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REPUBLIC OF TURKIYE

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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This submission addresses the human rights situation in the Republic of Türkiye with a focus on freedom of religion or belief.

(a) Freedom of Religion or Belief

Demographics

3. As of 2024, Türkiye has an estimated population of 87.5 million people.¹ Ethnic Turks make up 75% of the population, with the rest comprised of Kurds (18%) and other minority groups (7%).
4. Around 99% of the population is Muslim, with about 83% Sunni and 15% Shia. In Türkiye, only three religious minorities are recognized: Greek Orthodox Christians, Armenian Orthodox Christians, and Jews. Together, they comprise less than 1% of the population.²

Historical Background

5. Modern Türkiye is unintelligible without understanding its history as the primary successor state to the Ottoman Empire, a predominantly Islamic state but also a multi-confessional empire that spanned the Middle East, North Africa, and Southeastern and Central Europe at its greatest expanse.
6. The Ottoman Empire gave minority religious communities within the empire “limited power to regulate their own affairs, under the overall supremacy of the Ottoman administration.”³ According to the Ottoman interpretation of the Qur’an, Christians and Jews were People of the Book, known as *dhimmi*, who were “not forced to convert to Islam but allowed to live under the Muslim arrangement with certain prohibitions while practicing their religion and paying the *cizye* and military exemption tax.”⁴
7. Mustafa Kemal Atatürk, who founded the Turkish Republic in 1923, shifted Türkiye from a predominantly Islamic empire to a nationalist, secular state.⁵
8. On the one hand, the contemporary ruling Justice and Development (AKP) party emphasizes the country’s Ottoman and Islamic heritage over its secular history.⁶ On

¹ World Population Review 2024 (Live) (last visited 10 Sep. 2024), available at <https://worldpopulationreview.com/countries/turkey>.

² The ARDA ‘National/Regional Profiles: Turkey’ (2020), available at <https://www.thearda.com/world-religion/national-profiles?u=226c>.

³ Efrat Aviv, *Millet System in the Ottoman Empire*, Oxford Bibliographies (28 Nov. 2016), available at <https://www.oxfordbibliographies.com/display/document/obo-9780195390155/obo-9780195390155-0231.xml>.

⁴ *Id.*

⁵ Ahmed El Amraoui and Faisal Edroos, *Why Atatürk’s legacy is debated 80 years after his death*, Al Jazeera (11 Jun. 2018), available at <https://www.aljazeera.com/features/2018/6/11/why-ataturks-legacy-is-debated-80-years-after-his-death>.

⁶ *Id.*

the other hand, the concept of secularism has been used at times to justify laws that inhibit freedom of religion or belief and has been politicized by both Islamists and secularists.⁷ This tension sets the context for understanding the situation of freedom of religion or belief in Türkiye today.

Domestic Legal Framework

9. According to its Constitution, the Republic of Türkiye is a “democratic, secular and social state governed by the rule of law.”⁸
10. Article 10 guarantees equality before the law “without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such grounds.”⁹
11. Article 24 contains various provisions relating to the freedom of conscience, religious belief and conviction.”¹⁰
12. First, it allows acts of worship, religious rites, and ceremonies to be conducted freely so long as they do not violate Article 14 (i.e., activities aiming to violate the territorial integrity of the state, endangering democracy, or the secular order).¹¹
13. Second, it prohibits compulsion in religion, stating that “[N]o one shall be compelled to worship, or to participate in religious rites and ceremonies, or to reveal religious beliefs and convictions, or be blamed or accused because of his religious beliefs and convictions.”¹²
14. Article 24 further states, “[R]eligious and moral education and instruction shall be conducted under state supervision and control.” In this regard, “[I]nstruction in religious culture and morals shall be one of the compulsory lessons in the curricula of primary and secondary schools.”¹³ Other religious education is “subject to the individual’s own desire, and in the case of minors, to the request of their legal representatives.”¹⁴
15. Finally, the last provision of Article 24 proscribes the exploitation or abuse of religion, religious feelings, or things held sacred by religion, “in any manner whatsoever, for the purpose of personal or political interest or influence, or for even partially basing the fundamental, social, economic, political, and legal order of the State on religious tenets.”¹⁵

⁷ See e.g., Burak Ünveren, *The politics of hijab*, Qantara.de (18 Oct. 2022), available at <https://qantara.de/en/article/turkeys-headscarf-debate-politics-hijab>.

⁸ Constitution of Turkey 1982 (rev. 2017) (Unofficial English translation), available at https://www.constituteproject.org/constitution/Turkey_2017.

⁹ *Id.* at Art. 10.

