



1928

**THE  
CONSTANTINOPOLITAN  
SOCIETY**GREEKS EXPATRIATED FROM ISTANBUL  
BY TURKISH COERCION**2012 HUMAN DIMENSION IMPLEMENTATION MEETING**

Warsaw, 24 September to 5 October 2012

Tuesday, 2 October 2012

Working Session 12 (specifically selected topic):

National Minorities

**The Greek Minority in Turkey****STATEMENT****Introduction**

We thank the OSCE and its current Chairmanship for the opportunity to address our serious concerns about the actual implementation of OSCE human dimension commitments by Turkey and identify further action which may be taken by Turkey, as participating State, regarding human rights and religious freedoms of the Greek Minority in this country.

We represent the Constantinopolitan Society, a non - governmental / non - profit organization, established in 1928 in Greece by forcibly expatriated members of the Greek minority of Istanbul.

Our intervention will focus on the basic issues that are related to the human rights and religious freedoms of the Greek minority in Turkey, which have not yet been resolved and are in contrast with what is in effect internationally and with the EU criteria regarding the protection of the non - Muslim minorities of Turkey.

**General remarks**

The Turkish government continues to impose significant restrictions and serious limitations on human rights and freedom of religion or belief, thereby threatening the sustainable vitality, survival and vibrant future of the Greek minority in Turkey. Despite good intentions and symbolic gestures, the government has failed to take decisive actions to make the necessary institutional and administrative reforms to reverse these conditions.

In general, only limited progress has been made on the legal framework for the functioning of religious communities, notably as regards their ability to obtain legal personality, to establish and operate houses of worship, to train clergy and to resolve property problems not addressed by the Law on Foundations that will enable those communities to function without undue constraints, in line with the principles and the case law of the European Court of Human Rights.

Due to these concerns, the United States Commission on International Religious Freedom (USCIRF) in its 2012 Annual Report moved Turkey from the 'Watch List' to 'Country of Particular Concern - CPC' for the first time ever, as *"one of the most serious offenders of freedom of religion towards non-Muslim communities"*. According to USCIRF, CPCs are among the most dangerous and destabilizing places on earth. Nations that trample upon basic rights, including freedom of religion, provide fertile ground for poverty and insecurity, war and terror, and violent, radical movements and activities. Turkey was first placed on the USCIRF Watch List in 2009, and the Commission notes with concern that conditions have deteriorated further since then, underscoring the need for continued vigilance in monitoring.

Furthermore, the European Commission in its Turkey 2011 Progress Report, issued in October 10, 2011, regarding human rights and the protection of minorities, underscores that:

*"During the reporting period, the European Court of Human Rights (ECtHR) delivered a total of 418 judgments finding that Turkey had violated rights guaranteed by the ECHR. The number of new applications to the ECtHR went up for the fifth consecutive year. Since October 2010, a total of 7,764 new applications have been made to the ECtHR. Most of them concern the right to a fair trial and protection of property rights. In September 2011, 18,432 applications regarding Turkey were pending before the ECtHR. Turkey has abided by the majority of ECtHR rulings, including payment of compensation totalling € 24.5 million in 2010. Some rulings have not been followed up by Turkey for several years. The government's announcement that it would address these issues was not followed through"*.

As a country that aspires to become an EU member-state, Turkey is in a unique position to adhere to the values and principles of the EU. It should be noted that any effort Turkey makes in meeting EU standards and criteria on issues of human and minority rights and religious freedoms is a step closer to fulfilling its own vision.

## **Developments**

- It is with a positive spirit commendable that the Turkish Government has already initiated a dialogue with non – Muslim communities. However, this dialogue has not yet yielded any tangible, measurable results.
- In August 28, 2011 the government issued a decree which amends, by means of a transitional provision, the 2008 Turkish Law on Foundations. As this transitional provision inter alia stipulates: (a) properties, including cemeteries, declared in 1936

by non – Muslim Foundations but registered in the name of the Turkish treasury, the Turkish Directorate General of Foundations, municipal authorities and the Turkish administration on the islands of Imvros (Gökçeada) and Tenedos (Bozcaada) are expected to be returned to their rightful owners (b) compensation expected to be paid for properties confiscated from 1936 onwards by the Turkish state and later sold to third parties.

