

## 11 Christian churches in the process of the EU treaties' reform

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The process of the latest reform of the European Union (EU) treaties was, to a large degree, a unique and distinctive enterprise. On the eve of the greatest enlargement of the Union (which took place in May 2004) it became clear that, under the scope of existing treaties, it would be very difficult to manage the EU of twenty-five (which turned into the EU of twenty-seven in January 2007), comprising countries with diverse political and economic systems. The need for new amendments of the treaties, which could offer the 'emerging European polity'<sup>1</sup> a more sustainable way of development, was pronounced. The whole process of reform, announced at the European Council Meeting in Laeken in December 2001, took eight years and ended in December 2009, when the Treaty of Lisbon came into force. These eight years were full of controversy, with fierce debates and rivalry among the numerous actors involved.<sup>2</sup>

The Laeken Council acknowledged the need for the EU 'to become more democratic, more transparent and more efficient'.<sup>3</sup> In order to 'consider the key issues arising from the Union's future development and . . . identify the various possible responses', the European Council decided to 'convene a Convention composed of the main parties involved in the debate on the future of the Union'.<sup>4</sup> Thus, the process of reform began with the work of the Convention on the Future of Europe (the European Convention), which assembled in February 2002 and lasted until July 2003. The Convention eventually produced the text of the *Treaty Establishing a Constitution for Europe* (the European Constitution),<sup>5</sup> which was designed to replace the Treaty on European Union and the Treaty establishing the European Community.<sup>6</sup>

The second stage took place from October 2003 to June 2004, when the text was discussed and amended at the inter-governmental conference (IGC). The final phase came after the Constitutional Treaty failed at the ratification process, and member states decided to draft the Reform Treaty instead. The Reform Treaty was finally agreed in October 2007 and signed in December of the same year in Lisbon. It was ratified by all member states within two years.

This chapter discusses the ways in which Christian churches contributed to the process of the treaties' reform. It employs a social constructivist logic: that identity and non-state actors can be regarded as participants of or contributors to the process of European integration.<sup>7</sup> It also accepts that churches are able to act as identity formers and can be regarded, in some respects, as non-state actors.<sup>8</sup>

As identity formers they are willing to contribute to the formation of their own vision of European identity, in which Christian values and norms constitute an important part. As non-state actors they interact with the actors of civil society, as well as with governments and politicians. Thus churches become participants in the process of European integration, and their participation embraces various roles, as mentioned above.

This chapter contains two main sections. First, it starts with the analysis of the churches' objectives in the context of the Constitutional Treaty. Second, it analyses the role of the churches in the three main stages of the debates: the European Convention, the inter-governmental conference and the Treaty of Lisbon.

### Christian perspectives on the Constitutional Treaty

Representatives of most Christian churches in Europe well understood the great importance of the treaties' reform, initiated in the early 2000s. As was emphasised in May 2002 in the 'Contribution of the COMECE [Commission of the Bishops' Conferences of the European Community] secretariat to the Debate on the Future of the European Union in the European Convention', 'Never before in the history of the European Union has the project of rethinking its objectives, responsibilities, structures, and the principles on which it is constructed been taken up so visibly and systematically'.<sup>9</sup>

The religious contribution at the initial stage of the reform process was word-driven: churches articulated their goals and views, making them known both to the policy-makers and to the wider public. This was mainly reflected by the statements of the churches' representations in Brussels, whereas the religious bodies at the national level played a far more limited role. In most cases, the churches' perspectives coincided with each other (not only on the general, but also on more specific issues), since churches had the same or similar concerns, related to the development of EU treaties.

