

THE PLACE OF RELIGION IN EDUCATION IN GREECE

Theodore Fortsakis¹ with the collaboration of Nikolas Avgouleas²

I. Religious instruction organised during the school hours (in lower and in secondary education) in state funded schools

I.1 Question: Religious instruction organised during the school hours (in lower and in secondary education) in state funded schools. Is – and if affirmative please refer to the provisions in the law (add the text separately) – the teaching of religion in your country organised during school time in public educational institutions: in primary education, in secondary education.

Answer:

In order to understand the contrary opinions that the theory and the jurisprudence have adopted, it is necessary to present the relevant constitutional provisions.

Article 3 of the Constitution provides that

«1. The prevailing religion in Greece is that of the Eastern Orthodox Church of Christ».

Article 13 provides that:

«1. Freedom of religious conscience is inviolable. The enjoyment of civil rights and liberties does not depend on the individual's religious beliefs.

2. All known religions shall be free and their rites of worship shall be performed unhindered and under the protection of the law. The practice of rites of worship is not allowed to offend public order or the good usages. Proselytism is prohibited».

Article 16 par. 2:

«2. Education constitutes a basic mission for the State and shall aim at the moral, intellectual, professional and physical training of Greeks, the development of national and religious consciousness and at their formation as free and responsible citizens»

The prevailing opinion in case law and a part of theorists³ adopts the combined interpretation of articles 3 and 16 par. 2 of the Constitution. According to this opinion, since the Constitution recognizes a religion as prevailing, the development of religious conscience through religious instruction (as provided by the article 16 par. 2 of the Constitution) must be in line with the prevailing religion. Applying this opinion the Council of State annulled a ministerial decision that reduced the religious instruction in lyceum from two hours to one weekly, on the base that one hour of instruction is not sufficient to provide for the constitutionally required development of the students' religious conscience (Council of State No. 2176/1998). Moreover case-law supports that in case an application for exemption from the religious lesson is filed by a student, the director of the school shall examine the validity of the application's allegations in order to decide if it should be accepted⁴.

On the other hand, the greatest part of the theorists⁵ supports the opposite opinion. According

¹ Professor, Deputy President of the Faculty of Law, School of Law, Economical and Political Sciences, National and Kapodistrian University of Athens, Greece

² LLM of European Law, Faculty of Law of the University of Athens.
Attorney at Law

³ Marinos A., Constitution, Democracy and religious instruction, Ant. N. Sakkoulas, Athens, 1981 (in Greek).

⁴ Fortsakis Th. – Velegrakis Em., L' instruction religieuse dans l' enseignement public primaire et secondaire en Grèce in Religious Education In Public Schools: Study of Comparative Law, M. Lopez-Muniz et al. (eds.), Springer, 2006, p. 241 et seq.

⁵ Tsatsos D., Constitutional Law, (Volume 3 – Fundamental Rights), Ant. N. Sakkoulas, Athens – Komotini, 1988, p. 323 -324 (in Greek); Dagtoglou P., Constitutional Law, Human Rights, Ant. N. Sakkoulas, Athens – Komotini,

to them, articles 13 of the Constitution, 9⁶ of the European Convention⁷ on Human Rights (ECHR) and 2 of the first Additional Protocol to ECHR⁸ should be taken into consideration, apart from articles 3 and 16 par. 2 of the Constitution, in order to determine the precise content of religious instruction at schools. Moreover article 5 par. 1, which rules that each person's personality should be freely developed, leads to the conclusion that in order for the personality of the students to be developed unobstructed is necessary that the educational system does not enforce a specific dogma. According to this opinion article 16 par. 2 does not impose a specific direction of religious instruction, but with the term "development of religious conscience", refers to every dogma regarding God. Namely, article 16 par. 2 can be considered as imposing a lesson consisting of a simple presentation of the main religions and dogmas or even atheistic theories, or it could be considered as an optional lesson.

The theorists insist on the constitutional base of the right of exception of the religious lesson at school. They especially recognize to lyceum grade students that they have a right of exception irrespectively of the religious conscience of their parents⁹.

