Article

The Romanian Orthodox Church, the European Union and the Contention on Human Rights

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Abstract: Since the 1990s, there has been conflictual interactions between Orthodox Christian churches and human rights in South Eastern Europe, especially during the process of European integration. In this work, I shall concentrate on the case of the Romanian Orthodox Church and explore its current position towards human rights that has developed within the context of EU membership. Focusing on the influence that European integration has had on the Romanian Orthodox Church, I hypothesise a re-orientation of the latter from a position of closure and a general rejection of human rights in the direction of their partial acceptance, with this being related to its attempt to develop a European identity.

Keywords: Eastern Orthodoxy; European integration; Religion and EU; Religion and Human rights; Romania; religious freedom

1. Introduction

Since the last decade of the twentieth century, conflictual interactions have arisen between Orthodox churches and human rights in South Eastern Europe. Following the collapse of communism, most countries with an Orthodox majority had to deal more openly with the global centrality assumed by human rights, especially within the European Union (EU). In the post-communist era, the Orthodox Christian religion has thus become more visible in the international scenario, gaining the attention of scholars at a worldwide level. In this light, the clash between Eastern Orthodoxy and human rights has been scarcely analysed as an issue influenced by both the EU's political actions and the 'early' critique of Orthodoxy with the main Western model of modernity (Makrides 2012).

In this article, I concentrate on this twofold vision. In Section 2, I attempt to underline the historical specificities of Eastern Orthodoxy, as well as the scope of its EU's membership as an in-depth route towards religious change. Within the studies on Orthodox Christianity and human rights, indeed, a main narrative concentrates on the more recent historical period of this religion, highlighting its variations in relation to the EU (Section 3). Following this perspective, I deal with case of the Romanian Orthodox Church (Biserica Ortodoxă Română—BOR), focusing on the impact of European integration processes on its vision on human rights. In Section 4, I clarify the Romanian scenario and Church-state relations during the communist and post-communist eras. By means of this historical overview, it is possible to highlight certain trajectories of this church and focus on (religious) nationalism, which influenced its stances towards human rights and its opposition to EU reforms.

From the 1990s onwards, the European reforms have generated in Romania powerful contentions supported by the BOR. On the other hand, beyond the BOR's resistances, the EU reforms have appeared capable of encouraging a widespread re-orientation of the Romanian Orthodox vision with respect to Church-state relations and issues according to a more liberal model. In the article, I try to show how Romania's entry into the European Union and, generally, the engagement of the BOR with European institutions re-shaped the Romanian Orthodox stance towards human rights. This Romanian Orthodox re-positioning has developed and grown through the BOR's ambivalence regarding the EU,

which reflected its enthusiastic adherence to the European project and its concurrent reserve towards Western culture and values (Section 5).

Section 6 presents an analysis of four different conflicts of the BOR regarding human rights issues, which have occurred during the process of European integration. I explore the measures taken by the BOR against regulations of the European institutions and rulings of the European Court of Human Rights (ECHR) concerning Church-state relations, religious freedom and human rights. I would like to suggest that these contentions should be construed as corresponding to the crucial situations and key experiences that favoured the re-orientation of the BOR from a general, albeit non-systematic, refusal of human rights to a position of selective criticism of the same through the acceptance of their paradigm. As indicated in the final Section 7, this 'transition' may be recognised in the recent and more comprehensive perspective on human rights established by the BOR, which is linked to its attempt to develop a Romanian Orthodox and European identity. From the methodological point of view, in the article I refer to studies pertaining to the social sciences and also religious studies, as well as official documents of the Romanian Orthodox Church on the subject.

2. Orthodox Christianity and the European Union

Before the fall of the Berlin Wall, the relations of Orthodox churches with European institutions were marked by an ideological setting, since the European Economic Community was seen as an integral part of the opposite bloc. Thus, the engagement of Orthodox churches with the Western countries and institutions happened only through national diplomatic bodies and international ecumenical organisations, such as the World Council of Churches in Geneva. With the opening of the post-communist period, the Ecumenical Patriarchate of Constantinople established an official office in Brussels in 1994, while the Greek Orthodox Church opened its own one in 1998. From the 2000s, other churches inaugurated their own representation in Brussels, such as the Russian Orthodox Church (in 2002), the Romanians Orthodox Church and the Cypriot Orthodox Church (both in 2007). Although these church diplomatic representations were integrated into the Conference of European Churches in 1999, the Orthodox churches maintained a distinct and controversial character in their engagement with the European Union and the idea of Europe as well (Leustean 2014c).

On the one hand, the Orthodox churches lacked a theological background for an effective engagement with international political authorities. As one will see in the next section, the symphonic model of Church-state relations, that Orthodox churches inherited from Byzantium, generally could not be apply at EU level. On the other hand, the European Union did not have (and still does not have) a pan-European policy on religion. Thus, religious topics remain(ed) within the jurisdiction of national governments, but their issues are influenced by European regulations through multi-level policies. Following this backdrop, as noted by Leustean, when Orthodox churches have referred to their historical specificities, "they have not been aiming to change the secular nature of the dialogue with European institutions but to present the uniqueness of Orthodox values" (Leustean 2018, p. 151).

