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RELIGIOUS SELF-ADMINISTRATION IN THE HELLENIC REPUBLIC

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I. INTRODUCTION

In Greece, State and Church are closely connected institutionally. Greece is not an *etat laique*, but a confessional one. The state is religious, adhering to the doctrines and the teachings of the Eastern Orthodox Church. The latter is the “prevailing religion” under the Constitution (3, § 1) and enjoys a privileged regime.¹ In parallel, the other Christian creeds and religions

¹ On the relations between the Greek State and the Orthodox Church, see: *Ph. Spyropoulos*, *Die Beziehungen zwischen Staat und Kirche in Griechenland unter besonderer Berücksichtigung der orthodoxen Kirche*, (Athen) 1981; *An. Marinos*, *Σχέσεις Εκκλησίας και Πολιτείας* [Relations Between Church and State], Athens (Grigoriadis Foundation) 1984; *I. Konidaris*, “Die Beziehungen zwischen Kirche und Staat im heutigen Griechenland”, *Österreichisches Archiv für Kirchenrecht* 40 (1991) 131-144; *Sp. Troianos*, “Die Beziehungen zwischen Staat und Kirche in Griechenland”, *Orthodoxes Forum* 6 (1992) 221-231; *Ch. Papastathis*, “Le régime constitutionnel des cultes en Grèce”, *The Constitutional Status of Churches in the European Union Countries*, Paris-Milano (European Consortium for Church-State Research) 1995, 153-169; *Ch. Papastathis*, “Staat und Kirche in Griechenland”, *Staat und Kirche in der Europäischen Union*, ed.: *G. Robbers*, Baden-Baden (Nomos) 1995, 79-98; *Ch. Papastathis*, “The Hellenic Republic and the Prevailing Religion”, *Brigham Young University Law Review*, (1996) 815-852.

subsist under the regime of article 13 of the Constitution, which concerns religious freedom. The said article establishes both the inviolability of freedom of religious conscience and the unhindered practice of worship under the protection of the laws of any religion, as long as the religion is “known” (Constitution 13, § 2). “Known” denotes the religion that has no secret doctrines and occult worship. The courts make a case-by-case specification of the existence of the “known” character of a religion. Both the prevailing and all the creeds in general enjoy self-administration. I do not use the term “autonomy”. In Greek legal terminology, an “autonomous” organization – such as religion in general – signifies that it acts on its own initiative and responsibility, without being supervised. Something which does not hold for the creeds – prevailing and not. In contrast, all these creeds are under a regime of self-administration – *potestas delegata* on the part of the State – that is, they act on their own initiative and responsibility, but are supervised by the state.

We will refer to the self-administration of the official Orthodox Church and then to that of other creeds.

II. PREVAILING RELIGION

The self-administration of the Orthodox Church is safeguarded by: 1. The assignment of its administration to its own Holy Synod and to the other organs, whose existence and competencies belong to its own administrative traditional structure; 2. The power to in principle enforce its own holy canons, and 3. The legislative authorizations that its own Statutory Charter [hereafter SC] (L. 590/1977) provides.

1. THE CONSTITUTIONAL ESTABLISHMENT OF THE SYNODAL REGIME

In the period when Greece was ruled by the Bavarian regency – while King Otto, prince of Bavaria, was still a minor – two decrees were issued, that have left an indelible mark on State-Church relations until today. R.D. of 3 (15)/14 (27) April 1833 imposed the “state-law rule” on the Church, meaning that church matters were regulated by state law. By way of the R.D. of 23.7/4.8.1833, the Orthodox Church of Greece was declared

autocephalous.² That is, administratively independent in regard to any other Orthodox Church. The same decree regulated matters of its administration. This was assigned to a Holy Synod, comprised of prelates and priests. This was charged with handling the internal affairs of the Church “regardless of any secular authority” (article 9). Internal affairs were related to doctrine, worship and pastoral theology (article 10). Any matters pertaining to the “domain and the worldly benefit of the inhabitants” came under the jurisdiction of the Synod, but the latter could issue no order without the consent and the collaboration of state authority (articles 13-15). Under this decree, the Church was institutionally self-governed as regards its internal affairs.

The Constitution of 1844 – the first, in chronological order, since the promulgation of the aforementioned royal decrees – stipulated (article 2) that the Church “is governed by a Holy Synod of Prelates”. The same statute was repeated in all subsequent Constitutions (1864, article 2; 1911, article 2; 1927, article 1, § 2; 1952, article 2; 1968, article 1, § 2). The constitutional legislator has permanently entrusted the governance of the Church to an organ of its own, composed of prelates.³ The existing Constitution (1975) has not distanced itself from the said self-administration. It has, however, introduced more explicit provisions. More particularly: “...The Orthodox Church of Greece ... 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.” From this provision, the following observations can be derived:

1. The highest administrative organ of the Church of Greece is the Synod of its serving prelates, which is called the “Holy Synod of the Hierarchy” (HSH) in the SC. That is, the total number of its prelates who have administrative duties, since each of them has jurisdiction over a single province. These prelates bear the title of “metropolitan”.

2 See the recent detailed publication of *Sp. Troianos/Charikleia Demakopoulou*, *Εκκλησία και Πολιτεία. Οι σχέσεις τους κατά τον 19^ο αιώνα, (1833-1852)*, [Church and State. Their Relationship During the Nineteenth Century, (1833-1852)], Athens (Ant. Sakkoulas) 1999.

3 *Sp. Troianos*, “Die Synode der Hierarchie als höchstes Verwaltungsorgan der einzelnen Autokephalen Orthodoxen Kirchen”, *Kanon 2* (1974) 192-216.

But they have to continue to be serving bishops. Metropolitans in Greece are permanent, but there are some who have retired from active service. The latter do not participate in the HSH. In the Church of Greece, the total number of metropolitans who exert pastoral authority over metropolises comes to approximately eighty. The Synod of the Hierarchy is headed by the Archbishop of Athens and has its seat in Athens.

2. The Permanent Holy Synod (PHS), as an organ of the HSH, also wields administrative authority. The PHS is comprised of twelve members and the Archbishop of Athens, who is in the chair, and is also seated in Athens.
3. The reason why the existing Constitution added the term “serving” to characterize the bishops of the HSH – therefore also to those of the PHS – is the fact that in anomalous political circumstances, the state interfered in Church affairs by way of Synods that it composed itself. In such “meritorious” Synods, it appointed prelates favorably disposed to the government, regardless if they were still serving or not. Under the current constitutional provision, this possibility is ruled out.
4. With the Patriarchal Tome of 1850 the Ecumenical Patriarchate endowed, through the canonical way, the Church of Greece with an autocephalous regime. With the Synodal Act of 1928, the patriarchal dioceses of the so-called New Lands – i.e. Epirus, Macedonia, the Aegean Islands and Western Thrace, which were incorporated into Greece with the Balkan Wars (1912-1913) and the First World War – came “in trust” under the administration of the autocephalous Church of Greece, while spiritually they continue to belong to the Patriarchate. The promulgation of Law 3615/1928 “On the Ecclesiastical Administration of the Metropolises of the Ecumenical Patriarchate in the New Lands” had already taken place. The Synodal Act of the Ecumenical Patriarchate contains more general conditions than those of Law 3615/1928, which gave rise to disagreements regarding the force of all of them.

