

The Ignored Minorities in Greece: Western Thrace Turks and Macedonians

International Panel

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The standards of the Council of Europe and minorities in Greece

Boriss Cilevičs

Member of the Parliamentary Assembly of the Council of Europe

The Council of Europe has taken the lead in elaboration of legally binding instruments on minority protection. The Framework Convention for the Protection of National Minorities (FCNM) has become the first ever legally binding instrument on minority rights, while the Charter for Regional and Minority Languages (The Charter) – the first ever legal instrument to protect languages.

Formally, ratification of these instruments is within the discretion of the CoE member states. At the moment FCNM has been ratified by 39 member states, while the number of state parties to the Language Charter is twice less. Greece has unfortunately ratified neither of the two instruments.

The main question is the following: do those Council of Europe member states who are not parties to FCNM and the Charter also have some obligations in respect of minority protection? My answer is – yes, certainly! Both basic principles of the Council of Europe and a number of other CoE instruments establish the principles of equality and respect to diversity, while FCNM and the Charter rather clarify the content of these obligations.

Thus, Greece, despite refusal to ratify the abovementioned instruments, still has certain obligations with regard to minority rights under other Council of Europe obligations and commitments.

A number of obligations of the kind are predetermined by the European Convention on Human rights. Several judgments of the European Court of Human Rights (The Court) illustrate these obligations.

While formally recognition of existence of this or that minority is within the state's competence, Advisory Committee of FCNM in its several opinions recognized that a member state is entitled to determine the scope of application of FCNM. However, as the Advisory Committee stressed, this decision must not be arbitrary and can in no case be discriminatory.

Also the Parliamentary Assembly of the Council of Europe in its Recommendation 1623 (2003) stipulated that the states *do not have an unconditional right to decide which groups within their territories qualify as national minorities, and that any decision of the kind must respect the principle of non-discrimination.*

In fact, this approach is relevant far beyond the implementation of FCNM and can be traced back to the famous decision of the International Court of Justice taken in the 30s of the last century and asserting that the existence of minorities is a matter of fact and not of law.

Thus, several provisions of the European Convention on Human rights establish individual rights that imply, to a bigger or lesser degree, the right of an individual to freely determine his/her identity and to act in accordance with this identity. A state has limited opportunities to interfere with this choice, in particular, when enjoyment of the rights enshrined in the Convention is directly based on this choice.

The freedom of association (Art.11 of ECHR) is perhaps the most clear case. In the landmark Sidiropoulos case (1998) the Court found a violation of Art.11. In particular, the Court said: *“Even supposing that the founders of an association like the one in the instant case assert a minority consciousness, the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (Section IV) of 29 June 1990 and the Charter of Paris for a New Europe of 21 November 1990 – which Greece has signed – allow them to form associations to protect their cultural and spiritual heritage”*. Reference to the documents of the CSCE/OSCE in this judgment should be particularly singled out.

Ten years later, the problem is still there. A number of similar violations have been found by the court since the judgment on Sidiropoulos case had been delivered. In particular, the case of Bekir-Ousta (2007) should be mentioned. Several weeks ago the Court passed judgments in the cases of Emin and Others, as well as Tourkiki Enosi Xanthis and Others. Thus, one can conclude that effective general measures to prevent violations in future have not been taken by the Greek authorities so far.

The freedom of expression (Art.10) is also obviously relevant. This aspect has been considered, in particular, in the case of Ahmet Sadik (1996). Although the judgment dealt primarily with procedural aspects, this ruling offers some guidance also on the merits of the case.

The freedom of religion (Art.9) should be mentioned too. The judgments in the cases of Serif (2000) and Agga (2002) cases could be mentioned here.

Besides the basic obligations under European Convention of Human Rights, member

states of the Council of Europe have other important obligations, in particular, in the field of ensuring non-discrimination, combating racism and intolerance. Fulfilment of these obligations is monitored by the European Commission against Racism and Intolerance (ECRI). In its reports on Greece, ECRI recorded certain problems related to the refusal to recognize minorities.

Thus, in its Third report on Greece (2004) ECRI wrote that minority groups “*still encounter difficulties, the Macedonians and Turks for example. Even today, persons wishing to express their Macedonian, Turkish or other identity incur the hostility of the population. They are targets of prejudices and stereotypes, and sometimes face discrimination, especially in the labour market*”.

With regard to Sidiropoulos case, ECRI “*deplores the fact that, five years after the decision of the European Court of Human Rights, this association has still not been registered despite the repeated applications made by its members. ECRI notes that similar cases are currently before the Greek courts concerning registration of associations whose title includes the adjective "Turkish".*”.

With regard to the Muslim minority, ECRI concludes that “*much remains to be done if the situation of the Muslim minority in Western Thrace is to become wholly satisfactory*”.

Finally, often policy towards minorities is connected with social rights. The Council of Europe instruments, in particular, the Social Charter, impose certain obligations in this respect, too. Serious problems exist also in this field.

In particular, in its decision made public in June 2005, the European Committee of Social Rights held that the Greece's policies with respect to housing and accommodation of Roma infringe Article 16 of the European Social Charter due to, in particular, the systemic eviction of Roma from sites or dwellings unlawfully occupied by them. In this situation insensitivity towards cultural and social specificity of some groups within the society, insufficient respect to diversity has led to systemic discrimination of one the most disadvantaged group in the country.

To sum up: the refusal to ratify the key instruments relevant to minority rights does not exempt a Council of Europe member state from a number of obligations relevant to minority protection. Moreover, in modern European societies accommodation of diversity is often a key to ensuring effective equality, implementation of policies of social cohesion and justice. Thus, non-recognition of minority groups is detrimental not only for these groups, but also for the majority and thus for the society at large. Respect to diversity is not only a declared value – nowadays it increasingly becomes a necessary prerequisite for social peace, stability and democratic development.