The case law opinion, concerning the obligation of schools' directors to examine the validity of the allegations that are contained in the applications for exemption of the religious lessons, has also been criticized by the theorists. The power to examine the applicant's conscience does not comply with the religious freedom and each person's right to not reveal his religious conscience. Following the decision No. 510/17 of the Hellenic Data Protection Authority of 15-5-2000¹⁰, which regulated that "religion, which refers to the inner world of the person and which can change at any moment, cannot be written on the identity card of the citizens", the religion is not anymore written on the identity cards.

I.2 Question: What choices amongst the religious education possibilities are offered in public educational institutions , e.g. catholic religion, Islamic teaching,

Answer:

The Greek educational system consists of the primary and secondary education. Primary education lasts for six years while secondary consists of two educational circles, each lasting for three years, gymnasium and lyceum. The compulsory education, provided by article 16 par. 3 of the Greek Constitution, consists of primary education and Gymnasium.

In Greece, the religious lesson is obligatory from the third grade of the primary education to the last grade of lyceum for those, who adopt the doctrine of the Eastern Orthodox Church of Christ.

Law 1566/1985¹¹, which regulates the structure and the operation of primary and secondary

2nd ed., 2005, p. 447 et seq. (in Greek) ; Chrysogonos C., Civil and Social Rights, Nomiki Vivliothiki, 3rd edition, 2006, p. 275 et seq. (in Greek); Sotirelis G., Religion and Education, Ant. N. Sakkoulas, Athens – Komotini, 1993, p. 213 et seq. (in Greek).

⁶ Article 9 of ECHR reads as follow:

"1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or the protection of the rights and freedoms of others."

⁷ European Convention on Human rights was ratified by Law No. 53/1974 (Official Gazette, Vol. A, No. 256).

⁸ Article 2 of the first additional Protocol to ECHR provides that:

"No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religions and philosophical convictions."

⁹ Chrysogonos C., Religious Instruction and Dominant Religion, To Syntagma, 1999, p. 993 et seq. (in Greek).

¹⁰ www.dpa.gr

¹¹ Official Gazette, Vol. A, No. 167.

education, sets the basic principles of the Greek educational system. Particularly the provision of article 1 par. 1 verse a, provides that the primary and secondary education helps the students:

“To become free, responsible, democratic citizens, to defend the national independence, the territorial integrity of the country and the democracy, to be inspired by love towards man, life and nature and to be faithful towards the mother country and the genuine elements of the Christian orthodox tradition. The freedom of religious consciousness is inviolable...”

Article 4 par. 1 e of the same statute provides, among others, for a more specific target of primary education:

“...(the students) to be gradually familiarized with the moral, religious, national, humane and other values and to organize them in a virtue system”

Article 5 par. 1 provides that:

“The aim of the gymnasium is to advance, according to the general spirit of education, the spherical development of students in relation to the abilities of their age and the corresponding demands of life.

Particularly gymnasium helps the students:

a) To broaden their system of values (moral, religious, national, humane and others) in order to adjust their attitude to a corresponding way. To control and direct their sentimental world to creative aims and humanistic acts.”

Article 6 par. 2 verse b sets, among others, as aim of the lyceum to help the students:

“To realize the deeper meaning of Christian Orthodox ethos and the determined dedication to universal humane values and to understand the significance of democratic dialog and of participation in collective activities”.

The Greek educational system does not offer the opportunity for the instruction of Islam¹² in common public schools, however the possibility of exemption is provided at request of the interested party and concerns not only the exemption from the religious instruction, but also from morning pray and church attendance.

Specifically, article 13 par. 10 of the Presidential Decree 201/1998 that regulates the organization and the operation of primary schools, provides for the heterodox pupils:

“10. Non orthodox students

a. Students who belong to another doctrine or religion do not participate in church attendance, when their parents have filed a written declaration. When one of the parents belongs to another doctrine, in order for the exemption to take place, a common declaration of the parents is required. In case that the parents are divorced, the declaration is filed by the parent who has the custody of the child, according to article 8 par. 2 of this Presidential Decree.

