

## GREECE: Freedom of Religion or Belief

Joint Submission to the 39<sup>th</sup> Session of the Human Rights Council's

Universal Periodic Review Working Group

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### Report submitted by:

- **Greek Evangelical Alliance (PES)**. The PES represents ecclesiastic entities and local churches of the wider community of the Protestant Christians of Greece and the Greek Diaspora. Members of PES are the churches of the Evangelical community of Greece, as well as a variety of organisations with social, humanitarian and missionary ministries, deriving from the same community. PES is a member of the European Evangelical Alliance and the World Evangelical Alliance.

- **European Evangelical Alliance (EEA)**. The EEA is an alliance of more than 50 European grassroots national and transnational evangelical movements from all Protestant traditions present in 35 European countries. The EEA serves as a platform for common action and a voice for Europe's 15+ million Evangelicals.

- **World Evangelical Alliance (WEA)**. The WEA was founded in 1846 in London and has special ECOSOC Consultative Status since 1997. Today, the WEA is a network of churches in 140 nations that have each formed an evangelical alliance and over 100 international organizations joining together to give a world-wide identity, voice, and platform to more than 600 million evangelical Christians worldwide.

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## A. Background

1. Article 13 of the Greek Constitution protects freedom of “religious conscience” and the right to perform “rites of worship”. The Constitution also includes some restrictions on freedom of religion, including restrictions on “proselytism”. In Article 3, it recognizes the Greek Orthodoxy as the “prevailing religion.” Despite notable progress over the last decade towards the full enjoyment of the right to freedom of religion or belief, such as the 2014 law granting a legal status to recognized communities, further steps are necessary. This report will focus on three issues: the prohibition of proselytism, administrative burdens on churches under the 2014 law and public religious education.
2. This report is based on the experience of the Evangelical community in Greece, which represents approximately 30,000 believers or about 0.4% of predominantly Orthodox Christian population. Members of the Evangelical community identify as a religious minority within the country on the basis of their common religious faith.
3. During the Universal Periodic Review of 2016, Greece received several recommendations pertaining to the enhancement of protection and tolerance towards religious minorities.<sup>12</sup>

## B. Prohibition of Proselytism

4. According to Article 13 of the Greek Constitution, “There shall be freedom to practice any known religion; individuals shall be free to perform their rites of worship without hindrance and under the protection of the law. The performance of rites of worship must not prejudice public order or public morals. Proselytism is prohibited.”
5. Pursuant to Law no. 1363/1938, as amended by Law no. 1672/1939, Article 4 paragraph 2, “1. Anyone engaging in proselytism shall be liable to imprisonment and a fine of between 1,000 and 50,000 drachmas; he shall, moreover, be subject to police supervision for a period of between six months and one year to be fixed by the court when convicting the offender. 2. By ‘proselytism’ is meant, in particular, any direct or indirect attempt to intrude on the religious beliefs of a person of a different religious persuasion (heterodox), with the aim of undermining those beliefs, either by any kind of inducement or promise of an inducement or

<sup>1</sup>See Report of the Working Group (Section II), A/HRC/33/7, Rec. 134.38 by Canada, Rec. 134.62 by Tajikistan, Rec. 134.93 by Brazil, Rec. 134.94 by Peru, Rec. 136.10 by the United States of America, Rec. 137.13 by Albania, 137.17 by the former Yugoslav Republic of Macedonia

The removal of laws criminalizing malicious blasphemy and religious insult in 2019 has to be noted as a positive development. In its UPR 2016, this had been recommended to Greece by Brazil.

<sup>2</sup>See *ibid.*,

moral support or material assistance, or by fraudulent means or by taking advantage of his inexperience, trust, need, low intellect or naivety.”

6. Based on the above interpretation, especially the addition of the phrase “in particular” that renders the list non-exhaustive, any attempt of conversion may amount to “proselytism”. Arguably, Article 13 of the Greek Constitution protects the right to change religion or belief and in that respect the right to inform others about your beliefs and to be informed about the religious beliefs of others. Nevertheless, provisions such as the above were enforced with the aim to intimidate non-orthodox religious minorities and to represses honest dialogue about religious ideas. Despite being rarely applied, the pertinent law is still in force and may constitute the legal basis of judicial decisions (such an example is the 9 August 2013 decision no. 1088/2013 of the Supreme Criminal Court (Άρειος Πάγος)).

