



3.4. MINORITY RIGHTS AND CULTURAL RIGHTS



MINORITY RIGHTS



All citizens are equal before the law, enjoy the same rights and have the same obligations without discrimination.

Discrimination on the premises of religion, language, race, creed, gender or ethnic origin is prohibited and punishable by law.

The Lausanne Peace Treaty of 1923, contains the term non-Muslim minority. The said term covers only non-Muslim Turkish citizens belonging to non-Muslim minorities.



Constitution

Article 10 : All individuals are equal without any discrimination before the law, irrespective of language, race, colour, gender, political opinion, philosophical belief, religion and sect, or any such considerations. Men and women have equal rights. The State shall have the obligation to ensure that this equality exists in practice. No privilege shall be granted to any individual, family, group or class. State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.



Constitution

Article 12 : Everyone has inherent fundamental rights and freedoms which are inviolable and inalienable. The fundamental rights and freedoms also comprise the duties and responsibilities of the individual to the society, his or her family, and other individuals.

Constitution

As per Article 67 of the Constitution, all Turkish citizens participate in the political process on an equal footing.

The Law on Political Parties prohibits discrimination on, *inter alia*, religious and racial grounds and safeguards the principle of equality before the law.

Lausanne Peace Treaty of 1923

SECTION III PROTECTION OF MINORITIES.

Articles 37-45 regulate the rights and obligations regarding individuals belonging to non-Muslim minorities in Turkey and Turkish Muslim minority in Greece.

Article 37: Turkey 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.



Article 38: The Turkish Government undertakes to assure full and complete protection of life and liberty to all inhabitants of Turkey without distinction of birth, nationality, language, race or religion.

All inhabitants of Turkey shall be entitled to freely exercise, whether in public or private, any creed, religion or belief, the observance of which shall not be incompatible with public order and morals.



Non-Muslim minorities will enjoy full freedom of movement and of emigration, subject to the measures applied, on the whole or on part of the territory, to all Turkish nationals, and which may be taken by the Turkish Government for national defence, or for the maintenance of public order.



Article 39: Turkish nationals belonging to non-Muslim minorities will enjoy the same civil and political rights as Muslims.

All the inhabitants of Turkey, without distinction of religion, shall be equal before the law.

Differences of religion, creed or confession shall not prejudice any Turkish national in matters relating to the enjoyment of civil or political rights, as for instance, admission to public employments, functions and honours, or the exercise of professions and industries.



No restrictions shall be imposed on the free use by any Turkish national of any language in private communication, in commerce, religion, in the press, or in publications of any kind or at public meetings.

Notwithstanding the existence of the official language, adequate facilities shall be given to non-Turkish speaking Turkish nationals for the oral use of their own language before the courts.



Article 40: Turkish nationals belonging to non-Muslim minorities shall enjoy the same treatment and security, in law and in practice, as other Turkish nationals. In particular, they shall have an equal right to establish, manage and control at their own expense, any charitable, religious and social institutions, any school and other establishments for instruction and education, with the right to use their own language and to exercise their own religion freely therein.



Article 41: As regards public instruction, the Turkish Government will grant in those towns and districts where a considerable proportion of non-Muslim nationals are resident, adequate facilities for ensuring that in the primary schools the instruction shall be given to the children of such Turkish nationals through the medium of their own language. This provision will not prevent the Turkish Government from making the teaching of the Turkish language obligatory in the said schools.



In towns and districts where there is a considerable proportion of Turkish nationals belonging to non-Muslim minorities, these minorities shall be assured an equitable share in the enjoyment and application of the sums which may be provided out of public funds under the State, municipal or other budgets for educational, religious, or charitable purposes.

The sums in question shall be paid to the qualified representatives of the establishments and institutions concerned.



Article 42: The Turkish Government undertakes to take, as regards non-Muslim minorities, in so far as concerns their family law or personal status, measures permitting the settlement of these questions in accordance with the customs of those minorities.

These measures will be elaborated by special Commissions composed of representatives of the Turkish Government and of representatives of each of the minorities concerned in equal number. In case of divergence, the Turkish Government and the Council of the League of Nations will appoint in agreement an umpire chosen from amongst European lawyers.



