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Religion in Everyday Decision-Making and the Jurisprudence of the European Court of Human Rights

Religia w codziennych decyzjach życiowych a orzecznictwo Europejskiego Trybunału Praw Człowieka

Abstract: Religious and moral beliefs significantly influence daily decisions, from dietary choices and dress codes to professional conduct and medical decisions. This article examines the European Court of Human Rights' approach to cases where faith-based or morally motivated choices conflict with legal frameworks. It highlights the ECtHR's narrow reading of Article 9 ECHR's term 'practice', which limits protection largely to worship, teaching, and observance. It also explores the Court's treatment of neutral laws that interfere with such choices. Finally, the article calls for a more nuanced and coherent doctrine – one that fully recognizes the complexity of religious expression, including faith-motivated practices that are not strictly religious, and ensures that any restrictions are justified by compelling and proportionate reasons.

Keywords: Article 9 of the European Convention on Human Rights, religious freedom, freedom of conscience, religious identity, neutrality, faith-motivated religious practices, conscientious objection

Streszczenie: Przekonania religijne i moralne wywierają istotny wpływ na codzienne decyzje – od wyborów żywieniowych i sposobu ubierania się po etykę zawodową i decyzje medyczne. Artykuł analizuje podejście Europejskiego Trybunału Praw Człowieka do przypadków, w których

wybory motywowane wiarą lub moralnością stoją w sprzeczności z ramami prawnymi. Podkreśla wąskie rozumienie pojęcia „praktyka” artykułu 9 EKPC, które ogranicza ochronę głównie do kultu, nauczania i obrzędów religijnych. Analizuje również podejście Trybunału do „neutralnych przepisów prawnych” w przypadkach, gdy prowadzą one do ingerencji w takie wybory. Ponadto, artykuł apeluje o bardziej spójną i pogłębioną doktrynę, która w pełni uzna złożoność ekspresji religijnej – także praktyk motywowanych wiarą, ale niekoniecznie ściśle religijnych – oraz zagwarantuje, że ewentualne ograniczenia będą należycie uzasadnione koniecznymi i proporcjonalnymi powodami.

Słowa kluczowe: artykuł 9 Europejskiej Konwencji Praw Człowieka, wolność religijna, wolność sumienia, tożsamość religijna, neutralność, praktyki religijne motywowane wiarą, sprzeciw sumienia.

Introduction

Religious beliefs have been present from immemorial times and have invariably sparked controversy due to their profound impact on human identity, social structures, and individual worldviews. From the earliest recorded civilizations to modern times, religion has been a central aspect of human life not only at the individual level, but also influencing culture, law, morality, and politics.

In fact, cognitivist and evolutionary sciences of religion show that human beings possess a set of common characteristics beyond time, place, and culture that incline them toward religion. Among other specialist, Justin Barrett and Jonathan Lanman have affirmed the thesis of the “naturalness of religion,” by stating that “[r]eligious thought and action are common across human history and cultures (...). Religion springs naturally from the way ordinary human cognitive systems interact with ordinary human social and natural environments.”¹ Also, Paul Bloom, a psychologist and self-declared rationalist atheist, has made a similar claim, arguing that “that there are certain early-emerging cognitive biases that give rise to religious belief. (...) These biases make it natural to believe in Gods and spirits, in an afterlife, and in the divine creation of the

¹ J. L. Barrett and J. Lanman, *The Science of Religious Beliefs*, “Religion” 2008 38, p. 110. Quoted from: T. Shah and J. Friedman (eds.), *Homo Religiosus? Exploring the Roots of Religion and Religious Freedom in Human Experience*, Cambridge University Press, 2018: In this paragraph, I’m following pp. 1-2.

universe”². As psychologist Michael Inzlicht puts it, “religious beliefs are natural products of the way human minds and brains work”³.

It is clear that although religion appears to be natural insofar as religious belief and practice are deeply embedded in the ways people think about and experience the world, the “naturalness” thesis does not imply that believing in or practicing religion is necessary or inevitable for all people, nor that the human brain is hardwired for religion, or that religion is innate. One need only observe the large number of people around the world who profess no religious belief—and the even greater number who do not regularly practice any religion. What the thesis does suggest, by contrast, is that the conscious, sustained rejection of religion and the supernatural, wherever it occurs, may require a level of cultural and intellectual scaffolding that the acceptance of religion does not.⁴ Also sciences such as anthropology⁵, sociology⁶, medicine and psychology⁷ and even economy⁸, have shown that there are certain correlations between

² P. Bloom, *Religion Is Natural*, “Developmental Science” 2007 10, p. 150.

³ M. Inzlicht, A. M. Tullett and M. Good, *The Need to Believe: A Neuroscience Account of Religion as a Motivated Process*, “Religion, Brain & Behavior” 2011 1(33), p. 193.

⁴ J. L. Barrett, *The Relative Unnaturalness of Atheism: On Why Geertz and Markusson Are Both Right and Wrong*, “Religion” 2010 40, p. 169–172; A.W. Geertz, G.I. Markusson, *Religion Is Natural, Atheism Is Not: On Why Everybody Is Both Right and Wrong*, “Religion” 2010 40, p. 152–165; M.A. Vanney, *Wolność religijna a pełnia rozwoju człowieka*, [in:] *Ograniczenia wolności religijnej w przestrzeni publicznej*, ed. M. Bielecki, vol. 2, Akademia Wymiaru Sprawiedliwości, Warszawa 2024, pp. 11–12.

⁵ According to William Alston, a key characteristic of religion is its focus on a transcendent or supernatural realm, while Robert Winzeler notes that no reliable anthropological observation has ever documented a culture that do not make a distinction between the natural and the supernatural. See, W. P. Alston, *Religion* [in:] *The Encyclopedia of Philosophy*, ed. P. Edwards, vol. 7, Macmillan, New York 1967, pp. 141–142; and R. L. Winzeler, *Anthropology and Religion*, Rowman & Littlefield Publishers, Lanham 2012, p. 7.

⁶ As Christopher Ellison has stated “the positive influence of religious certainty on well-being (...) is direct and substantial: individuals with strong religious faith report higher levels of life satisfaction, greater personal happiness, and fewer negative psychosocial consequences of traumatic life events. Further, in models of life satisfaction only, the positive influence of existential certainty is especially pronounced for older persons and persons with low levels of formal education.” See C. Ellison, *Religious Involvement and Subjective Well-Being*, “Journal of Health and Social Behavior” 1991 32(1), pp. 80–99.

