AUTONOMY
ARRANGEMENTS IN THE WORLD

The Turkish Muslim Minority of Thrace in Greece

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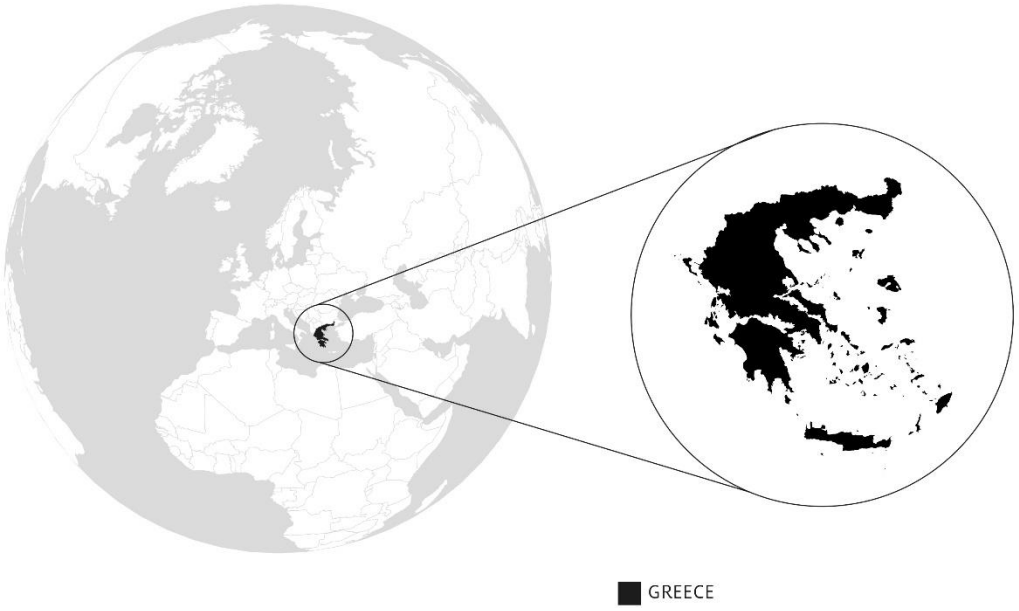

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Content

1. Essential Facts and Figures

Today, the Muslims of Greek citizenship of Thrace (who would not be more than 90,000),[1] are the only recognized minority in Greece. They are mostly Turkish speakers and express Turkish national sentiment. About 20,000 of them have Pomak (a Bulgarian dialect) as their mother tongue, partly express an ethnic Pomak identity, often along with a Turkish (national) identity, and about 5,000 speak Romany (partly expressing an ethnic Roma identity), although most of the Muslim Roma are monolingual Turkish speakers. As questions on religion and mother tongue ceased to be included in the national census from 1951, the above figures are rough estimates. Minority Muslims are all Sunni except 2,000 or 3,000 who are Bektashi/Alevi. Muslims from Thrace also live in Athens (13,000) and Thessaloniki (3,000), where they have migrated for economic reasons since the 1980s. In the Dodecanese islands (Rhodes and Kos) about 2,000 live on each island. During the Greek-Turkish confrontations in the 1960s and 1970s, a wave of Muslims emigrated from Thrace to Turkey, Germany, and other countries for political and economic reasons.

It is worth mentioning that a new group of Muslims, or *New Islam*,[2] has settled in Greece. New Islam consists of Muslim immigrants who have migrated to Greece since the 1980s and mainly from the early1990s until today. Muslim refugees are also included in New Islam. As they fled various countries of the Middle East, Asia or Africa, they belong simultaneously to their respective national communities and the wider Islamic community, as long as they express religious feelings.[3] No specific law or regulation exists vis-à-vis New Islam. In practice, Greek law does not regulate the specific characteristics of immigrant Muslims as a minority. In the exception of a few individual cases of naturalization, the bulk of immigrant Muslims is of non-Greek citizenship. The present case study will deal only with *Old Islam* as it is to be understood within a mixed non-

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[1] This figure is based on the number of Muslim school pupil population dwelling in Thrace, which is 7,500.

[2] *New Islam* refers to Muslim immigrant communities, most of whose members have not acquired Greek citizenship. *Old Islam* refers to historical Muslim minorities whose ancestors acquired Greek citizenship along with all inhabitants of a territory annexed by Greece (like Thrace in 1920).

[3] Muslim Albanians who would constitute the overwhelming majority of the New Islam have little or no active expression of religiousness. Afghans, Egyptians, Syrians, Pakistanis, Bangladeshis, Sudanese, Indians, Nigerians, Moroccans, and others form Islamic communities of uncertain and fluid numbers (approx. 250,000 in total). See Kostopoulou (2016); Evergeti, Hatziprokopiou and Prevelakis (2014).

territorial autonomy (personal status) and territoriality: Thrace is the territory where minority rights are implemented.

The further a Muslim goes from Thrace, the fewer special rights they enjoy: personal autonomy is not applicable outside Thrace, and, in addition, no mosque or cemetery is available. It follows that a Muslim wedding cannot be registered. Therefore, Muslims of Greek citizenship and migrant Muslims enjoy general human rights in the same way as any other citizen, as long as they live outside Thrace (and Rhodes and Kos), but they do not have access either to the special rights or to general rights pertaining to freedom of religion (they used to have special schools until 1971, and have mosques and cemeteries, and maintain community properties or *vakif*). The one and only mosque of Athens was erected in late 2020. The delay was due to *technical problems* that have a political and Islamophobic flavour to them (Sakellariou 2015). In Athens, Thessaloniki, and some other towns, about 100 prayer halls (*mestjits)* are operated by immigrant Muslim communities, most of which without official permits. The non-availability of a Muslim cemetery outside Thrace (as well as Rhodes and Kos) adds another dimension to the bi-zonal legal framework (in/out of Thrace) that applies to Muslims in Greece (Tsitselikis and Sakellariou 2019).

2. Autonomy and State Structure

Greece is a unitary state with a central government based in Athens. Local authorities are elected at two levels or grades: municipalities (first grade) and regions (second grade). One of the 10 regions (*Perifereies*) of the country is Eastern Macedonia and Thrace. The elected head of the Region (*Perifereiarhis*) is based in Komotini. Thrace is divided into three units (*Perifereiakes Enotites*): Xanthi (capital city: Xanthi), Rodopi (capital city: Komotini), and Evros (capital city: Alexandroupoli). A number of municipalities (those of Myki, Arriana, and Iasmos) have a mostly Muslim population or a mixed Christian-Muslim population (Iasmos, Komotini, Xanthi, etc.).

The Decentralized Administrations (*Apokentromenes Dioikiseis*) are seven administrative divisions comprising state services of the Ministry of the Interior. One of them is that of Central and Eastern Macedonia and Thrace, based in Thessaloniki. It is headed by the Secretary General, appointed by the Minister of the Interior.

There is no territorial autonomy pertaining to the minority organizational structures *stricto sensu*. However, political representatives who belong to the minority undertake the role of representing

the minority. Therefore, Muslim deputies and mayors, as well as members of the councils of the local authority bodies have a special intermediate position between the minority and the government or the local authorities. There are three municipalities with a majority Muslim population where Muslim mayors are elected. Furthermore, Muslims participate in the elected bodies of local authorities throughout Thrace. In most of the cases, they also express national Turkish affiliation. Usually, one to three, and rarely four Muslim MPs, are elected in Xanthi and Rodopi as candidates through the major political parties of Greece.[4]

Political representation became an issue of confrontation when minority MPs made it clear that they have a Turkish national identity. As a result, since 1993, a political party or an independent candidate has to gather more than 3% of the total number of votes at national level to be represented at the Greek parliament. The only minority political party which survived the past political turmoil related to the independent political representation of the minority (1989-1993) is the Friendship-Equality-Peace-Party (*Dostluk-Eşitlik-Bariş Partisi*) founded in 1994 (Aarbakke 2000, 357-500). From 1994, the minority political party takes part in local elections and European parliament elections. In the elections for the European parliament of May 2019, the independent ticket "Friendship-Equality-Peace" obtained 42,792 votes representing the great majority of the Muslim votes in Thrace, or 0.75% at the national level.

