



## **Freedom of Thought, Conscience, Religion or Belief:**

### **The Ecumenical Patriarchate in Istanbul**

The Organization for Security and Cooperation in Europe (OSCE)

2010 Review of the Implementation of the OSCE Commitments

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#### **Introduction**

1. We represent, before the 2010 OSCE Review Conference, the Order of Saint Andrew the Apostle, 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 of Constantinople, which is the spiritual center of 300 million Orthodox Christians in the world. Members of the Order are found in all walks of life, including the U. S. Congress, executive government, the professions, business, and the arts. Our presence at this Conference is made on behalf of the Ecumenical Patriarchate in order to highlight its historical rights and prerogatives and the serious impediments and threats, at times, with which it is confronted frequently.

2. As you may recall, the Archons were present in a number of past OSCE Conferences; specifically, we were here last year and brought before the assembly a somber account of the difficulties of the Ecumenical Patriarchate and its local congregation. We are here this year to review the situation, take stock of developments, and urge strict adherence with the principles put forward and, indeed, accepted by the members of OSCE.

3. We are mindful of important and encouraging developments to which we wish to give full credit but also to point to serious deficits and violations of principles that unfortunately persist. Our commitment is strong and unshakable in the defense of the Patriarchate's rights and prerogatives. Despite good intentions and good words from Turkish officials, our main concerns remain unresolved to this day, as outlined below.

#### **The "Ecumenical" title**

4. An item of paramount importance to the standing of the Ecumenical Patriarchate in the world is its title as "*Ecumenical*," which translates as pertaining to the entire "inhabited world." We do not need to remind this erudite assembly 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 (the city of Constantine, who moved the capital of the Roman Empire to the east, officially, in the year 330 A.D.) which is the present-day Istanbul (officially renamed in

1930, by Kemal Atatürk). 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 (paragraph 5).

5. The “Ecumenical” title of the Patriarch can be clearly illustrated by a large number of events which demonstrate that the Orthodox churches and the entire Christian world, indeed, consider his 15-century old title valid and act accordingly. A few facts that attest to this claim:

- A number of Popes of Rome, including the current occupant of the See of Rome, Pope Benedict XVI, have paid official visits to the Patriarchate;
- The Ecumenical Patriarch has exercised his recognized prerogatives as “*primus inter pares*,” or “Ecumenical” by convening a number of *synaxes* (gatherings just short of the status of a synod). Most recently, such *synaxes* were held in 2008 and 2009;
- During a visit by Archbishop of Canterbury, Dr. Rowen D. Williams, the Archbishop repeatedly referred to His All Holiness the Patriarch as the *Ecumenical Patriarch*.
- The visit to the Ecumenical Patriarchate of the newly elected Patriarch Kirill of Moscow and All Russia, July 4-6, 2009, offers clear testimony of this recognition.

6. The denial of recognition entails also legal consequence, namely, to introduce the specter (if not the reality) 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.<sup>1</sup> This judicial interference has, however, no basis in fact or law as clearly stated by the Venice Commission (paragraph 7).

7. The matter of the title “Ecumenical” has also been the subject of deliberation by the European Commission for Democracy Through Law, also known as the Venice Commission. At its 82<sup>nd</sup> Plenary Session, in Venice, 12-13 March 2010, the Commission expressed a formal opinion<sup>2</sup> stating, among other things:

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<sup>1</sup> 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!

<sup>2</sup> The document was issued in Strasbourg, 15 March 2010, Opinion no. 535/2009, CDL-AD(2010)005 Or. Engl.

*“99. The Turkish authorities are under a clear obligation under Article 9 of the ECHR not to obstruct or in any way hinder the Patriarchate from using this title. However, it cannot be inferred from the ECHR that the Turkish authorities are obliged themselves to actively use this title when referring to the Patriarchate, nor to formally recognise it. If the authorities do not want to use the title, they are formally free under the ECHR not to do so, as long as they do not obstruct the use of it by others.*

*100. However, taking into account the fact that the word “Ecumenical” forms part of the title of the Patriarchate and has done so since the 6<sup>th</sup> century, and that this title is widely recognised and used globally, the Venice Commission fails to see any reason, factual or legal, for the authorities not to address the Ecumenical Patriarchate by its historical and generally recognised title.”*

8. We regret to report to this conference that recognition of “Ecumenical,” as a legitimate and historical title, is still denied to the Patriarch of Constantinople, by the Turkish Government, which continues to view him as the Bishop of a flock of 2,000 Greek Orthodox faithful. This attitude and denial of a legitimate title is unacceptable; it diminishes the stature of the Ecumenical Patriarch, defies history, contradicts universal Christian practice, and defeats Turkey’s aspirations for joining the European Union.

