



Changing the Use of the *Hagia Sophia* Museum to a Mosque from the Perspective of International Law

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Abstract

On July 24, 2020, after the Turkish Supreme Court's decision, the Turkish media announced the performance of Friday prayers in the Hagia Sophia Mosque. During the reign of Sultan Mehmed, known as Mehmed the Conqueror, following the defeat of the Eastern Roman Empire (1453 AD), the church was converted into a mosque by his decree, and he ordered that the paintings and sculptures inside the Hagia Sophia be covered so that Friday prayers could be held there. After the proclamation of the beginning of the Republic of Turkey, the first president, Mustafa Kemal Atatürk, issued an order in 1935 to convert the Hagia Sophia Mosque into a museum. This issue has since caused discontent among Islamists and also attempts to change it back into a mosque. Until the coming power of Recep Tayyip Erdogan, the current president of Turkey, he had promised to change the Hagia Sophia in his election promises, he officially proposed this proposal in 2019, and the Supreme Administrative Court of Turkey issued a ruling, annulling the Turkish government's 1935 decree based on converting the Hagia Sophia Mosque into a museum and declaring that this building had always been a mosque and should not have been changed to a museum. There are two views in the media and legal literature regarding the possibility of changing the use of the Hagia Sophia Museum into a mosque: one in favor and one against.

Properties inscribed on the World Heritage List are the common heritage of humanity. And the international community is committed to preserving it for future generations. Changing, restoring, or developing a heritage on the UNESCO World Heritage List is something, with its conditions, that has been allowed, and it has happened. Governments must ensure that such changes do not affect the outstanding universal values of the heritage in question. Some governments may unilaterally change a World Heritage Site's statute without prior discussion and negotiation with relevant UNESCO bodies. Recently, the Turkish government converted the Hagia Sophia Museum into a mosque, by the decision of the Turkish Supreme Administrative Court, which caused a lot of international criticism. This article examines the conversion of the Hagia Sophia Museum to a mosque from the point of view of the proponents, opponents, and relevant international rules, as well as the issue of outstanding universal



values. According to the research, it is possible to change the statute of a heritage inscribed on the World Heritage List, if it does not damage the outstanding Universal values of the heritage because there are similar examples of change and the Convention does not prohibit such actions.

The Hagia Sophia is part of the current Hagia Sophia and was renovated, expanded, and converted into a mosque during the reign of Sultan Mehmed and other rulers. According to Article 6 of the 1972 Convention, Turkey's decision is based on its sovereign rights. However, invoking Sultan Mehmed's endowment letter is not permissible under international law. Christians have not been allowed to perform religious ceremonies since almost the time when Sultan Mehmed converted this place into a mosque, and this issue is not new and related to the current Turkish era. In contrast, Turkish Muslims also demand their religious and cultural rights. In terms of respect for the sacred and religious site, according to many Turkish officials, this building is to be preserved as it was and no traces of it are to be removed or destroyed. And Christians also have the right to enter and visit it. According to statements by Turkish officials, it seems that UNESCO's concerns can be addressed, and even by making the entrance to this mosque free, Turkey's goodwill towards physical access to the site is proven. Regarding the violation of the Convention, it seems that Turkey has not violated the Convention. Considering the examination of the criteria assigned to Hagia Sophia and also the statements of the Turkish authorities that they are aware of their obligations towards the Convention, the preservation of Hagia Sophia as before, and the implementation of some minor changes such as covering some mosaics with curtains or lights, the outstanding universal values of this building will not be affected. Change in use or development, or change of name of the building, is something that has happened in the case of buildings registered on the cultural heritage list. Such as the Cathedral of St. John of Valletta in Malta and the Mosque of the Cathedral of Cordoba in Spain. Even in the absence of similar cases of change or development of the use of a building registered on the World Heritage List, by examining the criteria of the outstanding universal values of Hagia Sophia, the change in use of this building will not lead to the loss of its outstanding universal values. The only objection and problem that Turkey faces is the issue of Turkey's failure to inform UNESCO in advance about the change of use of the museum. Turkey's violation in this matter is evident, but it seems that this violation does not affect the outstanding universal values of this building and requires consideration by the World Heritage Committee.

