

## EDUCATING CHILDREN IN ACCORDANCE WITH PARENTS' RELIGIOUS BELIEVES

### I INTRODUCTION

The comprehensive richness of education is reflected in the role of education in strengthening social cohesion, dialog, respect and tolerance between all the people. Social context of education results in the governments' efforts through education to determine social norms and values, as well as the feeling of belonging to one's community, social group, religion.

In the domain of the rights of a child on education, family and school are the institutions with formal responsibility prior to the law and society, but along with them, too. Religious identity has an important role in establishing a parent-child relationship and vice versa. In relation to that fact, it is necessary to state that a parent-child relationship commonly depends on tradition and culture of certain region. With regards to an established idea that a child inherits its parents' religion, it is the government's obligation to provide education for children in accordance with their parents' religious believes, above all, with the aim to protect the children against possible ideological indoctrination which might be imposed by the government.

### II THE RIGHT ON FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION IN UNIVERSAL AND REGIONAL DOCUMENTS ON HUMAN RIGHTS

In the system of human rights, the right on freedom of thought, conscience and religion is prescribed on universal<sup>1</sup> and European<sup>2</sup> level through provisions on individual and collective freedom of thought, conscience and religion, as well as in the provisions on respecting parents' believes in terms of children's education, and in the provisions on prohibiting discrimination on the basis of religion or religious believes. This is a system for protection of believes of every individual, whether they practice alone or in community with others, in private and public sphere. This, on one hand, implies the obligation of the signatory states of international contracts to withdraw from taking measures which represent interference with the right on freedom of thought, conscience and religion, whereas, on the other hand, it implies taking positive action in order to imply and protect those rights. The right of an individual on religion is always determined by the fact how the state views religion.

The initial assumption is based on the fact that a person is a political, but also a religious being. Guarantees of freedom of conscience and religion as human rights in

international law and constitutional law represent a great achievement of human civilization. Lack of respect for human rights on freedom of conscience and religion has often led to great problems through history and those problems have often turned into wars and civilian conflicts. The relationship between the state and religious communities depends on the state's attitude towards respecting the rights on freedom of thought, conscience and religion. International documents, among them constitutions of modern democratic states, guarantee the right and authority of religious teachings to each religious group, without exceptions.

In the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights the guaranteed right on freedom of thought, conscience and religion implies the obligation of the States Parties to 'have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions'.<sup>3</sup> The obligation of a state prescribed in this manner should secure freedom of religion in a national state, above all, for non-dominant religion, which should not be basis for mistreatment that can occur in cases when a state insists on certain religion.<sup>4</sup>

The right of a child on freedom of thought, conscience and religion was, for the first time, explicitly, defined in the UN Convention on the Right of a Child.<sup>5</sup> According to the provision of the Article 14 of the Convention, the State Parties acknowledge the right of the child on freedom of thought, conscience and religion with respect to the rights and duties of the parents (legal guardians) in terms of providing the child with the guidance to achieve its rights in a manner that is consistent with the child's evolving capacities. This limitation, whether on its own or along with the limitation related to protecting public order, health, morals or the rights of others (Art. 14, par 3), raises a question whether the child can really enjoy the right on freedom of thought, conscience and religion. The answer depends on the legal system of the country where this right should be practiced. The aforementioned paragraph is closely related to the provision of Art. 5 of the UN Convention on the Rights of a Child which binds the State Parties to respect the rights and duties of the parents in terms of providing the child with guidance that is consistent with the evolving capacities of the child. Hence, the question of choosing the religion is defined by the age of the child, which means that, in case of adolescents, it is necessary that the State Parties find a

mechanism to establish a balance between the rights a child and the interests of other members of the family.<sup>6</sup>

On European level, in the Convention for the Protection of Human Rights and Fundamental Freedoms (1950)<sup>7</sup>, the provision of Article 9 reads that everyone has the right on freedom of thought, conscience and religion. In the context of this provision, the right on freedom of thought, conscience and religion include the freedom of practicing a religion or a system of belief and the freedom of everyone to, whether alone or in a group with others, publicly or privately, expresses their religion or system of belief through a prayer, teaching, customs and ceremony. The freedom of religious practice or system of belief can be limited only by legal restrictions necessary in a democratic society with respect to public safety, protecting public order, health or morals, or to protect the rights and freedom of others.<sup>8</sup> This, in effect, means that religion cannot be a reason for breaking human rights, i.e. that a membership in certain religious group cannot be grounds for giving any privileges.

### III EDUCATION OF A CHILD AND RELIGION

Education of a child is a necessary factor in the child's upbringing with the aim to enable the child for independent choices and making responsible decisions, that is, its goal is right and complete development of a child into an adult and responsible person. In international framework, the term education refers to all types and levels of education and implies access to education, standard of education and quality of conditions in which education is conducted.<sup>9</sup> As the right to education implies the right to gain education, states have the obligation to ensure, without discrimination, that the students are enrolled in the system of education, not to allow any difference of treatment by the public authorities between the citizens, except on the basis of merit or need.<sup>10</sup> When it comes to the reference to the right of a child on education, the basic regulatory criteria are given in the provisions of two articles of the UN Convention on the Right of the Child. Thus, in the provision given in the Art 28, with reference to the nature of the right to education, the States shall provide certain activities which shall progressively lead to the realization of final goals of the right on education. Aims stated in the Art. 29 of the Convention are concerned with: the development of the child's personality, talents and mental and physical abilities of the child to their fullest potential, development of respect for human rights and

fundamental freedoms and principles enshrined in the Charter of the UN; development of respect for the child's parents, the child's cultural identity, language and national values of the country in which the child is living, and for civilizations different from his or her own; the preparation of the child for responsible life in a free society.<sup>11</sup> Broadly conceptualized right of the child on education classifies it into the category of economic, social and cultural rights, which justifies the idea that the right on education aims at bringing people into similar, just social position so that they can truly enjoy their human rights.

