



## **Freedom of Religion or Belief: The Ecumenical Patriarchate in Istanbul**

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### **A. Introduction**

1. The Order of Saint Andrew the Apostle is a United States-based organization of Orthodox Christian laymen, whose mission is to defend and preserve the existence and world-wide radiance of the Ecumenical Patriarchate, a 15-century institution that is the spiritual center of 300 million Orthodox Christians in the world. Members of the Order can be found in all walks of life, including the U. S. Congress, executive government, the professions, business, and the arts. Our presence here in Warsaw is, therefore, on behalf of the Ecumenical Patriarchate in order to highlight the important rights and prerogatives and the serious impediments and threats the Ecumenical Patriarchate is facing in its life almost daily. We are doing this mindful of current Turkish aspirations to join the European Union and of certain encouraging recent events. Our main concerns about the Ecumenical Patriarchate are outlined below.

### **B. The “Ecumenical” title**

2. In providing a historical background, we wish to mention here that the Ecumenical Patriarchate was founded by the Apostle Andrew, the first-called Apostle of Jesus, in 37 A.D. in the town of Byzantium, later renamed Constantinople and present-day Istanbul. The Ecumenical Patriarchate has served, over the centuries, as the religious center for Orthodox Christians up to this day. Its position and prestige was formally elevated in the year 451 A. D., when the Fourth Ecumenical Council of the Christian Church, convened in Chalcedon of Asia Minor, established the five senior Sees of the Christian Church and their order of “preeminence in respect and love” and conferred upon the Bishop of Constantinople a rank second only to that of the Bishop of Rome. The term “Ecumenical Patriarchate” dates from the sixth century A.D. and reflects the stature in which the Bishop of Constantinople was held by the rest of Christendom. When Constantinople fell to the Ottoman Turks in 1453, Sultan Mehmet the Conqueror officially recognized the Ecumenical Patriarch (at the time, Gennadius II Scholarios) as Ethnarch of the Orthodox peoples, while maintaining his position as “*Primus inter pares*” (first among equals) among all the bishops of the Orthodox Churches. In succeeding centuries, the Ecumenical Patriarchate continued its existence in Istanbul, exercising its spiritual ministry over world-wide Orthodoxy.

3. The “ecumenical” title of the Patriarch can be clearly illustrated by a large number of events that demonstrate that the Orthodox churches and the entire Christian world, indeed, consider his 15-century old title valid and act accordingly:

- Repeated visits by a number of Popes of Rome to the Patriarchate clearly indicate the position of leadership among Orthodox churches that the Vatican accords the Patriarchate. This practice includes the visit of the current occupant of the See of Rome, Pope Benedict XVI, to the Ecumenical Patriarchate almost three years ago, shortly after the OSCE conference.
- The repeated convening of *synaxes* (gatherings just short of the status of a synod) continues to the present day. We note especially the recent Orthodox Synaxis at the Patriarchate in Istanbul on 10 October 2008, which was attended by all other Patriarchs and heads of autocephalous Orthodox churches (or by their assigned representatives), including the late Patriarch of Moscow and All Russias, Alexei II of blessed memory. This gathering under the aegis of the Ecumenical Patriarch clearly demonstrates the recognized prerogative of the Patriarch of Constantinople to take the initiative to convene such gatherings and set the agenda, a prerogative reserved for a prelate considered “*primus inter pares*”, which points, in the ecclesiastical parlance, to the title of “ecumenical.”
- During a recent visit by Archbishop of Canterbury, Dr. Rowen D. Williams, the Archbishop repeatedly referred to His All Holiness the Patriarch as the Ecumenical Patriarch and supported vigorously the reopening of the Halki theological school.
- The recent visit of the newly elected Patriarch Kirill of Moscow and All Russias to the Patriarchate of Constantinople, 4-6 July 2009, placed first in his list of visits, offers, once again, loud testimony of recognition of the Ecumenical Patriarch’s pre-eminent position in the Orthodox world by the head of the largest national Orthodox Church (of Russia). Otherwise, the Patriarch of about 120-130 million Russians would not deem it necessary to visit, upon his election, first in order, the Bishop of a flock of 2,500 Orthodox, as some in Turkey are arguing as a proper title for the Patriarch.