On 21 May 2002 in the earlier mentioned 'Contribution', COMECE touched upon a number of general issues, such as the inclusion of the Charter of Fundamental Rights in the EU Constitution, and the importance of the principles of solidarity and subsidiarity.<sup>10</sup> In addition, COMECE made more specific recommendations, related to the three main issues (*reference*, *dialogue* and *status*). It recommended that a future Constitutional Treaty should:

- 1 recognise the openness and ultimate otherness associated with the name of God. An inclusive *reference* to the Transcendent provides a guarantee for the freedom of the human person;
- 2 [acknowledge] the specific contribution of Churches and religious communities [and] provide for the possibility of a structured *dialogue* between the European institutions and Churches and religious communities;
- 3 incorporate Declaration No. 11 annexed to the Final Act of the Treaty of Amsterdam, expressing its respect for the *status* of Churches and religious communities as recognised by every Member State.<sup>11</sup>

On 30 May 2002 the Orthodox Church of Greece joined the campaign by issuing an official statement 'On the future of Europe'. Metropolitan Athanasios (Hatzopoulos), the Head of the Representation of the Church of Greece to the EU, explained that the statement 'was an answer to a question directly posed to the Synod of our Church by Giscard d'Estaing [President of the Convention]'.<sup>12</sup> The Greek Church made three main proposals for the Constitution. First, it requested a full guarantee and safeguard for the principles of religious freedom and basic human rights, and prohibition of 'deceitful proselytism'. Second, the Church of Greece asked to ensure that the text indicated 'respect for the common conscience of the Peoples of Europe concerning the Christian roots of their diachronic and contemporary spiritual legacy'. Finally, it suggested that church-state relations should be left to the internal law of each member state, 'within the framework of religious freedom, as this is specifically foreseen in Statement No. 11 of the Treaty of Amsterdam'.<sup>13</sup>

The course of events then crossed the borders of the Catholic and Orthodox confessions. In June a number of Christian organisations (the Church and Society Commission of the Conference of European Churches [CSC/CEC], Caritas Europa, the European Federation for Diaconia, the Association of World Council of Churches-Related Development Organisations in Europe, the International Cooperation for Development and Solidarity and the COMECE) produced a joint letter, addressed to the President of the Convention. The specific requests in the letter coincided, to a certain extent, with the May proposals of COMECE (especially when it referred to the status of churches and religious communities). One of the new points was a request to acknowledge in the constitutional text 'the religious and spiritual heritage of Europe'.<sup>14</sup> The important difference was the absence of an appeal to make a reference to the Transcendent, which had been clearly articulated by the COMECE secretariat in May. For the COMECE, this reference was a reflection of the much-desired reference to God, which was necessary 'in order . . . to facilitate citizens' identification with the values of the European Union, and to acknowledge that public power is not absolute'.<sup>15</sup>

Three months later, in September 2002, a commonly agreed proposal was articulated by the CSC/CEC and the COMECE, entitled 'Churches and Religious Communities in a Constitutional Treaty of the European Union'. This proposal substantially resembled the May recommendations of the COMECE, albeit with a slightly different wording, and with the absence of the request to make a reference to the transcendent (most likely because of the position of some Protestant churches in the CEC). At the same time, the COMECE and the CEC stated clearly that the omission from the Constitutional Treaty of any reference to religion, churches or religious communities '[w]ould constitute a vacuum, given their vital significance to society as a whole, to the values and identities upon which a society is based, and to the Union's relationship to its citizens'.<sup>16</sup>

Thus, the main issues which attracted the specific attention of the three Christian confessions (Orthodox, Catholic and Protestant) were related to the foundation of European values and the status of religious communities. This looked quite logical and understandable. Indeed, the presence of Christianity in the European

Constitution could create a more Christian-oriented reading of European identity. The guarantees for the status of churches under national legislation were necessary to prevent any attempts from the EU to interfere in this area, making undesirable alterations to various church-state regimes existing in the member states.

The common Christian positions, articulated between May and September 2002, looked like *de facto* reference points for those politicians and officials, who respected the opinion of churches and shared the same values and beliefs. The availability of common perspectives of churches gained particular importance when debates at the Convention (especially on the Preamble) became very heated, attracting substantial attention from far beyond the session halls of conventionalists. How these debates progressed is an issue of concern of the next section.

