RELIGIOUS INSTITUTIONS: AN ANALYSIS OF THE LEGAL AND INSTITUTIONAL FRAMEWORK GOVERNING ZONING, CONSTRUCTION, AND BUILDING REGULATIONS AND THEIR INTEGRATION INTO SPATIAL PLANNING IN GREECE -A COMPARATIVE OVERVIEW WITH OTHER EU COUNTRIES

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Abstract
The study explores the interaction between religious institutions and urban planning in Greece through a detailed legal and comparative perspective. While religious freedom is constitutionally guaranteed in article 13 of the Greek Constitution, in article 3 of the Greek Constitution the Eastern Orthodox Church is recognized as the official religion. The historically privileged institutional position of the Eastern Orthodox Church has shaped spatial planning, licensing procedures and enforcement practices concerning places of worship. The study analyses the evolution of the regulatory framework governing the land - use, construction and operation of religious buildings, focusing on the institution of "Naodomia" (Law 590/1997) up to the subsequent integration of religious construction into the general urban planning system, and the continuing existence of differentiated regimes between Orthodox and non-Orthodox communities.

Particular emphasis is placed on the phenomenon of illegal construction, the expansion of religious buildings in environmentally sensitive areas, and the selective enforcement of planning law. At the same time, the research investigates the administrative barriers faced by minority religions, illustrated by the prolonged development of the Athens Mosque and related litigation before national courts and the European Court of Human Rights. The article demonstrates that institutional asymmetry produces tangible spatial consequences, including regulatory uncertainty, environmental risks and inequalities in access to lawful places of worship.

Through a comparative overview of selected European Countries— France, Germany, Spain (Catalonia), Italy and the UK (England) — the study identifies common principles of planning neutrality, technical zoning criteria and proportionality review in addition to Greek planning law for places of worship. The article argues that Greece continues to operate within a hybrid institutional framework that only partially aligns with these principles. It concludes by proposing reforms aimed at strengthening neutrality, transparency, environmental protection and the rule of law, thereby ensuring equal treatment of religious communities within a coherent urban planning system.

Keywords: urban planning, religious freedom, ecclesiastical institutions, planning law, institutional asymmetry, illegal construction, comparative planning law.

1. Introduction

The relationship between religion and urban planning in Greece has received limited systematic academic attention despite its significant legal and spatial implications. Constitutional provisions recognise religious freedom and equality, while also acknowledging the historical role of the Eastern Orthodox Church (article 13 and 3 of the Constitution). In principle, these provisions do not appear to give precedence to religious neutrality in the Constitution[1].This dual constitutional structure has influenced planning practice, licensing procedures and the distribution of regulatory authority.

Article 13 of the Constitution guarantees freedom of conscience, worship and religious association, subject to public order, morality and compliance with the law. International instruments, including the European Convention on Human Rights, the International Covenant on Civil and Political Rights and the EU Charter of Fundamental Rights reinforce these guarantees and form part of domestic law. Nevertheless, the coexistence of religious freedom with constitutional recognition of the prevailing religion has produced a distinctive regulatory environment.

Historically, the establishment of places of worship was characterised by institutional asymmetry. Orthodox ecclesiastical construction operated through specialised mechanisms, while non-Orthodox communities faced administrative requirements that included prior authorisation and, in practice, dependence on the dominant religious authority. In the past, even under the 1975 Constitution, which enshrined religious freedom in article 13, its free exercise was particularly problematic for citizens of different religions or different non-Orthodox Christian communities, especially those who were unable to perform their religious duties in places of worship. The maintenance for many decades of the legislation on "Naodomia" (Church Building Authority), between 1937-1939 remained the same until at least in 2006. Judicial intervention, particularly by the European Court of Human Rights[2], gradually prompted legislative reform. Yet structural differences persist.

The central hypothesis of this study is that Greece maintains a dual planning regime: A relatively flexible framework for Orthodox institutions and a more restrictive, bureaucratically demanding framework, politically fragile, and disproportionate framework for minority religions. This duality affects urban sustainability, environmental protection and

[1]Manitakis, A., (2001): 'There is disagreement among both Greek and foreign scholars that the separation of state and church in the Greek state is not institutionally and constitutionally established and that the secular character of the Greek state does not clearly emerge from the Constitution', The religious neutrality of the state in a pluralistic (and multicultural) society', Presentation at the Goethe Institut Thessaloniki, 19.11.2001, dikastes.gr. Furthermore, according to the provisions of articles 3, 13 and 16(2), it does not appear to be a religiously neutral state. Since the first Constitution (1822), Orthodox Christianity has been the dominant religion, linked to the country's national history, even though the principle of popular sovereignty applies (Article 1(2) of the Constitution). According to Venizelos, E. (2016) 'In places where there is a secular state, there is a secular state, in the sense of secular, laic, even a state that may have anti-clerical tendencies and traditions, or there may be a state with an official state religion, but with religious liberalism, as is the case with the evangelical Scandinavian states. 'The constitutional and international legal framework for religious education and the right to opt out of *it'* http://blogs.auth.gr.

