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**PROMOTION ET PROTECTION DE TOUS LES DROITS DE L'HOMME,
CIVILS, POLITIQUES, ÉCONOMIQUES, SOCIAUX ET CULTURELS,
Y COMPRIS LE DROIT AU DÉVELOPPEMENT**

**Commentaires du Gouvernement grec sur le rapport de l'Experte indépendante
sur les questions relatives aux minorités, Gay McDougall,
établi à la suite de sa mission en Grèce
Genève, 6 mars 2009**

La Mission permanente de la Grèce auprès de l'Office des Nations Unies et des autres organisations internationales à Genève présente ses compliments au secrétariat du Conseil des droits de l'homme et a l'honneur de lui adresser ci-joint les commentaires* du Gouvernement grec sur le rapport de l'Experte indépendante sur des questions relatives aux minorités, établi à la suite de la mission de l'Experte indépendante en Grèce, effectuée du 8 au 16 septembre 2008 (document A/HRC/10/11/Add.3), qui sera soumis au Conseil au cours de sa dixième session.

La Mission permanente de la Grèce prie le secrétariat du Conseil de faire distribuer le texte des commentaires ci-joint en tant que document officiel de la dixième session du Conseil des droits de l'homme.

La Mission permanente de la Grèce auprès de l'Office des Nations Unies et des autres organisations internationales à Genève saisit cette occasion pour réitérer au secrétariat du Conseil des droits de l'homme les assurances de sa très haute considération.

* Le texte des commentaires est reproduit dans l'annexe tel qu'il a été reçu, dans la langue originale seulement.

Annexe

COMMENTS OF THE GREEK GOVERNMENT ON THE REPORT OF THE INDEPENDENT EXPERT ON MINORITY ISSUES FOLLOWING HER VISIT TO GREECE

The Greek Government thanks the Independent Expert on minority issues for her visit to Greece which opened the way to a frank and constructive dialogue with the competent authorities on a number of issues concerning the implementation of human rights standards towards minorities.

The Government of Greece would like to take the opportunity to submit certain comments on the Independent Expert's Report to the Human Rights Council regarding Greece's position on a number of issues raised in that Report.

1. Greece fully subscribes to the basic principle that the protection of minorities and the rights and freedoms of persons belonging to them forms an integral part of the international protection of human rights. For this reason Greek legislation, policy and practice on minority issues are oriented towards the strict implementation of human rights standards towards the members of such groups. This being so Greece firmly believes that the treatment of persons belonging to minorities should be based on international human rights and minority treaties and not on mere policy choices linked to inter-state relations.

Greece agrees with the recommendation made in paragraph 87 of the report that minorities should not be seen as tied to or implicating specific inter-state relations that may threaten the principle of territorial integrity. Modern minority treaties, however, such as the European Framework Convention for the Protection of National Minorities, aware of the European realities with respect to cases of state interference in the affairs of third state under the pretext of minority protection, stipulates in article 21 the following: "nothing in that Convention shall be interpreted as implying any right to engage in any activity or perform any act contrary to the fundamental principles of international law and in particular of the sovereign equality, territorial integrity and political independence of States". Greece fully subscribes to the above principles and this notwithstanding the fact that minorities living in Greece are fully within the Greek society and are not considered a foreign element.

2. This does not mean, however, that special bilateral treaties recognizing minority status to certain groups as well as minority protection to its members, to the extent that they contain provisions which are compatible with human rights standards, cannot be applied. This is the case of the Lausanne Peace Treaty of 1923, which contains minority provisions applicable to the Greek minority in Turkey and to the Muslim minority in Thrace respectively. It should be stressed however that the implementation of this Treaty by Greece does not mean that treatment of the identified minority is a matter of inter-state treaty relations. Greece has unequivocally fulfilled all of its obligations under the said Treaty. Furthermore, in the past few years, and in order to ensure the smooth integration of the Muslim minority, Greece went to great lengths to adapt the protection of the Muslim minority to modern human rights standards and to provide them with better living conditions. Thus, in accordance with the provisions of the contemporary universal and regional human rights treaties and taking into account the specificities of Thrace as

well as its current social and economic realities, Greece adopted the following indicative measures in favour of the Muslim minority:

-the adoption of positive measures (preferential treatment) such as the two quotas (0,5%) for admission of minority students to Universities and for employment in the public sector, in accordance with modern standards in the field of minority protection,

-enabling members of the Muslim minority, especially women and young persons, to be beneficiaries of Greece's nation-wide programmes co-financed by the European Union, designed for vulnerable social groups.

3. On the other hand we totally disagree with the remarks made in the report and its recommendations that Greece promotes **a singular national identity** and citizens who wish to freely express their ethnic identities face government blockages and in some instances, intimidation from other individuals or groups. These remarks are based on information emanating from a handful of Slav-oriented individuals living in Greece who in the past few years, particularly after the dissolution of the former Yugoslavia, have embarked on an unprecedented political propaganda to discredit Greece for denying to recognize a **"Macedonian"** national (or linguistic) minority in the region of Greek Macedonia. Their real intention is to promote the existence of a "Macedonian" identity in Greece, to foster irredentism stemming from the former Yugoslav Republic of Macedonia, which through the exclusive use of the "Macedonian" name as a state appellation, tries to appropriate for itself everything and anything derived from or pertaining to the entire geographic region of Macedonia, including Greek Macedonia.

