

**A SUPPLEMENT TO THE MEMORANDUM**  
***Turkey's Candidacy for Membership to the European Union***

Compiled by

**MONITORING MINORITY RIGHTS**  
**A NETWORK FOR THE RIGHTS OF NON-MUSLIM MINORITIES IN TURKEY**

- **Denied genocide, restricted fundamental and civic rights**

As a direct consequence of Turkey's denial of the genocide of Ottoman Armenians during 1915/16, fundamental and civic rights of Turkish citizens are restricted and violated.

In particular worrying is the reasoning of article 305 in Turkey's recently amended Penal Code. In the context of this penal law, the mentioning of the Armenian genocide or criticism of Turkey's military occupation of North Cyprus were cited as examples for the application of article 306 (which became article 305 in the final version of the Penal Code, issued recently by the Grand Assembly of Turkey, but not yet signed by the president.) The background of this law and its reasoning are telling. Such a law came into existence in autumn 2000, when the Turkish legislature started to consider a draft bill, crafted under the pressure of the Turkish General Staff. This legislative initiative coincided with the debate of a resolution in the Armenian genocide by the US House of Representatives. The Turkish General Staff intended, under the term of article 359 of the then Turkish Penal Code, to treat the very use of the word "genocide" (soykırım in Turkish) in connection with the World War I fate of Ottoman Armenians henceforth as a criminal offence.<sup>1</sup> Although the bill did not receive the ultimate approval, it survived in the reasoning of article 306 (305) of the recent amendments of the Turkish Penal Code, despite the fact, that it contradicts the *Human Rights Convention of the Council of Europe*. It provoked the protest of numerous NGOs inside and outside the European Union and caused a warning by the EU. The fact, that such a reasoning existed despite Turkey's candidacy for membership in the EU is in itself indicative for the obstinacy with which the Turkish military authorities, together with radical nationalists and the tacit agreement of Turkey's recent rulers are pursuing the goal of suppressing any serious debate on the topic of the Armenian genocide or the ongoing military occupation of North Cyprus. Such obstinacy, however, causes serious doubts about Turkey's willingness to introduce reforms.

Although the EU issued a warning to Turkey on behalf of the reasoning of article 305, in legal practice this and similar restrictive articles of Turkish Penal Code are still applied. There is a court-case pending on the internationally prominent Turkish publisher Ragıp Zarakolu of Istanbul, for his intention to publish the Turkish translation of a book on Armenian and Turkish reconciliation<sup>2</sup>. Important, as the message of this politically balanced and moderate book may be, the Armenian author's preface (three pages) had been named as a reason for the court-case. Despite the fact, that the author George Jerjian calls both on Armenians and Turks to compromise, the preface was found "insulting" for Turkey's "national honour". For fear of being arrested, Mr Zarakolu did not dare to leave his homeland and travel abroad in order to meet a producer of documentaries for an interview on November 20, 2004.

- **Disappearance of a Student and Film Producer: The Case of Mr Rafał Jędraszyc**

During the last week of May 2002, Rafał Jędraszyc, a student of the Jagielloński Uniwersytet of Kraków (Poland) went missing in the area between Lake Van and Mount Ararat in the east of Turkey.

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<sup>1</sup> Compare press release by the Armenian Genocide Resource Center of Northern California (AGRC), Richmond, "Turkish General Staff censors Taner Akçam", October 26, 2000

<sup>2</sup> Jerjian, George: *The Truth will set us free: Armenians and Turks reconciled*. London UK: GJ Communications, April 2002

The young man, born in 1975, is a student of history, a writer and a mountaineer. His journey to the historic homeland of Armenians in the east of Turkey was a research tour for a documentary film, called the "Karabakh Story", and commissioned by the Polish TV (TVP) and the Armenia based "Lotos TV". Despite its title, the documentary film was intended to be on the Armenian genocide. Therefore Mr Jędraszyk's relatives, as well as human rights activists are convinced that Rafał Jędraszyk particular interest in the history of the Armenian genocide has led to his disappearance.

The family has contacted Polish and Turkish authorities in order to find out the whereabouts of Mr Jędraszyk, but was cautioned not to address to the public. Mrs Krystyna Jędraszyk, the desperate mother, is now blaming the Polish authorities for being inactive for two years. "Mr Candara Azera of the Turkish Embassy in Poland has offered his support in the search for Rafał", sounds an appeal by the Jędraszyk family and his friends. "But the only thing the Turkish government and the Foreign Office of the Republic of Poland could ascertain during the last two years was the fact, that Rafał has not left Turkey."<sup>3</sup>

The Turkish Consulate at Kraków rejected the visa application of a Polish Catholic Priest of ethnic Armenian background, Archimandrite Tadeusz Isahakyan Zaleski, who intended to accompany a group, which set out to Turkey in order to search for Mr Jędraszyk last summer. The priest is sure that this rejection was caused by the cross-stone (khatch-kar in Armenian), which the cleric had erected in commemoration to the victims of the Armenian genocide.<sup>4</sup>

As these examples prove, the ongoing insecurity for journalists and producers in the East of Turkey and in context with the denied Armenian genocide lead to serious restrictions and limitations.

#### - **Ongoing Threat to Armenian Cultural Heritage**

A permanent reason for concern is the arbitrary destruction of Armenian architectural heritage in Turkey, including prominent and much-visited sites such as the Surb Nshan/Holy Cross Church (10th century) on the island of Akhtamar in lake Van. A recent report in the Turkish paper "Milliyet" drew attention to the fact that the precious stone carvings of this church are frequently shot at by "visitors". "Treasure-hunting" and neglect are further reasons for the precarious state of the church, which is, according to another Turkish newspaper report of May 2004 close to ruins.

Turkey never applied to the UNESCO to register outstanding Armenian sites such as Surb Nshan of Akhtamar or Ani, the medieval capital of the Armenian kingdom of Shirak, as a monument of World heritage and protect it correspondingly.

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<sup>3</sup> Compare also the support URL <http://www.jedraszyk.com>

<sup>4</sup> "Turkey rejects visa to priest", "Hayots ashkharh", 31.08.2004