

MUSLIMS IN GREECE

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I. INTRODUCTION*

A. Old and new Muslim communities

Greece is one of the European countries where Islam is present under two forms: A) A minority group, according to the traditional legal content of the term, placed within the framework of the post-Ottoman legacy, and B) An immigrant population of late settlement. Greek law regulates these phenomena from a rather different point of view. The basic idea of the law governing Muslims in Greece is founded on two criteria: citizenship and territory. The Muslims of Greek citizenship are granted special rights when they are residents of Thrace. Muslims who live outside Thrace and foreign Muslims are not subject to any special regime. At all events, the legal regulations pertaining to a certain religious affiliation serve a dual purpose: to grant as few rights as possible or to grant minority rights tantamount to segregation. Non-territorial autonomy and territorial autonomy are thus intermingled. In fact, this approach has brought about long-lasting social, legal and political implications.

B. Historical background

The presence of Islam has been closely linked to the Greek State since its initial foundation. The Protocols signed in London in 1829, 1830 and 1831 reflected the will of the Great Powers to protect the Muslims as a minority living in the newly emerging independent Greek state. Thus, the few Muslims of Halkida¹ who remained in Greece and obtained Greek citizenship became subject to a special protection clause: Through the Act of 10 February 1833, King Otto reaffirmed the religious freedom afforded to any Greek citizen; in particular the Muslims who would remain in Greece would enjoy full rights.

After the annexation of Thessaly and part of Epirus (Arta) under the Treaty of Constantinople (1881), 40,000 Muslims were given minority rights.² However, according to the population census of 1907, a few years before the Balkan Wars, there were 3,516 Muslims in Greece.³

As a result of the Balkan Wars of 1912-1913 the 'New Territories' (Macedonia, Epirus, Crete, islands of the Eastern Aegean) were annexed by Greece under the terms of the Treaty of Bucharest (1913). Thus, a significant number of Muslims became Greek citizens. The legal status regarding the

* This report is an updated version of the one published in 2004 at R. Potz & W. Wieshaider (eds.), *Islam and the European Union* (Peeters, Leuven).

¹ L. Baltiotis, *The enemy intra muros. The Muslim community of Chalkida (1833-1881)*, [in Greek], (Athens, Vivliorama, 2007).

² A. Popovic, *L' Islam balkanique* (Berlin, Osteuropa-Institut an der Freien Universität Berlin, Balkanologische Veröffentlichungen, 1986), p. 128.

³ Kingdom of Greece, Ministry of the interior, *Population census of 1907* (Athens, 1909), p. 101.

overall Muslim population of Greece was re-defined by the Greek-Turkish Treaty of 1913 concluded in Athens and followed the patterns of the Treaty of Constantinople.

However, more comprehensive provisions on minority protection came after the end of the World War I and the Greek-Turkish war (1919-1922), bringing about two major results: First, the emergence of the Republic of Turkey and the new frontier between Greece and Turkey, and second, the population exchange between Muslims of Greece and the Greek-Orthodox of Turkey.⁴ The Convention of Lausanne of January 1923, which mandated the exchange, officially set in motion an ‘ethnic cleansing’ of doubtful lawfulness.⁵ For different political reasons envisaged by both sides, Article 2 of the Convention exempted from the exchange the Muslims of Western Thrace and the Greek-Orthodox population of Istanbul/Constantinople. Extra-conventionally, the ‘Muslims of Albanian origin’ in Greece have been also exempted from the population exchange. Indeed, the legal protection regarding the Muslims of Greece was established by the Treaty of Lausanne signed in July 1923.⁶

After the completion of the exchange of population, the Muslim presence in Greece has been affected by two major events: First, the total persecution of the Albanian-speaking Muslims of Epirus (*Chams*) by Greek guerrillas in 1944. Second, following the annexation of the Dodecanese islands after World War II (under the Treaty of Paris, 1947), about 9,000 Muslims of Rhodes and Kos islands became Greek citizens. According to the official data, there were altogether 134,722 Muslim Greek citizens in 1940⁷ and 111,990 in 1951.⁸

In addition to the legally recognised Muslim minority, as mentioned before, Islam is present in Greece under a new form as a result of the significant immigration flow from the international geopolitical developments since 1991. Several Muslim communities have been established in the largest Greek cities, mainly in Athens. In theory, immigrants enjoy general human rights and the status of ‘alien’, under Greek law, provided that they hold a valid residence permit. In 2001, Muslims, mainly from Iraq, Afghanistan and Pakistan crossed Greece in order to reach Western Europe. Some thousands stayed in Greece. Finally, a new wave of refugees, coming mostly from Syria since 2013, crossed Greece and others after 2016 ‘stranded’ in the country. At present there are around 200,000 alien Muslims in Greece, including 70,000 asylum seekers and refugees: Non-Greek nationals (estimates and 2011 census figures in parenthesis): Pakistani: 70,000 (34,178); Bangladeshi: 35,000 (11,076); Syrian: 60,000 (7,628); Iraqi: 10,000 (3,692); Palestinian: 5,000 (976); Afghan: 25,000 (6,911); Egyptian: 15,000 (10,455); Other: 50,000.⁹

