

**RESEARCH ARTICLE:***The right to religious education***Remus MARIAN****ABSTRACT**

Education is a fundamental human right in the contemporary society; therefore, it has to be protected and promoted. Representing the basis of the evolution of society towards a better future, education must be a national priority and responsibility that can provide children and young people with the necessary safety throughout their lives, trust in a good future, the chance of social integration of all citizens, to teachers, the social dignity corresponding to this noble profession, to the parents, the satisfaction of the best investment not only for the future of their own children, their personal but of all humanity. Concerns in the field of education, both at State and Church level, indicate the constant interest and level of priority given to education to ensure social and moral evolution of society. Religion is an integral and defining part of European culture, and in the vast majority of European states religion is taught within the public education system. Romania respects European norms and promotes a system of education comparable to that of the majority of European Union states.

**KEYWORDS:** *human rights, right to education, religious education, law, freedom.*

## 1. Introduction

Education is a fundamental right of contemporary society, therefore it must be protected and promoted. Representing the basis of the evolution of society towards a better future, education must be a national priority and responsibility that can provide to children and young people the necessary safety throughout their lives, trust in a good future, the chance of social integration of all citizens, to teachers, the social dignity corresponding to this noble profession, to the parents the satisfaction of the best investment not only for the future of their own children, their personal but of all humanity.

In our country, at the political and legislative level, there is a concern about religious issues in all its aspects. The state recognizes the spiritual, educational, social-charitable, cultural and social role of the cults, underlining the role of the Romanian Orthodox Church and of the other Churches in the history and life of the Romanian society. There are clear regulations on religious education in the Romanian education system<sup>1</sup>.

Concerns in the field of education, both at State and Church level, indicate the constant interest and level of priority given to education to ensure social and moral evolution of society. The Romanian Orthodox Church has contributed considerably to the organization and development of national education and culture. The first schools and printers in our country were founded by the Church, and the first representative cultural and artistic works were inspired by the Church's faith. Religious and moral education teaches the child about love for God, people, teaches him about faith, solidarity and hope, justice and gratitude to parents, to the benefactors, to generosity

and diligence, to the holiness of life and to the eternal value of human being. Religion is an integral and defining part of European culture<sup>2</sup>, and in the vast majority of European states religion is taught within the public education system. Romania respects European norms and promotes a system of education comparable to that of the majority of European Union states<sup>3</sup>. On the other hand, the Church proposes, does not impose values, religious education can be freely assumed in accordance with the provisions of Article 26, paragraph 3 of the Universal Declaration of Human Rights: parents have the right to choose the kind of education for their children<sup>4</sup>.

The plea for religious education is based on the belief that education is a spiritualization work that does not reach fullness if it leaves one of its fundamental components out of the ordinary. Man refers to reality, both pragmatically, through intellect, will, action, but also spiritually, through attitudes, feelings and faith. An integral education implies, besides intellectual, moral, aesthetic, technological, etc. and a religious component. Today is a spiritual crisis, a moral dislocation of our fellow men. Religious education can fortify the being and direct it towards authentic targets<sup>5</sup>.

The presence of religious education courses in public schools is not a peculiarity of the Romanian education system. Thus, out of the 47 member states of the Council of Europe, only three (Albania, Macedonia and France - except Alsace and Mosella) offer no form of religious education in public schools. In 25 of these countries' religion is compulsory, and in 18 countries religion is optional or

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<sup>1</sup>Ciucureanu M., Velea S. 2012. *Educația moral-religioasă în sistemul de educație din România*, Bucharest, Romania: Editura Didactică și Pedagogică Publishing House, p. 167.

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<sup>2</sup>Holbea G., Opreș D., Opreș M., Jambore G. 2010. *Apostolat educațional. Ora de religie – cunoaștere și devenire spirituală*, Bucharest, Romania: Basilica Publishing House, p. 5.

<sup>3</sup>Idem.

<sup>4</sup>Idem.

<sup>5</sup>Cucoș C. 1999. *Educația religioasă, repere teoretice și metodice*, Iași, Romania: Polirom Publishing House, p. 293.

facultative. Therefore, the Romanian system of teaching religion in the form of confessional education, as part of the common body of disciplines, based on enrolment, has been articulated in its current form to meet several criteria and needs. At the same time, most European states have developed forms of religious education in public schools, and states such as France, which prohibit the manifestation of any form of religiosity in the public education system, seek to find a solution that would allow such courses of religious education to be organized in the private sphere. In most European countries, cults can benefit from financial support from the state, even where there is a system of separation between them and the state<sup>6</sup>.

A comparative analysis of the European education systems on the approach of religious education, which was not aimed at trying to identify a European model or propose solutions to harmonize existing differences, but to know and understand the variety of these models, identifies a series of common issues and trends<sup>7</sup>:

- religious education is a present and important dimension of most European education systems;
- in many countries there is a shift in focus from one country religion education (usually the majority religion) to learning more religions (usually religions recognized by the state);
- a predominantly confessional approach to religious education;
- a non-confessional approach to religion that is more and more present in European countries;
- it cannot speak of a unique European model of religious education;

<sup>6</sup>State Secretariat for Religious Affairs. 2018. *Statul și cultele religioase*, 2nd Edition, Bucharest, Romania: Litera Publishing House, p. 44.

<sup>7</sup>Opriș D. 2010. *Educația religioasă în dialog cu societatea: cercetări pedagogice, psihologice și istorice*, Alba - Iulia, Romania: Reîntregirea Publishing House, pp. 51-52.

