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## **Grand Chamber hearing in a case concerning the application of Islamic religious (Sharia) law to an 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),

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## Country to confront controversy over historic sharia law

AFP (21.11.2017) - <http://bit.ly/2yOEM0y> - On Greece's rural border with Turkey, a sizeable Muslim minority has lived for decades, regulating their family affairs under Islamic sharia law, a legacy traced back to century-old treaties.

Now, the leftist government of Prime Minister **Alexis Tsipras** has announced plans to make sharia optional for such disputes, following recurring criticism by rights groups and a looming ruling by the European court of human rights.

Tsipras last week said his administration would pass legislation to allow litigants to opt for a Greek court to resolve family disputes, instead of appealing to Islamic jurists known as muftis.

For family law matters, Greek Muslims generally seek recourse to muftis for things like divorce, child custody and inheritance. Rights groups say it is a system that frequently discriminates against women.

Similar fears are raised in Britain, where so-called sharia councils have operated in an unofficial capacity for over 30 years.

*"Over the next few days we will table an amendment in parliament... making the mufti's jurisdiction optional,"* Tsipras said from Thrace, the poor, mostly rural northeastern region bordering Turkey, where the 110,000-strong Muslim minority mainly resides.

The issue has its origins in the period after World War I, and treaties between Greece and Turkey that followed the collapse of the Ottoman Empire.

The 1920 Treaty of Sevres and the 1923 Treaty of Lausanne stipulated that Islamic customs and Islamic religious law would apply to thousands of Muslims who suddenly became Greek citizens.

*"As a European Union nation, this does not bestow honour upon us,"* Tsipras said.

The move comes as the European Court of Human Rights (ECHR) is examining a complaint brought against Greece by a 67-year-old widow, **Hatijah Molla Salli**, who is locked in a heritage dispute with her late husband's sisters.

When Salli appealed to Greek secular justice, she initially won her case. But the Greek supreme court in 2013 ruled that only a mufti had the power to resolve Muslim heritage rights.

The ECHR is to discuss the case on December 6, and Salli's lawyer **Yannis Ktistakis** says Tsipras' timing is no coincidence.

*"The government is only acting to prevent condemnation by the court, which, as everyone knows, is inevitable,"* Ktistakis told AFP.

He added that what Greece should do is completely eliminate the rule of sharia law on its territory, noting the patriarchal nature of Greece's Muslim community.

### ***Terse relations***

*"The compulsory application of sharia is a clear violation of the minority's rights to self-determination,"* the Hellenic human rights league said in a statement.

It added that Greece's *"sad privilege of being the sole (EU) country still employing religious law"* was constantly leading to criticism from global rights organisations

Tsipras said that under the amendment, which has not yet been tabled, litigants can still voluntarily agree to bring their dispute before a mufti for judgment.

But if one of the two sides disagrees, the case will go to a secular court.

The issue is complicated by still-terse relations between traditional rivals Greece and Turkey.

Ankara takes a close interest in the Muslim community -- which it sees as Turkish, although it also includes Pomaks and Roma -- and frequently complains to Athens on its behalf.

In turn, Greece rejects this as interference in its domestic affairs. Greek nationalists have also long regarded the Muslim minority as overtly susceptible to Turkish influence.

Another source of tension is Turkey's insistence that muftis be elected by the community, instead of appointed by the Greek state.

But Athens admits that the Islam preached by the Thrace muftis is generally more moderate than the teachings of more hardline imams elsewhere in Europe.

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