

(Homo)Sexuality and Gender-identity in Greece: established Church and Muslim minority versus new legislation

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Legislation regarding rights of non-heterosexual individuals, as well as the right to define one's own gender-identity remained for years a neglected issue in Greece. The progress realised in the last six years by the adoption of relevant laws was met differently by the representative authorities of the Christian and Muslim communities of the country, and has provoked strong reactions from the side of the established Church, the Orthodox Church of Greece.

- The discourse of the Greek Orthodox Church on Human Rights and its influence

Searching for a cohesive approach of the Greek Orthodox Church –the one within the borders of the Hellenic Republic- on human rights is a very difficult task indeed. The very structure of the Orthodox Church in Greece in fact, makes impossible to detect a unified stance on such matters, and the same principle is applicable to more specific issues, such as (homo)sexuality and gender definition. Despite the absence of a single, official, position however, the status and prestige the Orthodox Church enjoys in the Greek State and society makes it a very influential actor in all public debates and the legislative evolution on matters such as same-sex relationships and the right of a person to define its gender identity, are no exception to that fact.

In order to acquire a better understanding of the reasons for this absence of a single official position, it is necessary observe the way the Orthodox Church is organized in Greece. Because of the long process and the different phases that led to the current territorial form of the Hellenic Republic, the Orthodox Church in Greece is characterized by an administrative fragmentation. The Metropolises of the Peloponnese, Central Greece, the Cyclades, the Ionian Islands and Thessaly are included in the Autocephalous Church of Greece, whereas the Metropolises of Crete, Epirus, Macedonia, Thrace and the Dodecanese are in the direct or indirect jurisdiction of the Ecumenical Patriarchate of Constantinople, a religious authority completely independent from the said Autocephalus Church. To complicate matters even more, the monasteries of Mount Athos are auto-governed and pretty much entitled to adopt and promote their own views, with the Ecumenical Patriarchate exercising only a right of paramount authority. What is more, the status of the primus of the Orthodox Church of Greece –namely the Archbishop of Athens and all Greece- is rather weak within the Holy Synod (the administrative body of the Autocephalus Church). He serves mainly as a Chair, a first among equals whereas the Bishops are free to adopt their own

positions and take their own actions without the Archbishop having the power to impose a common position¹.

The almost absolute autonomy the Bishops have on all matters within their territories of jurisdiction, their very high local visibility, their networks with the local media, and the prestige they enjoy within their eparchies, makes it a commonplace that in many occasions they take in public a stance on human rights issues different to that expressed by the Holy Synod. As a matter of fact, a few Bishops, identifying Orthodoxy with Greek nationhood and civilization and viewing themselves as true patriots and guardians of the uniqueness of Hellenism, have gone as far as to publicly praise extreme right-wing groups or to adopt a heinous discourse towards other national or religious groups, for example the Jews or the Muslims, or groups which, in their own perceptions, are opposite to the ideas of Hellenism and Orthodoxy, notably the homosexuals². Other Bishops and clerics tend to adopt a more conciliatory discourse and to avoid speaking about issues linked to gender and sexuality. As in other Churches and religious communities, those among the Orthodox Bishops who would dare to speak positively about persons of non-heterosexual sexuality are very rare and this is even more the fact when it comes to non cis persons.

It is also important to note that the Hellenic Republic is a not-completely-secular State and this fact is reflected on the Greek society. Article 3 of the Republic's Constitution gives Orthodoxy the status of the prevailing (dominant) religion within the borders of the country. Moreover, all official ceremonies are held with the participation and rites of the Church, for example the beginning of the school year, the celebrations of national holidays or the inauguration of the term of new public servants. The Bishops enjoy an equal protocol rank to acting governing Ministers and the politicians in most cases aim at having good relations with their local Bishops, due to the influence of the latter in their respective constituencies. Additionally, in a country where the 97% of the population identify themselves as Orthodox Christians and the Church is viewed by many, be it citizens or political parties, as the ultimate standard bearer of the Hellenic civilization, imperial bygone glory and national identity, it is right to presume that the Church, albeit its internal diversity in the discourse on human rights and sexuality, is equipped with powerful, institutional or not, assets to ensure its motley views have a significantly influential public stand³.

- Legislative evolutions in Greece relating to sexuality and gender definition

The Hellenic Republic witnessed two major legal developments in the last six years, regarding same-sex marriage and gender identity. They were brought up by the laws 4356/2015 and 4491/2017 respectively.

