Comparative Law Study on Legal Rules Protecting Religious Values and Freedoms

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Abstract

Religious values are protected by the legislator irrespective of country through the fundamental law of the state and other general and/or special laws. In the first part of the study we intend, on the one hand, to identify in Romanian legislation the legal rules that indicate the conduct to be followed, so that each individual can live their life on this planet as a moral person and understand what sanctions may be imposed in case of violation of the legal rules that protect religious freedoms, and on the other hand, to present a comparative study by analyzing similar rules of other countries. In the second part of the study, our goal is to also present civil procedure legal rules or criminal procedure legal rules by which the legislator emphasizes the role of religion in the process of law realization. Finally, by using the comparative method, we aim to determine the legal relevance of oath-taking or of affirmations equivalent to oath, which may also result from the analysis thereof as an essential requirement of the material element for the legal classification of acts provided for by the criminal law under the name of false testimony or perjury.

Keywords: *law, religious freedoms, oath, criminal offence.*

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1. Introduction

The morality embodied by legal rules can be a source of law through the existing custom (unwritten law), it is the prerequisite for ensuring legal order within a state and, last but not least, it is the foundation of social order at a local, regional, as well as international level.

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Moral precepts are to be found in the abstract content of the legal rule, as well as in the content of religious rules, irrespective of religion. However, the extent to which they express commands specific to civil legal rules, the manner in which the legislator found fit to prepare the legal rule by absorbing the religious rule, and the concrete form in which the public force makes its presence felt in communities, reflect the legislator's thinking and outlook on society at a given time, as well as the functionality of the legal system in a society and the positioning of the state in the global architecture.

The civil procedure legal rules or the criminal procedure legal rules by which the legislator emphasizes the role of the religion in the process of law realization do not solely comprise a consideration of a moral nature. Thus, through the objects with religious significance to which the legislator makes reference, through the abstract content of the rule which includes moral benchmarks of communities, through the point in the civil lawsuit or criminal trial at which the rule is enforced, we come to understand what role religion plays in the process of statement formation. As a result, by knowing the written legal rule, the postulates of communication and non-verbal communication during the operational course of a criminal trial or civil lawsuit, religious values, irrespective of religion, are emphasized by the legislator as early as at the stage of drafting the law. We provide as an example in this respect the Article 121 of the Romanian Criminal Procedure Code, with the marginal name "Witnesses' Oath and Solemn Statement", and the Article 319 of the Romanian Civil Procedure Code, with the marginal name "Taking of the Oath".

The European Convention on Human Rights enshrines, through Article 9, *the freedom of thought, conscience and religion*. This freedom encompasses several rights that any person can exercise according to the existing laws in a state and which are enshrined by the fundamental law of the state in question. However, Constitutions rarely define religious freedom, they merely enumerate the rights comprised therein or enumerate the acts that violate it, religious institutions and religious practices being thus protected.

The same regulatory act, according to paragraph 1, provides that any person is entitled to the freedom of thought, conscience and religion. This right includes the freedom to change one's religion or beliefs, as well as the freedom to manifest one's religion or belief individually or collectively, in public or in private, through worship, education, practices and the performance of rituals. Furthermore, we retain from paragraph 2 that the restriction of the freedom to manifest one's religion or beliefs can only be ordered in a democratic society if it is based on the legitimate foundation of safeguarding and ensuring public safety, of protecting public order, health, morality, rights and other freedoms[3]. In the same direction, we highlight the Charter of Fundamental Rights of the European Union, which, in the Article 10, provides for the *"the freedom of thought, conscience and religion"*, which has a similar content.

Over time, the concrete manifestation of religious freedoms took different forms depending on the customs exhibited by the inhabitants of a given territory, which were tolerated or not by the leaders of social micro-groups, by political and/or religious

[3] Convention for the Protection of Human Rights and Fundamental Freedoms, November 4, 1950, art. 9(1)–(2), https://www.echr.coe.int/documents/d/echr/convention_ENG.

leaders, in relation to the way of thinking, religious concepts and interests of the leaders of the communities of those times.

At the same time, these could not be separated from the international historic context in which the states were created, developed and underwent transformations, sometimes significant ones, of reorganization at regional or/and world level.

Depending on the benchmark stages in the process of state formation, moral precepts and religious rules were more visible in certain communities; sometimes the manifestation thereof was at individual level or remained at the level of a social micro-group, such as the family.

The spiritual violence refers to a pattern of coercive control and psychological dominance exercised through the abusive use of religious or spiritual[4] authority, being a process that combines threat and/or psychological violence with relational control and/or social violence.

Thought, conscience, faith and the level of communication of the parties, regardless of the form of communication, are only some of the elements that may set the stage for, generate and/or exhaust a difference of opinion, dispute or acts of violence.

To prevent and combat domestic violence, which has a direct and immediate impact on other people, manifested in the form of spiritual violence, in the family or domestic environment or between spouses or former spouses, as well as between current or former partners, irrespective of whether the aggressor lives or used to live with the victim, we find in the legislation of countries regulatory acts that protect family members from this type of abuse.

In Romanian legislation, we identify legal rules which, in direct relation to religion, in cases where they are applicable, generate different legal consequences. In this sense, we refer to the general criminal law, namely the Romanian Criminal Code. The General Part, where we find the term religion included in the criminal legal rule[5]. We offer as an example the Article 77 letter h), which provides that committing any criminal offense for reasons related to religion constitutes an aggravating circumstance. This reason will also be relevant in the process of judicial individualization of the penalty, in the sense that the court of law will increase the special limits of the penalty just once and will be able to enforce a penalty up to the special maximum, according to the Article 78 paragraph 1 of the Romanian Criminal Code.

Taking into account the general criteria for penalty individualization (Article 74 of the Romanian Criminal Code) and in relation to the Article 78, if the special maximum is not sufficient, a penalty increase (Article 78 paragraph 1) of up to 2 years can be added, which cannot exceed one third of such maximum, and in the case of a fine, a penalty increase, of one third of the special maximum, at the most, can be applied.

At the international level, we emphasize the Universal Declaration of Human

[4] Lauren Kalvari, "From Spiritual Abuse to Spiritual Repair: A Trauma-Attentive, Theologically Grounded Pathway for Religious Survivors," *Pastoral Psychology* 75, no. 4 (2026): 597–619, https://doi.org/10.1007/s11089-025-01296-2.

[5] The term "religion" is derived from the Latin word "religio". Religion is an assembly of ideas, feelings and actions shared by a group and which provides its members with an object of worship, a code of conduct, a reference framework in order to establish a relationship with the group and the universe.

Rights[6], which recognizes the right of every human being to the freedom of thought, conscience and religion, by stipulating in Article 18 that: "everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance".

The United Nations Organization (UNO) reiterated the importance of the right to freedom of conscience, thought and religion through the International Covenant on Civil and Political Rights adopted by the UN General Assembly on 16 December 1966. Unlike the Universal Declaration wherein the rights are stated, the Convention compels the signatory states to monitor the observance thereof.

In the legislations of states, the wording of such freedoms varies, and we find marginal names given to the Articles in the laws, such as: Freedom of worship, observance or practice of religious rituals or rites; Freedom to change one's religion or to choose religion; The right not to disclose one's religious affiliation or beliefs; The right not to profess a religion or [not] to be an atheist; The right to have or to express religious opinions; The right to form, to join or to be a member of religious organizations; The right of religious organizations to manage their own business without interference; The right not to join or to be a member of a religious organization; The right to establish, to own and to maintain places of worship; The right to propagate or spread a religion; The right to religious education, including the right to educate and raise one's children in one's religion; The right to a chaplain in hospitals, in the military, etc.; The protection of religious rights even in states of emergency or war; Freedom from coercion related to religion, cursing (swearing) and offensive manifestations against deceased people.[7]

At the same time, restrictions to religious freedom are stated, and we mention in this respect the three categories highlighted by the literature: restrictions on religious institutions, restrictions on group rights and restrictions on individual rights[8].

In studies prepared on this subject, it is mentioned that there is a governmental obligation to provide the appropriate framework in which each individual's right can be exercised freely and religious freedoms are protected[9]. Furthermore, we consider that it is not enough for legal rules to be in place, or for the authorities [not] to intervene through various measures aimed at imposing legitimate restrictions, but it is necessary for the central and/or local authorities to become actively involved in the process of securing religious freedoms, by actions that support the practice of religions, in which sense we make reference to the supply of funds for cults, religious associations, religious groups that operate legally on the territory of a state.

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[6] United Nations General Assembly, *Universal Declaration of Human Rights*, Resolution 217 A (III), December 10, 1948, art. 18, https://www.ohchr.org/en/human-rights/universal-declaration/translations/english.

[7] Jonathan Fox, "Religious Freedom in Theory and Practice," *Human Rights Review* 16, no. 1 (2015): 1–22, https://doi.org/10.1007/s12142-014-0323-5.

[8] Fox, "Religious Freedom in Theory and Practice."

