Chapter 7

Case of Vallianatos and Others v. Greece: Another Step towards Realizing the Equal Protection of Same-Sex Relationships

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ABSTRACT

The case of Vallianatos and Others v. Greece concerns whether or not the “non-marital partnership,” designed solely for opposite-sex couples according to Greek law no. 3719/2008, should be extended to same-sex couples. According to the judgment of the European Court of Human Rights, the Greek Law violates rights protected under Article 14 (unjustified discrimination) taken in conjunction with Article 8 (right to private life) of the European Convention on Human Rights (ECHR). As the Court’s judgment underlined, the Greek law should be extended to same-sex couples as long as “civil unions” are not an alternative or flexible form of marriage. This chapter explores the case.

INTRODUCTION

The basic core of the case of Vallianatos and Others v. Greece (Vallianatos and Others v. Greece, 2008) is the question of both social and legal importance. It concerns whether or not the “non-marital partnership”, designed solely for opposite-sex couples according to Greek law no. 3719/2008, should be extended also to same-sex
The European Court of Human Rights held that the exclusion of same-sex couples living in Greece from registering a “civil union”, a legal form of partnership for opposite-sex couples, violates rights protected under Article 14 taken in conjunction with Article 8 of the European Convention on Human Rights (ECHR).

1. THE CASE

1.1. The Allegations of the Applicants

The case originated in two applications (nos. 29381/09 and 32684/09) against the Hellenic Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms on May 6 and 25, 2009, respectively.

*According to the Decision 3490/2006 of the Council of the State

The first application (no. 29381/09) was lodged by two Greek nationals, Mr Grigoris Vallianatos and Mr Nikolaos Mylonas, who live together as a couple in Athens. The second application (no. 32684/09) was lodged by six anonymous Greek nationals who comprise same-sex couples living together and additional same-sex couples not cohabiting (C.S., E.D., K.T., M.P., A.H. and D.N.), as well as by “Synthessi – Information, Awareness-raising and Research”, a not-profit organization based in Athens, which provides “legal and psychological support to gays and lesbians”.

In particular, the applicants alleged, relying on Article 8 of taken in conjunction with Article 14 of the ECHR, that the fact that the “civil unions” introduced by Greek Law no. 3719/2008 (reforms concerning the family, children and society) were designed bearing in mind only couples composed of different-sex adults (according to Section 1 of Law no. 3719/2008) that had infringed their right to respect for their private and family life (Article 8 of ECHR). They claimed that this amounted to unjustified discrimination between different- and same-sex couples (under Article 14 of the ECHR), to the detriment of the latter. In addition, the applicants also complained that on the basis of domestic law no effective remedy (Article 13 of the ECHR) was available in order to enable them to assert their allegations referring to the discriminatory nature of their “civil union”.


Concerning the admissibility of the applicants’ allegations, the Greek government stated firstly that the applicants was not possible to be considered as victims, ac-
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