



# ARTICLE 17 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION

## *GENERAL CONSIDERATIONS*

### *ON THE IMPLEMENTATION OF THE DIALOGUE FORESEEN BY ITS PARAGRAPH 3*

#### I. INTRODUCTION

The European Union (EU) draws its inspiration “from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law”<sup>1</sup>. Religions, and in particular Christianity, have been, and still are important factors in the shaping of Europe’s cultures, and the values and worldviews of its people. Churches form a distinctive part of society and see it as their responsibility to encourage human flourishing within society. In the Charta Oecumenica of 2001 European churches committed themselves to support the integration of the European continent: “Without common values, unity cannot endure. We are convinced that the spiritual heritage of Christianity constitutes an empowering source of inspiration and enrichment for Europe. On the basis of our Christian faith, we work towards a humane, socially conscious Europe, in which human rights and the basic values of peace, justice, freedom, tolerance, participation and solidarity prevail”<sup>2</sup>.

The Treaty of Lisbon echoes the vision for Europe as set out in the Charta Oecumenica. It defines the value basis of the EU as a “respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities”. It points out that “these values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail”<sup>3</sup>.

Dialogue between political institutions and religious communities is a significant element of participatory democracy based on the distinction between the competences of the political institutions and of the religious communities. This is now legally acknowledged by the EU in its commitment to an open, transparent and regular dialogue with churches and religious communities and in the recognition of the “specific contribution” of religions to the heritage of European civilisation and to European integration. The Conference of European Churches (CEC), through its Church and Society Commission (CSC of CEC) and the Commission of the (Catholic) Bishops’ Conferences of the European Community (COMECE) welcome this legal reference, which reflects decades of experience in dialogue between the European institutions and the churches and religious communities.

The churches and the church-related organisations<sup>4</sup> are important stakeholders for the European institutions. They are a unique transnational community with a visible presence in every strata of society, not only within the EU Member States but in the whole of Europe and worldwide. They provide a diverse range of social, cultural and spiritual services to people irrespective of their provenance or conviction.

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<sup>1</sup> Treaty on European Union, Preamble.

<sup>2</sup> Charta Oecumenica, Guidelines for the Growing Cooperation among the Churches in Europe, signed by the Conference of European Churches and the Council of European Bishops’ Conferences in 2001.

<sup>3</sup> Cf. also the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties.

<sup>4</sup> E.g. Caritas, Diaconia, development agencies, industrial mission, prison or hospital chaplaincies.

This paper constitutes a first proposal for a general framework of dialogue between the EU and Churches, without prejudice to any further specific suggestions that each of the Churches may submit and discuss bilaterally with the EU in accordance with their identity and specific contribution.

## **II. THE TREATY OF LISBON – A NEW LEGISLATIVE FRAMEWORK FOR THE DIALOGUE**

The Lisbon Treaty creates for the first time a dialogue between the EU and churches and religious communities in the primary law of the European Union. Article 17 is part of the Treaty on the Functioning of the European Union (TFEU) and reads as follows:

- 1. The Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States.***
- 2. The Union equally respects the status under national law of philosophical and non-confessional organisations.***
- 3. Recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations.***

Article 17(1) TFEU has its origin in the Declaration N° 11 to the Treaty of Amsterdam. It acknowledges the variety of State-Church systems in the Member States and underlines the exclusive national competence for determining the relations between Church and State and the non-interference of the EU in these relations.

Article 17(3) TFEU provides a legal basis for the active participation of churches and religious communities in shaping the process of European integration by acknowledging their special *identity* and their *specific contribution*. The dialogue between the European institutions and the churches started soon after the signing of the Treaties of Rome. In 1970 the Holy See established diplomatic relations with the European Communities. Following an initiative of Commission President Jacques Delors in 1990, regular dialogue meetings were held between the European Commission and the European Ecumenical Commission for Church and Society (the predecessor of CSC). Since 1994-1995 these meetings have also involved COMECE. Alongside these formalised exchanges, European Churches have directly, through their representative offices, diplomatic representations and Bishops' Conferences, as well as through their European organisations and networks, developed a range of dialogical relationships with EU officials on a wide array of issues. The church-related organisations have a particular contribution to give in their areas of expertise.

