



Tolerance and non-discrimination:

The Ecumenical Patriarchate and the Greek Minority in Turkey

The Organization for Security and Cooperation in Europe (OSCE)

2009 Human Dimension Implementation Meeting

Warsaw, Poland

Working Session 5 -- 30-September-2009

A. Introduction

1. This presentation is being made on behalf of the Order of St. Andrew, the Apostle, which is dedicated to the defense and protection of the Ecumenical Patriarchate of Constantinople, the occupant of which is currently His All Holiness Ecumenical Patriarch Bartholomew. As in previous years' OSCE Conferences, we are here to express deep concern regarding the present wellbeing and future prospects of this historical institution of the Eastern Orthodox Christian Church in Istanbul, Turkey. In offering our remarks, we do not see ourselves as adversaries but as friends of Turkey in the belief that the points we are making in the interest of the Ecumenical Patriarch are confluent with the interests of the state of Turkey, especially at a moment in history when it aspires to join the European Union.

2. Our focus in today's session is the observance of principles of human rights as they apply to the Ecumenical Patriarch but also to other religious minorities in Turkey, and the Greek community as well, with which the Ecumenical Patriarchate is inextricably associated. At this point in time, we are cognizant of a new awareness that manifests itself in Turkey which indicates that the current Government and broad segments of Turkish society understand that it is in the interest of Turkey to show in deeds that it espouses the same high principles of human rights as do modern, democratic states of the world. These include, among many other aspects, freedom of religious worship, non-discriminatory treatment and protection of the rights of minorities; these must be pursued in complete fairness, legality, equality before the law for all people and institutions.

3. We have addressed the religious freedom issues in a separate paper (presented in Session 2, 29 Sept 2009); the two issues, as you will understand, are closely intertwined and are, perhaps, inseparable.

B. Violations of the Human Rights of the Ecumenical Patriarchate

4. It is our sad duty to report that, unfortunately, conditions for the respect of human rights do not yet prevail in Turkey despite efforts for reform and various other steps taken in the right direction by the current Government. Thus, we express our continuing concern for the recognition, rights, and survival of the Ecumenical Patriarchate. Lack of

due recognition of the Patriarchate's historical title of "Ecumenical" in Turkey is so grave that even the pronouncing of the words "Ecumenical Patriarchate," could be interpreted as a criminal act.

5. The points made in the paper should be seen in the context of nearly a century of recorded legal and religious oppression and persecution for the Ecumenical Patriarchate and Patriarch. With the knowledge, for many long years, of the circumstances of its predicament, we can state with sadness that it is today still in grave danger. Although the Patriarchate has survived for almost 2000 years to this day and has enjoyed considerable respect during the Ottoman rule for over 400 years, since the beginning of the Turkish Republic, about 100 years ago, there has been a systematic and premeditated drive by successive Turkish governments to usurp its resources thereby diminishing its role in the world. The following highlights are but the most egregious violations of the Ecumenical Patriarchate's rights:

- It has not been able to gain recognition as a legal entity in Turkey. Other churches, including the Roman Catholic Church, have the same problem. The Pope has recently petitioned the Republic of Turkey to correct this practice.
- One serious consequence of the above has been the inability to own property. The Ecumenical Patriarchate is continually vulnerable to confiscation of its properties; over 75% of its properties (and those of related institutions) have been confiscated through devious and underhanded methods.
- Turkish Courts have repeatedly upheld predatory and confiscatory actions against the Ecumenical Patriarch, its institutions and its resources.
- The Metropolitans and Bishops who serve at the Ecumenical Patriarchate must also be Turkish citizens. Even more problematic is the requirement that the electors of a new Patriarch must be Turkish citizens at the time of the election.
- The Halki School of Theology was forcibly closed in 1971, resulting in the inability for new priests to be trained in Turkey and no pool of qualified candidates to be developed for the succession.
- The Turkish Government has interfered with the rights of Orthodox Christians around the world by denying the Ecumenical Patriarch's right to use the title "Ecumenical" a decision which, in our view, should not lie within the authority of the Government. Over one year ago, a Turkish Prosecutor brought charges against the Ecumenical Patriarch for using the title "Ecumenical." Those charges were eventually dropped, but they represent a true picture of the constant pressure and harassment brought to bear on the Ecumenical Patriarch.
- The Turkish Government has placed exorbitant taxes on social service organizations supported by the Ecumenical Patriarchate, as in the case of the Balukli Hospital which serves all Turkish citizens without discrimination (ironically, in this case, the Turkish Government is interfering with the human rights of members of the majority seeking basic health care).
- Turkish groups have, for a long time, planned to harm the Ecumenical Patriarch and his associates, including a plot (over one year ago) by a group of retired Army officers to assassinate the Ecumenical Patriarch, the Armenian Orthodox Patriarch

