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COMECE Secretariat

Erasure from baptismal registers

Comments on the Advocate General Opinion in EU Court case C-12/25, *Bisdom Gent*

On 1 October 2026, the Advocate General of the Court of Justice of the EU delivered the Opinion in case C-12/25 Bisdom Gent. COMECE considers it important to respectfully express some remarks on many aspects of interest contained in the text.

The present document is published in the same spirit of contributing to the public debate as the position paper "Erasure from baptismal registers - Considerations after the EU Court hearing in Case C-12/25, Bisdom Gent", issued by COMECE on 4 September last[1].

The Church remains committed both to data protection and to the responsible preservation of sacramental and historical records.

COMECE hopes that this position paper will foster an outcome rooted in a comprehensive consideration of both the internal functioning of the Church and of the profound impact the case can have on the life of the Catholic Church, as well as of other Christian denominations, in EU Member States.

The complex Opinion elaborated by the Advocate General contains important elements that would deserve to be upheld by the EU Court in its future ruling: the acknowledgments made at §§ 70-99 on legitimate interest as ground for processing the data contained in baptismal registers are vital and positive. Equally welcome is the recognition at §§ 111-115 about the compelling nature of the interests relied on by the Church. The Opinion also does not support the idea of physically removing pages from baptismal registers (§ 209).

However, with this position paper, COMECE would like to focus on the aspects of the Opinion that raise concerns, proposing key elements and arguments that may lead to an alternative reading of the case and to differing conclusions.

[1] https://www.comece.eu/comece-publishes-position-paper-on-erasure-from-baptismal-registers/.

1. Requesting erasure by objecting to the processing: interaction between Article 17(1)(c) and Article 21(1) GDPR (§§ 101-154)

1.1. Baptismal registers: registers of sacraments vs registers of members

The Opinion is based on a fundamental conceptual premise that is deeply questionable. Throughout §§ 131-154, the **baptismal register** is implicitly **treated as a register of religious affiliation** and as relevant to the question of membership of a religious community, i.e. as evidence that a person currently belongs to it.

Were that premise correct, the balancing proposed by the Opinion might be coherent (i.e. the individual's right to self-determination and to dissociate from a religious community may, in appropriate circumstances, outweigh the controller's interest in retaining the data). However, **the Catholic Church**, in its autonomy, **upholds a different understanding** of the baptismal register. The register does *not* record present membership. Rather, it documents a historical and sacramental fact, namely that a baptism took place at a specific time and in a specific place. Whether the person subsequently remains a believer, 'leaves' the Church or ceases all religious practice does not alter the historical truth of that event and the baptismal record does not testify to anything in one sense or the other.

The Opinion refers to a person that is 'associated (or may reasonably be presumed to be associated) with a religious community' (cf. § 79) while using at the same time the diluted expression **'wish to distance himself or herself from the Church'** (cf. § 182): this also makes it difficult to clarify that a baptismal register is not a 'register of members' but a 'register of sacraments'.

On the basis of the correct understanding outlined above (i.e. the **baptism register as a register of sacraments, not as a register of membership**) a number of elements of the Opinion commented on below - e.g. on consent, on self-determination, on the right to be forgotten itself - become unconvincing.

Once the correct view is adopted, that a baptism register is not a repository of current religious affiliation but the documentary record of an event that actually occurred, the **preservation of baptismal records** appears **not merely** as **an administrative interest** to be weighed against competing interests, but as an expression of the autonomy of religious communities protected by Article 17(1) of the Treaty on the Functioning of the EU (TFEU) and by the freedom of religion guaranteed under EU primary law.

1.2. Assessing the 'necessity of data processing' condition

a) The purposes of baptismal registers

The conclusion that the **interest relied on** by the Diocese of Gent can, in principle, be considered as **'compelling'** in accordance with Article 21(1) GDPR (cf. §§ 111-115 of the Opinion) is to be appreciated. It is an important indication that the EU Court will hopefully retain.

