

The disappointment of the Italian Bishops' Conference on the legal changes on the management of the “eight per thousand” assigned to the State

(23 Juny 2023)

During the 1985-2025. *Quarant'anni di sostentamento del clero: ieri oggi e domani* (Bologna, 3 -5 June), the President of the Italian Bishops' Conference expressed disappointment and concern for the unilateral modification of Law 222/1985 in the section relating to the allocation of the resources of the 8x1000 pertaining to the State.

The subject of the complaint is the inclusion of the “purpose of recovery from drug addiction and other pathological addictions” among those that the taxpayer can select if he chooses to attribute the eight per thousand to the State.

Shortly after, the reply of the Presidency of the Council of Ministers arrived and clarified that the recent modification of Articles 47 and 48 of Law 222/1985 through the Article 8.1 of the Decree-Law 105/2023 is not the first emendation in this subject. In fact, in 2019, the previous Government innovated the discipline without the opposition of Italian bishops¹.

Actually, during the conversion process of Decree-Law 124/2019, Parliament introduced the right for the taxpayer to indicate the destination of the “eight per thousand” managed by the State and included the maintenance of school building among the purposes that can be pursued with these funds. These provisions were not in the original Decree, but the Government inserted them in the final draft of the project, raising the question of confidence².

Now, the issue is the result of an overlapping of plans, which means that each of the interlocutors is right, depending on the perspective.

Now, the most pertinent question is not to identify the political responsibility for the unilateral modification, but to ask the legal legitimacy of such operations, which have intensified in the last decade, affecting both the principle of bilaterality and the position of the taxpayer with respect to an institution of “democracy in the planification of public spending”³.

¹ The main newspapers in the country have reported it. Reference, without claiming to be exhaustive, to a G. GALEAZZI, «Il cardinale Zuppi: “Deluso dal governo sull’ 8xmille, a noi interessano i poveri, non i soldi”», in *La Stampa*, 3 June 2025, https://www.lastampa.it/vatican-insider/2025/06/03/news/il_cardinale_zuppi_deluso_dal_governo_sull_8_x_mille_a_noi_interessano_i_poveri_non_i_soldi-15175299/; «Polemica su 8x1000. La Cei: «Siamo delusi, Chiesa danneggiata», in *Il Sole24Ore*, 4 June 2025, https://www.ilsole24ore.com/art/polemica-8x1000-cei-siamo-delusi-chiesa-danneggiata-AHomUg5?refresh_ce=1; G. DI CAPRIO, «Zuppi e l’otto per mille: “Molto deluso dal governo per le ultime modifiche”», in *Il Resto del Carlino*, 4 June 2025, <https://www.ilrestodelcarlino.it/bologna/cronaca/zuppi-e-lotto-per-mille-c8327649>; «Zuppi, polemica del cardinale contro il governo sull’8x1000: “Chiesa danneggiata”», in *SkyTG24*, 4 June 2025, <https://tg24.sky.it/cronaca/2025/06/04/zuppi-governo-8-per-mille>.

² See preparatory work on <https://www.camera.it/leg18/126?leg=18&idDocumento=2220>, and G. BONI, M. GANARIN, A. TOMER, «L’utilizzo della quota dell’otto per mille a diretta gestione della Chiesa cattolica alla luce del diritto penale italiano: l’insostenibile configurazione delle funzioni svolte dal vescovo come ‘pubblico servizio’», in *Stato, Chiese e pluralismo confessionale*, n. 16, 2024, pp. 1-75 (in particular, pp. 21-23).

³ OSSERVATORIO GIURIDICO-LEGISLATIVO DELLA CONFERENZA EPISCOPALE ITALIANA, *Comunicazione in merito alla delibera della Corte dei Conti del 26 ottobre 2015*, n. 8/2015/G, 3 November 2015, <https://sovvenire.chiesacattolica.it/8-per-mille-delibera-della-corte-dei-conti-del-26-ottobre-2015-n-82015g/>.

To answer the question, it must be considered that, since 1984, the structure of relations between the State and the Catholic Church have been enshrined in the Amending Agreement of Lateran Concordat and its Additional Protocol, incorporated into the legal system by Law 121/1985.

