



Christians in Turkey

The Violations of Christians' Religious Freedom in Turkey



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Introduction

The Republic of Turkey (hereinafter Turkey) has since its foundation subjected non-Muslim minorities to discrimination through laws and regulations. Although the Turkish Constitution officially recognizes Turkey as a secular state, non-Muslims are not considered equal to Muslims, but instead treated as second-class citizens.

The purpose of this report is to highlight the unceasing discriminations on Christians in Turkey and stress the importance to disrupt this pattern, with the aim to respect and uphold international human rights law.

This report includes a demography of the Christians in Turkey, introduces international legal framework on human rights that Turkey has signed, and presents thematically various discriminations on Christians with the support of cases and reports. All cases cited in the report are from the European Court of Human Rights because Turkey is a Member State and has signed the European Convention on Human Rights. Studying these cases also brings a significant understanding of the development of the case-law on religious minority issues.

1. Demography of Turkey

When modern Turkey was founded in 1923, more than 130,000 Greek Orthodox Christians were living on the territory. Since then the population has uninterruptedly decreased, leaving less than 2,000 of them. This immensely low number is thereby threatening the survival of Greek Orthodoxy in Turkey.¹ According to reports from 2017, Turkey is constituted of several religious affiliations including approximately 90,000 Armenian Orthodox (60,000 citizens and 30,000 migrants), and 7,000 Protestants.² In 2016, 10,000 persons belonging to the Syriac Orthodox Church were living in Turkey³ and a report from 2009 stated that the number of Syriacs/Arameans was much higher before the conflicts between the PKK and Turkey escalated in 1990.⁴

It is difficult to estimate the exact number of believers in the different religious minorities in Turkey today because many are emigrating, and some hide their identity in fear of discrimination, and in some cases harassment.

Even though the signing of the Treaty of Lausanne was going to give protection to non-Muslim and non-Turkish minorities, Turkey managed to treat the Christian worse than the Ottoman Empire, apart from the Armenian Genocide in 1915. This can be concluded by observing the continuous decreasing number of all Christian groups after the establishment of the Republic, which had the aim to create a Nation State for Muslim Turks.

2. Freedom of Religion in Turkey and Treaties the State has Signed

Turkey is officially a secular State and the Constitution forbids discrimination based on religion. Furthermore, Turkey is a signatory State to several human rights treaties and conventions.

2.1. International Covenant on Civil and Political Rights

Turkey has signed the International Covenant on Civil and Political Rights (hereinafter ICCPR) which is a treaty adopted by the UN General Assembly in 1966 and which came into force in 1973. The treaty provides a protection for civil rights like freedom of religion (Article 18) and political rights.

1 Elizabeth Prodromou, *Rome and Constantinople, A Tale of Two Cities: The Papacy in Freedom, the Ecumenical Patriarchate in Captivity*, Berkley Center for Religion, Peace & World Affairs, <https://berkleycenter.georgetown.edu/essays/rome-and-constantinople-a-tale-of-two-cities-the-papacy-in-freedom-the-ecumenical-patriarchate-in-captivity> (last visited 28 May 2018).

2 United States Department of State, 2009 Report on International Religious Freedom - Turkey, 26 October 2009, available at: <https://www.state.gov/j/drl/rls/irf/2009/130299.htm> [accessed 13 September 2018]

3 Bardakci, Mehmet., Freyberg-Inan, Annette., Giesel, Christoph. & Leisse, Olaf, *Religious Minorities in Turkey Alevi, Armenians, and Syriacs and the Struggle to Desecuritize Religious Freedom*, Palgrave Macmillan UK, London, 2017.

4 *Ibid.*

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In Article 27 minorities are given rights to “*enjoy their own culture, to profess and practice their own religion, or to use their own language*”.⁵

Turkey made a reservation on Article 27 when ratifying the ICCPR and declared it would instead be interpreted in the light of “*related provisions and rules of the Constitution of the Republic of Turkey and the Treaty of Lausanne of 24 July 1923 and its Appendixes.*”⁶ By making a reservation on the article that protects minorities, Turkey diminished the rights of individuals belonging to a minority to practice their faith, and enjoy their own culture and language.

The right to practice a religion is not *de jure* limited by the Turkish Constitution nor in the Treaty of Lausanne, but the government has over the years adopted several policies that *de facto* limit this right. For example, although Article 24 in the Turkish Constitution states that “*no person shall be compelled to reveal his or her religious belief*”, religious affiliation must be listed on the identity cards. Since not all religious affiliations in Turkey are included as options at the registration, many faith groups are forced to identify as another religious affiliation.⁷

2.2. International Covenant on Economic, Social and Cultural Rights

Turkey has also signed the International Covenant on Economic, Social and Cultural Rights (hereinafter ICESCR) which is also a treaty adopted by the UN General Assembly. The treaty was likewise adopted in 1966 and entered into force in 1976. This treaty grants, amongst others, social rights that give a certain authority to parents when it comes to their children's education and diminishes the State's interference in Article 13 § 3 and 4 which states:

“3. *The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.*

4. *No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.*”⁸ (Article 13 § 3 and 4)

5 International Covenant on Civil and Political Rights art. 27, 16 Dec. 1966, 999 U.N.T.S. 171, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

6 *Status of Treaties, Ch. IV Human Rights, 4. ICCPR Status*, United Nations Treaty Collection, (6 Sep. 2018), http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV4&chapter=4&lang=en.ter=4&lang=en

7 United States Department of State, *2017 Report on International Religious Freedom - Turkey, 2017*, available at: <https://www.state.gov/documents/organization/281212.pdf> [accessed 13 September 2018]

8 *Status of Treaties, Ch. IV Human Rights, 3. ICESCR Status*, United Nations Treaty Collection, (6 Sep. 2018, 4:54 PM), https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-3&chapter=4&clang=_en#EndDec

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Comparable to the ratification of the ICCPR, Turkey also made a reservation on Article 13 § 3 and 4 ICESCR. This reservation established that Article 13 § 3 and 4 are interpreted through the provisions under Article 3, 14 and 42 in the Turkish Constitution, subsequently undermining the parents' right to choose a school and education for their children, and faith groups' right to establish schools.

2.3. European Convention on Human Rights

Turkey is furthermore a signatory State to the European Convention on Human Rights (hereinafter the European Convention) and has not made a reservation on any article. Between 1990 and 2012, the European Court of Human Rights (hereinafter the ECHR) ruled over 7,000 judgments against Turkey and many of the cases included violations of Christians' and their foundations' human rights.⁹

Freedom of religion in Article 9 of the European Convention has two dimensions; *internal* and *external*. The internal dimension is the right to believe and is an absolute right, which means that a State cannot limit it legally. The external forum is the right to *manifest* a belief. This includes religious symbols and other ways to express or exercise belief. The external dimension of freedom of religion can be limited by a State if the limitation is prescribed by law and pursues a legitimate aim, in accordance with Article 9.2 of the European Convention. Article 9 has a collective aspect as well since it gives the freedom for a person to worship and practice the religion alone or in a community. The cases brought to the ECHR are Turkey's violations of Christians' right to manifest their religion alone or in the community as well as the right to peacefully enjoy their possessions.

