



Lecture 12

Kyriakos Kyriazopoulos,
Assistant Professor
School of Law,
Aristotle University Of Thessaloniki



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
ΕΥΡΩΠΑΪΚΟ ΚΟΙΝΩΝΙΚΟ ΤΑΜΕΙΟ



License

- The educational material subjects to Creative Commons licensing.
- For the educational material, such as images, that subjects to another form of licensing, the license is explicitly referred.



Funding

- This educational material has been developed as part of the educational work of the academic teacher.
- The project "Open Academic Courses at Aristotle University of Thessaloniki" has only fund the reconfiguration and reshaping of the educational material.
- The project is implemented under the Operational Program "Education and Lifelong Learning" and is co-funded by the European Union (European Social Fund) and National resources.



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**

Article 12, § 1

- The religious legal persons have 300 natural founder members. The manner for the acquisition of the legal personality of the religious legal person – concerning not only local religious communities but regional religious communities as well - is the establishment and the application for legal personality by 300 persons.
- The existing law does not contain any disposition for the establishment and the application for legal personality for a religious legal person by an ecclesiastical legal person or by an organization outside Greece.





Article 13 “Recognition of legal personality of the Catholic Church in Greece, of other existing churches and their legal entities”

Catholic Church

- Codes of the Catholic Church:
 - 1) The Code of the Latin Law of the Catholic Church,
 - 2) Code of Canons of the Oriental Catholic Churches,
- Those two Codes as well as the Papal Law Apostolic Constitution on Roman Curia, constitute the Statutes of the Catholic Church, i.e. its internal law.
- According to the Canon Law of the Catholic Churches, especially the Canon Law of the Latin Church, a dioceses is established by the Holy See, because it's a juridical person in Canon Law “non collegialis”; it is not established by natural persons, but by the competent ecclesiastical authority, which is the Holy See.



Catholic Church (2)

- According to the same Code of the Canon Law of the Latin Church, a parish is established by the competent Bishop, and not by natural persons parishioners.
- The Greek law on religious legal persons and ecclesiastical legal persons does not provide the possibility of establishing a religious organization, and of submitting an application of the acquisition of the legal personality in state law.
- According to that Greek law, 300 Catholics have to submit an application to the competent Court for the acquisition of the legal personality of a parish, which is a local religious community, and of a dioceses, which is a regional religious community.
- This is not provided by the Internal Law of the Catholic Church. For that reason the omission of the Greek Law to provide establishment and the application to the court of the acquisition of a legal personality of a religious legal person, by a founder, according to the internal law of religions, is proved to be against the constitutional and international religious human rights' standards, especially to the religious manifestation in conjunction with rights of religious association.



Catholic Church (3)

- The Greek law does not accommodate its provisions to the policies of religions in full, because the application for the acquisition of the legal personality of religious legal person only by natural persons is valid only for religions which have a democratic policy; it is not valid for religions with hierarchical, i.e. monarchical or oligarchic, policy.
- The Greek law has to be notified, in order to contain the possibility for hierarchical religions to establish and apply for legal personality of their religious legal persons by their founders, according to their internal law.



Catholic Church (4)

- The competent authority to submit an application to the court for the acquisition of the legal personality of a religious legal person of the parish is the competent bishop.
- The bishop who establishes a parish is a legal person of public law.
- The competent authority to submit an application to the court for the acquisition of a legal personality of the religious legal person of a diocese is the Holy See.
- The Holy See could delegate this competence to another ecclesiastical authority having its seat in Greece.



Article 13, § 1

“The “Catholic Church in Greece” seated in Athens whose superior authority is the “Catholic Bishops’ Conference of the Catholic Hierarchy in Greece” is recognized as “ecclesiastical” legal person of private law and the following religious communities (Dioceses, Parishes, Monasteries) which are intrinsically linked to the Catholic Church and their internal organization and functioning is governed by the Canon Law of the Catholic Church are recognized as religious legal persons of private law. The abovementioned entities are recognized as own legal entities of private law, with no further formalities and with no need to follow the procedures as imposed by articles 3 and 12, even if the minimum number of members or religious legal persons imposed by previous articles does not exist . [A detail list of the recognized religious legal persons of the Catholic Church follows].



