



COMECE Secretariat

Erasure from baptismal registers

Considerations after the EU Court hearing in Case C-12/25, *Bisdorn Gent*

COMECE is a dialogue partner of the European Union institutions on the basis of Article 17.3 of the Treaty on the Functioning of the EU (TFEU). It represents the voice of Catholic Bishops' Conferences from the EU Member States on the European project and the relevant policies, legislation, as well as jurisprudence.

In this capacity, COMECE has been focusing for a number of years, especially within its Legal Affairs Commission, on the theme of erasure from baptismal registers in relation to the General Data Protection Regulation (GDPR).

In the light of the reflections carried out at that level, and also in response to impulses from its member Bishops' Conferences, COMECE respectfully expresses some remarks in relation to the ongoing case at the Court of Justice of the European Union C-12/25, *Bisdorn Gent*, in particular following up to the public hearing held on 30 June 2026.

1. The practice of annotation in the margin of baptismal registers

Considering that the nature and character of baptismal registers has been widely addressed during the proceedings, COMECE would first and foremost focus on a specific aspect that has high relevance for the matter and would deserve particular emphasis.

During the hearing in the case, it was implied that baptismal registers may be seen as 'lists of members', as the annotation inserted in their margin in the case (i.e. that the person had 'left the Church' on a certain date) seemed to entail a sense of 'membership'.

However, regardless of the concrete formulation of such annotations, **no conclusion can be drawn** from them **on** the fact that in the Catholic Church **baptismal registers** are 'lists of members'¹.

¹ In this regard, cf. also M. Gas-Aixandri, *Protection of Personal Data and Apostasy: Comparative Law Considerations*, (2015) 57 Oxford Journal of Church and State, pp. 72-89, page 4 as quoted in the Decision of 27 February 2023 of the Irish DPA in the case IN-19-7-6, *In the matter of the Archbishop of Dublin: "Baptismal registers*

This is due to the fact that the contents of these annotations are strictly based on the wishes of the baptised; and that **such annotations satisfy needs and interests that are *not* canonical** (i.e. not deriving from Canon Law), bearing no link with the originary function of baptismal registers. This element is also substantiated by the fact that:

1. As highlighted in recent academic contributions², the practice followed by the Church, of annotating the wishes of the data subject in the margin of baptismal registers in case of erasure requests, originated in specific EU Member States (e.g. Italy) as a **spontaneous implementation by the Church of indications deriving from the national legal order**. The practice was then adopted and accepted in other Member States.
2. Such annotations emerged only recently, in the 1990s, after the entry into force of Directive 95/46/EC and as a response to it, whereas before then - **for an extensive period** of time - **such practice simply did not exist within the Church**.

Secondly, it has to be emphasised that the **annotation inserted in the case** in question at the EU Court (i.e. that the person had 'left the Church' on a certain date) is not ideal and that it is **not representative of annotations used** by the Church in the other EU Member States.

A few **examples** are available. In **France**, annotations are based on the information provided by the applicant and are often reproduced in quotation marks (e.g. "...does not recognise the validity of his baptism", "...has renounced her baptism" etc.). Applicants are sensitive to the choice of wording for the marginal annotation, and the Church is accompanying them with respect in this regard too.

In **Ireland** the Decision of 27 February 2023 of the national DPA in the case IN-19-7-6, *In the matter of the Archbishop of Dublin*³ the Authority did consider appropriate a specific wording for the annotation, which Dioceses in Ireland by and large now follow: "*No longer wishes to be identified as a Roman Catholic*". This annotation highlights the fact that only the personal perceptions/wishes of the data subject are noted, without indicating any perspective or conclusion on the side of the Church.

are... reliable records of the historic event of having been baptized and not a file, recording members who join and leave the Church".

² In this regard and for other useful considerations cf. M. Porcelluzzi, *Il diritto della Chiesa a non dimenticare*, Centro Studi Livatino, 2026, available at the link <https://www.centrostudilivatino.it/il-diritto-della-chiesa-a-non-dimenticare/>.

