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# The EU and Minority Rights in Turkey

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The Turkish state pursues a two-pronged policy toward minorities. First, Turkey follows a pseudo-conciliatory policy in responding to European Union (EU) pressures and demands. Turkey presents an image of a responsible state in fulfilling the EU criteria, while in fact trying to prevent any significant change the accession process might encourage in its traditional minority regime. For example, the Turkish state points out its cooperation with the Organization for Security and Cooperation in Europe (OSCE), but this cooperation is mainly motivated by fighting against intolerance and discrimination toward Muslims. Second, the Turkish state employs restrictive measures and political maneuvers in minority rights in the domestic scene. The aim of the Turkish policy is to stay within the boundaries of the Treaty of Lausanne and prioritize national security considerations over minority issues. However, Turkey's traditional minority regime falls short even of the requirements of Lausanne, while bringing the Lausanne legal framework to the fore against the EU demands and pressures. The Turkish state follows this dual policy of pseudo-conciliation vis-à-vis EU demands with an understanding that it can handle the whole process through diplomatic negotiation and domestic legal and political measures. The minority issue we discuss below reflects this attitude.

## CONTINUITIES AND BOTTLENECKS IN EU–TURKEY RELATIONS

Turkey–EU relations have not followed a harmonious pattern; on the contrary, they have consisted of ups and downs—sometimes dominated by mutual sharing of common concerns, and sometimes fluctuating with conjectural events in

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domestic and international politics. Modernization in the Turkish context has always referred to Westernization, and European orientation in Turkish foreign policy has been a characteristic principle of policymaking; yet the EU accession process has proven to be one of a dedicated but troublesome journey, frequently referred to as “Turkey’s long march toward Europe.”<sup>1</sup> The political conditions of the Copenhagen membership criteria, especially regarding the status of human rights and democracy in Turkey, have been the main obstacles to Turkey’s membership. Hence, it was only with a more-liberal understanding of human rights and democratization that Turkey was able to receive candidate status in the 1999 Helsinki Council Summit. Since then, Turkey has adopted several constitutional reform packages that proved satisfactory for starting accession negotiations with the EU on 3 October 2005, but the principles governing the negotiations released by the EU Commission included that “in the case of a serious and persistent breach in Turkey of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law on which the Union is founded, the Commission will, on its own initiative or on the request of one of the Member States, recommend the suspension of negotiations and propose the conditions for eventual resumption.”<sup>2</sup>

Despite an expansive reform program undertaken by Turkey in fulfilling the Copenhagen criteria, there are still some areas challenging the future of the negotiation process, which are, briefly: the Cyprus issue, the extension of cultural rights and religious freedom to minority groups in practice, the role of the military in politics, and the stabilization of the economy.<sup>3</sup> All of these four areas point to the significance of Turkey’s need to become further Europeanized in order to become an EU member state, especially the first three—the Cyprus conflict, minority issues, and the democratic control of the armed forces—which additionally pinpoint the bottlenecks (sometimes called the “red lines”) in Turkish politics, where the most fierce resistance to change occurs in the Turkish polity.

Turkey has traditionally pursued a “difference” argument in these purely political issues, emphasizing that Turkey followed routes to the consolidation of democracy different from those taken by the European Union countries. For instance, in the area of democratic control of the armed forces, Turkey emphasized a role for the Turkish military in the modernization and Westernization of the country that was different from that of its European counter-

<sup>1</sup> Bulent Aras and Bulent Gokay, “Turkey after Copenhagen: Walking a Tightrope,” *Journal of Southern Europe and the Balkans* 5 (Summer 2003): 147–168.

<sup>2</sup> European Commission, “Negotiating Framework For Turkey 2005,” accessed at [http://europa.eu.int/comm/enlargement/docs/pdf/st20002\\_en05\\_TR\\_framedoc.pdf](http://europa.eu.int/comm/enlargement/docs/pdf/st20002_en05_TR_framedoc.pdf), 3 October 2005.

<sup>3</sup> Ziya Öniş, “Domestic Politics, International Norms and Challenges to the State: Turkey–EU Relations in the Post-Helsinki Era,” *Turkish Studies* 4 (2003): 9–34.

parts.<sup>4</sup> By the same token, in the area of minority issues, Turkey argued that Turkish nation building involved democratic norms and, what is more, that unification was achieved by the equality principle of citizenship, which resolved the minority question in the country by placing all inhabitants of Turkey on the same and equal footing.<sup>5</sup> Turkey traditionally enforced the position that it did not contain minorities other than the non-Muslim communities—the Armenians, the Greeks, and the Jews—who were granted the official status of minorities by the 1923 Treaty of Lausanne and were included in the universal legal framework with the same sets of rights and liberties that other citizens enjoyed. Yet, the equal-citizenship framework has not been found satisfactory by the EU, because in its regular reports on Turkey since 1998, the European Commission has focused extensively on the shortcomings in the protection of minorities and minority rights in Turkey. Despite the constitutional amendments that widened the rights and liberties of the minorities, following which Turkey was found eligible to start accession negotiations, the issue of minorities has been one of the essential and sound components of the negotiation agenda.

#### TURKEY'S TRADITIONAL MINORITY REGIME

Turkey's minority regime is the result of a dynamic process taking shape under the foundational legal framework of the Treaty of Lausanne (and, to a limited extent, the Bulgarian–Turkish Treaty of Friendship) and the strategies of the Turkish state and society regarding minorities in Turkey. There emerges a dilemma between the legal framework and the practical situation, and one witnesses the gap between legal rights and their applicability in Turkey's minority regime.

The fundamental principles of Turkey's minority regime were set by the Treaty of Lausanne in 1923. The Treaty was signed by Turkey and Allied forces France, Britain, Italy, and Greece after the defeat of the Greek forces in the so-called Turkish Independence War of 1919–1922 and was put under the guarantee of the League of Nations. Since the Treaty regulates a broad range of issues between Turkey and other signatory parties, it is seen as the foundation treaty of modern Turkey. With regard to the protection of minorities and minority rights, Articles 37–45 of the Treaty specifically regulate the status of minorities in Turkey. Accordingly, only the non-Muslim communities are

<sup>4</sup> Frederic Misrahi, "The EU and the Civil Democratic Control of Armed Forces: An Analysis of Recent Developments in Turkey," *Perspectives: Central European Review of International Relations* 22 (2004): 22–42; Ümit Cizre, "Problems of Democratic Governance of Civil-Military Relations in Turkey and the European Enlargement Zone," *European Journal of Political Research* 43 (2004): 107–125.

<sup>5</sup> Sule Toktas, "Citizenship and Minorities: A Historical Overview of Turkey's Jewish Minority," *The Journal of Historical Sociology* 18 (2005): 394–429.

recognized as minorities and are granted the right to use their own language, the right of political and civic equality, the right to establish religious, educational, and social welfare institutions, and the right to freedom of religion, travel, and migration.<sup>6</sup>

These articles on non-Muslim groups target the protection of their freedom of religion and provide equality before the law. They put minority citizens on an equal footing with all other Turkish citizens in terms of rights and liberties. Therefore, when specifying rights for minority communities, the Treaty indirectly refers to the rights of all inhabitants and pinpoints universal citizenship rights as well. Indeed, the Treaty's conceptualization of citizenship has led some scholars to conclude that it was actually a human rights document that would cover all citizens regardless of minority or majority origin.<sup>7</sup> Article 45 stipulates that minority rights covered under Articles 37–44 are to be reciprocated by Greece and will be granted to the ethnic Turks living in western Thrace as well. As a result, Greece is under an international obligation to protect its own minorities.