According to the visions of some social scientists (Berger 2005; Martin 2011; Molokotos-Liederman 2009), the countries of Eastern Europe with an Orthodox majority faced conflicting attitudes of the EU with respect to questions related to religion. As a result of their membership and relationship with the European Union, they had to confront with many European policies concerning religion, which were not in line with their historical and cultural background. In light of these tensions, the processes of European integration were often perceived by Orthodox churches as a recent expression of the ancient clash between the Eastern and Western worlds. In this controversial situation, growing divisions and distinctions developed among Orthodox, Protestant and Catholic leaders, enforcing also the Orthodox view of its own exceptionalism in the European landscape (Leustean 2018, p. 155).

According to some studies, the trajectories of this widespread conflict seem to depict a clash of civilisations (Huntington 1996; Payne 2003). As one will see more in details in the next pages, the historical journeys of the countries with an Orthodox majority did not follow the same path of the West, elaborating a different religious understanding of human being and society. However, this vision centered on civilisations' clash seems to suggest more the assumptions of this conflict rather than its developments. It seems also to focus on the leading narrative in the public debates and media, rather than to capture the concrete contentious dynamics. Focusing to this Orthodox heritage, it is suitable to pay attention to the Europe's historical vision of the other two main Christian traditions. According to Nelsen and Guth (2015), for centuries Catholicism favored the idea of universality of one only church, as well as that of the essential unity of Christendom. On the other hand, Protestantism concentrated on the ecclesial particularities in its tradition, and encouraged the local religious expressions. From the historical point of view, the (Catholic) view of Europe as a cultural entity best governed as a unified polity challenged the (Protestant) view of Europe oriented to pragmatic cooperation among states and reluctant to the sacrifice of national sovereignty, and vice versa (Nelsen and Guth 2015). Therefore, the Eastern Christian vision on Europe should be linked to these two distinct Western Christian visions. One may thus detect its key specificities, such as the inclinations towards both the idea of religious universality and that of ecclesial particularity, as well as the uniqueness of the issue regarding the values divide between East and West.

Against this backdrop, however, one should also emphasis the scope political contingencies or existing negotiations, elaborating a concrete and actual vision of the positioning of the Christian churches within the EU project. In the last two decades the two sides, i.e., Christian churches and the EU, developed political ties based on both different normative orders and mutual understandings, giving rise to fresh variations and paradoxical alliances (Foret 2015; Mudrov 2016). In this sense, the growing interactions among European institutions and Christian churches, as one will see in the case of the Romanian Orthodox Church, gradually affected the ways in which churches approached the EU project, as well as fostered a re-shaping of their traditional views on crucial issues.

3. Orthodox Christianity and Human Rights

Social scientists present different visions of the relationship between Orthodox Christianity and human rights, as with respect to the relationship between this religion and liberal democracy. I have included the main visions in two leading narratives, thereby exploring their related scenarios. The first principal narrative will be referred to as the 'burden of Eastern Orthodoxy'. The best-known research in this area is most certainly that of Huntington (1996). In his theory relating to a 'clash of civilisations' he identifies in the form of civilisation of Orthodox Christianity the roots of the general inferior degree of economic growth and the lesser stability and development of democratic systems in Eastern European countries. In particular, in the West and in the form of civilisation of Western Christianity Huntington identifies some factors, such as a separation between secular and religious authority and the tradition of the rule of law, which facilitate the development of freedom and of human rights. On the contrary, these factors have not been well-developed in the historical processes of Eastern Orthodoxy, which, on the other hand, are distinguished by close cooperation in Church-state relations.

Pollis (1993) identifies two other main reasons that define the problematic relationship of this religious tradition with liberal democracy. The first reason concerns the absence of a theoretical elaboration of individuality and individual rights in the Orthodox teachings. In its historical development Orthodoxy in fact became detached from the legal traditions of the West, focusing on spirituality and mysticism. It thus moved away from a focus on the doctrine of natural law, later reworked by Catholicism and from which derives part of its broad contribution to human rights. The second reason, however, concerns particular aspects of the Church-state relations and the phenomenon of nationalism in countries with an Orthodox majority. In this regard, Radu (1998) hypothesises a 'burden of

Eastern Orthodoxy' (from which I borrow the title of this narrative), according to which from the historical perspective the type of relationship occurring between the Orthodox churches and the state has favoured the development of nationalism and has compromised the growth of democracy. The concept of *symphonia* founded in the Byzantine tradition, in fact, means that church and state collaborate in a sort of harmonious alliance to pursue the common good of the local population. Thus, this model of Church-state relations can compromise civil and democratic development and promote attitudes of (religious) nationalism (for similar analyses, see also Payne (2003)).

I refer to the second main narrative as the 'Orthodox way in the modern world'. It emphasises the possibility for this religious tradition to follow its own particular route towards contemporary challenges, as well as the (partial) acceptance of human rights. Webster (1993) maintains that after the fall of communism the main Orthodox Christian churches developed a critical evaluation of their behaviour during the dictatorship period.[1] He hypothesises that in the new democratic condition (and I would add, for some jurisdictions, within the novel EU frame) Orthodox churches are increasingly capable of supporting human rights, especially at the individual and not the hierarchical level. In particular, this development is based on the experiences of Orthodox faithful and clerics who defended religious freedom during the repression and thanks to the contribution of the Orthodox churches in the international peace and disarmament movement during the communist regime. Some scholars recognise other 'positive' or 'pro-democracy' features of Eastern Orthodoxy (Billington 1994; Gvosdev 2000; Petro 1995; Marsh 2004), emphasising the role that this religion is still playing as a 'conciliar' mobilising force. Generally, they highlight the scope of some societal aspects of Orthodox Christianity in stabilising democracy and the political regimes in Russia and Eastern Europe.

