

The prohibition of entering into religious-only marriages from the perspective of human rights in Europe

In some European countries, it is legally prohibited to have a religious marriage ceremony prior to a civil one. This institution can be manifested in criminal, administrative or civil law and is designed to eliminate religious-only marriages. What is important, it does not apply to all types of relationships, such as cohabitation or humanistic marriages, but only to religious ones. For example, according to French, Belgian and Dutch penal codes, it is a criminal offence for the religious officials to conduct a religious ceremony without a civil marriage certificate. Nowadays, there are also voices to extend this to other countries.

However, the institution of the **prohibition of entering into religious-only marriages** seems to raise serious doubts from the human rights perspective. In this context, the relevant human rights are *prima facie* freedom of religion, the right to respect for private and family life, right to marry and the prohibition of discrimination in the enjoyment of the rights and freedoms.

The **main objective** of the project is the analysis of the legal institution of a prohibition of entering into religious-only marriages from the perspective of European culture of human rights (understood in terms of European Convention of Human Rights (ECHR) and the doctrine of European Court of Human Rights). To fulfill this objective, I aim to analyse the literature on religious-only marriages and human rights as well as the jurisprudence of ECtHR. On this basis, I am going to develop the accounts of the relevant human rights, the doctrine of margin of appreciation and the principle of proportionality, which I will subsequently use to evaluate the prohibition of entering into religious-only marriages and determine whether it may constitute an unjustified limitation of human rights.

Although a problem of the prohibition of entering into religious-only marriages is discussed nowadays predominantly in the context of Muslim (and also Jewish in the context of religious divorces) religious marriages, their pros and cons, problems and legal issues, the project will consider the problem in relation to any religion. In the literature, there is a noticeable lack of analysis of a prohibition of entering into religious-only marriages from the perspective of human rights. The discussion takes place largely at the practical level, seeking solutions to the problems of specific countries, which in itself is nothing negative, but a more abstract view is missing. On the one hand, the project has a **theoretical** nature, which means that it will not focus on the situation in concrete countries but rather examine the abstract phenomenon and argumentation. On the other, it is not only about a doctrinal analysis of the provisions of ECHR. It concerns mainly the analysis of an abstract legal institution **in the spirit of sociology of human rights**.