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CIRCULAR

Maroussi, May 6, 2014
Ref. number: 69230/A3
SUBJECT: “Authorization to establish and operate places of worship for religious communities of religions and denominations other than the Church of Greece”

-EXISTING LEGAL FRAMEWORK

1. In Article 13 (2) (4) of the Constitution of Greece it is laid down that: “2. All known religions shall be free and their rites of worship shall be performed unhindered and under the protection of the law. The practice of rites of worship is not allowed to offend public order or the good usages. Proselytism is prohibited. 3. ... 4. No person shall be exempt from discharging his obligations to the State or may refuse to comply with the laws by reason of his religious convictions.” In Article 18 of the Universal Declaration of Human Rights (adopted by the United Nations General Assembly on December 10, 1948) it is laid down that: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.” Additionally, in Article 9 of the Convention for the Protection of Human Rights and Fundamental Freedoms ratified by Decree Law 53/1974 (Official Government Gazette of the Hellenic Republic A’ 256) it is laid down that: “1. Everyone has the right to freedom of thought, conscience and religion; the right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance. 2. Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.” Additionally in Article 10 of the Charter of Fundamental Rights of the European Union (2000/C 364/01) it is laid down that: “1. Everyone has the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest religion or belief, in worship, observance, practice and teaching. 2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice. 3. Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.” In particular, in accordance with the provisions of the national legal framework, namely the provisions of Emergency Law 1363/1938 (Official Government Gazette A’ 305), as amended by the provisions of Emergency Law 1672/1939 ((Official Government Gazette A’ 123) and article 27 of Law 3467/2006 (Official Government Gazette of the Hellenic Republic A’ 128) and the provisions of Royal Decree 20-05/02-06-1939 (Official Government Gazette A’ 220), an administrative authorization is required prior to establishing and operating a temple or place of worship where members of religious communities (other than the believers of the
Eastern Orthodox Christian Church of Greece may practice their religion. Lastly, in accordance with article 1003 of the Civil Code, “the real property owner must tolerate the emission of smoke, smog, evaporation, heat, noise, vibration, or other similar effects coming from the neighbor real property provided that they do not substantially harm the use of the real property affected or stem from the type of use which is common to the area where the real property is situated.

2. The relevant administrative authorization for a temple or place of worship of a religion or denomination- other than the Church of Greece - is issued by decision of the Minister of Education and Religious Affairs, under circumscribed powers, as set out in case-law. The Ministerial decision is issued following verification that, first, the three conditions laid down in article 13 (2) of the Constitution are fulfilled (Council of State Plenary Session 4202/2012, Council of State Plenary Session 1444/1991, Council of State 5572/1996, Supreme Court 20/2001), namely, that it is a “known religion” without secret dogmas, that proselytism is not carried out and that the practice of rites of worship is in conformity with public order or good usages and, secondly, the other conditions set out in the legislation in force are applied (Emergency Law 1363/38, Emergency Law 1672/39, Royal Decree May 20/2-6-39 and Law 3467/06). In fact, “absence of the condition set out in article 13(2) of the Constitution on the practice of rites of worship, namely the condition of not offending public order or the good usages by this practice, is established in principle by repressive (i.e. after the facts) state action” (Council of State Plenary Session 4202/2012 legal argument 8). However, prior preventive investigation conducted by the administration to confirm that each condition is met by using formal and easily verifiable conditions and rules set by mandatory rules, cannot be excluded or considered non-coherent with the Constitution. A “place of worship”, as it has been set out, means a temple of relatively small size, established in private property intended to operate as a place where God is worshiped by a limited circle of people, as opposed to “temple” which is devoted to the public worship of God by any person without distinction (Supreme Court Joint Chambers 20/2001 criminal law composition). In accordance with the provisions of article 1 of the Royal Decree 20-05/02-06-1939, an application of at least fifty (50) families is required for issuing the authorization required for establishing and operating a temple, whereas even a one-digit number of applicants is sufficient for issuing the authorization of a place of worship (case-law of the Council of State has upheld the number of five applicants as sufficient).

