
TURKEY

RELIGIOUS FREEDOM - ALEVI ISSUES



ADO

Alevi Philosophy Center

IMPLEMENTATION OF ECtHR JUDGEMENTS

MONITORING REPORT -6

JULY 2023



IMPLEMENTATION OF ECtHR JUDGEMENTS MONITORING REPORT - 6 - JULY 2023

TABLE OF CONTENTS

About The Implementation of ECtHR Judgments Monitoring Report. VI.....	3
Att.1- 1468th MEETING DECISIONS of CM.....	9
Att.2. - Presidential Decree No. 112.....	10
Att.3 – Articles of The Compendium Law 7421 (Related To Alevism).....	12
Att.4 - Turkish Authorities Action Plan Dh-Dd(2023)407e.....	13
Att.5- ADO Memorandum submitted to CM.....	33
Att.6-Turkish Authorities answer to submissions of ADO and IOG.....	38
Att. 7-CONSTITUTIONAL COURT RULING excerpts.....	42

PREPARED BY ALEVI PHILOSOPHY CENTER



ADO
Alevi Philosophy Center

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Hollanda Kraliyeti

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ABOUT THE IMPLEMENTATION OF ECtHR JUDGMENTS MONITORING REPORT VI

The Alevi community's demands for "FUNDAMENTAL RIGHTS AND EQUAL CITIZENSHIP" were taken to the European Court of Human Rights (ECHR) in 2010, after exhausting domestic remedies in a legal process that started in 2005. The implementation of the decisions on the four cases finalized between 2007 and 2016 is monitored by the "Committee of Ministers of the Council of Europe" under the title of ALEVI CASES GROUP. The last meeting of the Committee of Ministers regarding these follow-ups was held on June 5-7, 2023 and the follow-up of the file on "LEGAL STATUS OF CEM HOUSES" was concluded, the file was closed, the Hasan-Eylem Zengin file in the "COMPULSORY RELIGIOUS TEACHING" file was closed and it was decided to follow this issue from the "MANSUR YALÇIN and others" file. The case of "İZZETTİN DOĞAN and ARKADAŞLARI", which examines the relationship between belief groups and the state, continues to be followed up.

These cases and the references to the ECHR are summarized below:

LEGAL STATUS OF CEM HOUSES:

Republican Education and Culture Center Foundation (Case no. 32093/10) Decision finalized: 20.April.2015 Case closed - 7.June.2023

COMPULSORY RELIGION CLASSES:

Hasan-Eylem Zengin Case (Case no.1448/04) Decision finalized: 9.January.2008
- Case removed from follow-up: June 7.2023

Mansur Yalçın and others (Case no. 21163/11) Judgment finalized: 16.February.2015

FAITH GROUP - STATE RELATIONS (EQUAL RIGHTS):

İzzettin Doğan and others. (Case no. 62649/10) Final judgment: 26.April.2016

The outcomes of the Council of Europe Council of Ministers meetings on the implementation and follow-up meetings regarding the decisions of these cases can be followed and read in detail in five separate monitoring reports published by ADO between 2020 and 2023. All our monitoring reports can be viewed, downloaded, and shared in Turkish and/or English on our CASE FOLLOW-UPS page on the ADO website.

<http://aleviocagi.org/dava-takipleri>

The last meeting of the Committee of Ministers (CoM) of the Council of Europe (CoE), where the group of cases, also known as the group of Alevi cases, was on the agenda of the CoE Committee of Ministers (CoM), was held on June 5-7, 2023. The decisions taken at this meeting focused on two main issues: the status of cem houses and compulsory religion classes.

LEGAL STATUS OF CEM HOUSES:

- Republican Education and Culture Center Foundation (Case No. 32093/10)
- Decision finalized: April 20, 2015

Underneath the problem of the electricity fee, which has occupied the public opinion for a long time, there is actually the problem of the status of Cem Houses as places of worship. In its reports, the Republic of Turkey has argued that Cem Houses will benefit from the rights granted to places of worship with new laws and regulations and has ensured that the Committee of Ministers approves this solution. In the light of the explanations and legislation submitted by Turkey to the Council of Europe on this issue, the Committee of Ministers took the following decision:

“The Committee of Ministers.

welcomed the recent developments that could partially redress the imbalance in religious public services provided by the state and invited the authorities to provide information on the practical impact of these measures; invited the authorities to clarify the extent to which the recent measures addressed the problems of the Alevi community, such as the lack of recognition of their religious leaders, the inability to receive grants or state subsidies, and the recommendations reached by consensus in the final report of the Alevi opening workshops in 2010,

Welcomed the legislative measures taken to ensure that the state covers the lighting costs of cemevis and decided to close its examination of the case of the Republican Education and Culture Center Foundation, which dealt exclusively with this issue, and adopted Final Resolution CM/ ResDH (2023)144;”

Text of the Decision of the Committee of Ministers of the Council of Europe Meeting No. 1468 of 5-7 June 2023: Annex -1

Since December 2021, rapidly rising electricity and natural gas bills, in parallel with the extraordinary inflation and parity crisis in the country, have further agitated Cem Houses, and especially the application of commercial customer tariffs to Cem Houses by some distribution companies has once again multiplied the prices upwards. The issue was also covered on social media and in the press, and Cem Houses that failed to pay began to receive enforcement orders and power cuts. Cem Houses in Istanbul held a meeting in February 2022 and decided to form a collective defense initiative on this issue with a LAW UNIT to be established. Following this decision, the government instructed the district governorships to immediately stop the executions, and the higher authorities announced that the tariffs would be changed from commercial to domestic tariffs, and even announced that they had been changed, thus taking measures to reduce tensions and stop new lawsuits.

In this process, on the one hand, the attention of Alevi institutional administrators was diverted in different directions, and on the other hand, the partial relief provided by the state turned the problems escalating with electricity bills from a status problem to a tendency to turn them into simple financial problems, and the government started to provide solutions to the local problems of CEM HOUSE administrations with small financial supports. While these approaches had positive and comforting effects on the majority of the admi-

nistrators of the institutions, the administrators of the umbrella organizations gradually moved away from their determination to follow the problems meticulously and to make the Legal Unit they had established operational. As a result of the apathy of the umbrella organizations, the Legal Unit was disbanded in May 2022 without achieving the expected functionality.

As of August 2022, the government organized visits to Cem Houses and announced on October 7 that the “Alevi-Bektashi Culture and Cem Houses Presidency” to be established under the Ministry of Culture and Tourism would cover the electricity, natural gas and water costs of Cem Houses, support the construction of Cem Houses organize land allocations, and pay wages for key personnel working in Cem Houses. However, without recognizing the status of Cem Houses as Worship Places, or declaring it legally, the approach was designed to provide Cem Houses with similar legal rights to those enjoyed by Houses of Worship through administrative measures. Presidential Decree No. 112 (Annex.2) was published in the Official Gazette No. 32008 dated November 9, 2022, entered into force and the “Alevi-Bektashi Culture and Cemevi Presidency” was officially established. The legal regulations on the subject were discussed in the Grand National Assembly of Turkey (TBMM) and finalized on November 16, 2022 with the open vote of 415 members, with 242 votes for and 173 votes against. The articles related to Cem houses in the finalized text of the law can be seen in Annex 3. (Articles 14-15-16-17)

Important discussions and criticisms were made during the announcement and discussion of the law and decrees. The highlights of these discussions can be summarized as follows:

- The fact that the issue was dealt with in an omnibus law,
- No mention of the status of Cem houses as places of worship,
- Obligation to obtain permission from the Governor’s Office for the establishment of a cemevi,
- The Alevi belief systems treatment as a cultural activity,
- Decisions made without adequate dialogue with Alevi institutions.
- The possibility that the Cem Houses established by Alevi institutions with their own means will be placed under some form of public tutelage or expropriated,
- No mention of the sustainability of Alevism (compulsory religion classes / clergy training),

Both the government and opposition parties, Alevi MPs in the Turkish Parliament and Alevi organization leaders continue to express different views on these issues, and the main opposition party CHP’s applications to the Constitutional Court claiming that the law and the presidential decree are unconstitutional are still pending.

The roadmap and note of the Republic of Turkey on this issue before the meeting of the Committee of Ministers No. 1468 can be found in Annex 4, the ADO’s memorandum on this issue can be found in Annex 5, and the Turkish authorities’ ADDENDUM to the ADO’s and OIG’s memoranda can be found in Annex 6. The text of the ADO’s briefing note to the Committee of Ministers is available on the Council of Europe website

at [https://hudoc.exec.coe.int/?i=DH-DD\(2023\)528revE](https://hudoc.exec.coe.int/?i=DH-DD(2023)528revE) and the briefing note submitted by the IÖG Freedom of Belief Initiative is available at [https://hudoc.exec.coe.int/?i=DH-DD\(2023\)527E](https://hudoc.exec.coe.int/?i=DH-DD(2023)527E).

Due to the long duration of the discussions and the complexity of the issues, the Committee of Ministers of the Council of Europe decided at its 1468th meeting on June 5-7, 2023, to close the case, also known as the CEM Evleri Elektrik Parası case. (Annex.1)

COMPULSORY RELIGIOUS LESSONS:

- Hasan-Eylem Zengin Case (Case no. 1448/04) Judgment finalized: January 9, 2008
- Mansur Yalçın et al. (Case no. 21163/11) Judgment finalized: 16. February.2015
- Hüseyin and NAZLI ŞİRİN EL Case- T.C. CONSTITUTIONAL COURT (Case no. 2014/15345) Decision Date April 7, 2022)

Since 2018, there have been no changes to the compulsory RELIGIOUS CULTURE and ETHICS (RCCE) curriculum, which has been in place for many years and which the Committee of Ministers of the Council of Europe decided to place under INTENSIFIED MONITORING at its meeting No. 1362 (Annex 1) in December 2019.

In general, Alevi families are hesitant to file lawsuits and take initiatives on this issue.

“Hüseyin and Nazlı Şirin EL Case” opened in 2014 and finally brought before the Constitutional Court (AYM), the General Assembly of the Constitutional Court ruled on April 7, 2022 that the ongoing practice violates the provisions of the Constitution and the Civil Code. (Annex.7)

The decision, published in the Official Gazette dated 28.07.2022 and numbered 31906, has not yet been put into practice and the “2022 and 2023 Education and Training Year”, which started on September 12, 2022, eight weeks after the decision was published, is still compulsory. No decision or information has yet been received regarding the lawsuits filed by some families in Administrative Courts after the start of the school year.

Some changes were made at elective courses, but the curriculum was not changed. Some units in the curriculum are not included in the 2022-23 textbooks published by Ministry of Education. There are inconsistencies or gray areas between the curriculum and the books.

There has been no change in RCCE education since 2018. Excerpts from the Constitutional Court’s decision on this issue can be seen in Annex 7.

