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TURKEY: Why state interference in the election of Chief Rabbi, Greek Orthodox and Armenian Patriarchs?

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Turkey continues to interfere in the choices made by the Jewish, Greek Orthodox and Armenian Apostolic communities of who should lead them, Forum 18 News Service notes. The government makes no attempt to hide this interference, which raises serious questions in relation to its international human rights commitments to allow religious communities to select the leaders of their choice. It also interferes in the appointment of the leadership of the Diyanet (Presidency of Religious Affairs) and running of the Muslim community, the country's largest religious community. Any resolution in line with Turkey's international human rights obligations would also have to entail granting legal status to all existing religious communities. Communities of all Turkey's faiths should be free to structure themselves as they choose. But at present no religious community in Turkey has independent legal status in its own right – which means for example that no religious community can own property. So the Jewish, Greek Orthodox and Armenian Apostolic leaders are chosen with government permission as leaders of religious communities which do not exist in law and whose personal positions are not recognised in law.

The Turkish government's interference in whether or not the Armenian Apostolic community could elect a new leader and its decision to impose its choice on the community in June has highlighted again the government's continued desire to prevent four specific religious communities from choosing their own leaders freely. The involvement of the government can also impose delays in these processes. Perhaps surprisingly, the government makes no attempt to hide this interference, which is incompatible Turkey's commitments to allow religious communities to select the leaders of their choice.

Sunni Muslims, the country's largest religious community, are funded and controlled through the Diyanet (Presidency of Religious Affairs), which reports to the Prime Minister. The head of the Diyanet is appointed by the state, and it is the only government religious agency. All Sunni religious activities are carried out through the Diyanet, and many Muslims are content with this situation. It is not possible to in this article address the human rights issues which affect the Diyanet, but it should be noted that Muslims outside the framework of the Diyanet maintain at best an unrecognised, insecure existence (see the F18News religious freedom survey http://www.forum18.org/Archive.php?article_id=1379).

Most controversy over state interference in religious leadership affects the three religious communities – the Jewish, the Greek Orthodox and the Armenian Apostolic – which in the government's interpretation of the 1923 Lausanne Treaty are the only three recognised ethnic/religious communities. But this recognition still does not mean that they are legally independent entities in their own right (see F18News 22 October 2009 http://www.forum18.org/Archive.php?article_id=1365). Indeed, no religious community in Turkey has independent legal status in its own right – which means for example that no religious community can own property (see eg. F18News 27 October 2009 http://www.forum18.org/Archive.php?article_id=1368). So the Jewish, Greek Orthodox and Armenian Apostolic leaders are chosen with government permission as leaders of religious communities which do not exist in law and whose personal positions are not recognised in law.

No legal requirement – and no legal guarantees

The election or appointment of Chief Rabbi, the Greek Orthodox Patriarch and the Armenian Patriarch is based on a process that lacks legal certainty and which is to a great extent outside of the control of the religious communities themselves. The main reason for this is that the process of application for state permission in order to elect or appoint the religious leader is not required by any law, but is de facto required by what may be called established practice – and by the possible consequences of not applying for permission.

No law states that state permission is necessary, or what processes to gain permission should be followed. However since the establishment of the Turkish Republic the Jewish, Greek Orthodox and Armenian Apostolic communities have applied for state permission when electing or appointing their religious leaders, continuing the practice established during the Ottoman period. The possible consequences of not applying for permission might include, to name only two possibilities:

- non-recognition of the religious leader by the state for purposes of representing their ethnic/religious community – a very important

function in Turkey;

- and withholding permission to wear religious clothing in places outside of places of worship.

It is highly unlikely that any of these three ethnic/religious minority groups would break with established practice, as they strive – for very understandable reasons - to avoid any kind of conflict with state officials. But as there are no legal guarantees under this established practice, there are no guarantees against what may amount to arbitrary state administrative decisions.

One person who has a leading role in one of the three communities told Forum 18 that "the procedure is defined throughout the process, with changes in criteria as well as reciprocal negotiations". Commenting on the uncertainties within the process, they noted that "each election is different".

