



# 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)

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Madam Chair,  
Distinguished representatives  
And esteemed NGO Delegates,

The OSCE participating States in 1990, in Copenhagen reaffirmed that “(...) Persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will. In particular, they have the right to establish and maintain organizations or associations within their country and to participate in international non-governmental organizations”. The restrictions and limitations on the right to freedom of association are still persistent in many OSCE States, including Greece. Unfortunately, a favourable environment is not created in Greece for the exercise of freedom of assembly and association by means of laws and practices consistent with OSCE commitments and international standards.

Although Greece has, on various occasions, expressed its commitment to the implementation of the judgments of the European Court of Human Rights (ECtHR) regarding the freedom of association, there are three judgments of which domestic proceedings are still pending at the Civil Courts, which hinder the effective enjoyment of the freedom of association of the persons belonging to the Turkish Minority of Western Thrace. This failure to execute or enforce judgments – that is, the carrying out of a final judgment in order to ensure that obligations actually are imposed or fulfilled in practice – constitutes a further obstacle to access to justice.

On 27 March 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 associations which bear the title of “Turkish” in their titles- and, 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 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.

On the basis of the European Court’s finding of a violation regarding the dissolution of the applicant association, the applicants in the case of Tourkiki Enosis Xanthis and others introduced two separate claims currently pending: one before the Court of First Instance of Xanthi, seeking annulment of its earlier decision No. 36/1986 ordering the dissolution; and one before the Court of

Appeal of Thrace, seeking annulment of its earlier decision No. 31/2002 confirming the decision No. 36/1986. Regarding the first claim, the Court of First Instance of Xanthi (judgment No. 12/2009 published on 30/04/2009) rejected the application on the basis of *res judicata*. Concerning the second claim, the application was rejected by a decision published on the 18/08/2009 for reasons similar to those adduced in the decision of the Court of Appeal of Thrace in the case of Bekir-Ousta and Others (No. 35151/05). In the present case, the Court of Appeal noted that the possibility, under the Article 758§1 of the Code of Civil Procedure, of an annulment or revision of a final domestic judgment in the framework of a non-contentious procedure, on the basis of new facts or a change in the circumstances in which the judgment had been handed down, does not extend to a judgment of the European Court.

In the case of Emin and Others, on the basis of the European Court's judgment, the applicants again applied for registration of the association before the national courts. A hearing was held at the Court of First Instance of Rodopi on 08/04/2009. The Court rejected the application on the ground that it was introduced by a lawyer who did not belong to the Bar of Rodopi. Under the terms of the Code of Civil Procedure and Code of Lawyers, claims lodged before civil courts must be signed by a lawyer belonging to the bar of the geographical jurisdiction of the court. If not, the lawyer must jointly sign the claim with a colleague of the Bar from the geographical area of the court. In the present case, the claim was only signed by the applicants' lawyer who belongs to the Xanthi Bar, the applicants' request was rejected.

Together with the problems in implementation of ECtHR's judgments regarding the cases of Tourkiki Enosis Xanthis and Others and Emin and Others, there is the problem that associations which bear the title "Minority" are not being registered in Greece, although the ECtHR ruled that Greece violated the freedom of association of Evros Minority Youth Association in the case of Bekir-Ousta and Others vs. Greece.

On 7 December 2009, the Thrace Court of Appeal dismissed the application of the Western Thrace Minority Educational and Cultural Association of South Evros for appeal relying on the decision of the Alexandropolis Civil Court of First Instance, which rejected the request for registration of the association on the ground that the word "minority" in the title of the association does have a vague meaning. Furthermore, on 13 April 2011, Civil Court of First Instance in Komotini dismissed the request for application of EM 344/27.10.2010 of the association on the ground that the word "minority" in its title was specified neither as "Muslim" nor as "Turkish". The Court of First Instance held that in case it was referred to "Turkish" with the word "minority", the title of the association was contrary to public policy and so dismissed the request for application of the Evrenos Minority Culture Folklore Education Association.

In light of the information above, we urge all participating States, in particular Greece to ensure the effective enjoyment of the right to freedom expression and freedom of associations, particularly in the case of ethnic, religious and linguistic groups though they are not officially recognized as minorities, and fully execute or enforce ECtHR's judgements to ensure that its obligations are fulfilled in practice. And, we kindly request the OSCE, its institutions and field operations to establish a mechanism that would allow the OSCE/ODIHR to monitor and review the implementation of OSCE participating States' commitments in regard to the freedom of association.