It is regrettable however that the present report by trying to identify, despite the absence of objective criteria, a "Macedonian" identity in Greece, not only fails to respect the **Hellenic cultural heritage and the identity of the 2,5 million Greek Macedonians** living in this region, but also threatens to create a serious confusion or even a potential clash over identities in the region as a whole.

Greece reiterates its well known position that it fully respects the right of each person to **self-identify** as he/she wishes and no disadvantage results from such an expression of wish. However, Greece does not recognise that a distinct ethnic or linguistic minority exists in its territory by the name "Macedonian", since this name is used since Antiquity in the cultural/regional sense by 2,5 million Greek Macedonians living in the same region.

4. The report, in para. 82, generalises the opinion expressed by "some" people in this respect, thus giving a totally deceptive impression on how self-identification is perceived within the Greek society. We are also concerned that a report of the United Nations uses expressions such as **"foreign" or "conspirators" or "intimidation"** to describe how persons who self-identify themselves as minorities are being considered or treated by others. Such expressions are certainly not helpful in bringing together members of the local population and generating a climate of mutual trust.

Moreover, contrary to what the report states, those who claim to belong to a "Macedonian ethnic minority" **enjoy full respect for their individual rights**. As for their freedom of association, it should be stressed that the reason for the non-registration by the Greek

Courts of an association entitled "Home of Macedonian Civilization" is that the use of the name "Macedonian", without a qualifier denoting that its founders are Slav oriented, creates confusion with hundreds of other associations formed by Greek Macedonians and using the same name, Macedonian.

We also wonder why the report failed to mention the number of votes and the percentage that the **political party** ("Rainbow"), which claims to represent the so-called "Macedonian minority", obtained in the parliamentary elections it participated only a small number of votes (3,476 votes in the parliamentary elections of 1996, a number that was decreased to 1139 votes in the parliamentary elections of 2000) and although in both these elections it formed a coalition with OAKKE (Organization for the Reconstruction of the Communist Party of Greece).

We would have expected the report to place more emphasis to the fact that these individuals are free to manifest their traditions and culture. A proof of this are the festivities and cultural events that are regularly held in the region of Florina, as integral part of the local population's culture, attributed to its border-character, as well as to the cultural and historical heritage of Greek Macedonia. In fact, at the recent cultural events that took place in Meliti-Florina (July 2008), participation of nationals and officials from neighboring countries was free and unimpeded.

Greece rejects the inclusion in paragraph 84 of the report of a personal judgment as regards the existence of a "**Macedonian ethnic minority**" as well as of a "**Macedonian language**". References in the report to the name "Macedonian" to denote an ethnic "minority" living in the Greek region of Macedonia or a "language" spoken in this region should have been avoided. These references should not be interpreted as implying the existence of such a minority or language in Greece but only as claims emanating from the individuals concerned.

In this respect, Greece firmly believes that any recommendation by UN bodies or mechanisms on the protection of rights of persons claiming to belong to a "minority" cannot by itself determine the existence of a minority group or impose on States an obligation to officially recognize a group as "minority".

The above view of the Greek Government is fully in line with the case-law of the Grand Chamber of the European Court of Human Rights stated in the **Gorzelik v. Poland case**, "a definition [of "national minority"] would be very difficult to formulate. In particular, the notion is not defined in any international treaty, including the Council of Europe Framework Convention (see ... for example, Article 27 of the United Nations International Covenant on Civil and Political Rights, Article 39 of the United Nations Convention on the Rights of the Child and the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities). Likewise, practice regarding official recognition by States of national, ethnic or other minorities within their population varies from country to country or even within countries."; "... it cannot be said that the Contracting States are obliged by international law to adopt a particular concept of "national minority" in their legislation...".

5. The remarks made above in relation to paragraph 84 of the report are also relevant with respect to the alleged limitations on the **Muslim minority** to have their "Turkish identity" recognized. Greece has repeatedly stressed, that the Muslim minority in Thrace consists of three distinct groups, whose members are of Turkish, Pomak or Roma origin. Each of these groups has

its own distinct spoken language and cultural traditions. The cultural heritage of all segments of the minority is fully respected. However, any attempt to identify the entire Muslim community in Thrace as Turkish is unacceptable not only for political reasons, but also because it does not reflect the actual composition of the Muslim minority, in accordance with objective criteria. Likewise, any effort by members of the Turkish-origin component of the Muslim minority in Thrace to impose their own ethnic or cultural characteristics and traditions on the other two components of the minority (Pomaks and Roma) is against the contemporary human rights standards in the field of minority protection.

