

Turkey is located at a geographic, cultural, and religious crossroads. The country bridges the West and the East, Europe and Asia, and the Christian and Muslim worlds. By many standards modern, Western, and democratic, Turkey is also the only overwhelmingly majority Muslim country on the European continent. Since its founding as a republic in 1923, Turkey has struggled, with mixed results, to build a democratic polity where human rights, including religious freedom, are protected. Turkey's political leaders have intensified efforts to deepen and substantively expand the country's democratic reforms and human rights, driven by the pursuit of membership in the European Union (EU); however, it has encountered a number of difficulties, particularly with regard to religious freedom, that reflect the tensions and constraints that were built into the fabric of the country's founding. As Turkey confronts these tensions, questions have been raised, both in and outside Turkey, about whether Turkey should continue on its current reform path. Many experts argue that Turkey is at a critical juncture in its history.

The Commission traveled to Turkey in November 2006 to learn more about the country's experiences with religious freedom and other human rights, and to examine more closely the relationship between religion and the state. The Commission visit also addressed broader issues of democracy, human rights, rule of law, and civil liberties within Turkey, as well as associated questions of Turkey's model of secularism and the relevance of the country's EU accession negotiations to all of these matters. While in Turkey, the Commission met with Turkish government officials from the Foreign Ministry, the Directorate of Religious Affairs (*Diyanet*), the Directorate for Foundations (*Vakıflar*), and the Ministry of Education, as well as several members of Turkey's parliament and representatives of a variety of political parties not seated in the parliament. Additionally, the Commission met with representatives of the country's Muslim majority and minority communities, as well as non-Muslim minority communities. The delegation also met with academics, journalists, legal advocates, members of the business community, and representatives of human rights organizations.

According to the EU's November 10, 2006 Progress Report on Turkey, "freedom of worship continues to be generally respected" in Turkey.<sup>1</sup> Throughout the visit, the Commission noted the extent to which people of almost every tradition in Turkey confirmed that they were free to gather and worship as provided for in the country's constitution. However, the Commission also encountered restrictions on religious freedom in Turkey, including for the majority Sunni Muslim community and minority Muslim Alevi; for the "Lausanne minorities," that is, the Greek and Armenian Orthodox and Jews; and for other Christian

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minorities, including Assyrian Orthodox, Roman Catholics, and Protestants. For Muslims, there are restraints on the ability to manifest their religious beliefs in state institutions; for religious minority communities, there are state policies and actions that effectively prevent them from sustaining themselves, denying them the right to own property as a community, to maintain that property, to train religious clergy, and to offer religious education above high school. This has led to the decline—and some cases, virtual disappearance—of some of these religious minorities on lands they have inhabited for millennia.

Turkey's constitution establishes the country as a "secular state," according to the policy of "secularism" as defined by the country's founder and first president, Mustafa Kemal Atatürk, who defined secularism in terms of the French policy of *laïcité*. During the visit, the Commission noted the way in which many Turks are reclaiming their identity as Muslims as well as Turks. It became clear that these two currents in Turkey—the country's policy of secularism and the growing sense of Muslim identity—are among the premier political issues in Turkey today. It was also clear that the struggle between these two currents is

indicative of Turkey's position at the juncture of the Eastern and Western worlds—and is a crucial factor in the future of human rights protections in Turkey.

In March 2001, the EU officially adopted the Accession Partnership as a roadmap for the process of Turkey's bid to join that body. As a part of that endeavor, the Turkish government has been required to implement numerous reforms to ensure that its laws are consistent with EU standards. In the past several years, Turkey has taken significant positive steps toward passing new legislation to bring its laws into conformity with EU legislation. However, more remains to be done and clearly, certain religious freedom problems, some of them very serious, persist in Turkey.

### Demographic Information

Turkey has a population of approximately 70 million people. According to government statistics, the population is 98-99 percent Muslim, the majority of whom are Sunni Muslims. There are an estimated 7-10 million Alevis in Turkey (estimates vary from 4.5 to 18 million), considered by some to be a sect of Shi'a Islam but who also incorporate Zoroastrian or other pre-Islamic elements. The Turkish state identifies the Alevis as heterodox Muslims, although some elements of the Sunni community consider the Alevis to be a heretical offshoot of Islam. Three religious groups, Greek Orthodox Christians, Armenian Orthodox Christians, and Jews, are specifically recognized by the state as religious minority communities pursuant to the 1923 Treaty of Lausanne (see below). Today, there are thought to be approximately 65,000

Armenian Orthodox, 23,000 Jews, and 2,500 Greek Orthodox in Turkey. In addition, there are approximately 15,000 Syriac Christians, 10,000 Baha'is, 5,000 Yezidis, 3,300 Jehovah's Witnesses, and 3,000 Protestant Christians, with smaller numbers of Chaldean, Nestorian, Georgian Orthodox, Roman Catholic, and Maronite Christians. A number of the Christian communities, including the Greek, Armenian, and Syrian Orthodox, lived on the land that is now Turkey for centuries before the arrival of the Turkic peoples to the region from Central Asia.

### Constitutional Provisions on Religious Practice and the Policy of Secularism

Article 24 of Turkey's Constitution clearly lays out the protections for religious freedom. This Article states that "(1) Everyone has the right to freedom of conscience, religious belief and conviction; (2) Acts of worship, religious services, and ceremonies shall be conducted freely, provided that they do not violate the provisions of Article 14;<sup>2</sup> and (3) No one shall be compelled to worship, or to participate in religious ceremonies and rites, to reveal religious beliefs and convictions, or be blamed or accused because of his religious beliefs and convictions. This Article also governs religious education by stating that (4) Education and instruction in religion and ethics shall be conducted under State supervision and control. Instruction in religious culture and moral education shall be compulsory in the curricula of primary and secondary schools. Other religious education and instruction shall be subject to the individual's own desire, and in the case of minors, to the request of their legal representatives.

In July 1923, Turkey, together with France, Great Britain, Greece, and Italy, signed the Treaty of Lausanne to delineate Turkey's borders with Greece and Bulgaria.<sup>3</sup> Articles 38-44 of the Treaty contain guarantees for religious freedom and equal protection of the law, as well as prohibitions on discrimination. These articles also provide specific protections for non-Muslim religious communities in Turkey and for the freedom of those communities to establish charitable and religious institutions and schools. According to Article 37, the signatories to the Treaty accept that these protections are to be recognized as fundamental laws and the Turkish state, as with other Treaty signatories, "undertakes that the stipulations contained in Articles 38 to 44 shall be recognized as fundamental laws, and that no law, no regulation, nor official action shall conflict or interfere with these stipulations, nor shall any law, regulation, nor official action prevail over them."

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Interior of Istanbul's Blue Mosque

### *The Policy of Secularism*

A hallmark of the Constitution was its establishment of Turkey as a secular state, and every constitution since then has reiterated secularism as a defining feature of the Turkish state. The Preamble states that “[...] as required by the principle of secularism, there shall be no interference whatsoever of the sacred religious feelings in State affairs and politics...” Article 2 (states) that “The Republic of Turkey is a democratic, secular and social State governed by the rule of law; bearing in mind the concepts of public peace, national solidarity and justice; respecting human rights; loyal to the nationalism of Ataturk, and based on the fundamental tenets set forth in the Preamble.” Secularism is underlined once more in Article 24, the provision that outlines religious freedom rights by noting that (5) No one shall be allowed to exploit or abuse religion or religious feelings, or things held sacred by religion, in any manner whatsoever, for the purpose of personal or political influence, or for even partially basing the fundamental, social, economic, political, and legal order of the State on religious tenets.”

