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Norwegian
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TURKEY UPR submission, July 2019

This Universal Periodic Review (UPR) submission is a joint submission by the Norwegian Helsinki Committee, the Freedom of Belief Initiative, and Forum 18.

The Norwegian Helsinki Committee¹ (NHC) is a non-governmental organisation working to ensure that human rights are respected in practice. To this end the NHC monitors and reports on human rights issues in a number of countries, particularly in eastern Europe and Central Asia and provides human rights training and democracy support.

The Freedom of Belief Initiative² (İnanç Özgürlüğü Girişimi - IOG hereafter) is a human rights based project of the Norwegian Helsinki Committee. IOG monitors and reports on legislative, judicial and administrative developments related to freedom of belief in Turkey

Forum 18³ provides truthful, original, detailed, and accurate monitoring and analysis of violations of freedom of thought, conscience and belief in Russia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan, Azerbaijan, Georgia, occupied Ukrainian territory, and Belarus. We also provide analyses on freedom of religion and belief in Turkey.

1. The recommendations on freedom of religion and belief made in Turkey's previous UPR cycles⁴ have not been implemented and remain relevant. Legislative and practical steps still need to be taken to protect *everybody's* freedom of thought, conscience and religion⁵ in line with international human rights law.

2. Under international human rights treaties and the Treaty of Lausanne, as well as under the Constitution of the Republic of Turkey, Turkey itself has undertaken significant obligations in the area of the freedom of belief. Despite these, many aspects of the Constitution, domestic law and its implementation must change to resolve violations of the right to freedom of belief. This includes both new instances and longstanding challenges which remain unresolved. Effective protection of the universal right to the freedom of belief requires a fundamental transformation of law and policy through an inclusive consultative process based on human rights standards.

The right to believe, and the right to change one's religion or belief

3. The International Covenant on Civil and Political Rights' (ICCPR) Article 18 "protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief and the terms "belief" and "religion" are to be broadly construed".⁶ Despite the limitations of Article 24 ("Freedom of religion and conscience") of the Turkish Constitution - not fully protecting freedom of belief in the sense of the ICCPR⁷ - the Constitution does protect the right to believe, the right not to believe, and the right to change one's belief. In 2014 the Constitutional Court broadened the constitutional scope of the right to include the right to manifest religion or belief in practice. But this changed jurisprudence has not been consistently applied.⁸

¹<http://www.nhc.no> .

²<http://www.inancozgurlugurgirisimi.org> .

³<http://www.forum18.org> .

⁴ Accessible via <http://www.upr-info.org/database/> .

⁵ Article 18 of the International Covenant on Civil and Political Rights (ICCPR) refers to "freedom of thought, conscience and religion", but the term "freedom of belief" is used in this UPR submission to facilitate readability.

⁶ UN Human Rights Committee, *CCPR General Comment No. 22*, Paragraphs 2 and 3, CCPR/C/21/Rev.1/Add.4, available at: <https://www.refworld.org/docid/453883fb22.html>

⁷ http://www.forum18.org/archive.php?article_id=1916

⁸ Turkish Constitutional Court, Individual Application Tuğba Arslan, Application No. 2014/256, 25 June 2014.



4. Serious problems still exist in practice negatively impacting people's exercise of the right not to believe, and the right to change one's religion or belief. This includes problems caused by the forced revealing of beliefs in the Population Registry and on identity cards (see below).

