



Lecture 3

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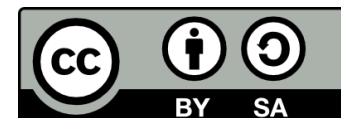


Ευρωπαϊκή Ένωση
Ευρωπαϊκό Κοινωνικό Ταμείο



ΥΠΟΥΡΓΕΙΟ ΠΑΙΔΕΙΑΣ & ΘΡΗΣΚΕΥΜΑΤΩΝ, ΠΟΛΙΤΙΣΜΟΥ & ΑΘΛΗΤΙΣΜΟΥ
ΕΙΔΙΚΗ ΥΠΗΡΕΣΙΑ ΔΙΑΧΕΙΡΙΣΗΣ

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Lecture contents

1. Relations between church and state in Greece
2. Types of affairs between states and religions



Lecture objectives

1. To understand the context of state and church in Greece
2. To examine the different types of affairs between states and religions



The 3rd scholar opinion of the term “prevailing religion”

- The term “prevailing religion” means state religion.
- According to the third scholar opinion this term contains a special constitutional recognition of the Orthodox Church in Greece, and therefore is not correct.
- The term prevailing religion means state religion because the parliament enacts, adopts, the statutes, that is the statutory charter of the orthodox church of Greece and of the orthodox church of Crete.
- The model of church relations in Greece, i.e. State-Church relations, results from the legislative practice and can be transformed.



Article 72 of the Greek Constitution

- Article 72 disposes that the laws and of the articles 13 and 3 of the Greek Constitution are voted by the Parliament.
- I do not agree that article 72 prohibits a transformation of the Church and State system.
- This transformation cannot arrive to the separation in a *État laïque*, but can be transformed through another legislative practice , with recognition of some religions.



Alternate policy

- If the Greek Government wants another policy it has to annul the existing law 590/1977.
- Transformation of State-Church to separation with recognition of some religions:
 1. If the Greek Government say to the Synod of hierarchy of the Orthodox Church of Greece, or the partial Synod of the Orthodox Church of Crete to vote internal Statutes for their churches.
 2. If the Government proposes to the parliament a new law for the regulation of the external and mixed affairs of the religions.



Alternate Policy (2)

The above are done without the need of a constitutional amendment, which is a very difficult procedure and can be exploited by religious or political forces that do not accept the transformation of the existing system.



The Affairs of Religions

It is known from international experience that the affairs of religions in general are divided into three categories:

1. Internal affairs
2. External affairs
3. Mixed affairs



Internal affairs

- In the internal affairs belong all the affairs and activities which are recognized as religious ones by the international law on religious human rights and by the constitution of the state.
- Some states recognize the right to autonomy of the churches, either incorporated or deriving from religious liberty, through constitutions or laws.
- For the states which do not have any special explicit or implicit recognition of the right to autonomy of the church in their communities, there is the judgment of the European Court on human rights.



Bessarabia vs Moldova

- The European Court of human rights says that in religious liberty is incorporated the right to autonomy of churches of religious communities.
- After the judgment of the European Court on human rights on the Metropolitan Church of Bessarabia vs Moldova case, the religious liberty recognized by the constitution has to be interpreted according to this case law, stated above.
- The international and constitutional right to autonomy of church in these communities means that a church or a religious community has the right to regulate, to administrate, and to judge its internal affairs, i.e. the affairs connected with its religious activities.



Organization for Security and Co-operation in Europe (OSCE)

In paragraph 16 of the concluded documents of Vienna of 1989 of the OSCE, a list of rights belonging to the collective dimension of religious manifestation is given in detail. Before that, there were only conventional dispositions of international agreements and other non legally obliging international instruments. Those provided the freedom of religious manifestation individually or in common with others. These collective rights were incorporated in the international standards of religious freedom explained by the legal theory; however, only from 1989 such an express list of collective human rights exists. All these rights belong to the internal affairs of the church or religious communities.

➤ Internal affairs have to be regulated by the legislative bodies of the respected religions.



External affairs

An example of external affairs is the regulation of the types of legal personality for religious organizations.



Examples of mixed affairs

Examples of mixed affairs of religions with the state are the military agency in the army, or the religious education in public schools.



Example of external affairs' privileges

The external affairs of religions belong to the jurisdiction of the states. An example is the catholic church gains privilege through international partial agreements with the states. The states recognize the legal personality of the catholic organizations acquired in the catholic legal order and in the state legal order. The exemption of the catholic organizations from the state law concerning registration of religious organization in general is a privilege, although it is accorded to the catholic church through international partial agreements, because the regulation of the legal personality of the religious organizations as it concerns the state legal order, belongs to the jurisdiction of the states.



Mixed affairs

- The mixed affairs are regulated either through an agreement between a state and the church or religious community, or exclusively through a state law.
- The legal nature of the agreement is international if it is concluded between the catholic church and a state.
- If this agreement concerns another church on this community it has the nature of an internal state law agreement.



Conclusion

The system of church and state religion, i.e. state-church, is automatically transformed to that of the separation, with recognition of some religions and without the need of a constitutional amendment:

1. If the government is limited to propose to the parliament, and if the parliament votes another law to regulate the external religious affairs of all the religions in general
2. If the government informs the Orthodox Church of Greece and the Orthodox Church of Crete to enact their internal statutes regulating their internal affairs



Βιβλιογραφία

1. [The Constitution of Greece](#)
2. [Concluded document of Vienna meeting of the OSCE \(1989\)](#)





End of Lecture

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