



21 May 2021

Submission to the United Nations Human Rights Committee

Turkey: List of Issues Prior to Reporting (132nd Session)

The Freedom of Belief Initiative¹ is a human rights project advocating for the right to freedom of religion or belief for all in Turkey since 2011. The Initiative regularly monitors and reports on the state of right to freedom of religion or belief and other relevant human rights. The Freedom of Belief Initiative is a project of the Norwegian Helsinki Committee,² a human rights organization based in Oslo.

We respectfully submit the following for the Human Rights Committee's consideration.

Suggested Questions for the List of Issues Prior to Turkey's Reporting (132nd Session)

With reference to previous concluding observations³ (para. 9) please report on

¹ www.inancozgurlugugirisimi.org .

² www.nhc.no .

³ Human Rights Committee, Concluding Observations on the Initial Report of Turkey adopted by the Committee at its 106th session (15 October - 2 November 2012), CCPR/C/TUR/CO/1, 12 November 2012

(a) measures taken to withdraw its reservation with respect to article 27 of the Covenant.

With reference to previous concluding observations (para. 21) please report on

(b) measures taken to guarantee the right of all persons to manifest their religion or belief in community with others through the recognition of their right to organize themselves in the form of associations or foundations and gain legal personality as religious or belief communities, as such.

With reference to previous concluding observations (para. 22) please report on

(c) measures taken to prohibit hate speech in line with article 20 of the Covenant and prevent hate crimes against committed with religious or belief base bias.

With reference to previous concluding observation (para. 23) please report on

(d) measures taken to protect the right to conscientious objection to military service.

In addition, please report on

(e) the measures taken to ensure that the compulsory Religious Culture and Ethics course (4-12 Grades) does not violate the child's right to freedom of thought, conscience and religion and respects the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions, in compliance with article 18 of the Covenant.

(f) the measures taken to ensure that religious or belief communities can establish and maintain places of worship and that place of worship status which affords financial and other benefits is granted in a non-discriminatory manner, particularly for the Alevi, Protestant and Jehovah's Witnesses communities in line with article 18 of the Covenant.

(g) the measures taken to ensure that all religious or belief communities can train their religious teachers or leaders in Turkey in line with article 18 of the Covenant.

(h) the measures taken to address the issues of freedom of religion or belief, article 18, and the right to fair trial, article 14, freedom of movement, article 12, and protection of aliens against unlawful expulsion, article 13 in connection to the recent trend to issue travel restrictions and deportations of Christian foreigners.

With regard to the priority issues above, please find detailed information below:

(a) measures taken to withdraw its reservation with respect to article 27 of the Covenant.

Turkey has not taken any steps to withdraw the interpretive declaration to Article 27.

(b) measures taken to guarantee the right of all persons to manifest their religion or belief in community with others through the recognition of their right to organize themselves in the form of associations or foundations and gain legal personality as religious or belief communities, as such.

Restrictions on the right to association and freedom of religion or belief of religious or belief communities – Non-muslim community foundations have been prevented from electing new board members since 2013 when the Regulation on the election process was annulled.⁴ Not being able to elect new members to their boards these communities cannot organize their affairs impacting worship, education or other community activities. Furthermore, changes made to the Law governing associations in 2020 allow the authorities to appoint an administrator, put a stop to activities, seize the assets of an association and its directors, and demand a list of members.⁵ As a result, communities organized as associations have become more vulnerable to interference in their domestic affairs.

⁴ Freedom of Belief Initiative Norwegian Helsinki Committee, [Pursuing Rights and Equality - Monitoring Report on the Right to Freedom of Religion or Belief in Turkey](#), 2019, p. 35.

⁵ Law on Associations No. 5253, 23.11.2004, changes made on 27.12.2020.

The authorities are yet to create a system where religious or belief communities can acquire legal personality, as such. As stated by the Venice Commission of the Council of Europe, In Turkey no religious or belief community has legal personality as a religious community.⁶

(c) measures taken to prohibit hate speech in line with article 20 of the Covenant and prevent hate crimes against committed with religious or belief base bias.

Hate crimes - Threats and attacks directed towards religious or belief communities or their properties and leaders continue, and most of the time go unpunished. The Freedom of Belief Initiative identified eight incidents in 2017, four incidents in 2018, 17 incidents in 2019, 19 incidents in 2020.⁷

(d) measures taken to protect the right to conscientious objection to military service.

Non-recognition of the right to conscientious objection to military service - Turkey does not recognize the right to conscientious objection to military service. Military service is compulsory for all men between the ages 20-41 and the duration is six months for cadets and twelve months for reserve officers and officers.⁸ Under Article 45 of the Military Criminal Law, “the fact that a person regards his action as necessary according to his conscience or religion does not prevent it from causing a punishment ensuing from doing or not doing it”.⁹ This is clearly incompatible with Article 24 of the Constitution that protect freedom of religion and conscience.

