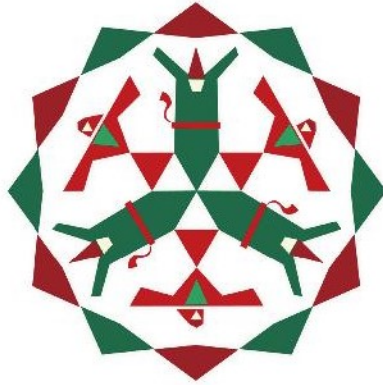


TURKEY RELIGIOUS FREEDOM - ALEVI ISSUES



ADO

Alevi Philosophy Center

IMPLEMENTATION OF ECtHR JUDGEMENTS MONITORING REPORT-1 JANUARY 2020



TABLE OF CONTENTS

About ECtHR Judgments Implementation Monitoring Report -I.....	2
Alevi Issue in Turkey in the Light of Judgments of the European Court of Human Rights.....	3
Addendum 1. ADO Status report to Committee of Ministers.....	23
Addendum 2- T.C ROAD MAP DH-DD(2019)1214E.....	26
Addendum No. 3 - Comments to TC Action Plan.....	38
Addendum 4. European Council Committee of Ministers decisions. 1362nd meeting, 3-5 December 2019.....	40

PREPARED BY ALEVI PHILOSOPHY CENTER



ADO
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About ECtHR JUDGMENTS IMPLEMENTATION MONITORING REPORT - I.

The Alevi community's individual and institutional demands for "RIGHTS and EQUALITY" have become subject matters of three separate lawsuits opened and pursued in domestic law, by the Cem Foundation since 2005.

During this process, the "ALEVI INITIATIVES" and "ALEVI WORKSHOPS" have been on the agenda of the society, yet they could not produce satisfactory results. Hence, these three cases were brought before the European Court of Human Rights in 2010 as the domestic remedies were exhausted.

The ECtHR rendered three important decisions: 1) as to the place-of-worship status of the Cemevis (2014), 2) that the Compulsory religious education should be regulated to comply with the European Convention on Human Rights (2015); and 3) on the relations between the State and religious groups (2016).

The Committee of Ministers of the Council of Europe, the responsible body for the supervision of the execution of the ECtHR decisions, suspended its supervision procedure, as per its rules, following the state of emergency that was declared in the aftermath of the ominous coup attempt of 15 July 2016.

With the abolition of the state of emergency in 2018, the unexecuted decisions on Freedom of Belief were added to the case of Eylem- Hasan Zengin, which had been previously filed; and brought to the agenda of the 1362th meeting of the Committee of Ministers of the Council of Europe dated December 3-5, 2019.

The present study includes, a brief summary outlining the overall situation before the 1362th meeting of the Committee of Ministers, comments submitted by the Alevi Philosophy Center(APC) to the Committee of Ministers, Turkey's ACTION PLAN, comments by the APC on this action plan, and the decisions taken by the Committee of Ministers on 5 December 2019.

We go through a period in which all segments of our society should work in concert in order to overcome the problems related to Freedom of Belief, Equal Citizenship and Alevi Rights (the rights of faith groups) in our country.

We would like to declare about our firm belief that the efforts to develop and implement solutions to problems in mutual understanding and social harmony should be heightened.

The studies to be conducted in the upcoming period will also be presented to the public with different monitoring reports.

Finally, we would like to take this opportunity to express our thanks to Prof Dr. İřtar Gözaydın for her important contributions to this rapport published both in English and Turkish, to Attorney-at Law Namık Sofuođlu, Prof. Dr. Ali Yaman and Dr. Erhan Kurtarr for their invaluable efforts in the filing and following of the lawsuits for many years, and to Dr. İlker Gökhan řen for translating certain parts of this report.. Also, we wish to thank to the EU Etkiniz program for its valuable support.

Sincerely

Dođan Bermek

Alevi Issue in Turkey in the Light of Judgments of the European Court of Human Rights

A milestone regarding to official stance in Alevi issue in the Republic of Turkey has been a statement by İbrahim Elmalı, the president of Diyanet İşleri Başkanlığı (Presidency of Religious Affairs) in 1966. During a press conference, in a reply to a question concerning the Diyanet recognition of Alevi belief, Elmalı said that “the Alevi-Sünni issue had already faded away”. This actually was an indication that he did not consider Alevi understanding as a faith system, but a political issue.⁽²⁾ Official State Islam has always had a Sunni orientation and has thus kept the Alevi communities mostly outside the Republican administrative circles of influence. The historical animosities between the Alevi and Sunni communities have kept their sectarian identities⁽³⁾ concealed in the public realm under threat of severe discrimination. “While most Alevis regard Alevism as a non-Sunni variation of Islam, some claim that Alevism is not part of Islamic tradition, and others insist that it is not a religion at all.”⁽⁴⁾ Elizabeth Özdalga, a professor of sociology, in an article in 2008 claims that, “(w)hen Alevis are asked to spell out their frustration, the issues most frequently referred to are obligatory religious education in school; difficulties in getting permission and/or funding for the building of cemevis; and lack of representation at state level.”⁽⁵⁾ After more than a decade later, demands appear to be almost constant since “(w)hereas debates on identity and diversity have indisputably become more widespread in Turkey since 1980’s, difference, and even more particularism, are still illegitimate and stigmatized.”⁽⁶⁾

In recent years there have been significant legal developments on behalf of the Alevi communities in Turkey through several judgements of the European Court of Human Rights (hereinafter the ECtHR). Following is an account of three prominent cases and Turkey’s conduct in the expected process of application of the decisions thereof. Three groups of judgements regarding to education, benefitting from financial exemptions for places of worship, and status of cemevis rendered by the ECtHR reveal discriminations that the Alevis have been subjected to in Turkey.

1-) For a thorough study, see David Shankland (2003). *The Alevis in Turkey: The emergence of a secular Islamic tradition*. London and New York: Routledge.

2-) For a detailed account, see Umut Azak (2010). *Islam and Secularism in Turkey: Kemalism, Religion and the Nation State*. London New York: I.B.Tauris, 140; 139-173.

3-) For a query on religious beliefs and practices Sunnis versus Alevis see Ali Çarkoğlu and Ersin Kalaycıoğlu (2009). *The Rising Tide of Conservatism in Turkey*. New York: palgrave macmillan, 28-30.

4-) See Elizabeth Shakman Hurd (2015). *beyond religious freedom: the new global politics of religion*. Princeton and Oxford: Princeton University Press, 87-108

5-) Elizabeth Özdalga (2008), “The Alevis – A “New” Religious Minority? Identity Politics in Turkey and Its Relation to the EU Integration Process” in Dietrich Jung and Catharina Raudvere (ed.s) *Religion, Politics, and Turkey’s EU Accession*. New York: palgrave macmillan

6-) Elise Massicard (2006). “Claiming difference in an unitarist frame: the case of Alevism” in Hans-Lukas Kieser (ed.). *Turkey Beyond Nationalism: Towards Post-Nationalist Identities*. London New York: I.B.Tauris, 82.

Cases of Hasan and Eylem Zengin v. Turkey Application No. 1448/04 and Mansur Yalçın and Others v. Turkey Application No. 21163/11

In the aftermath of the 1980 military coup d'état in Turkey, the state began to re-emphasize the role of religion and the significance of religious education, hence the new government introduced compulsory courses on 'religion and morals' by a clause in the new Constitution of 1982. Article 24 of the Constitution provided that "education and instruction in religion and ethics shall be conducted under the State supervision and control. Instruction in religious culture and moral education shall be compulsory in the curriculum of primary and secondary schools." The content of the curriculum and the textbooks included information only about the Sunni interpretations of Islam with little references to other world religions. As Article 24 continues to be in effect, the compulsory nature of the course on religion(s/ overwhelmingly referring to Sunni Islam that has been officially accepted by the state(s) in Turkey throughout the history) and morals continues to be one of the major concerns of the non-dominant religious communities and secular opposition in Turkey.⁽⁷⁾

The pioneering case on the issue of religious education was Hasan and Eylem Zengin v. Turkey, which set the case law. In the lawsuit, Hasan Zengin accused Turkey of violating his parental rights on his daughter's education. The state representatives in their defence highlighted the "unbiased" nature of Turkish education and claimed that the syllabus "did not take into consideration the vision of members of mezhep (a branch of Islam) or tarikat (a religious order) represented in the country." After the assessment of the case, the ECtHR acknowledged that 9th grade textbook included some information on Alevi religious figures, however the overall content of the textbooks and the curriculum was insufficient to address the demands of Zengin. Additionally, the compulsory nature of religious education was a further violation point. The ECHR ruled in 2007, "The exemption procedure is not an appropriate method and does not provide sufficient protection" since it required citizens to declare their religious affiliation. The judgment was finalized on 9 January 2008.

The decision was celebrated both by the domestic and transnational Alevi interest groups. Even though the Turkish state have not been sufficiently compiling with the ruling, non-compliance have started to shape the course of the public and international debate on Alevi's rights demands.⁽⁸⁾

7-) Ayşe Ezgi Gürcan (2015). The Problems of Religious Education in Turkey: Alevi Citizen Action and the Limits of ECtHR . IPC – MERCATOR Policy Brief. <https://ipc.sabanciuniv.edu/wp-content/uploads/2015/10/The-Problems-Of-Religious-Education-In-Turkey-Alevi-Citizen-Action-And-The-Limits-Of-Ecthr.pdf>

8-) Ali Yaman states that in 2008, religious culture and ethics books of 9th and 12th grades provided some information regarding Alevism: "9. Sınıf ders kitabında Hacı Bektaş Veli'nin hayatı ve sözlerine yer verilmiş olup, ona atfedilen Makalat ve Besmele Şerhi kitaplarından alıntılar yapılmaktadır. (Ekşi vd. 2008: 99-100); 12. Sınıf ders kitabında "İslam Düşüncesinde Tasavvufi Yorumlar" temalı 4. Ünite "Yesevilik Düşüncesi, Mevlevilik Düşüncesi, Ahilik

Meanwhile, on June 22, 2005, fourteen parents of school-aged children including a Mansur Yalçın submitted a petition to the Ministry of National Education, demanding a revision in the content of religious education. The applicants asked Alevi culture and philosophy to be incorporated into the program, and demanded that the revisions in the curriculum to be consulted with officials of the Alevi faith. The applicants also called for revisions in the training of teachers of religious education. In its response, the Ministry emphasized the “supra-confessional approach” of the curriculum preparation process and declined the request. In due law, in sequence of the response of the Ministry, a class-action suit was filed in the same year. After exhausting all domestic judicial processes, the case was introduced to ECtHR on February 2, 2011 by the applicants Mansur Yalçın, Yüksel Polat and Hasan Kılıç whom submitted that the way in which the compulsory classes in religious culture and ethics were delivered in primary and secondary schools infringed their rights under the second sentence of Article 2 of Protocol No. 1 to the European Convention on Human Rights, which provides: “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.”. The case was communicated to Turkish government on October 26, 2012, and the Government contested that argument alleging that the syllabus for the classes in question was not apt to favour sectarian or denominational teaching methods, and the textbooks had been designed using a supra-denominational approach. In the Government’s defence, the syllabus had therefore been devised in accordance with the principle of neutrality, without priority being given to the ideology of a particular religious group or faith, and in an objective, critical and pluralist manner.

