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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Federation of Western Thrace Turks in Europe (ABTTF), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2011]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The right to freedom of religion to elect its appropriate leaders and the Mufti issue in Greece

The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief does clearly state that the right to freedom of thought, conscience, religion or belief shall include, inter alia, to train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief [Article 6(g)].

Article 13(2) of the Greek Constitution of 1975 states “all known religions shall be free and their rites of worship shall be performed unhindered and under the protection of the law”. There is, however, no direct provision in the Greek Constitution which prohibits discrimination on the grounds of ethnicity, nationality, religion or language. The Turkish Muslim minority in Western Thrace does still face serious problems and discrimination in religious field, in particular concerning the Mufti issue.

The religious freedom of the Turkish Muslim minority of Western Thrace, which has been left in the Greek territory, is protected by the Treaty of Lausanne signed in 1923. Although the Lausanne Treaty, which anticipates that “minorities administrate their own religion and institutions”, does not specifically mention that the minority shall elect its own religious leaders. The Treaty brings up the treaties which had been taken into effect before itself, thus it reaffirms and acknowledges 1830 Protocol and 1881 Treaties and 1913 Athens Treaty and Its Third Protocol.

The Athens Treaty states that, “the life and properties, and the honour, religion, sect and customs of the folks from the places left to Greece, and who will remain under the administration of Greece, will be fully cared and respected, and these folks will possess all kind of civil and political rights like the Greek citizens of Greek origin do”, and adds that, “each Mufti will be elected by those Muslim voters who find themselves under the authority realm of the related Mufti”. It further notes that, “the Chief Mufti will be elected by an election council composed of all Muftis in Greece, and will be appointed among three candidates determined by the King of Greece.”

Law 2345/1920 adopted in accordance with provisions of the Athens Treaty envisaged that muftis were to be elected by Muslims who were entitled to vote, but this provision along with the provision for the establishment of the position of Chief Mufti has never been implemented. Rather, the post of Chief Mufti, which is the counterpart of the Greek Orthodox Patriarch and the electoral assembly in question, is similar to the Orthodox Holy Synod. Even though there is no Chief Mufti, Greece adopted the election of the Patriarch as a model, and appointed muftis by a special decree issued by the King. Two of three muftis, one in Komotini(Gümülcine), and one in Xanthi(İskeçe) have been appointed by a special decree issued by the King, while mufti in Alexandropolis(Dedeğaç) has never been appointed.

After problems with regard to the appointment of mufti with the Greek Government in 1985, Greece repealed the Law 2345/1920, and re-regulated the law with regard to the post of mufti without consulting with minority members or even asking for their opinion on the issue. In violation of the Athens Treaty, the Presidential Decree of 24 December 1990 adopted a legislative decree which states that muftis must be appointed by Presidential Decree on nominations from the Ministry of Education and Religious Affairs, in breach of Article 40 of the Lausanne Treaty which states that “they shall have an equal right to establish, manage and control at their own expense, any charitable, religious and social institutions, any schools and other establishments for instruction and education, with the right to use their own language and to exercise their own religion freely therein.”

In 1990, the Turkish Muslim minority of Western Thrace has elected its own muftis, although public authorities have not recognised the elected muftis; even they were prosecuted and sentenced to prison for the illegal use of religious symbols. Mr. Mehmet Emin Aga, the former Mufti of Xanthi, elected by the Turkish minority, were tried unfairly many times and imprisoned. He was sentenced in January 1995 by the Larisa Court of Appeals in Greece to ten months on charges of “usurping the title of Mufti” and was then sent to the Larisa Prison. Through the subsequent trials on similar charges, Mr. Aga was sentenced to 8 years of imprisonment. In the same vein, on October 21, 1996, Mr. İbrahim Şerif, Mufti of Komotini, elected in 1990 by members of the Turkish minority, was convicted in Salonica “for false pretense of authority” because he had used the title of Mufti. He was sentenced to six months imprisonment but was released after appeal.

