



Davide Dimodugno

(PhD in "Law and Institutions", University of Turin, Law Department)

**Ecclesiastical properties as common goods. A challenge for the cultural,
social and economic development of local communities ***

SUMMARY: 1. Introduction - 2. The temporal goods of the Church and the principle of subsidiarity - 3. The notion of common goods in Italy - 4. Some practical cases of ecclesiastical heritage as common goods in Italy - 5. A comparative perspective with Belgium: the strategic plans for the future of churches in Flanders - 6. Future perspectives and conclusions.

ABSTRACT: According to recent studies, there are about 600,000 places of worship and several thousands of monasteries and convents in Europe. The process of secularization, the decrease and displacement of the population, the reduction of vocations to the sacred life can be held responsible for the redundancy of the assets of the Catholic Church. These buildings represent an impressive heritage of faith, work and creativity of the communities which made them over the centuries. Most of them are considered as "cultural heritage" by the legislation of the European States, because of their historical, cultural and artistic values. Up to now, the main solution to this phenomenon has consisted in the alienation of these properties. However, the selling and the disposal of these goods by ecclesiastical bodies cannot always be the only and preferable solution. Drawing from the analysis of some case studies in Italy, this paper aims to investigate the role of civil society participation in the regeneration process and the possibility of applying "collaboration pacts" for the management of "common goods". In the light of the European scope of the phenomenon, a comparison is proposed in line with the legal instrument of "strategic plans", drawn up by the diocesan bishop and local authorities in Flanders (Belgium).

1 - Introduction

This paper aims to investigate the possibility to apply the recent category of "common goods"¹ to the ecclesiastical properties and, more in general,

* Article submitted to a double-blind revue - Contributo sottoposto a valutazione.

Full text, supplemented with footnotes, of the paper presented at the "International Conference of Urban Commons" (Turin, University of Turin, 21-22 June 2021), promoted by gE.CO Living Lab and the Department of Law of the University of Turin; the paper is intended for publication among the proceedings of the conference, in the international



to the cultural heritage of the Catholic Church. This solution intends to promote the active participation of the local communities in the refunctioning and regeneration processes for these goods, with benefits for all the actors concerned.

The starting point of my research is the fact that redundancy of places of worship, monasteries and convents is rising everywhere in Europe². This problem should be contextualized in the constant processes of secularization of modern Western societies³, the decreasing of population and movements of people from rural villages to metropolitan areas.

This issue is not only limited to the Catholic Church, but it is a question that affects the whole society. These goods are integrally part of European cultural heritage: the bell towers distinguish the skyline of villages; churches maintain a central position in the urban fabric of cities; monasteries and convents have played a fundamental role in the

journal “*Sens public*”.

¹ The reflection on commons finds its origins in a scientific contribution by **G.J. HARDIN**, *The tragedy of commons*, in *Science* 162, no. 3859 (1968), pp. 1243-1248, and then it was developed in an economic and sociological perspective by **E. OSTROM**, *Governing the commons : the evolution of institutions for collective action*, Cambridge University press, Cambridge, 1990, who, opposing the twofold alternative of privatisation or expropriation, tried to propose a third solution, starting from the study of the forms of self-organisation and self-management of the “commons” by the relevant communities in different parts of the world. More recently, the theory has been deepened from a legal perspective, with a specific focus on urban commons. See, among others, **U. MATTEI, A. QUARTA**, *Right to the City or Urban Commoning? Thoughts on the Generative Transformation of Property Law*, in *The Italian Law Journal* 1, no. 2 (2015), pp. 303-325; **S. R. FOSTER, C. IAIONE**, *The City as Commons*, in *Yale Law & Policy Review* 34, no. 2 (2016), pp. 281-349; **C. IAIONE**, *The Right to the Co-City*, in *The Italian Journal of Public Law* 15, no. 1 (2017), pp. 80-142; **C. IAIONE, E. DE NICTOLIS**, *The City as a Commons Reloaded. From the Urban Commons to Co-Cities Empirical Evidence on the Bologna Regulation*, in S.R. FOSTER, C. F. SWINEY, eds., *The Cambridge Handbook of Commons Research Innovations*, Cambridge University Press, Cambridge, 2021, pp. 124-137.

² See T. COOMANS, H. DE DIJN, JAN DE MAEYER, RAJESH HAEYNICKX, B. VERSCHAFFEL, eds., *Loci Sacri. Understanding sacred places*, Leuven, Leuven University Press, 2012; J.-S. SAUVE, T. COOMANS eds., *Le devenir des églises. Patrimonialisation ou disparition*, Presses de l'Université du Québec, Québec, 2014; L. NOPPEN, T. COOMANS, M DROUIN, eds., *Des couvents en héritage. Religious houses: a legacy*, Presses de l'Université du Québec, Québec, 2015.

³ See, inter alia, **K. DOBBELAERE**, *Secularization: an analysis at three levels*, P. Lang, Bruxelles, 2002; **D. MARTIN**, *On secularization: towards a revised general theory*, Ashgate, Aldershot, 2005; **F. GARELLI**, *Gente di poca fede. Il sentimento religioso nell'Italia incerta di Dio*, il Mulino, Bologna, 2020.



development of knowledge in every field and in the assistance of destitute people for centuries. Now it is time to find a new future for this heritage, which cannot be indifference and abandonment. In my opinion, a way to tackle this phenomenon could be precisely the “common goods” approach.

According to authoritative studies, churches have been considered for centuries as common goods, as places where everyone could find asylum and enter with dignity⁴. Today these buildings still play a special role in Western cities, towns and villages: they contribute to shape the landscape and can be considered as “places evocative of a belonging”, which refers not only to the community of believers, but also to the entire society. This conception does not contrast with the vision of the Church but, on the contrary, it is fully coherent with its doctrine.

This article wants to investigate if the legal instruments, used in praxis principally for the regeneration and the management of ecclesial heritage retained by public bodies, could be applied also to the ecclesiastical properties.

2 - The temporal goods of the Church and the principle of subsidiarity

It is firstly important to identify the aim of this paper, making a distinction between “ecclesiastical” and “ecclesial” goods. According to the code of canon law⁵, a good can be considered as “ecclesiastical” only if it belongs to the universal Church, the Apostolic See or other public juridic persons in the Church⁶. In a more extensive way, the “ecclesial” quality of a good may refer more generally to anything that can be considered as a testimony of Catholic culture and identity, despite its ownership⁷ For

⁴ U. MATTEI, *Beni comuni. Un manifesto*, Laterza, Rome, 2011, p. 27.

⁵ The Book V of the code of canon law (cann. 1254-1310) is dedicated to “The temporal goods of the Church”.

⁶ Can. 1257 §1. All temporal goods which belong to the universal Church, the Apostolic See, or other public juridic persons in the Church are ecclesiastical goods and are governed by the following canons and their own statutes.

§2. The temporal goods of a private juridic person are governed by its own statutes but not by these canons unless other provision is expressly made.

⁷ C. AZZIMONTI, *I beni culturali ecclesiali nell'ordinamento canonico e in quello concordatario italiano*, EDB, Bologna, 2001, pp. 36-37; D. DIMODUGNO, *I beni culturali ecclesiali dal Codice del 1917 al Pontificio Consiglio della Cultura*, in *Arte, diritto e storia. La valorizzazione del patrimonio*, edited by O. NIGLIO and M. DE DONÀ, Aracne, Canterano, 2018, p. 223.



example, in Italy, a church can be a public good (i.e., owned by the municipality), an ecclesiastical good (i.e., a parish church, owned by the parish itself) or a private one (i.e., owned by a physical or a private juridic person).

The peculiarity of the temporal goods of the Church consists in their finalization to three specific purposes: worship, support of the clergy and charity, especially toward the needy⁸. This last aim implicitly recognises a kind of “social function” to ecclesiastical property⁹. It thus means that, if the worship fails, the ecclesiastical authorities can reuse these goods to cope with the poverty of our times, that does not consist only in the lack of money, but also lack of culture and relationships.

Secondly, the principle of subsidiarity¹⁰, introduced into the Italian constitution in 2001 as a legal basis to justify the participation of citizens in the public administration¹¹, has been affirmed by the social doctrine of the

⁸ Can. 1254, § 1. To pursue its proper purposes, the Catholic Church by innate right is able to acquire, retain, administer, and alienate temporal goods independently from civil power.

§ 2. The proper purposes are principally: to order divine worship, to care for the decent support of the clergy and other ministers, and to exercise works of the sacred apostolate and of charity, especially toward the needy.

⁹ C. BEGUS, *Diritto patrimoniale canonico*, Lateran University Press, Vatican City, 2007, p. 36.

¹⁰ On the principle of horizontal subsidiarity in the Italian legal experience, see, among others, G.U. RESCIGNO, *Principio di sussidiarietà orizzontale e diritti sociali*, in *Diritto pubblico*, 8, no. 1 (2002), pp. 5-50; A. ALBANESE, *Il principio di sussidiarietà orizzontale: autonomia sociale e compiti pubblici*, in *ibidem*, pp. 51-84; I. MASSA PINTO, *Il principio di sussidiarietà: profili storici e costituzionali*, Jovene, Naples, 2003; P. DE CARLI, *Ripercussioni legislative del principio di sussidiarietà orizzontale*, in *Amministrare*, 34, no. 2 (2004), pp. 275-286; G. BRUNETTA, S. MORONI, eds., *La città intraprendente: comunità contrattuali e sussidiarietà orizzontale*, Carocci, Rome, 2011; L. D'ANDREA, *Il principio di sussidiarietà tra radice personalistica e funzione conformativa del sistema normativo*, in *Iustitia*, 64, no. 2 (2011), pp. 249-262; G. MACDONALD, *Sussidiarietà orizzontale: cittadini attivi nella cura dei beni comuni*, Aracne, Canterano, 2018; R. REALDON, ed., *La sussidiarietà orizzontale nel titolo V della Costituzione e la sussidiarietà generativa: verso l'auto-organizzazione della società civile istituyente. Atti del convegno "Sussidiarietà orizzontale nel titolo V della Costituzione. L'autoamministrazione" (20 settembre 2017 - Facoltà di Giurisprudenza - Università degli Studi di Verona)*, Wolters Kluwer, Milan, 2018; P. DURET, *L'amministrazione della società e l'emersione del principio della sussidiarietà sociale*, in *Amministrare* 48, no. 2 (2018), pp. 219-233; F. TRIMARCHI BANFI, *La sussidiarietà orizzontale*, *ibidem*, pp. 211-218.