3. Therefore, the individual right to freedom of religious worship, as enshrined in the Constitution of Greece and in international legal instruments, is not unrestricted or uncontrolled but it is subject to very specific (and strictly limited) conditions, such as not offending public order which constitutes a legitimate restriction of the right to freedom of religious worship, as laid down in article 13 (4) of the Constitution (“no person shall be exempt from discharging his obligations to the State or may refuse to comply with the law by reason of his religious convictions”). This restriction has a consequential function, meaning that practice of religious worship is not above the law, and a positive function, meaning that practicing believers are subject to the same legal obligations and requirements shared by all under the law.
As it is accepted by all legal theory and case-law: “Freedom of worship does not enshrine the absolute right for believers to worship God where they want and when they want, without complying with the law nor does it enshrine a particular right to practice rites of worship in a designated area. It merely guarantees the right for believers of all religions and denominations to worship God in their own way and with the means chosen by themselves and imposed by the rules of their religion without unjustified obstacles and arbitrary interference by the State.” (opinion of Antonis Manitakis entitled: “Constitutional protection of cultural property and freedom of worship in response to the use of the Rotonda” Thessaloniki 05-03-1995). Therefore, under the above conditions, the administrative authorization for the place of worship is “a necessary measure in a democratic society pursuing a legitimate aim, namely the protection of public order, as the authorization is a measure proportionate to the aim pursued” (Supreme Court 20/2001).

4. The meaning of public order (as laid down by Article 3 of the Civil Code) includes those provisions of mandatory law set out to serve the public-interest and not private-interest, the implementation of which cannot be excluded by the volition of private persons. That is to say that such mandatory rules apply in an absolute manner, without permitting any derogation, amendment or exclusion by virtue of a private agreement or a unilateral expression of the opposite will. Therefore, in addition to the relevant provisions of the Constitution and the specific legislation, it is clear that, for the issue of the authorization and the lawful operation of a place of worship, compliance with the laws on street planning, urban planning and health regulations is required as well as the provisions on quiet times, i.e. mandatory rules universally applicable which may not be excluded by private citizens, and regulations designated to ensure the necessary conditions of security and protection of assembled citizens. Particularly with regard to the regulations of urban planning and street planning legislation, the Legal Council of the State has held by opinions 343/2002 and 121/2008 that: “Within the definition of public order the following is included inter alia: compliance with regulations of the relevant urban planning and street planning legislation applicable in the area where the temple or place of worship shall operate”. In fact, the Greek Ombudsman has expressed its position on this issue in the past, stating that prioritizing urban and building approval is not restrictive of the freedom of religion, provided that this is applicable under conditions of sound administration and is accompanied by a notification to the applicants as laid down by article 4 (2) of the Law of Administrative Procedure (see Greek Ombudsman document Ref. number 18893.06.2.6./09/09/2008 and Mediation Summary of September 2009).

5. The following rules are included in particular within the generally applicable rules of public order (in terms of urban planning, street planning and public health) aiming at the safe use of buildings and the protection of their users and the local residents: A) Rules on categories and content of land use i.e. Presidential Decree 23/02/1987 (Official Government Gazette of the Hellenic Republic D’ 166/06-03-1987). These rules lay down the land use in areas of application of the general urban development plans according to their general or specific urban functional dimension in which particular case the legislator has specifically provided for the category “Religious Places” as a special category (article 1, indent B, number 3) which is allowed to be used in several areas of Urban Development Plan (e.g. residential areas,
“exclusive”, as referred to in article 2, indent 7, and “general” in article 3 indent 8, urban areas, as referred to in article 4, indent 12, tourist areas as referred to in article 8, indent 10. In accordance with these provisions, a religious place (place of worship, temple) may operate legally in an Urban Development Plan area where such use is provided for. **B)** Rules on categories and classification of buildings depending on their use and on the subsequent specifications that must be followed depending on the estimated population served, in accordance with **articles 3 and 4 of the Building Code** (see articles 346-347 Code of Planning Legislation 14-07-1999, Official Government Gazette of the Hellenic Republic D’ 580/27-07-1999) which lay down that the category “Public Assembly” includes buildings and parts of buildings used for the assembly of at least 50 persons for religious events and activities (therefore inter alia temples are explicitly included in accordance to article 346, paragraph 1, indent C); for these religious places floor area of at least 0,65 square meters per person is required (article 347, indent C (bb)). **(C)** Rules on general conditions of hygiene of the building and on public health protection (e.g. water, sewerage, lighting, ventilation etc.) such as: a) **article 11 of the Building Code** (see article 354 Code of Planning Legislation 14-07-1999, Official Government Gazette of the Hellenic Republic D’ 580/27-07-1999) on the obligation for all areas of principal use in buildings to have natural lighting and ventilation (direct and indirect) and b) **the Ministerial Decree C1/9900/27-11/03-12-1974 of the Minister of Social Services** (Official Government Gazette of the Hellenic Republic B’ 1266/1974) in so far as it is in force, laying down the obligation of constructing and providing toilet facilities in all areas of public assembly and living areas (article 1, indent 9), as well as the other provisions within the existing legislation on Public Health protection. **(D)** Rules on fire safety, i.e. the provisions of **Fire Fighting Regulation 3/1981** (Official Government Gazette of the Hellenic Republic B’ 1201/1981), **Fire Protection Regulation for buildings, Presidential Decree 71/1988** (Official Government Gazette of the Hellenic Republic B’ 1586/1988) as well as the **Fire Fighting Regulation 13/2013** (Official Government Gazette of the Hellenic Republic B’ 1586/2013) in force. In accordance with the aforementioned legal provisions, designated requirements on fire safety measures must be followed—depending on the date of the application of the building permit and on the number of people gathered—both for the assembly areas for fewer than fifty persons and those for over fifty persons. It is explicitly mentioned that buildings or parts of buildings where people gather for religious events and activities (in accordance with the relevant regulation of the Building Code) explicitly referring to churches (article 1, Fire Code of Regulations 3/1981, Official Government Gazette of the Hellenic Republic B’ 20/1981) are included in the abovementioned places. Compliance with the relevant regulations is evidenced by the fire safety certificate issued by the competent firefighting authority. **(E)** The regulation on quiet times measures, i.e. **Police regulation 3/1996** (Official Government Gazette of the Hellenic Republic B’ 15/1996); in accordance with Article 2, managers of public establishments (serving food and drinks) and other enterprises as well as home owners “are required to use mechanical means or other appropriate means to diminish to the minimum possible level the noise caused” by various installations to protect neighboring population.

