

Diyanet wins the church lottery from Mardin

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After Mardin became a Metropolitan Municipality, its villages were officially turned into neighbourhoods as per the law and attached to the provincial administration. Following the legislative amendment introduced in late 2012, the Governorate of Mardin established a liquidation committee. The Liquidation Committee started to redistribute in the city, the property of institutions whose legal entity had expired. The transfer and liquidation procedures are still ongoing.

In 2016, the Transfer, Liquidation and Redistribution Committee of Mardin Governorate transferred to primarily the Treasury as well as other relevant public institutions numerous churches, monasteries, cemeteries and other assets of the Syriac community in the districts of Mardin. The Mor Gabriel Monastery Foundation appealed to the decision yet the liquidation committee rejected their appeal last May. The churches, monasteries and cemeteries whose ownerships were given to the Treasury were then transferred to the Diyanet.

Inquiries of the Mor Gabriel Monastery Foundation revealed that dozens of churches and monasteries had been transferred to the Treasury first and then allocated to the Diyanet. And the cemeteries have been transferred to the Metropolitan Municipality of Mardin. The maintenance of some of the churches and monasteries are currently being provided by the Mor Gabriel Monastery Foundation and they are opened to worship on certain days. Similarly, the cemeteries are still actively used by the Syriac community who visits them and performs burial procedures. The Syrians have appealed to the Court for the cancellation of the decision.

Cancellation cases

"We started to file lawsuits and in the meantime our enquiries continued" said Kuryakos Ergün, the Chairman of Mor Gabriel Monastery Foundation. Ergün said they would appeal to the court for the cancellation of nearly 30 title deed registries.

Speaking to Agos, Ergün made the following remarks:

"For years, minority foundations could not acquire property in Turkey. Then legislative amendments were introduced in 2002 upon which we engaged in a number of initiatives. We were able to have some of the title deeds registered in the name of our foundation. And for others, the legal process was ongoing. It was not possible for us to follow-up all the title deeds. In the meantime cadastral works were carried out as well. At the cadastral offices, they did not show any sensitivity about the legislative amendment enabling the acquisition of property by minority foundations. In the face of the situation, we are filing lawsuits to the extent possible. In places where we couldn't follow up the situation, some monasteries and other property were given to the legal entity of the Village.

"After Mardin became a Metropolitan municipality the governorate established a liquidation committee. The liquidation procedures began and many places were redistributed. We were expecting them to be transferred to the municipality however they transferred the assets to the Treasury instead. The Metropolitan Municipality of Mardin took the decision to Court. However we assume that the cases were dropped after a trustee was appointed.

We have also filed appeals to the Commission numerous times and taken witnesses however they told us that legally it was not possible to give it to us and that it's transfer procedures to the Treasury had been completed. On the other hand the Treasury gave the church monastery and the cemetery to the use of Diyanet. Here we are talking about around 50 churches and monasteries. We are still working on identifying the properties transferred. We will file an application to the directorate General of Foundations and will also file a court case. So far we have filed court cases for around 20 title deeds and we will do the same for around 30 more."

Problem of registration

Foundation of Mor Gabriel Monastery, filed a court case at the Civil Court of First Instance in Mardin against the registration of title deed records in the name of Treasury. In the petition filed to the court it has been noted that the properties subject to the court case had been, since ancient times, under the possession and ownership of the Foundation and the significance of Mor Gabriel Monastery has been underlined; "Its history dates back to the 4th century BC. The Monastery is one of the oldest monasteries in the world which is still active and is one of the most ancient religious centers of Syriacs and the entire world with its history of more than 1600 years. Midyat Syriac Deyrulumur Mor Gabriel Monastery Foundation had been established on the basis of the imperial order of Sultan Abdülmecid Han during the Ottoman Empire in "1267 Islamic calendar (1/1852 Gregorian calendar) and its status was redefined, became a legal entity, on the basis of the Foundations Law of 13.06.1935 with no 2762 . The Foundation had been recognised as "a religious community foundation" on the basis of a Regulation issued in 2002 by the Directorate General of Foundation and was included in the List of Religious Community Foundations drafted same year. Foundations that I'm not included in this list are in not recognised as religious community foundations."

It has been underlined in the petition that the properties which have been registered in the name of the Treasury, have so far been protected and maintained by the Foundation.

Violation of Lausanne

The petition has made a reference to the Lausanne Treaty underlining that the registration in the name of the Treasury has constituted a violation of the Treaty;

"According to Article 42/3 of the Lausanne Treaty the Turkish Government undertakes to grant full protection to the churches, synagogues, cemeteries, and other religious establishments of the above-mentioned minorities (non-Muslims). All facilities and authorisation will be granted to the pious foundations, and to the religious and charitable institutions of the said minorities at present existing in Turkey, and the Turkish Government will not refuse, for the formation of new religious and charitable

institutions, any of the necessary facilities which are granted to other private institutions of that nature. By the same token according to Article 37 of the Lausanne Treaty, Turkey undertakes that the stipulation's contained in Article 38 to 44 shall be recognised as fundamental laws, and that no law, no regulation, nor official action shall conflict or interfere with these stipulation's, nor shall any law, regulation, nor official action prevail over them. Evidently this erroneous ownership status is in explicit violation of the Lausanne Treaty which is the founding Treaty of the Republic of Turkey."

The petition has also made reference to the precedents of the Civil Chamber of the Court of Cassation as well as the European Court of Human Rights and its additional protocols.

Source: <http://www.agos.com.tr/en/article/18772/diyanet-wins-the-church-lottery-from-mardin>