6. As the Ecumenical Patriarch is the shepherd for hundreds of millions of Orthodox around the world, His Holy See is both the spiritual beacon and anchor for the Eastern Orthodox Church, well beyond the boundaries of Turkey. The Order of St. Andrew will continue to press to safeguard his safety, freedom of movement, property rights and access to the material means to sustain its world-wide activities. The recent presence of Pope Benedict XVI at The Ecumenical Patriarchate highlighted the role of the Ecumenical Patriarch in Christendom.

C. Violations of the Human Rights of the Greek Minority

7. Our advocacy of human rights needs to be seen in the context of historical evolution. Whereas widespread and egregious violations occurred in previous historical periods, the twentieth century has seen the emergence of world-wide movements to highlight the plight of millions, if not billions, of people, to defend the victims and to adopt international treaties to prevent violations that may have been tolerated earlier. In today's context, such violations are totally unacceptable. It is distressing to note that violation of human rights has been a pervasive and persistent policy in Turkey for over 100 years, as thoroughly documented in many previous conferences of OSCE. Although one could narrate stories of many minorities that suffered under it, we concentrate in this paper on a few only aspects that concern the Greek minority with which we are more familiar, and which have directly or indirectly affected many members of the Order of St. Andrew.

- Ethnic Greek Turkish citizens were expelled several times in the early 20th century. The most severe dislocation of populations occurred at the end of the 1922-23 Greek-Turkish war in Asia Minor in which large numbers of Greeks (upward of 1.2 million) and Turks (of the order of 400,000) were exchanged.
- The pogroms and attacks of September 1955 in Istanbul caused the next deep drop in the Greek Minority in that city. The use of paramilitary groups provided a veneer of deniability to the Turkish Government. Properties were seized, education was disrupted, heavy taxes were targeted on the Greek minority, and businesses were constrained. Families fled for their lives and livelihood.
- A continuous policy of harassment, over the past fifty years, has driven down the Greek population of Turkey, from over 100,000 in the 1950's to less than 3,000 at present. Today, the Turkish citizens of Greek heritage (and by extension the entire Christian minority) in Turkey is an endangered species; this systematic plan of attrition has resulted in Turkish citizens of Greek heritage representing no more than 0.03% of the total population.

8. The recorded demographic and economic decline as well as the dramatic reduction in property owned by minorities over the years offer unequivocal proof of the deep and persistent strategy of oppression and persecution of the Ecumenical Patriarchate and the Greek minority by the Turkish Government.

9. Massive confiscations have taken place of properties of institutions that serve the needs of the local Greek minority. We cite but a few examples:

- Among the properties which have been confiscated are the following: (a) properties belonging to Balukli Hospital and Home for the Aged; (b) the Patriarchal Orphanage on the island of Prinkipos (Buyukada); and (c) the Monastery of Metamorphosis on the island of Proti (Kinali).
- The Balukli Hospital and Home for the Aged is a 250-year old institution that serves some 30,000 Turkish citizens each year, mostly free of charge. It has been maintained by income derived from properties donated to it. The hospital has been threatened with a 42% tax retroactive to 1999. Ironically, this harassment affected the rights of the local majority population in seeking basic health services.
- Arbitrary expropriations have taken place against other religious minorities in Turkey as well. For example, on 24 June 2009, a Turkish Court ruled that forest land of the historic Assyrian monastery of St. Gabriel in Midyat, founded in 397 A.D., belongs to the Turkish Forestry Department. This concerns about 34 hectares of land (136 acres) which lie within the monastery grounds and is considered vital for the religious community; it also affects a historic monument.

