

THE FUNDAMENTAL RIGHTS DEFENDED BY THE CONVENTION IN THE ECHR LIGHT IN THE TOTHPAL AND SZABO

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Abstract

This study examines the transposition and interrelation of fundamental rights, such as the right to freedom of expression with particular focus on their impact on the exercise of priestly functions. These rights, guaranteed by the European Convention on Human Rights (ECHR) are especially significant in cases where religious service is performed out of personal conviction rather than under an employment contract, as exemplified in the jurisprudence, including the case of Tothpal and Szabo. The origin of the case lies in two applications submitted under Article 34 of the Convention, highlighting violations of fundamental rights stemming not only from interpretative tensions in national legal systems but also from conflicts between constitutional principles and doctrinal coherence. Such cases necessitate a reassessment of how legal principles are constructed and applied, often leading to jurisprudence that lays the foundation for emerging legal doctrines within the field of human rights. Our analysis draws upon data from sources such as the Curia database, Eurostat, and ECJ jurisprudence, which contribute empirical and normative support to the legal arguments presented. Ultimately, the study underscores the centrality of freedom of expression and the right to life as inalienable rights, indispensable for the functioning of a democratic society and essential in safeguarding the moral and spiritual autonomy of individuals, particularly in the context of religious.

Keywords: *right fundamental; legal doctrines; freedom of expression; religious service*

JEL Classification: *K1, K4, D78, Z00, Q18*

INTRODUCTION

To facilitate a deeper understanding of the case law concerning alleged violations of rights protected by the European Convention on Human Rights (ECHR), it is helpful to begin with a general analysis of certain key legal concepts and their relevance to legislative frameworks. This foundational inquiry is particularly pertinent in contexts where individual rights rooted in personal conviction come into potential conflict with national legal standards or institutional doctrines.

This study focuses on the legal implications of religious service performed as an expression of personal belief, drawing specifically on the European Court of Human Rights' (ECtHR) jurisprudence. The case of Tothpal and Szabo v. Romania serves as a central point of reference, offering insight into how the Convention protects individuals whose spiritual or religious expressions may diverge from established state or ecclesiastical norms.

The analysis pays particular attention to the interpretation and application of Article 9 of the Convention, which guarantees freedom of thought, conscience, and religion, and Article 14, which prohibits discrimination in the enjoyment of Convention rights. Additionally, the procedural safeguard enshrined in Article 34, which affirms the right of individual application to the Court, is also examined to assess how access to justice is preserved in such cases.

By examining these provisions in light of the Court's reasoning, this study aims to elucidate how the ECtHR navigates the delicate balance between personal belief, institutional autonomy, and national constitutional principles. This interplay is especially significant in cases where religious convictions inform public or semi-public actions, thereby triggering scrutiny under both domestic and international legal standards. The Court's judgments and decisions resolve not only the cases brought before it, but also serve, in a broader sense, to clarify, protect and develop the rules of the Convention; thus, they contribute to the observance by States of the commitments they have undertaken as Contracting Parties, Case no. 44898/10 (2016).

The system established by the Convention aims to resolve, in the general interest, problems of public order, by raising the standards of protection of human rights and extending the case law in this field to the entire community of States parties to the Convention.

The right to freedom of religion is a cornerstone of democratic society, safeguarded by both national constitutions and international human rights instruments. In the European context, it is most notably protected under Article 9 of the ECHR. Nevertheless, within the framework of organized religion, particularly in states that formally recognize certain religious denominations, conflicts often emerge between the freedom of individual conscience and the internal disciplinary authority of religious institutions.

A recent case before the ECtHR, *Tothpal and Szabo v. Romania*, underscores these tensions. It concerned a Lutheran pastor in Romania who, together with members of his congregation, established a new religious group and association. The applicants were subsequently criminally convicted for the illegal exercise of the profession of priest—an outcome that raises critical questions about the limits of religious freedom and the extent to which religious denominations may exert disciplinary control without infringing on individual rights protected under the Convention.

The case originated from the unification of two separate applications, *Tothpal and Szabo*, submitted under Article 34 of the ECHR, which affirms the right of individuals to bring complaints before the Court. At its core, the case involves an alleged violation of fundamental rights—specifically, the freedom of religion (Article 9) and the prohibition of discrimination (Article 14). It also engages the procedural guarantees of Article 34 in the context of access to justice (Safta & Popescu, 2025).