The parents of non orthodox students are informed in advance about the day and the time of the church attendance, in order for the students to come to school after its completion. When church attendance takes place unexpectedly or without informing the parents and the guardians of the above mentioned students, falls under the school is responsible for the surveillance of the students

b. The above mentioned students are exempted from the religious lesson and their occupation, inside or outside or in another classroom, during the lesson, is determined by decision of the teacher’s association.

c. If the parents wish to be indicated on the official papers or books of the school the fact, that they belong to another dogma or religion, they should file a certification of the Register or of the List of citizens on which is reported that they belong to another dogma.

d. The above mentioned students, in case they arrive to school before the morning prayer, they stand with the class, in which they belong, at the place of the assembly, without

¹² Or any other religion rather than the prevailing religion.

participating to the prayer, maintaining a district silence, respecting the praying teachers and classmates.”

In Greek educational system there are no schools as the foreign confessional (catholic) schools.

As it was mentioned above, (see supra I) according to the interpretation of the Greek courts, the religious lesson in Greek schools can only be consisted of the instruction of the dogma of the East Orthodox Church of Christ. Only under this definition could the Greek public schools be characterized as confessional. The legislation does not provide for the teaching of another religion in public schools. The Greek legislation does not allow the rejection of a pupil of another conviction, irrespectively of the number of heterodoxies studying in the school. The pupil can request an exemption from the religious lesson.

Apart from the public common schools, there are also ecclesiastical schools. Law 3432/2006¹³ rules the structure and the operation of these schools. Ecclesiastical schools are productive units of the Greek Orthodox Church and are supervised by the Ministry of National Education and Religious Affairs (article 1 par. 1 of Law 3432/2006). According to the provision of article 2 of Statute 3432/2006, the purpose of Ecclesiastical Education is: “...the designation and the education of Cleric and Laic officers of Greek Orthodox Church, of high educational level and Christian ethos”.

Due to these schools’ aim, it is obvious that heterodoxies cannot be accepted. It could be said that the ecclesiastical schools of the Greek Orthodox Church fulfill a function comparable to Muslim religious schools (see infra).

II. State funded denominational schools and state supervision

II.1. Question: Are there state funded denominational schools in your country? If affirmative, what is the numeric importance of state funded schools. If affirmative, what is the numeric importance of Islamic state funded schools. Please refer to statistical information on-line

II.2. Question: Are there non-state funded denominational schools in your country (private)? If affirmative, what is the numeric importance of private schools. If affirmative, what is the numeric importance of Islamic private schools. Please refer to statistical information on-line

Answer:

Articles 37-45 of Treaty of Lausanne¹⁴, which was signed on 24-7-1923, set the obligations of Turkey, concerning the rights of the non-Muslim minorities, which reside at Turkish territory. According to article 45 “the rights conferred by the provisions of the present Section on the non-Muslim minorities of Turkey will be similarly conferred by Greece on the Muslim minority in her territory”. Practically this means that the Greek State is obliged (according to article 41 of the Treaty) to provide to the Muslim minority of Thrace education in its native-language. Turkish is considered as the native language of the Muslim minority, despite the fact that not all of the Muslims originate from Turkey. The Muslim minority is the only one that has been internationally recognized by Greece¹⁵.

Greek legislation offers two options to Muslim pupils residing in Thrace, as far as primary and secondary education is concerned. The first option¹⁶ is to attend a common public school, requesting at the same time the exemption from the religious lesson (although in practice only

¹³ Official Gazette, Vol. A, No. 14.

¹⁴ The Treaty was ratified by the Legislative Decree of 25-8-1923 (Official Gazette, Vol. A, No. 238).

¹⁵ Minaidis P., The freedom of religion of Muslims in the Greek legal order, Ant. N. Sakkoulas, Athens – Komotini, 1990, p. 93 et seq. Poulis P., Education Law and Institution, Sakkoulas, Thessaloniki, 2001, p. 227.

¹⁶ And the only choice of the Muslims that does not reside in Thrace.

seldom an exemption is requested). The second choice is to attend a minority school¹⁷. At present there are 197 primary minority schools, two minority gymnasiums and two minority lyceums.

Teaching in minority schools is bilingual. One part of the program is taught in Greek, and the other part, which includes the teaching of the Koran, is taught in Turkish. The teachers of the Turkish program are graduates of the Special Pedagogic Academy of Thessaloniki (founded by the Royal Decree 33/1968¹⁸), which aims to train the Muslims teachers of minority schools.