The Treaty does not mention any specific non-Muslim community. However, according to Turkey's official position, only Armenians, Greeks, and Jews are accepted as minorities because they were the three largest *Millet* groups in the Ottoman administration system. Other non-Muslim religious groups, for example, Assyrians, Chaldeans, and Nestorians, who were not included in the Ottoman Millet system, were denied any distinct minority status. By the same token, the Baha'is, the Yezidis, and believers of the Syrian Orthodox Church, the Catholic United churches (the Chaldean Church and the Syrian Catholic Church), and the Roman Catholic Church were not included in the protectionist framework that emerged from the official interpretation of the Treaty.<sup>8</sup>

Since 1923, Turkey has not made any changes to the interpretation and application of the Treaty, with the exception of the 1925 Bulgarian-Turkish Treaty of Friendship. It added the Bulgarians (Christians of Turkish origin) of Istanbul to the range of recognized minorities. A protocol appended to the Treaty of Friendship stated that Bulgaria would apply all the relevant regulations (liberties of religion, language, education, etc.) in the Treaty of Neuilly to Turks living in Bulgaria and, in return, Turkey would apply all minority regulations in the Treaty of Lausanne to Bulgarians living in Turkey. However, the recognition of the Bulgarians' minority status is not significant

<sup>6</sup> Jacob C. Hurewitz, *Diplomacy in the Near & Middle East: A Documentary Record 1914–1956* (Princeton, NJ, London, Toronto, New York: D. Van Nostrand, 1956), 122.

<sup>7</sup> Baskın Oran, *Türkiye'de Azınlıklar: Kavramlar, Lozan, İç Mevzuat, İçtihat ve Uygulama* (Minorities in Turkey: Concepts, Regulations, Adaptation and Interpretations) (Istanbul: Tesev Yayınları, 2004), 63.

<sup>8</sup> Otmar Oehring, *Human Rights in Turkey: Secularism=Religious Freedom?* (Aachen, Germany: Internationales Katholisches Missionswerk e.V. Human Rights Office, 2002), 13.

in practical terms, since there is no significant Bulgarian minority in Turkey. This lack of change in the minority framework could not prevent the emergence of some active non-Muslim groups in Turkey after 1923. These are mainly the Protestant free churches and Jehovah's Witnesses.<sup>9</sup>

In terms of the current population figures, there are no reliable statistics available. Yet, it is estimated that out of a total of around 72 million people living in Turkey, there are around 90,500 non-Muslims who fall under the category of officially recognized minorities.<sup>10</sup> These minorities are composed of approximately 65,000 Armenian Orthodox Christians, 23,000 Jews, and fewer than 2,500 Greek Orthodox Christians. Regarding the population figures of the non-Muslims, those without the status of minority, who are left to enjoy only the existing universal framework of Turkish citizenship, there are approximately 10,000 Baha'is, an estimated 15,000 Assyrian Orthodox (Syriac) Christians, 5,000 Yezidis, 3,300 Jehovah's Witnesses, 3,000 Protestants, and small undetermined numbers of Bulgarian, Chaldean, Nestorian, Georgian, Roman Catholic, and Maronite Christians.<sup>11</sup> The community sources also confirm these estimations to a large extent.<sup>12</sup> According to data collected from community resources, there are 100,000 Christians in Turkey, including Arab Orthodox (10,000 in Hatay and İçel), Armenian Catholic (2,000 in Istanbul), Armenian Orthodox (50,000–60,000 in Istanbul), Chaldean (300 in Istanbul), Greek Orthodox (1,500 in Istanbul), Roman Catholic (15,000 Apostolic Vicarate of Istanbul, 1,300 Archdiocese of İzmir, 4,500 Apostolic Vicarate of Anatolia), Syrian Catholic (1,250 in Istanbul), Syrian Orthodox (10,000 Archdiocese of Istanbul and 3,000 Archdiocese of Turcabdin), and other Christians (10,000–15,000).<sup>13</sup>

Turkey's minority regime does not consist only of legal foundations, but also has political, societal, and cultural dimensions. It is also about real-life situations of the minorities in Turkey. The established regime and physical existence of the minorities bring us to the applicability of the measures protecting minority rights. Indeed, the inclusion of the Greeks, Armenians, and Jews in the minority category did not provide them with full protection. There have been incidents from time to time that range from simple security problems to destruction of minority identity. These incidents create suspicions about the reality of equality before the law, one of the fundamental principles of Turkish citizenship. For instance, to be more specific, the "Citizen Speak Turkish!" campaign of the 1930s severely obstructed minorities' right to use

<sup>9</sup> Ibid.

<sup>10</sup> United States of America Department of State Bureau of Democracy, Human Rights, and Labor, "International Religious Freedom Report: Turkey 2005," accessed at <http://www.state.gov/g/drl/rls/irf/2005/51586.htm>, 8 November 2005.

<sup>11</sup> Ibid.

<sup>12</sup> Oehring, *Human Rights in Turkey*, 5.

<sup>13</sup> Ibid.

their own language, which is secured by Article 40 of the Treaty of Lausanne. The campaign was originally launched by a group of university students in Istanbul in 1928 with the aim of popularizing the use of Turkish in the public sphere. However, it gained wide public and media support, and continued its influence until the early 1940s. It targeted, among others, the non-Muslims living in urban areas and, in particular, those who resisted speaking Turkish. There have been charges against minorities under Article 159 of the Penal Code, known as the “Insulting Turkishness” clause.<sup>14</sup>

The minority regime—though it is under international guarantee within the framework of the Treaty of Lausanne—has been violated continuously by domestic political maneuvers and measures operating within the pretext of country-specific conditions. The Incident of Reserves led to mass civil rights violations during the tense years of World War II, as military recruitment in 1941 was subject to segregation. A new special reserve force was formed, composed solely of non-Muslims. These non-Muslim soldiers were disarmed and were used as free labor in building national parks and roads and collecting garbage instead of doing usual military service.<sup>15</sup> Until the end of World War II, the military academies set forth “being of the Turkish race” as an eligibility requirement for admission to the professional military cadres.<sup>16</sup>

Another incident that violated the principle of equality was the Law on Capital Tax (Law No. 4305) issued in 1942, which required non-Muslim minorities to pay higher taxes. Although the capital tax was a special one-time tax designed to provide additional resources for the treasury and to discourage a war economy, market speculation, and profiteering, the local tax commissions set a higher rate for non-Muslims.<sup>17</sup> To pay the tax, most non-Muslims were forced to sell off their property. The ones who were unable to pay were sent to labor camps far away from their homes. The capital tax was in force for two years and was abandoned in 1944. It targeted the perceived wealth of non-Muslim minorities and aimed to redistribute their capital to the more-trusted segments of society.<sup>18</sup> This incident has symbolic meaning, since it exemplifies an organized state violation of minority rights under the pretext of “specific conditions.” That is, the Turkish state follows a policy of controlling

<sup>14</sup> Avner Levi, *Türkiye Cumhuriyeti’nde Yahudiler: Hukuki ve Siyasi Durumları (Jews in the Turkish Republic: Legal and Political Status)* (Istanbul: İletişim Yayınları, 1998), 66.

<sup>15</sup> Rıfat N. Bali, “II. Dünya Savaşı Yıllarında Türkiye’de Azınlıklar I – Yirmi Kur’a İhtiyatlar Olayı (“Minorities in Turkey During World War II – The Case of the Reserve Troop”),” *Tarih ve Toplum* 179 (Spring 1998): 4–18.

<sup>16</sup> Rıfat N. Bali, *Cumhuriyet Yıllarında Türkiye Yahudileri: Bir Türkleştirme Serüveni (Turkish Jews in the Republican Period: An Adventure of Turkification)* (Istanbul: İletişim Yayınları, 2000), 410.

<sup>17</sup> Faik Ökte, *The Tragedy of the Turkish Capital Tax* (London, and Dover, NH: Croom Helm, 1987), 24.

<sup>18</sup> Çağlar Keyder, *Türkiye’de Devlet ve Sınıflar (State and Class in Turkey)* (Istanbul: İletişim Yayınları, 1989).

the minority regime and the minorities if they come into conflict with the state establishment's reservations and preoccupations over minority rights.

