

Book Review:
**RELIGIOUS SYMBOLS IN THE PUBLIC SPHERE - ANALYSIS
ON CERTAIN CENTRAL EUROPEAN COUNTRIES**

Edited by Paweł Sobczyk,
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I. Introduction – background, topic, terms, authors

The book „Religious Symbols in the Public Sphere - Analysis on Certain Central European Countries”¹, published in 2021, is part of a series of books entitled Studies of the Central European Professors' Network which has as its main purpose "to present and address legal issues that are closely related to the Central European region, taking into account the legal traditions, culture and particular approach of the countries of this region"². The published books represent the valorization of the research work of the members of the Central European Professors' Network, an interdisciplinary network of experts that was established by the Central European Academy (CEA) based in Budapest. This interdisciplinary network of experts is determined to research the legal systems of Central Europe, but also elsewhere, and through the publication of this research, as well as through lectures, international conferences, and scholarships they want to make the Central European legal tradition and jurisprudential achievements known in Europe, but also in other parts of the world. This research is coordinated by the Ferenc Mádl Institute of Comparative Law in Budapest.

The book is a collective volume with Paweł Sobczyk as editor and seven contributors, all legal specialists. The editor of this volume, Dr. Paweł Sobczyk, is a jurist, associate professor and former dean at the Faculty of Law and Administration of the University of Opole in Plonia, author of several specialized publications. Professor Sobczyk's main research interests are constitutional and religious law, the axiology of law, the status of the individual and principles of relations between the state and the church. The other contributors are legal specialists who contribute to the development of

¹ Paweł Sobczyk, *Religious Symbols in the Public Sphere - Analysis on Certain Central European Countries*, Ferenc Mádl Institute of Comparative Law & Central European Academic Publishing, 2021.

² Paweł Sobczyk, *op. cit.*, p. 2.

the subject of this book from the perspective of the legal system and socio-cultural context of seven countries: Croatia, the Czech Republic, Poland, Serbia, Slovakia, Slovenia, and Hungary. Almost all of the contributors have training and conduct interdisciplinary research between law and religion, with the various names that this area of intersection between law and religion has (canon law, church law, and others). The editor and contributors of these volumes are affiliated with the following institutions: Faculty of Law and Administration of the University of Opole, Poland; Faculty of Law of the Pázmány Péter Catholic University, Hungary; Faculty of Law of the University of Belgrade, Serbia; St. Cyril and Methodius School of Theology of Palacký University in Olomouc, Czech Republic; Faculty of Canon Law of the Cardinal Stefan Wyszyński University in Warsaw, Poland; Faculty of Law of the University of Zagreb, Croatia; Faculty of Law of the Comenius University in Bratislava, Slovakia.

The topic of this book is about the use of religious symbols in the public sphere. The book does not fix in the reader's mind from the beginning the authors' understanding of the two key concepts of the book, namely: religious symbols and the public sphere. Simply put, "Symbols are a quick way to communicate often complex ideas. Religions usually employ a large amount of symbolism to represent their beliefs. Religious symbolism has a long history that is over 100,000 years old"³. From the perspective of the nature of the symbol and its symbolism, "The word symbol comes from the Greek *symbolon*, which means contract, token, insignia, and a means of identification. In its original meaning, the symbol represented and communicated a coherent greater whole using a part. The part, as a sort of certificate, guaranteed the presence of the whole and, as a concise meaningful formula, indicated the larger context. The symbol is based, therefore, on the principle of complementation"⁴. And to understand the meaning of the symbol "requires the association of certain conscious ideas to fully express what is meant by them. To this extent, it has both an esoteric and an exoteric, or a veiling and a revealing, function. The discovery of its meaning presupposes a certain amount of active cooperation. As a rule, it is based on the convention of a group that agrees upon its meaning"⁵. The concept of the "public sphere" was launched for the first time by the German philosopher Jürgen Habermas, a cultural theorist, who defined the public sphere as "made up of private people gathered together as a public and articulating the needs of society with the state"⁶. This is also seen as "a realm of social life in which public opinion can be formed"⁷. So,

³ Religious Symbols meaning, <https://www.religious-symbols.net/>.