3. Establishment and Implementation of Autonomy

The Greek Revolution of 1821, which led to the independence of Greece from the Ottoman Empire in 1830 was the first successful national movement in the Balkans. The Greek Revolution established a pattern that was followed by similar national revolts based on the belief that the *Christian nations* had *awakened* and thrown off the *Ottoman yoke*. In this ideological, political, and institutional context, Muslims became a minority subjected to differentiated legal treatment well before the establishment of the minority protection system by the League of Nations during the interwar period.

In 1830, when the Greek state was first established, Muslims constituted a very small group (the community of Halkida) (Baltsiotis 2017) within the then borders of Greece with almost no special

[4] In the 2019 parliamentary elections, three Muslim MPs were elected, two with the "Movement of Change" (KINAL) ticket and one with the "Coalition of the Radical Left - Progressive Alliance" (SYRIZA) ticket.

institutional protection. By 1881, with the annexation of Thessaly and Arta, Muslim communities, which numbered about 40,000 persons at the time, acquired protection as a minority by the Treaty of Constantinople concluded in 1881 between the Greek Kingdom and the Ottoman Empire. In effect, the Ottoman *millet* system, namely the ethno-religious communal institutional autonomy, was preserved within the Greek legal order. The local muftis acquired quasi-judicial authority in personal status matters, and the Muslim schools and religious foundations (*vakif/vakoufia*) were administered by local Muslim Community Councils. By the end of the Balkan Wars (1912-1913) and with the annexation of the *New Territories*[5] by Greece, the same legal status was extended to more than 500,000 Muslims who became Greek citizens. With the Treaty of Athens, signed between Greece and the Ottoman Empire in 1913, the Muslim communities were once again retained as legal entities with institutional autonomy. Community schools and the *vakifs* were kept under their authority, and the muftis acquired jurisdiction on personal matters, dealing with family and inheritance law. It is worth noting that Crete, too, before its union with the Greek Kingdom in 1913, and during its quasi-independence (Cretan State),[6] offered a sophisticated legal framework to the Muslim community of the island which was elaborated mostly by Eleftherios Venizelos, future predominant political figure of Greece (Tsitselikis 2012, 36-46).

After the Greek-Turkish war of 1919-1922, a compulsory population exchange took place under the Lausanne Convention of January 1923 and 450,000 Muslims left Greece for Turkey. According to the Convention, 92,000 Muslims of Western Thrace (Turkish speakers, and Bulgarian speakers or Pomaks) were exempt from the population exchange, as a counterweight to the Greek Orthodox population of Istanbul, Imvros and Tenedos who were also exempt from the exchange. Another 25,000 Albanian-speaking Muslims in Epirus and Macedonia were also exempt from the mandatory emigration according to a decision made by the Greek government in 1925. Being sympathizers of the Italian/German occupation forces after 1940, Muslims of Epirus (Chams) were forced to move to Albania in 1944-1945.

In 1947, when the Dodecanese islands were annexed by Greece, a population of about 12,000 Muslims (Greek and Turkish speaking) living in Rhodes and the Kos islands became Greek

[5] *New Territories* is the term used to define the annexed territories after the Balkan Wars (1913), namely Macedonia, Epirus, islands of the Eastern Aegean and Crete.

[6] Crete was granted quasi-independence by the Powers (Italy, England, France and Russia). The implementation of its Constitution, based on elements of bi-communitarianism, was put under the auspices of Greece (1898-1912).

citizens. This was the last territorial expansion of Greece that resulted in acquiring a Muslim population.

As mentioned, it is important to highlight that there is no direct institutional link between the administrative bodies and local authorities of Thrace and the minority legal framework. Minority rights, according to the Treaty of Lausanne of 1923, are attributed through religion to Muslim Greek citizens who are residents of Thrace. Therefore, minority protection consists of personal autonomy with strong elements of territoriality. Territorial limitation (namely in Thrace) is a *sine qua non* condition for the implementation of the minority status, as set by legal instruments on minority protection.

Religion played a key role for the minorities in the consolidation of a respective national identity (Turkish for the Muslims in Greece, Greek for the Greek Orthodox in Turkey, etc.). Therefore, religious rights were deemed to be the hard core of minority protection according to the Treaty of Lausanne. However, the recognition of these minorities strictly as of a religious character overshadowed the possibility for their members to freely express their ethnic affiliation. In times of tension, minorities would be seen as an *enemy within*. Conversely, law and policies served a *millet*-like perception in which religious leaders of all minorities still are legitimized as political leaders as well.

4. Legal Basis of Personal Autonomy within Territory

The members of the minority are subject to the Greek Constitution and international human rights treaties in the same way as any other Greek citizen. On top of that legal nexus, the minority of Thrace has, since 1923, been governed by the chapter of the Treaty of Lausanne on minority protection (Articles 37-45) which creates mirror obligations for Turkey and Greece regarding non-Muslims and Muslims respectively. This legal protection system reflects once again a *millet*-like approach regarding the attribution of religious and linguistic rights through religion. However, the *Lausanne system* survived unchanged after the new era brought by the United Nations system for minority protection, and establishment of the post-1991 new multilateral minority protection system in Europe.

The members of the community are protected to preserve their identity and participation in their own community institutions: community schools, community administration, and community

property. At the same time, the clause of non-discrimination and equality for all citizens facilitates their participation in the social and socio-economical life of the broader society. The rights of the minority and the concomitant obligations of the state are as follows:

- Equality without any discrimination (Article 38 (1))
- Freedom of worship (Article 38 (2))
- Freedom to exercise civil and political rights (Article 39 (3))
- Limitation of the state to impose restrictions on the free use of any language in publications, in private, or public meetings (Article 39 (4))
- Right to use their own language in oral proceedings in courts (Article 39 (5))
- Right to found private educational, pious, and religious institutions with free use of the minority language (Article 40)
- State obligation to support public minority schools, and permit pious and religious institutions (Article 41)
- The Greek language to be taught as a language subject in the public minority schools (Article 41 (1))
- Right to enjoy matters of personal and family character according to the traditions of the minority (Article 42 (1))
- Government obligation to provide support to any religious foundation (Article 42 (3)).
- Non-performance of acts contrary to Muslims' religious beliefs or customs (Article 43 (1)).

Thus, the status of the Turkish/Muslim minority of Thrace encompasses specific minority rights regarding religious freedom and linguistic rights in parallel to the nexus of rights that (Greek) citizenship entails. There are three domains in which minority rights result in distinct bodies or institutions:

(a) Three muftis appointed by the government are based in Thrace. They are the religious authority in their respective region and exert special jurisdiction over Muslims on family and inheritance matters. The selection of the muftis, who are religious leaders, but also very influential political figures, became an issue of major importance and the subject of national (Greek-Turkish) confrontation and legal controversy. Two more muftis have been elected by

Muslims, with no official authority. The muftis appointed by the government keep a very low profile on national ethnic issues, while the elected muftis[7] voice strong national Turkish feelings.

(b) Minority schools offer bilingual education to Muslim students. The latter also attend Greek public school. Christian teachers teach the Greek-language curriculum and Muslim teachers teach the Turkish-language curriculum.

(c) Muslim community property (*vakif/vakoufia*) is administered by councils, which are not elected but appointed by the government since the times of the junta in 1967.

These distinct bodies and institutions which are perceived to be the flesh and blood of the minority itself are discussed in detail under section 5 of the case study.

This minority protection system survived the dissolution of the League of Nations and the implied abrogation of the minority treaties through the establishment of the United Nations human rights system in 1945. The Treaty of Lausanne also survived all progress that was made in human rights and international law on minority protection. The Treaty remained impermeable from the radical progress that formed new minority protection law, especially after 1995 in the European context, and showed a solid resistance to any attempt to amend it. Democratization and Europeanization (in a wider sense, i.e., the process of convergence with legal norms of European origin, EU law and the Council of Europe) progressively affected to a certain degree human and minority rights. Greece, although a member state of the Council of Europe and subject to the jurisdiction of the European Court of Human Rights (ECtHR), did not ratify the Framework Convention for the Protection of National Minorities (FCNM) or the European Charter for Regional or Minority Languages (ECRML).

