

Religions and the European Union: A partnership in the making

KATRIN HATZINGER

*Head and Legal Counsel at the Office of
the Evangelical Church in Germany (EKD), Brussels*

PATRICK ROGER SCHNABEL

*Deputy Head and Legal Advisor at the Office of
the Evangelical Church in Germany (EKD), Brussels*

On the national level, religion and the state are historically bound up together – one way or the other: The Established Church is part of English identity as is laicism for France or the cooperative and parity system for Germany. Religion has shaped national self-understanding, and the degree of its presence (or absence) in the public sphere is perceived as part of the value system. However, when we come to the European level, things are rather different. It is because of this diversity between and even within its Member States that the EU does not have a sort of “natural” approach towards religion. It must find its own ways and means to deal with religions and their representatives – and has been doing so for the last twenty years at least.

But also for the churches (and increasingly other religions) political Europe is not a self-evident partner. Whilst the Roman Catholic church is the only entity that is organised on an international level with structures in all Member States, the Protestant and Orthodox churches, Jews and Muslims and even the Humanists (to include the so called “non-confessional organisations”) are organised nationally. Such overarching structures as there are are made up by the individual member organisations and have no legislative power over them.

As the European Community moved on from a political project using economic means to a body that became a visibly political entity – and indeed step by step very influential in most areas of life – European integration was no longer only an idea to be generally supported, but active engagement became necessary. On the one hand, churches themselves were increasingly affected by the decisions of the European Institutions, on the other hand, their “prophetic voice”, i.e. their call to “go public” with their ethics and convictions, would no longer be efficient on the national level only, but needed to be

complemented in Brussels and Strasbourg, where more and more decisions fell and an ever higher percentage of laws were written¹.

The challenge the European project poses is to balance diversity and common interests. In the case of state-church law, harmonisation is clearly out of the question.² So the churches have the double interest, firstly to preserve their national legal framework (notwithstanding that some seek to improve it on a national level, often arguing with – European – human rights standards) and secondly to engage in an exchange with the European Union. While the former is a question of competence division, there is no need for a legal regulation of the latter. To engage in a dialogue with society and its major organisations is part of good governance in a democratic, pluralistic society³. However, to explicitly recognize this need is to show the appreciation of this mutual engagement – and also to make sure that it is not at the discretion of one single administration to pursue it. Such a provision is envisaged in the Reform Treaty (see below). It is the result of a long process of mutual rapprochement: Over time, structures of interaction evolved on both sides, within the EU Institutions as well as within the churches and other religions⁴. From the 1980's a tentative dialogue was set up and became more structured and regular in the 1990's – on the initiative of European Commission president Jacques Delors. Successively more partners joined. Today, there are quite a few churches and church based organisations represented in Brussels: European ecumenical bodies, national churches, NGOs and NGO networks, but also Muslim and Jewish organisations are represented at EU level. Cooperation is broad on a case to case basis, but there is no self initiated forum where they all meet. The dialogue meetings⁵ with the Institutions do not serve the purpose of “interreligious” dialogue. The coordination of representation, advocacy and political work has to come from the partners themselves; the EU has no mandate for it, even if there is a certain interest on the Institutions to know what “the religions” think about certain issues. As is the case with the “civil” dialogue with NGOs, also the “religious” dialogue often rather serves to highlight plurality than to bring up ready-made solutions.

¹ While exact figures on the impact of Community legislation differ, it is widely acknowledged that there is a significant influence of EU legislation on national law, cf. Studie von Prof. Ulrich Karpen zur Gesetzgebung der Großen Koalition in der ersten Hälfte der Legislaturperiode des 16. Deutschen Bundestages (2005-2007), p. 15 f.; Datenhandbuch zur Geschichte des Deutschen Bundestages, Verwaltung des Deutschen Bundestages (ed.), Berlin 2005, p. 601 f.

² Jörg Winter in: Staatskirchenrecht der Bundesrepublik Deutschland, Neuwied; Krefeld 2001, p. 212.

