



Avrupa Batı Trakya Türk Federasyonu

Föderation der West-Thrakien Türken in Europa

Federation of Western Thrace Turks in Europe

Ευρωπαϊκή Ομοσπονδία Τούρκων Δυτικής Θράκης

Fédération des Turcs de Thrace Occidentale en Europe

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)

Name of Organization: Federation of Western Thrace Turks in Europe (ABTTF)

PC.SHDM.NGO/33/15

Name of Main Contact Person(s): Ms. Melek Kirmacı Arık

29 October 2015

E-mail(s): melek.kirmaci@abttf.org; info@abttf.org

ENGLISH only

Language(s): ENGLISH ONLY

OSCE

Supplementary Human Dimension Meeting

OSCE Contribution to the Protection of National Minorities

Hofburg, Vienna

29-30 October 2015

SESSION 1: 25 years after the adoption of the Copenhagen Document

Dear Moderator,

Distinguished representatives of delegates,

And esteemed NGO representatives,

The Copenhagen Document established an entire catalogue of minority rights and commitments for participating States to protect the rights of ethnic, cultural, linguistic and religious minorities living on their territories. After 25 years the results achieved in further standard-setting and interpretation of minority standards is still challenging.

There is a major gap between international human rights instruments and the level of protection and promotion of human rights at the national level. The implementation of international human rights standards at the national level rather depends on the willingness of governments at a large level and the ability of individuals and groups to promote and protect human rights in order to live up to their governments' commitments and obligations. Therefore the OSCE commitments which are not legally binding did not succeed to close the gap between the rhetoric and the implementation regarding human rights commitments.

An example to the gap between the rhetoric and the implementation is Greece, which does not subscribe to the right of any group to self-identification on a collective basis. On 18 February 2009, the report of the former Independent Expert on Minority Issues, Gay McDougall, following her mission to Greece on 8-16 September 2008, 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".

The Turkish Minority of Western Thrace of which legal status and the rights are determined by the 1923 Lausanne Treaty is officially recognized as the "Muslim minority" based on its religious affiliation, not ethnic background. Although the Treaty grants the Turkish Minority of Western Thrace 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, there are currently no associations.

ABTTF Head Office • Wemerstr. 2, D-58454 Witten • Tel.: +49 (0) 2302 913291 • Fax: +49 (0) 2302 913293

ABTTF Brussels Office • Square de Meeûs 38/40, B-1000 Brussels • Tel.: +32 (0) 2 401 61 98 • Fax: +32 (0) 2 401 68 68

info@abttf.org • www.abttf.org

tions in Greece operating legally with their names including the word “Turkish”, which reflect the ethnic or national identity of their members.

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.

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 Xanthis 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. On March 27, 2008, the ECtHR notified in writing its Chamber judgments in the cases of Emin and Others v. Greece (application no. 34144/05) and Tourkiki Enosis Xanthis and Others v. Greece (no. 26698/05). The Court held unanimously 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. In the case of Tourkiki Enosis Xanthis and Others the ECtHR also held, unanimously, that there had been a violation of Article 6 § 1 (right to a fair hearing within a reasonable time) of the Convention.

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.

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. The Court of Cassation also dismissed on procedural grounds the applicants’ appeals in cassation in the cases of Bekir-Ousta and others and Emin and others.

In note verbal dated 29 May 2013¹ from the Permanent Mission of Greece to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights in relation to the written statement dated 10 May 2013 and submitted by the Federation of Western Thrace Turks in Europe (A/HRC/23/NGO/35), Greece noted that full implementation of the judgments is pending, due to procedural reasons. Greece noted that Greek authorities are currently considering the most appropriate means and ways to implement the decisions, including possible legislative adjustments. We regret that although the Greek authorities note that other avenues are being explored including an amendment to the non-contentious procedure provided in the code of civil procedure in every platform, the authorities have failed to take any precise and concrete

¹ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/142/72/PDF/G1314272.pdf?OpenElement>

step. Given the time that has elapsed since the Court's judgments, we believe that the Greek authorities are, in fact, unwillingness to implement the Court's decisions.

Council of Europe's Committee of Ministers closely follows the developments about the implementation of Court's judgments under the name of Bekir-Ousta group of cases against Greece since 2008. At 1172nd meeting (4-6 June 2013), and the Committee of Ministers had noted with concern that, since the judgment of the Court of Cassation (No. 353/2012), published on 24 February 2012, dismissing the appeal in cassation of the Tourkiki Enosi Xanthis association on procedural grounds, to date no precise and concrete information had been presented to the Committee on the measures taken or envisaged regarding the individual measures in this group of cases, noted with interest the information provided during the meeting according to which other avenues are being explored, including an amendment to the non-contentious procedure provided in the code of civil procedure.²

At the execution held on 5 December 2013(1186th meeting), the Committee of Ministers urged the Greek authorities to provide in due time, in order to enable its examination at their meeting of June 2014, concrete and tangible information on the measures that they are currently exploring in order to implement the individual measures, accompanied by an indicative calendar for their adoption.³ On 5 June 2014, the Committee of Ministers adopted an interim resolution and called upon the Greek authorities to take all necessary measures so that the applicants benefit from proceedings in compliance with the Convention requirements, in the light of the Court's case-law.

According to the statement issued on 5 January 2015, the European Court of Human Rights (ECtHR) decided to rehear the cases of Bekir Ousta and others (35151/05), Emin and others (34144/05) and Turkish Association of Xanthi and others (26698/05) on the basis of its non-compliance with the three court rulings in 2007 and 2008. The Court reheard the three cases in July 2015; the decision of the Court is being awaited.

The Parliamentary Assembly of the Council of Europe (PACE) in its Autumn Session 2015 adopted a resolution deplored the persistent slowness in the implementation of decisions from the European Court of Human Rights (ECHR) and called for more firm measures. In its eighth report on the implementation of judgments of the European Court of Human Rights written by Klaas de Vries, Greece is one of the nine member states with the highest number of unenforced Court judgments with 558 cases which have not been implemented by the Greek authorities by the end of 2014.

ABTF urges Greek Government to implement, without any further delay, the decisions of the European Court in the cases Turkish Association of Xanthis and Others v. Greece, Bekir Ousta and Others v. Greece & Emin and Others v. Greece; and 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.

²http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases_en.asp?CaseTitleOrNumber=35151/05&Stat eCode=GRC&HideClones=1&SectionCode=ENHANCED%20SUPERVISION&OrderBy=FinalOn

³[https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Del/OJ/DH\(2013\)1186/10&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Del/OJ/DH(2013)1186/10&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864)