

# Minorities in Turkey

Submission to the European Union and the Government of Turkey

Minority Rights Group International

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## Introduction

For many years, Turkey has failed to recognize most of the minorities within its borders. Indeed, state authorities have attempted to ‘Turkify’ many of the minorities, such as the Greeks and the Kurds.<sup>1</sup> Now, as a country seeking accession to the European Union (EU), it has to comply with basic EU standards, which include the protection of minorities.

The year 2004 is crucial for Turkey, as the European Council (EC) in December is due to decide if Turkey has met the Copenhagen criteria, to demonstrate it has: ‘stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities’.

The EU’s revised Accession Partnership has already set out that Turkey must, among other things:

*‘Guarantee in law and in practice the full enjoyment of human rights and fundamental freedoms by all individuals without discrimination and irrespective of language, race, colour, sex, political opinion, religion or belief in line with relevant international and European instruments to which Turkey is a party...  
...Ensure cultural diversity and guarantee cultural rights for all citizens irrespective of their origin’.*

The rights and freedoms of all minorities in Turkey are, therefore, a high priority, and an essential element in the country’s EU candidacy. This report seeks to analyse the position of minorities in Turkey, to assess the progress made so far in terms of constitutional and legislative reform, and to identify the areas in which changes and reforms are necessary.

The application process and the conditional nature of EU membership have had a significant impact on human rights practice in Turkey. Turkey has devised and adopted a National Programme for the Adoption of the Acquis, and has made considerable progress through reform packages, including constitutional amendments and legislative reform. These have abolished the state security courts and amended regulations in order to permit, at least in theory, broadcasting in traditionally used languages and non-Muslim foundations to register properties. Further, Article 90 of the Constitution now states that international law shall take priority over national law when there is inconsistency between them.

The protection of minority rights still falls short, however, of European standards. Much remains to be done, from the very basic acceptance and recognition of minorities, through the basic right of certain minorities to live in and return to their homes, to the implementation of both the letter and the spirit of the new laws that purport to allow the practice of language and religion. This report, while not comprehensive, will examine the key issues, including the recognition of minorities, and the current ability of all ethnic, religious and linguistic groups to live freely.

## **Minorities in Turkey**

### **Minorities according to European standards**

In assessing whether states have met the Copenhagen criteria, the EU has used international and European standards of minority rights, particularly given that the protection of internationally recognized fundamental rights is a general principle of EU law. The key texts, which set out international minority rights standards, are:

- The United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM – adopted by unanimity among all United Nations [UN] member states, 1992).
- Article 27 of the International Covenant on Civil and Political Rights (ICCPR), which grants members of ethnic, religious and linguistic minorities the right to practice their culture and religion, and to use their language in community with other members of their group.
- The concluding document of the Copenhagen Meeting of the Commission on Security and Cooperation in Europe (CSCE – now the Organization for Security and Cooperation in Europe [OSCE] 1990), agreed by unanimity, which sets out rights for minorities across the CSCE region.
- The General Recommendations of the OSCE High Commissioner on National Minorities, which sets out how the OSCE's and other minority rights standards should be applied in practice, with particular reference to the prevention of conflict.
- The Council of Europe (CoE)'s Framework Convention for the Protection of National Minorities (FCNM). Forty-two out of the CoE's 45 member states have signed this, Turkey has refused to do so despite repeated requests by the Parliamentary Assembly.<sup>2</sup>

- The European Court of Human Rights (ECHR), in many ways the leading guardian of European human rights standards, has stated that: ‘respect for [minorities] is a condition *sine qua non* for democratic society’ (*Gorzeliak v. Poland*, 2004).

To implement these standards it must be clear to which groups they apply. Taking all the standards together (including the cases in which they have been applied) the following basic rules about what constitutes a ‘minority’ have emerged.

First, a minority group is based on objective criteria and it is not for a particular national government, or national Constitution, to state who is and who is not a minority. The key determining factors for whether a minority group exists or not are:

- A shared group identity, based on culture, ethnicity, religion or language.
- Relative lack of power compared with the dominant group.

There are also subjective criteria. Both the group itself must desire to be seen as an ethnic, religious or linguistic group, and individuals have the right to a free choice as to whether they wish to be part of this group without suffering any detriment based on their choice.

### **Turkey and international minority rights standards**

Turkey is a member of the UN and the OSCE and should therefore comply with their standards (e.g. the UNDM and the OSCE standards). Also, as a member of the CoE, it is bound by the jurisprudence of the ECHR. Unfortunately, Turkey has continued to refuse to further its protection of minority rights through adherence to the FCNM, despite repeated requests by CoE bodies to do so. Similarly in its recent adherence to the ICCPR, it made a declaration under Article 27, which appears to violate the essence of this Article, by stating that it will attempt to limit the rights under this Article to those minorities recognized under its Constitution or the Lausanne Peace Treaty (see later). Such a declaration violates the principle that minority groups are objectively determined and cannot be limited by national governments or Constitutions.

### **The definition in national law**

This continued reluctance by Turkey to fully accept its duty to protect all of its minorities, appears to be based on its very restrictive application of the term ‘minority’. This national

application of the term minority, in breach of international standards, has the effect of denying minority rights to all groups except Armenians, Greeks and Jews. Unfortunately, there is still no sign of this approach changing (see, for example, the attempt to limit the application of ICCPR Article 27).

### Lausanne Peace Treaty

Turkey still refers to the Lausanne Peace Treaty (signed on 24 July 1923) as the only source for its recognition and protection of minority groups. This is despite the fact that Lausanne was part of the limited League of Nations system of protection of specific minorities, which has long since evolved into today's system of the general protection of all minorities. Lausanne itself does not comply with modern standards, as it only refers to non-Muslim minorities (apart from Article 39 which refers to minorities more generally). Additionally, Turkey has restricted the Lausanne definition even further than the treaty allows, as in practice it has only been applied to Armenians, Greeks and Jews.

### Turkish Constitution and law

The Turkish Constitution does not refer to minorities. The only relevant provision in the Constitution is Article 10 that guarantees all individuals 'equality before the law', without any discrimination, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or other such considerations. There are no laws on the protection of minorities, or any guaranteeing protection against discrimination.

### Bilateral treaties

There is only one bilateral treaty regarding minorities, between Turkey and Bulgaria (1925), which states that the Lausanne provisions will also apply to ethnic Bulgarians in Turkey (and *vice versa*).

### **Some key minority groups in Turkey**

The Turkish application regarding who is and is not a minority is in breach of international standards. However, this report will refer to those groups who qualify as minorities under international standards (and therefore includes those groups that Turkey has a duty to protect). Below is a non-exhaustive list of key groups. It should be borne in mind that the distinction between ethnic, religious and linguistic minorities is often quite artificial; the important issue is how the group chooses to define itself.

### Ethnic and linguistic minorities

- The Kurdish community is the largest ethnic minority in Turkey, with a population estimated to be at least 15 million. They mostly live in south-eastern and eastern Turkey, although a large number have migrated to cities in western Turkey.
- The Roma population is over 500,000 according to official records, and Roma live throughout Turkey.<sup>3</sup>
- The Bosnian population is more than 1 million.
- Arabs live in all parts of Turkey, but are concentrated in the provinces of Antakya, Mardin and Siirt. Some define themselves by religion (as Alevis) rather than as Arabs.
- The Circassians, who number over 3 million, live throughout Turkey.<sup>4</sup>
- Laz live around Artvin, Rize and in the large cities. Their population is between 500,000 and 1 million.<sup>5</sup>
- Ethnic Bulgarians mostly live in Thrace.

### Religious minorities

- It is estimated that there are 60,000 Armenian Orthodox Christians, 20,000 Jews and 2,000–3,000 Greek Orthodox Christians resident in Turkey. These are the only groups recognized as ‘non-Muslim minorities’.<sup>6</sup>
- There are also 15,000–20 000 Syriac Orthodox Christians and 5,000–7,000 Yazidis.<sup>7</sup>
- Additionally, there are Muslim religious minorities, in particular the large Alevi community, whose population is estimated at 12–15 million.<sup>8</sup>

## **Situation of minorities in Turkey**

### **Education rights of minorities**

#### **European standards**

The basic rights regarding education are that minority groups have the right to ensure that their children learn their language and culture, but also there is a duty on the state to ensure that the variety of cultures in the country are taught and mutually understood.

The European Convention on Human Rights (Protocol 1, Article 3) guarantees that:

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

Language has been held to be such a ‘conviction’.<sup>9</sup>

The UNDM requires all UN member states to take:

*‘appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue’.*

Both the OSCE Copenhagen document and the FCNM (Article 13) guarantee minorities the basic right to establish and maintain their educational institutions, organizations or associations, to ensure that they have adequate opportunities for the teaching both of and in their mother tongue (first language). Article 14 of the FCNM also suggests that this right to be taught and receive instruction in minority languages applies also to the national (public) education system where there is sufficient demand.

These rights are set out and explained in the OSCE’s Hague Recommendations Regarding the Education Rights of National Minorities, 1966. This strongly recommends that states:

*‘actively implement minority language education rights to the maximum of their available resources, individually and through international assistance and cooperation’.*

It further recommends that states ensure the involvement of minorities’ representatives and parents in the development and implementation of policies and programmes related to minority education. The OSCE also points out that to ensure that minorities can fully enjoy their right: ‘to establish and manage their own private educational institutions in conformity with domestic law’, the state should not complicate legal and administrative requirements regulating the establishment and management of these institutions.

The OSCE recommends that teaching at pre-school and *kindergarten* levels, and the curriculum in primary schools, should be in the minority language. In secondary schools, a substantial part of the curriculum should be taught in the minority language. Both the minority and state language should be taught on a regular basis. To ensure such education is possible, states should provide adequate facilities for the appropriate training of teachers and ensure access to such training.

The Hague Recommendations also state that minority language tertiary-level education, including vocational schools, should be possible:

*'when persons belonging to the national minority in question have expressed a desire for it, when they have demonstrated the need for it and when their numerical strength justifies it'* to ensure that: *'students are able to practice their occupation both in the minority and the state language'*.

Minorities should also be able to establish their own educational institutions at the tertiary level. Regarding the curricula, the OSCE recommends that: 'state educational authorities should ensure that the general compulsory curriculum includes the teaching of the histories, cultures and traditions of their respective national minorities'. The state educational system should also encourage: 'members of the majority to learn the languages of the national minorities living within the state', which would contribute to the strengthening of tolerance and multiculturalism within the state.

