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BEGELEIDENDE NOTA

van: het secretariaat

aan: de Conventie

Betreft: Bijdrage van de heer Filadelfio Guido Basile, plaatsvervangend lid van de Conventie
- Over het vraagstuk van de religieuze wortels

De secretaris-generaal van de Conventie heeft van de heer Filadelfio Guido Basile, plaatsvervangend lid van de Conventie, de bijdrage ontvangen die in bijlage dezes staat.

The religious roots of Europe

It is deemed advisable to include in the future European Constitution Declaration no. 11 attached to the Final Act of the Amsterdam Treaty guaranteeing the respect of the status of the Churches and Religious Communities of each Member State. In this way, the declaration, with its purely political valence, would become fully productive in terms of its legal effects. We deem that, in addition to individual religious freedom, also institutional religious freedom should be guaranteed, in full respect of the identity of the religions themselves and of the non confessional nature of the State, that is, of the non interference by the State in the internal matters of the confession or community.

It is also important to include an explicit reference to religion as a fundamental element for founding Europe, and the idea of Europe, and that this reference should not be contained in an exhortatory preamble but in an effectively cogent article (that is, in art. 2 of the future Constitution). It cannot in fact be denied that the roots of our continent lie not only in our Graeco-Roman heritage but also in our religious, specifically Judaic-Christian, heritage, which has represented its innermost soul for centuries. Without denying the contribution received from other religious cultures and traditions, in particular Islam, it is apparent to anyone viewing the history of Europe with an unbiased eye that most of what has been produced by our Continent in the juridical, literary and philosophic spheres bears a Judaic-Christian hallmark and is difficult to understand and appreciate unless it is viewed in such a perspective. Perhaps, in order to avoid futile friction, one should refer to "the religious and Judaic-Christian traditions of Europe".

This does not mean taking a sterile view of the past, as the religious roots are the source of an undisputed ethical potentiality.

The adoption of any different stance would amount to claiming that not only this tradition, but religion itself, outside the institutional mould of concordatory-type juridical relations, or its consideration as the object of a strictly personal right, would be an element that was extraneous and in any case extrinsic to a correct development and full evolution of a democratically defined society.

This impoverished conception of religion is a legacy of the Enlightenment-based modernity that has accustomed us to thinking in dialectical, almost Manichaeian, terms of dualistic oppositions. Specifically, the symbolic code of religion and that of democracy in the modern sense have been viewed as two opposing types of ideal. The religious factor has actually been considered as an extrinsic reality that may even be contrary to democracy both owing to its dogmatic contents, which one must accept without being able to exercise any true freedom, and to the alleged irrationality, or rather, the lack of formal rationality, of the ethical-juridical systems of religions.

At most, religion would be a merely individual right, a freedom of the individual that is of significance to the democratic States if, and to the extent to which, it succeeds in exerting an influence on the public sphere. In this way, whenever a religion oversteps the boundary of its strictly religious and religious practice manifestations and exerts its action in the field of the everyday exercise of rights, the States may and actually do, take different attitudes, depending on their own historical and socio-cultural heritage. This attitude could lead to religion again being relegated to the private sphere, or in any case specifically to the common law regarding private individuals, as mainly happens in the United States tradition, also in the light of the first amendment of the Federal Constitution in 1791: that is, to regulate it in a way that is functional to the democratic political project, as is the case in Europe. The results are ultimately relatively similar, in that in both cases religion is banished from the public sphere as an element that in any case disturbs it and can be readmitted to it only after a suitable "democratic treatment".

And yet it is precisely this model, as has correctly been pointed out in the theory¹, that raises a number of problems, two of which in particular are worth highlighting.

To relegate religion to the private sphere alone strongly curtails the contribution religion itself can make to a democratic society. In this way it would seem doomed to become or in any case be considered merely the source of good social and moral education for people in general.

Then there is another complex problem, which is increasingly topical in a society such as ours, which is - or is becoming - multiethnic and multicultural, and that accounts for quite a few of the uncertainties raised by the Islamic world: a democracy interpreted as the privatization of religion is hard to accept for those non western peoples and cultures for which religion in any case represents an element of public significance, and in which both the religious and the moral elements have a direct importance in the orders from which they come, and also regulate every aspect of the believers' lives. In other words, an explicit reference to the religious roots of Europe could paradoxically be of help to those nations of different religious tradition (Turkey in particular) that in the not too distant future will become part of the European common space.

Democratic Europe must therefore view religion also as a public matter, and must find an action principle which makes the various religions compatible not only from purely private points of view, but also publicly. This is also because experience shows how it is on the ways in which a State, or in any case a juridical system, incorporates the rights of a religion that depend the ultimate structure of that system and the contribution it will be able to make to the construction of a global juridical order². And even its actual non confessional nature will be redefined as the capacity for dialogue and principled tolerance among positions that, in order to ensure a civilized acceptance of diversity, will not have to cast aside their beliefs and their identity in order to enter this space³.

This means and implies that in religion it is necessary to be able to distinguish, or rather, for religions to be able to distinguish, among the internal elements constituting religions themselves, their dogmatics and the space of the necessary dialogue with the other religions and cultures. This is a distinction that implies also a relation, as it is obvious that the greater the extent to which a religion develops the motives and foundations of its own message, the more capable it is of entering into dialogue with the other religions and also with non believers, and therefore of participating in public deliberation⁴.

The religious phenomenon actually appears as the only social factor with regard to which the State may be defined as incompetent because of its non confessional nature. And therefore the State cannot provide a "state public service" in this field, but only cooperate with the religious confessions to ensure that they provide for the religious needs of the people, without prejudice to religious freedom as a recognized right of individuals whether or not they belong to any confessional structure.

In full respect of one's own area of action, it could thus be possible to attain a true, albeit never definitive, harmony - as is the case for all human endeavour - in order to implement a truly lay principle: the principle that, provided it is rightly interpreted, implies not indifference to religious matters but a guarantee that the freedom of worship will be safeguarded in a regime of confessional and cultural pluralism and cooperation among the several orders. This is in any case clearly indicated in the white paper on governance (COM [2001]428, of 25 July 2001), which acknowledges the specific contribution that churches and religious communities can make to the process of forging the European Union.

Religion can thus become the driving force behind a more humane civil society that constructively opposes an institutional configuration acting exclusively within the framework of a globalized economic market, thereby depersonalizing daily existence. Religion, in particular the Judaic-Christian tradition specific to our Europe, takes on a new significance as the spiritual qualification of a project of civilization that in any case sets out to oppose the growing dehumanization of social, economic and cultural life and thus give rise to a humanism that respects the rights, solidarity and creativity that will allow each man to attain his loftiest aspirations.

And it is this "shared" challenge that now awaits both Europe and the Church and the other religious confessions.

¹ P. Donati, *Pensare la società civile come sfera pubblica religiosamente qualificata*, in *Multiculturalismo e identità*, ed. by C. Vigna and S. Zamagni, Milano 2002, p. 51-106

² S. Ferrari, *Lo spirito dei diritti religiosi. Ebraismo, cristianesimo e islam a confronto*, Bologna 2002, p. 67-68.

³ V. Melchiorre, *Quale dialogo? Quale tolleranza?*, in *Per un dialogo interculturale*, ed. by V. Cesareo, Milano 2001, p. 3-11.

⁴ J. Waldron, *Religious Contributions in Public Deliberation*, in *San Diego Law Review* 30 (1993), p. 817-848 (846-847 in partic.); F. Viola, *Il ruolo pubblico della religione nella società multiculturale*, in *Multiculturalismo e identità cit.*, p. 107-138.