⁴ Kurt Moritz Artur Goldammer, *Religious Symbolism and Iconography*, Encyclopaedia Britannica, 1999. <https://www.britannica.com/topic/religious-symbolism#ref28947>.

⁵ *Idem*.

⁶ Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a category of Bourgeois Society*. Trans. Thomas Burger with Frederick Lawrence. Cambridge, MA: MIT Press, 1991, p. 176 (Strukturwandel der Öffentlichkeit. Untersuchungen zu einer Kategorie der bürgerlichen Gesellschaft, 1962).

⁷ Asen, Robert (1999). "Toward a Normative Conception of Difference in Public Deliberation". *Argumentation and Advocacy*. 25 (Winter): 115–129. <https://doi.org/10.1080/00028533.1999.11951626>.

in light of understanding the key concepts, this book is about how artistic representations carrying religious significance, specific to a religion or denomination, can be exhibited in a common space of living and interaction of individual people.

II. Book Summary – structure and purpose

The book is structured in 10 chapters, starting with a foreword and ending with a summary. Between the introductory and concluding sections, eight chapters provide specific insights into the legal norms for the use of religious symbols in the public sphere by private and public entities in Croatia, the Czech Republic, Poland, Serbia, Slovakia, Slovenia, and Hungary. The comparison would have been incomplete without a chapter that also provides information on Religious Symbols in the Public Sphere in the Case Law of the European Court of Human Rights.

The authors of these chapters consider in their research former communist countries, some of which were part of the so-called "Eastern Bloc", but also others that did not fall under this name. The expression "Eastern Bloc", which appeared during the "Cold War", referred to those countries that were under the domination of the Soviet Union, namely: Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania, and Albania (only until the early 1960s). The countries of the "Eastern Bloc" or "Eastern Bloc", except Albania, were part of the Warsaw Pact, a military alliance initiated and led by the Soviet Union that was intended to defend itself against potential threats from NATO. Yugoslavia, Socialist Federal Republic of Yugoslavia (SFRY), although a communist country, was not part of the "Eastern Bloc" nor the Warsaw Pact, adopting a status of neutrality regarding the conflict between East and West.

All these countries in which the law on the use of religious symbols is analyzed went through serious political, social, and legislative transformations after the fall of communism. Croatia, Serbia, and Slovenia were part of the Socialist Federal Republic of Yugoslavia. The Czech Republic and Slovakia were part of Czechoslovakia, which was peacefully dissolved in 1993. Professor Vanja-Ivan Savić states, with direct reference to Croatia, that: "this political event did not simply create new state entities; it also dismantled an era in which the religious and spiritual side of life was hidden and banned in public"⁸. Similarly, Professor Damián Němec in Chapter 2, writing about the Czech Republic, writes about the changes that took place, as follows: "The so-called Velvet Revolution in November 1989 laid the foundation for the creation of a new legal order, including the new religion law. Thus, after the fragmentation of Czechoslovakia in 1993, the constitutional system of both successor states remained similar"⁹. In each

⁸ Paweł Sobczyk, *op. cit.*, p. 11.

⁹ Paweł Sobczyk, *op. cit.*, p. 40.

chapter of this book where the contributors refer to a particular country, they highlight the changes that have taken place in the political, social, and legal spheres, but also the difficulties encountered in this process of societal transformation.

We cannot leave unnoticed the religious structure in these countries that were included in this research project. Six of the seven countries included in the project have a predominantly Christian – Catholic religion, according to the latest censuses, as follows: Croatia (79%), the Czech Republic (39.8% of Czechs consider themselves atheists; 39.2% are Roman Catholics), Hungary (29.2% - 27.5% following the Roman Rite and 1.7% the Greek Catholic Church), Poland (71.3%), Slovakia (59.8% - 55.8% the Roman Catholic Church and 4% were of the Slovak Greek Catholic Church) and Slovenia (57.8%). The only country with a predominantly Orthodox population included in the project is Serbia (84.6%).