[2]The two landmark decisions in which Greece was found guilty of violating the right to religious freedom, among others, are Kokkinakis and others v. Greece (25 March 1993 ECHR, Manoussakis and others v. Greece (26 September 1996). https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-58071%22]}.

the effective exercise of fundamental rights. The institutional asymmetry creates legality gaps, environmental degradation, and social tensions.

The study therefore examines the historical evolution of the legal framework, identifies contemporary challenges and evaluates comparative European approaches (France, Germany, Spain (Catalonia), Italy and UK (England) in order to formulate policy recommendations.

The structure of the study follows seven chapters, which record the European framework, Greek legislation on religious institutions through the analyse of the institutional framework of "Naodomia", the legislation on non-Orthodox communities, illegal construction with a special reference to the Islamic Mosque of Athens, monastery extensions and, finally, through a comparative overview and finally the conclusions and proposals.

2. The European framework and national practices

At European level, no specific Directive regulates land use planning for religious institutions. Competence in matters of spatial planning and building regulation remains primarily with the Member States. However, national authorities are bound by European and international human rights obligations, which impose substantive constraints on the regulation of places of worship.

The applicable normative framework derives principally from the European Convention on Human Rights[3] and the European Union system of fundamental rights protection, both of which require non-discrimination, legality and proportionality in administrative decision-making affecting religious exercise.

Freedom of religion is also guaranteed under universal human rights law. Article 18 of the Universal Declaration of Human Rights (10 December 1948) recognises the right to freedom of thought, conscience and religion, including the freedom to manifest religion or belief in teaching, practice, worship and observance.

At EU level, Article 10 of the Charter of Fundamental Rights of the European Union explicitly safeguards freedom of thought, conscience and religion. That provision corresponds to Article 9 of the European Convention on Human Rights and, pursuant to Article 52 of the Charter, has the same meaning and scope. The European Convention on Human Rights (Articles 9 and 11) guarantees freedom of religion and freedom of association, from which the right to establish and operate places of worship is derived.

The European Court of Human Rights (ECHR) has developed extensive jurisprudence concerning restrictions on religious practice, including limitations on the establishment and operation of places of worship. The Court recognises that Member States enjoy a 'margin of

[3]According to Javier Martínez-Torrón (2012): 'The notion of State neutrality described so far seems an appropriate and even necessary instrument to ensure the protection of religious freedom for all individuals and communities on equal terms. In recent years, however, it has been possible to see some signs suggesting that a new and different concept of State neutrality might be gaining momentum in the case law of the ECHR – a concept close to the French-style notion of laïcité, i.e., to a constitutional principle of secularism that would require a separationist attitude in the State. In other words, some decisions of the Court might be confusing the religious neutrality of the State understood as incompetence to take positions in religious matters, and to interfere in churches' internal affairs, with strict State separationism, thus paving the way for a sort of European "constitutional" principle of secularism, which in turn would be presented as a necessary consequence of or condition for freedom of thought, conscience and religion', Universal Rights in a World of Diversity. The Case of Religious Freedom Pontifical Academy of Social Sciences, Acta 17, 2012, pp.334, www.pass.va/content/dam/scienzesociali/pdf/acta17/acta17-martineztorron.pdf.

appreciation' in regulating religious matters within their constitutional traditions. Nevertheless, any interference with Article 9 rights must satisfy the cumulative conditions of legality, legitimate aim and necessity in a democratic society. Restrictions must therefore be 'prescribed by law', pursue one of the legitimate aims enumerated in Article 9 ECHR (such as public safety, protection of public order, health or morals, or protection of the rights and freedoms of others), and be proportionate to the objective pursued.

In planning contexts, this means that zoning restrictions, planning permission requirements or building controls affecting religious facilities must be grounded in objective urban planning considerations rather than religious preference, theological evaluation or majoritarian pressure. The Court has repeatedly emphasised that state neutrality and impartiality constitute essential components of religious freedom.

A leading authority is Manoussakis and Others v. Greece (23 September 1996), in which the ECHR found a violation of Article 9 where Greek authorities refused permission for a place of worship for Jehovah's Witnesses. The Court held that the discretionary planning permit system, combined with the involvement of ecclesiastical authorities of the dominant religion, created an unjustified obstacle to religious exercise. The judgment clarified that preventive administrative control cannot be exercised in a manner that renders the effective enjoyment of religious freedom illusory.

Following this decision, Greek legislation was amended—albeit after considerable delay—by abolishing the requirement for prior approval or opinion from the ecclesiastical authority of the Orthodox Church of Greece (Article 27 of Law No. 3467/2006). The reform sought to align domestic law with the requirements of neutrality and non-discrimination established by the Convention system.

Despite the existence of a coherent European human rights framework, urban planning and planning permission practices remain shaped at national and local levels, reflecting constitutional traditions, church-state arrangements, administrative structures and socio-political particularities.

