

7 Greece

Debate and Challenges

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Introduction

Within Greece today, the Muslim community makes up almost 2 per cent of the total population and can be found mainly in the region of Western Thrace. It is the legacy of the long-lasting co-existence between Greeks and Ottoman Muslims, along with certain historical situations created both in Greece and the rest of South East Europe. This Muslim community, which is officially recognized by the Greek state, enjoys a unique legal status with regard to familial, hereditary and religious matters, along with a right to implement shari'a law, particularly in accordance with the school (*madhhab*) of Hanafiya.

Perhaps the only example of the implementation of shari'a in Europe, this situation has existed for many years in Greece, but has only recently (that is, in the last few decades) begun to spark discussion between Greek and European jurists, as well as supporters of human rights.¹ For its part, the Muslim community in general seems to be satisfied with this particular status, although they sometimes appeal to the Greek civil courts for relief from decisions by Islamic court functionaries (muftis) that are based on the principles of shari'a, usually ones involving family or inheritance.

In order to further our understanding of the particular situation of the Muslim community in Greece, we need to look at its historical circumstances, as well as the legal and social problems that have arisen from these. We also need to consider the perspectives and possible challenges resulting from the implementation of shari'a in the region of Western Thrace. For many observers, the special status of Muslims in Greece should be regarded as a kind of Ottoman 'neo-milletism', in that it is not only anachronistic, but also contrary to the wording of the Universal Declaration of Human Rights in terms of religious-legal decisions. For others, however, it represents a positive acceptance of religious diversity and constitutes an effective paradigm of skilful co-existence. In the latter case, though, it may be argued that legislators

from both sides (from both the Greek-secular and the Muslim-religious sphere) need to modernize and harmonize this situation with regard to current conceptions of human rights, especially in matters that involve family law, the relations between husbands and wives, divorce, inheritance and gender equality.

Geographical, Historical and Legal Overview

A survey of the history and emigration background of Muslims in Greece reveals that Greece, as well as the neighbouring Balkan countries, has a longstanding relationship of co-existence with Islam, mainly because of the special historical conditions in the region and the Greeks' subjugation to the Ottoman Empire from the late fourteenth to the first half of the twentieth century. In other words, nearly five centuries of co-existence have occurred. Independence was a gradual process that started in 1821 with the Greek Revolution against the Ottoman Empire, resulting in the establishment of the first independent nation state in South East Europe (1829-1831).

Ever since the Greek state was established, the Orthodox Christian religion has been predominant and therefore recognized as the official state religion. Christians of other confessions, as well as Muslims and Jews, were recognized as religious minorities in the protocols that were successively signed in London in 1829, 1830 and 1832, reflecting the Great Powers' interest in protecting religious minorities living within the borders of the first independent Greek state.² In this Greek state (which covered one-third of the area of modern Greece) there were only a few Muslims, and they were subject to the general Greek legislation without any special legal provisions. Their number rose with the annexation of Thessaly by Greece in 1881. The first international legal document that gave a detailed definition of Greece's obligations towards the Muslim community was the Convention of Constantinople, signed between Greece and the Sublime Porte on 2 July 1881.³ Tsitselikis notes that 'For the first time, a Muslim minority was protected as a legal entity enjoying religious and educational autonomy'.⁴

After the end of the Balkan Wars (1912-1913), when Greece's borders were extended, the number of Muslims rose again and the legal status of the Muslim minority was regulated by the Convention of Peace between Greece and Turkey (1-14 November 1913 in Athens).⁵ Article 11 of the Convention provided additional rights to Muslims with Greek citizenship, such as equality before the law, religious freedom and religious autonomy, and guaranteed their legal status as a commu-

nity. Article 9 of the Convention also recognized their religious leaders (*muftis, imams, hatibs and muezzins*), and provided special administrative autonomy regarding Muslim property (*waqf* or *vakf*). The Convention safeguarded the freedom to practice Islamic worship, and institutionalized communication between the religious leader of Thrace and the higher Muslim religious leader, Sheikh al-Islam of Constantinople. Several years later, in 1920, when the Kingdom of Greece acquired large portions of Ottoman territory (including Eastern Thrace up to 30 kilometres from Constantinople, and Smyrne [Izmir] and its wider administrative area), it confirmed its obligations concerning the protection of minorities under the Treaty of Sèvres of 10 August 1920.⁶

