

Human Rights Without Frontiers Int'l

Avenue d'Auderghem 61/16, 1040 Brussels

Phone/Fax: 32 2 3456145

Email: international.secretariat.brussels@hrwf.net – Website: <http://www.hrwf.net>



Ethnic Turks in Greece, a Muslim Minority

Preliminary Report

By Willy Fautré

Executive Summary

Recommendations

Introduction

The Identity and Identification Issue

Official Position of Greece on Issues Related to Ethnic Turks

Mission of *Human Rights Without Frontiers*: Report and State of Play

School Education of Minority Children in Turkish and in Greek

Freedom of Association

Freedom of Religion

Freedom of the Turkish-Language Community Media

Conclusion

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Executive Summary

In this report, *Human Rights Without Frontiers* (HRWF), an independent nongovernmental organisation, raises concerns for basic freedoms and human rights for the ethnic Turkish minority in Greece. In order to investigate these charges, HRWF participated in a fact-finding mission to Thrace from 16th to 20th October 2012. The findings of this mission are included in this report.

Chapter 1 describes the historical background of identity issues for ethnic Turks in Thrace, who have lived in the region for centuries. After the dissolution of the Ottoman Empire, agreements made under the 1923 Treaty of Lausanne sought to protect the cultural integrity of the ethnic Turkish community in terms of language, religion and culture; however, since the 1990s the Greek government has sought to promote a policy of national assimilation, even to the point of denying the existence of any such ethnic minorities within its borders. Turkish identity has been systematically suppressed in favour of a homogenised view of Greek society. The use of the term “Turkish minority” is thus officially banned in Greece.

Chapter 2 examines the official position of the Greek government in response to these allegations. The Republic of Greece was questioned on the occasion of its Universal Periodic Review at the 2011 Session of the UN Human Rights Council. The body called upon Greece to respect the right of self-identification for the ethnic Turkish community and to institute reforms to ensure progress in bilingual education, the freedom of expression and broader powers of self-determination for the Turkish minority.

Chapter 3 presents the findings of the October 2012 fact-finding mission to Thrace. The findings are organised into four major headings:

Concerning school education for minority children

Under the Treaty of Lausanne, the right of the ethnic Turkish minority to establish schools was guaranteed, including “the right to use their own language and to exercise their own religion freely therein.” However, several policies of the Greek government have made the realisation of these provisions highly problematic. Limited access to adequate Turkish-language educational resources, including curriculum, textbooks and teachers, are here noted. The report appeals for a revision of policies that affect minority education at all levels.

Concerning the freedom of association

This section examines three rulings of the European Court of Human Rights which determined that the right to the freedom of association had been violated by the Greek government. Certain organisations that identified themselves as “Turkish” had been forced to close, because the authorities do not recognise the legal status of ethnic minorities and considered them to threaten public order. Despite the European Court’s rulings to permit the reopening of these associations, Greece has yet to restore their legal status.

The failure to execute the judgments of the Court constitutes an obstacle to access to justice. Human Rights Without Frontiers calls upon the Greek government to implement these decisions in a timely manner and to remove all obstacles to the use of the word “Turkish” in future.

Concerning the freedom of religion and the appointment of Muftis

While “known religions” are permitted to elect their own religious leaders, the Greek government has discriminated against the Muslim minority in Thrace by denying them the same right. The enactment of a law in 1991 gave the Greek State the power to appoint Muftis in Thrace without consideration of the Muslims who live there, thus compromising the community’s autonomy under the Treaty of Lausanne and creating tensions within the community itself.

Concerning the freedom of expression and of the media

This section examines restrictive policies of the Greek authorities that endanger the freedom of expression for Turkish-language media. Newspapers and radio have been subjected to draconian measures, including the imposition of unreasonable conditions for registration, excessive fines, the misuse of defamation laws and other actions to silence the Turkish-language media.

Human Rights Without Frontiers appeals to the Republic of Greece to respect equal protection under the law for its ethnic Turkish minority. It is only by escaping the sterile debate about how to name groups and by prioritising the safeguarding of individual rights that Greece can fulfil its obligations under international law and strengthen the rule of law within its borders.

Recommendations

***Human Rights Without Frontiers* urges the Greek authorities**

About the identification issue

- to respect the right to self-identification of the persons belonging to the minority protected by the Treaty of Lausanne;
- to discontinue the sterile debate about how to name the group but instead to prioritize the safeguarding of the individual and collective human rights of its members.

About bilingual school education system

- to include kindergartens in the minority bilingual primary schools;
- to revise policies concerning the minority primary and secondary schools: their number and location, the training and hiring of teachers, the curriculum and textbooks to be used.

About freedom of association of the minority

- to implement, without further delay, the decisions of the European Court in the cases *Turkish Association of Xanthi and Others v. Greece, Bekir Ousta and Others v. Greece & Emin and Others v. Greece*;
- to allow the registration of associations under the names of the choice of their founding members, including whether they contain the name of an ethnic group or the word “minority”;
- to 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.

About freedom of the media of the minority

- to respect the freedom of the media of the Turkish-speaking minority in order to protect the diversity of opinions;
- to only prosecute serious cases of alleged defamation;
- to uphold the principle of fair and proportionate punishment in the judicial process;
- to respect the letter and the spirit of the Treaty of Lisbon along with all other European covenants and declarations while implementing Article 14 of the Constitution of the Hellenic Republic on freedom of expression and the press.

Introduction

For several centuries the Ottoman Empire extended its rule throughout Central and Southeastern Europe.

During the 19th and early 20th centuries, new states emerged in Southeastern Europe, breaking from an Ottoman Empire in decomposition. The new division of territories was based on the creation of “ethnic states” which fitted within an international context of an ideal division of countries and territories into “nation-states.” This policy resulted in a potential for conflicts which has its origin in two main factors: a strong feeling of irredentism in the newly-formed states but also internal tensions between the new Orthodox Christian rulersⁱ (the majority group) and their Muslim population (the minority group) which they perceived as “remnants” of the Ottoman “occupation”.ⁱⁱ

War between Greece and Turkey from 1919 to 1922 ended with negotiation of the 1923 Peace Treaty of Lausanne, a convention which provided for a compulsory exchange of population (except for the Greeks living in Istanbul and the Turks in Western Thrace) between the two countries. Muslims in Greece, apart from those in Western Thrace, were resettled in Turkey: about 400,000 – 500,000 Muslims (mainly Turks). Orthodox Greeks numbering about 1.0 – 1.2 million - with the exception of those in Istanbul (Constantinople), Gökçeada (Imbros) and Bozcaada (Tenedos) - left Turkey (540,000 settled in Greek Macedonia)ⁱⁱⁱ.

The 1923 Treaty of Lausanne guaranteed equal protection of the “non-Muslim minorities of Turkey” (there were not only Greek Orthodox) and the “Muslim minority of Greece” (loosely applied to Turks, Pomaks and Roma). This minority is the only group in Greece that has a minority status officially recognized by the Greek state. Greece has never questioned its existence.

The Identity and Identification Issue

The ethnic Turks in Thrace who have been living within the borders of the Ottoman Empire since at least the 14th century reject being defined only as a religious minority but identify themselves as “Turkish” or “Muslim Turkish”.

From the 1920s until the early 1970s, the official Greek discourse used the terms “Muslim minority” or “Turkish minority” in Western Thrace interchangeably. The Greek authorities then changed their policy. They banned the use of “Turkish minority” and made reference to a Muslim minority composed of three different subsets, i.e. those of Turkish origin, Pomaks and Roma^{iv}. This U-turn climaxed in 1991 when the then Greek Prime Minister declared that the minority living in Thrace was not Turkish but Muslim, composed of the three aforementioned constitutive groups. From the mid-1950s onwards, the Greek authorities had tried to promote the construction of a separate Pomak identity for the Pomak-speaking people in Thrace who are mainly living in the highlands bordering Bulgaria. The policy of splitting

the Muslim minority into three distinct ethnic groups was obviously instrumentalized to break its cohesion and unity. However, the vast majority of Pomak-speaking people in Thrace make common cause with the Turkish ethnic group.

The Muslim ethnic Turks in Greece preserved their homogeneity around their culture, their religion and their language. The erosion of the unity of their community was further avoided through endogamy. They acquired Greek citizenship, got a Greek ID and a Greek passport and performed military service in the Greek army while still identifying themselves as Turks^v, as confirmed by interviews during the October 2012 *Human Rights Without Frontiers* mission. The peaceful co-existence of these two identities is a fact that cannot be negated or ignored. No evidence has ever been provided by the Greek authorities that this dual identity has endangered the security, the public order or the territorial integrity of the country.

The Greek authorities refuse to qualify them as “Turks” and instead insist on calling them Muslim Greeks. The Government does not recognize them as an ethnic minority but as part of the “Muslim minority;” however, the latter is to be protected “on the territory of Greece,” according to the Treaty of Lausanne.

The demographic composition of Greece has however changed in the last 80 years, and particularly in the last decades, with an increasing number of Muslims immigrating from Africa and Asia^{vi}. This development has in a sense made obsolete the content of the concept “Muslim minority of Greece” as it has been so defined since 1923. Even still, the Treaty of Lausanne remains the oldest and strongest cornerstone of the status of Muslim ethnic Turks in respect to international and domestic law.

