

8 October 2010

TURKEY: Time to end state recording of individuals' religious affiliation

By Mine Yildirim, Åbo Akademi Uni. and

The compulsory recording of people's religious affiliation is the subject of debate within Turkey, Forum 18 News Service notes. Citizens must either declare one of a limited number of religions – atheism is not a possible choice - or leave the religion part of ID Cards and the Public Registry blank. This makes people vulnerable to discrimination, because of both the very many situations in which identification must be shown, and the many people who can access this information. Under the international human rights treaties to which Turkey is a party, individuals cannot be forced to declare their religion, belief or non-belief. The Ministry of Foreign Affairs told the then UN Special Rapporteur on Freedom of Religion or Belief in 1999 "that Turkey is preparing to suppress mention of religion on identity cards", but there has been no apparent progress. A recent European Court of Human Rights (ECtHR) judgment on an Alevi who wanted this designation recorded on his records and ID Card found against Turkey, but along with other ECtHR judgments it has not been executed. Substantial structural and mentality changes are required for change to occur.

Turkey's compulsory recording of individuals' religious affiliation on the state's national population register and on Identity (ID) Cards has been the subject of debate within Turkey. This was particularly sparked by a verdict handed down on 2 February 2010 by the European Court of Human Rights (ECtHR) in Strasbourg, in a case brought by an Alevi who objected that he could not register his religious affiliation (or that of his children) in the way he wanted.

In the case of Sinan Isik v. Turkey (Application No. 21924/05

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=861895&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>), the applicant had asserted that his right to freedom of religion or belief had been violated because he was not allowed to have his religious affiliation registered as Alevi (considered a denomination within Islam rather than a religion by the Diyanet, the state Presidency of Religious Affairs) and was forced to register it as Islam.

However, the ECtHR ruled that "the breach in question had arisen not from the refusal to indicate the applicant's faith (Alevi) on his identity card but from the very fact that his identity card contained an indication of religion, regardless of whether it was obligatory or optional". The ECtHR further noted that "the deletion of the 'religion' box on identity Cards could be an appropriate form of reparation to put an end to the breach in question".

"Silent revolution" stalled

Sinan Isik called the ECtHR decision a "silent revolution", hoping that the judgment would result in more freedom of religion or belief for his children. However, eight months after the judgment, no concrete steps have been taken towards the execution of the judgment. The Council of Europe's Committee of Ministers, which oversees the execution of ECtHR judgments, considered Isik's case on 14-15 September 2010 and "decided to resume consideration of this item at the latest at DH meeting in March 2011, in the light of an action plan / action report to be provided by the authorities" (see). It appears at present that the Turkish government has no action plan to implement the removal of religious affiliation in the Public Registry.

Interestingly, the ECtHR judgment was received relatively positively in Turkey. The Ministry of Foreign Affairs and Prime Minister Recep Tayyip Erdogan made public statements pointing out that it would be possible to make the required changes and that an advisory opinion along the same lines had already been issued by Turkey's Constitutional Court. The Diyanet also explained that this information was not necessary and did not have a religious meaning for them. Similarly, the general feeling in the media was that the outcome of the case pointed to a reasonable expectation from a secular government that the state has no need to be involved in the religious affiliation of its citizens. A pilot project for new ID Cards is underway, but it is unclear how the question of religious affiliation records in the Registry and on ID Cards will be addressed.

On the other hand, some people are concerned that removal of such identification would be a significant step towards the eradication of the Muslim-Turkish identity. It is thought that each of the parties represented in the Turkish Parliament contains supporters of such views.

Religious affiliation recording obligatory

Identification of religious affiliation in the Public Registry (maintained by the General Directorate of Population and Citizenship Affairs) and on ID Cards was obligatory for all Turkish citizens until recently. This has been the practice since the Ottoman Empire period, and was embraced by the modern Republic in 1926 with the entry into force of the Civil Code.

What this meant in practice was that when parents went to register their newly born child, they also had to declare and register the child's religion. They could not choose any religion or, indeed, lack of religion, as options are limited: only one of the listed religions can be chosen. At the moment, these are: Islam, Christianity, Judaism, Buddhism, Hinduism, Zoroastrianism and blank. Jehovah's Witness, Baha'i or Ahmadi – or atheism or agnosticism – are not among the options. In practice, usually Jehovah's Witnesses register as Christians, Baha'is as Islam or they leave the section blank.

The option to request the Public Registry to leave the religious affiliation section blank became possible only in April 2006, as part of the process of harmonisation of national legislation with European Union norms. However, the section "Religious Affiliation" still remains (see F18News 26 July 2006 http://www.forum18.org/Archive.php?article_id=817).