The legal status provided by the Convention of Athens lasted until 1923, when at the end of the Greek-Turkish War (1919-1922) the Lausanne Conference⁷ created a new geographical map for Greece and Turkey. The first issue discussed at the Conference was the final settlement of Greek-Turkish borders. The concept of a homogenous nation state dominated the Conference and resulted not only in a re-affirmation of the previous massive and compulsory exchanges of population between the two states, but also the implementation of a final exchange that had no precedent throughout the geographical extent and history of the area.⁸ The massive Greek-Turkish exchange meant a permanent uprooting of the Greek population of Turkey, and in particular of Asia Minor and Eastern Thrace, from ancestral homelands that they had inhabited since the 8th-6th centuries BC. It also resulted in the obligatory expatriation of Muslims who resided in Greece; that is, indigenous peoples (Greeks Valaades or Vallahades, Muslims of Crete, Pomaks and Roma) who had converted to Islam under the Ottoman Empire, or Turks who had resided in the area since the end of the 14th and beginning of the 15th century.⁹ The Muslims of Western Thrace were exempt from this exchange, and later, when Greece annexed the islands of the Dodecanese from the Italian occupation in 1947, a small Muslim population of Turkish origin was allowed to remain on the islands of Rhodes and Kos.¹⁰

The migration of the Muslims of Greece to Turkey and of the Christian Greeks from Turkey to Greece altered the demographic map of the two countries. This migration also caused Greece to change its legislation to accommodate the needs of the Muslims of Western Trace, who were guaranteed security by the Convention of the Treaty of Lausanne, according to which they received the official status of a 'Muslim minority'. According to the Proceedings of the Acts of the Conference,¹¹ the Turkish delegation objected to the use of 'racial' or 'ethnic' categories, instead emphasizing the religious character of the Greek minority in

Turkey.¹² Despite the Turkish delegation's arguments, the Convention of Lausanne (30 January 1923) made explicit reference to Greek inhabitants of Constantinople and Muslim inhabitants of Western Thrace.¹³ Likewise, the Greek Christians of Constantinople, Imbros, and Tenedos, referred to by the Turkish State as the 'non-Muslim minority-Rum Orthodox Christians,' were protected by the Treaty of Lausanne.¹⁴ The minority provisions of the Treaty of Lausanne remain in force today. Consequently, the faith, worship, customs, traditions, and education of Muslims of Greek citizenship are protected by the Greek Constitution and by special Greek legislation in accordance with the Treaty of Lausanne.¹⁵

In order for an outsider to understand what took place and what continues to take place at a political, legal and educational level in Greece, one has to consider the position of the minorities (both Christian and Muslim) that remained in Greece and Turkey in accordance with the Treaty of Lausanne.¹⁶ It is very important to point out that, on top of the charged historical background, there is also a constant debate over the *ethnic* as opposed to *religious* identity of the minorities.¹⁷ With regard to the Muslim minority of Western Thrace, recent decades have seen many appeals from formerly Muslim associations in the area to the European Court of Justice, in order to claim their right to be characterized as Turkish associations.¹⁸ The Greek state insists on characterizing them as 'Muslim associations,' based on the Treaty of Lausanne, emphasizing that these associations are not exclusively Turkish, but also include Pomaks and Roma. The fact remains, however, that the other ethnic groups, Pomaks and Roma, have been and still are forced to learn the Turkish language in the minority schools, which has led to their 'Turkification.'¹⁹ Regardless, though, of the dispute about religious and ethnic identity, the vibrant Muslim community of Thrace (which is estimated to have between 100,000 and 130,000 residents) certainly shares all the privileges enjoyed by every Greek citizen, while at the same time, its religious identity is protected by the Treaty of Lausanne. This is not entirely the case for the Greek minority that remained in Istanbul after the events of 1955. The prosperous Greek community in Istanbul, which then numbered 80,000 to 100,000, has today dwindled to approximately 2,000 to 4,000 people, mainly because they are denied their minority rights under the Lausanne Treaty.²⁰

The Mufti and So-Called Neo-Milletism

The faith, worship, customs, traditions, and education of Muslims of Greek citizenship are protected by the Greek Constitution and by special Greek legislation in accordance with the Treaty of Lausanne. This regulation of the relation between Greece and its Muslim citizens of Western Thrace is largely based on the ancient Ottoman system of *millet*s. In effect, this system continues to create a kind of 'neo-milletism.' The Muslim community, which has been recognized by the Greek state since 1881 and which is defined by its religion, has retained certain privileges. This is the reason why certain regulations of shari'a – in particular, religious rituals and family and inheritance law – remain in effect in Greece. These aspects of shari'a are applied by the mufti, the religious leader and judge of the Muslim community.²¹

