

Report 2019

Pursuing Rights and Equality

Monitoring Report on the Right to Freedom of Religion or Belief in Turkey



Norwegian
Helsinki Committee





Freedom of Belief Initiative is a project of the Norwegian Helsinki Committee and is financed by the Norwegian Foreign Ministry.

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The Freedom of Belief Initiative started its activities in 2011 with a view to monitor the state of the right to freedom of religion or belief in Turkey, promote relevant international human rights standards and disseminate its findings to public authorities, stakeholders, civil society, national and international human rights compliance control mechanism and media. Its main activities are monitoring, reporting and making policy recommendations, advocacy and creating platforms for dialogue. The Initiative regularly submits reports to international human rights mechanism that review Turkey's compliance with human rights norms, including United Nations Human Rights Committee and the Office of High Commissioner for Human Rights in the context of the Universal Periodic Review mechanism as well as the Council of Europe Committee of Ministers. Since 2013 the Freedom of Belief Initiative continues its activities with the support of the Norwegian Helsinki Committee.



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This Report, Pursuing Rights and Equality – Monitoring Report on the Right to Freedom of Religion or Belief in Turkey (January 2016 – March 2019) was authored by Dr. Mine Yıldırım. Mine Yıldırım is the Director of Norwegian Helsinki Committee's Freedom of Belief Initiative. Yıldırım who has published extensively on the right to freedom of religion or belief in international law and the state of this right in Turkey has wrote her doctoral thesis on "The Collective Dimension of Freedom of Religion or Belief in International Human Rights Law and the Application of Findings to the Case of Turkey" at Human Rights Institute at ABo Akademi University in Finland. Currently, she is a member of the OSCE/ODIHR Panel of Experts on Freedom of Religion or Belief.



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1. Executive summary

The present monitoring report on freedom of religion or belief in Turkey, covering the period January 2016 – March 2019, systematically evaluates the components of the right to freedom of religion or belief on the basis of international human rights law. Additionally, the report includes recommendations and best practices on aligning legislation and implementation with the standards established by international human rights law. Whether in terms of international human rights treaties and the Treaty of Lausanne or in terms of the Constitution of the Republic of Turkey, Turkey itself has undertaken significant obligations in the area of the freedom of religion or belief. Despite these, still, many aspects of the law and its implementation must change to resolve violations of the freedom of religion or belief. This includes both new instances and longstanding challenges still awaiting resolution. The findings detailed in the report show that the effective protection of the universal right to the freedom of religion or belief will require a fundamental transformation of law and policy that needs to be based on an inclusive consultative process and on international human rights law.

The people we interviewed for this report indicated that individuals, especially those who hold a religion, belief, or worldview other than Sunni Islam, are subject to pressure and discrimination in the context of family, work, and social environment on the basis of their belief, non-belief, or changing their religion or belief, or that they were faced with this risk notwithstanding legal guarantees against this discrimination. These circumstances are widely experienced by atheists, converts to Christianity, Alevis, and members of non-Muslim minorities. During the monitoring period, attacks, threats, and acts of intimidation occurred against places of worship and the people involved with them. It appears that very few of the perpetrators of these acts faced any sanctions. In order to eliminate this multifaceted oppressive dynamic, it is necessary to have monitoring, reporting, and effective investigation of religious- or belief-based hate crimes, with compensation relative to damages for crimes that occur and a holistic approach directed towards hate crime prevention. Furthermore, there is a need for initiatives to be undertaken collaboratively between public institutions, religious and belief institutions and non-governmental organizations working in this field.

Turkey continues not to recognize the right to conscientious objection to military service, despite its obligations under Article 9 of the European Convention on Human Rights and Article 18 of the United Nations Covenant on Civil and Political Rights, which explicitly protect the right to conscientious objection. Moreover, this failure to recognize the right to conscientious objection is not compatible with the judgments of the European Court of Human Rights¹ and views of the United Nations Human Rights Committee.² The conversion of penalties for failure to perform military service into monetary fines means that conscientious objectors face penalties that have essentially been lessened in degree but have become more widespread.

1 See Addendum: Table European Court of Human Rights Judgments

2 See Addendum: Table of United Nations Human Rights Committee Views

Systematic obstacles continue to block the recognition of official places of worship, in particular for *cemevis* [Alevi places of worship], Protestant churches, and places of worship used by Jehovah's Witnesses. The government of Turkey has not implemented the general measures set out in judgments of the European Court of Human Rights to prevent similar violations from happening on this issue.

The most striking problem regarding freedom of association of religious or belief communities is that this right has been effectively suspended since 2013, due to the lack of arrangements for non-Muslim community foundations to hold elections. In January 2013, the General Directorate of Foundations repealed the provisions on the election of board members in the current regulation and announced that new provisions would be prepared to replace them. However, at the time this report was written, the regulation on elections had still not entered into force. In Turkey, no religious or belief community has been able to gain legal personality as a faith community. Religiously motivated associations can be established, and this formula has been useful for many religious or belief communities to gain a kind of legal status, which have used this for activities in the public sphere such as opening places of worship or charitable purposes.

As the European Court of Human Rights, in *Altınkaynak and Others v Turkey*, found, the restriction, present in the Civil Code, that “no foundation can be established to support a particular [religious] community,” constitutes an obstacle for the establishment of new foundations to support a religious or belief community. However, the example of the establishment of the Bursa Protestant Church Foundation, which showed it was possible to establish a Protestant foundation, is a positive indication that the interpretation of the law may be changing.

Restrictions on the selection and appointment of religious leaders continue to apply to certain religious or belief communities. The structure for appointing religious officials, *imams*, and *muftis* in the Presidency of Religious Affairs does not include a participatory process. Armenian Orthodox, Jewish, and Greek Orthodox communities are also subject to restrictions in this respect. During the monitoring period, the Armenian Orthodox community faced repeated interference in electing its religious leader since 2008 when the 84th Patriarch, Mesrob Mutafyan, was unable to fulfill his duties after falling ill. Finally, in February 2018, the Istanbul Governor's Office interfered in and obstructed the election process when it sent a letter to the Patriarchate saying that because Patriarch Mesrob Mutafyan was still alive and the Patriarch Vicar Aram Ateşyan was still in office, the conditions for the election of a new Patriarch were absent and an election could not take place.

Turkey has not yet been able to establish an educational system that fulfills its obligations to respect, both, children's freedom of thought, religion, and conscience and parents' right to raise their children in line with their religious or philosophical views while carrying out its duties in the field of education. Despite European Court of Human Rights' judgments finding, in regards to the mandatory Religious Culture and Ethics courses, that Turkey has violated the right to education, the course content and methods for exemptions from the courses have not been brought into alignment with international human rights law. Elective religion courses still do not reflect the diversity of views on religion, belief, and philosophy that exist in Turkey. In addition, as schools offer general elective courses in the form of packages also containing religion courses, many students are forced to take elective religion courses they would not otherwise choose. To the extent that the public sphere in schools has opened up to

religious symbols or practices, these have included activities such as the freedom to use the headscarf, facilitating participation in Friday prayers, opening *masjids*, and holding activities related to Holy Birth [of the Prophet Mohammad] Week celebrations, which shows that space has been opened only for one religion's symbols and practices. There is no equivalent freedom in the public sphere for the symbols or practices of other religions or beliefs, or to celebrate or participate in activities related to people or special days that are important to those religions or beliefs. As a result, freedom of religion or belief and pluralism in the field of education continue to be a problem for all groups. Reform efforts in the Ministry of National Education are not directing adequate attention to the right of freedom of religion or belief.

The security operations that began in July 2015 and have continued in various provinces in the Southeastern Anatolia region, as well as the events unfolding in their aftermath have led to the loss of life, damage to cultural heritage, and other serious and widespread human rights violations in the region. In particular, the period during and after the intense clashes in the Sur District of Diyarbakir, gave rise to developments gravely affecting freedom of religion or belief, the effects of which are still visible. The impact of this destruction on the small Armenian and Syriac communities has, undoubtedly, been severe. These raise concern regarding the ability of these communities to sustain their presence in Diyarbakir.

As of 23 September 2012, the individual application to the Constitutional Court mechanism has entered into Turkish law as a new means of pursuing legal remedies. The Constitutional Court, which takes into account European Court of Human Rights jurisprudence, is a new actor in Turkey that could, and should, lead to important changes related to freedom of religion or belief as well as in interrelated rights such as those of association, education, and the protection of property. However, the Constitutional Court has only reached a small number of decisions on freedom of religion and conscience, and applications regarding key issues of freedom of religion or belief are still pending review. Among these applications awaiting review is one regarding the right to conscientious objection, which was sent to the Plenary Assembly of the Constitutional Court. The Court has given inadmissibility judgments related to the protection of property of religious communities, excessively loud *ezan* [call to prayer], and the use of the Hagia Sophia Museum. On the other hand, the Tuğba Aslan decision, given by the Plenary Assembly of the Constitutional Court in a case regarding the use of the headscarf, represents an important development in that the Constitutional Court presented a new accommodating and liberal position on the issue.

The recommendations and decisions of international human rights protection mechanisms regarding the right to freedom of religion or belief, in particular the judgments of the European Court of Human Rights, have not been effectively implemented. Effectively implementing the general measures set out in judgments related to compulsory Religious Culture and Ethics classes, conscientious objection, the status of places of worship, and the failure to provide resources from the Presidency of Religious Affairs to the Alevi community for public religious services would provide a significant improvement in the protection of freedom of religion or belief in Turkey. Therefore, public institutions, non-governmental organizations, and international human-rights monitoring mechanisms should prioritize monitoring the execution of these judgments.

2. Methodology

The main objective of human rights monitoring, documenting, and reporting is to provide information based on objective and concrete data on human rights practices, especially government practices. This report will document patterns, trends, and discrepancies between the standards established by international law and Turkish law and practice, so as to clarify the measures necessary to bring them into alignment.³

The present *Pursuing Rights and Equality: Monitoring Report on the Right to Freedom of Religion or Belief in Turkey* was prepared in order to report on and evaluate legislative, judicial, administrative, practical, and other developments related to the freedom of religion belief (FoRB) in Turkey occurring in the period between January 2016 – March 2019. The study takes two key concepts for its theoretical base: the components of the right to FoRB as stipulated in international law, and the areas where FoRB intersects with other key rights.

This monitoring activity is not limited to legal norms and rules regarding obligations stemming from international law alone, but also includes court decisions and administrative practice. In this context, the study follows the judgments on the individual applications to the Constitutional Court and the decisions of the European Court of Human Rights (ECtHR), as well as their execution.

Observation and monitoring to reveal human rights violations involves actively collecting, verifying, and recording data. Activities carried out for this purpose consist of a number of processes for gathering and sharing information. In addition to the observation of national law-making processes and relevant court proceedings conducted in preparing this report, interviews were conducted with individuals from various religious or belief groups, atheist and deist groups, relevant non-governmental organizations, and human rights defenders in Istanbul, Ankara, Diyarbakir, and Mardin. Interviews were face-to-face or by telephone when possible, as well as by correspondence with relevant individuals in other cities. An accompanying media survey study also provided important data.

In order to confirm the data present in the Report, interviews were also conducted with public officials where possible.

3 United Nations Commission on Human Rights, *Training Manual on Human Rights Monitoring*, Geneva, 2001, p. 9

3. Legal framework

3.1 International law

Freedom of thought, conscience, religion, or belief is one of the fundamental freedoms protected by international human rights law. Many universal and regional conventions and political documents guarantee this right. Article 18 of the Universal Declaration of Human Rights (UDHR),⁴ Article 18 of the United Nations International Covenant on Civil and Political Rights (ICCPR),⁵ and Article 9 of the European Convention on Human Rights (ECHR) protect everyone's right to freedom of thought, religion, or belief.

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his [sic] religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.⁶

However, ensuring that FoRB is effectively protected is tied to the protection of other provisions of human rights law. In this sense, Article 9 of the ECHR is closely related to guarantees of freedom of expression under Article 10 of the ECHR and freedom of association under Article 11, both in terms of the letter as well as in terms of the spirit of these articles. Article 2 of Protocol No. 1 to the ECHR, which stipulates that states, in the exercise of their functions in relation to education, shall respect the right of parents to raise their children in line with their religious or philosophical views, is also a component of the legal framework of the right to FoRB.

In addition to the treaties above, the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, while a non-binding instrument, represents an important milestone in terms of establishing the collective dimension of international norms on the freedom of religion or belief.⁷

The commitments on freedom of religion and belief declared by the Organization for Security and Co-operation in Europe (OSCE) are also politically binding.⁸

Furthermore, the Treaty of Lausanne includes important provisions on the protection of non-Muslim minorities.⁹

4 The United Nations Universal Declaration of Human Rights was adopted at the United Nations General Assembly on 10 December 1948.

5 The United Nations Convention on Civil and Political Rights entered into force in Turkey on 23 September 2003.

6 ECHR Article 9. The European Convention on Human Rights entered into force in Turkey on 19 May 1954.

7 UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, A / RES36 / 55.

8 See in particular: 1989 Concluding Document of the Vienna Meeting of Representatives of the Conference on Security and Cooperation in Europe.

9 Treaty of Lausanne, Articles 37–45, 24.07.1923.

3.2 Domestic law

Article 24 of the Constitution of the Republic of Turkey protects the freedom of religion and conscience:

Everyone has the freedom of conscience, religious belief and conviction. Acts of worship, religious rites and ceremonies shall be conducted freely, as long as they do not violate the provisions of Article 14.

No one shall be compelled to worship, or to participate in religious rites and ceremonies, or to reveal religious beliefs and convictions, or be blamed or accused because of his [or her] religious beliefs and convictions. Religious and moral education and instruction shall be conducted under State supervision and control. Instruction in religious culture and morals shall be one of the compulsory lessons in the curricula of primary and secondary schools. Other religious education and instruction shall be subject to the individual's own desire, and in the case of minors, to the request of their legal representatives.

