

Sept. 9, 2008: Turkey: Implement Recent European Court Decision and Press Forward with Reforms

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WASHINGTON—The European Court ruled unanimously this summer in a case brought by the Greek Orthodox Ecumenical Patriarchate that Turkey was in violation of Article 1 of Protocol No. 1 (protection of property) of the European Convention on Human Rights. The case concerned an orphanage on the Turkish island of Buyukada owned by the Ecumenical Patriarchate, the body that is the spiritual leader of almost 300 million Orthodox Christians worldwide. The United States Commission on International Religious Freedom has monitored and reported on this and other religious freedom concerns in Turkey and calls on the U.S. government to urge the Turkish government to implement the judgment as soon as possible.

“This is a landmark decision for the rights of all religious minorities in Turkey, not least because it recognizes the rights of the Ecumenical Patriarchate as a legal entity,” said Commission Chair Felice Gaer. “The Commission calls on the U.S. government to urge the government of Turkey to demonstrate its commitment to observe the rule of law for all citizens of Turkey by implementing this important ruling.”

During the Commission’s November 2006 visit to Turkey, though people from almost every religious tradition said they were free to gather and worship as provided for in the country’s constitution, the Commission also learned of significant restrictions on religious freedom for religious minority communities that violated those rights. Among them are state policies and actions that deny non-Muslims the right to own and maintain property, to train religious clergy, and to offer religious education above high school.

Many of the most serious problems faced by religious minorities in Turkey involve property rights and ownership. The Turkish state has consistently used convoluted regulations and undemocratic laws to confiscate—without opportunity for legal appeal or financial compensation—thousands of religious minority properties, particularly those belonging to the Ecumenical Patriarchate and Greek Orthodox community under patriarchal jurisdiction. Turkey’s policies have led to the decline—and in some cases, virtual disappearance—of some of these religious minorities on lands they have inhabited for millennia.

The European Court's ruling comes at a time of another momentous court ruling: the July decision of Turkey's Constitutional Court against closing down the government's ruling Justice and Development Party (AKP), which was elected to government with a strong plurality in July 2007 national elections in Turkey. After the parliament voted to alter the country's 1982 constitution to allow women who wear headscarves to attend university—which is currently prohibited in Turkey—a public prosecutor filed a lawsuit with the Constitutional Court in March 2008 to shut down the AKP and ban the party's senior officials from politics. The U.S. government and the European Union had criticized the lawsuit, suggesting that it was an attempt to disrupt the democratic process in Turkey.

“It is hoped that the ruling by the Constitutional Court will enable the government of Turkey to resume the path toward democratic reform and respect for the human rights of all persons, regardless of their religious conviction or affiliation. Swift and full implementation of this recent judgment of the European Court of Human Rights on the property rights of the Ecumenical Patriarchate would be an important first step in demonstrating genuine commitment to that reform process,” Gaer said.

Background. Although legally purchased by the Ecumenical Patriarchate in 1902, the orphanage was registered as the property of the orphanage's foundation in 1936 because the Turkish legal system no longer recognized the Patriarchate as a legal entity. In 1997, Turkey's General Directorate for Foundations (Vakiflar), which regulates all activities and property of non-Muslim religious groups, determined that the orphanage foundation was no longer operational and assumed management of the property. In 1999, the Vakiflar initiated proceedings to deprive the Ecumenical Patriarchate of ownership and to re-register the property in the name of the orphanage, now under the Vakiflar's management.

After a series of appeals in the Turkish courts, the Patriarchate turned to the European Court, which ruled that the Turkish authorities were not entitled to dispossess the owner of its property without providing for appropriate compensation. As the Ecumenical Patriarchate had not received any form of compensation, the Court stated, there had been a violation of property rights.