The Greek state has special provisions for the religious needs of the Muslims of Thrace, although the legal decisions of their religious courts are restricted in this area. Muslim Greeks in Athens, for example, who wish to be married in a Muslim marriage, must go to the mufti appointed for their region. Muslim marriage is thus recognized by the Greek state.²² Muslim Greeks have approximately 300 mosques and *metjitia* (from *masjid*), smaller mosques for daily prayer (except for Fridays), and approximately 400 spiritual leaders (*imam*, *hatib*, *muezzin*). The mufti-ship is divided over three muftis, in Xanthi, Komotini and Didymotikhon, who together have the highest religious authority in Thrace. In addition, on the islands of Rhodes and Kos, there are three mosques with two *imams* and one mufti. The individual mufti-ship of Kos ceased to exist on 1948, and that on the island of Rhodes in 1974.

The mufti is the religious leader of the Muslims of Greek citizenship of Western Thrace; he also has the jurisdiction of *qadi*, that is, a judge who also acts as the highest religious teacher and interpreter-judge of Islamic Law, or shari'a. He presides over special courts, Religious Courts, where he rules on familial, inheritance, and religious matters (including marriages, divorces, tutelage, alimony, emancipation of minors, Islamic wills, and intestate succession) of the Muslim community according to the Hanafi school of shari'a. The mufti must be a graduate of Muslim Studies in theology and law, usually from the cities of Mecca or Medina, and be versed in the old Ottoman language, in which the decrees (*fatwa-fetva*) are written and redacted (which makes Thrace one of the few places where this old language from the Ottoman Empire is still practised). Other prerequisites for his appointment are that he must have served as an *imam* for at least a decade, be the epitome of morality, and possess excellent theological qualifications.

In his capacity as *qadi* (judge and religious teacher), the mufti is a civil servant of the Greek state. According to article 11 of the Convention of Athens, the mufti is appointed by the Greek state with a Presidential Decree after nomination by the Greek Ministry of Education and Religion. He receives a salary from the Greek Treasury, with the rank of General Director. The rulings of the mufti in the religious court are translated from Ottoman into Greek and are then validated by the Greek Courts of Law.²³

Due to the constant antagonism between Greece and Turkey on the issue of the Muslim minority, the issue of the election of the mufti of the Muslim community has remained prominent, primarily since 1980. Correspondingly, there are two views concerning the selection of the mufti. The first one is that the mufti is nominated by a committee of experts and is appointed by the Greek state.²⁴ This procedure follows the custom of Muslim states in which the mufti is appointed by the state. The other view is that the mufti should be elected. According to the second opinion, which is expressed by a number of Muslims, the election of the mufti should be a matter for the Muslim community. This latter view represents the new political tendencies of Islam, which are influenced by Turkish policy in the area.²⁵ Some contemporary legal scholars are in favour of the Muslim community electing their mufti. However, these researchers also suggest that the election would entail the abolition of shari'a. The rationale behind the claims of these legal experts is that Greece is the only European country in which shari'a is applied. In many cases, the application of shari'a is not compatible with the Universal Declaration of Human Rights and modern views, such as those concerning the equality of the sexes. What seems to be the main problem for these legal scholars is the fact that shari'a is considered antiquated, and the articles of the Convention of the Treaty of Lausanne should be modernized to benefit the Muslim community and its equality before the law.²⁶ The Council of Europe Parliamentary Assembly has moved towards this perspective in reference to the Greek and Turkish positions vis-à-vis minority issues. In regard to the issue of the implementation of shari'a in Greece, a report produced by the Council of Europe calls on Greece, among other things, to

“allow the Muslim minority to choose freely its Muftis as mere religious leaders (i.e., without judicial powers), through election or appointment, and thus to abolish the application of shari'a law – which raises serious questions of compatibility with the European Convention on Human Rights – as recommended by the Commissioner for Human Rights.”²⁷

The problem, though, of the election of the *mufti* is complicated by the broader political goals of the area's political representatives and deputies, who believe that the mufti's spiritual and legal powers restrict and undermine their authority. Depending on the region and political context, whole areas of residents are split on the issue of the 'election' of the mufti. The problem dividing the Muslims of the region is political. Turkey supports the elected muftis and their proponents,²⁸ while Greece appoints those who recognize their judicial authority. A consequence, therefore, of the proposed election of the mufti, rather than his appointment, would be the Greek state's refusal to recognize the implementation of shari'a.²⁹ The paradox is that the muftis and those advocating for their election do not seem willing to lose the legal rights that are provided to them by shari'a and to be deprived of their legal jurisdiction.