Article 17(3) TFEU allows deepening and widening existing dialogue practices. It should encourage the dialogue of EU decision-makers and civil servants with churches and bring new quality in this relationship. The initial response by various EU institutions to Article 17 (3) TFEU has been positive. For instance, the Resolution of the European Parliament of January 2009 serves as an indication for the Parliament's commitment to this dialogue and helps to raise the general awareness of the importance of this dialogue.<sup>5</sup>

## **III. THE CHURCHES' CONTRIBUTION TO THE DIALOGUE**

The contribution of the churches is grounded in the gospel and this foundation has implications for churches' actions and deliberations, including the dialogue with the EU institutions. For instance, the churches' motivation to engage for peace, justice and the preservation of the environment derives from an understanding of the earth as God's creation. Similarly, the churches' concern for human dignity reflects a fundamental understanding that each human being is created in God's image. The churches'

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<sup>5</sup> The resolution "stresses that, besides dialogue with civil society, there also needs to be an open, transparent and regular dialogue between the Union and churches and religious communities. (European Parliament, Resolution of 13 January 2009 on the perspectives for developing civil dialogue under the Treaty of Lisbon (2008/2067(INI)), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2009-0007+0+DOC+XML+V0//EN>.

social discernments are fostering common efforts to solve the manifold challenges European societies are facing today.

The EU institutions have in the churches constructive and critical partners. Churches strive to promote the inherent human dignity of every human being, the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law. These values, also drawn from the religious inheritance of Europe, are shared by the EU as highlighted in Article 2 TEU. Churches' involvement in fostering these values is not limited to the dialogue with the EU but is part of their work and presence in society. No other organisation is present in a similar way, not only in the EU, but also all over Europe and the world.

As illustrated by the 2001 White Paper on European Governance, the EU has benefited and continues to benefit from the contributions made by churches and religious communities on a variety of substantive issues.<sup>6</sup>

#### **IV. PROPOSAL FOR THE IMPLEMENTATION OF ARTICLE 17(3) TFEU**

##### **1. Who participates in the dialogue?**

Article 17(3) TFEU simply refers to the "Union" which, however, does not act as such but through its institutions, consultative bodies as well as its numerous agencies. Whereas to date the churches' dialogue partners have been the European Commission, the European Parliament and the Council of the European Union, the open wording of Article 17(3) TFEU suggests that a dialogue could also be established, with other EU institutions and bodies.

On the side of the institutions, the dialogue with the churches has always been based on multiple entry points, depending on the specific area of concern and should continue to involve flexibly the respective departments and bodies. We consider it of utmost importance to retain a general access to the EU institutions. The implementation of Article 17 (3) TFEU should, therefore, see further increase in the already high level of readiness of EU civil servants or politicians to engage in a dialogue with the churches.

On the side of the churches, CSC of CEC and COMECE have a longstanding and intense experience in dialogue with the institutions and are committed to further developing this cooperation. The same is true for individual churches, bishops' conferences, and other faith-based organisations. In the Charta Oecumenica, however, the churches expressed their commitment "to seek agreement with one another on the substance and goal of our social responsibility, and to represent in concert, as far as possible, the concerns and vision of the churches vis-a-vis the secular European institutions." The member churches of the Conference of European Churches, for their part, reaffirmed for CEC and its church and Society Commission to "continue to be an instrument whereby churches in Europe can relate effectively to the European Institutions."<sup>7</sup>

Besides the joint initiatives, these churches, bishops' conferences and organisations also address the EU institutions on their own behalf in relation to matters of their specific concern. It is important that both majority and minority churches from the different European countries are enabled to participate in the dialogue practised under Article 17 (3) TFEU. In general, the principle of flexibility should therefore continue to apply to the settings and composition of dialogue events.

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<sup>6</sup> European governance: A White Paper, COM(2001) 428 final, p. 14.

<sup>7</sup> 13th CEC Assembly, Lyon 2009, Report of the Policy Reference Committee

## 2. Modalities of the dialogue

Article 17(3) TFEU calls for an *open, transparent and regular* dialogue.

### Open dialogue

We understand that the notion of “open” refers to three different aspects: good governance, topics of dialogue and its frankness.

The European Parliament’s Resolution of 13 January 2009 on dialogue with civil society speaks in recital B about “the *openness* on the part of EU institutions” in the following way: “dialogue and cooperation with citizens and civil society organisations is a basic prerequisite for the latter’s involvement in lawmaking and governance at all levels”<sup>8</sup>. ‘Openness’ is thus, in the context of civil dialogue, the willingness on the part of the EU institutions to work with citizens towards the goal of ‘*involvement in the lawmaking and governance*’ of the EU. We believe this willingness also exists in relation to the churches and other religious communities.

We also consider that the attribute of “open” applies to the *themes* of the dialogue: All policy fields within the EU’s legislative and governmental competence come under the remit of an open dialogue.

Finally, the openness of the dialogue (cf. ‘open discussion’) refers to its quality. The dialogue between the churches and religious communities should be “open”, in other words, frank. It should be sincere and allow for the critical engagement of all parties.