This state attitude can be seen in the violation of non-Muslim minorities' right to establish religious, educational, and social welfare institutions, which is granted by Lausanne Articles 40, 41, and 42. Minority schools have experienced restrictions in the appointment of teachers,<sup>19</sup> and they have not received funds from local or national educational budgets, contrary to their legal rights to benefit from them.<sup>20</sup> Non-Muslim minorities, despite their legal status, could not establish new places of worship until 2003. In addition, before 2002, minority foundations were not allowed to purchase, acquire, or sell any property. Even the repair of facilities was strictly controlled, if permitted, by the state authorities. The legal foundation of this prohibition was the 1935 Law on Religious Foundations No. 2762, which urged all foundations—Muslim and non-Muslim—to prepare a declaration of properties that they owned at the time. In 1974, the Court of Cassation ruled that no corporate body consisting of foreigners would be allowed to obtain immovable property. Non-Muslim Turkish citizens were put into the category of “foreigner,” and their property was limited to what they declared on the 1936 listing. Accordingly, properties purchased or donated after 1936 were considered illegal. State authorities returned these properties to the heirs of those who had first donated them, and confiscated some properties if no suitable heir was found.<sup>21</sup> A new Law on Foundations was drafted by the Turkish Grand National Assembly in 2006 and ratified by the Turkish Grand National Assembly and put into effect in 2008. The new draft law does not provide an ultimate solution to the problems of community property belonging to the non-Muslim foundations, yet it is more promising than the existing 1935 law. Regarding educational rights provided in Article 40 of the Treaty of Lausanne, the clergy training institution of the Armenian Patriarchate was closed in 1970 due to lack of sufficient numbers of students. The Halki Theological College (the higher education component of the Halki Seminary) was closed in 1971 due to closure of all private higher educational institutions (religious or academic, Muslim or non-Muslim) that year.<sup>22</sup>

The state authorities did not want to pursue the minority regime within the framework of the Treaty of Lausanne. Since the signing of the Treaty domestic legal measures and political moves have simply limited the rights it

<sup>19</sup> Bali, *Cumhuriyet Yıllarında Türkiye Yahudileri*, 34.

<sup>20</sup> Oran, *Türkiye'de Azınlıklar*, 56.

<sup>21</sup> Baskın Oran, *Türk Dış Politikası: Kurtuluş Savaşından Bugüne Olaylar, Belgeler, Yorumlar (Turkish Foreign Policy: Events, Documents and Interpretations since the Independence War)* (Istanbul: İletişim Yayınları, 2001), 229.

<sup>22</sup> Hidayet Vahapoğlu, *Osmanlı'dan Günümüze Azınlık ve Yabancı Okulları (Minority and Foreign Schools since the Ottoman Empire)* (Istanbul: Boğaziçi Yayınları, 1992); Emre Özyılmaz, *Heybeliada Ruhban Okulu (Halki Seminary)* (Ankara: Tamga Yayıncılık, Matbaacılık, Eğitim, Danışmanlık Ltd. Şti., 2000).

granted. As a meaningful example of the underlying state establishment's treatment of non-Muslim minority rights, among all the rights covered in Articles 37–45, only the right to migrate faced minimum violation. Except in very few cases of prohibitions due to security considerations,<sup>23</sup> all minorities were able to leave Turkey and settle abroad. The Jews freely emigrated to Israel in masses after its foundation in 1948, as did Turkish citizens of Greek origin after the abolition of the Ankara Agreement in 1964 that ended the settlement rights granted to Greek citizens in Turkey. Although Turkey never encouraged non-Muslim Turkish citizens to leave the country, when the non-Muslims wanted to emigrate, no extra barriers were put in front of them. They were able to use their right to migrate to its full extent.

Although the above incidents show that most of the massive violations happened in the early years of the Turkish Republic, the tendency for de facto cases, which are in sharp contrast to a de jure situation, is seen by the absence of non-Muslims in state or military office, with the exception of a limited number of teachers and academics in public schools and universities. Indeed, there are no legal provisions that prohibit non-Muslims from taking part in public office. The security of the non-Muslim minorities was also threatened by mobs or groups from time to time.<sup>24</sup> For instance, in the Thrace incidents of 1934, Jews living in various towns and cities of the Thrace region were attacked by mobs. The attackers were provoked by the nationalist-racist propaganda of some writers and journalists, which resulted in the migration of Jews to Istanbul or to even further destinations like Palestine. In a similar example, Greeks were the main targets of violence by mobs in the events of 6–7 September 1955. This societal violence was the result of provocations after the burning of Atatürk's house in Salonika, Greece. The events of 6–7 September created a sense of insecurity among this minority. In the aftermath of the incidents, many Greeks emigrated to Greece, as did the Armenians and Jews to destinations in Europe, the Middle East, and the United States. The decrease of the non-Muslim minority population due to migration continued in the 1960s and 1970s with the insecure environment created particularly by the Cyprus conflict of 1974 and the terror attacks by the Armenian Secret Army for the Liberation of Armenia (ASALA) against Turkish diplomats on outside missions. The assassination of Hrant Dink, the Turkish-Armenian intellectual and a journalist at *Agos*—the Armenian community's news daily published in both Turkish and Armenian—on 19 January 2007 in Istanbul by an extreme

<sup>23</sup> Erol Haker, *Bir Zamanlar Kırklareli'de Yahudiler Yaşardı: Kırklarelili Adato Ailesi'nin Öyküsü* (Once Upon a Time There Lived Jews in Kırklareli: The story of Adato Family) (Istanbul: İletişim Yayınları, 2002); Henri Nahum, *İzmir Yahudileri: 19.-20. Yüzyıl* (Jews of Izmir: 19. and 20. Centuries) (Istanbul: İletişim Yayınları, 2000); Avner Levi, "Elza Niyego Olayı ve Türk Yahudi İlişkilerine Yeni Bir Bakış ("The Case of Elza Niyego and a New Approach to Turkish Jewish Relations"), *Tarih ve Toplum* 25 (Summer 1996): 23–27.

<sup>24</sup> Şule Toktaş, "Perceptions of Anti-Semitism among Turkish Jews," *Turkish Studies* 7 (Spring 2006): 203–223.

nationalist civilian youngster is one of the most recent examples illustrating the insecure social and political environment for the non-Muslims of Turkey. Other examples include the murder of a Catholic priest in Trabzon (a northern province in the Black Sea region) in 2006, the kidnapping of an Assyrian Orthodox priest in 2007 in Mardin (a historically multicultural and multi-religious province in southeast Anatolia), and in the same year, the murder of Protestant missionaries in Malatya (a province in the East Anatolia region).

In addition to the non-Muslim minorities, Turkey has an Alewite minority, in contrast to the Sunnite majority of the population. The Turk category usually incorporated Hanefi-Sunnite definitions of Turkishness, and even the migratory regime of Turkey reflected such a tendency, as usually those immigrants of Hanefi-Sunnite origin from the Balkans and the Caucasus had been permitted to settle in the country. The sectarian primacy given to Sunnite citizens is also visible in the national education system. Religious instruction courses at the primary and secondary education levels follow a strictly Sunnite understanding of morality, a situation frequently criticized by the Alewite groups and civil organizations. Turkey, from time to time, has been taken to the European Court of Human Rights (ECHR) because of its treatment of Alewite citizens. These court cases relate mainly to the obligatory nature of religion courses in the national education curriculum, which the Alewites see as a violation of the principle of secularism and equal treatment by the state of its citizens. In a similar vein, some Alewites saw the appearance of religion on identity cards as a breach of secularism and a tool of discrimination, subsequently suing Turkey at the ECHR.