¹¹ Article 118, par. 4 of the Italian Constitution states: “State, Regions, Metropolitan Cities, Provinces and Municipalities favour the autonomous initiative of individual and associated citizens to carry out activities of general interest, on the basis of the principle of subsidiarity”.



Church since the *magisterium* of Pope Leo XIII and Pope Pius XI, with specific reference to the associations of workers and their important role played for the whole society¹².

More recently, Pope John Paul II stated that:

“Malfunctions and defects in the Social Assistance State are the result of an inadequate understanding of the tasks proper to the State. Here again the principle of subsidiarity must be respected: a community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but it should rather support it in case of need and help to coordinate its activity with the activities of the rest of society, always with a view to the common good”¹³.

Through this strong assertion, not only does the Catholic Church recognise this principle within its own organization, but it also affirms the aim of spreading it within the different States. So, it is possible to argue that the idea of involving the community in the reuse of ecclesiastical heritage is perfectly coherent with the doctrine of the Church, that intends to enhance the spontaneous birth of associations of active believers and citizens, that can cooperate all together “for the promotion of mankind and the good of the country”¹⁴. Furthermore, the concept of social function of private property, is well-known by the Church and it was related, during the Second Vatican Council, to the “common destination of earthly goods”¹⁵.

Lastly, in the Apostolic Exhortation *Evangelii Gaudium* Pope Francis underlined the prevalence of time over space (“time is greater than space”). It follows that “initiating processes [is more important] than possessing spaces”¹⁶. Practically, the Catholic Church should open its arms (and its properties) to a wider community, going along with the needs emerging from the people and supporting bottom-up initiatives.

¹² LEO XIII, Encyclical *Rerum novarum* on capital and labor, 15th May 1891, no. 39; PIUS XI, Encyclical Letter *Quadragesimo anno*, 15th May 1931, no. 29-38; 80-81.

¹³ JOHN PAUL II, Encyclical Letter *Centesimus annus*, 1st May 1991, no. 48.

¹⁴ This expression quotes Article 1 of the “Villa Madama Agreement”, a new concordat signed between Italy and Holy See on 18th February 1984.

¹⁵ PAUL VI, *Gaudium et spes*, Pastoral constitution on the Church in the modern world, 7th December 1965, no. 70: “By its very nature private property has a social quality which is based on the law of the common destination of earthly goods”.

¹⁶ FRANCIS, Apostolic Exhortation *Evangelii Gaudium* to the bishops, clergy, consecrated persons and the lay faithful on the proclamation of the gospel in today’s world, 24th November 2013, no. 223.



All these elements constitute clear evidence of the fact that the theory of common goods and the constant teaching of the Church are fully compatible.

3 - The notion of common goods in Italy

In Italy, the debate about common goods¹⁷ is mainly due to the “Rodotà Commission”, uncharged by the government in 2007 to draft a law

¹⁷ For an overview of the most recent contributions on common goods in the Italian juridical debate, in addition to the already mentioned **U. MATTEI**, *Beni comuni. Un manifesto*, see also **P. MADDALENA**, *I beni comuni nel codice civile, nella tradizione romanistica e nella Costituzione della Repubblica Italiana*, in *federalismi.it*, 9, no. 19 (2011), pp. 1-18; **A. CIERVO**, *I beni comuni*, Ediesse, Rome, 2012; M.R. MARELLA, ed., *Oltre il pubblico e il privato: per un diritto dei beni comuni*, Ombre corte, Verona, 2012; **S. RODOTÀ**, *Il diritto di avere diritti*, GLF editori; Laterza, Rome; Bari, 2012; **A. ALGOSTINO**, *Riflessioni sui beni comuni tra il “pubblico” e la Costituzione*, *Costituzionalismo.it*, no. 3 (2013), pp. 1-43; **A. LUCARELLI**, *La democrazia dei beni comuni: nuove frontiere del diritto pubblico*, GLF editori; Laterza, Rome; Bari, 2013; **S. RODOTÀ**, *Il terribile diritto: studi sulla proprietà privata e i beni comuni*, Il mulino, Bologna, 2013; N. GENGA, M. PROSPERO, G. TEODORO, eds., *I beni comuni tra costituzionalismo e ideologia*, Giappichelli, Turin, 2014; **A. LUCARELLI**, *Beni comuni. Contributo per una teoria giuridica*, in *Costituzionalismo.it*, 12, no. 3 (2014), pp. 1-40; **D. MONE**, *La categoria dei beni comuni nell’ordinamento giuridico italiano: un paradigma per la lettura del regime dei beni pubblici alla luce della Costituzione*, in *Rassegna di diritto pubblico europeo*, 13, no. 2 (2014), pp. 63-126; G. ARENA, C. IAIONE, eds., *L’età della condivisione: la collaborazione fra cittadini e amministrazione per i beni comuni*, Carocci; Forum terzo settore; Laboratorio per la sussidiarietà, Rome, 2015; U. BRECCIA, G. COLOMBINI, E. NAVARRETTA, R. ROMBOLI, eds., *I beni comuni: seminario congiunto della Scuola di dottorato in scienze giuridiche: programma di diritto privato, programma di diritto pubblico e dell’economia, programma di giustizia costituzionale e diritti fondamentali: Università di Pisa, 12-13 ottobre 2012*, Pisa University Press, Pisa, 2015; L. SACCONI, S. OTTONE, eds., *Beni comuni e cooperazione*, Bologna, Il mulino, 2015; M. BOMBARDELLI, ed., *Prendersi cura dei beni comuni per uscire dalla crisi: nuove risorse e nuovi modelli di amministrazione*, Editoriale scientifica, Naples, 2016; **Q. CAMERLENGO**, *La controversa nozione di bene comune*, in *Diritto e società*, 44, no. 3 (2016), pp. 557-572; **I. CIOLLI**, *Sulla natura giuridica dei beni comuni*, in *ibidem*, pp. 457-482; **L. D’ANDREA**, *I beni comuni tra pubblico e privato*, in *ibidem*, pp. 433-456; **L. NIVARRA**, *Quattro usi di «beni comuni» per una buona discussione*, in *Rivista critica del diritto privato*, 34, no. 1 (2016), pp. 41-62; A. QUARTA, M. SPANÒ, eds., *Beni comuni 2.0: contro-egemonia e nuove istituzioni*, Mimesis, Milan; Udine, 2016; **S. STAIANO**, «Beni comuni» categoria ideologicamente estenuata, in *Diritto e società*, 44, no. 3 (2016), pp. 415-432; **F. VIOLA**, *Beni comuni e bene comune*, in *ibidem*, pp. 381-398; **E. VITALE**, *Distinguendo. Un’applicazione alla dottrina dei beni comuni*, in *ibidem*, pp. 399-414; **S. RODOTÀ**, *Verso i beni comuni*, in *Rivista critica del diritto privato*, 35, no. 4 (2017), pp. 495-516; **C. MICCICHÈ**, *Beni comuni: risorse per lo sviluppo sostenibile*, Editoriale Scientifica, Naples, 2018; **R.A. ALBANESE**, *Nel prisma dei beni comuni. Contratto e governo del territorio*, Giappichelli,



concerning the modification of the Heading II, Title I, Book III of civil code, related to public goods¹⁸. According to this proposal, which has not come into force yet, commons are defined as “goods that express functional benefits for the exercise of fundamental rights and the free development of the individual” and that “must be protected and safeguarded by the legal system also for the benefit of future generations”. In the following exemplification “archaeological, cultural, environmental goods and other protected landscape areas” were included among others.

The specificity of commons inheres to the fact they are considered as such by the community, despite their legal ownership, which can be public or private, and so also ecclesiastical. The attention is focused more on the use and on the participatory and inclusive processes for the management of that goods than on their legal status. This theorization, also partly endorsed by the jurisprudence of the Constitutional Court¹⁹

Turin, 2020.

¹⁸ This draft law has never been approved by the Italian Parliament. Nevertheless, its content was transfused into the draft law of popular initiative, published on the Italian Official Journal of 19th December 2018, no. 294.