Since there was the need to produce a more precise formulation and protection of the child's religious education, its improvement on global level was, to a great extent, made through the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981).<sup>12</sup> The provision of the Art 5 par. 2 states the following: „Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle“. With that respect, all States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, practice and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.<sup>13</sup> At the same time, as a response to the ever increasing religious intolerance, the importance of religious education is becoming more and more important on the regional level as well. In the end of the past and the beginning of this century, the activities of the European Council and the European Union have been concerned with continuous and intensive creation and passing of documents in relation to this topic.<sup>14</sup>

#### (a) Relationship between State and Religion

As the church and the state have gradually grown apart from each other, the forms of their relationship have also changed. Consequently, there is a distinction between three systems of their relationship: the system of state church or state religion, then, the system of recognized churches (religions) and the system of separation of the church from the state, which functions through some form of cooperation. Education,

in its modern form, is increasingly annulling the policy of separating the church and the state, that is, total exclusion of religion from the system of secular education.

Separation of the church and the state is an ideological product of modern societies. However, as the church is a community of believers and it lives in the society in accordance with believes, it has the right to realize its values in that society.<sup>15</sup> In that context, the relationships between the church and the state should be based on cooperation with the aim of producing general benefit for all the citizens, with respect to their differences, nature and the essence of the methods of their work.<sup>16</sup>

Diminishing the importance of religion in public life results from a limitation imposed by uncritical understanding of secularity as a term with various levels of generalization and various contents. In its original sense, secularity is opposed to establishing state religion or favoring one over other religions, which has given rise to an ever lasting argument about the problem approach towards this issue. Regulating the relationship between the state and the church (religious communities that exist on its territory) is an important ground for securing stability of social relationships of a society as a whole.

#### b) Religion and Education on Regional Level

Secular model of educating a child is a reality, ground and base for all future experiences. However, secular model of education does not diminish the importance of religion, which, as a form of social consciousness, in many countries, has a key role in building the systems of values with students in their process of education. In other words, secularity, no matter how it is understood, does not exclude teaching religion and religious beliefs, but rather annuls imposing any one special form of religious group. Each state regulates the existence of religious education in accordance with its government, social and political beliefs regarding its tradition, culture and the particulars of its system of education.

Moral dimension of religious education, as mentioned earlier, is getting more and more attention from the European Council. Observed through time, adopting the Convention for Protection of Human Rights and Fundamental Freedoms (1950), that is the Protocol I of the European Convention for Protection of Human Rights and Fundamental Freedoms,<sup>17</sup> is a starting point for the process of development of the aims of future European education.

In the united Europe, the experiences of multinational and multi-religious states contribute to a more profound understanding and tolerance within the framework of religious pluralism. The idea of European integrations supposes creation of a system of values which encompasses integrations on all the areas of human existence, both on its secular and on its spiritual levels. Affirmation of European culture is closely related to the development and promotion of intercultural education.

Intercultural education recognizes the existence of various educational programs (formal and informal) that aim at mutual understanding and respect of the representatives of various cultural groups. Intercultural education is characterized by three basic factors: the role and responsibility of educational institutions (schools), history and identity, as well as religious and spiritual dimension of a multicultural society.<sup>18</sup>

With respect to teaching religion, the European Council passed Recommendation 1202 (1993) on religious tolerance in a democratic society,<sup>19</sup> and thus established guidelines for State Parties to follow in order to practice basic principles of religious tolerance in various religions and religious communities within Europe. The Recommendation stresses that developing the students' knowledge on their religion is a precondition for true tolerance and overcoming prejudices.<sup>20</sup> Over the next decade, religious aspect of education became an important factor for development of multicultural society in Europe, which enticed the European Council to devise and realize numerous projects that were made concrete in 2005 in the Education and Religion Parliamentary Assembly Recommendation 1720 (2005).<sup>21</sup> Seriousness of religious education is seen through a multitude of documents, which were adopted by the European Ministers of Education of the States Parties to the European Cultural Convention.<sup>22</sup> Apart from the Declaration by the European Ministers of education on intercultural education in the new European context,<sup>23</sup> there is a long list of activities,<sup>24</sup> which stresses the goals of intercultural education: overcoming passive coexistence by means of building understanding, mutual respect and dialog between groups of different cultures and by securing strong possibilities and fight against discrimination.