There is no initiative similar to the Imam Hatip Schools to train religious leaders in line with Alevi traditions. There have been no preparations or arrangements to train Alevi clergy in either secondary or higher education. There is no reference to this issue in the decree of the newly established “Alevi-Bektashi Culture and Cemevi Presidency” or in the curricula of the Ministry of National Education.

The section on Compulsory Religious Education in the decisions taken at the 1468th meeting of the Committee of Ministers of the Council of Europe is as follows:

“Committee of Ministers.

“The Committee of Ministers notes with deep regret that the authorities have not taken any measures to remedy the shortcomings identified by the Court with regard to compulsory religious culture and ethics classes; it therefore urges the authorities to ensure that the Turkish education system fulfills the State’s duty of neutrality towards various religions, sects and beliefs, respects the principles of pluralism and objectivity, and provides its children with appropriate choices; insist that parents with a religious or philosophical belief other than Sunni Islam take the necessary measures to exempt students from compulsory religious education without their parents having to disclose their religious or philosophical beliefs.

It decided to reconsider these cases at the DH meeting in June 2024 at the latest, and in the absence of any progress on compulsory religious culture and ethics classes since the first decision on this issue was finalized in 2008, the Secretariat was instructed to prepare a draft interim decision for consideration by the Committee at its next review of this group, in the absence of concrete signs of progress on general measures. “

By the June 2024 meeting of the Committee of Ministers, we hope to see positive developments in this regard.

FAITH GROUP - STATE RELATIONS (EQUAL RIGHTS):

İzzettin Doğan et al. (Case no. 62649/10) Final judgment: 26.April.2016

There are no developments regarding the implementation of these court decisions. The issue of the right of religious groups to legal personality has not been included in the agenda.

There has been no arrangement or progress in the enjoyment of equal rights by faith groups. However, it has been announced that a “Presidency of Alevi -Bektashi Culture and Cemevi” under the Ministry of Culture and Tourism will be established and that some rights similar to those granted to places of worship can also be granted to Cemevi under different conditions.

The DİB Directorate of Religious Affairs and the Ministry of National Education cooperate on pre-school and religious education, but similar rights are not recognized for other faiths.

Currently, different institutions in our country - the Presidency of Religious Affairs for Sunni Islam, the Prime Ministry and the Ministry of Foreign Affairs for minorities, and the Ministry of Culture and Tourism and a new Presidency to be established for Alevi Islam - maintain different practices with unclear principles and rules. The country does not have a comprehensible and traceable FAITH POLICY.

Published in 2021, the IHEP - Human Rights Action Plan does not address the issues discussed in the case.

RESULTS

- On the one hand, attacks on Alevi institutions and disturbing publications and behaviors

continue, while on the other hand, the attempt to relegate Alevism to a non-religious position within the Ministry of Culture and Tourism causes significant reactions. From time to time, unsettling behaviors are also observed against non-Muslim faith groups.

- Public opinion is highly concerned and disturbed by the state's failure to establish a clear and fair BELIEF POLICY and by the fact that different beliefs face very different practices.
- Decisions of the ECHR and the Constitutional Court on education and beliefs are not implemented for reasons that are not understandable.
- There is no visible progress in the implementation of the IHEP Human Rights Action Plan.
- The ECtHR judgment No. 32093/10 on electricity costs for Cem houses has been partially implemented.
- CHP filed two separate lawsuits at the Constitutional Court claiming that Law 7421 is unconstitutional. In the lawsuit filed on January 18, 2023, Articles 8-14-15-16-17 and 22 of Law No. 7421, which are related to Alevi issues, and in the petition dated January 24, 2023, Articles 9-20 and 23 of the same law are claimed to be unconstitutional and a stay of execution is requested until the cases are concluded. The full texts of the CHP's petitions can be accessed from the following pages.

<http://aleviocagi.org/7421-cemevleri-yasasi---chp-iptal-ve-yurutmeyi-durdurma-dava-dilekcesi---1>

<http://aleviocagi.org/7421-cemevleri-yasasi---chp-iptal-ve-yurutmeyi-durdurma-dava-dilekcesi---2>

- Regarding the ECtHR judgments No. 1448/04 and 21163/11 on Compulsory Religion and Ethics Classes, there have been some implementations that were deemed insufficient by the public, but no new steps have been taken since 2018.
- No steps have been taken in relation to the decision of the CONSTITUTIONAL COURT of the REPUBLIC OF TURKEY in April 2022 and numbered 2014/15345.

IMPORTANT NOTE: This report is based on events and information until July 10, 2023.

Sincere regards

Alevi Philosophy Center Association

Att.1- 1468th MEETING DECISIONS of CM.

8.06.2023 13:25

Result details

CM-Public

MINISTERS' DEPUTIES	Decisions	CM/Del/Dec(2023)1468/H46- 32	7 June 2023
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1468th meeting, 5-7 June 2023 (DH)

H46-32 Cumhuriyetçi Eğitim Ve Kültür Merkezi Vakfı group (Application No. 32093/10), and Hasan and Eylem Zengin group (Application No. 1448/04) v. Turkey

Supervision of the execution of the European Court's judgments

Reference document

CM/Notes/1468/H46-32

Decisions

The Deputies

1. recalling that the judgments in this group concern the authorities' unjustified refusal to recognise the religious nature of the Alevi faith, which resulted *inter alia* in the discriminatory treatment of their followers and places of worship compared to followers and worships of the majority understanding of Islam, who benefit from legal recognition and religious public services financed by the State; they relate also to the limited compulsory nature of the religious culture and ethics classes, with only limited possibilities of exemption offering no appropriate options for the children of parents who have a religious or philosophical conviction other than that of Sunni Islam;

As regards individual measures

2. recalling that the applicants' children are beyond the age of primary and secondary school education, decided to close the *Hasan and Eylem Zengin* case and continue supervision of the general measures concerning compulsory religious culture and ethics classes under the *Mansur Yalçın and Others* case and adopted Final Resolution CM/ResDH(2023)143;

3. noted that no further individual measures are required in the *Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı*;

As regards general measures

4. welcomed the recent developments capable of partially eliminating the imbalance in religious public services provided by the State and invited the authorities to provide information on the practical impact of these measures; called on the authorities to provide their assessment on whether and if so to what extent recent measures adopted have addressed the other legal, organisational or financial problems encountered by the Alevi community, such as lack of recognition of their religious leaders, impossibility to receive donations or state subsidies taking also into account the recommendations reached by consensus in 2010 in the Alevi initiative workshops' final report;

5. welcoming the legislative measures taken to ensure that lighting costs of the *cemevis* are reimbursed by the State, decided to close their examination of the *Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı* case dealing solely with this issue; and adopted Final Resolution CM/ResDH(2023)144;

6. noted with deep regret that the authorities failed to take any measure to address the shortcomings identified by the Court as regards the compulsory religious culture and ethics classes; therefore strongly urged the authorities to take the necessary measures to ensure that the Turkish education system fulfils the State's duty of neutrality and impartiality towards the various religions, denominations and beliefs, respecting the principles of pluralism and objectivity, and offers appropriate options for the children of parents who have a religious or philosophical conviction other than that of Sunni Islam to opt out of compulsory religious education, without pupils' parents being obliged to disclose their religious or philosophical convictions;

7. decided to resume consideration of these cases at their DH meeting in June 2024 at the latest and, in view of the absence of any progress on the issue of compulsory religious culture and ethics classes since the first judgment on this issue became final in 2008, instructed the Secretariat to prepare a draft interim resolution for consideration by the Committee at its next examination of this group, in the absence of signs of concrete progress as regards the general measures.

Related documents

1468th (Human Rights) meeting of the Ministers' Deputies (5-... 01/02/2023

www.coe.int/.../1468th-human-rights-meeting-of-the-ministers-deputi...

1468th (Human Rights) meeting of the Ministers' Deputies (5-... 01/02/2023

www.coe.int/en/web/cm/.../FJJuJash2rEF/content/id/187475175

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Att.2. - Presidential Decree No. 112.

Att.2. Presidential Decree No. 112

November 9th 2022 Official Gazette No. 32008

PRESIDENTIAL DECREE

PRESIDENTIAL DECREE ON THE AMENDMENT OF SOME PRESIDENTIAL DECREES

Decree Number: 112

ARTICLE 1- The following sub-clause has been added to Presidential Decree No.1 on the Organisation of the Presidency following sub-clause (f) of the first clause of article 277 and the following sub-clause has been made to follow accordingly.

“g) to carry out business and operations related to cem houses and research into the Alevi-Bektashi culture,”

ARTICLE 2- The following sub-clause has been added to Presidential Decree No.1 following sub-clause (k) of the first clause of article 279 and the following sub-clauses have been made to follow accordingly.

“k) Alevi-Bektashi Culture and Cem House Presidency,”

ARTICLE 3- The following article has been added to Presidential Decree No. 1 following article 292.

“Alevi-Bektashi Culture and Cem House Presidency

ARTICLE 292/A- (1) The duties and authorities of the Alevi-Bektashi Culture and Cem House Presidency are as follows:

- a) To carry out activities to identify cem houses and their needs and to coordinate the effective and efficient conduct of the services in the cem houses,
- b) To carry out business and operations related to the transfer of allocations to local administrations or to investment monitoring and coordination presidencies for the provision of the services of the cem houses identified by the Presidency,
- c) To carry out and commission scientific research on all aspects of Alevi-Bektashism, integrating the social sciences and humanities; to arrange seminars, symposia, conferences and similar national and international events on these topics, and to prepare suitable environments for the generation of original knowledge, produce publications and support studies in this field,
- d) To cooperate with universities and relevant institutions and organisations in order to support academic activities related to Alevi-Bektashism,

-
- e) To research and gather material on Alevi-Bektashism scientifically at home and abroad and support efforts made for this purpose,
 - f) To keep track of the scientific activities conducted by national and international bodies and institutions within its area of responsibility, and of publications in this field, and to have those which it deems necessary translated and arrange for their printing and publication,
 - g) To carry out and support educational and cultural activities concerning Alevi-Bektashism,
 - h) To carry out other duties allocated by the Minister.

(2) An Advisory Board has been established to assess the work carried out by the Presidency in the field of its responsibilities and to inform the Presidency of its recommendations. The President of the Alevi-Bektashi Culture and Cem House Presidency shall also be the chair of the Advisory Board. The members of the Advisory Board shall be selected by the President of the Republic for a period of three years from among persons who have come to prominence on the Alevi-Bektashi path and who have conducted research and performed work in the area of responsibilities of the Presidency. The Minister may chair the Advisory Board if he considers this necessary. The transport and accommodation expenses of the members of the Advisory Board and of persons invited to meetings shall be met from the budget of the Ministry. The operating principles and procedures of the Advisory Board shall be determined through a regulation issued by the Ministry.