[9] Fox, "Religious Freedom in Theory and Practice."

The Islamic religion recognizes fundamental human rights, including the right to religious freedom, as expressed in verses from the Quran that assert the importance of the freedom to choose and to practice religion[10]. At the same time, tolerance and interconfessional relations are promoted and intercultural dialogue is encouraged[11].

The role of religion in public spaces in the United States, with specific reference to the constitutional principle of the free exercise of religion was approached in another study, with an emphasis on the principle of separation between the Church and the State, the government having to remain neutral with regard to religion. This principle "requires neither a secular society, nor the exclusion of religion from the public arena"[12].

Religious freedom also means ensuring equal and non-discriminatory protection based on the criterion of religion. But the configuration of the contemporary conflict whose central element is the penetration of equality rights in the private sphere, by which the right of an individual not to be discriminated against opposes the right of another individual or group to religious freedom, frequently raises critical issues concerning private conscience and the connection between conscience and action.[13]

The principle of equal treatment toward all employees and employers, the prohibition of spiritual violence, of harassment, of discrimination in any form, of violence of any kind, regardless of the manner of manifestation, or the provision of religious education by care of the parents or guardian for children up to the age of fourteen years are guarantees resulting from the law in view of ensuring respect, freedom of conscience, religious freedoms, freedoms of thought and opinions, as well as of religious faiths and cults.

Religious freedom[14] refers to protecting freedom of thought, conscience, and religion for all individuals and recognizes the value of beliefs about fundamental matters of existence. One reason for allowing parents a strong influence in religious matters is that inclusion and socialization within their religion provides children with identity, community and a moral framework[15].

Any behaviour that consists in ordering a person, in writing or verbally, to resort to a form of discrimination, based on the criterion of religion, against one or more persons, is deemed to be discrimination.

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[10] Suud Sarim Karimullah, "Humanity and Justice: Exploring Human Rights in the Context of Islamic Law," *TAJDID* 30, no. 2 (2023): 173, 177, https://doi.org/10.36667/tajdid.v30i2.1497.

[11] Karimullah, "Humanity and Justice," 174.

[12] Caroline Morris, "Freedom of Religion Versus Freedom from Religion: A Case Study on Human Rights Protections and Limitations of Religious Expression in American and French Constitutional and International Law" (senior thesis, Fordham University, 2022), 10, https://research.library.fordham.edu/international_senior/91/.

[13] Jaclyn L. Neo and Brett G. Scharffs, "Introduction: Law and Politics of Freedom of Religion in Comparative Perspective," *University of Western Australia Law Review* 47, no. 1 (2020): 10, https://www8.austlii.edu.au/cgi-bin/viewdoc/au/journals/UWALawRw/2020/1.html.

[14] Zacky Dhaffa Pratama and Marit Skivenes, "Religion and Continuity for Children in Care—An Examination of Public Views in 40 Countries," *Social Sciences* 15, no. 1 (2026): 30, 1 (PDF), https://doi.org/10.3390/socsci15010030.

[15] Pratama and Skivenes, "Religion and Continuity for Children in Care," 2 (PDF).

The European Convention on Human Rights, through the Article 14, prohibits discrimination. Thus, the exercise of the rights and freedoms recognized by the Convention must be ensured without any difference based, in particular, on gender, race, color, language, religion, political opinions or any other opinions, national or social origin, appurtenance to a national minority, wealth, birth or any other situation.

The absolute nature of the right to freedom of thought is reconsidered in the context of emerging neurotechnologies that can interact with, modify, and reveal people's unexpressed thoughts[16]. In the field of criminal justice, where preventive measures or/and the execution of criminal sanctions have an impact on the inner mental sphere of the person being investigated or convicted, their negative psychological effects are those that can diminish the process of legal awareness.

The very purpose of criminal punishment is to reform convicted persons by improving their moral character and freeing their minds to realize the immorality of their behaviour [17].

"Freedom to manifest one's religion or beliefs" is subject to limitations by the abstract content of legal norms, but freedom of thought (unmanifested) is an absolute right.

Over the centuries, freedom of religion has been perceived, experienced and defined differently. Knowing different forms of manifestation, for example, full freedom, tolerance, limitation or restriction of its legal content, its relation to freedom of conscience, and, finally, its total prohibition[18].

Currently, it is stated that it is important to study religious freedoms, the governance of religious diversity and interreligious dialogue by extending disciplinary approaches to open interdisciplinary debates[19], precisely because interreligious dialogue has similar historical trajectories and concerns social actors who share common concerns, the same fundamental values related to society and benchmarks that are intended to be materialized through stability, social peace and religious peace.

Digital transformation, artificial intelligence, and surveillance have altered the experiences in which religious freedoms are embodied. The risks extend beyond the content control through digital platforms to online surveillance. Identifying individuals and placing them in different groups based on religious landmarks or anticipating online behaviour requires the protection of digital rights, at the intersection of overlapping dimensions, such as: legal norms, good technological governance and socio-political environment depending on the socio-political contexts in which advanced technologies are implemented.

Economic growth, the extent of religious freedom, and the degree of integration

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[16] Sjors Ligthart, "Reconsidering the Absolute Nature of the Right to Freedom of Thought," *Human Rights Law Review* 25, no. 3 (2025): ngaf018, 1–2 (PDF), https://doi.org/10.1093/hrlr/ngaf018.

[17] Ligthart, "Reconsidering the Absolute Nature," 6–7 (PDF).

[18] Nicolae V. Dură, "Despre libertatea religioasă și regimul ei juridic. Considerații și evaluări," *Jurnalul juridic național: teorie și practică*, April 2019, 25, https://ibn.idsi.md/sites/default/files/imag_file/25-31_30.pdf.

[19] Matteo Di Placido and Stefania Palmisano, "Religious Freedom, Governance of Religious Diversity, and Interreligious Dialogue: The Case of Turin," *Religions* 16, no. 8 (2025): 952, 1–2 (PDF), https://doi.org/10.3390/rel16080952.

of artificial intelligence shape the economic trajectories of states. At the entity level, artificial intelligence serves primarily as an amplifier and then as a substitute for human functions, which leads to productivity, implicitly promoting economic growth. Religious freedom can stimulate creativity, innovation and adaptive agility[20], and by ensuring religious pluralism, economic vitality can be fostered, interfaith dialogue can be encouraged, and a stable and favorable environment for entity-specific activities can be built, encouraging foreign investments[21] and increasing tolerance towards migration (emigrants-immigrants).

The process of recruiting employees using artificial intelligence could lead to discrimination based on gender, race, personality[22], religion, if algorithmic biases are previously determined by the human factor or/and automatically generated dialogue that may contain algorithmic error. Algorithmic error refers to systematic and replicable errors in computer systems that lead to inequality and discrimination based on legally protected characteristics[23].The relevance and complementarity of three regulatory legal frameworks governing algorithmic systems[24] are analyzed taking into account: the degree of data protection, human rights law and algorithmic accountability. Artificial Intelligence is not only an advanced technology but also a product of cultural and discursive processes[25]. Since algorithms are developed by engineers and programmers, their development reflects the geography, social and cultural practices, social class, race, gender and conscious and unconscious biases of those developers[26]. Studies[27] show that the way we imagine and interact with Artificial Intelligence fundamentally shapes the perception, experience and understanding of a dialogue.

The voice and facial recognition, which is achieved with advanced technologies based on artificial intelligence, is "reshaping religious identity formation, community building and the methods and the impact of the religious communication and mission"[28].

[20] Yugang He, "Artificial Intelligence and Religious Freedom: Divergent Paths Converging on Economic Expansion," *Humanities and Social Sciences Communications* 11 (2024): 138, 8–10 (PDF), https://doi.org/10.1057/s41599-024-02642-0.

[21] He, "Artificial Intelligence and Religious Freedom," 10 (PDF).

[22] Zhisheng Chen, "Ethics and Discrimination in Artificial Intelligence-Enabled Recruitment Practices," *Humanities and Social Sciences Communications* 10 (2023): 567, 1–2 (PDF), https://doi.org/10.1057/s41599-023-02079-x.

[23] Chen, "Ethics and Discrimination," 2 (PDF).

[24] Adamantia Rachovitsa and Niclas Johann, "The Human Rights Implications of the Use of AI in the Digital Welfare State: Lessons Learned from the Dutch SyRI Case," *Human Rights Law Review* 22, no. 2 (2022): ngac010, 1–2 (PDF), https://doi.org/10.1093/hrlr/ngac010.

[25] Adebola Aderemi Olatoye and Adeyinka Tella, "A Scoping Literature Review on Patterns of Artificial Intelligence Use in Information Generation Among Theologians," *Journal of Religious & Theological Information*, published online February 16, 2026, 1–22, https://doi.org/10.1080/10477845.2026.2625633.