The identity issue of the “Muslim minority” has been addressed in various ways by diverse actors:

Greek State: On 14 February 2011, Greece submitted its report to the UN Universal Periodic Review and said on this issue^{vii}:

“Greece firmly believes that the protection afforded to persons belonging to minorities should be based on full respect for human rights and freedoms and the implementation of relevant international treaties. Greece officially recognizes as a minority the Muslim minority in Thrace, which consists of three distinct groups, whose members are of Turkish, Pomak or Roma origin, Muslim faith being the common denominator of the aforementioned components. Each of these groups has its own distinct spoken language and cultural traditions and heritage, which are fully respected by the State. The status of the above minority is regulated by the 1923 Treaty of Lausanne. Further to fully complying with the relevant provisions of the Lausanne Treaty, Greek policy and legislation reflect and implement contemporary human rights norms and standards, as well as the European Union *acquis*, aimed at improving the living conditions of the members of this minority and their smooth integration into all aspects of both local and national society.”

European Union: No position has been taken by the European Union on the issue but on 12 April 2012, MEP François Alfonsi raised the issue by addressing a written question to the European Commission about the rights of the “Turkish minority in Western Thrace.”

Council of Europe: On 21 April 2009 and on 27 January 2010, the PACE (Parliamentary Assembly of the Council of Europe) adopted Resolutions 11860 and 1704 on “Freedom of religion and other human rights for non-Muslim minorities in Turkey and for the Muslim minority in Thrace (Eastern Greece)”, avoiding the use of the ethnic qualification “Turkish”.

The Report of the European Commission against Racism and Intolerance (ECRI) on Greece adopted on 2 April 2009 uses the terms “Muslim Minority in Western Thrace” and “Turkish communities”.

United Nations: From 8 to 16 September 2008, Gay McDougall, the then UN independent expert on minority issues, visited Greece, inter alia, to promote implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. She urged the Government of Greece to withdraw from the debate over whether there is a Turkish minority in Greece and focus on protecting the right to self-identification.

U.S. Department of State: In its annual report on freedom of religion around the world, it uses the term “the Muslim minority in Thrace.”

Human Rights NGOs: Human Rights Watch uses the term “Turkish Minority” or “Ethnic Turks”. Amnesty uses the expression “Turkish Minority.”

Recommendation: Human Rights Without Frontiers urges the Greek authorities

- to respect the right to self-identification of the persons belonging to the minority protected under the Treaty of Lausanne;
- to discontinue the sterile debate about how to name the group but to prioritize the safeguarding of the individual and collective human rights of its members.

Official position of Greece at the United Nations UPR

on Issues Related to Ethnic Turks

The Universal Periodic Review (UPR) of Greece at the United Nations on 9 May 2011 was the most recent occasion on which Greece officially expressed its position on a number of issues concerning the ethnic Turks in Thrace, who are part of the Muslim minority protected under the 1923 Treaty of Lausanne. The Federation of Western Thrace Turks in Europe contributed to the UPR a written statement when the Report was adopted in the Plenary Session on 22 September 2011^{viii}.

In the National Report^{ix} submitted by Greece to the Human Rights Council in 2011 in the framework of Greece's Universal Periodic Review, it was stated that:

“67. Greece firmly believes that the protection afforded to persons belonging to minorities should be based on full respect for human rights and freedoms and the implementation of relevant international treaties. **Greece officially recognizes as a minority the Muslim minority in Thrace^x**, which consists of three distinct groups, whose members are of Turkish, Pomak or Roma origin, Muslim faith being the common denominator of the aforementioned components. Each of these groups has its own distinct spoken language and cultural traditions and heritage, which are fully respected by the State. The status of the above minority is regulated by the 1923 Treaty of Lausanne. Further to fully complying with the relevant provisions of the Lausanne Treaty, Greek policy and legislation reflect and implement contemporary human rights norms and standards, as well as the European Union *acquis*, aimed at improving the living conditions of the members of this minority and their smooth integration into all aspects of both local and national society.

68. Important measures in favor of the members of the Muslim minority in Thrace have been adopted by the Greek Governments in recent years, covering a wide variety of sectors. Particular attention is paid to the field of **education**. Other measures which have been adopted aim at promoting and safeguarding the **cultural identity** of the persons belonging to the Muslim minority and facilitating their access to employment in the public sector through special measures. Additional steps have also been initiated in order to enable members of the Muslim minority, especially women and young persons, to be beneficiaries of nationwide programs and projects, co-financed, in some cases, by the European Union, focusing on horizontal issues, being treated in the present report, particularly **combating discrimination, fighting against intolerance and promoting gender equality / access to employment / inter – cultural dialogue / human rights education**.

69. In the field of education, Greece has ensured the proper running of the **minority schools** in Thrace. An increasing number of students belonging to the Muslim minority in Thrace are showing **preference for the public education system**. The Greek state has successfully accommodated this preference with measures aimed at preserving their cultural and linguistic characteristics such as piloting **optional Turkish language courses in schools** in Thrace and offering language and culture courses for Muslim parents. Moreover, relevant programs, initiated by the Ministry of National Education and co-funded by the E.U, have been implemented since 1997. The implementation of the latest **“Program for the education of the children of the Muslim minority in Thrace”**, to be completed in 2013, aims at further combating the phenomenon of drop-outs and fostering the integration of Muslim students in Greek schools.

70. Some additional measures that have been taken in favor of Muslim students include a) a special **quota of 0.5 percent for the admission of Muslim students in higher education** while Law 3404/2005 introduced a designated number of places in Higher Technological Institutions for Muslim graduates of vocational schools, b) grants of 500 Euros per month to Muslim students in higher education every academic year, and c) a special scholarship for students from schools of the Muslim minority.”

In its Compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents, the Office of the High Commissioner for Human Rights addresses a number of issues concerning the ethnic Turks in Thrace:

Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

45. CERD^{xi} was concerned about obstacles encountered by some ethnic groups in exercising their freedom of association and took note of information on **the forced dissolution and refusal to register some associations, including those whose name included words such as “minority”, “Turkish” or “Macedonian”**. CERD recommended that Greece adopt measures to ensure the effective enjoyment by all persons of their right to freedom of association and their cultural rights, including the use of mother languages. HR Committee expressed similar concerns. The independent expert on minority issues urged Greece to comply fully with judgments of the European Court of Human Rights that associations should be allowed to use the words “Macedonian” and “Turkish” in their names.

Right to education and to participate in the cultural life of the community

54. CERD was concerned about the alleged limited access to quality education for the Turkish speaking minority in Western Thrace. **CERD recommended that Greece improve the quality of education for vulnerable ethnic groups and the Muslim minority**, including through training teachers belonging to these groups, ensuring a sufficient number of secondary schools and creating preschools that teach in the mother tongues of their students.

55. CEDAW expressed concern about the low representation of women, including women from minority groups, in tertiary education. CEDAW urged measures to raise awareness of the importance of education as a human right. It recommended adoption of temporary special measures in order to increase the representation of women in tertiary education.

Minorities and indigenous peoples

56. The independent expert on minority issues, following a visit to Greece in September 2008, noted that Greece recognized only one minority, the Muslim religious community in Western Thrace, which was protected by the Treaty of Lausanne of 1923. In this regard, **the independent expert observed that whether a State officially recognized a minority was not conclusive with regard to its obligations towards minority populations**. The independent expert urged Greece to protect the right to self-identification and the freedoms of expression and association of minority communities. CERD similarly took note of the explanation by Greece for recognition of a single minority only and called upon Greece to ensure the non-discriminatory implementation, for all groups within the scope of the Convention, of the rights referred to in article 5 of the Convention.

57. Greece, in its response to the observations of the independent expert, affirmed its commitment to respecting the rights of minorities. Greece strongly disagreed with remarks suggesting that Greece

promoted a singular national identity and that citizens wishing to freely express their ethnic identity were faced with obstacles. Although Greece did not recognize a distinct ethnic or linguistic minority by the name “Macedonian”, it assured that those claiming to belong to such minority enjoyed full respect for their individual rights. Greece also replied to remarks on the situation of the Muslim minority in Thrace, the situation of the Roma and freedom of religion.

