

Tax Obligations & Religious Freedom

Odysseas Kopsidas

University of Piraeus, Piraeus, Greece

Nikolaos Andrikopoulos

Aristotle University of Thessaloniki, Thessaloniki, Greece

Religious freedom is one of the fundamental human rights that are enshrined both internationally and nationally. All modern States ought, within their internal law, to defend the right of religious freedom in order to preserve the peaceful nature of a modern society. This work has attempted to study the existing literature, to carry out comparative law research and to criticize the current situation linking religious freedom as a supreme and constitutional good and the tax obligation of natural persons that is consistent with their mandatory contribution to public burdens on the basis of their ability to pay and their social role.

Keywords: religious freedom, taxation, public goods

Introduction

The safeguarding of religious freedom does not protect any event or act of citizens who are not allowed to function in a wider and more organized society by invoking their personal beliefs. For this reason, the right to freedom of religion is subject to restrictions which safeguard the general public and social interest, ensuring the necessary room for the proper functioning of each State. In Greece, the safeguarding and restrictions of religious freedom are identified in the Constitution itself, and in particular in the provisions of Article 13 (Papageorgiou, 2005).

Article 13(4) of the Constitution (1975/1986/2001), which states that “no one can, owing to his religious beliefs, be relieved of fulfilling his obligations to the State or refuse to comply with the laws” is a clear limitation of religious freedom, which states that the right of religious freedom subsides when it conflicts with the obligations of the citizen towards the State. To the question “What are these obligations to the State that one cannot avoid by invoking the right of religious freedom?”, the Greek scientific studies so far have distinguished two major categories of these obligations. These are: (a) the fulfillment of military obligations; and (b) the fulfillment of tax obligations (Trojanos & Poulis, 2003).

The recognition of religious freedom was made for the first time with the Statement of the Rights of the State of Virginia, USA, on June 12, 1776. According to Article 16 of the Declaration, “All human beings are equally entitled to freely practice of religion according to the requirements of their consciousness”. In the

Odysseas Kopsidas, Ph.D., Research Fellow, Department of Industrial Management and Technology, University of Piraeus, Piraeus, Greece.

Nikolaos Andrikopoulos, Msc, Research Fellow, Department of Pastoral and Social Theology, Aristotle University of Thessaloniki, Thessaloniki, Greece.

Correspondence concerning this paper should be addressed to Odysseas Kopsidas, Department of Industrial Management and Technology, University of Piraeus, Karaloli & Dimitriou 80, Piraeus 18534, Greece.

Declaration of Independence of July 4 of that year, religious freedom is proclaimed as a human right self-evident and inalienable, as well as the Federal Constitution of the United States in 1787 (amended in 1791) (Religious Freedom, 1981).

On the European continent, the first reference is made to France in Article 10 of the Declaration of Human and Peoples' Rights of August 26, 1789. In this article, religious freedom is not declared as a right, but only religious tolerance, "No one should be bothered about his beliefs even of religious ones, provided their event does not upset the established by law public order".

Chronology

In the Modern Greek State, all constitutions contained provisions that referred to freedom of religion and, at the same time, to the current order of the prevailing religion. In the Temporary Greek Constitution, during the Greek Revolution, and more specifically in Epidaurus in 1822 and in Astros of Kynouria in 1823, there is talk of "tolerance" of any other religion. This term is repeated in the constitutions of 1844 and 1864/1911, and enshrines confession. The use of the term "freedom" instead of "tolerance" is for the first time introduced in Article 1 of the Constitution of Troizina in 1827. Religious freedom is established as an inviolable individual right by the constitutions of 1925/1926 and 1927, and has been repeated since all constitutions (1952; 1975/1986/2001). For the modernization of the constitution and the defense of religious freedom, since 1975 the constitutional legislator lists independently the articles on the prevailing religion (Article 3S) and the freedom of religion (Article 13S) (Papageorgiou, 2005).

The Protection of Religious Freedom at European Level

The European Court of Human Rights (ECHR) is the commitment of the European countries that participated in the then newly established Council of Europe in the protection and safeguarding of human rights in the countries that have signed this Convention. Each State must legislate in such a way that the rules of the Convention are not violated. Otherwise, and once all the remedies of each state have been exhausted, each citizen (or group of citizens) has the right to apply to the European Court of Human Rights for any violations of the ECHR which affect him/her. The ECtHR is the main instrument for the control of States with regard to the implementation of the Convention. In particular, the protection of religious freedom is enshrined in the Convention by Article 9, according to which:

Everyone has the right to freedom of thought, conscience and religion. This right includes the freedom to change religion or belief, as well as freedom of expression, either individually or collectively, public or private, of religion or belief, worship, teaching, practicing and observing religious duties and rituals. Freedom of expression of religion or belief is subject only to the limitations provided for by law and necessary in a democratic society to protect public security, protect public order, health or morals, or to protect rights and freedoms of others.