No one shall be allowed to exploit or abuse religion or religious feelings, or things held sacred by religion, in any manner whatsoever, for the purpose of personal or political interest or influence, or for even partially basing the fundamental, social, economic, political, and legal order of the State on religious tenets.¹⁰

Article 10 of the Constitution enshrines equality for all before the law, regardless of language, race, skin color, sex, political views, philosophical beliefs, religion, confession, or similar grounds and states that administrative bodies and state organs are, in all their operations, to treat all citizens equally and in accordance with these principles.

According to Article 90 of the Constitution, which sets forth the status of international human rights treaties in domestic law, international human rights treaties Turkey has duly ratified supersede domestic legislation. Therefore, in circumstances where conflicts occur between provisions of international human rights treaties and Turkish law, international human rights treaty provisions would have effect.

A variety of laws and regulations contain provisions affecting freedom of religion or belief in Turkey. These include: the Turkish Civil Code,¹¹ the Law on Associations,¹² the Law on Foundations,¹³ the Law on Assembly and Demonstrations,¹⁴ the Law on Zoning and Construction,¹⁵ the Turkish Criminal Code,¹⁶ the Basic Law on National Education,¹⁷ the Law on Private Educational Institutions,¹⁸ the Law on the Closure of Dervish Lodges and Tombs, Closure of Dervish Lodges, Hospices, and Shrines, and on the Prohibition and Repeal of Certain Titles,¹⁹ and the Law on the Prohibition of Certain Garments.²⁰

10 1982 Constitution of the Republic of Turkey www.tbmm.gov.tr/anayasa.htm

11 Turkish Civil Code, No. 4721, 22.11.2001.

12 Law of Associations, No. 5253, 4.11.2004.

13 Law on Foundations, No. 5737, 20.02.2008.

14 Law on Assembly and Demonstrations, No. 2911 6.10.1983.

15 Law on Zoning and Construction, No. 3194, 3.05.1985.

16 Turkish Criminal Code, No. 5237, 26.09.2004.

17 Basic Law on National Education, No. 1739, 14.06.1973.

18 Law on Private Educational Institutions, No. 5580, 08.02.2007.

19 Law on the Closure of Dervish Lodges, Hospices, and Shrines, and on the Prohibition and Repeal of Certain Titles, No. 677, December 1925.

20 Law on the Prohibition of Wearing Certain Garments, No. 2879, 3.12.1934.

4. Freedom of thought, religion, or belief

4.1 The freedom to have or change one's religion or belief

The freedoms to have a religion or belief, not to believe, and to change one's religion or belief, are central to the right to freedom of thought, conscience, and religion, and as such cannot be restricted.²¹ In Turkey, the rights to believe, not to believe, and to change one's belief are under legal protection. However, there are widespread reports of pressure in familial, workplace, and social settings, especially on those individuals who hold a religion, belief, or worldview other than Islam—including fear of being discriminated against. For atheists, converts to Christianity, Alevites, and members of non-Muslim minorities, these experiences are understood to be widespread. The channels for seeking redress of rights violations on the basis of individual events are not effective. This is true for various reasons (the burden of proof, reluctance to endure greater exposure, the desire not to declare one's religion or belief, fear of losing employment, etc.), and reveals the need for coordinated, general measures to prevent these kinds of situations.

- › Everyone has the right to the freedom of thought, religion, and conscience, and this right also includes the rights not to believe and to change one's beliefs. Relevant state institutions and NGOs should raise social awareness of these rights, particularly in the areas of education and employment.

4.2 The right not to declare one's religion or belief

No one shall be forced to declare their beliefs.²²

An important development in this context is the removal of the religion section from the visible portion of the new chip-enabled national identity cards entering into use in 2016.²³ However, the information contained in the chip does include a field for religion, and people can record their religion or belief in this field “according to their preference”. Authorized public officials are able to view the information recorded in the chip. In response to a request for information regarding which institutions and personnel are able to access the information on religion found on identity cards, the Directorate of the Office of Identity Cards, linked to the Interior Ministry, stated that all information related to individuals' beliefs is considered qualified personal data (sensitive) and that they take precautions to protect this information in accordance with the Personal Data Protection Law. They also responded that under circumstances stipulated by the law, certain institutions would be able to access this information.²⁴ According to the Personal Data Protection Law, information related to religion or

21 Hürriyet, “Din hanesi kartta yok” [“No Religion Field on IDs”], 16 February 2016.

22 ECtHR, *Sinan Işık – Turkey*, Application No. 21924/05, 2 February 2010.

23 Supra fn. 19.

24 Berke Özenç, “İnançını Açıklamama Hakkı Açısından Türkiye Cumhuriyeti Kimlik Kartlarındaki Din Hanesi”, *Türkiye Barolar Birliği Dergisi*, [“The Field for Religion on the Republic of Turkey's Identity Cards in regards to the Right Not to Declare One's Belief”, *Journal of the Union of Turkish Bar Associations*,] 2019 (141), p.36–37

belief is “qualified personal data” and will only be processed pursuant to the explicit request of the relevant party, but, “subject to conditions stipulated by the law,” authorized institutions may access this information without seeking the individual’s permission.²⁵

The fact that the field for religion no longer appears on the visible portion of identity cards, which are used widely by individuals in the course of exercising various rights, is a positive development. On the other hand, while the field showing religion is present only on the chip and the individual has the right to decide whether to record it, the presence of the religion field in family registries and its presence in identity documents still contains the risk of facilitating discrimination. Ultimately, the ability of public officials to see this field listing a religion other than Islam, or the field being left blank, presents the risk of discrimination on the basis of religion or belief.

Additionally, for Jewish and Christian students, there is a real risk of discrimination and being forced to reveal their religion or belief, insofar as those students, in order to make use of the right to an exemption from compulsory Religious Culture and Ethics courses, cannot leave the religion field blank in their identity documents. The Ministry of National Education’s (MNE) Directorate General of Religious Education wrote a memorandum to provincial governors on 3 February 2015 ordering that in order to be exempt from the RCE classes, students receiving education in elementary and middle schools, other than schools for religious minorities, would have to have their religions recorded on their identity documentation in the religion section.²⁶ Children with blank religion slots in their identity documents would be required to take RCE classes. As a result, the individual is caught between being forced to declare their religion and being forced to take the RCE class.

As the European Court of Human Rights (ECtHR) found in the *Sinan Işık – Turkey* decision, recording citizens’ religions—voluntarily or involuntarily—in population records or identity cards, is incompatible with the person’s right not to declare their religion.²⁷ As this is still valid, in order to effectively enforce this judgment, the field for religion should be removed from identity records.

- › The field for religion in population records must be removed.
- › Until the field for religion is removed from official documents, individuals must be permitted to express a religion or belief in the manner they choose, including such worldviews such as atheism or agnosticism, and not merely be allowed to choose from a list presented to them.
- › In order for Christian and Jewish students wishing to exercise their right to be exempted from the RCE course not to be forced to forfeit their equal right to leave the religion field of their identity documents blank, their statement to this effect should be sufficient for exemption.

25 Law on Protection of Personal Data, Law No: 6698, Official Gazette, 29667, 74.2016, Article 6.

26 Hürriyet, “Din Dersi Muafiyetine Belge Şartı” [“The Documentary Requirement for Religious Course Exemption”], 10 February 2015.

27 *Sinan Işık* judgment, supra fn 22, para. 60.

4.3 Coercion to act in a manner contrary to one's beliefs

The Right to Conscientious Objection to Military Service

The right to FoRB also guarantees the right to conscientious, or religious or belief-based, objection to mandatory military service.²⁸ Although Turkey has the obligation to recognize the right to conscientious objection following from its commitments under Article 9 of the European Convention on Human Rights (ECHR) and Article 18 of the United Nations International Covenant on Civil and Political Rights (ICCPR), as well as the findings of the ECtHR²⁹ and view of the UN Human Rights Committee (HRC)³⁰ that Turkey violated these rights by failure to recognize the right to conscientious objection, Turkey maintains its refusal to recognize the right to conscientious objection to military service.

The government, in the 24 September 2018 action plan it presented to the Council of Europe's Committee of Ministers in response to their judgments in the "Osman Murat Ülke group cases," claimed that the system of paid partial exemptions from military service which entered into effect with a new law³¹ on 3 August 2018 was a valid alternative to mandatory military service.³²

Nevertheless, the new system of paid partial exemptions from military service does not appear to be an acceptable alternative to compulsory military service compatible with human rights obligations. Among other reasons, this paid exemption entails a certain financial burden, which means it is not an option accessible to all. For example, after starting military service, those making a statement of conscientious objection, those who do not fulfill the age or other criteria, are not able to benefit from the option to pay for a partial exemption. Even those who do take advantage of paid exemptions from full military service are still obligated to participate in a defined period of basic military training, and must put on the military uniform. Therefore, Turkey still faces the obligation to design an alternative service option compliant with human rights standards.

The process following the designation by military induction stations of individuals who are conscientious objectors as draft dodgers or deserters deprived these people of their civil, social, and economic rights to such an extent that the ECtHR referred to it in the *Osman Murat Ülke – Turkey* judgment as "civil death."³³ The conversion of criminal penalties into fines does ameliorate this situation. On the other hand, the presence of identifying information on individuals who have not completed the standard compulsory military service in the General Information Collection (GIC) and equivalent data systems, and the related ease of identifying these individuals, indicates that the penalty has only been relatively eased, but not fully eliminated.³⁴

28 ECtHR, *Bayatyan – Armenia*, Application No. 23459/03, 7 July 2011.

29 See Addendum – Table European Court of Human Rights Judgments .

30 See Addendum – Table of United Nations Human Rights Committee Views.

31 The Law Amending the Military Service Law No. 7146 and Certain Other Laws and Decree Law No. 663 was published in the Official Gazette dated 30 August 2018 and numbered 30498.

32 The action plan will be submitted to the Committee of Ministers by the Government of Turkey, 17 September 2019. [https://hudoc.exec.coe.int/eng#%7B%22fulltext%22:%5B%22osman%20murat%20C3%BCIke%22%22%22%22DH-DD\(2018\)938E%22%7D](https://hudoc.exec.coe.int/eng#%7B%22fulltext%22:%5B%22osman%20murat%20C3%BCIke%22%22%22%22DH-DD(2018)938E%22%7D).

33 ECtHR, *Osman Murat Ülke – Turkey*, Application No. 43965/04, 24 April 2006, para. 62.

34 Interview conducted with representative of the Conscientious Objection Association, June 2019.

Conscientious objectors are not released from their obligation to perform military service, and so cannot enter professions that require the completion of military service as a condition of hiring. They are also prevented from exercising a number of their human rights.

A Jehovah's Witness conscientious objector, whose application through the Turkish Constitutional Court individual application mechanism was directed to the Constitutional Court's General Assembly in 2016, is still awaiting a judgment.³⁵

- › The right to conscientious objection should be recognized in a manner compatible with international human rights standards.
- › The government should create civilian and non-discriminatory alternatives to military service which do not punish those who opt for such service.
- › An impartial application-assessment mechanism should be created for conscientious objectors.
- › Financial penalties should no longer be applied to those who object to performing military service.
- › Turkey should implement the judgments of the ECtHR and the finding of UN Human Rights Committee on the right to conscientious objection.

³⁵ Bianet, "Vicdani Ret AYM Genel Kurulu'nda" ["Conscientious Objection at the Constitutional Court General Assembly"], 23 February 2016.

5. Freedom to manifest one's religion or belief in worship, teaching, practice and observance

5.1 The right to manifest one's religion or belief in worship

Everyone has the right to manifest their religion or belief in worship.³⁶

One topic that arose during the monitoring and reporting period regarding the gender dimension of FoRB related to the rights of women to worship in mosques. The “Women in Mosques” movement, in their 2017 campaign, began work towards the goal of “paving the way for women to participate effectively in the mosque community, and activating the mechanisms responsible for organizing mosques according to these demands”.³⁷ All mosques in Turkey are under the management of the Presidency of Religious Affairs, which has complete authority to set rules and practices on the matter of how men and women worship in mosques. Under these circumstances the state carries positive obligations to guarantee women access to mosques. Among these obligations are providing appropriate physical conditions and ensuring that women's worship is not interfered with.

The conditions necessary for women to access their places of worship in mosques should be established; measures should be taken to ensure that women participate in decisions as part of the mosque community.



³⁶ ECHR, Article 9.

³⁷ Interview with Women in Mosques activists, October 2018.

- The conditions necessary for women to access their places of worship in mosques should be established; measures should be taken to ensure that women participate in decisions as part of the mosque community.

5.1.1 Attacks and threats against places of worship

Whether from the people we conducted interviews with or as a result of the monitoring study, the data we acquired indicated that threats and attacks directed towards communities of belief and/or religious/spiritual leaders continue, and most of the time go unpunished.