Apart from minority schools, there are in Thrace two Muslim religious schools (one in Komotini and one in Ehino of Ksanthi). The purpose of Muslim religious schools is to provide religious education to Muslim students. The teaching program of Muslim religious schools consists of the lessons taught in common public schools, and four additional lessons relevant to the study of Islam, namely Koran teaching, Arabic, Turkish and Muslim religious history.

II.3. Question: How do the authorities control the teaching in state funded denominational schools and are there any special questions about the control of the content of teaching in state-funded denominational schools? Please refer to the provisions in the law.

Answer:

A distinction should be made concerning the state supervision of minority and Muslim religious schools between (a) the supervision of the foundation and the operation of the schools and (b) the content of lessons relevant to Islam.

a) Article 3 of Law 694/1977¹⁹ provides that the operation of minority schools is under the supervision of the Ministry of National Education and Religious Affairs. Moreover, article 4 provides that “The provisions on private schools are applied also on the foundation, operation, inspection and supervision of primary minority schools”. Namely, the supervision that is exercised on minority schools is the same as that of private schools.

b) Law 1566/1985 sets the basic principles of the educational system. These principles are qualified through analytical programs of studies, which define the content of every lesson taught in primary and secondary education. The analytical programs of public schools are applied also in minority schools with some disparities which are approved by the Ministry of National Education and Religion Affaires. These disparities are caused by the international obligations of Greece and by the profound religious character of these schools²⁰. Moreover the assignment of writing the books for these lessons does not follow the usual procedure of contest but the work is directly assigned to the writer²¹ by decision of MNERA, following suggestion of the Coordinator of Minority Schools²².

It is obvious, from the above analysis, that although the Greek State has special attention of the supervision of the content of Islam schools, exercises it with respect to the religious conscience of Muslim students.

III. Refusal or limitations on the number of pupils of another conviction/belief by the governing board of a confessional (catholic) school

III.1. Question: Does the head of a state funded denominational (e.g. Catholic) school has the right to refuse pupils from other religious beliefs? Please refer to the provisions

¹⁷ The fundamental statutes concerning the minority education are Law 694/1977 (Official Gazette, Vol A, No. 264) and Law 695/1977 (Official Gazette, Vol. A, No. 264).

¹⁸ Official Gazette, Vol. A, No. 285.

¹⁹ Official Gazette, Vol. A, No. 264.

²⁰ Poulis P., Education Law and Institutions, Sakkoulas, Thessaloniki, 2001, p. 249 et seq.

²¹ Usually a teacher in minority schools.

²² Ibid, page 250, Ministerial Decision Z2/283/1982 (Official Gazette, Vol. B, No. 888).

in the law.

III.2. Question: Does the head of a state funded denominational (e.g. Catholic) school the authority to limit the number of pupils from other religious beliefs (e.g. Muslim pupils) in order to support the specificity of the project?

IV. Point of views of the authorities concerning the teaching of Islam in denominational (Catholic) education, Islam instruction or instruction on other convictions/beliefs in denominational (catholic) schools for (a number of pupils requesting it) and alternative ethical course

IV.1. Question. Is there a legal obligation to organise, if parents ask for, classes of Islamic religion in denominational (Catholic) education funded by public authorities? a. for any pupil for whom a request has been made? b. from a minimum number of pupils for whom a request has been made?

Answer:

IV.2. Question. Does the same obligation exist for the offer of (a) other religions and/or philosophical convictions, (b) an alternative class of conception of life, philosophy, ethics

Answer:

IV.3. Question. Can you shortly mention the pro and contra standpoints that have been expressed concerning the respect of fundamental rights (among others, freedom of education and right to education) in relation with this obligation?

Answer:

IV.4. Question. Reference to the legal basis, with Website address, and also if possible to the parliamentary preparation of texts.

Answer:

V. Teaching of Islam in denominational (e.g. Catholic) schools at their own initiative

V.1. Question: Is there in your country a general guideline for teaching of Islam in denominational (e.g. Catholic) schools at their own initiative defined by (a) the Bishops' Conference, (b) another body, namely. . .

Answer:

V.2. Question: If affirmative, does the guideline implies that (a) the teaching of other religions is organised when: one parent asks for, or a sufficient number of parents ask for (how many?), (b) only teaching of Islam is offered as alternative religion when one parent asks for or a sufficient number of parents ask for (how many?)

