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Order of St. Andrew



ORDER OF SAINT ANDREW
ARCHONS OF THE ECUMENICAL PATRIARCHATE

Defenders of the Faith

The Status of the Ecumenical Patriarchate

The Organization for Security and Cooperation in Europe
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Presented on behalf of the Order of St. Andrew
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Introduction

In 628 AD, the Prophet Muhammad issued a decree known as "The Covenant of Protection to Those Who Adopt Christianity" (the Covenant of Muhammad) which commands his followers to protect Christians until the end of days. The authenticity of this Islamic law has been sustained throughout the ages by Islamic scholars¹, yet today it is largely ignored by the Turkish Government.

Christians around the world suffer discrimination because of their religious beliefs (for more information, visit <https://www.ChristianPersecution.com>). The intent of this paper is to highlight the discrimination faced by the Ecumenical Patriarchate and all Orthodox Christians in the Republic of Turkey today. Other non-Muslim and

¹ Letter From Prophet Muhammad to the Monks of St. Katherine's Monastery, Federation of Muslim Organizations (Apr. 7, 2015), <http://www.fmo.org.uk/letter-from-prophet-muhammad-to-the-monks-of-st-katherines-monastery/>.

some Muslim religious groups also suffer from similar discriminatory practices. This is why in 2019 Turkey continues to be on the “watch list” of the United States Commission on International Religious Freedom (USCIRF), as it has been since 2013. According to the 2019 USCIRF Report, “in 2018 the state of religious freedom in Turkey remained deeply troubling.”²

The focus here is on the Ecumenical Patriarchate as the members of the Order of St. Andrew the Apostle (the Order) are committed to preserving and protecting the Ecumenical Patriarchate. The Order, its members and their families are under the canonical jurisdiction of the Ecumenical Patriarchate (for more information, it <https://www.Archons.org>).

The Order is also dedicated to defending against religious discrimination for people of faith everywhere. Members of the United States Congress, key U. S. government officials, as well as others committed to the struggle against religious discrimination, are members of the Order. The mission of the Order is founded on the precepts of the 1948 U.N. Declaration of Human Rights, which recognizes the freedom of religion as one of the four basic human rights. Please refer to the material we have made available to the delegates of this Conference.

In this paper, the Order discusses four issues in detail, although there are others (see below): (1) return of properties belonging to the Ecumenical Patriarchate, (2) denial of legal status; (3) free elections and proper structure of religious minority foundations, and (4) closure of the Halki Theological School. These issues all result from the fact that in Turkey today “no religious community has full legal status, and all are subject to state controls limiting their rights to maintain places of worship, train clergy, and offer religious education.”³

² *2019 Annual Report*, UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM (2019).

³ *2017 Annual Report*, UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM (2017), <http://www.uscirtf.gov/sites/default/files/2017.USCIRFAnnualReport.pdf>, 186.

Return of Confiscated Property

Despite the Covenant of Muhammad, which reads that “no one is to plunder Christians, or destroy any of their churches, or houses of worship,” during the twentieth century most of the properties belonging to the Ecumenical Patriarchate and its Orthodox Christian parishioners in Turkey were confiscated or destroyed by overt government decrees, confiscatory taxes,⁴ and even a state-orchestrated pogrom in 1955.⁵ Today these discriminatory practices remain largely uncorrected .

In 1936 the Ecumenical Patriarchate, its churches and institutions owned approximately 8,000 properties, many of them income producing. In 1998 only 2,000 remained. Today fewer than 500 properties are owned by Patriarchal related minority foundations, most of which are churches or other properties which produce no income.

The European Court of Human Rights Has Mandated the Return of Confiscated Property

In its landmark 2008 decision, the European Court of Human Rights (the Court) held that the Pringipos Orphanage property on Buyukada Island should be returned to the Ecumenical Patriarchate.⁶ The following year the Court held that prop-

⁴ Paschalis M. Kitromilides, *EASTERN CHRISTIANITY AND THE COLD WAR, 1945-91* (Routledge 2010), 222. *See also* Sait Çetinoglu, *The Mechanisms for Terrorizing Minorities: The Capital Tax and Work Battalions in Turkey During the Second World War*, 2 *MEDITERRANEAN Q.* 23 (2012).

⁵ Kitromilides, *supra* n. 4 at 226. *See also* SPEROS VRYONIS, JR., *THE MECHANISM OF CATASTROPHE*, (GreekWorks.Com Inc. 2005).

