and implementation of European policies, affirming also the principle of dialogue with the religious denominations and safeguarding the national systems disciplining the relations between the State and the religious denominations of each Member State. In addition, article 19 of the TFUE set forth the Union's competence in the elaboration of opportune provisions to combat discriminations, including those based on religion: in this way the Union becomes active on this issue, with the consequent effects on national laws.

However, as regards the Chart of Fundamental Rights of the European Union, from 1st of December binding for the Members States alike the Treaties, three are the articles covering the issue of religious freedom and non discrimination (article 10, 21 and 22). Article 22 states that "The Union respects religious diversity", while in article 10 the right of religious freedom is affirmed with specifications of its contents: "This right includes the freedom of changing religion or belief, as well as the freedom of manifesting one's religion or belief individually or collectively, publicly or privately, through worship, teaching, practices and observation of the rites". Article 21 is quite specific and it represents, like in the case of article 10 of the TFUE, an important novelty in the constitutional framework of the community system: it sets forth that "any form of discrimination based, in particular, on sex, race, color of skin, ethnic or social origin, genetic characteristics, language, religion or personal beliefs, political opinion or anything of other nature, is forbidden […]".

It will be worthwhile to keep this reference scheme in mind in facing the problem of fight against discrimination in our national system.

Before the adoption of the rules that amended the Treaties with which the European Union was established, but fitting in the same provisions scheme, there are the two community provisions adopted in 2000 and accepted by our legal system: directive #2000/43/CE, adopted with Legislative Decree 9th July 2003, #215, covering the equal treatments among people, regardless of race or ethnic origin, and directive 2000/78/CE

adopted with Legislative Decree 9th July 2003, #216,covering the equal treatment on employment and working conditions, that also deals with discrimination of religious nature.

In directive 2000/78/CE (Legislative Decree #216 of 2003) by equal principle of treatment is meant the lack of any direct discrimination (which is to say when due to religious reasons a person receives a treatment which is less favorable compared with that she would receive in an analogue situation), or indirect (which is to say when a regulation, a criterion, a praxis, a deed, a pact or a behavior apparently neutral can put people practicing a religion or inspiring themselves to an ideology, in a situation of particular disadvantage compared with other people). Discriminations are also considered – pursuant to paragraph 1 – harassments, i.e. those undesired behaviors, brought about for any of the reasons listed above, having the purpose or the effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or insulting climate. Moreover, the order of discriminating people due to religion is considered discrimination pursuant to this directive.

According to what set forth by directive #78, the principles of equal treatment without distinction of religion applies to all people working both in the public and the private sector, and they are susceptible of jurisdictional safeguard as per the foreseen modalities, but with due respect of all the regulations in force on the subject of entry, stay and access to employment, to assistance and social security of the citizens of third Countries and of the stateless present on the territory of the State, of security and civil protection, public security, safeguard of public order, crime prevention and health care. However, based on this directive, the differences in treatment based on the practice of a given religion or of given personal beliefs practices within religious entities or other public or private organizations do not constitute acts of discrimination, whenever such personal references – due to the nature of the professional activities performed by the entities or organizations, or due to the contest within which they are carried out, constitute an essential, legitimate and justified prerequisite to be able to perform such activities.

In regards to directive 2000/43/CE (Legislative Decree #215 of 2003), similarly to that just mentioned, the text defines the notion of discrimination – both a direct and an indirect one –, but with the positive specification: "also in the perspective that takes into account the existence of form of racism of cultural and religious nature". With the Legislative Decree implementation, it was also established the Ufficio Nazionale Anti-discriminazioni Razziali (UNAR) (NofT: The National Office against Racial Discriminations), under the Presidency of the Council of Ministers, with the task of promoting equality of treatment and to constrast racial discrimination.

To be thorough, it is to be noted that there is an additional proposal of directive being submitted and processed whose intent is that of establishing within the EU a unique and uniform scheme, both in regards to the prohibition of discrimination and to the definition of a minimum level of safeguard for people who are victims.

In relation to the international standards forbidding discrimination for religious reasons and that have relevance for the national law, it is with law of 13th October 1975, #654 that the United Nations International Treaty has been ratified to eliminate any form of racial discrimination (ICERD – approved on 25th December 1966, and in force since 4th January 1969), according to which the diffusion of racial hatred ideas, the incitement to commit violence for racial reasons and the participation to associations aiming at the incitement of discrimination or violence for racial reasons, are punished with imprisonment.

With law Decree of 26th April 1993, #122, transformed with amendments into law of 25th June 1993, #205 (known as *"Mancino Law"*), concerning "Urgent measures on matter of racial, ethnic and religious discrimination", a clause was included (article 1) aimed to prosecute: "with the imprisonment up to 3 years of those who, in any way, spread ideas based on racial or ethnic superiority or hatred; with the imprisonment from 6 months to 4 years of those who, in any way, incite to commit or commit violence or acts provoking

violence for racial, ethnic, religious and national reasons". It has been introduced, as a special aggravating circumstance that entails an increase of up to half of the penalty and the prosecution ex-officio, the aim of discrimination or ethnic hatred. An amendment done to the Mancino Law, implemented with law of 24th February 2006, #85, concerning "Amendments to the criminal code on the subject of crimes of opinion", has mitigated the penalties originally foreseen for the crime of propaganda and exaltation of hatred and ethnic and racial superiority, of instigation to commit crimes of discrimination or violence due to racial, ethnic, national or religious nature, reducing the initial penalty of 3 years imprisonment to 18 months and giving as an alternative the infliction of a fine of 6,000 euro.

The ratification of the international standards concerning discrimination creates an indissoluble connection with a scope in which they find the complete expression in the national law: that of the treatment of foreign people.

The Unique Text on Immigration (Legislative Decree of 25th July 1998, #286) foresees the faculty of asking for a permit of stay for religious reasons and the familiar reunion for those living in Italy for religious reasons is favored. It is also reiterated the provision that sanctions the prohibition of expelling or repelling toward a State in which the foreigner might undergo persecution due to race, sex, language, citizenship, religion, political opinion, personal or social conditions reasons, which is to say where he can risk being sent back to another State in which he is not protected against persecutions. But the regulation we want to highlight here is the one that – besides defining the behaviors that constitute religious discrimination and make it possible to identify the subjects that can be charged for having committed discriminatory acts – attributes to whoever consider himself a victim of discrimination due to his religious, ethnic etc. belonging – committed by a private individual or by a public administration body –the faculty of making recourse to a judge asking for the cessation of the prejudiced behavior. The Legislative decree, aimed to prevent and contrast discrimination, also foresees that the Regional Councils, in cooperation with Provincial Councils and Municipalities, with immigrants associations and social voluntary work associations, establish centers of observation, information and legal assistance for the foreign people who are victims of discrimination because of their race, ethnic, nationality or religion.

With the implementation of the unique text has also been established, by Decree of the President of the Republic of 31st August 1999, #394, a national trust for the public policy on immigration, in order to fund annual and multiannual programs organized by the Regions for the performance of activities aimed to prevent and remove any form of discrimination "based on race, color, bloodline or national, ethnic or religious origin and to safeguard the cultural and religious identity".

Instead, in regards to labor standards and social security, some measures have been adopted in order to remedy previous practices of firing occurred, by the way, also for religious reasons; particularly to solve the disparities that came about in this specific contest, we refer to law 24th April 2003, #92, "amendment of article 4 of law 10th March 1855, #96, introducing measures in favor of antifascist or racial refugees and of their familiar survivors" and to law 26th February 2001, #30, "Reconstruction of the insurance position of public employees fired due to political, union or religious reasons and true interpretation of article 7 of the law of 10th October 1974, #496, as integrated by article 3 of law 12th April 1976, #205".

Moreover, within the adoption of specific measures to contrast particular types of religious discrimination, such as anti-Semitism, a series of specific provisions that add up to those of more general nature above mentioned, have been introduced in Italy. With the institution of the "Day of the Memory", occurred with law 20th July 2000, #211, each 27th January, date of the dismantlement of the gates of Auschwitz, we celebrate a commemorative day to remember "the slaughter of Jewish people, the racial laws, the Italian persecution of Jewish citizens, the Italian who suffered deportation, imprisonment, death, as well as those who, in different field and rears, opposed to the extermination plan, and that, risking their life, saved others'

lives and protected the victims of persecution (article 1). In occasion of the "Day of the Memory", commemoration ceremonies, gatherings and collective moments of commemoration of facts and reflection are organized, particularly in schools at all levels, on what happened to the Jewish people and to the militaries and civilians deported in the Nazi camps, so to preserve, also in future times, the memory of a tragic and obscure period of the history of our Country and Europe, so that similar events can no longer happen.

With law of 17th April 2003, #91, it was decided the establishment of the institution of the National Museum of Italian Hebraism and of the Shoah, with seat in Ferrara, as a testimony of the events that characterized the two thousand years presence of the Jewish people in Italy, with the task of raising awareness on the history, the thought and the culture of Italian Hebraism, to promote educational activities and to organize events, national and international meetings, congresses, permanent and temporary exhibitions, films projections and shows on the topics of peace and brotherhood among people and on the meeting between cultures and religions. As a last point, with law 17th August 2005, #175, a grant has been approved for conservative and restoration interventions of the cultural, architectonic, artistic and archival Jewish patrimony in Italy. Such interventions can be directly executed by the Union of the Italian Jewish Communities as well as by individuals or institutions that own, possess or are custodians of assets, to which the related funds are assigned according to the procedures and modalities for the disbursement of the contributions for the intervention on cultural assets foreseen by the Cultural Assets and Landscape code, pursuant to Legislative Decree 22nd January 2004, #42.

Main law references

- Treaty on the function of the European Union (TFUE), article 10, 17 and 19
- Chart of Fundamental Rights of the European Union, articles 10, 21 and 22
- Law of 13th October 1975, #654 (Ratification and execution of the international Treaty for the elimination of all forms of racial discrimination, opened for signing in New York on 7th March 1966)
- Law Decree 26th April 1993, #122, transformed with amendments by law 25th June 1993, #205 (Urgent measures on matters of racial, ethnic and religious discrimination) and subsequent amendments
- Legislative Decree 25th July 1998, #286 (Unique text of the provisions concerning the immigration discipline and regulations on the condition of the foreigner), articles 42, 43 and 44
- Decree of the President of the Republic 31st August 1999, #394 (Provisions with rules of implementation of the unique text of the provisions concerning the immigration discipline and regulations on the condition of the foreigner, as per article 1, paragraph 6, of Legislative Decree 25th July 1998, #286), articles from 53 to 61
- Law 20th July 2000, #211 (Establishment of the "Day of the Memory" in remembrance of the extermination and persecution of Jewish people and of the Italian militaries and civilians deported in the Nazi camps), article 1
- Law 26th February 2001, #30 (Reconstruction of the insurance position of public employees fired due to political, union or religious reasons and true interpretation of article 7 of the law of 10th October 1974, #496, as integrated by article 3 of law 12th April 1976, #205"), article 1
- Law of 1st March 2002, #39 (Provisions for the compliance to obligations deriving from the membership of Italy to the European Communities. Communitarian Law 2001), article 29
- Law 17th April 2003, #91 (Establishment of the National Museum of Hebraism in Italy and of the Shoah), article 1
- Law 24th April 2003, #92 (Amendment of article 4 of Law 10th March 1955, #96, introducing measures in favor of antifascist or racial refugees and of their familiar survivors)

- Legislative Decree 9th July 2003, #215 (Implementation of directive 2000/43CE for the equality of treatment among people independently from their race and ethnic origin)
- Legislative Decree 9th July 2003, #216 (Implementation of directive 2000/78/CE for the equality of treatment on matters of employment and labor standards)
- Law of 17th August 2005, #175 (Provision for the safeguard of the Jewish cultural patrimony in Italy)
- Law 24th February 2006, #85 (Amendments to the criminal code on matter of opinion crimes), amending article 3 of law 654/75,

3.1.2 – Freedom of dissemination of religious ideas and proselytism

(billpostings, print)

As provided for in article 19 of our Constitution, through a series of specific legislative measures for the religious denominations, freedom of expression and dissemination of religious thought is granted also through communication and information media.

With regard to the radio-television system, the provisions that discipline its functions also extend to religious denominations, starting from the “Rules for the access to the public radio-television service, approved by the Parliamentary Commission for the general guideline and supervision of the television and radio services, under the terms of law of 14th April 1977, #103, that amends the previous regulation in force since 1976. Additionally, the law of 3rd May 2004, #112, concerning the “fundamental rules relating to the arrangement of the radio-television system and of RAI – *Radiotelevisione italiana s.p.a.*, as well as the mandate to the Government for the issuance of the unique text of radio-television”, establish that “are admitted loyal and honest advertisement broadcastings and telesales respecting the dignity of the person, that do not evoke discriminations of race, sex and nationality, that do not offend religious beliefs or ideals, that cannot cause moral or physical detrimental to minors, that are included in cartoons intended for children or during the broadcasting of religious ceremonies and that are recognizable as such and manifestly differentiated from the other programs, with the exclusion of those advertisements whose volume is higher than the one of the ordinary programs, and in any case keeping into account the limits and prohibitions foreseen by the laws in force”. It is furthermore granted “the access to programming, within the limits and modalities indicated by the law, in favor of parties and groups represented in the Parliament as well as in regional assemblies and councils, of organizations associated to local autonomous entities, of national unions, of religious denominations, of political movements, of political and cultural entities and associations […]”. Such regulations are completely incorporated in Legislative Decree 31st July 2005, #177, “Unique text of the radio-television” and also in Legislative Decree 6th September 2005, #206, known as “Code of consumption, pursuant to article 7 of law 29th July 2003, #229”. Moreover, taking into account that the radio-television system aligns to the principles of freedom of expression and thought dictated by the Constitution, as part of the planning of the radio frequencies, the requests filed by broadcasting stations managed by institutes which are part of the denomination and operating locally – relating to the availability of suitable catchment areas to favor a cheap management and an adequate plurality of the broadcasting stations, in alignment with the discipline on this sector – will be taken into account.

Specific regulations related to billpostings, distribution of publications and collection of contributions have been included in the treaties signed with the individual religious denominations, substantially identical in their contents. They establish that the billpostings and the distribution of publications and printed materials related to the religious life and mission of the religious denomination, when done inside and at the entrance of the worship places and concerned religious institutions, and when funds are collected inside those places,

it can be done without authorization or intrusion by the State authorities and are exempted from any type of taxation.

Particular attention to the safeguard of the religious feeling of all religious denominations' members has also been paid by the criminal law, with the provision of specific criminal offenses for vilification of people, of things or for the upset of a religious ceremony. The articles of the criminal Code of 1930, recently amended by law 24th February 2006, #85 that extended the previous regulations established for the Catholic religion to all religious denominations, also pursuant to article 1 of the Additional Protocol of the Concordat of 1984 and of the specific constitutional jurisprudence (decisions #508 of 2000, #327 of 2002 and #168 of 2005), are:

- Article 403 – Offenses to a religious denomination through vilification of its members. "Anybody who publicly offends a religious denomination, by vilipending those practicing it, is punished with a fine ranging from 1,000 to 5,000 euro. A fine ranging from 2,000 to 6,000 euro is sanctioned on those who offend a religious denomination, by means of vilification of its Ministers of Worship."

