



**Anna Parrilli**

(assegnista di ricerca nell'Università degli Studi di Trento,  
Dipartimento di Sociologia e Ricerca Sociale)

## **The reform of family law and Family courts in the Republic of Cyprus\***

*La riforma del diritto di famiglia e delle Family courts nella Repubblica di Cipro\**

**ABSTRACT:** This essay addresses the 2023 amendments to Article 111 of the 1960 Constitution of the Republic of Cyprus, as well as family law reforms in the light of the religious or belief minority rights protection, promotion, and implementation. In doing so, the article relies on the findings of the Atlas of Religious or Belief minority Rights research project. The aim is to highlight how the legal system of Cyprus is slowly detaching itself from the *millet* logic inherited from the Ottoman past and it is further aligning with European and international standards on the protection of minority rights in different policy areas, including family law and marriage. However, religious affiliation and religious legal systems still bear significance on some issues pertaining to family law, marriage, and dissolution of marriage.

**SUMMARY:** 1. Introduction - 2. Religious (and ethnic) affiliation in the "intractable" Constitution of the Republic of Cyprus - 3. Family courts: Article 111 of the Constitution and the Orthodox Church - 4. The Family Courts of the Religious Groups - 5. The Eighteenth Constitutional Amendment and the recent family law reforms - 6. Concluding remarks.

### **1 - Introduction**

This essay addresses the recent amendments to the 1960 Constitution of the Republic of Cyprus, as well as family law reforms in the light of the religious or belief minority rights protection, promotion, and implementation.

In doing so, the article will mostly rely on the findings of the Atlas of Religious or belief minority rights research project<sup>1</sup>. The analysis of the data collected in the Atlas reveals several peculiarities of the constitutional and legal regime regulating religious pluralism in Cyprus.

Perhaps most striking of all, the most significant characteristic of its mixed legal system is the flaw between the "law in the books" and the "law in action"; statements laid forth in the black-letter constitution (or in primary legislation) and their operational rules often overlap - and sometimes replace the constitutional and legislative regime governing

---

\* Peer reviewed paper - Contributo sottoposto a valutazione.

<sup>1</sup> See, *Atlas of Religious and Minority Rights Project*, at <https://atlasminorityrights.eu/index.php>.



(ethno-)religious communities. This misalignment is due to both structural criticalities in the design of the Constitution, as well as the events following the 1974 Turkish invasion and subsequently partition of the Island<sup>2</sup>.

The second peculiar element of Cyprus's legal system lies in the combination of a bi-communal arrangement, mostly based on ethnic criteria, and the establishment of a *millet*-like system of personal laws based on religious affiliation. The latter constitute the historical legacy of the Ottoman Empire and was partially maintained under the British rule<sup>3</sup>. Albeit there is no State church in Cyprus, the Orthodox majority and other constitutionally recognized religious groups enjoy a special constitutional status, and religious affiliation is still relevant (under certain conditions) to some areas of family law, marriage, and dissolution of marriage.

Strictly tied to the functioning of the bi-communal constitutional arrangement, the *millet*-like system in force in Cyprus needed several adjustments since 1963.

---

<sup>2</sup> The "law in the books" and "law in action" dichotomy was coined by Roscoe Pound in 1910. The Author mainly used the two concepts to describe the discrepancies that sometimes occurs between the legal doctrine in the books and the empirical evidence about law. See **R. POUND**, *Law in books and law in action*, in *American Law Review*, Vol. 44, n° 12, 1910, pp. 12-36. Drawing from Pound's article, the literature has constantly perused the dichotomy to address a variety of phenomena, such as the distance between the law as described by legal doctrine and law as interpreted and experienced by its subjects; the variance between the black-letter law and the data on the actual enforcement and enactment of rules and processes; the divergence of Courts' decisions from the constitutional and/or statutory statements; more broadly, the relationship between legal science and facts. For the purposes of this article, the distinction between "law in the books" and "law in action" has been used to detect the discrepancies between the black-letter constitution and the operational rule governing Cyprus' constitutional order in the field of religion and minority rights policies, with a specific focus on the composition and functioning of both family courts and the family courts of the religious groups. On the tensions between the "black-letter law" and the "law in action," see further **F. BELL**, *Empirical Research in Law*, in *Griffith Law Review*, Vol. 25, n. 2, 2016, p. 264; **J.-L. HALPERIN**, *Law in books and law in action: the problem of legal change*, in *Maine Law Review*, n. 45, 2011, pp. 46-76. For critical views of Roscoe Pound's categories, see **K.L. LEWELLYN**, *A Realistic Jurisprudence: The Next Step*, in *Columbia Law Review*, vol. 30, issue 4, 1930, pp. 431-465. On this misalignment, see also **M. NICOLINI**, *Legal geography. Comparative Law and the Production of Space. Ius Gentium: Comparative Perspective on Law and Justice*, vol. 105, Springer, 2022, pp. 26-27, pp. 193-194.

