



WRITTEN OBSERVATIONS

*submitted to the European Court of Human Rights
in the case*

Dimitri Bartholomeos ARHONDONI and others v. Türkiye

(Application No. 15399/21)

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Revised Version

1. The applicants against Türkiye are His Holiness Ecumenical Patriarch Bartholomew I (born Dimitri Bartholomeos Arhondoni), the primate of the Ecumenical Patriarchate of Constantinople and the spiritual leader of the Orthodox Church, along with two members of the Greek Orthodox minority in Istanbul. The three applicants unsuccessfully requested the General Directorate of Foundations, a Turkish public institution currently under the Ministry of Culture and Tourism¹, to remove the Greek Orthodox Monastery Foundation of Saint Spyridon in Halki ("*Heybeliada Aya Spiridon Monastery Foundation*", hereinafter "the Foundation") from the list of "decommissioned" foundations ("*mazbut*") and to recognize the Foundation as a non-Muslim community foundation ("*cemaat vakfi*").

2. It is essential to distinguish between foundations called "decommissioned", *i.e.* inactive, fused, registered, or seized ("*mazbut*"), and those called "annexed" ("*mülhak*"). Their difference lies in their administration system.² The so-called "annexed" or "subsidiary" foundations ("*mülhak*") are those that were established before the Turkish Civil Code of 1926 came into effect and are administered by the "descendants of their founder". The so-called "decommissioned" foundations ("*mazbut*") are those administered directly by the General Directorate of Foundations primarily due to their actual or presumed "inaction" as an "attached" foundation. The real estate of "decommissioned" foundations becomes state property, and the General Directorate of Foundations is free to use it for profitable purposes. Additionally, the so-called "community foundations" ("*cemaat vakfi*") are foundations belonging to non-Muslim (*i.e.*, Christian, and Jewish) religious communities whose members are citizens of Türkiye. They thus differ from Muslim foundations and artisan foundations.³

3. On 17 March 2021, after exhausting all domestic legal remedies in the Turkish judicial system, the applicants filed an application (No. 15399/21) with the European Court of Human Rights ("ECHR" or "the Court") invoking Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights ("the Convention"). They argue that their right of access to all levels of jurisdiction has been violated. The applicants also invoke Articles 9 (right to freedom of religion) and 11 (right to freedom of association) of the European Convention. They contend that their right to religious freedom combined with their right to associate has been violated by the Turkish courts' refusal to remove the Foundation from the list of "decommissioned" foundations ("*mazbut*") and to reinsert it into the list of foundations attached to non-Muslim communities ("*cemaat vakfi*") or "annexed" foundations ("*mülhak*").

4. By its nature, the substantive content of Article 9 of the Convention may sometimes overlap with the content of other Convention provisions. In this case, the applicants invoke Articles 9 and 11, as well as Article 6 § 1. The Court may choose to examine the complaint under a single article it deems most relevant given the specific circumstances of the case; however, in doing so, it will also keep in mind the other provisions and interpret the Article it has chosen considering those. In any case, the Convention must be read as a whole and interpreted ensuring harmony and internal consistency of its various provisions.⁴

¹ Directorate General of Foundations, Republic of Turkey,

<https://www.vgm.gov.tr/organizational-structure>

² *Idem*,

<https://www.vgm.gov.tr/foundations-in-turkiye/foundations-in-turkiye/what-is-foundation-waqf>

³ Law No. 5737 on foundations, 2008, Article 3.

⁴ ECHR, *Ayguin v. Belgium*, No. 28336/12, 8 Novembre 2022, § 71.

5. Article 6 § 1 and Article 11 are among the articles most likely to come into play alongside Article 9 for the same facts and grievances. Therefore, the European Centre for Law and Justice (ECLJ) has chosen to base its observations on Article 9. Indeed, when the organization of the religious community is in question, Article 9 must be interpreted considering Article 11 of the Convention, which protects associative life from any unjustified interference by the State. Seen from this perspective, the right of the believers to freedom of religion implies that the community can operate peacefully without arbitrary interference from the State.

