



Lecture 8

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Ευρωπαϊκή Ένωση
Ευρωπαϊκό Κοινωνικό Ταμείο



ΥΠΟΥΡΓΕΙΟ ΠΑΙΔΕΙΑΣ & ΘΡΗΣΚΕΥΜΑΤΩΝ, ΠΟΛΙΤΙΣΜΟΥ & ΑΘΛΗΤΙΣΜΟΥ
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Lecture contents

1. The Greek law concerning the legal form of religious communities



Lecture objectives

1. To examine and analyze the Greek law concerning the legal form of religious communities





**ΑΡΙΣΤΟΤΕΛΕΙΟ
ΠΑΝΕΠΙΣΤΗΜΙΟ
ΘΕΣΣΑΛΟΝΙΚΗΣ**

Law 4301/2014

**Organization of the Legal Form of Religious
Communities and their Organizations in
Greece**

Law 4301/2014, article 1 “Concept of religious community”

Founders of a local religious community should not need to be permanent residents of a specified geographical region, since it is not required for common associations under civil code. Additionally, this would be illogical, especially after taking into consideration the continuous migration of people whose aim is to collectively carry out the duties of worship and observance required by their religion.



Possible conflicts

Religious activities are recognized by the constitution and the international law on religious human rights. So, these two criteria:

1. Founders should be permanent residences of a specified geographical area, and
2. To carry out collectively the duties of worship and observance required by their religion,

are contrary to religious manifestation in conjunction with religious association, if interpreted literally by the authorities, and not according to the constitutional and international standards on religious human rights.



Article 2, “Religious legal person”

A union of individuals of the same religious community whose aim is the systematic and organized practice of their religion, as well as the collective expression of its members' religious beliefs, acquires legal personality when it is registered in a special public register (of religious legal persons) which is kept in the first instance court of its seat. In order for a religious legal person to be established, a minimum of three hundred individuals are required, at least one of them being the religious minister of the religious community who is assigned to carry out the religious rites and who must be a Greek citizen or a citizen of a member state of the European Union or a non - national legal resident of Greece.



Article 2

- The term “religious community”, does not include only local religious communities, but regional religious communities as well. For the national religious communities, there is another type of legal personality, the ecclesiastical legal person.
- The aim of a religious community is:
 1. The systematic and organized practice of their religion.
 2. Collective expression of its members’ religious beliefs.

➤ Instead of “collective expression of its members’ religious beliefs it would be better to add “according to its own auto-determination, auto-comprehension”.



Article 2, acquisition of legal personality

- A religious community acquires legal personality when it is registered in the register of religious legal persons.
- Either a local religious community or a regional religious community acquire that personality as religious legal persons.
- The minimum number of founding members of a religious legal person is 300 individuals; an excessive number compared to the members required for the establishment of a common association under civil code, which is 20 persons.



Article 2, founding members

- Because of that imbalance between the numbers required for the establishment of a common association, article 2 is contrary to the freedom of religious manifestation and religious association. It would not have been if the number was 20 founding members, better still if it was between 10 and 15.
- The state is obliged to facilitate the inquisition of legal personality by the religious organizations of churches and religious communities, rather than making it more difficult in the basic level, that of common association.



Article 2, founding members (2)

Among the founding members of a religious legal person, there must be a religious minister of the religious community, assigned to carry out the religious rights, and who must be a Greek citizen or citizen or member of the European Union or a legal resident of Greece.



Affairs

- There are two different affairs:
 1. Acquisition of the legal personality of the basic level.
 2. The recognition of religious organization by the state.
- The recognition of a religious organization by the state is another procedure; a great number of members can be required by the state legislation.
- Recognition of religious organizations by the state legislation means that religious organization changes its statutes, it passes from the inferior level – from legal personality of basic level – to a superior status. This can be done in countries with a system of separation with the recognition of some religions using different legal techniques.



Example

- In Germany, the legal personality of religious organization of basic level is that of private law *sui generis*, and the recognition by the state legislation is that of the legal personality of public law *sui generis*.
- In other countries, this change of status from inferior to superior is made through the recognition of a religious organization by the state legislation, as a traditional church, as a historic church, or through other legal techniques.



Problematic part of article 2

- A problematic part of article 2 is the requirement of a religious minister among the founding members of the religious community, which is assigned to carry out the religious rights, and who must be a Greek citizen or a citizen of a member state of the European union or a non national legal resident of Greece.
 - Not all religions have religious ministers.
- That is the reason article 2 creates a discrimination against the religions which do not have religious ministers, especially if the competent authorities, or the competent court, interpret this part literally.



Article 3, “Process and formalities”

For the registration of a religious legal person, its administrative board submits a request to the first instance court of its seat. The request is submitted in non-contentious proceedings and attached thereto are the instrument of incorporation, signed by all its founder members, indicating their identity and residence, the confession of faith, the names of the members of the administrative board, including the name of the religious minister as well as his curriculum vitae comprising any religious studies, the process and date of his selection or appointment to that position, a list of places of worship and the statute signed by its members and dated. A member cannot participate in another religious legal entity of the same or of another religion. The court orders a hearing for the case to be discussed. At least fifteen days before the hearing, a copy of the request with the act of the court and all the requested documents are submitted by the applicants to the minister of education and religious affairs and to the public prosecutor of the first instance court.



Article 3, § 1

- In the 1st paragraph, the procedure for the registration of a religious legal person is presented.
 - Registration means acquisition of the legal personality
- The provisional administration of the religious organization submits an application to the first instant court office seat. The following documents must be attached to the application:
 1. The instrument of incorporation signed by all its founder members, indicating their identity and residence.
 2. Confession of faith, which is a special document for religious legal persons.
 3. The names of the members of the administration, including the name of the religious minister as well as his CV, comprising any religious status.



Βιβλιογραφία

1. [Law 4301/2014](#)





End of Lecture

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