### III EDUCATING A CHILD IN ACCORDANCE WITH THE RELIGIOUS AND PHILOSOPHICAL BELIEVES OF THE PARENTS

The provision of Art 2 (P1-2) of the Protocol I of the European Convention on Protection of Human Rights and Fundamental Freedoms, stipulates that nobody can be denied the right on education, and that the state, in practicing its functions in the field of education and teaching, respects the right of the parents to secure education and teaching that are in accordance with their religious and philosophical beliefs. The content of the given provision demands a more detailed analysis of the stated terms. First of all, “education” means “the whole process through which, in every society, the adults take measures so as to pass their beliefs, culture and other values to the young”, whereas “teaching” means “passing knowledge and intellectual development”.<sup>25</sup> Furthermore, the relationship between education of a child and the parents’ beliefs is a term which encompasses different forms of religious education in schools (the available comparative data show that the subject of religious education is either compulsory or optional in almost all European countries)<sup>26</sup>, which will be discussed further on. Finally, the meaning of “respect” of the right of parents to educate the child in accordance with their religious and philosophical beliefs is more than a mere statement that the attitudes of parents must be taken into account. This right, too, has its broader meaning and refers to practice of every single function that a state takes in the field of education and teaching.<sup>27</sup>

The right on respect for religious and philosophical beliefs of parents is the privilege of parents. This can be concluded from the reading of the stipulation of the Article 2 (P1-2) of the Protocol I of the European Convention on Protection of Human Rights and Fundamental Freedoms which protects religious and philosophical beliefs of the parents, not the children, school or religious organization.<sup>28</sup> Starting from the right of every human being to live in accordance with their religious beliefs, restriction of the religious beliefs of the parents is defined by the interests of the child in the first place. This means that the respect of the beliefs of the parents is subordinated to the basic right of the child to get education.<sup>29</sup> The question of respect for the beliefs of the parents is placed in the context of curriculum and its realization. However, it is the interest of the state to provide access to information (including information on religious and philosophical nature) which is a part of school curriculum can have priority over parent’s beliefs.<sup>30</sup> Conflict of interest between the rights of the parents to provide their children with education in accordance with their beliefs and the state that

has a great role in the field of education is a complex issue, which cannot be solved in a uniformed way, due to the influence of various objective and subjective circumstances surrounding each case.

The purpose of the guaranties for respect of religious and philosophical beliefs of the parents is focused at preservation of pluralism and tolerance in public education. The nature of the guaranties implies ban for indoctrination by the state, that is, restraint on the part of the state from imposing certain ideology by means of power, which could be seen as disrespect for religious and philosophical beliefs of the parents. Exercise of the right of the parents to educate their children in accordance with their religious and philosophical beliefs means the possibility for the parents to choose the type of school for their children.

#### IV RELIGIOUS EDUCATION – CHARACTER AND STATUS OF THE SUBJECT IN EUROPEAN SYSTEM OF EDUCATION

School, as an institution, is not only the place where the child's gifts are enticed, but rather a place where the child develops as a member of society. In school, children develop basic knowledge and abilities that are passed on them by experts from various fields of science, which is why it is legitimately considered that the primary function of school is its educational function. Apart from that, school also has a compensatory and integration function through which an individual is included in pluralistic society in spiritual-ethical sense.<sup>31</sup> According to the Recommendation of the European Council on Participation of Children in the Family and the Society, States are bound to secure that all levels of the school curriculum promote the development of skills and knowledge that the children need for full participation in family and social life.<sup>32</sup>

The basic function of teaching religion in school that practices accepted social goals and standardized behavior is to transfer knowledge, skills and abilities that the students should gain in that subject. The ubiquitous reform in the field of education within the European integrations processes directs religious education towards strengthening multi-confession and the improvement of general humanistic values.

Comparative legal review of the European system of education with respect to the realization of religious education in public schools shows us that the structure and the contents are different and that they influence the status of the subject. Systematic organization of religious education can be practiced through one of the three possible forms with their modalities. Religious education as a compulsory subject in school

curriculum at a certain level of education is present in Austria, Norway, Great Britain, Germany, Romania, Sweden, whether it is studied as a compulsory subject on the primary school level or in form of a compulsory subject of choice or optional subject in the secondary school level. In many countries, confessional religious education is optional (Portugal, Spain, Bulgaria, Italy, Hungary, The Check Republic, Slovakia), whereas there are numerous countries where confessional religious education is replaced by religious culture (Great Britain, Denmark), or it does not exist at all (USA, France except Alsace and Lorraine).<sup>33</sup> In some countries, the confessional nature of religious teaching means gaining knowledge on the dominant religion, that is on the officially recognized religions in a certain country (Austria, Germany, Romania, Greece).<sup>34</sup> In some countries, it is a multi-confession subject which offers knowledge on global religions (Great Britain, Norway, Finland), whereas in some countries it is a non-confession subject that covers global religions and is, at the same time, closely related to moral education (Sweden) or it can function as a multi-confession or a non-confession subject, depending on the conditions.<sup>35</sup>

The different character of the subject of religious education in the systems of education in European countries defines different goals of the subject. In places where the subject is of confessional nature, the goals are defined by religious membership in a certain confession, whereas in the countries where there is a non-confessional subject, the dominant characteristic of the subject is its function of providing knowledge on global religions. A mixed (confessional, non-confessional or multifunctional) nature of religious education defines its goals in the direction of development of the child's personality and its preparation for independent life.<sup>36</sup>

Still, regardless of the status and the character of this subject in the systems of education in European countries, it should be stated that the parents wish, always, has the decisive role when making decision whether the child will attend the classes of religious education. With that respect, it is at the parents' disposition to decide whether they will agree that the child attends religious education. Namely, when the child enrolls in school, it is minor and incapable to have rights and duties, which is, naturally, the choice of school and enrollment is done by the parents in accordance with the best interests of the child. The parents of every child that is of the right age to attend compulsory school must provide education in accordance with the child's age, abilities and predispositions. The respect of the child's wish depends on the child's age and maturity level.

