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**THE
CONSTANTINOPOLITAN
SOCIETY**GREEKS EXPATRIATED FROM ISTANBUL
BY TURKISH COERCION**2013 HUMAN DIMENSION IMPLEMENTATION MEETING**

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Monday, 23 September 2013

Working session 1: Tolerance and non-discrimination I:
National minorities**The Greek Minority in Turkey****STATEMENT****Introduction**

We thank the OSCE and its current Chairmanship for the opportunity to address our serious concerns about the actual implementation of OSCE human dimension commitments by Turkey and identify further action which may be taken by Turkey, as participating State, regarding human rights and religious freedoms of the Greek Minority in this country.

We represent the Constantinopolitan Society, a non - governmental / non - profit organization, established in 1928 in Greece by forcibly expatriated members of the Greek minority of Istanbul. Our intervention will focus on the basic issues that are related to the human rights and religious freedoms of the Greek minority in Turkey, which have not yet been resolved and are in contrast with what is in effect internationally and with the EU criteria regarding the protection of the non - Muslim minorities of Turkey.

General remarks

Non-Muslim Minorities in Turkey have suffered in the past numerous injustices, as a result of discriminatory and oppressive state policies. With regard to the Greek minority in particular, these policies have led to the dramatic decline of the Greek population of Turkey, from over 100,000 in the 1950's to less than 2,500 at present.

The Turkish government continues to impose significant restrictions and serious limitations on human rights and freedom of religion or belief, thereby threatening the sustainable vitality,

survival and future of the Greek minority in Turkey. The situation of the Greek minority has not changed. It continues to encounter problems with access to education and property rights, including on the islands of Gökçeada (Imvros) and Bozcaada (Tenedos).

Despite good intentions, the government has failed to take decisive actions to make the necessary institutional and administrative reforms to reverse these conditions. Full respect for and protection of education, culture and fundamental rights in accordance with European standards have yet to be achieved.

The European Commission in its Turkey 2012 Progress Report, issued in October 10, 2012, regarding human rights and the protection of minorities, underscores that:

During the reporting period, the European Court of Human Rights (ECtHR) delivered judgments on 160 applications finding that Turkey had violated rights guaranteed by the ECHR. The number of new applications to the ECtHR went up for the sixth consecutive year, with 8.010 new applications having been made since September 2011. Most concern the right to a fair trial and protection of property rights. In September 2012, 16.641 applications regarding Turkey were pending. Turkey has abided by the majority of rulings, but has not executed all the judgments. Based on the Kaplan v. Turkey ruling, a draft law setting up a commission on long trials has been submitted to the parliament. The draft law aims to provide a domestic remedy for cases in which the right to be tried within a reasonable time is breached. In some cases, rulings have been awaiting follow-up by Turkey for several years. The EU has called on Turkey to enhance its efforts to implement all the judgments of the ECtHR.

As a country that aspires to become an EU member-state, Turkey is in a unique position to adhere to the values and principles of the EU. It should be noted that any effort Turkey makes in meeting EU standards and criteria on issues of human and minority rights and religious freedoms is a step closer to fulfilling its own vision.

Developments

- It is with a positive spirit commendable that the Turkish Government has already initiated a dialogue with non – Muslim communities. However, this dialogue has not yet yielded any tangible, measurable results.
- Turkish authorities granted permission for the re-opening of the elementary school in Gökçeada (Imvros) island, which was closed in 1964.

Persisting shortcomings

The Greek minority in Turkey – once thriving, now critically shrinking – is faced with persisting difficulties and problems, namely:

Minority Foundations

The property rights of the Greek Minority Foundations continue to be violated. The Greek minority's Foundations, in particular, have suffered from massive confiscations of their properties.

In August 28, 2011 the government issued a decree which amends, by means of a transitional provision, the 2008 Turkish Law on Foundations. As this transitional provision inter alia stipulates: (a) properties, including cemeteries, declared in 1936 by non – Muslim Foundations but registered in the name of the Turkish treasury, the Turkish Directorate General of Foundations, municipal authorities and the Turkish administration on the islands of Imvros (Gökçeada) and Tenedos (Bozcaada) are expected to be returned to their rightful owners (b) compensation expected to be paid for properties confiscated from 1936 onwards by the Turkish state and later sold to third parties.