³ This includes, for the EU-Commission, the churches. Cf. European Governance. A white paper, COM(2001) 428 fin., p. 19.

⁴ Cf. Schnabel, Patrick Roger, Geschichte und Strukturen christlicher Vertretungen bei der Europäischen Union, in: Österreichisches Archiv für Recht und Religion, öarr 54 (2007/2), S. 222-290; Weninger, Michael H., Europa ohne Gott? Die Europäische Union und der Dialog mit den Religionen, Kirchen und Weltanschauungsgemeinschaften, Baden-Baden 2007.

⁵ An up to date list of these events, organised by the Bureau of European Policy Advisers (European Commission), can be found on: http://ec.europa.eu/dgs/policy_advisers/activities/dialogues_religions/events_en.htm.

HOW RELIGIOUS REPRESENTATION IS ORGANISED

Today, there is a wide, if loose and informal, network of church representations and advocacy offices of church based organisations in Brussels.⁶ These are very different in shape and structure. As far as the church proper is concerned, you find a very clear allocation of competence and division of labour on the side of the Roman Catholic Church, and a far more colourful picture on the side of the other churches and religions. When it comes to church based organisations, there is far more resemblance between the denominations, as these usually work very similar to non-confessional NGOs and are, therefore, similar in structure not only among each other, but also to other single-issue organisations. An exception to this might be the Religious Orders, as they are, like the churches themselves, really organisations *sui generis* with a principally religious profile.

On the RC side, one would best distinguish between representations under international law, non-diplomatic representations of the church, representations of Religious Orders and single-issue organisations, both under the direct administration of the church or as Catholic organisations with a strong lay element.

On the side of the other churches, one would rather make a distinction between representations of national churches (Anglican, Protestant, Orthodox), confessional and interconfessional umbrella organisations, and single-issue organisations, both under the direct administration of the church or as Christian organisations without direct mandate by a church.

On the side of the other religions, it is more difficult to classify the representations, as there is much less structure and a lower organisational degree, partly because – for theological reasons – they are communities rather than organisations, partly because at least the Muslim organisations are often very young and loose networks, who yet have to discover the European level to a fuller extent.

It is a peculiarity of at least the “official” representations of churches and orders, that they not only have a political mandate, but are, to a certain extent and in varying degrees, also pastoral in their approach. While it is important to keep these areas apart (“No lobbying at the Eucharist” is one of the rules), it is also clear that the political, or rather church-diplomatic, function of the representations cannot be understood apart from the spiritual nature of the churches’ mandate and, vice versa, the churches cannot be reduced to a function of spiritual guidance that is without impact on how our societies are shaped by law and politics. It is, therefore, not only on the RC side, but also on the side of the other churches, that clergy and legal experts alike form the main staff of the EU liaison offices.

We shall now proceed to have a closer look at the different forms of representations, their history and functioning.

⁶ Most of what is said below can be found in more detail in Schnabel, Patrick Roger, *Geschichte und Strukturen christlicher Vertretungen bei der Europäischen Union*, in: *Österreichisches Archiv für Recht und Religion*, öarr 54 (2007/2), p. 222-290.

There are two diplomatic representations, the nuncio of the Holy See, and the Official representative of the Sovereign Military Order of Malta. Whereas the latter is strictly neutral in political matters, the nuncio fulfils all the functions of a church diplomat. Since 1996 this nunciature has been fully independent of the Belgian one – until then one person has been invested with the two offices since, in 1970, the first nuncio has been accredited with the European Commission⁷.

On the more political level, the world-wide RC church has decided not to have individual bishops conferences represented in Brussels, but rather to bundle the efforts through one organisation: *COMECE*. The *Commissio Episcopatum Communitatis Europensis* is the common organ of all the bishops on EU territory. As such, it must not be confused with the *CCEE (Concilium Conferentiarum Episcoporum Europae)*, which is an Europe wide organisation of bishops conferences and which has quite a different, much more theological focus. *COMECE*, founded in 1980, is the office through which the Catholic Church monitors and analyses EU politics, informs its members about these developments and supports European intergration on the basis of the social teaching of the Church. As there are not national offices, it could be difficult for *COMECE* to fulfil an “early warning function” for those countries that have a complicated state/church-system. Some of them have, therefore, chosen to second staff to *COMECE* who are able to monitor EU legislation from the perspective of possible impacts on their own particular church (Italy, Austria). In the case of Germany, the *Catholic Office in Berlin* has a policy officer for European law who regularly travels to Brussels and is in close contact with *COMECE*, but also the Brussels Office of the *Protestant Church in Germany (EKD)*.

