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Migration and Religion in International law: Research-based Proposals for Inclusive, Resilient, and Multicultural Societies

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MULTICULTURALISM, RELIGIOUS FREEDOM, AND SCHOOL

Francesca Angelini*

SUMMARY: 1. Introduction. The Italian State School System in the Face of the Challenges of Multiculturalism. – 2. The New 2025 National Guidelines on the Curriculum for Nursery and Primary School Education: A Return to the Past. – 3. Religious Freedom in Schools. Old and New Attempts to Limit Pluralism in the Classroom. – 4. Concluding Remarks.

1. Introduction. The Italian State School System in the Face of the Challenges of Multiculturalism

Schools have always been a mirror of society and its changes. Over the last two decades, the reflection of those changes in Italian classrooms takes the form of the faces of children and young people from all over the world, bearing witness to very different backgrounds, identities and religions. The world, with its cultural differences, has found a place among the desks of our schools and thus Italian teachers have had to address – initially through their own efforts alone – diversity and have had to learn to embrace it and have it embrace them.

The Italian school system and even more so the Constitution conceive the right to education as a right-duty involving the State, families and children. It is the State's responsibility not only to provide for schooling open to all (Art. 34 of the Constitution) but also to establish a common education plan through a national curriculum. However, in devising that curriculum the State must leave room for the educational demands of families and students. Indeed, for this very purpose each school is granted academic autonomy (Law no. 59/1997 and Art. 117(3) of the Constitution). Moreover, the national education system is underpinned by broad recognition of the principle of

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It is deemed appropriate to clarify that, in the present work, the quotations from official documents or scholarly sources have been translated by the author.

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cultural and religious pluralism (Arts 2, 3, 8, 19, 33 and 34 of the Constitution). It is consequently open to accommodating the religious educational choices of students and their families.¹

For years Italian schools have broadened their geographic and cultural horizons and opened up and adapted to the changes wrought by multiculturalism. In order to respond to these important challenges, as early as 1990, Ministerial Circular no. 205 was adopted, in which reference was made for the first time to “intercultural education” aimed at fostering, in the relationship between Italian and foreign students, an appreciation of the “different cultures to which they belong with a view to mutual enrichment”.² In the same vein, in 1991 the *Guidelines for Nursery Schools* devoted special attention precisely to setting out the attitude to be adopted towards religiosity and the choices pertaining to it, respectful of the “unity of the human race in an age of a growing tendency towards multicultural and multi-faith interaction”.³

The commitment of State schools to recognising the new needs for openness to multiculturalism and religious freedom took a decisive step in 2007 with the adoption by the National Observatory for the Integration of Foreign Students and Intercultural Education of a document that set out a new approach to the integration of foreign students, one that leads to “accepting diversity as a paradigm of a school’s very identity in pluralism”.⁴ That new stance was later confirmed in a document that can be considered the culmination of that important path of opening up Italian State schools to multiculturalism, i.e. the adoption in 2012 of the *National Guidelines on the Curriculum for Nursery and Primary School Education* (hereinafter the “2012 National Guidelines”) by the then Minister of Education, Universities and Scientific Research, Francesco Profumo,⁵ and later revised in 2018 on the basis of feedback from teachers.⁶

The 2012 National Guidelines were drawn up by focusing on the need for Italian schools to open up to interculturality and diversity and to foster the “development of the knowledge necessary to understand the current condition of humanity, defined by the

¹ R. BENIGNI, *Islam italiano e scuola pubblica. L’integrazione all’ombra della laicità, del pluralismo religioso, del diritto comune*, in *Quaderni di diritto e politica ecclesiastica*, 2019, p. 67.

² Ministerial Circular no. 205 of 26 July 1990, *La scuola dell’obbligo e gli alunni stranieri. L’educazione interculturale*, at www.archivio.pubblica.istruzione.it/news/2007/allegati/pubblicazione_intercultura.pdf.

³ Ministerial Decree of 3 June 1991, *Orientamenti dell’attività educativa nelle scuole dell’infanzia statali*, at www.edscuola.it/archivio/norme/decreti/dm3691.html.

⁴ Osservatorio Nazionale per l’integrazione degli alunni stranieri e per l’educazione interculturale (established by Ministerial Decree of the Ministry of Education of 6 December 2006), document entitled *La via italiana per la scuola interculturale e l’integrazione degli alunni stranieri*, 2007, at www.archivio.pubblica.istruzione.it/news/2007/allegati/pubblicazione_intercultura.pdf.

⁵ Ministerial Decree no. 254 of 16 November 2012, *Regolamento recante indicazioni nazionali per il curricolo della scuola dell’infanzia e del primo ciclo d’istruzione, a norma dell’articolo 1, comma 4, del decreto del Presidente della Repubblica 20 marzo 2009, n. 89*, the text of which can be found at www.mim.gov.it/documents/20182/51310/DM+254_2012.pdf.