Turkey's concept of secularism was built on Ataturk's conviction that religion was the primary reason for the Ottoman Empire's lag in modernization relative to Europe. Consequently, Ataturk and Turkey's subsequent political leaders were determined to remove the influence of religion, including even indications of personal belief, from public life in Turkey and to subject religion to state control. To accomplish this aim, Ataturk instituted a series of domestic reforms, first and foremost separating the political process and workings of the government from the Islamic religion—the religion of the majority of Turkey's citizens—all the while retaining state control of religious institutions. He abolished religious courts and replaced them with secular ones, changed the alphabet for the Turkish language from a modified Arabic to the Latin script, purged the Turkish language of many Arabic and Persian words, insisted that the Koran be translated into and read in Turkish, and decreed that the call to prayer be in Turkish rather

than Arabic.<sup>4</sup> In addition, in March 1924, Ataturk abolished the office of the Caliphate, or titular leader of the Muslim world, a position that had been held by the Ottoman sultan since the 16<sup>th</sup> century.

### *Separation or State Control of Religion? The Role of the Diyanet and Ministry of Education*

During the Commission's visit to Turkey, it soon became clear that the Turkish government's concept of secularism is something altogether different from the American version of separation of religion and state. Secularism as practiced in Turkey does not reflect a separation but is instead based on state control over religious activity expressed in the public sphere in order to guard against that which Ataturk was distrustful of—the unchecked influence of religion on state policies and institutions. The state carries out this management role with regard to the majority Muslim community through the Directorate of Religious Affairs, or the *Diyanet*. The state, through the *Diyanet*, controls and supervises the religious institutions of the Sunni Muslim population, managing all 80,000 mosques in Turkey and employing all imams as state functionaries. In official terms, the *Diyanet* “is a public institution in the general administration, and is responsible for the execution of the duties specified in the special law in order to provide national unity and solidarity, and remain separate from all political views and thoughts in accordance with the principle of secularism. These duties in the related law are as follows: to execute the works concerning the beliefs, worship, and ethics of Islam, enlighten the public about their religion, and administer the sacred worshipping places.”<sup>5</sup>

Ali Bardakoglu, the current Director General of the *Diyanet*, explained to the Commission that secularism is an important safeguard for freedom of religion in Turkey. The existence of the *Diyanet*, he noted, which operates independently of the government, does not mean government intervention in religious affairs; in fact, there are times when the positions of the *Diyanet* conflict with those of the government. Although salaries of religious officials are paid from the state budget and mosques are constructed and main-

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tained with state monies, mosques may also be built, with state permission, as a result of local initiative.

According to Hasan Huseyin Baysal, Deputy General for Religious Education in the Ministry of Education, during the Ottoman period, there were religious schools, or *madrassas*, in which theology was the only subject taught. Other subjects (such as science) were offered in separate schools. In 1924, the Law for the Unification of Schools brought all schools, including religious schools, together under the Ministry of National Education. There were two kinds of religious education: one to train religious officials, for which 24 schools, known as *imam hatip* high schools, were established; and another to teach all students religious knowledge and ethics within the principle of secularism. Until 1982, the latter was an elective. In that year, the constitution was changed so that religious education (the cultural and ethical dimensions of Islam) became compulsory in primary and secondary schools for Muslims, both Sunnis and non-Sunnis. According to the Deputy Minister, non-Muslims may opt out of this religious education.

### *Secularism and Political Parties*

According to Article 68 of the Constitution, political parties based on religion are banned. This Article states that “the statutes and programs, as well as the activities of political parties, shall not be in conflict with the independence of the State, its indivisible integrity with its territory and nation, human rights, the principles of equality and rule of law, sovereignty of the nation, or the principles of the democratic and secular republic.” Over the decades, political parties that aimed to confront the state’s definition of secularism were regularly suppressed or banned. Nevertheless, the absence of religion from public life remained controversial for some Turks and in 1950, the Democrat Party, which was less rigid on government policies of religious expression for Muslims, won the country’s first free parlia-

mentary elections. The Turkish military, which is constitutionally identified as the guardian of Ataturk’s expression of secularism, became alarmed about this and other policies of the Democrat Party government and staged a coup against it in 1960. The military staged coups two more times in Turkey’s politics to oust governments: in 1971 and 1980, the latter time primarily because of the left vs. right factional battles that were leaving dozens dead daily also because the military determined that the policy of secularism was under threat. In the 1990s, the *Refah* (Welfare) Party, which also aimed to confront the state’s definition of secularism, gained a plurality in the polls, but was “maneuvered” out of power by the military in 1997 in what was termed a “soft coup” and forced to disband.

Turkey’s current governing party, the Justice and Development Party (known by its initials in Turkish, the AKP, or the AK Party), has roots in the *Refah* Party and Turkey’s current Prime Minister, Recep Tayyip Erdogan, served two terms as Mayor of Istanbul under *Refah*. The AK Party won a majority 34 percent of the vote in national elections in November 2002, campaigning on a platform of Turkey’s accession to the EU and the reintegration of Islam into public life in a manner consistent with modernity and democracy. Although the military had previously jailed Erdogan and banned him from politics because of his public recitation of a poem that included references to Islam, the national election results and the discredited leadership of the country’s center-right parties led the military to permit Erdogan to assume the position of Prime Minister in early 2003. At that time, Erdogan stated that he wanted to promote democracy in Turkey and within that context, to institute a more liberal understanding of secularism. In particular, he suggested canceling the ban on wearing headscarves in state institutions (see below), though he also stated his opposition to state enforcement of Islamic dress codes. He later proposed a bill to ease the entry of *imam hatip* school graduates into



Ali Bardakoglu, President of the Religious Affairs Directorate (Diyanet), with USCIRF Chair Felice D. Gaer (center), Commissioner Preeta D. Bansal (far right) and a translator.

universities in Turkey, with the alleged aim of enabling more religious school attendees to take jobs in the state bureaucracy. This legislation was opposed by the military and shelved. At the same time, the AK Party platform contained strong support for Turkey's integration into the global economy and alignment with the West. Prime Minister Erdogan also declared it the policy of his government actively to seek membership in the EU and in pursuit of this aim, he has instituted a number of democratic reforms, many of which have dealt with some of Turkey's most notoriously undemocratic practices.

Observers both in and outside Turkey have conflicting views about the true aims of the AK Party government. Some judge the party to be a genuinely moderate, religiously-oriented party that espouses Islamic religious values but that would also like to see Turkey take its place as a democratic society within Europe. Others, however, contend that the AK Party is skillfully masking its more radical intentions, including the eventual introduction of Islamic law in Turkey. There were similarly mixed views about the AK Party among those with whom the Commission met during its visit to Turkey. One noted academic suggested that the AK Party represented the growing political influence of people in Turkey who had for decades not been adequately represented by Turkey's other political parties. Another told the Commission that Muslims in the AK Party have changed their rhetoric so that they are now more outwardly concerned about human rights and universal values, but that it is difficult to know whether

their intentions are tactical or sincere. One journalist and academic suggested that the AK Party reflects the fact that there is a greater plurality within Islam, within Muslims' expression of Islam, in Turkey today compared to the past.