5. Members of minority religions such as the Alevi community, and those who do not profess any religion such as atheists, state that they are exposed to discrimination in society, as well as at risk of being discriminated against in contexts such as the work place. For example, religious or belief minorities are not represented in the public sectors, particularly in the judiciary, military and bureaucracy. A 2017 study found that Alevi high school students in Ankara do not think that their teachers respect their religious identity. Many students recounted incidents such as expulsions from classrooms and being called insulting names because they wore Alevi symbols such as a sword necklace or tattoos. The students also recounted hostile comments about Alevi beliefs.⁹

6. Individuals who convert to a religion other than Islam state that they experience a significant degree of oppression, exclusion and intolerance. This comes in different forms and degrees from their families and wider society, especially outside big cities. Many state that they think they should conceal their faith. For example, both atheists and Protestants who have come from a Muslim background have in 2019 stated that they do not reveal their religious/belief identity to supervisors or colleagues at work for fear of losing their jobs.¹⁰ They also thought that they would never be able to work as public servants and actively discourage their children from "dreaming that they might one day become a police or military officer".¹¹ During the Muslim month of Ramadan, especially in the public sector, employees of a variety of faiths think that they should not eat during Ramadan's fasting hours.

Coercion to declare one's religion or belief

7. Under ICCPR Articles 17 ("The right to respect of privacy, family, home and correspondence, and protection of honour and reputation") and 18 ("Freedom of thought, conscience and religion"), "no one can be compelled to reveal his thoughts or adherence to a religion or belief".¹²

8. In the 2010 European Court of Human Rights (ECtHR) decision on *Sinan Işık v. Turkey* (21924/05), which concerned the refusal of the authorities to register the applicant's religion as Alevi on his national identity card, the ECtHR held that "the deletion of the "religion" box on identity cards could be an appropriate form of reparation to put an end to the breach in question".¹³

9. Yet Turkey continues to require citizens to give information about their religion or belief to the National Population Registry, which is - among other things - used for identity cards. Citizens must either leave this section blank, or citizens must declare themselves as following one of a limited number of religions. Many beliefs such as atheism, Alevi, Jehovah's Witness, or Baha'i, are not permitted options.

⁹ Özge Genç, Demet Taşkan, Ulaş Tol, Mine Yıldırım, Eğitimde Çoğulculuk ve İnanç Özgürlüğü [Report on Pluralism and Freedom of Belief in Education], PODEM & NHC/IOG, 2017, accessible at <http://inancozgulugugirisimi.org/wp-content/uploads/2017/05/idPODEM-DinDersleri-05-Pages-200x270mm-PRINT.pdf>.

¹⁰ IOG interview with stakeholders for 2019 monitoring report on freedom of religion or belief in Turkey.

¹¹ IOG interview with a group of Christian youth March 2019.

¹² UN Human Rights Committee, *CCPR General Comment No. 22*, Paragraph 3, CCPR/C/21/Rev.1/Add.4, available at: <https://www.refworld.org/docid/453883fb22.html>

¹³ ECtHR, *Sinan Işık-Turkey*, Application No. 21924/05, February 2, 2010, para. 60.



10. In addition, Christian and Jewish students (the only students allowed exemption) who request exemption from the compulsory Religious Culture and Knowledge of Ethics (RCKE) courses may not use the right to leave the religion box empty, as they are required by the Education Ministry to prove their religious affiliation by presenting the religion information in the population registry¹⁴. Choosing exemption from RCKE classes – which include Islamic religious instruction - can be difficult even for those who are formally entitled to this, as in practice some children who do gain exemption have experienced ostracism and bullying from other children and discrimination from teachers - particularly in small towns and cities¹⁵.

11. In 2016 Turkey introduced new national identity cards containing an electronic chip; the religion box is no longer visible on the card, but is maintained in the chip. Public authorities can view the information in the chip – however it is not known which public authorities may view the information on one’s religion or belief in the chip. As a result, the risk of being discriminated against in dealings with public authorities remains a concern. Even if one left the religion box empty, public authorities may construe this “empty box” as “not Islam” which may allow for discrimination.

12. Such a forced declaration of religious identity makes people vulnerable to discrimination. This is because of the very many situations where public authorities may view the information in the chip of the national identity card which includes the religion section: dealings with law enforcement; enrolling at school and university; applying for a passport; voting in elections; enlisting for compulsory military service; getting married; starting a new job. This means that many people can access this information, and so there are many possibilities for discrimination to happen¹⁶.