In most European Union Member States, religious buildings are classified as facilities of public or community interest. They are typically incorporated into land-use categories covering public services, social infrastructure or community amenities. The designation of such uses in local plans is subject to neutral, technical and objective criteria.

Across jurisdictions, the most common planning considerations include:

- **Zone compatibility:** Places of worship are generally permissible in residential, mixed-use and urban zones, subject to compatibility with surrounding uses.
- **Accessibility and parking:** Authorities assess traffic impact, peak attendance periods and adequacy of parking provision.
- **Environmental protection:** Noise control (including bells or calls to prayer), waste management and impact on neighbouring properties are evaluated.
- **Safety and fire protection:** Strict compliance with building codes applicable to public assembly spaces is required.
- **Cultural heritage protection:** Construction or alteration within protected areas is subject to additional constraints under heritage legislation.

Thus, while financing models and institutional relationships between church and state vary considerably, the methodology of land-use planning tends to converge toward a framework based on technical neutrality and proportionality review.

2.1 *Comparative examples*

As observed by Ewing (2000), 'church-state systems in Western Europe have traditionally been classified into three models: separation, concordatarian and national-church systems. Although formal constitutional arrangements differ, there is a marked convergence towards a cooperative

and flexible model in which religious freedom is protected within a neutral regulatory framework'. The comparative overview below illustrates both convergence and distinctive national features concerning zoning and construction of places of worship.

France: France embodies the model of formal separation grounded in the principle of laicism (laïcité), as codified in the Law of 1905. This legislation guarantees freedom of conscience and worship while affirming the neutrality of the Republic. Although the constitutional principle of secularism remains foundational, contemporary practice reflects pluralism rather than rigid exclusion of religion from public life.

Religious buildings are subject to the same urban planning regime as other public- interest facilities. Local Urban Plans (Plans Locaux d'Urbanisme – PLU) designate permissible zones, and building permits are granted on the basis of technical assessment, public consultation and compliance with safety and environmental standards. Judicial review by the Conseil d'État and other administrative courts consistently affirm the equal application of planning rules without religious exemptions.

Zoning assessments rely exclusively on neutral criteria: land-use compatibility, parking provision, architectural integration, accessibility, environmental impact, safety and fire protection. Considerations relating to religious identity, theological doctrine or numerical strength of believers are impermissible. Specific operational issues—such as peak attendance during Friday prayers in mosques—may require traffic impact analysis. Public calls to prayer are generally prohibited on grounds of noise regulation. Capacity standards and monument protection rules apply uniformly.

A distinct regime persists in Alsace-Moselle, where the 1905 separation law does not apply. The State recognises certain religions and finances clergy salaries. Municipalities bear obligations concerning maintenance of recognised religious buildings. Nonetheless, planning controls remain subject to administrative legality and equality principles. The Conseil d'État recognises freedom of worship as a fundamental liberty requiring public authorities to avoid unjustified obstruction of religious establishment.

Germany: The German Basic Law (Grundgesetz), incorporating principles from the Weimar Constitution, establishes a model of cooperative separation. Article 137 affirms the absence of a state church while permitting religious communities to obtain public law corporation status. Germany is frequently characterised as a system of moderate secularism.

Under the Federal Building Code (Baugesetzbuch – BauGB) and the Land-Use Ordinance (BauNVO), religious buildings are categorised within public-interest uses. Municipal land-use plans may designate areas for public facilities, including churches and other religious institutions, to meet community needs. Planning criteria are technical and predictable, encompassing building height, density, parking, traffic impact, environmental protection and heritage conservation.

Monument protection legislation at Länder level governs historically protected buildings. Noise regulation may address bell ringing, but such restrictions must satisfy proportionality standards.

Judicial review focuses on administrative legality and proportionality rather than theological evaluation. In Johannische Kirche & Peters v. Germany (2001), the ECHR held that refusal to authorise construction of a cemetery did not violate Article 9 where the decision was based on neutral planning and environmental considerations.The Court accepted that the restriction pursued legitimate aims and fell within the state's margin of appreciation.

Spain (Catalonia): The Spanish Constitution guarantees freedom of religion and prohibits discrimination on religious grounds, subject to limitations necessary to maintain public order.

Although Catholicism retains historical recognition, Spain operates within a framework of liberal neutralism.

Catalonia has adopted an active regulatory approach. The Statute of Autonomy (2006) and subsequent legislation, including Organic Law 7/1980 and Law 16/2009 (as amended), establish the right of religious communities to create places of worship.[14] Municipalities are required to facilitate such establishments through urban planning instruments that ensure equality and prevent informal or unlawful worship spaces.

Planning permissions vary between municipalities but must be reasoned and transparent. Where requests to use public land are denied, authorities must justify their decision. Religious groups are also subject to administrative notification requirements following the opening of worship premises.

Controversies frequently arise where religious communities seek to establish worship spaces in industrial zones or premises not specifically designated for religious use. Litigation often centres on zoning definitions and proportionality. The Catalan model illustrates an attempt to reconcile equality of religions with structured urban planning oversight.