6. Additionally, the rules of public order generally applicable clearly include the general fiscal provisions relating to taxes, penalties and specific obligations not only with regard to
Tax administration may issue a VAT identification number to a tax-exempt person, if this is required by other provisions. In particular, Tax administration shall issue a VAT identification number at the request of any natural person or legal person or legal entity if a financial transaction is carried out with national general government entities, credit institutions and payment institutions. All issues related to the application of the aforementioned indent as well as all additional details may be set up by decision of the Secretary General” as well as all the relevant regulatory decisions pursuant to this authorization. Council of State decision 582/2011 on mandatory issuing of VAT identification number held that this obligation: “... is not contrary to article 13 of the Constitution or article 9 of the European Convention on Human Rights because it aims at achieving a public objective (the effective operation of the new computerized system and the ensuing tackling of tax fraud) and it introduces an obligation of general and impersonal scope not dependent on religious beliefs, which is not subject to any exception, especially as this obligation does not constitute an attempt to exercise state authority to the personal beliefs of the citizens.”.

-NECESSARY DOCUMENTS

7. The administrative practice pursued to date has been as follows: issuing the authorization for the establishment and operation of places of worship, while delaying the requirement for the religious community to take the necessary steps for the place of worship to operate lawfully. It has been established that this administrative practice does not comply with the rules of administrative cross-action because it presents the risk of one State Administration issuing an authorization and another withdrawing it for impinging on its responsibilities. Additionally, this practice hasn’t worked effectively so as to ensure a) the safe gathering and protection of religious communities’ members in their place of worship, b) the legal rights, safety and quality of life of the residents c) the legal right of social peace and coexistence within the framework of constitutional protection. Thus, there has been issue of authorization and operation of places of worship without prior compliance with the minimum legal general conditions on safe assembling of the public; instead, there have been major gatherings of believers largely exceeding the stipulated capacity, in basements, ancillary rooms or inappropriate locations lacking adequate ventilation and lighting or toilet facilities; powerful public address installations emitting excessive noise pollution disproportional to the use and for a long period of time, infringing the rights of the residents. Nevertheless, these practices violate the relevant provisions and additionally imply risks in terms of safety in religious practice of the believers as well as serious discord and conflict which directly affect social peace and harmony. Therefore, the jointly responsible public bodies have found the need of change of practice regarding the issue of a permit for establishing and operating places of worship of religions and denominations other than Greek Orthodox 1. Thus, fully respecting the right of religious communities to practice their religion in a free and unimpeded way, this circular is issued with a view to compiling and repeating all relevant legal provisions - and not to setting new ones- and to providing directives and clarifications for their proper implementation. The existing legal conditions
in force for issuing a permit for establishing and operating places of worship of religious communities of religions and denominations other than Greek Orthodox as well as for issuing a permit for their relocation have been compiled with the aim to ensure the safe gathering of members of religious communities and the security of residents and installations, as it is required by every state governed by law. It is specified that the maximum number of persons (believers and visitors) that can be gathered safely in the place of worship to be authorized, following the legal provisions in force and this circular, solely concerns the specific place of worship and is not related to or constrains the total number of believers of the religious community or any future increase of this number.