All in all, the above discussion illustrates that Turkey's traditional minority regime is restrictive in character and, in terms of ensuring that minorities, whether non-Muslim or non-Sunnite, would benefit from their rights, it falls short of the legal foundations of the Treaty of Lausanne. The Turkish state wants to retain control in determining the boundaries of its minority regime even to the extent of not fulfilling the obligations of the Treaty of Lausanne, considered the foundation treaty of the modern republic. The Turkish state developed a habit of manipulating this regime through domestic legal measures and political maneuvers. It had societal support to limit minority rights, which carries the state attitude to daily life strategies. Turkey's minority regime is therefore the result of a dynamic process, which has a legal foundational base on the one hand, and state preoccupation with controlling minorities, which is backed by societal strategies, on the other. In the resulting situation, one may talk of the ongoing conflicting situation between the *de jure* and *de facto* habitat of minority rights in Turkey.

#### THE EU CHALLENGE TO THE MINORITY REGIME IN TURKEY

The EU has created a multi-dimensional approach to improving minority regimes in candidate countries. The EU defines the protection of minority rights

as a moral condition for membership and ensures that there is a certain standard in the Union, even if there is no common policy on this issue. At another level, the Copenhagen criteria, internal treaties, and other mechanisms serve to improve human rights and democracy, establish the rule of law, and develop civil initiatives, which in the end create a suitable domestic and international environment for minority rights. In this vein, there emerges a checks-and-balances system over national authorities through the EU's encouragement and motivation and domestic demands to maintain a sustainable minority regime. At the third level, the EU preserves a dynamism in seeking the protection of minority rights under the guidelines of new treaties and provisions of the OSCE like institutions, in line with more-universal documents and mechanisms, to provide a better understanding and practice of minority rights in member states. The EU makes the candidate states a part of this dynamic process, employing a number of mechanisms during the accession process.

The EU countries demand higher standards from the prospective members, while they remain unwilling to meet these standards with regard to their own minority groups.<sup>25</sup> What makes these criticisms meaningful is that Western European countries have their own minority problems. In this sense, Germany does not recognize its Turkish population as constituting a national minority and claims that they are new in the country and are mainly guest workers. Luxembourg claims it does not have any minorities. In a similar vein, France has not signed the Framework Convention for the Protection of National Minorities and sticks strongly to Republican principles of unity. Slovakia was criticized for discriminating against the Roma, especially in education and employment. This discrimination is also present in Italy.<sup>26</sup> EU demands have been vague and open to interpretation. The lack of a common EU policy, as well as diverse minority policies in the EU states, create this ambiguity on minority issues.<sup>27</sup> The EU prefers to create a moral concern for the improvement of minority rights in the member states, while creating a condition of higher standards for candidate states by utilizing the mechanisms of the enlargement process. The idea is to establish a quick improvement in the member states, but this apparent double standard raises suspicions about the EU's handling of the minority issue with candidate countries, not to mention its strengthening of Euro-skepticism in these countries.

The European Union seriously challenges the conventional minority regime of Turkey. The Commission, via its annual progress reports on Turkey, the Council, via its summit decisions, and the Parliament, via oral and written

<sup>25</sup> Michael Johns, "‘Do As I Say, Not As I Do’: The European Union, Eastern Europe and Minority Rights," *East European Politics and Societies* 17 (Fall 2005): 682–699, at 684.

<sup>26</sup> *Ibid.*, 689–695.

<sup>27</sup> Peter Vermeersch, "EU Enlargement and Minority Rights Policies in Central Europe: Explaining Policy Shifts in the Czech Republic, Hungary and Poland," *Journal on Ethnopolitics and Minority Issues in Europe* 1 (Winter 2003): 1–32, at 9.

questions addressed in the assembly, emphasize the need for better treatment of minorities in Turkey and call on Turkey to improve its human as well as minority rights record. The EU progress reports on Turkey have included calls for reform on the issues of protection of minorities and minority rights.<sup>28</sup> The importance of these reports comes from their content, which consists of expectations of Turkey in the accession process and the Commission's monitoring of Turkey's achievements and progress in this regard. The reports present a comparative assessment of Turkey's fulfillment of political criteria in relation to the previous year's report and also include shortcomings in the area of minority rights and the protection of minorities.

The Commission released eight reports in the period 1998–2005. At the outset, the first point is that these reports got longer every year; the assessment of minorities, cultural rights, and religious freedom occupies more space in the reports. In the reports released between 1998 and 2002, minority issues did not dominate, but in the subsequent reports of 2003, 2004, and 2005, we see more-detailed assessment of these issues. In addition, although the issues related to recognized minorities (Armenians, Greeks, and Jews), the Assyrians, the Kurds, and the Alewites have always been addressed in every progress report, both these issues and these minority groups were diversified in consequent annual reports. For instance, in the more-recent reports, the issues related to the non-Muslim minorities that fall outside the scope of the Treaty of Lausanne (that is the Protestants and the Catholics) and to other minority groups such as the Bosnians, Arabs, Caucasians, the Roma, the Baha'is were included. This diversification of the minority listing in subsequent reports might be interpreted as an increasing effort on the EU's part to encourage Turkey to reconsider its minority regime. An alternative interpretation is that the EU is pointing out Turkey's shortcomings in fulfilling the Copenhagen criteria, which must be addressed in Turkey's EU membership bid.

The EU employs the same multi-dimensional approach in making the fulfillment of minority-related criteria a condition in Turkey's membership process. The EU refers to minority issues as an important moral norm, while referring to a number of internal and international treaties and OSCE provisions when it comes to defining EU expectations of Turkey. Although Turkey has signed and ratified major and substantial human rights documents, treaties, and conventions, the reports insist on mentioning that Turkey has not signed the Framework Convention for the Protection of National Minorities. The Framework Convention has no exact definition of national minority,<sup>29</sup> but it

<sup>28</sup> James Hughes and Gwendolyn Sasse, "Monitoring the Monitors: EU Enlargement Conditionality and Minority Protection in the CEECs," *Journal on Ethnopolitics and Minority Issues in Europe* 1 (Winter 2000): 1–37, at 3.

<sup>29</sup> Kinga Gal, "The Council of Europe Framework Convention for the Protection of National Minorities and Its Impact on Central and Eastern Europe," *Journal on Ethnopolitics and Minority Issues in Europe* 1 (Winter 2000): 1–17, at 2.

allows states to retain the legal upper hand on minority issues by not compelling the states to fulfill any of the Framework Convention requirements, only urging them to create conditions for their implementation.<sup>30</sup> EU Ankara representative Hans Jörg Kretschmer said in an interview dating 24 November 2005 that “an ordinary person on the street would not know the Convention [the Framework Convention]. S/he would only know as much as the media and the politicians explain. No matter whether Turkey has signed or not signed the Convention, there are basic principles of minority rights. In Europe, there is no single uniform position regarding the protection of minorities but instead there are many approaches. However, it is clear from the decisions of the European Court of Human Rights that there are some criteria.”<sup>31</sup> The EU’s pressure on Turkey to sign the Convention has not been successful. Turkey responds with claims that it is a unitary republic and does not have a minority question.

From the Turkish perspective, there is no need to sign the Convention, since the Turkish Constitution and the Treaty of Lausanne provide protection and equal treatment of non-Muslim minorities, which also allegedly satisfies the Copenhagen criteria. No further international convention is seen as necessary in this regard. The Commission also points to the reservations made to the United Nations Covenant on Civil and Political Rights (ICCPR) regarding the rights of minorities and to the United Nations Covenant on Economic, Social, and Cultural Rights (ICESCR) regarding the right of education in the mother tongue. The reports mention that these reservations could prevent further progress on the protection of the rights of minorities outside the scope of the Treaty of Lausanne. However, the Commission also recommends that Turkey cooperate with the OSCE High Commissioner for National Minorities. Generally, the OSCE proceedings do not have legally binding status. They mainly include political commitment. Therefore, OSCE liabilities are not part of international law. However, they are important in the sense that they are norm-establishing and guiding. Turkey ratified the OSCE Helsinki Act in 1992 but made a declaration that according to the constitutional order of Turkey, the term *minority* refers only to that covered in the bilateral and multilateral treaties to which Turkey is a signatory.<sup>32</sup> The OSCE Chair’s Personal Representative on Combating Intolerance and Discrimination against Muslims was a Turkish ambassador from 2000 to 2004.