Finally, within this narrative some social scientists have adopted the theory of multiple modernities (Eisenstadt 2003). This theory hypothesises a lack of the presence in the contemporary world of homogenisation and hegemonisation in the forward view of the main Western modernity model, and rather underlines trends of differentiation that affect all institutions in society. In this regard, a research project has referred to this paradigm in order to analyse the issues of religious freedom and religious pluralism in Greece within European integration, stressing the socio-cultural and religious specificities of the Greek Orthodox landscape (Prodromou 2004a). Moreover, Stoeckl proposed a similar approach to investigate the plurality of processes that develop within the manifold relations occurring between Russian Orthodoxy and the European Union (Stoeckl 2011, 2012). The latter researcher also examined the subject of the Russian Orthodox Church and human rights, adopting the theory of post-secular society, and in this sense her prediction of a self-reformation of the ROC seems optimistic (Stoeckl 2014).

To sum up, the first narrative appears to focus more on the ancient historical background and the communist past of Eastern Orthodoxy, as well as on the legacies of the same in the Orthodox stances towards contemporary challenges. On the other hand, the second narrative seems more focused on the most recent historical period, starting from the post-communist era of Eastern Orthodoxy, and on socio-cultural and religious changes that have occurred in relation to the European Union and the new international scenario.[2] In the next section, as mentioned in the introduction, I will try to follow this latter perspective, emphasising European integration as an in-depth route towards religious change for Eastern Orthodoxy.

4. The BOR in the Communist and Post-Communist Periods

During the communist dictatorship, Church-state relations in Romania were characterised by a 'state-dominated marriage'. On the one hand, the Romanian government

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[1]   Webster is a theologian. However, his research is marked by historical and sociological foci.

[2]   Concerning the two narratives, one can also refer to three collective works (Brüning and van der Zweerde 2012; Makrides et al. 2016; Giordan and Zrinščak 2020), which present a theological and social scientific series of essays on the subject.

allowed the BOR to maintain its places of worship, a few theological schools and a religious 'monopoly' in the country. On the other hand, the BOR negotiated its public discourse and religious activities and at the same time Orthodox clerics and faithful were not protected against state persecution (Stan and Turcescu 2000). Within this state-dominated co-operation, Rogobete (2004) hypothesises that the BOR developed "nationalism as an ecclesiological foundation". In this respect the national character has always been a crucial feature in the identity and mission of the BOR, as a relevant nationalist spirit was present in Romanian Orthodoxy in the previous centuries (Leustean 2014a, 2014b). However, this attitude became stronger in the communist period as it was approved and 'exploited' by the communist government (Gillet 1997). The nationalist orientation of the BOR helped it to survive in this complicated season of Romanian history (1947–1989) (Verdery 1991).[3]

During the post-communist period, an attempt was made by the BOR and particularly by Patriarch Teoctist (Toader Arăpașu, 1915–2007) to re-define the public identity of the BOR after decades of collaboration with the political regime. Through such efforts, the BOR planned to link itself even more closely to Romanian culture and identity and 'tarnish' its experiences relating to the communist regime through an empowerment of its national traits (Stan and Turcescu 2010). In the last decade of the twentieth century the BOR became the socio-cultural institution with respect to which the highest degree of confidence was expressed on the part of the Romanian population (surpassing the state, political parties and military corps), and the BOR also became a key point of reference for Romanian politics (Tomka 2011). In short, in this phase of political transition it would appear that the Romanian Patriarchate adopted a nationalistic stance to enhance its authority in Romanian society and to develop its public role within the new political regime.

In the novel democratic condition, a conservative stance of the BOR seems to emerge in the public debate. In particular, the BOR flourished in a period of great socio-economic uncertainty and political instability in Romania, and during important societal changes for religions occurring at world-level (Casanova 1994). On the one hand, the conservative and defensive stance of the BOR appears to be affected by the traditional foundations of Orthodox teaching, which historically neglected a religious engagement with society. On the other hand, this religious conservatism appears to be affected by the experiences of the BOR during the communist regime. As suggested by Prodromou, in a non-democratic and repressive condition Eastern Orthodoxy emphasised certain religious views that were not inclined to pluralism:

> Yet memories of state-imposed difference and uneven playing fields remain vivid, and painful deficits linger in the institutional capital needed to compete in a relatively open religious and cultural climate. This has produced a situation in which Orthodox authorities have tended to endorse freedom, democracy, and pluralism in principle, while in practice remaining wary of the open competitiveness and embrace of difference that democracy promotes. (Prodromou 2004b, p. 67)

In the post-communist era, the main engagements of the BOR in relation to public affairs seem to focus on a limited number of controversial topics pertaining to human rights issues, some of which are still relevant: religious education in public schools, abortion and family planning, and the question of homosexuality (Stan and Turcescu 2005; Stan 2010). Within the sphere of these contentions, the BOR embraced an emphasis on its responsibility as the national religious and socio-cultural institution struggling to ensure a return to an 'idyllic past' "associated with a rigid repudiation of the rotten present, seen as decadent, unholy, and impure" (Ramet 2006, p. 150).[4]

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[3] I am aware of the rather concise approach which I have adopted to summarise the Romanian communist and post-communist periods or to explore their associations with the BOR. I adopt this approach in order to reconstruct in just a few lines the 'red thread' of the Orthodox nationalistic stance over the decades in question. In this section reference is made to important studies for more detailed views and discussions.