⁶ With the adoption on 22 February 2018 by the Ministry of Education, Universities and Research of the document entitled *Nuove indicazioni e nuovi scenari*, drafted by the National Scientific Committee for the 2012 Guidelines. The document can be found at www.mim.gov.it/documents/20182/0/Indicazioni+nazionali+e+nuovi+scenari.

multiple interdependencies between the local and the global”.⁷ In 70 pages that document sought, not without difficulties and limitations, to open up school curricula to consideration of the “multiplicity of cultures and languages that have entered the school”. This in order to enable children and young people from different family backgrounds, origins, cultures and religions to mutually recognise one another while respecting the diversity of all and the identity of each individual. Aware of the need for a new, challenging and not immediately achievable way of “doing school” so to speak, the 2012 National Guidelines marked a fundamental step forward, attaining the objective of “relating the complexity of radically new ways of learning to a daily work of guidance, attentive to method, new media and multidimensional research”.⁸

2. The New 2025 National Guidelines on the Curriculum for Nursery and Primary School Education: A Return to the Past

All the work begun with the first Ministerial Circular of 1990 that led to the 2012 National Guidelines, further revised on the basis of teaching experience over the following years, and that has now been cancelled by New National Guidelines on the Curriculum for Nursery and Primary School Education laid down in 2025. An initial version was published on 11 March 2025 by the Minister of Education and Merit, Giuseppe Valditara, entitled *New Guidelines 2025 for Nursery and Primary School Education* (hereinafter the “New Guidelines 2025”).⁹ That version was then substantially confirmed, with some changes, by a new document published on 11 June 2025, which adopted the 2012 name of *National Guidelines on the Curriculum for Nursery and Primary School Education* (hereinafter the “2025 National Guidelines”),¹⁰ forwarded to the Higher Council of Education (CSPI) for its opinion.

In the initial March version, in a lengthy document of almost 160 pages, the New Guidelines 2025 – drawn up by the Ministerial Commission appointed by the Minister and composed of scholars in the field of education and experts in various disciplines – managed to overturn, including with a totally different language, the basic inspiration of

⁷ *Regolamento recante indicazioni nazionali per il curricolo della scuola dell'infanzia e del primo ciclo d'istruzione*, cit., p. 8.

⁸ *Idem*, pp. 4-5.

⁹ *Nuove indicazioni 2025 scuola dell'infanzia e primo ciclo di istruzione materiali per il dibattito pubblico*, at mim.gov.it/documents/20182/0/Nuove+indicazioni+2025.pdf/.

¹⁰ *Indicazioni nazionali per il curricolo - Scuola dell'infanzia e Scuole del primo ciclo di istruzione*, at <https://www.mim.gov.it/documents/20182/8952594/Indicazioni+nazionali+2025.pdf>. On the substantial contrast between the two documents, see D. IANES, *Cosa indicano le Nuove indicazioni?*, in D. IANES (ed.), *Credere obbedire insegnare. Voci critiche sulle Indicazioni nazionali 2025 per il primo ciclo di istruzione*, Trento, 2025, p. 71, who emphasises at the outset that the new guidelines point to the past, driven by fear and the need for control, while the 2012 guidelines pointed to the future, driven by the wish to expand a new citizenship. Stressing the desire of the new guidelines to claim discontinuity and a clean break with the past, see also I. FIORIN, *Le nuove vecchie Indicazioni*, in D. IANES (ed.), *Credere obbedire insegnare*, cit., p. 77 ff., p. 79 for references.

the previous guidelines, adopting an anachronistically nationalistic and Eurocentric¹¹ imprint strongly rooted in Christianity. What is more, the lengthy text contained many suggestions and restrictions on what teachers should teach, limiting their autonomy and freedom in the classroom. Through a detailed reformulation of teaching guidelines and curricular content, the document systematically overhauled the programmes to the extent that the entry into force of the new framework was postponed to the 2025/2026 school year, to allow publishers to completely revise and rewrite their textbooks to take account of the changes.

The strong critical reaction from the world of education to the New Guidelines 2025 probably led the Minister and the Commission to revise some of its contents in the new document published in June. That said, it should be emphasised that the changes introduced concerned limited aspects but the original structure of the guidelines remained basically unchanged. In order to better frame the issue, it seems appropriate to provide some background information on the guidelines before dwelling on their contents.

The original guidelines on the curriculum for nursery and primary school education dated back to 1999 and served a function similar to that of rules aimed at outlining, as mentioned above, the national aspects of the curricula of schools while respecting the autonomy of the latter to set their own curriculum.¹² Therefore, they were a tool to establish the programmes of nursery schools and primary schools. By contrast, the New Guidelines 2025 published in March by Minister Valditara eliminated the express reference to curriculum in the title, as opposed to what had been the case in the previous 2012 National Guidelines, almost as if the document wished to present itself no longer as an addition to the latter but as a general and total establishment of teaching content. In light of the above it should be emphasised that the original name was restored in the version of the document published in June and, above all, that the word “curriculum” was reinstated in the title as an expression of the autonomy of each school.

The desire to conform teaching and programmes in detail was evident in the text of the New Guidelines 2025 published in March, in the long lists that accompanied the definition of each subject in order to set the “teaching purposes”, the “expected skills” and then again in the description of the “specific objectives”. For each subject, there were also meticulous sheets of “methodological suggestions” augmented by “interdisciplinary connection” modules or possible ideas for “technological

¹¹ See A. TOSOLINI, *Traiettorie per l'innovazione. Di tutto un po' senza cornice di senso*, in R. PALERMO (ed.), *Nuove Indicazioni 2025: analisi critica a più mani*, Ivrea, 2025, p. 42, who emphasises how the text of the New Guidelines 2025 is based on the exaltation of a western culture defined by opposition to other cultures, with a tendency to assimilate what is different at the expense of intercultural dialogue.

¹² On these passages and the genesis of the national guidelines, see I. FIORIN, *Ascoltare la scuola*, in R. PALERMO (a cura di), *Nuove Indicazioni 2025*, cit., p. 13 ff.

hybridisation”.¹³ The much shorter text of the 2025 National Guidelines published in June includes solely the sheets relating to expected skills and learning goals.