In the written questions addressed to Greece before the UPR, Turkey was the only country to raise a number of issues concerning the situation of the ethnic Turks in Thrace:

- Religious rights of the Turkish Minority in Western Thrace have been safeguarded by international agreements. **The freely elected Muftis of Komotini and Xanthi** are not recognized. In addition, **the Law No.3536/2007 (“appointed imams law”)**, to which Minority has severely opposed, is another source of concern.
 - Revision of the relevant **legislation concerning the Waqfs** in consultation with the Minority. This would enable the Minority to directly control and to use its own Waqf properties as well as put an end to misuse and expropriation of the Waqf properties.
 - It is stated in article 73 of the Report that the Government examines ways and means **to execute the judgements of the European Court of Human Rights regarding the applications of the Turkish Union of Xanthi, The Cultural Association of Turkish Women of Rhodope and the Evros Minority Youth Association**. However, the Greek courts keep on rejecting relevant applications by the above-mentioned **associations** - for the implementation of the ECHR Rulings, on the ground that the rulings of the ECHR do not revoke the national courts’ decisions and thus have no direct effect on domestic law. On the other hand, Greek courts also reject similar applications by other Minority NGO’s. The relevant rulings of the ECHR are yet to be implemented by Greece.
 - The Greek Government is urged to start the procedures for the opening of Turkish-language **kindergartens** for Minority children in Komotini and Xanthi.
 - Speeding up the process of reinstating the citizenships of approximately 60.000 Greek citizens who were dismissed from Greek citizenship, because of the later repelled **article 19 of the Greek Citizenship Law** as well as of their descendants is necessary. A mechanism to compensate their losses in terms of ownership rights that occurred as a result of the process should be put in place.
 - The recent heavy fines incurred on the Minority **press** are perceived by the Minority as a means of intimidation. Most recently, **Gündem** and **Millet** newspapers have been penalized to pay heavy compensation for their articles about a Greek teacher in the Turkish Minority School in Megalo Derio village. The court ordered them to pay €150,000 and €120,000 respectively, which could lead to bankruptcy of the said newspapers.
 - The members of the Minority are also facing **heavy fines due to the construction of mosque minarets**. These heavy fines are not proportional with their incomes and drag them into a financial bottleneck. Most recently, 3 members of the Minority who had worked at the construction of the minaret of the Avra mosque were sentenced to 3 months in prison and were fined for 122 Euro per person.
1. Is the government envisaging the possibility of allowing the election of the Muftis by the Turkish Minority as safeguarded by international agreements as well as by the Greek legislation i.e. the Law No: 2345 dated 1920?
 2. What kind of steps the Greek Government will take to revise the relevant legislation on the Waqfs in consultation with the minority?

3. How does the Greek government envisage to implement the relevant rulings of the ECHR regarding the applications of the Turkish Union of Xanthi, The Cultural Association of Turkish Women of Rhodope and the Evros Minority Youth Association? What steps will it take to solve the problem of denial of ethnic identity?
4. When does the Greek Government plan to start the procedures for the opening of Turkish-language kindergartens in Komotini and Xanthi?
5. Have there been any developments about the process of reinstating the citizenships of approximately 60.000 Greek citizens who were dismissed from Greek citizenship, by the later repelled article 19 of the Greek Citizenship Law? How does the Greek Government plan to compensate their losses in terms of ownership rights that occurred as a result of the process?
6. The recent heavy fines incurred on the Minority press seem as a clear breach of freedom of expression and the press in EU legal area. Does the Greek National Council for Radio and Television consider working on a more liberal Media Law?
7. Does the Greek Government have plans to be more flexible for the preconditions set for minaret construction?"

During the interactive debate, Greece took the floor to say:

50. On the question regarding the general '**minority protection**' of persons who belong to groups that have not been recognized as minorities, Greece emphasizes that it fully respects the human rights of individuals who declare that they belong to a certain group regardless of the fact that this group has not been officially recognised or officially granted a status of 'minority' in Greece.

As regards the question on the situation of the Muslim minority in Thrace and particularly on the administration and management of the **Muslim Foundations** in Thrace, a law was passed in 2008 that responds to a long standing request of the Muslim minority to have the members of their three main management committees elected and the need to renew by means of election the members of these three Muslim Waqf management committees remain pertinent. In conjunction with the selection of the muftis in Thrace, the government is engaged to find through amendments or possible adjustments the proper way to deal with this issue. As for **the withdrawal of the Greek citizenship** from some members of the Muslim minority in Thrace, in 1998, the Government repealed article 19 of the citizenship code which allowed for the withdrawal of Greek nationality from persons who abandoned Greece with no intention to return back. Among these people who left the country on their own will, many of them renounced the Greek nationality and acquired a foreign nationality. There is a very small number of Muslims who are stateless as a result of the deprivation of their nationality. For these individuals who reside in Thrace, a special ID card has been provided. Concrete steps have been undertaken to restore the Greek nationality of these few stateless people.

51. On **freedom of association** and the three judgments of the European Court of Human Rights regarding an equal number of associations in Thrace that were not registered with the competent courts, these cases are pending before the competent civil courts in Greece. There is a very constructive dialogue with the department for the execution of the European Court judgments of the Council of Europe. However, there is a very big number of Muslim minority associations and NGOs that have been registered with the competent courts and they operate unimpeded in the area of Thrace.

The report of the UPR Working Group reflected Greece's position as follows:

12. On the rights of persons belonging to minorities, **the Muslim minority in Thrace** consists of three distinct groups whose members are of Turkish, Pomak and Roma origin. Each of these groups has its own spoken language, cultural traditions and heritage, which are fully respected by the Greek state. Persons belonging to the Muslim minority in Thrace are free to declare their origin, speak their language, exercise their religion and manifest their particular customs and traditions. There is no denial of the ethnic identity of these groups.

14. On the right to **education** for persons belonging to the Muslim minority, the Government stands ready to improve the functioning of the existing minority schools and to accommodate the preference for the public educational system increasingly shown by the Muslim minority.

During the interactive dialogue, 48 delegations delivered oral statements. In total, 124 recommendations were formulated and Greece immediately accepted 97 of them; 9 were rejected while 18 were left for further consideration by the competent authorities.

While Greece commented on a number of recommendations it accepted and refused, it failed to explain its position on the ones made by Turkey. Indeed, **none of the recommendations made by Turkey enjoyed the support of Greece, i.e.**

85.4. Take necessary steps to ensure the election of the Muftis by the Turkish Muslim Minority and repeal the relevant articles of the Law n° 3536 regarding the appointment of imams, to which the Minority has severely opposed (Turkey);

85.5. Revise the relevant legislation concerning the Waqfs in consultation with the Minority with a view to enabling the Minority to directly control and to use its own Waqf properties, and to put an end to misuse and expropriation of Waqf properties (Turkey);

85.6. Initiate procedures for the opening of Turkish-language kindergartens for Minority children in Komotini and Xanthi (Turkey);

85.7. Speed up the process of reinstating the citizenships of approximately 60,000 Greek citizens who were dismissed from Greek citizenship, because of the later repelled Article 19 of the Greek Citizenship Law. Create a mechanism to compensate their losses in terms of ownership rights that occurred as a result of the process (Turkey);

85.8. Start a dialogue with the NGOs of the Turkish communities in Rhodes and Kos for the solution of their problems in the field of religious freedom and resume Turkish-language education, which has been denied since 1972 (Turkey).

Mission of *Human Rights Without Frontiers*

Report & State of Play

From 16 to 20 October 2012, *Human Rights Without Frontiers* took part in a fact-finding mission in Thrace the objective of which was to assess the situation of the persons belonging to the local community of ethnic Turks, a Muslim minority protected by the 1923 Treaty of Lausanne^{xii}, other bilateral agreements between Greece and Turkey as well as other international instruments signed and ratified by Greece^{xiii}.

School Education of Minority Children in Turkish and in Greek An Emergency Issue

Under the 1923 Treaty of Lausanne, the non-Muslim minorities in Turkey and the Muslim minority in Greece can “establish, manage and control at their own expense, any charitable, religious and social institutions, any schools and other establishments for instruction and education, with the right to use their own language and to exercise their own religion freely therein.”^{xiv}

The reality is however far from the provisions of this treaty and from the official position of the Greek Government.

‘Autonomy’ of the minority schools: Under the Treaty of Lausanne, the minority has the right to run its own schools and these should have the status of private schools but with the passing of time a mixed status has been imposed for both private and public schools. Since the Treaty’s coming into force, around 70 laws, decrees and circular letters by the Ministry of Education have irremediably eroded the autonomy of the minority schools. This has permitted State intervention on minority issues to such an extent that in practice, the Greek Government, through the Ministry of Education and Religious Affairs, has wide-ranging control over the minority schools at all levels, whether it concerns the composition and the functioning of the school boards, the hiring and firing of teachers, the distribution of textbooks or the building and repair of school buildings.

The appointment of Greek-speaking and Turkish-speaking teachers has gradually been entirely taken over by the Greek government. While there were several categories of Turkish-speaking teachers in the past^{xv}, the recruitment of teaching staff is now limited to the state-sponsored Special Pedagogical Academy of Thessaloniki (EPATH)^{xvi} although the quality of their training is inadequate and their knowledge of the Turkish language insufficient.

Kindergartens: Since the Greek Parliament passed Law 3518/2006, introducing compulsory school education from the age of five, the Government has consistently rejected all proposals to open Turkish-Greek kindergartens in the 174 existing bilingual primary schools operating on premises which belong to the ethnic Turks’ community^{xvii}.

Cemil Kabza, chairman of the Culture and Education Foundation of the Western Thrace minority (CEFOM), created and legally registered in 2007, told *Human Rights Without Frontiers* that in 2011 he had sent a first application to the Ministry of Education to request the authorization to open a private bilingual kindergarten in Xanthi and a private bilingual secondary school in Rhodope^{xviii}. The Ministry of Education should have given an answer by March 2012 but failed to do it. Cemil Kabza stated that they learned their application had been sent to the State Legal Council (Nomiko Simvulio tu Kratos) which will be convened and discuss their application. The Ministry noted that it will give a final decision after the legal council notifies its decision. "Let's wait and see", Cemil Kabza said to *Human Rights Without Frontiers*.

