

7-2020

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#### Recommended Citation

Slavov, Atanas (2020) "From Traditional to Official Religion: The Legal Status of the Bulgarian Orthodox Church after 2019," *Occasional Papers on Religion in Eastern Europe*: Vol. 40 : Iss. 5 , Article 3.

Available at: <https://digitalcommons.georgefox.edu/ree/vol40/iss5/3>

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# FROM TRADITIONAL TO OFFICIAL RELIGION: THE LEGAL STATUS OF THE BULGARIAN ORTHODOX CHURCH AFTER 2019

By Atanas Slavov

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## Abstract

The Bulgarian Orthodox Church-Bulgarian Patriarchate is conventionally associated with the Bulgarian national identity, statehood, and culture. Recognizing its contribution for their preservation, the state has ensured certain privileges to the Church, including regulation of its legal status. During the Bulgarian monarchy (1878-1944) and under the 1879 Tarnovo Constitution, Eastern Orthodoxy had been recognized as the official religion of the state (Art. 37), and religion was present in the public schools, the army, and the public sphere in general. After the fall of the totalitarian communist regime, in the new democratic 1991 Constitution, Eastern Orthodoxy was recognized as the *traditional religion* in the state, without explicitly providing specific privileges. In the last decades, however, the public role and influence of the Church has been increasing. Starting with the government of Simeon Saxe-Coburg-Gotha (2001-2005) and the adoption of new 2002 Denominations Act, and continuing during the terms of Borisov's three governments (2009-2020), church-state relations have developed to the point that the state takes increasing responsibility for the well-being of the Church (from ensuring public funding for reconstruction and maintenance of churches to paying salaries of clergy). This new approach to church-state relations will be analyzed, thus raising questions whether it remains within the initial constitutional frame or tacitly shapes and gradually recognizes a new *official religion* status of the Church vis-à-vis the state and society.

**Key words:** traditional religion, church-state relations, official religion status, Bulgarian Patriarchate, 1991 Constitution, 2002 Denominations Act

## 1. Bulgarian Orthodox Church during Democratization (1990s): Political Context and Public Presence

The specific public law status of the Bulgarian Orthodox Church (BOC) and Eastern Orthodoxy as *traditional religion* was negotiated in the first years of democratization. It was first legally formulated with the adoption of the democratic 1991 Constitution. This status reflected the historical role of the BOC for preserving and cultivating Bulgarian national identity and culture. The practical dimensions of this status, however, were shaped by the overall social and political context, and the complex interplay between different political, religious, governmental, and social actors.

The public presence of the BOC in the first years after 1989 suffered from several constraints: first, the heavy legacy of collaboration of the high-ranked clergy with the regime between 1945 and 1990, especially with international socialist initiatives (i.e., the international peace movement of the socialist countries). This collaboration was initially present in nationalist propaganda during the infamous “Revival Process”<sup>1</sup> against the Bulgarian Muslim minority. Secondly, the involvement of members of the Holy Synod in the communist secret services had in turn weakened their legitimacy among believers.<sup>2</sup> Thirdly, the internal tensions within the Holy Synod and the division among its members leading to the creation of an alternative church governance (the Alternative Synod) of metropolitans (from 1992 to 1998 with some consequences lasting until 2004).<sup>3</sup> All these conditions have contributed to the problematic public image of the church in the first years of democratic transition.

<sup>1</sup> This process („Възродителен процес“ in Bulgarian) planned and implemented in the last decade of the communist regime, included official state-mandated oppressive measures as forceful renaming of Bulgarian Muslims (giving them Bulgarian names), jailing of opponents, mass shooting against protesters, compulsory eviction from property, forced expulsion to Turkey, etc.: <https://www.bbc.co.uk/programmes/p0509h7n> (released 24 April 2017). Михаил Груев, Алексей Кальонски, „Възродителният процес“. Мюсюлманските общности и комунистическият режим: политики, реакции, и последици (София: ИИБМ, СИЕЛА, 2008) [Michail Gruev, Aleksei Kalionski, “The Revival Process”. *Muslim Communities and the Communist Regime: Policies, Reactions, and Consequences* (Sofia: ISRP, CIELA, 2008)]

<sup>2</sup> Момчил Методиев, Между вярата и компромиса. Българската православна църква и комунистическата държава 1944-1989 [Momchil Metodiev, *Between Faith and Compromise. The Orthodox Church and the Communist State in Bulgaria 1944-1989*] (Sofia: CIELA, 2010).

<sup>3</sup> James Lindsay Hopkins, *The Bulgarian Orthodox Church: A Socio-Historical Analysis of the Evolving Relationship between Church, Nation, and State in Bulgaria* (Boulder, CO: East European Monographs, 2008), Ch.7.; Spas Raikin, “The Schism in the BOC, 1992-1997”, in: J. D. Bell (ed.) *Bulgaria in Transition* (Boulder, CO: 1998).

