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# Freedom of Religion in Turkey

## A closer look through the eyes of the European Court of Human Rights («ECtHR»)

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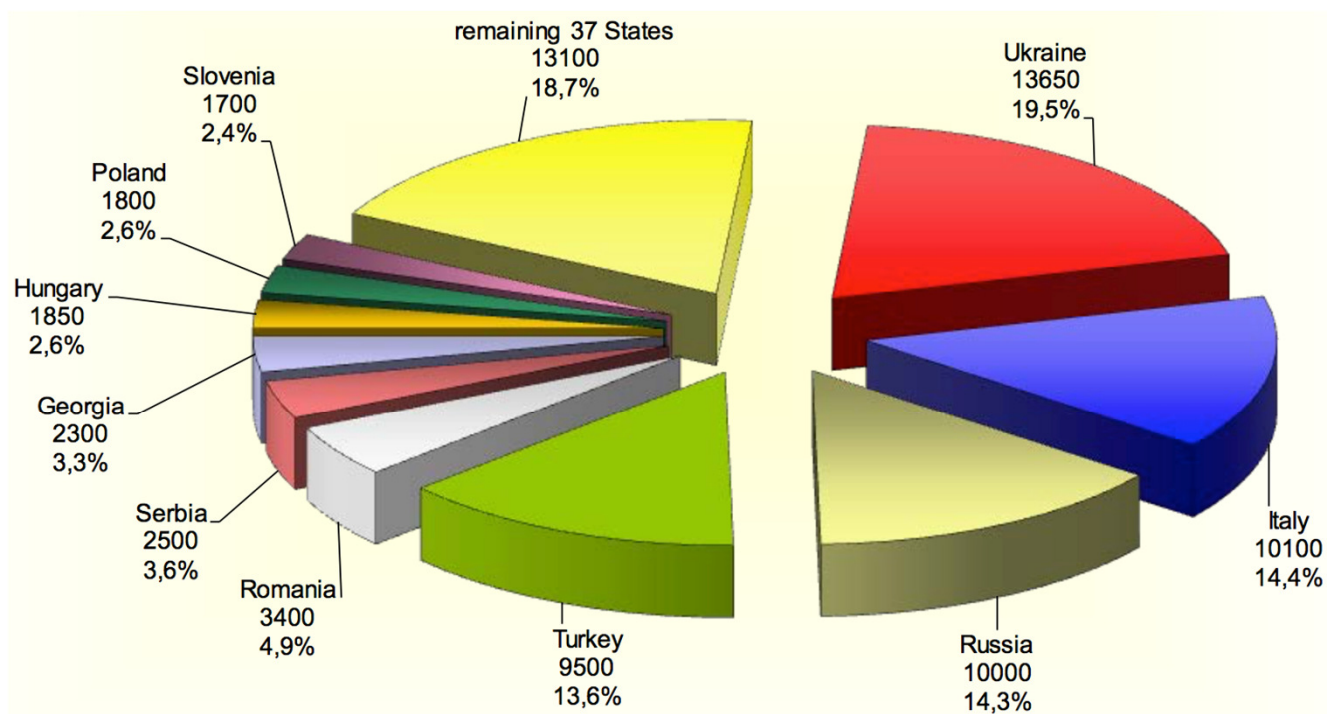
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# ECtHR – Analysis of Statistics 2014