The Constitution of 1975 is the first one to establish the Patriarchal Tome and the Synodal Act as sources of law of increased formal authority. One theory has held that the reference of the Constitution to these two texts does not end with the specific matter of the bearer of the administration of the Church, that is, with the composition of the PHS, but alludes to the

administration of the Church in general. Under this view, the Church of Greece should be “basically” administered as the patriarchal texts specify. And given that the Patriarchal Tome of 1850 provides that the Holy Synod of Greece administers “Church matters according to the divine and holy canons freely and unrestrainedly from all temporal interventions”, it would follow that the way towards the substantial self-administration of the Church of Greece would be opened. At the same time, the matter of the general conditions of the Synodal Act of 1928 and of law 3615/1928 would be conclusively resolved in favor of the former. However, the Council of State (i.e. the supreme administrative court in Greece) ruled that the Constitution imposes the force of the patriarchal texts only as to the composition of the PHS restrictively, and not in their totality, (3178/1976, 545-546/1978).

2. THE COMPETENCIES OF THE ORGANS OF SELF-ADMINISTRATION

The organs of self-administration of the Church of Greece are distinguished into central and peripheral. The central organs are: 1. The HSH, 2. the PHS, 3. the synodal committees, and 4. the organizations. The peripheral organs are: 5. the archdiocese and the metropolises , 6. the parishes, 7. the monasteries, and 8. the local organizations.

1. The HSH convenes *ipso jure* on the 1st of October of every year, and on extraordinary occasions, whenever there is need for it. The HSH has competency over every issue that relates to the Church of Greece (article 4 SC), and further has the presumption of competence in its favor. More particularly, under the same article, the HSH: a) Looks after the observance of the doctrines, the holy canons and the sacred traditions of the Orthodox creed, the unity and the community with the Ecumenical Patriarchate and the other Orthodox Churches, as well as the relations of the Church of Greece with the other Christian confessions; b) Considers and decides on the necessary measures for the Christian life of the clergy and the people; c) Takes care of ecclesiastical order and decency, as well as of issues that pertain to the divine services; d) Decides on the exercise of ecclesiastical dispensation and equity; e) Issues normative decisions on the organization and internal administration of the Church, that are published in the state Official Government Gazette; f) Exerts the highest supervision and control on the acts of the PHS, of the prelates, of the administrative bodies of the Church, as well as of the

ecclesiastical legal entities;⁴ g) Elects the Archbishop of Athens and the prelates, h) Sets up the synodal committees, whose mission is contributing assistance to the work of the HSH and the PHS; i) Decides on the imposition of the penalty of excommunication; j) Adjudicates the appeals for the review of the final decisions of canonical courts against priests, deacons and monks; k) Votes on the ordinance for its sessions, as well as on that of the PHS; l) Exercises all the powers that derive from the holy canons and the canonical provisions, and m) rules on the appeals filed against acts of the PHS concerning the inscription of clergymen on the list of the those eligible to be elected prelates.

2. The PHS serves a term of one year. As a permanent administrative organ, it has the following competencies: a) It takes measures for the precise enforcement of the decisions of the HSH; b) It executes the acts that are assigned to it by the HSH; c) It provides its advisory opinions on any ecclesiastical bill that is under consideration by the Greek Parliament; d) It takes care of ongoing ecclesiastical issues; e) It examines the dogmatic content of the books of the course of religion, that are used in the schools of primary and secondary education; f) It collaborates with the State on matters of ecclesiastical education and looks after the education of clergymen; g) It sees to matters of internal mission; h) If the Church is disturbed by heretic teachings or other interferences, the PHS requests the intervention of state authorities; i) It exercises the powers vested in it by the law on canonical courts; j) It supervises the clergymen and the monks in the performance of their duties; k) It provides the prelates with a leave of absence from their seat for over ten days; l) It publishes the official review “Ecclesia”, and m) It exercises some of the competencies of the HSH, during the period that lasts until the convocation of the latter.
3. The SC provides for “synodal committees” having advisory competence, that are charged with the review of issues in HSH meetings and with aiding in the work of the PHS. Under article 10 of the SC, the different kinds of synodal committees are as follows: a) Of the chief secretariat; b) Of ecclesiastical art and music; c) Of doctrinal and nomocanonical matters; d) Of worship and pastoral work; e) Of monasticism; f) Of Christian education of youth; g) Of interorthodox

4 See *Sp. Troianos*, «Η κανονιστική αρμοδιότητα των διοικητικών οργάνων της Εκκλησίας» [The Normative Competence of the Administrative Organs of the Church], *Epharmoges* 7 (1994) 81-92.

and inter-Christian relations; h) Of ecclesiastical education; i) Of the press and public relations; j) Of heresies; k) Of social welfare, and l) Of finances. More committees may be set up by decisions of the HSH. Thus, in 1998 two synodal committees were formed: of the Observatory of European Issues and of Bioethics. The members of the synodal committees are determined by the PHS.

- 4 From the central organizations of the Church of Greece we will limit ourselves to: a) *Apostoliki Diakonia*. Its purpose is the programming, the organization and the execution of the missionary and educational work of the Church. Its central administrative council is under the supervision of the PHS and consists of the Archbishop, who is at the chair, two metropolitans –members of the PHS that are appointed by it, and four other members, who are appointed by the PHS together with their substitutes, and b) The *Interorthodox Center of the Church of Greece*, that cultivates and promotes relations with the other Churches (Orthodox and non-Orthodox), as well as the organization of missionary work in foreign lands. Its administrative council, with the archbishop as chairman, is appointed by the PHS.
5. The archbishop within the area of the archdiocese, of Athens, and the metropolitans within their metropolises, exercise the powers that are vested in them by the holy canons and the laws as heads of the legal entity of the metropolis. Each metropolis, as well as the archdiocese, is also the seat of a metropolitan council, whose duties are stipulated by ordinance 58/1975 of the Church of Greece.
6. The parish as a legal entity under public law. Matters pertaining to its founding, administration, function and management are regulated by normative decisions of the PHS, that are ratified by the HSH. The parish is administered by the parish priest and the “ecclesiastical” (= parish) council, whose members are appointed by the metropolitan council.
7. The monasteries are also legal entities under public law. They are run by the abbot and the council, whose members are appointed by the monastery’s brotherhood. Only when the number of its members is less than five, are the aforementioned administrative bodies appointed by the local metropolitan.
8. The various local ecclesiastical organizations are several legal persons under private law, such as foundations and associations. These are

either set up by the local Church or are closely connected to it. Their purposes are charitable.

