

**Registration Number: 130125222**

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**A more but not Fully Constructed Multicultural Arena for  
Turkish-Citizen Kurds: An Analysis of Turkey's Modern  
Minority Rights Regime**

*A dissertation submitted in partial fulfilment of the  
requirements for the Degree of Masters of Arts in Global  
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**Department of Politics**

**University of Sheffield**

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**Name:** Hakan KOLCAK

**Registration Number:** 130125222

**Dissertation Title:** A more but not Fully Constructed Multicultural Arena for Turkish-Citizen Kurds: An Analysis of Turkey's Modern Minority Rights Regime

I declare that this dissertation is my own work. It is based on research that I carried out myself, and is written in my own words. With the exception of acknowledged quotations, no part of the text of the dissertation has been copied from any other source, or written by any other person.

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**Abstract**

The Kurds (the only national minority in Turkey) suffered from numerous assimilation policies under the hegemony of Turkey's traditional minority rights regime. However, after the European Union (EU) granted Turkey candidate status to join the bloc, it started to develop a new regime. In this regard, the desire to join the EU and the so-called '*Demokratik Açılım*' – a government policy considering the employment of democratic methods as the only way to resolve minority issues – urged the governments to launch several initiatives enhancing cultural minority rights between 2001 and 2013. This dissertation examines how this new regime has been established and what cultural minority rights (in particular language rights) it offers to Turkish-citizen Kurds via interdisciplinary approach. Turkish and European legal and political sources (such as reports, decrees, statutes and regulations) as well as academic sources are studied. This dissertation asserts that with respect to broadcasting rights, the modern minority rights regime fulfils the European conditions stated in Article 11 of the European Charter for Regional or Minority Languages (ECRML) and in Article 9 of the Framework Convention for the Protection of National Minorities (FCNM). However, constitutional provisions still preclude the fulfilment of the Kurds' demands relating to general cultural and linguistic rights, and to education rights. By taking into consideration Article 8 of the ECRML, future research projects may therefore examine the issue whether the Turkish education system should allow the use of Kurdish as the language of education in the south-eastern Kurdish-populated regions. By taking into account Articles 9 and 10 of the ECRML and Article 5 (1) of the FCNM, such projects may also hear public opinions on the subjects (i) of the official use of the Kurdish language in the Kurdish-populated provinces and (ii) of the legal protection and advancement of the Kurdish language, culture and history.

## 1. Introduction

Whilst there is no consensus on the definition of the term ‘minority’, Francesco Capotorti proposes the most widely agreed upon formulation as follows:

A group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members – being nationals of the State – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.<sup>1</sup>

Pursuant to this definition, a group should meet objective and subjective criteria. The group, on the one hand, must meet the objective conditions that distinguish it from the majority population, namely its history, religion, language and numbers. The subjective components, on the other hand, require the desire of the members of the group to recognise themselves collectively as a group, and ‘the subjective self-perception of the group as distinct from others’.<sup>2</sup>

The objective/subjective distinction plays an important role in determining which groups constitute cultural or national minorities, and which ones should be afforded official recognition.<sup>3</sup> Accordingly, national minorities satisfy both the subjective criteria (minority consciousness) and the objective criteria (culture and history) while cultural minorities (immigrants and their descendants) neither fulfil the objective conditions (because of the individual mode of dislocation), nor the subjective ones (due to their desire to integrate into the majority culture).<sup>4</sup>

The Republic of Turkey, founded in 1923 in the aftermath of the collapse of the Ottoman Empire,<sup>5</sup> is home to various linguistic and ethnic communities such as the Lazs, Romas, Kurds, Arabs and Circassians, but only the Kurdish group qualifies for national minority status.<sup>6</sup> According to the Capotorti’s definition, there are two main reasons for making this distinction. First, the Kurdish minority fulfils the objective element of minority definition – it

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<sup>1</sup> Francesco Capotorti ‘Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities’, United Nations (New York: Official Publications of the United Nations, 1979), p. 96.

<sup>2</sup> Dilek Kurban, ‘Confronting Equality: The Need for Constitutional Protection of Minorities on Turkey’s Path to the European Union’, *Columbia Human Rights Law Review*, 35 (2003), p. 159.

<sup>3</sup> *ibid.*, p. 160.

<sup>4</sup> *ibid.*

<sup>5</sup> ‘European Commission against Racism and Intolerance’s Country-by-Country Approach: Report on Turkey’ [hereinafter ECRI First Report], Council of Europe (Strasbourg: Official Publications of the Council of Europe, November 1999), p. 7.

<sup>6</sup> Kurban, ‘Confronting Equality’, p. 179.

is the only large linguistic minority in Turkey.<sup>7</sup> Second, the Kurds have always maintained their distinct identities, resisting assimilation to the dominant culture, while other minorities were largely affected by the assimilation and modernisation policies, and accepted Turkishness.<sup>8</sup> Hence, whilst the Kurds are the only *national* minority, others are cultural minorities in Turkey.<sup>9</sup> It is important to note that the cultural minorities are beyond of the scope of this study.

Turkey's traditional minority rights regime implemented several assimilation policies to the minorities with the purpose of forming a national identity based solely on the Turkish ethnicity.<sup>10</sup> Many minority groups were affected by such policies and became assimilated; however, these policies did not succeed in assimilating Turkish-citizen Kurds.<sup>11</sup> Instead, they stimulated the Kurds to make rebellious (or sometimes secessionist) attempts against the Republican State.<sup>12</sup> In response to these attempts, the republican elites took more restrictive measures,<sup>13</sup> and this circumstance engendered the so-called 'Kurdish issue'.<sup>14</sup> In resolving this issue, three actors play a role: the Turkish state, the Kurdistan Workers' Party (*Partiya Karkêran Kurdistan*, hereinafter PKK) – regarded as a terrorist organisation by Turkey and various international actors – and an ethnic group (ordinary Turkish-citizen Kurds).<sup>15</sup>

### 1.1. Research Question and Objectives

In respect of the resolution of the Kurdish issue, Turkey embarked on a large-scale programme of political and constitutional reforms to form a new minority rights regime upon receiving the candidate status to join the European Union (hereinafter EU, or the Union).<sup>16</sup> This dissertation seeks to answer the main question: How and why did Turkey's minority rights regime develop between 2001 and 2013? In answering this question, the dissertation explores (1) what restrictions the traditional regime imposed; (2) how such restrictions affected Turkish-citizen Kurds; (3) who drives the modern regime; (4) how these drivers

<sup>7</sup> *ibid*, p. 180.

<sup>8</sup> *ibid*, pp. 180-181.

<sup>9</sup> *ibid*, p. 179.

<sup>10</sup> Philip Robins, 'The Overlord State: Turkish Policy and the Kurdish Issue', *International Affairs*, 69 (1993), p. 661.

<sup>11</sup> Kurban, 'Confronting Equality', p. 179.

<sup>12</sup> Welat Zeydanlioglu, 'Turkey's Kurdish Language Policy', *International Journal of the Sociology of Language*, 2012 (2012), p. 106.

<sup>13</sup> Yilmaz Ensaroglu, 'Turkey's Kurdish Question and the Peace Process', *Insight Turkey*, 15 (2013), p. 9.

<sup>14</sup> Johanna Nykanen, 'Identity, Narrative and Frames: Assessing Turkey's Kurdish Initiatives', *Insight Turkey*, 15 (2013), p. 85.

<sup>15</sup> Murat Ergin, 'The Racialization of Kurdish Identity in Turkey', *Ethnic and Racial Studies*, 37 (2014), p. 322.

<sup>16</sup> Sule Toktas and Bulent Aras 'The EU and Minority Rights in Turkey', *Political Science Quarterly*, 124 (2009), pp. 706-712.

control the regime; (5) what this regime offers in resolving the Kurdish question; and finally (6) to what extent the current regime is satisfactory.

This dissertation aims at scrutinising the modern minority rights regime by focussing on what cultural minority rights (particularly language rights – the most significant rights because language is a main means of ‘cultural expression and its vitality’)<sup>17</sup> it offers to the only national minority in Turkey, the Kurds. It is worth noting in this context that the dissertation analyses the enhancement of cultural minority rights under three categories: general cultural and linguistic rights, education rights, and broadcasting rights.

### *1.2. Significance of the Study*

The modern minority rights regime (covering the recent developments) has not been analysed in depth so far. As an analysis of the regime, this dissertation shows both its abilities to fulfil the Kurds’ demands and its deficiencies in resolving the Turkish-citizen Kurds’ concrete issues. The dissertation may thus put forward crucial suggestions for the future steps of the resolution of the Kurdish question and for the further development of the modern regime.

### *1.3. Research Design and Methodology*

This dissertation employs the methods of interdisciplinary approach; thus, both political and legal sources are used. Accordingly, it, on the one hand, studies academic sources (such as books, journal articles and working papers) in analysing the traditional minority rights regime and its repressive policies towards Turkish-citizen Kurds. It, on the other hand, scrutinises Turkish legal sources – statutes, regulations and decrees – in order to understand the modern regime and demonstrate the enhancement of cultural minority rights at legal level. In addition, it examines European legal and political reports (European Commission’s Reports on Turkey and European Commission against Racism and Intolerance’s Reports on Turkey), European conventions and charters, and online articles to critically evaluate whether the cultural minority rights introduced by the modern regime are sufficient to satisfy the Kurds’ demands.

### *1.4. Dissertation Outline*

Section 2 examines the drawbacks of the traditional regime on the Kurds. Section 3 scrutinises the drivers of the modern regime (the desire to join the EU and the so-called ‘*Demokratik Açılım*’ (a government policy recognising the adoption of potential democratic resolutions as the *only* way to resolve minority issues)) and their tools used in the

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<sup>17</sup> Kurban, ‘Confronting Equality’, p. 163.

construction of the modern regime. Section 4 expounds how the desire to join the EU manages the modern regime by critically evaluating the cultural minority rights granted to Turkish-citizen Kurds through EU harmonisation laws. Section 5 explains how the government policy '*Demokratik Açılım*' controls the modern regime by interpreting the cultural minority rights conferred on the Kurdish minority via its various instruments.

Ultimately, this dissertation concludes that the modern minority rights regime meets the European criteria with respect to broadcasting rights. However, constitutional provisions still prevent the fulfilment of the Kurds' demands concerning general cultural and linguistic rights, and education rights. Future research projects may therefore attempt to resolve the Kurds' present problems by taking into consideration the European specific legal sources (the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities).

## 2. Literature Review: Turkification Policies and Citizenship Based on the Turkish Ethnicity

The Kurdish question has its roots in the Ottoman Empire's (the predecessor of the Turkish Republic) administrative system: the *Millet* System.<sup>18</sup> This system defines nationalities merely on the basis of religious affiliation, excluding ethnic and linguistic differences.<sup>19</sup> Since the majority population is the Muslim community, the *Millet* system affords minority status to the non-Muslim communities<sup>20</sup> – Greeks, Jews and Armenians were afforded the minority status of *Rum Milleti*, *Yahudi Milleti* and *Ermeni Milleti* respectively<sup>21</sup> – while regarding the Muslims (involving the Kurds) as a united community of the Islamic nation.<sup>22</sup>

The *Millet* system worked well until the late Ottoman periods through the existence of the upper identity among the Muslims (the Ottoman identity); however, large-scale population movements and lost territories resulted in the rise of nationalism based on ethnicity.<sup>23</sup> Whilst this circumstance undermined the sovereignty of the upper identity, the Ottomanist philosophy dominated the early Turkish politics in 1920.<sup>24</sup> At that time, the republican elites were 'seeking statehood for the multicultural entity of Anatolia, heir to the Ottoman Empire',<sup>25</sup> and they did not underline ethnic Turkishness (gaining importance in the early 1900s) as the basis of the new nation.<sup>26</sup> 'This multiculturalist sense of solidarity fuelled the national liberation movement and carried it to victory' in the War of Independence (1919-1922).<sup>27</sup> The War rendered the Treaty of Sèvres, which the victors of the World War I compelled the Ottoman government to accept and which divided the Empire along ethnic lines, inoperable; therefore, it was superseded by the (1923) Lausanne Treaty.<sup>28</sup>

Although Articles 37-45 of the Treaty of Lausanne deal elaborately with minority rights,<sup>29</sup> the republican elites and officials take into account the *Millet* system, and therefore acknowledge that specific rights enshrined in the Treaty are granted only to the three non-

<sup>18</sup> Dogu Ergil, 'The Kurdish Question in Turkey', *Journal of Democracy*, 11 (2000), p. 124.

<sup>19</sup> Murat Somer, 'Turkey's Kurdish Conflict: Changing Context, and Domestic and Regional Implications', *The Middle East Journal*, 58 (2004), p. 240; Ensaroglu, 'Turkey's Kurdish Question', p. 9.

<sup>20</sup> Kurban, 'Confronting Equality', p. 168.

<sup>21</sup> *ibid.*

<sup>22</sup> *ibid.*

<sup>23</sup> ECRI First Report, p. 7.

<sup>24</sup> Ergil, 'The Kurdish Question', p. 124.

<sup>25</sup> *ibid.*

<sup>26</sup> Kurban, 'Confronting Equality', pp. 186-187.

<sup>27</sup> Ergil, 'The Kurdish Question', p. 124.

<sup>28</sup> *ibid.*

<sup>29</sup> Treaty of Lausanne between Principal Allied and Associated Powers and Turkey, (1923) 28 LNTS 11.

Muslim communities (Greeks, Armenians and Jews).<sup>30</sup> The elites and officials also consider the Muslim population as the Anatolian mosaic (comprising of different ethnic and cultural Islamic communities),<sup>31</sup> and maintain that any specified group-differentiated right granted to the Muslim groups may crack the mosaic.<sup>32</sup> The Treaty is therefore preoccupied with non-Muslim minorities.<sup>33</sup>

However, not long after the establishment of the Republican State in 1923, the elites made a policy change from Ottomanism (the multiculturalist and pluralist approach) to Turkification,<sup>34</sup> and thus developed the ideology of *Kemalism*,<sup>35</sup> leading to a controversial rather than accommodative relationship between Turks and Turkish-citizen Kurds.<sup>36</sup> The essence of *Kemalism* is to recognise all citizens regardless of their ethnic origins as Turks; therefore, it categorises all ethnic minorities under new Turkish titles<sup>37</sup> – for example, the Kurds are defined as ‘Mountain Turks’.<sup>38</sup>

In the light of the *Kemalist* ideology, the republican elites embraced Turkish identity as the main source of national unity and sought to subdue non-Turkish features through denial.<sup>39</sup> In fulfilling the essential aim of *Kemalism*, the elites commenced numerous Turkification policies (coercive assimilation policies).<sup>40</sup> The design and implementation of such policies can be traced in the several policies and laws adopted between 1923 and 1940.<sup>41</sup> As a product of the language revolution, for example, the ‘Citizen, Speak Turkish!’ campaign (*Vatandaş, Türkçe Konuş!*) is a sort of linguicidal policy (a genocidal attempt made with the goal of exterminating minority languages), since it condemns the use of languages other than Turkish.<sup>42</sup> During the Campaign, a) public declarations were made encouraging that ‘all Turkish citizens should speak Turkish’; b) posters were hung on walls; c) and bulletins and brochures were distributed on the streets.<sup>43</sup>

<sup>30</sup> Robins, ‘The Overlord State’, p. 660.

