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TURKEY: Will schools respect parents' and pupils' freedom of religion or belief?

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Turkey has twice, in 2007 and 2014, lost cases concerning its compulsory Religious Culture and Knowledge of Ethics (RCKE) classes at the European Court of Human Rights (ECtHR), as they do not respect parents', guardians', and pupils' freedom of religion or belief, Forum 18 News Service notes. In September 2014 the ECtHR stated that "Turkey had to remedy the situation without delay", yet the only action so far has been the Education Ministry preparing an action plan involving wide consultation with civil society on the RCKE courses. This is awaiting government approval after the elections. Another systemic violation of freedom of religion or belief in the education system are optional lessons in Islam, which many have found are in reality "compulsory optional". Fear of discrimination and harassment from teachers and other pupils, as well as the slowness of the legal system, are the main reasons many people have not taken legal action to protect their rights. Unless effective protection of freedom of religion or belief in education is implemented, the state will continue to lose such cases before the ECtHR.

Turkey has twice, in 2007 and 2014, lost cases at the European Court of Human Rights (ECtHR) in Strasbourg, as the country's education system fails to respect parents', guardians', and pupils' freedom of religion or belief, Forum 18 News Service notes. Yet Turkey has still not taken steps to prevent these and other human rights violations reoccurring. ECtHR judgments require such steps to be taken in order to prevent similar violations from happening, for example by changing laws and state practices, and this process is supervised by the Committee of Ministers of the Council of Europe.

On 16 September 2014 the ECtHR found in the case of Mansur Yalcin and Others v. Turkey (Application no. 21163/11) that Turkey's compulsory Religious Culture and Knowledge of Ethics (RCKE) classes, and its education system did not respect the convictions of parents by not being either objective or respectful of pluralism. The RCKE course includes, despite changes made by the Education Ministry, still compulsory religious instruction in Islam with only a very limited exemption system that is difficult to take advantage of (see F18News 23 August 2011 http://www.forum18.org/archive.php?article_id=1603).

The ECtHR found that "no possibility for an appropriate choice had been envisaged for the children of parents who had a religious or philosophical conviction other than that of Sunni Islam, and the very limited exemption procedure was likely to subject those parents to a heavy burden and to the need to disclose their religious or philosophical convictions in order to have their children exempted from the religion lessons." This requirement for parents and pupils to disclose their beliefs is not compatible with the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

This, the ECtHR found, violates Article 2 of Protocol No. 1 ("The right to education") of the ECHR which in part states that "the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions" (see <http://hudoc.echr.coe.int/eng?i=001-146381>).

The case was brought by 14 Alevi parents of a wide age range of then school-age children. On 22 June 2005 they asked the Education Ministry to consult with the Alevi community to include Alevi culture and philosophy in the RCKE classes. On 15 July the Directorate of Religious Education wrote to the parents rejecting their request. The 14 parents and 1,905 other people then challenged that decision in Ankara Administrative Court, which rejected this challenge on 1 October 2009. The Council of State, the highest administrative court, dismissed their appeal on points of law on 13 July 2010. They then appealed to the ECtHR.

"Remedy the situation without delay"

The ECtHR noted the government had changed the RCKE course since its 2007 judgment in the case of Hasan and Eylem Zengin v. Turkey (Application No. 1448/04). But this had not prevented Yalcin and Others' rights being violated, due to the structural problem it had already identified in 2007 (see F18News 23 August 2011 http://www.forum18.org/archive.php?article_id=1603).

In September 2014 the Education Reform Initiative published an analysis of how far the government's 2011 changes to the compulsory RCKE classes fulfilled international standards, using the Organisation for Security and Co-operation in Europe's (OSCE) Toledo Guidelines on Teaching Religion and Beliefs in Public Schools as a benchmark. The Toledo Guiding Principles,

prepared with the input of Turkish experts, offer guidance on preparing curricula, preferred procedures for assuring fairness in the development of curricula, and standards for how they could be implemented (see <http://www.osce.org/odihr/29154?download=true>).