¹⁹ In the case law of the Italian Constitutional Court, there are some references to “commons”. For example, sentence no. 500 of 29th December 1993, interprets voluntary activities in the light of “a modern vision of the dimension of solidarity, which [...] constitutes, on the one hand, a way to contribute to achieving that substantial equality that allows the development of the personality, to which the second paragraph of Article 3 of the Constitution refers, while, on the other hand, it aims to obtain - not only from the State, the entities and the increasingly variegated reality of social formations, but from all citizens - cooperation to achieve essential *common goods*, such as scientific research, artistic and cultural promotion, as well as health”. Other references to “commons” can be found in the sentences no. 25, 26 and 27 of 12th January 2011, concerning the admissibility of referendums for the public management of water service, while the concept of “common good” is mentioned in sentences no 29 of 22nd January 1957 and no. 54 of 5th June 1962 (“social utility in the sense of achieving the *common good*”), in sentence no. 269 of 16th December 1986 (*common good* as “protection of general interests of a democratically oriented community”); in sentences no. 1030 of 27th October 1988, no. 102 of 21st February 1990 and no. 112 of 24th March 1993 (the airwaves as a *common good*); in sentence no. 112 of 4th April 2011 (“geothermal resources are *common goods*”); in sentence no. 64 of 26th March 2014 (water as *common good*); in sentences no. 151 of 18th April 2011, no. 118 of 19th March 2019 and no. 82 of 24th March 2021 (“environment as a *common good*”); in sentence no. 179 of 23rd May 2019 (“new relationship between the territorial community and its surrounding environment, within which an awareness of soil as a non-renewable eco-systemic natural resource, essential for environmental balance, capable of expressing a social function and incorporating a plurality of collective interests and utilities, including those of an intergenerational nature”); in sentence no. 40 of 11th January 2022 (“loyal cooperation [between State and Regions], oriented towards the *common good*”). See, for an analysis of commons in relation to the principles of the Italian Constitution, **R.**



and of the Court of Cassation²⁰, intends to implement the social function of property²¹, recognized by Article 42 of the Italian Constitution²², in order to pursue interests that do not relate only to the owner of the good.

BRIGANTI, *Dimensione costituzionale dei beni comuni tra principi, regole e prassi*, in *Nomos* 8, no. 2 (2019), pp. 1-38.

²⁰ With reference to the landscape heritage of the fishing valleys of the Venetian lagoon, see Italian Supreme Court of Cassation, SS.UU., sentence no. 3665 of 14th February 2011, which attributes to the combined provisions of articles 2, 9 and 42 of the Italian Constitution the «interpretative need to “look” at the theme of public assets beyond a purely patrimonial-proprietary vision to a personal-collectivist perspective. This implies that [...] rather than referring to the State-apparatus, as an individually understood public legal person, reference must be made to the State-collectivity, as an exponential and representative body of the interests of citizenship (collectivity) and as the body responsible for the effective realisation of these interests; in this way, discussing only the dichotomy between public (or state) and private assets means, in a partial way, limiting oneself to the mere identification of the ownership of the assets, leaving aside the unavoidable fact of their classification by virtue of their function and the interests connected to these assets. It follows, therefore, that where immovable property, regardless of ownership, is, by virtue of its intrinsic connotations, in particular those of an environmental and landscape nature, intended for the realisation of the welfare state as outlined above, such property is to be considered, outside the outdated perspective of the roman *dominium* and codified property, “common”, that is to say, regardless of the title of ownership, instrumentally connected to the realisation of the interests of all citizens». See, for a comment on this judgment, **C.M. CASCIONE**, *Le Sezioni unite oltre il codice civile. Per un ripensamento della categoria dei beni pubblici*, in *Giurisprudenza italiana*, 47, no. 12 (2011), pp. 2506-2514; **L. CIAFARDINI**, *I beni pubblici “comuni”: a proposito delle valli da pesca della laguna di Venezia*, in *Giustizia civile*, 41, no. 12 (2011), pp. 2844-2847; **L. FULCINITI**, *Valli da pesca lagunari. La Cassazione reinterpreta i beni pubblici*, in *Diritto e giurisprudenza agraria, alimentare e dell’ambiente*, 20, no. 7-8 (2011), pp. 476-481; **S. LIETO**, “Beni comuni”, *diritti fondamentali e stato sociale. La Corte di Cassazione oltre la prospettiva della proprietà codicistica*, in *Politica del diritto*, 42, no. 2 (2011), pp. 331-350; **G. CAPAREZZA FIGLIA**, *Proprietà e funzione sociale. La problematica dei beni comuni nella giurisprudenza delle Sezioni unite*, in *Rassegna di diritto civile*, 33, no. 2 (2012), pp. 535-549; **E. PELLECCIA**, *Valori costituzionali e nuova tassonomia dei beni: dal bene pubblico al bene comune*, in *Il Foro italiano*, 137, no. 2 (2012), pp. 573-576.

²¹ In the Italian legal system, the social function of property has been studied in relation to several issues, including the promotion of culture, the valorisation of cultural heritage and the identification of the new category of common goods. See, among others, **G. ROLLA**, *Beni culturali e funzione sociale*, in *Le Regioni*, 15, no. 1-2 (1987), pp. 53-71; **G. AREZZO DI TRAFILETTI**, *La valorizzazione dei beni culturali di proprietà privata quale attività socialmente utile*, in *L’amministrazione italiana*, 60, no. 7-8 (2005), pp. 972-976; **A. LUCARELLI**, *Beni comuni e funzione sociale della proprietà. Il ruolo del Comune*, in L. SACCONI, S. OTTONE, eds., *Beni comuni e cooperazione*, cit., pp. 111-122; **A. LAZZARO**, *Valorizzazione dei beni culturali e funzione sociale*, in *Diritto e processo amministrativo*, 9, no. 4 (2015), pp. 1213-1267; **F. LONGOBUCCO**, *Beni culturali e conformazione dei rapporti tra privati: quando la proprietà obbliga*, in *Politica del diritto*, 47, no. 4 (2016), pp. 547-562; **A.**



A special place within this wide category is taken by cultural heritage, in force of its identity character and landscape values, related to the development of Italian people's culture (Article 9 of the Italian Constitution)²³. For this reason, specific restrictions on the use of cultural assets are established by the Legislative Decree no. 42 of 22nd January 2004, Cultural Heritage and Landscape Code²⁴, in order to preserve their significance for the community and ensure their social function²⁵.

LUCARELLI, *Crisi della demanialità e funzione sociale dei beni pubblici nella prospettiva costituzionale. Verso i beni comuni*, in *Diritto pubblico europeo. Rassegna online*, 2, no. 1 (2016), pp. 131-140; **S. MAROTTA**, *Per una lettura sociologico-giuridica dei beni culturali come beni comuni*, in *Munus*, 6, no. 2 (2016), pp. 439-453; **B. ACCETTURA**, *Politiche di valorizzazione e funzione sociale dei beni culturali. Pratiche di cittadinanza attiva*, in *federalismi.it*, 17, no. 16 (2019), pp. 1-20; **C. NAPOLITANO**, *Il partenariato pubblico-privato nel diritto dei beni culturali: vedute per una sua funzione sociale*, in *Dirittifondamentali.it*, 8, no. 2 (2019), pp. 1-28; **M.C. GIRARDI**, *La funzione sociale nella proprietà pubblica. Comuni, attività regolamentare e diritto alla città*, in *Nomos*, 9, no. 1 (2020), pp. 1-20.

²² Article 42 of the Italian Constitution states that: "Ownership is public or private. Economic goods belong to the State, to bodies or to private individuals. Private property is recognised and guaranteed by law, which determines the ways in which it may be acquired, enjoyed and its limits, with the aim of ensuring its social function and making it accessible to all [...]"

²³ See, for a commentary on Article 9 of the Italian Constitution, **F. MERUSI**, *Art. 9*, in G. BRANCA, ed., *Art. 1-12. Principi fondamentali. Commentario della Costituzione*, Vol. I, Zanichelli, Bologna, 1975, pp. 434-460; **S. BARTOLE**, **R. BIN**, *Art. 9*, in *Commentario breve alla Costituzione*, CEDAM, Padova, 2008, pp. 70-80; **M.A. CABIDDU**, *Il quadro costituzionale*, in M.A. CABIDDU, N. GRASSO, eds., *Diritto dei beni culturali e del paesaggio*, Giappichelli, Turin, 2007, pp. 1-21; **A. MATTIONI**, *Cultura e persona nella Costituzione*, in L. DEGRASSI, ed., *Cultura e istituzioni: la valorizzazione dei beni culturali negli ordinamenti giuridici*, Giuffrè, Milan, 2008, pp. 1-21; **R. CHIARELLI**, *Profili costituzionali del patrimonio culturale*, Giappichelli, Turin, 2010; **F. RIMOLI**, *La dimensione costituzionale del patrimonio culturale: spunti per una rilettura*, in *Rivista giuridica dell'edilizia*, 59, no. 5 (2016), pp. 505-526; **IDEM**, *Profili costituzionali della tutela del patrimonio culturale*, in E. BATELLI, B. CORTESE, A. GEMMA, A. MASSARO, eds., *Patrimonio culturale. Profili giuridici e tecniche di tutela*, RomaTrE-Press, Rome, 2017, pp. 91-114.

²⁴ Examples of limitations established by the Cultural Heritage and Landscape Code are the authorisation to carry out works of any kind on cultural assets, authorisation for change of use, prior authorisation and notification for alienation and the possibility of exercising cultural pre-emption by the State, the Region or other public authorities.

²⁵ The Italian Court of Cassation, in sentence no. 26496 of 27th November 2013, stated that: "The system of protection of the landscape, the environment or the historical and artistic heritage justifies the assertion of limitations to the use of the property of constrained assets in light of the constitutional balance between the interests at stake, which sees some of the faculties of the dominical right recessive in the face of the need to safeguard cultural and environmental values, in implementation of the social function of



Consequently, both ecclesiastical and ecclesial goods can fall under this notion of commons, for their cultural and social values. Indeed, religion, or at least its history, represents a strong element in the creation of the cultural surrounding of a community. For what concerns the Catholic Church, it is possible to observe a strong and mutual influence with the social context where it operates (the so-called “inculturation”). In fact, it is no coincidence that “cult” and “culture” share the same root in their Latin origin²⁶.