- the role of the state is to guarantee the rights of various groups (parents, religious communities) in the field of religious education by supporting its presence in public schools, and to guarantee the child's right to this type of education, while preventing indoctrination and violation the freedom of conscience.

All the above appear to only strengthen the right of the Romanian citizen to have religious education in the public school and the fact that this should not be lacking in the educational act itself.

## 2. European legal framework on the exercise of the right to education

Recently, 70 years have passed since the adoption of the Universal Declaration of Human Rights by the 58 UN member-states of the UN General Assembly, on 10 December 1948 in Paris. The document marks the moment of recognizing the fundamental rights of the person, by promoting human dignity and value, the right to education, to life, freedom of conscience, expression and religion. The text of the Declaration is the source of all national and international regulations, whose purpose is to promote and guarantee the rights of all persons<sup>8</sup>. It should be remembered that although this Declaration is based on the principles of Christian morality, for political reasons and respect for other religions, the Judeo-Christian roots of human rights are not sufficiently publicly recognized. Moral values such as human dignity, freedom and religious education, philanthropy, cultivated within the European Union have long become humanist-secularist ideological values in order to be promoted globally. In today's context, Europe is currently confronted with a number of issues, such as family crises, diminishing birth rates, aging,

<sup>8</sup>Popescu O. 2002. *Sănătatea. Drepturi și responsabilități*, 2<sup>nd</sup> Edition, IRDO Publishing House, p. 5.

school dropout, deteriorating health, and so on.

Education and learning are indispensable values for the development of any society, and they are appealing to the United Nations General Assembly itself in the preamble<sup>9</sup> to the Universal Declaration of Human Rights, when it urges peoples and all nations for all persons and all bodies of society in view of this Declaration to strive and develop respect for these rights and freedoms and to ensure, by means of progressive, national and international measures, their universal and effective recognition and application both within the peoples of the Member States and within the territories under the jurisdiction there. No wonder that in the Universal Declaration of Human Rights, we find a whole article dedicated to the person's right to education, including, among others, the compulsory and free of elementary education, as well as access to education for the full development of the human personality and the strengthening of respect for human rights, to cultivate understanding, tolerance and friendship between all nations and all racial, ethnic or religious groups. We render the content of Article 26:

*1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.*

*2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the*

*activities of the United Nations for the maintenance of peace.*

*3. Parents have a prior right to choose the kind of education that shall be given to their children<sup>10</sup>.*

Adopted and opened for signature by the General Assembly of the United Nations by Resolution 2200 A (XXI) of 16 December 1966, the International Covenant on Economic, Social and Cultural Rights<sup>11</sup> entered into force on 3 January 1976, as provided for in Article 27 its content. Romania ratified the Covenant on 31 October 1974, by Decree no. 212 published in Official Journal of Romania, part I, no. 146 of November 20, 1974, so that the application of the provisions of Article 13 on the right of persons to education becomes compulsory at national level, namely:

*1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.*

*2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:*

*(a) Primary education shall be compulsory and available free to all;*

*(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to*

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<sup>9</sup>The Universal Declaration of Human Rights, adopted and proclaimed by the UN General Assembly on December 10, 1948, by Resolution 217 A (III).

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<sup>10</sup>Moroianu Zlătescu I., Marinache E., Șerbănescu R., 2006. *Principalele instrumente internaționale privind drepturile omului la care România este parte*, Bucharest, Romania: Romanian Institute for Human Rights Publishing House, vol. I, Universal Instruments, 8<sup>th</sup> Edition, p.10.

<sup>11</sup>Idem, p. 18.

*all by every appropriate means, and in particular by the progressive introduction of free education;*

*(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;*

*(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;*

*(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.*

*3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.*

The protection of human rights is carried out at European level through instruments such as the Convention for the Protection of Human Rights and Fundamental Freedoms, adopted in Rome on 4 November 1950 and in force on 3 September<sup>12</sup>, together with additional protocols which have clarified and supplemented this Treaty and the European Social Charter signed in Turin on 18 September 1961 and revised on 2 April 1996. It is necessary in our approach to

recall that in the Convention for the Protection of Human Rights and Fundamental Freedoms the text of Article 9 refers to Freedom of thought, conscience and religion, respectively:

*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.*

In addition to the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms, the Additional Protocol to the Convention provides in Article 2, with reference to the Right to education, that *No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.*

Returning to the European Social Charter, it should be recalled that it lays down human rights and freedoms and establishes a supervisory mechanism that guarantees their compliance by States Parties. The European Social Charter, revised in 1996 and in force in 1998, will gradually replace the original treaty in 1961<sup>13</sup>. The European Social Charter states in Article 17: *"With a view to ensuring the effective exercise of the right of children*

<sup>12</sup>Moroianu Zlătescu I., Marinache E., Şerbănescu R., 2006. *Principalele instrumente internaţionale privind drepturile omului la care România este parte*, Bucharest, Romania: Romanian Institute for Human Rights Publishing House, vol. II, Regional Instruments, 7<sup>th</sup> Edition, pp. 59-60.

<sup>13</sup>The European Social Charter, briefly, Romanian version, Printed in the Council of Europe workshops, 2007, p. 5.

