

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
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COMMITTEE
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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: 1302nd meeting (December 2017) (DH)

Communication from a NGO (Greek Helsinki Monitor) (18/09/2017) in the cases of BEKIR-OUSTA AND OTHERS and HOUSE OF MACEDONIAN CIVILIZATION AND OTHERS v. Greece (Applications No. 35151/05, 1295/10).

Information made available under Rule 9.2 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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Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1302^e réunion (décembre 2017) (DH)

Communication d'une ONG (Greek Helsinki Monitor) (18/09/2017) dans les affaires BEKIR-OUSTA ET AUTRES et HOUSE OF MACEDONIAN CIVILIZATION ET AUTRES c. Grèce (Requêtes n° 35151/05, 1295/10) [anglais uniquement]

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



DGI

18 SEP. 2017

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

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16 September 2017

***Bekir-Ousta and others group of cases against Greece (Application No. 35151/05) and
House of Macedonian Civilisation and others against Greece (Application No. 1295/10)***

Mr President

Under Rules 9(1) and 9(2) of the Rules of the Committee of Ministers for the supervision of the execution of judgments we submit the attached memo on the execution of *Bekir-Ousta and others group of cases against Greece (Application No. 35151/05)* and of *House of Macedonian Civilisation and others against Greece (Application No. 1295/10)* and request that the memo is also uploaded at your special website for the 1294th meeting (19-21 September 2017) (DH).

Yours faithfully

Panayote Dimitras
Executive Director
Greek Helsinki Monitor



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Communication on the execution of

*Bekir-Ousta and others group of cases against Greece (Application No. 35151/05) and of
House of Macedonian Civilization and others against Greece (Application No. 1295/10)*

16 September 2017

In its 4 September 2017 reply to GHM's 28 August 2017 communication ([http://hudoc.exec.coe.int/ENG?i=DH-DD\(2017\)940E](http://hudoc.exec.coe.int/ENG?i=DH-DD(2017)940E)), **Greece** did not address any of the points stated by GHM but reiterated the slander that GHM's comments are "false and misleading" and added that "*the Greek Courts, including the Supreme Court, have harmonized their jurisprudence with the case-law of the European Court*" even though GHM had documented that the **Cultural Association of Turkish Women in the Prefecture of Xanthi** was refused registration by the Greek Courts in 2011 and, on appeal, in 2014. GHM attaches here the related **Single-Judge Appeals Court of Thrace Judgment 89/2014** (in Greek). The **Supreme Court** judgment on the appeal of cassation by that association, heard on 13 January 2017, has yet to be published: if it overturns the Appeals Court judgment for non-compliance with the ECtHR's case-law it would indeed be the first time that domestic courts would have decided to comply; if not, then it will mean that there is no chance that Greek courts will ever comply with the ECtHR's case-law.

It is in that context that the **Committee of Ministers** (CM) should evaluate the related developments **Greece** reported on 11 September and on 13 September 2017 (respectively at https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680744d82 and https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016807454c0). An amendment to Article 758 of the **Code on Civil Procedure** allowing the review or revocation of judgments found by the ECtHR to be in violation of the ECHR was tabled to **Parliament** and is to be debated and voted upon in session(s) concurrent with the CM 1294th meeting, starting on 19 September 2017. The amendment does not have the support of the junior coalition partner **Independent Greeks (ANEL)** who stated on 15 September 2017 that they will vote against it (<https://inkomotini.gr/όγιι-των-ανελ-στην-τροπολογία-αναγνώρ/>). Assuming that all senior coalition partner **SYRIZA** MPs will vote in favor of the amendment, it will still require the support of at least one opposition party to be approved by **Parliament**.

In the event of a positive vote, moreover, such an amendment will simply allow the minority associations to seek the review of the past judgments. If the **Supreme Court** upholds the **Single-Judge Appeals Court of Thrace Judgment 89/2014** it is expected that with similar judgments all applications for review will be rejected, because domestic courts will again rule that ECtHR cannot have a direct effect on domestic case-law.