However, in the passages that follow (§§ 116-129) the Opinion seems to base the assessment of the 'necessity of data processing' condition on an **excessively narrow understanding of the purpose of baptismal registers**. The function of baptismal registers is not limited to preventing a 'second baptism' and to facilitating the administration of this sacrament. Furthermore, the necessity of retaining baptismal records cannot be assessed solely by reference to the likelihood that an individual data subject may wish to receive further sacraments.

Baptismal registers are ongoing/*living* instruments, fulfilling an objective and continuing function within the canonical legal order: establishing sacramental and canonical status, supporting subsequent annotations, allowing the Church to issue reliable certificates throughout a person's life, as well as protecting the rights and interests of third parties. Therefore, many **other uses** that **baptismal registers** have in Church life are **not accounted for** in the Opinion.

The **very strict interpretation of the 'necessity of processing' condition** offered by the Opinion, setting a disproportionately high threshold, may seriously jeopardise the spiritual mission of the Church.

The Opinion embraces the approach adopted by the Belgian Data Protection Authority on the **possibility to circumvent the baptismal registers' system** (§ 125). However, the fact that a system can be circumvented by a person concealing a previous baptism **does not mean that the system is unnecessary or inappropriate**. As underlined at p. 5 of the COMECE position paper of 4 September last: "*Necessity does not require absolute effectiveness. 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*". Additionally, the fact that the system is not centralised does not make it unsuitable to this purpose.

b) Correspondence concerning erasure requests

As for the suggestion that the **correspondence exchanged with the Church in view of erasure** could be used by the data subject to prove the previous baptism (§ 127), it may be contradictory to the 'closure' argument used at § 152 with regard to psychological harm: identifiable traces concerning the previous baptism would still be kept on that basis on both sides. Moreover, it cannot be excluded that in few cases erasure requests may be made just orally/in person. In general, the argument concerning correspondence would arguably be rejected by courts in case of erasure requests concerning e.g. civil status records.

c) The role of Canon Law provisions

The Opinion refers at § 127 and note 106 to **alternatives offered by the Code of Canon Law**, in particular Canon 876 ("*To prove the conferral of baptism, if prejudicial to no one, the declaration of one witness beyond all exception is sufficient or the oath of the one baptized if the person received baptism as an adult*").

However - apart for the considerations made below at paragraph 4 of this paper, on the interpretation of Canon Law - **Canon 876 cannot be a viable alternative** to continued processing of data in the baptismal register.

Canon 876 establishes a subsidiary rule of evidence for establishing that baptism has taken place. It **does not constitute an alternative to the mandatory registration and preservation** obligations **deriving from Canons 535** (on the keeping of parochial registers) and 877 (on the recording of baptism in the relevant register). The possibility of proving a sacramental event by alternative means cannot be equated with the possibility of dispensing with the ecclesiastical register itself. In other words, it does not follow from Canon 876 that the baptismal register becomes unnecessary; that the Church's obligation to maintain such records ceases to apply; or worse, that the deliberate destruction of the ordinary and legally required means of proof is authorised. The **Explanatory Note of the Holy See's Dicastery for Legislative Texts** on the prohibition of erasure from parochial baptismal registers[2] reinforces this point by expressly clarifying that testimonial evidence does not replace the register but provides the certainty necessary for registration.

It should be added that **Canon 876** addresses evidentiary insufficiency, it **does not authorise the intentional creation of evidentiary insufficiency**.

[2] https://press.vatican.va/content/salastampa/it/bollettino/pubblico/2025/04/17/0259/00486.html.

Canon 876 is normally invoked as an 'emergency' instrument when baptismal registers have been destroyed (e.g. fire, war, flood) or lost or when the record was not properly written down or omitted by mistake: the Canon was neither intended for, nor can it be used to, remedy a situation intentionally created by the interested party.

The scope of Canon 876 is also **limited by the condition "*...if prejudicial to no one*"** and therefore it may not provide an effective solution for all cases. Furthermore, **unexceptionable witnesses may not be available**, considering that in many cases baptism is administered to infants, often many years before the erasure request.