In general, the experience of the Central and Eastern European Countries (CEECs) in their entrance into the EU illustrated that the right to non-discrimination as well as the protection of the cultural, linguistic, and religious

<sup>30</sup> Gregory Feldman, “Essential Crises: A Performative Approach to Migrants, Minorities, and the European Nation-State,” *Anthropological Quarterly* 78 (2005): 213–246, at 238.

<sup>31</sup> Nethaber, accessed at <http://www.nethaber.com/?h=37359>, 24 November 2005.

<sup>32</sup> Personal correspondence with Turkish Ministry of Foreign Affairs, letter received by the authors, 17 March 2006.

identity of individuals belonging to minorities were less-problematic issues during the EU's enlargement. In contrast, linguistic rights, and language use in private and in public settings, in education, media, culture, and official contacts, were the more-problematic issues.<sup>33</sup> A similarity can be seen with Turkey's accession process. Language rights and the right to an education in one's mother tongue are the most sensitive issues for Turkey, evidenced by the fact that Turkey has not been a signatory to the European Charter for Regional or Minority Languages despite the frequent references made in the Commission's regular reports on Turkey. However, there is a sharp difference between the EU's policy toward the CEECs and its policy toward Turkey. The Eastern candidates, who did not take into account the EU criticisms on minority issues, were not sanctioned, but Turkey and Slovakia in 1997 faced serious barriers.<sup>34</sup> In the 1997 Luxembourg Summit, the EU denied Turkey candidacy status, and for its failure to meet the Copenhagen political criteria, did not invite Slovakia to begin accession negotiations.

The EU has no control over the minority regimes of member states. In a similar vein, it does not have a consistent set of norms on minority rights, and member states have varied approaches and solutions to the question of handling differences and diversity in society. The EU's policy on improving minority rights in candidate states consists of a set of measures in a dynamic process, and the last enlargement toward the East has clarified the EU's stance on minority issues. This stance can be seen as greatly reflective of other international organizations and treaties and borrows concepts, norms, and standards mainly from the Council of Europe and the OSCE. The EU not only uses the treaties legislated by the Council of Europe (the Framework Convention for the Protection of National Minorities, the European Charter for Regional or Minority Languages, etc.) and the OSCE (the Helsinki Act), but also benefits from the data produced by their monitoring mechanisms, such as the European Commission Against Racism and Intolerance (ECRI) country reports and the OSCE High Commissioner on National Minorities. The annual reports on Turkey by the EU Commission exemplify the EU's attempt to improve minority rights within the same structural establishment. For example, the Commission's regular reports frequently utilize and refer to the data covered in the ECRI reports on Turkey.

The ECRI has released three reports on Turkey, in 1999, 2001, and 2005.<sup>35</sup> At this point, it becomes clear that the pressure of the EU on Turkey to change its traditional minority regime set out in the 1923 Treaty of Lausanne is part of a larger international framework. The basic norms, standards, and principles of

<sup>33</sup> Gal, "The Council of Europe," 5.

<sup>34</sup> Martin Brusis, "The European Union and Interethnic Power-sharing Arrangements in Accession Countries," *Journal on Ethnopolitics and Minority Issues in Europe* 1 (Winter 2003): 1–22, at 6.

<sup>35</sup> For full reports, see the website of ECRI at [http://www.coe.int/t/e/human\\_rights/ecri/1-ecri/2-Country-by-country\\_approach](http://www.coe.int/t/e/human_rights/ecri/1-ecri/2-Country-by-country_approach).

this framework have been initiated by the Council of Europe and the Organization for Security and Cooperation in Europe. This policy is in line with making the candidate state a part of the dynamic process of defining minority rights in wider processes so that the EU states are also part of them. This wider framework is aimed not at imposing a specific regime but at keeping the states in touch with universal norms on minority issues and guiding them to tackle their own minority issues. However, the candidate states feel more pressure in comparison to the member states. Turkey is a member of both institutions—the OSCE and Council of Europe. Therefore, Turkey's need to comply with international standards results not only from Turkey's EU bid but also from its membership responsibilities in these international organizations.

The EU keeps repeating its call for reforms in Turkey on the level of the Accession Partnership adopted by the Council in 2001 and revised in 2003 and 2006. Turkey preferred to respond with its National Program for the Adoption of the *Acquis* in 2001, which was revised in 2003. This document set out the actions to be taken by Turkey in the short term and the medium term to meet political and economic criteria and to adopt all the EU treaties and conventions and the decisions of the European Court of Justice, all of which compose the total body of EU law.<sup>36</sup> This document highlights that Turkey, on its road to conforming with the Copenhagen criteria, must refrain from any change in its minority regime, as it does not include any wording relevant to minority or religious freedom. Rather, the discourse and the general spirit of the document, in conformity with the founding principles of Turkey, rest on human rights and individual freedoms rather than on group rights or minority rights. Regarding the issue of religious freedom, the constitutional provisions were presented as sufficient for religious freedom. In addition, the Turkish state's secular character and secularism more generally, as one of the foundation stones of the Republic, were frequently emphasized throughout the document.

In accordance with the 2001 National Program for the Adoption of the *Acquis*, Turkey adopted 34 constitutional amendments on 3 October 2001. These amendments broadened the scope of rights and liberties, created better conditions for liberal market forces, and opened the way for the democratic control of the armed forces. In addition, various human rights bodies were established in the same year. The reforms continued in 2002 with a reform package consisting of major constitutional amendments to the 1982 constitution that covered the lifting of the death penalty, the possibility of radio and television broadcasting in Kurdish, the widening of freedom of expression, and greater freedom for non-Muslim religious minorities. The reform package included an amendment to the Law on Foundations that allowed non-Muslim

<sup>36</sup> The 2003 Turkish National Program for the Adoption of the *Acquis*, accessed at [http://ec.europa.eu/comm/enlargement/turkey/npaa\\_2003.htm](http://ec.europa.eu/comm/enlargement/turkey/npaa_2003.htm); the 2001 Turkish National Program for the Adoption of the *Acquis*, accessed at [http://europa.eu.int/comm/enlargement/turkey/pdf/npaa\\_full.pdf](http://europa.eu.int/comm/enlargement/turkey/pdf/npaa_full.pdf), 23 March 2006.

community foundations to acquire and dispose of property. However the Commission noted that these developments did not mean much in terms of solving a number of persistent problems of non-Muslim minorities. These problems are complicated bureaucratic procedures regarding the registration of property, the validity of the 1936 property listing, which leads to even further confiscation rather than returning previously confiscated properties, and the General Directorate of Foundations' control and frequent interference with the administration of these religious foundations. Some of the bureaucratic complications related to acquisition, disposition, and registration of the properties belonging to the non-Muslim foundations were resolved with the 2003 reform package. An amendment to the Law on Public Works replaced the word *mosque* with the phrase *places of worship*. Consequently, opening new churches, synagogues, or other places of worship for different beliefs in neighborhoods became legally possible.

The EU demand for the improvement of minority rights aims to widen the regime beyond the Lausanne framework. Turkey's accession process led to the improvement of non-Muslim rights in legal terms.<sup>37</sup> However, the Turkish state's traditional policy of employing political measures to prevent the use of these rights has again become evident. The EU demands for minority rights are vague and ambiguous. However, the Commission puts emphasis on minority issues and utilizes the enlargement process as political leverage to improve Turkey's minority regime. Turkey's resistance finds its expression in the National Program through selective adaptation of the EU *Acquis*. Minority rights face the same lack of consistency in the domestic arena through a filtering mechanism that makes it practically impossible to use these rights in real-life conditions. Turkey's response to the demands for improving non-Muslim minority rights does not go beyond, in a sense, a glossing of minority rights on paper.