### **Churches as non-state actors and identity-formers: mobilisation and support**

This section will study in greater detail how the churches and the organisations or individuals who supported them acted during the process of the treaties' reform. This requires analysis of the three main stages: debates at the Constitutional Convention, debates on the Constitutional Treaty at the inter-governmental conference and debates on the Treaty of Lisbon.

#### *Debates at the Convention*

The Convention on the Future of Europe was composed of 105 members, representing heads of state and government, national parliaments (of the fifteen member states and the thirteen candidate countries, including Turkey), the European Parliament and the European Commission. The plenary sessions were normally held once a month, and the Presidium, composed of twelve members, was assembled as necessary between the plenary sessions.

The first mention of religion at the Convention came as early as during the second session (21–22 March 2002), in the context of the discussion on European values. The Italian members of the Convention spoke about Christian–Jewish values and the role of churches in the social area.<sup>17</sup> During the third session (15–16 April 2002) Henning Christophersen, a representative of the Danish government, '[e]mphasised that the regulation of the state–church relationship has to remain in the competence of the member states'.<sup>18</sup> Furthermore, the Dutch member René van der Linden at the fourth session (23–24 May 2002) spoke about 'the importance of the Churches for the development of civil society'.<sup>19</sup> It is significant to note that these people acted from their own convictions rather than at the request of their confessions. In Denmark's case, the statement of Christophersen was also a reflection of the country's constitutional arrangements, denoting the existence of the established Danish Lutheran Church. A representative of the COMECE confirmed that they indeed did not ask the members to articulate any concern at the plenary sessions.<sup>20</sup>

A more active campaign from churches and Christian organisations came later,

as well as the mobilisation of the members of the Convention. In June, the CEC's representatives expressed their ideas and concerns at the special session of the Convention, devoted to the hearing of the civil society groups (24–25 June 2002). However, the most intensive involvement of the churches, at both European and national levels, was recorded in the second half of 2002 and the first half of 2003, especially after it became clear that 'In the skeleton of the draft constitutional treaty made public by the Praesidium on the 28 October 2002, no reference to religion was made'.<sup>21</sup> Churches acted in three main dimensions: petitions, negotiations, and the use of the opportunities provided by specific church–state relations of their countries. Not surprisingly, the Pope, as the head of both the Church and the State (the Vatican) was able to act on the highest political level. In a meeting on 31 October 2002 with the President of Convention, Valéry Giscard d'Estaing, John Paul II 'repeated his request for a clear reference to God and Christian faith', emphasising that '[t]he contribution of Christianity and man's Christian vision in the history and culture of different countries is part of a common treasure and it appears logical that this should be inscribed in the project of the Convention'.<sup>22</sup>

To these requests, coming from outside, the insiders also joined. Just a day before the meeting of Giscard d'Estaing and John Paul II, two German MEPs (Members of the European Parliament), Ingo Friedrich and Joachim Wuermeling (alternate member of the Convention), 'announced their intention to push for a more precise reference to religious heritage and to God in the preamble or the body of the constitutional text'.<sup>23</sup> Wuermeling presented his contribution with the twenty-five signatures of the members and alternates on 31 January 2003. The proposed text (based, as was explained, '[o]n the texts from the Charter of Fundamental Rights and the Polish Constitution') was as follows:

The Union values include the values of those who believe in God as the source of truth, justice, good and beauty as well as those who do not share such a belief but respect these universal values arising from other sources.<sup>24</sup>

Between the end of October 2002 and the end of January 2003 the religious agenda did not suffer a lack of events either. At the eleventh plenary session of the Convention (7–8 November 2002), Farnleitner, representing the Austrian government, '[s]pecifically asked for a recognition of Declaration No. 11 annexed to the Treaty of Amsterdam, which protects national church–state relationships'.<sup>25</sup> The working group on the 'Complementary competences' (led by Christophersen from Denmark) proposed that the provision 'The Union respects the national identity of Member States' should exemplify 'the essential elements of the national identity'. Notably, it was suggested that 'the legal status of churches and religious societies' be included in the list of these essential elements.<sup>26</sup>

