



HIGH LEVEL EUROPEAN SEMINAR

# PREVENTING ABORTION IN EUROPE

Legal framework and social policies

22 June 2017

## *The Institutional Dimension of Conscientious Objection*

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The concept of conscientious objection having been exposed already, it falls upon me to address directly the question, rather controversial on a theoretical level, of the possibility of an *institutional* dimension of conscientious objection (1). I will then address the effective legal protection that religious and philosophical advocacy groups as well as identity businesses benefit from to solve this type of problems on an institutional level (2), in the light of international and European human rights law (2.1), and then of the law of a few countries (2.2).

### I. CONSIDERATIONS ON A CONTROVERSIAL SUBJECT: “INSTITUTIONAL CONSCIENTIOUS” OBJECTION

Is it justified to speak of an “institutional conscientious” objection? A good number of authors continue to state the obvious: only a physical person has a conscience and, consequently, has the capacity to object for a motive of conscience.<sup>1</sup>

The argument seemed to stop all possibility of objection for an organisation or an institution.

In reality, a metaphorical sense is acceptable for an identity business, even if it would be preferable, in my opinion, to reserve the expression “contentious objection” to physical persons whom are the only ones to have the human reason: “Human beings are endowed with reason and conscience” (1<sup>st</sup> article of the Universal Declaration of Human Rights [UDHR]). In this way, it would probably be easier to preserve the priority and often absolute character of conscientious objection.

This ties the position of the former EComHR, which declared in 1988, in the case *VereinKontakt-Information-Therapie Siegfried and Hagen v. Austria*: “Insofar as Article 9 (Art. 9) is concerned, the Commission considers that a distinction must be made in this respect between the freedom of conscience and the freedom of religion, which can also be exercised by a church as such”.<sup>2</sup>

But it would not be enough to provide protection for individual freedom of conscience and religion. The freedom of the members of a convictional group, i.e. religious or philosophical – in the sense that the fulfilment of the contents corresponding to freedom of conscience, thought and religion - could not be reached without taking into account certain community aspects, i.e. rights of the organisation itself, whether it be religious or philosophical. The concept of institutional religious liberty is essential: the COMECE had the merit of promoting it for years. But, beyond churches and religious and philosophical groups, we must also ensure the protection of businesses that gravitate in the orbit of these churches and groups - often healthcare or educational centres – commonly referred to as “trend” businesses, or better, “identity businesses”.<sup>3</sup>

It is therefore not surprising that many jurists, but also many professionals, primarily medical or educational, have recommended the recognition of “institutional objections”.<sup>4</sup> In fact the ordinary professors of Madrid, Navarro-Valls and Martínez-Torrón, define this concept as “the legal recognition of conscientious objections that correspond to the institutionalised credo of certain religious confessions”.<sup>5</sup> Pope Benedict XVI too has addressed the subject without fear of explicitly defending an institutional objection.<sup>6</sup>

The heart of the question thus does not consist in knowing if such protections are conceivable or should be put in place, because they already exist. The elaboration of the concept nevertheless has its importance. In this regard, I would like to propose the following synthesis: we are concerned with an *articulation between the liberty of conscience*, of thought and religion of each individual (art. 9 ECHR), on the one hand, and the *liberty of association* (art. 11 ECHR), on the other hand, which supposes the recognition of a certain autonomy of the group in the ethical field. From this point of view, the respect of the identity of a religious group and of a “trend” business –far from constituting a danger for the conscience of individuals– appears more as an imperative that is born from individual persons, themselves eager to respect their conscience that is –normally– in accordance with the project of their institution. Identity businesses, that are often not public entities, appear as an essential *means* to effectively protect the

*conscience of individuals* that compose it, but also a way of ensuring the respect of the *doctrinal project or ethical code* promoted by its founders.

