

16 September 2024

## Norwegian Helsinki Committee's Freedom of Belief Initiative's Submission to the United Nations Human Rights Committee

### **Regarding the adoption of the List of Issues for the review of Türkiye's second periodic report on its compliance with the International Covenant on Civil and Political Rights in the Human Rights Committee's 142<sup>nd</sup> Session**

1. [The Freedom of Belief Initiative](#) is a human rights project advocating for everyone's right to freedom of religion or belief in Türkiye since 2011. The Initiative regularly monitors and reports on the state of the 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](#), a human rights organization based in Oslo.

2. We respectfully submit the following for the Human Rights Committee's (the Committee) consideration in advance of the 142<sup>nd</sup> session relating to Türkiye's compliance, as outlined in its second periodic report, with the International Covenant on Civil and Political Rights (ICCPR), specifically its article 18, article 27 and hate crimes.

#### **1. Withdrawal of the reservation with respect to article 27**

3. In its review of Türkiye's first periodic review the Committee had expressed concern about the discrimination and the restrictions suffered by members of minorities and recommended that Türkiye "should ensure that all persons belonging to ethnic, religious or linguistic minorities are effectively protected against any form of discrimination and can fully enjoy their rights. To this regard, the State party should consider withdrawing its reservation with respect to article 27 of the Covenant.

4. In its state party report Türkiye, however, expressed that "withdrawal of said reservation is not conceived".<sup>1</sup> Relevant to the Committee's concern, recommendation and Turkish Government's response, we would like to share our observations regarding religious or belief minorities:

- Minority rights are not dependent on official recognition of minority status and therefore extend beyond the recognition of the Turkish state based on the Lausanne Peace Treaty of 1923.
- While all individual's equality before the law is guaranteed under Article 10 of the Constitution, as stated by Türkiye, it is a fact that minorities require added protection or measures to fully enjoy the equal rights that they have under the Constitution.
- In this regard we would like to point out that while only a restricted number of religio-ethnic minorities that are recognised by Türkiye have schools under the Lausanne Peace Treaty others do not have the same right. Furthermore, minority schools lack public funding and are dependent on the individual means of schools and the charitable foundations associated with them, despite Article 40 and 41 of the Lausanne Peace Treaty.

#### **5. We recommend that the Committee to ask Turkish authorities to**

---

<sup>1</sup> State party report submitted by Türkiye under article 40 of the Covenant pursuant to the optional reporting procedure, CCPR/C/TUR/2, 28 April 2023, para. 17.

- **withdraw Türkiye’s reservation to Article 27 of the ICCPR.**
- **take necessary positive measures to ensure the right of persons belonging to minorities, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language, including through the provision of public funding.**

## 2. Hate crime

6. The Committee has expressed concern about reports of hate crimes against non-Muslim religious communities and other minorities, and about the ongoing and unpunished hate speech in the media, including in TV series and films (arts. 18, 20 and 27) in its review of Türkiye’s first periodic report. This was followed by the recommendation for Türkiye to intensify its efforts to effectively prohibit hate speech violating article 20 of the Covenant, and to ensure that relevant criminal law provisions and policy directives are effectively implemented.<sup>2</sup>

7. While Turkish authorities have informed the Committee in their state party report of 2023 regarding hatred and discrimination offence that is regulated under Article 122 of the Turkish Criminal Code NHC/FoBI’s monitoring work of hate crimes in Türkiye finds that the national legal framework, and its implementation, in Türkiye are far from adequate in addressing these crimes. The Human Rights Action Plan of April 2021 includes objectives for new regulations in the Turkish Criminal Code concerning discrimination and hate crimes, as well as for improvements on databases and statistics on these crimes. After three years, however, these important steps are yet to have been implemented as found in our report [Summary Findings of the Hate Crimes Motivated by Bias Against Religion, Belief or Non-Belief in Türkiye 2023](#).