2016

Between July 2015 and June 2016, in the conflict in the Sur district of Diyarbakir, Ulu Camii, Fatih Paşa Mosque, Fatih Paşa Mosque Shafi Section, Şeyh Muttahhar Mosque, Dört Ayaklı Minare, Armenian Catholic Church, Armenian Protestant Church, Arap Şeyh Mosque, Kadı Camii, Hasırlı Mescidi and Nasuh Paşa Mosque, Surp Giragos Church and Mar Petyun Chaldean Church all suffered damage.³⁸

Due to attacks on the Virgin Mary Syriac Orthodox Church and the home of the priest that took place in January 2016, the priest, Akbulut, was forced to leave his home located in the church compound.³⁹

On 19 June 2016, visitors to the Jewish cemetery in the Emek neighborhood of Antakya found the cemetery wall demolished, the gate broken, and some family gravestones smashed.⁴⁰

In June 2016, in some neighborhoods of the Sur district of Diyarbakir, historical buildings and churches also saw damage due to the curfew and clashes which had been going on for weeks.⁴¹

On the night of 16 July 2016, in Trabzon a group of about 10 people split off from a group of protestors and attacked the Santa Maria Catholic Church while reciting the *tekbir*. The attackers broke the windows of the church by throwing paving stones, and attempted to break down the door to the church with hammers they brought with them. The inhabitants of the surrounding homes reacted to the attackers and shouted them off before more damage was inflicted on the church.⁴²

On the night of 16 July 2016, a group of people among those who had taken to the streets in protest of the 15 July coup attempt stoned the Malatya Protestant Church while reciting the *tekbir*. The windows of the church were broken in the attack. Due to the attack occurring at night, no one was present at the church, which suffered some physical damage to the church building.⁴³

38 Birgün, "Diyarbakır'ın tarihi surları da çatışmalarda zarar gördü" ["Diyarbakır's historic walls were also harmed in the fighting"], 05.10.2015; Hürriyet, "Sur'da hasar gören Kurşunlu Camii'nde restorasyona başlandı" ["Restoration begun on damaged Kurşunlu Mosque in Sur"], 7 September 2016.

39 DiyarbakırSöz, "Kiliseyi Terk Etti" ["They Abandoned the Church"], 30 January 2016.

40 Tigris Haber, "CHP: Hatay'daki Yahudi mezarlarına kim saldırdı?" ["CHP: Who attacked the Jewish cemeteries in Hatay?"], 23 June 2016, A Haber, "PKK Cami ve Kiliseleri de Yaktı Yıktı" ["PKK Burned and Destroyed Mosques and Churches"], 19.06.2016, Milliyet, "Teröristlerin Yaktığı Cami ve Zarar Verdiği Kilisede Restorasyon Çalışmalarına Başlandı" ["Restoration Work Begun on Terrorist-Burned Mosque and Damaged Church"], 13 July 2016.

41 Agos, "Gavuru Kalmamıştı, Şimdi Mahallesi de Kalmamış" ["No More Non-Muslims, No More Neighborhood"], 02 June 2016.

42 Agos "Trabzon ve Malatya'da Kiliselere Saldırı" ["Attack on Churches in Trabzon and Malatya"], 18 July 2016.

43 op.cit. Agos "Trabzon ve Malatya'da Kiliselere Saldırı", 18 July 2016.

2017

In March 2017 in Ankara, it was reported that a threatening letter was sent to Radio Shema, a radio station with programs including Christian content.⁴⁴

In July 2017, it was reported that a Bible was burned in front of the Yeni Yaşam Kilisesi (New Life Church) of İzmir and left at the door to the church. The perpetrators were not identified.⁴⁵

On 20 July 2017 in Istanbul, after a press release by the Alperen Ocakları in front of the Neve Şalom Synagogue, it was reported that a group from among the people gathered there threw stones and kicked at the door to the synagogue. In response to the event the Neve Şalom Synagogue Foundation, the Rabbinical Foundation of Turkey, and some of the members of the Human Rights Association made a complaint. It was possible to identify only one suspect from the images produced by the security cameras placed around the Synagogue, and the indictment was only completed one year after the event.⁴⁶ In the hearing held on 31 January 2018, the court accepted the requests of the Neve Şalom Synagogue Foundation and the Rabbinical Foundation of Turkey for standing in their ongoing suit^but rejected the request for standing by G. Yarkin, E. Keskin and M. Çıldır of the Human Rights Association. During the hearing, the members of the Human Rights Association who had requested standing stated that the scope of the case should be widened, other participants in the demonstration should be identified, and that the presence of the Alperen Ocakları in similar events should result in its being considered a criminal organization.⁴⁷

On 22 July 2017 it was reported that a group gathered reciting anti-Israel slogans and holding placards in front of the Ahrıda Synagogue in Balat. The group later placed a symbolic x-ray machine in front of the synagogue. Bayram Demir, the Chairman of the Grand Ottoman Association, made a threatening speech in the name of the group.⁴⁸

On 10 November 2017, the Habibler Cemevi, in Istanbul's Sultangazi, district was attacked by unknown person or persons who broke a window and threw a bucket with flammable material inside the cemevi.⁴⁹ The fire was put out by people present inside the building. The investigation of the incident is ongoing.

On 22 November 2017, in the Cemal Gürsel neighborhood of Malatya, an area densely populated by Alevi families, the doors and walls of 13 houses were painted

44 Interview with Radio Shema representatives, June 2018.

45 Interview with Protestant Churches Association officials, October 2018.

46 Gazete Duvar, "Sinagog Saldırısına 1 yıl sonra İddianame" ["Indictment 1 year after Synagogue Attack"], 15 July 2018.

47 The accused Kürşat Mican under the following articles of the Turkish Civil Code:

Article 213(1): "A person who openly threatens life, health, body, sexual inviolability, or property to create anxiety, fear, and panic among the public shall be punished with from two years to up to four years of imprisonment."

Article 115(1): "A person who uses force or threat to compel anyone to declare or change their religious, political, social, or philosophical beliefs and convictions, or forbid their expressing or disseminating these, shall be punished with from one year to up to three years of imprisonment."

Article 216(1): "Anyone who openly incites hatred and hostility among a segment of the population defined by social class, race, religion, sect, or region against another such group, in the event of a clear and imminent threat to public safety, shall be punished with from one year to up to three years of imprisonment."

Article 153(1): "A person who damages houses of worship, their annexes, the possessions, tombs, the buildings over them, cemetery facilities, or structures established to protect cemeteries, by demolishing, breaking, or destroying them, shall be punished with from one year to up to four years imprisonment."

48 Demokrat Haber, "Balat'taki Ahrıda Sinagogu'nun kapısına x-ray cihazı konuldu: 'İsrail haddini aşmıştır'" ["X-ray device placed at door of Ahrıda Synagogue in Balat: 'Israel is out of line'"], 23 July 2017.

49 Cumhuriyet, "Sultangazi'deki Habibler Cemevi'ne Taşlı Saldırı" ["Rocks Thrown at Habibler Cemevi in Sultangazi"], 9 November 2017.

with red X signs.⁵⁰ The Alevi community, which had previously been victim to attacks after buildings were marked by similar signs, became very anxious. The event was condemned by the Chair of the Malatya Province National Hearths and the Chamber of Trades and Craftsmen.

In November 2017, the sign outside of the Bahçelievler Lütuf Church was reportedly stolen. The perpetrators were not identified.⁵¹

In December 2017, a letter containing a death threat with the names of a pastor and a church official was left at the Balıkesir Church. The windows of the home where the threatened church official lived were broken.⁵²

2018

On 30 April 2018, garbage was piled in front of the Surp Takavor Armenian Church in Kadıköy and “You are finished” was written on the wall.⁵³ When church officials made contact with the authorities an investigation was made using an analysis of images taken from cameras inside and positioned around the church, which resulted in the identification of the perpetrator, who was reported to be not of sound mind. According to the Turkish Criminal Code, “A person who by reason of mental illness does not perceive the legal meaning and who cannot perceive the consequences of his actions or who is significantly limited in the control of his actions cannot be punished. However, security precautions will be ordered for such people.” The garbage in front of the church door was cleaned up by officials from Kadıköy Municipality. The attack was condemned in the official statement made by the Kadıköy Municipality on social media. After the attack on the church, Interior Minister Süleyman Soylu called Aram Atesyan, the Deputy Patriarch of the Armenian Patriarchate in Istanbul, and Aram Bükücüyan, the Chairman of the Armenian Surp Takavor Foundation in Kadıköy, to offer them his sympathy.

Surp Takavor Armenian Church



50 Hürriyet, “Malatya’da Alevilerin Evlerine Atılan Çarpılara Kinama” [“Condemnation of Stoning of Alevi Homes in Malatya”], 23 November 2017.

51 Protestant Churches Association, 2018 Rights Violations Report.

52 Ibid.

53 Media statement by Surp Takavor Armenian Church, 30 April 2018.

On 3 May 2018, an unidentified masked individual wrote insulting and blasphemous messages on and around the walls of the Kestel Hacı Bektaş-ı Veli Cultural Center and Cemevi in Bursa. Upon notification by representatives of the Cemevi, teams from the Bursa Police Department and Kestel District Police Departments initiated an investigation, which is ongoing, to arrest the suspect.⁵⁴

Between 4–5 June 2018, unidentified persons broke down and ripped up signs placed by the Mardin Metropolitan Municipality to mark the location of and direct visitors to the historically significant Protestant Church of Mardin. It was reported that the same event occurred in 2017. A criminal complaint was filed, but the perpetrators have not been caught.⁵⁵

Between 17–18 June 2018, the Mardin representative of the Erbakan Foundation singled out the Mardin Protestant Church and the church staff with a threatening statement on social media. The statement, published in the Mardin local newspaper, argued that because the church sign was next to a sign for a mosque, it should be considered as an insult to the mosque. Although the Mardin Governor's Office was informed about the issue and a criminal complaint was filed with the public prosecutor's office, there has been no outcome to the case.⁵⁶

2019

On 20 January 2019, three people were reported to have thrown a sound grenade at the door of the Mardin Protestant Church during Sunday services. During the event, neighborhood guards in the vicinity caught three people between the age of 20–22 and filed a criminal complaint against them. The suspects were released after their statements were taken.⁵⁷

On 23 February 2019, at 10:30pm an unidentified person or persons wrote threatening statements on the wall of the Surp Hresdagabet Armenian Church, near the waterfront in the Balat district of Istanbul.⁵⁸

Surp Hresdagabet Armenian Church



54 Evrensel, "Kestel Cemevi'ne İrkçı Saldırı" ["Racist Attack on Kestel Cemevi"], 4 May 2018.

55 Interview with religious official of Mardin Protestant Church, October 2018.

56 Ibid.

57 Ibid.

58 Facebook page of Armenian Patriarchate.

On the night of 28 March 2019, the Beth Israel Synagogue in the Konak district of Izmir was attacked with a Molotov cocktail. After an investigation by the Security Directorate, a suspect was arrested on charges of “harming places of worship”.⁵⁹ The suspect alleged that he had made the attack to “protest Israel”.

Statements containing prejudice and hate speech are also shared on social media following these attacks.

- **Good Practice:** The Association of Protestant Churches reported that in 2018 they established best relations that they have had with the security forces, yet. As a result of the sensitivity demonstrated by the security forces in conducting security measures in dialogue with church communities and in ways that neither disturb nor harass the community, Protestant communities have largely been able to carry out their worship and celebrations without any problems.

- › Effective security measures should be provided by the state for places of worship and believers.
- › Attacks and threats should be effectively investigated and not left unpunished.
- › The Interior and Justice Ministries should track, report, and take measures to prevent religion- and belief-based hate crimes.

5.1.2 The right to establish and maintain places of worship

Everyone has the right to manifest his or her religion or belief through worship, and this right includes the right to establish and maintain places of worship.⁶⁰ However, in Turkey the official status of a place of worship is not automatically granted as a result of establishing it. Consequently, not all places used as places of worship are classified as such. Spaces that do not have the status of places of worship cannot benefit from the privileges enjoyed by those places with this status. In Turkey, Alevi *cemevis*, Protestant churches, and places of worship used by Jehovah's Witnesses face systematic obstacles in obtaining places of worship status.

It has been reported that non-Muslim asylum seekers have not always been guaranteed the ability to worship in the cities to which they are sent.

In terms of the *cemevis*, ECtHR judgment in the *Cumhuriyetçi Eğitim ve Kültür Foundation – Turkey* case is of great significance. The case concerned the rejection of the Yenibosna Cemevi's request that, as a place of worship entitled to coverage of lighting costs, the state cover the costs of their lighting—which the state refused on the grounds that “Cemevis are not places of worship”.⁶¹ In the ECtHR judgment on this case, the Court found that the ECHR's prohibition against discrimination contained in Article 14, in connection with Article 9, had been violated.

Although there has been no overall change in legislation or its implementation, in the light of domestic court decisions and the ECtHR judgment, the decisions have been made to pay the electricity bills for some *cemevis* from the budget of the Presidency of

59 Şalom, “İzmir’de Sinagoga Molotof Kokteyli Atan Saldırgan Yakalandı” [“Attacker who Threw Molotov Cocktail at Synagogue in Izmir Arrested”], 2 April 2019.

60 Human Rights Committee, General Comment No. 22.

61 ECtHR, *Cumhuriyetçi Eğitim ve Kültür Merkezi Foundation – Turkey*, Application No. 32093/10, 2 December 2014.

Religious Affairs *in some cases*. For example, after the suit brought by the directors of the Yenice Branch of the Cem Foundation in Tarsus, with the Sıtkı Baba Cemevi, on the grounds that “the state pays the electricity bill for *cemevis*,” the Tarsus 1st Civil Court of First Instance decided that *cemevis* would be considered as places of worship and that their electricity bills would be paid from the Religious Affairs budget.⁶²

With the amendment made to the Law on Zoning and Construction No. 3194, the temporary Article 16, which came into force on 11 May 2018, implemented a zoning amnesty, which allows the electricity bills of some structures used as places of worship to be paid out of the budget of the Presidency of Religious Affairs. According to this provision, *cemevis* or other places of worship can, by completing an application process on the *e-devlet* website, receive a building registration document where they have the option to select the building type as a place of worship without any fee and without demonstrating whether it is on private-registered or public land, or whether there is a residential license. With the possibility of registering the building class on the basis of the owner’s statement alone, it may become possible to benefit from certain privileges granted to places of worship without relying on a decision by public authorities.

The Alevi *cemevis* do not have place of worship status.