(3) With respect to their financial and social rights and assistance and other personal benefits, Alevi-Bektashi Culture and Cem House President and the Alevi-Bektashi Culture and Cem House Vice-President shall be on a par with a strategy development president and ministry deputy general director respectively in accordance with supplementary article 30 of the Decree in the Force of Law No.375.”

ARTICLE 4- The line “ALEVI-BEKTASHI CULTURE AND CEM HOUSE PRESIDENT AND VICE-PRESIDENTS” has been added to Schedule no. (I) annexed to the Presidential Decree no.3 on High-Level Public Officials and Appointment Procedures in Public Institutions and Bodies.

ARTICLE 5- The posts included in the attached list have been created and added to that section of Schedule no. (I), in annex to the Presidential Decree no.2 on the General Personnel and Related Procedures, which concerns the Ministry of Culture and Tourism.

ARTICLE 6- This Presidential Decree shall take effect upon the date of its publication.

ARTICLE 7- The provisions of this Presidential Decree shall be executed by the President of the Republic.

8 November 2022

Recep Tayyip ERDOĞAN

President of the Republic

Att.3 – Articles Of The Compendium Law 7421 (Related To Alevism). 7421"

<https://www5.tbmm.gov.tr/kanunlar/k7421.html>

LAW ON THE AMENDMENT OF THE TAX PROCEDURE CODE AND OTHER LAWS

ARTICLES RELATED TO ALEVISM

Law No : 7421

Date: November 16th 2022

ARTICLE 8- The following supplementary article has been added to the Settlement Act (Law No. 3194) of May 3rd 1985.

“SUPPLEMENTARY ARTICLE 10- When drawing up settlement plans, sites shall be allocated for the cem houses that are necessary in consideration of the conditions of the town and region being planned and its prospective needs.

In provinces and districts, cem houses may be constructed on condition of obtaining the approval of the highest local authority and compliance with the settlement planning legislation.

A place allocated for a cem house may not be allocated for other purposes in contravention of the settlement planning legislation.”

ARTICLE 14- The sub-clause below has been added to the first clause of article 7 of Law No. 5216 of July 10th 2004 on Metropolitan Municipalities following the sub-clause (aa), and the following sub-clause has been added to the third clause of the same article following the sub-clause (f).

“bb) Where necessary, to construct buildings and facilities for cem houses and to carry out all kinds of maintenance and repair of these buildings and facilities and provide the necessary support in the form of materials.”

“g) To carry out the construction, maintenance and repair of cem houses.”

ARTICLE 15- The following clause has been added to the Special Provincial Administration Law (Law No. 5302) of February 22nd 2005 following the first clause of article 6.

“The special provincial administration may carry out the construction, maintenance and repair of holy places, cultural and natural assets, places of importance for the urban fabric and history, and cem houses within the borders of the province.”

ARTICLE 16- The phrase “; may carry out the construction, maintenance and repair of cem houses” has been added to sub-clause (b) of the first clause of article 14 of the Municipalities Law (Law No. 5393) of July 3rd 2005 following the phrase “may construct”.

ARTICLE 17- The phrase “and to hospitals” contained in the second sentence of the sixth clause of article 15 of Law No. 5393 has been altered to “, to hospitals and to cem houses”.

ARTICLE 22- The following supplementary article has been added to the Electricity Market Law (Law No. 6446) of March 14th 2013.

“SUPPLEMENTARY ARTICLE 6- (1) The lighting expenses of cem houses are met from allocations to be included in the budget of the Ministry of Culture and Tourism.”

Att.4 - Turkish Authorities Action Plan

Dh-Dd(2023)407e

SECRETARIAT / SECRÉTARIAT

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRÉTARIAT DU COMITÉ DES MINISTRES



Contact: Zoe Bryanston-Cross
Tel: 03.90.21.59.62

Date: 30/03/2023

DH-DD(2023)407

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1468th meeting (June 2023) (DH)

Item reference: Action Plan (29/03/2023)

Communication from Türkiye concerning the case of ZENGİN v. Turkey, CUMHURİYETÇİ EĞİTİM VE KÜLTÜR MERKEZİ VAKFI v. Turkey, MANSUR YALCIN AND OTHERS v. Turkey and İZZETTİN DOĞAN AND OTHERS v. Turkey (Application Nos 1448/04, 32093/10, 21163/11 and 62649/10)

Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1468^e réunion (juin 2023) (DH)

Référence du point : Plan d'action (29/03/2023)

Communication de la Türkiye concernant l'affaire ZENGİN c. Turquie, CUMHURİYETÇİ EĞİTİM VE KÜLTÜR MERKEZİ VAKFI v. Turkey, MANSUR YALCIN ET AUTRES c. Turquie et İZZETTİN DOĞAN ET AUTRES c. Turquie (requêtes n° 1448/04, 32093/10, 21163/11 and 62649/10) (*anglais uniquement*)

DH-DD(2023)407: Communication from Türkiye.

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.



*Permanent Representation
of Türkiye
to the Council of Europe*

Strasbourg, 29 March 2023

2023/33766324/35857792

**İzzettin Doğan and Others (62649/10), Cumhuriyetçi Eğitim ve Kültür Merkezi
(32093/10)**

Mansur Yalçın and Others(21163/11), Hasan Eylem Zengin (1448/04) v. Türkiye

Ms Ovey,

I enclose herewith the Action Plan concerning the execution of the above-mentioned judgments.

Please accept, Ms Ovey, the assurances of my high consideration.

Esra DOĞAN GRAJOVER
Deputy to the Permanent Representative

Enc.: As stated

Ms Clare OVEY
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ACTION PLAN

İzzettin Doğan and Others v. Türkiye (62649/10)

definitive judgment of 26 April 2016

Cumhuriyetçi Eğitim ve Kültür Merkezi v. Türkiye (32093/10)

judgment of 2 December 2014, final on 20 April 2015

Mansur Yalçın and Others v. Türkiye (21163/11)

judgment of 16 September 2014, final on 16 February 2015

Hasan and Eylem Zengin v. Türkiye (1448/04)

judgment of 9 October 2007, final on 9 January 2008

DGI

29 MARS 2023

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

I. CASE DESCRIPTION

1. In the *İzzettin Doğan and Others* case the European Court found a violation of the right to freedom of religion in conjunction with Article 14 of the Convention holding that the attitude of the State authorities towards the Alevi community, its religious practices and its places of worship are incompatible with the State's duty of neutrality and impartiality and with the right of religious communities to an autonomous existence.

2. *Cumhuriyetçi Eğitim ve Kültür Merkezi* concerns a violation of the right to freedom of religion and Article 14 taken in conjunction with Article 9 of the Convention, in that, Alevi places of worship (*cemevis*) were not granted an exemption from the payment of illumination costs provided for places of worship by the Religious Affairs Department.

3. *Hasan and Eylem Zengin* and *Mansur Yalçın and Others* concern violations of Article 2 of the Protocol No.1 to the Convention on account of the compulsory nature of the religious culture and ethics knowledge (RCE) classes involving subjects that do not meet the criteria of objectivity and pluralism.

II. INDIVIDUAL MEASURES

4. The authorities have taken measures to ensure that the violations at hand have been ceased and that the applicants have been redressed for the negative consequences.

A. Just Satisfaction

5. In *İzzettin Doğan and Others*, the Court did not make any award in respect of pecuniary and non-pecuniary damages. However, it awarded the applicants EUR 3.000 in respect of costs and expenses. The applicants did not submit the applicants' bank account information. Therefore; the amount awarded by the Court was deposited into an escrow account on 26 July 2016 and the applicants were notified of the placement. As of today, this amount is still pending in the escrow account as the applicants have failed to provide relevant documents for payment.

6. In *Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı*, the Court reserved the question of the application of Article 41. By taking into account the possibility of an agreement, the parties were granted time to that end. On 20 June 2017, upon the failure to reach an agreement by the parties, the Court awarded the applicant EUR 44,400 in respect of pecuniary damage and EUR 10,000 in respect of non-pecuniary damage. These have been paid within the deadline set by the Court. Payment information has been published on Hudoc-Exec and deadline for the applicants to complain has passed.

7. In *Mansur Yalçın and Others*, the applicants did not submit any claim for just satisfaction. Accordingly, the Court did not make any award to that end.

8. In *Hasan and Eylem Zengin*, the applicants did not make any claim for just satisfaction. Accordingly, the Court did not make any award to that end. However, the Court awarded EUR 3,726.80 in respect of the costs and expenses. This has been paid within the deadline set by the Court. Payment information has been published on Hudoc-Exec and deadline for the applicants to complain has passed.

B. Other Individual Measures

Hasan and Eylem Zengin and Mansur Yalçın and Others

9. In *Hasan and Eylem Zengin* and *Mansur Yalçın and Others*, the applicants' children have passed the age of compulsory religious culture and ethics lessons. Therefore, no further individual measures are required.

10. The authorities consider that the repetitive case of *Mansur Yalçın and Others* could be closed in respect of individual measures and that examination of the general measures on the issue could continue to be examined under the leading case of *Hasan and Eylem Zengin*.

Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı and İzzettin Doğan and Others

11. The individual measures in these cases are linked with the general measures details of which are explained in detail below.

III. GENERAL MEASURES

12. The authorities would first like to underline that the Republic of Türkiye is a democratic and secular State of law where everyone is equal regardless of language, race, colour, sex, political opinion, philosophical belief, religion or membership in any religious movement or on other grounds. The authorities state at the same time that Türkiye is also a State where everyone enjoys the freedom of conscience, religion, and thought, and where acts of worship, religious rites, and ceremonies can be freely performed unless they are in line with the Article 14 of the Constitution.

13. Türkiye is always committed to the international human rights obligations as a party to the core universal and regional human rights treaties. In this context, it has taken necessary steps and measures in the course of time to protect these values. For the freedom of religion, Türkiye has abolished certain restrictive and outworn provisions on the basis of the freedom of religion, such as the headscarf ban in public spaces. Furthermore, the 2014 amendment to the Turkish Criminal Code led to the criminalisation of interferences with persons' lifestyles based on their beliefs, thoughts, and convictions. Moreover, a set of significant steps has been taken regarding the property rights of foundations of non-Muslim communities. In this framework, the property issues affecting such foundations have been mostly resolved thanks to the substantial legislative amendments.

14. In line with the principles enshrined in the Constitution and the international conventions to which Türkiye is a party, all institutions and organisations of the State perform their activities with the reference to the equality of everyone by law without any discrimination based on political view, philosophical belief, religion, sect or similar other reasons. In this context, the State equally treats all faiths and religions, and it is impartial towards different faiths. Nevertheless, there appear social and economic issues in the society from time to time, such as the current issue, that has a complex nature in essence and the deep-rooted issues arising from it might be a matter of debate.

