



ORDER OF SAINT ANDREW  
ARCHONS OF THE ECUMENICAL PATRIARCHATE

*Defenders of the Faith*

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***The Status and Issues of the Ecumenical Patriarchate of Constantinople***

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**Fundamental Freedoms II**

**Freedom of Religion**

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Presented on behalf of the Order of St. Andrew

by

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**Introduction**

On behalf of the Order of Saint Andrew the Apostle (the Order), I thank you for allowing me to discuss with you, once again, the difficult environment faced every day by the Orthodox Ecumenical Patriarchate in Istanbul.

The Order is a United States-based organization of Orthodox Christian laymen, whose mission is to defend the Ecumenical Patriarchate and to preserve its important role in the spiritual life of Orthodox Christians as well as all persons of faith in the world. Members of the Order can be found in the U. S. Congress and elsewhere in government, the professions, business, and the arts. Our mission is further founded on the precepts of the 1948 U. N. Declaration of Human Rights which recognizes freedom of religion as one of the four basic human rights. Please refer to the material we have made available to the delegates of this Conference.

The Ecumenical Patriarchate was founded by the Apostle Andrew in 37 A. D. and has served as a vital religious center for Orthodox Christians ever since. In 451 A. D., the Fourth Ecumenical Council of the Christian Church conferred upon the Bishop of Constantinople equal rank to Rome and special responsibilities throughout the rest of the world. The title "Ecumenical Patriarch" dates from the sixth century and reflects the stature in which the Bishop of the city, which was then known as Constantinople, has been held by the rest of Christendom ever since. The Ecumenical Patriarch today still retains responsibilities and privileges not available to any other Orthodox hierarch.

As we have reported in the past, the Ecumenical Patriarchate in Istanbul for many years has faced a hostile environment which at times threatened its very existence. The road to repair the

damage inflicted by decades of unjust government decrees and even pogroms, following the 1923 Treaty of Lausanne, has been long and arduous. Very serious issues still remain.

As we reported last year, the Turkish national government has now initiated steps which begin to address some of these issues. The road to complete and unfettered religious freedom continues to be uphill, circuitous and challenging. Much still needs to be accomplished. However, steps initiated at the time by then Prime Minister Erdoğan (now President) and others<sup>1</sup> in the national government are the beginning of a foundation upon which the pillars of religious freedom and institutional human rights for the Ecumenical Patriarchate can be rebuilt.

Permit me to review these issues with you

### **Denial of Legal Personality**

The Ecumenical Patriarchate still has no legal identity or personality in Turkey. This is particularly difficult to understand since the institution is 1,700 years old. The 1923 Treaty of Lausanne established the legal position and rights of minorities. Article 40 of the Treaty explicitly grants minorities the right

to establish, manage and control at their own expense, any charitable, religious and social institutions, any schools and other establishments for instruction and education, with the right to use their own language and to exercise their religion freely therein.

The Treaty is an internationally binding agreement. In addition, the EU Turkey 2003 Accession Partnership instructs Turkey to conform to European standards with respect to religious freedom.

Notwithstanding the above, the Turkish Government denies legal standing to the Ecumenical Patriarchate, the Armenian Patriarchate, the Jewish Rabbi's Office and other religious institutions.<sup>2</sup> This lack of legal personality or standing means the Ecumenical Patriarchate has no right to own property, not even the churches in which its parishioners worship. It cannot purchase property. It cannot even own the cemeteries in which its deceased Patriarchs are buried. The Ecumenical Patriarchate cannot apply for a necessary permit to repair deteriorating church property.

Instead, church property is owned by minority foundations which operate independently of the Ecumenical Patriarchate. The General Directorate of Foundations (the GDF) has exercised rigid and tight control over the day-to-day management of minority foundations, in violation of the

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<sup>1</sup> In 2012 the Speaker of the Grand National Assembly invited the Ecumenical Patriarch to appear before the Inter-Party Committee for the drafting of a new Constitution. This was the first time in the history of the Turkish republic that a leader of a religious minority group addressed the parliament. On this occasion His All Holiness discussed religious freedom and other related issues. He presented an 18-page document prepared by all the minorities in Turkey, concerning freedom of religion and other related issues. [www.christianpost.com](http://www.christianpost.com), February 27, 2012.

<sup>2</sup> 2012 US Commission on International Religious Freedom, page 199; see also 2013 Report, page 269; 2014 Report page 145.

