



## **Turkey: Freedom of Religion or Belief (art. 18) and the Situation of the Protestant Christian Minority (arts. 12, 13, 14, 17, 23, 26, 27)**

### **Stakeholders Report**

Submitted to the Human Rights Committee ahead of the consideration of the List of Issues Prior to Reporting for Turkey during the Committee's 132<sup>nd</sup> session commencing June 2021.

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## Introduction and Background

1. This report addresses the situation of the Freedom of Religion or Belief in Turkey and issues faced by the Protestant Christian minority with reference to Articles 18, 12, 13, 14, 17, 23, 26, and 27 of the International Covenant on Civil and Political Rights (ICCPR), which the Turkish government ratified in 2003.
2. In Turkey, the right to freedom of religion and belief is guaranteed under national laws, in the constitution and through the implementation of international law. Article 24 of the constitution declares that “everyone has the freedom of conscience, religious belief and conviction.”
3. The population of Turkey is more than 99% Muslim - the majority are adherents to the Sunni branch of Islam. Religious minorities include Christians and Jews. The Turkish Protestant community numbers about 7,000 Turkish converts from Islam who are regular attendees of churches, in addition to ethnic Armenian and Assyrian Protestants, expatriates, refugees and

asylum seekers. The Protestant community in Turkey is estimated to number 20.000 – 25.000 in total.

4. The Turkish Protestant community is made up of over 182 small and large fellowships, the majority of which are found in Istanbul, Ankara, and Izmir. Only 13 congregations meet for worship in traditional church buildings. Another 151 fellowships meet in their own or rented premises, which have limited legal recognition. The remaining fellowships meet informally in houses or offices.

#### **Reservation to Article 27 of ICCPR**

5. Turkey ratified the ICCPR, including article 27 on the rights of ethnic, religious, or linguistic minorities: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, 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.”
6. Turkey made a reservation to article 27, stating: “The Republic of Turkey reserves the right to interpret and apply the provisions of Article 27 of the ICCPR in accordance with the related provisions and rules of the Constitution of the Republic of Turkey and the Treaty of Lausanne of 24 July 1923 and its Appendixes.”
7. The reservation concerning Article 27 results in minority communities, not specifically mentioned in the 1923 Treaty of Lausanne, being marginalised and subject to the whims of national and local authorities. This applies to the Protestant community in Turkey.

#### **The Protestant community and the problem of legal status (Art. 18, 26 ICCPR)**

8. State control of religion and an inadequate legal framework restrict the opportunities for religious groups, including minorities, to have satisfactory legal status in Turkey. The Protestant community has tried to resolve this issue by establishing associations,<sup>1</sup> by becoming a branch of an existing association or, more recently, by applying to be registered as a religious foundation.<sup>2</sup>
9. According to the 2020 Human Rights Violation Report by the Association of Protestant Churches,<sup>3</sup> the Protestant community has established 10 religious foundations, 12 foundation representative branches, 34 church associations and 53 representative branches

<sup>1</sup> Registration under the legal framework of an association (Turkish: *dernek*) does not allow for recognition as a church. It puts the church and its activities into the same category as a sports or social club, even though the functions and needs of a church are different.

<sup>2</sup> A religious foundation (Turkish: *vakıf*) is a pious endowment of property and gives a building, such as a church, a protected legal status provided the foundation can maintain its membership, conduct elections etc. A foundation does not give a religious community a suitable legal status because it only concerns a church's financial or property assets.

<sup>3</sup> <https://www.protestankiliseler.org/?p=1038>

connected to these associations.