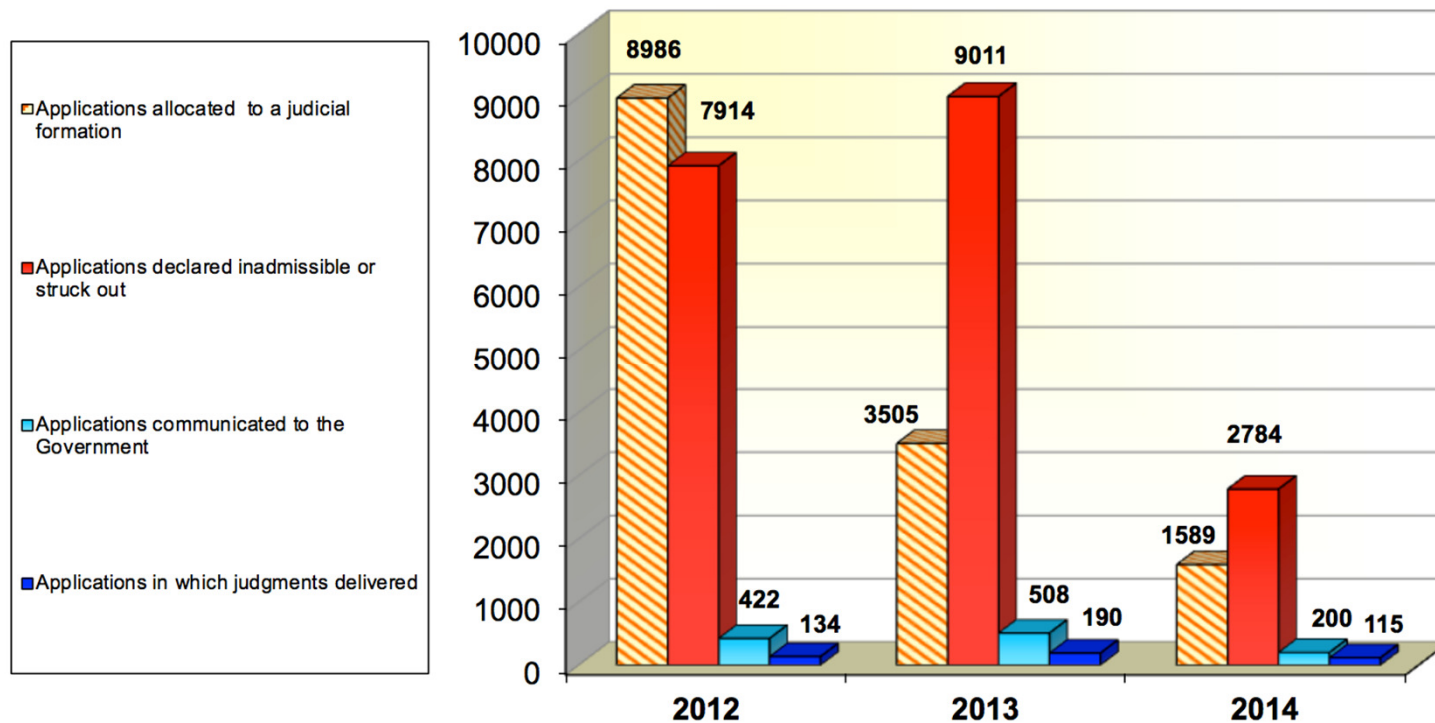
High case-count States (more than 1,700 applications pending before a judicial formation)



Total number of pending applications: 69,900

Source: Analysis of Statistics 2014, Online access date on September 13, 2015. [http://www.echr.coe.int/Documents/Stats\\_analysis\\_2014\\_ENG.pdf](http://www.echr.coe.int/Documents/Stats_analysis_2014_ENG.pdf)

# ECTHR – Turkey, Analysis of Statistics 2014



Source: Analysis of Statistics 2014, Online access date on September 13, 2015. [http://www.echr.coe.int/Documents/Stats\\_analysis\\_2014\\_ENG.pdf](http://www.echr.coe.int/Documents/Stats_analysis_2014_ENG.pdf)