<sup>31</sup> Ergil, ‘The Kurdish Question’, p. 124.

<sup>32</sup> Kurban, ‘Confronting Equality’, p. 187.

<sup>33</sup> Nykanen, ‘Identity, Narrative and Frames’, p. 85.

<sup>34</sup> Kurban, ‘Confronting Equality’, p. 187.

<sup>35</sup> Robins, ‘The Overlord State’, p. 661.

<sup>36</sup> Somer, ‘Turkey’s Kurdish Conflict’, p. 240.

<sup>37</sup> Robins, ‘The Overlord State’, p. 661.

<sup>38</sup> *ibid.*

<sup>39</sup> Ensaroglu, ‘Turkey’s Kurdish Question’, p. 9.

<sup>40</sup> Kurban, ‘Confronting Equality’, p. 187.

<sup>41</sup> Dilek Kurban, ‘Unravelling a Trade-Off: Reconciling Minority Rights and Full Citizenship in Turkey’, *European Yearbook of Minority Issues*, 4 (2004), p. 346.

<sup>42</sup> Zeydanlioglu, ‘Turkey’s Kurdish Language Policy’, p. 103.

<sup>43</sup> *ibid.*

The Turkification policies were also implemented to the system of the national education.<sup>44</sup> With respect to the education on citizenship, the early textbooks emphasise the slogan ‘one culture, one ideal, one language’.<sup>45</sup> These textbooks also define the term of nation as a social and political community ‘formed by citizens bound by a unity of language, culture and ideal’.<sup>46</sup> The textbooks accept Turkish identity as the new upper identity of the Republican State as well. In terms of the education on language, such textbooks define Turkish as the most beautiful, easiest and richest language in the world while mentioning nothing about other languages and dialects used in Anatolia.<sup>47</sup> Finally, by saying ‘How happy is the one who says, I am Turk’ (*Ne Mutlu Türküm Diyene*), the early radical Turkification policies also underscore the significance of ‘being born a Turk, living as a Turk and dying as a Turk’.<sup>48</sup>

In response to these early Turkification policies, there had been some vehement Kurdish uprisings (the 1925 Sheik Said riot, the Kurdish rebellious attempts in 1927-1930, and the Dersim Revolt of the 1930s);<sup>49</sup> however, these occasional rebellions engendered more restrictive state policies, evolving the administrative and legal systems in more authoritarian fashion and focussing on the security issues rather than the reconciliation of differences.<sup>50</sup>

The official organs (the successor governments of the republican elites and the military) therefore introduced new assimilation policies:<sup>51</sup> the filling of governmental appointments in the south-eastern regions (in which the Kurds constituted the majority) with Turks;<sup>52</sup> the construction of boarding schools in the south-eastern regions (with the purpose of educating Kurdish students in an environment which physically separated them from their cultural habitat and families);<sup>53</sup> the forced resettlement of the Kurds from the south-eastern regions to the western areas (in which the Turkish culture is dominant);<sup>54</sup> the prohibition of the use of any minority language in courts and in schools;<sup>55</sup> the ban on the use of non-Turkish

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<sup>44</sup> Basak Ince, ‘Citizenship Education in Turkey: Inclusive or Exclusive’, *Oxford Review of Education*, 38 (2012), p. 119.

<sup>45</sup> *ibid.*

<sup>46</sup> *ibid.*

<sup>47</sup> *ibid.*, p. 120.

<sup>48</sup> *ibid.*, p. 121.

<sup>49</sup> Kurban, ‘Confronting Equality’, p. 188.

<sup>50</sup> Ergil, ‘The Kurdish Question’, p. 125.

<sup>51</sup> Mesut Yegen, ‘“Prospective Turks” or “Pseudo Citizens”: Kurds in Turkey’, *The Middle East Journal*, 63 (2009), pp. 599-602.

<sup>52</sup> Kurban, ‘Confronting Equality’, p. 187.

<sup>53</sup> Yegen, ‘Prospective Turks or Pseudo Citizens’, p. 605.

<sup>54</sup> Kurban, ‘Unravelling a Trade-Off’, p. 346.

<sup>55</sup> *ibid.*

surnames;<sup>56</sup> the prohibition of the use of the word ‘Kurds’;<sup>57</sup> and finally the prerequisite of belonging to the pure Turkish race for employment in the public sector and for recruitment to the army and its academies.<sup>58</sup>

While the Kurds suffered from these oppressive policies under the single-party period (from 1923 to 1945), ruled by the Republican Peoples’ Party (CHP), the number of such policies dramatically increased in the second half of the twentieth century when Turkish politics witnessed three military coups.<sup>59</sup> The military regimes implemented new restrictive policies in the name of the national unity and territorial integrity of the State.<sup>60</sup> Such regimes always denied the existence of the Kurdish minority by taking into account the *Millet* system, and also legitimated their assimilation strategies towards the Kurds by referring to the Treaty of Lausanne (considering only the three non-Muslim minorities).<sup>61</sup>

Just after the 1960 military intervention, for example, the names of the Kurdish-populated villages and towns were replaced with the Turkish ones. Following this policy, journals publishing a number of articles on the Kurdish folklore, literature and language – such as World of Peace (*Barış Dünyası*), Tigris-Euphrates (*Dicle-Fırat*), Voice (*Deng*), New Path (*Riya Newe*) and Origin of the Tigris (*Dicle Kaynağı*) – were all banned.<sup>62</sup> In addition to the existing ban on the use of non-Turkish surnames, giving non-Turkish names to newborns was prohibited not long after the 1971 military coup.<sup>63</sup>

The 1980 military administration, ruling the country until 1983, exacerbated the political and cultural repression of Kurds by adopting new laws.<sup>64</sup> The explanation, publication and broadcasting of thoughts in any language other than Turkish were prohibited until 1991 at which the relevant law was repealed.<sup>65</sup> Newspapers, books and films pertaining to the

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<sup>56</sup> Yegen, ‘Prospective Turks or Pseudo Citizens’, p. 605.

<sup>57</sup> Kurban, ‘Confronting Equality’, p. 187.

<sup>58</sup> Kurban, ‘Unravelling a Trade-Off’, p. 346.

<sup>59</sup> Tanel Demirel, ‘Soldiers and Civilians: The Dilemma of Turkish Democracy’, *The Middle East Journal*, 40 (2004), p. 129.

<sup>60</sup> Michael M. Gunter, ‘The Kurdish Problem in Turkey’, *The Middle East Journal*, 42 (1988), p. 391.

<sup>61</sup> Robins, ‘The Overlord State’, p. 660.

<sup>62</sup> Gunter, ‘The Kurdish Problem’, p. 392.

<sup>63</sup> Yegen, ‘Prospective Turks or Pseudo Citizens’, p. 605.

<sup>64</sup> Kurban, ‘Confronting Equality’, p. 189.

<sup>65</sup> Yegen, ‘Prospective Turks or Pseudo Citizens’, p. 605.

Kurdish language and culture were confiscated.<sup>66</sup> More importantly, the Constitution of 1982,<sup>67</sup> which is still in force, was drafted under the aegis of the soldiers' tutelage.<sup>68</sup>

Article 3 of the Constitution stipulates that '[t]he State of Turkey, with its territory and nation, is an indivisible entity';<sup>69</sup> and continues that '[i]ts language is Turkish'.<sup>70</sup> Article 4 of the Constitution guarantees that the first three articles (general principles) of the Constitution 'shall not be amended, nor shall their amendment proposed'.<sup>71</sup> Article 26 of the Constitution prevented the use of the Kurdish language in the expression and transmission of information until October 2001 at which the constitutional reform package amended the relevant paragraph.<sup>72</sup> Article 28 of the Constitution hindered the broadcasts and publications in Kurdish until October 2001 when the relevant paragraph was abolished.<sup>73</sup> Article 42 (9) of the Constitution still reads that '[n]o language other than Turkish shall be taught as a mother tongue to Turkish citizens at any institution of education'.<sup>74</sup> Finally, Article 66 (1) of the Constitution defines citizenship ethnically: '[e]veryone bound to the Turkish State through the bond of citizenship is a Turk'.<sup>75</sup>

The essence of the Turkification policies was thus systematically embedded in the Constitution.<sup>76</sup> As the direct results of the constitutional provisions, the broadcasting of Kurdish television and radio programs, and the teaching of the Kurdish language were prohibited.<sup>77</sup> Furthermore, the phrase 'indivisible entity with its territory' (enshrined in Article 3 of the Constitution) was used by some political and judicial institutions as a tool to restrict minority rights.<sup>78</sup> These restrictive policies resulted in the emergence of the major Kurdish uprising by the PKK,<sup>79</sup> which launched a secessionist campaign through employing

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<sup>66</sup> 'Turkey 1998 Regular Report', Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, 1998), p. 20.

<sup>67</sup> Türkiye Cumhuriyeti Anayasası [Constitution of the Republic of Turkey], Law No. 2709, [hereinafter the Constitution of Turkey], adopted on 18 October 1982, published in Official Gazette No. 17863, entered into force on 9 November 1982.

<sup>68</sup> Ragan Updegraff, 'The Kurdish Question', *Journal of Democracy*, 23 (2012), p. 122.

<sup>69</sup> Article 3 (1) of the Constitution of the Republic of Turkey.

<sup>70</sup> *ibid.*

<sup>71</sup> Article 4 of the Constitution of the Republic of Turkey.

<sup>72</sup> *ibid.*

<sup>73</sup> Zeydanlioglu, 'Turkey's Kurdish Language Policy', p. 110.

<sup>74</sup> Article 42 (9) of the Constitution of the Republic of Turkey.

<sup>75</sup> Kurban, 'Confronting Equality', p. 177.

<sup>76</sup> Zeydanlioglu, 'Turkey's Kurdish Language Policy', p. 110.

<sup>77</sup> 'European Commission against Racism and Intolerance's Second Report on Turkey', Council of Europe (Strasbourg: Official Publications of the Council of Europe, July 2001), p. 17.

<sup>78</sup> 'The Minority Rights and Cultural Rights Working Group Report', Human Rights Advisory Board (Ankara: Turkish Prime Ministry, October 2004).

<sup>79</sup> Kurban, 'Confronting Equality', p. 189.

terrorist methods.<sup>80</sup> In response to this campaign, the government announced a State of Emergency (*Olağanüstü Hâl*) in ten south-eastern provinces in July 1987.<sup>81</sup> This announcement bestowed the governors of the provinces with broad powers, such as restricting the local press and evacuating villages on the grounds of national security. The emergency rule was in effect until November 2002 when the government lifted it in the last two remaining provinces of Şırnak and Diyarbakır.<sup>82</sup>

In a nutshell, the policy change from Ottomanism to Turkification, made just after the foundation of the Republican State, and its essential ideology supported a citizenship concept based solely on the Turkish ethnicity. This circumstance resulted in numerous assimilation policies towards Turkish-citizen Kurds. The number of such policies increased after the military interventions occurred in 1960, 1971 and 1980. Hence, the Kurds suffered from the Turkification policies precluding the development of their cultural and linguistic values under the hegemony of the traditional regime.

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<sup>80</sup> Turkey 1998 Regular Report, p. 19.

<sup>81</sup> Zeydanlioglu, 'Turkey's Kurdish Language Policy', p. 112.

<sup>82</sup> 'Turkey 2003 Regular Report', European Commission (Brussels: Official Publication of the European Commission, 2003), p. 39.

### 3. Drivers of Modern Regime

Whilst the Kurds did not enjoy cultural minority rights under the control of the traditional regime, the Turkish governments launched democratic initiatives (with the purpose of constructing a new minority rights regime) in the period from 2001 to 2013. The triggers of these initiatives are (a) the desire to join the EU and (b) the so-called ‘*Demokratik Açılım*’, which is a government policy considering the employment of democratic methods as the *only* way to resolve minority issues. While the first driver managed the establishment of the modern regime in the early 2000s (2001-2005), the second managed it between 2005 and 2013.

#### 3.1. *Desire to Join the EU*

The EU has considered the conditions as to how a proper minority rights regime can be established particularly since the 1990s when it became clear that the principle of non-discrimination and the individualistic approach of human rights had not been sufficient to resolve specific minority issues (for example, mother tongue education, broadcasting in minority languages and the use of such languages in courts). The Union therefore developed a particular minority rights regime based on regional and international declarations and conventions.<sup>83</sup>

While taking into account several legal and political materials – for instance, the conventions of the United Nations and the official papers of the Council of Europe – the 1990 Copenhagen Document of the States of the Conference on Security and Cooperation in Europe has a crucial effect in the construction of the regime, as Article 32 of the Document expounds which rights should be conferred on the national minorities.<sup>84</sup> Following this early document, European organisations launched new initiatives – such as the Geneva Report of the Expert Meeting on National Minorities (1991), the European Charter for Regional or Minority Languages (1992), and the Framework Convention for the Protection of National Minorities (1993) – and thus the regime took shape. Upon the incorporation of the provisions ruling minority issues into the Copenhagen Criteria, minority rights eventually gained a

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<sup>83</sup> Cigdem Nas, ‘The Approach of the European Parliament to the Issue of Ethnic Minorities and Minority Rights in Turkey within the Context of the European Minority Rights Sub-Regime’, Jean Monnet Working Papers, University of Catania, JMWP No. 18.98/ November 1998. ISSN 2281-9029.

<sup>84</sup> *ibid.*

remarkable status at EU level, because the fulfilment of the Criteria is necessary to be awarded EU membership.<sup>85</sup>

Since the late 1950s when the government ‘applied for an associate membership in the European Economic Community’, Turkey and the EU have had ‘a roller coaster relationship’ characterised sometimes by good economic and political ties and worsening diplomatic relations following the military coups.<sup>86</sup> While the 1987 government applied for EU membership, the Union quickly dismissed the application and declared various reasons legitimising its decision.<sup>87</sup> Nevertheless, the Customs Union agreement of 1995 accelerated Turkey’s relations with the EU.<sup>88</sup> Upon two years of worsening relations – due to the exclusion of Turkey from the list of candidate countries for EU membership at the 1997 Luxembourg Summit – the European Commission recommended the inclusion of Turkey in the list of candidate countries during the 1999 Helsinki Summit.<sup>89</sup> Albeit the official inclusion in the list, Turkey was also imposed a duty of fulfilling several criteria (the Copenhagen Criteria) before the commencement of accession talks.<sup>90</sup> As a product of the 2000 Nice European Council Meeting, the Accession Partnership Agreement then presented a significant roadmap to satisfy the European *acquis*.<sup>91</sup> Accordingly, the political difficulties in the Turkish administrative system, including those relating to the protection of the national minorities, were also noted at the Goteborg European Council Summit in June 2001.<sup>92</sup>

Since the Turkish governments wanted to fulfil the Copenhagen Criteria, which involve provisions on respect for and protection of minorities, and to join the EU, debates over minority rights became central to the State’s agenda in the early 2000s.<sup>93</sup> Towards fulfilling the Criteria, the governments initiated a process of legislative and constitutional reforms.<sup>94</sup> With respect to minority rights, these reforms introduced a number of substantial developments while not providing a certain resolution to the Kurdish issue. Both ordinary

<sup>85</sup> Edel Hughes, ‘The European Union Accession Process: Ensuring the Protection of Turkey’s Minorities?’, *International Journal on Minority and Group Rights*, 17 (2010), p. 562.