II. INSTITUTIONAL RECOGNITION BY THE STATE

A. International obligations

The Treaties of 1830, 1881 and 1913 were the first legally binding documents imposing international obligations on Greece vis-à-vis its *Muslim* inhabitants. The Treaty on the Protection of

⁴ K. Tsitselikis (ed), *The Greek-Turkish population exchange. Aspects of a national confrontation* (Athens, Kritiki/KEMO, 2006).

⁵ S. Seferiades, ‘L’échange des populations’ (1928) 24 *RCADI*, Chapter IV, pp. 327-30.

⁶ The general framework of legal protection regarding minorities in Greece was set by the Treaty of Sevres on minorities in Greece, which was signed in 1920, put finally into force by the Treaty of Lausanne in 1923. The Muslims of Albanian origin were subject only to the Treaty of Sevres.

⁷ Greek Office of Information, *Greece: Basic statistics* (London, 1949), p. 10.

⁸ National Service on Statistics, *Population census 1951*, p. 184. Since there is no official data on religious affiliation.

⁹ ‘Greece’ in: Egdūnas Račius, Stephanie Müssig, Samim Akgönül, Ahmet Alibašić, Jørgen Nielsen and Oliver Scharbrodt (eds), *Yearbook of Muslims in Europe*, vol. 12 (Leiden, Brill, 2020) .

Minorities in Greece (Sevres, 1920) and the Treaty of Peace (Lausanne, 1923) were the legal foundation for the protection of minorities in Greece during the Inter War period. The Treaty of Lausanne continues to constitute the main legal document, which regulates the status of the Muslims of Greek citizenship (Articles 37-45).

The territorial implementation of the legal protection of minorities stemming from the Treaty of Lausanne, which does not define expressly its *ratione loci* application, has to be taken into account when regarding three cases: first, that of the Chams, Albanian speaking Muslims who had been informally exempted from the exchange of population of 1923, living in Epirus until their en masse forced exodus in 1944; second, the annexation of the Dodecanese in 1947 and the incorporation of a new Muslim minority population; third, the internal migration of Thrace's Muslims to large cities (particularly Athens and less so Thessaloniki) for economic reasons. In the first case, the Treaty of Lausanne was initially applied in part, but is no longer so. In the last two cases the Treaty is not applied at all.

Another controversial point regarding the Treaty of Lausanne's applicability deals with the evoked reciprocity of the Treaty's minority provisions between Greece and Turkey. Very often, Greece invokes Turkey's violations of the Treaty to cover legally its own maltreatment of the minority. However, the reciprocity argument cannot be valid for two reasons:¹⁰ First, the Treaty itself does not recognise any legal reciprocity between the legal obligations of the two countries. Article 45 of the Treaty expresses Turkey's obligations to Greece as merely 'similar'. Second, according to international law on treaties, human rights –and consequently minority rights- are not subject to any reciprocity.¹¹

B. National, ethnic and linguistic diversity

Muslims of Greece do not form a homogenous population group, at either a social or an economic level, or indeed as far as language and national or ethnic identity are concerned. First of all, Muslims belonging to the minority of Thrace constitute a distinct group with an important degree of internal coherence. Other Muslim groups of traditional settlement, such as the Muslims of the Dodecanese islands, do not have real social bonds with Muslims of Thrace. The second category of Muslims, namely the immigrants, is settled mostly in urban areas, particularly in Athens. They create a societal network apart, segregated through nationality affiliations: immigrant Muslims belong to at least 15 different communities, coming from Asia and Africa. Opportunities for them to have any contact with the Muslims of Thrace are very precarious, rarely in cases of weddings or funerals.

The Muslim minority of Thrace (today around 100,000)¹² consists mainly of ethnic Turks living in the prefecture of Rodopi and Xanthi. Pomaks and Roma also belong to the broader Muslim minority. The minority population comprises less than 1/3 of the overall population of Western Thrace. The Turks constitute the larger and ideologically predominant group within the Muslim minority. They assume a national, cultural and linguistic identity, which tends to extend to all Muslims through the vehicle of Islam, enhancing a common national Turkish identity.

The Pomaks¹³ are a Slav (Southern Bulgarian) speaking population, residing in the mountainous frontier area between Greece and Bulgaria which is gradually being assimilated into the Turkish

¹⁰ S. Akgönül (ed.), *Reciprocity. Greek and Turkish Minorities: Law, Religion and Politics* (Istanbul, Bilgi University Press, 2008).

¹¹ Treaty of Vienna 1969, Art 60 (5).

