



Freedom of Thought, Conscience, Religion or Belief:

The Status and Issues of the Ecumenical Patriarchate of Constantinople

The Organization for Security and Cooperation in Europe (OSCE)

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by

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Introduction

1. Our presentation is strongly motivated by fundamental rights that have been enshrined not only in the Constitution and Bill of Rights of the United States (U.S.) of America, from which we come to this august assembly. But these rights are also widely observed and cherished in the world and contained 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. We come to this Conference, one additional time in a series of prior years' attendances, to represent the Order of Saint 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.

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.

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. 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 discriminations 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 have applied (15 in 2010 and 11 in 2011), of whom twenty one (21) were granted 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.” This process is discretionary rather than based on the law. Consequently, the Government of Turkey must document and explain the reasons for the rejection by stating explicitly the requirements for approval. Otherwise, the change 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 corporate legal personality.¹ 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 2010², issued at the request of the President of the

¹ International Religious Freedom Report for 2011, U.S. Department of State, July 30, 2012.

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

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 significant finding is important not least to ensure access to court, and 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 Büyükada to the Ecumenical Patriarchate, in late November 2010, through a deed registered in the name of “Rum Patrikhanesi,³ 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.⁴” So this issue remains largely unresolved.

Restriction on Free Religious Education

7. The issue of the reopening of the Theological School at Halki (Heybeliada) (also known as the Halki Seminary), closed by the Government of Turkey in 1971, has become nothing less than a *cause célèbre* on the international scene. All recent presidents of the U.S., including President Obama speaking before the Turkish Parliament in 2010, U.S. Secretaries of State, European Union officials, and a score of international bodies have urged the Government of Turkey to remove this thorn from their side by re-opening the School and allow 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 Order of St. Andrew never tires in bringing this issue to the fore in the most forceful terms, as was done in all its previous presentations before the OSCE Conference. We acknowledge repeated statements of intent by Turkish officials, including by P.M. Erdoğan, that they will indeed, re-open the School.

8. Public opposition also seems to have abated.⁵ On July 5th, 2012, the president of Turkey’s Religious Affairs Directorate, Professor Mehmet Görmez, Turkey’s top Muslim cleric, made a historic visit to Ecumenical Patriarch Bartholomew and voiced his support for the reopening of the Halki Seminary, saying that it is a fundamental right of non-Muslims living in Turkey to raise their own theologians. He said:

³ This is the official name for the Patriarchate used by the Government of Turkey, referring to its origins in the Roman Empire.

⁴ 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.”

⁵ At a recent dinner of the Ecumenical Patriarch’s with the leader of the opposition Republican People’s Party (CHP), the leader promised to support the government’s initiative for the reopening of Halki.

"As the Religious Affairs Directorate, we see non-Muslim citizens living in Turkey as an integral part of this country. Regarding religious freedoms -- freedom of religion, freedom to receive an education and the sacredness of places of worship -- we demand for them the same rights that we demand for ourselves. We think it is a fundamental right for people from every ethnicity and religion not only in our country but also in every part of the world to practice their religion freely, educate their children in accordance with their beliefs and raise their own theologians.....A religious community's dependence on other countries to raise their own theologians does not benefit Turkey as a major country. I would like to note that its [the Greek seminary's] continuation in accordance with the relevant laws and regulations, just as it did throughout history, will benefit the greatness of this country."

9. Earlier this year, President Obama, while visiting South Korea for a security conference, publicly thanked P. M. Erdoğan for his "decision to open the School of Halki." However, a few hours later on the same day, the joy created was shattered by a Turkish Government announcement that no decision had been made on the matter.⁶ The U.S. Commission on International Religious Freedom (USCIRF), in its 2012 Report, cited Turkey for "systematic and egregious limitations" on religious liberty. It presses for immediate improvements to end religious freedom violations and concludes that the Government of Turkey should:⁷

"Organize a technical committee comprised of representatives from the Ecumenical Patriarchate and Turkish government representatives, to review all technical details relevant to expeditious opening of the Halki Seminary."