## **Law and practice in Turkey**

### Language

Article 42 of the Turkish Constitution states:

*No language other than Turkish shall be taught as a mother tongue to Turkish citizens at any institutions of training or education, ...foreign language education will be determined by law'.*

Article 3 states that the language of Turkey is Turkish. These Articles have been used to prevent any minority language education, private or public (with the exception of those minorities recognized under the Lausanne Treaty). Circassians, Kurds and Laz have requested and been repeatedly denied either schools teaching in their respective language, or even simply their language being an optional subject in schools in areas where they are a numerical majority. There

are no language or literature departments in these minorities' languages at any university in Turkey.

Article 40 of the Lausanne Treaty states that non-Muslim minorities shall have the right to establish, manage and control, at their own expense, any schools and other establishments for instruction and education, with the right to use their own language therein. This, in theory, has given Armenian and Greek minorities the right to establish primary, secondary and high schools teaching in their respective language. However, in practice, restrictions have been, and continue to be placed on these, in particular on the supply of Greek-language teachers. Both Armenians and Greeks have also stated that the procedure for the approval of school textbooks is long and complicated. Further, in violation of the Lausanne Treaty, the Syriac minority has not benefited from this protection, despite their requests to be allowed to set up schools.<sup>10</sup>

However, the Constitution has not prevented some private and state educational establishments teaching in English and French. For example, Galatasaray High School uses French, and the Middle East Technical University (ODTU), the Bođaziçi University and some private universities use English.

Yet some significant progress has taken place. The Foreign Language Education and Teaching Law was amended on 9 August 2002. The law and the regulation on its implementation now make possible, in theory, the: 'learning of different languages and dialects used traditionally by Turkish citizens in their daily lives'. However, the law still does not explicitly protect the language rights of minorities. Further, it is hedged with many restrictions on how such teaching can be done, and includes a clause stating:

*'such courses cannot be against the fundamental principles of the Turkish Republic enshrined in the Constitution and the indivisible integrity of the state with its territory and nation'.*

These restrictions do not apply to education in English or French.

Despite this, there has been some progress regarding private language courses. In Adan, Batman, Diyarbakır and Van, the Ministry of National Education, General Directorate of the Private Teaching Institutions, has permitted Kurdish courses. However, at least four other applications (Circassian and Kurdish) have not been finalised for more than a year due to bureaucratic delays

and the strict requirements about establishing the courses. The Laz state that they do not have the economic resources to establish their own courses.

Further, the use of minority languages in schools, or even requesting their use, continues to lead to punishment. For example, Oktay Eriman, a teacher, was transferred from Batman city centre to another school in Gercüo, for asking students to memorize a poem in Kurdish about peace.<sup>11</sup> Calling for education in your first language can still be grounds for prosecution. The Ankara Public Prosecutor began a case for the closure of the Trade Union of Education and Science Labourers (Eđitim-Sen) on 10 June 2004, because the Union's statute has 'education in mother tongue' as an objective. According to the Public Prosecutor this constitutes a violation of Articles 3 and 42 of the Constitution.<sup>12</sup>

### Curriculum

Regarding the curriculum, research conducted by the History Foundation shows that school textbooks do not include information regarding history, culture and traditions of minorities. Worse still, the curriculum includes textbooks, which contain sweeping generalizations and discriminatory statements about minority groups. Many derogatory statements are found about the Roma,<sup>13</sup> the Armenians in history books and the Greek language in linguistic books,<sup>14</sup> as well as statements that the Turkish nationality and the Islamic religion are better than all others.<sup>15</sup>

### **Assessment of compliance with European standards**

It is therefore clear that fundamental shifts in practice are needed before Turkey can be held to comply with the international standards on education and minorities. The fact that those asking for minority language education are persecuted, shows that such education is still seen as a threat.

On the three broad areas of rights, the right to set up private educational establishments is still restricted practice, even for Armenians and Greeks. Minority language provision is still non-existent in state education. As for the curriculum, it can hardly be said to promote cooperation and understanding among communities when derogatory statements remain in school textbooks about different minorities.

Therefore Turkey, despite some moves in the right direction, needs to take fundamental steps to meet the spirit and practice of the OSCE's instruments. Multilingual and diverse education should be seen as a resource, and as necessary in a modern society, and not seen as a threat. In particular, Article 42 of the Constitution remains incompatible with a diverse society.

## Political participation of minorities

### European standards

The right of all persons to take part in the conduct of public affairs, without discrimination based on race, language or other status, is guaranteed by the FCNM (Article 15), the ICCPR (Article 25), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, Article 5) and the UNDM (Article 2).

However, the organization to have most developed these standards is the OSCE. Its Copenhagen Document (paragraph 35) requires all OSCE states to:

*'respect the right of persons belonging to national minorities to effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities'.*

The OSCE has also developed recommendations<sup>16</sup> on how to best implement these rights in practice. Along with language and education, it has identified the right to participation as an essential component of conflict prevention. These recommendations remind member states that effective participation of national minorities in public life is: 'an essential component of a peaceful and democratic society'. The OSCE says:

*'states should ensure that opportunities exist for minorities to have an effective voice at the level of the central government, including through special arrangements as necessary'.*

It also points out that freedom of association includes the right to establish political parties based on communal identities. Key recommendations that emerge from these two OSCE documents are:

- Constitutions should guarantee the right of persons belonging to all [national] minorities to take part in public life, including voting, being elected, participating in public office and freedom of association and expression.
- No restriction on the use of any language connected with elections should be authorized (whether in registration, participation, political parties or election campaigns).

- Administrative barriers to participation should be removed.
- Persons belonging to minorities should be made aware in their language of how to exercise their rights to participate in public life.
- Special arrangements will need to be made for persons displaced from their homes.
- High numerical thresholds for representation in the legislature will discourage minority representation. This can be prevented by either reducing the numerical threshold for all parties or ensuring it does not apply to parties representing national minorities (as is the case in Germany and Poland).

### **Law and practice in Turkey**

#### Political parties and representation in Parliament through elections

Under the Turkish electoral system, political parties must gain 10 per cent of the national vote to enter Parliament.<sup>17</sup> This high percentage, (the highest recorded by the OSCE), discriminates particularly against Kurdish parties, who are largely regionally based and have strong support in their community, but are not able to pass this threshold. Although the pro-Kurdish political party DEHAP (Democracy Party) got more than 6 per cent of the total national vote in the last general election in November 2003 (and more than 45 per cent in the five largely Kurdish provinces), they have no seats in Parliament due to the threshold.

#### Restrictions on the aims and activities of the political parties

There are significant provisions in Turkish law prohibiting political activities based on or demanding minority rights. Article 81 of the Political Parties Law<sup>18</sup> on the 'Prevention of the Creation of Minorities' prohibits political parties from claiming: 'that minorities exist in the Turkish Republic based on national, religious, confessional, racial or language differences'. Many political parties have been closed under this Article and the ECHR has found a breach of Article 11 of the Convention.<sup>19</sup>

#### Prohibition of using minority languages in political activities

The Political Parties Law attempts to prevent the use of minority language in politics. Article 81(b) of the Law prohibits using a language other than Turkish:

*'in writing and printing party statutes or programmes; at congresses; at meetings in open air or indoor gatherings; at meetings and in propaganda; in placards, picture, phonograph records, voice and visual tapes, brochures and statements'.*

However, the Article allows the translation of party statutes and programmes into foreign languages other than those forbidden by law. This restriction discriminates between foreign and minority languages, and is particularly discriminatory against pro-Kurdish parties, many of whose voters do not speak Turkish. In practice this provision has led to the harassment of politicians. For example the Ankara State Security Court opened an investigation against 13 executive board members of the HAK-PAR, a pro-Kurdish political party, for speaking in Kurdish during their party congress, using posters written in Kurdish and sending invitations in Kurdish to the President of Turkey.<sup>20</sup> Tahir Elçi was convicted on 8 July 2003 and fined under the Political Parties Law, being held responsible as an organizer, because during the congress of the People's Democracy Party (HADEP), a woman from the audience made a speech in Kurdish. This case has been under appeal to the Court of Appeal, where the State Prosecutor has requested that the conviction be upheld. Similarly the President of DEHAP was investigated for saying 'goodbye' in Kurdish during an election meeting.<sup>21</sup>

Another restrictive clause is Article 58 of the Law Concerning Fundamental Provisions on Elections and Voter Registries,<sup>22</sup> which forbids the use of languages other than Turkish in 'propaganda disseminated via radio or television as well as in other election propaganda'.

Developments concerning the harassment of politicians have been mixed. Leyla Zana and three other former Members of Parliament, who were members of the pro-Kurdish Democracy Party (DEP), and were convicted under Article 168 of the Penal Code, were retried under the reform package that now allows retrials in cases found to be in breach of the European Convention on Human Rights. Unfortunately, they were convicted again by the Ankara First State Security Court, but were released on 9 June 2004 following a request by the Prosecutor of the Court of Appeal to overturn the decision of the local court. The Court of Appeal referred to the standards set by the ECHR and the changes in Article 90 of the Constitution (which make international law supreme). However, in July 2004, the spokesperson of the General Directorate of the Police Organization stated that the police had applied to the Public Prosecutor to open investigation against Leyla Zana and her colleague for speaking in Kurdish at a political meeting.<sup>23</sup>

#### Representation in Parliament through commissions

There is no parliamentary commission that consults with or includes minority representatives. A Minorities Sub-Commission, which included members of the Ministries of Internal and Foreign

Affairs, National Security Council, National Intelligence Organization and General Staff, was established by a 'secret' circular signed by the Prime Minister in 1962, but was recently abolished by another 'secret' circular. There was no public information about the activities and the role of this commission. A 'Board on Evaluation of Minority Problems', which includes members of the Ministries of Internal Affairs, Foreign Affairs and National Education and the ministries that are responsible for foundations, has been established in its place. This Board has the aim of making minority issues consistent with EU standards, but has restricted itself to the few minorities recognized by the Turkish state,<sup>24</sup> and does not include any permanent minority representatives.

#### Representation of minorities in local government

There is no commission that represents the minority populations in the provincial or district governments in Turkey. Human rights boards are established in each of these governments but there are no members representing minorities.