The Church of Crete, whose Statutory Charter is also state law (L. 4149/1961) also presents a similar administrative organization and safeguarding of its self-administration.⁵ The self-administration of Mount Athos is a lot broader. Pursuant to article 105 of the Constitution: “The Athos peninsula ... in accordance with its ancient privileged status, is a self-governed part of the Hellenic State” (§ 1). Even “...the Charter of Mount Athos ... is drawn up and voted by the twenty Holy Monasteries and ratified by the Oecumenical Patriarchate and the Parliament of the Hellenes” (§ 3).⁶

Depending on the composition and the powers of the administrative organs of the Church, its self-administration takes on two forms: one that is outward and another that is inward. The former refers to its self-administration relative to the State, and to the non-interference of the State in the internal affairs of the Church. The latter refers to the self-administration of its particular legal persons vis-à-vis the central organs, such as, for example, the self-administration of the organizations, the metropolitan councils and the monasteries vis-à-vis the HSH and the PHS. The area where problems arise as regards the extent of self-administration is the field where laws of the State and holy canons clash, when they regulate the same issues.⁷ According to the Constitution, it is a fact of fundamental importance for the self-administration of the Orthodox Church that the State has the right to promulgate laws concerning ecclesiastical administration, and in particular laws which are even contrary to the rules of the Church’s administrative holy canons.

5 On the Church of Crete, see *C. Papageorgiou*, *Εκκλησία της Κρήτης: Θεσμοί και διοικητική οργάνωση κατά τον Καταστατικό της Χάρτη (Ν. 4149/1961)*, [The Church of Crete: Institutions and Administrative Organization According to its Statutory Charter (L. 4149/1961)], Thessaloniki 1999.

6 See *Ch. Papastathis*, “The Status of Mount Athos in Hellenic Public Law”, *Mount Athos and the European Community*, Thessaloniki (Institute for Balkan Studies) 1993, 55-75.

7 The basic publication in this field is the work of *I. Konidaris*, *Η διαπάλη νομιμότητας και κανονικότητας και η θεμελίωση της εναρμονίσεώς τους*, [The Conflict Between Legitimacy and Normativity and the Substantiation of their Congruence], Athens (Ant. Sakkoulas) 1994.

3. THE FORCE OF THE HOLY CANONS

The “state-law rule” over the Orthodox Church in Greece, this evolved form of Roman caesaropapism, is based upon the provision of article 72, § 1 of the Constitution. The Parliament sitting in plenary session, debates and votes on, among others, the subjects of article 3 (= the status of the Orthodox Church) and 13 (= religious freedom). At the same time, article 3, § 1 of the Constitution provides: “...The Orthodox Church of Greece ... is inseparably united in doctrine with the Great Church of Christ in Constantinople [= Ecumenical Patriarchate] 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....” This provision of article 3 was first established in the Constitution of 1844. Since then, it has been repeated in all the Constitutions of Greece (1864, 1911, 1927, 1952, 1968 and 1975). With this provision, the drafters of the Constitution of 1844 aimed at declaring the unity of the Church in Greece with the other Orthodox Churches. And this was because the declaration of its autocephalous regime did not take place in accordance with the canonical way. Thus, a disturbance of its unity with the other Churches had in the meantime arisen. However, under the regime of the state-law rule, the constitutional provision on Orthodox unity led both scholars and the judiciary to the conclusion that here the Constitution introduces a new self-existent statute: the constitutional provision for the holy canons. This view has given rise to diametrically opposite interpretations, controversies regarding the constitutionality of various laws, and endless appeals against acts of the public administration and of the Church to the Council of State. The debate on the constitutional power of the holy canons is a recurrent one in Greek law.

This problem emerged because of trivial reasons. According to the text of article 114, section 2 of the Law of December 27, 1833, regarding the institution of municipalities, Church councils were constituted for the administration of ecclesiastical establishments, composed of the mayor, the parson and two to four citizens registered in the particular municipality and appointed by the mayor. On the basis of this statute, many local politicians started to appoint choristers and sacristans to the parishes of their provinces. But the bishops reacted to this, claiming that both from the aspect of holy canons and from that of the laws of the State, the appointment of these positions came under their jurisdiction. The matter of these appointments ended in a compromise – the Church councils re-commended and the bishop

appointed – but the purely legal issue of whether the holy canons superseded the laws of the State, or vice versa, remained open in theory.⁸

Two basic views have since been put forth. One view suggests that all the holy canons in general, whether they concern the doctrine and the worship, or the administration of the Church, are safeguarded by the Constitution. Hence, the laws that counter their provisions are unconstitutional. According to the other view, only the so-called dogmatic holy canons– those that deal with the doctrine of the Church and do not merely concern administration – are enveloped by the constitutional guarantee. Consequently, the legislators should be free to regulate all matters pertaining to the administration and the organization of the Church. For many years, this has been the preferred view of the judicial decisions issued by political and administrative courts alike.

These views require distinction between the phrases “is inseparably united in doctrine” and “observing unwaveringly, as they do, the holy apostolic and synodal canons and the sacred traditions”. According to the two views, the Constitution introduces two distinct principles: the unity of the doctrine, and the constitutional guarantee (or non-guarantee) of the holy canons and the sacred traditions. I cannot agree with this conclusion. I believe that in the Constitution there is one and only one principle: the obligation of the State and the Church of Greece to respect and preserve the unity of the Church. Otherwise, how can one interpret “as they do”, which is interposed in the self-existing statute on the constitutional force of the holy canons? For this reason, and also because the first view leads to hierocracy and the second one to a severe caesaropapism – regimes which are absolutely contradictory with the principles of the Constitution of the Hellenic Republic – I believe that here the Constitution does not refer directly to the protection of the holy canons, but to the unity of the Church of Greece with the other Orthodox Churches. Preservation of the unity of the Church is achieved by ensuring dogmatic unity and canonical unity.⁹

8 See *Ch. Papastathis*, “La République hellénique”, in the volume: *Les origines historiques du statut des confessions religieuses dans les pays de l’ Union Européenne*, ed.: *Brigitte Dasdevant-Gaudemet/Fr. Messner*, Paris (Presses Universitaires de France) 1999, 207-221.

