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**ПООЩРЕНИЕ И ЗАЩИТА ВСЕХ ПРАВ ЧЕЛОВЕКА, ГРАЖДАНСКИХ,
ПОЛИТИЧЕСКИХ, ЭКОНОМИЧЕСКИХ, СОЦИАЛЬНЫХ И КУЛЬТУРНЫХ
ПРАВ, ВКЛЮЧАЯ ПРАВО НА РАЗВИТИЕ**

Доклад независимого эксперта по вопросам меньшинств Гей Макдугалл *

Добавление

МИССИЯ В ГРЕЦИЮ **

(8-16 сентября 2008 года)

* Представлен с опозданием.

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Резюме

Независимый эксперт по вопросам меньшинств посетила Грецию 8-16 сентября 2008 года, в частности с целью поощрения осуществления Декларации о правах лиц, принадлежащих к национальным или этническим, религиозным и языковым меньшинствам. Она посетила различные регионы и провела обширные консультации с высокопоставленными представителями правительства и государственными должностными лицами на национальном и региональном уровнях. Она провела консультации с организациями гражданского общества, религиозными лидерами, учеными и лидерами общин.

Греция признает только одно меньшинство - мусульманское религиозное меньшинство, проживающее в Западной Тракии, - которое защищено в соответствии с условиями Лозаннского договора 1923 года. Греция не признает статус меньшинств за другими общинами. Правительство убеждено в том, что утверждения о существовании других меньшинств являются необоснованными и мотивированы политическими соображениями. Однако независимо от того, признает ли государство какое-либо меньшинство, это не снимает с него обязанностей в отношении населения меньшинств.

Независимый эксперт занимается исключительно вопросами, связанными с национальным законодательством правительства Греции, касающимися его отношения к меньшинствам и проживающим в стране группам людей, находящимся в неблагоприятном положении. Ее внимание сосредоточено на том, в какой степени законодательство, политика и практика соответствуют обязательствам по международным договорам в области прав человека, включая права меньшинств, имеющие приоритет по отношению к двусторонним договорам и соглашениям. Решение о том, что какая-либо группа людей должна получить защиту, которая должна распространяться на меньшинства, не имеет последствий для внутригосударственных отношений. Меньшинства являются составной частью греческого общества, а не посторонним элементом.

Независимый эксперт настоятельно призывает правительство Греции прекратить спор о том, существует ли в Греции македонское или турецкое меньшинство, а сосредоточиться на вопросах защиты прав на самоопределение, свободу выражения мнений и свободу ассоциаций для этих общин. Их права на защиту меньшинств должны соблюдаться в соответствии с Декларацией о меньшинствах и основными международными договорами по правам человека. Греция должна полностью выполнять решение Европейского суда по правам человека и особенно решение о том, что

ассоциациям следует позволить использовать слова "македонский" и "турецкий" в своих названиях и свободно выражать свою этническую сущность.

Дискриминация рома существует в Греции, как и в других европейских странах. Независимый эксперт посетила общины рома, в которых отсутствуют основные инфраструктуры и которые находятся под постоянной угрозой выселения. Многие дети рома либо посещают отдельные школы, либо не имеют доступа к образованию в связи со своим происхождением. Независимый эксперт дала высокую оценку усилиям правительства, направленным на разработку позитивной политики, скоординированной на межведомственном уровне Министром внутренних дел через посредство Комплексной программы действий для рома. Однако существует ряд серьезных проблем по принятию мер на местном уровне, особенно в отношении условий жизни и сегрегации рома в некоторых государственных школах. Правительству следует продолжить приложение усилий для обеспечения того, чтобы национальная политика не подрывалась и не отрицалась местными властями, находящимися под влиянием местных предрассудков. Греция должна выполнять решения Европейского суда в отношении сегрегации детей рома.

Annex

**REPORT OF THE INDEPENDENT EXPERT ON MINORITY ISSUES
MISSION TO GREECE
(8-16 SEPTEMBER 2008)**

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I. INTRODUCTION

1. The Independent Expert on minority issues visited Greece between 08 and 16 September 2008, inter-alia to promote implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (hereafter “the 1992 Declaration on Minorities”). She conducted extensive consultations with senior government representatives, including the Ministers of Foreign Affairs, Interior and Justice, Parliamentarians and numerous public officials at the national and regional level. She consulted civil society organizations, religious leaders, academics and community leaders. The Independent Expert visited Athens and its environs, including Roma settlements, the region of Thrace and the city of Thessaloniki and the Prefecture of Florina in the Macedonia region of northern Greece.

2. The Government provided exemplary cooperation, support and openness throughout the preparation and conduct of the mission. Senior officials gave generously of their time and answered questions fully. Numerous individuals, non-governmental organizations and civil society groups provided valuable information, and facilitated additional aspects of her visit.

3. The Independent Expert’s evaluation of minority issues in Greece is based on the 1992 Declaration on Minorities and other relevant international standards, from which she has identified four broad areas of concern relating to minorities globally. These are: (a) the protection of a minority’s survival, through combating violence against them and preventing genocide; (b) the protection and promotion of the cultural identity of minority groups and the right of national, ethnic, religious or linguistic groups to enjoy their collective identity and to reject forced assimilation; (c) the guarantee of the rights to non-discrimination and equality, including ending structural or systemic discrimination and the promotion of affirmative action when required; and (d) the guarantee of their right to effective participation of members of minorities in public life, especially with regard to decisions that affect them.

II. LEGAL FRAMEWORK AND IMPLEMENTING INSTITUTIONS

4. Greece is a state party to the major international human rights instruments of particular relevance to the rights of minorities including: the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Discrimination Against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Prevention of the Crime of Genocide, and the International Convention on the Rights of the Child. Article 28.1 of the Constitution provides that international treaties ratified by Greece have supra-statutory force and take precedence over other Greek law.

5. Greece became a member of the European Union in 1981 and subject to its Race Directives¹ in regard to non-discrimination and equality. Greece is a member of NATO and of the Council of Europe (CoE) and has signed (in September 1997) but not ratified the Council of Europe's Framework Convention for the Protection of National Minorities. Greece has not signed or ratified the European Charter for Regional or Minority Languages.

Anti-Discrimination Law, Law 927 of 1979 (racial hatred)

6. Article 5.2 of the Greek Constitution relating to non-discrimination states that: "All persons living within the Greek territory shall enjoy full protection of their life, honour and liberty irrespective of nationality, race or language and of religious or political beliefs. Until 2005, Greece's anti-racism legislation was limited to Law 927/1979 (as amended by Law 1419/1984 and Law 2910/2001) of the Penal Code and aimed at the punishment of overtly discriminatory practices on racial, ethnic or religious grounds (incitement of racially/religiously discriminatory activities, expression of racially/religiously offensive ideas, racial/religious discrimination in the provision of services or goods by private persons).

Law 3304

7. In 2005, Parliament adopted Law 3304/2005 on the "Implementation of the principle of equal treatment regardless of race or national origin, religion or other beliefs, disability, age or sexual orientation". The Law prohibits both direct and indirect discrimination and has a wide scope with regard to equal treatment between persons irrespective of racial or ethnic origin, while it focuses in the areas of employment and occupation with regard to equal treatment regardless of religious or other beliefs, disability, age or sexual orientation.² It strengthens the Greek Ombudsman's Office with new competences. Law 3304 also provides for a Committee for Equal Treatment within the Ministry of Justice with responsibility for discrimination by private actors. The Labour Inspection Body (LIB), under the Labour Ministry, deals with issues and cases of discrimination by natural or legal persons (excluding public services covered by the Greek Ombudsman) in employment.