⁶ Case of Fener Rum Patrikligi, no. 14340/05 (July 8, 2008), www.echr.coe.int; *Press Release*, EUROPEAN COURT OF HUMAN RIGHTS (July 8, 2008), https://www.mfa.gr/images/docs/ellinotourkiko/press_release_apofasi_b_gia_orfanotrofeio_prigkipoy.pdf.

erty which had once belonged to the Koimisis Theotokou Church Foundation on Tenedos Island (Bozcaada), should be returned to that foundation. In the second case, the Court said that refusal of Government authorities to register the property as belonging to the church foundation amounted to a violation of the European Convention of Human Rights, Article I, Protocol I (protection of property), to which Turkey has subscribed.⁷

Following these two decisions, on August 27, 2011, President Erdoğan (then Prime Minister) promulgated what seemed to be a promising new decree (the Decree) that communities whose properties had been expropriated by the state could apply for their properties to be returned or to receive compensation for properties that had been sold to third parties. The Decree also permitted the formation of new religious community foundations to account for oversights in the 1935 foundations law and the re-opening of foundations that previously had been closed and administered by the General Directorate of Foundations (the GDF).⁸ The Decree did not apply to many of the properties expropriated from the Ecumenical Patriarchate, but it was a step in the right direction.

Unfortunately, the manner in which the Decree was administered was challenging and flawed, and its results have disappointed.

As detailed in our papers presented to this forum the past several years, administration of the Decree process was conducted in a discriminatory fashion. Most of the applications that were accepted were never acted upon. The August 27, 2012 deadline did not afford applicants sufficient time to submit the required voluminous paper work for many of the parcels, principally because local Turkish Government offices did not respond to requests for title documents in a timely fashion.

⁷ Case of Bozcaada (Kimisis Theodoku), nos. 37639/03, 37655/03, 26736/04 (March 3, 2009), www.echr.coe.int. See also Ayla Jean Yackley, *European Court Fines Turkey in Greek Orthodox Case*, REUTERS (Mar. 3, 2009, 12:03 PM), <https://www.reuters.com/article/us-turkey-court/european-court-fines-turkey-in-greek-orthodox-case-idUSTRE5224XF20090303>.

⁸ *Turkey: International Freedom Report for 2011*, U.S. DEPARTMENT OF STATE, BUREAU OF HUMAN RIGHTS, DEMOCRACY, AND LABOR, <https://www.state.gov/documents/organization/193083.pdf>, 4.

Applications for 1,252 pieces of property associated with the Ecumenical Patriarchate, nevertheless, were timely submitted. Of these 1,252 applications, only 352 were accepted, and 900 were rejected. Of the 352 applications that were accepted, only a handful resulted in the return of property. As to the few parcels that have been returned, most are not income producing, and it is financially challenging to maintain them.

Absence of Legal Standing Results in Loss of Property

An underlying impediment to the return of property is that the Ecumenical Patriarchate and other religious institutions lack legal standing in Turkey. Therefore, they are precluded from owning property. The Ecumenical Patriarchate cannot own the churches in which its parishioners worship or even the cemeteries in which they are buried. Because it lacks legal standing, the Ecumenical Patriarchate cannot seek legal redress in Turkish courts to recover its lost properties.

Without a legal personality, the Ecumenical Patriarchate also cannot apply for permits to repair deteriorating property when minority foundations technically owning the property fail to act. When a structure deteriorates, the Government may declare the building abandoned and may seize it without compensation, notwithstanding the Covenant of Muhammad which reads as follows: “Their (Christian) churches are to be respected. They are not to be prevented from repairing them.”

All church properties are owned by government-denominated minority foundations, which are under the jurisdiction of the General Directorate of Foundations (GDF) established pursuant to the 1935 Law on Religious Foundations. The GDF may seize a minority foundation when the GDF arbitrarily deems the foundation to “no longer be of charitable or practical use.” In fact, the GDF has seized 17 Greek Orthodox foundations since 1970, thereby confiscating almost 1,000 properties. Many of the properties produced income upon which the Ecumenical Patriarchate relied. The GDF may also unilaterally prevent the foundation boards from holding elec-

tions.⁹ Effectively, there is no appeal when the GDF closes down a minority foundation or seizes its property.