In my opinion, the answer to the debated question is, in definitive, the following: as well as a legal entity, although it has no body or soul, can be considered in a legal system as a person by operation of an analogy and a fiction of the law, an identity business can be considered as an “analogical extension”<sup>7</sup> of the personal conscience. Beyond the conceptual debate, one must ensure the *technical accuracy of the terms* employed. From a technical legal point of view, the terms “institutional conscience” are not satisfactory, even if they are used by a lot of jurists probably due to the concision and mediatized character of the expression. It would be more correct to speak of *identity safeguards clauses*. Hence, in Spain, the Organic Law on Religious Freedom allows denominations to establish “safeguard clauses of their religious identity and own character as well as respect for their beliefs”<sup>8</sup>. Other expressions are also acceptable. “Institutional conscience clause”, however, would not escape the criticism already expressed regarding the reserved use of the word “consciousness”. In definitive, what really matters is less the employed terminology than the effective protection of consciousness within convictional groups. In any case, to be able to benefit from a protection, they will have to respect the public order. This having been clarified, the moment has come to discuss the effective protection set up for the benefit of convictional groups and identity businesses.

## II. THE NECESSARY PROTECTION OF CONVICTIONAL GROUPS AND IDENTITY BUSINESSES

### 1. *The international and European frame*

Article 18 of the *International Covenant on Civil and Political Rights* does not expressly address the question of conscientious objection, nor does article 9 of the ECHR<sup>9</sup>, which was inspired by article 18 of the *UDHR*. However, *Observation* n° 22 of the United Nations (1993) brings useful precisions: “the Covenant does not explicitly mention the right to conscientious objection, but the Committee believes that such a right can be inferred from Article 18”.<sup>10</sup>

The attention of ECtHR case law on conscientious objection was long confined to individual conscientious objection in relation to the compulsory military service (Article 4 § 3b ECHR).<sup>11</sup> Such an objection is recognized, but, in the eyes of the Court, it does not allow to refuse an alternative civilian service.<sup>12</sup> The case law was going deeper down this path until the *Bayatyan v. Armenia* case of the Grand Chamber (2011) that –18 years after the *Observation* n° 22 of the UN!– explicitly linked conscientious objection to the corresponding provision in the ECHR, namely Article 9 on freedom of thought, conscience and religion, thus offering new perspectives to conscientious objection.<sup>13</sup>

This jurisprudential opening within the framework of the Council of Europe was made in parallel to the adoption by the European Union of Article 10, paragraph 2, of the Charter of Fundamental Rights of the European Union (hereinafter the “Charter”),

inserted in Lisbon (2007) in the treaties of the European Union by Article 6 of the Treaty on European Union. This provision, which thus enjoys the same legal value as the Treaties, expressly provides for the possibility of conscientious objection with regard to freedom of conscience, thought and religion. Its wording remains vague and ambiguous: **“The right to conscientious objection is recognized, in accordance with the national laws which rule its exercise.”**<sup>14</sup>

Despite its limitations, Article 10, paragraph 2, of the Charter has the huge merit of existing and to serve as a normative support for the European case law,<sup>15</sup> but also as a support for States that would be willing to consider other conscientious objections in the future.

In the area of soft law, the most decisive step was with no doubt taken by the *Directive 2000/78/CE* creating a general framework in favour of equality of treatment in the field of employment and labour.<sup>16</sup> Underlining the principle of non-discrimination, article 4 puts in place a particular status for identity businesses that ensures that certain “differences in treatment” that could risk being considered discriminations are not qualified as such having regard to the specificity of an identity business. Thus, the religious factor is taken into account, among others. It results either from the nature of the activities (religious activities), or from the context (ecclesiastical regime as opposed to civil regime). Article 4 provides a religious regime that justifies that religious groups themselves or the *public or private businesses* with an ethos based on religion or belief, may require their members or their staff to adopt an attitude of “good faith and loyalty to the ethics of the organization” (Article 4, paragraph 2), which, while constituting a difference of treatment compared to the ordinary regime, does not constitute unfair discrimination (Article 4, paragraph 1).