Lausanne Treaty. The GDF can arbitrarily delay the election of foundation board members, thus rendering the foundations inoperative. Another principal way the GDF has restricted the self management of non-Muslim foundations has been the practice of seizing foundations when it unilaterally deems them to be “no longer of charitable or practical use.”<sup>3</sup> These realities have been greatly responsible for the loss of Patriarchal properties (owned via the foundation system). In 1936, the year the foundation law went into effect, the Ecumenical Patriarchate, its churches and institutions registered approximately 8,000 properties. In 1998 only 2,000 remained. Today that number is less than 500.

In a landmark opinion<sup>4</sup>, the European Commission for Democracy through Law stressed that the fundamental right of freedom of religion includes the possibility for religious communities to obtain legal personality. The Commission further stated that it could see no justification for not granting such rights to the non-Muslim religious communities in Turkey.

In 2008 the European Court of Human Rights ordered the return of the Büyükada Orphanage to the Ecumenical Patriarchate, notwithstanding the Turkish Government’s argument that the Ecumenical Patriarchate lacks legal standing to hold title.<sup>5</sup> Even though the deed was later registered in the Patriarchate’s name, the Government still insisted that “the institution represented by Greek Orthodox Patriarch Bartholomew does not have a legal personality under current Turkish law.”<sup>6</sup> In August 2011, the Government issued a decree that some confiscated properties would be returned. (See the paper presented by the Order in Session 13 of this Conference.) Several parcels of property now have been returned (most notably, forested land surrounding Halki Seminary, a former school building now housing the Turkish Government’s EU Entry Ministry in Istanbul, and a building housing the Greek Consulate near Taksim Square), but they have been returned to minority foundations, not the Ecumenical Patriarchate. The Order is hopeful that the ruling of the European Court, which is to say that the Patriarchate can hold legal title in its own name, will henceforth favorably resolve the issue of legal standing for all the Turkish non-Muslim minorities. The Order will monitor this question closely.

### **Property Confiscation and the Return of Confiscated Property**

A separate paper on the related issue of Property Confiscation and the Return of Confiscated Property has been presented by the Order in Session 13 of this Conference. In this document, the Order further describes the process by which Patriarchal property has been confiscated by the

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<sup>3</sup> “A Tale of Reciprocity,” Dilek Kurban and Konstantinos Tsitsalakis, Research Center for Minority Groups, Testev Publications, July 2010, page 11.

<sup>4</sup> European Commission for Democracy through Law, Opinion No. 535/2009, [www.venice.coe.int](http://www.venice.coe.int)

<sup>5</sup> [www.echr.coe.int](http://www.echr.coe.int), Case of Fener Rum Patrikligi, case no. 14340/05, 8/07/2008

<sup>6</sup> Public Statement by Deputy Prime Minister Bülent Arinc, in January 2011. He also stated that the Government of Turkey was “seeking to find an arrangement that recognizes the existence of the patriarchate but does not offer a legal personality to it, in line with the Lausanne Treaty and our laws.”

Turkish government and explains that the August 2011 decree allowing for the return of confiscated property often has been stalemated or applied in an unjust manner.

## **Halki School of Theology**

The reopening of the Halki School of Theology (Halki) is a critical step to the restoration of full religious freedom for the Ecumenical Patriarchate.

Halki was founded in 1844 by Patriarch Germanos IV on the site of a much older monastery on the island of Halki (Heybeliada). Halki served the Orthodox Christian community worldwide until 1971 when it stopped admitting new students because of a law banning private higher education institutions. Throughout the years, almost a thousand students have graduated from Halki, including many distinguished clerics, theologians, and most of the Ecumenical Patriarchs elected since the School's founding.

Following its closure, the Ecumenical Patriarchate has had to send the young men from its community, desiring to enter the priesthood or study theology, abroad, usually to one of the theological schools in Greece, and in many instances they do not return to Turkey after their studies. Since the closure of Halki, the Ecumenical Patriarchate also has had difficulties in finding the staff needed to carry out its many administrative responsibilities and its world-wide mission.

For many years urgent petitions by the Ecumenical Patriarch, the Order and many others to allow the reopening of Halki have gone unheeded.

Every president of the United States (beginning with President Carter and all his successors, including President Obama), many U.S. Secretaries of State (including Hillary Clinton and John Kerry), a host of European Union officials, and many international bodies also have repeatedly urged the Government of Turkey to allow the reopening of Halki. Vice President Joseph Biden was the last U. S. Government official to do so this past July.

