

**SECRETARIAT GENERAL**

SECRETARIAT OF THE COMMITTEE OF MINISTERS  
SECRETARIAT DU COMITE DES MINISTRES



Contact: Abel Campos  
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Date: 27/11/2013

**DH-DD(2013)1288**

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1186 meeting (3-5 December 2013) (DH)

Item reference: Communication from the applicants' representative  
(26/11/2013) in the Bekir-Ousta and others group of cases  
against Greece (Application No. 35151/05)

Information made available under Rule 9.1 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1186 réunion (3-5 décembre 2013) (DH)

Référence du point : Communication du représentant des requérants  
(26/11/2013) dans le groupe d'affaires Bekir-Ousta et  
autres contre Grèce (Requête n° 35151/05)  
**(anglais uniquement)**

Informations mises à disposition en vertu de la Règle 9.1 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

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Ms Geneviève Mayer  
Head of Department for the Execution of  
Judgments of the ECtHR  
Council of Europe  
Avenue de l'Europe  
F-67075 Strasbourg Cedex  
France



Xanthi, 26 November 2013

Cases No: 26698/05, 35151/05 and 34144/05

Dear Ms Mayer,

Prior to the 1186th DH meeting of the Committee of Ministers, whereby the consideration of the abovementioned judgments of the European Court of Human Rights would resume, in my capacity as the Attorney-at-Law for all three associations, I would like to submit information as regards the current situation of the domestic proceedings and the difficulties faced by Western Thrace Muslim Turkish Minority.

Through my letter dated 3 June 2013 I had brought to your attention that the hearing of "South Evros Cultural and Educational Association of the Western Thrace Minority" had taken place at the Thrace Appeals Court on 24 May 2013.

Right after that hearing, Thrace Three-Judge Appeals Court, with its judgment No: 210/2013, by complying with the judgment of the Court of Cassation (dated 13 January 2012), decided in favor of the recognition of the "South Evros Cultural and Educational Association of the Western Thrace Minority" and ordered its registration at the Associations Registry held at the Alexandroupolis Court of First Instance.

I would like to state clearly that this judgment raised our optimism for having similar positive results for other Minority associations that have their own ongoing legal processes.

However, as I mentioned in my referred letter, ensuing judgments regarding other cases (35151/05 -Bekir Ousta and others and 34144/05 -Emin and others) following the hearings held on 22 March 2013 at the Court of Cassation, dispersed both our satisfaction and optimism about removal of obstacles in the field of freedom of association.

Namely; with the Judgment No: 1003/2013 dated 24 May 2013, the Court of Cassation rejected our appeal by finding the Thrace Appeals Court's reasons for refusal justified about the petition of "Cultural Association of Turkish Women of Rodopi" (34144/05-Emin and others). Court of Cassation briefly stated that within non-contentious procedure (a.k.a. "voluntary jurisdiction") revocation or modification of judgments under Article 758 of the Code on Civil Procedures is only possible for the judgments for accepting the petition, however, if the first petition is rejected, it is

not possible to make an application under the Article 758. Besides, the Court of Cassation also emphasized that the judgment of the European Court of Human Right (ECtHR) dated 27 March 2008 which determined that "Greece had violated the petitioners' freedom of association with judgment No 146/2001" neither directly effects national law nor necessitates abolition.

Furthermore, with the Judgment No: 1471/2013 dated 05 July 2013, the Court of Cassation rejected our appeal by finding the Thrace Appeals Court's reasons justified for the refusal of the petition of Evros Minority Youth Association (35151/05-Bekir Ousta and others).

Thus, as in the case of Xanthi Turkish Union (26698/05), both above-mentioned associations have exhausted local remedies for the second time.

Greek officials have been asserting that they "strive for the solution of the problem." While acknowledging the failed legislative attempt in March 2013 for adopting an amendment to the Code on Civil Procedures (enabling the re-hearing of files concerning law cases resulted against Greece at the ECtHR), I would like to highlight that legislation in effect had provided the means for enabling the re-opening of civil proceedings upon an ECtHR judgment. In particular, in accordance with the Article 758 of the Greek Code on Civil Procedures, which enables in light of "new facts or a change in the conditions," all judgments taken at the domestic level under non-contentious procedure could be abolished or modified. Yet Greek courts rejected the claim that Article 758 of the Code on Civil Procedures enables the assessment of the ECtHR judgments as "new facts or change in the conditions", which should lead to reconsideration of the domestic court judgments.

In the void of any additional venue to explore at domestic level at present, I would like to underline once again that "reiterated commitment" of the Hellenic authorities (as recalled at the decision taken at the 1172nd DH meeting) contradicts with the fact that no concrete measures have been taken to date. Moreover, no indicative time table on measures that are currently explored has been submitted, despite the decision taken by the Committee of Ministers at the 1172nd DH meeting .

Hence, even though the judicial struggle of the "Western Thrace Minority South Evros Educational and Cultural Association" resulted positively, above-mentioned judgments of the Court of Cassation regarding the cases of the "Cultural Association of Turkish Women of Rodopi" and the "Evros Minority Youth Association" demonstrated that the obstacles against full enjoyment of the freedom of association have not disappeared in Greece. During the five years the ECtHR judgments in the "Bekir Ousta group of cases" have been on the agenda of the Committee of Ministers, we have been trying to achieve these judgments to have an effect under domestic law. Yet, as stated, all three associations, about which ECtHR issued a judgment, have exhausted local remedies for the second time, with no future prospect of revoking domestic decisions refusing registration and ordering dissolution.

In light of the above, I would kindly ask you to keep the above-mentioned cases in your agenda; taking into consideration the constant violation of freedom of association in Greece, transmit our calls to the Committee of Ministers to deepen its



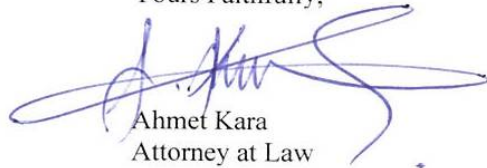
DH-DD(2013)1288 : Applicants' representative in Bekir-Ousta group against Greece.

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supervision of the execution of the relevant ECtHR judgments and to consider adopting an interim resolution as regards the Bekir Ousta group.

I also have the honour to express that I will keep on informing you on any possible development regarding these cases.

Yours Faithfully,

A handwritten signature in blue ink, appearing to read 'Ahmet Kara', with a large, stylized flourish extending to the right.

Ahmet Kara  
Attorney at Law