13. Leaving the religion section blank does not solve the problem, as the overwhelming majority of Turkish people do not do this. This leads to people who are not Muslim thinking that they must declare themselves as Muslim to avoid discrimination based on their religious or non-religious beliefs. For example, this is happening in the families of ethnic Armenians in eastern Turkey who were during and after 1915 forced to become Muslims. Some of their descendants have now converted back to Christianity, yet some prefer to leave the designation of Islam in their identity cards for fear of experiencing social exclusion and ostracism¹⁷.

RECOMMENDATIONS:

14. The religion section of the National Population Registry should be completely removed.

15. No student requesting exemption from the compulsory Religious Culture and Knowledge of Ethics (RCKE) courses should be required to declare a religion or belief.

The right not to be coerced to act in a manner contrary to one’s religion or belief

16. Refusal to carry out military service, known as “conscientious objection,” is protected within the scope of freedom of belief. Turkey continues to not recognise the right to conscientious

¹⁴http://www.forum18.org/archive.php?article_id=1916

¹⁵http://www.forum18.org/archive.php?article_id=2121

¹⁶http://www.forum18.org/archive.php?article_id=1496

¹⁷http://www.forum18.org/archive.php?article_id=1916



objection to military service¹⁸, despite its obligations to do so under both ICCPR Article 18 (“Freedom of thought, conscience and religion”) and European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) Article 9 (“Freedom of thought, conscience and religion”). There is no alternative civilian service possibility. Failure to recognise the right to conscientious objection is incompatible with of the judgments of the ECtHR and the view of the United Nations Human Rights Committee in the Atasoy and Sarkut v. Turkey communication.¹⁹

17. Following ECtHR judgments on conscientious objection there has not been any legislative change. But instead of jail terms the usual penalties for failure to perform military service have become repeated fines. This has lessened in degree the penalties for conscientious objection, but expanded the scope of the penalties. This is because failure to report for military service or desertion is recorded in the state Domestic Court Network Project (UYAP), General Information Collection (GBT), and Temporary Residence and Identification Notification Project (GIYKIMBIL). This means that whenever an official checks a conscientious objector’s identity card they are identified and fined. Each individual fine can only be challenged in a court case, which unless they pay the fines traps conscientious objectors in an endless cycle of court cases.

18. For example, Yasin Yetişgen declared his conscientious objection to military service in 2014.²⁰ During a GBT check in 2016, he was detected as a conscientious objector and was fined 25,000 Turkish Lira (TRL), about 10 times the monthly minimum net wage. In 2018 and 2019 he was sued for non-payment of the fine, but was acquitted because the original fine was not issued using the correct procedure. However Şendoğan Yazıcı, another conscientious objector, was in April 2019 given a two year jail sentence and fined 640 TL, because he did not pay a 30,000 TL fine he was given during a GBT check. He is not currently in prison and has appealed against the verdict.²¹

RECOMMENDATIONS:

19. The right to conscientious objection should be recognised in accordance with international human rights standards.

20. Legislation providing an alternative civilian service option, which does not include punitive elements, should be adopted.

21. An impartial mechanism to process conscientious objection applications should be introduced.

22. Turkey should implement in full ECtHR judgments and UN Human Rights Committee decisions concerning conscientious objection.

The right to manifest a religion or belief in meetings for worship

23. Restrictions on the right to establish a place of worship continue. For example, cemevis (Alevi places of worship), Protestant churches, and Jehovah’s Witness Kingdom Halls have not been able to gain official place of worship status. This means that communities that worship in venues

¹⁸http://www.forum18.org/archive.php?article_id=1696

¹⁹ http://www.forum18.org/archive.php?article_id=1916

²⁰ Gazete Duvar, “Vicdani retçiler dava ve ceza kısılcında” [Conscientious Objectors Entrapped by Court Cases and Fines], 5 April 2019.