Italy: Italian constitutional law reflects the historical relationship between the State and the Catholic Church. The Constitution of 1948 (Articles 7, 8, 19 and 20) affirms mutual independence and equality of denominations while safeguarding religious freedom.[15]

National planning standards under Law 1444/1968 categorise religious facilities as public interest infrastructure within mandatory urban standards. Although no specific per capita quota is allocated exclusively to worship, religious facilities fall within the broader category of public service areas. Municipal plans (PRGC) designate such areas in accordance with national and regional planning law.

The National Planning Act of 1942, as amended, remains foundational. The Consolidated Building Code (DPR 380/2001) applies uniformly to all constructions, including places of worship, requiring compliance with zoning, safety, hygiene and structural regulations. The Cultural Heritage Code (2004) governs protection of historic religious buildings. Fire safety, seismic compliance and accessibility are particularly emphasised.

The Constitutional Court decision No. 254/2019 invalidated provisions of a Lombardy regional land management law that imposed disproportionate and discriminatory requirements on religious facilities. The Court reaffirmed that religious freedom constitutes an inviolable constitutional right and that public authorities must not create unjustified obstacles to access suitable spaces for worship. Planning regulations may impose necessary land-management conditions but must avoid arbitrary or excessive restrictions.

United Kingdom (England): In England, religious freedom derives from statutory law, judicial precedent and the Human Rights Act 1998, which incorporates Article 9 ECHR into domestic law.[17] The Equality Act 2010 prohibits discrimination on grounds of religion and belief. Although the Church of England retains established status, planning law operates on principles of neutrality and equal treatment.

The National Planning Policy Framework (NPPF) requires authorities to “plan positively” for community facilities, including places of worship. Religious buildings are assessed within the broader category of community infrastructure. Decisions must balance community benefit against potential adverse impacts such as noise, traffic or environmental effects.

Judicial review focuses on procedural fairness, rationality and proportionality. Courts do not engage in theological assessment but examine whether planning authorities have lawfully exercised their discretion. The overarching principles are neutrality, proportionality and reasoned justification.

The comparative analysis demonstrates a significant degree of convergence across diverse constitutional models. Notwithstanding historical differences in church-state relations, European jurisdictions increasingly regulate places of worship through neutral, technical and proportionate planning criteria. This convergence provides a normative benchmark against which the Greek legal framework may be critically assessed in subsequent sections.

3. Historical development of church building in Greece - "Naodomia"

For decades, the construction of Orthodox churches was governed by the institution commonly referred to as "Naodomia". This mechanism granted the Church a central role in licensing, design approval and project supervision, effectively creating a parallel planning process. Municipal authorities exercised limited control, primarily verifying technical compliance.

3.1. *Historical origins and legal basis*

The legal basis for this regime emerged through post-war legislation and the constitutional charter of the Church of Greece (Law 590/1977). Applications originated within ecclesiastical structures, and the assessment of 'religious need' was determined internally. The result was substantial institutional autonomy, which contributed to spatial expansion but also to concerns regarding transparency, environmental impact and regulatory consistency.

3.2. *Reforms and partial integration*

Reforms beginning in the 2010s sought to integrate ecclesiastical construction into the general planning system. Law 4030/2011 (A' 249) introduced a new, more unified system for issuing building permits. Furthermore, following the issuance of Opinion No. 148/2012 of the Second Section of the State Legal Counsel[4] , in which the Ministry of Environment, Energy and Climate Change, regarding the issue of jurisdiction and which service should issue building permits and carry out checks on the execution of works and issue the corresponding administrative acts (such as, for example, the suspension of construction works, the drafting of reports on unauthorised constructions). Unified building permit procedures, electronic licensing and supervisory mechanisms expanded state oversight. Advisory architectural bodies were established, and urban planning services assumed formal responsibility for permits and enforcement.

Subsequent legislation created specialised ecclesiastical building services operating within the broader planning framework. Article 53 of Law 4178/2013 (A' 174), the Central Council of Ecclesiastical Architecture (KE.S.E.A.) was established within the Church of Greece with an advisory role on architectural designs for churches and monasteries. The most radical reform took place with the enactment of Law 4495/2017 (A' 167) (Building Regulations Code). The law promoted the creation of special Building and Settlement Services for the Church of Greece, the Church of Crete and the Metropolises of the Dodecanese (Article 32). These services issue permits following municipal pre-approval and remain subject to state supervision.

Although this represents significant progress, the coexistence of specialised procedures with general planning rules continues to generate complexity.

3.3. *Current situation and concerns*

Today, a mixed system applies. Religious (ecclesiastical) legal entities benefit from specialised procedures, whereas private religious buildings follow standard municipal processes. While formal integration has increased, historical practices and institutional culture continue to influence implementation.

[4]See Opinion 148/2012 Second Section of the State Legal Counsel, NOMOS.