Another issue is the interaction between the internal legal system of shari'a family law and the Greek legal system. As a matter of principle, the civil courts do not have jurisdiction over cases that are under the jurisdiction of the mufti, according to the current legislation.³⁰ However, wherever there are cases involving the violation of basic human rights, such as underage marriage (according to article 1350 of the Civil Code, underage marriage is not allowed), divorce without both parties being present, marriage through representatives, and so forth, the mufti and the appointed judge in the area are obliged to find ways to safeguard the individual rights of the members of the Muslim Community (*lex ferenda*).³¹ The truth is, however, that the number of Muslims of Greek citizenship who appeal to civil courts is small, and it is even smaller for Muslim women of Greek citizenship, most likely for reasons of stigmatization and social isolation.

Despite the existence for many decades of a special Muslim minority education system, the most appropriate way to empower new generations of Muslims in Western Thrace would be to once again discuss issues concerning education, so that brave decisions could be made in favour of the Greek Muslims.³² We should note that for the last ten years, a pilot educational programme has been in place for the children of the minority community, with positive results.³³ Certainly, citizens educated in a wider European framework, whether it be the 'majority' or the 'minority', are more capable, at a psychological, political and social level, of achieving self-determination for their community.

In the light of the aforementioned debates, however, we should note that the majority of the Muslim community is generally satisfied with the unobstructed functioning of shari'a in Thrace. The people of the Muslim community seem to appreciate their freedom to apply shari'a

within European territory, especially when such a thing is impossible in modern Turkey. Even those who resort to elected and not appointed mufti prefer to perform Islamic religious marriages and to settle other family and inheritance matters according to the Muslim ethos, although the judicial acts of the elected mufti are typically not recognized by the Greek state. Through the application of shari'a, the Muslims of Western Thrace feel closer to their Islamic obligations and preserve the Islamic *umma* and its justice.

Immigration and New Challenges

All of the above, of course, concerns the Greek Muslims of the 'old' Islam, that is, Muslims with Greek citizenship in Western Thrace. The 'new' Islam is that of Muslim immigrants who have come to the country more recently, particularly since the 1990s, and who originate from all over the world (Asia, the Middle East, Africa, and so forth). They do not enjoy any special religious legal status and they are subject to Greek laws that apply, without any exception, to all immigrants.³⁴ They are not dealt with on the basis of their religion, but their nationality, and as such fall outside the privileged measures for Muslims with Greek nationality. Consequently, the special minority rights applying to 'old' Muslims do not apply to the 'new' Muslims, who are mostly concentrated outside Thrace. This has created a host of problems regarding the lack of mosques and Islamic cemeteries in these areas (especially in the city of Athens), and the Greek government has been slow in keeping its promise to allow the construction of a mosque in Athens and the creation of Muslim cemeteries. Consequently, there are now unofficial Muslim places of worship, which, according to the president of the Muslim Union in Athens,³⁵ number as many as a hundred; while there is no provision for the education and training of their religious teachers, the *imams*, as there is in other European countries, even though 'their quality is sometimes put under question.'³⁶ In some cases, such as in relation to the issue of burial, services are performed by the muftis of Western Thrace in Thrace, since there is no other place in Greece for Muslim burial. The legal jurisdiction of the mufti on familial and inheritance issues applies exclusively to Muslims of Greek citizenship and especially to those of Western Thrace, although this aspect is under consideration vis-à-vis article 13 of the Constitution regarding religious freedom.³⁷ Any other legal action between non-Greek Muslims can be impugned.

There is no special legislative accommodation for Muslim immigrants with regard to the teaching of Islam. In accordance with the introductory report for the Law on Multicultural Education prepared by the Greek Parliament's Scientific Council in 1997, the focus of modern multicultural education is not necessarily on support of religious difference, but on 'strengthening the ethnic identity of the various groups of foreigners living in the country'.³⁸ Greek schools, which found themselves unprepared in many areas, particularly in language training for foreign students and the management of multiculturalism, quickly began to adjust. Both legislators and the Ministry of Education hastened to resolve these issues, to the extent that it was possible, through the creation of so-called intercultural or multicultural schools as early as 1996.³⁹ At any rate, the children of all immigrants – regardless of their religion – study alongside Greek children in public schools from kindergarten to high school, without exception.

The Greek case could represent not a retrogressive example but one that expresses a smooth symbiosis and demonstrates respect for the various religious expressions of minorities. The main challenges that still exist are whether the implementation of shari'a can operate as a cohesive or a segregating bond between citizens, what European Muslims desire for themselves (is there only one will?), and how secular states can satisfy the many different tendencies within their societies.

