



ORDER OF SAINT ANDREW THE APOSTLE  
ARCHONS OF THE ECUMENICAL PATRIARCHATE IN AMERICA

## **Fundamental Freedoms II: National Human Rights Institutions and the Role of Civil Society in the Protection of Human Rights**

### ***The Greek Orthodox Minority in Turkey***

The Organization for Security and Cooperation in Europe (OSCE)

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#### **A. Introduction**

1. The Order of St. Andrew, the Apostle is pleased to attend this OSCE Meeting of 2011, in Warsaw, to speak about the continuing need for protection of the rights of the Ecumenical Patriarchate of Constantinople and its local flock, the Greek Orthodox minority of Turkey. We have addressed the religious freedom issues and the rights of the Ecumenical Patriarchate in a separate paper, presented in Session 2, and we wish, in this session, to focus on the principles of human rights as they apply to the Greek community but also, by extension, to other religious minorities in Turkey. We do not see ourselves as adversaries of Turkey but as her sincere friends because the issues that concern us here are perfectly aligned with the interests of Turkey, in light of the aspirations expressed by the current Government of Turkey, which has made accession to the European Union (E.U.) the number one priority of its foreign policy. We support this aspiration and wish success in this endeavor.

2. As we make our remarks, we are fully cognizant, and indeed appreciative, of a new policy and new official awareness that strongly indicates that the current Government of Turkey understands the imperative of the times. This means that espousing and practicing the same principles of human rights as do modern, democratic states of the world and, specifically, the countries of the E.U., brings Turkey to a higher level of international recognition and makes good its membership of OSCE and signature of its Charter. These principles include, among others, freedom of religious worship, non-discriminatory and fair treatment of all citizens without exception, and protection of the rights of minorities.

#### **B. Violations of the Human Rights of Minorities**

3. Although several steps have been taken by the current Government of Turkey, including constitutional and other legal reforms, we are compelled to state that conditions for the full respect of human rights do not yet prevail in Turkey. Specifically in the case of the Ecumenical Patriarchate, there has been a systematic and premeditated drive by

successive Turkish governments, especially in the past 100 years, to confiscate its properties, under various pretexts, thus depriving it of the resources to adequately fulfill its role in the world. The following highlights are but the most egregious violations of the Ecumenical Patriarchate's rights:

- The Ecumenical Patriarchate together with other churches and faiths, including the Roman Catholic Church, the Armenian Church, and the Jewish faith, have not been able to gain recognition as legal personalities in Turkey.
- The Venice Commission, a consultative body to the Council of Europe, at its 82<sup>nd</sup> Plenary Session, in Venice, 12-13 March 2010, stated thusly its formal opinion:<sup>1</sup>

*"In view of the strict requirements established in the case-law of the European Court of Human Rights, the Venice Commission sees no reason which would justify not granting to religious communities as such the possibility to obtain legal personality. It therefore recommends that Turkey should introduce legislation that would make it possible for religious communities as such to acquire and maintain legal personality."*

- One serious consequence of the above problem has been the inability for them to own property. The Ecumenical Patriarchate, together with other faiths, has been 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 Patriarchate and the Greek minority, their institutions and resources.
- Exorbitant taxes on social services were placed by the Government of Turkey on organizations supported by the Ecumenical Patriarchate, as in the case of the Balukli Hospital which serves, indeed, all Turkish citizens without discrimination.

4. **Minority Schools.** Although some reforms have been instituted, facilitating their function, onerous regulations make it difficult for non-Muslim children to register and attend their community schools, which is leading to the schools' gradual disappearance even as they were meant to be protected under the Lausanne Treaty of 1923, as shown in more detail in the May 2011 Report of USCIRF.<sup>2</sup> Working documents of the E.U. also highlight this issue. They state:

*"Minority schools 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 number of students (restricted by law on condition that they must be from the same minority) plus administrative issues and educational problems."*

5. **The Ergenecon conspiracy – a serious threat to religious minorities.** The case of Ergenecon has surfaced in recent years with shaking effect to the Turkish society, made publicly visible because the Government of P.M. Erdoğan decided to move against

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<sup>1</sup> The document was issued in Strasbourg, 15 March 2010, Opinion no. 535/2009, CDL-AD (2010) 005 Or. Engl.