¹² My estimate: there were 93,273 Muslims in 1920, and 103,880 in 1991, according to V. Aarbakke, *The Muslim minority of Greek Thrace*, vol. 1 and 2 (University of Bergen, 2000), p. 31.

¹³ See S. Trumbeta, *Constructing identities for the Moslems of Thrace: The case of Pomaks and Gypsies*, [in Greek] (Athens, Kritiki, 2001).

national and linguistic profile. In essence, a Pomak could be defined as a Slav-speaking Muslim. Pomaks live in Xanthi (10,000) prefecture, in Rodopi (7,000) and Evros (3,000).

The 20,000-strong Romá population¹⁴ are residents of the main cities and larger villages of Thrace. Roma settlements can also be found in Volos, Serres, Thessaloniki and Athens. Athens has the largest Muslim community of Roma outside Thrace. They speak mostly Turkish and to a limited extent Romani.

The Muslims of the Dodecanese islands, Rhodes and Kos, number not more than 2,000 respectively. They are mostly bilingual, speaking Greek and Turkish. Some are descendants of Greek-speaking Muslims who migrated from Crete between 1890 and 1910.

As far as the immigrant Muslims are concerned there are no reliable statistical data on their presence. It is possible they exceed 250,000 in number. By far the largest community of immigrants in Greece, the Albanians (400,000), have little or no real link with Islam. Most Muslim immigrants, asylum seekers, and refugees come from Africa and Asia (Afghanistan, Bangladesh, Egypt, Ghana, Iraq, Iran, India, Palestine, Pakistan, Libya, Morocco, Nigeria, Syria, Sudan, and Turkey).

C. Economic and social status - Organisational structures

Both minority Muslims and immigrant Muslims have organised social, economic or religious structures based on their cultural, linguistic or religious affinities. These structures coexist but they are not connected to each other. To a certain extent they are in contact or integrated within the majority's professional networks.

In general the economic position of the Muslim communities in Greece lies at the lower social strata. This applies mainly for the newly settled immigrants irrespective of their religious affiliation. The case of the Muslims of Thrace should be examined in a totally different context: first, the minority have gone in tandem with the structures and development of the Greek State since 1920; second, the minority remains segregated in many fields of politics and social habits. Greek domestic and relevant international law, do not take into account Muslims' self-identification, which in many cases has been ambiguous due to shifts between religion and national consciousness, as a predominant factor of minority adherence.

1. *The Muslim minority: The 'Old Islam'*

According to frequently expressed views, the Muslim religion in Thrace prevents minority populations from integrating into broader society, making them resistant to modern influences. Though religion per se is not a factor, the way it functions within the minority group could contribute to a self-isolation mechanism. In contrast, Muslims of the Dodecanese islands have integrated into the economic life of the area, especially after the tourism boom in the 1980's.

In Thrace, the isolation of the minority can be seen from two contradictory points of view: from the inside, in terms of imposed marginalisation by Greek society with the state aiming at its national-ideological emasculation, while from the outside, as a self-defensive segregation, avoiding any contact with Greek society.

Minority Muslims of Thrace work in agriculture, construction or manufacturing. They are mainly field workers, peasants and farmers, shopkeepers, merchants and employees in the private sector. Only recently are Muslims hired – albeit in very small numbers--in the public sector in Thrace or the Dodecanese islands. Muslims participate in trade union associations with their Christian colleagues. At the top of the minority's society there are university graduates: pharmacists, dentists, lawyers,

¹⁴ Trumbeta, *Constructing identities for the Moslems of Thrace*, p. 159.

physicians, engineers as well as Muslim teachers delivering the Turkish curriculum for the minority schools. Muslim women often work in agriculture, as field workers, when they are not householders.

The perspectives regarding the social and economic integration of the Muslims of Greek citizenship is an issue closely linked to Greek-Turkish relations, local political and economic circumstances and the national ideological perception of ‘non-Greek Orthodox’ and ‘non-Greek speaking’ people as Greek nationals. Greek authorities adopted measures of intimidation and discrimination against the Muslims, especially after the Turkish invasion in Cyprus as a kind of reprisals. Administrative measures of discrimination against the Muslims of Thrace have dropped drastically only since the mid-1990s.

Minority Muslims who migrated to the large Greek cities, mainly to Athens, Thessaloniki, Thiva or elsewhere, have had to live in a new environment, predominantly Greek-Orthodox. The lack of minority schools and places of worship affects considerably the traditional way of socialisation within a Muslim community and creates new networks of solidarity both inside and outside the group.

