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Public interests stemming from religious freedom: the case of the Mosque of Monfalcone in Italy

Interes publiczny wynikający z wolności religijnej – kazus meczetu w Monfalcone we Włoszech

CLIZIA FRANCESCHINI*
https://orcid.org/0009-0003-9202-6274

Abstract: The availability of a place of worship is an essential extension of the freedom of religion guaranteed by Article 19 of the Italian Constitution, irrespective of legal recognition of a religious community or its agreements with the State. This article proposes an original administrative-law approach to religious freedom as a public and collective interest, linking the practice of worship to the categories of public interest and public service. Drawing on the Monfalcone case (2023–present), it analyses how municipal discretionary powers in regulating places of worship affect the effective protection of constitutional rights. The article conceptualises places of worship as essential public services and subjects municipal action to the principles of impartiality, efficiency, and good performance under Article 97 of the Constitution and Law no. 241 of 1990. It demonstrates that administrative discretion governs the modalities of exercising religious freedom and that procedural or planning deficiencies may result in indirect restrictions on fundamental rights. By bridging administrative law and the law on religion, the article offers both a theoretical and a governance-oriented framework for managing religious pluralism. The article's main finding is that the collective exercise of religious freedom generates a constitutionally protected public interest that requires active administrative implementation.

Key words: public interests; public services; administrative discretion; local administrations; mosque; sacred sites; religious freedom

Streszczenie: Dostępność miejsc kultu religijnego stanowi istotne rozszerzenie wolności wyznania gwarantowanej przez art. 19 włoskiej konstytucji, niezależnie od uznania prawnego wspólnoty religijnej lub jej porozumień z państwem. Niniejszy artykuł proponuje oryginalne podejście administracyjno-prawne do wolności religijnej jako interesu publicznego i zbiorowego, łącząc praktykowanie kultu religijnego z kategoriami interesu publicznego i służby publicznej. Opierając się na kazusie Monfalcone (2023–obecnie), analizuje on, w jaki sposób uprawnienia dyskrecjonalne gmin w zakresie regulacji miejsc kultu religijnego wpływają na skuteczną ochronę praw konstytucyjnych. W artykule miejsca kultu religijnego są traktowane jako niezbędne usługi publiczne, a działania gmin postrzegane są jako podlegające zasadom bezstronności, skuteczności i należytego funkcjonowania zgodnie z art. 97 konstytucji i ustawą nr 241 z 1990 r. Autorka wykazuje, że swoboda administracyjna ma wpływ na sposoby korzystania z wolności religijnej, a uchybienia proceduralne lub planistyczne mogą skutkować pośrednimi ograniczeniami praw podstawowych. Łącząc prawo administracyjne z prawem wyznaniowym, artykuł oferuje zarówno teoretycznie, jak i praktycznie zorientowane ramy zarządzania pluralizmem religijnym. Główny wniosek sprowadza się do tego, że zbiorowe wykonywanie wolności religijnej generuje chroniony konstytucyjnie interes publiczny, który wymaga aktywnej implementacji administracyjnej.

Słowa kluczowe: interes publiczny; usługi publiczne; swoboda administracyjna; administracja lokalna; meczet; miejsce święte; wolność religijna

1. Religious freedom as a constitutionally relevant public interest

The growing religious diversity of contemporary Italian and European societies has intensified demands for spaces of collective worship, which are often perceived not as expressions of religious freedom but as sources of social tension and conflict.[1] This tension

* Dr, Alexander Von Humboldt Post-Doctoral Fellow, Chair for Heritage Studies, Europa-Universität Viadrina, Gr. Scharrnstr. 59, 15230 Frankfurt (Oder), Germany, e-mail: Franceschini@europa-uni.de

[1] Amato et al. (eds.) 2019; Caroli Casavoli 2021; Introvigne 2011; Berzano 2010; Fiorita 2007, 287; Dadà 2006; Brunello 1994.

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underlies the dispute between the Municipality of Monfalcone and two Islamic Cultural Associations over access to a place of worship (2023–ongoing), a right guaranteed by Article 19 of the Italian Constitution (henceforth, Article 19).[2] While grounded in individual freedom, the exercise of worship inevitably acquires a collective and public dimension, reinforced by international and European protections of religious manifestation.[3]

Against this background, constitutional jurisprudence[4] has consistently and unanimously affirmed that Article 19 guarantees religious freedom and all rights that constitute its effective extension.[5] This freedom is recognised as an inviolable right guaranteed to all, irrespective of whether the religious group in question has formal recognition or agreements with the State.[6]

From the perspective of individual religious freedom, there is little doubt that the individual's right must be guaranteed everywhere, regardless of the intended use of the premises or the existence of a specific building permit authorising worship, whether the space is public or private. Greater complexity emerges, however, when religious freedom is examined in its collective[7] and public dimensions.[8] In this regard, the regulatory prerequisites, factual circumstances, and ongoing debate surrounding the collective exercise of worship and the availability of places of worship – particularly for the Islamic faith – must necessarily take Article 19 as their starting point while also acknowledging that its implementation raises multiple interconnected legal and administrative issues.

Viewed in this light, religious freedom also entails a public interest directly linked to the concrete exercise of worship and, more specifically, to the availability of suitable spaces in which such worship can take place.[9] In such circumstances, public administrations cannot be relieved of their duty to protect this public interest, which flows directly from Article 19 and is operationalised through administrative action. The capacity of public administrations to guarantee access to places of worship thus becomes a benchmark for assessing the correctness of administrative conduct in light of the principles of legality, impartiality, proper functioning, effectiveness, and efficiency set out in Article 1 of Law no. 241 of 7 August 1990.[10]

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2 Costituzione della Repubblica Italiana [Constitution of the Italian Republic], adopted on 22 December 1947, Gazzetta Ufficiale della Repubblica Italiana no. 298 of 27 December 1947.

3 Bielefeldt et al. 2016, 92–144; Mazzola (ed.) 2012; Zagrebelsky et al. 2016; Marchei 2019, 46–57; Consorti 2023, 27–30.

4 See the following judgements of the (Italian) Constitutional Court: no. 346/2002 of 8 July 2002; no. 63/2016 of 23 February 2016; no. 52/2016 of 23 March 2016; no. 195/1993 of 26 May 1993; no. 67/2017 of 7 April 2017; no. 254/2019 of 6 November 2019.

5 Colaianni 2008; Cimbalo 2004; Folliero 2007; Cavana 2008; Casuscelli 2009b; Botti 2009a; Carobene 2015; Madera 2020; De Pasquale 2020; Piciocchi 2023.