[4] Regarding this imagery of an 'idyllic past', defended by Orthodoxy and in conflict with a decadent present, reference may be made for example to two recent speeches presented by Patriarch Daniel (2014, 2016).

Against this backdrop, after the year 2000 the Metropolitan and, subsequently, Patriarch Daniel (Dan Ilie Ciobotea, b. 1951; elected in 2007) promoted a more clearly established form of collaboration and greater autonomy between the BOR and the Romanian state. In this respect, in October 2007 the BOR signed with the Romanian state the protocol on 'Cooperation in the Social Sector', an agreement that aims to simplify procedures regarding Church-state collaboration in social projects. Furthermore, in the same month a second partnership between the BOR and the Romanian state established a protocol of collaboration regarding health and spiritual care. According to Stan and Turcescu (2010), these developments stemmed from Patriarch Daniel's experience in academia in Western European countries and his familiarity with the German model of Church-state relations.

This 'shift' in Romanian Church-state relations occurred a few years before Romania's entry into the European Union and appears to be linked to some reforms undertaken in the same period that were necessary for its accession to the EU. Indeed, in accordance with European Union treaties the Romanian parliament approved Law 489/2006 on Religious Freedom and the Status of Religious Denominations one month before Romania's accession to the EU (December 2006). The pressure of European institutions and that of certain Romanian political parties favoured the approval of this law. Also popular consensus concerning political reforms, based on the recent success of the reform of the Romanian Constitution in 2003, favoured this 'regulatory step' towards religious pluralism. In this changing situation the BOR did not acquire 'privileges' from the state in terms of a formally guaranteed position of leadership, nevertheless it tried to defend its public role as the main religious and socio-cultural referent in the country. In fact, the 'religious freedom' law generated tension between the BOR and the Romanian state as before this law was introduced the legal framework which regulated the relations occurring between these two actors was characterised by 'foggy' negotiations (Andreescu 2008).

Considering these reforms, Stan and Turcescu (2012) hypothesise that currently the Romanian Orthodox Church appears to be orientated more towards a role as a state partner than to that of a nation-building actor. The fresh frame of reference 'imposed' by the European Union in Romanian Church-state relations favoured a variation of the interaction of the BOR with the Romanian state and a negotiation of its nationalist stance. As one will see in Sections 6 and 7, the pressures of the EU promoted a widespread change in the country with respect to many controversial issues.

5. The Romanian Orthodox Church and the European Union

Since the 1990s, the attitude of the BOR towards Romania's entry into the European Union has been generally positive. The future of Romania is linked to its membership of the European Union, which can help it to improve the serious economic and social conditions deriving from the communist period. Moreover, the EU can also assist Romania in the funding of urban construction and infrastructures, and in promoting technological development. From the very beginning, the leadership of the BOR accepted that it would be impossible to refuse Romania's accession to the EU. In this hypothetical and controversial scenario, the BOR would have entered into a state of conflict with a process promoted by the great majority of the Romanian population, assuming a stance that would have made it highly unpopular.

In this context, in 1995 Patriarch Teoctist claimed that "there can be no European house without the beauty and wealth of Orthodoxy" (Stan and Turcescu 2007). A year later, the patriarch once again insisted that Romania was worthy of acceptance in the larger European family, because "with our church, culture and faith, we have been a part of Europe ever since we became Christians at the beginning of the first millennium" (Stan and Turcescu 2007). Following this stance, in the year 2000 the Christian churches in Romania (together with the Jewish community) signed a joint document stating that Romania's entry into the European Union represents both a chance for the country to receive help from Europe and an opportunity to make its own contribution to the European project in cultural and spiritual terms (Declaration 2000).

This position of the BOR seems to be similar to that of Patriarch Daniel, who was elected nine months after Romania's entry into the EU (September 2007). As soon as he was elected as patriarch, in an atmosphere of enthusiasm and trust expressed by the Romanian population with respect to the European Union, he stated that "Romania has long developed as a bridge between the East and the West. Such a synthesis is the Romanian Orthodox Church itself, uniting in its own identity the Eastern Orthodox spirituality with the Western Latin spirituality" (Daniel 2008b, p. 169). In this particular view expressed by Patriarch Daniel, Romania is recognised as a historic part of the European continent, and the Romanian Latin character is shaped as a Western religious component within an Eastern religious frame.[5]

However, since the 1990s various members of the Romanian Orthodox clergy and bishops have expressed their dissent, or a sense of malaise, with respect to the European Union's project. This may be largely attributed to two reasons: (i) the economic conditions which Romania has had to comply with in order to respect the requirements of the EU are considered to be disproportionate and more severe with respect to those imposed on other candidate countries in Eastern Europe; (ii) Western European values and lifestyles are interpreted as sinful or as a corruption of the Orthodox Christian faith, and European reforms seem to distort the typical balance between the church and the state in Eastern Orthodox milieu (Stan and Turcescu 2007). In such a situation—and on Romania's entry into the EU—this malaise could have been addressed through various paths. Above all, the discomfort might have strengthened the nationalistic stance and the defensive approach towards societal challenges that have marked the BOR since the 1990s. In this respect, it might have enhanced the hostile claim of an Orthodox exceptionalism within the EU framework.