*and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed: 1. a. to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose; b. to protect children and young persons against negligence, violence or exploitation; c. to provide protection and special aid from the state for children and young person's temporarily or definitively deprived of their family's support; 2. to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.*

The Charter of Fundamental Rights of the European Union<sup>14</sup>, approved by the European Parliament in Brussels on 29 November 2007 and solemnly proclaimed on 12 December 2007 in Strasbourg the day before the signing of the Treaty of Lisbon, became a legally binding document on December 1, 2009, makes known in its preamble that *"The Union is founded on the indivisible and universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. The Union places the person at the heart of its action, establishing citizenship of the Union and creating an area of freedom, security and justice"*<sup>15</sup>. The Charter encompasses the civil, political, economic and social rights of European citizens and persons residing

within the European Union, classifying these rights in six chapters, allocated to dignity, liberty, equality, solidarity, citizenship and justice, adding a chapter distinctly, the Seventh, intended for the general provisions governing the interpretation and application of the Charter.

The document is addressed to all Member States implementing Union law. Under Chapter II - Freedoms, we find the definition in Article 14 - Right to education, with the following provisions:

*(1) Everyone has the right to education and to have access to vocational and continuing training.*

*(2) This right includes the possibility to receive free compulsory education.*

*(3) The freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected, in accordance with the national laws governing the exercise of such freedom and right*

### **3. Religious education and theological education in a few European countries**

A recent study at the level of the State Secretariat for Religious Affairs in Romania offers an objective picture of the concrete situation at European level regarding the organization and the legislature in the field of religious education and theological education in some European countries<sup>16</sup>. Several such examples from this study can help to knowledge and understand how to approach these areas in other European countries, some of them formerly communist countries.

In Austria, since 1949, in public schools, religion is a compulsory subject of study for all students of a recognized cult.

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<sup>14</sup>Proclaimed at the Nice, on 7th december 2000.

<sup>15</sup>Moroianu Zlătescu I., Marinică E., 2017, *Dreptul Uniunii Europene*, Bârlad, Romania: Universul Academic Publishing House; Bucharest, Romania: Editura Universitară Publishing House, pp. 269-274.

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<sup>16</sup>Idem, pp. 78-83.

Courses are insured, organized and authorized by each cult and are state-funded. For students who do not belong to any cult, this discipline is optional. Any pupil belonging to a cult may request in writing the waiver of these courses (up to 14 years old the application is signed by the parents) in the first 5 calendar days of each school year. For groups of 3 to 10 students, a weekly course is organized for up to 10 students, two hours per week. Religion can also be chosen as a baccalaureate. There are several faculties and departments of theology in the Austrian public universities. For the training of religious teachers in primary schools, there are higher schools of religious pedagogy.

In Belgium, the State finances schools in the free confessional education (Catholic) network and organizes, within the public-school system, courses on various officially recognized religious denominations.

In Bulgaria, public schools offer an optional religious education course. The course includes the historical, philosophical and cultural aspects of Christian and Muslim religions.

Czech Republic - The state finances fully the salaries of staff employed in schools belonging to the Churches and partly finances private schools (including confessional). The state does not cover the investments made by church/private denominational schools. Local authorities can support officially recognized confessions. In public schools, cults offer optional religious education courses. Students, in agreement with their parents, may opt for religious education in any religion, irrespective of their declared religious affiliation. Private schools may choose to offer or not courses of religion in any religious denomination. Religious teachers need authorization from both the state and the respective confessions. Five

faculties of theology are integrated in public universities.

Croatia - in primary schools and state high schools, religious classes are optional and are mostly carried out in collaboration with the Catholic Church.

In Estonia, religious education is based on respect for religious freedom and conscience. Religious teachers are paid from the state or local budget. Religious organizations have the right to set up private educational institutions.

Greece - In most of the Greek public schools, the religion class takes place according to the confessional model, being a compulsory subject for all Orthodox religion students (those of another religion may be exempted on request). Curricular content is determined by the state, not by the Church.

Italy - Catholic religion is taught in public schools. Teachers must be recognized by Catholic ecclesiastical authorities and appointed by school authorities. Pupils for whom parents ask in writing for non-attendance at religion are not required to attend other teaching activities. For the other religious denominations in Italy, specific religious education takes place mainly in their worship centres or in specially arranged spaces.

In Latvia, religious education can be organized in schools if there are at least 10 students wishing to study Christian religion (in one of the confessions: Evangelical-Lutheran, Roman Catholic, Orthodox or Baptist), based on study programs approved by Ministry of Education and Science. Religious education is funded by the state.

Luxembourg - Starting in 2018, the religion class in public schools is replaced by education for values.

Malta - Given that more than 98% of the population is affiliated with the Catholic Church, religious education is structured on a confessional model through

study programs developed by the Ministry of Education and Catholic Episcopates and is funded by public authorities.

Norway - The Norwegian school curriculum for grades I-X provides for the teaching of a Christian knowledge course and religious and ethical information. The course is compulsory and there are no exceptions for children from other religious or non-religious groups. This course teaches the world's religions and aspects of the doctrine and practices of different cults, with the main objective of promoting tolerance and respect for all religious beliefs and confessions.

In Poland, the Ministry of Education covers the cost of religious education classes in schools, the number of religion teachers being about 24,000. Religious institutions of higher education are subsidized from the state budget. The status of religious education courses in public schools is regulated by the Constitution, the Concordat concluded between the Holy See and Poland (1993), the Law on the Education System (1991), the Regulation of the Ministry of National Education on the conditions and way of carrying out the religious education courses in public school units (1992), and by an agreement between the Ministry of National Education and the Conference of Polish Bishops on the qualifications of religious education teachers (2000). Hours of religious education (2 hours per week) are optional, but they become mandatory when attending them is required by the pupils' parents or the pupils themselves. The notes are recorded on the enrolment sheets and are part of the final media. Analytical programs and textbooks are subject to Church approval. Private Catholic schools can benefit from partial wage coverage for staff employed through local government budgets.

