

Institut für Reformatorische Theologie

Theologische Aufsätze

**The Church and its
Relationship to the State
in the Context of
the European Union (EU)**

by

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Introduction: The postmodern context of the Church

Church history shows that the relationship between the church and the state can be very different. I would suggest the following categories to define the attitude of the state towards the church: persecution, discrimination, tolerance, support and submission. It was a great step towards religious liberty to separate church and state in modern constitutions. Nevertheless, still in the past century, some churches were discriminated by European states, whereas others were actively supported. The fact that the states of the EU actually are neither persecuting the church nor permit the representatives of the church to govern political processes as well as the separation of church and state reflect the principle of religious neutrality of the states.

Although there is a tendency to equalize the relationship between church and state in the states of the European Union, old and new problems have to be observed. Old problems are different traditions concerning the relationship between church and state in the member states. New problems have arisen from the immigration of people from many countries all over the world, new religions have been imported to the former European Christian societies. In particular, Muslims have gained considerable influence.¹ Post Christian Europe with its pluralist system of values has lost its former religious convictions to pattern its values. It has been replaced by humanist values like tolerance, solidarity, integration and renunciation to violence. Strong and conscience-binding Christian values have become soft values. On the other hand, the Muslim religion, being characterized by strong and conscience-binding religious convictions, is going to fill the spiritual vacuum in Europe. By now, Muslims are not so much a problem to the churches, but a challenge to the state. Their religion is directed to be practiced in public and to pattern education, culture and law. The states have to deal with it as a new form of religion different from a peaceful Christian Church separated from the state.

Whereas the Roman Catholic Church still enjoys considerable influence, Protestantism since the sixties is in a process of decline in Central and Western Europe. It has been the leading force in promoting higher criticism of the Bible in the last centuries. Consequently, central biblical truths and values have been denied. This has led to very much indifference towards the church and its message among its members. Few are attending Sunday services, and historical Protestant churches are continuously losing members, both by considerable numbers of people leaving the church who will not have their children baptized, and by demographic reasons. Bible believing and confessional Protestant churches have become a small minority in many European countries.

If we discuss the relationship between the Church and the European Community (EC), we should also have in mind that this entity in the first three decades of its existence has not been interested in religious aspects. The EC has developed from the European Coal and Steel Community, which was established in 1950 by six central-western European States. In 1957, the Roman treaties created the European Economic Community, which in the following decades was joined by other countries. A Common Market was developed. In 1979, the European parliament was elected for the first time by democratic elections in its member states. Still in the eighties, the European Community had its focus on economic and trade issues, and in the Treaty of Maastricht (1992), the church

¹ 8 % of total population in France; 3,9 % in Germany; 4 % in Austria, 3,5 % total Europe; source: Orientdienst e.V., <http://www.orientdienst.de/muslime/muslimeeuropa.shtml> (29.5.07).

and religion are not mentioned.² Only the adherence to the European Convention on Human Rights is expressed. The role of churches, world views and other religious groups had not been dealt with at a European level by that time. This, too, is a sign of postmodernism: the Church has lost its relevance in politics. However, in the Treaty of Amsterdam (1997), the Church and Religion are clearly envisaged. Thus, the subject of this essay has been an issue in its proper sense only for the last ten to fifteen years.³

This sketch roughly represents the situation in which the relationship between the church and the EU is discussed. I would like to consider two central aspects. First, I am going to speak about the role of the church in the discussion about a European Constitution, which has taken place until 2004. Due to the negative votes of the French and Dutch people in 2005, the constitution did not gain legal force. New efforts have been made in the present year 2007 to amend the former draft and it seems to be possible that this new draft will be ratified by the member states. Second, I would like to comment the issue of liberty of Christian preaching, because preaching is a central activity of the Church.

1. The discussion concerning a European Constitution

Under this heading, two aspects should be commented: (1) the discussion about a reference to God, and (2) legal aspects of the relationship between church and state.