³ <https://www.dataprotection.ie/en/dpc-guidance/decisions/inquiry-processing-church-records-archbishop-dublin>.

Incidentally, the Irish DPA deemed that, being the entries in a baptismal register the record of a person's sacramental status, the insertion of a supplementary statement was not necessary to accurately record the fact that an individual no longer wished to be identified as Roman Catholic (cf. § 684 of the Decision).

The practice of annotations in the margin of baptismal registers also constitutes a means to allow **data subjects** to give concrete expression to their own **human dignity**, to their freedom of religion and to their informational self-determination. On the other hand, the annotation safeguards **Church autonomy and institutional freedom of religion**.

2. The nature and character of baptismal registers

In accordance with the teaching and the internal rules of the Catholic Church, **baptism** is a sacrament that is **administered only once**, is unrepeatable, indelible and eternal. Baptism is the '**gateway**' to all other sacraments administered in the Church.

As underlined extensively during the EU Court hearing by a number of interventions, a **baptismal register is not a 'list of members'** of the Church, but a record of historical events (i.e. the baptisms that have been administered within the Church).

The purpose of a baptismal register is not to bear witness to the faith of individual persons, to the fact that someone is affiliated to the Church or to his/her involvement in Church life. Furthermore, the sacrament of baptism and its effect (i.e. having the baptised person being incorporated in the Church) **cannot**, by any means, **be equated with the concept of 'membership' applicable** e.g. to associations **under civil law**.

As noted in the 2023 Decision of the Irish DPA at § 661 there is simply "*...no evidence to suggest that the Catholic Church records and maintains a list of its current members*"⁴.

There is a **rich jurisprudence in the Member States** on the point of protecting baptismal registers from erasure.

In a key judgment, in **France**, the *Cour de cassation* confirmed that "*...baptism constituted a fact whose historical reality could not be disputed*"⁵.

⁴ As acknowledged by the Archbishop in the case (cf. § 480 of the Decision) "*It is entirely possible and, indeed, perhaps common, that a person who has received the sacrament of baptism is no longer a practising Catholic or no longer considers themselves to be a member of the Catholic Church*".

⁵ Judgment of the Cour de cassation of 19 November 2014, 13-25.156 <https://www.legifrance.gouv.fr/juri/id/JURITEXT000029789364>.

A recent ruling of the French *Conseil d'État* confirmed the acceptance of the practice of annotation in the margin by the Church⁶. Similar orientations have been adopted in **Spain**⁷, **Poland**⁸ and **Slovenia**⁹.

In **Italy**, a landmark Decision of the national DPA also underlined that: a) the record of a baptism is not only a data concerning the baptised, but it also constitutes an aspect of the life - and also a data - of the Church; b) by erasing any trace of an event that historically has concerned it, the Church would be forced to modify the very representation of 'its own reality'¹⁰.

In **Malta**, the Information and Data Protection Appeal Tribunal decision of 23 November 2012 refers, inter alia, to the fact that retaining the relevant data is also relevant "*...so that in the future from such register the Church can draw up future decisions which can be taken by the baptised person or other person who would be in relationship with such person such as the wife or spouse, in case such person contracts the sacrament of marriage*" (§ 5); and that "*It cannot be submitted that the right to freedom of religion of the appellant as well as his right to privacy are being eroded on the basis of the fact that the Curia is keeping data of historical relevance, data which are not publicly accessible but are subject to security obligations*" (§ 7).

Under Can. 535 CIC, every parish is required to keep such registers and to preserve them with care. The baptismal register constitutes a **fundamental evidentiary instrument** for numerous matters relating to the **internal life of the Church**: just as a national court cannot adjudicate without access to the case file, the Church cannot carry out its mission or administer its internal affairs without reliable baptismal registers.

⁶ Judgment of the Conseil d'État of 2 February 2024, no. 461093 <https://www.legifrance.gouv.fr/ceta/id/CETATEXT000049084997>.