- Article 404 – Offenses to a religious denomination through vilification or damages to things. "Whoever – in a worship place – or in a public place or a in place opened to the public, by offending a religious denomination commit vilification with injurious expressions of things that are object of worship, or consecrated to the worship, or necessarily ordained for the worship practice, or whoever commits this fact in occasion of religious ceremonies, performed in a private place by a Minister of Worship, is punished with a fine from 1,000 to 5,000 euro. Whoever destroys, wastes, degrades, makes unusable or dirties publicly and intentionally things which are objects of worship or consecrated to the worship or necessarily ordained for the worship practice, is punished with the imprisonment up to two years."

- Article 405 – Upset of religious ceremonies of a religious denomination. "Whoever impedes or upset the practice of religious services, ceremonies or rites of a religious denomination, being performed by a Minister of Worship of the faith or in a place destined to worship, or in a public place or one opened to the public, is punished with the imprisonment up to two years. If acts of violence or threats to people are committed, imprisonment from 1 to 3 years is applied."

Main law references:

- Law 11th August 1984, #449 (Provisions for the regulation of the relations between the State and the churches represented by the Waldensian Board), article 16
- Law 22nd November 1988, #516 (Provisions for the regulation of the relations between the State and The Italian Union of the Adventist Christian Churches of 7th Day), article 28
- Law 22nd November 1988, #517 (Provisions for the regulation of the relations between the State and the Assemblies of God in Italy), article 20
- Law 8th March 1989, #101 (Provisions for the regulation of the relations between the State and the Italian Union of Jewish Communities), article 2
- Law of 12th April 1995, #116 (Provisions for the regulation of the relations between the State and the Christian Evangelic Lutheran Union in Italy – CELI), article 19
- Law of 29th November 1995, #520 (Provisions for the regulation of the relations between the State and the Holy Orthodox Archiocese of Italy and Exarchate for Southern Europe, implementation of article 8, third paragraph of the Constitution), article 13

- Law of 30th July 2012, #127 (Provisions for the regulation of the relations between the State and the Church of Jesus Christ of Latter-Days Saints, implementation of article 8, third paragraph of the Constitution), article 2
- Law of 30th July 2012, #128 (Provisions for the regulation of the relations between the State and the Apostolic church in Italy, implementation of article 8, third paragraph of the Constitution) articles 22 and 23
- Law of 31st December 2012, #245 (Provisions for the regulation of the relations between the State and the and the Italian Buddhist Union, implementation of article 8, third paragraph of the Constitution), article 2
- Law of 31st December 2012, #246 (Provisions for the regulation of the relations between the State and the and the Italian Hindu Union, *Sanatana Dharma Samgha*, implementation of article 8, third paragraph of the Constitution), article 2
- Law 3rd May 2004, #112 (Standards of principle on the arrangement of the radio-television system and of RAI – *Radiotelevisione italiana s.p.a.*, as well as mandate to the Government for the issuance of the unique text of radio-television), articles 3, 4 and 17
- Legislative Decree 31st July 2005, #177 and subsequent amendments, article 1 third, paragraph 2, letter c), paragraph 4, letter a); article 3; article 32, paragraph 5; article 36bis, paragraph 1, letter c), point 2; article 40, paragraph 1; article 45, paragraph 2, letter a)
- Legislative Decree 6th September 2005, #206 article 30 (Code of Consumption as per article 7 of law 28th July 2003, #229)
- Law 24th February 2006, #85 (Amendments to the criminal code in matter of crimes of opinion), articles 7, 8, 8 and 10

3.2 – Marriage

Taking into account the different systems of celebration of marriage, Italy recognized civil effects to the marriages celebrated by the Catholic Church and by the religious denominations who have signed a treaty with the Italian State, pursuant to article 8 of the Constitution. For the subjects belonging to religious denominations without a treaty, instead, the discipline foreseen by the so called law on admitted faiths and its implementation decree, applies.

3.2.1 – Regime of concordat

The rules governing the so called "concordat marriage" are contained in the Treaty amending the Lateran Concordat with the Holy See, signed in Rome on 18th February 1984, with the additional Protocol, ratified with law 25th March 1985, #121 that establishes what follows:

- "The civil value of the marriages celebrated according to the rules of the Canon Law – provided that the act is registered in the marital status roll and with prior publication of the notification of marriage on the Town Hall Board, are recognized as valid";
- "The Holy See acknowledges that the registration won't be possible: a) when the couple is lacking the prerequisites envisioned by civil law as to the age required for the celebration: b) when between the spouses there is an obstacle that the civil law considers a binding one (the existence between the spouses of another marriage still valid under the civil law)";
- "The request of registration is done in writing by the parish priest of the place where the wedding has been celebrated, not later than five days after the celebration. The marital status officer, where

the conditions are in compliance with the regulations, execute it within twenty-four hours by the receipt of the act and inform about it the parish priest";

Regarding the peculiar regime authorizing the ecclesiastic judge to rule on the nullity of a marriage celebrated according to the standards of the Concordat (the so call jurisdiction reserve of the ecclesiastic courts) – whose legitimacy has been reiterated by the Constitutional Court with decision #421 of 1st December 1993 –, the Treaty of 1984 establishes what follows:

- "The judgments of nullity of marriage pronounced by ecclesiastic courts, if bearing the enforcement order of the Superior Ecclesiastic Board of Control, are, on demand of one or both the parties, declared effective in the Italian Republic with ruling issued by the competent Court of Appeals, once ascertained that: a) the judgment was issued by the competent ecclesiastic judge, knowledgeable of the conformity of the celebration with current law article; b) the ecclesiastic courts has granted the right of the parties to act and file opposition against the judgment – in a manner not dissimilar to the fundamental principles of the Italian legal system; c) that the other conditions, demanded by the Italian legislation for the declaration of effectiveness of foreign decisions, are present".

In this regard, the most recent rulings of the Supreme Court are of particular importance. With decision #1343 of 20th January 2011, the Court declared the *exequatur* (NofT: Latin term indicating the legal procedure to get a decision issued by a judicial authority of a country recognized in another country) of the ruling canceling the ecclesiastic marriage, contrary to the principle of public order when the cohabitation has lasted for a remarkable period of time (more than a year and, in this specific case, for more than 20 years) also when mental reservations or defect of consent were present when the wedding was celebrated (in this specific case this was the refusal to procreate that one of the spouses withheld to the other).

In other words, even in situations disabling the marriage act, the Supreme Court, considers the prolonged cohabitation an element manifesting the will of accepting the matrimonial relation, incompatible with the subsequent exercise of the right to challenge it.

Two judgments of 2012 have complied with this orientation, while a subsequent of the same year, consciously departed from them, excluding that the cohabitation of the spouses, even if prolonged in time, "was not an impediment, in terms of internal public order, to the enforcement procedure of the ecclesiastic sentence of nullity of the canonic marriage" and that 2the cognition on the invalidity of the concordat marriage, as disciplined in its genetic moment by canon law is attributed exclusively to the ecclesiastic court".

In order to settle this conflict between the judgments in the matter, in the Supreme Court's opinion, they should to be returned to the United Sections of the Supreme Court.

3.2.2 – Religious denominations with treaty

The discipline regulating the matrimonial institution for those religious denominations other than the Catholic who have signed a treaty with the Italian State, approved by law, is contained in the treaties themselves, in which particular provisions are foreseen aimed to discipline the civil effects of the marriages celebrated with religious rites establishing the following parameters:

- The Italian Republic recognizes civil effects to the marriages celebrated with rites other than the Catholic, provided that the concerned act gets registered in the marital status roll and that the public notification of marriage has been previously displayed on the City Hall Board";

- The Officer of Marital Status that issued the public notification of marriage requested by the couple about to marry, pursuant to the law article in force, issues an attestation authorizing the marriage and releases it to them.
- The Minister of Worship before which the celebration was held transmits the original of the act of marriage, to which he attaches the authorization, to the Officer of Marital Status of the municipality not later than five days from the celebration:
- The Officer of Marital status, having ascertained the correctness of the act and the authenticity of the attached authorization, within twenty-four hours from the receipt of the act, register it and inform about it the Minister of Worship;
- The marriage has civil effects from the moment of the celebration, even if the Officer of Marital Status that has received the act has omitted to register it within the requested terms.

3.2.3 – Religious denominations without a treaty

The current discipline for religious denominations is contained in the law on the admitted faiths (24th June 1929, #1159 “Regulations on the practice of the faiths admitted in the State and on the marriage celebrated before the respective Minister of Worship”) and in the related implementation regulation approved by Royal Decree 28th February 1939, #289 (Regulations for the implementation of law 24th June 1929, #1159 “On the faiths admitted in the State and for its coordination with the other laws of the State”), that establishes what follows:

- The marriage celebrated before Ministers of Worship of faiths other than the Catholic, produces, since the day of the celebration, the same effects of the marriage celebrated before the Office of Marital Status, provided that:
    - The appointments of Ministers of Worship have had government’s approval by the Minister of Interior, without which no civil effects can be recognized to their ministry;
    - Those who wish to celebrate the marriage before Ministers of Worship other than the Catholic one, has declare it to the Officer of Marital Status;
    - The act gets registered in the Marital Status roll.
- The Marital Status Officer, after having fulfilled all the preliminary formalities and after having ascertained that no impediments exist to the celebration of the marriage according to the articles of the civil code, releases a written document specifying the Minister of Worship before whom the celebration is to take place and the date of the provision by which the appointment of the minister was approved.
- The marriage certificate must be completed immediately after the celebration, written in Italian and original transmitted by the Minister of Worship to the Officer of Marital Status not later than five days of celebration.
- The Officer of Marital Status, received the marriage certificate, cares for, within twenty-four hours, the transcription in the Roll of Marital Status.
- All the provisions of the civil code concerning the marriage celebrated before the Officer of Marital Status, including those related to possible invalidities, also apply to the marriage celebrated before the Minister of Worship that has been duly transcribed in the Marital Status roll.

Main law references

- Law 25th March, #121 (Ratification and execution of the Treaty, with additional Protocol, signed in Rome on 18th February 1984, that introduces amendments to the Lateran Concordat of 11th February 1929 between the Italian Republic and the Holy See), article 8, additional Protocol, point 4.
- Law of 11th August 1984, #449 (Provisions for the implementation of the relations between the State and the churches represented by the Waldensian Board), article 11
- Law of 22nd November 1988, #516 (Provisions for the implementation of the relations between the State and the Italian Union of the 7th Day Christian Adventist Churches), article 18
- Law 22nd November 1988, #517 ((Provisions for the implementation of the relations between the State and the Assemblies of God in Italy), article12
- Law of 8th March 1989, #101 (Provisions for the implementation of the relations between the State and the Union of the Italian Jewish Communities), article 14
- Law 12th April 1995, #116 (Provisions for the implementation of the relations between the State and the Christian Evangelic Baptist Union of Italy – UCEBI), article 10
- Law 29th November 1995, #529 (Provisions for the implementation of the relations between the State and the Evangelic Lutheran Church in Italy – CELI), article 13
- Law 30th July 2012, #126 (Provisions for the implementation of the relations between the State and the Holy Orthodox Archiocese of Italy and Exarchate for Southern Europe, implementation of article8, third paragraph of the Constitution), article 9
- Law of 30th July 2012, #127 (Provisions for the implementation of the relations between the State and the Church of Jesus Christ of Latter-Days Saints, implementation of article 8, third paragraph of the Constitution), article 14
- Law of 30th July 2012, #128 (Provisions for the implementation of the relations between the State and the Apostolic Church in Italy, implementation of article 8, third paragraph of the Constitution), article 14
- Law 31st December 2012, #246 (Provisions for the implementation of the relations between the State and the Italian Hindu Union, Sanatana Dharma Samgha, implementation of article 8, third paragraph of the Constitution), article 8
- Law 27th May 1929, #847 (Regulations for the application of the Concordat of 11th February 1929 between the Holy See and Italy), articles from 5 to 23
- Law 24th June 1929, #1159 (Regulations on the practice of the faiths admitted in the State and on the marriage celebrated before the Ministers of Worship of the concerned faiths), articles 7, 8, 9, 10, 11 and 12
- Royal Decree 28th February 1930, #189 (Regulations for the implementation of law 24th June 1929, #1159, on the faiths admitted in the State and for its coordination with the other laws of the State), articles 25, 26, 27 and 28

Treaties signed but not yet approved by law:

- Christian Congregation of the Jehovah's Witnesses, signed on 4th April 2997, article 6

3.3 – Schools, Universities, Seminaries and Institutes for the education of clergy and religious people

The paragraph, in its pronunciations, intends to first recall the regulation of the teaching of religion in schools. It is appropriate, as a premise, to point out that the public school structure is based on three pillars:

1. It is open to all without distinction of any kind: ideological, religious or ethnic;

2. It provides to all, without distinction, a pluralist education in that it presupposes the freedom of education of teachers, pursuant to common values of coexistence that coincide with the person's fundamental right, as guaranteed at constitutional and international level;

3. It recognizes and respects the ethnic, cultural and religious identities to which young people recall and provide the necessary space so that such identities are highlighted and can develop.

3.3.1 – Teaching of the Catholic religion

Concerning public schools, article 9, point 2 of law 25th March 1985, #121, ratifying and implementing the Treaty with the additional Protocol signed in Rome on 18th February 1985, amending the Lateran Concordat of 11th February 1929 amongst the Italian Republic and the Holy See, says: "

"Recognizing the value of the religious culture and taking into account that the principles of the Catholicism are part of the historical patrimony of the Italian people, the Italian Republic will continue to guarantee, within the framework of the aims of the school, the teaching of the Catholic religion in public, non-academic schools at all levels". With the implementation of the Treaty of 1984 and the additional Protocol (point 5), as well as the subsequent treaties between the Minister of Education and the President of the Italian Episcopal Council, regulatory measures aimed at regulating the teaching of the Catholic religion in public schools are taken, based on the respect for freedom of conscience and religious pluralism. The law of 18th July 2003, #186, laying down "Rules on the legal status of the Catholic religion teachers of colleges and schools at all levels, refers to the spirit of the Treaty of revision of the Lateran Concordat and the related Protocol. In respect of freedom of conscience, the responsibility of parents in education guarantees to each individual the right to choose whether or not to make use of that teaching …", choice to be made when enrolling and without this "…giving rise to any form of discrimination". (Law 18th June 1986, #281 "Opportunities of scholastic choices and enrolment in secondary schools"). The Constitutional Court clarified that those deciding not to choose the teaching of the Catholic religion are not obliged to follow other didactic activities, because for those who "choose not to attend, the alternative is not a condition of obligation" (Decision #203 of 1989) and can leave the school premises when this teaching is taking place (Decision #290 of 1992). The teaching of the Catholic religion is imparted by teachers whose fitness is recognized by the ecclesiastic authority and they are appointed by the scholastic authority in mutual agreement (point 5 of the Additional Protocol of the Treaty of 1984). With law #186 of 2003 regional rolls for the Catholic Religion teachers have been established, which can be accessed with a contest proceeding, leaving unaltered the power of the bishop to revoke the eligibility to teach.

