



PERMANENT MISSION OF THE REPUBLIC OF TURKEY
TO THE UNITED NATIONS OFFICE IN GENEVA

2020/62441669/31763541

The Permanent Mission of the Republic of Turkey to the United Nations Office in Geneva and other international organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the joint communication from Special Procedures, dated 28 July 2020 (Ref: AL TUR 12/2020), has the honour to enclose herewith an information note, comprising the response of the Government of the Republic of Turkey.

The Permanent Mission of the Republic of Turkey avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 24 September 2020



Encl. A/S

Office of the High Commissioner for Human Rights
Special Procedures Branch
Geneva

OBSERVATIONS OF THE GOVERNMENT OF THE REPUBLIC OF TURKEY IN REPLY TO THE JOINT COMMUNICATION FROM SPECIAL PROCEDURES

(AL TUR 12/2020)

With reference to the joint communication dated 28 July 2020 sent by the Special Rapporteur in the field of cultural rights and the Special Rapporteur on freedom of religion or belief, the Government of the Republic of Turkey would like to submit its observations herein below.

1. Registered in the UNESCO World Heritage List in 1985 as a component of the Historical Areas of Istanbul, Hagia Sophia is strongly protected under the national legislation of Turkey as well as the UNESCO Convention on the Protection of the World Cultural and Natural Heritage dated 1972.

Based on the decision of the Council of State on July 2, 2020 as a result of the lawsuit filed by “the Association of Permanent Foundations, Historical Works and Environment Service”, it was decided to open Hagia Sophia as a mosque by the Presidential Decree dated July 10, 2020 (2729).

This Decree is based on a legal ruling and Turkey expects all countries to respect the rule of law.

Contrary to the allegations in the joint communication (AL TUR 12/2020), UNESCO 1972 Convention and its Operational Guidelines do not have any provision preventing the change of the function of a property registered in World Heritage List.

The use of Hagia Sophia as a mosque is not a violation of the 1972 World Heritage Convention. The measures taken in the building do not affect the Outstanding Universal Value of Hagia Sophia.

Turkey pursues an **open-door policy** to everyone who wishes to visit this extraordinary monument, in line with our international commitments and our sense of responsibility for preserving and nurturing cultural heritage.

2. The following arrangements were made in the Grand Mosque of Hagia Sophia, which was opened to worship as a mosque;

- The visit route has been determined and the entire mosque will be open to both visits and worship,

- The worship area and the sightseeing areas are separated from each other by portable separators,

- The mosaic with the Virgin Mary and Child Jesus figure and Gabriel, the Emperor Mosaic at the main entrance door and the Sunu Mosaic on the side door, are arranged in such a way that they can be closed only during prayer times with a folding curtain system without any physical intervention. The other mosaics, frescos, etc. have been left as it stands.

- The curtain on the ceiling in front of the mihrab is mounted on a chain ring from its period.
- Two layers of felt are laid on the floor of the main worshipping space and covered with wool carpet.
- The Emperor Coronation Area in the main space is separated by railings and is displayed without any carpet.
- The main space of Hagia Sophia is designated as a place of worship, besides, it is open to visitors out of prayer times.
- Shoe racks are located on the right and left sides of the main entrance and adjacent to the inner separators. It is completely portable and not fixed to the wall or floor.
- The furnishing project has been prepared by the Ministry of Culture and Tourism and has been approved by the decision of Istanbul Regional Protection Board No 4 dated July 16, 2020 (7527).
- The northern corridor will be used for the transfer of the restoration materials and for visiting purposes during the restoration works, which are planned to be completed in about 4 months.
- As in all shrines in the world (for example, many places in the Vatican cannot be visited with sleeveless clothing, shorts, miniskirts and hats), appropriate clothing for visiting is a must. Necessary disposable clothing (headscarf, etc.) will be provided to visitors at the entrance.
- Hagia Sophia was visited by 3,727,000 people in 2019. The management plan for the visitors is prepared by the Ministry of Culture and Tourism. The visitor circulation, directions and numbers will be evaluated within the scope of this plan.
- Pursuant to the Protocol signed between the Presidency of Religious Affairs and the Ministry of Culture and Tourism, the Presidency of Religious Affairs will only be responsible for the performance of religious services. All services regarding restoration, conservation, security and visitor management will be carried out by the Ministry of Culture and Tourism.
- The Grand Mosque of Hagia Sophia will be open to all kinds of scientific studies.
- Considering the Outstanding Universal Value of the Monument, all kinds of work in the Mosque will continue comprehensively with the same scientific diligence as in the past.
- On August 6-7, 2020, a tour to the Grand Mosque of Hagia Sophia was organized for the Heads of Diplomatic Missions and International Organizations in Ankara.
- Since Turkey is in close contact with UNESCO on this matter, an invitation has been extended for an “Advisory Mission” composed of UNESCO and ICOMOS (The International Council of Monuments and Sites) experts to visit the Grand Mosque of Hagia Sophia.