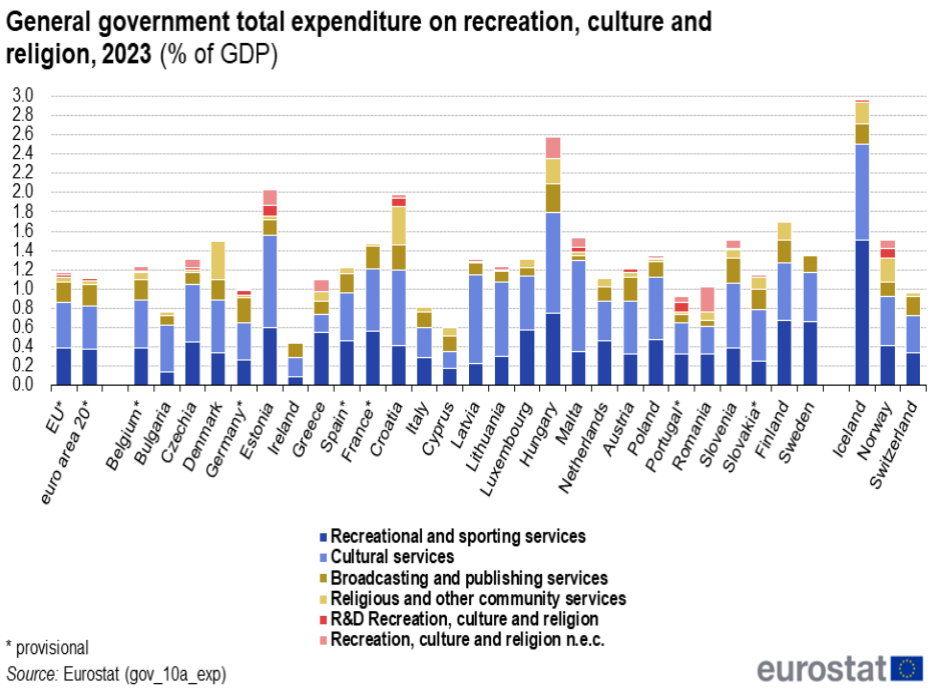
[26] Cameran Ashraf, "Exploring the Impacts of Artificial Intelligence on Freedom of Religion or Belief Online," *The International Journal of Human Rights* 26, no. 5 (2022): 757–91, https://doi.org/10.1080/13642987.2021.1968376.

[27] Boris Rähme and Inken Prohl, "Religious Studies Approaches to the Intersection of Artificial Intelligence and Religion: Formations Analogous to Religion," *Religion* 55, no. 3 (2025): 573–95, https://doi.org/10.1080/0048721X.2025.2506893.

[28] Rähme and Prohl, "Religious Studies Approaches to the Intersection of Artificial Intelligence and Religion."

Other studies[29] state that in order to understand the power of the algorithm or/and associations of algorithms, it is recommended that we relate not only to the impact and consequences of the code from a technical perspective, but it is also necessary to take into account the notions and ideas about algorithms that circulate in the social world, the social aspects that can be correlated, thus "the social power of algorithms depends both on things and words"[30].

At the European Union level, expenditures for "recreation, culture and religion" presented at the level of the year 2023[31], reported to Gross Domestic Product (GDP), highlight the following states: Hungary (2.6% of GDP), Estonia and Croatia (both 2.0% of GDP), followed by Finland (1.7% of GDP) and Denmark, France, Malta and Slovenia (all 1.5% of GDP) as well as Iceland among the European Free Trade Association - EFTA- countries (3.0% of GDP) registered the largest ratios to GDP of government expenditure in the 'recreation, culture and religion' function compared with 1.2% of GDP in the EU and 1.1% of GDP the euro area. Ireland registered the lowest ratio (0.5% of GDP) in 2023 devoted to 'recreation, culture and religion', followed by Cyprus (0.6% of GDP) and Bulgaria and Italy (both 0.8% of GDP).



[29] Radosław Sierocki, "Algorithms and Faith: The Meaning, Power, and Causality of Algorithms in Catholic Online Discourse," *Religions* 15, no. 4 (2024): 431, 2–3 (PDF), https://doi.org/10.3390/rel15040431.

[30] Sierocki, "Algorithms and Faith," 2 (PDF).

[31] Eurostat, "Government Expenditure on Recreation, Culture and Religion," *Statistics Explained*, dataset gov_10a_exp, COFOG 08, accessed October 10, 2026, https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Government_expenditure_on_recreation,_culture_and_religion.

Religious minorities may face discrimination, hate crimes, and economic or educational disadvantages [32] due to pre-existing beliefs in communities that in some regions are rooted in and shaped by historical conflicts, cultural standards, and misinformation, difficult to eliminate, constantly being a threat to human rights that reconfigures and weakens the democratic structure of society.

The ability to enjoy religious freedom depends not only on constitutional protections, but also on dismantling structural inequalities, informal social hierarchies, and gender exclusions that prevent individuals and groups from exercising their rights equally.[33]

The specialized literature highlights the behavior of some managers who pursue spirituality in the workplace as the belief in a supreme power that can guide interpersonal relationships in the workplace, ethically, promoting trust, cooperation and authentic commitment in the workplace[34], also important in the context of labour migration when challenges may arise in the area of labour relations and/or employment relationships.

In Italy, the secularity model is based on four constitutional pillars: religious freedom, the prohibition of discrimination, the non-establishment clause and the principle of bilateralism[35].

2. Safeguarding Religious Freedoms from the Standpoint of the Romanian Legislator

The Romanian Constitution[36], by the Article 29, bearing the marginal name "Freedom of Conscience", enshrines the constitutional principles that secure religious freedoms, religious faiths, the freedom of thought and opinions, as well as religious cults. In paragraph 1, it is provided that: "No one shall be compelled to embrace an opinion or religion contrary to his own convictions".

The constitutional rule is found in a similar form in the Article 2, paragraph (2) of the Law no. 489 of 28th of December 2006 (republished) on religious freedom and

[32] Abdallah Kalaf Al-Raggad, "Administrative Law's Role in Protecting Ethnic and Religious Minorities: Legal Mechanisms, Policy Challenges, and Future Directions," *Central European Journal of Public Policy* 19, no. 2 (2025): 35–36, 39, 45, https://doi.org/10.2478/cejpp-2025-0008.

[33] Jocelyne Cesari, "Rethinking Religious Freedom in a Fragmented and Digitalized World: An Introduction to the Special Issue," *The Review of Faith & International Affairs* 23, no. 4 (2025): 1–5, https://doi.org/10.1080/15570274.2025.2545128.

[34] Sandeep Seth et al., "Integrating Spiritual Values into Corporate Sustainability A Study of Workplace Spirituality and ESG Alignment," *Journal of Marketing & Social Research* 3, no. 1 (2026): 240–50, https://jmsr-online.com/article/download/pdf/522/. Aviv Kidron and Hedva Vinarski Peretz, "The Influence of Organizational Trust and Social Exchange on Organizational Citizenship Behavior: The Mediating Role of Workplace Spirituality," *Journal of Organizational Effectiveness: People and Performance* 13, no. 1 (2026): 129–46, https://doi.org/10.1108/JOEPP-08-2024-0410.

[35] Francesco Alicino, "Managing Religious Diversity in Italy: Law, Policy, and Practice in a Pluralist Era," *Religions* 17, no. 3 (2026): 318, 5 (PDF), https://doi.org/10.3390/rel17030318.

[36] *Constitution of Romania*, art. 29, republished in *Monitorul Oficial al României*, Part I, no. 767, October 31, 2003, https://legislatie.just.ro/Public/DetaliiDocumentAfis/47355.

the general status of cults[37], which also provides that discrimination is prohibited, while also offering legal protection to persons in relation to various situations, instances in which a person may find themselves throughout life. In this respect, we refer to the prohibition of behaviours that might lead to placing a person "in a situation of inferiority as a result of their faith, affiliation or non-affiliation to a group, religious association or a cult or for the exercise, under conditions provided by law, of religious freedom".

In Romania, the Law no. 217/2003 on preventing and fighting against domestic violence[38], Article 4 paragraph 2, provides that: "In no way and under no circumstances, can custom, culture, religion, tradition and honor be considered as justification for any kind of violent acts as defined by this law". It also provides the forms of domestic violence that occur in a family or domestic environment or between spouses or former spouses, as well as between current or former partners, irrespective of whether the aggressor lives or used to live with the victim.

We note the constant concern of the Romanian legislator for relating to moral rules and to supplement the current legislation, so as to create the appropriate legal framework for tending to the moral and spiritual needs of individuals, an example of this being found in the Article 4, letter (g) of the Law no. 217/2003.

The legislator describes the concept of spiritual violence as "underestimating or diminishing the importance of satisfying moral-spiritual needs" with regard to the aspirations of family members. In terms of regulatory methods, this can be done by prohibiting, limiting, ridiculing, penalizing the aspirations of family members, access to religious values, by imposing adherence to unacceptable spiritual and religious beliefs and practices.