Each chapter in the book "Religious Symbols In The Public Sphere- Analysis of Certain Central European Countries" has a similar structure. The elements of this structure were established by the research team established by the Ferenc Mádl Institute of Comparative Law, this aspect offers the possibility of using the research results in the development of comparative studies. The seven elements pursued in the research were:

- (1) introduction: scope of research, methodology, basic concepts;
- (2) historical, social, cultural, and political context of the presence of religious symbols in the public space;
- 3) axiological and constitutional foundations: values and principles related to the presence of religious symbols in the public space;
- (4) model of relations between the state and the Church;
- (5) constitutional guarantees of freedom of conscience and religion;
- 6) guarantees according to other sources of universally binding law;
- (7) limits of religious expression through religious symbols; (8) the system of legal protection: the practice of the judiciary, case studies; (9) conclusions: conclusions *de lege ferenda*¹⁰.

Regarding the purpose of the book, Paweł Sobczyk explicitly states that "The main aim of this research is to show the normative aspect of the presence of religious symbols in the public space of selected European countries and outline this issue within the jurisprudence of the European Court of Human Rights to indicate the relevant European perspective"¹¹. But all this research work is not intended to lead to "the first international comparative study of issues related to the legal aspects of the presence of religious symbols in the public sphere of seven Central European countries but also to draw extremely important conclusions and *de lege ferenda*

¹⁰ Paweł Sobczyk, *op. cit.*, p. 9.

¹¹ Paweł Sobczyk, *op. cit.*, p. 10.

postulates"¹². It would be a waste of time if the research did not lead to proposals for legislative changes through which religious freedom would be even better protected.

III. Book Content - The Legal Regulation of Religious Symbols in the Public Sphere

In the chapter entitled "The Legal Regulation of Religious Symbols in the Public Sphere in **Croatia**", Professor Vanja-Ivan Savić presents the situation in Croatia regarding the acceptance and legal regulation of religious symbols in the public sphere. First, he wants to help the reader understand the historical, social, cultural, and political context of Croatia to explain the perception of society towards religion and the aspects associated with the manifestation of religion in public. All this foray into time allows him to formulate the conclusion that "generally speaking, religious symbols were present in the heraldry of both the Austro-Hungarian Empire and the Kingdom of the Serbs, Croats, and Slovenes (and subsequently the Kingdom of Yugoslavia); religious clothing and symbols were used by military chaplains, a tradition that was restored after the dissolution of Yugoslavia"¹³. The undoubted observation made by Professor Savić is that regardless of the type of government, religion was publicly present in all spheres of society, except the communist period. The fall of communism and Croatia's acquisition of independent statehood, "this political event did not simply create new state entities; it also dismantled an era in which the religious and spiritual side of life was hidden and banned in public"¹⁴.

The main arguments invoked by Professor Savić in support of the right to display religious symbols in the public sphere in Croatia are:

a) national values (axiological argument),

b) the majority principle (legal argument), and agreements signed between churches and institutions (state-church relationship argument). How the majority principle is used as an argument for displaying religious symbols in the public sphere is explained as follows: "In legal theory, the law can be perceived as a mirror or reflection of values that are shared by the majority. Most citizens in Croatia are Catholics and the nation has one of the highest church-attendance rates in Europe...Members of minority groups must similarly respect the beliefs of the majority and respect the home (state) in which they live"¹⁵.

In Croatia, protocols or agreements have been concluded between churches and the following institutions: TV and Radio Broadcasts, Military Chaplaincies, and Police Chaplaincies. In the health sector, some hospitals have chaplains, others do not. No

¹² Paweł Sobczyk, *op. cit.*, p. 10.

¹³ Paweł Sobczyk, *op. cit.*, p. 12.

¹⁴ Paweł Sobczyk, *op. cit.*, p. 11.

¹⁵ Paweł Sobczyk, *op. cit.*, pgs. 20-21.

national protocol has been signed. As regards education under the International Treaty/Holy See, religious education is regulated, but religious symbols are not. These agreements guarantee that religion can be manifested in the public sphere in Croatia, as stated: "The fact that all major religious communities have signed agreements with the state means that the vast majority of citizens (believers) are 'covered' by those contracts. In practical terms, this means that members of various religious communities can practice their religions inter alia in the public sphere"¹⁶.