In the first decade after the democratic breakthrough in the early 1990s, the public presence of the Church was significantly affected by the ongoing internal division between the Holy Synod chaired by the Patriarch and the Alternative Synod. These divisions were fueled by the deep running political division between former communists and new democrats; the former established good relations and support for the Patriarch, and metropolitans sided with him, while the latter endorsed the alternative group.<sup>4</sup>

Significant steps towards reunification of the two groups have been made during the pan-Orthodox Church Council convened in Sofia between 30th of September and 1st of October in 1998, chaired by the Ecumenical Patriarch. The council was attended by six patriarchs (of Alexandria, Antioch, Russia, Serbia, Romania, and Bulgaria), as well as by representatives of the other autocephalous Orthodox countries. Its session concluded with the publicly announced return of the majority of the clergy of the Alternative Synod in communion with the recognized Bulgarian Patriarchate.<sup>5</sup>

The governmental and political involvement in the internal church issues led to litigation cases before the European Court of Human Rights (ECtHR). Members of the Alternative Synod claimed violation of their freedom of religion under Art. 9 of the European Convention on Human Rights, citing forceful eviction from their churches in 2004 and the imposed restraints in exercising their religious practices. The Court ruled against the country, reasoning that the Bulgarian authorities overstepped the boundaries of non-involvement in denominational disputes. Furthermore, the existing legislation does not fully protect the free exercise of religion in accordance with the principles and standards of Art. 9 of the European Convention. Thus, in its 2009 judgement, the Court decided that the country has to compensate a group of Orthodox Christians, led by Metropolitan Inokentiy of the “Alternative Synod”.<sup>6</sup>

<sup>4</sup> Janice Broun, “The Schism in the Bulgarian Orthodox Church, Part 3: Under the Second Union of Democratic Forces Government, 1997-2001” (2002) 30 *Religion, State & Society* 4, 365-394

<sup>5</sup> Ibid.

<sup>6</sup> For legally significant interpretation of facts, see the ECtHR judgment: *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others v. Bulgaria*, no. 412/03; 35677/04, Judgment of 22 January 2009-§§ 14-49; §§ 159, 160.

‘The Court finds that while the leadership dispute in the Bulgarian Orthodox Church was a source of legitimate concern for the State authorities, their intervention was disproportionate. In particular, the pertinent provisions of the 2002 Act, which did not meet the Convention standard of quality of the law, and their implementation through sweeping measures forcing the community to unite under the leadership favoured by the Government went beyond any legitimate aim and interfered with the organizational autonomy of the Church and the applicants’ rights under Article 9 of the Convention in a manner which cannot be accepted as lawful and necessary in a democratic society, despite the wide margin of appreciation left to the national authorities.’

Contrary to the prevailing public expectation in the early 1990s that the Church would vocally support the process of democratic political change, with the exception of some high clergy and some parish priests, the Holy Synod remained rather silent on political issues. One of the reasons for this lack of public engagement is the role played by the members of the Synod during the last decades of the communist regime. During an official process of disclosure of secret files of agents and informants of the former communist State Security service, it was discovered that the majority of the metropolitans and bishops were co-opted by the regime at an early stage of their ecclesiastic careers, and they were elected for high church offices with the aid of secret services. In 2012, the independent commission dealing with disclosures of the files announced that more than two-thirds of the members of the Synod had been recruited as secret service agents (11 out of 15 metropolitans). Consequently, their public legitimacy had been eroded and the polls measured a significant decrease of the public trust in the church (from above 55% to around 40%). Nonetheless, after the election and enthronement of the new Bulgarian Patriarch Neophyte in February 2013 and simultaneous replacement of some older metropolitans with younger bishops (non-related to the communist regime), the public trust in the church increased to above 60% in 2013 and remained relatively high in the consecutive years (oscillating around 50%).<sup>7</sup>

In providing an objective evaluation of the public presence of the church, it should be taken into account that for the last two decades, the Bulgarian society has remained extremely secularized, lacking the basic knowledge of the Christian faith, symbols, and rituals. There should be no doubt that the high percentage of people (almost 60 % of the population of 7 million) declaring themselves Orthodox Christians can be attributed to the traditional overlapping between national identity and religious affiliation, as accepted by the majority of the population.<sup>8</sup>

## **2. Eastern Orthodoxy as “Traditional religion”: The Bulgarian Situation in Context**

After the first democratic elections in June 1990, some members of the Holy Synod and the lower clergy were elected representatives in the constituent assembly (Grand National

<sup>7</sup> National Center for the Study of Public Opinion, March 2013 Survey: <http://dveri.bg/xu8u3> (accessed 10.05.2020). *Trust in the Church survey 2019* (published 21.08.2019): <https://www.gallup-international.bg/en/42495/30-years-after/> (accessed 10.05.2020)

<sup>8</sup> According to the last national census in 2011 the statistics reads as follows: 4 374 135 out of 7 364 570 citizens declared their religion as Eastern Orthodox Christianity. However, the percentage of people which regularly attend religious services and actively participate in the religious life of their community is much lower (around 10 %): <http://censusresults.nsi.bg/Census/Reports/2/2/R10.aspx> (viewed 12.05.2020).

Assembly). Their participation in the constitutional debates was recognizable, attempting to obtain certain rights and privileges for the BOC. The constitutional formula that was introduced in the new democratic constitution defined the role of the Eastern Orthodoxy in the society as *traditional religion*: “Eastern Orthodox Christianity shall be considered the traditional religion in the Republic of Bulgaria” (Art.13, 3). With this provision, it is only acknowledged that Eastern Orthodoxy is the religion of the majority of the population and it has existed for a long period of time. This constitutional provision does not secure any specific privileged position for the church, though the practices that have emerged and the subsequent legislation have moved in this direction. In line with the prevailing liberal and democratic character of the 1991 Constitution, it provides for church-state separation (Art. 13, 2), as well as guarantees the freedom of religion and its free exercise (Art. 37). A specified provision bans the use of religious institutions, communities, and beliefs for political ends (Art. 13, 4), thus limiting the possibility for religiously motivated political extremism.<sup>9</sup>

It should be pointed out that the term ‘traditional religion’ conceptually differs from “official or state religion” in that it does not confer or protect any specific privileges, especially if compared to other traditional Orthodox jurisdictions, such as Greece, Cyprus, or Romania.