In addition to interference in their right to freedom of thought, conscience and religion, conscientious objectors experience restrictions of a number of human rights. When conscientious objectors do not report to the unit they are assigned, public authorities identify them as draft evaders or deserters. This status becomes part of the information linked to their national identity number and information. The legal status they are assigned

⁶ Venice Commission Opinion on the Legal Status of Religious Communities in Turkey and the Right of the Istanbul Orthodox Patriarchate to Use the Adjective “Ecumenical”, Opinion No. 535 / 2009, 15 March 2010.

⁷ *Supra* 4 and monitoring data with the Freedom of Belief Initiative.

⁸ Law No 7179 on Conscription, 26.06.2019, Official Gazette No. 30813, 25.06.2019, Articles 3 and 4.

⁹ Law No. 1632 on Military Criminal Code, 22.05.1930, Official Gazette No. 1520, 15.06.1930.

brings about restrictions on the right to freedom of thought, conscience and religion and other key human rights such as participation in public life, including the right to elect and be elected, right to education and freedom of movement.¹⁰ Punitive measures foreseen for draft evaders and evaders in several legislation, including the Law on Conscription, the Criminal Code and Military Criminal Code result in administrative fines and criminal penalties impacting the lives of conscientious objectors throughout their lives repeatedly resulting in a violation of the *ne bis in idem* principle.

The UN HRC had found in *Atasoy and Sarkut v. Turkey* that Turkey violated article 18 of the Covenant.¹¹ The ECtHR has also found in seven judgments that Turkey violated the ECHR by not recognizing the right to conscientious objection to military service.¹² Turkish authorities, however, have not taken effective measures to prevent similar violations from happening. Domestic remedies are not effective, either. The non-recognition of this right together with the domestic courts' non-implementation of applicable international human rights law in cases concerning conscientious objectors amount to lack of domestic remedies.

(e) the measures taken to ensure that the compulsory Religious Culture and Ethics (RCE) course (4-12 Grades) does not violate the child's right to freedom of thought, conscience and religion and respects the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions, in compliance with article 18 of the Covenant.

Compulsory Religious Culture and Ethics course interference in article 18. Under Article 24/3 of the Turkish Constitution, Religious and ethics 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.

¹⁰ [Rule 9.2 Submission from six NGOs to the CM on the Ülke Group of cases](https://hudoc.exec.coe.int/eng#{), 20 April 2020, [https://hudoc.exec.coe.int/eng#{"fulltext":\["ülke"\],"EXECIdentifier":\["DH-DD\(2020\)379E"\]}](https://hudoc.exec.coe.int/eng#{).

¹¹ *Atasoy and Sarkut v Turkey*, UN Doc CCPR/C/104/D/1853-1854/2008 19 June 2012

¹² *Ercep v. Turkey*, 22 February 2012, European Court of Human Rights, No. 5260/07, *Feti Demirtas v. Turkey*, 17 January 2012, European Court of Human Rights, No. 5260/07, *Mehmet Tarhan v. Turkey*, 12 July 2012, European Court of Human Rights, No. 9078/06, *Halil Savda v. Turkey*, 12 June 2012, European Court of Human Rights, *Osman Murat Ülke v. Turkey*, App. No. 39437/98, 24 April 2006, European Court of Human Rights, 43965/04.

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.

The European Court of Human Rights has also held in the *Zengin* group of cases that the RCE course content lacks objectivity, that the education system contains structural problems in respecting the rights of parents to raise their children in accordance with their religious or philosophical views, and the necessity of urgent reform of religious education in schools in a manner compatible with standards of international law.¹³

A recent evaluation "Compulsory Religious Education in Turkey – A human rights based evaluation of the Religious Culture and Knowledge of Ethics lessons and books"¹⁴ has found that:

- the current RCE textbooks maintain the nature of religious education; containing non-objective information about religions, presented from a Sunni Islamic and theological perspective. Alevism is limited in the books; Although the information about different philosophical approaches such as atheism and deism are dealt with from the Islamic belief perspective and are not presented objectively. For this reason, it continues to interfere with both the children's freedom of thought, religion and conscience, and the parents' right to raise their children in line with their religious or philosophical views.

Sunni Islamic perspective remains dominant in the syllabus.

- one of the goals of the syllabus is listed as the adoption by the students of "national values," however these values are not presented in a way that conveys the religious and other diversity in Turkey.
- there is no provision for a non-discriminatory mechanism for exemption from the RCE course. Only Christian and Jewish students are able to take advantage of the exemption, by showing their religious identities as recorded in the religion category on their identity documents.

¹³ ECtHR, *Hasan and Eylem Zengin v Turkey*, Application No. 1448/04, October 9, 2007 and *Mansur Yalçın and Others v Turkey*, Application No. 21163/11, September 16, 2014.

¹⁴ Yildirim, M., "Compulsory Religious Education in Turkey- A Human Rights Based Evaluation of the Religious Culture and Knowledge of Ethics Lessons and Books", Association for Monitoring Equal Rights, 2021.

(f) the measures taken to ensure that religious or belief communities can establish and maintain places of worship and that place of worship status which affords financial and other benefits is granted in a non-discriminatory manner particularly for the Alevi, Protestant and Jehovah's Witnesses communities in line with article 18 of the Covenant.