<sup>3</sup> See, **A. EMILIANIDES**, *Law and Religion in Cyprus*, 3<sup>rd</sup> Ed., Kluwer, The Hague, 2019. On the *millet* system, among others, **B. BRAUDE**, *Foundation Myths of the Millet System*, in B. BRAUDE, B. LEWIS (eds), *Christians and Jews in the Ottoman Empire: the functioning of a plural society*, Holmes & Meier Publishers Inc, New York, 1982, pp. 69-88; **M. CAVALCANTI**, **A. PARRILLI**, *From the Ottoman millet to neo-milletism: Israel and Lebanon*, in *Calumet, Special issue*, 18, 2023, pp. 95-117; **F. DONELLI**, *Islam e pluralismo: la coabitazione religiosa nell'impero ottomano*, Le Monnier, Firenze, 2017 (edizione digitale); **D. GOFFMAN**, *Ottoman millets in the early Seventeenth Century*, in *New Perspective on Turkey*, 1994, pp. 135-158; **G.M. QUER**, *Pluralismo e diritti delle minoranze. Il sistema del 'millet'*, in *Quaderni di diritto e politica ecclesiastica*, n. 1, 2010, pp. 257-284; **R. SCARCIGLIA**, **W. MENSKI** (eds), *Normative Pluralism and religious diversity: Challenges and methodological approaches*, Wolters Kluwer-Cedam, Milano, 2018.



The disregard of numerous constitutional provisions by the Greek Cypriot leadership carried out with the aim of forming constitutional bodies without the prescribed representation of the Turkish community, as well as the voluntary withdrawal of the Turkish representatives, prevented the Community chamber from functioning. Moreover, the 1974 Turkish occupation of the northern part of the Island created new “boundaries” that further disregarded the constitutional regime based on rigid power-sharing and bi-communalism<sup>4</sup>.

The constitutional impasse and the *de facto* division of the Island display profound consequences on the functioning of Cyprus' *millet* system for several reasons. Firstly, in Cyprus, the religious and ethnic dimensions are strictly interlinked and frequently overlap. As the bi-communal arrangement-based ethnicity percolates through all State powers (executive, legislative, and judiciary), the malfunctioning of the system of power-sharing also affects the *millet* and, consequently, minority rights protection and promotion. Secondly, as we shall see, religious affiliation still bears significance in some matters pertaining to family law and marriage.

Finally, the membership of Cyprus to the European Union and the commitment to international law and principles on the protection of minority rights add further layers of complexity.

The article is divided into three parts. The first of these describes the constitutional and legal status of religious and belief minorities (RBMs) in the Republic of Cyprus<sup>5</sup>. The constitutional and legislative provisions regarding family law and the Family courts of the Orthodox Church are discussed in the second part of the article. The last section outlines the most relevant changes in family law regarding both the majority religion and the minority denomination after Parliament amended the constitution and adopted the family law reforms in 2023.

The aim of this article is to highlight how, on the one hand, the legal system of Cyprus is slowly detaching itself from the *millet* logic inherited from the Ottoman past; on the other, how it is further aligning with European and international standards on the protection of minority rights in different policy areas, including family and marriage. This choice is particularly relevant considering the contemporary debate about legal pluralism and the application of religious laws in the European legal context<sup>6</sup>.

## 2 - Religious (and ethnic) affiliation in the “intractable” constitution of the Republic of Cyprus

---

<sup>4</sup> M. NICOLINI, *Legal geography*, cit., p. 193.

<sup>5</sup> S. CHOUDHRY, *Constitutional Design in Deeply Divided Societies. Integration or accommodation*, Oxford University Press, Oxford, 2012, pp. 3-40.

<sup>6</sup> See, M.F. CAVALCANTI, *Giurisdizioni alternative e legal pluralism: le minoranze islamiche negli ordinamenti costituzionali occidentali*, Editoriale Scientifica, Napoli, 2023.



The Constitution of the Republic of Cyprus (1960) is based on rigid bi-communalism, consociationalism, and the mutual recognition of Greek and Turkish communities as political equals<sup>7</sup>.

Notably, the constitution does not contain any reference to the “people”<sup>8</sup>. By contrast, it differentiates between the two Communities on the basis of different criteria: origin, language, religion, and culture. According to Article 2(1-2) of the Constitution, indeed, the Greek community comprises all citizens of the Republic: who are of Greek origin; and whose mother tongue is Greek; or who share the Greek cultural tradition; or who are members of the Greek Orthodox Church. Contrariwise, the Turkish community is made up of all citizens: who are of Turkish origin and whose mother tongue is Turk; or who share the Turkish cultural tradition; or who are Muslims. The autonomy of the Muslim community regarding its internal matters is further protected by the constitutional provisions concerning the institution of the Islamic *vakf* (charitable foundation) (Article 110.2). Those who did not fulfill any of these criteria were requested to choose within three months of the Constitution's coming into force.

The bi-communal constitutional arrangement established by the Constitution cannot be subject to amendment (Article 182.1) and it percolates through all State powers (executive, legislative, and judiciary) and the public sectors<sup>9</sup>. For example, two Community Chambers, representing the Greek and the Turkish communities, should have had legislative power on purely communal matters (Articles 86 - 111). However, as already recalled, the events of 1963-64 and the Turkish invasion made the constitutional provisions on power sharing partially ineffective.

Besides the two communities, the Constitution also recognizes three “religious groups”: the Armenians, the Maronites, and the Roman Catholics (Latins)<sup>10</sup>. All these groups opted to belong to the Greek

---

<sup>7</sup> **C.D. PAPASTATHOPOULOS**, *Constitutionalism and communalism: the case of Cyprus*, in *The University of Toronto Law Journal*, Vol. 16, 1965, pp. 118-144; **G. VLACHOS**, *L'organisation constitutionnelle de la République de Chypre*, in *Revue internationale de droit comparé*, Vol. 13, n. 3, Juillet-Septembre, 1961, p. 538.

