



ADF INTERNATIONAL

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**GREECE**

**Submission by:**

ADF International  
Rue du Pré-de-la-Bichette 1  
1202 Geneva, Switzerland

Web: [www.ADFinternational.org](http://www.ADFinternational.org)

## Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people 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, and the Organization of American States. ADF International is also a participant in the FRA Fundamental Rights Platform.
2. This report highlights a number of legal restrictions on the exercise of the rights to freedom of religion and freedom of expression in Greece, and the State’s failure to guarantee respect for and protection of religious minorities. The report also focuses on Greece’s prohibition homeschooling, explaining why it represents a violation of the rights of parents to ensure the education of their children in conformity with their own convictions.

### (a) Freedom of Religion or Belief

3. Greece has a population of approximately 10.8 million. According to a 2017 Pew Research survey, about 90% of the population are Greek Orthodox, 3% other Christian, 2% Muslim, and 5% other or non-religious.<sup>1</sup> Accordingly, Article 3 of the Greek Constitution recognizes that the prevailing religion in Greece is ‘is that of the Eastern Orthodox Church of Christ.’
4. Article 13(1) of the Constitution protects ‘freedom of religious conscience’ and establishes that ‘the enjoyment of civil rights and liberties does not depend on the individual’s religious beliefs.’<sup>2</sup> The free exercise of this fundamental right, however, is limited in a manner incompatible with international human rights law. In particular, Article 13(2) establishes that proselytism ‘is explicitly prohibited’ while, according to its paragraph 4, ‘No person shall be exempt from discharging his obligations to the State or may refuse to comply with the laws by reason of his religious convictions.’<sup>3</sup>
5. Article 14 of the Constitution guarantees freedom of expression, stating that ‘Every person may express and propagate his thoughts orally, in writing and through the press in compliance with the laws of the State.’ The same provision also prohibits censorship. However, publications may be seized in cases of ‘an offence against the Christian or any other known religion.’<sup>4</sup>
6. The prohibition of proselytism is also regulated in Law No. 1363/1938. It defines proselytism as ‘any direct or indirect attempt to intrude on the religious beliefs of a person of different religious persuasion (eterodoxos), with the aim of undermining those beliefs,

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<sup>1</sup> Pew Research Center, ‘Religious Belief and National Belonging in Central and Eastern Europe’ (10 May 2017) <<https://www.pewforum.org/2017/05/10/religious-affiliation/>>.

<sup>2</sup> 2001 Constitution of Greece, art. 13.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid., art.14.

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 naivety.' Persons who engage in such acts are liable to imprisonment and a fine.

7. Greece's Western Thrace region, the region closest to the Turkish border, is home to over 150,000 Muslims. The rights of Muslims in this region are guaranteed under the 1923 Treaty of Lausanne. According to this international treaty, Muslims have the right to elect their own muftis i.e. religious clerics.<sup>5</sup> However, in 2019, a presidential decree stipulated that all of the muftis' staff – from clerks to archivists – would be appointed by the State, relieving muftis of any organizational authority. Worryingly, the commissions that appoint Imams and Muslim instructors are largely composed of Orthodox civil servants.<sup>6</sup>
8. Another presidential decree issued in 2018 placed the administration of mosques in the Western Thrace and appointment of Imams in those mosques under the responsibility of the national Ministry of Education.<sup>7</sup> This same decree also entrusted said Ministry with the right to govern and inspect mosques, and the right to shut down madrassas (Muslim schools) in violation of the 1923 Treaty of Lausanne.<sup>8</sup> In August 2020, 8 more Muslim schools were shut down by the government, bringing the number to 115, less than half of the 231 school present 25 years prior.<sup>9</sup>
9. Finally, Islamic charitable foundations continues to face serious challenges in terms of management and administration. While some legal guarantees for their autonomous functioning already exist, in practice, these charities are still administered by state-appointed administrative boards. Moreover, excessive taxes and legal sanctions on properties owned by the Muslim charitable foundations continue to be imposed by the Greek authorities, resulting in unsustainable indebtedness of these charities.<sup>10</sup>

#### *Freedom of Religion or Belief in International Law*

10. ICCPR article 18 guarantees the right to freedom of thought, conscience, and religion. It states that, 'No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.' In its General Comment No. 22, the Human

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<sup>5</sup> 1923 Treaty of Lausanne, art. 40 & 45.