Ombudsman

¹ The [Racial Equality Directive](#) and the [Employment Framework Directive](#), aim to prevent people in the European Union from being discriminated against on grounds of race and ethnic origin, religion or belief, disability, age or sexual orientation.

8. The Greek Ombudsman is a constitutionally sanctioned Independent Authority founded in October 1998 and operating under Law 3094/2003. The Ombudsman provides free services to the public, and investigates individual administrative actions or omissions or material actions taken by government departments or public services that infringe upon the personal rights or violate the legal interests of individuals or legal entities. The Ombudsman only deals with individual complaints, but does have competence to promote the fight against discrimination generally. The Ombudsman cannot deal with complaints relating to the private sector, responsibility for which exists within the Ministry of Justice, Committee for Equal Treatment.

Commission on Human Rights

9. Law 2667/1998 established the National Commission for Human Rights as a statutory national human rights institution (NCHR), having consultative status with the government on human rights issue. The NCHR is generally considered to carry out its functions in conformity with the Paris Principles relating to independent functioning. The NCHR's substantive competences include: study of human rights issues raised by the government, NCHR members or non-governmental organizations; submission of recommendations and proposals, elaboration of studies, submission of reports and opinions for legislative, administrative or other measures for human rights protection; development of initiatives for the sensitization of public opinion on human rights; and the cultivation of respect for human rights in the national educational system.

III. RELIGION, LANGUAGE, CULTURE AND NATIONAL IDENTITY

10. During the ancient Greek and Hellenistic periods, the Hellenic territories in the region and beyond were vast. Conquered territories became subject to strong Greek influence (Hellenization) for centuries until the gradual decline of the Empire under subsequent Roman and, after the Byzantine period, Ottoman empires. When Greece declared independence from the Ottoman Empire in 1829, its territory was only about one-third of the size it is today. The collapse of the Ottoman Empire and regional conflicts including the Balkan Wars of 1912-1913, shaped the territory and borders of modern Greece and created a legacy of diversity, despite periods of significant population exchange. The historical ebb and flow of Empires and the modern emergence of newly independent nation states in the Balkans struggling for territories and national identities, brought about ongoing disputes over borders, some of which continue today.

² The government's latest periodic report to the CERD explains the scope of the relevant Chapter II of the Law. Its provisions apply to all persons, as regards both the public and private sectors. Reference required.

A. The religious minority: Muslims in Western Thrace

11. War between Greece and Turkey between 1919 and 1922 ended with negotiation of the 1923 Peace Treaty of Lausanne under which Greece and Turkey conducted a population exchange. Greek Orthodox Christians in Turkey, with the exception of those in Istanbul (Constantinople), Gökçeada (Imbros) and Bozcaada (Tenedos), were resettled in Greece. Muslims in Greece, apart from those in Western Thrace, were resettled in Turkey. According to Greek government sources, some 86,000 Muslims remained in Thrace, 39,000 of Turkish origin, 35,000 Pomaks (Slav-speaking Muslims), and 12,000 Roma.

12. Section III of the Treaty of Lausanne relates to the protection of minorities and establishes obligations for both Turkey and Greece for the protection of “non-Moslem minorities in Turkey and “the Moslem minority” in Greece. The “Moslem minority” is granted certain protections with respect to the practice of their religion and to education in their own language. The government of Greece continues to rely on the Treaty of Lausanne as the primary basis for its policies toward the Muslim minority in Western Thrace. Since the Treaty references only a Muslim minority, that is the only officially recognized minority in Greece. The government notes that, in addition to the Treaty of Lausanne, members of the minority are beneficiaries of numerous nation-wide programs including those on gender equality, equal access to education and economic development.

Recognition of Turkish ethnicity

13. The Independent Expert visited Western Thrace bordering Turkey in eastern Greece, including the cities of Xanthi and Komotini, where the Muslim minority resides. Many of the Muslim minority claim ethnic Turkish identity and desire to be recognized as a Turkish national minority. Community members argue that the Treaty of Lausanne does not prohibit collective ethnic identification as a Turkish minority. Many consider that their claim is misunderstood by the government as reflecting an irredentist movement under the political influence of Turkey.

14. The Government highlights that the Muslim minority in Western Thrace is not homogeneous and consists of three distinct groups whose members are of Turkish, Pomak and Roma ethnicity, each with distinct languages and cultural traditions. While acknowledging the Turkish origin of most, they claim that attempts to identify the entire Muslim community as Turkish are “not only unacceptable but [would] not correspond to existing realities and the actual composition of the Muslim minority, in accordance with objective criteria.”³ They believe that the view of the minority as homogeneous is promoted for political reasons. Government

³ Memorandum from the Government of Greece to the Independent Expert.

representatives noted that its positive efforts to integrate the Muslim minority into Greek society are met with criticism from some circles which wish the minority to remain separate and clearly promoting their Turkish identity.

15. Many community members of Turkish ethnic origin firmly rejected the government position of identifying three groups within the Muslim minority. One stating: “*For us being Muslim and being Turkish are one and the same.*” However, the Independent Expert met individuals who self-identified as Pomak and Roma who described pressure to speak and learn Turkish instead of Pomak and to identify as Turkish. One described a climate of intimidation and pressure for their children to attend minority schools. Some stated that members of the Pomak and Roma community are discriminated against if they do other than describe themselves as Turkish.

16. Ethnic Turkish representatives state their freedom of association is violated by the 1987 Greek High Court decision that an association bearing the name “Turkish” must be dissolved. Several minority associations have ceased to function or function only informally. In February 2005, the Turkish Xanthi Union, established in 1927 was dissolved. The establishment of a Cultural Association of Turkish Women of Rodopi was rejected by the Greek Supreme Court. Community representatives stress the importance of associations for the preservation of community identity and culture. They note that Armenian associations function legally including the word “Armenian” in their names.

17. The European Court on Human Rights has consistently found against Greece when these issues have come before it,⁴ concluding that Greece has violated Article 11 of the European Convention (right to freedom of association) and rejecting government attempts to justify the restriction by arguing that use of the word “Turkish” in the names of associations constitutes a threat to public order and territorial integrity. To-date, the associations have not been allowed to register under the names of their choice.

Religious practices

18. Representatives of the Muslim minority asserted that one highly contentious issue in Western Thrace is the content of the right to religious freedom protected by the Treaty of Lausanne and current international obligations. Under the relevant legislation, Sharia Law relating to family and inheritance issues functions alongside Greek civil law in the region. Jurisdiction over matters arising under Sharia Law in the above mentioned matters is to be exercised by a Mufti. The religious practice for Muslims in Western Thrace has been for the community to elect their Mufti.

⁴ Bekir-Ousta and others, Judgment of 11/10/2007; Ermin and Others v. Greece, Judgment of 27/03/2008; Tourkiki Enosi Xanthis and others, Judgment 27/02/2008, final on 29/09/2008.

19. The government asserts that, since they exercise judicial functions, Muftis must be appointed by the State.⁵ Further, elections of Muftis by the community are invalid since they do not allow the participation of women in the electoral process, violating constitutional and international standards.