Since the period of the Greek dictatorship, but mainly since the time following the Turkish invasion of Cyprus, (1974), the minority of Thrace has become the arena of an unconventional conflict: the war over names has taken on large dimensions: Greece and Turkey both insist on a religious or ethnic character of the minority in a totally static way. The obvious manifestation of Islamic sentiments by the greatest part of the minority members has been ignored on the Greek side, in the same way that the manifestation of the Moslem faith has been played down on the Turkish side. Symptomatic of the situation is the transfer of the diplomatic controversy into the courtrooms, which politicise the use of the term ‘Turk/Turkish’. The Greek courts denied granting permission to minority associations the use “Turkish” in their title. Even after the European Court of Human Rights has ruled that this violates the right to association, Greek courts persist in not allowing the registration of these minority associations.¹⁵ The minority associations claiming their national character are: *The Union of the Turkish Youth of Komotini*, the *Union of Turkish Teachers of Western Thrace*, the *Turkish Union of Xanthi*, and the *Turkish Women’s Association*.

In the context of the minority’s self-organisation, the *Supreme Minority Committee* was established in 1980 as an informal body comprising all elected representatives of the Muslim minority and representatives of the professions. In 1982, the *Scientists’ Association of the Minority of Western Thrace (Bati Trakya Azinligi Yuksek Tansilliler Dernegi)* was founded aiming at reaching all university graduates. The large majority of the 400 members are at present to all intents and purposes inactive. A series of associations have been founded by members of the minority in Thrace for cultural or other non-political purposes.

Minority Muslims who migrated to the large cities, mainly to Athens and Thessaloniki, are not subject to the Treaty of Lausanne. The lack of minority schools and places of worship considerably affects the traditional ways of socialisation within a Muslim community.

Political representation became an issue when the minority tried to elect independent deputies with a Turkish national profile. To be represented in the Greek parliament, a political party or an independent candidate has to gain more than 3% of the total number of votes at a national level. In general, two to four Muslims are elected in the Parliament as candidates of the main political parties. Furthermore, Muslims participate in the elected bodies of local authorities throughout Thrace. Three Muslim mayors are usually elected in Rodopi and Xanthi. The only minority political party which survived the past political turmoil (1989-1993) linked to the independent political representation of the minority, is *Dostluk-Eşitlik-Bariş Partisi* (Equality-Friendship-Peace Party), founded in 1994.¹⁶ Since

¹⁵ K. Tsitselikis, *Old and New Islam in Greece. From historical minorities to immigrant newcomers* (Leiden/Boston, Martinus Nijhoff, 2012).

¹⁶ See Aarbakke, *The Muslim minority of Greek Thrace*, pp. 357-500.

then, they have taken part in local elections and European Parliament elections or have entered local politics.

In the area of Thrace, several media address themselves to the Muslim minority: more than 10 newspapers are published in Turkish while one Greek newspaper from Komotini includes a section in Turkish. There are also several radio stations broadcasting in Turkish, and a series of web-sites. Moreover, a newspaper in the Pomak language, written in the Greek alphabet, appears from time to time.

2. The immigrant communities: the 'New Islam'

Muslim immigrants who settled in Greece from the 1980's, including a huge spike after 1991, face serious problems with regard to social integration, such as unemployment, health care, insurance, stay permit, accommodation etc. Muslim –often undocumented- immigrant work as a cheap labour force or as private employees. The European Court of Human Rights found a case of collective forced labour involving a large group of Bangladeshi workers in Manolada.¹⁷ It seems that this is only the tip of the iceberg. On the other hand, there is a considerable number of shops and small enterprises owned by Muslims migrants especially in Athens.

Immigrant Muslims are gradually becoming more integrated into Greek society through their participation in the labour market and the economy, albeit irregularly and haphazardly. The majority of Muslim immigrants have organised themselves in Communities ('associations' according to Greek civil law). Of these communities, the largest are the Egyptian, Bangladeshi and Pakistani, the Nigerian, the Afghani and the Syrian. Muslim immigrants' integration into Greek legal institutions will take longer, especially as far as the Greek civil law is concerned: Family status is regulated informally by Islamic law according to the formalities of their respective countries. Legal disputes concerning family matters are usually resolved by the members of the community in Greece or in the home country and not before the Greek courts. The practical problems related to funerals highlight the legal shortcomings and the administrative reluctance on this matter, since there are no provisions for holding Islamic funerals outside Thrace. As far as the immigrant Muslims press is concerned, there are rather limited publications, concentrated in Athens: a few papers in Arabic and Urdu and mostly websites appearing in a number of languages of the Muslim immigrants.¹⁸

D. The institutions of Old Islam: The Muslim Turkish minority in Thrace

Muslims had been granted special rights on religious grounds since the establishment of the Greek State. There are no legal regulations dealing with any of the Islamic communities other than the Muslim Greek citizens residing in Thrace. The legal framework based on the Lausanne Treaty establishes three pillars of minority autonomy through special institutions: minority education, community properties and the Mouftis.