Generally speaking it is the community officials who prepare the initial draft of regulations for the election or appointment of their religious leaders, including the criteria for candidates and term of service. However, the Ministry of Interior may advise changes, or declare that a certain provision to be incompatible with existing regulations – whether or not this is in the regulations.

It is very important to note that the communities, in preparing election regulations to submit to the Turkish authorities, are strongly guided by what they think may be acceptable to the state, in the light of their previous experiences. This is particularly reflected in the criteria for who may be chosen as the leader.

Despite the differences between each and every election of the Jewish, Greek Orthodox and Armenian Apostolic leaders, the three communities generally work on the basis that the government will insist that:

- only it can determine whether an election is permissible, according to its interpretation of the existing regulations;
- only it defines what tasks the elected leaders may carry out and what title they may use;
- only it determines when the election can take place;
- and that the chosen leader must be trusted by the government.

Apart from insisting that all members of leadership bodies – such as the Holy Synod for the Greek Orthodox, the Spiritual Council for the Armenian Patriarchate and the Beth Din for the Jewish community – are Turkish citizens, the government does not generally interfere at present in appointments below the level of the head of the religious community.

No leadership interference or recognition for most other communities

While the government appoints the official Muslim leadership and keeps a strong grip on who can lead the Jewish, Greek Orthodox and Armenian communities, it makes no attempt to interfere in the selection of leaders for the country's other religious communities.

Most foreign-linked religious communities – such as the Latin Catholics, the Anglican Church and the German Evangelical congregation – have not faced Turkish government obstruction in their choice of leaders.

Nor has the government interfered in the choice of leaders for most other religious communities – including Alevi Muslims, other non-Diyanet Muslims such as the Shia, the Syriac Orthodox Church, Protestant Churches, Jehovah's Witnesses, Yazidis and Baha'is – but it also gives no recognition to these as religious communities, or to their leaders. The government also does not recognise these leaders as having any kind of representative role.

Leaders and communities who don't exist

The Chief Rabbi and the two Patriarchs head the only ethnic/religious communities that are recognised in the Lausanne Treaty. The Turkish government does not recognise their religious communities as having independent legal status as religious communities. So the three leaders are chosen with government permission as leaders of religious communities which do not exist in law and whose personal positions are not recognised in law. Their authority over fellow-believers in Turkey or abroad may also not be recognised.

In the case of Bartholomew and his predecessors, the government goes out of its way to reject their status as "Ecumenical Patriarch", calling him instead the "Fener Rum Patrik" (Patriarch of Fener). This is the name of the district of Istanbul in which the Patriarch lives. Along with this the government also tries to reject the Ecumenical Patriarch's wider jurisdiction or authority over Orthodox communities outside the country - including direct jurisdiction over dioceses in eastern Greece and some parts of the diaspora.

A Turkish court in June 2007 ruled that Bartholomew is not a church leader with jurisdiction outside Turkey, but only the head of the local Greek Orthodox ethnic/religious community. It also denied that he could be called Ecumenical Patriarch. This had no impact on his status outside Turkey, and has caused widespread protests. The Council of Europe's Venice Commission in March

2010 urged Turkey to recognise the right of the Patriarchate to use the title "ecumenical", as well as to allow all religious communities to have legal status (see <http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD%282010%29005-e>)

The Armenian Patriarchate also has jurisdiction outside Turkey, having jurisdiction over the tiny Armenian community on the Greek island of Crete. The Turkish Government – as with the Ecumenical Patriarchate – rejects the terminology used by the Armenian Apostolic Church itself for its Patriarch: "Patriarch of Constantinople". Instead, the state refers to him as "Ermeni Patrik" (Armenian Patriarch). To accommodate government objections, the Patriarch signs his name as "Patriarch of Istanbul and All Turkey".

Delayed Jewish election, new title for leader

Jews – whether Sephardic (the majority) or Ashkenazi (a small minority) – are organised in one Chief Rabbinate. When the current Chief Rabbi Isak Haleva was elected in December 2002 to replace the veteran Chief Rabbi David Asseo, who had died five months earlier, for the first time the office of Chief Rabbi was decided by the community to be for a seven year term, not a lifetime appointment as previously.