Among the new features concerning individual subjects, the greatest focus was on the guidelines for “History”, which are striking for their content (left largely unchanged in the two versions of March and June). The opening sentence, for example, contains a statement that, due to its assertiveness, leaves no room for doubt: “Only the West knows History”, a phrase by Marc Bloch inserted without any context and used to affirm the absolute “cultural centrality” of the West and its Greek, Roman and Christian roots. It is also stated that “Christianity is a religion of historians”, so much so that its advent further strengthened the primacy of Western civilisation:

“for Christianity, by becoming man, God had wanted to manifest his presence in human affairs. But his coming constituted a fracture in those very affairs, a point of no return (...) After the coming of Christ, in fact, human history became a sort of trial run that humanity was called to undertake on the path to salvation that its redeemer had promised it”.¹⁴

The cultural centrality of the Christian West, evident in the passage quoted above, together with the reference to the Italian national dimension alone and to its particular historical identity, have become new watchwords for history, to be contrasted with words such as “interculturality”, “global citizen” and “multiculturalism” that characterised the 2012 National Guidelines. While in terms of teaching, the prevalent approach in primary school is the teaching of history in the form of narration through the study of classical texts, including the *Iliad*, the *Odyssey* and the *Bible*, thereby replacing learning based on sources, which had informed the decision made in 2012 as to how history should be taught.

The first draft of the new national guidelines for nursery and primary school education published in March 2025 were roundly criticised by teachers and school policy experts,¹⁵ not only because of the ideological intent that, by appealing to a return to idealist “historicism”,¹⁶ affirms an identity-based and Eurocentric logic. But also because that strongly traditionalist vision sweeps away the attempt made in recent years, thanks in part to the 2012 National Guidelines, to establish a more inclusive and multicultural nursery and primary school system, attentive to welcoming, including through teaching, the ever-increasing number of pupils with a migrant background.

¹³ By contrast, the 2012 National Guidelines are much more general in nature and adaptable to the needs of the classroom; they only provide brief statements on skills development targets and the expected learning goals.

¹⁴ All the quoted words and expressions can be found in both documents. See respectively *Nuove Indicazioni 2025*, cit., pp. 68-69, and *Indicazioni nazionali*, 2025, cit., p. 53.

¹⁵ In addition to numerous articles in the daily press, an appeal addressed to the President of the Republic (signed by eighteen trade unions as well as associations representing teachers and students) and numerous public meetings, worthy of note is the significant criticism voiced in the two following volumes: D. IANES (ed.), *Credere obbedire insegnare*, cit., *passim*, and R. PALERMO (ed.), *Nuove Indicazioni 2025*, cit., *passim*.

¹⁶ *Nuove Indicazioni 2025*, cit., p. 69, and *Indicazioni Nazionali per il curriculum Scuola dell'infanzia e Scuole del Primo ciclo di istruzione*, cit., p. 54.

In response to widespread criticism and the strong concerns voiced in education circles, the final version of the new national guidelines published in June 2025 includes an explicit reference at the beginning – in the section entitled “Education that knows how to be inclusive” – to the ability of Italian schools to adopt “systemic measures and specific practices for receiving and integrating students from migrant backgrounds, such as specific educational agreements between schools and competent bodies”, aimed at “fostering intercultural education”.¹⁷ However, beyond that limited integration, the substance of the entire document remains unchanged, which seems to mark a clear regression in the ability of nursery and primary schools to open up to multiple identities and respect for religious differences.

The new national guidelines thus avoid looking inside classrooms and considering that children also need to find their history, their religion and their identity in school curricula.¹⁸ Likewise, they completely neglect the fact that teachers need curricula that allow them to include and welcome all children, to look at and consider them. “For a teacher, the greatest responsibility is to take care of all these differences made up of origins, paths and aspirations”.¹⁹ By contrast the new national guidelines leave little room for learning methodologies and end up limiting a teacher’s freedom to teach and, on a more technical level, devaluing their professionalism.²⁰

For all these reasons, the reaction of school teachers was immediate and widespread, using every public means available to express their opposition not only to the substantive choices made in relation to values and methodology but also to the broader cultural content of the new national guidelines, considered particularly poor and didactically outdated, to the detriment of the most vulnerable young pupils.

But there is a further and more political issue to consider. By their very nature national guidelines cannot be divisive and partisan because the State school system belongs to everyone. Overly ideological choices risk turning the classroom into an arena of conflict between different (political) persuasions, each advocating its own idea of school and the world through its “own” programmes. Embracing such a perspective means distorting the very essence of what a school should be, especially a State one, and turning it into a dusty and barren battleground.²¹

The new national guidelines reveal a desire for control and cultural hegemony over education and are accompanied, to this end, by other instruments. Ministerial Decree no. 28 of 21 February 2025, implementing Law Decree no. 71/2024 (converted by

¹⁷ *Indicazioni nazionali*, cit., p. 10.

¹⁸ “One issue that is close to my heart is school curricula. These young people are forced to learn about a world that is totally alien to their reality, there is no reference to their context, to their life experience. At no school can they find any connection with reality, with one of their countries of origin. School curricula are exclusionary and it is important for me to talk about it”: E. HAKUZIMANA, *Tra i banchi di scuola. Voci per un’educazione accogliente*, Torino, 2024, pp. XI-XII.

¹⁹ E. HAKUZIMANA, *Tra i banchi di scuola*, cit., p. XIV.

