



Forthcoming Grand Chamber judgment in a case concerning the restitution of a place of worship

The European Court of Human Rights will be delivering a **Grand Chamber** judgment¹ in the case of **Lupeni Greek Catholic Parish and Others v. Romania** (application no. 76943/11) at a public hearing on 29 November 2016 at 4 p.m. in the Human Rights Building, Strasbourg.

The case concerned a request for restitution of a place of worship that had belonged to the Greek Catholic Church and was transferred during the totalitarian regime to the ownership of the Orthodox Church.

Principal facts and complaints

The applicants are the Lupeni Greek Catholic Parish, the Lugoj Greek Catholic Diocese and the Lupeni Greek Catholic Archpriesthood, all located in Romania. They belong to the Romanian Church United to Rome (Greek Catholic or Uniate Church).

Following the dissolution in 1948 of the Greek Catholic Church, a church building and an adjoining courtyard that belonged to the Lupeni Greek Catholic Parish (the first applicant) were transferred in 1967 to the ownership of the Romanian Orthodox Church. The Lupeni Greek Catholic Parish was legally re-established on 12 August 1996; it belongs to the Lugoj Greek Catholic Diocese (the second applicant) and the Lupeni Greek Catholic Archpriesthood (the third applicant).

After the fall of the communist regime in 1989, the Romanian legislation (Legislative Decree no. 126/1990 as amended by Law no. 182/2005, hereafter “the special law”) provided that the legal status of property that had belonged to the Uniate parishes and been transferred to the ownership of the Orthodox Church would be determined by joint committees made up of representatives of both Uniate and Orthodox clergy, who would take into account “the wishes of the worshippers in the communities in possession of these properties”. In the event of disagreement, the party with an interest in bringing judicial proceedings could do so under ordinary law.

In 2001 the applicants brought proceedings to obtain, among other things, the restitution of the church and the adjoining courtyard. The Hunedoara County Court granted the applicants’ action for the restoration of possession in 2009, then the Alba-Iulia Court of Appeal dismissed it in 2010. By a final judgment of 15 June 2011, the High Court of Cassation and Justice confirmed the judgment of the Court of Appeal, considering that it had been correct in applying the special law and the criterion of the wishes of the (predominantly Orthodox) worshippers in the community in possession of the property, while simultaneously emphasising the unlawfulness of the reasoning of the first-instance court, which had merely compared the title deeds and ignored the special law.

Relying on Articles 6 § 1 (right to a fair hearing within a reasonable time/right of access to a court) and 13 (right to an effective remedy) of the Convention, the applicants allege a breach of their right of access to a court, and criticise the national courts for not deciding their case under ordinary law, but instead in accordance with the criterion set out in Legislative Decree no. 126/1990 applicable to the friendly settlement procedure, namely the wishes of the worshippers in the community in possession of the property. The applicants also allege that the application of this criterion was not

1. Grand Chamber judgments are final (Article 44 of the Convention).

All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

foreseeable and that it rendered illusory their right of access to a court. They further complain about the length of the proceedings.

Under Article 14 (prohibition of discrimination) read in conjunction with Article 6 § 1, the applicants also complain that they suffered discrimination in the exercise of their right of access to a court.

Procedure

The application was lodged with the European Court of Human Rights on 14 December 2011.

On 19 May 2015 a Chamber of the Third Section delivered a judgment in which it concluded, unanimously, that there had been no violation of Article 6 § 1 of the Convention with regard to the right of access to a court and respect for the principle of legal certainty; no violation of Article 14 of the Convention taken in conjunction with Article 6 § 1; and a violation of Article 6 § 1 with regard to the length of the proceedings.

On 19 August 2015 the applicants requested that the case be referred to the Grand Chamber under Article 43 (referral to the Grand Chamber) and on 19 October 2015 the panel of the Grand Chamber accepted that request. A hearing was held on 2 March 2016.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.