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

9. Up until recently, a perennial concern has been the requirement placed by Turkish authorities on the process of electing a new patriarch. The requirement that the candidate to the patriarchal throne and his electors be Turkish citizens at the time of election, combined with the dwindling numbers of candidates who fulfill this requirement, has been a dire threat to the very existence of the Ecumenical Patriarchate. We have noted with satisfaction that, in recent rulings, electors of the world-wide Patriarchal Synod have been allowed to apply for Turkish citizenship and a large number (about 17) of them have done so. This recent ruling, once fully implemented, will add a considerable number of Orthodox prelates to the small pool of indigenous electors (comprising only 12 aging Bishops) for the election of a new Ecumenical Patriarch.

### **Restriction on Free Religious Education**

10. Over the past few decades, the opening of the Theological School at Halki (Heybeliada) has become a thorny issue. Its closure, in 1971, seriously deprived the Ecumenical 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 to have its own printing facility, publish religious journals, treatises and books, a serious hindrance to its theological and pastoral function.

11. Over the years, there have been many voices, inside and outside Turkey, that have joined ours in petitioning the Turkish Government to allow the reopening of the Halki Seminary. These are too numerous to quote in this paper; we mention only briefly the following voices of support:

- The U.S. Government, through the voice of several successive Presidents. When President Barack Obama addressed the Turkish National Assembly in 2009, he remarked

- The European Union (EU), on several occasions and by many of its governing bodies and institutions;
- The newspaper Hürriyet, in a September 4, 2009 article: "...thus, we are all looking forward to seeing some concrete results after so many years;" and again on August 16, 2010: "...In the same spirit, Turkey should move confidently to reopen the Halki Seminary on the Sea of Marmara island of Heybeliada, shuttered since 1971."

12. 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."

### **Denial of Legal Personality and Property Confiscations**

13. For many long years, 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. It is widely thought that this Turkish-government tactic has been a calculated long-term strategy of harassment, attrition and annihilation, with multiple deleterious effects upon its functioning and, indeed, its very existence.

14. The denial of legal personality prompted the Venice Commission (see paragraph 7) to state:

*"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."*

15. A special mention must be made to the case of the Orphanage on the island of Prinkipos (Büyükkada). Without going into the long legal history of the case, we shall only mention that 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 a judgment issued on June 15, 2010, ECHR ruled that the Turkish Government had to return the Orphanage to the Ecumenical Patriarchate. Based on this unequivocal legal judgment, we call on the Government of Turkey to honor its publicly announced intention to reinstate the property to its lawful owner. It is worth mentioning that the Ecumenical Patriarchate has announced plans to use the facility, if and when it devolves under its control, to a center for environmental ethics and inter-faith dialogue, rendering a much needed service in today's conflict-ridden world.

16. Massive confiscations of Ecumenical Patriarchate properties have been experienced over the years. 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 varied commercial value. The list of confiscations is too long to detail in this paper.

### **Shared Complaints**

17. The egregious violation of the Ecumenical Patriarchate's legitimate rights befalls, unfortunately, also other religious minorities in Turkey, including Armenian, Catholic, and Protestant churches and the Jewish faith. The same denial of legal personality is employed as a stratagem to allow the State to confiscate properties, disallow construction of new buildings and deny permits for the repair or refurbishment of old ones. We are thus in full solidarity with sister Christian denominations and the Jewish faith in Turkey and vigorously protest the multiple violations of rights which should be observed in Turkey as they are observed, indeed, in all civilized countries of the world. Looking to the prospects of Turkey of continuing accession negotiations with the European Union and knowing that religious freedom is a fundamental cornerstone of European civilization, which must be safeguarded at all costs, we foresee great difficulties and strenuous objections on the part of many, if not all, countries, members of the EU, on the basis of religious rights violations.

18. On the website of Forum 18, a Norwegian organization dedicated to the protection of human rights, we read:

*"Turkey continues to interfere in the choices made by the Jewish, Greek Orthodox and Armenian Apostolic communities of who should lead them, Forum 18 News Service notes. The government makes no attempt to hide this interference, which raises serious questions in relation to its international human rights commitments to allow religious communities to select the leaders of their choice. ...So the Jewish, Greek Orthodox and Armenian Apostolic leaders are chosen with government permission as leaders of religious communities which do not exist in law and whose personal positions are not recognized in law."*

19. In the August 18, 2010 issue of Human Rights without Frontiers International Newsletter, Mine Yildirin and Otmar Oehring write:

*"Most controversy over state interference in religious leadership affects the three religious communities - the Jewish, the Greek Orthodox and the Armenian Apostolic - which in the government's interpretation of the 1923 Lausanne Treaty are the only three recognised ethnic/religious communities....But this recognition still does not mean that they are legally independent entities in their own right. Indeed, no religious community in Turkey has independent legal status in its own right - which means for example that no religious community can own property.... Turkey's interference in the choice of Muslim, Greek Orthodox, Armenian Apostolic and Jewish leaders clearly seems incompatible with the country's international human rights commitments to allow religious communities to choose their own structures and leadership."*