In September 2011, a new reform initiative on education was legislated in Turkey. The new educational regime, popularly known as the “4+4+4 system,” introduced new elective courses in the field of religious education in addition to the compulsory ones.⁽⁹⁾ “The Life of the Prophet Mohammed”, “Basic Religious Knowledge on Islam”, and “The Koran” have been listed among the elective courses offered in middle schools and high schools. There have been no options for elective courses reflecting other religions or world-views. There are reports of circumstances leading to students and their guardians being forced to select elective religion courses.⁽¹⁰⁾ Some practices related to these elective courses raise questions of whether they are really optional. In some schools, the optional religious courses have been assigned

Düşüncesi” bölümlerinin ardından “Alevilik Bektaşılık Düşüncesi” de bir bölüm olarak yer almaktadır. (2008: 67) Bu bölümde “Hacı Bektaş Veli ve eserleri, Buyruk, Merasimler, Cem Töreni, Aşık Veysel, Muharrem Orucu, Musahiplik” konuları işlenmektedir. (2008: 67-71) Bu bölümde Hacı Bektaş-ı Veli referans gösterilerek namazın, zekatın, orucun ve haccın İslam’ın temel şartlarından olduğu vurgulanmaktadır. (2008: 70)

9-) The religious culture and ethics course, lasting two hours per week, is one of the mandatory classes in middle schools (4–8 grades) and high schools (9–12 grades).”

10-) <https://inancozgurlugugirisimi.org/wp-content/uploads/2015/01/NHC-İÖG-English-Report.pdf>

to students by the school administration, but not selected by the student or his/her parents, or the students had to choose religion courses because the schools were not able to offer other optional lessons due to a lack of teaching staff. In other words, in schools where there exists just a single instructor to offer electives on religion, the students inevitably chose that particular course. Consequently, electives become compulsory where students are forced to take an extra religion course either on “The Life of the Prophet Mohammed”, or “Basic Religious Knowledge on Islam”, or “The Koran”, in the end of the day doubling the religion and ethics curriculum. Parents, however, do not feel that they could report these situations, since they do not want their children to be stigmatized. The reluctance to report such situations seems to result from parents’ fear of having their children marginalized by teachers, school administration, and peers.⁽¹¹⁾ Domestic interest groups collected testimonies of “forced selection” of elective courses on religion. The reports prepared by the Alevi interest groups, by combining testimonial information with statistical information, attempted to legitimize the concerns of the Alevi activists and set/shape public agenda. The fact that individuals must publicly not only declare but also prove their religions or beliefs in religious education in schools is actually incompatible with the European Convention on Human Rights that protect the right not to manifest one’s religion and/or belief. Impressions from focus groups conducted with children by the Children on the Agenda Association (Gündem Çocuk Derneği) show that a great many children prefer to take Religious Culture and Ethics classes to avoid being ostracized and that some children were made uncomfortable for having to come out with their religious identities, while others developed a much greater attachment to their religious identities.⁽¹²⁾

In response to the criticism on the content of religious education textbooks, the Ministry of Education prepared new textbooks to be used in the 2011-2012 school year. The new material introduced the concept and issues related to Alevi faith. Alevism was included in the books for 7th and 12th graders, although the religious education begins in the 4th grade. Moreover, the chapters on Alevism were placed under the “Sufi interpretations within Islam” section of the books. No substantial revisions have been made until 2018. While the inclusion of other interpretations of Islam, that is particularly Alevism into the textbooks could be taken as an indicator of increasing religious pluralism in religious education, the revised text continued to put strong emphasis on the Sunni interpretations of Islam. Hence, it may be said that the revisions were actually a cosmetic change; the content of the textbooks and curriculum continued to be an “education of a religion” rather “education about religions.”

11-) See, https://inancozgurlugugirisimi.org/wp-content/uploads/2019/08/Report_Turkey_ENG_web.pdf

12-) Education Reform Initiative, Presentation by the Gündem Çocuk Derneği at Freedom of Belief in Education Conference, 30 March 2015.

Eventually, assessing the *Mansur Yalçın and Others v. Turkey* case, the ECtHR held in the judgment rendered on 16 September 2014 that the Turkish education system was inadequate because it has not been able to develop a method that would meet the conditions of objectivity and pluralism and respect for the religious beliefs of parents. The Committee of Ministers has noted that the harmonization of the Turkish education system and domestic legislation with Article 2 of Protocol 1 would be a positive step in solving the problem.

Criticism of Turkish religious education has grown since the announcement of the ECtHR verdict on *Mansur Yalçın and Others v. Turkey*. The ruling highlighted the ongoing structural problems in the Turkish education system. The Court concluded that Turkey continues to violate the standards of the ECtHR on religious rights and freedoms, and failing to remedy the problems that were first identified in the case of *Hasan and Eylem Zengin v. Turkey*. In the aftermath of the announcement of the decision, the state officials, identifying the issue as a domestic matter, refused to acknowledge a problem in the system. Instead, officials emphasized the role of religious education in strengthening the morality, identity of the pupils, and social cohesion in the country.⁽¹³⁾

In March 2015, the foundations were laid for a private Alevi high school to be named *Hacı Bektaş Dede – Zakir Okulu*, the first of its kind in the history of Turkey to educate clergy providing Alevi religious services. The school, a joint project of the *Dosteli Vakfı* (Helping Hands Education and Culture Foundation), an Alevi foundation and the Ministry of National Education of Turkey, was to use a curriculum including courses on Alevi-Bektaşî teachings alongside the usual high-school coursework. These courses were to be given by *dedes* or *babas* (religious elders), in line with Alevi-Bektaşî beliefs. The school was constructed by the State with some contributions by the Foundation. Curriculums for above mentioned courses were prepared, and sent for ratification to the Ministry of National Education, however no reply was made despite the fact of a protocol between the Foundation and the Ministry. Although the aforementioned high school was to be opened to applicants for the 2019–2020 school year; it got classified among standard secondary schools and the idea of a “project school” was totally overlooked. It is a pity that such a special status as a solution for high schools of different belief groups were thus missed.

The Turkish Government, in its Action Plan dated 21 December 2015 and presented to the Committee of Ministers of Council of Europe, stated that it would form a broadly participatory Working Group, comprised of the Prime Minister’s office, the Justice Ministry, the Presidency of Religious Affairs, academics from

13-) See, <https://inancozgurlugugirisimi.org/en/nhc-freedom-of-belief-initiatives-submission-to-the-com-on-the-zengin-group-of-cases-on-compulsory-religion-courses-in-turkey/>

diverse disciplines and representatives from civil society institutions, coordinated by the Ministry of National Education. The Working Group was to prepare a report by the end of 2016 for the Ministry of National Education, which would take the report into consideration while deciding on the steps necessary to execute the ECtHR judgments. No information was shared with the public about who was involved with the working group, the duration of their work, or the study report. Hence an objection was raised against the Turkish Government's Action Plan dated 21 December 2015; and the Committee of Ministers put an enhanced procedure into use.

The latest curriculum which started to be applied in 2018 is also not impartial to all religions and belief systems, it does not adopt a moral code that is independent from religious beliefs, and it does not provide a general education on religious beliefs based on the principles of neutrality, objectivity and pluralism. A study on "Religious Culture and Ethics" books of 4th to 12th year in secondary education curriculum reveal that in 2018 version of this curriculum, some information about Alevism have been added to 7th and 12th year books. However number of pages referring to Alevi belief are 20 in 1782 pages of the nine books of the secondary level education.

At the beginning of the 2017–2018 school year, changes were made to the "Religious Culture and Ethics" course curriculum and books. The Ministry of National Education released the draft plan to the public on 21 July 2017 and opened to public comment for a very short period, lasting until 31 July 2017. Despite some significant improvements, the course retains its character as religious instruction. Some positive changes regarding Alevi communities can be listed as follows:

Compared to the previous program, more coverage is given to Alevi belief, and Judaism, Christianity, and Eastern religions are treated with separate units.

In the new syllabus, phrases that convey the sense of teaching from within the religion, like "our religion," "our prophet," or "our sacred book, the Koran" are not used.

Despite these positive changes, fundamental problems remain:

The Sunni Islamic perspective remains dominant in the syllabus.

Atheism, agnosticism, and deism are presented under the heading "Other Approaches," and Islamic apologia are presented alongside them.

One of the goals of the syllabus is listed as the adoption by the students of "national values," however these values are not presented in a way that conveys the religious and other diversity in Turkey.⁽¹⁴⁾

It should also be noted that religion courses have been given by instructors graduated from theology schools of Sunni dominance.⁽¹⁵⁾ Current curriculum is not

14-) See, <https://www.egitimreformugirisimi.org/ergnin-din-kulturu-ve-ahlak-bilgisi-taslak-ogretim-programi-inceleme-ve-degerlendirmesi-2/> (in Turkish)

15-) In addition to the curriculum of religious culture and ethics classes, the way they are taught in practice can be problematic in other areas. In one incident at Cemil Atlas Middle School in the Bayraklı district of İzmir province,

impartial to all religions and belief systems, too. It does not adopt a moral code that is independent from religious beliefs, and it does not provide a general education on religious beliefs based on the principles of neutrality, objectivity and pluralism.

Cumhuriyetçi Eğitim ve Kültür Vakfı v. Turkey. Application No.32093/10

Having a de facto understanding of official Islam since the Ottoman past, all other approaches of Islam in Turkey have always been getting their share of discrimination. Most significantly the Alevi faith has been a subject of discrimination in terms of non-acknowledgement with repercussions in denial of venues of prayer and rituals, educational services, financial subsidies, to mention the least. Due to legal non-acknowledgement as a faith group, Alevi institutions suffer the consequences. Cemevi, the place of worship for the Alevi communities, has not been acknowledged legally as a temple in Turkey. Temples are defined as, “closed venues specified as places of worship and arranged in accordance with requirements of particular faiths per se”.⁽¹⁶⁾ There exists no due process in the Turkish law to gain the status of a “temple or “place of worship”. There are though, legal regulations that acknowledge specific places of worships by naming; in this regard only and only the mosques, mesjids (small mosques/prayer rooms), churches, and synagogues are considered to be temples.⁽¹⁷⁾ In other words, temples of Islam, Christianity and Judaism are defined by the Turkish law. There are many significant consequences of being legally acknowledged as a “place of prayer” in Turkey; for instance these venues are exempt from paying taxes, their electricity bills are covered by a fund managed by the Diyanet İşleri Başkanlığı (Presidency of Religious Affairs), and in city planning spatial allocations are done for places of worship.

In order to challenge this discriminatory conduct against the cemevis, a case got filed by Cumhuriyetçi Eğitim Ve Kültür Merkezi Vakfı (Foundation for Republican Education and Culture). The applicant association is a foundation established under Turkish law, which was set up in 1995 and has public utility status. This religious foundation runs, throughout Turkey, many cemevis, which are premises dedicated to the practice of Alevism. In particular, it runs the Yenibosna Cultural Centre, a complex which houses, among other things, the applicant foundation’s headquarters, a mass hall, library, conference hall, classroom, a room for funerals and a cemevi.

In August 2006, submitting that the Yenibosna Centre as a place of worship for the Alevi community, its director requested exemption from paying electricity bills,

the teacher of the fifth-grade religious culture and ethics class asked Alevi students to stand up and recite the ritual affirmation of Sunni faith (kelime-i şahadet). The teacher was removed from the job after families filed complaints. Therefore, teachers’ qualifications and approach to other religions, beliefs, or non-belief are critical. Education Reform Initiative, Presentation at Freedom of Belief in Education Conference, 30 March 2015.