> Faced with the challenge of European Union enlargement and globalisation, the Romanian Orthodox Church might be increasingly tempted to succumb to the "tribalisation" (. . .). Paradoxically, Romania's political and economic integration into the larger European family might lead the Orthodox Church to more strongly emphasise its ties to the other Orthodox Churches and take up virulent nationalism. Integration will test the Romanian Orthodox Church's commitment to an understanding of the nation that is in tune with democratic requirements. Since policy pronouncements and discipline derive from the leadership more than the grassroots, the Orthodox Church's future largely depends on who Patriarch Teoctist's successor will be. (Stan and Turcescu 2006, p. 204)

This ambivalence within the Romanian Orthodox Church, between a position of enthusiastic adherence to the European project and a reserve towards Western European values, appears to become widened or more restricted among its bishops, clerics and faithful as the various stages of European integration proceed. The reforms concerning Church-state relations, religious freedom, and human rights which the EU has invited the state of Romania to effect are the main contentions in the process of the country's integration into Europe. In other words, these crucial situations form the pinnacle of Romanian socio-cultural and religious conflicts with respect to the European institutions, which, by no mere chance, are led by the BOR. On the other hand, as indicated in the previous section, the EU reforms have succeeded in encouraging a less visible re-orientation of the Romanian Orthodox vision of Church-state relations and adherence to a more liberal model. In this section, my sole intention is to draw attention to both the European attitude of the BOR and to the socio-cultural and religious divide of the latter with respect to the European Union. This ambivalence has been a cause of tension since the early stages of the country's integration into Europe. With regard to this division, the growing Romanian (religious) nationalism can be seen as both one of its main foundations and one of its main results.

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5   Regarding the Latin character and nature of the Romanian people a debate exists in which different positions are present; reference in this regard may be made to Antohi (2002).

Following this premise, one should note that in the last three decades EU reforms have re-shaped or re-oriented the position of the BOR towards human rights. The reforms have encouraged within the Romanian Orthodox Church the abandonment of a general and non-systematic vision of rejection of human rights and the embracing of a vision of their partial acceptance, especially through the recognition of their paradigm as a leading referent in the European context. As one will see in the next two sections, human rights in Romania became both the matrix of Orthodox conflicts which were brought to the attention of the European Court of Human Rights (ECHR) and the European Court of Justice (ECJ), and one of the EU's landmarks recognised by the BOR and partially implemented in its public discourse.

6. Romanian Orthodox Contentions on Human Rights

Through the various phases of European integration, several contentions have arisen between the Romanian Orthodox Church, the European institutions, and the Romanian state. I have thus selected four main conflicting cases, which will illustrate the interaction occurring among these institutions and the trajectories of impacting situations, which may have promoted religious change. I would like to emphasise the European Union's engagement and its clash with Romanian Orthodoxy, especially with respect to topics such as Church-state relations, religious freedom, and human rights. These events may be seen as the most evident 'pivotal points' of a general process that has fostered a re-shaping of the typical position of the Romanian Orthodox Church towards human rights through its interaction with the European Union.

The most notable case concerns the relationship between Romanian Orthodoxy and homosexuality. This controversial issue is subject to in-depth analyses on the part of social scientists with respect to the particular nature of the Romanian historical stance towards the LGBTQI community (Ramet 2006; Spina 2015; Stan and Turcescu 2005; Stan 2010; Tarta 2015). In fact,

> homosexuality has become especially controversial in Romania, where the practice became illegal in 1936, during an era of growing fascicization of Romanian society. Three decades later—in 1968—the communist dictator Nicolae Ceaușescu revamped the anti-gay legislation under Article 200, dropping the qualification about public scandal and raising the penalty to one to five years in prison. In 1993, four years after Ceaușescu fall from power, Romania was admitted to the Council of Europe on condition that it change eleven of its laws, to conform with European standards. The only change required by the Council to provoke controversy was the requirement that Romania decriminalise homosexuality. Immediately there were protests and expressions of fear for the future of Romanian culture. At the forefront of the campaign to defy the Council of Europe and retain the anti-gay legislation was the Romanian Orthodox Church. (Ramet 2006, p. 167)

After almost ten years of debates, in 2001 Article 200 of the Romanian Penal Code, which criminalised homosexuality, was abolished and it ceased to be applied the following year. Thanks to the pressure exercised primarily by the European institutions, this regulation was repealed in order to comply with the constraints necessary for Romania to access the European Union, such as the ratification of the European Charter of Fundamental Rights. European institutions had to contend with the opposition of the BOR, as Patriarch Teoctist also expressed his public opposition to abrogation. From the Romanian Orthodox perspective, the abrogation of Article 200 might undermine the national tradition and culture, and corrupt the Orthodox faith.

