



WRITTEN OBSERVATIONS

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

Niko MAVRAKIS v. Turkey and 2 other applications

(Application no. 12549/23)

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1. The applicants against Turkey are two Greek Orthodox priests of Turkish nationality, Mr Niko Mavrakis and Mr Corç Kasapoğlu. Mr Niko Mavrakis was elected a member of the board of the Foundation of the Greek Orthodox Church of the Virgin Mary (*Cihannüma, Beşiktaş Istanbul*) on December 5, 2011 (application no. 2023/24) and of the Foundation of the Greek Orthodox College of Phanar (Fatih, Istanbul) on April 28, 2012 (application no. 12549/23). Mr. Corç Kasapoğlu was elected member of the Board of Directors of the Aya Konstantin Greek Orthodox Church Foundation (Samatya, Fatih, Istanbul) on December 10, 2011 (application no. 71/24). The General Directorate of Foundations (hereinafter “the Directorate”), a Turkish public institution under the Ministry of Culture and Tourism,¹ removed the applicants’ names from the lists of board members of these Greek-Orthodox foundations (hereinafter “the Foundations”), on the grounds that they were clergymen.

2. These foundations are known as “community foundations” (“*cemaat vakfi*”) and are governed by Law no. 5737 on Foundations of 2008. They are among the foundations that belong to non-Muslim religious communities (i.e. Christian and Jewish) and whose members are Turkish citizens. They are therefore distinct from Muslim foundations, and from non-religious foundations (such as artisans' foundations).² Foundations have private legal personality³ and are managed by boards of directors elected by their own members.⁴

3. The two claimants invoke the right to a fair trial (article 6) and the right to an effective remedy (article 13) due to the lack of an effective remedy available to them to challenge the decision of the General Directorate of Foundations. In particular, they point out that the administrative courts refused to rule on the merits of their case after proceedings lasting seven and eight years. They also allege a violation of their freedom of religion (article 9) and freedom of association (article 11), as well as discrimination based on their religion (article 14 combined with articles 9 and 11). In particular, they claim that Muslim foundations, unlike the Greek-Orthodox ones, have clergymen on their board of directors.

4. The European Centre for Law and Justice (ECLJ) bases its observations on Article 9 of the Convention, which protects the freedom of organisation of religious communities and is interpreted in this case in the light of Article 11 (I). It will also examine the case from the angle of Article 14 (II) and provide some evidence to prove that the violation of Christians’ rights is systemic in Turkey (III). Given this background and considering that Christians suffer systemic injustice in the name of their religion, aimed at dispossessing them of their heritage, it would be appropriate for the Court not only to condemn Turkey on the sole basis of Article 11, but also to find a violation of the applicants’ religious freedom. Indeed, it is because of the applicants’ Christian religion that this injustice in the organisation of the Foundations was committed.

¹ [Structure of the General Directorate of Foundations](#), Ministry of Culture and Tourism of the Republic of Turkey.

² [Law no. 5737 on foundations](#), article 3, Turkish Official Gazette no. 26800, February 27, 2008.

³ *Ibid*, article 4.

⁴ *Ibid*, article 6.

I. Alleged violation of Articles 9 and 11 following the exclusion of three members of the boards of Greek Orthodox foundations

A. Exclusion of three board members from Greek Orthodox foundations constitutes state interference in the autonomy of the religious community

a) Freedom of religion protects the autonomy of religious communities and imposes a duty of neutrality and impartiality on the State

5. The Court has repeatedly stressed that the autonomy of religious communities is essential to pluralism in a democratic society and lies at the very heart of the protection afforded by Article 9 of the Convention. Autonomy is of direct interest not only for the organisation of these communities as such, but also for the effective enjoyment by all their active members of the right to freedom of religion. If the organisation of community life were not protected by Article 9 of the Convention, all other aspects of the individual's freedom of religion would be undermined.⁵