Those who saw the AK Party as genuine in its stated aims pointed to the AK government's efforts to implement far-reaching democratic reforms in the EU bid. Those expressing suspicion of AK pointed to the AK government's initiatives, for example, to criminalize adultery and assist graduates of religious or *imam hatip* schools in entering universities. General concerns about religious extremism were also reinforced by the May 2006 shooting by an Islamist activist of a number of judges from the Council of State, the country's chief administrative court, an attack that killed one and wounded four others. One of the wounded judges had reportedly been criticized for ruling against teachers wearing headscarves and had received death threats in the past. Erdogan immediately condemned the attack. Concerns have also been raised about the AK Party's reported attempt to interfere with the process of appointing judges to the country's highest court of appeals and the high administrative court. In March 2007, it was reported that the Supreme Board of Judges and Prosecutors in Turkey held a press conference at which members of the judiciary protested what they argued was the Erdogan government's obstruction of judicial appointments in order eventually to fill these positions with judges with an Islamist legal perspective.

During the visit to Turkey, Commissioners persistently raised the issue of whether the state imposition of religious law represents a threat in contemporary Turkey. Regardless of their views on the true aims of the AK Party, few with whom the Commission met expressed the concern that the full imposition of sharia was a serious threat, because they believed that secularism, in some form, was too ingrained in and accepted by the vast majority of Turks. However, the issue of whether aspects of sharia might, over time, become state policy was not explicitly discussed. Several persons in Turkey noted that the military nonetheless remains suspicious of the AK Party government and its intentions; however, virtually all of those with whom the delegation met expressed the conviction that any attempt on the part of the military to interfere with normal democratic practices would substantially set back Turkey's democratic reform process and be disastrous for the country's EU membership bid. The matter was to have come to a head during the 2007 presidential election, when Erdogan was expected to be elected to that post by his party in Parliament. This move was reportedly firmly opposed by those who protect the policy of secularism as it currently exists in Turkey, as they

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feared that an Erdogan presidency would lead to the state enforcement of the AK Party's religious views. In the end, Turkish Foreign Minister Abdullah Gul was nominated as the AK Party's candidate for president.

### **Religious Freedom in Practice: The Negative Impact of Turkey's Brand of Secularism and Attitudes Toward Religious Minorities**

The Commission met with representatives of eight religious communities in Turkey, including seven minority religious communities. Although there were reports of serious problems regarding the opening, maintaining, and operation of houses of worship, as well as state expropriation of such properties without compensation, few reported problems regarding freedom to gather and worship. According to the U.S. State Department, there are no religious prisoners in Turkey and no group reported serious problems involving religious literature or the right to assemble and express their beliefs.<sup>6</sup> Moreover, virtually all groups also mentioned that conditions for religious freedom had improved in the past decade and particularly in the past several years as a result of the reforms undertaken by the current government during the EU accession process. For example, representatives of the Alevi and Protestant communities noted that they had been able to open foundations in recent years that provide them with a number of legal opportunities that had been unavailable in the past. In addition to worship services, a number of religious minorities operate schools, hospitals, and a variety of charitable organizations. Several persons the delegation met with claimed that Turkey's Ottoman past was a source for the relative tolerance, compared to neighboring Muslim countries, of freedom of worship in Turkey.

Despite these positive conditions for the freedom to practice, there are other significant problems in Turkey that seriously affect religious freedom for members of both the majority and minority groups. Muslims are prohibited from wearing certain kinds of religious garb in state institutions, including government offices, the parliament, judicial buildings, and both public and private universities. Religious minority communities, despite the rights their members do enjoy, are not recognized as legal entities in Turkey, resulting in serious difficulties for these groups and endless legal wrangling over property rights and the ability to train clergy and select leaders for future generations. Although some of these concerns have been addressed through the EU accession reform packages, many are still to be resolved.

### *The Sunni Muslim Community*

Many of the Commission's interlocutors contended that secularism in Turkey as defined and instituted by Ataturk has resulted in a marked suspicion on the part of the Turkish state of religious piety and certain outward, public displays of religious adherence. Most of those with such views pointed to the government's control of Sunni religious practice in Turkey, symbolized most pointedly by the state's ban on the wearing of headscarves, which some—though clearly not all—observant Muslims believe is a religious obligation, in state buildings, including both public and private universities.<sup>7</sup> Some in Turkey claimed that secularism as applied there amounted in certain instances almost to a repression of religion, clearly resulting in religious freedom violations. One academic pointed out that most people in Turkey do not disagree with secularism—understood as the separation of religion from the workings of the state. However, he continued, some people do take issue with the form of secularism that is enforced in their country, a form that involves considerable state control over, and limitations on, religious expression.

Women who wear headscarves or those who advocate for the right to wear them have lost their jobs in the public sector, including as doctors, lawyers, nurses, and teachers, and students who wear headscarves are not officially permitted to register for university classes. Women in headscarves are also not permitted to get a university education at any private institutions. In practical terms, the prohibition on public displays of religion in state institutions means that a Muslim woman who believes that religious observance requires a head covering must choose between obtaining a university education in Turkey or following her religious principles and practices. In addition, members of the military have been charged with "lack of discipline" for performing Muslim prayers or being married to women who wear headscarves. Some individuals also reported that members of the government whose wives wear headscarves—including the current prime minister—are not allowed to bring their wives to official receptions.

Many persons with whom the delegation met in Turkey noted that Ataturk's secularist reforms, while dramatic and far-reaching, were a top-down phenomenon, rather than a natural progression arising from popular sentiments. Several persons suggested that those who back secularism in Turkey in its current form have an inaccurate understanding of what the policy is, since they see

any kind of religious observance as a threat or a cause for suspicion, including such central practices as praying on Fridays or observing Ramadan. One person noted that because those that enforce this strict interpretation of secularism appear to have scorn for observant Muslims, the result is that observant Muslims are led to distrust and, in the worst-case scenario, even spurn secularism.

However, state and societal groups committed to secularism expressed repeatedly to the Commission that state control over religion is the only feasible policy for guarding against Islamist extremism in state institutions and society as a whole. Some who support the headscarf ban do so on the principle that they are protecting the rights of women, protecting them from societal and, in the worst instance, state pressure and coercion to conform to someone else's religious standards, rather than freely to choose what to wear in fulfillment of one's religious beliefs. Still others do so because they view the headscarf as a political symbol linked to what they see as an Islamist political platform which seeks to interlink the dominant religion in Turkey with all aspects of public life and governance. Supporters of the ban contend that those who oppose the headscarf ban have not satisfactorily addressed the fear of many women that wearing a scarf could become mandatory, and indeed, that all persons in Turkey will be subject to religion-based laws that will be determined by clerics, rather than laws determined through the democratic process.

The headscarf controversy in Turkey was brought to the European Court of Human Rights (ECtHR) by Turkish citizen Leyla Sahin, a medical student who in 1998 was expelled from her state university for wearing a headscarf. In 2004 and again in a 2005 Grand Chamber decision (16-1), the ECtHR held that the university's prohibition of the headscarf did not violate the European Convention on Human Rights (ECHR). The ECtHR ruling cited the Turkish Constitutional Court's finding that secularism's constitutional status in Turkey functions as a guarantor of freedom of religion and equality before the law, and in view of Turkey's history, the wearing of headscarves at universities could be viewed as an assault on the country's secular and democratic underpinnings. Under Article 9 of the Convention, freedom to manifest one's religion can be restricted if necessary to preserve the country's secular and democratic foundations. It was also decided that the headscarf in the Turkish context is often presented by some as a compulsory religious duty and form of expression, and as such, it may have a coercive

impact on students who choose not to wear it. Others present it as “a symbol of political Islam” in a “debate that has taken on political overtones.” Imposing limitations in this sphere may, therefore, be permissible in order to preserve the secular nature of the universities, thus protecting the rights and freedoms of others, as well as public order, both being “legitimate aims.” The court noted that “Article 9 does not protect every act motivated or inspired by a religion ...” and concluded that “it is established that institutions of higher education may regulate the manifestation of the rites and symbols of a religion by imposing restrictions as to the place and manner of such manifestation with the aim of ensuring peaceful co-existence between students of various faiths and thus protecting public order and the beliefs of others.” The policy was also in compliance with Article 2 of the First Protocol, because the restriction did not impair “the essence of the applicant’s right to education.”