#### TURKEY'S TOOLS OF EUROPEANIZATION OF ITS TRADITIONAL MINORITY REGIME: ELIMINATION OF DISCRIMINATION, CULTURAL RIGHTS, AND RELIGIOUS FREEDOM

Turkey pursues its conventional approach to the protection of minorities in its relations with the EU and does not plan to change the qualitative nature of these rights, neither expanding on them nor broaching them as a subject of discussion during negotiations with the EU.<sup>38</sup> Turkey considers the international dimension of the issues related to the recognized non-Muslim minorities a responsibility of the Ministry of Foreign Affairs. This approach aims to separate involvement in international conventions and treaties from their domestic

<sup>37</sup> Şule Toktaş, "EU Enlargement Conditions and Minority Protection: A Reflection on Turkey's Non-Muslim Minorities," *East European Quarterly* 40 (December 2006): 489–518.

<sup>38</sup> Personal correspondence to Turkish Ministry of Foreign Affairs, letter received by the authors, 17 March 2006.

context. However, the EU recommendations point to the need for changes in the domestic landscape as well. The Turkish state's strategy is to interpret EU demands in the regular reports on minority rights and protection of minorities within the broad definition of human rights. This attitude is usually the way EU member states treat their minority issues but falls short of what the EU expects from its candidate states. The Turkish state presents its position as that of a responsible partner in reforming individual rights and freedoms, while resisting the need to address minority rights as an independent issue. There seems to be an attempt to satisfy the minimum standards of protection for minorities within the National Program. As part of fulfilling the Copenhagen criteria and developing its human rights record, Turkey mainly uses three fields as spheres of change and reform without changing the overall minority framework: eliminating discrimination, improving cultural rights, and improving religious freedom.

As part of eliminating discrimination, Turkey did not alter the policy of specifying the faith of individuals on their national identity cards but allowed its citizens to leave their faith blank on their identity cards by their own will. In the past, some of the Yezidis were able to include *Yezidi* on their identity cards, but there have recently been cases demonstrating that they cannot write *Yezidi* on their identity cards, only an X.<sup>39</sup> Some sanctions have been adopted against intolerant expressions and acts directed at minority groups by sections of the media and members of the public. For example, some legal proceedings have been started against people who had made anti-Semitic statements. The new criminal code adopted in 2004 included some provisions aimed at fighting racism, prohibiting genocide and crimes against humanity, and penalizing discrimination based on language, race, color, religion, or sect in employment and access to services. The Labor Code, which was amended in 2003, targets the prohibition of discrimination on the grounds of language, race, religion, and membership in a religious group. The Ministry of Education attempted to eliminate prejudice against minorities from school textbooks. Religious textbooks have also been redrafted to address the concerns of Christian minorities. In 2005, the governors' office, under the Ministry of the Interior, assumed responsibility for some issues related to non-Muslim minorities' institutions, which had previously been the responsibility of the provincial security directorates. With the initiation of the new laws, the Directorate of Religious Foundations is paying the electricity bills of all places of worship, including those belonging to minority religious groups. The Directorate was previously paying only those of the mosques.

With regard to cultural rights, Turkey's Accession Partnership Document gave priority to enhancing the linguistic and cultural rights of minorities. Turkey

<sup>39</sup> Baskın Oran, *Türkiye İnsan Hakları Raporu 2005 (Human Rights Report of Turkey 2005)* (Istanbul: Tesev Yayınları, 2006).

did not grant recognition to the country's Kurds but granted universal cultural rights so that they benefited from the use of their mother tongue in broadcasting and in language schools. Consequently, as part of the 2002 major constitutional amendments, it became legal to broadcast in both minority languages and dialects used traditionally by many Turkish citizens in their daily lives. Although the official language of education in the schools remained Turkish, special courses for different languages and dialects were henceforth allowed. With the EU harmonization laws of 2003, it was possible to open private schools to teach languages and dialects. However, Turkey prohibits choosing names incorporating the letters Q, W, or X, which exist in the Kurdish language but not in the Turkish alphabet. Signs or letters that are not included in the official alphabet cannot be used. Similar alphabet problems are also experienced by the Assyrians. Turkish associations are allowed to join international organizations or take part in international activities without a requirement to apply for prior authorization.

The sphere of cultural rights is mainly related to reform needed to address the Kurdish question and the rights to be granted to the country's Kurds. With the reforms that expanded the civic liberties of establishing associations, and permitted learning Kurdish and using it in broadcasting, Turkey tried to meet the Copenhagen criteria without totally altering its minority regime. However, there are various problems in the field and in daily life that limit the use of these freedoms. There is still the gap between *de facto* and *de jure* minority issues. Kurdish broadcasts are strictly limited in duration—no more than 45 minutes a day and no more than four hours a week. Furthermore, radio channels that aim to broadcast in Kurdish face highly bureaucratic complications, and their applications are usually put on waiting lists for several years. Turkey does not plan to take further action that may signal an intention to recognize the Kurds as a minority group. Because the Kurdish question is one of the red lines in Turkish politics, Turkey has adopted a restrictive approach to cultural rights. The strongest arguments against the separation of Anatolia relate to the legacies of the Turkish Independence War, and this as a hallmark of Kemalist nationalism. Therefore, any demand for expanding cultural rights to a level that may provoke the fear of separation is met with suspicion and is rejected, if not blocked. It is in this context that Turkey, on the one hand, tried to meet the Copenhagen criteria for the cultural rights of minorities but, on the other hand, set barriers to further freedoms and rights that may pave the way for broadening the scope of officially recognized minorities beyond non-Muslim groups. The prime minister's human rights advisory board released a report on minorities and minority rights at a press conference dating 22 October 2004. The report made the point that the EU was not demanding that Turkey grant various cultural groups minority status but was rather demanding equal treatment for all citizens regardless of their cultural differences. The report also criticized Turkey for not implementing the Treaty of Lausanne to its full extent and for violating some of its articles. The educational rights of Article 40, for example,

were not granted to Assyrians. The Treaty of Lausanne grants broadcasting and publication rights to all Turkish citizens regardless of minority status. The report also referred to ECHR rulings and stated that although the conceptualizations of national security and territorial integrity were understandable to Westerners, national unity is not easy to comprehend, because, as the ECHR frequently emphasized in its various cases, the recognition of minorities in a country is unavoidable. The lack of recognition of non-Muslim minority foundations can be seen in two problematic cases: Balıklı Rum Hospital (recognized as an association, although it is a minority foundation) and Surp Hac Armenian High School (sold to a third party by the Treasury). There is a ministry of interior commission on minorities. The Sevres syndrome (the fear of disintegration) has turned into Sevres paranoia in Turkey. The report was heavily criticized by Kamu-Sen (a syndicate of civil servants) in front of the media during the press conference, and the report was torn up. The board, after this critical press conference, which provoked nationalist reaction among the public and the media, suspended its activities. The preparers of the report were taken to court because of the content of the report.

