



## *CULTA Religion and Multiculturality: Educational Pathways for Local Church Leaders*

Work package: **WP 3 - NATIONAL RESEARCHES**  
Name of the partner: **P (3) - EELK Usuteaduse Instituut - EELC Institute of Theology (IT)**  
Project deliverable: **Research article**

### **Church and the challenges of changes in legislation**

*Ringo Ringvee*

The following report on a case study is on the challenges that changes in legislation bring to the religious communities and on reactions from religious institutions and communities to these changes. The focus is on two institutions - the Estonian Evangelical Lutheran Church, historical majority church, and the Estonian Council of Churches, ecumenical organization founded in 1989.<sup>1</sup> Currently the Estonian Council of Churches include the Estonian Evangelical Lutheran Church, Estonian Apostolic Orthodox Church, Orthodox Church of Moscow Patriarchate, the Roman Catholic Church, the Union of Evangelical Christian and Baptist Churches, Methodist Church, Association of Seventh Day Adventists Congregations, Christian Pentecostal Church, a congregation of Armenian Apostolic Church, and Charismatic Episcopal Church in Estonia.

These two institutions, one traditional church and one ecumenical umbrella organization, have most direct institutionalized contacts with the Estonian Government. In 1995 Minister of the Interior initiated a commission between the Government of the

---

<sup>1</sup> On the Estonian Council of Churches see Riho Altnurme (Ed.) *History of Estonian Ecumenism*. Tallinn, Tartu: Estonian Council of Churches, University of Tartu, 2009.

## *CULTA Religion and Multiculturality: Educational Pathways for Local Church Leaders*

Estonian Republic and the Estonian Evangelical Lutheran Church (EELC). This commission meets twice a year and is co-chaired by the Archbishop of the EELC and Minister of Regional Affairs and the Estonian Ministry of the Interior. In 2002 the Estonian Council of Churches (ECC) signed a protocol of common interests with the Estonian Government.<sup>2</sup> This protocol provides framework for the relations between the state and the ECC.

Legal framework for religious communities in Estonia has been liberal one. The Churches and Congregations Act from 1993 established the principle of non-differential treatment in the framework of neoliberal governance.<sup>3</sup> In 2002 a new Churches and Congregations Act was adopted that did not bring any fundamental changes.<sup>4</sup> During the last decade a new set of regulations have emerged that directly or indirectly affect practitioners of religions and religious institutions.

In the European Union context this has meant the limitations of display of religious symbols, but also limitations on religious practice.<sup>5</sup> There are several reasons for these

---

<sup>2</sup> Eesti Vabariigi Valitsuse ja Eesti Kirikute Nõukogu ühishuvide protokoll. [Protocol of Common Interests of the Government of the Republic of Estonia and the Estonian Council of Churches.] 17 October 2002. [https://www.siseministerium.ee/public/EESTI\\_VABARIIGI\\_VALITSUSE\\_JA\\_EESTI\\_KIRIKUTE\\_N\\_UKOGU\\_2006\\_1219111211.doc](https://www.siseministerium.ee/public/EESTI_VABARIIGI_VALITSUSE_JA_EESTI_KIRIKUTE_N_UKOGU_2006_1219111211.doc)

<sup>3</sup> Ringo Ringvee 'Regulating Religion in a Neoliberal Context: The Transformation of Estonia.' In T. Martikainen and F. Gauthier (Eds.) *Religion in the Neoliberal Age. Political Economy and Modes of Governance*. Farnham: Ashgate, 2013.

<sup>4</sup> Kirikute ja koguduste seadus. [Churches and Congregations Act.] Riigi Teataja RT I 2002, 24, 135; RT I, 18.12.2012, 3. English translation [www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X60025K3&keel=en&pg=1&ptyyp=RT&tyyp=X&q\\_uery=Kirikute+ja+koguduste+seadus](http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X60025K3&keel=en&pg=1&ptyyp=RT&tyyp=X&q_uery=Kirikute+ja+koguduste+seadus)

<sup>5</sup> The best known cases on religious symbols in in the European Court of Human Rights have been Lautsi vs Italy (2009, 2011), Ewane vs the UK (2013). Beside of issues concerning Christianity there have been heated discussions in Europe also on circumcision of boys in Judaism and in Islam. Some children rights activists have considered circumcision of underage boys as mutilation of child's body and/or causing irreversible bodily harm to minor. However, the decisions outlawing the male circumcision have been changed shortly like in Germany in 2012. Similar conflicts have taken place between animal rights activist and Jewish and Muslim religious communities concerning ritual slaughtering of non-stunned animals. In 2012 the schechita



