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# Funding Religious Heritage

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ASHGATE

## Chapter 7

# Funding Religious Heritage in Belgium

Stéphanie Wattier

In Belgium, religion has very much left its mark on history. For this reason, there are many churches and religious buildings in the Belgian landscape, a large number of which are inherited from the medieval period. In addition, most of Belgian religious heritage is Catholic. There are precisely 3,948 Catholic parishes in Belgium: 2,051 in Wallonia, 1,809 in Flanders and 88 in Brussels. Furthermore, there are 150 'non-Catholic parishes' (Coomans 2006: 51).

Legally, the funding of religious heritage raises some important issues in Belgium: the complexity of the repartition of competences between various actors, the incidence of being listed as a monument and the question of the ownership of churches. We must also mention some difficulties pertaining to the conservation of the buildings, a crucial debate about Belgian religious heritage and, lastly, the problem of redundant churches. To understand all those topics, it is important to firstly have a look at the history of religious heritage in Belgium.

### Overview of Belgian Religious Heritage

#### *History of Religious Heritage in Belgium*

In common with many European countries, Belgium has a rich religious heritage that has existed for more than a thousand years. Most of it belongs to the Catholic Church and has survived many historical events, such as wars and foreign domination.

First of all, during the medieval period, hundreds of Gothic or Roman churches, parish buildings, cathedrals were built. Over the centuries, urban communities grew around these buildings,<sup>1</sup> which were restored, rebuilt, expanded and improved alongside. Many still exist today, which explains the 'high density' (Coomans 2006: 45) of religious heritage in Belgium. Furthermore, the numerous convents and abbeys also belong to religious heritage, however with a different legal status (De Pooter 2005: 169).

In the sixteenth century, many churches were looted and a significant part of the religious heritage was lost. The most fundamental reason was the context

<sup>1</sup> On the 'feeling' related to religious buildings in the city nowadays, see Charlier and Moens (2005: 145 *et seq.*).

of the Reform; but iconoclastic Calvinists also played an important role in this context of 'religious wars' (Coomans 2006: 45). The seventeenth century saw the erection of baroque churches and cathedrals. In the following century, despite the influence of the philosophy of the Enlightenment, a very large number of churches, parishes and cathedrals were created and some medieval places of worship were transformed into neoclassical churches (Coomans 2006: 46).

Religious heritage in Belgium has also been influenced by foreign domination. From 1713 until 1795, Belgium was under the control of Austria. Subsequently, Belgium was annexed to the Republic of France from 1795 until 1815 and to the Kingdom of the Netherlands from 1815 until 1830. The French Revolution of 1789 had an important impact on religious heritage insofar as nearly all the religious assets and possessions were nationalized during that period. Then, they were sold and the religious congregations were suppressed. In 1801, Napoleon Bonaparte and Pope Pius VII signed a Concordat that established the separation of church and state. This Concordat also established that worship could be exercised freely and publicly.

Belgium became independent in 1830 and adopted a new Constitution in 1831. During the nineteenth century, economic and demographic development was important and accompanied by the construction of many churches and cathedrals. For this reason, the nineteenth century is called 'the golden age of Catholics' (Coomans 2006: 48). Later, a considerable number of buildings were destroyed during the World Wars of 1914–18 and 1939–45. Finally, the Second Vatican Council (1962–65) initiated an ultimate wave of construction of new churches. The Belgian 'communitarian conflicts' of the 1960s also had an influence on religious heritage: the map of dioceses was adapted to the linguistic border between the French and Flemish communities. Consequently, some dioceses split into two (for example Malines and Liège) or even three parts (for example Malines-Bruxelles), resulting in changes in ownership.

#### Church Ownership

The term 'church ownership' covers all the buildings and properties that are related to worship. In other words, this definition includes immovable and movable goods like walls, towers, sacristies, baptisteries, organs, bells, altars and so on.

To identify the owner of a church, a distinction must be established between 'churches recognized for the public exercise of worship' (called parishes or public churches) and 'private churches' (Coomans 2006: 54). Most of the time, private churches and chapels belong to religious institutes, schools, hospitals and so on. In general, they have the legal form of non-profit organizations. As far as matters related to 'churches recognized for the public exercise of worship' are concerned, another distinction must be drawn between churches that were built before 1802 – called 'crown churches' – and other churches. In several decisions, the Court of Cassation – the Belgium's highest civil court – judged that 'crown churches' are part

of the public domain<sup>2</sup> because they are of public utility (*utilité publique*).<sup>3</sup> Places of worship returned after the Concordat of 1801 belong to municipalities or to the provinces (for the cathedrals). All places of worship built after 1802 belong to the municipalities or to the *fabriques d'églises* (Torfs 2007: 182). The real identity of the builder of the place of worship has no influence on the ownership. The reason is that the building of such churches took place as a result of very complicated financial arrangements (involving the state, municipalities and provinces, but also some private funds from the parish itself) (Coomans 2006: 54).<sup>4</sup>