### *Greece*

In Greece the official state status of the Church of Greece is constitutionally entrenched in the Article 3 of the 1975 Constitution, stipulating as follows:

The prevailing religion in Greece is that of the Eastern Orthodox Church of Christ. The Orthodox Church of Greece, acknowledging our Lord Jesus Christ as its head, is inseparably united in doctrine with the Great Church of Christ in Constantinople and with every other Church of Christ of the same doctrine, observing unwaveringly, as they do, the holy apostolic and synodal canons and sacred traditions. It is autocephalous and is administered by the Holy Synod of serving Bishops and the Permanent Holy Synod...

The preamble of the Constitution consists of a direct invocation of the Holy Trinity in the Orthodox dogmatic formula: ‘in the name of the holy, consubstantial and indivisible Trinity.’

Moreover, it is noteworthy that the section of church-state relations is placed at the second position in the Greek Constitution, after the section on the form of government; the

<sup>9</sup> Ina Merdjanova, *Religion, Nationalism, and Civil Society in Eastern Europe. The Postcommunist Palimpsest* (Lewiston, NY: The Edwin Mellen Press, 2002), pp. 12-13.

Church also enjoys a specific constitutional recognition of its function as a protector of the text of the Holy Scriptures: ‘The text of the Holy Scripture shall be maintained unaltered. Official translation of the text into any other form of language, without prior sanction by the Autocephalous Church of Greece and the Great Church of Christ in Constantinople, is prohibited.’ To the special privileges accorded to the Greek Church are the participation of high clergy during official ceremonies of solemn oaths taken by the president, PMs and ministers invoking the name of the Holy and Consubstantial and Indivisible Trinity (Art. 33, par. 2; Art. 59).<sup>10</sup> The constitutional protection of the Church is further ensured: there is a prohibition of proselytism, which in fact limits the scope of religious activity of non-Orthodox denominations, despite the constitutional guarantee of the freedom of religion in Article 13. Even in the sphere of public education, there is a constitutional obligation for the state to be committed to nurturing the national and religious conscience of the Greek people (Art. 16, 2), hence to recognize and support the role of the Church and Orthodox Christianity in society. This general constitutional provision is used as a legal foundation of the daily prayers at schools.<sup>11</sup>

The strong connections between the state and the church are further revealed in the public sphere: many national holidays coincide with the most celebrated religious feasts; the state continues to pay the salaries of the Orthodox clergy, which enjoy the *de facto* status of civil servants;<sup>12</sup> metropolitans are appointed by the president on the proposal of the Holy Synod of the Church of Greece. This mode of church-state relations is often defined by scholars of religion and politics as *sunallelia* (“being together”).<sup>13</sup>

Beyond its protected constitutional status, in the Greek Church two tendencies often collide: the one is focused on nationalism and nation-state while it opposes globalization and modernity; the other emphasizes the universality of the Christian faith and the church’s mission, addressing positively the process of democratization and globalization.<sup>14</sup>

<sup>10</sup> Respecting the freedom of religion and conscience, there is an opportunity for non-religious ceremony.

<sup>11</sup> Evangelos Karagiannis, “Secularism in Context: The Relations between the Greek State and the Church of Greece in Crisis” (2009) *Arch. europ. sociol.*, L, 1, pp. 133–167, 146.

<sup>12</sup> Though there were considerations and plans in the opposite direction during the final year of Alexis Tsipras government, however, in 2019 the New Democracy government agreed to continue the established practice: *Greek conservatives scrap plans to take clergy off state payroll*, Reuters, July 16, 2019: <https://www.reuters.com/article/us-greece-church/greek-conservatives-scrap-plans-to-take-clergy-off-state-payroll-idUSKCN1UB1IW> (visited 12.05.2020).

<sup>13</sup> Basilius J. Groen, “Nationalism and Reconciliation: Orthodoxy in the Balkans” (1998) 26 *Religion, State & Society* 2, pp. 116–118.

<sup>14</sup> Victor Roudometoff, “Greek Orthodoxy, Territoriality, and Globality: Religious Responses and Institutional Disputes” (2008) 68 *Sociology of Religion* 1, pp. 67–91, 71–72.

## *Romania*

In the 1991 Constitution of Romania, alongside the provisions on the freedom of religion, the autonomy of religious denominations from the state is safeguarded. The right of religious institutions to receive support from the state for its public presence and social mission is also guaranteed (“including the facilitation of religious assistance in the army, in hospitals, prison, homes and orphanages”—Art. 29, 5).<sup>15</sup> It is noteworthy that the religious denomination which mostly benefited from this constitutional provision is the Romanian Orthodox Church as the predominant religion in the country. The public presence of religion is also visible in the official state ceremonies—for instance, in the presidential inauguration ceremony, of taking constitutional oath by the president during inauguration ends with the solemn formula of invocation of God (“So help me God!” - Art. 82, 2).

This constitutional regulation, based on the principles of autonomy and cooperation between the state and religious communities, has been affirmed after a heated debate on the role of the Romanian Orthodox Church. The church’s claims had emphasized its traditional role as a national church with significant contributions to the formation of the Romanian nation. Though not all groups in the society agreed with such exclusivist claims, the church had attempted to influence the legislation in its own favor.