8. In order to make a regulation regarding hate crimes, the title of Article 122 of the Turkish Criminal Code, which was “Discrimination”, was changed to “Hate and Discrimination” with the amendment made in 2014. 36 Although the article was arranged in this way, this article only covers certain “discrimination” acts committed due to “hate”. Accordingly:

- Anyone who prevents the sale, transfer or rental of a movable or immovable property offered to the public,
- a person from benefiting from a certain service offered to the public,
- a person from being employed,
- a person from engaging in a normal economic activity due to hatred arising from a difference in language, race, nationality, color, gender, disability, political opinion, philosophical belief, religion or sect, shall be punished with imprisonment from one to three years.

9. With this amendment, it must now be proven that the crime was committed with a ‘hate’ motive. However, since ‘hate’ is an abstract concept, it is very difficult to prove whether the crime was committed because of hatred towards differences. For this reason, it is often stated by jurists that Article 122 actually defines a crime that cannot be committed.<sup>3</sup> That this provision has not been successfully applied to any hate crime, indicates that it is not an adequate provision to combat hate crime. Furthermore, Article 122 does not cover certain characteristics such as sexual orientation and ethnic origin. Therefore, the limited number of protected characteristics listed above prevents individuals who are subject to discrimination for various reasons from applying under this article. It is also important to note that obtaining detailed and bias-segregated data on hate crimes and sharing this information with the public are among the most important elements of efforts to prevent such crimes. However, official data on hate crimes in Türkiye are extremely limited and inaccessible. Additionally, the data are not segregated by bias motive.

## 10. We therefore call upon the Committee to recommend Turkish authorities to

<sup>2</sup> 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, 13 November 2012.

<sup>3</sup> Freedom of Belief Initiative / Norwegian Helsinki Committee, [Türkiye’de Din, İnanç ve İnançsızlık Temelli Nefret Suçları Raporu 2022](#), p. 11.

- carry out a transparent reform process with greater and more diverse participation, including that of relevant experts, to develop an integrated strategy for combating hate crimes.
- adopt hate crime legislation and policy framework based on international human rights standards including the following key elements:
  - hate crime must be included in the definitions section of the Turkish Criminal Code
  - comprehensive, proportionate, and deterrent legislation on hate crime, including provisions on civil, criminal, and administrative law, must be adopted
  - a general aggravating circumstances provision for hate crime must be put in place.
- monitor, record and make available disaggregated hate crime data.

### 3. Freedom of religion or belief

#### 3.1 Conscientious objection to military service

11. The Committee had expressed concern that conscientious objection to military service has not been recognized by Türkiye in its concluding observations following its review on Türkiye's first periodic report. Furthermore, the Committee had expressed regret that conscientious objectors or persons supporting conscientious objection are still at risk of being sentenced to imprisonment and that, as they maintain their refusal to undertake military service, they are practically deprived of some of their civil and political rights such as freedom of movement and right to vote (arts. 12, 18 and 25). In addition, the Committee had recommended that Türkiye **should adopt legislation recognizing and regulating conscientious objection to military service, so as to provide the option of alternative service, without the choice of that option entailing punitive or discriminatory effects and, in the meantime, suspend all proceedings against conscientious objectors and suspend all sentences already imposed.**

12. Regretfully, as stated in Türkiye's report to the Committee in 2023 "there is no regulation on conscientious objection within the scope of military service, nor any work underway to abolish Article 318 of TPC" (para 228).

13. Based on our monitoring work on freedom of religion or belief in Türkiye we find and report in [An Appeal to Move Forward from Aspirations to Actions – Monitoring report on the right to freedom of religion or belief in Turkey](#)

- despite Türkiye's international human rights obligations, findings and recommendations of the Human Rights Committee (in *Atasoy and Sarkut v. Turkey*), the judgments of the European Court of Human Rights (in *Ülke v. Turkey*, *Buldu and Others v. Turkey*, *Enver Aydemir v. Turkey*, *Erçep v. Turkey*, *Feti Demirtaş v. Turkey*, *Savda v Turkey*, *Tarhan v. Turkey*), Türkiye has not recognised the right to conscientious objection to military service.
- there is not alternative civilian service available to conscientious objectors
- conscientious objectors remain under the obligation of carrying out compulsory military service, are viewed as "draft evader" or "deserter" under the Law on Conscription and the Military Criminal Law and as a result are deprived from fully enjoying several fundamental human rights including the right to freedom of thought, conscience and religion, freedom of movement, the right to participate in public life, right to the opportunity to gain one's living, and the right to education
- conscientious objectors are given administrative fines and face criminal proceedings under the Military Criminal Law.