16-) Council of Ministers Decree no. 2/1958 dated 18 February 1935, article 3.

17-) Council of Ministers Decree no. 2002/4100 dated 23 May 2002, articles 2 and 3.

since the legislation provided that the electricity bills for places of worship would be paid from a fund administered by the Presidency of Religious Affairs (Diyanet İşleri Başkanlığı).

In a judgment in 2008 the District Court of Beyoğlu , the first instance court, dismissed the foundation's claims, basing its decision on the Directorate's opinion that Alevism was not a religion and that the cemevis were not places of worship. That judgment was upheld by the Court of Cassation (Yargıtay) and an application for rectification lodged by the applicant foundation was dismissed in 2009.

Exhausting all judicial processes, the case was brought to the ECtHR in 2010. Relying on Article 14 (prohibition of discrimination) taken together with Article 9 (right to freedom of thought, conscience and religion), the applicant foundation complained that, although electricity bills of places of worship were paid by the Directorate of Religious Affairs, it had been deprived of this privilege on account of the failure in Turkey to recognise the cemevis as places of worship. Relying on Article 9, the applicant further complained about the refusal by the Turkish authorities to grant the status of place of worship to the Yenibosna Centre.

Article 14 taken together with Article 9, the ECtHR first noted that under Turkish law the status of cemevi of the Yenibosna Centre was different from that of places of worship recognised as such by the State. It pointed out in this connection that the Alevi's free exercise of the right to freedom of religion was protected under Article 9 of the Convention.

It was established that the Yenibosna Centre included a room for the practice of cem (series of liturgical, ceremonial and ritual practices), which was a basic part of the exercise of the Alevi religion, and also it provided a funeral service. The ECtHR further observed that the activities carried out in the cemevi were not of a profit-making nature. It thus concluded that the cemevis were, like the other places of worship, premises used for religious worship and that the situation of the applicant foundation was similar to that of other religious communities.. The ECtHR further noted that Turkish law reserved the exemption from payment of electricity bills to recognised places of worship and that, by excluding cemevis from the benefit of that status, it introduced a difference in treatment on the ground of religion. In other words, denying the Alevi community exemption from electricity bills granted to places of worship was discriminatory

The ECtHR reiterated that States enjoyed a certain room for manoeuvre ("margin of appreciation") in assessing whether and to what extent differences in otherwise similar situations justify a difference in treatment. Nevertheless, if a State introduced a privileged status for places of worship, all religious groups which so wished had to be offered a fair possibility of seeking the benefit of such status and the established criteria had to be applied in a non-discriminatory manner.

The ECtHR also observed that the refusal of the applicant foundation's request for exemption from payment of electricity bills had been based on an assessment by the Turkish courts on the basis of an opinion issued by the Presidency of Religious Affairs to the effect that Alevism was not a religion. The ECtHR took the view, however, that such an assessment could not be used to justify the exclusion of the cemevis from the benefit in question, as they were, like other recognized places of worship, places intended for the practice of religious rituals.

The ECtHR concluded that the difference in treatment sustained by the applicant foundation had no objective or reasonable justification. It observed that the system for granting exemptions from payment of electricity bills for places of worship under Turkish law thus entailed discrimination on the ground of religion.

The ECtHR held, unanimously, that there had been a violation of Article 14 (prohibition of discrimination) taken together with Article 9 (freedom of thought, conscience and religion) of the European Convention on Human Rights. The case concerned the possibility under Turkish law for places of worship to be granted an exemption from paying electricity bills and the refusal to grant this privilege to the applicant foundation. The ECtHR found in particular that the applicant foundation had sustained a difference in treatment without any objective or reasonable justification, and that the system for granting exemptions from payment of electricity bills for places of worship under Turkish law entailed discrimination on the ground of religion. The ECtHR decided that not to have cemevis benefit from the provision of the Turkish law providing payment exemptions of electricity bills for places of worship entail discrimination based on religion.

The principal judgment was held on 2 December 2014. As a result of this judgment by the ECtHR, municipalities held by the Cumhuriyet Halk Partisi (Republican Peoples' Party - main opposition political party) decided to recognize cemevis located within their municipality boundaries as places of worship and decided to include them in municipal services for places of worship.⁽¹⁸⁾ This meant that cemevis' electricity bills and costs for landscaping, upkeep, repairs, and cleaning would be covered by the municipality, and that such places of worship would be noted as cemevis, not cultural centres, in city planning projects. However, it has been reported that this practice was not being applied systematically across all Cumhuriyet Halk Partisi -controlled municipalities.⁽¹⁹⁾ Moreover, the application was limited to holding the municipality by the Cumhuriyet Halk Partisi, thus when there was a political change in local elections all arrangements could possibly be lost. This was a severe political fault on behalf of Cumhuriyet Halk Partisi that stopped or slowed down the due judicial process that cemevis had to proceed in order to gain their permanent exemption

18-) "Ağbaba: 100 Cıvırı Belediye Cemevlerine İbadethane Statüsü Verdi" [Ağbaba: Approximately 100 Municipalities Have Given Cemevis Status of Place of Worship], Bianet, 6 February 2015.

19-) https://inancozgurlugugirisimi.org/wp-content/uploads/2015/11/Rapport_5_15_English_RoRB_Print-2.pdf, 19.

rights. Actually, the substantial problem was, and still is the Governments' reluctance to issue a legal regulation to encompass all cemevis to benefit from exemption to pay electricity bills.

In its judgment of 20 June 2017 regarding just satisfaction, The ECtHR decided that general measures should have been adopted at the national level in order to eliminate the discrimination resulting from the exemption regulations. On 5 October 2017, relying on Rule 80 of the Rules of Court, the Government submitted a request for revision of the judgment delivered on 20 June 2017. The ECtHR (Lemmens J dissenting) rejected the Government's application. The actual amount of electricity bills issued to the date of filing the observations on just satisfaction could reasonably have been known to the Government before delivery of the judgment on just satisfaction. Moreover, following the adoption of the judgment on the merits, the Court had invited the Government and the applicant foundation to submit their observations on just satisfaction in writing within six months; however, instead of submitting relevant current electricity bills the Government produced bills for the period from 5 January 2007 to 19 December 2007 – and, on that basis, the ECtHR made its own calculation. There was no doubt that the Government could have obtained the necessary information from the electricity provider or asked the company to inform it of any relevant factors relating to the actual electricity costs of the cemevi. The request for review was refused.⁽²⁰⁾

Consequently some cemevis refused to pay their electricity bills and in the due process their energy supplies were cut off. Some of those cemevis filed cases against those administrative actions in local courts and each of them had judgments on their favours, thus they are now exempt from paying for electricity bills for their worship halls per se. For instance, in the domestic proceedings brought by Erenler Eğitim ve Kültür Vakfı, the İstanbul 6th Chamber of Administrative Court (İstanbul 6. İdare Mahkemesi) annulled the administrative act that refused the reimbursement of illumination costs. In its judgment this Court held that the reimbursement of the illumination costs are to be paid to cemevis (dated 29 April 2016, docket no. 2015/1555 , decision no. 2016/986). An appeal filed against the decision of 29 April 2016 was rejected by the 13th Chamber of Supreme Administrative Court (Danıştay 13. Dairesi) (dated 10 July 2017, Docket no. 2016/4277, Decision no. 2017/2263). Request for the rectification was also dismissed by the same Chamber (date 10 December 2018, Docket no. 2018/161, Decision no. 2018/3820). In the domestic proceedings brought by Kağıthane Hacı Bektaş Veli Eğitim ve Kültür Derneği in order to have the administrative act concerning the refusal of payment of its illumination costs according to provisional Article 6 of Act No. 6646 annulled,

20-) See, <https://www.lawandreligionuk.com/2019/02/19/turkey-and-alevism-again-cumhuriyetci-egitim-ve-kultur-merkezi-vakfi/>

the İstanbul 7th Chamber of Administrative Court (İstanbul 7. İdare Mahkemesi) dismissed the case (dated 19 February 2018, docket no. 2017/952 , decision no. 2018/266). However, in the appeal proceedings filed by Kağıthan Hacı Bektaş Veli Eğitim ve Kültür Derneği, İstanbul Regional Administrative Court (İstanbul Bölge İdare Mahkemesi) quashed the decision of the first instance court and annulled the administrative act concerning the refusal of payment of illumination costs referring to the case law of the Supreme Administrative Court (Danıştay). In the domestic proceedings brought by Alevi Kültür Dernekleri Tarsus Şube Başkanlığı Tarsus 3rd Chamber of Civil Court of First Instance (Tarsus 3. Asliye Hukuk Mahkemesi) accepted the case for the part of the building functioning as cemevi (dated 7 February 2019, docket no. 2017/64, decision no. 2019/29). In its reasoning, the first instance court referred to the case law of the Court of Cassation (Yargıtay 3. Dairesi), (dated 31 May 2019 docket No. 2016/17500, decision No. 6192). In the domestic proceedings brought by Alevi Kültür Dernekleri Mersin Şube Başkanlığı , Mersin 2nd Chamber of Civil Court of First Instance (Mersin 2. Asliye Hukuk Mahkemesi) accepted the case for the part of the building, functioning as a place of worship. In its reasoning, the first instance court referred to the case law of the Yargıtay (Plenary Court of Cassation (Civil Matters), dated 3 December 2014, docket No. 2014/7-1038E., decision No. 2014/990, 3rd Chamber of Court of Cassation, docket No. 2014/11238, decision No. 9711, 3rd Chamber of Court of Cassation, dated 27 November 2015, docket No. 2015/15230, decision No. 2015/16775) as well as case-law of the European Court of Human Rights (Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı v. Turkey, 32093/10).

In brief, when a cemevi files a case, judicial process ends in its favour. However as there are thousands of cemevis in Turkey, and there exists no umbrella legislation prepared and/or declared, in order to be exempt from paying electricity bills each individual cemevi is forced to file an individual case before a local court. So far no legislative arrangements have been done to allow all cemevis in general to benefit from this exemption. In this context, it should be noted that the religious services provided by the Presidency of Religious Affairs are funded from the taxes paid by all. While an important portion of the society benefits from these services, there are many who are not beneficiaries or object to these services, yet there is no possibility for tax exemption.

Alevi cemevis, Protestant churches, Jehovah's witnesses, Ezidi and other belief groups are still in need of legislative regulations in order to benefit from energy cost exemptions like other worship places do. Moreover while mosques benefit from a full electricity exemption including night lighting of the complexes, cemevis only benefit from exemption of prayer hall electricity costs, night lightings. Other parts of cemevis are excluded from the exemptions even in rendered court judgements that have been in favour of them.

The Turkish Government, in its Action Plan dated 5 January 2016 and presented to the Committee of Ministers, in reference to the 64th Government's programme, announced its intention to grant legal status both to traditional centres of culture and cemevis. To this date no changes has not been reported in that direction.

Naturally although the frame of the European Court of Human Rights judgment was limited by electricity bills, during the interim period no other improvement have been recorded related to the status of cemevis in other contexts such as land assignment, tax exemptions, land rentals to state treasury etc. Legal regulations should also be reviewed to avoid specific naming of temples like mosque, church or synagogue to confine to certain faiths, and a more general concept like places of worship should be replaced. This is particularly needed for neutralizing the grammar of legal regulations for spatial arrangements like city planning documents, not to mention once again prior issues like exemptions etc. These improvements are crucial to benefit construction amnesties, and to get building registry documents, too.