²¹ Ibid.



without official place of worship status are denied various financial privileges, such as the state paying electricity bills. In addition, not having place of worship status implies non-recognition by the state which these communities think contributes to biased societal attitudes. This leads to incidents such as the stealing in 2017 of a signpost in Istanbul's Bahçelievler district to the local Protestant Church, and a January 2019 attack on a congregation with a device that sounded like a bomb in Mardin Protestant Church in south-east Turkey. This created fear and panic in the congregation. The impact of such incidents, especially such the attack on the congregation in Mardin, is not limited just to the targeted congregation. They cause other Christians elsewhere to be concerned about whether it is safe to meet for worship.²²

24. Alevi places of worship, cemevis, are not granted official place of worship status. Nevertheless, the ECtHR's decision in the case of *Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı v. Turkey* found that the failure to recognise cemevis as places of worship violated both ECHR Articles 14 ("Prohibition of discrimination") in conjunction with 9 ("Freedom of thought, conscience and religion").²³ In its decision, the ECtHR found that the differing treatment faced by the Vakıf (foundation) is neither objective nor acceptable. However Turkey has not recognised cemevi as places of worship as the judgment requires.

25. Similarly, the only places of worship allocated land in municipal administration city plans are mosques and masjids (prayer rooms) run by the Presidency of Religious Affairs – a public institution under the Turkish Constitution.²⁴

RECOMMENDATIONS:

26. The state should abide by the principle of equality in its designation of places of worship, not making such decisions based upon the religious belief in question.

27. In the preparation of city plans, municipalities should respond positively to requests from all belief groups for land for places of worship and take into account the religious pluralism of society.

The right to manifest religion or belief in teaching

28. Under the ICCPR, freedom of belief includes the right to teach a belief and to establish seminaries or religious schools.²⁵

²² For more examples see NHC IOG Report, *Hak ve Eşitliğin Peşinde: Türkiye'de Din veya İnanç Özgürlüğü Hakkını İzleme Raporu* [Pursuing Rights and Equality: Monitoring Report on the Right to Freedom of Religion or Belief in Turkey], 2 July 2019 (English translation forthcoming) accessible at www.inancozgurlugugirisimi.org.

²³ ECtHR, *Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı v. Turkey*, Application No. 32093/10 20 June 2017.

²⁴ http://www.forum18.org/archive.php?article_id=1916

²⁵ UN Human Rights Committee, *CCPR General Comment No. 22*, Paragraph 4, CCPR/C/21/Rev.1/Add.4, available at: <https://www.refworld.org/docid/453883fb22.html>



29. Spreading a religion or belief other than that of the majority of the population continues to be perceived with suspicion. For example, Diyarbakır Greater City Municipality has since 2016 not allowed Diyarbakır Protestant Church to set up a stall during festivals displaying Christian materials.²⁶ In 2018 Üsküdar Church in Istanbul was also not given permission by Üsküdar Municipality to open a public information booth.²⁷

The right to establish schools that provide religious education

30. The state continues to hold a monopoly on opening institutions that offer religious education. The relevant section of Article 24 of the Turkish Constitution reads:

Education and instruction in religion and ethics shall be conducted under state supervision and control. Instruction in religious culture and moral education shall be compulsory 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.

31. Under the Law on Private Schools, private religious schools cannot be opened²⁸ and public schools offer religious instruction in Islam following curricula developed by the Ministry of National Education.

32. The Ecumenical Patriarchate's Halki Theological Seminary has been closed since 1971, and symbolises the state's barring any belief group from opening educational institutions to train clergy and other religious officials. Another example is the state's failure to agree to a 2002 request by the Armenian Apostolic Church to open an educational institution to train clergy and other religious officials under the [state] General Directorate of Higher Education. This has been blocked by the state not answering the request. The Apostolic Church's previous Holy Cross Seminary was closed by the state in 1971.²⁹

RECOMMENDATIONS:

33. Amend the Constitution and recognise the right to manifest religion or belief in teaching – for example by inserting the text of ECHR Article 9 - and other relevant laws and regulations to ensure respect for the right to manifest one's religion or belief in teaching.