The very first “religious” office dealing with European integration was *OCIPE* (formerly: *Office Catholique pour les Problèmes Européens*, now: *Office Catholique d’Information et d’Initiative pour l’Europe*).⁸ It has been founded in 1956 in Strasbourg and is run by the Jesuits. From the very beginning it fulfilled the double task of studying European issues and keeping the Catholic church informed about them and also to introduce Catholic viewpoints to EC officials. The Brussels office was opened in 1963, in 1991 followed by Warsaw and Budapest. The position of *OCIPE* is very special as it reports to the Bishop of Strasbourg and the Jesuit Order, but has a function for the Church as a whole. Together with *COMECE* it issues the monthly “Europe Info” newsletter. It is also unique in the broad scope of pastoral duties it has undertaken: From the Foyer Catholique to the running of the Chapelle de la Résurrection – A Chapel for Europe. Both projects address the spiritual needs of Catholics in the EU environment, the Foyer more academic, the Chapel more liturgic in outlook.

⁷ Some of the history is explained in Köck, Heribert F., *Die völkerrechtliche Stellung des Heiligen Stuhls*, Berlin 1975, p. 749 f.

⁸ An analysis of *OCIPE*’s work can be found in: Llorens, Felipe Basabe, *The Roman Catholic Church and the European Union: an Emergent Lobby?* Bruges 1995, p. 56 f.

Besides the Jesuits, the Dominicans also have a specialised EU office: *ESPACES*, with offices in Brussels and several other European cities, evaluates European integration from manifold perspectives (inter alia social, ethical, philosophical). It is, however, hardly involved in “interest representation”. But the orders are not only represented individually. *UCESM* (*Union des Conférences Européennes des Supérieurs Majeurs*), founded in 1980, established a Brussels Office in 1992. It is a network for raising awareness of European issues and exchanging information and ideas for the European engagement of the orders.

Wide is the spectre of single issue organisations. Obviously, *Caritas Europe*, the successor of Euro-Caritas, is the biggest. As one of seven regions of Caritas Internationalis, it comprises 48 Caritas organisations from 44 states. Its main topics of interest are poverty and social injustice, migration and asylum, support and coordination of its’ members activities in the fields of emergency and development aid, peace work etc. Migration policies are also covered by the specialised NGO *International Catholic Migration Commission* (Geneva based) with its *ICMC* Brussels office, and the *Jesuit Refugee Service*, which has also a Brussels office. *ICMC* has recently (3/2008) been granted canonical public juridical status, which shows its strong links to the official church. In the area of development aid, the *International Cooperation for Development and Solidarity* (originally: *Coopération Internationale pour le Développement et al Solidarité* – still abbreviated *CIDSE*) is the leading umbrella organisation, which also has a European branch. Besides these, you find a European Commission of *Justitia and Pax*, a “*European Office for Catholic Youth Work and Adult Education*” (run by German Catholic Adult Education, Consortium of Catholic-social Educational Institutes in the Federal Republic of Germany, and Office for Youth Ministry of the German Bishops' Conference, and representing *RETE Juventutis* – The Catholic Network Youth in Europe as well as the German Catholic Association for Adult Education). This list is, obviously, not exhaustive, but just wants to give an insight into the variety of issues covered. There is no legal framework binding the “Catholic family” together, but most Christian organisations foster good relationships based party on a specialist level (i.e. migration) or on a national (i.e. German speaking) level. Most of the contacts, however, are based on personal acquaintance through the relatively small Christian professional community than on formalised structures.