D. The Expropriation of the Prinkipos Orphanage and the Ruling of ECHR

10. A major legal development took place in 2008 with a landmark legal decision by the European Court of Human Rights (ECHR). Following the official removal of the Orphanage from the list of properties of the Ecumenical Patriarchate, and after a number of unsuccessful appeals within the Turkish Courts system, the Ecumenical Patriarchate filed a legal action against the Turkish Government in the European Court of Human Rights (to which Turkey is a signatory). That process ended on July 7, 2008 with a ruling strongly in favor of the Ecumenical Patriarchate. With a unanimous verdict of 7 judges (including that of the Turkish judge) the Court condemned the Turkish State for improperly taking over the Orphanage and held that the rights of the Patriarchate are protected by international law. The Court also stated that it will revert, in a subsequent decision, to the issue of how the Patriarchate's rights will have to be restored. In summary, the ECHR decision held the following:

- (i) The Ecumenical Patriarchate has the power to own property and thus has legal personality;
- (ii) The Ecumenical Patriarchate can use the title "Ecumenical" and has a role of initiative and coordination throughout the Orthodox Christian world; and
- (iii) The treaty of Lausanne applies to the Ecumenical Patriarchate, thus providing an additional basis by which the Government of Turkey must

11. ECRH gave the parties a six month period to try to come up with a resolution in a manner not inconsistent with the Court's determination. That period expired on April 8, 2009 and we have no knowledge as to the progress in negotiations, if any, between the parties. Recent developments on this issue are commented in Section F below.

12. Repeated appeals have been made with the Government of Turkey for the reopening of the Theological School of Halki by the U.S. Government, specifically by successive U.S. Presidents and Ambassadors as well as the European Union and the local press, as cited in more detail in our first paper, presented in Working Session 2, on 29 September 2009.

13. The Ecumenical Patriarchate will continue using all avenues open to it by the Turkish legal system to seek redress of its grievances and compensation for its losses, with the full support of the Order of St. Andrew.

E. Other Voices Condemning Human Rights Abuses in Turkey

14. The 2008 Amnesty International Report contains a scathing indictment of Turkish policies and practices on human rights. It states in its summary:

“Human rights suffered in the context of political instability and military clashes. Reports of torture and other ill-treatment increased, while dissenting views were met with prosecution and intimidation. The right to freedom of peaceful assembly was denied, and law enforcement officials used excessive force to disperse demonstrations. Anti-terrorism legislation was also used to restrict freedom of expression. Unfair trials persisted especially for those prosecuted under anti-terrorism legislation, while barriers remained in bringing law enforcement officials to justice for human rights abuses. No progress was made in allowing the right to conscientious objection to military service. Forcible returns of refugees increased. Discrimination based on sexual orientation and gender identity persisted. Implementation of laws aimed at preventing violence against women and girls remained slow.”

15. More specifically, among other things, it states in the full text:

“The work of human rights defenders was hampered by unjustified prosecutions, and some high-profile human rights defenders were subjected to regular criminal investigations. Human rights NGOs faced excessive administrative scrutiny of their work. Human rights defenders were threatened by unknown individuals or groups as a result of their work. Orhan Kemal Cengiz, who published a devastating critique of Turkish human rights abuses in the periodical Zaman,¹ received threats because of his legal work on behalf of the families of three men murdered in an attack on a Christian publishing house in Malatya in 2007. The authorities provided him with a bodyguard and investigated the threats.”

¹ The full text of Mr. Cengiz article in Zaman is included as Appendix I in the Presentation given by the Order of St. Andrew in Working Session 2 of this conference.