1.1. The reference to God

In the light of the history of the European Community, it is no surprise that neither the draft of the European Constitution 2003⁴ nor the Berlin Declaration⁵ nor the actual draft⁶ do contain any reference to God nor to the historical Christian roots of Europe. The draft in its preamble simply mentions the “cultural, religious and humanist inheritance of Europe“ and does not mention Christianity as the major culture forming force for more than thousand years. It sets forth “respect for human dignity, liberty, democracy, equality, the rule of law and respect for human rights“ as the leading values of modern European civilization, which is to be realized in “a society of pluralism, tolerance, justice, solidarity and non-discrimination.“⁷ The Berlin Declaration is still less specific. It may be argued that the Christian background of Europe by implication has been mentioned, because a reference to the religious roots of Europe is given.⁸ But it is a matter of fact that a direct reference to God was not accepted.

² <http://www.eurotreaties.com/maastrichttext.html> (25.5.07).

³ In April 2002, the Evangelische Kirche in Deutschland, the confederation of the former Protestant state churches in Germany, initiated a symposium on the relationship between German state church laws and European laws. The documents have been published in: *Deutsches Staatskirchenrecht zwischen Grundgesetz und EU-Gemeinschaftsrecht*, ed. A. Frhr. v. Campenhausen. Frankfurt: Peter Lang, 2003. R. v. Vietinghoff in his introductory speech criticized that during the development of the European Union, cultural aspects including faith, church, religion and world views have not been considered, because the member states did not feel the necessity to deal with these subjects. This reflects the fact that the relationship between church and state was considered to be a matter of the member states. However, it also reflects the fact that the European Union is not interested to recognize that Europe’s fundamental laws are secularized children of Christianity, because the continent has been shaped by Christianity (ibid. p. 11-12).

⁴ Text: see <http://european-convention.eu.int/docs/Treaty/cv00850.en03.pdf>

⁵ Declaration on the occasion of the fiftieth anniversary of the signature of the Treaties of Rome; text: see http://www.eu2007.de/de/News/download_docs/Maerz/0324-RAA/English.pdf (29.5.07)

⁶ Text: see. <http://www.consilium.europa.eu/uedocs/cmsUpload/cg00001re01en.pdf> (30.11.07)

⁷ European Constitution, Art. 2.

⁸ Cf. Brok, E. „How does the politics reflect on the role of the churches in the EU?“ see: http://lkg.jalb.de/lkg/jsp/news.jsp?news_id=1088&lang=en&side_id=2 (14.5.07).

The reference to God has been discussed controversially. Conservative delegates from countries like Poland, Slovakia, Germany and Italy favoured a reference to God whereas French and Dutch delegates were opposed to it. The fathers of the constitution of the Federal Republic of Germany (1949) have consciously taken up a reference to God because they had in mind the man-despising totalitarian regime of the national-socialist party a few years before. By the reference to God, they expressed that neither man nor any ideology should be permitted to gain supreme authority in the legal system of the new state. But the French delegates and others argued by their tradition of “laïcité”, of a lay state, and thus denied any reference to God. An agreement on this issue seemed to be impossible.

It must be maintained that a lay state and the omission of a reference to God are not the same. A reference to God in a post-modern context would neither imply a commitment to a particular religion nor to a church body. Each citizen, Jews and Muslims included, and every religion may have its own image of God.

It must be conceded that in a multicultural society it is very difficult to establish a consensus on this issue, because if God is adduced, the question will immediately arise, which God or which kind of God is appealed to. The observation of H. de Wall may also be adduced that a reference to God has only a symbolical value.⁹ Nevertheless, with a reference to God the churches can speak with more authority in a case of conflict. It should not be forgotten that Europe has been formed by the influence of Christianity, in southern parts since very early times, in northern parts for about thousand years. In particular, Protestant Europe has got the idea of liberty of conscience, faith and speech and the idea of separation of church and state. It is the triune God, who has created the world according to his will, and only under a triune God, unity and variety can equally have a place. Once faith in the triune God is lost, Europe and any other state or system are in danger of totalitarian structures.

A reference to the triune God, not represented by a monist system like papacy, in a future European Constitution would mean that no human factor, be it a nation, a race, a party or an ideology can assume supreme authority. It does not discriminate Jews and Muslims, because it is the triune God who knows that man is a sinner, who has given his son to reconcile man with himself and in his love and forbearance permits him to live on earth. He does not command to kill the unbeliever nor to create a paradise on earth. Thus the reference to the triune God is like a roof, under which different people can live.