6 Finocchiaro 1973, 335; Cavana 2010, 210; Ferrari 2002; Macrì 2009; Consorti 2016, 119–127; Tedeschi 2003, 629; Bordonali 2020; Alicino 2022; Oliosi 2015, 175–207; Dalla Torre 2015, 37–41; Marchei 2012, 171–185.

7 Fuccillo 2019, 2.

8 Vitali 2011; Lillo 2019, 54.

9 Mirabelli 2002, 45–59; Casuscelli 1979; Lariccia 1991, 97–116; Tozzi 1990a, 303; Tozzi 1990b, 385–392; Bettetini 2010, 3–26; Mantineo 2005, 695–698; Montesano 2020, 77; D'Angelo 2008, 737–759; Dimodugno 2017, 15–18; Dimodugno 2023; Decidmo 2021; Fabbri 2024a.

10 Nuove norme in materia di procedimento amministrativo e di diritto di accesso ai documenti amministrativi [New rules on administrative procedure and the right of access to administrative documents], Gazzetta Ufficiale della Repubblica Italiana no. 192 of 18 August 1990.

At the same time, the needs expressed by religious communities frequently collide with the organisational capacity, effectiveness, efficiency, and discretionary choices of public administrations when the latter develop services related to worship and identify suitable spaces for the exercise of this constitutionally protected right. This tension is directly linked to the municipal administration's ability to safeguard a public interest deriving from the combined operation of Articles 19 and 97, paragraph 2, of the Constitution.

The topic can be fruitfully examined by reconsidering how places of worship are made available from a practical-administrative perspective.[11] When assessed in relation to other competing public interests, the provision of spaces for worship appears closely intertwined with the core principles governing administrative activity. These principles, in turn, must not be undermined by discretionary choices that are arbitrary or disproportionately detrimental to the exercise of religious freedom.

The scope of religious freedom guaranteed by Article 19 extends beyond individual confessions or specific religious communities. The rights deriving from its exercise are capable of orienting the activity of all public administrations and political bodies through policy guidelines and administrative functions aimed at protecting the good and the right to religion.[12] It thus becomes apparent that the notion of public interest is inherent and intrinsic to religious freedom itself. Irrespective of the belief professed, religious freedom constitutes a primary interest of public relevance, and it is recognised as such by the Constitution and by State and regional legislative sources.[13]

For this reason, religious freedom must be implemented and protected by every public authority, including the State administration, territorial bodies, and all public entities involved in the exercise of administrative powers (Articles 2, 3, and 97 para. 2 of the Constitution; Article 1 of the Law 241/1990). Following an appropriate balancing with other public and private interests, this interest is not only primary in nature, but sufficiently significant to attract a form of priority constitutional protection comparable to that accorded to health, education, the environment, or cultural and landscape heritage.[14]

The category of public interest underlying religious freedom is further shaped by the profound cultural, historical, ideological, social, and legal transformations characterising an increasingly multicultural and secular society. These changes necessarily call for a reassessment of administrative organisation and activity, which must evolve in line with shifting perceptions of what merits protection at the social, spiritual, cultural, and political levels.

For long-established indigenous communities and adherents of the majority religion, the protection of collective worship and the planning of religious buildings often

11 Ruling of the Council of State, no. 8298/2010 of 6 December 2010; Ruling of the Regional Administrative Court of Lombardy, Milan, no. 2485/2013 of 20 June 2013; Ruling of the Regional Administrative Court of Lombardy, Milan, Section II, no. 2018/2018 of 18 July 2018; Ruling of the Regional Administrative Court of Tuscany, Florence, no. 663/2020 of 9 June 2020.

12 Taccagna 2024, 475–487; Migliorini 1968, 274; Sorace 1988, 205; Bassi 1996, 243; Stipo 1988; Perfetti 2024.

13 Di San Luca 2010, 242; Giacchetti 2006, 2349; Della Cananea 2022, 2; Mastrodonato 2023, 4.

14 Ruling of the Regional Administrative Court of Lazio, Rome, Section II bis, no. 3831/2017 of 23 March 2017.

form part of ordinary territorial governance.[15] However, the situation differs markedly for newer communities. In such cases, the challenge lies in reconfiguring the concept of public interest itself so as to encompass practices and needs perceived by the majority society as unfamiliar. Public administrations are therefore required to translate constitutional and jurisprudential recognition into concrete regulatory, managerial, and technical-administrative solutions governing the provision of public services.

As these new religious communities are progressively consolidated, a form of social symbiosis inspired by multiculturalism, secularism, and religious pluralism gradually develops.[16] Correspondingly, demands for spaces in which to practise religions other than Catholicism, including Islam, increasingly emerge and take shape and must fall within the scope of public administrative responsibility.[17]

In this evolving context, the duties of local governments under Article 19 of the Constitution are increasingly contested, as municipal actions do not always align with constitutional guarantees of religious freedom. Conflicts most frequently arise in relation to the regulation of places of worship, particularly with regard to availability, planning compliance, changes in intended use, and new constructions. These tensions have recently resurfaced in Monfalcone, where the activities of the *Darus Salaam* and *Baitus Salat* Islamic Cultural Associations were suspended following contested reclassifications of their premises.[18]

Examining these developments requires careful consideration of both the political sensitivity inherent in guaranteeing places of worship for the Islamic faith and of the legal categories and instruments offered by administrative law to devise effective solutions. The case of the Islamic Cultural Associations of Monfalcone thus provides a valuable opportunity to reflect on unresolved questions concerning the restriction of a constitutionally protected right and to assess whether, and to what extent, any such restriction can be legally justified. Any limitation must ultimately be evaluated in light of the principles of impartiality and proper conduct and the criteria of effectiveness, efficiency, and cost-effectiveness that should guide administrative action in pursuing the public interest underlying religious freedom.

On the one hand, in exercising their discretionary powers, local administrations must adapt their roles and responsibilities to respond to the new needs expressed by religious communities. This adaptation requires a reassessment of administrative capacity, efficiency, and service provision to ensure the effective guarantee of the right to a place of worship under Article 19. On the other hand, it also demands a broader reconsideration of the role of local governments within a transformed territorial, religious, and cultural landscape, which, as in the present case, challenges established social and institutional equilibria.[19]

15 Saccheri 2005.
16 Cimbalo 2009, 5.
17 Botti 2014, 81.
18 Fabbri 2024b; Croce 2024.
19 Botti 2022, 29; Cimbalo 2011, 335–386.

2. The administrative dimension of religious practice: public services and collective needs

Upon closer analysis, Article 19 lends itself to a reinterpretation grounded in a practical and operational perspective: one that shifts attention from abstract guarantees to the concrete conditions under which places of worship are safeguarded. This shift necessarily brings into focus the sphere of public interests implicated in the collective exercise of religious freedom and, correspondingly, the services that public administrations are required to activate, adapt, or reorganise at the national, regional, and local levels. Read together, Articles 19, 97 para. 2, as well as Article 1 of Law 241/1990 and Articles 13 and 112 of Legislative Decree no. 267 of 18 August 2000 (TUEL),[20] delineate a framework in which the effective protection of religious freedom is inseparable from the quality, rationality, and performance of administrative action.