The GDF today regulates activities of all religious community foundations and their affiliated properties. The number includes 75 Greek Orthodox, 42 Armenian, and 19 Jewish foundations.¹⁰

While it can be argued that the majority Sunni Muslim religious facilities also lack legal standing, their financial survival is secure because the Directorate of Religious Affairs is responsible for the operation of all registered mosques and Muslim institutions. Imams and other religious workers are civil servants paid by the Government,¹¹ whereas the Ecumenical Patriarchate must rely on income producing property. (In fact, this year the Turkish Government proposed a 36 percent increase for the government body charged with overseeing the exercise of Sunni Islam.) By accelerating the loss of such property because of the deleterious way in which the GDF has managed the minority foundation system, the Turkish Government, in a subtle manner, has effectively denied to the Ecumenical Patriarchate and other minority religious institutions a viable means of financial support otherwise available to Sunni Muslim religious institutions. This is discrimination.

The 1923 Treaty of Lausanne, to which Turkey has subscribed, mirrors the commands spelled out in the Covenant of Muhammad and explicitly grants minorities the right:

to establish, manage and control at their own expense, any charitable, religious and social institutions, any schools and other establishments

⁹ Dilek Kurban and Konstantinos Tsitselikis, *A Tale of Reciprocity: Minority Foundations in Greece and Turkey*, TESEV & Research Centre for Minority Groups (July 2010), http://tesev.org.tr/wp-content/uploads/2015/11/A_Tale_Of_Reciprocity_Minority_Foundations_In_Greece_And_Turkey.pdf, 11.

¹⁰ *Turkey: International Freedom Report for 2011*, U.S. DEPARTMENT OF STATE, BUREAU OF HUMAN RIGHTS, DEMOCRACY, AND LABOR, <https://www.state.gov/documents/organization/193083.pdf>, 5.

¹¹ *Id.*

for instruction and education, with the right to use their own language and to exercise their religion freely therein.¹²

Free Elections and Proper Structure of Religious Minority Foundation Boards

The Turkish Government also discriminates against the Ecumenical Patriarchate because it continues to delay the election of minority foundation board members (see above for the role of foundations) to manage the few properties that have been returned. Without proper minority foundations, the return of property is meaningless because the properties, under existing Turkish law, cannot be effectively managed and sustained. A related concern is that existing Turkish law unfairly restricts the eligibility of Orthodox Christians who wish to serve as minority foundation board members. Clergy are not allowed to serve, and only citizens who live adjacent to a property are eligible to serve as a minority foundation board member for that property. With the dwindling number of members, a fair solution is to allow clergy and Orthodox Christians, who do not necessarily reside in the district in which a property is located, to serve as minority foundation board members for that property.

Halki School of Theology

The closure of Halki is still another instance of discrimination. Founded in 1844, Halki served the Orthodox Christian community worldwide until 1971 when it was forced to stop admitting new students. Throughout the years, almost a thousand students graduated from Halki, including many distinguished clerics, theologians, and most of the Ecumenical Patriarchs elected since the School's founding.

¹² Treaty of Lausanne, Article 40 (1923), https://wwi.lib.byu.edu/index.php/Treaty_of_Lausanne. See also Article 42 (granting protection to “churches, synagogues, cemeteries, and other religious establishments” of minority populations within Turkey).

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

For many years, urgent petitions by the Ecumenical Patriarch, the Order and many others, to allow the reopening of Halki have gone unheeded, despite illusory promises by Turkish officials that Halki will be reopened.

Presidents of the United States, beginning with President Carter and his successors, Vice President Biden, many U.S. Secretaries of State (including Hillary Clinton and John Kerry), a host of European Union officials, and many international bodies also have repeatedly urged the Government of Turkey to allow the reopening of Halki.

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

As the Religious Affairs Directorate, we consider non-Muslim citizens living in Turkey as an essential constituent of our country. And we believe that they have the right to educate their own children in line with their faith and train their own religious functionaries. We think that they should have the same rights which we want for ourselves in freedom of religion and faith, and freedom of education.¹³

Notwithstanding the above, Halki today remains closed.¹⁴

¹³ *Turkey's Top Muslim Cleric Meets Istanbul's Fener Greek Patriarch*, ANDALOU AGENCY (July 5, 2012), <https://www.aa.com.tr/en/turkey/turkeys-top-muslim-cleric-meets-istanbuls-fener-greek-patriarch/357407>.