Therefore, the juridical category of commons has been appreciated by some scholars in relation both to the principle of subsidiarity in the Italian Constitution²⁷ and to the magisterium of the Church, reconnecting it to the principle of dignity of human being²⁸.

Also Pope Francis, in his Apostolic Exhortation *Evangelii Gaudium*, referred to the importance of the value of solidarity and recognized the social function of property and the universal destination of goods as prior to private property, wishing for “structural transformations” that can materialize them even today²⁹. Similar statements are presented in later pontifical documents³⁰.

property”.

²⁶ Both the terms “*cultūs*” and “*cultūra*” derives from the verb *cōlo, cōlis, colui, cultum, cōlĕre*, that means “to cultivate”.

²⁷ See, on the principle of horizontal subsidiarity in relation to urban common goods, **G. ARENA**, *Nuove risorse e nuovi modelli di amministrazione*, in M. BOMBARDELLI, ed., *Prendersi cura dei beni comuni per uscire dalla crisi. Nuove risorse e nuovi modelli di amministrazione*, Jovene, Naples, 2016, pp. 283-305; **P. CHIRULLI**, *Sussidiarietà e collaborazione «amministrata» nei beni comuni urbani*, in P. CHIRULLI, C. IAIONE, ed., *La co-città. Diritto urbano e politiche pubbliche per i beni comuni e la rigenerazione urbana*, Jovene, Naples, 2018, pp. 55-60.

²⁸ See **C. AMATO**, *I beni comuni. Una questione di paradigma r(el)azionale*, Aracne, Rome 2014.

²⁹ **FRANCIS**, Apostolic Exhortation *Evangelii Gaudium*, 24th November 2013, no. 189: “Solidarity is a spontaneous reaction by those who recognize that the social function of property and the universal destination of goods are realities which come before private property. The private ownership of goods is justified by the need to protect and increase them, so that they can better serve the common good; for this reason, solidarity must be lived as the decision to restore to the poor what belongs to them. These convictions and habits of solidarity, when they are put into practice, open the way to other structural transformations and make them possible”.

³⁰ See **FRANCIS**, *Encyclical letter Laudato si’ on care for our common home*, 24th May 2015, no. 93; **FRANCIS**, *Encyclical letter Fratelli tutti on fraternity and social friendship*, 3rd October 2020, no. 118-120.



Consequently, this recent juridical taxonomy can be considered not only compatible with the vision and the spiritual purposes of the Church (the salvation of souls), but it can also recall its primitive organization, where “everything [...] was held in common”³¹.

In order to concretely apply all these principles to ecclesiastical properties, when the use for worship or other religious activities ceases, i.e. a social function recognised and protected by the State in relation to Articles 19 and 42 of the Italian Constitution³², a new destination should be sought to bind these goods to. This constraint should respond to a different social or cultural interest, protected by another constitutional right (such as the promotion of culture, intergenerational solidarity, health protection, social assistance, job opportunities creation, etc.). The new use could thus be identified through participatory processes that bring out the needs of a wider community, not only of believers, but of the entire civil society.

4 - Some practical cases of ecclesiastical heritage as common goods in Italy

Even before and beyond the theorization of places of worship as common goods, some cases have been found in practice in Italy.

³¹ Acts 4:32 “The whole group of believers was united, heart and soul; no one claimed private ownership of any possessions, as everything they owned was held in common”.

³² In favour of referring the destination constraint on buildings intended for the public exercise of Catholic worship, contained in Article 831, par. 2 of the Italian Civil Code, to Article 42 of the Italian Constitution, see **A. ALBISETTI**, *Brevi note in tema di ‘deputatio ad cultum publicum’ e art. 42 della Costituzione*, in *Il diritto ecclesiastico*, 87, 1976, pp. 143-146; **L. ZANNOTTI**, *Stato sociale, edilizia di culto e pluralismo religioso: contributo allo studio della problematica del dissenso religioso*, Giuffrè, Milan, 1990, pp. 120-124; **V. MARANO**, *Regime proprietario e limiti di utilizzazione degli edifici di culto*, in *Quaderni di diritto e politica ecclesiastica*, 18, no. 1 (2010), p. 96; **A. BETTETINI**, *Gli enti e i beni ecclesiastici: art. 831*, Giuffrè, Milan, 2013, p. 174. According to **G. CASUSCELLI**, *Calamità naturali, opere pubbliche ed edifici di culto*, in *Il diritto ecclesiastico*, 89, 1978, p. 378, the social function of places of worship takes concrete form in «the public and associated exercise of worship (Article 19 of the Constitution), in order to contribute to the spiritual progress (Article 4, par. 2 of the Constitution) of the *cives-fideles*, i.e. not of the indistinct generality of citizens, but of a “category” formally identified on the basis of religious affiliation».



About 100,000 places of worship are esteemed existing in Italy³³, more than 600,000 in Europe³⁴. According to several studies, nearly 70% of the whole cultural heritage in Italy is related to the Catholic Church³⁵.

For the purpose of this paper, I refer principally to a series of case studies located in the Diocese of Turin. This Diocese is quite big and it is set in the North-West of Italy³⁶; it covers a population of 2,001,090 inhabitants, 1,992,790 of which are baptised³⁷. In thirty years, between

³³ **P. COLOMBO, G. SANTI**, *I beni culturali ecclesiastici in Italia*, in *Aggiornamenti sociali*, 9-10 (1990), pp. 651-652; **G. SANTI**, *Conservazione, tutela e valorizzazione degli edifici di culto*, in *L'edilizia di culto: profili giuridici. Atti del convegno di studi. Università cattolica del Sacro Cuore, Milano, 22-23 giugno 1994*, edited by C. MINELLI, Vita e Pensiero, Milan, 1995, p. 66, estimate 95,000 Catholic churches in Italy, of which 30,000 are parish churches and 65,000 subsidiary churches. On the property front, 91,600 would belong to about 26,000 ecclesiastical bodies (parishes and religious institutes), while 2,100 would belong to public bodies. At the moment, the website BeWeb (https://beweb.chiesacattolica.it/?l=en_GB) has surveyed more than 66.000 places of worship owned by ecclesiastical bodies of the "hierarchical Church" (mainly Dioceses and Parishes) but this amount doesn't count the places of worship belonging to institutes of consecrated life.

³⁴ **T. COOMANS, L. GROOTSWAGERS**, *Future of Religious Heritage and the Benefits of European Cooperation*, in *Tourism, Pilgrimage and Intercultural Dialogue*, edited by D. VIDAL-CASELLAS, S. AULET, N. CROUS-COSTA, CABI, Wallingford, Oxfordshire, 2019, p. 160.

³⁵ According to **N. ASSINI, G. CORDINI**, *I beni culturali e paesaggistici: diritto interno, comunitario, comparato e internazionale*, CEDAM, Padua, 2006, p. 79, "the Catholic Church in Italy, in its different expressions, dioceses, parishes, sanctuaries, religious provinces and related institutions, confraternities, associations and lay movements, owns by far the most part of the cultural heritage of the country [...] and it is supposed to exceed 70% of the national heritage". The same conclusion is also reached by **R. BORIO DI TIGLIOLE**, *La legislazione italiana dei beni culturali. Con particolare riferimento ai beni culturali ecclesiastici*, Giuffrè, Milan, 2018, p. 91; **A.G. CHIZZONITI**, *Il patrimonio immobiliare della Chiesa di interesse culturale: risorsa o zavorra?*, in *Rigore e curiosità. Scritti in memoria di Maria Grazia Folliero*, edited by G. D'ANGELO, Giappichelli, Turin, 2018, Vol. I, p. 183, and **N. GULLO**, *Art. 9. Beni culturali di interesse religioso in Codice dei beni culturali e del paesaggio*, edited by M.A. SANDULLI, 3th ed., Giuffrè Francis Lefebvre, Milan, 2019, p. 90. According to **F. ALVINO, C. PETRILLO**, *La gestione dei beni culturali ecclesiastici*, in *La gestione e la valorizzazione dei beni artistici e culturali nella prospettiva aziendale. Atti del convegno svoltosi a Siena, 30-31 ottobre 1998*, edited by ACCADEMIA ITALIANA DI ECONOMIA AZIENDALE, CLUEB, Bologna, 1998, p. 593, ecclesiastical cultural assets would represent about 80% of the national cultural and artistic heritage.

³⁶ The territorial surface of the Diocese of Turin covers 3.540 km² and 137 municipalities in the Metropolitan City of Turin, 6 in the Province of Asti and 15 in the Province of Cuneo. See, Cancelleria della Curia Metropolitana, *Guida dell'Arcidiocesi di Torino 2014*, Opera Diocesana della Preservazione della Fede - Buona Stampa, Turin, 2014, p. 795.

³⁷ **SEGRETERIA DI STATO VATICANO, UFFICIO CENTRALE DI STATISTICA**



1978 and 2019, 98 decrees *de profanando* have been issued by the bishop³⁸, concerning 47 churches, 38 oratories and 13 chapels. This means the reduction of places of worship to profane use is not a new phenomenon, even if it is possible to notice peaks of cases in 1990 and 2008. 39 out of 98 buildings have been formally declared as cultural heritage by an express measure, and 22 more can be presumed to be such, making a total of 62%.