The state-church relationship in Croatia follows the "cooperation model", but it also exemplifies well the two variations of this model, namely:

a) the statute that has established relationships with a particular church, in this case, the Catholic Church;

b) separate church from the state but cite the cooperation model in their constitutions. Thus, we can speak of a "separation-with-cooperation" model shared by other countries.

The Croatian Constitution protects religious freedom and guarantees equality to all religions in the country (art. 41). In Croatia, the presence of religious symbols is de facto, even if not de jure. Professor Savić proposes constitutional amendments that would establish the right to use religious symbols in the public sphere.

In the chapter "The Legal Regulation of Religious Symbols in the Public Sphere in the **Czech Republic**", professor Damián Němec explains how the Czech state and society relate to religion and the display of religious symbols in public space. After the 1989 Revolution, called the Velvet Revolution, like other neighboring countries in the communist bloc, Czechoslovakia began to establish a new legal order, and this also involved new legislation on religion. This was a process that included several stages:

1) Initial transition phase—elimination of the most discriminatory measures;

2) Construction of a new democratic legal basis until 1992;

3) Modification of the legal regulation of freedom of conscience since 1993 after the dissolution of Czechoslovakia;

4) Modification of the legal regulation of freedom of religion since 1993 after the dissolution of Czechoslovakia¹⁷. Among the first measures adopted to change the legal order was the adoption of the Constitutional Act of 9 January 1991 which introduced The Charter of Fundamental Rights And Freedoms as a constitutional act of the Federal Assembly of the Czech and Slovak Federal Republic, as well as Act No. 308/1991 (Digest) on freedom of religious faith and the position of churches and religious societies.

Professor Němec presents four axiological and constitutional foundations related to his country:

1) religious neutrality of the state;

2) protection of the use of religious symbols in constitutional law;

3) religious reservation of the Czech population;

¹⁶ Paweł Sobczyk, *op. cit.*, p. 28.

¹⁷ Paweł Sobczyk, *op. cit.*, pgs. 40-43.

4) General attitude of the Czech population towards religious symbols¹⁸. The Czech model of the relationship between the state and the Church is that of neutrality based on the principles of non-identification with any religion or ideology. This fact could also be seen in the census results in 47.8% of the population declared themselves non-religious. An explanation for this non-identification "can be conceived of as a reaction to the previous Communist regime, in which the Marxist-Leninist ideology played the role of "state religion." Therefore, the communist regime could be called state religion à rebours. Because of this, no state religion exists in the Czech Republic, nor is there any legal definition of religion"¹⁹. Some specialists argue that this model of neutrality does not have the same meaning as French laïcité, but rather it is a form of the model of state-church cooperation.

The Czech Constitution does not explicitly provide for the prohibition of religious symbols, but rather this fact results from Article 15 of the Charter of Fundamental Rights and Freedoms that "everyone has the right to freely manifest their religion or faith, either alone or in community with others, in private or public, through worship, teaching, practice, and observance". Regarding limits of religious expression through religious symbols, Professor Němec examines the possibility of the existence of such limits in several specific areas, such as public offices; schools and universities; hospitals; workplaces and business activities; media, the Internet, and social networks; and public religious assembly. Thus, the conclusion drawn by the author of this chapter is the following:

On this basis, the legal regulation of the use of religious symbols is developing, even in the public sphere. The Czech Republic typically does not regulate the presence of religious symbols in public in its legislation. The country's constitutional principles, especially regarding religious freedom, mainly support negative regulations consisting of the restriction of religious symbols to the public only in narrowly specified areas, and only occasionally contain positive norms, such as in the area of conscientious objection and the public service mission of the media²⁰.

Professor Lóránt Csink wrote the chapter "The Legal Regulation of Religious Symbols in the Public Sphere in **Hungary**". Regarding the first steps taken by political parties after Hungary's exit from communism, Paczolay writes that "in 1990, all political parties agreed that religion and the church should have a defined place in the process of building a new society and reconstructing democratic politics, and reached a consensus on the cultural and educational role of the church"²¹. As compensation for the communists' treatment of the Church, Parliament considered the Church to have a special status and adopted Act IV of 1990 on the Right to Freedom of Conscience and

¹⁸ Paweł Sobczyk, *op. cit.*, pgs. 44-46.