In mid-December, the COMECE and the CSC/CEC submitted their second joint legislative proposal to the Convention. They suggested three versions of the Preamble: one similar to the Charter of Fundamental Rights ('conscious of . . . what Europe owes to its spiritual and moral heritage'), one as suggested by some members of the Convention ('taking inspiration from its cultural, humanist and

religious heritage'), and the formulation, presumably, of the Churches: 'Conscious of human responsibility before God and equally conscious of other sources of human responsibility'.<sup>27</sup> Notably, it was the first time that the representatives of the three Christian confessions jointly wrote about the possibility of mentioning God in the text of the Constitutional Treaty. The churches also repeated their requests to preserve their status under national law and asked that provisions be made for structured dialogue: 'The European Union respects the specific identity and the contribution to public life of churches and religious communities and maintains a *structured* dialogue with them'.<sup>28</sup>

It was a moment of some disappointment to the churches and their supporters when, in Articles 1–16 of the Treaty, released on 6 February 2003, no reference to religion or God was made. However, at the sixteenth session (27–28 February 2003) the Convention's President promised that '[t]he Presidium would at a later stage propose clauses of relevance to religion and the churches in three areas of the future Constitution'.<sup>29</sup> A number of members of the Convention spoke strongly in support of the religious content, with Danuta Hubner, a representative of the Polish government, summarising their opinions:

My personal view is that without such a reference [to religious heritage], the Constitutional Treaty will not be complete. Religions and Christianity among them have been part and parcel of our continent's history. Respect for pluralism of opinion can very easily go together with a recognition of the role of religion, for example in the Preamble to the Treaty.<sup>30</sup>

After February's uncertainty, the coordinated efforts of the churches became more visible. In March 2003, at the meeting in Crete, the representatives of the Orthodox churches of Albania, Cyprus, the Czech Republic, Finland, Greece, Poland, Serbia, Romania, Russia, Slovakia and the Ecumenical Patriarchate adopted a document, entitled 'Conclusions of the Inter-Orthodox Consultation on the Draft Constitutional Treaty of the European Union'. In this document, reflecting the will of the European Orthodox family, churches asked, *inter alia*, for 'explicit reference to Europe's Christian heritage' and for the incorporation in the Constitution of the eleventh Declaration of the Treaty of Amsterdam 'on status quo of the Churches and non-confessional religious unions'.<sup>31</sup>

Thus, by April 2003 almost all major European churches, either acting alone, or in unity with others, became involved in the drafting process. The only discordant voices, breaking unity among Christians, were from the Protestants. For them the issue of the Preamble seemed to be of little importance. Paul Verner Skærved, Chairman of the Council on International Relations of the Lutheran Church in Denmark, stated that '[i]f something is to be inscribed in the treaty, it should not be God or Christian values but recognition of the role of churches as part of the European picture and, above all, religious freedom'.<sup>32</sup> The Lutheran churches in other countries held similar views. For the Lutheran Church of Finland (one of the most active on EU issues among the Protestant churches in Europe), the question of the Preamble 'was not a priority'.<sup>33</sup> The Quakers were unable to take

a common view on the 'reference problem' because of a broad range of incompatible opinions. Instead, in their recommendations (as formulated by the Quaker Council on European Affairs), the Society of Friends touched upon other issues: human values, improvements to democracy and transparency within EU institutions and external action. The Quakers argued in favour of regular dialogue with civil society, non-governmental organisations (NGOs) and churches and opposed the increase of military capabilities of the Union.<sup>34</sup>