One of the Additional Protocols to the Rome Covenant is the Paris Protocol of 1952. Article 2 of the Protocol refers to the right to education in general but also to the right to education according to the religious and philosophical beliefs of the parents in particular. The Convention and the Protocol were ratified by the Greek government for the first time in 1953 and again in 1974 (Trojanos & Poulis, 2003).

The Protection of Religious Freedom at International Level

Following the Second World War, the United Nations Charter was the basis for international peace and

cooperation among States. The aim is to promote respect for fundamental human freedoms, while condemning any discrimination based on race, sex, language, or religion. For the protection of human rights, in particular, the UN Commission on Human Rights was created in 1946. Subsequent international texts on the protection of human rights are the fruit of the work of this committee. The Charter of the United Nations was ratified by the Greek State by AN. 585/1945 (Trojanos & Poulis, 2003).

The Limitations of Religious Freedom in Greece

All individual rights are subject to restrictions provided by the Constitution itself, but also by the laws. These constraints are not Greek originality. Article 15 of the ECHR, which is also binding on the Greek State, regulates the conflict of rights it guarantees in relation to the national interest of each state when it is threatened. In Greece, individual rights are enshrined in the Constitution in order to ensure their protection and stability, and they are the basis for the common legislator not to be able to violate them. However, their safeguarding may also provide for their limitation, either within the very provision of the Constitution guaranteeing them, or by another, or by law. These restrictions ensure the general public and social interest and provide the necessary room for all citizens to enjoy their individual rights (Papageorgiou, 2005).

The 25 Article of the Greek Constitution refers generally to fundamental rights and to the responsibility of the State to defend them in all state institutions and in relations between individuals in order to achieve social progress within the framework of freedom and justice. At the same time, the article itself makes it possible to restrict the exercise of rights, provided that they are provided either by the Greek Constitution itself or by law. The principle of proportionality must always be observed. It forbids everyone to abuse their individual rights and recognizes the right of the State to demand from the citizens the fulfillment of the debt of social and national solidarity. An example of a law delimiting and restricting citizens' rights is Article 281 of the Civil Code, which states that the exercise of rights is forbidden to exceed the limits imposed by good faith or morality, the social or economic purpose of that right (Trojanos & Poulis, 2003).

Principles of Tax Law

The term "tax obligations" refers to the imposition of legal fees on behalf of citizens and legal persons on behalf of the State. The tax authority is exercised by the State itself in order to cover its budgetary needs. The payment of taxes, duties, and fees, and fees is the fiscal burden that citizens are required to pay. This obligation is enshrined in Article 4§5 of the 1975 Constitution (1986/2001) according to which "Greek citizens contribute without discrimination to public burdens, depending on their strength". This provision enshrines fiscal justice by including its two basic principles, that of the universality of taxation and that of fiscal equality (Religious Freedom, 1981).

The adoption of these principles was first made in Article 13 of the French Declaration of 1789 on Human Rights and Citizens, which stipulated that "For the maintenance of the State's authority and the costs of the administration a common contribution is necessary. This contribution must be distributed to citizens fairly, according to their capabilities". By securing tax justice, the unjust and arbitrary charging of tax is enshrined by authoritarian regimes, as the tax is now an honorary duty of the free citizen. These principles were also enshrined in the subsequent European constitutions. Rigas Velestinlis, in the draft Constitution of 1797, inspired by the ideas of the French Revolution, established the principles of tax justice. In this way, it affected the political texts of the struggle, which included tax arrangements for the citizens of the newly established

State. Similarly, the first constitutions (1822 Temporary Constitution of the Epidaurus; 1823 Astros Constitution) contained the principle of the universality of the tax, while retaining an ambiguity regarding tax equality. In the Civil Constitution of Greece in 1827, as well as in the Constitutions of 1844 and 1864, both principles were more precisely defined, stipulating that the payment of public burdens ought to be “according to their property”. From the Constitution of 1911 onwards (1927; 1952; 1975), the wording changed, replacing the term “property” with the term “forces of each”, thus adding to the citizens’ ability to pay not only their property but also their income (Trojanos & Poulis, 2003).

Conclusion

This study attempts to compare the principle of equality in tax law with the principle of freedom of religious worship as part of the study of public goods. As constitutionally enshrined the same obligations and the same supervision for all religions, the same privileges must exist in the same way when they exist. The existence of judicial and administrative decisions on the subject proves that sometimes the common lawmaker did not apply the constitutional principles for equality or in the case; it was in an unequal way. Courts are called upon to control and rectify these cases in order to have constitutional legitimacy and social justice which together with productive efficiency maximize social well-being.

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