The Decree is seen as a further step in the process of trying to solve the property problems of non-Muslim community foundations, but its scope is narrow and does not fully redress the magnitude of the damage inflicted, excluding some important categories of confiscated property. For example, the new law does not solve the definitive confiscation of real estate properties seized in the past from minority administrative bodies and declared illegally as being “mazbut” (i.e. registered as not having an owner).

#### *Decree’s Deficiencies*

- The Decree states that community foundations must apply for restitution within 12 months. Given that the Regulations were issued only on 1 October 2011, this left less than eleven months for the applications to be prepared and submitted.
- However, the 1<sup>st</sup> October Regulations improves the Decree in relation to the time requirement. It does this by lifting the time limit for property that was purchased by a community foundation, or left to them through a will, but whose ownership is registered in the name of a third party because the community foundations were not allowed to acquire the property. Community foundations can apply for the restitution of this kind of property at any time.
- As the Decree concerns correcting a violation of the right to property it is difficult to see why a time limit should reasonably be imposed on any aspect. Many of the documents that will be needed to apply for restitution are very old, and might be found only after the deadline has expired.
- Provided that there is a genuine will to redress the injustices of the past and taking into account the basic principles of the rule of law, properties of minority foundations registered in the 1936 Declarations should be returned, without precondition and bureaucratic obstacles, to their rightful owners. If there is any kind of dispute as for the ownership of a particular property, the burden of proof should lay on the state and not on the foundations.
- The state body that was mainly responsible for confiscations –the Directorate General of Foundations– has been given control of restitution as well as being given oversight of any compensation to be paid. The absence of an independent valuation and review process to judge compensation increases the possibility that fair compensation may not be paid. Compensation for properties that were purchased or acquired by donation, but which foundations were denied ownership of as they were said not to have the legal capacity to acquire new property and were sold to third

parties is decided on by the Finance Ministry, which is the only state body with a direct interest in reducing the amount of compensation paid.

- The properties returned since 2008 represent only a small portion of the minority properties expropriated by successive Turkish governments over many years. Moreover, despite the 2008 amendments and the August 2011 decree, the Turkish government retains the right to expropriate land from religious communities.

### **Persisting shortcomings**

The Greek minority in Turkey – once thriving, now critically shrinking – is faced with persisting difficulties and problems, namely:

#### **Minority Foundations**

The property rights of the Greek Minority Foundations were, and continue to be, seriously violated. The Greek minority's Foundations, in particular, have suffered from massive confiscations of their properties. When voted, the Law 5737/2008 concerning the Welfare Foundations – or Wakifs as they are also called – was welcomed as a step to the right direction. However, it soon became evident that this law did not address all issues pertaining to non – Muslim Foundations and their property. Mainly, it did – as it happens with the recent decree mentioned above – not address the issue of non – Muslim Foundations that was fused and administered by the Turkish Directorate General of Foundations along with their property.

In general, the said Directorate is unduly restrictive in the way it implements the legislative changes, rendering them virtually useless. Also, the Turkish authorities systematically restrict the access to the State land registry, thus annulling any legal right of representatives of minority members to claim their confiscated properties. An administrative or judicial mechanism should be established to review the General Directorate of Foundations (VGM) assessment of applications and to revoke arbitrary rejections and demands that require applicants to submit further documentation. The government should closely monitor key bureaucratic institutions such as the VGM and the land registry offices to ensure that they abide by the instructions of the Prime Ministry's relevant circular of May 13, 2010. The Prime Ministry should issue a follow – up circular specifically calling on the VGM and land registry offices not to require foundations to produce documents they do not have or cannot obtain.

Further measures / actions would allow for:

- *Putting an end* to the fragmentation of minority Foundations as a result of the Wakifs system in force; in other words allowing for the unification of the various minority Foundations as a key to their survival, efficiency and cost - effective functioning.
- *Returning* 24 fused Greek Orthodox Foundations (monasteries etc.) and their immovables registered to them, as well as the management, to their lawful owners.

- *Returning* the properties that were seized by the self-declared “Turkish Orthodox Patriarchate” in the district of Karaköy-Galata, Istanbul in the past decades. The three churches and their real estate properties should be returned to their legal owner, which is the Ecumenical Patriarchate.
- *Recognizing the equality* of the minority Foundations and all other Foundations, thus terminating discriminatory practices against them.

### **Educational problems**

Greek Minority schools still face a number of procedural and bureaucratic difficulties having to do with registration, budget shortages, lack of professional training and sustainability problems due to the limited number of students (restricted by law on condition that they must be from the same minority) plus administrative and educational issues.