Slovakia - During the period 1990-2000, the Slovak state negotiated and signed two agreements with the Catholic Church on the functioning of Catholic

schools, the introduction of Catholic religion as an educational discipline, and the employment of Catholic priests as military chaplains. Similar agreements were signed with 11 of the other 17 recognized cults. All elementary state schools include compulsory religious or ethics courses, depending on parents' preference.

In Spain, at the beginning of the school year, parents or guardians of students may show the desire to study religion in public schools or not.

Hungary - Registered churches and religious organizations have the right to open their own schools. The law allows Churches and religious organizations to assume the functioning of public schools on the basis of an agreement between them and the Ministry of Human Resources.

#### **4.Exercising the right to education at national level**

At the level of each state, the protection of these rights is regulated by its own Constitution, so at national level, the Constitution of Romania provides, inter alia, for Article 32 on The Right to Education:

*(1) The right to education is ensured by compulsory general education, education in high schools and vocational schools, higher education, as well as other forms of instruction and post-graduate training courses.*

*(4) State education shall be free, according to the law. The State shall grant social scholarships to children or young people coming from disadvantaged families and to those institutionalized, as stipulated by the law.*

*(5) Education at all levels shall take place in state, private, or confessional institutions, according to the law.*

*(7) The State shall ensure the freedom of religious education, in accordance with the specific requirements of each religious*



*cult. In public schools, religious education is organized and guaranteed by the law.*

The general framework of cooperative relations between state and cults is governed by the Romanian Constitution and by the Law no. 489 / 28.12.2006 on the Freedom of Religion and the General Status of Denominations. The latter dedicates the 5<sup>th</sup> section of the culturally organized education, and from the text we make some relevant provisions:

*Article 32*

*(1) In state and private education, the teaching of religion is ensured by the law of recognized religions. The teaching of religion in the public and private education system is guaranteed by law for recognized denominations.*

*(2) The religion-teaching staff in public schools shall be appointed in agreement with the denomination they represent, under the law.*

*Article 33*

*(1) Denominations have the right to establish and manage education facilities for the training of their religious staff, of religion teachers, as well as of other specialists needed in their religious activity, under the law.*

*Article 34*

*(1) Denominations develop their own education plan and curriculum for undergraduate theological studies and the curricula for the teaching of religion. Such plans and curricula shall be submitted at the Ministry of Culture and Religious Denominations for review, and at the Ministry of Education and Research for approval.*

*(2) As regards higher education, education plans and curricula shall be developed by the education institutions, based on agreement with the respective denomination, and shall be approved by the University Senates*

*Article 35*

*(1) The teaching staff of the theological education facilities that are*

*integrated in the public education system shall be recognized by the Ministry of Education and Research, under the law, based on preliminary agreement from the relevant bodies of the denominations concerned.*

*(2) The teaching staff of the theological education facilities that are not integrated in the public education system shall be appointed by the relevant bodies of the denominations concerned, according to their bylaws. The staff who teaches religion in schools must meet the requirements of Law 128/1997 on the Status of Teaching Staff<sup>17</sup>, as subsequently amended and supplemented*

*Article 39*

*(1) Recognized denominations have the right to establish and manage denomination education facilities of all levels, profiles and specialties, under the law.*

*(2) Diplomas for the graduates of private education facilities of a denomination shall be issued according to applicable law*

*(4) Denomination education facilities shall have organizational and functional autonomy, according to their standards and canons, and in observance of the legal provisions applicable to the national education system.*

*(5) Pupils or students can enrol in denomination education, irrespective of religion or persuasion, and they are guaranteed freedom of religious education according to their own religion of persuasion.*

Religious education, as an activity carried out in public school, is organized according to a specific legal framework, so that a good knowledge of the legal regulations that organize the conduct of

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<sup>17</sup>Law no. 128/1997 was repealed by art. 361 par. (2) of the National Education Law no. 1/2011, published in the Official Gazette of Romania, Part I, no. 18 of 10 January 2011, as subsequently amended and supplemented.

religious education in public schools is an absolute prerequisite for any educational policy measure in the field. From a legal point of view, a distinction must be made between the obligations on freedom of religion and religious education which the European States have, either as a result of the signing of different conventions of international law or as obligations deriving from national law, on the other hand<sup>18</sup>.

At the level of the Romanian Patriarchate, the Statute for the Organization and Functioning of the Romanian Orthodox Church regulates various activities, including the educational cultural one. We find in the second part of the document the first chapter devoted to the theological education for the preparation of clergy, teaching religion, confessional schools, articles on the effective organization of the training of church personnel of all categories through theological education units integrated in the pre-university state education (schools of arts and crafts), high school theological seminaries and faculties of theology, the Romanian Orthodox Church being able to organize, according to certain specific requirements, its own theological, scientific and theological research units training, under the conditions stipulated by law. Institutions of theological education are intended for the training of religious workers, religious professors, other specialists required for the religious and social activity of the Church, as well as those who wish to receive theological training under the conditions laid down by law, statute and church regulations.

The pre-university theological education units integrated in the state education, namely the schools of church singers and the theological high school seminars, are established by the dioceses on the territory of which they will operate, with the approval of the metropolitan

synods and the approval of the Holy Synod, under the conditions stipulated by the law. The plans and programs for the pre-university theological education are established by the Holy Synod, in compliance with the legal provisions.

The theological university units, respectively the faculties of theology, are established by the eparchies on the territory of which they will operate, with the approval of the Holy Synod, under the conditions provided by the law. The plans and programs for the theological university education are elaborated by the educational institutions, endorsed by the metropolitan councils and approved by the Holy Synod, in compliance with the legal provisions.