I. From the alleged violation of Articles 9 and 11 following the unjustified change in the status of the Foundation, from “annexed” to “decommissioned” foundation

A. The change in status constitutes an interference by the State in the autonomy of the Foundation

6. The Court has repeatedly emphasized that the autonomy of religious communities lies at the very heart of the protection offered by Article 9. An interference in the exercise of the rights protected by Article 9 of the Convention may take, among others, the form of a refusal of authorization, recognition, or accreditation aimed at facilitating their exercise;⁵ and the denial by the national authorities of the particular cultic character of a religious community when it is likely to lead to a series of practical problems and difficulties.⁶

7. The Court has ruled that the refusal of authorities to recognize or register an organization desired by a group of individuals may deprive those involved of the opportunity to pursue collectively or individually their goals and thus to exercise their right to freedom of association as set out in Article 11.⁷ The fact that an alternative has been offered to the interested parties does not mean that there has been no interference if this alternative does not offer them the same legal status.⁸

8. The interference by the Turkish State in the rights of religious foundations, including the Foundation in question, is longstanding. Until 1912, foundations ("vakıf") were not recognized as legal entities in the legal system of the Ottoman Empire. Devoid of legal personality, they registered their real estate in the land registry in the name of deceased holy persons or living persons they trusted. The law of February 16, 1328 of the Hegira (1912), recognizing the right to property of foundations, thus acknowledged their legal personality. Under this law, foundations registered their real estate on the land registry.

9. After the establishment of the Republic in 1923, the Law No. 2762 on Foundations enacted on 13 June 1935, recognized the legal personality of foundations created under the Ottoman Empire. However, the legal status of "vakıf" established after the effective date of the civil code of 4 October 1926, was subject to this latter.

⁵ ECHR, *Metropolitan Church of Bessarabia and Others v. Moldova*, No. 45701/99, 13 Decembre 2001 and ECHR, *Vergos v. Greece*, No. 65501/01, 24 June 2004.

⁶ ECHR, *İzzettin Doğan and others v. Turkey* [GC], No. 62649/10, 26 April 2016, § 95.

⁷ ECHR, *Özbek and others v. Turkey*, No. 35570/02, 6 Octobre 2009, § 35.

⁸ *Ibidem*, § 38. See also ECHR, *G.M. v. Italy*, No. 56293/00, 5 July 2007, § 23.

10. Article 1 d) of Law No. 2762 governed the status of foundations declared "decommissioned." The relevant part of this provision was worded as follows:

"Among the foundations established before 4 October 1926 [...] d) [those] lacking capacity to render charity services from the legal and physical aspects [...] are declared 'decommissioned' and are administered by the General Directorate of Foundations".

According to the same Article 1 of Law No. 2762,

"The foundations created before 4 October 1926, of which the management is entrusted to the successors of the dedicators are called annexed Foundations."⁹

11. The classification of a foundation as "decommissioned," as in the case of the Foundation, implies a return to the situation prior to 1912. The Foundation thus lost its legal personality. Moreover, the change in classification results in the management of the Foundation's properties by a governmental administration. Indeed, under Article 6 of the Foundations Law No. 5737, "decommissioned" foundations are administered and represented by the General Directorate of Foundations, while "annexed" foundations are managed by managers elected by the members of the Foundation Council. The fact that a community foundation is managed by the administration completely deprives the community in question of exercising its freedoms of religion and association.

12. Similarly, a "decommissioned" foundation loses ownership of its real estate assets such as buildings (monastery, school, orphanage, hospitals), land, or an orchard, to the benefit of the State, which becomes the owner. The General Directorate of Foundations is then authorized to use them as sources of economic profits under Articles 26 and 77 of the Foundations Law No. 5737:

Article 26: "General Directorate is authorized to establish economic enterprises or companies by using the incomes and real properties of General Directorate and decommissioned foundations pursuant to the decision of the President of the Republic."