4. We regret to report to this conference that the recognition of “Ecumenical” as a legitimate and historical title is still denied to the Patriarch of Constantinople, by the Turkish Government. This is against the strong opinion and wishes of the entire Christian world. Two years ago, we reported to you that on 26 June 2007, in a case where the only issue concerned the authority of the Ecumenical Patriarch to dismiss a priest from duty because of inappropriate liturgical behavior, the Supreme Court of Turkey in dicta stated the following:

“As it can also be understood from the letter of Istanbul Governorate dated 6 December 1928 and numbered 1092, the persons who will participate and get elected in the religious and spiritual elections that will be held in the Patriarchate, should be Turkish citizens and be employed in Turkey during the time of elections. This is a clear indication that the Patriarchate does not have the title “ecumenical.”

5. This pronouncement of the Turkish Court has as a dire consequence, namely, to introduce the specter of criminal prosecution. In August 2008, the Prosecutor of Istanbul’s Beyoglu District twice requested the Ecumenical Patriarch to testify why he used the phrase “the ecumenical nature of the Patriarchate” during an international conference of approximately 1,000

Orthodox youth in Istanbul. According to the New Anatolian wire service, under Article 219 of the Turkish penal code, the Ecumenical Patriarch could be fined and/or imprisoned for a term between one month and one year if found guilty of using the word “ecumenical.” Even though this threat did not materialize, the message is still very clear: if the Ecumenical Patriarch or any employee of the Ecumenical Patriarchate uses the word “ecumenical” in reference to the Patriarch’s title, they may be subject to criminal prosecution!

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

6. Another consequence of the Turkish Court’s dicta is that the Ecumenical Patriarchate is threatened with eventual closure, mainly through the limitations placed on the process of electing a new patriarch. The requirement that all candidates to the patriarchal throne be Turkish citizens, combined with the dwindling numbers of candidates who fulfill this requirement will, we are afraid, ultimately lead to the closure of the Ecumenical Patriarchate. Decades of harassment and seizure of property have exacted their intended toll and led to a gradual dwindling of the local Greek Orthodox population to about 2,500 persons. Thus, eventually, the only qualified candidates as successors to the patriarchal throne will have to be prelates who are not Turkish citizens. Within the Church, it is understood that a successor, who is not a Turkish citizen, would petition, upon his election, for Turkish citizenship. However, according to this recent Court decision, the election will be invalid *ab initio* since the ruling seems to mandate that the electors must themselves be Turkish citizens at the time they cast their ballots. At present, half of the 12-person Synod (the bishops who elect a new Ecumenical Patriarch) are Turkish citizens, but as they age, their number will be further reduced. Non-Turkish citizens, who are members of the Synod, may, according to the Court’s ruling, be subject to criminal prosecution if they vote.

### **D. Restriction on Free Religious Education**

7. Over the past few decades, the opening of the Theological School at Halki (Heybeliada) has become a major issue. Its closure, in 1971, seriously deprived the Patriarchate of its ability to educate its clergy and lay theologians and to be, by its ecumenical role, a center of Orthodox learning, research, and scholarship. In addition, The Ecumenical Patriarchate has severe visa restrictions placed by the Turkish government on students and priests who wish to visit it in order to study and serve there. The Ecumenical Patriarchate is not permitted by the Turkish Government to have its own printing facility, publish religious journals, treatises and books, again constituting a serious hindrance to its theological and pastoral function and role.

8. There are many voices, both inside and outside Turkey, that have joined ours in petitioning the Turkish Government to allow the reopening of the Halki Seminary. Here are but a few such expressions of support:

- The U.S. Government, through the voice of several successive Presidents, has repeatedly presented the request to the Turkish highest authorities but has received only faint assurances that “the matter would be looked into” without the authorities ever taking decisive action. In last year’s presentation to the OSCE conference, U.S. Ambassador Robert Pearson stated: “We also urge the Government of Turkey to allow the reopening of Halki Seminary, which has been closed since 1971.” Current U.S. President Barack Obama openly brought up the issue during his address to the Turkish Parliament in April 2009.