The Commission understood from its visit to Turkey that due to this persistent tug of war between those promoting Atatürk’s secularist legacy and those pressing for greater expression of popular religious symbols and clothing, the “headscarf issue” is, without doubt, the most politically and popularly charged issue in Turkey today, one that each side now views as a “zero-sum” matter, leaving little room for a reasonable compromise. One interlocutor suggested that one form of compromise could be to allow headscarves at universities, but maintain the ban in state buildings. He contended that this would alleviate the need for a woman to be denied an education because of her professed religious obligation and would maintain the absence of religious garb in public buildings.

### *The “Dönme”*

The Dönme are Muslims who are also descendants of the Jewish followers of a self-proclaimed messiah, Sabbatai Sebi (or Zevi, 1626-76), who was forced by the Ottoman sultan to convert to Islam in 1666. Their doctrine includes Jewish and Islamic elements, although they consider themselves Muslims and are officially recognized as such. Their name is the Turkish word for *convert* (it comes from the Turkish verb “dönmek,” which means to turn or return) but it carries negative overtones of *turncoat* as well. Many among the Dönme kept up their original Jewish traditions through the centuries and are still known as having Judaism somewhere in their history. Though this community had experienced discrimination in the past in Turkey, in the 1980s and 1990s, overt discrimination had



The late Hrant Dink (center), who edited *Agos*, an Armenian-Turkish weekly, with Commissioners Elizabeth H. Prodromou and Michael Cromartie in November 2006. Dink was assassinated Jan. 19, 2007, allegedly by a 17-year-old Turkish ultranationalist.

lessened, and intermarriage between Dönme and other Muslims grew more common.

In the past few years, however, several observers have noted the emergence of a campaign against the Dönme that has involved criticism of their not being “real” or “good” Muslims—and, it is implied, not good Turks (insinuating that this is because there is Judaism in their backgrounds). This campaign of intimidation, which was confirmed by several of the delegation’s interlocutors during the visit to Turkey, is reportedly coming from political actors who, for political gain, wish to call into question the patriotism of their opponents. Several in Turkey confirmed that the Dönme in Turkey are subject to a wide variety of conspiracy theories and other attempts to malign them, and that the intimidation has been carried out within a wider pattern of rising anti-Semitism in Turkey in the last decade. To date, the government has done little or nothing to stem this pattern.

### *Problems for Religious Minorities*

The consequences of some of Turkey’s state policies toward religion have been particularly detrimental for religious minorities. These include the Greek, Armenian, and Syrian Orthodox communities, the Roman and Syriac Catholics, and the Jewish community, who together making up around 1 percent of the population, and the Alevis, a syncretic sect of Islam representing Turkey’s largest religious minority. Several persons in Turkey pointed out that

in addition to the inauguration of Atatürk's conception of secularism, the establishment of the Turkish state in the aftermath of occupation by Allied powers with co-religionists in the Ottoman Empire had left an historical memory of fear—several of those the delegation spoke to used the word “paranoia”—of the possibility for contemporary dismemberment of Turkey. Thus, built into the founding of Turkish identity was the implicit understanding that citizens other than ethnic Turks residing in Turkey are potentially suspect, since they allegedly harbor a secret desire to secede from and hence, dismember the country. This fear of dismemberment, which has fueled a strain of virulent nationalism in Turkey, continues to hold sway in some sectors of society, resulting in state policies that actively undermine ethnic and minority religious communities, and, in some cases, threaten their very existence. The Commission learned in meetings that the Greek Orthodox and Armenian Orthodox communities are focal points for this perception and its resultant policies.

The January 2007 murder of Hrant Dink, a Turkish citizen and respected journalist of Armenian ethnicity, is just one example of the persistence of this extreme nationalism. Mr. Dink, with whom the Commission met on its visit to Turkey, had been convicted under Article 301 of the Turkish Penal Code for “insulting” the Turkish state because of his use of the term “Armenian genocide” in his public remarks and written publications. His conviction was converted to a suspended sentence following EU and other international pressure. Dink told members of the Commission that he continued to receive numerous death threats in the face of his discussion of issues of religious and political freedom considered by the Turkish government to be controversial. Prime Minister Erdogan quickly condemned the murder and the alleged perpetrator was promptly arrested. In addition, at a public meeting in New York in February 2007, Foreign Minister Abdullah Gul stated that the government had plans to amend Article 301. During the Commission's visit, the issue of the Armenian genocide was not raised by any interlocutors, but the continued refusal of the Turkish government to recognize the event continues to be a source of controversy in Turkey's relations with other Western countries, including the United States.

### *Alevi*

Alevi are a minority Muslim community in Turkey that make up anywhere from 15 to 25 percent of the population, though they are not recognized as an official minor-

ity by the state. The beliefs and practices of the Alevi are described in many, often contradictory, ways and even today, remain somewhat obscure. Though they are sometimes erroneously referred to as “Turkey's Shi'as,” in fact, the Alevi are an offshoot of Shiism that many Sunnis—and Shi'as—view as heretical. The beliefs of the Alevi incorporate aspects of both Shi'a and Sunni Islam, as well as other, more ancient traditions found in Anatolia, and also include some mystical aspects of Sufism. Some more militant Sunnis do not regard the Alevi as Muslims.

The Alevi have generally been supporters of the policy of secularism in Turkey, as they have sometimes been fearful, in view of their perceived heterodoxy, that they will be discriminated against by any Sunni-oriented political authority. In fact, according to a representative of the Alevi community with whom the Commission met, as part of the general suspicion of “the other,” until 1990, the word “Alevi” was not spoken in Turkey by state officials; the existence of the Alevi was not acknowledged until then. Since 1990, he noted, there has been progress for Alevi in Turkey.

Alevi do not worship in mosques but in what are called “gathering places” (or “*cem evleri*,” in Turkish). Technically, however, cem houses are not officially recognized as houses of worship, and are usually officially referred to as “cultural centers.” Alevi are reportedly able to practice their beliefs relatively freely and build *cem evleri*, though there are cases in which Alevi have been denied permission to build a house for gathering purposes. According to an Alevi leader, obstacles to building new *cem evleri* include long delays—often lasting years—on building requests. Nevertheless, he noted, building *cem evleri* has become easier today than in the past. Another form of discrimination involves the fact that none of the budget of the *Diyanet* goes to the Alevi, as it is all reserved for the Sunni community. Alevi also reported experiencing harassment and discrimination in other aspects of life.

Alevi children are subject to the same compulsory religious education as all Muslims, which, Alevi contend—and Ministry of Education officials confirmed—involves instruction only about Sunni Islam. (Since Alevi are considered by the state to be Muslims, they are not able to opt out of this compulsory education.) According to the Alevi representative, Alevi are trying to use the judicial system to address this problem and currently have more than 4,000 court cases before the Ministry of Education. Several years ago, a member of the Alevi community in Turkey took this issue before the ECtHR, which has not yet issued a ruling

on the matter. The Turkish government had pledged—as early as 2004—to introduce instruction about Alevism into the school curriculum, but the Commission did not receive a definitive response to questions about whether or not this reform has been implemented.