<sup>8</sup> **A. PARRILLI**, *Territory and ethnicity through the eyes of comparative law: the Cyprus question*, in *RGDPC*, n. 27, 2020, pp. 1-21.

<sup>9</sup> For a comprehensive study on the implementation of bi-communalism in the 1960 Constitution of the Republic of Cyprus, see, among others, **C.D. PAPASTATHOPOULOS**, *Constitutionalism and Communalism*, cit., pp. 118-144; **F. LONGO**, *Un Sistema presidenziale atipico: il caso di Cipro*, in *DPCE Online*, n. 1, 2023, pp. 1081-1100.

<sup>10</sup> For the purposes of Article 2(3) of the Constitution a “religious group” means a group of persons ordinarily resident in Cyprus professing the same religion and either belonging to the same rite or being subject to the same jurisdiction thereof the number of whom, on the date of the coming into operation of this Constitution, exceeds one thousand out of which at least five hundred become on such date citizens of the Republic. See, **A. EMILIANIDES**, *État et Églises à Chypre*, in G. ROBBERS (ed.), *État et Églises dans l'Union Européenne*, Nomos, Verlagsgesellschaft, 2008, p. 251; **R. BOTTONI**, *Diritto e fattore religioso nello spazio europeo*, Giappichelli, Torino, 2019, p. 24.



community. They are considered national minorities and protected as such under the Framework Convention for the Protection of National Minorities of the Council of Europe of 1995<sup>11</sup>.

Other religious communities, mainly Jews, Buddhists, Jehovah's Witnesses, and Protestant Christians, are protected under Article 18 of the Constitution on religious freedom, and they are equal before the law. Unlike the five recognized religious groups/national minorities mentioned above, these religious minorities do not enjoy special constitutional status, and they do not benefit from the same promotional treatment regarding religious education, State financing, and family law issues. As in most EU countries, belief organizations - such as atheists, skeptics, agnostics, humanists, or rationalists - are not explicitly mentioned in the Constitution of Cyprus.

While designed to manage ethno-religious cleavages through law, the system of power-sharing and veto rights provided for in the Constitution was revealed to be far too rigid and complex to work. Bi-communalism only contributed to further strengthening the distinctive identity of Turkish and Greek Cypriots<sup>12</sup>. In principle, this would not necessarily prevent the system from working. The major issue was, rather, that the constitution "forced" cooperation between the communities without providing any mechanism to accommodate potential disagreements.<sup>13</sup> All the complexities that hindered the full implementation of the constitutional text became apparent after the 1963-64 constitutional crisis and the dissolution of the Communities chambers<sup>14</sup>.

---

<sup>11</sup> See **A. EMILIANIDES**, *Religion and Law in Cyprus*, Wolters Kluwer, 2019, p. 226

<sup>12</sup> **A. THEOPHANOUS**, *The Cyprus Question and the EU: the challenges and the promises*, Intercollege Press, 2004, pp. 51-52.

<sup>13</sup> Some attempts have been made in the past to "correct" the distortive effects resulting from the failure of rigid bi-communalism. For instance, according to the 1960 Constitution, representatives of the three recognized religious minorities are elected or nominated in the chamber of the community to which they opt to belong (art. 109). This system of representation, however, no longer applies. The Greek Communal Chamber dissolved after the 1963 constitutional crisis and the Turkish Chamber has not been functioning since the relocation of the Turkish community in the occupied areas. Consequently, to safeguard minority rights, the Religious Groups (Representation) Law 38/1976 recognized representatives of the three constitutionally protected religious groups the right to speak (but not to vote) in the House of Parliament with regard all matters which concern them. See, **A. EMILIANIDES**, *Religion and the State in Dialogue: Cyprus*, in *Religion and the State in Dialogue: Covenantal and Non-covenantal Cooperation Between State and Religion in Europe*, in **R. PUZA, N. DOE**, Peeters, Leuven, 2006, p. 25. See further **C.D. PAPASTATHOPOULOS**, *Constitutionalism and communalism*, cit., pp. 118-144.

<sup>14</sup> On the 1960 Constitution, the drafting process, and the constitutional crisis, see, among others, **T.W. ADAMS**, *The First Republic of Cyprus: A Review of an unworkable constitution*, in *The Western Political Quarterly*, Vol. 19, n° 3, 1996, pp. 475-490. See, further, **F. LONGO**, *Un Sistema presidenziale atipico: il caso di Cipro*, in *DPCE Online*, 1, 2023, pp. 1081-1099.



By invoking the “doctrine of necessity”<sup>15</sup>, which has been enshrined in the Supreme Court’s *Ibrahim* ruling<sup>16</sup>, a whole range of revisions that contravened the letter of the basic articles of the Constitution were justified by the need to ensure the very survival of the State in exceptional circumstances<sup>17</sup>. Instead of a system of individual liberties provided by the Constitution, a system of *de facto* territorial autonomies for the Greek and Turkish communities was then created<sup>18</sup>. Further discrepancies between the constitutional text and the operational rule followed the Turkish invasion in 1974. The occupation affected the territorial integrity of the Island by designing a new (illegal) “border,” the so-called Green Line, which physically separated Turkish and Greek Cypriots<sup>19</sup>.