From this perspective, the recent suspension of Islamic places of prayer by the Municipality of Monfalcone functions as a paradigmatic testing ground for evaluating the correctness of administrative conduct insofar as it directly concerns the capacity of local administrations to manage, provide, and organise public services connected with the collective practice of worship. The exercise of administrative discretion thus emerges as a decisive benchmark for assessing compliance with the principles of legality, impartiality, proper functioning, effectiveness, efficiency, and cost-effectiveness that govern administrative action under Articles 97 paras. 2 and 1 of Law 241/1990.

It is precisely at this intersection between administrative discretion and collective religious needs that conflicts most frequently arise. The regulation of religious buildings and territorial governance requires careful consideration of the allocation of legislative and regulatory powers and administrative functions among the State, regions, and local administrations as well as of technical aspects such as whether the intended use of premises aligns with the relevant building permits. These elements often place the concrete needs of religious communities in tension with the decisions adopted by local administrations in the exercise of their regulatory and service provision functions. This tension is exacerbated by a persistent reluctance within the Italian legal system and cultural context to conceptualise religious activities as part of the organisation of public services of general interest.

As the current regulatory framework governing religious buildings is part of the broader system of public services under Articles 13 and 112 TUEL, this reluctance actually lacks a solid legal foundation. The perception that local religious communities contribute to the fulfilment of a constitutionally guaranteed right through the establishment and use of places of worship remains underdeveloped, despite its implicit recognition in administrative law.

In this framework, national legislation performs a structuring function by defining the general principles and criteria through which territorial governance directly affects

[20] Testo Unico degli Enti Locali – Consolidated Act on Local Authorities, Gazzetta Ufficiale della Repubblica Italiana no. 227 of 28 September 2000, Ordinary Supplement.

the exercise of religious freedom. Presidential Decree no. 380 of 6 June 2001[21] does not merely regulate building activity, but establishes the legal infrastructure within which places of worship are enabled, limited, or obstructed through planning decisions. Regional legislation further specifies this framework in the field of urban planning and construction, including the regulation of religious facilities as structures of collective interest.[22]

At the local level, municipalities exercise territorial governance through planning instruments and enjoy broad discretionary powers in organising services affecting the population and the municipal territory. This activity falls within their statutory and administrative autonomy under Articles 13 and 112 TUEL, which assign municipalities responsibility for administrative functions concerning the population and territory, particularly in the core areas of personal and community services. The organisation of such services thus takes the form of a predominantly administrative activity and is characterised by discretionary choices shaped by pre-established land-use patterns.

Within this framework, administrative action acts as a filter for private initiatives. Any urban or building transformation must comply with Presidential Decree 380/2001 and with applicable urban planning instruments, which regulate land use through zoning, authorisation procedures, and sanctioning and enforcement powers.

From an administrative-law perspective, spaces dedicated to worship acquire a specific legal relevance. They cannot be reduced to purely private facilities but must be understood as public services provided to the local community and as instruments for pursuing constitutionally relevant public interests.[23] This qualification directly affects the role of local administrations, which, as the institutions closest to citizens, are required to intervene through measures reflecting political objectives.

This responsibility is expressly affirmed by Article 13 TUEL, which entrusts municipalities with administrative functions concerning personal and community services, land use and planning, and economic development.[24] Within this framework, the freedom to profess and practise one's religion falls within the sphere of personal and community services and directly realises the constitutional guarantee of Article 19.

Accordingly, the public administrator (*amministratore della cosa pubblica*) assumes responsibility for the production, delivery, and management of all functions aimed at the balanced development of the local community, including the practice of worship as a factor of social and cultural fulfilment and cohesion. By extension, the municipality is required to ensure the provision of this public service while at the same time balancing it with the need to identify suitable places for worship and to comply with the constraints imposed by urban planning instruments.[25]

Article 112 TUEL further confirms that local administrations must manage public services aimed at achieving social goals and promoting the civil development of local

21 Testo unico delle disposizioni legislative e regolamentari in materia di edilizia [Consolidated Act on Legislative and Regulatory Provisions on Building], Gazzetta Ufficiale della Repubblica Italiana no. 245 of 20 October 2001.
22 Lo Giacco 2018, 1419–1439; Casuscelli 1981, 1187; Consorti 2003; Ambrosi 2017; Guazzarrotti 2016; Roccella 2005.
23 Caputi Jambrenghi 2021; Perongini 2014, 10.
24 Virga 2003; Chizzoniti 2010, 104–115.
25 Macheda 2025.

communities.[26] In principle, therefore, no restrictions should be imposed on this public religious service. In practice, however, the concrete modalities governing its provision and accessibility are shaped by a plurality of factors which, in certain contexts, crystallise into forms of opposition to the exercise of religious freedom. These dynamics inevitably influence the conduct of local administrations, which may absorb and reflect the tensions and antagonisms present within the communities they govern.

3. Local administrations, administrative discretion, and places of worship

3.1. On the establishment of new religions in Italian territory

In principle, the distribution of the population throughout the national territory should be governed by respect for diversity and by the guarantees enshrined in Article 19. In practice, however, any transformation of the social fabric tends to generate concern and anxiety, particularly where differences emerge between long-established residents and new inhabitants in terms of culture, social status, customs, clothing, or eating habits-differences that are often closely intertwined with religious beliefs.[27]

These dynamics do not affect only material aspects, such as housing arrangements and food supply chains, or sensory elements, such as smells and flavours. More profoundly, they challenge the symbolic and cultural features through which a community recognises and defines its own identity.

From this perspective, the establishment of another religion constitutes a perceived disruption of the territory's traditional and social identity. It is therefore unsurprising that identity-based reactions arise, particularly among segments of the local population, and that these reactions may translate into phenomena of rejection that stand in open contradiction with the principles of freedom of worship and religious pluralism.[28] Although such reactions have no legal justification, they nonetheless exert significant influence on the institutional environment in which public decisions are made.

This complex bundle of social, cultural, and political factors inevitably affects the choices made by national, regional, and local administrations. Yet this contextual pressure does not relieve public institutions of their responsibility to decide on the location and construction of places of worship when such needs emerge within a growing community. On the contrary, where a collective demand for worship emerges in a given area,

[26] Mariani 2022, 513–825.

[27] Botti 2022, 27.

