



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)

Written Contribution by the Federation of Western Thrace Turks in Europe (ABTTF) on the Implementation by Greece of the First Cycle UPR Recommendations

21 September 2015

Human Rights Council
Working Group on the Universal Periodic Review (Second Cycle)
25th session
Geneva, April/May 2016

I. Cooperation with NGOs and Civil Society Organizations

1. As regards to the **recommendations 83.16. (Palestine)** and **83.96. (Austria)**, ABTTF notices regrettably that the competent Greek authorities have in no manner consulted any association or NGO belonging to the Turkish minority in Western Thrace neither during the process when the national report of Greece was being drafted nor during the follow-up to the first-cycle review.

The UPR Working Group is therefore requested to urge Greece to end immediately its policy ignoring the Turkish minority in Western Thrace which is the only officially recognized minority in the country and to set up an official consultation and dialogue mechanism with it.

II. Rights of Persons Belonging to Minorities and the Turkish Minority in Western Thrace

1. Women's Rights and Freedom of Religion or Belief

With regard to the **recommendation 83.22. (Netherlands)**, ABTTF would like to remind that Greece recognizes Shari'a on family and inheritance law matters for Muslims who reside in Western Thrace. However, as stated also in the voluntary mid-term progress report by Greece, all decisions of the muftis appointed by the Greek government on marriages, divorces or inheritance issuance are liable to be null and void by first instance courts in Thrace. Therefore, it is the responsibility of the State under review to prevent any impediments that may occur.

There are some other concerns that Muslim women have inferior rights by comparison to men under family law, property law, and in the judicial system. ABTTF would like to mention that marriage under Islam in Western Thrace is only realized with marriage licence document which is given by the offices of Muftis appointed by the State. In

Western Thrace, marriage is realized before Imam or Mufti, which in any case needs to be declared to the civil registry. There is no such order in the Qur'an that a man can get married with more than one woman. Polygamy is restricted to the strict conditions which are almost impossible to be met. Besides, the article 1354 of the Greek Civil Code prohibits polygamy on the ground that it is against to the public order. Therefore, the Greek Penal Code describes polygamy as a criminal offence and sanctions are anticipated on the related issue. The Article 1348 of the Greek Civil Code states that divorce is only realized by decision of courts, which means that any special form of divorce in private courts is prohibited by law. Prior to this provision, divorce by unilateral declaration of will by husband should not be realized. If there is a marriage, it is not possible to establish a new marriage before the Mufti decides to end existing marriage. If unilateral expression of will on divorce by husband is not approved by Mufti, it will, without doubt, be against to Article 21 of the Greek Constitution. Therefore, there needs to be a decision of Mufti to end a marriage, which in turn needs to be approved by first instance courts in Greece. Therefore, it is the responsibility of the courts to approve and/or deny any decision of Mufti which is incompatible with the Constitution and the legislation, and international norms and values. Furthermore, it should not be forgotten that Islamic law is optional for the members of the Turkish minority in Western Thrace. Therefore, there is no problem in divorce for members of the minority who have got married under the Greek Civil Code.

Regarding the **recommendation 83.53. (Slovakia)**, ABTTF underlines that the legal status of the Turkish minority in Western Thrace is based on the Treaty of Lausanne of 1923 which has guaranteed its educational and religious autonomy. The Article 40 of the Lausanne Treaty states “they (the Muslim minority) shall have an equal right to 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”. Unfortunately, beginning with 1967 when the military junta came to power in Greece, the religious autonomy of the minority has been undermined and diminished through several governmental practices and laws without prior consultation with the minority representatives. Beginning with 1991, the State under review has started to appoint the religious leaders (Muftis) of the Turkish minority. As a reaction to this implementation of Greece which is a clear infringement of the above mentioned article of the Lausanne Treaty, the minority has also elected its own Muftis. However, the Greek authorities do not recognise these Muftis elected by the minority itself.

Today, Greece does not recognize the right of the Turkish minority to elect its own religious leaders and appoints the Muftis on the grounds that these have judicial power on civic matters. Therefore, there is a duality today in Western Thrace, the Muftis appointed by the State under review and the Muftis elected by the Turkish minority. At this point, ABTTF would like to underline that the elected Muftis do not necessarily apply the sharia law on family and inheritance law matters and just perform religious duties. It is those Muftis appointed by the Greek government who use their judicial competences on inheritance and family issues based on Shari'a law. On the other hand, the Shari'a law has been recognized by Greece in accordance with its obligations arising from the Athens Treaty of 1913. Therefore, ABTTF would like to remind that any possible readjustments in this issue should not be against its obligations which arise from the relevant bilateral and international treaties Greece has signed with Turkey. The abolition of Shari'a law by a unilateral decision by Greece would be a violation of the Athens Treaty.