#### Contemporary Challenges

The first challenge pertains to the material protection of religious heritage, whose importance makes the task very difficult. Unfortunately, there are a growing number of incidents of burglaries and vandalism in churches. For instance, in 2010, the police registered 977 acts of burglary and vandalism. The problem is that there is no consensus among religious authorities regarding the insurance of churches. For that reason, mechanisms of repression do not work very well and are not satisfactory. To solve this, the idea is to create a *Comité du patrimoine culturel*, such as existed in France, to improve the situation and find solutions to combat burglaries (Dury 2005: 155).<sup>5</sup>

Besides the problem of burglaries, there are also some illegal disposals of religious heritage, especially involving pieces of art. Journalists do not hesitate to report that 'Belgium is a "turntable" for trafficking works of art'.<sup>6</sup> Furthermore, one of the problems is that there are fewer and fewer people coming to pray. Consequently, this may lead to the closing down of a number of churches.

2 Court of cassation, 11 November 1886, *Pasicrisie*, 1886, I, 401; Court of cassation, 6 November 1940, *Pasicrisie*, 1940, I, 279.

3 Court of cassation, 3 May 1879, *Pasicrisie*, 1879, I, 246.

4 During the eighteenth century, some semi-religious buildings that were built in the thirteenth century – such as beguines – were taken over by the administration. Therefore, today, Public Centres for Social Action (CPAS) own them.

5 The French *Comité du patrimoine culturel* – which has stopped working since 2012 – was however not exactly competent on this issue. The *Office central de lutte contre le trafic des biens culturels* (Central Office for the Fight against Traffic in Cultural Goods) 'covers the offences of theft and handling of cultural goods, as well as art forgeries. The Office's mandates include prevention, documentation, prosecution, international cooperation and training. [...] the Office is France's "central authority" responsible for implementing the claim and restitution procedures for national treasures that have unlawfully left the territory of one Member state for the territory of another. The Office is in contact with a network of police focal points throughout France.' See: [http://ec.europa.eu/home-affairs/doc\\_centre/crime/docs/Report%20Trafficking%20in%20cultural%20goods%20EN.pdf](http://ec.europa.eu/home-affairs/doc_centre/crime/docs/Report%20Trafficking%20in%20cultural%20goods%20EN.pdf) (accessed 21 January 2014).

6 From the newspaper, *Le Soir*, 10 November 2007.

Fundamentally, problems of burglaries and churches closing down raise a series of other significant issues, such as religious freedom and praying in community. How will people be able to pray in community if there is no religious open space anymore? What about religious freedom, if the government has to adopt legislation to close churches to combat violence and burglaries? Those problems are very much present at the moment in Belgium and are surely one of the current topics that the regional governments have to deal with.

### Managing and Funding Religious Heritage in Belgium

#### *The Various Actors Involved in the Management of Religious Heritage*

As far as matters related to religious heritage are concerned, various actors have legal authority. At least four types of actors must be mentioned by virtue of Constitutional law. The reason for this is that Belgium became a federal state in 1970.

First of all, the federal state takes charge of salaries and pensions of ministers of religion and of delegates of non-confessional organizations (humanists), pursuant to Article 181 of the Belgian Constitution. To be funded by the state, religious and non-confessional organizations must have been recognized by the state. Concretely, opened up in the nineteenth century to various religious denominations historically located on the territory (Catholic, Anglican, Jewish, Protestant), the funding scheme was expanded in the twentieth century to Islam (1974–2005), to Orthodoxy (1985) and finally to non-confessional philosophical groups (1993–2002).

Secondly, by virtue of Article 6, § 1, VIII, 6° of the Act of 8 August 1980, three regions (Flemish, Walloon and Brussels) are competent for the *fabriques d'églises* and public institutions are responsible for the management of religious buildings.

Thirdly, the three communities (Flemish, French and German) are expressly competent for the cultural heritage by virtue of Article 4, 4° of the Act of 8 August 1980 and Article 127 of the Constitution.

Fourthly, municipalities and provinces are competent for some repairs and restorations of churches. Furthermore, municipalities are competent for cemeteries and provinces are competent for cathedrals. However, it is important to underline that the Belgian doctrine considers that cemeteries are not part of religious heritage.<sup>7</sup> They are rather considered as a public service carried out by the *communes*.