The significant number of dismissed oratories - which are places of worship of religious communities - reveals that a wide number of religious houses have been closed: these are the most fragile assets. The communities of consecrated life are decreasing in their members, so that often the only solution seems to be the alienation of these buildings to real estate speculators, who may transform them into luxury apartments, hotels or spas. Indeed, the “religious Church” (Institutes of Consecrated Life and Societies of Apostolic Life) is completely autonomous and cannot be sustained by the “8 per mille”, a mechanism adopted in 1990 in Italy to support religious organizations through a percent of revenues from taxes. These funds are reserved only to the “hierarchical Church” (Italian Episcopal Conference and, through it, Dioceses and Parishes). These communities are thus driven to sell their assets when only few members remain and there are no other ways to recover livelihoods. According to recent literature, if trends do not invert, all Italian convents will be closed by 2046³⁹. This is a problem that must interrogate both the Church and public authorities. An international conference on this topic took place in Rome in spring 2022⁴⁰.

DELLA CHIESA CATTOLICA, *Annuario Pontificio per l'anno 2020*, Libreria Editrice Vaticana, Città del Vaticano, 2020, p. 740. These data are updated to the 31st of December 2018.

³⁸ These decrees found their legal basis on can. 1222, § 2, of the 1983 code of canon law, that states: “Where other grave causes suggest that a church no longer be used for divine worship, the diocesan bishop, after having heard the presbyteral council, can relegate it to profane but not sordid use, with the consent of those who legitimately claim rights for themselves in the church and provided that the good of souls suffers no detriment thereby”.

³⁹ **F. GIANI**, *Immobili ecclesiastici, nuova frontiera per l'impresa sociale*, in *Vita*, 26, no. 7-8 (2019), p. 69.

⁴⁰ I refer to the “Charism and creativity” international conference on catalogues, management and innovation regarding the cultural heritage of institutes of consecrated life, promoted by the Pontifical Council of Culture and the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, that took place at the Pontifical University Antonianum in Rome, on 4th and 5th May 2022. For further information, visit the official website: www.carismaecreativita.net, while, for a first comment on the outcome



According to the case studies analysed in this research, it is possible to distinguish some legal instruments that implement the new uses. They consist mainly in gifts to municipalities, free loans to other Christian communities (Orthodox or linguistic groups of Catholics) and sales to private actors (especially the former houses of religious communities). However, the most interesting aspect consists in the change of ownership: if originally 66 goods belonged to ecclesiastical bodies (49 to parishes and confraternities, 17 to religious communities), after the reduction to profane use only 25 are still in ecclesiastical hands. In particular, the property has been transferred mainly to Municipalities or to privates. Moreover, in all these cases, the involvement of the community in the decisions, as considered in the theory of commons, was insufficient when not completely absent or limited to the assent of the Parish Pastoral Council.

Nevertheless, in few cases the consideration of places of worship as commons emerges in the use of peculiar legal instruments and in the role played by the community in activating the process, in accordance with a bottom-up approach. A practical way has been the use of “collaboration pacts”, which are agreements between public administration and citizens on the management of urban commons, with mutual rights and duties, stipulated in accordance with a general framework provided by a municipal regulation⁴¹, directly implementing the principle of horizontal subsidiarity enshrined in Article 118, par. 4 of the Constitution. These pacts can be signed in regard to churches which are still used both for liturgical and for profane functions.

For example, in the case of the Golden Cross church in Rivoli, a town of about 50,000 inhabitants in the metropolitan area of Turin, a collaboration pact has been signed between the Municipality, owner of the

of the conference, see **D. DIMODUGNO**, “*Carisma e Creatività*”: dalla presentazione di casi e buone pratiche verso nuovi scenari per il patrimonio culturale delle comunità di vita consacrata, in *Themaprogetto.it*, 13th May 2022, <https://www.themaprogetto.it/carisma-e-creativita-dalla-presentazione-di-casi-e-buone-pratiche-verso-nuovi-scenari-per-il-patrimonio-culturale-delle-comunita-di-vita-consacrata/>; **A. LONGHI**, *Gli spazi dei carismi, l'appello alla creatività*, in *Il giornale dell'architettura*, 17th May 2022, <https://ilgiornaledellarchitettura.com/2022/05/17/gli-spazi-dei-carismi-lappello-alla-creativita/>.

⁴¹ See, on the municipal regulations for the management of urban commons, **F. GIGLIONI**, *I regolamenti comunali per la gestione dei beni comuni urbani come laboratorio per un nuovo diritto delle città*, in *Munus*, 6, no. 2 (2016), pp. 271-313; **R.A. ALBANESE**, *Nel prisma dei beni comuni*, cit., pp. 247-284; **R.A. ALBANESE**, **E. MICHELAZZO**, *Manuale di diritto dei beni comuni urbani*, Celid, Turin, 2020, pp. 25-257.



building, and the Golden Cross association, with the aim to maintain and manage this cemeterial church for liturgical purposes⁴².

More complex is the case of Saint Remigius's church in Carignano, a smaller town with 9,000 inhabitants, set in the South area of Turin. This church has not been used for worship since the 1970s, when a strong snowfall broke the roof of the structure. In 2004, after years of decaying and neglect, some citizens formed a not-for-profit association, called "Pro San Remigio ONLUS", with the aim to restore it and give it back to the public use⁴³. Instead of a collaboration pact, a twenty-year usage concession was signed between the Municipality, owner of the church and the surrounding green area, and the association. The funds to start the restoration works came not only from the membership fees, but also from the "5 per mille" mechanism, a little percent of taxes that taxpayers can destinate to associations that promote social or cultural activities, by putting the tax code of the chosen association and signing in a special box in the tax return. In this manner, about 8-10,000 euros by year arrived in the coffers of the association, which received other contributions from the Municipality (80,000 euros) and through legacies (200,000 euros). In 2019 the Superintendence of Cultural Heritage approved the executive project and now the works are still in progress. The new use has not been defined yet, but it is sure that an occasional use for worship, on the patronal feast, would be preserved by the association. The perspective is a mixed use, for cultural and liturgical purposes, in order to make management sustainable in the long term. The project includes the opening of the green area to the public, restoring the landscape values and increasing the quality of life for local inhabitants.

On the side of management solutions, another compelling example comes from Emilia-Romagna, a productive and rich Region in North-East Italy, and involves the Diocese of Reggio-Emilia, which loaned the former seminary to the local University. In this way, this impressive complex has been transformed into a university hub, with classrooms, services and accommodations for students, in order to implement the educational offer in the city. The rental fees - reduced to a symbolic price - are entirely designated as a contribution of the Church to the refurbishment works. In this way, the Diocese retains ownership of this building, built in the 1960s,

⁴² The text of this collaboration pact is available on the official website of the Municipality of Rivoli: <http://www.comune.rivoli.to.it/patto-di-collaborazione-tra-il-comune-di-rivoli-e-lassociazione-denominata-abbazia-della-croce-dorata-per-la-gestione-condivisa-della-cappella-della-croce-dorata/>.

⁴³ See the official website of the association: <https://www.prosanremigio.it/>.



and about to be considered as cultural heritage, while allocating it to new social purposes, linked to its original function, moving from the education of clergy to the education of students. Other funds derive from a wide range of public and private local stakeholders, joined together in the formally constituted committee “Reggio Città Universitaria”⁴⁴. This juridical person, created by the Diocese, Municipality, Province, trade associations of undertakings and cooperatives, and other important local enterprises, distinguishes between “members” and “supporters”, in relation to the amount of their contributions and the relative participatory rights in the assembly, that can be both juridical and physical persons. Fulfilling the requirements by legislative decree 117/2017, this committee is considered a “not-for-profit organization” and falls under the notion of ETS, “Third Sector Entities”, so that it can enjoy tax advantages and other financial aids.

One more interesting case comes from a disused former monastery located in Vicopelago, a district of Lucca, Tuscany. In that case, the Agostinian community of nuns that still owns the building - the original nucleus of which dates to the 16th century - asked the University of Bologna for advice. In this way, a summer school was organized, with the aim to discuss the possibilities for an adaptive reuse⁴⁵. Given the wide extension of the complex, students envisioned different kinds of functions: some rooms could host a museum of memorabilia of the famous operatic composer Giacomo Puccini, whose sister Iginia was elected abbess several times⁴⁶. Other parts could be dedicated to social housing and to agricultural productions, while the former cells could host students from a music school and tourists.

This academic activity attracted the attention of the public opinion, local public authorities and private stakeholders, that expressed their interest in the implementation of this refurbishment project. For what concerns the management solutions, an option could be the creation of a foundation of participation. This juridical person mixes elements from association (assembly) and foundation (assets earmarked for a purpose), in order to involve the ownership and all the public and private partners,

⁴⁴ See the official website of the committee: <https://reggiocittauniversitaria.it/>.

⁴⁵ The proceedings of the Lucca Summer School have been published in *La casa comune. Nuovi scenari per patrimoni monastici dismessi*, edited by L. BARTOLOMEI, S. NANNINI, as a special issue of the online journal *IN_BO. Ricerche e progetti per il territorio, la città e l'architettura*, v. 12, no. 6 (2021).

⁴⁶ O. NIGLIO, *Il monastero di S. Agostino in Vicopelago a Lucca*, in *EdA, Esempi di Architettura*, 7, 1 (2019), p. 15.



including the so-called “active citizens”, around a common project⁴⁷. Otherwise, the simplest option would be to sell the complex to the Municipality, a public body that may impose a destination constraint for public interest functions and engage a wide spectrum of stakeholders. The decision among the two possibilities has not been taken, yet.