[28] "[…] The more affiliations increase and diversify, the more the identity of indigenous populations enters into crisis, while the need for each group to distinguish itself, to seek and valorise – sometimes inventing them – differences that serve to create space for community, a new entity that replaces belonging and networks of class solidarity, to the point of affecting economic relationships. The opposition between rich and poor, between owners of the means of production and workers, the result of an evolution of relationships brought about by the economic development of the last two centuries, is replaced by ethnic, linguistic, and traditional-religious affinities because it is based on the fear of the other, on a network of bonds of solidarity that have ethnicity at their cor" (Cimbalo 2011, 9; author's own translation).

the public administration remains under a duty to create the conditions that enable the free exercise of religious practice.

3.2. Rational use of existing resources

When the discussion turns to the satisfaction of essential needs – such as the public and collective practice of worship – administrative decisions are often shaped by contingent circumstances and by the availability of practicable opportunities. Although the construction of a new place of worship *ex novo* is increasingly rare from the perspective of rational land use, it may be necessary when existing solutions prove inadequate.[29] Alongside this option, Italian public policy has progressively favoured the use of existing buildings, a strategy that raises a different set of practical and legal implications.[30]

The reuse of existing structures, while often preferable in planning terms, does not dispense with the need to obtain prior authorisation where a change of use results in an increased urban-planning burden. In such cases, the granting of a building permit remains a necessary precondition.[31] Although creating a new place of worship and converting an existing building constitute distinct legal scenarios, both have tangible effects on the surrounding community and thus fall within the category of events that directly affect the local population.

These situations inevitably engage the discretionary powers of local administrations. On the one hand, municipalities are required to uphold the public interest in compliance with planning and building regulations. On the other hand, they must ensure the effective exercise of religious freedom under Article 19 by allowing changes of use that make worship possible. While the procedures for issuing building permits are formally characterised by the absence of discretionary powers (*attività vincolata)*, municipalities retain considerable discretion in shaping and amending urban development plans. As a result, decisions concerning the allocation and use of municipal land directly impact the exercise of religious freedom, particularly in relation to the organisation and provision of public services connected with worship. This tension constitutes one of the structural roots of the conflict that emerged between the religious community and the Municipality of Monfalcone.[32]

[29] Lapi 2020; Franceschini 2024.

[30] Regarding the construction of new Islamic places of worship, the recent case of the Pisa Mosque is relevant. See the ruling of the Regional Administrative Court of Tuscany, Florence, no. 663/2020 of 9 June 2020.

[31] Parisi 2021, 79–111; Ceffa 2020; Croce 2016; Leonardi 2019; Marchei 2014; Marchei 2020; Casuscelli 2009a; Lorenzetti 2015; Licastro 2016. This issue concerns the controversy around the change of intended use in the almost analogous cases in the Lombardy Region, the Madni Islamic Cultural Association and the Ticino Islamic Cultural Association. See the following judgments of the Italian Constitutional Court: no. 63/2016 of 23 February 2016; no. 254/2019 of 6 November 2019.

[32] See the ruling of the Italian Court of Cassation, Criminal Section III, no. 36689/2019 of 10 September 2019.

3.3. The exercise of discretion by local authorities

The discretionary powers exercised by public administrations are not unlimited; rather, they are subject to clear legal constraints. In particular, they are bounded by higher-ranking legislation and, above all, by constitutional provisions safeguarding fundamental rights and freedoms. The legislator cannot legitimately authorise an unrestricted or arbitrary use of administrative discretion in decisions concerning the authorisation or refusal of places of worship. Administrative activity must not degenerate into coercive or discriminatory practices that can undermine constitutionally protected rights.

Rather, discretion should be exercised in the selection of the most appropriate means (*quomodo*) through which such rights may be effectively realised. Hence, as public interest is linked to religious freedom, the corresponding needs must be addressed through the provision of public services, including making places of worship available, including making places of worship available. The responsibility for identifying and managing such services now falls squarely within the remit of those who govern and administer the territory.

At the same time, individuals and religious communities requesting administrative measures to guarantee access to a place of worship are not merely interest holders, but bearers of a constitutionally protected right. This right corresponds to a fundamental public interest in the effective protection of freedoms, which the territorial administration is called upon to safeguard. Consequently, administrative action must be guided by the criteria of effectiveness, efficiency, and rationality with a view to fulfilling the duty imposed by Article 19. In this framework, decisions concerning spaces for worship no longer relate to the *an* of religious freedom, but to its *quomodo*, that is, to the identification of solutions capable of ensuring the rational, efficient, and effective provision of an essential public service.[33]

As demonstrated by the Monfalcone case, disputes concerning changes of use for worship purposes have increasingly given rise to litigation. The *mala gestio* of local administrations in organising religious services has become a central point of contention, prompting administrative courts to articulate interpretative criteria aimed at reconciling the exercise of constitutional freedoms with the regulatory powers of territorial administrations. This judicial intervention has often been necessitated by the absence of clear national legislative guidance and, even more acutely, by regional regulatory frameworks that expand the discretionary powers of municipalities in territorial planning.[34]

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33 Torricelli 2019.

34 For example, the illegitimacy of Article 72 para. 2, of Regional Law no. 12 of 2005 for Lombardy, was declared in the judgment of the Italian Constitutional Court, no. 254/2019 of 6 November 2019. Article 2 of Regional Law no. 12 of 12 April 2016, Veneto, amending Regional Law no. 11 of 23 April 2004, also failed to pass the constitutional legitimacy review raised by the President of the Council of Ministers (judgment of the Italian Constitutional Court, no. 67/2017 of 7 April 2017). Likewise, with the judgment of the Italian Constitutional Court, no. 195/1993 of 26 May 1993, the TAR of Abruzzo raised the question of the constitutionality of Articles 1 and 5, third paragraph (later declared unconstitutional by the Constitutional Court), of the Abruzzo Regional Law no. 29 of 16 March 1988, containing the urban planning regulations for religious services, insofar as they provide for the provision of grants only to religious confessions whose relations with the State are regulated on the basis of agreements, pursuant to Article 8 paragraph 3 of the Constitution.

Within this context, particularly restrictive measures have been adopted with the aim of limiting or obstructing demands arising from evolving demographic, cultural, and religious realities. These tensions resurfaced in Monfalcone when the mayor ordered the suspension of religious activities and the closure of premises used for Islamic worship on the grounds of an allegedly unlawful change of use. This episode exemplifies how administrative discretion, when exercised without adequate consideration of constitutional guarantees, may become a vehicle for restricting the collective exercise of religious freedom.