It should be noted, however, that conversations with others in the Alevi community revealed a certain ambivalence about the effort to seek *Diyanet* funding or to include instruction about Alevism into the state’s religion classes. Some are clearly in favor; others, however, fear that such state involvement and/or inclusion in the education system would lead to greater assimilation of Alevi into, or co-optation by, orthodox Sunni Islam.

### *Christian Minorities*

The 1923 Treaty of Lausanne, a peace treaty signed between Turkish forces and several European powers that formally established the Republic of Turkey, contained specific guarantees and protections for non-Muslim religious minorities in Turkey, since interpreted by the Turkish government to refer only to the Greek Orthodox, the Armenian Orthodox, and the Jewish communities. Nevertheless, legal recognition of these and other religious minority communities has not

been implemented in Turkish law and practice. The reason for this, according to a Foreign Affairs Ministry official, is that Turkey cannot tolerate the notion of legal personality based solely on religious identity, as it would undermine the country’s secular system. Compounding this is the fact that, according to a representative of one minority community, there is no clear legal process through which these communities can even apply for legal status. The absence of legal personality has over the decades resulted in serious problems with regard to their right to own, maintain, and transfer property as a community and as individuals and to train religious clergy, leading in some cases to a critical decline in these communities on their historic lands.

The problems for the Christian minorities stem in part from the fact that most of them are, in addition to religious minorities, members of ethnic minorities also, and have thus faced some suspicion from the majority community with regard to their loyalty as Turkish citizens; indeed, in many instances, they are not fully accepted as Turkish citizens. At meetings with political party leaders and some Turkish think-tank representatives, the term “foreigner” was used to describe Christian minorities, particularly members of the Greek and Armenian Orthodox communities. Since the Turkish state has not officially recognized the existence of ethnic minorities inside the country, these groups are referred to and dealt with only as religious minorities, though not as legal entities. When the Commission met with members of these groups, all of them stressed their loyalty to the Turkish republic, the fact that they had proudly served in the Turkish military, and their chagrin at still not being treated as equal citizens of Turkey. It is this de facto status as “foreigners”—because they are Muslims and/or not ethnic Turks—that is behind so many of the problems that members of these communities face with regard to property rights, education, and, in some instances, physical security.

At the time Turkey was founded in 1923, there were approximately 200,000 Greek Orthodox Christians in the country. In 1955, by which time the number had fallen to 100,000, violent riots broke out targeting the Greek Orthodox community, resulting in destruction of private and commercial properties, desecration of religious sites, and killings. Due to the fallout from those riots and other difficulties for the Greek Orthodox minority, the number of Orthodox Christians has fallen to its current level of about 2,500. Although the Ecumenical Patriarch of the Greek Orthodox community in Turkey came under Ottoman Turkish rule in 1453, the Greek Ecumenical Patriarchate is



His All Holiness Bartholomew I, Ecumenical Patriarch, with Commissioners Elizabeth H. Prodromou (left), Michael Cromartie, Preeta D. Bansal and Archbishop Charles J. Chaput.

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not recognized as a legal entity by the Turkish government. Although the Ecumenical Patriarchate's constituencies include, in addition to Greek Orthodox Christians in Turkey, the Archdiocese of America, the international monastic community of Mt. Athos on the Chalcidice Peninsula, several small Orthodox Churches in EU member states, and the Orthodox Church of Australia, the Turkish authorities do not allow the Patriarch to use the term "ecumenical" in his title, recognizing him only as the head of Turkey's small (and decreasing) Greek Orthodox community. As a result, the government maintains that only Turkish citizens can be candidates for the position of Ecumenical Patriarch and for membership as hierarchs in the Church's Holy Synod. Yet, since the Turkish state does not protect the right of the Greek Orthodox minority to train its clergy, having closed down the Halki School of Theology in 1971 (see below), and because of the continuing expropriation of income-generating properties from Greek Orthodox private citizens, the very survival of the Ecumenical Patriarchate and the Greek Orthodox community in Turkey are at risk.

Some state officials reported that opposition to the Ecumenical title of the Patriarch reflects, at least in part, the belief by Ankara that the Patriarchate will seek to build an Orthodox Christian status similar to that of the Vatican. In speaking with the Commission, His All Holiness Bartholomew I, the current Ecumenical Patriarch, confirmed that he is regularly accused of wanting to create a "second Vatican," a state within a state in Turkey. He rejected this notion outright, and explained that Orthodox theology does not allow the joining of church and state that characterizes the Vatican. He underscored that the accusation is wholly without merit.

The Armenian Patriarch similarly has no legal personality and there is no seminary in Turkey to educate clerics. There are 38 Armenian churches, the Commission was told,

and only 20 clergy. A representative of the Armenian Orthodox community pointed out that it is costly to send people to Lebanon, Jerusalem, or Armenia to study, but the only religious education available to their community is high school. As with the Ecumenical Patriarch, the Armenian Patriarchate experiences direct interference in the selection of its religious leadership to the position of patriarch and to hierarchical positions in the synod, and the Turkish state also prevents Armenian Christians from operating an independent seminary to train new clergy members. The Armenian Patriarch recently submitted a proposal to the Minister of Education to enable the community to establish a faculty in Armenian at a state university with instruction by the Patriarch. Under current restrictions, only the Sunni Muslim community can legally operate institutions to train new clergy in Turkey for future leadership.

Metropolitan Yusuf Çetin of the Syrian Orthodox Church told the Commission that his community also does not have a seminary to train clergy. The Syrian churches face a particular problem in that their mother tongue is Aramaic, an ancient Semitic language dating back over 2,000 years, whose use is dying out in Turkey. The Metropolitan also described the way in which the decades-long conflict between the Turkish government and Kurdish rebels in the southeast had created serious difficulties for his community. He reported that violence between the Turkish military and the Kurds had led to the death of 60 members of the Syrian Orthodox community, as well as the evacuation of Syrian Christian villages. He reported that conditions have begun to improve, noting that the Turkish government has provided some assistance in restoring churches and monasteries.

The "Lausanne minorities," the Greek Orthodox, the Armenian Orthodox, and the Jewish community, may operate primary and secondary schools for children under the supervision of the Ministry of Education. However, such

schools are required to appoint a Muslim as deputy principal; reportedly, these deputies often have more authority than their nominal supervisors. In addition, regulations on the non-Muslim schools changed in the 1980s, making it more difficult for non-Muslim children to register and attend these schools. School registration now must be carried out in the presence of inspectors from the Ministry of National Education, who reportedly check to ensure that the child's father is in fact from the relevant minority community.

In addition to these difficulties, the members of some minority groups, particularly members of the Greek Orthodox, Roman Catholic, and Protestant communities, are sometimes subject to societal attacks, usually by nationalists or religious extremists. In February 2006, an Italian Catholic priest was shot to death in his church in Trabzon, reportedly by a youth angered over the caricatures of the Muslim prophet in Danish newspapers. Prime Minister Erdogan and other government officials strongly condemned the killing. A 16-year-old boy was subsequently charged with the murder and sentenced to 19 years in prison the following October. Also in February 2006, a Slovenian Catholic monk was attacked in Izmir. In October 2004, a month after a group of nationalists and others marched on the Patriarchate in opposition to granting "foreigners" any rights, a bomb was thrown into the Patriarchal compound. During the visit to Turkey of Pope Benedict XVI in November 2006, the press office of the Ecumenical Patriarch was reportedly harassed in an effort to stifle press operations, and Orthodox believers in Turkey were reportedly improperly prevented from attending a special service that was celebrated by the Ecumenical Patriarch on the occasion of the Pope's visit to Turkey, for which they claimed to have had valid official authorization. In addition, Orthodox Christian pilgrims from outside Turkey also planning to attend the service were subjected to what were reported by some to be deliberate delays, intimidation, and other harassment on the part of Turkish officials.