Incidentally, in cases where the fact of baptism is the object of a **dispute in front of a tribunal or involves consequences for other persons** (for example, if an inheritance were conditioned upon the baptism having taken place) the proofs indicated in Can. 876 are **considered insufficient**[3].

With regard to **'conditional baptism'** (cf. § 129 of the Opinion) the Explanatory Note issued by the Holy See's Dicastery for Legislative Texts in April 2025 had also provided useful and sound clarifications, ruling out the possibility of interpreting this Canon Law provision in the manner the Opinion is proposing.

In conclusion, the Opinion assesses the appropriateness of **alternatives** to storage of baptism data on the basis of elements that **do not** seem to **pass the required test**. As a consequence, the statement made at § 121 (i.e. that losing the ability to process the complainant's personal data might, perhaps, not seriously hinder Bisdom Gent's capacity to accomplish its spiritual mission) appears difficult to uphold.

1.3. Balance of interests

COMECE believes that, on the basis of all the elements that characterise this case and of the functioning of the baptismal registers' system, the Opinion could have concluded that the **compelling legitimate grounds** invoked by the Church**, in principle, override the interests, rights and freedoms of the data subject**.

1.3.1. Impact on the rights and interests at stake

Concerning the degree to which halting data processing and erasing the personal data would seriously hinder Church activities (§ 137), an important element should have been taken into account. As baptism is the gateway to the other sacraments, any interference with the functioning of baptismal registers has a negative **'ripple effect' on all the other sacraments** it gives access to.

[3] Cf. *Codice di Diritto Canonico Commentato*, Quaderni di Diritto Ecclesiale, Ancora, 2022, p. 761.

This enhances the hindrance to Church activities deriving from erasure from baptismal registers. The impact of erasure on the verifications required in view of **canonical marriage** is particularly serious.

Erasure would also have a **substantial impact on the rights of other persons**, who are themselves not only entitled to have their personal data remain intact, but may also have a legitimate legal interest in knowing whether the data subject was baptised or not.

On the other hand, it is surprising that the Opinion considers the **small scale of the processing** (i.e. limited amount of data processed / number and types of operations) as not decisive in assessing the impact on the fundamental rights of the data subject (§ 139). This element should have a clear, proportional weight in considering the impact on the data subject's rights. The GDPR itself attributes explicit relevance to the scale of the processing in key provisions (e.g. Article 35, Article 37 of the GDPR), also on the basis of the corresponding risk and impact on the fundamental rights of the data subject.

COMECE is also **concerned** about some of the **considerations** made in the Opinion **on freedom of religion**. The statement at § 149 that Article 10 of the EU Charter sets out, first and foremost, a right of *self-determination*, with emphasis on the individual element of freedom of religion, is problematic. This seems to imply a prevalence of the individual over the collective (as well as the institutional) dimensions of freedom of religion, whereas the EU Charter places such elements on an equal footing.

Furthermore, the Opinion **blurs the distinction between** on one hand the **indelible spiritual mark** left by baptism and its legal effects in the Canon Law order (elements that are, incidentally, linked with the 'doctrinal matters' in which interference should not be admitted on the basis of § 207); **and** on the other hand the **freedom of the person** not to hold religious beliefs and not to practice a religion, which is not limited by the registration and the relevant data processing.

1.3.2. The role of consent

The passages regarding baptisms of minors are also questionable. The Opinion repeatedly emphasises that the data subject did not consent to the processing because he/she was baptised as a child (cf. for instance § 141). However, **the legal basis** relied upon in such cases by the Church is not the continuing consent of the data subject - or the decision taken by the parents at the time of baptism - but **legitimate interest**, with the continued retention of the record serving to preserve an accurate account of a sacramental event that forms part of the Church's institutional and religious identity.

Attributing considerable weight to the lack of consent in the balancing exercise, when the controller is relying on another legal basis for processing, ultimately entails the risk of **'penalising' the controller for opting to rely on a different ground than consent**.

