

The Right to Freedom of Belief in Turkey

Monitoring report July 2014 – June 2015

Norveç Helsinki Komitesi

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Preface

The Freedom of Belief Initiative's activities on monitoring and reporting on the right to freedom of thought, religion and belief are organized as a project of the Norwegian Helsinki Committee (NHC). The Norwegian Foreign Ministry is the principal sponsor of the project.

The NHC is an Oslo-based non-governmental organization established in 1977 to ensure that international human rights laws are respected in practice. It achieves this goal through monitoring, reporting, teaching and democracy support. NHC bases its work on international human rights instruments adopted by the United Nations, the Council of Europe, and the Organization for Security and Cooperation in Europe (OSCE). It has projects in a variety of countries, including in the Russian Federation, a range of East European countries, and Central Asia.

The Freedom of Belief Initiative was launched in September 2011 with the aim of monitoring issues related to freedom of thought, religion or belief in Turkey, and to make legal standards and monitoring reports related to such topics accessible to all stakeholders. In this regard, it has presented reports on the protection of the freedom of thought, religion, and belief in Turkey in the framework of the Universal Periodic Review of the UN Human Rights Council and the UN Human Rights Committee.

Since March 2013, it has continued its activities with the support of the Norwegian Helsinki Committee, establishing the Right to the Freedom of Belief Monitoring Project, which encompasses both monitoring, reporting and advocacy activities.

The main activities of the Freedom of Belief Initiative in Turkey Project include monitoring, documentation, reporting, and making recommendations to solve issues observed. Mine Yıldırım drafted the monitoring report. She is the project director of the NHC Freedom of Belief Initiative in Turkey. She has published nationally and internationally on the topic of the right to freedom of religion or belief and has earned her doctoral degree at Åbo Akademi University Institute for Human Rights. Her thesis is entitled "The Collective Dimension of Freedom of Religion or Belief in International Human rights Law and Application of Findings to the Case of Turkey".

Gunnar M. Ekeløve-Slydal, Deputy Secretary General of the NHC, have oversight functions related to the project and its publications. Alex Balistreri translated the report from Turkish to English.

Bjørn Engesland, NHC Secretary General Oslo, November 2015

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1. SUMMARY ANALYSIS

There are numerous old and new problems related to the exercise of freedom of religion or belief in Turkey that still await solutions. For years, including during recent attempts to draft a new constitution, different religious or belief groups have expressed demands that political actors find permanent solutions to their problems in a participatory and inclusive way. International human rights protection mechanisms as well as Turkish court judgments have pointed to the need for Turkish legislation and practice to be brought into harmony with human rights standards on freedom of religion or belief. The post-election government will face the task of ensuring a true change for the better in this regard.

The myriad of problems that exist range from those expressed by religious or belief groups themselves to those pointed out by Turkish and international courts. Mandatory courses in “Religious Culture and Ethics” (RCE) for schoolchildren, conscientious objection to military service, the slot for religion on national identification cards, the failure to recognize *cemevis* as official places of worship, and the state’s general lack of impartiality when it comes to religious beliefs are just a few examples of such problems. The decisions passed by the European Court of Human Rights (ECtHR) with regard to freedom of religion or belief are not being enforced. These issues, and many like them, continue to be the subject of individual appeals to the Turkish Constitutional Court. The government should take measures to solve such problems without delay.

There are a number of positive steps that have been taken in recent years, including the amendment of the Law on Foundations and other efforts to protect the rights of non-Muslim communities or to remedy past injustices, and this should continue. Further necessary measures include, first, the passage of a new law to replace Provisional Article 11 of the Law on Foundations, the narrow scope of which prevented certain properties from being returned to their owners, and second, the immediate adoption of a new Regulation of the Election of Board Members of Community Foundations.

At the point where freedom of expression meets freedom of religion or belief, there has been cause for concern, including the criminal prosecutions directed at the Association for Atheism and its members as well as hate speech directed at Christians and Jews. Incidents of hate speech are not isolated events, but have shown continuity over a long span of time. In cases brought before the court, officials should not treat preservation of the majority belief system or its followers as an absolute priority, but should instead make decisions in accordance with Article 216(3) of the Turkish Penal Code and the jurisprudence set by the ECtHR. Additionally, officials should consider these issues as multifaceted and not resort immediately to restrictions on freedom of speech unless such measures are absolutely necessary.

The changes, which have been made to the education system over the last several years, require a more comprehensive analysis and amendment process when it comes to protecting freedom of religion or belief in schools. In addition to mandatory RCE classes – the issue which has been most widely discussed since it was brought before the ECtHR – the problems of freedom of religion or belief and state impartiality come up with equal frequency in optional religious education classes. The facts that children exempted from RCE classes are at a disadvantage when it comes to the standardized high-school entrance exam (*TEOG*), that students can be automatically placed in “*imam-hatip*” religious training schools against their wishes, and that schools do not create a sufficient atmosphere for pluralism of religions or beliefs all show that there is a long way to go in protecting the right to freedom of religion or belief for children, parents, and teachers in the education system.

There is a need for reform, too, in the distribution of public financial resources among religious or belief groups within a framework of equality and impartiality. This has been a problem since the foundation of the Republic. Currently, religious services are treated as a public service, and they are financed from the general budget, particularly through the funds appropriated to the Directorate of Religious Affairs (*Diyanet İşleri Bakanlığı*). Thus, those faith-based groups which do not fall under the rubric of the Directorate of Religious Affairs are unable to benefit from such financing, outside of some symbolic contributions like the payment of electric bills for certain places of worship. If a budget is to be set aside for religious services using public resources, a new model must be developed using a process of comprehensive consultation that will be able to share resources in a way that will benefit the religious or belief services of all belief communities.

To conclude, the need for sweeping reforms to solve Turkey’s old and new problems of freedom of religion or belief is clear. The new AK party government, taking power after the 1 November 2015 Parliamentary elections, should be aware of the need for reform and make changes to both the letter and practice of the law in a way that is inclusive, transparent, and places human rights norms at the center. Otherwise, it is not difficult to predict that various religious or belief communities, so negatively affected by the extant restrictions and discrimination, will become ever more vulnerable as they continue to face their struggle to survive.

2. METHODOLOGY

Monitoring and reporting on human rights has several goals. Firstly, it endeavors to obtain objective knowledge based on concrete data regarding human rights practices, particularly government practices. Secondly, it identifies potential violations of international human rights standards in the way laws are worded and implemented. Thirdly, it brings to light repeated bad practices. Finally, it tries to establish the measures which must be taken to bring practices into harmony with international human rights law.

The present *Monitoring Report on the Right to Freedom of Religion or Belief in Turkey* has been prepared in the framework of the NHC “Freedom of Belief Initiative” project and aims to record and evaluate developments in freedom of religion or belief in Turkey between July 2014 and June 2015. The general theoretical framework of the report is based on the components of freedom of religion or belief found in international law. The report also includes case studies on recent developments relating to the overlap of property rights and freedom of religion or belief. After evaluating the right to freedom of religion or belief from a variety of standpoints, the report also considers some of the important effects the state’s role in education has on this fundamental right.

Monitoring was not limited to legal norms and regulations arising out of international legal obligations, but also included court verdicts, widespread practices, and administrative decisions. In addition, other developments, improvements, or difficulties related to the implementation of legal obligations or the exercise of rights were also considered.

Observing and monitoring projects, which are carried out to expose violations of human rights must also include an active process of data collection, verification, and recording.¹ Activities carried out with such goals are made up of various information collection and sharing processes. This report has been prepared by monitoring the relevant legislative and judicial processes, reviewing media and literature on the topic, and conducting one-on-one interviews with individuals belonging to various belief communities, NGO workers, and human rights defenders.

Numerous meetings were held with public officials to validate the data found in this report. In instances where this was not possible, applications were submitted to the relevant authorities to obtain information. Developments in freedom of religion or belief in Turkey with regard to international rights protection mechanisms were also monitored.

1 United Nations Commission on Human Rights, *Training Handbook on Human rights Monitoring* [in Turkish] (2001), p. 9.

3. LEGAL FRAMEWORK

3.1. INTERNATIONAL LAW

Freedom of thought, conscience, religion, or belief is one of the basic freedoms protected under international human rights law. Several international and regional binding agreements and non-binding political documents guarantee the right to exercise this freedom. This report takes international human rights norms as a basis in discussing the right to exercise freedom of thought, religion, and belief.

Article 18 of the Universal Declaration of Human Rights (UDHR),² Article 18 of the United Nations International Covenant on Civil and Political Rights (ICCPR),³ and Article 9 of the European Convention on Human Rights (ECHR)⁴ guarantee everyone the right to freedom of thought, religion, and 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.⁵

However, topics related to freedom of religion or belief emerge with regard to supplementary laws and regulations as well. As noted later in this report, 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 text itself and in terms of the values, which underlie their significance.

Article 2 of Protocol 1 to the ECHR holds that “[i]n the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to

2 The Universal Declaration of Human Rights was passed by the United Nations General Assembly on 10 December 1948.

3 The International Covenant on Civil and Political Rights came into effect in Turkey on 23 September 2003. Turkey added a reservation to Article 27, which protects members of minority groups, in which it stated that Turkey would interpret the article within the framework of the Lausanne Treaty.

4 The European Convention on Human Rights entered into force in Turkey on 18 May 1954. Turkey added a reservation that Article 2 of Protocol 1 to the Convention would have no effect on Law 450, which unified state education in Turkey in 1924 (*Tevhid-i Tedrisat Kanunu*).

5 Text taken from the ECHR, Article 9.

ensure such education and teaching in conformity with their own religious and philosophical convictions”.⁶

In addition to the agreements above, the UN “Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,” while legally non-binding, 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

Under this framework, during the reporting period the “Guidelines on the Legal Personality of Religious or Belief Communities,” adopted by the OSCE’s Office for Democratic Institutions and Human Rights (ODIHR) and the Venice Commission, were published by the OSCE in 2014 and carries particular significance for Turkey.

