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THE HUMAN RIGHTS OF THE TURKISH MINORITY IN WESTERN THRACE

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I will consider the application of the 1923 Treaty of Lausanne to the situation in which the Turkish Minority finds itself in Western Thrace in this article, and will refer also to other international legal provisions where appropriate, except the European Convention on Human Rights, which will be considered in a separate article.

The Article 1 of the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities provides that “States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their ... territories and shall encourage conditions for the promotion of that identity.”

Article 2 of the 1965 International Convention on Racial Discrimination , which Greece signed on 7 March, 1966, and ratified on 18 June 1970, provides that “States condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and ... each public institutions, ... shall at in conformity with this obligation.”

The 1975 Helsinki Final Act of the Organisation for Security & Cooperation in Europe declares that “The participating States on whose territory national minorities exist will respect the right of persons belonging to such minorities to equality before the law, will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere.” The human rights of the Turkish minority are also meant to be protected by provisions of the Greek constitution.

The principal international legal instrument which applies specifically to the Turkish Minority of Western Thrace in the Republic of Greece is the Treaty of Lausanne, signed on 24 July, 1923 among Turkey, Greece, Britain, France, Italy, Japan, Romania and the then Serb-Croat-Slovene State. It constitutes a comprehensive post war settlement between Turkey and the other parties to the Treaty.

Of particular relevance to the Turkish minority is Section III (Articles 37 to 45), which make detailed provision for the legal protection of their basic rights. Articles 37 to 44 are expressed as obligations undertaken by Turkey, but by article 45 Greece agreed that “the rights conferred by the provisions of the present Section on the non-Moslem minorities of Turkey will be similarly conferred by Greece on the Moslem minority in her territory.”

The fact that these obligations are not merely internal matters for Greece is confirmed by Article 44, which provides that “these provisions constitute obligations of international concern” and Article 37, whereby Greece undertook that “the stipulations contained in Articles 38 to 44 shall be recognised as

fundamental laws, and no law, no regulation, nor official action shall conflict or interfere with them, nor ... prevail over them.”

I will, by virtue of Article 45, quote the articles as if the words ‘Greece’ and ‘Turkey’ and the terms ‘Moslem’ and ‘non-Moslem’ were transposed.

GREEK CITIZENSHIP

Article 39 of the Treaty of Lausanne provides “(1) that Greek nationals belonging to Moslem minorities will enjoy the same civil and political rights as non-Moslems, and (2) that all the inhabitants of Greece, without distinction of religion, shall be equal before the law.”

Article 38(3) provides that “Moslem minorities will enjoy full freedom of movement and of emigration, subject to the measures applied, on the whole or on part of the territory, to all Greek nationals, and which may be taken by the Greek Government for national defence, or for the maintenance of public order.”

In addition to the Treaty of Lausanne, Article 12 of the International Covenant on Civil & Political Rights, to which Greece acceded in May 1998, provides that “no one shall be arbitrarily deprived of the right to enter his own country.”

Article 13 of the Universal Declaration of Human Rights provides that “everyone has the right to leave any country, including his own, and to return to his country.” Article 15 of the Universal Declaration of Human Rights provides that “everyone has the right to a nationality ... and that no one shall be arbitrarily deprived of his nationality.”

Article 19 of the 1955 Citizenship Law of Greece, which was repealed June 1998, constituted a serious violation of all of these provisions.

According to the 1997 Greek Helsinki Monitor report the Ministry of Internal Affairs could, after an arbitrary recommendation by the local administration and the police, revoke the citizenship of non-ethnic Greeks based on the argument that “the person had left the country with no intention of returning. No opportunity was given to those individuals to explain their side of the story, and appeals ... were very costly and rarely successful. In most cases the individuals were not even notified of their loss of citizenship.”

The report continues, “almost all Article 19 cases came from the Turkish minority in Thrace, and from the time this Article was passed more than 60,000 ethnic Turks have been stripped of their Greek citizenship.”

As Article 19 of the Citizenship Law applied only to Greek nationals of non-Hellenic origin, it was clearly based on racial discrimination. By contrast, according to the 1997 US State Department report on Greece, “immigrants who are ethnic Greeks are normally recognised as Greek citizens and accorded full rights, despite years or even generations of absence.”

Greece has not as yet signed the 1959 UN Convention on Statelessness, Article 9 of which provides that a Contracting State may not deprive any person or group of persons of their nationality on racial, ethnic, religious or political grounds. Article 8 of the Convention, provides that a Contracting State shall not deprive a person of his nationality if such deprivation would render him stateless. Many of

the persons who lost their citizenship under Article 19 had no other nationality and became stateless persons.

The cancellation of a person's citizenship, together with all his rights as a citizen, including his property rights and social security, is about the most serious invasion of human rights short of murder as it is possible to imagine. It is surprising that such a fundamental departure from the accepted norms of civilised behaviour should have lasted so long in Greece, a member of the European Union, which claims to be a democratic state governed by the rule of law.

