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# **The Cooperation Protocol on Social Inclusion, Concluded between the Government of Romania and the Romanian Patriarchate. Juridical and Canonical Considerations**

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## **Abstract**

Within this paper, I have made a juridical-canonical analysis of the Cooperation Protocol on Social Inclusion, concluded between the Government of Romania and the Romanian Patriarchate on 2nd October 2007. Such a social Protocol represents a cooperation formula frequently used in the EU countries and this Protocol is a partnership which plays an important role in the promotion and respect of the fundamental human rights, to which the social rights, provided for in the EU legislation and in the Romanian Constitution, are an integrant part.

## **Keyword**

The Protocol, the Freedom of Religion, Romanian Constitution, the EU legislation, Romanian Orthodox Church

The Law 489/2006 - known under the name of the Law on the Freedom of Religion and the General Status of Denominations - states that, in our country, “Recognized religious denominations are public-utility legal en-

*The Cooperation Protocol on Social Inclusion...*

tities. They shall be organized and shall operate under the Constitution and under this Law, autonomously, according to their own bylaws or canonic codes.” (Art. 8, paragraph 1). But “in their activities the religious denominations, religious associations and religious groups are under an obligation to observe the Romanian Constitution, and laws, to not threaten public safety, order, health, morality and the fundamental human rights and liberties” (Art. 5, paragraph 4). Finally, the Law 489/2006 provides that these recognized “denomination shall operate in the observance of the laws” - i.e. the whole set of legislative State rules on religious denominations, from the “constitutional” ones and ending, for example, with the regulations in taxation and accounting, - and in accordance with their own bylaws and canonic codes, whose provisions are only applicable to their followers” (Art. 8, paragraph 3).

By their autonomous “organization” and “operation”, denominations are basically “ab initio” conditioned by the obligation to organize and operate under or pursuant to the Constitution and to the Law on the Freedom of Religion and the General Status of Denominations and in accordance with the principle provisions of their own Status or Canonical codes (in the case of the Roman Catholic Church and the Greek Catholic Church).

The same Law on the Freedom of Religion and the General Status of Denominations (489/2006)<sup>1</sup> provides that “the relations between the state and denominations” are expressed and manifested by “partnerships” - which “central public authorities” may sign with “recognized denominations” in “domains of common interests” - and “agreements” signed “for regulating certain aspects specific to the tradition of denominations”, but submitted to “approval by law” (Art. 9, paragraph 5).

Therefore, these “partnerships” and “agreements” with “recognized denominations” can be initiated and completed only by “central public authorities”, and they should be subject to approval by law.

Although Law 489/2006 also openly acknowledges the “social partnership role” of denominations (Art. 7, paragraph 1), this kind of “partnership” may be made only “in areas of mutual interest”, as expressly provided in the text of Law 489/2006, where we are told that “Public authorities shall cooperate with the denominations in matters of common interest and shall support their activity” (Art. 9, paragraph 3). But the law does not specify if the support of those authorities is or is not reduced only to the

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<sup>1</sup> Published in the Official Gazette no. 11/08.01 2007.

denominations' activity in areas of "common interest"; however, based on the autonomy provided on account of Denominations and of the legal regime of State neutrality towards Denominations (see Art. 9, paragraph 1), this support can be manifested only in areas of common interests.

As for the "agreements", they can be concluded only by "regulating specific aspects of the tradition of religious denominations" and not for the interest or for the common good, which would transform religious denominations into social partners equal with the institutions or bodies of the State, in public life.

However, the Statute for the organization and functioning of the Romanian Orthodox Church - published in 2008 - provided, "expressis verbis", that "the Romanian Orthodox Church is autonomous in regard to the State and other institutions", and that it "establishes relations of dialogue and cooperation with the State and with various institutions for accomplishing her pastoral, spiritual-cultural, educational and social charitable mission" (Art. 4, paragraphs 1 and 2)<sup>2</sup>. But in what terms is this "autonomy" to the State and to other institutions expressed? If we were to summarize only the text of this article - otherwise quite laconic in expressing the content and the way of manifestation of the canonical-juridical status, of its autonomy towards the State - we should understand that this autonomy would translate, in reality, only through the relationships "of dialogue" and "cooperation" that the Church established with the State and with various other institutions. However, the nature, the content and the forms of manifestation of the autonomy of the Church towards the State - known by jurists and canonists as "external autonomy" - are much wider and have more implications, both legal and political, ecclesiological and canonical.