6. The internal structure of a religious organisation and its membership requirements are the means by which these organisations manifest their beliefs and perpetuate their religious traditions.⁶ The principle of autonomy prohibits the state from obliging a religious association to admit new members or exclude others. Religious associations must be free to regulate their own conduct and administer their own affairs. Thus, they are free to determine for themselves the conditions and procedures for admitting new members and excluding existing ones.⁷

7. Interference with the exercise of rights protected by Article 9 of the Convention may take the form, *inter alia*, of the refusal of authorisation, recognition or approval whose purpose is to facilitate their exercise.⁸ The Court held that the authorities' refusal to recognise or register an organisation sought by a group of persons could deprive the persons concerned of the possibility of pursuing their aims collectively or individually, and thus of exercising their right to freedom of association under Article 11.⁹ 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 provide them the same legal status.¹⁰

8. The Court recognises that freedom of association is of particular importance to persons belonging to minorities, including national and ethnic minorities, and that, as stated in the preamble to the Council of Europe's Framework Convention, "*a pluralist and genuinely democratic society should not only respect the ethnic, cultural, linguistic and religious identity of each person belonging to a national minority, but also create appropriate conditions enabling them to express, preserve and develop this identity.*"¹¹ The Court notes that the creation of an

⁵ *Hassan and Tchaouch v. Bulgaria* [GC], no. 30985/96, October 6, 2000, §§ 62 and 91; *Fernández Martínez v. Spain* [GC], no. 56030/07, June 12, 2014, § 127.

⁶ *Sviato-Mykhailivska Parafiya v. Ukraine*, no. 77703/01, June 14, 2007, § 150.

⁷ *Ibid.*, §§ 146 and 150.

⁸ *Metropolitan Church of Bessarabia and others v. Moldova*, no. 45701/99, December 13, 2001; *Vergos v. Greece*, no. 65501/01, June 24, 2004.

⁹ *Özbek and others v. Turkey*, no. 35570/02, October 6, 2009, § 35.

¹⁰ *Ibid.*, § 38. See also: *G.M. v. Italy*, no. 56293/00, July 5, 2007, § 23.

¹¹ Council of Europe, [Framework Convention for the Protection of National Minorities and Explanatory Report](#), February 1995.

organisation to express and develop its identity can help a minority to protect and promote its rights.¹²

9. The Court has stated that genuine and effective respect for freedom of association cannot be reduced to a mere obligation of non-interference on the part of the State, and that a purely negative interpretation would be compatible neither with the purpose of Article 11 nor with the Convention in general. There may therefore be positive obligations to ensure the effective exercise of these freedoms.¹³ This obligation is particularly important for people belonging to minorities, as they are more exposed to bullying.¹⁴

10. The Court “*has frequently emphasised the State’s role as the neutral and impartial organiser of the exercise of various religions, faiths and beliefs,*” which it calls the “*State’s duty of neutrality and impartiality.*”¹⁵ This neutrality is imposed on the State insofar as it exercises “*regulatory power*” in religious matters, and insofar as it necessarily maintains “*relations with the various religions, denominations and beliefs.*”¹⁶ By way of illustration, according to the ECHR in 2007, the Ukrainian authorities arbitrarily refused to register the new statutes of an Orthodox parish because they did not take account of the internal organisation of this community, whereas they should, on the contrary, have required an “*extremely sensitive, neutral approach*” in this matter.¹⁷

b) Turkey’s interference in the election of board members of religious foundations

11. Turkey has a long history with regard to state interference in the rights of religious foundations, of which the Foundations in question are a part. Until 1912, foundations (“*vakıf*”) were not recognised as legal entities in the legal system of the Ottoman Empire. Devoid of legal personality, they registered their properties in the land register under the names of deceased “holy” individuals, or under the names of living persons whom they trusted. The law of February 16, 1328 A.H. (1912), recognising the right of ownership of foundations, thus acknowledged their legal personality. Under this law, foundations registered their real estate in the land register.

12. Following the establishment of the Republic in 1923, Law no. 2762 on Foundations, promulgated on June 13, 1935, recognised the legal personality of foundations created under the Ottoman Empire. However, the legal status of “*vakıf*” founded after the entry into force of the Civil Code of October 4, 1926 was subject to the latter.