⁷ See D. Krok, *Striving for Significance: The Relationships Between Religiousness, Spirituality, and Meaning in Life*, “Implicit Religion” 2015 18(2), p. 233–257; B. Garssen, A. Visser, and G. Pool, *Does Spirituality or Religion Positively Affect Mental Health? Meta-analysis of Longitudinal Studies*, “The International Journal for the Psychology of Religion” 2020 31(1), p. 4–20; L. Oviedo, B. Seryczyńska, M. Jelińska, P. Roszak, J. Torralba, A. M. A. Bruno, *Is the Rosary Still Relevant? Exploring its Impact on Mental Health and Well-Being: A Multinational Study*, “Journal of Religion and Health” 2025 64, pp. 1173–1194; P. Halama, *On the Relationship Between Religiosity and Life Meaningfulness*, “Archiv für Religionspsychologie/Archive for the Psychology of Religion” 2002 24, pp. 218–233.

⁸ Brian Grim and Christos Makridis have measured the impact of freedom of religion or its absence on society, business, and the economy. Among their findings, though social dynamics are complex and causal mechanisms multifaceted, and though religious freedom is not a magical antidote to the world’s problems, its role for the understanding and the cooperation among different cultures and faith contribute to positive socioeconomic outcomes. See, Religious Freedom and Business Foundation <https://religiousfreedomand-business.org/research> (access: 4.04.2025).

religious beliefs and a sense of personal meaning that influences daily-life choices of the believers, and from a social perspective, it can also lead to habits of virtue, such as putting others before ourselves or acting morally even when it is difficult to do so.

On the other hand, the fact that human flourishing encompasses not only the pursuit of material goods and meaningful relationships but also the longing for experiences that point beyond the self—experiences that, in the context of religion, take on significance not only for this life but for the afterlife—is a compelling reason to afford the fullest possible protection to freedom of conscience. The deeply rooted human obligation to seek truth provides one of the strongest justifications for recognizing religious freedom as a moral right, one that stands independently of legal or political norms. Freedom of religion and conscience lies at the heart of what it means to be human: the capacity to act not merely on desire or instinct, but on a reasoned understanding of good and evil, and the moral responsibility that flows from this capacity. To compel an individual to act against their conscience is to violate their moral integrity. In this sense “an infringement on religious freedom is more a violence than an injustice, because it tends to overstrain the link between the person and his belief”⁹.

It is worth to briefly clarify relevant concepts: we refer here not to psychological conscience, but to *moral conscience*—a rational act of judgment whereby one applies general moral principles (synderesis) to particular situations. Properly exercised, conscience is not arbitrary; it seeks the good and recognizes moral obligations, rather than creating them. It allows the individual to critically evaluate social, legal, and religious norms before choosing to follow or reject them. Conscience does not function as blind obedience but as internalized discernment, where the authority of an order lies mainly in its alignment with the good. In the public square, such freedom is foundational for moral responsibility and civic participation. Public authorities ought to respect the “transcendent” dimension of conscience, acknowledging that law alone does not exhaust the demands of justice. As Grégor Puppink affirms “For a State, therefore, to recognise freedom of conscience ‘is to admit that there exists a dimension of man over which it [the State] has no grip, it is to give up being a totalitarian State. (...) When a person keeps

⁹ G. Puppink, *Conscientious Objection and Human Rights. A Systematic Analysis*, Brill, Leiden 2017, p. 63.

his critical thinking, he must then—through his free will—decide upon his attitude towards an order which society purports to impose on him and which his conscience reproves. His moral responsibility is entirely committed by such a choice”¹⁰.

It is also important to distinguish between *convictions* (or *beliefs*) and *conscience*. Convictions are the judgments issued by the conscience. A person is *convinced* at the end of a process of discernment, so to hold a conviction is to be inwardly compelled by the perceived truth of a particular good; it is not a matter of arbitrary opinion, but the recognition of an inner imperative. Thus, the mandates of conscience are convictions regarding what one ought or ought not to do.

However, conscience judges also in the light of acquired knowledge—philosophical, religious, or empirical. Accordingly, we can distinguish between *moral convictions*, which arise from applying reason and factual data, and *religious convictions*, which derive from the application of religious beliefs¹¹.

In any case, the compelling nature of conscience—whether its contents derive from religious or non-religious sources—together with the transcendent significance of religion in the search for ultimate meaning and personal purpose, underscores why both religious and moral convictions warrant the strongest protection, including legal safeguards. In short, if religion is understood as a pursuit of truth about the origin of existence, the meaning of human life, and that which transcends it, then it rightly deserves special personal priority and should not be subject to external interference. Moreover, because such existential inquiries—and the answers they yield—bear profound significance, they necessarily demand expression in concrete ways of life. Whether these responses affirm, question, or deny the existence of God, each entails a mode of living that must be respected by political authority and safeguarded through legal protection.

¹⁰ Ibidem, pp. 7-9.

¹¹ While English often uses *belief* and *conviction* interchangeably, in languages such as French or Spanish, the distinction is more precise: *croyance/creencia* denotes belief as an act of faith, whereas *conviction* reflects a rational and reasoned conclusion. This difference in terminology mirrors a deeper conceptual distinction between faith and reason—between freedom of religion and freedom of conscience. Cf. Ibidem, pp. 9-10.

Religious Freedom and its Legal Protection

The principle that the government must not intentionally burden or suppress religious practice is widely accepted. Such deliberate interference is understood to violate core conceptions of religious liberty and is rightly prohibited by constitutional protections. However, the debate becomes more complex when we consider how this principle applies to specific, often contentious, cases. Questions arise, for instance, about the placement of religious symbols in public spaces¹², the wearing of a burqa in schools¹³, whether a baker may refuse to provide a custom-designed cake that celebrates or expresses an event or message – such as a same-sex marriage or a gender transition – that conflicts with their religious beliefs¹⁴, or whether professionals and civil servants may decline to provide a service when equality-related policies give rise to situations that conflict with their religious or moral convictions¹⁵.

