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The Thin Line between Public and Private Space in Institutional Places: The Case of Religious Symbols

SUMMARY 1. A Framing of the Issue - 2. The Line between Public and Private Space: A Conceptual Redefinition - 3. The Axiological Reference Point: The Principle of 'Laicità' - 4. Concluding Remarks.

1 - A Framing of the Issue

The unresolved issue of the legitimacy of the display of religious symbols in public school classrooms, never completely dormant, has recently returned to the attention of the jurisprudence, lastly engaging the United Civil Sections of the Italian Supreme Court²⁰⁷.

²⁰⁷ Cf. Corte di cassazione, Sezioni Unite civili, ruling no. 24414/2021. Among the first scholars to deal with the judgment, see **N. COLAIANNI**, *Dal "crocifisso di Stato" al "crocifisso di classe" (nota a margine di Cass., SS. UU., 9 settembre 2021, n. 24414)*, in *Stato, Chiese e pluralismo confessionale*, online Journal (<https://www.statoechiese.it>), no. 17 of 2021, p. 17 ff.; **M. TOSCANO**, *Il crocifisso 'accomodato'. Considerazioni a prima lettura di Corte cass., Sezioni Unite civili, n. 24414 del 2021, ivi*, no. 18 of 2021, p. 45 ff. These early comments, however, were followed by numerous interventions in literature attesting to the highly innovative nature of the ruling: see **P. CAVANA**, *Le Sezioni Unite della Cassazione sul crocifisso a scuola: alla ricerca di un difficile equilibrio tra pulsioni laiciste e giurisprudenza europea*, in *Stato, Chiese e pluralismo confessionale*, cit., no. 19 of 2021, p. 1 ff.; **F. ALICINO**, *Il crocifisso nelle aule scolastiche alla luce di Sezioni Unite 24414/2021. I risvolti pratici della libertà*, in *Diritti comparati*, online Journal (<https://www.diritticomparati.it>), 11th November 2021; **ID.**, *Ceci n'est pas une pipe: The Crucifix in Italian Schools in the Light of Recent Jurisprudence*, in *Canopy Forum. On the Interactions of Law and Religion* (<https://canopyforum.org>); **A. LICASTRO**, *Crocifisso "per scelta". Dall'obbligatorietà alla facoltatività dell'esposizione del crocifisso nelle aule scolastiche (in margine a Cass. civ., sez. un., ord. 9 settembre 2021, n. 24414)*, in *Stato, Chiese e pluralismo confessionale*, cit., no. 21 of 2021, p. 17 ff.; **S. PRISCO**, *La laicità come apertura al dialogo critico nel rispetto delle identità culturali (riflessioni a partire da Corte di Cassazione, Sezioni Unite civili, n. 24414 del 2021)*, ivi, p. 53 ff.; **A. FUCCILLO**, *Il crocifisso negoziato. Verso la gestione "privatistica" dei simboli religiosi*, in *giustiziavivile.com*, no. 12 of 2021; **S. CECCANTI**, *Come in Baviera: il crocifisso resta alla parete, se la scelta è della classe*, in *Quad. cost.*, no. 4 of 2021, p. 951 ff.; **M. VENTURA**, *Il crocifisso dallo Stato-istituzione allo Stato-comunità*, ivi, p. 954 ff.; **G. PAVESI**,



Starting from this ruling, I would try to spend some brief remarks on the complexity of identifying a dividing line between public and private space in some institutional places²⁰⁸.

As a first step, however, it would be helpful to briefly go over the facts of the case, immediately distinguished by their unprecedented nature²⁰⁹.

Indeed, unlike previous case law, the claim against the display of the symbol was brought not by the parents of a student, but by a teacher serving at a public high school, who had previously been subjected to a disciplinary procedure, which ended with sanctions, by the Provincial School Office, for systematically removing the crucifix from the wall of a classroom before the beginning of his lessons.

According to the Office, such conduct constituted a disciplinary offense in violation of the school director's order, who, following a students' resolution adopted by majority vote during an assembly, which expressed their desire to see the crucifix exposed (and this is the second unprecedented profile²¹⁰), commanded the stable display of the symbol.