34. The right of all religious communities to train clergy and other religious officials for all religious communities should be recognised and without obstacles or delays facilitated by the state. This should include all belief groups being enabled to open educational institutions to train their own clergy and other religious officials.

²⁶ Interview with Diyarbakır Protestant Church pastors, October 2018.

²⁷ Association of Protestant Churches, Rights Violations Report 2018, February 2019.

²⁸ NHC/IOG, The Right to Freedom of Belief in Turkey Monitoring Report July 2014 – June 2015, July 2015, p. 25 accessible at http://inancozgulugugirisimi.org/wp-content/uploads/2015/11/Rapport_5_15_English_RoRB_Print-2.pdf

²⁹ http://www.forum18.org/archive.php?article_id=1916



The right to appoint clergy and other religious officials

35. Under the ICCPR, freedom of belief includes the right of religious groups to administer their internal affairs without external interference, including the selection and appointment of clergy and other religious officials and the titles to be used by these officials.³⁰

36. Yet the 1925 Law No. 677 (“Closure of Dervish Convents and Tombs, the Abolition of the Office of Keeper of Tombs and the Abolition and Prohibition of Certain Titles”), among other things, closed Alevi places of worship and in Article 1 prevents their leaders from using their religious titles. The Law also bans Alevi and other Sunni Islamic groups from having legal personality (see final section below). This Law is protected under the Constitution and cannot in Turkish domestic law be interpreted as unconstitutional.³¹ While this law is very rarely applied in courts to prosecute those who use these titles, it is often seen by the authorities and religious communities as being the reason for non-recognition of the Alevi faith with their places of worship and religious leaders.

37. Also, clergy and other religious officials serving all Muslim communities – with no exceptions – are appointed by the Diyanet or Directorate of Religious Affairs – a public institution³². State officials have also interfered in the appointment process for high-level clergy and other religious officials in the Greek Orthodox, Armenian Apostolic, and Jewish communities³³.

38. During elections for a new Armenian Apostolic Patriarch in 2010, the Interior Ministry rejected the Armenian Apostolic community decision to elect co-patriarchs. Instead, the state imposed on the religious community to hold an election 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 Istanbul Governor’s Office on 25 June 2015 to allow the election of a Patriarch. The Interior Ministry blocked the most recent attempt to elect an Armenian Patriarch in February 2018.³⁴

39. However, in a May 2019 judgment, the Turkish Constitutional Court held that the Interior Ministry violated the right to freedom of religion and conscience (Article 24 of the Constitution) by interfering in the internal affairs of the Armenian community’s election of the Patriarch and that the interference was not prescribed by law.³⁵ The effect of this judgment on future community elections is yet to be seen.

³⁰ UN Human Rights Committee, *CCPR General Comment No. 22*, Paragraph 4, CCPR/C/21/Rev.1/Add.4, available at: <https://www.refworld.org/docid/453883fb22.html>

³¹ http://www.forum18.org/archive.php?article_id=1916

³² http://www.forum18.org/archive.php?article_id=1567

³³ http://www.forum18.org/archive.php?article_id=1477

³⁴ http://www.forum18.org/archive.php?article_id=2352

³⁵ Turkish Constitutional Court, Individual Application Levon Berç Kuzukoğlu and Ohannes Garbis Balmumciyan, Application No. 2014/17352, 22 May 2019.



40. Religious or belief communities which are unable to train their clergy and other religious officials or teachers in Turkey are occasionally forced to meet their needs for such officials or teachers through foreigners trained in other countries. While the government refuses to permit the establishment of schools to train clergy and other religious officials, it also refuses to give visas and/or renew residency permits for foreign clergy and other religious officials, some invited by belief communities in Turkey. The Association of Protestant Churches states that from 2016 onwards about 100 religious ministers had to leave Turkey as a result of denial of renewal of visas or residence permits.³⁶

41. Because there is no standard procedure, the visa and residency applications submitted by individuals invited to be clergy and other 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.