8. In light of the above, religious groups other than Greek Orthodox requesting an authorization for the establishment and operation or relocation of their places of worship, are required to submit the following documents to the competent service of the Ministry of Education and Religious Affairs:

NECESSARY DOCUMENTS FOR ISSUING AN AUTHORIZATION FOR THE ESTABLISHMENT AND OPERATION OF A TEMPLE – WORSHIP PLACE

a) A request signed by the religious minister and the members of the religious community. The maximum number of persons (believers and visitors) in the place of worship at any one time will be mentioned with a view to applying the relevant provisions on minimum surface of the area declared. The permanent address of the applicant members shall be indicated including authentication of their signatures.

b) A certified true copy of identity card or passport of the religious minister and the members signing the application. If the applicants are not Greek or E.U. citizens, a copy of valid residence permit is required.

c) A curriculum vitae of the religious minister (reference to qualifications).

d) Confession of Faith (brief description of the basic principles of the faith and religious rites) and the Statute as well as any existing Regulation (provided that the applicant religious community is organized under this legal form, i.e. association or civil-law non-profit company).

e) Property title deed (and the certificate of transfer registration) in the name of the religious community (provided that it is a legal entity) or of the religious minister or of one of the applicants members of the community or a lease contract (authorized by or declared at the competent tax authority, in accordance with the provisions in force) of the property where the temple or worship place is going to be built or established. In case of a lease contract, it is required that the possibility of using the rented building for this purpose is indicated or otherwise a solemn declaration of the owner is presented accepting the use for religious activities.

f) Attestation of the Urban Planning service concerned for the activities allowed to take place in the area where the authorization to operate the temple or place of worship is requested.
g) Attestation of a private civil engineer certifying, depending on the maximum number of persons at any one time declared to be served by the place of worship or temple, in a clear and detailed manner and in conformity with the above, that the area fulfills all legal conditions of an area of principal use in order to host religious activities for a specific number of persons, as declared, in accordance with the New Building Code as well as the Urban Planning regulations in force. The minimum data required shall be stated in the attestation as follows: i) the public document on the legality of the area in terms of urban planning (as follows), ii) the floor on which the area to be authorized is located, iii) the nature of the area in its principal use, iv) the type of use of the building or of the specific part, v) the total floor area, vi) the application of all provisions on adequate lighting and ventilation, vii) providing toilet facilities. The attestation must be accompanied by a copy of the building permit and any amendments to it as well as copies of layouts and views of the area of the place of worship where all spaces will be marked including the ones provided for by specific provisions of the institutional framework in force (e.g. technical standards, sanitary standards, constructions for people with disabilities) and photographs of the area. The layouts-views of the area are those that accompany the building permit or, where applicable (depending on whether it is subject to the corresponding law on exempting, settling or regularizing property), the copies of plans submitted to the competent authority or to the electronic data system of the Technical Chamber of Greece. For buildings built prior to the entry into force of the General Building Regulation of 1955 and for which an authorization has not been issued, copies of layouts and views shall be submitted. It is hereby clarified that: a) conformity to building legislation shall result from the building permit or from the construction permit of the building, if there is one, or, in the case of buildings or divided property placed under any law exempting from demolition or settling or regularizing unauthorized construction, from the attestation of exemption or closure issued by the competent authority, or the competent Buildings Office, or attestation of procedure closure by the electronic data system of the Technical Chamber of Greece, or attestation of repayment of 30% of the single fine by the electronic data system of the Technical Chamber of Greece according to the relevant law provisions, or classification of the building as existing prior to 1955 (the aforementioned attestation shall be accompanied by a copy of the building permit or the construction permit, if there is one); b) following the implementation of the Building Electronic Identity as provided for in article 4 of Law 3843/2010, instead of the aforementioned supporting documents, a certificate regarding the completeness or updating of the Electronic Identity and copies of layouts and views shall be submitted, as they have been submitted electronically. It is recalled that Article 25 (14) of Law 4178/2013 provides for the following: “In any case the attestation required certifying an area of principle use is issued by a private civil engineer. The competent Buildings Office shall certify that the new use is not prohibited by specific provisions in force for the property or for the area of the property and the certificate shall be
presented where necessary”. Additionally, the circular issued by the Directorate for Building Codes of the Ministry of Environment, Energy and Climate Change (Ref. number 3/oik.54373/1-10-2013 clarifies that: “the obligation of the Buildings Office to issue an attestation certifying an area of principle use is repealed. Hereinafter, this attestation shall be issued by private civil engineers who will be liable for the accuracy of the information provided.”

h) Attestation issued by the competent Health Service certifying that the conditions for general hygiene and environmental hygiene are met.

i) Certificate for (active) fire protection issued by the competent fire service, in accordance with the provisions in force.

j) Attestation issued by a civil engineer certifying that there is sound insulation, in the case of installation of powerful audio systems and microphones in excess of the admissible limits of sound emission.