In December 2006, the new Law on Religious Freedom was adopted, securing to some extent the privileged position of the Romanian Church. The law specified the state’s recognition of the “important role of the Romanian Orthodox Church” as well as the role of “other churches and denominations as recognized by the national history” of the country.<sup>16</sup> Provisions in the law limit religious proselytizing. They are deemed highly restrictive by religious minorities (some Evangelical Christian denominations) and independent international observers. Questions in regard to other restrictive and discriminatory clauses of the law have been raised, though they have remained not properly addressed by Romanian institutions. Some of the controversial provisions include restrictive requirements for religious associations on eligibility for state support; for instance, religious institutions are ineligible to be considered for the preferential status of religious denomination until they have reached their twelfth year of practice in the country. Additionally, the state required

<sup>15</sup> Merdjanova, *Religion, Nationalism, and Civil Society in Eastern Europe*, pp.15-26.

<sup>16</sup> *International Religious Freedom Report 2018 Romania*, US Department of State, Bureau of Democracy, Human Rights, and Labor: <https://www.state.gov/reports/2018-report-on-international-religious-freedom/romania/> (visited 12.05.2020)



their membership to represent and maintain a membership minimum of 0.1% of the population. Other restrictions include limits on certain forms of the freedom of expression and free speech, which are considered violating established religious symbols (Art. 13 of the Law).<sup>17</sup>

The US Department of State in its annual report on religious freedom assesses the current situation in Romania with respect to the legal framework and existing practices. It was emphasized that registered religious denominations (the preferential status is limited to only 18 religious organizations) are eligible for state financial and other support. They have the right to teach religion classes in public schools, receive government funds to build places of worship, partially pay clergy salaries with state funds, broadcast religious programming on radio and television, and apply for broadcasting licenses for their own stations. Under the law, the amount of state funding a denomination receives is determined by the number of adherents reported in the most recent census, as well as by “the religious denomination’s actual needs.” Furthermore, legal provisions allow local authorities to provide additional support and funding for religious denominations. Local authorities may legally fund places of worship and theological schools belonging to religious denominations, including providing funding for staff salaries and building maintenance, renovation, and conservation or construction of places of worship. Sharp differentiation between the privileged status of the predominant Orthodox Church and religious minorities--especially those not recognized as denominations, but simply as religious associations or other civil associations engaged in religious activities--raises justified criticisms of existing discriminatory practices with respect to their treatment on behalf of the public authorities.<sup>18</sup>

The Romanian Orthodox Church continues to play an important role in the public sphere. On numerous occasions, the Church has successfully influenced the legislation (e.g. in the field of religious education in the public schools); it has addressed the public opinion on important issues of bio-ethics (on abortion and euthanasia) and public morals (against legalization of homosexuality); politicians regularly seek support for their public campaigns by the church leadership and promise to defend their agenda in the decision-making process.<sup>19</sup>

<sup>17</sup> Cristian Romocea, *Church and State: Religious Nationalism and State Identification in Post-Communist Romania* (London: Continuum International Publishing Group, 2011), pp. 33-34.

<sup>18</sup> [International Religious Freedom Report 2018 Romania](#)

<sup>19</sup> Lavinia Stan, Lucian Turcescu, *Church, State and Democracy in Expanding Europe* (New York: OUP, 2011), pp. 148-149.

Such privileged treatment for the predominant religion could not be found in the constitutional status of Eastern Orthodoxy as “traditional religion” in Bulgaria. In the constitutional provision (Art. 13, 2) the Bulgarian Orthodox Church *per se* is not even mentioned. Hence, it would be improper to claim there is an *establishment clause* on constitutional level that provides special protection of the Church. The impression, however, changes when one turns to the legislation and the dominant practice.

The current law on religious organizations (Denominations Act) was adopted in 2002 in attempt to modernize the existing legal framework on religious entities and to provide legislative protection of the Bulgarian Patriarchate weakened by internal division and the rise of a movement (Alternative Synod) which for some time enjoyed governmental support (1997-2001). The government of Simeon Saxe-Coburg-Gotha (2001-2005)<sup>20</sup> developed very good relations with the Patriarchate and took steps to strengthen the position of the officially and canonically recognized Holy Synod, vis-à-vis the remnants of the Alternative Synod. Thus, the new law has established a privileged role of the Bulgarian Patriarchate including special *ex lege* recognition of its legal personality (there is no need to register as a religious institution with the court register as is required for other denominations).

The preamble of the 2002 law is also indicative of the general principles and objectives of the subsequent normative regulations. First, the freedom of religion and equality before the law is proclaimed for all persons, regardless of their religious convictions. Second, the “traditional role” of the Bulgarian Orthodox Church in the history of the country and in the development of its culture and spirituality is emphasized. Third, the preamble states that legislators pay due respect to Christianity, Islam, Judaism, and other religions, while supporting mutual understanding, tolerance, and respect among them.

At this point it is important to note that there is a deliberate twist in the legislative formula, which maintains constitutional protection of Eastern Orthodoxy as ‘traditional religion.’ This is legislatively interpreted and implemented as ‘traditional role’ of the Bulgarian Orthodox Church, which—in the specific provisions—is clearly defined as the Bulgarian Patriarchate, thus outlawing other pretenders like the Alternative Synod and other rival groups.

<sup>20</sup>Simeon Saxe-Coburg-Gotha is the former Bulgarian monarch who ruled with Regency (1943-1946) after the unexpected death of his father, Tzar Boris III in August 1943. Simeon returned in Bulgaria after decades of exile and won the parliamentary elections in 2001, and was elected prime-minister by the Bulgarian parliament.

Furthermore, several provisions of the new law restate the principles laid down in the constitution. Freedom of religion, along with the principle of separation between religious institutions and the state and the prohibition of any form of discrimination on the ground of religion are stipulated (Art. 1 to Art. 4 of the law).