<sup>86</sup> Birol A. Yesilada, ‘Turkey’s Candidacy for EU Membership’, *The Middle East Journal*, 56 (2002), pp. 94-95.

<sup>87</sup> *ibid.*, p. 95.

<sup>88</sup> *ibid.*

<sup>89</sup> *ibid.*, pp. 96-98.

<sup>90</sup> Mesut Yegen, ‘The AK Party and the Kurdish Question: Conflict to Negotiation’, Al Jazeera Centre for Studies, in ‘studies.aljazeera.net’, <http://studies.aljazeera.net/ResourceGallery/media/Documents/2014/1/16/-2014116105337409734The%20AK%20Party%20and%20the%20Kurdish%20Question%20Conflict%20to%20Negotiation.pdf>, 16 January 2014, [accessed 20 June 2014].

<sup>91</sup> Yesilada, ‘Turkey’s Candidacy’, p. 99.

<sup>92</sup> *ibid.*

<sup>93</sup> Fotios Moustakis and Rudra Chaudhuri, ‘Turkish-Kurdish Relations and the European Union: An Unprecedented Shift in the Kemalist Paradigm’, *Mediterranean Quarterly*, 16 (2005), p. 85.

<sup>94</sup> Kurban, ‘Unravelling a Trade-Off’, p. 353.

citizens and state officials began to understand the failures of the traditional state paradigm, thwarting the advancement of the minority rights regime, with the contribution of such reforms.<sup>95</sup> Turkish politicians, for example, started to criticise the *Kemalist* ideology and its traditional oppressive policies towards the Kurds on the basis that such policies had denied the existence of cultural and ethnic diversities in Anatolia. Debates over the place of the army in Turkish politics also enabled the civil society to realise how the military tutelage had endangered the national unity of Turkey via its radical Turkification policies. Following this positive atmosphere, The European Commission decided that Turkey had adequately fulfilled the Criteria crucial to begin accession negotiations. The European Council then endorsed this decision in Brussels in December 2004.<sup>96</sup>

The European Commission's regular reports also play a key role in the construction of the modern regime, because a subtitle of the reports specifically examines legal and political developments in the area of minority rights. Such reports monitor the conditions essential for a better minority rights regime, and critically evaluate the legal and political developments introduced by the governments. As one of the main purposes of the governments is to join the EU, they take such evaluations into account while launching new legal and political initiatives. Hence, the desire to join the Union is the first driver of the modern regime.

### 3.2. *Demokratik Açılım*

The failures of the traditional regime to resolve the Kurdish issue perpetuated military tutelage over Turkish democracy and made it difficult for democratisation reforms to become fully operational.<sup>97</sup> The State's previous treatment of its Kurdish citizens was therefore one of the greatest obstructions to the democratic consolidation in Turkey.<sup>98</sup> Although this circumstance required democratic attempts made specifically with the goal of resolving the Kurdish issue, the State's institutions did reject all potential democratic resolutions on the basis that any particular right granted to the Kurds in the name of democracy would threaten the national integrity of Turkey.

However, Prime Minister Recep Tayyip Erdoğan delivered an audacious speech in the Kurdish-populated province of Diyarbakır in August 2005.<sup>99</sup> While condemning the

<sup>95</sup> Moustakis and Chaudhuri, 'Turkish-Kurdish Relations', pp. 77-78.

<sup>96</sup> Hughes, 'The European Union Accession Process', p. 572.

<sup>97</sup> Ensaroglu, 'Turkey's Kurdish Question', p. 10.

<sup>98</sup> Ergil, 'The Kurdish Question', p. 122. See also Gunes Murat Tezcur, 'Prospects for Resolution of the Kurdish Question: A Realist Perspective', *Insight Turkey*, 15 (2013), p. 73.

<sup>99</sup> Nykanen, 'Identity, Narrative and Frames', p. 86.

repressive policies of the traditional regime, he made a historic declaration that the response to the Turkish-citizen Kurds' long-running grievances is more democracy.<sup>100</sup> The state officials outlined new right-based initiatives tackling minority issues especially those pertaining to broadcasting rights just after the Prime Minister's statement. Even though Turkey suffered from political setbacks (stemming from the influence of the *Kemalist* ideology in driving internal executive mechanisms) and from security problems (arising out of the PKK's attacks), the government sought to resolve the Kurdish issue by employing democratic methods at that time. Upon the Prime Minister's second speech in 2008 ('democratisation is considered as the antidote to ethnic extremism, terrorism and all types of discrimination'),<sup>101</sup> the government eventually took valorous steps giving priority to democratic values and launched three essential democratisation programs: a) the Kurdish Initiative (2009), known as the Democratic Initiative and renamed as the National Unity and Fraternity Project; (b) a process of making a new constitution; and c) the Peace Process (2012).

When President Abdullah Gül announced in March 2009 that new reforms dealing with the Kurdish issue would be made, the foundation of the Kurdish Initiative was laid. The state officials made a comprehensive research on the European minority rights regimes just after the President's announcement. The officials examined the European countries enjoying a large Turkish population (such as Germany, Austria, Belgium and Switzerland) with the purpose of perceiving certain differences between the European minority rights regimes and the Turkish one. In perceiving such differences, the social and political status of the Turkish minorities were analysed.<sup>102</sup>

Upon the completion of the analysis, the results were interpreted by comparing the Turkish-origin European citizens with Turkish-citizen Kurds. In accordance with the comparison, the four failures of the traditional minority rights regime were listed as follows: (1) while Turkish parents freely enjoy the right to give their children Turkish-origin names in the European countries, the Kurds do not enjoy this right due to several legal obstacles in Turkey; (2) whilst the Turks enjoy the right to learn their mother tongue at educational institutions in the European countries, Turkish-citizen Kurds have no opportunity to learn the Kurdish language

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<sup>100</sup> *ibid.*

<sup>101</sup> 'Erdoğan: Türkiye'de Herkes Eşittir' [Erdoğan: Everyone is Equal in Turkey], *Haberpan*, 14 October 2008, in 'haberpan.com', <http://www.haberpan.com/erdogan-turkiyede-herkes-esittir-haberi>, [accessed 15 June 2014].

<sup>102</sup> 'Kürt Açılımı Netleşti' [The Kurdish Initiative Has Become Apparent], *Sabah*, 12 May 2009, in 'sabah.com.tr', [http://www.sabah.com.tr/Siyaset/2009/05/12/kurt\\_acilimi\\_netlesti](http://www.sabah.com.tr/Siyaset/2009/05/12/kurt_acilimi_netlesti), [accessed 30 June 2014].

at any private or public school in Turkey; (3) the Turkish-origin European citizens, but not the Kurds, have the right to make political propaganda in their own language; and finally (4) while the European countries allow their Turkish-origin citizens to broadcast in Turkish, the Kurds encounter several difficulties in the exercise of broadcasting rights.<sup>103</sup>

Interior Minister Beşir Atalay then declared in July 2009 that the Kurdish Initiative would be launched with the aim of transforming the main structure of the traditional regime. The Interior Minister also informed the press and the public about the concrete details of the Initiative on 24 August 2009, just after the preparatory stage during which the Minister had spoken with several political party leaders, researchers, intellectuals and civil society representatives to hear their opinions.<sup>104</sup> As for the concrete details, 10 items – such as the use of the Kurdish language in political campaigns, the restoration of the names of the Kurdish-populated villages and towns, and the establishment of Kurdish language centres and institutes – were included in the agenda of the Initiative.<sup>105</sup> In the following months, the opposition parties in the parliament, except the Peace and Democracy Party (BDP), severely criticised the Initiative on the basis that it would result in the fragmentation of the national unity of Turkey. It was therefore renamed as the National Unity and Fraternity Project. The governments eventually made several reforms which both remove a significant number of traditional restrictions and enhance the Kurds' cultural minority rights in the light of the Project from 2009 to 2012.

With respect to the second program (making a new constitution), the Constitutional Reconciliation Commission was established in summer 2011.<sup>106</sup> It was chaired by Speaker of Parliament Cemil Çiçek and 'comprised of three representatives of each of the four political parties' in the Turkish Grand National Assembly (hereinafter TGNA): the Justice and Development Party (AKP), Nationalist Movement Party (MHP), Republican Peoples' Party (CHP) and the Peace and Democracy Party (BDP).<sup>107</sup> The Commission was given one year to formulate a new constitution and therefore began to formulate it in May 2012, following the preparatory stage during which civil society was involved in the formulation by asking its

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<sup>103</sup> *ibid.*

<sup>104</sup> *ibid.*

<sup>105</sup> *ibid.*

<sup>106</sup> 'Turkey's Kurdish Conflict: An Assessment of the Current Process' [hereinafter Turkey's Kurdish Conflict], Democratic Process Institute, (London: Democratic Process Institute, November 2013), p. 77.

<sup>107</sup> *ibid.*

expectations, demands and opinions.<sup>108</sup> Because only 48 articles had been agreed upon by the June 2013 deadline, the Commission continued to work on the constitution.<sup>109</sup> Following several meetings, the Commission reached consensus only on 60 articles as of November 2013.<sup>110</sup> Due to the lack of agreement upon some essential questions, the chairman Mr. Çiçek announced that ‘the Commission is not capable of drafting a new constitution from scratch’; thus, its continuation remains in doubt. Even though this program did not produce an exact result, it encouraged the Turkish media to investigate which restrictions the Turkish Constitution imposes. A significant number of columnists, for example, began to discuss the keystones of the traditional regime, even the name of the State. In this context, Turgut Özal’s, the eighth president of Turkey, specific argument was the focal point of the debates over the name of the State: ‘if the name of the State had been the Republic of Anatolia rather than Turkey, there would not have been any ethnic conflicts between Turks and Kurds’.<sup>111</sup> The meetings of the Constitutional Reconciliation Commission also sparked a new debate over the constitutional definition of citizenship. According to some members of the Commission, the Constitution of 1982 chooses the blood criterion of nation formation; therefore, it adopts a citizenship definition based solely on the Turkish ethnicity. However, Turkey is home to many different ethnic groups as well as the Turkish one. The territorial criterion of nation formation should thus be applied to the new constitution, and it should embrace the term ‘*Türkiyeli*’, which means a person living in the territory of Turkey, in defining the concept of citizenship. These sorts of debates eventually enabled Turkish citizens irrespective of their ethnic backgrounds to better understand multicultural citizenship consciousness that rejects all citizenship definitions based on ethnic terms.

The third program (the Peace Process) started in 2012 with the purposes (1) of enhancing cultural and political rights; and (2) of disarming the PKK.<sup>112</sup> The innovative aspect of the Process (dealing with the first aim) is the formation of the so-called ‘Wise Persons’

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<sup>108</sup> ‘Turkey’s Erdoğan Sets Constitution Deadline’, *Wall Street Journal*, 30 January 2013, in ‘online.wsj.com’, <http://online.wsj.com/news/articles/SB10001424127887323701904578273860063702682>, [accessed 21 June 2014].

<sup>109</sup> Turkey’s Kurdish Conflict, p. 78.

<sup>110</sup> Murat Yetkin, ‘Why Turkish Efforts for a New Charter Failed Again’, *Hürriyet Daily News*, 21 November 2013, in ‘hurriyetdailynews.com’, <http://www.hurriyetdailynews.com/why-turkish-efforts-for-a-new-charter-failed-again.aspx?pageID=449&nID=58249&NewsCatID=409>, [accessed 21 June 2014].

<sup>111</sup> Ayşe Hur, ‘Türkiye yerine Anadolu Cumhuriyeti olsaydı Ne Olurdu?’ [What Would Happen if It was the Republic of Anatolia rather than Turkey], *Radikal*, 13 January 2013, in ‘radikal.com.tr’, <http://www.radikal.com.tr/yazarlar/ayse-hur/turkiye-yerine-anadolu-cumhuriyeti-olsaydi-ne-olurdu-1116611>, [accessed 1 July 2014].

<sup>112</sup> Yegen, ‘The AK Party and the Kurdish Question’, p. 8.

Commission' (*Akil İnsanlar Heyeti*, hereinafter WPC).<sup>113</sup> It was comprised of 63 members, involving journalists, academics, human rights activists, opinion leaders, business people, and religious community leaders as well as some popular singers and actors.<sup>114</sup> The Commission commenced work in April 2013, and was divided into seven sub committees corresponding to Turkey's geographical regions.<sup>115</sup> The essential functions of the WPC are: (i) the explanation of the benefits of reconciliation and peace; (ii) the facilitation of the public concerns about the democratic initiatives (launched with the aim of resolving the Kurdish issue); (iii) the generation of the support for the peace process; (iv) and the creation of a public space allowing more democratic initiatives.<sup>116</sup>

The WPC organised meetings with non-governmental organisations (hereinafter NGOs) in several locations, and invited dialogues with ordinary citizens regardless of their religious, ethnic or other bases.<sup>117</sup> All sub committees prepared reports on the citizens' demands upon such meetings and dialogues.<sup>118</sup> In accordance with the report of the southeast committee (where Kurdish population is the majority), the citizens' demands are concerned with four major areas, including demands concerning international legal agreements; constitutional demands; demands requiring the enactment of new laws or changes to the existing provisions; and demands relating to democratic administration.<sup>119</sup>

Other committees' reports also indicate that the peace process is supported by the majority population of Turkey. In the Mediterranean region, 59 percent of those questioned supported the peace process.<sup>120</sup> In the Aegean region, while 43 percent of respondents were in favour of the peace process, 49 percent supported the idea that the process would lead to the break-up of the national unity of Turkey.<sup>121</sup> In the Black Sea region, the similar concerns were in evidence: 43 percent against and 43 percent in favour.<sup>122</sup> The support for the process was dominant in the Central Anatolia, where 59 percent in favour and 35 percent against.<sup>123</sup> Finally, the Eastern Anatolia, which enjoys a large Kurdish population, obviously supported

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<sup>113</sup> Turkey's Kurdish Conflict, p. 66.

<sup>114</sup> *ibid.*

<sup>115</sup> *ibid.*, pp. 66-67.

<sup>116</sup> *ibid.*, pp. 67-68.

<sup>117</sup> *ibid.*, p. 67.

<sup>118</sup> *ibid.*, p. 66.

<sup>119</sup> 'Akil İnsanlar Komisyonu Güneydoğu Raporu Açıklandı' [Wise Persons' Southeast Commission Report Has Been Released], *Yeni Türkiye*, 26 June 2013, in 'yenicurkiye.org', <http://www.yenicurkiye.org/akil-insanlar-heyeti-guneydogu-raporu-aciklandi/yeni-turkiye/3652>, [accessed 21 June 2014].

<sup>120</sup> Turkey's Kurdish Conflict, p.71.