Although this is a positive development, this one-off policy measure does not provide an effective solution to the underlying problem:

- The Presidency of Religious Affairs has still not covered the lighting costs for a number of applicants who have taken advantage of the application process to register their building.⁶³
- For the buildings indicated as places of worship through this application process, it remains unclear whether or not they will attain a status equal to that of buildings

62 Habercem, “Mahkeme kararı: ‘Cemevleri ibadethanedir, elektrik faturası Diyanet tarafından ödenecek”

[“Court decision: ‘Cemevis are houses of worship, Diyanet will pay their electricity bills’”], 13 December 2018.

63 Interviews with representatives of Alevi and non-Muslim communities.

that have been fully recognized as places of worship. For example, it remains unclear whether buildings that have registered themselves as places of worship will be shown in urban zoning plans and whether they will be able to benefit from any other advantages besides having electricity bills paid by the budget of the Presidency of Religious Affairs on *par* with officially recognized place of worship.

- This policy is temporary and valid until the end of June 2019. It is unclear how/whether the process for classifying buildings based on the statements of owners will continue after this period ends.
- Some faith communities have not applied to take advantage of this process, as they are opposed as a matter of principle to the notion of the Presidency of Religious Affairs covering their lighting costs.⁶⁴

While it became possible, in building registration documents, for places of worship to be classified as such on the basis of declarations-by-owner, there have, however, been some contradictory developments.

On 17 May 2018, the Istanbul Metropolitan Municipal Assembly rejected an amendment that had been approved unanimously in Tuzla Municipality for the construction of a *cemevi*.⁶⁵ The 2nd article of the plan amendment, as initially approved, included a note that read, “within the socio-cultural areas, facilities may be used for functions with the purpose of increasing the quality and level of social life, such as kindergartens, classes, dormitories, nurseries, orphanages, nursing homes for the elderly and disabled, ... and *cemevis*”. When the plan amendment was sent to the Istanbul Metropolitan Municipality for approval as required by law, the Zoning and Public Works Commission accepted the inclusion of the parcel as a socio-cultural facility, but approved the amendment only by canceling its 2nd article, which included the reference to “*cemevis*”.

Protestant churches and places of worship used by Jehovah's Witnesses are also not officially recognized as places of worship. Despite the large number of places of worship used by these communities in various parts of Turkey, their applications for place of worship status are rejected. Indeed, in the *Association of Jehovah's Witnesses – Turkey* case, the ECtHR held that Turkey had violated Article 9, protection of the right to FoRB by rejecting applications by the association to receive official status for places of worship. The ECtHR found this had directly interfered in FoRB of the applicants and that Turkey did not demonstrate that the interference was either proportionate to the legitimate aims pursued nor necessary in a democratic society.⁶⁶ The action plan submitted by Turkey regarding the execution of this judgment does contain certain regulatory amendments.⁶⁷ However, for the effective execution of this decision, the state must provide guarantees related to the application by the Jehovah's Witnesses, among others, that their spaces for worship will receive official status. Protestant churches face similar circumstances, and similar administrative decisions and practices also apply to the applications made by the Protestant community.

64 This is the reason many *cemevis* composing the Alevi Bektaş Federation did not apply. Interview with Müslüm Metin, April 2019.

65 Habercem, “İBB'den Cemevi sansürü... 'Bu ayrımcılıktır'” [“Cemevi censorship by İBB... 'This is discrimination'”], 18 May 2018.

66 ECtHR, *Yehova Şahitlerini Destekleme Association – Turkey*, Application No. 36915/10 and 8606/13, 24.05.2016.

67 Action Plan submitted by the Turkish Government to the Council of Europe Committee of Ministers, 16 June 2017 [https://hudoc.exec.coe.int/eng#f1%22fulltext%22:\[%22association%20Jehovah's%20witnesses%22\],\[%22EXECidentifier%22:\[%22DH-DD\(2017\)722E%22\]\]](https://hudoc.exec.coe.int/eng#f1%22fulltext%22:[%22association%20Jehovah's%20witnesses%22],[%22EXECidentifier%22:[%22DH-DD(2017)722E%22]]).

Construction of Syriac Church in Istanbul

Despite the fact that the largest Syriac population in Turkey resides in Istanbul—the population is estimated to be 18,000—the absence of a sufficient number of church buildings has forced the Syriac population to use the buildings of other communities for their religious services. In 2015, during Ahmet Davutoğlu's term as prime minister a decision was made to build a new church building in Yeşilköy, but due to legal problems, the construction of the building has stalled. The land allocated to the Syriac community in Yeşilköy was a former Latin Catholic cemetery. The Latin Catholic community requested that the land be given back to them, and filed a lawsuit against the appropriation of the land.⁶⁸ The suit stated that the Istanbul Metropolitan Municipality could not reallocate the site as a church, and requested that the Municipality issue an injunction and cancel the land grant. The injunction was granted, so during the course of the trial construction work could not proceed. As a result of intense dialog between authorities of the Latin Catholic Church and the Syriac community, the Latin Catholic applicants requested that the injunction be lifted, but the court case is ongoing.

In the event that the construction of the church is completed, it will be one of the very few new church buildings to achieve status as a place of worship during the Republican period. The church received its license from the Bakırköy Municipality.⁶⁹ The construction of the church is expected to be completed within two years.

- › The construction of places of worship, granting of licenses, the designation in city plans of appropriate sites as places of worship, and the recognition of places of worship with legal status should be facilitated in accordance with the standards set by the freedom of religion or belief, and implemented in a non-discriminatory manner.
- › The execution of the judgments issued by the ECtHR regarding places of worship must be enforced effectively and immediately.

Losses in Diyarbakır – Conflict, destruction, and urgent expropriation in Sur

The security operations that began in July 2015 in various provinces in Southeastern Anatolia, and the events following in their aftermath, led to loss of life, damage to cultural heritage, and other serious and widespread human rights violations.⁷⁰ During and after the intense clashes experienced in the Sur District of Diyarbakır, developments affecting FoRB have emerged and are still in effect. It was reported that the most intense destruction occurred immediately after security operations ceased, and that while displaced persons were being prevented from returning to their homes, authorities used heavy machinery to demolish large areas including buildings with only light damage as well as cultural heritage buildings.⁷¹ UNOSAT satellites reveal the intense destruction in the Southeast Anatolian region, especially in Nusaybin, Derik and Dargeçit (Mardin); Sur, Bismil and Dicle (Diyarbakır); and Cizre and Silop (Şırnak). 1786 damaged structures were identified in a damage assessment made on the basis of these satellite images, and the source of the damage is thought to be from heavy weapons and aerial bombardment.⁷²

68 Uygur Gültekin, "İstanbul'daki Süryani Kilisesi için Çalışmalar Yeniden Başladı" ["Work Restarted on Syriac Church in Istanbul"], *Agos*, 25 January 2018.

69 Interview with Meryem Ana Süryani Church Foundation President Sait Susin, April 2019.

70 United Nations High Commission on Human Rights, *Report on Human Rights Situation in South East Turkey July 2015-December 2016*, February 2017.

71 Ibid. Eyewitnesses we interviewed in Diyarbakır confirmed this view.

72 See above, fn. 70.

Interior view of Surp Giragos Church



The Sur district of Diyarbakır carries great importance from the perspective of FoRB as it is an area that has suffered intense conflicts and where there is a cultural heritage containing a great number of non-Muslim places of worship and settlements. This report specifically focuses on issues of FoRB arising in the area known as the “infidel quarter” of the Sur District.

The effects experienced by religious or belief groups from the process beginning with the security operations of July 2015 can be divided into two: during and after the fighting.

During the clashes, in affected districts worship could not be performed because, as a result of the general security situation and curfews, it was not possible to access churches and mosques. During this period, Muslims were able to go to different areas in Diyarbakır to worship, and the Protestant Church gathered to worship in the Diyarbakır Protestant Church Association building located in a different part of Diyarbakır, but the Armenian and Syriac communities were unable to continue their religious services.

“[During the clashes] unfortunately we had to abandon our church. When the evacuation order was issued due to the trenches, barricades, and fighting around our neighborhood, we sent the children to our relatives. I stayed with my spouse; we did not want to leave the church until the very end. But the electricity was cut off, the water and phone were cut off, and fighting started at night. The explosions were so bad that the church shook and the walls were damaged. The roof almost collapsed on our heads. For a long time we could not leave. We called law enforcement, they said ‘don’t go outside’. We couldn’t stand it. My spouse took some white rag to hold up and we went out, we stayed in a hotel for 4 months. We were unable to have our meetings in our houses of worship.” – Yusuf Akbulut, Pastor of the Virgin Mary Syriac Orthodox Church

While church owners were unable to enter the churches, some thefts were reported. Manuscripts were reportedly stolen from the Virgin Mary Syriac Orthodox Church.

According to the statements of public officials, a total of 11 places of worship were damaged: Ulu Mosque, Fatih Pasha Mosque, Fatih Pasha Mosque Shafi'i Section, Sheikh Muttahhar Mosque, Arab Sheikh Mosque, Kadı Mosque, Hasırlı Mosque, Nasuh Pasha Mosque, the Four Legged Minaret, the Armenian Catholic Church, and the Armenian Protestant Church.⁷³ In addition, damage was inflicted on the Surp Giragos Church, which belongs to a community foundation, (the Surp Giragos Small Armenian Church Foundation), and the Mar Petyun Chaldean churches, belonging to the Chaldean community.

“In addition to the places of worship, we are also experiencing the destruction of historical Syriac houses. Syriacs living abroad would come to visit their old houses every year in big groups of 250 people each. The fact that the old houses are not being preserved in their original state is akin to a ‘genocide of history’ against this culture.” – Yusuf Akbulut, Pastor of the Virgin Mary Syriac Orthodox Church

Surp Giragos Church

The Surp Giragos Church, which is the largest Armenian church building in the Middle East, is one of the buildings receiving the most damage in the clashes in Diyarbakır. As of the date of this report, since the summer of 2015, access to the church and worship in it have not been possible.

The losses related to the Surp Giragos Church can be better understood in light of the historical losses of the Armenian community in Diyarbakır. Surp Giragos Church, which is located in the Fatihpaşa neighborhood of Diyarbakır’s central Sur district, historically populated largely by Armenians, hosted the center of the Metropolitan bishopric until the issuing of the “Deportation Law” in 27 May 1915, after which it served as the German Headquarters during the First World War, and as Sümerbank’s cotton warehouse afterwards. The 3000 square meter church, open for worship since 1960, got to the point of the community vanishing, services not being held, and parts of the structure collapsing and becoming unusable due to years of neglect, especially as a result of Armenians emigrating to western provinces and European countries after 1980.

The Diyarbakır Surp Sarkis Giragos Small Armenian Church Foundation decided to start restoration work in 2008. As any restoration work carried out by the Ministry of Culture and Tourism would result in the status of the church changing to that of a museum, intensive efforts were carried out in order to gather sufficient funds for the restoration work, especially among Armenians abroad. The Diyarbakır Metropolitan Municipality contributed 1 million Turkish Lira to the project. The main church building, the small chapel in the garden, the clergy house, the kitchen and the school building have been restored to their original state.

Unlike the Aktamar Church in Van, since the church foundation is an active community foundation and the title deed belongs to the Surp Sarkis Giragos Small Armenian Church Foundation, its use for religious ceremonies or community activities is not subject to permission by public authorities. After being consecrated by

⁷³ For the statement of Diyarbakır Foundations Regional Director Metin Evsen, see Hürriyet, “Sur’da hasar gören Kurşunlu Camii’nde restorasyona başlandı” [“Restoration begun on Kurşunlu Mosque damaged in Sur”], 7 September 2016.

Aram Ateşyan, the Turkish Armenian Patriarch Vicar, on 23 October 2011, the church reopened for worship with a ceremony including the participation of Armenians coming from Turkey and a number of countries around the world.

The impact of the destruction suffered by the Surp Giragos Church and the fact that it has been vacant for 4 years can be better understood from the perspective of the success of the restoration in resurrecting church life:

“In 2008, Surp Giragos Church, when the Armenian Foundation Board of Directors made the decision to repair that church, that period coincided with the so-called peace process, a period of reduced tension.

In that period, up to now, an estimated 30 people were baptized. They were already here. They were Armenians of Diyarbakır. They had become Muslims. They returned to their identities. The current Armenian population of Diyarbakır is like this. But they are in an area that is qualitatively important. As I said, there were many Armenians in Diyarbakır, many churches... 100 years ago there were 13 Armenian churches; in Diyarbakır now there are 4 Armenian churches. Surp Giragos Armenian Church, Armenian Catholic Church, Protestant Armenian Church, Surp Sarkis Armenian Church. Of course Surp Sarkis is in ruins. Not completely, but the roof has caved in. But the other churches are usable. Of the people being baptized, there were people who were 50 years old and people who were 30. So as of now, there are 30–35 Christians. There is one more thing: there are many Armenian families who converted to Islam, who became Muslim, who are accepting their Armenian identity, who are clearly expressing their Armenian identity.” – Gafur Türkay, Member of the Management Board of the Surp Giragos Church Foundation

“The Armenians suffered the most from that period of conflict. Why? Because the Surp Giragos Church was repaired, it was a remarkable event; 600–700 people a day were going in and out, were coming to visit. People were coming from various places, foreign and domestic. As a community, we were much more relaxed. We could have our rituals, events, and holiday; we had a space. So things were very positive. We were engaging in getting a priest when the trench wars began. We had our last ceremony in the 6th month of 2015. We were just about to have what we call the Asdvadzadvin Festival, known as the feast of the Virgin Mary, on the 15th of the eighth month, but we couldn't. People coming from overseas canceled their trips. The period of conflict was beginning.”

The restoration of the Surp Giragos Church is being carried out with public resources, according to a protocol signed between the Ministry of Environment and Urbanization and the Regional Directorate of Foundations.

The same project includes restoration of the Chaldean Church, in the vicinity of Surp Giragos Church, which had been destroyed before the conflict. Repairs to the Surp Giragos Church began in April 2019 and are expected to be completed in one year.