## *CULTA Religion and Multiculturalism: Educational Pathways for Local Church Leaders*

limitations. They have emerged from anti-discriminatory policy in conjunction with the conflict between the Liberal Western and Radical Muslim worldviews in the post 9/11 World accompanied with the general secularization of European societies and their religious/spiritual change. Attempts between 2005 and 2007 to define Europe in the European Constitution/Lisbon Treaty with the reference to Christianity were not successful from the religious actors.<sup>6</sup>

The European cultural diversity and multiculturalism that became celebrated in the 2000s included also sub-cultures that were previously condemned and repressed by governments and traditional religious institutions, including sub-cultures of Lesbians, Gays, Bi- and Transsexuals. The European Union used affirmative action and anti-discriminatory policies to promote cultural diversity. This policy included beside of different ethnic and/or religious cultures also different sub-cultures, including long discriminated sexual minorities.

In the last decade discussions about values and identities have become central in Europe, and not just only for the old and new minorities but also for the traditional majorities. In this context the major questions about the human society, its structure and ideals have asked once again. Similar have the questions that have emerged in religious institutions. What are the basic ideals and principles for the socio-cultural norms? Who is going to define the European social and cultural norms that have been based for centuries on Christianity? In these processes the European Court of Human Rights has become increasingly important although Court's decisions may not always be in consent or may be influenced by the prevailing political agendas. In the present day Europe there is an

---

slaughtering was almost outlawed also in Estonia as the Animal Protection Act was amended. However, the Jewish community was successful in reaching a suitable solution.

<sup>6</sup> See for example 'EU needs constitution with Christian reference, Merkel says.' 29.08.06  
<http://euobserver.com/institutional/22280>



## *CULTA Religion and Multiculturality: Educational Pathways for Local Church Leaders*

ideological polarization between traditionalist and progressive approach that has focused recently on family, but the polarization includes definition of marriage institution, sexual norms, religion's role in public life and public space, but also animal and children rights have conflicted in recent decade. The debate and fight over normative values has not remained behind the closed doors of established political life, but were brought to the streets of France in 2013 mass protests against the Parliament's decision on recognizing same sex marriages.

There is also a polarization in the Worldwide Christian community on the issues how to react to the changing world and changing value systems. While a considerable number of Protestant Churches in the West have contextualized their practices and teachings to the changed situation, there is also considerable number of Christian Churches including Protestant ones who oppose the idea that actions, worldviews, life-styles considered previously deviant in the Christian West, and still consider as such by the Churches themselves, are going to be recognized as legally accepted and recognized by the secular state. Even more serious challenge today is that the former blasphemy crimes have been restructures as hate speech. This means that preaching traditional teachings about homosexuality as sin could be criminalized as incitement of hatred. Here the questions about freedom of speech as well religious autonomy emerge. In 2008 the Estonian Council of Churches had expressed the unanimous position of the member churches that the tradition of the Holy Scriptures cannot be interpreted to justify homosexual practice, that is sin according to the Bible, and in the Christian understanding of life sin cannot be 'normalized'. The ECC has not changed their position since then.

While the traditional Orthodox and Catholic Churches remain opposed to any redefinition of such central concepts as marriage or family, the Protestant Churches are

This project has been funded with support from the European Commission. This document reflects the views only of the author, and the Commission cannot be held responsible for any use which may be made of the information contained therein.

4



## *CULTA Religion and Multiculturality: Educational Pathways for Local Church Leaders*

much more divided.<sup>7</sup> Concerning the official position of Estonian Evangelical Lutheran Church (EELC) the message signed by the Archbishops and bishops of the Lutheran Churches in the Baltics from 2009 should be mentioned. In their message the bishops said,

[W]e express our deepest concern about modern tendencies that weaken the fellowship among Christians and cause divisions in and among churches. The recent decisions made by some member churches of the Lutheran World Federation to approve of religious matrimony for couples of the same gender and to equate such conjugal life with marriage or to ordain non celibate homosexual persons for pastoral or episcopal office epitomize these tendencies that are tearing apart fellowship among Christians. We affirm that the marriage is the conjugal life between a man and a woman and that a homosexual activity is incompatible with the discipleship of Christ. We believe that in following the modern trends, churches are departing from the apostolic doctrine of human sexuality and marriage. We see the Lutheran communion and ecumenical efforts endangered by such decisions and actions because they lead to a situation where the Lutheran churches, members of the Lutheran World Federation are not able to fully recognize each others ecclesiastical offices, to exchange the ministries and to participate together in preaching the Word and celebrating the sacraments.<sup>8</sup>