The constitutional *impasse* - and the necessity to prevent the collapse of the State - favored the detachment of the system regulating religious and ethnic pluralism from the black-letter constitution. Consequently, this prompted the production of new operational rules to ensure the functioning of all the State institutions and prevent the collapse of the State.

As for the judicial autonomy of both the majority and minority religions of the Island, this new operational rule further weakened the *millet* system. Only a few elements of religious law still apply by virtue of their incorporation into constitutional and statutory law, namely Article 110.1 of the Constitution (safeguarding the force of the Canons of the Orthodox Church and the Charter of the Church of Cyprus) and Article 110.2 of the Constitution regulating pious foundations (*evakf*).

---

<sup>15</sup> See, among others, C. PAPASTYLIANOS, *The Cypriot Doctrine of Necessity within the Context of Emergency Discourse: How a Unique Emergency Shaped a Peculiar Type of Emergency Law*, in *The Cyprus Review*, Vol. 30, n° 1, 2018, p. 113-144; A.C. EMILIANIDES, *Cyprus*, in *IEL Constitutional Law, Netherlands*, 2019, p. 45 ss., e N. HADJIGEORGIOU, N. KYRIAKOU, *Entrenching Hegemony in Cyprus: The Doctrine of Necessity and the Principle of Bicommunality*, R. ALBERT, Y. ROZNAI (Eds), *Constitutionalism Under Extreme Conditions. Law, Emergency, Exception*. Ius Gentium: Comparative Perspective on Law and Justice, Springer, 2020, pp. 291-31.

<sup>16</sup> Supreme Court of Cyprus, *The Attorney General of the Republic v. Mustafa Ibrahim and others*, 6 CLR (1964), p. 195 et seq.

<sup>17</sup> Legal scholars disagree over the question of whether necessity must be considered a source of law, a “meta-rule” to interpret the constitution or an extra-legal factor operating outside the constitutional order. See, among others, C. KOMBOS, *The Doctrine of Necessity in Constitutional Law*, Sakkoulas, Athens, 2015; K.L SCHEPPELE, *Legal and Extralegal Emergencies*, in *The Oxford Handbook of Law and Politics*, eds. K. E. WHITTINGTON, R. D. KELEMEN, G.A. CALDEIRA, Oxford University Press, Oxford, 2008, pp. 165 et seq.; O. GROSS, F.N. ALAIN, *Law in Times of Crisis: Emergency Powers in Theory and Practice*, Cambridge University Press, 2006, p. 47.

<sup>18</sup> A. PIZZORUSSO, *Le minoranze nel diritto pubblico interno*, Giuffrè, Milano, 1967, p. 389.

<sup>19</sup> M. NICOLINI, *A new legal geography for Cyprus*, in M. NICOLINI, F. PALERMO, E. MILANO (eds.), *Law, Territory and Conflict Resolution. Law as a Problem and Law as a Solution*, Brill-Martinus Nijhoff, Leiden, 2016. A. PARRILLI, *Territory and Ethnicity through the eyes of comparative law: the Cyprus question*, in *Revista general de derecho público comparado*, n. 27, Julio 2020, pp. 1-21.



Take, for example, the First Amendment of the Constitution (1989). Enacted, as it was, on the grounds of the doctrine of necessity, it reduced the importance of the religious laws of the recognized religious groups on family matters, marriage, and dissolution of marriage (nullity and divorce)<sup>20</sup>. Members of the Orthodox Church may now choose between a religious or a civil marriage. This reform was introduced to align Cyprus's marriage law with the other EU countries, which all provide for civil marriage<sup>21</sup>. Moreover, the dissolution of marriage remains under the monopoly of state law and state authorities.

The state recognizes the validity of marriages performed according to religious rites. However, not all religious minorities are granted this possibility. Religious marriages can be only celebrated by a representative of the Muslim community, or a "religious group" officially recognized by the Constitution (Art. 2) or "whose doctrines or rites are not secret" (Art. 18(2) Const.), that is, Catholics, Jehovah's Witnesses, Muslims, and Protestants, but not Jews<sup>22</sup>.

Furthermore, religious affiliation and religious law retain importance with respect to the interpretation of Cypriot law of marriage and dissolution of marriage (nullity and divorce) of the members of the Orthodox majority and the recognized religious groups<sup>23</sup>.

With regard to the dissolution of marriages, only a state authority can issue the dissolution decree of a marriage celebrated by the members of the Orthodox Church or the religious minorities. The dissolution of Orthodox marriage is regulated by the Holy Canons of the Greek Orthodox Church for those belonging to the Greek Orthodox community, or the religious law of the recognized religious groups. Moreover, the legislation provides a special regime for the constitutionally recognized religious groups (Armenian Maronites, Roman Catholic), incorporating (under certain conditions) the grounds for dissolution or annulment of marriage provided in their respective religious laws<sup>24</sup>.

---

<sup>20</sup> See, the Section "Key findings" of the Policy Area "Family and Marriage" in the *Atlas of Religious or Belief minority rights in the EU Countries*, at <https://atlasminorityrights.eu> (forthcoming).