In the same direction, in the Romanian legislation we emphasize the Law no. 489/2006, which, in Article 1, states that the Romanian state guarantees the fundamental right to the freedom of thought, conscience and religion.

Also, in the Fundamental Law, Article 29 paragraph 3 of the Romanian Constitution, provides for the principle of the freedom of religious cults, which are free to organize themselves according to their own statutes, under the law".

Religious communities freely choose their associative structure under which they manifest their religious faith, by following the registration process according to the provisions in the special law in the field (Law no. 489/2006). However, the establishment of cult units, according to Article 14, paragraph 3, must be communicated to the State Secretariat for Cults, which keeps records thereof. Legal associative structures under which religious communities can manifest themselves, in accordance with the provisions of the Romanian Constitution and of the special law in the field, are: a cult, a religious association or a religious group.

Under Article 18(4) of the International Covenant on Civil and Political Rights,

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[37] Romania, Law No. 489/2006 (Religious Freedom and the General Status of Religious Denominations), art. 2(2), republished in *Monitorul Oficial al României*, Part I, no. 201, March 21, 2014, https://legislatie.just.ro/Public/DetaliiDocumentAfis/156588.

[38] Romania, Law No. 217/2003 (Preventing and Combating Domestic Violence), art. 4(1)(g) and (2), republished in *Monitorul Oficial al României*, Part I, no. 948, October 15, 2020, https://legislatie.just.ro/Public/DetaliiDocument/44014.

States Parties undertake to respect the liberty of parents and, where applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions. In Romanian legislation, Article 3(1) of Law No. 489/2006 recognises the right of parents or legal guardians to provide religious education to minor children according to their own beliefs. However, pursuant to Article 3(2) of the same law, the religion of a child who has reached the age of 14 may not be changed without the child's consent, while a child who has reached the age of 16 has the right to choose their own religion.

Law No. 489/2006 on Religious Freedom and the General Status of Religious Denominations establishes specific safeguards to protect individuals against discrimination based on religion or religious beliefs. Under Article 5(5), the processing of personal data concerning religious beliefs or affiliation with religious denominations is prohibited, except where such processing is carried out in the context of a national census approved by law or where the data subject has expressly consented to it. Furthermore, Article 5(6) expressly prohibits requiring individuals to disclose their religion in any relationship with public authorities or private legal entities.

Here is another example from the Romanian legislation: the Law no. 254/2013 on the execution of sentences and custodial measures ordered by the judicial bodies during the criminal proceedings[39], which, in the Article 6, prohibits discrimination during the execution of custodial sentences "on account of race, nationality, ethnic origin, language, religion...", and the Law no. 363/2018 on the protection of natural persons with regard to the processing of personal data by the competent authorities for the purposes of preventing, discovering, investigating, prosecuting and combating crimes or the execution of penalties, educational and security measures, as well as on the free movement of such data[40], which enshrines the possibility for personal data that disclose racial or ethnic origin, religious confession or philosophical beliefs to be processed "only if they are strictly necessary on a case-by-case basis", while meeting the essential requirement that appropriate guarantees for the rights and freedoms of the data subject be put in place. According to Article 10 of Law No. 363/2018, the processing of such personal data is permitted only where it is strictly necessary in a specific case, appropriate safeguards for the rights and freedoms of the data subject are established, and at least one of the following alternative conditions is met: (a) the processing is expressly provided for by law; (b) the processing is necessary to prevent an imminent danger to the life, physical integrity or health of the data subject or another natural person; or (c) the processing concerns personal data manifestly made public by the data subject.

The Article 11 paragraph (3) of the Law no. 363/2018 prohibits the creation of profiles resulting in the discrimination of natural persons on account of religion.

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[39] Romania, Law No. 254/2013 (Execution of Sentences and Custodial Measures Ordered by Judicial Authorities in Criminal Proceedings), art. 6, *Monitorul Oficial al României*, Part I, no. 514, August 14, 2013, https://legislatie.just.ro/Public/DetaliiDocument/150699.

[40] Romania, Law No. 363/2018 (Protection of Personal Data Processed by Competent Authorities for Law Enforcement Purposes), arts. 10–11, *Monitorul Oficial al României*, Part I, no. 13, January 7, 2019, https://legislatie.just.ro/Public/DetaliiDocument/209627.

The protection of a living person or the protection of a deceased person in terms of religious freedoms is achieved both through civil law legal rules and through private law legal rules.

The Romanian Civil Code[41] expressly provides for the conduct to be followed so that each person should act in a way that shows respect for a person even after the latter's death. The respect for the memory of a deceased person, as well for their body is guaranteed by the Article 78, prejudice to the memory of a deceased person being prohibited. The civil legal rule does not distinguish the legal status of duties toward a deceased person the memory of a deceased person being protected under the same conditions as the image and reputation of a living person.

As regards respect for the will of the deceased person, civil law provides for the principle of free choice and, taking into account the confessional affiliation of the deceased person (Article 80 of the Romanian Civil Code), a person can decide on the type of funeral they want to have and how they want their body to be disposed of after death. On the basis of the provisions in the Article 81 of the Romanian Civil Code and Article 147 of the Law no. 95/2006 on healthcare reform[42], the harvesting of human organs, tissues and cells from deceased persons is performed with the written consent, expressed during their lifetime, of the deceased person or, in the absence of such consent, with the written consent, given freely, expressly and in advance, in the following order: by the surviving spouse, by the parents, by the descendants or, finally, by the relatives in the collateral line, up to the fourth degree, included. The purpose of harvesting human organs, tissues and cells can be therapeutic or scientific. There is an exception from the rule of consent given by family members, namely, if during their lifetime, the deceased person already expressed their option for donation, through a notarial deed of consent to harvesting and the registration in the National Register of Organ, Tissue and Cell Donors, according to the form template approved by order of the Minister of Health. There is also an absolute prohibition on harvesting if, during their lifetime, the deceased person already expressed their option against donation, through a deed of refusal to donate.

In the Romanian Labour Code[43], in the Article 5, the legislator enshrines the principle of equal treatment for all employees and employers, any direct or indirect discrimination toward an employee according to the criterion of religion being prohibited. In this context, a distinction can be made between harassment and discrimination, with its forms of direct, indirect manifestation or manifestation by association. This last form of discrimination manifests itself in relation to persons who can fall victim thereto, in the sense that, although one does not belong to a category of persons identified according to the criterion of religion, he/she is associated or presumably associated with one or more persons belonging to a category of persons that

[41] Romania, Law No. 287/2009 (Civil Code), arts. 78–81, republished in *Monitorul Oficial al României*, Part I, no. 505, July 15, 2011, https://legislatie.just.ro/Public/DetaliiDocument/130143.

[42] Romania, Law No. 95/2006 (Healthcare Reform), art. 147, republished in *Monitorul Oficial al României*, Part I, no. 652, August 28, 2015, https://legislatie.just.ro/Public/DetaliiDocumentAfis/170974.

[43] Romania, Law No. 53/2003 (Labour Code), art. 5, republished in *Monitorul Oficial al României*, Part I, no. 345, May 18, 2011, https://legislatie.just.ro/Public/DetaliiDocumentAfis/230223.

is set up on the basis of the criterion of religion.

In the Romanian Criminal Code[44], Title VIII, with the marginal name "Offences That Harm Social Relationships", in Chapter III, with the marginal name "Offences against Freedom of Religion and Respect Owed to the Deceased", the legislator includes four criminal offenses, as follows:

- "Prevention of the exercise of religious freedom" is provided for in the Article 381 in three variants: a simple variant in paragraph 1, an aggravated variant in paragraph 2, and an assimilated variant in paragraph 3. The material element of the objective side consists, in the typical variant, in actions and/or inactions that prevent or disturb the free exercise of the rituals of a religious cult. The essential requirement that we retain is that the religious cult should be organized and should operate according to the law.

In the aggravated variant, the material element can be achieved alternatively either through the action of compelling a person, by coercion, to attend religious services, or by compelling a person to fulfill a religious act related to the exercise of a cult.

In the assimilated variant, the material element consists in the exercise of actions and/or inactions that lead to compelling a person to fulfill an act that is prohibited by the cult, provided that such cult is organized according to the law. We retain as a regulatory method the violence or threat applied to achieve coercion, which are absorbed within the content of this criminal offense, with the concurrent nature not being retained if the violence or threat is necessary to achieve the typicality of the offense, in terms of the material element.

- "Desecration of places or objects of worship", provided for in the Article 382 of the Romanian Criminal Code. The material element of the objective side can be achieved by desecration of a place of worship, of an object of worship, with the essential requirement that these belong to a religious cult which is organized and operates under the law. The subjective side consists in the form of guilt which is intent.