Article 77: "Immovable properties owned by the Directorate General or by the "decommissioned" foundations shall enjoy the privilege of being government property, so that they shall be immune to being sequestered or pledged; all kinds of transactions involving the said properties shall be exempt from taxes, duties, levies and charges."¹⁰

13. In this case, the plaintiffs argue that the monastery has never ceased to function as a place of prayer for the Orthodox minority in Istanbul. However, the risk remains that the expropriation of the monastery could be arbitrarily realized, as was the case with the Greek boys' orphanage on the neighboring island of Büyükada, near the island of Halki where the Saint Spyridon Monastery is in the Sea of Marmara, southeast of Istanbul. The orphanage was closed in 1964 by the Turkish authorities, and when the Ecumenical Patriarchate attempted to renovate it in 1995, it faced opposition from administrative authorities. Finally, the orphanage's Foundation was declared "decommissioned" in 1997, transferring the property of the orphanage to the state and completely stopping any renovation project before being reclassified as "attached" in 2012 after a procedure before the European Court of Human Rights. Halki Island is also home to the seminary that trained the Greek Orthodox clergy of Türkiye until its definitive closure in 1971. The archipelago of the 9 Princes' Islands (Adalar in Turkish) was once called the "Islands of the Popes" due to the substantial number of monasteries built there. Today, the

⁹ Law No. 2762 on foundations, 1935, Article 1,

<https://www.lawsturkey.com/law/2762-law-for-foundations>

¹⁰ *Ibidem*, Articles 26 et 77.

Turkish jet set and summer tourists favour the islands. According to a 2017 study, Adalar ranks among the wealthiest districts in Istanbul by household income.¹¹ Therefore, the properties of the Orthodox community on this island are coveted.

14. As emphasized by Armenian Patriarch Sahak Masalyan¹² and Ecumenical Patriarch Bartholomew,¹³ the interference of the administration in the foundations has concrete consequences in the lives of their communities. Turkish authorities forbade elections for the managers of community foundations, including the Monastery Foundation, starting in 1968. In 1991, these elections were only allowed for certain Greek Orthodox foundations under the condition of supervision and were then banned again from 1992 to 2006 and banned again from January 19, 2013 (Turkish Official Gazette No. 28533), until finally a new regulation on the governance of community foundation boards came into effect on June 18, 2022 (Turkish Official Gazette No. 31870). In such a context, community foundations have a challenging time escaping the classification of "decommissioned" or "inactive" under Article 7 of Law No. 5737:

*"Annexed foundations for which managers could not be appointed or whose administrative bodies could not be set up for a term of ten years shall be managed and represented by the Directorate General under a court decision."*¹⁴

15. The management of the Foundation by the General Directorate of Foundations resulting from its status as a "decommissioned" foundation thus constitutes an interference with its rights enshrined in Article 9.

B. The change in status was not provided by law

16. The Monastery Foundation was established in 1868 on the island of Halki (Heybeliada in Turkish), before the enactment of the 1926 civil code, and it was managed by the successors of its founder. According to Law No. 2762, the Foundation thus belonged to the category of "attached" foundations. However, in 1967, the General Directorate of Foundations issued an order in which it classified the Foundation as a "decommissioned" foundation ("mazbut"). This unfounded and unjustified decision was never notified to the plaintiffs, the Ecumenical Patriarchate of Constantinople, or the predecessor of the first plaintiff, i.e., the Ecumenical Patriarch at the time, Patriarch Athenagoras.

17. However, the Foundation cannot be considered "decommissioned" or "inactive" since its establishment in 1868 by Monk Arsénios; it has never ceased to function as a place of prayer for the Orthodox minority in Istanbul, of which the second and third applicants are members. Moreover, starting in 1964, three years before it was classified as "decommissioned," Bishop Andreas Pandoleos of Klavdiupoleos took over the management of the monastery and completely restored it. Finally, the first applicant has never ceased to conduct all the religious services of his faith in this place.