## V RELIGIOUS EDUCATION IN SERBIAN SYSTEM OF EDUCATION

### a) Religious Education and Alternative Subject Education (Civics)

In compliance with the tendency of the European countries to create uniformed principles which would diminish the differences in national approaches towards education of a child in accordance with the religious and philosophical beliefs of the parents, The Bylaw of the Republic of Serbia on Organizing and Practicing Religious Education and Alternative Subject Education in Primary and Secondary School,<sup>37</sup> religious education and civics were introduced to Serbian schools as compulsory educational subjects of choice. Religious education and alternative subject education were introduced into the first class of primary and the first class of the secondary school as of the school year 2001/2002. Their introduction was, first and foremost, motivated by the right on education, the right on the choice of how we see the world and the right of the parents to educate their children in accordance with their religious and philosophical beliefs that are recognized in international documents. The idea of the Bylaw on Organizing and Practicing Religious Education and Alternative Subject Education in Primary and Secondary School is to protect the religious beliefs of the parents, and also to provide the parents with a mechanism for protection against the risk of imposing certain ideas, beliefs and manners by the state and public schools.

The character of the religious education in Serbian system of education is reflected in the idea of inclusion and respect for the contents of other global religions, which was enticed by the religiously pluralistic community we live in. The Bylaw on Organizing and Practicing Religious Education and Alternative Subject Education in Primary and Secondary School regulates organization and practicing of religious education for traditional churches and religious communities (Art. 1, par. 1). The traditional churches and religious communities are: Serbian Orthodox Church, Islamic Community, Catholic Church, Slovak Evangelistic Church, Jewish Community, Christian Reformed Church, and Christian Evangelistic Church (Art 1, par 2). Religious education is organized and practiced for traditional churches and religious communities in the Republic of Serbia regardless of the number of believers in certain community (Art. 4). In this way, Serbia has joined the group of European, democratic countries where confessional religious education has long been accepted as a compulsory subject of choice. The need to introduce religious education in schools is

determined by the appearance of destructive sects, by the fact that there is increase in criminal activities, domestic violence, and other negative national, social and religious acts.<sup>38</sup>

On the other hand, the goal of the program of civics in primary and secondary school is to achieve changes in the students' level of knowledge, skills, opinions, values as well as the assumptions for a holistic development of personality and for a complete, responsible and engaged life in modern civil society in the spirit of respect for human rights and fundamental freedoms. The general aim of the subject of civics is to entice development of personality and social knowledge in students which provides them with the opportunity to become active participants in the process of education. With that respect, the tasks of the subject of civics are aimed at creating the conditions for the students to gain the necessary knowledge on democracy and civil society, to contribute to development of the students' awareness of the need to respect differences and peculiarities – identifying stereotypes in relation to gender, age, appearance, behavior, origin; enabling students to understand the necessity of the rules that regulate life in a community; introduction to the rights of the child and enabling them to actively participate in their practice, development of moral judgment and nourishing fundamental human values, etc.

In this field, the role of the parents is exercised through control in the process of choosing the compulsory subject of choice the child is to attend, and which will suit the individual capacities and preferences of the child. Whether a primary school student will attend religious education or alternative subject depends on the will of the parents i.e. guardians. A secondary school student can decide on its own which of the two subjects s/he will attend with the obligation to inform the parents i.e. guardians of the decision.<sup>39</sup> This is enforced in the provision of Art 2, par. 3 of the Bylaw on Organizing and Practicing Religious Education and Alternative Subject Education in Primary and Secondary School which stipulates that the Serbian Ministry for Education prepares and issues a publication for students and parents, i.e. guardians, in order to present them the contents and the manner of practicing religious education and an alternative subject education.

## b) Legal Framework for Religious Education in Serbian System of Education

Primary and secondary schools in Serbia teach religious contents as an important element in forming a tolerant democratic society. According to the provision of Article 5 of the Bylaw on organization and Practicing Religious Education and Alternative Subject Education in Primary and Secondary School, the religious education plan and program is a part of the prescribed curriculum for primary and secondary school.

The character and the content of this subject, *ex lege*, are jointly determined by the state, the churches and religious communities. The Law on Primary School in Art 20, par 2 prescribes that the plan and program of religious education is agreed on by the Minister for Education and the Minister for Religion upon an agreed proposal of the traditional churches and religious communities (Serbian Orthodox Church, Islamic Community, Catholic Church, Slovak Evangelistic Church, Jewish Community, Christian Reformed Church, and Christian Evangelistic Church). Serbian government, pursuant to Par. 3 of the stated Article of the Law forms a committee for synchronization of the proposal of the traditional churches and religious communities for religious education, the proposal of the textbooks and other teaching resources, for submission of comments to the Minister for Education in the process of selecting educational advisors for religious education and for monitoring of organization and execution of the religious education program. Textbooks and other teaching resources for religious education are approved by the Minister for Education upon the agreed proposal by the traditional churches and religious communities. These plans and programs are an integral part of the prescribed curriculum. The presence of the representatives of all seven traditional religious communities when deciding on the contents of the textbooks for each confession and for each grade supposes the existence of consensus, which, in other words, means that no textbook for religious education of any confession can be used without agreement by the remaining six representatives, which demonstrates a unique example in comparative legislation.<sup>40</sup>

