



Lecture 2

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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



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Lecture contents

1. Religious freedom (Article 13)
2. Equality (Article 4)
3. Prevailing Religion (Article 3)



Lecture objectives

1. To examine religious freedom and its limitations
2. To understand the meaning of “prevailing religion”



Article 13, Paragraph 3

- Article 13 of the Greek constitution concerns religious freedom: “The ministers of all known religions shall be subject to the same supervision by the state and to the same obligations towards it as those of the prevailing religion”.
- The supervision must be the same for all four religions and for the prevailing religions.
- This is a disposition because prevailing religion is a state religion and all the other religions are free religions.



Article 13, Paragraph 4

- No person shall be exempt from discharging his obligations to the state or may refuse to comply with the laws by reason of his religious convictions.
- As we have seen, a. 13, § 2 recognizes the freedom of worship, a form of the freedom of manifestation of religious belief according to the international standards of religious human rights.
- Constitutional limitations of paragraph 2:
 1. Public order
 2. Public morals



Article 13, Paragraph 4 - Limitations

1. No person shall be exempt from discharging his obligations to the state .
2. No person may refuse to comply with the laws by reason of his religious convictions.

These limitations must correspond to the other three limitations of religious manifestation under the international law on religious human rights which are:

1. Public safety,
2. Public health,
3. Rights and freedoms of others.



Military Service

Military service is related to the limitation of discharging ones' obligations to the state . The Greek constitution provides the possibility of defending the country through an alternative service; after a conscientious objector submits the application, a special commission of the ministry of defense examines it according to the relative legislation on the matter.

- According to legal theory, the obligation to comply with the laws, independently of ones' religious convictions, concerns the law of general applicability.



Article 13, Paragraph 5

- “No oath shall be imposed or administered except as specified by law and in the form determined by law”
- This constitutional provision does not create any problems today, since there is a civil alternative for those who have to give an oath in two cases:
 1. When they assume a public office or post,
 2. When they have to give an oath in court.



Article 4, Paragraph 1

- “All Greeks are equal before the law”, i.e. it protects the right to equality of the Greek citizen; however, it would be better to protect the *de lege ferenda*:
 1. All people who have Greek citizenship or
 2. A leave in Greek territory legally/illegally.
- According to the treaty on the functioning of the European Union, there is a relative disposition which extend the right to equality before the law to all EU citizens.
- Article 26 of the international covenant on civil and political rights the rights to equality extend to all people on the Greek territory.



Article 3, Paragraph 1

“The prevailing religion in Greece is that of the Eastern Orthodox Church of Christ. The Orthodox Church of Greece, acknowledging our Lord Jesus Christ as its head, is inseparably united in doctrine with the Great Church of Christ in Constantinople and with every other Church of Christ of the same doctrine, observing unwaveringly, as they do, the holy apostolic and synodal canons and sacred traditions. It is autocephalous and is administered by the Holy Synod of serving Bishops and the Permanent Holy Synod originating thereof and assembled as specified by the Statutory Charter of the Church in compliance with the provisions of the Patriarchal Tome of June 29, 1850 and the Synodal Act of September 4, 1928”.



Scholar opinions of the term “prevailing religion”

1. The religion of the cultural majority. As this principle of the majority does not play a role in the implementation of human rights, it expresses statistical data in a general manner, and does not give any legal meaning to this constitutional term.
2. The term “prevailing religion” must not be interpreted. It has not any meaning. It is not a juridical term. It is influenced by the French model of church and state relation, i.e. the separation between the two, and *état laïque*.
 - *État laïque* means that the state does not recognize any religion and it maintains the minimum of relations with the religions.



Scholar opinions of the term “prevailing religion” (2)

3. The term “prevailing religion” means state religion. This opinion is adopted by the minority of scholars, but is the correct one, because above all this term is given by the government and the parliament.
 - Government and parliament interpret this term through their policy on church and state relations. The government proposes a bill on the constitutional charter of the orthodox church of Greece and the Parliament adopts a law on this statutory charter. When the statutes of a religious group are adopted by the legislative body of that group we speak of a free church of religious community. When a parliament adopts the statutes of the church is not a free church but a state church. This is the difference between a free and a state church.



Scholar opinions of the term “prevailing religion” (3)

4. The term “prevailing religion” is not the recognition of a state religion but it constitutes a special constitutional recognition for the so called prevailing religion.
 - This opinion is not correct because in a. 72 of the constitution it is stated that the parliament in its plenary session adopts the laws including articles 13 and 3 of the constitution, i.e. article 3, § 1 the constitutional charter of the Orthodox Church of Greece has to be enacted by the parliament in its plenary session.



Βιβλιογραφία

1. [The Constitution of Greece](#)
2. [International Covenant on Civil and Political Rights](#)
3. [Treaty on the functioning of the European Union](#)





End of Lecture

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