- **Good Practice:** The repair of Surp Giragos Church and Mar Petyun Chaldean Church, which belong to community foundations in Diyarbakır, by the Ministry of Environment and Urbanization and the Regional Directorate of Foundations, with the administration of these churches participating in the decision-making. This is a positive step.
- However, it should also be noted that with repair beginning in the spring of 2019, it is a very late step.

Urgent expropriation

The decision of the Council of Ministers published in the 25 March 2016 issue of the Official Gazette, declared the “urgent expropriation” of 6300 parcels on 368 blocks in 15 neighborhoods in the Sur district.

“The expropriation of immovable property found and *recorded in* the supplementary list of places, *blocks* and parcel numbers identified within the borders of the hazardous area announced in Sur District in Diyarbakır Province, has been ordered by the Ministry of Environment and Urbanization and the Council of Ministers on 21.03.2016 in accordance with Article 27 of the Expropriation Law No. 2942 and the 16.03.2016 signature on the No. 2988 report of the aforementioned Ministry.”⁷⁴

The expropriated area included church buildings and annexes. The objection initiated by the churches ended in the Council of State ceasing the implementation of the expropriation decision in regards to the churches. While the legal process can be considered a success, the decision to expropriate created a costly and worrying period for the church communities and their administrations. Not only that, but the request by the Diyarbakır Protestant Church for the suspension of the expropriation of 3 parcels, comprising the church’s outbuildings and garden, was rejected.⁷⁵ Although the garden and outbuildings were not part of the church building, they were an inseparable part of community life, which was negatively affected as a result of this decision.

- The restoration of places of worship in the Sur district of Diyarbakır should be completed, with public resources, as soon as possible.
- Measures should be taken across several dimensions to revitalize multicultural life in Diyarbakır, including facilitation of the return of residents, especially minorities, who left the city during and after the period of conflict. These measures should be determined and implemented in an inclusive process between communities of religion or belief, non-governmental organizations, and public institutions.
- The losses suffered by belief communities as a result of the urgent expropriation decisions should be fairly compensated.
- Belief communities should be designated as groups disadvantaged by the conflict and its aftermath and extra measures should be taken for their protection.

5.1.3 Holidays and days of rest of special importance for religions or beliefs

The celebration of festivals and the observance of days of rest accorded special importance by religions or beliefs are inalienable parts of the right to FoRB.⁷⁶ Among religious holidays in Turkey, only the Ramadan Feast and the Feast of the Sacrifice are included as officially recognized holidays.⁷⁷ On the other hand, Sunday, when Christians usually meet for worship, is a weekly holiday. The special holidays and rest days of the various Alevi groups, Jews, Christians, and Baha’i living in Turkey are not included among official holidays.

⁷⁴ Council of Ministers’ 21 March 2016 decision to expropriate.

⁷⁵ Interview with the Pastor of the Diyarbakır Protestant Church, Ahmet Güvener, 4 October 2018.

⁷⁶ Human Rights Committee, General Comment 22, para. 4.

⁷⁷ Law on National Holidays and General Vacations, No. 2429, 17 Mart 1981, Published in the Official Gazette, Date and Number: 19 March 1981 – 17284.

It is important for believers to be able to gather as families and communities on these special days and fulfill the requirements of their religions and beliefs, both from the perspective of their expression of their own identities and in order to transfer those identities to subsequent generations. However, there is no right to take leave, either in public institutions or educational institutions, for religious feasts or special days other than the official state holidays.

In recent years, there have been increasing and widespread protests, campaigns, and media statements using disinformation to criticize celebrations of the New Year, the exchange of gifts, Christmas and Santa Claus that occur during the Christmas period (Feast of the Nativity). This is a threatening dynamic: false information spreads about Christians, which may increase prejudice against them and adversely effects their ability to celebrate their holidays.

It is noteworthy that the institutions and authorities within regional Directorates of National Education have issued instructions in schools that New Year celebrations have no place among “our national values” and that “there should be no activity of any kind that would make children think of Christmas”.⁷⁸ One example of this is the instruction given by the National Education Director for the Marmaris District:

We have received information and complaints, reported verbally to our Directorate, regarding students being encouraged and guided towards certain celebrations that are unauthorized, unrelated to class or social activities, and far from our moral standards. In regards to: not engaging in activities that are outside our national and spiritual values and that would interfere with classes due to coming at the end of the term and year; not allowing any problems to arise in the guise of entertainment, games of chance, raffle, and New Years celebrations; not promoting or encouraging different habits and negative behaviors among students; and not permitting students to be divided according to their economic circumstances (through the exchange of New Years gifts, decoration of pines, Santa Claus figures, etc.); I kindly request your attention to the necessary steps.⁷⁹

Similar statements can be found across the media:

Do not perform any activities in public institutions, in classes and courses in schools, that encourage Christian culture, like Father Christmas, tree decoration, or making cone hats. These have no connection to our culture, our beliefs, our customs, our traditions; they contain Christian and western culture. They lead to the beliefs and culture of Christianity making impressions on young minds.⁸⁰

During the Christmas period, groups criticizing public celebrations of Christmas and the New Year with billboards, posters, and street activities can change from criticism of public celebration to protest of Christmas itself, and therefore lead to anxiety

78 Letter from Bahçelievler District National Education Directorate, 2017. News broke of similar letters being sent that same year by Küçükçekmece district in Istanbul and Gaziemir district in Izmir. December 2017.

79 DHA, Marmaris District National Education Directorate New Years Alert To Schools, 28 December 2016.

80 Muhammed Özkılınç, “Batının Simgesi Noele Hayır” [“No to Christmas, Symbol of the West”], Referans Gazetesi, 30 December 2018.

among Christians. One of the most striking instances of this occurred in the Christmas period of the year 2016.

During protests featuring banners with slogans like “No good comes from Christmas,” and “Christmas is an attack on Muslimness,” a member group of the Anatolia Youth Association made a media statement that Christmas and New Year celebrations like decorating Christmas trees and leaving gifts from Father Christmas have no place in the religion of Islam, and that such customs open the path to cultural destruction and identity crisis in a society. They further stated that these habits break future generations from their own values and accustom them to a western way of life, and lead over time to adopting Christian beliefs and values. After the group’s media statement, they placed cans of beer, a cross, and syringes in front of a Father Christmas balloon dummy, then circumcised and stabbed it.⁸¹

On 28 December 2017 in Aydin’s Nazilli district, a group belonging to the Alperen Ocakları, wearing traditional Aegean costumes, beat an effigy of Father Christmas they brought to the Municipal Square, then put a gun to its head to protest “the celebration of Christmas, which is a Christian custom”.⁸²

- **Good Practice:** On 13 December 2015, the Hannukah Festival, celebrated by Jews as the “festival of lights,” was, for the first time in the history of the Republic, celebrated in a public place with the participation of state officials. It was organized with the support of the Beşiktaş Municipality. This practice continued in 2016 and 2017, and in 2018 was once again held in a large open area, organized by the Şişli Municipality.
- **Good Practice:** As it has been the case in previous years, on 27 January 2018, Ankara University hosted International Holocaust Remembrance Day activities attended by members of the Foreign Affairs Ministry, the Chief Rabbi of Turkey, and representatives of the Jewish community.

- Individuals working in the public and private sector should receive recognition of their right to take leave for religious festivals and special days that are not currently recognized.
- The scheduling of tests in educational institutions should reflect awareness of the diversity of religion and belief present in Turkey.

5.2 The right to manifest religion or belief in teaching

5.2.1 The right to spread one’s religion

The right to FoRB also includes the right to spread one’s religion or belief.⁸³

Activities directed toward the teaching and spreading of religions or beliefs other than Islam are at present widely viewed with suspicion. This suspicion has manifested in

81 A24 Haber, “Şişme Noel Baba’yı sünnet edip bıçakladılar!” [“They Circumcised and Stabbed a Balloon Father Christmas!”], 30 December 2016. <https://www.a24.com.tr/sisme-noel-babayi-sunnet-edip-bicakladilar-haberi-40083503h.html?h=48>

82 Cumhuriyet, “Noel Baba’nın başına silah dayadılar, soruşturma açılmadı... Alperen Ocakları açıklama yaptı” [“They put a gun to Father Christmas’ head; no investigation... Alperen Ocakları made a statement”], 1 January 2017. http://www.cumhuriyet.com.tr/haber/turkiye/653813/_Noel_Baba_nin_basina_silah_dayadilar__sorusurma_acilmadi..._Alperen_Ocaklari_aciklama_yapti.html

83 ECtHR, *Kokkinakis – Greece*, Application No. 14307/88, 25 May 1993, para. 31.

the refusal of some municipalities to issue permits to groups wanting to set up stands or use other activities to communicate their religions or beliefs. This suspicion has also occasionally led to stigmatization of the activities of groups wanting to spread their religion on various media channels as “missionary activity”.

- › Public officials should take proactive steps to guarantee the right to spread religions or beliefs; they should focus especially on raising awareness on this topic in educational, security, and regional administrative sectors.

5.2.2 The right to establish schools for religious education and teaching

Everyone has the right to manifest his/her religion or belief in teaching.⁸⁴ This right also includes the right to open educational and teaching institutions to prepare religious officials and leaders.

One could say that the most restricted aspect of FoRB in Turkey is religious teaching and education. This has two primary reasons. The first is the monopoly position held by the state in the field of religious teaching. According to Article 24 of the Constitution, “Religious and moral education and instruction shall be conducted under state supervision and control”. It is not possible to open private educational institutions offering religious training and instruction.⁸⁵ Moreover, without the sponsorship and support of the Council of Higher Education (YÖK), communities lack the means to establish and maintain their own institutions. The Heybeliada Ruhban School, closed since 1971, is the exemplar of this reality.

The second reason is the allocation of public funds entirely to the religious teaching and instruction of members of the majority faith. At present, people and groups holding other beliefs are obligated to bear the full expense of training and instruction with their own financial resources. As a result, they are forced on the one hand to contribute with their taxes to supporting religious teaching and instruction in the majority faith, and forced, on the other hand, to bear the entire cost of developing the means to provide any alternative training or education for their own community and its religious authorities.

In training future religious functionaries, one example of collaboration between public institutions and religious communities is the partner project between the National Education Ministry and the *Dosteli Yardım Eğitim ve Kültür Foundation* (Helping Hands Education and Culture Foundation), a special status Alevi high school. The aforementioned high school is open to applicants for the 2019–2020 school year. The pilot project should be monitored comprehensively over this period.

- › All necessary steps should be taken to facilitate each community of belief to establish educational institutions suited to training their own religious officials and leaders.
- › Public finances allocated for religious education and instruction should be distributed to all religious or belief communities equally and without discrimination. The system of distribution of such resources should be developed by including all groups in the planning process.

84 ECHR, Article 9.

85 Law on Private Educational Institutions, No. 5580, 08 February 2007.

5.3 The right to manifest religion or belief in practice

5.3.1 Religious symbols and/or attire

In accordance with the early Republican Law No. 2596 prohibiting the wearing of certain religious attire, restrictions persist regarding what religious representatives may wear, regardless of the religion or belief.⁸⁶ According to the law, no religious official of any religion may wear clothing which represents his or her religious role or position outside a place of worship. Only with the approval of the Council of Ministers can a representative of religious group wear clothing that displays their religious status in public.

During the period in which monitoring was conducted, public authorities expanded the liberalization of policy on use of the headscarf. In the amendment made to the Regulation on Dress Code for Members of Security Services (“Dress Code Regulation”), female police officers are now fully allowed to wear headscarves. Accordingly, in clause (a) of the first paragraph of Article 7 of the Dress Code Regulation, after the phrase “cap or beret” the phrase “for women who cover their heads, cloth head covering” was added.⁸⁷

- › No one should be forced to wear or not to wear clothing with religious symbols either in law or in practice.

5.3.2 The right to learn and use languages traditionally used in religious practice

The right to manifest religion or belief includes the right to learn and to use the language traditionally used in religious services and ceremonies.⁸⁸ The ability to learn or teach languages used in religious services is critical to the survival of religious or belief communities, as well as to the ability of individuals to effectively exercise their right to FoRB. Armenian, Greek, Arabic, Syriac, and Kurdish are among the languages used for worship in Turkey. However, access to public resources for instruction in these languages is not being provided to all communities of belief.

- › Public resources should be provided without discrimination for education and instruction in languages traditionally used in religious practices.

5.3.3 The right to appoint religious officials

The rights associated with the appointment of religious officials are protected as being among the rights of religious or belief communities to autonomy over their internal affairs.⁸⁹ In Turkey, religious or belief communities remain subject to different laws and practices regarding the appointment of religious officials or spiritual leaders.

Restriction on the use of religious titles

The 1925 Law on the closure of the dervish lodges also prohibits the use and functions of “sheikh, dervish, disciple, *dede*, *seyit*, *çelebi*, *baba*, *emir*, *nakip*, *khalifat*,...”.⁹⁰ In this

⁸⁶ Law on the Prohibition of Wearing Certain Garments, No. 2879, 3 December 1934, Article 1.

⁸⁷ Regulation Regarding Amendment of the Regulation on Dress Code for Members of Security Services, Official Gazette No. 30088, 6 June 2017, Article 1.

⁸⁸ UN Human Rights Committee General Comment 22, para. 4.

⁸⁹ UN Human Rights Committee General Comment 22, para. 4.

⁹⁰ Law on the Closure of Dervish Lodges, Hospices, and Shrines, and on the Prohibition and Repeal of Certain Titles, No. 677, December 1925.

context ECtHR (Grand Chamber) judgment on *İzzettin Doğan and Others v. Turkey* includes significant findings for the Alevi community and beyond. As a result of the denial of public religious services that the Alevi applicants requested together with the non-recognition of the Alevi faith by the state Alevis are not able to exercise their right to freedom of religion or belief effectively.⁹¹ This denial of rights, makes it impossible for the Alevi community to use their places of worship (*cemevis*) and for the *dede* – their religious leaders- to use their titles. According to the ECtHR, since the Government has not been able to present relevant and adequate reasons for this interference Turkey has acted beyond its margin of appreciation. For this reason, such an interference cannot be considered as necessary in a democratic society. Article 9 has been violated. In addition, since the differential treatment of the Alevi cannot be explained with objective and reasonable reasons Article 14 has been violated in conjunction with Article 9.