10. Changes made to the Law governing associations in 2020<sup>4</sup> allow the government to appoint an administrator, put a stop to activities, seize the assets of an association and its directors, and demand a list of members. Additionally, there were changes concerning the collection of charitable donations. These amendments have restricted the right to association and make it less convenient for Protestant fellowships to form associations.
11. The present legal situation, which does not allow for Protestant congregations to obtain a legal identity as a “religious congregation,” also has consequences with regards to their right to gather in community in places of worship.
12. Throughout Turkey there are many historical church buildings that have been appropriated by the state and reconfigured to give the building a secular function, such as a library or cultural centre. The local Christian community is rarely permitted access to the building for purposes of worship and only 13 Protestant fellowships meet in these traditional church buildings.
13. Seeking alternative venues, Protestant communities congregate in rented or purchased properties as associations or religious foundations. However, in such cases, requests to re-designate these properties as places of worship are either rejected by municipalities or not even tabled as an item on the agenda for the municipal council to discuss. As a result, the meeting place is not recognized as a place of worship, but as the locale for the association or foundation. Unable therefore to claim the status and legitimacy of a place of worship or religious congregation, it cannot benefit from the tax and utility fee exemptions, which are accorded to recognised places of worship.
14. When associations or foundations have applied to the authorities for recognition as a place of worship, they have received warnings that they do not meet zoning requirements and are liable to closure. City planning fails to consider the needs of religious minorities, and municipalities are therefore unable to direct church groups to a site that meets zoning requirements for a Christian place of worship.

**Deportation and travel restrictions imposed on Protestant expatriates (Art 12, 13, 14, 23 and 26 ICCPR)**

15. Expatriates have been serving the Protestant churches in Turkey for decades, but since 2019 there has been a systematic campaign to label foreign Protestants as security threats, denying them residence permits and expelling them from Turkey. Over 70 have been banned to date; an estimated 150 members of the Protestant community have been forcefully

<sup>4</sup> <https://siviltoplum.gov.tr/ankara/cok-onemli-duyuru-5253-sayili-dernekler-kanununda-bazi-degisiklikler-yapildi>

expelled when family members are taken into consideration. Victims learn either through the renewal process for their residency or when leaving the country that they have been designated a security threat and refused residency and re-entry into Turkey without prior approval – which is consistently refused.

16. The restrictions<sup>5</sup> have been issued by the Directorate-General for Migration Management, based on files submitted by Turkish Intelligence (MIT). The affected individuals and their legal representatives have not been granted access to MIT files, in violation of due process of law. The indications are that the intelligence reports relate to alleged missionary activity, which is viewed as a security threat. This evaluation contradicts a 2015 Turkish Council of State decision<sup>6</sup> which declares there is no reason to consider missionary activity or proselytising as a crime, or action against national security. It is believed these restrictions were issued against the Protestant Christians solely concerning the peaceful practice of their faith. None of the Christians denied permits and expelled has been convicted of committing any specific crime.
17. Most of the recipients of immigration restrictions were attendees at any of three completely legal Christian conferences. It is assumed that foreign attendees were automatically put on a blacklist. Many of the recipients have begun appeals, but Administrative Courts, as well as the Constitutional Court hearing appeals from Administrative Courts, have so far been unwilling to overturn the orders. Those cases continue to be the subject of appeals at a national level and will proceed to the European Court of Human Rights after all other legal avenues have been exhausted.
18. Several Turkish Protestant citizens married to foreigners who have been expelled, are consequently compelled to emigrate rather than have their families forcibly separated. Expatriates within the Protestant community are anxious that they could be next to be issued these orders, forcing them and their families to leave Turkey.
19. The issuance of these orders violates freedom of movement and residence (Article 12), protection of aliens against expulsion unless there are *compelling reasons* (authors' emphasis added) of national security by law (Article 13), the right to an impartial and fair court hearing (Article 14), and the right to protection against discrimination on the ground of religion (Article 26).
20. In cases where the recipients of the immigration ban are married to Turkish citizens, the Turkish state has failed in its duty to protect the family unit (Article 23) by separating the

<sup>5</sup> <https://mihci.av.tr/tahdit-kodu/> "N-82 code restrictions relating to the foreigner's entry into Turkey requiring prior permission. However, this permission is almost never given in practice. This situation is a de facto entry ban to the country. In this case the foreigner cannot enter Turkey without legal action to have the code cancelled."