# ECTHR – Violations by Article and by State

1959-2014	Total number of judgments	Judgments finding at least one violation				Friendly settlements/Staking-out judgments				Other judgments/Staking-out judgments				Right to life – deprivation of life				Lack of effective investigation		Inhuman or degrading treatment		Lack of effective investigation		Conditional violations <sup>2</sup>		Prohibition of slavery/forced labour		Right to liberty and security		Right to a fair trial <sup>2</sup>		Length of proceedings		No punishment without law		Freedom of thought, conscience and religion		Freedom of expression		Right to assembly and association		Right to marry		Prohibition of effective remedy		Protection of property		Right to education		Right not to be tried or punished twice		Other Articles of the Convention	
		Total	Total	Total	Total	Total	2	2	3	3	3	3	4	5	6	6	6	7	8	9	10	11	12	13	14	PI-1	PI-2	PI-3	P7-4																								
Luxembourg	43	32	8	3			1							12	17			4		3	1		3	1	1																												
Malta	61	43	8		10	1			1				16	9	9	1	1	4		3			3	13																													
Republic of Moldova	297	270	4	2	21	2	7	9	65	37			66	116	11	18		19	4	17	13		43	4	99		2																		9								
Monaco	2	2											1	2																																							
Montenegro	18	17	1						1				1	3	4	4		1		2			2		4																												
Netherlands	145	85	33	16	11		4	1	8				28	25	8			17		7			2	3	1																												
Norway	39	27	12										1	11	2			7		5					1	1																											
Poland	1,070	905	107	42	16	6	5	2	32	8			295	105	425	3		103	1	23	1	2	24	4	51																			7									
Portugal	289	216	10	56	7								2	27	122	4		8		19			30	1	45																												
Romania	1,113	1,004	34	24	51	8	27	2	151	50			104	397	114	40	3	71	1	22	5		20	27	457		3																	15									
Russian Federation	1,604	1,503	74	13	14	244	265	46	504	132	13	1	605	655	172	64	1	131	8	26	15		368	10	501	2	3	3																98									
San Marino	13	9	1	2	1								1	7	2					1					1																												
Serbia	115	101	8		6		2		3	4			6	25	23	26		12		6			17	2	37																												
Slovak Republic	322	287	10	21	4	2	2	1	4	2			44	31	196	2		18		9			33	2	8																			1									
Slovenia	323	304	15	3	1		2		19	3			6	12	256	3		8		1			262	1	2																												
Spain	131	84	41	3	3				2	7			5	41	13		4	10		4			1	4	2																			1									
Sweden	138	56	52	26	4	1		1	4		1		2	27	12	1		9		2	1		2	1	6																			1									
Switzerland	152	94	50	5	3		1		1	1	2		15	31	7			22	1	14	1	1	2	4																													
The former Yugoslav Republic of Macedonia	109	99	6	3	1	1		2	1	6			14	28	59	5		2				1	9		6																												
Turkey	3,095	2,733	64	204	94	121	173	29	294	184			671	801	574	60	4	89	9	248	63		261	11	641	5	8																	32									
Ukraine	1,002	987	10	2	3	9	30	12	117	53			203	481	298	29	1	46	3	10	4		185	2	336		2																	26									
United Kingdom	513	301	123	67	22	2	20	2	17		1	1	64	91	27			67	1	11	4	4	33	44	3	2	5																2										
<b>Sub-total</b>		<b>14,877</b>	<b>1,257</b>	<b>1,072</b>	<b>587</b>	<b>435</b>	<b>595</b>	<b>123</b>	<b>1,513</b>	<b>574</b>	<b>27</b>	<b>5</b>	<b>2,871</b>	<b>4,198</b>	<b>5,331</b>	<b>336</b>	<b>39</b>	<b>1,085</b>	<b>59</b>	<b>591</b>	<b>165</b>	<b>8</b>	<b>1,935</b>	<b>232</b>	<b>2,898</b>	<b>12</b>	<b>67</b>	<b>15</b>	<b>283</b>																								
<b>Total</b>		<b>17,754 *</b>																																																			

Source: Analysis of Statistics 2014, Online access date on September 13, 2015. [http://www.echr.coe.int/Documents/Stats\\_analysis\\_2014\\_ENG.pdf](http://www.echr.coe.int/Documents/Stats_analysis_2014_ENG.pdf)

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# Article 9 of the European Convention on Human Rights

## **Article 9- Freedom of thought, conscience and religion**

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

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# Turkish Constitution (1982)

## **Article 24- Freedom of religion and conscience**

Everyone has the freedom of conscience, religious belief and conviction.