¹ Koutroubas, Th. (2018). Diversity of Greek Orthodox Discourses on Human Rights. In E.-A. Diamantopoulou & L.-L. Christians (Eds.), *Orthodox Christianity and Human Rights in Europe* (pp. 189-206). Brussels: Peter Lang

² Idem

³ Idem

Law 4356/2015 (adopted following a conviction of Greece by the ECtHR in 2013 for the absence of relevant law) concerns the extension of civil unions to persons of the same sex. It is important to note that in Greece civil wedding is not compulsory and thus religious wedding gives full legal marital rights. The law of 2015 permits to persons either of the same or the opposite sex to legally enter in union but falls short from giving them full marital status – in fact the term “marriage” is not used in the text. Although law 4356/2015 does entitle members of civil unions to be regarded as family by the authorities, it does not regulate completely retirement or social insurance issues, nor does it take into account the possibility of adoption of children by people of the same sex⁴.

Law 4491/2017 is about the right of a person having their gender identity recognized by the authorities. The law provides a detailed framework on the matter. It defines the term “gender identity” as the manner under which a person self-identifies their gender, be this identification linked to physical or social characteristics, regardless to their birth-assigned gender. An individual has the right, according to the law, in cases when there is an incompatibility between their self-identified gender and their birth-assigned one, to have their gender changed in all official documents. The law sets the requirements needed for a person to change their legally-registered gender. The minimum age for such a change is fifteen years (with compulsory medical and parental consent) and the individual proceeding to the change should not be legally married. If the individual has children, born inside or outside of marriage, their parental rights and duties are not in any way affected by the change of their registered gender⁵.

- The reactions of the Greek-Orthodox Church to these legislative evolutions

The adoption of both laws was met with severe criticism by the established Church and certain conservative parts of the Greek society and political system. Despite of that, Law 4356/2015 was adopted with a large majority -194 out of the 300 MPs voting in favor- with nineteen MPs from the then main opposition centre-right-wing party also supporting it⁶. The official position adopted by the Autocephalus Church of Greece was against the law in question. Its Holy Synod, confirmed its previous relative resolutions on the matter (res. 17-3-2008, 17-10-2013, 19-6-2015) by issuing a new one the 9-12-2015, positioning itself against any other officially recognized way to form a family except the religious wedding performed according to Orthodox rites⁷. Moreover, the

⁴ Χαλάτση, Π. (2015, December 26). Διχάζει την κοινωνία και τους πολιτικούς το σύμφωνο συμβίωσης. Ανάκτηση April 15, 2021, από insider.gr: <https://www.insider.gr/eidiseis/4165/dihazei-tin-koinonia-kai-toys-politikoys-symfono-symbiosis> (in Greek)

⁵ Νόμος 4491/2017 (ΦΕΚ 152/Α/13-10-2017): Νομική αναγνώριση της ταυτότητας φύλου - Εθνικός Μηχανισμός Εκπόνησης, Παρακολούθησης και Αξιολόγησης των Σχεδίων Δράσης για τα Δικαιώματα του Παιδιού και άλλες διατάξεις (in Greek)

⁶ Χαλάτση, Π. (2015, December 26). Διχάζει την κοινωνία και τους πολιτικούς το σύμφωνο συμβίωσης. Ανάκτηση April 15, 2021, από insider.gr: <https://www.insider.gr/eidiseis/4165/dihazei-tin-koinonia-kai-toys-politikoys-symfono-symbiosis> (in Greek)

⁷ Lawspot.gr. (2018, October 29). *Συνταγματικός ο Νόμος 4356/2015 για το σύμφωνο συμβίωσης ομόφυλων ζευγαριών*. Ανάκτηση March 10, 2021, από lawspot.gr: <https://www.lawspot.gr/nomika-nea/syntagmatikos-o-nomos-4356-2015-gia-symfono-symviosis-omofylon-zeygarion> (in Greek)

Archbishop of Athens and all Greece Ieronimos (Liapis), Head of the Autocephalus Church of Greece, declared that “the union of two persons via marriage consists a major sacrament for the Church and anything different from that sacrament must be regarded as being foreign to the life of the Church”⁸. Known for his extreme-right wing sympathies and heinous discourse, the then Bishop of Kalavrita, Amvrosios (Lenis) called upon the faithful Christians “to spit on homosexuals and the MPs who voted in favor of the law”⁹. Even though several Bishops and high-ranked clerics have condemned in private or in public this statement, there was no official condemnation of it by the Holy Synod.