Another sphere of change with respect to the issue of minorities in Turkey–EU relations is religious freedom. Religious freedom in Turkey will be one of the most important issues to be covered during Turkey’s membership negotiations with the EU. The Commission Spokesman, Amadeu Altafaj Tardi, during a news briefing, said that “freedom of religion is the highest priority for us and it would be an essential point in the negotiations.” Likewise, Franco Frattini, the vice president of the European Commission and EU Commissioner for Justice, Freedom, and Security, during a speech he made regarding the killing of the priest Andrea Santoro in Trabzon, said that “freedom of religion will be a constant issue during Turkey’s membership negotiations with the EU.”<sup>40</sup> The reforms on non-Muslims and non-Sunni groups needed to fulfill the Copenhagen criteria generally occur in this sphere. Turkey has not extended minority recognition to religious groups other than those it already recognizes but has addressed this problem by enhancing freedom of religion. With the introduction of constitutional amendments in 2002, foundations run by non-Muslim minorities were allowed to acquire and dispose of property. With the amendment to the Law on Foundations, foundations run by non-Muslim minorities were allowed to register property that they actually used if they could provide satisfactory evidence of ownership. According to Law on Foundations enacted in 1935, the community foundations were initially administered by the General Directorate of Foundations. On the official website of the Directorate,<sup>41</sup> it is mentioned that as community foundations, those of Greeks, Armenians, and Jews are considered. Accordingly, there are 161 community

<sup>40</sup> *Turkish Daily News*, 20 February 2006.

<sup>41</sup> The General Directorate of Foundations, information accessed at <http://www.vgm.gov.tr/vakiflarhk/cemaat.asp>, 10 November 2005.

foundations and 1 artisanship foundation belonging to non-Muslim communities, as recognized by the General Directorate of Foundations. However, there are also foundations of Bulgarians, Georgians, Assyrians, and Chaldeans. The complex procedures for registration were partially smoothed with additional decrees in 2003; yet there are still problems with regard to already-confiscated property. The regulations led to the opening of new places of worship. The content of mandatory religion courses has been improved to cover faiths other than Sunni Islam, but there are still criticisms from Alewites, who claim that mandatory courses are against the principles of secularism. The restrictions in minority school enrollment for non-Muslim groups have been lifted. Christian groups are allowed to distribute religious literature, including the Bible, but there is social intolerance toward conversion or missionary activities. In October 2004, the religious groups were each allowed to constitute an official legal entity in the form of an association. This right is the result of legal changes extending the aims of associations and does not mean recognition of the religious groups or minorities.<sup>42</sup>

Some of the Turkish Council of State decisions also contributed to the EU-requested reforms. For instance, in 2005, it issued a ruling that should significantly narrow the opportunity for the Directorate General for Foundations to take over the management of a foundation and thereby effectively confiscate its property. The Council of State issued a ruling in favor of a radio station propagating Christianity and established equal treatment for mosques and Christian churches in regard to free access to water. In addition, although Cem Houses (the temples of the Alewites) are allowed to be opened legally, there still face practical problems, some of which arise from pressures exerted by the Sunnite majority. Although there have been reforms that address the non-Muslim and non-Sunnite populations of Turkey, the other red line in Turkish politics, fighting religious fundamentalism, limits any further reform that may push for expansion of the official definition of *minority* beyond Lausanne. Secularism in Turkey is constitutionally protected and means that there is no religious authority independent of the state. There is a deep fear that more religious freedom may provoke Islamic fundamentalism. Turkey denies recognition to religious minority groups, that is, the Alewites or non-Muslims other than those covered by the Treaty of Lausanne, and restricts the use of religious freedom. Recognizing one group would necessitate the recognition of all groups, and such an act would empower Islamists, mainly of Sunnite origin, within the country.<sup>43</sup> This also explains partially why, apart from some ad hoc measures, non-Muslim religious communities continue to experience difficulties connected with legal personality, property rights, the training, residence rights and work permits of Turkish and non-Turkish clergy,

<sup>42</sup> Jubilee Campaign NL, 2005 Report on Religious Freedom in Bulgaria, Romania and Turkey: In-Depth (BK Andjic: Jubilee Campaign NL, 2005), 27.

<sup>43</sup> *Ibid.*, 25–26.

schools, and internal management. The reopening of the Halki Seminary is an issue that illustrates the co-existence of concerns over secularism and unity. The Turkish government announced in November 2004 that the possible reopening of the Halki School of Theology had been indefinitely postponed because of concerns of the Turkish military and the National Security Council that the Greek Orthodox minority constitutes a potential security threat to the territorial integrity of the Turkish state.<sup>44</sup>

The Turkish legal system creates structural obstacles to granting rights to non-Muslim citizens, despite the provisions outlined in the Treaty of Lausanne. The difficult transition from a multicultural Ottoman Empire to a Turkish nation-state seems to be an explanation for some of the idiosyncrasies regarding the minority issue. The system is jealous in granting rights to Muslim citizens and chooses to treat non-Muslims within the Turkish citizenship system, which means that they benefit from the same rights other citizens enjoy. Thus, their rights fall short of what has been granted to them in the Treaty of Lausanne. For example, according to labor law, the religious clergy need to have Turkish citizenship, and those who do not can only work with permission. The nationality criterion, which restricts non-Turkish clergy from working in Turkey, strongly favors secularism and aims to prevent the importing of foreign Muslim clergy, that is, from the Islamic Republic of Iran, as well as to block the intrusion of religious fundamentalist groups.

As we discussed in this section, the Turkish state does not seem willing to extend minority rights beyond the Lausanne regime and has made it clear that it will handle this issue through improvements in three realms: elimination of discrimination, cultural rights, and religious freedom. Although non-Muslim minorities enjoy a number of new rights, this occurred not by addressing the issue specifically as a minority issue but through changes in a wider framework of individual rights and freedoms that, to a certain extent, contributes positively to the daily lives and organizational activities of non-Muslim minorities. The Turkish style of avoiding involvement in minority issues fits into European member states' attitudes, and one can talk about a Europeanization of the strategy by which Turkey deals with minority issues. However, this attitude does not satisfy what the EU demands of candidate states.

Turkey's progress in the accession talks will demonstrate the determination and capacity of the EU to transform and change minority regimes in candidate countries. The assessment of Turkey's performance and that of the extent of Turkey's fulfillment of the EU minority criteria—though they are still ambiguous—both at the state and societal levels, are two important issues in Turkish–EU relations. Our discussion in this article indicates that the non-

<sup>44</sup> Elizabeth H. Prodromou, "Turkey Between Secularism and Fundamentalism? The 'Muslimhood Model' and the Greek Orthodox Minority," *The Brandywine Review of Faith & International Affairs* 1 (Spring 2005): 1–35, at 19.

Muslim minority issue will present problems and setbacks in Turkey's EU membership process. The negotiations between the EU and Turkey will show not only Turkey's readiness for EU membership but also the transformation of its nation-building process. In light of the fact that nation building is an open-ended process that continuously remains in progress, it is most likely that on the road to Brussels the Turkish nation-building process will face pressure to turn and shift. Yet, the road to Brussels is not direct, but passes through Strasbourg, the headquarters of the Council of Europe.

### CONCLUDING OBSERVATIONS

The conventional elements of Turkey's minority regime are based on the legal framework of the Treaty of Lausanne, the state's political maneuverings, and societal attitudes. Pressure from the EU challenges the official position taken by Turkey toward the minority regime. The Turkish state is not willing to grant all rights provided in the Treaty of Lausanne to the recognized non-Muslim minorities, not to mention to others that were not recognized as minorities, and prioritizes national security considerations over minority issues. The multicultural and multi-religious characteristics of Turkish society, at least as far as the non-Muslim minorities are concerned, have already disappeared to a large extent.<sup>45</sup> The Turkish state employed a number of legal and political measures to keep the boundaries of the minority regime under control. The EU's pressure for the improvement of minority rights did not change this attitude, and the Turkish state tries to satisfy EU demands under a wider framework of changes in human rights and individual rights.