Answer:

V.3. Question: There is no guideline and: (a) in fact, teaching of Islam is never proposed in Catholic schools, or (b) the teaching of Islam is organised in some schools, which have taken themselves the initiative. If possible, explain the importance of this option

Answer:

VI. Religious symbols in public schools

VI.1. Question: Are religious symbols (e.g. crucifix) in public schools compulsory, allowed, or forbidden?

Answer:

VI.2. Question: Is a teacher allowed to wear the Islamic headscarf and manifest her religion? Please explain if not allowed on which grounds.

Answer:

VI.3. Question: Is a pupil allowed to wear the Islamic headscarf and manifest her religion? Please explain if not allowed on which grounds.

Answer:

VI.4. Question: Who decides on the dress code in schools. Please refer to the law.

Answer:

VI.5. Question: Can a pupil and/or a teacher be exempted from the dress code when she considers it her religious duty to wear the Islamic headscarf?

Answer:

VI.6. Question: Who is the regulatory authority in this sphere?

Answer:

VI.7. Question: What kind of disciplinary measures and proceedings are taken if the pupil or teacher fails to comply with the rules on dress codes?

Answer:

VI.8. Question: Please describe the case-law in your country.

Answer:

VII. After-school education in private religious institutions. Islamic instruction organised after the school hours (age 6-18)

VII.1. Question: Is there any form of Islamic teaching (for children and youngsters of age 6-18) in your country organised after school time in private religious institutions:

Answer:

VII.2. Question: Is there any form of Islamic teaching in your country organised in primary education age (6-12)

Answer:

VII.3. Question: Is there any form of Islamic teaching in your country organised in secondary education age (12-18)

Answer:

VII.4. Question: How many such institutions are there in your country providing Islamic instruction organised after the school hours?

Answer:

VII.5. Question: How many children take part in the activities of Islamic instruction organised after the school hours?

Answer:

VII.6. Question: How is the pedagogical quality of Islamic instruction organised after the school hours safeguarded?

Answer:

VII.7. Question: How would you characterize the public debate about this form of Islamic instruction organised after the school hours?

Answer:

VIII. Additional comments

XI. Bibliography²³

- Beys C. (ed.), *Religious Freedom, Eunomia*, Athens, 1998 (in Greek)
- Briolas D. – Fortsakis Th., *L' égalité dans l' éducation en Grèce*, *European Journal for Education Law and Policy*, *Journal of the European Association for Education Law and Policy*, ELA, Kluwer Law International, vol. 5, 1-2 2001, p. 103-113 (in French).
- Chrysogonos C., *Civil and Social Rights*, Nomiki Vivliothiki, Athens, 2006, 3rd edition (in Greek).
- Chrysogonos C., *Religious Instruction and Dominant Religion*, To Syntagma, Athens – Komotini, 1998 (in Greek).
- Dagtoglou P., *Constitutional Law. Human Rights*, Ant. N. Sakkoulas, Athens – Komotini, 2005, 2nd edition (in Greek).
- Fortsakis Th. – Spyropoulos Ph., *Constitutional Law in Hellas*, Kluwer Law International – The Hague, London, Boston, To be published (in English).
- Fortsakis Th. – Velegrakis Em., *L' instruction religieuse dans l' enseignement public primaire et secondaire en Grèce in Religious Education*, in *Public Schools: Study of Comparative Law*, M. Lopez-Muniz et al. (eds.), Springer, 2006, p. 241 *et seq.* (in French).
- Marinos A., *Constitution, Democracy and religious instruction*, Ant. N. Sakkoulas, Athens, 1981 (in Greek).
- Poulis P., *Education Law and Institution*, Sakkoulas, Thessaloniki, 2001 (in Greek).
- Skouris V., Koutoupa-Regkakou E., *Education Law*, Sakkoulas, Thessaloniki, 2007 (in Greek).
- Sotirelis G., *Religion and Education*, Ant. N. Sakkoulas, Athens – Komotini, 1993 (in Greek).
- Tsatsos D., *Constitutional Law, (Volume 3 – Fundamental Rights)*, Ant. N. Sakkoulas, Athens – Komotini, 1988 (in Greek).
- Zambeta E., *School and Religion*, Themelio, Athens, 2003 (in Greek).

²³ On the constitutional framework of religious instruction.