In general, the Opinion **diminishes the role of parents** (cf. § 142), who, however, can take binding decisions on behalf of their children with full legal effects in many situations.

1.3.3. Personal data revealing religious beliefs

At § 142 the Opinion attributes relevance to the fact that a baptismal register contains 'personal data revealing the religious beliefs' of the baptised.

The baptismal record is certainly **meaningful** with regard to the **beliefs of** the **parents** of the baptised and of his/her **godparents**.

On the other hand, with regard to the baptised person, the record may reveal a historical religious association, within the broad scope of Article 9 GDPR, but **does not necessarily reveal the present beliefs**, convictions or current religious affiliation **of the baptised**, particularly where baptism occurred during infancy. No confusion should be made between the religious beliefs of the data subject at present and the fact that his/her name and surname are included in the baptism records: the two elements are not necessarily related. The current religious beliefs can be different.

1.3.4. The relevance of emotional distress

The Opinion grants significant relevance to the possibility that continued retention of personal data related to baptism may cause emotional distress to the data subject. However, in doing so, it utilises overly general wording and ultimately fails to objectify this element. The argumentation leaves a lot of room to **purely subjective considerations** that are almost **impossible to measure for the Church data controller**.

While concerns related to emotional distress deserve consideration, it is nevertheless hard to support the idea that subjective discomfort arising from the existence of a (truthful) historical record should, by itself, justify erasure of data from it. If this principle were to be accepted by the EU Court with regard to baptismal registers, it could have **dramatic implications** extending to many categories of historical, educational, professional, institutional records and possibly even to civil status registers. The same would apply to registers of other religious denominations (Muslim, Jewish communities).

Resorting to a frame of reasoning that grants high relevance to emotional distress (cf. especially § 150) would also lead to the unacceptable consequence that in case of conflicting rights, the **rights of the person who is under emotional distress would have to prevail**.

With regard to emotional distress, the reference to the EU Court ruling in the case **C-252/21** ***Meta Platforms and Others*** also raises doubts: § 118 of the ruling focuses on the case of a person who may have the feeling that his/her private life is being continuously monitored, with potentially unlimited data being processed. This situation is hardly comparable to the one of baptismal registers. The EU Court judgment in case **C-200/23** ***Agentsia po vpisvaniyata***, also quoted in the Opinion, equally refers to a non-comparable situation (i.e. certain non-compulsory personal data had been made available online to the public).

In general, the emphasis on **psychological harm** is not substantiated by the Opinion in such a way as to imply a manifestly negative influence on the person: the considerations are kept at a speculative level, based on the fact that the person may be affected in the future.

As for the expressions used at § 150 (*"…it cannot be ruled out"*) and § 151 (*"…it cannot be excluded"*), they seem to **lack the weight required by the sensitive balancing exercise** in question. This especially considering that the relevant elements are pitted against, inter alia, Church autonomy as recognised in EU primary law. The formulations used in §§ 150-151 are also perplexing considering that a **much more severe approach is adopted concerning the Church** (cf. § 122 on the eventuality of the data subject rejoining the Church being *"…not very likely"* and § 123 *"…it is not entirely clear in which circumstances there could be a real risk that a person such as the complainant might be baptised twice"*, referring to the need to prove that such situation is plausible or likely to occur).

Finally, the assertion that data processing related to baptismal registers may have in some cases an impact on the ***physical*** **integrity** of the data subject (§§ 144 and 152) is not convincingly substantiated by the Opinion and appears to be disproportionate.

1.3.5. The new European Data Protection Board Guidelines 1/2024 on processing of personal data based on Article 6(1)(f) GDPR

After the publication of the Opinion, the European Data Protection Board (EDPB) adopted the **final version** of its **Guidelines** 1/2024 on processing of personal data based on **legitimate interest**[4].