Despite this institutional integration, questions remain regarding transparency, consistency of inspections and effective enforcement against illegal construction. The long tradition of autonomy in church building continues to influence the relationship between Church and State in spatial planning, raising doubts about the transparency, the objectivity of controls and the actual balance between religious needs and urban planning rationality.

4. Legal Status for Non-Orthodox religious communities: Administrative obstacles and practical difficulties

In marked contrast to the constitutionally entrenched and institutionally autonomous status of the Eastern Orthodox Church of Greece, non-Orthodox religious communities have historically operated within a fragmented and restrictive legal framework. This asymmetry has generated structural impediments to the effective exercise of religious freedom as protected by Article 13 of the Constitution and Article 9 ECHR.

4.1. *The Old regime and structural difficulties*

For decades, the establishment and operation of places of worship for heterodox or non-Christian communities were governed by Compulsory Law 1363/1938, enacted during the Metaxas regime. The regime required prior administrative authorisation and, in practice, involved the decisive participation of the Orthodox ecclesiastical authorities. This system subordinated minority religious communities to the dominant Church and imposed disproportionate constraints upon their institutional autonomy.

The requirement of prior authorisation operated cumulatively with urban-planning controls, as a building permit under the General Building Regulations (New Building Regulations) constituted a prerequisite for the lawful establishment of any place of worship[5]. In practice, however, licensing was frequently withheld or delayed, resulting in systematic interference with religious activity, notably affecting Jehovah's Witnesses and other minority groups.

The European Court of Human Rights, in Manoussakis et al. v. Greece (1996) and Pentidis et al. v. Greece (1997), held that the Greek system violated Article 9 ECHR, finding that the discretionary and burdensome authorisation procedure amounted to a disproportionate restriction on freedom of religion[6].

4.2. *Recent Reforms: Unreliable Progress?*

Following repeated condemnations by the Strasbourg Court and sustained domestic criticism, the legislature initiated reforms. Law 4301/2014 introduced the status of 'religious legal entities', granting non-Orthodox communities formal legal personality. Law 4446/2016 curtailed the decisive role of local Metropolises in planning permission procedures, while Law 4559/2018 effectively removed the requirement of prior church (ecclesiastical) consent, transferring competence to the Ministry of Education and Religious Affairs and framing assessment criteria in administrative and urban-planning terms.

Most recently, Law 5224/2025[7] expressly repealed the 1938 regime and related provisions, rationalising the licensing framework and centralising supervisory powers, including

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[5] See I. Konidaris, G. Androutsopoulos (2017), Article 13, Constitutional Interpretation by Article, 217, pp. 297-298.

[6] JURISTRAS State of the Art Report Strasbourg Court Jurisprudence and Human Rights in Greece: An Overview of Litigation, Implementation and Domestic Reform, https://www.eliamep.gr/wp-content/uploads/en/2008/05/greece.pdf

[7] Article 64 of Law 5224/2025: Article 64 - Repealed provisions - From the date of entry into force of this Law, the following are repealed: a) Article 1 of Law 1363/1938 "On the ratification of the provisions of Articles 1 and 2 of the Constitution in force" (A` 305), b) the

revocation, sanctions and administrative measures concerning construction, alteration or operation of places of worship.

Notwithstanding these legislative advances, implementation remains procedurally complex and protracted. The Greek Ombudsman has documented persistent delays and administrative uncertainty, indicating that formal reform has not fully eradicated structural dysfunction.

4.3. *Practical Obstacles and Socio-political Reactions*

Beyond formal bureaucracy, minority communities encounter practical and sociopolitical barriers. Difficulties in securing permits often lead to the use of informal premises lacking adequate safety standards. Local opposition—particularly in relation to Islamic places of worship—frequently invokes urban-planning arguments that mask religious animus. Moreover, governmental reluctance to confront conservative resistance perpetuates regulatory inertia.

4.4. *The Case of the Islamic Cemetery in Athens*

The protracted failure to establish an Islamic cemetery in the Schisto area of Attica exemplifies enduring administrative inertia. Despite repeated governmental commitments, the absence of a dedicated burial site for the Muslim community raises concerns not only under freedom of religion but also in relation to human dignity and equality (US Department of State, 2023).

In sum, although the statutory framework has undergone significant reform, substantive equality remains imperfectly realised, as administrative dualism and local pressures continue to circumscribe the effective enjoyment of religious freedom.

5. The case of the Athens Mosque: a symbol of obstacles and institutional delay

The construction and operation of the official Mosque of Athens constitute the most emblematic and protracted example of the dysfunctions of the Greek institutional and administrative framework governing the licensing of non-Orthodox places of worship. Its century-long trajectory offers a compelling case study of how bureaucracy, political indecision and social resistance may shape – and hinder – spatial planning policy.

5.1. *Historical context and timeline of delays*

The need for an official mosque in Athens was formally recorded as early as 1890 yet the city remained the only European capital without one for more than 130 years. Key milestones include:

2000: An initial attempt to construct a mosque in Paiania collapsed amid strong local and ecclesiastical opposition.