Particularly significant is the context in which religious service was performed—not as a formal act within an established employment relationship, but as a matter of personal conviction and spiritual calling. This distinction is central to the Court's jurisprudence, which has consistently emphasized the need to protect expressions of faith that fall outside state-sanctioned or institutionally approved structures, especially when they arise from deeply held beliefs.

The *Tothpal and Szabo* case illustrates not only the interpretive challenges within national legal frameworks regarding the regulation of religious activity but also the broader tension between constitutional principles and the doctrinal autonomy of religious bodies. It calls for careful judicial balancing between institutional interests and the fundamental freedoms of individuals—an approach that lies at the heart of the ECtHR's mandate. The ECtHR was thus called upon to balance institutional autonomy with the protection of individual rights, particularly in contexts where personal belief systems intersect with the exercise of spiritual leadership outside conventional labor regulations.

I. LITERATURE REVIEW

A range of methodologies supports this analytical strategy, combining the evaluation of relevant legal literature with the collection and interpretation of administrative data. One significant indicator in this context is a State's consent to be bound by the 18 core international human rights treaties, reflecting its formal commitment to the international legal order and to the progressive realization of human rights standards.

To better understand the case law relevant to the alleged violations of Convention rights currently under review, it is helpful to begin with a general analysis of key legal terms and concepts, particularly those that influence the development and application of domestic legislation. The jurisprudence of the ECtHR serves a dual purpose: it adjudicates individual cases and simultaneously contributes to the clarification, reinforcement, and progressive development of the Convention's legal framework. Thus, its decisions extend beyond the individual applicant, shaping the obligations of all Contracting States and reinforcing the collective commitments undertaken under the ECHR. This principle is well illustrated in Case No. 44898/10 (2016), where the Court emphasized its role in consolidating and advancing the interpretive framework of the Convention.

The Convention system itself is designed not only to ensure justice in individual cases but to address broader questions of public order within the European legal space. By progressively raising the standard of human rights protection and harmonizing legal norms across jurisdictions, the ECtHR plays a crucial role in extending its case-law to the entire community of States Parties. This broader function is captured in the Court's characterization of the Convention as a "constitutional instrument of European public order in the field of human rights," as affirmed in Case No. 45036/98, ECHR (2005).

Within this normative framework, the right to freedom of religion, enshrined in Article 9 of the Convention, remains a foundational component of democratic society, protected under both national constitutions and international human rights law. However, challenges arise when individual religious expression comes into conflict with the internal regulations or doctrinal unity of recognized religious institutions. Such was the case in *Tothpal and Szabo v. Romania*, which concerned the criminal conviction of a Lutheran pastor and

parishioners who had formed a new religious association. Their conviction for the unauthorized exercise of religious ministry raises pressing questions regarding the permissible boundaries of institutional autonomy and the individual's right to act in accordance with conscience and spiritual belief.

Additionally, the Convention imposes limits on how its rights and freedoms may be invoked. Article 17, which prohibits the abuse of rights, states: "Nothing in the Convention may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein or at their limitation to a greater extent than is provided for in this Convention." This clause serves as a safeguard, ensuring that the Convention's protections cannot be misused to undermine the very rights they were designed to uphold.

In this legal and institutional context, the *Tothpal* and *Szabo* case underscores the ECtHR's critical role in balancing the protection of individual rights with respect for institutional coherence and state regulatory authority, demonstrating the dynamic and evolving nature of Convention jurisprudence in response to new and complex challenges within member States. The text of Article 17 is also inspired by Article 30 of the Universal Declaration of Human Rights (1948). Provisions equivalent to Article 17 are also found in the International Covenant on Civil and Political Rights (1966).

In *Religious Freedom: A Normative Approach*, Ardelean (2011) adopts a normative and interdisciplinary perspective on religious freedom, integrating legal, political, and theological dimensions. Rather than limiting his analysis to the descriptive assessment of existing legal frameworks, the author examines how religious freedom ought to be protected and guaranteed within a pluralistic democratic society. Central to his approach is the idea that religious freedom functions not only as an individual right but also as a foundational principle for maintaining social cohesion, state neutrality, and democratic legitimacy.

Article 17 was included in the Convention because it could not be excluded that a person or group of persons might seek to invoke the rights enshrined in the Convention in order to benefit from the right to engage in activities aimed at the destruction of those rights. In particular, it is not at all improbable that totalitarian movements, organised in the form of political parties, could abolish democracy after having prospered under democratic rule, such examples existing in modern European history.

In the present study, we have in mind the fact that the origin of the case is the unification of two applications *Tothpal* and another *Szabo* case that were brought before the Court under the Convention for the Protection of Human Rights and Fundamental Freedoms, which specifically concern the issue that, by their criminal conviction for the illegal exercise of the profession of priest.