9 See *Ch. Papastathis*, “Unity Among the Orthodox Churches. From the Theological Approach to the Historical Reality”, *Canon Law and Realism*. Monsignor W. Onclin

In terms of results, the Council of State treated the matter in a somewhat similar fashion in 1967 by abandoning the strict view that the Constitution guarantees exclusively the dogmatic holy canons and declaring that “the legislator . . . in the spirit of article 2, § 1 of the Constitution [of 1952] . . . cannot by the amendments effected by him bring about fundamental changes to basic administrative institutions, which have been deeply entrenched and long established within the Orthodox Church”. The Council of State, with these decisions and in accordance to the “spirit” of the provisions of article 2, section 1 of the 1952 Constitution, which is analogous to that of article 3, section 1 of the current Constitution, then held that the Constitution fully guaranteed the doctrines and all that is pertinent to Orthodox worship and that the Constitution did not fully guarantee the administrative institutions which were contained in the holy canons in general. These administrative institutions were to be classified as basic or non-basic. Legislators could proceed as far as a fundamental change of a non-basic institution, and a non-fundamental change of a basic institution.

The disadvantage in the rationale of the Council of State's approach – which no doubt marked a definite progress compared to its prior rigid stance – lies, in my opinion, in classifying the administrative institutions of the holy canons as basic or non-basic. In my opinion, making this distinction, although it is “deeply entrenched and long established within the Orthodox Church”, is shaky and calls for an intertemporal approach on the part of the legislator – in other words, something that is not always easy.

Nevertheless, the line of judicial decisions issued by the supreme administrative court also went through a third phase, this time under the regime of the current Constitution. More specifically, without abandoning article 3, section 1 of the Constitution, the Council of State now confers primary status on article 13, sections 1 and 2 of the Constitution, which safeguard the individual right of religious freedom of, among others, the followers of the prevailing religion. Thus, it foils any action on the part of legislators which would infringe upon the freedom of religious conscience and the freedom of worship. But the protection of articles 3, section 1 and especially of article 13, sections 1 and 2 of the Constitution cannot be regarded as extending to those holy canons and sacred traditions which relate to matters of exclusively administrative nature, because these cannot

have the internal meaning of the dogmatic canons and, moreover, because these same matters are regulated according to the needs of society and under the influence of more contemporary attitudes. Therefore, according to the Council of State, those holy canons and sacred traditions which refer to administrative issues are by necessity variable, in the common interest of both the Church and the State, and are subject to amendment by legislators. However, legislators cannot make fundamental changes in those primal administrative institutions which have been long established in the Orthodox Church. Thus, the more recent decisions of the supreme administrative court, without abandoning the distinction of ecclesiastical administrative institutions into basic and non-basic, adopt especially article 13, sections 1 and 2 of the Constitution as a constitutional basis for the protection of the holy canons and the sacred traditions and as a standard for its range.¹⁰

4. LEGISLATIVE AUTHORIZATIONS TO THE CHURCH

The primary law for the organization and operation of the ecclesiastical organization is L. 590/1977 “On the Statutory Charter of the Church of Greece”. This law gave the Church a broad field for the self-administration by way of legislative authorizations, and in fact by way of direct promulgation of its relevant acts in the Official Government Gazette without any intervention on the part of the State. These authorizations are as follows:

1. The Ecclesiastical Orphanage of Vouliagmeni, as well as the rest of the ecclesiastical foundations of the Archdiocese of Athens and of the metropolises, that operated while the SC was in effect (= 1977) and already had legal personality, continue to operate under its theretofore existing organizations. These may be supplemented and amended by normative decisions, issued by the local prelate, which will regulate matters relating to their administration, management, supervision and overall operation, as well as matters pertaining to the overall official status of their staff, (1, § 4).
2. The HSH issues normative decisions on the organization and internal administration of the Church that are published in the Official Government Gazette [hereafter OGG], (4, sect. 5).

¹⁰ See *Ch. Papastathis*, “The Application of Religious Laws in the Hellenic Republic”, *Revue Hellénique de Droit International* 51 (1998) 37-48.

3. Furthermore, the HSH votes on the ordinance of its sessions and on that of the PHS, (4, sect. 11).
4. All matters pertaining to the organization and operation of the HSH are regulated by its decisions, that are published in the OGG (6, § 5).
5. The HSH offers advisory opinions on any ecclesiastical bill that is presented to Parliament for enactment (9, sect. 3).
6. Any matter relating to the organization and operation of the PHS, its services and offices is regulated by its decisions that are published in the OGG, (9, § 4).
7. Matters surrounding the composition and the powers of the Synodal Committees, the organization and operations of their offices and staff are regulated by decisions of the PHS, published in the OGG, (10, § 5).
8. The HSH may issue decisions constituting special Synodal Committees (in addition to those stipulated in article 10, § 1 of the CS) set up to review and inquire into particular issues, (10, § 5).
9. The region, the name and the seats of the metropolitans are determined by decisions of the HSH, that are published in the OGG, (11, § 2).
10. Matters relating to the organization, administration and overall operations of the metropolises are regulated by decisions of the PHS published in the OGG. Decisions that regulate particular issues of specific metropolises are issued in accordance with the aforementioned procedures following the proposal of the relevant prelate, (29, § 2).
11. The management of the lawful contributions to churches for the maintenance of the metropolitan offices or of the other revenues of metropolis is carried out under the liability of the relevant metropolitan pursuant to the normative decisions of the PHS that are on each occasion issued and published in the OGG, (30).
12. Decisions of the PHS, published in the OGG, determine the powers and the manner of operation of the metropolitan councils, (35, § 3).
13. Matters regarding the founding, the resources, the administration, the management and the overall operation of the holy churches (parish churches and non-parish churches), matters pertaining to the execution of ecclesiastical works, to the erection of holy churches and their

edifices, as well as matters relating to the formation, composition, competencies and overall operation of the parish committees, are determined by normative decisions of the PHS, that are ratified by the HSH and published in the OGG, as regards those matters that are not regulated by the SC. Matters pertaining to the overall operation of the parishes will be regulated by similar decisions (36, § 6).