4. The Monfalcone case: suspension of religious activities and administrative measures

At first glance, the Monfalcone dispute appears to revolve around technical issues concerning the structural designation of a property used as a place of worship, particularly in relation to the legal titles corresponding to its intended use and compliance with zoning regulations.[35] Yet, as is often the case in litigation involving places of worship, the administrative judges move beyond the purely technical dimension. Their scrutiny extends to broader and more complex questions, emphasising the need to assess the conduct of local administrations in light of the principles of impartiality, proper functioning, non-discrimination, continuity, proportionality, effectiveness, and efficiency.

These issues become concrete and contested in the dispute between the Municipality of Monfalcone and the Islamic cultural associations *Darus Salaam* and *Baitus Salat* over buildings used as places of worship.[36] Both associations were served with separate administrative orders producing substantially identical effects: they were instructed to restore the original intended use of properties employed for worship on the ground that such use had been initiated without the prior granting of a building permit.

For the purposes of this analysis, only the proceedings concerning the *Darus Salaam* Islamic Cultural Association will be examined.[37] It is worth noting that the contested order had an immediate and tangible impact, rendering the premises primarily used for Islamic worship unusable and uninhabitable and thereby depriving the local community of a space in which to celebrate religious rites.

Within this framework, the report drawn up by the Municipal Police assumes particular relevance. The order explicitly states that "according to Executive Decree no. 3/EP of 15/11/2023 of the Municipality of Monfalcone, the Salaat (Namaz) is temporarily

35 See the ruling of the Regional Administrative Court of Friuli Venezia Giulia, Trieste, Section I, no. 23/2024 of 27 June 2024.

36 The properties in question are located at Via Duca D'Aosta 28 and Via Don Fanin 15/17. They are used, respectively, by the *Darus Salaam* and *Baitus Salat* Islamic Cultural Associations.

37 See Fabbri 2024b; Croce 2024. However, the two cases are based on different legal assumptions, and different urban conditions led to different measures being taken. For this reason, this discussion will only consider the legal case involving the *Darus Salaam* Islamic Cultural Association.

suspended. The brothers are therefore asked to pray at home."[38] The underlying purpose of the measure emerges clearly from this wording: the Municipality sought to prevent religious activities from being carried out in a hall formally designated not for religious services or endowments, but solely for cultural activities reserved for members of the Association.

From the standpoint of constitutional guarantees, the Islamic Cultural Association alleged violations of Articles 2, 3, 17, 19, and 20 of the Constitution and of Articles 5, 40(1), and 15 of Friuli Venezia Giulia Regional Law no. 19 of 11 November 2009.[39]

On a more strictly administrative and procedural level, the appellant further claimed breaches of Articles 1, 3, 6, 7, and 10 of Law 241/1990.[40] In particular, it alleged a complete lack of investigation and reasoning, resulting in a violation of the procedural and participatory principles that should guide administrative action in the adoption of final decisions.[41]

Conversely, the Municipality of Monfalcone defended the legality of its action. According to its submissions, the property was used by a considerable number of people, and the resulting high influx had altered the building's urban impact, thus revealing an unauthorised change of use.[42]

Based on reports and inspections conducted by the Municipal Police, the Municipality argued that the premises were consistently and predominantly used for religious activities despite not being zoned for worship. This situation, in its view, generated critical issues concerning traffic management, excessive flows of people and vehicles, parking availability, public order and safety, and waste disposal.

Following the reconstruction of the facts advanced by the Municipality and accepted by the administrative judges, it was held that the legal basis of the power exercised derived from Article 45 of Friuli Venezia Giulia Regional Law 19/2009. That provision stipulates that, in the suppression of violations of building regulations, "interventions carried out in total non-compliance with the building permit […] shall (be) order(ed) the removal or demolition by the owner and the person responsible for the infringement […]." The core of the dispute is here. According to the Regional Administrative Tribunal (*Tribunale Amministrativo Regionale*; TAR), the decisive issue lies in "whether the change in the purpose of the use allowed for the exercise of municipal sanctioning powers in construction matters pursuant to Art. 45 of Regional Law no. 19/2009."[43]

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38 Order restoring the authorised designated use of the property located at Via Duca d'Aosta no. 28, cadastral reference Sheet 21, parcel 1,700, sub-unit 35, Municipality of Monfalcone, Executive Order no. 03/EP of 15 November 2023.

39 Norme in materia di governo del territorio [Rules on urban planning and construction], Bollettino Ufficiale della Regione Friuli Venezia Giulia no. 23 of 18 November 2009, Ordinary Supplement.

40 Cassatella 2013, 275–284; Fantini 2001, 87.

41 Piraino 1999; Galligan 1999; Torricelli (ed.) 2019; Labriola 2020; Fantini 2001, 83–108; Lauricella 2008, 17–19, 47–75; Giulietti 2016, 95–110; Cavallo 2001, 119–125. See also Articles 1, 3, 6, 7, 8, 9, 10, and 10-bis of Law 241/1990, where the participatory rights of the recipients of the provision and of public and private interest holders are protected.

42 See the ruling of the Regional Administrative Court of Lombardy, Milan, Section II, no. 1269/2020 of 1 July 2020, holding that any increase in the urban-planning burden must be concrete and duly demonstrated by the municipality; see also the ruling of the Regional Administrative Court of Tuscany, Florence, Section III, no. 297/2024 of 14 March 2024.

43 Ruling of the Regional Administrative Court of Friuli Venezia Giulia, Trieste, Section I, no. 23/2024 of 27 June 2024, p. 6.

In light of this legal framework, the administrative court questions the lawfulness of the contested measure as an expression of sanctioning, inhibiting, and restorative powers effectively exercised by the Municipality. The reasonableness of the Municipality of Monfalcone's use of discretion must therefore be assessed against the relevant regulatory parameters, including Ministerial Decree no. 1444 of 2 April 1968 (the so-called *Decreto Lavori Pubblici*)[44] and the Municipality's general regulatory plan.[45]

Particular attention must also be paid to the concrete effects of the measure, which resulted in "prohibiting the exercise of worship without consideration," a consequence that was especially significant in view of the imminent celebration of the religious holiday of Ramadan.[46]

5. Places of worship between constitutional guarantees and public service obligations

It has been firmly established that the practice of worship – and the inseparable availability of a place designated for religious practice – constitutes a fundamental right that cannot be restricted or violated, regardless of whether a formal agreement has been concluded with the Italian State or whether the religious denomination has obtained legal recognition, including in relation to Islam.