Simboli religiosi e accomodamento ragionevole 'all'italiana' nella recente giurisprudenza di legittimità, in *Stato, Chiese e pluralismo confessionale*, cit., no. 6 of 2022, p. 1 ff.; **J. PASQUALI CERIOLO**, *La mediazione laica sul crocifisso a scuola nel diritto vivente: da simbolo pubblico "del potere" a simbolo partecipato "della coscienza"*, in *Dir. fam e pers.*, no. 1 of 2022, p. 10 ff.

²⁰⁸ This topic has engaged and continues to engage scholars: see, specifically, **S. FERRARI**, *Religion in the European Public Spaces: A Legal Overview*, in S. FERRARI, S. PASTORELLI (eds.), *Religion in Public Space: A European Perspective*, Ashgate, Farnham, 2012, p. 139 ff., spec. p. 146, who writes: "a sharp line neatly dividing these two dimensions of human life cannot be drawn and, whatever definition of public and private is adopted, it is impossible to remove a large grey area in which public and private overlap and mingle"; **ID.**, *I simboli religiosi nello spazio pubblico*, in *Quad. dir. pol. eccl.*, no. 2 of 2012, p. 317 ss., now also available in C. CIANITTO, A. FERRARI, D. MILANI, A. TIRA (eds.), *Scritti. Percorsi di libertà religiosa per una società plurale*, il Mulino, Bologna, 2022, p. 239 ff.; **ID.**, *Diritto, religione e spazio pubblico*, in *Riv. fil. dir.*, special issue, 2013, p. 35 ff., now in C. CIANITTO, A. FERRARI, D. MILANI, A. TIRA (eds.), *Scritti*, cit., p. 251 ff.

²⁰⁹ For a more extensive and articulate reconstruction of the facts of the case, see **N. FIORITA**, *Se Terni non è Valladolid*, in *Forum di Quaderni Costituzionali* (<https://www.forumcostituzionale.it>), 6th July 2009; **L.P. VANONI**, *Laicità e libertà di educazione. Il crocifisso nelle aule scolastiche in Italia e in Europa*, Giuffrè, Milano, 2013, spec. p. 122 ff.

²¹⁰ In all other cases that had engaged the jurisprudence, indeed, the symbol was displayed by virtue of the provisions contained in the r.d. no. 965/1924 and no. 1297/1928, whose current validity, however, doctrine has been questioning since the Constitution came into force: see **N. MARCHEI**, *Il simbolo religioso e il suo regime giuridico nell'ordinamento italiano*, in E. DIENI, A. FERRARI, V. PACILLO (eds.), *I simboli religiosi tra diritto e culture*, Giuffrè, Milano, 2006, p. 261 ff.



The Court of Terni²¹¹, whose decision will be confirmed before the Court of Appeal of Perugia²¹², rejected the teacher's claim, ruling out the discriminatory nature of the service order - as it was addressed to the entire teaching staff - and, thus, the possibility of recognizing in the appellant's conduct the exercise of legitimate self-defense, which can only be invoked to protect inviolable rights and not, as in the case at hand, principles²¹³.

As a result, the professor lodged an appeal in cassation.

The Labor Section²¹⁴, identifying the case as a question of principle of particular importance, referred it to the First President of the Court, for the assignment to the United Sections²¹⁵.

In brief, the solution put forward by the Court - marked by strong original profiles, readily noted by scholars²¹⁶ - rests on a twofold assumption: 1. "The authoritative display of the crucifix in public school classrooms is not compatible with the supreme principle of 'laicità'"²¹⁷; 2. The decision about the presence of religious symbols (and not just the crucifix) in classrooms falls within the autonomy of the individual school communities, which have the task of "seeking a reasonable

²¹¹ Cf. Tribunale di Terni, ordinance 22nd June 2009.

²¹² Cf. Corte d'appello di Perugia, ruling no. 165/2014.

²¹³ Specifically, the teacher invoked in support of his claims the principles of legality, good behavior and impartiality of public administration as well as the supreme principle of 'laicità'.