#### **Assessment of compliance with European standards**

While some promising first steps have been made, particularly regarding the problems concerning the harassment of minority politicians, Turkey remains in violation of basic European standards on the effective participation of minorities in public life. This is due to the lack of a constitutional safeguard of this right and the continuing constitutional restrictions on the use of languages.

The most glaring violations are the continuing restrictions on the use of minority languages in the electoral process, particularly when compared with the possibility of using foreign languages. This is a violation of ICERD (Article 5) and the European Convention of Human Rights (Protocol 1, Article 2, together with Article 14) as well as the basic OSCE standards.

Also, the 10 per cent threshold makes it impossible for minority parties to be represented in Parliament, despite the strong support currently enjoyed by at least one Kurdish party in that community. Apart from being a violation of OSCE standards, this also excludes a large percentage of the community from having a stake in the political system.

#### **Media – in minority languages and about minorities**

##### **European standards**

Freedom of expression, without discrimination as to language, is a fundamental right under all basic international guarantees, including the European Convention on Human Rights (Article 10, together with Article 14) and the ICCPR (Article 19). Freedom of expression is particularly important for minorities, and the rights are set out in the OSCE's Copenhagen document. This guarantees minorities the right to disseminate, have access to and exchange information in their first language. Article 9 of the FCNM guarantees national minorities' right to create and use their own media.

Regarding the private media, the OSCE's Oslo Recommendations Regarding the Linguistic Rights of National Minorities recommends states ensure that persons belonging to national minorities have:

*'the right to establish and maintain their own minority language media. State regulation of the broadcast media shall be based on objective and non-discriminatory criteria and shall not be used to restrict enjoyment of minority rights'.*

Regarding the public media, the OSCE says that states should ensure that:

*'persons belonging to national minorities have access to broadcast time in their own language on publicly funded media. At national, regional and local levels the amount and quality of time allocated to broadcasting in the language of a given minority should be commensurate with the numerical size and concentration of the national minority and appropriate to its situation and needs'.*

In 2003, the OSCE developed its Guidelines on the Use of Minority Languages in the Broadcast Media, which reminds states that they must guarantee all persons, including persons belonging to national minorities, the right to maintain and develop their identity, including through the use of their language(s), in and through the broadcast media in conditions of equality and without discrimination. The guidelines recommend that states take special and concrete measures to ensure that persons belonging to national minorities enjoy effective equality with regard to the use of their language in the broadcast media. This should partly be done through ensuring the effective participation of persons belonging to national minorities in the development and implementation of policies on the broadcast media, including representation in relevant institutions and bodies.

Regarding the content and the quality of the broadcasting, states should provide public service broadcasting which provides a wide and balanced range of informational, educational, cultural and entertainment programming of high quality in order, *inter alia*, to meet the needs of persons belonging to national minorities.

Regarding private institutions, the states are required to facilitate the establishment and maintenance by persons belonging to national minorities of broadcast media in their own language. The licensing must be prescribed by law, based on objective and non-discriminatory criteria and shall not aim to restrict or have the effect of restricting broadcasting in minority languages. The guidelines recommend that any regulation must take into consideration cultural and linguistic diversity, and the maintenance and development of cultural identity; the existing political, social and religious context, including cultural and linguistic diversity, structures of governance, and regional characteristics; the rights, needs, expressed desires and nature of the audience(s) affected, including their numerical size and geographical concentration, at each level (national, regional and local). Minority language broadcasting should not be subject to the imposition of undue or disproportionate requirements for translation, dubbing, post-synchronization or sub-titling.

The state should also promote broadcasting in minority languages by, *inter alia*, the provision of access to broadcasting subsidies and capacity building for minority language broadcasting. States should consider providing ‘open channels’ – i.e. programme transmission facilities, which use the same frequency, shared by a number of linguistic groups within the service area – where there are technical limitations on the number of frequencies available and/or groups that do not have sufficient resources to sustain their own services. States should also consider creating favourable conditions (financial or otherwise) to encourage private minority language broadcasting; and where there is no private minority language broadcasting, states should actively assist its establishment, as necessary.

Further, states should ensure that the amount of time allocated to and the scheduling of minority language broadcasting should reflect the numerical size and concentration of the national minority and be appropriate to their needs and interests. Consideration must also be given to the minimum amount of time and appropriate scheduling needed for small minorities to have meaningful access to broadcast media in their languages.

States should consider providing financial support for minority language broadcasting. This can be achieved through direct grants, favourable financing/tax regimes, and exemption from certain fees payable on award or alteration of a licence. To ensure effective equality, minority language broadcasters in numerically smaller communities may require funds or facilities disproportionate to their size as a percentage of the available resources. States should encourage and facilitate, including through the provision of financial assistance, the production and distribution of audio and audiovisual works in minority languages. States should also contribute to the building of the capacity of minority language broadcasting. This may be done through technical support to distribute minority language productions both domestically and abroad, and to facilitate transfrontier broadcasting in minority languages. Additionally, states should consider supporting the education and training of staff for minority language broadcasting.

In sum, regarding access by linguistic minorities to the media, international standards place the following duties on states:

First, the state must ensure freedom of expression, including private media. Any restriction or licensing must be clearly limited by law, must be done for a legitimate aim, must not be discriminatory on the grounds of language, and any restriction must be clearly proportionate (the least restrictive possible in order to reach the legitimate aim, bearing in mind the overall principle of freedom of expression without discrimination).

Further, in order to ensure diversity, states are under a positive duty to promote minority language media where mainstream media would not otherwise meet the needs of the minority population, through the allocation of public broadcasting space, financial support or other means.

### **Law and practice in Turkey**

Section III, Article 39 of the Lausanne Treaty guarantees all citizens of Turkey the right to use any language in press and publications of any kind. Although the provision refers to ‘all Turkish citizens’, in practice this right has only been guaranteed to Armenians, Greeks and Jews.

The most recent regulation on Broadcasting in Traditionally Used Languages that came into force in 25 January 2004, allows private national TV channels to broadcast in such languages as well as on the state channel TRT. This is a significant step compared with the previous outright ban, but

the regulation includes restrictive clauses regarding various subjects. The types of programmes that can be broadcast in traditionally used languages are restricted to news, music and programmes about traditional culture. Films in such languages, programmes targeting children and programmes teaching such languages are still forbidden. Private national channels that wish to broadcast in such languages have to apply for permission to do so. TV programmes in these languages must be broadcast with sub-titles in Turkish, and radio programmes must be followed by the same programme in Turkish.

Article 8(1) of the regulation sets out obligations of the broadcasters, forbidding them from broadcasting against: the rule of law, the general principles of the Constitution, fundamental rights and freedoms, national security, general morality, the characteristics of the republic as stated in the Constitution, and the territorial and national indivisible unity of the state. Moreover, the second paragraph states that during broadcasting, symbols other than those related to studio, logo and sound effects cannot be used.

The regulation determines the hours of radio and TV broadcasting in traditionally used languages. Radio stations can broadcast in these languages for no more than 60 minutes each day and a total of five hours per week. TV channels can broadcast for no more than 45 minutes each day and a total of four hours per week.

Article 11 says that until a survey about traditionally used languages is complete, only the state channel and the national private channels can broadcast in these languages. The state broadcast regulator RTUK asked the Diyarbakır government which languages were spoken there, although it is widely known that about 80 per cent of the population of Diyarbakır speak Kurdish (mostly the Kurmanci dialect). Surveys on which languages are spoken in Turkey were last conducted in 1965. The new surveys will not be available until the next population census is done in some years' time but the current regulations mean that broadcasting by local TV and radio stations is not possible until that time. Despite the regulation it appears to be possible for one-off programmes to be broadcast regionally in minority languages. For example the local TV station based in Diyarbakır, Gün TV, broadcast a documentary in Kurdish with Turkish sub-titles. However regular broadcasting in minority languages is forbidden without the 'survey'.

Diyarbakır Bar, supported by local TV and radio stations, applied to the Administrative Court for the annulment of the regulation, but they were rejected on the basis that they were not a valid

claimant. At the same time, some local TV channels applied to RTUK to broadcast Kurdish programmes despite the regulation. For example Gün Radio ve TV applied to broadcast a programme for 45 minutes, two days per week,<sup>25</sup> and Diyarbakır Medical Association applied to RTUK and TRT to broadcast their public health programme in Kurdish.

None of the national TV channels have applied to the regulator for broadcasting in minority languages. However, the state channel, TRT 3, started on 7 June 2004 to broadcast in five traditionally used languages and dialects; in Arab, Bosnian, Circassian, Kurmanci (a dialect of Kurdish) and Zaza (a dialect of Kurdish). The programmes are 45 minutes long and are broadcast Monday to Friday. They include news, music and documentary about Anatolia. The programmes are shorter than expected, there is little coherence between them, and there is little or no information about the culture and lives of the peoples.

The broadcasting in Kurdish has been presented under the heading of 'dialects', rather than 'Kurdish'. The broadcasting in the Kurmanci dialect was a little different from the Arabic and Bosnian programmes. The broadcasting started with a programme called *Our Cultural Richness*. The news programme *From the State and World* included news about Diyarbakır Cultural Festival. In the music programme the video of the Kurdish song 'Mirkut' sung by Karde° Türküler was shown. The nature programme was the same as the others, and was followed by a programme on folk dances from the region.<sup>26</sup>

One of the reasons that the TRT has given for its short programmes is that it has limited technical and human resources. However the Head of the Istanbul Kurdish Institute, Aefik Beyaz, stated that they would provide TRT with whatever assistance was needed for broadcasting in Kurdish.<sup>27</sup> A member of the Circassian Association Federation stated that before broadcasting in their language, TRT contacted them for assistance on translation and to find a speaker.<sup>28</sup>

The reactions of the minority groups or communities in Turkey to these programmes have varied. The programmes in the Zaza dialect were welcomed by that community; however, they were criticized because many Turkish words were used and the speaker was not fluent in the dialect.<sup>29</sup>

Some members of the Arab community say that in Hatay and Mardin, they already have access to Arab channels; however, they would like to have music programmes.<sup>30</sup> Some Laz are very

disappointed that TRT does not broadcast in their language.<sup>31</sup> They have started a petition to the TRT for broadcasting in Laz and have offered to assist the TRT.<sup>32</sup> Broadcasting in the Bosnian language has started and the Bosnian community also has access to Bosnian broadcasting via satellite.