Case of İzzettin Doğan and Others v. Turkey Application No. 62649/10

On 22 June 2005, applicants individually submitted a petition to the Prime Minister requesting that:

services connected with the practice of the Alevi faith constitute a public service, Alevi places of worship (cemevis) be granted the status of places of worship, Alevi clergy providing religious services be recruited as civil servants, special provision be made in the budget for the practice of the Alevi faith,.

On 19 August 2005 the Prime Minister's public relations department sent the applicants a letter in reply saying that it was impossible to grant their requests. Following receipt of that letter, 1,919 people, including the applicants, lodged an application with the Ankara Administrative Court (Ankara İdare Mahkemesi) for judicial review of the decision refusing to grant their requests. Referring to the case-law of the the ECtHR, the applicants further contended that, contrary to the position of the Presidency of Religious Affairs (Diyanet İşleri Başkanlığı – hereinafter the Diyanet) describing the Alevi faith as a cultural asset and considering mosques as the only place of Muslim worship, cemevis were places of worship where cems, that is, Alevi religious ceremonies, were conducted. In their submission, it was not for the Diyanet to decide whether cems were or were not religious ceremonies. Relying on examples taken from speeches by the Head of the Diyanet, they submitted that it was a matter exclusively for followers of the Alevi faith, and not for a State body, to determine what should be regarded as a religious ceremony.

The State contested these arguments alleging that, “‘Places of worship (mabetler) are closed areas created in accordance with the relevant procedure and designed in the case of each religion for the practice of religious worship’ ...

Having regard to the foregoing, a place cannot be regarded as a place of worship unless it is associated with a religion. In that regard, churches, synagogues and mosques or masjids are the places of worship of the Christian, Jewish and Muslim faiths respectively. It is clear that everyone has the right to practise his or her faith in private at his or her own home or elsewhere. Accordingly, there is no prohibition or obstacle preventing Alevi citizens from saying their prayers, the zikir (21) or the semah in cemevis. However, the creation, in addition to mosques and masjids, of places of worship for the followers of a particular interpretation or movement of Islam is not in conformity with religion. ... the Alevi faith (Alevilik) ... is an interpretation and practice of Islam. ... To recognise cemevis as places of worship would ... lead to the legalisation of other Sufi orders and many of them that are banned (Naqshbandi, Qadiri, Rufai, Cerahi, and so on) would request legal status ... “

On 4 July 2007 the Administrative Court dismissed the preliminary objections of the authorities and examined the application on the merits. Assessing the case, the Court ruled that, “if the State were to respond to all expectations and demands by providing the corresponding public service, for instance by recognising places of worship for groups professing forms of belief linked to the various Islamic schools of law (mezheb), the various Sufi orders (tarikats) and the various understandings and interpretations of Islam that have emerged in the course of history, granting the status of civil servants to the religious leaders of those groups, setting aside a portion of the budget for them and placing them under the authority of a public body, there would be a risk not only of engendering debate on the extent to which State action and the discretion exercised by the Religious Affairs Department in its activities in the public sphere satisfy the spiritual needs of the different groups of believers, but also of breaching the principle of State secularism by upsetting the balance to be struck between religious and legislative rule-making, and of exacerbating different forms of belief. This could ultimately lead to restrictions on freedom of religion and belief, and thus to an outcome that runs counter to the very aim which the applicants sought to achieve in lodging their claims, which were based precisely on their difference. ... In these circumstances, the administrative decision refusing the applicants’ requests ... cannot be said to be in breach of the statutory provisions.”

The applicants appealed against the first-instance judgment. In a judgment of 2 February 2010, served on the applicants on 24 March 2010, the Supreme Administrative Court (Danıştay) dismissed the appeal and upheld the first-instance judgment as being in conformity with the procedure and laws.

After exhausting all judicial processes, on 31 August 2010, 203 applicants filed an application with the ECtHR claiming a violation of Art. 9 ECHR, alone and

21-) It should be noted that zikir is a ritual for some other interpretations of Islamic faith, not in Alevism. Ritual for the Alevi faith, in fact, should be named cem. Not to mention cem, is yet another expression of avoiding cemevi as a place of worship.

in conjunction with Art. 14. Alevi applicants claimed that Turkey fails to fulfil its positive obligations under Article 9 by refusing to provide to members of their community religious public services, as it is provided for the Sunni individuals who comprise the majority in the country. They emphasized that the state is not impartial towards religious belief. The case was examined by the Second section of the European Court, which relinquished jurisdiction in favour of the Grand Chamber.

On 26 April 2016, the Grand Chamber held, by 12 votes to 5, that there had been a violation of Article 9 European Convention of Human Rights, and, by 16 votes to 1, that there had been a violation of Article 14 taken in conjunction with Article 9 European Convention of Human Rights in the case of *Izzettin Doğan and Others v. Turkey*. The ECtHR stated that, “State has a duty to put in place objective and non-discriminatory criteria so that religious communities which so wish are given a fair opportunity to apply for a status which confers specific advantages on religious denominations.”

The ECtHR pertains to whether the restrictions in question are necessary in a democratic society. The ECtHR considers that the state authorities’ attitude towards the Alevi community, its religious practices, and its places of worship is incompatible with the State’s duty of neutrality and impartiality and with the right of religious communities to an autonomous existence. While noting that the practice of faith for the Alevis was not impossible, in light of the prohibitions on *tarikats* and the use of certain religious titles, including the title of *dede* (of Alevi leaders), the ECtHR was not convinced that the freedom to practice its faith which the authorities leave to the Alevi community enables that community to fully exercise its rights under Article 9. Finally, as regards the margin of appreciation, the ECtHR found that Turkey had overstepped this margin in choosing the forms of cooperation with the various faiths.

The justification for finding a violation of Article 14 taken in conjunction with Article 9 is more clear-cut on the face of “the glaring imbalance between the applicants’ situation and that of persons who benefit from the religious public service” (paragraph 180). The ECtHR held that the State had a duty to put in place objective and non-discriminatory criteria so that religious communities, which so wished, were given a fair opportunity to apply for status that conferred specific advantages to religious denominations. Since the difference in treatment, to which the applicants as Alevis have been subjected, had no objective and reasonable justification there had been a violation of Article 14 taken in conjunction with Article 9. The judgment, carefully identifies and isolates the essential issue, namely the denial of recognition of autonomous existence of the Alevi community.

“The judgment in *Izzettin Doğan and Others v. Turkey* is an important one for the ECtHR jurisprudence on state-religion arrangements because it rigorously scrutinizes a model that provides benefits to the dominant religious group in a way that creates

restrictions on the right to exercise religion or belief in its collective dimension for a minority group. It has far-reaching implications for the state-religion relationship in Turkey. Essentially, normative challenges brought on by the judgment constitute yet another confrontation to Turkey's long-standing state-religion relationship, which has led to numerous judgments by the ECtHR. Hardly any of the judgments pertaining to freedom of religion or belief has been effectively enforced by the Turkish authorities, however.”⁽²²⁾

Indeed still, belief groups do not have any legal identity, nor there is neither any progress nor preparations in that aspect. Worship places of Alevi, Protestant Christian and some others are not recognized, interventions to election procedure of Armenian Patriarch has been publicized recently,⁽²³⁾ a portion of the properties of minority foundations have been returned to communities but a great number of minority foundations are still non-recognized.

In the action plan submitted to the Committee of Minister by the Turkish Government on 8 February 2017, on the issue of general measures to be taken in order to prevent similar violations from happening in the future the Government states that in light of the ECtH judgment and the definition of Alevism provided by the applicants measures that can be taken to address the applicants' request are being considered. No information on this process has been shared with the public.

Some Conclusive Remarks

Various monitoring reports on religious freedom and its implementation in Turkey reveal some ongoing violations, and several discriminatory acts. Two of these monitoring processes specifically commit in freedom of religion. United States Commission on International Religious Freedom (USCIRF) is an independent, bipartisan U.S. federal government commission created by the 1998 International Religious Freedom Act (IRFA) that monitors the universal right to freedom of religion or belief abroad.⁽²⁴⁾ This Commission issues annual reports and makes policy recommendations to the President, the Secretary of State, and Congress. In the monitoring process there exists three categories as, Tier 1: Countries of Particular Concern; Tier 2; Other countries and regions monitored. Turkey was taken in monitoring list in 2009 ⁽²⁵⁾, and remained there in 2010 ⁽²⁶⁾ and in 2011 ⁽²⁷⁾ In 2012

22-) See Mine Yıldırım, <https://strasbourgobservers.com/2016/07/18/grand-chamber-judgment-in-izzettin-dogan-and-others-v-turkey-more-than-a-typical-religious-discrimination-case/>

23-) On 22 May 2019 the Constitutional Court of Turkey decided that it is a violation of Article 24 of the Constitution to intervene in the election process for the Armenian Patriarch. (Levon Berç Kuzukoğlu ve Ohannes Garbis Balmumciyan (application No: 2014/17354). <https://www.anayasa.gov.tr/media/6037/2014-17354.pdf>

24-) <https://www.uscifr.gov/about-uscifr>

25-) <https://www.uscifr.gov/sites/default/files/resources/AR2009/turkey.pdf>

26-) <https://www.uscifr.gov/sites/default/files/resources/ar2010/turkey2010.pdf>

27-) <https://www.uscifr.gov/sites/default/files/resources/ar2011/turkey2011.pdf>

(28) Turkey was placed in Tier 1 list of ‘countries of particular concern’. Turkey’s Ministry of Foreign Affairs as well as the Diyanet officially made public statements to protest such categorization.(29) In 2013, Turkey was among countries to be monitored; however in the following years it was categorized as a Tier 2 country. In all these reports Alevi issue have been of utmost importance.

