



Avrupa Batı Trakya Türk Federasyonu Föderation der West-Thrakiens Türken in Europa Federation of Western Thracian Turks in Europe Ευρωπαϊκή Ομοσπονδία Τούρκων Δυτικής Θράκης Fédération des Turcs de Thrace Occidentale en Europe

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Distinguished representatives

And esteemed NGO Delegates,

The freedom of assembly and association constitute the cornerstones of representative democratic system and they are essential to the development of civil society and thus to the strength of democracy. The OSCE participating States in 1990, in Copenhagen reaffirmed that (...) Persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will. In particular, they have the right to establish and maintain organizations or associations within their country and to participate in international non-governmental organizations". However, the right to freedom of assembly and association is still a challenge in many OSCE participating States, including Greece.

The restrictions and limitations on the right to freedom of association are still persistent in many OSCE States. Unfortunately, a favourable environment is not created by the OSCE States for the exercise of freedom of assembly and association by means of laws and practices consistent with OSCE commitments and international standards.

Under the 1923 Lausanne Peace Treaty, which determined the status and the right of the Turkish Minority of Western Thracian, the Minority has an equal right with the non-Muslim minority in Turkey to establish, manage and control at their own expense, any charitable, religious and social institution, any school and other establishment for instruction and education, with the right to use their own language and to exercise their own religion freely therein.

Although the some other ethnic groups are recognized and even welcomed and supported by Greek authorities, there are currently no associations in Greece operating legally with their names including the words "Macedonian" or "Turkish", which reflect the ethnic or national identity of their members. There is only one (ethnic) Macedonian association that attempted to register with the courts, the "Home of Macedonian Civilization" (Stegi Makedonikou Politismou), but denied registration and appealed to the European Court of Human Rights (ECtHR). Though, the Court ruled that Greece violated Article 11 of the European Convention on Human Rights, the new application for registration was again rejected in 2003 on the ground that "the word 'Macedonian' is not clear whether the word is being used in its historical sense to refer to an integral part of Greek civilisation

with its local specificities, or in its geographical sense, in which case it is left undefined which part of the broader region of Macedonia is meant, as its territory took shape after the Balkan Wars.”

The Greek government declared in 1983 that there were no Turks in Greece and claimed that the members of Muslim minority are Greek Muslims. Xanthi Turkish Union, Komotini Turkish Youth Union and Western Thrace Turkish Teachers’ Union were dissolved in 1986 by local courts and the Supreme Court decided the dissolution of the associations on the ground that the word “Turkish” referred to citizens of Turkey and could not be used to describe citizens of Greece.

Following the dissolution of the Turkish associations in the late 1980’s, the three associations (Xanthi Turkish Union, Cultural Association of Turkish Women of the Region of Rodopi and Evros Prefecture Minority Youth Association) lodged a complaint with the European Court of Human Rights in 2005; the ECtHR held unanimously there had been a violation of Article 11 (freedom of assembly and association) of the European Convention on Human Rights.

Further to the European Court of Human Rights’ judgments, the applicants requested the cancellation of the decision dissolving them (the case of Xanthi Turkish Union) or submitted a new registration of their associations before the national courts. The applications have been declared inadmissible on the ground that it is not possible to cancel a domestic decision which has become final in the context of non-contentious procedure following a judgment of the ECtHR, and that domestic law does not provide, in civil matters, for the reopening of proceedings following a finding of violation by the ECtHR.

ABTTF organized a side-event on non-execution of European Court of Human Rights (ECtHR) decisions on the three particular cases in which the Court ruled that Greece violated Article 11 of the Convention, i.e. right to freedom of association on 25 April 2013. The event hosted by Latvian Parliamentarian Boriss Cilevičs at the PACE 2013 Spring Session, brought together more than 50 participants from different political groups, Council of Europe (CoE) Member States and civil society members, which stressed Greece’s pertinacious attitude in non-executing with the ECtHR decisions favouring the re-establishment of the three associations founded by Western Thrace Turkish Minority members; Xanthi Turkish Union, Cultural Association of Turkish Women of Rodopi and Evros Minority Youth Association. At this side event, Hülya Emin, Chairwoman Cultural Association of Turkish Women of Rodopi, stressed the fact that Greece denies minority’s ethnic identity, which brought out the closure of associations founded by the minority. Ahmet Kurt, President of Xanthi Turkish Union said that upon the ECtHR decision, Xanthi Turkish Union applied to national court for retrieving its official status, yet the request was refused by the respective court of appeal and approved by the Court of cassation. Kurt furthermore indicated that upon the approval of Court of Cassation, Xanthi Turkish Union has re-lodged a complaint at the ECtHR in September 2012.