15. In the light of the above-mentioned explanations, addressing the issues mentioned in the judgements of the ECtHR requires meticulous attention.

A. VIOLATION OF ARTICLE 9 AND ARTICLE 14 IN CONJUNCTION WITH ARTICLE 9

16. The Court's findings in the cases of *İzzettin Doğan and others* and *Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı* judgments could be summarised as follows;

- The ability to build places of worship was uncertain and was subject to the goodwill of the central or local authorities,
- The Alevi-Bektashi community did not officially benefit from State subsidies,
- The religious services provided for the Alevi-Bektashi community were not regarded as a public service,
- Alevi-Bektashi community did not enjoy any of the benefits of religious public service such as being part of their education system,
- Cemevis did not get an exemption from lighting costs and did not enjoy any other public benefit.

17. The authorities should note that they were aware of the issues even before the European Court delivered its judgments. Hence, a series of workshops had been set up even before the Court had issued its judgments under the present groups. The authorities note that they gave place to several of these workshops in the action report submitted for the Committee's 1419th meeting. In order to avoid repetition, the authorities confine themselves to referring to the information provided therein.¹

18. The authorities would like to underline that new developments have taken place in this field following the Committee's 1419th meeting. The authorities consider that the current reform process is capable of remedying all the shortcomings identified by the Court found in the present cases. These new developments include series of reforms such as establishment of the Presidency of Alevi-Bektashi Culture and Cemevis within the Ministry of Culture and Tourism and other legislative amendments put in force. Detailed information regarding these new developments are provided below. Before describing these new developments, the authorities would like to explain the preparatory works for this reform process.

1. Preparatory Works prior to the recent reforms about Alevi-Bektashi Community

19. In 2018, a series of operations were held in order to respond the requests of the Alevi-Bektashi communities. In this context; representatives from the Ministry of Interior

¹ [https://hudoc.exec.coe.int/eng/?i=DH-DD\(2021\)1007E](https://hudoc.exec.coe.int/eng/?i=DH-DD(2021)1007E)

March 2023

together with civil society representatives and academics working on this field carried out provincial visits. In this scope; 1656 cemevi visits were carried out in 58 cities of the country.

20. In this period, the Ministry of Interior collected demands from Alevi communities to determine their needs. These requests mainly concerned; the construction and maintenance works of cemevis, in particular, heating, electricity, water and staff requirements, furnishing and books for cemevis. Through these provincial visits, almost 70% of these demands have been fulfilled by either the Governor's Offices or the District's Governor's Offices.

21. In line with the Alevi-Bektashi citizens' demands, on October 2022, construction of seven new cemevis begun and 4 new cemevis have started to serve. These activities were declared to the public by the President on 7 October 2022.

22. The Ministry of Interior coordinated a working group which included representatives from the Ministry of Justice, the Ministry of Culture and Tourism, academics working on Alevi-Bektashi matters and as well as Alevi-Bektashi civil society organisations.

23. Having concluded these works, subsequently, it was decided to establish an administrative department to make it easier for authorities to fulfil demands of the Alevi-Bektashi people and accordingly to provide an institutional addressee within the administrative structure.

2. Establishment of the Presidency of Alevi-Bektashi Culture and Cemevis

24. In *İzzettin Doğan and Others*, the Court found that the denial of religious public services in respect of the Alevi-Bektashi community was discriminatory. In particular, the Court mentioned the absence of an administrative body in respect of the realisation of religious services as public service for Alevi-Bektashi community. This shortcoming has been remedied with the establishment of the Presidency of Alevi-Bektashi Culture and Cemevis.

25. Namely, on 9 November 2022, the Presidency of Alevi-Bektashi Culture and Cemevis ("the Presidency") was established under the Ministry of Culture and Tourism through Presidential Decree.

26. Functions of the Presidency are regulated in Article 292/A of the Presidential Decree No 1. According to the Presidential Decree, the Presidency will be responsible to carry out the following tasks;

- To determine the needs of cemevis and coordinate the cemevi services to ensure that they are effective and efficient,

March 2023

- To carry out works and procedures related to the transfer of funds to local administrations and investment monitoring and coordination directorates to ensure continuation of the cemevi services determined by the Presidency,
- To conduct social and humanitarian researches regarding all the aspects of Alevi-Bektashism and to organise seminars, symposiums, conferences and similar national and international events on these subjects; to prepare suitable environment for the production of original studies, to publish and support studies conducted in this field,
- To co-operate with universities and other relevant institutions and organisations to support academic studies on Alevi-Bektashism,
- To support both domestic and international scientific studies on Alevi-Bektashism,
- To follow up both national and international institutes' and organisations' scientific studies and publications within the scope of their field of duty, and to ensure that the necessary ones are translated, printed and published,
- To conduct and support educational and cultural activities about Alevi-Bektashism,
- To perform other duties assigned by the Minister.

27. On 3 February 2022 the head of the Presidency was appointed. Afterwards, on 14 March 2023 the deputy head of the Presidency was appointed. Furthermore, under the Decree, it is envisaged to establish an advisory board consisting of the chairperson and 11 members. This board will evaluate the work of the Presidency and report its recommendations. The President of the Republic will elect the members of the advisory board for a period of three years from those who have distinguished themselves on the path of Alevi-Bektashism.

28. The authorities would like to underline that with the establishment of the Presidency, Alevi-Bektashi citizens will access to all the public support from the State.

3. Legislative Amendments in Respect of the Expenses and Construction of Cemevis

29. In both *İzzettin Doğan and Others* and *Cumhuriyetçi Eğitim ve Kültür Merkezi*, the Court found that the absence of a mechanism allowing cemevis' exemption from lightning cost and other state benefits was discriminatory towards Alevi-Bektashi community. Within the scope of the legislative amendments of 16 November 2022 with **the Law no 7421**,

the shortcomings indicated in the Court's judgments have been remedied. These amendments can be presented in detail as follows;

30. A new Article was added in the Electricity Market Law (Law No 6446). Additional Article 6 of Law No 6445 regarding the lighting costs of cemevis reads as follows;

"The lighting expenses of the cemevis shall be covered by the Ministry of Culture and Tourism"

31. This provision fully addresses the shortcomings identified by the Court in *Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı* since the lighting costs of cemevis will be covered by the State. Separate electricity meters for the lighting of the cemevis are needed to determine the lighting costs. Therefore, the Ministry of Culture and Tourism has already started infrastructure works to realise this system for all cemevis in Türkiye which is approximately 1645 cemevis in 58 different cities. In addition, works on secondary legislation for the exemption of lighting costs of cemevis are ongoing.

32. In the same reform process, series of legislative amendments were also introduced in order to ensure that the Alevi-Bektashi people benefit from State subsidies and other benefits. The authorities would like to emphasise that the below explained comprehensive measures ensure equal treatment of the Alevi-Bektashi community. These may be explained as follows.

33. The Law no 7421, introduced a new sub-paragraph to Article 7 of the Metropolitan Municipality Law (Law No 5216) regarding the construction and maintenance of cemevis. It sets out the duties of the Metropolitan Municipalities. The following was included among their duties;

"bb) (Additional: 16/11/2022-7421/14 Art.): To construct buildings and facilities for cemevis when necessary, to carry out all kinds of maintenance and repair of these buildings and facilities and to provide the necessary material support.

g) (Additional: 16/11/2022-7421/14 Art.) Construction, maintenance and repair of cemevis"

34. The Law no 7421 introduced, Additional Article 10 to the Urban Planning Law (Law No 3194) regarding the allocation of space for cemevis in the preparation of zoning plans. It reads as follows;

"ADDITIONAL ARTICLE 10- (Additional: 16/11/2022-7421/8 Art.)

In the preparation of zoning plans, the necessary cemevi places are to be allocated by taking into account the conditions and future needs of the planned town and region.

In provinces and districts, cemevis may be built provided that the permission of the local administrative authority is obtained and that they comply with the zoning legislation.

Cemevi places may not be allocated for other purposes in violation of the zoning legislation.”

35. The Law no 7421 also introduced, a new sub-paragraph to Article 6 of the Special Provincial Administration Law (Law No 5302) regarding the construction, maintenance and repair of cemevis.

“(Additional paragraph: 16/11/2022-7421/15 Art.) Special provincial administration may construct, maintain and repair temples, cultural and natural heritage, historical texture and places of importance in terms of urban history and cemevis within the provincial borders.”

36. The Law no 7421 further amended Article 14 of the Law on Municipalities (Law No 5393) to ensure that the construction, maintenance and repair works of cemevis are carried out by the Municipalities. Article 15 of the Law No 5393 was also amended to ensure that water costs are either paid in full or discounted by Municipalities or organisations affiliated to the Municipalities.

37. The authorities highlight that all these reforms about cemevis ensure that the Alevi-Bektashi community enjoy State subsidies. Especially the introduction of a new mechanism regarding coverage of lighting costs and water costs of cemevis, state-funded construction and maintenance of cemevis resolve the main areas that the Court had found to be discriminatory against the Alevi-Bektashi community.

38. In the light of these explanations, the authorities consider that all necessary general measures have been taken in response Articles 9 and 14 violations established by the Court in the cases of *İzzettin Doğan and Others* and *Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı*.

B. VIOLATION OF ARTICLE 2 OF PROTOCOL NO.1

39. The authorities would like to make the following statements concerning the violation of Article 2 of Protocol No.1 to the Convention.

40. First of all, it should be underlined that in its judgment of *Hasan and Eylem Zengin* case (no. 1448/04, § 75, 9 October 2007), the Court considered that the exemption procedure was not an appropriate method and did not provide sufficient protection to parents.

According to the Court, this kind of exemption may compel the parents to inform the school authorities of their religious or philosophical convictions and this situation makes it an inappropriate means of ensuring respect for their freedom of conviction.

41. The Court maintained its stance in *Mansur Yalçın and others* as well. The European Court found that the procedure for exemption was likely to subject pupils' parents to a heavy burden and to the necessity of disclosing their religious or philosophical convictions in order to have their children exempted from the lessons in religion (§ 76 of the judgment).

42. On this basis, the Turkish authorities are of the opinion that the most appropriate measure would be overhauling of the content of the Religious Culture and Ethics (RCE) lessons rather than broadening the extent of exemption from these lessons. In this respect, the authorities would further like to note that in *Hasan and Eylem Zengin* the Court clearly emphasized that the setting and planning of the curriculum fell in principle within the competence of the Contracting States (§ 51). The Court stated that the second sentence of Article 2 of Protocol No. 1 does not prevent the States from disseminating in State schools, by means of the teaching given, objective information or knowledge of a directly or indirectly religious or philosophical kind. Moreover, according to the Court, it did not even permit parents to object to the integration of such teaching or education in the school curriculum, for otherwise all institutionalised teaching would run the risk of proving impracticable.

