

Contact: Simon Palmer  
Tel: 03.88.41.26.12

Date: 05/06/2012

## **DH - DD(2012)554\***

*Item reference: 1144th meeting DH (June 2012)*

Communication from the chairman of the applicant association in the case of Tourkiki Enosi Xanthis and others against Greece (Application No. 26698/05).

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.

\* \* \*

*Référence du point : 1144e réunion DH (juin 2012)*

Communication du président de l'association requérante dans l'affaire Tourkiki Enosi Xanthis et autres contre Grèce (Requête n° 26698/05).

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.

---

\* In the application of Article 21.b of the rules of procedure of the Committee of Ministers, it is understood that distribution of documents 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 (CM/Del/Dec(2001)772/1.4). / Dans le cadre de l'application de l'article 21.b du Règlement intérieur du Comité des Ministres, il est entendu que la distribution de documents à la demande d'un représentant se fait sous la seule responsabilité dudit représentant, sans préjuger de la position juridique ou politique du Comité des Ministres CM/Del/Dec(2001)772/1.4).

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, 4 June 2012

Case No: 26698/05  
Tourkiki Enosi Xanthis and Others vs. Greece

Dear Ms Mayer,

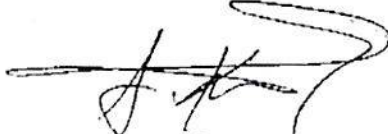
First of all, I would like to thank you replying for our letter that I had sent to you on 14<sup>th</sup> May, 2012. I received your letter on the 1<sup>st</sup> of June, 2012. Unfortunately, I would like to inform you that I did not receive the letter that you had sent, which dated back to 21 October 2011. Therefore, I could not have sent any response to you about the payment of the amount awarded for the just satisfaction of the Xanthi Turkish Union.

As for the letter sent by the competent fiscal service of the Ministry of Finance, I hereby confirm that we received it. However, the letter indicates that the Greek authorities have continued rejecting the Full legal personality of the Xanthi Turkish Union, as we had previously underlined in our letter dating back to 14 May 2012.

Furthermore, rather than being awarded the pecuniary damage which amounts to 8.000 Euro I would like to bring your attention that I, in my capacity as the chairman of the applicant Association and the Executive Committee of the Association also demand from the Greek state accept the Full legal personality of the Xanthi Turkish Union, as it had been the case before the beginning of its liquidation process.

Finally, I hereby attach our previous letter to you dated 14 May 2012 and the letter no 2542/23/3/2011 of the competent fiscal service of the Ministry of Finance for ease of reference.

Sincerely,



Ahmet Kara  
Attorney at Law

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, 14 May 2012

Case No: 26698/05  
Tourkiki Enosi Xanthis and Others vs. Greece

Dear Ms Mayer,

With reference to the European Court of Human Rights judgments concerning the Turkish minority associations that are not allowed to function legally in Greece, which remain on the agenda of the Committee of Ministers for several years, I would like to bring the recent information to your kind consideration.

Following the hearing held on 7 October 2011 in the appeals case brought by the Xanthi Turkish Union against the decision of the Thrace Appeals Court, the Greek Court of Cassation rejected the appeals petition of the Association. In its judgment released on 24 February 2012 and notified on 20 March 2012, which you may find attached along with the unofficial English translation, the Court of Cassation rejected the appeals on the ground that the judgments of the ECtHR are not binding for the national courts.

As it would be recalled, in the Xanthi Turkish Union's application (No. 26698/05), the European Court of Human Rights ruled on 27 March 2008 that Greece violated Articles 6 and 11 of the European Convention on Human Rights. On the basis of the ECtHR ruling, the Association made two separate applications before the national courts: The first application was brought before the Xanthi First Instance Court for the repeal of its decision no. 36/1986, which led to the dissolution of the association, and the second was lodged before the Thrace Appeals Court for the repeal of its decision no. 31/2002, which was the main reference of the ECtHR judgment as it was a reasoned decision upholding the dissolution of the association. Both applications sought the implementation of the ECtHR judgment through Article 758 of the Greek Code on Civil Procedures providing for the revocation of the cases where new circumstances arise. However, the national courts rejected this request at every instance and the Court of Cassation's dismissal following the rejection of the Thrace Appeals Court in the second application drew the final line in respect of the national remedies.



The cases regarding the freedom of association of the Western Thrace Turkish Minority were lastly on the agenda of the 1128<sup>th</sup> DH meeting of the Committee of Ministers held in December 2011. At the end of the meeting, the Deputies noted the recent hearing took place on 7 October 2011 in the case of Xanthi Turkish Union, and recalling that “the recent case-law of the Court of Cassation could lead to an examination on the merits of the applicants’ request”, expressed their hope in the development of the proceedings before the Court of Cassation. Indeed, the Court of Cassation has recently quashed a judgment of the Thrace Appeals Court denying registration of another Turkish minority association, namely “South Evros Cultural Association of the Western Thrace Minority” (The case of Bekir Moustafa Oglou and others, judgment no. 24/2012). However, the last judgment delivered by the same court in the case of Xanthi Turkish Union let the expectations down which arose after the cited quashing judgment.