When a State ratifies one of the international human rights treaties, it assumes a legal obligation to implement the rights recognized in that treaty. Through ratification, States undertake to put in place domestic measures and legislation compatible with their treaty obligations. The State also commits to submitting regular reports on how the rights are being implemented to the monitoring committee set up under that treaty.

I. METHODOLOGY

The methodology employed in this study comprises several interrelated components, designed to ensure a rigorous and comprehensive analysis of the issues surrounding the protection of fundamental rights under the ECHR, particularly in relation to religious freedom and theological expression.

The first stage involved the selection of the research topic, a critical step that significantly influences the direction and success of any scientific investigation. In this case, a topic of both theoretical relevance and practical urgency was chosen: the prevalence and interpretation of fundamental rights under the Convention and the legal treatment of the public manifestation of theological beliefs. The subject is timely and significant, particularly in light of evolving legal standards and the increasing number of ECHR cases dealing with the intersection of individual religious expression and institutional or state restrictions.

A key methodological component was scientific documentation, which provided the foundational framework for understanding both the legal and theological dimensions of the topic. This involved a thorough review of relevant academic literature, legal doctrine, and case law from the ECtHR.

Given the contemporary relevance of the topic, the study also incorporated a comparative legal analysis, utilizing jurisprudential parallels from other ECHR cases with similar subject matter. These interconnections and cross-references served to highlight patterns, divergences, and shared principles in the Court's approach to religious freedom across different cultural and legal contexts.

Additionally, the study involved a sorting and processing activity, which included an analysis of doctrinal approaches within other religious traditions. This comparative theological lens provided a broader understanding of the normative essence of religious expression, thus enriching the legal analysis with interreligious insights and contributing to a more nuanced exploration of the rights involved.

In compiling and evaluating the data at the national level, the study drew on internationally recognized standards and guidance, particularly those provided by the Office of the United Nations High Commissioner for Human Rights (OHCHR). These resources supported the methodological rigor of the research and ensured alignment with global human rights data practices.

II. PRELIMINARY ANALYSIS

Regarding the Tothpal case and another Szabo case that notified the Court, it is relevant to first list the related legislation such as labor law and constitutional law in order to better understand the effects that led to the case analyzed from multiple perspectives, especially to highlight the role of religion in society and the state of affairs in general with religion.

Thus, according to labor legislation art. 10 of the Labor Code, the individual employment contract is the contract under which a natural person, called an employee, undertakes to perform work for and under the authority of an employer, a natural or legal person, in exchange for a remuneration called salary.

In fact, in the given context of the case, the applicants belong to cults without having a connection and in most cases the applicants have a professional identity, being priests who for various reasons were fired from their parish, their employment contract as priests having been terminated following disciplinary proceedings.

The second identity of the connection between the case on the merits in the Court's analysis was the fact that in both cases the priests continued to serve separately and had explanatory reasons related in particular to the relationship with the parishioners who, although they knew that they had been expelled, followed them in faith, participating voluntarily and with their own conscience in the officiated services.

In the case of the first applicant, the ECtHR observed that he had served as a pastor of the Evangelical Lutheran community in a Romanian city, carrying out his duties under an employment contract formalized by the parish representatives and authorized by the general assembly's decisions. This relationship highlights the formal institutional framework within which religious service was originally performed.

This article explores the legal and ecclesiological consequences arising from the formation of a new religious group and association by this Lutheran pastor, particularly in the context of recent legislative developments in Romania concerning religious freedom and the special legal regime of officially recognized religious denominations. The case involves the establishment of the group "Free Christians" and the association "Autonomous Evangelical Lutheran Church", initiated by the pastor and members of his congregation after internal disagreements with the parent denomination.

The pastor's dismissal by the Evangelical Lutheran Church of Romania, following the formation of these new religious structures, raises critical questions about the delicate balance between the individual's right to religious freedom and the autonomy of religious organizations to regulate their internal affairs, including the discipline and removal of clergy.

This analysis situates the conflict within both the Romanian constitutional and legal framework, particularly in light of Article 20 of the Romanian Constitution (which mandates conformity with international human rights treaties), and the jurisprudence of the ECtHR under Article 9 of ECHR. Article 9 guarantees freedom of thought, conscience, and religion, including the freedom to manifest one's religion individually or in community, in public or in private, through worship, teaching, practice, and observance.