The Education Reform Initiative found that the RCKE changes had broadened the diversity of Islamic beliefs taught, but "the course maintained its character as religious (Islamic) instruction". The RCKE classes are also not compatible with international standards in their teaching about non-Sunni Islamic beliefs (see).

The ECtHR's September 2014 legal summary of the judgment stated that the ECtHR "failed to see how, given that the religion and ethics classes were compulsory and there was no appropriate exemption system in place, the prospect of pupils facing a conflict between the religious instruction provided by the school and their parents' religious or philosophical convictions could be avoided". So the ECtHR stated that: "Turkey had to remedy the situation without delay, in particular by introducing a system whereby pupils could be exempted from religion and ethics classes without their parents having to disclose their own religious or philosophical convictions" (see <http://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-4868983-5948734&filename=003-4868983-5948734.pdf>).

The Turkish Government appealed on 10 November against the latest ECtHR judgment, claiming - against the evidence - that the RCKE classes are neutral classes about religion and not religious instruction. But the ECtHR on 18 February 2015 rejected the government's appeal.

Whether Turkey will "without delay" make the substantive changes required by the ECtHR in September 2014, or even ever make any changes, is open to question.

Namik Sofuoglu, the Alevi parents' lawyer before the ECtHR, thinks the government will eventually have to change the RCKE curriculum. "There is no escaping it," he told Forum 18 on 9 September 2015. He thought that the Council of Europe Committee of Ministers process of monitoring the enforcement of ECtHR judgments is the key that will bring about change. Sooner or later, he thought, the Government will be forced to introduce the necessary changes.

An Education Ministry official, who preferred to remain anonymous, told Forum 18 on 10 November that the Ministry has prepared an action plan involving wide consultation with civil society on the compulsory RCKE courses. The Ministry is waiting for the Government that is being formed after the 1 November parliamentary election to approve the action plan.

Given the government's continuing failure to implement both the 2007 and 2014 ECtHR judgments, non-governmental organisations from Turkey have called for the Committee of Ministers to prioritise the execution of the 2014 judgment. The Norwegian Helsinki Committee Turkey Freedom of Belief Initiative (ECtHR ref. DD(2015)774) in July 2015 and the ADO Alevi Philosophy Centre (ECtHR ref. DD(2015)918) in September both called for implementation of the judgment to be placed under enhanced supervision (see http://www.coe.int/t/dghl/monitoring/execution/Themes/Add_info/TUR-ai6_en.asp).

In replying to both NGO requests, the Turkish Government stated in writing on 30 July (ECtHR ref. DD(2015)775) and 9 September (ECtHR ref. DD(2015)918) that it will submit an action plan within six months, arguing that the 2014 judgment does not need to be placed under enhanced supervision (see http://www.coe.int/t/dghl/monitoring/execution/Themes/Add_info/TUR-ai6_en.asp). At its 28 September meeting, the Committee of Ministers decided that executing the judgment should stay under the so-far ineffective standard supervision.

Freedom of religion or belief in education reservations

Turkey has a history of objecting to respecting freedom of religion or belief in education. In 1954 it lodged a reservation to Article 2 of Protocol No. 1 ("Right to education") of the ECHR. This reservation protects its Law No. 430 of 3 March 1924, which had the effect of placing all educational institutions, including those offering religious education, under the Ministry of Education which did not allow for private religious education (see F18News 5 January 2011 http://www.forum18.org/archive.php?article_id=1526).

On signing the International Covenant on Economic, Social and Cultural Rights (ICESCR) in August 2000 Turkey lodged reservations against, among other things, implementing Article 13 ("The right of everyone to education"). The reservations among other things restricted the right, under ICESCR Article 13 paragraph 3: "of parents and, when applicable, legal guardians to choose for their children schools (..) to ensure the religious and moral education of their children in conformity with their own convictions". In May 2011 the United Nations Committee on Economic, Social and Cultural Rights considered Turkey's ICESCR record and, as it had previously done, called on Turkey to withdraw its reservations (E/C.12/TUR/CO/1).

