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Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association;
the Special Rapporteur on the situation of human rights defenders; and the Independent Expert on
minority issues

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Independent Expert on minority issues pursuant to Human Rights Council resolutions 15/21, 16/5, and 16/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the arbitrary refusal to revoke decisions denying registration or dissolving groups working and advocating for the defense of the rights of minorities.**

According to the information received:

- *Case of Home of Macedonian Civilization*

On 18 April 1990, representatives of the group "Home of Macedonian Civilization" attempted to register as an association to no avail. According to clause 2 of its memorandum of association, the association's objectives are "(a) the cultural, intellectual and artistic development of its members and of the inhabitants of Florina in general and the fostering of a spirit of cooperation, solidarity and love between them; (b) cultural decentralisation and the preservation of intellectual and artistic endeavours and traditions and of the civilisation's monuments and, more generally, the promotion and development of [their] folk culture; and (c) the protection of the region's natural and cultural environment". On 16 December 2005, the Kozani Court of Appeals rejected the application on the grounds that "there is no Macedonian nation, and hence no Macedonian culture and no Macedonian language 'Makedoncki;' nor does there exist in Greece a 'Macedonian minority;' it is self-evident that a mosaic of nations cannot in a period of sixty years acquire an ethnic existence, based on forged elements."

It is reported that the case was brought to the attention of the European Court of Human Rights. On 10 July 1998, in the case of Sidiropoulos and others against Greece, the European Court concluded that Article 11 of the Convention related to the right to freedom of association had been violated. It is reported that after the Court's decision, the Greek government informed the Council of Europe's Committee of Ministers, in charge of supervising the execution of judgments of the European Court of Human Rights, that "no similar violation of the Convention has been found, which confirms the exceptional nature of the case... the Government of Greece is of the opinion that, considering the direct effect today given to judgments of the European Court in Greek law (...), the Greek courts will not fail to prevent the kind of judicial error that was at the origin of the violation found in this case."

It is reported that despite this ruling, national administrative authorities continue to reject the applicants' request for registration. On 24 June 2003, representatives of the association applied for the registration of their new association called "Home of Macedonian Culture", in accordance with the provisions set under Article 79 of the Civil Code. On 13 December 2003, the Florina Court of First Instance rejected the application and after various appeals, including in cassation, the case was brought to the attention of the Greek Supreme Court. On 30 September 2009, the Supreme Court rejected the request lodged by the association's representatives. A new appeal is currently pending before the European Court of Human Rights.

- *Cases of Department of Evros Minority Youth Association, Cultural Association of Turkish Women of the Region of Rodopi and of Turkish Association of Xanthi*

On 15 December 1995, representatives of the Department of Evros Minority Youth Association attempted in vain to register as an association. The association's objectives aimed at protecting and promoting traditions and customs of its members. On 21 March 1996, the application was rejected on the grounds that its title may imply the existence of a non-recognized ethnic minority as opposed to the recognized religious minority. The Association filed a complaint before domestic courts, and then turned the case before the European Court of Human Rights. On 11 October 2007, the European Court ruled in the case of Bekir-Ousta and others against Greece that Article 11 of the European Convention on Human Rights had been violated. It ruled that "even supposing that the real aim of the applicant association had been to promote the idea that there was an ethnic minority in Greece, this could not be said to constitute a threat to democratic society, nothing in the statute to indicate that its members advocated the use of violence or of undemocratic or unconstitutional means" (paragraph 44).

Six months later, the European Convention Court on Human Rights concluded to the violation of Article 11 of the European Convention on Human Rights in two other cases:

On 5 April 2001, a group of women attempted in vain to register the “Cultural Association of Turkish Women of the Region of Rodopi” as an association. According to its statute, the objectives of the association were to create a meeting place for women of the county of Rodopi and to work for social, moral and spiritual exaltation and establish bonds of sisterhood between its members and the development of cultural heritage through the revivification of local traditions in cooperation with local institutions. The application was reportedly rejected on 6 June 2001 and the applicants lodged a complaint before domestic courts, and later before the European Court on Human Rights. On 27 March 2008, the European Court of Human Rights ruled in the case of Emin and others against Greece, that the right to the freedom of association had been violated and it explained that “even supposing that the real aim of the applicant association had been to promote the idea that there was an ethnic minority in Greece, this could not be said to constitute a threat to democratic society, nothing in the statute to indicate that its members advocated the use of violence or of undemocratic or unconstitutional means” (para. 30).

On the same day, 27 March 2008, the European Court of Human Rights examined the case of the association Turkish Association of Xanthi, which had been founded in 1927, with the aims to preserve and promote the culture of the “Turks of Western Thrace” and to create bonds of friendship and solidarity amongst them. The association was dissolved by the authorities in 1986 on the ground that its statute ran counter to public policy. After years of procedure, the European Court ruled in the case of Tourkiki Enosi Xanthis and others against Greece that the right to freedom of association of the organization had been violated on the same grounds as those found in the aforementioned cases.

Following the European Court’s judgments, the different applicants lodged a request for the revocation of the previous decisions refusing registration of their association (cases Bekir-Ousta and others and Emin and others) and the revocation of the previous decision for dissolution (case Tourkiki Enosi Xanthis and others) before national courts. All the relevant applications, in which the revocation of the domestic courts’ decisions delivered prior to the judgments of the European Court had been requested, were rejected at the second level of jurisdiction. The rejection was based on procedural obstacles which have allegedly prevented the courts from examining the applications on the merits. Appeals in cassation have been lodged in the cases of Bekir-Ousta and Tourkiki Enosi Xanthis.