The Decree was seen as a further step in the process of trying to solve the property problems of non-Muslim community foundations, but its scope is narrow and does not fully redress the magnitude of the damage inflicted, excluding some important categories of confiscated property. For example, the new law does not solve the definitive confiscation of real estate properties seized in the past from minority administrative bodies and declared illegally as being “mazbut” (i.e. registered as not having an owner).

In general, the said Directorate is unduly restrictive in the way it implements the legislative changes, rendering them virtually useless. Also, the Turkish authorities systematically restrict the access to the State land registry, thus annulling any legal right of representatives of minority members to claim their confiscated properties. An administrative or judicial mechanism should be established to review the General Directorate of Foundations (VGM) assessment of applications and to revoke arbitrary rejections and demands that require applicants to submit further documentation that they do not have or cannot obtain.

The Decree states that community foundations must apply for restitution within 12 months. As the Decree concerns correcting a violation of the right to property it is difficult to see why a time limit should reasonably be imposed on any aspect. Many of the documents that will be needed to apply for restitution are very old, and might be found only after the deadline has expired.

Further measures / actions would allow for:

- *Putting an end to* the fragmentation of minority Foundations as a result of the Wakifs system in force; in other words allowing for the unification of the various minority Foundations as a key to their survival, efficiency and cost - effective functioning.
- *Returning* 24 fused Greek Orthodox Foundations (monasteries etc.) and their immovables registered to them, as well as the management, to their lawful owners.
- *Returning* the properties that were seized by the self-declared “Turkish Orthodox Patriarchate” in the district of Karaköy-Galata, Istanbul in the past decades. The three churches and their real estate properties should be returned to their legal owner, which is the Ecumenical Patriarchate.
- *Recognizing the equality* of the minority Foundations and all other Foundations, thus terminating discriminatory practices against them.

Returning the archives and the library of 50.000 valuable volumes of the Hellenic Literary Society of Constantinople (Ellinikos Filologikos Syllogos Konstantinoupoleos) –which has been illegally confiscated in 1925 - to a Greek Minority Foundation in Istanbul. This library represents the intellectual heritage of the Hellenism of Constantinople.

On July 24, 2013, the representative of non-Muslim foundations at the Council of the General Assembly of the Directorate General of Foundations (VGM) announced: *“One hundred and sixteen minority foundations have applied for the return of 542 properties, but only 253 properties have been returned. Applications for the return of 829 seized properties were rejected. No assessment has been made about the situation of 460 properties. With regard to 18 properties, which were acquired by third persons, a decision was made for compensation to be paid,”* adding that *“only 16 percent of the applications have been responded to in the affirmative”*.

Finally, properties returned since 2008 represent only a small portion of the minority properties expropriated by successive Turkish governments over many years.

Educational problems

Greek Minority schools still face a number of procedural and bureaucratic difficulties having to do with registration, budget shortages, lack of professional training and sustainability problems due to the limited number of students (restricted by law on condition that they must be from the same minority) plus administrative and educational issues.

- Turkish authorities continue to impose enrollment restrictions to students of minorities. The registration and attendance of European and other nationalities students to Greek minority schools is permitted as “visiting students”, although their diplomas are not officially recognized and, as a consequence, those students are not admitted to Universities etc. This will be only solved by an amendment in the Law on Private Schools Education.
- Also, the Ministry of Education continues occasionally denying the appointment of minority teachers in pursuance of the principle of reciprocity.
- There is not any government funding to minority schools, despite the fact that it is foreseen by the Treaty of Lausanne.
- Textbooks in classes on the History of Turkish Republican Reforms and Atatürkism provide misleading information encouraging intolerance.
- The Education Reform Law introduced optional lessons within school hours in Koranic studies, Basic Religious Knowledge (Islam) and the life of the Prophet Mohammad in middle and high schools. The new religion lessons began in September 2012, and non-muslim minorities have complained that their implementation has failed to respect the rights of parents and children to freedom of religion or belief.
To gain enough credits to move up to the next school year, pupils must take some optional lessons. This means that a limited choice of optional lessons places great pressure on pupils to choose lessons they may not want to take.
For the 2013-2014 schoolyear, the Ministry of Education has sent a circular to schools instructing them to "not to make any choices in relation to which optional lessons will be