The Turkish Government undertakes to grant full protection to the churches, synagogues, cemeteries, and other religious establishments of the above-mentioned minorities. All facilities and authorization will be granted to the pious foundations, and to the religious and charitable institutions of the said minorities currently existing in Turkey, and the Turkish Government will not refuse, for the formation of new religious and charitable institutions, any of the necessary facilities which are granted to other private institutions of that nature.



Article 43: Turkish nationals belonging to non-Muslim minorities shall not be compelled to perform any act which constitutes a violation of their faith or religious observances, and shall not be placed under any disability by reason of their refusal to attend courts of law or to perform any legal business on their weekly day of rest.

This provision, however, shall not exempt such Turkish nationals from such obligations as shall be imposed upon all other Turkish nationals for the preservation of public order.



Article 44: Turkey agrees that, in so far as the preceding Articles of this Section affect non-Muslim nationals of Turkey, these provisions constitute obligations of international concern and shall be placed under the guarantee of the League of Nations. They shall not be modified without the consent of the majority of the Council of the League of Nations. The British Empire, France, Italy and Japan hereby agree not to refuse their consent to any modification in these Articles which is in due form consented to by a majority of the Council of the League of Nations.



Turkey agrees that any Member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction or danger of infraction of any of these obligations, and that the Council may thereupon take such action and give such directions as it may deem proper and effective in the circumstances.



Turkey further agrees that any difference of opinion as to issues of law or of fact arising out of these Articles between the Turkish Government and any one of the other Signatory Powers or any other Power which is a member of the Council of the League of Nations, shall be considered as a dispute of an international character under Article 14 of the Covenant of the League of Nations. The Turkish Government hereby consents that any such dispute shall, if the other party thereto requests, be referred to the Permanent Court of International Justice. The decision of the Permanent Court shall be final and shall have the same force and effect as a decision awarded under Article 13 of the Covenant.



Article 45: The rights conferred by the provisions of the present Section to the non-Muslim minorities of Turkey will be conferred equally by Greece to the Muslim minority in her territory.

Citizens belonging to non-Muslim minorities have:

- 196 places of worship
- 42 primary and secondary schools
- 5 hospitals
- 9 newspapers

Minority Issues Assessment Board

A new institutional framework has been established with a view to addressing and finding solutions to the daily problems which non-Muslim minorities in Turkey may encounter in their daily lives.

In this regard, the Minority Issues Assessment Board, composed of the representatives of the Ministries of Foreign Affairs, Interior and National Education and other related institutions, has been set up.



A delegation composed of representatives of the Ministries of Foreign Affairs, Interior and National Education, the EU Secretariat General and the Governorship of Istanbul visited the religious leaders of the non-Muslim communities in Istanbul on 17-18 April 2006.

The visit was highly useful in terms of identifying the daily problems of these communities, exchanging views on possible solutions and establishing direct dialogue. A study is being carried out in order to find solutions to these problems. Direct dialogue with these communities will continue.



CULTURAL RIGHTS



All Turkish citizens are equal before the law, enjoy the same rights and have the same obligations without discrimination, regardless of their gender, religion, race or ethnic origin.

Discrimination on the premises of religion, language, race, creed, gender or ethnic origin is prohibited and punishable by law.

Every Turkish citizen enjoys and exercises, as an individual freedom, his/her cultural identity along with the national identity and culture which embrace all Turkish citizens regardless of their background.



Constitution

Article 10 : All individuals are equal without any discrimination before the law, irrespective of language, race, colour, gender, political opinion, philosophical belief, religion and sect, or any such considerations. Men and women have equal rights. The State shall have the obligation to ensure that this equality exists in practice. No privilege shall be granted to any individual, family, group or class. State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.



Constitution

According to Article 42, no language other than Turkish shall be taught as a mother tongue to Turkish citizens at any institutions of education. Foreign languages to be taught in institutions of education and the rules to be followed by schools conducting education in a foreign language shall be determined by law. The provisions of international treaties are reserved.

According to Article 63, the State shall ensure the conservation of the historical, cultural and natural assets and wealth, and shall take supportive and promotive measures towards that end.

The Cultural Policy is constructed on principles of tolerance and cultural diversity.

The aims of Cultural Policy

- Protection and development of national culture
- Strengthening and enhancement of the cultural structure
- Dissemination of cultural activities

Cultural Policy Objectives

In order to enhance access to culture for all parts of the community,

- To initiate and support the development of a database of cultural statistics, compatible with EU practice,
- To initiate educational programs and workshops on all cultural elements which are on the brink of disappearing.