The same status for the organization and functioning of the Romanian Orthodox Church stated that "The activity of the cult units of the Romanian Orthodox Church, as provider of social services, is recognized and supported by the state, for which purpose partnerships and agreements can be concluded according to the law" (Art. 191, paragraph 2). Indeed, the Law on Freedom of Religion and the general Status of Denominations provides that "The State shall also support the activity of recognized

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<sup>2</sup> *Statutul pentru organizarea și funcționarea Bisericii Ortodoxe Române (The Status for the organization and functioning of the Romanian Orthodox Church)*, EIBMBOR, Bucharest, 2008, p. 13.

### *The Cooperation Protocol on Social Inclusion...*

denominations in their capacity as providers of social services” (Art. 10, paragraph 7). Recognizing them the quality of “suppliers” of social services - in addition to their role as “spiritual, educational, social-charitable, cultural and social partnership role, as well as their status as factors of social peace” (Art. 7, paragraph 1) - Law 489/2006 provides that the State supports the activity carried out by Denominations in their capacity as providers of social services, but does not specify which ones and what is their nature and purpose.

On 2nd October 2007, at Victoria Palace, there was signed a “Cooperation Protocol on social inclusion”<sup>3</sup>, between the Government of Romania and the Romanian Patriarchate, which sets out the cooperation means between the two basic institutions of the Romanian state in that field of activity.

The Cooperation Protocol - signed on 2nd October 2007 by the Prime Minister of the Romanian Government (Mr. Călin Popescu Tăriceanu) and the Patriarchate of the Romanian Orthodox Church, His Beatitude Daniel, - cited as, its legal basis, both the constitutional text (Article 29, paragraph 5) and Law no. 489/2006 (art. 7, paragraphs 1 and 2; art. 9 paragraphs 3 and 5; art. 10 paragraph 7) and other legal rules, namely the Government Ordinance no. 68/2003 on social services with subsequent amendments (art. 11, paragraph 3, letter A), Law no. 47/2006 on the national social assistance (art. 4, letter D, art. 6, paragraph 2, 24); Government Decision no. 1217/2006 on the establishment of a national mechanism to promote social inclusion in Romania; the Status for the organization and functioning of the Patriarchate of the Romanian Orthodox Church and its Regulations in force, and, finally, the Regulation of the organization and functioning of the social system in the Romanian Orthodox Church.

Regarding the legal “basis” alleged by this “Cooperation Protocol” concluded between the Romanian Government and the Romanian Patriarchate on “social inclusion”, it is clear that it is not established only under the laws of the State, but also under the ecclesiastical ones (The Statutes of ROC (Romanian Orthodox Church), ROC Regulations and the Rules for the organization and functioning of the social assistance system in ROC), which in this area, both have the same legal binding force for those part-

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<sup>3</sup> See the full text on: <http://patriarhia.ro/protocol-de-cooperare-in-domeniul-incluziunii-sociale-intre-guvernul-romaniei-si-patriarhia-romana-5363.html>

ners. Or, by invoking the ROC legislation, we can say that the Romanian State recognizes that this legislation has equal authority; moreover, it also states, ipso facto, the legal status of the external autonomy<sup>4</sup>, by which the Church enjoys full autonomy in its relations with the State.

By working in partnership with the State - in the field of public office - on the same footing, i.e. without imposing any servitude of any kind (political, social, legal, economic etc.) the Romanian Orthodox Church organizes and operates “under the Constitution” and under the “Law on the Freedom of Religion and the General Status of Denominations” (489/2006), but “autonomously”, according to its “own” statutes (canonical and ecumenical laws, Organization and operation status and its own Regulations).

The fact that this legal document<sup>5</sup> really envisages the legal status of foreign autonomy and, ipso facto, the good cooperative relations – for the universal interest – between the Romanian State and the Romanian Patriarchate, is also peremptorily attested by the contents of this Protocol itself, which we will analyze - be it briefly - through legal and canonical lens.