14. We recommend that the Human Rights Committee recommend Türkiye to:

- recognise conscientious objection to military service as a constitutional right, without delay.
- draft legislation on conscientious objection to military service in compliance with international human rights law.
- establish an independent and impartial decision-making body to examine conscientious objection claims. Special consideration must be given to the requirement not to discriminate against conscientious objectors based on the nature of their religion or belief.

- **take steps to provide an alternative service option for conscientious objectors who request it. This option must be provided as an alternative to conscientious objection. It should be genuinely civilian in nature, neither deterrent nor punitive, and non-discriminatory in effect.**
- **end all criminal proceedings against conscientious objectors and provide compensation. In the case of conscientious objection, all convictions, for disobedience, draft evasion, desertion or public statements should be expunged from criminal records.**
- **keep statistics should be kept on conscientious objection applications. These should include the number of conscientious objectors, monetary fines, criminal investigations and convictions delivered in connection to conscientious objectors and shared with the public.**
- **take measures to ensure that the applicants are free from the risk of further prosecution and the obligation of compulsory military service and can fully enjoy their political, civil, economic, social and cultural rights.**
- **review domestic laws, particularly the Law on Conscription, the Military Criminal Law, the Law on Civil Servants and the Criminal Code.**

### 3.2 Religious minorities and women's access of places of worship

15. As stated by the Turkish authorities “In recent years, several places of worship, including the Grand Synagogue in Edirne (third largest synagogue in Europe), the 120-year-old Sveti Stefan Bulgarian Church (Iron Church) in İstanbul, have been restored and reopened for worship. Foundation laying ceremony of an Assyrian Orthodox Church in İstanbul was held in 2019.”<sup>4</sup> While we welcome these important gestures, systemic and deeply rooted discriminatory practices continue regarding status of places of worship.

16. *Women's access to worship places* - In our monitoring work however, we have found that Muslim women continued to face challenges having equal access to mosques. At a mosque in İstanbul's Üsküdar province a man did not allow a woman to enter the mosque on grounds that the woman would be acting against the Prophet Mohammed's Hadith.<sup>5</sup> Reportedly, the woman left the premises after the security personnel arrived at the scene. The Association for the Woman and Democracy (KADEM) made a statement saying that interfering with women's access to mosques constitutes a threat to women's presence in the public sphere.<sup>6</sup>

17. *Challenges to acquiring place of worship status* - Acquiring place of worship status remains an ongoing challenge for several religious communities, particularly for the Alevi, Jehovah's Witnesses and Protestant communities. The kingdom halls of Jehovah's Witnesses, the churches of the Protestant community and the cemevis of the Alevi community are particularly in a precarious position because they lack the place of worship status. The existence of these places of worship are relatively new to Turkey; they do not have a long historical presence. The public authorities have systematically denied the place of worship status to these sites. As a result, these communities cannot benefit from the tax and other benefits that accompany the place of worship status. Furthermore, by carrying out worship activities in premises that do not have the place of worship status, communities are left at the mercy of the authorities. As an example, not having the legal place of worship status was the determining factor for the closure of three churches during the Pandemic. Most churches lacking the place of worship status were not closed, but these three İstanbul churches were closed. This indicates that not having the legal place of worship status creates vulnerability and makes these communities susceptible to unfettered administrative interference. The risk of interference cannot be dismissed. The Association of Protestant Churches has reported that very few of their members' 182 fellowships/churches have the place of worship status. Reportedly, when such churches “introduce themselves to the authorities as a church, they

---

<sup>4</sup> State party report submitted by Türkiye under article 40 of the Covenant pursuant to the optional reporting procedure, CCPR/C/TUR/2, 28 April 2023.