14. The vacant positions of tenured parish priests are filled permanently by married priests, whereas temporarily by unmarried priests as well, pursuant to the special provisions, by normative decisions of the PHS that are ratified by the HSH and published in the OGG, (37, § 2).
15. All matters relating to the qualifications, the election and appointment procedures of parish priests and deacons, to their transfer and detachment, to their continuing education, duties and rights, are regulated by decisions of the PHS, ratified by the HSH and published in the OGG as concerns those points that are not stipulated by provisions of the SC. Similar decisions regulate the overall official status of cantors and sacristans, (38, § 2).
16. Matters regarding the organization and the advancement of the spiritual life and the administration of the monastery are determined by the abbot council in accordance with the holy canons, the monastic traditions and the laws of the State, by internal ordinance that is published in the review "Ekklesia", (39, § 4).
17. The frameworks of operation of the Orthodox hermitages located within the vicinity of the Church of Greece, that are established as legal persons under private law under the existing statutes and operate in accordance with their own statutory by-laws, are set by normative decisions of the PHS, ratified by the HSH and published in the OGG, (39, § 10).
18. The specifics of the powers, the organization, the administration and the overall operation of the Interorthodox Center are determined by decisions of the PHS, ratified by the HSH and published in the OGG, (41, § 3).
19. The qualifications, the procedure of appointment, promotion, transfer, transference, granting of leaves of any nature, matters of disciplinary action and of the granting of moral rewards, of the positions and any other matter that refers to the overall official status of the lay clerical

staff of the Church of Greece, of the metropolises, of the parish churches, of the Organization for the Administration of Ecclesiastical Property, of the *Apostoliki Diakonia*, of the Interorthodox Center, of the monasteries and of any other ecclesiastical legal person under public law, including the insurance organizations for clergymen, are regulated by analogy of the statutes of the Civil Servants Code, as these apply to the employees of legal persons under public law, by decisions of the PHS, published in the OGG. Similar decisions determine, by analogy to the stipulations that apply for civil servants, the specifics of the wages of the aforementioned staff, (42, § 2).

20. Decisions of the PHS, ratified by the HSH and published in the OGG, establish the organizations of operation and administration of the ecclesiastical legal persons of art. 42, § 2, as well as matters relating to the composition, formation and operation of their administrative councils, unless they are otherwise determined in the current SC, hence any contrary provision is abolished, (42, § 4).
21. The Supreme Board of the Ecclesiastical Administration is set up by the SC. Its powers (advisory or decisive) are determined by decisions of the PHS, that are ratified by the HSH and published in the OGG. Similar decisions specify its mode of operation and its overall organization, its composition, which should necessarily include the participation of one justice of the Council of State holding the rank of associate judge at the least, as well as the salary of its members. Every normative decision that is issued in accordance with the preceding paragraphs is ineffective if it has not been previously reviewed by this council, (42, § 5).
22. The Church of Greece is allowed to found special continuing education schools and tutorial centers to ensure the special training and the further education of clergymen and prospective clergymen. Matters relating to their establishment, organization and operation and to their staff are determined by decisions of the PHS that are published in the OGG. Matters of ecclesiastical education are governed by the existing statutes, (43, § 1).
23. The Church of Greece grants scholarships. The specifics of their terms and of the overall procedure of their granting are determined by decisions of the PHS published in the OGG, (43, § 3).

24. The details of the manner of sale of the valuable offerings are determined by decisions of the PHS, that are ratified by the HSH and published in the OGG, (45, § 4).
25. By decisions of the PHS, ratified by the HSH and published in the OGG, it is possible for the metropolises to set up, following the proposal of the relevant metropolitan, ecclesiastical museums for the recording, safekeeping and preservation of relics, holy icons and other works of ecclesiastical art, (45, § 5).
26. The manner of administration, management and overall good use of ecclesiastical property, that is of monastery property, preservable and non-preserved, of metropolitan property, of parish property and of property belonging to all other ecclesiastical legal persons under public law is determined by decisions of the PHS, ratified by the HSH in accordance with the holy canons and the laws of the State and are published in the OGG, (46, § 2).
27. Normative decisions of the PHS determine, under the existing legislation, the procedure by which a marriage license is granted, (49, § 1).
28. The administration and the management of the shrines that are located within the territory of the Church of Greece are determined by decisions of the PHS, that are ratified by the HSH and published in the OGG, (59, § 1).

Finally, article 67 stipulates that until the issuance of the Presidential Decrees or the decisions of the HSH and the PHS, that as mentioned above the SC prescribed, the existing relevant statutes that applied until the enactment of the SC would continue to be in effect, as long as they were not contrary to the new SC. Furthermore, this same article states that normative decisions of the HSH and the PSH that were issued without legislative authorization or in excess of it, are not ratified by the SC.

The Council of State has ruled that the aforementioned normative decisions of the HSH may be stricken down only on grounds of excess of legislative authorization (960-961/1978). Moreover, it held that normative decisions are ineffective before third parties when they do not refer to matters concerning the self-administration of the Church (1548/1974).

III. THE SELF-ADMINISTRATION OF RELIGIONS AND CHRISTIAN CREEDS

1. ISRAELITE COMMUNITIES

Israelite Communities are governed by the provisions of L. 2456/1920, as these have been amended. Under these provisions, the Communities are legal persons under public law. In cities where more than five Israelite families reside and a synagogue is in operation, it is possible to found, by way of presidential decree, an Israelite community. Its members are *ipso jure* all the Israelites who reside there. The Community has the right to establish schools for the education of its youth. The Community is run by a community council, that is elected by its members. All those who have completed their 25th year of age are eligible for election. The Community council governs the Community and manages its property and all its affairs in general, such as those relating to its educational institutions and to its charitable associations. It also sets up special committees and is generally charged with any issue that concerns the Community.

The highest authority of the Community, that the rabbi and the community council answer to, is the community assembly. The number of its members is determined by the internal by-laws of every community. The totality of its adult members are eligible to elect and to be elected. The initial Law 2456/1920 already stipulated that this applied to both sexes.

In order to ensure the uniform representation of all the Israelite Communities of Greece and the coordination of their action, the “Central Israelite Council of Coordination and Advisory Opinion” (CIC) was established by ML 367/1945. Its members are twelve and they are elected for a three-year term by a special assembly of delegates from all the Communities. The same assembly also elects the archrabbi of Greece. The specifics of the assembly are determined by the internal by-laws of the CIC, that are drafted by the latter and are ratified by Presidential Decree.¹¹

11 The legal bibliography on the status of the Jews in Greece is confined mainly to their family law. See A. *Moissis*, Εισαγωγή εις το οικογενειακόν δίκαιον των εν Ελλάδι Ισραηλιτών, [: Introduction to the Family Law of the Jews in Greece], Thessaloniki 1934, *passim*; Ch. *Fragistas*, Ερμηνεία του Αστικού Κώδικος. Εισαγωγικός Νόμος, (άρθρο 6), [: Interpretation of the Introductory Law of the Civil Code, Article 6],