3.3.2 - The religious denominations with the treaty

To the religious denominations that have concluded a treaty with the Italian State, approved by law in accordance with article 8 of the Constitution, the State, to ensure the pluralistic nature of school, grants to the representative of the religious denomination the right to respond to any requests from students, their families or educational bodies, with regard to the study of religion and its implications. Such activities falls within the sphere of the complementary didactic activities determined by the scholastic institution in the performance of their autonomy, based on methods agreed upon between the religious denomination and such institutions. The costs are to be borne by the religious denominations.

3.3.3 – The religious denominations without a treaty

Regarding the religious teaching in schools for pupils belonging to a religious denomination which does not have a treaty with the Italian State on the basis of existing legislation, the law in force is the #1159 of 1929 and its implementation regulations, and Royal Decree #289 of 1930, within the supreme limits of the Constitution. In particular, article 23 of the regulation provides, amongst other things, that: "When the number of school children so warrants and when for grounded reasons the temple cannot be utilized, the family men professing a religion other than the Catholic, can obtain that rooms in the school are made available for the religious education of their sons: the application is addressed to the school director who, having heard the School Council, can directly approve the request. Or he can, if he wants, report the matter to the Ministry of Education that decides jointly with that of Justice and Interior. In the provision granting the rooms, the days and time during which the teaching has to take place, as well as the due cautions, have to be determined. About the number of students, the Advisory Council for Religious Freedom, in force in the Presidency of the Council of Ministers, confirming in one of his advices (October 2000) the applicability still today of such directive, considered the number of three students sufficient. We also underline that the teaching has to be performed by teachers indicated by the "family men" requesting it (i.e. by those who have parental authority) and who, in any case, have the opportune prerequisites that the scholastic authority will be able to evaluate.

3.3.4 – Denominational schools

Considering the ever increasing religious pluralism and the parallel increase of the number of followers of other religious denominations, the establishment of denominational schools other than the Catholic ones, becomes a current issue. For these schools, in conformity with the constitutional principle of freedom of teaching and in analogy with the Treaty provisions signed between the State and the Holy See and the individual treaties signed between the State and the religious denominations other than the Catholic, and approved by law pursuant to article 8 of the Constitution, specific regulations are foreseen for the recognition and establishment of schools at all levels and educational institutes. At these schools, which achieve parity according to the law, is assured full freedom and to their pupils an education equal to that of the pupils in State schools and those of other territorial entities, including with regards to State examination.

Article 24 of the Royal Decree #289 of 1930, provides that the denominations enjoying legal personality, pursuant to law #1159 of 1929, may be authorized by the Ministry of Education, University and Research, in consultation with the Ministry of Interior, to open primary schools at its own expenses.

Concerning foreign schools, the laws in force foresee that foreign schools at all levels can be established in the Italian territory, with prior authorization of the Scholastic Director of the competent province, having heard the opinion of the Ministry of Foreign Affairs in case the legal representative is a citizen of a country not belonging to the European Union (Decree of the President of the Republic 18th April 1994, #398 and ordinance 13th January 1999). These schools are subject to periodical verifications and the Ministry of Education can order their closure in case law offenses are ascertained. The degree released does not have legal value, unless there is a specific agreement between Italy and the related Country.

It is in any case useful reminding that pursuant to law of 10th March 2000, #62, the comprehensive schools qualified to release degrees with legal value, have full freedom of cultural and religious orientation, to be indicated in the educational plan that should be compliant to the principles of the Constitution.

3.3.5 – Seminaries, universities and institutes for the education of clergy and religious people

Concerning the teaching of subjects specifically connected to a religious matrix, each denomination has to autonomously provide for the establishment of institutes of theological education, aimed to the training of its Ministers of Worship, without any interference by the State.

With regard to the Catholic religion, the Treaty of revision of the Concordat, ratified with law of 25th May 1985, #121 establishes in article 10, #2, paragraph 1, that the universities, the seminaries and the other institutes for clergy and religious people, established pursuant to the Canon Law rules, "will continue to depend solely from the ecclesiastic authority".

That same article of the Concordat foresees that "the academic titles in theology and other ecclesiastic disciplines defined in agreement between the Parties, released by the Faculties approved by the Holy See, are recognized by the State. Similarly, the diplomas obtained in Vatican schools of paleography, diplomatics, archive-keeping and librarianship, are recognized". A subsequent treaty between Italy and the Holy See, approved by Decree of the President of the Republic on 2nd February 1994, #175, established that the 'Holy Scripture', besides theology, is to be considered an ecclesiastic discipline".

Analogously, the treaties with the Union of the Italian Jewish Communities, the Italian Union of the 7th Day Christian Adventist Churches, The Waldensian Board and the Apostolic Church in Italy foresee the recognition of degrees and diplomas released by university level institutes. The administration and regulation of such institutes, as well as the appointment of the teaching body, is that of the competent bodies of the religious denomination, which takes charge of the related financial burdens.

Because the education of Ministers of Worship falls within the activity of religion or worship, peculiar to each religious denomination (article 16, letter a), law #222/1985), part of the amount deriving from the 8 per 1000 can be allocated to this purpose by the denominations participating to the repartition of the share (article 48, law #222/1985).

Main law references

- Law of 25th March 1985, #121 (Ratification and implementation of the Treaty, with additional Protocol, signed in Rome on 18th February 1984, amending the Lateran Concordat of 11th February 1929, between the Italian Republic and the Holy See), articles 9 and 10
- Decree of the President of the Republic of 16th December 1985, #751 (Implementation of the treaty between the Italian authority and the Italian Episcopal Council for the teaching of the Catholic religion in public schools)
- Decree of the President of the Republic of 24th June 1986, #539 (Approval of the specific and autonomous educational activities related to the teaching of the Catholic religion in public infant schools)

- Decree of the President of the Republic of 8th May 1987, #204 (Approval of the specific and autonomous educational activities related to the teaching of the Catholic religion in public primary schools)
- Decree of the President of the Republic of 21st July 1987, #339 (Approval of the plan to teach the Catholic religion in the public secondary schools, including fine arts colleges and fine arts institutes)
- Decree of the President of the Republic of 21st July 1987, #350 (Approval of the plan to teach the Catholic religion in the public middle schools)
- Decree of the President of the Republic of 26th February 1988, #161 (Regulations and advices for the compilation of text books for the teaching of the Catholic religion in the junior schools)
- Decree of the President of the Republic of 23rd June 1990, #202 (Implementation of the treaty between the Italian scholastic authority and the Italian Episcopal Council for the teaching of the Catholic religion in public schools, that amends the treaty of 14th December 1985, put in force in Italy with Decree of President of the Republic of 16th December 1985, #751)
- Decree of the President of the Republic of 2nd February 1995, #175 (Approval of the treaty Italy-holy See for the recognition of the pontifical academic titles)
- Law of 18th July 2003, #186 (Regulations on the legal status of the teachers of the Catholic religion of the institutes and schools of any order and grade), article 2
- Decree of the President of the Republic of 30th March 2004, 121 (Approval of the specific educational subject of the Catholic religion in the infant schools), it is just 1 article
- Decree of the President of the Republic of 30th March 2004, #122 (Approval of the specific educational subject of the Catholic religion in the primary schools)
- Decree of the President of the Republic of 20th August, #175 implementing the Treaty between the Minister of Education, University and Research and the President of the Italian Episcopal Council for the teaching of the Catholic religion in public schools, signed on 28th June 2012
- Decree of the President of the Republic of 20th August 2012, #176 implementing the treaty on the didactical Provisions for the teaching of the Catholic religion in the secondary schools and in the formation and professional education, signed on 28th June 2012 between the Minister of Education, University and Research and the President of the Italian Episcopal Council
- Law of 11th August 1984, #449 (Provisions for the regulation of the relations between the State and the churches represented by the Waldensian Board), article 9, 10 and 15
- Law of 22nd November 1988, #516 (Provisions for the regulation of the relations between the State and the Italian Union of the 7th Day Christian Adventist Churches), as amended by the law 8th June 2009, #67, (amendment of law 22nd November 1988, #516, approving the treaty between the Government of the Italian Republic and the Italian Union of the 7th Day Christian Adventist Churches, implementation of article 8, third paragraph of the Constitution), articles from 11 to 14
- Law of 22nd November 1988, #517 (Provisions for the regulation of the relations between the State and the Assemblies of God in Italy), articles 8, 9 and 10
- Law of 8th March 1989, #101 (Provisions for the regulation of the relations between the State and the Union of Italian Jewish Communities), articles 11, 12 and 1
- Law of 12th April 1995, #116 (Provisions for the regulation of the relations between the State and the Christian Evangelic Baptist Union of Italy (UCEBI)), articles 8 and 9
- Law 29th November 1995, #520 (Provisions for the regulation of the relations between the State and the Evangelic Lutheran Church in Italy (CELI)), articles 10, 11 and 12
- Law of 20th July 2012, #126 (Provisions for the regulation of the relations between the State and the Evangelic Lutheran Church in Italy (signed on 20th April 1993 and approved with law #520/1995); with the Holy Orthodox Archiocese of Italy and Exarchate for Southern Europe, implementation of article 8, third paragraph of the Constitution), articles 7 and 8

- Law of 30th July 2012, #127 (Provisions for the regulation of the relations between the State and the Church of Jesus Christ of the Saints of Latter Days, implementation of article 8, third paragraph of the Constitution), articles 12 and 13
- Law of 30th July 2012, #128 (Provisions for the regulation of the relations between the State and the Apostolic Church in Italy, implementation of article 8, third paragraph of the Constitution), articles 9, 10, 11 and 12
- Law of 31st December 2012, #245 (Provisions for the regulation of the relations between the State and the Italian Buddhist Union, implementation of article 8, third paragraph of the Constitution), articles 5 and 6
- Law of 31st December 2012, #246 (Provisions for the regulation of the relations between the State and the Italian Hindu Union, Sanatana Dharma Samgha, implementation of article 8, third paragraph of the Constitution), articles 5 and 6
- Law of 24th June 1159, #1159 (Regulations on the practice of the faiths admitted in the State and on the marriage celebrated before its Ministers of Worship), article 6
- Royal Decree of 28th February 1930, #289 (Regulations for the implementation of law of 24th June 1929, #1159, on the faiths admitted in the State and for its coordination with the other laws of the State), articles 23 and 24

Treaties signed and not yet approved by law:

- Christian Congregation of the Jehovah's Witnesses, signed on 4th April 2007, article5

3.4 – Spiritual assistance

The protection of religious freedom is also realized through the spiritual service under certain conditions or situations of persons: members of the armed forces and police, patients in hospitals or prisoners. The relevance of the Catholic Church ensured that, even today, the various administrations foresee the presence of personnel devoted to the spiritual assistance, while for other religious denominations assistance to those applying for it is guaranteed under the care of the concerned religious denomination, with modalities that will be explained further on.

Concerning the Catholic Church, article 11 of law of 25th March 1985, #121 (Ratification and execution of the Treaty, with additional Protocol, signed in Rome on 18th February 1984, amending the Lateran Concordat of 11th February 1929 between the Italian Republic and the Holy See), says: "1. The Italian Republic shall ensure that membership in armed forces, police or other similar services, the stay in hospitals, nursing homes or public service facilities, the stay in institutions for prevention punishment, won't give rise to any impediment in the exercise of religious freedom and in the performance of religious practices of Catholics. 2. Spiritual assistance is ensured by clergymen appointed by the competent Italian authorities nominated by the ecclesiastic authority and according to the legal status, the workforce and the procedures established in agreement between such authorities". The concordat referral to the bilateral concordat discipline has, however, remained almost entirely unimplemented: illustrating the individual scopes a description will be given of the regulations in force.

3.4.1 –Spiritual assistance to the members of the armed forces

As for the Catholic Church, the discipline of spiritual assistance to Catholic members of the armed forces is still one-sided and contained in law of 1st June 1961, #512, now transfused in the military Code (Legislative Decree of 15th March 2010, #66 and subsequent amendments; particularly Title III). The same code, however, foresees that such a discipline is in force for a transitional period, until the entry in force of the treaty referred to in article 11, paragraph 2, of the Treaty of 18th February 1984 (article 17 of Legislative Decree #66 of 2010, amended by Legislative Decree of 24th February 2012, #20)

In a nutshell, the law provides for the organizational structure of the spiritual caregivers, the Military Ordinariate (canonically assimilated to the diocese), directed by the Military Ordinary with the rank of general of the armed forces, and it consists of chaplains enlisted in the armed forces to whom various degrees are assigned.

With regard to members of religious denominations other than the Catholic, the military Code bears a general provision, article 1471, entitled "Freedom of belief" which states:

"1. The army members can exercise the worship of any religion and receive assistance of their Ministers of Worship.

2. Attendance at religious services in military sites is optional, except in cases of service.

3. In any case, consistent with the needs of the service corps, the commander or other higher authority makes it possible for the military who have interest in participation to the rites of the religion professed and to the initiatives addressed to the military, to attend them; such rites and initiatives are proposed and directed by the spiritual care personnel of the armed forces.

4. If a military is sick, or if his family for him requires the comforts of his religion, the Ministers of Worship of his religion are called to assist him.

5. Spiritual assistance to members of religious denominations whose relations with the State are regulated by law on the basis of a treaty pursuant to article 8, second paragraph, of the Constitution, continues to be governed by the relevant provisions contained in the respective laws of approval".

Obviously, religions referred to in paragraph 1, are subject to the specific constitutional requirements.

The treaties so far concluded pursuant to article 8, third paragraph, of the Constitution between the Italian State and the religious denominations other than the Catholic, all contain specific provisions regarding the spiritual assistance in the armed forces.

- These are the provisions of the law of 11th August 1984, #449 (Provisions for the regulation of the relations between the State and the churches represented by the Waldensian Board); in law of 22nd November 1988, #517 (Provisions for the regulation of the relations between the State and the Italian Union of the 7th Day Christian Adventist Churches); in the law of 22nd November 1988, #517 Provisions for the regulation of the relations between the State and the Italian Union of the Assemblies of God in Italy); in law 8th March 1989, #101 Provisions for the regulation of the relations between the State and the Union of the Italian Jewish Communities); in law 12th April 1995, #116 Provisions for the regulation of the relations between the State and the Italian Union of the Christian Evangelic Baptist Union of Italy (UCEBI); in law 29th November 1995, #520 Provisions for the regulation of the relations between the State and the Italian Union of the Evangelic Lutheran Church in Italy (CELI); in law 30th July 2012, #126 (Provisions for the regulation of the relations between the State and the Italian Union of the Holy Orthodox Archiocese of Italy and Exarchate for Southern Europe, implementation of article 8, third paragraph, of the Constitution); in law 30th July 2012, #127 (Provisions for the regulation of the relations between the State and the

Church of Jesus Christ of Latter-Days Saints, implementation of article 8, third paragraph, of the Constitution); in law 30th July 2012, #128 (Provisions for the regulation of the relations between the State and the Apostolic Church in Italy, implementation of article 8, third paragraph, of the Constitution); in law 31st December 2012, #245 (Provisions for the regulation of the relations between the State and the Italian Union of the Italian Buddhist Union, implementation of article 8, third paragraph, of the Constitution) and in law 31st December 2012, #246 (Provisions for the regulation of the relations between the State and the Italian Union of the Italian Hindu Union, Sanatana Dharma Samgha, implementation of article 8, third paragraph, of the Constitution);

They provide for the members of the denomination the right to participate, in the days and hours set, to the activities of religion and worship taking place in the localities where they reside by reasons of their military service or, in the absence of a place of worship in the resort, to be able to participate in the nearest available place. It is also possible that, if there is not a place of worship in the vicinity, the Ministers of Worship responsible for the territory, in consultation with the command from which they depend, are licensed to celebrate worship services for those interested, in assigned areas.