The legal object of the following criminal offences consists in the social relations by which the body of a deceased person is protected. Furthermore, we can consider that, by criminalizing facts that affect corpses or graves, the memory of the deceased person is prejudiced, as well as a moral value, namely respect for the deceased person. In this respect, we highlight the following criminal offenses:

- "Desecration of corpses or graves", provided for in the Article 383, which already in its marginal name makes reference to the material object of the offense, which can be a corpse or a grave. The criminal offence has two variants, a simple variant in paragraph 1, and a mitigated variant in the paragraph (2). The material element of the objective side, in its simple variant, can be achieved by actions or actions followed by inactions that make up alternative regulatory methods, such as: the theft, destruction or desecration of a corpse in sentence I, and in sentence II, the destruction or desecration of the ashes resulting from its cremation. The element of the subjective side is intent, criminal participation being possible in any of its forms: co-perpetrator, instigator or accomplice.

[44] Romania, Law No. 286/2009 (Criminal Code), arts. 381–84, *Monitorul Oficial al României*, Part I, no. 510, July 24, 2009, https://legislatie.just.ro/Public/DetaliiDocument/109855.

In the mitigated variant, the material element consists in the desecration of a grave, of a funerary urn or of a funerary monument (tomb). The penalty is imprisonment for no less than 3 months and no more than 2 years, in the mitigated variant, and imprisonment for no less than 6 months and no more than 3 years, in the simple form.

- "Illegal harvesting of tissues and organs", provided for in the Article 384, has as a material element of the objective side the harvesting of tissues or organs from a corpse. The penalty is imprisonment for no less than 6 months and no more than 3 years or a fine.

The Article 282, with the marginal name "Torture", in paragraph (1), letter (d), indicates the reason based on any form of discrimination, implicitly, that which is based on the criterion of religion, as being part of the typical form of the offense, whereby a public servant holding an office that involves the exercise of state authority or another person acting upon instigation causes intense physical or mental suffering to an individual.

Researchers identify as intersectional discrimination situations in which multiple axes of identity (religion, race, ethnicity, gender, class) combine to produce increased vulnerability.[45]

3. Aspects of Comparative Law Regarding the Protection of Religious Values

The German legislator includes four articles that protect religious freedoms and ideologies about the world in the *Criminal Code of the Federal Republic of Germany*, Section XI, with the marginal name "Offenses That Harm Religious Freedom and Ideologies about the World". Thus, we make reference to the following criminal offenses:

- "Defamation of Religions, Religious and Ideological Associations", provided for in paragraph 166, which presents itself in the simple form in subparagraph (1), and the assimilated form in subparagraph (2). As regards the material element of the objective side, we note that it can be achieved through concrete actions that are either carried out in public, or by dissemination of materials, resulting in: in the typical form, in subparagraph (1), the defamation of the content of the religion or ideology of another person, and in the assimilated form, in subparagraph (2), the defamation of a church or religious association or ideological association, or of institutions or practices thereof.

We consider this offense to be a dangerous one, meaning that the actions and/or inactions that make up the concrete deed have the effect of disturbing public order and peace.

We also note that there is an essential requirement in terms of the place of the deed, in cases where the prejudice is caused to churches, associations, institutions, in the sense that they must be on the territory of the Federal Republic of Germany.

The active subject is not circumstantiated, it can be any natural person (individual), and the passive subject is a natural person who practices an ideology, a

[45] Cesari, "Rethinking Religious Freedom in a Fragmented and Digitalized World."

religion or a legal entity with legal personality (church, association, institution).

The penalty is, alternatively, either imprisonment for up to 3 years, or a fine.

- "Disturbance of religious service" is provided for in paragraph 167 in the typical form, in subparagraph 1, with a single content, with alternative methods of commission, either by actions that disturb the religious service or an activity of divine service, or by manifesting an insulting behavior. There are essential requirements in terms of place, meaning that the church or the religious association must be on the territory of the Federal Republic of Germany in the case of the disturbance of religious service or of an activity related to divine service (paragraph 167, item 1) or a place dedicated to religious service, in the case of manifestation of an insulting behavior**.**

We note that in this offense of result the disturbance must be serious and the subjective element of the subjective side must be intent.

As regards the concept of religious service, we retain the assimilated form of the related offense, namely, it also includes the ceremonials of an ideological association, with the requirement that the ideological association should be on the territory of the Federal Republic of Germany.

- "Disturbance of a funeral service" is provided for in paragraph 167a. The actions and/or inactions by which a funeral service is disturbed will be legally classified as a criminal offense in cases where intent is retained as a form of guilt.

- "Desecration of graves", provided for in paragraph 168, presents itself in two variants, a simple one in subparagraph (1), and an assimilated one in subparagraph (2). As regards the material element of the objective side, it can be achieved in the simple variant of subparagraph 1: by removing the body of a deceased person, or by removing a part of the body of the deceased person; by removing a dead fetus or parts of a stillborn child; removing the ashes of a deceased person; manifesting an insulting behaviour toward the body of a deceased person, a stillborn child, the ashes of a deceased person or parts thereof. The assimilated variant in the subparagraph 2, in terms of the material element, has an alternative regulatory content, as it can be achieved either through the destruction or deterioration of an urn, of a burial site or a public site of commemoration of the dead, or by manifesting an insulting behavior in such places.

In case of committing one of the criminal offenses described above, the penalty provided by law is a principal, alternative one, and consists in imprisonment for up to 3 years or a fine.

The *Greek criminal law* framework governing the protection of religious freedom underwent significant changes following the adoption of Law No. 4619/2019, which introduced the new *Greek Criminal Code*, effective from 1 July 2019.

One of the most important developments was the repeal of Articles 198 and 199, which had previously criminalised malicious blasphemy and the denigration of religion. Article 201, concerning insults to the memory of deceased persons, was also repealed. These legislative changes reflect a shift away from the criminal protection of religious beliefs against offensive expression towards the protection of religious freedom and the peaceful exercise of religious practices.

Under the current Greek Criminal Code, Chapter VII, entitled "Offences against Religious Peace", retains Article 200, which criminalises the disturbance of

religious gatherings.

According to Article 200(1), any person who maliciously attempts to prevent or intentionally disrupts a religious gathering held for worship or religious ceremonies, provided that such gathering is tolerated under the constitutional order, may be punished by imprisonment for up to two years.

Article 200(2) provides the same penalty for persons who engage in offensively inappropriate conduct inside a church or another place designated for religious gatherings recognised as permissible under the constitutional order.

From a comparative legal perspective, the Greek legislative approach illustrates a distinction between protecting religious beliefs as such and protecting the effective exercise of religious freedom. Unlike the previous legislation, the current regulatory framework no longer criminalises blasphemy or the mere denigration of religion under the repealed provisions.

Compared with Romanian criminal law, which continues to criminalise conduct preventing the exercise of religious freedom and the desecration of places or objects of worship under Articles 381 and 382 of the Criminal Code, the Greek legislation places particular emphasis on preventing intentional interference with religious gatherings.

Consequently, the legislative reform introduced in 2019 constitutes an important development in balancing freedom of religion with freedom of expression, while maintaining criminal sanctions against conduct that directly interferes with religious worship.

In the *Criminal Code of the Portuguese Republic*, the legislator includes two criminal offenses in Title IV bearing the marginal name "Crimes against Life in Society", Section II with the marginal name "On Crimes against Religious Freedom", namely:

- "Outrage by reason of religious belief" is provided for in the Article 251 in two variants: the simple one in item 1, and the assimilated one in item 2. The material element can be achieved through actions and/or inactions that can be either insulting to or ridiculing a person. The reason is expressly required by the abstract of the legal rule, having to be related to a faith or religious function. The essential requirement is also, in relation to the consequence, that public peace should be disturbed by the perpetrator's behavior.

- "Prevention, disturbance or undermining of religious freedoms" provided for in Article 252 can be achieved as a regulatory method in its typicality under several forms. Thus, in sentence I, letter a), the material element of the objective side consists in actions and/or inactions that convey violence or threat or disturb the legitimate conduct of the religious act. In sentence II, letter b), the legislator protects the act of religious worship and criminalizes the denigration or ridiculing thereof, with the essential requirement that it should be committed in public.

The penalties provided by law are imprisonment for up to one year or a fine of up to 120 days.

We note that, in the same Title, Section III "On Crimes against the Respect Owed to the Deceased", there are two time-dependent offenses by which the activities forming the funeral ceremony or corpses are protected wherever they are, as well as the

place of deposition of the deceased persons: grave, ashes, monument erected in memory of the deceased person.

- "Impeding or disturbing funeral ceremonies", provided for in the Article 253.

The offence in its typical form has an alternative content; thus, the objective side can be achieved through actions and/or inactions of violence, threat, that impede or disturb the funeral procession or through actions and/or inactions of violence, threat, that impede or disturb the and the funeral ceremony.

- "Desecration of corpses or graves", provided for in the Article 254 under several regulatory methods. Thus, we retain as methods those actions that result in the theft, destruction or concealment of a corpse, parts of a corpse or the ashes of a deceased person (paragraph 1, letter a); the desecration of corpse, parts of a corpse or the ashes of a deceased person (paragraph 1, letter b), with the essential requirement that facts be put into practice that are considered as offenses in relation to the respect owed to the deceased; the desecration of the resting place of a deceased person, the monument erected in their memory (paragraph 1, letter c), with the aforementioned essential requirement.