This includes, as is indicated by “Christian” in this context, the non-RC churches. Cooperation in Brussels is not limited to the manifold forms of organisations within one church family, but also across the denominational boundaries. This is a matter of ecumenical spirit as much as of necessity. With no historic relationship and traditional ties to the secular authorities, even those churches who represent a majority on national level have much to do to make their voice heard in a highly technical and fully secularised environment. Representativeness and expertise suddenly become important factors, even though, in theory, all religions are equally treated. Nevertheless, the more

churches support one idea, and the better their arguments are, the better are their chances of having an impact in the decision making processes of the EU institutions.

The picture the other Christian denominations present is rather similar to that outlined before. The major difference has already been mentioned in the introduction: Administration and legislative powers lie on the national, often even on a regional level. Therefore, churches have set up offices in Brussels. The largest of these is probably that of the *Evangelische Kirche in Deutschland (EKD)*, which will serve as a case study for how these representations work. It is the only Protestant office vis-à-vis the EU. The *Church of England* is represented by a canon directly reporting to the House of Bishops Europe Panel. He is based at the Pro-cathedral of the Holy Trinity, Brussels. On the Orthodox side, *the Ecumenical Patriarch, the Church of Greece, the Russian Orthodox Church, the Romanian Orthodox Church* and, as the most recent foundation, *the Church of Cyprus* have representations in Brussels. These are usually headed by a Metropolitan. Some churches have chosen a different route and seconded staff to the *Conference of European Churches (CEC)*, who serve as policy officers in that organisation and additionally cover national issues. This way has been chosen by the *Lutheran Churches of Finland and Sweden* (together) and some British Churches (also together).

This leads on to the umbrella organisations, first and foremost the Brussels Office of the *Church and Society Commission of the Conference of European Churches (CSC of CEC)*⁹. This rather complicated title results from the history of the organisation: After the cold war, in 1999, the EC-oriented *European Ecumenical Commission for Church and Society (EECCS)* merged with the pan-European CEC and became a commission of that organisation. It has offices in Brussels and in Strasbourg, while the CEC headquarters are in Geneva. Newer plans suggest that another ecumenical organisation, *the Churches' Commission for Migrants in Europe (CCME)*, will also merge with CEC. *The Conference of Churches on the Rhine* has joined CEC, too, and become a regional organisation within it. However, it already used to second a staff member for the Strasbourg office when it was still an independent body. Similarly, also *the Community of Protestant Churches in Europe (CPCE)*, formerly the Leuenberg Church Fellowship, has seconded its representative as a staff member of CSC. The Commission works through its permanent staff as well as through working groups with experts from the different Member Churches. Topics covered are European Legislation, Human Rights, bioethics and others. There is none on Migration and Asylum, as this is covered by *CCME*. Like most of the other representations, *CSC* publishes a newsletter that keeps members and the interested

⁹ The history of CSC has been analysed in: Reuter, Hans-U., *Die Europäische Kommission für Kirche und Gesellschaft (EECCS) als Beispiel für das Engagement des Protestantismus auf Europäischer Ebene*, Stuttgart 2002. Less academic works, but a good source for further research, are Panhuis, Antoinette (ed.), *Recontres en l'honneur de Helmut von Verschuer*, Brüssel 1991 (EECCS publication) and CSC (ed.), *Values, Challenges, Hopes. Une étape de l'aventure oecuménique européenne: Brussels 1990-2002, Brussels 2003*.

public up to date on European developments – from a church perspective. It needs to be emphasised that *CSC* covers mainly social and political issues, whereas *CEC* itself also fosters the interconfessional dialogue between its members and with the RC Church. A notable document of this dialogue is the *Charta Oecumenica*.

