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Page | 1

FREEDOM OF ASSOCIATION IN WESTERN THRACE - GREECE

The right to freedom of association is a basic fundamental human right which is stipulated by most of the fundamental human rights instruments, like the paragraph 32.2 and 32.6 of the 1990 CSCE Copenhagen Document, the Article 11 of the European Convention on Human Rights and the Article 3.2 of the Framework Convention for the Protection of National Minorities. Any person underlining his/her belonging to an ethnicity, nation or religion could not form an association on individual basis. This could only be exercised collectively.

As of 2012, the Turkish Minority of Western Thrace, the only officially-recognized minority in Greece, is not allowed to use the words "Turk" and "Turkish" in titles and signboards of its associations on the ground that the use of the word "Turkish" constitutes a threat to public order and territorial integrity. The associations, which had denomination "Turk" and/or "Turkish" in their names, functioned without any problem from the incorporation of the region into Greek territories in the early 1920s until the mid-1980s. Since then, they have remained dissolved by court judgments and have not been re-registered yet.

From the beginning of the early 1990s, Greece officially rejects any reference to existence of a "Turkish" minority in Western Thrace. Rather, it argues that the Minority in Western Thrace is "Muslim" and composed of three ethnicities, i.e. those of Turkish ethnic origin, Pomaks and Roma. Every Greek citizen has the individual right to self-identification. In this respect, every member of the Minority is free to identify himself/herself as "Turk". Nevertheless, those "Turks" of Greek citizenship are officially prevented to use their right to freedom of association collectively while the establishment of associations with ethnic denominations like "Pomak" and "Roma" are allowed by the Greek authorities, e.g. The Pomak Cultural Association of Xanthi (functioning since 2007).

Despite the fact that there are three ECtHR rulings indicating that the freedom of association in Western Thrace has been violated (Tourkiki Enosi Xanthis v. Greece, No: 26698/05), (Emin and others v. Greece, No: 34144/05) (Bekir-Ousta and others v. Greece, No: 35151/05), Greece continues to ignore these rulings and violates the freedom of association: Xanthi Turkish Union, which was established in 1927, Komotini Turkish Youth Union (established in 1928) and Western Thrace Turkish Teachers' Union (established in 1936) operated until 1984 remain banned by court orders on the grounds that their titles included the word "Turkish/Minority".

Along with dissolving "Turkish" associations which functioned for decades, in recent times the local Greek courts also rejected the establishment of new associations bearing the forbidden term "Turkish" in their titles such as the Cultural Association of the Turkish Women of Rodopi Prefecture, The Cultural Association of the Turkish Women of the Region of Xanthi, The Evros Minority Youth Association and Western Thrace



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Minority Southern Evros Culture and Education Association.

For instance, a group of Turkish women in Xanthi applied to establish "The Cultural Association of the Turkish Women of the Region of Xanthi" on 1 December 2010. The First Instance Court of Xanthi rejected the application on 17 February 2011 because of the word "Turkish" in the title.

Page | 2

It is also worth mentioning that the Greek courts, sometimes, also objected even to the word "minority", especially those in the Prefecture of Evros. Thus, "Evros Minority Youth Association" has been struggling to register the association despite the existence of the relevant ECtHR decision since 1995 (Bekir-Ousta and others v. Greece, No: 35151/05). Similarly, the application by another minority association in the Southern Evros region was also rejected by the Court of First Instance of Alexandroupolis (on 23 April 2009) and The Court of Appeals of Thrace (on 12 February 2010) on similar basis; the word "minority" in the title of the association ("Western Thrace Minority Southern Evros Culture and Education Association") was vague which might endanger public order. On 30 June 2011, the Greek Court rejected the establishment of another Minority Association, i.e. "Minority Cultural, Folkloric and Educational Association of Evrenos in Rhodopi", on the same basis..

THE CASE OF XANTHI TURKISH UNION (1983-PRESENT)

The first association of the Turkish Minority in Western Thrace "Xanthi Turkish Union" was established on 14th April 1927 to meet social needs linked to the city's economic structure. The statute of 'Xanthi Turkish Union' was referred to the Court of First Instance and under decision number 122 on November 17th, 1936 was approved and registered in the Associations Registry. Its activities have been followed as a leading model from 1946 until 1983. The Xanthi Turkish Union has not only contributed to its own members' but also to the whole local community's cultural, social and sporting development and has always been a part of the multiculturalism in the region.