²⁰ “The new guidelines punctiliously indicate recommended authors and edifying stories while those of 2012 took care not to, adopting a view that no limits should be placed on a teacher’s professionalism”: D. IANES, *Cosa indicano le Nuove indicazioni?*, cit., p. 73.

²¹ I. FIORIN, *Le nuove vecchie Indicazioni*, cit., p. 78.

parliament into Law no. 106/2024), adopted – after years of experimentation – the new *National System of Evaluation of the Results of School Principals*, based on a centralised ministerial organisation. Accordingly, starting from the 2024-2025 school year, evaluation will be carried out by the Ministry of Education and Merit on the basis of “guidelines for the setting of strategic objectives” aimed at ensuring sound school management consistent with the directives of the Ministry in charge of setting the strategic priorities of schools, in line with the principles of autonomy.

The new evaluation system for school principals assessed in connection with the powers granted to the latter by Law no. 107/2015 on educational planning and drawing up of three-year plans covering a school’s educational offering poses a real risk of a bias in evaluation towards the more technical and managerial aspects of schools to the detriment of educational management functions. Ultimately, the new system of evaluation of principals, linked also to financial bonuses, could well end up not only being a new tool for controlling principals and ensuring their deference to ministerial directives but also becoming a new and obvious obstacle to freedom of teaching. A freedom that, increasingly squeezed between the detailed provisions of the new national guidelines and the new evaluation of principals, appears to be crushed by organisational elements that leave little room for choices relating to educational purposes and the various needs of students.

3. Religious Freedom in Schools. Old and New Attempts to Limit Pluralism in the Classroom

The principle that “schooling is open to all” enshrined in the Constitution must be understood in terms of inclusion both inside and outside a school.²² Regarding the former, a school in its internal organisation must ensure that it welcomes and adapts to the different needs of the students, so as not to exclude anyone. It is therefore not the students who adapt to the school but it is the school community that welcomes students and their needs, supporting and cherishing their aptitudes, inclinations and talents. This principle also has obvious implications in providing for a school system open to disabled students²³ or students with specific learning disabilities who must be received customised teaching.

²² M. BENVENUTI, *L’istruzione come diritto sociale*, in F. ANGELINI, M. BENVENUTI (eds.), *Le dimensioni costituzionali dell’istruzione*, Napoli, 2014, p. 158.

²³ As clarified by important Italian Constitutional Court rulings, starting with the landmark judgment of 3 June 1987, no. 87. See also judgment of 22 February 2010, no. 80, judgment of 19 October 2016, no. 275, on striking a balance between education and budgetary concerns, and judgment of 20 February 2019, no. 83. On the long road that led to the abandonment of the paternalistic approach in favour of an inclusive vision based on the recognition of the principle of freedom and self-determination in the regulation of the right to education of persons with disabilities, see extensively G. MATUCCI, *Persona, formazione, libertà. L’autodeterminazione della persona con disabilità fra istruzione e legal capacity*, Milano, 2021, p. 15 ff. Lastly, it is worth mentioning Italian Council of State (Section III) judgment of 5 February 2024, no. 1178, which seems to go in the opposite direction to the aforementioned constitutional case law and

Another issue with regard to a school system open to all concerns enjoyment of particular services linked to the right to education, such as access to school canteens, kindergarten or scholarships conditional on a requirement of residence for more than five years or the issuance of specific tax certificates issued by the countries of origin addressed to foreign families, laid down by municipal regulations or by regional laws (in the case of scholarships).²⁴ It should be stressed that certain conditions imposed by local authorities and regions²⁵ contradict the substance of the social right of schooling open to all.

Experiencing school from the inside also means recognising that students, in particular in secondary schools, may exercise their freedom of worship under Law no. 281/1987, independently deciding whether or not to attend Catholic religious instruction or choosing to profess a faith that in Italy might well be considered minority. In relation to this last issue, despite the fact that State school education is open to foreign children, there may be many problematic questions that schools have to tackle.²⁶ Emblematic in Italy is the long-running controversy over the display of crucifixes in classrooms, which will be discussed shortly, but another issue is that of being able to wear signs of religious or ethnic affiliation at school for religious reasons (the Islamic veil or the turban and the Sikh kirpan, to give just a few examples). Other issues again concern the observance of dietary rules or the possibility to be excused from attending physical education classes.²⁷

While it is true that Italy was slow to respond to such challenges, it must also be said that the broad recognition of the principles of pluralism and secularism – including understood in a positive sense – that characterise our legal system, but even more so the Italian school system and its aims, have enabled the latter to open up to various claims

therefore risks setting a dangerous precedent for the right to education of disabled students. In its decision, the Council of State rejected the appeal by the parents of a disabled student whose hours of school support had been reduced by the municipality compared to what was provided for in the student's personalised education plan. The highly contentious decision held that budgetary needs took precedence over the educational needs of a quadriplegic child. On the matter, see P. CIOCIOLA, *Il sostegno in classe? Questione di cassa. La brutta sentenza de 'taglia' i diritti*, in *Avvenire*, 3 August 2024, p. 3.

²⁴ See Italian Constitutional Court judgments of 28 November 2005, no. 232, of 7 February 2011, no. 40, and of 14 January 2013, no. 2, that rightly censured such policies.

²⁵ A well known example is the 2018 case involving the Municipality of Lodi, which had approved a regulation on access to subsidised social benefits funded by the municipality stipulating that just non-EU citizens, as a condition of eligibility, had to submit, together with a means test certificate, certification relating to the ownership of real or personal property, issued by their country of origin, translated and authenticated by the Italian consular authorities in that country. See *Il caso Lodi e la discriminazione per assunta "insufficienza" della certificazione ISEE*, by the ASGI Anti-Discrimination Service, at www.asgi.it.