Further, man needs values to pattern public life and to handle ethical issues like euthanasia, abortion rights, embryo research and genetic research. Human life and human dignity are basic values. They cannot be substantiated except by the fact that man has been created in the image of God. If there are no clear convictions about such values, the average European citizen will have no reason to abstain from doing evil and to act against life. Once demoralized, a powerful state is necessary to prevent evil by controlling him. Thus the European Society will become all the more like Orwell’s Big Brother, removing the classic liberties in order to assure security and to keep public life functioning. This process is already taking place in various countries. I am referring to a dense

⁹ „Daß der Gottesbezug in der Präambel einen geringen normativ-juristischen Gehalt und dafür einen überwiegend symbolischen Charakter gehabt hätte, ist unbestritten.“ in: de Wall, H. „Die Religionen in der Verfassung der Europäischen Union.“ <http://www.uni-trier.de/uni/theo/downloads/de%20Wall.pdf>, (2.6.07) S. 1.

control system by video cameras in Great Britain, while other states are still building up such a system. I would also mention the facilities to control the private sphere by observing computers and email traffic. A European Community without God may become a secular monster, continuously assuming more power over the individual. In such a system, nobody will be able to appeal to the authority of God and nobody will accept such an appeal.

1.2. The church

The relationship between the churches and non-confessional organizations is dealt with in article 51 of the draft of the European Constitution and is also part of article 15 b of the draft of Treaty amending the Treaty on European Union (art. 17 in the definite text). It says:

- “1. The Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States.
2. The Union equally respects the status of philosophical and non-confessional organisations.
3. Recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations.”

Some people have suggested to suppress this article, indicating that there are national traditions and that the European States have different laws concerning their relationship towards the church.¹⁰ There is e.g. a clear separation of church and state in France due to the influence of the republican emphasis and tradition since the French Revolution (1789). There is also the concept of coexistence and cooperation regulated by a particular treaty in Germany (1949). There is a State Church in Denmark, supported by the government. In Greece, the constitution considers the Eastern Orthodox Church of Christ (Greek Orthodoxy) as the „prevailing“ religion, whereas in Poland, the Roman Catholic Church, although legally separated from the state, is exercising great influence in politics, public schools and media. It is backed up by a 96% membership of its population.

Such differences should be kept in mind in order to assess the difficulties to handle the relationship between church and state at a European level. The draft clearly says that the relationship between church and state will be governed by national laws.¹¹ That is the actual legal status. However, although the argument is basically true that each state has its proper relationship to the church, the member states should be obliged to grant equal liberties to all churches. This is a major issue in the negotiations with Turkey, and it has been an issue during the membership negotiations with Greece.

According to the draft, the constitution promises an open dialogue with the churches. This is a progress, since the Amsterdam treaty simply recognizes the status of the churches.¹² It does not only intend a static relationship, by which the existence of the churches in the member states is simply accepted and the church law of each member state guaranteed. It is interested in a dynamic relationship, by which the input of the

¹⁰ Cf. <http://european-convention.eu.int/Docs/Treaty/pdf/37/Art37DuffIT.pdf> (24.5.07).

¹¹ Brok, E. „How does the politics reflect on the role of the churches in the EU?“ see: http://lkg.jalb.de/lkg/jsp/news.jsp?news_id=1088&lang=en&side_id=2; 14.5.07.

¹² Final Act, Declaration #11; <http://europa.eu.int/eur-lex/de/treaties/dat/amsterdam.html#0133040028> (24.5.06).

churches is recognized. This is an important privilege which has not been granted to any other organization in society.¹³

There is, however, a difficulty concerning the relationship between church and state. It is a matter of fact that the church does not speak with one voice. It is separated in a strong Roman Catholic Church and dozens of national protestant churches and countless free churches. In all churches, conservative and liberal voices are to be heard. Who could be a legal spokesman of the church? At a conference in Debrecen in 2004, M. Beintker said: "Who wants to know what Christians in Europe think about a particular issue, should prefer to ask the Vatican or one of its sub-offices instead of one of more than hundred Protestant church leaders in Europe."¹⁴ Although the Roman see – particularly in ethical issues – says what conservative Protestants would also say, it is nevertheless a discrimination of Protestantism, particularly if its churches are small. Conservative Protestants and Protestant churches should get together to elect a speaker who is able to communicate Christian ethics in the dialogue with the EU and its member states.