<sup>2</sup> U.S. Commission on International Religious Freedom (USCIRF), Annual Report, May 2011 (p.326).

it, based on the allegation and suspicion that it was also threatened by this secret organization. Without going into this explosive case which has powerful political overtones, we can highlight that certain Turkish groups have allegedly plotted against the life of the Ecumenical Patriarch, the Armenian Patriarch, an Alevi leader, and a prominent Jewish businessman. Allegedly, Ergenecon plotted to overthrow the Government of Turkey and has been implicated in planning violent activities against religious minorities, including the 2006 murder of a Catholic priest in Trabzon, the 2007 murder of three Protestant employees and the 2007 murder of Armenian journalist, Hrant Dink, in Istanbul. It has even been alleged that a Turkish army general plotted to plant weapons in the homes of followers of a Muslim preacher, as a provocation, by creating fears of Islamic radicalism. We note with satisfaction that the current government has understood that it also is not immune to such violent attacks that target, in essence, the social and political stability of Turkey, and has moved decisively against the organization.

6. The Order of St. Andrew will continue to encourage the Government of Turkey to clamp down on underground groups that threaten violence and to show determination in pursuing and eliminating them, while at the same time, safeguarding the safety, freedom of movement, and property rights of all religious leaders and persons and of minority civic associations and organizations.

7. **A Historical Perspective.** 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. It is distressing to note that violation of human rights has been a pervasive and persistent policy in Turkey, as thoroughly documented in many previous conferences of OSCE, reports of the U.S. Commission on International Religious Freedom (USCIRF),<sup>3</sup> many other international bodies, the Turkish press, and in previous presentations of the Order of St. Andrew.

8. Suffice it for us to state that a continuous policy of harassment, over the past sixty (60) years, has driven down the Greek population of Turkey, from over 100,000 in the 1950's to less than 2,500 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. 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 Greek and other ethnic minorities by the Turkish Government. However, this year, we will not elaborate further on these violations, as we choose to focus attention on positive developments which have arisen, especially in the last couple of months.

### **C. Positive Developments**

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<sup>3</sup> The 2011 Annual Report to Congress of the United States Commission on International Religious Freedom (USCIRF), sent also to the White House and the State Department, stating that it will keep Turkey on its "Watch List" as one of the most serious offenders of freedom of religion towards non-Muslim communities.

9. During the month of August 2011, the Government of Turkey, held by the Muslim Democratic Justice and Development Party (AKP), took significant measures towards consolidating democracy. Chief among them was a series of moves towards establishing civilian authority over the military and putting an end to military tutelage over democracy. These measures are at the root of reforms that allowed the Government of Turkey to change its attitude toward ethnic and religious minorities in Turkey and, for this reason, are relevant to the thrust of this paper. Although, constitutionally, the military was the protector of the secular state apparatus, the claimed “secular” policy was but a mere cover and pretext for egregious violations of religious freedom and the rights of religious groups, including ethnic and religious minorities, as well Muslims.

10. In this same context, the Government of Turkey moved against the clandestine, ultranationalist group, known as Ergenekon, which was mentioned above (para. 5). After the recent mass resignations of military officers, P.M. Erdoğan refused to promote officers who allegedly plotted within Ergenekon to topple his Islamic-oriented government and commit violence against numerous faith communities and their houses of worship. These moves clearly illustrate the Government’s enhanced self-confidence and underpin its bold moves to take further steps, unheard of until this time, to restore the rights of ethnic and religious minorities, as will be elaborated in the following paragraphs.