²⁶ The difficulties in highlighting the issues raised by multiculturalism are also closely linked to the fact that often the problems, involving children and occurring especially in schools, lack a direct spokesperson capable of shifting the focus on issues that affect them and giving prominence to problems that would otherwise be overlooked: E. OLIVITO, *Minoranze culturali e identità multiple. I diritti dei soggetti vulnerabili*, Roma, 2006, p. 171 ff.

²⁷ On all the delicate issues raised by the emergence of multiculturalism, see E. OLIVITO, *Minoranze culturali*, cit., p. 68 ff. For aspects concerning integration in schools, with particular reference to Islam, see extensively R. BENIGNI, *Islam italiano*, cit., pp. 65 ff.

that identity should be cherished.²⁸ Moreover, that openness has been sustained, as far as education plans are concerned, by the attention that has been given, not without difficulty, to the educational choices of students and families, including through school autonomy. These concerns were taken on board, as mentioned in the previous section, through the adoption of the previous national guidelines of 2012, confirmed in 2018, which made openness to interculturalism and the ability to educate and be educated about difference a priority of educational plans and of school themselves. Objectives that however appear to have been disavowed by the new national guidelines of 2025 proposed by Minister Valditara and which are scheduled to come into force in the 2025/2026 school year.

That the Italian school system is pluralistic in nature has been fully confirmed, albeit with difficulty, at the conclusion of the long controversy concerning the display of crucifixes in classrooms, which also witnessed the involvement of the European Court of Human Rights (ECtHR). A very striking aspect of the relevant case law, whose inception²⁹ dates back to beginning of the new century,³⁰ is how the various courts, including the ECtHR, arrived at vastly different decisions.

The crucifix dispute began with two decisions handed down by the ordinary courts³¹ in legal proceedings alleging a violation of rights such as freedom of religion, freedom of conscience and the right to educate minor children. Both decisions relied on the principle of secularism in a “negative” sense³² and granted the relief sought by the

²⁸ See R. BENIGNI, *Islam italiano*, cit., p. 66. In same vein see also R. LO PINTO, *Educare alla diversità religiosa: alcune riflessioni a partire da Martha Nussbaum*, in *Democrazia e diritto*, 2022, p. 60.

²⁹ In actual fact, the real beginning of the debate on the display of crucifixes, although the case remained an outlier for a long time, can be traced back to an opinion of the Italian Council of State of 27 April 1988, no. 63, reported in *Quaderni di diritto e di politica ecclesiastica*, 1989, p. 197 ff. The opinion had been given at the request of the Minister of Education after primary schools in Ozzano, in the province of Bologna, had proceeded to remove all religious symbols in classrooms. We will return to this opinion below.

³⁰ As pointed out by F. RIMOLI, *Laicità e multiculturalismo, ovvero dei nodi che giungono sempre al pettine*, at www.archivio.rivistaaic.it, March 2004, p. 1, the debate on the display of religious symbols began in Italy somewhat later compared to other countries such as France and Germany, which have been dealing with it since the early 1990s. On the events surrounding the display of crucifixes, see M. RUOTOLO, *La questione del crocifisso e la rilevanza della sentenza della Corte europea dal punto di vista del diritto costituzionale*, in *Costituzionalismo.it*, 2009, p. 1 ff. For a comparison with events in other European countries, see E. OLIVITO, *Laicità e simboli religiosi nella sfera pubblica. Esperienze a confronto*, in *Diritto pubblico*, 2004, p. 554 ff.

³¹ Italian Court of Cassation (Criminal Division IV) judgment of 1 March 2000, no. 439, in *Giurisprudenza costituzionale*, 2000, p. 1121, concerning the display of crucifixes in polling stations. The proceedings has been brought by a scrutineer who had refused to carry out his official duties in the presence of religious images. For a comment on the decision, see G. DI COSIMO, *Simboli religiosi nei locali pubblici: le mobili frontiere dell'obiezione*, in *Giurisprudenza costituzionale*, 2000, p. 1130 ff. District Court of L'Aquila, order of 22 October 2003, issued pursuant to Art. 700 of the Civil Procedure Code in relation an action brought by Adel Smith, mother of two pupils of Islamic religion attending the Antonio Silvestri nursery and primary school in Ofena, who requested the removal of crucifixes from the classrooms attended by her two children.

³² On the principle of secularism in the Italian constitutional order, see F. ANGELINI, *L'influenza del diritto internazionale sulla tutela costituzionale della libertà religiosa*, in M. I. PAPA, G. PASCALE, M. GERVASI (eds.), *La tutela internazionale della libertà religiosa: problemi e prospettive*, Napoli, 2019, p. 166 ff.

claimants resulting in the removal of the crucifixes at issue. The ordinary courts clearly afforded precedence to those aspects of constitutional case law that cherish religious pluralism and freedom of conscience. In particular, both decisions considered that the regulatory provisions at issue providing for the mandatory display of crucifixes and dating back to the Fascist era³³ had long since been implicitly repealed since they could no longer be viewed as compatible with the constitutional guarantees of religious pluralism, freedom of conscience and religion in the light of constitutional case law³⁴ and the revision of the Concordat.

