



**National Human Rights Institutions and the Role of Civil Society in the Protection
of Human Rights:**

The Ecumenical Patriarchate and the Greek Minority in Turkey

The Organization for Security and Cooperation in Europe (OSCE)

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Introduction

1. We are present in this OSCE Review Conference as members of the Order of St. Andrew, the Apostle, which is dedicated to the defense and protection of the Ecumenical Patriarchate of Constantinople and his local flock of believers, the Greek Orthodox minority of Turkey. We are here to express our concern regarding the present wellbeing and future prospects of this historical institution of the Orthodox Christian Church in Istanbul, Turkey. In making these remarks, we consider ourselves as friends of Turkey, believing that the interests of the Ecumenical Patriarch are, to a great extent, parallel with those of the state of Turkey; this is especially true at a moment in history when Turkey is making a determined bid to join the European Union.

2. In the present session, we will focus on the observance of principles of human rights as they apply to the Ecumenical Patriarch but also to other religious minorities in Turkey, and the Greek community in particular, which is the local and direct flock of the Ecumenical Patriarchate. We also wish to recognize that, in recent years, a new policy and new official awareness has become evident in Turkey; it indicates that the current Government and broad segments of Turkish society understand that it is in their interest to show with deeds that Turkey espouses the same high principles of human rights as do modern, democratic states of the world and, specifically, the countries of the European Union and the OSCE. These include, among other aspects, freedom of religious worship, non-discriminatory treatment and protection of the rights of minorities; these must be pursued in complete fairness, legality and equality before the law for all people and institutions.

3. We have addressed the religious freedom issues in a separate paper (presented in Session 2, October 1, 2010). The two issues are, of course, closely intertwined and, perhaps, inseparable.

Violations of the Human Rights of Minorities

4. It is, unfortunately, a sad fact that conditions for the full respect of human rights do not yet prevail in Turkey despite efforts for reform and several other steps taken in the right direction by the current Government. Lack of due recognition of the Patriarchate's historical title of "Ecumenical" in Turkey is so serious that, on paper at least if not in reality, even the pronouncing of the words "Ecumenical Patriarchate" could be seen as a violation of the law.

5. Although the Ecumenical Patriarchate has survived, under its "Ecumenical" title, for almost 1500 years¹ to this day and has enjoyed considerable respect during the Ottoman rule for over 400 years, since the beginning of the Turkish Republic, about 100 years ago, there has been a systematic and premeditated drive by successive Turkish governments to usurp its resources thereby diminishing its role in the world. The following highlights are but the most egregious violations of the Ecumenical Patriarchate's rights:

- 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 European Commission for Democracy Through Law, also known as the Venice Commission, at its 82nd Plenary Session, in Venice, 12-13 March 2010, stated its formal opinion² :

"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 has been the inability to own property. The Ecumenical Patriarchate, together with other faiths, is continually vulnerable to confiscation of its properties; over 75% of its properties (and those of related institutions) have been confiscated through devious and underhanded methods.
- Turkish Courts have repeatedly upheld predatory and confiscatory actions against the Ecumenical Patriarchate and the Greek minority, their institutions and resources.
- The Turkish Government has placed exorbitant taxes on social service organizations supported by the Ecumenical Patriarchate, as in the case of the Balukli Hospital which serves all Turkish citizens without discrimination.

¹ The episcopal see was first 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.

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

- Certain Turkish groups have repeatedly uttered threats against the Ecumenical Patriarch and have, in certain occasions, carried them out with violent acts, resulting in the killing of missionaries. Threats were pronounced against the Armenian Orthodox Patriarch and a prominent Jewish businessman. We note with satisfaction that the current government has understood that it also is not immune to such attacks that target, in essence, the social and political stability of Turkey, and has proceeded with decisive moves against them.

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 safeguarding the safety, freedom of movement, property rights and access to the material means of the Ecumenical Patriarch and all religious leaders and persons.

A Historical Perspective

7. Our points need to be seen in a historical context. The twentieth century has seen the emergence of world-wide movements to highlight the plight of millions, if not billions, of people, to defend the victims and to adopt international treaties to prevent violations that may have been tolerated earlier. In today's context, such violations are totally unacceptable. It is distressing to note that violation of human rights has been a pervasive and persistent policy in Turkey for over 100 years, as thoroughly documented in many previous conferences of OSCE. We concentrate here on a few instances that concern the Greek minority with which we are more familiar, and which have directly or indirectly affected many members of the Order of St. Andrew.