Further complications emerge when religious organizations operate in ways that seem to conflict with generally applicable laws. These situations test the boundaries of society's commitment to religious freedom. Can religious organizations have the right to discriminate based on religious grounds in their employment practices¹⁶ or membership admissions¹⁷? Should courts intervene in disputes over internal governance¹⁸ or the use of worship buildings¹⁹ to protect the interests of dissenting members? An even more nuanced issue arises when religious practice is incidentally burdened by laws that are neutral and generally applicable—not aimed at religion, but nonetheless affecting the faith-driven choices of believers. In such instances, should individuals or institutions be exempted from

¹² See ECtHR *Lautsi v. Italy*, 30814/06, March 18, 2011.

¹³ See ECtHR *Leyla Şahin v. Turkey*, 44774/98, November 10, 2005; ECtHR *Dogru v. France*, 27058/05, December 4, 2008.

¹⁴ See Supreme Court of the United States *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, 584 U.S. ____ (2018), June 3, 2018; Colorado Court of Appeals, *Scardina v. Masterpiece*, 2023 COA 8, 21CA1142, January 26, 2023; Colorado Supreme Court *Masterpiece Cakeshop, Inc. v. Scardina* 2024 CO 67, 23SC116, October 8, 2024.

¹⁵ See ECtHR *Eweida and others v. United Kingdom*, 48420/10, 59842/10, 51671/10 and 36516/10, May 27, 2013.

¹⁶ See ECtHR *Fernández Martínez v. Spain*, 56030/07, June 12, 2014; Inter-American Court of Human Rights, *Pavez v. Chile*, 12.997, April 13, 2022.

¹⁷ See U.S. Court of Appeals for the Eighth Circuit *Intervarsity Christian Fellowship/USA v. University of Iowa*, No. 19-3389, July 16, 2021.

¹⁸ See ECtHR *Sotirov and Others v. Bulgaria*, 13999/05, July 5, 2011.

¹⁹ See ECtHR *Griechische Kirchengemeinde München und Bayern e.V v. Germany*, 52336/99, September 18, 2007.

compliance? For example, must religious adoption agencies adhere to anti-discrimination laws concerning sexual orientation²⁰? Or are employers required to extend spousal benefits to same-sex partners?^{21, 22}

These scenarios underscore the persistent tension between personal religious convictions and the demands of a pluralistic legal order. If religion plays a fundamental role in shaping personal identity, what happens when religious imperatives clash with the authority of the state? And if accommodations are warranted, on what grounds should they be granted, and to what extent? There are even more questions: What is unique about religious freedom compared with other rights? Is it an area that merits a privileged position, or is it sufficient for law and policy to equate religion with other activities that individuals value as having transcendent significance in their lives? Does God hold a unique importance for individuals and society? Do individuals and societies lose something if God remains solely within the realm of conscience or in the personal and familial sphere?

There is little doubt—at least in the Western tradition—that religious freedom has been recognized as a fundamental right because religion “takes pride of place among the various aspects of a good human life due to its architectonic role in structuring and adding a transcendent meaning to all of the other goods that we pursue.”²³ Or, as the ECtHR stated underlining its importance almost 30 years ago, because it is “one of the most vital elements that go to make up the identity of believers and their conception of life (...), but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned.”²⁴

In the context of global human rights, the importance of protecting religious freedom is underscored by its inclusion as a fundamental right in key international and national legal instruments, such as Article 18 of the Universal Declaration of Human Rights (UDHR) of 1948:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or

²⁰ See, Supreme Court of the United States *Fulton et al. v. City of Philadelphia et al.*, 593 U. S. ____ (2021); UK Upper Tribunal *Catholic Care (Diocese of Leeds) v Charity Commission for England and Wales*, Appeal number FTC/52/201, November 3, 2012.

²¹ Supreme Court of Maryland *John Doe v. Catholic Relief Services*, CCB-20-1815, June 2, 2023.

²² Cf. K.A. Brady, *Religious Freedom and the Common Good*, “Loyola University Chicago Law Journal” 2018 50(1), pp. 139-141.

²³ M. Moschella, *Beyond Equal Liberty: Religion as a Distinct Human Good and the Implications for Religious Freedom*, “*Journal of Law and Religion*” 2017 32(1), p. 124.

²⁴ ECtHR *Kokkinakis v. Greece*, 14307/88, May 25, 1993, §31.

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.

This article presents the right to freedom of thought, conscience, and religion as an inherent and inalienable human right, granting individuals the freedom to hold, change, and manifest their beliefs without fear of persecution or discrimination. The protection is not limited to religious believers; it equally applies to those who reject religion or express convictions contrary to it. Moreover, it acknowledges that this freedom is closely linked to other fundamental rights, including freedom of expression and opinion.

The right to religious freedom is also enshrined in other key international human rights instruments. Article 18 of the International Covenant on Civil and Political Rights (ICCPR) of 1966 reaffirms and further elaborates the principles set out in the UDHR:

- 1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.*
- 2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.*
- 3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.*
- 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.*

This article provides comprehensive protection for individual belief, the public and private expression of religion, and parental rights in religious education. It also recognizes the legitimacy of certain limitations—but only in the context of protecting essential public interests or the rights of others. Importantly, freedom of religion, including the right to adopt or change one's beliefs, may never be abrogated, even in times of emergency (per Article 4 ICCPR).

Finally, the 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, adopted by the General Assembly, offers a deeper exploration of these rights. This document is notable for its exclusive focus on religious freedom and for addressing the many complexities surrounding religion in international law. It acknowledges the cultural and communal dimensions of religious identity and highlights the inherent challenges in defining “religion” and “religious freedom” across diverse legal, political, and theological contexts, as evidenced by disagreements among states over fundamental concepts such as the definition of religion, the right to convert, and the appropriate relationship between religion and the state. Yet, despite these challenges, the Declaration marks a significant advancement in the global effort to safeguard freedom of religion and belief.

