

The Status and Issues of the Ecumenical Patriarchate of Constantinople

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Presented on behalf of the Order of St. Andrew

by

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Introduction

1. We are pleased to be part of this year's OSCE Conference on the Human Dimension representing the Order of St. Andrew the Apostle (the Order). The Order is a United States-based organization of Orthodox Christian laymen, whose mission is to defend the religious freedom, rights, and prerogatives of the Ecumenical Patriarchate of Constantinople and to preserve its important role in the spiritual life of all Orthodox Christians as well as of all persons of faith in the world. Our members are active in all segments of society including the U. S. Congress, executive government, the professions, business, and the arts. Our basic motivation is our firm belief in fundamental rights that have been enshrined not only in the Constitution and Bill of Rights of the United States (U.S.) of America, but also in a number of important international documents such as the Universal Declaration of Human Rights in which the right to freedom of thought, conscience and religion are clearly and supremely defended.

2. We are here again this year to, on one hand, acknowledge and give full credit to important initiatives and steps, taken by the Government of Turkey and, on the other, to point out serious deficits in the implementation of measures to restore and safeguard the rights of religious freedom and to declare our demand and expectation that decrees, announcements, and good intentions be followed by real action in the field and by further reforms in this area. In general, members of religious groups that had formal recognition during the Ottoman period, including the Greek Orthodox, Armenian Orthodox, Syrian Orthodox, Armenian Protestant, and Jewish communities, reported they had freedom to practice their faiths.¹ On the other hand, the Order has voiced concern and presented grievances, almost all of which have been highlighted in two documents with which the Order associates itself; the first is the Report by the U.S. Commission for International Religious Freedom (USCIRF)² and the second, the annual Report by the U.S. Department of State.³

¹ International Religious Freedom Report for 2012, U.S. Department of State, Mid May 2013. Section on Turkey, Executive Summary.

² U.S. Commission on International Religious Freedom (USCIRF), 2013 Annual Report, March 2013 (Covering 1-March-2012 to 28-February-2013).

³ International Religious Freedom Report for 2012, U.S. Department of State, Mid May 2013.

3. We note with satisfaction that the Ecumenical Patriarch was invited, on February 20, 2012, by the Speaker of the Grand National Assembly of Turkey, to appear before the Inter-Party Committee for the drafting of a new Constitution. This was the first time in the history of the Turkish Republic that a leader of a religious minority group addressed the parliament. Subsequently, representatives of the Syrian Orthodox community also testified before the sub-committee.⁴ On this occasion His All Holiness discussed religious freedom and freedom of conscience, education, including religious education, property, and other issues. He presented an 18-page document prepared by all the Minorities in Turkey, describing their common sentiments that emphasize their equality as citizens of the country without the discrimination and the injustices of the past.

The process for the election of a new Ecumenical Patriarch

4. This problem arises from the requirement of the Government of Turkey that the leaders of the Armenian Apostolic, Greek Orthodox, and Jewish communities must be Turkish citizens, according to a mandate by the Istanbul Governorate (where these leaders reside), in an arrangement dating to Ottoman times. The requirement that the candidate for Patriarch and his electors be Turkish citizens at the time of election, combined with the dwindling numbers of candidates who fulfill this requirement has clearly been a dire threat to the continued viability of the Ecumenical Patriarchate. Some progress in the matter is acknowledged as Metropolitans from geographic areas outside Turkey that fall within the jurisdiction of the Ecumenical Patriarchate have been allowed, through an executive reform statement announced in 2011, to apply for “exceptional” Turkish citizenship. Twenty six (26) hierarchs under the jurisdiction of the Ecumenical Patriarchate have applied (15 in 2010 and 11 in 2011), of whom twenty one (21) were granted “exceptional” Turkish citizenship and five (5) were denied; no explanation was provided other than that “the application is being rejected because it was found to be not in line with the requirements of the law in effect.” As of this writing (Sept. 2013), no applications are pending although additional ones are likely to be submitted in future. This process is discretionary rather than based on law and the ability of those hierarchs granted “exceptional” citizenship to participate in patriarchal elections, either as candidates or electors, has not been tested in practice. Consequently, the Government of Turkey must document and explain the reasons for the rejection by stating explicitly the requirements for approval. Otherwise, the change, albeit appreciated, retains its discretionary nature. We look forward to the day when no interference whatsoever will be exerted to the internal proceedings of the Ecumenical Patriarchate or of any other religious group.