13. Article 1 of law no. 2762 describes the mode of management of different categories of foundations created before October 4, 1926. It distinguishes between “trusteeship foundations” (“*mazbut vakıflar*”), administered directly by the General Directorate of Foundations (i.e. the State), and “family foundations” (“*mülhak vakıflar*”), administered by the founder’s descendants. Foundations reserved for religious communities or craftsmen belong to these family foundations. They are administered by individuals or committees elected by these communities, under the supervision of the Directorate. Article 6 of law no. 5737 of 2008 on foundations confirms the autonomy granted to community foundations, which include the three foundations in question.

¹² *Gozelik and others v. Poland*, no. 44158/98, February 17, 2004, §§ 92 and 93.

¹³ *Wilson, Union nationale des Journalistes and others v. United Kingdom*, nos 30668/96 and others, July 2, 2002, § 41.

¹⁴ *Bączkowski and others v. Poland*, no. 1543/06, May 3, 2007, § 64.

¹⁵ See for example: *Bayatyan v. Armenia* [GC], no. 23459/03, July 7, 2011, § 120; *S.A.S. v. France* [GC], no. 43835/11, July 1, 2014, § 127.

¹⁶ *Metropolitan Church of Bessarabia*, *op. cit.*, § 116.

¹⁷ *Sviato-Mykhailivska Parafiya*, *op. cit.*, §§ 123, 139 and 141-152.

14. In reality, this autonomy is subject to interference from the Turkish authorities, who are constantly changing the terms and conditions of elections to appoint the managers of community foundations, or even banning them, as they did from 1968 onwards. In 1991, these elections were authorised only for certain Greek-Orthodox foundations, subject to supervision, before being banned again from 1992 to 2006. A new regulation on foundations and election procedures came into force in 2008,¹⁸ but was repealed on January 19, 2013. Community foundations were unable to hold elections, and therefore to renew their boards of directors, until a new regulation,¹⁹ more restrictive than the previous one,²⁰ came into force in June 2022. In April 2023, yet another new regulation came into force, amending the 2008 foundation regulation.²¹

15. In the present case, the two applicants were elected to the boards of their respective foundations: in 2011 for the two church foundations and in 2012 for the school foundation. The problem therefore does not lie in the failure to hold elections. On the other hand, following their election to the Board of Directors, the General Directorate of Foundations issued a certificate of authorisation (“*mazbata*”) in which the applicants’ names were struck off the list of Board members, on the grounds that they were clergymen. This interference in the internal organisation of a religious community is contrary to both the principle of autonomy and the State’s duty of neutrality and impartiality.

c) The consequences of interference in board elections

16. The interference of public administration in foundations has concrete consequences in the life of their communities. Armenian Patriarch Sahak Masalyan declared in April 2024 that “*The lack of elections for years is a problem of democracy and law.*”²² Ecumenical Patriarch Bartholomew called it a great injustice that minorities have not been allowed to renew the administration of their institutions for so many years, “*during which many died, many left, and many of our institutions, our churches, could not be administered and function properly, with the risk that representatives would be appointed by the State and that the administration of these institutions would be removed from the members of the community, to which they belong.*”²³

17. In such a context, community foundations run the risk of being classified as “fused,” and falling under the supervision of the Directorate, pursuant to article 7 of law no. 5737:

*Annexed (Mülhak) 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.*²⁴

18. The classification of a foundation as “fused” implies a return to the pre-1912 situation. It loses its legal personality. What’s more, the change in classification entails the management of the foundation’s assets by a government administration, as stated in article 6 of law no. 5737 on foundations of 2008. The fact that a community foundation is managed by the administration

¹⁸ [Foundations Regulation](#), Turkish Official Gazette no. 27010, September 27, 2008.

¹⁹ [Regulation on the elections to be held to determine the boards of directors of community foundations](#), Turkish Official Gazette no. 31870, June 18, 2022.