Protestants in Turkey, who number approximately 3,000, are primarily converts from other religions and are predominantly Turks by ethnicity, and thus not members of an ethnic minority as are most other Christian groups. As the Turkish state largely rejects their legal personality, Protestant Christians often meet in the buildings of other churches, homes, and in other property that is either rented or owned. The head of the Protestant Church in Istanbul was able to register a foundation for his com-

munity in 2000 and was then able to register his church building under this foundation in 2006. According to a representative of the church, this move became possible as a result of changes in the wording of the zoning laws from "mosques" to "places of worship," a change that occurred in 2003 as part of the legislative reforms for the EU accession process.

Meeting in homes is often viewed with suspicion, as some in Turkey believe that such meetings indicate subversive intentions. Police sometimes bar Protestant groups from holding services in private homes and have detained and prosecuted individual Protestants for holding unauthorized gatherings. As an example of the difficulties they face in this regard, a Protestant leader described to the Commission the situation of the church's only building in the town of Eskisehir. The building was cited by the local authorities for demolition on the basis that it was not earthquake proof. In this case, the group sought publicity on the matter from foreign journalists and also contacted the Prime Minister's office; in the end, the Eskisehir municipality did not go forward with its demolition plans and pledged not to touch the building in the future.

Although engaging in public religious expression and persuasion is not illegal in Turkey, persons involved in such activities are sometimes harassed and arrested. In November 2006, two Christian men stood trial under Article 301 on charges of "insulting Turkish identity" for carrying out missionary activities. They attended their second court hearing in January 2007. The State Department reported that last year, the government "waged a public campaign" against Christian and Christian missionary activity, including by composing a sermon that was distributed to imams and delivered in the mosques suggesting that the presence of missionaries was part of a plot by foreigners to "steal the beliefs" of Turkish children. This campaign was reportedly accompanied by a significant increase in anti-Christian articles in the Turkish media.<sup>8</sup> Protestant individuals and/or property are also subject to societal attacks. In January 2007, a Protestant church in the Black Sea town of Samsun was vandalized; the church had also experienced similar stoning attacks in the past two years. In April, three employees of an Evangelical Protestant publishing house in the city of Malatya were murdered in a shockingly brutal manner, reportedly by youths associated with a nationalist group. Five persons suspected of committing the murders were arrested soon after the attack, and five others were detained days later.



Turkish tiles in Topkapi Palace, Istanbul

### *Property Issues and the Law on Foundations*

Many of the most serious problems faced by religious minorities in Turkey, particularly the Christian groups, involve property rights and ownership. While the *Diyaret* runs Sunni Muslim affairs, another government agency, the General Directorate for Foundations (*Vakıflar*) regulates all activities of non-Muslim religious groups and their affiliated houses of worship and other property. The establishment of a foundation is the mechanism through which a minority religious community can own property, including buildings of worship, schools, and other institutions. As noted above, the communities themselves have no legal status in Turkey. Therefore, there is no way other than through a foundation for a religious community to become a collective legal entity. The rules governing the foundations of minority religious communities in Turkey have been found to be intrusive and in many cases, onerous. During the visit, representatives of a number of minority religious groups reported extensive problems in the way their foundations are regulated by the state.

Over the previous five decades, the state has, using convoluted regulations and undemocratic laws, confiscated hundreds of religious minority properties, primarily those belonging to the Greek Orthodox community, although Armenian Orthodox, Catholics, and Jews also reported such expropriations. The state has also closed their seminaries, denying these communities the right to train clergy. In 1936, the government required all foundations (including those that supported religious activities) to declare their sources of income; in 1974, at the time of the Cyprus invasion, the Turkish High Court of Appeals ruled that minority foundations had no right to acquire properties other than those listed in those 1936 declarations. Particularly since that time, the government has seized control of hundreds of properties acquired after 1936; religious minority foundations that are recognized by the state can acquire property, but previously appropriated property cannot be reclaimed. In many cases, the government has prevented the Orthodox from using a

particular property and then expropriated it—with the justification that it is not being utilized. There is also no right to appeal these government actions.

Renovation works undertaken by community foundations that exceed a certain cost amount require a permit from the *Vakıflar*. Moreover, a recently adopted procedure requires that a permit also be obtained from the Ministry of Foreign Affairs, confirming that religious minorities are still viewed as “foreign” in Turkey. Greek and Armenian Christians have been especially subjected to limitations on maintaining religious and cultural sites, due in part to bureaucratic obstacles in gaining the necessary authorization. Groups are prohibited from using funds from their properties in one part of Turkey to support their existing population elsewhere in the country. Roman Catholics have also had much of their property confiscated by the government. In 1993 – 1996, the state conducted political consultations at the Vatican, which concluded in a cooperation agreement between the University of Ankara and the Jesuit Consortium Gregorianum and the reopening of the chapel at Tarsus; however, in most cases the state has taken possession of Catholic property or prohibited its use for other purposes. The authorities have also imposed restrictions on the renovation of Catholic churches and monasteries.

Under pressure from the EU, the current AK Party government passed legislation three years ago giving the Greek Orthodox and other minorities the right to acquire property and regain property expropriated by the Turkish state. Nevertheless, even after this legislation was passed, it was reported that minority Greek and Greek Orthodox properties continued to be confiscated at a high rate, based on such criteria as disuse or absence of a sustaining population; between 1999 and 2005, it was reported that approximately 75 percent of Patriarchal and Patriarchal-affiliated properties owned at that time were confiscated.

In November 2006, the Turkish government, as part of the ninth reform package on EU accession, passed a new law governing foundations. However, though this legislation does

address some key concerns, it is thought by most observers not to go far enough to remove the shortcomings of the system as it has functioned in Turkey for so many decades. The law does make it easier to form a foundation by simplifying the process and allowing non-Turkish citizens resident in Turkey to open foundations. In addition, the new legislation allows groups to recover property that was registered after the 1936 decree but still confiscated by the state. However, the new law does not enable foundations to regain confiscated property that the state sold to third parties, a category that reportedly involves a considerable amount of property, nor does it end the *Vakiflar*'s authority to continue expropriating foundation properties if the foundation is determined not to be carrying out its stated purpose or the population in question has declined (although no properties were in fact confiscated in 2006). Much of this was made moot, however, as the following December, Turkish President Ahmet Necdet Sezer vetoed the new legislation, stating that several of its provisions were incompatible with the Turkish Constitution. This was not the first time that President Sezer vetoed legislation passed to bring Turkey's legislation in line with EU standards, frequently with the claim that the legislation threatened the state's secular structure.

In one other important development whose impact is as yet unknown, in January 2007, the European Court of Human Rights (ECHR) ordered the government of Turkey to return the property of a charitable foundation (an orphanage) that had been seized in 1974 or pay compensation. This was the first ruling by the ECHR censuring Turkey on issues involving charitable foundations set up by religious minorities. As of this writing, the Turkish government has not complied with this ruling.