Due to the persistent lack of bilingual kindergartens, a number of families have reluctantly decided to send their children to Greek-language state kindergartens despite the risk of losing their linguistic and cultural identity. Others are resisting and refuse to send their children to a Greek-language kindergarten. Those parents do not reject the Greek culture but consider that if their kids start in such a kindergarten, they will want to stay with their classmates in a Greek state primary school and will lose their language and their culture.

In Echinus (Xanthi Prefecture), a conflict recently broke out when in September 2012, the vice-president of the Echinus school council, a Greek Orthodox nationalist, alerted the inspection authorities that 20 children had not attended a kindergarten before going to primary school and that one of the access conditions was therefore not fulfilled, placing the parents at risk of a 60 EUR fine for non-compliance.

The 20 mothers of the concerned children told *Human Rights Without Frontiers* in Echinus "We were told by the educational authorities to write in one of the documents to be completed that our children had not been able to go to a kindergarten because they had been sick during the whole school-year or because we did not have the financial means to do so, but we refuse to lie."

In a surprising move, the regional school inspectors suddenly refused to enrol them and dismissed the principal, Hasan Kurak, from his position because he had registered them and taught them.

Hasan Kurak, who has been teaching for 33 years, including 15 years in Echinus, told *Human Rights Without Frontiers*, "My priority was to guarantee the future of the children. I decided to register them, to give them access to the school and to teach them. I was fired from my position of principal of the school for that and was threatened to lose my retirement pension if I persisted." He was replaced by a Turkish-speaking colleague.

Kurak distributed the school material in Turkish to the pupils but the vice-president of the school council forbade him to give them the books in Greek. According to the 1968 Cultural Agreement between Greece and Turkey, Athens provides the books in Greek and Ankara the books in Turkish.

Mothers and teachers remain concerned about the future of the 20 children. They fear they might not be allowed to take exams or to receive a state-certified diploma.

Primary schools: In September 2012, there were 174 bilingual primary schools in Thrace (100 in Rhodope Prefecture, 58 in Xanthi Prefecture and 16 in Evros Prefecture)^{xix}. The buildings of which belong to the minority community. “The Greek-speaking teachers are paid by the Greek State while the Turkish-speaking teachers are paid by the school board of the Turkish ethnic community”, Mustafa Ali Cavus, President of the Political Party of Friendship, Equality and Peace told *Human Rights Without Frontiers*.

When the UN Independent Expert on Minority Issues, Gay McDougall, carried out a fact-finding mission from 8 to 16 September 2008, there were 194 minority primary schools in Thrace^{xx} with courses taught in both Turkish and Greek^{xxi}. According to the Law 695/1977, minority teachers who are graduates of the Special Pedagogical Academy of Thessaloniki (EPATH) are prioritized for appointment to teach the curriculum in the Turkish language. Therefore, graduates of Turkish universities are never appointed^{xxii}.

Based on the 1951 Cultural Agreement between Greece and Turkey^{xxiii}, it was agreed that both countries would send teachers reciprocally. According to the demands of the Greek side, this number was raised to 35 in 1955. However, in the course of time, Greece stated that their minority schools in Turkey only needed 16 teachers and therefore unilaterally decided it would accept only 16 exchange teachers from Turkey on the basis of the reciprocity principle.

The decline in the enrolment of Turkish-speaking pupils and consequently in the number of minority bilingual schools^{xxiv} is due to several factors which were already brought to the attention to Gay McDougall in 2008 and confirmed by teachers and parents to *Human Rights Without Frontiers* in 2012. The quality of education in minority primary schools falls far below that of Greek public schools. These schools fail to serve the fundamental needs of the community, complicated by a double system of administration, poor teaching standards, an ill-prepared teaching staff, inadequate and outdated textbooks, the disruption of their supply and the absence of a clear curriculum to teach Greek as a second language. Consequently, minority children are not proficient in either Greek or Turkish upon leaving primary school. The level of illiteracy and dropout rates from the 10-year compulsory education system remain very high.^{xxv}

Due to the huge disparity between the bilingual minority schools and Greek-language majority schools in Thrace, parents belonging to the community of the ethnic Turks have no other choice than to send their children to majority schools to guarantee a quality education. Another major incentive for majority school enrolment is the 0.5% minority quota application for entering Greek universities, thus encouraging parents to send their children to Greek schools from the beginning.

Secondary schools^{xxvi}: Two private minority secondary schools operate in Xanthi and Komotini^{xxvii} while two Koranic schools operate in Komotini and Echinus. All the teachers are paid by the school board. The Greek Government argues that under the 1923 Treaty of Lausanne it must only provide a bilingual school education through the primary level, as at that time compulsory school education was limited to 6 years.

The school in Xanthi is privately owned, although it is regulated by the Greek state. The school in Komotini, named in honour of the then president of Turkey, Celal Bayar, was founded in 1952. Legal Edict 2203 of August 1952 regulates the functioning of the school. Despite the fact that Article 2 of the law regulating *Celal Bayar High School* states that “entering, promotional and graduating examinations of the secondary school... will be conducted in the same manner and date as those of other private secondary schools”, the State determines how many students can attend that school as well as the one in Xanthi. The State *numerus clausus* officially justified by an alleged shortage of classrooms in the two minority secondary schools^{xxviii} have resulted in many children stopping their education at the end of primary school, enrolling in Greek-language state schools, despite their linguistic handicap or to go and study in Turkey^{xxix}. “In most cases, they chose to drop out and this disproportionately affected girls because families rarely allowed the female child to attend a Christian school,” said Sami Toraman, the head of the Western Thrace Turkish Teachers’ Union.

The number of minority secondary schools is obviously not sufficient. While 52% of the population of the Rhodope Prefecture and 45% of the Xanthi Prefecture are Turkish-speaking, there is only 1 minority school in each prefecture against 24 and 37 public (secondary and vocational) Greek-language schools respectively. In the Evros Prefecture, there are more than 45 Greek-speaking secondary schools but no minority secondary school for the Turkish-speaking families who represent 10% of the population.

Pervin Hayrullah, director general of the Culture and Education Foundation of Western Thrace Minority, told *Human Rights Without Frontiers* that her organization had applied to the Greek authorities for opening new minority secondary schools in some localities with high minority populations, e.g. Fillira, Sappes, Ariana and Organi. Although the municipality of Fillira allocated a plot of land for the construction of a secondary school, their demands were vetoed three times by the highest regional authority, the Region Office of Eastern Macedonia and Thrace. On 20 December 2011, an application was also sent to the Ministry of Education and Religious Affairs for opening a minority secondary school in Rhodope Prefecture. No reply has yet been received.

Until 1984, the exams of all final year students were carried out in Turkish. Afterwards, they were organized by a mixed exam board whose members are minority teachers and Greek teachers from public schools. Although the minority school classes are in Turkish, exams are in Greek^{xxx}, creating a major obstacle for Turkish students to graduate. Other problems include the lack of adequate textbooks and dormitory space in both Xanthi and Komotini.

Madrasas: The Koranic schools of Komotini (established in 1949) and Echinós, which train imams and religious preachers, were upgraded to the status of Greek secondary schools by Decision 2621/23.6.1998 of the Ministry of Education (Greek Official Gazette 136/1998/A)^{xxxii}. Students are taught in Greek, Arabic, English and lastly in Turkish. The number of classes in Turkish remains quite low, said Sami Toraman, the head of the Western Thrace Turkish Teachers’ Union. Two out of eight teachers graduated from Turkish universities.

University and higher education

Special Thessaloniki Pedagogical Academy (EPATH)

All the persons interviewed by *Human Rights Without Frontiers* complained about the substandard curriculum and the low quality of most teachers who graduated from the EPATH. This institution was founded in 1968 by the Junta. Officially, the objective was to train members of the minority as teachers in minority schools. However, the main and long-term political aim was to stop the flow of minority students attending the Teacher Training Schools in Turkey, to reduce their influence on the ethnic Turks of Thrace, to distance the minority from its Turkish roots and to assimilate it into general society.

The teaching language at the EPATH was Greek, while the teachers were expected to provide instruction in Turkish; also, the EPATH was said to recruit many Pomak teachers whose mother tongue was often not Turkish. Last but not least, many people in the minority do not accept the EPATH-trained teachers, because it views them as agents of the Hellenization policy who have an insufficient knowledge of the Turkish language to teach.

The minority would prefer to hire teachers trained in Turkey, as was the case in the 1950s and 1960s.^{xxxii}

The EPATH was abolished in 2010 and then integrated to the Department of Education of the University of Thessaloniki.

University education

Since the mid-1990s, Greece has introduced new regulations which were intended to improve minority education in Western Thrace.