This directive has recently been the subject judgment of the Court of Justice of the European Union (C-157/15), this 14<sup>th</sup> of March. It concerned a Muslim receptionist within a Belgian security firm (G4S), complaining of the prohibition to wear the veil put in place by an internal measure of the firm. The Belgian Court of Cassation demanded of the Court of Justice of the European Union a preliminary reference to know if this had to be seen as a *direct* discrimination, prohibited by the European directive 2000/78. In its judgment, that also settles a French case, the Court of Justice specifies that there is no direct discrimination, while adding that it is up to the Belgian justice to verify that there has been no *indirect* discrimination, and while reminding that such a discrimination could nevertheless be justified by a legitimate objective specific to the business, such as the pursuit of a policy of neutrality, provided that the means are appropriate and necessary.<sup>17</sup> In this case it was individual freedom of religion that was threatened (the possibility of wearing the veil), but the case also recognises the principle established by the directive that a private business has the capacity of leading an identity policy, which mustn’t necessarily go in the direction of neutrality, as in the present case,

as long as it respects certain criteria, as the public order. This is what is interesting for the future of businesses considering themselves as of Catholic or Christian orientation. Concerning the *Council of Europe, Resolution 1763* passed in 2010 by the Parliamentary Assembly of the Council of Europe has recognized for the first time the right to *conscientious objection to hospitals and institutions* on abortion, euthanasia and treatment which may lead to the death of a foetus or a human embryo. It encourages the European States, while ensuring access to care for patients, “to ensure respect for the right of freedom of thought, conscience and religion of healthcare providers”.<sup>18</sup>

For its part, the ECtHR has a number of positive elements to its credit. Its contribution to institutional ethical aspects is mainly situated in *health care and education fields*<sup>19</sup>. In the absence of a provision of the ECHR recognizing the right to conscientious objection, the ECtHR initially based itself on the concept of identity businesses, effective in different States; it was able to invoke the *Directive 2000/78/EC* aforementioned.<sup>20</sup> The decision *Rommelfanger v. Germany*<sup>21</sup> of the ECom.HR had paved the way: a clinic of Catholic orientation had dismissed a doctor for taking a stand in favour of abortion in the media. In that decision, the Commission recognized that the credibility of this denominational clinic was at stake, which justified to impose some *duties of loyalty* on its employees. It therefore found inadmissible the doctor's request based on freedom of expression.

More recently, in 2007, a Swiss case was taken to the ECtHR (*Abaz Dautaj*<sup>22</sup>) concerning the employment of an unemployed “nonreligious” person as a janitor in a Protestant conference centre. Not bearing the atmosphere of the centre, which he called “fanatically religious, racist and xenophobic”, the applicant had abandoned the job on the very first day. The judges agreed with the evangelical centre, after having considered that, by signing the employment contract, the applicant had freely agreed to work in a company with a fixed orientation despite the difference with his personal convictions, and that he had, thus, assumed certain obligations to adapt his behaviour to the specificity of the place.

As regards education, in which the case law of the ECtHR strongly supports the right of convictional groups to defend doctrinal unity, discipline and ritual that is essential to them, two cases stand out. *Lombardi Vallauri v. Italy* and *Martínez Fernández v. Spain*. In both cases, the matter is about the dismissal of a teacher, a university professor in the first case, a secondary school teacher in the second, in accordance with the doctrinal orientation of the Catholic Church supported by a concordat with the same legal force as a bilateral international treaty. In the Spanish case, the judgment was given by the Grand Chamber. In the Italian case, the fact that in the end a violation was declared, does not put into question the principle of institutional autonomy, but concerns the lack of verification of the conditions of a fair trial by Italy.<sup>23</sup> Similarly, in the *Siebenhaar v. Allemagne* case the ECtHR recognized the direction of an evangelical kindergarten the right to dismiss the applicant who had hidden his militancy within “the universal

Church”, a confession incompatible with evangelical religion, making thus himself guilty of a continued lack of loyalty.<sup>24</sup>

## 2. *The impact of the public-private distinction on the State level*

In the United States, there is the possibility of identity safeguards for general care centres (*institutional providers*), whether public, private or religious. Nevertheless, in some States, public institutions or institutions that are not strictly religious are sometimes excluded of such safeguards, as it is the case in California as regards abortion.<sup>25</sup> What about Europe?