The Treaty of Lausanne thus remained the only international instrument regulating the status of minorities in Greece and Turkey through the religion criterion. Strong political and national feelings shaped law and policies that moulded both countries' ability to accept new international and European human and minority rights obligations. In effect, the content of Articles 37-44 of the Treaty was developed over time only through political considerations in favour of *national interests*. For example, the Treaty provides for education in the language of the minority, but after the 1950s the minority schools in both countries became bilingual through a balance of hours/per

[7] In Xanthi and Komotini, there are official muftis appointed by the government and unofficial muftis elected by a group of Muslims. Their offices function in parallel and this situation reflects the Greek-Turkish antagonism over the organizational structures of the minority (see section 5.2. of the case study). An additional mufti is appointed by the government in Didymotiho.

language/per subject. This development was carried out not out of educational concerns but due to a political aim to strengthen the official language.

As noted, according to the Treaty of Lausanne, minority rights are attributable only through religion. Consequently, linguistic, ethnic, or national characteristics of the minority groups that would have evolved over time are not taken into consideration by the law. The Treaty of Lausanne has overall inherent weaknesses and obsolete formulations offering a deficient legal ground for the subjects of protection. In other words, the Treaty was drafted in the 1920s under a given ideological, legal and political configuration, and it has been implemented for 90 years with no intention to adapt it to the newly emerged political, social or economic context. On the contrary, it has to be seen as a legal instrument in light of modern international human rights and minority protection law.

Other community organizational structures or prerogatives pertaining to the Muslim minority of Thrace have faded out through time, such as the election of community councils (held until the 1950s), special quotas for political representation to the parliament (applied until 1932), or exemption from military service (until the 1920s). Furthermore, minority communities gradually lost their legal personality and internal administrative bodies. Yet, it is ambivalent to which degree institutional autonomy modalities, which were forged within the Ottoman Empire can be transformed into a modern minority protection scheme.

5. Autonomous Institutions

Stemming from the above-mentioned legal framework set by the Treaty of Lausanne, the Muslim minority in Thrace enjoys a certain degree of autonomy in three fields: education, religious leaders and special courts, and community property.

5.1. Minority schools

Minority education concerns mainly primary schools. In 2019, there were 115 minority elementary schools. In total, about 5,000 pupils attended these schools in 2018 (Tsitselikis and Mavrommatis 2019). Since 2010, 65 elementary minority schools have been closed as the minimum number of

students fell below the threshold of nine per school. This threshold was set in all schools in Greece to minimize operational costs (Verhás 2020, 21).

General education law and special minority education legal norms establish a labyrinth of regulations that govern the structure, the organization, and the content of the minority education. As the curriculum comprises two parts, the Greek language and the Turkish language, teachers have to follow this division: Muslim teachers teach the Turkish curriculum and Christian teachers the Greek one.[8] In addition to the subjects of religion and the Turkish language, physics, chemistry, mathematics, and drawing are taught by Muslim teachers in the Turkish language. Their Christian colleagues teach the Greek language, geography, history, study of the natural environment and foreign languages. Gymnastics and music are also taught in Greek.

Rather astonishing is a regulation on the exclusive appointment of Muslim teachers for the Turkish-language curriculum and Christian teachers for the Greek-language curriculum: the law forbids Muslim minority teachers to be appointed to teach the lessons of the Greek language part of the curriculum in minority schools.[9]

Most of the Muslim teachers were trained in a 2-year programme of the Special Pedagogical Academy of Thessaloniki, which was abolished in 2013. Since 2013, Muslim teachers have been trained through a special section of the Pedagogical Department of the Aristotle University of Thessaloniki. Their Christian colleagues are graduates of the Pedagogical Departments of Primary Education functioning within Greek universities (four years of academic training).

Since 1952, a number of primary and middle school teachers from Turkey (*metaklitoi*) are teaching in minority schools in the framework of a teacher exchange programme between Greece and Turkey. Sixteen such teachers are currently working in minority schools in Greece.[10]

According to the Greek-Turkish agreement of 1968,[11] the Turkish-language textbooks have to be prepared by Turkey and distributed to the schools upon agreement of the Greek government. The

[8] Decree 1109/1972, Amending Legislative Decree 3065/1954 and regulating issues on minority education of Thrace.
[9] Article 64 (1) of Act 4310/2014 on Research, Technological Development and Innovation, and other provisions. The Hellenic League for Human Rights points out that this provision can hardly comply with the prohibition of discrimination. See "On the minority of Thrace. Chronic problems demand solutions" at https://bit.ly/2UyJyJN (accessed on 7 December 2020).
[10] On the fluctuation of the number of exchange teachers (*metaklitoi*) and Greek-Turkish cooperation, see Tsitselikis (2012, 479).
[11] Cultural Protocol between Greece and Turkey signed on 20 December 1968 by the Committee on Cultural Cooperation in Ankara and Athens. Published at Baltsiotis and Tsitselikis (2001, 114).

Greek language textbooks have been adapted to the socio-linguistic particularities of the non-Greek speaking pupils thanks to an 18-year project by the Ministry of Education.[12]

Until 2014, the authority in charge of the administration/inspection of minority schools was the Coordinating Bureau for Minority Schools. Since 2014, minority schools have been placed under the administrative bodies that supervise all public schools of the region. During this same period, two additional special (Muslim) counsellors, one in Xanthi and one in Komotini, have been appointed to deal with minority schools.[13] Apart from these two Turkish-speaking Muslim counsellors, there is no other body or structure, governmental or other, to support the Turkish language in the Greek educational system. Minority schools in Thrace are expected to follow national guidelines.

Secondary school minority education is only partly guaranteed for graduates 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 the latter: two minority high schools have been established, one in Komotini and one in Xanthi. Two more high schools of religious character, or medrese (*ierospoudastiria*), operate in Thrace. In fact, they follow the mainstream curriculum with additional special religious courses.[14] It is worth noting that gradually, more and more minority pupils shift from minority to mainstream public schools. In 2020, more than 2,000 Muslim pupils chose to attend the Greek public high schools (Tsitselikis and Mavromatis 2019, 18).

Islamic education, namely the basics of Islam and recitation of the Quran is provided to Muslim children and their mothers in a framework of private lessons, under the name Quranic Courses (*Kuran Kursu*), offered by the local imams. Almost all of them function under the auspices of the elected muftis in Komotini and Xanthi (Hüseyinoğlu 2016, 36).

Due to the bad quality of Greek language proficiency, coupled with discrimination policies applied until the mid-1990s, a permanent very low rate of entering higher education in Greece minimized the chances for the social and economic advancement of Thrace's Muslims. In order to improve this situation, an institutionalized facilitation for minority school graduates would facilitate their entry into Greek universities. Since 1996, a special quota of 0.5% on the available places in third-

[12] See "Education of the Muslim Minority Children in Thrace" at https://museduc.gr/el/ (accessed on 7 December 2020).
[13] Article 63 of Act 2014/2014 on "environmental regulations and other provisions".
[14] In 2018, the curriculum of the Muslim seminaries-high schools was revised, according to Ministerial Decision no. 182944/Θ2/2018, "Curriculum of the Muslim seminaries of Thrace" at https://www.e-nomothesia.gr/kat-ekpaideuse/upourgike-apophase-182944-th2-2018.html (accessed on 7 December 2020).

level education has been set[15] in order to cover the language difficulties which Muslim pupils faced during the Greek-language exams to enter third-level education. In effect, the measure attempts to equalize the imperfect knowledge of the Greek language by Muslim students who attended the bilingual minority school. Muslim pupils who are residents of Thrace and attending any kind of school – minority, or mainstream – are entitled to this favourable measure (Tsitselikis 2012, 502–504). In contrast, Muslim pupils who have settled in other areas outside Thrace are deprived of the enjoyment of this special entry quota, which is, moreover, one of the main indicators of territorialization of the Treaty of Lausanne.

In fact, the scope and means of the educational process are not clear, as they are not designed in the light of modern scientific pedagogical research. Thus far, little has been done to implement the Treaty of Lausanne according to new pedagogical research and current educational needs. Minority school graduates often have fewer opportunities for social inclusion and economic success, especially when they come from a low-income background. The narrow communitarian character of the schools and the tight state interventionism often limit the quality of education. The challenge for minority education remains social inclusion and success for those who graduate from minority schools within the average national margins. Preserving minority language identity and achieving social inclusion and success on the basis of personal choice would need to be governed by an inclusive and carefully designed legal framework.