There is sufficient number of mosques in Thrace (and the Dodecanese islands) functioning for every day ritual needs, namely about 300 mosques and masjids. Nonetheless, Muslims outside Thrace or Rhodes and Kos islands have no opportunities to enjoy their freedom of worship, since no official mosque operates out of these areas. In Athens, Thessaloniki and other cities, about 100 prayer halls (masjids) operate through private initiative. Official licenses have been only been granted to 5 of them.

3. The Mufti as head of the religious communities of Thrace

¹⁷ *Chowdury and Others v Greece*, App no 21884/15 (ECHR 30 March 2017).

¹⁸ *Ibid*, [9].

The *Mufti* has an important authority in interpreting Islamic Law in the Muslim community. The Muftis of Greece were given a special legal status deriving from international law. Under the Treaty of Constantinople (1881), the Mufti is recognised as the religious leader of the Muslim communities. Under the Treaty of Athens (1913), the legal protection of the personal status of Muslims has been extended, assigning a jurisdiction role to the Muftis. Today, legally recognised Muftis who exercise jurisdiction, are based in Komotini, Xanthi and Didimoticho.

The Mufti has spiritual duties and a certain jurisdiction is bestowed upon him by law. A Mufti's religious duties concern marriages, the appointment and dismissal of religious ministers at local mosques. Furthermore the Mufti is competent to certify a conversion to Islam. Furthermore, he is deemed to be the supervisor of the two *medrese* in Thrace which in fact are religious middle and high schools (*ierospoudastiria*).¹⁹

The selection of Muftis became an issue of major importance for the Muslims of Thrace and Greek-Turkish relations. Since 1991, there have been two Muftis in Xanthi and two in Komotini, one appointed by the State and one elected by a group of Muslims. The legal acts issued by the appointed Muftis²⁰ —who are recognised by the law— have legal effects. On the hand, Turkey refuses to recognise the institutional existence of the appointed Muftis. The political controversy between Greece and Turkey over the control of the Mufti is reflected in the Greek courts' judgments, which were found by ECtHR to violate the European Convention of Human Rights.²¹

In Rhodes and Kos, the local Mufti gradually lost any official status, and today only imams operate at the local mosques.

Today, there are about 300 mosques and masjids operating in Thrace. Each mosque has one regular *imam* and one regular *muezzin* (man who calls people to prayer). A serious dispute emerged over the plans for controlling staff. On the other hand, imams loyal to the elected Muftis are part of a parallel system financed by Turkish sources.

4. Community properties

The most important source of income for the Muslim community is real estate, called *vakif/vakoufi*, the revenue from which guarantees the welfare of the Muftis' service and, to a certain extent, the minority schools' viability. The assets coming from the exploitation of the vakfs are used for their maintenance, to cover all Mufti office expenses and in some cases to pay salaries for the minority schoolteachers. After chronic mismanagement and failure to implement Act 1091/81, the Greek Parliament passed Act 3647/2008 on the administration and the management of the vakf of the Muslim minority, which in fact remained only partially implemented, whereas the members of the Management Committee continue to be appointed by the government and not elected.²² The vakf controversy is a prime example of the priorities and power balances in minority matters, where political, economic and "national" interests are involved.²³

Beyond Thrace, vakif property exists also in the Dodecanese islands. The vakfs in Rhodes and Kos are managed by a five-member 'Organisation for the management of the vakif' on each island, under

¹⁹ In 2018, the curriculum of the Muslim seminaries-high schools was revised, according to the Ministerial Decision No. 182944/02/2018).

²⁰ According to Act 4559/2018, the age of retirement of the muftis was set at 67. As a result, the Muftis of Xanthi and Komotini have to retire and be replaced.

²¹ On the cases of I. Serif and A. Agga before the ECtHR see Tsitselikis, *Old and New Islam in Greece* 2012, pp. 422-5.

²² Tsitselikis, *Old and New Islam in Greece*, 347-351.

²³ D. Kurban and K. Tsitselikis, *A Tale of Reciprocity. Minority Foundations in Greece and Turkey* (Istanbul, TESEV-KEMO, 2010).

an Italian decree of 1929, which remains in force within the Greek legal order by Article 7 of the Royal Decree of 9 May 1947.²⁴ There are also vakif properties in Thessaly and in Kavala and Thasos island belonging to the Egyptian government.

5. *Minority education*

Under the legislative framework on the execution of the Treaty of Lausanne's provisions, a special educational system has been established for Muslims 'in their own language'. The bilingual (Greek/Turkish) minority educational system is based first of all on Articles 40 and 41 of the Treaty of Lausanne concerning private and public minority schools. Thus, Turkish, the dominant language within the minority, and Greek, the state's official language, are the two languages taught in minority schools for an equal amount of time. The minority education covers mainly primary education and in some cases secondary education. A raft of legislation on education and special minority education laws and decrees²⁵ govern the structure, the organisation and the content of minority education. The relevant legal framework is articulated through a labyrinth of provisions of different legal value (international treaties, constitution, laws, bylaws, etc.), at times contradictory in nature. The legal status of minority education rests on a *sui generis* combination of legal regulations of private character and public schools.