In Europe, state rights have extremely diverse features. While a small minority of States refuse conscientious objection, the majority acknowledges some possibilities for objection or exemption at a constitutional or legislative level. Some states recognize institutional safeguards, with in that case, a reference to the public-private distinction. The French Conseil constitutionnel recognized in 2001 conscientious objection to the benefit of individuals only, but this does not preclude the existence of institutional clauses.<sup>26</sup> I have already given the example of the Spanish Constitution of 1978 that guaranties “the ideological, religious and cult freedom of individuals *and of communities*”. Even if this constitutional provision does not expressly mention objection by a group, the institutional protection, that takes here the form of identity safeguard clauses, benefits from an undeniable constitutional basis.<sup>27</sup> In other countries like Italy, where there is no constitutional basis, certain publicists are of the opinion that an intervention of the legislator is necessary, but others reject the existence of an “*interpositio legislatoris*” that they consider as an unacceptable legalist positivist reflex.<sup>28</sup> A multiplication of *secundem legem* objections (or conscientious options) can be observed, including for organisations.<sup>29</sup>

I want to come back to the *public-private distinction* which is often decisive. In many States, private care and education centres that have taken the precaution of establishing identity safeguards manage to prevent or resolve many ethical problems. Thus, the Spanish system of identity safeguards has been implemented on several occasions, particularly following the introduction in some university courses, of compulsory lessons about abortion techniques<sup>30</sup> as well as during a course of “citizenship education”. The latter had been imposed not only in primary and secondary schools but also in Catholic schools part of the state school system,<sup>31</sup> despite the incompatibility of some of their content with the identity and Christian educational project.

The question of the existence of *public subsidies* can annex itself to that of the identity of public or private institutions. Subsidized care or educational centres are usually accountable to a *public service*, which adds to the complexity of their situation. However, the method of financing has no impact on the nature of the act (medical, legal, illegal...) to which one objects. Without being able to present an overview of the different systems

established in other European States, I still would like to stress the importance of the subsidiarity principle to justify a diversity of solutions as well as pluralism to ensure some autonomy to convictional institutions. The institutional ethical aspects must be respected, including within the framework of a public service. Thus, *a hospital or a university which, without being public, would receive state subsidies might indeed be liable to perform a function of public utility, but it is only in respect of its institutional specificity it should fulfil such a function. To make the granting of public subsidies dependent on certain practices which are incompatible with the identity of the institution would violate its autonomy and religious or philosophical pluralism. As far as religious communities and identity establishments comply with public order, safeguard clauses should not be ignored.*

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To conclude, it would be desirable to develop the possibilities of identity safeguards that already exist in many states. These provisions complement and reinforce on an institutional level the individual and priority approach of individual conscientious objection. Faith groups and identity businesses being autonomous in the interpretation of their identity and in translating the ethical requirements thereunder, the decision to object should they be left to them under any circumstance. The ability to object at the institutional level through identity safeguards should not be understood narrowly, as if its scope was strictly limited under the existing provisions. The ability of a religious group or institution to defend its ethical orientation should be considered more comprehensive than the content covered by formulated identity safeguards. This consideration should enable those groups to not get caught in the meshes of positivist formalism. In this regard, an analogy can be drawn, in my view, with the conscientious objection of the individual who cannot be reduced only to cases of conscientious options already developed by legislation, such as the emblematic case of compulsory military service. Similarly, the groups retain the right to stand together to any new situation that may arise as a conflict with respect to their ethical code. In particular they may add subsequent identification safeguard clause or complete a previous clause. Moreover, the institutional identities, whether religious or ideological, are generally widely known by the public authorities. They usually offer a degree of transparency and predictability that is not found at the individual level. Spontaneity, originality and unpredictability of individuals, characterizing the actual conscientious objection, may have on the state legal order a surprising, or even a destabilizing, effect, without it jeopardizing the *raison d'être* of individual conscientious objections. These various safety valves are all essential elements in a modern and effective human rights system established to ensure the inherent human dignity of every person.

To conclude this brief overview of the question I would like to wish for a balanced development of the already existing identity safeguard clauses that come complete in this way, on an institutional level, the individual and prioritised approach of

conscientious objection. Faith groups and identity businesses are autonomous in their interpretation of their identity and the translation of their ethical demands. The decision to object must be left to their discretion in all circumstances without any other limit than public order, and especially, without the State being able to claim an “exhaustion” of the institutional conscientious objection in the sole terms of the existing safeguard clauses. In this sense, we could consider that the institutional objection is larger than the identity safeguard clauses, which should allow organisations – in an analogical way to the conscientious objection of physical persons – to not let themselves be locked in a positivist formalism. They retain the possibility to confront any situation that could present itself as conflictual as regards their ethical code, in particular (but not only) by adding, a new identity safeguard clause. Furthermore, such clauses also represent a moderate solution, allowing to avoid falling in to the extreme of civil disobedience, which would risk destabilising the rule of law and may be distorted if used to ends that are not before all else ethical, but political.

