

GREECE/ EUROPEAN COURT: GRAND CHAMBER HEARING ABOUT APPLICATION SHARIA TO INHERITANCE DISPUTE (MOLLA SALI v. GREECE)

HRWF (08.12.2017) – On 6 December, the European Court of Human Rights held a Grand Chamber hearing in the case of Molla Sali v. Greece (application no. 20452/14). The case concerns the application by the Greek courts of Islamic religious (Sharia) law to a dispute concerning inheritance rights over the estate of the late husband of Ms Molla Sali, a Greek national belonging to the country's Muslim minority. After the hearing the Court, the deliberations were held in private. Its ruling in the case will, however, be made at a later stage.

Registrar of the European Court of Human Rights (06.12.2017) – On the death of her husband, Ms Molla Sali inherited his entire estate under the terms of a will drawn up by her late husband before a notary. The deceased's two sisters contested the will, on the grounds that their brother had belonged to the Thrace Muslim community and that all matters relating to his estate were therefore subject to Islamic law and to the jurisdiction of the mufti rather than to the provisions of the Greek Civil Code. They relied in particular on the 1920 Treaty of Sèvres and the 1923 Treaty of Lausanne, which provided for Islamic customs and Islamic religious law to be applied to Greek nationals who were Muslims.

The two sisters' claims were dismissed by the Greek courts at first instance and on appeal. In September 2011 the Thrace Court of Appeal found that the decision by the deceased, a Greek Muslim and a member of the Thrace religious minority, to

request a notary to draw up a public will, determining for himself the persons to whom he wished to leave his property and the manner in which this was done, was an expression of his statutory right to have his estate disposed of after his death under the same conditions as other Greek citizens. However, the Court of Cassation quashed that judgment on the grounds that questions of inheritance within the Muslim minority should be dealt with by the mufti in accordance with the rules of Islamic law. It therefore remitted the case to a different bench of the Court of Appeal for fresh consideration. On 15 December 2015 the Court of Appeal ruled that the law applicable to the deceased's estate was Islamic religious law and that the public will in question did not produce any legal effects. Ms Molla Sali appealed against that judgment on points of law, but the Court of Cassation dismissed the appeal on 6 April 2017.

The applicant, Ms Chatitze Molla Sali, is a Greek national who was born in 1950 and lives in Komotini (Greece).

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Relying on Article 6 § 1 (right to a fair hearing), taken alone and in conjunction with Article 14 (prohibition of discrimination), Ms Molla Sali complains of the application to her inheritance dispute of Sharia law rather than the ordinary law applicable to all Greek citizens, despite the fact that her husband's will was drawn up in accordance with the provisions of the Greek Civil Code. She also alleges that she was subjected to a difference in treatment on grounds of religion.

Under Article 1 of Protocol No. 1 (protection of property), Ms Molla Sali contends that, by applying Islamic religious law rather than Greek civil law to her husband's will, the Court of Cassation deprived her of three-quarters of her inheritance.

Procedure

The application was lodged with the European Court of Human Rights on 5 March 2014.

Notice of the application was given to the Greek Government, together with questions from the Court, on 23 August 2016.

On 6 June 2017 the Chamber to which the case had been

allocated relinquished jurisdiction in favour of the Grand Chamber.

The following organisations were granted leave to intervene in the written proceedings as third parties: Greek Helsinki Monitor (GHM), Christian Concern et Hellenic League for Human Rights.

Composition of the Court

The case will be heard by a Grand Chamber, composed as follows:

Guido Raimondi (Italy), President,
Angelika Nußberger (Germany),
Linos-Alexandre Sicilianos (Greece),
Ganna Yudkivska (Ukraine),
Helena Jäderblom (Sweden),
Robert Spano (Iceland),
Ledi Bianku (Albania)
Kristina Pardalos (San Marino),