2.4. Treaty of Lausanne

The Treaty of Lausanne was a peace treaty signed in 1923 after the First World War. It was signed between the Ottoman Empire and the allies France, Italy, Japan, United Kingdom, Greece and Romania. The treaty was provided as a protection for non-Muslim minorities in Turkey. Nonetheless, the only religious minorities that were officially recognized by Turkey were Armenians, Greeks, and Jews. The ground for the reasoning by Turkey was that the recognized groups were established during the Ottoman Era. The Turkish government chose not to include other religious minorities although there is evidence that some non-Muslim ethnic groups had their places of worship and lived there during the Ottoman Era, including for example the Arameans.

Instead, Turkey has restricted its interpretative scope of the Treaty of Lausanne that broadly refers to "non-Muslims".¹⁰ Religious groups formed after the Ottoman Era are not officially recognized by Turkey either. The following sections are presenting thematically the problematic issues of the Turkish denial of recognized and non-recognized Christians' human rights.

⁹ European Court of Human Rights Database, <https://hudoc.echr.coe.int/>

¹⁰ 2017 US Report on International Religious Freedom - Turkey, *op. cit.*, note 7.

3. Discrimination against Christian Communities

3.1 Education of Religious Personnel

Even though Armenians and Greeks are protected under the Treaty of Lausanne, the religious leadership organs are not included. The Armenian and the Greek Orthodox Patriarchates are therefore continuously seeking legal recognition as Patriarchates rather than foundations.¹¹ By not obtaining legal personality, the Patriarchates risk having their properties confiscated. In *Fener Rum Patrikligi v. Turkey*,¹² the General Directorate of Foundations (hereinafter GDF) annulled the Greek-Orthodox Patriarchate's ownership of two buildings. The ownership was instead given to the Orphanage which was considered a foundation under the Foundation Act. The Orphanage was simply given the right to use the property by the Patriarchate but was registered as the owner of the property due to the Patriarchate's lack of legal personality. The ECHR found this a violation of Article 1 of Protocol 1 no. 1 of the European Convention. The ECJ supported the Ecumenical Patriarchate during the trial and argued that the denial of legal personality to the applicant is not proportionate to the State's aim to uphold secularism.

The Greek and Armenian Churches have chosen not to educate their ministry in Turkey since the Education Ministry has control over all the learning within the state. Turkey decided to close the Greek Orthodox Halki seminary in the island of Heybeli because the Ecumenical Patriarchate "*chose not to comply with a State requirement to nationalize.*"¹³ The Ecumenical Patriarch did not comply with the requirements to nationalize the seminary, so the state would not have control over the learning curriculum. US Officials including the Secretary of State, have urged Turkey to reopen the seminary as a sign of openness to freedom of religion during almost a decade, without any progress.¹⁴

The State is providing Sunni Muslim clergy through the Diyanat. The Diyanat is a secular administrative unit, with the aim "to execute services regarding Islamic faith and practices, to enlighten society about religion and to carry out the management of places of prayer."¹⁵

Since the state is providing training to Sunni Muslim clergy and restricting the non-Muslim from training clerks¹⁶, the refusal to reopen the Halki seminar would constitute a strict violation of Article 40 in Treaty of Lausanne which states that non-Muslim nationals should have :

«...an equal right to establish, manage and control at their own expense, any charitable, religious and social institutions, any schools and other establishments for instruction and education, with the right to use their own language and to exercise their own religion freely therein.»¹⁷

11 *Ibid.*

12 ECHR, *Fener Rum Patrikligi v. Turkey*, Application no. 14340/05, 15 September 2010.

13 2009 US Report on International Religious Freedom - Turkey, *op. cit.* note 3.

14 2017 US Report on International Religious Freedom - Turkey, *op. cit.* note 7.

15 I Gozaydin, A E Ozturk, 'The Management of Religion in Turkey', (Turkey Institute, November 2014), http://www.eurel.info/IMG/pdf/2016-09_tu_management_of_religion_in_turkey.pdf, accessed: 13 September 2018

16 2017 Report on International Religious Freedom – Turkey, *op. cit.* note 7.

17 Treaty of Lausanne, adopted 24 July 1923, entered into force 6 August 1924), art 40.

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In 1993, the UN Human Rights Committee emphasized that freedom of religion includes the “*freedom to establish seminaries or religious schools*”,¹⁸ and freedom to train religious personnel in appropriate institutions.¹⁹

Turkey has a requirement that all religious personnel must be Turkish citizens, including the Holy Synod in the Greek Orthodox Patriarchate, despite the Church's appeal to the decision. This requirement is threatening the very survival of the Greek Orthodox Church in Turkey, particularly the Ecumenical Patriarchate because of the decreasing number of Greeks in Turkey and the fact that the community consists of too small a number to find candidates to maintain the institution.²⁰

The state does not only have the requirement for the Holy Synod to have Turkish citizens but also has a veto right in the Holy Synod when it comes to the election of the Greek Orthodox Patriarch. The veto right interferes with the freedom of religion which gives the right for a religious group to decide upon these matters without an external party.²¹ In March 2017, the Istanbul Governor's office suspended a spiritual assembly that the Armenian Patriarch had arranged with the purpose to elect a trustee to start the election process for a new Patriarch, claiming that an election would be contradicting to the traditions to elect after the Patriarch has deceased. Although the Patriarch is not deceased yet, he has not been able to fulfill his function because of illness, and the State's interference is not acceptable.²²

In *Hasan and Chaush v. Bulgaria*,²³ the ECHR established that an interference of the State in such cases was a violation of Article 9 in the European Convention :

*“... that facts demonstrating a failure by the authorities to remain neutral in the exercise of their powers in this domain must lead to the conclusion that the State interfered with the believers' freedom to manifest their religion within the meaning of Article 9 of the Convention... State action favoring one leader of a divided religious community or undertaken with the purpose of forcing the community to come together under a single leadership against its own wishes would likewise constitute an interference with freedom of religion.”*²⁴ (§ 78)

In conclusion, freedom to practice religion includes the right to “*select, appoint and replace their personnel in accordance with their respective requirements and standard.*”²⁵

18 UN Human Rights Committee General Comment 22, §. 4.

19 Concluding Document of the Vienna Meeting (Third Follow-up Meeting to the Helsinki Conference), Vienna § 16.8.

20 2017 Report on International Religious Freedom - Turkey, *op. cit.* note 7.

21 Elizabeth Prodromou, Rome and Constantinople, A Tale of Two Cities: The Papacy in Freedom, the Ecumenical Patriarchate in Captivity, BERKLEY CENTER FOR RELIGION, PEACE & WORLD AFFAIRS, <https://berkeleycenter.georgetown.edu/essays/rome-and-constantinople-a-tale-of-two-cities-the-papacy-in-freedom-the-ecumenical-patriarchate-in-captivity> (last visited 28 May 2018).