However, this certain break of consensus did not prevent the majority of Christian churches from seeing their first real success in April. At the eighteenth session of the Convention (3–4 April 2003), Vice-President Jean-Luc Dehaene presented Article 37, which proclaimed guarantees for the status of churches under national law and declared regular dialogue of the EU with churches. 'Philosophical and non-confessional organisations' also came under the regulations of the article, but Dehaene underlined that '[t]he dialogue of the European institutions with the churches, religious, philosophical and non-confessional communities has to be clearly distinguished from other forms of regular dialogue with civil society organisations'.<sup>35</sup> In the first draft of the Preamble, published on 28 May 2003, reference was made to religion, but in very general terms and combined with statements that were considered subjective and biased. According to the text, the EU was:

Drawing inspiration from the cultural, religious and humanist inheritance of Europe, which, nourished first by the civilisations of Greece and Rome, characterised by spiritual impulse always present in its heritage and later by the philosophical currents of the Enlightenment, has embedded within the life of society its perception of the central role of the human person and his inviolable and inalienable rights, and of respect for law.<sup>36</sup>

Criticism of this draft was mainly concerned with its 'historical incorrectness'.<sup>37</sup> The Russian Orthodox Church underlined that the '[p]hilosophical currents of the Enlightenment may be mentioned in the Preamble only along with the Christian inheritance and perhaps that of other religions visibly present in Europe. A reference to an abstract "spiritual impulse" does not remove this problem'.<sup>38</sup> Many other Christian churches articulated similar criticism, referring to a lack of objective reading of history in the document.

Some members of the Convention (mainly from the candidate countries) fully shared this concern. Edmund Wittbrodt, member of the European Convention (Poland) and Marta Fogler, alternate member (Poland), initiated the following amendment: to insert, along with the philosophical currents of the Enlightenment, also those of Christianity and the Renaissance.<sup>39</sup> Frantisek Kroupa, alternate member of the Convention (Czech Republic), suggested that, in order to acknowledge the importance of religion, 'the heritage of the Bible' should be mentioned.<sup>40</sup> Danuta Hubner spoke about the '[n]eed to indicate the Christian values as one of the sources of Europe's inheritance, especially when there are made particular references to the traditions of Greece and Rome, and of the Enlightenment'.<sup>41</sup> Indeed,

as members of the Convention Peter Serracino Inglott and Michael Frendo and alternate John Inguanez (all from Malta) pointed out, the inclusion of Christianity could be necessary 'for a more faithful reflection of history'.<sup>42</sup> Gabriel Cisneros Laborda, member of the Convention (Spain), called the formulation of the draft Preamble 'unacceptable and scandalous' (in the words of Ignace Bertin), in fact 'historical falsification', and the expression of a deliberate attempt 'to eliminate Christianity from the European memory'.<sup>43</sup>

Possibly on account of the 'historical' criticism, the references to Greek and Roman civilisation, as well as to the Enlightenment, were deleted from the Preamble. The text gained a more neutral and balanced context. In the new version the EU was drawing inspiration

[f]rom the cultural, religious and humanist inheritance of Europe, the values of which, still present in its heritage, has embedded within the life of society the central role of the human person and his or her inviolable and inalienable rights, and of respect for law.

However, this new version also attracted criticism. Wittbrodt suggested that the Preamble should also speak about the 'Christian–Judaic inheritance of Europe'.<sup>44</sup> Although thirty-seven members and alternates of the Convention signed in support of this amendment, their proposal was not accepted, and the Preamble remained unchanged. Almost unchanged too was Article 51 (initially 37) on the 'Status of churches and non-confessional organisations', which was fiercely opposed by some humanist associations and some members of the Convention. Their objective was to delete it altogether, since, as they claimed, the 'interests and role [of the churches] are covered by other articles dealing with civil society'.<sup>45</sup> However, the Draft Treaty, presented at the Thessaloniki European Council on 19–20 June 2003, contained both the disputed Preamble and Article 51, to the visible dissatisfaction of those who wanted (and promoted) a different wording. Still, the struggle was far from over, since the process entered into its most important stage: the search for consensus among member states.