2. MUSLIMS

The religious self-administration of the Muslims is protected by the provisions on religious freedom of the Constitution (article 13). For the Muslims of W. Thrace in particular, a special regime is in effect.¹² The Treaty of Lausanne (1923) recognizes them as a religious minority with specific rights. Already before this treaty, L. 2345/1920 had been enacted, which is still in force today, with all the amendments that it has undergone. Under its general provisions, the *muftis* are the religious leaders of the Muslims of W. Thrace. There are three muftis: in Xanthi, in Komotini and in Didymoticho. The mufti is a civil servant and is paid a salary from the public treasury like all other civil servants. But he is subject to no restriction, nor to the rules of civil service discipline. All the Muslim religious ministers and the sacred establishments in his district fall under his authority. Moreover, he has judicial jurisdiction among Muslims in marriage, divorce, alimony, guardianship, tutelage, emancipation of minors, Islamic wills and testaments and intestacy. The mufti adjudicates implementing the Islamic law (*sharia'h*). He also has advisory powers over any matter of religious, inheritance and family Islamic law. Moreover, W. Thrace is the seat of four

Athens 1963; *Theophano Papazissi*, "Greek Jews and Family Law: From Judaic Law to the Civil Code", *The Jewish Communities of Southeastern Europe. From the Fifteenth Century to the End of World War II*, Thessaloniki (Institute for Balkan Studies) 1997, 385-396.

- 12 See *K. Andreades*, *The Muslim Minority in Western Thrace*, Thessaloniki (Institute for Balkan Studies) 1956, 10-16; Ch. Fragistas, "Le droit musulman en Grèce", *Annales de la Faculte de Droit d' Istamboul*, 1955, 129-141; *Emm. Roukounas*, "Compétence de moufti pour connaître des matières qui relèvent du statut personnel de ressortissants grecs de religion musulman", *Revue Hellénique de Droit International* (1981) 151-157; *D. Tsourkas*, "Les juridictions musulmanes en Grèce", *Hellenic Review of International Law* 2 (1981-1982) 581-598; *S. Minaidis*, Η θρησκευτική ελευθερία των μουσουλμάνων στην ελληνική έννομη τάξη, [: The Religious Freedom of the Muslims in the Hellenic Legal Order], Athens-Komotini (Ant. Sakkoulas) 1990, passim; *Z. Mekos*, Οι αρμοδιότητες του μουφτή και η ελληνική νομοθεσία, [: The Competencies of the Mufti and Greek Legislation], Athens-Komotini (Ant. Sakkoulas) 1991; *St. Georgoulis*, Ο θεσμός του μουφτή στην ελληνική και αλλοδαπή έννομη τάξη, [: The Institution of the Mufti in the Greek and Foreign Legal Order], Athens-Komotini (Ant. Sakkoulas) 1993; *C. Tsitselikis*, «Η θέση του μουφτή στην ελληνική έννομη τάξη», [: The Status of the Mufti in the Hellenic Legal Order], *Νομικά Ζητήματα Θρησκευτικής Ετερότητας στην Ελλάδα*, Athens (Kritiki – Center of Research on Minority Groups) 1999, 271-330.

“Administrative Committees for Muslim Properties”. These Committees manage the property of the temples and the various Muslim establishments (schools, foundations).

In recent years, a serious issue concerning the election of the mufti came up. L. 2345/1920 prescribed his election by the faithful of each region. L. 1920/1991 assigned an 11-member committee of Muslims (chaired by the prefect) to decide on the candidates and then charged the Minister of Education and Cults to make the final choice. This system provoked some reactions among the Muslims. An individual who had been elected mufti from a provisional assembly of his fellow Muslims and had been accused by the state administration of usurpation of authority, eventually appealed to the European Court of Human Rights. The relevant case is *Serif v. Greece*. The European Court ruled in 1999 that the appellant, in the context of religious freedom, may perform the religious duties of a mufti for the benefit of his followers. As regards the administrative and judicial duties of the mufti, these are performed by the appointed, under the new law, muftis. At the same time, legal theory has repeatedly argued that the implementation of the shari‘ah especially in the field of family law, brings about rampant violations of the constitutional rights of Muslims as Greek citizens. And this is because the shari‘ah advocates the inferior status of women. But it is certain that the legislator is hesitant about proceeding with the adoption of measures.

3. OTHER CHRISTIAN CULTS

In contrary to current practice vis-à-vis the Orthodox Church, the State has refrained from interfering by law with the self-administration of the other Christian cults. Moreover, no laws concerning their status and their administration have been issued. The Christian confessions are organized as societies of civil law. A necessary supplement to the right of the adherents of every cult to constitute religious associations – a right derived from the freedom of religious conscience, (Constitution 13, § 1) – is their right to be administered according to their own religious law, no doubt always subject to the understanding that its provisions are not contrary to the Constitution and public order. Otherwise, the civil right of religious freedom is cancelled out. However, in any case, the various Christian confessions, thanks to the abstinence of the legislator, enjoy a broader self-administration in

comparison with that of the prevailing Orthodox religion. Using the specific judgment of the Council of State as our standard, we cannot but conclude that the self-administration of the Orthodox Church is necessarily limited owing to the regime of state-law rule.

IV. STATE SUPERVISION OF RELIGION

1. THE SUPERVISING AGENCIES

1.1 MINISTRY OF NATIONAL EDUCATION AND CULTS

General state supervision of all the religions in Greece is entrusted to the General Secretariat of Cults of the Ministry of National Education and Cults, which was instituted under Presidential Decree 417/1987. Its duties include:

1. The supervision of the implementation of government policy in the area of cults, and
2. the duties of the departments of Ecclesiastical Administration, of Ecclesiastical Education and Religious Instruction, and of Persons of a Different Cult and of a Different Religion, which were already provided for in the Ministry of National Education and Cults.

a) Department of Ecclesiastical Administration

This department is divided into two branches: the Ecclesiastical Administrative Affairs Division; and the Division of Holy Churches (parishes), Holy Monasteries, and Parish Priests. Their duties are limited exclusively to matters of the prevailing religion and only within the Hellenic territory. Thus, the Ecclesiastical Administrative Affairs Division is responsible for recognition and matters pertaining to the status of the bishops of the Churches of Greece and Crete; supervision of the implementation of the constitution and of the legislation on the organization and the administration of the Churches of Greece and Crete, of the metropolises of the Dodecanese, of the religious associations and foundations, as well as their supervision according to the laws and the sanction of their acts; the founding, the abolishment and the merger of metropolises; the exercise of supervision of the management of the property of the Churches of Greece

and Crete, as well as of the ecclesiastical legal entities of public right. The Division of Holy Churches, Holy Monasteries, and Parish Priests concerns itself with the implementation of legislation on monasteries and hermitages (but not those of the peninsula of Mount Athos), churches, vicarages and their personnel; the expropriation of land for the purposes of erecting or enlarging churches; and the constitution of collection committees for collections in favor of churches when these collections are carried out beyond the boundaries of a single prefecture.

b) Department of Ecclesiastical Education and Religious Instruction.