¹¹ Posta, *İşte İstanbul'un en zengin ilçeleri (İstanbul'da ilçelere göre gelir dağılımı)*, 6 Decembre 2017, <https://www.posta.com.tr/galeri/iste-istanbulun-en-zengin-ilcelere-istanbulda-ilcelere-gore-gelir-dagilimi-1359815/2>

¹² Agos, *Patrik Maşalyan'dan Vakıf Seçimleri Yönetmeliği değerlendirmesi*, 18 April 2022, <https://www.agos.com.tr/tr/yazi/26980/patrik-masalyan-dan-vakif-secimleri-yonetmeliği-degerlendirmesi>

¹³ Orthodox Times, *The Ecumenical Patriarch at the Church of the Valoukli Nursing Home*, 4 August 2022, <https://orthodoxtimes.com/the-ecumenical-patriarch-at-the-church-of-the-valoukli-nursing-home/>

¹⁴ Law No. 5737 on foundations, 2008, Article 7.

18. On September 27, 2008, a new law on foundations came into force (Law No. 5737). The definitions of Article 1 of Law No. 2762 are repeated in Article 3 of this Law No. 5737, still in force:

*“Decommissioned (mazbut) foundations refer to those ones to be administered and represented by the Directorate General under this Law, and those ones which were founded before the enforcement date of the abolished Turkish Civil Law No. 743 [the 2006 Civil Code that was replaced by the 2002 Civil Code] and are administered by the General Directorate of Foundations in accordance with the Foundations Law No. 2762; Annexed (mülhak) Foundations refer to those foundations which were set up before the enforcement date of the abolished Turkish Civil Law No. 743, whose administration is granted to the descendants of the founder-grantor; Community Foundations refer to those foundations that belong to the communities in Turkey, whose members are citizens of the Turkish Republic and that are vested with a legal body status under the Foundations Law No. 2762, irrespective of if they have a charter or not”.*¹⁵

19. On August 26, 2009, following the entry into force of Law No. 5737, the plaintiffs requested the General Directorate of Foundations to lift the classification of the Monastery Foundation as "mazbut," to return its management to the Greek Orthodox minority community, and to restore its real estate assets. The General Directorate of Foundations refused by an act No. 1039 of July 5, 2010, on the grounds that "the Foundation in question does not appear on the list of community (minority) foundations annexed to Regulation No. 25003 of January 24, 2003."

20. However, the Monastery Foundation is entirely legitimate to be part of the community foundations since, as required by Law No. 5737, its legal personality should have been clearly recognized since 1912 and it belongs to the Greek Orthodox community of Türkiye. Moreover, the Greek Orthodox community is part of the non-Muslim minorities that Türkiye has committed to protect under the Treaty of Lausanne of 1923, according to its own restrictive interpretation, which also includes Armenians and Jews but no other non-Muslim minority.¹⁶

21. The provisions of the Treaty of Lausanne concerning the protection of ancient foundations providing public services for religious minorities read as follows:

Article 37: "Turkey undertakes that the stipulations contained in articles 38 to 44 be recognized as fundamental laws, and that no law, regulation, nor official action shall contradict or oppose these stipulations, and that no law, regulation, nor official action shall prevail against them."

Article 40: "Turkish nationals belonging to non-Muslim minorities shall enjoy the same treatment and security in law and in fact as other Turkish nationals. In particular, they shall have an equal right to establish, manage, and control at their own expense, any charitable, religious, or social institutions [...]."

Article 42 § 3: "The Turkish government undertakes to afford every protection to churches, synagogues, cemeteries, and other religious establishments of the aforementioned minorities. All facilities and authorization will be given to the pious

¹⁵ [Law](#) No. 5737 on foundations, 2008, Article 3.

¹⁶ Paylaşım, Kartonsan A.Ş. Yaşam Kültürü Dergisi, 2008, https://www.kartonsan.com.tr/files/paylasim/PAYLASIM08_3.pdf

foundations and religious and charitable institutions of the same minorities presently existing in Türkiye [...]".¹⁷

22. The plaintiffs emphasize that according to the judgment No. 2007/99 E 2008/2201 of the Plenary Assembly of Administrative Litigation of the State Council, it is not possible to count community foundations such as the Greek Orthodox Monastery Foundation of Saint Spyridon among the "decommissioned" foundations under Article 1 d) of Law No. 2762 concerning foundations. Indeed, the Treaty of Lausanne provides specific protection for community foundations (see Articles 40 and 42 § 3 of the Treaty of Lausanne mentioned above).

