



July 12, 2020

**PRESIDENT ERDOĞAN'S DECREE CONVERTING HAGIA SOPHIA  
FROM MUSEUM INTO FUNCTIONING MOSQUE**

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**BACKGROUND:**

Until the capture of Constantinople by the Ottoman Turks in A.D. 1453, the Hagia Sophia cathedral was the preeminent church in Christendom. Once Constantinople fell, the Ottoman Sultan ordered that the cathedral be converted into a mosque to signal Islamic dominance over Christianity. Hagia Sophia served as a functioning mosque from 1453 until 1934, when the government of Mustafa Kemal Atatürk, the first president of the modern secular State of Turkey, converted Hagia Sophia from an active mosque into a museum that would reflect both its Christian and Islamic history.

Atatürk sought to convert Turkey from a backward religious Islamic state into a modern western secular state embracing *inter alia* separation of mosque and state, a concept foreign to traditional Islam. Among the measures taken by the newly created secular Turkish state were the dissolution of the Islamic caliphate, the adoption of Latin script in place of Arabic script, the adoption of western concepts of law and government, and the forbidding of the wearing of fezes for men and head and full-body coverings for women.

Since his rise to power, President Erdoğan, on the other hand, has made no secret of his desire to restore Turkey as the leading Sunni power. He is seeking to revive Islam within Turkey and re-establish the caliphate. Permitting Hagia Sophia to become a functioning mosque is a very important symbolic step in establishing Turkey as “a”—if not “*the*”—leading Sunni Islamic state. Just as the Ottomans dominated Sunni Islamic world for centuries, President Erdoğan seeks to return Turkey to that position of leadership and dominance within the Sunni Islamic world.

Converting Hagia Sophia back into a functioning mosque is a key symbolic step in that direction. It further de-secularizes the Turkish state and reinforces the concept of Islamic dominance over Christianity. The *Jerusalem*

*Post* noted that Erdoğan “linked the decision [regarding Hagia Sophia] to reviving Islam from Bukhara in Uzbekistan to Andalusia in Spain.”<sup>1</sup> Such terminology indicates a broad, assertive religious agenda.

**REPORTS RE COUNCIL OF STATE**  
**DECISION & PRESIDENTIAL DECREE:**

“President Recep Tayyip Erdoğan signed a decree on July 10[ , 2020] opening Istanbul’s Hagia Sophia as a mosque just minutes after Turkey’s Council of State—the highest administrative court in the country—annulled a 1934 government decree that had turned it into a museum.”<sup>2</sup>

Erdoğan’s decree says that “the decision had been taken to hand control of the Ayasofya Mosque, as it is known in Turkish, to the country’s Religious Affairs Directorate (Diyanet) and reopen it for worship.”<sup>3</sup>

The Council of State’s ruling states: “It was concluded that the settlement deed allocated it as a mosque and its use outside this character is not possible legally.”<sup>4</sup> It further states that “[t]he cabinet decision in 1934 that ended its use as a mosque and defined it as a museum did not comply with laws.”<sup>5</sup>

The American Hellenic Institute (AHI), *inter alia*, has strongly condemned Turkey’s actions.<sup>6</sup> AHI’s President said in a statement that, “[b]y this deplorable act, Turkey adds to its pattern of rejecting international norms, international institutions, laws, and treaties.”<sup>7</sup> In an earlier statement, which AHI issued in response to Turkey’s Council of State’s November 2019 ruling that deemed Chora Church’s museum designation unlawful because a mosque ‘cannot be used except for its essential function’,” it stated that “Turkey has sought to erase its Christian history through genocide, pogroms, and a blatant disregard for religious and cultural heritage and property.”<sup>8</sup>

“For more than nine centuries, Hagia Sophia was the pre-eminent Eastern Orthodox cathedral and seat of the Ecumenical Patriarch. It became a mosque in 1453, was closed in 1931, and since 1935 has operated as a museum.”<sup>9</sup>

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<sup>1</sup> <https://pjmedia.com/news-and-politics/robert-spencer/2020/07/11/why-erdogan-converted-the-hagia-sophia-to-a-mosque-and-why-the-state-department-should-be-concerned-n633141>.

<sup>2</sup> <https://www.duvarenglish.com/culture/2020/07/10/erdogan-signs-decree-opening-istanbuls-hagia-sophia-to-worship-as-mosque/>.

<sup>3</sup> <https://www.duvarenglish.com/culture/2020/07/10/erdogan-signs-decree-opening-istanbuls-hagia-sophia-to-worship-as-mosque/>.