Broadcasting by the state channel is particularly important for Circassians because they are not concentrated in particular parts of Turkey and they have no large local TV or radio station. They have expressed a wish for programmes about their culture.

Kurdish groups have welcomed the fact that broadcasts are happening, but criticize the programme's length and content. They particularly demand broadcasting on local channels, given their concentration in eastern and south-eastern Turkey, and broadcasting experience and facilities.

The President of the Association of Research and Development of Roma Culture also stated that they would apply to the TRT for broadcasting in their language.<sup>33</sup>

The state radio station, TRT Radyo 1, has also started to broadcast in the same languages, from Monday to Friday, at 6.10 a.m. for about 30 minutes. This early scheduling is a problem for many wishing to listen to the programmes.

Article 4 (a) and (b) of the RTUK Law prohibits against the unity and independence of the Republic; inciting society to violence, terror or ethnic discrimination; or inciting hatred on the grounds of language, religion, sect, race and regional differences. Article 33 (c) imposes penalties for the violation of these provisions. Generally this is a warning and suspension of the programme, but broadcasting by the station can be suspended for a month and if the violations occur again, the licence can be cancelled permanently.

Sentences have been imposed only on local broadcasters in the last year. ART TV (Diyarbakir), Güne° TV (Malatya), Can TV (Diyarbakir), Anadolu'nun Sesi Radyo (Istanbul), Özgür Radio (Ankara), Hakkari Fm were asked to give defence; Özgür Radyo (Ankara), Anadolu'nun Sesi Radyo and Bari° Radyo (Istanbul) were warned; Serhat TV (Kars) and Özgür Radio (Istanbul), Güne° TV (Malatya) and Diyarbakir ART TV were suspended for 30 days for broadcasting in violation of these provisions; TV 21 (Diyarbakir) and Gün TV (Diyarbakir) were asked to give defence for violating the principles of the Republic, national security and general morals; TV 21,

Gün Fm (Diyarbakir) and Göl Radyo (Bingöl) were instructed to suspend programmes for broadcasting in languages other than Turkish (in Kurdish).

### **Assessment of compliance with European standards**

The removal of the outright ban on the use of minority language in the media, and the start of some private and public broadcasting was a significant step, but the remaining restrictions have a violation of the OSCE and other standards. The rather onerous requirements on private regional broadcasters to ‘show a need’ cannot be justified, given the basic principle of allowing free practice for private minority media. The limitations on the public broadcasts, particularly the content, length and scheduling, are clearly not in accordance with the OSCE guidelines. The two basic principles should be: very limited restrictions on private broadcasting, and no restrictions on the use of any language. The use of languages on public broadcasting should also have clear, non-discriminatory rules, with no unnecessary restrictions, and the content and timing of such programmes should meet, as far as possible, the needs of the communities.

### **Other issues on the right to use language**

#### **European standards**

Article 8 of the European Convention on Human Rights grants everyone the right to a private life, which can only be interfered with on non-discriminatory grounds. A basic principle of EU law is that no discrimination is allowed on the grounds of nationality. The European Court of Justice (ECJ) has held that this applies to the use of personal names. The European Court of Justice has stated that it is contrary to the (then) EEC Treaty to oblige persons to change the spelling of their names when the pronunciation of their names is thereby modified.<sup>34</sup> In the same case, the ECJ’s Advocate General stated that to strip a person of their rightful name is a degradation, comparable to repressive penal regimes that substitute numbers for prisoners’ names. The right to use minority languages before authorities is protected by Paragraph 34 of the Copenhagen document, which guarantees this right: ‘wherever possible and necessary, in conformity with applicable national legislation’.

The OSCE Oslo Recommendations Regarding the Linguistic Rights of National Minorities says that authorities should: ensure the right to acquire civil documents and certificates both in the official language or languages of the state, and in the language of the national minority in

question from regional and/or local public institutions; keep the appropriate civil registers provided by the regional and/or local public institutions in the language of the national minority; provide minorities adequate possibilities to use their language in communications with administrative authorities, especially in regions and localities where they have expressed a desire for it and where they are present in significant numbers; ensure that public services are provided in the language of the national minority; adopt appropriate recruitment and/or training policies and programmes; in regions and localities where persons belonging to a national minority are present in significant numbers, ensure that elected members of regional and local governmental bodies can use the language of the national minority during activities relating to these bodies.

Regarding the use of minority languages in the judiciary, Article 14(3) (a) and (f) of the ICCPR, Articles 5(2) and 6(3) (a) and (e) of the European Convention on Human Rights, and Article 10 of the FCNM oblige states to ensure that individuals facing criminal charges are informed of the charges against them in the language that they understand and to provide free interpretation when these individuals cannot understand the language of the court. Additionally, the Oslo Recommendations state that in regions and localities where persons belonging to a national minority are present in significant numbers and where the desire for it has been expressed, persons belonging to this minority should have the right to express themselves in their own language in judicial proceedings, if necessary with the free assistance of an interpreter and/or translator, and states should consider the feasibility of conducting all judicial proceedings affecting such persons in the language of the minority.

Regarding the international standards of using place names in a minority language, Article 11 of the FCNM guarantees national minorities the right of official recognition of their names in the minority language, and obliges states to use names in minority languages in regions traditionally inhabited by substantial numbers of minorities. Similarly, the Oslo Recommendations include national minorities' right to use their personal names in their own language according to their own traditions and linguistic systems, and that these should be officially recognized and used by the public authorities. They also recommend the use of local names, street names and other topographical indications intended for the public in a minority language, in areas inhabited by significant numbers of persons belonging to a national minority and when there is sufficient demand.

## Law and practice in Turkey

### Using personal names in a minority language

For many years, the use of any non-Turkish name was forbidden. Individuals have been officially prevented from using their real names. The sixth harmonization package adopted by the Grand National Assembly that amended the Registration Act (Census) on 15 July 2004 now allows children to be given names that are not 'contrary to moral rules' and that do not 'offend the public'. Kurdish names have been registered following this amendment. However a Circular issued by the Ministry of Internal Affairs in September 2003 stated that names consistent with the Turkish alphabet would be considered to comply with the law. Registrars, and courts, have interpreted this to mean that Kurdish names that include the letters 'w', 'x' or 'q' cannot be registered. Several cases requesting changes in the registration of names have been rejected by the courts relying on this circular, and are now under appeal at the Court of Appeal.<sup>35</sup> The circular has only been used only with regards to Kurdish names. It has been possible to register foreign names including the 'forbidden' letters, and other minority groups have not reported problems registering their names. The ban has also been applied inconsistently, some previously registered names have included these letters,<sup>36</sup> and a Kurdish name including 'w' was registered recently despite the Circular.<sup>37</sup>

In cultural activities as well there are restrictions on the use of 'w', 'x' and 'q' when they are included in Kurdish names. For example, a music band Koma Rew<sup>o</sup>en, applied to the Van government to give a concert, and their application was rejected on the basis that the posters included these letters. Their application to perform in Hakkari was accepted because they changed their name to Koma Rev<sup>o</sup>en when they made the application.<sup>38</sup>

### Using place names in a minority language

Article 2 of the Provincial Administrative Law<sup>39</sup> imposes restrictions on place names. The Article states:

*Village names that are not Turkish and give risk to confusion, are to be changed in the shortest possible time by the Ministry of Interior after receiving the opinion of the Provincial Permanent Committee'.*

The Article has been used to change the names of places that were in languages other than Turkish. Members of minorities say that they still use the former names and wish to see place

names in their own language at least at the entrance of the cities, together with the Turkish names.

#### Using a minority language in public services

Article 3 of the Turkish Constitution states that the language of the Turkish state is Turkish. Although the Article does not prohibit the use of any other language with public authorities, the Turkish authorities have interpreted it to mean that no language other than Turkish can be used when dealing with public services.

Using languages other than Turkish is particularly important in the public health system. No interpretation service is provided in the state hospitals for non-Turkish speakers. Many minority women from rural areas are illiterate and may speak little or no Turkish. Broadcasting on health issues in Kurdish and other minority languages would particularly assist them.

#### Using a minority language in the justice system

Article 39 of the Lausanne Treaty requires Turkey to provide facilities to non-Turkish speaking Turkish nationals for the oral use of their own language before the courts. Accordingly, Article 252 of the Turkish Penal Code of Criminal Procedure states that if an accused person does not understand Turkish, an interpreter shall inform him or her of the final accusations and of the defence of the Public Prosecutor and defence council. In practice, interpretation is not needed for the non-Muslim minorities since they speak Turkish.<sup>40</sup> However, non-Turkish speaking Kurds do need interpretation. Regarding the use of a minority language in civil proceedings, the Lausanne Treaty does not make any distinction between civil and criminal courts. Despite this, Turkish law still does not make provision using a minority language before the civil courts when giving testimony or other evidence.

### **Assessment of compliance with European standards**

The continued restriction on the official recognition of minority names, particularly when compared to the recognition of foreign names, cannot be justified and is a clear breach of the European Convention on Human Rights. Similarly, the failure to recognize the former place names changed by a policy of ‘Turkification’ is a breach of European minority rights standards.

The need to use minority languages in public life should be clearly recognized, with the overwhelming duty being towards those citizens who do not speak fluent Turkish – particularly

in areas as important as the health service and the justice system. However international standards put a further requirement to facilitate the use of minority languages (e.g. by elected officials) in the name of diversity.

## **Religious rights**

### **European standards**

The right to freedom of religion (including thought and conscience) is a basic human right, guaranteed by the European Convention on Human Rights (Article 9), the FCNM, the ICCPR and the OSCE Copenhagen document. The Copenhagen document guarantees the right to establish and maintain religious institutions, giving adherents the right to: ‘profess and practice their religion, including the acquisition, possession and use of religious materials, and to conduct religious educational activities in their mother tongue’.

As with all basic rights, the starting point is the full freedom of expression. Any restriction on religious practice can only be lawful if it is authorized by a clear domestic law, is done for a legitimate aim, and is proportionate to the aim (i.e. that if the practice is fundamental to a religion, there must be a very strong reason for limiting it). Further, restrictions cannot be discriminatory (so a restriction that had a disproportionate effect on one religion would not be permitted).