²¹⁴ Cf. Corte di cassazione, Sezione Lavoro, ordinance no. 19618/2021. In literature see **M. TOSCANO**, *Crocifisso nelle aule scolastiche: una fattispecie inedita al vaglio delle Sezioni Unite*, in *Quad. dir. pol. eccl.*, no. 3 of 2020, p. 887 ff.; **A. LICASTRO**, *Il crocifisso e i diritti del lavoratore nell'ambiente scolastico (aspettando le Sezioni Unite della Cassazione)*, in *Stato, Chiese e pluralismo confessionale*, cit., no. 7 of 2021, p. 35 ff.; **P. CAVANA**, "A chiare lettere - Confronti" • *Il crocifisso davanti alle Sezioni Unite della Cassazione: difesa di diritti o accanimento iconoclasta?*, *ivi*, no. 14 of 2021, p. 61 ff.

²¹⁵ Cf. art. 374, c. 2, of the Italian code of civil procedure: "the First President may order the Court to rule in unified sections on appeals presenting a question of law already decided differently by the simple sections, and on those presenting a question of principle of particular importance".

²¹⁶ See, in particular, **M. TOSCANO**, *Il crocifisso 'accomodato'*, cit., p. 52; **A. LICASTRO**, *Crocifisso "per scelta"*, cit., p. 31; **J. PASQUALI CERIOLI**, *La mediazione*, cit., p. 10

²¹⁷ Cf. Corte di cassazione, Sezioni Unite civili, ruling no. 24414/2021, "motivi della decisione", § 11.6. Unless otherwise stated, all translations must be attributed to the author.



accommodation with the widest possible consensus" between discordant positions²¹⁸.

A careful reading allows, however, to identify further elements of novelty already in the reasoning of the Court, starting with the re-qualification, in legal terms, of the school-space.

2 - The Line between Public and Private Space: A Conceptual Redefinition

Indeed, the public-school classroom - henceforth, not only an institutional place, but also a "shared public space"²¹⁹ - is elevated by the judges to a "place of pluralistic democracy," in which "religious identities and instances have the right to express themselves, even symbolically"²²⁰.

Such a statement invites us to reflect on the most legally appropriate qualification to be reserved for public school classrooms, restoring relevance to some suggestions already proposed by scholars, who have long questioned the possibility of "deconstructing the notion of public space"²²¹.

Traditionally, indeed, the notion of public space used to be divided into three parts: *common space* (essential for the satisfaction of the basic needs of the person and, consequently, necessarily accessible to all,

²¹⁸ Cf. *Ibidem*, § 14.1.

²¹⁹ Cf. *Ibidem*, § 13.2.

²²⁰ Cf. *Ibidem*, § 13.3.

²²¹ **S. FERRARI**, *I simboli religiosi*, cit., p. 325. Through the redefinition of the school-space proposed by the Supreme Court, the issue of the deconstruction of the public space regains centrality, having, instead, to consider outdated the possibility of "deconstructing the symbol itself," (in this sense, see **A. MORELLI**, *Il contenuto semantico «inesauribile» del simbolo religioso nel controllo di legittimità costituzionale*, in R. BIN, G. BRUNELLI, A. PUGIOTTO, P. VERONESI (eds.), *La laicità crocifissa? Il nodo costituzionale dei simboli religiosi nei luoghi pubblici*, Giappichelli, Torino, 2004, p. 215 ff., spec. p. 216) whose semantic value, as is well known, has long been the subject of a jurisprudential debate, to which, however, the Cassation put an end, qualifying the crucifix as a religious symbol for all purposes (cf. Corte di cassazione, Sezioni Unite civili, ruling no. 24414/2021, "motivi della decisione", §§ 9.2 and 11.8). On the different interpretation given to the symbol, see, among the others, for the national jurisprudence, **J. PASQUALI CERIOLI**, *Rassegna di giurisprudenza sull'affissione del crocifisso negli edifici pubblici* (2003-2006), in *Dir. eccl.*, no. 2-3 of 2005, p. 59 ff., and for the supranational one, **M. TOSCANO**, *Il fattore religioso nella Convenzione Europea dei Diritti dell'Uomo. Itinerari giurisprudenziali*, ETS, Pisa, 2018, p. 238 ff.



without limitations other than those that, in a democratic system, can legitimize restrictions on fundamental rights and freedoms), *political space* (deputed to the debate and discussion in which public discourse matures and, therefore, "governed by rules that combine freedom and responsibility for the effective protection of democratic pluralism"²²²) and *institutional space* (the venue in which public authorities exercise their authoritative powers, making decisions that are binding on private individuals)²²³.