Religious communities are denial of place of worship status - In Turkey not all places used as places of worship are classified as such. Spaces that do not have the status of places of worship cannot benefit from the privileges enjoyed by those places with this status. Alevi *cemevis*, Protestant churches, and places of worship used by Jehovah's Witnesses face systematic obstacles in obtaining places of worship status.

The ECtHR found in the *Cumhuriyetçi Eğitim ve Kültür Foundation v. Turkey* judgment that the ECHR's prohibition of discrimination under in Article 14, in connection with Article 9, had been violated.¹⁵ The case concerned the rejection of the Yenibosna Cemevi's request that, as a place of worship entitled to coverage of lighting costs, the state covers the costs of their lighting—which the state refused on the grounds that, *cemevis* are not places of worship.

Protestant churches and places of worship used by Jehovah's Witnesses are also not officially recognized as places of worship. Despite the large number of places of worship used by these communities in various parts of Turkey, their applications for place of worship status are rejected.¹⁶ Indeed, in the *Association of Jehovah's Witnesses v. Turkey*,¹⁷ the ECtHR held that Turkey had violated Article 9, protection of the right to manifest religion or belief in worship by rejecting applications by the association to receive official status for places of worship. The ECtHR found this had directly interfered in the applicants' right to freedom of religion or belief and that Turkey did not demonstrate that the interference was either proportionate to the legitimate aims pursued nor necessary in a democratic society.

¹⁵ ECtHR, *Cumhuriyetçi Eğitim ve Kültür Merkezi Foundation – Turkey*, Application No. 32093/10, 2 December 2014.

¹⁶ *Supra* 4.

¹⁷ ECtHR, *Yehova Şahitlerini Destekleme Association – Turkey*, Application No. 36915/10 and 8606/13, 24.05.2016.

Turkey has not taken measures to enforce the ECtHR judgment.¹⁸

(g) the measures taken to ensure that all religious or belief communities can train their religious teachers or leaders in Turkey in line with article 18 of the Covenant.

Article 24 of the Constitution does not explicitly protect the right to manifest religion or belief in teaching.¹⁹ Instead, it regulates religious instruction and education with the following

statement: “Education and instruction in religion and ethics shall be conducted under State supervision and control.” Institutions that provide religious education can be opened by the state. Under Article 3 of the Law No. 5580 on Private Educational Institutions “education institutions identical or similar to one’s which provide religious education cannot be opened”.²⁰ State holds monopoly on both opening religious schools and determining compulsory or optional courses on religious education.

Moreover, without the sponsorship and support of the Council of Higher Education (YÖK), communities lack the means to establish and maintain their own institutions.

Due to these restrictions, no religious group in Turkey is able to open private institutions which provide religious education and instruction. As a result, religion or belief groups cannot train religious officials and open formal educational institutions for the benefit of their own communities. Such restrictions on this right negatively influence various religious or belief groups in Turkey in terms of preserving their identities.

Halki Theological Seminary (which is still closed) has long been a symbol of this type of restriction. The college is still closed despite declarations made by public officials that they wish to reopen it. In Turkey only the state is permitted to open educational institutions to train religious teachers or officials and it only opens religious institutions for Islam.

Individuals who are affiliated with other religions have to attend foreign colleges. There are also Muslim groups who would like to open their own colleges to teach Islam from a

¹⁸ *Ibid.*

¹⁹ Article 24 of the [Constitution of the Republic of Turkey](#), 1982.

²⁰ Law on Private Educational Institutions, No. 5580, 8.02.2007.

theological perspective different from that of the state schools and universities. They are also prevented from opening their own educational institutions.

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

(h) the measures taken to address the issues of freedom of religion or belief, article 18, and the right to fair trial, article 14, freedom of movement, article 12, and protection of aliens against unlawful expulsion, article 13 in connection to the recent trend to issue travel restrictions and deportations of Christian foreigners.

In the recent years the Turkish authorities have either deported or issued travel restrictions targeting Christian foreigners. The Association of Protestant Churches has reported that more than 100 individuals have been impacted.²¹ Considering that Protestant community cannot train their religious leaders and teachers as a result of the restrictions described under (g) above, the loss of the foreign religious workers had an immense impact on the small Protestant community. Turkey does not have a special visa regime for religious workers. The legal process initiated with the objections to these travel restrictions have revealed that these are based on reports of the National Intelligence Organization (*Milli İstihbarat Teşkilatı*). The individuals who have been affected by these restrictions or their lawyers have not been granted access these files.²² Furthermore, these individuals have not been prosecuted for any crimes under Turkish law. Therefore, the authorities have not been able to provide a reasonable justification for the restrictions described above.

²¹ Association of Protestant Churches, [2020 Human Rights Violation Report](#), February 2021.

²² Interviews with affected individuals by the Freedom of Belief Initiative, February, March, April 2020.

For questions, please contact us at my@nhc.no .

Respectfully,

Dr. Mine Yıldırım

Head of the Freedom of Belief Initiative

Norwegian Helsinki Committee