---

<sup>7</sup> It is interesting to note how the Russian Orthodox Church has positioned itself as the protector of traditional values not only in Russia but also abroad. Recently Patriarch of Moscow Kirill declared that same sex marriages are a sign of the Apocalypse. (Russian Patriarch Says Gay Marriage 'Sign Of Apocalypse'. July 21, 2013. Radio Free Europe/Radio Liberty.) [www.rferl.org/content/patriarch-russia-gay-apocalypse-kirill/25052758.html](http://www.rferl.org/content/patriarch-russia-gay-apocalypse-kirill/25052758.html)

<sup>8</sup> Message from the Meeting of the Baltic Lutheran Bishops. 4 November 2009. [www.lutheranmissiology.org/0911\\_Baltic\\_bishops\\_stmt.pdf](http://www.lutheranmissiology.org/0911_Baltic_bishops_stmt.pdf)

## *CULTA Religion and Multiculturality: Educational Pathways for Local Church Leaders*

The heads of the Baltic Lutheran Churches expressed similar concerns already in 2006 over the decision of the Church of Sweden on blessing same sex partnerships. In 2009 the General Synod of the EELC issued a declaration ‘Regarding the stance of churches on homosexual behaviour and fellowship between churches’. The declaration read,

the General Synod of the Estonian Evangelical Lutheran Church declares that the blessing or even marriage of people living in same sex relationships is not in accordance with the teaching of the Holy Scripture and the Christian faith.<sup>9</sup>

The polarization of perspectives in the Christian community became visible in the Estonian Evangelical Lutheran Church in 2011 with two manifests on the future of the Church in Estonia. Authors of both manifests came from the younger generation clergy of the EELC. Manifest of Humanist Christianity addressed to the Estonian Council of Churches, and all churches and congregations called for the changes and appreciation of diversity, and for the open discussion on the future prospects of the Church in Estonia. The manifesto denied Fundamentalist interpretation of the Bible and stressed the contextual reading of the Scripture. The manifesto declared that all people are welcomed to the Church despite their gender, education, social position, physical or mental disability, sexual orientation or identity, nation, ethnic or cultural background.<sup>10</sup>

Manifest of Humanist Christianity was followed by Manifest of Traditional Christianity addressed similarly to the Council of Churches and other churches and congregations. Although Manifest of Traditional Christianity declared also openness for all minorities and

---

<sup>9</sup> Declaration of the General Synod of the Estonian Evangelical Lutheran Church: Regarding the stance of churches on homosexual behaviour and fellowship between Churches. 25 November 2009. [www.eelk.ee/eelk\\_uudised/doc/kirikukogu\\_avaldu\\_2009.pdf](http://www.eelk.ee/eelk_uudised/doc/kirikukogu_avaldu_2009.pdf)

<sup>10</sup> Jaan Lahe. Humanistliku kristluse manifest. [Manifest of Humanist Christianity.] [www.petitsioon.com/humanistliku\\_kristluse\\_manifest](http://www.petitsioon.com/humanistliku_kristluse_manifest)



## *CULTA Religion and Multiculturalism: Educational Pathways for Local Church Leaders*

majorities it also stressed the necessity of remaining true to the basics of the Church. "not all changes are good", noted the manifesto referring also to Paul's letter to Romans 12:2. - 'Do not be conformed to this world, but be transformed by the renewal of your mind, that by testing you may discern what is the will of God, what is good and acceptable and perfect.'<sup>11</sup> The Manifest of Humanist Christianity got in 259 signatures in the Internet petition-site while the Traditionalist had on the same site 596 signatures.

In the following are two examples from Estonia of conflict between secular and religious identities in the legal framework - gender neutral partnership and incitement of hatred. In Estonian context it must be noted that Estonian society is highly secular and according to the population census from 2011 twenty nine percent of the population older than 15-years of age define themselves religiously. However, in 2011 a lay movement from the Roman Catholic community emerged to protect the traditional Christian family concept. In the following year they collected a considerable number of signatures on petition against gender-neutral marriages. Their activities have been considered by some of the Lesbian, Gay, Bi- and Transsexual (LGBT) community representatives as form of hate speech.