<sup>5</sup> Sabah, “Camiye girmek isteyen kadınları içeri sokmadılar”, 1 May 2021.

<sup>6</sup> *Ibid.*

receive warnings that they are not legal and may be closed down”.<sup>7</sup> This is the situation for Protestant Churches.

18. The situation is even more grim for Alevi and Jehovah’s Witnesses; the place of worship status has never been granted to a cemevi or kingdom hall.<sup>8</sup> The denial of the place of worship status to the cemevi and Jehovah’s Witnesses kingdom halls has been the subject of multiple domestic and international court cases. The ECtHR judgment of 2016 on the Association for Solidarity with Jehovah’s Witnesses v. Turkey observed that reliance on “the good will of the authorities” does not amount to a “solution to the problem”.<sup>9</sup> The ECtHR found that, “In fact, even if religious gatherings in some places are permitted or only de facto tolerated by the national authorities, the risk of interference by the authorities can never be ruled out.”<sup>10</sup> The court observed that “the impugned measures deprived the applicants of the opportunity to have a place allotted for their religious practice. Recalling that Article 9 of the Convention guarantees “the freedom to manifest one’s religion collectively (...)", the court stated that “this right will be emptied of its essence if a religious community does not have a place to perform their worship”.<sup>11</sup> The ECtHR held that the denial decision had a direct impact on the applicants’ freedom of religion and that these decisions could not be regarded as either proportionate to the legitimate aim pursued or necessary in a democratic society.<sup>12</sup> The court also took note of the third-party intervention made by the Freedom of Belief Initiative stating that “the cases reported by the party involved ... were not contested by the Government, and the review of the present case, in particular, show that the administrative authorities were strict and even strict with regard to the practice of certain minority practices, inter alia, the practices of Jehovah’s Witnesses. It allows it to be determined that they tend to take advantage of the above-mentioned provisions to impose prohibitive conditions”.<sup>13</sup>

### 19. We ask that the Committee as the Turkish authorities to

- **To put in place a non-discriminatory process through legislative and administrative amendments for the acquisition of place of worship status and ensuing benefits. The systemic obstacles impeding the recognition of *cemevi*, Protestant churches and JW’s kingdom halls should be removed, without delay.**

### 3.3 Associative rights of non-Muslim community foundations

20. In its concluding observations the Committee had expressed concern over the restriction on non-Muslim communities. The Committee asked Türkiye 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, as provided, for example, by the Turkish Civil Code.

21. Türkiye’s state party report states that

- Rights of non-Muslim Turkish citizens are regulated in Articles 37–45 of 1923 Lausanne Peace Treaty. Non-Muslim citizens have their own schools, places of worship, foundations, hospitals and media organizations. They practice their religion and hold religious ceremonies without any impediments. (para. 230)

<sup>7</sup> Association of Protestant Churches, *Rights Violations Report 2020*, 2021.

<sup>8</sup> Permission of the city governorship is required to build a place of worship under the Zoning Law No. 3194.

<sup>9</sup> ECtHR, *Association for Solidarity with Jehovah’s Witnesses and Others v. Turkey*, No 36915/10 and 8606/13, para. 107, 24 May 2016.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

- Human Rights Action Plan includes goals and activities aimed at protecting freedom of religion and conscience, solving the problems of non-Muslim communities, and securing the activities of community representatives and foundations. (para. 233)

**22. In our policy document on the Regulation on the Elections of the Minority Foundations (*Dar Seçim – İnsan Hakları İlkeleri Işığında Azınlık Vakıfları Seçim Yönetmeliği Politika Metni*) we documented the shortcomings of the new regulation. Some of the key problems are:**