The 0.5% quota for minority students' access to higher education in Greece is regulated by Law No. 2341/1995 (Greek Official Gazette, 208/1995/A) and Ministerial Decision F.152.11/B3/790/28.2.1996 (Greek Official Gazette, 129/1996/B). At first sight, this looks like a positive discrimination tool, but it does not solve the fundamental problem of minority education. This was confirmed by Erkan Rusen, chairman of the Western Thrace Minority University Graduates Association, who said to *Human Rights Without Frontiers*: "Indeed, as the various challenges posed by primary and secondary education result in fewer graduates and an unsatisfactory level of education, the success rate of minority students at the Greek higher education remains quite low."

Minority students who finish their higher education in Turkey also face difficulties when they apply to get equivalence to their degrees in Greece. "The National Academic Recognition Information Center (DOATAP in Greek) rejected some applications from students who graduated from Faculties of Engineering while some others had to wait for 2-3 years to get a final decision," said Ayfer Mustafaoglu, secretary general of the Western Thrace Minority University Graduates Association. However, both Turkey and Greece are part of the 'Bologna Process', which means that they could cooperate in providing equivalence to degrees of minority students.

Recommendations: *Human Rights Without Frontiers* recommends to the Greek authorities

- to integrate kindergartens into minority bilingual primary schools;
- to revise their policies concerning the minority primary and secondary schools: their number and their location, the training and hiring of teachers, curriculum and textbooks to be used.

Freedom of Association

Non-implementation of 3 decisions of the European Court

The right to freedom of association is a basic fundamental human right which is guaranteed by Article 12 of the Constitution of Greece.

However, three rulings of the European Court of Human Rights indicate that this right has been violated in cases concerning associations which were denied a legal status or banned. Five years after the European Court decision, Greece has still failed to register the three organizations created by ethnic Turks.

Cases Turkish Association of Xanthi and Others v. Greece, Bekir Ousta and Others v. Greece & Emin and Others v. Greece^{xxxiii}

In 1927, a cultural and sports association was founded in Xanthi under the name “*House of Turkish Youth in Xanthi*”. In 1936, it was renamed “*Turkish Association of Xanthi*” and registered by the Court of First Instance of Xanthi (Decision No 122/1936). On 30 January 1984, the prefect of Xanthi directed the Court of First Instance of Xanthi to request the dissolution of the association on the ground that its bylaws threatened public order. The association was then dissolved on 11 March 1986.

After a long legal battle, the final decision taken by the Court of Cassation on 7 February 2005 confirmed the dissolution of the association on the grounds that its objectives and its activities did indeed threaten public order. A complaint was lodged with the European Court on 15 July 2005 under the name and reference “*Turkish Association of Xanthi and Others v. Greece* (Application No. 26698/05)

On 15 March 1995, members of the Turkish ethnic minority in Thrace introduced a request to register their association under the name “*Evros Minority Youth Association*”. On 21 March 1996, the Court of First Instance of Alexandroupoli ruled that the name of the association was misleading about the origin of its members and was unclear on whether it was a religious minority (recognized in Greek law) or an ethnic minority (not recognized in Greek law). It further argued that this gave the impression that citizens of Turkey were creating an association to defend the rights and freedoms of an ethnic minority, which is contrary to public order (Court decision No 58/1996). After a long legal battle, the Court of Cassation confirmed on 10 January 2006 the negative decision of the court of appeal and ruled that “its members could create an association named in a way that was not misleading about their identity” (Court decision No 58/2006). A complaint was lodged with the European Court on 23 September 2005 under the name and reference “*Bekir Ousta and Others v. Greece*” (Application No 35151/05).

On 21 March 2001, women belonging to the Turkish ethnic minority in Thrace founded the “*Cultural Association of the Turkish Women of the Rhodope Prefecture*.” The Greek courts refused to register it on the ground that it was endangering public order. The arguments were

that its name was misleading about the origin of its members, suggesting an intention to spread Turkish ideals in Greece and leaving the impression there was a Turkish minority on Greek territory. After a prolonged legal process, the final negative decision was released by the Court of Cassation on 1 April 2005. A complaint was subsequently lodged with the European Court on 19 September 2005 under the name and reference "*Emin and Others v. Greece*" (Application no. 34144/05).

On 11 January 2008, the European Court ruled that there had been a violation of Article 11 of the European Convention (freedom of assembly and association).

On March 27, 2008, the ECtHR notified in writing its Chamber judgments in the cases of *Emin and Others v. Greece* and *Turkish Association of Xanthi and Others v. Greece* (no. 26698/05). The Court held unanimously that there had been a violation of Article 11 of the European Convention (freedom of assembly and association) in both cases. In the case of *Turkish Association of Xanthi and Others v. Greece*, 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.

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.

Failed attempts to re-register

Further to the European Court's judgments, the applicants requested a new registration of their associations (Cases *Bekir-Ousta and Others* & *Emin and Others*) or revocation of the previous decisions ordering the dissolution (Case *Turkish Association of Xanthi and Others*) before the national courts but their demands were again dismissed.

In the case of *Bekir-Ousta and Others*, on the basis of the ECtHR's judgment, the applicants applied again for registration of the association in the national courts. On 9 December 2008, the Single Member Court of First Instance of Alexandroupoli (Judgment No. 405/2008) rejected the application as inadmissible on the ground of *res judicata*. The decision referred in particular to the fact that under national law, retrial of a case further to a finding of a violation by the European Court is foreseen only for criminal proceedings (Article 525§5 of the Code of Criminal Procedure) but not for civil ones. The applicants appealed to the Court of Appeal of Thrace. The Court of Appeal of Thrace, by a decision made public on 31 July 2009, also rejected the application.

In the case of *Turkish Association of Xanthi and Others*, on the basis of the European Court's finding of a violation regarding the dissolution of the applicant association, the applicants 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 the other 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 April 2009) rejected the application on the basis of *res judicata*. Concerning the second claim, the hearing before the Court of Appeal of Thrace was scheduled for 3 April 2009. The application was rejected by a decision published on the 18 August 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*. 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. On 7 October 2011, the Greek Court of Cassation rejected the petition of the *Turkish Association of Xanthi and Others* against the decision of the Thrace Appeals Court, as did the Supreme Court on 24 February 2012.

The petition for re-registration of the “*Cultural Association of the Turkish Women of the Rhodope Prefecture*” has also been rejected by the Greek courts.

In the meantime, the request for registration of another association, the “*South Evros Cultural Association of the Western Thrace Minority*”, has also been rejected by the Greek courts.

Appeal to the CoE Committee of Ministers

In a letter dated 14 May 2012 and addressed to the Council of Europe Head of Department for the Execution of Judgments of the ECtHR, Directorate General of Human Rights and Legal Affairs, Ahmet Kara, the attorney at law of the *Turkish Association of Xanthi*, stated:

“Despite the ECtHR judgments, the Greek authorities are quite decided not to allow the operation or re-registration of the associations which bear the word “Turkish” in their titles. Nor the Greek Government seems to have any intention to make legal arrangements for the implementation of the ECtHR judgments. (...) Thus, the national courts imply a lack of legislation in respect of the implementation of ECtHR judgments. However, there is no initiation by the Greek Government in order to adopt any legislation to this effect, given that the issue was not included in the recently adopted Law No. 4055/2012 which made a vast amendment in the Code on Civil Procedures. Nor the re-opening of civil proceedings upon ECtHR judgments was even on the agenda during the preparatory work of Law No. 4055/2012. Moreover, the Greek authorities, not recognizing the legal personality of the *Turkish Union of Xanthi*, have not yet proceeded to the payment of 8,000 Euros allowed by the ECtHR in respect of non-pecuniary damages to a bank account named by the applicant.”

Ahmet Kara concluded by saying “I hereby refer to the obligation of every State Party under Article 46 of the Convention, to abide by the judgments of the Court, and call on the Committee of Ministers to ensure effective supervision of the execution of the judgments under consideration and to take comprehensive measures in respect of Greece that fails to comply with its obligation, until full compliance is secured.”

Recommendations: *Human Rights Without Frontiers* recommends to the Greek authorities

- to implement, without any further delay, the decisions of the European Court in the cases *Turkish Association of Xanthi and Others v. Greece, Bekir Ousta and Others v. Greece & Emin and Others v. Greece*;**
- to allow the registration of associations under the names of the choice of their founding members whether they contain the name of an ethnic group or the word “minority”;**
- to 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.**

Freedom of Religion: The Case of the Muftis

Greek law uses the term “known religion” for religions recognized and sponsored by the State. Ministers of the Greek Orthodox Church and other “known religions” enjoy a number of privileges under domestic law. *Inter alia*, they are exempt from military service and the religious weddings they celebrate produce the same legal effects as civil weddings.

Christians and Jews have the right to elect their religious leaders. By depriving the Muslims of Thrace of this possibility through Law no. 1920/1991, Greece has been applying a discriminatory policy towards them for more than 20 years. This 1991 law gives the Greek State power to appoint the Muftis, even without the support of the Muslim minority of Thrace. This law dramatically amputates its autonomy, guaranteed by the Treaty of Lausanne, and created divisions and tensions in the community.