3.2. TURKISH LAW

The basic norms on freedom of religion or belief in Turkish law are laid out in the constitution. Article 24 of the Constitution of the Republic of Turkey provides the following with regard to 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.

6 Articles in the UN ICCPR which correspond to this article are Articles 19 and 22, respectively.

7 The UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, A/RES/36/55, was approved by the UN General Assembly on 28 November 1981.

8 In addition to the commitments found in several other documents, Article 16 of the 1989 Vienna Document includes a detailed list.

9 Articles 37 through 45 of the Lausanne Peace Treaty, 24 July 1923.

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 reasons and states that administrative bodies and state organs are to treat all citizens equally and in accordance with this principle in all of its activities.

According to Article 90 of the Constitution, which establishes the place of international agreements in domestic law, the international human rights treaties to which Turkey is a signatory supersede domestic legislation.

There is no law in Turkey, which specifically regulates freedom of religion or belief. A variety of other laws and regulations contain provisions, which affect freedom of religion or belief. These include: the Turkish Civil Code,¹¹ the Law on Associations,¹² the Law on Foundations,¹³ the Law on Assembly and Demonstrations¹⁴, the Law on Zoning and Construction¹⁵, 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 Convents and Tombs, the Abolition of the Office of Keeper of Tombs and the Abolition and Prohibition of Certain Titles,¹⁹ and the Law on the Prohibition of Certain Forms of Attire.²⁰

10 English-language version of the Turkish Constitution (1982), https://global.tbmm.gov.tr/docs/constitution_en.pdf

11 Law No. 4721, *Türk Medeni Kanunu* (22 November 2001).

12 Law No. 5257, *Dernekler Kanunu* (4 November 2004).

13 Law No. 5737, *Vakıflar Kanunu* (20 February 2008).

14 Law No. 2911, *Toplantı ve Gösteri Yürüyüşleri Kanunu* (6 October 1983).

15 Law No. 3194, *İmar Kanunu* (3 May 1985).

16 Law No. 5237, *Türk Ceza Kanunu* (26 September 2004).

17 Law No. 1739, *Milli Eğitim Temel Kanunu* (14 June 1973).

18 Law No. 5580, *Özel Öğretim Kurumları Kanunu* (8 February 2007).

19 Law No. 677, *Tekke ve Zaviyelerle Türbelerin Seddine ve Türbedarlıklar ile Bir Takım Unvanların Men ve İlgasına Dair Kanun* (13 December 1925).

20 Law No. 2879, *Bazı Kisvelerin Giyilemeyeceğine Dair Kanun* (3 December 1934).

4. FREEDOM OF THOUGHT, RELIGION, OR BELIEF

Hate speech directed at different religious or belief groups is a factor that has a negative effect on the protection of the right to freedom of religion or belief. As will be seen below, the extent of religious or belief-based hate speech in Turkey, along with the extent of legal measures taken against individuals who reject or critique religion, give cause for concern. The fact that public officials do not perceive this as a problem and their failure to take comprehensive steps to solve it continue to be factors that exacerbate the issue.

According to findings from the Hrant Dink Foundation's hate-speech monitoring project, during the final third of 2014 (September, October, November, December), there were 281 instances of hate speech targeting religious affiliation and aimed at 12 different non-Muslim, non-Sunni, or non-religious groups.²¹ While Jews were the primary target of hate speech after Israeli armed forces stormed the al-Aqsa Mosque, around Christmas, Christians were subjected to four times more hate speech than during the previous period (25 instances).²²

Belief communities can also be the target of hate speech by public officials. For example, Dursun Ali Şahin, the state-appointed governor of Edirne province, stated the following on 22 November 2014: "While those people over there, dressed like bandits, are fanning the flames of war in al-Aqsa Mosque, while they are actually carrying out a war and massacring Muslims, we turn around to build their synagogues here. I say this with great resentment inside me. We turn around and clean up their cemeteries and forward their projects to the authorities." He went on to say that the Edirne Grand Synagogue would not be used as a place of worship, but would rather be registered as only a museum.²³ Şahin later apologized in light of public criticism and reactions after the statement.²⁴ The synagogue has been opened for worship subject to permission by the Directorate of Foundations.

Those who express thoughts critical of religion or Islam also face criminal prosecution and are subjected to hate speech or even threats from society at large.

The judge at the general-jurisdiction criminal court in the Ankara district of Gölbaşı ordered that access to 12 videos on Youtube deemed to have content insulting the prophet Muhammad be blocked. Youtube complied with the request to block access to these videos' URLs after the Access Providers' Union forwarded the judge's order.²⁵

21 Hrant Dink Foundation, *Medyada Nefret Söylemi ve Ayrımcı Dil: Eylül–Aralık 2014* [Hate Speech and Discriminatory Language in the Media: September–December 2014], p. 4.

22 *ibid.*, p. 8.

23 "Utandırıcı Açıklama Ortılığı Karıştırdı" [Shameful Statement Causes Controversy], *Hürriyet*, 23 November 2014.

24 "Edirne Valisi Şahin Özür Diledi" [Edirne Governor Apologizes], *Doğan Haber Ajansı*, 24 November 2014.

25 "Gölbaşı Mahkemesi devrede... Youtube her an kapanabilir" [The Gölbaşı courthouse is online... YouTube could be shut down any moment], *Cumhuriyet*, 22 June 2015.

In the same vein, the Association for Atheism's legal struggle against threats made against atheists or the Association by various groups in society, along with the struggles they have been facing through court cases opened against the Association members themselves or its supporters, show the extent of difficulties that come along with trying to maintain an organization for atheists in Turkey. The Association for Atheism is the first atheist NGO to be founded in a Muslim country.

In early 2015, the web site of the Atheism Association was shut down following a verdict of the Second General-Jurisdiction Criminal Court in Gölbaşı.²⁶ While the verdict stated that the web site was blocked in accordance with the crime of openly disrespecting the religious belief of a group (Article 216 (3) of the Turkish Penal Code), it did not specify what content on the web site was actually accused of violating this law. The case is expected to be appealed to the Constitutional Court through that court's individual application mechanism. There are seven further ongoing trials against the chair, members, or supporters of the Atheism Association. These cases were launched based on messages shared on social media and those posting the messages were accused of violating Article 216 (3) of the Turkish Penal Code.

On the other hand, of the four legal complaints made by the Association for Atheism regarding hate speech or threatening messages directed against atheists, two were rejected as having no grounds for trial, while the other two are the subject of ongoing preliminary investigation.²⁷

The fact that cases are directed only against content which reject religion or Islam sends several messages: that the belief system of the majority is to be protected, that speech found to be "demeaning" to the majority religion (in the context of Turkish Penal Code 216 (3)) will be subject to criminal prosecution, while speech found to be "demeaning" to beliefs and individuals of smaller communities is to be tolerated. The persistence of such practices points to a widespread and systematic problem in Turkey.

Article 216 (3) of the Turkish Penal Code should be amended in accordance with UN ICCPR Article 20 (2) and ECHR Articles 9 and 10, and should be interpreted in a systematic rather than a selective manner.

Speech, which does not incite to violence or discrimination, should not face criminal prosecution.

The Interior and Justice Ministries should make a registry of hate speech incidents and make this publicly available; they should develop an approach to the fight against hate speech and hate crimes that is comprehensive and shaped by participation.

26 "Ateizm Derneği'nin internet sitesi kapatıldı" [Atheism Association web site shut down], *Milliyet*, 4 March 2015.

27 Criminal complaint application No. 2014/109061 regarding Prof. Dr. Nihat Hatipoğlu's statement on atheists and criminal complaint application No. 2014/912288 regarding Vefa Bardakçı's statement that atheist and communist teachers should be fired were both rejected as having no grounds for trial. Preliminary investigations are ongoing in criminal complaint application No. 2015/38992 regarding a threat made by the chair of the Erciş Sharia Association against the chair of the Atheism Association and in criminal complaint application No. 2015/39183 regarding threats made to the Association by placing calls to its call center.

4.1. THE RIGHT TO HAVE OR CHANGE ONE’S RELIGION OR BELIEF

“Freedom of religion or belief protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms “belief” and “religion” are to be broadly construed.”²⁸ Turkish constitutional norms protect individuals’ right to believe, not to believe, or change their beliefs.

4.2. COERCION TO DECLARE ONE’S RELIGION OR BELIEF

No one may be compelled to publicly declare her or his beliefs.²⁹

The presence of a slot for religion on national identity cards continues to present a risk of discrimination for many. To a limited degree, it is possible to leave this slot blank. Only certain religions and beliefs can be entered on the ID card (Islam, Christianity, Judaism, Hinduism, Confucianism, Taoism, Zoroastrianism, Buddhism).³⁰ As of the drafting of this report, it was unclear whether new national ID cards, scheduled for distribution in 2015, would include a slot for religion.

For Jewish and Christian children to be exempted from the compulsory RCE classes, they are required to show that they have “Christianity” or “Judaism” written in the religion slot on their ID cards. With the aim of applying this rule more strictly, the Ministry of National Education’s Directorate of Religious Education wrote a memorandum to provincial governors on 3 February 2015 ordering that children with blank religion slots and children of any religion other than Christianity or Judaism would be required to take RCE classes.³¹ In this way, religion has to be publicly declared on a child’s ID card for that child to exercise the right to be exempt from such classes, while children who do want exemption are not able to enjoy the right to leave the religion slot on their ID cards blank.

As in the ECtHR’s decision on *Sinan Işık v. Turkey*, the proposal to remove religion from national ID cards should be included among the measures taken so that similar rights violations do not occur.