<sup>121</sup> *ibid.*

<sup>122</sup> *ibid.*

<sup>123</sup> *ibid.*

the process (99 percent in favour) while expecting for the government to deliver several constitutional changes allowing more language rights and democratic reforms.<sup>124</sup>

In the light of the general consent of the majority population, the government took into consideration the demands. Accordingly, the so-called ‘2013 Democratisation Package’, which amended several laws with the goal of enhancing political and cultural minority rights, was unveiled in September 2013.<sup>125</sup> The Package was adopted by the TGNA on 2 March 2014 and entered into force on 13 March 2014.<sup>126</sup>

In short, Turkey launched several democratic initiatives in the name of the policy ‘*Demokratik Açılım*’. This process started with the Prime Minister’s historic speech in 2005 and was pursued under three specific programs. These programs both extended the scope of the existing cultural minority rights adopted by EU harmonisation laws, and introduced new ones. The government policy ‘*Demokratik Açılım*’ is therefore the second driver of the modern regime.

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<sup>124</sup> *ibid*, pp. 71-72.

<sup>125</sup> ‘Combined Fourth to Sixth Periodic Reports of States Parties on Turkey’ [hereinafter Reports of States Parties on Turkey], Committee on the Elimination of Racial Discrimination, (New York: Official Publications of the United Nations, April 2014), p. 20.

<sup>126</sup> Temel Hak ve Hürriyetlerin Geliştirilmesi Amacıyla Çeşitli Kanunlarda Değişiklik Yapılmasına Dair Kanun [Law on the Amendment of Certain Laws with the Purpose of Enhancing Fundamental Rights and Freedoms], Law No. 6529 [hereinafter Law No. 6529], adopted on 2 March 2014, published in Official Gazette No. 28940, entered into force on 13 March 2014.

#### 4. Cultural Minority Rights Adopted by the First Driver

When Turkey was granted EU candidate status, the traditional regime was still imposing restrictive policies. In the region under the State of Emergency, for example, more than fifteen music cassettes of Kurdish songs were banned, and several local TV and radio stations were subject to suspension or closure on the grounds of broadcasting Kurdish songs.<sup>127</sup> A minibus driver in the province of Diyarbakır was indicted for listening to Kurdish music in April 2002.<sup>128</sup> He was charged on the basis of support for a terrorist organisation and was sentenced to suspended imprisonment of 45 months.<sup>129</sup> A Kurdish poetry book was also withdrawn from circulation on the suspicion of involving remarks aiming at collapsing the national unity of the State, and its author was put under investigation in August 2002.<sup>130</sup> Finally, Kurdish parents intending to give their children Kurdish-origin names were subject to prosecution.<sup>131</sup> Nevertheless, the desire to join the Union urged the governments to launch initiatives aiming to enhance cultural minority rights in the following years. The 2001 constitutional amendments laid a foundation for the adoption of such initiatives. EU harmonisation laws adopted between 2002 and 2004 (particularly the third, sixth and seventh packages) then attempted to enhance cultural minority rights. The following subtitles critically evaluate such rights via dividing them into three categories.

##### 4.1. *General Cultural and Linguistic Rights*

The use of the Kurdish language had been prohibited in ‘the expression and dissemination of thoughts’ by the legal instruments of the traditional regime; however, the 2001 constitutional reform package removed the ban by amending Article 26 of the Constitution.<sup>132</sup> This removal led to changes in several existing legislation acknowledging Kurdish as a ‘prohibited language’.<sup>133</sup> The constitutional amendment therefore laid a foundation for prospective legislation allowing the use of Kurdish in a broader public realm.

However, the removal does not ensure a certain free arena for the Kurdish language, since the constitutional reform package also attaches a restriction to the article: the use of

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<sup>127</sup> ‘Turkey 2002 Regular Report’, Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, October 2002), pp. 41-42.

<sup>128</sup> *ibid.*

<sup>129</sup> *ibid.*

<sup>130</sup> *ibid.*

<sup>131</sup> *ibid.*

<sup>132</sup> Türkiye Cumhuriyeti Anayasasının Bazı Maddelerinin Değiştirilmesi Hakkında Kanun [Law on the Amendment of Certain Provisions of the Constitution of the Republic of Turkey], Law No. 4709 [hereinafter Law No. 4709], adopted on 3 October 2001, published in Official Gazette No. 24556, entered into force on 17 October 2001.

<sup>133</sup> Zeydanlioglu, ‘Turkey’s Kurdish Language Policy’, p. 114.

languages may be limited with the purpose of safeguarding ‘the indivisible integrity of the State with its territory and nation’.<sup>134</sup> This phrase was frequently used by the judicial institutions as a tool to restrain the use of the Kurdish language. For example, when Abdullah Demirbaş, the mayor of Sur in Diyarbakır, had provided multilingual service in the municipality, he was dismissed and the municipal council was dissolved on the grounds of providing separatist services.<sup>135</sup> Such services in question included tourist guides in six languages, a promotional video of the province of Diyarbakır in English, Turkish and Kurdish, and bilingual publications for children in Turkish and Kurdish.<sup>136</sup>

The traditional regime had inhibited the Kurds from giving newborns Kurdish-origin names; however, a positive step took place in 2000 when the Supreme Court of Appeals confirmed the freedom of individuals to ‘give their children any name of their choosing’ including Kurdish ones.<sup>137</sup> More importantly, the Sixth Harmonisation Law<sup>138</sup> amended Article 16 (4) of the Civil Registry Law (prohibiting Kurdish-origin names on the grounds that such names have politically offensive meanings).<sup>139</sup> This amendment permitted Kurdish parents to give their children Kurdish-origin names as long as ‘such names comply with moral values and do not offend the public’.<sup>140</sup> Nonetheless, a circular issued in September 2003 restricted the implementation of the amendment, since it banned the use of names incorporating the non-Turkish letters, Q, W or X (common in Kurdish names).<sup>141</sup>

#### 4.2. Education Rights

Turkey’s education system is based on Article 42 of the Constitution, which rejects the teaching of any language other than Turkish as a mother tongue.<sup>142</sup> This circumstance deprives the Kurds of the right to education in their mother tongue. The absence of such education, on the one hand, hampers the advancement of the Kurdish language and literature; therefore it leaves the Kurdish culture for dead. Kurdish students living in the south-eastern

<sup>134</sup> Article 9 (1) of the Law No. 4709

<sup>135</sup> Zeydanlioglu, ‘Turkey’s Kurdish Language Policy’, p. 115.

<sup>136</sup> *ibid.*

<sup>137</sup> ‘Turkey 2000 Regular Report’, Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, November 2000), p. 18.

<sup>138</sup> Çeşitli Kanunlarda Değişiklik Yapılmasına İlişkin Kanun [Law on the Amendment of Certain Laws], Law No. 4928 [hereinafter Law No. 4928], adopted on 15 July 2003, published in Official Gazette No. 25173, entered into force on 19 July 2003, art. 5.

<sup>139</sup> Nüfus Kanunu [Civil Registry Law], Law No. 1587, adopted on 5 May 1972, published in Official Gazette No. 14189, entered into force on 16 May 1972.

<sup>140</sup> Turkey 2003 Regular Report, p. 37.

<sup>141</sup> ‘European Commission against Racism and Intolerance’s Third Report on Turkey’, Council of Europe (Strasbourg: Official Publication of the Council of Europe, February 2005), p. 22.

<sup>142</sup> Article 42 (9) of the Constitution of the Republic of Turkey.

rural areas, on the other hand, encounter numerous difficulties in understanding many courses due to their lack of knowledge on the Turkish language.

While the first two harmonisation laws did not make any improvements in the area of mother tongue education, the third one introduced the first development. Article 11 of the Third Harmonisation Law permitted ‘the opening of private courses for teaching different languages and dialects traditionally used by Turkish citizens in their daily lives’.<sup>143</sup> In implementing this permission, it also imposed a duty of adopting a regulation on the Ministry of National Education.<sup>144</sup> This duty practically eliminated the possible positive results of the permission, as the regulation that the Ministry adopted introduced various restrictions.<sup>145</sup> The regulation, for example, required teachers to have a graduate diploma in the language that they want to teach;<sup>146</sup> however, Turkey’s educational faculties did not have any Kurdish language departments at that time.<sup>147</sup> It also required instructors who give language lessons to be Turkish citizens, hindering the hiring of foreign Kurdish teachers.<sup>148</sup> The outcome of this circumvention was clear: there was no course providing the instruction of Kurdish due to the nonexistence of qualified teachers as of 2003.<sup>149</sup> Some applications to establish such courses were also rejected by the Ministry on the basis that their curricula had focused on history and culture, not on language teaching.<sup>150</sup>

Because the permission had not been implemented in practice, the Seventh Harmonisation Law stipulated that such languages and dialects could be taught in the existing private courses without requiring the creation of the new ones.<sup>151</sup> In addition, the Board of Education clarified that the trainers of the Kurdish language could be appointed among Turkish language and literature, primary schools and foreign language teachers who know Kurdish. Any course that faced difficulty in assigning teachers of such branches was also allowed to

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<sup>143</sup> Çeşitli Kanunlarda Değişiklik Yapılmasına İlişkin Kanun [Law on the Amendment of Certain Laws], Law No. 4771 [hereinafter Law No. 4771], adopted on 3 August 2002, published in Official Gazette No. 24841, entered into force on 9 August 2002.

<sup>144</sup> *ibid.*

<sup>145</sup> Kurban, ‘Confronting Equality’, p. 201.

<sup>146</sup> Zeydanlioglu, ‘Turkey’s Kurdish Language Policy’, p. 116.

<sup>147</sup> Kurban, ‘Confronting Equality’, p. 201.

<sup>148</sup> *ibid.*

<sup>149</sup> *ibid.*

<sup>150</sup> Turkey 2003 Regular Report, p. 38.

<sup>151</sup> Çeşitli Kanunlarda Değişiklik Yapılmasına İlişkin Kanun [Law on the Amendment of Certain Laws], Law No. 4963, adopted on 30 July 2003, published in Official Gazette No. 25192, entered into force on 7 August 2003, art. 23.

entrust graduates of other faculties or teachers of other branches.<sup>152</sup> These developments enabled the opening of Kurdish language courses in seven provinces as of October 2004.<sup>153</sup> However, such courses suffered from serious financial difficulties – due to the fact that they did not have school status essential for receiving financial assistance from the State – as well as various restrictions relating to, in particular, the timetable (‘courses could only last 10 weeks and no more than 18 hours per week’),<sup>154</sup> the attendees (only adult students could attend) and the curriculum.<sup>155</sup> These factors then motivated the owners to close their courses down, and unfortunately there was no course teaching the Kurdish language as of August 2005.<sup>156</sup>

More disconcertingly, as a positive reflection of the harmonisation laws, college students had petitioned the universities for optional Kurdish language courses; however, the administrative boards of many universities launched inquiries upon asking for the opening of such courses.<sup>157</sup> As the results of these inquiries, 1, 215 petitioning students were temporarily suspended, 104 were dismissed from their universities, and 44 lost their fellowships.<sup>158</sup> Hence, while the adoption of the harmonisation laws had a positive impact on mother tongue education, the attitudes of the administrative institutions rendered their implementation problematic.

#### 4.3. *Broadcasting Rights*

The former version of Article 28 (2) of the Constitution stated that broadcasts or publications shall not be made in languages prohibited by laws. Since the military regime of 1980 had prohibited the Kurdish language, it was used neither in broadcasts nor in publications (the ban on Kurdish was in force until 1991). The 2001 constitutional reform package made a remarkable attempt to completely eliminate this restrictive policy through removing the second paragraph of Article 28 (allowing the State to take restrictive measures towards the freedom of the press).<sup>159</sup> This circumstance enabled the parliament to incorporate a number of

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<sup>152</sup> ‘European Commission against Racism and Intolerance’s Fourth Report on Turkey’, Council of Europe (Strasbourg: Official Publication of the Council of Europe, February 2011), p. 64.

<sup>153</sup> ‘Turkey 2004 Regular Report’, Commission of the European Communities (Brussels: Official Publication of the Commission of the European Communities, October 2004), p. 49.

<sup>154</sup> Zeydanlioglu, ‘Turkey’s Kurdish Language Policy’, p. 116.

<sup>155</sup> ‘Turkey 2005 Progress Report’, European Commission (Brussels: Official Publications of the European Commission, November 2005), p. 37.

<sup>156</sup> *ibid.*

<sup>157</sup> Kurban, ‘Confronting Equality’, p. 202.

<sup>158</sup> *ibid.*

<sup>159</sup> ‘Turkey 2001 Regular Report’, Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, November 2001), p. 25.

provisions that remove traditional restrictions on broadcasting in Kurdish into the EU harmonisation laws.

While the first two harmonisation laws did not handle broadcasting issues, the third one allowed for the first time to broadcast ‘in different languages and dialects traditionally used by Turkish citizens in their daily lives’.<sup>160</sup> In implementing this legal change, the Third Harmonisation Law also imposed a duty of adopting a regulation on the Supreme Board of Radio and Television (*Radyo ve Televizyon Üst Kurulu*, hereinafter RTÜK).<sup>161</sup> Accordingly, RTÜK issued a regulation which imposes several restrictive policies in December 2002. It, for example, permitted only the state broadcasting corporation – the Turkish Radio-Television Corporation (*Türkiye Radyo ve Televizyon Kurumu*, hereinafter TRT) – to broadcast in such languages and dialects (involving the Kurdish language and its dialects).<sup>162</sup> It also stated that broadcasting in such languages and dialects might ‘take place for forty-five minutes per day and totally four hours per week on radio and thirty minutes per day and totally two hours per week on television’.<sup>163</sup> Moreover, radio and television programmes might only be aimed at adults and be made only in the areas of music, news and culture.<sup>164</sup> Furthermore, a complete and consecutive Turkish translation for radio programmes and Turkish subtitles for TV broadcasts were made compulsory by the regulation.<sup>165</sup> Finally, the inalienable phrase of the Turkish legal tradition was also included in the regulation: broadcasts should not breach the essential features of Turkey and its indivisible integrity.<sup>166</sup> While the Kurds were waiting for Kurdish radio and television programmes, despite all restrictions, TRT could not start broadcasting due to a number of reasons arising from its autonomous status (the TRT Law did not allow the station to broadcast in any language other than Turkish at that time).<sup>167</sup>

The Sixth Harmonisation Law thus enabled both public and *private* television and radio stations to broadcast in languages and dialects traditionally used by Turkish citizens.<sup>168</sup> RTÜK then issued a new regulation, with the aim of allowing private stations to broadcast in

<sup>160</sup> Article 8 (A) of the Law No. 4771.

<sup>161</sup> Article 8 (C) of the Law No. 4771.

<sup>162</sup> *Radyo ve Televizyon Yayınlarının Dili Hakkında Yönetmelik* [Regulation on Language of Radio and Television Broadcasting], published in Official Gazette 24967, entered into force on 18 December 2002, art. 5, para. 2.

<sup>163</sup> Article 5 (6) of the Regulation on Language of Radio and Television Broadcasting.

<sup>164</sup> Article 5 (3) of the Regulation on Language of Radio and Television Broadcasting.

<sup>165</sup> Article 5 (6) of the Regulation on Language of Radio and Television Broadcasting.

<sup>166</sup> Article 8 of the Regulation on Language of Radio and Television Broadcasting.

<sup>167</sup> Turkey 2003 Regular Report, p. 31.