According to the Statute for the Organization and Functioning of the Romanian Orthodox Church, the way of organization and functioning, the profiles and specializations, the equivalence and the recognition of the diplomas of studies obtained abroad, the admission and the duration of the courses in the preuniversity and the theological university units are established by framework regulations and decisions of the Holy Synod, under the conditions provided by the law. The teaching and leadership staff of the theological education units integrated in state education are recognized by the relevant ministry under the conditions provided by the law and by the protocols concluded between the Romanian Orthodox Church and the relevant ministry with the prior agreement of the diocesan diocese on whose territory they work. Clerical staff can also work at the parish with the approval of the bridegroom. Pre-university and theological university units are within the canonical jurisdiction of the Holy Synod and the Chariot of the place and under the administrative subordination of the competent authorities and institutions provided by law.

By statute, dioceses have the responsibility of teaching religion in state, private and confessional education, in their

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<sup>18</sup>Oprîș D., Monica, 2011, *Religia și școala: cercetări pedagogice, studii, analize*, Bucharest, Romania: Didactică și pedagogică Publishing House, p. 35.

own placement centres, as well as in those organized by public or private institutions. Plans and programs for the teaching of religion are approved by the Holy Synod. Teaching staff teaching religion in state and private education establishments are appointed with the agreement of the diocese of each diocese. The parish priest and the professor of religion are responsible for providing religious assistance to educational institutions throughout the parish.

The Statute also provides for the right, with the consent of the Chariot of the place, that the dioceses and cult units dependent upon them being able to establish and administer forms of confessional education at all levels, profiles and specializations in accordance with the provisions of this statute, with church regulations and under the law. The Holy Synod of the Romanian Orthodox Church approves and communicates to the relevant ministry, for approval, the theological faculties attested for the organization of courses and exams for the improvement and obtaining of professional and didactic degrees: definitively, II and I by the clerical staff and by the teaching staff teach Religion or theological disciplines in the pre-university theological education.

The right to education can be exercised in Romania according to the Constitution and to the National Education Law no. 1 of 5 January 2011<sup>19</sup>, the Romanian State through the Ministry of National Education providing all Romanian citizens with access to education and training to acquire the skills needed to integrate each people in society. The text of the national education law provides for religious education as follows:

#### Article 15

*(1) Officially recognized state cults may request the Ministry of National Education to organize a theological*

*education specific to state education in existing state universities as dual subordinate faculties, to train cult and social-missionary cults, only for graduates of high school education, proportional to the numerical share of each cult in the religious configuration of the country, according to the official census. The establishment, organization and functioning of this education is done according to the law.*

*(2) Cults recognized by the state have the right to organize confessional education by setting up and managing their own units and private educational institutions, according to the provisions of this law.*

#### Article 18

*(1) The framework schooling plans for primary, secondary, high school and vocational education, include religion as a school subject, which is part of the common core. Those pupils belonging to the cults acknowledged by the state, irrespective of their number, are granted the constitutional right to participate in religion class, according to their respective religion.*

*(2) The student's enrolment for religious classes is made by written request of the major student, respectively the parent or legal guardian established for the minor student. The change of this option is also made by written request of the major student, respectively of the parent or guardian legally established for the minor student. If the student does not attend religious classes, the school situation ends without religion discipline. Similarly, it is also the case for the pupil who, for objective reasons, did not have the conditions for attending classes in religion discipline<sup>20</sup>.*

<sup>19</sup>Romanian Official Gazette, no. 18 of 10 January 2011.

<sup>20</sup>On June 25, 2015, Paragraph (2) of art. 18 was amended by art. unique from Law no. 153 of June 18, 2015, published in the Official Gazette no. 445 of June 22, 2015.

(3) *The subject of religion may be taught only by qualified teaching staff, according to the provisions of the present law, authorised on the basis of the protocols between the Ministry of Education, Research, Youth and Sports and the religious cults officially acknowledged by the state.*

However, situations where the right to education in general is not exercised on a voluntary basis may be established, provided that the current legal framework imposes the obligation to exercise it up to at least the 10th grade. The current situation of education shows signs of degradation of the results of the educational act, especially through the high level of school abandonment, and in this sense it is necessary to intensify the cooperation between the state, the civil society and the church through the eparchial centres and parishes, between the parents, teachers and priest, and cannot be compelled to participate in the educational act.

The fact that there are concerns of education specialists about the issue of school drop-out in a society in which every citizen's right to education is assured confirms the reality that Romania is facing an alarming number of school abandonment or risk cases school dropout. Such a concern is also present in the study "on the causes of school abandonment, from the perspective of human rights, by reference to the literature in the field and, from the point of view of the student / students from the North-East, South-Centre and North of Romania, part of the European project POSDRU / 91 / 2.2 / S / 61264, coordinated by Alexandru Ioan Cuza University of Iasi<sup>21</sup>. The study "reflects: (a) the student's perception of the causes that led to school dropout and (b) the particular way in which pupils associate

the problem of school drop-out with specific family, socio-economic and / or educational issues<sup>22</sup>, the pupils' perception of the causes and the particular manner in which the subjects relate to the problem of school abandonment, invoking family, socio-economic, educational coordinates etc."<sup>23</sup>, recalling here "low income levels, poor living conditions, erroneous perception of parenting about the usefulness of education, the involvement of children in household activities, income-generating activities, etc." <sup>24</sup> One of the findings of the study reveals the need for interventions through various types of initiatives, institutional or individual, to alleviate and reduce them.