- There is a dual headship system for minority schools. The headmaster is appointed by the minority whereas the deputy head is a Muslim appointed by the State’s National Education Directorate. In practice, only the deputy head has any real decision-making power, as it is required to approve any decisions of the headmaster.  
The issuing by the Turkish State of a circular revises the status of the deputy head in minority schools. Despite this circular, school registration and admittance continue to be approved by the deputy head.
- Turkish authorities continue to impose enrollment restrictions to students of minorities.  
Recently, the registration and attendance of European and other nationalities students to Greek minority schools is permitted as “visiting students”, although their diplomas are not officially recognized and, as a consequence, those students are not admitted to Universities etc. This will be only solved by an amendment in the Law on Private Schools Education.
- Also, the Ministry of Education continues occasionally denying the appointment of minority teachers in pursuance of the principle of reciprocity.
- There is not any government funding to minority schools, despite the fact that it is foreseen by the Treaty of Lausanne.
- Anti-minority references continue to exist in schoolbooks used for teaching in Turkey. Turkish identity and nationalism are promoted as fundamental values in the education system, while minority culture is ignored. While school books do not include information about Greek minority, its history and culture, some of them include discriminatory, xenophobic statements against it.

All these measures are limiting the fundamental right of free access to education and thus leading to the gradual disappearance of the minority schools protected under the Treaty of Lausanne.

Articles 10 and 42 of the Turkish Constitution, as well as Article 24, provide protections for the education rights of minorities. Article 4 of the Fundamental Law on National Education states that educational institutions are accessible for everyone regardless of their language,

race, sex and religion. But none of the above deals with discriminatory treatment inside minority schools. There is no specific Turkish law that defines and prohibits discrimination in education and provides remedies, although this is one of the most effective tools to combat discrimination.

Overall, Turkey has made no progress on ensuring cultural diversity and promoting respect for protection of minorities in accordance with international and European principles and standards.

### **Denial of succession rights**

Turkey, in the 21<sup>st</sup> century, continues refusing the succession rights of members of the minority with Greek nationality, in particular following application by the Turkish authorities of the amended Land Registry Law, including their interpretation of the provisions on reciprocity. As regards reciprocity, the ECtHR held that there had been a violation of Article 1 of Protocol 1 (peaceful enjoyment of possessions) to the ECHR and ordered either the return of property or financial compensation for the applicants. Implementation of the March 2010 recommendations of the Council of Europe Venice Commission on the protection of property rights is pending. A new law enforces the sale of property that is inherited, having essentially as a result the annulment of the succession right. This measure aims at cutting the last tie of the members of the Greek minority that were forced to leave their homeland, as well as of their descendants.

### ***Restrictions against the Individuals' Property Rights***

In some cases, serious problem faced by the expatriated Greeks of Turkey is the prohibition of inheritance rights based on the principle that the Istanbul Prefecture is considered being a border region. The descendants of expatriated minority Greeks are deprived of their hereditary rights and forced to liquidate/sell their properties. More severe restrictive measures, despite holding Turkish citizenship, are being faced by Greek descendents of the islands Gokceada (Imbros) and Bozcaada (Tenedos).

In this context, the restitution of the Turkish Republic citizenship to Greek minority members should be facilitated, taking into account the massive deprivation of their citizenship following the harsh administrative measures taken so far.

Turkey should ensure that Greek citizens are able to fully enjoy their rights over inherited patrimonial property, and Turkey conform to the relevant rulings of the European Court for Human Rights and implement its own Registry Law.

### **Other issues**

#### **Discriminatory practices**

In Turkey, the members belonging to the Greek minority are not admitted to posts in the administration, the police forces, the army or the judiciary. Taking also into consideration the relevant point 19.8 of the Council of Europe's PACE Resolution 1704(2010), Turkish government should put an end to this injustice and discriminatory behavior, including by introducing a quota for admission of minority's members to the civil service.

### **Security problems and hate crimes**

During the last years, there have been reported a number of attacks (acts of defamation and vandalism) against places of worship.

The Panaghia Greek Orthodox cemetery on the island of Imvros was extensively vandalized on 29 October 2010, and 78 graves were totally destroyed. It should be noted that this is not the first time that such outrageous acts of large-scale vandalism have occurred in cemeteries belonging to the Greek minority in Turkey. Two years ago, the cemetery of Balikli in Istanbul suffered extensive damage. These provoking actions cause serious concerns for the security of religious places.