As regards the issue of respect for **freedom of association**, it should be stressed that in Thrace a large number of minority associations and NGOs have already been registered by the competent courts and operate unimpeded, thus preserving, highlighting and promoting all aspects of the cultural, educational and economic life of the minority. A number of Muslim minority cultural associations have been registered by the competent courts in 2008. Only three judgments of the European Court of Human Rights on an equal number of **associations** have been rendered. At present, the three cases are pending before the competent Greek courts. **The government is considering ways and means to implement the above judgments.**

With regard to the issue of the **appointment of Muftis**, it is to be noted that the latter are high ranking Muslim officials. By means of a selection procedure, whereby prominent Muslim personalities and theology professors are consulted, the three Muftis are subsequently chosen and appointed by the Greek state, as is the case in most Muslim countries. The abovementioned procedure is necessary given the judicial authority in applying the Sharia Law in matters of family and inheritance law. It should be stressed that while Muftis in Greece were always appointed according to the above procedure and have never been elected by the minority, this issue has become a problem only in the past few years since certain individuals within the minority have organized “elections” in violation of the relevant Greek law. It is important to note that in these “elections”, only a part of the minority participated, while women were excluded, in defiance of modern human rights standards.

Concerning the application of the **Sharia law**, it is worth mentioning that members of the Muslim minority in Thrace have already the option to address themselves either to the Muftis or to the civil courts, whereas the latter have the power to review the decisions taken by the Muftis. Greece takes seriously into account the need to strengthen the substantive review and control by domestic Courts of the conformity of Muftis’ decisions with the Greek Constitution and international human rights treaties. Bearing in mind the expressed preferences and visible tendencies [emerging trends] within the majority of the Muslim minority on religious, social and legal matters, Greece will study possible readjustments with regard to the application of the Sharia Law in Thrace, taking hereby into account its legal obligations and the potential changes of the wishes of the Muslim minority itself.

In the framework of a law, adopted in early 2007, the Ministry of Education and Religion has provided for the appointment of 240 religious faith teachers, and their remuneration, to the three Mufti Offices.

In implementing the letter and spirit of the Lausanne Treaty, Greece fosters the proper functioning of the existing minority schools in Thrace. In parallel, the minority is, more than ever

before, determined to bring their children to the public educational system. The Greek State needs to respond to this request.

Children at **kindergartens** do not have Greek textbooks -actually they do not have any textbook- and do not follow any curriculum. In keeping with international and EU educational standards, the various activities and games at Greek kindergartens serve as a smooth introduction to primary education. Kindergarten teachers, members of the Muslim minority in Thrace, are encouraged to work at kindergartens in areas where there are many Muslims. The number of university-educated kindergarten teachers from the Muslim minority is still low, but the situation is expected to improve in the following years. It is also to be noted that the Special Pedagogic Academy of Thessaloniki is to be converted into a postgraduate Higher Education Training Centre for Intercultural Education, which will contribute to the improvement of the training and the qualifications of the teaching staff in the minority schools.

In general, over the last fifteen years, the Muslim minority has reaped all the benefits of Greece's long membership in the European Union, as have all other Greek citizens. This has been, and continues to be, a tangible proof of Greece's commitment to ensure the smooth integration of the minority in the social, economic and educational fabric of the country.

6. The situation of Roma in Greece poses a number of challenges to Greek authorities and to society in general. The integration of Roma into the society is a complex social issue, which all European countries with a Roma population face. It is a problem which can be solved only through the application of consistent efforts, financial support, and a constructive attitude from all sides involved, including local societies and the Roma themselves. Greek authorities are fully aware of the urgency of this problem and have repeatedly expressed, and shown in practice, their political will to find appropriate and effective solutions.

The Integrated Action Plan for the social integration of Greek Roma focuses on the improvement of their living conditions, which is fundamental to their empowerment as well as to combating social exclusion. The aim is the achievement of permanent housing rehabilitation for all Greek Roma, as far as possible, and the improvement of living conditions in existing settlements

The housing loans program cannot be considered "divisive" for the Roma community. The above loans are allocated on the basis of social assessment criteria established by law, taking into consideration the existing living conditions of the Roma population, such as the number of the applicants' family members, the applicants' low income, the existence of single families or even of health disabilities, which in general put practical obstacles to the access to social benefits and to participation in the public life.

The above program is considered to be highly beneficial, given that it provides its beneficiaries with an advanced type of settlement (permanent buildings) of adequate standard and secure ownership.

On the contrary, major settlement rehabilitation models, instead of integrating families into the existing urban scheme, would not necessarily provide a successful integration model, since, as acknowledged by civil society actors, "mass" rehabilitation schemes may lead to social exclusion. Moreover, the particular scheme implemented by the authorities allows for the

beneficiaries' personal participation as well as free choice of the place and type of settlement according to their family bonds, professional needs etc.

7. Greece emphasizes that fact that the big majority of the Greek population identify themselves as Greek Orthodox does not affect the **religious freedom** of other groups. Positive measures have been adopted currently to further strengthen tolerance and understanding among different religious creeds. Measures to improve the legal status of the Roman Catholic Church in Greece are under consideration. In addition, projects for the construction of a central Mosque in Athens are underway.

The Greek Government once more assures the Independent Expert of their willingness to continue this constructive dialogue with her which in their views reinforces a mutual understanding of the issues under consideration and the sensitivities involved.