11. We recognize that P.M. Erdoğan, as the inheritor of this so-called “secular” legacy, and his AK Party have faced an uphill battle to deepen Turkey's democratic institutions and culture. But their bold moves to bolster civilian rule have decisive and positive implications for the respect of international human rights norms, including religious freedom and the rights of minorities.

#### **The Return of the Prinkipos (Büyükada) Orphanage**

12. A major legal development took place in 2008 with a landmark legal decision by the European Court of Human Rights (ECHR) to which Turkey is a signatory. Briefly, following much litigation, on July 7, 2008, the Ecumenical Patriarchate obtained a ruling in its favor and again, on June 15, 2010, ECHR issued a new judgment ordering the Government of Turkey to return the Orphanage to the Ecumenical Patriarchate. This order was implemented by the issuance of an order by the Court of Büyükada which produced, in late November 2010, a deed for the property in the name of Rum Patrikhanesi.<sup>4</sup>

#### **Permission for religious ceremonies at the Soumela Monastery.**

13. For the second year in a row, following 88 years of closure, the Ecumenical Patriarch was given permission to officiate liturgy on August 15<sup>th</sup>, 2011, the day of the Dormition of the Theotokos, at the historic monastery of Soumela, near Trabzon on the Black Sea, as was elaborated in our paper on Religious Freedom presented in Session 2 of this Meeting. We do hope that the Government of Turkey, in its current reformist mind, will decide to allow the use of religious shrines of all faiths by their rightful owners

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<sup>4</sup> This is the official name for the Patriarchate used by the Government of Turkey, referring to its origins in the Roman Empire.

completely unimpeded and free of direct or indirect interference by state or para-statal organizations.

### **Property Return or Compensation**

14. **Massive property confiscations** have been among the top grievances of Patriarchal institutions and other civil bodies of the Greek Orthodox minority, to a great extent because it deprived them of means of sustenance and growth. The Greek Orthodox Church in Istanbul owned several thousand properties in 1936, reduced to a few hundred today, many of them being small churches or other buildings of varied commercial value. In previous presentations, a great deal of detail was presented on such confiscations and on the difficulties encountered in obtaining legal redress. However, a seismic event occurred, just as we were preparing this presentation, and it should now take a prominent place in our discussion.

15. Before we elaborate on this announcement, however, we need to make reference again to the event that falls in this category which was already mentioned in para. 12, above, because it can be viewed as a good-omen precursor to the announcement and, perhaps, as having played a catalytic role in its inception and promulgation.

16. This momentous move took place on Sunday, 28-August-2011, at a dinner-meeting (an *iftar*) of P.M. Erdoğan with representatives of religious minorities. The P.M. announced that the Government of Turkey has decided to return properties confiscated from religious minorities' foundations since 1936 and pay fair compensation for seized (*mazbut*) assets that have since been sold by the Turkish state to third parties. A Government of Turkey Decree had been issued on Saturday, 27-August-2011, to this effect, just hours before the announcement - the Decree added a new transitional article, no 11, to the 2008 Foundation Law. The P.M. had invited to this celebration leaders of Christian and Jewish communities - including Ecumenical Patriarch Bartholomew. It is noteworthy that the Decree was issued in the face of strong opposition from the Kemalist CHP and smaller nationalist parties, which indicates that the P.M. feels secure in taking bold steps of reform in this critical matter, based on his strong showing in the recent elections as well in the decisive support he received in the referendum on constitutional reform held earlier (in 2010). Parties interested in the return of confiscated properties were invited to submit the relevant documentation to the Directorate General of Foundations within 12 months.

17. The Decree provides:

- 1) the restitution of properties as they were surveyed and registered in 1936 and subsequently confiscated from the religious foundations by the various administrations of the Republic of Turkey;
- 2) the return of the management of cemeteries belonging to non-Muslim foundations, which have been improperly sold to various towns and municipalities;
- 3) the restitution of undefined deeded property (such as monasteries and parishes), which were never recognized as legal entities by the Turkish Republic.