### **Law and practice in Turkey**

#### Right to establish religious institutions

Article 40 of the Lausanne Treaty guarantees non-Muslim minorities the right to establish and manage their religious institutions. However, religious institutions previously found it difficult to be legally recognized. The sixth harmonization package adopted 15 July 2004, amended the Act on Construction and allowed the establishment of places of worship. However a Circular issued by the Ministry of Internal Affairs inserted the pre-conditions of a ‘resident community’ and a ‘minimum number for the establishing worship places’, and the procedures continue to take an inordinate amount of time. For example, an application on behalf of a Presbyterian Church that was established in October 2003 in Ankara, was first rejected on the basis that there were not enough Christian residents in the quarter. After the Ministry of Internal Affairs intervened, the authorities promised to solve the problem regarding the application, however no written acceptance and legal status has been received.<sup>41</sup> There have been advances in establishing

churches, for example the Diyarbakır Protestant Church was established two years ago. The priest of the church was charged with illegal worshipping but was acquitted. On applying to register the church, in a meeting with the Board on the Protection of Nature and Cultural Values, the priest was told that as the church was less than 2,500 m<sup>2</sup> it could not be registered. However, the Board admitted that most of the mosques in the city are smaller than this but they have not issued a written reason for the refusal. Although the church is not under any pressure it does wish to have a legal status.<sup>42</sup>

This provision does not clearly permit Alevis to establish their own religious institutions, *cemevis*. Although the law does not specify the type of worship places, applications for establishing *cemevis* have been rejected on the basis that they are cultural centres rather than places of worship.<sup>43</sup>

Although Turkey is a secular state under the Constitution, it currently supports Sunni Muslim affairs through a Presidency of Religious Affairs in the Prime Minister's Office.<sup>44</sup> Alevis claim that as a secular state, Turkey should treat all religions equally and should not directly support any particular religion; therefore, it is argued that the Directorate should be abolished.<sup>45</sup>

### **Religious education**

Article 40 of the Lausanne Treaty grants non-Muslim minorities the right to establish and manage their: 'schools and other establishments for instruction and education, with the right to use their own language and to exercise their own religion freely therein'.

However, the Theology Department of the Clerical School in Heybeliada was closed on 9 July 1971 under Article 24 of the Constitution and Article 3 of the Higher Education Law, which states that religious education can be provided only by the state. This is in breach of Article 40 of the Lausanne Treaty.

The Protestant and Syriac communities are provided religious education through their churches however; this education does not have any legal status. The communities face problems appointing new ministers because they cannot certify the education that they have been given.<sup>46</sup>

Compulsory 'Religious Culture and knowledge of Morality' Islamic classes and lack of education about non-Muslim communities in primary and secondary schools

'Religious Culture and Knowledge of Morality' classes are still compulsory for all school pupils, except for non-Muslim minorities. (Protestants and Syriacs who claim to be Christian do not have to take these classes.) The classes only give information on the Sunni religion, with nothing about Alevis and very little about religions other than Islam. The small amount of information about other religions includes incorrect or discriminatory statements.<sup>47</sup> This issue is of particular concern for the Alevis because their children have to attend these classes.<sup>48</sup> The Pir Sultan Abdal Culture Centre applied to the Turkish courts for the cancellation of this practice but it was rejected. The Centre has appealed to the ECHR.

The non-Muslim community was referred to by the Circular issued by the Ministry of National Education in July 2002, which required the 'unfounded allegations about the so-called Armenian Genocide' to be included in the instruction at primary and secondary schools. This led to discriminatory provisions against these groups. This Circular was followed by another issued on 14 April 2003 that required the training of teachers regarding the 'unfounded allegations about the so-called Armenian Genocide and the allegations of the Greeks and Syriacs'. The Circular also started a competition calling on students to write articles on the 'so-called Armenian Genocide'.<sup>49</sup>

### **Assessment of compliance with European standards**

There have been some positive developments in the last year, but on this issue the particular needs of Alevis must be recognized. The continued restrictions on the registration of religious bodies and on the treatment of religion in schools, is discriminatory. Non-discriminatory practice requires treating all religions equally, which Turkey, as an official secular state, should find easy to do.

### **Right to property**

#### **European standards**

Article 1 of Protocol 1 to the European Convention on Human Rights guarantees everyone the right to peacefully enjoy his or her property either on their own or in common with others. No one may be deprived of their property except in the public interest and subject to conditions provided for by law and consistent with international commitments and obligations. Article 8 gives the basic right to a home life. As with all rights, these can only be restricted in a non-discriminatory manner (Article 14).

## **Law and practice in Turkey**

### Restrictions on non-Muslim foundations and the right to property

Under Articles 39 and 40 of the Lausanne Treaty, non-Muslims in Turkey are equal before the law and shall enjoy the same treatment and security in law as other Turkish nationals. However, since 1974, non-Muslim foundations have been prevented from registering properties. Following the reform packages, including the right to property for non-Muslim foundations, entering into force, a regulation was issued on 24 January 2003. The law and the regulation are insufficient to ensure the full protection of the right to property. First, the law requires the permission of the General Directorate of the Foundations to register property, although this is not required for other foundations. This restriction is in breach of Article 39 of the Lausanne Treaty, which states:

*'Turkish nationals belonging to non-Moslem minorities will enjoy the same civil and political rights as Muslims. All the inhabitants of Turkey, without distinction of religion, shall be equal before the law.'*

Article 40 requires the same treatment and security in law and guarantees:

*'the equal right to establish, manage and control at their own expense, any charitable, religious and social institutions, any schools and other establishments for instruction and education, with the right to use their own language and to exercise their own religion freely therein'.*

The law is not applicable to the properties that were taken from the foundations by court decisions and registered for public institutions or private persons between 1974 (the date of the Court of Appeal's decision stating that non-Muslim foundations had not been entitled to own property since 1936) and 2002 (the date of the fourth reform package that included non-Muslim foundations' right to property). Therefore the foundations' applications regarding such properties were rejected.

In practice, the applications regarding the properties that were not registered in any name were accepted. However, the applications regarding properties that were left to the foundations by testament, but have been registered under public institutions or individuals, have all been rejected except for one.

There are inconsistencies in the decisions of the Court of Appeal. For example, the Court overturned a decision of the Bozcaada Land Planning Court that had registered the property of the Bozcaada Greek Orthodox Church to the 'public institutions', but similar appeals have been rejected. An appeal to the General Assembly of the Court of Appeal to settle the inconsistency between the decisions was also rejected.

Despite the reform packages, new cases have been brought against the foundations by the Turkish Treasury to cancel the registration of their properties, on the basis of the decision of the Court of Appeal in 1974. For example, in 26 February 2004, a case was brought against the Surp Haç Armenian High School Foundation, on the basis of a comment by the Ministry of Internal Affairs' 'Minorities Sub-Commission' stating that the foundation did not have legal personality, (although such a Sub-Commission does not exist under the Turkish law or Constitution).<sup>50</sup> Another problem is that, as the religious institutions do not have legal personality, they cannot own any property. For example, the Greek Patriarchate has applied for registration of 109 properties but has been rejected.

The regulation also states that if it is necessary, the relevant ministry and public institutions will be consulted about applications to register property, although such provision does not exist in the relevant law. This provision is in breach of the Lausanne Treaty and the Constitution.

Another problem with the regulation is that 160 foundations are listed as being those that can register property. So only listed foundations can benefit from the law. For example, the Surp Haç Armenian High School's (its former name was Surp Haç T'ýbrevank Armenian Clerk School Foundation) application to register the properties that were used by them was rejected on the basis that the foundation was not included in the list. An application has been lodged before the Court of Cassation for the cancellation of the list attached to the regulation.<sup>51</sup> Eight foundations have been included in the list under the Apel Ođlu Andan Foundation, but their application for the registration of property have been rejected.

The procedure regarding the registration of new properties is very complicated. According to data provided by the Greek Patriarch on 15 July 2004, their foundations have applied for registration of 1,782 properties. One hundred and thirty-two applications have been accepted and, in the case of a further 396, the foundations have been informed that the properties were already registered. So 527 applications regarding registration of properties have been positive.

However, the National Estate has sent letters about some of these, stating that the properties belong to the state so they should be evacuated. For example, the General Directorate of Foundations had stated that a property under the control of the Balikli Greek Hospital was registered to their foundation, however on 26 June 2004 the hospital received a letter stating that the property belonged to the state so should be evacuated.

Three hundred and forty of the applications were rejected on the basis that they were registered under the names of third parties. Six hundred and eighty-eight were rejected on the basis that some documents for application were absent.

According to the numbers given by the General Directorate of Foundations on 15 July 2004, in total, 116 foundations have applied to register 1,997 properties. Four hundred and seventy-nine of these properties were already registered under the names of the foundations so no action was taken. Six hundred and twenty-three applications were rejected on the basis that they were registered under public institutions or private persons. Eight hundred and ninety-five of them were sent back because some documents were absent, and 87 foundations reapplied to the Directorate. Two hundred and eight-seven of their applications have been accepted. Documents regarding 251 properties were not sent to the Directorate so the applications were considered withdrawn. Two hundred and seventy-four applications were rejected since they were registered under public institutions and private persons. Thirteen properties were found to be already registered to foundations. No second applications were made regarding the remaining properties.<sup>52</sup>

A continuing problem for the non-Muslim foundations is that the General Directorate of Foundations controls them. The Directorate takes over when it alleges that the foundation is not being used for its original purpose or does not have a legally constituted board. For example, two foundations in Gökçeada (Ýmroz), are controlled by the Directorate, which has also recently taken over the Greek Boys Yetimhane Foundation in Büyükada. The Courts have rejected cases brought against these decisions, although appeals are pending.<sup>53</sup>

Some Greek cemeteries have also been taken over by state authorities, despite Article 42 of the Lausanne Treaty, which states: 'The Turkish Government undertakes to grant full protection to the churches, synagogues, cemeteries, and other religious establishments of the above-mentioned minorities.'