offered in schools, and refrain from not offering any of the optional lessons." It remain to be seen what impact this will have.

- Anti-minority references continue to exist in schoolbooks used for teaching in Turkey. Turkish identity and nationalism are promoted as fundamental values in the education system, while minority culture is ignored. While school books do not include information about Greek minority, its history and culture, some of them include discriminatory, xenophobic statements against it.

All these measures are limiting the fundamental right of free access to education and thus leading to the gradual disappearance of the minority schools protected under the Treaty of Lausanne.

Overall, Turkey has made no progress on ensuring cultural diversity and promoting respect for protection of minorities in accordance with international and European principles and standards.

Denial of succession rights

Turkey, in the 21st century, continues refusing the succession rights of members of the minority with Greek nationality, in particular following application by the Turkish authorities of the amended Land Registry Law, including their interpretation of the provisions on reciprocity. As regards reciprocity, the ECtHR held that there had been a violation of Article 1 of Protocol 1 (peaceful enjoyment of possessions) to the ECHR and ordered either the return of property or financial compensation for the applicants. Implementation of the March 2010 recommendations of the Council of Europe Venice Commission on the protection of property rights is pending. A new law enforces the sale of property that is inherited, having essentially as a result the annulment of the succession right. This measure aims at cutting the last tie of the members of the Greek minority that were forced to leave their homeland, as well as of their descendants.

Restrictions against the individuals' property rights

In some cases, serious problem faced by the expatriated Greeks of Turkey is the prohibition of inheritance rights based on the principle that the Istanbul Prefecture is considered being a border region. The descendants of expatriated minority Greeks are deprived of their hereditary rights and forced to liquidate/sell their properties.

Turkey should ensure that Greek citizens are able to fully enjoy their rights over inherited patrimonial property, and Turkey should conform to the relevant rulings of the European Court for Human Rights and implement its own Registry Law.

Other issues

Discriminatory practices

On August 1, 2013 Turkey's Interior Ministry confirmed that since 1923 non-muslim minorities are tagged by secret (confidential) "race codes" in official correspondence between State institutions. This illegal profiling based on ethnicity and religion constitutes an unfair, discriminatory practice.

As a consequence, the members belonging to the non-muslim minorities are excluded from posts in public services, the police forces, the army or the judiciary.

Hate crimes

During the last year there has been an increase in "hate crimes" in Turkey originating from racism, nationalism and intolerance.

Last June, during Taksim Square and Gezi Park Istanbul events, many hate-motivated incidents occurred against members of the Greek minority, which were officially blamed for inciting riots. Also, they have been accused in public as "*threat to the State and traitors of their country*".

Incitements to hatred and violence passed on by the Turkish media, including in TV series and films, exercise psychological pressure to the members of the minority. For instance, certain negative characters, such as prostitutes, traitors and informers are portrayed as Greeks on Turkish TV show "Ustura Kemal" convinced that an atmosphere similar to that of the 1950s and the 1960s, which was created by the media to vilify the Greek minority for political reasons, is being repeated.

Threats against Greek Orthodox Christians and other non-Muslims create an atmosphere of pressure, diminished freedom. The members of the Greek minority feel targeted, marginalized and face societal suspicion, discrimination and mistrust.

On April 28, 2013, a group of 10 young people caused damages to the church of St. John, in the island of Antigone (Burgazada).

Although many hate crimes committed in Turkey entered the reports of the OSCE, the Turkish State does not investigate and prosecute these crimes. No official data exist in any institution of the Turkish State concerning hate crimes. No bodies were created to deal with hate crimes and there are no activities to prevent them in Turkey. In addition, there are no legal provisions to punish hate crimes.