3. The Directorate General of Foundations is an institution operating under the Ministry of Culture and Tourism. It provides the representation and administration of more than 59 thousand fused (mazbut) foundations which lost their managerial board that have survived from the Seljuk and Ottoman era. While the Directorate General plays an important role in reaching

the future of cultural heritage by restoring the movable and immovable foundation cultural assets, it also makes a maximum effort to ensure that the foundations live forever, which create this cultural heritage.

As per Article 4 of the Foundations Law No. 5737, "*Foundations have a private legal entity.*" Therefore, Istanbul Hagia Sophia Grand Mosque, Trabzon Hagia Sophia Mosque and Kırklareli Vize Little Hagia Sophia (Ghazi Suleiman Pasha) Mosque are the property of foundations that are private legal entities represented and administered by the Directorate General of Foundations.

It is clear from the foundation deed dated 1471 of "Fatih Sultan Mehmed Han Foundation" established in Istanbul and the old and new records of the foundation staff belonging to "Hagia Sophia Mosque Foundation" established in Trabzon that the Hagia Sofia Mosques in Istanbul and Trabzon belong to the Fatih Sultan Mehmed Han Foundation.

It also is clear from the documents dated 1837 and 1839 belonging to the "Gazi Süleyman Pasha Mosque Foundation" established in Vize, Kırklareli, the Hagia Sophia Mosque in Vize belongs to "Gazi Şehzade Süleyman Pasha the Son of Sultan Orhan Foundation".

Similarly, according to the provision stated Article 16 of the aforementioned Law: "*Charity immovable properties belonging to fused (mazbut) foundations are given a function by the Directorate General primarily in line with their foundation deeds.*" This provision clearly stipulates that the abovementioned charity immovable properties should be used primarily as mosque.

In accordance with the Turkish national legislation, as in the Grand Mosque of Hagia Sophia and all other foundation mosques and masjids, the Presidency of Religious Affairs is also responsible for the execution of worship in Trabzon Hagia Sophia Mosque and Kırklareli Vize Little Hagia Sophia (Ghazi Suleiman Pasha) Mosque.

With many years of its vast restoration experience and strong corporate memory, the Directorate General of Foundations is the most well-established expert institution in our country in this field. It carries out the restoration activities of cultural assets with its competent and experienced technical personnel within the framework of the relevant legislation.

Being protector of the approximately 9,000 immovable foundation cultural heritage in Turkey, Directorate General has the intellectual background and experience to fulfil its responsibility.

Projects created through the guidance and evaluations of these boards will be discussed in the Cultural Heritage Conservation Regional Boards and necessary revisions will be made regarding them and will be implemented under the supervision of the experts of the Directorate General. Also, at the stage of giving function as a mosque, a Scientific Board has been established and sensitive and careful studies have been carried out in line with the recommendations of the board.

4. In this context, as emphasized in the Venice Statute, which is constitution of the restoration principles; the restoration process carried out between 2015-2020 of **Trabzon Hagia Sophia Mosque**, which has a high value as a historical work and contains the layers of different ancient cultures within itself, is a good example of this situation. The restoration work of this building has been meticulously continued in accordance with the supervision of the advisory and

scientific boards consisting of the experts of the Directorate General of Foundations. The projects approved by the Conservation Board and also in line with the scientific and contemporary restoration principles by means of considering the issues such as preserving the original details of the periods when it was built and amended and transferring it to future generations and respecting for the spiritual values that the structure has for all people.

In this framework, at the stage of its conversion into a mosque:

In the main area, it is aimed to transform the main dome into a lightproof surface through a film layer to be covered only during prayer times. Thus, the traceability of the frescoes on the inner surface of the main dome except prayer times was ensured. On the floor of the Harim Section, the opus sectile (a kind of art technique) under the dome has been covered by a tempered glass floor and thus exhibition of the mosaics has been ensured. The frescoes of the apostles are depicted on twelve-cornered dome frame, considering the number of the apostles. The residues of the chapel in the northern courtyard have been improved and preserved. Thus, all the original architectural elements of the structure have been preserved and exhibited as it was in the past.

During the restoration works of **Kırklareli Vize Little Hagia Sofia Mosque** in 2006-2007, no frescoes were found in the mosque, but the decorations present and after the rasp were preserved. However, fresco fragments (plastered surfaces) obtained from excavations and other architectural pieces were taken for exhibition by Kırklareli Museum Directorate. Many floor mosaics were found inside and outside the building as a result of excavations. Some of the mosaics in the mosque (under the floor) were taken by the Museum Directorate, and the mosaics around the building were preserved due to the risk of theft and covered and kept in their current places. Humidity problem was resolved by finding the source of the water reaching the building floor and removing from the building. The collapsed exonarthex vault was completed and the building was protected against external damage by reconstructing the wooden upper floor.