The Protestants and Syriacs are not entitled to establish foundations since they are excluded from the protection provided by the Lausanne Treaty. Istanbul Protestant Church Foundation, Altintepe Protestant Church, was established on 24 June 2001. However, the Protestant community's other applications to establish foundations have been rejected. Therefore, their properties are registered under private persons.<sup>54</sup>

All of these regulations are in breach of Article 40 of the Lausanne Treaty, which states that:

*'Turkish nationals belonging to non-Moslem minorities shall enjoy the same treatment and security in law and in fact as other Turkish nationals. In particular, they shall have an equal right to establish, manage and control at their own expense, any charitable, religious and social institutions, any schools and other establishments for instruction and education, with the right to use their own language and to exercise their own religion freely therein.'*

#### Village destruction in Kurdish and Syriac villages and the ban on returns

According to the report issued by the Turkish Grand National Assembly Research Commission on the Evacuated Villages and Migration Problem, 3,428 residences (villages and smaller) have been evacuated or destroyed in south-eastern and eastern Turkey.<sup>55</sup> The population of these villages were largely Alevi, Kurdish, Syriac and Yazidi. The villagers have not been compensated in any way and no alternative accommodation has been provided.

For 'security reasons' most of the villagers remain barred by local government from returning to their villages (some can go for sowing and harvesting). However, since the ending of the states of emergency, the governors appear to have no legal power to prevent such a return (but this does not stop their orders being followed). Where there is no police station, return is usually prevented by the 'village guards'.<sup>56</sup> The Yazidis from the Mađara village in Kırnak province, for example, applied to the Ministry of Foreign Affairs for permission to return permanently. The application was accepted; however, they could not return as the village is under the control of the 'village guards' have used violence to prevent the return of some villagers. Three people from Nurettin village of Muğ three people from Kumçatı village of Sırnak, and a person from Uđrak village of Diyarbakır were killed by the 'village guards'.<sup>57</sup>

Landmines remain a problem regarding the villagers' return. According to the data provided by the Diyarbakır Branch of the Human Rights Association, in May 2004, eight applications for returning to villages were rejected; and two people were killed and seven injured because of the landmines in the region. These numbers, recorded for one month only, show the scale of the problem.

The Act on the 'Indemnification of Losses Resulting from Terrorism and the Fights against Terrorism' that provides compensation for such losses was enacted on 17 July 2004. It is criticized by many people because: it compensates only pecuniary loss; it prevents applications to use other procedures, it will not be applied to people who have been convicted for 'terrorist' crimes or people who have received any amount of compensation from other mechanisms, and the board that will be established to investigate the loss is composed of only public officials, apart from a lawyer appointed by the Bar association in each city. Article 8 of the Act which regulates the assessment of the loss states that while assessing the loss, the loss, the negligence or intention of the applicant will also be taken into consideration. In practice this regulation may be used arbitrarily against the applicants.<sup>58</sup>

### **Assessment of compliance with European standards**

The restrictions on property ownership by religious organizations appear to be unduly onerous, and discriminatory. No legitimate aim for these restrictions appears to have been given.

The right to return to one's home and property, a fundamental principle under law, cannot be restricted except by clear legal powers to meet a legitimate aim, and such restriction should be proportionate to the aim. Given the major infringement of an individual's rights that this implies, the reason should be very strong and the restriction time-limited. Therefore the current lack of any law in Turkey allowing any official the right to restrict movement means that any order to persons not to return, for 'security reasons' or other, is not valid. Further, the authorities have a positive duty to ensure that persons can return home, for example, by controlling and removing the 'village guards'.

### **Right to association and peaceful assembly**

## **European standards**

The Copenhagen document, the European Convention on the Protection of Human Rights, the FCNM and the ICCPR guarantee the right to association without discrimination. Additionally, the Copenhagen document clearly guarantees national minorities the: ‘right to establish and maintain organisations or associations within their country and to participate in international non-governmental organisations’. It also states that:

*‘persons belonging to national minorities can exercise and enjoy their rights individually as well as in community with other members of their group. No disadvantage may arise for a person belonging to a national minority on account of the exercise or non-exercise of any such rights’.*

The OSCE Oslo Recommendations maintain that states guarantee minorities the right:

*‘to establish and manage their own non-governmental organisations, associations and institutions, which may use the language(s) of their choosing. The State may not discriminate against these entities on the basis of language nor shall it unduly restrict the right of these entities to seek sources of funding from the State budget, international sources or the private sector’.*

## **Law and practice in Turkey**

The Turkish Constitution guarantees the right to association and peaceful assembly. However, the Association Law includes a very comprehensive restrictive clause, which has strong implications in practice. Article 5 of the law states that an association cannot be established to carry out activities against the national security, public order and general security, public good, general morals and the protection of general health; or destroy the national and territorial indivisible integrity of the state. In January 2003, the provision that prohibited founding an association:

*‘to protect, develop or expand languages or cultures other than the Turkish language or culture or to claim that they are minorities based on racial, religious, sectarian, cultural or linguistic differences’*

was removed. However, significant limitations remain, including in relation to the establishment of associations on the basis of race, ethnicity, religion, sect, region, or any other minority group.

According to the amendments, the associations can use languages other than Turkish in their non-official activities, however in practice there continues to be interference with this right. On the other hand, some progress has been noted, for example the Court of Appeal overturned a decision of the Van Criminal Court of First Instance, which had confiscated a poster of the Human Rights Association written in Kurdish, with the Court of Appeal stating that the poster was not in breach of the Law no. 5680.<sup>59</sup>

Associations that carry out activities regarding Kurdish rights continue to face particular pressure. In May 2003, for example, the police raided the headquarters of the Human Rights Association and their reports, files, cassettes, press releases, computers and disks were confiscated.<sup>60</sup> The Human Rights Association says that in the last three years, more than 450 cases have been brought against the Association and its members. These cases have mostly ended with acquittals, postponed sentences or fines; however, they constitute a form of harassment of these human rights defenders.

The President of the Association for Social Solidarity and Culture for Migrants, <sup>a</sup>efika Gürbüz, was sentenced under Article 312 of the Turkish Penal Code for a public report regarding forced migration in south-eastern Turkey. The report stated that the villagers were tortured, their houses and animals were burned, and threats made against their lives, forcing them leave the villages. The State Security Court found this statement to be ‘incitement to hatred among the public’.

Foundations can now open branches abroad and join international or foreign bodies. These are now permitted to operate and to open branches in Turkey after receiving permission from the Ministry of the Interior, in consultation with the Ministry of Foreign Affairs.

### **Assessment of compliance with European standards**

Restrictions on associations that are discriminatory, or remove the essence of the right, are not permitted. In this light, despite the improvements, the continuing restrictions in law and practice on the use of minority languages and the purpose of the organizations cannot be justified.

### **Freedom of movement**

#### **European standards**

Article 12 of the ICCPR states that: ‘everyone lawfully within the territory of a state shall, within the territory, have the right to liberty of movement and freedom to choose his [*sic*] residence’.

The Fourth Protocol of the European Convention on Human Rights grants similar rights, and freedom of movement within the EU is a basic principle of that organization.

## **National law and practice in Turkey**

### Internal displacement

As previously mentioned, in south-eastern Turkey, about 3,500 ‘residences’ were ‘cleansed’ of their inhabitants or were destroyed without any legal grounds. About 3 million people abandoned their homes and some were forcibly removed because they rejected becoming ‘village guards’. Return to most of the villages is still banned and the Turkish state has not developed a stable policy, or the social and economic conditions to facilitate their return. Additionally, even where the authorities have permitted people to do so, they have been prevented from returning by village guards who have been controlling and benefiting from the evacuated properties. The village-city (*köy-kent*) project of the state to return the villagers to specially created ‘villages’ has been criticized for not granting people the right to return to their own homes.

The internally displaced peoples have migrated to the big cities in the region and western Turkey. For example, the population in Diyarbakır has increased from about 350,000 to 1,364,209<sup>61</sup> and it is alleged that 70 per cent of the population is unemployed.<sup>62</sup> Most people do not get any kind of support. It is stated that only about 1 per cent of the internally displaced now in Istanbul have benefited from the social services of the local authorities and the state.<sup>63</sup>

The social situation of the displaced people who have migrated to the large cities in Turkey is recorded as being worse than the Turkish average. For example, a survey carried out by the Association of Immigrants for Social Solidarity and Culture (Göç-Der) indicates that 42.3 per cent of the internally displaced interviewed are illiterate.<sup>64</sup> The level of suicides in Batman, especially among young women, has been recorded to be far higher than average in Turkey. Some people working in the health sector in the region have stated that the numbers of evacuated and destroyed villages rose, the rates of suicide also rose, especially among women.<sup>65</sup> As a consequence of armed conflict, prostitution has increased in the region. Internal displacement has also led to an increase in the numbers of street children in the cities.<sup>66</sup>

Most of the displaced are living below the poverty level. They say that they face problems of social integration in the western cities.<sup>67</sup>

### Restrictions on the placement and movement of ‘migrants’

Article 4 of the Habitant Law,<sup>68</sup> states that: ‘Those that are not bound to the Turkish culture, anarchists, migrant gypsies, spies and those that have been deported, are not recognized as migrants’. Article 21 of the Law on the ‘Movement and Residence of the Aliens’ states that: ‘The Ministry of Internal Affairs is authorised to expel stateless and non Turkish citizen gypsies and aliens that are not bound to the Turkish culture’. The Circular of the Ministry of Internal Affairs dated 23 October 2003 requires investigation about applications for Turkish citizenship, to include whether the applicant has any relation with begging and Gypsies (Roma). Although there is no data about the implementation of these provisions, they are clearly discriminatory against the Roma.<sup>69</sup>

### **Assessment of compliance with European standards**

The discriminatory provisions mentioned above and the internal displacement are clearly in breach of Article 12 of the ICCPR and the principle of non-discrimination. The internal displacement and prohibition on return do not have any basis in national law.

### **Prohibition of discrimination**

#### **European standards**

The Principle of non-discrimination is recognized as a part of non-derogable (*jus cogens*) international law and is included in many international human rights instruments: Article 14 of the ECHR, Article 4 of the FCNM, Articles 2 and 26 of the ICCPR, Article 3(1) of the UNDM, Article 2 of the UDHR, and paragraph 31 of the Copenhagen document prohibit discrimination.

Article 2 of the ICCPR prohibits distinction on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, by taking necessary steps, by adopting laws or other measures, to give effect to the rights recognized in the Covenant. Moreover, the ICCPR requires state parties to provide effective remedies by judicial, administrative or legislative authorities to persons whose rights are violated by anyone.

Protocol no. 12 to the European Convention on Human Rights goes further and prohibits discrimination not only related to the rights guaranteed in the Convention, but in relation to all rights guaranteed in law of the party state.