At the European level, these principles are enshrined in various legal instruments, such as the European Convention on Human Rights and Fundamental Freedoms (ECHR), adopted by the Council of Europe in 1950, which provides in Article 9:

1. *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 worship, teaching, practice and observance.*
2. *Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.*

Similarly, Article 10 of the Charter of Fundamental Rights of the European Union, adopted in 2000, declares:

1. *Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance.*
2. *The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right.*

The Treaty of Lisbon (2007), from its part, 2007, reaffirms the European Union's commitment to international law in Article 6(1), with particular reference to the Charter of Fundamental Rights of the European Union, and thus to the full range of rights concerning human dignity and fundamental freedoms contained therein. Paragraph 2 of the same article declares the EU's accession to the European Convention on Human Rights, thereby confirming its obligation to uphold all provisions of the Convention, including the right to freedom of religion.

The existence of legal instruments such as the ECHR and the Charter of Fundamental provides a solid foundation for the protection of religious freedom. However, the effective enforcement of these rights ultimately depends on judicial bodies. In Europe, this responsibility culminates in the role of the ECtHR, the final arbiter interpreting and applying the guarantees stipulated in the Convention, whose decisions are the only decisions under the Council of Europe system that have binding force on member states.

Nonetheless, the Court's substantive engagement with Article 9 has been relatively recent. Prior to 1993, the ECtHR had not directly engaged with the substantive issues related to the right to freedom of religion or belief. Applications invoking Article 9 of the Convention were typically declared inadmissible by the European Commission of Human Rights. A turning point came with the *Kokkinakis* case, marking the beginning of the Court's engagement with religious freedom claims under Article 9 or, in some instances, through other provisions such as Article 8 (right to private and family life) or Article 10 (freedom of expression), while explicitly acknowledging the religious dimension. Since then, a growing body of decisions has emerged. While this jurisprudence has not yet developed into a fully coherent doctrine, it nevertheless reveals identifiable trends in the Court's evolving approach to religious freedom under the Convention.

Religiously-motivated “Practices”

Among the various trends observed in the context of religious freedom, an arguably ironic one emerges regarding the relative protection afforded to different dimensions of this right. While the ECHR emphasizes religious freedom primarily as an individual right, with collective

rights considered derivative, the case law of the ECtHR has at times, afforded less protection to the strictly individual dimension compared to the corporate or collective one.

As points out Martínez-Torrón, a possible explanation for this disparity lies in the interpretation of the term *practice* within Article 9(1). Arguably, the most compelling interpretation of *practice* in this context is that it guarantees individuals the right to act in accordance with the dictates of their conscience and to live their religion in every area of their life. This broader understanding is necessary, as interpreting it solely as referring to the performance of rituals or the observation of religious obligations would render its inclusion alongside *worship* and *observance* largely redundant and difficult to justify logically.²⁵ Moreover, interpreting *practice* in this manner emphasizes its direct relevance to the interplay between legal norms and individual conscience in daily decision-making, “it implies the fact that religious or ethical beliefs often tend to be manifested in a diversity of personal actions that are perceived by the individual as a moral obligation and cannot be reduced to teaching or compliance with certain rites or acts of worship.”²⁶

As previously noted, religious freedom may be limited only in exceptional circumstances, and solely when all the conditions outlined in Article 9(2) of the European Convention on Human Rights are met. However, ambiguity in the interpretation of these limitation clauses—coupled with the ECtHR’s inconsistent jurisprudence—renders the practical application of this principle problematic. In this context, two primary concerns arise. The first is related to the aforementioned restrictive interpretation of *practice* under Article 9(1). The second refers to the application of ostensibly *neutral laws*: legal measures which, although not explicitly

²⁵ It should be noted also that the now-defunct European Commission of Human Rights interpreted Article 9 as not protecting “every act motivated or influenced by religion or belief” (*Arrowsmith v. United Kingdom*, 7050/75, December 5, 1978), but rather “aspects of the practice of a religion or belief in a generally recognised form, such as acts of worship and devotion.” Cf. J. Martínez-Torrón, *Manifestations of Religion or Belief in the Case Law of the European Court of Human Rights*, [in:] *The European Court of Human Rights and the Freedom of Religion or Belief: The 25 Years since Kokkinakis*, eds. Temperman, J., Gunn, T.J., Evans, M., Brill Leiden 2019, p. 77; J. Martínez-Torrón and R. Navarro-Valls, *The Protection of Religious Freedom in the System of the Council of Europe* [in:] *Facilitating Freedom of Religion or Belief: A Deskbook* ed. T. Lindholm, W.C. Durham, B.G. Tahzib-Lie, Leiden 2004, p. 228; J. Martínez-Torrón, *The (Un)protection of Individual Religious Identity in the Strasbourg Case Law*, “Oxford Journal of Law and Religion” 2012 1(2), p. 369. Regarding the interpretation of the EComHR on the matter, see *Kontinnen v. Finland*, 3 December 1996, 24949/94 (Dec. Adm.); *C. v. United Kingdom*, 10358/83, December 15, 1983; *Kalaç v. Turkey*, 27 February 1996, European Commission of Human Rights, No. 20704/92, para. 34; ECtHR *Pichon and Sajous v. France*, 49853/99, October 2, 2000.

²⁶ J. Martínez-Torrón, *Manifestations of Religion...*, p. 77.

designed to restrict religious freedom, may nonetheless significantly interfere with choices grounded in religious or moral convictions.

The ECtHR's approach to the concept of *practice* appears to overlook the broader construction of this right, as articulated in Paragraph 4 of the General Comment No. 22 of the United Nations Human Rights Committee regarding Article 18 of the 1966 ICCPR, which clearly emphasized that the right to religious freedom "encompasses a broad range of acts" and that "the observance and practice of religion or belief may include not only ceremonial acts but also such customs as the observance of dietary regulations, the wearing of distinctive clothing or head coverings, participation in rituals associated with certain stages of life, and the use of a particular language customarily spoken by a group."²⁷ This interpretation provides a more comprehensive framework for understanding religious practice to include other forms of conduct rooted in conscience and belief.

To fully grasp the ECtHR's approach to religious freedom, it is essential to highlight the longstanding distinction drawn by the Court and the now-defunct European Commission of Human Rights between the *forum internum*—the internal domain of belief, which is absolute and inviolable—and the *forum externum*, the outward manifestation of religion, which may be subject to limitations under Article 9(2) of the Convention. However, the Court has not consistently upheld this distinction. Notably, in *Pichon and Sajous v. France*, the ECtHR stated that Article 9 "does not always guarantee the right to behave in public in a manner governed by that [internal] belief" and that "the word 'practice' used in Article 9(1) does not denote each and every act or form of behavior motivated or inspired by a religion or a belief." This narrow interpretation, which implies that courts need not consider the burden imposed on the individual as long as the State pursues a legitimate aim, is problematic from the perspective of rights protection. Religious freedom, stripped of the ability to act according to one's beliefs, risks becoming an empty concept.