- On 4 September 2009, the newspaper Hürriyet wrote: “In our July 18 column, we raised the issue of reopening the Halki Theological Seminary while slightly criticizing the prime minister.... The patriarch must have renewed his request for the reopening of the Halki Theological Seminary during his discussions with the prime minister. So, the latter can make no more excuses of the nature that no requests have been submitted to him on this issue. Thus, we are all looking forward to seeing some concrete results after so many years.”
- The European Union (EU) has, on several occasions and by many of its governing bodies and institutions dealing with Turkish accession to the EU, broached the issue of Halki with officials of the Turkish Government in order for Turkey to prove with deeds, and not only with words, the country’s respect for religious freedom rights for the dwindling Christian minority.

9. It now appears that the Government of Mr. Tayyip Erdogan is looking seriously into the resolution of this problem. It was reported recently that Turkish Culture Minister, Ertogul Günay, stated that the government is searching for a formula to integrate the school into Turkey’s university system. Minister Günay said, speaking on Kanal 24 television, that “although we have not finalized a decision in the Cabinet, my personal impression is that we are going to open the seminary.” Speaking on NTV, Minister Günay again stated: “with the opening of the school, we strengthen ourselves and at the same time render a service to our citizens on the way toward the EU.” The Order of St. Andrew is gratified to see that, at long last, Turkish officials realize that the opening of the Halki Seminary is not only to the benefit of the Ecumenical Patriarchate but also, and even more importantly, to the advantage of the reputation of the Turkish state. These officials should realize that in order to accomplish the reopening, existing laws may have to be changed and this can be accomplished within the reform process taking place for EU accession. The Order of St. Andrew hopes that good intentions and nice words will be followed by decisive action.

#### **E. Denial of Legal Entity and Property Confiscations**

10. A major impediment to the functioning of the Ecumenical Patriarchate as a normal institution in Turkish society is placed by the fact that it is not recognized by the Turkish Government as a legal entity, resulting in its deprivation of property rights. This egregious violation of the Ecumenical Patriarchate’s legitimate rights (which, it should be noted, befalls other religious minorities in Turkey as well) in what is, in our opinion, a calculated long-term state strategy of harassment, attrition and annihilation, has multiple deleterious effects upon its functioning and, indeed, its very existence. A few examples of such deleterious consequences are given below:

- The buildings on the grounds of the Patriarchate compound itself are not recognized as property of the Patriarchate.
- 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

- On March 20, 2006, legal title to the Orphanage on the island of Prinkipos was unilaterally altered, taken away from the Ecumenical Patriarchate, and given to a foundation controlled by the Turkish state. The Ecumenical Patriarchate had been petitioning the Turkish government since 1963 for permission to repair and renovate the Orphanage, to no avail. The building is the largest wooden structure in Europe and has great historic significance. The Ecumenical Patriarchate, after exhausting all legal means, took its case to the European Court of Human Rights (ECHR) which ruled, on 7 July 2008, in favor of the Patriarchate. In effect the ECHR ruling clearly established the following three principles: (i) the Ecumenical Patriarchate has the power to own property and thus has a 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 must protect the basic human rights of the Ecumenical Patriarchate. However, this decision by ECHR has not been complied with by the Turkish Government.
- Confiscation of Ecumenical Patriarchate properties continues without compensation by the Turkish Government. As was noted in the 2005 report by the Helsinki Commission, the laws are structured in such a way that the confiscations technically may appear legal, but they are administered in an inappropriate manner. For example, permits for building repairs are not granted until after they are declared to have been abandoned and taken over by the government.
- The Greek Orthodox Church in Istanbul owned more than 8,000 properties in 1936. By 1999, the number had been reduced to about 2,000. Today, the number is less than 400, many of them being small churches or other buildings of little commercial value. The list of confiscations is too long to detail in this paper.

## **F. Corroborating voices**

11. We are not alone in pointing to the failures of the Turkish state to implement international obligations stemming from treaties and from common practices of civilized nations. Here is a sample of but a few of such voices that have expressed concern and condemnation of practices of the Turkish Government:

- The **United States Commission on International Religious Freedom (USCIRF)**, an institution of the U.S. Government, in its Annual Report, published on May 2009, notes that:

“The existent governmental and societal obstacles place important restrictions upon the Greek Orthodox population’s property and ownership rights within the Turkish state.”

