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## **Greece: Continuing mandatory declaration of (non)religious belief in judicial procedures**

***Statement of Greek Helsinki Monitor (GHM), Minority Rights Group - Greece (MRG-G), Humanist Union of Greece (HUG), Coordinated Organizations and Communities for Roma Human Rights in Greece (SOKADRE) for Working Session 14 on intolerance against non-Christians***

2015 OSCE Human Dimension Implementation Meeting (30.09.2015) - With five judgments, Alexandridis v. Greece in February 2008 and Dimitras and others v. Greece Nos. 1, 2, 3 and 4, in June 2010, November 2011, January 2013 and October 2014, the European Court of Human Rights (ECtHR) found Greece in violation of religious freedom (Article 9 ECHR) by requiring the applicants to reveal their mostly atheist religious convictions in order to be allowed to make a solemn declaration instead of taking a religious oath in court proceedings. All applicants are members of the Humanist Union of Greece (HUG).

As a consequence of the first two judgments and while the third application was under review by the ECtHR, on 2 April 2012, Greece amended the oath taking procedure abolishing the registration of one's religion and replacing the presumption of every witness' religion as Orthodox Christian by a question on whether s/he would like to take a religious oath or a secular affirmation.

Yet, more almost three years later, GHM and HUG have a large file of over two hundred statements made in judicial procedures (including before an Assistant Prosecutor of the Supreme Court on 24 September 2013<sup>1</sup>) in which religion continues to be declared and registered and witnesses continue to be presumed as Orthodox Christians, now in violation of both domestic and international law.

Additionally, even the Greek National Commission for Human Rights (GNCHR), in a recent report to the UN HRC<sup>2</sup>, stated that "the GNCHR is not fully satisfied by this solution. Firstly, choosing a political oath instead of a religious one might lead the jury to form a biased view of the witness. The reason for this is the predominance of the Greek Orthodox Religion in Greek society. Secondly, witnesses often are not even asked whether they would like to choose between a religious and political oath. Consequently, the witness must request it his/herself, thus revealing that he/she most probably is not Greek orthodox. The GNCHR, therefore, recommends that religious oath should be completely replaced by political oath."

### ***Recommendation to Greece on intolerance against non-Christians***

- Greece should see to it promptly that prosecuting and judicial authorities stop violating religious freedom, upholding instead the amended provisions of the Code of Criminal Procedure; launch disciplinary and criminal proceedings against all those who are liable for the violation of the Greek legal provisions after 2 April 2012; as well as award compensation to the individuals whose religious freedom

has been violated through statements with a reference to their religion and a presumption of an oath to the Gospel.

- Greece should also adopt the proposed legislative amendments to implement the Greek National Commission for Human Rights' recommendation that religious oath should be completely replaced by political oath.

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## **Shariah and religious autonomy of Muslims in Thrace debated at a conference in Komotini**

HRWF (21.05.2015) - "The religious freedoms of the Muslim minority are fully respected," the Greek Foreign Ministry spokesperson, Konstantinos Koutras, declared on 13 May on the website of the ministry in response to a journalist's question regarding a conference organized in Komotini by the Federal Union of European Nationalities (FUEN).

This assertion was widely contested by the guest-speakers and participants in FUEN's international congress.

Among several pressing issues concerning the Muslim minority in Greece is the state's refusal to recognise the muftis elected by the Muslims of the Thrace region. However the Greek state recognises the religious leaders elected by the Christian and Jewish communities. For almost 70 years (since the Lausanne Treaty in 1923 signed at the end of the Greek-Turkish war of 1919-1922) the muftis were always appointed upon agreement between the elite of the Muslims of Thrace and the government, which was already a breach of their autonomy guaranteed by the treaty. The situation of the Muslim minority worsened in 1991, when the Greek parliament adopted a law putting an end to the mutual agreement on the appointment of the muftis and started appointing its own muftis despite the opposition of the concerned communities. Two elected mufti by the Muslims of the Thrace region were soon prosecuted and sentenced to prison terms, subsequently converted into fines.

Muftis Ibrahim Sherif and Mehmet Agga filed a complaint with the European Court of Human Rights. In December 1999, the European Court declared that Ibrahim Sherif's conviction amounted to an interference with his right under Article 9.1 of the European Convention and the said article protecting religious freedom had been violated. Greece paid 2.7 million drachmas as financial compensation but neither repealed or amended the 1920/1991 Law and did not abandon its discriminatory policy.

The main argument of the Greek state against the recognition of the elected muftis is that they hold a number of judicial powers but this had been the case since 1923 and there had never been any complaints previously. The press release of the Ministry of Foreign Affairs says in this regard: "Thrace is the only region in the European Union where Islamic Sacred Law, too, is in force. The implementation of Sharia is also the reason why the Greek state participates in the process of choosing the Muftis of Thrace, as they, beyond their religious duties, also have judicial powers; a process that, moreover, is also followed in most Muslim countries."

The Muslim community of Thrace denies that the Greek state only 'participates' in the choice of their muftis as the appointments have been unilateral state decisions for 25 years.

Since Kemal Atatürk, muftis in Turkey have not exercised any judicial powers and this function is not a "sacred cow" for the remnants of the Turkish populations who decided to go on living on the lands of an independent Greece after the collapse of the Ottoman Empire.

Muslims in Thrace and defenders of their religious autonomy are open to a peaceful dialogue without any taboo with the Greek authorities on the functions of their muftis and the so-called "shariah issue". An exciting challenge for the new Syriza-led government who claims to want to be different from its predecessors. The European Court and the European Union would certainly appreciate Greece's new political will to draw the conclusions of its judgments in the muftis' cases and to implement its decisions in three other cases about the banning of associations because of the use of the word "Turkish" in their denomination.

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