43. As can be seen, the Court did not point out a concrete practice to eliminate the violation caused by the situation at that time. On the contrary, it left the issue to the State's margin of appreciation.

44. Taking into account the views of the Court on the "exemption procedure", the authorities have taken various steps in the field of redressing the violation. In the first place, the Turkish Authorities would like to clarify that the existence of a compulsory RCE lesson was not considered a violation in itself in the ECtHR's judgment (see *Mansur Yalçın and Others v. Türkiye*, no. 21163/11, 16 September 2014, § 64). In its violation judgment the Court underlined the content of the curriculum of RCE lessons.

45. Within this scope, in the sense of solving the problem, a number of general measures have been taken regarding these issues.

46. The Turkish authorities indicate that concerning the violations found in *Mansur Yalçın* and *Hasan and Eylem Zengin* (21163/11 and 1448/04 respectively); a number of workshops were organized under the auspices of the Ministry of National Education between

June 2016 and January 2017 with the participation of representatives from the Prime Minister's Office, the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of National Education, the Presidency of Religious Affairs, scholars, NGO's. The commission held workshops on 2 June 2016, 14 June 2016, 22 September 2016, 3 November 2016, 7 December 2016 and 25-27 January 2017.

47. In the report, attention was drawn to the fact that religion has an important role in the life, to the importance of knowing different religions and beliefs along with socialization, to the students' ability to critical thinking, and to the effect of religion on the formation of culture and civilization. It was also taken into account that the implementation of the RCE lessons is a work of a long experience. It includes assessments that the content of the curriculum intends to play a role in eliminating the prejudices faced in the society by creating an environment in which differences between people are an asset rather than a problem.

48. At the working meetings of the commission, having regard to the fact that the State may use its margin of appreciation to make this lesson compulsory with the aim of protecting the national identity of the society and including social values in the system, it has been given particular importance to the idea that it would be appropriate to objectively redevelop the content of the RCE lesson, including the Alevi-Bektashi tradition.

49. Based on the advisory report by the Commission, a draft curriculum was prepared with the participation of relevant persons (mentioned-above) in January and February 2017. In July 2017, the draft curriculum was published for a period of time on the website of the Ministry of National Education in order to take into consideration, criticisms, arguments, and assessments made by the students, parents, and by the public in large. With the publication of the draft curriculum, it was provided that instructors, NGOs, academicians, parents, and students expressed opinions and carried out an evaluation online concerning the curriculum. All of the incoming opinions and evaluations were reported and reflected in the curricula.

50. Upon the completion of the period during which the draft curriculum had been published and assessments had been gathered from the interested parties, the draft report was sent to the Universities in Türkiye in order to include their recommendation in the curriculum. On 20 October 2017, another workshop was set up, composed of academicians as well, by the Ministry of National Education to finalize the draft. On 19 January 2018, the draft was approved by the Board of Education of the Ministry of National Education (*Milli Eğitim Bakanlığı Talim ve Terbiye Kurulu Başkanlığı*). It could be accessed through the following link: <https://dogm.meb.gov.tr/www/ogretim-programlari/icerik/14>

51. The draft report prepared with the participation of wide range of individuals coming from different backgrounds. It includes assessments that the content of the curriculum intends to play a role in eliminating the prejudices faced in the society by creating an environment in which differences between people are an asset rather than a problem.

52. The commission, set up to draft the above-cited curriculum, also signified the importance of the existence and mandatory nature of the classes of RCE. The subjects such as Alevism and Bektashism, among others, were objectively explained in detail in the textbooks by benefiting from opinions and articles published by religious and spiritual leaders of Alawite (*alevi dedeleri*).

53. Following the completion of the opinion and evaluation process with a broad participation, the draft curriculum was put into final form and then submitted to the Board of Education. By its decision of 19 January 2018, the Board of Education approved the implementation of the new RCE lesson curriculum in schools during the school year 2018-2019.

54. Consequently, the implementation of the Action Plan prepared in relation to the execution of the Court's judgment, the Working Group's meetings, and reporting and preparation of curriculum and lesson materials are conducted in a participatory process by having regard to the transparent and ethical values.

55. At this point, the authorities would like to state that the criteria of objectivism and pluralism has been satisfied owing to the significant contributions from the working group, composed of each part of the society, which had held 6 meetings from 2016 to 2017, thus creating an educational environment in which each student could learn general information objectively on religion and different schools of thoughts therein without having to follow from only one perspective the subjects discussed in the classes.

56. The authorities emphasize that Türkiye acts in line with the TOLEDO Guiding Principles in the RCE lesson and concerns all beliefs and world views objectively and in line with the principles of pluralism. Accordingly, the RCE lessons are provided within the framework of the following principles: *"If the compulsory RCE lesson is objective in public schools, then it is in compliance with freedom of religion and belief. Wider coverage may be given to the religion prevailing in a place where education of religion and belief is provided. If Religious Culture and Ethics education is provided in an objective way, the issue as to whether*

it is compulsory or elective does not constitute a problem. Curriculum should be fact-based, impartial and in line with academic and occupational standards.”

Content of the Compulsory Religious Culture and Ethics Knowledge Lesson

57. The authorities present the following statements as regards the RCE classes in primary and secondary schools at the present.

58. In this regard, the authorities' view is that the new curriculum of the compulsory RCE classes, which is currently being implemented, and the purpose of these classes are compatible with the principles of pluralism and objectivity embodied in Article 2 of Protocol No. 1 of the Convention.

59. With the new RCE classes designed with a supra-denominational approach, it has been aimed to “*ensure that all the different groups of the society live under a single umbrella in harmony within the framework of mutual respect and toleration for each other with no one being alienated*”. The current instruction programmes of the RCE classes have given more room to the various religious formations of Islam living in Türkiye and the information about different religions. The instruction programme of the RCE classes has not been drawn up on the basis of the issues on which the interpretation of faith and the theological interpretation differed from each other, but on the basis of the Quran and Sunnah (*Mansur Yalçın and Others v. Türkiye (no. 21163/11)*) which have been acknowledged as a common source by both of the interpretations. This approach does not mean, in any way, that the different understandings have been disregarded or overlooked. On the contrary, it has been aimed with the programme to provide information about the interpretations of faith and the theological interpretations emerged in Islam, the Sufi thoughts, and other religious formations, to make their similarities and differences recognized and to establish empathy.

60. Furthermore, the instruction programs of the RCE classes have not confined themselves to include the religious thoughts and movements that are found only in Türkiye, but they have also aimed “to recognize the basic characteristics of other religions and to act with tolerance towards their followers”. The Ministry of National Education prepares the curriculum for RCE courses that are taught to students receiving education between 4th and 12th grades in middle and high-school. The curriculum of RCE has been developed through a participatory process involving representatives who define themselves as a member of religious groups (such as Alevi-Bektashi), and also the experts of theology, sociologists, experts on the history of religions and religious education, and representatives from non-governmental

organizations. Draft curricula are presented for comments and evaluation through an online platform accessible to the whole public for approximately one month. The curriculum takes its final form within the framework of the opinions and evaluations received.

61. Textbooks are prepared by the relevant authorship, including private publishing houses, within the framework of the curriculum and presented to Board of Education of the Ministry of National Education. It is approved by the experts following an examination carried out according to criteria such as scientific rigour, legal compliance, and the standards for visuality. Textbooks are prepared by the authors of the Ministry of National Education and private publishing houses on the basis of the curriculum. Textbooks have validation for a certain period of time. In this process, the pages of the textbooks may differ in accordance with the expression of the authors. The Ministry conducts an inspection as to whether a book includes all learning outcomes or not.

62. In addition, the RCE lessons should be assessed taking into account that it is a lesson involving information about religions and also information about cultural, national, and moral values. In line with the TOLEDO Guiding Principles, information concerning religions and Islam is given with a supra-denominational understanding and an objective approach in the textbooks.

63. Toledo Guiding Principles on Teaching About Religions and Beliefs in Public Schools proposes criteria for teaching about religions and beliefs. Some important criteria are as follows:

- Teaching about religions and beliefs must be provided in ways that are fair, accurate and based on sound scholarship. Students should learn about religions and beliefs in an environment respectful of human rights, fundamental freedoms and civic values.

- Those who teach about religions and beliefs should have a commitment to religious freedom that contributes to a school environment and practices that foster protection of the rights of others in a spirit of mutual respect and understanding among members of the school community.

- Teaching about religions and beliefs is a major responsibility of schools, but the manner in which this teaching takes place should not undermine or ignore the role of families and religious or belief organizations in transmitting values to successive generations.

-Efforts should be made to establish advisory bodies at different levels that take an inclusive approach to involving different stakeholders in the preparation and implementation of curricula and in the training of teachers.

-Where a compulsory programme involving teaching about religions and beliefs is not sufficiently objective, efforts should be made to revise it to make it more balanced and impartial, but where this is not possible, or cannot be accomplished immediately, recognizing opt-out rights may be a satisfactory solution for parents and pupils, provided that the opt-out arrangements are structured in a sensitive and non-discriminatory way.

-Those who teach about religions and beliefs should be adequately educated to do so. Such teachers need to have the knowledge, attitude and skills to teach about religions and beliefs in a fair and balanced way. Teachers need not only subject-matter competence but pedagogical skills so that they can interact with students and help students interact with each other in sensitive and respectful ways.

-Preparation of curricula, textbooks and educational materials for teaching about religions and beliefs should take into account religious and non-religious views in a way that is inclusive, fair, and respectful. Care should be taken to avoid inaccurate or prejudicial material, particularly when this reinforces negative stereotypes.

-Curricula should be developed in accordance with recognized professional standards in order to ensure a balanced approach to study about religions and beliefs. Development and implementation of curricula should also include open and fair procedures that give all interested parties appropriate opportunities to offer comments and advice.

-Quality curricula in the area of teaching about religions and beliefs can only contribute effectively to the educational aims of the Toledo Guiding Principles if teachers are professionally trained to use the curricula and receive ongoing training to further develop their knowledge and competences regarding this subject matter. Any basic teacher preparation should be framed and developed according to democratic and human rights principles and include insight into cultural and religious diversity in society.

- Curricula focusing on teaching about religions and beliefs should give attention to key historical and contemporary developments pertaining to religion and belief, and

reflect global and local issues. They should be sensitive to different local manifestations of religious and secular plurality found in schools and the communities they serve. Such sensitivities will help address the concerns of students, parents and other stakeholders in education.

64. RCE curricula meets all the necessary factors issued in the TOLEDO Guidelines in terms of attainment and teaching methods.

65. The objectives and method of the RCE lesson in the curriculum are explained as follows, (see <http://mufredat.meb.gov.tr/ProgramDetay.aspx?PID=318>)

.....