<sup>7</sup> According to the doctrine, this interpretation is confirmed by Article 16, § 1, of the Act of 20 July 1971 on funerals and burials, which provides that 'Les inhumations ne peuvent avoir lieu que dans les cimetières communaux ou intercommunaux'. See Christians et al. (2011).

To sum up, the complexity of the legislation and the intertwining of responsible institutions are one of the basic features of religious heritage in Belgium. There is not only one responsible actor and we have to take several elements of Constitutional law into account when analysing the situation. To improve the system, it has been suggested that a coordinating institution needs to be created, at least in Wallonia (Dury 2005: 152). This institution should be – as mentioned before – a kind of religious heritage committee (*Comité du patrimoine culturel*), such as existed in France. This committee should give advice on protection and conservation of religious heritage.

#### *Being Listed as a Monument*

Being listed as a monument is very important in the Belgium legal system applicable to religious heritage. This status can help churches to obtain greater subsidies for repair and restoration. It is also important to mention that, in Wallonia, religious heritage amounts to more than a quarter of listed heritage. There are 2,800 listed buildings in Wallonia, which are divided up as follows: 38 per cent correspond to private property,<sup>8</sup> 30 per cent belongs to religious heritage, 10 per cent are castles, 8 per cent are civil buildings, 7 per cent belongs to minor heritage (kiosks and so on) and 4 per cent belongs to the industrial heritage (Dury 2006: 1).

For the protection of religious monuments, two acts are important to mention: the Royal Decree of 7 January 1835 that created a Royal Commission of Monuments and the Act of 7 August 1931 on the conservation of monuments and sites in Belgium. Until 1970, the conservation of monuments was a federal competence. But then, in 1970, Belgium became a federal state and the process of federalization started. The competence was transferred to the three communities (Flemish, French and German) and the regional competences (environment, *fabriques d'églises* and so on) were given to the three regions (Wallonia, Flanders, Brussels). Finally, in 1994, the German part of Wallonia's competence – which means the territory of the German-speaking region – was transferred to the German community. Consequently, each Community has its own legislation. In Wallonia, provisions pertaining to historic monuments and sites are entrenched in the CWATUP (*Code Wallon de l'urbanisme, de l'aménagement du territoire, du patrimoine et de l'énergie*, Walloon Code of town planning, zoning, heritage and energy), while in Brussels-Capital, they appear in the CoBAT (*Code Bruxellois de l'aménagement du territoire*, Brussel Code of zoning). In the Flemish Region, this topic is regulated by several decrees adopted between 1976 and 1993 (van Ypersele and Louveaux 2006: 48). Pursuant to Article 185 of the Code of Zoning, Planning and Heritage in Wallonia, heritage consists of all 'immovable goods, whose protection is justified due to their historical, archeological, scientific, artistic, social, technical or landscape interest'. No express reference to religious goods appears

<sup>8</sup> In the form of private estates, individual houses and so on.

in this text.<sup>9</sup> Nor can this be found in the Brussels-Capital Community where the Brussels Zoning Code applies, in that it provides that immovable heritage means 'all immovable goods which present historical, archeological, artistic, esthetic, scientific, social, technical or folkloric interest' (Article 206).<sup>10</sup>

Once again, all those transfers show the difficulty in comprehending religious heritage in Belgium. Concretely, if the building is a 'public church' – which means that it is dedicated to worship – and if this church is listed as a monument, all the necessary expenses will be publicly funded: 60 per cent will be paid by the region, 20 per cent by the municipality and 20 per cent by the province. If this public church is *not* listed as a monument, it will only receive a subsidy of 30 per cent from the region. The parish itself will have to pay for the other repairs and restoration work. If the church is a 'private church' – which means that it is *not* dedicated to worship – but this church is listed as a monument, it will receive a subsidy of 60 to 80 per cent from the region for its religious heritage. The owner of the church will have to pay for other repairs and restoration work.<sup>11</sup>

#### *Belgian Debate on Funding Religious Heritage*

In Belgium, funding religious heritage is controversial: a part of the doctrine considers that the funding of religious heritage *is* indeed part of the global 'public funding of religion', whereas others argue that this is not the case. This question has never been solved by any case law. This controversy can be explained by two different factors. First, the situation is not very clear, due to the number of actors that are competent for religious heritage.<sup>12</sup> Maybe federal, regional and municipal legislators should solve that problem by concluding a 'cooperation agreement' such as already exists for the recognizing and funding religious leaders.<sup>13</sup> The goal of this kind of agreement is to clarify the sharing out of competences between the federal state, the three communities and the three regions. Secondly, the situation is very delicate because of the fact that nearly all Belgian religious heritage belongs to the Catholic Church. Data of 2007 on the allocation of public funds

9 Text available at: <http://dgo4.spw.wallonie.be/DGATLP/DGATLP/pages/DGATLP/Dwnld/CWATUPE.pdf> (accessed 21 January 2014).