¹⁰ *Id.* at Art. 24.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

16. In addition to the constitutional framework, the Türkiye Penal Code contains various provisions related to religion.¹⁶
17. Article 3 provides for equal treatment under the law, including prohibiting discrimination based on religion.¹⁷
18. Article 122 penalizes preventing any person from “benefiting from a certain service offered to the public; employed, engaging in a normal economic activity... due to hatred stemming from differences in language, race, nationality, color, gender, disability, political opinion, philosophical belief, religion or sect” with a penalty of imprisonment for a term of 1-3 years for a violation.¹⁸
19. Article 125 contains a provision on “crimes against honor” that penalizes insulting a person’s “honour, dignity or reputation.” This includes “the crime of insult ... because of their declaration, change, or attempt to spread their religious, political, social, philosophical beliefs, thoughts, and opinions, or because of their compliance with the commands and prohibitions of the religion they are affiliated with” or “mentioning values considered sacred according to the religion the person is affiliated with.”¹⁹ The penalty of imprisonment cannot be less than one year.
20. Article 216 penalizes openly inciting a segment of the public with different characteristics in terms of social class, race, religion, sect or region to hatred and hostility against another segment. Depending on the gravity, penalties vary from one to three years imprisonment.²⁰
21. Article 219 penalizes religious leaders (including imams, orators, preachers, priests, and rabbis) from “publicly criticiz[ing] and denigrat[ing] the government administration, state laws and government actions while performing his duty” with a penalty from one month to one year and a judicial fine or both.²¹

Treaty of Lausanne

22. It is worth recalling that Türkiye is a State Party to the Treaty of Lausanne, signed by Turkey and the Allied Powers after World War I.²² Among other provisions, Article 38 requires the government to ensure “full and complete protection of life and liberty” to all inhabitants without distinction of, inter alia, religion and to guarantee “free exercise, whether in public or private, of any creed, religion or belief, the observance of which shall not be incompatible with public order and good morals;”²³ Article 39 guarantees religious minorities equality under the law and the same civil and political rights as

¹⁶ Penal Code of Turkey (adopted 26 September 2007), available at <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=5237&MevzuatTur=1&MevzuatTertip=5>.

¹⁷ *Id.* at Art. 3.

¹⁸ *Id.* at Art. 122.

¹⁹ *Id.* at Art. 125.

²⁰ *Id.* at Art. 216.

²¹ *Id.* at Art. 219.

²² Treaty of Peace with Turkey Signed at Lausanne (24 Jul. 1923) (referenced from *The Treaties of Peace 1919-1923, Vol. II* (New York: Carnegie Endowment for International Peace, 1924), available at https://wwi.lib.byu.edu/index.php/Treaty_of_Lausanne.

²³ *Id.* at Art. 38.

Muslims without prejudice to differences of religion, creed, or confession²⁴; and Article 40 protects the equal rights of religious minorities 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.”²⁵

Violations of freedom of religion or belief

23. There are growing concerns with systematic faith-based discrimination in Türkiye, particularly for religious minorities, including Christians.²⁶
24. According to Open Doors, the pressure on Christians and other religious minorities is two-fold: “Foreign Christians continue to be forced to leave the country or banned from returning, including those with Turkish spouses and children. Historical Christian communities are monitored regularly and subjected to controls and limitations by the government.”²⁷
25. While conversions are not legally forbidden, observers attribute these developments to Christians being perceived as a negative Western influence, the immense social pressure upon them to recant their faith, and legal or bureaucratic challenges.²⁸
26. For example, in early February 2019, US missionary couple Pam and David Wilson were banned from Türkiye after living there for nearly four decades. Despite having obtained the necessary visas and residence permits, they were told at the Istanbul airport upon returning from a vacation that they both had deportation orders and entry bans imposed on them.²⁹
27. Two weeks later, one of their team members received the same entry ban, and soon thereafter, David, Pam, and two of their team members learned that a code called G-87 – a designation generally only assigned to terrorists – had been issued for all of them. On 13 July 2021, ADF International filed a European Court of Human Rights application on behalf of the Wilsons. This was not an isolated case.
28. In August 2021, Christian preacher David Byle and his wife Ulrike were expelled from Türkiye after living there for 19 years and raising five children.³⁰ The authorities alleged that David was a threat to public order and security despite the legality of his work.

²⁴ *Id.* at Art. 39.

²⁵ *Id.* at Arts. 40.

²⁶ See *generally* Press Release: Experts condemn growing intolerance against Christians in Türkiye at largest human rights conference in Europe, ADF International (6 Oct. 2023), available at <https://adfinternational.org/news/experts-condemn-growing-intolerance-against-christians-in-turkiye-at-largest-human-rights-conference-in-europe>.