Notes

- 1 The timing is not coincidental; parallel, intense and wide-ranging discussions about the possibility of Muslims in Europe implementing shari'a law are taking place in various European countries.
- 2 On 30 August 1832, the London Protocol was signed to ratify and reiterate the terms of the Treaty of Constantinople (21 July 1832) in connection with the border between Greece and the Ottoman Empire. See Paraskevas Konortas, *Les musulmanes de la Grèce entre 1821 et 1912* (Mémoire de DEA), Paris: École des Hautes Études en Sciences Sociales, 1980, pp. 16–17.
- 3 According to article 3: 'La vie, les biens, l'honneur, la religion et les coutumes de ceux des habitants des localités cédées à la Grèce qui resteront sous l'administration hellénique seront scrupuleusement respectés. Ils jouiront entièrement des mêmes droits civils et politiques que les sujets hellènes d'origine.' Article 8: 'La liberté ainsi que la pratique extérieure du culte sont assurées aux Musulmans dans les territoires cédés à la Grèce. Aucune atteinte ne sera portée à l'autonomie et à l'organisation hiérarchique des communautés musulmanes existantes ou qui pourraient se former, ni à l'administration des fonds et des immeubles qui leur appartiennent. Aucune entrave ne pourra être apportée aux rapports de ces communautés avec leurs Chefs spirituels en matière de reli-

- gion. Les Tribunaux du Chéri locaux continueront à exercer leur juridiction en matière purement religieuse.' Retrieved from the Greek Ministry for Foreign Affairs: <http://www.mfa.gr/> (accessed June 10, 2011).
- 4 Konstantinos Tsitselikis, 'The Legal Status of Islam in Greece', *Die Welt des Islams*, 2004 (Vol. 44, No. 3), pp. 402-431.
 - 5 The Convention of Peace between Greece and Turkey, also known under the name The Treaty of Athens, was ratified by the Law (ΔΣΙΓ') 4213/1913.
 - 6 Article 2 states: 'Greece undertakes to assure full and complete protection of life and liberty to all inhabitants of Greece without distinction of birth, nationality, language, race or religion. All inhabitants of Greece shall be entitled to the free exercise, whether public or private, of any creed, religion or belief, whose practices are not inconsistent with public order or public morals.' The mentioned minorities are Jews, Vlachs and Muslims. See *Traité concernant la Protection des Minorités en Grèce*, signé à Sèvres le 10 Août 1920, *Recueil des Traités de la Société des Nations*, No. 711, pp. 243-265. Retrieved from http://untreaty.un.org/unts/60001_120000/14/30/00027489.pdf (accessed December 29, 2011).
 - 7 13 November 1922 – 24 July 1923.
 - 8 The majority of the Muslim populations of the Balkan Peninsula were forced to abandon the region during the Balkan wars (1912-1913). The persecution of non-Turkish populations, who had lived for centuries on the coast of Asia Minor and the Black Sea, began at the dawn of the First World War (1914) on the pretext of the security of the collapsing Ottoman Empire and the emerging Turkish State of the Young Turks.
 - 9 'Following the defeat of the Greek Army in 1922 by nationalist Turkish forces, the Convention of Lausanne in 1923 specified the first compulsory exchange of populations ratified by an international organization. The arrival in Greece of over 1.2 million refugees and their settlement proved to be a watershed with far-reaching consequences for the country'; See Elisabeth Kontogiorgi, *Population Exchange in Greek Macedonia*, Oxford: Clarendon Press (Oxford Historical Monographs), 2006.
 - 10 *Treaty of Peace with Italy*, section v, article 14.
 - 11 *Proceedings of the Acts of the Conference* No 6, 1922, p. 445.
 - 12 'En Turquie, il existe des minorités de religion, non des minorités de race. La délégation turque n'accepte donc pas le principe de la protection des minorités de races ou de langue.' Retrieved from Photini Pazartzis, 'Le Status des Minorités en Grèce', *Annuaire Français de Droit International*, 1992 (issue xxxviii), pp. 377-391, here 388 (58). The Treaty of Lausanne brought into force the Treaty of Sevres (1920) on the topic of 'minorities in Greece', that regulated the legal obligations of Greece towards ethnic, religious, and linguistic minorities. See Tsitselikis, 'The Legal Status of Islam in Greece', p. 5: 'Muslims of Greece and non-Muslims of Turkey were granted special legal protection' according to articles 37-45 of the Treaty.' Cf. also FEK 238/25.9.1923.
 - 13 See article 2 of the Convention concerning the Exchange of Greek and Turkish Populations and Protocol, signed at Lausanne, 30 January 1923. Retrieved from <http://www.worldlii.org/int/other/LNTser/1925/14.html> (accessed December 29, 2011).