### **Family Law Act and gender-neutral marriage**

The idea of redefining marriage as a gender-neutral contract between two individuals has enjoyed general acceptance in the official European Union political establishment. Several European Union countries have recognized either same sex marriages or gender-neutral legal partnerships in the 2000s. The main purpose of this has been extension of

---

<sup>11</sup> Kristjan Luhamets. Traditsioonilise kristluse manifest. [Manifest of Traditional Christianity.] [www.petitsioon.com/traditsioonilise\\_kristluse\\_manifest](http://www.petitsioon.com/traditsioonilise_kristluse_manifest)



## *CULTA Religion and Multiculturality: Educational Pathways for Local Church Leaders*

social and other guarantees available for traditional marriages also to same sex partnerships/marriages in the framework of anti-discrimination policy.

This situation has put challenges to the traditional Christian religious institutions and has caused more diversity in opinions in the churches themselves. The traditional understanding of marriage as a monogamous union between man and woman has been seriously challenged in a short period of time. In Estonian case it became a seriously spoken issue only few years ago in 2011.

Reactions regarding the challenges to the traditional marriage from the LGBT-community have been different in different Western countries. In the United States of America same sex marriages are recognized in minority of states, and majority of the states have reserved marriage only for opposite gender unions. In Europe the situation is different. Most of the European Union countries either have or are drafting or planning legal regulations for gender-neutral partnerships/marriages. These processes are directly linked to the 2008 European Union's framework decisions concerning the fight against discrimination.

In 2009 the Estonian Ministry of Justice ordered an analysis on the situation of non-marriage partnerships and their legal regulations. There was also a question should there be any regulations at all and all interested parties were called to make their suggestions. In 2011 Chancellor of Justice noticed the need for protection of life-partners in the non-marriage partnership relations. In 2011 the Ministry of Justice proposed legal solutions for regulation on non-marriage partnerships for the Parliament.<sup>12</sup> From there on, discussions on same sex marriages or registered partnerships became a discussed topic in society.

---

<sup>12</sup> Kooseluseaduse kontseptsioon. Justiitsministeerium, 2009. [Concept for the Cohabitation Act. Ministry of Justice, 2009.] [www.just.ee/orb.aw/class=file/action=preview/id=57140/Kooseluseaduse+kontseptsioon.pdf](http://www.just.ee/orb.aw/class=file/action=preview/id=57140/Kooseluseaduse+kontseptsioon.pdf)

## *CULTA Religion and Multiculturality: Educational Pathways for Local Church Leaders*

Ministry of Justice pointed in the document called 'The Concept of the Cohabitation Act' that according to the practice of the European Court of the Human Rights the relations similar to marriage between same gender partners are included to the term family life. The document also noted that there is growing tendency include same sex couples under the family concept. The Concept on Cohabitation Act proposed also non-discriminatory approach to adoption. However, in March 2012 the European Court of Human Rights ruled in case Gas and Dubois v France (Application no. 25951/07) that same sex marriage is not protected by the European Convention of Human Rights Article 8.<sup>13</sup> With this the Court reaffirmed its similar decision from 2010 in Schalk and Kopf v Austria (Application no. 30141/04) when the Court ruled that the EU member states are not obliged to recognize same sex marriages.<sup>14</sup>

On 28 September 2012 the Estonian Council of Churches made a public address on the concept of Cohabitation Act.<sup>15</sup> ECC is considered to be most influential religious organization in Estonia, and much of it's moral authority is based on its membership. Through its member-churches the ECC represents of over ninety percent of the people who define themselves religiously.<sup>16</sup>

In their address the Estonian Council of Churches regretted that the State had not followed the guidelines on empowerment of family as an institution in the society as set in the Protocol of Common Interests signed in 2002 between the Estonian Government and the

---

<sup>13</sup> The European Court of *Human Rights* ruling 15 March 2012 Gas and Dubois v France (Application no. 25951/07) <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-109572>

<sup>14</sup> The European Court of *Human Rights* ruling 24 June 2010 Schalk and Kopf v Austria (Application no. 30141/04) <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-99605>

<sup>15</sup> Eesti Kirikute Nõukogu seisukoht Kooseluseaduse kontseptsiooni kohta. [Estonian Council of Churches' Position on the Concept of Cohabitation Act.] <http://www.ekn.ee/lakitus.php?id=21>

<sup>16</sup> Religious affiliation on the 2011 populations census results visit the Website of the Estonian Statistics [www.stat.ee](http://www.stat.ee)



## *CULTA Religion and Multiculturality: Educational Pathways for Local Church Leaders*

ECC. In the address the Council of Churches stressed once again that the ECC is against any marriage-like regulation or registration of same sex partnerships. The Council noticed that there was no legal or any other reason to draft a new Cohabitation Act as all issues could be solved by amending the existing legislation. However, the address stressed that traditional family model of father, mother and children should remain normative one. The Council stressed that this concept is in harmony with Article 27 of Estonian Constitution,