<sup>21</sup> On the Civil marriage for the members of the Orthodox Church has been introduced in 1990. Family law in Cyprus was strongly influenced by Greek family law with regard to marriage, divorce, children, and parenthood. See **E. NICOLAOU**, *Recent development in Family Law in Cyprus*, in *International survey in Family Law*, 1996, pp. 131-132.

<sup>22</sup> See, the Final report, *Inclusion of religious minorities and development of multicultural dialogue for the growth of democracy. The potentialities of the Italian model in the Mediterranean area* (MiReDiaDe), p. 13. See also the Policy area "Family and marriage" in the *Atlas of Religious or Belief minority rights in the EU Countries*, at <https://atlasminorityrights.eu> (forthcoming).

<sup>23</sup> See **A. EMILIANIDES**, *Cyprus: Everything changes, and nothing Remains still*, in **S. FANNA, E. ÖRÜCÜ** (eds.), *A Study of Mixed Legal Systems: Endangered, Entrenched or Blended*, Routledge, London, 2014, pp. 215-240.

<sup>24</sup> See Article 11 of the Family Courts (Religious Groups) Law 1994 (enacted as L. 87(I)/1994) and Annex I thereto.



Religious laws also govern other family issues, such as betrothal, separation, and annulment, if they are not inconsistent with the Constitution<sup>25</sup>.

### 3 - Family courts: Article 111 of the Constitution and the Orthodox Church

As stated above, Cyprus is a mixed legal system influenced by different legal traditions that coexist and overlap. The interplay of elements of civil law, common law, and religious laws is particularly evident in matters of family, marriage, and divorce. Moreover, multiple jurisdictions are competent on family issues on the basis of ethnic and religious affiliation.

When the Constitution came into force in 1960, Article 111 provided that any matter relating to marriage and divorce of the Orthodox community and the three recognized religious groups was governed by their respective religious law. Controversies on family matters were adjudicated by the religious courts of the Orthodox Church, and the courts of the religious groups<sup>26</sup>.

However, the abovementioned constitutional crisis in 1963-64 and Cyprus' commitment to international law led to the amendment of Article 111 of the Constitution (Law 95/1989). In addition to the introduction of civil marriage, the reform set up state Family courts to adjudicate controversies on family matters. According to the provisions of Article 111(2)(A), all matters relating to family relations of the members of the Greek-Orthodox Church come under the jurisdiction of the Family courts, which were regulated by the Family Courts Law 23/1990 (as amended)<sup>27</sup>. This Law further broadened the competences of the Family Courts to include the dissolution of all other religious and civil marriages. The amended provisions did not apply to marriages falling into the jurisdiction of the Family Courts of the Religious groups (see paragraph 4) and the members of the Turkish Cypriot community<sup>28</sup>.

---

<sup>25</sup> N.E. HATZIMIHAIL, *Cyprus as a mixed legal system*, in *Journal of Civil law studies*, n. 6(1), 2016, pp. 62-63.

<sup>26</sup> G. ROBBERS, *State and Church in the European Union*, 3<sup>rd</sup> ed., Nomos Verlagsgesellschaft, Baden-Baden, 2019, p. 293.

<sup>27</sup> Law 23/1990 has been subject to criticism. According to some scholars, the Law contravenes art. 9 of the ECHR protecting religious freedom. See A. EMILIANIDES, *The Cypriot Law of Marriage and Divorce*, Sakkoulas, Thessaloniki, 2006 (in Greek); A. EMILIANIDES, *Religion and Law in Cyprus*, cit., p. 226.

<sup>28</sup> Interestingly, Islamic law does not apply to the Turkish Community in Cyprus. In 1951, the Turkish community chamber adopted a law inspired by the Kemalist reform of 1926. Thus, secularized family law replaced Islamic law on personal status, and Turkish Cypriots were subject to the laws enacted by the Turkish community chambers for matters of marriage and divorce. See the Turkish Family (Marriage and Divorce) Law (Cap. 339; enacted as L. 4/1951, amended by L. 63/54); the Turkish Family Courts Law (Cap. 338; enacted by L. 43/1954, in replacement of L. 3/51). J.N.D. ANDERSON, *The Family law of Turkish Cypriots*, in *Die Welt des Islam*, n. 5 (3-4), 1958, pp. 163-170; A. EMILIANIDES, *Family and Succession law in Cyprus*, Wolters Kluwer, 2019, p. 227.





The 1963 constitutional crisis and the subsequent dissolution of the Community Chambers made this system unworkable; thus, Law 120(1)/2003 provided for the application of the Marriage Law 23/1990 to the members of the Turkish community as well.

Over the years, the jurisdiction of the Family Courts has been further expanded *ratione personae* and *ratione materiae* on every aspect of family law, both by statute and the Supreme Court case law<sup>29</sup>.

Until the recent reforms of 2023, Family Courts had exclusive jurisdiction with regards to: a) dissolution of religious marriage celebrated according to the rites of the Greek Orthodox Church; b) dissolution of religious marriages of other religious denominations, with the exception of those religions falling under the jurisdiction of the Family courts of the Religious groups; c) other marital and family law disputes of citizens or foreigners, with the exception of the cases falling under the jurisdiction of the Family courts of the religious groups or the President of the District Court. Family Courts adjudicate cases of both citizens and foreigners affiliated with the Orthodox Church<sup>30</sup>.