A decisive consequence flows from this premise: the members of the applicant association cannot lawfully be prevented from freely assembling within the property and from exercising there their free and irrevocable prerogatives in accordance with their religious beliefs.[47]

This understanding is reinforced by the administrative judges, who explicitly state that places of worship, "as facilities of general interest serving residential settlements,

[44] Limiti inderogabili di densità edilizia, di altezza, di distanza fra i fabbricati e rapporti massimi tra spazi destinati agli insediamenti residenziali e produttivi e spazi pubblici o riservati alle attività collettive, a verde pubblico o a parcheggi [Limits of density, height, distance between buildings, and maximum ratios between spaces allocated to residential and productive settlements and public or reserved spaces for collective activities, public greenery or parking], Gazzetta Ufficiale della Repubblica Italiana no. 97 of 16 April 1968.

[45] Piano Regolatore Generale Comunale [Master Plan of the Municipality of Monfalcone], adopted by Municipal Council Resolutions no. 32/1997 and no. 62/2000, came into force on 22 March 2000. Several amendments were later made, including that adopted by Municipal Council Resolution no. 46 of 21 December 2024.

[46] In the ruling of the Regional Administrative Court of Friuli Venezia Giulia, Trieste, Section I, no. 23/2024 of 27 June 2024, p. 4; the Court expresses a decision in harmony with the ruling of the Regional Administrative Court of Tuscany, Florence, no. 663/2020 of 9 June 2020, regarding the construction of the Pisa Mosque.

[47] In the case at hand, the Council of State adopted an interim position in a decree concerning places of worship and interim administrative measures (Council of State, Section II, no. 857/2024, Rome, 11 March 2024), expressly aligning itself with the reasoning set out in a ruling concerning places of worship and administrative enforcement powers (Regional Administrative Court of Tuscany, Florence, no. 663/2020 of 9 June 2020). The same interpretative approach is consistently reflected in rulings concerning places of worship and land-use regulation (Regional Administrative Court of Lombardy, Milan, Section II, no. 1557/2020 of 9 July 2020; Regional Administrative Court of Lombardy, Brescia, no. 742/2020 of 18 June 2020; Regional Administrative Court of Tuscany, Florence, no. 371/2023 of 23 March 2023), rulings concerning places of worship and administrative discretion (Council of State, Section II, no. 6829/2022, Rome, 2 August 2022; Council of State, no. 1379/2023, Rome, 13 February 2023; Council of State, Section VI, no. 2665/2023, Rome, 16 March 2023), and rulings concerning places of worship and administrative enforcement measures (Regional Administrative Court of Lazio, Rome, no. 8840/2022 of 8 July 2022).

are specifically intended to accommodate collective facilities of public interest and social gathering; they therefore fall within the category of collective services and facilities,"[48] and who therefore place them within the category of collective services and facilities. From this perspective, the exercise of religious freedom cannot be assessed in isolation, but must be understood as one means of protecting of a range of essential public interests.

Accordingly, the exercise of worship is not merely to be tolerated, but must be guaranteed – and, where necessary, actively promoted – by the competent local authority, as the institutional actor closest to citizens. In fulfilling this role, the municipality operates within the framework set out by Articles 13 and 112 TUEL, the relevant constitutional provisions, including Article 97(2), and the general principles governing administrative activity and legality, all of which require public action to support the balanced development of the local community. The legislation under examination clearly identifies the municipality as the reference authority for the organisation and management of public services and activities aimed at achieving social objectives and fostering civic development.

Against this backdrop, it is no longer sustainable to deny the necessity for the Association to provide and manage – albeit within an administrative framework – public services oriented toward protecting public interests, as concretely embodied in the right to profess one's religious faith. This responsibility constitutes both a duty and a prerogative of the local authority, and it is entirely independent of the religious creed involved. What is at stake, rather, is the quality of administrative action: its efficiency, effectiveness, cost-effectiveness, impartiality, and proper functioning, as required by Article 97(2) of the Constitution.

Finally, given the essential public importance of services connected with religious practice, such services cannot be subjected to arbitrary denial. By their very nature, public services are provided for the benefit of the community as a whole; they are not intrinsically economic, even where organised through managerial forms, and they must be ensured on a continuous, non-discriminatory basis, under conditions of safety and equality.[49]

6. Defective administrative reasoning and the mismanagement of public interest

The protection of the public interest connected with the practice of worship and the provision of related public services cannot be coherently pursued where, as in the present case, the municipal administration adopts measures that are unlawful, internally contradictory, harmful, and ultimately detrimental to the very interests of the community it is

[48] Ruling of the Regional Administrative Court of Friuli Venezia Giulia, Trieste, Section I, no. 23/2024 of 27 June 2024, p. 9.

[49] Legislative Decree no. 175 of 19 August 2016, Testo unico in materia di società a partecipazione pubblica [Consolidated Act on Publicly Held Companies], Gazzetta Ufficiale della Repubblica Italiana no. 210 of 8 September 2016, Article 2 para. 1 letter h; Legislative Decree no. 201 of 23 December 2022, Riordino della disciplina dei servizi pubblici locali di rilevanza economica [Reorganisation of the regulatory framework governing local public services of economic importance], Gazzetta Ufficiale della Repubblica Italiana no. 304 of 30 December 2022, Article 10 paras. 2, 3, and 4; Dugato 2003; Macheda 2025.

called upon to serve. This contradiction lies at the heart of the dispute examined by the administrative judges.

At the outset, the judges highlight that the contested order displays irreconcilable inconsistencies with the applicable regulatory framework, including Ministerial Decree 1444/1968 (*Decreto Lavori Pubblici*), Friuli Venezia Giulia Regional Law 19/2009, and the Master Plan in force in the Municipality of Monfalcone. The measure, in fact, combines sanctioning and reinstatement effects on the basis of an assumed change of intended use that has been characterised as unauthorised.

On this basis, the Regional Administrative Court affirms the unlawfulness of the measure by reference to Article 45 of Friuli Venezia Giulia Regional Law 19/2009. The provision permits demolition or inhibitory sanction only where a change of intended use carried out *sine titulo* is not merely formal, but sufficiently substantial to amount to an essential variation – a circumstance that must be precisely and rigorously proven. In the present case, however, the Municipality of Monfalcone failed to prove that the alleged change of use constitutes an *essential change* within the meaning established by regional law. As a result, the factual and legal prerequisites for exercising sanctioning, prohibitory, and repressive powers remain indeterminate and vague.[50]

This evidentiary deficit reveals a deeper procedural flaw. The contested measure was not adopted following a thorough and reasoned examination, nor was it supported by a specific and detailed explanation capable of demonstrating that the change of intended use exceeded authorised standards to such a degree that it would have an increased urban impact.[51]

In this regard, the administrative judges observe that "the Municipality has relied on mere statements of principle, which are completely general and detached from the context and in reality only reflect stylistic forms."[52] The alleged increase in impact is not identified in relation to the indicators set out in sectoral legislation; instead, the Municipality offers only cursory and generic references to supposed risks to public safety, traffic congestion, and waste production. Such assertions, however, fail to justify a measure that significantly affects a broad group of individuals holding legitimate interests compromised by unlawful administrative conduct.