When Haleva's term expired in late 2009, the government refused to allow an election (by direct vote of members of the Jewish community throughout Turkey) to take place, unless the post title was changed from Chief Rabbi of Turkey to Chief Rabbi. The criteria for the 2002 and 2009 elections were determined by the Election Committee, and it included conditions for the leader such as:

- be a Turkish citizen at least 40 years old;
- what religious training he should have;
- and be trustworthy in the eyes of the Turkish government.

The last condition was one required by the Turkish state in all previous elections. However, in the 2009 elections the Istanbul Governorship informed the Election Committee that this provision must be changed to stipulate that the Chief Rabbi must "have a good reputation in the eyes of the state and society".

After finalising the election criteria, and receiving approval from the Interior Ministry, the post of Chief Rabbi was advertised in newspapers. Before the 2009 elections the Jewish community had only one candidate in elections, but in 2009 there were two candidates – both of whom applied on their own initiative. The government did not put forward a candidate, neither did it oppose either of the two candidates. However, it should be noted that the state-approved criteria put forward by the Jewish community ensured that whoever was chosen would be acceptable to the state.

Eventually, the government permitted an election to the post of Chief Rabbi of Turkish Jews, which Haleva won in May 2010. The other candidate gained a much smaller number of votes.

Why couldn't the Armenians themselves elect a Patriarch?

The recent experience of the Armenian Apostolic community – the largest of Turkey's Christian communities with some 60,000 people – is the most vivid illustration that the government's desire to meddle has not diminished. Mesrob Mutafyan was elected Patriarch for life in 1998 against the express wishes of the Turkish authorities. But Patriarch Mesrob has been forced to retreat into health-related seclusion, brought on by years of pressure from the media, the public and the Armenian diaspora (see F18News 21 October 2008 http://www.forum18.org/Archive.php?article_id=1206). As his health has declined and he has been unable to exercise his functions in recent years, the question of a successor became acute.

The Armenian community is in a particularly complex legal – or non-legal – situation for choosing leaders. The Armenian Patriarchate is subject to an 1863 Regulation concluded between the Ottoman administration and the Patriarchate. A new regulation annulling this has not been drafted since the establishment of the modern Turkish Republic, and there are differing views among lawyers as to whether or not the 1863 Regulation is still valid. Despite this lack of legal certainty, the Patriarchate acts as if the 1863 Regulation is valid. This Regulation does not specify a course of action if the Patriarch becomes ill, as it only makes provision for the course of action to be taken if the Patriarch dies or resigns from office.

In this instance, the selection of a new leader was complicated by the fact that the current Patriarch, Mesrob, is still living.

Two different factions in the community approached the government separately. Archbishop Aram Ateshian, who chaired the Spiritual Council and was de facto leader of the Patriarchate in the wake of Patriarch Mesrob's incapacity, asked the government on 3 December 2009 to allow the selection of a Co-Patriarch. He thought that a new Patriarch can only be chosen on the death of the previous Patriarch. By contrast, the Council of Armenians in Turkey, which tends to reflect the views of many in the business community, asked for the election to be allowed to go ahead of a new full Patriarch to replace Mesrob.

The Church presented three candidates – all Turkish citizens. But only Archbishop Aram was living and working in Turkey. Archbishop Karekin Bekjian has served in Germany for the past two decades, while Sebul Chuldjian – who left his native Turkey when he was ten – serves as a bishop in Armenia. The Turkish government would have been highly nervous about a bishop who has strong links with Armenia, with which relations remain delicate.

The Church had hoped to hold elections on 12 May, but the government delayed in giving any response. This prompted debate in the community as to whether the delay had been caused by the differing requests or whether it merely represented continuing government reluctance to resolve the problems for religious minority communities.