The penalty is imprisonment for up to one year or a fine of up to 120 days in the case of the offense of Impeding or Disturbing Funeral Ceremonies, and imprisonment for up to two years or a fine of up to 240 days in the case of the offense of Desecration of Corpses or Graves.

In the *Criminal Code of the Republic of Italy*, Part II, "On Contraventions regarding Social Administrative Security", in Section I, with the marginal name "On Contraventions regarding the Security of Customs", there is the Article 724 with the marginal name "Cursing and Offensive Manifestations against Deceased People", which punishes a person who has any public offensive manifestation against deceased people or who curses, using invectives or offensive words against the Divinity. We note that the essential requirement in relation to the material element is that these deeds should be committed in public. The penalty is an administrative-monetary one and consists in a fine between 51 euro and 309 euro.

In the *Criminal Code of Latvia*, Chapter XX, with the marginal name "Criminal Offences against General Safety and Public Order", the legislator safeguards multiple values in Section 227, "Endangering Public Safety, Order and Personal Health during Religious Activities", and in Section 228, "Desecration of Graves and Corpses".

In the case of the offence provided by the Section 227, the active subject is the person who organizes or leads a group that carries out specific activities of preaching religious doctrine and performing religious rituals following which the protected values are prejudiced, which are also stipulated in the marginal name of the Section: public order and safety, personal health or personal interests protected by law.

The penalty provided by law is imprisonment for a maximum of two years or, alternatively to a temporary custodial sentence, community service or a fine.

As regards the offence provided for in the Section 228, we note that there are three variants, as follows: in paragraph (1), the typical form, when the material element of the objective side can be achieved either through desecration of graves, funerary urns or corpses, regardless of whether they were buried or not; in paragraph (2), the

aggravated form, we note the active multiple subject, the crime being committed by a group of persons with premeditation, on the basis of a preliminary understanding; and in paragraph (3), the aggravated form, which relates to paragraphs (1) and (2), but other acts are also retained, which are specific to the theft of a: funerary monument, funerary urn, other objects present on a grave or inside a grave, or a funerary urn.

The penalties provided by the law are different, depending on the variant, thus in the simple variant, a custodial sentence of a maximum of one year or a temporary custodial sentence, community service or a fine is provided. In the aggravated variant, the penalty is for a maximum of five years or a temporary custodial sentence, community service or a fine, with or without seizure of property.

4. Oath and Solemn Statement During Criminal Prosecution and Trial

The psychological moment of taking an oath or making a solemn statement fulfills multiple functions in the process of statement formation, in real time, the religious factor intervenes. Its impact on a person who becomes a witness and who simultaneously has moral obligations such as ensuring the fulfillment of moral precepts ("to live an honest life", "to give everyone what is due", "not to harm anyone") and legal obligations, such as telling what one knows about the commission of a deed provided by the criminal law or with regard to which one's opinion as an expert was requested and questions were asked, is significant.

An oath has multiple functions, among which we mention: the axiological function of the oath, meaning that the witness will be requested to refer to circumstances they are aware of, that carry the value of truth, the legal function, in the sense that there could be punishment both for him (the witness) if he does not speak the truth, and for another innocent person or for a person who committed the crime provided by the criminal law, by taking into account his own statements, too, as well as the preventive function, in the sense of being aware of the legal standing under which one is heard, in which context one might become an active subject of the offence of false testimony, all of which shows that the effect of an oath is conditional upon the level of education, level of education, level of training, character traits and social micro-groups frequented by the person in question.

In the Romanian Criminal Procedure Code, in the content of the Article 121, with the marginal name "Witnesses' Oath and Solemn Statement", we emphasize a time in the course of criminal prosecution and trial at which, in addition to verbal communication which will be recorded in writing, the deciphering of non-verbal communication generates a moment with a special emotional charge both for the participant in the criminal trial and for other persons who are interested in a given case, finding themselves on different situational levels in relation to the operational moment.

The Romanian legislator expressly provides in the Article 121, paragraph (3) of the Romanian Criminal Procedure Code, that "the reference to divinity contained in the oath shall be changed depending on the religious faith of witnesses", thus the principle of religious freedom being also enshrined through a rule of criminal procedural law. There is also a mention of exceptions imposed by the religious belief

while taking a religious oath, with regard to the body posture of the witness at the time of taking the religious oath, and the objects used, namely: the cross or the Bible. In this respect, the legislator provides for the rule that the witness should keep his right hand on a cross or on the Bible.

Also, the witness is free to choose and to decide what type of commitment he will make before the rights and freedoms he has according to Article 120, par. (2), letters (a)-(d), which result from his legal standing as a witness, are communicated to him. By analyzing the two legal rules (Article 120 in conjunction with Article 121 of the Romanian Criminal Procedure Code), we note that the specific question uttered by the criminal prosecution body or the president of the panel of judges, on the basis of the Article 121, par. (2), precedes the communication of other rights. Thus, the criminal prosecution body, the judge of rights and freedoms or the president of the panel of judges will ask the witness whether he wishes "to take an oath or to give a solemn statement".

The text of the religious oath is provided for in the Article 121 paragraph (3) of the Romanian Criminal Procedure Code, with the following content: "I swear to tell the truth and not to conceal anything of what I know", and the content of the solemn statement is provided in the same Article, in paragraph (5), with the following content: "I undertake to tell the truth and not to conceal anything of what I know."

The strong verbal message invoking the Divinity and divine reward or the Truth, accompanied, in some cases, by the gesture of keeping one's hand on the cross or the Bible, while being aware that one could become the active subject of the criminal offense of false testimony, provided for by Article 273 of the Romanian Criminal Code, will generate and convey an emotional non-verbal message to the witness and to the people present at the hearing session.

The legislator expressly provides for the situation of the minor child who has not reached the age of 14 years by the hearing date, in which context we retain that the minor does not take an oath, "but shall be cautioned that they need to tell the truth".

We remind the fact that, according to Article 113 paragraph (1) of the Romanian Criminal Code, a minor who has not turned 14 years of age does not have criminal liability, so that the deed of making false statements in a criminal or civil case or a case where witnesses are heard will remain a deed that is provided by criminal law, but will not be considered a criminal offence, given that a cause of non-imputability is applicable, namely the minority of the perpetrator, provided for in the Article 27 of the Romanian Criminal Code.

In the Romanian Civil Procedure Code, we highlight the Article 319, with the marginal name "Taking an Oath". The civil procedure rule is similar to the criminal procedure rule in the following ways: it provides for the same religious oath (paragraph 1) as for the criminal trial, it mentions the same bodily posture (paragraph 2), except for people of a non-Christian religion. Also, the exception regarding the fact that reference to divinity contained in the oath shall be changed depending on the religious faith is provided for in paragraph 3. As for witnesses who, for reasons of conscience or confession, do not take an oath, they shall verbally communicate a solemn statement similar to the one contained in the criminal procedure rule.

We note that in Article 319, paragraph (5) of the Romanian Civil Procedure Code, the legislator includes the situation of the witness without a confession who will take an oath with the following content: *"I swear on my honour and conscience to tell the truth and not to conceal anything of what I know".*

Another situation included by the legislator in the Article 319 paragraph (7) of the Romanian Civil Procedure Code is that of mute and deaf & mute persons who are literate and who shall take the oath by transcribing its formula and signing it, and hearing-impaired persons will utter the oath, and those who are illiterate will take the oath through signs, with the help of an interpreter.

Article 319 paragraph (9) of the Romanian Civil Procedure Code stipulates that even if the witness does take an oath, the president will make it clear to him that, if he does not tell the truth, he is committing the criminal offence of false testimony.

In a civil lawsuit, according to Article 317, paragraph (1), point (1) of the Romanian Civil Procedure Code, cult ministers are exempted from standing as witnesses in court.

According to the Article 320 of the Romanian Civil Procedure Code, in the case of civil procedure rule, children who have not turned 14 years of age can be heard without taking an oath, but the court will caution them that they need to tell the truth and will take their special situation into account, when assessing their deposition.

The strong verbal message invoking the Divinity and divine reward or the Truth or Honour and Conscience, accompanied, in some cases, by the gesture of keeping one's hand on the cross or the Bible, while being aware that one could become the active subject of the criminal offence of false testimony, fulfills the functions of the oath[46]: informative and cognitive (the legal limits of the testimony are indicated), cautionary and preventive (the criminal offense of false testimony is prevented), axiological (he is required to refer to circumstances that are true under the law), legal (he contributes to finding the truth in the case, and implicitly helps corroborating the evidence submitted).

With regards to the Italian criminal trial, before the deposition, the judge informs the witness about the criminal consequences of reticent or of a false deposition, informing him or her about the obligation to tell the truth. Therefore, the witness is then asked to read out aloud a solemn statement which says: "Aware of the moral and legal responsibility that I assume through my testimony, I undertake to tell the whole truth and not to hide anything that is known to me", the rule is provided by the Article 497 paragraph (2) of the Italian Criminal Procedural Code.