<sup>6</sup> Daily Sabah, 'Greece causes outrage over violation of Muslim community's rights' (24 June 2019) <<https://www.dailysabah.com/minorities/2019/06/24/greece-causes-outrage-over-violation-of-muslim-communitys-rights>>; Daily Sabah, 'Greece keeps up pressure, denying Turks their rights' (24 August 2019) <<https://www.dailysabah.com/minorities/2019/08/24/greece-keeps-up-pressure-denying-turks-their-rights>>.

<sup>7</sup> Presidential Decree 18/2018. Government Gazette 31 A/2018: "Organisation of Ministry, Research and Religious Affairs". <[https://eacea.ec.europa.eu/national-policies/eurydice/content/legislation-27\\_en](https://eacea.ec.europa.eu/national-policies/eurydice/content/legislation-27_en)>.

<sup>8</sup> M. Aydogan 'Turkey slams Greece over closing minority schools' (12 August 2020) Anadolu Agency <<https://www.aa.com.tr/en/politics/turkey-slams-greece-over-closing-minority-schools/1939084>>.

<sup>9</sup> A. Simos 'Greece's closure of minority schools in Western Thrace slammed by Turkey as 'assimilation'' (13 August 2020) The Greek Herald <<https://greekherald.com.au/news/greece/greeces-closure-minority-schools-western-thrace-slammed-turkey-assimilation/>>.

<sup>10</sup> Minority Rights Group Europe 'The Turkish Minority in Western Thrace: The Long Struggle for Rights and Recognition' (September 2019) <[https://minorityrights.org/wp-content/uploads/2019/10/MRG\\_Rep\\_WThrace\\_EN\\_Sept19.pdf](https://minorityrights.org/wp-content/uploads/2019/10/MRG_Rep_WThrace_EN_Sept19.pdf)>, p13.

Rights Committee clarified that:

'The right to freedom of thought, conscience and religion (which includes the freedom to hold beliefs) ... is far-reaching and profound; it encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others. The Committee draws the attention of States parties to the fact that the freedom of thought and the freedom of conscience are protected equally with the freedom of religion and belief.'<sup>11</sup>

11. The Human Rights Committee has also interpreted 'coercion' to entail 'the use of threat of physical force or penal sanctions' and policies and practices that restrict 'access to education, medical care, [and] employment.'<sup>12</sup> Given that people very rarely 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 religion. 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.
12. The prohibitions on proselytism in the Greek constitution and Article 4 of Law no. 1363/1938 far exceed the permissible narrow restrictions set out in ICCPR Article 18 as well as other international human rights instruments to which Greece is a party, including the European Convention on Human Rights. In particular, according to article 18(3) ICCPR, only such limitations on religious freedom are allowed 'as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.'
13. Likewise, Greece's constitutional provision subjecting religious freedom to the 'obligations to the State' is incompatible with its duties under international human rights law insofar as these obligations fall outside the narrow grounds for permissible limitations set out in the ICCPR.
14. On another note, seizing publications in cases of 'an offence against the Christian or any other known religion' severely interferes with the right to freedom of expression, as established in ICCPR Article 19. Although prohibiting expression that is deemed offensive towards a religion is usually justified under the guise of protecting freedom of religion, it is clear that this right aims at protecting individuals and not religions as such.
15. Finally, Greece's undue interference in the internal organization and practices of Muslim minority communities constitute a serious violation of freedom of religion and a form of discrimination. As noted by the Human Rights Committee, 'The fact that a religion is recognized as a State religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the

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<sup>11</sup> UN Human Rights Committee 'CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)' (30 July 1993) CCPR/C/21/Rev.1/Add.4, 1.