No one should be compelled to declare her or his beliefs. A student and a parent’s statement to the effect that she or he does not want to participate in a RCE class should be sufficient grounds for exemption.

28 Human Rights Committee, General Comment 22, para. 2.

29 ECtHR, *Sinan Işık v. Turkey*, App. No. 21924/05, 2 February 2010.

30 Response of the Department General of Population and Citizenship Affairs dated 30 September 2013 to an official information request.

31 “Din Dersi Muafiyetine Belge Şartı” [Document Required for Exemption from Religion Class], *Hürriyet*, 10 February 2015.

4.3. COERCION TO ACT IN A MANNER CONTRARY TO ONE'S BELIEFS

The Right to Conscientious Objection to Military Service

The refusal to carry out military service, known as “conscientious objection,” is a human right protected within the scope of freedom of religion or belief.³² Although Turkey has the obligation to recognize the right to conscientious objection as one its commitments under Article 9 of the ECHR, still legislation for the effective protection of this right has not been passed.

Because there is no institution in Turkey to which conscientious objectors can apply, there are no official statistics on the number of conscientious objectors. The fact that there are no legal provisions on the issue has resulted in various ways in which conscientious objectors’ rights are violated.

From the moment conscientious objectors are classified as “deserters,” they lose their ability to seek employment in a job that provides a social service or benefit from social security. Thus, the failure to recognize the right to conscientious objection results in the problem of citizens being unable to take advantage of their economic and social rights. Because hotels and similar places of accommodation pass on the identity of their lodgers to the police, conscientious objectors are unable to stay in such accommodations. If they do, they will be detected by the system, they will get a police record, and they will either be sent directly to a military enlistment office and/or face a monetary fine.

The personal information of those who do not carry out their military service by failing to show up for mustering or by deserting will soon be available in the Domestic Court Network Project (*Ulusal Yargı Ağı Projesi*, UYAP), the General Information Collection (*Genel Bilgi Toplama*, GBT), and the Temporary Residence and Identification Notification Project (*Geçici İkamet Yerleri ve Kimlik Bildirme Projesi*, GİYKİMBİL). Once the infrastructure behind these projects goes online, conscientious objectors will be detected whenever an ID card is checked.

Peoples’ Democracy Party (HDP) deputies Pervin Buldan and İdris Baluken presented a draft law on conscientious objection to the president of the parliament (the Turkish Grand National Assembly) in August 2015.³³ The draft law proposes changing a number of articles in the Military Service Law, the Military Penal Code, and the Turkish Penal Code. According to the proposal, those who reach the age of military service but define themselves as “conscientious objectors” for moral, ethical, political, religious, or similar reasons, will be required to notify their respective draft offices but will not be subject to the drafting procedure or mandatory military service. As of the preparation of this report, parliament officials had not taken any action on the proposal.

32 The ECtHR’s verdict No. 23459/03 of 7 July 2011 in the case of *Bayatyan v. Armenia* found that individuals’ right to conscientious objection must be respected as a part of the obligation to respect freedom of thought, conscience, and belief found in Article 9 of the ECHR.

33 “HDP’den ‘Vicdani Ret’ için Yasa Teklifi” [Draft law from HDP on ‘Conscientious Objection’], *CNN Türk*, 6 August 2015.

The ECtHR has passed seven judgments and the UN Human Rights Committee has adopted one view as a result of Turkey's failure to uphold its human rights obligations by not recognizing the right of conscientious objection.³⁴ Baydar, a conscientious objector, has made an application to the ECtHR on grounds that Turkey has violated Article 9 of the ECHR.³⁵

In light of ECtHR judgments, the Council of Europe's Committee of Ministers has been monitoring a group of cases known collectively as the "Osman Murat Ülke group of cases". With regard to these cases although the ECtHR ruled in favor of the applicants, no real individual measures were later taken with regard to the applicants' complaints, something that was confirmed by Turkey's own explanatory memorandum to the Council.³⁶ As a result, applicants to the court continue to find themselves in the same difficult situation:

- Mehmet Tarhan was sentenced by the Sivas Court Martial on 10 February 2015 to 1 year and 3 months imprisonment; this was later commuted to a pecuniary fine.
- After Nevzat Umdü was discharged for being "unfit for service," the ongoing trial he faced for desertion resulted in a pecuniary fine, which was upheld by the Court of Appeals (*Yargıtay*).
- In all four trials against Çağlar Buldu, the court has postponed making its verdict public.
- Barış Görmez was acquitted on 20 April 2015 when the Isparta Court Martial reaffirmed its decision to recognize his right to conscientious objection. There is a possibility that the trial will be taken up by the Court of Appeals.
- Though Feti Demirtaş was discharged in 2007 after a doctor's report found him "unfit for service", the criminal case against him, launched in 2006, has still not been concluded.
- In February 2015, Ersin Ölgün and Yunus Erçep were called up as potential reserve officer candidates.

Furthermore, because these individuals did not complete their military service, they are unable to exercise certain rights, which require completion of military service.

An individual application on conscientious objection submitted to the Constitutional Court by pacifist Jehovah's Witnesses has given a Turkish court the opportunity to pass an important decision on the issue. Though six months have passed since the application, the Constitutional Court has not yet reached a decision.

³⁴ See appendix.

³⁵ ECtHR, *Baydar v. Turkey*, App. No. 25632/13, 17 November 2014.

³⁶ Explanatory memorandum No. 1236 sent by Turkey to the Council of Europe Council of Ministers at its session on 22–24 September 2015; DH Document No. DH-DD(2015)627, 16 June 2015.

After conscientious objector Ali Fikri Işık was sentenced to 25 months in prison by the Çorlu Court Martial and his sentence was commuted to a fine of 15,000 Turkish liras, the verdict has been appealed and is now being considered by the Military Court of Appeals (*Askerî Yargıtay*).³⁷

The right to conscientious objection should be recognized in conformity with international human rights standards.

The government should create alternatives to military service which are entirely civilian in nature and do not punish those who opt for such service.

An impartial application-assessment mechanism should be created for conscientious objectors.

Turkey should implement the decisions of the ECtHR and the UN Human Rights Committee on the right to conscientious objection.

³⁷ Interview with officials from the Conscientious Objection Association, August 2015.

5. FREEDOM TO MANIFEST ONE’S RELIGION OR BELIEF

5.1. THE RIGHT TO MANIFEST ONE’S RELIGION OR BELIEF IN WORSHIP

5.1.1. Threats and Attacks Against Places of Worship

The right to freedom of religion or belief also includes the right to assemble for the purpose of worship.³⁸ Thus, it is very important to ensure that places of worship are safe. It is of vital importance that places used for worship or congregation be protected in accordance with human rights and that they are not allowed to become the target of attacks.

On 7 November 2014, a banner was hung on the Neve Shalom Synagogue, which read “Building Slated for Destruction.”³⁹ On 10 November, a group belonging to the nationalist organization Alperen Ocakları sought to march on the Neve Shalom Synagogue in Şiřhane to protest the tensions at the al-Aqsa Mosque in Jerusalem.⁴⁰ One week later, police blocked an attempt to hang a similar banner.⁴¹

On the evening of 7 December 2014, a fire broke out in the building housing the International Church of Kadıköy and the Bible Informational Association, causing severe damage to the floor on which it broke out. While firefighters said the fire was the result of an accident, later examination of video camera recordings determined that a suspicious person was seen trying to break in. Because of the increased possibility of arson, a criminal complaint was filed in the matter.⁴² The investigation is ongoing.

On 16 May 2015, an individual wielding a bat entered the Agape Church in Samsun and insulted church officials there after telling them they were “forcing our children to give up their religion.” Though the police who arrived on the scene took away the individual’s bat, the individual was not subject to any further prosecution.⁴³

On 10 June 2015, an individual poured paint thinner on the door of the Ayia Triada Greek Orthodox Church in Kadıköy and set it on fire while shouting “*Allahu akbar*” (“God is great”).⁴⁴

38 Commission on Human Rights, General Comment 22, par. 4.

39 “Neve Şalom’da Afş Paniđi” [Panic over Banner at Neve Shalom], *Haber7*, 7 November 2014.

40 “Neve Şalom’a Yürümeđ İstediler” [Protest Against Neve Shalom Sought], *Şalom*, 10 November 2014.

41 @musevicemaati, 13 November 2014.

42 “Kadıköy Kilisesi’ndeki Yangının Nedeni Kundaklama” [Arson Behind Fire at Kadıköy Church], *Agos*, 10 December 2014.

43 Interview with Association of Protestant Churches General Secretary Umut Şahin, July 2015; and “Samsun Agape Kilisesi’ne Saldırı Cezasız Kaldı” [Attack on Samsun’s Agape Church Goes Unpunished], *Agos*, 18 May 2015.

44 “Kadıköy’de Kilise Kapısını Yaktılar” [Church Door Burned in Kadıköy], *Hürriyet*, 10 June 2015.

Historic churches and cemeteries can sometimes be defaced or even destroyed by treasure-seekers. For example, a historic Armenian church in the village of Toklular in Bingöl was destroyed by treasure hunters.⁴⁵

On 13 July 2015, symbolic gravestones erected in Ankara's Karşıyaka cemetery in memory of the Madımak Hotel Massacre in Sivas that led to the killing of Alevi individuals were vandalized by unknown perpetrators, who removed the names from the memorial and destroyed the stones.⁴⁶ On 12 August 2014, unknown perpetrators vandalized an Alevi cemetery in the village of Zeytin near Selçuk, İzmir province.⁴⁷ In Üsküdar's Karacaahmet Cemetery, İstanbul, another group vandalized the grave of Ece Dinç, who had lost her life in the suicide bombing at Suruç, July 2015.⁴⁸

It is public authorities' responsibility to ensure the security of places of worship or sites considered sacred to holders of different religions and beliefs. Attacks, threats, and vandalism should be prevented; if such acts do occur, they should be investigated thoroughly and should not go unpunished.