20. The Muslim community takes issue with the government appointment of religious officials and in defiance, they elect their own. Community elected Muftis in Xanthi and Komotini, in turn, are not recognized by the government. Consequently they have been prosecuted under the Penal Code for usurping functions of a religious minister. The European Court on Human Rights held that those prosecutions violated Article 9 of the Convention (freedom of religion).⁶ Elected Muftis are supported financially and allegedly politically by the Turkish government via its Consulate in the region.

21. Muftis perform particular duties, including those relating to marriage, divorce, child support and inheritance. However an official religious marriage can only be conducted by the appointed Mufti. Marriages conducted by the elected Mufti are not legally recognized and subsequently must be officially registered with the municipality. These issues have created resentment among the minority which considers that elected Muftis should have officially recognized powers. They consider their religious functions in the community in relation to family law are deeply connected to Muslim religion. To refuse them these recognized functions is considered an infringement of religious autonomy.

22. The government notes that, in family and inheritance matters, members of the Muslim minority can choose to use Sharia Law or the Greek Civil Code and address themselves to either local Muftis or the Greek civil courts. Sharia should be implemented only to the extent that its rules are not in conflict with fundamental values of Greek society and the Greek legal and constitutional order. In the field of gender equality, Article 5 (3) of Law 1920/1991 provides that the courts shall not enforce decisions of the Muftis which are contrary to the Greek Constitution, effectively banning polygamy, child marriage, marriage by proxy and biased inheritance laws.

⁵ While the language of the Treaty of Lausanne is vague, an earlier Treaty of Athens details the protection of the religious privileges of Muslims residing in Greece. It includes requirements in Article 11 related to the election of Muftis, and the bodies responsible for the management and administration of religious foundations. The Greek Government considers that, according to Greek case law, the provisions of the Treaty of Athens related to minority protection have been superseded by the 1923 Treaty of Lausanne. A Decree of December 1990 abolished previous legal procedures for election of muftis, in favour of government appointment procedures.

⁶ See *Agga v. Greece* (No. 2), Judgment 17/10/2002, (also No. 3 and No. 4).

23. The Greek National Commission on Human Rights noted cases involving the marriage of several minors aged as young as 11 condoned under Sharia Law.⁷ The Greek civil courts were found to be ratifying such cases in conflict with Greece's international obligations, allegedly under pressure not to offend the Muslim minority.

Education issues

24. Under of the Treaty of Lausanne, minorities can establish, manage and control schools at their own expense providing significant autonomy in minority education.⁸ There are 194 minority primary schools in Western Thrace with courses taught in both Turkish and Greek. Over 400 Muslim teachers are mostly graduates of the Special Pedagogical Academy of Thessaloniki. In addition, two minority secondary schools operate in Xanthi and Komotini, while two Koranic schools operate in Komotini and Echinós.

25. Community representatives claim that the quality of education in minority primary schools falls far below Greek public schools and that the schools do not serve the fundamental needs of the community. Teaching standards are allegedly poor and training courses for minority teachers have been reduced from four years to two, with subsequent lowering of teaching standards. Low quality language teaching means that children are not proficient in either Greek or Turkish on leaving primary school. Problems have reportedly led some families to prefer their children to attend Greek public schools.

26. A commonly stated problem is the absence of bilingual kindergartens for the Muslim minority. This would allow better knowledge of both Turkish and Greek from an early age therefore providing benefits in terms of integration, and enabling greater choice of whether to go to minority or Greek public primary school.

27. Elected Muftis and other community representatives commonly voiced dismay that 240 Imams or Islamic teachers required to teach the Koran in schools and lead prayers,

⁷ Hellenic Republic National Commission For Human Rights, Report 2006, English Summary, p. 61.

⁸ Article 40 state 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." Article 41 additionally establishes that, in towns and districts where there is a considerable proportion of Greek nationals belonging to Moslim 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.

would be appointed by a Committee of five orthodox Greeks with no Muslim members. While this law (Bill 3536) has yet to be implemented, they consider this an inappropriate intervention in the affairs of the Muslim community and religion.

28. The government highlights significant progress in regard to minority education. It is systematically improving the content of education with respect to different religions and cultures, renewing building infrastructure and equipment, and modernizing the institutional framework. A special quota of 0.5 percent for the admission of students from the Muslim minority to universities entered into force in 1996 with very positive results. In 1996, 67 students were admitted, rising to 495 in 2007/8. Community sources welcomed a quota of 0.5 percent of public sector employment for minorities passed into law, but yet to enter into practice. Since 2006, the Turkish language has been introduced into Greek public schools in Thrace as an elective language.

B. Minority religions

29. The dominant religion in Greece is the Eastern Orthodox Church of Christ, since a large majority of the Greek population identify as Christian Orthodox. Article 13 of the Greek Constitution provides for freedom of religion. The Independent Expert held a forum in Athens to hear the views of people belonging to different religious faiths, attended by representatives of the Baha'i faith, the Catholic Church, the Jehovah's Witnesses, the Jewish Community and Muslims.

30. Participants commonly noted the considerable influence of the Greek Orthodox Church (GOC) in Greek society and political life and that the Church receives state funding. They stated that there is no specific domestic law to protect freedom of religion⁹ and that members of other religions face animosity, verbal and sometimes physical aggression. Issues relating to places of worship and burial sites were of concern to many participants.

31. The Orthodox Church and Judaism are the only religions deemed "legal persons under public law". Other religious groups are only able to register as "associations", considered inappropriate to their religious status. Legal personality would enable religions to represent themselves at court or appropriate authorities as a religious community. Participants stated that religious communities should be required to submit their bylaws and function legally and register

⁹ Criminal anti-discrimination Law 927/1979, as subsequently amended, has been, until the enactment of Law 3304/2005, the only statutory legislation expressly offering protection from religious discrimination in Greece. In addition, there is a substantial body of case-law, in particular of the Council of State, that supplements the above legislation in the area of the protection of religious discrimination. See http://ec.europa.eu/employment_social/fundamental_rights/pdf/aneval/religion_el.pdf.

with the Tax office. Religious communities should be exempt from taxation for religious activities. They should not require a permit to operate but simply register with the competent authority.

32. Participants noted the possibility of a Bill to go before Parliament allowing official registration under the Ministry of Education and Religion, which is considered positive if enacted. The recent removal of religion from national identity cards is felt to have been an important and positive development.

33. The Roman Catholic Church is not legally recognized¹⁰ despite an estimated 250,000 Greek Catholics, although the government notes that the matter is under review and scheduled for a determination within 2009. The Catholic Cathedral was damaged in the 1999 Athens earthquake. Despite financial assistance to other damaged places of worship, no assistance has been provided for urgent repairs to the Cathedral. Following a visit to Greece by the Pope in 2001, ecumenical dialogue to reunite the churches has more clearly established the closeness of Catholics and Greek Orthodox beliefs with subsequent greater acceptance and freedom of expression. However problems of underlying prejudice and vocal anti-Catholic sentiment including by politicians and religious leaders continue.

34. Representatives of Jehovah's Witnesses welcomed progress in regard to treatment of conscientious objectors who are now permitted to do non-military national service. However they object that the duration is double that of military service. In regard to proselytization, previously a crime punishable with a prison sentence, European Court judgments against Greece have had significant impact on domestic treatment. It is no longer a criminal offence other than in extreme conditions of coercion. However anti-proselytization laws of 1936 and 1939 have not been rescinded. Proselytization cases have been rejected by the courts, however participants claimed that cases of harassment occur each month on the basis of defunct proselytization laws.