The case serves as a lens through which broader issues can be examined, including the extent to which religious institutions can legitimately limit individual expression, and whether such limitations constitute a violation of Convention rights. It also invites reflection on the scope of State deference to religious institutions under the doctrine of institutional autonomy, and the application of the margin of appreciation afforded to States in regulating religion within a pluralistic and democratic society. However, the pastor is supported by the parish representatives, which is why he continues to celebrate services in the Lutheran church in the presence of some of the community members, even posting a notice on the church door with information about the services that were then organized by the religious group "Free Christians" and also participating in religious ceremonies outside the church.

Although the new pastor requests on behalf of the parish the excommunication of the first plaintiff from the church and his eviction from the parish house, this request is rejected by the Jurisdictional Court on the grounds that the statutory body of the parish, namely its general assembly, ruled in favor of the dismissed priest and did not recognize the new pastor as a representative of the parish.

In the continuation of the conflict between the two, the new pastor exercises a remedy in criminal proceedings for the illegal exercise of the priest's office because he continued to lead religious services in the Lutheran Church in violation of the dismissal decision.

However, the criminal court reasoned that the members of the Lutheran community knew about the

dismissal of the pastor and that a majority of this community had followed and supported him and considered that the actions of the first plaintiff did not constitute crimes, but the considerations note that the office of priest could only be exercised with the consent of religious organizations, whether or not they have legal personality, and that, in this case, this consent being withdrawn, obliges the plaintiff to pay an administrative fine.

Following the challenge of the prosecutor's decision before the Court of Justice, the dismissed pastor argued that he did not act as a Lutheran pastor, but only as a protestant pastor, a dignity that his theological studies and the doctrine of the Protestant cult would have conferred on him. The witnesses heard at the request of the first applicant confirmed that the members of the community were informed about the latter's excommunication from the Lutheran Church and that the person in question celebrated the Protestant Holy Mass at the church, in accordance with a ritual different from the Lutheran one.

In the end, this pastor is sentenced to pay a higher criminal fine, moreover, the motivation reveals that, after being dismissed, the first applicant continued to officiate as a pastor, celebrating religious services and participating in marriage, baptism and funeral ceremonies. The court, however, decides to dismiss the pastor's argument based on the public notoriety of the excommunication from the Lutheran Church, considering that he was responsible for the illegal exercise of the function of pastor, because the Lutheran community in the city did not contest the jurisdiction of the Lutheran Church in Romania and did not become autonomous from this religious organization.

In the appeal procedure at the higher court, it is also noted that the pastor performed rites specific to the Lutheran cult, although his dismissal constituted a legal impediment to continuing his activity as a pastor in the Lutheran parish in the city. Another factual situation concerning the second applicant, the application concerns a decision of the Reformed Church of Romania ("Reformed Church") which came into conflict with the latter due to the filing of the divorce petition.

Like the first case, the new priest officiated the service in the village church. While supported by the majority of the believers of the Reformed cult, the dismissed priest organized religious meetings in the parish house, where he still lived temporarily, or in the homes of the believers. At their request, he celebrated marriages and baptisms and participated in funeral ceremonies. The second applicant argues that these events took place according to rituals other than those specific to the Reformed religion. He also stated that the believers in question sang and recited prayers and that he himself spoke to them without claiming the status of a Reformed priest.

In the preliminary chamber, the court overturned the prosecutor's decision and, considering the evidence available in the prosecutor's file sufficient to justify sending the second applicant to trial, retained the case for an examination on the merits. The court took into account the statements of the witnesses heard by the prosecution, including those of the witnesses proposed by the second applicant, who confirmed that he had not celebrated the Reformed service and that he had not worn the vestments specific to that religion. However, the court ruled that these testimonies were not credible, on the grounds that the witnesses in question had no theological training. Relying on the statements of the witnesses proposed by the Reformed Church and on the documents provided by it, the court considered that it was precisely the celebration of the Reformed service that was at issue, an activity prohibited to the second applicant.

Finally, the court convicted the second applicant of unlawfully exercising the office of priest, on the grounds that the person concerned continued to provide the Reformed religious service and to celebrate marriages, funerals and baptisms. It concluded that the second applicant had acted contrary to Christian teaching and had thus created and maintained a source of discord in the Reformed community of Băița. The court sentenced the second applicant to a two-month prison sentence, considering that only detention could lead him to reflect on his conduct and to rectify himself through fasting and prayer for at least 40 days, after which he could benefit from conditional release.

On appeal, given the division of the Reformed community in the village, the deprivation of liberty of the second applicant was likely to aggravate the conflict and ordered the suspension of the prison sentence with a probationary period of two years and two months.