After the official publication of the said law, several Bishops, priests and a Christian NGO, appealed to the Council of State –the supreme administrative court of Greece– asking for its abolition, since, in their opinion, it was bringing prejudice against good morality, Christian orthodox teaching, the position of the Orthodox Church of Greece and the rights of its faithful. In its resolution 2003/2018, the Council of State rejected their appeal. The Court highlighted in fact that morality in a society is not of a still nature; it evolves through the time as do the socio-economic conditions and the perceptions of what is moral alter. As a result, despite the principal role of the Christian orthodox rules and traditions in the definition of morality for a long time, morality nowadays cannot be identified with these rules and traditions. Consequently, the Court observed that *“it is irrelevant if the law contradicts the ecclesiastical rules and traditions, as these rules concern the religious faith and conscience of the active members of the religious community who personally chose to conform to them, as well as their relation with the Church [...] and not the legal recognition and regulation of private relations between citizens, certain of whom follow anyway different religions”*. Thus, the Council of State concluded that law 4356/2015 does not challenge the Christian Orthodox faith or its prevailing status granted by the Constitution, nor the institutional role of the Autocephalus Church of Greece, and that the rights of the Christian orthodox citizens are not in any way menaced by the law, regardless to the opposition of their religious beliefs to it, given that respect and tolerance are fundamental elements of a democratic society¹⁰.

Law 4491/2017 concerning gender identity was met with a weaker political consensus with opposition from the Church playing an important role towards dissuading MPs to vote in favor. The then main opposition central-right wing party, New Democracy, which was at the beginning in favor of the legislation in question, changed its views days before the voting, aligning itself to the position of the Church on the matter, and

⁸ Romfea.gr. (2015, June 11). *Αντίδραση του Αρχιεπισκόπου για το σύμφωνο συμβίωσης*. Ανάκτηση April 14, 2021, από romfea.gr: <https://www.romfea.gr/ekklesia-ellados/1194-antidراسι-tou-archiepiskopou-gia-to-sumfono-symbiosis> (in Greek)

⁹ Χαλάτση, Π. (2015, December 26). *Διχάζει την κοινωνία και τους πολιτικούς το σύμφωνο συμβίωσης*. Ανάκτηση April 15, 2021, από insider.gr: <https://www.insider.gr/eidiseis/4165/dihazei-tin-koινωνia-kai-toys-politikoy-symfono-symbiosis> (in Greek)

¹⁰ Lawspot.gr. (2018, October 29). *Συνταγματικός ο Νόμος 4356/2015 για το σύμφωνο συμβίωσης ομόφυλων ζευγαριών*. Ανάκτηση March 10, 2021, από lawspot.gr: <https://www.lawspot.gr/nomikaneia/syntagmatikos-o-nomos-4356-2015-gia-symfono-symviosis-omofylon-zeygarion> (in Greek)

voting eventually against the bill. This change of views was met with intense criticism by the then Minister of Justice, who accused the opposition to identify with the ultra-conservative voices within the Church. The same Minister condemned the statements made by certain Bishops, who called for the exclusion of the MPs who voted in favor of the law from religious services¹¹.

The official position of the Holy Synod of the Autocephalus Church was much more severe than the one on the civil unions law. In an infuriated statement the Holy Synod claimed in fact that “*the bill challenges social attitudes on the matter, damages the institution of the family, contradicts both morality and common sense and primarily destructs the human being*”. The bill would also, according to the statement, multiply psychological disorders and create an “*explosive situation in schools*”. The relevant positions of the Church were that gender cannot be selected by the person since it constitutes a holy gift that the person must well use in order to reach sanctity. The Synod noted that the case law of the Greek courts covers potential gender-related problems linked to specific physical and biological disorders, which are assessed by physicians, who then report to the courts. Gender assignment therefore, according to the Synod, cannot be based on personal unscientific opinions¹².