This department is made up of the offices of Personnel and of Administration. The Personnel Office is responsible for the appointment and the official status of the personnel of the schools of ecclesiastical education, of the Apostolic Diaconia of the Church of Greece, and of the preachers. This office also drafts the budget of the General Secretariat of Cults. The Office of Administration is in charge of the foundation and the supervision the schools of ecclesiastical education; the suspension of the operation, the conversion of form, the transfer of seat, the integration and the abolishment of these schools; the programs of their operations; affairs of registration, of transfer and examination of their students; affairs of administration and supervision of the Rizareios Ecclesiastical School (Athens) and the Athonias Ecclesiastical Academy (Karyes in Mount Athos); matters pertaining to the Apostolic Diaconia of the Church of Greece; the equivalence of the schools of ecclesiastical education to those of other public schools and to their diplomas; and affairs of religious instruction and of religious associations and foundations.

c) Department of Persons of a Different Cult and a Different Religion.

This department (named in a fashion that is paradoxical for a modern State) is comprised of the *Office of Persons of a Different Cult* and the *Office of Persons of a Different Religion*. The tasks of the *Office of Persons of a Different Cult* include dealing with proselytism, the procedures for entry into the country of foreign heterodox clergy and religious ministers, the procedures for the foundation and the operation of the places of worship of the non-Orthodox Christians, of divinity schools, seminaries, foundations and other legal entities, as well as the supervision of all of the above. The

same duties regarding the followers of religions other than the Christian one belong to the *Office of Persons of a Different Religion*. This office is also in charge of the appointment, the discharge, and matters of official status of the general chief rabbi, the chief rabbis and the Muslim muftis.

1.2 MINISTRY OF FOREIGN AFFAIRS

The Ministry of Foreign Affairs is also charged with responsibilities concerning the various cults. To my knowledge, it is internationally the only Ministry of Foreign Affairs to be institutionally assigned to religious affairs. More specifically, its Department of Ecclesiastical Affairs (or Churches) “is responsible, according to the existing legislation and in cooperation with the other co-responsible agencies and religious authorities, for the supervision, study and recommendation for the solution of all matters and affairs pertaining to the Orthodox and other Christian and non-Christian churches outside Greece, to the Orthodox Divinity Schools and Ecclesiastical Centers outside Greece, to the Clergy living abroad and to the Administration of Mount Athos”.

The Department of Ecclesiastical Affairs includes three offices. The first is the Office of Patriarchates-Autocephalous Churches. This Office is responsible for

- (a) overseeing relations of Greece with the Patriarchates and the other autocephalous churches, the World Council of Churches (WCC), the various cults and non-Orthodox churches, as well as the resolution of any relevant matter that arises;
- (b) supervising the relations among the Orthodox churches;
- (c) supervising the relations of the Orthodox churches with the other churches, the WCC and religious organizations;
- (d) providing every possible assistance to the senior Patriarchates and the Monastery of Mount Sinai; and
- (e) supervising the relations of the Ecumenical Patriarchate with the metropolises of the Dodecanese, the semi-autonomous Church of Crete, and the patriarchal monasteries and foundations in Greece.

The second office deals with Mount Athos and with the “Foreign Cults and Religions in Greece”. This office's duties include the regulation of any matter that refers to the exercise of state supervision on Mount Athos, and the supervision of cases that regard matters “of heterodox Churches, foreign Religions and foreign Ecclesiastical Educational Establishments, Foundations and Associations in Greece”. The third office of the department is the Office of Ecclesiastical Affairs of Greeks Living Abroad, Orthodox Divinity Schools and Ecclesiastical Centers. This Office is responsible for

- (a) protecting all ecclesiastical matters of Hellenes living abroad;
- (b) providing assistance to Hellenic clergy and lay persons for the study of Orthodox theology;
- (c) developing the activities of clergy, schools, foundations, and associations situated abroad; and
- (d) promoting cooperation between the Church of Greece and the Hellenic divinity schools with the Greek Orthodox churches abroad.

2. THE STATE SUPERVISION OF SELF-ADMINISTRATION

The acts of self-administration of the Orthodox Church are subject to state control. Under the regime of article 26, section 1 of Law 590/1977, this is a review of legitimacy and is exercised in three situations. The first situation is when for the completion of an act of the ecclesiastical authority, the law demands the cooperation of the state either

- (a) with the participation of state agencies in the final form of the act and within the boundaries of the joint administrative action (for example, in the election of a bishop as archbishop or metropolitan, which is completed only with the issuance of a presidential decree); or
- (b) in the form of the provision of sanction, so that the act of an ecclesiastical administrative organ is rendered executable. For example, for the erection of a place of worship of any religion, Mandatory Law 1369/1938 “On Holy Churches and Vicarages”, article 41, section 1 demands a license issued by the local Orthodox metropolitan and final sanction by the Ministry of Education and Cults.

Second, the review of legitimacy can be exercised with the participation of state officials in Church collective administrative organs. One example of this would be the participation of a judge and a tax official (an employee of the Public Revenue Services) in the metropolitan councils.

The third situation of state control occurs with the appellate procedures of the administrative courts (the Council of State and the administrative Courts of Appeal) on executory administrative acts of Church agencies, which have been issued in compliance with established legislation and pertain to administrative matters.

2.1 APPELLATE REVIEW OF THE COUNCIL OF STATE

The Orthodox Church in Greece is a spiritual and religious foundation, but, at the same time, it exercises a granted administrative power, implementing, as a public legal entity, the provisions of state legislation. Since the first years following its institution, the Council of State has subjected to its review all acts that pertain to administrative matters of agencies to which the state grants the administration of the Orthodox Church, to the extent these agencies are called upon to implement provisions of legislation. The Council of State uses three relevant criteria. First, the act should originate from those agencies to which the state has entrusted the administration of the Church (for example, the Holy Synod, the metropolises, the parish councils). Second, the contested act should be issued in compliance with state legislation. Third, the contested act should be both an exercise of administration – that is, it should regulate an administrative matter, not doctrines, worship, or general matters of a spiritual nature and be executory.