For many years the Turks of Western Thrace and international human rights organisations have campaigned for the repeal of this legislation. They have now succeeded, but the repeal does not have retrospective effect. This means that there are still thousands of people who have been unjustly deprived of their citizenship. Not until the Greek government restores citizenship to those who want it, and pays compensation for the losses they have all suffered, can Greece be considered to have complied with its international obligations in this respect.

MOSLEM RELIGIOUS AFFAIRS

Article 39 of the Treaty of Lausanne provides that Greek nationals belonging to Moslem minorities will enjoy the same civil and political rights as non-Moslems.

Article 40 provides that "Greek nationals belonging to Moslem minorities shall enjoy the same treatment and security in law and in fact as other Greek nationals. In particular, they shall have an equal right to establish, manage and control at their own expense, any charitable, religious and social institutions."

The 1981 UN Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief provides by Article I that "everyone shall have the right to freedom of thought, conscience and religion." Article 6(g) provides that "the right to freedom of thought, conscience, religion or belief shall include... the ... freedom ... to elect ... appropriate leaders called for by the requirements and standards of any religion".

In Greece the affairs of the Greek Orthodox church are managed by Christians, but the Turkish Minority are not permitted to choose their own muftis, nor to manage the affairs of their religious foundations, the 'WAKF's. Until 1989 the muftis were elected, but now they are appointed by the Greek government. Similarly, the affairs of the 'WAKF's are governed by persons appointed by the Greek government. Greece is accordingly in breach of all the above provisions, and cannot excuse itself by claiming that the muftis have administrative as well as religious duties.

To make matters worse, if the Turkish minority asserts its right to choose its own muftis, Greece prosecutes the people they have chosen for "impersonating a clergyman" and two such persons, Mehmet Emin Aga, and Ibram Serif, have been sentenced to imprisonment by Greek courts. Amnesty international has decided to adopt Mehmet Emin Aga as a prisoner of conscience if he suffers imprisonment again.

Greece cannot be considered to have complied with its international obligations in this respect until it repeals all laws which prohibit the Turkish population from choosing their own religious leaders and managing the affairs of their own religious foundations. Moreover, proper compensation must be paid to all those who have been prosecuted under those laws, and all fines, costs, and lawyers fees

must be reimbursed.

Greece must also re-examine the effect of its taxation laws, the use of subsidies out of public funds, and the manner in which the public service operates, as there is evidence that they have a discriminatory effect on the religious institutions of the Turkish minority, and are accordingly in breach of the international obligations to which I have referred.

The 1997 US Department of State report on Greece contained the following observation: "A tax bill passed in February created three new taxes on churches and other non-profit organisations. ...The exemption of the Greek Orthodox church ... led many observers to conclude that the legislation was discriminatory. Leaders of some non-orthodox religious groups claimed that all the taxes were discriminatory, even those that the Greek Orthodox church had to pay, since the government subsidises the Orthodox church."

In addition the report noted that "privileges and legal prerogatives granted to the Greek Orthodox church are not routinely extended to other recognised religions."

EMPLOYMENT AND ADVANCEMENT IN THE PUBLIC SERVICE

Article 21 of the Universal Declaration of Human Rights provides that everyone has the right of equal access to public service in his country.

Article 39 of the Treaty of Lausanne provides that "differences of religion, creed or confession shall not prejudice any Greek national in matters relating to the enjoyment of civil or political rights, as, for instance, admission to public employments, functions and honours, or the exercise of professions and industries."

According to the 1997 US State Department report on Greece:

"The rate of employment of Moslems in the public sector and in state-owned industries and corporations is much lower than the Moslem percentage of the population. In Xanthi and Komotini ... there are no Moslems among the regular employees of the prefecture. Moslems in Thrace claim that they are hired only for lower level part-time work. The Government says that lack of fluency in written and spoken Greek and the need for university degrees for high-level positions limit the number of Moslems eligible for government jobs".

"In the military, generally only members of the Greek Orthodox faith become officers ... only two Moslems have advanced to the rank of reserve officer."

Insofar as members of the Turkish minority are discriminated against in their employment and career advancement because they are of Turkish ethnic origin or of the Moslem faith, Greece is in breach of all the above provisions. It should be noted that Article 37 of the Treaty of Lausanne expressly provides that "no law, no regulation, nor official action shall conflict or interfere with" (the rights granted by the Treaty). Discrimination need not therefore be as a result of any law. It is sufficient if it arises from the acts or omissions of officials.

In the field of official action it is particularly important that licenses required for driving tractors and other motor vehicles for establishing businesses, for constructing and altering buildings and the like

shall be granted on a non-discriminatory basis, and shall be seen to be so granted.

The Turkish minority is particularly dependent on agriculture for its livelihood, and it is of particular importance that no more land is taken from them by government agencies than can be strictly justified on the basis of need, and that until such land is actually required the former occupier should normally be permitted to use it. The Greek government must ensure by the strictest possible supervision that officials do not expropriate land for any purpose founded on racial discrimination.