Following this second option, a peculiar case is the one concerning the former Salesian centre in Faenza, a municipality of 58,000 inhabitants set in Emilia-Romagna, not far from Ravenna. This wide real estate compendium (12,000 square metres) was sold by the religious community to “Faventia Sales s.p.a.” a joint-stock company, created by the Municipality, the Diocese of Faenza-Modigliana and the local bank foundations in 2006 for the purpose to buy and manage it⁴⁸. This solution started from the population that strenuously opposed the idea of leaving in neglect a place so full of memories for generations of inhabitants, who had studied, lived or at least played in the oratory for more than one hundred years. This mixed public-private ownership begun the works of refurbishing and regeneration, for new social and cultural uses, including public offices of the municipality, lecture rooms for nursing and logopaedist courses of the Bologna university, a football pitch and a music and drawing school. Then, in the impossibility to maintain autonomously all this impressive building, a new global vision was prepared, including the possibility to sell or loan some parts of it to private people, with specific destination constraints, such as private offices, a gym and a coffee shop. The revenues coming from this partial alienation have been reinvested in the works, entrusted to local enterprises, concerning the other parts, dedicated to functions of public interest⁴⁹.

Another fascinating but slightly different approach concerns a former convent in Chieri, a town of 36,000 inhabitants, beyond the hills that surround Turin. There, the congregation of Benedictine Sisters, who left the building in 2015 but still owns it, aims to sell the structure to the

⁴⁷ For an in-depth analysis, see **A. VERCELLONE**, *La fondazione*, in *Gestire i beni comuni urbani. Modelli e prospettive. Atti del convegno di Torino, 27-28 febbraio 2019*, edited by R.A. ALBANESE, E. MICHELAZZO, A. QUARTA, Università degli Studi di Torino, Turin, 2020, pp. 87-102.

⁴⁸ See the official website: <https://www.faventiasales.it>.

⁴⁹ About the case in Faenza, see **A. LUCCARONI**, *Ripartire dalla comunità. La rigenerazione del complesso salesiano di Faenza*, in *Presentazione degli Atti del Convegno “Dio non abita più qui?” su dismissione e riuso di Chiese. Status quaestionis nella Chiesa italiana*, edited by A. ALESSIO, Koinè Ricerca, Vicenza, 2020, pp. 51-59, available on: https://www.koinexpo.com/koinexpo/pdf/atti_convegno_valorizzazione.pdf.



four local parishes. In this way, the ownership should move from a religious community to the “hierarchical Church”. The new uses will regard both pastoral and social activities, involving local associationism and the Municipality. The suggested legal instrument consists in a foundation of participation, in whose assembly representatives of the four parishes and of stakeholders can sit all together.

In conclusion, all these examples demonstrate that the concrete application of legal and management solutions deriving from the theory of commons is feasible for the reuse of the ecclesiastical heritage, as long as these buildings are effectively considered part of the “common heritage” by the local population and stakeholders.

5 - A comparative perspective with Belgium: the strategic plans for the future of churches in Flanders

The identification of the legal solution for the reuse of ecclesial buildings cannot disregard the peculiar system of relations between the State and religious denominations in each European country⁵⁰.

An example that can be considered as a *best practice* comes from Belgium, where there is not a complete separation between State and religions. In fact, its system could be considered as a “hybrid”, neither fully concordatist nor fully separatist, but based on a principle of mutual independence, tempered by public funding to religions⁵¹.

Belgium is a Federal State, divided in three Regions: Flanders, Wallonia and Brussels-Capital. Regions have strong powers and, after the constitutional reform in 2001, they are responsible for the “management of temporal aspects of worship”, while the Federal State has the obligation to pay remunerations and pensions to the ministers of the six recognized religions (Catholic Church, Protestant Church, Anglican Church, Hebraism, Orthodox Church and Islam). At the same time, Regions have competencies on the protection of immovable cultural heritage, in which a great part of churches falls into⁵².

⁵⁰ T. TSIVOLAS, *Law and Religious Cultural Heritage in Europe*, Springer, Cham, 2014.

⁵¹ C. SÄGESSER, *Cultes et laïcité*, in *Dossiers du Centre de Recherche et d'Information Socio-Politiques*, 78, no. 3 (2011), pp. 7, 13-14, 23.

⁵² For an overview of the Belgian situation, see T. COOMANS, *Les églises en Belgique. Aspects architecturaux, enjeux juridiques et approche patrimoniale*, in *Quel avenir pour quelles églises? What future for which churches?*, edited by L.K. MORISSET, L. NOPPEN, T. COOMANS, Presses de l'Université du Québec, Québec, 2006, pp. 41-72. More specifically on the legal



The main difference between Belgium and Italy refers to the ownership of places of worship. If in Italy a major part of churches belongs to ecclesiastical bodies, and only a minority to Municipalities, Provinces, Regions and State, in Belgium the Napoleonic laws or at least their principles are still in force. Consequently, churches built before the Concordat signed in 1801 between Napoleon and Pope Pius VII are considered public properties of Municipalities (parish churches) and Provinces (cathedrals)⁵³. The duty to manage these buildings belongs to the *fabriques d'église*, a public body which is responsible for all the economic aspects of catholic parishes, the members of which are elected within local parishioners. If a *fabrique* cannot afford all the expenses by itself, then the public administration is obliged to intervene, covering the deficit. Other similar public bodies, but with different denominations (generally defined as *établissements chargés de la gestion du temporel des cultes*), exist for all the other five recognized religions, but with different territorial scale, in relation to their distribution, to which the same principles apply.

Through a concept-note in 2011, the Flemish Interior Minister Geert Bourgeois called for a debate on the future of the catholic churches in Flanders⁵⁴. Because of the reduction of the public resources available and to the decrease of believers - currently less than 5% of the population participate to Sunday mass⁵⁵ - he encouraged a thorough reflection inside the Catholic bodies, dioceses and parishes. The discussion concluded for

instruments used for the reuse of places of worship in Flanders, see J. VANNEROM, ed., *Vastgoedrecht en de Kerk. Alternatieven voor de verkoop van religieuze gebouwen*, Intersentia, Antwerpen, Cambridge, 2014.

⁵³ After the "regionalisation" of competences about the *fabriques d'église* and the other bodies that manage the temporal aspects of worship, due to the *Loi spéciale du 13 juillet 2001 portant refinancement des communautés et extension des compétences fiscales des régions*, come into force on the 1st of January 2002, it is up to the Regions to regulate the organisation of *fabriques* and the control of their budgets. Flanders adopted their own law with the *Eredienstendecreet* or *Décret relatif à l'organisation matérielle et au fonctionnement des cultes reconnus* on the 7th of May 2004.

⁵⁴ **G. BOURGEOIS**, Conceptnote *Een toekomst voor de Vlaamse parochiekerk*, 24th June 2011, available on: https://www.parcum.be/files/Erfgoedadvies/kerkenbeleidsplannen/conceptnota_toekomst_parochiekerk.pdf.

⁵⁵ **L. VOYÉ, LILIANE, K. DOBBELAERE, J. BILLIET**, *Une église marginalisée?*, in *Autres temps, autres mœurs. Travail, famille, éthique, religion et politique: la vision des Belges*, edited by L. VOYE, K. DOBBELAERE, K. ABTS, Racine, Brussels, 2012, pp. 147.



the introduction of the so-called “kerkenbeleidsplan” or “*plan politique en matière d’églises*”, translatable into English as “strategic plan”⁵⁶.

This is a document, drafted by the central administration of *fabriques d’église* and municipalities, with the approval of the bishop, that “offers a long-term vision brought to the local level for all buildings intended for the worship concerned on the territory of the municipality or province”⁵⁷.

The long-term vision should include at least the following baseline data:

- a) a description of the buildings (historical-cultural value, architectural possibilities, physical situation);
- b) the location of each place of worship in its spatial environment;
- c) a description of the current use and current function of the buildings;
- d) a documented vision of the future use and function of the affected buildings, including an approach plan outlining how the future development with related functions or their reallocation will be considered.

Concretely, the *fabriques d’église* and the municipalities must identify all the catholic places of worship in the territory and, drawing from a pastoral plan, indicate which of them will be still used for liturgical purposes and which will not and, in the latter case, to what kind of new use uses they will be readapted. The possibility of demolition is not excluded, if the building is not listed.

⁵⁶ See, on the strategic plans in Flanders, **J. DANCKERS, J. JASPERS, D. STEVENS**, *The future of parish churches in Flanders, Belgium: a dialogue on municipality level*, in *IN_BO. Ricerche e progetti per il territorio, la città e l’architettura*, v. 7, no. 10 (2016), pp. 146-166; **F. JUDO**, *Kerkenbeleidsplannen: een kort verhaal over de lange termijn*, in *Recht, Religie en Samenleving*, 2 (2016), pp. 5-17; **J. JASPERS, J. DANCKERS, D. STEVENS**, *Kerkenbeleidsplannen, stand van zaken en implementatie*, in *Leven in de kerk. Valorisatie, medegebruik, nevenbestemming en herbestemming van onroerend religieus erfgoed in Vlaanderen*, edited by J. JASPERS, J. DANCKERS, D. STEVENS, Vanden Broele, Brugge, 2018, pp. 25-29; **J. DANCKERS, J. JASPERS, D. STEVENS, L. COLLIN**, *Research on Flanders’ religious heritage. A basis for enduring future for church buildings*, in *Doesn’t God dwell here anymore? Decommissioning places of worship and integrated management of ecclesial cultural heritage*, edited by F. CAPANNI, Artemide, Rome, 2019, pp. 423-433.