<sup>4</sup> <https://www.duvarenglish.com/culture/2020/07/10/erdogan-signs-decree-opening-istanbuls-hagia-sophia-to-worship-as-mosque/>.

<sup>5</sup> <https://www.duvarenglish.com/culture/2020/07/10/erdogan-signs-decree-opening-istanbuls-hagia-sophia-to-worship-as-mosque/>.

<sup>6</sup> <https://hellenicnews.com/ahi-strongly-condemns-erdogans-decision-to-change-hagia-sophias-status/>.

<sup>7</sup> <https://hellenicnews.com/ahi-strongly-condemns-erdogans-decision-to-change-hagia-sophias-status/>.

<sup>8</sup> <https://hellenicnews.com/ahi-strongly-condemns-erdogans-decision-to-change-hagia-sophias-status/>.

<sup>9</sup> <https://hellenicnews.com/ahi-strongly-condemns-erdogans-decision-to-change-hagia-sophias-status/>.

‘On 9 July 2020, “Turkey’s Council of State . . . beg[an] reviewing a request by a group devoted to reverting Hagia Sophia into a mosque. They [asked the court] to annul a 1934 decision by the Council of Ministers, led by secular Turkey’s founder Mustafa Kemal Atatürk, that turned the historic structure into a museum.”<sup>10</sup>

### **DECISION BY COUNCIL OF STATE:**

It appears from the decision rendered by the Council of State that they have decided that Turkish law generally forbids a building that had once been used as a mosque to be converted to any other use. This appears to reflect a return to tradition and Islamic law and stands in clear opposition to the western view of law adopted by Atatürk and in effect until the rise of Erdoğan and his party to power. Since Erdoğan came to power, he has slowly but inexorably turned Turkey from being a western-oriented state serving as a bridge between East and West to a re-energized Islamic state asserting an increasingly Islamicized agenda.

The discussion in the opinion about Turkish sovereignty permitting Turkey to act in accordance with its own laws and traditions is certainly correct, but converting Hagia Sophia from a museum into a functioning mosque reinforces anti-Christian measures that have occurred in Turkey, among which are the closing of the Orthodox theological seminary in Istanbul, limiting selection of the Ecumenical Patriarch to Turkish nationals, the jailing of a U.S. clergyman for political reasons as well as periodic issues with other church buildings in Turkey.

Further, as a functioning mosque, it is likely that ancient Christian mosaics will once again be plastered over in deference to Muslim religious sensitivities, thereby denying the world community access to invaluable art and cultural treasures from the over nine hundred year period when Hagia Sophia served as an Orthodox cathedral. This defeats the purpose of including Hagia Sophia as a World Heritage Site. Moreover, as shown below, significant foreign funds were sought by (and granted to) the Turkish Government to restore the mosaics in Hagia Sophia. Were they to be plastered over would be a travesty.

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<sup>10</sup> <https://english.alaraby.co.uk/english/news/2020/7/1/museum-or-mosque-turkey-debates-iconic-hagia-sofias-status>.

## OTHER APPLICABLE LAW:

Turkey became a member of the UN on 24 October 1945.<sup>11</sup> Accordingly, it could join the UN Educational, Scientific, and Cultural Organization (UNESCO): “Membership of the United Nations Organization shall carry with it the right to membership of the [UNESCO].”<sup>12</sup>

Turkey joined UNESCO on November 4, 1946<sup>13</sup> and is one of the twenty countries whose ratification made it possible for the Constitution of the UNESCO to come into force.<sup>14</sup>

According to Article I of the UNESCO Constitution, one of the purposes and functions of the UNESCO is to “contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the worlds, without distinction of race, sex, language or religion, by the Charter of the United Nations.”<sup>15</sup>

“To realize this purpose the Organization will . . . [m]aintain, increase and diffuse knowledge . . . [b]y assuring the *conservation and protection of the world’s inheritance* of books, works of art and *monuments of history* and science, and recommending to the nations concerned the necessary international conventions . . .”<sup>16</sup>

Turkey ratified the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention) on 16 March 1983.<sup>17</sup> Article 1 of the World Heritage Convention states that, “[f]or the purposes of this Convention, the following shall be considered as ‘cultural heritage’: **monuments:** architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science . . .”<sup>18</sup>

According to Article 4, “[e]ach State party . . . recognizes that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage

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<sup>11</sup> <https://www.un.org/en/member-states/#gotoT>.