Greece condemned by the European Court for sentencing elected muftis^{xxxiv}

The case of Mufti Ibrahim Serif

In 1985, the mufti of Rhodope died. The State appointed an interim mufti. When he resigned, the State replaced him by another mufti (M.T.). On 6 April 1990, the President of the Republic confirmed M.T. in his function.

On 24 December 1990 the President, on the proposal of the Council of Ministers and under Article 44 § 1 of the Constitution^{xxxv}, adopted a Legislative Act by which the appointment of Muftis was to be made by presidential decree following a proposal by the Minister of Education who, in his turn, must consult a committee composed of the local Prefect and a number of State-appointed Muslim dignitaries. The Act expressly abrogated Law 2345/1920 providing that the Muftis, in addition to their religious functions, would have competence to adjudicate on family and inheritance disputes between Muslims in so far as these disputes are governed by Islamic law. It also provided that the Muftis were directly elected by the Muslims who had the right to vote in the national elections and who resided in the Prefectures in which the Muftis would serve. The elections were to be organised by the State and theological school graduates had the right to be candidates. Article 6 § 8 of the law provided for the promulgation of a royal decree to make detailed arrangements for the elections of the Muftis. Such a decree was never promulgated. The 1990 Legislative Act left largely unchanged the functions and qualifications of the Muftis to be appointed by the State according to the new procedure. Though, the local Muslim community never accepted the abrogation of Law 2345/1920 because the new law was giving the State power to interfere in its internal life and compromised its autonomy guaranteed by the Treaty of Lausanne.

On 28 December 1990, Ibrahim Serif was elected by the Muslims attending Friday’s prayers in mosques of Rhodope. With other Muslims, he then initiated an action at the Council of State to contest the legality of the appointment of M.T. Law no. 1920/1991 retroactively

validated the Legislative Act of 24 December 1990. A criminal proceeding was instituted against Ibrahim Serif.

On 21 October 1996, Ibrahim Serif was sentenced to a 6-month prison term which was later converted into a fine for usurping the functions of a minister of a "known religion."^{xxxvi} On 2 April 1997, the Court of Cassation rejected his appeal.

On 29 September 1997, Ibrahim Serif lodged a complaint with the European Court.

On 14 December 1999, the European Court declared that Ibrahim Serif's conviction amounted to an interference with his right under Article 9 § 1 and the said article had been violated. Greece was sentenced to pay 2.7 million drachmas as financial compensation.

In December 2010, the term of the state-appointed Mufti in Rhodope was extended for the third time indefinitely. However, Ibrahim Serif, the Mufti elected by the Muslim community, goes on exercising his activities, up to now unhindered, but his judicial competences have no civil effect. Concretely, a religious marriage must be confirmed by a civil marriage.

The case of Mufti Mehmet Agga

In 1990, the Mufti of Xanthi, died. On 15 February 1990 the local Prefect appointed Mehmet Agga to act as deputy.

In August 1990, the two independent Muslim Members of Parliament for Xanthi and Rhodope requested the State to organise elections for the post of Mufti of Xanthi. Receiving no reply, the two independent MPs decided to organise themselves elections at the mosques on 17 August 1990 after the prayers. On that date, Mehmet Agga was chosen to be the Mufti of Xanthi by those attending Friday prayers at the mosques.

On 24 December 1990 the President of the Republic, on the proposal of the Council of Ministers and under Article 44 § 1 of the Constitution, adopted a Legislative Act by which the selection and appointment of the Muftis was changed (See above).

On 20 August 1991, in accordance with the new regulations, the Greek State appointed another mufti. Mufti Mehmet Agga refused to step down. Eight sets of criminal proceedings were instituted against the applicant under Articles 175 and 176 of the Criminal Code for having usurped the functions of a minister of a "known religion".

Mehmet Agga was repeatedly sentenced to prisons terms ranging between 8 and 12 months which were every time converted into a fine for allegedly usurping the functions of a minister of a "known religion".

In 1999, Mehmet Agga lodged two applications with the European Court.

On 28 March 2001, the First Instance Criminal Court acquitted Mehmet Agga in the light of the Court's judgment in the Serif v. Greece case.

In 2006, Mehmet Agga passed away.

In August 2011, the term of the state-appointed Mufti of Xanthi was extended for another ten years.

Position of the U.N. about the appointment of religious leaders

In the UN Rapporteur's Digest on Freedom of Religion or Belief / Excerpts of relevant paragraphs of 25 years mandate reporting practice (1986-2011), some quotations are related to the appointment of religious leaders

A/51/542/Add.1, paras. 138-139 (country visit to Greece):

"138. As for the special provisions concerning Muslims and, more particularly, muftis and waqfs, the Special Rapporteur recalls article 6, paragraph (g), of the 1981 Declaration, which guarantees freedom to "train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief".

139. The Special Rapporteur believes it necessary for the Greek authorities to comply fully and in good faith with the Treaty of Lausanne and with the country's international undertakings. He also recalls the need to refrain from interfering in the affairs of a religion, apart from the restrictions provided for in international law, and calls for respect for the traditions of each religious group within the framework of internationally recognized norms. "

A/55/280/Add.1, paras. 160 (country visit to Turkey):

"160. [...] (e) The Government should guarantee minorities the right to teach their religion, in places suitable for this purpose, and to train their clergy. The Special Rapporteur believes it indispensable that minorities once again have their own religious seminaries, in accordance with article 6 of the 1981 Declaration and the General Comment No. 22 (48) of the Human Rights Committee ("the practice and teaching of religion and belief includes acts integral to the conduct by religious groups of their basic affairs, such as, inter alia, the freedom to choose their religious leaders, priests and teachers, the freedom to establish seminars or religious schools.").

Recommendations: Human Rights Without Frontiers recommends to the Greek authorities

to grant the Muslim minority of Thrace the same rights as the other "known religions" in matters concerning the choice of their religious leaders.

Freedom of the Turkish-Language Community Media

Three minority newspapers are currently published every week, one every fifteen days and three magazines every month. Four private radio stations are broadcasting in Turkish in the region.

The weekly newspapers *Gündem* in Komotini and *Millet* in Xanthi have been functioning for 15 and 5 years respectively. Each newspaper only has three journalists, who also care of the distribution themselves. The circulation is not more than 1500 copies and only 800 are sold. The income of the advertisements is low and limited. *Gündem* is the only Turkish-language paper which fulfilled all the requirements for having the right to publish advertisements in 2012.

The case of Harikleia Nikolopoulou against Gündem and Millet

In 2010, Ms Harikleia Nikolopoulou^{xxxvii}, then deputy headmaster of the Turkish-speaking minority school in Megalo Dereio (Evros), lodged a complaint on the ground of “defamation” against Hülya Emin, as the owner and editor-in-chief of the newspaper *Gündem*, and against Cemil Kabza, because of his reporting about an incident opposing the plaintiff and some parents of her school. On 1 December 2010, the Court of First Instance of Rhodope ruled that the publication was partly libellous but that the relations between the Turkish-speaking parents of the pupils and her were far from harmonious. A disproportionate fine^{xxxviii} of 150,000 EUR was imposed on the newspaper: 25 times the minimum compensation envisaged in such a case by Act 22243/1994, already considered to be a draconian legislation. The amount of 20,000 EUR was to be paid immediately. Furthermore, *Gündem* was also to pay 5,400 EUR as court fees.

The rationale of the court for such a high fine is that “the crucial articles of the newspaper were read not only by the Turkish-speaking reading public residing in Thrace but also by the whole of Greece to which the news was re-broadcasted via other publications and electronic news media.” This increase of the audience was necessary as Act 22243/1994 stipulates for the publications of national range a minimum fine of 29,325 EUR while it is only 5,865 EUR for local publications. In fact, the news was not reproduced by other papers but it was inflated by nationalist media, which presented Hara Nikolopoulou as “a heroic school teacher who had been facing dubious sycophants, organs of the Turkish consulate and Ankara’s secret services”!^{xxxix}

For a similar article, Hara Nikolopoulou also lodged a complaint against the other Turkish-language weekly newspaper *Millet* and the sentence was a fine of 120,000 EUR. The amount of 30,000 EUR was to be paid immediately as well as the 4,000 EUR for the court fees.

Hülya Emin and Cemil Kabza of *Gündem* as well as Cengiz Ömer of *Millet* are personally liable and may be sentenced to 10-month imprisonment if they do not pay but their case is currently pending on appeal. The two newspapers received warrants of arrest on 4 April 2011. The bank accounts of the newspapers and the journalists have been blocked.

The solicitors of both newspapers have lodged an appeal. The hearing of the case of *Gündem* was held on 6 May 2011 in the Court of Appeal in Komotini. The attorney of *Gündem* requested the postponement of the case and the Court postponed it to 24 February 2012. On 24 February 2012, the case could not be held because of a general strike of the solicitors and it postponed again to 22 March 2013.

The case of the state-appointed mufti of Xanthi against Gündem, Millet and Kral FM radio^{x1}

Müfit Ramadanoğlu, the former secretary and media adviser to the appointed mufti of Xanthi, Mehmet Emin Şinikoğlu, has sued minority newspapers *Gündem*, *Millet* and *Kral FM radio* (Broadcasting from Xanthi).