Public funding should be made available to belief groups forced to hire private security companies to protect places of worship or sites they consider sacred.

5.1.2. The Right to Establish and Maintain Places of Worship

The right to freedom of worship also entails the freedom to establish and maintain a place of worship. Although Turkish law protects the right to establish a place of worship, exercise of this right continues to face significant barriers in practice.

There were several significant developments during the reporting period, particularly in terms of judicial and executive decisions.

Sezgin Tanrıkulu, vice-chair of the Republican People's Party (CHP) and deputy for İstanbul, submitted a draft law to the president of the parliament that would ensure that public funds are allocated to cover electric and water utility costs for "all places of worship, including *cemevis*."⁴⁹ Tanrıkulu's proposal, however, was not passed into law.

The failure to recognize *cemevis* as places of worship continues. Nevertheless, the ECtHR's decision in the case of *Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı v. Turkey* found that the failure to recognize *cemevis* as places of worship violated both Article 14 of the ECHR, prohibition

45 "Karlıova'da Defneciler Tarihi Ermeni Kilisesi'ni Tahrip Etti" [Treasure-Hunters Destroy Karlıova's Historic Armenian Church], *Sözcü*, 16 June 2015.

46 "Sivas Katliamı Kurbanlarının Anıt Mezarına Saldırı" [Attack on Memorial Graves Belonging to Victims of Sivas Massacre], *Radikal*, 13 July 2015.

47 "İzmir'da Alevilere Ait Mezarlar Tahrip Edildi" [Alevi Gravestones Vandalized in İzmir], *İMC*, 14 August 2015.

48 "Suruç'ta Hayatını Kaybeden Ece Dinç'in Mezarına Saldırı" [Attack on Grave of Ece Dinç, Who Died in Suruç], *Haber7*, 23 July 2015.

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

of discrimination, and Article 9 protecting freedom of belief.⁵⁰ This significant decision has laid the ground for further developments in Turkey. The Yenibosna *cemevi*'s – *cemevi* under the foundation – request that its electricity bill be covered by the state was rejected on grounds that “Alevism is not a religion and *cemevis* are not places of worship.”⁵¹ In its decision, the ECtHR found that the differing treatment faced by the foundation is neither objective nor acceptable.⁵²

As a result of this judgment by the ECtHR, municipalities held by the CHP officially recognized *cemevis* located within city limits as places of worship and decided to include them in municipal services for places of worship.⁵³ This meant that *cemevis*' water bills, electricity bills, and costs for landscaping, upkeep, repairs, and cleaning will be covered by the municipality, and that such places of worship will be noted as *cemevis*, not cultural centers, in city planning projects. However, in our interviews with Alevi organizations, respondents stated that this practice was not being applied systematically across all CHP-controlled municipalities.

Following the ECtHR decision, the Court of Appeals (*Yargıtay*) passed two important judgments using the precedent established by the ECtHR.

First, in a case that sought to abolish the “Association to Aid the Construction of a *Cemevi* in Çankaya”, the Assembly of Civil Chambers of the Court of Appeals ruled that the status of *cemevis* as places of worship was not something that could be determined by a court decision.⁵⁴

On 17 August 2015, the Third Civil Chamber of the Court of Appeals decided in a case relating to the status of *cemevis*.⁵⁵ After the İstanbul electric company BEDAŞ sued the Alevi foundation, *Cem Vakfı*, for not paying its bills, the Fifth General-Jurisdiction Criminal Court in Bakırköy ordered that debt enforcement proceedings be carried out. The *Cem Vakfı* appealed to the decision, arguing that “as *cemevis* were places of worship, their electricity bills should be covered by the Directorate of Religious Affairs.” The Third Civil Chamber of the Court of Appeals overturned the judgment of the lower court.

The chamber pointed out that Turkish law contained no specific regulation regarding how a site was to obtain the status of “temple or place of worship,” yet this status had a great number of significant legal consequences, including exemption from several taxes and fees. Electricity bills, too, are covered by a subsidy from the Department of Religious Affairs. Finally, while cities plan zoning, permission to construct in certain areas, subject to certain conditions, is allocated for places of worship.⁵⁶

50 “Cemevleri İçin Yasa Teklifi” [Draft Law Proposed on *Cemevis*], *CNN Türk*, 26 March 2015.

51 ECtHR, *Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı v. Turkey*, Application No. 32093/10, Application 2 December 2014.

52 *ibid.*

53 “Ağbaba: 100 Civarı Belediye Cemevlerine İbadethane Statüsü Verdi” [Ağbaba: Approximately 100 Municipalities Have Given *Cemevis* Status of Place of Worship], *Bianet*, 6 February 2015.

54 Court of Cassation General Assembly, E/ 2014/7-1038 K/2014/990, 31 December 2014.

55 “Yargıtay, ‘Cemevi İbadethanedir’ dedi” [Court of Appeals: ‘*Cemevis* Are Places of Worship’], *Cumhuriyet*, 17 August 2015.

56 *ibid.*

In the decision, the chamber noted that worship services were conducted in the building that housed the *Cem Vakfi*. While the building housed a *cem* gathering space for Alevis, a morgue, a soup kitchen, the building was mainly used for *cem* worship services. The chamber took into consideration the ECtHR's decision on the *Cem Vakfi*, which argued that *cemevis* had to be evaluated in accordance with the provisions and legal principles of international agreements.

The Court reached the following conclusion:

A portion of the foundation in question may be considered to function as a place of worship; the cost of lighting this section must be determined and a rule must be established based on the outcome of this determination. Without such an investigation, the ruling of the lower court is found to violate both court procedure and the law, and must thus be overturned.⁵⁷

The legislative and executive branches of government must now take measures to recognize *cemevis* as places of worship, in accordance with these verdicts.

The trial that began after the Jehovah's Witnesses Association's request to open places of worship in 22 provinces was denied which led to an application to the ECtHR.⁵⁸ A number of Protestant communities, members of the Protestant Churches Association, have also submitted applications for official recognition of their places of worship that has yet to be resolved.⁵⁹

⁵⁷ *Ibid.*

⁵⁸ ECtHR, *Jehovah's Witnesses Association and Others v. Turkey*, App. No. 36915/10, 20 June 2010; and *Jehovah's Witnesses Association v. Turkey* (currently in application stage), App. No. 8606/13, 14 December 2012.

⁵⁹ Interview with Association of Protestant Churches General Secretary Umut Şahin, July 2015.

The Grand Synagogue of Edirne

One of the significant administrative developments regarding the right to worship, establish and maintain places of worship, that took place during the monitoring period was the restoration and re-opening of the Grand Synagogue of Edirne by the General Directorate of Foundations on 26 March 2015.¹ The Grand Synagogue of Edirne is the largest synagogue in Turkey and the third-largest in Europe.



The General Directorate of Foundations began restoration work in 2010 and spent 5.75 million Turkish liras on the project.²

1 "Büyük Edirne Sinagogu 46 Yıl Sonra Açılıyor" [Grand Synagogue of Edirne Opens after 46 Years], *Agos*, 26 March 2015.

2 A.g.k



Photo credit: Anadolu Ajansı

Unlike the Church of Akdamar (Van) and the Sumela Monastery (Trabzon), which are under the purview of the Ministry of Culture and Tourism and which are given permission to house worship services once a year, the Jewish community is allowed to conduct services at the synagogue whenever it likes, as long as it notifies the General Directorate of Foundations in advance. While this is a change for the positive, there are no legal safeguards in place that guarantee that worship services can take place at any time in the synagogue. It continues to remain dependent on the cooperation and goodwill of the General Directorate of Foundations.

While the restoration and re-opening of the synagogue to worship are positive steps toward making up for historical injustices, a number of questions thus remain unanswered.

The closure of the Grand Synagogue of Edirne took place as follows: The Synagogue of Edirne (*Kahal Kadosh ha Gadol*) was one of the synagogues that was built by imperial order of Sultan Abdülhamit II after a fire destroyed several synagogues in 1905. It was left to disrepair, however, after the Jewish community – approximately 20,000 people – was forced to flee Edirne as a result of threats and attacks against the Jews of the region in 1934.¹ Today, the Jewish community continues to be the biggest target of hate speech in Turkey. In order for the history of the Grand Synagogue of Edirne not to be repeated, and in order for the members of this community and future generations to live in security as equal citizens of Turkey, society at large has to realize that such hate speech is not simply a matter of individual, isolated incidents.

The Foundation of the Grand Synagogue of Edirne was taken over by the General Directorate of Foundations in 1995 for “no longer having any humanitarian or practical value.”² In this way the Jewish community in Turkey lost its right of disposition over its synagogues. For years, the synagogue has not had a congregation of its own in Edirne.

The Foundation of the Grand Synagogue of Edirne and the synagogue itself are currently under the administration of the Department General of Foundation even though the community’s relationship to the synagogue and its foundation remains obvious.

1 Rıfat Bali, “1934 Trakya Olayları” [The Trakya Incidents], Libra Kitap, 2011.

2 Dilek Kurban and Kezban Hatemi, *Bir Yabancılaştırma Hikayesi: Türkiye’de Gayrimüslim Cemaatlerin Vakıf ve Taşınmaz Mülkiyet Sorunu* [A Tale of Alienation: The Problem of Foundations and Properties of the Non-Muslim Communities in Turkey] (TESEV Yayınları, 2009), p. 38.

Many places of worship all around Turkey currently face destruction or disappearance. Such places are important not only for the religious or belief communities themselves, but also for Turkey to preserve its historical identities and cultural heritage.