In its findings, the Commission notes that, contrary to the 1923 Treaty of Lausanne provisions, Turkey has specifically failed to implement the guarantees and protections granted for all non-Muslim religious minorities. The existent governmental and societal

obstacles place important restrictions upon the Greek Orthodox population's property and ownership rights within the Turkish state.

- **The Independent Commission on Turkey**, established in March 2004, issued its second report, released in Brussels, on 7 September 2009. The Report advises the Turkish Government "to renew the reform process, in particular enacting a new constitution, a functioning ombudsman, full freedoms for religious organizations, respect for cultural liberties and wider freedom of expression."
- The **United Nations' Committee on the Elimination of Racial Discrimination (CERD)** has invited Turkey, on 7 April 2009, to reopen the Greek Orthodox Theological School on the island of Halki. The Committee has also called on Turkey to return confiscated properties and promptly to execute all related judgments by the European Court of Human Rights.
- **The Turkish press and independent Turkish thinkers**, inside Turkey, have courageously and candidly raised their voices in protest against and condemnation of heavy-handed practices of the Turkish authorities. Turkish writer Orhan Kemal Cengiz recently published a devastating critique of Turkish practices on all the issues touched upon on this paper (in *Zaman*, dated 10 July 2009). The article is attached in its entirety to this paper as Appendix I; indeed, we could not have phrased our positions more forcefully than Mr. Cengiz! Suffice it for us to quote the following segment from his article:

"There is a deep-rooted state policy that has brought the patriarchate to the verge of total extinction. This policy was shaped during the late Ottoman and early republican era and has been applied vigorously since then. This is a policy of taking gradual steps to push this historical institution into a corner to force it to choose one of the two options: Either it will stay in Turkey and will lose everything slowly and painfully, or it will leave Turkey once and for all."

### **G. Who is the Ecumenical Patriarch? An asset or a threat to Turkey?**

12. Is the Ecumenical Patriarchate a real danger to secular Turkish society? He is known by historical and world-wide consensus, as the spiritual leader of about 300 million Orthodox Christians across the world. However, only approximately 2,500 Orthodox now live in Istanbul, a city of more than 12 million. The Patriarchate itself is a small and unimposing enclave located (since 1601) in a working-class district of Istanbul, composed of the ancient church of St. George and five other small buildings. The present Ecumenical Patriarch and all his predecessors have always been law-abiding and loyal citizens of Turkey. The Ecumenical Patriarchate does not proselytize. The Ecumenical Patriarchate and all individuals associated with it fully respect the secular tradition of Turkey. Whenever the Ecumenical Patriarch travels abroad he always promotes the interests of Turkey.

13. Notwithstanding almost daily harassment to which he is subjected, the present Ecumenical Patriarch, in keeping with the traditions of his office, has reached out to his fellow men for peace and understanding. In 1994, he organized an inter-faith conference on "Peace and Tolerance" in Istanbul, bringing together the three monotheistic religions – Christianity, Islam

and Judaism. In 2001, he again convened representatives of Christianity, Islam, and Judaism, this time in Brussels with the subject “God’s Peace in the World,” to declare that co-operation of religions and civilizations will lead to a friendly reconciliation and peaceful existence of people around the world. Over the years, he has convened a plethora of meetings with religious and secular leaders of all faiths and has enthusiastically supported environmental causes for which he is respected and admired. The Ecumenical Patriarch plans to arrive in mid-October to the United States in order to lead an Environmental Symposium (the 8<sup>th</sup> in a series of similar symposia) on the Mississippi River<sup>1</sup>. For his role in promoting world peace, environmental protection, and sustainable development, the Ecumenical Patriarch has been awarded many world honors including the Gold Medal of the U.S. Congress, one of its highest civilian honors.

14. On 24 September 2008, Ecumenical Patriarch Bartholomew delivered a major address to the Plenary Assembly of the European Parliament. Addressing the Members of the European Parliament (MEP), he spoke of the value of the European project in promoting peace and tolerance, the importance of accepting minorities and the need for the EU to accept Turkey as a member.