The family, being fundamental to the preservation and growth of the nation and as the basis of society shall be protected by the state.<sup>17</sup>

In the address the Estonian Council of Churches expressed their deep regret the legislative initiatives from the state that harm traditional family values and may have unpredictable consequences on attitudes of the youth. The ECC also expressed willingness to cooperate with the state to find legal solutions to the emerged issues in a way that protects the rights of children and empower the traditional family. Similar had been the ECC's response on the concept in September 2011 when the Ministry of Justice had asked for the opinions for a new regulation from different social groups and associations. The developments in drafting new Cohabitation Act activated conservative Catholic laity. In 2011 a pro-family and pro-traditional values foundation was established. On 12 November 2012 the Foundation for the Protection of Family and Tradition started to collect signatures for a petition that read,

I am against recognizing same sex cohabitation as family and granting a legal status to this kind of cohabitation in any form, including the planned Cohabitation Act.<sup>18</sup>

---

<sup>17</sup> Constitution of the Republic of Estonia. [www.president.ee/en/republic-of-estonia/the-constitution/](http://www.president.ee/en/republic-of-estonia/the-constitution/)

## *CULTA Religion and Multiculturality: Educational Pathways for Local Church Leaders*

Varro Vooglaid, leader of the emerging movement, had criticized the heads of the churches who had been silent on the issues of traditional family values already in 2010.<sup>19</sup> Although the Foundation had expected to get ten thousand signatures for their petition it was signed by 38 046 persons and it became one of the most successful petitions in recent Estonian history. The petition was handed to the Speaker of Estonian Parliament.<sup>20</sup>

By 2013 it became clear that the Ministry of Justice would not take any actions on the planned Cohabitation Act as the government coalition did not agree on the matter. Pro Patria and Res Publica Union opposed legal recognition of same sex unions in any form. This means that the topic is not going to be in the agenda of the Ministry of Justice until the next Parliamentary elections in 2015.<sup>21</sup>

On 17 May 2013, the International Day Against Homophobia, Biphobia and Transphobia, Members of the Estonian Parliament called on the roundtable to celebrate the event to continue to work on the legal recognition of same sex partnerships.<sup>22</sup> The government party of the Pro Patria and Res Publica Union did not send their representatives to the roundtable.

### **Penal Code and the limitation of religious freedom**

---

<sup>18</sup> Foundation for the Protection of Family and Tradition Website. Petition.  
<https://saptk.ee/ab/web/app.php/petitsioon/>

<sup>19</sup> Varro Vooglaid. [Asi läheb järjest jaburamaks](http://vooglaid.wordpress.com/category/sonavabadus/) [It Goes More Ridiculous.] 1 October 2010  
<http://vooglaid.wordpress.com/category/sonavabadus/>

<sup>20</sup> Foundation for the Protection of Family and Tradition Website <http://saptk.ee/>

<sup>21</sup> Helen Talalaev, The situation of LGBT persons. Annual Human Rights Report 2012. Estonian Human Rights Center. <http://humanrights.ee/en/annual-human-rights-report/5030-2/the-situation-of-lgbt-persons/>

<sup>22</sup> Riigikogu liikmed kutsuvad üles moodustama erakondadeülest töögruppi kooseluseadusega edasiminemiseks. 17 May 2013. [www.delfi.ee/news/paevauudised/eesti/riigikogu-liikmed-kutsuvad-ules-moodustama-erakondadeulest-toogruppi-kooseluseadusega-edasiminemiseks.d?id=66145744](http://www.delfi.ee/news/paevauudised/eesti/riigikogu-liikmed-kutsuvad-ules-moodustama-erakondadeulest-toogruppi-kooseluseadusega-edasiminemiseks.d?id=66145744)



## *CULTA Religion and Multiculturality: Educational Pathways for Local Church Leaders*

In 2011 the Ministry of Justice proposed a draft for the amendments in Penal Code, the Criminal Procedure Code and the Code of Misdemeanor Proceedings. In the explanatory memorandum to the amendments the Ministry noted that the proposed changes in the Penal Code § 151 concerning hate crimes and hate speech are necessary due to the application of European Union Council Framework Decision 2008/913/JHA from 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law.