²⁷ *World Watch List: Turkey*, Open Doors (last visited 17 Sep. 2024), available at <https://www.opendoors.org/en-US/persecution/countries/turkey/>.

²⁸ *Id.*

²⁹ *Christians banned and facing persecution in Turkey*, ADF International (last visited 7 Oct. 2024), available at <https://adfinternational.org/cases/christians-banned-from-turkey>.

³⁰ Sofia Hoerder, *In Turkey, Christians are being persecuted just for preaching*, Christian Today (3 Aug. 2021), available at <https://www.christiantoday.com/article/persecuted.for.preaching/137196.htm>.

29. On 7 June 2024, the Constitutional Court of Türkiye ruled that the government did not violate the rights of nine foreign Christians when it effectively expelled them from the country for alleged “missionary activities.”³¹ Each of the nine foreign individuals had legally obtained residence permits but were subject to “N-82” immigration codes that designated them as “risks to national security.” The nine expelled individuals have now the opportunity to appeal to the European Court of Human Rights.
30. On 21 May 2024, two Greek Orthodox priests, Mr. Corç Kasapoğlu and Mr. Niko Mavrakis, who were elected as members of the board of directors of Greek Orthodox foundations and a high school foundation, filed an application with the European Court of Human Rights because they were removed from the list of the members of the board of directors on the ground that they were clergymen.³²
31. The priests alleged violations of their rights to freedom of assembly and association and freedom of thought, conscience, and religion after domestic court proceedings proved unsuccessful. If allowed to stand, such government interference will further affect the rights of religious communities to practice their beliefs via charitable, religious, and social institutions, as well as impinge upon the right of religious minorities to ensure the religious and moral education of children in accord with their own convictions.
32. On 12 July 2024, the Diyarbakir Protestant Church Foundation, founded in 2019 to serve Protestant Turks and Kurds, was prohibited from acquiring land zoned for religious buildings for a new worship center.³³ Under Turkish law, urban planning documents dictate where churches may be built, and thus, the applicants must receive approval to build a church in a location designated for religious purposes.
33. The Diyarbakir Fourth Administrative Court told the church leaders that they could simply purchase undesignated land and apply for a religious use designation. However, such a request has never been granted in Türkiye. The Foundation submitted numerous petitions to different authorities with no resolution. In 2023, the Foundation brought a legal challenge to build a church that would meet the congregation’s capacity needs. In 2024, the Court ruled against the church, which may be appealed.
34. In addition to violations of the rights of Christians, there are also violations of the rights of other minority communities, including Muslim minorities. In this regard, President Erdogan has presided over a large expansion of the Imam Hatip (Imam and Preacher) schools to forge, in his view, a “pious generation” in predominantly Muslim Turkey “that will work for the construction of a new civilisation.”³⁴

³¹ *Press Release: Türkiye’s Highest Court Rules in Support of Government’s Expulsion of Nine Foreign Christians for Alleged “Missionary Activities”*, ADF International (13 Jun. 2024), available at <https://adfinternational.org/news/turkiye-christian-expulsion>.

³² *Niko MAVRAKIS v. Türkiye* (Application no. 12549/23) (communicated 21 May 2024) (published 10 Jun. 2024), available at <https://hudoc.echr.coe.int/eng?i=001-234440>.

³³ *Press Release: Turkish authorities crack down on Christianity; deny church land for worship space*, ADF International (12 Jul. 2024), available at <https://adfinternational.org/news/diyarbakir-christians>.

³⁴ Darren Butler, *With more Islamic schooling, Erdogan aims to reshape Turkey*, Reuters (25 Jan. 2018), available at <https://www.reuters.com/investigates/special-report/turkey-erdogan-education/>.

35. Minority Alevis, whose faith draws upon Shi'ite, Sufi, and Anatolian folk traditions and rituals, have challenged the spread of Imam Hatip schools and the conversion of their Alevi and secular schools into Imam Hatip schools. What makes these contemporary policies notable is that they follow a long train of other historical persecution of Alevis, including pogroms, mob violence, and other discrimination.³⁵

Türkiye's Obligations under International Human Rights Law

36. In addition to the Treaty of Lausanne mentioned above, Türkiye is failing to meet its international human rights obligations regarding freedom of religion or belief.