CEC also plays an important part in the network of church-based single issue organisations. The close relationship to *CCME* has already been mentioned. In fact, *CCME* is located in the Ecumenical Centre in Brussels, of which the *CEC* Offices form a central part. Also part of the Centre are the offices of *APRODEV*, the World Council of Churches related development organisations. Next door to the Ecumenical Centre is *EKD House*, in which *Eurodiaconia* is located, another organisation with which *CEC* has close ties. In fact, a lot of church based NGOs are “associated organisations” of *CEC*, so that the Conference helps creating platforms for dialogue and exchange. This applies also to organisations which do not have official ties with *CEC*. *The European Christian Environmental Network*, for example, comprises more organisations, but it has been launched by *CSC*, where the main administrative burden lies.

Like on the RC side, this list is not exhaustive. There are far more organisations present in Brussels. In the *EKD House*, for example, quite a number of national church organisations have offices (*the Diaconical Work of EKD*, a regional Diaconical office of some *EKD* member churches, *Bread for the World and Diakonie Katastrophenhilfe*, *the Protestant Press Agency epd*) and the number is increasing. The same is true for other national and international church and Christian organisations. Over time, an impressive advocacy network has emerged.

So far, the focus has been on the Christian churches. Now European societies are increasingly pluralistic, and the EU’s very identity is based on being “united in diversity” – a slogan very similar to that of the ecumenical movement (unity in diversity).¹⁰ Pluralism grows within national societies and as the EU grows so does the plurality of its members. A look on the list of dialogue partners of the EU reflects this diversity: Jewish and Muslim organisations are listed among the Christian, and Atheists and Humanists alongside the religious representatives. So far, however, only Humanists seem to have established a close working relation with the EU. Unfortunately, their major concern is that the Churches are in dialogue with the EU, of which they do not approve. In the future, it will be far more important that other religions join in this dialogue. While it is more difficult for many of these, as they first need to develop reliable structures on national and European level, already a number of organisations has discovered Brussels, e.g. *the European Muslim Network*, *the Federation of Islamic Organisations in Europe*, *or the Conference of European Rabbis*, *the European Jewish Congress* and *the Centre Européen Juif d’Information*. The dialogue partner on the European Commission side, the Bureau of European Policy Advisers (*BEPA*), regularly published lists of participants

¹⁰ And there are suggestions that there has been some influence, cf. Schnabel, *Geschichte*, 262.

when it had a dialogue meeting. These show the variety of organisations participation and they are witness to the importance more and more religious communities attach to European issues.

A CASE STUDY: THE OFFICE OF THE PROTESTANT CHURCH IN GERMANY (EKD)

Due to the increasing importance of European legislation, also concerning church interests, in 1990 *the Protestant Church in Germany (EKD)* established an office to work vis-à-vis the EU institutions. The *EKD* comprises 22 Protestant territorial member churches covering all Germany. Together these regional churches represent about 25 million registered members from the Lutheran, Reformed and United traditions. The *EKD* structure is based on federal principles.

The Brussels office of the Berlin based “*Plenipotentiary of the EKD Council to the Federal Republic of Germany and the European Union*” is run by a lawyer and comprises a team of five permanent staff. It serves different purposes: While it was originally set up to monitor European legislation and to defend the special State/Church relations as they are codified in the German Basic Law (the Constitution) against European interference, today it is also very committed to advocacy work. It feeds, inter alia, *EKD* positions on asylum and migration, social politics, bioethics or the Common Foreign and Security Policy into the political and legal processes on EU level. Thus, on the one hand, the office is a device for interest representation, and reflects on the other hand the churches’ “mission to go public”¹¹ by raising the voice of those who do not have a lobby of their own: asylum seekers, migrants, the socially disadvantaged and others.

Moreover the office informs church bodies and institutions on current European developments, organises educational trips of church groups to Brussels and issues a bimonthly newsletter on European topics from a church perspective. The tasks of the office also include networking with other faith-based organisations and secular NGOs, e.g. in the area of European Asylum and Migration policy. By regularly organising high level events bringing together church leaders and European opinion leaders to debate topics of general interest, and reflect on current issues from an ethical and political perspective, the *EKD* office endeavors to make the churches’ particular contribution and public presence visible in a highly secularized environment.