Failure to execute or enforce judgments – that is, the carrying out of a final judgment in order to ensure that obligations actually are imposed or fulfilled in practice – constitutes a further obstacle to access to justice. In note verbal dated 29 May 2013 1 from the Permanent Mission of Greece to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights in relation to the written statement dated 10 May 2013 and submitted by the Federation of Western Thrace Turks in Europe (A/HRC/23/NGO/35), Greece noted that full implementation of the judgments is pending, due to procedural reasons. Greece noted that Greek authorities are currently considering the most appropriate means and ways to implement the decisions, including possible legislative adjustments. We regret that although the Greek authorities note that other avenues are being explored including an amendment to the non-contentious procedure provided in the code of civil procedure in every platform, the authorities have failed to take any pre-

¹ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/142/72/PDF/G1314272.pdf?OpenElement>

cise and concrete step. Given the time that has elapsed since the Court's judgments, we believe that the Greek authorities are, in fact, unwillingness to implement the Court's decision.

In the note verbal Greece notes that even the three associations in question, albeit not officially registered, do engage freely in numerous activities. It should be noted that although a large number of minority associations and NGOs have been registered with the competent courts, there is no association which include the word "Turk" and/or "Turkish" in their titles.

Council of Europe's Committee of Ministers closely follows the developments about the implementation of Court's judgments under the name of Bekir-Ousta group of cases against Greece since 2008. The last exam of execution was held at 1172nd meeting (4-6 June 2013), and the Committee of Ministers noted with concern that, since the judgment of the Court of Cassation (No. 353/2012), published on 24 February 2012, dismissing the appeal in cassation of the Tourkiki Enosi Xanthis association on procedural grounds, to date no precise and concrete information has been presented to the Committee on the measures taken or envisaged regarding the individual measures in this group of cases, noted with interest the information provided during the meeting according to which other avenues are being explored, including an amendment to the non-contentious procedure provided in the code of civil procedure. The Committee decided to resume consideration of this question at their 1186th meeting (December 2013) (DH) in order to make a substantive assessment of the developments regarding individual measures, based on the information that the authorities will provide in good time for that meeting.²

The dissolution and/or non-registration of associations that bear the word "Turkish" prevents them to operate on a legal basis which in return causes many other problems in their daily life. Founded in 1928 Komotini Turkish Youth Union was dissolved in 1987 with the decision of the Greek Supreme Court on the basis that the denomination "Turkish" in its title referred to the citizens of Turkey and it constituted a threat to the unity and the public order of Greece do continue to operate its activities without a legal basis, because Greece does not reinstate its legal personality. The association continued its de facto operation until November 2012, when tax inspectors made an audit on Komotini Turkish Youth Union and decided to close down the club house and the canteen on the basis that the organization does not have a tax identification number and a cash register. In May 2013, the President of Komotini Turkish Youth Union was sentenced a fine of 100 Euro and 2 months of imprisonment and the sentence has been suspended for three years by the Criminal Court in Komotini.

In light of the information above, we urge Greek authorities to;

- implement, without any further delay, the decisions of the European Court in the cases Turkish Association of Xanthis and Others v. Greece, Bekir Ousta and Others v. Greece & Emin and Others v. Greece;
- reaffirm the commitment of the Greek authorities to implementing fully and completely the judgments of ECtHR and amend the Code of Civil Procedures in such a way that it allows the implementation of the European Court decisions in matters related to freedom of association;
- allow the registration of associations under the names of the choice of their founding members whether they contain the name of an ethnic group or the word "minority";
- immediately ratify the Council of Europe's Framework Convention for the Protection of National Minorities.

²http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases_en.asp?CaseTitleOrNumber=35151/05&StateCode=GRC&HideClones=1&SectionCode=ENHANCED%20SUPERVISION&OrderBy=FinalOn