²⁰ *Insan Haklari Dernegi*, “[New election rules for minority foundations will prevent these foundations from holding free and democratic elections!](#)”, June 23, 2022.

²¹ [Regulation amending the Foundations Regulation](#), Turkish Official Gazette no. 32167, April 18, 2023.

²² *Agos*, “[Messages from Patriarch Masalyan regarding hospital elections](#)”, April 2, 2024. The message was about hospital community foundations.

²³ *Orthodox Times*, “[Ecumenical patriarch at Valoukli retirement home church](#),” August 4, 2022.

²⁴ Law no. 5737 on foundations, 2008, *op. cit.* article 7.

completely deprives the community in question of the exercise of its freedoms of religion and association.

19. In addition, a foundation “fused” loses ownership of its real estate assets, such as buildings (monastery, school, orphanage, hospital, etc.), land or orchards, to the State, which becomes the owner. The General Directorate of Foundations is then authorised to use them as a source of economic profit, in accordance with articles 26 and 77 of law no. 5737 on foundations:

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

Article 77: Immovable properties owned by the Directorate General or by the fused (mülhak) 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.²⁵

20. In the present case, the exclusion of members of the board of directors of Greek-Orthodox foundations can therefore have very serious consequences for the life of the Greek-Orthodox community and infringes upon its autonomy. This interference with its rights enshrined in Article 9 is all the more damaging as these are church foundations, the church being the building dedicated to Christian worship, the place *par excellence* for the expression of freedom of religion. The school foundation in question is the Phanar Greek Orthodox College, the oldest and most prestigious Greek Orthodox school in Istanbul, founded in its present form in 1454.

B. Exclusion of three board members of Greek Orthodox foundations not provided for by law

21. At the time of the election of the three board members of the Greek Orthodox foundations, the 2008 Foundation Regulations were in force. In all three cases, the foundations scrupulously followed the required procedures. In addition, both applicants complied with the election candidacy criteria detailed in articles 31 and 32, namely:

Article 31: Voters must:

- a) Be citizens of the Republic of Turkey,*
- b) Be at least eighteen years of age,*
- c) Reside in the electoral district.*

Article 32: In addition to the conditions specified in Article 31, individuals to be elected to the foundation's board of directors must also meet the following requirements:

- a) Be at least a primary school graduate,*
- b) Not have been convicted of any of the offences specified in Article 9 of the law.²⁶*

22. Furthermore, the General Directorate of Foundations justified the exclusion of the three Board members on the grounds that they were clergymen. In its view, the Lausanne Treaty of 1923 does not authorise priests to become involved in political or administrative matters. The Treaty of Lausanne contains no such provision. Moreover, when the plaintiffs asked the Directorate for evidence of such a specific prohibition during the trial, it was unable to provide a single reference. Even if it did exist, involvement in the board of directors of a Greek Orthodox church or school is neither a political nor an administrative matter, but rather a social and religious one. Furthermore, in view of the State’s duty of neutrality and impartiality, it is completely contrary to human rights to prevent a priest from becoming involved in a foundation, on the grounds of his status as a priest. Finally, the spirit of the Lausanne Treaty must be

²⁵ *Ibid*, articles 26 and 77.

²⁶ [Foundations Regulations](#) 2008, *op. cit.* articles 31 and 32, (free translation).

interpreted in favour of protecting the autonomy of non-Muslim minorities, rather than against it. What's more, while Turkey has in practice recognised only three non-Muslim minorities, namely Jews, Greeks and Armenians, according to its own restrictive interpretation of non-Muslim minorities.²⁷

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

Article 37: Turkey undertakes that the stipulations contained in Articles 38 to 44 shall be recognised 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 [...].

*Article 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 authorisation will be granted to the pious foundations, and to the religious and charitable institutions of the said minorities at present existing in Turkey [...].*²⁸

C. The absence of a legitimate aim within the meaning of article 9-2

24. If the Court were to find a basis for the exclusion of the three members of the board of directors of Greek-Orthodox foundations, it would still be necessary to verify that such interference pursued a legitimate aim among those listed in paragraph 2 of Article 9.