In addition, in the event of death of military belonging to a denominations with the treaty, the military command authority, at the request of relatives of the deceased or on the basis of the will expressed by the same, shall adopt the necessary measures to ensure that the funeral rites are celebrated by the Ministers of the denomination of belonging. Finally, it is generally expected that the Ministers of Worship who are in military or civilian service are put in a position to carry out, together with his service obligations, even their ministry of spiritual assistance for the military requesting it. It is expressly stated that the burden of the spiritual assistance in any case be borne by the religious denomination.

Another provision of general nature intended for all members of the so called “admitted faiths” is also highlighted: in the event of mobilization of the armed forces, it is possible receiving spiritual assistance getting the authorization of the competent military authority (article 8 of the Royal Decree of 28th February 1939, #289).

Staying in the military sphere, it should be noted that not infrequently the treaties, approved by law in accordance with article 8 of the Constitution, contain provisions intended to guarantee the conscientious objection, which stems from the rejection, for spiritual reasons, of using weapons. Thus, amongst those in force, the treaties with the 7th Day Christian Adventist Churches, the Italian Buddhist Union and the Italian Hindu Union: under the conscription or call to arms, they foresee that the faithful with military obligations may be assigned in alternative, at his request, to civilian service. The treaty with the Christian Congregation of the Jehovah’s Witnesses, signed but not yet approved by the law, does not include any provision on this subject.

Finally, for the Church of Jesus Christ of Latter-Days Saints, has been established that “in case of reinstatement of the mandatory military service, the members of the “Church” of Italian nationality, serving as full time missionaries may, upon request endorsed by the ecclesiastic authority, take advantage of the referral from military service during the period of their missionary duties for a period not exceeding thirty months.” (article 6)

A final provision present in the treaties, but a more general one – as already contained in Royal Decree #289 of 1930 – provides that in case of mobilization of the armed forces, the Ministers of Worship may be exempted from the call to arms.

3.4.2 – Spiritual assistance to the members of Police forces

The law of 1st April 1981, #121 (New system for Administration of Public Security), article 69 (entitled "Religious assistance"), establishes a general rule, valid for all religious denominations: "The personnel of the State Police who resides in collective accommodations – in service or schools facilities – are provided with religious assistance in accordance with the constitutional principles. To ensure religious assistance the use to military chaplains is excluded".

This provision concerning the Catholic Church had a specific implementation with the Decree of the President of the Republic of 27th October 1999, #421 (Enforcement of the spiritual assistance to the Catholic staff of the State Police, signed on 9th September 1999), which implemented in the Italian law the only treaty so far concluded between the State and the Holy See as per article 11 of the Treaty of revision of the Lateran Concordat (approved with law 25th March 1985, #121) and in particular, the bilateral arrangements that provide that spiritual assistance already given to the Catholic staff of the State Police, resident in collective service accommodations or educational institutions is carried out by chaplains appointed by Decree of the Minister of Interior on designation of the competent ecclesiastic authority. Other regulations, part of the implementation of the treaty, are dictated by the Decree of the Minister of Interior of 8th October 2004 (Spiritual assistance to the staff of the State Police).

As for the religious denominations with a treaty approved by law, in accordance with article 8 of the Constitution, please refer to what summarized above, in the section of spiritual assistance in the armed forces, since these provisions are similar to those relating to spiritual assistance for the police and other similar services, when present.

3.4.3 – Spiritual assistance to members of the Firefighters Corps

In the area of spiritual assistance to the National Fire Brigade, the only provision existing in the legal system is article 6 of the law 13th May 1961, #469 (Rules regarding the firefighting and the National Fire Bridge and legal status and economic treatment of petty officers and members of the national Fire Brigade). The rule authorizes the financing of various services, also contemplating the costs "in respect to (…) to education and religious and moral assistance of the national Fire Brigade" (article 6, paragraph 1, letter d).

A specific agreement is ongoing under above-mentioned article 11 of the Treaty amending the Lateran Concordat between the State and the Catholic Church, while other religious denominations will still refer to the provisions for spiritual assistance in the armed forces contained in the individual treaties.

3.4.4 – Spiritual assistance in nursing sites

The spiritual assistance in hospitals, nursing or rest homes is subjected to a regime similar to that described for the assistance in the armed forces and police.

Article 38 of the law of 23rd December 1978, #833 ("Establishment of the national health service") stipulates that "in housing facilities of the national health service, religious assistance is assured in accordance with the will and freedom of conscience of the citizen. To this end, the local health unit is responsible for providing Catholic religious assistance in agreement with the Diocesan authorities having jurisdiction on the territory; for the other faiths, in agreement with the respective competent religious authorities".

On the basis of the Treaty of revision of the Lateran Concordat, although the provision of article 11 – referring the discipline to an agreement between the parties – is still unimplemented, the assistance to the

Catholics hospitalized is guaranteed through the presence among the staff of a chaplain. The costs are covered by the hospital or nursing facility.

On the basis of the provisions contained in the treaties with the other religious denominations, approved by law pursuant to article 8 of the Constitution, spiritual assistance to members of different religious denominations, is ensured by their Ministers of Worship, on their own initiative or upon request of the people hospitalized or that of their relatives, without any time limits or restrictions on admission. In any case the board of care and hospitalization is required to forward to the competent Ministers of Worship the spiritual assistance requests. For the spiritual assistance service, in accordance with the laws of approval of the treaties, the State or any other public administration entity is not covering any burden.

Very similar rules are contained in the treaties signed but not yet approved by law.

The spiritual assistance to the faithful of denominations without a treaty (and falling within the so called "admitted faiths") is provided for in article 5 of the Royal Decree 28th February, #289, under which the Ministers of Worship of the "admitted faiths" may be authorized to attend treatment and rest centers to give religious assistance to people hospitalized requesting it; the authorization shall be given by those who are responsible for the administrative management of the place of treatment or rest and must indicate the modalities or cautions with which the assistance has to be provided.

Pursuant to article 38 of law #833 of 1978, for members of such denominations spiritual assistance is also possible on the basis of agreements between the management of the individual treatment institutions and the denomination requesting it. They may relate to religious denominations with a treaty to those without a treaty or recognition of legal personality alike, as evidenced by, for example, the Protocol of Treaty of 26th January 2005, #33, "Humanization of the clinical path. Approval of Protocol of Treaty with the Islamic Community for the religious assistance of patients of the Azienda Ospedaliero-Universitaria Careggi – Firenze".

3.4.5 –Spiritual assistance in prisons

Spiritual assistance to those who are subjected to a regime of deprivation of personal liberty, in a state of imprisonment inside prisons, find its regulation, guided by the respect of religious freedom and the right to spiritual assistance, in the rules governing the prison system. In particular, reference is made to the following articles of the Decree of the President of the Republic #230 of 2000 (for the prison and measures depriving and limiting freedom):

Article 58 (Manifestations of religious freedom) 1. The detainees and inmates have the right to participate in the rites of their religion provided that they are compatible with the order and security of the institution and not contrary to law, in accordance with the provisions of this article. 2. The prisoners and inmates who wish to exhibit, in their own room or in their own individual space of belonging, images and symbols of their religious faith are allowed to do so. 3. Individual inmates and prisoners are allowed, during leisure time, to practice the worship of their religion, provided that this does not create harassment to the community. 4. For the celebration of the rites of the Catholic faith, every institution has one or more chapels to serve the needs of the religious services. Until the entry into force of the provisions of the treaty referred to in article 11, paragraph 2, of the Treaty, with additional Protocol, signed in Rome on 18th February 1984, amending the Lateran Concordat of 11th February 1929 between the Italian Republic and the Holy See, ratified and put into force with law of 25th March 1985, #121, worship practices, spiritual education and assistance of the Catholics are guaranteed by one or more chaplains for said needs; in institutions where more chaplains are on service, the task of coordinating the religious service is entrusted to one of them by the Regional superintendent of the Prison, or, in the case of institutions for minors, by the Director of the Center for

Juvenile Justice, after hearing the chaplains' inspector. 5. For the religious education or worship practices of members of other faiths, even in the absence of Ministers of Worship, the institution's management provides suitable conditions. 6. The management of the institution, in order to ensure spiritual education and assistance, as wells as the celebration of the rites of religions other than the Catholic to the detainees and inmates requesting them, uses the Ministers of Worship indicated by those religious denominations whose relations with the Italian State are regulated by law; it also uses the Ministers of Worship determined by the Ministry of Interior; it may, however, make use, even outside of the above cases, of article 17, second paragraph of the law (this is the law of 26th July 1975, #254, titled "Provisions on the prison system and enforcement of freedom restrictive measures". Article 17 says: "The purpose of the social rehabilitation of people sentenced and inmates, is to be pursued soliciting and organizing the participation of private and public institutions or associations to the rehabilitation activity. Shall be admitted to the prison with the permission and under the instructions of the supervising judge, upon approval of the director, everyone having real interest in the work of re-socialization of prisoners and who demonstrates being able to profitably promote the development of contacts between the prison community and the free society. The people referred to in the preceding paragraph operate under the control of the director").

- Article 116 (Access of the Ministers of Worship to institutions) 1. The Ministers of the Catholic religion, other than chaplains, and those indicated in the last paragraph of article 58 are authorized by the director, at the request of individuals detained or interned, to access to the institute, to perform their ministerial duties, upon verification of their qualifications. This activity takes place so as to ensure the needed privacy.

In this contest, as regards the Catholic religion, pending the covenantal discipline provided for in article 11 of the revision of the Lateran Concordat, ratified with law #121 of 1985, article 1 of law of 4th March 1982, #62, states that "In prevention and penitentiary institutions the practices of worship, the religious education and assistance of the Catholic faith are entrusted, in the form of assignment, to one or more chaplains". The subsequent articles of the law discipline the legal and economical treatment of the chaplains operating in the the prevention and penitentiary institutes.

- The individual treaties with religious denominations other than the Catholic foresee that in the prisons spiritual assistance must be ensured by Ministers of Worship appointed by the religious denomination; for this purpose the religious denomination notifies to the competent authority the names of his Ministers of Worship territorially competent, who are responsible for the spiritual assistance in prisons. These Ministers of Worship are included among those who may visit institutions without special permission, at the request of the prisoners or their families or at the initiative of the Ministers of Worship themselves. It is also established that the financial burdens for the service of spiritual assistance is borne by the single religious denomination. These rules relate to the churches represented by the Waldensian Board, the Assemblies of God in Italy, The Union of the 7th Day Christian Adventist Churches, The Union of the Italian Jewish Communities, the Christian Evangelic Baptist Union of Italy, the Evangelic Lutheran Church in Italy, the Church of Jesus Christ of Latter-Days Saints, the Apostolic Church in Italy, the Holy Orthodox Archiocese of Italy and Exarchate for Southern Europe, the Italian Buddhist Union and the Italian Hindu Union.

The treaty with the Christian Congregation of the Jehovah's Witnesses, signed but not yet approved by law, contains regulations essentially identical. However, until legislative approval is in force, for such a religious denomination, as well as for the all the others lacking a treaty, the entry of the Ministers of Worship in charge of spiritual assistance is subjected to a dual scheme:

- The director of the institute shall authorize, at the request of individuals detained or interned, the access to the institute of the Ministers of Worship indicated by the Ministry of Interior, subject to

verification of their qualifications. Their activities are carried out in order to guarantee the necessary privacy (article 116 of the Decree of the President of the Republic #230 of 2000).

- Otherwise, from time to time, the director of the prison will have to acquire the opinion of the Ministry of Interior on the Minister for whom the access to the institute is being requested. Such is for example the procedure agreed upon between the Ministry of Justice and the Ministry of Interior for the prisoners of Islamic faith who ask to be able to receive spiritual assistance.

Main law references

- Law 25th March 1985, #121 (Ratification and implementation of the Treaty, with additional Protocol, signed in Rome on 18th February 1984, amending the Lateran Concordat of 11th February 1929, between the Italian Republic and the Holy See), article 11
- Decree of the President of the Republic of 27th October 1999, #421 (Spiritual assistance to the Catholic personnel of the State Police), articles 1, 2, 3, 6, 7, and 8 of the treaty between the Ministry of Interior and the President of the Italian Episcopal Council that establishes the modalities to guarantee the spiritual assistance to the Catholic personnel of the State Police.
- Law of 23rd December 1978, #833 (Establishment of the national health system), article 38 (Religious assistance service)
- Law of 4th March 1982, #68 (Legal and economic treatment of the chaplains of the prevention and penitentiary institutes), article1
- Legislative Decree of 15th March 2010, #66 and subsequent amendments (Code of the Military system) articles 17, 587, 1471, 1533 paragraph 3, 1561 paragraph 1, 1617, 1621, 1625, 1646 paragraph 5 and 1653 paragraph 1
- Law of 26th July 1975, #354 (Regulations on the prison system and implementation of the measures of deprivation or limitation of freedom) and subsequent amendments, article 17
- Decree of the President of the Republic of 30th June 2000, #230 (Regulation containing the Provisions on the prison system and on measures depriving and limiting freedom), article 58 and 116
- Law of 11th August 1984, #449, (Provisions for the regulation of the relations between the State and the churches represented by the Waldensian Board), article 5 (spiritual assistance to the soldiers), article 6 (assistance in the treatment and rest facilities) and article 8 (spiritual assistance in the penitentiary facilities)
- Law of 22nd November 1988, #516 (Provisions for the regulation of the relations between the State and the Italian Union of the 7th Day Christian Adventist Churches), article 7 (military service and assistance to the soldiers), article 8 (assistance in the treatment and nursing facilities) and article 9 (spiritual assistance in the penitentiary facilities)
- Law of 22nd November 1988, #517 (Provisions for the regulation of the relations between the State and the Assemblies of God in Italy), article 3 (military service and assistance to the soldiers), article 4 (assistance in the treatment and nursing facilities) and article 6 (spiritual assistance in the penitentiary facilities)
- Law of 8th March 1989, #101 (Provisions for the regulation of the relations between the State and the Union of Italian Jewish Communities), article 8 (military service and assistance to the soldiers), article 8 (assistance in the treatment and nursing facilities) and article 10 (spiritual assistance in the penitentiary facilities)
- Law of 12th April 1995, #116 (Provisions for the regulation of the relations between the State and the Christian Evangelic Baptist Union of Italy – UCEBI), article 5 (spiritual assistance to the members of the armed forces, of police and other similar forces), article 6 (spiritual assistance to people hospitalized) and article 7 (spiritual assistance to the prisoners)