For example, the Surp Kevork Armenian Catholic Church in Mardin, known locally as the Red Church, was included in the “Europe’s Seven Most Endangered” cultural sites program. After 1915, this building, never again used as a church, functioned as an orphanage and a barracks. While its property rights belong to the Mardin Surp Kevork Church Foundation, it does not appear possible for the foundation to collect the necessary budget for the church’s restoration, nor does it receive financial support from the Ministry of Culture or the Directorate General of Foundations. The church foundation seeks not only to restore the church, but to use it for worship services as well.

It is also quite difficult for well-established Christian churches to open new houses of worship. The Meryem Ana Assyrian Church Foundation in Beyoğlu, Istanbul petitioned to build a new church, arguing that the existing church building did not meet the needs of the approximately 17,000-strong Assyrian community in the city. While the Istanbul Metropolitan Municipality approved the construction of a new church in Yeşilköy and city planners changed the zoning of the site to “place of worship (church)”, the approval from the Monuments Preservation Board, necessary for construction to begin, is still forthcoming.⁶⁰ Furthermore, it must be noted that the plot of land in question had once been granted, by order of the sultan, to an Italian Catholic congregation and that the property rights to the plot of land were transferred to the municipality after rezoning during the 1950s without the consent of the community.

Religious groups whose presence in Turkey is relatively new also face difficulties in establishing places of worship. The Istanbul Protestant Churches Foundation, a congregation located in the city’s Pendik district, has continued their attempts to acquire a church in Pendik for their congregation since 2011. They applied to the National Directorate of Properties to have an abandoned church in Pendik apportioned to their community. Though the community would have covered all of the restoration costs, the National Directorate of Properties only offered the option of renting the property.⁶¹ The Istanbul Protestant Churches Foundation is opposed to the idea of renting the property, seeking instead easement rights.

The first priest to serve in the church, which dates to 1906, was a French Catholic priest. Because the congregation was not a legal person, the deed to the church was made out personally to this priest. After the priest died in the 1970s, because he did not have any children, the church passed first to an official caretaker, and later became state treasury property. It was then registered as a first-degree protected historic area. It was during the caretaker phase that the İstanbul Protestant Churches Foundation first applied to acquire the location. During this process, the Foundation continued to pay rent, even though it was not using the building. When the building

60 Interview with representatives of the Beyoğlu Meryem Ana Assyrian Church Foundation, July 2015.

61 “Kimin Malını Kime Kiralıyorsunuz?” [Whose Property Are You Renting to Whom?], *Agos*, 7 May 2015.

passed into the hands of the state treasury, the Foundation lost any gains it had made during the preceding years.

Places of worship, which were seized from religious communities in the past, should be restored to their original state and be opened for use in line with these communities' wishes.

For religious communities who currently require places of worship, either locations should be appropriated, or it should be easier for existing buildings to acquire the official status of place of worship.

5.1.3. Holidays and Days of Rest of Special Importance for Religions or Beliefs

“The right to worship ... also entails the right to celebrate holidays and special rest days.”⁶² Turkey's officially recognized religious holidays are those important to Sunni Muslims – the *Ramazan* and *Kurban* holidays. There is no official recognition for the celebrations of individuals possessing different beliefs – Alevis, Christians, Jews, and others. On such days, however, believers come together to participate in various events relating to their religion or beliefs by carrying out worship services, rituals, or religious traditions. Aside from such days' importance in forming and developing individual and collective identities, they are also important in transferring beliefs to the next generation.

The fact that such holidays are not considered in deciding when to hold school examinations means it is difficult for children and young people to participate in such identity-building activities with their communities. Since employees do not enjoy automatic leave from their workplaces on special holidays they are also hindered from participating in prayers, ceremonies, and celebrations.

In order for individuals to be able to worship on religious or belief-based holidays, all religious or belief groups should be considered when planning examination schedules, and examinations should avoid being scheduled on such holidays.

It should be easier for individuals from different belief groups to get off from work on days of importance to their belief or religion.

5.2. The Right to Manifest Religion or Belief in Teaching

5.2.1. The Right to Spread One's Religion

The right to freedom of religion or belief includes the right to manifest one's religion or belief in practice and teaching as well as the right to spread one's religion or belief.⁶³

62 The UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, A/RES/36/55.

63 ECtHR, *Kokkinakis v. Greece*, App. No. 14307/88, 25 May 1993, para. 31.

On 16 March 2015, Karşıyaka municipality, Izmir, rejected a request by the Church of Light (*Işık Kilisesi*) to set up a stand to explain its beliefs and distribute brochures and books to those who were interested.⁶⁴ No explanation was given as to why the request, which had been accepted in the past, was rejected this year.

On 27 June 2015, a box of informational material attached to the Bible Church in Iskenderun was broken and removed from the building by unknown individuals.⁶⁵

Spreading religion or belief is an essential component of the right to manifest one's religion or belief. Instead of preventing the exercise of this right, public officials should assume a facilitating role. All belief groups should be given the same opportunities to propagate their religion to others.

Proactive, comprehensive measures should be taken to prevent third parties from hindering or damaging efforts to spread beliefs. Public officials in particular should be informed about what the freedom of belief entails.

5.2.2. The Right to Establish Schools for Religious Education and Teaching

The manifestation of religion or belief in teaching is an inherent component of freedom of thought, religion, or belief.⁶⁶ Religious or belief groups may establish educational institutions to train religious officials or organize courses and educational programs to instruct members of their communities.

In Turkey, religious education is the purview of the state alone. Article 24 of the Constitution does not recognize the right to manifest religion or belief in teaching, but rather offers the following provision: "Religious and moral education and instruction shall be conducted under state supervision and control." According to the Law on Private Educational Institutions, "education institutions identical or similar to ones which provide religious education cannot be opened".⁶⁷

When it comes to universities, meanwhile, it is theoretically possible to give religious education or instruction at the university level by establishing a foundation, endowment, universities with the permission of the Council of Ministers, but this is extremely difficult in practice. Religious or belief communities do not possess the resources necessary to found a private university without government support. At the same time, in state-run universities, there are a great number of departments aimed at training Muslim religious officials, and it has also become possible for endowed universities to open Islamic studies departments. In a speech he gave in İstanbul in October 2014, the head of the Directorate of Religious Affairs, Mehmet Görmez noted that the Religious Affairs Foundation had applied to the Higher Education Board (Yüksek

64 Interview with Protestant Churches Association General Secretary Umut Şahin, July 2015.

65 Interview with Protestant Churches Association General Secretary Umut Şahin, July 2015.

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

67 Law No. 5580 on Private Educational Institutions, 8 February 2007.

Öğrenim Kurumu – YÖK) to turn 29 Mayıs University into an “International Islamic University”.⁶⁸

Groups that do not wish to use the educational institutions of the majority religion and who desire to train teachers and religious officials in accordance with their own beliefs find it impossible to do so without some kind of support from the state. On the one hand, as in the case of the Greek Orthodox seminary on Heybeliada Island, members of minority religious groups find their attempts to establish and operate their own religious consistently blocked. On the other hand, groups that are open to establishing faculties, universities, and other institutions of higher education under the supervision of the National Education Ministry and YÖK do not have the resources necessary to establish these institutions on their own and thus require active measures to be taken by the state. Public resources, however, continue to be used solely toward supporting institutions that serve the majority religion as understood by public bodies.

During the reporting period, in March 2015, the foundations were laid for a private Alevi high school, the first of its kind in the history of Turkey.⁶⁹ The school, a joint project of the “Helping Hands Education and Culture Foundation” (*Dosteli Yardım Eğitim ve Kültür Vakfı*) and the National Education Ministry, will use a curriculum “which will include courses on Alevi-Bektaşî teachings alongside the usual high-school coursework”. These courses will be given by *dedes* or *babas* (religious elders), in line with Alevi-Bektaşî beliefs. While this example does not relieve the financial burden of minority belief groups, it shows that the state may see a similar kind of special status as a solution for high schools of different belief groups.

In conclusion, the right of individuals to manifest their beliefs through education, either by themselves or in groups, is not actively protected in Turkey. Because it is impossible for citizens of Turkey to be exempt from taxes that go towards financing religious services, all belief groups implicitly support majority-religion educational institutions financed by state resources, yet have to find additional resources to establish and operate their own institutions. Belief communities who do not have access to such resources and do not have recourse to state support suffer discrimination when it comes to manifesting their beliefs through education and instruction. Steps should be taken to ensure equality in this regard without delay.

Obstacles preventing religious or belief groups from establishing educational institutions they find necessary to train their religious officials and leaders should be eliminated completely.

Public finances allocated for religious education and instruction should be distributed to all religious or belief communities equally and without discrimination. The system that distributes such resources should be developed by including all groups in the planning process.

68 “Diyanet’ten İslam Üniversitesi” [University of Islam from the Directorate of Religious Affairs], *Hürriyet*, 1 October 2014.

69 “Alevi Lisesi Alevilere Rağmen Açılıyor” [Alevi High School to Open, in Spite of Alevis], *Agos*, 19 March 2015.

5.3. The Right to Manifest Religion through Religious Practices

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.⁷⁰ 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.⁷¹

In the case of *Ahmet Arslan and others v. Turkey*, the ECtHR ruled that the sentencing of individuals of the Aczimendi Path (*Tarikat*) for publicly wearing clothes, which they felt their beliefs required, violated Article 9.⁷² To prevent similar violations from occurring, the government undertook general measures, including abolishing Article 222 of the Turkish Penal Code, which included the penal sanctions of the “Hat Law” No. 671, through the passage of Law No. 6529. Nevertheless, no changes were made to Law No. 2596, which had been the basis of the sentence against Ahmet Arslan and others.

There continue to be restrictions on the use of clothing with religious connotations by public officials, police and security personnel, judges, prosecutors, and members of the Turkish armed services.