The first three recommendations to the U.S. government of the 2019 report are in regards to the Alevi issues mentioned in this report:

Urge the Turkish government to fully comply with the European Court of Human Rights (ECtHR) rulings on freedom of religion or belief, including by removing the field for religious affiliation on national ID cards’ micro- chips and recognizing Alevi cemevleri as legal places of worship and Alevi dedeleri as religious leaders;

Press the Turkish government to streamline measures that would permit non-Sunni Muslim faith communities to apply for government funding to support the construction, maintenance, and upkeep of their houses of worship;

Urge the Turkish government to ensure the education curriculum remains inclusive of all of Turkey’s religious groups, and allow students to be exempted from religious courses without disclosing their religious and philosophical convictions, as man-dated by the ECtHR.(30)

The Freedom of Belief Initiative, was launched in September 2011 with the aim of monitoring issues related to freedom of thought, religion, of belief in Turkey, and to make legal standards and monitoring reports related to such topics accessible to all stakeholders. Four reports that have been issued(31) since 2013 reveal their observations under two main headings, one to be freedom of thought, religion or belief; the other to be freedom to manifest religion or belief. Each and every report strongly stress the above-mentioned issues. A significant portion of recommendations in 2019 Report focus on issues regarding Alevi communities:

The construction of places of worship, granting of licenses, the designation in city plans of appropriate sites as places of worship, and the recognition of places of worship with legal status should be facilitated in accordance with the standards set by the freedom of religion or belief, and implemented in a non-discriminatory manner;

28 <https://www.uscirf.gov/sites/default/files/resources/2012ARChapters/turkey%202012.pdf>

29-)Seehttps://www.washingtonpost.com/national/on-faith/turkey-key-us-ally-cited-for-religious-freedom-woes/2012/03/20/gIQA13W9PS_story.html

30-) https://www.uscirf.gov/sites/default/files/Tier2_TURKEY_2019.pdf

31-)The Right to Freedom of Religion or Belief in Turkey –Monitoring Report January - June 2013: <https://inancozgurlugugirisimi.org/en/nhciog-report-the-right-to-freedom-of-religion-or-belief-in-turkey-monitoring-report-january-june-2013-now-available-in-english/>In Need of a Principled Approach Monitoring Report on The Right to Freedom of Religion or Belief In Turkey, July 2013 - June 2014: <https://inancozgurlugugirisimi.org/en/new-report-in-need-of-a-principled-approach-monitoring-report-on-the-right-to-freedom-of-religion-or-belief-in-turkey-july-2013-june-2014/>Monitoring Report On The Right To Freedom Of Religion Or Belief In Turkey 2015: <https://inancozgurlugugirisimi.org/en/monitoring-report-on-the-right-to-freedom-of-religion-or-belief-in-turkey-2015-is-published/>2019 Report Pursuing Rights And Equality: Monitoring Report On The Right To Freedom Of Religion Or Belief In Turkey: <https://inancozgurlugugirisimi.org/en/2019-report-pursuing-rights-and-equality-monitoring-report-on-the-right-to-freedom-of-religion-or-belief-in-turkey/>

The execution of the judgments issued by the ECtHR regarding places of worship must be enforced effectively and immediately;

All necessary steps should be taken to facilitate each community of belief to establish educational institutions suited to training their own religious officials and leaders;

A transparent consultation with broad participation should be followed for the enforcement of the ECtHR judgment on İzzettin Doğan and Others v. Turkey. Religious services provided as public services should be provided in a manner that is compatible with the principles of equality and neutrality and international human rights law.;

The constitutional requirement for the Religious Culture and Ethics courses should be removed. If the course is to be mandatory, the course must change to present information about religions in an objective and neutral manner, or there should be a mechanism for exemptions that complies with human rights standards.;

The Ministry of National Education must track whether or not elective religion courses are actually presented as elective, and take measures necessary to ensure that they are truly optional;

While fulfilling its duties in the field of education, the government must make regulations on religious practices in schools in accordance with its obligations to neutrality and respect for the religious or philosophical views of parents.

In European Commission Turkey 2019 Report it is stated that, “On freedom of thought, conscience and religion, freedom of worship continued to be generally respected. The Venice Commission recommendations on the status of religious communities in Turkey are yet to be implemented. This concerns in particular the right of the Orthodox Patriarch to use the title ‘ecumenical’. Requests by different Christian communities to open places of worship and curricula for clergy are still pending. Hate speech and hate crimes against Christians and Jews continued to be reported (see below - Minorities). The controversial use for marking religious celebrations of the Hagia Sophia, which is a museum situated within a listed UNESCO world heritage site, continued to trigger reactions. One Islamist foundation, which opposes the Government, was closed down, and its assets and media outlets transferred to the Treasury. A comprehensive legal framework in line with European standards needs to be put in place, and appropriate attention must be paid to implementing the ECtHR judgments on compulsory religion and ethics classes, indication of religious affiliation on identity cards and Alevi worship places. For example, in one Court case, the mention of Zoroastrianism in the religion section of the defendant’s identity card was seen as evidence of membership of an illegal organisation. Alevis held several demonstrations and made a number of press statements concerning the lifting of the compulsory religion course, and for an end

to discriminatory attitude against Alevis in education, employment and social life. The Turkish Government did not implement the action plan, submitted in 2016 to the Council of Europe Committee of Ministers, relating to ECtHR decisions on Cem Houses and on compulsory religion classes. School textbooks still need to be revised in order to remove all discriminatory elements against all religions and faith groups. No steps were taken to open the Halki (Heybeliada) Greek Orthodox Seminary. There are concerns over the protocols signed between the Ministry of National Education and religion-affiliated organisations over the delivery of educational tasks of the Ministry. Through government policies, the work of the Religious Affairs Presidency (Diyanet) increased in all spheres of public life.”⁽³²⁾

Unfortunately in Turkey, the right to freedom of religion and belief has mainly been discussed within the framework of the boundaries that the state draws based on the visibility of religion in societal life. Since the foundation of the Republic, the state has decided who worships where and under what conditions; which religions and strands within Islam are legal and legitimate; what the religious officials and pious individuals are allowed to wear and where; where, by whom and the ways in which religious education is provided. The state continues to make these decisions. This is clearly a breach of the State’s duty of neutrality and impartiality. It is certainly worth noting that the ECtHR has stated that “in principle the right to freedom of religion for the purposes of the Convention excludes assessment by the State of the legitimacy of religious beliefs or the ways in which those beliefs are expressed.”⁽³³⁾ It is totally contrary to international law to empower legally, politically, and financially the Diyanet İşleri Başkanlığı (Presidency of Religious Affairs), an institution to disseminate only the official interpretation of Islam in Turkey, alongside some pro-Government religious non-governmental organizations whereas no contribution gets provided for other faith institutions.

As a final note, it is completely disappointing to read the Communication from Turkey dated 23 October 2019, concerning the aforementioned cases. The statement as “The authorities have taken measures to ensure that the violation at hand has been ceased and that the applicants have been redressed for its negative consequences.” (paragraph 6) is evidently far from expressing the state of relevant affairs.

Meeting of the Committee of Ministers of the Council of Europe on December 3-5, 2019 and a brief evaluation:

Since 2005, certain lawsuits concerning the Alevi rights have been pending, opened either by some individuals collectively, or by legal entities. On the other hand, the “Alevi Workshops” held within the framework of the “Alevi Initiative

32-) <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-turkey-report.pdf>, 31-32.

33-) ECtHR, Metropolitan Church of Bessarabia v. Moldova, Application No. 45701/99, 27.03.2002, para. 117.

(or Opening)” is still in the public mind. Neither the “Initiative” nor the workshops has produced any result; and with the exhaustion of domestic remedies, the cases concerning these lawsuits have been submitted to the ECtHR in 2010.

Following this, ECtHR rendered its decisions, creating lively debates in the society; as to the place-of-worship status of the Cemevis (2014), that the Compulsory religious education should be regulated to comply with the European Convention on Human Rights (2015); and on the relations between the State and religious groups. (2016). However, because of the 15 July coup attempt and ensuing state of emergency period, the ECtHR did not supervise the execution of these decisions; and with the ending of the state of emergency in 2018, the Committee of Ministers of the Council of Europe, took these cases into its agenda for its December 2019 meeting.

In the meantime, Turkey, in its “Action Plan” that was submitted to the Committee of Ministers on 18 October 2019, attempted to explain the delays concerning the Alevi rights as follows: “Turkey was aware of the problems concerning this issue well before the European Court’s judgments. However, these efforts towards addressing the issue had been halted abruptly and severely by attempts that targeted security and democratic structure of the country on many occasions. In other words, Turkey has unfortunately undergone very challenging and exceptional period starting from 2011 and continuing until present which had inevitable impact on its reform policies such as those included in the report on “Alevi Opening” and the judgments cited above.” (Paragraph 21)

The paragraph 34 of the same document said: “In the aftermath of above-mentioned challenges that took place during the cited period in Turkey public order and national security were disrupted and threatened substantially. The authorities would like to indicate that despite the impediments highlighted above in certain points a good progress has also been achieved.”

As may be understood from these statements, the Turkish Government clearly states the necessary measures will be taken, but yet, relevant implementations have been disrupted. The issue was discussed at the 1362th Committee of Ministers meeting held in Strasbourg between 3-5 December 2015 and the following important decisions came out.

The Committee of Ministers reiterated the finding of the ECtHR, inter alia, that “the attitude of the State authorities towards the Alevi community, its religious practices and its places of worship is incompatible with the State’s duty of neutrality and impartiality and with the right of religious communities to an autonomous existence.”

Because of the complex nature of the issue of the RELIGIOUS EDUCATION the Committee of Ministers decided to transfer the cases relevant to the compulsory religious education from the standard to the enhanced supervision procedure.

In the section of the Action Plan on the Cemevis, Turkey stated that in the domestic proceedings brought by Cem Foundation (the entity that filed the initial lawsuit following the relevant ECtHR decision) Erenler Education and Cultural Foundation, Kâğıthane Hacı Bektaş Veli Education and Cultural Foundation, the Mersin and Tarsus branches of the Alevi Cultural Foundation; the Directorate of Religious Affairs has paid the electric costs for these entities. From the same document it may also be inferred that any other cemevi may also file a lawsuit to be exempted from the electric costs.

“The Committee of Ministers, on the other hand, held that Turkey’s case-by-case approach to the issue, would be too long and complicated, which may require excessive supervision and follow-up procedures. As may be seen in the decision text in the appendix, the Committee of Ministers found insufficient that the domestic courts order the partial reimbursement of lighting costs to cemevis which bring proceedings, on an individual basis. In this regard, The Committee of Ministers said the following by referring to the ECtHR decisions: “this is insufficient to resolve the discrimination identified by the Court arising from the blanket exclusion of the Alevi community from State religious subsidies and other benefits”. The Committee, then, highlighted the need for a one-off solution of the problem, by means of enacting a law or other sort of regulatory action to be taken by the government.

Therefore, the Committee once more stressed the need for the equal enjoyment (by the Alevi community) of financial subsidies that the State offers to the other faith groups.

The Committee of Ministers reminded and welcomed the national discussion on how to resolve the issues highlighted by the relevant ECtHR judgments, the holding of the “Alevi initiative workshops” and their inclusive nature. The Committee also noted the fact that recommendations were reached by consensus in a final report in 2010 and therefore; “strongly encouraged the authorities to build upon these recommendations in drawing up a comprehensive action plan with a concrete calendar indicating specific legislative and administrative measures and, in view of the passage of time since the first of these judgments became final, to provide it to the Committee of Ministers by 1 June 2020.

Conclusion

It is an important and obligatory task for faith groups, especially Alevi institutions, to conduct comprehensive studies on problematic issues and to inform the public through meetings, media, reports and dialogues during the period until June.2020.

Addendum 1. ADO Status report to Committee of Ministers



ADO Alevi Philosophy Center

Date : 30.09.2019

The Committee of Ministers of the Council of Europe

**RE: The Case of Mansur Yalçın and Others v. Turkey Application No.21163/11
(LEADING Hasan and Eylem Zengin v. Turkey Application No. 1448/04)**

Unfortunately since the declaration of the judgment in 2014, contrary to Turkey's earlier messages, no significant positive progress have been observed in educational structure. The latest curriculum which started to be applied in 2018 is also not impartial to all religions and belief systems, it does not adopt a moral code that is independent from religious beliefs, and it does not provide a general education on religious beliefs based on the principles of neutrality, objectivity and pluralism.

In an analytical study on "Religious Culture and Ethics" (RCE) books of 4th to 12th year in secondary education curriculum, it has been observed that in 2018 version of RCE curriculum, some information about Alevism have been added to 7th and 12th year books. However number of pages referring to Alevi belief are 20 in 1782 pages of the nine books of the secondary level education. It must also be kept in mind that writers were Sunni theologians and Alevism was not referred as a widely accepted and practiced denomination.

