



# General Assembly

Distr.: General  
15 February 2019

English only

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## Human Rights Council

### Fortieth session

25 February–22 March 2019

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 Federation of Western Thrace Turks in Europe, 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.

[8 February 2019]

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\* Issued as received, in the language(s) of submission only.



## **The restrictive legislation threatening the freedom of association in Greece and the problem of execution of ECtHR judgments concerning the Turkish community in Western Thrace**

The Special Rapporteur on the rights to freedom of peaceful assembly and of association, in his report submitted to the 38th Session of the UN Human Rights Council, noted that enjoyment of the rights to freedom of peaceful assembly and of association is especially important for groups who find themselves at particular risk because they constitute a minority or are marginalized.

The Turkish community in Western Thrace in Greece has the right 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 under the 1923 Treaty of Lausanne. The deteriorating relations between Turkey and Greece had an adverse effect in the situation of the Turkish community in Greece and the Greek government declared in 1983 that there were no Turks in Greece. Xanthi Turkish Union (the first association in the region established in 1927), Komotini Turkish Youth Union (est. 1928) and Western Thrace Turkish Teachers' Union (est. 1936) were dissolved in 1986 by local courts and the Supreme Court decided the dissolution of these associations on grounds that the statutes of these association were contrary to public policy and constituted threats to democratic society with an aim to promote the idea that there was an ethnic minority with the word Turkish which refers to citizens of Turkey and could not be used to describe citizens of Greece.

There are three pending cases before the European Court of Human Rights (ECtHR) concerning the dissolution and refusal to register associations established by the persons belonging to Turkish community in Western Thrace, namely dissolution of Xanthi Turkish Union (application no. 26698/05) and refusal to registration of the two new established associations, Evros Prefecture Minority Youth Association (no. 35151/05) and Cultural Association of Turkish Women in the Prefecture of Rodopi (no. 34144/05). The Court held unanimously in 2007 and 2008 that there had been a violation of Article 11 (freedom of assembly and association) of the European Convention on Human Rights in both cases, which concern associations founded by persons belonging to the Muslim minority of Western Thrace.

As the Special Rapporteur noted that restrictive and repressive legislation is a major legislative trend which contains clauses in laws that threaten associations with de-registration, loss of legal existence and stressed that this trend translated into the rise of legal and administrative provisions designed to hinder civil societies' human rights activities with an effect of destabilizing and intimidating associations by generating confusion and increasing the administrative burden of continuing their activities, while instilling fear of action among their members<sup>1</sup>, which is clearly seen in the Bekir Ousta group of cases against Greece.

Further to the ECtHR's judgments, the three 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. Their applications have been declared inadmissible on the ground that the Code on Civil Procedure does not provide, in civil matters, for the reopening of proceedings following a finding of violation by the ECtHR. Nine years after the ECtHR's judgments, an amendment on the Code on Civil Procedure was, initially, debated in the Greek parliament on 19 September 2017. Upon severe, harsh and racist reactions of the former junior coalition partner Independent Greeks

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<sup>1</sup> <http://undocs.org/A/HRC/38/34>

(ANEL) and no support by any other opposition parties the Ministry of Justice decided to withdraw the draft legislation<sup>2</sup>.

After amendments in the initial draft, Law No. 4491/2017 adopted on October 10th, 2017 despite strong objection of members of the Turkish community. This law introduced a strict limitation on civic space through terms and restrictions provided in the relevant provisions concerning the protection of national security, public order, the prevention of crime, the protection of health or morals and the protection of rights and freedoms of others<sup>3</sup> for the admissibility of an application of revocation or amendment following an ECtHR judgment to be issued in the future.

Xanthi Turkish Union's lodged an appeal on 4 December 2017 (no. 91 / 5-12-2017) requesting the revocation of the decision of the Thrace Court of Appeal dissolving the association. After the hearing held on 9 February 2018, the Court ordered in June 2018 that there is no possibility of the re-opening of the proceedings after the first application following the ECtHR's decision. Xanthi Turkish Union appealed this judgment of the before the Supreme Court and no date for the hearing has yet been determined.