The text of the Protocol – valid for a period of 10 years – reveals that the signatory parties agreed to cooperate in order to “strengthen the national machinery for promoting inclusion”, for “promoting social dialogue, for improving the institutional and the information framework of social inclusion”, for “defining the key priorities that will guide the development of joint programs and projects for social inclusion, in order to find the answers to the social needs of people in distress” and for “setting the stage for collaboration, exchange of information and assistance”.

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<sup>4</sup> About the contents of this fundamental canonical principle, set by Savior Christ, and stated both by the canonical, ecumenical legislation from the first millennium and by the Nomocanon law, see N. V. Dură, *Principiile canonice, fundamentale, de organizare și funcționare a Bisericii Ortodoxe și reflectarea lor în legislația Bisericii Ortodoxe Române (The fundamental canonical principle for organization and functioning of the Orthodox Church and their impact on legislation of the Romanian Orthodox Church)*, in „Saint Andrew Theological Review”, V (2001), no. 9, p. 129-140; Idem, Idem, *350 de ani de la tipărirea Pravilei de la Govora. Contribuții privind identificarea izvoarelor sale*, in „Altarul Banatului”, I (1990), no. 3-4, p. 58-79.

<sup>5</sup> See the article *Colaborarea la nivel social dintre B.O.R și Guvern s-a întărit ieri printr-un acord (The cooperation at the social level between the Orthodox Church and the Government was strengthened yesterday by an agreement)*, in the newspaper “Light (Lumina)”, Wednesday, 3rd October 2007 (on the internet at <http://ziarullumina.ro/eveniment/colaborarea-la-nivel-social-dintre-bor-si-guvern-s-intarit-ieri-printr-un-acord>).

### *The Cooperation Protocol on Social Inclusion...*

The Romanian Patriarchate was thus taken as a “partner” by the Romanian Government in order to “strengthen the national mechanism”. “Tale-qualè”, it is therefore clearly recognized the vital and indispensable role of the Romanian Orthodox Church in the assertion and development of the national mechanism, whom - over the centuries - it took sometimes alone, although this reality seems to be obscured, either willfully or through ignorance, both by the media and by some politicians of the day, even though the Law on the Freedom of Religion and the General Status of Denominations (489/2006) emphasized that “The Romanian State recognizes the important role of the Romanian Orthodox Church and that of other churches and denominations as recognized by the national history of Romania and in the life of the Romanian society” (Art. 7, paragraph 2).

The fact that, for the Romanian Government, the Romanian Orthodox Church is truly a social partner, which enjoys full recognition of its autonomy in its relations with the State, is also proved by the text of this Protocol, regarding the “obligations” of the signatory parties, where - among others - it is provided that the Romanian Government undertakes<sup>6</sup>:

a) To request - by Ministries (such as, for example, the Ministry of Labor), and “by all the other public institutions under its authority”, both the points “of view” of the Romanian Patriarchate and its participation, through its representatives “in the consultation process on the draft legislations”.

b) To involve the ROC representatives in “working groups, seminars and other meetings aimed at developing and defining the priorities for social inclusion”.

c) To facilitate the participation of its partner “in the work of the National Commission on Social Inclusion, in the territorial Commission’s work on social inclusion and in other advisory bodies in the social field, involving the civil society”.

d) To work in partnerships in order “to initiate joint projects and programs to support and develop the national system of social services”.

e) The Romanian Government undertakes to inform the ROC denomination - as a provider of social services - “on the funding opportunities

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<sup>6</sup> *The Cooperation Protocol on social inclusion ...*, p. 2-3. (on the internet at <http://patriarhia.ro/protocol-de-cooperare-in-domeniul-incluziunii-sociale-intre-guvernul-romaniei-si-patriarhia-romana-5363.html>).

provided by the Ministry (Ministry of Labor), for the development and diversification of social services”.

f) The Government is committed to ensure to “the public social service providers” the facilities for “the conduct of the spiritual assistance to the beneficiaries ..., subject to the compliance with the fundamental human rights and primarily to the religious freedom”.

g) The same government is obliged “to support the efforts of the Romanian Patriarchate for the efficient use of the potential specific to the graduates of the Orthodox Theological Faculties, Department of Social Theology”.

h) In the field of social inclusion, the Government also undertakes to cooperate “with NGOs operating within and with the blessing of the Romanian Orthodox Church”.