The drafted change that became problematic for the religious institutions was the amendment in Penal Code § 151 that in current version reads,

Activities which publicly incite to hatred, violence or discrimination on the basis of nationality, race, colour, sex, language, origin, religion, sexual orientation, political opinion, or financial or social status if this results in danger to the life, health or property of a person are punishable by a fine of up to 300 fine units or by detention.<sup>23</sup>

The proposal from the Ministry of Justice was to change the article by removing the condition that the incitement of hatred, violence and discrimination would be punishable only if this results in danger to the life, health, or property of a person. The drafted wording read:

Activities, including using, distributing or sharing written materials, photos, symbols, or other materials disturbing the public peace in a manner or systematically

---

<sup>23</sup> Kriminaalmenetluse seadustik. [Penal Code.] Riigi Teataja RT I 2003, 27, 166, RT I, 05.07.2013, 2. <https://www.riigiteataja.ee/akt/105072013013?leiaKehtiv>



## *CULTA Religion and Multiculturality: Educational Pathways for Local Church Leaders*

incited for hatred, violence or discrimination against a person or group of persons defined by reference to nationality, ethnicity, race, physical characteristics, health status, gender, language, origin, religion, sexual orientation, political belief or economic or social status, - punishable by up to three years' imprisonment.

On August 22, 2012 Archbishop of the Estonian Evangelical Lutheran Church Andres Põder wrote to the Minister of Justice on his concerns about the drafted amendments. Archbishop noted that the current wording of § 151 is balanced and in accord with the principles of democratic society. However, to criminalize expressions that does not endanger life, health or property of another individual may become a danger to the democracy, wrote Archbishop and referred to some Western-European countries and Russia as examples of these developments, and expressed concern that this kind of change could be used against opposition or against people who are defined as extremists. Archbishop stressed the danger that with this kind of change preaching could be labeled as hate speech, shunning people from religious services as avoidance, and not hiring someone on doctrinal basis as discrimination. According to Archbishop,

Most religious associations that operate in Estonia prohibit acts which may be legally regulated (abortion, sex outside of marriage or with a person of the same sex). Proclaiming such beliefs grounded in historical religious basic texts religious association will inevitably conflict with people perpetrate such deeds or their associations.<sup>24</sup>

---

<sup>24</sup> Letter from Archbishop of the EELC *Andres Põder to Minister of Justice Kristen Michal, 22 August 2012* [www.meiekirik.ee/index.php?option=com\\_content&task=view&id=2791&Itemid=1](http://www.meiekirik.ee/index.php?option=com_content&task=view&id=2791&Itemid=1)

## *CULTA Religion and Multiculturality: Educational Pathways for Local Church Leaders*

The Estonian Council of Churches expressed their concern on the amendment of Article 151 on 28 September 2012 in public address. Although the ECC recognized the duties of the state to fulfill its international duties in implementation of the EU Framework Decisions from 2008 on Estonian legislation the Council expressed its concerns on amendment that may limit the freedom of speech and thereby freedom of religion. In its message the Estonian Council of Churches referred to the UK court decision in case *Nadia Eweida vs British Airways* in 2010 on wearing a cross necklace with the uniform at the workplace. The decisions in Employment Tribunal and at the Court of Appeals considered the interests of private company's neutral corporate image policy be more important than Ms. Eweida's religious convictions. However, at the same time British Airways had not set limitations for Sikhs or Muslims on their wearing of religious symbols. Thus the decisions in *Eweida vs British Airways* were seen in some Christian circles as discriminations against Christianity and reflection of anti-Christian bias of current European political elite.<sup>25</sup> The message of the Council of Churches noted also that,

Clergy and theologians cannot be sure that when they express publicly (either in religious ritual, in media or at public event) opinions based on the teachings of their church for example on abortion or homosexual lifestyle, someone with different

---

<sup>25</sup> The final decision from the Chamber of European Court of Human Rights in *Eweida and Others v. the United Kingdom* came in 15 January 2013 in favor of N. Eweida. For the Judgment see: European Court of Human Rights, Fourth Section, Case *Eweida and Others v. the United Kingdom* (Applications nos. [48420/10](#), [59842/10](#), [51671/10](#) and [36516/10](#)). Judgment. <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-115881> For an analysis of the case see Mark Hill 'Religious Symbolism and Conscientious Objection in the Workplace: An Evaluation of Strasbourg's Judgment in *Eweida and others v United Kingdom*' *Ecclesiastical Law Journal*, 15 (2013), 2, pp 191-203.

## *CULTA Religion and Multiculturality: Educational Pathways for Local Church Leaders*

opinion on these matters would not consider this as a systematic call for hatred and discrimination.<sup>26</sup>

In November 2012 the Ministry of Justice called together a roundtable to discuss the questions related to draft of a new legislative act. The roundtables have taken place also in December 2012 and in January 2013. The roundtable includes representatives of different interest groups, including representative from the Estonian Council of Churches.

