

Внутренняя свобода и независимость церкви не означает, что государство не имеет возможностей контролировать религиозные организации.

За исключением нескольких позиций, юридический статус священнослужителей не отличается от статуса всех других граждан. Они, например, не могут быть членами жюри, рассматривающих тяжкие преступления, а также членами парламента - потому, что члены парламента не могут получать государственное жалование (членство в провинциальных и местных органах однако возможно). Есть еще ряд позиций, несовместимых со статусом священнослужителя (государственный канцлер, членство в аудиторских органах, судья, губернатор провинции и др.).

Отношения между церковью и государством в Бельгии можно кратко суммировать следующим образом.

1. Тут функционирует система, достаточно благоприятная для религии и устанавливающая скорее взаимную независимость, чем отделение в строгом смысле этого слова.

2. Хотя все религии имеют теоретически равные права, существуют важные юридические отличия между признанными и непризнанными религиями. В то же время Католическая церковь является на практике "первой среди равных" признанных религий.

3. Постепенная секуляризация сказывается на всей системе церковно-государственных отношений. Секуляризация не может быть охарактеризована как фронтальная атака на религию, но она ведет к потере полной автономии церковью во многих сферах. Ярким примером этого может служить влияние трудового законодательства на церковную жизнь и современные тенденции к установлению умеренного государственного контроля над исполнением внутрицерковных процедур.

STATE-CHURCH RELATIONS IN GREECE

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I. Constitutional framework of State-Church Relations

The majority of the Greek people - amounting to 95.2% of the total population of the country - are members of the Eastern Orthodox Church. For this reason, we begin with the relations between the Greek State and the Orthodox Church.

The theoretical framework covering these relations is an advanced form of caesaropapism, a system referred to in Greek literature as that of "State-law rule" in the ecclesiastical matters. According to the Constitution, the State has the right to legislate in respect of all administrative matters concerning the Church, even as to its internal structure. During the War of Independence of 1821 the Constitution of the emerging Greece: 1) established the Eastern Orthodox faith as the prevailing religion or "religion of the State", and also 2) guaranteed freedom of worship to the followers of other religions. The same Constitutions

contained no provisions concerning the State's right to legislate on Church matters. In 1831, the Great Powers imposed on Greece and absolute monarchy with Prince Otto of Bavaria as King. As he was under age, a three-member regency was proclaimed consisting of Bavarian officers. The Regency published the decree of 3. (15.)/14. - (27).4.1833, which established the "State-law rule" upon the Orthodox Church. A short time later, on 23.7.(4.8) 1833, with the decree on "The independence of the Greek Church" the State was made the exclusive legislative ruler and the Church was declared subject to the monarch who was proclaimed its head. Article 105 of the Constitution of 1844 contained a stipulation concerning Church administrative matters which could be regulated by law by the State.

There were several reasons for the imposition of the State's rule on the Orthodox Church: the very nature of monarchy and the Bavarian monarchy's fear of the Church becoming a point of attraction for all those opposing the regime, the latter a not unimportant threat given the political tradition of the Church throughout the Turkish occupation. We may also note his efforts to raise the cultural and living standard of the clergy, which were far from satisfactory.

The stipulation of the Constitution of 1844 concerning "State-law rule" in Church affairs is not repeated in the Constitutions of 1865, 1911, 1927 and 1952. This, however, does not mean that it ceased to be operative. A similar provision existed in the corresponding statutory Charter of the Church which had the force of State law. According to the Constitution of 1975, which is now in force, article 72, para. 1: bills concerning article 3 (position of the Church) and 13 (religious freedom) can be discussed by the Parliament in plenary session only and not in the summer session. Article 3, para. 1 contains the following fundamental statements concerning the position of the Church of Greece and its relations with the State:

1. Prevailing Religion

The prevailing religion is that of the Eastern Orthodox Church. The present Constitution, however, is different from that of 1952 on several points concerning particular aspects of the prevailing religion. As for the rest, the preamble of the Constitution (invoking the Holy Trinity) remains the same, this also holds for the oaths given by the President of the Republic (article 33, par. 2) and by members of Parliament (art. 59, par. I). The legal significance of the term "prevailing" has not changed. As in the past it means that

(1) the Orthodox Christian faith is the official religion of the Greek State,

(2) the Church, which embodies this faith, has its own legal status: it is a legal person under public law in its juridical relations, as well as its various services (article 1, para. 4 L. 590/1977 concerning the statutory Charter of the Church of Greece), and

(3) it is treated by the State with special interest and in a favourable manner, which is not extended to other faiths and religions. This is not inconsistent with the constitutional principles of equality, as explained below.