1.3. Conclusion

By now, European laws have not had any direct relevance for the Church. The Churches as institutions are primarily concerned by national laws. These laws are normally patterned by national or regional traditions. There are no signs of change of these traditions as long as they fit into the framework of European laws. This means, as de Wall correctly observes, that the European Union does not want to assume the right to regulate the relationship between church and state and that it protects the respective national traditions.¹⁵

Although the draft of the European Constitution promises an open dialogue with the churches and although the Roman church still has some political influence, in the outcome, the churches do not have any direct political relevance to the European Union. This reflects the fact that church and state are generally separated and that the European Community is a secular institution. It also reflects the political irrelevance of the churches and of Christianity at all. This can be seen clearly by the fact that the vote of Pope John Paul II. favouring a reference to God was not respected.

2. Europe and the Human Rights

Historically, Europe is the cradle of Human Rights. The European Union has thus designed itself to be a stronghold of liberty, and according to the letter, Europe enjoys freedom of conscience, faith and speech. This is an important good, because it also applies to the freedom of Christian preaching. So we would expect that freedom and independence of the churches in Europe are guaranteed.

There are, however, some areas, where European laws may have a negative significance for the Church. As soon as the Church is acting in the secular sphere, e.g. offering em-

¹³ Brok, E. „How does the politics reflect on the role of the churches in the EU?“ see: http://lkg.jalb.de/lkg/jsp/news.jsp?news_id=1088&lang=en&side_id=2; 14.5.07.

¹⁴ „Wer wissen will, was die Christen in Europa zu einem bestimmten Thema denken, fragt lieber gleich beim Vatikan oder einer seiner Außenstellen nach als bei einer der über 100 evangelischen Kirchenleitungen Europas.“ M. Beintker, http://lkg.jalb.de/lkg/jsp/news.jsp?news_id=640&lang=en&side_id=2 (22.5.07)

¹⁵ de Wall, H. „Die Religionen in der Verfassung der Europäischen Union.“ <http://www.univ-trier.de/uni/theo/downloads/de%20Wall.pdf>, (2.6.07) S. 4.

ployment, social assistance or education or publishing media, it has to pay attention to many European laws. I cannot go into details, but I would like to comment on this issue in the light of the European commitment to Human Rights in general and the struggle against antidiscrimination in particular.

2.1. Human Rights in general

The European Convention of Human Rights (ECHR, 1950) is playing a major role in defining these rights. All member states of the European Union have undersigned and ratified it. The ECHR says in Art. 9 (1): “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.” However, this right is limited by the following regulation, stipulated in part (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 the protection of the rights and freedoms of others.” Besides this paragraph, the average set of human rights is being granted.

In the European Charter of Fundamental Rights (2000), the European Commission has formulated anew the fundamental rights as they are understood by the European Institutions. It says in article 10: „1. Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance.”

This, too, is a clear confession to the exercise of religion both in the individual as well in the corporative sphere. Both documents accept that religion is an element of human life and that it should be exercised freely. Having in mind that in former communist countries as well as under the Nazi regime, churches who did not conform with the state were persecuted, and that in many Muslim states churches as institutions do not exist at all and that public worship is forbidden, the regulations of the European Charter of Human Rights permits freedom for the Christian Church in its different branches. This freedom is in the same way granted to different Muslim groups. This can clearly be seen by the decision of the European Court of Human Rights in Strasburg in the Hasan-Chaush cause against Bulgaria in 2000.¹⁶ We can acknowledge that Europe really is a stronghold of religious freedom.