Against this background, I regretfully state that the Court of Cassation’s judgment in Xanthi Turkish Union case is the latest implication of the Greek authorities’ negative intentions concerning the Western Thrace Turkish Minority associations. While in September 2011, the Ministry of Justice, Transparency and Human Rights responded a parliamentary question with regard to the implementation of the ECtHR judgment that the outcome of the proceedings pending before the Court of Cassation should be awaited, the authorities’ insistent rejections continue against the applications concerning the registration of minority associations in their original titles. This fact is evident not only in the case of Xanthi Turkish Union, but also in the denial of the registration of other associations: The petitions submitted by the “Evros Minority Youth Association” and the “Cultural Association of the Turkish Women of the Rodopi Province”, which are as well on the agenda of the Committee of Ministers with the relevant ECtHR judgments, were rejected on the same grounds, namely with the reason that Article 758 of the Greek Code on Civil Procedures could not be applied in these cases. After the judgments of the ECtHR regarding the cases of Emin and others v. Greece (No. 34144/05) and Bekir Ousta and others v. Greece (No. 35151/05), the above-cited associations applied to the Thrace Appeals Court, however their appeals were also dismissed. Both cases are currently before the Court of Cassation, waiting for the hearing dates to be announced. Apart from these associations, in respect of which there exist ECtHR judgments, the “Cultural Association of the Turkish Women of the Region of Xanthi” was rejected registration by the Xanthi First Instance Court on 17 February 2011. The decision of the First Instance Court (No. 59/2011) is challenged before the Thrace Appeals Court, which shall hold a hearing on 7 December 2012.

As observed from all the above examples, 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 seem to have any intention to make legal arrangements for the implementation of the ECtHR judgments. Indeed, in the judgments about the Turkish minority associations, the Greek courts reject 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 the reconsideration of the domestic court judgments. At this point, the national courts refer to Law No. 2865/2000

which amended Articles 525 of the Code on Criminal Procedures inserting that ECtHR judgments shall lead to the re-opening of the criminal proceedings, and as a conclusion, they underline the fact that no such provision exists in the Code on Civil Procedures. 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 Xanthi Turkish Union, 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.

In the light of the foregoing, 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.

Yours sincerely,

Ahmet Kara  
Attorney at Law



**SECRETARIAT GENERAL**

**DIRECTORATE GENERAL OF HUMAN RIGHTS  
AND LEGAL AFFAIRS**

**DIRECTORATE OF MONITORING**

**DEPARTMENT FOR THE EXECUTION OF JUDGMENTS  
OF THE EUROPEAN COURT OF HUMAN RIGHTS**

*THE HEAD OF DEPARTMENT*



Please quote: DG-HL/GM/IKM/nn

Mr Ahmet Kara  
Eleftheriou Venizelou 102  
GR-67100 Xanthi  
Greece

Strasbourg, 23 May 2012

**Re: Case of Tourkiki Enosi Xanthis and Others v. Greece (application no. 26698/05) – Judgment of 27/03/2008, final on 29/09/2008; Case of Emin and Others v. Greece (application no. 34144/05) – Judgment of 27/03/2008, final on 01/12/2008; Case Bekir-Ousta v. Greece (application no 35151/05) – Judgment of 11/10/2007 - Final on 11/01/08**

Dear Mr Kara,

Thank you for your letter dated 14/05/2012, concerning the execution of the judgments in the above-mentioned cases.

I would like to inform you that the submission of information to the Committee of Ministers of the Council of Europe with respect to the supervision of execution of judgments of the European Court of Human Rights (article 46 of the European Convention on Human Rights) should be in conformity with Rule 9 of the Committee of Ministers' Rules for the supervision of the execution of judgments and of the terms of friendly settlements which reads as follows:

" 1. The Committee of Ministers shall consider any communication from the injured party with regard to payment of the just satisfaction or the taking of individual measures.

2. The Committee of Ministers shall be entitled to consider any communication from non-governmental organisations, as well as national institutions for the promotion and protection of human rights, with regard to the execution of judgments under Article 46, paragraph 2, of the Convention.

3. The Secretariat shall bring, in an appropriate way, any communication received in reference to paragraph 1 of this Rule, to the attention of the Committee of Ministers. It shall do so in respect of any communication received in reference to paragraph 2 of this Rule, together with any observations of the delegation(s) concerned provided that the latter are transmitted to the Secretariat within five working days of having been notified of such communication. "

Council of Europe  
F-67075 Strasbourg Cedex

Tel.: +33 (0)3 90 21 55 54

Fax: +33 (0)3 88 41 27 93

E-mail: [genevieve.mayer@coe.int](mailto:genevieve.mayer@coe.int)  
[www.coe.int](http://www.coe.int)  
[www.coe.int/execution](http://www.coe.int/execution)

In order to allow the Department for Execution to process rapidly the information that you conveyed in accordance with the abovementioned Rules, you are kindly invited to indicate to us under which capacity you submitted this information.

I seize this opportunity to recall my letter dated 21/10/2011 addressed to the lawyer of the association Tourkiki Enosi Xanthis, Mr Orhan Hacıibram (who according to the information given by you on 8/4/2011 has retired) and to you regarding the issue of the just satisfaction in this case. You will find it again attached for ease of reference.

Yours sincerely,



Geneviève Mayer

Enc.: copy of the letter of 21 October 2011