5.2. Mufti offices

Greece endorses religion in the public sphere and disposes of an official "prevailing religion", according to Article 3 of the Constitution, namely the Greek Orthodox one. In that context, Islam is also recognized officially and the operational bodies of the Muslim minority (e.g., the mufti offices) enjoy the status of public legal bodies thus far only in Thrace and, to a lesser extent, in the Dodecanese islands. Three muftis are appointed by the government as heads of the respective mufti offices in Komotini, Xanthi and Didymotiho, all in Thrace.

[15] The legal framework of this special quota is governed by Article 2 (1) of Act 2341/1995 "on issues dealing with education staff of minority schools of Thrace and Special Pedagogical School of Thessaloniki", which was amended and implemented through a series of new regulations at https://www.e-nomothesia.gr/kat-ekpaideuse/nomos-2341-1995-phek-208-a-6-10-1995.html (accessed on 7 December 2020).

The mode of selection of the muftis became of key political importance in the late 1980s: Greece and Turkey attempted to control the selection procedures when both the muftis of Komotini and Xanthi passed away and should have been replaced. The Greek government amended the law so the mufti should be appointed, whereas the Turkish foreign policy supported the idea of elections. The penal courts convicted the elected muftis of Komotini and Xanthi for usurping religious authority. Their cases reached the European Court of Human Rights (ECtHR) which found a violation of religious freedom.[16] Since then, two muftis, one appointed (acting also as a judge) and one elected by a limited electorate operate in parallel in Xanthi and Komotini reflecting the Greek-Turkish antagonism over the organizational structures of the minority. The refusal by both Greek and Turkish governments to bring the mufti issue back to normality exacerbated the tension surrounding the minority question.

In 2018, the retirement age of the muftis was set at 67.[17] As a result, the muftis of Xanthi and Komotini had to retire and were replaced. Thus, a long tradition according to which the muftis served with no age limitations was broken. New *ad interim muftis* have been appointed in all three mufti offices.

According to the Minister of Education and Religious Affairs, a new mode of selection would be set up, which is still pending. The discussion over a more liberal/communitarian selection method was once again triggered by Resolution 2253 (2019) adopted by the Parliamentary Assembly of the Council of Europe that urged Greece to "allow the Muslim minority to choose freely its muftis as purely religious leaders (that is, without judicial powers), through election, thereby abolishing the application of Sharia law".[18]

[16] See the ECtHR cases related to the criminal prosecution of the elected muftis *Serif v Greece* (1999), *Agga v Greece (No. 2)* (2002), *Agga v Greece (No. 3)* (2006) and *Agga v Greece (No. 4)* (2006). In a similar case concerning the mufti of Bulgaria, the Court held that "[i]n democratic societies the State does not need to take measures to ensure that religious communities are brought under a unified leadership" (ECtHR, *Hasan and Chaush v Bulgaria*, para. 78).

[17] Article 48 of the Act 4559 on University of Ioannina, Ioannian University, and other provisions at https://www.kodiko.gr/nomologia/document_navigation/388377/nomos-4559-2018 (accessed on 7 December 2020).

[18] Council of Europe, Parliamentary Assembly, Resolution 2253 (2019) *Sharia, the Cairo Declaration and the European Convention on Human Rights*, para. 13.2.

5.3. Community foundations (*Vakoufia*, *Vakıflar*)

The communal foundations of Thrace, the *vakifs*,[19] were inherited by Greece from Ottoman law. These are pious institutions, the income of which is attributable to the religious or minority communities and therefore to the members of these minorities. Their real property comes from donations (to the *vakif*, namely the school or the mosque for instance), which can be accumulated. Their income returns to the *vakif* for its maintenance and for social purposes in favour of the members of the community. Article 40 of the Treaty of Lausanne guarantees, for the members of the minorities, that they will enjoy the "equal right to establish, manage and control at their own expense, any charitable, religious and social institutions, any schools and other establishments for instruction and education, with the right to use their own language and to exercise their own religion freely therein".

The community foundations presuppose a legal link to the relevant minority community. As mentioned, according to the Treaty of Lausanne, a *vakif* is established, managed and controlled by the members of the minority. Therefore, minority foundations should be attributable to a broader minority entity, belonging to what the Treaty recognizes as "Muslim" and "non-Muslim". This was the *community*, a legal entity of the Ottoman times comprising the overall *millet* internal organizational structures, comparable to the central councils and the committees with specific authority (on school matters, property administration etc.). These legal entities, which once had a strong political power in the Ottoman Empire, found themselves in a legal vacuum, as they could not find their place in the classical divide of the public/private sphere according to the constitutional order of Greece (other Balkan states and Turkey).

Gradually, the notion of *minority community* legally vanished, and the minority foundations remained *orphan* from their genuine socio-economic constituency. In fact, what is today legally visible are the minority foundations, the *vakifs* themselves but not their *owners*. Furthermore, this is the main paradox that undermines the management and the legal status of the minority foundations. In Greek law, the *vakif* was retained as a special legal entity as an exception to the foundations under civil law. As a consequence, minority communities lost their legal personality

[19] *Vakif* properties/community foundations (both community and private) exist also in the Dodecanese islands, governed by a special law, not linked to the Treaty of Lausanne. Two more groups of *vakif* exist in Greece. The Egyptian government owns *vakif* properties in Kavala and the Thasos island. Last, a *vakif* once owned by Albanian Muslims in Thessaly is set under sequestration (Tsitselikis 2012, 327-365).

and became legally invisible. As the *vakif* foundations accumulated real property with a clear minority-religious-ethnic character, they were perceived by states as a derogation to the national legal homogeneity.

Greek governments made efforts to put the *vakif* under political control. Conversely, enjoyment of the income and management of *vakif* property was placed under reciprocity with Turkish policies and restraints exerted to the Greek Orthodox community properties. For decades, Greece and Turkey attempted to hamper the free enjoyment of the community property by the members of their respective minorities. Excessive expropriation of real estate, blocking the selection of members of the management boards of the foundations, and non-recognition of acquisition of donations in favour of the foundations by court decisions were the usual means through which a tight control was exerted over minority property (Kurban and Tsitselikis 2010).

Minority identity often becomes a tool for satisfying personal interests of members of the minority's elite and – in the case of the *vakif* – to control real properties and their income. From the side of the state, minority identity can become an ideological threat to the majority's *national identity* and their real estate a foreign capital that could be *nationalized*. This antagonistic bipolar scheme in periods of political instability can be quite harmful to community properties. After all, these properties, within the scope of the Treaty of Lausanne, have a constitutive role to support the domestic milieu of the minority, catering for their social needs (schools, building maintenance etc.) and helping vulnerable groups (poor people, orphans, scholarships for students etc.). In a way, they replace the state's welfare infrastructure and create links of political dependence to those who control it (Tsitselikis 2019a).

6. Autonomous Powers

As mentioned, until the early 1950s there were functioning community councils which assumed all powers for the management of minority affairs (Aarbakke 2000). Nowadays, three distinct minority bodies in Thrace can exert authority in their respective domain of competence. The muftis, both the *vakif* management committees and the school boards have autonomous powers under the authority of the government. In most cases, the extent of their authority and the way they are selected still represent a thorny issue between the governments and the minority. In most cases,

the law is not fully or adequately implemented, and the relevant policies tend to control rather than underpin institutional autonomy.

6.1. Role of minority school boards

The legal status of minority schools lays on a *sui generis* combination of legal regulations of a private character and public schools. As limits between the public-private sphere of competences are uncertain, it gradually evolved from the community autonomy to the state authority to manage the minority schools and therefore to control them (Tsitselikis 2012, 508–518; Verhás 2020, 17). Uncertainty over the legal character of minority schools facilitated ambiguity and confrontation between the minority and the government. As an example, the school boards lost their right to choose their teachers: the state appoints, with no approval, the teachers of the curriculum in the official language, and the vice principals, always from the majority (namely *Christian* teachers) are given by law more powers than the minority principal (Baltsiotis and Tsitselikis 2008, 57–87).