This first spatial dimension, moreover, would be accompanied by a second dimension of a personal nature, which subjects those who operate within the public space to a different legal regime due to the specific role they play.

An example is provided by the public school, attended, at the same time, by learners and teachers: the former are private subjects, and the latter are public employees, called upon to represent the educational institution²²⁴.

²²² G. CASUSCELLI, *I simboli religiosi*, in G. CASUSCELLI (ed.), *Nozioni di Diritto ecclesiastico*, 5th ed., Giappichelli, Torino, 2015, p. 407 ff., spec. p. 409.

²²³ On this tripartition and, more generally, on the desirability of subdividing public space on the basis of a functional criterion, see, among the others, S. FERRARI, *Religion*, cit., p. 149 ff.; G. CASUSCELLI, *I simboli*, cit., pp. 408-409; J. HABERMAS, *Religion in the Public Sphere*, in *European Journal of Philosophy*, no. 14 of 2066, p. 1 ff.

²²⁴ Cf. S. FERRARI, *I simboli religiosi*, cit., pp. 326-327. However, the spatial and personal dimensions must be distinguished, as noted in the case at hand in the conclusions of the Attorney General's Office, which defined as "contiguous, but structurally different" the issue of "the right to wear symbolic elements with religious connotations," observing that in such cases "the opposition is between the symbolic-religious claim of the individual to wear clothes, signs, symbols in various contexts, and the 'neutralità-laicità' of the state". More precisely, in the opinion of the Attorney General, this juxtaposition would be in "an opposite scheme of tension between the position of the individual and that of the collectivity" (see § 4.7). On the "decisive difference between the wearing of religious clothing and the furnishing at school," made by the Attorney General's Office, see J. PASQUALI CERIOLI, *La mediazione*, cit., p. 24. The sensitive issue of the religious symbol worn by a school staff member was also the subject of the well-known *Dahlab* pronouncement, in which ECtHR ruled out that a teacher can wear the Islamic headscarf, since, as previously noted by the Swiss Government, "[a]s a civil servant, she represented the State; on that account, her conduct should not suggest that the State identified itself with one religion rather than another" (cf. ECtHR, *Dahlab v. Switzerland*, 15th February 2001 and, in literature, M. TOSCANO, *Il fattore religioso*, cit., p. 219 ff.). The United Kingdom deviates from this model. There, indeed, teachers and the other representatives of public institutions are allowed to carry religious symbols: cf. J. GARCIA OLIVA, *Religious Dress Codes in the United Kingdom*, in S. FERRARI, S. PASTORELLI (eds.), *Religion in Public Space*, cit., p. 217 ff.



The pronouncement of the Italian Supreme Court seems, however, to have brought to completion the redefinition of the "conceptual boundaries of public place and private place, especially when referring to education"²²⁵.

3 - The Axiological Reference Point: The Principle of 'Laicità'

The redefinition proposed by the Court is crucial since it is on the basis of the (different) qualification each time attributed to the public space that we must assess the (il)legitimacy of the display of religious symbols in the light of the supreme principle of 'laicità', valued in its irrepressible legal dimension²²⁶.

The terms of the question are in fact made even more complex by the "troubled semantics"²²⁷ that has accompanied and still accompanies the search for a unified and coherent definition of the Italian 'laicità'.

Indeed, the unsolved ambiguity²²⁸ of the first enunciation of the principle - not infrequently exacerbated by the subsequent interventions of the Italian Constitutional Court, which have gradually led to the emersion of the so-called "reflections" or "corollaries" of the 'laicità'²²⁹ - has lent itself, at least regarding the crucifix in public schools *querelle*, as much to a 'positive' or 'by addition' reading as to the opposite 'negative' or 'by subtraction' interpretation.

Proponents of the first thesis have applauded the solution drawn by the Supreme Court, which would boast the value of "harmoniously joining"²³⁰ the reforms introduced in the education field, which have

²²⁵ J. PASQUALI CERIOLI, *La mediazione*, cit., p. 12.