2.1. Basic Philosophy and General Objectives of the Program

The course of RCE aims to teach the Islam and other religions with a descriptive approach. Within the scope of RCE courses, Islam was conveyed to the students within the framework of the basic principles set forth by the Quran and Sunnah. The interpretations that emerged in Islamic philosophy were handled with a scientific method and a supra-sectarian approach. On the other hand, the other existing religions were discussed with a scientific method and factual approach.

.....

2.3. Principles and Explanations Regarding the Implementation of the Program and Book Writing

.....

4) A factual approach is adopted both in the teaching of different religions and beliefs, and in the teaching of the interpretations of Islamic thought. In this context, religions, beliefs, and interpretations in Islamic thought are subject to teaching based on their own texts, sources and acceptances.

.....

8) Students are not forced to memorize the verses of the Quran, hadiths, and suras which are involved in the units.

.....

9) Approaches, attitudes and behaviors that harm freedom of religion, conscience, and thought are avoided. In this context, students are not forced to express their religious

feelings and thoughts, and to practice religious practices in which they have knowledge.

.....

16) Students are encouraged to behave in a way that respects human beings, opinions, freedom, morality, and cultural heritage.”

66. However, the RCE should be evaluated on the grounds that it is not only a course that includes information about religions, but also a course that is obliged to give information about national culture and universal moral values that are the common ground of citizens living in Türkiye. In line with the Toledo principles, the elements of national culture and universal moral values are included into the textbooks and information about other religions and Islam is given with an objective approach.

67. If needed to provide examples, the following subjects are included in the textbooks regarding the general values and characteristics of Turkish society: "The Basis of Human Relations: Love and Respect", "I Keep My Body and Clothes Clean", "I Keep My Home and School Clean", "Keep My Environment Clean", "Rules of Courtesy", "Greetings Manners", "Communication and Speaking Manners", "Table Manners", "Some Harmful Habits", "Reasons for Starting Harmful Habits", "Ways to Avoid Harmful Habits", "Core Values Uniting Our Society", "Good Moral Attitudes and Behaviors : Justice, Friendship, Honesty, Self-control, Patience, Respect, Love, Responsibility, Patriotism and Benevolence ", "Values and the Source of Values", "The Place and Importance of Values in Youth's Personality Development", "Basic values: Wisdom, Justice, Chastity and Courage ", "Relationship of Morality and Discipline", "Religion is Good Morality", "Traces of Religion in Our Architecture", "Traces of Religion in Our Music", "Traces of Religion in Our Literature", "Traces of Religion in Our Customs and Customs". As seen above issues, the REC lessons include information about religions, national culture and universal moral values in line with the Toledo principles.

68. Examining the RCE textbooks, which are the publication of the Ministry of National Education, it is seen that a total of 186 pages are related to religious beliefs and worship with respect to Judaism, Christianity, Hinduism, Buddhism, Confucianism, Taoism, Sunnism, Hanafism, Alevism-Bektashism, Hanbalism, Shafism, Malikism, Asharism, Yesevism, Rifaim, Kadirism, Mevlevism and Naqshbandism. In these sections several religions and religious beliefs and worships are explained. Alevism and Bektashism were also mentioned in 21 pages out of 186 pages. When it is considered the other beliefs included in the

textbooks, this ratio is remarkable. Thus, it cannot be argued that less coverage is given to the Alevism in the textbooks.

69. The curricula and textbooks of this course are approved by the Board of Education. In the content of the RCE courses, considering the development levels of the students, the main issues in the field of religion and morality are dealt with objectively with a theological approach based on the basic resources. It is not the aim of the course to impose or dictate any religious practice. This course prioritizes enlightenment/acculturation about religion and morality. Therefore, a kind of denominational religious education is not given in this course, on the contrary a way of informing and acculturation is taken as a basis.

70. As a result, the Authorities notes that all curricula in Türkiye are prepared in compliance with the principles of scientificity, pedagogy, and legal compliance. In this respect, objective contents are provided within the textbooks without any discrimination in terms of beliefs. This situation presents the impartial, objective, and scientific attitude of Turkish education system.

71. The authorities will inform the Committee about the general measures taken-envisaged.

Constitutional Court's Case Law on the RCE lessons

72. The authorities would like note that the Constitutional Court has developed a Convention compliant practice on the topic of compulsory RCE lessons.

73. On 7 April 2022, the Turkish Constitutional Court delivered its first judgment concerning the compulsory RCE lessons. In its judgment of *Hüseyin El and Nazlı Şirin El* (Docket No: 2014/15345)² it considered that the 2011/2012 syllabus of the RCE lessons lacked the criteria of objectivity and pluralism. It further observed that the system had not provided an efficient exemption procedure or had it provided other alternative solutions. In the light of these, the Constitutional Court concluded that the rejection of the applicant's request for exemption from this class had violated the right of parents to demand respect for their religious and philosophical beliefs in education, as guaranteed in Article 24 of the Constitution.

74. It should be underlined that in reaching the above conclusion, the Constitutional Court made specific reference to the Court's findings in the cases of *Hasan and Eylem Zengin* and *Mansur Yalçın and Others*.

² <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2014/15345>

Translation and Dissemination of the Judgment

75. The Authorities ensured that publication and dissemination measures have been taken. To this end, the European Court's judgments have been translated into Turkish and made available on the Court's website.

76. Furthermore, the European Court's judgments have been transmitted, together with an explanatory note on the European Court's findings, to the Religious Affairs Department, Ministry of National Education, the Council of Judges and Prosecutors, the Ombudsman Institution and to the domestic courts involved in this case as well as to other relevant court such as the Constitutional Court and the Court of Cassation.

IV. CONCLUSION

77. The authorities consider that the individual measures taken ensured that the violations at hand have ceased and that the applicants are provided redress for the negative consequences.

78. The Authorities furthermore consider that the general measures regarding Articles 9 and 14 have been taken. The authorities therefore kindly invite the Committee of Ministers to close the examination of the *İzzettin Doğan and Others and Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı*.

79. The authorities further invite the Committee to close the repetitive case of *Mansur Yalçın and Others* in respect of individual measures.

80. In respect of the general measures regarding Article 2 of Protocol No. 1, in the *Hasan and Eylem Zengin* case, the Committee will be regularly informed about the general measures taken-envisaged.

Att.5- ADO Memorandum submitted to CM



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Istanbul 17 April.2023

COMMUNICATION

In accordance with Rule 9.2. of the Rules of the Committee of Ministers regarding the supervision of the execution of judgments and of terms of friendly settlements

**Cumhuriyetçi Eğitim Ve Kültür Merkezi Vakfı Group of cases (32093/10 and 62649/10)
Zengin Hasan and Eylem Group of cases (1448/04 and 21163/11)**

1. Introduction

This Rule 9.2 submission is made in accordance with Rule 9.2. of the Rules of the Committee of Ministers regarding the supervision of the execution of judgments and of terms of friendly settlements. It concerns the individual and general measures required for implementation of the [Cumhuriyetçi Eğitim Ve Kültür Merkezi Vakfı](#) Group of cases (32093/10 and 62649/10) and the Zengin Hasan and Eylem Group of cases (1448/04 and 21163/11).

With respect to decisions of CM 1419th meeting, we are submitting our views about the developments as well as comments about implementation process of ECtHR judgments with references made to recent [Action Plan of Turkish authorities](#).

1

The submission is made by the Alevi Philosophy Center Association. A Turkish NGO dealing with Alevi Cultural Heritage, Philosophy and Religious Freedom issues.

2. Case summary

These cases concern the failure within the Turkish legal framework to grant legal recognition to the Alevi faith, thus depriving its followers of the right fully to practice their faith (violations of Article 9). It further concerns a discriminatory difference in treatment between followers of the Alevi faith and followers of the majority understanding of Islam, who benefit from legal recognition and religious public services financed by the State through the Religious Affairs Department (“RAD”) (violation of Article 14 taken in conjunction with Article 9). This difference of treatment includes the failure to extend to Alevi premises (cemevis) the exemption from the cost of electric lighting that is granted to places of worship (Article 14 in conjunction with Article 9).

Finally, the Court found that the content of the religious culture and ethics classes in primary and secondary schools, and their compulsory nature with only limited possibilities of exemption, “offers no appropriate options for the children of parents who have a religious or philosophical conviction other than that of Sunni Islam” (violation of Article 2 of Protocol No. 1). Generally, the Court found that “the attitude of the State authorities towards the Alevi community, its religious practices and its

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places of worship is incompatible with the State's duty of neutrality and impartiality and with the right of religious communities to an autonomous existence".

3. General measures

The Government's Action Plan is only focused on the payment of compensation, but these judgments are covering matters affecting a great number of individuals, such as belief group members, millions of children in schools and their families. Therefore, legislative amendments are necessary in order to avoid repetitions of same or similar cases in future.

However, in matters related to education, no steps have been taken to relieve families and children from compulsory religious lessons either by allowing exemptions or by changing the syllabus to a neutral curriculum *as per* the Toledo agreements.

These two groups of cases have a representative nature. In Turkey, there are millions of children of schooling age who are being subjected to the same curriculum and the same obligation as the ones in these groups of cases.

Cumhuriyetçi Eğitim ve Kültür Vakfı (32093/10 and 62649/10)

A. Difference in treatment between the recognised places of worship and the Cemevis

(Action Plan, Para. 11-38)

The implementation of these judgments requires equal treatment for all belief groups; the judgments establish that Cemevis are worship places that may benefit from all advantages and state-support provided to worship places and belief groups.

2

Although the Presidency set up a state entity named as "*Presidency of Alevi-Bektashi Culture and Cemevis*" (The Alevi Department), the department is formed as a unit under the Ministry of Culture and Tourism, while the Sunni religion has an individual state entity (DIB) with an individual establishment law for the organization and reports to the directly Presidency of the country (DIB) not to any ministry.

The Alevi Dept. is established with the promise that Cemevis will benefit from all advantages provided to other worship places and a compendium Law no.7214 which does not cover many aspects of the requirements of an entity of this kind. Cemevis are not accepted as worship places, nor will the Alevi belief system will be recognized as a belief. Furthermore, the legislation prepared for The Alevi Dept. brings additional restrictions by subjecting any new Cemevi construction to the permission of local governors, in addition to already existing official requirements.

The Alevi dept. is not yet active for the time being, it was declared in Oct.2022 and still is in preparation of adequate space and appointment of an executive advisory Committee (which will be appointed by the President of state for a three-year period). The Alevi community and organizations do not have any right or vote in those appointments and the discussed frame is far away from being objective and egalitarian due to the points listed below. Regulations that The Alevi Dept. will work with are not prepared and announced yet. Therefore, there are many blurry areas in how Law 7421 and Presidential Decrees will be implemented.