⁷ Judgment of the Tribunal Supremo of 19 September 2008, STS 4933/2008, application no. 3730/2007 <https://www.legaltoday.com/historico/jurisprudencia/contencioso-administrativo/sentencia-del-tribunal-supremo-sala-de-lo-contencioso-administrativo-de-19-septiembre-2008-2008-10-15/>.

⁸ Judgment of the Supreme Administrative Court of Poland of 9 February 2016, case II OSK 1121/14 <https://www.prawo.pl/prawnicy-sady/nsa-apostazia-tylko-wedlug-koscielnych-procedur,64502.html>.

⁹ Judgment of the Slovenian Administrative Court of 8 September 2021, case I U 985/2020-30 at the links <https://sodnapraksa.si/dokument/uprs/6616686> and <https://gdprbuzz.com/news/court-the-right-of-erasure-does-not-enable-data-to-be-erased-from-baptismal-register/>.

¹⁰ Decision of the Italian Data Protection Authority (*Garante per la Protezione dei Dati Personali*) of 11 September 1999, <https://www.garanteprivacy.it/home/docweb/-/docweb-display/docweb/1090502>.

Erasure from baptismal registers would also **impact on future actions within the Church**. From other entries inserted in the baptismal register one can learn whether the person received the sacrament of confirmation (which, for instance, affects the possibility to be a godparent or to be a 'confirmand'); whether the person has entered into marriage in the Church; whether a person has made a perpetual profession in a religious institute. A practical consequence of erasure would be that, once his or her data had been removed from the baptismal register, a baptised person could not only request baptism anew but, if already married, perform acts reserved to unmarried persons (e.g. marrying again, being ordained priest, or making perpetual profession in a religious institute). All the **verifications** needed to prevent these actions **would be impossible after erasure**.

Some of the parties requesting erasure in the proceedings essentially implied that they do not wish to have anything to do with the Church and that they exclude categorically that they will ever be willing to re-enter the Church or receive any other sacraments. However, by definition, this possibility cannot be entirely ruled out with absolute certainty in the near or distant future. Safeguards as those entailed by **baptismal registers** are precisely aimed at **addressing legal certainty concerns in all cases**: therefore, they need to encompass **even highly unlikely or hypothetical cases**.

Parties in the proceedings also stated generically that the number of persons who return to the Church or who lie about their baptism following their distancing is negligible, or even purely hypothetical. In reality, such situations have emerged on several occasions, for instance in France, as confirmed by local Church authorities.

Arguments based on the **difficulties that may still be encountered - despite** the support of **baptismal registers** - in ascertaining the status of a person within the Church **have limited weight** in arguing in favour of erasure. The fact that a particular measure may not be perfectly effective does not mean that it is unnecessary within the meaning of the GDPR: it is sufficient that the measure bears a rational relationship to the legitimate objective pursued. The principle of proportionality does not require the adoption of a 'perfect solution', it only requires that the measure be appropriate and suitable for achieving the legitimate aim.

Finally, the rights of **a person** who does not wish anymore to be identified as Catholic cannot extend as far as **requiring that the Church adapt to his/her feelings or opinions the way the Church itself views baptismal registers** (i.e. requiring that the Church sees baptismal registers as a 'list of members'). This would mean not only adapting some internal procedures, but theological reflection as well, which is protected by Church autonomy.

3. Erasure from baptismal registers and its impact on third parties

It is quite evident that erasure of entries contained in baptismal registers can prejudice third party's interests and rights.

The **entry in a baptismal register does not concern only the baptised person**. In addition to the personal data of the baptised, it contains the personal data of at least five other persons: the minister of baptism, the child's two parents, and the two godparents. Each of these individuals has an independent and legally protected interest in preserving the integrity of the record, as a permanent and authentic account of his or her participation in the sacramental act.

Parents who decide to have their child baptised have a legitimate interest in ensuring that this fact remains documented within the Church's records, as evidence that they fulfilled their responsibility to provide their child with a Christian upbringing.