Organizational Structure

Parliament plays an important role in the fields of culture, art and cultural heritage.

- The Ministry of Culture and Tourism is the main government body. Although the main responsibility for formation and implementation of the policies for culture lies with the Ministry, the Ministry also acts constantly in cooperation with other bodies to achieve these ends.
- Ministry of National Education and and universities have also policies and institutions aiming at improving culture and arts.
- The role of local administrations is strengthened in the area of cultural policies.

Main Legislation in the field of broadcasting

Law No.3984 on the Establishment of Radio and Television Enterprises and their Broadcasts (1994)

By-law on Radio and Television Broadcasts in different Languages and Dialects which are traditionally used by the Turkish citizens in their daily lives (2004)

Law No.3984 (Broadcasting Law) Art. 4

There may be broadcasts in languages and dialects used traditionally by Turkish citizens in their daily lives. Such broadcasts shall not contradict the fundamental principles of the Turkish Republic enshrined in the Constitution and the indivisible integrity of the state with its territory and nation.

The principles and procedures for these broadcasts and the supervision of these broadcasts shall be determined through a regulation to be issued by the Radio and Television Supreme Council (RTUK).

By-law of 25 January 2004

The broadcast period shall be five hours per week without exceeding 60 minutes per day for radio channels, and four hours per week without exceeding 45 minutes per day for television channels.

Additionally, according to the decision taken by Radio and Television Supreme Council dated 30 May 2006, the broadcasts of music and cinematographic works can be made without any time limits during the whole day.

Broadcasts in different languages and dialects can be conducted on news, music, culture, public health, environment, economy, sport, agriculture, etc.

In order to enable such programmes to be viewed and listened to by all citizens;

- On television, programs should be broadcast with Turkish subtitles or followed by their translation in Turkish
- On radio, programs aired in original language or dialect should be followed by their translation in Turkish.

Implementation

Turkish Radio and Television Corporation (TRT), the public broadcasting organisation, started television and radio programs named “Our Cultural Affluence” on weekdays in Bosnian, Arabic, Circassian, Zaza and Kirmanchi on 7 June 2004. The content of the programs and audience profiles are determined by public opinion research conducted by TRT. These broadcasts continue.

Current Situation

“Our Cultural Affluence” produced by TRT is broadcast on weekdays on both TV and radio.

Day of the Week

Language

Monday	Bosnian
Tuesday	Arabic
Wednesday	Kirmanchi
Thursday	Circassian
Friday	Zaza

Implementation

In addition to TRT, private radio and TV channels can make broadcasts in languages and dialects traditionally used by Turkish citizens in their daily lives by completing the procedures laid down by the By-law.

In this context, two TV channels (Diyarbakır Gün TV and Diyarbakır Söz TV) and one radio channel (Urfa Medya FM Radio), which met the requirements, obtained authorization and started broadcasting on 26 March 2006.

Furthermore, cultural activities such as plays and concerts have continued to be held in other languages and dialects.

Show programs on national TV channels have included performances in these languages and dialects.

Publications such as books, newspapers and other periodicals are available in languages and dialects traditionally used by Turkish citizens in their daily lives.

Project on the promotion of cultural rights

This project of 2.5 million Euro aiming at providing EU co-funded grant schemes through small scale projects to the TV and radio programs in languages and dialects traditionally used by Turkish citizens in their daily lives (component 1) and to the cultural initiatives in these languages and dialects (component 2) was prepared under the 2004 pre-accession financial cooperation program.

The tender process is underway and will be finalised by November 2006 and TV and radio programs will be ready by November 2007. The project is an important contribution to radio and TV broadcasting and to cultural initiatives in languages and dialects traditionally used by Turkish citizens.

Learning of languages and dialects traditionally used by Turkish citizens

To ensure the right to learn the languages and dialects traditionally used by Turkish citizens in their daily lives, private language courses may be opened.

The By-Law on the learning of different languages and dialects traditionally used by Turkish citizens in their daily lives (O.G. 05.12.2003, No.25307) regulates the framework regarding the language and dialect courses.



MEASURES AGAINST RACISM AND XENOPHOBIA



Constitution

Article 10

All individuals are equal without any discrimination before the law, irrespective of language, race, colour, gender, political opinion, philosophical belief, religion and sect, or any such considerations. Men and women have equal rights. The State shall have the obligation to ensure that this equality exists in practice. No privilege shall be granted to any individual, family, group or class. State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.