25. However, the Turkish government does not appear to have cited any legitimate purpose for this exclusion. On the contrary, the Turkish Government's interference has deprived the Greek Orthodox community of the exercise of its freedom of religion, hindering the proper functioning of its foundations and thereby impeding its autonomy. The interference is therefore justified by an illegitimate aim, forming part of a structural violation of the rights of Christians in Turkey, which will be explained in Part III of these observations.

II. Alleged violation of Article 14, in conjunction with Articles 9 and 11, following the exclusion of board members of Greek Orthodox foundations on the grounds that they were clergymen

26. The General Directorate of Foundations justified the exclusion of the three board members on the grounds that they were clergymen. The two applicants were therefore explicitly discriminated against on the basis of their strictly religious status, i.e. the fact that they had received the sacrament of Holy Orders (priesthood).²⁹ In addition, Muslim foundations are allowed to have members of the clergy on their board of directors. As explained in Part I, such a difference in treatment is not provided for by law and lacks objective and reasonable justification

²⁷ Jean-Marc Balhan, « [La Turquie et ses minorités](#) ». Études, 2009/12 Tome 411, 2009. p.595-604.

²⁸ [Treaty of peace with Turkey](#), Lausanne, July 24, 1923.

²⁹ See on this subject: *Mushfig Mammadov and others v. Azerbaijan*, no. 14604/08 and others, October 17, 2019, §§ 96-94.

in that it does not pursue any legitimate aim. The applicants are therefore victims of discrimination based on their Greek Orthodox religion.

27. In a previous case (*Molla Sali v. Greece*), in which the Treaty of Lausanne was also invoked to justify discrimination against an heiress of Greek nationality on the grounds that she was a Muslim, the Court found “*the difference of treatment suffered by the applicant, as a beneficiary of a will drawn up in accordance with the Civil Code by a testator of Muslim faith, as compared to a beneficiary of a will drawn up in accordance with the Civil Code by a non-Muslim testator, had no objective and reasonable justification.*”³⁰

III. On the general situation of disrespect for Christian minorities in Turkey

28. 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.³¹ By 2010, 24 Greek-Orthodox and 24 Jewish foundations had been declared “fused” by the General Directorate of Foundations, which took over their management, with the consequent administration and allocation of the income from their hundreds of confiscated properties.³² The systemic infringement of the property rights of minority religious communities is dealt with extensively in the Court’s case law. By interfering in the elections of the board members of foundations, Turkey provides an example of discrimination based on religion and an infringement on the freedom of association. In the present case, the Court had the opportunity to go further up the chain of cases, tackling the violation of Article 9, in particular by preventing the religious foundations from functioning normally.

29. The situation suffered by the two applicants and the three Foundations is part of a more global government policy of attrition of non-Muslim communities, which varies in intensity according to a context largely linked to the state of Turkey’s relations with Greece.³³ In 1935, the Turkish authorities asked Christian and Jewish community foundations for a list of their activities and the assets they owned or managed. This list, now known as the “1936 Declaration,” was drawn up and then forgotten for almost 40 years. From the 1950s onwards, tensions between the Greek and Turkish communities intensified in Cyprus, and Turkey began to use community foundations as a means of retaliation against the Greeks. Cyprus’ independence from the United Kingdom in 1960, followed by the civil war of 1964, and finally the Turkish intervention in Cyprus in 1974, had tragic repercussions for community foundations.

30. In 1974, the Court of Cassation took the terrible decision to require all community foundations to return to their rightful owners all the real estate they had acquired by whatever means (inheritance, donation, purchase, etc.) from 1936 onwards, excluding only the property mentioned in the “1936 Declaration.” With Turkey now considering all property acquired between 1936 and 1974 to be null and void, foundations began to lose their real estate, little by little, to the presumed or actual heirs of the person who held the property before the foundation, or to the administration if heirs could not be found. Even today, Christian communities suffer greatly from these expropriations.

³⁰ *Molla Sali v. Greece*, *op. cit.*, § 161.