On the other hand, since 2014 some elective lessons are added to RCE curriculum such as "Essentials of Koran", "Prophet Mohammad's life", and "Foundations of Religious Knowledge", but in many schools there exists only one teacher to give one of the electives and therefore students are forced to select that course.

RCE lessons are still compulsory for all students except non-Muslim ones, provided that in their state registry records a religion other than Islam exists. Moreover, many questions from the contents of these lectures are still a part of the university entrance exams and students who are exempted from RCE courses suffer from losing considerable points at these crucial exams that enables to attend a university.

Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools, published by the Organization for Security and Co-operation in Europe (OSCE), has been recommended by various scholars and many reports. One of the



main goals of the curriculum, “discussing other religions with an objective approach” is not upheld when it comes to teaching about Islam. The curriculum continues to violate the decisions of the ECtHR.

RE: Case of Cumhuriyetçi Eğitim ve Kültür Vakfı – Turkey. Application No.32093/10

In the above judgment The Court decided that; not to have cemevis benefit from the provision of the Turkish law providing payment exemptions of electricity bills for places of worship entail discrimination based on religion.

Consequently some cemevis refused to pay their electricity bills and in the due process their energy supplies were cut off. Some of those cemevis filed cases against those administrative actions in local courts and each of them had judgments on their favors, thus they are now exempt from paying for electricity bills for their worship halls per se. However as we have thousands of cemevis in the country and there exists no umbrella legislation prepared and/or declared, in order to be exempt from paying electricity bills each individual cemevi is forced to file an individual case before a local court. So far no legislative arrangements have been done to allow all cemevis in general to benefit from this exemption.

Alevi Cem houses, Protestant churches, Jehovah’s witnesses, Ezidi and other belief groups are still in need of legislative regulations in order to benefit from energy cost exemptions like other worship places do.

Moreover while mosques are benefiting from a full electricity exemption including night lighting of the complexes, cemevis may only benefit from exemption of prayer hall electricity costs, night lightnings and the other parts of cemevis are excluded from the exemptions even in rendered court judgements that have been in favor of them.

Naturally although the frame of the ECtHR judgment was limited by electricity bills, during the interim period no other improvement have been recorded related to the status of cemevis in other contexts such as land assignment, tax exemptions, land rentals to state treasury etc. Discriminatory policies are resumed in many other fields, too.

RE: Case of İzzettin Doğan and Others v. Application No. 62649/10

Case judgment reads; “State has a duty to put in place objective and non-discriminatory criteria so that religious communities which so wish are given a fair opportunity to apply for a status which confers specific advantages on religious denominations.”



Unfortunately we have not recorded any progress related to above phrase which is copied from the judgment of this case.

Belief groups does not have any legal identity, nor there are progress or preparations in that aspect. Worship places of Alevi, Protestant Christian and some others are not recognized, interventions to election procedure of Armenian Patriarch has been publicized recently, a portion of the properties of minority foundations have been returned to communities but a great number of minority foundations are still non-recognized. A decision to transfer properties of Syriac community in city of Mardin to Treasury and consequently to a state affiliated Foundation (Turkish Diyanet Foundation) have been protested very strongly, and in the end the confiscated properties were returned to communities in 2018. However there exists no legislative nor administrative regulation related to the issue.

As an exceptional case the Syriac community is allowed to build a church in Istanbul -Yesilköy on a Roman Catholic cemetery land. This has been the first officially allowed church building in Turkey since 1923. However similar to Mardin case, all formalities are done in non- regulative basis just on a per se basis, therefore they are far away from being general legislative arrangements.

As a summary, despite some sweet talks especially around election dates, no significant progress have been registered in fields of legal identity of religious groups, clergy education problems, achieving egalitarian financial and legal arrangements.

We are in process of preparing a more detailed report that will be submitted to HUDOC-EXEC department by late October 2019.

Kindest regards
Dogan Bermek



Addendum 2- T.C ROAD MAP DH-DD(2019)1214E

DH-DD(2019)1214: Communication from Turkey.

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

ACTION PLAN

İzzettin Doğan and Others v. Turkey, Cumhuriyetçi Eğitim ve Kültür Merkezi v. Turkey, Mansur Yalçın vd v. Turkey and Hasan Eylem Zengin v. Turkey (62649/10, 32093/10, 21163/11, 1448/04)

I. CASE DESCRIPTIONS

1. İzzettin Doğan v. Turkey concerns a violation of the right to freedom of religion and Article 14 of the Convention taken in conjunction with Article 9 of the Convention, in that the applicants, followers of the Alevi faith, requested that the services connected with the practice of the Alevi faith constitute a public service, that Alevi places of worship (cemevis) be granted the status of places of worship, that Alevi religious leaders be recruited as civil servants and that special provision be made in the budget for the practice of the Alevi faith. Citing above-mentioned complaints the European Court found that Article 9 of the Convention was violated.
2. The case further concerns a violation of the applicants' right to not to be discriminated against on account of imbalance between the status conferred on the understanding of the Muslim religion adopted by the Religious Affairs Department (the RAD) and its benefiting from the religious public service, and that of the status conferred on the applicants as the Alevi community was almost wholly excluded from the public service in question. (violation of Article 14 in conjunction with Article 9)
3. Cumhuriyetçi Eğitim ve Kültür Merkezi v. Turkey concerns a violation of the right to freedom of religion and Article 14 of the Convention taken in conjunction with Article 9 of the Convention, in that, Alevi places of worship (cemevis) were not granted an exemption from the payment of illumination costs provided for places of worships by the Religious Affairs Department.

4. Mansur Yalçın vd v. Turkey concerns a violation of Article 2 of the Protocol No.1 to the Convention. Having reached the said conclusion, the Court based its decision on the compulsory nature of the religion and ethics classes and the absence of appropriate exemption system in place to that end, that the possibility that pupils might be given more detailed information in optional religious education classes did not exempt the State from its obligation to ensure that the teaching of compulsory subjects met the criteria of objectivity and pluralism while also respecting religious or philosophical convictions, that no possibility for an appropriate choice had been envisaged for the children of parents who had a religious or philosophical conviction other than that of Sunni Islam and that the very limited exemption procedure was likely to subject those parents to a heavy burden and to the need to disclose their religious or philosophical convictions in order to have their children exempted from the religion lessons.

5. Hasan Eylem Zengin v. Turkey concerns a violation of Article 2 of Protocol No. 1 to the Convention. In reaching this conclusion the Court considered that the instruction provided in the school subject “religious culture and ethics” could not be considered to meet the criteria of objectivity and pluralism, enabling pupils to develop a critical mind with regard to religious matters, nor to respect the religious and philosophical convictions of the parent of a pupil who belonged to the Alevi faith, on the subject of which the syllabus was clearly lacking. The Court further concluded that a possibility for exemption according to which parents of the pupils were obliged to inform the school authorities of their religious or philosophical convictions to abstain from the classes is an inappropriate means of ensuring respect for their freedom of conviction and did not provide sufficient protection to those parents who could consider that the subject taught was likely to give rise in their children to a conflict of allegiance between the school and their own values. Therefore in the absence of a procedure for exemption was likely to subject those parents to a heavy burden and to the necessity of disclosing their religious or philosophical convictions.

II. INDIVIDUAL MEASURES

6. The authorities have taken measures to ensure that the violation at hand has been ceased and that the applicants have been redressed for its negative consequences.

Just Satisfaction

7. In respect of İzzettin Doğan the Government would like to reiterate that the Court did not make any award in respect of pecuniary damage by holding that the findings of a violation of Article 9 of the Convention and of Article 14 taken in conjunction with Article 9 can be regarded as sufficient just satisfaction in this regard.

8. The European Court did not award just satisfaction in respect of non-pecuniary damage; however, awarded just satisfaction in respect of costs and expenses (EUR 3.000) sustained by the applicants. The just satisfaction awarded was deposited into bank account on 26 July 2016 and the applicants were notified of the placement. However, the applicants has not yet provided relevant documents for payment

9. In the judgment of Cumhuriyetçi Eğitim ve Kültür Merkezi the Court reserved the question of the application of Article 41. By taking into account the possibility of an agreement between parties, the parties were granted time to that end.

10. On 20 June 2017 upon the failure to reach an agreement by the parties the Court held that general measures with regard to the discrimination arising from the exemption system from illumination costs were to be taken and that the respondent State was to pay the applicant EUR 44,400 in respect of pecuniary damage as well as EUR 10,000 in respect of non-pecuniary damage.

11. Relying on Article 80 of the Rules of the Court the Government submitted a request for revision of the Judgment of 20 June 2017. On 19 February 2019 the Court dismissed the request submitted by the Government.

12. On the other hand, the total sum of just satisfaction awarded by the Court was deposited into bank account on 30 November 2017 and the applicant was notified of the placement.

13. In respect of Mansur Yalçın the Government would like to note that the children in question, namely those for whom the application at hand had been filed before the Court have already passed the age of compulsory religion and ethics classes. Therefore, the authorities are of the opinion that no further individual measures are required. Furthermore, the applicants did not submit any claim for just satisfaction. Accordingly, the Court did not make any award to that end.

14. In respect of Hasan Eylem Zengin the Government would like to note that the child in question has already passed the age of compulsory religion and ethics classes. Therefore the Government is of the opinion that no further individual measures are required. The applicants did not make any claim for compensation in respect of pecuniary and non-pecuniary damage. Accordingly, the Court did not make any award to that end. However, upon the claim of the applicants the Court awarded just satisfaction in respect of the costs and expenses sustained by the applicant. It was paid within the deadline set by the Court.

III. GENERAL MEASURES

The Government would firstly like to underline that the Republic of Turkey is a democratic and secular State of law where everyone is equal before the law without any discrimination on the grounds of language, race, colour, sex, political opinion, philosophical belief, religion or membership of any religious movement or on other grounds. The Government states at the same time that the Republic of Turkey is also a State where everyone enjoys the freedom of conscience, religion, thought and where acts of worship, religious rites, and ceremonies can be freely performed unless they are in breach of article 14 of the Constitution. In this context, the State treats equally all faiths and religions, and it is impartial as regards different faiths. Nevertheless, there appear social and economic issues in the society from time to time, such as the current issue, that has complex nature in essence and deep-rooted issues arising from it is discussed continuously to this day. In light of the explanations above, it is to be noted that addressing the issues mentioned in the judgements of the ECHR requires extremely meticulous attention which is the approach that the Government intends to take. In this connection, the works to that end could be summarized as follows:

**1.Alevi Workshops Organized As Part of the Process Called “Alevi Opening”
(as regards violations of the right to freedom of religion and Article 14 of the
Convention taken in conjunction with Article 9 of the Convention)**

15.As part of the process called as “Alevi Opening” seven workshops and three meetings had been organized in order to determine and address the issues by Alevis in Turkey.

16.The Government would like to underline that the Turkish authorities were aware of the issues even before the European Court delivered its judgments of Mansur Yalçın on 16 September 2014, Cumhuriyetçi Eğitim ve Kültür Merkezi on 2 December 2014 and İzzettin Doğan on 26 April 2016 and that they aimed at responding to Alevi demands. Therefore a series of workshops were set up from 3 June 2009 to 30 January 2010 at various dates under the auspices of the Ministry of State.