It is within this framework that the ECtHR has drawn a problematic and rigid distinction between the *manifestation* of religion and religious *motivation*. This differentiation proves particularly challenging, as it excludes from protection certain secular acts that, while not religious

²⁷ General Comment on Art. 18 ICCPR, *supra* note 116, para. 4. It should be noted that the enumeration is not exhaustive but merely enumerative.

in form, are nevertheless intimately connected to the identity of the believer, such as dietary choices, dress codes, educational decisions, or professional and business practices. For instance, consider the case of a business owner who, based on religious convictions, deems it inappropriate for the health insurance provided by his furniture company to cover gender reassignment procedures. Or the case of a history teacher who refuses to comply with a curriculum that omits any reference to Europe's Christian heritage. In both scenarios, the activities in question are not conventionally "religious." However, in both cases, the individuals' religious beliefs compel them, through the dictates of conscience, to perform their professional duties in a particular manner.

In sum, the fact that religious and moral convictions frequently manifest themselves through practices which, although outwardly secular, are deeply rooted in religious conscience and belief, underscores the problematic nature of the distinction drawn by the ECtHR between acts that constitute a *manifestation* of belief and those that are religiously *motivated*. This distinction ultimately implies that the ECHR does not necessarily guarantee the right to engage in specific external conduct aligned with one's religious beliefs.

The second, yet closely related, issue concerns the interaction of neutral laws that affects religiously-motivated individual decisions with Article 9.²⁸ As Martínez-Torrón observes, the Court has often interpreted situations in which the application of such laws results in an infringement of religious freedom in a manner that bypasses the test set forth in Article 9(2)—namely, the limitation clauses. Specifically, in cases where religious actions have an impact in the public sphere, and, in particular, when there is a situation of conflict with other legal provisions not aimed directly at imposing limitations on religious practices, the Court has occasionally concluded that Article 9(1) is not engaged, thereby allowing the measure to prevail without further scrutiny under the Convention. Furthermore, in other cases, the Court has upheld restrictions on religious expression by appealing to the principle of public neutrality—often conceptualized as *laïcité*—understood as the exclusion of any outward manifestation of religious belief. However, certain rulings have lacked a thorough examination of whether the restrictions meet the requirement of being

²⁸ In fact, there's no such thing as ethically neutral laws, as all legal norms has an ethical foundation, be it explicit or implicit, more or less direct.

“necessary in a democratic society,” as stipulated in Article 9(2).²⁹ Such an interpretative approach may create an imbalance between individuals with religious convictions and those who do not share such beliefs, particularly in public spaces, which are often structured around secular or non-religious assumptions that may not adequately reflect the expectations of those seeking to live in accordance with religious beliefs.

In light of both concerns—namely, the reductionist interpretation of the term *practice* and the recurrent circumvention of the limitation clauses in the name of the principle of neutrality—it becomes evident that disregarding the protection of believers’ religious identity when their actions are not religious *per se* but are nonetheless motivated or inspired by their religious convictions results in a restriction of their rights that falls outside the scope of the Convention’s limitation clauses, and therefore lacks the necessary legal justification. To illustrate this point, consider a real-life example: In October 2023, the city of Essen in Germany imposed a fine on taxi driver Jalil Mashali for alleged “religious advertising,” which was prohibited under a local ordinance governing taxi vehicles. The fine was imposed due to a small sticker on the rear window of his vehicle, bearing the biblical quotation: “Jesus – I am the Way. The Truth. And Life.” Mr. Mashali argued that, given the content, placement, and modest size of the sticker, it could not reasonably be classified as advertising but rather as a personal expression of his deeply held religious beliefs.³⁰ He refused to remove the sticker and appealed the fine, resulting in legal costs, censorship, and the potential loss of his taxi license. Although the fine was ultimately withdrawn, the incident placed a significant burden on an individual who sought merely to express his beliefs peacefully in the course of his professional life.

A similar situation in the professional context is found in the already mentioned case of *Pichon v. France*, where the ECtHR refused to protect the religious freedom of a pharmacist who sought to be exempt from a national law requiring the dispensing of abortion-inducing drugs. The Court declared the application inadmissible, stating that “the applicants cannot give precedence to their religious beliefs and impose them on others (...) since they can manifest those beliefs in many ways outside the professional sphere.” By doing so, the Court effectively prioritized

²⁹ Cf. J. Martínez-Torrón, and R. Navarro-Valls, R, op cit, p. 235.

³⁰ Alliance Defending Freedom, “German taxi driver fined over tiny rear window Bible quote sticker” Press Release, February 21, 2024.

a simple right over a fundamental freedom, giving precedence to public policy considerations over the individual's religious convictions.

Indeed, many contemporary conflicts arise in the workplace. Physicians, nurses, and other medical professionals who object to performing or assisting in abortion procedures often face coercion, career-ending sanctions, or even prosecution for attempting to fulfill their duties in accordance with their religious or conscience-based convictions. Similarly, in the cases of *Grimmark v. Sweden* and *Steen v. Sweden*, both declared inadmissible by the ECtHR on 11 February 2020, two Swedish midwives were effectively barred from working in women's clinics due to their deeply held religious beliefs concerning the sanctity of human life. While the Court acknowledged that "there had thus been an interference under [...] Article [9]," it ultimately justified the interference, reasoning that "all midwives should be able to perform all duties inherent in a midwife's post, including abortions."³¹ In this instance, the applicants' sincerely held beliefs were deemed irrelevant to the exercise of their professional duties, leaving them with little more than "the freedom to resign from unsatisfactory employment (or to reject a job opportunity)."³² As Martínez-Torrón aptly observes, "substantially, the message is the following: citizens must accept the moral principles underlying permissive abortion legislation, even at the cost of renouncing an essential part of their religious or ethical identity, for otherwise they are excluded from certain professions within the healthcare sector"³³—a line of reasoning that, moreover, could be extrapolated to other spheres of life.