State still obliges people to declare religious affiliation or lack of it

Individuals who are 18 and older have always had the opportunity to change their registered religious affiliation. Some individuals are afraid or hesitant to change their religion in the Public Registry because of the consequences that they will encounter because of the change, both from family and society (see the Report by the Association of Protestant Churches, "A Threat" or Under Threat? Legal and Social Problems of Protestants in Turkey, 2010 http://www.protestankiliseler.org/Protestants_in_Turkey-_A_Threat_of_Under_Threat_2010__.pdf). The Registry does not simply delete the old faith and replace it with the new faith, or leave this section blank.

Choosing to leave the section blank implies that one does not embrace Islam, or that in a particular year the individual changed their religion. Officials generally do not object to recording such changes, but those who change their recorded faith from Islam to another faith, or leave the designation blank, are obliged to make public their religious affiliation or lack of it.

This is because both some officials and relatives can discover this information. The Public Registry is organised by families, and sometimes – for example for work – one is required to submit a family population document. This document states the religious affiliation of close family members (parents, children, brother, sister), including whether they have changed their religion to another religion or that they requested this section to be left blank. This has resulted in some employers and family members applying pressure against such individuals.

Why record religious affiliation?

Explaining why religious affiliation is recorded in the Registry and on ID Cards is difficult. In the Ottoman Empire, it could be justified in that this information was needed in order to determine the personal law individuals were subject to (this was determined according to their religious affiliation). However, in the modern Republic, the religious affiliation information is not used for anything that is necessary.

Religious affiliation is only recorded in IDs and the Public Registry and not in any other official identification document such as passports or driver's licences. But this very private information is made available whenever anyone presents either their ID Card or a copy, or a copy of their Public Registry information.

Providing such information is necessary in very many activities, including: entry into certain buildings; dealings with the police; enrolling at school and university; voting in elections; applying for a mobile phone line; enlisting for compulsory military service; getting married; starting a new job; and withdrawing money in person from a bank. But almost no activity that requires the presentation of the ID Card or Public Registry information has any reasonable requirement for information on religious affiliation. In schools, religious affiliation is always in the records of students because schools keep a copy of their ID Cards.

Jewish and Christian students need to present their IDs, in addition to a letter of request, to be granted exemption from the compulsory Religious Culture and Knowledge of Ethics (RCKE) lessons in schools. But to identify themselves as Jews or Christians, they must declare this on their ID Card – which has the effect of denying them the option to leave the religion box in their IDs blank. Everyone who is not registered as a Jew or Christian – Muslims including Alevis (despite an ECtHR judgment), atheists, Baha'is, and all others – cannot exempt themselves or their children from these classes (see F18News 29 November 2007 http://www.forum18.org/Archive.php?article_id=1053).

People under 18 years of age do not have the right to change their religion in the Public Registry unless their parents or legal guardians change it for them. This causes difficulties for young people who change their religion to Christianity or Judaism, without the consent of their parents or guardian, and wish to be exempted from compulsory RCKE lessons (see the report by the Association of Protestant Churches).

Subject to prejudices

For many people who are not Muslim, presenting their ID Cards with their religion indicated on it to officials or others means that they are forced to subject themselves to others' prejudices.

A Christian told Forum 18 what happened when he went to the Public Registry to record his daughter's birth: "The Registrar wrote 'Islam' in the religion box. When I reminded him that it should be Christian because her parents are Christians, he responded: 'Tovbe, tovbe [the equivalent in Turkish of saying 'God forbid'] how can this be?' He got up from his chair and refused to write it and then another official recorded her religion as Christian." Another person who changed her religion from Islam to Christianity needed a copy of her Public Registry information for a visa application for another country. When the Registrar produced the document, he noted on it 'changed her religion to Christianity in..'. She says it makes her very uncomfortable that a stranger has the opportunity to read this very private information. The same information is available for the visa officers in foreign consulates, who may be Turkish or foreign citizens.

Non-Muslims state that when they enlist for military service, their religious affiliation is noted by their superiors and there is also a "security check" because of their religious affiliation. While impossible to prove, it is widely assumed in Turkey that non-Muslims are not given responsible positions during their compulsory military service. There are no non-Muslims among Turkish military officers, parliamentary deputies, provincial governors, or mayors.

This situation makes it difficult for the government to assert that there is no discrimination based on religion for these posts. It also raises the question of whether the reason religious affiliation is recorded is so that non-Muslims can continue to be excluded from certain public sector posts. A number of other problems can also be observed.

How do the authorities use information?

First of all, the current system - and resistance to change - implies that the state regards the religious identity of its citizens as important. How the public authorities use this information can be unclear. But one Protestant church in the capital Ankara was denied permission to open a place of worship as the Ankara Governorship stated that "according to population records no Christians live in this region" (see the report by the Association of Protestant Churches).

Another possible explanation might be found in the way secularism is understood in Turkey. Jurisprudence of the Turkish Constitutional Court makes it clear that secularism in Turkey does not mean separation of religion and state. It means that there should be close supervision of religious activity, and less autonomy of religious communities than in many other countries (see the F18News religious freedom survey http://www.forum18.org/Archive.php?article_id=1379). The resistance to removing the indication of religious affiliation from the Registry may be related to this close supervision of religious activity.