#### **H. A Changing attitude?**

15. Having stated these unacceptable violations of religious and legal rights, we are 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 Ecumenical Patriarchate over the Orphanage and a tacit acceptance of the verdict of the ECHR on the issue. Most encouraging is the statement by the Turkish PM who was quoted by the Anatolia news service as saying:

"Persians have a saying, 'They gathered, talked and dispersed.' We should not be of those who gather, talk and disperse. A result should come out of this."

The Ecumenical Patriarch also stated that he is encouraged by the visit and the words of the Prime Minister. The Order of St. Andrew is encouraged but is watching carefully to see whether concrete actions will be forthcoming before it pronounces satisfaction on these critical issues.

#### **I. Conclusions and Recommendations**

16. We have presented our views on the condition of the Ecumenical Patriarchate of Constantinople based on the principles of the Helsinki Final Act and the Vienna and Copenhagen Concluding Documents; the most relevant of them are listed in Appendix II to this document. In these, the OSCE participating states have strongly affirmed religious freedom as a fundamental human right. We claim that these rights are inherent to the Ecumenical Patriarchate and must be respected and defended by the public authorities of Turkey in the case of the Ecumenical Patriarch as well as in the case of other religions with faithful members in the country.

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<sup>1</sup> The title of the Symposium is “The Great Mississippi River: Restoring Balance.” Previous symposia were dedicated to the Aegean Sea, Black Sea, Danube River, Adriatic Sea, Baltic Sea, Amazon River, and the Arctic.

17. Our exposé above clearly shows that the Government of Turkey has failed to live up to any of these principles with respect to the Ecumenical Patriarchate, notwithstanding the fact that it is a signatory to the OSCE. Clearly, the Ecumenical Patriarchate fared better in over 500 years of Ottoman rule than it has in the last 84 years under the modern Turkish Republic. As Monsignor Edmond Farhat, Papal Nuncio of the Vatican in Istanbul, observed, “religious freedom in Turkey exists only on paper.” (ANSA, 25 June 2005). Since the fall of Constantinople in 1453, the Ecumenical Patriarchate has been a living testament to the religious coexistence of Christians and Muslims, difficult as this coexistence may have been at times. The Ecumenical Patriarchate has served as a bridge between the Muslim East and the Christian West; this role is in jeopardy if current policies and practices are to continue. We respectfully call on this body to reaffirm its strong commitment to its preservation. More specifically, we recommend that OSCE and its Committees vigorously approach the Government of Turkey and try to persuade it of the urgent need for them to faithfully adhere to the above mentioned principles and to put them into practice, namely:

- Officially allow the use of the title “Ecumenical” and cease and desist from any interference with its use; any penalties related to its use need to be deleted from existing law, regulation, or practice.
- Allow the Synod of the Ecumenical Patriarchate to organize the procedure for the election of a new Ecumenical Patriarch according to its own canonical law, historical precedents, and the needs of the Ecumenical Patriarchate as a leading spiritual authority in the Orthodox world.
- Accord recognition of the Ecumenical Patriarchate as a legal entity with all attributes, rights, and prerogatives attendant to its legal status, including the right to own, repair, and acquire property.
- Immediately lift the ban on the operation of the Theological School in Halki as well as remove all impediments to its effective functioning as a center of theological education, research and scholarship. Allow free flow of ideas and persons to and from this school and facilitate its role. Any scheme that may be devised to allow the School’s reopening must meticulously preserve its autonomy and freedom of teaching and action from any interference by officials of the Turkish Government.
- Cease all confiscations of property historically belonging to the Ecumenical Patriarchate, return properties which have been illegally confiscated, or, if this proves impossible or difficult, provide proper and just compensation, based, if need be, on fair, objective, and prompt arbitration.
- Based, of course, 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 Ecumenical Patriarchate. Cease to use devious, contrived, and convoluted pretexts to either deny or prolong the issuance of such necessary permits.
- As provided in paragraph 32, quoted in Appendix II below, the Ecumenical Patriarch should be empowered with the right to invite religious leaders to visit the Ecumenical Patriarchate without sending his invitation through the Turkish Government.
- Return the Orphanage at Buyukada to the Ecumenical Patriarchate as sanctioned by ECHR.