#### *Debates at the inter-governmental conference*

It took some time for the participants of the IGC to reach an agreement on the text of the Constitutional Treaty, since many principal questions (such as the rule on majority voting) were at stake. Indeed, although the conference started on 4 October 2003, the text of the Treaty was fully agreed only in June 2004. It was signed by the twenty-five member states in Rome on 29 October 2004.

Although churches achieved some success at the time of Convention, it soon appeared that they were not fully satisfied with the draft version of the Treaty. In June 2003 Pope John Paul II appealed again 'to those drawing up the future European Constitutional Treaty so that it will include a reference to religion and in particular to the Christian heritage of Europe'.<sup>46</sup> The Vatican's stance was supported by voices from the 'periphery'. In a letter, addressed in September 2003

to the Italian Prime Minister Silvio Berlusconi (as Prime Minister of the country which then held the EU Council Presidency), the Conference of Polish Bishops stressed that: 'It is impossible to build the future of Europe without a spiritual foundation, which is based on the truth about its past and present'. The bishops expressed the hope that Italy, during its Presidency, would ensure that the text of the Constitutional Treaty will recognise the Christian roots of Europe and will give 'the appropriate place to the religious meaning'.<sup>47</sup>

However, overall, statements and declarations of churches during the IGC were less frequent than previously (mainly because the churches had articulated and thoroughly explained their ideas earlier, at the time of the European Convention). The usual contacts of churches with various political institutions and groups continued, and the churches' message was basically the same as in 2002 and 2003. For example, Archbishop Christodoulos of the Orthodox Church of Greece claimed in his October 2003 speech to the members of the European Parliament:

The demand for a reference to Christianity is not an act that aims to obstruct the secular state, but an act that desires to protect European consciousness. The planned European constitution's failure to refer to the foundations of European consciousness represents in my view the first truly regrettable event in the history of the Union.<sup>48</sup>

Although churches became less visible at the time of IGC, some governments and politicians took the churches' concerns more publicly. In September 2003, before the formal opening of the IGC, eight countries (Italy, Spain, Ireland, Malta, Poland, Portugal, Slovakia and the Czech Republic) indicated their wish to see the presence of Christianity in the Constitution.<sup>49</sup> This initiative of the eight was supported by a proposal, signed by eighty-two members of the European Parliament. Also, an attempt was made to gain public support: in November 2003 a petition, signed by around 400,000 people from different European countries, was presented to the Council Presidency by a number of MEPs, led by Mario Mauro (Italy) and Elizabeth Montfort (France). Montfort underlined that Europe, which spells out its own identity in a Christian sense, will thus be open to other cultures.<sup>50</sup> The actors behind the petition, as indicated on the European People's Party (EPP) website, were the '[i]ndividuals who spontaneously launched the petition'.<sup>51</sup> As Philip Schlesinger and François Foret point out, this petition remained unknown to most of the key actors in the debates, therefore 'attempts to develop a broader constituency in order to mobilize the support of various strands of public opinion has had [sic] little success'.<sup>52</sup>

Indeed, churches were hardly successful in the reference issue, since the final version of the Constitutional Treaty, agreed by the member states, omitted any reference to God or Christianity. This was partly provoked by fierce opposition from Belgium and France. For example, the French representatives consistently stressed the principle of *laïcité* in the French Constitution as their key argument against. An emphatic reply to this argument from Richard Chartres, the Anglican Bishop of London ('why should the whole of Europe retreat from genuine pluralism in favour of a secular confessional state?')<sup>53</sup> did not bring much change.