In the present case, the ECtHR decided to join the two applications, taking into account the factual and legal similarities between them. Both applications concerned the same core allegation: a violation of Article 9 of the Convention—the right to freedom of thought, conscience, and religion—arising from the applicants' criminal convictions for the illegal exercise of the function of priest.

In accordance with this procedural decision, the Court examined the applicants' claims that their convictions constituted an unjustified interference with their religious freedom. The first applicant invoked Article 9, in conjunction with Articles 6 (right to a fair trial), 13 (right to an effective remedy), and 14 (prohibition of discrimination). The second applicant similarly relied on Article 9, but in conjunction with Articles 6, 10 (freedom of expression), 11 (freedom of assembly and association), and 14. The Court reaffirmed its prerogative to determine the legal characterization of the facts, emphasizing that the subject matter of a case

brought under Article 34 of the Convention is defined by the complaint formulated by the applicant. A complaint consists of two key elements: (1) the factual allegations and (2) the legal arguments presented.

However, under the principle of *jura novit curia* (the court knows the law), the ECHR is not bound by the specific legal grounds invoked by the applicant. It may, at its discretion, reclassify the legal basis of the complaint if it determines that the facts are more appropriately addressed under a different provision of the Convention or its Protocols, according *Institute for European Studies (2018)*.

This procedural and interpretive flexibility allows the Court to fully assess the alleged violations in light of the Convention's overarching aim, to ensure the effective protection of human rights, while also maintaining the integrity and coherence of its case law. Applying these principles, the Court considers, in the present case, that it is necessary to examine the applicants' complaints solely under Article 9 of the Convention, which provides the following: 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.

Freedom to manifest one's religion or beliefs may not be subject to any restrictions other than those which, as prescribed by law, constitute necessary measures in a democratic society in the interests of public safety, the protection of public order, health or morals or the protection of the rights and freedoms of others.

The Court begins by recalling that, under its established case-law, an application may be rejected as abusive if it is knowingly based on false facts, as confirmed in *Gross v. Switzerland (2014)*. Furthermore, incomplete or misleading information—particularly when it concerns the substance of the case—may also constitute an abuse of the right to an individual remedy under Article 34 of the Convention, particularly where the applicant fails to sufficiently explain the omission.

In support of the admissibility of their applications, the first applicant argued that he possessed a theological background and that a distinction must be drawn between the exercise of priestly functions in a professional/institutional sense and in a biblical/spiritual sense.

The second applicant submitted in his application that he intervened at the request of a part of the religious community to provide spiritual guidance, without conducting formal rites or receiving remuneration. He claimed that the criminal legislation was vague, failing to define the duties or qualifications of a priest, and that the judges lacked theological expertise and relied on subjective criteria. He invoked the Court's reasoning in *Agga v. Greece (no. 2) (nos. 50.776/99 and 52.912/99, 17 October 2002)*, which emphasized the need to respect religious pluralism in interpreting legal restrictions.

The Court noted that both applicants were convicted for unlawfully exercising the office of priest, a conviction which it determined constituted an interference with their right to freedom of religion under Article 9 of the Convention. The Romanian Government argued that the interference pursued the legitimate aim of protecting the rights of others, namely, the officially recognized churches and their members. The Court accepted that the interference was prescribed by law and acknowledged the stated aim as legitimate. However, the central issue remained whether the interference was "necessary in a democratic society".

In the present case, the applicants were prosecuted for religious acts, including conducting services and participating in rites such as baptisms and funerals. Importantly, these actions did not entail legal effects comparable to civil marriages or binding adjudications, distinguishing them from the Greek legal context in *Agga* and similar cases.

The Court also took note of the applicants' consistent claim that they acted with the support of a segment of the community, a fact undisputed by the Government. It reiterated that punishing a person solely for acting as a spiritual leader of a voluntary religious group is incompatible with the principles of religious pluralism in a democratic society.

Moreover, although the acts took place in the context of internal community divisions, the Court found no evidence of public disorder, tension, or conflict requiring State intervention. It reiterated that such internal divisions, whether religious or social, are an inevitable consequence of pluralism and, in themselves, do not justify interference.

Turning briefly to the employment law dimension, the Court acknowledged that, under the Romanian Labour Code (2011), the individual employment contract is personal and based on trust. This characteristic is significant in religious contexts, where clergy often serve not merely in legal employment relationships but as spiritual figures bound by ecclesiastical loyalty and communal recognition. Moreover, the fundamental law evokes in article 41 the fact that the right to work cannot be restricted. The choice of profession, trade or occupation, as well as the place of work is free.