The principle of non-discrimination is also part of the EU's *acquis communautaire*. The EC Directive on Implementing The Principle Of Equal Treatment Between Persons Irrespective Of Racial Or Ethnic Origin adopted on 29 June 2000, (2000/43/EC), defines protection against discrimination for all persons as a universal right of freedom, security and justice; and prohibits any direct or indirect discrimination based on racial or ethnic origin as regards the areas covered by the Directive, requiring states to provide legal protection and compensation for persons who have been subject to such discrimination, and to define the concept of harassment in accordance with the national laws and practice of the member states. The member states were required to introduce laws and remedies on anti-discrimination by 19 July 2003.

The Directive requires member states, in accordance with Article 3(2) of the EC Treaty, aim to eliminate inequalities, and should promote equality between men and women, especially since women are often the victims of multiple discrimination.

The Directive requires all member states to empower associations or legal entities to engage, either on behalf or in support of any victim, in proceedings, without prejudice to national rules of procedure concerning representation and defence before the courts; and to promote dialogue between the social partners and with non-governmental organizations (NGOs) to address different forms of discrimination and to combat them.

Importantly, the Directive recommends the establishment of a body or bodies in each member state, with competence to analyse the problems involved, to study possible solutions and to provide concrete assistance for the victims.

### **National law and practice in Turkey**

Article 10 of the Turkish Constitution guarantees all individuals equality without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations. The article states that:

*'No privilege shall be granted to any individual, family, group or class. State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.'*

There is no law that prohibits and punishes any kind of discrimination. The draft Penal Code that has been approved by the Parliamentary Justice Commission brings a provision on the

prohibition and punishment of discrimination on the grounds of language, race, colour, sex, political opinion, philosophical belief, religion and sect. However the Article prohibits such discrimination only in relation to selling goods, carrying out or benefiting from a service, employment, denying food, refusing to carry out a public service, or carrying out an economic activity. Anyone who discriminates in the above situations will be sentenced to six–12 months imprisonment or receive a fine.

There is no public body that deals with discrimination. Groups may not have the right to be involved in judicial proceedings related to their communities. For example, Diyarbakır Bar's application for the cancellation of the Regulation on Radio–TV Broadcasting in traditionally spoken languages was rejected on the basis that they did not have the right to be a claimant.

According to the Organization of Human Rights and Solidarity for Oppressed People (Mazlum-Der), two Kurds originally from south-eastern Turkey currently living in Uzunburun village of the Dikili county of İzmir, claimed that their application for domicile was rejected by the registrar arbitrarily and that they have been facing various difficulties, such as registering their children at school, using electricity and water provided by the municipality, and making applications for employment as a result of this rejection.

Discriminatory treatment of Kurdish peoples in western cities continues.<sup>70</sup> Some Armenians say that there are no Armenians employed in the military or governmental sectors in Turkey. Roma say that prejudice against them is rife.<sup>71</sup>

Many women's rights organizations in Turkey have lobbied for a change in the provisions in the Turkish Penal Code, so that 'honour' killings are recognized as an aggravated crime. However, the Parliamentary Justice Commission has added these killings as an aggravated circumstance under the title of 'customary killings' regarding certain communities (*töre cinayeti*). This has been criticized by many human rights organizations on the basis that such a definition is discriminatory (or at least biased) and changes the meaning of such killings, which have their roots in patriarchal societies.

The discriminatory statements against non-Turkish and non-Muslim peoples in the textbooks have been mentioned in previous sections.

Some progress has been recorded regarding hate speech against minorities. On 17 July 2004, the Court of Appeal approved the decision of the local court to sentence a medical doctor under Article 312 of the Penal Code for incitement to hatred on the grounds of ethnic difference.<sup>72</sup> The doctor stated: ‘you filthy Kurds, you all deserve to be killed ...’ when dead bodies were taken to a health centre following a clash between the PKK and Turkish army. For the first time, Article 312 of the Penal Code has been used as a way of protecting an ethnic group.

In 2003, some progress was made regarding discrimination against Roma. A book called ‘The Gypsies of Turkey’, published by the Ministry of Culture, which included discriminatory statements, such as defining Roma as ‘beggars, who have more than one partner, quarrelsome, running brothels ...’ was subsequently withdrawn. The discriminatory statements in the encyclopaedia published by the Ministry of National Education and the dictionary published by the Turkish Language Institution were removed in 2003.

### **Assessment of compliance with European standards**

The lack of any specific law on the prevention of discrimination and for compensation for those who have been subject to discrimination is an obstacle to the legal protection against discrimination. This is particularly important given the public and private discrimination that continues to be recorded against minorities. A public body to deal with discrimination is crucial. Taking into consideration also the discriminatory statements in the school textbooks, it can be said that there is no state policy on the prevention of discrimination and the promotion of tolerance in society.

### **Evaluation of Turkey’s progress in meeting European standards**

Taking all of the reforms into consideration, Turkey has taken some significant steps towards meeting the Copenhagen criteria. The AKP government has made the EU accession process its priority since it came into power. Many taboos have been broken, especially regarding to the non-Muslim minorities and the Kurdish community, who have long been treated as a danger to the unity of the state. The reforms regarding the property rights of non-Muslim minorities, broadcasting in minority languages and the legalizing of private language courses are of particular note.

However, further amendments are needed to meet the Copenhagen criteria and the EU standards. The insufficiencies of the laws regarding minority rights and relevant reforms are analysed briefly above. In addition to the inadequacies of the reforms, there are key issues, which, until there is a fundamental shift of approach, will continue to be of major concern, and there are questions over the sustainability of the changes made. First, Turkey continues to refuse to recognize the right to exist and the identity of all of its minorities, as shown by its failure internationally to ratify the FCNM or ICCPR Article 27 in full, and in the refusal to allow the basic unimpeded right of the free use of languages. Because of this failure to change the basic outlook, it is not surprising that the regulations that are issued regarding the implementation of the laws are sometimes inconsistent with the laws and bring further restrictions. Neither is it surprising that the implementation of the reforms is prevented by public officials or that the courts' decisions are inconsistent.

In its national programme, in the sections of 'cultural life and freedom' Turkey states that:

*'the official language and the formal educational language of the Republic of Turkey is Turkish. This however does not prohibit the free usage of different languages, dialects and tongues by Turkish citizens in their daily lives. This freedom may not be abused for the purposes of separatism and division'.*

Thus, Turkey does not pledge itself to any reform in this section, declaring its concern about 'separatism and division' instead.

Recently, the Land Forces Commanders issued an intelligence circular to some district governments to collect intelligence information on those who are carrying out separatist and destructive activities. Minorities were counted among those people who should be followed.<sup>73</sup> In this respect, Turkey needs to amend the Constitution and the laws analysed above, and develop a genuine national policy on the protection of minority rights. Minorities should be seen as an element of cultural diversity of the state. The state should develop a dialogue with the minority communities to find out their problems and needs, and to develop a policy that will meet their needs, instead of seeing them as a threat to the unity of the state.

## **Recommendations to the Turkish government and the EU**

## **International commitments and recognition of minorities**

- Turkey should sign the FCNM immediately and ratify without any declarations.
- Turkey should remove its declaration with regard to ICCPR Article 27.
- All ethnic, religious and linguistic groups that qualify internationally as minorities should be treated as such domestically, and granted their rights under international and national law on an equal basis.

## **Religious minorities**

- Regarding the non-Muslim foundations, the dual systems applied to the foundations should be abolished and the non-Muslim foundations should be subject to the Civil Law that is applied to the other foundations.
- The pending cases brought against the non-Muslim foundations before and after the reforms should be dismissed by the Courts.
- The law on the property rights of non-Muslim foundations should be changed in order to return the properties that have been taken since 1974.
- Religious institutions should be recognized as having a legal personality and religious education should also be allowed for the Syriac and Protestant communities. The Clergy School in Heybeliada should be re-opened.
- The right to establish places of worship should also include Alevis' *cemevis*. The restrictions on the establishment of worship places should be removed.
- The classes on 'religious culture and knowledge of morality' should become selective and should include true and tolerant information on the other religions.
- The Presidency of Religious Affairs should be reformed so as not to discriminate between religions.

## **Educational rights of minorities**

- Article 42 of the Constitution should be amended or abolished to allow for private minority language education without restriction, and for minority language education in public education when linguistic minorities are a high proportion of the population.

- The Regulation on the Implementation of the Foreign Language Education and Teaching Law must be amended to abolish or at least greatly limit the restrictions about establishing such courses.
- The state should support minorities that do not have sufficient resources to establish their own courses when there is a demand.
- No one should be prosecuted or otherwise persecuted for requesting education in particular languages or on particular cultures.
- School textbooks should include information about the history and culture of minorities, and all discriminatory references should be prohibited.

### **Political participation of minorities**

- The Turkish Constitution should specifically guarantee the right of persons belonging to all minorities to take part in public life, including voting, being elected, participating in public office, and freedom of association and expression.
- The 10 per cent threshold should either be lowered for all parties, or a particular provision, as in Germany and Poland, be created which means that the threshold will not apply to parties representing minorities.
- Article 81, the ‘Prevention of the Creation of Minorities’ clause in the Political Parties Law should be abolished.
- All restrictions on using languages other than Turkish in political affairs should be abolished, including Article 81(b) of the Political Parties Law.
- The authorities should ensure that election material is available in minority languages, particularly in areas where large numbers of the population do not speak Turkish as a first language.
- Special measures should be adopted to ensure that all internally displaced peoples can vote.
- No politician should be investigated, prosecuted or otherwise harassed for peacefully advocating any minority issue or for using any language
- The Turkish government should develop an institutional dialogue with minorities. The composition of the Board on Evaluation of Minority Problems must be changed to include representatives of minorities and its remit should cover all aspects of implementation of European standards for all minorities. Its name should be changed to Minority Issues.

- The human rights boards of regional and local authorities should be required to consult the minorities in their region.

### **Freedom of expression and broadcasting in minority languages**

- Article 312 of the Turkish Penal Code should be amended to make clear that expressions regarding minorities do not constitute grounds for any conviction.
- Restrictions on the use of language in broadcasting should be abolished. The licensing of private broadcasters should follow clear, accessible rules that do not discriminate on the grounds of language. The right to broadcast in minority languages should be immediately given to local broadcasters. In particular the limits on the length of such broadcastings and restrictions on the type of programmes, the prohibition on broadcasting programmes for children and the teaching of languages should be removed from the law.
- The state broadcaster TRT should broadcast in other languages that are requested, such as Laz and Roma. Clear, non-discriminatory rules should set out the allocation of airtime for minority language broadcasting.
- The High Board of Radio and Television's mandate on the closure of stations regarding minorities should be strictly limited.