Furthermore, incitements to hatred and violence passed on by the Turkish media exercise psychological pressure to the members of the minority. Regarding hate speech, the Council of Europe recommendations encouraging Turkey and the media to adopt a code of ethics on respect for religious minorities have not been implemented. There is a need for new legislation which would allow effective prosecution of incitement to hatred, including by the media.

Although many hate crimes committed in Turkey entered the reports of the OSCE, the Turkish State does not investigate and prosecute these crimes. No official data exist in any institution of the Turkish State concerning hate crimes. No bodies were created to deal with hate crimes and there are no activities to prevent them in Turkey. In addition, there are no legal provisions to punish hate crimes. As a result hate crimes and hate propaganda remain unpunished.

Threats against Greek Orthodox Christians and other non-Muslims create an atmosphere of pressure and diminished freedom. Public officials increasingly extolled the virtues of religious pluralism, which nonetheless is viewed by many as a threat to Islam and to "national unity." Members of the Greek minority still face societal suspicion, discrimination and mistrust.

### **Ombudsman and Human Rights Institution of Turkey**

The establishment of the Ombudsman has been outstanding since 2006, following the application of former President Sezer to the Constitutional Court for the annulment of some provisions of the Law. The Constitutional Court suspended the entry into force of the Law pending its final ruling. The establishment of the Ombudsman office would strengthen the rule of law, justice and the protection of individual rights of the minorities.

Establishment of a "National Human Rights Institution" in line with Paris Principles (i.e. independent of other state organizations) is an obligation of Turkey which cannot be avoided. Establishment of such an institution, which has a potential of making significant contributions to the democratisation of Turkey by preventing human rights violations and strengthening the respect for human rights -especially those of minorities- , is not only a recommendation of United Nations principles but also a "homework" that Turkey has to fulfil as underlined in Annual Progress Reports produced for Turkey's accession to the EU membership. The draft Law on Human Rights Institution of Turkey was on the agenda of the Parliament during the previous legislative period and annulled due to the general elections

of 12th of June 2011. However, the Council of Ministers submitted this draft to the Parliament on 5th of March 2012, which referred it to the relevant Parliamentary Commissions on 15th of March 2012. The issue is still pending. The current draft Law on National Human Rights Institution does not allow establishment of an independent, functional and effective preventive mechanism against human rights violations. The Draft Law on Human Rights Institution of Turkey cannot be adopted as such, and a new draft should have been prepared.

### **Closing statement**

These were only an indicative review of some of the challenges that the Greek minority continue to face in Turkey. They were by no means exhaustive; this would require a detailed account of the historic and religious background of the matters in question.

It should be noted that Turkey is a party to the UN International Covenant on Civil and Political Rights (ICCPR), the UN Covenant on Economic, Social & Cultural Rights (ICESCR) and to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). However, Turkey's reservations and declarations - pertaining to the rights of minorities, the right to education, etc - upon the ratification of these Covenants and Convention, continue to be causes for concern.

Turkey is called upon to take seriously into consideration the recommendations by EU and international organizations pertaining to human rights and act upon them and make more strenuous efforts to prevent discrimination, intolerance and religiously motivated acts of violence.

Turkey should spare no effort in identifying those shortcomings and reviewing accordingly both the relevant legislation and its implementation, with a view to eliminating discrimination in all areas and raising awareness for human rights in general.

It is well known and courageously acknowledged by the Turkish Prime Minister himself, that non Muslim Minorities in Turkey have suffered in the past numerous injustices, as a result of discriminatory and oppressive state policies. With regard to the Greek minority in particular, these policies have led to the dramatic decline of the Greek population of Turkey, from over 100,000 in the 1950's to less than 3,000 at present. It is therefore expected, also from a moral point of view, that the Turkish government should not only abide fully by its constitutional and international obligations as far as the protection of human and minority rights is concerned, but rather initiate measures and policies of affirmative action that would guarantee the survival, the well being and the future of the Greek minority. Such an approach, apart from its symbolic value, would prove beneficial for Turkey first and foremost, as it will strengthen its social, ethnic and religious structures and safeguard pluralism and diversity in this country.

As a concluding remark, we would like to underline that respect for human and minority rights and religious freedoms is a responsibility for every State. It is not a matter that



circulars and statements of good intentions alone can address. It calls for firm will, constructive dialogue and continuity of effort.

Finally, every process is judged by the real and measurable outcome it brings to a challenging situation.

Thank you very much for your attention.\_