This special treatment

(1) concerns the Church itself and not its faithful individually, which is in accordance with the principle of equality because otherwise, in treating non-Orthodox differently, it would discriminate between citizens on the basis of their religious convictions,

(2) It concerns Initially the Orthodox Church of Greece and all other sees of the Ecumenical Patriarchate having their seat In Greece, but is also extended to all other Eastern Orthodox Churches of the East, as well as to those of the Diaspora (e.g. Constitution article 18, para. 8);

(3) is favourable in general and does not involve opposing a specific faith or religion and its cult, and

(4) it should not be considered as unconstitutional. We mention here as an example the case in the city of Patra (decision 261/1983) that the provision of article 11 of L.D. 3485/1955 compelling all consumers of electricity in that city to pay with their bill every month a special contribution for the construction of the Cathedral of St. Andrew was unconstitutional.

As regards the real content of the term "prevailing" we should note that, with the exception of the establishment of the Orthodox faith as the official religion (or religion of the State), other privileges are not limited only to that Church. In fact it has been maintained in theory - at least in part - that the Roman Catholic and Protestant Churches in Greece are also legal persons of public law and therefore exercise public administration; this is true for the situation prevailing before the enforcement of law 1230/1982 concerning civil marriage, when a license for such a marriage could be obtained by a non-Orthodox bishop for a member of his flock (according to article 1368 of the Civil Code, then in force). As regards the favourable treatment of the dominant religion by the civil legislator, we must bear in mind that this is extended to other religions too. We mention L. 1763/1988 on army conscription [article 6, para. 1(c)] which exempts all monks or novices, regardless of whether they are Orthodox or belong to another faith. And again L.D. 3843/1958 on income tax and L.D. 1249/1982 on property-tax, which exempt not only Orthodox but also non-Orthodox churches and monasteries. It was also decided that the provision of article 21 f L.D. 22.4/6.5.1926, which states that real property of all monasteries cannot be usucapted by third parties was to benefit Roman Catholic monasteries too.

2. The spiritual unity of the Orthodox Churches

Depending on the mode of its administration, an Orthodox Church can be autocephalous or autonomous. Autocephalous churches are independent as regards their administration, but within a dogmatic and canonical framework, deviation from it can lead to heresy or schism. This framework constitutes the spiritual unity of Orthodoxy, which is treated under the headings of dogmatic and canonical unity. Dogmatic unity consists in following the teachings of Holy Scripture, respecting tradition, and strict observance of the dogma as it was defined by the Ecumenical Councils and the local Synods. Canonical unity consists in the observance of at least the most important institutions of Church administration, which were also defined and acknowledged by the same Councils and Synods, as well as through the relations between Orthodox Churches.

The Constitutional legislator of 1844 had already defined the Church of Greece as inseparably united in doctrine with the Great Church of Christ in Constantinople and with every other Orthodox Church. How is this unity achieved? At this point in the constitution, we have after

"inseparably united in doctrine" the phrase "observing unwaveringly", as they do, the holy apostolic and synodal canons and sacred traditions". The above formulation, which has remained unchanged since 1844, was addressing spiritual unity. However, when the "State-law rule" was established, it led legal theory and jurisprudence to the view that at this point the Constitution safeguards the Holy Canons. The different approach led to diametrically opposite interpretations controversies over the constitutional validity of one or the other law, and to countless appeals to the Council of State (the supreme administrative court) against decisions of public and ecclesiastical administration. The conflict over the constitutional validity of the Holy Canons is permanently active in Greece.