This right to work should not be viewed in isolation but is associated with the regulation of the special law that characterizes the type of this occupation, in the case of the study being primarily the profession of priest. All the more the essence of work, also mentioned in the fundamental law evokes in article 15 - Freedom to choose an occupation and the right to work, namely that it states that "Every person has the right to work and the

right to exercise a freely chosen or accepted occupation.”

However, in this case, the priest no longer had the right to exercise his right as a priest within the church, as his employment contract was terminated in the framework of internal and legal procedures. On the other hand, the court decision, having its own enforceable force, must be implemented, without investigating its validity or legality, if its illegality has not been established according to the procedures provided for by law, as a result, the termination of an employment contract to the extent that the court has maintained that contract as legal does not interfere with the profession practiced by a priest.

Another relevant example is found in the instrument of the tax authority requesting the fiscal registration of a natural person who obtains income from independent activities, if the legal conditions provided for by the special law regarding the exercise of the activity are not met. Consequently, tax registration is necessary for the tax authority to record those who carry out acts and operations that fall under the tax law, and not a condition for the legalization of activities, this remains, as mentioned above, a responsibility of those who carry them out.

As of 2024, Romania officially recognizes 19 religious denominations, in accordance with Law No. 489/2006 on Religious Freedom and the General Regime of Religious Denominations. This legal framework guarantees both religious autonomy and state support, in line with Article 29 of the Romanian Constitution, which affirms that “religious denominations shall be autonomous from the State and shall enjoy its support, including the facilitation of religious assistance in public institutions.” assertion supported and by Ionescu (2015).

Statistical data from 2015 indicates the presence of 27,384 places of worship belonging to the 18 officially recognized religious denominations at that time, illustrating the breadth of religious organization and influence in Romanian society. The current legal and institutional structure reflects not only pluralism but also the state’s responsibility in safeguarding religious identity within a democratic framework.

An important exception within the law concerns the religious rights of minors. Specifically, the law provides that a child’s religion cannot be changed without the child’s consent after the age of 14, and under child protection legislation, certain non-derogable rights are guaranteed. From the age of 16, individuals acquire the autonomous right to choose their religion, thereby reinforcing the principles of free thought and conscience even during adolescence.

Prohibition of Religious Discrimination

The legal framework also prohibits discrimination on religious grounds in all sectors of public and private life. This is anchored in Article 16 of the Constitution—Equality of rights—which stipulates that “Citizens are equal before the law and public authorities, without privileges and without discrimination.” Furthermore, Article 21 on Non-discrimination establishes a broad protection framework:

“Any discrimination based on grounds such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.”

According to **Table 1**, taking into account the role an evolution of religious cults in Romania which demonstrates not only the respect for religious rights according to treaties and conventions but also an increase in the values of religion in the creed and mission of faith, as well as the approach to religion in general.

Table 1. The evolution of religious cults in Romania

No.	Name of cults	No.	Name of cults
1.	Romanian Orthodox Church	11.	Baptist Christian Cult - Union of Baptist Christian Churches in Romania
2.	Serbian Orthodox Diocese of Timișoara	12.	The Christian Church According to the Gospel in Romania
3.	Roman Catholic Church	13.	Romanian Evangelical Church
4.	Romanian Church United with Rome, Greek Catholic	14.	Pentecostal Christian Worship – Apostolic Church of God in Romania
5.	Archdiocese of the Armenian Church	15.	Seventh-day Adventist Church in Romania
6.	Old Rite Orthodox Church of Romania	16.	Federation of Jewish Communities in Romania - Mosaic Cult
7.	Reformed Church in Romania	17.	Muslim Cult
8.	Evangelical Church C.A. of Romania	18.	Religious Organization "Jehovah's Witnesses"
9.	Evangelical Lutheran Church in Romania	19.	Assemblies of God in Romania
10.	Hungarian Unitarian Church		

Source: Own research data

According to Figure 1, taking into account the role and purpose of knowledge of international

jurisprudence consistently in clarifying legislation in support of citizens, and in accordance with the Treaties and Conventions, every natural or legal person has the right to the peaceful enjoyment of his possessions.