### *The Case of the Halki Seminary*

After the military coup in 1971, the Turkish state nationalized all private institutions of higher learning, including those devoted to religious training. As a result, the Halki School of Theology, which is the theological seminary on the island of Heybeli that, since the nineteenth century, has trained religious leaders of the Ecumenical Patriarchate and Orthodox Christian communities worldwide, was closed. Despite repeated government promises that it would be reopened, it remains closed as of this writing. Since the Turkish state imposes a citizenship requirement on candidates to the religious leadership positions of the Ecumenical Patriarch but prevents training of such clergy

by keeping Halki closed, the Ecumenical Patriarch has said that this policy is deliberately designed to eliminate the Greek Orthodox community from Turkey.

Several Turkish officials explained to the Commission that the Turkish government cannot agree to re-open the Halki Seminary because it will upset the balance of the state's position with regard to Muslim seminaries, or *madrassas*, which remain administered by the state. According to Ecumenical Patriarch Bartholomew, however, there are currently 24 divinity schools in operation in Turkey for teaching Muslim theology. What is more, the Halki Seminary was open and functioning from 1923-1971 without threatening the relationship between the state and Muslim institutions of higher learning. The Halki school would not operate independently from the state as some have claimed, the Patriarch said, but would operate under the Ministry of Education. With regard to the proposal by the Armenian Orthodox Church and others to establish a department of theology at a university, the Ecumenical Patriarch explained that the Greek Orthodox community does not want a university department of religion, but instead desires the reopening of the Halki school in order to train clergy. Bartholomew also reported that his numerous, formal written communications to Prime Minister Erdogan and other Turkish officials to request a discussion about Halki have received no response. In meetings with Turkish state officials in the *Vakiflar* and *Diyanet*, as well as with members of Turkish political parties, the Commission was told that the decision was a "political decision" that rested with the President's office.

### *Jews*

According to several Jewish community leaders with whom the Commission met, there are 23,000 Jews in Turkey today. Jews operate their own schools, hospitals, two old-age homes, and welfare institutions, as well as a Jewish newspaper, which is in Turkish with one page in Ladino.<sup>9</sup> The majority of Jews in Turkey (96 percent) have ancestors who fled from Spain or Portugal. The situation for Jews in Turkey is better than the situation in other majority Muslim countries and Jews report being able to worship freely and their places of worship generally receive government protection when it is required. Nevertheless, concerns have arisen about attacks on synagogues in recent years and increasingly vocal anti-Semitism in some sectors of the media.

In 2001, a new Jewish Museum of Turkey was opened in Istanbul, the only museum of its kind in the Muslim world, illustrating 700 years of Jewish life in Turkey. Like the other religious minorities, Jews have experienced problems in operating their synagogues because of the laws governing foundations. For example, there was a law imposing a low limit on the amount of money that could be spent repairing a building, which is preventing the community from developing its property. Generally speaking, however, the Jewish community did not report the kind of difficulties with property and property rights that other religious minority communities have experienced. In fact, since the changes that have been made to the law during the EU accession process, Jewish representatives report that their foundations have bought and sold some property. Like the Alevis, Jews in Turkey tend to be wary of any attempt to inject religion—i.e., the majority religion—into state policies, which leads them, generally speaking, to be strong supporters of Atatürkist secularism. They expressed fears that changes in secularism could lead to further expressions of anti-Semitism and limits on religious freedom for Jews.

In November 2003 and August 2004, synagogues were bombed by terrorists associated with al-Qaeda, the first attack killing 25 persons and the second two persons. The attackers also bombed the British Consulate and a British bank in Istanbul. The Turkish state took prompt action to bring to justice the perpetrators of the attack, which was reportedly carried out by a Turkish al-Qaeda cell. As of the end of last year, more than 70 suspected al-Qaeda militants were on trial for their alleged roles in the bombings, though some of those suspected of involvement have fled the country. The authorities, as well as the public, reacted with outrage and sympathy for the victims. The day after the terrorist bombing in November 2002, in an apparently unprecedented move, Prime Minister Erdogan visited Turkey's Chief Rabbi to express condolences.

In meetings with representatives of the Jewish community of Istanbul, concern was expressed about increasing anti-Semitism in some sectors of the media that is generally coupled with anti-Americanism, particularly in media outlets that are viewed as either nationalist or religious extremist. In 2005, a new Turkish edition of Adolf Hitler's *Mein Kampf*, along with the notorious anti-Semitic *Protocols of the Elders of Zion*, were bestsellers on popular reading lists published in Turkey. The growing anti-Semitism is thought in part to be a reflection of increasingly politicized Islamist

sentiments due to some degree to wide opposition in Turkey to the U.S. invasion of Iraq; there are a growing number of specious stories about Israeli and U.S. misdeeds in Iraq, as well as pieces containing more conventional anti-Semitic stereotyping. According to Turkey's Jewish leaders, anti-Semitism in the Turkish media is directly related to what is happening in the Middle East; Jews in Turkey report that they are held responsible for events in the Middle East, though they regularly try to emphasize that they are Turkish citizens and not involved in any way. All of these factors, together with the 2003 and 2004 bombings, have resulted in an increasing sense of fear and insecurity among members of the Jewish community that has generally not been present before in Turkey.

### The Way Forward for Turkey

Without exception, everyone the delegation met with in Turkey, including those from among all of Turkey's religious communities, stressed EU membership as the most promising means to advance religious freedom and other human rights protections and to drive democracy forward in Turkey. In the past few years, in response to EU Commission reports regarding a start-date for Turkey's accession negotiations, Ankara undertook important legal changes that have included a series of domestic reforms in human rights matters. Notably, since accession negotiations began in late 2002, Turkey has ratified three major international human rights treaties, specifically the International Covenants and the Racial Discrimination Convention. Key among them is the International Covenant on Civil and Political Rights (ICCPR), which in article 18 sets forth the clear-cut obligations of states parties with regard to freedom of thought, conscience, and religion, and in article 19 specifies the wide-ranging elements of freedom of expression. Turkey also ratified its optional protocol, permitting individual complaints to be submitted to the UN treaty monitoring body. The International Covenant on Economic, Social, and Cultural Rights has also been ratified. The Convention on the Elimination of Racial Discrimination, ratified in 2002, prohibits discrimination in regard to a wide range of public actions by the state, including the right to freedom of thought, conscience, and religion, and such rights as to own property and to education.<sup>10</sup>

Various laws, including the Penal Code, Anti-Terror Law, and the Press Law, have been amended, lifting several

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legal restrictions on the exercise of freedom of expression. The new Penal Code narrows the scope of some articles that have been used to convict those expressing non-violent opinion, such as new Article 216, which limits convictions on incitement charges, and Article 125, which narrows the scope of defamation. The new Penal Code also strengthened the principle of equality between men and women.

In addition, since 2002, Turkey has also boosted efforts to comply with the decisions of the ECtHR. Some of the other reforms reported in European Commission Progress Reports on Turkey include a reduction in military prerogatives in civilian politics through the institution of the National Security Council; enshrining the principle of the primacy of international and European human rights conventions over domestic law in the Constitution (Article 90 of the Constitution was revised in May 2004 for this purpose); abolishing State Security Courts and transferring some of their responsibilities to newly created Regional Serious Felony Courts; the adoption by Parliament of a new Civil Code and a new Penal Code, both of which entered into force in April 2005; the creation of Intermediate Courts of Appeal and a family courts system (the law on family courts was amended in April 2004 in order to exclude their jurisdiction over all non-family law matters); the ratification of various international treaties; and the abolishment of the death penalty in January 2004. It was in 1987 that Turkey declared its recognition of the individual application procedure to the ECtHR. According to the November 2006 EU progress report, from September 2006 until August 2006, over 2,100 new applications with regard to Turkey were made to the ECtHR. The report goes on to note that Turkey has “made progress...in the execution of ECtHR judgments.” However, the report also notes that more efforts at compliance are needed.