37 Turkey undertakes that the stipulations contained in Articles 38 to 44 shall be recognized as fundamental laws, and that no law, no regulation, nor official action shall conflict or interfere with these stipulations, nor shall any law, regulation, nor official action prevail over them.

Article 40. Turkish nationals belonging to non-Moslem minorities shall enjoy the same treatment and security in law and in fact as other Turkish nationals. In particular, they shall have an equal right to establish, manage and control at their own expense, any charitable, religious, and social institutions, any schools and other establishments for instruction and education, with the right to use their own language and to exercise their own religion freely therein.

42§3 The Turkish Government undertakes to grant full protection to the churches, synagogues, cemeteries, and other religious establishments of the above-mentioned minorities. All facilities and authorization will be granted to the pious foundations, and to the religious and charitable institutions of the said minorities at present existing in Turkey, and the Turkish Government will not refuse, for the formation of new religious and charitable institutions, any of the necessary facilities which are granted to other private institutions of that nature.

23. Even if the Foundation currently had the status of a "decommissioned" foundation, it would still be entirely possible to remove it from this category. Indeed, the "Greek Orphanage Foundation for Boys on Büyükkada" experienced the same fate as the Monastery Foundation in question.¹⁸ On January 22, 1997, invoking Article 1 of Law No. 2762, the General Directorate of Foundations issued an order in which it classified the Orphanage Foundation as a "decommissioned" foundation ("mazbut"), while it belonged until that date to the category of "attached" foundations ("mülhak"). The order stated that the Orphanage Foundation had ceased to have charitable activities, its board of directors had been revoked, and its management had been entrusted to the General Directorate of Foundations. In its ruling of July 8, 2008, the ECHR found that the expropriation of the orphanage violated Article 1 of Protocol No. 1, and in its ruling (just satisfaction) of June 15, 2010, it asked Turkey to "proceed to re-register the disputed property in the name of the plaintiff in the land registry." Finally, following decision No. 2012/181 of the State Council of March 9, 2012, the Orphanage Foundation was indeed removed from the category of "decommissioned" foundations and was reinserted into that of community foundations.

24. There are a total of 167 community foundations in Turkey, including 77 Greek, 54 Armenian, 19 Jewish, 10 Assyrian, 3 Chaldean, 2 Bulgarian, 1 Georgian, and 1 Maronite.¹⁹ In 2010, 24 Greek Orthodox foundations and 24 Jewish foundations were declared "dissolved" by the General Directorate of Foundations, which took over their management, resulting in the

¹⁷ [Peace Treaty](#) between Allied powers and Turkey, Lausanne, 24 July 1923, English version.

¹⁸ ECHR, *Fener Rum Patrikliği (Ecumenical Patriarchy) v. Turkey*, No. 14340/05, 8 July 2008, § 13-16.

¹⁹ Cemaat Vakıfları, <https://www.cemaatvakiflaritemsilcisi.com/index.php/vakiflar>

administration and allocation of income from their hundreds of confiscated real estate properties.²⁰ The systematic violation of the property rights of minority religious communities is widely addressed in the case law of the Court.

C. The absence of a legitimate aim within the meaning of Article 9(2)

25. If the Court were to find a legal basis for the change in the Foundation's status, it would still need to verify that such interference pursues a legitimate aim among those listed in paragraph 2 of Article 9.

26. However, the Turkish Government does not seem to have mentioned any legitimate aim for the change in the monastery Foundation's designation. On the contrary, the interference of the Turkish Government deprived the Greek Orthodox community of the exercise of their freedom of religion by arbitrarily designating the monastery Foundation as a dissolved foundation and not recognizing it as a community foundation. The interference is therefore justified by an illegitimate aim, within the framework of a structural violation of the rights of Christians in Turkey, as Part II of these observations will explain.