The flaws between the constitutional provisions and the “law in action” were particularly evident in the functioning of the Family Courts on divorce cases of the members of the Orthodox Church.

In this respect, Article 112(2) of the Constitution provided that in divorce proceedings of the members of the Orthodox community, the Family Court was composed of three judges: one judge appointed by the Orthodox Church of Cyprus among the ranked members of the clergy with legal education and two civil judges appointed by the Supreme Court among Orthodox Christians jurists.

However, since the establishment of the Family courts, the Orthodox Church has refused to recognize their jurisdiction on matters of divorce of the Orthodox community and, consequently, to appoint any judge. To make the Family courts function, the Supreme Court appointed the President among civil judges belonging to the Orthodox community.

In sum, while Article 111 of the Constitution provided for a mixed composition and the cooperation between the State and the ecclesiastical authorities in the appointment of religious and secular judges; in practice, only secular judges sit in Family courts. This, as explained in paragraph 5 of this essay, was until the 2023 reforms, which realigned the black letter law and the operational rule on the composition and functioning of the special courts adjudicating family issues.

#### 4 - The Family Courts of the Religious Groups

---

<sup>29</sup> N.E. HATZIMIHAİL, *Cyprus as a Mixed Legal System*, in *Journal of Civil Law Studies*, vol. 6, n. 1, 2013, p. 63. See also, G. SERGHIDES, *Reflections on Some Aspects of the Family Law of the Turkish Community in Cyprus*, in *Pecuniary Relations Of Spouses And Cohabitants* (G. SERGHIDES ed., G.A.S. 2010), pp. 24-29.

<sup>30</sup> G. SERGHIDES, *Travelling Family Court*, in *Cyprus Law Review*, n. 37, 1992, p. 5674 (in Greek).



The history of the establishment and the functioning of the *millet* in Cyprus is extremely complex. While, since the Ottoman era, it was meant to provide fiscal, administrative, and jurisdictional autonomy to the recognized religious community on the Island, the *millet* was never fully implemented.

Only the Armenians established their ecclesiastical courts on the Island. All family disputes pertaining to the members of the Catholic and Maronite groups were collected by “fact-finding committees” and sent to courts situated in Israel and Lebanon<sup>31</sup>. Under the rule of Great Britain (1878 - 1960), the *millet*-like system was maintained, but not all religious communities established their ecclesiastical courts<sup>32</sup>.

At the time of the independence, Article 111(3) of the 1960 Constitution provided for the establishment of the Family courts of the religious groups, which were separated from the Family Courts referred to in Article 111(2).

The Family Courts (Religious Groups) Law 87(1)/1994 regulated the family courts for the Armenians, the Latins, and the Maronites in Nicosia. As occurred with the Family courts of the Orthodox community, in the dissolution of marriage proceedings, the Family Courts of the religious groups were composed of three judges: two are secular (the President and one judge from the District Court appointed by the Supreme Court) and one is religious<sup>33</sup>. The religious judge was appointed upon the proposal of the Representative of that religion in the House of Representatives. Only the Armenians proposed an Armenian judge in the Family court of their religious group. The Maronites and Roman Catholics did not recognize the authority of the Family Courts of the religious groups; therefore, they refused to propose a religious judge<sup>34</sup>.

As for religious minorities that do not fall under the definition of religious groups and/or national minorities on the island, they are not granted jurisdictional autonomy by the 1960 Constitution.

Moreover, a significant gap occurs between the constitutionally recognized religions and other RBMs with respect to the provisions applying to the religious ministers responsible for celebrating the marriage, which differ from one religion to another. Non-recognized religious minorities must comply with more restrictive rules than the recognized ones and the religious ministers responsible for celebrating marriages must have been previously approved by public authorities<sup>35</sup>.

---

<sup>31</sup> G. SERGHIDES, *Internal and External Conflict of Laws in Regard to Family Relations in Cyprus*, Nicosia, 1988, p. 300 et seq.

<sup>32</sup> On the historical background of family and succession law, see the Introduction in A. EMILIANIDES, *Religion and Law in Cyprus*, cit.

<sup>33</sup> Family Courts (Religious Groups) Law 1994 (L. 87(I)/94), Article 3.

<sup>34</sup> A. EMILIANIDES, *Religion and Law in Cyprus*, cit., pp. 228-230.

<sup>35</sup> The gap between the different religious communities has been measured in the Atlas of Religious or Belief minority rights by the G-index RBMs. This index shows the difference in rights between the majority and minority religions/beliefs. With regard to the celebration of marriages, the G-Index confirms that where religious marriages can



Furthermore, the State does not recognize Jewish religious marriages. The only recognized marriage between members of this religious minority is the one registered at a local municipality. Consequently, the state does not recognize the dissolution of marriages celebrated only according to Jewish law<sup>36</sup>.

## 5 - The Eighteenth Constitutional Amendment and the recent family law reforms

On matters pertaining to marriage and divorce, the recent amendments to Article 111 of the Constitution, the Marriage Law (Law 104/2003), the Family Courts Law (Law 23/1990), and the Law on Attempted Conciliation and Spiritual Dissolution of Marriage (Law 22/1990) contributed to the reform of family law in line with European and international standards.