- Law of 29th November 1995, #529 (Provisions for the regulation of the relations between the State and Evangelic Lutheran Church in Italy – CELI), article 5 (spiritual assistance to the members of the armed forces, of the police and other similar forces), article 6 (spiritual assistance to people hospitalized) and article 7 (spiritual assistance to the prisoners)
- Law of 30th July 2012, #126 (Provisions for the regulation of the relations between the State and the Holy Orthodox Archiocese of Italy and Exarchate for Southern Europe, implementation of article 8, third paragraph of the Constitution), article 4 (spiritual assistance to the members of the armed forces), article 5 (spiritual assistance to people hospitalized) and article 6 (spiritual assistance to the prisoners)
- Law of 30th July 2012, #127 (Provisions for the regulation of the relations between the State and the Church of Jesus Christ of Latter-Days Saints, implementation of article 8, third paragraph of the Constitution), article 8 (spiritual assistance to the members of the armed forces, of the police and other similar forces), article 9 (spiritual assistance to people hospitalized) and article 10 (spiritual assistance to the prisoners)
- Law of 30th July 2012, #128 (Provisions for the regulation of the relations between the State and the Apostolic Church in Italy, implementation of article 8, third paragraph of the Constitution), article 4 (spiritual assistance to the members of the armed forces), article 6 (spiritual assistance to people hospitalized) and article 7 (spiritual assistance to the prisoners)
- Law of 31st December 2012, #245 (Provisions for the regulation of the relations between the State and the Italian Buddhist Union, implementation of article 8, third paragraph of the Constitution), article 4
- Law of 31st December 2012, #246 (Provisions for the regulation of the relations between the State and the Italian Hindu Union, Sanatana Dharma Samgha, implementation of article 8, third paragraph of the Constitution), article 4
- Royal Decree of 28th February 1930, #289 Regulations for the implementation of law of 24th June 1929, #1159, on the faiths admitted in the State and for its coordination with the other laws of the State), articles 5 and 8
- Law of 1st April 1981, #121 (New system of the Administration of Public Security), article 69 (religious assistance)
- Law of 13th March 1961, #469 (System of the anti-fire services and of the national Fire Brigade), article 6

Treaties signed but not yet approved with law:

- Christian Congregation of the Jehovah's Witnesses, signed on 4th April 2007, article 3 and 4

Regional treaties for the spiritual assistance in treatment centers

• Veneto Region – Veneto Ecclesiastic Province – (Treaty Protocol for the discipline of the service of Catholic religious assistance in welfare institutions and in licensed private facilities), deliberation of the Regional Council #3583 of 24th November 2009:

• Tuscany Region – Tuscany Ecclesiastic Province – (Treaty Protocol for the discipline of the service of Catholic religious assistance in health facilities) deliberation of the Regional Council #890 of 3rd December 2007;

• Autonomous Province of Trento – Archdiocese of Trento – (Treaty – guideline for the discipline of the service of Catholic religious assistance in the hospitals of the Provincial corporation for health services and in the sanitary institutes and Rest Charitable home present on the provincial territory), of 12 February 2003:

• Puglia Region – Puglia Ecclesiastic Region – (Treaty Protocol for the discipline of the service of Catholic religious assistance in health facilities, of 30th January 2002), ratified with Regional Council deliberation of 18th February 2002;

• Lazio Region – Lazio Ecclesiastic Region – (Treaty Protocol for the service of religious assistance to the ills and to the health facilities personnel, of 7th December 2001), approved with Regional Council deliberation #1891;

• Umbria Region – Umbria Episcopal Council – (Treaty Protocol for the religious assistance of the Catholic denomination in the Regional Institutes of the Health Service), of 19th November 2001;

• Sicily Region – Sicily Episcopal Council – (Treaty scheme between the regional heath Aldermanship and Sicily Episcopal Council regarding the religious assistance), deliberation #194 of 30th April 2001;

• Lombardia Region – Lombardia Ecclesiastic Region – (Treaty Protocol for the discipline of the Catholic religious assistance in the public health and charitable facilities and the licensed private ones, 21st March 2005) approved with Regional Council deliberation #VII/20593, of 11th February 2005;

• Piemonte Region – Piemonte Episcopal Region – (Treaty Protocol for the religious assistance service of 22nd July 1998;

• Friuli Venezia Giulia Region – Bishops of Friuli Venezia Giulia – (Treaty Protocol for the Catholic religious assistance in the social-.health facilities of the Region, of 8th October 2001);

• Autonomous Region of Sardegna – (Discipline of the religious assistance in the health facilities) Regional Law of 15th April 1997, #13;

• Emilia-Romagna Region – (Disciple of the religious assistance in the local health unit facilities) Regional law of 10th April 1989, #12;

• Campania Region – (Regulation of the Catholic religious assistance services in the hospitals) Regional Council deliberation #1744 of 18th March 1997;

• Lombardia Region and Milano Jewish Community – Treaty of 11th March 2009, for the service of religious assistance in the health and treatment facilities in Lombardia.

3.5 – Religious holidays

The Italian legal system regulates the subject of religious holidays and their recognition as non-working days with provisions of covenantal nature, so as to enable the followers of different faiths to practice their own beliefs.

3.5.1 – Catholic Church

The provisions governing the recognition of the Catholic religion holidays as non-working days, are contained in the law of 25th March 1985, #121 (Ratification and implementation of the Treaty, with additional Protocol, signed in Roma on 18th February 1984, amending the Lateran Concordat of 11th February 1929, between the Italian Republic and the Holy See) and in the related implementation act, the Royal Decree of the President of the Republic of 28th December 1985, #792 (Recognition of religious holidays as non-working days mutually established between the Italian Republic and the Holy See as per article 6 of the Treaty, with additional Protocol, signed in Rome on 18th February 1984 and ratified with law of 25th March 1985, #121). In particular:

- Article 6 of the Treaty: “The Italian Republic recognizes all Sundays and the other religious holidays agreed upon between the Parties as non-working days”.
- Article 1 of the Presidential Decree #792 of 1985: “Pursuant to article 6 of the Treaty signed in Rome on 18th February 1984 between the Italian Republic and the Holy See, ratified with law of 25th March 1985, #121, are religious holidays: all Sundays, the 1st of January, Mary, Mother of God; the 6th of January, Epiphany of the Lord; the 15th of August, Assumption of the Blessed Virgin Mary; the 1st of November, All Saints’ Day; the 8th of December, Immaculate Conception of the Blessed Virgin Mary: the 25th of December, Christmas of the Lord; the 29th June, Saints Peter and Paul, for the municipality of Rome”.

3.5.2 – Denominations with a treaty

On the issue of religious holidays of central importance for the followers of religions other than the Catholic, the law laid down special provisions contained in the treaties stipulated by some religious denominations with the Italian state. In particular:

- Law of 22nd November 1988, #516 (Provisions for the regulation of the relations between the State and the Italian Union of the Seventh-Day Christian Adventist Churches): “The Italian Republic recognizes to members of the Seventh-Day Christian Adventist Churches the right to observe the Biblical Sabbath which runs from sunset on Friday to sunset on Saturday. 2. Adventists employed by the State, in public or private entities or performing autonomous commercial activities, or assigned to civilian service, are entitled to enjoy, at their request, the Saturday as weekly rest. The right is exercised within the framework of flexible work organization. In any case, working hours not worked on Saturdays are recovered on Sunday or other days without any right to extraordinary remuneration. 3. It is however kept safe any unavoidable need of essential services provided for by the law. 4 The absences from school of Adventist pupils on Saturdays, at parents or pupils in age’s request, are considered justified. 5. The competent scholastic authorities, in setting the diary of examinations, will adopt suitable measures to allow the Adventist candidates to endorse the examinations set on Saturday, in another day”, section 17.
- Law 8th March 1989, #101 (Provisions for the regulation of the relations between the State and the Union of Italian Jewish Communities):”1. The Italian Republic recognizes the right to the Jews to observe the Sabbath rest that goes from half an hour before sunset on Friday to one hour after the sunset Saturday; 2. Jews employed by the State, in public or private entities or performing an autonomous or commercial activity, members of the armed forces and those who are assigned to the alternative civilian service, have the right to enjoy, at their request, the Sabbath as weekly rest. This right is exercised within the framework of flexible work organization. In any other case, the working hours not worked on Saturdays are recovered on Sunday or other working days without any right of extraordinary remuneration. It is however kept safe any unavoidable need of essential services provided for by the law; 3. In setting the diary of the competition tests, the competent authorities

shall take into account the respect for the Sabbath. In setting the diary of examinations, the school authorities will take suitable measures in each case to allow Jew candidates who so request, to endorse the examinations set on Saturday, in another day"; 4. The absence from school of Jew students on Saturdays, at request of their parents or the students themselves, if in age, is justified" (article 4).

"1. To the following Jewish religious holidays the rules relating to the Sabbath rest, pursuant to article 4, apply: a) New Year (Rosh Hashanà), first and second day; b) Eve and fasting for atoning (Yom Kippur); c) Feast of Tabernacles (Succoth), first, second, seventh and eighth day; d) Day of the Law (Simhat Torà); e) Passover (Pesach), the eve of the first and second day, seventh and eighth day; f) Pentecost (Shavuoth), first and second day; g) Fast of the 9th of Av; 2. By 30 June each year, the calendar shall be communicated by the Union to the Ministry of Interior who shall arrange for its publication in the Official Gazette" (article 5).

- Law of 30th July 2012, #126 (Provisions for the regulation of the relations between the State and the Holy Orthodox Archdiocese of Italy and Exarchate of Southern Europe, implementation of article 8, third paragraph of the Constitution) "1. To Orthodox Christians, belonging to the Archiocese, employed by public or private entities or exercising self-employment, is guaranteed the right to refrain from working in the following major religious holidays: Circumcision of our Lord, Holy Theophany, Holy Saturday, Sunday of Easter, Pentecost Sunday, Dormition of the Mother of God, Christmas and Synaxis of the Mother of God, with obligation to recover the related working hours and without any right to extraordinary remuneration. 2. On Good Friday and recurrences in the foregoing clause, the absence from school of pupils belonging to the Orthodox Archiocese shall be justified, at request of the parents or guardians or themselves if major in age. 3 It is however kept safe any unavoidable need of essential services provided for by the law. 4. By 15th of January each year, the dates of the holidays referred to in paragraph 1, shall be communicated by the Archiocese to the Ministry of Interior who shall arrange its publication in the Official Gazette" (article 10).

- The Italian Buddhist Union: "1. The Italian Republic recognizes to the members of the entities represented by UBI, at their request, the the holiday of Vesak, celebrating the birth, enlightenment and dead of the Buddha and that conventionally occurs on the last Saturday and Sunday of the month of May each year. This right is exercised within the framework of flexible work organization. It is in any way kept safe any unavoidable need of essential services provided for by the law" (article 23);

- The Italian Hindu Union: "1. The Italian Republic recognizes to those belonging to organizations represented by UII, at their request, to observe the Hindu holiday of "Divapali", that is, among the feasts dedicated to the various gods and followed by its traditions, The Victory of Light over Darkness (it is celebrated on the new moon day – amavasja – between the second half of October and the first half of November. This right is exercised within the framework of flexible work organization. It is in any way kept safe any unavoidable need of essential services provided for by the law". 2. By the 15th of January of each year, the date of the holiday referred to in paragraph 1 shall be communicated by the UII to the Ministry of Interior, who shall arrange its publication in the Official Gazette" (article 24);

With regard to the treaties signed but not yet approved by law, provisions about holidays forecasts are contained in the treaty with:

- The Christian congregation of the Jehovah's Witnesses in Italy: "The Jehovah's Witnesses employees in public or private entities or exercising self-employment are guaranteed the right to

refrain from work to be able to observe the feast of the Commemoration of the death of Jesus Christ, with obligation of recovering the relevant working hours and without any right to extraordinary remuneration. In this anniversary shall be excused absence from school of pupils belonging to the Jehovah's Witnesses denomination, at request of parents or themselves if major in age. It is however kept safe any unavoidable need of essential services provided for by the law. 3. By the 15th of January each year, the holiday date referred to in paragraph 1 shall be communicated by the central Congregation to the Ministry of Interior who shall arrange for its publication in the Official Gazette" (article 7).

3.5.3 – Denominations without a treaty

With regard to the regime which applies to the faithful belonging to religious denominations without a treaty with the Italian State, it should be noted that law of 24th June 1929, #1159 ("Provisions on the exercise of the faiths admitted in the State and the marriage celebrated before their Ministers of Worship") and its implementing Decree (Royal Decree 28th February 1930, #289 "Rules for the implementation of the law of 24th June 1929, #1159, on the faiths admitted in the State and for its coordination with the other laws of the State") does not contain specific provisions governing the exercise of this right.

Main law references

- Law of 25th March 1985, #121 (Ratification and implementation of the Treaty, with additional Protocol, signed in Rome on 18th February 1984, amending the Lateran Concordat of 11th February 1929 between the Italian Republic and the Holy See), article 6
- Decree of the President of the Republic of 28th December 1985, #792 (Recognition of non-working days of religious holidays agreed upon by the Italian Republic and the Holy See as per article 6 of the Treaty, with additional Protocol, signed in Rome on 18th February 1984 and ratified with law of 25th March 1985, #121)
- Law of 22nd November 1988, #516 (Provisions for the regulation of the relations between the State and the Italian Union of the 7th Day Christian Adventist Churches), article 17
- Law of 8th March 1989, #101 (Provisions for the regulation of the relations between the State and the Union of the Italian Jewish Communities) articles 4 and 5
- Law of 30th July 2012, #126 (Provisions for the regulation of the relations between the State and the Holy Orthodox Archiocese of Italy and Exarchate for Southern Europe, implementation of article 8, third paragraph of the Constitution), article 10
- Law of 31st December 2012, #245 (Provisions for the regulation of the relations between the State and the Italian Buddhist Union, implementation of article 8, third paragraph of the Constitution), article 23
- Law of 31st December 2012, #246 (Provisions for the regulation of the relations between the State and the Italian Hindu Union, Sanatana Dharma Samgha, implementation of article 8, third paragraph of the Constitution), article 24

Treaties signed but not yet approved by law:

- Christian Congregation of the Jehovah's Witnesses signed on 4th April 2007, article 7

3.6 – Construction and places of worship

The construction of places of worship is governed by the common national and regional law in the field of Construction and Urban Development (Decree of the President of the Republic of 6th June 2001, #380, "Unique text of legislative and regulatory measures on the subject of construction"). Of particular importance are the responsibilities of local authorities with regard to the requirements of areas to be allocated to places of worship in the local urban plans and the possibility of public funding for the construction of religious buildings. It is the task of local authorities – in their capacity of urban planning experts – to ensure that it is permissible to all religious denominations to be able to freely practice their religion, also identifying suitable areas to accommodate their followers. As recently reaffirmed by the State Council, "Municipalities cannot escape from giving any heed to the demands of the religious denominations aimed to give a concrete support to the right of the free practice of worship, constitutionally guaranteed, not only during the phase of implementation but also in the previous stage of planning of the usage of the land. With this point clarified, however, the right to worship must therefore be exercised in accordance with the rules drawn up by the planning regulations that, in their essential content, explicitly seeks to balance the different possible use of the land" (decision #8298 of 27th November 2010).