SUPPORTING DOCUMENTS FOR ISSUING AN AUTHORIZATION FOR RELOCATING A TEMPLE OR A WORSHIP HOUSE

i) Application signed by the religious minister.

ii) Copy of the minutes of the general assembly of the members or decision of the official central governing body of the religious community by which the relocation is decided.

iii) The supporting documents of the subparagraphs e) to j) above.

In any case this circular as well as the authorizations issued for establishing and operating or relocating places of worship in accordance with the procedure laid down by this circular do not alter, affect or amend the legal relations, the specific provisions, the duties and responsibilities and the restrictions laid down by the Horizontal Ownership Constitution and the Building Regulation in force where the temple or worship house shall be housed, nor do they legitimize any use of the area other than the use provided for. Timely examination of the conformity of the use to be authorized, in accordance with the rights and obligations and commitments for joint ownership, is solely the responsibility of the applicants.

9. The figure of population declared by the religious community as the maximum number of persons (believers or visitors) who may come into the area must be entered on the official authorization. The declared figure of the maximum number of persons shall result in function with the floor area; therefore it cannot exceed the ratio of the floor area by a factor of 0.65. It is noted that the floor area is smaller than the area indicated on the notarial acts on the building or on a part of it, e.g. Horizontal Ownership Constitution, sale contract because structural elements such as masonry are included on those acts). Lastly, the religious minister responsible for the area is obliged to post prominently, close to the entrance door, a sign indicating the name of the religious community and the Internet Uploading Number on the
Transparency Portal of the permit submitted to the temple or worship place. The reason for this is to provide reliable information to the believers and other visitors interested and to facilitate the supervisory authorities on their task.

10. Following the issue of the authorization, the person responsible for the temple / place of worship must provide to the competent service of the Ministry of Education and Religious Affairs a copy of the certificate of the VAT Identification Number issued by the competent Directorate of Economic Affairs of the seat to service transactions of the religious community and the authorized place of worship, in compliance with the existing tax provisions.

11. The religious community is required to submit all necessary documents, and in particular on grounds of change of circumstances, in order to verify compliance with the provisions in force and to keep up to date the authorization records. The authorization for the establishment and operation of a place of worship or temple or for its relocation is officially communicated by the authorizing authority to the following public services of the seat in order to facilitate them into exercising their responsibilities: a) the Municipality concerned, b) the competent Building Service c) the Fire Service d) the Directorate for Health and Public Health and e) the Police Station of the area.

III – INFORMATION DOCUMENT ON ESTABLISHING AND OPERATING TEMPLES/PLACES OF WORSHIP OF RELIGIONS AND DENOMINATIONS OTHER THAN GREEK ORTHODOX

The information document on establishing and operating places of worship and temples of religions and denominations other than Greek Orthodox is an official means to inform the public and public entities on the procedure to be followed hereinafter as described above. The abovementioned document provides in detail the procedure for establishing and operating places of worship. Additionally, the necessary documents and application forms required are annexed to it for the applicants to complete and for the signatories to the present circular to issue. The General Directorate for Religious Affairs, Directorate for Religions and Denominations of the Ministry of Education and Religious Affairs is responsible for this end and shall arrange for the electronic publication of the Information Document on the Ministry’s website.

IV- AMENDING CONDITIONS AND PROCEDURES PROVIDED FOR BY THIS CIRCULAR

The services jointly responsible in terms of areas of responsibility and material, shall inform the issuing authority of the Ministry of Education and Religious Affairs on any amendments to the relevant legislation which may affect the procedure described for issuing an authorization for the establishment and operation of temples or places of worship in existing buildings. In this case, the competent service shall also
propose the appropriate amendment to the procedure if it must be amended in terms of form or substance, in whole or in part.

(The Information Document, an attestation model of a private engineer and a model of official authorization are attached)

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1 The Church of Greece, the Church of Crete and the Holy Metropolises of the Dodecanese