Godparents, by accepting their role, assume specific obligations under Canon Law towards both the Church and the baptised and for them it has little or no sense to be listed in the baptismal register without any mention of the person that was baptised.

The **minister of baptism** acts in the name of the Church, and the record of the administration of the sacrament constitutes the official certification of a canonical act which he was legally obliged to perform.

Therefore, the processing and the long-term preservation of these data do not serve merely the interests of the controller (the Diocese in conjunction with the parish priest) but also **safeguard the legal and religious interests of the religious community as a whole**, by enabling other members of that community to exercise their fundamental rights, including the right to freedom of religion.

Baptismal registers also contain **annotations about marriages** contracted in the Church. In this regard too, **erasure** from baptismal registers would infringe on the rights and interests of third parties, as it would make it **impossible to trace crucial information**. From the perspective of Canon Law, the removal of data from baptismal registers is impermissible, as it jeopardises the legal certainty regarding the validity of marriage, which is a public good within the Church. Specific **examples** can be quoted:

- Cases have been reported in which a former Catholic married in a civil ceremony with a non-Catholic, and after the break-down of the marriage, the non-Catholic person wished to become Catholic and petitioned the Church for **annulment of the previous civil marriage**. The absence of a baptism record would destroy relevant evidence and prejudice the person's chances in view of having his/her rights upheld.

- Any person **baptised** in the Catholic Church is **bound to observe the canonical form of marriage** and cannot validly marry e.g. in a civil ceremony without prior dispensation. In this case as well, erasure from baptismal registers would negatively impact on third parties' rights.

As it was underlined in academic contributions¹¹, **without a trace** of baptism, it is **impossible to make sure that the person can marry in the Church** (i.e. verification of the fact that the person is not already married religiously) or that that there are no impediments for taking religious vows or to enter priesthood (i.e. verification that the person is not married). Academics raise the question of whether, *mutatis mutandis*, erasure of marriages of divorced persons upon request would be allowed with regard to civil status records.

In general, requiring an institution (e.g. a university, a school, a hospital) to destroy its records of events that historically occurred, has a relevant impact on the person who requests erasure, but also on others.

The case of **state civil registers** is particularly fitting. One could think of the hypothetical example of a migrant person, who became a resident e.g. of Belgium and enrolled at a state school. At school, as a minor, the person was the victim of a sexual assault. The person subsequently decides to return to his/her country of origin and asks the Belgian State to remove all relevant personal data from the Belgian civil registers, considering it unbearable that a link/association with Belgium still exists. Would erasure be actually granted in this case?

Another useful **analogy** may be drawn **with citizenship**. As a general rule, a child acquires the citizenship of a particular State by operation of law at birth and does not choose that citizenship. If, as an adult, the individual changes citizenship, this does not entitle him or her to require the former State to erase every historical record demonstrating the previous possession of its citizenship. Citizenship, much like being part of the ecclesial communion, constitutes a legal status within a particular legal order. Although the loss of such status may have significant legal consequences - including, in some circumstances, statelessness - the change takes effect *ex nunc*. This does not confer a right to require the State to erase *ex tunc* the historical fact that a certain status previously existed.

For the Catholic Church, its registers have the same pivotal/core character and value as civil registers for each European State.

¹¹ J. Couard, *La liberté religieuse dans le champ des données personnelles*, *Racueil Dalloz*, 23 May 2024, n° 19, p. 922.

Erasure of data from baptismal registers may also **mislead the faithful - and** more seriously, **non-believers** - into being convinced that such a sacrament is ultimately repeatable and optional. This would even constitute an infringement on the substance of the sacrament and not merely of the manner in which it is administered or carried out.

4. Baptismal registers as source of evidence in civil proceedings

Several Bishops' Conferences have highlighted the fact that baptismal registers can assume high relevance as source of **evidence**, beyond the internal legal order of the Church, especially **in civil proceedings**. These cases provide evidence of the practical consequences of erasure from baptismal records, including for third parties.