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During the period when the Law no. 7421 and related decrees were debated in November - December 2021 in Parliament, important arguments and criticisms were presented by Political Parties in Parliament, Alevi organizations, publicity and social media. Att.3 and Att.4. The main topics of discussion can be summarized as follows:

- The use of a compendium law¹ (containing provisions on unrelated matters) to address the issue;
- The failure to recognize the status of the Cem houses as places of worship;
- The obligation to obtain the permission of the provincial governor in order to establish/built a new Cem house;
- The treatment of the Alevi belief system as only a cultural activity;
- The taking of decisions without entering into sufficient dialogue with Alevi institutions.
- The possibility of the Cem houses which Alevi institutions have set up using their own means coming under the supervision or control of the state or being nationalised;
- The failure to recognize sustainability requirements of Alevi belief system (Compulsory religion lessons/ Training of clergy / Protecting Cultural Inheritance / Supporting researches and Academical education).

The Alevi institutions generally criticized the way the issue of *place of worship* status was overlooked. Some umbrella organizations argued that the implementation of the policy will be unsuccessful and some political parties have already taken the Law no. 7241 to the Constitutional Court of Turkey for the annulment of the compendium Law.

Given the use of a compendium bill to address the issue and the neglect of the issue of place of worship status, even though these developments create the impression that some of the rights accorded to places of worship are being recognised or will be provided to the Alevi community too, the country's Faith Policy remains far from being clear. Moreover, the establishment of a new department within the Ministry of Culture contains elements that are contradictory both to domestic law and to the judgments of the ECtHR. The Sunni segment, the minorities protected by the Treaty of Lausanne, the minorities not covered by the Treaty of Lausanne (Assyrians, Yazidis, Bahai) and the Alevi have been separated into four groups with different legal and administrative statutes. Rather than leading to understandable and comparable faith policies in Turkey, there are quite serious concerns that these arrangements will only augment the lack of clarity and comprehensibility.

3

The Alevi Community expects an approach in line with ECtHR judgment:

"Nevertheless, if a State introduced a privileged status for places of worship, all religious groups which so wished had to be offered a fair possibility of seeking the benefit of such status and the established criteria had to be applied in a non-discriminatory manner."

¹ A compendium Law is a law that covers various subjects and articles of various matters in a single document. Law 7421 is named as LAW ON THE AMENDMENT OF THE TAX PROCEDURE CODE AND OTHER LAWS, has 25 articles out of which only 6 of the articles are related to Cemevi status . Att.1





B. Content and compulsory nature of the religious culture and ethics classes - (Action Plan – Para 39-74)

With respect to the long-running issue of the compulsory religious culture and morality lessons, which the Committee of Ministers of the Council of Europe decided to examine under enhanced supervision at its meeting no. 1362 of December 2019, there has been no change in the syllabus since 2018.

In general, Alevi families are wary of opening cases or taking initiatives on this matter.

On April 7th, 2022, the Turkish Constitutional Court has delivered a judgment in the “*Hüseyin and Nazlı Şirin EL Case*”. In this case, which is almost identical with Hasan Zengin and Mansur Yalcın cases, the Constitutional Court addressed exemption procedures from religious lessons.

The application before the Constitutional Court concerned, claims of a violation of the right of parents to demand respect for their religious and philosophical beliefs in education, due to the fact that there is no possibility of a student being exempted from religious culture and morality lessons, and of a violation of the right to a trial within a reasonable time due to the long-time taken by the court process.

The Plenary of Constitutional Court of Turkey stated that **the existing practice constitutes a violation of the provisions of the Constitution (fourth clause of Article 24) and the Civil Code² (Annex 1).**

This ruling was published in the Official Gazette No. 31906 of July 28th 2022, but has not yet been implemented. The 2022-2023 School Year has commenced weeks after the publication of the ruling, however the Religious Culture and Morality lessons are still compulsory.

4

Although some minor changes have been made regarding the optional lessons, the syllabus has not been changed. Some units of curriculum that appear in the syllabi are not included in the schoolbooks published by the Ministry of National Education for the 2022-2023 School Year. There are discrepancies or grey areas between the syllabi and the books.

There has been no change since 2018 in the Religious Cultural and Morality education. No initiative has been declared, no preparations or arrangements have been made with a view of educating / training Alevi clergy either at the secondary level or in higher education. There is no reference made to education in the Law no. 7241 and related decrees about the establishment of the Alevi Dept. or in the syllabi of the Ministry of National Education.

4. CONCLUSION AND RECOMMENDATIONS:

Some political parties have already applied to the Constitutional Court for the annulment of the compendium law, Law No.7421 on 19 Jan. 2023 and related decrees about Alevi faith on Nov 23.2022. Both applications are made by CIIP which is the second biggest party of our parliament, three other opposition parties have also criticized the Law and related decrees as will be seen in Att.4.

² Constitutional Court ruling dated April 7. 2022, App. No 2014715345 as published in Official Gazette on July 28 2022, no 31906





The public is uncomfortable with the failure of the state to develop a specific and just faith policy and the application of different practices for different faiths.

There have been some minor steps taken regarding the [Zengin](#) group cases (No. 1448/04 and 21163) on compulsory Religion and Morality lessons until 2018, but no new steps have been taken since 2018. The judgements of the ECtHR 2014/15345 and Turkish Republic Constitutional Courts rulings are not being implemented, not even publicly or politically discussed yet.

[Cumhuriyetçi Eğitim Ve Kültür Merkezi Vakfı](#) Group (No. 32093/10) on electricity bills for Cem houses has been only partially implemented for some Cemevis yet. The Alevi Dept. is expected to solve financial aspects, but the status of cem houses is ignored and stays unresolved.

With respect to the [İzzetin Dogan and others](#) group (no. 62649/10), the compendium Law no. 7421 addresses to the case judgement, however there is no clear definition of *belief group* and *state relations* in Turkey.

Under the light of the decisions of 1419th CM meeting progress achieved in Turkey is far from being sufficient at least at following main points:

CM 1419th decisions Art. 1: *“The attitude of the State authorities towards the Alevi community, its religious practices and its places of worship is incompatible with the State’s duty of neutrality and impartiality and with the right of religious communities to an autonomous existence”* is confirmed by Law 7421 and related decrees which are contrary and violating ECtHR judgments by ignoring worship place status of Cemevis and further limiting autonomous existence of Alevi community.

5

CM 1419th decisions Article 5 statement; *“the 2018 curriculum for the compulsory “religious culture and ethics” classes in primary and secondary schools does not appear to remedy all the concerns raised by the Court”* have been reconfirmed by Judgment of Turkish Constitutional Court’s ruling, dated April 7 2022- ref 2014/15345, that current applications are also violating Constitution and Civil Law of the country. We are far from implementing ECtHR judgements.

1419th CM meeting decision of Art. 7: *“Solution-oriented measures in the framework of the implementation of the new Human Rights Action Plan to address the Court’s findings in the present group of cases”* have not been implemented. Proposed solutions and legislation are in conflict with ECtHR judgments.

Kindest regards
Dogan Bermek

Att.1 – Translation of Compendium Law no 7421

Att.2 – Turkish Constitutional Court case file about Compulsory Religious Lessons.

Att.3.- Joint Statement of the Alevi Institutions

Att.4.- Some news from Turkish Media and Minutes of deliberations of Compendium Law in Turkish Parliament.

P.S: We may submit further documentation about details that may need clarification or explanations.

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Att.6 Turkish Authorities answer to submissions of ADO and IOG

SECRETARIAT / SECRÉTARIAT

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRÉTARIAT DU COMITÉ DES MINISTRES

COMMITTEE
OF MINISTERS
COMITÉ
DES MINISTRES



Contact: Zoë Bryanston-Cross
Tel: 03.90.21.59.62

Date: 28/04/2023

DH-DD(2023)528-rev

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1468th meeting (June 2023) (DH)

Communication from an NGO (Alevi Philosophy Center Association) (19/04/2023) in the cases of ZENGİN, CUMHURİYETÇİ EĞİTİM VE KÜLTÜR MERKEZİ VAKFI and İZZETTİN DOĞAN AND OTHERS v. Turkey (Applications No. 1448/04, 32093/10, 62649/10) and reply from the authorities (27/04/2023).

Information made available under Rules 9.2 and 9.6 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1468^e réunion (juin 2023) (DH)

Communication d'une ONG (Alevi Philosophy Center Association) (19/04/2023) dans les affaires ZENGİN, CUMHURİYETÇİ EĞİTİM VE KÜLTÜR MERKEZİ VAKFI et İZZETTİN DOĞAN ET AUTRES c. Turquie (requêtes n° 1448/04, 32093/10, 62649/10) et réponse des autorités (27/04/2023) **[anglais uniquement]**

Informations mises à disposition en vertu des Règles 9.2 et 9.6 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



*Permanent Representation
of Türkiye
to the Council of Europe*

DGI

27 AVR. 2023

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Strasbourg, 27 April 2023

2023/33766324/35857792

**İzzettin Dogan and Others (62649/10),
Cumhuriyetçi Eğitim ve Kültür Merkezi (32093/10), Mansur Yalçın and
Others(21163/11), Hasan Eylem Zengin (1448/04) v. Türkiye**

Ms Ovey,

I enclose herewith the Government response to the Rule 9.2 communications concerning the execution of the above-mentioned judgments.

Please accept, Ms Ovey, the assurances of my high consideration.

Esra DOĞAN GRAJOVER
Deputy to the Permanent Representative

Enc.: As stated

**Ms Clare OVEY
Head of Department
Department for the Execution of Judgments of the ECHR
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THE GOVERNMENT RESPONSE TO THE RULE 9.2 COMMUNICATIONS

İzzettin Doğan and Others v. Türkiye (62649/10)
Cumhuriyetçi Eğitim ve Kültür Merkezi v. Türkiye (32093/10)
Mansur Yalçın and Others v. Türkiye (21163/11)
Hasan and Eylem Zengin v. Türkiye (1448/04)

DGI
27 AVR. 2023
SERVICE DE L'EXECUTION DES ARRETS DE LA CEDH

1. The Turkish authorities would like to make the following explanations in response to the submissions of the *Norwegian Helsinki Committee's Freedom of Belief Initiative*, dated 16 February 2023 and *Alevi Philosophy Center Association*, dated 19 April 2023 with respect the present groups of cases.

2. First of all, the Government would like to note that detailed information on both individual and general measures, within the context of the supervision of the present groups of cases, has been submitted to the Committee of Ministers with an action plan dated 30 March 2023. The Government would like to reiterate the information provided therein. The authorities, however, find it useful to provide the following information.

3. The authorities indicate that concerning the violations found in *İzzettin Doğan and Others* and *Cumhuriyetçi Eğitim ve Kültür Merkezi*; the current reform process is capable of remedying all the shortcomings identified by the Court found in these cases. These new developments include series of reforms such as establishment of the Presidency of Alevi-Bektashi Culture and Cemevis within the Ministry of Culture and Tourism and other legislative amendments.