Eventually, the Interior Ministry wrote to the community on 29 June via the Istanbul Governor's Office, rejecting both the proposals put to it from within the Armenian community, arguing that Church regulations did not envisage the possibility of electing a new Patriarch while the incumbent is still alive or a Co-Patriarch. It insisted that only a Patriarchal Vicar-General (Patrik Genel Vekili), a previously-unknown post, could be elected to lead the community until the time Mesrob dies. Some other churches have such a title, and it is thought that this gave the state the idea of using this title for the Armenian leader.

The government justified its decision to refuse the election of a Co-Patriarch by stating that such a position is not foreseen in the existing Regulations – but nor is the appointment of a Patriarchal Vicar General. Murat Bebiroglu, who was before the election on the Patriarchal Advisory Council, wrote in 14 July 2010 in Hye-Tert newspaper that such a position has not existed within the Armenian Orthodox Church since 1709 and it is not in their tradition. (The Patriarchal Advisory Council was dissolved during the election period.) Bebiroglu also noted that the community did not apply for permission to elect a Patriarchal Vicar General. In his view this decision permitting the election of Patriarchal Vicar General is legally unjustified and needs to be challenged by the Armenian Community. The government thus assumed the role of regulator or arbitrator, and imposed a solution to the problem that was not asked for by the community. It was not a legally justifiable interference.

The letter from the Interior Ministry added that the Patriarchate could apply for permission for the new Vicar General to wear religious vestments outside places of worship "which is allowed for only one individual in each religion or confession", as the letter reminded the community. Patriarch Mesrob had been accorded such a right by a decision of Turkey's Council of Ministers one month after his 1998 election.

The Spiritual Council convened on 1 July and hastily chose Archbishop Aram to the newly-created post of Vicar General. Not only did the community not select its leader freely (though Aram might well have been chosen in an election), it was not even able to determine for itself whether it wanted a new Co-Patriarch, a new full Patriarch, or would use the title Vicar-General.

That Aram and the Spiritual Council – led by Aram - co-operated in the appointment of Aram as leader with the new title Vicar-General, and that the community was denied the usual election procedure, has caused considerable questioning within the church and wider Turkish Armenian community of whether the appointment is valid. The dispute continues, and some suggest that Aram's history of co-operation with the Turkish Government as leader of the Spiritual Council unduly influenced the state's actions.

History of interference

There have been previous instances of government interference in the Armenian Apostolic leadership, dating back several decades. In 1997 the government forced the Patriarchate to disband its council of lay advisers.

When Mesrob was chosen as Patriarch in 1998, the government went out of its way to try to prevent his appointment and indicated directly that the only other candidate, the then-72 year-old Bishop Shahan Sivacyan, was its choice. The government appeared to regard the then-42 year-old, well-educated and internationally-connected Mesrob as the more threatening candidate. This was widely thought to be because he might be an articulate public face in Turkish society for his community, as well as a spiritual leader.

But although it did not want Mesrob, the Turkish government was ultimately forced to bow to strong foreign pressure to accept him as the new Patriarch.

Ecumenical Patriarchate's experience

The Ecumenical Patriarchate faced less government interference in its most recent leadership election, although it could only proceed with this when the government had given its permission. When Bartholomew became Patriarch in 1991, he was elected by the Holy Synod and the government agreed to the choice.

In a move which broke with established practice, in 2004 Patriarch Bartholomew named several foreign citizens to membership of the Holy Synod. These appointments were made unilaterally, without consulting the government. Amid an outcry by Turkish nationalists, who called for the Patriarch to be expelled from the country, Prime Minister Recep Tayyip Erdogan indicated that this was an internal issue for the Church. It is unclear whether Prime Minister Erdogan would have made a similar statement had the Armenian Patriarchate acted similarly.

After years of urging on the part of the Patriarchate and apparently as a result of the August 2009 meeting between Bartholomew and Erdogan, the government finally agreed that foreign bishops of dioceses under the Ecumenical Patriarchate could apply for Turkish citizenship. Patriarch Bartholomew immediately wrote to the bishops urging them to do so, pointing out that when the election of his successor takes place, "they will have the right to elect and to be elected".