The construction of places of worship is subject to the issuance of the building permit; for this purpose it is necessary that the building is designed to be built in an area designated by the urban planning to the construction of places of worship.

All religious denominations have the right to establish places of worship.

Originally, the Royal Decree of 28th February 1930, #289 ("Rules for the implementation of the law of 24th June 1929, #1159 on the faiths admitted in the State and for its coordination with the other laws of the State"), subordinated the opening of "a temple or an oratory" to the authorization, on proposal of the Minister of Interior, of a Decree of the President of the Republic. The Constitutional Court, in its decision #59 of 1958 declared the unconstitutionality of the provision contained in article 1 of the Royal Decree #289 of 1930. Following this judgment, differences do no longer exist in treatment between the religious denominations.

The possibility for all religious denominations (without any distinction among the Catholic faith, the non-Catholic ones or those without a treaty) to be recognized by the Municipalities areas devoted to worship, has been, more than once, reaffirmed also by the Constitutional Court. The Court, in particular, has declared the constitutional illegitimacy of regional provisions that limited the exercise of worship (and thus also the construction of buildings allocated to it) only to denominations that had signed a treaty with the State, under article 8 of the Constitution.

The Court has ruled the same principles also in the case of public funding to facilitate the realization of "buildings and equipment used for worship": the exclusion from such benefits of a religious denomination according to its "status" (with or without a treaty) constitutes an infringement of the constitutional principle, stated in the first paragraph of article 8 of the Constitution which enshrines the equal freedom of all religious denominations before the law. Once enshrined this principle, the Court specifies that the allocation of contributions provided for by the law for buildings used for worship, is only conditioned by the consistency and social impact of the denomination and by the applicant's acceptance of the conditions and restrictions on usage (decision #195 of 1993). The religious needs of the population will be made available by the competent religious authority with regard to the construction of new places of worship: the latter provision is made explicit in the rules in force of the Concordat with the Holy See and in some of the treaties signed with other religious denominations, approved by law under article 8 of the Constitution. It must be assumed, however, in the light of the above mentioned jurisprudential trends, that this is a general provision, extendable to all other religious denominations.

It is understood that for the admission to the benefits described may not be enough that the applicant self-qualify itself as a religious denomination. In the absence of a treaty with the State or recognition of legal personality, the nature of the denomination can also results from previous public recognitions, by statutes that clearly express its characters or at least from common consideration. Without prejudice, therefore, of the nature of religious denomination, the allocation of contributions foreseen by law for buildings used for worship is only conditioned by the consistency and social impact of the denomination and by the applicant's acceptance of the conditions and restrictions on use.

Having defined this framework of common law, specific provisions are laid down in bilateral rules.

The Treaty of revision of the Lateran Concordat, signed in 1894, states that the places of worship of the Catholic Church cannot be seized, occupied, expropriated or demolished except for serious reasons and in agreement with the competent ecclesiastic authority. The public forces cannot enter these places without giving notice to the ecclesiastic authority, except in case of urgent necessity (article5 of the law of 25th March 1985, #121, "Ratification and implementation of the Treaty, with additional Protocol, signed in Rome on 18th February 1984, amending the Lateran Concordat of 11th February 1929 between the Italian Republic and the Holy See")

Similar rules are contained in each law approving the treaties pursuant to article 8 of the Constitution.

Specific guarantees for the construction of buildings for the respective faiths are provided by the treaty with the Union of Italian Jewish Communities, which includes provisions that are more complex than other treaties. They foresee that the construction of places for the Jewish worship can be funded by current laws on buildability of land; such buildings are therefore subject to twenty-years zoning restraint that gets transcribed in the land registry and that shall lead to the nullity of the act or negotiations if this restraint is violated.

State law also provides for certain provisions to facilitate the exercise of worship: the law of 2nd April 2001, #136 at article 2, paragraph 4, states that "The immovable properties belonging to the State, used as places of worship and their related annexes in use to ecclesiastic entities, are given for free and free from taxation.

For properties such as abbeys, monasteries and convents the provisions of article 1 of the law of 11th July 1986, #390 are in any case in force. With regulations to be issued pursuant to article 17, paragraph 1, of the law of 23rd August 1988, #400, the procedures of usage concession and its revocation in favor of the State, are laid down. The costs of ordinary and extraordinary maintenance of the buildings in free usage shall be borne by the beneficiary ecclesiastic entities."

In addition, article 61 of the law of 27th December 2002, #289, provides:"In order to promote the autonomous initiatives for the performance of activities of general interest, implementation of article 118, fourth paragraph of the Constitution, care and charity institutions and religious organizations that pursue relevant cultural and humanitarian purposes aims, may obtain the granting or leasing of State-owned real estate or properties, that have not been transferred to the "State Assets SPA", established under article 7 of the law-Decree of 15th April 2002, #63, converted with amendments, by the law of 15th June 2002, #112, or not in use by the Government, to a fee determined in accordance with articles 1 and 4 of the law of 11th July 1986, #360 and subsequent amendments".

Finally, the Ministry of Interior is entrusted with the administration of the Fund of the Places of Worship (F.E.C.), a body enjoying legal personality, whose origin comes from the revolutionary laws (1866 and 1867) through which the Italian State became the owner of most of the assets of the Catholic religious congregations. The Fund of the Places of Worship takes care of the maintenance and preservation of the heritage, both for the Church and also for all other assets (books, works of art, antique furniture, productive

assets of annuities), by independently finding the financial means for such purposes and with State allocations from the annual budget law.

Main law references

- Law of 25th March 1985, #121 (Ratification and execution of the Treaty, with additional Protocol, signed in Rome on 18th February 1984, amending the Lateran Concordat of 11th February 1929, between the Italian Republic and the Holy See), article 5
- Law of 11th August 1984, #449 (Provisions for the regulation of the relations between the State and the churches represented by the Waldensian Board), article 17
- Law of 22nd November 1988, #516 (Provisions for the regulation of the relations between the State and the Italian Union of the 7th Day Christian Adventist Churches), articles 16 and 34
- Law of 22nd November 1988, #517 (Provisions for the regulation of the relations between the State and the Assemblies of God in Italy), articles 11 and 26
- Law of 8th March 1989, #101 Law of 22nd November 1988, #516 (Provisions for the regulation of the relations between the State and the Union of the Italian Jewish Communities), articles 15, 17 and 28
- Law of 12th April 1995, #116 Law of 22nd November 1988, #516 (Provisions for the regulation of the relations between the State and the Christian Evangelic Baptist Union of Italy (UCEBI)), articles 17 and 18
- Law of 28th November 1995, #520 Law of 22nd November 1988, #516 (Provisions for the regulation of the relations between the State and the Evangelic Lutheran Church in Italy - CELI), articles 14 and 16
- Law of 30th July 2012, #126 Law of 22nd November 1988, #516 (Provisions for the regulation of the relations between the State and the Holy Orthodox Archiocese of Italy and Exarchate for Southern Europe), articles 11 and 12
- Law of 30th July 2012, #127 (Provisions for the regulation of the relations between the State and the Church of Jesus Christ of Latter-Days Saints, implementation of article 8, third paragraph of the Constitution), articles 15 and 16
- Law of 30th July 2012, #128 (Provisions for the regulation of the relations between the State and the Apostolic Church in Italy, implementation of article 8, third paragraph of the Constitution), article 14
- Law of 31st December 2012, #245 (Provisions for the regulation of the relations between the State and the Italian Buddhist Union, implementation of article 8, third paragraph of the Constitution), articles 15 and 16
- Law of 31st December 2012, #246 (Provisions for the regulation of the relations between the State and the Italian Hindu Union, Sanatana Dharma Samgha, implementation of article 8, third paragraph of the Constitution), articles 16 and 17
- Law of 2nd April 2001, #136 (Regulation on the development, evaluation and utilization of the real estate patrimony of the State, and other regulations on public properties), article 1, paragraph 4
- Decree of the President of the Republic of 6th June 2001, #380 (Unique text of legislative and regulatory Provisions on the subject of construction – Text A), article 1, 2, 3 and 4
- Law of 27th December 2002, #289 (Regulations for the formation of the annual and multiannual balance-sheet of the State (budget law 2003), article 61

Treaties signed and not yet approved by law:

- Christian Congregation of the Jehovah's Witnesses, signed on 4th April 2007, article 8

3.7 – Taxation regime and funding systems

3.7.1 – Taxation and fiscal regime

The main source of law reference on this subject is article 20 of the Constitution, which expressly states: "The ecclesiastic nature and the religious or belief aim of an association or institution may not be a cause for special limitations in law or special taxation with respect to its establishment, legal status and any form of activity". On the basis of this provision and by virtue of the bilateral nature of the systems of relations between the State and the religious denominations, some tax and tributary benefits are foreseen to encourage the practice of the activities they carry out. The special tax regime of denominational entities originates from a provision contained in the Concordat of 1929 between the State and the Holy See, according to which "the purpose or religion or belief is compared, for all taxation purposes, to charity and education" (article 29, letter d), of law of 27th May 1929, #810, implementation of the Lateran Treaty and Concordat). The provision was subsequently reproduced in the Treaty in force between the Italian Republic and the Holy See, signed in 1984, amending the Lateran Concordat and approved with law of 25th March 1985, #121 and in all the treaties between the State and the religious denominations, approved by law in accordance with article 8 of the Constitution. So much for the Catholic Church and for the other religious denominations with a treaty approved by the law, there is then another provision, according to which the assets other than those of religious or worship, performed by "ecclesiastic" institutions (in a broad meaning) are subject to the laws of the State concerning such activities and to the tax rules laid down for the same.

Currently this regime is that provided for by legislative Decree of 4th December 1887, #470 and subsequent amendments, which reorganized the entire tax regulations of non-commercial entities and also regulated, always in terms of tax law, the non-profit organizations of social utility (ONLUS), by introducing a single tax relief serving as legal guideline also for already existing special regulations.

In particular, under article 10, paragraph 9, of the Legislative Decree #460 of 1997, the "ecclesiastic bodies of the religious denominations with which the State has concluded pacts, agreements or treaties", are considered ONLUS limited to the activities listed in paragraph 1 of the same article 10, namely:

1) social and health assistance:
2) health care;
3) charity;
4) education;
5) training;
6) amateur sport;
7) protection, promotion and enhancement of artistic and historical works, including the libraries or properties listed in the Presidential Decree of 30th September 1963, #1409:
8) protection and enhancement of nature and environment, with the exception of the routine activity of collection and re-cycling of waste;
9) promotion of culture and art;
10) protection of civil rights;
11) scientific research of particular social interest directly performed by foundations or by them entrusted to universities, research institutions and other foundations.

In addition, while for the ONLUS there is a prohibition on the performance of activities other than those listed above, this prohibition does not apply to religious entities.

For the application of the ONLUS regime it is expected that for the activities mentioned above, the institutions in question "separately keep the tax records referred to in article 20-bis of the Decree of the President of the Republic of 29th September 1973, #600, introduced by article 25, paragraph 1".

If qualifications are met, these institutions can take advantage of certain tax breaks, among which the following ones:

- Pursuant to article 12 of the Legislative Decree #460 of 1997, the performance of institutional activities does not constitute exercise of commercial activity and it is therefore not considered in the calculation of taxable income for IRES. About non-commercial entities, it should be noted that the ecclesiastic institutions recognized as legal persons for civil purposes fall within the category of non-commercial entities; furthermore, the legislation establishes for the benefit of such institutions and amateur sport associations, an important exception that protects them against the provision on the loss of the non-commercial status. The unique text on income tax, in fact, excludes the above mentioned subjects from the field of application of the rule that states: "Notwithstanding the provisions of the bylaws, the entity looses the status of non-commercial entity when exercising mainly commercial activities for the an entire fiscal year" (article 149, paragraph 4 of the Decree of the President of the Republic of 22nd December 1986, #917).
- To the civilly recognized ecclesiastic entities, a reduction of the 50% of the ordinary IRES rate is applied, by virtue of the provision of article 6, letter c) of the Decree of the President of the Republic of 19th September 1973, #601, according to which: "the income tax of legal persons is reduced by half in relation to the (…) institutions whose purpose is compared by law to charity and education activities". With regard to the activities other than those of religious or worship exercised by said entities, they must be in "immediate and direct relationship of instrumentality" (see Supreme Court, decision of 29th March 1990, #2573);
- In accordance with articles 14 and 15 of the Legislative Decree #460 of 1997, on tax relief on provisions relating to VAT, some transactions involving ONLUS are included among those exempted; the ONLUS are also exempted from the certification of payments by receipt vouchers.
- Pursuant to article 16, ONLUS are exempt from the withholding tax that must be paid to the State by way of tax contribution paid by public entities;
- ONLUS are exempt from a number of indirect taxes, such as stamp duty, taxes on government concessions, as well as other facilities on entertainment tax and registry tax;
- In the field of municipality property tax (ICI, today IMU), there is an exemption for buildings used by non commercial entities, intended solely to the performance of welfare, social security, health, education, accommodation, recreational and sports activities, as well as the activities of religion or worship (as per article 7, paragraph1, letter i) of Legislative Decree #504 of 1992).

Article 91 bis of the law Decree #1 of 2012, converted into law #27 of same year, specified that IMU tax exemptions are only applicable to the buildings of the subjects listed under at article 7, paragraph 1, letter i) of Legislative Decree #504 of 1992, intended solely for the performance of non-commercial activities of the activities listed above.

Concerning properties for a mixed usage (commercial or not) the exemption is recognized only on the portion of the housing unit in which a non-commercial activity is performed. In cases where it is not possible to identify the building or parts of the building used exclusively for non-commercial activities, the exemption is recognized in proportion to the use for non-commercial activities, resulting from a specific declaration, the arrangements for which are laid down in the Decree of the Minister of Economy and Finance of 18th November 2012, #200.

Finally, with Legislative Decree of 30th December 1992, #504, as of 31st December 1992, on the buildings belonging to religious denominations and intended for worship and institutional activities, INVIM tax on the taxation on the increases in property values, has been abolished.

For the Catholic Church is also in force the Decree of the President of the Republic of 13th February 1987, #33 ("Approval of the regulation implementing the law 20th May 1985, #222, laying down the provisions on ecclesiastic entities and assets in Italy and for the support to the Catholic clergy serving in the dioceses") which defines the tax treatment of remuneration paid to the priests who perform service in favor of the diocese, on the basis of their being assimilated to income from employment, made in article 25 of law #222 of 1985.

For completeness it is noted that the religious denominations that haven't concluded a treaty with the Italian State can take advantage, at tax and fiscal level, of the same benefits and deductions to which are beneficiaries non-commercial entities, given their particular form of non-profit organizations.