In short, this issue developed within the process of Romania's European integration. The EU prompted the Romanian state to repeal Article 200 and encouraged a debate on the different sexual orientations in Romanian society within a European frame of reference. In other words, over the last two decades reference made to the European Union appears to have forced the BOR to recognise fundamental rights relating to the LGBTQI community. For instance, in recent contentions regarding the referendum on same-sex

marriage in Romania the public discourse of the BOR concerning homosexuality seems to have developed in accordance with fundamental rights standards.[6]

The second situation of conflict is identified in relations of the BOR with the Romanian Greek Catholic Church (RGCC). The latter church was founded in the Romanian region of Transylvania in circa 1680 due to the influence of the Habsburgs and their gradual imposition of Catholicism in the area. With the advance of the communist dictatorship, the RGCC was banned and eliminated by law in December 1948. With the fall of the regime, and after 40 years of religious repression the RGCC was once again publicly accepted in the country. However, since the 1990s the RGCC has been suffering from a state of conflict with both the Romanian state and the BOR relating to the restitution of its places of worship that were expropriated during the communist dictatorship. In fact, at present most of the original property has remained at the disposal of the BOR and the Romanian state (Stan and Turcescu 2006, 2008). This situation has in fact drawn the attention of the European Union, which raised the issue in the annual report of the European Commission on Romania (as a candidate country) in 2002, 2003 and 2004 (Codevilla 2012). Moreover, due to this situation, on several occasions the RGCC has presented claims to the European Court of Human Rights, denouncing a violation of the European Convention on Human Rights (e.g., see case ECHR 2010).

This conflict, which concerns the crucial issues of religious pluralism and religious freedom, emerged when Romania was still a candidate country awaiting approval of its request to enter the EU and thus became a subject of 'special observation' on the part of the European institutions. It appears that this situation prompted the BOR to advocate and take steps to effect the restitution of the property of the RGCC and to reframe its public discourse on the issue. In this last respect, the position of the BOR currently avoids assumption that the Romanian identity overlaps exclusively with the Orthodox identity, speaking instead about a more general Christian identity and emphasising the value of religious tolerance (for instance, see Lumina 2016). To conclude, the pressure of the EU and the rulings of European judicial institutions have influenced the BOR and the Romanian State, favouring legal and political developments with respect to this complex matter. Moreover, these contentions occurred within a fresh European frame marked by an interreligious character, which is still being processed and assimilated by Romanian society (Cîrlan 2018).

The third conflictual case is that of religious education in Romanian public schools (Stan and Turcescu 2006, pp. 145–70). It was perhaps the most remarkable result of religious denominations in post-communist Romania. Indeed, Romanian law currently allows students to opt out of 'religious knowledge' classes but only on presentation of the formal written approval of their parents. Since the 1990s the BOR has taken action to convince the Romanian state to introduce this course also in the most remote schools, and to finance this endeavor entirely with public funding. Furthermore, especially in the early years of the inclusion of religious education in the Romanian scholastic curricula, there have been numerous occasions when religion's teachers have presented Orthodox sectarian views and discriminatory positions against religious minorities.

The first law regulating scholastic activities that introduced the teaching of religion in public schools was passed in 1995 (Law 84 of 31 July 1995). In the following decade, further laws were issued and the BOR struggled to obtain a guarantee that students would in any case be obliged to attend 'religious-knowledge' classes. In this situation the European treaties, such as the European Convention for the Protection of Human Rights (ECHR), have represented the key points of reference. These treaties, which envisaged a programmatic division between ecclesiastic authorities and the state in public education, addressed the Romanian parliamentary debate and Romanian Constitutional Court sentences on the subject. In fact, the treaties appear as pre-established routes which influenced the inter-

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6　In this article I cannot engage in an in-depth discussion of the constitutional referendum held in Romania in October 2018, whereby Romanians were asked to declare their opinion regarding whether marriage should be defined as a union only between a man and a woman. An exploration of this event would involve a specific case study. I shall go no further than to suggest that in the electoral campaign the conservative stance of the BOR against homosexuality was characterised by its recognition of the fundamental rights standards.

pretation and application of Romanian law on religious education in a manner consistent with freedom of thought, conscience, and religion. On the other hand, the BOR heavily criticised the European Union's view on religious education, although accepted it as the 'concrete' legal framework of its mission in Romanian schools.

In dealing with the last controversial situation, I focus on a minor faction of the BOR that followed a path whereby human rights were emphasised. Reference is made to a ruling of the European Court of Human Rights (ECHR 2013) which a union of Romanian Orthodox priests turned to in 2008 following the Romanian state decision not to recognise its legal status, and of course struggling with its own diocese,. This case is related to important human rights issues, such as the broad question concerning the freedom of association within a religious institution, and other issues related to certain categories of human rights, such as the social and economic rights of priests. In this respect, it is interesting to note that this Romanian Orthodox group attempted to promote a religious change within the BOR leveraging the EU standards. In fact, the programme of the thirty-two priests and three employers of the Romanian Orthodox Archdiocese of Craiova appears to embrace the paradigm of human rights (ECHR 2013). In other words, it apparently aims to link the Orthodox milieu with human rights. As affirmed in the programme, the main goals of the union comprise the following:

> ensure respect for the fundamental rights of its members to work, dignity, social protection, safety at work, rest, social insurance (…); promote initiative, competition and freedom of expression among its members; use petitions, demonstrations and strikes as means of defending its members' interests and protecting their dignity and fundamental rights; take legal action against any individuals or other entities acting in breach of employment legislation, trade-union law (…); strive to secure to the clergy and laity the benefit of all the rights enjoyed by other sectors of society. (ECHR 2013)

After almost three decades of EU-BOR, interaction it seems that a local faction of Romanian Orthodoxy has established a course of action related to human rights. Moreover, it appears that this path has been developed through bottom-up processes and an appeal to European judicial institutions. In short, the multiple contentions presented in the section seem to suggest crucial motions towards the actual positioning of the Eastern Orthodox tradition as well as of the BOR within the EU framework, as already carried out historically by the other two main Christian traditions.