Just a year after the second of the cases involving a school in the province of L'Aquila had been decided, it was once again a parent of two pupils enrolled in a middle school in Albano Terme, Mrs. Lautsi, who resumed the battle over the display of crucifixes in classrooms, this time challenging the school governors' decision to display them through an application for judicial review filed with the Regional Administrative Court of Veneto.

The initial judgment of the Regional Administrative Court of Veneto in 2005 and the second judgment on appeal of the Italian Council of State in 2006 upholding the ruling at first instance reaffirmed the principle of secularism, this time in a "positive" sense, holding that the school authorities' decision to keep a crucifix on display was lawful. In particular, the Council of State, consistent with its 1988 opinion, once again considered a crucifix as an "immediately perceptible and intuitable symbol [...] for civil society, [...] values that underpin and inspire our constitutional order, the foundation of our civil life", identified in "tolerance, mutual respect, the cherishing of persons, the affirmation of their rights, with respect to their freedom, the autonomy of one's moral conscience vis-à-vis authority, human solidarity, the rejection of any form of discrimination". values that were said to "have permeated the traditions, way of life and culture of the Italian people" and that also "on a 'secular' plane [...] serve a highly educational symbolic function irrespective of the religion professed by the pupils".

The conclusion reached by the Council of State leads to such an appreciation of the crucifix as to rule out any possibility that it can be considered simply as a "decorative feature" or an "adjunct to worship", rather it becomes "a symbol capable of reflecting the remarkable sources of the civil values [...] which define secularism in the State's present legal order [...]. The school authorities' decision [...] to display the crucifix in classrooms does not therefore appear unlawful with reference to the Italian State's own principle of secularism".³⁵

³³ Namely, Art. 118 of Royal Decree no. 965 of 30 April 1924 and Art. 119 of Royal Decree no. 1297 of 26 April 1928, which imposed an obligation to display crucifixes in classrooms of middle and primary schools respectively.

³⁴ In particular, the well-known Italian Constitutional Court judgment of 11 April 1989, no. 203, recognising the principle of secularism as a supreme principle of the Constitution and judgment of 11 January 1991, no. 13, on the teaching of the Catholic religion in State schools.

³⁵ Italian Council of State (Section VI) judgment of 13 February 2006, no. 556, at www.federalismi.it. In fact, the ruling is consistent with the previously mentioned Italian Council of State opinion of 27 April 1988, no. 61, which stated that the cross, apart from its meaning for believers, is a symbol of Christian

That interpretation given to the principle of secularism and its effects on religious freedom³⁶ is very puzzling, especially as regards its constitutional compatibility, including in the light of constitutional case law. These same misgivings were also voiced in a subsequent judgment of the Italian Court of Cassation,³⁷ which had to rule in a complex case concerning the display of crucifixes in courtrooms and which by contrast recognised that the request to remove the crucifix had a “substantial dignity”. In its judgment, the Court even went so far as to call for a rethink by the Council of State through “an adequate investigation so as to verify whether or not its decision is well-founded, considering that, as things stand, some issues of primary importance for the correct resolution of the problem do not appear to have been adequately addressed and resolved”.³⁸

The “conflicting interpretative approaches”³⁹ of domestic case law were initially resolved by the ECtHR in its judgment of 3 November 2009 in *Lautsi v. Italy*. The case concerned the previously mentioned mother of the two students attending a middle school in Albano Terme, Mrs. Lautsi, who, having exhausted the remedies afforded by the domestic judicial system, turned to the ECtHR claiming a violation of Art. 2 of Protocol no. 1 to the European Convention on Human Rights (ECHR) (freedom of education), Art. 9 (freedom of thought, conscience and religion) and Art. 14 (prohibition of discrimination).

The decision emphasised neutrality as a hallmark of multicultural societies. In considering that “the schooling of children is a particularly sensitive area”, the Court took the view that such entailed an “obligation on the State’s part to refrain from imposing beliefs, even indirectly, in places where persons are dependent on it or in places where they are particularly vulnerable”.⁴⁰ While recognising that the symbol of the crucifix has a number of meanings, the Court maintained that the religious one was definitely predominant and that the display of crucifixes in classrooms could therefore be “emotionally disturbing for pupils”⁴¹ of other religions or those who profess no religion. Accordingly, it could prove contrary to educational pluralism which is essential for the preservation of “democratic society”, leading the State to depart from its duty to “respect neutrality in the exercise of public authority, particularly in the field of education”.⁴²

civilisation and culture, in its historical roots, as a universal value, independent of any specific religious faith.

³⁶ In particular, see M. RUOTOLO, *La questione del crocifisso*, cit., p. 4, who does not consider this interpretation compatible with Constitutional case law.

³⁷ Italian Court of Cassation (Criminal Division IV) judgment of 10 July 2009, no. 28482.

³⁸ The unresolved points are precisely listed by the Court of Cassation. On the ruling, see the points made by M. RUOTOLO, *La questione del crocifisso*, cit., p. 8.

³⁹ Italian Court of Cassation (Criminal Division IV) judgment of 10 July 2009, no. 28482, p. 3.

⁴⁰ European Court of Human Rights, judgment of 3 November 2009, application no. 30814/06, *Lautsi v. Italy*, par. 48.

⁴¹ *Idem*, par. 55.

⁴² *Idem*, par. 57.

A very different stance emerged from the March 2011 decision of the Grand Chamber, which, in response to the appeal lodged by the Italian government on the basis of Art. 43 ECHR, completely overturned the 2009 judgment. The decision, certainly a painful one, as revealed by the two dissenting opinions, upheld the interpretation put forward by the Italian Government to the effect that the display of crucifixes in school classrooms would not in itself be contrary either to freedom of religion or to the right of parents to educate their children in accordance with their own religious or philosophical convictions, or to any other provision of the ECHR.