RECOMMENDATIONS:

42. Change the Constitution – for example by inserting the text of ECHR Article 9 - and other relevant laws and regulations to ensure respect for the right to manifest one's religion or belief in teaching

43. Abolishing Law No. 677 banning particular religious titles, and which currently is not applied, would be a step in line with Turkey's international human rights obligations.

44. The selection and appointment of clergy and other religious officials by religious or belief communities should be seen as an internal matter and should not be subject to permission or regulation by public officials. The Interior Ministry should not interfere in the election of religious leaders.

45. Visas and permissions required for foreign clergy and other 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.

Parents' right to raise their children in line with their religious or philosophical views

46. Article 18 (4) of the ICCPR states:

The States Parties to the present Covenant undertake to have respect for 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.

³⁶ NHC IOG Report, *Hak ve Eşitliğin Peşinde: Türkiye'de Din veya İnanç Özgürlüğü Hakkını İzleme Raporu* [Pursuing Rights and Equality: Monitoring Report on the Right to Freedom of Religion or Belief in Turkey], 2 July 2019 (English translation forthcoming) accessible at www.inancozgurlugugirisimi.org.



47. The education system is in need of fundamental reform in order to comply with the standards of the right to freedom of belief. The compulsory Religious Culture and Knowledge of Ethics (RCKE) course has been found by the ECtHR to constitute “a violation of the Convention [the ECHR] on account of the inadequacy of the Turkish educational system, which, with regard to religious instruction, does not meet the requirements of objectivity and pluralism and provides no appropriate method for ensuring respect for parents’ convictions”.³⁷

48. On 16 September 2014, the ECtHR, in the case of *Mansur Yalçın and Others v. Turkey* (Application no. 21163/11), found that Turkey had violated the right to education enshrined in Article 2 of ECHR Protocol 1. In this case brought by Alevi parents, the ECtHR was convinced that the Turkish state continued to insufficiently respect parents’ beliefs when it came to religious education in the country’s education system.³⁸

49. The ECtHR Grand Chamber rejected Turkey’s appeal against the *Mansur Yalçın and Others* judgment on 18 February 2015. Consequently, Turkey is now obliged to urgently pass reforms to make religious education in schools compatible with human rights standards.³⁹

50. Despite changes made to the content of the RCKE course curriculum and textbooks in the 2018-19 school year, both contain “religious instruction” and “education about religions”.⁴⁰ In order to eliminate the barriers to freedom of thought, conscience, and religion in such courses, a 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 RCKE curriculum aimed at making it compatible with ECtHR standards. However, no such assessment has been made, yet.

51. Only Jewish and Christian students with their religion recorded on their identity card have the right to be exempted from the compulsory RCKE courses, which include Islamic religious instruction. Other students who do not wish to take this course, including atheists, Alevis, and Baha’is, have no right to exemption. As noted above, it is incompatible with both the ICCPR and the ECHR for Turkey to require individuals to publicly declare their religions or beliefs while applying for exemption from religious education⁴¹.

52. Parents state that optional religion courses introduced in the 2012-13 school year, such as the Life of the Prophet Muhammad, Basic Religious Knowledge (Islam), and the Koran, are compulsory in practice⁴². Schools provide students with optional course packages rather than allowing students to choose the lessons they would like to take from the pool of optional lessons. Parents have stated that, especially in public schools, there is at least one religion lesson in the package.⁴³

³⁷ ECtHR, *Mansur Yalçın and Others v. Turkey*, Application No. 21163/11, 16 February 2015.