The most important change implemented by the amendment to the Marriage Law of 2003 is the addition of the institution of consensual divorce, which is filed jointly by the spouses<sup>37</sup>. Further, by amending Article 17(2) of the said Law, the age limit for marriage was increased from sixteen to eighteen years. The reform also gives the Family Courts the power to extend the period of exclusive use and occupation of the matrimonial home by one spouse for up to two years after the dissolution of the marriage<sup>38</sup>.

The structure and functioning of the Family Courts and the Family Courts of the religious groups also underwent significant changes.

Among the most substantial reforms, the Constitutional Reform Act of 2023 amended Article 111 of the Constitution to allow divorce cases to be heard by Family Courts composed of one judge instead of three<sup>39</sup>. Furthermore, the competence of Family Courts now extends to

---

produce effects in the State legal system - i.e. Croatia, Spain, Italy, Poland - there is usually a gap between the majority religion and the religious minority as the rules that govern the latter do not apply to the former. In the case of Cyprus, the Index show a rather complex picture: a gap exists between the constitutionally recognized religious communities under Article 2 of the Constitution - i.e., the majority religion (Orthodox Church), the recognized "religious groups" (Latins, Maronites and Armenians) and the Turkish community - and all other RBMs protected under Article 18 of the Constitution on religious freedom. See the infographic of the G-Index RBMs in the Atlas of religious and belief minority rights (forthcoming), <https://atlasminorityrights.eu>.

<sup>36</sup> See the MiReDiADe Project Final Report, *Inclusion of religious minorities and development of multicultural dialogue for the growth of democracy*, September 2023, available at *Atlas Website of Religious and Minority rights*, <https://atlasminorityrights.eu>.

<sup>37</sup> However, the possibility of filing for a consensual divorce requires: (a) that at least six months have elapsed since the date of marriage; and, (b) if there are minor children, that parental responsibility and contact of the children with the parties has been arranged (Article 27 of the Marriage Law 2003 (104(I)/2003)).

<sup>38</sup> Article 17 of the Family Courts Law 1990 (23/1990)). Under the previous law the order for exclusive use of the matrimonial home ceased to be effective upon divorce.

<sup>39</sup> Article 3 of the Family Court Law, 1990 (23/1990), as amended by the Family Courts (Amendment) Law of 2023, Official Gazette of the Republic of Cyprus, Number



matters of parental responsibility, maintenance, and the use of the family home and movable property based on a single application<sup>40</sup>.

The reform may make a positive contribution to proceedings before the Family Courts, as until recently, each matter was under a different jurisdiction, and a separate application had to be filed for each matter before the Family Courts<sup>41</sup>.

With regard to the Family Courts of the religious groups, they have been abolished. The Eighteenth Amendment to the Constitution Act (2023) further inserted a new section to Article 111 providing that all matters relating to marriage, the validity of marriage, divorce, separation, cohabitation, and other family issues of persons belonging to the Greek Orthodox Church and of persons belonging to a religious group to which the provisions of paragraph 3 of Article 2 apply, shall be decided by Family Courts (Article 111(1A))<sup>42</sup>. Therefore, the jurisdiction over all family disputes is now vested in the Family courts irrespective of the religious belonging of the parties involved.

## 6 - Concluding remarks

The article has addressed the recent amendments to the 1960 Constitution of the Republic of Cyprus, as well as family law reforms in the light of the religious or belief minority rights protection, promotion, and implementation. Drawing from the data and research conducted in the framework of the Atlas of Religious or belief minority Rights Project, it has assessed the peculiarities of the constitutional and legal regime regulating religious pluralism in Cyprus.

The reform of family law and Family courts, as well as the abolition of the Family courts of the religious groups, are particularly relevant considering the contemporary debate about legal pluralism and the application of religious laws in the European legal context<sup>43</sup>.

---

4933, 13.01.2023, at *www.mof.gov.cy* (in Greek).

<sup>40</sup> Article 17A of the Family Courts Law 1990 (23/1990).

<sup>41</sup> Other important family law reforms are: a) the reduction of the period within which a divorce petition can be filed with the Family Court from three months to six weeks from the date of receipt of the notification by the Bishop (or the representative of one of the recognized religious groups), while the period of reconciliation is now three months, instead of six months; b) the reduction of the period of separation that was required to be considered as a conclusive presumption of breakdown of marriage from four to two years. Violence against the spouse or child has been introduced has been added as a ground for strong breakdown of marriage. See Article 27 of Marriage Law 2003 (104(I)/2003) as amended by Article 17 of the Marriage (Amendment) Law of 2023, Official Gazette of the Republic of Cyprus, Number 4933, 13.01.2023, at *www.mof.gov.cy* (in Greek).

<sup>42</sup> See Article 111 of the Constitution as amended by Article 2(b) of the Eighteen Amendment to the Constitution Act (2023), *Official Gazette of the Republic of Cyprus*, Number 4933, 13.01.2023, at *www.mof.gov.cy* (in Greek).

<sup>43</sup> See, M.F. CAVALCANTI, *Giurisdizioni alternative*, cit.



