

## **‘By The Sweat of Your Face You Shall Eat Bread’. State Neutrality, Religion and the Workplace in the Recent Case Law of the European Court of Human Rights <sup>1</sup>**

The last few years have been witnesses to an unprecedented rise in the number of cases where the European Court of Human Rights has been called to adjudicate on the necessarily nuanced balance between State neutrality and the State’s protection of collective and individual religious freedom in a very specific scenario: that of the workplace. Regardless whether disputes affecting freedom of religion originate in the context of secular labour relations (*Martínez Fernández v. Spain, Eweida and others v. U.K.*) or in instances where the employer is a religious body (*Siebenhaar, Obst and Schüth v. Germany*), these cases ultimately offer a privileged standpoint to analyze the Court of Strasbourg’s most recent elaborations on the notions of State neutrality, church autonomy and individual fundamental rights in pluralistic democratic societies, all of which lie at the core of article 9 ECHR.

Irrespective of how specific they may appear, these recent jurisprudential responses of the ECtHR to the controversial question of the place of religion in the workplace may have in the near future far-reaching consequences on other issues that are currently at the top of the State-Church relations agenda. The ongoing controversies over the place of faith schools in Europe or over the positioning of neutral States versus growing multicultural demands that call for the recognition of a larger scope of self-determination for organized religious groups, may find in these cases new arguments for a debate that has not abated in recent years.

Using as a starting point the traditional doctrine of the ECtHR on the content and scope of the right of religious groups to autonomy, this paper proposes a review of the latest judgments on religious freedom and the workplace by the ECtHR with two avowed intentions: first, to identify the basic parameters that should be taken into account by neutral States when balancing the adequate protection of individual fundamental rights –such as equality and private and family life– and the individual and collective exercise of the right to religious freedom; and second, to advance some preliminary thoughts on the possible consequences of these judgments in State and Church relations.

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<sup>1</sup> ‘By the sweat of your face  
you shall eat bread,  
till you return to the ground,  
for out of it you were taken;  
for you are dust,  
and to dust you shall return’ (Genesis 3:19)