4. Since 2018, a series of works have been held in order to respond the requests of the Alevi-Bektashi communities. In this context; representatives from the Ministry of Interior together with civil society representatives and academics working on this field carried out provincial visits. In this scope; 1656 cemevi visits were carried out in 58 cities of the country. Through these provincial visits, almost 70% of demands made by these cemevis have been fulfilled by either the Governor's Offices or the District's Governor's Offices.

5. On 9 November 2022, the Presidency of Alevi-Bektashi Culture and Cemevis ("the Presidency") was established under the Ministry of Culture and Tourism through Presidential Decree. Functions of the Presidency are regulated in Article 292/A of the Presidential Decree

No 1. The authorities have already provided detailed information regarding the Presidency's tasks, in their action plan submitted to the Committee. The authorities would like to underline that with the establishment of the Presidency, Alevi-Bektashi citizens will have access to further public support from the State.

6. Within the scope of the legislative amendments of 16 November 2022 with **the Law no 7421**, the shortcomings indicated in the Court's present judgments concerning the absence of a mechanism allowing cemevis' exemption from lightning cost and other state benefits have been remedied.

7. The authorities highlight that all these reforms about cemevis aim to ensure that the Alevi-Bektashi community enjoys State subsidies on a broader extent. Especially the introduction of a new mechanism regarding coverage of lighting costs and water costs of cemevis, state-funded construction and maintenance of cemevis resolves the main areas that the Court had found to be discriminatory against the Alevi-Bektashi community.

8. Concerning the violations found in *Mansur Yalçın and Hasan and Eylem Zengin*; the authorities indicate that Türkiye acts in line with the TOLEDO Guiding Principles in the religious culture and ethics knowledge (RCE) lessons and concerns all beliefs and world views objectively and in line with the principles of pluralism. Accordingly, the RCE lessons are provided within the framework of the following principles: *"If the compulsory RCE lesson is objective in public schools, then it is in compliance with freedom of religion and belief. Wider coverage may be given to the religion prevailing in a place where education of religion and belief is provided. If Religious Culture and Ethics education is provided in an objective way, the issue as to whether it is compulsory or elective does not constitute a problem. Curriculum should be fact-based, impartial and in line with academic and occupational standards."* In line with the TOLEDO Guiding Principles, information concerning religions and Islam is given with a supra-denominational understanding and with an objective approach in the textbooks. In the content of the RCE courses, considering the development levels of the students, the main issues in the field of religion and morality are dealt with objectively with a theological approach based on the basic resources. It is not the aim of the course to impose or dictate any religious practice. This course prioritizes enlightenment/acculturation about religion and morality. Therefore, a kind of denominational religious education is not given in this course. On the contrary a way of informing and acculturation is taken as a basis.

9. As a result, the authorities note that the curricula of the RCE lessons in Türkiye is prepared in compliance with the principles of scientificity, pedagogy, and legal compliance.

In this respect, objective contents are provided within the textbooks without any discrimination in terms of beliefs. This situation presents the impartial, objective, and scientific attitude of Turkish education system.

10. Lastly, the Turkish authorities would like to note that in the communications in question there are speculations on issues which are not subject to supervision process. The Turkish authorities find it unnecessary to comment on these issues that are of speculative nature.

CONCLUSION

11. The Government of Türkiye kindly invites the Committee of Ministers to take into consideration the above-mentioned explanations within the scope of the execution of the present groups of cases.

Att. 7. CONSTITUTIONAL COURT RULING excerpts

The whole text of the ruling can be reached via the following link. Only the parts of the ruling which we think will be significant for the reader have been included in the text of this annex.

<https://kararlarbilgibankasi.anayasa.gov.tr/BB/2014/15345>

REPUBLIC OF TURKEY
CONSTITUTIONAL COURT PLENARY RULING
APPLICATION OF HÜSEYİN EL AND NAZLI ŞİRİN
(Application No.: 2014/15345)

Date of Ruling: 7/4/2022

Date and No. of Official Gazette: July 28th 2022 - 31906

I. TOPIC OF THE APPLICATION

1. The application concerns claims of a violation of the right of parents to demand respect for their religious and philosophical beliefs in education due to the fact that there is no possibility of a student being exempted from religious culture and morality lessons, and of a violation of the right to a trial within a reasonable time due to the long time taken by the court process.

II. APPLICATION PROCESS

2. The application was made on September 12th 2014...

...

III. EVENTS AND FACTS

...

IV. RELEVANT LAW

97. The relevant section of Article 26 of the Universal Declaration of Human Rights reads as follows:

“3. Parents have a prior right to choose the kind of education that shall be given to their children.”

98. The relevant section of Article 18 of the International Covenant on Civil and Political Rights reads as follows:

“4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.”

99. The relevant section of Article 13 of the International Covenant on Economic, Social and Cultural Rights reads as follows:

“3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to... ensure the religious and moral education of their children in conformity with their own convictions.”

102. The relevant section of Article 14 of the Convention on the Rights of the Child (CRC) reads as follows:

“1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child...”

103. Relevant sections of the Toledo Guiding Principles on Teaching about Religions and Belief in Public Schools, which was drafted upon an initiative of the Organisation for Security and Cooperation in Europe and published in 2007, read as follows:

“...the basic principle under international standards appears to be that teaching about religions and beliefs is permissible even if it is compulsory, so long as it is given “in a neutral and objective way.” Moreover, non-neutral religious instruction is permissible if there are adequate opt-out provisions...” (p.70)

“Where compulsory courses involving teaching about religions and beliefs are sufficiently neutral and objective, mandatory participation in such courses as such does not violate the freedom of religion or belief (although states are, of course, free to allow partial or total opt-outs in these settings)...” (p. 72)

6. Reports of the European Commission against Racism and Intolerance on Türkiye

104. The relevant section of the Report of the European Commission (the Commission) against Racism and Intolerance on Türkiye dated December 15th 2000 reads as follows:

“...[The Commission] notes that the compulsory nature of religious education is currently the subject of public debate in Turkey and considers that, in order to guarantee the respect of personal choice in matters of religion, thereby contributing to the respect of genuine plurality, religious education should not be compulsory.”

105. The relevant section of the Report of the Commission on Türkiye dated June 25th 2004 reads as follows:

“68. ... [The Commission] considers the situation unclear: if this is indeed a course on the different religious cultures, there is no reason to make it compulsory for Muslim children alone. Conversely, if the course is essentially designed to teach the Muslim religion, it is a course on a specific religion and should not be compulsory, in order to preserve children's and their parents' religious freedom.”

106. The relevant section of the Report of the Commission on Türkiye dated December 10th 2010 reads as follows:

“72...[The Commission] observed that if the course indeed covered different religious cultures, there should be no reason to make it compulsory for Muslim children alone; conversely, if it was essentially designed to teach the Muslim religion, it should not be compulsory, in order to preserve children’s and their parents’ religious freedom....”

73. No significant changes in practice have been reported since [the Commission]’s third report; numerous sources consider that the compulsory religious education delivered in state schools in accordance with Article 24 of the Constitution and Article 12 of Law No. 1739 on National Education still focuses essentially on instruction in the principles of the Sunni Muslim faith.

74. [The Commission] refers to its recommendations made elsewhere in this report regarding the implementation of the judgment of the European Court of Human Rights in the case of Zengin Hasan and Eylem,³² and emphasises the need to ensure that the convictions of members of all religious minority groups are respected in the education system, including the convictions of persons who do not want their children to receive any religious instruction at school.”

107. The relevant section of the Report of the Commission on Türkiye dated June 30th 2016 reads as follows:

“89. ...As ending structural discrimination in these fields and in particular in religious education is important for sustainable integration of minority groups, [the Commission] notes with regret that the ECtHR has again found serious violations...

90. These cases show that the authorities still do not respect the state’s duty to neutrality and impartiality in religious matters and that this results in various forms of structural discrimination against religious minority groups. Since ending such structural discrimination is important for successful integration, [the Commission] again urges the authorities to expedite implementation of the ECtHR judgments in this field...”

7. The Convention and the Jurisprudence of the European Court of Human Rights

a. The Right of Parents to Demand Respect for their Religious and Philosophical Beliefs in Education

108. Article 2 of the First Protocol to the Convention (P1-2) is as follows:

“No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.”

....

127. The relevant section of Article 9 of the Convention reads as follows:

“1. Everyone has the right to freedom of thought, conscience and religion; this

right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance...”

128. According to the ECtHR, as the second sentence of P1-2 only encompasses a right for parents, a child receiving education cannot claim that s/he is a victim of a violation of the right accorded to parents under the second sentence of P1-2 (Eriksson/Sweden, § 93). However, children may base their cases on the issue of respect for their religious beliefs in matters related to education on Article 9 of the Convention. The ECtHR states that Article 9 of the Convention provides protection against state religious indoctrination. According to the ECtHR, this article primarily protects the area of personal and religious beliefs (Saniewski/Poland (dec.), B. No: 40319/98, 26/6/2001).

129. On the other hand, the ECtHR has indicated that the freedom to manifest one's religious beliefs comprises also a negative aspect, namely the right of individuals not to be required to reveal their faith or religious beliefs and not to be compelled to assume a stance from which it may be inferred whether or not they have such beliefs (Grzelak/Poland, B. No: 7710/02, 15/6/2010, § 87).

130. The ECtHR has observed that that information about personal religious and philosophical conviction concerns some of the most intimate aspects of private life, and that imposing an obligation on parents to disclose detailed information to the school authorities about their religious and philosophical convictions may constitute a violation of Article 8 of the Convention and possibly also of Article 9 (Folgerø et al /Norway, § 98).

VI. RULING

It has been decided on April 7th 2022:

A. 1. by MAJORITY VOTE, and with the dissenting votes of Kadir ÖZKAYA, Recai AKYEL, Yıldız SEFERİNOĞLU, Selahaddin MENTEŞ, Basri BAĞCI and İrfan FİDAN, that the parents' claim that their right to demand respect for their religious and philosophical beliefs in education IS ADMISSIBLE;

B. by MAJORITY VOTE, and with the dissenting votes of Kadir ÖZKAYA, Hicabi DURSUN, Muammer TOPAL, Recai AKYEL, Yıldız SEFERİNOĞLU, Selahaddin MENTEŞ and İrfan FİDAN, that the rights of parents to demand respect for their religious and philosophical beliefs in education guaranteed in the fourth clause of Article 24 of the Constitution HAS BEEN VIOLATED;

C. That moral compensation of TL20,000 be PAID JOINTLY to the applicants, and the other claims for compensation BE REJECTED;

F. That copies of the ruling are to BE SENT to the Council of the State and the Ministry of National Education for their information;

G. That a copy of the ruling is to BE SENT to the Ministry of Justice.



ADO

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