- 4) In the event that these properties have been sold or disposed of in various ways by the Turkish state parties, the Minister of Finance of the Republic of Turkey will establish, with the owners, a just compensation.
18. The decision concerns hundreds of hospitals, schools, cemeteries and orphanages as listed in a 1936 census. According to unofficial estimates that appeared in the press, the Decree provides for the restitution of 1000 properties to the Greek-orthodox Christians, 100 to the Armenians, numerous properties to the Chaldean Catholics and also to the Jews. The Decree concerns only the minorities defined under the Treaty of Lausanne, but this first important step gives hope for other religious groups as well.
19. In making this landmark decision, P.M. Erdoğan said: “This is not about doing a favor; this is about rectifying an injustice.” Clearly, P.M. Erdoğan understands the import of this decision of the Government as the move will enable him to appear in European capitals with renewed credibility and confidence in his reformist leadership role in Turkey.
20. The announcement was greeted by the many concerned organizations with muted enthusiasm but also with a certain degree of skepticism. Indeed, most, if not all, organizations and persons who have lost their properties over many decades of systematic harassment and confiscation maintain grave doubts as to the real intentions of the Government of Turkey, the number of properties covered by the Decree that will, in fact, be returned, the time allowed for the submission of documents, and bureaucratic procedures that may impede the implementation of the Decree. However, the Order of St. Andrew, while sharing this skepticism to a great extent, is also feeling a guarded optimism, wishing and expecting that the Government of Turkey will fully implement the Decree and bold Prime Ministerial announcement with an effective plan of action without bureaucratic procrastination. The future will show if this optimism was justified.

#### **D. Conclusions and Recommendations**

21. We hope that, in this paper, we have clearly demonstrated a long history of human rights violations in Turkey; these concern mostly freedom of religion and protection of the human rights of its minorities. Some of the better-known cases have been highlighted above.
22. We are also cognizant of, and thankful for, decisive moves on the part of the current Government of Turkey to rectify problem areas with initiatives that are aimed at breaking the bureaucratic status quo and the hold on public life by a militaristic elite and at adopting measures exemplifying confidence in the Turkish and Islamic culture. We hope and expect that the constitutional amendments passed by a wide majority on September 12, 2010 will lead to concrete democratic gains and openness to the needs of the common citizen and, hence, to the strengthening of individual rights of citizens of all faiths and ethnic origin within Turkey.
23. While waiting for such reforms to be translated into law but also into everyday practice, we 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 without discrimination.
- Allow full legal status for Turkey's religious minorities by making all the necessary legal changes in line with religious freedom and the other human rights guarantees found in the International Covenant on Civil and Political Rights, which Turkey has ratified.
- Defend and protect the health, safety, integrity, free movement, and religious activity, in all its manifestations, of all religious leaders, including the Ecumenical Patriarch.
- Establish a climate of respect, tolerance, and legitimate assistance toward the free functioning of ethnic and religious minorities and their various institutions.
- Fully implement the provisional Article 7 of the 2008 Law on Foundations. Cease all property confiscations.
- Implement fully and effectively the recent Government Decree on the return of confiscated properties or providing compensation, without restrictions, convoluted interpretations, or dilatory bureaucratic tactics. To take further steps to address, specifically, the issues of those seized (“*mazbut*”) non-Muslim Foundations and churches, with their assets, that have been usurped by the so-called “Turkish Orthodox Patriarchate.”

24. Continued and accelerated movement toward reform and the required changes in law will provide Turkey a clear path toward greater freedom for all its citizens, including its minorities, as P.M. Erdoğan clearly stated himself, when he said on the 28<sup>th</sup> of August 2011:

*“Like everyone else, we also do know about the injustices that various religious groups have been subjected to because of their differences.....The times when a citizen of ours would be oppressed due to his religious, ethnic origin or different way of life are over.”*

We welcome the Prime Minister’s recent decisive and bold moves and wish him success as he tries to fully implement his good intentions by translating them into law and everyday practice.