¹⁹ Paweł Sobczyk, *op. cit.*, p. 46.

²⁰ Paweł Sobczyk, *op. cit.*, p. 67.

²¹ Peter, Paczolay 'The Role of Religion in Reconstructing Politics in Hungary', *Cardozo Journal of International and Comparative Law*, 4(2), 1996, p. 266.

Religion (the Church Act), an "act with the force of the Constitution"²². This act marked a new period for Hungarian citizens by restoring their freedom of religion but also marked a new stage in the relationship between the state and the church.

The Fundamental Law, as the Constitution of Hungary adopted in April 2011 and which entered into force on 1 January 2012, thus replacing the constitution dating from 1949, guarantees in Article IV of the chapter "Freedom and Responsibility" the right to freedom of thought, conscience, and religion. In addition to the explanations in the legal doctrine regarding the meaning of "religious freedom", Professor Csink brings as an argument, a case in which the Hungarian Constitutional Court examined the complaint of the neighbors of a Muslim man who complained about his noisy prayers²³. The Court examined and declared that: "Freedom of religion covers the idea that individuals may conduct their entire lives according to their faith, and according to the self-definition of the religious group to which they belong. Freedom of religion is not only the free performance of traditional religious activities but also the performance of any activity that is based on the conviction of the individual"²⁴. Even if the expression through religious symbols is not explicitly stipulated in the Constitution, such a decision shows the right to manifest religion in public. In addition to the freedom of religion guaranteed by the Constitution, Professor Lóránt Csink also brings the argument of "protection of Christian culture" showing the connection between religion and culture, and in the case of Europe, we are talking about a Christian heritage. The Constitution of Hungary itself makes direct reference to Christianity and God, and the first statement in the Constitution is "God bless the Hungarians".

The state-church model is explicitly stipulated in Articles VII (3) and (4) (chapter "Freedom and Responsibility") of the Constitution as follows: "The state and religious communities shall operate separately. Religious communities are autonomous. State and religious communities may cooperate to achieve community goals". So, the state-religion model is separate cooperation, although there have been linguistic debates over the years regarding the meaning and translation into English of the word "separation". However, all these debates have not changed the essence of the relationship between the state and the church. The Constitutional Court of Hungary interprets this concept by affirming three practical consequences of separation:

- 1) The state cannot identify with the teaching of any religion;
- 2) The state does not help churches execute their decisions;
- 3) If the state differentiates among religious communities, differentiation must be based on objective and reasonable grounds²⁵.

Professor Lóránt Csink concludes regarding religious freedom and the manifestation of religious symbols in the public sphere as follows:

²² Paweł Sobczyk, *op. cit.*, p. 76.

²³ Paweł Sobczyk, *op. cit.*, p. 80.

²⁴ 3049/2020 (III. 2), Constitutional Court decision.

²⁵ 17/2017 (VII. 18) Constitutional Court decision.

Both the Hungarian constitution and international human rights agreements ensure freedom of religion in Hungary. Hungarian jurisprudence has had several issues concerning the relationship between the state and the church, and on the acknowledgment of religious communities. Individual freedom of religion and the admissibility of wearing religious symbols resulted in much less workload for the courts²⁶

Even though Hungarian society accepts the wearing of religious symbols in public, it should be noted that there are no general legal regulations in the field of religious symbols. The fact that Hungarian jurisprudence in this area is quite poor should not satisfy the Hungarian legislature in drafting specific legislation.

Professor Paweł Sobczyk presents the situation in **Poland** regarding „The Legal Regulation of Religious Symbols in the Public Sphere”. He explains that "over the state's highly complicated history, religious symbols (the Christian cross in particular) became symbols of identity, sovereignty, and tradition in addition to their basic, religious meaning"²⁷. In each of the Constitutions of Poland (1791, 1921, 1935, 1952, 1997) the right to religious freedom was guaranteed. After the fall of communism in 1989, work was carried out on the drafting of a new Constitution which was adopted on 2 April 1997. Articles 25 and 53 of the Constitution of Poland directly refer to religious freedom.