<sup>168</sup> Article 14 (2) of the Law No. 4928.

such languages and dialects, in January 2004. This regulation was also very restrictive while permitting national private stations to broadcast in such languages and dialects. It, for instance, reiterated that radio and television programmes might only be aimed at adults and be made only in the areas of music, news and culture.<sup>169</sup> It changed the restrictions on the duration of broadcasts, but did not remove them: ‘for radio, five hours per week, not exceeding an hour per day; for television, four hours per week, not exceeding forth-five minutes per day’.<sup>170</sup> The two other requirements of the former regulation (Turkish translation for radio programmes and Turkish subtitles for TV broadcasts) were also in force.<sup>171</sup> In accordance with this regulation, TRT started to broadcast in Kurdish in June 2004,<sup>172</sup> but with some additional restrictions (imposed through its autonomous status): broadcasting only on the subjects of documentary, sports, music and news;<sup>173</sup> broadcasting only *two* hours per week with Turkish subtitles;<sup>174</sup> and making programmes not targeting children.<sup>175</sup>

In addition to the limited broadcast of the state-owned TRT, RTÜK was still continuing to persist in implementing its traditional strict policies. Once the Radio Dünya, a radio station broadcasting from the province of Adana, had broadcasted Kurdish music, the RTÜK Board ordered its closure for 30 days in March 2005.<sup>176</sup> Fortunately, the Council of State held that broadcasting Kurdish music should not have faced any sanctions, and therefore invalidated the RTÜK’s decision in April 2005.<sup>177</sup>

All in all, the accession process to the EU motivated Turkey to launch several reforms enhancing cultural minority rights.<sup>178</sup> In this regard, the fulfilment of the Copenhagen (Political) Criteria at least reserved the harm done by the traditional regime.<sup>179</sup> Turkey made significant strides by giving the Kurds their long-denied cultural minority rights.<sup>180</sup> Even

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<sup>169</sup> Türk Vatandaşlarının Günlük Yaşamlarında Geleneksel Olarak Kullandıkları Farklı Dil ve Lehçelerde Yapılacak Radyo ve Televizyon Yayınları Hakkında Yönetmelik [Regulation on Radio and Television Broadcasting in Different Languages and Dialects Turkish Citizens Traditionally Used in Their Daily Lives], published in Official Gazette No. 25357, entered into force on 25 January 2004, art. 5, para. 2.

<sup>170</sup> Article 5 (4) of the Regulation on Radio and Television Broadcasting in Different Languages and Dialects Turkish Citizens Traditionally Used in Their Daily Lives.

<sup>171</sup> Article 5 (5) of the Regulation on Radio and Television Broadcasting in Different Languages and Dialects Turkish Citizens Traditionally Used in Their Daily Lives.

<sup>172</sup> Turkey 2004 Regular Report, p. 39.

<sup>173</sup> *ibid.*

<sup>174</sup> Zeydanlioglu, ‘Turkey’s Kurdish Language Policy’, p. 116.

<sup>175</sup> *ibid.*

<sup>176</sup> Turkey 2005 Progress Report, p. 27.

<sup>177</sup> *ibid.*

<sup>178</sup> Kurban, ‘Unravelling a Trade-Off’, p. 363.

<sup>179</sup> *ibid.*

<sup>180</sup> Kurban, ‘Confronting Equality’, p. 152.

though such reforms attempted to build a more multicultural zone, their actual implementation remained problematic, since either judicial organs or administrative institutions limited the proper implementation of the harmonisation legislation. Hence, the resolution of the implementation issues was recorded as the essential duty of the second driver of the modern regime: the government policy '*Demokratik Açılım*'.



## 5. Cultural Minority Rights Adopted by the Second Driver

The Prime Minister's historic speeches in 2005 and 2008 enabled Turkey to break traditional republican chains that prevented the previous governments from employing democratic methods for the resolution of the Kurdish issue. The State recognised the adoption of potential democratic resolutions as the only tool used in the resolution of the Kurdish question, and this recognition yielded its fruits in the following years. The subsequent subtitles critically evaluate the cultural minority rights granted to the Kurds for the sake of the policy '*Demokratik Açılım*'.

### 5.1. General Cultural and Linguistic Rights

The legal tools of the traditional regime – Article 58 of the Law No. 298<sup>181</sup> and Article 43 of the Law No. 2820<sup>182</sup> – had prohibited the use of languages other than Turkish in making political propaganda. This circumstance had prevented Kurdish-origin politicians from using their own language during electoral campaigns. This prevention was still in force in the 2000s, because the harmonisation laws had not handled it. Although the ban was in effect, Orhan Miroğlu, a Kurdish politician, spoke Kurdish during the 2007 electoral campaign. He was then found guilty on the grounds of using a prohibited language.<sup>183</sup> Nevertheless, the local elections of 2009, during which the Kurdish language was used with no legal action, created a positive atmosphere. Many cases were in fact brought against Kurdish politicians on the basis that they had used the Kurdish language for municipal activities, holiday greetings or for sending invitations. While the prosecutors lodged appeals in most of these cases,<sup>184</sup> the legislation inhibiting the use of the Kurdish language in electoral campaigns was still in effect. This inhibition was repeatedly condemned by Turkish liberal democrats and the EU on the grounds that its existence had contravened liberal and democratic values (particularly the freedom of expression).<sup>185</sup> In April 2010, the parliament therefore made the first attempt to remove the ban by amending Article 58 of the Law No. 298.<sup>186</sup> While this amendment

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<sup>181</sup> Seçimlerin Temel Hükümleri ve Seçmen Kütükleri Hakkında Kanun [Law on Basic Provisions on Elections and Electoral Rolls], Law No. 298, adopted on 26 April 1961, published in Official Gazette No. 10796, entered into force on 2 May 1961.

<sup>182</sup> Siyasi Partiler Kanunu [Law on Political Parties], Law No. 2820, adopted on 22 April 1983, published in Official Gazette No. 18027, entered into force on 24 April 1983.

<sup>183</sup> Zeydanlioglu, 'Turkey's Kurdish Language Policy', p. 115.

<sup>184</sup> 'Turkey 2009 Progress Report', Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, October 2009), p. 28.

<sup>185</sup> See, 'Turkey 2010 Progress Report', Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, November 2010), p. 33.

<sup>186</sup> Seçimlerin Temel Hükümleri ve Seçmen Kütükleri Hakkında Kanun ile Milletvekili Seçimi Kanununda Değişiklik Yapılmasına Dair Kanun [Law on the Amendment of Certain Provisions of the Law on Basic

allowed political parties and nominees to carry out Kurdish electoral campaign during the parliamentary election of 2011,<sup>187</sup> it did not entirely assure a certain independent arena for the use of Kurdish, since it was still imposing the use of the Turkish language as basis for oral and written political propaganda.<sup>188</sup> The 2013 Democratisation Package thus further amended the same article and stipulated that political parties and nominees could make propaganda in languages and dialects other than Turkish.<sup>189</sup> The Package also annulled Article 43 of the Law on Political Parties (prohibiting the use of any language other than Turkish in political propaganda).<sup>190</sup> Hence, the use of the Kurdish language in political campaigns has been legally guaranteed as of March 2014 when the Package came into force.

The Package also engendered other momentous outcomes concerning general cultural and linguistic rights. It, for example, abrogated Article 2 (1) (D) of the Law on Provisional Administration, which permitted the traditional regime to change the Kurdish names of the south-eastern towns and villages, and this abrogation enabled the restoration of the original names of such towns and villages.<sup>191</sup> The restoration process has been pursuing since March 2014 and supported by the current government (for example, the village of *Vergili* in the province of Batman was renamed as the village of *Becirman* in May 2014, and Finance Minister Mehmet Şimşek welcomed its new name following his visit to the village).<sup>192</sup>

The traditional regime had prohibited the use of non-Turkish names. Although the harmonisation law removed this prohibition, the circular of 2003 banned the use of names involving the non-Turkish letters, Q, W or X (common in Kurdish names) and this made numerous Kurdish-origin names illegal. In this regard, the Democratisation Package annulled Article 222 of the Penal Code, punishing the use of the non-Turkish letters,<sup>193</sup> and this annulment enabled the Kurds to give their children Kurdish-origin names at least at criminal law level.

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Provisions on Elections and Electoral Rolls, and of the Law on Parliamentary Election], Law No. 5980 [hereinafter Law No. 5980], adopted on 8 April 2010, published in Official Gazette No. 27548, entered into force on 10 April 2010, art. 7.

<sup>187</sup> Reports of States Parties on Turkey, p. 20.

<sup>188</sup> Article 7 (3) of the Law No. 5980.

<sup>189</sup> Article 1 of the Law No. 6529.

<sup>190</sup> Article 16 (b) of the Law No. 6529.

<sup>191</sup> Article 16 (a) of the Law No. 6529.

<sup>192</sup> ‘Kürtçe Tabelayı Bakan Astı’ [The Minister Hanged out the Kurdish Sign], *Milliyet*, 25 May 2014, in ‘milliyet.com.tr’, <http://www.milliyet.com.tr/kurtce-tabelayi-bakan-asti-gundem-1887614/>, [accessed 25 June 2014].

<sup>193</sup> Article 16 (e) of the Law No. 6529.

Whilst the government policy ‘*Demokratik Açılım*’ has enhanced general cultural rights, constitutional provisions still undermine the development of the multilingual civil arena. Multicultural countries which have a progressive minority rights regime either declare more than one official language – for example, Article 3 of the Spanish Constitution and Article 8 (1-2) of the Irish Constitution – or do not give any prejudice to a language at constitutional level (for instance, Article 6 of the Italian Constitution, Article 30 of the Belgian Constitution and Article 29 of the Luxembourgian Constitution).<sup>194</sup> However, Article 3 of the Turkish Constitution acknowledges Turkish as the *only* language of the State. This acknowledgement is the legal basis for preventing administrative authorities from providing public services in languages other than Turkish, and for precluding judicial authorities from conducting civil and criminal proceedings in languages other than Turkish. This circumstance, on the one hand, deprives the Kurds who are not very good at communicating in Turkish of developing better relations with the state bodies. It is, on the other hand, incompatible with the European Charter for Regional or Minority Languages (hereinafter ECRML, or the Charter),<sup>195</sup> which is one of the most significant legal sources dealing with minority issues.

The Charter stipulates that provincial judicial authorities should conduct civil and criminal proceedings in minority languages at the request of the parties.<sup>196</sup> These authorities should allow an accused or a litigant to use her/his minority language.<sup>197</sup> Such authorities should not consider evidence and request, whether oral or written, inadmissible merely since they are formulated in a minority language.<sup>198</sup> Finally, the authorities should produce, on request, documents relating to legal proceedings in minority languages.<sup>199</sup>

The Charter also reads that provincial administrative bodies may allow the use of minority languages within the framework of the local authority.<sup>200</sup> These bodies may allow users of minority languages to submit written or oral applications and receive a reply in such languages.<sup>201</sup> Such bodies may publish their official documents in minority languages.<sup>202</sup> The bodies may use minority languages in regular debates in their assemblies.<sup>203</sup> Finally,

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<sup>194</sup> Kurban, ‘Confronting Equality’, pp. 195-196.

<sup>195</sup> European Charter for Regional or Minority Languages, CETS No. 148 [hereinafter ECRML], adopted on 5 November 1992, entered into force on 1 March 1998.

<sup>196</sup> Articles 9 (a) (i) and 9 (b) (i) of the ECRML.

<sup>197</sup> Articles 9 (a) (ii) and 9 (b) (ii) of the ECRML.

<sup>198</sup> Articles 9 (a) (iii) and 9 (b) (iii) of the ECRML.

<sup>199</sup> Articles 9 (a) (iv) and 9 (b) (iii) of the ECRML.

<sup>200</sup> Article 10 (2) (a) of the ECRML.

<sup>201</sup> Articles 10 (2) (b) and 10 (3) (b) of the ECRML.

<sup>202</sup> Article 10 (2) (c-d) of the ECRML.

<sup>203</sup> Article 10 (2) (f) of the ECRML.

provincial administrative organs or other individuals acting on their behalf may use minority languages in the provision of public services.<sup>204</sup>

Article 134 of the Turkish Constitution is also the other drawback on the advancement of the multilingual civil arena. This article provides public funding and constitutional protection for the maintenance and promotion of the Turkish culture, history and language while mentioning nothing about other Anatolian values. This constitutional provision is not consonant with the Framework Convention for the Protection of National Minorities (hereinafter FCNM, or the Framework Convention),<sup>205</sup> which is a remarkable legal material tackling minority issues. In pursuant of the Framework Convention, states should maintain and develop minority cultures, and preserve the main elements of minority identity, namely traditions, cultural heritage, language and religion.<sup>206</sup> In the light of Articles 9 and 10 of the ECRML and Article 5 (1) of the FCNM, future research projects may therefore hear public opinions on the subjects (i) of the official use of the Kurdish language in the Kurdish-populated regions and (ii) of the legal preservation and development of the Kurdish language, history and culture.

## 5.2. Education Rights

The private Kurdish language courses opened by means of the harmonisation legislation were all closed down as of August 2005. This circumstance was criticised by the European Commission in its Progress Reports of 2006,<sup>207</sup> 2007<sup>208</sup> and of 2008<sup>209</sup> respectively. The government took into account all such criticisms in the name of the policy '*Demokratik Açılım*', and therefore recognised the requirement for several reforms making the Turkish education system more democratic.

In September 2009, for example, the Higher Education Board (*Yüksek Öğretim Kurulu*, hereinafter YÖK) endorsed the application of Artuklu University, a public university in the province of Mardin, to establish a 'Living Language Institute', which provides postgraduate education in Kurdish and other Anatolian languages.<sup>210</sup> This endorsement was then

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<sup>204</sup> Article 10 (3) of the ECRML.

<sup>205</sup> Framework Convention for the Protection of National Minorities, CETS No. 157 [hereinafter FCNM], adopted on 1 February 1995, entered into force on 1 February 1998.

<sup>206</sup> Article 5 (1) of the FCNM.

<sup>207</sup> 'Turkey 2006 Progress Report', Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, November 2006), p. 21.

<sup>208</sup> 'Turkey 2007 Progress Report', Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, November 2007), p. 22.

<sup>209</sup> 'Turkey 2008 Progress Report', Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, November 2008), p. 26.

<sup>210</sup> Turkey 2009 Progress Report, p. 28.

authorised by a cabinet decree (no. 2009/15597) adopted on 1 December 2009 and eventually the first public institute teaching Kurdish was established. Following this university, YÖK empowered other public universities to establish departments and institutes providing both undergraduate and postgraduate education in the Kurdish language and its dialects – such as Bingöl University, Muş Alparslan University, Tunceli University and Dicle University – in the period from 2009 to 2013.<sup>211</sup> A significant number of students have studied at such institutes and departments since 2012. In the 2012-2013 academic year, for instance, 250 postgraduate students studied at the Kurdish Language and Literature Department (a taught master programme) at the University of Artuklu.<sup>212</sup> 50 postgraduate students also studied the same programme at Muş Alpaslan University (in the 2012-2013 season).<sup>213</sup> Graduates of these postgraduate programmes are foreseen to be assigned as masters of the Kurdish language.<sup>214</sup> Undergraduate students have been pursuing their degrees at such universities since 2011 as well. In addition to these degree programmes, the universities provide Kurdish language courses for ordinary citizens.<sup>215</sup> Dicle University, for example, provides three-month regular courses (totally 36 hours) teaching a number of aspects of the Kurdish language and its dialects (such as grammar, vocabulary and daily life conversations).<sup>216</sup> A significant number of participants involving academics, doctors, students, lawyers and teachers have attended such three-month courses and been awarded with a certificate of the Kurdish language since 2011.<sup>217</sup>

As well as the Turkish higher education system, the primary school one witnessed remarkable developments through several democratic reforms. Under the control of the traditional regime, for instance, all primary school students had been compelled to take a pledge of allegiance to the State. They were therefore uttering the morning oath (*Andımız*), including several nationalist remarks – such as ‘I am Turk’ (*Türküüm*) and ‘how happy is a person who calls herself/himself Turkish’ (*Ne Mutlu Türküm Diyene*) – at the beginning of every school-day. Because the Regulation on Primary Education Institutions reiterated the

<sup>211</sup> ‘Sessiz Devrim’ [Silent Revolution], The Prime Ministry of Republic of Turkey (Ankara: Publications of the Under-Secretariat of Public Order and Security, December 2013), pp. 105-106.