22 2017 US Report on International Religious Freedom – Turkey, *op. cit.* note 7

23 ECHR, *Hasan and Chaush v. Bulgaria*, Application no. 30985/96, 26 October 2000.

24 *Ibid*, note 23, § 78.

25 Concluding Document of the Vienna Meeting (Third Follow-up Meeting to the Helsinki Conference), Vienna § 16. 4.

3.2 Legal personality

Faith groups which have been established after the 1923 Lausanne Treaty do not have the right to obtain legal personality. This law makes these faith groups unable to purchase property or making claims in the court as a religious community. In theory individuals belonging to the religious groups can register as an association but the Turkish Civil Code makes it impossible for a faith group to register as a foundation if the aim is to support a specific religious community.²⁶

Faith groups lacking legal personality also risk having their properties expropriated by the Turkish State. An example is the expropriation of Izmir Santa Maria Church. The church was expropriated since the Catholic Church could not prove legal ownership of it because of the lack of legal personality. In 2012, the Catholic Church demanded the return of more than 200 buildings. Since the Catholic Church is not officially recognized by the Turkish government, it was of little success.²⁷

In *Kimlya and others v. Russia*,²⁸ the ECHR held that a state that refuses to grant the legal personality status to, or to recognize a religious group as a legal entity, would violate freedom of religion under Article 9 of the European Convention. Turkey is also a participating state in the Organization for Security and Co-operation in Europe (hereinafter OSCE) and as a participating state, Turkey must “grant upon their request to communities of believers, practicing or prepared to practice their faith within the constitutional framework of their states, recognition of the status provided for them in their respective countries”.²⁹

Turkey has denied non-recognized religious groups a legal personality that can ensure legal protection in the community, maintenance of their ownership of properties, and the right to establish schools and institutes for higher learning. A legal personality also gives the right to re-claim religious seminaries.

3.3 Right to Property

Religious communities challenged the Turkish government for the expropriated properties that were damaged during the armed conflicts between Turkish forces and the PKK. The aim of the expropriation according to the Turkish authorities was “post-conflict reconstruction” but the properties had not been returned by the end of 2016 nor completely repaired.

This included Surp Giragos Armenian Church, Mar Petyun Chaldean Church, Syriac Protestant Church, and the Armenian Catholic Church. Turkey has not paid restitution nor compensation for the expropriation of the Churches either.³⁰

26 Mine Yildirim, TURKEY: Religious Freedom Survey, January 2014, FORUM 18NEWS SERVICE, http://www.forum18.org/archive.php?article_id=1916

27 Turkey: Catholics Demand Return of 200 Buildings, ANSAMED http://ansamed.ansa.it/ansamed/en/news/sections/generalnews/2012/04/19/Turkey-Catholics-demand-return-200-buildings_6744532.html

28 ECHR, *Kimlya v Turkey* Application nos. 76836/01 and 32782/03, 1 March 2010.

29 Concluding Document of the Vienna Meeting, *op. cit.*, note 19, § 16.

30 2017 US Report on International Religious Freedom - Turkey, *op. cit.* note 7.

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Religious communities have in general applied for compensation of the expropriated properties. Only during 2011 the General Directorate of Foundations (GDF) received over 1,550 applications. The GDF returned 333 properties and paid compensation for 21 properties. The rest of the applications were dismissed because they did not meet the criteria in the 2011 compensation law, according to Turkish authorities.³¹ The right to apply for compensation expired in 2013 and many religious communities including “the Greek Orthodox, Armenian Orthodox, Jewish, Syrian Orthodox, Bulgarian Orthodox, Georgian Orthodox, Chaldean, and Armenian Protestant communities, which had previously submitted applications for the return of properties, continued to say these unresolved claims were an issue for their communities.”³² The legally recognized foundations were able to receive compensation whilst non-recognized religious communities were not.³³

In 2017 the Mor Gabriel Foundation's appeal to the Mardin court was dismissed regarding the ownership of the Syriac/Aramean community's properties that had been expropriated by the Turkish authorities.

The appeal was dismissed because the current law in Turkey does not give the right to transfer so-called “unregistered” properties from the Treasury to a religious foundation. Instead, the foundation was offered a long-term lease on the property, but the offer was rejected by the Syriac/Aramean community. A Syriac/Aramean Member of Parliament called for the government to adopt regulations and policies that protects religious minorities and the Syriac/Aramean community sought a legal framework that would give them ownership.³⁴ In November 2017, the Mor Gabriel monastery was restored to the Syriac/Aramean community.³⁵

In Nusaybin, three of seven damaged churches have been restored to the Syriac/Aramean community in 2017. One of them was completely destroyed from the clash between the Turkish forces and PKK, and the other two were renovated until the end of the year.³⁶

There have been several cases brought to the ECHR regarding expropriation of land and immovable property of foundations recognized by Turkey under the Treaty of Lausanne, including the Armenian Church's property in *Yedikule Surp Pirgiç Ermeni Hastanesi Vakfı v. Turkey*³⁷, and *Samatya Surp Kevork Ermeni Kilisesi v. Turkey*,³⁸ as well as the Greek Orthodox Church's in *Fener Rum Erkek Lisesi Vakfı v. Turkey*,³⁹ *Bozcaada Kimisis Teodoku Rum Ortodoks Kilisesi Vakfı v. Turkey*,⁴⁰ and *Bozcaada Kimisis Teodoku*

31 *Ibid.*

32 *Ibid.*

33 *Ibid.*

34 *Ibid.*

35 “Turkey's Syriac community welcomes Mor Gabriel Monastery's return”, *Hürriyet Daily News*, published: 23 November 2017, accessed: 13 September 2018. <<http://www.hurriyetdailynews.com/turkeys-syriac-community-welcomes-mor-gabriel-monasterys-return-122914>>

36 2017 Report on International Religious Freedom - Turkey, *op. cit.* note 7.

37 ECHR, *Yedikule Surp Pirgiç Ermeni Hastanesi Vakfı v. Turkey*, Application no. 36165/02, 16 March 2009.

38 ECHR, *Samatya Surp Kevork Ermeni Kilisesi v. Turkey*, Application no. 1480/03, 16 March 2009.

39 ECHR, *Fener Rum Erkek Lisesi Vakfı v. Turkey*, Application no. 34478/97, 9 April 2007.

40 ECHR, *Bozcaada Kimisis Teodoku Rum Ortodoks Kilisesi Vakfı v. Turkey*, Application no. 37639/03, 3 June 2009.

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Rum Ortodoks Kilisesi Vakfı v. Turkey No 2.⁴¹ In all these cases the ECHR found a violation of their right to peacefully enjoy their possessions under Article 1 of Protocol 1 no. 1 of the European Convention.

There are still pending cases regarding non-Muslim religious groups' right to peacefully enjoy their possessions in Turkey, including *Istanbul Süryani Katolik Vakfı v. Turkey*,⁴² where Beyoğlu Civil Court of General Jurisdiction annulled a Syriac-Catholic Church's ownership of land, and *Boyacıköy Panayia Evangelistra Kilisesi ve Mektebi Vakfı v. Turkey*,⁴³ where a Protestant foundation's ownership of an immovable property also was annulled.