There are therefore two crucial decisions in the next few days, weeks or months that the CM should ask Greece to report on. The result of the vote on the amendment to allow the review and revocation of domestic judgments and the Supreme Court judgment on the Cultural Association of Turkish Women in the Prefecture of Xanthi.

Finally, **GHM** would like to provide the **CM** with information on the one association that has the word “Turkish” in its title which **Greece** keeps invoking as proof of compliance of domestic courts with the **ECtHR** judgments. In its 3 March 2017 communication to the **CM**, **Greece** stated inter alia: “*The existence of at least one minority association ('Sport and Cultural Association Solidarity-Development of Greek Muslims with Turkish as a mother tongue in the municipality of Alexandroupoli') which uses the adjective 'Turkish' in its title demonstrates the alignment of the Greek authorities to the ECtHR case law.*” ([http://hudoc.exec.coe.int/ENG?i=DH-DD\(2017\)238-revE](http://hudoc.exec.coe.int/ENG?i=DH-DD(2017)238-revE)). **GHM** represents this association in several complaints filed for racist attacks against it and therefore knows very well its history including its struggle for recognition by domestic courts. First, the correct title is «Αθλητικό, πολιτιστικό σωματείο “Αλληλεγγύη – Ανάπτυξη” Ελλήνων πολιτών, Μουσουλμάνων στο Θρήσκευμα, με μητρική γλώσσα τα τουρκικά, στο δήμο Αλεξανδρούπολης» (<http://booksjournal.gr/blog/item/2261-turkish-swamateio>) which in English is translated as “Sport, Cultural Association ‘Solidarity-Development’ of Greek citizens, Muslims in religion, with Turkish as a mother tongue, in the municipality of Alexandroupoli” – therefore not “Greek Muslims” as **Greece** would like the **CM** to believe and which usually indicates a Greek ethnicity and a Muslim religion, but “Greek citizens, Muslims in religion” which does not describe their ethnic identity but only their citizenship and their religion, and then their mother tongue. It took a whole year for that association to win the approval of the local court, as the use of the term “Turkish” was creating problems, and certainly the members’ intention to use it in an ethnic meaning as “Turks” or even “of Turkish origin” was rejected. In a public meeting on ethnic minorities and the compliance with **ECtHR** judgments organized by **GHM** in December 2016, the association’s president **Dagli Yasar**, when asked about that very long title, replied that “*that was the only way a court would approve an ethnic identity... it is in fact the only recognition of an association that the state is promoting as a means of compliance with the ECtHR judgments.*” (<http://www.lifo.gr/articles/opinions/125132>). On the other hand, in a March 2017 interview, he stated that “*We are not Roma! They have assigned us that identity and the assistance programs come with a reference to that identity. This is why through our association we mention our origin. We would have preferred the programs to be addressed to 'Poor People of Alexandroupoli': if a name has to be assigned to us, let it be the correct one.*” (<http://www.e-evros.gr/gr/eidhseis/3/abantos-mia-entelws-diaforetikh-opsh-ths-ale3andropolhs-fwto/post31988>). The members of that association, all residents of the **Avantos** neighborhood of **Alexandroupoli**, refuse to be called Roma, which not only does not reflect their identity but is also often associated with the stigmatization that such an identity carries with it. The **Greek Government**’s development projects call them Roma (http://www.pedamth.gr/cms/files/ArticleID/174/EpixSxedio_ROMA.pdf-page 75), and even the **Greek Ombudsman** does not respect their self-identification and calls them Roma after he visited them (! - <https://www.synigoros.gr/map-plain?id=6022>). It is the association of those Greek citizens on whom Greek authorities impose domestically a Roma identity even though they consider themselves ethnic Turks, and whose association name they denied to reflect the ethnic Turkish identity accepting as compromise the reference to the members’ Turkish mother tongue (which anyway is taught at the local minority school they attend), that **Greece** invokes to the **CM** (and to **UN Treaty Bodies**), as a proof of adequate compliance with the **ECtHR** judgments...