Ecumenical Patriarch Bartholomew tirelessly has met and discussed this issue many times with high ranking officials of the Turkish government, including Prime Minister Erdoğan (now President of the Turkish Republic). The President of the Directorate of Religious Affairs (Diyanet), Mehmet Gormez, publicly supported the reopening of Halki when he met with the Ecumenical Patriarch in July 2012. On that day Professor Gormez embraced the Patriarch and stated:

As the Religious Affairs Directorate, we see non-Muslim citizens living in Turkey as an integral part of this country. Regarding religious freedoms -- freedom of religion, freedom to receive an education and the sacredness of places of worship -- we demand for them the same rights that we demand for ourselves. We think it is a fundamental right for people from every ethnicity and religion not only in our country but also in every part of the world to practice their religion freely, educate their children in accordance with their beliefs and raise their own theologians.<sup>7</sup>

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<sup>7</sup> [www.parikiaki.com](http://www.parikiaki.com), July 9, 2012

Notwithstanding the above, Halki today remains closed.

The U.S. Commission on International Religious Freedom (USCIRF) recently issued the following statement:

the (Turkish) Government's continued failure to follow through on the long promised reopening of the Halki Seminary is a disturbing indication of a lack of genuine will to resolve this longstanding religious freedom issue. (Emphasis added.)<sup>8</sup>

### **The process for the election of a new Ecumenical Patriarch**

In 1923 and 1970 the Governors of Istanbul issued decrees imposing restrictions on the election of the Ecumenical Patriarch and the metropolitans who elect him. These decrees stated that the Ecumenical Patriarch and the hierarchs who vote for him must be Turkish citizens. These decrees pose a serious problem for the Ecumenical Patriarchate because the number of Turkish born Orthodox clerics qualified to succeed or vote is dwindling. The canons of the Orthodox Church state that the Ecumenical Patriarch is to be elected freely from all hierarchs of the Ecumenical Patriarchate throughout the world, not just those in Turkey. There has been some progress concerning this issue, but not enough.

In 2011, Prime Minister Erdoğan issued a decree (an “executive reform statement”), which waived the five year residency Turkish citizenship requirement for Orthodox hierarchs wishing to apply for Turkish citizenship. Metropolitans from outside Turkey, who fall within the jurisdiction of the Ecumenical Patriarchate, have been allowed to apply for what is referred to as “exceptional” Turkish citizenship. Twenty six hierarchs under the jurisdiction of the Ecumenical Patriarchate have applied. Fifteen applied in 2010 and 11 in 2011. Twenty one were granted this “exceptional” Turkish citizenship, and five were denied. No explanations were provided to those who were denied citizenship, except that “the application is being rejected because it was found to be not in line with the requirements of the law in effect.” No other applications presently are pending.

This decree was a positive step forward, but there are several problems with this process. First, the decree is discretionary and, therefore, quickly can be rescinded by a subsequent national government. Secondly, it is not clear under the present Constitution (or the proposed new Constitution) whether an executive decree from Ankara overrides local Istanbul mandates. Third, there is no rational reason why an Orthodox hierarch must be a Turkish citizen simply in order to participate in the election of a new Ecumenical Patriarch. Thankfully, the ability of hierarchs

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<sup>8</sup> 2014 USCIRF Report, page 146

granted “exceptional” citizenship to participate in Patriarchal elections, either as candidates or electors, has not yet been tested.

We look forward to the day when no interference whatsoever will be exerted on the internal proceedings of the Ecumenical Patriarchate or of any other religious group.

### **Freedom to conduct religious services**

Beginning in 2010, on the occasion of the Dormition of the Theotokos August 15 holiday, and each succeeding year thereafter, the Government has allowed the Divine Liturgy to be celebrated at the Soumela Monastery near Trabzon on the Black Sea (Trabzon is a site where several Christian clergy had been murdered.) The Government also has allowed services in other religious significant sites which have previously been converted to state museums, such as the Akdamar Church near Van, the St. Peter’s Church in Antakya, the St. Nicholas Church near Demre, and the House of the Virgin Mary near Selçuk. Because Christianity thrived in Asia Minor for almost two millennia, many significant and historic religious sites and shrines exist in today’s Turkey.