So far, the Romanian Patriarchate has not expressed - tacitly and overtly - an opinion on the compliance or non-compliance with these obligations, by means of which the Government - through the Ministry of Labor and the other public institutions under its authority - obliged itself to translate them into action. But looking closely at the reality of the landscape of social inclusion, we might say - at least from my personal observation - that the Romanian Patriarchate would be the one that did not know how to make full use of the opportunities and benefits offered by this Protocol. It is not less true that, so far, the government, in its turn, - through its above mentioned habilitated institutions - did not show any special attention to support the approaches of the Romanian Patriarchate such as, for example, those regarding “the specific potential of the graduates of Theology, Department of Social Theology”, department which, at some Faculties of Theology is otherwise endangered. However, this situation is largely due to recent AQAHE (Agency for quality assessment in higher education) assessors, who, consciously or unconsciously, decided to dissolve them categorically because of the lack of a large number of students referred for its operation.

Finally, among “the obligations” undertaken by the Government of Romania - by signing this Protocol – there is also its obligation to ensure to the public providers of social services - from the Romanian Orthodox Church - suitable premises for carrying out the liturgical service. This insurance, however, is subject to the observance of the human rights and

*The Cooperation Protocol on Social Inclusion...*

fundamental freedoms<sup>7</sup>, including the freedom of religion<sup>8</sup>, which is mentioned first. Of course, by the explicit assumption of such obligations, the Romanian government wanted to testify that it complied with the Euro-

<sup>7</sup> See, N. V. Dură, *Drepturile și libertățile omului în gândirea juridică europeană. De la „Justiniani Institutiones” la „Tratatul instituind o Constituție pentru Europa”* (Human rights and freedoms in the European legal thinking. From „Justiniani Institutiones” to the „Treaty establishing a Constitution for Europe”), in the “Annals of the Ovidius University. Series: Law and Administrative Sciences”, no. 1, 2006, p. 129-151; Idem, *Principalele organisme și organizații internaționale cu preocupări și atribuții în domeniul promovării și asigurării protecției juridice a drepturilor omului* (The main international bodies and organizations with interests and responsibilities in the promotion and legal protection of human rights), in “Dionysiana”, I (2007), no. 1, p. 18-25; Idem, *The European juridical thinking, concerning the human rights, expressed along the centuries*, in “Acta Universitatis Danubius. Juridica”, no. 2/2010 (VII), p. 153-192; Idem, *The Fundamental Rights and Liberties of Man in the E.U. Law*, in “Dionysiana”, IV, no. 1 / 2010, p. 431-464.

<sup>8</sup> Idem, *Drepturile și libertățile fundamentale ale omului și protecția lor juridică. Dreptul la religie și libertatea religioasă* (The rights and fundamental freedoms and their legal protection. The right to religion and to the freedom of religion), in “Ortodoxia”, LVI (2005), no. 3-4, p. 7-55; Idem, “Privilegii” și “discriminări” în politica religioasă a unor State ale Uniunii Europene (“Privileges” and “discriminations” in the religious policy of the European Union countries), in the “Biserica Ortodoxă Română”, CXXIV (2006), no. 1-3, p. 491-510; Idem, *Dreptul la demnitate umană (dignitas humana) și la libertate religioasă. De la “Jus naturale” la “Jus cogens”* (The right to human dignity (dignitas humana) and religious freedom. From “Natural Jus, to Jus cogens”), the “Annals of the Ovidius University. Series: Law and Administrative Sciences”, no. 1, 2006, p. 86-128; Idem, *Relațiile Stat-Culte religioase în U.E. “Privilegii” și “discriminări” în politica “religioasă” a unor State membre ale Uniunii Europene* (The Relations between the State and the religious Denominations located in the EU. “Privileges” and “discriminations” in the “religiou” policy of the EU Member States), in the “Annals of the Ovidius University. Series: Law and Administrative Sciences”, no. 1, 2007, p. 20-34; Idem, *The Law no. 489/2006 on Religious Freedom and General Regime of Religious Cults in Romania*, in “Dionysiana”, II (2008), no. 1, p. 37-54; Idem, *Despre libertatea religioasă și regimul general al Cultelor religioase din România* (About the religious freedom and the general regime of religious denominations in Romania), in “Ovidius University of Constanta Annals / Theology Series”, VII, no. 1 / 2009, p. 20-45; Idem, *Legea nr. 489/2006 privind libertatea religioasă și regimul general al Cultelor religioase din România* (Law no. 489/2006 on the religious freedom and the general regime of religious denominations in Romania), in vol. “The Orthodox Church and Human Rights: Paradigms, foundations, implications”, Universul Juridic Publishing, Bucharest, 2010, p. 290-311; Idem, *Proselytism and the Right to Change Religion: The Romanian Debate*, in vol. “Law and Religion in the 21st Century. Relations between States and Religious Communities”, edited by Silvio Ferrari and Rinaldo Cristofori, Ashgate Publishing Limited, Eghland, 2010, p. 279-290.