These acts may pertain to either the internal or the external affairs of the Church. Reviewable acts relating to the internal affairs of the Church consist of two types. One type includes those acts that refer to the general position, formation, operation, exercise of administration, etc., of the central and peripheral organs charged with Church administration, as well as the official status of its employees. This is so because all these are subject to a legislative regime which is established by the state. Examples of acts which have been reviewed include:

1. A decision of the Holy Synod concerning the appointment of members of the Permanent Holy Synod and the synodal committees, (judgment n° 1175/1975).
2. Acts by a metropolitan concerning the transfer, (5761/1974), discharge, (824/1949) and dismissal of a parish priest for relinquishing his duties, (1665/1949, 507/1983), and dismissal of a temporary parish priest from his position, (4625/1985).
3. An act of a metropolitan council refusing to grant credit for the payment of wages to a parish priest, (669/1949).
4. A decision of the PHS to file a document issued by the Ecumenical Patriarchate that constituted a retrial of the judicial case of a metropolitan – who had already been sentenced by an ecclesiastical court – and had been issued by the Patriarchate after the exercise of appeal, according to the old privileges of the Ecumenical Throne, (1983/1979).
5. A metropolitan's decision concerning an objection, submitted against the validity of the election of members of a superior parish delegation (250/1954) or concerning the appointment of an abbot and the regulation of the administration of a monastery, (2403/1965).
6. A decision of the PHS rejecting an appeal against the election of an abbot, (688/1977).
7. Acts surrounding the election of a metropolitan, (545/1978, 3856/1980).
8. The decision of a metropolitan concerning an appointment of a member of a monastery board, (511/1983).
9. Decisions of a monastic brotherhood on the election of an abbot, (2714/1984).
10. An act of the Organization for the Administration of Ecclesiastical Property which granted a license for construction of a temporary building made of aluminum and meant to be used as a church, (1382/1984).
11. A decision of the PHS, transferring a parish priest, (708/1983, 1416/1989). The second type of internal affairs acts subject to review

include those dealing with the administrative division of the Church, by which the local jurisdiction of ecclesiastical authorities is influenced. Examples of these acts include decisions of the Holy Synod subjecting a church to the jurisdiction of a specific metropolis (2063/1947) or setting of boundaries of metropolises (1588/1959), and acts of a metropolitan council concerning the detachment of the territory of a parish and its subjection to another (1/1945, 1162/1867) or concerning the setting of boundaries of a parish (981/1959).

The reviewable acts of the external affairs of ecclesiastical authorities include those enforceable acts of an administrative nature which are issued in compliance with existing legislation and influence the constitutionally established rights of citizens. Examples of acts which were admissibly contested before the Council of State include: 1. The orders of a metropolitan to a police authority to seal a private church, because the church had been unlawfully offered for public worship (219/1944, 2688/1970, 1626/1972, 2915/1983) or had been put into operation without legal license, (1731/1971). 2. The orders of a metropolitan to a police authority to demolish a private church because the church had been erected without observing the legal formalities, (1414/1963). 3. An omission on the part of the metropolitan to issue an order to seal a private church which had been unlawfully offered for public worship, (219/1944). 4. The refusal of a metropolitan to grant a marriage license (390/1971), or to spiritually dissolve a marriage pursuant to a judicial decision of divorce, (2635/1980).

These categories of acts are subject to the review of the Council of State whether they are of an individual or of a normative nature. Especially for the latter, it has become accepted that a regulation of the Church of Greece is admissibly contested by a plea in abatement, (866/1974, 960/1978). Therefore, if the time period set to contest it expires, its legitimacy is admissibly reviewed secondarily by contesting an act issued pursuant to this regulation of the ecclesiastical authority, (3234/1971).

Those acts of ecclesiastical authorities which have “spiritual and purely religious content” (491/1940, 583/1940) are not subject to the review of the Council of State. In this broad category one finds those acts which, based on the statutes of the holy canons, regulate matters relating to the creeds, worship, and teachings of the Church. Therefore, the Council of State has excluded from its jurisdiction acts such as a refusal of a metropolitan to

ordain one elected to the position of parish priest because of spiritual faults (491/1940, 583/1940) and the election of a bishop as a merely religious minister, which took place with the exclusive invocation of the holy canons and without assigning administrative duties, (5856/1980). However, if an act is of double-natured content – both spiritual and administrative in nature – then it may be contested, but only as to its administrative elements, (545-546/1978).

The Council of State had for decades excluded from its review the decisions of ecclesiastical courts under the exception of acts with solely spiritual content. In this field, the decisions of the Council of State shifted in focus at different times. It had initially ruled that the decisions of the ecclesiastical courts were not acts of administrative agencies; therefore, they were not subject to review by a plea in abatement (830/1940). Consequently, the Council of State called upon the very nature of the decisions of ecclesiastical courts, (2279/1953), but excluded them from appeal, because the review is permissible only from the decisions of the administrative courts; ecclesiastical courts are courts of a special penal nature and impose special penalties (2024/1965, 2298/1965, 2265/1969). More shifts in position in the Council of State's line of decisions followed (2800/1972, 2548/1973, 36/1975, 368/1977). The Council of State finally concluded (195/1987, 825/1988) that the ecclesiastical courts have the character of disciplinary councils, which, in order to safeguard the principles of the welfare state and just administration, should follow, at least as to their composition and the disciplinary procedure, the basic principles of disciplinary law. Moreover, the decisions issued by them, are contested by plea in abatement before the Council of State, as enforceable acts of administrative authorities (825/1988). Decision 1534/1992 of the Council of State has come full circle and annulled the decision of a metropolitan issued pursuant to the statutes of article 11 of L. 5383/1932, that is, as a bishop's court.

V. GENERAL CONCLUSIONS

The extent of self-administration is different for every creed, and dissimilarities exist even among those creeds that have the status of legal person under public law (Orthodox, Israelites, Muslims). Orthodox clergymen have no judicial powers, as do the Muslim muftis on matters of family and inheritance law of the faithful. Conversely, the muftis are not

elected from a body of ministers – such as the HSH in the Church of Greece – but are appointed by the Ministry of Education and Cults, under the procedure we mentioned above. The creeds that appear to enjoy the broadest range of self-administration – both outward and inward – are those that have not been lawfully recognized as legal persons under public law. These are primarily the Christian cults, of course with the exception of the prevailing religion. But at the same time, these cults are deprived of the privileges entailed by the legal personality under public law.

In reality, the prevailing religion enjoys a lesser degree of self-administration. And this is because under the regime of state-law rule, its own canon law is weakened and the laws that the Parliament passes on its behalf prevail. Regardless of the fact that the system of state-law rule ensures the prevailing religion with a special privileged regime, it is common knowledge that this same system renders the outward self-administration of the prevailing religion a trait of rather theoretical significance. Whereas its inward self-administration is on the one hand extensively existing – once again because of the state-law rule – but its expansion functions for the benefit of the metropolitans – individually and collectively as HSH and PHS. That is, to the contrary of what is stipulated in the canonical provisions of the prevailing religion as regards the laity and their broad participation in the ecclesiastical organization – that today is weak, if not nonexistent. And this situation is particularly convenient for the ecclesiastical hierarchy.