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50 The requirement for the Municipality to effectively demonstrate an increase in the urban planning burden as an essential condition for exercising control and inhibitory powers is reiterated by the following rulings: Regional Administrative Court of Friuli Venezia Giulia, Trieste, Section I, no. 23/2024 of 27 June 2024; Regional Administrative Court of Lombardy, Milan, Section II, no. 1269/2020 of 1 July 2020; Regional Administrative Court of Tuscany, Florence, Section III, no. 297/2024 of 14 March 2024.

51 In the ruling of the Council of State, Section VI, no. 8906/2022, Rome, 19 October 2022, it is stated that "urban planning load means the need for land use facilities for a given property or settlement in relation to its size and intended use. Consequently, an increase or reduction in this need resulting from the implementation of urban planning and construction projects or changes in intended use constitutes a change in urban planning load." Furthermore, "to assess the impact of a building project, consisting of multiple works, on the land use, a comprehensive assessment must be made, given that the consideration of individual projects in isolation does not allow for an adequate understanding of their actual overall impact. Therefore, the multiple projects carried out should not be considered in a fragmented manner" [author's own translation].

52 The ruling of the Regional Administrative Court of Friuli Venezia Giulia, Trieste, Section I, no. 23/2024 of 27 June 2024, p. 11.

Yet decisions adopted through the exercise of broad discretionary powers require precisely the opposite approach. They must be grounded in analytical, specific, and demonstrable reasoning capable of legitimising the use of authoritative and binding powers. This requirement becomes even more compelling when the discretion exercised directly interferes with constitutionally protected freedoms.

The judges further underline a decisive interpretative error committed by the Municipality. Contrary to the administration's assumption, the change of intended use was not prohibited by existing or adopted planning instruments. On the contrary, Article 22 of the Master Plan of the Municipality of Monfalcone expressly authorises intended uses relating to "collective services and facilities," a category that explicitly includes spaces designated for religious purposes. The planning framework recognises places of worship as sites of public interest permitted within residential areas, alongside health and care facilities, spaces for social and cultural aggregation, transport infrastructure, green areas, and technological services.

If, therefore, the regulatory framework adopted by the Municipality itself qualifies the building in question as serving a public interest – taking into account both the constitutional and primary sources previously examined and the activities carried out for the benefit of the community – the decision to suspend those activities can be seen as manifestly contradictory. The measure is not merely unsupported by planning regulations; it stands in direct opposition to them, insofar as those regulations expressly attribute collective relevance to places of worship.

The significance of the Municipality's error thus becomes apparent. It is rooted in the mistaken premise that places of worship may be located only within areas expressly designated in advance by planning instruments. In reality, the use of the building for worship was not prohibited by the applicable regulations; moreover, the building was an essential territorial facility providing a public service. This outcome does not merely reflect an arbitrary restriction of Article 19; more fundamentally, it exposes a failure of the public administration to act efficiently, effectively, economically, impartially, and properly.

Consistent with this assessment, the judges uphold the Islamic Association's claim concerning the violation of Article 97 para. 2 of the Constitution. The administrative performance is found to be particularly deficient in relation to the obligation to ensure and manage a public service by providing an appropriate space for religious practice. From this perspective, the statement that "the brothers are therefore asked to pray at home," as advanced by the Municipality of Monfalcone, appears mocking, which is difficult to reconcile with the principles of impartiality, proper functioning, effectiveness, efficiency, and economy that govern administrative action.

The protection of the public interest pursued through the municipal provision of places of worship cannot be effective where the conflict is framed along religious lines and, above all, where the contested measure is vitiated by investigative shortcomings, inadequate reasoning, and unlawful interference with participation rights guaranteed under Articles 7 and 10 of Law 241/1990. It is therefore unsurprising that the Council of State explicitly calls for the dispute to be resolved through "prudent co-operation

between the parties [for] a possible interim solution to the conflicting needs." To this end, it sets a deadline for "an immediate meeting between the plaintiff association and the competent municipal authority to find places, including alternatives to the place that is the subject of the proceedings, where the members of the plaintiff association can safely practise their religion, even if only temporarily."[53]

Against this background, it appears only natural that the dispute should have been addressed through a negotiated and bilateral administrative solution. Ultimately, the slogan "the brothers are therefore asked to pray at home" encapsulates a serious technical and legal error. It primarily infringes Article 19 and, additionally, violates Friuli Venezia Giulia Regional Law 19/2009, Ministerial Decree 1444/1968, Articles 13 and 112 TUEL, and the fundamental principles governing the proper exercise of administrative action – namely, impartiality, good performance, functionality, rationality, and effectiveness – in the provision of public religious services by the Municipality.

7. Religious freedom as a legitimate interest: the position of the TAR

The idea that freedom of religion under Article 19 finds its concrete legal expression in the notion of public interest – corresponding to the provision of a public service to the community – is expressly reaffirmed by Decree no. 857 of 2024 of the Council of State, cited above. In this decision, the court foregrounds a reading of religious freedom that is no longer confined to the sphere of individual liberty, but is structurally embedded in the organisation and delivery of public services.

This interpretative shift is also clearly reflected in the application for precautionary measures submitted by the *Darus Salaam* Islamic Cultural Association. With the religious holiday of Ramadan imminent and the merits of the case still being discussed denying access to the place of worship would have entailed serious and irreparable harm. Thus, urgent judicial intervention was justified. The precautionary phase, therefore, becomes a privileged lens through which the judges articulate the practical consequences of administrative action on the effective exercise of religious freedom.

The judges reaffirm that freedom of worship, irrespective of religious conviction, undoubtedly qualifies as a fundamental human right when considered in absolute terms. At the same time, however, they clarify that freedom of religion "is considered a fundamental legitimate interest when compared to other needs that the administrations must take into account when regulating the practice of religion in certain places by ensuring conditions of hygiene, safety, public order and appropriate urban planning."[54]

The groundbreaking nature of the judgement lies precisely in the recognition of the *Darus Salaam* Islamic Cultural Association as the bearer of a fundamental, legitimate interest.[55] The judges identify this interest in the concrete practice of religious faith within

[53] The decree of the Council of State, Section II, no. 857/2024, Rome, 11 March 2024.
[54] Ibidem; Pignatelli 2015, 11.
[55] In Italian administrative law, legitimate interest (*interesse legittimo*) is a subjective legal situation granted to an individual to contest the improper exercise of administrative power or to influence its proper exercise. It represents

the places designated by the Municipality of Monfalcone. In this context, the essential asset (*bene della vita*) is no longer abstractly defined, but is clearly identified as the continued availability of the place of worship itself, which gives tangible form to the constitutional guarantee enshrined in Article 19.