Acts of worship, religious rites and ceremonies shall be conducted freely as long as they do not violate the provisions of Article 14.

No one shall be compelled to worship, or to participate in religious rites and ceremonies, or to reveal religious beliefs and convictions, or be blamed or accused because of his religious beliefs and convictions.

Religious and moral education and instruction shall be conducted under state supervision and control. Instruction in religious culture and morals shall be one of the compulsory lessons in the curricula of primary and secondary schools. Other religious education and instruction shall be subject to the individual's own desire, and in the case of minors, to the request of their legal representatives.

No one shall be allowed to exploit or abuse religion or religious feelings, or things held sacred by religion, in any manner whatsoever, for the purpose of personal or political interest or influence, or for even partially basing the fundamental, social, economic, political, and legal order of the State on religious tenets.

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## «Religion» box on IDs

### **Sinan Işık v. Turkey (21924/05 - Judgment on 2.2.2010)**

**Facts:** The applicant was a member of the Alevi religious community. He applied to courts requesting that his identity card feature the word “Alevi” rather than “Islam”, but his application was unsuccessful.

**Conclusion:** Violation. The breach arises not from the refusal to indicate the applicant’s faith on his ID, but from the problem of indication of religion on it. The Court therefore found that the deletion of the “religion” box on identity cards could be an appropriate form of reparation to put an end to the breach.

### **X vs. Turkey Supreme Court of Administration (Judgment on 10.6.1994)**

**Facts:** The applicant, a Jehovah’s Witness, wanted to change the religion information which was written as Islam on his ID card and was refused by the administration after the respondent demanded an expert opinion from the Turkish Directorate of Religious Affairs and Faculty of Theology of Ankara University regarding whether Jehovah’s Witnesses was a separate religion from Christianity. The expert opinion stated that it was not possible to accept Jehovah’s Witnesses as a separate religion. The administrative court ruled in favor of the applicant. The administration appealed.

**Conclusion:** It was not possible to accept «Jehovah’s Witnesses» as a separate religion; «religion» column in ID cards was in line with the legislation. (Similar conclusion for a Baha’i citizen.)

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# Recognition of Alevism

## **Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfi vs. Turkey (32093/10 – 2.12.2004)**

**Facts:** The case concerned the possibility under Turkish law for places of worship to be granted an exemption from paying electricity bills and the refusal to grant this privilege to the applicant foundation. The applicant religious foundation runs any cemevis, which are premises dedicated to the practice of Alevism.

Submitting that one of its centers was a place of worship for the Alevi community, its director requested exemption from paying electricity bills, since the legislation provided that the electricity bills for places of worship would be paid from a fund administered by the Directorate of Religious Affairs. This request was dismissed as, per the Directorate of Religious Affairs' opinion, Alevism was not a religion and that the cemevis were not places of worship.

**Conclusion:** The applicant foundation sustained a difference in treatment without any objective or reasonable justification, and that the system for granting exemptions from payment of electricity bills for places of worship under Turkish law entailed discrimination on the ground of religion. The cemevis were, like the other places of worship, premises used for religious worship and that the situation of the applicant foundation was similar to that of other religious communities.

## **Similar case: Doğan and Others vs. Turkey (62649/10 – pending before the Grand Chamber)**

The case concerns the rejection of the request made by 203 Turkish nationals belonging to the Alevi faith for provision of a religious public service which, they maintain, has been granted to date exclusively to the majority of citizens who subscribe to the Sunni understanding of Islam. The applicants complained that the Religious Affairs Department confined itself to cases concerning only one theological school of thought while disregarding all other faiths, including the Alevi faith, and claimed that Alevis' places of worship (cemevis) were not recognized as such and that numerous obstacles prevented them from being built, that no provision was made in the budget for the running of existing places of worship and that the exercise of Alevis' rights and freedoms was dependent on the good will of public officials.