In terms of religious education, Serbian legislation has a modern model of the relationship between the state, the churches and the religious communities – the so-called model of cooperative separation.<sup>41</sup> Analogously, the Law on Churches and Religious Communities in the provision of Art 2 par. 3 stipulates that there is no state religion.<sup>42</sup> In accordance with the Serbian Constitution<sup>43</sup>, everybody is guaranteed

freedom of conscience and religion. Freedom of religion comprises the following: freedom to have or not to have, retain or change religion or religious belief, that is freedom of faith, freedom of practicing faith in God; freedom to practice religion or religious education, individually or in a community with others, publicly or privately, by taking part in sermon and practicing religious ceremonies, *religious teaching and school*, nurturing and developing religious tradition, freedom to develop and improve religious education and culture.<sup>44</sup>

Through introduction of the subject religious education with the status of a compulsory subject of choice, this subject gains an equal status with all other subjects in the primary and secondary schools curriculum.

The most serious structural problem of the existent solution for religious education and civics is in that they are offered as alternatives in the school system, although in their contents, tasks and goals, they are not. The basic goal of religious education as a subject of choice is to represent the content of the faith and spiritual experience of the traditional Churches and religious communities that live and practice in our community, to enable the students to acquire spiritual and life values of the Church or the community they historically belong to, and to nurture their own religious and cultural identity,<sup>45</sup> whereas the goals of civics are stated as helping students to increase their interest in human rights, demilitarization, appearance of tensions such as civil wars, racism and high unemployment rate.

All grades of students choose one of the subjects of choice when enrolling in a cycle (i.e. in the first grade, in the fifth grade and when enrolling in secondary school). When a student chooses religious education or civics, s/he is bound to learn it until the end of schooling. The compulsory choice between religious education and its alternative subject (civics) should contribute to the affirmation of modern pedagogic principles, social changes and integration processes. With respect to the students' declaration for the compulsory subject, the Ministry for Education has released Information which provides details in terms of how students should determine religious education or civics.

It is very important to stress out the fact that the term religious education encompasses organization of classes for all students, members of all the recognized confessions.<sup>46</sup> Thus, besides Orthodox catechesis (religious education) each school must provide classes for Islamic religious education (ilmudin), Catholic religious education, Evangelistic - Lutheran religious education of the Slovak Evangelist Church, religious

education of the Christian Reformed Church, religious education-Judaism and education on the Christian ethics of the Christian Evangelistic Church. Perusal of legal acts and by-laws in the field of education, shows that organizing classes for members of recognized confessions is not limited by the number of students who are members of certain confession (unlike opening special classes in school for members of national minorities when it is necessary to have at least 15 students).

Although it is clear that it is completely unrealistic to provide a precise estimation on the condition of religious education in schools in Serbia, it is entirely certain that introducing students with faith and spiritual experiences of their, historically determined Church or religious community should be practiced in an open and tolerant dialogue, with respect towards other religious experiences and philosophical perspective, as well as the scientific findings and all the positive experiences and achievements of mankind.

Observations on religious education in primary and secondary education in Serbia, for the purpose of this paper, are based on the data of, above all, formally administrative nature. Based on the reports of school boards and coordinators for religious education with Serbian Ministry for Education, it can be concluded that religious education is still not methodical enough, also, that due to the fact that the catechists are unprepared in pedagogical and psychological sense, constant professional training of the catechists of all confessions is required. Additionally, there are distinctive weaknesses of the textbooks and additional teaching resources which should be made more appropriate for the students' age. In order to have successful realization and development of the education, as well as the development of professionalism of the teachers in schools, the Ministry for Education has prepared programs for professional training for certain profiles of teachers. In that respect, the Sector for the Development of Education has organized seminars for professional training of teachers, which represents a legitimated strategy for the entire education on the level of Serbian Government. In accordance with that, catechists are incorporated into the system of education because they are a part of the system of education.

Through the contents of religious education, the students are systematically introduced to religion in its doctrinal, liturgical, social and missionary dimension, where the presentation of Christian idea of life and the existence of the world is conducted in a very open, tolerant dialogue with other sciences and theories on the world, in which it is attempted to show that the Christian perspective encompasses all

the positive experiences of men, regardless of their nationality or religious education. This introduction is conducted in the informative, as well as in the experienced and pragmatic fields, with the intention to execute the doctrinarian presumptions in all segments of life.

## VI CONCLUSION

If we presume that religious education is a compulsory subject in Serbian system of education, equal to civics, it means that attendance of religious education in public schools (primary and secondary) cannot be imposed to anyone.

In empirical examination of the right of the child on education in accordance with the philosophical and religious beliefs of the parents, prescribed in Art. 2 of the Protocol I of the European Convention for Protection of Human Rights and Fundamental Freedoms (ratified by our country), it is confirmed that the role of the parents is prevalent, in terms of control in the process of opting for a compulsory subject of choice their child will attend, and which is appropriate for the individual capacities and predispositions of the child.

Although the primary goal of religious education is to recognize the contents of the faith and spiritual experience of the traditional Churches and religious communities of the groups who live and work in our area, and nourishing one's religious and cultural identity, in Serbia, the percentage of students who attend civics is distinctively larger.