3.7.2 – The indirect funding of religious denominations: the eight per thousands

The system of indirect funding by the State to religious denominations, known as "eight per thousand" and reserved to the Catholic Church and the religious denominations with a treaty approved by law pursuant to article 8 of the Constitution, was defined at the time of the replacement of direct funding system to the Catholic Church as a result of the revision of the Lateran Concordat of 1984. Within the framework of the revision of the Concordat of 1929 between the Italian Republic and the Holy See, a special Joint Committee was entrusted with preparing the rules "for the discipline of all matter of ecclesiastic entities and properties and for the revision of the Italian State financial commitments and interventions in the asset management of the ecclesiastic entities".

The Committee recognized "the undeniable collective interest in the introduction of new modern forms of financing to the churches through which facilitating the citizens' free contribution to the pursuit of purpose and fulfillment of religious interests" (so reads the report on principles, published on 6th July 1984). The system outlined by the Committee would be based on a few cornerstones that had considered, inter alia, the recognition of the value of the direct citizen's input, and his responsibility in the life of ecclesiastic and religious communities; the arrangement of some mechanisms of self-financing; the finalization of the cash flows in support of the clergy and other specific purposes; the definition of a system for the support of the clergy including the knowability of the actual cash flow targets.

The specific characteristics of the new mechanism, that can be found in articles 47 to 51 of the law of 20th March 1985, #222, were presented by the Joint Committee in the following terms: "to date from 1st January 1990 any direct financial contribution from the State will cease and a balanced mechanism of autonomous and focused funding will be operating:

1) The State will admit a tax deduction, within the current ceiling of one million lire, to donations made by citizens, through the payment on just one bank account of the Italian Episcopal Conference and for the support of the clergy (currently, the tax break for liberal offers by the faithful for the support of the clergy is deductable up to a maximum amount of 1,032.9 euro per year);

2) Each year the State shall set aside and directly administer the 0.8% of the declared income tax for purposes of social interest and/or for humanitarian activities (exceptional operations for world hunger,

natural disasters, refugees assistance, preservation of cultural heritage); for religious purposes directly administered by the Catholic Church (support of the clergy, religious needs of the population, charitable interventions in favor of the national collectivity or Third World countries) or by the other concerned religious denominations with a treaty. It will therefore be the citizen to individually choose and decide to what purpose the amount shall be devolved by indicating the option in the income tax return: the allocation of the sums will be in proportion to the choices made. The system, therefore, involves no tax increase for citizens".

It should be pointed out that the distribution system works on two levels: a first one concerns the choices actually made by taxpayers which determine the State share and that of each religious denomination; a second level concerns the choices not expressed by taxpayers: this amount is distributed proportionately to the choices made (so the article 47 of the law #222 of 1985).

In detail, the mechanisms that regulate the allocation of eight per thousand of the income tax, are contained in articles 47, 48 and 49 of law 20th May 1985, #222, concerning the Catholic Church; similar provisions are contained in the laws approving the treaties with other religious denominations, i.e. the churches represented by the Waldensian Board, the Italian Union of the 7th Day Christian Adventist Churches, the Union of the Italian Jewish Communities, the Evangelic Lutheran Church in Italy, the Christian Evangelic Baptist Church of Italy, the Holy Orthodox Archiocese of Italy and Exarchate for Southern Europe, the Italian Buddhist Union, the Italian Hindu Union. The Assemblies of God in Italy and the Apostolic Church in Italy (the latter two do not participate in the redistribution of unexpressed choices).

Pursuant to the provision of the second subsection of article 47, "a quota equal to 8 per thousand of the personal income tax, liquidated by the offices on the basis of the annual statements, is in part destined to purposes of social interest or humanitarian nature, directly administered by the State and, in part, to religious purposes and directly administered by the Catholic Church. The allocations referred to in the preceding subsection, are decided on the basis of the choices expressed by taxpayers in their annual income declaration".

The consistency of the amount to be distributed among the different religious denominations and the State shall be proportionate (8 per thousand) to the amount that the State cash by way of the income tax. The repartition is instead exclusively connected to the taxpayers' will that shall, without obligation, express their preference in their annual income declaration.

The total amount assigned to each religious denomination or the State is proportional to the number of choices expressed by each taxpayer and is the preferences percentage of the choices made that determines the allocation of sums deriving from not expressed choices.

This system is today the indirect funding mechanism for both the Catholic Church and all other religious denominations who have concluded a treaty approved by law pursuant to article 8 of the Constitution and that have adhered to this form of funding. The Church of Jesus Christ of Latter-Days Saints renounced to use this system.

3.7.3 – The indirect funding: the "five per thousand"

The denominations without a treaty or without legal personality, which therefore cannot be beneficiaries of the funding source deriving from the share of the income tax return of the eight per thousand, have the opportunity – if included in the categories of non-profit organizations of social utility, associations of social promotion or recognized organizations operating in the areas referred to in article 10, paragraph 1, of Legislative Decree #460 of 1997 mentioned above – to have access to the so-called "five per thousand".

Institutions that have the characteristics prescribed by law, must apply to the Revenue Agency to be included in the lists of beneficiaries of the share. Every taxpayer, during the tax return, can therefore allocate, on a totally voluntary basis, an amount equal to five per thousand of his income tax to the subjects included in the lists.

Of course, institutions of the Catholic Church or other religious denominations that have concluded a treaty with the State may be beneficiaries of the allocation of the five per thousand of the income tax of taxpayers, and this of course in addition, where applicable, to what already obtained from the share of the eight per thousand that the institution is entitled to receive.

3.7.4 – Donations

With regard to the regulation on donations, currently the law provides both the deductibility from the profit and from the income tax. On the first point, article 10, paragraph 1, letter i) of the unique text on income tax, approved by the Decree of the President of the Republic of 22nd December 1986, #917, provides for the deductibility of cash donations up to a maximum of 1,032.91 euro in favor of the Central Institute for the support of the clergy of the Italian Catholic Church and in favor of religious denominations that have concluded a treaty pursuant to article 8 of the Constitution (Waldensian Board, Assemblies of God in Italy, Union of the 7th Day Christian Adventist Churches, Union of the Italian Jewish Communities, Christian Evangelic Baptist Union of Italy, Evangelic Lutheran Church in Italy, Holy Orthodox Archiocese of Italy and Exarchate for Southern Europe, Church of Jesus Christ of Latter-Days Saints, Apostolic Church in Italy, Italian Buddhist Union, Italian Hindu Union. More generally, article 14 of the law-Decree of 14th March 2005, #35, converted, with amendments, by law 14th May 2005, #80, extended to all taxpayers the opportunity to deduct from taxes donations made in favor of ONLUS and associations of social promotion listed in the national register. The deduction is allowed up to 10% of the total income and, in any case, to a maximum of 70,000 euro per year.

Finally, article 100, paragraph 1, letter h) of the Decree of the President of the Republic #917 of 1986 stipulates that cash donations done to ONLUS are deductable from the corporate income for an amount not exceeding 2,065.83 euro per year or the 2% of the taxable income. The two limits operate alternately and the higher is the valid one.

In the case of deductibility, the unique text on income tax provides for all taxpayers in general (article 15) and specifically for non-commercial entities (article 147), the right to deduct "the cash donations for an amount not exceeding 2,065.83 euro in favor of the non-profit organizations of social utility (ONLUS), of religious and secular humanitarian initiatives, managed by foundations, associations, committees and entities identified by a Decree of the President of the Council of Ministers, in countries not belonging to the Organization for Economic Cooperation and Development (OCSE) (…). The deduction shall be allowed subject to the payment of such contributions and donations through bank or post office or through other payment systems provided for in article 23 of Legislative Decree of 9th July 1997, #241, and according to other methods of payment to allow the development of effective controls by the Tax Authorities, which can be established by Decree of the Minister of Finance to be issued pursuant to article 17, paragraph 3, of the law of 23rd August 1988, #400" (article 15, paragraph 1, letter i-bis) of the Decree of the President of the Republic of 22nd December 1986 #917).

Main law references

- Law of 25th March 1985, #121 (Ratification and execution of the Treaty, with additional Protocol, signed in Rome on 18th February 1984, amending the Lateran Concordat of 11th February 1929 between the Italian Republic and the Holy See), article 7.
- Law of 20th May 1985, #222 (Regulations on the ecclesiastic entities and assets in Italy and on the support the Catholic clergy on service in the dioceses), article 25 and 46 – 51
- Decree of the President of the Republic of 13th February 1987, #33 (Approval of the regulation of execution of law of 20th May 1985, #222, introducing Provisions on the ecclesiastic entities and assets in Italy and on the support to the clergy on service in the dioceses), article 17
- Law of 11th August 1984, #449 (Provisions for the regulation of the relations between the State and the churches represented by the Waldensian Board), article 12 of law of 5th October 1993, #409 (Integration of the treaty between the Government of the Italian Republic and the Waldensian Board, implementation of article 6, third paragraph of the Constitution) amended by law of 8th June 2009, #68 (Amendment of law of 5th October 1993, #409, of approval of the treaty between the Government of the Italian Republic and the Waldensian Board, implementation of article 8 of the Constitution), articles 3 and 4
- Law of 22nd November 1988, #516 (Provisions for the regulation of the relations between the State and the Italian Union of the 7th Day Christian Adventist Churches), amended by law of 20th December 1996, #637 (Amendment of the treaty between the Italian Republic and the Italian Union of the 7th Day Christian Adventist Churches, implementation of article 8, third paragraph of the Constitution), article 23, 29 and 30
- Law of 22nd November 1988, #517 (Provisions for the regulation of the relations between the State and the Assemblies of God in Italy) articles 17, 21 and 23
- Law of 8th March 1989, #101 (Provisions for the regulation of the relations between the state and the Union of the Italian Jewish Communities), amended by law 20th December 1996, #638 (Amendment of the treaty between the Government of the Italian Republic and the Union of the Italian Jewish Communities, implementation of article 8, third paragraph of the Constitution), article 27 and 30
- Law of 12th April 1995, #116 (Provisions for the regulation of the relations between the State and the Christian Evangelic Baptist Union of Italy (UCEBI)), articles 14 and 16 and by law of 12th March 2012, #34 (Amendment of law of 12th April 1995, #116, introducing the approval of the treaty between the Government of the Italian Republic and the Christian Evangelic Baptist Union of Italy, implementation of article 8, third paragraph of the Constitution), article 2
- Law of 29th November 1995, #520 (Provisions for the regulation of the relations between the State and the Evangelic Lutheran Church in Italy (CELI)), articles 25, 26 and 27
- Law of 30th July 2012, #126 (Provisions for the regulation of the relations between the State and the Holy Orthodox Archiocese of Italy and Exarchate for Southern Europe, implementation of article 8, third paragraph of the Constitution), articles 16, 20 and 21
- Law of 30th July 2012, #127 (Provisions for the regulation of the relations between the State and the Church of Jesus Christ of Latter-Days Saints, implementation of article 8, third paragraph of the Constitution), articles 23 and 24
- Law of 30th July 2012, #128 (Provisions for the regulation of the relations between the State and the Apostolic in Italy, implementation of article 8, third paragraph of the Constitution), articles 17, 24 and 25
- Law of 31st December 2012, #245 (Provisions for the regulation of the relations between the State and the Italian Buddhist Union, implementation of article 8, third paragraph of the Constitution), articles 14, 18 and 19
- Law of 31st December 2012, #246 (Provisions for the regulation of the relations between the State and the Italian Hindu Union, Sanatana Dharma Samgha, implementation of article 8, third paragraph of the Constitution), articles 15, 19 and 20

- Decree of the President of the Republic of 29th September 1973, #600 (Common regulations for the assessment of income tax) and subsequent amendments, article 20 bis
- Decree of the President of the Republic of 29th September 1073, #601 (Discipline on tax facilitations) and subsequent amendments, article 6
- Decree of the President of the Republic of 22nd December 1986, #917 (Unique text on income tax), articles 10, paragraph 1, letter i) and l); 15; 100, paragraph l, letter h); 111 third; 147: 149, paragraph 4
- Legislative Decree of 30th December 1992, #504 (Rearrangement of the finances of the territorial entities as per article 4 of law of 23rd October 1992, #421), article 7, paragraph, letter i)
- Decree of the President of the Republic of 4th December 1997, #460 (Reorganization of the tax regulation of non commercial entities and of non-profit associations of social utility) article 10, paragraph l, letter a), articles 14, 15 and 16
- Law Decree of 14th March 2005, #35 transformed with law of 14th May 2005, #80, article 14
- Law Decree of 24th January 2012, #1, transformed with law of 24th March 2012, #27 (Urgent Provisions for the competition, the infrastructures development and competitiveness), article 91-bis (IMU), completed by article 9, paragraph 6 of law-Decree 2012, #174
- Decree of the Minister of Economy and Finance of 19th November 2012, #200 (Regulation to adopt as per article 91-bis, paragraph 3, of law-Decree of 24th January 2012, #1, transformed, with amendments, by law of 24th March 2012, #27 and completed by article 9. Paragraph 6, of law-Decree of 10th October 2012, #174)

Treaties signed and not yet approved by law:

- Christian Congregation of the Jehovah's Witnesses, signed on 4th April 2007, articles 12, 16 and 17

3.8 Treatment of bodies and burial

The provisions of law relating to burial and treatment of corpses are contained in the Decree of the President of the Republic of 10th September 1990, #285 ("Approval of the rules of mortuary police"), in law of 30th March 2001, #130 ("Provisions relating to cremation and scattering of ashes"), which partially amended the regulation of mortuary police and in Royal Decree of 27th July 1934, #1265 ("Approval of unique text of health laws").

From the regulation in force derive, among other things, the following provisions:

- The urban plan for cemeteries may provide special and separate areas for the burial of bodies of people professing a faith other than the Catholic. Additionally, the Mayor may also grant an appropriate area in the cemetery to foreign communities requesting an area dedicated to the burial of their countrymen's bodies (Decree of the President of the Republic of 10th September 1990, #285);
- It is forbidden to bury a corpse in a different place from the cemetery (Royal Decree of 27th July 1934, #1265);
- The Minister of Interior has the power to authorize, from time to time, by specific decree, the burial of bodies in different locations from the cemetery, when justified reasons concur with special honors, and burial will take place with the guarantees laid down in the mortuary police regulation (Royal Decree of 27th July 1934, #1265);
- Urns containing the residues of the complete cremation can be placed in cemeteries or chapels or temples belonging to charities or in private columbaria with destinations which are stable and guaranteed against any profanation (Royal Decree of 27th July 1934, #1265);

- The authorization to cremation is up to the civil status officer of the town where the death has occurred and is granted in accordance with the wishes expressed by the deceased or his family (law of 30th March 2001, #130);
- The scattering of ashes is permitted, in accordance with the deceased's will, only in areas within the cemetery specifically intended for that or in the nature or private areas; scattering of ashes in private areas must be outdoors and with the consent of the owners and cannot in any case result in profit activities; the scattering of ashes is in any case prohibited in residential areas; in the sea, lakes and rivers is allowed in the portions which are free from boats and artifacts (law of 30th March 2001, #130):
- It is provided for the preparation of halls adjacent to the crematories to allow the performance of rites of remembrance of the deceased and an adequate farewell (law of 30th March 2001, #130);

In addition to the general rules described above – which therefore applies to all religions or communities – special disciplines are contained in the treaties with some religious denominations, by virtue of the particular attention by them given to the treatment of corpses and burial sites.