Two main opinions have been expressed on the so-called constitutional validity of the Holy Canons:

(1) All the Holy Canons, as defined by the seven Ecumenical Councils (325 to 787 A.D.), the local Synods and the Fathers of the Church, whether they concern dogmatic or administrative issues, are validated by the Constitution. So any legislation enacted by the Greek State, regardless of its object, is unconstitutional if it is in opposition to the Holy Canons. This theory is supported by the Church, theological doctrine, and some jurists.

(2) According to another view, only the Holy Canons concerning the dogma of the Church and not those concerning its administration are constitutionally validated. Accordingly, the legislature can freely deal with all issues concerning Church administration in general. This is the theory supported by jurisprudence, most jurists, and public administration.

Both views agree in contrasting the phrase "inseparably united in doctrine" to that of "observing unwaveringly as they do..". According to both views, the Constitution introduces two quite different rules: a) dogmatic unity; and b) constitutional validation (or non-validation) of the Holy Canons and Tradition.

I believe that both theories lead to difficulties. Were the former to be followed it would impose a theocratic State, and we require equality of citizens to be considered as unconstitutional, since the Holy Canons will always support Christians (see Canon 11 of the Synod of Troullo, concerning relations between Christians and Jews). At the same time, the second theory turns the Church into a civil service. In addition to matters of dogma, there exist the Holy Canons confirming the Orthodox character of the Church, including its synodical regime. However, according to this second theory, the legislator may deal freely with this regime because the Holy Canons referring to it are administrative.

It all comes down to one provision in the Constitution: the engagement of both State and Church to ensure the spiritual unity of the latter. This conclusion is reached by considering both the text of the provision and the historical circumstance of its initial application (Constitution of 1844). At that time, there was a break in relations between the Church of Greece and the Ecumenical Patriarchate and other Orthodox Churches, because the Church of Greece was proclaimed autocephalous by a sudden decision (1833). The provision of the Constitution of 1844 was formulated in Parliament which thus wished to proclaim the Orthodox character of the Church of the new kingdom.

The Council of State (= the supreme administrative court) reached a similar conclusion in 1967. It not only admitted the constitutional validation of the Holy Canons concerning dogmatic matters, but also stated that the common legislator could not proceed to change fundamental administrative institutions which had long been established in the Orthodox Church. The Council of State reached the above conclusion by citing principally the Constitution of 1975, article 13, para. 1-2 (on religious liberty).

3. The self-government of the Church

The present Constitution, like its predecessor, guarantees the self-government of the Church. The Church is administered by the Holy Synod, made up of the bishops. However, there is a new point in the Constitution of 1975 specifying that the Orthodox Church of Greece is governed by the Holy Synod (of the Hierarchy) formed by all serving bishops (metropolitans) and by the Permanent Holy Synod formed also by them. These active bishops are the prelates who actually administer Church sees; those bishops who are not in active service (retired bishops) are excluded as are titular metropolitans. In the past, during periods of strife between State and Church or in irregular political situations, the government could convoke a Synod formed by bishops chosen from among metropolitans sympathetic to the government, and in this way could settle matters according to its wishes. This danger is now averted.

The same provision states that the Patriarchal Tome (1850) must be implemented as must the Patriarchal Synodic Act (1928). All the debates in Parliament or in the Council of State concerning the Constitution point to the fact that these two patriarchal documents are valid only as regards the formation of the Permanent Holy Synod. This self-government of the Church, its content and implementation are guaranteed by the Constitution, according to the provisions of article 72, paragraph 1, namely "state-law rule". At the same time, all acts enacted by persons entrusted by the State with the administration of the Greek Orthodox Church can be submitted to or cancelled by the Council of State. This holds for acts concerning the implementation of legal provisions on administration only, not on religious or dogmatic matters. The actual jurisprudence of the Council of State is very rich and at the same time its field of application is growing ever wider.

4. The field of application of Church autocephaly

Article 3, paragraph 1 of the Constitution decrees that "the Orthodox Church of Greece is autocephalous". Nevertheless, the "Orthodox Church of Greece" referred to in article 3, para. 1. does not unite all the Orthodox faithful in the Greek State.