<sup>212</sup> Reports of States Parties on Turkey, p. 36.

<sup>213</sup> *ibid.*

<sup>214</sup> *ibid.*

<sup>215</sup> ‘Dicle Üniversite’nden Kürtçe Kursu’ [Kurdish Language Course by Dicle University], *Ntvmsnbc*, 16 June 2011, in ‘ntvmsnbc.com’, <http://www.ntvmsnbc.com/id/25223793>, [accessed 26 June 2014].

<sup>216</sup> ‘Dicle Üniversite’nden Kürtçe Kursu’ [Kurdish Language Course by Dicle University], *Haber 7*, 16 June 2011, in ‘haber7.com’, <http://www.haber7.com/egitim/haber/754519-dicle-universitesinde-kurtce-kursu>, [accessed 7 July 2014].

<sup>217</sup> *ibid.*

requirement for uttering the oath, it was still obligatory in the 2000s.<sup>218</sup> However, the oath was condemned by the NGOs<sup>219</sup> and columnists<sup>220</sup> on the basis that it had officially imposed a radical ideology based merely on the Turkish ethnicity. Both Turkish-origin and Kurdish-origin politicians then expressed their opinions on the oath. Mr. Selahattin Demirtaş, the leader of the pro-Kurdish Peace and Democracy Party, for example, protested the recitation of the morning vow and wanted his daughter not to recite it in 2011.<sup>221</sup> In the following period, its complete removal was incorporated into the draft of the 2013 Democratisation Package. Just after the promulgation of the Package, the Prime Minister defined the oath as a wrong sort of nationalism and underlined its required removal on 5 October 2013.<sup>222</sup> Ultimately, the morning oath was abolished on 8 October 2013 as an introduction of the reforms made by the Package.<sup>223</sup>

There are a number of developments in the area of mother tongue education too. The 2012 legislation extended compulsory education from 8 to 12 years.<sup>224</sup> In comparison to the former system, the new one is certainly more consistent with multicultural values, since it provides elective courses in Kurdish as well as other living languages in Turkey.<sup>225</sup> A curricula issued by the Ministry of National Education in June 2013 stipulates that primary schools oblige to add a course on such languages upon the application of at least 10 pupils.<sup>226</sup> This circumstance indicates that the opening of such courses does not depend on the arbitrariness of the schools, but on the demand of pupils, enabling a more democratic environment. It is

<sup>218</sup> Millî Eğitim Bakanlığı İlköğretim Kurumları Yönetmeliği [Regulation on Primary Education Institutions of Ministry of National Education], published in Official Gazette No. 25212, entered into force on 27 August 2003, art 12.

<sup>219</sup> ‘TESEV’e Göre Andımız Kalkmalı’ [According to TESEV, *Andımız* Should be Abolished], *Haber3*, 24 December 2008, in ‘haber3.com’, <http://www.haber3.com/tesev8217e-gore-8220andimiz8221-kalkmali-haberi-433664h.htm>, [accessed 26 June 2014].

<sup>220</sup> Ahmet Hakan, ‘Andımız Kalkmalı’ [*Andımız* Should be Abolished], *Memleket*, 02 April 2011, in ‘memleket.com.tr’, <http://www.memleket.com.tr/ahmet-hakan-andimiz-kalkmali-96618h.htm>, [accessed 26 June 2014].

<sup>221</sup> ‘Turkey’s Minority Condemn ‘Our Pledge’ But Fear Speaking Out’, *Hürriyet Daily News*, 15 August 2011, in ‘hurriyetdailynews.com’, <http://www.hurriyetdailynews.com/turkeys-minorities-condemn-our-pledge-but-fear-speaking-out.aspx?pageID=438&n=minorities-condemn-8216our-pledge8217-but-fear-speaking-out-2011-08-15>, [accessed 26 June 2014].

<sup>222</sup> ‘Student Oath is the Wrong Kind of Nationalism, Turkish PM Says’, *Hürriyet Daily News*, 5 October 2013, in ‘hurriyetdailynews.com’, <http://www.hurriyetdailynews.com/student-oath-is-the-wrong-kind-of-nationalism-turkish-pm-says.aspx?pageID=238&nID=55738&NewsCatID=338>, [accessed 26 June 2014].

<sup>223</sup> Millî Eğitim Bakanlığı İlköğretim Kurumları Yönetmeliğinde Değişiklik Yapılmasına Dair Yönetmelik [Regulation on the Amendment of Regulation on Primary Education Institutions of Ministry of National Education], published in Official Gazette No. 28789, entered into force on 8 October 2013, art. 1.

<sup>224</sup> Reports of States Parties on Turkey, p. 23.

<sup>225</sup> *ibid.*

<sup>226</sup> ‘Turkey 2012 Progress Report’, European Commission (Brussels: Official Publications of the European Commission, October 2012), p. 32.

worth noting at this juncture that students have started to take these elective courses, beginning from the fifth class, since 2012.<sup>227</sup> Courses in three different languages, Kurdish, Circassian and Laz, are now available in public schools.<sup>228</sup> In the past two academic years (2012-2013 and 2013-2014), ‘23,697 fifth graders and 19,896 sixth graders enrolled in these courses’.<sup>229</sup>

Although the elective language courses are a historic step, it is criticised by Kurdish columnists, academics and politicians due to several reasons. First, since the first Kurdish language teachers pursuing a bachelor’s degree at the University of Artuklu will graduate in 2015, the new system suffers from the lack of language masters capable of offering Kurdish.<sup>230</sup> Turkish language and literature teachers are assigned to such courses as long as they pursue a postgraduate degree in Kurdish. Because the number of the graduates of Kurdish master’s degrees is less than what the public schools require, the assignment of Turkish language and literature teachers does not resolve the issue of the insufficient number of Kurdish language instructors either.

Second, optional Kurdish lessons are criticised because of their limits. Such lessons are given only 2 hours per week; however, according to Kurdish language teachers, no one can learn a language in two-hour classes.<sup>231</sup> The optional classes begin with the fifth year of primary school; however, ‘the Kurds want to use Kurdish as the language of education, from Kindergarten level to the end of university’.<sup>232</sup> In addition, Kurdish politicians argue that if Kurdish pupils are educated only in Turkish for the first four classes of primary school, they may be compelled to forget their native language and therefore may not want to enrol on optional Kurdish language courses.<sup>233</sup> The Kurds also condemn the class level restriction by taking into consideration the status of foreign language education in Turkey. While foreign language education (mostly in English) begins from the second class with its mandatory status, Kurdish pupils can learn, if they wish, their mother tongue *after* the fourth year of

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<sup>227</sup> Reports of States Parties on Turkey, p. 23.

<sup>228</sup> *ibid.*

<sup>229</sup> *ibid.*

<sup>230</sup> Deniz Zeyrek, ‘Turkey to Introduce Kurdish Lessons in Public Schools’, *Al Monitor*, 18 June 2012, in ‘al-monitor.com’, <http://www.al-monitor.com/pulse/culture/2012/06/turkey-to-introduce-elective-kur.html>, [accessed 30 June 2014].

<sup>231</sup> Mehmet Sabri Akgonul, ‘Elective Kurdish Courses in Turkey: A Historic Step or a Case of a too Little, too Late’, *The Kurdish Globe*, 18 June 2012, in ‘kurdishglobe.net’, <http://www.kurdishglobe.net/article/6ECEA43-D2E378BACC3A4356A4DCABDBB/Elective-Kurdish-courses-in-Turkey-a-historic-step-or-a-case-of-a-toolittle-too-late-.html>, [accessed 30 June 2014].

<sup>232</sup> *ibid.*

<sup>233</sup> *ibid.*

primary school. The Kurds therefore maintain that the elective language courses are not a historic step, but a distraction.<sup>234</sup>

The third criticism is about the scope of the course. In Kurdish intellectuals' perspective, language can be separated neither from literature nor from history. Kurdish pupils should therefore have been able to take Kurdish literature and history classes in addition to the optional language courses. This perspective is supported by the European legal sources, since Article 12 (1) of the FCNM and Article 8 (1) (g) of the ECRML stipulate that states undertake to make arrangements to ensure the teaching of minority culture and history. Under the light of these three criticisms, what the Kurds expect for the government is not to provide Kurdish language courses but to adopt concrete legal provisions allowing them to use Kurdish as the language of education.

The government indeed adopted one of such provisions through the 2013 Democratisation Package. Article 11 of the Package allows the establishment of private schools for teaching 'any language or dialect that Turkish citizens traditionally use in their daily lives' as a mother tongue.<sup>235</sup> It also states that the cabinet has the competence to determine which languages are taught as mother tongue at such private schools.<sup>236</sup> The article concludes that a regulation which would be adopted by the Ministry of National Education sets forth the opening and inspection procedures of such schools.<sup>237</sup> Kurdish mother tongue education at least for private schools is undoubtedly a positive development; however, its future has not become apparent yet. The Ministry of National Education has not adopted the regulation as of August 2014. The Ministry limited the implementation of the harmonisation laws through its regulations. The same scenario is possible for prospective private schools that would teach Kurdish as mother tongue. Even if the forthcoming regulation does not impose any restrictive policies, it will not resolve the issue of mother tongue education due to the fact that it permits only private schools, not public schools, to use Kurdish as the language of education. This circumstance is criticised by Kurdish human rights activists and observers on the basis that 'only the rich Kurds can learn Kurdish'.<sup>238</sup>

In addition to all these criticisms, while the Kurds want to use Kurdish as the language of education, Article 42 (9) of the Constitution precludes the use of any language other than

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<sup>234</sup> *ibid.*

<sup>235</sup> Article 11 of the Law No. 6529.

<sup>236</sup> *ibid.*

<sup>237</sup> *ibid.*

<sup>238</sup> Turkey's Kurdish Conflict, p. 96.

Turkish as a mother tongue at any educational institution. This constitutional provision is inconsistent with Article 8 of the ECRML, which reads that states should make available the whole or a substantial part of education in minority languages from pre-school level to the end of higher education within the territory where such languages are used.<sup>239</sup> In the light of Article 8 of the ECRML, future research projects may thus hear public opinions on the issue whether the Turkish education system should allow the use of Kurdish as the language of education in the south-eastern Kurdish-populated regions.

### 5.3. *Broadcasting Rights*

While the 2004 Regulation of RTÜK allowed TRT to broadcast in Kurdish, it prevented *local* private stations from broadcasting. To clarify, Article 5 (1) of the Regulation stated that only *national* private and public stations could broadcast in languages traditionally used by Turkish citizens upon the authorisation of RTÜK. Since the private channels intending to broadcast in Kurdish had obtained the local broadcast licence, they were automatically unable to broadcast (for example, although the two local stations SÖZ Radio-TV and GÜN TV applied to RTÜK to broadcast in Kurdish in 2004, their applications were rejected on the grounds that they had obtained the local broadcast licence).<sup>240</sup> Debates over local private stations therefore became central to the RTÜK's agenda in 2005. Upon several meetings, Mr. Zahid Akman, the head of RTÜK, announced in December 2005 that bureaucratic hurdles had been removed and thus local stations would start broadcasting in Kurdish in 2006.<sup>241</sup> Just after this announcement, RTÜK authorised one local private radio station (Medya FM in the province of Şanlıurfa) and two local private TV channels (SÖZ TV and GÜN TV in

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<sup>239</sup> Article 8 (1) of the ECRML.

<sup>240</sup> 'Gün TV Applies for Right to Broadcast in Kurdish', *Hürriyet Daily News*, 18 February 2006, in 'hurriyet-dailynews.com', <http://www.hurriyetdailynews.com/gun-tv-applies-for-right-to-broadcast-in-kurdish.aspx?pageID=438&n=gun-tv-applies-for-right-to-broadcast-in-kurdish-2006-02-18>, [accessed 27 June 2014]; 'Last Obstacles to Kurdish Broadcasting Overcome', *Hürriyet Daily News*, 21 February 2006, in 'hurriyetdailynews.com', <http://www.hurriyetdailynews.com/last-obstacles-to-kurdish-broadcasting-overcome.aspx?pageID=438&n=last-obstacles-to-kurdish-broadcasting-overcome-2006-02-21>, [accessed 27 June 2014].

<sup>241</sup> 'Kurdish Broadcast to Begin in January', *Hürriyet Daily News*, 29 December 2005, in 'hurriyetdailynews.com', <http://www.hurriyetdailynews.com/kurdish-broadcasts-to-begin-in-january.aspx?pageID438&n=kurdish-broadcasts-to-begin-in-january-2005-12-29>, [accessed 27 June 2014].

Diyarbakır).<sup>242</sup> Under the restrictive policies of the 2004 Regulation, these three stations started broadcasting in Kurdish in the last week of March 2006.<sup>243</sup>

Following the authorisation of the private local stations, the 2004 Regulation and its strict policies became central to the RTÜK's agenda. The Regulation had imposed limitations on the duration of broadcasts; however, the RTÜK Board held in June 2006 that those TV stations that received authorisation to broadcast in Kurdish could run concerts and movies beyond the time allowed (four hours weekly, but at most forty-five minutes daily).<sup>244</sup> Nevertheless, the other restrictions – Turkish translation for radio programmes, Turkish subtitles for TV programmes, and the time limits on the discussion shows and news programmes – were still in force. The European Commission criticised these restrictions on the basis that they had made live broadcasts in particular technically cumbersome.<sup>245</sup> In an interview with the private national television station ATV, the Prime Minister then mentioned the Commission's criticism and declared that TRT would launch a new Kurdish-language channel.<sup>246</sup> Upon his declaration, the parliament passed a law (No. 5767), allowing the state broadcaster TRT to broadcast in Kurdish 24 hours a day in June 2008.<sup>247</sup> Under Article 7 of the Law No. 5767, TRT-6 was established in January 2009. The content of the new state channel TRT-6 involves programs broadcast on the Kurdish cuisine, history, music, literature and culture as well as general interest programs broadcast on travel, religion, health, talk shows, debates, news and cartoons for children.<sup>248</sup>

<sup>242</sup> 'RTÜK Approves Kurdish Broadcasts', *Hürriyet Daily News*, 9 March 2006, in 'hurriyetdailynews.-com', <http://www.hurriyetdailynews.com/rtuk-approves-kurdishbroadcasts.aspx?pageID438&n=rtuk-approves-kurdish-broadcasts-2006-03-09>, [accessed 27 June 2014].

