



COMMISSIONER FOR HUMAN RIGHTS  
COMMISSAIRE AUX DROITS DE L'HOMME



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**Mr. Haris KASTANIDIS**

Minister of Justice, Transparency and Human Rights of Greece

Strasbourg, 8 March 2010

Dear Minister,

Further to our meeting in Athens on 9 February 2010, I should like to take this opportunity to follow up on our dialogue concerning the protection of the human rights of minorities and asylum seekers.

With regard to the first issue, I would like to draw your attention to the relevant major judgments of the European Court of Human Rights (the Court) concerning particularly the right to freedom of association in Greece (cf. *Bekir-Ousta and others*; *Emin and others*; *Tourkiki Enosi Xanthis and others*), whose execution is currently supervised by the Council of Europe Committee of Ministers. As you know, in the above cases the Court has found that by refusing registration to or ordering the dissolution of the associations concerned, Greece was in violation of Article 11 of the European Convention on Human Rights (the Convention). To date, none of these associations has reportedly been able to secure registration or the revocation of the judicial decisions to dissolve them. Furthermore, I have been informed that other minority associations have recently tried to secure registration and were refused on grounds essentially identical to those on the basis of which the Court had found violations of the right to freedom of association as mentioned above. I would very much welcome your thoughts on these issues and information on possible action envisaged to ensure the full and effective implementation of the Court's judgments.

I would also like to seize this opportunity to recommend the ratification by Greece of the Framework Convention for the Protection of National Minorities, which Greece signed in 1999. As you know, the Convention is a flexible instrument which enables ratification by Council of Europe member states with differing approaches to minorities and the protection of minority rights. I raised this issue at a meeting I had with Prime Minister Papandreou in Strasbourg on 26 January 2010 and I believe that his positive reply indicates that the issue of ratification of this important Convention can now be examined further.

As regards the protection of the human rights of asylum seekers, I would like to follow up on a particular aspect raised during our meeting in Athens, namely the position of unaccompanied or separated migrant children, including those seeking asylum.

I have received reports highlighting certain serious legal and administrative shortcomings, which often result in the non-respect of the principle of the best interest of the child. In particular, I would like to draw your attention to the issue of migrant children's guardianship.

I understand that according to Greek law, the Public Prosecutor for juveniles acts in general as temporary guardian for unaccompanied or separated asylum seeking children. However, the current number of prosecutors is reported to be seriously inadequate to meet the needs, with in some cases thousands of children being wards of one single prosecutor. Furthermore, it is reported that there are long delays in the appointment of guardians and that in many cases children do not meet their guardian in practice.

Information contained in the UNHCR's observations published last December<sup>1</sup> indicate that temporary guardians do not ensure the child's enrolment in schools, do not generally intervene in the child's asylum procedure or follow up on the his/her socio-economic situation, nor do they as a rule object to detention even though this practice conflicts with the child's best interest. I have also been informed that although temporary guardians may propose the appointment of a permanent guardian through the court, this does not occur in practice, partly because the social services responsible for appointing permanent guardians have not yet been established.

I believe that there is an urgent need to look into these matters, probably in collaboration with the Ministry of Health and Social Solidarity, in order to ensure that domestic practice is in full compliance with the Council of Europe human rights standards and those enshrined notably in the UN Convention on the Rights of the Child.

Looking forward to receiving your reply and continuing our constructive dialogue on the above questions, I remain,

Yours sincerely,

Thomas Hammarberg

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<sup>1</sup> UNHCR, *Observations on Greece as a country of asylum*, December 2009, pp. 13-14.