

## Carpi

Recently, news came out from Carpi that in a secondary school, the need to allow some repainting work had caused the crucifixes in the classrooms to be removed, but, when the work was completed, the school headmaster refused to relocate the crucifixes on the walls: “*The crucifix is a religious symbol. Here we are in a school, not a church. That is why I decided to have the crucifixes removed from the classrooms this summer during some renovation and painting work on the institute’s premises*”, the headmistress is reported to have said, according to *Avvenire* (<https://www.avvenire.it/attualita/pagine/preside-di-carpi-toglie-il-crocifisso-pieno-di-firme-per-la-lettera-di-protesta>).

This news immediately aroused a huge echo of protest, as has always happened so far when decisions of this kind have been taken. Following the flare-up of controversy and the firm and decisive opposition of a group of parents and teachers, the matter ended in a misunderstanding, as the Director General of the Regional School Office for Emilia Romagna pointed out: “Following the press articles that have dealt with the matter in recent days, the headmistress sent a written communication to the regional school office to assure it that no one had ordered the removal of the crucifixes: they had simply not yet been put back in place after the summer requalification of the spaces, but I understand that they were back in place yesterday”, and the headmistress herself made it known that “there is no battle underway against crucifixes, nor any ban on them, nor any uprising of teachers”, *Avvenire* also reports (<https://www.avvenire.it/actualita/pages/carpi-the-crucifix-returns-to-the-classroom>).

It seems useful, therefore, to recall how the ECHR has already pronounced on the issue, with the ruling of the Grande Chambre in the *Lautsi affaire*, and, more recently, the SS.UU. of the Supreme Court of Cassation, with sentence 24414/2021.

The President of the Republic himself, Giorgio Napolitano, had intervened on the issue in a message sent to participants at the Round Table on ‘Values and Rights - The case of the Crucifix’ on 23 June 2010: the President had recalled that “on several occasions and in various fora I have had occasion to recognize the public and social relevance of the religious fact and the value of the secularity of the State, as a guarantee of religious freedom and of relations between religious denominations and State authorities, under the banner of reciprocal autonomy and acceptance of the democratic method”, and emphasized that “the secular nature of Europe cannot be conceived and experienced in such terms as to wound elementary and profound popular sentiments”, so that it followed “that the particularly sensitive question According to the general principle of subsidiarity, which has so far consistently inspired the case law of the European Court of Human Rights, the particularly sensitive issue of the attitude to be adopted towards religious symbols can be more appropriately addressed by individual States, which are better able to perceive its significance in relation to the widespread feelings of their populations”, and the Grande Chambre in March 2011 had ruled that the presence of a crucifix in the classroom did not violate the religious freedom of pupils or their parents.

A teacher who removed the crucifix from the wall when he entered the classroom and put it back at the end of his lesson, disregarding the express request to leave the crucifix on the wall made by the class assembly and then formalised in a circular issued by the headmaster.

The SS.UU. rule out that the presence of the symbol, when it derives from a request by the students in that peculiar public space in which they learn to live together and form themselves culturally, “tyrannically” qualifies the exercise of the activity that takes place there; recalling the Grande Chambre in the *Lautsi affaire*, reaffirm that a crucifix hanging on the wall of a schoolroom is an essentially passive symbol, because it does not imply on the part of the potential recipient of the message any act, not even implicit, of adherence, and indeed in its fixity and static dimension, it does not demand observance or reverence; its display is unsuitable, in view of the context of reference, to constitute a form of active proselytizing or indoctrination: the crucifix does not present a psychological invasiveness such as to unduly condition the educational relationship between pupils, parents and the school, nor can it be attributed an influence on pupils comparable to that which a didactic discourse or participation in religious activities might have.

In the case in question, therefore, we are not in the presence of a 'State crucifix', but of the feelings of a civil society, of communities, of personalities that take place and of moral consciences that manifest themselves in the context of that peculiar social formation that is the school.

The SS.UU. consider that this criterion must be followed when different freedoms of conscience are taken into consideration, thus avoiding that there is an all for one of the two freedoms and nothing for the other, that one right becomes a 'tyrant' against the other, that the final outcome is identified, in violation of the pluralist principle, with only one of the different options in the field, that the tension between rights of equal dignity is transformed into a clash of values.

The solution is, therefore, reasonable accommodation, which favours, along with the achievement of fairer concrete solutions, the meeting and creation of a climate of mutual respect, sharing and common belonging, cohesion and understanding, which is particularly useful in a vital space of organized coexistence such as the classroom; moreover, it is the fruit and expression of secularism as a method, a method capable of uniting believers and non-believers alike and allowing different faiths and convictions to coexist and dialogue with each other through the rejection of opposing dogmatic closures.

That being said, the SS.UU. consider that the factual dimension of the present case leads to the exclusion of the existence of indirect discrimination to the detriment of the teacher: by accepting the will expressed by the assembly of students concerning the presence of the symbol, in fact, the school headmaster did not connote in a religious sense the exercise of the public teaching function, nor did he adhere to the values of the Catholic religion, nor did he force or induce non-Catholic teachers to carry out their teaching activity in the name of the values of that religious belief, inducing them to align themselves with, or to measure themselves against, a belief in a faith other than their own.

It appears from the minutes of the class council meeting that both the class and the school in which the case took place were characterized by a situation of "pluralist secularism" and that the presence of the symbol did not create any problems for the pupils, some of whom were also Muslim and from Eastern Europe.

The display of the crucifix does not hinder the teacher in the exercise of any of his freedoms, including that of criticizing in front of the class, in forms that are legitimate and respectful of the moral conscience of others, the meaning and the very presence of the symbol.

The display of the crucifix may be 'unwelcome' to the applicant, but it alone is not capable either of affecting the sphere of his personal convictions and his options in religious matters, or of prejudicing the possibility of expressing and manifesting them, as a citizen and as a teacher, in the school environment. The teacher's personal convictions, which are oriented towards the denial of any reality of the divine dimension, as well as the freedom to manifest them, remain such and are not threatened by the presence of those of others, even opposing and conflicting ones, and by the symbolic representations that students make of them.

In the case in point, which concerns us here, of the posting resulting from a request by the students, the mere visual perception of the crucifix is the result of the exercise of a fundamental right by the students who are part of the same community. There is no discrimination in the fact that the teacher was not spared, in the shared public space, from that display and visual perception.

The crucifix in schools, therefore, the expression of a pupils' request, and possibly flanked by other religious symbols, say the SS.UU., in no way violates the secularity of the State, and can remain.

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