

Table of Contents

The Author	3
List of Abbreviations	13
Preface	17
General Introduction	19
§1. GENERAL BACKGROUND OF THE COUNTRY	19
§2. SOCIAL FACTS ABOUT RELIGION	20
§3. HISTORICAL BACKGROUND	21
I. The Impact of History	21
II. The Byzantine Period	22
III. The Rule of the Ottomans	24
IV. The Modern Greek Period	24
V. Conclusions	28
Part I. Legal Framework and Sources	29
Chapter 1. The Constitutional Status of Religion	29
Chapter 2. Other Legislation with Regard to Religion	32
Chapter 3. Typology of the System	34
I. The Community of the Orthodox Churches	34
II. The Principle of Ethnicities	35
III. The Canonical Foundations of Ecclesiastical Autocephaly: Autonomy	35
IV. Doctrinal and Canonical Unity	36
V. The Internal Organization of Autocephalous Churches: The Synodal System of Administration	36
A. Generally	36
B. Presbygenous Patriarchates	37
	5

Table of Contents

C. More Recent Patriarchates	38
D. Autocephalous Churches	38
E. Autonomous Churches	39
VI. The Different Orthodox Ecclesiastical Regimes in the Greek Territory	39
A. Generally	39
B. The Autocephalous Church of Greece	39
C. The Metropolises of the New Lands	40
D. The Monastic Polity of Mount Athos	41
E. The Semi-autonomous Church of Crete	41
F. The Ecclesiastical Eparchies of the Dodecanese	41
VII. The 'Statutory Charters'	42
VIII. Church-State Relations under the Constitution of 1975	42
A. Fundamental Characteristics	42
B. The Issue of the Constitutional Entrenchment of Holy Canons	46
C. Aspects of State Supervision	48
IX. Sources of Greek Ecclesiastical Law	49
A. Categories	49
B. Matters of Interpretation: The Institution of 'Ecclesiastical Economy' ('Oikonomia')	50
 Part II. Religious Freedom in General	 53
 Chapter 1. Individual Religious Freedom	 53
§1. CONSTITUTIONAL PROTECTION	53
§2. FREEDOM OF RELIGIOUS CONSCIENCE	55
I. General Aspects	55
II. Right of Religious Equality	57
III. Law 3304/2005 and the Greek Ombudsman	61
IV. Right of Religious Education	61
 Chapter 2. Collective Religious Freedom	 63
§1. FREEDOM OF WORSHIP	63
I. General Presuppositions	63
II. Constitutional Presupposition of 'Known' Religion	63
III. Right to Establish Places of Worship	64
IV. The Relevant Case-Law of the European Court of Human Rights	66
§2. LIMITATIONS TO FREEDOM OF WORSHIP AND RELIGIOUS FREEDOM	69
I. Public Order and Good Morals	69
II. Lawful Obligations: Duties towards the State	69
 Chapter 3. Organizational Religious Freedom	 71

Table of Contents

Part III. Legal Status of Religious Communities	73
Chapter 1. The Formal Status of Religious Communities	73
§1. THE ORTHODOX CHURCH	74
I. The Orthodox Church of Greece	74
A. Central Organization	74
1. Synodal Bodies	74
2. Central Ecclesiastical Organizations	76
B. Peripheral Organization	77
1. Archdiocese and Metropolises	77
2. Metropolitan Council	78
3. Parishes and Ecclesiastical Councils	78
4. Other Categories of Churches	79
5. Vicars	80
6. Cantors: Sacristans	81
7. Monasteries	81
C. The Administration	82
1. Acquisition and Loss of the Capacity of Church Member	82
2. Clergy	84
3. Monks	89
4. Administrative Power over Persons	92
5. Ceremonial Competence	92
D. Ecclesiastical Justice	93
1. Introduction	93
2. Substantive Law: Ecclesiastical Offences	93
3. Ecclesiastical Punishments	95
4. Ecclesiastical Courts	96
5. Criticism of Ecclesiastical Procedural Law	99
6. Critical Remarks: The Ecclesiastical Justice in Greece, as a Serious Deficit in the Constitutional Relations between State and Orthodox Church	102
II. The Semi-autonomous Orthodox Church of Crete	109
A. Statutory Regime	109
B. Administrative Organization: Provincial Synod	109
C. Churches and Monasteries	110
D. Ecclesiastical Justice	110
III. The Ecclesiastical Provinces (Eparchies) of the Dodecanese	111
IV. The Monastic State of Mount Athos	112
A. Historical Developments	112
1. Byzantine Period (Nineth Century–1430 AD)	112
2. The Period of Ottoman Rule (1430–1912)	114
3. Recent Years (1912–Today)	114
B. Nature and Resources of Mount Athos Law	115
1. General Remarks	115
2. The Constitutional Protection of the Mount Athos Regime	115