³⁸ http://www.forum18.org/archive.php?article_id=2121

³⁹ http://www.forum18.org/archive.php?article_id=2121

⁴⁰ For more detailed information on the incompatibility of the RCKE course with international human rights standards see NHC/IOG Submission to the Council of Europe Committee of Ministers, 10 January 2019, accessible here: [https://hudoc.exec.coe.int/eng#%7B%22fulltext%22:%5B%22mansur%20yal%C3%A7%C4%B1n%22%5D,%22EXECIdentifier%22:%5B%22DH-DD\(2019\)34E%22%5D%7D](https://hudoc.exec.coe.int/eng#%7B%22fulltext%22:%5B%22mansur%20yal%C3%A7%C4%B1n%22%5D,%22EXECIdentifier%22:%5B%22DH-DD(2019)34E%22%5D%7D) .

⁴¹ http://www.forum18.org/archive.php?article_id=2121

⁴² http://www.forum18.org/archive.php?article_id=2330

⁴³ NHC IOG Report, *Hak ve Eşitliğin Peşinde: Türkiye’de Din veya İnanç Özgürlüğü Hakkını İzleme Raporu* [Pursuing Rights and Equality: Monitoring Report on the Right to Freedom of Religion or Belief in Turkey], 2 July 2019 (English translation forthcoming) accessible at www.inancozguurlugugirisimi.org .



53. From 2014 onwards, Turkey has also allowed female pupils to wear Islamic headscarves in secondary schools, and added Islamic prayer rooms and ablution areas in some schools to aid in RCKE Islamic religious instruction. Parents and school students – including Muslim parents and students – have very divided views on these government initiatives⁴⁴. These changes have made it increasingly urgent for the government to take effective practical steps to advance pluralism and defend freedom of belief for all in schools.

54. Female students are free to wear headscarves in secondary schools, yet restrictions continue on other belief-related non-Islamic clothes and symbols, as the order that made it possible to wear headscarves does not allow students to wear any other symbols apart from the school badge⁴⁵. For example, necklaces or other accessories with a star of David, Christian cross or Alevi sword symbol are not allowed.⁴⁶

RECOMMENDATIONS:

55. Either Religious Culture and Knowledge of Ethics courses should be transformed into objective and pluralistic courses on religions or a non-discriminatory exemption mechanism should be established in line with human rights standards.

56. Optional courses should be optional in reality. Exemption requests by all belief groups, whether atheists or deists, should be granted.

57. Schools should be 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, including in the wearing of symbols and clothes.

58. The state should fulfil its duty to observe equality regarding religion or belief issues in schools, and should observe the principle of equality.

The right to the freedoms of association and of belief

59. The Turkish legal system does not allow any religious or belief community to acquire legal personality as such.⁴⁷ This is incompatible with the ICCPR and other international human rights law standards, as the Organisation for Security and Co-operation in Europe (OSCE)/Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities outlines.

60. Religious institutions, such as the Greek Orthodox Patriarchate and the Armenian Apostolic Patriarchate, also do not have legal personality.⁴⁸

⁴⁴http://www.forum18.org/archive.php?article_id=2330

⁴⁵http://www.forum18.org/archive.php?article_id=2330

⁴⁶ NHC IOG Report, *Hak ve Eşitliğin Peşinde: Türkiye'de Din veya İnanç Özgürlüğü Hakkını İzleme Raporu* [Pursuing Rights and Equality: Monitoring Report on the Right to Freedom of Religion or Belief in Turkey], 2 July 2019 (English translation forthcoming) accessible at www.inancozgurlugugirisimi.org.

⁴⁷http://www.forum18.org/archive.php?article_id=1916

⁴⁸ NHC/IOG, *The Right to Freedom of Belief in Turkey*

Monitoring report July 2014 – June 2015, p. 39, accessible at http://inancozgurlugugirisimi.org/wp-content/uploads/2015/11/Rapport_5_15_English_RoRB_Print-2.pdf.



61. Under Turkey's legal system religious or belief community members (but not the communities themselves) can come together to gain legal status as associations, a route followed by some Protestants and Jehovah's Witnesses. Such associations have legal personality (which does not grant legal status to the community) and can own property in the association's name, though this does not mean that religious communities as such own the property⁴⁹.