In the action plan submitted to the Committee of Minister by the Turkish Government on 8 February 2017, on the issue of general measures to be taken in order to prevent similar violations from happening in the future the Government states that in light of the ECtH judgment and the definition of Alevism provided by the applicants measures that can be taken to address the applicants' request are being considered.⁹² No information on this process has been shared with the public.

The enforcement of the *İzzettin Doğan and Others v. Turkey* judgment provides an important opportunity to improve the provision of public religious services in a manner that is compatible with human rights law and obligations of states to observe principles of neutrality and equality. A consultation process with broad participation – not only the Alevi community but with diverse segments of society – will contribute to effective implementation. In this context, it should be noted that the religious services provided by the Presidency of Religious Affairs are funded from the taxes paid by all. While an important portion of the society benefits from these services, there are many who are not beneficiaries or object to these services, yet there is no possibility for tax exemption.

- › A transparent consultation with broad participation should be followed for the enforcement of the ECtHR judgment on *İzzettin Doğan ve Diğerleri v. Turkey*. Religious services provided as public services should be provided in a manner that is compatible with the principles of equality and neutrality and international human rights law.

The right to freely appoint religious leaders

While public officials appoint the President of the Presidency of Religious Affairs, all provincial *muftis*, and all *imams* charged with working in mosques, there is no mechanism for the congregation of a mosque to participate in the decisions behind these appointments. As a result, people whom mosque congregations would prefer not to serve as their *imams* can still be appointed to those mosques.

The communities that suffer the greatest interference in the appointment of spiritual leaders, outside the structure of the Presidency of Religious Affairs, are the Armenian Orthodox, Jewish, and Greek Orthodox communities. When the 84th Patriarch Mesrob Mutafyan fell ill in 2008 and became unable to discharge the duties of his

91 ECtHR, *İzzettin Doğan and Others v. Turkey*, Application No. 62649/10, 26 April 2016.

92 Letter sent by Turkey to the Committee of Ministers, 8 February 2017.

office, the Armenian Orthodox community applied to the Interior Ministry through the Istanbul Governor's Office, initially in order to select a co-Patriarch, and after that a new Patriarch—but was not permitted to carry out a free election. As a result of the state's interference, the Patriarchal Vicar was appointed in 2010. Eventually, in February 2018 the Istanbul Governor's Office interfered in and obstructed the election process when it sent a letter to the Patriarchate saying that because Patriarch Mesrop Mutafyan was still alive and the Deputy Patriarch Aram Ateşyan was still in office, the conditions for the election of a new Patriarch were absent and an election could not take place.⁹³

The Association of Protestant Churches has reported that in the last two years, approximately 100 religious officials with foreign nationalities have been forced to leave Turkey due to their visas or residence permits not being renewed.⁹⁴ Taking into account the fact that it is impossible to open proper educational institutions to train religious officials, it is obvious that the Protestant community is in need of citizens of foreign countries to supply their religious officials and teachers. Therefore, the refusal to allow these foreign religious officials to stay in Turkey has a clear negative effect on these communities. In Turkey, the widespread intensification of the phenomenon of foreign religious officials—especially those serving in the churches of the Protestant community—receiving rejections of their applications for renewal of their visas or residence permits can be explained by the process through which Pastor Andrew Brunson, because of activities he undertook as a religious worker, was accused of supporting a terrorist organization, which led to his trial, detention, release, and finally departure from Turkey.⁹⁵ Starting from the standard that the right to FoRB is a universal right, whether for citizens or foreigners, the right to FoRB should be at the center of any consideration of policies regarding foreign religious officials.

- The selection and appointment of religious officials by religious or belief communities should be seen as an internal matter.
- All necessary regulations should be implemented to ensure that foreign religious officials, invited by communities of religion or belief, are able to work in Turkey without exclusion or discrimination.

5.3.4 Cemeteries and the right to burial in accordance with one's religion or belief

The allocation of land for cemeteries at present neither reflects the diversity of beliefs in Turkey, nor meets the demands of its communities of religion and belief.

In Turkey, the establishment of cemeteries and the transport and burial of corpses are municipal obligations.⁹⁶ Yet related applications made to municipalities do not always receive positive responses, and there are discrepancies between provinces. While applications for Christian cemeteries have received positive responses in Balıkesir, Bursa, and Yalova,⁹⁷ an application to the Istanbul Metropolitan Municipality (IMM), for example, has not received an approval for years.

93 Letter sent by Istanbul Governorship to the Armenian Patriarchate, 5 February 2018.

94 Interview with Protestant Churches Association General Secretary, June 2019.

95 Regarding Pastro Andrew Brunson's trial, see BBC Turkish, "Pastör Andrew Brunson kimdir: Türkiye-ABD ilişkilerinde Kriz Yaratan Davada Hüküm ve Tahliye" ["Who is Pastor Andrew Brunson: Judgment and Acquittal in the Case that Caused a Crisis in Turkey-US Relations"], 12 October 2018.

96 Law on Public Hygiene, No. 1593, Article 20. The first clause of article 7 of the Metropolitan Municipality Law No. 5216: "To determine areas for cemeteries, to establish cemeteries, to operate, to manage, to conduct services related to burial."

97 Interview with Protestant Churches Association General Secretary, June 2019.

Turkey lacks a single crematorium allocated for public usage, despite the fact that opening a crematorium is not illegal. For those wishing to build a furnace for incinerating corpses, the framework established by health regulations is to apply to the municipality, confirm the proposed project, and wait for authorization, after which they can begin installation. The cremation procedure itself requires the written request of the individual or the statement of three witnesses who heard such a request.⁹⁸ In a signature campaign initiated in 2016 by the Association for Atheism requesting that the IMM open a crematorium, 7,819 people gave their signatures.⁹⁹ Despite this, the IMM has not taken any steps in this direction.

- › The right of individuals to determine their burial ceremonies and procedures in line with their beliefs should be respected.
- › Municipalities should respond to requests concerning cemeteries, burial, and cremation in a neutral and facilitative manner.

98 See above, fn. 96, Article 225.

99 <https://www.change.org/p/istanbul-b%C3%BCy%C3%BCK%C5%9Fehir-belediyesi-bir-krematoryum-kurulsun>

6. Point of intersection: freedom of religion or belief and the right to association

Communities of religion or belief cannot attain legal personality as a belief-group,¹⁰⁰ but there are no legal impediments to individuals who belong to various communities of religion or belief forming associations with religious purposes. As a result, a number of communities of religion or belief have acquired a certain legal entity status via the establishment of an association.

Article 101(4) of the Turkish Civil Code states that a foundation cannot be established for the purpose of supporting a particular religious community.¹⁰¹ In the monitoring period, two important judicial decisions were handed down on this topic, one supra-national, another national.

In the *Altınkaynak and Others v Turkey* judgment of the ECtHR on 15 January 2019, the Court found that the refusal, based on Article 101(4) of the Civil Code stipulating that no foundation can be established to benefit a specific religious community, to allow the establishment of a foundation by applicants tied to the belief of the Seventh Day Adventists, violated Article 11 of the ECHR, which protects freedom of assembly. This judgment carries particular significance as the first to directly address this rule.

On the other hand, a foundation called Bursa Protestant Church Yaşam ve Kültür Foundation was established on 20 July 2018.¹⁰² The foundation's purpose was reported in the Official Gazette as being to “provide, in compliance with the Constitution and Laws of the Republic of Turkey, for the religious needs of Christian citizens of the Republic of Turkey and foreigners residing in Turkey according to the fundamental doctrines of Christianity in the Holy Book”.

- The rights of communities of religion or belief to establish legal personality should be protected in accordance with the standards of international law.
- The phrase “no foundation shall be established to support the members of a particular religious community” in Article 101 of the Turkish Civil Code should be removed.
- Legislation over associations and foundations must be re-examined and improved in the context of standards for the freedom of assembly and the right to FoRB.

100 Venice Commission Opinion on the Legal Status of Religious Communities in Turkey and the Right of the Istanbul Orthodox Patriarchate to Use the Adjective “Ecumenical”, Opinion No. 535 / 2009 sayılı 15 March 2010.

101 See above, fn. 11.

102 Official Gazette, No. 3048, 20 July 2018, p. 125.

Non-Muslim community foundations

The freedom of association of non-Muslim community foundations, which have been unable to conduct elections or make necessary arrangements since 2013, has effectively been suspended.

In 2013 the General Directorate of Foundations published regulatory amendment repealing the existing provisions regulating election of foundation board members and announced that new regulations would be prepared. Despite this, no new regulations have been implemented as of the writing of this report.

As a result of death, resignation, and various other causes the numbers of community foundation board members is decreasing, and due to the inability to appoint new members to replace them the foundations are experiencing serious administrative crises.

On 11 March 2019, the General Directorate of Foundations sent a letter to the regional directorates providing instructions for appointments in place of elections to replace the missing board members of community foundations. According to the letter, the present boards of directors can appoint new board members by taking a board decision. The adoption of the Election Regulation is among the positive obligations of public authorities to ensure effective exercise of freedom of association. While elections should be conducted and community foundations want to hold them, an order to make appointments instead is incompatible with human rights obligations and constitutes a serious interference in their rights to freedom of association and autonomy in their internal affairs. Moreover, as this policy is contrary to the historical traditions and framework by which these foundations have identified their board members, it does not meet their needs.

- › Community foundation election regulations must be drafted following an expeditious participatory process.

7. Freedom of religion or belief in education

International human rights standards related to the right to education and the right to freedom of religion or belief constitute important normative obligations on state actions in the field of education. Article 2 of Protocol No. 1 of the ECHR requires states, while executing their responsibilities in the field of education, to respect “the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions”.¹⁰³

Turkey’s declaration stating that Article 2 of Protocol No. 1 of the ECHR would be interpreted in accordance with the principles enshrined in the Law on the Unification of Public Education is still in effect.¹⁰⁴

› Turkey should withdraw its reservation regarding Article 2 of ECHR Protocol No. 1.

Without prejudicing the rights of the parents, it is the child who is the subject at the center of the intersecting rights of education and religion or belief. A child’s right to FoRB is protected by Article 14 of the UN Convention on the Rights of the Child, which Turkey duly ratified.

States Parties shall respect the right of the child to freedom of thought, conscience and religion.

States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child. [...]

In the context of the right to FoRB and the right to education, Turkey presents a number of fundamental issues including: the mandatory course in Religious Culture and Ethics (RCE); elective courses on religion; the disadvantages experienced by students who received RCE exemption in the total points they received on the standardized high-school entrance exam (LYS) that began to be implemented in 2018; and religious practices in schools.

7.1 Mandatory courses on religious culture and ethics

According to Article 24/3 of the Turkish Constitution,

Religious and moral education and instruction shall be conducted under state supervision and control. Instruction in religious culture and morals shall be one of the compulsory lessons in the curricula of

¹⁰³ ECHR Protocol No. 1, Article 2.

¹⁰⁴ Council of Europe Treaty Office Records.

primary and secondary schools. Other religious education and instruction shall be subject to the individual's own desire, and in the case of minors, to the request of their legal representatives.

RCE courses continue to be the subject of national and international legal processes.

Execution of ECtHR judgments

In the cases of *Hasan and Eylem Zengin – Turkey*,¹⁰⁵ given in 2007, and *Mansur Yalçın and Others – Turkey*,¹⁰⁶ finalized in 2015, the ECtHR ruled that Turkey had violated Article 2 of ECtHR's Protocol No. 1, protecting the right to education.

The aforementioned judgments hold that RCE course content lacks quality and objectivity, that the education system contains structural problems in respecting the rights of parents to raise their children in accordance with their religious or philosophical views, and the necessity of urgent reform of religious education in schools in a manner compatible with standards of international law.

- Bring the Turkish education system and relevant legislation in line with the ECHR (*Hasan and Eylem Zengin – Turkey*, para. 84)

- Urgently design an exemption mechanism that does not require students or their parents to declare their religious or philosophical views (*Mansur Yalçın and Others – Turkey*, para. 76, 77, and 84).

The Turkish Government, in its Action Plan dated 21 December 2015 and presented to the Committee of Ministers, stated that it would form a broadly participatory Working Group, comprised of the Prime Minister's office, the Justice Ministry, the Presidency of Religious Affairs, academics from diverse disciplines and representatives from civil society institutions, coordinated by the Ministry of National Education.¹⁰⁷ The Working Group was to prepare a report by the end of 2016 for the Ministry of National Education, which would take the report into consideration while deciding on the steps necessary to execute the ECtHR judgments. No information was shared with the public about who was involved with the working group, the duration of their work, or the study report.

The RCE course, lasting two hours per week, is one of the mandatory classes in middle schools (4–8 grades) and high schools (9–12 grades). At the beginning of the 2017–2018 school year, changes were made to the RCE course curriculum and books. The Ministry of National Education released the draft plan to the public on 21 July 2017 and opened to public comment for a very short period, lasting until 31 July 2017.

Despite some significant improvements, the course retains its character as religious instruction.

¹⁰⁵ ECtHR, *Hasan and Eylem Zengin – Turkey*, Application No. 1448/04, 9 September 2007

¹⁰⁶ ECtHR, *Mansur Yalçın and Others – Turkey*, Application No. 21163/11, 16 September 2014.

¹⁰⁷ The action plan submitted to the Council of Europe Committee of Ministers by the Government of Turkey, 21 December 2015.