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 Worship

The right to manifest one’s religion or belief through religious practices also entails the right to learn and use the language traditionally used during worship services. Members of linguistic minorities in Turkey continue to suffer from a lack of opportunity to learn their native languages in an institutional setting. It is critical, however, that future generations be able to learn such languages so that groups who use their native languages in worship can ensure continuity in religious practices and transfer cultural values to future generations.

During the 2014–2015 school year, the Beyoğlu Meryem Ana Assyrian Church opened the private Mor Efreem Kindergarten, where the Syriac language is taught. An elementary school has not yet been able to be opened because of a lack of funds.

70 Law No. 2596 Prohibition on the Wearing of Certain Attire, Article 1, 3 December 1934.

71 *Ibid.*

72 ECtHR, *Ahmet Arslan and Others v. Turkey*, App. No. 41135/98, 4 October 2010.

In order for groups whose native language is not Turkish to be able to establish educational institutions to learn and teach their native languages, the necessary public financial support should be secured and free state schools should be opened for the same purpose.

5.3.3. The Right to Appoint Religious Officials

Restrictions on the Use of Religious Titles

Freedom of religion or belief also entails the right of religious groups to administer their internal affairs without external interference. The appointment of religious officials and the titles to be used by these officials are part of the internal affairs of these communities.

The Right to Freely Appoint Religious Officials

Religious officials serving at mosques are appointed by the Directorate of Religious Affairs – a decision that affects all Muslim communities in Turkey. All too often, public officials interfere in the appointment process for high-level religious officials in the Greek Orthodox, Armenian Apostolic, and Jewish communities. During elections for a new patriarch in 2010, a desire by the Armenian Apostolic community to elect co-patriarchs was rejected by the Interior Ministry. Instead, the state forced the religious community to have an election, resulting in the compromise decision to appoint only an acting patriarch. The inability of the community to select a patriarch had negative outcomes on the community, resulting in another petition by the Armenian Patriarchate of Turkey to the governor's office of Istanbul on 25 June 2015 regarding the election of a patriarch.⁷³

Religious or belief communities which are unable to train their religious officials or teachers in Turkey are occasionally forced to meet their needs for such officials or teachers by hiring foreigners trained in other countries. While the government refuses to permit the establishment of schools to train religious officials, it also refuses to give visas and/or renew residency permits for foreign religious officials invited by belief communities in Turkey.

Because there is no standard procedure, the visa and residency applications submitted by individuals invited to be religious officials are evaluated in an arbitrary way, a process which often leads to refusal of applications. As a result, religious or belief communities do not have the teachers or religious personnel they need or wish to have.

The selection and appointment of religious officials by religious or belief communities should be seen as an internal matter and should not be bound to permission or regulation by public officials.

Visas and permissions required for foreign religious officials invited to volunteer or work in Turkey should be made easier and should be carried out so as not to discriminate among groups.

73 Web site of the Armenian Patriarchate of Turkey, "Patrik Genel Vekili Patrik Seçimi için Başvuruda Bulundu" [Acting Patriarchate Submits Application for Election of Patriarch], 26 June 2015 (<http://www.turkiyeermenileripatrikligi.org/site/patrik-genel-vekili-patrik-secimi-icin-basvuruda-bulundu/>)

5.3.4. Cemeteries and the Right to Burial in Accordance with One's Religion or Belief

During the monitoring period, there were no changes to regulations or practices with regard to demands by various religious or belief communities for cemeteries and burials, allotment of land, or burial procedures.

For example, since there is no land allotted for atheists, they must be buried in Muslim cemeteries. The Istanbul Protestant Churches Foundation has yet to receive a positive response on an application it submitted on allocation of land for a Protestant cemetery to the Istanbul Metropolitan Municipality three years ago.⁷⁴

It remains impossible to burn corpses. However, the ashes of an individual or a direct relative may be brought to Turkey from abroad and kept in an appropriate cemetery.⁷⁵

The right of individuals to determine their burial ceremonies and procedures in line with their beliefs should be respected.

Municipalities should allot cemetery land to any belief groups demanding it, including atheists.

74 Interview with an official from the Istanbul Protestant Churches Foundation, July 2015.

75 Directive on the Construction of Cemetery Sites and Procedures for the Transport and Burial of Corpses, Article 38 (1).

6. FREEDOM OF ASSOCIATION

The Turkish legal system does not allow any religious or belief community to acquire legal personality as such.

Individuals belonging to religious or belief communities may, in accordance with domestic law, found associations or foundations. Although there have been positive reforms with regard to both of these legal entities over the last decade, both offer limited options. Furthermore, there is a categorical ban on the Islamic brotherhoods (*tarikats*-paths).

Because religious communities or institutions cannot attain legal personality, there are no applicable legal procedures. Such groups cannot open a bank account, file a lawsuit, own property, or sign a contract. Because belief communities cannot receive donations by official means, they may suffer from financial difficulties. Belief groups cannot officially employ their own religious authorities, and cannot supply social security to such authorities.⁷⁶

No developments with regard to religious organizations' acquisition of legal personality took place during the reporting period. In order to overcome the difficulties of not having a legal status a new foundation was established during the monitoring period, the Hovagim 1461 Foundation, to support the Armenian Patriarchate.⁷⁷ The board of trustees of the foundation consists of 10 religious figures. The foundation aims to act within the aims of the Patriarchate.

Similarly, the Beyoğlu Jewish Rabbinical Foundation looked into the possibility of changing its name to the Chief Rabbinate of Turkey Foundation and thereby allowing the chief rabbinate to act through the legal personality provided by the foundation. However, the establishment of foundations is aimed at endowment of particular collection of property for a certain cause and does not provide legal status for an institution or group of people.

The non-Muslim community foundations have been unable to conduct elections for foundation board members since 2013. The General Directorate of Foundations passed an order, dated 19 January 2013 and published in the Official Gazette No. 28533, which repealed the existing provisions regulating election of foundation officials and announced that new regulations would be prepared. Nevertheless, in a memorandum circulated on 11 February 2013, the general directorate wrote that elections could not be held until the coming into force of the new regulations and that existing boards of directors should continue to carry out their responsibilities. Despite all requests to the contrary, new regulations have not been passed as of writing this report, and thus community foundations are unable to elect new board members.

76 For a more extensive analysis of this topic, see: Norwegian Helsinki Committee Freedom of Belief Initiative, "Monitoring Report on the Right to Freedom of Belief in Turkey," October 2014.

77 "Ermeni Patrikliği Vakıf Kurdu" [Armenian Patriarchate Establishes Foundation], *Haber7*, 28 January 2015.

The memorandum has suspended freedom of association for those who participate in the life of a religious community through its foundation.

One of the most significant problems faced by community foundations is that the human resources they have are insufficient to meet the demanding conditions required by the existing religious-foundation structure. Demands that require every foundation to have its own board of directors, keep its own financial records, and other bureaucratic necessities like auditing of records, prevent communities, already struggling to keep afloat, from using their resources in the most effective way. Foundations should be able to be administered in such a way that both ensures freedom of association and is able to respond in a dynamic way to demographic changes and new conditions. This could be assisted, for instance, by expanding religious foundations' election districts, allowing foundations to unite with one another, establish a joint board of directors, or use their resources to support other foundations. The General Directorate of Foundations could play a role in such decisions.

Indeed, the General Directorate of Foundations has at times been able to solve problems when it makes decisions on community foundations. In January 2015, the legal status of foundation was reinstated to the Surp Asdvadzadzin Foundation, which endows the church of the Armenian Catholic Patriarchate.⁷⁸ The reason that this foundation did not have a separate legal identity was that, under the 1936 Declaration, the seven churches belonging to the Catholic community supported the declaration collectively, under the name "Apeloğlu Andon Foundation." Since 1936, the foundations have requested to be recognized as separate entities, but the General Directorate of Foundations has stated that this was impossible. However, in 2015, the General Assembly of Foundations was able to pass a decision to solve the problem.

The right of religious or belief communities to attain legal personality, as such, should be recognized in accordance with international legal standards.

Article 101 of the Turkish Civil Code, which prohibits the establishment of foundations aimed at supporting religious or belief groups, should be amended.

Laws related to associations and foundations should be reviewed and amended to enable the exercise of the freedom of religion or belief and the freedom of association.

78 "Sakızağacı Ermeni Katolik Patriklik Kilisesi'nin Tüzel Kişiliği İade Edildi" [Legal Personhood Returned to Armenian Catholic Patriarchate's Sakızağacı Church], *Agos*, 30 January 2015.

7. INTERSECTION OF THE PROTECTION OF PROPERTY AND THE FREEDOM OF RELIGION OR BELIEF

Article 1 of ECHR Protocol 1 protects the right to property. The right of religious or belief communities to immovable property which either belongs to them or which they use for activities related to their religions or beliefs is directly related to freedom of religion or belief, and matters related to property rights may affect this freedom.

Restitution of Property to Community Foundations

Provisional Article 11 of the Law on Foundations was aimed at returning some of the immovable properties unjustly seized from religious communities in the past. The process of examining and deciding on applications submitted under this article is now closed.

Many religious foundations whose applications were rejected appealed the decision. Many of these cases now await a verdict from the State Council (*Danıştay*).

18 parcels of land seized from the Mor Gabriel Monastery Foundation on the basis of the Land Survey Law have yet to be returned to the foundation. In 2013, a significant portion of land (12 deeds) belonging to the Mor Gabriel Foundation were re-registered with the foundation following a decision made by the General Directorate of Foundations on the basis of Provisional Article 11. A trial for the remaining parcels is ongoing. After the court of the first instance rejected the foundation's application in 18 cases, the Council of State has begun examining the appeal.