- 14 See article 14 of the Treaty: 'The islands of Imbros and Tenedos, remaining under Turkish sovereignty, shall enjoy a special administrative organization composed of local elements and furnishing every guarantee for the native non-Moslem population in so far as concerns local administration and the protection of persons and property. The maintenance of order will be assured therein by a police force recruited from amongst the local population by the local administration above provided for and placed under its orders. The agreements which have been, or may be, concluded between Greece and Turkey relating to the exchange of the Greek and Turkish populations will not be applied to the inhabitants of the islands of Imbros and Tenedos.'
- 15 On the legal issues that have arisen from the application of the Treaty of Lausanne until now, and interpretations of its provisions during the intervening period, see Vermund Aarbakke, *The Muslim Minority of Greek Thrace*, (Ph.D. Thesis), Vol. 1 & 2, Bergen: University of Bergen, 2000; Tsitselikis, 'The Legal Status of Islam in Greece', pp. 7-9; Konstantinos Tsitselikis, 'Muslims in Greece' in: R. Poz & W. Wieshaider (eds.), *Islam and the European Union*, Leuven-Paris-Dudley: Peeters, 2004, pp. 109-132; Dimos Tsourkas, 'Les juridictions musulmanes en Grèce', *Hellenic Review of International Relations*, 1981-1982 (Vol. 2, No. 11), pp. 582-598; Pazartzis, 'Le Status des Minorités en Grèce', pp. 377-391.
- 16 Here we should also add the Istanbul Pogrom (or September riots) of 1955 and the Cyprus issue. See Speros Vryonis, *The Mechanism of Catastrophe: The Turkish Pogrom of September 6-7, 1955, and the Destruction of the Greek Community of Istanbul*, New York: Greekworks, 2005. On the Cyprus issue, the September riots and their effects on the Muslims of Thrace (1955-1957), see the work of Kostis Tsioumis, *Η Μουσουλμανική μειονότητα της Θράκης (1950-1960)* (*The Muslim Minority of Thrace [1950-1960]*), Thessaloniki: Stamoulis, 2006, pp. 127-193.
- 17 According to Kostis Tsioumis, 'The case of Greece could not be excluded from the attitude of modern-nation states of the Balkans, where ethnic identity developed as opposed to the identity of the "other" and this reality has affected also the management of minority educational policy [...] This criterion, adopted by governmental and educational institutions, regarding the management of minority identity, was that of national security rather than its integration into the Greek society [...] The influence of the Cold War and the newly formed political and global circumstances (U.S. and NATO influence) were a catalyst [...] In this context can be understood the use of the terms "Muslim" and "Turk", the attitude of the Greek state and other social institutions on the issue of ethnic formation, and finally, the dynamics of the minority of Thrace and its identity management from the various ethnic components of the minority.' See Kostis Tsioumis' paper entitled "Η διαχείριση της μειονοτικής ταυτότητας στον ελληνικό χώρο και η διαμόρφωση της εκπαιδευτικής πολιτικής: Η περίπτωση των μουσουλμάνων της Θράκης 1923-1974" ("The management of minority identity in the Greek milieu and the formation of educational policy: the case of the Muslims of Thrace, 1923-1974"), at the 4th Conference of the European Society of Modern Greek Studies (Granada, 9-10 September 2010). Retrieved from http://www.eens.org/?page_id=1761 (accessed December 29, 2011).