II. On the general situation of the lack of respect for Christian minorities in Turkey

27. The Court has repeatedly condemned Turkey for violating the rights of Christian foundations to the enjoyment of their property, within the meaning of Article 1 of Protocol 1. In this case, the Court has the opportunity to go further back in the chain of causes by addressing the violation of Article 9, particularly through the withdrawal of legal personality of the Foundation. This second part of the observations presents to the Court some elements highlighting the fact that this violation of the rights of Christians is systemic in Turkey.

28. The situation faced by the Foundation is part of a broader governmental policy of attrition towards non-Muslim communities, varying in intensity depending on a context largely linked to Turkey's relations with Greece.²¹ In 1935, Turkish authorities demanded from Christian and Jewish community foundations their activities and the properties they owned or managed. This list, now known as the "1936 Declaration," was established and forgotten for nearly 40 years. From the 1950s onwards, tensions between Greek and Turkish communities intensified in Cyprus, and Turkey began to use community foundations as a means of retaliation against the Greeks. The independence of Cyprus from the UK in 1960, the civil war in 1964, and Turkey's intervention in Cyprus in 1974 had tragic repercussions on community foundations.

29. In 1974, the General Council of the Court of Cassation took the terrible decision to require all community foundations to return to rightful heirs all real estate properties they had acquired by any means (inheritance, donation, purchase, etc.) from 1936, excluding only properties mentioned in the "1936 Declaration." Considering all properties acquired between 1936 and 1974 null and void, Turkey began to gradually lose their real estate properties, in favor

²⁰ Ecumenical Federation of Constantinopolitans, *A Short History of the Treatment of the Greek-Orthodox Community of Istanbul (1923-2009) and Present Human and Minority Rights Issues*, 2009, http://www.conpolis.eu/UploadedNews/Greek-Orthodox_Community_Human_Right_Issues_2009.pdf

²¹ Samim Akgönül, *Le Patriarcat grec orthodoxe, De l'isolement à l'internationalisation de 1923 à nos jours*, 2004, <https://books.openedition.org/ifeagd/1359>

of presumed or actual heirs of the person who owned the property before the foundation, or in favor of the administration if heirs could not be found. Christian communities still greatly suffer from these expropriations even today.

30. On January 17, 2010, the Parliamentary Assembly of the Council of Europe (PACE) echoed the distress of community foundations by asking Turkish authorities to

*“Resolve the question of the registration of places of worship and the question of the mazbut properties confiscated since 1974, which must be returned to their owners, to the entitled persons or, where the return of assets is impossible, to provide for fair compensation.”*²²

31. In its resolution of 13 September 2023 on the 2022 report of the Commission on Turkey (2022/2205(INI)), the European Parliament deplored the expropriation of Christian properties in Turkey:

*“19. The European Parliament notes that no significant progress has been registered with regard to the protection of the rights of ethnic and religious minorities [...], calls on Türkiye to fully implement all relevant ECtHR rulings and Council of Europe recommendations on protecting minorities’ property rights and to introduce legislation which makes it possible for all religious communities and ethnic minorities to acquire legal personality, by implementing the relevant recommendations of the Venice Commission”.*²³

32. To regain full freedom of religion, the challenge for the Ecumenical Patriarchate of Constantinople can be summed up in 5 key points: to free itself from government interference in its elections (including a right of veto, as it demands that the patriarch and hierarchs be of Turkish nationality while having closed the seminary training the clergy of Turkey), recognition of its "ecumenical" status, legal personality, the ability to train new clergy members, and the reopening of the Halki Seminary, as well as the return of thousands of confiscated properties.²⁴

²² Parliamentary Assembly of the Council of Europe (PACE), “Freedom of religion and other human rights for non-Muslim minorities in Turkey and for the Muslim minority in Thrace (eastern Greece)”, [Resolution](#) 1704, 27 January 2010, § 19.5.