The narrow scope of Provisional Article 11 does not make it possible for all historically unjustly seized properties to be restituted. The number of rejections that have been appealed in the courts is a sign of this shortcoming. New legislation must be passed that allows for the restitution of all properties unjustly lost in the past.

New legislation should be passed that allows for the restitution of all properties lost unjustly by religious foundations in the past.

The restitution of suspended foundations to the related communities or of suspended foundations' income to these communities should be made possible.

8. INTERSECTION OF FREEDOM OF RELIGION OR BELIEF AND THE RIGHT TO EDUCATION

On 30 March 2014, the Norwegian Helsinki Committee's Freedom of Belief Initiative organized a conference in cooperation with Ankara University's Center for Human Rights entitled "Freedom of Religion or Belief in Education."⁷⁹ The conference noted that many problems related to freedom of religion or belief continue to persist in the field of education for children and families of a variety of belief communities. Although children are the main actors in this issue, their participation in the decision-making process is extremely limited, and problems need to be solved employing a transparent, participatory process and guided by human rights standards.

The right to freedom of religion or belief in education lies at a busy crossroads where many stakeholders are involved: the state, parents, teachers, and children. Article 9 of the ECHR applies as much to children as it does to adults. Furthermore, Article 2 of ECHR Protocol 1 supports the right to freedom of religion or belief while guaranteeing the right to education:

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Turkey added its reservation to Article 2 of ECHR Protocol 1, declaring that the article would be interpreted in accordance with the principles enshrined in Law No. 450 on the Unification of State Education.⁸⁰

Turkey should withdraw its reservation regarding Article 2 of ECHR Protocol 1.

A child's freedom of thought, religion, or belief is protected by Article 14 of the UN Convention on the Rights of the Child:

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. [...]

79 We are grateful for the strong support of the Ankara University Center on Human Rights and the financial assistance of the Embassies of Norway and Canada toward arranging this conference. We would like to also thank all speakers and participants. Special thanks must be given to those who moderated panels or gave their own presentations: Kerem Altıparmak, İsmet Erdoğan, Deniz Emre Sahici, Garo Paylan, Özlem Ekşi, Ezgi Koman, Esin Koman, Emrah Kırımsoy, Hasan Saim Vural, Jeroen Temperman, Mine Yıldırım, Feray Salman, Hakan Ataman, and Işık Tüzün.

80 Records of the Treaty Office, Council of Europe.

Under international law, the right of a child to freedom of thought, religion, or belief is guaranteed. According to its evolving capacity, a child has the right to make decisions about his/her freedom of religion or belief before it reaches adulthood.

Within this framework, a number of developments in Turkey have raised questions about children's and parents' freedom of religion or belief: mandatory courses in Religious Culture and Ethics (RCE); new elective courses on The Life of the Prophet Muhammad, Foundations of Religion (Islam), and The Koran added to the curriculum during the 2012–2013 school year; the automatic placement of students to high schools – including the *imam-hatip* religious vocational schools – based on the standardized high-school entrance exam (*TEOG*); and other questions of pluralism in schools.

Religious Culture and Ethics Classes

Despite changes made to the content of the RCE curriculum and textbooks, both contain “religious instruction” and “education about religions.” In order to eliminate the barriers to freedom of thought, conscience, and religion in such courses, the Human Rights Action Plan, adopted by the Cabinet of Ministers in March 2014, took on as one of its goals an impact-analysis study of the result of changes made to the RCE curriculum aimed at making it compatible with ECtHR standards. However, no such assessment has been made, yet.

On 16 September 2014, the ECtHR, in the case of *Mansur Yalçın and Others v. Turkey* found that Turkey had violated the right to education enshrined in Article 2 of ECHR Protocol 1. The facts of the case, brought to the court by Alevi parents, convinced the ECtHR that the Turkish state continued to insufficiently respect the parents' beliefs when it came to religious education the country's education system. The judgment held that the structural problems exposed by the 2007 decision in *Hasan and Eylem Zengin v. Turkey* continued to persist.⁸¹ Turkey's referral of the *Mansur Yalçın and Others v. Turkey* verdict was rejected by the Grand Chamber on 18 February 2015. Consequently, Turkey is now obliged to urgently pass reforms that will make religious education in schools compatible with human rights standards.

In addition to the curriculum of RCE classes, the way they are taught in practice can be problematic in other areas. In one incident at Cemil Atlas Middle School in the Bayraklı district of İzmir province, the teacher of the fifth-grade CRME class asked Alevi students to stand up and recite the ritual affirmation of Sunni faith (*kelime-i şahadet*).⁸² The teacher was removed from the job after families filed complaints. Therefore, teachers' qualifications and approach to other religions, beliefs, or non-belief are critical.⁸³

Taking into account the character of “religious education and instruction” found in RCE classes, the fact that all children – other than Jewish and Christian students – must take the class

81 ECtHR, *Hasan and Eylem Zengin v. Turkey*, App. No. 1448/04, 9 October 2007.

82 “İzmir'de Alevi Öğrenciye Kelime-i şahadet Getirten Öğretmen Görevden Alındı” [Teacher Who Made Alevi Student Recite *Kelime-i Şahadet* Fired in İzmir], *Radikal*, 4 December 2014.

83 Education Reform Initiative, Presentation at Freedom of Belief in Education Conference, 30 March 2015.

represents interference in children's right to freedom of religion or belief. The children of Alevi, Baha'i, atheist, or agnostic families, or students who have these beliefs of their own accord, are forced to take RCE classes. During the reporting period, a new regulation was passed making it more difficult for students to be granted exemptions from the class. The National Education Ministry's (NEM) Directorate General of Religious Education wrote a memorandum to provincial governors on 3 February 2015 ordering that children with blank religion slots in their IDs or children of any religion other than Christianity or Judaism would be required to take RCE classes.⁸⁴ In this way, religion has to be publicly declared on a child's ID card for that child to exercise the right to be exempt from such classes, while similarly, exempt students are not able to enjoy the right to leave the religion slot on their ID cards empty.

The fact that individuals must publicly declare their religions or beliefs while applying for exemption from religious education in schools is incompatible with the ECHR. Christian and Jehovah's Witness families exercising their right to exemption say that their children are ostracized for their exemption from RCE classes, particularly in public schools. These families, however, are reluctant to file official complaints at the risk of drawing further attention to their children. Impressions from focus groups conducted with children by the Children on the Agenda Association (*Gündem Çocuk Derneği*) show that a great many children who would otherwise qualify for exemption prefer to take RCE classes to avoid being ostracized and that some children were made uncomfortable for having to come out with their religious identities, while others developed a much greater attachment to their religious identities.⁸⁵

Furthermore, there are no alternative courses for students who are exempt from RCE classes. Since they cannot take a substitute class, their report cards state "exempt" under the slot for RCE, risking discrimination against these students later in their education when their transcript is required for, inter alia, job applications.

The constitutional requirement for students to take the Religious Culture and Ethics classes should be repealed. It should either become a course that is objective and impartial on religions, or there should be an exemption procedure put in place that is in line with human rights standards.

Optional Religion Courses

Optional courses on "The Life of the Prophet Muhammad," "Foundations of Religion" (Islam), and "The Koran" were added to the curriculum during the 2012–2013 school year. Outside minority schools (Armenian, Jewish, Greek), there are no optional courses dealing with other religions or beliefs.

From the first year these courses were offered, many complaints were received that taking these optional courses was not really a choice for students. The issue was also put on trial at court. In

84 "Din Dersi Muafiyetine Belge Şartı" [Document Required for Exemption from Religion Class], *Hürriyet*, 10 February 2015.

85 Education Reform Initiative, Presentation by the *Gündem Çocuk Derneği* at Freedom of Belief in Education Conference, 30 March 2015.

the case brought to court by a parent whose child was *de facto* made to take a “mandatory elective” class, the Sakarya Regional Administrative Court found that “students may not be forced to take a course against their will”.⁸⁶ According to the school’s testimony, eight students had elected to take the Koran course, but since an enrollment of ten was required, the student was forced to take the course against her or his wishes.

Only a few instances of students being forced to take religion classes without considering their interests actually receive official complaints. The National Education Ministry must carefully supervise schools to ensure that optional religion courses are indeed elective.

Optional religion courses are given only on Islam, except for schools conducting education within the minority provisions of the Treaty of Lausanne. Curricula and textbooks prepared on Judaism and Christianity have not been used in optional courses in schools other than minority schools. Furthermore, the inclusion of elective courses on other beliefs in Turkey is required of a secular, impartial state and by the principle of equality.

The National Education Ministry should ensure that the content and application of elective religion courses is in compliance with human rights standards and conduct effective monitoring in this regard.

Elective religion courses should also cover the religious and belief-based diversity that exists among communities in Turkey, including the philosophy of a secular lifestyle, and should be redesigned to avoid including discriminatory content.

Transition from Primary to Secondary Education (TEOG) Test

The standardized “Transition from Primary to Secondary Education” (*TEOG*) test, which began being administered during the 2013–2014 school year, has opened the possibility for students to be automatically placed in *imam-hatip* religious training high schools, where religious education is mandatory, against students’ preferences, and thus continue to represent a problem when it comes to freedom of religion or belief.

The curriculum of *imam-hatip* high schools includes mandatory religious education and instruction. However, students who have been assigned to study at such high schools against their wishes are forced to publicly and officially declare their desire not to enroll in these schools. In cases where they do not have the possibility of enrolling in another school (i.e., a private school or a multi-program high school), they are forced to continue studying at the *imam-hatip* high school or be enrolled in open high schools.

It frequently happens that *imam-hatip* high schools, which have been built in increasing numbers in recent years, remain the only option for students whose test scores were not high enough to go to other high schools or who reside close to these schools.

⁸⁶ Sakarya Regional Court, E2014/1153, K2015/253, 29 Ocak 2015.