The role of the Eastern Orthodoxy for the state and society is further defined (Art. 10) along with its traditional character. It is stated that Orthodoxy has “a historical role for the Bulgarian state and actual meaning for its state life.” Moreover, the law stipulates that Eastern Orthodoxy is represented by the self-ruling (autocephalous) Bulgarian Orthodox Church-Bulgarian Patriarchate, which is the legitimate successor of the Bulgarian Exarchate and a member of the One, Holy, Catholic, and Apostolic Church. It is governed by the Holy Synod and is represented by the Bulgarian Patriarch. It is also provided that the Bulgarian Church has a legal personality established by the law, while its structure and governance are laid down in its statute. As a preventive measure against future divisions, the law prohibits persons and groups who seceded from a registered religious institution to use the same name as new legal entity or the property and assets of the original religious institution. Practically, it means there cannot be established legally a second religious institution named the Bulgarian Orthodox Church, even without claims of a patriarchal dignity and form of governance. This entrenchment and protective clause in a 2010 judgement of the ECtHR was found as contradicting the standards of the European Convention.<sup>21</sup>

### **3. Elevation of the Bulgarian Orthodox Church To De Facto Official Religion Status**

In the last decade, the increased public presence of the Church and the governmental support for its initiatives raise questions of whether there is ongoing change in its status in society that will be followed by legislative intervention. This tendency in no way challenges what Ina Merdjanova has called “the neo-secularization” of Bulgarian society under the

<sup>21</sup> However, the ECtHR has considered the 2002 law to be in collision with the standards of the Convention: *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others v. Bulgaria (Just Satisfaction Judgment)*, no. 412/03; 35677/04, Judgment of 16 September 2010, § 49:

‘In the Court’s view, the 2002 Act did not meet the Convention standards of quality of the law, in so far as its provisions disregarded the fact that the Bulgarian Orthodox Church was deeply divided and left open to arbitrary interpretation the issue of legal representation of the Church ... Moreover, although the *ex lege* recognition of the Church cannot be seen as incompatible with Article 9 in principle, its introduction in a time of deep division was tantamount to forcing the believers to accept a single leadership against their will. Those provisions of the 2002 Act—still in force continue to generate legal uncertainty, as it can be seen from the contradictory judicial decisions that have been adopted and the events that have unfolded since the Act’s entry into force ...’.

conditions of globalization and liberal political and social reforms. As Merdjanova has observed,

In Bulgarian society, Orthodox Christianity has remained an important aspect and a marker of national identity, and thereby has retained its public visibility. Yet it does not have a substantial impact on the worldviews and behavior of those citizens who define themselves as Orthodox. Neo-secularization in Bulgaria is not a reincarnation of the communist secularization, even though the historic legacies of a pervasive atheist ideology and practice cannot be discounted. It is rooted in new sociopolitical conditions related to globalization and the neoliberal paradigm, which reinforce and perpetuate the prevalence of individualistic discursive practices and erode communal bonding.<sup>22</sup>

On the one hand, it is the increased activity of the Church that attracts public attention. The Holy Synod's official statements, however, often oscillate between endorsement and ambivalence on the issues of democracy and human rights, but with growing acceptance of new political realities; small, but strong and active Christian communities continue to shape the debates within the church defending the compatibility between Orthodoxy and democracy.<sup>23</sup>

The Synod has adopted declarations and encyclicals on significant moral-political issues. In its positions, the Synod has advised legislators and the government to change provisions in the draft bills of the Denominations Act, Family Code, Education Act, Protection of the Child Act, as well as to express positions in relation to issues of religious education in public schools, 'in vitro' fertilization, migration, and refugees. Not all of these statements have been positively accepted in the wider civil society and the media. Nevertheless, the Church has defended its public role and engagement, thus becoming one of the important players in the public debates. These positions sometimes have challenged the established popular views (e.g. on the issues of bioethics); on other cases they have relied on constitutional arguments and human rights justification.<sup>24</sup>

In 2013, in the official statements of the Patriarch and the Holy Synod during the mass demonstrations and protest movements against the corrupt political elite and the oligarchy, some democratic political ideas were also endorsed—the right to live under a just political

<sup>22</sup> Ina Merdjanova, "Women, Orthodox Christianity and Neo-Secularization in Bulgaria," in Merdjanova, Ina (ed.), *Women and Religiosity in Orthodox Christian Contexts* (forthcoming with Fordham University Press, 2021).

<sup>23</sup> Atanas Slavov. *Between Endorsement and Ambivalence: Democracy and Eastern Orthodoxy in Post-Communist South East Europe*, CAS Working Paper Series No. 7/2015: Sofia 2015. Available at: <http://www.cas.bg/uploads/files/WPS-APP-7/Slavov.%20Atanas.pdf>

<sup>24</sup> Encyclicals of the Bulgarian Orthodox Church – Bulgarian Patriarchate: <http://www.bg-patriarshia.bg/index.php?file=appeal.xml>

order and limited and accountable government, the idea of the popular consent for the government, the right to protest against an unjust and arbitrary rule, and rights defending the value of religious and ethnic tolerance. Even before that, in 2011, the Synod issued a declaration emphasizing that the principle of justice originates from God and it demands a just punishment for committed crimes, and that the state should be responsible for the administration of justice. The Synod defended the principle that in cases when the just political order is not guaranteed, the people have the right of resistance against an unjust rule. Moreover, the basic forms of social justice and solidarity have to be guaranteed for every citizen and each group in society; otherwise it is legitimate for them to seek recourse in the right of resistance. According to the Synod, the principles of justice and solidarity are the fundament of the state and should be implemented by the government.<sup>25</sup>