This development is particularly relevant to the interpretation of the concept of **"compelling legitimate grounds"** under Article 21(1) GDPR. The draft Guidelines - on which the Opinion partly relied - stated that, in essence, the grounds invoked should be **"essential to the controller"** in order to be considered compelling. This sentence has been **removed** from the final Guidelines at § 72.

[4] https://www.edpb.europa.eu/documents/guideline/guidelines-12024-on-processing-of-personal-data-based-on-article-61f-gdpr_en.

The EDPB Report on the relevant public consultation expressly explains that the reference to grounds being "essential to the controller" originated in the different context of Article 49 GDPR. Its removal confirms that the standard applicable under Article 21(1) GDPR **should not be equated with existential or absolute necessity for the controller**. The final Guidelines no longer support the proposition that only grounds which are indispensable to the controller's existence or activities may qualify as compelling.

This **clarification** is **important for the present case**. The correct administration of the sacraments, canonical legal certainty, the preservation of authentic sacramental records and the protection of the rights of third parties may constitute particularly weighty grounds even though the erasure of a single entry would not, in isolation, threaten the institutional existence of a diocese.

Furthermore, § 71 of the final Guidelines clarifies that an **objection concerns only the relevant personal data relating to the objecting data subject**. A baptismal register entry often contains personal data relating to parents, godparents, the minister, witnesses and other persons. The objecting data subject cannot exercise the right enshrined in Article 21(1) GDPR on behalf of these persons. Any proposed intervention in the register must therefore identify precisely which data relate to the applicant and assess the effects of alteration on the rights of other data subjects, as well as on the authenticity and evidentiary function of the record.

Finally, §§ 69 and 70 of the definitive Guidelines recalls that an objection must be based on grounds relating to the particular situation of the data subject. Where that situation has not been sufficiently specified, the **controller may request further clarification**. Any such request should remain proportionate and not become an intrusive investigation into the person's religious beliefs, family history or alleged emotional distress.

2. Archiving in the public interest and historical research purposes (§§ 155-194)

With regard to archiving in the public interest, the Opinion seems to interpret the **concept of 'public interest'** in an **excessively restrictive** manner, by presuming that it covers only cases where there is unrestricted access to a database. On the contrary, public interest and cultural/historical value can be present even when access is restricted.

Secondly, **insufficient emphasis** is placed **on** the fact that the value of an archive lies in its **integrity**: a database that is full of gaps loses values.

Furthermore, while **anonymisation** is supported in various passages (cf. §§ 185, 189 as well as § 205 concerning the concept of 'erasure') this option is **insufficient** for the needs and purposes pursued by the Church.

The analysis of the concept of '**historical research'** also appears **unduly restrictive**. Baptismal registers are valuable not only for academic historians, but also in view of research for genealogical purposes, local history, family history, and the study of social and religious developments. Their significance extends well beyond formal scholarly research.

At § 176 the Opinion recalls that Recital 160 GDPR includes **genealogical purposes** in the concept of historical research. However, the question of the relevance of baptismal registers for such purposes is somehow deflected by wondering whether "*…the concept of 'history' can be interpreted so broadly as to encompass the consultation and study of everything which has happened in the distant or recent past*". While this is a legitimate question with regard to other types of documentation, such doubts do not seem to apply to **baptismal registers**, which are **among the most palatable and vital materials** for genealogical research (on this point cf. also the COMECE position paper of 4 September last, p. 14). As for the value of aggregate or anonymised data (§ 185) these types of data are not sufficient, at least for genealogical purposes.

The Opinion also refers to the need for research activities to **benefit society as a whole** (§ 177): again, this statement appears to be too **restrictive** and may colour excessively the provisions of the GDPR.

On the other hand, the fact that **information is added** in the registers does not jeopardise the **integrity of the records** (compare with the considerations made at § 182 of the Opinion).

3. Annotations in the margin (§§ 195-211)

In this part of the Opinion too, **insufficient weight** is attributed to the **autonomy of religious communities**. As previously underlined, baptismal registers are not merely repositories of personal data: they are instruments through which the Church documents sacramental status, organises its internal life, and preserves its institutional memory. Any obligation to alter those records affects not only data processing, but also the internal constitutional order of the religious community itself.