35. The Baha'i faith was established in Greece in 1912 yet lacks official recognition. It does not have houses of worship, and requires only administrative structures, yet the law requires permission even for a "meeting place". Representatives described undue obstacles and restrictions imposed as a form of petty harassment. Baha'i representatives also highlighted

¹⁰ In December 1997 the European Court of Human Rights ruled¹⁰ that Greece was in violation of the European Convention since denial of legal personality placed a real restriction on the Church to bring complaints to a domestic court. In response, in 1999 Parliament enacted legislation that extends legal recognition as a private entity to Roman Catholic churches and related entities established prior to 1946. The Catholic Church unsuccessfully has sought government recognition of its canon law since 1999. It has also sought unsuccessfully for a legal procedure to recognize its religious institutions built after 1946.

problems regarding burial places for Baha'i. Cemeteries are administered by the Greek Orthodox Church and permission must be sought to bury those of other faiths. In one incident, a Bishop granted permission but on seeing the gravestone with Baha'i inscriptions, allegedly threatened to destroy the grave.

36. The Muslim minority is only officially recognized in Western Thrace, however, over recent years large numbers of Muslims have migrated to Greece and settled in other areas where they face challenges to religious freedoms. In Athens there are no recognized Mosques and no Muslim cemeteries. Mosques function "underground" and illegally. They call for the legalization of Mosques and note that legislation allowing for a Mosque and Islamic Centre met with strong objections from the Greek Orthodox Church and Athens residents. When a Muslim dies the body is sent to the country of origin or to Thrace for burial. The Greek Orthodox Church reportedly donated land for a Muslim cemetery however progress has been slow.

37. Jewish representatives described a dwindling community of only two thousand. A member of the Jewish community participating in the Inter-religious forum, described harassment and continuing incidents of anti-semitism, which is "*so engrained in society that people don't recognize it*".¹¹ Incidents of desecration and Anti-Semitic attacks continue to be reported. The government notes the success of positive measures to confront Anti-Semitism and prosecute criminal acts. Jewish representatives raised concerns over anti-semitic views expressed in the extreme right wing press and in mainstream newspapers and by public figures.

38. The Greek National Commission on Human Rights notes some successes in religious freedoms in the face of opposition from the Greek Orthodox Church. The decision to delete references to religion from identity cards was one such controversial decision that the GNCHR supported. The Minister of Education and Religion has issued a circular in 2008 stating that students from minority religions in public schools who don't want to take religion classes, no longer have to justify their choice. The GNCHR notes that the issue of the Islamic headscarf has not emerged as a problem in Greece.

39. The government notes that there is no system of official recognition of particular religions in Greece. A fairly large part of the population are atheist or agnostics, on ideological or political grounds. It states that acts of animosity towards members of other religions are a fringe phenomenon not tolerated both by society at large and the Administration. The government highlights a substantial body of case law that supplements legislation in the area of the protection from religious discrimination. With respect to burial practices, Article 35 of Law 3448/2006 permits the cremation of foreigners or Greeks whose religious convictions allow it. An effort to

¹¹ In 2001 hundreds of Jewish headstones were vandalized and police protection was given to Synagogues to prevent desecration.

map the presence of Muslims nationally has been launched in 2008 by an inter-ministerial Task Force to establish a stable and open relationship with the Muslims living in Greece and to cater properly to their needs. Law 3512/2006 provides for the construction of a Mosque near the center of Athens, funded by the State to be built on a plot of land ceded by the State. Projects for the Central Mosque and a Muslim cemetery are progressing slowly due to the size and budgets of such projects.

C. Ethnic identity in the region of Florina

40. The Kingdom of Ancient Macedonia is part of the Hellenic historical and cultural heritage, reclaimed by modern Greece, and with a population of primarily ethnic Greeks, despite linguistic variations due to historical influence. The government points to the archaeological sites including Vergina, where tombs of King Phillip II and Alexander IV dating back to the 3rd Century BC were unearthed in the 1970s. Artefacts including these tombs display ancient Greek inscriptions considered by the government to confirm that the region and its people are historically Greek.¹²

41. The Government does not recognize the existence of a Macedonian ethnic minority living in Central and West Macedonia. They vehemently deny it and attribute political motives to those who claim it. Successive governments have pursued a policy of denial of the ethnic Macedonian community and the Macedonian language. Many consider this a modern day version of Tito's efforts to create a myth of a Macedonian nation giving support to his expansionist claims against that region of Greece. The response of earlier Greek governments was to suppress any use of the Macedonian language and cultural activities. In recent times the harsh tactics have ceased but those identifying as ethnic Macedonian still report discrimination and harassment. They consider it of crucial importance for their continued existence that their ethnic identity and distinctiveness is respected. The Macedonian language is not recognized, taught, or a language of tuition in schools.

42. In the 1920s and 30s laws required the replacement of non-Greek names of towns, villages, rivers and mountains with Greek names. The family names of the Macedonian-speaking population were also required to be changed to Greek names. Individuals seeking to re-instate Macedonian family names have had their petitions refused by authorities on administrative grounds. Community representatives note that traditional names continue to be in common usage and call for reinstatement and the official usage of a dual nomenclature e.g. Florina/Lerin.

¹² The government stresses that the geographical region of Macedonia extends beyond one sovereignty; Greece, the former Yugoslav Republic of Macedonia, Bulgaria and Albania all include different parts of geographic Macedonia.

43. Representatives claim denial of the right to freedom of association, citing unsuccessful efforts since 1990 to register the organization “Home of Macedonian Culture” in Florina. The Greek courts refused to register the organization on the grounds that its objective was to promote the idea that “there is a Macedonian minority in Greece, which is contrary to the national interest and subsequently contrary to law”. In 1998 the European Court of Human Rights found Greece in violation of Article 11 of the European Convention on Human Rights¹³ relating to freedom of association. Subsequent domestic court decisions have failed to conform to the European Court finding and the Home of Macedonian Culture remains unregistered. The government notes that the application for registration of the association remains pending before the Supreme Court.

44. Community representatives highlight discriminatory laws affecting thousands who fled Greece during the Civil War (1946-1949) who were stripped of their citizenship and property. A 1982 Ministerial Decision (Law no. 106841) stated that “Free to return to Greece are all Greek by Genus who during the civil war of 1946-1949 and because of it have fled abroad as political refugees”. This decision excludes those identifying as ethnic Macedonians and is therefore considered discriminatory. Law no. 1540 of 1985 allowed political exiles to reclaim confiscated property, again establishing that only “Greeks by Genus” qualify. Those claiming Macedonian identity allegedly experience difficulty obtaining visas for visits to Greece to see relatives or attend funerals. The Greek authorities respond that visas are granted without problems and that pensioners receive their visas gratis.

45. The Independent Expert met numerous individuals identifying as ethnic Macedonian. Some described themselves as fluent in the Macedonian language, having learned it within their families as it is not taught at school. Others described frustration that they lack fluency due to the lack of learning opportunities. They claim to have made numerous approaches to the Greek Ministry of Education regarding language education, which have never been acknowledged.