This internal drive in the BOC towards receiving official status could be seen as deeply encoded in the more traditional model of church state relations. The new public role of the BOC in its relation to the state could be interpreted as a revitalization of the traditional Orthodox political-theological concept of *symphonia*, stripped from its imperial context and encapsulated in the modern nation-states in the Southeastern Europe.<sup>26</sup> Thus, the doctrine of establishing and protecting the “Christian nation,” in each of the nation-states in the region, emerged as a synthesis between the religious-political legacy (of the emerging new nations from the 19 century onwards emancipating from the over-powerful Ecumenical Patriarchate and fighting for independence from the Ottoman Empire) and the new political realities of sovereign nation-states.<sup>27</sup> The political and cultural boundaries of the nations coincided with those of the national Orthodox churches.<sup>28</sup>

The case of the Church engagement with *symphonia* and “Christian nation” concepts could be illustrated with a decision of the Synod in April 2015. The Church decided to include, in the text of the religious services, an invocation of the name of the former Bulgarian king (1943-1946)–Simeon II (Saxe-Coburg-Gotha) with the styling ‘the devout and Christ-loving Tsar of the Bulgarians Simeon.’ Moreover, this formula was included in

<sup>25</sup> Послание на св. Синод на БПЦ за мир и народно единство (Encyclical of the Holy Synod of the Bulgarian Orthodox Church for Peace and Unity of the People), 29 September 2011: <http://dveri.bg/a8> (visited 12.05.2020).

<sup>26</sup> Victor Roudometoff, *Globalization and Orthodox Christianity. The Transformations of a Religious Tradition* (Oxford: Routledge, 2014), pp. 79-101.

<sup>27</sup> Andrew Louth, ‘Ignatios or Eusebios: Two Models of Patristic Ecclesiology’ (2010) 10 *International Journal of the Study of the Christian Church* 1, pp. 46-56.

<sup>28</sup> John Meyendorff, *The Byzantine Legacy in the Orthodox Church* (New York: St Vladimir's Seminary Press, 1983), pp. 225-229.

the liturgical text before the traditional blessing prayer for the government and the people, thus receiving liturgical precedence.<sup>29</sup> This decision provoked immediate critical reaction among active groups of lay members of the church and some members of the clergy, being interpreted as a sign of the Church's involvement in politics and as an act in collusion with the established republican constitutional order. It is noteworthy that there was no proper and adequate justification of this synodal decision. It would have been seen as more appropriate if Bulgaria was still a monarchy in which Orthodoxy enjoyed the status of an official state religion. It is widely considered unacceptable, however, that in a constitutional republic which does not recognize monarchic and aristocratic ranks, likewise in which the church is separated from the state, that it would simultaneously and officially accept the democratic constitutional order. Thus, after the active public opposition to the decision, it was not implemented in practice. This case also indicates that many members of the high clergy and the Holy Synod still endorse the traditional *symphonia* model intertwined with the nationalist ideology, failing to fully appreciate the contemporary democratic and republican model. There is also a positive sign: the immediate critical reflection on behalf of the laity and civil society shows that within the church, there are communities who openly endorse modern democratic constitutional order.

One of the recent public debates the Church took part in involved human rights arguments on the one side (some government institutions and active NGOs), and preservation of the so called "traditional values" on the other (the Orthodox Church, Protestant denominations and alliances, nationalist-populist and far-right political parties including members of the government majority coalition). The case concerned the failed ratification of a key Council of Europe human rights instrument, a convention on preventing and combating violence against women and domestic violence (Istanbul Convention). The Church arguments against the Convention were in fact completely detached from its authentic legal meaning and official objectives formulated in the text.<sup>30</sup> Rather, the Church fought a media-constructed fake image which presented this human rights instrument as introducing "same-sex marriage" and a "third sex," as introducing "gender ideology" that would erode traditional family values and more generally Christian values in society. The government sided with the Church and

<sup>29</sup> Bulgarian Patriarchate, *Decision of the Holy Synod for invocation of Simeon II, Tsar of the Bulgarians in religious services*, 29.04.2015: <http://www.bg-patriarshia.bg/news.php?id=172424> (7.08.2015).

<sup>30</sup> Становище на Светия Синод по повод Истанбулската конвенция (Opinion of the Holy Synod regarding the Istanbul Convention), 22 January, 2018: <https://bg-patriarshia.bg/news.php?id=254101> (visited 12.05.2020).

requested a preliminary interpretive ruling by the Constitutional Court prior to ratification. The public and political debate was foreclosed after the official ruling of Constitutional Court stipulating that some provisions from the Conventions (e.g. legal definitions of gender and its incorrect translation in Bulgaria) collided with the principle of the rule of law and legal certainty.<sup>31</sup> Hence, the parliament is not allowed to ratify the Convention.

Meanwhile, the government also increased its support for the Church by allocating public funds for reconstruction and restoration of churches, inviting the Patriarch and the high clergy to participate in public events and commemorations beyond the strictly religious ceremonies (especially national and/or official holidays, such as Liberation Day, on 3rd March, St. George's Day on 6th May, the Day of the Slavic Bulgarian Alphabet on 24th May, etc.). The official ceremony and protocol of assuming public office is often practiced in the presence of the high clergy who bless the newly elected officials. (This is applied in various situations, from opening of the first session of the newly elected National Assembly, to the election of new government, and an inauguration ceremony for the new president assuming office; on a lower level, the same applies for the regional governors, mayors, city councils, etc. Additionally, under the State Protocol Act and the implementation regulation (Art. 87), in the order of formal precedence, the Patriarch enjoys the fifth position immediately after the president, the speaker of parliament, the prime-minister, and the vice-president, thus being treated ceremonially as a high level official, while official representatives of other religious denominations receive 28th place (of 29).