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# Wearing of headscarves at school

**Leyla Şahin vs. Turkey (44774/98 – Grand Chamber judgment on 10.11.2005)**

**Facts:** The applicant complained that she had been prohibited from wearing the Islamic headscarf at university, an unjustified interference with her right to education. She also claimed that the prohibition on wearing the Islamic headscarf obliged students to choose between education and religion and discriminated between believers and non-believers.

**Conclusion:** No violation. The local authorities are better placed to evaluate local needs and conditions, given the importance of secularism in Turkey. Therefore, where the questions concerning the relationship between the state and religions were at stake, the role of the national decision-making bodies must be given special importance, i.e. margin of appreciation.

See also **Karaduman vs. Turkey (16278/90)** and **Kurtulmuş vs. Turkey (65500/01)** for similar conclusions.

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# Turkish Constitutional Court decisions on religious clothes

## **Esra Nur Özbey vs. Turkey (Judgment on 25.6.2014)**

**Facts:** The applicant was forced to take off her coat on her way to the İstanbul Bakırköy Courthouse. The applicant refused the request and suffered an affront during the ensuing quarrel. She could not enter the courthouse through that gate and entered the building through another gate. The applicant filed a criminal complaint before the Public Prosecution Office. The prosecutor gave a decision of non-prosecution decision and finally the applicant brought the case before the Turkish Constitutional Court.

**Conclusion:** Violation. The measures implemented by the authorities against the applicant were not «necessary in a democratic society».

## **Tuğba Nur Arslan vs. Turkey (Judgment on 20.5.2015)**

**Facts:** Applicant was a lawyer in the Ankara Bar Association and wanted to attend hearings wearing a headscarf. However, the judge refused to hear a case while the lawyer applicant was wearing a headscarf in the courtroom.

**Conclusion:** Violation. There was no evidence about its use as a symbol that would impose pressure on those opposing it.

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# Conscientious Objection

## **Erçep vs. Turkey (43965/04 - Judgment on 22.11.2011)**

**Facts:** The applicant, a Jehovah's Witness, refused to perform his military service. He was sentenced to several terms of imprisonment.

**Conclusion:** Violation. The applicant's objections had been motivated by genuinely held religious beliefs that were in serious and insurmountable conflict with his obligations in that regard.

## **Savda vs. Turkey (42730/05 - Judgment on 12.07.2012)**

**Facts:** The applicant complained in particular about his various prosecutions and convictions for claiming conscientious objector status. Emphasising the seriousness of the measures taken against him on account of his refusal, he further argued that the successive convictions placed him in a situation of humiliation and debasement. Lastly, he challenged the fairness of the proceedings before the military court, which, in his view, could not be regarded as an independent and impartial tribunal.

**Conclusion:** Violation. There was an obligation on the authorities to provide the applicant with an effective and accessible procedure that would have enabled him to establish whether he was entitled to a «conscientious objector» status, as he requested.

See also **Tahran vs. Turkey (9078/06)**, **Buldu and Others vs. Turkey (14017/08)** and **Feti Demirtaş vs. Turkey (5260/07)** for similar conclusions.

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# Missionary Activities

## PJ vs. Turkey (Judgement on 26.5.2014)

**Facts:** The applicant was deported from Turkey for working without a permit as a religious man. The applicant challenged this decision by reference to Article 9 of the European Convention on Human Rights.

**Conclusion:** By reference to the Kokkinakis vs. Greece (14307/88) judgment, the Supreme Administrative Court concluded that the applicant's deportation was illegal.

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# Thank you for your patience and attention!

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