17.Among those who participated in the first workshop held on 3-4 June 2009 are found religious and spiritual leaders of Alawite (alevi dedeleri), highly respected opinion leaders, intellectuals. In the second workshop organized on 8 July 2009 academicians expressed their opinions on the matter. In the third workshop held on 19 August 2009 theologians discussed mainly the issue in detail, which had already been discussed by the participants of the first workshop. In the fourth workshop on 30 September 2009 representatives from NGOs and Human Rights Organizations examined the approach launched by society in general toward the issue. In the fifth workshop on 11 November 2009 media members and journalist exchanged their views on to what extent news and media reflects Alevism objectively. The discussion further included assessment on the approach indicated by the society to Alevis. In the sixth workshop on 17 December 2009 politicians from different parties and from diverse backgrounds gathered with intent to examine political side of the issue. The last workshop held between 28 January 2010 and 30 January 2010 was composed of a certain number of participants of the workshops organized until that day.

18.Upon the need to eliminate vague points and question marks raised in the minds of Alevis during the workshops, three meetings further were held with participation of religious and spiritual leaders of Alawite, families of those who lost their lives on 2 July 1993 (Madımak Olayı) and representatives from NGOs on 14 January 2010, 11 February 2010 and 24 February 2010 respectively.

19.Final report on Alevi Workshops was published in 2010. As a result, several recommendations were made.

20.The Turkish authorities would like to note that the issues subject to the cases at hand have historical, sociological and theological backgrounds and these issues have been a matter of discussion for centuries.

21.For the first time the Government took an initiative to discuss these issues openheartedly in order to find a solution. Therefore, Turkey was aware of the problems concerning this issue well before the European Court’s judgments. However, these efforts towards addressing the issue had been halted abruptly and severely by attempts that targeted security and democratic structure of the country on many occasions. In other words, Turkey has unfortunately undergone very challenging and exceptional period starting from 2011 and continuing until present which had inevitable impact on its reform policies such as those included in the report on “Alevi Opening” and the judgments cited above.

22.These incidents are explained in a chronological order below.

23. On 11 March 2011, events that erupted in Syria have transformed into a major conflict, redefining the situation in the region. Sharing a land border of 911 km. with Syria, Turkey has faced serious political, security and humanitarian challenges caused by the conflict. A large number of Syrians fled their country to seek shield from the conflict. The number of Syrians under temporary protection in Turkey is approximately 3.6 million, which is the largest number worldwide and Turkey further hosts 365.000 refugees from other nationalities.⁽¹⁾

24.On 28 May 2013 events called “Taksim Gezi Park” in response to the government’s renovation plan for the city centre, widely known as the “Taksim pedestrianization project” started with the closure of roads leading to the heart of the city. The events continued for a considerable period of time all around the country. During this time the Government focused mainly on the problems giving rise to the events in an attempt to solve them. On 30 August 2013, Taksim Gezi Park events ended.

25.Following the above-mentioned restless period, on 17 December 2013 and 25 December 2013, judges and prosecutors who were understood to be related with the FETÖ/PDY armed terrorist organisation initiated investigations in respect of a number of politicians and their relatives and a number of businesspersons known by the public with the allegation of “fraud”. 17-25 December investigations, coupled with the stopping and the search of the trucks of the MIT (National Intelligence Organization) with the allegation that weapons were carried in those trucks revealed undoubtedly the heinous intention of the FETÖ/PDY to overthrow the Government by creating a chaotic environment in the country.

1-) <https://www.unhcr.org/tr/en/refugees-and-asylum-seekers-in-turkey>

26. Meanwhile, DAESH emerged with the help of growing instability caused by the conflict in Syria and seized control of the cities of Syria which shared land borders with Turkey to the extent that it posed itself as a great threat against national security of Turkey. Declaring itself as so-called State, this terrorist organization engaged in armed conflict with other groups in Syria which paved the way to a sudden and uncontrollable refugee influx in Turkey.

27. In the meantime, the security situation in south-east Turkey deteriorated in the summer of 2015 on account of the intensification of attacks by terrorist groups, namely the PKK and its related organizations. This terrorist organization declared so-called autonomy in certain cities and tried to create autonomous districts within those cities by digging trenches and holes, many of which were planted with explosives, and blocking the roads with barricades in certain neighbourhoods. In response, starting from August 2015, the Turkish authorities declared curfews in these urban centres to clear the trenches dug up and the explosives planted by the members of PKK terrorist organisation, as well as to protect the civilians from violence.

28. Nonetheless, in spite of the threats to the national security, the 64th Government had declared in its both program and Action Plan announced on 10 December 2015 that traditional spiritual knowledge centres (irfan merkezleri) and assembly houses (cemevleri) would be given a legal status in a short time. To that end, a series of workshops was organized under auspices of the Ministry of Justice with participation of relevant persons/institutions deemed to be necessary in finding the best solution for those issues on 5,12,18,19, 25 and 27 January 2016 and 1-2 February 2016 respectively.

29. However, another terrorist organisation, PYD, which is Syrian branch of the PKK, also targeted Turkey. On 17 February 2016, a car bombing by committed by PYD resulted in the killing of 29 civilians and left 79 people wounded in Ankara.

30. On 13 March 2016, car bombing launched by PKK/KCK, terrorist organization, in a bus stop at its peak time of the day, killed 36 people and wounded 349 people in Ankara.

31. On the night of 15th of July 2016, “terrorists in uniforms”, who were the members of FETÖ/PDY and called themselves Peace at Home Council (Yurtta Sulh Konseyi) within the Turkish Armed Forces, the civilian executives (imams) of the organization, the members of the FETÖ/PDY who infiltrated the police, gendarmerie and other public institutions, and the members of FETÖ/PDY who had been previously dismissed from their professions, staged an armed coup attempt against the democracy in line with the orders and instructions of the ringleader of the organization Fetullah Gülen, for the purpose of unseating the President who was democratically elected and overthrowing the Parliament and the Government by derogating from the Constitution.

32. During the 15th July coup attempt, bomb and armed attacks targeted stability in the Country and aimed to create an order of chaos. The Turkish Grand National Assembly, the Presidential Compound, the Ankara Security Directorate, the Security General Directorate Special Operations Department and the premises of the National Intelligence Organization were bombed by helicopters and airplanes. An assassination attempt to the President was made, fire was opened on the convoy of the Prime Minister, numerous high-ranking military officers, including the Chief of General Staff, were taken as hostages, a large number of public institutions were occupied by the armed terrorists. More than 8.000 military personnel in total were involved in the coup attempt, and 35 aircrafts, including the fighter jets belonging to the Turkish Armed Forces, 37 helicopters, 246 armoured vehicles, including 74 tanks, and approximately 4.000 light weapons were used in this attempt

33. As a result of the incidents, a total of 251 persons lost their lives and 2,194 persons were wounded. Following the coup attempt, on 20 July 2016 the National Security Council declared the state of emergency, which was in force until 19 July 2018.

34. In view of the foregoing, the Turkish authorities would like to note that the reform process concerning the Alevi issues underlined in the judgments at hand was started by the Government. Nonetheless, the impeding extraordinary events taking place in the meantime interrupted the implementation of these schedule as planned since the major concern was to restore the public order and the eliminate challenges posed to the national security.

35.To illustrate more accurately the security problems faced by the public, the Government would like to indicate that from 2011 to 2019 the total number of terrorist attacks by different terrorist organizations such as PKK/KCK, DAESH, Left-Wing Terrorist Organizations and FETÖ/PDY has been 20.888. The number of persons who lost their lives due to those attacks is 2.785, of which 1.639 persons are security officers and 1.146 civilians. Number of persons left injured because of those terrorist attacks is 16.985, of which 9.099 persons were security officers and 7.886 civilians.

2. Case Law Developments of the Court of Cassation and the Supreme Administrative Court

34.In the aftermath of above-mentioned challenges that took place during the cited period in Turkey public order and national security were disrupted and threatened substantially. The authorities would like to indicate that despite the impediments highlighted above in certain points a good progress has also been achieved.

35.The Government would like to recall that following the publication and dissemination of those judgments the domestic courts ruled in conformity with the Court's findings in the judgment of Cumhuriyetçi Eğitim ve Kültür Merkezi v. Turkey by the Court.

36.In the domestic proceedings brought by Erenler Eğitim ve Kültür Vakfı, the İstanbul 6th Chamber of Administrative Court annulled the administrative act that refused the reimbursement of illumination costs. In its judgment this court held that the reimbursement of the illumination cots are to be paid to Cemevis (dated 29 April 2016, Docket no. 2015/1555 , Decision no. 2016/986). An appeal filed against the decision of 29 April 2016 was rejected by the 13th Chamber of Supreme Administrative Court (dated 10 Temmuz 2017, Docket no. 2016/4277 , Decision no. 2017/2263). Request for the rectification was also dismissed by the same Chamber (date 10 December 2018, Docket no. 2018/161, Decision no. 2018/3820)

37.In the domestic proceedings brought by Kağıthane Hacı Bektaş Veli Eğitim ve Kültür Derneği in order to have the administrative act concerning the refusal of payment of its illumination cots according to provisional Article 6 of Law No. 6646 annulled the İstanbul 7th Chamber of Administrative Court dismissed the case.(dated 19 February 2018, Docket no. 2017/952 , Decision no. 2018/266). However,in the appeal proceedings filed by Kağıthan Hacı Bektaş Veli Eğitim ve Kültür Derneği İstanbul Regional Administrative Court quashed the decision of the İstanbul 7th Chamber of Administrative Court and annulled the administrative act concerning the refusal of payment of illumination costs referring to the case law of the Supreme Administrative Court.

38. In the domestic proceedings brought by Alevi Kültür Dernekleri Tarsus Şube Başkanlığı the claimant alleged that the cemevi functioning under its authority did not owe a certain amount of money (illumination cost amounting to 647,20 Turkish liras). In its judgment this court held that the reimbursement of the illumination cost is to be paid to Cemevis. Tarsus 3rd Chamber of Civil Court of First Instance accepted the case for the part of the building functioning as Cemevis (dated 7 February 2019, Docket no. 2017/64, Decision no. 2019/29). In its reasoning, the first instance court referred to the case law of the Court of Cassation (3rd Chamber of Court of Cassation, dated 31 May 2019 Docket No. 2016/17500, Decision No. 6192).

39. In the domestic proceedings brought by Alevi Kültür Dernekleri Mersin Şube Başkanlığı the claimant alleged that the cemevi functioning under its authority did not owe a certain amount of money (illumination cost amounting to 3.189,30 Turkish liras). Mersin 2nd Chamber of Civil Court of First Instance accepted the case for the part of the building functioning as a place of worship. In its reasoning, the first instance court referred to the case law of the Court of Cassation (Plenary Court of Cassation (Civil Matters), dated 3 December 2014, Docket No. 2014/7-1038E., Decision No. 2014/990, 3rd Chamber of Court of Cassation, Docket No. 2014/11238, Decision No. 9711, 3rd Chamber of Court of Cassation, dated 27 November 2015, Docket No. 2015/15230, Decision No. 2015/16775) as well as case-law of the European Court of Human Rights (Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı v. Turkey, 32093/10)

40. As a result; the illumination costs which were the subject-matter of the application to the Court leading to the finding of a violation of the right to freedom of religion and Article 14 of the Convention taken in conjunction with Article 9 of the Convention are paid by the RAD and therefore no longer constitutes an issue open to discussion in Turkish Judiciary.