#### **Recommendation:**

7. **Amend or annul Article 4 of Law no. 1363/1938 (as amended by Law no. 1672/1939) prohibiting proselytism, in a way that complies with the obligation of the State to respect the right to share and propagate beliefs, as part of the freedom of religion or belief.**

#### **C. Creation of legal entities under the 2014 Law on religious communities**

8. Law no. 4301/2014 on the “Organization of the Legal Form of Religious Communities and their organizations in Greece” has been a major development in favour of religious minorities in Greece in terms of access to a legal personality. This status gives access to the possibility of acquiring of transferring properties, administering places of worship, private schools and charitable or non profit entities.
9. However, the enforcement of the law implied unanimous decisions by different ecclesiastic associations to form a legally unified religious entity, as well as financial burdens for their property transfer during the transitions. All of these aspects gave rise to significant practical obstacles. For instance, according to Article 18 of the law, there must be a unanimous decision of all the individual members of different ecclesiastic associations for the transfer of their property to the newly founded legal entity. This situation significantly hindered the process and led to the unfruitful exhaustion of the three-year deadline that guaranteed a tax-free transfer. Moreover, even though Article 18 guarantees the tax-free transfer, the amount of other supplementary costs, such as the notary fees to be paid for the transfer,

which also include a taxation of 24%, is a heavy burden for the communities involved. Because of these administrative burdens, member communities of Greek Evangelical Church have not been able to transfer their property to the newly recognized religious entity.

**Recommendation:**

10. **Review the legal framework to remove administrative and financial barriers provided in Article 18 of Law no. 4301/2014 for the establishment of unified religious legal entities.**

**D. Non-discrimination in public religious education**

11. In 2017 the Greek Minister of Education, Research and Religion issued a decision that provided the inclusion of the major denominations in the public educational system. In 2019 the Supreme Administrative Court held that the Prime Minister's decision was unconstitutional on the grounds that the course of religious education in the Greek educational system aims to safeguard and promote the Greek "national conscience" which is associated with the teaching of the Christian Orthodox faith.<sup>3</sup>
12. The Court ruled that by virtue of the freedom of religion in the Greek Constitution and the European Convention on Human Rights ("ECHR"), as well as Article 2 of the 1st Additional Protocol of ECHR (which includes the right to education in accordance with the parents own religious or philosophical convictions), the teaching of religious education in Greek schools applies only to Christian Orthodox students, referring also to the option for the rest of the students to be exempted from the teaching of the pertinent course.
13. However, this exemption stigmatizes the students and the parents since the latter have to sign a solemn declaration that their child is not a Christian Orthodox and the educational institution has the competence to test the "seriousness" of the declaration. It forces parents and students to reveal information about their religious affiliation, which goes against their freedom of conscience and belief. Finally, the exemption bears a risk of leading to discriminatory practices, as it can be inferred that a person holds or does not hold a particular religious belief. This practice has been condemned in the recent judgment of the European Court of Human Rights in the case "Papageorgiou and Others v. Greece" because it places an

<sup>3</sup>Decision no. 1749/2019 (Symvoulío tis Epikrateias).

undue burden on parents, thus violating art. 2 of Protocol 1, in light of article 9 of ECHR.<sup>4</sup>

14. Arguably, freedom of religion involves not only the obligation of the State to refrain from an infringement of this freedom, but also the positive obligation to act in such a way as to secure the enjoyment of this freedom by everyone. To that effect, measures must be taken with a view to safeguard sufficient and adequate representation of the evangelical and/or protestant faith in the public educational system, and not solely consisting in the opportunity of an exemption of the pertinent orthodox-centric courses, a measure discriminatory in nature that do not meet the obligation of the State to secure the enjoyment of freedom of religion for all.

#### **Recommendations:**

**15. Guarantee that all religious classes are either fully optional for all children, irrespective of their and their parents' beliefs; or guarantee that these classes are sufficiently objective and pluralistic to be compatible with the right to education, in accordance with the parents own religious or philosophical convictions.**

**16. Abolish the requirement of a solemn declaration, where it is still mandatory for the exemption from the religious education in schools.**

**17. Offer alternatives for the religious education of non-Orthodox students in schools.**

<sup>4</sup>ECtHR, *Papageorgiou and Others v. Greece*, C-4762/18 and 6140/18, 31 January 2020.

What matters in respect of Article 2 of Protocol No.1 is to ascertain whether the conditions imposed by the circular setting out the exemption procedures are likely to place an undue burden on parents and require them to disclose their religious and philosophical convictions in order to have their children exempted from the religious education course.” (§84)

“The Court considers that the current system of exemption of children from the religious education course is capable of placing an undue burden on parents with a risk of exposure of sensitive aspects of their private life and that the potential for conflict is likely to deter them from making such a request, especially if they live in a small and religiously compact society, as is the case with the islands of Sifnos and Milos, where the risk of stigmatisation is much higher than in big cities. The applicant parents asserted that they were actually deterred from making such a request not only for fear of revealing that they were not Orthodox Christians in an environment in which the great majority of the population owe allegiance to one particular religion (see *Grzelak v. Poland*, no. 7710/02, § 95, 15 June 2010), but also because, as they pointed out, there was no other course offered to exempted students and they were made to lose school hours just for their declared beliefs.”. (§87)