²³ European Parliament, [Resolution](#) of 13 September 2023 on the 2022 Commission Report on Türkiye (2022/2205(INI)), § 19. Complete quotation: “19. The European Parliament notes that no significant progress has been registered with regard to the protection of the rights of ethnic and religious minorities, including those of the Greek Orthodox population of the islands of Gökçeada (Imbros) and Bozcaada (Tenedos); calls on the Turkish authorities to fully respect the historical and cultural character of cultural and religious monuments and symbols, especially those classified as UNESCO World Heritage Sites; notes with concern the recent developments with regard to the monument of Hagia Sophia and the Chora Museum; stresses the need to eliminate restrictions on the training, appointment and succession of members of the clergy, to allow the reopening of Halki Seminary, which has been closed since 1971 and to remove all obstacles that prevent it from functioning properly; reiterates its call on Türkiye to respect the role of the Ecumenical Patriarchate for Orthodox Christians all over the world and to recognize its legal personality and the public use of the ecclesiastical title of Ecumenical Patriarch; calls on Türkiye to fully implement all relevant ECtHR rulings and Council of Europe recommendations on protecting minorities’ property rights and to introduce legislation which makes it possible for all religious communities and ethnic minorities to acquire legal personality, by implementing the relevant recommendations of the Venice Commission; calls on the Turkish authorities to effectively investigate and prosecute people responsible for any hate speech against minorities or vandalism against religious sites.”

²⁴ Patriarchate of Constantinople, <https://patriarchateofconstantinople.com/religious-freedom.html>

33. In conclusion, although the Turkish Constitution officially recognizes Turkey as a secular state, non-Muslims in practice are treated as second-class citizens by the administration through various discriminations.²⁵ Even minorities protected by the treaties of Lausanne (1923) and Ankara (1930) are affected.

34. As the European Centre for Law and Justice (ECLJ) showed in its December 2018 report "Christians in Turkey",²⁶ the requirements imposed on Churches regarding the construction of places of worship are discriminatory. Violations of Christians' right to property and therefore freedom of religion is systematic and intentional. Unlike Muslims, Christians are generally required to purchase at least 2,500 m² of land to build a church and are not allowed to have places of worship in certain places.²⁷ Furthermore, churches are regularly targeted by acts of vandalism, with perpetrators rarely being sought and prosecuted.²⁸ The European Court has already been seized of several cases concerning the expropriation of lands and real estate of foundations recognized by Turkey under the Treaty of Lausanne, including those of the Armenian Church²⁹ and the Greek Orthodox Church.³⁰ In all these cases, the Court found violations of these Churches' rights enshrined in Article 1 of Protocol No. 1.

35. Overall, Armenian and Greek Orthodox Patriarchates are not recognized as legal entities. They are therefore seeking legal recognition and rights as Patriarchates themselves, rather than through the creation of foundations.³¹ The lack of legal personality of religious communities is in practice discrimination against non-Muslim religions, which, unlike Islam, are not represented by the Directorate of Religious Affairs (Diyanet) under the Prime Minister.³² This was demonstrated by the ECLJ in its observations on the case *Fener Rum Patrikliği (Ecumenical Patriarchate) v. Turkey*.³³ The refusal to recognize the legal personality of the Ecumenical Patriarchate of Constantinople is not a proportionate means to preserving secularism and national security. The European Commission for Democracy through Law ("Venice Commission") has already highlighted this,³⁴ as did the Parliamentary Assembly of the Council of Europe (PACE) in 2010, which considered that "*the absence of legal personality which affects all the communities concerned having direct effects in terms of ownership rights and property management*".³⁵

²⁵ Abdullah Kiran, "How a social engineering project affected Christians in Turkey", *International Journal for Religious Freedom: Researching Religious Freedom*, Issue 1 & 2 (2013), vol. 6, p. 51.

²⁶ ECLJ, "[Christians in Turkey – The Violations of Christians' Religious Freedom in Turkey](#)" Decembre 2018.

²⁷ *Ibidem*, p. 11.

²⁸ *Ibidem*, p. 15. See also: Grégor Puppincq, Christophe Foltzenlogel, Andreea Popescu, "[L'Église catholique et l'Anatolie](#)" M.G. Robertson Global Centre for Law & Public Policy Research Paper No. 15-7, 1 J. M.G. ROBERTSON GLOBAL CTR. FOR L. & PUB. POL'Y 127 (2015), 25 May 2016, p. 148.