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<sup>1</sup> For more, see, among others : J. MORANGE, *La liberté de conscience en droit comparé*, in J.-B. D’ONORIO (dir.), *La conscience et le droit*, Téqui, Paris 2002, p. 29; E. MONTERO, *La loi contre la conscience : réflexions autour de l’objection de conscience*, in J. FIERENS (coord.), *Jérusalem, Athènes, Rome. Liber Amicorum Xavier Dijon*, Bruylant, Bruxelles, 2012, p. 166; L. SPINELLI, *L’obiezione di coscienza*, in R. BOTTA (a cura di), *L’obiezione di coscienza tra tutela della libertà e disgregazione dello Stato democratico*, Milano, Giuffrè, 1991, p. 4; J. HERVADA, *Libertad de conciencia y error moral sobre una terapéutica*, in *Persona y Derecho* 11 (1984) 13-53, spec. 43 and 48 and following.

<sup>2</sup> Ecom.HR, *Verein Kontakt-Information-Therapie et Siegfried Hagen c. Autriche*, 12 Oct. 1988, req n° 11921/86, DR 57, 96-97.

<sup>3</sup> The notion originates from German law: *Tendenzbetrieb* (cf. article 81 of the Law of 11 October 1952). About its reception in French law, see I. RIASSETTO, « ‘Entreprise de tendance’ religieuse, in F. MESSNER, P.-H., PRÉLOT et J.-M. WOEHLING (dir.) avec la contribution de I. RIASSETTO, *Traité de droit français des religions*, 2° éd., Lexis Nexis, Paris 2013, pp. 1211-1230.

<sup>4</sup> Cf. R. NAVARRO-VALLS – J. MARTÍNEZ-TORRÓN, *Conflictos entre conciencia y ley. Las objeciones de conciencia*, Madrid, Iustel, 2011, pp. 50, 123, 129, 147, 491 and following; G. HERRANZ, *La objeción de conciencia de las profesiones sanitarias*, *Scripta theologica* 27 [1995/2] 557-558; F. TOLLER, *El derecho a la objeción de conciencia de las instituciones*, *Vida y Etica*, vol. 8, no 2 (2007) 163-190, spec. 168; F. SUDRE, *Droit européen et international des droits de l’homme*, 8<sup>e</sup> éd., P.U.F., Paris, 2006, p. 484); V. TURCHI, V., *I nuovi volti di Antigone. Le obiezioni di coscienza nell’esperienza giuridica contemporanea*. Ed. Scientifiche italiane, Naples, 2009, pp. 89 and following. See also E.L., BEDFORD, *The Concept of Institutional Conscience*, in *The National Catholic Bioethics Quarterly*, 12 [2012] 409-420; V. PRIETO, *Dimensiones individuales e institucionales de la objeción de conciencia al aborto*, in *Revista general de Derecho Canónico y Derecho Eclesiástico del Estado*, 30 [2012] 6).

<sup>5</sup>R. NAVARRO-VALLS – J. MARTÍNEZ-TORRÓN, *Conflictos entre conciencia y ley. Las objeciones de conciencia*, Madrid, Iustel, 2011, p. 50.

<sup>6</sup> See BENEDICT XVI, *Discours à l’occasion de la présentation des vœux du Corps diplomatique accrédité près le Saint-Siège*, 7 January 2013, available on the Vatican website (we underline).

<sup>7</sup>F. TOLLER, *El derecho a la objeción de conciencia de las instituciones*, *Vida y Etica*, 8 (2007/2) 163-190, spec. 168.



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<sup>8</sup> See M.J. ROCA, *Derechos confesionales y integración de las confesiones religiosas. Aspectos institucionales y personales: de la autonomía a la objeción de conciencia*, in J. FERREIRO (coord.), *Jornadas Jurídicas sobre Libertad Religiosa en España*, Ministerio de Justicia, Madrid 2008, pp. 215-242, spéc. p. 228.