Some positive changes can be listed as follows:

- Compared to the previous program, more coverage is given to Alevi belief, and Judaism, Christianity, and Eastern religions are treated with separate units.
- The list of religions or beliefs present in Turkey has been expanded to include the Baha'i faith and Jehovah's Witnesses.
- In the new syllabus, phrases that convey the sense of teaching from within the religion, like "our religion," "our prophet," or "our sacred book, the Koran" are not used.

Despite these positive changes, fundamental problems remain:

- The Sunni Islamic perspective remains dominant in the syllabus.
 - Atheism, agnosticism, and deism are presented under the heading "Other Approaches," and Islamic apologia are presented alongside them.
 - One of the goals of the syllabus is listed as the adoption by the students of "national values," however these values are not presented in a way that conveys the religious and other diversity in Turkey.
 - There is no provision for a non-discriminatory mechanism for exemption from the RCE course. Currently, only Christian and Jewish students are able to take advantage of the exemption, by showing their religious identities as recorded in the religion category on their identity documents. Students who want to benefit from the right to exemption, but who do not belong to these religions, cannot benefit from this right and are forced to participate in the course and earn passing grades on the exams. Christian refugee students whose identity cards do not have a religion field are also forced to take the RCE course.
 - Students who are exempted from the RCE courses are subjected to an unequal calculation of their scores on the High School Placement System test relative to other students.
- The constitutional requirement for the RCE courses should be removed. If the course is to be mandatory, the course must change to present information about religions in an objective and neutral manner, or there should be a mechanism for exemptions that complies with human rights standards.
- The MNE must take all necessary measures to avoid unequal calculation of the HSPS scores for students who were exempted from the RCE courses.

7.2 Elective religion courses

Courses on The Life of the Prophet Mohammed, Basic Religious Knowledge (Islam), and The Koran continue to be listed among the elective courses offered in middle schools and high schools. There are no options for elective courses reflecting other religions or world-views.

There are reports of circumstances leading to students and their guardians being forced to select elective religion courses. School directors commonly present students with “elective course packets” which include “elective religion courses.” Other classes that students would prefer to take are closed on the basis of “a lack of teachers”. Forcing students to take religion courses constitutes a violation of the right to education and the right to FoRB. These cases of interference generally do not become the subject of official complaints.

- The MNE must track whether or not elective religion courses are actually presented as elective, and take measures necessary to ensure that they are truly optional.

7.3 High school placement system

High School Placement System, introduced in 2018, contains 10 questions related to the RCE courses. Students registered in minority schools (Armenian and Jewish communities) answer alternative questions on the High School Placement System, related to their own religion courses. However, minority students who are exempt from the RCE course but not enrolled in minority schools are not given the alternative questions. The scores for these students are calculated using their performance on the tests for other courses, and does not include the RCE test score.¹⁰⁸

Despite the complaints of parents that the conditions for evaluating tests creates an unfair situation from the point of view of students who have used their right to an exemption, the MNE has not made a public statement about this subject and has not changed the rules for evaluating the test.

- The MNE should take all necessary measures to eliminate the unfair circumstances facing students exempted from the RCE course arising in the context of the High School Placements test.

7.4 Religious practice in schools

Freedom to wear the headscarf in schools, facilitating participation in Friday prayers, opening prayer rooms, and activities in celebration of the Holy Birth Week in schools show that space has only been opened for one religion’s symbols and practices.¹⁰⁹ There is no equivalent freedom in the public sphere for celebrations or other activities related to the symbols, religious practices, and persons or special days that are central to other religions or beliefs.

- While fulfilling its duties in the field of education, the government must make regulations on religious practices in schools in accordance with its obligations to neutrality and respect for the religious or philosophical views of parents.

108 MNE, Central Test Application and Implementation Guide for Middle School Institutions with Test-Based Student Admissions, 11.f., 2018.

109 Mine Yildirim, “Legal Evaluation of Pluralism and Freedom of Belief in Schools: Guarantees and Resources” “Pluralism and Freedom of Belief in Education: Religious Courses and Perceptions of Religion in Schools Through the Eyes of Children and Adults” Report, Public Policy and Democracy Studies Association, Freedom of Belief Initiative / Norwegian Helsinki Committee and Yaşama Dair Foundation, May 2007.

8. Turkish Constitutional Court and freedom of religion and conscience

With the public referendum held on 12 September 2010, the Constitutional Court (CC) gained the authority to examine and issue final judgments on individual applications, as a result of which Turkish law gained a new avenue for the pursuit of legal remedies.¹¹⁰ As of 23 September 2012, individuals may apply to the CC to reverse the proceedings of public authorities on the grounds that their fundamental rights and freedoms were violated. Accordingly, individuals now have the right to make individual applications to the CC in the event of a violation of any fundamental right or freedom that is guaranteed under the Constitution and included in European Convention on Human Rights. When the Constitutional Court rules that a fundamental right has been violated, in order to provide relief of damages it may decide whether a retrial is necessary or provide for compensation. The decision of the CC specifies the measures to be taken to remedy the violation.

The CC, which takes into account ECtHR jurisprudence, is a new actor in Turkey that could, and should, lead to important changes related to FoRB as well as in interrelated freedoms such as those of association, education, and the protection of property. While since 2012 only a few decisions have been handed down on the right to FoRB, a number of applications regarding key issues are still pending review. Among these applications awaiting review is one regarding the right to conscientious objection, which was sent to the Plenary Assembly of the CC.¹¹¹ As of the writing of this report, the court has deemed inadmissible several applications related to the freedom of religion and conscience: applications regarding the protection of property held by religious communities were denied for failing to exhaust domestic legal remedies and being manifestly ill-founded;¹¹² an application regarding the excessively loud sound of the *ezan* was denied as manifestly ill-founded;¹¹³ and an application regarding the use of the Hagia Sophia was denied on because the applicant – an association- could not establish that they were impacted by the closure of Hagia Sophia to worship.¹¹⁴

110 This path for legal remedy was included in the legal structure through the changes made to Articles 148 and 149 of the Constitution as a result of the 12 September 2010 referendum, and by decree for the Constitution's Provisional Article 18.

The Law on the Establishment and Rules of Procedure of the Constitutional Court of Turkey, No. 6216, particularly Articles 45–51, further solidify these Constitutional decrees. Moreover, the CC Rules of Procedure published in the Official Gazette, Date and Number 12 July 2012 – 28351, contains very detailed directions on the functioning of the application process.

111 *Bianet*, "Vicdani Ret AYM Genel Kurulu'nda" ["Conscientious Objection at the Constitutional Court General Assembly"], 23 February 2016.

112 Kilikya Ermeni Katolik Kilisesi [Armenian Catholicosate], Application No. 2015/7661, decision dated 15 June 2016. Mardin Süryani Katolik Kilisesi [Mardin Syriac Catholic Church Foundation], Application No. 2013/757, decision dated 13 June 2013, Official Gazette Date and Number: 27 July 2013 – 28720

113 *D.Ö.*, Application No. 2014/3977, decision dated 30 June 2016, Official Gazette, Date and Number: 13 October 2016 – 29856.

114 Association for Aid to Continuing Foundations, Historic Sites and the Environment, Application No. 2015/14747, decision dated 13 September 2018, Official Gazette Date and Number: 11 November 2018 – 30556.

In the *Suat Özcan* decision, the CC held that asking questions in regard to the applicant's religious denomination in the course of an administrative disciplinary investigation was by itself a manifestly insufficient basis to justify the characterization of that person as a victim, and accordingly ruled that his right to privacy had not been violated.¹¹⁵ It is interesting that this decision was framed not in relation to the right to the freedom of religion or conscience, but in terms of the right to privacy. In fact, even if a person were asked about his religious denomination in the context of an investigation, it is directly related to the person's right not to declare his or her belief, included in the framework of the right to FoRB.

The decisions related to the freedom of religion and conscience that the CC gives with the greatest degree of self-confidence are those related to the headscarf. The *Tuğba Arslan* decision, handed down by the CC Plenary Assembly, is important for establishing the CC's new position on the headscarf.¹¹⁶ The application was based on the claim that a judge's decision to suspend a hearing due to the headscarf worn by one of the participating female lawyers, violated the lawyer's freedom of religion and conscience, among other rights. The decision, which contains sweeping language, contains references to ECtHR jurisprudence and to the United Nations Human Rights Committee's General Comment 22 on Article 18 of the International Covenant on Civil and Political Rights. In the decision it was found that because the interference was not stipulated by law, it was a violation of Article 24 of the Constitution, as the Council of State had previously suspended the relevant rule of the dress code regulations requiring women's heads to be bare. According to the CC, the judge had created a new rule, an act in conflict with the principle of legality. A violation of Article 10, which protects the principle of equality, was also found. The CC held that the court of first instance had not sufficiently substantiated its finding that the headscarf was a strong political symbol of opposition to secularism, and ruled instead that the headscarf, as an object, is only theoretically anti-secular. This legal analysis of the CC regarding secularism and the headscarf, which takes into account the fact that the principle of secularism was commonly used in the past for restricting the use of the headscarf and other religious practices, carries the utmost importance for Turkish law. In order for such a restriction to be acceptable, the accused person's behavior, attitude, or actions must be shown to violate the principle of secularism.¹¹⁷ It must be shown that the headscarf was used in an aggressive, oppressive, provocative manner or in order to interfere with others' beliefs or to impose one's own beliefs.¹¹⁸ The notion that religious expression can only be understood as provocation against the secular state would require the belief that the members of that religion lack the capacity to determine their own behavior. Restrictions on Constitutional rights can be based only on facts and irrefutable logic, not such suspicions or assumptions.¹¹⁹

On the other hand, the *Esra Nur* application offered the CC the opportunity to set out a precedent on the relationship between secularism and the wearing of the headscarf by public officials.¹²⁰ The applicant alleged that her dismissal from public service violated her right to freedom of religion or conscience.

115 Suat Özcan, Application No. 2014/12522, decision dated 8 November 2017, Official Gazette Date and Number: 29 December 2017 – 30285.

116 Tuğba Arslan, Application No. 2014/256, decision dated 25 June 2014, Official Gazette Date and Number: 5 July 2014 – 29051.

117 Ibid., para. 141.

118 Ibid., para. 142.

119 Ibid., para. 143.

120 Esra Nur Özbeç, Application No. 2013/7443, decision dated 20 May 2015, Official Gazette Date and Number: 10 August 2015 – 29441.

In this case, the CC followed the method used by the ECtHR while evaluating applications, using the principle of proportionality and first assessing whether or not an interference with the right to freedom of religion or conscience took place; then whether or not the interference was stipulated by law; whether or not the interference had a legitimate purpose; and whether or not the interference was necessary in a democratic society. The Court held that neither the sufficient societal need nor the presence of a reasonable balance between the legitimate purpose of protecting public order and the principle of proportionality were established. The Court held that Article 24 of the Constitution had been violated, as the interference was incompatible with the needs of a democratic society.

- The Constitutional Court should resolve, immediately and without delay, those individual applications related to the right to FoRB and do so using the international human rights standards for the right to freedom of thought, religion, and belief.

9. Recommendations

- › Everyone has the right to the freedom of thought, religion, and conscience, and this right also includes the rights not to believe and to change one's beliefs. Relevant state institutions and NGOs should raise social awareness of these rights, particularly in the areas of education and employment.
- › The field for religion in population records must be removed.
- › Until the field for religion is removed from official documents, individuals must be permitted to express a religion or belief in the manner they choose, including such worldviews such as atheism or agnosticism, and not merely be allowed to choose from a list presented to them.
- › In order for Christian and Jewish students wishing to exercise their right to be exempted from the RCE course not to be forced to forfeit their equal right to leave the religion field of their identity documents blank, their statement to this effect should be sufficient for exemption.
- › The right to conscientious objection should be recognized in a manner compatible with international human rights standards
- › The government should create civilian alternatives to military service which do not punish those who opt for such service.
- › An impartial application-assessment mechanism should be created for conscientious objectors.
- › Financial penalties should no longer be applied to those who object to performing military service.
- › Turkey should implement the judgments of the ECtHR and the finding of UN Human Rights Committee on the right to conscientious objection.
- › The conditions necessary for women to access their places of worship in mosques should be established; measures should be taken to ensure that women participate in decisions as part of the mosque community.
- › Effective security measures should be provided by the state for places of worship and believers.
- › Attacks and threats should be effectively investigated and not left unpunished.
- › The Interior and Justice Ministries should track, report, and take measures to prevent religion- and belief-based hate crimes.
- › The construction of places of worship, granting of licenses, the designation in city plans of appropriate sites as places of worship, and the recognition of places of worship with legal status should be facilitated in accordance with the standards set by the freedom of religion or belief, and implemented in a non-discriminatory manner.

- › The execution of the judgments issued by the ECtHR regarding places of worship must be enforced effectively and immediately.
- › The restoration of places of worship in the Sur district of Diyarbakır should be completed, with public resources, as soon as possible.
- › Measures should be taken across several dimensions to revitalize multicultural life in Diyarbakır, including facilitation of the return of residents, especially minorities, who left the city during and after the period of conflict. These measures should be determined and implemented in an inclusive process between communities of religion or belief, non-governmental organizations, and public institutions.
- › The losses suffered by belief communities as a result of the urgent expropriation decisions should be fairly compensated.
- › Belief communities should be designated as groups disadvantaged by the conflict and its aftermath and extra measures should be taken for their protection.
- › Individuals working in the public and private sector should receive recognition of their right to take leave for religious festivals and special days that are not currently recognized.
- › The scheduling of tests in educational institutions should reflect awareness of the diversity of religion and belief present in Turkey.
- › Public officials should take proactive steps to guarantee the right to spread religions or beliefs; they should focus especially on raising awareness on this topic in educational, security, and regional administrative sectors.
- › All necessary steps should be taken to facilitate each community of belief to establish educational institutions suited to training their own religious officials and leaders.
- › Public finances allocated for religious education and instruction should be distributed to all religious or belief communities equally and without discrimination. The system of distribution of such resources should be developed by including all groups in the planning process.
- › No one should be forced to wear or not to wear clothing with religious symbols either in law or in practice.
- › Public resources should be provided without discrimination for education and instruction in languages traditionally used in religious practices.
- › A transparent consultation with broad participation should be followed for the enforcement of the ECtHR judgment on *İzzettin Doğan ve Diğerleri v. Turkey*. Religious services provided as public services should be provided in a manner that is compatible with the principles of equality and neutrality and international human rights law.
- › The selection and appointment of religious officials by religious or belief communities should be seen as an internal matter.