However, in 2001 France has issued an anti-sect law which has been seen by evangelicals as potentially dangerous to religious freedom in the country. France has become concerned about cults because of some mass suicides and other incidents in recent years. Because there are only 0,8% evangelicals in the country, the media and government do not know what evangelicalism is and often identify it with cults. The presence of charismatic groups makes this even easier for them to do. The term ‚sect’ is never defined. Psychological categories are used to identify sectarian behavior: If you cause a “state of subjection”, either physical or psychological, through the “exercise of serious and repeated pressures or techniques aimed at altering the capacity of judgment” you may be sent to prison for up to five years or condemned to pay high fines.¹⁷

¹⁶ See http://www.menschenrechte.ac.at/docs/00_6/00_6_02.htm (2.6.07), and <http://www.echr.coe.int/Eng/Press/2000/Oct/Hasan%20and%20Chaush%20jud%20epress.htm> (2.6.07).

¹⁷ <http://www.cswusa.com/Reports%20Pages/Reports-France.htm> (1.6.07).

The fears of many minor Christian groups are “well-founded, as after the Inter-ministerial Mission for the Battle Against Sects published a list of 173 identifiable “sects” (including such mainstream Christian groups as the Baptists and Youth With a Mission), members of the listed groups reported increased discrimination and harassment.”¹⁸ Although the law in question is a French law, it is significant that it seems to fit into the framework of the European laws.

2.2. The struggle against discrimination

The struggle against discrimination is basically positive, because there still is much discrimination in Europe, not only in sex and race, but also in economic, social and religious matters. However, Christians felt uneasy because a new category was added to the list of criteria, i.e. the category of „sexual orientation“. It is used particularly by homosexuals to stop unequal treatment because of their behaviour and to silence criticism on it. This was not an issue in times of the European Declaration of Human Rights (1950). It was neither an issue during the decades of development of the European Economic Community. But in the meantime, the Sixtyeighters promoted the sexual revolution. Sexuality was made an instrument by the neo-marxist Frankfurt School, in particular by Herbert Marcuse, to break up traditional forms of life such as civil marriage and thus promote social and political changes to exterminate the former Christian civil society. As soon as political, social, cultural and ethical aspects became an issue to the EC, it made itself a forum for antidiscrimination in this particular area.

The struggle against discrimination was enforced by the Amsterdam Treaty (1997). It enables the Council to “take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.”¹⁹ The category of sexual orientation has also been taken up in the European Charter of Fundamental Rights, solemnly proclaimed in Nice in December 2000. In § 21, it clearly forbids discrimination on the following grounds: “1. Any discrimination based on any ground 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.”²⁰ Equal Treatment Directives were promulgated and had to be adopted by the member states by 2004.

In this context, it must be observed that sexual orientation is not a biological or genetic matter, but a psychological matter. It is put side by side with the biological category “sex”, which is explicitly mentioned in the average laws. “Sexual orientation” must be seen in the context of the actual Gender Mainstreaming movement, which does not accept two sexes according to the biological order, but five “genders” (male, female, homosexual, lesbian and bisexual).²¹ According to this view man constitutes his sexual orientation or his sexual identity by himself or by his psychological disposition. This clearly corresponds to the Freudian image of man in the Frankfurt School: Man is an instinct driven being. Sexual orientation thus is something within man’s spirit; is cannot be referred to something biological. One is tempted to say that it is somehow gnostic.

¹⁸ *ibid.*

¹⁹ Article 13; <http://www.eurotreaties.com/amsterdamtreaty.pdf> (24.5.07)

²⁰ Text: http://www.europarl.europa.eu/charter/pdf/text_en.pdf (24.5.07)

²¹ <http://www.theinterim.com/sept97/16sheddi.html> (23.2.07). Accordingly, the UK Equality Act 2006 defines sexual orientation: “... an individual’s sexual orientation towards (a) persons of the same sex as him or her, (b) persons of the opposite sex, or (c) both (Chapter 3, section 35); http://www.opsi.gov.uk/ACTS/acts2006/ukpga_20060003_en.pdf (2.6.07).