In the same way, more needs to be done to ensure that religious freedom and other human rights will be protected in Turkey. State control of religious life persists in Turkey, involving management through the Diyanet of the majority Sunni Muslim community—exemplified by the continued legal restrictions on religious dress in state buildings, including in both public and private institutions of higher education. According to international standards, each individual is guaranteed the freedom to manifest his or her religion or belief in public, or not to do so. At the same time, concerns must be addressed that a lifting of the ban on headscarves might jeopardize the rights of women, subjecting them to societal and possibly even state coercion on matters of religious observance.

Despite the constitutional protection for religious freedom, other of the problems described in this report remain. These problems include:

- the absence of full legal recognition for religious minorities, including Alevis; Greek, Armenian, and Syrian Orthodox; Roman and Syriac Catholics; Protestants; and Jews;
- the lack of full property rights for religious minorities, including the right to own and maintain property as a community, leading in some cases to a critical decline in these communities on their historic lands;
- the continued incidents of anti-minority violence, especially against members and property of the Greek Orthodox community, the growth in violence against members of the Catholic and Protestant communities, and the growing anti-Semitism in some sectors of the Turkish media;
- the continued existence of Article 301 of the Turkish penal code, which restricts freedom of expression through prohibitions on insulting “Turkishness” and the Turk-

ish state, with associated negative effects on religious freedom also, as evidenced by the charges against the two Protestants noted above;

- a decades-long government practice, through convoluted regulations, of expropriating the property of religious minorities, particularly the Greek and Armenian Orthodox, without a court administrative process or adequate compensation;
- the closure of and refusal to permit institutions for religious minorities to train religious clergy, depriving them of the ability to train future clerics, and the associated state demand that religious leaders must be Turkish citizens;
- the failure of the Diyanet to include the Alevi community, the country's largest religious minority, in its activities involving the administration of Muslims in Turkey, and the general societal discrimination against Alevis in other areas of life in Turkey;
- restrictions on the ability of leaders of majority and minority religious communities to wear clerical garb in public areas and state institutions and public and private universities and restrictions on the Christian and Jewish communities from wearing clerical garb in the public space writ large; and
- state policies that impede the opening or repair of churches and other worship buildings.

The Commission strongly urges the U.S. government to persist in raising these religious freedom concerns regularly with the government of Turkey. Clearly, the remaining problems are troubling enough to warrant their continued inclusion on the U.S.-Turkish bilateral agenda. It became apparent to the Commission after the visit that in order for Turkey to address the remaining problems faced by both the majority Muslim and minority religious communities, continuing the democratic reform process, which was intensified as a result of the EU accession project, is critical. In February 2007, Foreign Minister Gul announced at a meeting in New York that despite the December suspension by the EU, Turkey would open the chapters itself and continue with its reform program, since the reforms benefit the people of Turkey. Whether or not Turkey ever becomes an EU member, he continued, it is important that the country adopt the EU's democratic standards. In March 2007, Turkey resumed accession talks with the EU and also announced that it would set into motion a 13-step reform



Ayşe Sucu, head of the Women's Branch, Religious Affairs Directorate (Diyanet), with Commissioner Preeta D. Bansal (left) and USCIRF Chair Felice D. Gaer.

program in the following months. The Commission encourages the U.S. government to continue to support the Turkish government in its efforts to implement the remaining reforms needed to further the EU accession process and move Turkey forward on the democratic path.



## COMMISSION RECOMMENDATIONS

The Commission recommends that the U.S. government urge the government of Turkey to:

- report fully and promptly to international supervisory mechanisms regarding the international human rights treaty obligations Turkey has accepted since 2002. Turkey should immediately submit its report on compliance with the ICCPR (due in 2004) to the UN Human Rights Committee for review, including a detailed report on its obligations under Article 18. Reports on compliance with the other newly ratified instruments should also be prepared and submitted;
- implement the judgments on religious freedom and related rights of the European Court of Human Rights, including the recent ECtHR decision ordering the government of Turkey to return the property of a Greek charity that had been seized in 1974 or pay compensation;
- continue with the legal reforms that will ensure conditions for the full exercise of all human rights, including religious freedom, for all individuals and religious communities in Turkey and implement fully and promptly the reform legislation already in force. The obligations under the Lausanne Treaty of 1923 for the Greek Orthodox, Armenian Orthodox, and Jewish

communities should be implemented and treated as minimum obligations for the Turkish government for all Turkish citizens;

- take measures, in accordance with international standards, to establish a legal personality or status for religious communities and to address the restrictions on the right to own property and train clergy, including by re-opening the Halki School of Theology, to bring those restrictions into line with the requirements of the ICCPR and the 1981 UN Declaration on Religious Intolerance, and other relevant international norms;
- undertake significant steps to establish and enhance trust between the majority and minority religious communities in Turkey. Specifically, every effort should be made to acknowledge, as the EU states, that “the existence of minority religious groups is an aspect of pluralism that needs to be recognized and preserved as an asset to Turkish society, rather than perceived as a threat.”<sup>11</sup> The government should consider measures such as 1) convening a public roundtable to air grievances, consider diverse opinions, and express commitments to a democratic, more inclusive Turkish society, and 2) developing civic education and public awareness programs that reflect the

religiously plural nature of Turkish society and the diversity of Turkey’s religious past; and

- In view of Turkey’s standing invitation to receive visits from UN special rapporteurs on human rights, encourage a return of the relevant rapporteurs, including the Special Rapporteur on Freedom of Religion or Belief, in the near future.

## ENDNOTES

<sup>1</sup> Commission of the European Communities, Turkey 2006 Progress Report, Commission Staff Working Document, 8 November 2006, SEC (2006) 1390, p. 16.

<sup>2</sup> Article 14 of the Constitution states that “None of the rights and freedoms embodied in the Constitution shall be exercised with the aim of violating the indivisible integrity of the State with its territory and nation, of endangering the existence of the Turkish State and Republic, of destroying fundamental rights and freedoms, of placing the government of the State under the control of an individual or a group of people, or establishing the hegemony of one social class over others, or creating discrimination on the basis of language, race, religion or sect, or of establishing by any other means a system of government based on these concepts and ideas...”

<sup>3</sup> The United States participated as a non-signatory conference observer.

<sup>4</sup> Some of these changes have since been reversed, most notably the call to prayer, which, as for all other Muslims, is rendered in Arabic.

<sup>5</sup> This and much other information about the Diyanet can be found on its Web site, <http://www.diyamet.gov.tr/english/default.asp>.

<sup>6</sup> U.S. Department of State, 2006 International Religious Freedom Report, “Turkey” (<http://www.state.gov/g/drl/rls/irf/2006/71413.htm>).

<sup>7</sup> It was after the 1980 military intervention that the wearing of headscarves in public institutions was banned.

<sup>8</sup> U.S. Department of State, Annual Report on International Religious Freedom 2006, “Turkey,” September 2006.

<sup>9</sup> Ladino is a Romance language, derived mainly from Old Castilian (Spanish) and Hebrew. Speakers are currently almost exclusively Sephardic Jews, found in (or from) Thessaloniki and Istanbul.

<sup>10</sup> Turkey was already a state party to the Convention Against Torture (CAT), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC).

<sup>11</sup> European Commission Against Racism and Intolerance, Third Report on Turkey, Adopted 25 June 2004, p. 25.