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**GREECE**

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## Introduction

1. ADF International is a global alliance-building legal organization that advocates for religious freedom, life, and marriage and family before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the European Commission and Parliament, the Fundamental Rights Agency of the European Union, the Organization for Security and Co-operation in Europe, and the Organization of American States.
2. This report details the human rights situation in Greece, particularly in regard to legal restrictions on speech. The report will highlight the stringent speech restrictions contained within the country’s criminal code, as well as its criminal provisions against proselytism. It is recommended that all such laws are abolished in line with Greece’s international obligations to uphold and defend freedom of expression.

### (a) Criminal Insult and Blasphemy Laws

#### *Legal Background*

3. Greece has some of the most restrictive speech laws in Europe. While all European countries restrict freedom of speech to some extent, Greece has a number of speech restrictions that *prima facie* violate its obligations to protect freedom of expression under international law.
4. The following examples from the Greek Criminal Code all represent serious threats to freedom of expression:

#### *Section 196, Criminal Code*

A religious officer, who in the performance of his works or in his public capacity, incites people to animosity against the state or other citizens, should be punished with imprisonment up to three years.

#### *Section 198, Criminal Code*

(1) Anyone who insults God in public and with malicious intent, in any way whatsoever, shall incur a prison sentence of up to two years.

(2) Anyone who blasphemes in public in circumstances other than those specified in paragraph 1, thereby showing lack of respect towards God, shall incur a prison sentence of up to three months.

#### *Section 199, Criminal Code*

Anyone who insults the Eastern Orthodox Church or any other religion recognised in Greece, in public and with injurious intent, in any way whatsoever, shall incur a prison sentence of up to two years.

## Analysis

5. The fundamental right to freedom of expression is protected within international law to a high degree. Article 19 of the International Covenant on Civil and Political Rights (1966)<sup>1</sup> holds, “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”
6. Commenting on Article 19, the UN Human Rights Committee (HRC) has stated, “Freedom of opinion and freedom of expression are indispensable conditions for the full development of the person. They are essential for any society. They constitute the foundation stone for every free and democratic society.”<sup>2</sup> Additionally, “[f]reedom of expression is a necessary condition for the realization of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights.”<sup>3</sup>
7. Restrictions on the right to freedom of expression are only valid if they are provided by law, in pursuit of a legitimate aim, and necessary in a democratic society. As UN General Comment No. 34 concludes, “in every case in which the State restricts freedom of expression it is necessary to justify the prohibitions and their provisions in strict conformity with article 19.”<sup>4</sup>
8. The criminal offences listed above fall well short of international standards on freedom of expression and cannot be considered “necessary” in a democratic society.
9. There is no basis in international law to protect religions from insult. Moreover, attaching criminal liability to “showing a lack of respect towards God” is wide open to abuse and arbitrary application by State actors. Citizens in any democratic system must be able to speak freely about all matters, including religion, even if such speech is considered insulting or disrespectful to some.
10. As the European Court of Human Rights has held, the right to freedom of expression “is applicable not only to ‘information’ or ‘ideas’ that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population.”<sup>5</sup>
11. Numerous UN bodies have criticized national blasphemy laws and called for their abolition. For example, in General Comment No. 34 the Human Rights Committee stated

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<sup>1</sup> Ratified by Greece in 1997.

<sup>2</sup> UN General comment No. 34, 12 September 2011, CCPR/C/GC/34, § 2.

<sup>3</sup> *Id.*, at § 3.

<sup>4</sup> *Id.*, at § 52.

<sup>5</sup> *Handyside v. The United Kingdom* (1979-80) 1 E.H.R.R. 737, § 49.

that “[p]rohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the [ICCPR].” Similarly, the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, has said that “States should repeal blasphemy laws, which typically have a stifling effect on open dialogue and public discourse, often particularly affecting persons belonging to religious minorities.”<sup>6</sup> And the UN’s Rabat Plan of Action, spearheaded by the Office of the United Nations High Commissioner for Human Rights, noted that:

At the national level, blasphemy laws are counter-productive, since they may result in the de facto censure of all inter-religious/belief and intra-religious/belief dialogue, debate, and also criticism, most of which could be constructive, healthy and needed. ...Moreover, the right to freedom of religion or belief, as enshrined in relevant international legal standards, does not include the right to have a religion or a belief that is free from criticism or ridicule.<sup>7</sup>

12. Greece should therefore amend its criminal code in view of its obligations under international law to protect and promote freedom of expression and freedom of religion.

## **(b) Criminal Proselytism Laws**

### *Legal Background*

13. Closely connected with the free speech concerns cited above is the issue of evangelism or ‘proselytism’ in Greece. Under the Greek Constitution and criminal law, proselytism is prohibited in Greece.