It can be learned from history that humanist thought is not immune against totalitarianism. The French guillotine as well as the humanist dictatorships in the 20th century show forth that humanism may turn into its opposite. This is, however, not so much due to humanism itself but to the typically human tendency to render one's opinion absolute to safeguard one's power. Formally Christian rulers as well as Non-Christians have done that, and the result has always been oppression. The struggle for Human Rights and against discrimination in Europe may become repressive if an image of man and not man himself is granted authority. Thus Christians in different Western countries have to face resistance concerning their position towards homosexuality. Let me give the following two examples:

(1) In 2004, Rocco Buttiglione, an Italian professor of philosophy and devout Roman Catholic, was presented by Mr. Barroso to become commissary for justice and internal affairs and thus a member of the European Commission and its vice president. He was not accepted because of his statement concerning homosexuality (and the position of women). He said "I may think" that homosexuality is a sin.²² He clearly differentiated sin and crime, denying the latter with respect to homosexuality. In addition, he confessed himself to the traditional image of the family. A very controversial discussion arose, particularly from the green, liberal and socialist side, which finally led Mr. Buttiglione to resign. However, this shows that Europe and its representative organs have become a battlefield between Christianity and heathendom, as Mr. Buttiglione put it in an interview.²³

(2) In January 2007, Christian Vanneste, a French philosopher, Roman Catholic and member of the *Union pour un Mouvement Populaire* of Mr. Sarkozy and also a member of the National Assembly, was confined for having written the following sentences in a French newspaper: "... homosexual behaviour endangers the survival of humanity" and "... heterosexuality is morally superior to homosexuality."²⁴ By these words, Vanneste, according to French law, has committed a so called hate crime by expressing his opinion on homosexuality. The Attorney General commented: "These words are horrible and are hurting" and, "These Words are illegal since December 30th, 2004."²⁵ The Brussels Journal summarizes the outcome: "A court in Lille ruled that Mr. Vanneste has to pay a fine of 3,000 euro plus 3,000 euro in damages to each of the three gay organisations that had taken him to court. The politician ... also has to pay for the verdict to be published in the leftist Parisian newspaper *Le Monde*, the regional Lille daily *La Voix du Nord*, and the weekly magazine *L'Express*."²⁶

Both, Buttiglione as well as Vanneste, being Roman Catholic Christians, have uttered their Christian convictions, and were blamed for that. This is not a sign of liberty, but of discrimination for religious reasons and, formally, a denial of liberty of speech. It may be argued that they have not spoken as representatives of the church. The Church in fact by now is not blamed for maintaining that homosexuality is sin. I am referring to the Roman Catholic Church, because in liberal Protestant Churches, homosexuality is – although in some cases under certain conditions – an accepted form of life.

²² http://www.welt.de/print-welt/article350502/Ich_habe_alle_Schuld_auf_mich_genommen.html; 25.5.07.

²³ *ibid.*

²⁴ „Je n'ai pas dit que l'homosexualité était dangereuse. J'ai dit qu'elle était inférieure à l'hétérosexualité. Si on la poussait à l'universel, ce serait dangereux pour l'humanité.“ <http://www.spiritualite-chretienne.com/combat/13-12-2005.html> (30.5.07).

²⁵ <http://www.kreuz.net/?article=4634&id=2234,%206.2.07> 30.5.07; transl. B.K.

²⁶ <http://www.brusselsjournal.com/node/724>, 25.5.07.

Kreuz.net, a German Roman Catholic online news service, reported in 2005 that the Supreme Court in Sweden has affirmed the decision of an appellation court that a Protestant preacher was not to be blamed for having said in a sermon that homosexuality is like a “cancer” in society. He had been condemned for hate speech in a first instance, but this decision was quashed by an appellation court.²⁷

From the viewpoint of traditional Christian Ethics, this kind of protection of an alleged homosexual orientation means to quench criticism on a particular form of life, which according to the Scriptures is sin. This is not only an assault on traditional civil marriage, but also an open denial of God’s Commandments. Although a Church based on the Scriptures and preaching according to the confessions of the Reformation will fully agree with the idea of antidiscrimination, it may nevertheless be criminalized.

We can thus say that this conflict has arisen during the last few years and it is uncertain how it will be solved. Actually, it seems to be a general guideline that Christian organizations may basically enjoy liberty of speech within their walls, but that individuals are not granted freedom of speech to utter their Christian convictions in public. Conservative Protestant Christians in Western Europe fear that freedom of Christian preaching will be limited in future.