Whereas, in the civil trial, the rule is provided by the Article 251 of the Italian Civil Procedural Code "Oath of the witnesses", which states that the judge informs the witness about the religious and moral importance of the oath, and informs him or her about the possible criminal consequences of reticent or of a false testimony.

The solemn statement goes like this: "aware of the responsibility that you assume by taking an oath before God, if you are faithful and before men, you swear to tell the truth, nothing other than the truth". However, this statement is not used anymore and witnesses in the civil trial go by the same statement as used in the criminal trial.

[46] Tudorel Butoi, *Psihologie judiciară: Curs universitar. Abordări teoretice și practice* (Trei, 2012), 107.

The Criminal Code of the Federal Republic of Germany shows the relevance of the oath, as a benchmark for the legal classification of the deed. An example is the offence of "Perjury" provided for in the Section 158, which stipulates that a person who takes a false oath before the court or before another institution authorized to receive an oath from a person, is criminally punishable. Affirmations that replace an oath and invoking a previous oath or previous affirmation are deemed equivalent to an oath. We note the legislator's attention to truth and the provision of cases of special sanctioning, by reduction of the penalty enforced for perjury or by waiving the enforcement of the penalty if the perpetrator corrects his false statements in due time. The correction is belated if the judgment has already been pronounced or if someone else has suffered a prejudice or if a complaint has already been made or an investigation has been initiated against the perpetrator.

Under Article 224 of the current *Greek Criminal Code*, the offence of false testimony is no longer dependent upon the taking of a religious oath. The provision criminalises knowingly making false statements, denying the truth or concealing relevant facts when examined as a witness or party before a court or another competent authority.

This legislative approach reflects the distinction between the legal obligation to provide truthful testimony and the religious or ceremonial significance traditionally associated with oath-taking. Consequently, the criminal liability of witnesses is based on the deliberate violation of their legal duty of truthfulness rather than on the breach of a religious oath.

Lie detection can also be achieved by monitoring two main aspects of non-verbal behaviours, namely: consistency and emphasis. For instance, on the one hand, investigators should pay attention to consistency between verbal and non-verbal language, between statements and events, between events, time and space, and on the other hand, they should notice the emphasis placed on some assertions or gestures through the intensity or tone of voice or through repetition.

5. Practical Aspects Regarding the Violation of Religious Freedoms

The plaintiff[47] who was serving a prison sentence, submitted an application to prove his religious affiliation and to be able to exercise, during his detention, his right to freedom of religion, in particular with regard to the provision of food in accordance with the precepts of his religion.

In the present case, the Saran case against Romania (request no. 65993/16), the Court considered that the application should be examined exclusively from the perspective of Article 9 of the European Convention on Human Rights and unanimously upheld the complaint under the Article 9 of the Convention in so far as it concerned Iasi Penitentiary and held that there had been a violation of the Article 9 of the European Convention on Human Rights in respect of the authorities' refusal to provide the applicant, within Iasi Penitentiary, with food in accordance with the precepts of his

[47] *Saran v. Romania*, application no. 65993/16 (European Court of Human Rights, November 10, 2020), paras. 28–45 and operative provisions 1–3, https://hudoc.echr.coe.int/eng?i=001-205820.

religion.

Another important decision[48] on the matter of respecting religious freedoms refers to the fact that the European Union Court of Justice ruled on the 28th of November 2023 that public authorities in member states have the right to prohibit their employees from wearing religious signs such as the Islamic veil.

The issue reached the judges' table at the Court of Justice of the European Union (CJEU) after a public employee from Ans, a town in eastern Belgium, complained that she was not allowed to wear the Islamic veil or head scarf at work.

The hijab, the traditional head scarf worn around the head and shoulders, has been a divisive issue across Europe, particularly in France, for years.

Local authorities later revised the rules for employees to make it clear that they must maintain strict neutrality regarding religion and not wear religious or political ideology-related insignias.

The woman in question filed a complaint in court, alleging that her right to freedom of religion had been infringed.

The CJEU ruled that a strict neutrality policy, implemented to establish a neutral administrative environment, can be regarded as objectively justified as it pursues a legitimate aim. But the judges noted at the same time that public administrations would also have the right to authorize the wearing of visible signs of belief, as long as the authorities do so in a general and indiscriminate manner.

The CJEU pointed out that the authorities of the Member States enjoy a margin of discretion in drafting policies on the neutrality of public services. The court highlighted, however, that the objectives thus established must be pursued in a consistent and systematic manner and that the measures must be limited to what is strictly necessary.

The CJEU also noted in its decision that it is up to the national courts of the Member States to verify that these requirements are complied with.

6. Conclusions

Human beings have always desired, and always will desire to show their religious beliefs by propagating them and by trying to attract as many followers as possible.

We consider that it is not enough for legal rules to be in place, or for the authorities to intervene through various measures aimed at imposing legitimate restrictions, but it is necessary for the central and/or local authorities to become actively involved in the process of securing religious freedoms, by actions that support the practice of religions, in which sense we refer to some needs:

- the need to provide funds for cults, religious associations, religious groups legally active on the territory of a state;

[48] *OP v. Commune d'Ans*, case C-148/22 (Court of Justice of the European Union, November 28, 2023), ECLI:EU:C:2023:924, paras. 29–41, https://juris.curia.europa.eu/juris/document/document_print.jsf?docid=280183&doclang=EN. See also Reuters, "EU Court Says Public Employees May Be Barred from Wearing Head Scarf," November 28, 2023, https://www.reuters.com/world/europe/eu-court-says-public-employees-may-be-barred-wearing-head-scarf-2023-11-28/.

- the need to allocate broadcasting time and space in the mass media;

- the need to actively support the cults/religious denominations in the process of constructing the buildings necessary for carrying out administrative and religious activities, carrying out funeral ceremonies, laying the deceased to rest, preserving funeral monuments;

- the need to organize interdisciplinary scientific activities with religion as an integrated theme.

Religion is a source of peace, where there is religious peace there is also social order. If there is social order, then there is harmony within oneself and harmony among fellow human beings. Thus, religion will not be a criterion for separation, but by knowing the values promoted by religion, through interdisciplinary communication in the public space of informed opinions, by respecting those without a religious affiliation, religion will go back to being a binding factor among the inhabitants of the Earth.

Bibliography

I. Books and Articles

Alicino, Francesco. "Managing Religious Diversity in Italy: Law, Policy, and Practice in a Pluralist Era." *Religions* 17, no. 3 (2026): 318. https://doi.org/10.3390/rel17030318.

Al-Raggad, Abdallah Kalaf. "Administrative Law's Role in Protecting Ethnic and Religious Minorities: Legal Mechanisms, Policy Challenges, and Future Directions." *Central European Journal of Public Policy* 19, no. 2 (2025): 35–55. https://doi.org/10.2478/cejpp-2025-0008.

Ashraf, Cameran. "Exploring the Impacts of Artificial Intelligence on Freedom of Religion or Belief Online." *The International Journal of Human Rights* 26, no. 5 (2022): 757–91. https://doi.org/10.1080/13642987.2021.1968376.

Butoi, Tudorel. *Psihologie judiciară: Curs universitar. Abordări teoretice și practice*. Trei, 2012.

Cesari, Jocelyne. "Rethinking Religious Freedom in a Fragmented and Digitalized World: An Introduction to the Special Issue." *The Review of Faith & International Affairs* 23, no. 4 (2025): 1–5. https://doi.org/10.1080/15570274.2025.2545128.

Chen, Zhisheng. "Ethics and Discrimination in Artificial Intelligence-Enabled Recruitment Practices." *Humanities and Social Sciences Communications* 10 (2023): 567. https://doi.org/10.1057/s41599-023-02079-x.

Di Placido, Matteo, and Stefania Palmisano. "Religious Freedom, Governance of Religious Diversity, and Interreligious Dialogue: The Case of Turin." *Religions* 16, no. 8 (2025): 952. https://doi.org/10.3390/rel16080952.

Dură, Nicolae V. "Despre libertatea religioasă și regimul ei juridic. Considerații și evaluări." *Jurnalul juridic național: teorie și practică*, April 2019, 25–31. https://ibn.idsi.md/sites/default/files/imag_file/25-31_30.pdf.

Fox, Jonathan. "Religious Freedom in Theory and Practice." *Human Rights Review* 16, no. 1 (2015): 1–22. https://doi.org/10.1007/s12142-014-0323-5.

He, Yugang. "Artificial Intelligence and Religious Freedom: Divergent Paths Converging on

Economic Expansion." *Humanities and Social Sciences Communications* 11 (2024): 138. https://doi.org/10.1057/s41599-024-02642-0.