2006: Law 3512/2006 established a state-controlled model, providing for public funding and the appointment of the imam by the Ministry of Education and Religious Affairs (Greece, 2006). Although intended to prevent foreign influence, this approach generated further legal and administrative complications.

2013–2016: Residents and the Metropolitan of Piraeus lodged multiple appeals before the Council of State (STE), delaying implementation. In decision 2399/2014, the Court upheld

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royal decree of 20 May/2 June 1939 (A` 220) "On the implementation of the provisions of Law 1673/1939 amending Law 1363/1938 on the ratification of Articles 1 and 2 of the Constitution in force" and c) Article 27 of Law 3467/2006 (A` 128) on the non-obligation to obtain a permit from the ecclesiastical authorities for the establishment, construction and operation of a church.

the constitutionality of the legislative framework. During the same period, four public tenders proved unsuccessful.

November 2016: The Votanikos site was cleared of squatters, enabling construction to commence.

3 November 2020: The mosque was inaugurated, though its operation was almost immediately curtailed by Covid-19 restrictions (Guardian, 2020).

5.2. *Analysis of obstacles: A web of adversities*

The prolonged delay reflects the interaction of several structural factors:

Institutional framework: The restrictive legacy of Law 1363/1938 created significant obstacles. Although Law 3512/2006 (A' 164) offered a practical solution, its provision for state funding and oversight raised concerns regarding religious neutrality and reinforced perceptions of Islam as a 'foreign' faith requiring special regulation.

Political hesitation: Successive governments treated the issue as politically sensitive, often deferring decisive action due to anticipated reactions from conservative constituencies and segments of the Church.

Church and social reactions: Opposition from ecclesiastical figures, notably the Metropolitan of Piraeus, and related legal challenges amplified local mobilization and tensions, further impeding progress (Delidaki, 2023).

5.3. *The final model and its symbolic significance*

The adopted model differs markedly from the regime applicable to the Orthodox Church: State control: The mosque is administered by a private-law legal entity whose chair is appointed by the Ministry of Education, Religious Affairs and Sport.

Operation: The imam is appointed by ministerial decision.

Architecture: The building lacks a dome and minaret, reflecting an intentionally austere design described by some as neutral and by others as suppressing visible religious identity (Associated Press, 2020).

The Athens Mosque illustrates a broader pattern of institutional asymmetry. Whereas the Orthodox Church enjoys substantial autonomy, non-Orthodox communities have been required to accept a distinct, state-controlled framework in order to exercise their right to worship. The case demonstrates how bureaucracy, political caution and social contestation can collectively undermine the effective realization of fundamental rights within the rule of law.

6. Illegal Construction by Religious bodies: Legal Framework, practical tolerance and environmental impact

Illegal construction constitutes a central dimension of this study. The expansion of religious buildings, particularly in peri-urban and environmentally sensitive areas, reflects structural weaknesses in Greek planning enforcement. Selective tolerance, repeated regularisation schemes and amnesty legislation have shaped both private and ecclesiastical development. The interaction between institutional autonomy and enforcement gaps has generated environmental degradation, tensions with heritage protection and spatial inequality. Minority communities, by contrast, often rely on informal worship spaces due to persistent administrative barriers in obtaining permits, thereby reinforcing regulatory fragmentation.

6.1. *Extent and nature of the phenomenon*

Illegal construction by ecclesiastical bodies is not confined to isolated incidents but forms a structured and recurring pattern. Between 2000 and 2015, forestry and planning authorities in Attica recorded more than 300 unauthorised religious structures, including chapels and monastery extensions. Nationwide estimates indicate hundreds of unauthorized chapels; many erected by private individuals and subsequently transferred to dioceses.

The gravity of the phenomenon lies not merely in its scale but in its location. Numerous structures have been established within forest areas, Natura 2000 sites and even archaeological zones. Such interventions risk irreversible environmental and cultural damage and undermine the constitutional protection of the natural environment enshrined in Article 24 of the Constitution. The cumulative effect weakens the integrity of spatial planning and erodes confidence in the protection regime safeguarding Greece's natural and cultural heritage.

6.2. *The legal framework: Regulations that reinforce tolerance of unauthorised religious institutions*

The general framework governing arbitrary construction is provided by Law 4495/2017. However, specific provisions applicable to religious institutions effectively mitigate the consequences of illegality.

- Article 100(4) permits the legalisation of small-scale unauthorised constructions (up to 50 m²) belonging to ecclesiastical legal entities through a simplified procedure requiring only an application to the municipality and an opinion from the competent Metropolis.
- Article 114 is more consequential. It provides that unauthorised constructions belonging to legal entities of "public interest", explicitly including the Church of Greece and other religious bodies, are exempt from fines and from the single special penalty. This exemption amounts to de facto financial immunity and removes incentives for compliance.

Earlier legislation, notably Law 4178/2013, also afforded favourable treatment to state and ecclesiastical bodies. The cumulative effect has been a weakening of criminal and administrative enforcement and a shift from demolition towards retrospective legalisation.

