

Sharia law in Greece: Blending European values with Islamic tradition

The Hellenic Republic is the sole EU Member State which provides for the application of Sharia law in its territory for more than a century. A recent amendment is granting Greek Moslems the right to opt-out, and resort to domestic civil law. At the same time, the new law respects the right to opt-in for the application of Sharia law, upon the condition of mutual agreement between the parties.

Law 4511/2018 was enacted on January 15. It contains only one article (the second simply declares that the law will be in force upon publication in the State Gazette), which amends the previous status of Sharia courts in Greece. A new Paragraph (4) is added to Art. 5 Law 1920/1991. By virtue of the new provision, the jurisdiction of the *Mufti* becomes the exception, whereas (until today) it was the rule for Greek Moslems living in the region of (Western) Thrace. The *Mufti* has jurisdiction for a vast number of family and succession matters, which are listed under Article 5.2 Law 1920/1991. A prerequisite is that the parties have submitted the above matters to Sharia law.

The new law grants the right to each party to seek Justice before domestic courts, and in accordance with Greek substantive and procedural law. The *Mufti* may exercise jurisdiction only if both parties file an application for this cause. Once the case is submitted to the *Mufti*, the jurisdiction of national courts is irrevocably excluded.

In addition, the new law paves the path for a more structured procedure before the *Mufti*: A drafting Committee will be authorized to prepare a decree, which will shape (for the first time) the Rules and Regulations of the *Mufti* 'courts'. Signs of a formalized process are already clearly visible in the new law (Article 4.b).

Inheritance matters are also regulated by the new legislation: In principle they are subjected to Greek law, unless the testator solemnly states before a notary public his wish to submit succession matters to Sharia law. A parallel application of Greek and Sharia law is not permitted. However, revocation of the testator's

declaration is allowed, pursuant to Greek succession law provisions embedded in the Civil Code.

The new law has certainly conflict of laws ramifications too, most notably in light of the recent *Sahyouni* case of the CJEU. In this respect it is important to underline that all decisions rendered by the *Mufti* are passing through a hybrid process of domestic exequatur, which is rudimentarily regulated under Article 5.3 Law 1920/1991. Failure to submit the *Mufti* decisions to domestic courts' scrutiny, deprives them of *res iudicata* and enforceability. Hence, EU Member States courts, whenever confronted with a request to recognize or enforce *Mufti* decisions within their jurisdiction, will always have to examine whether a Greek court has granted full faith and credit to the *Mufti's* ruling.