⁵⁷ Article 2.1, no. 31/1, of the *Décret du 12 juillet 2013 relatif au patrimoine immobilier (Onroerenderfgoeddecreet)*, introduced by Article 2, no. 1, of *Décret du 15 juillet 2016 portant modification du décret relatif au patrimoine immobilier du 12 juillet 2013 et de divers décrets relatifs à l’exécution du plan relatif aux tâches essentielles de l’Agence flamande du Patrimoine immobilier et relatifs à des adaptations financières et techniques*.



According to the guidelines issued by the Flemish Episcopal Conference, a wide range of solutions can be considered: cultural valorisation, mutual use, shared or mixed use in space or in time, reduction to profane use (*désaffectation*) and subsequent adaptive reuse⁵⁸.

From a legal point of view, these documents can be considered as a sort of “memorandum of understanding”: their content is modifiable in agreement at any time and is not actionable before courts. On the contrary, it should be applied with cooperation and good faith on both sides.

Introduced as optional, their stipulation became mandatory in 2016, with effect from 1st October 2017. Failing that, the *fabriques* cannot request regional contributions for the restoration of churches classified as “monuments”, recognized as having a particular cultural value that must be preserved by public authorities⁵⁹. At the beginning of 2019, a strategic plan was adopted by some 180 out of 300 Flemish municipalities⁶⁰.

The drafting of the plans can be assisted by PARCUM, the Flemish Centre for Religious Art and Culture, a not-for-profit organisation, economically supported by the Region of Flanders. Its experts can accompany, if asked, the participatory processes and carry out inventory operations.

According to data provided by the Flemish government, 181 catholic churches were reduced to profane use by the bishops between 2011 and 2021⁶¹. In the Belgian praxis, it is possible to observe churches transformed into a gym in use for a catholic school, a social restaurant, a library or a bookshop, a circus school, a university classroom, a catholic

⁵⁸ J. DANCKERS, J. JASPERS, D. STEVENS, *The future of parish churches in Flanders, Belgium: a dialogue on municipality level*, cit., pp. 154-158; L. COLLIN, J. JASPERS, *Current and future use of parish churches in Flanders (Belgium)*, in *Doesn't God dwell here anymore? Decommissioning places of worship and integrated management of ecclesial cultural heritage*, edited by F. CAPANNI, Artemide, Rome, 2019, pp. 174-178.

⁵⁹ Article 12.3.12 of *Décret du 12 juillet 2013 relatif au patrimoine immobilier*, modified by Article 45 of *Décret du 15 juillet 2016 portant modification du décret relatif au patrimoine immobilier du 12 juillet 2013 et de divers décrets relatifs à l'exécution du plan relatif aux tâches essentielles de l'Agence flamande du Patrimoine immobilier et relatifs à des adaptations financières et techniques*.

⁶⁰ J. DANCKERS, J. JASPERS, D. STEVENS, L. COLLIN, *Research on Flanders' religious heritage. A basis for enduring future for church buildings*, cit., p. 427.

⁶¹ B. SOMERS, M. DIEPENDAELE, *Visienota: Beleidsmaatregelen voor de her- en nevenbestemming van parochiekerken in Vlaanderen*, 16th July 2021, p. 3, available on https://lokaalbestuur.vlaanderen.be/sites/default/files/public/thema/strategische_projecten/Herbestemming_kerken/VR_2021_1607_DOC0949_1BIS_Herbestemming_parochiekerken_nota.pdf.



radio registration centre or an orthodox church⁶². Former convents and monasteries can host university research centres, libraries or residences for students⁶³.

6 - Future perspectives and conclusions

As this paper tried to show, the problem of the reuse of ecclesiastical cultural heritage and redundant assets of the Church is gaining more and more place in the Italian and international academic debate. After a first international meeting, held by the University of Bologna in 2016⁶⁴, another important conference was promoted by the Pontifical Council of Culture and the Gregorian Pontifical University in 2018 in Rome⁶⁵.

Few weeks after this event, the Pontifical Council of Culture adopted a document, a sort of collection of “guidelines” on the reuse of places of worship⁶⁶. Without defining which profane uses can be considered “not sordid” within the scope of can. 1222, § 2, this text prefers to emphasize the intra-ecclesial possibilities of reuse (for specialized pastoral activities, worship for other Christian communities; catechetical,

⁶² For a collection of cases of reuse of churches in Belgium, see the PARCUM database, available on: <https://www.parcum.be/nl/herbestemming-kerken>. See also: <http://www.herbestemmingkerken.be/Voorbeelden/Paginas/default.aspx>, where are presented also cases from other European countries (mainly The Netherlands and United Kingdom).

⁶³ I refer to the former Great Beghinage (Groot Begijnhof) that is a residence for international students and professors at KU Leuven, or to the former Celestian Prior, that now hosts the Arenberg Campus Scientific Library. The former Franciscan convent in Leuven is now the headquarters of KADOC, a Documentation and Research Centre on Religion, Culture and Society.

⁶⁴ The final proceedings of the international conference “The future of churches”, held in Bologna on 6th-7th October 2016, have been collected in *Il futuro degli edifici di culto: temi*, edited by L. BARTOLOMEI, in *IN_BO. Ricerche e progetti per il territorio, la città e l'architettura*, v. 7, no. 10 (2016), and in *Il futuro degli edifici di culto: paesaggi*, edited by L. BARTOLOMEI, in *IN_BO. Ricerche e progetti per il territorio, la città e l'architettura*, v. 8, no. 11 (2017).

⁶⁵ The proceedings of the international conference “Doesn't God dwell here anymore?”, held in Rome on 29th-30th November 2018, have been collected in *Doesn't God dwell here anymore? Decommissioning places of worship and integrated management of ecclesial cultural heritage*, edited by F. CAPANNI, Artemide, Rome, 2019.

⁶⁶ **PONTIFICAL COUNCIL OF CULTURE**, *Guidelines. Decommissioning and Ecclesiastical Reuse of Churches*, in *Doesn't God dwell here anymore? Decommissioning places of worship and integrated management of ecclesial cultural heritage*, cit., pp. 274-87. The text of the guidelines is also available online in the English, Italian and French versions: <http://www.cultura.va/content/cultura/en/pub/documenti/decommissioning.html>.



charitable, recreational or cultural activities) and underlines the “dimension of re-appropriation [of these goods] by the communities”, that requires a “vision of co-responsibility [...] [that] could be entrusted to lay aggregations (associations, movements etc.)”. In this perspective, redundant churches can be transformed into museums, lecture halls, bookshops, libraries, archives, art workshops, meeting places, Caritas centres, clinics, soup kitchens, but also into “spaces for silence and meditation open to everyone”. Nevertheless, it is not excluded the possibility to transform the “buildings of lesser architectural value” into private dwellings.

As for methodology, the document underlines the special role that should be played by the communities and the participatory processes, in accordance with the latest scientific findings. For further research, the Pontifical Council of Culture wishes for a more strategic and systemic vision of the phenomenon and a special consideration on the immovable heritage and on the “engagement with the local religious or civil communities in the processes of consciousness-raising and decision-making”.

Moreover, this engagement seems perfectly consistent with the definition of cultural heritage provided by the 2005 Faro Convention⁶⁷, which insists that these goods are identified by the people, “independently of ownership, as a reflection and expression of their constantly evolving values, beliefs, knowledge and traditions” (Article 2). It also encourages the participation of everyone in “the process of identification, study, interpretation, protection, conservation and presentation of the cultural heritage” and in the “public reflection and debate on the opportunities and challenges which the cultural heritage represents” (Article 12)⁶⁸. Nevertheless, it cannot be excluded that the

⁶⁷ Council of Europe Framework Convention on the Value of Cultural Heritage for Society (CETS No. 199), signed in Faro, on 27th October 2005, and entered into force on 1st June 2011 (after ten ratifications). This convention was ratified by Italy with Law no. 133 of 1st October 2020.

⁶⁸ See, for an initial commentary on the Faro Convention, **C. CARMOSINO**, *La Convenzione quadro del Consiglio d'Europa sul valore del patrimonio culturale per la società*, in *Aedon*, 16, no. 1 (2013); **P. CARPENTIERI**, *La Convenzione di Faro sul valore dell'eredità culturale per la società (da un punto di vista logico)*, in *federalismi.it*, 15, no. 4 (2017), pp. 1-29; **S. HARDING**, *Globalization and the Paradox of Cultural Heritage Law*, in *Annuario di diritto comparato e di studi legislativi*, 8, no. 1 (2017), pp. 361-379; **C.A. D'ALESSANDRO**, *La ratifica della Convenzione di Faro e il difficile inserimento del cultural heritage nell'ordinamento giuridico italiano*, in *Società e diritti*, 5, no. 10 (2020), pp. 208-218; **A. GUALDANI**, *L'Italia ratifica la convenzione di Faro: quale incidenza nel diritto del patrimonio culturale italiano?*,



religious and civil communities attribute different values to the same cultural asset and envisage different solutions for its reuse. In order to solve all possible conflicts, Article 7 of the Convention requires States Parties to “establish processes for conciliation to deal equitably with situations where contradictory values are placed on the same cultural heritage by different communities”.

With specific regard to the reuse of cultural heritage, Article 11 of the 1985 Granada Convention already obliges contracting states, “due regard being had to the architectural and historical character of the heritage” to provide for “the use of protected properties in the light of the needs of contemporary life” and “the adaptation when appropriate of old buildings for new uses”⁶⁹, thus supplying a legal basis for the adaptive reuse of cultural goods, including religious properties.

After the publication of the Pontifical Council guidelines, other seminars have focused their attention on specific aspects of the conservation of the cultural heritage of religious interest, in a multidisciplinary perspective, that involves both jurists, economists and architects⁷⁰. Other related topics need additional attention and academic reflection: for instance, following the 2022 Rome Conference *Charism and Creativity* on the cultural heritage of religious communities, one would expect guidelines to be issued on these peculiar assets as well⁷¹.