In the light of the theological self-understanding of churches and religious communities as well as of the recognition by the Preamble of the TEU for the contribution of religions in the development of universal values, an open dialogue could, *inter alia* focus on the promotion of these universal values, the respect of human dignity of every human being, reconciliation and intercultural understanding as well as on the realisation of the principles of subsidiarity and solidarity in EU policy.

### Transparent dialogue

We attach great value to transparency as a characteristic of democratic societies and see it as a precondition for citizens or their organised entities to contribute to political decision-making processes. On the side of the churches, transparency towards the wider public on the positions we raise in the meetings with EU institutions, does not only demonstrate our willingness to make this information public but also provides us a chance to promote understanding and acceptance for churches’ activities among the general public.

According to BEPA, transparency means that ‘*everyone should have the right to know, at any time, who are the Dialogue’s partners and what are its objectives and results*’<sup>9</sup>. The churches are willing to provide for the transparency of their dialogue with the European institutions and already do so in many ways. For example, CSC of CEC and COMECE are providing information to the public on their activities through a wide array of sources: websites and journals, press releases and newsletters, including reports on meetings with EU representatives. We also host visitors’ groups and take part in public events, where the goals and the content of the churches’ dialogue with the EU and the way it operates is discussed. Finally, dialogue activities with the EU institutions are also given extensive coverage in our annual reports.

Hence, as far as the churches are concerned, the transparency of the dialogue as called for in Article 17(3) TFEU does not amount to a burdensome obligation, but rather a good opportunity to

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<sup>8</sup> See European Parliament, Resolution of 13 January 2009 on the perspectives for developing civil dialogue under the Treaty of Lisbon (2008/2067(INI)), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2009-0007+0+DOC+XML+V0//EN>.

<sup>9</sup> See [http://ec.europa.eu/dgs/policy\\_advisers/activities/dialogues\\_religions/index\\_en.htm](http://ec.europa.eu/dgs/policy_advisers/activities/dialogues_religions/index_en.htm).

communicate the churches' stance on EU issues to an interested public. It also follows that it provides a good occasion for the EU institutions to explain their views to a wider audience.

### **Regular dialogue**

By 'regular' BEPA means an *ongoing* dialogue conducted by the European Commission with the churches and religious communities at various levels in the form of bilateral meetings and specific events.<sup>10</sup> In line with this interpretation, we hold that a regular dialogue goes above and beyond sporadic ad-hoc meetings between representatives of churches and EU institutions.

Since Article 17(3) TFEU aims to strengthen the contribution of churches and religious communities to the life and well being of Europe, any future dialogue framework should not fall behind the dialogue already in place, but rather upgrade and enhance it, including all levels like working contacts, consultations, Dialogue Seminars between CSC of CEC, COMECE and the European Commission to the high-level meetings of religious and political leaders – and also be open to new forms as the process of mutual exchange develops. Any dialogue setting should facilitate the quick and efficient exchange of views, and provide for the necessary flexibility.

At the same time, it is important to improve the quality of the meetings by making them more dialogic. With regard to the high-level meetings, the churches have suggested the need for common content preparation prior to the events as well as any subsequent follow-up.

In relation to the European Commission, the framework of a 'regular dialogue' should contribute to consolidate the frequency of meetings with the churches. The rhythm and frequency of these meetings could take their cue from the Commission's strategic annual planning. One might conceive of a meeting in due time before the Commission unveils its strategy for the coming year and its legislative and work programme.

Further consideration needs to be given as to what form a regular dialogue between the Churches and the *other* EU institutions could take<sup>11</sup> Furthermore, we would welcome invitations to hearings organised by parliamentary committees in order to be able to present the views of the churches on forthcoming legislative projects and political initiatives.

### **3. Conclusion**

In the light of the experience of the existing dialogue between the EU and the churches and religious communities, and on the basis of all that is stated above, COMECE and CSC of CEC are looking forward to discussing with the representatives of the European Union the dialogue foreseen by Article 17(3) TFEU and together with the EU to determine the modalities and the requirements for its implementation.

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<sup>10</sup> See [http://ec.europa.eu/dgs/policy\\_advisers/activities/dialogues\\_religions/index\\_en.htm](http://ec.europa.eu/dgs/policy_advisers/activities/dialogues_religions/index_en.htm).

<sup>11</sup> For example a regular dialogue with the European Parliament might include holding dialogue seminars such as the four Islam, Christianity and Europe conferences organised by CSC of CEC, COMECE and the Konrad Adenauer Foundation in the European Parliament during the European Year of Intercultural Dialogue 2008. See [http://www.comece.eu/comece.taf?\\_function=church&\\_sub=\\_dialog&id=2&language=en](http://www.comece.eu/comece.taf?_function=church&_sub=_dialog&id=2&language=en).