pean Union legislation on these rights and freedoms, thus aligning itself to the realities of the States of law, with a tradition of democracy, that have not known the persecution on account of religious beliefs in the twentieth century.

Naturally, the text of the Protocol reveals that the Romanian Patriarchate also took a number of obligations<sup>9</sup>, such as:

a) To cooperate with its partner “in the provision of social services for the benefit of individuals, families and communities in difficult situations”.

b) In order to define “social strategies on social inclusion”, the Romanian Patriarchate obliged to “identify, through priests and the staff involved in the social assistance system of the Romanian Orthodox Church, and to communicate to its partner, situations and information concerning the persons in need ...”.

c) “To provide spiritual counseling (...) to the beneficiaries of the social services organized by public and private providers”.

d) “To provide information on social nongovernmental organizations that work within and with the blessing of the Romanian Orthodox Church”.

Therefore, the obligations of the Romanian Patriarchate are generally reduced to the cooperation with the State in the realm of social assistance, in identifying and providing information on the individuals in need and on the NGOs operating in the field of social assistance - operating with the agreement of the Romanian Orthodox Church - and in providing “spiritual counseling”. The protocol does not specify what this spiritual counseling involves, but it only mentions that it should be done with “specialized personnel”. If, until now, the Romanian Orthodox Church succeeded or not to constitute such a “specialized personnel” remains to be seen. It is also true that the specialization in social work cannot be acquired only in the three years of study at the Faculty of Theology, where the lack of specialists in the field is sometimes supplemented by “people” who do not appear to be initiated neither in theology nor in sociology, much less in “spiritual counseling”.

The same Protocol stipulates that “any project or specific activity that the parties want to carry along may be subject to other conventions or protocols”. Or, as we know, so far, there have not been made too many projects or concrete activities; however, we can say that a climate of cooperation, in the field of social inclusion, between the two basic institutions

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<sup>9</sup> *The Cooperation Protocol on social inclusion...*, p. 3.

*The Cooperation Protocol on Social Inclusion...*

of the Romanian society, is already an valuable acquis in the promotion of the new relations between the Government of Romania and the Romanian Orthodox Church, set after the events of December 1989.

Regarding the “exchange of information” between the two parties, i.e. the Government of Romania and the Romanian Patriarchate, the Protocol provides that it “shall be made on demand or on a voluntary basis ... subject to the laws and policies pursued by each party”<sup>10</sup>. Both parties to the Protocol, therefore, reciprocally recognized both their own legislation - state and church - and their own policies advertised on social assistance. Or, this recognition was manifestly demonstrating the autonomy of the Romanian Orthodox Church, which “is administered independently through its own representative bodies, made up of clergy and lay, according to the Holy Canons, the Statute and other provisions of the competent ecclesiastical authority”<sup>11</sup>.

By this Protocol there were thus recognized - albeit indirectly - the “Holy Canons” of the ecumenical Orthodox Church, of the first millennium<sup>12</sup>, - whereupon the Orthodox local Churches, including, therefore, the Romanian Orthodox Church, are even presently led - because they are part of the corpus of its legislation. However, by this recognition - be it indirect – there were supplied “the missing elements” from the text of the Law on the Freedom of Religion and the General Status of Denominations (489/2006), which expressly refers only to “the canonical statutes and codes” (Art. 8, paragraph 1). Or, as we know, in our country, there are only two recognized religions which have “Canonical codes”, i.e., the Roman Catholic Church and the Greek Catholic (Unite) Church.