<sup>12</sup> UNESCO Constitution, Article II(1). [http://portal.unesco.org/en/ev.php-URL\\_ID=15244&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=15244&URL_DO=DO_TOPIC&URL_SECTION=201.html).

<sup>13</sup> <https://en.unesco.org/countries/turkey>.

<sup>14</sup> [http://portal.unesco.org/en/ev.php-URL\\_ID=15244&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=15244&URL_DO=DO_TOPIC&URL_SECTION=201.html).

<sup>15</sup> UNESCO Constitution, Article I(1), available at [http://portal.unesco.org/en/ev.php-URL\\_ID=15244&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=15244&URL_DO=DO_TOPIC&URL_SECTION=201.html).

<sup>16</sup> UNESCO Constitution, Article I(2)(c) (emphasis added).

<sup>17</sup> <https://en.unesco.org/countries/turkey>.

<sup>18</sup> World Heritage Convention, Article 1. <https://whc.unesco.org/en/conventiontext/>.

referred to in Articles 1 and 2 and situated on its territory, belongs primarily to that State. It will do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain.”<sup>19</sup>

In addition to adopt policies to protect and conserve cultural heritage under Article 5,<sup>20</sup> each State Party, under Article 6, “recognize[s] that such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate.”<sup>21</sup>

Under Article 11 of the World Heritage Convention, “[e]very State Party . . . submit[s] to the World Heritage Committee an inventory of property forming part of the cultural and natural heritage, situated in its territory and suitable for inclusion in the [World Heritage List].”<sup>22</sup> The Committee establishes the list “[o]n the basis of the inventories submitted by States.”<sup>23</sup> “The inclusion of a property in the World Heritage List requires the consent of the State concerned.”<sup>24</sup> In 1985, the “Historic Areas of Istanbul” were added to the list as having “Outstanding Universal Value” under selection criteria (i), (ii), (iii), and (iv).<sup>25</sup> “The Historic Areas of Istanbul include monuments recognized as unique architectural masterpieces of Byzantine and Ottoman periods such as Hagia Sophia.”<sup>26</sup>

Note that when Turkey ratified the World Heritage Convention in 1983, Hagia Sophia was a museum, not a functioning mosque, and had been a museum for the previous 49 years. Hence, Hagia Sophia was designated a World Heritage Site *as a museum*, whose history included service as an Orthodox cathedral (for more than nine centuries), as a mosque (for more than four centuries), and as a museum (for more than three-quarters of a century). While the first paragraph of Turkey’s Council of State’s opinion correctly points out that Hagia Sophia is not defined as a museum on the official website of UNESCO, the website, in fact, emphasizes Hagia Sophia’s history as a church. And, Turkey has received huge amounts of international funding through UNESCO to conserve Hagia Sophia’s heritage that primarily relates to its history as a church (discussed in the next section).

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<sup>19</sup> World Heritage Convention, Article 4. <https://whc.unesco.org/en/conventiontext/>.

<sup>20</sup> World Heritage Convention, Article 5.

<sup>21</sup> World Heritage Convention, Article 6(1).

<sup>22</sup> World Heritage Convention, Article 11(1).

<sup>23</sup> World Heritage Convention, Article 11(2).

<sup>24</sup> World Heritage Convention, Article 11(3).

<sup>25</sup> <http://whc.unesco.org/en/list/356>.

<sup>26</sup> Historic Areas of Istanbul, <http://whc.unesco.org/en/list/356>. *See also*, The Criteria for Selection, <http://whc.unesco.org/en/criteria/>.

## INTERNATIONAL FUNDING RECEIVED BY TURKEY TO CONSERVE HAGIA SOPHIA:

UNESCO's webpage lists Hagia Sophia as one of the "Historical Areas of Istanbul" having "Outstanding Universal Value" and describes it as a "unique masterpiece[] of Byzantine and Ottoman periods, which was designed by Anthemios of Tralles and Isidoros of Miletus in 532-537."<sup>27</sup> Its "vast dome reflects the architectural and decorative expertise of the 6th century."<sup>28</sup> The page further states that Istanbul's historical areas of Outstanding Universal Value include, *inter alia*, "the hippodrome of Constantine, the aquaduct of Valens, the *Justinian churches of Hagia Sophia*, St. Irene, Küçük Ayasofya Mosque (the former church of the Sts Sergious and Chora)."<sup>29</sup> "Hagia Sophia became a model for an entire family of churches and later mosques, and the *mosaics of the palaces and churches of Constantinople* influenced both Eastern and Western art."<sup>30</sup>