The Preamble to the Constitution makes a direct reference to God, thereby pointing to the Christian heritage of Poles, but admitting that not all Poles share the same faith: "We, the Polish Nation - all citizens of the Republic, Both those who believe in God as the source of truth, justice, good and beauty, As well as those not sharing such faith but respecting those universal values as arising from other sources". The text admits religious and philosophical pluralism but also indicates equal treatment for various religious beliefs and philosophical conceptions. This idea is continued in Article 25 (1) on equality at the collective level, churches, and religious organizations. Individual and collective equality is shown in the non-discriminatory treatment of personal beliefs and perspectives on the world and life, Article 25 (2), but also in the guarantee of freedom of expression in public space. Is this a reference to expression in public space and through religious symbols? Professor Sobczyk explains: "The 1997 Constitution does not directly refer to the presence of religious symbols in public spaces. However, this does not mean that its text does not contain any significant provisions related to the issues discussed. On the contrary, both the religious provisions (Articles 25 and 53) and other provisions (e.g., the Preamble) refer to the presence of religious symbols in public spaces"²⁸.

The Polish model of the relationship between the state and the church is stated in Article 25 (3) and is based on two principles, namely:

- a) respect for mutual autonomy and independence;

²⁶ Paweł Sobczyk, *op. cit.*, p. 99.

²⁷ Paweł Sobczyk, *op. cit.*, p. 103.

²⁸ Paweł Sobczyk, *op. cit.*, p. 108.

b) cooperation for the individual and the common good. As regards the principle of autonomy and independence, it "is, in the subjective aspect, a confirmation of the separated nature of the two institutions of public life, the state and churches, and other religious associations"²⁹.

The relationship of the Polish state with the Catholic Church, mentioned separately in Article 25 (4), will be established by an international treaty with the Holy See and by its statute. The relationship of the Polish state with other churches and other religious organizations will be established by their statutes "pursuant to agreements concluded between their appropriate representatives and the Council of Ministers" (Article 25 4).

Professor Paweł Sobczyk concluded the research as follows:

*The recent history of the Polish state in particular made religious symbols—especially the cross—important factors integrating the nation and a symbol of the struggle for independence and sovereignty. Placing crosses in public places in Poland was an expression of the fight against invaders and occupiers, and after the country regained sovereignty in 1989, it became an important element in the country's "return to its roots and Christian identity"*³⁰

As for the legal regulations on the display of symbols in public space, Professor Sobczyk argues that this is guaranteed at the level of constitutional principles and values and supported by Article 53 (freedom of conscience and religion) and Article 25 paragraph (2) (impartiality of public authorities). For this reason, the author of this chapter does not consider that there is a need for the legislation to be amended to further clarify this aspect.

Professor Dalibor Đukić in the chapter "The Legal Regulation of Religious Symbols in the Public Sphere in **Serbia**" aims to analyze the legal use of religious symbols in the Republic of Serbia. Serbia was part of the Socialist Federal Republic of Yugoslavia during the communist period, communism which was abolished in 1990. As in other communist countries "until the political changes in 1991, the public expression of religious beliefs in Serbia was limited both de jure and de facto"³¹. In practice, The Law on the Legal Status of Religious Communities became inapplicable in 1977, and it was repealed together with other regulations in 1993. The adoption of a new law on religious freedom was difficult due to the political situation in the country. Only in 2006, the Law on Churches and Religious Communities was enacted, and in the same year, the Law on the Restitution of Property to Churches and Religious Communities was passed. As for the adoption of a new Constitution, it was adopted in 2006, the Constitution of the Republic of Serbia.

Professor Đukić argues that "the public display of religious symbols is based not only on constitutional principles but also on the social values that underpin the modern

²⁹ Piotr Winczorek, *Komentarz do Konstytucji Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997*, Liber, Warszawa, 2000.

³⁰ Paweł Sobczyk, *op. cit.*, p. 133.

³¹ Paweł Sobczyk, *op. cit.*, p. 141.