## A Changing atmosphere

20. Although our grievances are still standing as detailed above in our statement, we are in a position to acknowledge a number of encouraging recent events and statements on the part of top Turkish officials that are favorable to our cause. We briefly enumerate below the most important ones:

- A visit by Prime Minister Erdogan, in August 2009, together with the Ecumenical Patriarch, to the Orphanage of Prinkipos (Büyükada) 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. The actual implementation of the ECHR decision is still awaited.
- On Sunday, August 15, 2010, official permission was granted for a religious celebration at the 4th-century Monastery of Sümela,<sup>3</sup> on the Black Sea, near Trabzon, at which the last religious service was held in 1922. The Ecumenical Patriarch Bartholomew celebrated, at this iconic monastery and for the first time in 88 years, the Dormition of Jesus's mother Mary in the presence of a multitude of Orthodox Christians from Russia, Greece, Georgia and the United States. The Patriarch duly thanked, with generous words, the Government of Turkey for this permission. Even as we also are thankful to the Government of Turkey, we look forward to a time when the right for the Ecumenical Patriarch or any religious leader for that matter, to perform services at a religious shrine would not be viewed as an extraordinary event eliciting gratitude but as a natural, self-understood, and normal exercise of basic rights.
- Commenting on the event described above, Prime Minister Recep Tayyip Erdoğan summed up its importance better than anyone else. Speaking at a Ramadan fast-breaking "iftar" in Diyarbakir, he said:

*"Anyone who trusts in his own faith does not fear the freedom of faith. The one who trusts in his own ideas does not fear the freedom of ideas. They say these are 'nationalists.' Open up Ottoman history and read. The Ottomans were open, and trusting in themselves this is what they did. Never experiencing the slightest problem; quite the opposite, they established their authority in the international community and they did so in the best of ways."*

## Supporting voices

21. The number of voices in support of the points we are making is increasing, inside and outside of Turkey. We cite here but a few:

- The **United States Commission on International Religious Freedom (USCIRF)**, in its Annual Report, published on May 2009, notes that, contrary to the 1923 Treaty of

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<sup>3</sup> Sümela Monastery sits at an altitude of approximately 1,200 meters. Founded in the year 386 A.D. during the reign of Emperor Theodosius I (375-395), legend has it that two priests undertook the founding of the monastery.

Lausanne provisions, Turkey has specifically failed to implement the guarantees and protections granted for all non-Muslim religious minorities.

- 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, to return confiscated properties and promptly execute all related judgments by the European Court of Human Rights.
- Turkish writer **Orhan Kemal Cengiz** published, in *Zaman*, dated 10 July 2009, a devastating critique of Turkish practices. We quote 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."*

- In an article published on August 17, 2010 in *Hurriyet Daily News*, **Mustafa Akyol** wrote:

*"Erdogan took another good step by publicly supporting the Patriarchate, blaming its opponents for paranoia and praising religious freedom. He also advised the nationalists to "open up Ottoman history and read." Good job. But Erdogan should not confine himself with Sümela, and move on to solve other problems of Turkey's Christians, beginning with the re-opening of the Halki Seminary. He should, in other words, de-crucify all the followers of Christ in this country. They have suffered enough."*

- The **Council of Europe's Venice Commission**, in March 2010, added its strong voice as highlighted in paragraph 7.

## **Conclusions and Recommendations**

22. Based on the principles of the Helsinki Final Act and the Vienna and Copenhagen Concluding Documents, this paper has presented the views of the Order of St. Andrew the Apostle on the plight of the Ecumenical Patriarchate of Constantinople. 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 not only for the sake of the Ecumenical Patriarch but also for other Christian denominations and other faiths in the country.

23. Our report above clearly shows that the Government of Turkey has failed to live up to these principles with respect to the Ecumenical Patriarchate, notwithstanding the fact that it is a signatory to the OSCE. 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 principles and to follow up their good intentions with actions. Specifically, they must:

- 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.
- Continue its reforms in connection with the procedure for the election of a new Ecumenical Patriarch with full respect for The Patriarchate’s own canonical law, historical precedents, and position as a leading spiritual authority in the Orthodox world.
- Accord recognition of the Ecumenical Patriarchate and other religious denominations and faiths in Turkey as legal entities with all attributes, rights, and prerogatives attendant to their legal personality, including the right to own, build, repair, and acquire property.
- Allow the opening and normal operation of the Theological School in Halki and remove all impediments to its effective functioning as a center of theological education, research and scholarship.
- 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 on fair and prompt arbitration.
- Follow up with deeds their stated intention to return the Orphanage at Büyükada to the Ecumenical Patriarchate as ordered by ECHR.

24. As Turkey continues its vigorous quest to join the European Union, full adherence to the OSCE charter, including, above all, freedom of conscience and religion, will be a powerful asset and convincing argument, supporting Turkey’s high aspirations. It will be strong proof that Turkey has the 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. The road upon which the present Government of Turkey has embarked is promising; it needs to persist on it and bring the needed reforms to fruition. We wish them success in this endeavor.