Furthermore, concerning the violation of the guaranteed religious autonomy and freedom of religion of the Turkish minority by the State under review, ABTTF would like to mention the Law 3536/2007 envisaging the appointment by the Greek authorities of 240 instructors of Islamic law, some of whom may officiate as Imams. Law on Muslim Preachers (4115/2013), which replaced the Articles 36 to 39 of Law 3536/2007, envisages of appointment of 240 “Quran teachers” who will offer their services in the public schools of primary and secondary education and mosques in Western Thrace under the auspices of the official muftis who are appointed by the State itself. The new legislation would allow the Greek government to exercise state control over religion through the appointment of Muslim preachers i.e. Imams to mosques under the realm authority of the official Muftis in Xanthi, Komotini and Didymoticho in Greece.

This legislation would further allow the government to expand its control over religion in public schools in the region through the new provision which is made for the teaching of the Quran by appointed Muslim preachers in public schools in Western Thrace in which minority students are enrolled. Law 4115/2013 start implemented in August 2013 and 63 religious officers, among whom only 3 are university graduates, started to teach Islam and Quran in Greek in public schools of secondary education in Western Thrace in January 2014 despite strong opposition by members of Turkish minority.

ABTTF would like to underline that the State should not involve/intervene in any matters regarding issues of faith, belief, or the organization of a religious group, and it should extricate itself any matter which might be considered internal. It is unacceptable that Greece, which does not even interfere with the Orthodox Church, shall prospectively be able to select/appoint servants of the religious organizations of the Turkish minority. The ecclesiastic of the Eastern Orthodox Church of Christ, which is the prevailing religion in Greece, are public servants, but they are appointed/elected/selected by the Church itself, and the State is not allowed to involve in/intervene to any matter internal or doctrinal to the Church.

The UPR Working Group is thus requested to urge Greece to fully comply with the Treaty of Lausanne of 1923 and prior Athens Treaty of 1913 and Its Third Protocol and to allow the Turkish minority in Western Thrace to elect freely its own religious leaders as the Jewish Central Board or the Catholic and Protestant Church in the country do and to repeal at once the Law 4115/2013 which hinders the minority from managing and controlling its own religious institutions and exercising its religion freely therein.

2. Self-Identification and Freedom of Expression, Peaceful Assembly and Association

Referring to the **recommendations 83.55. (Mexico), 83.61. (Slovenia) and 84.17. (Turkey)**, ABTTF would like to remind that Greece does only recognize a “Muslim minority in Thrace” and denies the existence of an ethnic Turkish minority in the country. Although the 1923 Treaty of Lausanne, which has established the official status of the Turkish minority in Western Thrace which has an estimated population of 150,000 today, does not specifically mention its ethnic identity, there is a specific reference to the Turkish ethnic identity of the minority in Western Thrace in legal and international documents. “Etabli Documents“, which were the documents having been given to the people of Greek and Turkish origin who were left out of the exchange procedure in accordance with the provisions of the Agreement on the Exchange of Turkish and Greek Populations on 30 January 1923, mention the ethnic origin of the minority in Western

Thrace as Turkish. The document of the League of Nations submitted to the Council on 23 December 1924 and remarked C. 774 on the “Minorities of Turkish Race in Western Thrace” used the term “Turkish” for the minority living in Greece.

Greece does not subscribe to the right of any group to self-identification on a collective basis and the right of assembly or association of the group which seeks to determine their identity. Although so-called other segments within the minority are recognized and even welcomed and supported by Greek authorities, the Turks are not allowed to use their right of self-identification while the existence in a country of ethnic minorities is defined on the basis of collective rights.