<sup>12</sup> *Ibid.*, 5.

enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents of other religions or non-believers.<sup>13</sup> This further violates Articles 2 and 26 of the ICCPR, namely, the guarantee of equal rights and freedom from discrimination on the basis of religion, and Article 27, guaranteeing the rights of religious minorities to profess and practise their faith.

## **(b) Parental Rights**

Article 2 (3) of Law No. 1566/1985 makes attendance of primary and secondary school mandatory for all children. Article 32(4) permits homeschooling only in exceptional cases for children with special needs. In this case, education can occur in the home with direct supervision and materials from the school.<sup>14</sup> Due to the exceptional nature of homeschooling in Greece, Greek parents are either effectively prohibited from doing so or risk the potential of losing custody of their children.

### *Parental Rights in International Law*

16. Greece's almost total prohibition of homeschooling is in clear violation of international human rights law. According to Article 26(3) of the Universal Declaration of Human Rights, 'Parents have a prior right to choose the kind of education that shall be given to their children.'<sup>15</sup>

17. Article 13 of the International Covenant on Economic, Social and Cultural Rights (CESCR) guarantees the right to education as well as the right to alternative forms of education. Article 13(3) reads:

'The States Parties [...] undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.'

18. Article 18(4) of the ICCPR provides that States must 'undertake to have respect for the liberty of parents [...] to ensure the religious and moral education of their children in conformity with their own convictions.'

Article 18(1) of the Convention on the Rights of the Child (CRC) states, 'Parents or, as the case may be, legal guardians have the primary responsibility for the upbringing and development of the child.' According to the Convention, parents have the primary responsibility for the upbringing and development of the child, whereas 'State Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities,' and not simply usurp those responsibilities.

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<sup>13</sup> Ibid., 9.

<sup>14</sup> HSLDA 'Legal status and resources on homeschooling in Greece' (9 October 2019) <<https://hslida.org/post/greece>>.

<sup>15</sup> UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III).

19. The 1994 Programme of Action of the International Conference on Population and Development emphasizes the fundamental role of parents in their children's education: 'The best interests of the child shall be the guiding principle of those responsible for his or her education and guidance; that *responsibility lies in the first place with the parents*.'<sup>16</sup>
20. Writing on the issue of home education, former UN Special Rapporteur on the Right to Education, Vernor Muñoz Villalobos, has affirmed that: 'Distance learning methods and home schooling represent valid options which could be developed in certain circumstances, bearing in mind that parents have the right to choose the appropriate type of education for their children ... The promotion and development of a system of public, government-funded education should not entail the suppression of forms of education that do not require attendance at a school.'<sup>17</sup>
21. It follows, from the provisions cited above, that it is for the parents to decide whether to send their child to a public school or pursue alternative forms of education in the best interests of the child. The Greek education law and its requirements for homeschooling must therefore be revised and amended in order for the domestic provisions to be compatible with international human rights law and standards.

### **(c) Recommendations**

22. In light of the aforementioned, ADF International suggests that the following recommendations be made to Greece:
- a. Ensure full respect for the rights to freedom of religion or belief and of expression, in accordance with relevant international human rights norms and standards;
  - b. Abolish the criminal ban on proselytism and encourage the free exchange of ideas and religious beliefs;
  - c. Guarantee the right to convert others by non-coercive means of communication and persuasion;
  - d. Amend Law No. 1566/1985 in order to end the criminalisation of home education, and guarantee the right to seek alternative forms of education;
  - e. Respect the right of parents to raise and educate their children in accordance with their moral and religious convictions, in accordance with international human rights law;

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<sup>16</sup> Programme of Action of the International Conference on Population and Development (1994) UN Doc. A/CONF.171/13/Rev.1 (ICPD), Principle 10.

<sup>17</sup> UN Human Rights Council, 'Addendum to the Report of the Special Rapporteur on the Right to Education, Mission to Germany' (9 March 2007) UN Doc A/HRC/4/29/Add.3  
<<https://www.refworld.org/docid/4623826d2.html>>.



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