- Ethnic Greek Turkish citizens were expelled several times in the early 20th century. The most severe dislocation of populations occurred at the end of the 1922-23 Greek-Turkish war in Asia Minor in which large numbers of Greeks (upward of 1.2 million) and Turks (of the order of 400,000) were exchanged.
- The pogroms and attacks of September 1955 in Istanbul caused the next deep drop in the Greek Minority in that city. The use of paramilitary groups provided a veneer of deniability to the Turkish Government. Properties were seized, education was disrupted, heavy taxes were targeted on the Greek minority, and businesses were constrained. Families fled for their lives and livelihood.
- A continuous policy of harassment, over the past fifty years, has driven down the Greek population of Turkey, from over 100,000 in the 1950's to less than 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.

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

9. Massive confiscations have taken place of properties of institutions that serve minorities. We cite but a few examples:

- Among the properties which have been confiscated are the following: (a) properties belonging to Balukli Hospital and Home for the Aged; (b) the Patriarchal Orphanage on the island of Prinkipos (Büyükada); and (c) the Monastery of Metamorphosis on the island of Proti (Kinali).
- Arbitrary expropriations have taken place against other religious minorities in Turkey as well. For example, on 24 June 2009, a Turkish Court ruled that forest land of the historic Assyrian monastery of St. Gabriel in Midyat, founded in 397 A.D., belongs to the Turkish Forestry Department.

The Expropriation of the Prinkipos Orphanage and the Ruling of ECHR

10. A major legal development took place in 2008 with a landmark legal decision by the European Court of Human Rights (ECHR) to which Turkey is a signatory. To make a long story short, ECHR, on July 7, 2008, issued a ruling strongly in favor of the Ecumenical Patriarchate. With a unanimous verdict of 7 judges (including that of the Turkish judge) the Court condemned the Turkish State for improperly taking over the Orphanage and held that the rights of the Patriarchate are protected by international law. After the passage of more than two years with no compliance with its ruling, ECHR revisited the case and ruled, in a judgment issued on June 15, 2010, that the Turkish Government had to return the Orphanage to the Ecumenical Patriarchate (with no option to provide just compensation). It is now high time that the Government of Turkey must honor its publicly announced intention to reinstate the property to its lawful owner. It is also worth mentioning that the Ecumenical Patriarchate has announced plans to use the facility as a center for environmental ethics and inter-faith dialogue, an important contribution to the issues of our contemporary world.

Other Voices Condemning Human Rights Abuses in Turkey

11. Many international bodies and organizations together with a number of respectable NGOs have expressed their criticism of Turkish violation of civil, and especially minority, rights. As a sample of these critical voices, we quote:

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

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

- Resolution 1625 (2008) of the Parliamentary Assembly of the Council of Europe, regarding “Gokceada (Imbros) and Bozcaada (Tenedos):

“preserving the bicultural character of the two Turkish islands as a model for cooperation between Turkey and Greece in the interest of the people concerned,”

- Resolution 1704 (2010) of the Parliamentary Assembly of the Council of Europe, on “Freedom of Religion and other human rights for non-Muslim minorities in Turkey and for the Muslim minority in Thrace (eastern Greece), and
- The 2010 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.

A Changing Wind and Constitutional Amendments

12. Notwithstanding past policies and practices, against not only minorities but also against its own citizens, which we and many other international and non-governmental organizations have decried over the years, we now need to look toward the future with renewed hope. We are indeed encouraged by several events in the last several years. We note, with special gratification: (i) the visit of Prime Minister Erdoğan, together with the Ecumenical Patriarch, to the Orphanage of Prinkipos (Büyükada) and subsequently to the Monastery of St. George Koudounas, in August of last year; (ii) the permission for the Patriarch to celebrate mass at the historic Monastery of Sümela, near Trabzon on the Black Sea, on August 15, 2010, for the first time in 88 years; and (iii) the announcement that the Government intends to comply with the ECHR June 2010 ruling and order to return the Orphanage of Prinkipos to its lawful owner. Recent statements by Mr. Erdogan regarding the rights of minorities as well as the Prime Minister’s May 2010 relevant circular, addressed to all structures of the administration and the judiciary, reflect a new confidence of Turkey in its own culture and, hence, provide a base for increased tolerance, acceptance and respect for other religious groups and ethnic minorities. Speaking on September 10, 2010 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.