<sup>9</sup> EComHR, *Groupe d'objecteurs de conscience vs. Denmark*, 7 March 1977, req. N° 7565/76 : « Aucun droit à l'objection de conscience ne figure au nombre des droits et libertés garantis par la Convention » (Com EDH, *Grandrath c. RFA*, 23 avril 1965).

<sup>10</sup> *General Observation n° 22* (forty-eighth session, 1993), *Compilation des commentaires généraux et Recommandations générales adoptées par les organes des traités*, U.N. Doc. HRI\GEN\1\Rev.1 (1994).

<sup>11</sup> For a broader perspective, see J.T. MARTÍN DE AGAR, « Libertà di coscienza » in *Convenzione europea per la salvaguardia dei diritti dell'uomo e delle libertà fondamentali. La CEDU e il ruolo delle Corti* (a cura di P. GIANNITI), Zanichelli, Bologna 2015, 1115-1154.

<sup>12</sup> See ECtHR, *Johansen vs. Norway*, 14 October 1985, n° 10600/83.

<sup>13</sup> See ECtHR (Gr. Ch.), *Bayatyan vs. Arménie*, 7 July 2011, req. N° 23459/03 (see J.-B. WALTER, *La reconnaissance du droit à l'objection de conscience par la Cour européenne des droits de l'homme. Cour européenne des droits de l'homme (Gde Ch), Bayatyan vs. Arménie case, 7 July 2011*, in *RTDH* 23 [2012] 671-686).

<sup>14</sup> Some authors have pointed out that: on the one hand, if it is a fundamental European right, it is at the level of the Charter that the right is recognized, but it would have been sufficient to add that the national laws govern its exercise. However, the terms “recognized according to” or “in accordance” are ambiguous. The current wording might suggest a certain subordination of the right of conscientious objection - of its recognition - to the will of the national legislature. On the other hand, if the meaning to be given to this provision was that of a mere reference to State law, its insertion in a fundamental Charter would be entirely inappropriate and deprived of *raison d'être*. (See R. Navarro-Valls – J. Martínez-Torrón, *Conflictos entre conciencia y ley. Las objeciones de conciencia*, Madrid, Iustel, 2011, p. 44; J.T. Martín de Agar, « Diritto e obiezione di coscienza », in P. Gianniti (a cura di), *I diritti fondamentali nell'Unione Europea. La Carta di Nizza dopo il Trattato di Lisbona*, Zanichelli, Bologna 2013, p. 985)

<sup>15</sup> By European case law, I mean here both that of the ECtHR (Strasbourg) and that of the ECJ (Luxembourg), both being called to collaborate closely and having a matching position in the field of freedom of conscience, thought and religion.

<sup>16</sup> *JOCE L 303/19*, 2 December 2000, 16-22. Its “considering” 23, 24 and 26 pave the way to art. 4, along the lines of art. 17 TFUE, itself successor of the former Declaration 11 of the European Union.

<sup>17</sup> As regards religion and conscience, the CJEU mainly dealt with cases concerning Labour law, and mainly under individual aspects: E. TAWIL, « La liberté religieuse en droit de l'Union européenne après le Traité de Lisbonne », *Annuaire Droit et Religions* 5 (2010-2011) spéc. pp. 232-233.

<sup>18</sup> *Résolution 1763* « The right to conscientious objection in the frame of legal medical care », of the 7<sup>th</sup> of October 2010, n° 1 and 4 (Website of the PACE).

<sup>19</sup> In this regard, see my thesis: J.-P. SCHOUPPE, *La dimension institutionnelle de la liberté de religion dans la jurisprudence de la Cour européenne des droits de l'homme*, Pedone, Paris 2015, préface E. Decaux, spéc. pp. 369-398.

<sup>20</sup> Thus the Grand Chamber of the EctHR case *Fernández Martínez v. Spain*, which will be discussed further, quotes this directive of the European Union at paragraph 66.

<sup>21</sup> Ecom.HR, *Rommelfanger vs. Allemagne*, 6 september 1989, n° 12242/86.