6.3. *Typical cases and failure to enforce the law*

Demolition orders have seldom resulted in actual demolitions. In several prominent cases, substantial unauthorised constructions were recorded in forest or protected areas, significant fines were imposed, and yet enforcement remained incomplete or contested. Even where administrative courts upheld demolition decisions, implementation proved uncertain.

These examples reveal systemic deficiencies rather than isolated failures. Political reluctance to act against widely supported religious structures, bureaucratic fragmentation, understaffing of enforcement services and the legal complexity generated by special provisions all contribute to a preference for regularisation over removal. The result is a persistent gap between judicial determinations and administrative practice.

6.4. *Monastery extensions and unplanned construction*

Unplanned construction has long challenged Greek spatial planning. In the context of monasteries, the issue is particularly acute. Monastic institutions frequently own extensive landholdings in forest or protected areas and exercise considerable local influence.

Judicial intervention has occasionally been decisive. The Council of State has annulled permits and ordered demolitions in cases involving reforest able land and protected cultural landscapes, affirming that environmental and heritage protection prevails over individual religious needs. Nonetheless, implementation has often lagged behind judicial rulings.

Comparative experience suggests alternative models. In Italy, monasteries within protected landscapes operate under detailed management plans specifying permissible interventions. In Spain, religious communities at World Heritage sites conclude binding agreements with the state to ensure landscape protection and public accessibility. Such mechanisms demonstrate that institutional autonomy can coexist with strict spatial governance.

6.5. *Consequences: Environment, Equality and the Rule of Law*

Systematic tolerance produces environmental, social and institutional consequences. Environmentally, it contributes to ecosystem degradation and pressure on protected habitats.

Socially, it fosters perceptions of inequality and impunity. Institutionally, disproportionate leniency towards ecclesiastical bodies undermines the principle of equality before the law and weakens the credibility of the rule of law.

Addressing the phenomenon requires not only reform of special exemptions but also sustained political commitment to enforce existing planning legislation through transparent and independent control mechanisms.

7. Comparative overview: Greece versus other European countries

A comparative assessment of the institutional framework governing the building and licensing of places of worship in Greece, juxtaposed with selected European jurisdictions examined in the previous chapter—namely France, Germany, Italy, Spain (Catalonia) and the United Kingdom (England)—reveals substantial structural and normative divergences. The analysis is structured around five core criteria: (i) the institutional framework; (ii) the licensing procedure; (iii) land-use criteria; (iv) the legal and practical position of minority religious communities; and (v) the handling of arbitrariness in administrative practice. This comparative lens enables both the identification of regulatory good practices and an objective evaluation of systemic shortcomings within the Greek urban planning and administrative regime.

7.1. *Criteria for comparison and contrast*

- **Institutional framework:** Whether a single, religion-neutral urban planning framework applies to all denominations or whether differentiated institutional arrangements exist for specific religious bodies.
- **Licensing procedure:** The complexity, transparency and coherence of the authorisation process, including the existence of parallel or dual licensing channels.
- **Land-use criteria:** Whether siting decisions are grounded in objective, technical and proportionate planning standards or influenced by extraneous, non-urban planning considerations (e.g. “religious necessity”).
- **Position of minority religious communities**: The extent of legal and practical equality, including effective access to authorisation procedures and remedies.
- **Handling of arbitrariness:** The uniformity of rule application, the availability of judicial review, and the absence of preferential treatment or selective enforcement.

7.2. *Comparative framework between Greece and Other European countries*

Table 1. Comparative framework for the land use and authorisation of places of worship in Europe

Criterion	Greece	Germany	France	Spain (Catalonia)	Italy	United Kingdom (England)
Institutional framework	Dual system. Specific institutional mechanisms	Cooperative model with public-law corporation	Strict secular model (laÃ¯citÃ©) Unified and	Constitutiona l neutrality with regional competence	Moderate secularism. Formal equality,	Cooperative, recognition-based model under statutory

	for the Orthodox Church; other religions subject primarily to the general planning framework.	status for recognised communities.	neutral system.	(Law 16/2009).	historically privileged Catholic position.	law; no religion-specific planning regime.
Authorisatio n procedure	Dual regime for non-Orthodox communities (planning permission plus specific administrative authorisation). Simplified for Orthodox institutions.	Single planning procedure without religious differentiation.	Unified planning process; no religion-based criteria.	Municipal permission similar to other public-assembly premises; regional notification.	Planning permission within national and regional frameworks.	Standard planning permission under national policy and local plans; no religious differentiation.
Land-use criteria	Dual criteria; religious need may apply to Orthodox institutions.	Objective technical criteria (zoning, safety, heritage).	Strictly neutral technical criteria.	Equal treatment; technical standards and public consultation.	Classification as public facilities; safety and urban standards apply.	Neutrality and proportionality ; traffic, design and amenity considerations.
Position of minority communities	Structural asymmetry; heightened administrative burden.	Legal equality and access to public-law status.	Institutional neutrality.	Formal equality; regional diversity management.	Legal equality with regional disparities.	Recognition through charity and equality law; discretion at local level.
Handling of planning irregularities	Specific regularisation mechanisms benefiting ecclesiastical buildings.	General enforcement rules apply equally.	Strict enforcement ; no religious exemptions.	Equal enforcement.	General amnesty schemes applicable to all constructions.	General enforcement subject to proportionality review.