Local officials are imposing space or zone requirements on churches. Christian groups are required to purchase at least 2,500 m² of land to build a church or small congregations whereas mosques can with permission be built in malls and airports.⁴⁴ The zone requirements are discriminatory to small Christian groups that can only afford smaller pieces of land to build a church or congregation.

3.4 Education

Education is problematic to Christian affiliations that have not been officially recognized by Turkey. Religious affiliations such as the Syriac Orthodox Church are not able to enjoy the rights under the Treaty of Lausanne including the right to education in their mother tongue, Aramaic, or establish schools. The Syriac/Aramean community has operated a preschool since 2014 but is still not able to establish additional schools.⁴⁵ In 1993, UN Human Rights stated that freedom to observe and practice a religion includes "the use of a particular language customarily spoken by a group in practicing their religion".⁴⁶ The OSCE also refers to the freedom of practicing and teaching and parents' liberty to choose school and education for their children in line with their convictions.⁴⁷

It is of great significance to mention that the Armenian and Greek schools are closely supervised by the Ministry of Education and that the appointed deputy principal must be Muslim.

These appointed principals have in turn also greater authority than regular supervisors. Non-Muslim schools have a difficult registration process due to the Turkish authorities' necessity to confirm the ethnicity of the parents of the child.⁴⁸ Armenian refugees from Syria can attend the Armenian schools, but they are not entitled to receive a diploma.⁴⁹

41 ECHR, *Bozcaada Kimisis Teodoku Rum Ortodoks Kilisesi Vakfı v. Turkey No 2*, Application no. 37646/03, 6 January 2010.

42 ECHR, *Istanbul Süryani Katolik Vakfı v. Turkey*, Application no. 42873/06, 11 October 2006.

43 ECHR, *Boyacıköy Panayia Evangelistra Kilisesi ve Mektebi Vakfı v. Turkey*, *op. cit.*

44 2017 US Report on International Religious Freedom - Turkey, *op. cit.* note 7.

45 *Ibid.*

46 UN Human Rights Committee General Comment 22, § 4.

47 Concluding Document of the Vienna Meeting, *op. cit.*, note 19, § 16.7.

48 2017 US Report on International Religious Freedom - Turkey, *op. cit.* note 7.

49 *Ibid.*

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Non-Muslims in Turkey are generally legally free from compulsory religious teaching.⁵⁰ But due to the lack of religious affiliation options in identification cards, some non-Muslim minorities including the Syriac Orthodox and Protestants face difficulties obtaining the exemption from religious teachings.⁵¹

In *Sinan Isik v. Turkey*⁵² the applicant, an Alevi, claimed that his freedom of religion had been violated since his faith was not an option for the registration of identity card. The ECHR found a violation of Article 9 of the European Convention because identity cards included an indication of religion and that the freedom of religion also has a negative aspect; the right not to disclose one's religion.

In *Cox v. Turkey*,⁵³ the applicant was expelled from Turkey because she told students that Turks had expelled and massacred Armenians, at a university in Southern Turkey. The applicant re-entered Turkey several years later and was arrested when distributing leaflets against the film *The Last Temptation of Christ*. The applicant claimed that her rights had been violated under Article 9 and 10 but the ECHR found it more appropriate to only focus on Article 10. The ECHR later held that Turkey had violated the applicant's freedom of expression under Article 10 of the European Convention.

3.5 Freedom of Peaceful Assembly

In September 2017, the Armenian Surp Tateos Church in the Narlikapi neighborhood of Istanbul was attacked by a group of people throwing stones and shouting anti-Armenian slogans during a baptism. The same month the president of the Surp Giragos Armenian Church Foundation said that an unidentified group of people had robbed the Armenian Church in Diyarbakir several times.⁵⁴

In November 2017, a Protestant Church in Malatya was subjected to an attack by an individual throwing bricks. The police caught the perpetrator but released him the next day.

The same church had been previously subjected to two similar attacks twice that year.⁵⁵

The trial against 13 people charged with the assassination of the Pastor in Izmit Protestant Church continued during 2017. The judge postponed the hearing to May 2018 "*pending the result of an investigation of two local security officials allegedly involved in the plot.*"⁵⁶ The judge had also released all the suspects in the pending trial.⁵⁷

50 *Ibid.*

51 *Ibid.*

52 ECHR, *Sinan Isik v. Turkey* Application no. 21924/05, 2 February 2010.

53 ECHR, *Cox v. Turkey*, Application no. 2933/03, 20 May 2010.

54 2017 US Report on International Religious Freedom - Turkey, *op. cit.* note 7.

55 *Ibid.*

56 *Ibid.*

57 *Ibid.*

3.6 Greek Nationals' Right to Claim and Obtain Property

Greeks nationals have not been able to peacefully enjoy immovable properties on Turkish territory and Northern Cyprus, where Turkey has effective control. In *Loizidou v. Turkey*,⁵⁸ the applicant claimed that she has been denied the return to her home in Northern Cyprus by Turkey, as a Greek-Cypriot refugee. The ECHR found a violation of Article 1 of Protocol 1 no. 1.

Other cases like *Cyprus v. Turkey*⁵⁹ have been brought to the ECHR due to the invasion of Turkey in 1974 when many Greek-Cypriots' living conditions were aggravated, many went missing, and were denied access to properties and homes. In this case the ECHR found violations of Article 1 of Protocol no. 1, Article 1 of Protocol no. 2, Articles 3, 8, 9, 10 and 13. The ECHR held that the just satisfaction in this case was the payment of EUR 90,000 to Cyprus for pecuniary and non-pecuniary damages. Turkey has not paid the just satisfaction and the ECHR calls upon Turkey to pay.

*Demades v. Turkey*⁶⁰ and *Lordos and others v. Turkey*⁶¹ are two examples of similar cases regarding denial of access of properties and possessions. The ECHR found a violation of Article 1 para. 1 of Protocol no. 1 in both cases. Turkey paid the just satisfaction to Demades but the applicants in the Lordos and others case have not yet been compensated by Turkey.

Greek nationals have also been denied the ownership of immovable properties in Turkey. In *Nacaryan and Deryan v. Turkey*,⁶² and *Fokas v. Turkey*, both were denied their right to immovable property because they were Greek nationals. The ECHR referred to the *Nacaryan and Deryan Case* and found a violation of Article 1 of Protocol 1 no. 1. Turkey has not yet paid the applicant Fokas, claiming that the ECHR has not issued a just satisfaction although it is stated in the ECHR's judgment the just satisfaction that Turkey should pay.

*Tiverios and others v. Turkey*⁶³ is still a pending case regarding the restrictions on Greek nationals right to inherit immovable properties in Turkey. The applicant claims that Turkey has violated Article 1 of Protocol 1 no. 1, and Article 6 in conjunction with Article 14 of the European Convention.