As I have argued elsewhere³⁴, it is, *inter alia*, the intersection of a restrictive interpretation of the term practice and the circumvention of the limitation clauses under the guise of the principle of neutrality

³¹ ECtHR *Grimmark v. Sweden*, 43726/17 and *Steen v Sweden*, 62309/17, February 11, 2020. The ECtHR argument goes against the not-binding for the States or the Court, (but still an important document of political value) Resolution 1763 (2010) of the Parliamentary Assembly of the Council of Europe, which declares that "[n]o person, hospital or institution shall be coerced, held liable or discriminated against in any manner because of a refusal to perform, accommodate, assist or submit to an abortion, the performance of a human miscarriage, or euthanasia or any act which could cause the death of a human foetus or embryo, for any reason."

³² W. Brzozowski, *The Midwife's Tale: Conscientious Objection to Abortion after Grimmark and Steen*, "Oxford Journal of Law and Religion" 2021 10(2), p. 313.

³³ J. Martínez-Torrón, *Objeción de conciencia al aborto: un paso atrás en la jurisprudencia de Estrasburgo*, "Revista General de Derecho Canónico y Derecho Eclesiástico del Estado" 2020 53, p. 10.

³⁴ "Faktyczne ograniczenia wolności religijnej: kiedy prawo pozytywne zawodzi", [in:] *Ograniczenia wolności religijnej w przestrzeni publicznej*, ed. M. Bielecki, vol. 1, Centrum Badań Polityki Europejskiej, Warszawa 2023, pp. 109-153.

that gives rise to *de facto* limitations that places a significant burden on individuals who seek to act in accordance with the dictates of their conscience—actions they consider integral to their religious convictions. These limitations frequently go unreported, as they are exceedingly difficult to substantiate in a court of law.

Now, does every act inspired or motivated by a religious belief fall within the scope of Article 9? The answer is clearly negative but still requires careful delineation. The central challenge lies in identifying the appropriate standard: should protection under Article 9 depend on what a religion formally mandates, encourages, or inspires? Should it hinge on what is central to the religion itself, or rather on what the individual believer, in conscience, deems necessary or desirable?

The ECtHR has consistently held that, “although the concept of ‘religion or belief’ within the meaning of Article 9 must be interpreted broadly, that does not mean that all opinions or convictions are to be regarded as such”³⁵. In this regard, since *Campbell and Cosans v. the United Kingdom*, the Court has specified that beliefs—whether religious or otherwise—must attain “a certain level of cogency, seriousness, cohesion and importance” in order to fall under the protection of the Convention.³⁶ However, neither the test based on these four criteria, nor the ambiguous phrase “a certain level,” provides a clear or consistent standard. These criteria have been only marginally developed in subsequent case law, leaving their exact scope uncertain and, at times, vague. The Court’s appropriate commitment to the principle of State neutrality regarding the assessment of “the legitimacy of religious beliefs or the ways in which those beliefs are expressed”³⁷ does not help to resolve this indeterminacy. What is required, however, is that a sufficiently close and direct nexus exist between the act in question and the underlying belief, which must be determined based on the facts of each case³⁸.

Now, once a belief meets the criteria of cogency, seriousness, cohesion, and importance, and a close nexus with the act in question is established, it becomes important to explore how the depth of the applicant’s

³⁵ ECtHR *Pretty v. the United Kingdom*, 2346/02, § 82, April 29, 2002.

³⁶ ECtHR *Campbell and Cosans v. The United Kingdom* 7511/76 and 7743/76, 25 February 1982 § 36; *S.A.S. v. France* [GC], 2014, § 55; *Ancient Baltic religious association “Romuva” v. Lithuania*, 2021, § 117 and 139-140.

³⁷ “In particular, applicants claiming that an act falls within their freedom to manifest their religion or beliefs are not required to establish that they acted in fulfilment of a duty mandated by the religion in question.” *Eweida and Others v. the United Kingdom* § 81.

³⁸ *Ibidem* § 82; *S.A.S. v. France* [GC] § 55.

conviction should be assessed. Should this inquiry focus solely on determining whether the restriction substantially interferes with principles that form the individual's personal identity—that is, whether it affects commitments based on deep convictions that “cannot be sacrificed without feelings of remorse, shame, or guilt”³⁹? Or can additional, more objective aspects also be considered?

In the following section, I will argue that, from a legal and political-philosophical perspective (which naturally falls outside the direct scope of the ECtHR), religion can be distinguished from other spheres of life in that it is perceived by its adherents as oriented toward an ultimate end, as grounding a conception of reality, and as a path to union with the divine. Accordingly, it involves not only deeply held personal commitments but also objective elements that warrant consideration.

In this regard, and drawing on the framework proposed by political theorist Gabrielle Girgis, I contend that it is necessary to discern which activities are essential to religious life—not solely from the individual's subjective perspective, nor exclusively from the standpoint of the religious tradition itself, but rather through an interpretation of the relevant practices within the tradition as they are sincerely embraced and cultivated by the believer.⁴⁰ This approach seeks to overcome the limitations inherent in relying on either a purely subjective or a purely objective criterion.

Religious and Moral Beliefs in Daily Life

When examining the protection of religious and moral beliefs as they manifest in various daily-life decisions and practices, a crucial question arises: Does a particular restriction on a religiously motivated practice interfere with the believer's ability to cultivate an intimate relationship with the Absolute in a way they consider essential? The goal is to determine whether such interference imposes a burden so significant that it obstructs the individual's pursuit of what they perceive as the ultimate meaning or foundation of life.

³⁹ C. Laborde, *Liberalism's Religion*, Harvard University Press 2017, p. 204.

⁴⁰ G. Girgis, *A Theory of Religion's Special Protection in American Law dissertation*, Dissertation for the Degree of Doctor of Philosophy, recommended for acceptance by the Department of Politics, Princeton University (unpublished).