As in the first phase, the reference was not the only issue at stake. Secular groups renewed their demands for deleting the article on the 'Status of churches and non-confessional organisations'. In December 2003 a coalition of secular groups 'urged EU leaders to delete Article 51'.<sup>54</sup> However, churches and their supporters managed to successfully resist those who campaigned for the article's deletion. One of the opponents of this article, Anne Van Lancker (former member of the Convention and MEP between 1994 and 2009) claimed that there was a sort of political bargain: 'In the end we did not succeed to remove the article 51, since that was the political price to pay to the EPP in order to avoid a reference to God in the Constitution'.<sup>55</sup>

In fact, the provisions relating to the religious issues remained virtually unchanged in the final text of the Treaty establishing a Constitution for Europe (compared with what was proposed by the Convention in June 2003). One can even suggest that these provisions became slightly more favourable towards religion. 'The cultural, religious and humanist inheritance of Europe' remained in the first sentence of one of the articles of the Preamble; however, the article itself was moved from the second to the first place in the Preamble. In addition, a new wording of the article clearly put religious inheritance (alongside cultural and humanist) as one 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>56</sup> The article on the 'Status of churches and non-confessional organisations' became Article I-52 (instead of 51), and added only the words 'under national law' in the text of paragraph 2 ('The Union equally respects the status *under national law* of philosophical and non-confessional organisations').<sup>57</sup>

The final version of the Treaty was assessed quite positively by the Catholic Church. In a paper, published in March 2005, the COMECE regretted that the Treaty 'does not include reference to Christianity', but at the same time welcomed that '[t]he religious freedom in its corporate dimension, the dialogue between Churches and the Union, as well as the protection of the status of the Churches in the Member States has been introduced into the Constitutional Treaty'.<sup>58</sup> Moreover, the COMECE argued that, '[b]y making reference to the religious inheritance of Europe, the Constitutional Treaty implicitly accepts the predominant contribution made by Christianity to today's Europe' and 'by explicitly using the Christian term "church" and respecting their specific contribution, the Union shows consciousness of Europe's Christian heritage'.<sup>59</sup>

#### *The Lisbon Treaty: actions and evaluation*

The fate of the Constitutional Treaty was not a happy one since its ratification process did not go according to plan. It was necessary for all member states to complete the ratification within two years, but the 'no' votes at the referendums in France and Netherlands in May and June 2005 'destabilised the EU'.<sup>60</sup> In June 2005 the European Council called for a 'period of reflection', trying to find a solution acceptable to all member states.

After this period (which ended in December 2006), there was the understanding among EU leaders that the new treaty needed to be worked out, preserving the

main provisions of the Constitutional Treaty. The text of this new treaty, known as the Reform Treaty, was agreed at the IGC in Lisbon in October 2007 and signed in December of the same year. The main provisions of the Lisbon Treaty relating to religion were left almost identical to those of the Constitutional Treaty. Only some 'technical' amendments emerged. The paragraph on the 'religious inheritance' in the Preamble moved from first place to second. The article on the 'Status of churches and non-confessional organisation' (Article I-52 of the European Constitution) became Article 17 of the Treaty on the Functioning of the European Union, losing its name, but retaining its full content.

After the uneasy ratification process, with two referendums in the Republic of Ireland, the Treaty of Lisbon came into force in December 2009. The religious or religion-related issues did not play a substantial role at this stage, although their presence was certainly visible. For example, at the debates before the referendums in Ireland fear was expressed that the Lisbon Treaty, if ratified, would allow the EU to 'undermine Ireland's constitutional prohibition of abortion'.<sup>61</sup> Some Catholic groups, led by the group *Cóir*, argued that the Lisbon Treaty 'would also encourage the growth of euthanasia and prostitution', and the Charter of Fundamental Rights, becoming legally binding under the treaty, 'would be used as a Trojan horse to introduce extreme secular legislation which would further erode Irish identity and attachment to Christianity'.<sup>62</sup>

Although at this last stage churches were less visible than previously, they definitely did not disappear from the constitutional horizon. Therefore it is fair to claim that Christian churches were active participants in the process of the treaties' reform from the beginning to the end. Their assessment of the outcome is varied, but in general is positive.