Kalvari, Lauren. "From Spiritual Abuse to Spiritual Repair: A Trauma-Attentive, Theologically Grounded Pathway for Religious Survivors." *Pastoral Psychology* 75, no. 4 (2026): 597–619. https://doi.org/10.1007/s11089-025-01296-2.

Karimullah, Suud Sarim. "Humanity and Justice: Exploring Human Rights in the Context of Islamic Law." *TAJDID* 30, no. 2 (2023): 166–87. https://doi.org/10.36667/tajdid.v30i2.1497.

Kidron, Aviv, and Hedva Vinarski Peretz. "The Influence of Organizational Trust and Social Exchange on Organizational Citizenship Behavior: The Mediating Role of Workplace Spirituality." *Journal of Organizational Effectiveness: People and Performance* 13, no. 1 (2026): 129–46. https://doi.org/10.1108/JOEPP-08-2024-0410.

Ligthart, Sjors. "Reconsidering the Absolute Nature of the Right to Freedom of Thought." *Human Rights Law Review* 25, no. 3 (2025): ngaf018. https://doi.org/10.1093/hrlr/ngaf018.

Morris, Caroline. "Freedom of Religion Versus Freedom from Religion: A Case Study on Human Rights Protections and Limitations of Religious Expression in American and French Constitutional and International Law." Senior thesis, Fordham University, 2022. https://research.library.fordham.edu/international_senior/91/.

Neo, Jaclyn L., and Brett G. Scharffs. "Introduction: Law and Politics of Freedom of Religion in Comparative Perspective." *University of Western Australia Law Review* 47, no. 1 (2020): 1–14. https://www8.austlii.edu.au/cgi-bin/viewdoc/au/journals/UWALawRw/2020/1.html.

Olatoye, Adebola Aderemi, and Adeyinka Tella. "A Scoping Literature Review on Patterns of Artificial Intelligence Use in Information Generation Among Theologians." *Journal of Religious & Theological Information*. Published online February 16, 2026. https://doi.org/10.1080/10477845.2026.2625633.

Pratama, Zacky Dhaffa, and Marit Skivenes. "Religion and Continuity for Children in Care—An Examination of Public Views in 40 Countries." *Social Sciences* 15, no. 1 (2026): 30. https://doi.org/10.3390/socsci15010030.

Rachovitsa, Adamantia, and Niclas Johann. "The Human Rights Implications of the Use of AI in the Digital Welfare State: Lessons Learned from the Dutch SyRI Case." *Human Rights Law Review* 22, no. 2 (2022): ngac010. https://doi.org/10.1093/hrlr/ngac010.

Rähme, Boris, and Inken Prohl. "Religious Studies Approaches to the Intersection of Artificial Intelligence and Religion: Formations Analogous to Religion." *Religion* 55, no. 3 (2025): 573–95. https://doi.org/10.1080/0048721X.2025.2506893.

Seth, Sandeep, Veena Jadhav, and Bhanu Ranjan. "Integrating Spiritual Values into Corporate Sustainability A Study of Workplace Spirituality and ESG Alignment." *Journal of Marketing & Social Research* 3, no. 1 (2026): 240–50. https://jmsr-online.com/article/download/pdf/522/.

Sierocki, Radosław. "Algorithms and Faith: The Meaning, Power, and Causality of Algorithms in Catholic Online Discourse." *Religions* 15, no. 4 (2024): 431. https://doi.org/10.3390/rel15040431.

II. International Regulations and Documents

European Union. *Charter of Fundamental Rights of the European Union*. *Official Journal of the European Union* C 202 (June 7, 2016): 389–405. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12016P/TXT.

Eurostat. "Government Expenditure on Recreation, Culture and Religion." *Statistics Explained*. Accessed October 10, 2026. https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Government_expenditure_on_recreation,_culture_and_religion.

Council of Europe. *Convention for the Protection of Human Rights and Fundamental Freedoms*. November 4, 1950. https://www.echr.coe.int/documents/d/echr/convention_ENG.

United Nations General Assembly. *International Covenant on Civil and Political Rights*. December 16, 1966. https://www.ohchr.org/sites/default/files/ccpr.pdf.

United Nations General Assembly. *Universal Declaration of Human Rights*. Resolution 217 A (III), December 10, 1948. https://www.ohchr.org/en/human-rights/universal-declaration/translations/english.

III. National Legislation

Germany. *Strafgesetzbuch* [Criminal Code]. Sections 154–58 and 166–68. Accessed October 10, 2026. https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html.

Greece. Law No. 4619/2019. *Ποινικός Κώδικας* [Criminal Code]. *Εφημερίδα της Κυβερνήσεως*, A 95, June 11, 2019. https://www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=053d3a90-ef5a-4d18-a335-aa610111664b.

Italy. *Codice di procedura civile* [Civil Procedure Code]. Royal Decree No. 1443, October 28, 1940, as amended. Article 251. https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:regio.decreto:1940-10-28;1443.

Italy. *Codice di procedura penale* [Criminal Procedure Code]. Presidential Decree No. 447, September 22, 1988, as amended. Article 497. https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.del.presidente.della.repubblica:1988-09-22;447.

Italy. *Codice penale* [Criminal Code]. Royal Decree No. 1398, October 10, 1930, as amended. Article 724. https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:regio.decreto:1930-10-19;1398.

Italy. Corte costituzionale. Judgment No. 149/1995. May 4, 1995. ECLI:IT:COST:1995:149. https://www.cortecostituzionale.it/scheda-pronuncia/1995/149.

Latvia. *The Criminal Law*. June 17, 1998, as amended. Sections 227–28. https://likumi.lv/ta/en/en/id/88966-the-criminal-law.

Portugal. *Código Penal* [Criminal Code]. Decree-Law No. 48/95, March 15, 1995, as amended. Articles 251–54. https://diariodarepublica.pt/dr/legislacao-consolidada/decreto-lei/1995-34437675-70093711.

Romania. *Constitution of Romania*. Republished in *Monitorul Oficial al României*, Part I, no. 767, October 31, 2003. https://legislatie.just.ro/Public/DetaliiDocumentAfis/47355.

Romania. Law No. 134/2010. Civil Procedure Code. Republished in *Monitorul Oficial al României*, Part I, no. 247, April 10, 2015. https://legislatie.just.ro/Public/DetaliiDocument/167140.

Romania. Law No. 135/2010. Criminal Procedure Code. *Monitorul Oficial al României*, Part I,

no. 486, July 15, 2010. https://legislatie.just.ro/Public/DetaliiDocument/120611.

Romania. Law No. 217/2003. Preventing and Combating Domestic Violence. Republished in *Monitorul Oficial al României*, Part I, no. 948, October 15, 2020. https://legislatie.just.ro/Public/DetaliiDocument/44014.

Romania. Law No. 254/2013. Execution of Sentences and Custodial Measures Ordered by Judicial Authorities in Criminal Proceedings. *Monitorul Oficial al României*, Part I, no. 514, August 14, 2013. https://legislatie.just.ro/Public/DetaliiDocument/150699.

Romania. Law No. 286/2009. Criminal Code. *Monitorul Oficial al României*, Part I, no. 510, July 24, 2009. https://legislatie.just.ro/Public/DetaliiDocument/109855.

Romania. Law No. 287/2009. Civil Code. Republished in *Monitorul Oficial al României*, Part I, no. 505, July 15, 2011. https://legislatie.just.ro/Public/DetaliiDocument/130143.

Romania. Law No. 363/2018. Protection of Personal Data Processed by Competent Authorities for Law Enforcement Purposes. *Monitorul Oficial al României*, Part I, no. 13, January 7, 2019. https://legislatie.just.ro/Public/DetaliiDocument/209627.

Romania. Law No. 489/2006. Religious Freedom and the General Status of Religious Denominations. Republished in *Monitorul Oficial al României*, Part I, no. 201, March 21, 2014. https://legislatie.just.ro/Public/DetaliiDocumentAfis/156588.

Romania. Law No. 53/2003. Labour Code. Republished in *Monitorul Oficial al României*, Part I, no. 345, May 18, 2011. https://legislatie.just.ro/Public/DetaliiDocumentAfis/230223.

Romania. Law No. 95/2006. Healthcare Reform. Republished in *Monitorul Oficial al României*, Part I, no. 652, August 28, 2015. https://legislatie.just.ro/Public/ DetaliiDocumentAfis/ 170974.

IV. Case Law

OP v. Commune d'Ans. Case C-148/22. Court of Justice of the European Union, November 28, 2023. ECLI:EU:C:2023:924. https://juris.curia.europa.eu/juris/document/document_print.jsf?docid=280183&doclang=EN.

Reuters. "EU Court Says Public Employees May Be Barred from Wearing Head Scarf." November 28, 2023. https://www.reuters.com/world/europe/eu-court-says-public-employees-may-be-barred-wearing-head-scarf-2023-11-28/.

Saran v. Romania. Application No. 65993/16. European Court of Human Rights, November 10, 2020. https://hudoc.echr.coe.int/eng?i=001-205820.