The legislation on ecclesiastical entities and goods and on financing in favor of the Church, on the other hand, was prepared by a joint Italian-Vatican commission, designated in accordance with art. 7.6 of the Amending Agreement. The High Parties approved the text with a special protocol of 15 November 1984, incorporated into the legal system by Law 206/1985.

Nevertheless, the provisions approved by this Protocol were implemented by the subsequent Law 222/1985, which has the same content of Law 206/1985, but it's formally a source of domestic law⁴.

The duplication of normative acts is at the basis of the debate between the Italian bishops and the State: as the Council of State pointed out in the session of 23 July 2024⁵, Law 206/1985 is formally covered by international law, as a law authorizing ratification and order of execution of the protocol between the High Parties, while the position of Law 222/1985 is less defined.

It is not clear, in fact, whether Article 7 of Italian Constitution extend the peculiar force of resistance to the repeal to the sources ancillary to the 1984 Amending Agreement, nor whether Article 117.1 of the Constitution prevents any change to the discipline put in place in fulfillment of international obligations or whether it allows variations, within the limits of their compatibility with the structure of interests produced in the external sphere⁶.

It seems that the concrete development of Church-State relations is veering towards an increasingly substantialist interpretation: it is no coincidence that in the preparatory work that led to the conversion into law of Decree-Law 105/2023 and, before, of Decree-Law 124/2019, neither the parliamentarians nor the administration raised any objections to the intervention.

Political contingencies have favored the consolidation of a habit based more on a lack of awareness, than on a basic idea on which to build a debate. The need to raise funds justified these changes, without adequate discussion with the counterparts, the Holy See and the other religious denominations.

In effect, it would have been opportune for the Italian Bishops' Conference or the Secretariat of State of the Holy See to have acted more promptly, when the system began to creak. It is enough to think of the complaints made on the occasion of the transfer of the competence to issue the decree of recognition of the juridical personality of ecclesiastical entities from the President of the Republic to the Minister of the Interior⁷.

⁴ F. FINOCCHIARO, *Diritto ecclesiastico*, edited by A. BETTETINI, G. LO CASTRO, Zanichelli, Bologna, 2020¹³, pp. 13-15. See preparatory work of draft law n. 2336 (l. 206/1985) and 2337 (l. 222/1985), respectively on <https://lc.cx/P35YYYP> and <https://lc.cx/QAMJQ6>.

⁵ Cf. COUNCIL OF STATE, CONSULTATIVE SECTION FOR REGULATORY ACTS, opinion n. 1038 on matter n. 824/2024, 23 July 2024, https://mdp.giustizia-amministrativa.it/visualizza/?nodeRef=&schema=consul&nrg=202400824&nomeFile=202401038_27.html&subDir=Provvedimenti.

⁶ The topic is extremely debated and it is not possible to summarize it in the space of a *News*. I cite F. FINOCCHIARO, *op. cit.*, 120-132; A. BETTETINI, A. PEREGO, *Diritto ecclesiastico*, CEDAM, Padova, 2023, pp. 54-58; M. TEDESCHI, *Manuale di diritto ecclesiastico*, Giappichelli, Torino, 2007⁴, pp. 130-144; G. DALLA TORRE, *Lezioni di diritto ecclesiastico*, Giappichelli, Torino, 2014⁵, pp. 113-118; M. RICCA, *L'abrogazione delle leggi di derivazione concordataria. Profili costituzionali*, Giuffrè, Milano, 1993, pp. 203-273; S. FERLITO, *Il concordato nel diritto interno*, Jovene, Napoli, 1997, pp. 129-204.

⁷ Cf. «Scambio di note tra il Governo della Repubblica italiana e la Santa Sede su taluni aspetti procedurali attinenti al riconoscimento degli enti ecclesiastici, 11 luglio 1998-27 ottobre 1998», in *Quaderni di Diritto e Politica Ecclesiastica*, n. 2, 1999, pp. 538-540.

Diplomacy knows that the respect of the formalities is fundamental in relationships with sovereign entities. The bishops do not intend to affirm that recovery from addiction is not meritorious, rather, they demand a renewal of the method of bilaterality, with all the consequences that derive from it in terms of respect for competences, procedural correctness and loyalty, fulfillment of mutual obligations, cooperation for the achievement of shared goals.

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