Minority education concerns mainly *primary schools*. In 2020 there were 115 minority elementary schools. In total, about 5,000 pupils attended these schools in 2019.²⁶ As the curriculum comprises two parts, the Greek-language and the Turkish-language, the teachers have to follow this division: Muslim teachers teach the Turkish curriculum and Christian teachers deliver the Greek one (Decree 1109/1972). In addition to the subjects of religion and the Turkish language, physics, chemistry, mathematics, and drawing are taught by the Muslim teachers in Turkish. Their Christian colleagues teach the Greek language, geography, history, the natural environment and foreign languages. Gymnastics and music are also taught in Greek.

One rather astonishing regulation regards the exclusive appointment of Muslim teachers for the Turkish-language curriculum and Christian teachers for the Greek-language curriculum: the law (Act 4310/2014, Article 64 par.1) forbids Muslim Minority teachers to be appointed in order to teach the lessons in the Greek-language part of the curriculum in minority schools.

Most of the Muslim teachers were trained in the 2-years Special Pedagogical Academy of Thessaloniki (which was abolished in 2013), while their Christian colleagues are graduates of the University Schools of Primary Education (4 years academic training). A few elementary and middle school teachers (today 16) dispatched from Turkey (*metaklitoi or non-permanent*) work in minority schools as a part of the exchange of school staff taking place every year reciprocally between Greece and Turkey.

According to the Greek-Turkish agreement of 1968, Turkish language textbooks have to be prepared by Turkey and distributed to the schools upon approval by the Greek government.²⁷ Greek

²⁴ Amending Art 4 (1) of Law ΔΠΛΔ of 1913 and Art 4 (1) of the Legislative Decree 218/1947.

²⁵ See Acts 694/1977 and 695/1977 among many more.

²⁶ K. Tsitselikis and G. Mavrommatis, *Turkish. The Turkish Language in Education in Greece* (2nd edn, Leeuwarden, Mercator European Research Centre on Multilingualism and Language Learning and Fryske Academy, 2019).

²⁷ L. Baltiotis and K. Tsitselikis, 'The minority Education of Thrace, Legal Status, Problems and Perspectives', in: Anna Fragkoudaki and Thalia Dragona (eds), *Addition vs. Subtraction, Multiplication vs. Division. The Reformative Intervention to Minority Education of Thrace*, [in Greek], (Athens, Metaihmio, 2008), p. 37.

language textbooks have been adapted to the sociolinguistic particularities of the non-Greek speaking pupils thanks to a 20-year project of the Ministry of Education.²⁸

Secondary minority education is guaranteed partly for children coming from minority primary schools. Only a limited number of students will have the opportunity to follow a minority high school because of the limited number of such schools: two minority high schools have been established, one in Komotini and one in Xanthi. More than 2,000 Muslim pupils chose to attend the Greek public high schools. In Thrace, two more middle-high schools belong to minority education, those being the two *medrese* or religious schools (*ierospoudastiria*) of Ehinis and Komotini.²⁹

A permanent very low rate of children entering higher education in Greece has reduced the chances for social and economic advancement of Thrace's Muslims. In order to rectify this situation, an institutionalised facilitation for minority schools graduates would make it easier for them to enter Greek universities. Since 1996, a special quota 0.5% on the available places in tertiary education has been set³⁰ in order to address the language difficulties which Muslim pupils face during Greek-language exams to enter tertiary education. In effect, the measure attempts to compensate for the lack of perfect knowledge of the Greek language of Muslim students who attended the bilingual minority school. All Muslim pupil who are of residents of Thrace and attend any kind of school, minority or mainstream may make use of this measure. Conversely, Muslim pupils who have settled in other area in Greece are not included in this special entry quota.

6. *Special religious education pertaining to Islam is provided only in Thrace*

The teaching of the Koran is guaranteed as a separate subject in the Turkish language in primary and secondary minority schools. Furthermore, in five public (non-minority) high schools located in the mountainous area of Rodopi, though attended by minority population the curriculum, the religious subject is taught in Greek. As previously mentioned, the appointment at public schools of Muslim teachers teaching the Koran in Greek triggered serious reactions among the minority.

In Thrace there are two Islamic Seminaries (*medrese*), the first being in Komotini (in Rodopi) and the second in Ehinis (in Xanthi). In fact they are middle and high schools providing some special courses.

In 2007, the Greek government adopted Act 3536/2007, which provided for the appointment of 240 teachers for Islamic religious courses at Greek public schools attended (also) by Muslim minority students. The minority contested the implementation of the law as regards the teacher selection procedure. The law was amended by Act 4115/201 and implementation began in the face of strong opposition, since the courses are taught in Greek.