On 6th December 1983, a decision (No. 561/1983) by the Xanthi Single-Judge First Instance Court was served to the then-president of the Association, which banned the hanging of nameplates and printing or use of leaflets containing the words "Turkish" or "Turkish Union". This decision was executed on 8th December 1983 by removing the nameplate from the entrance of the Association, which bore its name and date of establishment both in Turkish and Greek.

The grounds for the decision was that bilateral relations between Turkey and Greece had become tense following the recognition by the Turkish Government of the newly established Turkish State in Northern Cyprus and the assumption that the Christian majority living in the region could thus be incited to hostile actions against the Muslims and damage the signs or leaflets containing the words "Turkish" or "Turkish Union".

After the removal of the Union's officialdom members of the Xanthi Turkish Union started the legal process to gain back its former status. After exhausting all local remedies, they applied to the European Court of Human Rights in July 2005. (Xanthi Turkish Union (Tourkiki Enosi Xanthis and Others v. Greece – No: 26698/05).

By a judgment dated 27th March 2008, the European Court of Human Rights found violations of Articles 6 § 1 and 11 of the Convention. In its judgment the Court took into account the fact that the proceedings commenced on 30th January 1984 and ended on 7th February 2005, lasting more than 20 years at three levels

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of jurisdiction.

As regards to Article 11 of the Convention, the Court emphasized that the ability of citizens to form a legal entity in order to act collectively in a field of mutual interest was one of the most important aspects of the right to freedom of association, without which that right would be deprived of any meaning and that the way in which national legislation enshrines this freedom and the application thereof by the authorities were the Page | 3 indicatives of the state of democracy in the country concerned. The Greek Government requested the case to be referred to the Grand Chamber. However, this request was dismissed on 29th September 2008 and the Court's judgment became final.

Following the Court's judgment, on 14th November 2008, an application was filed with the Thrace Appeals Court, relying on Article 758 of the Code on Civil Procedures.

Following a hearing dated 3rd April 2009, the Thrace Appeals Court dismissed the case on 18th August 2009 (Dec. No. 477/2009). They appealed against the decision of the Thrace Appeals Court (No. 477/2009) on 15th June 2010. A hearing was scheduled for 7th October 2011.

The 4th Civil Chamber of the Court of Cassation examined the case on 7th October 2011. The request was dismissed by the judgment dated 24th February 2012 (No. 353/2012) and the decision of the Appeals Court was upheld.

Non-implementation of the decision of ECtHR is excused by Greece in which it states that decisions of the ECHR are not binding. Despite contracting states of the Convention, which affirms, Article 46/1 of the Convention sets forth the obligatory bindingness and execution of the Court judgments, local Greek courts failed to take into account the binding nature of the ECtHR's judgments and rejected the request.

The latest to the case of the Xanthi Turkish Union has been re-application to the ECtHR for the continual violations of the Convention. By not permitting registration of the associations founded by individuals who identify themselves as members of a minority group, Greece is in continuous and systematic violation of Article 11.

Xanthi Turkish Union's ongoing proceedings for 29 years, is not only a provision of law and justice, but also a test of importance of democratic values, human rights, fundamental freedoms and respect to European law and international conventions.

Therefore we call upon the Greek State

- To respect and implement its duties emanating from the international instruments in which the freedom of association is safeguarded,
- To recognize and implement the ECtHR decisions regarding the Xanthi Turkish Union and other minority associations.

Recommendations to the OSCE participating states

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- OSCE participating States should contribute more to the development of legal instruments protecting individual rights of minorities with collective aspect, such as the fundamental right to association
- Registration procedures of the minority associations should be transparent, prompt, non-bureaucratic and inexpensive,

Page | 4

- OSCE participating States should encourage dialogue with independent civil society as well as minority groups,
- OSCE participating States should ensure that status of minority NGO's is not withdrawn or suspended on the basis of administrative decisions and that the closure of an NGO is possible only on the basis of a ruling by an independent court following a fair trial;

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