6.2. The mufti as judge and the implementation of Islamic law in family and inheritance disputes

The muftis of Thrace, together with their duties as spiritual leaders of the Muslim communities, have special jurisdiction over family and inheritance matters. Their legal status, as sharia judge, was in accordance with the 1881-1913 international treaties and is governed today by the Act 1920/1990 on Muslim Religious Officials. Apart from the general protection of minority religion, Article 42 (1) of the Treaty of Lausanne provides for the respect of religion as a source of law in personal status. It refers to the matter as follows: “The [Turkish/Greek] government undertakes, as regards [non-Muslim/Muslim] minorities in so far as concerns their family law or personal status, measures permitting the settlement of these questions in accordance with the customs of those minorities.” Hence, in line with pre-established internal law, the Treaty of Lausanne can be seen as constituting the legal basis for the application of Islamic religious law in a limited field of personal matters among Muslims. In Greece, the religious jurisdiction of the muftis has remained intact for decades, bypassing fundamental human rights norms that have been consolidated within the Greek legal order since 1975.

The compatibility with fundamental principles of human rights (i.e., gender equality) is one of the most controversial issues that the mufti's jurisdiction raises and remains unsolved thus far (Ktistakis 2013). In many cases, the mufti's jurisdiction turned to become obligatory to Muslims – with no option to choose – raising a series of contradictions. The three sharia courts of Thrace would have, in theory, concurrent jurisdiction with civil courts and their decisions should not contravene the Constitution and the European Convention on Human Rights (ECHR). The judicial competence of the mufti should be optional or concurrent in the sense that Muslims are free to choose between civil courts and Islamic jurisdiction, which was not always the case. This would be an interpretation in accordance with the fundamental values and norms stemming from the Greek Constitution and the international framework of human rights. Over the years, the Greek Court of Cassation ruled several times[20] that Islamic law should apply to members of the Muslim minority of Thrace even without their consent. However, the European Court of Human Rights (ECtHR) took a different view in its landmark case *Molla Sali v Greece* (2018). The circumstances of the case are the following: A Muslim man drafted a public will according to which his wife would inherit all of his property. As they did not have children, after he died, his widow acquired the properties. The sisters of the deceased challenged the public will on the grounds that sharia law has to be implemented, according to which they are heirs of three-quarters of the bequeathed properties. While the court of first instance and the Court of Appeal of Thrace upheld that the public will is valid and sharia law cannot be implemented without consent, the Court of Cassation upheld the reverse, i.e. that sharia law is the exclusive law applicable to all Muslims of Thrace in the framework of the minority protection law stemming from the Treaty of Lausanne (1923).

The case was brought before the ECtHR in 2014. The applicant alleged a violation of Article 6 (right to a fair trial) of the ECHR, taken alone and in conjunction with Article 14 (non-discrimination) and Article 1 of Protocol No. 1 (right to property). The First Section of the ECtHR relinquished jurisdiction in favour of the Grand Chamber as of considerable importance for the European legal order. The Grand Chamber heard the case on 6 December 2017. The hearing initiated a series of changes in law and policies around the position of the mufti and Islamic law. According to Act 4511/2018,[21] the Muslims of Thrace have the option to choose between the civil

[20] Court of Cassation (*Areios Pagos*), Judgments 321/1960, 1041/2000, 1097/2007, 2113/2009, 1497/2013, 1370/2014.

[21] Act 4511/2018 on the Amendment of Article 5, Act 1920/1990 on Muslim Religious Officials at https://www.e-nomothesia.gr/kat-ekklesia-thriskeia/nomos-4511-2018-fek-2a-15-1-2018.html (accessed on 7 December 2020).

court or the sharia court. In case the litigants choose differently, the civil court is still the applicable jurisdiction. First, in order to take a case before the mufti, the litigants have to sign an agreement. Second, the law grants explicitly Muslims of Thrace the right to draft public wills according to the civil law. However, the implementation of the law was linked to the elaboration of a presidential decree on the internal procedural norms governing the procedure before the mufti. As the decree was delayed, the implementation of the optional choice of the mufti court was immediate after an amendment was passed in September 2018.

The ECtHR judgment was made public in December 2018. The court found that there was a violation of the right to the property of the applicant in conjunction with the prohibition of "discrimination by association" on the basis of the religion of the deceased husband.[22] It indicated that the right to self-identification of the member of a minority also means the right to opt out from that minority's protection framework. According to the ECtHR, "[r]efusing members of a religious minority the right to voluntarily opt for and benefit from ordinary law amounts not only to discriminatory treatment but also to a breach of a right of cardinal importance in the field of protection of minorities, that is to say the right to free self-identification" (*Molla Sali v Greece*, para. 157).

As a result of the forthcoming judgment, the Greek government has considered how procedural norms applied by the sharia courts would comply with human rights. The status of the mufti judge would be subject more and more to norms that govern civil servants, and the mufti offices would become more and more like state authorities. In June 2019, the Presidential Decree no. 52,[23] which was drafted in accordance with the authorizing Act 4511/2018, issued procedural reforms that were triggered by the *Molla Sali* case. These reforms provided each mufti office with a new administrative structure, designated the "Directorate of Cases under the Jurisdiction of the Mufti", and supported by a series of public servants to staff each directorate. The new arrangement created new structures within the mufti offices at the expense of the state and ensured that the secretariat of the sharia courts would be standardized and staffed to assist the mufti judge. This arguably encroaches on the institutional autonomy guaranteed to a minority religious community under both

[22] The violation of Article 14 ECHR in conjunction with Article 1 of Protocol No. 1 was established not because of the applicant's, but her husband's Muslim faith.

[23] Presidential Decree no. 52/2019 "Procedural norms on cases of Mufti jurisdiction, and establishment and function of a Directorate of cases under the jurisdiction of the Mufti offices of Thrace" at https://www.e-nomothesia.gr/kat-ekklesia-thriskeia/proedriko-diatagma-52-2019-phek-90a-11-6-2019.html (accessed on 7 December 2020).

the ECHR and the Treaty of Lausanne. In order to guarantee human rights principles, sharia courts are becoming closer to a state court model than to a community institution. However, it is questionable that the sharia courts are put under the administration of the Ministry of Education and Religious Affairs and not the Ministry of Justice.

The discussion of the status of sharia (norms related only to limited cases of personal status, such as family and inheritance law) within the Greek and European legal order[24] inevitably touches upon the issue of how to accommodate the non-liberal laws of a minority in a liberal legal context. This has been done by the Greek governments, not with a view to guaranteeing human rights and enhancing democratization but rather though a political control of the minority institutional framework. To move forward, this discussion must manoeuvre between the demands for integration, and the preservation of minority, collective, and individual identity, as potential fields of normative action.

There is increasing criticism – not unjustified – that sharia as the mufti courts apply it does not comply with human rights norms, such as equality of the sexes and the right to a fair trial. The religious and political elite of the Thracian minority counters this criticism by pointing to the central importance of the adjudication by the mufti for the enjoyment of minority rights. What could serve as a strong case for legal pluralism and minority protection infringes upon fundamental legal principles. Stemming from the Ottoman *millet* system, this model results in the imposition of social and legal segregation on the basis of religion. As the ECtHR stated in the *Molla Sali* judgment (paras. 67-68), no disadvantage shall result from the choice to belong or not to belong to a minority, from the exercise of the rights which are connected to that choice.

The law applied by the muftis of Thrace needs to submit to comprehensive reforms. The questions they raise are multifaceted: Through what process could a reform of the applicable sharia norms reconcile both sharia and human rights for members of the Muslim minority?; What would be the nature of a reform that tackles the substance of *sharia*?; and Would the abolition of Islamic law be the only path sufficient to satisfy the European and Greek legal orders? Changes to the law should be initiated and supported from within the community by its leaders, civil society, and government.

[24] On the European continent, sharia courts (of limited jurisdiction) having enforceable jurisdiction exist only in Greece. In the United Kingdom, Muslim arbitration tribunals adjudicate cases of personal status and commercial/economic issues having an important impact. The applicable law stems from a broad variety of Islamic traditions. In other countries, too, local Muslim communities apply sharia to a certain extent, unofficially, in internal disputes.

An alternative, culturally accommodating structure of adjudication could thus be put forward as a democratic paradigm (Tsitselikis 2019b).