14. Article 13(2) of the Greek Constitution provides:

There shall be freedom to practise 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.

15. Section 4 of Law no. 1363/1938, as amended by Law no. 1672/1939, provides:

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

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<sup>6</sup> A/HRC/25/58, 26 December 2013.

<sup>7</sup> Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, para 19, OHCHR, 2012.

persuasion (eterodoxos), with the aim of undermining those beliefs, either by any kind of inducement or promise of an inducement or moral support or material assistance, or by fraudulent means or by taking advantage of the other person's inexperience, trust, need, low intellect or naïvety.

3. The commission of such an offence in a school or other educational establishment or philanthropic institution shall constitute a particularly aggravating circumstance.

### *Analysis*

16. Greece acceded to the International Covenant on Civil and Political Rights in 1997. ICCPR article 18 guarantees the right to freedom of thought, conscience and religion. This includes the “freedom to have or to adopt a religion or belief of [one’s] choice,” which is interpreted by the HRC in paragraph 5 of its General Comment 22 to include the right to “replace one’s current religion or belief with another or adopt atheistic views, as well as the right to retain one’s religion or belief.”
17. ICCPR article 18(2) states, “No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.” The HRC interprets this to include “the use of threat of physical force or penal sanctions” and policies and practices that restrict “access to education, medical care, [and] employment.” Additionally, Article 18 of the Universal Declaration of Human Rights (UDHR) guarantees “freedom to change [one’s] religion or belief.”
18. Given that people very rarely and perhaps never change religions without some form of engagement with other people, the right to change religion or belief necessarily includes the right to discuss religious ideas in a manner that can possibly lead to conversion. To legally punish one person or group for playing a role in another person’s or group’s conversion is therefore to deny the right to freely change religions. Such legal penalties create an atmosphere of intimidation that represses honest dialogue about religious ideas and further infringes upon the right to choose and change one’s religion.
19. The recent example of Emmanuel Damavolitis demonstrates the problems with Greece’s anti-proselytism law.
20. In 2006 Emmanuel Damavolitis was arrested by police and accused of converting one of his neighbours – a man who was over 30 years old at the time. After the conversion, the man faced extreme pressure from his family to renounce his new-found faith. He later displayed signs of mental illness, and his family complained that Emmanuel had taken advantage of him and manipulated him into converting.
21. Despite the testimony of the alleged victim, who stated in court that Emmanuel did not pressure him and that he decided of his own volition to be baptized as an adult, the

Greek courts found against Emmanuel. He was sentenced to four months in prison for committing the crime of proselytism and fined 300 Euros, plus the costs of the trial.

22. The Court of Appeals in Crete upheld this decision and increased the fine to 840 Euros. An appeal to the Greek Supreme Court was filed in 2012, but the court denied the application. The case is now before the European Court of Human Rights.<sup>8</sup>
23. As is clear from this example, the Greek prohibition on proselytism is vague and has been interpreted as meaning that sharing one's faith with another person, or even attempting to persuade another person of the superiority of one faith over another, may be considered illegal.
24. The prohibitions in the Greek constitution and Section 4 of Law no. 1363/1938 therefore are in violation of the rights enumerated in articles 18 and 19 ICCPR, as well as other human rights treaties to which Greece is a party, including the European Convention on Human Rights.
25. In his report on the "Right to conversion as part of freedom of religion or belief", Special Rapporteur Heiner Bielefeldt recommended the following:

States should further clarify that freedom of religion or belief includes the right to try to convert others by non-coercive means of communication and persuasion. This includes, inter alia, the dissemination of literature and other material relating to religion or belief;

States should repeal vague provisions against so-called "proselytism", "unethical conversion", "apostasy" and "blasphemy" and should reform respective legislation to align it with the provisions of article 18 (3) of the International Covenant on Civil and Political Rights.<sup>9</sup>

26. ADF International shares the view of the Special Rapporteur.

### **(c) Recommendations**

27. In view of the above, ADF International has the following recommendations:

- Amend the criminal code in view of Greece's obligations under international law to protect and promote freedom of expression and freedom of religion. In particular, repeal sections 196, 198 and 199;
- Abolish the criminal ban on proselytism and encourage the free exchange of ideas and religious beliefs;
- Recognize that freedom of religion includes the right to try to convert others by non-coercive means of communication and persuasion.

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<sup>8</sup> More information available at: <http://adfinternational.org/2014/06/23/damavolitis-v-greece/>.

<sup>9</sup> 13 August 2012, A/67/303, §§ 69(f) and 69(g).