The approach proposed by the Opinion with regard to annotations in the margin is disappointing, also considering the **rich jurisprudence** adopted - across diverse legal systems and State-Church relations models - **in numerous EU Member States**. Such case law confirmed the acceptance of the practice as entirely adequate. COMECE had highlighted the relevant jurisprudence in its position paper of 4 September last (cf. pages 3-4).

A number of more specific elements raising questions and doubts are highlighted below.

a) Increase of data processing

The argument that annotation in the margin of baptismal records increases the data processing (§ 199) does **not** seem **decisive**, considering that the approach supported by the Opinion would also lead to the Church processing more personal data, requiring the Church to ask the reasons for which each person seeks to have the record erased.

b) Inappropriate parallel with commercial databases

The body of **EU case law** cited in support of the reasoning is drawn **primarily from disputes between a consumer and a commercial enterprise**: such situations bear no relation to an individual's relationship with his/her religious community. Reference is repeatedly made to the ruling in the case C-131/12 *Google Spain*, which pitted an individual against a 'digital giant'.

The questionable use of this framework is particularly evident in § 202, where the Opinion dismisses the argument on falsification of history deriving from erasure; and in § 203, in which this stance is justified with the example of a service provider receiving a request to remove certain personal data relating to a customer from its database. Placing baptismal registers at the same level as commercial databases entails an **insufficient consideration of the nature of baptismal records**. Article 17(1) TFEU also points at the high specificity of the case. The **Church** is a constituted entity dating back more than two thousand years and, as noted in doctrine[5], **cannot be treated as just another association or company**. This specificity has to be taken fully into account to ensure respect for freedom of religion in its institutional dimension.

Furthermore, the Opinion neglects the fact that, as opposed to customer databases, baptismal registers are: a) **not** supposed to be **used to contact persons** in view of Church activities; b) **not** intended to be **used to collect financial contributions**; c) in most cases **accessed as a result of a request made by the baptised persons** to the institution (the Church) and not the other way round, as in the case of a customer database.

[5] Cf. the intervention of Professor Emanuele Bilotti (European University of Rome) at the conference "*Freedom of Religion and Ecclesiastical Registers*", organised at the European Parliament on 11 November 2026: "*For associations such as political parties or hunting clubs, the matter should be approached differently. Indeed, it should be considered that public authorities may scrutinise whether the retention of membership records provided for in their statutes remains necessary after a person has left the organisation. The reason is that autonomy enjoyed by such associations operates within a legal framework established by the State and is therefore subject to the limits imposed by civil law. Religious denominations, by contrast, are in a different position. Their authority does not derive from the State, and their legal orders are regarded as original rather than subordinate. Accordingly, the autonomy enjoyed by religious communities is broader in scope than that enjoyed by to ordinary associations. To equate these two forms of autonomy would be to overlook the distinctive constitutional status of religious freedom, a status that the EU is bound to respect*".

c) Data minimisation

The principle of data minimisation is invoked at §§ 204-205 in a manner that seems **inconsistent with the nature of sacramental registers**. Names, surnames, dates of birth, and family references are not excessive or ancillary data. They are precisely the elements that allow the register to fulfil its evidentiary and canonical function. Removing them does not merely minimise the record, it **deprives** such **records of** their **essential content**, of their **meaning, value and purpose**. The historical fact is not simply that a baptism occurred at a particular place and time, but that a specific person was baptised at a particular place and time. Once the identity of the baptised is removed, the record no longer documents the same event in its entirety. An unidentified baptismal entry cannot effectively prevent a second baptism, establish canonical status, support subsequent sacramental annotations or enable the issuing of an accurate baptismal certificate.