<sup>243</sup> 'Kurdish Broadcasts Start, But More Reforms Needed', *Hürriyet Daily News*, 23 March 2006, in 'hurriyet-dailynews.com', <http://www.hurriyetdailynews.com/kurdish-broadcasts-start-but-more-reformsneeded.aspx?pageID=438&n=kurdish-broadcasts-start-but-more-reforms-needed-2006-03-23>, [accessed 27 June 2014].

<sup>244</sup> 'Limits on Kurdish Movies and Music Lifted', *Hürriyet Daily News*, 13 June 2006, in 'hurriyetdailynews.com', <http://www.hurriyetdailynews.com/limits-on-kurdish-movies-and-musiclifted.aspx?pageID=438-&n=limits-on-kurdish-movies-and-music-lifted-2006-06-13>, [accessed 27 June 2014].

<sup>245</sup> Turkey 2007 Progress Report, p. 22.

<sup>246</sup> 'Government to Increase Kurdish Broadcasting', *Hürriyet Daily News*, 19 February 2008, in 'hurriyetdailynews.com', <http://www.hurriyetdailynews.com/government-to-increase-kurdishbroadcasting.aspx?pageID438-&n=government-to-increase-kurdish-broadcasting-2008-02-19>, [accessed 28 June 2014].

<sup>247</sup> Türkiye Radyo ve Televizyon Kanunu ile Radyo ve Televizyonların Kuruluş ve Yayınları Hakkında Kanunda Değişiklik Yapılmasına Dair Kanun [Law on the Amendment of Turkey's Radio and Television Law and of the Establishment and Broadcasting of Radio and Television Stations Law], Law no. 5767, adopted on 11 June 2008, published in Official Gazette No. 26918, entered into force on 26 June 2008, art 6.

<sup>248</sup> Zeydanlioglu, 'Turkey's Kurdish Language Policy', p. 116.

Following the establishment of TRT-6, RTÜK continued to enlarge the scope of broadcasting rights through adopting a new regulation in November 2009.<sup>249</sup> According to the new regulation, which is still in force, all radio stations and television channels that intend to broadcast in ‘languages and dialects traditionally used by Turkish citizens in their daily lives’ should apply to RTÜK for receiving broadcasting permission.<sup>250</sup> More importantly, this regulation abolished the 2004 Regulation while not imposing new constraints – that is to say, all restrictions on broadcasting in Kurdish have been removed.<sup>251</sup> Hence, local private radio and television stations were legally allowed to broadcast in Kurdish 24 hours a day with no restriction. Following the adoption of the 2009 Regulation, the number of radio and television stations broadcasting in languages traditionally used in Turkey (mostly in Kurdish) increased to 14 in 2010<sup>252</sup>, 18 in 2011<sup>253</sup> and to 25 in 2012.<sup>254</sup> With the contribution of this positive atmosphere, the Parliament’s Constitutional Conciliation Commission also reached consensus on an article for constitutional protection for broadcasting in traditional languages and dialects used in Turkey in August 2013.<sup>255</sup> Finally, the state news agency Anadolu Agency started broadcasting in two dialects of the Kurdish language (Sorani and Kurmanji) in September 2013. The Agency’s Kurdish News Desk Service broadcasts both national and international developments in the areas of sports, culture, tourism, economy, politics and life.<sup>256</sup> Although radio stations and television channels encounter some technical and financial difficulties (for example, commercial considerations and lack of human resources), they continue to broadcast in Kurdish without restrictions on time limits, consecutive translation/subtitling requirements or on content.<sup>257</sup> Because all these developments enable

<sup>249</sup> Türk Vatandaşlarının Günlük Yaşamlarında Geleneksel Olarak Kullandıkları Farklı Dil ve Lehçelerde Yapılacak Radyo ve Televizyon Yayınları Hakkında Yönetmelik [Regulation on Radio and Television Broadcasting in Different Languages and Dialects Turkish Citizens Traditionally Used in Their Daily Lives], published in Official Gazette No. 27405, entered into force on 13 November 2009.

<sup>250</sup> Article 5 of the Regulation on Radio and Television Broadcasting in Different Languages and Dialects Turkish Citizens Traditionally Used in Their Daily Lives.

<sup>251</sup> Article 10 of the Regulation on Radio and Television Broadcasting in Different Languages and Dialects Turkish Citizens Traditionally Used in Their Daily Lives.

<sup>252</sup> Turkey 2010 Progress Report, p. 32.

<sup>253</sup> ‘Turkey 2011 Progress Report’, European Commission (Brussels: Official Publications of the European Commission, October 2011), p. 66.

<sup>254</sup> Turkey 2012 Progress Report, p. 54.

<sup>255</sup> ‘New Charter to Secure Broadcast in Kurdish’, *Hürriyet Daily News*, 16 August 2013, in ‘hurriyetdailynews.com’, <http://www.hurriyetdailynews.com/new-charter-to-secure-broadcast-in-kurdish.aspx?pageID=238&nID=52630&NewsCatID=338>, [accessed 28 June 2014].

<sup>256</sup> ‘Turkey’s State News Agency Starts Broadcasting in Kurdish’, *Hürriyet Daily News*, 1 September 2013, in ‘hurriyetdailynews.com’, <http://www.hurriyetdailynews.com/turkeys-state-news-agency-starts-broadcasting-in-kurdish-.aspx?pageID=238&nID=53631&NewsCatID=341>, [accessed 28 June 2014].

<sup>257</sup> ‘Turkey 2013 Progress Report’, European Commission (Brussels: Official Publications of the European Commission, 2013), p. 31.

the modern minority rights regime to fulfil the conditions listed in Article 9 of the FCNM and in Article 11 of the ECRML, it is satisfactory in terms of broadcasting rights.



## 6. Conclusion

Since the Kurdish community is the only national minority in Turkey, its cultural heritage, traditions and language are worthy of protection from any assimilation policy. However, the governments implemented numerous Turkification policies towards the Kurds under the traditional minority rights regime formed just after the establishment of the Republican State. The number of such assimilation policies dramatically increased following the military interventions occurred in 1960, 1971 and 1980. Fortunately, after Turkey received the candidate status to join the EU, it started to form a new minority rights regime, enabling Turkish-citizen Kurds to enjoy more cultural rights. Under the control of the two drivers of the new regime – the desire to join the EU and the policy ‘*Demokratik Açılım*’ – the governments launched several right-based initiatives. Such initiatives enhanced cultural minority rights by dividing them into three categories: general cultural and linguistic rights, education rights and broadcasting rights.

With respect to general cultural and linguistic rights, while the tools of the first driver introduced several developments, they were not implemented properly due to the fact that the regulations (adopted by the administrative institutions) and the attitudes of the judicial organs had made the exercise of such developments difficult. The instruments of the second driver therefore attempted to resolve the implementation issues. The Kurds have eventually been allowed to enjoy their long-denied cultural and linguistic rights (such as the use of the Kurdish language in political campaigns and the restoration of the original names of the Kurdish-populated villages and towns). However, there are still provisions preventing the further enhancement of general cultural and linguistic rights at constitutional level. Even though the Kurdish language is spoken by millions of Turkish citizens, Article 3 of the Constitution of 1982 – one of the irrevocable provisions – recognises Turkish as the only official language of the State. Although Turkey enjoys a large Kurdish population, Article 134 of the Constitution provides public funding and constitutional protection only for the preservation and advancement of the Turkish history, culture and language.

With regard to education rights, while the first driver urged the governments to adopt new laws allowing the teaching of the Kurdish language at educational institutions, the regulations adopted by the Ministry of National Education made the opening and continuation of Kurdish private courses problematic. The tools of the second driver then rendered the Turkish higher and primary education systems more democratic through introducing several reforms (for example, the abolishment of the morning oath, the establishment of Kurdish language and

literature departments and institutes, and the inclusion of optional Kurdish language courses in the syllabus of public primary schools). Nevertheless, these reforms are not enough to satisfy the Kurds' demands, since what they desire is not to take Kurdish language lessons, but to use Kurdish as the language of education at both private and public schools. In this respect, Article 42 (9) of the Constitution prevents the fulfilment of this demand, because it prohibits the use of any language other than Turkish as the language of education.

As regards broadcasting rights, the 2004 Regulation of RTÜK had restricted the implementation of the EU harmonisation laws; however, Turkey underwent a process of enlarging the scope of broadcasting rights from 2005 to 2009. The adoption of the 2009 Regulation of RTÜK eventually eliminated all restrictions on broadcasting in Kurdish. Since then, Kurdish private and public TV channels and radio stations have broadcasted without any limitation.

As a consequence, I am of the belief that with respect to broadcasting rights, the modern minority rights regime is satisfactory, because it meets the conditions stated in Article 11 of the ECRML and in Article 9 of the FCNM. However, constitutional provisions still preclude the fulfilment of the Kurds' demands pertaining to general cultural and linguistic rights, and to education rights. The Kurdish issue is considered as one of the greatest hindrances to the democratic consolidation in Turkey. Its resolution is therefore important not only for the adoption of a minority rights regime fulfilling the European criteria, but also for the further development of the Turkish democracy. It is worth noting that the European specific legal sources (the ECRML and FCNM) may play a key role in resolving the Kurds' current problems. By taking into account Article 8 of the ECRML, future research projects may, on the one hand, examine the issue whether the Turkish education system should allow the use of Kurdish as the language of education in the south-eastern Kurdish-populated regions. By taking into consideration Articles 9 and 10 of the ECRML and Article 5 (1) of the FCNM, such research projects may, on the other hand, hear public opinions on the subjects (a) of the official use of the Kurdish language in the Kurdish-populated provinces and (b) of the legal protection and development of the Kurdish language, culture and history.

### **Table of Treaties, Conventions and Charters**

European Charter for Regional or Minority Languages, CETS No. 148, adopted on 5 November 1992, entered into force on 1 March 1998

Framework Convention for the Protection of National Minorities, CETS No. 157, adopted on 1 February 1995, entered into force on 1 February 1998

Treaty of Lausanne between Principal Allied and Associated Powers and Turkey, (1923) 28 LNTS 11

### **Table of Statutes**

Çeşitli Kanunlarda Değişiklik Yapılmasına İlişkin Kanun [Law on the Amendment of Certain Laws], Law No. 4771, adopted on 3 August 2002, published in Official Gazette No. 24841, entered into force on 9 August 2002

Çeşitli Kanunlarda Değişiklik Yapılmasına İlişkin Kanun [Law on the Amendment of Certain Laws], Law No. 4928, adopted on 15 July 2003, published in Official Gazette No. 25173, entered into force on 19 July 2003

Çeşitli Kanunlarda Değişiklik Yapılmasına İlişkin Kanun [Law on the Amendment of Certain Laws], Law No. 4963, adopted on 30 July 2003, published in Official Gazette No. 25192, entered into force on 7 August 2003

Nüfus Kanunu [Civil Registry Law], Law No. 1587, adopted on 5 May 1972, published in Official Gazette No. 14189, entered into force on 16 May 1972

Seçimlerin Temel Hükümleri ve Seçmen Kütükleri Hakkında Kanun [Law on Basic Provisions on Elections and Electoral Rolls], Law No. 298, adopted on 26 April 1961, published in Official Gazette No. 10796, entered into force on 2 May 1961

Seçimlerin Temel Hükümleri ve Seçmen Kütükleri Hakkında Kanun ile Milletvekili Seçimi Kanununda Değişiklik Yapılmasına Dair Kanun [Law on the Amendment of Certain Provisions of the Law on Basic Provisions on Elections and Electoral Rolls, and of the Law on Parliamentary Election], Law No. 5980, adopted on 8 April 2010, published in Official Gazette No. 27548, entered into force on 10 April 2010

Siyasi Partiler Kanunu [Law on Political Parties], Law No. 2820, adopted on 22 April 1983, published in Official Gazette No. 18027, entered into force on 24 April 1983

Temel Hak ve Hürriyetlerin Geliştirilmesi Amacıyla Çeşitli Kanunlarda Değişiklik Yapılmasına Dair Kanun [Law on the Amendment of Certain Laws with the Purpose

of Enhancing Fundamental Rights and Freedoms], Law No. 6529, adopted on 2 March 2014, published in Official Gazette No. 28940, entered into force on 13 March 2014

Türkiye Cumhuriyeti Anayasası [Constitution of the Republic of Turkey], Law No. 2709, adopted on 18 October 1982, published in Official Gazette No. 17863, entered into force on 9 November 1982.

Türkiye Cumhuriyeti Anayasasının Bazı Maddelerinin Değiştirilmesi Hakkında Kanun [Law on the Amendment of Certain Provisions of the Constitution of the Republic of Turkey], Law No. 4709, adopted on 3 October 2001, published in Official Gazette No. 24556, entered into force on 17 October 2001

Türkiye Radyo ve Televizyon Kanunu ile Radyo ve Televizyonların Kuruluş ve Yayınları Hakkında Kanunda Değişiklik Yapılmasına Dair Kanun [Law on the Amendment of Turkey's Radio and Television Law and of the Establishment and Broadcasting of Radio and Television Stations Law], Law no. 5767, adopted on 11 June 2008, published in Official Gazette No. 26918, entered into force on 26 June 2008

### **Table of Regulations**

Millî Eğitim Bakanlığı İlköğretim Kurumları Yönetmeliği [Regulation on Primary Education Institutions of Ministry of National Education], published in Official Gazette No. 25212, entered into force on 27 August 2003

Millî Eğitim Bakanlığı İlköğretim Kurumları Yönetmeliğinde Değişiklik Yapılmasına Dair Yönetmelik [Regulation on the Amendment of Regulation on Primary Education Institutions of Ministry of National Education], published in Official Gazette No. 28789, entered into force on 8 October 2013

Radyo ve Televizyon Yayınlarının Dili Hakkında Yönetmelik [Regulation on Language of Radio and Television Broadcasting], published in Official Gazette 24967, entered into force on 18 December 2002

Türk Vatandaşlarının Günlük Yaşamlarında Geleneksel Olarak Kullandıkları Farklı Dil ve Lehçelerde Yapılacak Radyo ve Televizyon Yayınları Hakkında Yönetmelik [Regulation on Radio and Television Broadcasting in Different Languages and Dialects Turkish Citizens Traditionally Used in their Daily Lives], published in Official Gazette No. 25357, entered into force on 25 January 2004

Türk Vatandaşlarının Günlük Yaşamlarında Geleneksel Olarak Kullandıkları Farklı Dil ve Lehçelerde Yapılacak Radyo ve Televizyon Yayınları Hakkında Yönetmelik [Regulation on Radio and Television Broadcasting in Different Languages and Dialects Turkish Citizens Traditionally Used in their Daily Lives], published in Official Gazette No. 27405, entered into force on 13 November 2009