3. As regards violations of Article 2 of Protocol No.1 to the Convention.

41. The Turkish authorities would like to indicated that concerning the violations found in Mansur Yalçın and Hasan Eylem Zengin (21163/11 and 1448/04 respectively); a number of workshops were organized under the auspices of the Ministry of National Education between June 2016 and January 2017 with the participation of representatives from Prime Minister's Office, Ministry of Justice, Ministry of Foreign Affairs, Ministry of National Education, Religious Affairs Department, scholars, NGO's. The commission held workshops on 2 June 2016, 14 June 2016, 22 September 2016, 3 November 2016, 7 December 2016 and 25-27 January 2017 respectively.

42. Based on the advisory report by the Commission a draft curriculum was

prepared with the participation of relevant persons mentioned-above in January and February 2017. In July 2017 the draft curriculum had been published for a certain period of time on the website of the Ministry of National Education in order to take into consideration criticisms, arguments and assessments made by the students, their parents and by the public in large. Upon the completion of the period during which the draft curriculum had been published and assessments had been gathered from the interested parties, the draft report was sent to the Universities in Turkey in order to include their recommendation in the curriculum. On 20 October 2017 another workshop was set up, composed of academicians as well, by the Ministry of National Education to finalize the draft. On 19 January 2018 the draft was approved by the Head Council of Education and Morality of the Ministry. It could be accessed through the following link: <https://dogm.meb.gov.tr/www/ogretim-programlari/icerik/14>

43.The draft report prepared with the participation of wide range of persons coming from different backgrounds. It includes assessments that the content of the curriculum intends to play a role in eliminating the prejudices faced in the society by creating an environment in which differences between people are an assets rather than a problem.

44.The commission set up to draft the above-cited curriculum also signified the importance of the existence and mandatory nature of the classes of culture of religion and culture of ethics. The subjects such as Alevism and Bektashism, among others, were objectively explained in detail in the textbooks by benefiting from opinions and articles published by religious and spiritual leaders of Alawite (alevi dedeleri).

45.Following the entry into force of the new curriculum of 2018, the Government would like to state that the criteria of objectivism and pluralism has been satisfied thanks to significant contributions from the working group, composed of each part of the society, which had held 6 meetings from 2016 to 2017, thus creating an educational environment in which each student could learn general information objectively on religion and different schools of thoughts therein without having to follow from only one perspective the subjects discussed in the classes.

46.The Government would like to further note that further works and observations to develop curriculum are carried out regularly and continuously.

Case Law Developments of the Supreme Administrative Court

47. The Turkish authorities would like to note that the individuals can receive exemption from the mandatory religion and ethics classes by virtue of judicial decisions. For example, in a case filed by the parents of a student the Antalya 3rd Chamber of Administrative Court dismissed the case on the ground that the class was mandatory (dated 31 January 2013, Docket no. 2013/48, Decision no. 2013/105). However, the 8th Chamber of Supreme Administrative Court quashed this judgment of the first instance court holding that the curriculum did not respect for the parents' convictions. (dated 11 November 2014, Docket no. 2014/8515, Decision no. 2014/8417)

48. In this respect, parents who believe that the curriculum did not respect for their convictions can lodge an administrative case so that their children can be exempted from this lesson.

4. Publication and Dissemination of the Judgment

49. The Government ensured that publication and dissemination measures have been taken. To this end, the European Court's judgment have been translated into Turkish and made available on the Court's website:

<http://hudoc.echr.coe.int/eng?i=001-145253>

50. Furthermore, the European Court's judgment has been transmitted, together with an explanatory note on the European Court's findings, to the Religious Affairs Department, Ministry of National Education, the Council of Judges and Prosecutors, the Ombudsman Institution and to the domestic courts involved in this case as well as to other relevant court such as the Constitutional Court and the Court of Cassation.

IV. CONCLUSION

51. The authorities consider that the individual measures taken ensured that the violation at hand has ceased and that the applicants are provided redress for its negative consequences.

52. The Committee of Ministers will be regularly informed about the measures taken as regards the execution of the judgments of *İzzettin Doğan v Turkey*, *Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı v. Turkey*, *Mansur Yalçın vd v. Turkey* and *Hasan Eylem Zengin v. Turkey*.

Addendum No. 3 - Comments to TC Action Plan

TC Action Plan DH-DD(2016)43

Case File 32013/10 about Illumination Costs of Cem Houses.

General Measures, Art.34 of the Action Plan dated Oct.2019 reads “34. In view of the foregoing, the Turkish authorities would like to note that the reform process concerning the Alevi issues underlined in the judgments at hand was started by the Government. Nonetheless, the impending extraordinary events taking place in the meantime interrupted the implementation of these schedule as planned since the major concern was to restore the public order and the eliminate challenges posed to the national security.”

Articles 36-37-38-39 summarize some court cases that have taken place during 2015-2019 period and at Art. 40 explains that RAD has paid illumination costs of only those Cem houses who have opened court cases for a matter that should have been solved much earlier and in an inclusive approach by the state. However reading following statement from Art. 40 create the impression that illumination costs of Cem House issue has been solved totally. “RAD (Religious Affairs Dept.) has paid their illumination costs and this matter is not an issue opens to discussion anymore“ Such a review is totally unrealistic and unacceptable since;

A) Judgment of ECtHR was issued on a different case file not for these four Cem houses, so far only four Cem houses among thousands of Cem houses in country took burden and pain of going to local courts for obtaining this legal right and they got favorable results. The statement gives feeling that only those Cem Houses who will go through a local court procedure may benefit from the legal right of being exempt from illumination costs. This is a totally contrary to Court decision and case facts, discriminative comment on its own.

B) If “the matter is not an issue to discussion anymore” why does Art.34 read that due to interruptions reform process concerning Alevi issues was delayed? How a delayed reform does become an issue not open to discussion anymore?

C) State lawyers declared in a Grand Chamber session of another case that Turkey had 1600 Cem houses only in cities during 2014. Today we have much bigger number of Cem houses in cities and at least twice of this number in Villages and districts. In spite of outstanding ECtHR judgment and confirmative four local court judgments explained in art 36-39, does state expect each Cem House go through a legal process to benefit from a legal right provided to worship places? This statement is clearly discriminative and inapplicable. Matter could be and should be solved with a simple regulation.

General Measures of Action Plan page 4 read “The Government states at the same time that the Republic of Turkey is also a State where everyone enjoys the freedom of conscience, religion, thought and where acts of worship, religious rites, and ceremonies

can be freely performed unless they are in breach of article 14 of the Constitution. In this context, the State treats equally all faiths and religions, and it is impartial as regards different faiths.”

So, “this issue is not open to discussion anymore” suggestion is in conflict with the equal treatment requirement of Art. 14. of our Constitution as well as Art.14 of the European Convention of Human Rights.

Case File 21163/11. Compulsory religious Lessons.

As regards to violations of Article 2 of Protocol No.1 of the convention we want to redraw the attention to our already communicated document.

“Unfortunately since the declaration of the judgment in 2014, contrary to Turkey’s earlier messages, no significant positive progress has been observed in educational structure. The latest curriculum which started to be applied in 2018 is also not impartial to all religions and belief systems, it does not adopt a moral code that is independent from religious beliefs, and it does not provide a general education on religious beliefs based on the principles of neutrality, objectivity and pluralism.”

There are many reports prepared by respectable institutions analyzing the latest curriculum that was finalized on Jan. 2019; unfortunately, Ministry of National Education is not coordinating efforts with universities, educational institutes, initiatives nor with belief groups. As we have noted in our earlier communication among 1782 pages of six “Religious Culture and Ethics “books of 7-12th years Alevism is mentioned only in 20 pages. Ministry of National Education has to take more neutral position in matters of “Religious Culture and Ethics” lessons.

The “Religious Culture and Ethics” lessons continue to be COMPULSORY as well.
Case File 62649/10

As a final remark about the Action Plan we would like to point out that Grand Chamber Judgment of case 62649/10 is not mentioned in Action Plan at all. We kindly remind that this case touches most important subjects related to Religious Freedom, such as legal identity of religious groups or organizations, clergy education rights and related issues, building or restoring worship places, properties, cultural and historical heritages of belief groups, faith of sanctuaries and shrines. All of the above matters are waiting the most spoken and repeatedly promised reforms. As this Action Plan did not consider issues related to 62649/10, should we expect an addendum or a separate Action Plan for these highly vital duties of the state? ECtHR judgment read “State has a duty to put in place objective and non-discriminatory criteria so that religious communities which so wish is given a fair opportunity to apply for a status which confers specific advantages on religious denominations.”

Addendum 4. European Council Committee of Ministers decisions.

1362nd meeting, 3-5 December 2019 (DH)

H46-32 Cumhuriyetçi Eğitim Ve Kültür Merkezi Vakfı group (Application No. 32093/10) and Zengin Hasan and Eylem group v. Turkey (Application No. 1448/04)

Supervision of the execution of the European Court's judgments

Reference document

CM/Notes/1362/H46-32

Decisions

The deputies;

1. Recalling that in the judgments in this group the Court found, inter alia, that “the attitude of the State authorities towards the Alevi community, its religious practices and its places of worship is incompatible with the State’s duty of neutrality and impartiality and with the right of religious communities to an autonomous existence”;

As regards individual measures

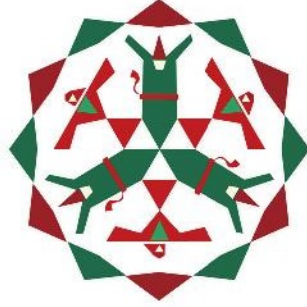
2. invited the authorities to provide information on whether Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı is exempted from the payment of lighting costs; noted that the individual measures for the remaining cases are linked to the general measures;

As regards general measures

3. noted the emerging practice of the domestic courts to order the partial reimbursement of lighting costs to cemevis which bring proceedings, but underlined that this is insufficient to resolve the discrimination identified by the Court arising from the blanket exclusion of the Alevi community from State religious subsidies and other benefits, including tax exemptions;

4. noted further that the 2018 curriculum for the compulsory “religious culture and ethics” classes in primary and secondary schools includes information on the Alevi faith and that parents may initiate legal proceedings requesting exemption of their children, but emphasised that these measures do not appear to remedy all the concerns raised by the Court, in particular in the absence of an exemption procedure which does not subject parents to a heavy burden and to the necessity of disclosing their religious or philosophical convictions; therefore decided to transfer the cases of Hasan and Eylem Zengin (1448/04) and Mansur Yalçın and others (21163/11) from the standard to the enhanced supervision procedure;

5. noted, finally, that a national discussion on how to resolve the issues highlighted by these judgments was embarked on in the “Alevi initiative” workshops; welcomed the inclusive nature of the workshops and the fact that recommendations were reached by consensus in a final report in 2010; therefore strongly encouraged the authorities to build upon these recommendations in drawing up a comprehensive action plan with a concrete calendar indicating specific legislative and administrative measures and, in view of the passage of time since the first of these judgments became final, to provide it to the Committee of Ministers by 1 June 2020.



ADO

Alevi Philosophy Center

ADO-ALEVI PHILOSOPHY CENTER ASSOCIATION

İstiklal Cad. No. 76 K/4-13 Beyoğlu 34435
İstanbul / Turkey
Ph: (0212) 293 2230-31
mail@aleviocagi.org
www.aleviocagi.org

www.aleviocagi.org



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