So far as the infrastructure of Western Thrace is concerned, there is evidence that this is one of the least developed areas not only in Greece but in the whole of the European Union. This has a particularly harsh effect upon the Turkish minority, since they are concentrated in that area. Moreover, there is evidence that houses, schools and other buildings occupied by the Turkish minority are of a much lower standards than those occupied by ethnic Greeks. According to the US State Department Report “development of public services including electricity, telephones and paved roads in Moslem neighbourhoods and villages continues, in many cases, to lag far behind that of non-Moslem areas.”

It is incumbent upon the Greek government to demonstrate clearly that this is not due to any discriminatory policy, nor to any discriminatory application of policy, and that a fair and reasonable share of national and EU resources have been applied in Western Thrace for the equal benefit of all its citizens who live there. Insofar as this has not been the case in the past, measures must be taken without delay to redress the balance.

Article 2 of the 1958 UN Convention on Discrimination in respect of Employment and Occupation provides that “member states undertake to declare and pursue a national policy ... to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.” Greece has not as yet signed this Convention.

To the extent that the employment or career advancement of the Turkish minority is hindered by lack of educational qualifications, Greece is in breach of Article 39 of the Treaty of Lausanne if such lack of educational qualifications is due to any law, regulation, or official action, including failure to provide educational resources equal in quantity and quality to those provided Greek citizens.

EDUCATION OF THE TURKISH MINORITY

Article 26 of the Universal Declaration of Human Rights provides that “Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

Article 41 of the Treaty of Lausanne makes specific provision. It provides that “In towns and districts where there is a considerable proportion of Greek nationals belonging to Moslem minorities, these minorities shall be assured an equitable share in the enjoyment and application of the sums which may be provided out of public funds under the State, municipal or other budgets for educational, religious, or charitable purposes.”

There is evidence that Greece is in breach of both of these provisions. According to the US State Department report “Government disputes with Turkey over teachers and textbooks caused the

secular Turkish-language schools serious problems in obtaining (teachers) and teaching materials in sufficient number and quality. ... Many Moslems reportedly went to high school in Turkey due to the limited number of places in Turkish-language secondary schools, which are assigned by lottery.”

According to the International Helsinki Federation’s report of March 1998 “Neither Turkish literature and schoolbooks, nor newspapers published in Turkey are available in Western Thrace ... Educational standards are low and most lack qualified staff. Turkish teachers are frequently harassed and sued for calling their schools ‘Turkish’.”

By Article 3 of the 1960 UN Convention Against Discrimination in Education, States undertake: “(c) Not to allow any differences of treatment by public authorities between nationals, except on the basis of merit or need, in the matter of school fees and the grant of scholarships or other forms of assistance to pupils and necessary permits and facilities for the pursuit of studies in foreign countries;

(d) Not to allow, in any form of assistance granted by the public authorities to educational institutions, any restrictions or preference based solely on the ground that pupils belong to a particular group.”

By Article 4 States are bound “to ensure that the standards of education are equivalent in all public education institutions of the same level, and that the conditions relating to the quality of education provided are also equivalent.”

Article 2 of the 1966 International Covenant on Economic, Social and Cultural Rights provides that “secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and that ... higher education shall be made equally accessible to all, on the basis of capacity by every appropriate means.”

Greece has not as yet acceded to either of these UN multilateral treaties.

USE OF THE WORD “TURKISH”

The 1992 UN Declaration on the Rights of Minorities, by Article 2, and the 1993 Declaration of the World Conference on Human Rights, by Article 19, reaffirmed that “persons belonging to 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.”

Article 19 of the Universal Declaration of Human Rights provides that “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media. A similar right is guaranteed by Article 19 of the International Covenant on Civil and Political Rights.”

By Article 39 of the Treaty of Lausanne no restrictions shall be imposed on the free use by a Greek national of any language in private intercourse, in commerce, religion, in the press, or in publications of any kind or at public meetings.

According to the US State Department Report, the use of the term ‘Turk’ (Tourkos) in Greek is

prohibited in titles of organisations, and in June 1997 a group of teachers were prosecuted and sentenced to imprisonment for signing a union document headed “Turkish Teachers of Western Thrace”

The Greek Government takes the view that since Article 45 of the Treaty of Lausanne refers to the minority as Moslem, members of that minority are not entitled to refer to their organisations as Turkish. This argument is I think misconceived.

Article 45 defines by reference to their religion the class of persons in Greece to whom Section III of the Treaty applies, but it does not purport to restrict the freedom of those persons to refer to themselves and their organisations by whatever name they choose. The Greek minority in Turkey refer to themselves as Greek.

All laws in Greece permitting the prosecution of persons for using the word ‘Turk’ or ‘Turkish’ are contrary to international law, and must therefore be repealed.

CONCLUSION

The 1990 Paris Charter declares:

“We affirm that the ethnic, cultural, linguistic and religious identity of national minorities will be protected, and that persons belonging to national minorities have the right freely to express, preserve and develop that identity without any discrimination, and in full equality before the law.

We will ensure that everyone will enjoy recourse to effective remedies, national or international, against any violation of these rights.

Full respect for these precepts is the bedrock on which we will seek to construct the new Europe.”