- The new regulation was not prepared through a process in which different social segments of minority communities were included as stakeholders.
- Critical and previously known problems such as the residence requirement for election districts, candidacies and voters, the determination of election committees by the current board of directors and the election bureaucracy not interfering with freedom of association were arranged in a way that was contrary to demands and needs of minority communities.
- Despite all objections and criticisms, the elections of foundations with hospitals were postponed and no legally valid justification was provided for this.
- The preparation process of the new regulation shows that there is no effective legal and administrative system in Turkey that ensures that minorities benefit from the rights protected especially within the collective dimension of freedom of association and religion or belief. It is seen that for ten years, minorities have had to make demands from politicians in order to benefit from their fundamental rights and freedoms, and that the Turkish Grand National Assembly, relevant ministries, the General Directorate of Foundations and judicial institutions have not been effective in solving the problems.
- It is evident that by obstructing the board elections of minority foundations, important elements of the collective dimension of the freedom of association and religion or belief of minorities in Turkey have been effectively suspended for a long time, and that fundamental rights and freedoms have been restricted by administrative procedures in a manner contrary to the Constitution. It is clear that the judiciary has been dysfunctional in the legal struggles that minorities have waged with limited resources over the past decade, and that they have left the solution of problems to political power.

**23. Therefore, the Committee should ask Turkish authorities to**

- **remove obstacles to the freedom of association, religion or belief of minorities in national law.**
- **make arrangements necessary for minorities to gain legal personality and to benefit equally and effectively from their right to freedom in internal affairs should be made with a broad participation of minorities.**
- **implement measures that will guarantee de facto equality. In this context, a portion of the public budget should be allocated to minority institutions, especially foundations with schools and places of worship.**
- **put an end to the selective and discriminatory interventions regarding electoral districts, candidacies and voters in the, and a regulation should be made that allows all minority foundations to hold elections throughout the province. Restrictive control mechanisms should be abolished and democratic elections should be guaranteed.**
- **repeal article 25 of the regulation, which postpones the board elections of foundations with hospitals.**
- **take fundamental steps for the judiciary to gain an effective function regarding minority rights.**

### 3.4 The right of parents to raise their children in line with their religious or philosophical views

24. The RCE course is among the compulsory courses taught in basic education (grades 4-12) for two hours a week. The ECtHR has found Turkey in violation of the right to education, specifically parents' rights to raise their children in line with their religious or philosophical views in two separate judgments. These are 2007 *Hasan and Eylem Zengin v Turkey* and 2014 *Mansur Yalçın and others v Turkey*.<sup>14</sup> **The books are still not compatible with international human rights standards.** A human rights-based assessment of the RCE textbooks demonstrates that the textbooks are not compatible with the ECHR and Toledo Guidelines on Teaching About Religion or Belief in Public Schools.<sup>15</sup> Teaching about religions and beliefs should be sensitive, balanced, inclusive, non-doctrinal, impartial, and based on human rights principles relating to freedom of religion or belief.<sup>16</sup> However, the overall approach in the RCE textbooks is one of positive assertion. This is done about the existence and nature of God, the Holy Qur'an, information about Hz. Muhammad, the formation of the world, the purpose of man and life, death, afterlife, angels and demons and the doctrines of the religion of Islam.<sup>16</sup> Teaching about different approaches and traditions, within Islam and other religions and worldviews, is not presented in an objective manner. There is widespread criticism among the Alevi that the sections devoted to Alevism constitute a small portion of the whole RCE course content, furthermore, the *cemevi*, which is considered places of worship for the Alevi community, is not introduced as such and the Alevi semah is not presented as a form of worship.<sup>17</sup>

25. In addition, the essential principles and practises of Christianity and Judaism are broadly included in the 11th grade textbook. However, the Islamic view's assumption that the scriptures constituting the main sources of Christianity and Judaism have been "tampered with" has an important place in the book. This approach undermines their legitimacy and rejects their principles and practice. According to Christian and Jewish theologians in Turkey, the information presented is based on inaccuracies and incompatible with the basic teachings of Christianity and Judaism.

