



# Lecture 1

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Ευρωπαϊκή Ένωση  
Ευρωπαϊκό Κοινωνικό Ταμείο

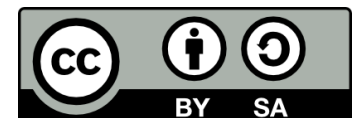


ΥΠΟΥΡΓΕΙΟ ΠΑΙΔΕΙΑΣ & ΘΡΗΣΚΕΥΜΑΤΩΝ, ΠΟΛΙΤΙΣΜΟΥ & ΑΘΛΗΤΙΣΜΟΥ  
ΕΙΔΙΚΗ ΥΠΗΡΕΣΙΑ ΔΙΑΧΕΙΡΙΣΗΣ

Με τη συγχρηματοδότηση της Ελλάδας και της Ευρωπαϊκής Ένωσης



ΕΣΠΑ  
2007-2013  
πρόγραμμα για την ανάπτυξη  
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# Lecture contents

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1. Provisions on religion in the Greek constitution
2. Problems arising from these provisions



# Lecture objectives

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1. To examine the constitutional provisions concerning religion
2. To understand the conflicts between the Greek constitution and the international human rights law for religious freedom



# Article 13, Paragraph 1

- Article 13 of the Greek Constitution concerns religious freedom. In paragraph 1 we read “freedom of religious conscience is inviolable”.
- The enjoyment of civil rights and liberties does not depend on the individual religious beliefs.
- Paragraph one concerns the freedom of religious conscience or the freedom of religious beliefs. “The freedom of religious conscience is inviolable” means that freedom of religious beliefs cannot be subject to any limitation. It is unlimited.



# Law and religion

- For the law there are not:
  - correct or incorrect beliefs
  - religious or not religious beliefs
  - true or false beliefs
  - mainstream religions and heretical religions
  - sects (the term sects is political term and it does not express respect for a religious group)
- There are only individuals who have beliefs, either religious or not religious one, on the first level. On a second level there is a case of states (the Greek state included) which give some purgatives only to some religions.
- There can be a legal definition of religion. All religious groups which claim that they are religious should be able enjoy the freedom of religious conscience or religious beliefs.



# Article 13, Paragraph 1 (2)

- The 2<sup>nd</sup> verse of paragraph 1, the enjoyment of civil rights and liberties that do not depend on the individuals' religious beliefs, contains the principle of equality and non discrimination.
- Both freedom of religious conscience and the principle of equality and non discrimination are protected not only by the constitution but also by the international law of human rights on the ecumenical level, the level of the United Nations, and on a regional, European level.
- The principle of equality and non discrimination is applied in conjunction with a subjective human right - religious freedom.





# Article 13, paragraph 2

- Paragraph 2 of article 13: “all known religions shall be free and their rites of worship shall be performed unhindered and under the protection of the law. The practice of rites of worship is not allowed to offend public order or the good usages. Proselytism is prohibited”.
- This paragraph concerns the so called known religions.



# The problematic term of “known religions”

- The term “known” creates problems as the special rapporteur of religious intolerance (currently of religious freedom) has indicated in his report after his visit in situ in Greece.
- A group which claims itself as a religious one should not be under examination whether it has genuine or non genuine religious beliefs, because the law is incompetent to examine if certain beliefs, religious or non religious ones, are genuine, correct or true. From the moment a group claims that it is a religious one, it should enjoy its religious human rights, among them the right to religious freedom.



# Historical frame of the term “known religions”

- The term “known religion” used in the Greek constitution means, according to the case law of the council of state and of these of the supreme administrative court of Greece, that it has known doctrines and known practices for the public, that there are not secret doctrines or secret practices, totally or partially.
- Before 1975, when the council of state recognized Jehovah’s witnesses as a known religion, the constitution scholars and the case law said that this term, known religion, meant the religions which:
  1. do not have secret doctrines or secret practices
  2. do not have any doctrines or practices contrary to the public order or public morals.
  - This second condition was deleted by the case law of the council of state in the case of Jehovah’s witnesses of 1975.