²²⁶ In this sense, see M. TEDESCHI, *Il senso della laicità*, in ID. *Studi di diritto ecclesiastico*, Jovene, Napoli, 2002, p. 45 ff.

²²⁷ G. SARACENI, «Laico», *travagliata semantica di un termine*, in M. TEDESCHI (ed.), *Il principio di laicità nello Stato democratico*, Rubbettino, Soveria Mannelli, 1996, p. 49 ff.

²²⁸ See, in particular, S. DOMIANELLO, *Sulla laicità nella Costituzione*, Giuffrè, Milano, 1999, p. 44, who defines the Italian 'laicità' as "inherently contradictory and essentially incapable of expressing certain and clear foundational choices".

²²⁹ On this point, see G. CASUSCELLI, «L'evoluzione della giurisprudenza costituzionale» in materia di vilipendio della religione, in *Quad. dir. pol. eccl.*, no. 3 of 2001, p. 1119 ff., spec. p. 1125.

²³⁰ N. FIORITA, *La questione del crocifisso nella giurisprudenza del terzo millennio (dalla sentenza n. 439/2000 della Corte di Cassazione alla sentenza n. 1110/2005 del Tar Veneto)*, in M. PARISI (ed.), *Simboli e comportamenti religiosi nella società plurale*, Edizioni Scientifiche Italiane, Napoli, 2006, p. 119 ff., spec. p. 131.



secured school autonomy a leading role in creating an environment that is as inclusive as possible²³¹.

Furthermore, the referral of the decision about the display of religious symbols in classrooms to the autonomy of the individual school communities would be inscribed in that 'laicità of service', described by the Constitutional Court in ruling no. 203/1989, where it is stated that "the secular attitude of the State-community [...] responds not to ideologized and abstract postulates of foreignness, hostility or confession of the State-person or of its ruling groups, with respect to religion or to a particular belief, but stands *at the service of concrete instances* of the civil and religious conscience of citizens" (emphasis added)²³².

On the contrary, if we assumed as starting perspective a 'negative' interpretation of the principle of 'laicità'²³³, the solution proposed by the Court would imply an assumption that in the case at hand does not seem to have been integrated.

Indeed, the judges, while valuing the peculiar nature of the school context, never fully enfranchise the classroom from its institutional nature, so much so that they do not hesitate to declare "the mandatory display in

²³¹ After all, it is the Court itself to affirm that this solution "appears to be, on the one hand, consistent with the role of the autonomy of educational institutions under the reform of Title V of Part II of the Constitution, which took place with Constitutional Revision Law No. 3 of 2001 [...], and on the other, in tune with school legislation", with reference to d.lgs. no. 297/994 and d.P.R. no. 275/1999.

²³² Cf. Corte costituzionale, ruling no. 203/1989, "considerato in diritto", § 7. On the idea of "the State-person and the State-administration as open institutional realities in an instrumental position of service to the civil society," see **G. DALLA TORRE**, *Dio o Marianna? Annotazioni minime sulla questione del crocifisso a scuola*, in *Giust. civ.*, no. 1 of 2004, p. 510 ff., spec. p. 517.

²³³ This interpretation had already been endorsed by the Supreme Court when it stated that the principle of 'laicità' "stands as a condition and limit of pluralism, in the sense of ensuring that the public place deputed to the conflict between the indicated systems is neutral and remains so over time: preventing, that is, the contingently established system from laying the foundations to permanently exclude other systems", inducing "to preserve the 'public' space of formation and decision-making from the presence, and thus from the message albeit at a subliminal level, of symbolic images of only one religion (as, in general, of only one of the other non-discriminatory conditions, referred to in art. 3 Const.), to the exclusion of the others" (cf. Cassazione penale, sez. IV, ruling no. 4273/2000, §§ 5, 9, in *Quad. dir. pol. eccl.*, no. 3 of 2000 p. 846 ff., commented by **A. DE OTO**, *Presenza del crocifisso o di altre immagini religiose nei seggi elettorali: la difficile affermazione di una "laicità effettiva"*, p. 837 ff.). On the delicate relationship between 'laicità' and neutrality, see **C. DEL BÒ**, *Il rapporto tra laicità e neutralità: una questione concettuale?* in *Stato, Chiesa e pluralismo confessionale*, cit., no. 33 of 2014, p. 1 ff.



the school, *ex parte principis*, of the crucifix [...] incompatible with the indispensable distinction of the orders of the state and religious denominations"²³⁴ which, as is well known, characterizes in its essentials the supreme principle of 'laicità'²³⁵.