6.3. *Vakif* management boards

The Greek law governing the Muslim community properties of Thrace was not implemented for decades. The members of the minority foundation management boards have been appointed by the government since 1964. This measure was implemented as a countermeasure when the Turkish government expelled all Greek citizens from the country and fully controlled the boards of the Greek Orthodox foundations: the property estates have not been registered. The latest law on the Muslim *vakif* is Act 3647/2008[25] which has also not been implemented as the management committees are again appointed by the government. The Act has several ambivalent aspects. It does not clarify the status of Islamic law as a source of regulations, referring to it directly but not applying it to any new minority foundation which would fall under the general civil law regarding foundations (*idrymata*).[26] Moreover, the relevant Ottoman law continues to be a source of the Greek law, but to an unspecified extent and with unclear applicability. Also, the Act perpetuates uncertainty regarding the relationship between a *vakif* committee and the local mufti or imam, whose authority is not clearly specified as either obligatory or advisory. The Act assigns the Secretary General of the Region, who is the representative of the Greek government, important decision-making authority. The ability of this official to *exceptionally* establish a separate group of properties under a special committee and determine their election processes does not comply with Article 40 of the Treaty of Lausanne and restricts the autonomy of the *vakif* committees. Finally, the Act specifies election processes determined by strict rules echoing the norms established for municipal elections. It introduces excessive qualifications for becoming a candidate and strict regulations regarding dismissal from the committee.[27]

[25] Act 3647/2008, on "Administration and Management of the vakif of the Muslim minority in Western Thrace and their properties" at https://www.e-nomothesia.gr/kat-ekklesia-thriskeia/n-3647-2008.html (accessed on 7 December 2020).
[26] According to Article 2 of Act 3647/2008, "[a] vakif, according to Islamic law, is a donation that consists of real or tangible property or any income in the service of a non-profit, charitable or generally pious purpose or in the service of a philanthropic, religious or charitable foundation, which either exists or is established for said non-profit purpose."
[27] For a detailed account of the Act 3647/2008, see Tsitselikis (2019a).

Notwithstanding these negative aspects, the new law also has a series of positive elements: the Act acknowledges the *de facto* division of community property into three groups of foundations, in the cities of Komotini, Xanthi and Didymotiho, where the *vakifs* are centrally managed. It reflects the will of the government to hold elections for the *vakif* management committees and makes no reference to the clause of reciprocity. In addition, the Act expressly deems the foundations to be legal entities under private law and places foundations that belonged to vanished communities under the management of the most proximate management committee, to prevent the loss of their legal autonomy.

The law should make a clearer distinction between the private and public spheres in which the minority representatives exert decisive and managerial authority and the state exercises supervision as a guarantor of the principles of transparency, fair administration and accountability for the benefit of the minority. The foundation managers applied principles such as accountability of management very rarely, if at all, since they are not subject to financial controls.[28]

In sum, the 2008 Act was based on political considerations that excluded the minority community itself from the discussion. The minority elite reacted strongly against the impingement upon foundation autonomy, insofar as they regarded the law as assigning excessive authority to the appointed *muftis* and the Greek authorities. In the meantime, the Parliamentary Assembly of the Council of Europe called on Greece to fully implement the 2008 Act, "the provisions of which should be able to regulate, in substantial measure, the problems".[29]

7. Financial Arrangements

The minority institutions are fully (like the muftis) or partly (like the minority schools and the foundations or community properties) financed by the state budget. In some cases, financial assistance is seen as interference with the minority affairs or as a means of control. This is the case when the Greek authorities compete with the Turkish Ministry of Foreign Affairs over which

[28] Indeed, it was only after 2007 that the appointed management committees of Komotini and Xanthi took the initiative to publish annual budgets and accounts on the websites of the offices of their respective muftis. This period of public accountability lasted less than ten years (Tsitselikis 2012, 349). Nowadays, neither websites are operational, and therefore no information on the budgets of the community foundations management committees is available.

[29] Council of Europe, Parliamentary Assembly Resolution 1704 (2010) "Freedom of religion and other human rights for non-Muslim minorities in Turkey and for the Muslim minority in Thrace (Eastern Greece)", para. 18.4., at http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17807&lang=en (accessed on 7 December 2020).

would finance the restoration of a mosque, for instance. The result of control patterns over the minority is reflected in the distribution of salaries, pensions or allowances, often through funds outside the official state budget, to a series of beneficiaries who change over time. In some cases, certain persons receive this aid from both sources.

Taxation of the minority foundations is a long-lasting issue which remains unsettled. Posed between beneficiary regulations for all religious endowments in Greece, and restrictions based on an overt or covert reciprocity approach, the major *vakif* committees are in debt to the state treasury (Tsitselikis 2012, 343–348; Verhás 2020, 21), minimizing thus the potential capacity to exploit their financial resources in favour of the minority.

8. Intergovernmental Relations

The old-fashioned legal framework set by the Treaty of Lausanne was and still is interrelated to the Greek-Turkish political antagonisms that historically were exacerbated due to the Cyprus question (1955–today). As Christos Rozakis points out, in the post-Second World War period the application of the provisions of the Treaty of Lausanne, and treatment of the minority more broadly, fluctuated in response to the ebb and flow of Greek-Turkish relations (Rozakis 1996, 105).

Especially after 1964 and 1974, until the mid-1990s, minority protection suffered from Greek-Turkish antagonisms through the notorious principle of (negative) reciprocity. Reciprocity establishes parallel obligations between two states. In the case of human and minority rights, reciprocity does not entail a right for one party to downgrade the level of protection if the other party violates the minority or human rights. In practice, reciprocity constitutes a mechanism of behaviour linked to a psychological reflex, i.e. to do what the enemy has done to you, or a form of revenge and getting even.

The measures and countermeasures targeting mutual minorities in Greece and Turkey do seem to follow a chaotic pattern of legal and political behaviour. Certain measures were explicitly taken as a response to the acts of the counterpart. Other measures, not strictly reflecting a mirroring balance in quality and quantity, would satisfy political aims considered at local or national level: preventive measures that the other party would adopt; measures not connected to minority policies that nevertheless affected or triggered a series of reciprocal measures; measures that were withdrawn

in order to persuade the other side to do so; measures that were announced but never applied reciprocally; measures that were legally adopted and applied in the context of applied reciprocity, etc. The most important fields of application of measures of reciprocity were education, minority foundations and the most important, the right to remain viably in one's place of origin, as a citizen of the state (Akgönül 2008).

The vicious circle of negative reciprocity began as soon as the legal protection regime was established. It was from the outset politicized and reflected both the inability of Greece and Turkey to manage their rivalry through normal channels and their tendency to attribute a monolithic relationship between nation and state. In the history of reciprocity, even minor mistreatment of the one minority resulted in equal if not multiplied reprisals. Thus, *negative reciprocity* reflects the weakness of Greece and Turkey to accommodate their own ideological and political competition through political and legal means, which, in both countries, is based on a monolithic perception of the relation between nation and state. Gradually as of the late 1990s, Greek governments have abandoned the reciprocity argument, whereas Turkey still evokes it, even at the highest level when it is *needed*. On numerous occasions, the issue of reciprocity has been brought up in political debates and media coverage concerning minority issues and still holds considerable salience in the media in both countries (Kurban and Tsitselikis 2010, 22).

To give an example, minority education in both countries became a subject of confrontation for Turkish and Greek nationalism. For decades, the ideological control of teachers and the curriculum was of major importance for both states which undertook many initiatives and resources for this purpose instead of developing and providing quality education to minority students. A contradiction of major importance, however, remained unresolved: if public schools are the vehicle for transmitting knowledge and ideology that forges identities, minority schools have to be neutral and subject to constant control so as not to foster any other minority identity but a religious identity. As identity issues are a hidden agenda for minorities, state interventionism within the domestic affairs of the minority affected the quality of minority education. Over time, the latter took a different path when compared to mainstream public and private schools.