²⁹ ECHR, *Yedikule Surp Pirgiç Ermeni Hastanesi Vakfı v. Turkey*, No. 36165/02, 16 March 2009; *Samatya Surp Kevork Ermeni Kilisesi v. Turkey*, No. 1480/03, 16 March 2009.

³⁰ ECHR, *Fener Rum Erkek Lisesi Vakfı v. Turkey*, No. 34478/97, 9 April 2007; *Bozcaada Kimisis Teodoku Rum Ortodoks Kilisesi Vakfı v. Turkey*, No. 37639/03, 3 June 2009; *Bozcaada Kimisis Teodoku Rum Ortodoks Kilisesi Vakfı v. Turkey No.2*, No. 37646/03, 6 January 2010.

³¹ United States State Department, "[2017 Report on International Religious Freedom – Turkey](#)", 29 May 2018.

³² European Commission for Democracy through Law ("Venice Commission"), *Opinion on status of religious communities in Turkey and the right of the Orthodox Patriarch to use the title "ecumenical"* adopted at its 82nd plenary session in Venice on 12 to 13 March 2010, § 34.

³³ ECLJ, [Observations dans l'affaire Fener Rum Patrikliği \(Patriarcat œcuménique\) c. Turquie \(requête No.14340/05\)](#), January 2008.

³⁴ "Venice Commission", *op. cit.*, § 108.

³⁵ <https://pace.coe.int/en/files/17807/html>

36. As a result of the discrimination faced by Christian minorities, their significant emigration has greatly reduced their presence in Turkey. In 1920, there were still two million Christians in Turkey;³⁶ today, there are only 169,000, representing 0.2% of the population.³⁷ Specifically, while Greek Orthodox believers numbered 100,000 in 1923, today they are less than 2,000.³⁸ This extremely low number threatens the survival of Greek Orthodoxy in Anatolia.³⁹ Moreover, there are currently also 90,000 Armenian Orthodox and 25,000 Syrian Orthodox.⁴⁰ These numbers are estimates, as some Christians hide their identities out of fear of discrimination and, in some cases, harassment.

37. These difficulties are related to a cultural and religious problem. Christians in Turkey are mostly indigenous and foreign to the Turkish nation, and therefore perceived as threatening the country's unity. Moreover, the oppression of Christian minorities in Turkey has an eschatological dimension. In a speech on March 19, 2019, Turkish President Recep Tayyip Erdoğan declared that "with the help of Allah, neither the remnants of the Crusaders nor the nostalgia for Byzantium will deter us from our path," and regarding the Hagia Sophia basilica in Istanbul, "we have been here for a thousand years and, God willing, we will remain here until the Apocalypse." In contrast, many Christians revere the Virgin of the Apocalypse, who, crowned with twelve stars, tramples underfoot a crescent moon and a serpent.

38. This case is just one example of the latent persecution suffered by Christians in Turkey, victims of an ethno-religious nationalism promoting the homogeneity of a Turkish and Muslim nation, as highlighted by the ECLJ in its article "The worrying increase of attacks on Christian sites in Turkey" in November 2023.⁴¹

³⁶ Daniel Pipes, « La disparition des chrétiens au Moyen-Orient », *Middle East Quarterly*, Winter 2001.

³⁷ Portes Ouvertes, *dossier Turquie 2024*, 2024.

³⁸ United States Commission on International Religious Freedom, "[Examination of Threats to Religious Sites in Turkey](#)", Novembre 2023.

³⁹ Elizabeth Prodromou, Rome and Constantinople, *A Tale of Two Cities: The Papacy in Freedom, the Ecumenical Patriarchate in Captivity*, Berkley Center for Religion, Peace, and World Affairs, 22 mars 2013.

⁴⁰ United States State Department "[2017 Report on International Religious Freedom – Turkey](#)", 29 May 2018.

⁴¹ ECLJ, « [L'inquiétante augmentation des attaques de sites chrétiens en Turquie](#) », Novembre 2023.