Violation of the right to association

Last January, the General Directorate of Foundations annulled the Regulation concerning elections at minority Foundations (article 1 of the new Regulation, published in the Official Gazette no. 28533/19.1.2013) resulting thus in the absence of the necessary democratic process. Nobody knows how long this will last, but it is certainly one of the most important violations of the right to association of the members of the minorities in Turkey. It is to be said that the right to association is guaranteed by article 33 §7 of the Turkish Constitution, article 12 of the Charter of Fundamental Rights and article 11 of the European Convention of Human Rights.

Ombudsman and Human Rights Institution of Turkey

Pursuant to the Law on the Ombudsman Institution, adopted by the Turkish Parliament on 14 June 2012 and published in the Official Gazette on 29 June 2012, the Chief Ombudsman and five Ombudspersons were elected by the Turkish Parliament on 28 and 29 November 2012.

The Ombudsman Institution examines complaints and makes suggestions concerning the functioning of the administration with respect to the rule of law and human rights. However, it does not have the right to conduct inquiries on its own initiative. The law provides that the Ombudsman Institution is accountable solely to the parliament and cannot receive instructions from anybody.

The government appointed, through parliamentary election, as the first chief Ombudsman in Turkey one of those members of the Assembly of Criminal Chambers of the High Court of Appeals who approved the judgment against Hrant Dink, a prominent Armenian journalist and intellectual, who was convicted of “insulting Turkishness” under Article 301 of the Turkish Penal Code (TCK).

This appointment raises serious concerns regarding impartiality and neutrality of the Institution.

On 30 October 2012, the UN Human Rights Committee, in its concluding observations on the initial report of Turkey, points out: *“The Committee is concerned that the law for the establishment of the national human rights institution adopted by the Parliament in June 2012 provides for the appointment of its members by the Prime Minister’s office, thereby jeopardizing the independence of the Institution from the Executive Power in violation of the Paris Principle (General Assembly resolution 48/134). (art. 2)”*.

Furthermore, the Committee underlines that: *“The State party should amend the 2012 law for the establishment of the national human rights institution, guaranteeing the organic and financial independence of the National Human Rights Institution in full compliance with the Paris Principles (General Assembly resolution 48/134)”*.

Closing statement

These were only an indicative review of some of the challenges that the Greek minority continue to face in Turkey. They were by no means exhaustive; this would require a detailed account of the historic and religious background of the matters in question.

It should be noted that Turkey is a party to the UN International Covenant on Civil and Political Rights (ICCPR), the UN Covenant on Economic, Social & Cultural Rights (ICESCR) and to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). However, Turkey’s reservations and declarations - pertaining to the rights of minorities, the right to education, etc. - upon the ratification of these Covenants and Convention, continue to be causes for concern.

Turkey is called upon to take seriously into consideration the recommendations by EU and international organizations pertaining to human rights and act upon them and make more strenuous efforts to prevent discrimination, intolerance and religiously motivated acts of violence.

Turkey should spare no effort in identifying those shortcomings and reviewing accordingly both the relevant legislation and its implementation, with a view to eliminating discrimination in all areas and raising awareness for human rights in general.

It is therefore expected, also from a moral point of view, that the Turkish government should not only abide fully by its constitutional and international obligations as far as the protection of human and minority rights is concerned, but rather initiate measures and policies of affirmative action that would guarantee the survival, the well-being and the future of the Greek minority.

Such an approach would prove beneficial for Turkey first and foremost, as it will strengthen its social, ethnic and religious structures and safeguard pluralism and diversity in this country.

As a concluding remark, we would like to underline that respect for human and minority rights and religious freedoms is a responsibility for every State. It is not a matter that statements of

good intentions alone can address. It calls for firm will, constructive dialogue and continuity of effort.

Finally, every process is judged by the real and measurable outcome it brings to a challenging situation.

Thank you very much for your attention._