³¹ Cemaat Vakıfları, <https://www.cemaatvakiflaritemsilcisi.com/index.php/vakiflar>.

³² 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.

³³ Samim Akgönül, *Le Patriarcat grec orthodoxe, De l'isolement à l'internationalisation de 1923 à nos jours*, 2004.

31. On January 17, 2010, the Parliamentary Assembly of the Council of Europe (PACE) echoed the dismay of community foundations, calling on the 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.*³⁴

32. In its resolution of September 13, 2023, on the Commission's 2022 report on Turkey (2022/2205(INI)), the European Parliament deplored the expropriation of Christian property 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 [...].

33. To regain full religious freedom, the challenge for the Ecumenical Patriarchate of Constantinople can be summed up in five key points: freedom from government interference in its elections (including a right of veto, since it requires the patriarch and hierarchs to be Turkish nationals, while it has closed the seminary that trains Turkey's clergy), recognition of "ecumenical" status, legal personality, the ability to train new clergy and the reopening of the Halki seminary, and finally, the return of thousands of confiscated properties.³⁵

34. In conclusion, although the Turkish Constitution officially recognises Turkey as a secular state, in practice non-Muslims are treated by the administration as second-class citizens, through various forms of discrimination.³⁶ Even minorities protected by the Treaties of Lausanne (1923) and Ankara (1930) are affected.

35. As the European Centre for Law and Justice (ECLJ) showed in its December 2018 report "*Christians in Turkey*,"³⁷ 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 are in fact systematic and intentional. For example, 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 locations.³⁸ Moreover, churches are regularly the object of acts of vandalism, the perpetrators of which are rarely sought out and prosecuted.³⁹ The European Court had already been seized of several cases concerning the expropriation of land and property of foundations recognised by Turkey under the Treaty of Lausanne, notably

³⁴ 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, January 27, 2010, § 19.5.

³⁵ Patriarchate of Constantinople, "[Religious freedom for the Ecumenical Patriarchate of Constantinople](#)."

³⁶ Abdullah Kiran, "How a social engineering project affected Christians in Turkey," *International Journal for Religious Freedom: Researching Religious Freedom*, Vol. 6 No. 1/2 (2013), p. 51.

³⁷ ECLJ, "[Christians in Turkey - The Violations of Christians' Religious Freedom in Turkey](#)" December 2018.

³⁸ *Ibid.*, p. 11.

³⁹ *Ibid.*, p. 15. See also: Grégor Puppincq, Christophe Foltzenlogel, Andreea Popescu, "[The Catholic Church and Anatolia](#)" 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), May 25, 2016, p. 148.

those of the Armenian Church⁴⁰ and the Greek Orthodox Church.⁴¹ In all these cases, the Court found a violation of the right of these churches enshrined in Article 1 of Protocol No. 1.

36. More generally, the Armenian and Greek Orthodox Patriarchates are not recognised as legal entities. They are therefore seeking legal recognition and rights of their own as Patriarchates, and not through the creation of foundations.⁴² The absence of legal personality for religious communities is in practice discrimination against non-Muslim religions, which, unlike Islam, are not represented by the Presidency of Religious Affairs (the *Diyanet*) attached to the Prime Minister.⁴³

37. Thus, as the ECLJ had shown in its observations on the case *Fener Rum Patrikliği (Ecumenical Patriarchate) v. Turkey*,⁴⁴ the refusal to recognise the legal personality of the Ecumenical Patriarchate of Constantinople is not a means proportionate to the objective of maintaining secularism and national security. Indeed, the Ecumenical Patriarchate - like the Catholic Church, the Armenian Patriarchate or any other religious community deprived of legal personality - is a legal entity which must be able to benefit from the protection offered by law and human rights. The European Commission for Democracy through Law ("*Venice Commission*") has already pointed this out,⁴⁵ as has the Parliamentary Assembly of the Council of Europe (PACE), which considered in 2010 that the "*the absence of legal personality which affects all the communities concerned having direct effects in terms of ownership rights and property management.*"⁴⁶