To illustrate this point, Girgis offers a helpful comparison with other life commitments, though secular in nature.⁴¹ Consider, for instance, someone with a deep emotional commitment to a baseball team, or someone whose passion for birdwatching is perceived as a life-fulfilling pursuit.⁴² If access to the stadium or a protected birdwatching site is denied, does this constitute a burden comparable to that of a believer who, for example, perceives attending Sunday Mass as vital but cannot do so due to work obligations? According to Girgis, if the decisive factor were simply the strength of the subjective commitment, then perhaps all such cases would merit equal protection. However, religious freedom claims involve more than personal attachment or identity. As discussed earlier, what sets religion apart from other commitments is its connection to the ultimate foundation of existence and, for many, to a transcendent or divine reality. Religion is not merely one preference among many; it is the framework through which the believer interprets the world and orients their life.

Returning to the analogy, in both religious and secular examples, the key question is not whether a comparable substitute exists (another team, another birdwatching location, or another day of rest), but whether there is an alternative that fulfills the same objective function as the religious practice in question—namely, union with the divine or the realization of the believer's ultimate good as they sincerely understood it within their faith tradition⁴³.

We must then take one step further to assess whether a particular restriction imposes a *substantial burden*—a threshold requirement in U.S. jurisprudence below which religious liberty claims are not legally cognizable. Once this threshold is met, the burden shifts to the government to prove that the restriction serves a *compelling state interest* and

⁴¹ While these analogies are limited when contrasted with the ultimate-answering nature of religion, they help illuminate the interplay between subjective convictions and objective values.

⁴² G. Gabrielle, *op. cit.*, p. 153.

⁴³ *Ibidem*, p. 154. In this sense, there are reasons to also include secular commitments that are substantively close to a religious value, as well as secular commitments to a moral absolute (such as the wrongness of killing). In fact, moral absolutes often involve views about reality's higher or ultimate meaning, even if those views aren't theistic.

is the least restrictive means of achieving that interest⁴⁴. A comparable standard exists in the jurisprudence of the ECtHR, which assesses whether an interference is “necessary in a democratic society,” a requirement that the Court interprets as a “pressing social need” that is proportionate to the legitimate aim pursued⁴⁵.

Several legal tests have been proposed to measure the weight of the burden on religious practice. The *centrality test* evaluates how essential a given practice is to a person’s faith tradition, though it is often unclear how this should be determined⁴⁶. The *compulsion* or *sanction* tests, which limit protection to practices either mandated by or subject to punishment if not observed according to the believer’s religious doctrine, are also inadequate. They exclude many meaningful practices that, while not obligatory, hold significant value for individuals and are central to their religious or moral identity⁴⁷. Instead, I propose a standard that better captures the full range of religious experience: the *choice necessity* test. Under this approach, a substantial burden arises not merely from infringing on required or central practices, but whenever a restriction places significant pressure on the believer to choose between adhering to their faith and accessing a good of great personal or social value—such

⁴⁴ As rightly notes W. Cole Durham, an important practical consideration is whether a compelling state interest can be achieved through narrowly tailored means that avoid unnecessary interference with the religious right at stake. Accurately defining that interest is crucial, since an overly rigid characterization may exclude viable alternatives, whereas a more reasonable framing may allow for accommodation. This requirement is often expressed through standards such as the “least restrictive alternative” or the Canadian principle of “minimal impairment” of rights. See, W. C. Durham jr., *Religious Freedom in a Worldwide Setting: Comparative Reflections*, [in:] *Universal Rights in a World of Diversity. The Case of Religious Freedom*, eds. M. A. Glendon, H. F. Zacher, Pontifical Academy of Social Sciences, Vatican City 2012, p. 377.

⁴⁵ See, e.g., *Kokkinakis v. Greece*, 14307/88, May 25, 1993; *Wingrove v. United Kingdom*, 17419/90, November 25, 1996, § 53; *Manoussakis and Others v. Greece*, 18748/91, September 26, 1996, § 43-53; *Serif v. Greece*, 38178/97, December 14, 1999, § 49; *Metropolitan Church of Bessarabia v. Moldova*, 45701/99, December 13, 2001, § 119. Furthermore, in assessing proportionality, the Court emphasized in *Metropolitan Church of Bessarabia* that such an analysis must be conducted in light of the fact that “freedom of thought, conscience and religion” is one of the foundations of a “democratic society.” Similarly, the United Nations Human Rights Committee has stated that restrictions on religious freedom “must not impair the very essence of the right in question.” See *Decision: Republic of Korea* [2007] UNHRC 5; CCPR/C/88/D/1321/1322/2004, January 23, 2007.

⁴⁶ I agree with DeGirolami that, although “[t]here can be no evaluation of the substantiality of a burden without some understanding of the place...or comparative importance of the exercise at issue within a religious system,” the substantial burden analysis requires deferral to the claimant as to whether the burdened exercise is more central or more peripheral (and accordingly of greater or lesser importance) within the claimant’s “system of religious belief.” In any event, the “centrality test” turns out to be unclear in its application. See M. DeGirolami, *Substantial Burdens Imply Central Beliefs*, “University of Illinois Law Review Online” 2016, p. 21.

⁴⁷ For various interpretations of the substantial burden requirement from an American perspective, see S. C. Seeger, *Restoring Rights to Rites: The Religious Motivation Test and the Religious Freedom Restoration Act*, “Michigan Law Review” 1997 95(5).

as keeping their job, conducting business according to their values, or educating their children in a manner aligned with their beliefs⁴⁸.

Returning to the earlier analogy: while a birdwatcher or sports fan might find alternative ways to fulfill the deeper intrinsic good they seek (e.g., by choosing another location or team), “the religious person cannot simply substitute living out a different religious obligation for the one she is failing to carry out, or start meeting the obligations of a different faith than the one she professes. She can’t sub in fasting for prayer, or a Sunday Sabbath for a Saturday one, or Islam for Buddhism”⁴⁹. This general characteristic of religion explains why any situation that hinders or penalizes the fulfillment of religious obligations must be subjected to particularly rigorous scrutiny⁵⁰.