The Hellenic territory is divided into five distinct ecclesiastical provinces:

- a) The provinces of Peloponessus, Roumeli, Cycladic Islands (1833), Ionian Islands (1864), Thessaly and Arta (1880) constitute the Autocephalous Church of Greece.
- b) Crete, since 1900, is semi-autonomous, spiritually dependent upon the Patriarchate of Constantinople.
- c) Epirus, Macedonia, Thrace and the Aegean Islands (1928), - the so-called "New Lands" from the ecclesiastical point of view, remain under the spiritual jurisdiction of the

Patriarchate and from the administration point of view are united with the autocephalous Church (L. 2615/1928 and Patriarchal Synodic Act, 1928).

d) The Dodecanese Islands remain within the spiritual and administrative jurisdictions of the Ecumenical Patriarchate.

e) Mount Athos (Света Гора) retains its ancient privileged regime of self-government, while remaining under the spiritual supervision of the Ecumenical Patriarchate. The Orthodox faithful residing in the province of another autocephalous Church are subject to it. The Greek Orthodox Diaspora (Western, Central and Northern Europe, America, Australia and the Far East) is dependent upon the Ecumenical Patriarchate.

II. Religious Freedom

Religious freedom in Greece is guaranteed by article 13 of the Constitution. According to it, religious freedom consists of freedom of conscience (paragraph 1) and freedom of worship (paragraph 2).

1. Freedom of religious conscience covers all religious, non-religious or atheistic beliefs, as well as dogmatic and administrative differences within any religion (heresy or schism) and all persons, Greek or alien, according to the principle of equality (Constitution 4 and 13, paragraph 1).

There were some deviations from this principle of equality, especially regarding the appointment of teachers in primary education. At elementary schools religious education conforms to the creed of the prevailing religion, and it is taught by regular teachers. There is a decision of the Council of State (1417/1949) according to which only an Orthodox can be appointed as a primary school teacher, teaching according to the dogma of the Eastern Church is not accepted as possible by a non-Orthodox. In practice, this also holds for nursery school teachers. This state of things, with an exception in the case of schools of religious minorities, was in force up to 1988, when it was abolished (L. 1771/1988). Accordingly, a non-Orthodox may now be appointed as teacher (in a school with at least two posts), and religion will be taught by his Orthodox colleague.

Similarly, the President of the Republic can take only a Christian oath. Article 33 of the Constitution does not contain a stipulation similar to that of article 59, concerning the oath of non-Christian members of Parliament. This is an indirect way of promoting the election of a Christian President only and does not conform to the principle of equality.

2. In contrast to the position concerning the freedom of religious conscience, the freedom of worship is subject to certain restrictions. According to article 13, paragraph 2 of the Constitution, a religion must be a "known religion", that is a religion without a secret dogma or a hidden cult. Furthermore, this cult should not offend public order and moral principles. This includes the whole set of civil, moral, social and economic principles and beliefs prevailing in Greek society at a given period. The above conditions are enforced by the public administration and, ultimately, by the courts. At the same time, another point is stressed by both the judiciary and theory: members of a certain religious denomination are not allowed to proselytize.

3. Proselytism is treated in Greece as an offence under the criminal law, this was established by F.L. 1363/1938, replaced by a provision of F.L. 1672/1939. Proselytism is a criminal offence when it is

carried out systematically and pressingly, directly or indirectly, by use of unlawful or immoral means amounting to a violation of the religious conscience of a person of a different religion in order to change his religious beliefs. Proselytism is punished severely: imprisonment, fines, police surveillance and even expulsion in case of a foreigner. In the Constitution of 1952, proselytism was considered an offence when it was directed at an Orthodox. The present Constitution (article 13, paragraph 2) protects all religions from similar injury.

4. The establishment of a place of worship for the various religions (church, house of prayer, synagogue or mosque) is licensed by the Ministry of Education and Cults. Among other prerequisites is the permission of the local Metropolitan of the prevailing Orthodox Church (F.L. 1369/1938, article 41, paragraph 1). It was decided by the Council of State that this applies to the establishment of houses of prayer, although the relevant law is not specific about it. The Council of State has also ruled that the Metropolitan's permission is only a recommendation which does not bind the Ministry, but if the Ministry did permit the establishment against the Metropolitan's recommendation, it would have to justify its decision. In practice, the Metropolitans are almost always against such developments and the Ministry does not as a rule oppose them. Therefore, the interested part has to appeal to the Council of State, which is usually accepted. The same holds good for the Orthodox following the Julian calendar (since 1924); they have their own hierarchy, clergy and parishes.