¹⁴ *See also Press Release: PTWF, Muslim Partners Urge Erdogan to Open Halki Seminary*, THE NATIONAL HERALD (Aug. 9, 2018), <https://www.thenationalherald.com/210119/ptwf-muslim-partners-urge-erdogan-to-open-halki-seminary-release-pastor-brunson/>.

The U.S. Commission on International Religious Freedom in its 2019 report again states that the U.S. Government should “press the Turkish government to fulfill private and public promises that the Greek Orthodox Halki Seminary be reopened....”¹⁵

Other Issues of Concern

In addition to the above, and as noted in the 2019 Annual Report of the United States Commission on International Religious Freedom, the Turkish Government should also abandon the following discriminatory practices: (a) interfering in the internal affairs of the Ecumenical Patriarchate by maintaining its requirement that Greek Orthodox metropolitans obtain Turkish citizenship when electing a new Patriarch¹⁶ and (b) requiring the field of religious affiliation on national ID cards and microchips. As also demanded in the USCIRF Report, the Turkish Government should ensure that the education curriculum remains inclusive of all religious groups, and it should allow students to be exempted from religious courses without disclosing their religious and philosophical convictions, as mandated by the European Court of Human Rights.

One more example of discrimination is the unnecessary conversion of Christian historic places of worship into mosques. Since 1934, most historic Christian places of worship in Turkey have been maintained as museums, open to the public. In 2012, however, the ancient church of Saint Sophia in Nicaea (site of the Second Ecumenical Council in 787) was summarily converted from a museum into a mosque. Even local Muslim residents complained that this action was totally unnecessary as there are plenty of mosques to serve the local population.¹⁷ The same year Saint Sophia in

¹⁵ *2019 Annual Report*, UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM.

¹⁶ See also, *2018 Annual Report*, UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM (2018), <http://www.uscirtf.gov/sites/default/files/2018USCIRFAR.pdf>, 196.

¹⁷ Susanne Gusten, *The Church That Politics Turned Into a Mosque*, N.Y. TIMES (Feb. 8, 2012), <https://www.nytimes.com/2012/02/09/world/middleeast/the-church-that-politics-turned-into-a-mosque.html>.

Trabzon suffered a similar fate. In 2014 Saint Sophia at Eraclea (Eregli), built by Emperor Theodosius II between 408 AD and 450 AD, became the ninth church named Saint Sophia to be so converted.¹⁸ Muslim prayer services now have been introduced in the historic Saint Sophia (Istanbul) museum, which had been the home of the Ecumenical Patriarchate for almost one thousand years, and the Government is considering converting this historic building into a mosque.¹⁹ This disturbing discriminatory practice has not been limited to Orthodox churches. Armenian, Syriac, Catholic, and Protestant churches also have been subjected to a similar fate. By so doing, rather than constructing new mosques where necessary, the Turkish Government continues its practice of discrimination against Christians.

Recommendations

The Order recommends the following:

First, the Government of Turkey should reopen the August 27, 2012 Decree for the submission of applications to recover seized property, which did not give applicants sufficient time to respond. The Decree should be expanded to include all seized properties that were excluded. The Government should also revamp the manner by which the Decree is implemented. A Public Advocate, who is not a Government bureaucrat, should be employed to ensure that the Decree is implemented in a fair and expeditious manner.

Second, the Government of Turkey should allow the Ecumenical Patriarchate and its institutions full legal status, which in the absence of a properly operating minority foundation system is the only viable way to manage Patriarchal related properties.

¹⁸ *Ninth Hagia Sophia Church Converted Into a Mosque in Turkey*, ORTHODOX CHRISTIANITY, (Sept., 25, 2014), <http://orthochristian.com/73914.html>.

¹⁹ Zeynep Bilginsoy, *Turkish President Recites Muslim Prayer at the Hagia Sophia*, ASSOCIATED PRESS (Mar. 31, 2018, 10:05 AM), <https://www.usnews.com/news/world/articles/2018-03-31/turkish-president-recites-muslim-prayer-at-the-hagia-sophia>.

Third, the Government of Turkey should adopt a policy which enables election of Orthodox Christians to be board members of minority foundations, in a manner which assures that all the minority foundations will be able to manage property effectively.

Fourth, the Government of Turkey should allow the Halki School of Theology to reopen and operate with its own theologians and in a manner consistent with its own Christian beliefs.