Faced with a diversified and complex European landscape of cultural, historical and religious traditions, the Grand Chamber considered a decision to display a crucifix, if not accompanied by other forms of “indoctrination” – such as the compulsory teaching of Christianity – and intolerance towards pupils of other faiths was legitimate as an expression of the margin of appreciation enjoyed by each State. Ultimately, the Grand Chamber, “in an abrupt and not well-reasoned manner”⁴³ endorsed the Italian Government’s position that “a crucifix on a wall is an essentially passive symbol [...] It cannot be deemed to have an influence on pupils comparable to that of didactic speech or participation in religious activities”.⁴⁴

The Grand Chamber opted for a retrograde stance. Rather than assert its role as guarantor of human rights and act more courageously, affirming a neutral position distant from national political influences, it chose to go along with the position of the Italian Government to the detriment of that reality, now consolidated in Europe, which we define as a multicultural society.

Having briefly reviewed the complex issue of the display of crucifixes, precisely in view of the contradictory nature of the outcomes to the various legal proceedings it seems even more important to emphasise the conclusion of that strand of case law, embodied in Italian Court of Cassation (*en banc*) judgment 24414/2021, which in particular emphasises the value of autonomy and democratic decision-making within school classrooms. Starting from the inclusive nature of the principle of secularism in our legal system, the Court of Cassation is of the view that the Italian school system does not and cannot have its own creed:

“in schooling open to all, the Constitution is the connecting thread that links the past with the future, personal and social identity with cultural pluralism, and the institutions and rules of democracy with solidarity expressed in and through social formations. State schools are open places that foster inclusion

⁴³ L. ZAGATO, *Ritorno al domani: l'esposizione del crocifisso nelle aule della scuola pubblica*, at www.meltingpot.org, October 2011, p. 3.

⁴⁴ European Court of Human Rights, Grand Chamber, judgment of 18 March 2011, application no. 30814/06, *Lautsi and others v. Italy*, par. 72. The notion of contrast between “active” and “passive” symbols to the point of devaluing the latter to “a mere decorative feature” already existed in Italian case law as noted by S. SICARDI, *Il principio di laicità nella giurisprudenza della Corte costituzionale (e rispetto alle posizioni dei giudici comuni)*, in *Diritto pubblico*, 2007, p. 707, footnote 41, who cites Lower Court of Rome judgment of 17 May 1986; District Court of Bologna (Civil Division 1), judgment of 24 March 2005; District Court of L’Aquila, judgment of 26 May 2005. On the distinction between “active symbols” and “passive symbols” see more extensively G. CILIBERTO, F. M. PALOMBINO, *L'esposizione dei simboli religiosi*, in M. I. PAPA, G. PASCALE, M. GERVASI (eds.), *La tutela internazionale*, cit., p. 259 ff.

and facilitate interaction between different religions and philosophical convictions, and where students can learn about each other's thoughts and traditions".⁴⁵

For those reasons the Court of Cassation maintains that the decision on whether or not to display a crucifix in a classroom is a matter that falls within the scope of the autonomy of individual schools. Indeed, it is up to each school in the exercise of its autonomy to introduce "those margins of flexibility and adaptability to different contexts" that regulatory uniformity does not assure.⁴⁶ With a view to a broader valuing of school autonomy and the democratic principle in the decision-making choices of individual schools, the Court of Cassation therefore leaves the decision on whether or not to display the crucifix up to the "community that gathers in the individual classroom",⁴⁷ without such coinciding with a majority logic but rather allowing a dialogue-based approach to prevail that allows respect for all identities. The classroom wall is white when it is built and can remain so or display a crucifix and other symbols in order to meet the needs of the students who use the space.

This broad recognition of the autonomy of the school community, which refers precisely to the possibility of incorporating elements of flexibility and adaptability that regulatory uniformity does not guarantee, must have escaped the attention of the Minister of Education and Merit Valditara on the occasion of another prominent incident relating to freedom of worship in schools.

The case in question related to the "Iqbal Masih" comprehensive school in the town of Pioltello in the Province of Milan.⁴⁸ In May 2023 the school governors had adopted a resolution approving the school calendar for the 2023/2024 school year, setting out a number of dates when the school would be closed, including 8 April 2024 coinciding with the religious holiday marking the end of Ramadan. The decision had been taken in view of the fact that 40% of the school's students were of the Islamic faith. The decision prompted an immediate reaction from Minister Valditara who denied that a school had autonomy in such matters. He claimed, on the one hand, that it fell to the State to determine religious holidays, following the signing of an agreement with representatives of the religious confession involved (pursuant to Art. 8(3) of the Constitution), and, on the other hand, that setting school calendars was a matter for the relevant regional school authorities.

On the basis of those arguments Minister Valditara requested that the regional authorities take action. After establishing that the resolution was irregular in that the number of days of closure envisaged by the school's own calendar exceeded the maximum number of such days allowable under the regional calendar, the regional

⁴⁵ Italian Court of Cassation (*en banc*), judgment of 9 September 2021, no. 24414, point 13.2 of the reasoning.

⁴⁶ *Idem*, point 14.1 of the reasoning.