It is not an overstatement to say that religious education really has its place and chance in Serbian system of education and that the authorities make huge efforts to prevent this place from being too tight. Religious education is an entirely modern subject, appropriate for every age and time. There is not a day in a person's life without it, through its contents, being in the position to give meaning to each of its moments. We are not talking about any worlds beyond the one we are living in. It is a spiritual dimension of this life, necessary and present in all its aspects. That is why it gets the deserved attention, with the intention to become and remain an inseparable part of the school system.

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<sup>1</sup> See Article 18 of the Universal Declaration of Human Rights at <http://www.un.org/Overview/rights.html#a18> of 1948, which reads 'Everyone has the right to freedom of thought, conscience and religion...', also Article 18 of the International Covenant on Civil and Political Rights from 1966, which gives a more detailed formulation of this law (see the text of the International Covenant on Civil and Political Rights at <http://www.unhcr.ch/html/menu3/b/accpr.htm>, and a provision of the Article 13 of the International Covenant on Economic, Social and Cultural Rights, 1966 (<http://www2.ohchr.org/english/law/cescr.htm> ). Article 1 and Article 6 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, 1981; Part II-Point B-22. of Vienna Declaration and action program, adopted by the World Conference on Human Rights, 1993; Declaration of Principles on Tolerance, of UNESCO, 1995; Resolution of the General Assembly 52/122, 1998, on Elimination of all forms of religious intolerance; Geneva spiritual appeal, 1999 ([http://www.europarl.europa.eu/comparl/libe/elsj/charter/art10/default\\_en.htm](http://www.europarl.europa.eu/comparl/libe/elsj/charter/art10/default_en.htm) ).

<sup>2</sup> In the European Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 1950, the basic elements of the rights on freedom of thought, conscience and religion, there are three separate provisions. Firstly, in the provision of the Article 9, than in the provision of the Article 2 of the Protocol No. 1 with the European Convention on Human Rights, and finally, in the provision of the Article 15 of the Convention, which explicitly states religious beliefs as basis for prohibition of discrimination. See the text of the convention at:

<http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=005&CL=ENG> .

<sup>3</sup> See Art 18, Par. 4 of the International Covenant on Civil and Political Rights, 'Official Gazette of SFRJ International Contracts' No. 7/1971, 'Official Gazette of SFRJ – International Contracts', No. 9/2003. See also Article 13, Par. 3 of the International Covenant on Economic, Social and Cultural Rights, 1966, 'Official Gazette of SCG – International Contracts', No. 7/1971. The Republic of Serbia, as legal successor of the former SFRJ, SRJ and Union of Serbia and Montenegro, has inherited the right to respect and implement all the international contracts they had signed.

<sup>4</sup> See Vuckovic-Sahovic H, *The Right of the Child and International Law*, Yugoslav Child Rights Centre, Belgrade 2000, p. 128.

It is a fact that parents determine the child's religion, but also that in some states one religion is proclaimed to be the state religion and thus it becomes more privileged in relation to other religions as the case is in countries with predominantly Muslim populations: Iran, Mauritania, Saudi Arabia or Bahrain.

<sup>5</sup> Convention on the Rights of a Child is an international agreement with most ratifications. According to data available on the website <http://www.ohchr.org>, the Convention was ratified by 193 UN member states. Serbia ratified the Convention on the Rights of a Child in the Ratification Act ("Official Gazette of SFRJ – International Agreements", no. 15/90, "Official Gazette of SRJ – International Agreements", no. 4/96, 2/97), whereas The Optional Protocol on the Involvement of Children in Armed Conflicts and The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography was subsequently ratified ("Official Gazette of SRJ – International Agreements", no. 7/2000).

<sup>6</sup> See Vuckovic – Sahovic H., *The Right of the Child and International Law*, op. cit., p. 131.

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<sup>7</sup> Convention for the Protection of Human Rights and Fundamental Freedoms (1950) was ratified on 26<sup>th</sup> December 2003 in the Act on Ratification of the Convention (“Official Gazette of SRJ – International Agreements”, no. 9/03), and was enforced in Serbia, i.e. it became effective, as of 3<sup>rd</sup> January 2004 (eight days upon announcement in an official gazette).

<sup>8</sup> See Art 9 of the Convention for the Protection of Human Rights and Fundamental Freedoms (1950).

<sup>9</sup> See Art 1 item 2 of the UNESCO Convention Against Discrimination in Education 1960, Internet presentation at: <http://www.UNESCO.org>

<sup>10</sup> See Art 3 (a) (b) (c) UNESCO Convention Against Discrimination in Education 1960, „Official Gazette of SFRJ- International Agreements“, no. 4/1964.

<sup>11</sup> See Art 28 and 29 par 1 (a)(b)(c)(d) of the Convention on the Rights of the Child.

<sup>12</sup> See Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981), A/RES/36/55, 25 November 1981, internet presentation at: <http://www.un.org/documents/ga/res/36/a36r055.htm>

<sup>13</sup> See Art 4, par.1 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

<sup>14</sup> See Recommendations Parliamentary assembly Council of Europe: Recommendation 1178 (1992), of 5 February 1992, on sects and new religious movements; Recommendation 1202 (1993), of 2 February 1993, on religious tolerance in a democratic society; Recommendation 1396 (1999), of 27 January 1999, Religion and democracy; Recommendation 1412 (1999), of 22 June 1999, Illegal activities of sects; Recommendation 1720 (2005) of 4 October 2005, Education and religion, internet presentation at: [http://www.europarl.europa.eu/comparl/libe/elsj/charter/art10/default\\_en.htm](http://www.europarl.europa.eu/comparl/libe/elsj/charter/art10/default_en.htm).