10 Text available at: <http://www.unesco.org/culture/natlaws/index.php?&lng=fr> (accessed 8 May 2013).

11 Among noteworthy listed religious monuments in Wallonia, we can mention: the *Collégiale Sainte-Gertrude* in Nivelles, the Old Abbey in Villers-la-Ville, the *Collégiale Saint-Georges et Sainte-Ode* in Liège and the *Cathédrale Saint-Paul* in Liège.

12 See the section *Various Actors* above.

13 See: *Accord de coopération du 2 juillet 2008 modifiant l'accord de coopération du 27 mai 2004 entre l'Autorité fédérale, la Communauté germanophone, la Région flamande, la Région wallonne et la Région de Bruxelles-Capitale en ce qui concerne la reconnaissance des cultes, les traitements et pensions des ministres des cultes, les fabriques d'église et les établissements chargés de la gestion du temporel des cultes reconnus*, in *Moniteur Belge*,

dedicated to religious denominations show that most public funds for pensions and property go to Catholic heritage: out of a total of 35.4 million euros allotted to religious heritage, 34.8 million euros are dedicated to Catholic heritage, 0.5 million euros to Protestant heritage, and nothing to that of the other faiths (Husson 2007: 14–16). Hence, should the funding of religious heritage be considered as being part of the overall system of state support for religions, there would be real inequality. Indeed, in case religious buildings were to be deconsecrated and lose their religious nature and, for example, sold, the proceeds from the sale would benefit the Catholic Church.

#### *Redundancy and Deconsecration*

The motivation that lies behind the much-debated issue of redundancy and deconsecration of churches is profitability. The concern is about conservation as well, in that the drastic drop in churchgoing no longer allows them to be regularly used. This process has already begun in Belgium and, as a consequence, several churches have been transformed into nightclubs, fruit and vegetable markets, hotels, chip shops and so on. But this is just the beginning of the process.

Deconsecration of churches has given rise to a certain number of rulings. For instance, in Brussels, St Catherine's Church is going to be transformed. This was decided upon in December 2011 in the knowledge that only a few believers come to pray there. The aim is to transform the church into a covered market (of fruits and vegetables) which should be more attractive, according to the City of Brussels. This project should take four or five years and cost five million euros. But some associations have decided to contest that decision. The Council of State will henceforth have to decide whether this decision of transformation is legal or not. As another example, in the case *asbl Pétitions-Patrimoine*, a company had applied for a building permit in order to transform a religious site composed of a church, a convent and other buildings, into a hotel, spa, restaurant, conference centre and parking spaces. The Council of State, the Belgian highest administrative court, held that the material protection of the site could be better achieved through this estate project than through a decision of listing. This was made possible due to the heritage legislation applicable here, which allows a balancing of interests. In addition, it is possible for the government, in charge of listing the buildings, to take into account before doing so, any possible difficulties in reassigning the building if it had not been occupied for a long time (Article 222, §5, 6° of the Brussels Zoning Code).<sup>14</sup>

Over the next 30 years, more than 20 churches in Brussels are going to be reassigned. In Wallonia and Flanders, some religious buildings have already undergone such changes. In Namur, a church was turned into a dance hall. In

14 Council of State, 12 July 2012, no. 220.314, *asbl Pétitions-Patrimoine*.

Tongerren, a church has been reassigned as a chip shop. In Mons, an old convent has been converted into a four-star hotel.

Fundamentally, the issue of redundant church buildings further raises some crucial questions: can a deconsecrated church still be considered a church, that is, as a place of worship? What can be done to preserve the availability of places of worship? And so on and so forth ... This list of issues is certainly not exhaustive.

### Conclusion

The Belgian landscape is undeniably marked by religious heritage. We have seen that it raises several difficulties due to federalism, property of churches and on the severe decrease in religious practices. However, the current problem of Belgian religious heritage is surely related to deconsecration and decommissioning.

Nowadays, authorities have to find solutions to avoid closing down churches. This solution would raise one other fundamental question about the *status* of deconsecrated churches. Indeed, as a historical perspective or as a pure heritage question, a deconsecrated church is still a church. Nevertheless, legally and theologically, it is not the case anymore. From that perspective, the question becomes: if Belgium decides to begin a general process of deconsecration and decommissioning of churches, does that mean that the system of religious heritage is moving to a system of *cultural heritage*?

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