Serbian legal system³². What are those Axiological and constitutional foundations? These are:

- 1) History and tradition;
- 2) Religious pluralism;
- 3) The secularity of the state;
- 4) The principle of separation between the state and churches and religious communities;
- 5) Establishment clause - no religion may be established as a state or mandatory religion;
- 6) The protection of freedom of religion;
- 7) The principle of restriction of freedom of religion;
- 8) The principle of cooperation between the state and churches and religious communities;
- 9) The principle of non-discrimination;
- 10) The principle of equity and equality of churches and religious communities.

Freedom of religion is regulated by Articles 43 and 44 of the Constitution of the Republic of Serbia, Article 43 concerns individual freedom, and Article 44 is dedicated to the collective aspect of that freedom. The model of state-church relations in Serbia is that of separation and cooperation in matters of common interest. According to Article 11 of the Constitution, Serbia is a secular state. The debates related to this concept of a "secular state" were settled by the Constitutional Court of Serbia, which concluded: "that 'these constitutional provisions by themselves do not imply a system of the complete separation of church and state; however, there is no state church and no identification of the state with a particular religion or religion in general'³³.

Research on the use of religious symbols in Serbia has led to the conclusion that: "The use of religious symbols in the public sphere is not regulated exhaustively by Serbian laws. The legal guidelines associated with the Law on Churches and Religious Communities regulate the right to manifest religious affiliations, as well as the liturgical activities of churches and religious communities"³⁴. The reality is that in practice religious symbols are present in the public sphere in Serbia.

The research "The Legal Regulation of Religious Symbols in the Public Sphere in **Slovakia**" by Vojtech Vladár first highlights the role played by religion in the history of Slovakia, as it is a religious country, a fact currently demonstrated by the large number of people who declare themselves religious (76% according to the census of population and housing of 2011). Of course, the turning point that took place in 1989 in the countries of Eastern Europe brought significant changes for Slovakia as well, namely, "allowing religious institutions the opportunity to continue in their traditional role of

³² Paweł Sobczyk, *op. cit.*, p. 145.

³³ IUz- 455/2011.

³⁴ Paweł Sobczyk, *op. cit.*, p. 164.

forming the nation"³⁵. The statute continued to supervise churches until 1991, when, following the adoption of Law No. 308/1991 Coll. on freedom of religious belief and the status of churches and religious societies (still valid in Slovakia), they were recognized as having the right to self-administration. After the formation of the Slovak Republic in 1993, Law No. 282/1993 Coll. was promulgated, which restored to the church and religious societies movable and immovable property confiscated during the communist period. The fall of communism also led to the adoption of a new Constitution, the Constitution of the Slovak Republic No. 466/1992. It was issued by the authorities of the Czech and Slovak Federal Republics and entered into force on 1 October 1992. Article 24 of the Constitution guarantees Freedom of thought, conscience, religion, and belief. The manifestation of religion in public is guaranteed. The preamble of the Constitution mentions the Cyrilo-Methodian heritage, thereby emphasizing the importance of Christianity and Christian culture in the national territories of Slovakia.

Regarding the state-church relationship, Professor Vladár notes that it has taken many forms in Slovak territories throughout history. Reflection on history has led to the conclusion that "Due to the high religiosity of the Slovaks, no separation of church and state ever took place. By contrast, most regimes have sought to collaborate with religious institutions to satisfy citizens and secure good relationships, especially with the dominant Catholic Church"³⁶. The Constitution, on the other hand, states, in Article 1, that the Slovak Republic is a secular state, which is not bound or affiliated to any religion. However, in practice, there is a strong collaborative relationship between authorities and individual churches and religious societies. Lucia Madleňáková believes that this state-church relationship in Slovakia can best be described as "a cooperative, coordinated, or conventional model"³⁷.

Research into the legal aspect of religious symbols in Slovakia has led to several conclusions. First, there are no serious problems with the use of religious symbols in the public sphere. Second, it would be necessary for the state to rethink the registration conditions for churches and religious societies, which are considered the most stringent in the entire European Union. The legal threshold for obtaining the status of an official church is 50,000 members, making it impossible for smaller religious organizations to obtain the status of official churches or religious societies.