¹¹ In the German context this refers to the so-called “*Öffentlichkeitsauftrag der Kirchen*”, which is a term constitutional for the state-church-law under the Grundgesetz. The first major scholarly work on this term has been presented by Conrad, Wolfgang, *Der Öffentlichkeitsauftrag der Kirche*, Göttingen 1964, 27. It is used in state-church-contracts (notably the Loccumer Vertrag) and has been quoted by the Bundesverfassungsgericht. An overview can be found in: Klostermann, Götz, *Der Öffentlichkeitsauftrag der Kirchen - Rechtsgrundlagen im kirchlichen und staatlichen Recht. Eine Untersuchung zum öffentlichen Wirken der Kirchen in der Bundesrepublik Deutschland*, JusEcl 64 (2002). In the more general theological context, it is based on the theological as well as ethical implications of the Call to Universal Mission (Mt. 28:16-20) and other biblical references.

As the portfolio of the office is very broad the staff maintains contacts to Members of the European Parliament, Commission officials and representatives of the Permanent Representations in order to be able to deliver competent opinions on a wide range of topics. It also works closely together with the colleagues in the *EKD* Church Office in Hanover and with the office of the Plenipotentiary of the *EKD* Council in Berlin when it comes to the drafting of expert opinions or consultation contributions. A cornerstone of the daily work is the ecumenical cooperation, especially with *COMECE*, the Commission of the Bishops' Conferences of the European Community, and the *Conference of European Churches (CEC)* of which *EKD* is a member. Traditionally, the head of the *EKD* office is associated staff member of the Church and Society Commission of *CEC* and serves as secretary of the *CSC* working group on EU legislation. Due to the complexity of European legislation working together is a prerequisite to correctly assess the meaning and relevance of Commission proposals for the churches. But of course the exchange is also helpful to coordinate and if possible adapt contributions and positions. As in Germany there are good experiences with the instrument of letters with a double letter head (of the Protestant and Catholic representations) addressing issues of common interest, this practice is, where appropriate, also applied on European level, especially when German specific problems are to be addressed.

One prominent example of a successful ecumenical cooperation is the common work during the time of the European Convention (2001-2003). The purpose of the Convention was to produce a draft constitution for the European Union for the Council to finalise and adopt. Together the churches followed and monitored the meetings of the European Convention, exchanged with the members and promoted the inclusion of the European Charter of Fundamental Rights in a possible Treaty establishing a Constitution for Europe. Moreover they fully supported the aim of the Convention to make the European Union more democratic and more transparent and to bring it closer to its citizens. They also achieved that an article clarifying the impact of European legislation on the regulation of the status and activities of churches under national law and on the dialogue between churches and EU institutions was included in the European Constitutional Treaty, which could be preserved as Art. 17 of the Treaty on the Functioning of the European Union (TFEU), as amended by the Lisbon Treaty. In paragraph I and II of this article the European Union explicitly acknowledges that the Community respects and does not prejudice the national State/Church-relations. This provision was included to ensure the division of competence in this sensitive area, so that the EU does not use its legislative powers to regulate or put its imprint on the regulation of the status and activities of churches (and others) under national law, e.g. when setting up anti-discrimination directives in labour, and as currently negotiated, in civil law.

THE EU AND RELIGIONS IN DIALOGUE: OUTLOOK ON THE IMPLEMENTATION OF
ART. 17 TFEU

Article 17

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

The ratification of the Treaty establishing a Constitution for Europe having been agreed by 25 Member States and signed at a ceremony in Rome on 29 October 2004 failed due to rejection by French and Dutch voters in May and June 2005. Afterwards “a period of reflection” was proclaimed before the Constitution's replacement by the Treaty signed in Lisbon on 13 December 2007 by the 27 Heads of state and government. This so called Lisbon Treaty amends the core treaties of the European Union, the Treaty on the European Union (TEU) and the Treaty establishing the European Community (TEC). The latter will be renamed the Treaty on the Functioning of the European Union (TFEU). In addition, several Protocols and Declarations are attached to the Treaty which – despite some changes – still reflects a lot of the content of the former constitutional Treaty.

