

U.S. Commission on International Religious Freedom

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# Religious Freedom in Turkey

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The Turkish government's restrictions on, and violation of, property rights is one of the key grievances of Turkey's faith communities. The root cause of these grievances is the absence of a regulatory framework that provides full and independent legal status to faith communities in Turkey, which would guarantee them the unhindered right to acquire, own, or rent property.<sup>1</sup>

There are various legal entities that faith communities use to mitigate the problems caused by their inability to attain legal status. Some faith communities have "minority community foundations," which date back to the Ottoman era and were registered by the Directorate General of Foundations in 1936. Others have established various legal entities under the Civil Code – such as foundations, associations, and even private companies – in order to acquire property in the absence of legal status. Numerous property grievances of faith communities – including the precarious nature of their ownership of, and access to, these properties – have proven that none of these alternatives can guarantee the property rights of faith communities in the absence of full and independent legal status.

There are three main areas concerning property rights that are at the core of current grievances and the Turkish government's initiatives to remedy them: restitution, reciprocity, and restoration.

## Restitution

The Turkish government's efforts to restitute properties to minority community foundations in accordance with the European Union Harmonization Laws of 2003 and the Restitution Decree of 2011 deserve commendation.<sup>2</sup> The Directorate General of Foundations has reported that between 2003 and 2014, it registered 1,020 properties to religious minority foundations and paid compensation for 21.<sup>3</sup> The gradual, albeit incomplete, restitution of properties previously expropriated from religious minority communities has been an important step in the right direction.

The 2011 decree is limited in scope and excludes, among others, Roman Catholic and Anglican properties since they did not have minority community foundations, Alevi properties, and certain cemeteries. Even when courts rule for restitution, the implementation can fail. A Greek Orthodox foundation in Bozcaada, for example, has not been able to register 11 of their properties, despite winning a court case in 2014, on the grounds that inspections by the land registry office are incomplete.<sup>4</sup> Similarly, a court decision to restitute a prominent Istanbul building to the Armenian Patriarchate in 2017, after a six-year restitution case, was overturned by the High Court of Appeals in 2019.<sup>5</sup>

<sup>1</sup> Othmar Oehring, "The fundamental problem and how it might be solved," *Forum 18* (Norway), February 7, 2011. ([http://www.forum18.org/archive.php?article\\_id=1537](http://www.forum18.org/archive.php?article_id=1537))

<sup>2</sup> Mine Yıldırım, "What does Turkey's Restitution Decree mean?" *Forum 18* (Norway), October 6, 2011. ([http://www.forum18.org/archive.php?article\\_id=1621](http://www.forum18.org/archive.php?article_id=1621))

<sup>3</sup> Republic of Turkey Directorate General of Foundations, "Cemaat Vakıfları (Community Foundations)," accessed June 25, 2019. (<https://www.vgm.gov.tr/vak%C4%B1f-i%C5%9Flemeleri/vak%C4%B1flar-hakk%C4%B1nda/cemaat-vak%C4%B1flar%C4%B1>)

<sup>4</sup> Uygur Gültekin, "Bozcaada Rum Vakfı'na iade kararı verilen tapular verilmiyor (Restitution ruling for the Bozcaada Greek Foundation – property deeds are not issued)," *Agos* (Turkey), May 30, 2018. (<http://www.agos.com.tr/tr/yazi/20713/bozcaada-rum-vakfina-iade-karari-verilen-tapular-verilmiyor>)

<sup>5</sup> "Sanasaryan'ın mülkiyeti yine devlete döndü (The ownership of the Sanasaryan office building returns to the state)," *Agos* (Turkey), February 5, 2019. (<http://www.agos.com.tr/tr/yazi/21990/sanasaryan-in-mulkiyeti-yine-devlete-dondu>)

A specific type of restitution – the allocation of an expropriated property to a faith community other than the original owners – is a policy that grants rights at the expense of other faith communities. In a project stalled since 2013, the Turkish government recently allocated land and a permit to build a Syriac Christian church in Istanbul, the first church to be built from scratch in the history of the Republic of Turkey.<sup>6</sup> But the allocated land included a Roman Catholic cemetery previously seized by the state, and the move therefore triggered tensions between Roman Catholic and Syriac Christian communities that were only resolved through the intervention of Pope Francis.<sup>7</sup>

## Reciprocity

The policy of “reciprocity,” which makes the granting of certain minority rights conditional on the granting of similar rights in other countries, is another obstacle preventing restitution or use of properties. The Turkish government, for example, has made a commitment to opening the Halki Seminary, the main theology school of the Ecumenical Patriarchate located in Istanbul, in exchange for the Greek government opening the first mosque in Athens.<sup>8</sup> Similarly, Bulgarian Orthodox Sveti Stefan Church, which President Recep Tayyip Erdogan unveiled on January 7, 2018, after a seven-year restoration project, was reported by Turkey’s state-run media to have been “restored under so-called rules of reciprocity” in exchange for Sofia’s green light for the restoration of the mosque in Bulgaria’s second-largest city, Plovdiv.<sup>9</sup>

