



# Lecture 6

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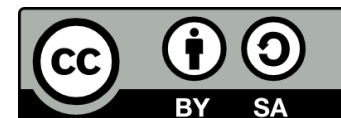


Ευρωπαϊκή Ένωση  
Ευρωπαϊκό Κοινωνικό Ταμείο



ΥΠΟΥΡΓΕΙΟ ΠΑΙΔΕΙΑΣ & ΘΡΗΣΚΕΥΜΑΤΩΝ, ΠΟΛΙΤΙΣΜΟΥ & ΑΘΛΗΤΙΣΜΟΥ  
ΕΙΔΙΚΗ ΥΠΗΡΕΣΙΑ ΔΙΑΧΕΙΡΙΣΗΣ

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# Lecture contents

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1. Special cases of ecclesiastical property in Greece
2. The special regime of Aghion Oros



# Lecture objectives

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1. To examine some special cases concerning church and state relations in the relevant provisions of the Greek constitution



# Article 18, § 8

“Farmlands belonging to the Patriarchal Monasteries of Aghia Anastasia Pharmacolytria in Chalkidiki, of Vlatadhes in Thessaloniki and Ioannis the Evangelist Theologos in Patmos, with the exception of the dependencies thereof, cannot be subject to expropriation. Likewise the property in Greece of the Patriarchates of Alexandria, Antiocheia and Jerusalem and that of the Holy Monastery of Mount Sinai cannot be subject to expropriation”



# Article 18, § 8 (2)

- Article 18, § 8 excepts the orthodox organizations enumerated in it from the expropriation of their farmlands, of ownership of public utility according to the special state law.
- Those Orthodox Organizations are the Patriarchal Monasteries of:
  1. Aghia Anastasia Pharmacolytria in Chalkidiki,
  2. Vlatadhes in Thessaloniki
  3. Ioannis the Evangelist Theologos in Patmos.
  - Farmlands belonging to their dependencies are not subject of exemption.



# Article 18, § 8 (3)

- Exempted from the expropriation, besides the farmlands, is the property of Patriarchates of Alexandria, Antiocheia, and Jerusalem, and the Holy Monastery of Mount Sinai.
- De lege ferenda all the orthodox autocephalous churches have to be enumerated in that constitutional disposition, when a constitutional amendment is done.





# Article 105, § 1

“The Athos peninsula extending beyond Megali Vigla and constituting the region of Aghion Oros shall, in accordance with its ancient privileged status, be a self-governed part of the Greek State, whose sovereignty thereon shall remain intact. Spiritually, Aghion Oros shall come under the direct jurisdiction of the Ecumenical Patriarchate. All persons leading a monastic life thereon acquire Greek citizenship without further formalities, upon admission as novices or monks”.



# Explanation of article 105, § 1

- The limit of the territory of Mount Athos is the third Peninsula, beyond Megali Vigla.
- It enjoys an ancient privilege status, and in accordance with its ancient privilege state it is a self-governed part of the Greek state, whose sovereignty shall remain intact.
- Its sovereignty belongs to the Greek state, although it is a self-administrated part of it, because this self-administration is in accordance with its ancient privileged status.



# Explication of article 105, § 1 (2)

Spiritually, Mount Athos is under the direct jurisdiction of the Ecumenical Patriarchate, ergo the Bishop of Mount Athos is the Ecumenical Patriarch, whose name is referred to during the ecclesiastical services in its churches or houses of prayer.



# Article 105, § 1, verse 3

“All persons leading a monastic life thereon acquire Greek citizenship without further formalities, upon admission as novices or monks”.

- The law does not follow the constitution, despite the fact that the constitution is the supreme law.
- The Greek law for the migrants provides a type of visa and a type of permission of residence for the foreigners who want to be novices or monks in Mount Athos.



# Different opinions of the law

- The Holy Community of the Mount Athos, i.e. the union of the 20 administrative monasteries, understands this disposition as it is literary written.
- The former governments with the cooperation of the Ecumenical Patriarchate have imposed, through the codes on migration, the obligation for the foreigners to acquire a special visa and/or permission of residence.