F. Recent Policy Trends and a Change of Attitude

16. In past years, the Turkish Government has often engaged in actions that seem to first offer a glimmer of light which is then dashed by subsequent action. Such has been the case of a Report by the Turkish Prime Minister's Human Rights Advisory Board issued in October, 2004. Although the Report was initially hailed by minority groups, it was subsequently suppressed as the Government of Turkey regressed back to its old ways as manifested in the harsh prosecution of the two Turkish academics who authored it. Although the Court's decision was an acquittal, the Supreme Court of Appeals, on 20 September 2007 overturned the acquittal and reinstated the charges.

17. In short, violations of human rights against not only minorities but also against its own citizens have been egregious and unacceptable, causing the Order of St. Andrew to continue to be worried and even distressed about the future. However, bad past policies and reversals of good-policies notwithstanding, we need to look to the future with renewed hope. We are indeed encouraged by recent events, most notably by the visit, of Prime Minister Erdogan, together with the Ecumenical Patriarch, to the Orphanage of Prinkipos (Buyukada) and subsequently to the Monastery of St. George Koudounas. This visit was an indirect, if not explicit, acknowledgement of ownership rights of the Patriarchate over the Orphanage and a tacit acceptance of the verdict of the ECHR on the issue. The statements by the Turkish PM regarding the rights of minorities have been most encouraging. He stated during the visit:

"Are there not deficiencies regarding implementation? Yes, there are. We will overcome these [deficiencies] with a struggle to be carried out all together, and I believe that this democratic initiative will change a lot of things in our country. (It will do so) only if we stand hand in hand and shoulder to shoulder."

G. Conclusions and Recommendations

18. In this paper, we have amply demonstrated that the Turkish Government has not, to this day, fully understood the importance of an enlightened attitude and the need of policies of tolerance and respect for the freedom of religion and protection of the human rights of its minorities. To the contrary, a policy of persecution and denial of rights by devious legal means has been carried out for many decades. A systematic and continuous harassment of the Ecumenical Patriarchate and the Greek and other ethnic minorities has been going on. We, therefore, respectfully submit that OSCE should immediately impress on the Government of Turkey the need to fully comply with the principles of OSCE, of which Turkey is a member, namely, *inter alia*, to:

- Fully adhere to the principles on the rights of expression, assembly and association, dissent, and religious faith and practice of all citizens.
- Cultivate a climate of tolerance and non-discrimination toward all faiths, and especially toward the Christian faith of all denominations.
- Defend and protect the health, safety, integrity, free movement, and religious activity, in all its manifestations, of the Ecumenical Patriarchate and allow full exercise of its role as a leader of world Orthodoxy and Christianity.

- Cease all property confiscations and enter into serious and good-faith negotiations for the return of properties or fair compensation for lost properties of the Patriarchate and of all social, philanthropic and educational institutions affiliated with it.
- Cease all legalistic and devious means of harassment applied to the Ecumenical Patriarch;
- Establish a climate of respect, tolerance, and legitimate assistance toward the free functioning of ethnic minorities and their various institutions and organizations.
- Based on Turkish law and using established procedures as practiced generally in Turkey, provide review and permits for the repair, rehabilitation, or reconstruction of buildings of the Patriarchate; cease the use of devious, contrived and convoluted pretexts to either deny or prolong the issuance of such necessary permits.

19. We now have in our hands, a strong and current legal benchmark to go by: The recent decision of the European Court of Human Rights. This benchmark provides a sound interpretation and confirmation of all the provisions of the Treaty of Lausanne and restates the legal obligations of Turkey something which this country has been, unfortunately, ignoring for almost a century. Direct reference can now be made to the ECHR ruling as a minimum standard for Turkey's behavior.

20. We are, however, encouraged by recent policy initiatives and symbolic actions by high Turkish officials such as the 15-August-2009 visit of PM Erdogan to the Orphanage of Prinkipos. The immediate implementation of the ECHR decision, even long after the deadline imposed by ECHR, is an absolute requirement and a litmus test of the seriousness of the Turkish Government. Such concrete change toward reform and the required changes in law must be adopted forthwith for Turkey to convince its partners in this and other organizations, as well as the members of the European Union and indeed the world, that it is a reformed state with a forward outlook, worthy of inclusion in the family of civilized nations.