62. The other legal entity status available is the foundation, but the Civil Code (Article 101/4) prohibits such entities being designated to support a particular religious community. The community foundations, however relating to the non-Muslim communities protected under the Lausanne Treaty can support specific religious or belief communities in Turkey's legal framework. However, no new community foundations can legally be founded⁵⁰.

63. Although there have been positive reforms affecting both associations and foundations in the last decade, both forms of legal entity offer limited options. There is also a total ban on Islamic brotherhoods (tarikats-paths).⁵¹

64. As no religious community or institution can have legal personality, they have no legal right to do anything as themselves. So they cannot open a bank account, file a lawsuit, own property, or sign a contract. Because belief communities are therefore stopped from as themselves legally receiving donations this can cause financial difficulties for people. For example, as belief groups cannot as themselves legally employ their own religious clergy or other officials, they cannot make social security payments for these people⁵².

65. The state has blocked all non-Muslim community foundations from electing any new foundation board members since 2013. The Directorate-General of Foundations passed an order, dated 19 January 2013 and published in Official Gazette No. 28533, repealing the existing provisions regulating the election of foundation officials and announced that new regulations would be prepared. But on 11 February 2013 the Directorate-General wrote that elections could not be held until the new regulations were issued and came into force. The existing foundation board members were told that they should continue to carry out their responsibilities⁵³.

66. The state's obstruction of elections causes many problems. Deaths, ill health and other reasons have reduced the numbers of board members, imposing extra work on those that remain. Without new elections, vacant places cannot be filled. Indeed, Moris Levi, representative of all the community foundations to the Directorate-General, stated that for some foundations "very soon it will be impossible for these institutions to carry on with so few board members. The damage done by not being able to hold elections is enormous." As new members cannot be recruited, the lawyer Sebu Aslangil notes, "new ideas or new dynamism are not allowed, and these are very important for community life"⁵⁴.

⁴⁹http://www.forum18.org/archive.php?article_id=2459

⁵⁰http://www.forum18.org/archive.php?article_id=2459

⁵¹ Law No. 677, Tekke ve Zaviyelerle Türbelerin Seddine ve Türbedarlıklar ile Bir Takım Unvanların Men ve İlgasına Dair Kanun (13 December 1925).

⁵²http://www.forum18.org/archive.php?article_id=1916

⁵³http://www.forum18.org/archive.php?article_id=2459

⁵⁴http://www.forum18.org/archive.php?article_id=2459



67. In 2019 the General Directorate of Foundations issued a memorandum saying that in order to fill the positions that have become vacant the boards of the foundations could appoint new members.⁵⁵

68. However this guidance is incompatible with human rights law; firstly, the state has a positive duty to ensure that the religious or belief communities can exercise their right to association effectively and by not drafting the lacking provisions public authorities are not fulfilling their duty. Secondly, the instruction to ask the existing board members to appoint new board members is contrary to the traditional functioning of the community foundations. Therefore public authorities are not respecting the right of religious or belief communities to conduct their internal affairs in accordance with their traditions.

69. Despite many requests from community foundations, the Directorate-General has not as of now (July 2019) issued new regulations. So community foundations are still unable to elect new board members, which has the practical impact of suspending the freedom of association of all community foundations⁵⁶.

RECOMMENDATIONS:

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

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

72. Laws related to associations and foundations should be reviewed and amended to enable the exercise by all belief communities of the freedom of belief and the freedom of association.

(END)

⁵⁵ NHC IOG Report, *Hak ve Eşitliğin Peşinde: Türkiye’de Din veya İnanç Özgürlüğü Hakkını İzleme Raporu* [Pursuing Rights and Equality: Monitoring Report on the Right to Freedom of Religion or Belief in Turkey], 2 July 2019 (English translation forthcoming) accessible at www.inancozgurlugugirisimi.org.

⁵⁶http://www.forum18.org/archive.php?article_id=2459