On European level, as well, within the European Union, the right on freedom of thought, conscience and religion is prescribed in the provision of Art. 10. Charter of Fundamental Rights of the European Union (2000/C 364/01). See the text of the Charter at: [www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf)

<sup>15</sup> See more at Gajic S., Church and Politics. Relationship of the Church and the State: necessities and boundaries of “politization”, Internet presentation at: [http://www.filg.uj.edu.pl/~wwwip/postjugo/texts\\_display.php?id=116](http://www.filg.uj.edu.pl/~wwwip/postjugo/texts_display.php?id=116)

<sup>16</sup> Cited according to the sermon of the archbishop of Timok Justinijan at the world social forum „Dialog and Civilization“, 5-9 October 2005 in Rhodes, The Relationship between the Authorities and the Religion in Modern Society, Orthodoxy no. 928, Newspaper of Serbian Patriarchate, internet presentation at: <http://pravoslavlje.spc.rs/broj/928/tekst/odnos-vlasti-i-religije-u-savremenom-drustvu/>

<sup>17</sup> See Protocol I of the European Convention for Protection of Human Rights and Fundamental Freedoms, Paris, passed on 20<sup>th</sup> March 1952.

<sup>18</sup> See Maksimovic I., Comparative Experiences of Teaching Religion in Europe, p.10, internet presentation at: <http://veraznanjemir.bos.org.yu/srp/tekstovi/maksimovic.html>

<sup>19</sup> See Recommendation 1202 (1993) on religious tolerance in a democratic society, internet presentation at:

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<http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/AdoptedText/TA93/erec1202.htm>

<sup>20</sup> See item 16. (iii) (iv) (v) (vi) (vii) (viii) (ix) R 1202 (1993) on religious tolerance in a democratic society.

<sup>21</sup> See Education and religion Parliamentary Assembly Recommendation 1720 (2005), Reply adopted by the Committee of Ministers on 24 May 2006 at the 965th meeting of the Ministers' Deputies, internet presentation at:

<https://wcd.coe.int/ViewDoc.jsp?id=1005491&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864>

<sup>22</sup> See European Cultural Convention 1954, CETS No. 018, entry into force 5/5/1955, on <http://conventions.coe.int>

<sup>23</sup> See Declaration by the European Ministers of Education on intercultural education in the new European context, adopted on 21st session - "Intercultural education: managing diversity, strengthening democracy", Athens, Greece, 10-12 November 2003, internet presentation at:

[http://www.coe.int/t/e/cultural\\_co-operation/education/standing\\_conferences/e.21stsessionathens2003.asp](http://www.coe.int/t/e/cultural_co-operation/education/standing_conferences/e.21stsessionathens2003.asp)

<sup>24</sup> See European Cultural Convention, CETS No.: 018, adopted on 5<sup>th</sup> May 1955, internet presentation at: <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=018&CL=ENG>

<sup>21</sup> List of activities of the Ministers Committee taken from the Council of Europe web site:

[http://www.coe.int/t/e/cultural\\_co-operation/education/standing\\_conferences/](http://www.coe.int/t/e/cultural_co-operation/education/standing_conferences/)

1st session - The Hague, Netherlands, 12-13 November 1959; 2nd session - Hamburg, Germany, 10-15 April 1961; 3rd session - Roma, Italy, 8-13 October 1962; 4th Session - London, United Kingdom, 14-16 April 1964; 5th session - Vienna, Austria, 12-14 October 1965; Ad Hoc Conference - Strasbourg, France, 12-14 September 1967; 6th Session - Versailles, France, 20-22 May 1969; 7th session - Brussels, Belgium, 8-10 June 1971; 8th session - Berne, Switzerland, 5-7 June 1973; 9th Session - Stockholm, Sweden, 9-12 June 1975; 10th Session - Strasbourg, France, 28-30 June 1977; 11th Session - The Hague, Netherlands, 10-13 June 1979; 12th Session - Lisbon, Portugal, 3-4 June 1981; 13th Session - Dublin, Ireland, 10-12 May 1983; 14th Session - Brussels, Belgium, 7-9 May 1985; 15th Session - Helsinki, Finland, 5-7 May 1987; 16th session - Istanbul, Turkey, 11-12 October 1989; 17th session - Vienna, Austria, 16-17 October 1991; 18th session - Madrid, Spain, 23-24 March 1994; 19th session - "Education 2000: Trends, Common Issues and Priorities for Pan-European Co-operation", Kristiansand, Norway, 22-24 June 1997; 20th Session - "Educational policies for democratic citizenship and social cohesion: challenges and strategies for Europe", Cracow, Poland, 15-17 October 2000; 21st session - "Intercultural education: managing diversity, strengthening democracy", Athens, Greece, 10-12 November 2003; 22nd session - "Building a more humane and inclusive Europe: role of education policies" - Istanbul, Turkey, 4-5 May 2007;

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<sup>25</sup> See Par 33 of the verdict of the European Court for Human Rights in the case of *Campbell and Cosans v. the United Kingdom*, Series A No. 48, No. 00007511/76; 00007743/76 of 25<sup>th</sup> February 1982, internet presentation at:

<http://www.menneskeret.dk/menneskeretieuropa/konventionen/baggrund/dome/ref000000401>

<sup>26</sup> See Kordelja Z., Bassler T., Religion and school in open society, Framework for an informed dialogue, 2004, internet presentation at:

[http://www.soros.org/initiatives/esp/articles\\_publications/publications/reliqn\\_20041201/y\\_bosnian.pdf](http://www.soros.org/initiatives/esp/articles_publications/publications/reliqn_20041201/y_bosnian.pdf)

The authors state that the system of education in which formal experience of the child's learning is neutral in passing messages on religion and values related to religious tradition is almost non-existent.