Some examples:

- In **Italy**, baptismal registers can be used as proof of family bonds, in the context of **succession** proceedings and even in view of acquiring **citizenship**.
- In **Ireland**, baptismal registers are fully accepted to the purpose of effecting a late **registration of birth**: to apply to be registered as an Irish citizen it is necessary to produce the birth certificate of an Irish-born grandparent. In case the grandparent's birth was never registered and proof cannot be drawn from civil records - which is not uncommon - it is necessary to first apply for a late registration of birth under Section 65 of the Civil Registration Act of 2004. The Registrar-General will accept a Catholic baptism certificate as good evidence of the birth¹².
- In **Czech Republic and Slovakia**, baptismal registers are not merely ecclesiastical documents but also form part of the documentary heritage relied upon by public authorities and individuals for evidential purposes. Following the communist takeover in Czechoslovakia, all baptismal registers were transferred to state custody. As a consequence, these registers continue to serve **functions linked to the exercise of public authority**, notably because they often act as a substitute source of evidence for births recorded before the establishment of comprehensive civil registries. This historical arrangement also proves the practical limits and flaws of any alleged right to erasure from baptismal registers: in the case of persons born before the aforesaid historical development, the Catholic Church is simply not in a position to comply with a request for the erasure of data contained in the baptismal register, since the relevant records are no longer under its control but are held by public authorities.

¹² <https://www.irishstatutebook.ie/eli/2004/act/3/section/65/enacted/en/html#sec65>.

- In **the Netherlands**, thanks to baptismal records, the Church was able to assist a person searching for proof of the correct date of birth in the context of administrative steps to receive a **pension**.
- In **Poland**, ecclesiastical registers continue to serve as **evidence of birth** in cases where civil records were destroyed during the Second World War, complementing the public archival system.
- In **Cyprus**, baptismal registers are used as evidence in the context of family property issues/**real estate** claims.
- In **Belgium**, during the Second World War, thanks to baptismal registers, it was possible to prove that a group of **Jewish children** had been baptised, thus **preventing deportation**.

5. The role of freedom of religion

As it also emerged during the EU Court hearing, the balancing of fundamental rights at play is the core of the case: on the one hand, the right to the protection of personal data, and on the other hand, the Church's autonomy and **freedom of religion in its institutional dimension**, as highlighted in recent academic contributions¹³.

In this context, it is necessary to highlight that the Church's freedom of organisation is **not merely institutional in an abstract sense**. The registration of baptisms is not simply an administrative record, it also reflects a *theological reality* and has continuing relevance within the ecclesial structure of the Church. It also expresses the particular relationship which, from the Church's perspective, remains relevant even when a person later distances himself or herself from the Church.

This **in no way impedes/prevents** the person concerned from exercising **freedom of conscience** or from making clear that he or she no longer wishes to be regarded as a practising or believing Catholic. This is also confirmed in the binding Note issued on 7 April 2025 by the Holy See's Dicastery for Legislative Texts¹⁴ - one of the highest authorities within the Catholic Church.

¹³ Cf. S. van Bijsterveld, *The European Union Data Protection Regulation (GDPR) and the Church Baptism Register: A Direction for the EU Court of Justice*, The Review of Faith and International Affairs, 2026, available at the link <https://www.tandfonline.com/doi/epdf/10.1080/15570274.2026.2710541?needAccess=true>.

¹⁴ The Note is available at the link <https://www.vatican.va/content/romancuria/it/dicasteri/dicastero-testi-legislativi/documenti/20250407-nota-esplicativa-battesimi.html>.

The baptismal register is the fundamental basis for establishing the juridical status of the person in the internal legal order of the Church. Requiring the Catholic Church to erase the data contained in it, thereby intervening directly in its organisation, would constitute a **serious infringement upon Church autonomy and institutional freedom of religion**.

In many Member States, such a requirement to erase would even give rise to a **conflict** between the obligations arising under the Treaties and those arising under **Concordats**, with many of the latter having been concluded at an earlier date. Furthermore, Canon Law is recognised under national law in a number of Member States. Therefore, the impact that these proceedings will ultimately have in the other Member States should be taken into account.