- 18 See the Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Greece on 8-10 December 2008. Issue reviewed: *Human rights of minorities*, Retrieved from <https://wcd.coe.int/ViewDoc.jsp?id=1409353> (accessed December 29, 2011).
- 19 Photini Pazartzis, 'Le statut des minorités en Grèce', pp. 388-389. For a detailed description of a) Turkish nationalism in Western Thrace, b) the Greek policy towards the educational function of the Muslim minority and c) the competition between old-Muslims and Kemalists in the region of Western Thrace in 1954, and the Kemalists' dominance in imposing the Latin rather than Arabic system of writing the Turkish Language as well as their reinforcement of the Turkish national identity, see Tsioumis, *Η Μουσουλμανική μειονότητα της Θράκης (1950-1960)* (The Muslim Minority of Thrace [1950-1960]), pp. 112, 117-118, 121. See also Aarbakke, *The Muslim Minority of Greek Thrace*, pp. 139-140.
- 20 See the Minority Rights Group International report on Rum Orthodox Christians in Istanbul, Retrieved from <http://www.minorityrights.org/4412/turkey/rum-orthodox-christians.html> (accessed December 29, 2011).
- 21 The special courts applying the jurisdiction of the mufti were organized in detail by Law 2345 of 1920.
- 22 Only Greek Muslims residing in Thrace can, according to the prevailing opinion, bring their case before the mufti. See Aspasia Tsaoussi, Eleni Zervogianni 'Multiculturalism and Family Law: The Case of Greek Muslims', in: K. Boele-Woelki and Tone Sverdrup (eds.), *European Challenges in Contemporary Family Law*, Antwerp-Oxford-Portland: Intersentia, 2008, pp. 209-239, esp. 213 (20). However, according to other opinion, Muslim religious law can be applicable to all Greek Muslim citizens hailing from Thrace. See Ioannis Ktistakis, *Ιερός Νόμος του Ισλάμ και Μουσουλμάνοι Έλληνες Πολίτες* (Sacred Islamic Law and Greek Muslims), Athens: Sakkoulas, 2006, p. 36 (3).
- 23 Law 1920/1990 (on Muslim Religious Functionaries), especially article 5, paragraphs 1-3.
- 24 As part of the implementation of the Convention of Constantinople of 1881 between Greece and the Ottoman Empire, the Law (ΑΔΗ') 1038/1882 was promulgated, concerning the spiritual leaders of the Mohammedan (sic) communities, according to which the mufti is recognized as a public servant of the Greek state. The provisions of this law were abolished in accordance with article 15, paragraph 1 of the Law 2345/1920. The 24.12.1990 legislative act (ΦΕΚ Α' 182), which was ratified by the Law 1920/1991, introduced a procedural law rule by specifying the mufti's legal jurisdiction. Thus, the decisions of the mufti in cases that are contested within his jurisdiction become applicable and create a *res judicata*, if declared applicable by the local pertinent First Instance Court, in the process of the voluntary jurisdiction. Here, the court investigates whether the decision was issued within the geographical limits of the mufti's jurisdiction and whether the provisions that were applied were contrary to the Constitution. George Doudos, 'Η shari' a, ένα σύστημα δικαίου με δυναμική και μέλλον' ('shari' a, a legal system with dynamics and future), *Azinlikça*, 2009, (Vol. 53), available online at <http://www.azinlikca.net/ellinika-arthra/2010-01-07-15-30-25.html>.

- 25 Alexis Alexandris, 'Religion or Ethnicity. The Identity of the Minorities in Greece and Turkey', in R. Hirschon (ed.), *Crossing the Aegean*, Oxford, N.Y.: Berghahn Books, 2003, pp. 117-132, esp. 123-124.
- 26 See some related articles: Ioannis Konidaris, 'Greek-Turkish sacred (issues)', newspaper TO VIMA (27/6/2010): <http://www.tovima.gr/opinions/article/?aid=340293>; Report on Religious Freedom of the COE: <http://assembly.coe.int/main.asp?Link=/documents/workingdocs/doc09/edoc11860.htm> (§55). Lina Papadopoulou, 'Trapped in History: Greek Muslim Women Under the Sacred Islamic Law', *Annuaire International des Droits de l'Homme*, 2010 (Vol. 5), pp. 397-418. Retrieved from: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1877048 (accessed June 13, 2011).
- 27 Par. 18.5 of Working Document 11860, titled "Freedom of religion and other human rights for non-Muslim minorities in Turkey and for the Muslim minority in Thrace (eastern Greece)", April 21, 2009 (The Reporter was Michel Hunault). Retrieved from <http://assembly.coe.int/ASP/Doc/XrefViewHTML.asp?FileID=12681&Language=EN> (accessed June 13, 2011).
- 28 TURKEY-GREECE – Turkish foreign minister visits Xanthi Turkish Association and Xanthi's elected mufti. Retrieved from <http://www.thefreelibrary.com/TURKEYGREECE+Turkish+foreign+minister+visits+Xanthi+Turkish..-a0251124226> (accessed December 29, 2011).
- 29 İlhan Ahmet, 'İlhan Ahmet'ten Ksinidis'in müftü kanunuyula ilgili sözlerine cevap' (İlhan Ahmet replies to Xynidis' statements for the Muftiship), in the bilingual journal *AZINLIKÇA* (Turkish-Greek), 17 Ocak 2012; retrieved from <http://www.azinlikca.net/eidhseis/ilhan-axmet-ksinidis-mouftidwn-1252012.html> (accessed October 5, 2012).
- 30 Article 4 of Law 147/1914, act of legislation 24.12.1990 which has been in effect with the enactment 1920/1991.
- 31 George Doudos, "Το υποστατό των μουσουλμανικών γάμων που τελούνται δια πληρεξουσίου στα πλαίσια της ελληνικής έννομης τάξης" ("Muslim Marriages by Proxy in the Greek Legal system"), *Nomokanonika*, April 2004 (Vol. 3), Athens: Sakoulas, pp. 331-337. For the opposing legal opinions, see the Report by Thomas Hammarberg, on Human Rights of Minorities, (Strasbourg 2009); retrieved from <https://wcd.coe.int/ViewDoc.jsp?id=1409353> (§ 31) (accessed December 29, 2011).
- 32 Minority education does not refer only to religious education, but also to general education.
- 33 For the diplomatic-political processes and the educational policy concerning the Muslims of Western Thrace from 1923 onwards, see the submentioned works by Kostis Tsioumis. The directors of this programme, which is entitled *Project Enhancing Education for Minority Children (PEM)*, are Anna Frangoudaki and Thaleia Dragona. See the Programme for the Education of Muslim Children 1997-2008: Retrieved from <http://www.museduc.gr/en/index.php?page=1> (accessed June 10, 2011). For further details on the Muslim minorities issue, see my article: A. Ziaka, "Muslims and Muslim Education in Greece", in Ednan Aslan (ed.), *Islamic Education in Europe*, Vienna: Böhlau Verlag, 2009, pp. 141-179.