58 ECHR, *Loizidou v. Turkey*, Application no. 15318/89, 18 December 1996.

59 ECHR, *Cyprus v. Turkey*, Application no. 25781/94, 10 May 2001.

60 ECHR, *Demades v. Turkey*, Application no. 16219/90, 31 October 2003.

61 ECHR, *Lordos and others v. Turkey*, Application no. 15973/90, 9 July 2012.

62 ECHR, *Nacaryan and Deryan v. Turkey*, Application no. 19558/02, 8 January 2008.

63 ECHR, *Tiverios and Others v. Turkey*, Application no. 38275/06, 7 September 2006.

3.7 Conversions from Islam to Christianity

Cases regarding converted Muslims, including *M.B. and others v. Turkey*,⁶⁴ *Ahmadpour v. Turkey*,⁶⁵ *Z.N.S. v. Turkey*,⁶⁶ have been brought up to the ECHR. In all mentioned cases, the applicants have fled from Iran for several reasons, converted to Christianity. Turkey had later decided that the applicants should be deported back to Iran, although there are well-founded grounds for persecution. In *M.B. and others v. Turkey* the applicants were deported but managed to re-enter Turkey illegally. The ECHR held that a deportation to Iran would be a violation of Article 3.

The third and fourth applicants in *M.B. and others v. Turkey* were denied from studying in the Iranian Consulate School because of their faith and the applicant in *Z.N.S. v. Turkey* was expelled from the Iranian Consulate School with the motivation that the applicant conduct matters “*against the school's faith*” referring to her practice of Christianity.

3.8 Freedom of Expression on Religious Matters

In *Bremner v Turkey*⁶⁷, the applicant claimed that his right to private life had been violated by Turkey. The applicant had appeared in a footage taken by a hidden camera for a documentary. He was later taken to court in Turkey by a public prosecutor claiming he had insulted Islam. Although he was found not guilty, his attempt to sue the presenter of the documentary was dismissed by the domestic court because the documentary was considered an “interest of public opinion”. The ECHR held that there had been a violation of his right to private life under Article 8 of the European Convention. Even though the ECHR does not assess freedom of expression in Article 10 of the European Convention, the problem in this case is the fact that the applicant did not have the right to express his thoughts on Islam without being accused of insulting Islam and thereby taken to court.

64 ECHR, *M.B. and Others v. Turkey*, Application no. 36009/08, 15 September 2010.

65 ECHR, *Ahmadpour v. Turkey*, Application no. 12717/08, 15 June 2010.

66 ECHR, *Z.N.S. v. Turkey*, Application no. 21896/08, 28 June 2010.

67 ECHR, *Bremner v. Turkey*, Application no. 37428/06, 13 January 2016.

Conclusion

The systematic and intentional discriminations against the Christian groups living in Turkey are conducted through laws, regulations and policies. These laws, regulations and policies are preventing Christians from fully enjoying their freedom of religion aligned with international human rights law. The Treaty of Lausanne was adopted with the purpose of giving a recognition to non-Turkish and non-Muslim groups and uphold their rights. However, this treaty has not been respected by Turkey and its aim has not been fulfilled. On the contrary, it has created a segregation within the Turkish laws for non-Muslim foundations established both prior the Turkish Republic and after. The three Christian groups that have been recognized by Turkey are still facing difficulties to maintain education free from the State's interference and re-claim of expropriated properties. Armenian and Greek Patriarchates are working tirelessly to obtain legal personalities and the latter for the re-opening of the Greek Orthodox Halki Seminary.

Non-recognized Christian groups are even more vulnerable since they face the risk of expropriation of land and the difficulty of re-claiming it because of their lack of legal personality. These faith groups cannot establish their own schools, and some are required to take classes in Islam due to the lack of choice for religious affiliations in the registration of identity cards.

Attacks, harassments and vandalism have been conducted towards both legally recognized and non-recognized Christian churches. The deficiency of investigation on such attacks paves the way for the absence of impartiality and predictability in the legal system leading to a lack of trust in the system by the Christian communities.

Even though all non-Muslim groups are supposed to be protected under the Treaty of Lausanne, they are *de jure* and *de facto* in Turkey not treated the same as the Sunni Muslims although Turkey officially is considered a secular state. When studying the cases brought to the ECHR it is clear that the ECHR does not differentiate in its judgment depending on the fact that some religious groups are recognized by the State and some are not. On the contrary, this is considered irrelevant to the assessment of the human rights violations in the European Convention. Lastly, it can be established that the pending and future cases in the domestic courts and at the ECHR seem critical considering the political evolution in Turkey.

ANNEX

Case-law

In 2017, the filed complaints against Turkey had increased by approximately 17,660 complaints more than the previous year. 990 of the cases received a judgment from the ECHR compared to 2016 when 118 cases received judgments. Today there are over 8,100 pending cases against Turkey⁶⁸.

Greek Nationals

Article 1 of Protocol no. 1

*Loizidou v. Turkey*⁶⁹

In 1989 the applicant filed a complaint against Turkey, as a Greek-Cypriot refugee from Northern Cyprus. She had been denied returning to her home and the enjoyment of her property and possessions. The ECHR ruled that Turkey had violated Article 1 of Protocol no. 1 under the Convention and thus in favor of the applicant, and all other refugees. The ECHR decided that the applicant could return and that the Turkish state should pay damages.

In 2003 Turkey paid the applicant for the damages, ruled by the ECHR.⁷⁰

*Cyprus v. Turkey*⁷¹

In this case Cyprus brought Turkey to the ECHR regarding Northern Cyprus and the Turkish invasion in 1974. With referral to *Loizidou v. Turkey*, the ECHR found that the matter was considered under Turkey's jurisdiction and therefore under Turkey's responsibility.

The ECHR concluded that there has been a violation of Articles 3 and 5 regarding the missing Greek-Cypriots and their relatives; violations of Articles 8, 13 and Article 1 of Protocol no. 1 regarding the homes and properties of displaced Greek-Cypriots; violations of Articles 3, 8, 9, 10, 13, Article 1 para 1 of Protocol no. 1 and Article 1 of Protocol no. 2 regarding the living conditions in Karpas region for Greek-Cypriots in northern Cyprus; and a violation of Article 6 concerning the Turkish Cypriots living in Northern Cyprus.

The ECHR decided 12 May 2014 that Turkey should pay EUR 90,000,000 to Cyprus.

Turkey has not paid the just satisfaction for the pecuniary and non-pecuniary damages to the applicants and the ECHR calls upon the Turkish authorities to pay them.⁷²

68 Press country profile, Turkey, https://www.echr.coe.int/Documents/CP_Turkey_ENG.pdf, last updated : July 2018.

69 ECHR, *Loizidou v. Turkey*, Application no. 15318/89, 18 December 1996.

70 *Ibid.* Executing Case.

71 ECHR, *Cyprus v. Turkey*, Application no. 25781/94, 10 May 2001.

72 *Ibid.* Execution Case.