**26. Every child has the right to freedom of thought, conscience and religion and can use this right in line with their evolving capacity.**<sup>18</sup> It is the child who exercises this right. Their parents or anyone else do not exercise this right on their behalf. The RCE textbook content often asks children to give "the right" answers to doctrinal matters that are not presented objectively and that lead them to certain behaviour as "the right" behaviour. The RCE course performance of children is evaluated based on exams, homework and inclass participation. The grade they receive will significantly affect their education. Given the aforementioned, it is clear that there is significant pressure on the child to perform in a way that meets the doctrinal expectations and approval of the curriculum. This exposes the child to conditions in which he or she may have to act against their freedom of thought, conscience or religion.

27. Although not ubiquitous in new RCE textbooks, expressions such as "our religion", "our prophet", "our holy book, the Koran," which are signs of an approach that teaches religion from within, continue to be used in many RCE books.

### 28. The right of parents to raise their children in line with their own religious or philosophical views

Compulsory religious instruction in the form of doctrinal information presented as positive assertions is not compatible with the right of parents and legal guardians to raise their children in line with their religious or philosophical views. The formation process of the universe and human life and the purpose of human existence are the subjects about which many religions, beliefs or worldviews offer explanations. Consequently, parents,

---

<sup>14</sup> ECtHR, *Hasan and Eylem Zengin v. Turkey*, No. 1448/04, 9 October 2007 and *Mansur Yalçın and Others v. Turkey*, No. 21163/11, 16 September 2014.

<sup>15</sup> Yıldırım, M., *Din Kültürü ve Ahlak Bilgisi Dersi ve kitapları hakkında İnsan Hakları Temelli bir Değerlendirme*, Eşit Haklar için İzleme Derneği (ESHİD), 2021.

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

<sup>18</sup> Article 14 of Convention on the Rights of the Child.

whose philosophical or religious views contradict the teaching their children are subjected to in the RCE lessons, face interference in their right to raise their children in line with their own religious or philosophical views.

#### 29. We recommend that the Committee ask the Turkish authorities to

- **fundamentally revise the RCE course approach and content to bring it in line with international human rights law standards, without delay. Until this is realised, afford everyone who prefers not to attend the RCE course, non-discriminatory exemption mechanism that does not require students or parents to disclose their religion or belief.**
- **take steps to implement non-discriminatory exemptions without delay.**
- **review and revise its programs and practice with a view to uphold the child’s right to freedom of thought, conscience and religion in the education system.**
- **to eliminate the unequal criteria facing students who have been exempted from the RCE course when they take the High School Placement test.**

## 4. Discrimination based on religion or belief

### 4.1 Travel bans and deportations of non-Turkish Protestants

30. In its list of issues prior to reporting the Committee has asked Türkiye to “respond to reports of travel bans on and deportations of non-Turkish Protestant religious leaders”. We note Turkish authorities’ response referring to the broad discretion of states in the field of visas and residence permits.<sup>19</sup> Based on our monitoring work we would like to inform the Committee that it is not only religious leaders but also non-Turkish Protestant believers who have been issued entry bans to Türkiye without any justification. Since 2019, 250 non-Turkish Protestants have either been deported or issued entry bans.<sup>20</sup> Almost none of these individuals have been prosecuted or convicted of any crime, yet, the bans concerning them have been based on confidential reports sent by the National Intelligence Agency. We would like to draw the attention of the Committee that such entry bans and deportations appear to only target the non-Turkish Protestants, there is no analogous practices concerning other religious communities. Therefore, while states enjoy broad discretion regarding visas and residence permits, this is not a blank card, Türkiye is under an obligation to justify the differentiated treatment of non-Turkish Protestants with objective criteria.