2.3. Other areas of conflict

Although the churches are enjoying basic liberties in their pastoral work and although they presently have no reason to fear that they may suffer restrictions at an institutional level, there are many realms of conflict as soon as churches act in the secular sphere, e.g. in school, university, hospital, social services, construction etc.²⁸ As long as their particular interest, the instruction in and the exercise of their belief is concerned, they will have freedom. But in areas outside, they are subject to the antidiscrimination laws and other laws like secular institutions. It is not yet clear, how far secular laws are valid and how far church laws can be reclaimed. It is a matter of legislation and jurisdiction in the member states how European laws have to be applied. I would expect that jurisdiction will differ among the member states, i.e., roughly spoken, that it will be more conservative in the East and more progressive in the West.

3. Conclusion

There are multiple contacts between church bodies and representatives of European institutions. Whether these contacts really deal with the above mentioned problems may be put in doubt, because only few of the mainline churches are interested in proclaiming the Law of God and reclaim it for legislation. Seemingly, this issue does not appear on

²⁷ <http://www.kreuz.net/article.2293.html>, 4.6.07.

²⁸ With respect to the German laws cf. *Deutsches Staatskirchenrecht zwischen Grundgesetz und EU-Gemeinschaft*, ed. A. Frhr. v. Campenhausen. Frankfurt: Peter Lang, 2003. It contains various essays meticulously investigating the points of encounter of both sides. With respect to the German situation, M. Brenner correctly observes: „Vor allem aber wird der Körperschaftsstatus von der europäischen Seite her ‚in die Zange genommen‘, nicht final, sondern eher mittelbar, fast schon beiläufig. Es ist die wirtschaftsgewendete Perspektive des Gemeinschaftsrechts, die zwar große Erfolge auf dem Weg zur Errichtung eines Gemeinsamen Marktes und einer Wirtschafts- und Währungsunion (Art. 2 EGV) zu verzeichnen hat, die auf der anderen Seite aber vor dem Religiösen und seinen spezifischen Bedürfnissen gelegentlich sanft die Augen verschließt. Trotz der Absicherungen des Religiösen durch das Gemeinschaftsrecht werden sich die Kirchen daher darauf einzustellen haben, daß so manche Facette ihres umfangreichen Betätigungsfeldes den Regelungsanspruch des Gemeinschaftsrechtes auslösen wird ...“ („Kirchen als Körperschaften des öffentlichen Rechts“, in: l.c., p. 65.

the internet pages of the Community of Protestant Churches in Europe as well as the Conference of European Churches.²⁹ Those church bodies who are committed to the Scriptures and their confessional standards are – at least in western countries – a minority which is scarcely represented at the political level.

Without question, church and state will be kept separated in the European Union. Thus neither persecution of the church nor submission to the church will take place, and tolerance seems to be the basic concept. As a general guideline, it may be said that Christian Ethics may be taught in Church and practised in private, but are no longer relevant for European legislation and jurisdiction. Each member state may modify its interpretation of European laws within not yet defined limits according to its tradition.

It may be said that according to the letter, Christians and churches in Europe have nothing to fear. However, freedom of speech as well as freedom of Christian preaching – the latter being part of freedom of religion – are threatened by antidiscrimination laws because of a fundamental difference in assessing sexual orientation and its implications. Other reasons may come up in the future, e.g. apologetics dealing with other religions or beliefs. The case of Christian Vanneste has shown that an antidiscrimination law has led to discrimination, not to freedom of speech. This is a single case, and it will have to be observed how jurisdiction will develop. It may be added that freedom is not only relevant for Christian preaching, but also for an open democratic discourse.

²⁹ http://lkg.jalb.de/lkg/jsp/index.jsp?side_id=1&lang=en (8.6.07) and <http://www.ccek.org/index.shtml> (8.6.07). Cf. *Unterwegs nach Europa. Perspektiven Evangelischer Kirchen*. Hg. H.-J. Luibl; Chr.-R. Müller u. H. Zeddies, Frankfurt: Lembeck, 2001.