The positions expressed by the Autocephalus Church referring to the laws on expanding civil unions to people of the same sex and recognizing the right to self-identify one’s gender, are representative of the majority of the Church’s approaches on issues of sexuality. Although the relevant stance of the Church, as mentioned above, is not unanimous, it does however enjoy extensive visibility and, given the Church’s institutional and social assets in Greece, is still capable of having a substantial – but not decisive - influence in Greek society and politics. The fact that the views of the Bishops under the jurisdiction of the Ecumenical Patriarchate of Constantinople are in general quite milder and that its primus, Patriarch Bartholomeos (Archontonis) almost never addresses issues relevant to such matters is probably contributing to diminish the impact of the views of the Autocephalus Church and its most conservative Bishops, on the society and its elected legislators.

- The reactions of the Greek Muslim Community

The Hellenic Republic counts two Muslim communities. One comprising the Greek citizens of Muslim religion, who inhabit the three provinces of Western Thrace, and are Turkish, Pomak and Roma speakers, and an “informal” one, composed of immigrants or refugees, who came to the country during the last twenty years, and are mostly of South Asian or African origin.

¹¹ Euronews. (2017, October 10). *Νόμος του κράτους η αλλαγή ταυτότητας φύλου από τα 15*. Ανάκτηση April 15, 2021, από gr.euronews.com: <https://gr.euronews.com/2017/10/10/nomos-toy-kratos-i-taftotita-allagis-fulou-apo-ta-15> (in Greek)

¹² Λακισάς, Α. (2017, October 6). «*Το νομοσχέδιο καταστρέφει τον άνθρωπο*». Ανάκτηση April 15, 2021, από kathimerini.gr: <https://www.kathimerini.gr/society/929486/to-nomoschedio-katastrefei-ton-anthropo/> (in Greek)

The first one still enjoys protection from the Treaty of Lausanne (July 1923), which exempted from the exchange of populations, agreed between Greece and Turkey in January 1923, the Orthodox Christians of Constantinople (today Istanbul), and the islands of Gökçeada (Imvros) and Bozcaada (Tenedos), on the one hand, and the Muslims of Western Thrace on the other hand, granting to both official minority status, and specific rights in their respective States. Its religious Heads are three Muftis, residing in the cities of Xanthi, Komotini and Didymoteicho, appointed by the Greek government. Xanthi and Komotini have also two “unofficial” Muftis, “elected” by a part of the community with the encouragement of the local Turkish consulate, as a reaction to the decision of the Greek government to appoint the “official” ones. These Muftis are acting as sharia law judges for all matters pertaining to personal status. Sharia law for such matters was compulsory for the members of the minority till 2018, when a law granted Greek Muslim citizens the right to choose between civilian and religious courts. It is interesting to note, that Greece counts also a very small number of citizens of Muslim religion living in the islands of Rhodes and Kos. These citizens were not concerned by the exchange of populations between Greece and Turkey, because the islands were at the time under Italian occupation and became Greek only in 1947 (Peace Treaty between Italy and Greece). This community worships in their traditional mosques, enjoying full official recognition.

The second one does not have any real representative institution of religious nature (or of any nature for that matter), as most of its members are not Greek citizens and a big number of them are in the country illegally. They mostly worship in informal mosques, although an official mosque was constructed with public funds on the outskirts of Athens, and was inaugurated just before the second COVID-19 lockdown, in the first days of the month of November 2020.

At the time of the adoption of the two above-mentioned laws, four MPs originating from the Muslim community of Western Thrace were seating in the Hellenic Parliament. Three out of them have voted in favour of 4356/2015 and 4491/2017. Their vote was not met with significant criticism within their community and there were no major reactions from the community’s leadership against these laws. It is interesting to note that at least one out of the four above-mentioned MPs is openly non-religious, and that three out of the four were elected with the left-wing secularist political party “Syriza”.¹³

In general gender and sexuality related issues are not openly discussed within the Muslim minority of Western Thrace, the majority of the members of which are quite moderate when it comes to their religious practices. Actions such as “honour assassinations”, that have several times targeted gay persons in Turkey, were not observed amongst them. At the present stage of our research, it appears thus that the

¹³ Interview of Theodoros Koutroubas with Mr. Mustafa Mustafa, who was one of the four MPs originating from the Muslim community of Western Thrace at the time of the adoption of laws 4356/2015 & 4491/2017, August 2021

general stance of the Muslim minority of Western Thrace towards the legislative evolutions discussed above was quite different from both the discourse of the established Orthodox Church and from the reactions of the conservative part of the Greek Orthodox population.