Professor Frane Staničić conducted the research entitled "The Legal Regulation of Religious Symbols in the Public Sphere in **Slovenia**" starting with the historical, social, cultural, and political context of religious symbols in public spaces in Slovenia. The essential role that the Catholic Church had in the formation and development of the national and political culture of Slovenia has been recognized since the beginning. The

³⁵ Paweł Sobczyk, *op. cit.*, p. 172.

³⁶ Paweł Sobczyk, *op. cit.*, p. 184.

³⁷ Lucia Madleňáková, *Výhrada svědomí jako součást svobody myšlení, svědomí a náboženského vyznání*, Linde, Praha, 2010.

collapse of communism in Eastern Europe brought the possibility for Slovenia to become an independent state in 1991. On December 23, 1991, the Constitution of the Republic of Slovenia was adopted. Slovenian society can be characterized from a cultural point of view as a homogeneous society, but also by political and religious pluralism. According to statistics provided by the government, an increase in the number of religious communities from 43 to 60³⁸ is observed, and later only 55 remain.

Article 42, of the Constitution of the Republic of Slovenia guarantees freedom of conscience and religion, which is closely linked to freedom of expression, guaranteed by Article 39 of the Constitution of Slovenia. The Constitution does not mention any specific limitation of freedom of conscience, and due to this fact, it can be understood from the entire constitutional text, in particular from the provisions of Article 15 (3), that it is limited only by the rights of others, just like all other human rights and fundamental freedoms. Thus, in Article 63, the Constitution prohibits, in addition to other types of discrimination, incitement to religious discrimination, hatred, or intolerance. In Articles 46 and 123, citizens are recognized as having the right to conscientious objection, based on religious, philosophical, or humanitarian beliefs.

The state-church relationship is stipulated in Article 7 of the Constitution as follows: "The state and religious communities shall be separate. Religious communities shall enjoy equal rights; they shall pursue their activities freely". The professor notes that:

*The principle of separation between church and state was previously understood in the negative sense of the church being expelled from public life. This conception was influenced by negative attitudes towards religion. For this reason, the state nowadays promotes a more positive conception of the principle of separation between the state and religious communities, as a friendly neutrality towards religious communities*³⁹.

In an attempt to explain this separation of state and church, with implications for the public sphere, some have used a comparative model, namely the French model of *laïcité*. Other scholars disagree, concluding that "although the Slovenian approach may appear to resemble *laïcité* on paper, Constitutional Court cases and a legislative analysis reveal that it functions differently in reality"⁴⁰. The principle of separation implies the free actions of each entity, state, and church, in its sphere. If the two entities go beyond their personal sphere and conflict arises, then "competence must be delimited through the internal sovereignty of the state, which must set limits without preventing religious communities from pursuing social activities"⁴¹.

Among the conclusions of the research on the legal system in Slovenia is the fact that based on the right to religious freedom, these can be used in private, but their

³⁸ <https://www.gov.si teme/verske-skupnosti/>.

³⁹ Paweł Sobczyk, *op. cit.*, p. 223.

⁴⁰ Paweł Sobczyk, *op. cit.*, p. 223.

⁴¹ Paweł Sobczyk, *op. cit.*, p. 227.

use in public is an issue that has given rise to controversy to the point that some argue that religious symbols cannot be accepted in public because they would alienate people and fragment society.

IV. Conclusions

The book "Religious Symbols In The Public Sphere- Analysis of Certain Central European Countries" represents an extremely valuable contribution to the specialized literature in the field of constitutional law. It is a work that achieves through its content several extremely important and necessary intersections, namely: religious freedom and constitutional law; religious freedom and governance; law and contextualization, and so on.

This book helps us to see even better that religious freedom is a kind of "sensor" for other freedoms. In all these countries where the research project described in the book was carried out, communism mainly restricted religious freedom and along with it other rights. So after the fall of communism, the aspect that was repaired was that of restoring religious freedom to the people.

Regarding the use of religious symbols in the public sphere, it was found that it is generally accepted in these former communist societies, these societies being considered to some extent religious. The constitutional provisions and special legislation do not have specific provisions regarding the expression of symbols in society. The need to amend the legislation or to develop and approve much clearer legislation regarding religious symbols seems obvious. The increasing secularization of these societies will give rise to many conflicts in society if the issue of religious symbols is not regulated.