At the second roundtable meeting in December 2012 representative of the Estonian Council of Churches presented a proposal to make an exception on application of § 151 on the churches, clergy and members of congregations who express the views based on the teachings of the church or congregation or on temporary positions of their churches or congregations.<sup>27</sup>

In the following roundtable meeting on January 2013 representative of the Ministry of Justice agreed that there should be exceptions for religions, and religious freedom is being protected.<sup>28</sup> However, one of the basic ideas behind the drafting process has been that the draft is considered ready when there is common understanding and consensus on the principles. In January two different versions, much different from the first draft, were proposed for § 151. One of them was,

---

<sup>26</sup> EKN Seisukoht. [The Position of the Estonian Council of Churches], 28 September 2012.  
[www.ekn.ee/lakitus.php?id=20](http://www.ekn.ee/lakitus.php?id=20)

<sup>27</sup> Roundtable of Anti-incitement Act Draft. [Vaenu vastase seaduse eelnõu ümarlaud.] Ministry of Justice, 21 December 2012. [www.just.ee/orb.aw/class=file/action=preview/id=57857/%DCmarlaud\\_21.+detsember.pdf](http://www.just.ee/orb.aw/class=file/action=preview/id=57857/%DCmarlaud_21.+detsember.pdf)

<sup>28</sup> Roundtable of Anti-incitement Act Draft. [Vaenu vastase seaduse eelnõu ümarlaud.] Ministry of Justice, 24 January 2013.  
[www.just.ee/orb.aw/class=file/action=preview/id=58091/VAENU+%D5HUTAMISE+VASTASE+EELN%D5U+%DCMARLAUD\\_24.01.2013.pdf](http://www.just.ee/orb.aw/class=file/action=preview/id=58091/VAENU+%D5HUTAMISE+VASTASE+EELN%D5U+%DCMARLAUD_24.01.2013.pdf)

## *CULTA Religion and Multiculturalism: Educational Pathways for Local Church Leaders*

For public activity that by endangering public order or threatening with injury incline the hostility, hatred, or violence, or discrimination against a person or group of persons who are defined on their actual or presumed nationality, ethnicity, race, physical characteristics, health, disability, age, gender, gender identity, language, origin, ethnicity, religion, sexual orientation, or economic or social status, - is punishable by a pecuniary punishment or up to three years' imprisonment.<sup>29</sup>

The second version for § 151 was to divide the into two parts.

(1) Public actions that offend or blaspheme [provoke] a person or group of persons of his actual or presumed nationality, ethnicity, race, physical characteristics, health status, disability, age, gender, gender identity, language, origin, ethnicity, religion or belief, sexual orientation, or economic or social status, - punishable by a fine of up to three hundred penalty units or by detention.

(2) The same act, if the public order is [directly] threatened or tilted to hostility or violence by threatening with injury, - punishable by up to three years' imprisonment.

In November 2012 the Foundation for the Protection of Family and Tradition had started to collect signatures for a petition against legal recognition of gender neutral marriages or partnerships. The campaign got high visibility due to massive direct-mail campaign, and became fiercely discussed topic in the society. In March 2013 one of the board members of Estonian LGBT Association expressed opinion that the campaign for the

---

<sup>29</sup> Roundtable of Anti-incitement Act Draft. [Vaenu vastase seaduse eelnõu ümarlaud.] Ministry of Justice, 24 January 2013.

[www.just.ee/orb.aw/class=file/action=preview/id=58091/VAENU+%D5HUTAMISE+VASTASE+EELN%D5U+%DCMARLAUD\\_24.01.2013.pdf](http://www.just.ee/orb.aw/class=file/action=preview/id=58091/VAENU+%D5HUTAMISE+VASTASE+EELN%D5U+%DCMARLAUD_24.01.2013.pdf)

## *CULTA Religion and Multiculturality: Educational Pathways for Local Church Leaders*

support of traditional family and collecting signatures for the petition against legal recognition of gender-free marriages is incitement of hatred.<sup>30</sup> In April the police was asked to commence criminal proceedings against the Foundation. However, police noted that there no grounds to start criminal proceedings. While the liberal political elite condemned the campaign the organizers of the campaign admitted that one of the aims of their campaign was to remind the rulers that there is beside of the minorities also the general population that was shown by over 34 thousand signatures.<sup>31</sup> The press release of the foundation from 9 April stated,

