



# General Assembly

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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights,  
civil, political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by the Federation of Western Thrace Turks in Europe (ABTTF), a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 May 2013]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **The right to freedom of association and the problem of non-execution of ECtHR's judgments in Greece**

The freedom of assembly and association constitute the cornerstones of representative democratic system and the exercise of these rights have always been at the heart of the struggle for democracy around the world, and they still remain at the heart of societies, since they are essential to the development of civil society and thus to the strength of democracy. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities grants to persons belonging to minorities the right to establish and maintain their own associations (Article 2.4). The International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights guarantee that no restriction may be placed on the exercise of the rights to freedom of peaceful assembly and of association other than those that are prescribed by law. Reminding that States have an obligation to respect and fully protect the rights of all individuals to assembly peacefully and associate freely, there is a serious concern at violations of the rights to freedom of peaceful assembly and of association in various European countries, including Greece.

Under the 1923 Lausanne Peace Treaty, which determined the status and the right of the Turkish Minority of Western Thrace, 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. Though, Greece does not subscribe to the right of any group to self-identification on a collective basis and the right of assembly or association of the group which seeks to determine their identity. Following her mission to Greece on 8-16 September 2008, former UN Independent Expert on Minority Issues, Gay McDougall, stated that "The absence of formal recognition by the state of a particular societal group as constituting "a minority" is not conclusive", and continued that "Rather, the existence of a group to which a state owes minority protections is a matter of objective facts and exercise of the right of self-identification by persons belonging to the group".

Although the other segments within the Minority 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.

Some of the associations which bear the title "Minority" are not being registered in Greece. Although the ECtHR ruled that Greece violated the freedom of association of the Evros Prefecture Minority Youth Association in the case of Bekir-Ousta and Others vs. Greece (No. 35151/05), the requests for registration by South Evros Minority Educational and Cultural Association and Evrenos Minority Culture, Folklore and Education Association are dismissed by local courts on the ground that the word "minority" in its title had a vague meaning and was specified neither as "Muslim" nor as "Turkish".

In its written reply (12-9-2011, Protocol no.743) to the motion for question asked by Deputy Çetin Mandacı (Protocol Number. 21855/25.8.2011) in which the Deputy asked for the steps that the Government will take about the ECtHR's judgment on the Xanthi Turkish Union, the Ministry for Justice, Transparency and Human Rights stated that there is no need to annul or to rectify the judgment of national courts in the case of Xanthi Turkish Union on the basis of new facts or a change in the circumstances in which the judgment had been handed down.

In Parliamentary Assembly of Council of Europe debate on 26 January 2011<sup>1</sup> the Assembly decided to give priority to the examination of major structural problems concerning cases in which extremely worrying delays in implementation have arisen, currently in nine states parties, including Greece. Under Article 46 of the European Convention on Human Rights, the Council of Europe Execution of Judgments of the European Court of Human Rights undertakes the final judgments of the ECtHR and the Committee of Ministers supervises the execution process in Greece under the name of the Bekir-Ousta Group. The Committee of Ministers referred to the letter sent by the Federation of Western Thrace Turks in Europe (ABTTF) to the Department for the Execution of Judgments of the European ECtHR on 3 November 2011 and decided to resume the examination of these cases in the light of the developments with regard to the proceedings pending before the Court of Cassation in the case of Tourkiki Enosis Xanthis.

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

<sup>1</sup> 6th Sitting. See Doc. 12455, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pourgourides). Text adopted by the Assembly on 26 January 2011 (6th Sitting). See also Recommendation 1955 (2011). <http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=17953&lang=EN>

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 for the second time lodged a complaint at the ECtHR in September 2012.

Recalling the Parliamentary Assembly's resolution in which it stresses the importance of the European Court of Human Rights for the implementation of the European Convention on Human Rights (ETS No. 5) in all member states of the Council of Europe, we urge Greek authorities to;

- implement, without any further delay, the decisions of the European Court in the cases Turkish Association of Xanthi 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.

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