On 11 April 2012 Ramadanoğlu, applied to the First Instance Court of Xanthi claiming that the news article published and broadcast 5 years ago (published on 6 April 2007 in *Gündem* and 12 April 2007 in *Millet*) with the headlines “14 months of imprisonment to Şinikoğlu” was false and constituted a violation of his private life. He asked for 200,000 EUR compensation from *Gündem*, *Millet* and *Kral FM*, respectively.

News articles about the court case were published not only in the mentioned newspapers and radio but also in many other local newspapers.

Ramadanoğlu claims 200,000 EUR for compensation from Hülya Emin, Cemil Kabza and Ozan Ahmetoğlu (*Gündem* newspaper), Bilal Bodur and Cengiz Ömer (*Millet* newspaper) and from Hüseyin Karadayı, the owner of *Kral FM*. In addition to his demand for the publication of a letter of apology in all local newspapers, three local radios and two local channels, he also asked for a one-year prison term for each journalist if the compensation is not paid. He applied to the First Instance Court of Xanthi on 11th April 2012 and all journalists subjected to the court case were informed on the same day. The date of the trial was indicated as 2 May 2012; however, due to the general elections on 6 May, as all cases in Greece, this case was also postponed.

Four months later on 19 September 2012, the new trial date of 7 November 2012 was announced but was postponed to 18 September 2013 because of the strike of the solicitors. The trial of both newspapers, the journalist and the owner of the Radio Station *Kral FM* will take part in The First Instance Court of Xanthi.

Background of the article

Mr. Huseyin Karadayi, the owner of the minority radio station *Kral FM* which broadcasts from Xanthi, lodged a complaint to the prosecutor’s office that the former secretary and media adviser to the appointed Mufti of Xanthi, Müfit Ramadanoğlu, was appointed as imam by mufti Şinikoğlu in order to disqualify him from compulsory military service, although he

never practiced his duties. Following Huseyin Karadayı's complaint, the prosecutor officer of Xanthi, brought a lawsuit against Mehmet Emin Şinikoğlu and Müfit Ramadanoğlu on the grounds of issuing false papers. The trial was held in the Criminal Court of Xanthi on 27 March 2007. Both Şinikoğlu and Ramadanoğlu were condemned by the criminal court of Xanthi to 14 months of imprisonment. Both Ramadanoğlu and Şinikoğlu applied to the Court of Appeal.

The Greek media law (3592/2007) was enacted by the Greek government on 19 July 2007. This new "Law on the Concentration and Licensing of Media Enterprises" brought upon several restrictive provisions that endanger freedom of press, expression and dissemination of information^{xli}.

According to the provisions of the new law, media entrepreneurs are required to deposit a minimum of 30,000-100,000 EUR, recruit at least 5-20 staff depending on their specialization, broadcast for 24 hours and use Greek as the main broadcasting language. Small minority radio stations (and other radio stations across the country) broadcasting in the prefectures of Rhodope and Xanthi have serious difficulties in meeting those restrictive provisions. By limiting the usage of the Turkish language, the new law also endangers pluralism and minority rights.

Based on this law, the National Board of Radio and Television (ESR) on 3 November 2009 sent an official warning to the oldest minority radio station in Xanthi (called "Tele Radio" 104.2 FM) that has been broadcasting in Turkish without interruption since 1994. In the abovementioned decision of the ESR (473/2009)', it was argued that according to Article 8 of the new media law, the main broadcasting language should be Greek.

In the official warning, it was also announced that the ESR would take further and harsher measures if the minority radio station does not broadcast in the Greek language. However, other Greek radio stations which broadcast in foreign languages like English or Russian were not subjected to a similar administrative measure. This policy illustrates the discriminative nature of the decision adopted by the ESR in clear contravention to the freedom of press enshrined in the Article 14 of the Greek Constitution.

Furthermore, the National Broadcasting Council (ESR) with its decision No 416/14.9.2010 imposed an administrative sanction of 3,000 EUR on the radio station – KING FM – based in the prefecture of Xanthi on the grounds that its emission included a "foreign" language (Turkish).

The situation of minority media and newspapers in Greece is indicated in the Regular report to the Permanent Council prepared by the OSCE Representative on Freedom of Media Dunja Mijatovic on 17th March 2011 and 23rd June 2011.

Conclusion: The problems faced by the Turkish-language media clearly indicate that a number of state and non-state actors motivated by anti-Turkish ideology seek to silence them.

Recommendations: *Human Rights Without Frontiers* recommends to the Greek authorities

- to respect the freedom of the media of the Turkish-speaking minority and to protect the diversity of opinions;**
- to only prosecute serious cases of alleged defamation;**
- to uphold the principle of fair and proportionate punishment in judicial process;**
- to respect the letter and the spirit of the Treaty of Lisbon along with all other European covenants and declarations while implementing Article 14 of the Constitution of the Hellenic Republic on freedom of expression and the press.**

Conclusions

A minority in Greece is protected under the 1923 Treaty of Lausanne, and more broadly by other bilateral agreements between Greece and Turkey as well as other international instruments signed and ratified by Athens.

Whatever their ethnicity, their mother tongue or their self-identification, the people belonging to that minority have individual and collective rights that must be respected: equal opportunities of access to the school system of their choice (bilingual minority schools or Greek-language schools), the right to quality education for their children, freedom of association as defined by international instruments and the jurisprudence of the European Court, the autonomy of their religious community and the non-interference of the State in its internal functioning, a friendly environment for the development of their specific media and the preservation of their culture.

A commitment to mutual trust and respect between the Greek State and the minority is a prerequisite to any long-lasting solution. Certainly, implementing without further delay outstanding decisions by the European Court of Human Rights would be a positive first step. This action, which has been awaited for years, would go a long way toward restoring goodwill and constructive dialogue with the minority of Thrace.

ⁱ The Orthodox Christian states which emerged from the collapse of the Ottoman Empire are Serbia, Montenegro, Greece and later Romania.

ⁱⁱ Amnesty International report (25/01/2000). Greece: Freedom of religion and expression on trial – the case of Mehmet Emin Aga, Mufti of Xanthi.

ⁱⁱⁱ These are approximate statistics as the calculations by the Ottoman Empire in those chaotic times of collapse and by the new Greek State were not necessarily accurate or were covering fluxes of populations that were not covered by the official exchange of populations. For more details, some sources can be consulted such as: Onur Yildirim, 2006, *Diplomacy and Displacement: Reconsidering the Turco-Greek Exchange of Populations, 1922-1934* (Routledge) - Renee Hirschon (ed.), 2003, *Crossing the Aegean: An Appraisal of the 1923 Compulsory Population Exchange between Greece and Turkey* (New York; Oxford: Berghahn) - "Minorities in Southeast Europe: inclusion and exclusion", a report by Minority Rights Group, London 1998.

^{iv} UN Human Rights Council. Report of the Independent Expert on Minority Issues, Gay McDougall (Par. 11)/ Mission to Greece (8-16 September 2008). Ref. A/HRC/10/11/Add. (18 February 2009): “According to Greek government sources, some 86,000 Muslims remained in Thrace, 39,000 of Turkish origin, 35,000 Pomaks (Slav-speaking Muslims), and 12,000 Roma.”

See <http://www2.ohchr.org/english/bodies/hrcouncil/docs/10session/A.HRC.10.11.Add.3.pdf>

According to a 2000 report of the Greek Helsinki Monitor, the Muslim minority was then estimated at “98,000 members, of which 50% are Turks, 35% Pomaks and 15% Roma.” See “Human Rights in Greece, Annual Report for 1999”, Athens 7/1/2000.

^v A number of ethnic Turks lost their lives when fighting against the occupation forces during WW II.

^{vi} According to the 2001 official census, 369,430 people were living in Thrace. The highest local Greek administrative authority, the regional office of Eastern Macedonia and Thrace, estimates that the population of the minority is around 140,000 – 145,000 by 2011 (REMTH 2011) while the Greek Ministry of Foreign Affairs officials usually mention figures of around 100,000. The last official census that included criteria such as religion and language dates back to 1950.

According to the 2011 Annual Report of the US Department of State on International Religious Freedom, “The 1923 Treaty of Lausanne created an officially recognized ‘Muslim minority,’ which consists of an estimated 140,000 to 150,000 individuals (approximately 1.3 percent of the Greek population) residing in Thrace” and “Aside from the indigenous Muslim minority in Thrace, the Muslim immigrant population in the rest of the country was estimated at 200,000 to 300,000.”

^{vii} See Greece’s National Report (par. 67) at http://www.upr-info.org/IMG/pdf/a_hrc_wg.6_11_grc_1_e.pdf

^{viii} See http://www.upr-info.org/IMG/pdf/abtff_written_greece_2011.pdf

^{ix} See http://www.upr-info.org/IMG/pdf/a_hrc_wg.6_11_grc_1_e.pdf

^x The passages in bold in this chapter have been highlighted by *Human Rights Without Frontiers*.