The other two applicant associations, Evros Minority Youth Association and Cultural Association of Turkish Women in the Prefecture of Rodopi lodged appeals to the Thrace Court of Appeal requesting the re-opening of domestic procedures and revocation of the earlier decision of refusal of their registration. The hearings which were supposed to be held on 7 December 2018 were adjourned to 30 October 2019 due to general strike of lawyers. There is no possibility for both of the cases for the acceleration of legal proceedings requesting an earlier date for hearings.

Today, there is still no association which bear the word "Turkish" in the region. The Cultural Association of Turkish Women in the Prefecture of Xanthi was refused registration in 2011 by the domestic court, in 2014 by the Thrace Court of Appeal, and in 2017 by the Supreme Court noting that the association's title was considered misleading, as its members are not and cannot be proven to be "Turks" and cannot claim a "Turkish national identity" which would indicate the presence of a "structured national Turkish minority" in Xanthi, which would also be contrary to "the Treaty of Lausanne of 1923 that recognizes only the existence of a Muslim minority, not a Turkish minority".<sup>4</sup> In reply to our written statement submitted to the 32<sup>nd</sup> Session of the UN Human Rights Council, the Permanent Mission of Greece in its note verbal dated 1 July 2016 stated that Greece stressed that the 1923 Treaty of Lausanne established the status of the Muslim minority in Thrace and claimed that Muslim faith is the common denominator of "Greek citizens of Turkish, Pomak and Roma origin" that comprise the Muslim minority. However, any Pomak or Roma association in the region does not face any limitations in registration, and they are even welcomed and supported by Greek authorities.

The Committee of Ministers of the Council of Europe supervises the execution of Court's judgments under the name of Bekir-Ousta group of cases against Greece since 2008. At 1331st meeting held 4-6 December 2018 (DH), the Committee recalled that a Contracting State's obligation under Article 46 of the Convention to fully and effectively comply with the Court's judgments extends to the interpretation by domestic courts of domestic legislation<sup>5</sup>. It decided to resume the examination of this group of cases at the first meeting following the delivery of the Supreme Court's judgment in response to appeal lodged by Xanthi Turkish Union, or at their 1354th meeting (September 2019) (DH) at the latest.

We strongly regret that Greece refuses to execute individual and general measures in Bekir-Ousta group of cases, although the it persistently keeps saying since 2008 that they were considering the most appropriate solution to execute measures in these cases. The Committee of Ministers further noted in its latest decision that the registration of the

<sup>2</sup> <http://www.gundemgazetesi.com/haber/detay/3450>

<sup>3</sup> <https://rm.coe.int/16807662bb>

<sup>4</sup> <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016807948c5>

<sup>5</sup> [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016808fddb7](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016808fddb7)

Cultural Association of Turkish Women in the Prefecture of Xanthi was rejected by the Supreme Court on grounds already criticised by the European Court in its 2008 judgments in the Bekir Ousta group. Therefore, the Committee requested from Greek authorities to take additional measures such as wide dissemination of the Court's case-law and systematic training of domestic judges at all levels, to ensure that the domestic courts make decisions concerning the registration or dissolution of associations which are fully and effectively aligned with the Court's case-law. However, no information has been received for such training of domestic judges at all levels.

We also note with great disappointment that the two applicant associations believe that the date for the hearings in the cases of Evros Minority Youth Association and the Cultural Association of Turkish Women in the Prefecture of Rodopi has purposefully suspended almost a year later than the earlier scheduled hearing in order to delay the examination of the Committee of Ministers in September 2019.

We call upon Greece to take, without any further delay, all necessary measures so that the applicants benefit from proceedings in compliance with the ECtHR's judgments and provide tangible information about change in domestic courts' case law concerning the applications for the re-opening of domestic proceedings on merits and registration of new associations in Western Thrace following the adoption of 4491/2017.

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