Denial of Legal Personality

5. The Government of Turkey, based on its own interpretation of the 1923 Lausanne Treaty, grants special legal minority status exclusively to three recognized groups--Armenian Orthodox Christians, Jews, and Greek Orthodox Christians. However, this recognition does not extend to religious leadership organs; hence, the administrations of these religious communities do not have

⁴ International Religious Freedom Report for 2012, U.S. Department of State, Mid May 2013, op. cit.

corporate legal personality.⁵ Lack of recognition of its legal identity has been, for many years, and continues to be to this day, an instrument of deliberate attrition on the part of the Government of Turkey. The absence of legal personality remains a major impediment to the functioning of the Ecumenical Patriarchate as a normal institution in Turkish society, as it has also been the case for all other religious bodies in Turkey. The many consequences of this deprivation include the inability to sue in court for redress of grievances and a “legal inability” to own property. In its opinion of March 2010⁶, issued at the request of the President of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe, the European Commission for Democracy Through Law, also known as the Venice Commission, stressed that the fundamental right of freedom of religion includes, *inter alia*, the possibility for religious communities as such to obtain legal personality. This lack of rights is important not least to the need to have access to court, and to the protection of property rights. The Venice Commission could see no justification for not granting such rights to the non-Muslim religious communities in Turkey.

6. The official return of the Orphanage of Büyükkada to the Ecumenical Patriarchate, in late November 2010, through a deed registered in the name of “Rum Patrikhanesi,⁷ was thought to provide a *de facto* legal recognition to the institution of the Ecumenical Patriarchate. However, this hope was thwarted by an official statement that “the institution represented by Greek Orthodox Patriarch Bartholomew does not have a legal personality under current Turkish law.⁸” So this issue remains largely unresolved – legal steps are currently being taken to test whether the de-facto acknowledgement of the legal status of the Patriarchate by the Orphanage action can be extended to other properties. The Government needs to face this issue squarely and in consonance with international law and the basic rights for religious freedom.

Restriction on Free Religious Education

7. The reopening of the Theological School at Halki (Heybeliada) (also known as the Halki Seminary), which was founded in 1844 and was closed by the Government of Turkey in 1971, when the Turkish government banned all private higher education institutions, has become undoubtedly nothing but a *cause célèbre* on the international scene. The importance of this school can be grasped more clearly by the fact that over 900 students have graduated from Halki over the years of its operation, many of whom have served or are now serving in Orthodox parishes around the world, including the U.S., Europe, and Asia, with 12 of them ultimately being elected and assuming the post of Ecumenical Patriarch of Constantinople.

8. The order has highlighted the issue extensively in all its previous presentations at the OSCE/HDIM conferences and in all its activities in defense of the Ecumenical Patriarchate. In

⁵ International Religious Freedom Report for 2012, U.S. Dept. of State, Mid-May 2013. Part on Turkey, Section II.

⁶ The document was issued in Strasbourg, 15 March 2010, Opinion no. 535/2009, CDL-AD (2010)005 Or. Engl.

⁷ This is the official name for the Patriarchate used by the Government of Turkey, referring to its origins in the Roman Empire.

⁸ Public Statement by Deputy Prime Minister Bülent Arinc, in January 2011. He also stated that the Government of Turkey was “seeking to find an arrangement that recognizes the existence of the patriarchate but does not offer a legal personality to it, in line with the [1923] Lausanne Treaty and our laws.”

addition, all recent presidents of the U.S., from Carter to Obama, U.S. Secretaries of State, European Union officials, and a score of international bodies have repeatedly urged the Government of Turkey to remove this thorn from their side by promptly re-opening the School and allowing the Ecumenical Patriarchate to educate its clergy and lay theologians and to be, by its ecumenical role, a center of Orthodox learning, research and scholarship. The point has been raised once again in the annual reports of USCIRF as well as in the annual report of the Department of State. Unfortunately, and in spite of repeated assurances, often by officials at the highest levels of government, including by P.M. Erdoğan and the President of the Directorate of Religious Affairs (Diyanet), Mehmet Gormez, in his first meeting with the Ecumenical Patriarch in July 2012, the Halki Seminary remains closed as of this moment – a profound disappointment to the Ecumenical Patriarch himself, the Order of St. Andrew and the international community.

9. Although press reports have appeared, hinting at official maneuvering that would permit the opening of the school, the Order is questioning whether this flagrant violation of freedom of religion would necessitate “special maneuvering” or “a new formula,” as it is called. In the background of many past disappointments and frustrations, the Order urges that government procrastination end forthwith and the issue of the opening of the Halki Seminary should be resolved in a clean and forthright manner according to international norms without further delay.

The “Ecumenical” title

10. This issue refers to the use of the title “*Ecumenical*,” a title with an enormous historical resonance originating back to the 6th century A.D., and acknowledged and used by the entire world in addressing and referring to His All-Holiness, the Patriarch of Constantinople. We have argued extensively, in previous occasions, on the historical, institutional, and legal aspects for the justification for the use of this title, which is of paramount importance to the Order of St. Andrew and the world. However, the Order notes with satisfaction that the Government of Turkey has now officially affirmed its position that “the Government has no issue with the title Ecumenical.” However, the Order strongly recommends that the government accept the title “Ecumenical” officially thus showing the world that it accepts historical as well as current international practice, knowing this will be enhancing its own image as a secure and self-confident state.

