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# RELIGIOUS DISCRIMINATION AND VIOLATION OF PROPERTY RIGHTS IN TURKEY

*by Andre Taylor\**

In 2022, the European Court of Human Rights (ECtHR) provided a ruling in an application against Turkey by the Foundation of the Taksiarhis Greek Orthodox Church.<sup>1</sup> The Turkish government was held to have committed religious discrimination against its Greek Orthodox community by rejecting an application to register a historic church without a valid explanation.<sup>2</sup> The Turkish High Court decided to register the disputed property in the name of the Public Treasury rather than grant ownership of the property outright to the Church.<sup>3</sup> The Istanbul Administrative Court had repeatedly dismissed the Church's appeals on the basis that the conditions listed in their property code were not satisfied.<sup>4</sup>

The European Court of Human Rights held that even though the Church's ownership of the disputed property had not been formally recognized for generations,

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1 *Taksiarhis Greek Orthodox Church Foundation of Arnavutkoy v. Turkey*, App. No. 27269/09, ¶ 45 (Nov. 15, 2022), <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-220865%22%5D%7D> (available only in French).

2 Stella Mazonakis, *European Human Rights Court Fines Turkey for Violating Greek Church Rights*, GREEK CITY TIMES (Nov. 17, 2022), <https://greekcitytimes.com/2022/11/17/european-human-rights-court-turkey/>.

3 *Taksiarhis Greek Orthodox Church Foundation of Arnavutkoy v. Turkey*, App. No. 27269/09, ¶ 11 (Nov. 15, 2022), <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-220865%22%5D%7D> (available only in French).

4 *Id.* (citing Property Code, Law No. 5737, art. 7 (Turk. 2008)).

it had effective control due to the length of time the Church held de facto possession of the property.<sup>5</sup> The property had been mentioned in the Church's declaration of founding as far back as 1936. The ECtHR recognized that the under Article 1 of Protocol 1 concerning protection of property, the Turkish government had failed to uphold its responsibility to maintain citizens' peaceful enjoyment of their own possessions. In recognition of the unfounded nature of the Turkish government's refusal, the ECHR ruled that there was a violation of Article 14 of the European Convention on Human Rights, which protects against discrimination.<sup>6</sup> As a result, the ECtHR declared that Turkey needed to pay 5,000 euros in compensation to the church.<sup>7</sup>

This ruling reflects the ongoing struggle for religious freedom in Turkey, which has lost a substantial portion of its citizens of Greek descent since the fall of the Ottoman Empire due to genocide and political strife within its borders.<sup>8</sup> Longstanding ethnic and religious cleavages in Turkish society remain political hot button issues, with many experts positing that Turkey is attempting to marginalize over 160 foundations operating in the country for the benefit of minorities.<sup>9</sup> The historical relationship between property rights and cultural heritage is intertwined because ethnic minorities such as Greeks have relied on houses of worship and other private forums to maintain their cultural solvency in the face of repression. The ruling reveals the challenges faced by Turkey's government as it attempts to integrate itself into the wider European community both politically and economically.

5 *Id.*

6 European Convention on Human Rights, Protocol 1, November 4, 1950, ETS 5, [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf).

7 Press Release, Registrar of the Court, Judgments of 15.11.2022 (Nov. 15, 2022), <https://hudoc.echr.coe.int/eng-press#%7B%22sort%22:%5B%22kdate%20Descending%22%5D%7D%3A~:-text=Judgments%20of%2C15.11.2022%2C-Press%20Release%20%2D%20Chamber>.

8 Hamdi First Buyuk & Eleni Stamatoukou, *European Court Fines Turkey for Breach of Greek Church's Rights*, BALKAN INSIGHT (Nov. 15, 2022), <https://balkaninsight.com/2022/11/15/eu-human-rights-court-fines-turkey-for-beaching-greek-orthodox-churchs-possessions-rights/>.

9 Stella Mazonakis, *European Human Rights Court Fines Turkey for Violating Greek Church Rights*, GREEK CITY TIMES (Nov. 17, 2022), <https://greekcitytimes.com/2022/11/17/european-human-rights-court-turkey/>.