- 34 See the related Laws: 4310 (6/16 of August 1929), 1975/1991, PD 358 & 359/1997, Law 2910/2001 and 3536/2007. The issue of immigration was sudden and massive and the Greek state, despite the measures taken, has so far been unable to satisfactorily resolve the problem which is growing due to the daily influx of immigrants in the country.
- 35 Naim Elghadur, president of the Muslim Association of Greece, in a recent interview conducted by the reporter Georgia Dama for the *Eleftherotypia* newspaper (1 November 2011) notes the following concerning our topic: '[...] The Muslim Union is very concerned because it fears that the radical groups on the one hand and the extreme rightwing fanatics and Islamists on the other can agitate the social peace. And if the Muslims are aroused they will not be able to be restrained, because they are hopeless, unemployed and because they believe that if you are killed defending your right, you will go to heaven. This is why those who want the implementation of shari'a ought to immigrate to countries where it is implemented.' He concludes with a very interesting personal remark on the issue: 'today, shari'a cannot be in effect in any country, because there is no social protection and justice. Some,' he says characteristically, 'are forced to steal because they are hungry. It is unthinkable to cut off their hand.' Retrieved from *Eleftherotypia*: <http://www.enet.gr/?i=news.el.article&id=219088> (accessed June 1, 2011).
- 36 Jean-François Husson, *Training Imams in Europe. The Current Status*, Belgium: King Baudouin Foundation, 2007, p. 30; retrieved from King Baudouin Foundation: www.kbs-frb.be (accessed October 13, 2012).
- 37 On religious freedom in Greece, see Ch. Papastathis, 'Η Θρησκευτική Ελευθερία στην Ελλάδα' ('Religious Freedom in Greece'), Charalambos Papastathis & Rev. Gregory Papathomas (eds.), *Πολιτεία, Ορθόδοξη Εκκλησία και Θρησκείματα* (*The State, the Orthodox Church and Religions in Greece*), Athens: Epektassi, 2006, pp. 289-326 (the same article has also been published in the *Revue L'Année Canonique* 45 (pp. 295-309)).
- 38 George Mavrommatis and Konstantinos Tsitselikis, 'Η Εκπαίδευση των Μεταναστών στην Ελλάδα (1999-2003). Πολιτικές και Πρακτικές' ('The Education of Immigrants in Greece (1999-2003). Policies and Practices'), in: Pavlou M. and Christopoulos D. (eds.), *Η Ελλάδα της Μετανάστευσης* (*Greece of Migration*), Athens: Kritiki, Series of Studies KEMO, 2004, pp. 121-140, esp. 135-136.
- 39 Ziaka, "Muslims and Muslim Education in Greece," pp. 163-165; Konstantinos Tsioumis, "Εκπαιδευτική Πολιτική για τη διαπολιτισμική Εκπαίδευση στην Ελλάδα," (Educational Policy towards Intercultural Education in Greece), in: D. Syrri (ed.), *Συμβιώνοντας με τη Μετανάστευση* (*Living Together with Migration*), Athens: Ianos, 2011, pp. 143-150.

SECTION II

LAW VERSUS CULTURE