### **Alphabet, using personal and place names in a minority language and using a minority language in administrative and judicial services**

- The restriction on using personal names should be abolished in order to guarantee the public recognition of all names, including Kurdish names that include 'w', 'x', 'q'.
- Place names that have been changed into Turkish, should also be displayed once more in the minority language where minorities request. Article 2 of the Provincial Administrative Law should be abolished.
- Where minorities constitute a significant proportion of the population and if they request it, they should have the right to be served in public institutions in their first language. Article 3 of the Constitution should be amended to make this clear.
- Professional interpretation in Kurdish should be provided before all courts and health services in Kurdish areas and in major cities.

## **Right to association and peaceful assembly**

- Limitations on the establishment of associations on the basis of race, ethnicity, religion, sect, region, or any other minority group, should be abolished.
- Harassment of minority associations and minority rights defenders should be stopped.

## **Freedom of movement and internal displacement**

- All official restrictions on persons returning to their homes are unlawful and should be stopped.
- The government should immediately acknowledge its duty to ensure the return and compensation of internally displaced peoples. First, the evacuated villages and lands should be cleared of landmines, the state should demobilize the ‘village guards’ and ban their control over the properties immediately. The destroyed infrastructure of the villages should be rebuilt, including the schools. The internally displaced who are willing to return to their villages must be economically supported to do so, and this support should be sustained. All losses relevant to internal displacement must be compensated according to the relevant decisions of the ECHR. These losses must be investigated by a commission that consists of public officials and civil society.
- Limitations of freedom of movement that are discriminatory against the Roma should be abolished.

## **Discrimination**

- The government should immediately begin consultation on and the drafting of a comprehensive anti-discrimination law, that will meet the EU criteria, including:
  - prohibiting direct and indirect discrimination;
  - providing effective remedy for discrimination cases immediately;
  - allowing groups to be involved in the judicial proceedings regarding discrimination; and
  - creating a public body that will deal with discrimination issues.
- The discriminatory provisions in the school textbooks should be removed. The Circular issued by the Ministry of National Education, which requires the inclusion of information on the ‘so-called Armenian Genocide’ and ‘allegations of the Greeks and Syriacs’ in the school

books and in related activities, should be withdrawn and the textbooks should include balanced information about minorities to contribute to cultural understanding and tolerance.

## Notes

- 1 For example, the Greek population of the island of Imvros has fallen by over 90 per cent since the 1960s, following the effective ending of Greek-language education and the practice of the Orthodox religion.
- 2 The other two non-signatories being Andorra and France.
- 3 Aksu, M., *Türkiye’de Çingene Olmak*, *Ozan Yayınları*, 2003.
- 4 Interview, Istanbul, 12 June 2004.
- 5 Interview, Istanbul, 13 June 2004.
- 6 Öktem, N., ‘Religion in Turkey’, *Brigham Young University Law Review*, J. Reuben Clark Law School, vol. 2002, no. 2.
- 7 *Ibid.*
- 8 Interview, Ankara, 15 June 2004.
- 9 See, Case Relating to Certain Aspects of the Laws on the Use of Languages in Education in Belgium, ECHR, Judgment 23 July 1968.
- 10 Interview, Diyarbakır, 6 June 2004. Interview, Istanbul, 19 June 2004.
- 11 *Batman Daily*, 14 May 2004.
- 12 See the press release of Eđitim-Sen, 30 June 2004: [http://www.egitimsen.org.tr/basinaciklamasi/30haziran2004\\_kapatmadavasi.html](http://www.egitimsen.org.tr/basinaciklamasi/30haziran2004_kapatmadavasi.html)
- 13 *Human Rights in School Books: Results of Research*, History Foundation, 2003, p. 45. One example was a secondary school textbook that referred to Roma in Sofia as: ‘just like ours, beggars who you can’t get rid of’.
- 14 *Ibid.*, p. 50. One such statement compares sounds in the Greek language to those made by snakes.
- 15 *Ibid.*, p. 73.
- 16 The Lund Recommendations on the Effective Participation of National Minorities in Public Life (1999) and the Warsaw Guidelines to Assist National Minority Participation in the Electoral Process (2001).
- 17 Only two political parties sit in the current parliament; the government’s Justice and Development Party (AKP) and the People’s Republican Party.
- 18 Law no. 2820, adopted on 26 April 1982.

19 *Socialist Party and others v. Turkey*, ECHR, Judgment of 25 May 1998. Some of the parties  
that were closed on this basis are: Democracy Party, Freedom and Democracy Party,  
People's Labour Party and Socialist Turkey Party.

20 *Radikal Daily*, 9 March 2004.

21 *Radikal Daily*, 14 May 2004.

22 Law no. 298, adopted on 26 April 1961.

23 *Radikal Daily*, 8–9 July 2004.

24 BIA News Centre, 23 February 2004.

25 *Ülkede Özgür Gündem*, 31 March 2004.

26 Bia News Centre, 9 June 2004.

27 *Ibid.*

28 Interview, Istanbul, 12 June 2004.

29 Bia News Centre, 11 June 2004.

30 *Ibid.*

31 Interview, Istanbul, 13 June 2004.

32 More information about their demands can be found at  
<http://www.lazuri.com/oxomonduli.html> and <http://www.lazebura.net/>

33 *Radikal Daily*, 20 June 2004.

34 *Konstaninidis v Stadt Altensteigstandesamt* (Case C 168/91, 1993 CMLR 401) which  
concerned a Greek person working in Germany. The relevant provision of the EEC  
Treaty at that time was Article 52.

35 Applicant: Hürriyet Ener, Decision of the 3. Beyođlu Court of First Instance (Asliye  
Hukuk Mahkemesi), Date: 06.05.2004, File No. 2004/109.

36 Name: Seyhan Çoban Wiles, date of last registration: 8 November 2002.

37 Name: Heval Kawa Oran, date of registration: 7 April 2004, Küçükçekmece, Istanbul.

38 *Ülkede Özgür Gündem*, 21 October 2003.

39 Law no. 5442, adopted on 10 June 1949.

40 Interview, Istanbul, March 2004.

41 *Radikal Daily*, 27 May 2004.

42 Interview, 12 July 2004.

43 Interview, Ankara, 15 June 2004.

44 According to the statistics provided by the Directorate, the total budget of the  
Directorate for 2004 is 997,437,000,000 TL. The total number of the staff working  
for the Directorate is 82,983, and there are 62,457 working for the mosques. There are

- currently 3811 Qu'ran courses with 118,562 students. These statistics are taken from the official web page of the Directorate: <http://www.diyamet.gov.tr>
- 45 Press Release issued by Kazým Genç, the President of the Pir Sultan Abdal Culture Centre, on 25 April 2004.
- 46 Interview, 12 July 2004.
- 47 *Ibid.*
- 48 Interview, Ankara, 15 June 2004.
- 49 History Monitoring Group for Peace which was established to address the issue and campaign against it.
- 50 The case is pending before Üsküdar Civil Court of First Instance, file no. 2003/39.
- 51 The application was made by lawyer Diran Bakar on 21 May 2003.
- 52 See also Prof. Baskin Oran's presentation at the conference on 'Minority Foundations and Their Legal Problems' organized by the 'Turkish Economic and Social Studies Foundation, 15 May 2004. <http://tesev.org.tr>
- 53 See the Metropolit Meliton's presentation at the conference on 'Minority Foundations and Their Legal Problems', *op. cit.*
- 54 Interview, 12 July 2004.
- 55 The number given by the Research Commission is 3,428, however if small residential places are included, this figure rises to 3,855. Interview, 18 June 2004, Ýstanbul.
- 56 *Ibid.*
- 57 See Osman Baydemir's presentation, the Major of the Diyarbakýr Metropolitan Municipality, in the conference on 'Internal Migration and Policy Recommendations', organized at Istanbul Bilgi University on 19 June 2004.
- 58 Interview, 23 July 2004.
- 59 *Radikal Daily*, 23 December 2003.
- 60 Amnesty International Report on Turkey, *Restrictive laws, arbitrary application-the pressure on human rights defenders*, 12 February 2004, <http://www.amnesty.org>
- 61 Information provided by the State Statistics Institute according to the census in 2000. <http://www.die.gov.tr/konularr/SE-LE/nufus03.gif>
- 62 Interview with Osman Baydemir, the Mayor of Diyarbakýr Metropolitan Municipality, *Sabah Daily*, 13 June 2004.
- 63 Report of the Human Rights Commission of the Turkish Architects and Engineers Union, date of accession 15 June 2004, <http://www.tmmob.org.tr> For more information on the migrations, see the report of the Migrants' Association for Social Cooperation and

- Culture at [http://www.gocder.com/goc\\_raporu.doc](http://www.gocder.com/goc_raporu.doc) See also Human Rights Watch Report, *Displaced And Disregarded: Turkey's Failing Village Return Program* at <http://www.hrw.org/reports/2002/turkey/>
- 64 The full text of the report can be seen at [http://www.gocder.com/goc\\_raporu.doc](http://www.gocder.com/goc_raporu.doc)  
65 *Radikal Daily*, 10 October 2000. See also the report issued by the Prime Ministry Family  
Research Institution: <http://aile.gov.tr/batman.htm>
- 66 Presentation of Osman Baydemir, the Major of the Diyarbakir Metropolitan Municipality  
in the conference on 'Internal Migration and Policy Recommendations', organized at the  
Istanbul Bilgi University on 19 June 2004.
- 67 Report of the Turkish Architects and Engineers Union on forcible immigration, 6 April  
2004, see:  
<http://www.tmmob.org.tr/modules.php?op=modload&name=News&file=article&sid=361>
- 68 Law no. 2510.
- 69 Circular sent to the Provincial Directorates of the Registry and Citizenship.
- 70 See the report of the Turkish Architects and Engineers Union on forcible immigration, 6  
April 2004, *op. cit.*
- 71 See Aksu, M., *Türkiye'de Çingene Olmak* (Being Gypsy in Turkey), Ozan Yayınçılık, 2003.  
72 *Radikal Daily*, 17 July 2004.  
73 *Radikal Daily*, 11 March 2004.

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