<sup>6</sup> Decision of Council of State Administrative Law Division dated 28/01/2015, and numbered E:2013/797, K:2015/126

foreigner from his or her Turkish spouse or by compelling the family to emigrate away from the wider family in Turkey.<sup>7</sup>

### **Hostility towards Protestants and Protestant missionaries in media, education, and Turkish society (Art. 18, 20, 26, 27)**

21. Protestantism is seen as a Western and alien construct and continues to be viewed with suspicion by Turkish society at large. These misconceptions are not corrected by informed reporting in the media or by presenting a balanced perspective in the Turkish education system.
22. Under the section entitled *Threats to the Republic of Turkey* in the 8<sup>th</sup> Grade Elementary School textbook 'Revolutionary History and Kemalism'<sup>8</sup>, missionary activity is labelled a threat to national security - despite the propagation of faith being a constitutional right protected under national and international legislation - and an attempt to "draw the Turkish population away from its own culture and religion." This clearly opposes religious and cultural diversity in Turkish society. This teaching continues to be referenced in tests related to this subject.<sup>9</sup>
23. The school curriculum and the resources used in the classroom reflect the majority Turkish - Sunni perspective, failing to represent the country's religious diversity. The subject area relating to Christianity is presented from the point of view of the Islamic religion and does not contain the opinions and views of Christians. Such a one-sided approach contravenes the right to freedom of religion or belief as laid out in Article 18 of the ICCPR.
24. The requirement to declare one's faith to be exempt from Religious Culture and Moral Knowledge classes, or even to prove this faith, continues to be a violation of human rights. Decisions made by the Constitutional Court and local courts need to be implemented for this problem to be resolved.<sup>10</sup>
25. The risk of discrimination has been reduced by the introduction of a new generation of identity cards which record the bearer's religious affiliation on a chip rather than printing it visibly. As a result, complaints relating to this subject have decreased in recent years, becoming almost non-existent. However, the religion section should be completely removed from official documents. It should not be necessary to "prove" affiliation to a religious

<sup>7</sup> See p. 27,28 "Turkey: Challenges Facing Christians 2016-2020" a report by International Christian Concern and Middle East Concern: <https://www.persecution.org/wp-content/uploads/2020/12/Turkey-Report-Final-Draft-1.0.pdf>

<sup>8</sup> MEB Ortaokulu ve İmam Hatip Ortaokulu 8. sınıf "Türkiye Cumhuriyeti İnkılap Tarihi ve Atatürkçülük" ders kitabı, Devlet Kitapları Yayınları. ISBN: 978975-11-4917-6

<sup>9</sup> 2019 MEB Ortaokulu ve İmam Hatip Ortaokulu 8. sınıf "Türkiye Cumhuriyeti İnkılap Tarihi ve Atatürkçülük" ders kitabı, Devlet Kitapları Yayınları. ISBN: 978975-11-4917-6 Page 183 Q. 6.

<sup>10</sup> <https://www.hukukihaber.net/egitim/mahkeme-zorunlu-din-dersinden-muafiyet-sartini-hukuka-aykiri-bulduh344451.html>

minority to be exempted from Religious Culture and Moral Knowledge classes.

26. The propagation of Christianity is portrayed as a political action that challenges Turkish Muslim identity rather than as an expression of personal faith. This misconception has led to violence against Protestant Christians, notably when three Protestants (one German and two Turkish Christian converts) were brutally murdered by five young extremists in Malatya in 2007.
27. On 19 November 2019 South Korean missionary Jin-Wook Kim (41) was murdered by a 16-year-old youth in Diyarbakir in south-east Turkey. The motive behind the murder was portrayed as robbery, but in a press notice from the Human Rights Center of the Diyarbakir Bar Association it was noted that allegations had been made that Kim's murder was due to missionary activities. One month prior to his murder, a poster campaign in Diyarbakir by the Anatolian Youth Association and the Nationalist Youth Foundation had targeted Jews and Christians.