<sup>22</sup> ECtDH, *Abaz Dautaj v. Switzerland*, n°32166/05, 20 September 2007. Food for thought from this case, on the necessity to not protect less “nonreligious” convictions than religious convictions, see L.-L. CHRISTIANS, « Chronique de jurisprudence de la Cour européenne des droits de l'homme », *Annuaire Droit et Religions* 4 (2009-2010) pp. 639-640

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<sup>23</sup>The Grand Chamber judgment, however, implies there might be problems in the future and a greater requirement for procedural safeguards. I examined these questions: J.-P. Schoupe, « L'autonomie des églises en matière d'instruction dans la jurisprudence de la Cour européenne des droits de l'homme (about the judgment [Gr Ch.] Fernández Martínez v. Spain, 12 June 2014) » *Review of public law*, No. 2, 2015, pp. 499-524.

<sup>24</sup> ECtHR, *Siebenhaar vs. Allemagne*, 3 February 2011, n° 18136/02. See J.-P. MARGUENAUD – J. MOULY, « Les droits de l'Homme salarié de l'entreprise identitaire », *Recueil Dalloz*, 23 juin 2011, n° 24, 1638.

<sup>25</sup> See PAMELA H. DEL NEGRO et STEPHEN W. ARONSON, “Practice Resource: Religious Accommodations for Employees in the Health Care Workplace”, *Journal of Health & Life Sciences Law* 8 (2015/3) Pg. 72, p. 3.

<sup>26</sup> For France, see P.-H. PRÉLOT, « Les aménagements juridiques de la liberté de religion », in F. MESSNER – P.-H. PRÉLOT – J.-M. WOERLING (dir.) and the contribution of I. RIASSETTO, *Traité de droit français des religions*, 2<sup>e</sup> éd., Paris, Lexis Nexis, 2013, pp. 739-783 as well as in I. RIASSETTO, « Clause de conscience – Droit français » in F. MESSNER (dir.), *Dictionnaire Droit des religions*, Paris, CNRS Éditions, 2010, pp. 153-155.

<sup>27</sup> I underline. See L. RUANO ESPINA, *Objeción de conciencia a la Educación para la Ciudadanía*, in *Revista General de Derecho Canónico y Eclesiástico del Estado*, n° 17, mai 2008, 58.

<sup>28</sup> For Italy, see G. DALLA TORRE, *Obiezione di coscienza* », in *Iustitia* (2009/3), 269-270 and, more largely, ID., *Obiezione di coscienza e valori costituzionali*, in R. BOTTA (a cura di), *L'obiezione di coscienza tra tutela della libertà e disgregazione dello Stato democratico*, Giuffrè, Milano, 1991, pp. 19-61).

<sup>29</sup> In Italy, Professor C. Cardia speaks of “collective or structural objection” (C. Cardia, « Tra il diritto e la morale. Obiezione di coscienza e legge », *Stato, Chiese e pluralismo confessionale, Rivista telematica*, [www.statoechiese.it](http://www.statoechiese.it), mai 2009, 29 p.). For an overview of conscientious objection in this country, see F. Mantovani, *Obiezione di coscienza fra presente e futuro* », *Iustitia* 64 (2011) pp. 151-156; V. Turchi, V., *I nuovi volti di Antigone. Le obiezioni di coscienza nell'esperienza giuridica contemporanea*. Ed. Scientifiche italiane, Naples 2009, pp. 89 and s. The problem of abortion poses itself in principle not as long as the caregivers continue not to be obliged by law (ibid., P. 69).

<sup>30</sup> In Spain, the introduction of the introduction to abortion techniques in some university training program has provoked strong reactions (see Boletín de Noticias Universidad de Navarra in Pamplona, December 15, 2009 and for the University Foundation San Pablo -CEU in Madrid, Forum Libertas, December 23, 2009).

<sup>31</sup> One can mention for example the “institutional statement” of the University Foundation San Pablo-CEU <http://www.forumlibertas.com>. The Spanish Confederation of Teaching Centres (CECE) also took a similar position (see L. ESPINA RUANO, “Objeción de conciencia a la Educación para la Ciudadanía” *Revista General de Derecho y Canonical ecclesiastico del Estado*, No. 17, May 2008, p. 59).