18. Turkey finds itself at a critical crossroads in its history - in the next few years, its accession to the European Union will be decided. In the next few months, by the end of 2009, a report by the EU Commission will assess progress in Turkey's obligations and commitments to formal obligations and on its suitability to remain a candidate for EU membership. The OSCE participating states should demand of the Turkish authorities that every form of religious discrimination against the Ecumenical Patriarchate must cease and the consequences of past discrimination must be remedied. This will be beneficial not only to the Ecumenical Patriarchate but also to Turkey herself as it will assert its readiness, willingness, and ability to establish fair conditions for all its citizens but also leadership in adopting needed reforms and in becoming a paradigm for emulation in the entire Muslim world.

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## **Is the ecumenical patriarchate in Turkey waiting for Godot?**

By ORHAN KEMAL CENGİZ

Zaman, July 10, 2009

Since the Justice and Development Party (AK Party) came to power in 2002, the reopening of the Halki Seminary has repeatedly returned to the political agenda in Turkey.

There is almost a pattern. Some government officials say, "There is no harm in reopening the school [which was closed down in 1971], and there are some preparations taking place to that effect." If you read these statements you can get the (wrong) impression that there is only technical work needing to be done, and the government is working on it. For the last seven years, we have heard exactly the same story. But, in the end, nothing comes out. Why?

Because the Halki Seminary is only a part of a much more complex question which may not be well appreciated even by the government itself. The question is namely the existence of the ecumenical patriarchate in Turkey. There is a deep-rooted state policy that has brought the patriarchate to the verge of total extinction. This policy was shaped during the late Ottoman and early republican era and has been applied vigorously since then. This is a policy of taking gradual steps to push this historical institution into a corner to force it to choose one of the two options: Either it will stay in Turkey and will lose everything slowly and painfully, or it will leave Turkey once and for all.

### **The lesser of two evils**

The name of the street in front of the patriarchate is Sadrazam Ali Paşa (Sadrazam means grand vizier). Ali Paşa was the state official who hanged Patriarch Gregorios over the front door of the patriarchate in 1821. His name was given to the very street to which the patriarchate opens its doors every day. It is a constant reminder of the "past," of course. (I suggest the EU Commission get this onto their agenda and encourage the government to change this name showing some respect to this historical institution.) Neither was it a coincidence that a so-called "Turkish Orthodox Church" was established in the early years of the Turkish Republic. The Turkish Orthodox Church was designed to fight against the ecumenical patriarchate and was established with financial aid provided by the state. Papa Eftim, so-called patriarch of the Turkish Orthodox Church, had spent his entire life in war with the ecumenical patriarchate. We now know that the Ergenekon (deep state) gang held some of its strategic meetings on the premises of the Turkish Orthodox Church. Sevgi Erenol, press spokesperson of this church, is now in prison for being one of the high-ranking members of this gang.

During all these years, the Turkish state not only fought against the patriarchate with these kinds of puppet "institutions," but also pursued a very active policy to create an atmosphere in which the patriarchate could not breathe. Thousands of acres of land and buildings that belonged to the patriarchate and its associated institutions have been taken one by one through legal trickery (the biggest one was carried out by the Court of Cassation in 1974, making property ownership by minority foundations legally invalid after 1936), expropriations and so on. Turkey has never recognized the legal identity of the ecumenical patriarchate, even though it has to recognize these

kinds of structures under the Treaty of Lausanne. The question of the legal status of the patriarchate has never been solved. This "legal gap" of course was created to add to the uncertainty from which the patriarchate has suffered deeply.

### **Impossibility of choosing new patriarch**

One of the biggest constraints, though, has been applied through excessive control over the election process of the ecumenical patriarch. According to Turkish official policy, the patriarch only represents Turkish citizens of Greek descent in Turkey. Therefore, the patriarchate and the Holy Council that will elect him should only be composed of Turkish citizens. Just to remind you, we have only 3,000-4,000 Orthodox citizens remaining in İstanbul, and most of them are elderly people. Look at the closure of the Halki Seminary from this perspective as well; most of the patriarchs were educated in this institution. We seem to have reached this formula: The new patriarchate has to be elected from a handful of citizens of Greek descent, and the very school that will raise the new patriarch has been closed for almost four decades. How can an eligible, qualified patriarch possibly be chosen?