38. As a result of the discrimination suffered by Christian minorities, their strong emigration has considerably reduced their presence in Turkey. In 1920, there were still two million Christians in Turkey;⁴⁷ today there are just 169,000, representing 0.2% of the population.⁴⁸ In particular, while the Greek Orthodox represented 100,000 citizens in 1923, today they are less than 2,000.⁴⁹ This extremely low number threatens the survival of Greek Orthodoxy in Anatolia.⁵⁰ There are also 90,000 Armenian Orthodox and 25,000 Syriac Orthodox.⁵¹ These figures are only estimates, as some Christians hide their identity for fear of discrimination and, in some cases, harassment.

39. These difficulties are linked to a cultural and religious problem. Christians in Turkey are for the most part predate and are alien to the Turkish nation, and therefore perceived as a threat to the country's unity. Even more profoundly, the oppression of Christian minorities in

⁴⁰ *Yedikule Surp Pirgiç Ermeni Hastanesi Vakfı v. Turkey*, no. 36165/02, March 16, 2009; *Samatya Surp Kevork Ermeni Kilisesi v. Turkey*, no. 1480/03, March 16, 2009.

⁴¹ *Fener Rum Erkek Lisesi Vakfı v. Turkey*, no. 34478/97, April 9, 2007; *Bozcaada Kimisis Teodoku Rum Ortodoks Kilisesi Vakfı v. Turkey*, no. 37639/03, June 3, 2009; *Bozcaada Kimisis Teodoku Rum Ortodoks Kilisesi Vakfı v. Turkey no. 2*, no. 37646/03, January 6, 2010.

⁴² U.S. Department of State, "[2017 Report on International Religious Freedom - Turkey](#)," May 29, 2018.

⁴³ European Commission for Democracy through Law ("*Venice Commission*"), *Opinion on the legal status of religious communities in Turkey and the right of the Orthodox Patriarchate of Istanbul to use the adjective "ecumenical"*, adopted by the Venice Commission at the 82nd plenary session, Venice, 12-13 March 2010, § 34.

⁴⁴ ECLJ, [Observations in the case of *Fener Rum Patrikliği \(Ecumenical Patriarchate\) v. Turkey* \(application no. 14340/05\)](#), January 2008.

⁴⁵ Venice Commission, *op. cit.*, § 108.

⁴⁶ PACE, Resolution 1704, *op. cit.* § 19.2.

⁴⁷ Daniel Pipes, "The disappearance of Christians in the Middle East," *Middle East Quarterly*, winter 2001.

⁴⁸ Portes Ouvertes, [dossier Turkey 2024](#), 2024.

⁴⁹ United States Commission on International Religious Freedom, [Examination of Threats to Religious Sites in Turkey](#), November 2023.

⁵⁰ 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, March 22, 2013.

⁵¹ U.S. Department of State, [2017 Report on International Religious Freedom - Turkey](#), May 29, 2018.

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 those nostalgic for Byzantium will divert us from our path*”⁵² and, regarding Istanbul’s Saint Sophia Basilica, “*we have been here for a thousand years and, God willing, we will stay here until the Apocalypse.*”⁵³ In contrast, many Christians venerate the *Virgin of the Apocalypse*, crowned with twelve stars and holding a crescent moon and a serpent under her feet.

40. The present case is just one example of the latent persecution suffered by Christians in Turkey, victims of an ethnic-religious nationalism promoting the homogeneity of a Turkish-Muslim nation. ECLJ denounced this persecution in its contribution to the October 2024 Universal Periodic Review for Turkey at the United Nations Human Rights Council.⁵⁴

⁵² *Le Temps*, « [La campagne à outrance du président turc, Recep Tayyip Erdogan](#) », March 27, 2019, (*free translation*).

⁵³ *Agence France-Presse*, “New Zealand attack actually targets Turkey, says Erdogan,” March 19, 2019, (*free translation*).

⁵⁴ ECLJ, [Universal Periodic Review 2024 of Turkey](#), October 2024.