In other words, only the abandonment of any reference to the institutional nature of the school-space, averting the risk of an "identification between state and faith contents"²³⁶, would have legitimized the referral of the symbolic configuration²³⁷ of the classroom to the negotiation among those who participate in the school community, albeit with the (dutiful) clarification that, in any case, it would be not a matter of reasonable accommodation in a technical sense²³⁸.

A decision to this effect would, moreover, have resulted in a re-expansion of the religious freedom (considered in its *forum externum*) of the teacher, legitimized, at that point, to wear religious clothing, since the risk of assimilation between the symbol worn and the educational institution (*rectius*, the State) must be considered overcome.

²³⁴ Cf. Corte di cassazione, Sezioni Unite civili, ruling no. 24414/2021, "motivi della decisione", § 11.6.

²³⁵ Cf. Corte costituzionale, ruling no. 334/1996, "considerato in diritto", § 3.2. In literature there have been those who have identified precisely in the principle of the distinction of the orders the "hard core" shared by every model of 'laicità': see **C. MARTINELLI**, *Le necessarie conseguenze di una laicità «presa sul serio»*, in R. BIN, G. BRUNELLI, A. PUGIOTTO, P. VERONESI (eds.), *La laicità crocifissa?*, cit., p. 207 ff., spec. p. 211.

²³⁶ **J. LUTHER**, *La croce della democrazia (prime riflessioni su una controversia non risolta)*, in *Quad. dir. pol. eccl.*, no. 3 of 1996, p. 681 ff., spec. p. 690. This is particularly pregnant in the school context, where pupils, because of their tender age - and, therefore, their vulnerability - appear more exposed to the risk of a possible disruption in the process of consciousness formation (in this sense, **N. MARCHEI**, *Il simbolo religioso*, cit., p. 262). Precisely from this need, **G. CASUSCELLI**, *Il crocifisso nelle scuole: neutralità dello Stato e «regola della precauzione»*, in *Dir. eccl.*, no. 1 of 2005, p. 504 ff., spec. p. 532, identified the so-called precautionary rule as "the 'sector' operational standard in the education field that substantiates the corollary of the duty of impartiality and neutrality that flows from the principle of secularism". More generally, on the principle of distinction of orders, see **J. PASQUALI CERIOLO**, *L'indipendenza dello Stato e delle confessioni religiose. Contributo allo studio del principio di distinzione degli ordini nell'ordinamento italiano*, Giuffrè, Milano, 2006.

²³⁷ On the "symbolic order" of the Republic, with particular reference to the issue of the crucifix in the public classrooms, see **F. COLOMBO**, *Laicità e sovranità della Repubblica nel suo ordine simbolico: il caso del crocifisso nelle aule scolastiche*, in A. NEGRI, G. RAGONE, M. TOSCANO, L.P. VANONI (eds.), *I simboli religiosi nella società contemporanea*, Giappichelli, Torino, 2022, p. 95 ss.

²³⁸ On this profile see **G. PAVESI**, *Simboli religiosi*, cit.



4 - Concluding Remarks

Although its innovative character, the conceptual redefinition operated by the Supreme Court did not result in the overcoming of the institutional nature of the public school, with the consequence that it is not possible to disregard the necessity of guaranteeing, even there, a fulfillment of the principle of the distinction of distinct orders.

This means that the solution imagined by the judges - otherwise destined to hesitate, inevitably, in the application of the majority rule, in violation of further corollaries of the supreme principle²³⁹ - would be legitimate only if the display of the symbols eschewed any modality apt to represent "even only in an evocative way, a coincidence between faith and public instruction"²⁴⁰.