There is no particular procedure for the declaration of a religion as "known". In practice the admission of a religion as "known" takes place when the state's administration or the civil courts look into a matter of it, such as the establishment of a place of worship or of a house of prayer, the setting up of an association from its adherents, etc. In case that the administration or the civil courts don't recognize the particular religion as "known", then it can appeal to the administrative court or to the court of appeals (respectively) in order to dispute the denial. The Muslim and Jewish communities are (by law) legal persons of public law. Usually the non-Orthodox Christian religions and those Orthodox, who follow the old calendar, are organized in associations according to civil law, since no legislation admits their legal personality under public law.

III. Religion and Education

In primary and secondary school courses in religious education are taught according to the dogma and the tradition of the Eastern Church. Teaching is carried out by teachers in primary schools and graduates of Theology in secondary schools. Both are considered as civil servants and receive a salary from the State, while their appointment and the subject-matter which is taught is not controlled by the Church. Furthermore, in the island of Syros, where there is a substantial number of Catholic students, there is a number of Catholic teachers and professors in public schools - who are public servants - and teach the religious courses to them. According to the principle of religious freedom, non-Orthodox pupils are not obliged to follow the courses.

Parents will raise their children according to their own religious beliefs.

Each religious denomination can have its own schools in Greece. The State is also in charge of schools for the Muslim minority in Western Thrace as well as of an academy for future teachers. In these schools.

Education for future Orthodox priests is given in twenty-one schools (secondary schools, higher schools and schools for accelerated training). These establishments also provide room and board to the students. All expenses are met by the State and the teachers are considered civil servants. Both Universities in Athens and Thessaloniki have theological faculties, which non-Orthodox students can also attend.

IV. Financing of Religions

In Greece there is no Church tax. Every religion has its own revenues provided from movable and non-movable property and the offerings of the faithful. The State has, however, almost entirely assumed the financing of the prevailing religion: this is done under a variety of forms:

I. Direct or indirect subventions, such as the yearly subvention to the "Apostoliki Diakonia" (L. 976/1946, article 24, paragraph 1/8) and another granted to the Cathedral of Athens (L. 2844/1954), together with various grants to churches and monasteries for various reasons. At the same time, the State is charged with all the expenses of Orthodox clerical education.

2. The State provides the salaries of a) prelates, b) priests who serve in a parish, c) deacons (priests and deacons number up to 10.000), d) preachers and also e) laymen who are employed by the Orthodox Church. This practice started after World War II, but was initiated in 1917 with the payment of salaries, from the State, of the priests of the Russian communities in Athens, Thessaloniki and Piraeus. The same persons also receive pensions from the State when retired. The State, however, receives 35% of all parish revenues. The monks are also insured (for health and pension) by the "Farmers' Security Organisation". Priests serving in cemeteries and hospitals receive their salary from the local municipalities or the hospital administration. Priests serving in the Army and the Police force are raised to the rank of officers and receive the salary or pension of their rank. At the same time, priests can hold a post in the public or private sector - usually as teachers - with the appropriate income.

3. Tax exemption. The Orthodox Church as well as the other religious denominations enjoy various tax-exemptions such as those from real-estate tax, real-estate income tax, tax on real-estates transfers, donations and inheritance tax. More favourable tax-exemptions hold for Mount Athos.

4. Other financial privileges comprise the inalienability of real property belonging to the Orthodox Patriarchates of the Middle East as well as to the monasteries of the Ecumenical Patriarchate, and the fact that real property belonging to monasteries cannot be usucapted by third parties (the Court of Appeal in Thessaloniki has accepted that this also holds for Roman-Catholic monasteries, 1161/1983).