In his speech delivered after signing the Protocol, the Primate of our Church, His Beatitude, Patriarch Daniel, wanted to declare that “this protocol is the logical consequence and practice of the new Law on the Freedom of Religion and the General Status of Denominations, which recognizes the contribution of the Romanian Orthodox Church ... to the life of

<sup>10</sup> *Ibid.*, p. 4.

<sup>11</sup> *Status for the organization and functioning of the Romanian Orthodox Church...*, Art. 3, paragraph 2, p. 13.

<sup>12</sup> See N. V. Dură, *Le Régime de la synodalité selon la législation canonique, conciliaire, oecuménique, du I<sup>er</sup> millénaire (The Synodality regime according to canonical, conciliar, ecumenical law, of the first millennium)*, Ametist 92 Publishing, Bucharest, 1999, 1023 p.

the Romanian society...” and that, in our country, religious denominations are considered “as factors of social peace and social partners”<sup>13</sup>. The same Primate<sup>14</sup> of the Romanian Orthodox Church also wanted to clarify that

“the Church’s involvement in social work is ... a spiritual vocation and a practical necessity ... . This explains - said His Beatitude – the great number of social welfare institutions established or sponsored by the Church over the centuries, often with the support of Christian emperors, kings and princes, but also with the support of all merciful and generous persons, more or less wealthy”<sup>15</sup>.

On the same occasion, His Beatitude, Patriarch Daniel, stated that “the presence of charity priests in hospitals, in military units and in prisons, and the great number of charity units of the Church show that the ancient philanthropic tradition of the Church returned in actuality, since religious denominations have been granted the freedom of organization and ministration within the Romanian society”<sup>16</sup>.

It is well-known that the Denominations in our country regained this freedom after almost 45 years of oppressions and bans of all kinds, abominably imposed by the totalitarian communist regime. This freedom has also been enshrined by both the constitutional text and by the Law 489/2006, i.e. the Law on the Freedom of Religion and the General Status of Denominations, in our country.

To the above mentioned issues - triggered by the legal and canonical analysis of the Cooperation Protocol on social inclusion, between the Government of Romania and the Romanian Patriarchate - we should add the fact that such a social partnership is - just as Mr. Călin Popescu Tăriceanu, the Prime Minister of the Romanian Government stated, on the signing of this document, - a cooperation formula widely used in the European

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<sup>13</sup> *The social collaboration ...*, p. 2.

<sup>14</sup> Regarding the legal-canonical status of the Primate of a local, autocephalous Church see N. V. Dură, *Întâistătătorul în Biserica Ortodoxă. Studiu canonic (The Primate of the Orthodox Church. Canonical study)*, in “Studii Teologice”, XL (1988), no. 1, p. 15-50; Idem, *The Protos in the Romanian Orthodox Church According to its Modern Legislation*, in “Kanon (Jahrbuch der Gesellschaft für das Recht der Ostkirchen)”, vol. IX, Wien, 1989, p. 139-161.

<sup>15</sup> *The collaboration at the social level ...*, p. 2.

<sup>16</sup> *Ibid.*

*The Cooperation Protocol on Social Inclusion...*

Union and the Protocol signed on 2nd October 2007 represents an important partnership in the promotion and respect of the fundamental human rights<sup>17</sup>, forming an integral part of social rights, provided both by the EU law<sup>18</sup> and by the Romanian constitutional text<sup>19</sup>. Indeed, we can say that the Cooperation Protocol on social inclusion, between the Government of Romania and the Romanian Patriarchate is an important form of partnership in the promotion and respect for social rights, a constituent part of the fundamental human rights<sup>20</sup>, especially because “The Treaty establishing a Constitution for Europe”, signed on 13th December 2007 in Lisbon<sup>21</sup>, which entered into force on 1st January 2009, states explicitly that the EU recognizes “... the identity and specific contribution (of Denominations)” and that it “maintains an open, transparent and regular dialogue with these churches and organizations” (Article 16 C, paragraph 3).

As such, the Romanian Government should not be limited only to the initiation and establishment of such protocols for cooperation, but it should also maintain an open, transparent and regular dialogue with all the recognized religious Denominations. Moreover, the fact that such a dialogue does not always have an “open”, “transparent” and “constant” nature - as the Treaty of Lisbon states – is also peremptorily attested by the ECHR (European Court of Human Rights) on the freedom of religion.