That guarantee is nonetheless gravely compromised by the unrestrained exercise of discretionary powers by the Municipality of Monfalcone. As a result, the Association's legal position cannot be left without administrative protection: the effects of the contested measure are particularly harmful, and the act itself is affected by insurmountable legal defects. Therefore, the Association has a concrete and qualified interest in preserving the essential asset (*bene della vita*) to oppose an administrative action aimed at extinguishing the exercise of religious freedom through discretionary, authoritative, and unilateral powers.

Moreover, legitimate interests do not only exist in situations in which the essential asset is directly affected by the Municipality's measures. Prejudice to the Association's legal position also arises from the violation of procedural participation rights guaranteed under Articles 7 and 10 of Law 241/1990. In this sense, legitimate interest encompasses not only the ability to challenge the final administrative decision, but also the power to contest the unlawful exercise of administrative authority during the investigative and procedural phases preceding that decision.[56]

Through this ruling, the holder of the legitimate interest enjoys both constitutional protection of religious freedom and a distinct, qualified legal position impaired by the unlawful conduct of the Municipality[57]. As the Council of State makes clear, the municipality remains responsible for ensuring compliance with hygiene, safety, public order, and urban planning requirements. Yet these standards do not operate as autonomous limits on religious freedom; rather, they are instrumental to the provision of an essential public service such as the practice of worship. The scope of protection, therefore, extends beyond the safeguarding of the subjective rights of worshippers, encompassing the legitimate interest linked to an essential asset that has been unlawfully compromised by the exercise of public authority

Finally, as a result of the unlawful conduct of the Municipality of Monfalcone, the public administration may incur liability for the impairment of legitimate interests.[58] On this basis, it may be exposed to claims for damages brought by the *Darus Salaam* Islamic Cultural Association pursuant to Article 2043 of the Italian Civil Code.[59]

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a legally protected interest that allows individuals to seek to have an administrative act declared invalid or to be compensated for damages to the essential asset (*bene della vita*) when a public authority does not properly exercise its power. This unique concept is distinct from an individual's right and is central to the jurisdiction of the administrative judge; the judgement of the Italian Court of Cassation, United Sections, no. 500/1999, Rome, 22 July 1999; Carobene 2022; Donadio et al. 2024.

56 Scoca 2017; Lanfranchi (ed.) 2003.

57 The ruling of the Council of State, Section VI, no. 530/2022, Rome, 24 January 2022.

58 Scoca (ed.) 2021, 57–63.

59 Codice Civile [Civil Code], approved by Royal Decree no. 262 of 16 March 1942, Gazzetta Ufficiale della Repubblica Italiana no. 79 of 4 April 1942.

8. Concluding remarks

Given the facts laid out above, it is unsurprising that the judges of the Council of State granted the Islamic Cultural Association's request for a precautionary measure. That interim assessment was subsequently confirmed on the merits of the case, when the TAR annulled the municipal provision at issue.[60] Far from being an isolated outcome, this judicial trajectory reflects a broader awareness of the nature of territory itself, which is understood not as a static framework but as a living organism, subject to continuous transformation and development. From the TAR's reasoning, two closely connected considerations emerge.

First, in light of the need to prevent saturation and irrational land use, it appears both logical and consistent for the competent authority to authorise changes of use for existing properties. Activities of clear public importance – such as religious services – are often carried out in buildings already present within the urban fabric. Hence, municipalities must prioritise the reuse and functional reallocation of existing resources as part of a broader balancing of public interests. Within this framework, the decision made by the Municipality of Monfalcone proves inappropriate not only because it infringes Article 19, but also because it runs counter to contemporary policies aimed at reducing land consumption and limiting further soil sealing through rational land-use strategies.

Second, the evolution of the social fabric generates an undeniable need to accommodate new religious practices within the territory. Therefore, ensuring the proper functioning and availability of public services related to worship falls squarely within the remit of the competent authority. Irrespective of political or ideological orientations, municipalities are required to authorise the establishment and operation of religious communities, a duty that must be interpreted through the lens of proper administrative action and sound governance.

In the proceedings that led to the annulment of the unlawful provision, the judges gave due weight to the needs of the community of believers by combining the constitutional centrality of religious freedom with an innovative administrative reading of the public interests and public services underlying the exercise of that freedom.[61] This approach makes it clear that guaranteeing an essential public service, such as the practice

[60] The Council of State has recently discussed the request for a stay filed by the *Darus Salaam* Islamic Centre against the Municipality's acquisition of the property. The magistrates held that "the issues raised, although initially questionable, nevertheless merit further investigation" [author's own translation], RAI TGR Friuli Venezia e Giulia, *Centro di preghiera a Monfalcone, il Consiglio di Stato deciderà il 9 dicembre*, https://www.rainews.it/tgr/fvg/articoli/2025/08/centro-di-preghiera-a-monfalcone-il-consiglio-di-stato-decidera-il-9-dicembre-78ab6252-d41c-43c0-9c20-26098fda6693.html [accessed: 21 January 2026]. This orientation is also found in the following rulings: Regional Administrative Court of Lombardy, Milan, Section II, no. 1557/2020 of 9 July 2020; Regional Administrative Court of Lombardy, Brescia, no. 742/2020 of 18 June 2020; Regional Administrative Court of Lazio, Rome, no. 8840/2022 of 8 July 2022; Council of State, Section II, no. 6829/2022, Rome, 2 August 2022; Regional Administrative Court of Tuscany, Florence, no. 371/2023 of 23 March 2023; Council of State, no. 1379/2023, Rome, 13 February 2023; Council of State, Section VI, no. 2665/2023, Rome, 16 March 2023.

[61] In this regard, in the ruling of the Council of State, Section II, no. 6829/2022, Rome, 2 August 2022, the judges state that "the issuance of building permits for projects for the construction of religious facilities (is subject) to a special 'aggravated' procedural process, including opportunities for discussion and consultation with the affected population, (in which the provisions) must be interpreted in a constitutionally oriented manner, […] so as not to incur an illegitimate restriction of freedom of worship in the name of non-existent reasons of territorial governance" [author's own translation].

of religion, is an integral component of good governance. The ability of local administrations to ensure, organise, and manage public services by providing adequate religious spaces thus becomes a decisive benchmark for assessing the correctness, effectiveness, and efficiency of administrative action.

From this perspective, the Municipality of Monfalcone not only failed to recognise the concrete needs of the local Muslim community, but also unnecessarily bureaucratised the provision of religious public services. Administrative action should instead be oriented towards meeting the needs of the community and pursuing public interests that derive directly from Article 19, Law 241/1990, and the relevant international legal framework.

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