Will there be a government which implements ECtHR obligations?

The Justice and Development Party (AKP) on 1 November 2015 gained enough parliamentary deputies to form a single-party government. It remains to be seen whether the AK Party's implementation of ECtHR judgments cases will be better than when it before June 2015 formed a single-party government (see Forum 18's Turkey religious freedom survey http://www.forum18.org/archive.php?article_id=1916).

"Optional" classes often compulsory

The RCKE classes are not the only systemic violation of freedom of religion or belief in the education system. From the 2012-13 school year onwards, the government introduced optional lessons in Islam. But in many schools these "optional" lessons have not been optional in reality, as both Alevi and Christian pupils have publicly complained. Since the introduction of these classes, parents and pupils have felt pressured by school administrations into choosing them against their will (see F18News 20 August 2013 http://www.forum18.org/archive.php?article_id=1867).

Some school administrations continue to coerce people into acting against their beliefs. "I have talked to many parents who complain about the compulsory 'optional' religion lessons", lawyer Mehmet Tiryaki of the Education and Science Workers' Union (Egitim Sen) trade union for teachers and other education workers told Forum 18 on 28 October 2015. "But they do not want to take legal action to solve the problem." Fear of the consequences of protesting about the problem - due to potential discrimination and harassment from teachers and other pupils against people who are not Sunni Muslims - as well as the slowness of the legal system are the main reasons people do not want to take legal action (see eg. F18News 23 August 2011 http://www.forum18.org/archive.php?article_id=1603).

One instance where legal action was taken, but which did not solve the problem, was in Kocaeli in the north-western Karamürsel Province in 2012. Parents of a secondary school pupil complained to the school that their child had been forced to take an "optional" Islam course. The school replied that the pupil had to be forced to take a Koran course, as only eight pupils had chosen the classes and it would not go ahead otherwise. (For any optional course to be offered, a minimum of 10 pupils must be enrolled on it.)

The parents took legal action in September 2012 as the "optional" religion course was "compulsory optional", filing a case Kocaeli Second Circuit Administrative Court. The Court rejected the case on 14 January 2014. The parents then appealed to Sakarya Regional Administrative Court, which rejected their appeal in February 2014. However, Sakarya Regional Administrative Court decided on 29 January 2015 that pupils cannot be forced to choose a course against their will.

The Sakarya Regional Administrative Court's decision is important as it places on the legal record the fact that some pupils are forced to attend "optional" religion courses. But the judgment only affects this one case and so does not have wider legal consequences. As the parents eventually won their case, they cannot appeal to the ECtHR.

As the legal process took so long (2 years, 4 months), it was too late to help the pupil whose parents filed the case by preventing their right to freedom of religion or belief being violated. The pupil had to take the "optional" religion lesson, take exams throughout the 2012-13 school year and pass the course in that school year. That the available legal remedy did not stop the pupil's and parents' human rights being violated makes people reluctant to bring cases against the Education Ministry.

No solution to coercing pupils being considered

The government is thinking of broadening the range of beliefs the "optional" classes cover beyond Sunni Islam. But it does not appear that the government is considering a solution to the problem of people being coerced into revealing their beliefs, or into religious instruction of any kind by the "optional" classes.

Optional classes on Christianity and Judaism are offered only in Lausanne minority schools, not in normal state schools. The state has tasked a commission established by a variety of Christian churches (including Orthodox, Armenian Apostolic, Syriac Orthodox, Syriac, Catholics, and Protestants) with writing the curriculum for an optional Basic Religious Knowledge (Christianity) course for middle schools (which cater for pupils between the ages of 10 and 13) (see F18News 20 August 2013 http://www.forum18.org/archive.php?article_id=1867).

Istanbul Baptist Pastor Behnan Konutgan, a member of the commission, told Forum 18 on 28 October 2015 that the Education Ministry had in October 2014 approved the textbook for the first year of middle school education. The Education Ministry had earlier invited the commission to discuss copyright and publication after the 1 November election.