<sup>27</sup> See par. 37 in fine ECHR in the case of *Campbell and Cosans v. the United Kingdom*.

<sup>28</sup> See par. 93 of the sentence ECHR in the case of *Eriksson v Sweden*, App. No. 00011373/85, of 22<sup>nd</sup> June 1989, ([http://www.nkmr.org/eriksson\\_v\\_sweden.htm](http://www.nkmr.org/eriksson_v_sweden.htm)); also in the case of *Jordebo Foundation of Christian Schools and Ingrid Jordebo v Sweden*, App. No. 11533/85, of 89<sup>th</sup> December 1987, ([http://www.religlaw.org/template.php?id=1976&search\\_terms%5BO%5D=DER](http://www.religlaw.org/template.php?id=1976&search_terms%5BO%5D=DER)).

<sup>29</sup> See Murdoch J., Freedom of Thought, Conscience and Religion, Human rights handbooks, No. 9, Council of Europe, 2007, p. 50, electronic version at: <http://www.scribd.com/doc/6500858/Freedom-of-Thought-Conscience-and-Religion>

The obligation to respect the rights of the parents can by no means be understood as the acknowledgement of the wish of the parents to, for example, excuse their child from school on Saturdays for religious reasons.

<sup>30</sup> Ibid.

<sup>31</sup> According to Ossenbühl F., *Das elterliche Erziehungsrecht im Sinne des Grundgesetzes*, Duckner &Humbolt, Berlin 1981, pp. 105-114.

<sup>32</sup> See Recommendation of the European Council on participation of children in family and society of 18<sup>th</sup> September 1998, R (98) 8 on Children's participation in family and social life, Appendix R (98) 8: Measures for the promotion of children's participation in family and social life, internet presentation at:<http://coe.int>.

<sup>33</sup> According to Aleksov B., Religious Education in Serbia, internet presentation at:

[http://www.policy.hu/aleksov/ipf\\_doc02.pdf](http://www.policy.hu/aleksov/ipf_doc02.pdf)

<sup>34</sup> See Maksimovic I., *Comparative Experience in Religious Education in Europe*, op. cit., p. 4.

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

<sup>37</sup> See The Bylaw of the Republic of Serbia on Organizing and Practicing Religious Education and Alternative Subject Education in Primary and Secondary School, "Official Gazette of RS", no. 46/01.

<sup>38</sup> Unfortunately, from its introduction into public schools, religious education was not received with sympathies by members of a certain group of intellectuals from the Belgrade University Council, the rector, numerous teachers and members of other, the so called, expert organizations related to education. As an argument for the lack of necessity to introduce religious education in our primary and

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secondary schools, they stated that the confessional approach in teaching was completely obsolete, because it does not offer objective findings on religion, but is rather reduced to indoctrination, almost like Marxism. Confessional religious education entices closure and ethnic division.

<sup>39</sup> See Art 2 par 1 and 2 of the Bylaw of the Serbian Government on organizing and practicing religious education and an alternative subject education in primary and secondary school.

<sup>40</sup> See Avramovic S., Constitutionalism of Religious Education in Public Schools -res iudicata, Annals of the Faculty of Law in Belgrade 2/2006, p. 253.

<sup>41</sup> Ibid.

<sup>42</sup> See Art 2 of the Law on Church and Religious Communities, „Official Gazette of the RS“, no. 36/2006.

<sup>43</sup> See Art 43 of the Serbian Constitution, “Official Gazette of RS”, no. 98/06. See, also the Law on the Foundations of the Educational System, “Official Gazette of RS”, no.62/2003, 64/2003, and the Law on Amendments to the Law on the Foundations of the Educational System, “Official Gazette of RS”, no. 58/04 and 62/04; the Law on Primary School, “Official Gazette of RS”, no. 22/01, the Law on Secondary Education, “Official Gazette of RS”, no. 50/92, 53/93, 67/93, 48/94, 24/96, and the Law on Amendments to the Law on Secondary Education, “Official Gazette of RS”, no. 23/02.

<sup>44</sup> See Art 1 of the Law on Churches and Religious Communities.

<sup>45</sup> See General Goals of Religious Education, “Official Gazette of RS”, no. 6/03, p 1.

<sup>46</sup> From the moment when religious education was introduced, choice for it varies in Serbia. Namely, in 2001, the then Minister for Religion declared that in that first year 50% of students of primary school opted for religious education and 20% of the students in secondary schools, when, due to technical, staff and other shortages, this education was not organized for everyone (in the statement for the paper Sloboda, Chicago No. 1804-10.11. 2001).