The Order recognizes these positive steps undertaken by the Turkish Government. As Patriarch Bartholomew stated, following the 2010 Liturgy at Soumela,

What happened at Panagia Soumela proved that the place (which is officially a museum) can also once a year serve as a place of worship. This is something beneficial for all. The Turkish state understands that we are not a threat but, on the contrary, that we love and work for the good of our country, beyond the material for the country resulting from the pilgrims. Such actions are evidence that respect of religious freedom is growing in Turkey. This is a matter of principles and values in relation to basic human rights.<sup>9</sup>

Notwithstanding the above, the Order regrets to report that two historic churches, which had been maintained as museums, have now been converted into mosques.<sup>10</sup> One is Hagia Sophia in Trabzon (near Soumela), hailed as one of the finest examples of late Byzantine architecture.<sup>11</sup> The

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<sup>9</sup> [www.patriarchate.org](http://www.patriarchate.org), The Feast Day of the Dormition in Trapezounda, video uploaded August 30, 2010

<sup>10</sup> “Another Byzantine Church Becomes a Mosque in Turkey.” [www. Al-Monitor.com](http://www.Al-Monitor.com), 7-Aug-13.

<sup>11</sup> The New York Times, February 8, 2012

other is Hagia Sophia of Nicaea, site of the Seventh Ecumenical Council in 787.<sup>12</sup> In both instances, many Turkish scholars and local Turkish citizens voiced opposition to the conversions

Now there is an even more disturbing development. The Turkish Parliament has been asked to turn Hagia Sophia in Istanbul into a mosque, the intent being to restore Hagia Sophia as a "symbol of the Conquest of Istanbul." Last November, Turkey's then deputy prime minister promised that Hagia Sophia soon would be "smiling" again as a mosque.<sup>13</sup>

The Order believes Hagia Sophia in Istanbul should remain a museum, as it has since 1935. Converting Hagia Sophia into a mosque will absolutely erase any traces of harmony and good will and, unfortunately, will result in a spiral of distrust and recriminations that cannot be repaired. The Order further believes that converting Hagia Sophia into a mosque will threaten Turkey's international standing. The USCIRF issued the following statement on May 21, 2014.

Whether driven by political considerations tied to Turkey's forthcoming elections, or for any other reason, opening Hagia Sophia as a mosque would clearly be a divisive and provocative move. It would send the message that the current government sees the sensitivities of Turkey's religious minority communities, particularly its ancient Christian community, as being of little or no consequence.

## **Conclusions and Recommendations**

The Order recognizes the above described initial steps taken by the Turkish authorities, which hopefully will eventually lead to restoring full religious freedom for the Ecumenical Patriarchate and for the other non-Muslim religious institutions in Turkey. However, much still needs to be accomplished. President Obama's Chief of Staff proclaimed the following after a meeting with members of the Order during which the members described the challenges facing the Ecumenical Patriarchate.

History bears us out in demonstrating that a lack of religious freedom weakens social cohesion and alienates citizens from their government, fomenting internal unrest, breeding extremism, and inhibiting national unity and progress.<sup>14</sup>

The Order, therefore, respectfully submits that in order to comply with the tenants of the OSCE, to which the Turkish Government has committed, the Turkish Government, without further delay, must undertake the following

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<sup>12</sup> The Economist, July 27, 2013

<sup>13</sup> Reuters (UK edition) May30, 2014

<sup>14</sup> [Issuu.com/orderstandrew/docs/2011-02.03.04.05](http://Issuu.com/orderstandrew/docs/2011-02.03.04.05)

- (a) Officially recognize that the Ecumenical Patriarchate and its institutions, as well as the institutions of other non-Muslim religious denominations and faiths in Turkey, have legal personality and standing, with rights to acquire, own, build and repair property. If necessary, the laws related to minority foundations should be amended.
- (b) Fairly and expeditiously implement the August 2011 decree allowing for the return of confiscated property. The decree should be converted into settled law, and a truly independent body should be appointed to implement the law.
- (c) Allow the Ecumenical Patriarchate to reopen the Theological School of Halki.
- (d) Continue the reform process in connection with the election of a new Ecumenical Patriarch and abstain completely from any national or local government interference related to the internal governance of the Ecumenical Patriarchate or any other non-Muslim religious body.
- (e) Fully implement the 1948 Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, to which Turkey has subscribed, and interpret the 1923 Lausanne Treaty so as to provide equal rights to all religious minority communities.
- (f) Publicly commit that Hagia Sophia will remain a museum, as it has since 1935.

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In closing, the Order joins our fellow Christian, Jewish, Muslim and other brothers and sisters of all faiths to condemn the recent barbaric acts of intolerance in the Middle East. As the Ecumenical Patriarch has proclaimed, we cannot remain indifferent or silent before such irrational persecution, cultural intolerance and appalling loss of life. We ask world leaders to take whatever steps necessary to end this calamity.