The Violations of Christians' Religious Freedom in Turkey

*Demades v. Turkey*⁷³

The applicant in this case is a Cypriot who owns land and a home in Northern Cyprus. Since 1974 he has been prevented from visiting his home in Northern Cyprus by the Turkish armed forces, depriving him from enjoying his property.

The ECHR held a violation of Article 1 of Protocol no. 1 and Article 8 by interpreting “home” extensively. The ECHR also referred to *Cyprus v. Turkey* and maintained their reasoning that the denial of displaced Greek-Cypriots is a continuous violation of Article 8. The ECHR further decided that Turkey must pay the applicant EUR 2,875 for expenses.

In 2009 the applicant was payed the just satisfaction decided by the ECHR.⁷⁴

*Nacaryan and Deryan v Turkey*⁷⁵

In 2000, a Turkish national deceased, leaving both movable and immovable properties behind. The man was unmarried and had no children, and in 2001 the District Court recognized the applicant's relationship with him, making her the heir of the property. Since the applicant was a Greek national, she was denied the succession of the immovable property because of the Greece-Turkey condition of reciprocity when it comes to immovable property.

The ECHR noted that Greece had not fulfilled this agreement and in the contrary, let Turkish nationals to obtain ownership of immovable property in Greece. This result gave the applicant a “legitimate expectation” to also be able to inherit immovable property in Turkey. The ECHR found a violation of Article 1 of Protocol no. 1 and held that Turkey must pay each applicant EUR 250,000 for pecuniary damage.

Turkey has paid the just satisfaction.⁷⁶

*Lordos and others v. Turkey*⁷⁷

The applicants are permanent residents in Northern Cyprus where they had their homes and immovable properties. In 1974 the Turkish forces seized Northern Cyprus, the applicants had to flee to the southern part of Cyprus leaving all their possessions behind. Since then, the applicants have been deprived of returning to and recovering their possessions.

The ECHR concludes that there has been a violation under Article of Protocol no. 1 and Article 8.

The State has still not compensated the applicants with their just satisfaction in accordance with the ECHR's judgment.⁷⁸

73 ECHR, *Demades v. Turkey*, Application no. 16219/90, 31 October 2003.

74 *Ibid.* Executing Case.

75 ECHR, *Nacaryan and Deryan v. Turkey*, Application no. 19558/02, 8 January 2008.

76 *Ibid.* Action Report, 8 January 2008.

77 ECHR, *Lordos and others v. Turkey*, Application no. 15973/90, 9 July 2012.

78 *Ibid.* Executing Case.

The Violations of Christians' Religious Freedom in Turkey

*Fokas v. Turkey*⁷⁹

The applicant was born in Greece but was later adopted by a couple who have a Turkish nationality with Greek origins. When the adoptive parents both had deceased, the applicant inherited the movable and immovable property as the only heir in the family. When the applicant had to be treated in a Greek hospital in Istanbul, the Turkish authorities filed an annulment for the applicant's right to inherit the property, because a person holding a Greek nationality cannot own property in Turkey. In 1997 the court annulled the decision of inheritance although the applicant had already paid the inheritance tax, leaving her without an income and accounts in the psychiatric department of the Greek hospital.

In 2000 the applicant died in Istanbul due to psychiatric illness, leaving her sisters as the only heirs to the property and applicants to this case. The ECHR refers to *Nacaryan and Deryan v. Turkey*.

The ECHR holds that it has been a violation of Article 1 of Protocol no. 1 to the Convention and that Turkey must pay the applicant EUR 5,000,000 for pecuniary and non-pecuniary damages and EUR 15,000 for expenses.

Turkey has not yet paid the just satisfaction decided by the ECHR, claiming that the ECHR has not decided "an issue of just satisfaction".⁸⁰ It is however already established in the case that the ECHR determines that respondent State must pay the applicant, and the specific amount.

*Tiverios and Others v. Turkey*⁸¹ – communicated case

Triverios is a Greek national currently living in Germany. The applicant complains regarding the restrictions of Greek nationals to inherit immovable property in Turkey because of the principle of reciprocity between Greece and Turkey.

The applicants are claiming that Turkey has violated their right to a fair trial under Article 6, peaceful enjoyment of possessions under Article 1 of Protocol no. 1. They are also alleging that they have been discriminated because of their Greek Origin and Christian faith under Article 14 of the Convention.

79 ECHR, *Fokas v. Turkey*, Application no. 31206/02, 1 January 2014.

80 *Ibid.* Action Report, 18 October 2013.

81 ECHR, *Tiverios and Others v. Turkey*, Application no. 38275/06, 7 September 2006.

Recognized Religious Groups

Article 1 of Protocol no. 1

*Yedikule Surp Pirgiç Ermeni Hastanesi Vakfi v. Turkey*⁸²

The applicant foundation is recognized as a non-Muslim minority by the Turkish government in accordance with the 1923 Treaty of Lausanne, since it was established during the Ottoman Era, in 1832. The applicant acquired immovable property through donation in 1962. In 1998 the Treasury applied for an annulment of the applicant's ownership of the property. The ECHR found a violation of Article 1 of Protocol no. 1. The ECHR also held that Turkey pay EUR 270,000 to the applicant foundation within three months after the final judgment.

Turkey has paid the just satisfaction, ruled by the ECHR, according to Turkey's action plan in 2011.⁸³

*Fener Rum Patrikligi v. Turkey*⁸⁴

The applicant acquired a piece of land with two buildings on it in 1902. Ownership of this property was officially transferred to it under Ottoman law. A foundation (Orphanage) was given the right to use the property by the applicant, which was recorded in the register. When the Foundation Act was established, the Orphanage was given a legal personality. The foundation was officially recognized, and the property was also mentioned in the declaration. In 1964 the Turkish authorities ordered the Orphanage to leave the premises and the applicant re-took the possession of the property.

In 1999, the General Directorate of Foundations took proceedings to get the applicant's ownership annulled and instead re-register the ownership to the Orphanage. In 2002 the ECHR decided to give the ownership to the Orphanage and the Court of Cassation rejected the application to review the judgment.

The ECHR held that Article 1 of Protocol no. 1 had been violated and Turkey was required to change to the applicant's name in the land register. The ECHR also held that the Turkish state must pay EUR 6,000 for moral prejudice suffering and EUR 20,000 to cover all the costs and expenses.

The property has been re-registered in the name of the applicant and the amount for non-pecuniary damage has been payed.⁸⁵

82 ECHR, *Yedikule Surp Pirgiç Ermeni Hastanesi Vakfi v. Turkey*, Application no. 36165/02, 16 March 2009.

83 *Ibid.* Action Plan, 7 September 2011.

84 ECHR, *Fener Rum Patrikligi v. Turkey*, Application no. 14340/05, 15 September 2010.

85 *Ibid.* Executing Case.

The Violations of Christians' Religious Freedom in Turkey

*Samatya Surp Kevork Ermeni Kilisesi v. Turkey*⁸⁶

The applicant foundation is also recognized under Turkish law as a non-Muslim minority established during the Ottoman Era. In 1955 the applicant acquired immovable properties in Istanbul, by donation. In 1998 the Regional Directorate of Istanbul Foundations applied for an annulment of the applicant's ownership of the immovable properties. The ECHR held that there had been a violation of Article 1 of Protocol no. 1 and decided that the respondent State will pay EUR 600,000 to the applicant foundation if the properties are not re-registered in the applicant's name.