#### **Restrictions on opening religious training institutions for Christian clergy (Art. 18)**

28. Turkish legislation does not make provision for the training of Christian clergy either in private establishments for higher religious education or through the public education system<sup>11</sup>. The Protestant community presently attempts to resolve this issue by providing on-the-job training, giving seminars within Turkey, sending students abroad or utilizing the support of foreign clergy.
29. The frequent cases of foreign clergy and other church workers being deported, denied entry into Turkey, refused residence permits, or denied entry visas, has negatively impacted the leadership of many congregations, sometimes leaving them without adequately trained leaders.

#### **Restrictions due to the Covid-19 Pandemic, effect on churches, and discrimination (Art. 18, 26)**

30. The Covid-19 pandemic negatively affected the Protestant community, along with the rest of society. However, the weekend lockdowns enforced by the authorities disproportionately affected churches by forbidding Sunday meetings, whereas attendance at mosques on Fridays continued to be allowed. While limited permissions given to church officials to travel on Sundays to provide online services have been a positive development, overall, Christians have been put at a greater disadvantage in the restriction of the freedom to practice their

<sup>11</sup> Article 24 of the Constitution 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. According to Article 3 of Law No. 5580 on Private Educational Institutions "education institutions identical or similar to ones which provide religious education cannot be opened." The state therefore has the monopoly on both opening religious schools and determining obligatory or optional courses regarding religious education.

faith during the pandemic.

31. Christian citizens were overlooked when lockdown decisions were taken. No government circulars or directives set out rules that churches should adhere to in their meetings. Requests for information along these lines went unanswered and were instead addressed superficially with general statements. This caused confusion for the churches. The Association of Protestant churches provided its own advice to churches, based on the detailed guidelines set out for mosques.
32. The uncertainty as to whether the banning of activities of associations applied to church associations or not continued for many months. In response to a request to clarify the situation, on 24 December 2020 the Civil Society Relations Office of the Ministry of Interior in Istanbul Province finally replied that church associations are subject to the same restrictions that apply to non-religious associations. However, applying these restrictions to churches, while leaving mosques exempt, is discriminatory and is in violation of the principle of equal treatment.
33. Furthermore, on 17 November 2020, three Protestant places of worship that had association status, used by Africans and South Koreans for worship, were closed for an indefinite period in line with an official notice number E-60931568-450-5962 of 16 November 2020, issued by the District Governor of Esenyurt in Istanbul, stating "closure in line with the restrictions brought in to combat the pandemic and until the legal status of places of worship belonging to foreigners has been clarified."<sup>12</sup>

**Exclusion from official functions related to the Christian community and deficient communication from Turkish authorities (Art. 18, 26)**

34. The Turkish government organizes meetings with representatives of faith communities recognized under the Lausanne Treaty of 1923, but representatives from the Protestant community are typically excluded from such meetings or other state functions that include religious leaders of minority communities. The Protestant community is therefore marginalized.
35. The unwillingness of the Turkish government to communicate with representatives of the Protestant community, as was noted during the pandemic, and the absence of directions for churches, has adversely affected the Protestant community by denying official recognition and channels to discuss and resolve issues.

<sup>12</sup> In discussions that followed, the security services gave verbal assurances that permission will be given for activities once the pandemic restrictions have been lifted. The affected fellowships have accepted this situation and have not resorted to legal proceedings, stating that they do not believe they will gain any advantage through legal means.



**Inducements by members of the Turkish intelligence services to procure informants (Art.17, 18, 26)**

36. There is a worrying trend in Turkey for the authorities to view the numerically tiny Protestant community as a security threat. In 2020 it was reported that individuals identifying themselves as members of the intelligence services (MIT) approached national and refugee Christians in several cities, especially in Eastern Anatolia and South Eastern Anatolia, and offered them inducements to become informants and report on certain Christian individuals and churches in violation of the right to privacy protected by Article 17 of the ICCPR. It was reported in April 2021 that a convert to Christianity was approached and questioned about the church he attends in Diyarbakir, in an intimidating manner, by police working for the intelligence services.
37. Protestant churches in Turkey are open to society; they are supervised according to the laws of the land and in line with principles of transparency and accountability. Given this legal framework, the non-transparent conduct of the intelligence services is of particular concern.