To serve national interest beyond any accountability, Greek governments in the 1950s and 1960s had established secret administrative bodies that could monitor and concert state policies towards the minorities. In Greece, the Coordination Council of Thrace was established in 1959 and abolished in 1969 as the government of the junta took direct control over minority affairs. The

Greek secret committee has been largely discussed since its archives were made public (Iliadis 2011, Tsitselikis 2012). Even today, the Greek Ministry for Foreign Affairs has a leading role in any legislative changes in minority law. The Service of Political Affairs[30] of the Ministry for Foreign Affairs is based in Xanthi (Thrace) in order to counterbalance Turkish influence.

Turkey's patronage over the minority's internal affairs intensified in the 1980s with an attempt to Turkify Islam, and since the 2010s, to re-Islamize Turks. The Turkish consulate, based in Komotini, plays the role of protector for the minority, fostering steady, hegemonic clientelist relations with members of both secular and religious minority elites. *Black lists* and the criteria for granting allowances, pensions, financing of the minority media and non-governmental organizations, scholarships, visas (from the Turkish consulate), special quotas for entering the university education of the mother country for *soydaş* students[31] are the tools keeping the minority dependent to their kin-state (Hersant 2007, 274-291).

The Council of Europe illustrated the issue of reciprocity as follows: the members of the minorities in question are, in both cases, nationals of the countries in which they reside, and that they, therefore, find it difficult to understand – or reasons other than historical ones unconnected with the rights of the individuals concerned – the relevance of the reciprocity principle where they are personally concerned. Whereas Greece and Turkey, as states of origin, may feel a certain responsibility towards the members of the minorities in the neighbouring country, it is, in fact, the countries in which the minorities live that are primarily responsible for their own citizens, including the members of the respective minorities, and not the reverse. In effect, "the recurrent use by both the states concerned of the reciprocity principle to refuse to implement the rights secured for their respective minorities under the Treaty of Lausanne is: 1. unacceptable in the light of international human rights law, 2. anachronistic, and 3. detrimental to national cohesion, given that each state is in fact punishing its own citizens."[32] Consequently, Article 45 of the Treaty of Lausanne must not be interpreted as referring to the substance of the rights of the respective minorities but merely prescribing the mutual obligations of both states to protect the rights of their respective minorities. In the last 60 years, more than 100,000 Greeks had to leave their home (from

[30] On this office of the Ministry of Foreign Affairs and its preceding institutions, see Aarbakke (2000, 179).
[31] *Soydaş* is a term that implies ethnic kinship (i.e. people of Turkish descent living abroad).
[32] Council of Europe, Report Doc. 11860 of 12 April 2009 "Freedom of religion and other human rights for non-Muslim minorities in Turkey and for the Muslim minority in Thrace (Eastern Greece)", para. 33, at https://pace.coe.int/en/files/12681/html (accessed on 7 December 2020). See also paras. 28-32.

Istanbul and the Gökçeada and Bozcaada islands), and more than 44,000 Muslims/Turks (from Thrace and the Dodecanese islands) lost their Greek citizenship[33] (before and after they migrated). Those who remained in their home-state received a poor education or loss of property and were considered as *foreigners*.

9. Inter-group Relations

Although in Thrace, extreme tensions were not observed between Greek Orthodox and Muslims with the exception of the events of February 1991,[34] latent tensions are omnipresent in many aspects of socio-economic and political life. Fuelling an invisible confrontation, the main public discourse aims at downplaying the Muslim-Turkish *element* of the region as a special condition which has to be tolerated but not fully respected within the content of Greek citizenship.
Cases of racism, hatred and xenophobia appear rarely in the local media against the Muslims who express overtly Turkish national feelings. A group of activists self-proclaimed as "Guardians of Thrace" belonging to the extreme nationalistic right conducted two attacks against the offices of the minority political party and threatened the life of the elected mufti of Xanthi in December 2015 and January 2016, respectively. This group remains unpunished.

10. Membership, Citizenship and Rights

10.1. Members of a minority. Which minority?

Membership of the minority of Thrace refers to a legal objective criterion (the descendants of the Muslims of Thrace who were exempted from the population exchange of 1923) and the subjective choice to be a member of the minority as a Muslim or belonging to a specific linguistic, ethnic or religious (sub-)group such as Turkish speaking, Pomak speaking or Romani speaking, Sunni or Bektashi/Alevi, being Turk, Pomak or Turkish Pomak. Identities and membership of the broader Muslim minority acquire different meanings over time and represent an extremely complicated

[33] The case of loss of citizenship is discussed in section 10.3. of the case study.
[34] On 28 February 1990, in the context of claims in favour of the Turkish national character of the minority, a Greek mob attacked Muslims and looted shops belonging to Muslims in Komotini. The events triggered a change of Greek policies towards the minority of Thrace and paved the way for abolishing administrative discrimination measures.

pattern of intermingled identities, which in many cases are mute or exaggerated. In addition, membership can be considered through the access to special rights on a non-territorial basis as safeguarded by the Greek constitution and the relevant legal texts. These rights have obviously a non-territorial character. However, when applied by the members of the minority of Thrace, they have strong territoriality with reference to the religious, ethnic or national profile of the minority within the region of Thrace. Therefore, such rights have an implying connection to the right to free self-identification. As regards the right to information through the media, it has to be noted that a series of newspapers and journals are published in Turkish (one in Pomak) and radio programmes are broadcasted in Turkish by members of the minority. As far as places of worship are concerned, there is a sufficient number of mosques in Thrace (more than 250, and another four on the Dodecanese islands) functioning for daily ritual needs. Muslim cemeteries are also operational in Thrace and the Dodecanese islands.

The most controversial right is the one to set up associations. Establishing associations by the members of the minority of Thrace was loaded with political animosity after the Turkish invasion of Cyprus in 1974 and predominantly after the self-proclamation of the occupied North Cyprus as a Turkish Republic in 1983. Since then, the Muslim Turkish minority has become the field of an unorthodox conflict: the war of names has taken the proportions of a major problem, as Greece and Turkey insist on a religious or ethnic character of the minority in a totally static way. The obvious manifestation of national, Turkish, sentiments by the greatest part of the minority members has been ignored by the Greek governments, with the exception of the 1930s and 1950s. The frequent switching between *Turkish* and *Muslim* in the official appellation of the Muslim-Turkish minority of Thrace in the 1920s, 1950s, 1970s and today, reveals the capacity for amnesia of a national rhetoric, which claims to serve *national interests* in a *state of necessity*. In 1955 (just before the pogrom against the Greek Orthodox of Istanbul), in the context of a rapprochement between Greece and Turkey, Greek authorities themselves called the minority *Turkish*. During the Greek military rule (1967-1974) and still currently, however, the very same term has been demonized.

The transfer of the diplomatic controversy into the courtrooms is symptomatic of the situation, which ideologizes the use of the term *Turk/Turkish*. The Greek courts denied granting permission to minority associations using the word *Turkish* in their title (Tsitselikis 2012, 227–252). Associations, such as 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, claimed their rights before Greek courts unsuccessfully. Some brought their case before the European Court of Human Rights (ECtHR) and won.[35] As the ECtHR mentioned, there was no excuse for the Greek courts to ban the associations just because they were referring to the Turkish affiliation of their members.[36] It is indicative of a really astonishing and persistent ideological use of law. Even after the Court found a violation of the right to association, Greek courts persist in not allowing the registration of these minority associations.

10.2. Citizenship and minority rights

Equality before the law and the principle of non-discrimination are pillars of democracy and the rule of law. A pluralistic society also demands special treatment for those who have special needs, without discrimination. This is essential for the whole political programme that civic citizenship entails, namely, the equality of all citizens before the law, beyond origin or religion (Christopoulos 2011). Minority rights are granted when minority characteristics, such as language, national belonging or religion are not just tolerated but need positive action from state authorities. Two major conditions were not observed in the Muslims of Thrace case: a) that the enjoyment of minority rights should not contravene the content of general human rights, and b) that interstate reciprocal antagonisms should not harm the content of citizenship.

Dependencies and interdependencies, interferences and manipulations overshadowed the slight occasions of cooperation between Greece and Turkey with regard to the Muslim Turkish minority of Thrace. Language, religion, and national affiliation became the material with which the state exerted its policies in the post-Treaty of Lausanne years. However, behind the conventional legal justification of *droit de regard* in both Greece and Turkey, invocation of ties of *common blood* or *common ethnic descent*, or *religion* underpins ideological and political agendas. These ties substitute citizenship with special *invisible* qualities and rights extended to members of the respective minorities under the unilateral control of the granting state. Here one can observe a double exception to egalitarianism. Both Greece and Turkey attempt to favour their kin-minority

[35] Among others, see the case of *Tourkiki Enosi Xanthis and Others v. Greece* (2008).