Students who are exempt (Christian and Jewish students) from CRE classes may be in a disadvantaged position when taking the *TEOG* test. When an application was filed with the State Ombudsman (*Kamu Denetçiliği Kurumu*) to eliminate this inequality, the response found that the coefficient used to calculate the Weighted Average Test Score prevented students exempt from CRE classes from competing on equal footing with those who took CRE classes. According to the Ombudsman, one could not expect that students or parents would be able predict that this situation would arise while making decisions about class exemptions. He concluded that this practice violated students' right to equal educational opportunities in a secondary school appropriate to their knowledge, skills, talent, and background, and thus that it violated Article 14 of the ECHR and Article 2 of ECHR Additional Protocol 1.⁸⁷

On the other hand, in order to eliminate inequality by eliminating the test section that asks questions about Religious Culture and Ethics classes, officials have chosen to prepare "equivalent" or "equally weighted" questions for exempt students.

This was the first year, upon the request of the Jewish community that questions about religion classes were asked to Jewish students. The National Education Ministry has asked school administrators to help prepare a similar system for Armenian, Greek Orthodox, and Syriac Christian schools. In response, the Platform for Inter-Foundation Communication and Solidarity (Vakıflar Arası İletişim ve Dayanışma Platformu- VADIP) filed their own written application for religion questions to be asked to students studying in Armenian minority schools.⁸⁸ The next step is yet to be taken by the National Education Ministry.

However, even if it is possible to write test questions based on the religious education curricula at Lausanne Treaty schools, it will still be impossible to eliminate inequalities, because such courses are not given to students at other schools who are exempt from CRE classes.

In calculating the *TEOG* test results announced in June 2015, it was determined that minority students exempt from religious education were automatically listed as having taken CRE classes, that their result from this section was 0, and thus that they received a lower overall score on the test.⁸⁹ The 519 students whose applications for exemption from CRE classes were entered late into the system had their points recalculated and were re-entered into the system.⁹⁰

The National Education Ministry should take urgent measures to eliminate inequalities on the *TEOG* examination for students exempt from Religious Culture and Ethics courses.

87 Kamu Denetçiliği Kurumu, Complaint No. 2014/3164, 2 November 2014.

88 "El Yordamıyla *TEOG*" [Groping for the *TEOG*], *Agos*, 20 January 2015.

89 "TEOG'da İkinci Skandal... Puanlar Yeniden Hesaplanacak İddiası" [A Second *TEOG* Scandal... Claims That Points Will Be Recalculated], *Cumhuriyet*, 29 June 2015.

90 "TEOG'da 519 Öğrencinin Puanı Yeniden Hesaplandı" [519 Students' *TEOG* Scores Recalculated], *Anadolu Ajansı*, 30 June 2015.

The system assigning students to secondary schools based on *TEOG* results should be redesigned in accordance with freedom of religion or belief. Only students who decide of their own free will to attend *imam-hatip* high schools should be assigned to such schools.

Pluralism in Schools

The topic of pluralism in schools has become an issue which must be urgently reconsidered in the context of elimination of discrimination in light of several recent developments: the recently acquired freedom to wear headscarves in secondary schools, the addition of optional religion classes, and the addition of prayer rooms and ablution areas in some schools to aid in the instruction of these classes.

Now that students are free to wear headscarves in secondary schools, those who include such a practice in their belief systems are free to do so, yet restrictions continue on other attire and symbols. The order that made it possible for students to wear headscarves does not allow students to wear any symbols other than the school logo, and continues to prohibit certain other forms of attire.



The order that made it possible for students to wear headscarves does not allow students to wear any symbols other than the school logo, and continues to prohibit certain other forms of attire.

Since the National Education Ministry sent out a memorandum in 2011, schools opting in can organize a variety of activities in April as part of the “Week of the Holy Birth of the Prophet”, celebrated within the context of “values education”. Some of the activities of the week include: distributing the Koran to students; including Holy Birth Week activities (celebrations, story time, plays, prayers, billboards, religious songs, etc.) at every stage of schooling (including preschool); and readings of the Koran alongside public officials. The result of these activities is a systematic rise in the visibility of this belief community in schools. Since the same opportunity is not given to important people from other belief communities, one can conclude that schools are no longer places that are impartial to everyone’s beliefs, respect equality and human rights, or make pluralism possible.



Yet on the other hand, the national education director of Bartın province wrote in a message sent to school principals on 25 December 2014 that “Christmas or new year’s” celebrations constituted Christian propaganda and were to be prevented from taking place at schools.⁹¹

In a speech on 20 August 2014 Vefa Bardakçı, İzmir province national education director, spoke out negatively against atheist and communist teachers, a cause for concern when it comes to the impartiality of administrators working in the field of education and instruction.⁹²

Schools should remain spaces where students and teachers with any belief, or non-belief, should not have to face discrimination and intolerance based on their identities. Everyone’s freedom of belief should be vigorously protected in schools.

Public officials in particular should avoid using othering or exclusionary language.

The state should retain its impartiality regarding religion or belief issues in schools and should observe the principle of equality.

91 “Yılbaşı-Noel Kutlatmayın” [Don’t Let People Celebrate Christmas-New Year’s], *Milliyet*, 25 December 2014.

92 “Komünist ve Ateist Öğretmenlerin Defterini Dürün’ Diyen Milli Eğitim Müdürü Görevde Kalacak mı?” [Is the National Education Director Who Said Communist and Atheist Teachers Should Be Fired Going to Keep His Job?], *HaberSol*, 15 October 2014.

APPENDIX: CASES AT THE EUROPEAN COURT OF HUMAN RIGHTS

Cases at the Application Stage

Case Title	Application Number and Date	Relevant Article and Topic
Baydar v. Turkey	25632/13 1 April 2013	Article 9 The applicant is a conscientious objector and argues that his right to conscientious objection has not been recognized.
A.S.R. v. Turkey	60079/14 19 August 2014	Article 13 The applicant is an Iranian citizen who converted to Christianity in Iran before fleeing the country. He has been deported to Iran twice despite being a refugee. He argues that he is at risk of being deported a third time and would face oppression in Iran.
Yehova Şahitlerini Destekleme Derneği et al. v. Türkiye	36915/10 and 8606/13 28 June 2010 and 14 December 2012	Articles 6, 9, 11, 13, 14 The applicant organization complains that the state has thrown up bureaucratic challenges to establishing centers of worship.
Abdullah Yalçın v. Turkey	34417/10 24 May 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.
Doğan et al. v. Turkey	62649/10 31 August 2010	Articles 9 and 14 The applicants are members of the Alevi community. They complain that the Turkish state violates their freedom of belief by not providing public Alevi religious services, even though such services are provided for the majority Sunni population.
MİHR Foundation v. Turkey	10814/07 26 February 2007	Articles 6, 9, 10, 11, and 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 in 1997.

Decisions Passed by the ECtHR Which Require Taking Measures to Prevent Similar Rights Violations

Case Title	Application Number and Date of Verdict	Individual and General Measures
Mansur Yalçın et al. v. Turkey	21163/11 16 September 2014	The government must create a system whereby students can gain exemption from the Religious Culture and Ethics CRME classes without having to state their beliefs.
Buldu et al. v. Turkey	14017/08 3 June 2014	Right to conscientious objection. – Necessary measures should be taken to recognize the right to conscientious objection and to prevent conscientious objectors from being tried by courts martial.
Erçep v. Turkey	43965/04 22 November 2011	Right to conscientious objection. – The obligation to pay an administrative fine should be abolished. Necessary measures should be taken to recognize the right to conscientious objection and to prevent conscientious objectors from being tried by courts martial.
Feti Demirtaş v. Turkey	5260/07 17 January 2012	Right to conscientious objection. – Necessary measures should be taken to recognize the right to conscientious objection and to prevent conscientious objectors from being tried by courts martial.
Mehmet Tarhan v. Turkey	9078/06 17 July 2012	Right to conscientious objection. – Necessary measures should be taken to recognize the right to conscientious objection and to prevent conscientious objectors from being tried by courts martial.
Halil Savda v. Turkey	42730/05 12 June 2012	Right to conscientious objection. – Necessary measures should be taken to recognize the right to conscientious objection and to prevent conscientious objectors from being tried by courts martial.
O.M. Ülke v. Turkey	43965/04 24 April 2006	Ban on inhumane treatment. – Necessary measures should be taken to recognize the right to conscientious objection and to prevent conscientious objectors from being tried by courts martial.
Ahmet Arslan v. Turkey	41135/98 4 October 2010	Application of the verdict is currently under review.

Sinan Işık v. Turkey	21924/05 2 May 2010	Mandatory religion field on ID card. – The ECtHR held that the religion field on ID cards should be removed and that a general measure should be taken to prevent similar rights violations. On 29 June 2011, Turkey submitted an action plan which stated that a “citizenship card” system would be introduced in which ID cards would not include information on religion.
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Hasan and Eylem Zengin v. Turkey	1448/04 9 January 2008	Insufficient recognition of parents’ beliefs by the education system. – The education system should be brought into accordance with Article 2 of ECHR Protocol 1.
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Decision by the UN Human Rights Committee

Case Title	Application Number and Date of Decision	Individual and General Measures
Atasoy and Sarkut v. Turkey	1853/2008 and 1854/2008 19 June 2012	The UN Human Rights Committee found that the state had violated the right to freedom of religion or belief enjoyed by the applicants, who are Jehovah’s Witnesses and conscientious objectors, under Article 18 Clause 1 of the Covenant on Civil and Political Rights. There is no order to arrest the applicants. Nevertheless, the applicants are considered to be deserters. The Committee found that Turkey, in order to prevent similar rights violations, ought to create a mechanism that effectively protects the right to conscientious objection and to abolish punishments handed to conscientious objectors. Nevertheless, Turkey has yet to act regarding these measures.