During the hearing, strong emphasis was placed on the **negative element of freedom of religion** (data subject). Freedom of thought, conscience and religion undoubtedly guarantees every individual the right to leave the Catholic Church or otherwise dissociate himself or herself from it.

The **Code of Canon Law** leaves no doubt as to the **respect for this dimension of freedom of religion** in the Church: Canon 748 §2 CIC emphasises that “*No one is ever permitted to coerce persons to embrace the Catholic faith against their conscience*”. This provision is closely linked with the Second Vatican Council's Declaration on Religious Freedom *Dignitatis humanae*¹⁵ which recognises that religious freedom is a fundamental right grounded in human dignity that must be guaranteed by law so as to prevent people from being forced to act against their conscience.

The presence of the registration in the baptismal register also does not affect the possibility for the baptised to **freely decide not to participate in religious practice**.

On the other hand, the negative dimension of freedom of religion does not confer a right to require the erasure of the historical fact that the individual once belonged to that religious community.

Considering the elements highlighted above, while the negative dimension of freedom of religion of the data subject does not seem to be affected by the registration of baptism, an obligation to erase data from baptismal registers would seriously impede the proper functioning of the Church, with a massive impact on the institutional freedom of religion and on the autonomy of the Church. Further considerations in this sense are expressed below at paragraph 7.

¹⁵ The text is available at the link https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html.

6. Article 17.1 TFEU: safeguarding Church-State relations in the Member States

The role of Article 17.1 TFEU has been evoked during the EU Court hearing. The safeguarding of State-Church relations as set out in Member States' law (cf. also Recital 165 GDPR) is indeed a crucial aspect of the proceedings in question. The **case goes beyond the technical application of data protection law**. It concerns the space that EU law leaves for Churches to live and organise their faith in accordance with their own theological convictions.

The Court of Justice of the EU has acknowledged in its *Egenberger* ruling, not only that Article 17.1 TFEU and Article 10 of the EU Charter recognise the **right of autonomy of churches** (§ 50) but also that "...Article 17 TFEU expresses the *neutrality of the European Union* towards the organisation by the Member States of their relations with churches and religious associations and communities" (§ 58). This statement could be further developed and concretised for the case in question.

Indeed, at the EU Court hearing, the **European Commission** itself expressed **awareness** of the **sensitive nature of Church-State relations** and noted that erasure from baptismal registers would run counter to centuries-old customs of the Church.

The fact that in numerous Member States - **even in explicitly secular countries** such as France - rulings supported the solution of non-erasure accompanied by an annotation, is also linked with the **consciousness of the negative and undesired impact** the matter can have on the establishment of peaceful State-Church relations in the Member States.

The **principle of the secular nature of the State** entails not only non-interference by the Church in State affairs, but also non-interference by the State in Church affairs. No State can determine the internal rules governing the Church's operations - least of all in the European Union.

National courts have explicitly **illustrated the link between baptismal registers and State-Church relations**. For instance, a much-quoted ruling issued by the Tribunal of Padua, Italy, on 26 May 2000¹⁶, affirmed that the registration of baptisms and the mere preservation of the relevant data in the parish books carries out an exclusively internal function within the order of the Catholic Church, without assuming relevance within the State itself.

¹⁶ <https://www.uaar.it/laicita/sbattezzo/sbattezzo-sentenza-trib-padova-26-05-2000.html/>.

From the perspective of Article 17.1 TFEU - as well as of Article 10 EU Charter - it would be **problematic if the nature and character of baptismal registers** were to be **re-defined by a civil court** (i.e. 'baptismal registers are lists of members') in a way that contradicts the definition upheld by the Church, on the basis of its self-understanding, including through its highest authorities (i.e. 'baptismal registers cannot be construed as lists of members', cf. the Note of the Holy See's Dicastery for Legislative Texts). In some sense, erasure from baptismal registers would impose on the Church as a whole a concept of 'membership' that does not belong to it or to its legal order.