The respondent State has re-registered the immovable properties in the applicant foundation's name.⁸⁷

*Fener Rum Erkek Lisesi Vakfi v. Turkey*⁸⁸

The applicant is a foundation that is providing educational facilities at the Greek Orthodox High School in Fener, Istanbul. This foundation was established during the Ottoman era. After the declaration of the Turkish Republic, this foundation obtained a legal personality in accordance with the Treaty of Lausanne. In 1936 the applicant filed a declaration of its aims and the immovable property and in 1952 the applicant acquired a part of the building by donation, but the immovable property was afterwards registered at the Land Registry.

In 1958 the applicant purchased another part of the building and the same year it was registered as the owner of the property in the Land Registry.

In 1992 the Treasury lodged an application to the District Court of Beyoğlu (Istanbul) seeking to annul the applicant's title to the immovable property and thereof register the property in the name of the previous owners.

On 19 December 1994 an expert in cartography, appointed by the District Court filed a report. He observed that foundations belonging to religious minorities according to the Lausanne Treaty that had not indicated in their constitution a capacity to acquire immovable property could not purchase nor accept property as a gift or donation. Thereof the expert concluded that the applicant lacked capacity to acquire the property and that the title should be annulled and re-registered in the name of the previous owner.

The ECHR found a violation of Article 1 of Protocol no. 1 and that the Turkish state was to pay the applicant EUR 890,000 for pecuniary damage if the property was not re-registered in the applicant's name.

According to Turkey's action plan to the Council of Europe, it has paid the just satisfaction to the applicant.⁸⁹

86 ECHR, *Samatya Surp Kevork Ermeni Kilisesi v. Turkey*, Application no. 1480/03, 16 March 2009.

87 *Ibid.* Action Plan, 7 September 2011

88 ECHR, *Fener Rum Erkek Lisesi Vakfi v. Turkey*, Application no. 34478/97, 9 April 2007.

89 *Ibid.* Action Plan, 7 September 2011.

The Violations of Christians' Religious Freedom in Turkey

*Bozcaada Kimisis Teodoku Rum Ortodoks Kilisesi Vakfi v. Turkey*⁹⁰

Foundation of the Greek Orthodox Church is the applicant in this case and although the foundation has owned the property for many years it has never been registered in its name.

The ECHR held that it has been a violation of Article 1 of Protocol no. 1 because the Turkish authorities had refused to enter the applicant as the property owner for a property that has been owned by the applicant, for over 20 years.

The ECHR also required that the property should be registered in the applicant's name or the Turkish state should pay EUR 100,000 for pecuniary damage.

Turkey has paid the just satisfaction to the applicant, according to the Turkish action plan.⁹¹

*Bozcaada Kimisis Teodoku Rum Ortodoks Kilisesi Vakfi v. Turkey No 2*⁹²

The applicant foundation was established during the Ottoman Era and is recognized as a non-Muslim minority according to the Treaty of Lausanne and thereof, in Turkish law. The applicant foundation acquired immovable properties by donations. In 2001 the Turkish Court granted the applicant foundation to be registered as the owner of the immovable properties but when the Treasury appealed to the Court of Cassation it overruled the judgment. The ECHR held that Turkey violated the applicant's right under Article 1 of Protocol no. 1 and that Turkey should register the immovable properties in question in the applicant's name and pay EUR 5,000 for all expenses. If the registration has not been fulfilled three months after the final judgment, Turkey must pay EUR 173,000 for all damages.

The respondent State has registered the applicant foundation as the owner of the immovable properties, according to Turkey's action plan.⁹³

Non-Recognized Religious Groups

Artice 1 of Protocol no. 1

*Istanbul Süryani Katolik Vakfi v. Turkey*⁹⁴– *communicated case*

The applicant is a religious foundation belonging to the Syriac-Catholic Church. On 1 December 1998 the Beyoglu Civil Court of General Jurisdiction ordered to change the ownership of the land from the

90 ECHR, *Bozcaada Kimisis Teodoku Rum Ortodoks Kilisesi Vakfi v. Turkey*, Application no. 37639/03, 3 June 2009.

91 *Ibid.* Action Plan, 7 September 2011.

92 ECHR, *Bozcaada Kimisis Teodoku Rum Ortodoks Kilisesi Vakfi v. Turkey No 2*, Application no. 37646/03, 6 January 2010.

93 *Ibid.* Action Plan, 7 September 2011.

94 ECHR, *Istanbul Süryani Katolik Vakfi v. Turkey*, Application no. 42873/06, 11 October 2006.

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applicant to the Directorate at the Land Registry. In 2005 the domestic courts terminated the applicant's right on the grounds that the Ministry of Finance had no competence to establish such a right at the relevant time.

The applicant has complained that the domestic court's decision to terminate the usufruct right was based on religious and ethnical discrimination and have violated its rights under Article 1 of Protocol no. 1, and in conjunction with Article 14.

The Court was informed that the government had reached a settlement with the applicant foundation. The applicant accepted to withdraw its application before the Court on the condition that the Directorate established a forty-nine-year usufruct in its favour. It also waived any further claims against Turkey in respect of the costs and expenses. Thus the Court struck the case out of the list.

*Boyacıköy Panayia Evangelistra Kilisesi ve Mektebi Vakfı v. Turkey*⁹⁵ – communicated case

The applicant was one of many religious foundations that were established during the Ottoman Empire. After the fall of the Empire and the rise of the Turkish Republic, the foundation obtained a legal personality in 1935. In 1936 the applicant filed a declaration indicating its aims and the immovable property.

In 2009 the applicant filed an application to register the properties under its name, but it was rejected on the grounds that it fell out of the scope of Article 7 of Law no. 5737. The applicant later appealed to the Istanbul Administrative Court, which gave the same response. In June 2015, the Supreme Administrative Court approved the judgment of the previous courts. In November 2015, the applicant lodged an application to the Constitutional Court, which later dismissed the case holding that the applicant did not exhaust all local remedies.

The applicant claims that its rights under Article 6 and Article 1 of Protocol no. 1 have been violated.

Article 3

*M.B. and Others v. Turkey*⁹⁶

There are four applicants in this case. The first and second applicants are married and the third and fourth applicants are their children. They fled to Turkey because they feared for their lives since the first applicant had aided political dissidents in Iran. The applicants were dismissed since the UNHCR did not recognize the applicants a refugee status.

The applicants later moved to Istanbul, converted to Christianity, and all of them were active in the

95 ECHR, *Boyacıköy Panayia Evangelistra Kilisesi ve Mektebi Vakfı v. Turkey*, Application no. 69446/17, 4 September 2017.

96 ECHR, *M.B. and Others v. Turkey*, Application no. 36009/08, 15 September 2010.

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Protestant Churches there. Later, the third and fourth applicants were denied the possibility to study at the Iranian Consulate School because of their religious faith.