Claiming that our campaign is incitement to hatred, violence or discrimination, is ridiculous. Freedom of thought and freedom of expression are fundamental values of a democratic society, and it is regrettable that homosexual activists, who claim to be standing for human rights, does not understand it. These people are already accustomed that all those who do not share their ideological views and aspirations, and express their opinions publicly, could indiscriminately accuse of hatred, discrimination, incitement to hatred and who knows in what else. [...] [I]t seems more effort to try to establish a dictatorship of relativism and suppress those who stand for traditional values. [...] We have the right to stand his ancestral beliefs, and that's what we are doing, along with tens of thousands of people from all over Estonia.<sup>32</sup>

---

<sup>30</sup> Seksuaalvähemused pöörduvad politseisse: allkirjakampaania õhutab vaenu [Sexual Minorities turn to Police: signature campaign incites hatred.] *Postimees* 16 March 2013 [www.postimees.ee/1171458/seksuaalvahemused-poorduvad-politseisse-allkirjakampaania-ohutab-vaenu](http://www.postimees.ee/1171458/seksuaalvahemused-poorduvad-politseisse-allkirjakampaania-ohutab-vaenu)

<sup>31</sup> Kristi Vainküla 'Eesti homide vihaseim vastane.' [The Angriest Enemy of Estonian Gays]. *Eesti Ekspress* 28 March 2013 [www.ekspress.ee/news/paevauudised/elu/eesti-homide-vihaseim-vastane.d?id=65885696](http://www.ekspress.ee/news/paevauudised/elu/eesti-homide-vihaseim-vastane.d?id=65885696)

<sup>32</sup> Foundation for the Protection of Family and Tradition Press Release 9 April 2013. [www.meiekirik.ee/index.php?option=com\\_content&task=view&id=3244&Itemid=1](http://www.meiekirik.ee/index.php?option=com_content&task=view&id=3244&Itemid=1)



## *CULTA Religion and Multiculturality: Educational Pathways for Local Church Leaders*

What is going to be the final version considering hate speech and hate crimes in Estonia is hard to tell. The situation in Estonia is directly linked to the developments rest of Europe and to trends in the European Union.

### **Conclusions**

Estonian situation seems to reflect general trends in the European Union on gender free/same sex marriages and hate speech. The period under discussion is short starting from 2008, and is still dynamically evolving. The processes started in the height of the period of anti-discriminatory policy that included affirmative action/positive discrimination toward the previously discriminated minorities. The changes were fast and often problematic for the religious institutions, at the same time the changes were neither fundamental nor fast enough for the LGBT activists. Both sides tried to influence legislation through political lobby. This has taken place both in the EU level as well as in Estonia. The polarization of LGBT activists and their political lobby on one side, and conservative religious interest groups on the other has been growing over the years as the fundamental issues are at stake. While there are more anti-discriminatory regulations there are also more exemptions on religious grounds from certain regulations, like in Estonia the Gender Equality Act is not applied on religious association's clergy.

Although being a minority voice in the roundtables and commissions where the LGBT interests are often represented by different organizations (Estonian LGBT Association, Estonian Human Rights Center, Equal Treatment and Gender Equality Commissioner) the ECC has managed to hold its position in defending traditional values. Recently the drafting legislation for gender-neutral cohabitation was halted for as long as the current government coalition is in power or until next parliamentary elections. The reason has been the



## *CULTA Religion and Multiculturality: Educational Pathways for Local Church Leaders*

opposition of the coalition party Pro Patria and Res Publica Union to any recognition of same sex partnerships. Pro Patria and Res Publica Union has also closest relations to the religious groups in Estonia.

When looking to Europe then there have been some subtle changes that may reflect general change of perspective on minorities, including LGBT, and on traditional (religious) institutions. In 2010 German Chancellor Angela Merkel declared that 'Multikulti' is dead in Germany, although Multiculturalism had been dominant ideology in the European Union for years. In the following year Prime Minister of the UK David Cameron announced that state multiculturalism in Britain has been a failure.

The changes became visible in 2010 also in the European Court of Human Rights. The Court did not consider same sex marriage a human right protected under European Human Rights Convention. The Court made similar decision in a separate case also in 2012 in the ruling on Gas and Dubois v France. In 2011 the Great Chamber of the European Court of Human Rights overruled previous decision from 2009 that outlawed crucifixes from the Italian public schools. How the situation is going to be regulated in Estonia concerning gender neutral marriages or freedom of speech is something that is going to be seen in the near future. And in this process heated debates between opposing parties see to be inevitable.

This project has been funded with support from the European Commission. This document reflects the views only of the author, and the Commission cannot be held responsible for any use which may be made of the information contained therein.

19