Greece continues to place legal restrictions on the names of associations of persons belonging to the Turkish minority in Western Thrace which include the term “Turkish”. Following the dissolution of the associations belonging to the Turkish minority in Western Thrace in the late 1980’s, the three associations, the Turkish Union of Xanthi, the Cultural Association of Turkish Women of Rodopi and the Evros Minority Youth Association lodged a complaint with the European Court of Human Rights (ECtHR) in 2005. The ECtHR held unanimously there had been a violation of Article 11 (freedom of assembly and association) of the European Convention on Human Rights in October 2007 and March 2008.

Further to the concerning judgments of the ECtHR, the applicants requested the cancellation of the decision dissolving them (the case of the Turkish Union of Xanthi) or submitted a new registration of their associations before the national courts. The applications were declared inadmissible on the grounds it is not possible to cancel a domestic decision which has become final in the context of non-contentious procedure following a judgment of the ECtHR, and that domestic law does not provide, in civil matters, for the reopening of proceedings following a finding of violation by the ECtHR. The Court of Cassation also dismissed on procedural grounds the applicants’ appeals in cassation in the cases of the Cultural Association of Turkish Women of Rodopi and the Evros Minority Youth Association.

The Council of Europe’s Committee of Ministers closely follows the developments on the implementation of the ECtHR’s judgments under the name of Bekir-Ousta group of cases against Greece since 2008. According to the statement issued on 5 January 2015, the ECtHR will rehear the cases of the Turkish Union of Xanthi, the Cultural Association of Turkish Women of Rodopi and the Evros Minority Youth Association. This means Greece will be re-judged by the ECtHR on the basis of its non-compliance with the three court rulings in 2007 and 2008.

As regards to the freedom of expression of the Turkish minority in Western Thrace, ABTTF would like mention that the Greek media law 3592/2007 on the “Concentration and Licensing of Media Enterprises” contains a number of provisions regarding language, employment and finances that hinder potential local and regional media from obtaining licenses for news and music radio stations. The law requires the radio and television stations to broadcast primarily in Greek. Accordingly, the Greek National Radio and Television Council issued in March 2014 recommendation decisions of warning against the radio stations Radio City FM, Çınar FM and Joy FM belonging to the Turkish minority in Western Thrace on the grounds their programming in Greek was less than 25 percent. This provision of the law hinders the freedom of expression of the persons belonging to the Turkish minority and their access to information.

The UPR Working Group is therefore requested to urge Greece to recognize the ethnic Turkish identity of the minority in Western Thrace, to implement, without any further delay, the ECtHR's judgments in the cases of the Turkish Union of Xanthi, the Cultural Association of Turkish Women of Rodopi and the Evros Minority Youth Association and to amend at once the Code of Civil Procedures in such a way that it allows the implementation of the ECtH's judgments in matters related to freedom of association.

III. Additional Concerns on the Turkish Minority and Its Right to Education

The educational autonomy of the Turkish Minority in Western Thrace has been undermined and diminished by governmental practices over years. The Greek government 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

On 27 November 2014, the new Law for "Research, Technological Development and Innovation and other Provisions" was approved by the Greek Parliament. Law 4310/2014 introduces reforms and changes in administrative organizations, in issues related to teaching staff at minority schools, issues related to the functioning and scientific-pedagogical support of the minority schools, establishment of a teachers school under Democritus University of Thrace and appointment and hiring of educators to primary minority schools. Law 4310/2014 was prepared with no prior consultation and/or dialogue with the Turkish minority.

Members of the Turkish minority who are graduated from other universities in Europe and other countries and received diploma equivalence in Greece should have the right to enter that department. Furthermore, one-year education after graduation of four-year undergraduate education will not be enough for a high quality education in Turkish curriculum at minority schools. Members of the Turkish minority are not allowed to teach in Greek curriculum at minority schools. Members of the Turkish minority who are graduated from Greek faculties of education and teach in the Greek curriculum at minority schools reacted against that on the ground that this is a violation of the principle of equality enshrined in the Greek constitution.

Recommendations for Action by the State under Review

Federation of Western Thrace Turks in Europe (ABTTF) calls on Greece:

- To respect its obligations under the Treaty of Lausanne and take measures in order to restore the autonomous structure of the Turkish minority in Western Thrace in the fields of education and religion. Greece should respect, protect and promote the rights enshrined in the Lausanne Treaty and act in full compliance with the provisions of the Treaty and the core international human rights instruments to which Greece is a party.
- To establish a mechanism for dialogue between the governmental authorities and the Turkish minority in the form of advisory or consultative bodies to be the channel for the minority to raise its own voice.