7. Application of the right to object (Article 21.1 GDPR) in combination with the exercise of the right to erasure (Article 17.1, point c)

With regard to the application of Article 21.1 GDPR on the right to object, the EU Court hearing focused in a special manner on the subjective experience of the data subject. This has of course relevance for the balancing required by Article 21.1 GDPR, but cannot be decisive and the relevant balancing is to be based on objective criteria.

It is not clear which specific freedom of the data subject had been restricted, what actions the data subject was unable to perform and what right the data subject was unable to exercise in this case.

On the other hand, the '**compelling**' nature of the legitimate grounds on which the Church can rely derives directly **from the fundamental role and standing of baptism in Canon Law**, as the gateway to the other sacraments and as the foundation for participation in Church life. Useful clarifications can be found in the cited Note of the Holy See's Dicastery for Legislative Texts¹⁷. The fact that Church autonomy is **recognised in EU primary law** (Article 17.1 TFEU) also supports this conclusion.

The registration of baptism cannot be understood only as the administrative retention of personal data about an event in the past. Within the Catholic Church, baptism has continuing sacramental and ecclesial significance. Its **registration** gives **visible and juridical expression to a content of faith**. The sacrament reflects the covenant between God and the human person and the enduring faithfulness of God. Requiring the Church to erase that registration therefore affects more than its record-keeping. It touches upon the way in which the Church understands and expresses a fundamental element of its sacramental faith.

¹⁷ The Note underlines that the historical ecclesiastical facts recorded in the baptismal register must be taken into account with a view to a sound administrative-pastoral order, for theological reasons and for legal certainty, as well as for the possible protection of the rights of the data subject and of third parties.

The **right to the protection of personal data** is fundamental, but it is **not absolute**. Where EU data protection law requires a balancing of rights and interests, **freedom of religion must be given real weight**. In this case, that means taking seriously the Church's own understanding of baptism and of the function of the baptismal register. Otherwise, there is a risk that while freedom of religion is recognised in theory, secular law determines the meaning of an act that belongs to the Church's own understanding and internal order. This has high relevance also in view of the balancing required by Article 21.1 GDPR.

Certainly, the **impact on the interests or rights of the data subject** must be considered in the balancing exercise required by Article 21.1 GDPR. However, the **safeguards adopted by the Church reduce** this impact **significantly**: baptismal registers are kept private (i.e. not accessible to the public) and secure; they are subject to strict rules of confidentiality; they are only accessible by a very small number of authorised individuals. The relevant data are not used for any profit-making purpose and do not confer any economic advantage on the Church, since public funding is not allocated on the basis of the number of baptised persons. The relevant data are also not useful for indicating the number of believers and possibly influencing public opinion, since the baptismal register records only the persons who have been baptised, not those who attend a certain parish¹⁸.

The **relevance of Canon Law** should also play a role in the assessments required by Article 21.1 GDPR. With its **Article 91**, the **GDPR** explicitly acknowledges that the ecclesiastical legal order is a specific regulatory factor to be taken into account. If the Canon Law system was totally immaterial to the GDPR system, Article 91 GDPR would have no place within the GDPR itself (regardless of whether the Church had 'comprehensive rules' at a certain moment in time or whether they were 'brought into line' with the GDPR).

Concerning the **European Data Protection Board draft guidelines 1/2024** on processing of personal data based on Article 6(1)(f) GDPR, their contents **raise questions**: whereas the GDPR addresses the right to object with very scarce references (cf. Recital 69 and obviously Article 21) the EDPB draft guidelines seem to creatively 'colour' this right, striving too far in making explicit and concretising the requirements for a successful invocation of Article 21 GDPR. Legal certainty should be fully ensured for data controllers too.

In any case, considering that an obligation to erase data from baptismal registers would jeopardise the proper functioning of the Church, the situation would fall under the case of a controller being "*...compelled to process the personal data in order to protect its organisation or systems from serious immediate harm*" (§ 73 of the EDPB draft guidelines).