I honestly believe in the goodwill of this government. If they were alone, they would open the Halki Seminary. However, as soon as they make a real attempt to this effect, they will have a sharp confrontation with the nationalist front. Even if they overcome the opposition coming from the nationalist front (political parties and bureaucracy), the "formula" (there are some different legal avenues through which the government could choose to open the school) the government has created will somehow come before one of the high courts. If the government makes legal changes, they will be reviewed by the Constitutional Court; if they open the school with administrative directions, their actions will be evaluated by the Council of State and so on. These high courts' approaches to minority-related issues are very well known, and they have played an important role in the creation of the current situation that minority groups find themselves in.

### **The dance**

I have tried to provide a brief historical perspective to show you the state policy concerning the ecumenical patriarchate. The application of this state policy would not have been possible without having the active contribution of the ecumenical patriarchate. This is a dance that has been going on for many decades. This is a dance of the "deep state" and the ecumenical patriarchate – a dance of aggression and submission. It is hard to believe, but we know that the patriarchate has never tried to take recourse to legal remedies, except for property-related issues. During these long years, Turkey has signed and ratified many different human rights conventions. Turkey's Constitution has been changed, these international legal instruments have gained precedence over domestic laws and many other laws have been replaced with new ones.

But again, the patriarchate has never tried any legal instruments to gain new rights, hoping that this "loyalty" will be appreciated one day. The patriarchate, in maintaining its passive role, has missed some crucial points. Taking recourse to legal instruments may also be read as a sign of being well integrated in the country in which you exist. Citizens use legal action, right? And using legal action shows that you feel you are a citizen of the country concerned, you have confidence in the legal system to a certain degree. In addition, obtaining a positive judgment from a national or international court would have provided a good excuse and an acceptable pretext for this government to make some legal reforms in favor of the patriarchate. No one, for example, could have ever stopped Abdullah Öcalan's execution when he was captured and

brought to Turkey. However, the decision of the European Court of Human Rights brought huge relief to the nationalist government coalition in power in 1999; they attributed all "responsibility" to the European Court, and later on the "death penalty" was lifted altogether. And finally, pursuing an active litigation policy never meant that you are close to fruitful cooperation with state authorities. On the contrary, active litigation means that you will always be at the negotiation table as a quiet, powerful party that is backed by the power of judgments from international courts and public opinion.

If you ask me, the patriarchate could have obtained and deeply benefited from a favorable judgment of the European Court on the question of the Halki Seminary a long time ago. They could also have done the same thing for their legal identity problems and for the constraints surrounding the election process of a new patriarch. Instead they preferred to maintain their old policies, which allowed this historical institution to be brought to the verge of total extinction.

Will Godot come? We will see.

**The Vienna Concluding Document (1989)**

paragraphs 16 and 32, provide as follows:

“In order to ensure the freedom of the individual to profess and practice religion or belief, the participating state will, *inter alia*,

(16.4) - respect the right of these religious communities to establish and maintain freely accessible places of worship or assembly, organize themselves according to their own hierarchical and institutional structure, select, appoint and replace their personnel in accordance with their respective requirements and standards;

(16.7) - in this context, respect, *inter alia*, the liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions;

(16.8) - allow the training of religious personnel in appropriate institutions;

(16.9) - respect the right of individual believers and communities of believers to acquire, possess, and use sacred books, religious publications in the language of their choice and other articles and materials related to the practice of religion or belief;

(16.10) - allow religious faiths, institutions and organizations to produce, import and disseminate religious publications and materials;

(16.11) - favorably consider the interest of religious communities to participate in public dialogue, including through the mass media.

(32) - “They (the participating states) will allow believers, religious faiths and their representatives, in groups or on an individual basis, to establish and maintain direct personal contacts and communication with each other, in their own and other countries, *inter alia*, through travel, pilgrimages and participation in assemblies and other religious events....”