III. THE APPLICABILITY OF ISLAMIC LAW IN GREECE

As referred to previously, norms of Islamic Law are applicable for Muslims of Greek citizenship residing in Thrace in cases of family and inheritance disputes. Article 42 of the Treaty of Lausanne in conjunction with Article 4 of Act 145/1914 constitutes the legal basis for this *sui generis* incorporation of Islamic Law into the Greek civil law. The special courts applying the jurisdiction of the Mufti were set up under Act 2345/1920, which regulated the Mufti's competence in accordance with the Treaty of

²⁸ See <<https://museduc.gr/el/>> (last accessed on 12 June 2021).

²⁹ In 2018, the curriculum of the Muslim seminaries-high schools was revised, according to the Ministerial Decision No. 182944/02/2018).

³⁰ The legal framework of this special quota is governed by Art 2 (1) Act 2341/1995, Art 2 (5) and 7 Act 2529/1997, which was amended and implemented through a series of new regulations.

Athens. Finally, Act 1920/1991 governs the legal status of the Mufti and the framework of his jurisdiction.

Under this legal framework, the three Muftis of Thrace appointed by the government adjudicate cases dealing with family and inheritance issues. They apply limited norms of Islamic Law (following the Hanafi Islamic school) within the administrative area of their jurisdiction. It was unclear for decades whether Islamic jurisdiction is voluntary (according to an interpretation of human rights principles and norms) or mandatory (according to the Court of Cassation, *Areios Pagos*). In the case that the Mufti's jurisdiction was obligatory, it would be a legally imposed segregation among the Greek citizens on religious grounds, a situation which would contradict the Constitution and the European Convention of Human Rights.

In January 2018, the Government passed Act 4511/ 2018, according to which shari'a law implemented in Thrace for Muslim Greek citizens ceased to be obligatory. Moreover, the law made it clear that Muslims of Thrace can draft a public will. Although the implementation of the law was dependent on the adoption of procedural norms as regards the process before the mufti-judge, in October 2018 the law was again amended (Act 4569/2018, Article 48 par. 3). Thereby its implementation was disconnected from the adoption of procedural rules. These amendments anticipated the ruling of the European Court on Human Rights which in December 2018 found a violation of the right to property in combination with discrimination on the ground that the Court of Cassation had imposed sharia law without the explicit wish of the members of the Muslim minority of Thrace.³¹

As to the procedure before the Mufti, new concrete norms have been adopted (Presidential Decree 52/2019). However, still no remedies against the decision of the Mufti are provided as far as the merits are concerned. The Mufti's decision is subject to approval by the First Instance Civil Court of the same administrative district. The Civil Court is solely empowered to control the limits of the jurisdiction of the Mufti's decision and not the merits of the case. This decision is subject to appeal, concerning again only the application of the Mufti's jurisdiction. Furthermore, the Civil Court and the Court of Appeal should exert control over the constitutionality of the Mufti's decision.

The coexistence of the two legal systems, the one applying Islamic Law and the other the Greek Civil Code, still gives grounds for legal discrepancies and shortcomings:³²

- How compatible the procedure is before the Mufti regarding the right to a fair trial, as perceived by Article 6 of the ECHR, when specifically: 1. There is no remedy for the control of the merits of the Mufti's decision. 2. There are no effective means to control the constitutionality since the judge of the Civil Court is not familiar with Islamic law.

- There is no inherent and adequate legal guarantee for upholding fundamental human rights as regards gender equality when Islamic family and inheritance law provides disadvantageous regulations for women.

- The Mufti's appointment by the State could contradict the moral obligation to follow the community's will to have a religious leader of their choice. On the contrary, the election by the Muslim community of the Mufti, being a judge, would contradict the basic constitutional rules regarding the status of judges; they have to be appointed by the State, enjoying full independence.

³¹ The case that triggered the change of the law is *Molla Sali v Greece*, App no 20452/14 (ECHR, GC, 19 Dec 2018).

³² K. Tsitselikis, 'Shari'a in Greece. Between communal autonomy and individual human rights', [Part 4], *islamiclawblog*, Harvard University, Law School, *Journal in Islamic Law* <<https://islamiclaw.blog/category/greece/>> (last accessed on 12 June 2021).

IV. NEW ISLAM: FREEDOM OF RELIGION

The settlement of a significant number of Muslims mainly in Athens, stressed the problem of lack of a mosque since the early 1980's. Recently, a mosque was built from state proceeds in Elaionas, in Athens, but still remains out of operation. Also an Administrative Board was set up to administer the mosque, while the majority of its members are not Muslims (Presidential Decree 42/2019).

The absence of a cemetery for Muslims is also a thorny issue. The debate over the need for a special cemetery for Muslims wishing to bury their dead in accordance with their own religious traditions is still unresolved. According to the law (Act 582/1968, Article 6), a special section for non-Orthodox can be built within any cemetery. However, such a decision has to be approved by the local Orthodox bishop.

