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## GREEK ORTHODOX MINORITY IN TURKEY

- Turkey today is home to numerous faiths, whose followers are free to practice their beliefs without impediment or discrimination. Our government is committed to the equal treatment of all religious denominations within a secular and democratic political system-modeled on others in Europe, but unique in its region. Over 270 non-Muslim places of worship are currently operational throughout Turkey, with more than 100 of these belonging to the Greek Orthodox community.
- Our cultural history, while promoting the dignity of humankind across religion, ethnicity, race or culture, has embraced religious diversity as an expression of human spirit. This has been the source of our alliance of values witnessed today. In other words, there has been mutual enrichment by recognizing and preserving the distinctions of the others.
- Turkey, within the last few years, has realized ambitious reforms which have further strengthened fundamental rights and freedoms. Very few countries have as solid a record of reform achievements as Turkey. These reforms have been forced with economic restructuring and voiced as a “silent revolution” by several eminent European politicians and independent observers. Turkey is resolutely driving forward on its reform efforts. The strongest motivating force in this respect is the sense of ownership of the Turkish people.
- Turkey is taking a lead role to advance tolerance and respect worldwide, including through the initiative for an Alliance of Civilizations. Launched in 2005 by the UN Secretary-General, under the co-sponsorship of the Turkish and Spanish Prime Ministers, this effort seeks to build bridges between societies and cultures, as well as counter divisions and conflicts borne of misunderstanding and prejudice.
- There are approximately 3200 Turkish citizens belonging to the Greek Orthodox minority, currently living in Turkey. The Greek Orthodox community has 2 periodicals, 74 foundations, 1 hospital, 101 places of worship and 21 schools. They are under legal protection as a minority. There are no restrictions on using their ethnic identity or language.
- In addition to these there are around 20 thousand Turkish citizens belonging to the Greek Orthodox minority which have emigrated for economic reasons according to their own free will and can return to Turkey any time they wish. Their property and other rights are under full protection.
- The Greek Orthodox minority enjoys religious freedom. The Greek Orthodox Patriarchate, to which they are attached functions in its own premises, maintains its churches and is treated with respect. In fact, the Turkish Constitution and relevant laws strictly forbid any interference with religious ceremonies. Any attempt to prevent the fulfillment of religious duties is a crime under Turkish law. Our government and the Turkish public as a whole are sensitive about the protection of the rights of the Greek Orthodox minority.

### *The Status of the Patriarchate:*

- It is a well documented historical fact that the Greek Orthodox Patriarchate had adopted an hostile attitude toward the Ottoman administration and has long become a center of irredentist claims. The Greek Orthodox Patriarchate was involved in the invasion and the occupation of Anatolia after the First World War by the Greek Armed Forces, including the events that led up to it, such as the armament of the bandit groups. The Lausanne Peace Treaty, in its Article 59 attested all the atrocities carried out by the Greek armies invading Anatolia. Hence, a new balance which was heavily influenced by past bitter experiences was established by the Lausanne Peace Treaty.
- At the Lausanne Peace Conference, Turkey declared that the Patriarchate would be departed. However, after an acrimonious discussion, Turkey allowed Patriarchate to continue to reside in Istanbul, on the condition that it provides service for only the religious and spiritual needs of the Greek Orthodox Minority in Istanbul and that the Patriarch himself is a Turkish citizen. Mr. Venizelos, in his capacity as the head of the Greek delegation also willfully accepted this decision, as stated in the minutes of the Lausanne Peace Conference.
- In other words, the Patriarchate accepted to shed all the political and administrative privileges granted by the Ottoman authorities in order to continue to reside in Istanbul. In fact, this was a basic condition to be met, given the secular nature of the Turkish Republic.
- This also largely explains why the title “Ecumenical” is incompatible with the Agreement and why the Patriarch himself must be a Turkish citizen.
- As is known, the title “ecumenical” is also a matter of controversy within the Orthodox Church itself. It is in fact the responsibility of the Orthodox Church to overcome this controversy.
- In 2004, six non-Turkish citizen metropolitans were appointed to the Patriarchate’s Holy Synod. The Turkish Government displayed a tolerant attitude and did not make this appointment an issue. In practice, all members of the Holy Synod had been Turkish citizens until that date.

### *Legal Personality:*

- The secular nature of the Turkish Constitution does not allow religious communities to acquire legal personality. This holds true for those belonging to the Muslim faith as well. Similarly, religious communities do not enjoy legal personality also in some European countries, such as France.
- Non-Muslim Communities enjoy their legal personality through their foundations.