**Suggestions for the List of Issues for Turkey**

38. In light of the above, we respectfully call on the Human Rights Committee to submit the following questions to Turkey:
39. What measures have been taken to withdraw the reservation to Article 27 of the ICCPR, in order to 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 under the ICCPR, in line with the Committee's previous recommendation<sup>13</sup>?
40. What measures are taken to address and reverse discriminatory decisions to effectively expel and ban over 70 expatriate Protestant church members from Turkey in violation of their rights under the ICCPR (collectively Articles 12, 13, 14, 23 and 26)?
41. What measures are taken to ensure due legal process and fair procedure in appeals against these entry-ban decisions and permit appellants and their legal representatives to have access to files submitted by Turkish intelligence concerning them and used as the rationale for the decisions against them?
42. What measures have been 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

<sup>13</sup> Paragraph 9 of Concluding observations on the initial report of Turkey adopted by the Committee at its 106th session (15 October - 2 November 2012) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/TUR/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/TUR/CO/1&Lang=En)

themselves in the form of associations or foundations, under Articles 18 and 26 of the ICCPR, in line with the Committee's previous recommendation<sup>14</sup>?

43. What are the criteria for gaining legal status of a "religious congregations", which includes benefits such as tax and utility fee exemptions, and why certain religious minorities seem to be excluded from this option?
44. What are legal ways for church congregations to use existing church buildings owned by municipalities, the Ministry of Culture, or other public institutions, for Sunday worship and religious holidays?
45. What legislation is being implemented for non-Muslim faith communities to train their religious instructors in-country without restrictions and in accordance with their own beliefs and traditions, in compliance with Articles 18 and 27 of the ICCPR?
46. What measures are being taken to address intolerance and prejudice and prohibit hate speech in the media, in visual and written publications, as well as to prevent hate speech and hate crimes, as referred to in the Committee's previous recommendation<sup>15</sup>?
47. What measures are being taken to fulfil the government's obligations under Article 18 of the ICCPR in the sphere of education: specifically in regard to the school curriculum and textbooks promoting respect and tolerance for other faith and non-faith groups, as well as non-Muslims' rights for exemption from religion classes?
48. What measures are taken to ensure that in line with Articles 18 and 27 of the ICCPR the COVID-19 related restrictions are applied in a non-discriminatory way and do not place Christians or other minority communities at a greater disadvantage with regards to freedom to practice their faith?

<sup>14</sup> Paragraph 21 of Concluding observations on the initial report of Turkey adopted by the Committee at its 106th session (15 October - 2 November 2012) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CCPR/C/TUR/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CCPR/C/TUR/CO/1&Lang=En)

<sup>15</sup> Paragraph 22 of Concluding observations on the initial report of Turkey adopted by the Committee at its 106th session (15 October - 2 November 2012) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CCPR/C/TUR/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CCPR/C/TUR/CO/1&Lang=En)

## ANNEXES

### **Additional reports:**

1) Turkey: Challenges facing Christians 2016 – 2020. Report from International Christian Concern (ICC) and Middle East Concern (MEC):

[https://www.meconcern.org/wp-content/uploads/2020/12/Turkey-Challenges-facing-Christians-2016-2020\\_compressed-2.pdf](https://www.meconcern.org/wp-content/uploads/2020/12/Turkey-Challenges-facing-Christians-2016-2020_compressed-2.pdf)

2) Association of Protestant Churches- 2020 Human Rights Violation Report 22/02/2021:

<https://www.protestankiliseler.org/?p=1038>