Further, the public visibility of the Church has increased as an aftermath of the engagement of a growing community of Christian intellectuals, academics, civic leaders with contemporary political and social issues. They participate in the public debates regarding the role of Eastern Orthodoxy and the Church in the society. The majority of this group embraces democratic values and principles and is closely associated with the modernization and democratization project of the country, including deepening the Euro-Atlantic cooperation and integration. Some of these intellectuals are involved in the publication of the academic journal *Christianity and Culture*<sup>32</sup> or participate as frequent contributors, others are very

<sup>31</sup> The Constitutional Court, Decision № 13 of 27 July 2018:

<http://www.constcourt.bg/bg/Acts/GetHtmlContent/f278a156-9d25-412d-a064-6ffd6f997310>

<sup>32</sup> *Christianity and Culture* (issued by Communitas Foundation): <http://www.hkultura.com/>

active in Orthodox Christian online platforms and portals such as *Двери на Православието* (Dveri na Pravoslaviето).<sup>33</sup>

As an official recognition of the changed dynamic of church-state relations is the 2018 and 2019 amendments in the 2002 Denominations Act, which provide for increased public funding of the two major religious communities, the Bulgarian Orthodox Church and the Muslim community. In principle, this type of public funding is open for each religious community that meets the requirement that at least 1% of the population self-identifies as belonging to the specific denomination in order to receive the funds.<sup>34</sup> However, it was clear from the beginning that only the Orthodox Church and the Muslim community can qualify and receive larger funds (10 Bulgarian leva, or 5 EUR, per member). Funds allocated by the state budget include salaries of the clergy, salaries of other servants in the religious institution and funding for (re) construction and restoration of religious buildings. In practice, these provisions provide preferential treatment for the largest religious communities, offering tens of millions in tax-payer money. According to the 2020 State Budget Act, the Bulgarian Patriarchate will receive 26 million leva and the major Muslim community will receive approx. 6 million. Only limited funds are available for the rest of the denominations (the Catholic Church 70,000, Protestant denominations 160,000, Jewish community 70,000).<sup>35</sup> One of the problems with this allocation of public funds is that it relies on the data provided by the national statistics (2011 national census), not on real number of practicing believers. From this approach the two major religious communities benefit most. It is well established that self-identification as Orthodox Christian has more to do with ethno-national and cultural identity than with regular religious practice and observance of rituals. Thus, less than 10% of people who identify as Orthodox Christians in the country engage in real religious practice, while the Church receive budget funds for the total number. It is quite different from the Catholics and Protestants, who publicly share their religious identity only if they are practicing and feel connected to the religious community. Yet another problem of this allocation is that Protestant denominations are not unified under a single governing body: they belong to different doctrinal traditions, but receive the public funds as a whole (under the budget law).

<sup>33</sup> <http://dveri.bg>

<sup>34</sup> The last national census was in 2011, there is forthcoming in 2021.

<sup>35</sup> 2020 State Budget Act: <https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=143562>



In a nutshell, under the law, the government has increased its control and oversight in the process of allocation of funds which should be administered by the Directorate of Religious Affairs (Council of Ministers). This development, however, was welcomed by the Church itself, and was interpreted in terms of good cooperation, real commitment and care on behalf of the government. In fact, both sides—the Church and the state—look at this new framework as a mutually benefiting scheme; the privileged position of the Church in society is ensured, along with continuing support to the government and public blessing of its activities on behalf of the Church. Publicly expressed fears by some Orthodox intellectuals and lay religious groups state that this may lead to the politicization of the Church. They fear its transformation into a semi-governmental department of religious services are not addressed either from the ecclesiastical governing bodies, or from the governmental offices.

The last example of the privileged treatment of the BOC by the state relates to the restrictive measures imposed by the government and sanitary authorities in order to contain the COVID-19 pandemic. On March 13, 2020, the Bulgarian parliament, on the proposal by the Council of Ministers, adopted a state of emergency decision (a constitutionally grounded form of a state of exception). This happened for the first time in the last 30 years of democratic politics. A week later, on March 20th, the parliament adopted a new emergency law that stipulated specific measures and policies that will be exercised in order to preserve the functioning of key institutions during the pandemic and ensure adequate and timely sanitary measures. Based on this legal framework, the minister of health issued orders that introduced measures of social distancing, banned certain economic activities, and imposed some restrictions on the freedom of assembly and freedom of movement.<sup>36</sup> Adults were not allowed to gather freely even on the streets or public parks (which were closed), with the exception of having up to two adults together with social distancing (two meters). In line with these rules, almost all of the religious organizations in the country decided to close their worship places entirely or allow only private prayers or on-line broadcasted religious services without participation of the lay people; not the Bulgarian church, however. During the entire Lenten period (eight weeks of fasting and intensive worship before Easter), which coincided with the peak of the pandemic, the Orthodox churches remained not only open for the laity for private prayer, but also allowed all religious services with the participation of the lay people. There were several attempts on behalf of the government and the sanitary authorities