46. Some described pressure not to display their Macedonian identity or speak Macedonian, previously banned in some villages. Despite their claim of the existence of distinct Macedonian villages, they described a general fear to demonstrate their identity. It was acknowledged that the situation had improved from a previous era, however they described a “softer discrimination” manifested in general hostility and pressure on the part of authorities and the media. One participant stated: *“I am a Greek citizen...but I am Macedonian when talking about my village, my language and my identity.”*

47. Some recounted personal experiences of harassment including aggressive interrogation at borders. Another described being physically attacked allegedly due to his ethnic identity and membership of the Rainbow party. Another representative stated: *“Greece does not trust the*

¹³ Sidiropoulos and Others vs. Greece, European Court of Human Rights, 57/1997/841/8107.

people who live here because they don't feel Greek - they don't speak Greek". Participants described experiencing problems in performing songs in the Macedonian language and traditional dances. The government states that festivities and cultural events regularly take place in the region of Florina unhindered which at times include people from the bordering state.

48. The emergence in 1991 of the newly independent State on Greece's northern border initiated a dispute regarding its name, which Greece considers inappropriate in view of the Greek geographical region of Macedonia. The United Nations admitted The Former Yugoslav Republic of Macedonia (FYROM) in 1993. The "name dispute"¹⁴ has resulted in the appointment of a Special Representative of the Secretary General of the United Nations, to propose solutions in negotiation with both parties. No mutually agreeable solution has been achieved to-date. The Independent Expert has no involvement whatsoever in these negotiations.

49. Mayors from towns in the region protested the idea that people within their constituencies consider there to be a Macedonian ethnicity. The government dismisses such claims as misleading and not corresponding to existing realities. The government asserts that Macedonia was historically Greek and its inhabitants direct descendants of Ancient Hellenes. It refers only to those speaking a "Slavic dialect or oral idiom", confined to family or colloquial use. They point out that this dialect has similarities with the language spoken in the neighbouring former Yugoslav Republic of Macedonia.¹⁵ The government emphasizes: "that there are two and a half million Greeks who identify themselves as Macedonians (Makedones) in the regional/cultural context and that attempts to usurp the name and national and cultural identity by using the term "Macedonian" to describe a so-called minority are unacceptable."¹⁶ The government suggests that "insignificant" numbers of votes gained by the Rainbow political party is evidence of a lack of popular support for their claims.

¹⁴ Security Council Resolutions 817 (1993) and 845 (1993) mention that "a difference has arisen over the name of the State which needs to be resolved in the interest of the maintenance of peaceful and good neighbourly relations in the region".

¹⁵ The government notes that scholars in international linguistic conferences have sought to avoid confusion caused, by using the term "Slav Macedonian" instead of "Macedonian language", whenever they refer to the language of the former Yugoslav of Macedonia, in order to preserve the distinction of the Macedonian language of the Ancient Macedonians, as well as to underline the Slavic character of the language of the former Yugoslav Republic of Macedonia.

¹⁶ Memorandum from the Government of Greece to the Independent Expert.

IV. DISCRIMINATION AGAINST THE ROMA

50. Discrimination against Roma is experienced in Greece as in other European countries, although some Roma are relatively well integrated into society. Community members described a high level of societal discrimination in all fields of life including education, housing and employment.

51. The Government does not consider the Roma a minority within Greece, rather a vulnerable social group consisting of 250,000 to 300,000 persons. It notes that this viewpoint is shared by Roma who consider themselves an integral part of Greek society. Government officials revealed a widely held belief that Roma are responsible for many of the problems that they face. One official noted: *“The Greek State would like to integrate Roma fully, but they don’t like that a different style of life is imposed on them.”*

52. The Independent Expert visited three Roma settlements: near Spata, Aspropyrgos, and in the municipality of St. Varvara.

A. Housing and employment

53. The Roma settlement near Spata is located on a hill top five kilometers from the town, accessible only via a rough track. The community was relocated by the local government in 2000 after being evicted from a previous location on the outskirts of the town. It is therefore a temporary State sponsored settlement on land ceded by the State. Prefabricated housing units were provided from the State budget. Currently over 20 families including about 20 children of primary school age, live on the site. Unverified claims suggest that the site was previously used for disposal of toxic waste.

54. The settlement is not serviced with electricity, running water or regular garbage/waste collection services. It relies on generators and two water storage tanks provide water for washing and drinking. Community members described problems including lack of adequate quantities of water and poor water quality due to mould inside the storage tanks. Human waste is stored in cess pits that should be cleared frequently. Community members noted that they frequently overflow causing health risks including cases of Hepatitis A, while confirming they do have access to health care.

55. Families are not permitted to extend prefabricated homes provided by the State beyond the original 25 square meters, regardless of the number of occupants. Families have no documents to establish legal residence in the settlement. Some families (reportedly 3 or 4) had applied to a government housing loans scheme for Roma families. However since families survive by

scavenging, salvaging and begging, it was considered highly unlikely that any would meet income criteria. The government subsequently informed the Independent Expert that five families have been granted loans of 60,000 Euros each.

56. The settlement of Psari, Aspropyrgos is home to approximately 230 Roma families. It is considered an illegal settlement on privately owned land despite reportedly existing for about 35 years. Shacks made from scavenged materials provide one or two room accommodation for large families. The settlement lacks access to electricity and requires generators. There is no running water and community members fill containers from a water tap in a public park which is regularly locked by the municipality to stop Roma from using it. Most Roma in the settlement earn irregular incomes from scavenging and collection of scrap metals.

57. The settlement is the subject of legal eviction proceedings by private land owners. Community representatives claim that land owners have no direct interest in the eviction but are pushed to pursue it by the municipal Mayor. Representatives stressed good relationships with the police, that they are fair with them and have protected them in the past including from demonstrators. The government notes that during implementation of the housing assistance program at least 31 loans have been granted to Roma families living in the Municipality of Aspropyrgos while others are pending approval.

58. The European Roma Rights Center has accused Greece of failing to implement 2004 and 2006 European Committee of Social Rights findings that Greece's treatment of Roma in the field of housing violates 3 aspects of the European Social Charter. In June and September 2007, civil society groups reported that 135 Roma families were forcibly evicted, some twice in a few days, in Athens, Patras and Halkida, without the relevant procedural safeguards being respected and that hundreds of Roma families are threatened with similar evictions in Greater Athens, Patras, Crete and Rhodes.¹⁷

59. The Municipality of St. Varvara, provides a positive example of integration of the Roma community into mainstream society. Approximately 8-10 percent of the population are Roma, who play an active role in the community. Municipal representatives described the relative success of Roma in the community and higher than usual Roma success in education, including some university entrants. Roma managed to open numerous small businesses. Local authorities, including Roma, described a high level of social integration while acknowledging some problems. The Roma live in all parts of the town, rather than in isolated communities.

¹⁷ On 20 July 2007, the Independent Expert sent a joint letter of allegation to the Government in regard to evictions of Roma minority communities in locations including Patras (A/HRC/7/16/Add.1). A reply was received on 22 August 2008 providing further details of the situation and actions taken by the government.

Community intermediaries play an important role and the Roma do not require specialized services. Roma representatives acknowledged that they had not always felt comfortable but described an enlightened neighborhood that is an example to others.

