



PERMANENT MISSION OF THE REPUBLIC OF TURKEY
TO THE UNITED NATIONS OFFICE IN GENEVA

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The Permanent Mission of the Republic of Turkey to the United Nations Office in Geneva and other international organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the joint communication from Special Procedures, dated 10 August 2020 (REF: AL TUR 14/2020), has the honour to enclose herewith an information note compiled by relevant Turkish authorities, in reply to the information request stated in the aforementioned letter.

The Permanent Mission of the Republic of Turkey avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 4 November 2020

Encl: As stated



Office of the High Commissioner for Human Rights
Palais des Nations
1211 Geneva 10

**INFORMATION NOTE IN REPLY TO THE JOINT COMMUNICATION FROM
SPECIAL PROCEDURES
(Reference: AL TUR 14/2020)**

1. With reference to the letter of the Special Rapporteur on the freedom of religion or belief; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on minority issues dated 10 August 2020 regarding Protestant Christian community in Turkey, the Government would like to submit its observations herein below.

I. OBSERVATIONS IN REPLY TO THE COMMUNICATION

Overview of the legislative and institutional framework on freedom of religion and non-discrimination in Turkey

2. Turkey adheres with great dedication to its legacy of multi-faith tolerance and cultural pluralism.

Turkey has an extensive legal framework against discrimination. The Constitution and relevant legislation provide for freedom of religion, conscience, religious belief, conviction, expression, and worship, and prohibits discrimination based on religious grounds. In this respect, Article 10 of the Constitution sets out the principle of equality before the law as well as Article 3(2) of the Turkish Penal Code (TPC) while Article 24 of the Constitution guarantees the freedom of conscience, religious belief and conviction.

Incitement to religious hatred, public denigration of any group on the basis of their religion or sect as well as defamation of religious values are penalized under Article 216 of TPC. Discriminatory acts stemming from hate based on race, language, religion, sect, sex, political, philosophical belief or opinion are penalized under Article 122 of TPC. Article 125 of TPC states that if the offence of defamation/insult is committed due to expression, changing, efforts for expansion of one's religious beliefs, convictions and opinions, one's compliance with the rules and prohibitions of his/her religion, or through mentioning the holy values of the religion the person is a member of, the minimum length of the penalty cannot be less than one year.

In addition, it is stated in the Law no. 6112 on the Establishment of Radio and Television Enterprises and their Media Services that media services shall not incite the society to hatred and hostility by making discrimination on the grounds of race, language, religion, sex, class, region and sect or shall not constitute feelings of hatred in the society.

Turkey has also institutionalized its efforts to guarantee individuals' rights to equal treatment and prevent discrimination in exercising legally recognized rights with the establishment of the Human Rights and Equality Institution of Turkey (HREIT) in 2016 by the Law no. 6701. Ensuring the right to equal treatment and preventing discrimination in exercising legally recognized rights and freedoms, are among the primary aims of the Institution. As such, the Institution has been tasked with preventing and eliminating discrimination, examine violations, decide on them and monitor the consequences, conduct joint activities, raise awareness and assist victims of discrimination in legal or administrative proceedings. HREIT also publishes annual report in the field of prevention of discrimination¹.

The Law no. 6701 prohibits discrimination on the grounds of religion, faith, sect; while listing forms of discrimination falling under the scope of the law: segregation or isolation, giving instructions to discriminate against someone and following such instructions, multiple, direct or indirect discrimination, mobbing, harassment and discrimination based on presumed grounds. All persons claiming to have been subjected to discrimination can lodge an application before HREIT.

Non-Muslim minorities, places of worship and immovable properties of the non-Muslim community foundations in Turkey

3. Minority rights in Turkey are regulated in accordance with the Lausanne Peace Treaty of 1923, under which Turkish citizens belonging to non-Muslim minorities fall within the scope of the term "minority". Turkish citizens belonging to non-Muslim minorities have the same rights as the rest of the population

¹ The Institution's reports can be accessed through "<https://www.tihk.gov.tr/>".

4. Non-Muslim minorities have their own schools, places of worship, foundations, hospitals and media organizations.

5. Non-Muslim places of worship are administered by their own associations or foundations. Property rights regarding places of worship rest with the real or legal persons that have founded them. Religious minorities in Turkey are able to carry out activities which require legal personality through the foundations and associations they establish and are thus able to acquire movable and immovable property.

6. Non-Muslim citizens are able to carry out religious ceremonies freely. The places of worship used by the non-Muslim citizens are being renovated by the Directorate General of Foundations:

The immovables renovated so far include, Edirne Central Synagogue, Gökçeada Saint Nicola Church, Gökçeada Saint-Marina Greek Orthodox Church, Hatay İskenderun Syriac Catholic Church, Hatay İskenderun Greek Catholic Church, Diyarbakır Sur Armenian Protestant Church, Diyarbakır Sur Armenian Catholic Church, Gaziantep Nizip Fevkani Church, Gaziantep Şahinbey Synagogue, Ayvalık Cunda Taksiyarhis (Saint Nicola) Church, İskenderun Arsuz Maryo Hanna Church, İstanbul Edirnekapı Aya Yorgi Church, Hatay Yayladağı Greek Orthodox Church, Sveti Stefan Bulgarian Church. In addition, as from 2018, the restoration process of Sina Badukyasko (Terra Santa) church in Istanbul/Beyoglu has been commenced.