Why the Turkish government chose not to intervene when Patriarch Bartholomew named foreigners to the Holy Synod and apparently to allow foreign bishops to gain Turkish citizenship remains unclear. Perhaps, as the easiest way to calm the nationalists, it was a "Turkish solution to a Turkish problem"?

Why arbitrary interference instead of a legal framework?

There is no existing adequate legal framework governing the elections of the Chief Rabbi and the two Patriarchs. Whenever a need for the election of a spiritual leader arises, permission for that particular election must be obtained. This permission is not valid for any subsequent election. Several key problems with this can be observed.

Firstly, the requirement for state permission or regulation is incompatible with the right of religious communities to be free in their internal affairs, particularly one as critical as the right to appoint their own leader in accordance with their own doctrines and traditions.

Secondly, there is no legal justification for state interference with the election or appointment of religious leaders in any of the three communities. Whether it be national security, public safety or other concerns that leads the government to interfere in these matters, any interference must in international law be proportionate, justified by law and necessary in a democratic society.

Thirdly, and most importantly, even if state regulation or permission were justified, the fact that each and every election is arbitrarily treated differently puts the religious communities in a very vulnerable position. The main reason for this is that the government's arbitrary decisions are affected by factors which these religious communities cannot control. The lack of an adequate legal framework that is compatible with international human rights law may be an indication of mistrust of these minorities. In addition, foreign policy issues such as relations with Armenia, whether the USA describes the 1915 tragedy as genocide or not, the Cyprus issue and the situation of the Muslim community in Western Thrace and relations with Israel, all influence the decisions the Turkish government takes about the communities in question. In this way, the government holds what it thinks is a "trump card" in the highly complex question of the relationship between foreign and internal politics.

The core of the problem is that the Turkish state primarily thinks that relations with these three communities are strongly linked to foreign policy matters – not a matter of the freedom of religion or belief of Turkish residents. For decades, these communities have been subject to the changing relationships between Turkey and other countries – even though these communities are not themselves the countries in question.

So it is highly unlikely that the Turkish government will either allow these communities to freely appoint their own leaders, or formulate a permanent, legally acceptable solution to these problems. Although the Turkish government does not put its international legal obligations into practice by refraining from interference in the internal matters of these communities, it presents its solutions as gracious signs of tolerance and respect for religious freedom in Turkey.

The need for a fundamental change of approach

Turkey's interference in the choice of Muslim, Greek Orthodox, Armenian Apostolic and Jewish leaders clearly seems incompatible with the country's international human rights commitments to allow religious communities to choose their own structures and leadership.

This interference has resulted in growing attention being given to this problem – as was seen in reactions to Bartholomew's nomination of foreign citizens to the Holy Synod in 2004, interference in the Jewish electoral process, and the Armenian leadership in 2010. State interference has also created frustrations within the communities, which has become widely known within and outside Turkey. In future, the government may have to face even more damaging reactions to state interference – thus turning what it has thought of as a "trump card" in foreign relations into a foreign policy problem.

The government would not face the problems this causes – and would have gained positive reactions internationally - if it had resolved the problem by allowing each religious community to choose its leadership freely, under a transparent legal framework, in line with the "freedom of thought, conscience and religion" defined in Article 18 of the Universal Declaration of Human Rights and Article 9 of the European Convention of Human Rights. The key to a stable long-term solution lies in addressing the situation of religious communities within a human rights protection framework, rather than from changing political perspectives. A fundamental change in approach seems long overdue.

However, any resolution in line with Turkey's international human rights obligations would also have to entail granting legal status to all existing religious communities. Communities of all Turkey's faiths should be free to structure themselves as they choose, and

to freely select their leadership in they way they wish to do so. (END)

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For more background, see Forum 18's Turkey religious freedom survey at http://www.forum18.org/Archive.php?article_id=1379.

More analyses and commentaries on freedom of thought, conscience and belief in Turkey can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=68>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

A printer-friendly map of Turkey is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=mideast&Rootmap=turkey>.

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