B. Education

60. During the visit to the Spata area it was highlighted that none of the children living in the Roma settlement currently attend school. Following a visit by European Parliamentarians in 2003, a bus was provided to take about 18 children to school, however it ceased operation reportedly due to lack of funds. The settlement is some five kilometers from the nearest school making it extremely difficult for young children to attend without transport provision. One mother stated that her children were refused registration, reportedly on the grounds that the school was full and there are no special facilities for Roma children. She was told that the children should have been registered previously, but she had never been informed of this requirement.

61. In Psari, Aspropyrgos, education for the settlement's children remains a highly controversial issue and the subject of a European Court of Human Rights judgment.¹⁸ In 2004 Roma children from the Psari, Aspropyrgos Roma settlement were refused registration to attend a local school. Following brief attendance, non-Roma parents objected to the extent that all Roma children were placed in special afternoon classes. After further parent protests, Roma students were removed to a prefabricated annex distant from the main school. In 2006/7 the annex was defaced with racist slogans and destroyed by fire and a Roma pupil was attacked resulting in withdrawal of Roma children from any classes. In June 2008 the European Court of Human Rights ruled that the conditions of school enrolment for Roma children and their placement in an annex for special preparatory classes because of their Roma origin, constituted a violation of Articles 14 (prohibition of discrimination) in conjunction with article 2 of Protocol 1 (right to education), and 13 (right to an effective remedy) of the European Convention. To date, Greece has not satisfactorily resolved the situation in compliance with the European Court ruling.

62. The Independent Expert visited the annex which consists of a fenced, concrete, compound with two metal prefabricated units, one of which is used for teaching. At the beginning of the school year the teaching unit had been repaired following vandalism and had no teaching facilities such as desks and chairs. A permanent security presence is required to guard against further vandalism. It is important to stress that the vandalism was not carried out by the Roma themselves.

63. At the time of the Independent Expert's visit, Roma children did not have full and equal access to education. The Roma children have been placed in the same "annex" of the main school that was the subject of the European Court judgment, reportedly due to lack of places in the main school and lack of specialist teachers and preparatory facilities for Roma. Community members and civil society representatives believe that pressure from parents and the local authorities, are a significant factor in the children's exclusion.

64. Ministry of Education representatives acknowledge continuing problems regarding education of Roma. They agreed that significant challenges stem from local authorities and from communities that do not want the Roma to attend mainstream schools, resulting in some cases in "branches" of schools being opened for Roma. They noted their belief that a degree of separate and specialist "catch up" schooling is required prior to Roma children joining the mainstream school system, since there is not a culture of going to school among some communities and children may need assistance to integrate fully.

C. Denial of justice

65. Endemic problems were identified regarding access to justice for Roma by legal and human rights groups including, police brutality, discriminatory and racist attitudes and treatment by prosecutors, and excessive delays in dealing with cases brought by Roma. Increasing numbers of cases have reached the European Court of Human Rights due to the failure of domestic remedies. European Court cases in which violations have been found relating to ill-treatment or injury by the police, absence of effective investigation and non-investigation of racial motive include: *Bekos & Koutropoulos vs Greece* (application 15250/02), *Karagiannopoulos vs Greece* (application 27850/03), and *Petropoulou-Tsakiri vs Greece* (application 44803/04).

66. Senior Ministry of Justice officials rejected allegations of discrimination and noted that police are often falsely accused of discrimination. Government representatives stated that if cases of police mistreatment arise they are investigated and dealt with swiftly and appropriately. In responding to questions about the lack of Roma prosecutors or judges, they pointed out that Roma lawyers could take exams to become prosecutors and judges but that Roma are not interested in such achievements.

D. Integrated action plan regarding Roma under the Ministries of the Interior and Education

67. In 2002 an Integrated Action Plan (IAP) for the social integration of Greek Roma was established within a wider National Action Plan for the inclusion of socially vulnerable groups.

¹⁸ Sampanis and others vs. Greece, no 32526/05.

The State has initiated policies and measures, described as “positive discrimination” targeted towards Greek Roma in housing and service provision. The IAP is coordinated by the Ministry of the Interior in collaboration with an Inter-Ministerial Committee.

68. The top priority is housing as a means of improving living conditions and combating social exclusion. A key component is a housing loans programme providing 9,000 loans of 60,000 Euros to Greek Roma currently living in low standard accommodation. Loans are provided to purchase or build a property or engage in organized town building in cooperation with local authorities. Favorable interest conditions are provided and loans can be repaid over 22 years. To-date 8,785 housing loans have been allocated.

69. Problems with the housing programme identified by civil society, include: loans can be divisive for communities in which many living in similar conditions apply but only few are successful. No benefits from the scheme accrue to existing Roma settlements and wider communities since grants are generally family based. Given the extent of funding, major settlement rehabilitation could have been foreseen with benefits to whole communities, including purchase of land and provision of numerous low cost housing units. Since most Roma lack regular income families may be unable to repay loans with negative implications for the whole Roma community. Allegations suggest that a high proportion of loans go to well integrated, relatively prosperous Roma.

70. The Ministry of Education and Religion highlights that its aim “is to integrate Gypsy children in the existing educational system (without establishing separate classes), to increase school attendance in primary and secondary education and to decrease school drop-outs, as well as to manage diversity in the classroom”. A range of measures include: reduced administrative requirements for school enrollment; student allowances; educational support and pedagogical monitoring including pre-school courses and support classes; a network of mediators; teacher training; revised and appropriate education materials to assist Roma and teachers; and projects to sensitize local communities. The government acknowledges that some initiatives, including itinerant student cards, have failed.

71. The Ministry of Labour and Social Protection described planned projects, in consultation with Roma, that account for Roma lifestyles, priorities and preferences in employment and recognize that Roma rarely have formal qualifications. Recognizing that Roma favor establishing small enterprises over salaried employment, a new initiative will support 500 Roma entrepreneurs firstly in the Northwest region. Grants of 20,000 Euros will enable small businesses in areas including market trading, mobile vending and transport. Vocational training initiatives will also provide Roma with remuneration for course attendance in areas including IT,

cooking, sales, and plumbing. The Ministry acknowledges poor Roma participation in employment schemes and the need for targeted projects.

72. Despite positive initiatives at the national level, problems of local government implementation continue. Some commentators noted that government credit lines that could benefit the Roma exist but are not taken up by municipalities. Reportedly the Roma bought land close to Spata but the Municipality “revolted” and did not allow the settlement, allegedly arguing that there should not be a Roma settlement on the road to the airport. One commentator noted: *“Mayors lose votes by helping Roma ... they don’t want to give them the conditions that would enable them to stay.”*

V. EXCEPTIONAL ISSUES FACING MINORITY WOMEN

73. The Committee on the Elimination of Discrimination Against Women, in its January 2007 report noted measures taken to enhance integration of minority women into Greek society, but “remains concerned that women from ethnic minority groups, in particular Roma and Muslim women, continue to face multiple forms of discrimination with respect to access to education, employment and health care.”¹⁹ The situation of women within some Roma and Muslim communities is cause for particular concern and requires dedicated attention.

74. Muslim women experience severe inequalities in access to education and consequent disproportionately high levels of illiteracy and unemployment. The application of Sharia law in some instances subjects Muslim women to norms incompatible with the Greek constitution, legislation and international standards, particularly with respect to child marriages. This practice evidently continues with serious implications for the health, well being and life choices of minority women, but regularly goes un-challenged by Greek authorities. Women brought up in the Muslim minority of Turkish heritage not speaking Greek, described being confined to their homes and villages with few opportunities for employment or social interaction. Examples were given of intimidation against women who attempted to establish women’s associations. Divorce leaves Muslim women particularly vulnerable considering their unequal status to men in regard to inheritance under Sharia law.