- › All necessary regulations should be implemented to ensure that foreign religious officials, invited by communities of religion or belief, are able to work in Turkey without exclusion or discrimination.
- › The right of individuals to determine their burial ceremonies and procedures in line with their beliefs should be respected.
- › Municipalities should respond to requests concerning cemeteries, burial, and cremation in a neutral and facilitative manner.
- › The rights of communities of religion or belief to establish legal personality should be protected in accordance with the standards of international law.
- › The phrase “no foundation shall be established to support the members of a particular religious community” in Article 101 of the Turkish Civil Code should be removed.
- › Legislation over associations and foundations must be re-examined and improved in the context of standards for the freedom of assembly and the right to FoRB.
- › Community foundation election regulations must be drafted following an expeditious participatory process.
- › Turkey should withdraw its reservation regarding Article 2 of ECHR Protocol No. 1.
- › The constitutional requirement for the Religious Culture and Ethics courses should be removed. If the course is to be mandatory, the course must change to present information about religions in an objective and neutral manner, or there should be a mechanism for exemptions that complies with human rights standards.
- › The Ministry of National Education must take all necessary measures to avoid unequal calculation of the High School Placement Test scores for students who were exempted from the Religious Culture and Ethics courses.
- › The Ministry of National Education must track whether or not elective religion courses are actually presented as elective, and take measures necessary to ensure that they are truly optional.
- › The Ministry of National Education should take all necessary measures to eliminate the unfair circumstances facing students exempted from the RCE course arising in the context of the High School Placements test.
- › While fulfilling its duties in the field of education, the government must make regulations on religious practices in schools in accordance with its obligations to neutrality and respect for the religious or philosophical views of parents.
- › The Constitutional Court should resolve, immediately and without delay, those individual applications related to the right to FoRB and do so using the international human rights standards for the right to freedom of thought, religion, and belief.

Addendum

Turkish Constitutional Court judgments

Applicant	Application No / Application Date / Decision Date	Decision Type	Rights; Application topic; Decision
Suat Özcan	Application No: 2014/12522 Application Date: 4/8/2014 Decision Date: 8.11.2017	Inadmissible. Due to the lack of charac- terization as a victim, manifestly ill-founded	Right to privacy. Questions asked regarding his religious denomination during an administrative disciplinary investigation. This does not qualify as victimization and is therefore manifestly ill-founded.
Mehmet Doğanay	Application No: 2015/15505 Application Date: 3/09/2015 Decision Date: 12/12/2018	Inadmissible. Unauthorized with regard to time (ratione temporis)	Freedom of religion and conscience; protection of private and family life. Application claimed violations of freedom of religion and conscience and right to respect of private life. Due to involvement in a religious brotherhood and previous marriage to a foreign woman, was not admitted to the police academy despite passing the exam.
Mehmet Güler	Application No: 2015/15950 Application Date: 1/10/2015 Decision Date: 11/12/2018	Inadmissible. Failure to exhaust domestic remedies	Inviolability of personal and family life. Freedom of religion and conscience. The application regards the claim that right to respect for family life, freedom of religion and conscience, and principle of equality were violated. Applicant, whose son died in Syria, was not granted permission to hold the funeral in Turkey.
Murat Kalkan	Application No: 2017/21904 Application Date: 25/04/2017 Decision Date: 11/12/2018	Decision on the merits: Not a violation	Freedom of religion and conscience. The application regards claim that the freedom of religion had been violated due to the refusal to allow applicant to meet with a religious official while imprisoned.

Sara Akgül	Application No: 2015/269 Application Date: 2/01/2015 Decision Date: 22/11/2018	Decision on the merits: Violation (Plenary Assembly)	Freedom of religion and conscience. Right to education. The applicant claims violation of religious freedom and right to education by the requirement that a student expelled from university due to the headscarf ban repay the stipend she had received.
Asiye Lekesiz	Application No: 2015/6064 Application Date: 2/04/2015 Decision Date: 13/09/2018	Inadmissible. Manifestly ill- founded	Freedom of religion and conscience. Applicant claims that the use of the notion that the insistence of a married woman on a certain type of dress led to marital discord as a justification for divorce violated freedom of religion.
Association for Aid to Continuing Foundations, Historic Sites and the Environment	Application No: 2015/14747 Application Date: 25/08/2015 Decision Date: 13/09/2018	Inadmissible	Freedom of religion and conscience. Applicant claims that the rejection of the request to open Hagia Sophia Museum to worship activities one day per year so prayers can be held constitutes a violation of the freedom of religion and conscience.
B.S.	Application No: 2015/8491 Application Date: 13/05/2015 Decision Date: 18/07/2018	Decision on the merits: Violation	Freedom of religion and conscience. Applicant claims that being fired from the civil service for wearing the religiously required headscarf is a violation of freedom of religion.
Ahmet Sil	Application No: 2017/24331 Application Date: 23/05/2017 Decision Date: 09/05/2018	Decision on the merits: Violation	Freedom of religion and conscience. Application regards claim that the refusal to provide a penitentiary inmate with his own Koran constituted a violation of freedom of religion.
Kilikya Armenian Catholicosate	Application No: 2015/7661 Application Date: 27/04/2015 Decision Date: 15/06/2016	Inadmissible. Domestic remedies have not been exhausted	Freedom of religion and conscience. Property rights. Prohibition of discrimination. Application regards claim that the seizure of church and monastery immovable property, according to decrees issued pursuant to the law on abandoned property, violates the right to property; that the seizure of a place of worship violates the freedom of religion and belief and the principle of equality; and that the obstruction of access to land registry records violated the right to a fair trial.

Esra Nur Özbey	Application No: 2013/7443 Application Date: 23/09/2013 Decision Date: 20/05/2015	Decision on Merits: Violation	Freedom of religion and conscience. Forcing the applicant to remove her coat (covering her body) by security forces violated her right to freedom of religion and conscience.
Tuğba Arslan	Application No: 2014/256 Application Date: 08/01/2014 Decision Date: 25/06/2014	Decision on Merits: Violation (Plenary Assembly)	Freedom of religion and conscience. Prohibition of Discrimination The postponement of the hearing by the judge because the defence lawyer was wearing a headscarf violated the right to freedom of religion or conscience.
Mardin Süryani Katolik Kilisesi Vakfi	Application No: 2013/757 Application Date: 24/01/2013 Decision Date: 13/06/2013	Inadmissible Manifestly Ill-founded	Freedom of religion and conscience. Right to property. The appropriation of property belonging to Mardin Syriac Catholic Church did not interfere in the right to freedom of religion or conscience.

Council of Europe – European Court of Human Rights judgments

Cases at the Application Stage

Case Name	Application No and Date	Relevant Article and Subject
Murat Kanatlı v. Turkey	18382/15 / 06.04.2015	Article 9 Applicant, a conscientious objector, complained of being prosecuted for refusal to enter the compulsory military draft.
Abdullah Yalçın v. Turkey	34417 / 24.05.2010	Article 9 The applicant was a prisoner in the High-Security Prison in Diyarbakır and complained that prison officials refused to allow him to perform the congregational Friday prayers required of his religion, Islam.
Mehmet Emin İnce v. Turkey	52772/08 / 30.10.2008	Applicant, who grew a beard to fulfill the requirements of his religious beliefs complained about being refused entry to courses and vocational training due to the ban on beards in university. Due to the Dress Code Regulation, he was expelled from the Sivas Republic University School of Medicine. Was able to return to university and complete his education after the amnesty in October 2008.

MİHR Foundation v. Turkey	10814/07 / 26.02.2007	Articles 6, 9, 10, and 11; Article 11 in connection with Article 14 The applicants argue that the process of dissolving their organization was conducted unjustly. They complain that their property was given unjustly to the Directorate General of Foundations after a decision taken by the National Security Board on 28 February 1997.
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ECtHR judgments and required general measures to prevent similar violations

Case Name	Application No / Decision Date	Individual and General Provisions
Altınkaynak and Others v. Turkey	12541/06 – 15.01.2019	Article 11 The refusal to grant applicants' permission to establish legal personality for the foundation they attempted to create in order to contribute to financing applicants' religious practices does not respond to any urgent societal need, is not proportionate to any legitimate purpose, and in sum, is impossible to consider necessary in a democratic society. Article 11 was violated.
Cumhuriyetçi Eğitim ve Kültür Merkezi v. Turkey	32093/10 20.06.2017	Article 14 in conjunction with Article 9 The court reached the verdict that the assessment made by regional courts that Alevism is not a religion cannot be used to justify depriving <i>cemevis</i> of privileges afforded to places of worship, given the awareness that <i>cemevis</i> , like other, recognized, places of worship, are places for worship conducted in relation to a religious belief. Whatever the scope of the privileges afforded to houses of worship—electricity costs or lighting expenses— <i>cemevis</i> cannot at present be said to benefit from this privilege. As a result, it is necessary to take general precautions in order to eliminate the discrimination arising from this exemption. Due to the lack of an objective and reasonable justification for the discriminatory treatment suffered by the applicant, the Convention's Articles 9 and 14 were violated.
Association for Solidarity with the Jehovah's Witnesses v. Turkey	36915/10 ve 8606/13 24.05.2016	Article 9 The Court found that the decisions to reject the applications made by the Association directly affected the religious freedom of the applicants and that these decisions were neither proportionate to a legitimate aim nor necessary in a democratic society.

İzzettin Doğan and Others v. Turkey (GRAND CHAMBER)	62649/10 26.04.2016	Article 9 and Article 14 in conjunction with Article 9 The state's non-provision of the religious services demanded by Alevi applicants together with the lack of recognition of the Alevi community render the Alevis unable to effectively exercise their rights to freedom of religion and belief. This denial of rights made it impossible the use of the Alevi community's places of worship (cemevi) and the use of the titles of their religious leaders, the dedes. Since the state could not present valid and sufficient justifications, it was found to have exceeded its margin of appreciation. For this reason, the intervention subject to the complaint cannot be deemed necessary in a democratic society. Article 9 was violated. As there is no objective or reasonable justification for the separate treatment to which Alevis have been subjected, Article 14 in connection with Article 9 was violated.
Mansur Yalçın and Others v. Turkey	21163/11 16.02.2015	ECHR Protocol No. 1, Article 2 There is still no provision ensuring that the state education system will respect the beliefs of parents. The children of parents who have religious or philosophical beliefs other than Sunni Islam are particularly constrained in their options and face very constricted exemption procedure, which places a heavy burden on parent and child and leads to children being forced to declare their religion in order to receive exemption from the course.
Buldu and Others v. Turkey	14017/08 / 03.06.2014	Right to conscientious objection. – Necessary measures should be taken to recognize the right to conscientious objection and for conscientious objectors not to be tried in military courts.
Erçep v. Turkey	43965/04 / 22.02.2012	Right to conscientious objection. – The obligation to pay an administrative fine should be eliminated. Necessary measures should be taken to recognize the right to conscientious objection and for conscientious objectors not to be tried in military courts.
Feti Demirtaş v. Turkey	5260/07 / 17.04.2012	Right to conscientious objection. – Necessary measures should be taken to recognize the right to conscientious objection and for conscientious objectors not to be tried in military courts.
Mehmet Tarhan v. Turkey	9078/06 / 12.07.2012	Right to conscientious objection. – Necessary measures should be taken to recognize the right to conscientious objection and for conscientious objectors not to be tried in military courts.

Halil Savda v. Turkey	42730/05 / 12.06.2012	Right to conscientious objection. – Necessary measures should be taken to recognize the right to conscientious objection and for conscientious objectors not to be tried in military courts.
Osman Murat Ülke v. Turkey	43965/04 / 24.04.2006	Prohibition of inhumane treatment. – Necessary measures should be taken for the recognition of the right to conscientious objection and for conscientious objectors not to be tried in military courts.
Ahmet Arslan v. Turkey	41135/98 / 04.10.2010	The enforcement of the verdict is under review.
Sinan Işık v. Turkey	21924/05 / 02.05.2010	Requirement of the religion field on identity cards. – ECtHR ruled that removing the religion field from identity cards would be an appropriate measure to prevent similar violations. According to the action plan presented by Turkey on 29 June 2011 this would be applied to citizenship cards and information on religion would not be present on the card. However, the field for religion continues to be present in population records.
Hasan and Eylem Zengin v. Turkey	1448/04 / 09.01.2008	The education system is not showing sufficient respect for the beliefs of parents – The education system must come into compliance with Article 2 of the ECHR Protocol No. 1.

United Nations – Human Rights Committee views

Case Name	Application No. / Decision Date	Individual and General Measures / Provisions
Atasoy and Sarkut v. Turkey	1853/2008 and 1854/2008 / 19.06.2012	The HRCttee ruled that Jehovah's Witnesses and other conscientious objectors' freedoms of religion or belief, protected under the framework of the Convention on Civil and Political Rights Article 18 Paragraph 1, had been violated. There was no arrest warrant for the applicants. But the applicants were still considered deserters. To prevent similar violations, the HRC ruled for Turkey to develop an effective mechanism for protecting the right to conscientious objection and to lift the penalties imposed on conscientious objectors in individually appropriate ways. However, nothing has been done to implement these general measures.

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