Up until 2018 Turkey has been granted \$211,900 in international funding by UNESCO for the conservation of Hagia Sophia and its *mosaics*.<sup>31</sup> In 2000, Turkey received \$30,000 for the "[c]onservation work of the mosaics at Hagia Sophia damaged by the Earthquake on 17 August 1999."<sup>32</sup> In 1999, Turkey requested and received \$5,000 for an exhibition on Hagia Sophia.<sup>33</sup> In 1998, Turkey requested \$106,300, but received \$50,000 for the conservation of the mosaics.<sup>34</sup> In 1994, Turkey requested and received \$110,000 for the restoration of the mosaics of Hagia Sophia.<sup>35</sup> Again in 1994, Turkey requested and received \$20,000 for the "purchase of material and funding of international experts for the restoration of the mosaics."<sup>36</sup> In 1992, Turkey requested and received \$30,000 to "carry[] out analytical studies on materials and structures constituting the dome of the St Sophia, Istanbul and photogrammetric surveys necessary for its conservation."<sup>37</sup> In 1991, it again received \$20,000 for the "[r]estoration works of the mosaics of the dome of St Sophia."<sup>38</sup>

### UNESCO STATEMENT:

**Hagia Sophia: UNESCO deeply regrets the decision of the Turkish authorities, made without prior discussion, and calls for the universal value of World Heritage to be preserved**

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<sup>27</sup> <http://whc.unesco.org/en/list/356>.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* (emphasis added).

<sup>30</sup> *Id.* (emphasis added).

<sup>31</sup> <https://whc.unesco.org/en/soc/3743/>.

<sup>32</sup> <https://whc.unesco.org/en/intassistance/1303>.

<sup>33</sup> <https://whc.unesco.org/en/intassistance/1158>.

<sup>34</sup> <https://whc.unesco.org/en/intassistance/1050>.

<sup>35</sup> <https://whc.unesco.org/en/intassistance/2419>; <https://whc.unesco.org/en/intassistance/679>.

<sup>36</sup> <https://whc.unesco.org/en/intassistance/679>.

<sup>37</sup> <https://whc.unesco.org/en/intassistance/146>.

<sup>38</sup> <https://whc.unesco.org/en/intassistance/555>.

**Paris, Friday 10 July** – The Director-General of UNESCO deeply regrets the decision of the Turkish authorities, made without prior discussion, to change the status of Hagia Sophia. This evening, she shared her serious concerns with the Ambassador of Turkey to UNESCO.

Hagia Sophia is part of the Historic Areas of Istanbul, a property inscribed on UNESCO’s World Heritage List. “Hagia Sophia is an architectural masterpiece and a unique testimony to interactions between Europe and Asia over the centuries. Its status as a museum reflects the universal nature of its heritage, and makes it a powerful symbol for dialogue,” said Director-General Audrey Azoulay.

This decision announced today raises the issue of the impact of this change of status on the property’s universal value. States have an obligation to ensure that modifications do not affect the Outstanding Universal Value of inscribed sites on their territories. UNESCO must be given prior notice of any such modifications, which, if necessary, are then examined by the World Heritage Committee.

UNESCO also recalls that the effective, inclusive and equitable participation of communities and other stakeholders concerned by the property is necessary to preserve this heritage and highlight its uniqueness and significance. The purpose of this requirement is to protect and transmit the Outstanding Universal Value of heritage, and it is inherent to the spirit of the World Heritage Convention.

These concerns were shared with the Republic of Turkey in several letters, and again yesterday evening with the representative of the Turkish Delegation to UNESCO. It is regrettable that the Turkish decision was made without any form of dialogue or prior notice. UNESCO calls upon the Turkish authorities to initiate dialogue without delay, in order to prevent any detrimental effect on the universal value of this exceptional heritage, the state of conservation of which will be examined by the World Heritage Committee at its next session.

“It is important to avoid any implementing measure, without prior discussion with UNESCO, that would affect physical access to the site, the structure of the buildings, the site’s moveable property, or the site’s management,” stressed Ernesto Ottone, UNESCO’s Assistant Director-General for Culture. Such measures could constitute breaches of the rules derived from the 1972 World Heritage Convention.<sup>39</sup>

The ACLJ is mobilizing our legal and Government Affairs teams to protect this historic Christian Church. Learn more at <http://aclj.us/HagiaSophia>.

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<sup>39</sup> <https://en.unesco.org/news/unesco-statement-hagia-sophia-istanbul>.