d) Rights and interests of third parties

The conclusions reached in this section of the Opinion may have been different if the **prejudicial impact of erasure on the rights and interests of third parties** had been taken into greater account. The personal data of the data subject are not the only ones at stake in the case. COMECE had provided ample references in this regard in the position paper published on 4 September last (cf. pages 6-8). Among those references, particularly relevant are those related to canonical marriage. However, at §§ 98 and 127 the Opinion only refers to eventual interests *of the data subject* in case of canonical marriage.

e) The concept of erasure

The Opinion also appears to be **inconsistent in addressing the concept of erasure**: the relevant section starts at § 197 with a definition of erasure that entails deletion, removal, obliteration. However, it then refers to the fact that erasure of the personal data should ensure that the baptised is no longer identified or at least not easily identifiable (§ 206).

f) Doctrinal matters

At § 207 the Opinion states that "*data subjects have no right, be it under the GDPR or any other provision of EU law, to request that the controller treat their baptism as though it had never occurred or is devoid of value*". However, this raises the question whether the controller can actually treat the data subject's baptism as though it *did* occur or as though it *does* have value once **all traces linking the baptism to that person is erased from the relevant register**.

The subsequent statement that the EU cannot interfere in doctrinal matters in accordance with Article 17(1) TFEU is positive, but it also highlights the gaps in the argumentation, considering the **close interlink between Canon Law** - to which the Opinion makes recourse **- and doctrinal matters**.

g) Practical solutions

The suggestion that compliance with the GDPR could be achieved through **opaque stickers** or similar physical interventions on baptismal registers (§ 209) is **particularly problematic**. Such an approach sits uneasily with the principles of archival authenticity, integrity, and reliability that underpin the preservation of historical records across the EU. It is far from established that the GDPR was ever intended to require this kind of intervention in unique historical documents. On the other hand, annotations in the margin preserve the original record and document subsequent developments. They are qualitatively different from irreversible obliteration.

f) The meaning and purpose of annotations in the margin

In the key passage at § 210, the Opinion essentially states that the annotation of the 'departure' of the person from the Church in the margin of the register - accompanied by strike-through of personal data that leaves them legible - does not amount to erasure in accordance with the GDPR. However, **the practice of annotation to the margin is not meant to 'replace' erasure or to effect erasure**: it is a legal solution adopted by the Church for a situation in which, under no circumstance, it is possible to erase the data in question, due to the fact that data concern a fact that has truly taken place.

The **concluding statement** made at § 211 ("*The fact that the baptismal register is not digital, but a unique material carrier in the form of a book with double-sided pages in which details of other data subjects are also given, and which constitutes a unique record of historical facts that are not recorded anywhere else, does not call the foregoing considerations into question.*") is presented without any **further elaboration** and may have required additional considerations.

4. Interpreting Canon Law in the EU law frame

As seen above, key passages of the Opinion imply that a **secular court** may draw on rules from a different and separate jurisdiction (**Canon Law**) interpreting them **to show that erasure can be performed** within that distinct, internal legal order (cf. for instance §§ 127-129).

EU and State courts may need to take Canon Law into account when assessing external legal consequences. However, they **should not isolate a canonical provision from its legal and doctrinal context or attribute to it**, from a non-authoritative perspective, an internal **meaning contrary to the authoritative interpretation adopted within the Church's own legal order**. This element is crucial to ensure protection for the fundamental right to freedom of religion in its institutional dimension; to safeguard Church autonomy; as well as to ensure respect for the principle of separation of Church and State. Each legal system has its own regulatory tools and ways of reasoning, which cannot be transposed from one system to another without distorting them and causing them to lose their identity.

Both legislations at play (GDPR and Canon Law) have to be taken into account and arguments and **interpretations formulated by the Church on the basis of Canon Law** within its jurisdiction **should receive** the same **respect** as those based on the GDPR.

One such notable example is the already mentioned **Explanatory Note adopted in April 2025 by the Holy See's Dicastery for Legislative Texts**. The document originated from one of the highest authorities in the Church and was recalled by various parties at the public hearing. The Note clarified inter alia that "*…it is not allowed to modify or delete the data entered in the Register, except to correct any transcription errors. Even though Canon 535 CIC does not state it explicitly, the strict wording of the rules, which require the registration and certification of acts, clearly implies this absolute prohibition*".