Forcing declaration of religion or belief violates human rights obligations

Secondly, the Register obliges citizens to declare their religious or non-religious affiliation. Under the international human rights treaties to which Turkey is a party, individuals cannot be forced to declare their religion, belief or non-belief. For instance, General Comment 22 by the then United Nations (UN) Human Rights Committee makes it clear that obliging citizens to declare their beliefs is incompatible with Article 18 of the International Covenant on Civil and Political Rights. The General Comment states that "no one can be compelled to reveal his thoughts or adherence to a religion or belief".

In his 1999 country visit to Turkey, the then UN Special Rapporteur on Freedom of Religion or Belief commented that: "the principle of secularism and that of freedom of religion and belief may be considered at odds when reference to a person's religion is made on identity papers" (Report of the Special Rapporteur on Freedom of Religion or Belief A/55/280/Add.1 paragraph 22 [http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/c2fe53d6c1416863c125697e00500a6b/\\$FILE/0060496e.doc](http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/c2fe53d6c1416863c125697e00500a6b/$FILE/0060496e.doc)).

The Special Rapporteur noted that he "was told, after his visit, that Turkey is preparing to suppress mention of religion on identity cards". At paragraph 134 he stated that he "recommends that European jurisprudence be followed, and he awaits the results of the steps announced by the Ministry of Foreign Affairs to eliminate this mention". Sadly, up to 2010 there has been no apparent progress – including in an ongoing pilot project for new ID Cards - on the plans to suppress mention of religious affiliation.

When is a religion a religion?

Thirdly, the Register seeks to regulate which religions are officially religions. For example, members of the Baha'i community cannot have their own religion indicated if they so wish. They are left with the choice of either choosing Islam or asking the Registrar to leave the religion section blank.

According to the General Directorate of Population and Citizenship Affairs, the available options for religion in the Registry and on ID Cards are decided by taking into account opinions of institutions providing religious services, universities and judgments of high

courts. The decision is then made by the Interior Ministry. (The "institutions providing religious services" is probably a reference to the Diyanet - see the F18News religious freedom survey http://www.forum18.org/Archive.php?article_id=1379).

Similarly, the denial of a request by a Jehovah's Witness to record his religion as Jehovah's Witness was approved by the Turkish High Court of Cassation, or Supreme Court (Administrative Cases Chamber Dec. 1994/310). The Court claimed that, in the light of opinions from the Diyanet and Ankara University Faculty of [Islamic] Theology, the Jehovah's Witnesses are not a religion but a "form of belief".

In Sinan Isik's case, he told the ECtHR that he specifically asked Turkey to record him as "Alevi" in his records and on his ID Card. However his request was denied as the Diyanet stated that Alevi belief is not a religion. States making a decision pertaining to one religion or belief based on the opinion of a religious institution, be it of the same or different affiliation, is highly problematic in international law.

Registry facilitates discrimination

Fourthly, the indication of religious affiliation in the Registry and on ID Cards facilitates discrimination. This information is not necessary for most of the activities in which it is demanded, while revealing the information puts individuals in a position where they might be discriminated against on the basis of their religion or belief. This has an impact on individuals' daily life, including their ability to exercise freedoms such as the rights to work, to education, to freedom of religion or belief, to peaceful assembly and association.

Why no execution of ECtHR judgments?

In light of the Sinan Isik ECtHR judgment, which Turkey is obliged to execute, why is the government indeed not executing the judgment, making the necessary changes so that similar violations will not occur?

The ECtHR has issued other judgments – apart from the Sinan Isik judgment - that address key freedom of religion or belief issues in Turkey. Tellingly, Turkey has avoided executing many of these, such as: Osman Murat Ülke v. Turkey (dealing with a conscientious objector – see F18News 17 March 2010 http://www.forum18.org/Archive.php?article_id=1423); Hasan and Eylem Zengin v. Turkey (dealing with an Alevi parent seeking exemption from compulsory Religious Education and Ethics Culture lessons - see the F18News religious freedom survey http://www.forum18.org/Archive.php?article_id=1379); and a number of cases dealing with property rights of the Greek community (see F18News 27 October 2009 http://www.forum18.org/Archive.php?article_id=1368).

Changes are required to ensure that similar human rights violations are prevented, but Turkey is not making them. This raises questions as to Turkey's commitment to freedom of religion or belief as required by its international commitments.

Need for structural and mentality changes

Recently, Turkey has made some positive gestures to the Greek Orthodox and Armenian Apostolic communities by allowing them to hold one service each in two churches that were taken from them many decades ago. The government reportedly intends to repeat the concession once a year. However, such steps, whilst appreciated, fall short of meeting the international human rights standards on freedom of religion or belief. Such minor changes are easily swallowed up by the system, so substantial structural and mentality changes are required for real change to occur. (END)

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>.

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY