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NGO in Special Consultative Status with the Economic and Social Council of the United Nations  
Member of the Fundamental Rights Platform (FRP) of the European Union Agency for Fundamental Rights  
Member of the Federal Union of European Nationalities (FUEN)

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Session I

Democratic processes – Elections and human rights

## OSCE Office for Democratic Institutions and Human Rights 20 years of the OSCE Copenhagen Document: Status and future perspectives Copenhagen, 10-11 June 2010

Dear President,  
Distinguished Representatives  
And NGO Representatives,

This year, the OSCE, is commemorating the 20<sup>th</sup> anniversary of the Copenhagen Meeting of the Conference on the human dimension of the CSCE, the Copenhagen Document. Since 1990, the OSCE has created a large set of human rights and norms and standards that are part of traditional human rights and norms, and it has also developed a number of standards. The Copenhagen Document, with its subsequent document, the 1990 Charter of Paris for a New Europe has created a unique framework, comprising a set of norms, rules and standards, is the foundation of the OSCE human dimension as it exists today.

The OSCE participating States have committed in the Copenhagen Document that persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will. I would like to remind that the right to freedom of assembly and association of national minorities is a prerequisite of open and democratic societies. However, the right of the Turkish Minority of Western Thrace to the freedom of association does present a major problem in social and political life of the Minority. There are three cases which have been brought before the European Court of Human Rights concerning the dissolution and refusal to register associations established by the persons belonging to Turkish Minority of Western Thrace, Greece:

35151/05 Bekir-Ousta and others, judgment of 11/10/2007, final on 11/01/2008

26698/05 Tourkiki Enosi Xanthi and others, judgment of 27/03/2008, final on 29/09/2008

34144/05 Emin and others, judgment of 27/03/08, final on 01/12/2008

These cases concern the dissolution or refusal to register the applicant associations by the competent courts on the sole basis of a suspicion that the applicants intended to promote the idea that an ethnic minority existed in Greece. The European Court noted that the contested measure rested only on a simple suspicion concerning the true intentions of the founders of the association and concerning the actions that the association might pursue once it began to operate. The European Court also noted that even if the real aim of the associations was to promote the idea that an ethnic minority existed in Greece; this could not in itself constitute a threat to a democratic society.

In all these cases, the European Court of Human Rights concluded that the finding of a violation of Article 11 constituted sufficient just satisfaction for the non-pecuniary damage sustained. Despite the three judgements by the European Court of Human Rights, the right of the Turkish Minority to the freedom of association is still not guaranteed by the state authorities.

Lawsuit filed by Xanthi Turkish Union before the Xanthi Civil Court of First Instance to retrieve its legal status as of before 1983 ended up negatively. On 30 September 2009, the Thrace Court of Appeal rejected the application of the Union on the grounds that it is not envisaged in the procedural law of Greek civil code that the regarding court judgment already taken is not altered in this manner by ECHR. Hence, both applications of Xanthi Turkish Union for restitution of its legal rights to the Greek court authorities were rejected. On 30 September 2009, Thrace Court of Appeal dismissed the appeal of Xanthi Turkish Union on the ground that Greek rules of civil procedure do not require decision of the ECHR to be directly implemented. On 27 October 2009, Thrace Court of Appeal decided to adjourn the case of Xanthi Turkish Union to the date of 8 October 2010.

Furthermore, on 4 February 2010, the Komotini Civil Court of First Instance refused the application of the Cultural Association of Turkish Women of the Region of Rodopi, which had applied to the ECHR after its request for registration had been rejected by Greek courts, dismissed its appeal for the registration. The Civil Court of First Instance refused the application of the Cultural Association of Turkish Women of the Region of Rodopi with the justification that none of the judgments of the European Court of Human Rights (ECHR), excluding criminal cases, are required to be implemented in the Greek domestic law. After the decision of ECHR in the case of *Emin and Others v. Greece* (application no. 34144/05), which convicted Greece that it had had violated Article 11 (freedom of assembly and association) of the European Convention on Human Rights, the Cultural Association of Turkish Women of the Region of Rodopi had applied to the Rhodope Civil Court of First Instance. But in June 2009, the Court had stated the in validity of the case due to improper application, because Orhan Hacıbram, lawyer of the association, was not registered in the province of Rhodope, but in the prefecture of Xanthi.

I would like to state that associations which bear the title of "Turkish" are still not registered, although associations that bear the title of "Roman" and/or "Pomak" are registered by Greek authorities. Not only the associations which bear the title of "Turkish", but the title of "Minority" are not being registered in Greece, although the ECHR ruled that Greece violated the freedom of association of Evros Minority Youth Association in the case of *Bekir-Ousta and Others vs. Greece*(No. 35151/05). On 9 December 2008, the First Instance Court of Alexandroupolis rejected the application of the Evros Minority Youth Association to be registered within the framework of relevant ECHR decision on the ground that the decisions of ECHR are not obligatory regarding the Greek domestic law and they do not necessarily require the Greek authorities to register the association. Furthermore, on 7 December 2009, the Thrace Court of Appeal rejected the petition for foundation of the Western Thrace Minority Educational and Cultural Association of South Evros, which applied for registration of the association in April 2009. The Thrace Court of Appeal rejected the petition for establishment of the association,

relying on the decision of the Alexandropolis Civil Court of First Instance. Alexandropolis Civil Court of First Instance had rejected the petition on the ground that the word "minority" in its title does have a vague meaning. Afterwards, Western Thrace Minority Educational and Cultural Association of South Evros had applied to the Thrace Court of Appeal in May 2009. After the decision of the Court of Appeal, the association announced that it would move the case to the Supreme Court. The final decision is still pending.

The effective participation in public affairs includes the right of the freedom of association. The OSCE participating States, including Greece, have committed in the Copenhagen Document that they will respect the rights of persons belonging to national minorities to effective participation in public affairs, including participation in the affairs relating to the protection of the identity of such minorities. Therefore, participating States should guarantee that persons belonging to national minorities can exercise and enjoy their rights individually as well as in community with other members of their group.

The OSCE with its institutions and bodies should monitor and report the situation in participating State and advance co-operation with non-governmental organizations on reporting of human rights violation to the police and improve the quality of data collection.