10. We are informed that serious discussions are being conducted between the Ecumenical Patriarchate and the Government of Turkey to find a suitable solution that is in tune with Turkish law and also satisfies the views and requirements of the Ecumenical Patriarchate. Although, as of now, no progress has been made, we do hope that, in the context of these discussions, the opening of the Halki Seminary will be resolved without further delay. In the words of His All Holiness, Ecumenical Patriarch Bartholomew,

"the School is ready for operation, one signature is needed."

The "Ecumenical" title

11. This issue refers to the use of the title "*Ecumenical*," a title with an enormous historical resonance that originates 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 to the world.

⁶ On August 18, 2012, Turkish Deputy Prime Minister Bekir Bozdağ said that "reopening Istanbul's Halki Greek Orthodox Seminary is not on the agenda of the government, right now."

⁷ U.S. Commission on International Religious Freedom (USCIRF), 2012 Annual Report, March 2012 (Covering April 1, 2011 – February 29, 2012).

12. We wish to reiterate the statement by the Venice Commission which in its Opinion of March 2010⁸ later affirmed by a second opinion, issued in July 2011, as follows:

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 6th 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."

13. The Government of Turkey has expressed its acceptance of the Venice Commission opinion and this position was affirmed by P.M. Erdoğan who said, when visiting Athens in May 2010, that "his Government has no issue with the title Ecumenical." We, therefore, conclude that there exists no longer any serious problem regarding the title. However, the Order of St. Andrew is aware of threats, voiced in the past, that the use of the title "Ecumenical" is illegal and may result in legal prosecution of its user. We request and expect the removal of any legal restriction in law, regulation or practice, on the use of the title, if such restriction does indeed exist.

Property Confiscations

14. This issue has been among the top grievances of Patriarchal institutions and other civil bodies of the Greek Orthodox minority associated with the Ecumenical Patriarchate. We note with satisfaction the official return of the Orphanage of Büyükada (Prinkipos) to the Ecumenical Patriarchate, in late November 2010. It is also noted that, in March 2011, the Government of Turkey implemented a March 2009 ECHR judgment and transferred the property titles to the Kimisis Theodokou Greek Orthodox Church on the island of Tenedos.⁹ These actions are important developments, indeed, and we expect this positive trend to continue. Most importantly, the Order of St. Andrew acknowledges with satisfaction the decree of August 27, 2011 on the return of confiscated properties on which considerable progress has been made. While the decree raises hopes for further steps to be taken in this direction, its regulations are complex and time-consuming in their implementation. The Order of Saint Andrew will present a companion paper in Session 14 of this Conference, on this very important subject.

Freedom to conduct religious services

15. During the year 2012, as in 2011 and 2010, the Government allowed the conduct of annual religious worship services at the Sümela Monastery near Trabzon, on the Black Sea, as well as 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

⁸ The document was issued in Strasbourg, 15 March 2010, Opinion no. 535/2009, CDL-AD (2010)005 Or. Engl.

⁹ International Religious Freedom Report for 2011, U.S. Department of State, July 30, 2012.

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 should be conducted as frequently as desired without interference but rather with the protection of the state against interference.

Conclusions and Recommendations

16. The OSCE Charter, to which Turkey is a signatory, affirms, in the strongest terms, religious freedom as a fundamental human right; it is self evident that the OSCE members should be expected to uphold it fully. Furthermore, our positions are solidly based on 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 paper makes a dual approach: on one hand, it highlights the Government of Turkey's failures to live up fully 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.

17. We recognize the drastic change of the political and social climate in Turkey that is currently taking place and the readiness of the government to adhere, observe, and apply the principles of OSCE through bold reforms. However, in view of past and long-standing failures, we ask that OSCE and its Committees vigorously approach it and request the following:

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

18. Turkey is in the midst of an important process for the revision of the Constitution, in which Prime Minister Recep Tayyip Erdoğan has pledged to address the problems of religious minorities and to correct democratic shortfalls. The completion and implementation of a decisive reform process, especially in the area of religious freedom, 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 and religious freedom.