It should also be noted the fact that the development of such protocols

<sup>17</sup> *The social collaboration between ...*, p. 2.

<sup>18</sup> For example, The European Social Charter adopted in Torino, on 18th October 1981, which was revised and published in 1996. The Charter entered into force on 28th February 1965, but Romania signed it on 4th October 1994 (Cf. *European Social Charter (from 1961 and the revised one in 1996). Handbook of the Council of Europe*, Bucharest, 2006, p. 441-489. See the revised European social Charter on the internet at [http://www.irdo.ro/sectiuni.php?subsectiuni\\_id=14](http://www.irdo.ro/sectiuni.php?subsectiuni_id=14).

<sup>19</sup> See, for instance, art. 32, 33, 34, 41, 42, 43 of the *Romanian Constitution* of 2003, published in the Official Gazette, no. 767 of October 2003.

<sup>20</sup> See N. V. Dură, *Drepturile și libertățile fundamentale ale omului și protecția lor juridică...*, p. 7-55; Idem, *Drepturile și libertățile omului în gândirea juridică europeană...*, p. 129-151; Idem, *Dreptul la demnitate umană (dignitas humana)...*, p. 86-128; Idem, *Les droits fondamentaux de l'homme et leur protection juridique (Human rights and fundamental freedoms and their legal protection)*, in the “Annals of the University Dunarea de Jos of Galati”, Fascicule XXII, Law and Public Administration, no. 2, 2008, p. 19-23.

<sup>21</sup> *The Treaty of Lisbon amending the Treaty on the European Union and the Treaty establishing the European Community* (2007/C300/01) (The Official Journal of the European Union, year 50, 17 December 2007).

is already a reality in some EU countries<sup>22</sup>, where the relations between the State and the religious Denominations – set as principles in the text of the Constitution and in the Law on Denominations – are based on

“the cooperation in view of achieving the common good, that involves not only the religious freedom, but also the respect of the legal-canonical regime of the autonomy of Denominations. However, by signing the Protocol on cooperation in social inclusion, on 2nd October 2007, the Romanian state - member of the European Union - has strikingly proved that it recognizes the autonomy of the Romanian Orthodox Church, even if the text of the Constitution and of the Law on the Freedom of Religion and the General Status of Denominations still have some expression gaps in this regard. It remains to be seen to what extent the Romanian government will respect the autonomy of the Church of the Romanian people and also by what effective and practical means it will promote its social partnership with it, because, de facto, it states the human rights and freedoms, and, ipso facto, the religious freedom”<sup>23</sup>,

which includes the freedom of every person “to manifest his/her religion or belief individually or collectively, in public or in private, through worship, teaching, practice and observance of rituals”<sup>24</sup>.

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<sup>22</sup> N. V. Dură, *Relațiile Stat-Culte religioase în U.E.* ..., p. 20-34.

<sup>23</sup> For some Romanian jurists, the religious freedom continues to be associated with the freedom of conscience, or to be seen as a corollary of it. Moreover, they say that the freedom of conscience is “of religious, political, philosophical or scientific nature...” (Radu Chiriță, *Convenția europeană a drepturilor omului (The European Convention on Human Rights)*, ed. II, C.H. Beck Publishing, Bucharest, 2008, p. 523). Or, religion, as its freedom of manifestation by the people who have a religious belief, should not be identified with consciousness, which differs both in its nature and content, and also in its perception from a philosophical and legal perspective (See N. V. Dură, *The European juridical thinking, concerning the human rights, expressed along the centuries*, in “Acta Universitatis Danubius. Juridica”, no. 2/2010 (VII), p. 153-192; Idem, “Conștiința” în percepția Teologiei și a Filosofiei (“Consciousness” in the perception of Theology and Philosophy), the “Journal of Theology St. Andrew”, XIII, no. 1 / 2009, p. 27-37.

<sup>24</sup> *The European Convention on Human Rights* (Rome, 1950), art. 9, paragraph 1 (on the internet at [www.echr.coe.int/Documents/Convention\\_ROM.pdf](http://www.echr.coe.int/Documents/Convention_ROM.pdf)).