The Education Ministry Directorate of Religious Teaching was asked by Forum 18 on 28 October 2015 when it plans to introduce this book in state schools. No response had been received by today (17 November).

The government has not established similar commissions for the Alevis, despite their requesting it, nor for atheists, agnostics, or people of other beliefs.

Discriminatory "optional" festival, headscarf only in schools

Since 2011 the Education Ministry has recommended schools to hold celebrations in the week of the Islamic calendar when Muslims commemorate the birth of their prophet Mohammed. Schools can do this in connection to values education, but it is not compulsory for schools to hold such celebrations. But many schools do, so activities such as distributing Korans, readings of the Koran, Islamic

plays and other Islamic activities take place regularly in schools. At times local municipal council officials attend such activities. As a result Islam's public visibility is systematically increased and endorsed, but no other important figure of another faith is given such visibility. Pupils are not allowed to commemorate or celebrate important figures for other beliefs.

For example, one Protestant with a daughter in a primary school, Umut Sahin, told Forum 18 on 27 October 2015 that from 2013 his daughter's school has organised activities to commemorate Mohammed's birth. "For a week the school becomes something other than a school, it becomes something like a religious school," he noted. The school's headteacher told Sahin in April 2015 that those who do not want to participate in these activities do not have to. His daughter has opted out of the activities without being harassed. But as teachers run the activities they cannot teach lessons at the same time. Also, as most children attend the activities, there is no educational provision for pupils who do not attend the activities.

On 22 September 2014 the government lifted the headscarf ban for pupils in middle schools. But no other symbols, apart from the school badge, are allowed on clothing. The regulations imply but do not state that other symbols, such as a necklace with a Christian cross or Islamic sword of Ali cannot be worn.

Such one-sided relaxation of rules does not contribute to the protection of freedom of religion or belief for all, nor does it facilitate diversity in schools.

What needs to be done?

The compulsory RCKE lessons, "compulsory optional" Islam lessons, allowing only the headscarf, and celebrating for one week a festival from one religion only all raise questions about the education system's conformity to human rights standards and the principles of neutrality and equality ECtHR judgments set out. These are particularly sensitive questions, as they involve the evolving right of the child to freedom of religion or belief and the rights of parents and guardians to raise their children in line with their religious or philosophical views.

Religious sensitivities have always played an important role in Turkey's approach to religious education. The governing AK Party has implemented the compulsory RCKE classes and the introduction of "optional" religion classes to cater to its supporters' demands for Islamic religious education.

However, Turkish human rights defenders such as the Norwegian Helsinki Committee Turkey Freedom of Belief Initiative point out that any government's education policies must be in line with international human rights standards. Freedom of religion or belief in schools can be ensured only by respecting everyone's religion or belief, and by public policies that do not discriminate in favour of any one belief against other beliefs. The Toledo Guiding Principles, prepared with the input of Turkish experts, offer helpful guidance on this (see <http://www.osce.org/odihr/29154?download=true>).

To achieve freedom of religion or belief in schools, the ECtHR's judgements in relation to RCKE classes must be implemented "without delay". This can be done with the speed the ECtHR requires by either abolishing the classes, or introducing a non-discriminatory way of exempting anyone who wishes from the classes without forcing parents or guardians to disclose their religious or philosophical convictions. Radically transforming the classes from religious instruction into education about religions and life stances would take much longer and be more difficult.

To implement Turkey's human rights obligations, the National Education Ministry also needs to ensure that the "optional" religion classes are in reality throughout Turkey truly optional and non-discriminatory against any religion or belief. Unless this happens, the "optional" classes will become yet another structural problem in Turkey's education system and the state will lose any cases concerning them that come before the ECtHR. (END)

The Norwegian Helsinki Committee: Turkey Freedom of Belief Initiative's (NHC:IÖG) July 2013 - June 2014 monitoring report can be found at http://www.nhc.no/content/uploads/2018/08/Rapport1_15.pdf.

For more background, see Forum 18's Turkey religious freedom survey at http://www.forum18.org/archive.php?article_id=1916.

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.

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