<sup>36</sup> Ministry of Health, Order # RD-01-124/13.03.2020; Order # RD-01-131/17.03.2020: [https://www.mh.government.bg/media/file\\_public/2020/03/17/rd-01-131\\_doplva\\_zapoved\\_rd-01-124.pdf](https://www.mh.government.bg/media/file_public/2020/03/17/rd-01-131_doplva_zapoved_rd-01-124.pdf)

to change this position. After an official meeting held by the members of the Holy Synod and representatives of the government (the deputy prime-minister, the chairman of the national crisis staff, and the director of Directorate of Religious Affairs) only limited sanitary measures were agreed upon (wearing of face masks in the churches, regular sanitation and disinfection in churches, only very few services to be celebrated in front of the churches during the most intensive worship hours, limiting communion sacrament only to people who have personal connection to the parish and are well-known to the parish priests).<sup>37</sup> In a further attempt to request the Synod to apply stricter sanitary measures and to limit participation of lay people in worship (to avoid public gathering as required by the general rules), another meeting with the Synod was convened, attended by the prime-minister, minister of health, and the director of Directorate of Religious Affairs.<sup>38</sup> Nevertheless, the Synod did not agree to implement such stricter measures. This approach was unlike Greece or other Orthodox jurisdictions which implemented very restrictive policies concerning religious services, either closing churches for public worship, or allowing only online streaming of services celebrated only by the clergy (lay people absent).<sup>39</sup> This latter case is illustrative of the privileged position of the Church which succeeded to place itself above legitimate and mandatory rules and decisions issued by the government in order to prevent and contain the pandemic in time of national emergency. Only the Orthodox Church enjoyed preferential treatment that was refused to other denominations. When the Church is concerned, general rules and orders issued by the government do not apply.

The current situation of close church-state cooperation raises even more profound questions related to the quality of democratization in the country. Given the continuing erosion of democratic standards and the rule of law, Bulgaria remains at the bottom among the EU countries when democratic consolidation and the rule of law are considered.<sup>40</sup> The

<sup>37</sup> Окръжно писмо на Св. Синод, одобрено на извънредното заседание на 30.03.2020 г., прот. № 2 (Encyclical of the Holy Synod, confirmed on ad hoc meeting on 30.03.2020):

<https://www.bg-patriarshia.bg/news.php?id=318198> (viewed 15.05.2020)

<sup>38</sup> "Bulgarian Patriarch Neophyte and synodal metropolitans met with the Prime-minister Borisov" (09.04.2020): <https://bg-patriarshia.bg/news.php?id=319375> (viewed 15.05.2020)

<sup>39</sup> "Greek Orthodox Church agrees to suspend daily services, sacraments over coronavirus", *Ekatimerini.com*, 16.03.2020: <http://www.ekathimerini.com/250716/article/ekathimerini/news/greek-orthodox-church-agrees-to-suspend-daily-services-sacraments-over-coronavirus> (viewed 15.05.2020)

"Easter services to go ahead in Greece" (2.04.2020): <https://greekcitytimes.com/2020/04/02/easter-services-to-go-ahead-in-greece/> (viewed 15.05.2020)

Ecumenical Patriarchate orders churches to halt services until end-March, Reuters, 19.03.2020:

<https://www.reuters.com/article/us-health-coronavirus-patriarchate/ecumenical-patriarchate-orders-churches-to-halt-services-until-end-march-idUSKBN21617C> (viewed 15.05.2020)

<sup>40</sup> WJP Rule of Law Index 2020: <https://worldjusticeproject.org/rule-of-law-index/country/Bulgaria>

close ties between the Church leadership and the incumbent government are often used for legitimization of power in the eyes of the wider public. Though the intensive cooperation between the Church and the state is often interpreted in terms of mutual benefit, serious doubts remain whether this is beneficial for the believers and citizens of the country at large. The general impression remains that these are negotiated benefits in the sole interest of the powerholders.

## **Conclusion**

In the last decades of democratization, though the quality of democratic process remains low, there are several developments regarding to the legal status of the Bulgarian Orthodox Church. First, after the fall of the communist atheist regime, the Church enjoyed the right of free practice of its rituals, increasing its public presence, and engaging with missionary and charity work. These opportunities, however, were not fully realized, due to the internal church divisions, which weakened its role in society and eroded the public trust. Nonetheless, the traditional religion status of the Eastern Orthodoxy was constitutionally recognized since the beginning of the period of the 1991 Constitution. Second, after overcoming of the internal schismatic movement with the assistance of the state in the early 2000s, the Church is gradually increasing its public influence and attracting more public support, increasing social trust, while at the same time, the society remains deeply secularized, and the number of regularly practicing Orthodox Christians has not increased significantly (constantly remaining below 10 % of the believers). In 2002, with the adoption of new Denominations Act, the Bulgarian Patriarchate received *ex lege* recognition and privileged legal status, thus supporting its position during internal church struggles and enhancing its role vis-a-vis the state and society. After overcoming the schism with the aid of the government, the Church entered a period of increased public presence with the opportunity to influence the legislative process and governmental decisions, while receiving constant support on behalf of the state on many different occasions (from public funding for construction and reconstruction of churches, to taking into account many synodical opinions on legislation and different policies). Third, the privileged legal status of the Church has been further enhanced with the 2019 legislation which provides public funding for paying the salaries of all the clergy and other church servants, along with providing sufficient funding

Freedom House, *Nations in Transit 2020 Report*, Bulgaria: <https://freedomhouse.org/country/bulgaria/nations-transit/2020>

for construction and maintaining of church buildings. The privileged position of the Orthodox Church is even more visible now, when in times of strict measures addressing the COVID-19 pandemic, in the midst of constitutional state of officially declared emergency, the Church alone among all other religious communities has been allowed to celebrate all its feasts and rituals with the participation of the laity. All facts and developments interpreted simultaneously, taking into account gradual changes in law and the raising public influence of the Church, lead to the conclusion that the public status of the Bulgarian Orthodox Church is elevated to that of *official religion*, compared to the more moderate *traditional religion* status constitutionally mandated in the beginning of the period.