Aedon 23, no. 3 (2020); **E. MOTTESE**, *Italy's Ratification of the Faro Convention. The Right to Cultural Heritage: An Opportunity or a Specter Haunting Italy and Europe?*, in *Osservatorio del diritto civile e commerciale*, 9, no. 2 (2020), pp. 565-575; **G. SEVERINI, P. CARPENTIERI**, *La ratifica della Convenzione di Faro sul valore del patrimonio culturale per la società: politically correct v. tutela dei beni culturali?*, *federalismi.it*, 19, no. 8 (2021), pp. 224-274; **P. CARPENTIERI**, *La Convenzione di Faro sul valore del Cultural Heritage per la società. Un esame giuridico*, in *Rivista giuridica di urbanistica*, 37, no. 2 (2021), pp. 274-290; **V. DI CAPUA**, *La Convenzione di Faro. Verso la valorizzazione del patrimonio culturale come bene comune*, in *Aedon* 24, no. 3 (2021); **A. SIMONATI**, *Il ruolo della cittadinanza nella valorizzazione dei beni culturali alla luce della Convenzione di Faro: niente di nuovo sotto il sole?*, in *Rivista giuridica di urbanistica*, 37, no. 2 (2021), pp. 248-273.

⁶⁹ Council of Europe Convention for the Protection of the Architectural Heritage of Europe, signed in Granada on 3rd October 1985 (ETS No. 121) and entered into force on 1st December 1987 (after three ratifications). This convention was ratified by Italy with Law no. 93 of 15th February 1989.

⁷⁰ I refer to the seminars on “The protection of the ecclesiastical cultural heritage” and “The reuse of catholic churches”, organized on 23rd January 2020 and on 25th February 2020 by the Ph.D. course in Law and Institution of the University of Turin, and the Koinè Expo Webinar “The valorisation of ecclesiastical heritage”, held online on 27th October 2020.

⁷¹ Pending the issuance of a new document on this subject, one must consider very



Now it is time to put the finding of this academic research into practice and try to find practical juridical instrument to face this challenge in a more systematic way.

On one hand, more attention should be paid to these goods in canon law. According to some authors, can. 1222 § 2 could also be applied by analogy to monasteries and convents, even if they are not expressly qualified by the code of canon law as “sacred things”⁷².

On the other hand, on the side of juridical and management solutions, both under public and private law⁷³, I strongly believe that the theory of commons, the collaboration pacts and the foundations of participation, and other similar legal instruments, could be suitable for this purpose. The ownership could remain ecclesiastical or become public or private, but what truly matters is the destination to functions of public interest.

In fact, this problem cannot be approached and, indeed, solved without the cooperation of public bodies, stakeholders and citizens. The community should play a fundamental role in qualifying a good as a common and in deciding the new functions, with a keen attention to their cultural and social needs. Fortunately, the Italian Catholic Church seems to be sensitive to this issue.

carefully **FRANCIS**, *Message to participants in the conference “Charism and creativity”. Catalogues, management and innovation regarding the cultural heritage of institutes of consecrated life*, 4th May 2022, <https://www.vatican.va/content/francesco/en/messages/pont-messages/2022/documents/20220504-messaggio-carisma-creativita.html>, in which the Roman Pontiff underlines the importance “to address the issues involved in managing cultural heritage, both in terms of its economic sustainability and the contribution it can make to evangelization and the deepening of faith”. In relation to the reuse of disused real estate, “the problem should not be tackled through hasty or impromptu decisions, but as part of an overall vision and far-sighted planning, and possibly through the use of proven professional expertise. The disposal of heritage is a particularly sensitive and complex issue, which can attract misleading interests on the part of unscrupulous individuals and be a cause of scandal for the faithful: hence the need to act with great prudence and shrewdness and also to create institutional structures to accompany communities that are less well equipped. [...] It is particularly through the use of real estate that the Church, and therefore all the communities that she is made up of, can bear good witness and announce the possibility of an economy of culture, solidarity and acceptance”.

⁷² **I. ZUANAZZI**, *Beni culturali ecclesiali e dismissione del patrimonio monastico*, in *IN_BO. Ricerche e progetti per il territorio, la città e l'architettura*, v. 12, no. 6 (2021), p. 65.

⁷³ For an in-depth analysis, see **D. DIMODUGNO**, *Monasteri dismessi: proposte per una soluzione giuridica*, in *IN_BO. Ricerche e progetti per il territorio, la città e l'architettura*, v. 12, no. 6 (2021), pp. 139-152.



Since 2019, the Italian Episcopal Conference has encouraged the participation of the communities in designing new parish churches and complex, providing, in that case, additional funds⁷⁴. These participation processes have been guided by experts, who oversaw the meetings with citizens and administered questionnaires to them. The main objective of this solution consists in understanding the effective needs of the community before the submission of the architectural proposals to a call for competition⁷⁵.

The same principle should be applied also to the reuse of existing buildings, favouring the role of the communities in the decision-making process and in the definition of new profane uses. In that way, a project can become a “common” one and it could be easier to collect public, ecclesiastical and private funds, also through crowdfunding campaigns, to support their implementation.

A multipurpose venue, a theatre, a museum, a space for co-working or cultural and social activities, in a neighbourhood or in a village which do not have any, can also create new job opportunities, especially for young people. Ecclesiastical and public authorities cannot leave this glorious heritage of art, faith and culture to neglect and abandonment: it would be unforgivable for the entire community!

What is really missing in Italy are organizations, like the Belgian PARCUM, that can support ecclesiastical and public authorities in rethinking the future of the ecclesial heritage, providing advice and support to local communities. In a *de iure condendo* perspective it would be desirable to define also new “dialogue bodies”, at least at the provincial level, between the Catholic Church and the State. They would be responsible for defining the “Italian strategic plans”, which should involve all actors, firstly listening to the emerging needs of the population. In this

⁷⁴ See Article 7 § 3(b) of the Implementing Rules of the Provisions concerning the granting of financial aid by the Italian Episcopal Conference for ecclesiastical cultural assets and buildings of worship, as amended on 15th January 2019.

To more details about the participation of the community in the process of projecting new catholic parish churches in Italy, see *Comunità e progettazione, Atti della Giornata Nazionale “Comunità e progettazione. Dai Progetti pilota alla Progettazione pastorale” organizzata dall’Ufficio Nazionale per i beni culturali ecclesiastici e l’edilizia di culto della Conferenza Episcopale Italiana* (Viareggio, 17-18 giugno 2019), edited by J. BENEDETTI, Gangemi, Rome, 2021.

⁷⁵ L. BARTOLOMEI, *Prime intersezioni tra ‘Participation research’ e ‘Participatio actuosa’*. *Percorsi di progettazione partecipata per la realizzazione di edifici di culto*, in *Comunità e progettazione*, cit., pp. 123-136; A. LONGHI, *Competenze e partecipazione per progetti ecclesiali: la sperimentazione e i metodi del CLI/LAB*, *ibidem*, pp. 137-150.



way, the principle of collaboration, affirmed specifically in relation to the cultural heritage of religious interest in the new 1984 Concordat⁷⁶, and the constitutional principle of subsidiarity, emerging from Article 118, par. 4 of the Italian Constitution, could effectively be applied to this subject.

On the ecclesiastical side, the Italian Episcopal Conference should reconsider its restrictive position about mixed uses in space or in time⁷⁷, which are, nevertheless, found in practice⁷⁸. In fact, drawing on the Belgian experience, a mixed use of catholic places of worship, both for social and cultural activities and, occasionally, for liturgical purposes should be considered fully compatible with canon law. To achieve that goal, a reform of both canon law and State law, respectively on sacred places and places of worship, is desirable.

In conclusion, imagining new functions and innovative and inclusive management solutions requires obviously a strong change in the behaviour and in the mentality of all the players involved and the necessity to invest more funds, also - why not? - deriving the from the Next Generation EU "recovery plan".

If this complex challenge is attained, the reuse of places of worship, monasteries and convents may become not only a source for the cultural, economic and social development of local communities, but also a concrete means for the re-birth of Italy, a new *Rinascimento* after the pandemic crisis.

⁷⁶ Art. 12, par. 1 of the Villa Madama Agreement, signed between the Holy See and the Italian Republic on 18th February 1984, affirms: "The Holy See and the Italian Republic, in their respective orders, cooperate to protect the historical and artistic heritage. In order to harmonise the application of Italian law with religious requirements, the competent bodies of the two Parties shall agree on appropriate provisions for the safeguarding, enhancement and enjoyment of cultural heritage of religious interest belonging to ecclesiastical bodies and institutions [...]".

⁷⁷ **CONFERENZA EPISCOPALE ITALIANA**, Determination No 128 of the Administrative Instruction of the Italian Episcopal Conference, issued on 1st November 2005, in *Notiziario CEI*, no. 8/9 (2005), p. 396, states: "The dedication of a church to public worship is a permanent fact that is not susceptible to division in space or time, such as to allow activities other than worship itself. This would in fact be tantamount to violating the restriction on use, which is also protected by Article 831 of the Italian Civil Code".

⁷⁸ See **E. ASSELLE, G. DE LUCIA**, *Luoghi di culto, spazi ibridi: la conoscenza del fenomeno per la gestione dei processi di trasformazione*, in *Atti e Rassegna Tecnica della Società degli Ingegneri e degli Architetti in Torino*, 73, 2 (2019), pp. 117-124.