The Lisbon Treaty was originally intended to have been ratified by all Member States by the end of 2008, so it could come into force before the European Elections in June 2009. However, the Treaty has still not come into effect due to the “No” in the Irish referendum on 12 June 2008. Currently (30 June 2009) 23 of the total 27 member states have ratified the Treaty.¹²

One article which is of special interest to the churches in Europe is the above mentioned article 17 TFEU. This article is of paramount importance for the future work of the churches and religious communities on European level. The provision gives valuable guidance with regard to determining the relation between the European Union and churches and religious communities. Paragraph I acknowledges the variety of European state church systems and accepts and underlines the national competence for determining the relations between church and state. According to paragraph I Member States are free to regulate their relations to churches and religious communities without interference of the European Union and in paragraph II it is stated that the EU equally respects the status of philosophical and non-confessional organisations. Already before the debate about a European Constitution begun, the European Union in its Declaration No 11 on the status of churches and non-confessional organisations, annexed to the Final

¹² Poland, Czech Republic, Ireland and Germany.

Act of the Amsterdam Treaty, explicitly recognized the status of churches and religious associations or communities under national law in the Member States¹³. But of course the Declaration can only serve as a mere tool of interpretation, whereas the new Article is fully valid primary law. Paragraph III constitutes an essential fundament for the active participation of churches and religious communities in shaping the process of European integration by acknowledging their special identity and their specific contribution. It is interesting to note that Article 17 TFEU can be found within the second title of the TFEU containing “provisions having general application”. This context can be helpful in assessing the interpretation of the characteristics of the dialogue: “open, transparent and regular”. It is noteworthy stating that article 17 has an equivalent in article 11 paragraph II of the TEU.¹⁴ Systematically article 11 is to be found under title II in the provisions on democratic principles. The fact that there are two parallel provisions on dialogue with different partners underlines that the churches and religious communities are perceived differently than civil society by the European law-makers. Moreover it is a clear indication that churches and religious communities have another status, a distinct identity and a “specific contribution” compared to civil society organisations.

Even if the ratification of the Lisbon Treaty is still ongoing the dialogue between churches/religious communities and European Institutions is already established in daily practice.

Until now the dialogue exists in basically three varieties¹⁵:

Firstly, since May 2005 there is an annual high-level meeting between European religious leaders and the President of the European Commission in order to debate current political questions. Since 2006 the circle has been extended to the President of the European Parliament and the President of the acting Council Presidency. In 2008 the topic of combating climate change and questions about the inter-religious dialogue were on the agenda. This year the participants debated on the economic and financial crisis and were asked to deliver ethical contributions for European and global economic governance.

Secondly, there are the so-called “dialogue seminars” which take place twice a year between the European Commission and the Christian churches on a selected range of issues, e.g. migration and education or “climate change as a challenge for lifestyles, solidarity and global justice” in June 2009.

Finally, churches and religious communities contribute on their own or in coalition with

¹³ Cf. Van Bijsterveld, Sophie C., Die Kirchenerklärung von Amsterdam. Genese und Bedeutung, in: *öarr* 46 (1999), 46-51.

¹⁴ Art. 11 paragraph II TEU: The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.

¹⁵ Cf. Schnabel, *Geschichte*, 278 f.

others to consultations of the European Commission on a specific policy area or they exchange information and opinions with EU officials on the working level.

Moreover the Adviser responsible in particular for the dialogue with religions, churches and communities of convictions the Bureau of European Policy Advisers (BEPA) regularly organises briefings on European policy issues, e.g. the Work Program of the European Commission which are open to all interested religious and non-confessional groups and organisations.