37. Article 18 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Türkiye in 2003, guarantees the freedom of thought, conscience, and religion. This right includes the "freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."³⁶

38. Likewise, ICCPR Article 19 protects freedom of opinion and expression, the protection of which is deeply interlinked with freedom of religion or belief insofar as many religions encompass a "social" or "expressive" dimension to living out the dictates of the respective faiths.³⁷

39. In this regard, freedom to manifest one's religion or beliefs under the ICCPR may be subject only to such limitations as are "prescribed by law" and are "necessary" for the protection of "public safety, order, health, or morals or the fundamental rights and freedoms of others."³⁸

40. The Human Rights Committee has advocated for a strict interpretation of such exceptions in its General Comment No. 22: "[R]estrictions are not allowed on grounds not specified there, even if they would be allowed as restrictions to other rights protected in the Covenant, such as national security."³⁹ Moreover, "[L]imitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated" and may not be imposed for "discriminatory purposes or applied in a discriminatory manner."⁴⁰

³⁵ Assiya Hamza, 'All we're asking is to be recognised': the Alevis of Turkey struggle for equality, France 24 (7 May 2023), available at <https://www.france24.com/en/middle-east/20230507-all-that-we-re-asking-for-is-to-be-recognised-turkish-alevis-struggle-for-equality>.

³⁶ International Covenant on Civil and Political Rights (ICCPR) (Adopted 16 Dec. 1966 by General Assembly resolution 2200A (XXI)) at Art. 18.1, available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

³⁷ *Id.* at Art. 19.

³⁸ *Id.* at Art. 18.3.

³⁹ Human Rights Committee, General Comment No. 22: The right to freedom of thought, conscience and religion (Art. 18) (CCPR/C/21/Rev.1/Add.4) (30 Jul. 1993) at para. 8, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F21%2FRev.1%2FAdd.4&Lang=en.

⁴⁰ *Id.*

41. ICCPR Article 27 also states that “[I]n those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”⁴¹
42. Upon ratification of the ICCPR, Türkiye entered a reservation on Article 27 to apply it “in accordance with the related provisions and rules of the Constitution of the Republic of Turkey and the Treaty of Lausanne of 24 July 1923 and its Appendices.”⁴² Nevertheless, the Constitution and treaty, as recalled above, contain provisions respecting the rights of non-Muslim citizens and guarantee non-discrimination on the grounds of religion.
43. As further indicated by the Human Rights Committee, “the fact that a religion is recognized as a State religion or that it is established as official or traditional or that its followers comprise the majority of the population” should not result in any impairment of the enjoyment of any rights under articles 18 and 27, nor in any discrimination against adherents to other religions or non-believers.⁴³
44. Seen in this light, restrictions and undue interference in minority religious affairs constrain the autonomy of individuals and groups from effectively exercising their freedom of religion or belief in worship, observance, practice, and teaching, including through charitable, religious, and other social institutions. For example, limits on establishing religious foundations and schools, training clergy, and other administrative or legal barriers, on the one hand, or converting schools used by a religious minority, on the other hand, violate freedom of religion or belief in general. They also result in hindering the prior right of parents and legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.⁴⁴
45. Likewise, the N-82 or G-87 restrictions and limitations on proselytization under the pretext of enforcing immigration laws or vague appeals to “national security” do not meet the high threshold required under the ICCPR and have resulted in the impairment and enjoyment of religion or belief and expression rights of persons belonging to religious minorities, as described above.

(b) Recommendations

46. In light of the aforementioned issues raised, ADF International suggests the following recommendations be made to Türkiye:
- a. Amend or repeal laws or policies impinging upon the human right to freedom of thought, conscience, and religion, in accordance with its obligations under international human rights law;

⁴¹ *Id.* at Art. 27.

⁴² United Nations Treaty Collection 4. International Covenant on Civil and Political Rights: Declarations and Reservations (Türkiye) (last visited 27 Sep. 2024), available at <https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=en&msgid=IV-4&src=IND#EndDec>.

⁴³ General Comment No. 22, para. 9.

⁴⁴ ICCPR, Art. 18.4.

- b. Ensure that no one is subject to discrimination and harassment on account of their religion or belief by either the State or society, including through the misuse of N-82 or G-87 immigration codes;
- c. Repeal all prohibitions on proselytization and public practice of minority religions, and ensure that the freedom of expression of every person, without discrimination of any kind, is respected and protected to the fullest extent required under international human rights law;
- d. Ensure that persons belonging to religious minorities are not denied the right, in community with others, to enjoy their own culture, and to profess and practice their own religion, including by removing legal, regulatory, zoning, or other bureaucratic barriers to land use and access by minority religion or belief groups; and
- e. Protect the rights of religious minorities to establish and manage their own charitable, religious, and social institutions or schools and other establishments for the instruction and education of their children and others, particularly religious foundations and seminaries.



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