Property Confiscations

11. Considerable progress has been made on this issue and the Order hopes and expects this positive trend to continue. We note with satisfaction the official return of the Orphanage of Büyükada (Prinkipos) to the Ecumenical Patriarchate as well as the transfer of property titles to the Kimisis Theotokou Greek Orthodox Church on the island of Tenedos (reported on in our OSCE/HDIM paper of 3-October-2012). Also, the Order acknowledges with satisfaction the decree of August 27, 2011 on the return of confiscated properties on which considerable progress has been made. A separate paper on this issue was presented by the Order in Session 2 of this Conference.

Freedom to conduct religious services

12. During the year 2013, as in a few previous years, the Government allowed the conduct of annual religious worship services at the Sümela Monastery near Trabzon, on the Black Sea. This

was the fourth time in a row, after a government-imposed ban for 86 years, that a religious service was held at the Sumela Monastery to mark the Dormition of Theotokos, one of the great feasts of the Orthodox Church.⁹ The government allowed, as well, services in other religiously significant sites that had previously been converted to state museums, such as, the Akdamar Church near Van, the St. Peter's Church in Antakya, the St. Nicholas Church near Demre, and the House of the Virgin Mary near Selçuk. Because Christianity thrived in Asia Minor for almost two millennia, many significant and historic religious sites and shrines exist in today's Turkey. Freedom to perform services regularly without the need for special permission would be viewed by the international community and the religious bodies themselves as a normal expression of faith and would be a credit to the secular nature of the Turkish state. We request that religious shrines of all faiths be returned to their rightful owners and that services be allowed as frequently as desired without interference but rather with the protection of the state against interference.

13. A worrisome development, betraying a regression by the State, has been reported in the Turkish press.¹⁰ The report says that "the Hagia Sophia church in the northeastern port city of Trabzon, hailed as one of the finest examples of late Byzantine architecture still standing in Turkey has been converted into a mosque after having been open to the public as a museum. Sadly, this comes on the heels of another conversion, in July 2012, of another former church, Hagia Sophia of Nicaea. Even more worrisome is that it was Deputy Prime Minister Bulent Arinc, whose portfolio includes the Vakıflar (the General Directorate of Foundations, or Vakıflar Genel Müdürlüğü, is often referred to as Vakıflar) who inaugurated it as a mosque (in the western town of Iznik). Is this trend going to continue and perhaps touch the Hagia Sophia in Istanbul, as rumors also reported in Al-Monitor (footnote 11), allege? The Order demands a firm stand by the government and a reversal of this unacceptable and regressive trend.

Conclusions and Recommendations

14. It is self-evident that the OSCE members should be expected to fully uphold the OSCE Charter. Turkey, as a signatory to this Charter, must affirm and enforce, in the strongest terms, religious freedom as a fundamental human right. Furthermore the Order calls on the Government of Turkey to comply with the principles of the Helsinki Final Act and the Vienna and Copenhagen Concluding Documents. 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 Patriarchate, but also for all faiths in the country. Our position hinges on a dual approach: on one hand, it highlights the Government of Turkey's failures to fully adhere to these principles notwithstanding the fact that it is a signatory to the OSCE; and, on the other hand, it acknowledges, with satisfaction and hope, recent government actions and announcements by the government, expecting actual implementation of decrees and statements of good intentions.

⁹ Yasemin Congar, "Patriarch Asks Turkey to End Stalemate Over Shuttered Seminary," Al-Monitor, 19-Aug-13.

¹⁰ "Another Byzantine church becomes mosque in Turkey," Al-Monitor, 7-Aug-13.

15. We recognize the drastic change of the political and social climate in Turkey that has taken place in recent years and the government stated willingness to adhere, observe, and apply the principles of OSCE through bold reforms. However, in view of past history of back-tracking and inconsistency, we reinforce the demands presented in previous years and ask that OSCE and its Committees approach the Government of Turkey and vigorously request the following:

- (a) Continue the reform process in connection with the election of a new Ecumenical Patriarch and, ultimately, abstain completely from any interference.
- (b) Accord recognition of the Ecumenical Patriarchate and other religious denominations and faiths in Turkey as legal entities, with rights to acquire, own, build and repair property;
- (c) Allow, at long last, the opening and normal operation of the Theological School of Halki;
- (d) Accept and use, officially, the use of the title “Ecumenical;” and
- (e) Complete the process of the return of seized properties of non-Muslim Foundations.

16. Within the process of the revision of the Constitution, Prime Minister Recep Tayyip Erdoğan has pledged to address the problems of religious minorities and correct existing shortfalls in the functioning of democracy. The ongoing constitutional process presents a unique opportunity for Turkey to include in it clear and comprehensive measures in the area of religious freedom. Such action will provide strong proof that Turkey is a modern and advanced state not only in the economic arena but also in the broader fields of human rights, with emphasis on religious freedom.