¹⁸ For instance, in Ireland, baptismal registers are not used for calculating the Catholic population of a parish or diocese and Dioceses rely solely on the data of the Central Statistics Office, obtained through the national census, by which citizens themselves choose to record, or not, their religious affiliation.

The alleged element concerning the **infringement of the human dignity** of data subjects also seems to be **lacking**. Retention of data does not result in public discredit, since the baptismal register is not open to public inspection. Considerations made in the cited Tribunal of Padua ruling of 26 May 2000 arguably apply to all Member States: *“The registration of the baptismal act and its preservation in the parish registers cannot be considered detrimental to the Data subject’s personal dignity, as assessed on the basis of the values and criteria assumed by the Italian State system: for the Italian State system, having been subjected to a rite pertaining to a religious confession recognised by the State cannot constitute a mark of infamy”*.

Recalling the **origins of the right to object** is also relevant. The EU has powers and competences in economic matters, but not in matters relating to State-Church relations (Article 17.1 TFEU). The right to object was designed in this framework, in particular to put an end to **unsolicited advertising**¹⁹. Such rationale does not apply to baptismal registers, which are neither conceived nor used for the purpose of contacting Church ‘members’.

Bearing all these elements in mind - also in the light of the considerations made above in paragraphs 2, 3, 5 and 6 - the balancing test required by Article 21.1 GDPR seems to be in favour of the Church’s position.

8. Genealogical research

In the context of the application of Article 17.3, point d GDPR (processing that is necessary for archiving purposes in the public interest / historical research purposes) it is important to consider that baptismal registers constitute a **historical source of considerable value** for the reconstruction of the ecclesial community, but also of social life of local communities. These records play a fundamental role in documenting legal and historical facts and ensuring the continuity of individual and collective identity.

One of the examples to be considered concerns the **high value** of baptismal registers **for genealogical research**, which can be confirmed by distinguished experts in the field.

A baptismal register often contains information that is not found in civil registry records, especially not on birth certificates. The names of godfathers and godmothers **reveal elements about family traditions and relationships** and also help explain later events. In special cases, baptismal registers even **help to distinguish between homonymous persons**.

¹⁹ This element emerges also in the *“One-Stop-Shop thematic case digest on the Right to object and right to erasure”* published last May by the European Data Protection Board, at page 8 *“... Many of the cases decided by Supervisory Authorities under Article 21 deal with the use of personal data for direct marketing rather than objections to the processing of data in the performance of tasks carried out in the public interest, in the exercise of official authority vested in the controller, or on the basis of legitimate interests (Article 21(1)). In the cases examined there is a frequent link between the request to stop any further processing of personal data for marketing purposes and the request to erase previously collected data”*.

The name of the priest who performed the baptism can also provide insight into the **parents' social circle**. Some **information**, for certain periods, is **not** even **available in civil registries**, namely when the parents - or one of them - were from another country and in certain cases, baptismal registers are the only means to find ancestors.

9. Conclusions

This document has strived to illustrate both the **implications of Case C-12/25, *Bisdom Gent*** and the relevance of **legal arguments** that may play a role in view of its outcome.

The case is **not only about whether certain personal data should be retained**. It also raises a deeper question. To what extent may EU data protection law **require a Church to change the way in which it gives visible and juridical expression to its faith**? This is especially important in relation to baptism. For the Church, baptism is not simply a historical event that took place once and was later recorded. Its registration also expresses a content of faith. Baptism reflects the covenant between God and the human person and the enduring faithfulness of God. The lasting character of baptism is therefore not only a matter of administration or Canon Law. It is rooted in the Church's faith and sacramental understanding.

Seen in this way, **the case also touches upon the freedom of the Church to give institutional expression to what it believes**. An obligation to erase data from baptismal registers would therefore affect more than a system of record-keeping. It could affect the way in which the Church expresses and safeguards a central element of its sacramental faith. This is not only about an administrative interest of a data controller. It concerns the institutional dimension of freedom of religion and the freedom of the Church to live, organise and express its faith.

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