5. The State does not provide a salary to chanters and sacristans, these persons, however are not employed according to the general labour laws, because according to the Holy Canons they are considered as inferior clerics. Although only a few of these persons have this status, the old financial regime still holds in their case, that is when they are appointed by the metropolitan they receive a salary from the church which has been agreed by the parties. Other Church employees are remunerated as are civil servants of similar categories.

V. Matrimonial and Family Law

Civil marriage was introduced in Greece in 1982. Until that year, religious marriage was the only valid form, a civil marriage could take place only abroad and was not recognized in Greece. L 1250/1982 introduced the equal validity of religious and civil marriage, and at the same time abolished many marriage-impediments in the Civil Code. However, the Church of Greece decided to keep many of these impediments. Thus an Orthodox may not be married to a person of a different religion; nor when a third marriage has already taken place; nor when there is a close blood-relationship or spiritual affinity after baptism; nor when both parties have been convicted by a criminal court of adultery between them (although adultery is no longer considered a criminal offence). Marriage is not permitted to priests and monks and to a woman before ten months have elapsed after the dissolution of previous marriage.

Religious marriage can take place only after obtaining a license from the metropolitan. In practice, this amounts to the same license required by municipalities or communities for civil marriage. The Orthodox priest who will officiate at a wedding should be "in a regular position", that is entrusted with performing the mysteries of the Church. Otherwise, the marriage is not valid. Mixed marriages are celebrated according to both dogmas (Civil Code 1371).

A divorce is granted only by a civil court. The Church could intervene in the proceedings twice: 1) Before a divorce suit in an attempt for reconciliation (Code of Civil Procedure, article 593 and f.) which was abolished after the introduction of civil marriage; and 2) after the court's decision, the Church dissolved the marriage spiritually. This is still in force today for persons who after a first religious marriage wish to proceed to another.

ГОСУДАРСТВЕННО-ЦЕРКОВНЫЕ ОТНОШЕНИЯ В ГРЕЦИИ

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Конституция Греции гласит, что "Свобода религиозного сознания не подлежит нарушению. Полнота личных и гражданских прав индивида не зависит от его религиозных верований. Все признанные религии свободны в своих культовых отправлениях и находятся под защитой закона. Не допускаются лишь те формы религиозной практики и обязанности, которые нарушают общественный порядок или моральные принципы..."

Система церковно-государственных отношений в Греции, 95% населения которой составляют православные, базируется на следующих основных принципах: православная религия объявляется государственной; церковь рассматривается как корпоративный институт, действующий в системе публичного права; все ее деяния и волеизъявления также рассматриваются в контексте публичного права; церковь пользуется привилегированным статусом, тогда как зависимые от нее учреждения подлежат ведению государственного законодательства; государство надзирает за церковью и сообщает ей компетенцию и права, присущие государственным институтам. Государство вправе вмешиваться в дела церкви, даже во внутренние дела. Такое

вмешательство не опирается на прямые средства принуждения, а осуществляется через законодательство и правовую традицию.

Устав церкви Эллады, имеющий статус государственного закона, закрепляет за церковью, ее епископствами, приходскими, монастырями и иными церковными институтами положение корпоративных субъектов публичного права. Священный Синод церкви Эллады наделен правом издавать свои собственные нормативные документы, приобретающие законную силу с момента публикации в государственной газете.

Остается в силе закон о статусе иных церквей 1939 г., согласно которому возведение церкви, синагоги, мечети, наряду с иными формальностями, требует разрешения местного православного митрополита. И хотя отказ митрополита дать согласие не носит характера административного запрета, тем не менее соответствующие органы Министерства просвещения и культов всегда в подобных случаях отвергают прошения со стороны неправославных.

Прозелитизм в Греции является уголовным преступлением, если он осуществляется систематически и под давлением, прямым или косвенным образом, с использованием незаконных и аморальных средств, включающих насилие над совестью приверженцев различных религий, принуждающее их к смене религиозных верований.

Государством установлено гарантированное жалование и пенсии для диаконов и приходских священников; с 1969 г. начался переход на казенное жалование иерархов, а с 1980 г. государственное обеспечение стало нормой.