7. Human Rights in the Current Romanian Orthodox Perspective

As stated by Preda (2012, pp. 312–13), it is not possible to identify a debate on human rights that occurred in the country during the years when Romania was entering the EU. The agenda of the public debate tends to be more focused on 'concrete' issues, and there appears to be a lack of conditions for discussing topics that concentrate more on ideal assumptions. In this situation characterised by the absence of a real debate on human rights, the BOR seems to re-shape its vision on them, by means of an assumption of the EU as a point of reference and through its interaction with European institutions.

According to Preda (2012), in fact, after Romania's entry into the EU a change in the public discourse of the BOR regarding human rights may be identified. The Romanian Orthodox perspective seems to shift from a general and non-systematic rejection of human rights to a position of more openness characterised by a selective critique and a partial acceptance of human rights. Preda (2012) identifies one of the main signs of this change in the speech given by the Patriarch Daniel in December 2008 on the occasion of the sixtieth anniversary of the adoption of the Universal Declaration of Human Rights of 1948. The following quotation highlights some orientations within the fresh Romanian Orthodox perspective:

> The Declaration is important for the Orthodox Church as it marks a turning point in the history of the dignity and values of human beings. After all, the right to life, freedom of consciousness, of expression and of religion and the right to

education are all imperatives which pave the way to the social subject of the
Orthodox Church, a subject that articulates an ethical stabilisation of human
rights on the basis of a real theological anthropology. This is what contemporary
theologians would refer to as 'social thought' or the 'social doctrine' of the church
because, although it is orientated towards a 'realisation of the times', the latter is
supposed to seal a bond with history. From this point of view, the mission of the
Church is to protect the whole of creation, which is seen as a 'gift of God'. The
dignity of human beings is founded on a right to exist and the right to freedom
and also social rights of the community, which can be found in the Universal
Declaration of Human Rights. Orthodox anthropology agrees with the idea that
human beings are unique and destined to experience a transcendent life. A
human being is not a separate entity in a social framework. The transcendent
dimension awards human beings with a priceless and eternal value for the
communion of holy people of the Divine Trinity. (...) The real tension between
individual human rights and the social-common dimension can be overcome if
these fundamental rights are made to conform with moral and spiritual values.
That is to say, formal rights must be aligned with moral and spiritual human
dignity. The course of the world, a vision of a person who is able to make free
decisions, closely linked to the dignity of each person's vision. However, the
dignity of human freedom is conditioned by its ethical foundation and, above all,
responsibility.[7] (Daniel 2008a, pp. 15–16)

In this view, Patriarch Daniel appears to envisage a 'harmonisation' of human rights
according to a Christian anthropological perspective. This position of a selective critique
of human rights calls for a 'rebalancing' of the same that will take into account human
dignity and morality according to Orthodox teachings. Exploring this Orthodox vision,
a reading of the whole discourse appears to confirm the main Orthodox paths of tension
with respect to human rights as already identified in social-scientific studies (Giordan and
Guglielmi 2017; Stoeckl 2014). Furthermore, the BOR appears to focus particularly on the
relevance of the right to life and of religious freedom, as is generally the case in the visions
of conservative Christian churches.

As confirmed by Preda in a long interview,[8] in recent years in Romania the theological
debate on human rights seems to have grown. In particular, an initial debate appears
to have arisen within Romanian Orthodoxy, albeit in an initial form. Recently, various
reflections on contemporary challenges appear to have been accepted within the official
theology of the Romanian Patriarchate (Ioniță 2013). Moreover, a more accommodating
position on human rights can be detected in the documents approved by the Holy and
Great Council of the Orthodox Church, which was held in Crete in June 2016 (Pan-Orthodox
Council 2016a, 2016b, 2016c). On this occasion, the BOR played a leading role in mediating
the final approval of the synodal documents.[9]

In this context, it would appear that the BOR has elaborated a more comprehensive
position of selective criticism on human rights marked by their 'acceptance-through-refusal'
(Agadjanian 2010). Although it has developed into a systematic set of critical or controver-
sial arguments about human rights, this stance has become reinvigorated through positions
that recognise the central role of the human rights paradigm in the European Union. As in
the case of the ROC, it has been noted that "despite mounting the most virulent criticism,
in the end the Orthodox critics, *volens nolens*, do accept and master this language of rights,
the 'rights talk', in order to express their own tradition in terms of, and according to the
rules of, the discourse they criticise" (Agadjanian 2010, p. 105). In this sense, the convinced
adhesion of the BOR to the EU has also developed through a critique of its Western culture
and different policies. Thus, the BOR develops an Orthodox and European identity through

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7   Translation from Romanian.

8   My own interview with Radu Preda (Bucharest, May 2017).

9   This last vision emerged from my own interview with a Romanian delegate at the Pan-Orthodox Council (Bucharest, June 2017).

both its belonging to a Western project and its Eastern selective criticism, which, however, accepts the human rights paradigm and also a more liberal view on Church-state relations.