The official report of the COMECE, mentioned earlier (and dedicated to the Constitutional Treaty), may well reflect the position of the Catholics towards the Lisbon Treaty (since the religious and religion-related elements were left virtually unchanged). The CSC/CEC, in its report on the Treaty of Lisbon (December 2009), stated that in many aspects the content of the Treaty coincided with the CEC's objectives. In particular, the Charter of Fundamental Rights became legally binding, the status of churches is respected under national law, and the EU is obliged to hold regular dialogue with churches.<sup>63</sup>

The Lutheran Churches of Sweden and Finland were generally satisfied with the final text of the Treaty, asserting that 'Christian values are very much represented in the Treaty'.<sup>64</sup> The Quakers welcomed the articles on the dialogue with civil society and religious organisations, but were displeased that their pacifist stance on the military issues was largely ignored.<sup>65</sup> A representative of the Russian Orthodox Church admitted that 'without Christian roots the text of the Preamble was deprived of its sense as a whole' but, 'from the practical point of view, the fact that there is now the systemic dialogue with the churches (article 17) is probably even more important'.<sup>66</sup> The Russian Church also welcomed that, in the light of Article 17, churches are not equated with NGOs, interest groups and social partners.<sup>67</sup> The idea that churches cannot be equated with NGOs was also explicitly articulated by the Bishop of Neapolis, Porfyrios Papastylianou, the representative

of the Orthodox Church of Cyprus, who stated that 'These issues are in different categories'.<sup>68</sup>

However, comparison of the initial requests with the outcome is suggestive that the level of success for churches and their influence should not be overestimated. Indeed, the reference to the religious inheritance in the Preamble was included, but any references to the Christian inheritance or God were omitted. Although churches managed to obtain recognition of their 'identity and specific contribution', this was done alongside recognition for philosophical and non-confessional organisations (which are often anti-religious).

The same applies to the provisions for the 'open, regular and transparent' dialogue with churches and religions. Indeed, it was the churches' achievement that this dialogue was separated from the dialogue with civil society, but it was watered down by the inclusion of the abovementioned 'philosophical and non-confessional organisations'. Moreover, initially churches requested 'structured' dialogue, but this does not appear in the wording of the article. Consequently, Article 17, if applied in its totality, means dialogue with almost everyone, without any specific obligations from the European Union. In fact, it is left to the goodwill of the European institutions to establish a formal structure for the dialogue. This has already been requested by the representatives of Christian churches, but they, of course, cannot force the EU to do more than was done before the Lisbon Treaty came into force (the regular meetings of the religious and EU leaders started several years earlier). It is not surprising that even one of the opponents of churches, Sophie in 't Veld, chair of the platform on secularism in politics at the European Parliament, admitted that the final outcome of the Reform Treaty 'can be regarded as a success or failure for one of the sides, depending on how you will put it in practice'.<sup>69</sup>

## Conclusion

Christian churches took an active part in the whole process of the recent EU treaties' reform, which lasted from 2001 to 2009. They acted in different formats, but with a clear set of objectives and with a range of methods, which were selected to achieve these objectives. Their activity was visible at both the national and supranational levels, involving different layers of the EU decision-making process. This activity was welcomed and supported by some politicians and by the public opinion of the countries with a more religious population.

At the same time, churches acted under a very strong opposition, in circumstances in which politics is dominated by secular forces. Therefore, albeit their success was only partial, they managed to establish themselves as strong, influential and respected participants in debates and European policy-making. The work on the treaties' reform clearly reflected the fact that churches are a constituent part of the modern European society. They are able to contribute well to debates on identity and to the formation of identity itself, even in a time of growing secularisation in some parts of Europe. What is more important, churches proved to be efficient in forming very strong coalitions in their support, which included

influential representatives of the intellectual and political elite. They were able to contribute actively to national agendas, not least thanks to their special roles in some European countries, embedded in the models of the church–state relations. Thus, their ability to mobilise, their ability to appeal and their ability to deal with the top officials, as well as historically sound and grounded argumentation, reaffirmed that the specific status and role of the churches is very unlikely to be ignored either now or in the future.

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## Part IV

# Representing religion

## The transnational dimension