The policy of reciprocity makes property rights a conditional right and treats religious minorities as bargaining chips to extract bilateral concessions that serve the Turkish government’s specific agendas. Turkey’s religious minorities have spoken out against this policy. In 2006, over 100 members of Turkey’s religious minorities signed a joint declaration stating that they are not “hostages.”<sup>10</sup>

## Restoration

Since 2003, the Directorate General of Foundations has allocated funds for the restoration of a number of churches and synagogues.<sup>11</sup> The Directorate has reportedly completed restorations of

<sup>6</sup> “Pope Francis confirms construction of Syriac church in Istanbul,” *Daily Sabah* (Turkey), November 15, 2017. (<https://www.dailysabah.com/minorities/2017/11/15/pope-francis-confirms-construction-of-syriac-church-in-istanbul>)

<sup>7</sup> Sibel Hürtaş, “Landmark church project stirs mixed sentiments in Turkey,” *Al-Monitor*, January 18, 2019. (<https://www.al-monitor.com/pulse/originals/2019/01/turkey-landmark-church-project-stirs-mixed-sentiments.html>)

<sup>8</sup> “Turkey ready to open Halki Seminary in return for a mosque in Greece: report,” *Hürriyet Daily News* (Turkey), March 8, 2015. (<http://www.hurriyetdailynews.com/turkey-ready-to-open-halki-seminary-in-return-for-a-mosque-in-greece-report-82155>)

<sup>9</sup> “Istanbul’s ‘Iron Church’ re-opens after seven years,” *TRT World* (Turkey), January 7, 2018. (<https://www.trtworld.com/turkey/istanbul-s-iron-church-re-opens-after-seven-years-13983>)

<sup>10</sup> İsmail Saymaz, “Azınlıklar bildirisi: Rehine değiliz (Minority declaration: We are not hostages),” *Radikal* (Turkey), September 26, 2006. (<http://www.radikal.com.tr/turkiye/azinliklar-bildirisi-rehine-degiliz-792832/>)

<sup>11</sup> “Turkey has restored 14 churches, one synagogue since 2003,” *Hürriyet Daily News* (Turkey), December 23, 2017. (<http://www.hurriyetdailynews.com/turkey-has-restored-14-churches-one-synagogue-since-2003-124639>)

19 churches, three synagogues, and one monastery, and has ongoing restoration projects and plans for two churches, two monasteries, one chapel, and one synagogue.<sup>12</sup>

The Directorate's funding, however, often comes with strings attached, as state officials want to have a say as to not only who can perform religious services in restored buildings, but also when. In 2014, for example, the governor of the province of Edirne threatened to turn a restored synagogue into a museum following tensions in Jerusalem.<sup>13</sup>

### Policy Recommendations

- U.S. lawmakers could organize fact-finding missions to Turkey to investigate and report the state of property rights of faith communities in Turkey, and to engage Turkish lawmakers to encourage strengthening those rights by granting full and independent legal status to all faith communities.
- The U.S. government, in cooperation with the Council of Europe and the European Union, could urge the Turkish government to pass legislation granting full and independent legal status to all faith communities in Turkey, and to take other necessary steps in accordance with the various rulings of the European Court of Human Rights.
- The U.S. government can provide additional international development aid to civil society organizations and projects in Turkey that aim to strengthen freedom of religion or belief in general, and property rights of faith communities in particular.
- The U.S. can develop programs to host and/or offer refuge to Turkish citizens who are persecuted for their advocacy of freedom of religion or belief, including through “scholars at risk” and “journalists at risk” programs.
- USCIRF has long called for targeted sanctions against violators of religious freedom. In line with USCIRF's recommendation in its 2017 Annual Report that the administration “use targeted tools against specific officials, agencies, and military units identified as having participated in ... particularly severe violations of religious freedom,” the U.S. could designate entities and individuals responsible for such violations in Turkey.

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<sup>12</sup> Republic of Turkey Directorate General of Foundations, “Cemaat Vakıfları (Community Foundations),” accessed June 25, 2019. (<https://www.vgm.gov.tr/vak%C4%B1f-i%C5%9Flemleri/vak%C4%B1flar-hakk%C4%B1nda/cemaat-vak%C4%B1flar%C4%B1>)

<sup>13</sup> Yair Rosenberg, “Turkish Governor Threatens to Turn Synagogue into Museum,” *Tablet*, November 24, 2014. (<http://www.tabletmag.com/scroll/187203/turkish-governor-threatens-to-turn-synagogue-into-museum>)