In this sense, some scholars have long since proposed the identification of spaces in which the symbols of students' different confessional or ideological affiliations could be located, perhaps - similarly to what already occurs under article 58.2 of the *Regulations containing norms on the prison system and on measures of deprivation and restriction of liberty*²⁴¹ - within the perimeter of an individual space²⁴² that, in the school context, could coincide with each person's desk.

²³⁹ The reference is to the so-called 'irrelevance of quantitative and sociological data': (cf. Corte costituzionale, ruling no. 925/1988) as well as to the due protection of religious minorities (cf. Corte costituzionale, ruling no. 329/1997). After all, it is the Supreme Court itself, recalling the constitutional jurisprudence, to state that "the majority rule without correctives cannot be used in the field of fundamental rights" (cf. Corte di cassazione, Sezioni Unite civili, ruling no. 24414/2021, "motivi della decisione", § 20).

²⁴⁰ See **J. PASQUALI CERIOLI**, *La mediazione*, cit., p. 23 and, earlier, **ID.**, *Laicità dello Stato ed esposizione del crocifisso nelle strutture pubbliche*, in E. DIENI, A. FERRARI, V. PACILLO (eds.), *I simboli religiosi*, p. 125 ff., spec. p. 139.

²⁴¹ "Prisoners and inmates who wish to do so are permitted to display, in their individual room or in their own space in the multi-person room, images and symbols of their religious denomination".

²⁴² In this sense, **G. CASUSCELLI**, *Interventi del Prof. Giuseppe Casuscelli, Presidente delle sessioni di lavoro della Tavola rotonda*, in M. PARISI (ed.), *Simboli e comportamenti*, cit., p. 9 ff., spec. pp. 12-13; **M. TOSCANO**, *Perché temere il muro bianco? Scuola, libera formazione della coscienza e principio di neutralità*, in *Stato, Chiese e pluralismo confessionale*, cit., no. 3 of 2019, p. 234 ff., spec. pp. 241-242; **L.P. VANONI**, *Laicità e libertà di educazione*, cit., p. 269. The admissibility of the "provision of spaces, even within each classroom, in which signs, not pre-selected, of the different ideological or denominational affiliations of the learners can materially take place" is also shared by **J. PASQUALI CERIOLI**, *Laicità dello Stato*, cit., p. 139.



Such an interpretation, ensuring the maintenance of the (albeit thin) line of demarcation between public and private space in institutional places, is, moreover, constitutionally mandatory, in light of the re-enunciation of the supreme principle of 'laicità'²⁴³ which, as noted in literature, by elevating pluralism to the "immediate object of protection," has also attracted the principle of impartiality - to which the neutrality of the space in which the Public Administration performs its functions is instrumental - "among the primary contents of the principle"²⁴⁴.

²⁴³ Cf. Corte costituzionale, ruling no. 67/2017, "Considerato in diritto", § 2.1, where the principle of 'laicità' is defined "not as the state's indifference to religious experience, but as the protection of pluralism, supporting the maximum expansion of everyone's freedom, according to criteria of impartiality".

²⁴⁴ **M. TOSCANO**, *Crocifisso nelle aule scolastiche*, cit., p. 898. On the re-enunciation of the principle see also **J. PASQUALI CERIOLI**, *(Non) conclusioni: tre questioni su minoranze e laicità positiva negli attuali anni Venti*, in *Stato, Chiese e pluralismo confessionale*, cit., no. 13 of 2021, p. 181 ff. The instrumental relationship between neutrality of public space and impartiality of administration, is investigated by **J. PASQUALI CERIOLI**, *Laicità dello Stato*, cit., p. 137 as well as by **G. CASUSCELLI**, *Laicità dello Stato e aspetti emergenti della libertà religiosa: una nuova prova per le intese*, in *Studi in onore di Francesco Finocchiaro*, I, Cedam, Padova, p. 467 ff., spec. p. 482, who states that "the secular state must not only be, but also appear impartial with respect to denominations". On another occasion (cf. **G. CASUSCELLI**, *Interventi*, cit., p. 14), the same Author had derived as a "necessary complement" to the secular character of the State, "the claim against the public administration that it concretely fulfills its duty of impartiality and neutrality with regard to the individual and collective religious factor".