31. A recent general assembly ruling of the Turkish Constitutional Court (Anayasa Mahkemesi – AYM hereafter) addressed the issue of entry bans (N-82 code) on non-Turkish Protestants.<sup>21</sup> While the AYM found the individual application manifestly ill-founded with regard to the right to freedom of religion or belief, several dissenting opinions argue that there has been a violation of the right to freedom of religion or belief:

However, all actions and transactions of the Presidency [of Administration of Migration] are open to judicial review within the scope of Article 125 of the Constitution. Therefore, when the Presidency uses its discretionary authority to create restriction codes, the concrete justifications relied upon must be opened to judicial review - in a way that does not harm the confidentiality of intelligence services - and the addressees must be given the opportunity to present their own arguments against these justifications. Accepting the contrary would mean

<sup>19</sup> Special Procedures Communiucation Reports, <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35670>.

<sup>20</sup> Bianet, ”AYM, Protestanların MİT’in raporuyla sınır dışı edilmesine "Din özgürlüğüne müdahale değil" dedi”, 7 June 2024.

<sup>21</sup> Turkish Constitutional Court (General Assembly), **Amanda Jolyn Krause ve Diğerleri**, App No. 2019/40761, 15 February 2024.



that administrative actions and transactions based on intelligence reports would be effectively excluded from judicial review.

In the concrete incident in question, the applicants were not able to learn the justification of the restriction code applied to them and other related transactions at any stage and did not have the opportunity to present their arguments against these justifications. Therefore, it is understood that the relevant and sufficient justifications were not provided by the public authorities regarding the transactions constituting restrictions, and that no effective judicial review was carried out against these transactions.<sup>22</sup>

### 32. We recommend that the Committee ask the Turkish authorities to

- **end the discriminatory practice on issuing entry bans against non-Turkish Protestants without delay.**
- **review the entry bans on non-Turkish Protestants and lift those that are not justified under international human rights law.**

### 4.2 Discriminatory exemption from compulsory Religious Culture and Ethics (RCE) course

33. Exemption from the RCE course Under a decision of the Higher Education Council of 1990 in Turkey, children of Christians and Jewish families are exempt from the RCE course.<sup>23</sup> However, there are significant shortcomings to the exemption system:

- Exemption mechanism is discriminatory. Only Christian or Jewish students can benefit from the right of exemption, and it can only be done by disclosing their affiliation in the religion field of the population register.<sup>24</sup>
- The child's right not to be compelled to reveal her / his religion or belief is violated. Disclosure of religion or belief is compulsory to be exempted from religion lessons. This is in direct contradiction of international human rights law.
- Entering the phrase "exempt" on a report card creates a risk of discrimination. Students exempted from RCE lessons are at risk of being stigmatised whenever these records are viewed, throughout their academic lives and careers. In light of ECtHR case law, the disclosure of such a record cannot be regarded as a practice that complies with the ECHR.<sup>25</sup>
- Students who are exempt from the RCE course are at risk of being discriminated against in the school environment. Because exempt students are in the minority, there are varying options given to exempt students as to what they will do while their classmates are in RCE lessons.
- Exempt students report that they are often subject to questions or denigrating comments from peers or teachers and are stigmatised, especially in public schools. Students in private schools remark that they can wait in the school library and that they feel less discriminated against compared to students in public schools.
- The use of the exemption right may put the student at an academic disadvantage. Although the high school entrance exams system has been changed over the years, students who are exempted from RCE continue to be evaluated unequally.

---

<sup>22</sup> *Ibid*, Dissenting opinion of Zühtü Arslan, former president of the Turkish Constitutional Court.

<sup>23</sup> *Supra note*15.

<sup>24</sup> *Ibid*.

<sup>25</sup> *Ibid*.

34. Therefore, we recommend that the Committee ask the Turkish authorities to

- to put an end to the discriminatory exemption mechanism for the compulsory RCE course.
- to put an end to compelling Christian and Jewish students wishing to exercise their right to exemption to disclose their religion or belief and compelling them from the RCE course to forfeit their equal right to leave the religion field of their identity documents blank. Their statement to this effect should be sufficient for exemption.