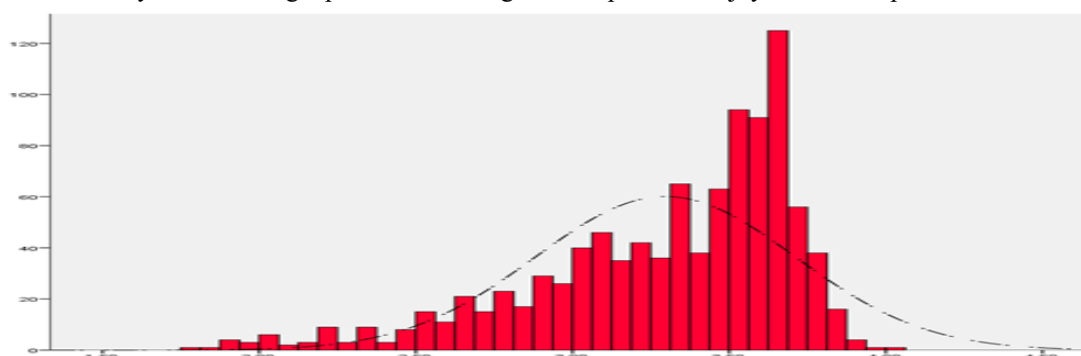


Figure 1. Variable trend. Religious Tolerance Index (1995-2010)

Source: Own research data from National Institute of Statistics. (2021)

No one may be deprived of his property except for reasons of public utility and under the conditions provided for by law and by the general principles of international law. with reference to art. 6 § 1 Fair trial, the research aims to clarify complex cases and form regulatory intentions in the light of the principles of the ECHR in relation to the legal text in force, to ensure a correct application of the law.

According to Figure 2 the projection of the main religion releve within the scope of application of the Treaties, and without prejudice to any specific provisions contained therein, any discrimination on grounds of nationality is strictly prohibited. This principle reflects a foundational norm of European Union law, aimed at ensuring equal treatment and access to rights and freedoms across Member States. Accordingly

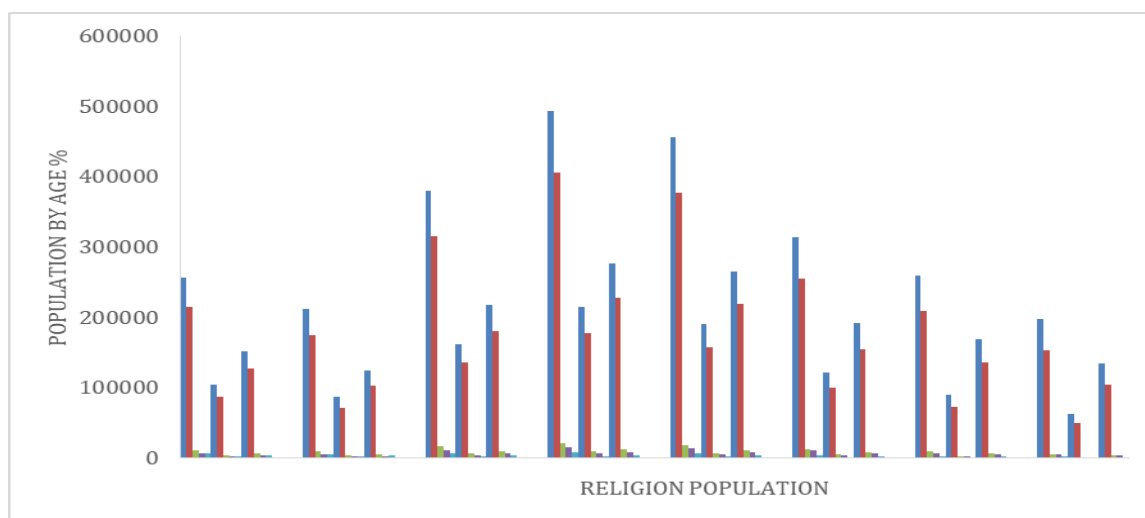


Figure 2. Projection of the main religion indicators

Source: Own research data from Eurostat

In addition, the law prohibits religious defamation, the incitement of religious conflict, and the public defamation of religious symbols, all of which are subject to sanctions under national legislation. These provisions collectively ensure that freedom of religion is balanced against the protection of public order and respect for the beliefs of others (Letsas, G. (2007)).

Supremacy of International Human Rights Standards

Romania's constitutional framework also provides for the supremacy of international human rights instruments in the event of a conflict with domestic law. Where inconsistencies arise between domestic legislation and the international pacts and treaties to which Romania is a party, international provisions take precedence, except where domestic law or the Constitution offer more favorable protection. This principle reflects the spirit of Article 20 of the Romanian Constitution, thereby reinforcing the binding force of instruments such as the ECHR and the UN Convention on the Rights of the Child (1998).