General overview of freedom of religion, non-Muslim minorities, places of worship and immovable properties of the non-Muslim community foundations in Turkey

5. Turkey adheres with great dedication to its legacy of multi-faith tolerance and cultural pluralism.

Our constitutional system is based on the equality before the law. Fundamental rights and freedoms are enjoyed and exercised individually in accordance with the relevant law. Our constitution and relevant legislation also provide for freedom of religion, conscience, religious belief, conviction, expression, and worship, and prohibits discrimination based on religious grounds. In this regard, Turkish citizens belonging to different faith groups enjoy and exercise the same rights and freedoms.

Incitements to religious hatred, public denigration of any group on the basis of their religion or sect as well as defamation of religious values are penalized under Article 216 of the Turkish Penal Code. Discriminatory acts stemming from hate based on race, language, religion, sect, sex, political, philosophical belief or opinion are penalized under Article 122 of the Turkish Penal Code. "Hate" was added to the title of the above-mentioned article in 2014.

6. Minority rights in Turkey are regulated in accordance with the Lausanne Peace Treaty of 1923, under which Turkish citizens belonging to non-Muslim minorities fall within the scope of the term "minority". Turkish citizens belonging to non-Muslim minorities have the same

rights as the rest of the population. Additionally, they benefit from their minority status in accordance with the Lausanne Peace Treaty.

Non-Muslim minorities have their own schools, places of worship, foundations, hospitals and media organizations. Non-Muslim places of worship are administered by their own associations or foundations.

Property rights regarding places of worship rest with the real or legal persons that have founded them.

Political leadership has been diligent to ensure that the problems of these groups are handled with priority. In this respect, many high-level contacts have been made with representatives from civil society organizations, associations and with the spiritual leaders of religious communities where problems and solution proposals have been heard and discussed directly.

7. Non-Muslim citizens are able to carry out religious ceremonies freely. The places of worship used by the non-Muslim citizens are being renovated by the Directorate General of Foundations.

The immovables renovated so far include, Edirne Central Synagogue, Gökçeada Saint Nicola Church, Gökçeada Saint-Marina Greek Orthodox Church, Hatay İskenderun Syriac Catholic Church, Hatay İskenderun Greek Catholic Church, Diyarbakır Sur Armenian Protestant Church, Diyarbakır Sur Armenian Catholic Church, Gaziantep Nizip Fevkanı Church, Gaziantep Şahinbey Synagogue, Ayvalık Cunda Taksiyarhis (Saint Nicola) Church, İskenderun Arsuz Maryo Hanna Church, İstanbul Edirnekapı Aya Yorgi Church, Hatay Yayladağı Greek Orthodox Church, Sveti Stefan Bulgarian Church. In addition, as from 2018, the restoration process of Sina Badukyasko (Terra Santa) church in Istanbul/Beyoglu has been commenced.

Numerous places of worship that had been closed to service for many years have been reopened following restoration works.

In this regard, the Grand Synagogue in Edirne, which is the largest synagogue in Balkans, and the third largest in Europe, was opened for worship on 26 March 2015. Surp Vortvots Vorodman Church belonging to Meryem Ana (Virgin Mary) Armenian Church Foundation located in Kumkapı started its services following a ceremony held on 28 December 2011.

On 7 January 2018, 120-year-old Sveti Stefan Bulgarian Church (known as the Iron Church) in Istanbul was re-opened for worship after 7 years renovation process.

Bakırköy municipality granted the permission for the construction of a Assyrian Church planned to be built from scratch in Yeşilköy. Foundation laying ceremony of the Assyrian Church was held on August 3, 2019 with the participation of President Erdoğan.

8. The property issues of the non-Muslim citizens have been studied carefully and most of them solved in favour of the minorities. Concerning the issues arising from immovable properties of the non-Muslim community foundations, the Turkish Government has made the necessary amendments in its legislation.

The “Law on Foundations” was adopted in 2008. A decree further amending the Law on Foundations was published on 27 August 2011. Provisional articles of the said Law and the said decree enabled the Community Foundations to apply for registering immovable property within

a period of time on their foundations. As a result, 333 properties have been registered and it was decided to pay compensation for 21 properties.

With the amendments made in the Law on Foundations in 2018, the “Foundations Assembly” which is the decision making body of the Directorate General of Foundations (DGF), adopted a decision on 8 June 2018 on the registration of 56 immovable properties to Assyrian community foundations. Between 2003 and 2018, 1084 immovable properties were registered to foundations belonging to non-Muslim minorities, including Armenian, Assyrian, Chaldean, Greek, and Bulgarian.

In 2010, the Greek Orphanage in Büyükada was registered under the name of the Greek Patriarchate.

Similarly, the long standing issue concerning the property of Mor Gabriel Monastery has been resolved and the property in question was returned to the Monastery Foundation in September 2013.

These are all testimonies of Turkey’s goodwill and commitment to address the religious freedom of various groups in Turkey.