Weddings in accordance with the Muslim ceremony have legal effects only when they take place before of one of Thrace's Muftis. According to Greek civil law, two types of wedding ceremonies are guaranteed: the civil and the religious, having both equal legal effects.³³ According to Act 4301/2014, religious communities, and therefore migrant Muslims,³⁴ could set up their own legal bodies and assign religious ministers whose acts would have legal effects. Muslim communities of Greece have yet to implement the law.

When non-Greek citizens' private law cases are brought before the Greek judge, private international law is applicable. In relevant cases, the applicable law according to the Greek Civil Code is the law of the state of the citizenship. In these terms, under the premise that this state applies Islamic Law, the Greek judge could apply it cases of family and inheritance disputes.³⁵ The applicability of the law is subject to the observance of public order, or the commonly perceived morals (Article 33). Polygamy could be one of the matters that would run counter to public order. In practice, Muslim immigrants are very reluctant to bring their cases before the Greek judge, very often because they are not aware that Islamic law could be applied or because feel that they lack familiarity with Greek authorities.

A. Education for Muslim immigrants

Thousands of Muslim pupils from Asia and Africa attend Greek public schools, as all other immigrant children.³⁶ They can be exempt from attending a Greek Orthodox religious course, but no Islamic religious education is provided. However, in theory, intercultural education could include religious courses for Muslims.

Act 2413/1996 introduced 'intercultural education' into the national educational system. According to Article 34 of this law, 'Intercultural education aims at the organising and functioning of primary and secondary schools for the education of young people with educational and social problems'. These schools should apply the curriculum of the public schools adapted to the special cultural, social or educational needs of their pupils.

As of 2021, 13 public primary and 13 secondary intercultural schools were operating throughout Greece. They address all children with special needs. 'Special subjects', which could adapt the

³³ The civil wedding ceremony was introduced by Art 1367 of Civil Code.

³⁴ The law is not applicable to Muslims of Thrace who are already legally recognised: the three Mufti Offices enjoy the status of legal body of public law, along with the Greek Orthodox Church and the Jewish Communities.

³⁵ Relations between the married regarding personal and property matters (Art 14, 15), between parents and child (Art 24), marriage (Art 13), adoption (Art 23), custody of minor (Art 24), divorce (Art 16) and inheritance (Art 28).

³⁶ Albanians are not taken into consideration. There are 50,000 pupils from Albania, who mostly do not express adherence to Islam.

curriculum to the immigrant children's needs, have been implemented to a very limited extent. The adjustments of the curriculum should have covered two main issues linked to the immigrants' otherness: religion and language. As already pointed out, no Islamic education is provided by these schools. Under Act 4415/2016, the legal framework of intercultural schools has been improved, and a foreign language could be introduced as a means of education (Article 21 par.9). Up to the present it has not been implemented.

A few private foreign schools provide Islamic education. Immigrant communities organise afternoon Koran lessons in their prayer houses, especially in Athens.

B. Acquiring Greek citizenship

Granting Greek citizenship to migrant Muslims was for decades a tacitly accepted practice. A new law on citizenship, Act 3838/2010, introduced elements of *jus soli*, so children of immigrants who were born in Greece or have attended school for a certain number of years can acquire Greek citizenship. Furthermore, the Act made administration accountable for the relevant procedures. In that context, gradually migrants with a Muslim background acquired Greek citizenship. Thus, in 2021 there were a few thousand Muslim Greek citizens who do not belong to the group of Thrace or Dodecanese Muslims, and therefore a new group of Muslims appeared, in between 'Old' and 'New' Islam. A small number of Greek Orthodox converts to Islam have also formed a very small group, among the New Islam.

V. CONCLUSIONS

Diversity should be perceived as an asset under modern notions of the role of religion within society, taking into account cultural and religious identities correspondingly. This would create a potential legal and political configuration that would better facilitate Muslims' social integration. Muslims in Greece continue to belong to two main different categories as far as legal status and special rights are concerned. On some occasions, legal discrepancies and ideological resistance to alignment with the principles of fundamental human rights have been mitigated, while in some other instances they persist. Greek governments, courts and the legal order show a reluctance to accept respect of language, religion or ethnic otherness. Minority rights pertaining to the Muslim minority of Thrace still constitute an ideological battleground between Greek and Turkish nationalism.

Muslim immigrants are still the target of racism and xenophobia. Unlike the Christians, Muslim immigrants and refugees are considered to bring negative elements such as criminality, social tension, and represent a threat to Greek-Orthodox profile of the country.

It would appear that Islam is perceived, legally and ideologically as being incompatible with the Christian/Greek prevailing identity. Thus, the Greek legal order, gradually adjusting to European standards, seems to be suffering by a kind of paralysis, according to which nationally biased structures and ideologies are consolidated, and thus it remains reluctant to accept any —old or new— minority affiliation.