[36] See *Tourkiki Enosi Xanthis and Others v. Greece* (paras. 55-56). The Court observed that even if the real aim of the applicant association had been to promote the idea that there was an ethnic minority in Greece, this could not be said to constitute a threat to a democratic society.

and both tend to undermine the principle of equality among citizens when it comes to the treatment of minorities living on their territory (Özgüneş and Tsitselikis 2019). This practice of exception is justified in the name of national security and national interests. Thus, two legal orders are overlapping each other: one stemming from kin-state and the other from the home-state. Frequently, the members of the two minorities are not considered as citizens but rather as *hostages*, "[u]nfortunately this is true for both Turkey and Greece reciprocally" (Oran 2002).

Minority rights are placed within this legal order to the extent that there is no breach of fundamental rights granted to all, with no discrimination. As Thomas Hammarberg, the Council of Europe Commissioner for Human Rights put it in 2009, "any obligations that may arise out of the 1923 Lausanne Peace Treaty, or any other early 20th century treaty, should be viewed and interpreted in full and effective compliance with the subsequent obligations undertaken by the ratification of European and international human rights instruments" (Hammarberg 2009, para. 41). As regards sharia (before the reform of 2019) and the right of association of persons belonging to Muslim minority (see section 10.1. of the case study), the prevailing judicial practice that breaches the human rights of the members of the Muslim minority in Thrace fragments the uniform citizenship and undermines and frustrates the legitimate expectation that fundamental norms of rule of law are universally applicable.

10.3. Deprivation of citizenship

Deprivation of citizenship in respect of members of a minority due to the minority condition is a straightforward measure eliminating the phenomenon of ethno-religious and linguistic plurality. The Greek Nationality Code of 1955 contained the infamous Article 19 allowing the deprivation of citizenship for those deemed *allogeneis* (of non-Greek descent) who "left the country with no intention of return". The administration proceeded to abuse this provision, thus affecting the lives of thousands of Muslim Greek citizens. The first victims of Article 19 were Muslims who fled to Turkey just after the Second World War. The first crisis in Cyprus of 1963-1964 and the deportation of the Greek citizens of Istanbul made the Turks/Muslims of Thrace and the Dodecanese islands a target par excellence. The dictatorship from 1967 to 1974 and the governments of the 1980s and mid-1990s regularly abused Article 19 (as well as Article 20, providing for the deprivation of citizenship with no descent differentiation), although this

contradicted fundamental human rights standards. Especially during the period of the junta, the deprivation of citizenship of those who were charged with "illegally abandoning the country" also entailed loss of property. The Turkish invasion of Cyprus in 1974 put the minority of Thrace in a vulnerable position, and Article 19 was used as a countermeasure or as a means of political intimidation as was the case with the 544 cases of rescinded citizenship in early 1991. It was in 2005 that the Greek government revealed the number of those who had been subject to Article 19 of the Code of Nationality. In response to a question submitted to the parliament on 20 April 2005 by the minority deputy Ilhan Ahmet of *Nea Dimokratia* (New Democracy), the government stated that 46,638 Muslims from Thrace and the Dodecanese had lost their citizenship in the period up to 1998 (Tsitselikis 2012, 192–204).

It was only after 1992 that the number of citizenship deprivations based on Article 19 started fading out. Finally, in 1998, Article 19 was abolished. This occurred following strong domestic and international criticism and pressure, especially by the European parliament and the Parliamentary Assembly of the Council of Europe. However, the abrogation of Article 19 had no retroactive effect for those who had already lost their citizenship, and thus did not offer a *restitutio in integrum*, which could have taken the form of an automatic reacquisition by the victims of the lost nationality.

10.4. The state of exception: National interests first?

As mentioned, the Lausanne protection system constitutes an exception to the strictly uniform Greek and Turkish legal order introducing legitimized positive measures of minority protection. However, both minorities were locked within old communitarian patterns as an islet of institutionalized religious conservatism in a sea of modernity. This situation creates a hybrid legal status with limited perspectives of evolution, as it is suitable for manipulation by both states. Moreover, the national ideology from both sides makes this exceptional phenomenon seem *natural* and *normal*.

In this framework, the minority of Thrace continues to be governed by a latent state of exception, whereby the administration and courts often disregard the rule of law in their decisions and practices. This practice of bypassing the rule of law is still endorsed by the judiciary and the executive as well as by opposition parties on grounds of *national interest*. Manifestly unlawful practices (freezing the implementation of laws) which would be deemed unacceptable if they were

applied vis-à-vis citizens belonging to the majority are implicitly or explicitly regarded as acceptable when those affected by such illegality are members of the Muslim Turkish minority. Conversely, the leaders or the elite of the minority, as well as a significant number of members of the minority, display a reluctance to claim internal accountability and democracy.

Even in what could be considered as *good periods* in Greek-Turkish relations (the Greek-Turkish rapprochement of the 1930s, and early 1950s and then again from 1999 until 2011) the *principle of loyalty* of the minorities vis-à-vis their home-state was rarely affected. In cases where new minority rights were to be granted, the existing treaties had to be observed and the state of citizenship had to apply its own laws, in order to avoid the situation whereby minorities turn into *a state within a state*. This helps to understand both the symbolic antagonism between nationalisms (How should one name the minority?) and the practice of deprivation of citizenship (How can one eradicate the unwanted?). All these are signs of a state of exception that continuously tantalizes minority affairs. According to the political context, minorities in both countries have to face an overtly suspicious state. They are indeed citizens of the state, but not always full citizens.

11. General Assessment and Outlook

The era after the population exchange of 1923 was marked by the drastic reduction of the Muslim population in Greece and the minoritization of the Muslims of Thrace (and after 1947 of the Muslims of the Dodecanese islands). Hence, the Muslim minority became part of a political balance of bilateral relations between Greece and Turkey and its welfare is safeguarded by an old-fashioned legal status stemming from the Treaty of Lausanne.

Both states attempted awkwardly to avoid facing the simple truth: that the nation – more than religion – constitutes its core identity (national identity). Especially in Greece, the *nationalization* of the minority created a strong concern by the Greek authorities in regard to raising the influence of Turkey on Greek territory, especially after the 1950s. Regardless of the validity of this concern, the appellation of the minority became of major symbolic importance for both states and for the minority itself.

Moreover, the arrival in Greece after the 1990s of hundreds of thousands of Muslim immigrants seeking political asylum or economic prosperity has created a *new minority* which struggles for a better position within the Greek society. However, Islam combined with ethnic difference is still

perceived as incompatible with the Christian/Greek prevailing identity. The Greek governments, judges, and lawmakers seem to suffer from inertia, as they remain reluctant to acknowledge and incorporate the transformations in society which in the near future, if not today, embody Greek Islam.

In order to achieve socio-economic participation by members of minorities, the antithesis built between civic citizenship and ethnic origin should be accommodated: it needs a compromise between the two poles of *loyalty to the nation* and *devotion to the state*. Ultimately, integrative citizenship as an inclusive category should be subject to common requirements regardless of ethnicity thereby enhancing societal bonds and accommodating vulnerable groups.

The case law of the European Court of Human Rights may and must be put to good use for a critical/reformative contemplation of the national self for both Greece and Turkey. The study of the Lausanne minorities in Greece reveals how citizenship regards both the ideological nucleus of nationality – which suffers from outdated fixations of national religious purity – and fair access to social and civil benefits for marginalized minority groups. Balancing community autonomy with civic citizenship should be the target of integration policies and law. Thus, bonds of *civic patriotism*, namely bonds of solidarity built around the sentiment of belonging to the same people governed by the same constitutional legal order would prevail to the segmented *blood or religious kinship*, which entails an ideological antagonism between the *community of citizens* and the *community of the nation*.

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List of abbreviations

ECHR – European Convention on Human Rights

ECtHR – European Court of Human Rights

ECRML – European Charter for Regional or Minority Languages

FCNM – Framework Convention for the Protection of National Minorities