

Translation from German original (<http://dipbt.bundestag.de/dip21/btd/17/091/1709185.pdf>)  
by Abdulmesih BarAbraham

## **Petition**

**The Members of Parliament Volker Kauder, Ute Granold, Erika Steinbach, Arnold Vaatz, Frank Henry, Peter Altmaier, Michael Brand, Michael Frieser, Jürgen Klimke, Stefan Müller (Erlangen), Klaus Brähmig, Ralph Brinkhaus, Marie-Luise Dött, Ingrid Fischbach, Dr. Mary Flachsbarth, Dr. Egon Jüttner, Dr. Carsten Linnemann, Christian Schmidt (Fuerth), Gerda Hasselfeldt and the Parliamentary Group of the CDU/CSU as well as Marina Schuster, Serkan Tören, Pascal Kober, Dr. Stefan Ruppert, Rainer Brüderle and Parliamentary Group of the FDP.**

### **Ensuring continued existence of the monastery of Mor Gabriel**

The Bundestag may decide:

#### **I. The German Bundestag asserts:**

The Syrian Orthodox monastery Mor Gabriel is located in southeastern Turkey near the Syrian border, in the Turkish province of Mardin and in the district of Midyat (region of Tur Abdin). The monastery and the local community see themselves threatened in their existence. It is feared that the monastery of Mor Gabriel could be confiscated and rededicated based on court cases pending since several years. This threatens the break of a cultivated liturgical and monastic tradition of more than 1600 years. Since the monastery has a crucial role in the maintenance of Syrian Orthodox Church liturgical and everyday language and as an institution ensures the continuity of the heritage of the Syrian-Orthodox population, the culture of the Syrian Orthodox Christians remains at risk as a whole.

A judgment of the Turkish Cassation Court became legally binding in mid-July 2011 regarding the so-called forest lawsuit. The judgment confirms the negative decision from the first instance issued on June 24, 2009 against the monastery of Mor Gabriel. According to that and to the new cadastre registration, approximately 336 000 m<sup>2</sup> of land previously utilized by the monastery are classified as forest and therefore according to the Turkish constitution automatically state property. The monastery appealed against the decision and called the European Court of Human Rights on August 18, 2011, citing freedom of religion and the right of ownership.

In the criminal case against the chairman of the monastery foundation, Kyriakos Ergun, the

charge in context of the forest lawsuit is saying that Kyriakos Ergün has built a wall on state owned land ("forest"), thus violating criminal provisions of the Forest Act. A scheduled trial date for October 17, 2011 was initially shifted to January 11, 2012 and then postponed twice - to March 7, 2012 and then to April 25, 2012 in order to allow the court to visit the site.

In the so-called Treasury lawsuit, the Turkish Court of Cassation by a judgment from December 7, 2010 nullified the positive decision for the monastery of Mor Gabriel reached at the first instance on June 24, 2009 and relegated the process back to court in Midyat. A recent court session (hearing) took place on October 10, 2011. As a result, the decision disadvantageous to the monastery was rejected from the initial court [of Midyat] again and the case once again was referred to the Court of Cassation. Next steps are not expected until at least three to five months from now. For the prehistory of this case: At the end of January 2009, the local treasury of the Midyat municipality in charge raised claims that twelve of the monastery-owned plots are non-arable land and therefore have been claimed as state property. According to the lawyers of the monastery, the Court of Cassation had ignored documents from the years 1936 / 1937 in its decision which prove the ownership by the monastery. Furthermore, documents submitted to prove the ownership of the property are no longer included in the court dossier.

The monastery itself is claimant in another case (so-called border process) against the cadastral registration. Subject matter of the complaint were the administrative borders with the neighboring villages. In this procedure, the court in charge issued a judgment positive for the monastery on May 22, 2009 . In an appeal in mid-August 2010, however, the Cassation Court stated this as a jurisdictional error of competency and repealed the positive first-instance judgment for the monastery. Not the civil court, but the Administrative Court has jurisdiction over the case. The question of jurisdictional competency is still not clarified conclusively.

Another lawsuit has been initiated by chiefs of surrounding villages, which belong to the sphere of influence of a Kurdish feudal lord and former (until June 2011) AKP deputy (Party for Justice and Development) in the Turkish Parliament. These criminal charges of "illegal land grab" against the chairman of the community foundation, Kyriakos Ergün, based on the construction of a 4 km long boundary wall, are related to the aforementioned "forest" lawsuit; the plaintiff classify large parts of the monastery lands as forest and thus state property. A decision in this case is expected shortly as now the judgment in the "forest lawsuit" is legally binding.