# Article 2, paragraph 13 (2)

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- Paragraph 2 of article 13 proclaims the freedom of the so called known religions, it recognizes their freedom of worship.
- In this way not all the religions enjoy freedom of worship but only the known religions.



# Conflict with the international law

- There is a great problem of conformity of article 13, paragraph 2 of the Greek constitution with international law for human rights.
- The international law recognizes the freedom of worship as a special form of the rights of manifestation of religious belief for all religions, not only for the so called known religions, as referred by the Greek constitution.
- In legal theory, it is said that this term, known religion, does not impose recognition procedure for the religions. Of course, there is not a formal official procedure for the recognition of religion as in other countries.



# Formal procedures and “known” religions

This term (known religion) is examined by Greek authorities during other procedures:

1. When a religious group submits an application to the ministry of education and religions to gain an authorization for the building for the function of a temple or a house of prayer.
2. When a consensus objector says that he belongs to a known religion which has beliefs contrary to the military service. In this case, a special commission of the ministry of defense, examines if a consensus objector has genuine consensus objection to military service.
3. When the ministry of finance examines if a group, which claims that it is a religious one, has a right to tax exemption according to the legislation in force.
4. When a religious group submits an application to the competent court to acquire legal personality of a common association with religious aid.
5. When a religious group submits application to the competent authority to acquire legal personality of religious legal person or ecclesiastical legal person according to law 4301/2014.



# Limitations to freedom of religious belief

- The second verse of article 13, paragraph 2 gives two limitations to the freedom of worship: public order and good usages. A better term for good usages is public morals.
- These limitations constitute also limitations of the manifestation of religious belief under the international law of human rights.
- There are other three legitimate limitations under international human rights law: public safety, public health, and rights and freedoms of others.



# Limitations to freedom of religious belief (2)

1. Public order means all basic principles under the constitution which are necessary for the order in society.
2. Public morals means public morality, which must not come only from one religion (as the general comment n. 22 of the committee on human rights of the United Nations say) but from many morals existing in a society, religious or non religious morals.





# The problematic term “proselytism”

- Verse 3 of article 13, paragraph 2 says that proselytism is prohibited. The term proselytism in the Greek constitution is a problematic one, because in the international legislature means the teaching of religion, the legal teaching of religion. The best translation of it would be proselytization is prohibited.
- Proselytization has a negative meaning in Greek. If we have to search for its correct -from a legal point of view- meaning, we can say that proselytization means the exercise of teaching of religion in a manner which is not accepted by the law, in a manner which is contrary to the law.
- But what law? To the law which is on the top of the hierarchy of the laws, to the constitution, and to international law on human rights.
- The problem is that the term proselytism or better proselytization is incorporated in the constitution.



# The problematic term “proselytism”(2)

- This term has to be interpreted according to international law on human rights. In international human rights legislation, the teaching of religion is a form of manifestation of religion or a belief. It is against international law on human rights when it is contrary to another freedom recognized by the international law on human rights.
- This should be also valid for the constitutional interpretation of the relative dispositions. The only acceptable meaning of the term proselytism or proselytization (acceptable meaning that this interpretation does not violate the substance of the freedom of teaching) should then be that teaching of religion must respect the freedom of coercion, psychological coercion or physical coercion according to article 18, paragraph 2 of the international covenant on civil and political rights.



# Conclusion

- Concluding the interpretation of article 13, paragraph 2, we have to say that the term “known” must be considered as not written in the constitution because it is contrary to the international human rights.
- The council of state and the scholars have tried to interpret the term “known” but not the term religion. We have to try to give a legal definition of religion.



# Βιβλιογραφία

1. [The Constitution of Greece](#)
2. [International Covenant on Civil and Political Rights](#)
3. [Human Rights Committee, General Comment 22](#)
4. [Report of the Special Rapporteur on religious intolerance of the United Nations after his visit in Greece](#)





# End of Lecture

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