Свобода совести распространяется на приверженцев всех религий в Греции. Что же касается свободы богослужений, то тут имеются определенные изъятия: согласно Конституции (ст.13, §2) религия должна быть "известной", "признанной" религией и не содержать тайных догматов и культовых практик. Кроме того, они не должны нарушать общественный порядок и мораль.

В начальных и средних школах религиозное образование осуществляется согласно догматам и традициям Восточной (Православной) церкви. Неправославные учащиеся не обязаны посещать соответствующие курсы. Родители вправе воспитывать своих детей в соответствии со своими собственными религиозными верованиями. Каждая религиозная деноминация в Греции имеет, кроме того, собственные школы.

Гражданский брак введен в Греции в 1982 г. Он имеет одинаковую силу с церковным браком. До этого гражданским браком можно было сочетаться лишь за границей и он не имел законной силы в Греции. Развод в настоящее время осуществляет лишь гражданский суд. Церковь участвует в этом процессе дважды: 1) пытаясь уладить до развода разногласия между супругами и 2) духовно расторгая брак после решения суда (это решение остаётся в силе до тех пор, пока граждане, расторгшие первый брак, выразят желание вступить в новый).

Хотя из Гражданского кодекса устранены многочисленные препятствия к заключению брака, Православная церковь их соблюдает (запрет на брак с неправославным, на третий брак, в случае тесного кровного родства брачующихся или духовного родства, возникшего после крещения и т.д.).

Конституция Греции (ст.3, §1) провозглашает, что Православная церковь Греции является автокефальной. Но Православная церковь Греции (Эллады) не объединяет всех православных, живущих в Греческом государстве. Территория страны состоит из пяти различных в еклизиологическом отношении частей: территории, составляющие собственно автокефальную церковь; остров Крит, обладающий полуавтономией и духовно зависимый от

Константинопольского патриархата; т.наз. "Новые Земли", находящиеся в духовной юрисдикции Константинопольского патриархата, но с административной точки зрения объединённые с автокефальной церковью; территории, находящиеся и в духовной, и в административной юрисдикции Константинопольского патриархата; Гора Афон, пользующаяся древней привилегией самоуправления и находящаяся под духовным покровительством Константинопольского патриархата. Греческая православная диаспора в Западной, Центральной и Северной Европе, в Америке и на Дальнем Востоке, находится в юрисдикции Константинопольского (Вселенского) патриархата.

THE SPANISH SYSTEM OF CHURCH AND STATE

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I. A NECESSARY HISTORICAL APPROACH

An understanding of contemporary church-state relations in Spain requires, at least, a brief historical review.

The special relation between the Catholic Church and the Spanish state formally began in 589 B.C. when the visigothic King Recaredus proclaimed the religious (Catholic) and political unity of his kingdom at the Council of Toledo. During the reign of Ferdinand and Isabella in the fifteenth century, the Catholic Church assumed an essential role in Spanish society, culture and law.

The deep bond between Catholicism and political power persisted into the Constitutionalist Era of the nineteenth century, all nineteenth century Spanish constitutions (1812, 1837, 1869 and 1876), including that of the Spanish First Republic, declare the Catholic Church to be the established religion, a surprising result considering French liberal influence on those constitutions [1].

As a result of the Catholic Church's established status, freedom of worship did not exist during the nineteenth century (except under the constitution of 1869) nor during the twentieth century until 1968 (except under the constitution of 1931). Only the Catholic Church was allowed to proselyte. Even among Catholics, religious freedom was limited. Catholics could not contract civil marriages, but were required to marry according to canon law.

Relations between the Catholic Church and the Spanish government were not always easy, however, because the political authorities tried to control the national Church. Between 1835 and 1851, the government outlawed traditional church taxes (diezmos and primicias) and expropriated ninety percent of the Church's property at a time when the Catholic Church owned one-fifth of the land in Spain. These measures impoverished the Spanish Catholic Church to the point that the Church was unable to support itself. In 1851, the Church and the government signed an agreement (concordat) by which the government committed to provide the Spanish Catholic Church annual financial support from the state budget and a wide variety of tax exemptions [2].

During Spain's Second Republic (1931-1936), French republican ideas of antimonarchism and anticlericalism took hold in the law [3]. Republican regulations adopted a clear hostility toward