In 2008, the UNHCR recognized the applicants' refugee status in Ankara because it was found that the first applicant was imprisoned in Iran for not complying with religious practices in 1991. The UNHCR also found that the applicants had converted to Christianity and that the Iranian authorities were aware of it. The UNHCR therefore concluded that they had a well-founded ground for persecution based on their religion.

Later they moved back to Hakkari and when they applied for residence permits on 14 May 2008 the police asked them how they maintained to travel to Iran during their stay in Turkey. The first and fourth applicants explained that they had been travelling to Iran illegally with falsified passport to take Bibles in Farsi there. On 30 July 2008 the applicants were deported to Iran.

On 31 July 2008, the applicants managed to re-enter Turkey and approached the UNHCR office in Ankara for a refugee status again on 21 August 2008. The UNHCR found that the refugee status was still valid. In August, the applicants applied to the General Police Headquarters for the suspension of the deportation decision and grant residence permits.

The ECHR concluded that there had been a violation of Article 13, with a referral to a similar case, *Abdolkhani and Karimnia v. Turkey*.⁹⁷

The ECHR also held that a deportation of the applicants to Iran would violate Article 3 and that there was no separate issue when it comes to Article 2 and dismissed the applicants' claim for just satisfaction.

The Communication from Turkey stated :

*"In respect of the applications no. 36009/08 and 41626/08, after receiving information on the acceptance of the applicants' asylum requests by third countries, the General Directorate of Security ordered the competent administrative authorities to allow the applicants to leave Turkey and requested the authorities to facilitate the preparation of their travel documents. The applicants in the case of M.B.a.o. left Turkey on 16 June 2010 for Canada."*⁹⁸

*Ahmadpour v. Turkey*⁹⁹

In 2005, the applicant divorced her husband in Iran because of his violence and fled with her children illegally to Turkey, although the father was appointed as legal guardian. In 2006, the applicant married an Iranian national that had converted to Christianity and later she also converted. Ahmadpour had applied for a refugee status at the UNHCR but her application was dismissed.

In December 2006, the Ministry of Interior rejected their temporary asylum requests. In November 2007, the applicant was informed that she was going to be deported. In March 2008, the UNHCR reopened the applicant's case.

97 ECHR, *Abdolkhani and Karimnia v. Turkey*, Application no. 30471/08, 1 March 2010

98 ECHR, *M. B. and Others v. Turkey*, *op. cit.*

99 ECHR, *Ahmadpour v. Turkey*, Application no. 12717/08, 15 June 2010.

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After interviewing the applicant, the UNHCR found that the claims regarding the ex-husband sexually and physically abusing her and the children were a legitimate reason to escape Iran to save her and her children (this act is also punishable by Iranian law). The UNHCR also found that the applicant had married a Christian man, converted to Christianity and given birth to a daughter whom she had baptised and given a Christian name to. The UNHCR concluded that she had a well-founded fear of persecution on account to her faith and gender.

The ECHR concludes that it would be a violation of Article 3 if the applicant was deported to Iran and that there has been a violation of Article 5.

The Turkish authorities do not know where the applicants are and consider therefore that the “*measures taken ensured that the violations have been brought to an end and no other individual measure was considered necessary by the Directorate in the present case.*”¹⁰⁰

*Z.N.S. v. Turkey*¹⁰¹

The applicant is an Iranian national that fled illegally to Turkey and started working there without the knowledge of the Turkish authorities nor the UNHCR. When they found her, they deported her back to Iran. The applicant managed to escape back to Turkey and eventually converted to Christianity. The applicant's son was later expelled from the Iranian Consulate School because of “conduct against the school's faith.”

The government assessed that there was no well-grounded fear of persecution if she would be deported to Iran whilst the applicant believes that due to her prior political activities against the ruling government in Iran and her conversion to Christianity she has a well-grounded fear of persecution.

The ECHR concluded that it would be a violation of Article 3 if she were to be deported to Iran again.

The ECHR also found that there had been a violation of Article 5 §§ 1 and 4 and Turkey must pay the applicant EUR 20,000 for non-pecuniary damage.

In the Action Report delivered by Turkey, it is mentioned that Z.N.S. is a resident in Balikesir as an applicant for the international protection status.¹⁰² It does not mention the EUR 20,000 that the ECHR decided had to be paid by the responsible State, for non-pecuniary damage.

Article 8

*Bremner v. Turkey*¹⁰³

In 1997, the applicant appeared on a footage taken by a hidden camera for a television documentary concerning “*foreign pedlars in religion*”. The applicant arranged a meeting with the person obtaining the hidden camera because he responded to an advertisement regarding free Christian literature.

100 *Ibid.* Action Report, 21 November 2016.

101 ECHR, *Z.N.S. v. Turkey*, Application no. 21896/08, 28 June 2010.

102 *Ibid.*, Action Report, 21 November 2016.

103 ECHR, *Bremner v. Turkey*, Application no. 37428/06, 13 January 2016.

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The same year the public prosecutor brought proceedings against the applicant claiming that he had insulted God and Islam in the footage. The applicant was found not guilty and sued the presenter of the documentary for damage. The court dismissed the claim, finding the documentary a subject of interest for the public opinion.

The ECHR found a violation of Article 8 of the Convention and that the State must pay EUR 7,500 for non-pecuniary damages. It is confirmed that the just satisfaction has been paid to the applicant.¹⁰⁴

Article 10

*Cox v. Turkey*¹⁰⁵

The applicant in this case is a US citizen but lived and studied in Turkey during several years from 1972. In 1984 she started working at a university in Southern Turkey. In 1985 the applicant told her students that Turks had expelled and massacred Armenians. The Ministry of Interior Affairs later expelled her from Turkey. Several years later the applicant returned to Turkey and in 1989 she got arrested while distributing leaflets against the film *The Last Temptation of Christ*.

“9. At the time, and following the applicant’s expulsion from Turkey, the Ministry of the Interior allegedly compiled classified reports about the applicant containing phrases such as “[the applicant, who] works as a missionary in our country” and “[the applicant, who] was put under surveillance following her attendance at a service in a Protestant church in Turkey”. The applicant did not submit a copy of these reports to the Court.”¹⁰⁶

She claimed that her rights under Article 9 and 10 in the Convention had been violated. She claimed that the reason why she had been banned from Turkey was because of her religion. Since the applicant had failed to substantiate her allegations regarding the unjust treatment regarding her religion, the ECHR found it more appropriate to solely focus on Article 10. The ECHR concluded that the measures were not “*necessary in a democratic society*” and therefore Turkey had violated Article 10 in the Convention and that Turkey must pay the applicant EUR 12,000 for non-pecuniary damage.

The just satisfaction was paid in November 2010, according to Turkey’s Action Report.¹⁰⁷

104 *Ibid.*

105 ECHR, *Cox. v. Turkey*, Application no. 2933/03, 20 May 2010.

106 *Ibid.*, § 9.

107 *Ibid.*

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