^{xi} CERD: Committee on the Elimination of All Forms of Racial Discrimination

^{xii} See <http://www.hri.org/docs/lausanne/>

^{xiii} Some international instruments signed and ratified by Greece:

Copenhagen Document of 1993 on minority rights

<http://www.osce.org/odihr/elections/14304>

Treaty of Lisbon 2009

<http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2007:306:SOM:EN:HTML>

Declaration of Rights for People Belonging to National or Ethnic Minorities 1992

<http://www2.ohchr.org/english/law/minorities.htm>

Framework Convention for the Protection on National Minorities (Signed but not ratified) 1995

<http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm>

Helsinki Final Act 1975

<http://www.hri.org/docs/Helsinki75.html>

International Covenant on Civil and Political Rights 1966

<http://www2.ohchr.org/english/law/ccpr.htm>

^{xiv} Article 30 of the UN Convention on the Rights of the Child also provides that in the States in which ethnic, religious or linguistic minorities exist, a child belonging to such a minority shall not be denied the right, in community with other members of his or her group, to use his or her own language.

^{xv} Graduates of universities in Turkey or from the Thessaloniki Pedagogical Academy or from Muslim religious schools (medreses) or high school graduates.

^{xvi} The EPATH was created by the Junta in 1968. It was abolished in 2010 and then integrated to the Department of Education of the University of Thessaloniki.

^{xvii} On 17 February 2010, 211 ethnic Turks representing various segments of their civil society sent a petition to the then Minister of Education, Ms Anna Diamantopoulou, and to the then Special Secretary in charge of the minority school education. On 26 June 2011, another petition was sent to the Ministry of Education.

^{xviii} In CEFOM’s bylaws, it is stipulated that they can create kindergartens from the age of 3.5 to 6 years, primary and secondary schools. CEFOM has officialy three children clubs, one in Xanthi and two in Rhodope. These children clubs are not recognized as kindergartens but are rather day nurseries for kids between 3.5 and 5 years.

^{xix} According to a letter addressed on 15 October 2012 by the “Western Thrace Minority University Graduates Association” to the Council of Europe Commissioner for Human Rights Nils Muiznieks, approximately 1000 students graduate from minority primary schools every year.

^{xx} Statistics about the number of minority primary schools since the 1923 Treaty of Lausanne can be found in the PhD thesis of Dr Ali Huseyinoglu (Philosophy in International Relations), University of Sussex: “The Development of Minority Education at the South-eastern Corner of the EU: The Case of Muslim Turks in Western Thrace, Greece” (May 2012), available online via Sussex Research Online <http://sro.sussex.ac.uk>

^{xxi} In January 1999, Human Rights Watch published a 38-page report entitled “Greece: The Turks of Western Thrace” in which it is mentioned on page 23: “According to the Greek government, there are officially 230 minority primary schools with 8,500 students” and “the curriculum in the minority primary schools is bilingual. Greek, history, geography, civics and environmental education are taught in Greek. Mathematics, physics, chemistry, religion, Turkish, art and physical education are taught in Turkish. If the school is large enough, English instruction is provided. The overwhelming majority of minority children attend minority primary schools.” It must however be noted that the English language, included in the curriculum in 1997, is taught by Greek teachers.

And in footnote nr 89 “According to Mr. Lambakis, coordinator of the minority schools of Thrace, about 98 percent of the minority youth attend minority primary schools. No more than 2 to 3 percent of minority children attended non-minority primary schools.”

^{xxii} In a written reply to a candidate for a teaching position it is stated that:

“In accordance with Law 695/1977 graduates of EPATH are preferentially appointed to primary schools. There is now an excess of 203 teachers. Your appointment will be answered after the appointment of these teachers.”

^{xxiii} The Cultural Protocol signed between Turkey and Greece on 20 April 1951 (which was abolished and replaced by the Bilateral Agreement on Cultural Cooperation in 2000), the Exchange of Notes in 1952 regarding the issue of exchange teachers to be assigned to minority schools and the Protocol of the Turkish-Greek Cultural Commission signed in 1968 are the relevant documents regulating the exchange of teachers.

^{xxiv} In rural and mountainous areas, schools were merged. This resulted in transport problems to and from another school, especially in winter, and in additional expenses for families living solely on agriculture and/or hit by the current financial crisis.

^{xxv} Of all other regions of Greece, Thrace has the highest dropout rates from 10 year compulsory education and the biggest rate regarding the illiteracy across the country.

^{xxvi} Under “Secondary schools”, the current report understands schools providing education for 12-18 year students (post primary school and pre-university level).

^{xxvii} In the 2008-2009 academic year, about 1,000 students in total were trained in both schools.

^{xxviii} In the past, the same buildings were functioning both in the morning and in the afternoon and thus accommodating a larger number of students than nowadays.

^{xxix} According to the “Western Thrace Minority University Graduates Association”, approximately 1000 students graduate from minority primary schools every year. It is therefore blatant that the number of minority high schools is insufficient.

^{xxx} Only tests in Religion and Turkish Language & Literature are in Turkish.

^{xxxi} The duration of the studies was 3 years when they were established but it was increased to 5 years in 1957 and then to 6 years when they were granted the status of Greek secondary school.

^{xxxii} The cultural agreement signed by Turkey and Greece on 21 April 1951 provided for exchanges of teachers and mutual recognition of diplomas received in each other’s country. Celal Bayar secondary school is the product of this agreement. Around 500 such teachers studied in Turkey and then returned to teach in the minority schools. Around half of them were immediately hired by the Greek State. Some of those who were not migrated to Germany and worked as *Gastarbeiters*; some others had no other choice than to become producers of tobacco (the main local production) in Thrace.

^{xxxiii} Sources:

Decisions of the European Court of Human Rights.

Parallel Report by the Federation of Western Thrace Turks in Europe (ABTTF) on the Report of the Working Group of the Universal Periodic Review of Greece (11 July 2011).

^{xxxiv} The text of the decisions of the European Court are easily accessible at

<http://www.strasbourgconsortium.org/portal.case.php?pagelid=10>

^{xxxv} Article 44 §1 of the Constitution provides as follows: “In exceptional circumstances, when an extremely urgent and unforeseeable need arises, the President of the Republic may, on the proposal of the Council of Ministers, adopt legislative acts. These acts must be submitted to Parliament for approval ... within forty days...”

^{xxxvi} Article 175 of the Criminal Code provides as follows:

“1. A person who intentionally usurps the functions of a State or municipal official is punished with imprisonment up to a year or a fine.

2. This provision also applies when a person usurps the functions of a lawyer or a minister of the Greek Orthodox Church or another known religion.”

^{xxxvii} Hara Nikolopoulou is the daughter of the former president of the Supreme Court. In 2010, the Prefect of Thessaloniki supported her by granting her an award for the defence of Hellenism. He then wrote her bio as follows: “Harikleia Nikolopoulou, was born and raised in Thessaloniki. She studied at the Department of Elementary Education and then onwards after taking qualifying examinations, she studied at the Department of Education of the philosophy Faculty of the Aristotle University of Thessaloniki. Along with her university studies, she excelled in her musical studies in piano and accordion. She worked as a teacher in the private school “Aristotle College” (1999-2001) and in 2001 she was appointed in public schools in Zakynthos, Komotini and Etoloakarnania. Since 2004 she has been working in a minority school of Thrace, in the village of Great Dereios of Evros, where she lives and works up until today. She has received important distinctions from national associations and public bodies for her contribution and teaching in a minority school of Dereios in Evros.”

Most of the parents of Dereios disagree with this laudatory presentation of her work in Evros and have a totally different opinion about her. Soon after she settled in Dereios, she came into conflict with a large part of the residents. Many reasons and pretexts for that friction were reported in the media. In September 2007, she prepared two reports to the Ministry, complaining about the Principal and Director of the School Committee that they were operating ‘in a strictly anti-educational and anti-Greek manner’. In October 2007, 21 of the 38 parents requested in writing that she be removed. In October 2008 the parents once again asked for her to be removed. All pupils, except one, stayed away from school. The Ministry stood behind her, and the absence from school ended after two weeks. In her speeches and interviews, she pleaded for the abolition of education in the minority language and the cultivation of Greek national awareness in the young generation of the minority. Hara Nikolopoulou is known to stand close to the right-wing radical populist LAOS party, and her name appeared as a parliamentary candidate from LAOS in the past.

^{xxxviii} In 2009, Costas Laliotis, the former secretary general of PASOK and former Minister of Public Works, was ‘only’ sentenced to a fine of 100,000 EUR for accusing Constantinos Mitsotakis, former Prime Minister of Greece, of money laundering.

^{xxxix} Quotation of Eleftherotypia Newspaper (27 February 2011, Sunday Issue) which was criticizing the court decision.

^{xl} Source: Statement made at the OSCE/ODIHR on 24 September 2012 by the Western Thrace Minority University Graduates Association under the title “Call for Freedom of Expression and Free Media in Western Thrace – Greece”. See <https://www.osce.org/odihr/94015>.

^{xli} OSCE Representative on Freedom of the Media, Mr. Miklos Haraszti, expressed his concern about the new media law in the press release of 27 July 2007. In this statement, Mr. Haraszti claimed that the new law sets high and unnecessarily rigid thresholds that might have adverse effects on minority, community or low-cost broadcasters.