Nevertheless there is a major difference whether a „dialogue“ is conducted on a voluntary basis, founded only on good will, the common sense of good governance principles and a fine tradition, or whether it is codified in primary law and thus a legal obligation for the EU institutions. Assuming that the Treaty of Lisbon will be ratified by the end of 2009 it will be essential to use article 17 TFEU as an effective instrument of political interaction. The churches have always maintained, and keep doing so, that no “*single-entry-point*” must be created in the institutional framework of the European Union, but that they must be able to directly address the competent body with their issues of concern. The structures should be as flexible as possible. A separate consultation system for the churches for example is neither feasible nor wanted by the churches themselves. It might lead to a narrowed access to the institutions, limited only to a confined circle of communication partners. Together the churches promote and stand for a policy of “*many-entry-points*” on the European political level. The approach of the other religious communities to the dialogue has not become public yet.

A commitment to European integration offers to churches and other religions not only the opportunity to help constructing the political process in the sense of participatory democracy, but also to foster dialogue among each other. This is, naturally, not part of the dialogue according to Art. 17 TFEU in the strict sense. But you cannot, separately, lead the same dialogue with the same political entity without some interaction. It will always be a matter of political strategy to explore if you could not possible find allies for this cause or another. The more churches and religious communities agree on a certain issue, the more weight their contribution carries. By these interactions with the EU and among each other, they make an important contribution to the process of European integration which does not only entail integration of States into a Union, but also integration of peoples and traditions to a cultural sphere of reconciled diversity.

Both the European Union and its institutions as well as the churches and religious communities are interested in this dialogue. The EU is interested in a fundament of values which it cannot generate, but upon which it depends, to apply the famous dictum of Ernst-Wolfgang Böckenförde to the European level, where it has, in a way, also been expressed by Jaques Delors, when he spoke of the need to create a “Soul for Europe”. Letting major forces of society participate in the decision making (not decision taking!) processes, is a principle of good governance. The EU administration is well advised to consult the

addressees of its policies, and, in many cases, relies on the expertise of affected and interested parties. In the particular case of religions, the EU must obviously also be aware of the power of shared convictions of faith which is both integrative and at the same time creating a sense of identity and reconciliation. By the same token, it is aware of the potential of conflict prevention through exchange and a certain degree of political involvement. Needless to say, the European Union has also a vital interest in the contributions of many churches and religious communities to the social and cultural life in Europe, to its educational institutions and social services. Finally the European Union has discovered the churches and religious communities as multipliers of the European idea with a highly differentiated organisational structure ranging from parish level to European and global networks.

The churches themselves are concerned about their voice in Europe, their contribution to defining values and conveying them. Many of them have a sense of a call to serve the whole community in which they are set: They are working for a society which is social and just. They are also interested in securing their institutional structures according to the legal systems of their respective legal system of reference (which would, as a rule be the national) and seek for the protection against inappropriate harmonization via a European „detour“ and also against ignorance of the specificities of their right to self-determination, e.g. in labour law, which is in many cases guaranteed by the national constitutions.

After the hopefully successful ratification it will be important to fill Art. 17 with life and to substantiate its content. Many questions still have to be addressed: who will participate, i.e. who are the dialogue partners and, possibly, who are not (e.g. in the case of organisations that are suspect of illegal practices, be it founded on fundamentalism – as might be the case with some Muslim organisations¹⁶ –, or on dubious psychological practices – as might be the case with sectarian groups or organisations like the “church of” Scientology, which is under scrutiny in some Member States). What is the aim of the dialogue? Who defines it? Is it simply about exchange or has it a political impact? Who sets the agenda? What is the procedure of the dialogue meetings and what is precisely meant by “open” “regular” and “transparent”? How will the already existing informal dialogue structures be incorporated in a new framework and how can it be assured that the dialogue exercise will not remain a mere window-dressing event? Questions are plenty and the process of finding the appropriate answers will, in itself, be a touchstone of how the dialogue works.

¹⁶ In fact, unclarity about this question has already lead to some discord, when, at the religious leaders meeting 11 May 2009, two of three Jewish organisations that had been invited, refused to participate because they felt that one of the Muslim Representatives was anti-Jewish. In 2006 a similar structural problem caused some ill-feeling when the Commission invited three representatives of the other religions, but only two Jewish leaders, refusing to invite a representative of the Rabbinical Centre of Europe. These incidents show clearly that there have to be transparent criteria on who is invited and why.