### **5.Aspects of cooperation between the State and the Church in educational field**

Within the Church the first schools and printers were established and operated, attesting the almost uninterrupted presence and involvement of the Church in the culture, history and civilization of the Romanian people. Religious institutions, distinct from those of the State, have fulfilled their own role, a specific feature of Romanian Orthodoxy<sup>25</sup> being that of the harmony between the State and the Church. The educational, social and legal institutions of the Church have been preserved and developed in parallel with those within the State<sup>26</sup>. Appearing within the State and coexisting with it, there has been a continued collaboration between the Church and the State. In its mission, neither the purpose nor the means that the Church uses may be identical to those of the State.

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<sup>22</sup>Idem.

<sup>23</sup>Idem.

<sup>24</sup>Idem.

<sup>25</sup>Stan L. 1970 *Instituție și instituționalizare în viața bisericească. Importanța și actualitatea problemei*, article published in the Mitropolia Moldovei și Sucevei magazine, XLVI-year, no. 3-6, March-June 1970, pp. 241-257.

<sup>26</sup>Idem.

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<sup>21</sup>Hobjiță A. 2013. *Dreptul la educație și problematica abandonului școlar*, in the vol. *Dimensiunea spirituală a drepturilor omului, Educația pentru toți*. Bucharest, Romania: IRDO Publishing House, p. 171.

Having autonomy, the Church is governed by its own law, and the conduct of church affairs is ensured on the principle of synodality. State autonomy defends the Church from any interference from political leaders, and synodality defends the Church against hierarchical absolutism.

The religious education activity of the Church was temporarily interrupted following the changes in the political regime after the establishment of communism in Romania. With the establishment of the communist regime, the relations between the Church and the State are characterized by the state's interest in limiting the presence and influence of the Church in the public space, by establishing a rigorous control over the activities of any nature of the Church, the institutions of religious education being abolished and the religion of the schools.

But the Church's activity was resumed as soon as possible after the events that led to the fall of the communist regime. After regaining religious freedom, after almost half a century of atheism, one of the most important steps to reconsider the value structures of the Romanian people was the reintroduction of religion as an educational discipline through a return to normality. The necessity of re-introducing religious education into educational plans was supported not only by theological, but historical, moral, cultural, psychological, sociological and pedagogical arguments<sup>27</sup>.

Subsequently, the changes in the political regime have reoriented Romania to the European Union at the beginning of the 21st century, and this necessitated changes and legislative and church changes. The Statute for the Organization and Functioning of the Romanian Orthodox Church is the fundamental law of the Church and has the value of a

Constitution<sup>28</sup>. By the new Statute<sup>29</sup>, recognized by the Romanian Government through Decision no. 53/16 January 2008 and published in the Official Journal<sup>30</sup>, more than one hundred amendments were made to the Statute published in 1948, referring inter alia to the redefinition of the relations between the Church and the State, the abolition of some restrictive provisions restricting the work of the Church, as was the right to carry out educational and social activities, while emphasizing the link between freedom and responsibility, between autonomy and cooperation at all levels of organization. The new Statute permits an active presence of the Church in the life of society, in the pursuit of its educational, social, cultural, missionary and philanthropic activity.

The Romanian Orthodox Church, autonomous to the State and other institutions, establishes dialogue and cooperation relations with the State and with different institutions for the fulfilment of its pastoral, spiritual-cultural, educational and social-philanthropic mission<sup>31</sup>. According to Article 6 of the Statute for the Organization and Functioning of the Romanian Orthodox Church, the Romanian Orthodox Church is organized as Patriarchate, having the title of the Romanian Patriarchate and according to Art. 41 this is a legal entity of private law and public utility<sup>32</sup>. Through its

<sup>27</sup>Oprîș M. 2011. *Religie, morală, educație: perspective teologice și pedagogice*, Bucharest, Romania: Basilica Publishing House, p. 81.

<sup>28</sup>Stan L. 1949. *Statutul Bisericii Ortodoxe Române*, article published in *Studii Teologice* magazine, no. 7-8/1949, p. 638-661.

<sup>29</sup>Romanian Patriarchate. 2008. *Statutul pentru organizarea și funcționarea Bisericii Ortodoxe Române*, Bucharest, Romania: Institutul Biblic și de Misiune al Bisericii Ortodoxe Române Publishing House.

<sup>30</sup>Romanian Official Gazette, Part I, no. 50 of 22 January 2008.

<sup>31</sup>Romanian Patriarchate. 2008. *Statutul pentru organizarea și funcționarea Bisericii Ortodoxe Române*, Bucharest, Romania: Institutul Biblic și de Misiune al Bisericii Ortodoxe Române Publishing House, Art. 1-5.

<sup>32</sup>Idem, p. 14 and pp. 36-37.

activity in the public interest, cooperating or acting in parallel with the state institutions, the Church is not confused with the public institutions, nor with the private ones, and falls within the category of public utility institutions. Religious activity in public life confirms the public utility of the Church.

The Romanian state ensures the freedom of religious education for all 18 recognized cults and gives the right to participate in the religion of all pupils belonging to these denominations according to their own choice. Religion as a school subject is included in primary school, gymnasium, lyceum and vocational curricula, and the pupil can attend religious classes at the written request of either the master student or the parent or guardian legally established for the minor student. If this option is not chosen or preferred, the student's school situation ends without religion discipline. The state thus leaves parents and students free to choose the denomination in which they wish to receive religious education, in accordance with international law, as well as the right not to attend religion classes.