In the Bekir-Ousta case, the applicants who had lodged an appeal in cassation have to date not sought the scheduling of a hearing date.

In the Emin and Others case, the applicants have not lodged an appeal in cassation against judgment No. 562/2010 of the Court of Appeal of Thrace, which dismissed the application for revocation of the previous decision refusing the registration of their association.

By judgment No. 353/2012 the Court of Cassation, made public on 24 February 2012, dismissed the appeal lodged by the association Tourkiki Enosi Xanthis against the decision of the Court of Appeal of Thrace on procedural grounds.

The concerned associations and their representatives continue therefore to be prevented from exercising their legitimate right to freedom of association.

- *Cases of “South Evros Cultural and Educational Association of Western Thrace Minority” and “Cultural Association of Turkish Women of the Xanthi Region*

Moreover, two associations “South Evros Cultural and Educational Association of Western Thrace Minority” and “Cultural Association of Turkish Women of the Xanthi Region” tried to register in 2009, but their applications were refused, on 28 March 2009 by the Court of First Instance of Alexandroupoli and on 17 February 2011 by the Court of First Instance of Xanthi, respectively.

In the first case, this refusal was confirmed by the Court of Appeal of Thrace. The “South Evros Cultural and Educational Association of Western Thrace Minority” appealed the decision in cassation. With judgment No. 24/2012 of the Court of Cassation, made public on 13 January 2012, the Court of Cassation, applying the case-law of the European Court of Human Rights, overturned the said judgment of the Court of Appeal of Thrace on the ground of a violation of provisions of the Greek Constitution and of the ECHR and has referred the case back to the same court to rehear the case in a different composition.

After the judgment of the Court of Cassation no. 24/2012 concerning South Evros Cultural and Educational Association of Western Thrace Minority, a petition for reconsideration was lodged before the Thrace Appeals Court on 19 April 2012. The hearing date was reportedly scheduled a long time after the appeal has been lodged, in early December 2012 only, which would further unduly restrict the applicants’ right to freedom of association.

On the case of the Cultural Association of Turkish Women of the Xanthi Region, an appeal was lodged on 19 April 2012 against the above decision of the Court of First Instance of Xanthi and the case is currently pending.

Serious concerns are expressed that the repeated refusals to revoke the decisions related to the aforementioned groups are related to their work in defense of the rights and freedoms of minorities, including by expressing dissenting views and exercising the right to associate freely. Further concerns are expressed that the refusal to grant registration to the aforementioned groups may deter other civil society activists, particularly human rights defenders, from exercising their right to freedom of association.

While we do not wish to prejudge the accuracy of these allegations, we would like to recall the right to freedom of association, as recognized in article 22 of the International Covenant on Civil and Political Rights (ICCPR), which provides that

“Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

In this connection, we would like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

We would also like to make reference to the concluding observations of the United Nations Human Rights Committee concerning Greece, dated on 25 April 2005, in which the Committee “note(d) with concern the apparent unwillingness of the Government to allow any private groups or associations to use associational names that include the appellation ‘Turk’ or ‘Macedonian’”(par. 20). We wish also like to make reference to the follow up report on Greece of Commissioner for Human Rights of the Council of Europe dated March 2006, in which the Commissioner expressed concerns about the fact that “it is not possible today in Greece for those who claim they are members of a minority to use any word they wish in the denominations by which they would like to identify themselves collectively, for instance when registering associations”. (CommDH(2006)13 / 29 March 2006 par. 44).

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration and in particular to article 5 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations.

The former Independent Expert on minority issues, Ms Gay McDougall, conducted an official visit to Greece in September 2008. Following her visit she

presented a report to the Human Rights Council (document A/HRC/10/11/Add.3) at its 10th Session. In her conclusions and recommendations to the Government of Greece, the former Independent Expert stated that (para. 90) "The government should retreat from the dispute over whether there is a Macedonian minority or a Turkish minority and place its full focus on protecting the rights to self-identification, freedom of expression and freedom of association of those communities. The Greek government should comply with the judgments of the European Court on Human Rights that associations should be allowed to use the words Macedonian or Turkish in their names and to freely express their ethnic identities. Those associations denied in the past must be given official registration promptly. Their further rights to minority protections must be respected as elaborated in the Declaration on Minorities and the core international human rights treaties."

We wish to draw the attention of your Excellency's Government to international standards relevant to the protection and promotion of the rights of minorities. The 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities provides in Art. 1.1 that "States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity." Art 2 (1) states that "[p]ersons belonging to national or ethnic, religious and linguistic minorities have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination." Art 2 (4) states that "Persons belonging to minorities have the right to establish and maintain their own associations". Art. 2 (5) establishes that "Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties." In addition, article 4.1 establishes that: "States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law." Article 4.2. requires that "States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs."

Moreover, as it is our responsibility under the mandates provided to us by the Human Rights Council to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Are the facts alleged in the above summary of the cases accurate?
2. Please provide information concerning the legal grounds for the refusal to revoke the decisions taken by domestic courts in relation to Bekir-Ousta, Emin and Tourkiki Enosi Xanthis and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

3. Please provide information concerning the legal grounds for the refusal to grant registration status to Home of Macedonian Culture, South Evros Cultural and Educational Association of Western Thrace Minority and Cultural Association of Turkish Women of the Xanthi Regio and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

4. Please indicate what measures have been taken to ensure that the legitimate right to associate freely by everyone without discrimination is respected.

5. Please kindly indicate what measures have been taken to ensure that human rights defenders and activists are able to carry out their legitimate activities in an enabling environment without facing unnecessary restrictions.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

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