Article 13, § 1 (2)

- The Catholic Church in Greece is recognized by the law automatically as an ecclesiastical legal person of private law.
- One must understand this phrase of private law as sui generis private law, because it is influenced by religious liberty, which is recognized by sources of superior legal force, that is the constitution, and by international law of religious human rights.
- A list of almost 240 catholic organizations dioceses, parishes, monasteries enumerated in the Greek Law, are automatically recognized as religious legal persons of private law sui generis.
- Automatically means that they do not have to follow the procedures as imposed for religious legal persons and ecclesiastical legal persons. Additionally, the minimum number of members of religious legal persons is not required for them.



Article 13, § 2

“Within a twelve month exclusive term from the publication of this Law in the Official Gazette of the Hellenic Republic, the aforementioned legal persons must submit - through the Catholic Bishops’ Conference of the Catholic Hierarchy in Greece - a request supported with the documents provided for in articles 3 and 12 as well as a description of the territorial area of each legal person. The request shall be submitted to the First Instance Court of their seat in order to get automatically registered in the Register of religious legal entities. An instrument of incorporation and a statute signed by all the members of the legal persons are submitted if available. The registration shall be effectuated by an Act of the President of the Court. After the twelve month term no public service shall transact with the legal entities if they are not registered in the relevant Register”.



Article 13, § 2 (2)

- In a 12 month exclusive term from the publication of this law, the automatically recognized legal persons of the catholic church have to submit a request through the catholic bishop conference, accompanied by the documents provided for religious legal persons and ecclesiastical legal persons, for their automatic registration in the register of religious legal organizations after an act of the president of the court.
- If an instrument of incorporation, or a statute, is lost, they are not obliged to submit them.



Article 13, § 3

“The existing churches, houses of worship, monasteries, chapels and generally places of worship of the Catholic Church which are not included in this article, as well as places of worship that will be established by the Catholic Church in the future, may be considered branches of the respective religious or “ecclesiastical” legal entities, may be administered and represented by them while their internal organization and functioning is governed by the Canon Law of the Catholic Church. Within a two year term , the establishment and operating authorizations of the worship places are reissued under the name of the religious or “ecclesiastical” legal entity of the Catholic Church, upon application which is also countersigned by the religious minister leading the worship place. This new authorization shall be issued without any additional formalities or submission of additional documents”.



Article 13, § 3 (2)

- Paragraph 3 concerns the different types of the existing houses of prayer, as well as those which will be established in the future. Those may be considered branches of the respective religious or “ecclesiastical” legal entities.
- All these existing houses of worship have to regain new operating authorizations by the ministry of education and religions within a period of two years from the publication of the law.



Article 13, § 4

“Religious communities operating the existing churches, houses of worship, monasteries and generally places of worship of the Catholic Church which are not included in this article as well as religious communities which will establish in the future churches, houses of prayer, convents and generally places of worship governed by the Canon Law of the Catholic Church may acquire the status of a religious legal person according to the provisions of the article 3 of this law provided that they will submit the documents mentioned in paragraph 1b. Their internal organization and functioning shall be governed by the Canon Law of the Catholic Church”.



Article 13, § 4 (2)

- The religious organizations of the catholic church, which are not included in the list of the automatically recognized as religious legal persons, as well as those that will be established in the future, will acquire legal personality according to the requirements, and the provision provided for all the religions in general.
- Some other religions, have been automatically recognized as ecclesiastical legal persons in Greece, and their organization as religious legal persons.



Conclusion

This series of lectures concerns the status of religious liberties and church and state relations in Greece. The dimensions of these relations concerning the Orthodox Church in Greece have been examined, as well as the new law for religious legal persons and ecclesiastical legal persons, concerning minority churches and religious communities.



Βιβλιογραφία

1. [Law 4301/2014](#)





End of Lecture

Edit: Γιώργος Μαριάς
Thessaloniki, October 2016



Ευρωπαϊκή Ένωση
Ευρωπαϊκό Κοινωνικό Ταμείο



ΥΠΟΥΡΓΕΙΟ ΠΑΙΔΕΙΑΣ & ΘΡΗΣΚΕΥΜΑΤΩΝ, ΠΟΛΙΤΙΣΜΟΥ & ΑΘΛΗΤΙΣΜΟΥ
ΕΙΔΙΚΗ ΥΠΗΡΕΣΙΑ ΔΙΑΧΕΙΡΙΣΗΣ

Με τη συγχρηματοδότηση της Ελλάδας και της Ευρωπαϊκής Ένωσης