7. Issues related to the training of clergy in Turkey are dealt in line with the Constitution and the relevant legislation. Article 24 of the Constitution on the freedom of religion and conscience stipulates *inter alia* that education and instruction in religion and ethics shall be conducted under state supervision and control.

There is no restriction on foreign clergy to work in Turkey. Foreign clergymen have been registered with working permit to serve in places of worship.

Registration of places of worship

8. As of 2020, there are 32 places of worship belonging to Protestant communities in Turkey.

9. According to Article 18 of the Zoning Law no. 3194, municipalities are authorized to prepare land arrangements within the municipal boundaries. Places of worship are among the public service areas that may be allocated in the plan according to the common local needs of the plan region in the land arrangement.

10. Municipalities carry out services in line with the principle of equality for the common local needs of the region without discrimination of language, religion or race as per the Constitution and the Municipality Law. The term “*Common local needs of the inhabitants of the region*” is the key factor to determine the services to be carried out as according to Article 127 of the Constitution municipalities’ primary function is to meet the common local needs of the inhabitants of provinces and districts. The common local needs of the region is not the private interests pertaining an individual or a group but is a common expectation that arise from living together that requires a local public service to meet.²

11. Requirements for allocating and permitting places of worship are specified in Article 2 of the Appendix of the Zoning Law. Accordingly;

“(1) In the preparation of the zoning plans, necessary places of worship are allocated by considering the conditions and the future needs of the planned region.

“(2) A place of worship can be built in provinces, districts and towns, with the permission of the local authority and in accordance with the zoning legislation.”.

12. Hence, permissions from the local authority and the relevant municipality is required to open a place of worship. In giving permission, the local authority considers the number of settled congregations in the region and the need for a place of worship and the municipality checks the physical conditions of the place in terms of zoning legislation (i.e. whether the zoning plan includes a place of worship, if not changing the plan etc.). It should be noted that,

² The Constitutional Court, Case no: 2001/377, Decision no: 2002/59 dated 26.06.2002.

there is no discrimination between communities of different religions in terms of principles and procedures for opening places of worship. There is also no arbitrariness arising from the law in this process as the local administrations are required by law to explore the physical and social conditions of the region and give reasons for their decisions.

13. If, on the other hand, the desired place for worship is in a condominium, pursuant to the Article 24 of the Condominium Law no. 634, unanimous vote of the apartment owners and a plan change for the building are required in order to open such place.

14. Pursuant to Article 125 of the Constitution, all actions and acts of local administration in the process are subject to judicial review. Legal remedies are available, such as action for annulment or full remedy action before the administrative courts against administration's acts as well as applications to the Ombudsman Institution under Law no. 6328, applications to the HREIT in terms of prohibition of non-discrimination and individual applications to the Constitutional Court under Article 148 of the Constitution.

15. Concerning uses of places that are not specified as places of worship, Council of State states that haphazard construction places of worship or using places such as houses, shops, offices which are allocated for these purposes in the development plan, for place of worship, shall not be permissible and such places cannot be used as a place of worship unless the development plan is changed.³

Regarding residence permits of Protestant Christian religious individuals

16. The Government wishes to remind that the State has the right to control entry, residence and expulsion of foreigners in accordance with national and international law.

17. According to Article 15 of the Law on Foreigners and International Protection no. 6458, foreigners whose stay in Turkey are considered unfavorable for reasons of public order and security shall be not be given visa. In applying for a residence permit, relevant authorities, if

³ 10th Chamber, Case no: 2004/7845, Decision no: 2007/3235, dated 12.06.2007.
10th Chamber, Case no: 2004/10350, Decision no: 2007/3698, dated 25.06.2007
10th Chamber, Case no: 2005/715, Decision no: 2007/4629, dated 10.10.2007

deemed necessary, investigate whether there is a situation that concerns public order and security.

18. As for the individuals mentioned in the letter, it was only possible to make inquiries in the records based on the name information provided. As such, only records for Amanda Jolyn Krause were available. It is found that she has applied for a long term residence permit. She also applied for a short term residence permit extension to be a basis for her legal stay until her application is concluded. Although she was initially granted short term residence visa for her stay between 27 February 2019 – 24 December 2019, it is later concluded that for reasons of public order and security, in line with the law mentioned above, her short-term visa was terminated. She filed an action against the decision and the court found that there was no illegal action concerning the relevant authorities and thus rejected her request on 11 March 2020. She then appealed this decision which is currently pending.

19. The Government would like to underline that the judicial process regarding Krause has not been concluded. It should also be noted that her religious identity did not play a role in either her visa revocation or in the judicial process.

II. CONCLUSION

20. In light of the explanations above, the Government would like to emphasize that freedom of religion and worship is protected in the Constitution and in relevant laws. Hate crimes and other related crimes are also specified in the legislation. Administrative actions regarding religious communities are taken in accordance with the principle of equality and non-discrimination and these actions are subject to judicial review. Procedures and requirements for opening a place of worship are specified in the law and are applied without discrimination.