13. Serious voices inside Turkey have recently highlighted the injustices and violations of human rights. Speaking to the newspaper Zaman in an exclusive interview, published on 21 March 2010, Huseyin Celik, the Justice and Development Party's (AK Party) deputy chairman and former education minister, said:

"Serious injustices were done to all these groups during the single-party era in Turkey; however, the injustices done to the non-Muslims were more severe. The wealth tax was a disgrace. The closure of the Greek seminary was a great shame. The Sept. 6-7, 1955³ incidents were an inhumane conspiracy that humiliated Turkey in the eyes of the world. The alienated villagers were unable to enter Ankara's city center until 1946. The violation of the rights of the humiliated Alevis, Kurds and the pious have continued until today."

14. The referendum held on September 12, 2010 also holds special promise toward a future with respect for civil rights and higher tolerance for ethnic minorities and religious groups. With a substantial majority (58% for, versus 42% against) the people of Turkey expressed a desire for the country to move away from a regime of tutelage of political institutions by an entrenched and military-dominated bureaucracy toward a society with higher and stronger democratic institutions in which the rights of all citizens, including those of various religious groups and of minority ethnic origin, would be respected and protected according to international norms. The Order of St. Andrew is hopeful that this recent development will strengthen the hand of those who support needed reforms and who will adopt them as laws of the land not only on paper but also in day-to-day practice.

Conclusions and Recommendations

15. In this paper, we have clearly demonstrated that the history of human rights in Turkey over many decades shows a serious deficit; especially in terms of freedom of religion and protection of the human rights of its minorities. All too often, devious policies of persecution and denial of rights have been carried out; some of the better known cases have been highlighted above, as they affect the Ecumenical Patriarchate and the Greek and other ethnic minorities.

16. We are also fully aware of 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 expect that the constitutional amendments passed by a wide majority on September 12, 2010 will lead to a gain in democracy and openness to the desires and needs of the common citizen and, hence, to a strengthening of individual rights of citizens of all faiths and ethnic origin.

17. 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:

³ The unfortunate events of Sept. 6-7, 1955 started after a newspaper headline said the home of the nation's founder, Ataturk, in Greece, had been bombed by Greek militants. Fired up by the media, mobs killed and harassed non-Muslims and non-Turkish minorities in a massive campaign.

- Fully adhere to the principles on the rights of expression, assembly and association, dissent, and religious faith and practice of all citizens without discrimination.
- Defend and protect the health, safety, integrity, free movement, and religious activity, in all its manifestations, of the Ecumenical Patriarchate and allow full exercise of its role as a leader of world Orthodoxy and Christianity.
- Fully implement the provisional Article 7 of the 2008 Law on Foundations. Cease all property confiscations and enter into serious and good-faith negotiations for the return of properties or fair compensation for lost properties of all social, philanthropic and educational institutions of the Greek and other minorities.⁴
- Establish a climate of respect, tolerance, and legitimate assistance toward the free functioning of ethnic minorities and their various institutions and organizations.
- Based on Turkish law and using established procedures, as practiced generally in Turkey, provide review and permits for the repair, rehabilitation, or reconstruction of buildings of the Patriarchate and other faiths; cease the use of various pretexts to either deny or prolong the issuance of such necessary permits.

18. The recent decision of the European Court of Human Rights affords an international benchmark by which the Turkish Government needs to abide. This benchmark provides a sound interpretation and confirmation of all the provisions of the Treaty of Lausanne and restates the legal obligations of Turkey. It is gratifying that the Erdoğan Government has explicitly stated its intention to proceed with implementation of the ECHR decision on the Orphanage of Büyükdada. Action on this stated intention is needed.

19. Continued and accelerated movement toward reform and the required changes in law must be adopted forthwith for Turkey to convince its partners in OSCE and other organizations, as well as the members of the European Union, and indeed the world, that it is a reformed state with a forward outlook, worthy of inclusion in the family of civilized nations.

⁴ Such measures must address the longstanding question of Greek Orthodox foundations fused ("mazbut") along with their properties, by the Turkish Directorate General of Foundations, as well as that of non - Muslim foundations' properties seized by the Turkish state and subsequently sold to third parties.