## Bibliography

- Akgonul, M. S., ‘Elective Kurdish Courses in Turkey: A Historic Step or a Case of a too Little, too Late’, *The Kurdish Globe*, 18 June 2012, in ‘kurdishglobe.net’, <http://www.kurdishglobe.net/article/6ECEA43D2E378BACC3A4356A4DCABDBB/ElectiveKurdish-courses-in-Turkey-a-historic-step-or-a-case-of-a-too-little-too-late-.html>, [accessed 30 June 2014]
- ‘Akil İnsanlar Komisyonu Güneydoğu Raporu Açıklandı’ [Wise Persons’ Southeast Commission Report Has Been Released], *Yeni Türkiye*, 26 June 2013, in ‘yeniturkiye.org’, <http://www.yeniturkiye.org/akil-insanlar-heyeti-guneydogu-raporu-aciklandi/yeni-turkiye/3652>, [accessed 21 June 2014]
- Capotorti, F., ‘Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities’, United Nations (New York: Official Publications of the United Nations, 1979)
- ‘Combined Fourth to Sixth Periodic Reports of States Parties on Turkey’, Committee on the Elimination of Racial Discrimination, (New York: Official Publications of the United Nations, April 2014)
- Demirel, T., ‘Soldiers and Civilians: The Dilemma of Turkish Democracy’, *The Middle East Journal*, 40 (2004), pp. 127-150
- ‘Dicle Üniversitesi’nden Kürtçe Kursu’ [Kurdish Language Course by Dicle University], *Ntvmsnbc*, 16 June 2011, in ‘ntvmsnbc.com’, <http://www.ntvmsnbc.com/id/25223793>, [accessed 26 June 2014]
- ‘Dicle Üniversitesi’nden Kürtçe Kursu’ [Kurdish Language Course by Dicle University], *Haber7*, 16 June 2011, in ‘haber7.com’, <http://www.haber7.com/egitim/haber/75451-9-dicle-universitesinde-kurtce-kursu>, [accessed 7 July 2014]
- Ensaroglu, Y., ‘Turkey’s Kurdish Question and the Peace Process’, *Insight Turkey*, 15 (2013), pp. 7-17

- ‘Erdoğan: Türkiye’de Herkes Eşittir’ [Erdoğan: Everyone is Equal in Turkey], *Haberpan*, 14 October 2008, in ‘haberpan.com’, <http://www.haberpan.com/erdogan-turkiyede-herkes-esittir-haberi>, [accessed 15 June 2014]
- Ergil, D., ‘The Kurdish Question in Turkey’, *Journal of Democracy*, 11 (2000), pp. 122-135
- Ergin, M., ‘The Racialization of Kurdish Identity in Turkey’, *Ethnic and Racial Studies*, 37 (2014), pp. 322-341
- ‘European Commission against Racism and Intolerance’s Country-by-Country Approach: Report on Turkey’, Council of Europe (Strasbourg: Official Publications of the Council of Europe, November 1999)
- ‘European Commission against Racism and Intolerance’s Second Report on Turkey’, Council of Europe (Strasbourg: Official Publications of the Council of Europe, July 2001)
- ‘European Commission against Racism and Intolerance’s Third Report on Turkey’, Council of Europe (Strasbourg: Official Publication of the Council of Europe, February 2005)
- ‘European Commission against Racism and Intolerance’s Fourth Report on Turkey’, Council of Europe (Strasbourg: Official Publication of the Council of Europe, February 2011)
- Gunter, M. M., ‘The Kurdish Problem in Turkey’, *The Middle East Journal*, 42 (1988), pp. 389-406
- ‘Gün TV Applies for Right to Broadcast in Kurdish’, *Hürriyet Daily News*, 18 February 2006, in ‘hurriyet-dailynews.com’, <http://www.hurriyetdailynews.com/gun-tv-applies-for-right-to-broadcast-in-kurdish.aspx?page-ID=438&n=gun-tv-applies-for-right-to-broadcast-in-kurdish-2006-02-18>, [accessed 27 June 2014]
- ‘Government to Increase Kurdish Broadcasting’, *Hürriyet Daily News*, 19 February 2008, in ‘hurriyetdaily-news.com’, <http://www.hurriyetdailynews.com/governmenttoincrease-kurdishbroadcasting.aspx?pageID438-&n=government-to-increase-kurdishbroadcasting-2008-02-19>, [accessed 28 June 2014]
- Hakan, A., ‘Andımız Kalkmalı’ [*Andımız* Should be Abolished], *Memleket*, 02 April 2011, in ‘memleket.com.tr’, <http://www.memleket.com.tr/ahmet-hakan-andimiz-kalkmali-96618h.htm>, [accessed 26 June 2014]
- Hughes, E., ‘The European Union Accession Process: Ensuring the Protection of Turkey’s Minorities?’, *International Journal on Minority and Group Rights*, 17 (2010), pp. 561-577
- Hur, A., ‘Türkiye yerine Anadolu Cumhuriyeti olsaydı Ne Olurdu?’ [What Would Happen if It was the Republic of Anatolia rather than Turkey], *Radikal*, 13 January 2013, in

- 'radikal.com.tr', [http://www.radikal.com.tr/yazarlar/ayse\\_hur/turkiye\\_yerine\\_ana-dolu\\_cumhuriyeti\\_olsaydi\\_ne-olurdu\\_1116611](http://www.radikal.com.tr/yazarlar/ayse_hur/turkiye_yerine_ana-dolu_cumhuriyeti_olsaydi_ne-olurdu_1116611), [accessed 1 July 2014]
- Ince, B., 'Citizenship Education in Turkey: Inclusive or Exclusive', *Oxford Review of Education*, 38 (2012), pp. 115-131
- Kurban, D., 'Confronting Equality: The Need for Constitutional Protection of Minorities on Turkey's Path to the European Union', *Columbia Human Rights Law Review*, 35 (2003), pp. 151-214
- Kurban, D., 'Unravelling a Trade-Off: Reconciling Minority Rights and Full Citizenship in Turkey', *European Yearbook of Minority Issues*, 4 (2004), pp. 341-371
- 'Kurdish Broadcasts Start, But More Reforms Needed', *Hürriyet Daily News*, 23 March 2006, in 'hurriyet-dailynews.com', <http://www.hurriyetdailynews.com/kurdish-broadcasts-start-but-more-reformsneeded.aspx?pageID=438&n=kurdish-broadcasts-start-but-more-reforms-needed-2006-03-23>, [accessed 27 June 2014]
- 'Kurdish Broadcast to Begin in January', *Hürriyet Daily News*, 29 December 2005, in 'hurriyetdaily-news.com', <http://www.hurriyetdailynews.com/kurdish-broadcasts-to-begin-in-january.aspx?pageID438&n=kurdish-broadcasts-to-begin-in-january-2005-12-29>, [accessed 27 June 2014]
- 'Kürt Açılımı Netleşti' [The Kurdish Initiative Has Become Apparent], *Sabah*, 12 May 2009, in 'sabah.com.tr', [http://www.sabah.com.tr/Siyaset/2009/05/12/kurt\\_acilimi\\_netlesti](http://www.sabah.com.tr/Siyaset/2009/05/12/kurt_acilimi_netlesti), [accessed 30 June 2014]
- 'Kürtçe Tabelayı Bakan Astı' [The Minister Hanged out the Kurdish Sign], *Milliyet*, 25 May 2014, in 'milliyet.com.tr', <http://www.milliyet.com.tr/kurtce-tabelayi-bakan-asti-gundem-1887614/>, [accessed 25 June 2014]
- 'Last Obstacles to 'Kurdish Broadcasting Overcome'', *Hürriyet Daily News*, 21 February 2006, in 'hurriyetdaily-news.com', <http://www.hurriyetdailynews.com/last-obstacles-to-kurdish-broadcastingovercome.aspx?pageID-438&n=last-obstacles-to-kurdish-broadcasting-overcome-2006-02-21>, [accessed 27 June 2014]
- 'Limits on Kurdish Movies and Music Lifted', *Hürriyet Daily News*, 13 June 2006, in 'hurriyetdailynews.com', <http://www.hurriyetdailynews.com/limits-on-kurdish-movies-and-music-lifted.aspx?pageID=438&n=limits-on-kurdish-movies-and-music-lifted-2006-06-13>, [accessed 27 June 2014]

- Moustakis, F., and R. Chaudhuri, 'Turkish-Kurdish Relations and the European Union: An Unprecedented Shift in the Kemalist Paradigm', *Mediterranean Quarterly*, 16 (2005), pp. 77-89
- Nas, C., 'The Approach of the European Parliament to the Issue of Ethnic Minorities and Minority Rights in Turkey within the Context of the European Minority Rights Sub-Regime', Jean Monnet Working Papers, University of Catania, JMWP No. 18.98/ November 1998. ISSN 2281-9029
- 'New Charter to Secure Broadcast in Kurdish', *Hürriyet Daily News*, 16 August 2013, in 'hurriyetdaily-news.com', <http://www.hurriyetdailynews.com/new-charter-to-secure-broadcast-inkurdish.aspx?pageID=238&nID=52630&NewsCatID=338>, [accessed 28 June 2014]
- Nykanen, J., 'Identity, Narrative and Frames: Assessing Turkey's Kurdish Initiatives', *Insight Turkey*, 15 (2013), pp. 85-101
- Robins, P., 'The Overlord State: Turkish Policy and the Kurdish Issue', *International Affairs*, 69 (1993), pp. 657-676
- 'RTÜK Approves Kurdish Broadcasts', *Hürriyet Daily News*, 9 March 2006, in 'hurriyet-dailynews.com', <http://www.hurriyetdailynews.com/rtuk-approves-kurdishbroadcasts-.aspx?pageID438&n=rtuk-approves-kurdish-broadcasts-2006-0309>, [accessed 27 June 2014]
- 'Sessiz Devrim' [Silent Revolution], The Prime Ministry of Republic of Turkey (Ankara: Publications of the Under-Secretariat of Public Order and Security, December 2013)
- Somer, M., 'Turkey's Kurdish Conflict: Changing Context, and Domestic and Regional Implications', *The Middle East Journal*, 58 (2004), pp. 235-253
- 'Student Oath is the Wrong Kind of Nationalism, Turkish PM Says', *Hürriyet Daily News*, 5 October 2013, in 'hurriyetdailynews.com', <http://www.hurriyetdailynews.com/student-oath-is-the-wrong-kind-of-nationalism-turkish-pmsays.aspx?pageID=238&nID=55738&NewsCatID=338>, [accessed 26 June 2014]
- 'TESEV'e Göre Andımız Kalkmalı' [According to TESEV, *Andımız* Should be Abolished], *Haber3*, 24 December 2008, in 'haber3.com', <http://www.haber3.com/tesev8217e-gore-8220andimiz8221-kalkmali-haberi-433664h.htm>, [accessed 26 June 2014]
- Tezcur, G. M., 'Prospects for Resolution of the Kurdish Question: A Realist Perspective', *Insight Turkey*, 15 (2013), pp. 69-84

- ‘The Minority Rights and Cultural Rights Working Group Report’, Human Rights Advisory Board (Ankara: Turkish Prime Ministry, October 2004)
- Toktas, S. and B. Aras, ‘The EU and Minority Rights in Turkey’, *Political Science Quarterly*, 124 (2009), pp. 697-720
- ‘Turkey 1998 Regular Report’, Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, 1998)
- ‘Turkey 2000 Regular Report’, Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, November 2000)
- ‘Turkey 2001 Regular Report’, Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, November 2001)
- ‘Turkey 2002 Regular Report’, Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, October 2002)
- ‘Turkey 2003 Regular Report’, European Commission (Brussels: Official Publication of the European Commission, 2003)
- ‘Turkey 2004 Regular Report’, Commission of the European Communities (Brussels: Official Publication of the Commission of the European Communities, October 2004)
- ‘Turkey 2005 Progress Report’, European Commission (Brussels: Official Publications of the European Commission, November 2005)
- ‘Turkey 2006 Progress Report’, Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, November 2006)
- ‘Turkey 2007 Progress Report’, Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, November 2007)
- ‘Turkey 2008 Progress Report’, Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, November 2008)
- ‘Turkey 2009 Progress Report’, Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, October 2009)

- ‘Turkey 2010 Progress Report’, Commission of the European Communities (Brussels: Official Publications of the Commission of the European Communities, November 2010)
- ‘Turkey 2011 Progress Report’, European Commission (Brussels: Official Publications of the European Commission, October 2011)
- ‘Turkey 2012 Progress Report’, European Commission (Brussels: Official Publications of the European Commission, October 2012)
- ‘Turkey 2013 Progress Report’, European Commission (Brussels: Official Publications of the European Commission, 2013)
- ‘Turkey’s Erdoğan Sets Constitution Deadline’, *Wall Street Journal*, 30 January 2013, in ‘online.wsj.com’, <http://online.wsj.com/news/articles/SB10001424127887323701904-578273860063702682>, [accessed 21 June 2014]
- ‘Turkey’s Kurdish Conflict: An Assessment of the Current Process’, Democratic Process Institute, (London: Democratic Process Institute, November 2013)
- ‘Turkey’s Minority Condemn ‘Our Pledge’ But Fear Speaking Out’, *Hürriyet Daily News*, 15 August 2011, in ‘hurriyetdailynews.com’, <http://www.hurriyetdailynews.com/-turkeysminorities-condemn-our-pledge-but-fearspeakingout.aspx?pageID=438&n-minorities-condemn-8216our-pledge8217-but-fear-speaking-out-2011-08-15>, [accessed 26 June 2014]
- ‘Turkey’s State News Agency Starts Broadcasting in Kurdish’, *Hürriyet Daily News*, 1 September 2013, in ‘hurriyetdailynews.com’, <http://www.hurriyetdailynews.com/turkeys-state-news-agency-starts-broadcasting-in-kurdish.aspx?pageID=238&nID=53-631&NewsCatID=341>, [accessed 28 June 2014]
- Updegraff, R. ‘The Kurdish Question’, *Journal of Democracy*, 23 (2012), pp. 119-128
- Yegen, M., ‘“Prospective Turks” or “Pseudo Citizens”: Kurds in Turkey’, *The Middle East Journal*, 63 (2009), pp. 597-615
- Yegen, M., ‘The AK Party and the Kurdish Question: Conflict to Negotiation’, Al Jazeera Centre for Studies, in ‘studies.aljazeera.net’, <http://studies.aljazeera.net/Resource-Gallery/media/Documents/2014/1/16/2014116105337409734The%20AK%20Party%20and%20the%20Kurdish%20Question%20Conflict%20to%20Negotiation.pdf> 16 January 2014, [accessed 20 June 2014]
- Yesilada, B. A., ‘Turkey’s Candidacy for EU Membership’, *The Middle East Journal*, 56 (2002), pp. 94-111

Yetkin, M., 'Why Turkish Efforts for a New Charter Failed Again', *Hürriyet Daily News*, 21 November 2013, in 'hurriyetdailynews.com', <http://www.hurriyetdailynews.com/-why-turkish-efforts-for-a-new-charter-failedagain.aspx?pageID=449&nID=58249&NewsCatID=409>, [accessed 21 June 2014]

Zeydanlioglu, W., 'Turkey's Kurdish Language Policy', *International Journal of the Sociology of Language*, 2012 (2012), pp. 99-125

Zeyrek, D., 'Turkey to Introduce Kurdish Lessons in Public Schools', *Al Monitor*, 18 June 2012, in 'al-monitor.com', <http://www.al-monitor.com/pulse/culture/2012/06/turkey-to-introduce-elective-kur.html>, [accessed 30 June 2014]