The EU does not have a commonly agreed-upon legal or conceptual definition of what constitutes a national minority or a road map to how minority rights should be safeguarded. Yet, minority protection is a norm in the EU. The lack of a common policy toward minority issues does not prevent the EU from making these issues a moral condition for membership, nor from setting certain standards for the candidate countries to meet. The EU demands a total transformation of the domestic landscapes of candidate countries, which in the end creates a suitable domestic and international environment for minority rights. The EU prefers to strengthen minority protection as a norm, in conformity with new treaties and international institutions, and to present this understanding as a guide for the conferring of minority rights in member states. The EU makes the candidate states part of this dynamic process, employing a number of mechanisms in the accession process. Once a country joins the Union, the EU loses its control over the minority regimes of the member state. In this regard, the EU institutions view the enlargement process as the last

<sup>45</sup> Şule Toktaş, "Turkey's Jews and Their Immigration to Israel," *Middle Eastern Studies* 42 (May 2006): 505–519.

chance to settle the minority issue. However, EU pressure on Turkey to improve minority rights goes beyond the EU and integrates the basic norms, standards, and principles that have been initiated by the Council of Europe and the OSCE. Turkey's need to comply with international standards is the result of Turkey's EU process and membership responsibilities in these international organizations.

In the Turkish context, the solution to minority rights is to handle them through improvements in three realms: elimination of discrimination, cultural rights, and religious freedom. However, reforms in these spheres fall short of the spirit generated in the Treaty of Lausanne. The premises of secularism and territorial integrity, and the unitary characteristics of the Turkish Republic are the major reasons behind the resistance to altering the traditional minority regime. Constitutionally, Turkey is a secular and unitary state. Any demands for minority rights, no matter how they are made by religious minorities—Muslim or non-Muslim—or by ethnic groups such as the Kurds, are filtered by these characteristics of the Turkish State. As a consequence of this filtering, the EU requirements for accession, primarily fulfilling the Copenhagen criteria, are interpreted by Turkey as the need for improving basic human rights and liberties and not as measures for specifically addressing minority rights.

The Turkish political and legal systems do not allow for a broad definition of religious freedom, no matter how such a broad definition would benefit the country's non-Muslims and non-Sunnites, because of the principle of secularism. The same systems are the essential barriers against any Islamic fundamentalism. One may argue that *at the state level*, Turkey hesitates when responding to the problems of the non-Muslim minorities, because of a fear that such rights or a loosening of secularism would empower religious fundamentalists. In a way, Turkey is caught between secularism and freedom of religion. To illustrate, Turkey cannot grant its non-Muslim groups the permission to wear *kipah* or some other form of religious attire in the public sphere, because it would encourage Muslim groups to increase their demands for the wearing of headscarves in public institutions. Another example of this dilemma is the issue of discrimination on the part of public authorities. Turkey has not ratified Additional Protocol No. 12 to the European Convention on Human Rights on the general prohibition of discrimination by public authorities. Although this is particularly important given that minorities are often subject to *de facto* discrimination and encounter difficulties in access to administrative and military positions, the ratification may strengthen the claims of headscarf proponents who claim that public authorities are discriminating against women who wear headscarves when not allowing them to occupy public positions. The same position is seen with personnel who are expelled from the military due to claims of having been involved in Islamist activities.

At the societal level, we have another picture. According to a Pew Research Center survey conducted in 2005 with 17,776 people in 17 countries, a 47 percent plurality sees Islamic extremism as a substantial threat in Turkey.

By extremism, they mean the legal imposition of strict *Shari'ah* law and the reason for this extremism is seen as mainly lack of education.<sup>46</sup> Yet, Turkish society respects religious freedom as well as faiths other than Islam. According to other research conducted in 2005 covering 15 provinces of Turkey, of 1,644 respondents, 89 percent think that freedom of religious belief and faith should never be limited or abolished, and 81 percent think similarly in regard to non-Muslim citizens' right to their own religion and culture. Even more, 79 percent think that "we should not force others to believe and practice as we do." Respondents seem to opt more for equality than for freedom when facing a choice between the two. According to respondents, the political value that needs to be protected most is equality (41.6 percent), followed by freedom (37.4 percent). In a similar vein, respondents believe that the right that can never be abolished or given up is "equality before the law" (50.4 percent), followed by religious freedom (18.8 percent).<sup>47</sup>

The issue of cultural rights with respect to EU requirements is also addressed within the general understanding of individual rights and freedoms without any reference to minorities. Here, from a state-centric view, the limitation is the unitary characteristic of the Turkish State. Turkey officially adopts a restrictive approach to cultural rights. Its legal and political systems are designed to counter any form of ethnic separatism. Pluralism is seen as a potential cause of conflict and war.<sup>48</sup> Separation of Anatolia is a fear that leads in Turkey when resisting change in its traditional minority regime and denying official recognition to any group, be it the Alewites, the Kurds, or the Assyrians. The principle of equality is prioritized over the principle of difference in the Kemalist understanding of nation building. All citizens, regardless of ethnic origin, faith, race, or gender, are included in the universal framework of the same rights and freedoms. Giving additional rights to minority groups is perceived as disintegrative. The concept of equality, both as rhetoric and as praxis, is fundamental for Turkish citizenship as well as for the Kemalist vision of nation building. Societal demands for cultural rights, especially those voiced by the Kurds, challenge the Kemalist project.

It is in this context that the ban on wearing headscarves in educational institutions, which is an example of restriction on religious freedom, is actually a political preference for equality at the cost of freedom. New developments, as early as 2008, have taken place with regard to the veiling question. The ruling Justice and Development Party (JDP) and the oppositional extreme Nationalist Action Party together agreed to lift the ban on veiling by female

<sup>46</sup> Pew, "Support for Terror Wanes among Muslim Publics: Islamic Extremism—Common Concern for Muslim and Western Publics," 17-nation Pew Global Attitudes Survey, accessed at <http://pewglobal.org/reports/pdf/248.pdf>, 14 July 2005.

<sup>47</sup> Hakan Yılmaz, *Conservatism in Turkey*, public opinion research funded by Open Society Institute and Boğaziçi University, Istanbul, 2006.

<sup>48</sup> Jubilee Campaign NL, 2005 Report on Religious Freedom, 25.

students at universities. This also caused controversy as secularist Kemalist segments of society opposed the reform action. The veiling question is also illustrative of the tension that the official state ideology—Kemalism—creates in the larger portions of society.

There has also been an expansion on the minority issue at the civil society level. The JDP took the initiative in late 2007 to establish a relationship with Alewite communities. The Party has mainly Sunnite constituents. Alewite organizations have historically supported the opposition Republican People's Party, which has stronger secularist and Kemalist policy programs. The Alewites have been strong supporters of Kemalism because they had been targets of Sunnite extremism and sectarian violence since the times of the Ottoman Empire and they are of the opinion that secularism is a principle that guarantees their identity and safety. The JDP's approach to Alewites mainly consists of the inclusion of Alewite representatives in Parliament who would use their sectarian identities to establish bonds between Alewites and the JDP. In addition, Prime Minister Tayyip Erdoğan held a dinner for Alewite community leaders in early 2008 to celebrate one of the sacred days of Alewite belief. The JDP initiative was met with suspicion among the Alewites. Although the Alewite minority does not want to be recognized as a minority officially, it wants its identity to be respected and acknowledged without any official segregation policy. Therefore, although Alewite communities maintained their concern over secularism and their distance from the Sunnite-conservative JDP, such an approach by the JDP created an opportunity for the Alewite community to voice their views once again (that is, no state funding for Cem Houses or ceremonies, lack of official status for Cem Houses as places of worship, obstacles in establishing new Cem Houses, and denial of state official cadres to Alevi clergy). However, the attempts by the JDP received unexpected criticism from the General Directorate of Religious Affairs. The Directorate is one of the oldest institutions in modern Turkey and is representative of the Turkish version of secularism, which involves state control over religion. The Directorate is mainly tasked with a Hanefi-Sunni interpretation of Islam and excludes any issue related to non-Muslims or Alewites. The head of the Directorate, Ali Bardakoğlu, denounced the attempts as politicizing religion and repeated once again that according to Islamic theology, Cem Houses could not be seen as counterparts to mosques, inasmuch as these ceremonial houses are civil and private places.