In this context, it is **surprising** that the Opinion makes **no reference** whatsoever **to the Explanatory Note**. Considering that the Opinion makes full use of provisions of the Code of Canon Law, referring to the Explanatory Note would have been vital to ensure a solution that respects Church autonomy and Article 17(1) TFEU.

5. The relevance of EU primary law: Article 17(1) TFEU and Article 10 of the EU Charter

The Opinion also raises doubts with regard to the consistency and coherence of the approach to EU primary and secondary law. On one hand it **reiterates the principles of EU primary law**, at times quite forcefully (cf. §§ 4 to 8 on the contribution of religion to the emergence of European culture; on freedom of religion as a fundamental right; on the EU's limited regulatory powers in religious matters; on the Union's neutrality, without religious associations being exempt from compliance with EU provisions that affect their activities; cf. also §§ 74, 114 and 137). On the other hand, while these principles are strongly emphasised, they **seem to ultimately lack effective scope of action** and the reasoning is mainly based on EU secondary law.

For instance, when examining the concept of 'compelling' (legitimate grounds) in § 103 the Opinion states that the GDPR does not provide a definition of this term and that the wording of Article 21(1) GDPR does not allow to define the term with complete clarity. It then outlines three possible, equally valid meanings and concludes that the term 'compelling' permeates the assessment of the three requirements (§ 104). It thereby opts (cf. § 105) for a broad interpretation based on the EDPB draft guidelines as well as on EU secondary legislation and related jurisprudence (according to which the finding by a national court of overriding legitimate grounds justifying the processing would be regarded as exceptional). In this manner, the Opinion establishes a very **strong presumption in favour of the rights of the individual to the detriment of the collective element of freedom of religion**. The conclusion might have been different had it been better integrated in the context of EU primary law, particularly in the light of Article 10 of the EU Charter, which places the freedom to manifest one's religion or belief, either individually or collectively, on an equal footing.

The issue highlighted in the present paragraph also affects **Article 17(1) TFEU**. An EU primary law provision aimed at protecting the configuration of Church-State relations in the Member States - and therefore the legal provisions in which such relations are concretised - can hardly be **reduced to an element in the balancing** of the competing interests. The particular significance of Article 17(1) TFEU in the GDPR framework is also highlighted by Recital 165 of this EU Regulation.

6. Conclusions

The central question pervading the case C-12/25 *Bisdom Gent* is not simply how personal data may be erased from a baptismal register. The deeper question is whether the GDPR may be interpreted as **requiring** the **material alteration of a historical and sacramental record** that forms an **integral part of the internal life and identity of a religious community**. In our view, the question deserves a much more cautious response than the one offered by the Opinion.

From a practical point of view, the approach proposed by the Opinion presents serious **implementation challenges**. It would lead to **heavy proceduralisation**, with considerable **legal uncertainty** for ecclesiastical data controllers, and to a **likely surge in litigation**. This impact would be particularly grave, considering that such uncertainty would strike at baptismal registers, which are a central pillar of the Church's internal functioning, organisation and mission. It would also cause high uncertainty and a heavy burden in already **administratively limited contexts such as parishes**.

Furthermore, leaving the entire balancing exercise to the Member States' courts and to the assessment of each individual case would **put at risk the possibility of maintaining a consistent and uniform policy within the Church**: this would heavily affect precisely the 'correct administration of the sacraments' repeatedly valued by the Opinion.

COMECE restates that the impact these proceedings will have across the EU should be taken into account with great **caution**, especially considering the **direct consequences for the delicate balance of Church-State relations at the national level**.

We look forward to the judgement the EU Court and hope that it will provide indications that **ensure full protection of baptismal registers from erasure**.

Brussels, 20 November 2026
COMECE Secretariat