Turkish Criminal Code

Article 122

A person practicing discrimination on grounds of language, race, colour, gender, disability, political ideas, philosophical beliefs religion, sect and other reasons shall be sentenced to imprisonment for a term of 6 months to 1 year or a judicial fine.

Article 216

- (1) A person who openly incites groups of the population to breed enmity or hatred towards one another based on social class, race, religion, sect or regional difference in a manner which might constitute a clear and imminent danger to public order shall be sentenced to imprisonment for a term of one to three years.
- (2) A person who openly denigrates part of the population on grounds of social class, race, religion, sect, gender or regional differences shall be sentenced to imprisonment for a term of six months to one year.
- (3) A person who openly denigrates the religious values of a part of the population shall be sentenced to imprisonment for a term of six months to one year in case the act is likely to distort public peace.

Broadcasting standards as determined by Article 4 of the Law on the Establishment of Radio and Television Enterprises and their Broadcasts include the following provisions:

d) Broadcasts shall not, in any manner, humiliate or insult people for their language, race, color, gender, political opinion, philosophical belief, religion, sect, and any such considerations.

...

v) Broadcasts shall not encourage the use of violence or incite feelings of racial hatred,



National initiatives

In addition to the judicial review mechanisms, the Human Rights Presidency at the Office of the Prime Minister and the Human Rights Provincial and Sub-Provincial Boards, as well as the Human Rights Inquiry Commission of the Parliament, which are tasked with monitoring the human rights situation in Turkey, receive and investigate applications regarding alleged cases of discrimination. Such complaints of human rights violations are referred to higher human rights bodies when sufficient ground is found.

CONTRIBUTION TO INTERNATIONAL EFFORTS ON THE FIGHT AGAINST DISCRIMINATION AND INTOLERANCE

Turkey believes that a successful fight against all forms and manifestations of discrimination and intolerance requires combined efforts at national and international levels.

In this respect, Turkey has become party to all relevant international instruments both at global (UN) and regional (Council of Europe and OSCE) fora, and duly maintains a close and constructive cooperation within the special mechanisms of these organizations tasked with the fight against intolerance and discrimination.



In this context, Turkey is actively involved in the work of the OSCE in the field of promoting tolerance and non-discrimination. As a testimony to its efforts in this regard, a Turkish Ambassador nominated by the Turkish Government was appointed in December 2004 as one of the three Personal Representatives of the OSCE Chairman-in-Office on Combating Intolerance and Discrimination.

Within the framework of the Council of Europe, Turkey has always actively taken part in the elaboration of policies and recommendations aimed at the elimination and prevention of contemporary forms of racial discrimination. The Turkish Government actively participated in and contributed to the elaboration process of the Plan of Action and the Declaration against Racism, Xenophobia, Anti-Semitism and Intolerance adopted on 8-9 October 1993 at the Vienna Summit of Heads of States and Governments.



It is known that the European Committee against Racism and Intolerance (ECRI) is one of the most important monitoring mechanisms in Europe. Turkey has always been supportive of the ECRI in its efforts to combat racism, xenophobia, anti-Semitism and intolerance across Europe from the perspective of the protection of human rights and fundamental freedoms.



Being party to all the core UN conventions concerning the fight against all forms of discrimination and intolerance, Turkey has also been among the co-sponsors of the UN General Assembly resolution A/RES/60/11 of 3 November 2005 entitled "Promotion of Religious and Cultural Understanding, Harmony and Cooperation" and the UN Commission on Human Rights resolution 2005/3 of 12 April 2005 entitled "Combating Defamation of Religions".

With its deep-rooted traditions of mutual understanding, tolerance, dialogue and respect for other cultures and religions, Turkey has accepted the Spanish proposal to become a co-sponsor of the “Alliance of Civilizations” Initiative.

The Alliance of Civilizations was formally launched in July 2005 by the UN Secretary-General.

The initiative aims to bridge the existing divide among different cultures by strengthening mechanisms of dialogue and mutual understanding.

A High-Level Group of eminent personalities, representing different regions of the world, has been established to further the initiative.

The Group has already met four times and will submit a Plan of Action to the UN Secretary General at its last meeting in Istanbul on 13 November 2006.