### *The Ruling of the Cassation Court:*

- In its ruling dated 13 June 2007, the Supreme Court of Appeal, made a reference to the status of the Patriarchate.
- According to this ruling, there is no legal basis for the Greek Orthodox Patriarchate to claim religious superiority over other national Orthodox churches, through using the title “ecumenical”. Therefore, there is no legal ground to uphold any decision taken by the Patriarch, emanating from the title of “ecumenical”.
- In other words, this title cannot be used as a pretext to hinder or tamper with the religious freedoms of others, which are under the protection of the Turkish constitution and other laws.
- According to the Turkish legal system, the Supreme Court of Appeal is the final court of appeal and its rulings are binding.

### *Theological School in Heybeliada:*

- The Theological School in Heybeliada is not operational since 1971 as a result of a court case interpreting the relevant provisions of the Constitution and the Law on Private Education. This court case had nothing to do with the Theological School in Heybeliada, but it was indirectly effected. According to the Turkish legislation, religious instruction at higher, intermediary and elementary levels are possible only under the supervision of the State. The restriction applies not only to the Greek Orthodox Community but also to all religious communities in Turkey.
- We understand the need of the Greek Orthodox Community to train its clergy. Our two proposals in 1971 and in 1999 to overcome the current legal hurdle were rejected by the Patriarchate. We proposed the reopening of the School under the aegis of one of the state universities in Istanbul. So far, we haven't received a positive signal in this regard. At the moment, Turkish Ministry of Education and Higher Education Council are in search of a workable solution for the reopening of the Heybeliada Theological School.

### *Foundations:*

- In recent years, Turkey has been updating its legal framework and expanding minority rights, where possible. While doing this, any government is under the obligation of remaining within the boundaries of fundamental legal instruments such as the Lausanne Treaty which founded our Republic, our Constitution and other fundamental laws or court rulings. One must also bear in mind that making legal amendments is a sensitive process and that any change in the legal framework regarding minorities will affect not only the Greek Orthodox minority but society as a whole. These changes do not take place in a vacuum but, set legal precedents. While amending the legal framework, it is our obligation to take into account social, historical and cultural facts, together with *sui generis* cases affecting our country. With these in mind, legal amendments have been introduced into Turkish legislation since 2002, concerning the non-Muslim minorities (including the Greek Orthodox minority).

- In accordance with the amendments introduced in the relevant legislation in 2002, the Greek Orthodox community foundations have lodged applications which resulted in the registration of 190 real estates in their names.
- Certain practical limitations on non-Muslim community foundations were abolished with an amendment in 2003. This provided them with the right to acquire new immovable property.
- The regulation which was adopted in September 2004 enables non-Muslim community foundations to hold their elections freely and enlarge the election area of its constituency, if need be. Free elections are made for Greek Orthodox foundations, upon their application.
- The new “Law on Foundations” which aims at providing further flexibility to the non-Muslim community foundations in their operations, was adopted by the Turkish Parliament and then approved by the President of the Republic of Turkey in February 2008.
- The new Law, inter alia, provides the non-Muslim Community foundations with the following:
  - Foundations can acquire and dispose of properties without any permission.
  - Foundations can sell or change their properties without any permission. They will need court decision only for selling their properties devoted at establishment.
  - Foundations can give and receive donations without any permission.
  - Non-moveable properties at the disposal of non-Muslim community foundations but registered in pseudo or fictitious names shall be registered to the respective non-Muslim community foundations.
  - Non-moveable properties donated to the foundations or purchased by the foundations after 1936, but returned either to their donators, the General Directorate of Foundations or the Treasury shall be returned to the respective non-Muslim community foundations.
  - Non-Muslim community foundations were having difficulties due to need of change in their purposes and charitable acts. From now on their administrative bodies can propose such changes to comply with current circumstances.
  - They can establish commercial operation and corporations and participate in to existing corporations.
  - Non-Muslim community foundations shall be represented by a member in the Foundation Assembly
  - Managers of foundations will be dismissed only by court decisions.

- In the cases of some mismanagement, financial penalty will be imposed instead of dismissing of administrators of foundations.
- Indeed, the new Law on Foundations meets all requirements of the Greek Orthodox minority except the return of the ‘defunct foundations’ and immovable property acquired by the third parties.
- However, it is also true that there are more than 40.000 defunct foundations in Turkey. This being the case, only 59 of them belong to non-Muslim minorities and 24 out of 59 belong to the Greek Orthodox minority.
- On the other hand, according to the current legislation, foundations can only be declared defunct when their electoral constituency is no longer existent or the foundations can no longer serve their founding purposes. The new law allows the updating of the founding purposes. The electoral constituency can already be enlarged if need be. Therefore, the adoption of the new law practically puts an end to the practice of declaring foundations defunct.