Among the treaties signed and approved by law in accordance with article 8 of the Constitution, it should be noted that with the Union of the Italian Jewish Communities (UCEI), where the following principles were established:

- The burials in the cemeteries of the Communities and in the areas of Jewish cemeteries are perpetual in accordance with Jewish law and tradition;
- To this end, without prejudice to the obligations of the law of the concerned parties, or, failing that, of the Community or Union, the concessions referred to in article 92 of the presidential Decree of 10th September 1990, #285, are renewed each ninety-nine years;
- The burial in the areas of the cemeteries takes place according to regulations issued by the competent Community:
- In the Jewish cemeteries the compliance with the prescribed Jewish rituals is ensured.

Similar provisions are contained in the treaty between the Italian State and the Church of Jesus Christ of the Latter Days Saints:

- Burials in the cemeteries of the "Church" and in special areas of the municipal cemeteries are perpetual, in accordance with the rites and traditions of said "Church";
- To this end, without prejudice to the obligations of the law of the concerned parties, the concessions referred to in article 92 of the presidential Decree of 10th September 1990, #285, are renewed each ninety-nine years;
- Burials in the area of the "Church" take place in according with a regulations issued by the Church itself, in accordance with the Italian legislation;
- In the cemeteries of the "Church" the observance of its prescribed rites is guaranteed.

The treaty with the Holy Orthodox Archiocese of Italy provides that, where possible, restricted areas in cemeteries can be predicted, in accordance with current legislation.

The treaties with the Italian Buddhist Union and the Italian Hindu Union establish to the respective members is "ensured compliance with the rules of the their tradition with regard to the treatment of corpses, in accordance with the Italian legislation".

On the subject of prevision of special and separate areas for the burial of corpses of people professing a religion other than the Catholic, particularly interesting is the opinion of the Ministry of Interior (note of 23rd February 2011) at the request of the pro-tempore Mayor of Fossano (Cuneo), on the latter's proposal of a call

for a referendum, presented to City Council by some council groups set up as an Organizing Committee on the maintenance of the special section of the city cemetery reserved to deceased belonging to religions other than the Catholic.

This question originated from the sudden departure of a Moroccan boy and the need to bury him according to the principles of the Islamic religion; as a result of this, the City Council adopted an amendment to the cemetery plan with which an area was arranged for the burial, facing toward the Mecca, in favor of the Muslim religion's believers.

The above Organizing Committee than advanced, in accordance with article 46 of the Municipal Statute, a proposal for an advisory referendum concerning the following question: "Are you favorable to the preservation of the special section of the municipal cemetery reserved to the deceased belonging to religions other than the Catholic, designed according to the dictates of Islam, without questioning, however, the burials already occurred and keeping the already existing Jewish cemetery?".

In this regard, the Central Directorate for Religious Affairs of the Department for Civil Liberties and Immigration of the Ministry of Interior underlined that the contents of the application object of the referendum presented "potential discriminatory aspects whereby they were proposing the maintenance of the Jewish cemetery, questioning – even if not explicitly – the right of Muslim believers to have equal and adequate burial sites", right enshrined and guaranteed not only by the Decree of the President of the Republic #285 of 1990, but also by article 19 of the Italian Constitution ("Everyone has the right to freely profess their religious faith in any form, individually or in association, to disseminate it in private or in public worship, provided it is not contrary to good morals"); in fact such rules apply to all religions, not just to those who, as in the case of the Union of the Italian Jewish Communities called in question, have concluded a treaty pursuant to article 8 of the Constitution.

As regard, finally, the evaluation expressed on the merits, the Directorate stated that:

- "the question appears to substantially affect the proposed amendment of the cemetery city plan" because "it is configured as an abrogative referendum– and not merely an advisory one – typology that is not envisioned by the regulations of the institution and, consequently, it presents profiles of questionable admissibility"; consultations should in fact be a mean of popular participation in the development of administrative decisions and not a verification of the sharing of citizens on choices already defined with formal administrative measures (State Council 29th July, #3768);
- The wording of the question "seems to conflict with the articles of the regulation containing the rules of principle laid down by the entity for the discipline of this matter";
- The referendum question is "not consistent with the general principles and the specific statutory rules and regulation of the institution, keeping safe that each decision on the merits cannot but depend from the autonomous decision of the City Council".

Main law references

- Law of 8th March 1989, #101 (Provisions for the regulation of the relations between the State and the Union of the Italian Jewish Communities), article 16
- Law of 30th July 2012, #126 (Provisions for the regulation of the relations between the State and the Holy Orthodox Archiocese of Italy and Exarchate for Southern Europe, implementation of article 8, third paragraph of the Constitution), article 11

- Law of 30th July 2012, #127 (Provisions for the regulation of the relations between the State and the Church of Jesus Christ of Latter-Days Saints, implementation of article 8, third paragraph of the Constitution), article 25
- Law of 31st December 2012, #245 (Provisions for the regulation of the relations between the Italian Buddhist Union, implementation of article 8, third paragraph of the Constitution), article 8
- Law of 31st December 2012, #246 (Provisions for the regulation of the relations between the Italian Hindu Union, Sanatana Dharma Samgha, implementation of article 8, third paragraph of the Constitution), article 8
- Royal Decree of 27th July 1934, #1265 (Approval of the unique text of health laws), articles 340, 341 and 343
- Decree of the President of the Republic of 10th September 1990, #285 (Approval of the obituary police regulation), article 100
- Law of 30th March 2001, #130 (Directive for the cremation and scattering of ashes), articles 3 and 6

3.9 – Food and ritual slaughter

Regarding this subject, the national legislation has not produced, if not exceptionally, specific rules governing the issue of "food and religion". We therefore make reference to the main provisions, including those of bilateral nature, which enshrine the right to comply with the requirements of the characteristic nutritional prescriptions of religious denominations other than the Catholic.

In regards to ritual slaughter, it is noted that the law guarantees the mandatory practice for Judaism and Islam, which provides that the animal is slaughtered without prior stunning, as established by specific regulations governing this sector; ritual slaughter is also a dispensation to abide to the communitarian directives, implemented differently by national regulations.

The final decision on this matter, implemented on 1st January 2013, is made by European Council regulation #1099 of 2009, in implementation of article 10 of the Chart of Fundamental Rights of the European Union, that recognizes "the freedom to change religion or belief, as well as the freedom to manifest one's religion either individually or collectively, in public or in private, through worship, teaching, practice and observance of rites".

3.9.1 – Nutrition

On the matter of nutrition, it should be recalled article 19 of the Italian Constitution, which states that "everyone has the right to freely profess their religious faith in any form […]". Specific requirements are added to this general provision, which provide as follows:

- Decree of the President of the Republic of 30th June 2000, #230 ("Regulations on the prison system and on measures depriving or limiting freedom"): "In the formulation of the nutritional charts, one must also take into account, wherever possible, the characteristic prescriptions of the different religious beliefs" (article 11, paragraph 4).
- Law of 8th March 1989, #101 (Provisions for the regulation of relations between the State and the Union of the Italian Jewish Communities):

i. “The belonging to armed forces, police or other equivalent services, hospital stays, treatment or nursing centers, prevention or correctional institutes cannot give rise to any impediment in the exercise of religious freedom and the fulfillment of worship practices” (article 7, paragraph 1);

II. “To the Jewish people in the conditions referred to in paragraph 1 is recognized the right to observe, at their request and with the assistance of the competent Community, the Jewish law prescriptions on nutrition without charges for the institutions in which they find themselves” (article 7, paragraph 2).

- Decree of Minister of Justice of 12th December 2006, #306 (“Regulation: Discipline of processing of sensitive and judicial data by the Ministry of Justice, adopted pursuant to articles 20 and 21 of Legislative Decree of 30th June 2003, #196 ‘Code on personal data protection’):

I. “Sensitive data concerning health conditions and the religious belief are processed only for the purpose of granting the benefits prescribed by law” (attachment #3):

II. “As regards the exercise of the right of worship […], the Ministry ensures compliance with special diets due to religious requirements” (attachment #11).

- National Committee for Bioethics (“Opinion on “Differentiated nutrition and interculturality. Bioethical guidelines”, approved on 17th March 2006):

I. Nutrition in schools: “For the protection of religious freedom, it seems appropriate that it is always guaranteed - to students who for religious reasons cannot consume certain foods (e.g. pork) – the availability of other foods (e.g. eggs or legumes); when possible and appropriate (and here comes into play the type of food requests, the number of the applicants, etc.) students must be able to consume foods prepared according to the dictates of their religion through the provision by the school of differentiated menus or at least allowing the introduction of these foods from outside (at the student’s expenses)”.

II. Nutrition in hospitals: the Committee considers it necessary “to develop diets that take into account the dietary requirements of religious or cultural origin, to develop therapies focusing on the consumption of medicines and food at set schedules (one should think about the obligation of fasting during daytime dictated by the Muslim religion during the period of Ramadan) or that they can achieve their targets without requiring the consumption of certain substances”;

III. Nutrition in prisons: in considering the prescriptions in force not sufficient to protect the right in question, the Committee invites you to consider these requirements “as a relevant factor for the consolidation, by the prisoner, of all necessary conditions for the expression of his identity and for a mature management of his person and his conduct, as well as for the purpose of start toward a style of respect and interest for the needs inherent to the dignity of every other individual”;

IV. Nutrition in barracks “Even in barracks, as in prison, public order problems prevent an individual’s capability to provide by himself to his nutritional needs. Being the military service no longer mandatory, they would have to rely on those same assurances of protection envisioned by any working relationship. Even in this case, however, the delicate social integration function that the military service can play, makes it necessary to guarantee respect for the fundamental values of the person and therefore of his most intimate religious and cultural beliefs”.

3.9.2 – Ritual slaughter

On the subject of ritual butchery, the relevant general provisions for the discipline of this practice include the following:

- Law of 14th October 1985, #623 ("Ratification and enforcement of international conventions on the protection of livestock and of animals for slaughter, adopted in Strasbourg respectively on 10th March 1976 and on 10th May 1979"), transposing the provisions contained in the European Convention for the protection of animals for slaughter:

I. "The animals, if necessary, must be immobilized immediately before being shot down and, apart from the exceptions mentioned in article 17, stunned according to appropriate procedures" (article 12 of the Treaty);

II. "In case of ritual slaughter, it is mandatory to immobilize animals of the bovine species before the shot down, using a mechanical process, in order to avoid the animal any pain, suffering and excitement, as well as any wound or bruise" (article 13);

III. "It is prohibited to use constraint measures causing avoidable suffering, to tie the rear limbs of the animals or hang them before stunning; and in the case of ritual slaughter, before the blood is completely gushed" […] (article 14)

IV. "Each Contracting Party may authorize derogations from the provisions concerning prior stunning" in the case of "slaughter according to religious rites" (article 17);

V. "Each Contracting Party authorizing slaughters according to religious rites, should ensure that the butchers are qualified by the religious bodies, unless it is the Contracting Party itself to grant the needed permissions" (article 19).

From the viewpoint of the Community law, as mentioned above, the most recent ruling on this matter is the Regulation of the European Council of 24th September 2009, #1099 on the protection of the animals during the slaughter, which reaffirms the following principles:

- "[...] the need to respect the legislative or administrative provisions and traditions of the Member States relating in particular to religious rites, cultural traditions and regional heritage in the definition and implementation of Community policies […]" (paragraph 15 of the preambles);
- "The directive 93/119/EC provided for derogation from stunning practices in the case of slaughtering rituals carried out in slaughterhouses. Since the Community rules on ritual slaughter have been transposed differently depending on the national context and considered that national laws take into account dimensions that go beyond the objectives of this regulation, it is important to maintain the derogation from stunning of animals before slaughter, allowing however a certain subsidiary level to each Member State" (paragraph 18 of the preambles);
- "During the shot down and related operations, avoidable pain, distress or sufferance are saved to the animals" (article 3, paragraph 1);
- "Animals are slaughtered exclusively after stunning […] Loss of consciousness and sensibility is maintained until the death of the animal" (article 4, paragraph 1);
- The provisions of paragraph 1 shall not apply to animals subject to particular methods of slaughter prescribed by religious rites, provided that the slaughter takes place in a slaughterhouse" (article 4, paragraph 4);
- "Member States may adopt special national provisions designed to ensure greater protection of animals during the shot down other than those contained in this regulation", in the case of "slaughter of animals in accordance with article 4, paragraph 4, and related operations (article 26, paragraph 2).

The specific provisions on this subject include:

- Ministerial Decree of 11th June 1980 ("Permission to slaughter animals according to Jewish and Islamic religious rites"): "The slaughter without a prior stunning executed on the basis or the Jewish and Islamic religious rites): the slaughter without prior stunning according to Jewish and Islamic religious rites is authorized by the respective communities " (article 1)
- Law of 8th March 1989, #101 ("Directives for the regulation of relations between the State and the Union of the Italian Jewish Communities"): "The carried out according to the Jewish Rite continues to be regulated by the Ministerial Decree of 11th June 1980, published in the Official Gazette #168 of 20th June 1980, in accordance with Jewish law and tradition" (article 6).

Of particular interest, in the subject, is the opinion expressed by the National Committee for Bioethics, "Ritual slaughters and animal suffering", approved on 19th September 2003 which, in view of the particular constitutional protection recognized in Italian law to religious freedom, "suggests that the ritual slaughter is legally permitted", considering it "bio-ethically admissible where accompanied by all those practices that do not conflict with the same slaughter rituals that minimize animal suffering".

Main law references

- Law of 8th March 1989, #101 (Provisions for the regulation of relations between the State and the Union of the Italian Jewish Communities), amended by law of 20th December 1996, #638 (Amendment of the treaty between the Government of the Italian Republic and the Union of the Italian Jewish Communities, implementation of article 8, third paragraph of the Constitution) articles 6 and 7
- Ministerial Decree of 11th June 1980 (Authorization to the slaughter of animals in accordance with Jewish and Islamic religious rites), article 1
- Law of 14th October 1985, #623 (ratification and enforcement of the European Treaty on the protection of animals in livestock, adopted in Strasbourg on 10th March 1976 and on 10th May 1979), articles 12, 13, 14, 17 and 19 of the Treaty
- Decree of the President of the Republic of 30th June 2000, #230 (Regulation introducing Provisions on prison system and measures depriving and limiting freedom), article 11
- Ministerial Decree of 12th December 2006, #306 (Regulation on «Discipline on the process of sensitive and judicial data by the Ministry of Justice, adopted pursuant to articles 20 and 21 of Legislative Decree of 30th June 2003, #196 ("Code on protection of personal data), attachments 3 and 11
- EC Regulation 1099/2009 of the European Union Council of 24th September 2009 concerning the protection of animals during shot down, paragraphs 15 and 18 of the preambles, articles 3, 4 and 26.

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