75. Roma women confront multiple grounds of discrimination, as women in Greece, as Roma, and as women within their communities. Many live under appalling living conditions while exercising an extremely heavy burden of care for children within highly patriarchal family and community structures. Young Roma women typically marry and have several children at a very

¹⁹ <http://daccessdds.un.org/doc/UNDOC/GEN/N07/243/74/PDF/N0724374.pdf?OpenElement>.

early age, reportedly as young as 13.²⁰ Child marriage is considered a tradition, but is also a consequence of lack of education and alternative opportunities. Girls have particularly high school drop out and illiteracy rates, as it is common for them to leave school upon marriage. Young Roma women often beg with their children since most men have irregular incomes. Reportedly high levels of divorce and domestic violence leave Roma women highly vulnerable and subject to abuse with little if any recourse via the justice system. Surveys highlighted by civil society groups²¹ undertaken in 2003/4 reveal disturbing trends relating to the general and maternal health of Roma women. 40 percent gave birth to their first child at the age of 12-16 years and 30 percent of births take place in tents or shacks within Roma settlements.

VI. POLITICAL PARTICIPATION OF MINORITIES

76. In Western Thrace, community representatives highlight that no members of the Muslim minority are represented in senior public posts, as public prosecutors, in the police or in the judiciary. They claim that, despite the election of two Muslim Members of Parliament in the opposition party, no Muslims hold senior posts in ministries. They discussed a lack of trust that exists between the minority and the Greek authorities which must be overcome for relations to improve.

77. Political participation of minorities, particularly the Roma community is generally very poor. In areas where Roma are well integrated, some Roma do achieve local government office. Such cases have demonstrated the positive outcomes achieved when Roma have a role in decision making. However Roma are extremely poorly represented even at the Municipal level and are unrepresented in National Parliament. ASPIDA-ROM, is a political party established by Greek Roma in 2006 to campaign for the rights of the Roma and better representation in Parliament and local government.

78. Those claiming minority Macedonian identity are represented by the Rainbow political party. This party does not have a seat in the national Parliament. The party is active in Macedonia and participates freely in Greek political life but has not obtained sufficient support to obtain a seat in Parliament. Representatives note difficulties in establishing the party and continuing hostility towards it due to its support for political recognition of the Macedonian minority in Greece, and the preservation of its culture, language and customs.

²⁰ Many Roma marriages are not legal and not registered, with implications including in regard to the registration of children and fathers.

²¹ See Greek Helsinki Monitor - Parallel Report on Greece's Compliance with the UN Convention on the Elimination of All Forms of Discrimination against Women.

79. Two members of the Muslim minority are currently in National Parliament both from the Panhellenic Socialist Movement (PASOK) party and actively advocate for the rights of the Muslim minority. In 2006 Municipal and Prefectural elections approximately 280 Muslims were reportedly elected to municipal and prefectural councils, including as mayors and a vice-prefect. The Muslim minority is always represented at the Hellenic Parliament. However representation at the most senior government levels has not been achieved. Notwithstanding the woman vice-Mufti in Xanthi, women's political participation is poor within the Muslim minority. Only the male head of households are permitted to vote in community elections for Muftis, which are not recognized by the State.

VII. CONCLUSIONS AND RECOMMENDATIONS

80. **The Independent Expert notes the history of turbulent inter-State relations, conflict and bi-lateral treaties between Greece and her immediate neighbors. Such factors continue to exert influence on minority issues in Greece. However, the Independent Expert is concerned with matters solely within the domestic jurisdiction of the Greek government relating to its treatment of minorities and disadvantaged groups within Greece. This report has focused on the degree to which legislation, policy and practice fulfill obligations under international human rights law, including minority rights, which take precedent over bi-lateral treaties and agreements.**

81. **The Greek government's interpretation of the term "minorities" is too restrictive to meet current standards: it focuses on the historical understanding of "national minorities" created by the dissolution of empires or agreements concluded at the end of wars; the so-called Minority Treaties. This historical paradigm limits the definition to those communities identified in specific bi-lateral treaties that may also delineate the obligations to the beneficiary community, in some cases tying those benefits to reciprocal arrangements for kinship communities in the other state. Treatment of the identified minorities, therefore, is a matter of inter-state treaty relations. Greece does not recognize the minority status of other communities, stating that those claims are unsubstantiated and politically motivated. To some degree, however, the government seems concerned that such recognition would *ipso facto* implicate the foreign policy of the Greek state toward a neighboring state.**

82. **One also senses an interest in promoting a singular national identity. This approach may leave little room for diversity. It can contribute to a climate in which citizens who wish to freely express their ethnic identities face government blockages and in some instances, intimidation from other individuals or groups. In the northern part of the country some people expressed their view that the term "minority" implies "foreign." Some consider**

those who want to identify as a person belonging to a minority ethnic group to be conspirators against the interest of the Greek state.

83. Greece recognizes only one minority, that is the Muslim Religious Minority in Western Thrace, which is protected by the terms and protocols of the 1923 Treaty of Lausanne which also provides reciprocally for the protection of the Greek Orthodox minority living in Turkey. Matters relating to the Muslim minority and the full observance and implementation of the Treaty of Lausanne, are handled by the Ministry of Foreign Affairs. While members of the Muslim minority are fully citizens of Greece, Turkey is allowed to have a Consulate in the region of Western Thrace and to involve itself in matters relating to the Muslim minority relevant to the Treaty of Lausanne.

84. Greece does not recognize differing ethnic or linguistic minorities, although it acknowledges that groups, like the Roma, are disadvantaged or vulnerable groups. So, Roma (those who are not Muslims), Muslims who are not from Western Thrace, those who claim a Macedonian ethnicity and more recent but settled immigrant communities are limited with respect to the full enjoyment of their rights of self-identification and the particular enhanced protections that they may be due as minorities. Muslims in Western Thrace face limitations on the full enjoyment of their right to have their Turkish ethnicity acknowledged. Further, those who identify as belonging to an ethnic Macedonian minority face social pressures and a challenge to their motives by the government. Associations have been denied registration because their desired name includes the words “Turkish” or “Macedonian.” Their rights to freedom of expression and freedom of association as protected under Article 19 and Article 22 of the ICCPR respectively have been infringed.

85. In both Western Thrace and the region of Central and West Macedonia, the debate over issues of recognized identities has been contentious. Tensions persist and there have been credible reports of intimidation.

86. While noting the historical origins of the Greek government’s obligations toward the Muslim minority in Western Thrace and the political history of the Balkans, the Independent Expert urges Greece to consider its obligations with respect to minority populations as arising within the post-1945 legal framework of modern human rights treaties and jurisprudence based on the principle that protection of human rights and

fundamental freedoms, including those of persons belonging to minorities, is the responsibility of the State in which the persons and/or minority groups reside. These rights are universal and are elaborated in multi-lateral treaties and other documents that

constitute core aspects of human rights law, including minority rights.²² In this regard, states should no longer be guided merely by bi-lateral agreements with specific countries, although within the context of respect for the rights of non-discrimination and equality before the law, bi-lateral arrangements could offer enhanced entitlements over the minimum obligations.