7.3. *Fundamental differences*

The divergences reflect distinct constitutional philosophies concerning State–religion relations.

• In France, the principle of laïcité entrenched in the 1905 Law on the Separation of Churches and State precludes state recognition or financial support of any religion. Consequently, planning authorities assess proposals for mosques, synagogues or churches exclusively on technical planning grounds, such as environmental impact and traffic management, thereby ensuring strict institutional neutrality.

• In Germany, the Federal Building Code (BauGB) and the Federal Land Use Ordinance (BauNVO) expressly recognise places of worship as socially beneficial facilities admissible in certain zones. The procedure is uniform and grounded in objective planning criteria, reinforcing legal certainty and equal treatment.

• In Greece, by contrast, the historically entrenched relationship between State and Orthodox Church has produced a bifurcated system. The existence of specialised ecclesiastical planning bodies and the invocation of "religious necessity" as a siting criterion for Orthodox institutions introduce a normative asymmetry unknown to other European systems and raise concerns regarding indirect discrimination.

• In Catalonia, Law 16/2009 institutionalises equal treatment while imposing technical standards, accessibility requirements and public consultation procedures, thereby preserving administrative independence.

• In Italy, regional planning legislation governs authorisation through neutral technical standards, although constitutional jurisprudence has curtailed disproportionate burdens on minority communities.

• In England, planning decisions operate within the framework of proportionality, balancing development control with the right to freedom of religion under the Human Rights Act 1998.

7.4. *Conclusions from the comparative approach*

The comparative analysis demonstrates that the Greek model diverges markedly from prevailing European standards. Institutional asymmetry manifests through:

1. A dual institutional structure favouring one denomination;
2. A dual licensing channel imposing additional administrative burdens on non-Orthodox communities;
3. The incorporation of non-technical land use criteria;
4. Differentiated enforcement practices and selective regularisation mechanisms;
5. A tangible gap between formal constitutional guarantees and practical implementation.

8. Conclusions

The analysis of the institutional and administrative framework governing religious institutions in Greece, together with a comparative overview of European practices, confirms the existence of deep-rooted structural imbalances and the need for substantial reform. The principal conclusion of this study is that a long-standing institutional asymmetry favours the constitutionally established Orthodox Church over other religious communities, with tangible implications for urban planning legality, environmental protection and the rule of law.

8.1. *Summary of main findings*

The review demonstrates that the Greek urban planning regime for religious institutions is characterised by:

A dual institutional framework: Special bodies and procedures applicable to the Orthodox Church create a two-tier system, diverging from the neutral and uniform models observed in several European jurisdictions.

Bureaucratic obstacles for non-Orthodox communities: The requirement of both planning and administrative authorisation for places of worship, coupled with political and social resistance, results in indirect restrictions on religious freedom, contrary to Article 9 ECHR and the jurisprudence of the ECHR.

Tolerance of illegal construction: Legislative provisions allowing exemptions or favourable treatment for religious legal entities undermine equal application of planning law and weaken regulatory credibility.

Socio-political pressures: The prolonged development of the Athens Mosque exemplifies how political hesitation and local opposition may impede the effective protection of constitutionally guaranteed rights.

These findings confirm the existence of a dual institutional reality that compromises legal certainty, environmental protection and equal treatment.

8.2. *Policy proposals for institutional reform*

In response, the following reforms are proposed:

Unification of the planning framework to eliminate institutional asymmetry and ensure equal treatment of all religious and private actors.

Integration of church-related building permits into ordinary municipal planning authorities. Adoption of neutral technical criteria governing the construction of religious buildings. Removal of the 'religious need' criterion, limiting assessment to objective planning considerations such as land-use compatibility, accessibility and environmental impact.

Equal enforcement against unauthorised construction, including repeal of preferential exemptions for religious entities. Establishment of an electronic register of religious buildings to enhance transparency and oversight. Simplification of procedures for small communities, reducing administrative burdens while safeguarding compliance.

8.3. *Final assessment and outlook*

The interaction between religious institutions and spatial planning in Greece reflects enduring church–state arrangements that continue to shape regulatory practice. Although reforms have been introduced, differentiated procedures persist, generating uncertainty and unequal access to lawful places of worship.

Comparative European experience demonstrates that neutral, technically grounded planning regimes can reconcile religious freedom with sustainable development. Aligning Greece with these standards requires coherent institutional reform, consistent administrative implementation and strengthened transparency.

Ensuring equality among religious communities is both a constitutional imperative and a prerequisite for effective spatial governance. A unified and neutral framework would reinforce the rule of law while promoting sustainable and balanced urban development.

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