In this context, the jurisprudence of the ECtHR, including in the present case of *Tothpal and Szabo v. Romania*, represents not merely an interpretation of Convention rights but also a substantive source of law. The

Court's decisions play a key role in harmonizing national legal systems with supranational human rights standards and serve as authoritative guidance in constitutional interpretation, legislative reform, and judicial reasoning within Romania's legal order.

The prohibition of discrimination on grounds of nationality is rooted in Article 18 of the Treaty on the Functioning of the European Union (2011) and is further reinforced by Article 19 which empowers the EU to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation.

In a broader human rights context, this provision aligns closely with Article 14 of the ECHR, which prohibits discrimination in the enjoyment of the rights and freedoms set forth in the Convention. In areas where these provisions overlap, the interpretation and application of the EU's non-discrimination clause must be conducted in harmony with Article 14 of the ECHR.

Additionally, Article 11 of the Convention on Human Rights and Biomedicine (Oviedo Convention) extends this principle specifically to genetic heritage, underscoring the importance of non-discrimination in the context of medical and scientific advances.

Thus, to the extent that the non-discrimination clause coincides with the ECHR and other human rights instruments, it must be interpreted in a manner that ensures consistency with established human rights jurisprudence, particularly as articulated by the ECtHR.

For those reasons, the Court declares the complaint under Article 9 of the Convention admissible. To that end, the Member States must repeal the national rule incompatible with EU law and, until then, render the provision in question inapplicable. That obligation is imposed on all national authorities, including local or regional authorities, and on national judges.

III. RESULTS AND DISCUSSION

The indicator provides information on the acceptance by a State of the international human rights standards and its intention or commitment to undertake steps to realize human rights in conformity with the provisions of the relevant instruments (structural indicator). It does not, however, capture actual implementation (process indicator) or its results (outcome indicator).

Under international law, the signature of a treaty by a State does not constitute consent to be legally bound by the treaty. Rather, signature serves primarily as a means of authentication and signifies the State's willingness to proceed with the treaty-making process. It is the step that qualifies the State to move forward to ratification, acceptance, or approval of the treaty. Importantly, once a treaty is signed, the State incurs an obligation under the principle of good faith to refrain from any acts that would defeat the object and purpose of the treaty, as established in the Vienna Convention on the Law of Treaties (1969).

In the context of policy harmonization within the European Union, particularly in the agricultural sector, there is a recognized need to adopt measures to bridge existing gaps between Member States. Notably, disparities persist between countries in the north-western EU and others regarding agricultural subsidies and practices.

IV. CONCLUSIONS

Considering the relevant jurisprudence, the Court holds that state measures which favour a particular leader of a divided religious community or compel that community—against its will—to accept a single leadership constitute a violation of freedom of religion. This principle reflects the fundamental right of religious communities to self-determination and pluralism. The ECtHR has consistently emphasized that, in a democratic society, the State has no obligation to impose or maintain unified leadership over religious communities. The Court reaffirmed that religious pluralism and internal diversity are inherent to democratic values. In the present case, however, the Romanian authorities' conviction of the applicants for their religious activities effectively placed parts of the religious communities in cities A and B exclusively under the control of the established Lutheran and Reformed Churches. This exclusion denied believers who wished to follow the rites officiated by the applicants the freedom to do so.

The Court therefore concluded that the criminal sanctions imposed on the applicants were not justified by any "pressing social need". The interference with their right to collectively manifest their religion through worship and teaching was not "necessary in a democratic society." Accordingly, the Court found a violation of Article 9 of the ECHR, which guarantees freedom of thought, conscience, and religion, including the freedom to change religion and to manifest one's beliefs individually or collectively.

While Article 9 protects religious freedom, the ECtHR has also stressed the importance of respecting the autonomy of religious organizations. This autonomy allows religious denominations to govern themselves,

especially concerning doctrine and internal discipline. Court further affirmed the State's duty to respect the autonomy of religious denominations while balancing clergy rights with institutional interests. Interestingly, the Court approaches the role of the State from a perspective that highlights its function as a neutral and impartial organizer of religious exercise. This stance supports public order, religious harmony, and tolerance in a democratic society rather than prioritizing institutional control over religious communities. The Romanian legal framework, consistent with European standards, aims to provide a balanced approach to resolving tensions between individual religious freedoms and the internal discipline of recognized religious denominations. The case thus illustrates that the right of individuals to form new religious entities coexists with the right of religious organizations to preserve doctrinal integrity.

Ultimately, this case underscores the importance of mutual respect between personal conscience and institutional authority, a principle foundational both to ecclesiastical life and constitutional democracy.

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