The topic will not detain us here; suffice it to recall the ever-growing strand of scholarly literature on the implementation of Sharia law in the European Union in the aftermath of the decision of European Court of Human Rights in *Molla Sali* (2018)<sup>44</sup>. As is known, the landmark ruling dealt with the scope and limits of the application of Islamic law to members of the Muslim minority of Thrace<sup>45</sup>. Forestalling the findings of the Strasbourg Court in *Molla Sali*, the Greek Parliament approved Law No. 4511 of 2018, amending Article 5 of Law No. 1920 of 1991. The amendment made the jurisdiction of the *muftis* optional for the Muslims in Thrace<sup>46</sup>, so that their status “is currently primarily determined on the basis of their citizenship and only complementary on religious affiliation”<sup>47</sup>. Nonetheless, numerous issues on the role of Islamic law in the Greek legal system and within the European legal order remain unsolved<sup>48</sup>.

As for Cyprus, the findings of the research conducted in the framework of the Atlas Project on the legal status of RBMs and the constitutional and statutory provisions regarding family law and the courts adjudicating family issues show that Cyprus is slowly abandoning the *millet* logic inherited from the Ottoman past. Furthermore, after the 2023 reforms, the legal system further aligns with European and international standards regarding the protection of minority rights in different policy areas, including family and marriage.

Nonetheless, the communitarian paradigm inherited from the Ottoman Empire has been never fully abandoned. Traces of the *millet* system of personal laws still characterize Cyprus’ constitutional and legal order. Firstly, although the bi-communal arrangement and the system of power-sharing agreed upon at the time of the independence have been mostly ineffective since the constitutional crisis (1963-64) and the partition of the Island (1974), they still constitute the basis of the

---

<sup>44</sup> *Molla Sali v. Greece*, App. No. 20452/14, Eur. Ct. H.R. (2018).

<sup>45</sup> As is known, *muftis* in Thrace are both legal experts and judges. They are competent in matters of Muslim marriages and divorces, maintenance, guardianship, custody, kinship, the emancipation of minors, and succession. The decisions issued by the *muftis* must not contravene the Greek constitution and they need validation from the State courts of first instance. However, there is no possibility to appeal against the substance of the *mufti*’s decision. On the *muftis*’ jurisdiction and the historical Muslim minority of Western Thrace, **K. TOPIDI**, *Religious pluralism and State-centric legal spaces in Europe. The Legacy of the Molla Sali Case*, in *European Yearbook of Minority Issues Online*, n. 18(1), Brill, Leiden, 2021, pp. 35-36; **K. TSITSELIKIS**, *Old and New Islam in Greece. From Historical Minorities to Immigrant Newcomers*, Martinus Nijhoff, Leiden, 2012; **K. TSITSELIKIS**, *Personal Status of Greece’s Muslims: A Legal Anachronism or an Example of Applied Multiculturalism?*, in B.P.R. ALUFFI, G. ZINCONE (eds), *The Legal Treatment of Islamic Minorities in Europe*, Peeters, Leuven, 2004, pp. 109 ss.; **A. RINELLA**, **M.F. CAVALCANTI**, *I Tribunali islamici in Occidente: Gran Bretagna e Grecia, profili di diritto comparato*, in *DPCE*, n. 1, gennaio-marzo, 2017, pp. 69-118.

<sup>46</sup> Law No. 4511/ 2018 on Muslim Religious Clerics, *Official Gazette of the Hellenic Republic*, 15, January 2018, Issue A (in Greek).

<sup>47</sup> **K. TOPIDI**, *Religious pluralism*, cit., p. 40.

<sup>48</sup> See **K. TSITSELIKIS**, *Muslims of Greece: a Legal Paradox and a Political Failure*, in *Legal Pluralism in Muslim Contexts*, Brill, Leiden, pp. 63-83.



Cyprus constitutional order, at least in the letter of the Constitution. Secondly, as showed by the findings of the Atlas of Religious or Belief minority rights, religious affiliation, and religious law still bear significance on some matters of family law, marriage, and dissolution of marriages of members of the religious majority, the Orthodox Church, national minorities/recognized religious groups, as well as other non-recognized RBMs. The latter enjoy the same level of “protection” as the recognized religions as their rights are safeguarded according to international standards in religious and belief minority rights. However, in some issues pertaining to family and marriage, such as the celebration of marriage, the rights of the religious minorities that are not recognized by the Constitution as national minorities/religious groups are not equally “promoted”. This occurs as there are no legal and political measures that foster the development of these rights beyond what is required by international standards<sup>49</sup>.

The data and research on the policy area of family law and marriage in Cyprus conducted within the framework of the Atlas of Religions or Belief minority rights<sup>50</sup> confirm a general trend, clearly visible in the Project also with regard to other policy areas-: the more a legal system promotes the rights of RBMs, the more RBMs are not granted equal treatment. This is because the promotion of RBM rights is always a selective choice made by the State on the basis of different criteria: the number of adherents to the religious community, its historical presence in the country, the capacity/willingness to enter an agreement with the state (when this option exists that legal system) and so on.

---

<sup>49</sup> On the concepts of “protection” and “promotions” of RBMs rights in the *Atlas of Religious or Belief minority rights*, S. FERRARI, *È possibile misurare i diritti delle minoranze di religione e convinzione?*, in *Stato, Chiese e pluralismo confessionale*, Rivista telematica (<https://www.statoechiese.it>), n. 10, 2023.

<sup>50</sup> See the Policy area “Family and marriage” in the *Atlas Projects of Religious or Belief minority rights* (forthcoming), <https://atlasminorityrights.eu>.