# Article 105, § 2

“Aghion Oros shall be governed, according to its regime, by its twenty Holy Monasteries among which the entire Athos peninsula is divided; the territory of the peninsula shall be exempt from expropriation. The administration of Aghion Oros shall be exercised by representatives of the Holy Monasteries constituting the Holy Community. No change whatsoever shall be permitted in the administrative system or in the number of Monasteries of Aghion Oros, or in their hierarchical order or in their position to their subordinate dependencies. Heterodox or schismatic persons shall be prohibited from dwelling thereon”.



# Explanation of article 105, § 2

- 1<sup>st</sup> verse: In Mount Athos there are 20 owners corresponding to the 20 monasteries, from which other inferior monasteries – under different names – depend on. The whole territory of the peninsula is exempt from appropriation.
- 2<sup>nd</sup> verse: There are two levels of administration in mount Athos:
  - 1) The territory of the 20 sovereign or administrative monasteries, is administered by the respective Holy Monastery.
  - 2) The Whole territory is administered by the Holy Community, which is a body expressing the union of the 20 monasteries.
- The 20 Holy Monasteries send representatives to the Holy Community, which is composed of those representatives.



# Different types of representation

The different types of representation of the holy monasteries in the holy community are provided by the Constitutional Charter of the Mount Athos:

1. Each monastery sends the representative.
  2. The Holy Monastery sends two representatives, the superior and the ordinary representative.
  3. The Holy Monasteries send their superiors and two representatives.
- The competences of each structure are provided by the internal law of Mount Athos.





# Article 105, § 2, verse 3

The order of the 20 Holy Monasteries, provided in the constitutional charter of Mount Athos, clarifies that no change shall be permitted in:

1. The administrative system of the monasteries and the Holy Community
  2. The number of monasteries of Mount Athos
  3. Their hierarchical order
  4. The relation of the 20 monasteries and their subordinate dependences and monasteries
  5. Altering the prohibition of a permit of residence in Mount Athos of monks of heterodox or schismatic persons.
- The disposition of the fifth case can pose problems of compatibility with the European Union Law concerning the circulation of persons in the territory of the European Union, according relative freedom of circulation of persons.



# Article 105, § 3

“The determination in detail of the regimes of the Aghion Oros entities and the manner of operation thereof is effected by the Charter of Aghion Oros which, with the cooperation of the State representative, shall be drawn up and voted by the twenty Holy Monasteries and ratified by the Ecumenical Patriarchate and the Parliament of the Hellenes”.



# Explanation of article 105, § 3

- The determination of the regimes, i.e. the institutions, of the entities of Mount Athos, and the manner of their operation shall be effected by the constitutional charter of Mount Athos.
- The Holy Monasteries in the Holy Community vote that Constitutional Charter, and then it is ratified:
  1. By the Ecumenical Patriarchate, from a spiritual or ecclesiastical point of view.
  2. By the Greek parliament, from the state administrative point of view.



# Article 105, § 4

“Faithful observance of the regimes of the Aghion Oros entities shall in the spiritual field be under the supreme supervision of the Ecumenical Patriarchate, and, in the administrative, under the supervision of the State, which shall also be exclusively responsible for safe-guarding public order and security”.



# Explanation of article 105, § 4

- The observant of the regimes of Mount Athos entities, in conformity with article 105 of the Constitution, and the constitutional charter of Mount Athos, shall be done:
  1. By the Ecumenical Patriarchate as it concerns the spiritual that is the ecclesiastical sphere, and
  2. By the state as it concerns the state administrative sphere.
- The tasks of the supervision of the state according to the appropriate legislation of the Mount Athos belong to the civil governor or state governor of Mount Athos.
  - The state governor of Mount Athos is exclusively responsible for maintaining public order and security.



# Article 105, § 5

“The afore-mentioned powers of the State shall be exercised through a governor whose rights and duties shall be determined by law. The law shall likewise determine the judicial power exercised by the monastic authorities and the Holy Community, as well as the customs and taxation privileges of Aghion Oros”.



# Explanation of article 105, § 5

- The state governor exercises the power of the state in Mount Athos, and his competences are determined by the relative law.
- The monastic authorities besides ecclesiastical judicial power, exercise state judicial power on the monks who reside on Mount Athos, as well as state judicial power. For that reason, the law determines the state judicial power exercised either by the 20 Holy Monasteries, or the Holy Community.
- Other laws determine the customs and tax privileges.



# Βιβλιογραφία

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## 1. [The Constitution of Greece](#)







# End of Lecture

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