Religion is confessionally studied in Romania. Members of all recognized cults have equal chances of religious education. Each denomination has the right to teach its own teaching of faith on the basis of its own curriculum documents, with teaching staff formed in its own theological schools. The confessional structure of the classes is most often heterogeneous, with one of the majority confessions, the students of the minority confessions being able either to choose the majority confession regardless of their own confession or to choose their own confession<sup>33</sup>.

The current system of religious education in public schools seeks to balance the specific requirements of religious education with the need for a

coherent integration of religious education into the national education system. From the perspective of the State Secretariat for Religious Affairs, it is part of the continuation of a temporarily interrupted juridical-institutional tradition during the communist regime and its choice was the answer to the needs of moral and identity reconstruction of the Romanian society after the fall of communism, the chosen model being considered one reasonable for a country with a high level of religiosity and a relatively high rate of religious practice compared to other European countries and also coherent and legally compatible with the other European models existing in the field and with the obligation to respect for religious freedom in all its forms, assumed by both its own legislation and international treaties.

Unlike countries with consolidated systems of cooperation between the state and different types of religious communities, in Romania, the "social partnership" between the state and the cults is still under construction. The Romanian system follows the logic of the multi-level cult recognition system, offering religious confessional education courses as part of the common discipline, attending courses being on an individual enrolment basis<sup>34</sup>.

The problems related to the religious education of the young generation in Romania are a perfect process. The introduction of religious education in schools, a decision that has given rise to strong comments on the population and the media, has been the subject of deliberations by the Constitutional Court, which has ruled that the act is constitutional, as long as the rights of parents or legal guardians are not violated, according to their own beliefs, the education of minors<sup>35</sup>.

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<sup>34</sup>State Secretariat for Religious Affairs. 2018. *Statul și cultele religioase*, 2<sup>nd</sup> Edition, Bucharest, Romania: Litera Publishing House, p. 44.

<sup>35</sup>Stuparu, Cristina. 2009. *Statul-societatea-libertățile religioase*, Bucharest, Romania: IRDO Publishing House, pp. 231-232.

In the context presented, the aim of the research is to present in a clear and concise manner the role, importance and results of the collaboration between the public administration and the patriarchal administration in the educational level, in order to strengthen, support and develop the relations of collaboration and cooperation in the medium term, and long-term relationship between the two administrations, including models of institutional initiatives whose purpose is to intervene where the concrete situation calls for such interventions.

## 6. Conclusions

The right to education is a fundamental right guaranteed by the Constitution<sup>36</sup>, whereby the State is obliged to take measures to ensure access to education and learning. Religious cults, communities of believers, do not take over the functions of the State. They have their own functions and roles in social services in the public space.

The Romanian Patriarchate is distinguished as a special institution by the other institutions of public utility because it carries out a useful social activity, ensuring the fulfilment of a general public interest in collaboration with the state institutions or activating in parallel with them.

According to the teachings of the Church, all people are obliged to respect the State and its laws in a responsible manner and in their turn expect the State to respect their freedoms and rights as citizens<sup>37</sup>.

Article 9, paragraph 1 and 2 of Law 489/2006 states that "*there is no State Religion in Romania; the State is neutral towards any religious persuasion or atheistic ideology. The denominations are*

*equal before the law and public authorities. The State, though its authorities, shall neither promote nor support the granting of privileges or the instatement of discrimination towards any denomination*". Although from this perspective a classification of Romanian religious organizations in minorities and majorities cannot be made from this perspective, observing in the results of the censuses organized in our country, the structure of believers in religious organizations, it can be noticed that the majority of Romania's population has self-declared its membership and quality as a member of the Romanian Orthodox Church, which attests to the fact that in Romania we have a majority church, a church whose history is identified with the history of the Romanian people deeply involved in the modern Romanian nation. The fact that the Romanian Orthodox Church is a majority church is a social, cultural and educational reality.

In Romania, characterized by diversity both on ethnic and religious level, ethnic communities do not overlap with religious ones, but ethnic and religious pluralism is characterized by tolerance and mutual respect in the exercise of rights and freedoms, unlike the belief shared by a certain group religion in relation to another.

A solution at the fingertips of the factors responsible for harmonizing exigencies with the requirements of respect for all rights and freedoms at national level is education based on the idea of tolerance and responsibility, and its realization can be ensured by the presence of religious education in public schools. And because, through his theological, moral, spiritual and cultural discourse, the Church has for centuries been an educational act, the direct beneficiary of which is the individual as a citizen of the State.

Education is a fundamental human right that must be protected and promoted. Since without education, no society can

<sup>36</sup>Constitution of Romania, art. 34.

<sup>37</sup>Stan L. 1952. *Relațiile dintre Biserică și Stat. Studiu istorico-juridic*, article published in *Ortodoxia Magazine*, no. 3-4, 1952, pp. 353-461.

evolve under any circumstances, one of the national priorities must be the education of children and young people. The Romanian Orthodox Church has contributed considerably to the organization and development of national education and culture. In this context we believe that only by intensifying the cooperation between the state, civil society and the Church can the principles of sound education be promoted and sustained as a solid foundation for a better future.

An example of good cooperation between the Public Administration and the Patriarchal Administration is highlighted at national level by the Protocol concluded between the Ministry of National Education, the Romanian Patriarchate and the State Secretariat for Religious Affairs on Religious Education in Schools.

Education and health are universal perennial values, and the study of joint projects of the Romanian Orthodox Church with various State institutions in these fields can lead to relevant conclusions that could form the basis of concrete and consistent administrative decisions or measures for the development or improving these areas, or can be models for translating into other social sectors as well.