87. In the modern paradigm, while minority issues are a legitimate interest of the international community, they should not be seen as tied to or implicating specific inter-state relations that may threaten the principle of territorial integrity. A determination that a certain group should receive the protections due to minorities does not carry implications regarding inter-state relations.²³ Minorities are constituent groups fully within the Greek society - not a foreign element.

88. The absence of formal recognition by the state of a particular societal group as constituting “a minority” is not conclusive.²⁴ Rather, the existence of a group to which a state owes minority protections is a matter of objective facts and exercise of the right of self-identification by persons belonging to the group.²⁵ A number of criteria have been used in the past. A distinct shared religion, a language or distinctive dialect, race or ethnicity, cultural expressions, or a common national heritage. The Permanent Court of International Justice in the *Greco-Bulgarian* case made reference to a group of people “united in a sentiment of solidarity.”

89. Further, persons belonging to minority groups also enjoy all other civil, political, economic, social and cultural rights, including the rights to non-discrimination and

²² See, among others, the Helsinki Final Act (Principle VII, para.4), the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter: “ECHR”) (Article 1), the International Convention on the Elimination of Racial Discrimination, and with regard to minorities in particular, in the 1966 UN International Covenant on Civil and Political Rights (hereinafter: “ICCPR”) (Article 27), the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities, (Article 1(1)), the CSCE Copenhagen Document (paragraphs 33(1) and 36(2)) and the FCNM (Article 1).

²³ See the Bolzano/Bolzen Recommendations on National Minorities in Inter-State Relations & Explanatory Note, June, 2008; www.OSCE-hcnm.org.

²⁴ See Hurst Hannum, “The Concept and Definition of Minorities,” *Universal Minority Rights: A Commentary on the Jurisprudence of International Courts and Treaty Bodies*, Ed. Marc Weller, University Press, 2007, p.49.

²⁵ See article 27 of the ICCPR; General Recommendation ___ of the HRC; The Declaration on Minorities; ICERD and CERD Recommendation VIII, 1990 and XXIV, 1998.

equality before the law. But full protection of those rights is not a substitute for protection of their minority rights.

90. The government should retreat from the dispute over whether there is a Macedonian minority or a Turkish minority and place its full focus on protecting the rights to self-identification, freedom of expression and freedom of association of those communities. The Greek government should comply with the judgments of the European Court on Human Rights that associations should be allowed to use the words Macedonian or Turkish in their names and to freely express their ethnic identities. Those associations denied in the past must be given official registration promptly. Their further rights to minority protections must be respected as elaborated in the Declaration on Minorities and the core international human rights treaties.

91. The government should guarantee the right to personal security and freedom from intimidation or discriminatory actions by private or public actors on the grounds of the exercise of their right to self-identification.

92. The government is commended for the positive practices that it has adopted with respect to improving the quality of education available for the Muslim minority in Western Thrace, including in minority schools and the guarantee that 0.5% of university entrants - a quota which entered into force in 1996 - will be reserved for students from the Muslim minority.

93. Those efforts should be strengthened by providing for bi-lingual instruction in the pre-school level, which is now mandatory nationally; by guaranteeing that the quality of educational outcomes for those students who choose to go to the minority schools is comparable to graduates from the non-minority schools; ensuring that the teaching staff in the minority schools have the same training and qualifications as teachers in the non-minority schools and that the University of Athens special intervention program to upgrade the minority schools in Western Thrace gets sufficient funding.

94. The government should quickly implement its program of positive measures to ensure that 0.5% of all government jobs are filled by persons belonging to the Muslim minority. A similar program of positive measures should also be put in place with respect to other under-represented groups.

95. The appointment by government of religious officials, such as Muftis, infringes on the right of persons belonging to the Muslim minority to effectively participate in the decision-making processes that affect their daily lives. It is also an infringement on freedom

of religion. On the other hand, it is also not an option to impose Shari'a Law in a fashion that violates the right to equality of women guaranteed in the constitution and under international law. Religious leaders should be chosen by their religious communities, but must be restricted to religious duties that do not infringe fundamental rights.

96. With respect to the Roma population the government is displaying admirable good will in developing positive policies coordinated at the inter-Ministerial level through the "Integrated Action Programme on Roma." While some of those policies may raise questions of viability or appropriateness at a conceptual level, significant problems of implementation exist at the local level.

97. Many Roma remain in squalid living conditions with their children either in segregated schools or unable to access educational opportunities due to their identity. Roma face severe impediments to their rights to housing and against forced evictions. Their access to public services - from public transportation to clean drinking water - is denied by discriminatory actions by local officials. Discrimination in employment circumscribes their job possibilities to the most menial and dirty in the informal sector. The European Court of Human Rights has recently issued judgments against Greece in cases where the Court found failures to grant to Roma access to justice as defined by international standards and failure to guarantee the right of Roma children not to be unlawfully segregated into inferior schools.

98. The government must ensure that national policies are not subverted or defied by local authorities who find it more convenient to be responsive to local prejudices. With respect to international legal obligations including rights of non-discrimination and equality, domestic constitutional arrangements such as decentralized authority or devolution of powers, do not mitigate state responsibility for violations of human rights. The government should consider models which recognize the principle of national government pre-emption of local authority in matters of compelling state interest such as fundamental rights. Alternative models deny funding to non-compliant localities. The European Commission against Racism and Intolerance has recommended sanctions "on municipal councilors who make racist remarks or do not comply with the regulations and decisions that bind them." The government must display a stern political will that localities have no option other than to comply with positive national policies. National ministries must then effectively monitor implementation on the local level.

99. The government must take steps immediately to guarantee that universal standards of equality before the law, due process and the right to speedy trials are respected fully with regard to Roma defendants and litigants.

100. **The unique issues faced by women from the Roma and the “Muslim” minority are failing to gain the special focus they require. Roma and Muslim women suffer disproportionately high levels of illiteracy and unemployment and are often subjected to norms incompatible with the constitution and international standards - like child marriages and denial of inheritance rights under Sharia Law. Additionally, gender-based violence is not being effectively addressed. Efforts in this regards must be well-grounded in a consultative process with the affected women.**

101. **The Greek civil courts must exercise effective monitoring of Mufti judicial decisions to guarantee faithful adherence to the guarantees in constitutional and international human rights law.**

102. **The Government is urged to comply fully with the CEDAW Committee recommendation to “take effective measures to eliminate discrimination against minority women, including awareness-raising programmes, to sensitize public opinion at large, and particularly the police, on the issue of minority women. It also urges the State party to address the forms of discrimination, including with regard to access to education, by minority women through its legal, administrative and welfare systems.**

103. **The history of the Greek state and the majority conception of “the national identity” are tightly intertwined with the Greek Orthodox religion. Minority religions therefore have had to struggle to establish and maintain sufficient space for the full exercise of their identities in the civic sphere. Recent positive steps have been taken by the government. However, issues persist with the erection of houses of worship, burial practices and sites and general biases in public attitudes, including incidents of anti-Semitism. Bias also exists within the law to the extent that only the Greek Orthodox and the Jewish religions are recognized as having distinct legal personality as religious entities. The other religions are governed by the laws relating to secular associations giving rise to issues of equality with respect to protection of the right to freedom of religion.**

104. **The minority religions should be governed by a legal framework that recognizes their religious character and grants them legal personality appropriate to that status. All religions should have equal recognition under the law. Additionally, the law banning proselytizing, which has not had recent application, should be formally revoked.**