Therefore, referring to this tactical vision on human rights, Grigore (2016) argued that "contrary to the Russian Orthodox Church, the Romanian Orthodox Church adopts a less systematic and programmatic strategy on human rights. Its stance is characterised by pragmatism with a specific goal depending on different contexts and themes, starting with bioethics and ending with problems regarding abuses perpetrated against minorities and migrants" (Grigore 2016, p. 137). According to Grigore (2016, pp. 147–48), the BOR appears to place the more general concept of God's love at the centre of its discourse on human dignity. It seems to present a slender performative theological stance that appears to discourage the occurrence of a polarisation between church and society, nationalism and European membership, and Eastern and Western values. The BOR appears to apply its selective criticism of human rights to specific concrete cases, avoiding the encouragement of a theological discussion centred on strict religious assumptions that would bring the church into conflict with the human rights paradigm. On the one hand, it appears that this dual orientation shifts the conflict from the theoretical level to that of a response that addresses various challenges and life situations. While on the other hand, it would appear to favour a 'dilution' of the positions of the BOR, allowing for a moderation of their frictions with respect to the European frame and Romanian society.

8. Conclusions

This article draws attention to a scenario that emphasises a more profound engagement with human rights on the part of Eastern Orthodoxy. As indicated in the second section, the main tensions between Eastern Orthodoxy and human rights can be found in some historical specificities of this religion, such as the central role it reserves for the 'Holy Tradition' and the absence of well-established social teachings. Moreover, during the communist era, Orthodox churches experienced a period of controversy, in which there was a significant and widespread decrease in their capacity to accept pluralism and contemporary challenges. In the post-communist period, Orthodox churches became the principal national and cultural point of reference for the relative populations, thereby enhancing even further the significance of socio-cultural tradition. On the other hand, Orthodox churches became increasingly involved in international relations and geopolitics, coming to terms with novel transnational trends and developing relevant diaspora religions in the West through paths of adaptation (Guglielmi 2020). In such a situation, these churches have been marked by significant variations, and European integration in particular may be seen as one of their in-depth routes towards religious change.

Since the 1990s, the relations of Orthodox churches with European institutions were marked by contentions. In this situation, the position of the BOR with respect to the European project has been both constructive and defensive. During the period of Romania's entry into the EU, the position of Romanian Orthodoxy towards the European Union project was characterised by general enthusiasm, but also by reservations concerning its socio-cultural dimension and the model of Church-state relations (Stan and Turcescu 2006, pp. 199–208). Thus, the Romanian Orthodox clerics and faithful perceived European integration as a window opening onto new socio-economic opportunities and introducing external patterns pertaining to a different cultural realm. In this respect, the BOR elaborated its public discourse on human rights, addressing and 'living' this gap. It seems realistic to stress the role played by the leadership of the BOR in managing the growing (religious) nationalism in Romanian society, and developing a tactical approach to the EU question. In this respect, this effort of BOR leadership can be outlined as a crucial aspect into the concrete positioning of Romanian Orthodoxy in the EU framework. Looking to the national case of another Christian tradition, recently the Polish Catholic Church has carried out a similar process of location within the EU project (Zielińska 2015). This situation again highlights the role played by the multi-faceted Christian heritage in shaping diverse European identities, as well as the present different orientations within the Christian landscape in Europe.

Against this backdrop, a set of human rights issues related to the EU emerged in Romania, generating religious conflicts during the various phases of European integration. I have attempted to analyse some of the struggles, which are the most evident 'pivotal points' in a general and conflictual process of the BOR that led it to assume a position of 'acceptance-through-refusal' of the human rights paradigm. This re-shaping should be viewed as a broad and non-linear process, of which I offer only a partial vision. Starting from the crucial situations and key experiences, it seems possible to identify a shift on the part of the BOR from a general and non-systematic rejection of human rights to a more comprehensive position of partial acceptance of the same, especially within its general construction of a European identity. Hence, the symbolic choice of the name 'Europa Christiana' (Christian Europe) for the main hall of the seat of the Romanian Patriarchate, which in itself reflects the significance of the EU's challenge experienced by the BOR and the relevance of the process involving the construction of a European identity. In this sense, the earlier claim of an Orthodox exceptionalism appeared shaped by European integration, as well as contextualised within the EU frame.

In the perspectives of Preda and Grigore, over the last few years the BOR has elaborated a concrete and pragmatic vision regarding human rights. In other words, its management of subjects has been more 'situational' and focused on the avoidance of religious contentions, which could stimulate controversial debates on human rights and the EU membership. Following the framework on the public sphere theorised by Habermas, the Romanian Orthodox Church appears to elaborate "an epistemic stance toward the priority that secular reasons enjoy in the political arena". This may succeed only to the extent that religions "convincingly connect the egalitarian individualism and universalism of modern law and morality with the premises of their comprehensive doctrines" (Habermas 2006, p. 14). In this situation, one can recognise an encounter between the typical idea of Eastern Orthodoxy as a supra-individual and collective religious tradition and the orientation towards the subjectivity and individuality of human beings related to the paradigm of human rights. This latter view seems to confirm the flexible selective criticism on human rights developed by the BOR, which aims to avoid societal polarisation and the growth of anti-European stances.

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