Greece doesn't still recognize the right of the Turkish minority of Western Thrace to elect its own religious leaders and rather it appoints muftis on the ground that the muftis have legal authority on civic issues. The Presidential Decree, published in Official Gazette on 17 December 2010, extended “the terms of office of Cemali Meço, the son of Mufti of Komotini Hafuzidris, by 24 December 2010, upon the request of Minister of Education and Religious Affairs.

A parallel is often underlined between the Greek Orthodox Patriarchate in Turkey, and the muftis in Western Thrace, since the rights of these minorities have been determined by the Lausanne Treaty. Though the Patriarch is elected by the Holy Synod after the submission of the list of would-be candidates to the public authorities, the muftis are still appointed on the ground that the muftis do have legal authority on civic issues. The Federation of Western Thrace Turks in Europe (ABTTF) would like to remind that all decisions of the muftis (appointed) have to be ratified by first instance courts, and that they are liable to be null and void by the Greek authorities.

The relations between Turkey and Greece have gained a new dynamic dimension after PASOK assumed power in the elections of October 4, 2009 in Greece, and Prime Minister Yorgos Papandreou and Recep Tayyip Erdoğan, Prime Minister of Turkey, have expressed a strong political determination to develop mutual relations during Erdoğan's visit to Greece in May 2010. Turkey and Greece signed 21 agreements and cooperation protocols in Erdoğan's visit to Greece, and Erdoğan stated that the agreements would start a new era in Turkish-Greek relations.

Prime Minister Papandreou's speech at the 3rd Turkish Ambassadors' Conference in Erzurum, Turkey has triggered a new debate on the relations and brought up the mufti issue once again. Papandreou stated that the effort was still long and difficult in the areas of respect for minority rights and religious freedom to which Greece attached paramount importance because of the Ecumenical Patriarchate and the Greek minority. In his speech in Ambassadors Conference, Prime Minister Erdoğan mentioned positive steps that Turkey had taken for improvement of the situation of Greek Orthodox minority in Turkey. Erdoğan stated that although Turkey facilitated the process of the election of members of the Holy Synod through granting citizenship to the would-be members since there was an obligation arising from the Lausanne Treaty that members of the Holy Synod should be citizen of Turkey, the muftis in Western Thrace were not recognized, but rather were still appointed by the state.

ABTTF would like to suggest that a qualified trilingual (Greek, Turkish and Arabic) person with a solid background of theology and law, a bachelor's degree if possible, should be charged with the duty of Mufti. Mufti should be a depoliticized moral person with a high esteem and respect from the Turkish minority itself. An equitable and steady functioning of the institution should be guaranteed in accordance with the provisions of Islamic law and the Greek Constitution, and international norms and values and standards with regard to use of the fundamental rights and freedoms. In any circumstance, the opinion of the Turkish

minority itself should not be disregarded on matters of which interest the members of the minority.

ABTTF urges the Greek authorities to:

- Hold a dialogue with members of the Turkish minority of Western Thrace in order to find a long lasting and satisfactory solution to the problem of mufti,
- Not to diminish by no means autonomous establishment of the Turkish minority of Western Thrace in accordance with the Athens Treaty of 1913 and Its Third Protocol,
- Recognize the Muftis in Xanthi and Komotini elected by the Turkish minority of Western Thrace in 1989, and recognize the right of the Turkish minority to elect its own religious leaders,
- Act in accordance with the Treaty of Lausanne of 1923 and prior Athens Treaty of 1913 and Its Third Protocol, and, apply the provision that each Mufti will be elected by those Muslim voters who find themselves under the authority realm of the related Mufti and the Chief Mufti will be elected by an election council composed of all Muftis in Greece, and will be appointed among three candidates determined by the King of Greece [Article 11 of Athens Treaty], if the Greek Government decides to hold elections of mufti to solve the problem.