The cooperation of the Church with various state institutions is little promoted and known in its true valency. The fact that Romanian society prevails and persists in this aspect of many confusions, misunderstandings and generally a lack of interest, as well as a superficial approach of concrete realities, often with denigrating and accusing connotations to the institutions of the State and the Church, denotes the necessity of the occurrence of works that will provide resources for clarifying, understanding and recognizing the role and contribution of the beneficial cooperation between the Church and the State, and why not working tools in the research and development work in the future of the collaboration between the two

institutions for the common good and for a better future.

Education, and in particular the religious one, supported by the theorists and practitioners in the field of education, develops the character, morality, altruism, empathy and humanity of the citizens in order to form a harmonious personality, constituting true perennial values that build and strengthen a better society.

Being the subject of long public debates, theoretical analyses or practical investigations, religious education continues to remain a controversial area of European education policies. It is precisely the various views on its place in contemporary human education that represent the imperative that draws attention to the importance of the field and the seriousness that needs to be given to the reform of education systems<sup>38</sup>.

The experience and results of all joint actions demonstrate that good cooperation between the State and the Church can ensure the maintenance of values such as tradition, social peace and national identity, and we want to show that this cooperation has an important and welcome role in the well-functioning of society as a whole.

We also want to emphasize that good cooperation between the Church institution and the state institutions is not just a form of manifestation of normality, but it is even needed in as many fields as possible for a better harmony and welfare of all Romanian citizens.

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<sup>38</sup>Oprîș D., 2009, *Coordonate ale cercetării pedagogice în domeniul educației religioase*, Alba-Iulia, Romania: Reîntregirea Publishing House, p. 59.



## REFERENCES

1. *Carta socială europeană, pe scurt*, Romanian version. 2007. Printed in the Council of Europe workshops.
2. Ciucureanu, M, Velea, S. 2012. *Educația moral-religioasă în sistemul de educație din România*, Bucharest, Romania: Didactică și pedagogică Publishing House.
3. *Constitution of Romania*.
4. Cucos, C. 1999. *Educația religioasă, repere teoretice și metodice*, Iași, Romania: Polirom Publishing House.
5. Hobjilă, A. 2013. *Dreptul la educație și problematica abandonului școlar*, in the vol. *Dimensiunea spirituală a drepturilor omului, Educația pentru toți*, Bucharest, Romania: IRDO Publishing House.
6. Holbea, Gh., Opriș, D., Opriș, M., Jambore, G. 2010. *Apostolat educațional. Ora de religie – cunoaștere și devenire spirituală*, Bucharest, Romania: Basilica Publishing House.
7. Moroianu Zlătescu, I., Marinache, E., Șerbănescu, R. 2006. *Principalele instrumente internaționale privind drepturile omului la care România este parte*, Bucharest, Romania: Romanian Institute for Human Rights Publishing House, Vol. I, Universal Instruments, 8<sup>th</sup> Edition.
8. Moroianu Zlătescu, I., Marinache, E., Șerbănescu, R. 2006. *Principalele instrumente internaționale privind drepturile omului la care România este parte*, Bucharest, Romania: IRDO Publishing House, Vol. II, Regional Instruments, 7<sup>th</sup> Edition.
9. Moroianu Zlătescu, I., Marinică, E. 2017. *Dreptul Uniunii Europene*, Bârlad, Romania: Universul Academic Publishing House; Bucharest, Romania: Editura Universitară Publishing House.
10. Opriș, Dorin. 2009. *Coordonate ale cercetării pedagogice în domeniul educației religioase*, Alba-Iulia, Romania: Reîntregirea Publishing House.
11. Opriș, D. 2010. *Educația religioasă în dialog cu societatea: cercetări pedagogice, psihologice și istorice*, Alba - Iulia, Romania: Reîntregirea Publishing House.
12. Opriș, D; Opriș, M. 2011. *Religia și școala: cercetări pedagogice, studii, analize*, Bucharest, Romania: Didactică și pedagogică Publishing House.
13. Opriș, M. 2011. *Educația morală și educația religioasă în școală*, Cluj-Napoca, Romania: Eikon Publishing House.
14. Opriș, M. 2011. *Religie, morală, educație: perspective teologice și pedagogice*, Bucharest, Romania: Basilica Publishing House.
15. Popescu, Octavian. 2002. *Sănătatea. Drepturi și responsabilități*, 2<sup>th</sup> Edition, IRDO Publishing House.
16. Romanian Official Gazette, no. 50 of 22 January 2008.
17. Romanian Official Gazette, no. 18 of 10 January 2011.
18. Romanian Official Gazette no. 445 of 22 June 22 2015
19. Romanian Patriarchate, 2008. *Statutul pentru organizarea și funcționarea Bisericii Ortodoxe Române*, Bucharest, Romania: Institutul Biblic și de Misiune al Bisericii Ortodoxe Române Publishing House.
20. Stan, Liviu. 1949. *Statutul Bisericii Ortodoxe Române*, article published in Studii Teologice magazine, no. 7-8
21. Stan, L. 1952. *Relațiile dintre Biserică și Stat. Studiu istorico-juridic*, article published in Ortodoxia magazine, no. 3-4.

22. Stan, L. 1970. *Instituție și instituționalizare în viața bisericească. Importanța și actualitatea problemei*, article published in *Mitropolia Moldovei și Sucevei* magazine, year XLVI, no. 3-6, March-June.

23. State Secretariat for Religious Affairs. 2018. *Statul și cultele religioase*, 2<sup>th</sup> Edition, Bucharest, Romania: Litera Publishing House.

24. Stuparu, C. 2009. *Statul-societatea-libertățile religioase*, Bucharest, Romania: IRDO Publishing House.

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