Table of Contents

3. Charter of Mount Athos	117
4. Regulatory Provisions	117
5. Monastic Rules	117
6. Common Declaration 4/1979	118
C. The Administrative System of Mount Athos	118
1. The Self-Administration of Mount Athos	118
2. Monastic Authorities	119
3. Organization and Administration	120
4. Holy Community	120
5. Holy Epistasia	121
6. Extraordinary Synaxes (Assemblies)	121
D. The Exercise of Supervision	121
1. Governor	121
2. Ecumenical Patriarchate	122
E. The Law of Persons	122
1. The Status of Athonite Monks	122
2. The Canonical Institution of 'Avaton'	123
3. Acquisition and Loss of Greek Citizenship	124
4. Restrictions in Movement: Prohibition of Proselytism	124
F. Property Law	124
1. Mount Athos Territory	124
2. Administration and Management	125
3. The Property of Athonite Monks	125
4. Tax and Duty Privileges	126
5. Cultural Heritage and Intellectual Property	126
G. Administration of Justice on Mount Athos	127
1. General Remarks	127
2. Cases of Ordinary Penal Law	127
3. Cases of Ecclesiastical Penal Law	127
4. Civil Law Cases	128
5. Cases of Annulment before the Council of State	128
6. The Execution of Decisions	129
§2. 'GENUINE ORTHODOX CHRISTIANS' OR 'OLD CALENDARISTS'	129
I. The Creation and Evolution of the 'Old Calendarist Issue'	129
II. A Legal Approach of the Old Calendarist Issue	130
§3. MUSLIMS	131
§4. PROTESTANTS (EVANGELICALS)	131
§5. ROMAN CATHOLIC CHURCH	132
§6. JEHOVAH'S WITNESSES	133
§7. ISRAELITES	133

Table of Contents

Chapter 2. The Autonomy of Religious Communities	134
Chapter 3. Fundamental Rights and Religious Communities	137
Chapter 4. Contractual Religious Freedom	138
Part IV. International, Transnational, Regional Effects on Religious Communities	139
Chapter 1. International Law Effects on Religious Communities	139
§1. GENERAL REMARKS	139
§2. INTERNATIONAL TEXTS RELATING TO THE PROTECTION OF RELIGIOUS FREEDOM	139
§3. EUROPEAN UNION LAW	142
I. European Convention on Human Rights (1950)	142
II. The Final Act of Helsinki (1975)	146
III. Charter of Fundamental Rights (2000)	147
IV. Treaties of Amsterdam (1999) and of Lisbon (2007)	147
Chapter 2. Transnational Law Effects on Religious Communities	149
§1. MOUNT ATHOS	149
§2. MUSLIMS	149
§3. THE ROMAN CATHOLIC CHURCH	150
Chapter 3. Regional Law Effects on Religious Communities	151
Part V. Religion & Politics	153
Chapter 1. Religious Influence in Politics	153
Chapter 2. Political Influence in Religion	156
Chapter 3. Interaction between Religion and State on a Political and Legal Level	159

Table of Contents

Part VI. Labour Law within Religious Communities	161
Chapter 1. Scope of Application of Labour Law	161
Chapter 2. Religious Ministers and Labour Law	162
§1. ORTHODOX CLERGY	162
§2. MUSLIM CLERGYMEN	165
Chapter 3. Other Church Employees and Labour Law	167
Part VII. Religious Communities and Protection of the Individual	169
Chapter 1. Protection of Privacy	169
Chapter 2. Freedom to Marry	170
Chapter 3. Freedom of Expression	171
Chapter 4. Professional Secrecy	172
Chapter 5. Medical Deontology	173
Chapter 6. Non-discrimination	174
Chapter 7. Penal Law and Religion	175
§1. PROSELYTISM	175
I. Generally	175
II. Case <i>Kokkinakis versus Greece</i> (3/1192/348/421-25 May 1993)	176
A. Facts, Legal Provisions, Court's Syllogisms and Decision	176
B. Critical Remarks	179
§2. CRIMINAL OFFENCES AGAINST RELIGIOUS PEACE	181
Part VIII. Church Financing	183
Chapter 1. Direct Financing of Religious Communities	185
§1. CONSTITUTIONAL PROTECTION OF THE PROPERTY OF RELIGIONS	185

Table of Contents

§2. THE LEGAL STATUS OF THE PROPERTY OF THE ORTHODOX CHURCH	185
§3. THE LEGAL STATUS OF PROPERTY OF RELIGIOUS MINORITIES	190
§4. REVENUES AND INSURANCE OF CLERGY AND MONKS	193
§5. REAL ESTATE AS 'NON-MARKET GOODS': MEANING AND CONDITIONS	194
§6. ARCHAEOLOGICAL LEGISLATION AND CHURCH PROPERTY	195
Chapter 2. Indirect Financing of Religious Communities	196
§1. INHERITANCE AND DONATIONS TAXES	196
§2. REAL PROPERTY TAX	197
§3. REAL PROPERTY TRANSFER TAX	197
§4. EXTRAORDINARY SPECIAL DUTY ON REAL ESTATE WITH ELECTRIC SERVICE	198
§5. VALUE ADDED TAX	198
§6. REAL ESTATE TAX	199
Part IX. Education	201
Chapter 1. Religious Education in Public and Private Schools	201
Chapter 2. Religious Schools	204
Chapter 3. Theological Faculties and Religious Universities	206
Part X. Matrimonial and Family Law	207
Chapter 1. Legal Position of Religious Marriage	207
Chapter 2. Legal Position of Religious Family Law	211
Part XI. Religion and Culture	213
Chapter 1. Religion and Art	213
§1. RELIGIOUS MONUMENTS	213

Table of Contents

§2. RELIGIOUS ART	214
Chapter 2. Religion and Media	215
Chapter 3. Religion, Civil Society and Public Debate	217
Selected Bibliography	221
Index	239

<http://www.pbookshop.com>