Moreover, if the ultimate value of religion lies in the believer’s union with the transcendent foundation of reality, then many actions taken by religious individuals aim to preserve or deepen that union.⁵¹ Since this transcendent principle serves as the foundation of their identity and conduct, believers often regard everyday decisions—such as those involving work, marriage, or child-rearing—as expressions of their religious commitment. Accordingly, religious practices are not confined to traditional acts like prayer or worship; rather, they encompass the broader realization of religious freedom, as faith motivates, informs, and structures the believer’s entire life.⁵²

This does not imply, however, that every action undertaken in the name of religion warrants legal protection. Nevertheless, a wide range of faith-motivated actions—such as how one raises their children, runs a business, or structures a charitable organization—may indeed merit protection. These actions may neither be *compulsory* nor *central* from a doctrinal perspective, nor subject to *sanction* if omitted. However, because they are intimately connected to the pursuit of harmony with the transcendent or union with God, the adequate legal protection of religious freedom must take this into account. In other words, these are decisions that span a wide range of meaningful and essential human activities—activities that would be experienced differently were they not

⁴⁸ K. Brady, *The Distinctiveness of Religion in American Law*, Cambridge University Press 2015, pp. 231-232.

⁴⁹ G. Girgis, op. cit., p. 176.

⁵⁰ Girgis here follows R. Anderson and S. Girgis’ arguments, from J.T. Corvino, R.T. Anderson, S. Girgis, *Debating Religious Liberty and Discrimination* New York: Oxford University Press, 2017, pp. 135-136.

⁵¹ M. Moschella, *Beyond Equal Liberty...*, p. 123, 132.

⁵² C. Tollefsen, *Conscience, Religion and the State*, *American Journal of Jurisprudence* 2009 54(1), p. 99.

shaped by religious belief⁵³. Consequently, any form of coercion that compels a person to restrict or abandon religion's foundational role—its inherent tendency to shape the believer's entire life—in these crucial areas deprives them of a vital dimension of their religious experience. Such individuals are forced to *choose* between pursuing religiously motivated activities or goods of deep personal significance and complying with the law.

The main challenge lies in defining the boundaries of the sphere of protected religious conduct—a task that must be guided by both an objective element, namely the religious tradition itself, and a subjective one: the believer's sincere understanding of it. For instance, a Christian who prefers to attend Mass at noon may find this practice personally meaningful, but interference with such a preference—especially in the face of a “pressing social need”—would likely not warrant legal protection, since Christian doctrine does not require Mass to be attended at a specific hour. By contrast, if a person feels called to form a family or to establish and operate a school, business, or other institution in accordance with religious principles, then restricting such a practice may indeed impose a substantial burden—one that forces the individual to *choose* between fulfilling a personal religious calling and complying with a legal obligation.

In conclusion, while both attending Mass at a particular hour and running an institution according to faith-based values reflect discretionary choices, only the latter—under the scenario described—may constitute a profound expression of religious identity. Restrictions on such expressions therefore demand a correspondingly stronger justification. Ultimately, it is the nature of religion itself—and crucially, according to the specific religious tradition itself as sincerely understood by the believer—that offers the most reliable guide to identifying which practices are most vulnerable to interference. This includes not only *obligatory* or *central* acts, but also *principled choices* shaped and sustained by a religious commitment.

⁵³ Cf. G. Girgis, *op. cit.*, p. 178.

Summary

After briefly analyzing the significance of religion from an interdisciplinary perspective – and the reasons why major human rights instruments protect it – the analysis has shown that the ECtHR appears hesitant to fully safeguard the right to freedom of religion under Article 9 in cases where individuals face restrictions on the expression of religiosity through life choices inspired by deeply held religious convictions. However, if religion is understood as playing an architectural role in shaping key dimensions of a person's life, it becomes essential to interpret the notion of *practice* under Article 9 broadly – as is indeed required for all human rights. To this end, it would be desirable for the Court to demonstrate greater openness in declaring admissible applications from believers who contend that they are suffering substantial burdens due to restrictions on their freedom to engage in faith-motivated activities that are significant to them. At present, it seems that, in line with the secularizing tendencies of the age, the Court shows limited interest in developing a clear and generous jurisprudence that affirms a wide understanding of religion and provides meaningful access to individuals seeking justice for perceived violations of their rights at the national level.

In this regard, it would be advisable for the ECtHR to reconsider its approach to cases in which legislation pursuing legitimate secular aims imposes legal obligations that interfere with the moral duties guiding the lives of believers—obligations that force individuals to choose between violating the law and violating their conscience. While the Court has yet to develop a clear and consistent doctrine to address the tension between neutral legislation and individual freedom of conscience, traces of a reasoning that downplays religious convictions in comparison to secular goals can be found in several of its judgments.

One could argue that this is precisely the kind of situation that the institution of conscientious objection is designed to address. However, this mechanism is often framed as a discretionary privilege generously granted by the state—one that may be just as easily withdrawn. Such an approach, however, misrepresents the essence of conscientious objection, which primarily exists not to protect the objector as such, but to uphold the social and legal value of safeguarding religious freedom as

a fundamental right. It is true that in *Bayatyan v. Armenia*⁵⁴ and *Eweida v. the United Kingdom*, the Court adopted a more balanced stance, acknowledging the conflict between legal obligations and individual conscience. Nonetheless, it remains uncertain whether these rulings mark the beginning of a consistent and robust shift in the Court's jurisprudence.

Furthermore, the Court still lacks a coherent and comprehensive doctrine on freedom of thought, conscience, and religion. It frequently relies on uncritical and unnuanced citations of general principles, reiterated from one judgment to another, without clarifying their practical implications in specific contexts. This tendency to invoke lofty declarations without developing concrete and operational standards impedes the evolution of a stable and predictable body of law—one capable of guiding national authorities and providing clarity to applicants. Moreover, the Court's inclination to circumvent Article 9 when cases can be addressed under other provisions of the Convention reveals a persistent reluctance to confront the deeper and often more complex dimensions of religious freedom. While such a cautious approach may be understandable in light of the political sensitivities surrounding religion, it ultimately undermines the effective legal protection of a fundamental right.

The pursuit of genuine religious freedom in an increasingly diverse and secularized Europe remains an ongoing and unfinished project. As a key arbiter in this field, the ECtHR continues to face the challenge of refining its jurisprudence toward a more nuanced and holistic approach—one that fully acknowledges the complex and multifaceted nature of religious expression, and ensures that any limitations on its free exercise are subjected to the most rigorous scrutiny and justified only by compelling and proportionate reasons. Only then can legal frameworks genuinely reflect the centrality of religious freedom in a just, tolerant and equitable society.

⁵⁴ ECtHR *Bayatyan v. Armenia*, App. 23459/03, July 7, 2011.

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