Following the announcement of the judgment in the "Treasury case", diplomatic protests within the EU were aligned and carried out by the Head of EU Delegation in Ankara in March 2011. The Deputy Prime Minister Bülent Arınç asserted in this context that the Turkish government was interested in a practical and pragmatic solution. He spoke of the possibility that the Turkish government, in the event of a final adverse court decision, could lease the land for no fee and for a longer period to the monastery. However, such an arrangement is rejected by the monastery, pointing to the centuries-long possession of the affected land.

In recent years, again and again, representatives of the Federal [German] Government and the German Parliament have raised attention to the problems of the monastery and emphasized these in discussions with the Turkish Government, without achieving a substantial improvement of the situation. During the last legislative term, also the parliamentary groups of the CDU / CSU, SPD and FDP expressed their joint support for the monastery with the petition "Protection of the Monastery of Mor Gabriel" (Bundestagsdrucksache 16/12866). The Metropolitan and other representatives of the monastery expressed gratitude several times to politicians and the churches in Germany for their solidarity.

The German Bundestag welcomes some legislative improvements for religious minorities that have been achieved in recent times. To be mentioned are the celebrations on the occasion of the Paulus Year 2008/2009 at the Apostle's birth place in Tarsus with the participation of international pilgrims. Further steps were permits for worships of the Greek Orthodox Christians in the former monastery of Sümela and for the Armenian Christians in the church on the island of Akdamar in the years 2010 and 2011, as they will now take place once a year. Also with regards to the foundation law, significant improvements happened since 2008. Last but not least, the legally binding decree from August 27, 2011 is to be welcomed, too. This [law] gives religious community foundations the right, within twelve months after coming into effect, to request the return of property which was detracted from them after 1936 by expropriation. Alternatively, a compensation claim to the present market value exists.

Unfortunately, the hopes of the German Parliament that Turkey will make sweeping efforts towards the boundless respect of religious freedom in order to appreciate the religious diversity and the rich cultural heritage of the country and maintain it, have not been met. In particular, there is a lack of impact in practice that leads to an improvement in the situation of the monastery of Mor Gabriel.

Less than 100,000 Christians of all denominations live in Turkey today. This number is still in decline in recent years, too. The restrictive laws interfering strongly in the freedom of religion threaten the survival of Christian communities.

Despite some small progress in recent years religious freedom in Turkey remains still greatly restricted. The way of dealing with non-Muslim minorities does not meet the standards of the European Union. The progress report of the European Commission has been listing deficits for years. Despite a decision by the European Court of Human Rights from 2007 (Case Hasan and Eylem Zengin), an exemption from the mandatory Sunni Muslim religious classes is still not easy to reach in practice. Unlike the case of the Jewish, Greek Orthodox and Armenian citizens, Turkey does not accept the Syrian Orthodox Christians in the status of "non-religious minority" within the meaning of the Treaty of Lausanne; therefore they have no right to run their own schools for Aramaic language. Religious minorities are not permitted to train their own spiritual offspring. The religious affiliation is recorded in personnel documents and provides an opportunity for a variety of

discrimination in everyday's life - the now possible request of amendment of the registration (including leaving the field blank) has the same consequences. Again and again, violence against other believers and their houses of worship are observed. Although "proselytization", the public propagation of faith, is no longer forbidden formally since the repeal of Article 163 of the Turkish Criminal Code, among other things, the state acts still in a manner as if the item was still in force and there are continued allegations of proselytizing and arraignments.

The preservation of the monastery of Mor Gabriel by the Turkish state would be a strong signal of the Turkish state with regards to the treatment of the religious minorities, particularly of the Christian minority in the country. The comprehensive implementation of human rights and of the Copenhagen criteria is a prerequisite for acceptance into the EU.

## II. The German Parliament calls on the Federal Government,

1. to, in consultation with the Member States of the European Union, advocate towards the Turkish government to permanently guarantee the livelihoods and the prospects for existence of the monastery of Mor Gabriel and grant the Syrian-Orthodox minority in their country the rights in accordance with the European Human Rights (ECHR);
2. to, in consultation with the Member States of the European Union, demand from the Turkish government to continue to achieve full compliance with its obligations for religious minorities under Article 18 of the International Covenant on Civil and Political Rights and Article 9 of the ECHR, in order to ensure compliancy also in accordance with other international agreements that religious, non-Muslim minorities have legal personality and can exercise their full rights as recognized minorities;
3. to address deficits in the area of religious freedom in context of the relations with Turkey and to appeal to the European Commission to continue to comment in detail on the subject in the progress report.

Berlin, March 27. 2012

**Volker Kauder, Gerda Hasselfeldt and Parliamentary Group, Rainer Brüderle and Parliamentary Group**