⁴⁷ *Ibid.*

⁴⁸ On which, precisely in relation to the problematic implementation of the aspects pertaining to school autonomy, reference should be made to the thorough discussion by C. QUADARELLA, *L'autonomia delle istituzioni scolastiche nella vicenda Pioltello: un'analisi dello strumentario giuridico per la risoluzione delle sfide della multiculturalità*, in *Osservatorio AIC*, 2025, p. 18 ff.

authorities requested the school's principal to consider cancelling the resolution. Although the initial resolution was cancelled, in March 2024 the school governors approved a new resolution in which, respecting the limit of three days of discretionary closure permitted by regional rules, designated the last day of Ramadan as a day off in the school's own calendar for the 2024/2025 school year.

Underlying the Pioltello case is the long-standing and complex issue of the lack of agreement between the State and Islamic religious groups.⁴⁹ But it also appears to be symptomatic of a political climate outside the school, increasingly active in recent years, which seeks to limit, from the outside, the school community's ability to welcome and integrate and to undermine its forms of autonomy. A final example of this can be found in Bill no. 962, introduced in the Italian Senate in December 2023, entitled *Respect for and Protection of Italian Religious Traditions*. It provides not only that Christian religious holidays and traditions in schools be cherished and protected, as an expression of the identity of the Italian people, but also that parents, students or school bodies be banned from impeding any such initiatives. The Bill also envisages a questionable power to resort to disciplinary sanctions against public sector employees (school principals and teachers) who do not respect its provisions (Art. 4).⁵⁰

That same political climate can be seen in the reasons that inspired the new national guidelines on the curriculum for nursery and primary school education published in 2025 discussed above. A view that finds ever new ways of conveying the idea of a school committed internally to resolving cultural conflicts on several fronts, especially with Islam, and that, in the collective imagination, takes on "the sound of cancelled Christmas carols and the silence of cribs left in boxes, is coloured by the Islamic veils worn at school takes on the flavour of typical dishes from Arab countries enjoyed at increasingly widespread intercultural festivals".⁵¹ In reality, viewed from the inside, Italian schools are populated by a teaching community much more concerned with responding to the educational and even integration needs posed by the cultural, religious, economic and social conditions of their students.

4. Concluding Remarks

In conclusion, and in support of the arguments set out above, it is worth noting the critical opinions delivered between June and September 2025 by the *Consiglio Superiore della Pubblica Istruzione* (Higher Council of Education CSPI)⁵² and by the

⁴⁹ See C. MORUCCI, *I rapporti con l'Islam italiano: dalle proposte d'intesa al Patto nazionale*, in *Stato, Chiesa e pluralismo confessionale*, 2018, p. 1 ff.

⁵⁰ For a commentary on the bill see C. B. CEFFA, *Festività e tradizioni religiose nella scuola plurale: alcune riflessioni a margine di una recente iniziativa legislativa*, in *Il diritto ecclesiastico*, 2024, p. 967 ff.

⁵¹ R. BENIGNI, *Islam italiano*, cit., p. 65.

⁵² *Consiglio Superiore della Pubblica Istruzione* (CSPI), *Parere* No. 151 of 27 June 2025, available at: www.mim.gov.it/cspi.

Consiglio di Stato (Council of State)⁵³ on the new 2025 National Guidelines on the curriculum for nursery and primary school education. In its extensive opinion, the CSPI identified a number of problematic aspects of the 2025 National Guidelines and focused in particular on the content of the history curriculum. It observed that the characteristics of the latter make it appear “as an instrument for forging a national identity” rather than revealing “a typically disciplinary approach”, and accordingly called for its revision.

The *Consiglio di Stato* was similarly critical in its opinion on the draft regulation accompanying the 2025 National Guidelines. It identified a number of formal shortcomings in the text and requested that the Ministry of Education and Merit accordingly introduce appropriate amendments. Of greater relevance for the present purposes, however, were its remarks on the “multiple indications of salvation with regard to the teaching of the Catholic religion”, which it considered unnecessary from the standpoint of the hierarchy of legal sources, as a matter regulated by primary legislation, and inappropriate when compared with the 2012 National Guidelines, which contained no such references.

Taken together, the observations of these independent expert bodies – the CSPI and the Council of State – make clear the Ministry’s intention to steer early-years and primary education, through a soft-law instrument ostensibly of a technical nature, in an identity-oriented direction. Such an intention, however, stands in clear tension with the principle of openness enshrined in Art. 34 of the Italian Constitution, according to which “schooling is open to all”.

ABSTRACT: This article analyses the path of the opening up of the Italian State school system to multiculturalism and religious freedom, culminating in the 2012 National Guidelines on the curriculum for nursery and primary school education. By contrast, the new 2025 National Guidelines on the curriculum for nursery and primary school education mark a clear U-turn, reintroducing an identity-based, Eurocentric and Christian approach. The paper highlights the risks of this choice in terms of a reduction of freedom of teaching, as well as the autonomy of schools to set educational, cultural and religious policy. In reality, the constitutional principle that “schooling is open to all” implies the inclusion of students’ religious and cultural diversity. The article examines how Italian schools have addressed pluralism, with particular attention to the issue of the display of crucifixes and freedom of worship. Case law, including at the European level, has provided mixed answers, culminating, however, with the Italian Court of Cassation’s affirmation of school autonomy. Recent ministerial positions challenge those achievements along with the idea of a secular, democratic and truly inclusive school.

⁵³ Council of State, Consulting Section on Legislative Acts, Opinion of 9 September 2025, No. 00829/2025, available at: <https://mdp.giustizia-amministrativa.it>.

KEYWORDS: school – multiculturalism – religious freedom – national guidelines on the curriculum for nursery and primary school education – school autonomy.