Keywords: Hagia Sophia ,Sovereignty, Sultan Muhammad Endowment, UNESCO, Outstanding Universal Value.

References

1. Ajli Lahiji, Mahshi, Ahsan Nejad, Masoud. (2015). The Effects of the Continued Occupation of Palestine on Third States; Possible Positions of the International Court of Justice. *Contemporary Comparative Law Studies*, 15(34), 1-28. Doi: 10.22034/law.2024.58212.3314.[in Persian]
2. Anadolu Agency (2010). Turkey's Supreme Administrative Court annuls decision to convert Hagia Sophia into a museum, retrieved from <https://xoli.ir/4m> (2010, August 3)
3. CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion).
4. Cleere, Henry. The concept of 'outstanding universal value' in the World Heritage Convention. *Conservation And Management of Archaeological Sites*, volume 1.1996.
5. Convention Concerning The Protection of the World Cultural and Natural Heritage.
6. Dailysabah(2020). Turkey meets UNESCO obligations in change of Hagia Sophia's status, Jul 13. <https://www.dailysabah.com/politics/turkey-meets-unesco-obligations-in-change-of-hagia-sophias-status/news> (20 jul,2020).
7. Foroughi, Fadlallah, Mohammad Hadi Sadeghi and Keyvan Ghani, (2010), The consequences of registering cultural heritage on the UNESCO World Heritage List for the exercise of sovereignty and responsibility of governments", *Strategic Studies Quarterly*, 23(2), 181-212. [in Persian]
8. Franceculture (2020). le Président Erdoğan ordonne la reconversion de Sainte-Sophie en mosquée, 2 Jul. <https://www.franceculture.fr/geopolitique/a-istanbul-la-tres-dispute-sainte-sophie-va-t-elle-etre-reconvertie-en-mosquee> (26 Jul, 2020)
9. haber7 (2020). Bakan Çavuşoğlu paylaştı: İşte Sultan Fatih'in Ayasofya Vakfiyesinin tercümesi, <https://www.haber7.com/guncel/haber/2984397-bakan-cavusoglu-paylasmisti-iste-sultan-fatihin-ayasofya-vakfiyesi-tercumesi/?detay=1> (26 oct,2020).
10. Hashemi, Seyyed Mohammad Ali (2013), Holy Places in Islamic Teachings and International Law, *Miqat Hajj Scientific-Promotional Quarterly*, 24(93), 21-43 (Fall 2015.) [in Persian].
11. https://fr.wikipedia.org/wiki/Co-cath%C3%A9drale_Saint-Jean_de_La_Valette (12 octobre 2020).
12. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/ReligionOrBelief.aspx> (26 oct, 2020).
13. i24news (2020). Turquie: des mosaïques chrétiennes de Sainte-Sophie recouvertes pendant les prières musulmanes <https://www.i24news.tv/fr/actu/>



- international/moyen-orient/1595235489-turquie-des-mosaiques-chretiennes-de-sainte-sophie-recouvertes-pendant-les-prieres-musulmanes (26Jul, 2020)
14. independent (2020). St John's Co-Cathedral Museum Extension projected to be completed by 2018, <https://www.independent.com.mt/articles/2016-08-07/local-news/St-John-s-Co-Cathedral-Museum-Extension-projected-to-be-completed-by-2018-6736162065>(26 Jul, 2020).
 15. Maltatoday (2017). St John's Co-Cathedral Museum closed for extension and refurbishment works, https://www.maltatoday.com.mt/arts/cultural_diary/-76058/st_johns_cocathedral_museum_closed_for_extension_and_refurbishment_works#.X4Q2U9AzYdU(12oct, 2020).
 16. Marshall J. Breger, Yitzhak Reiter and others. Sacred Space in Israel and Palestine, 1nd ed.(Routledge, USA and Canada.2012).
 17. Mashhadi, Ali, (2015), A Reflection on Approaches to Protecting Cultural Heritage from the Perspective of Hekmati Jurisprudence, *Contemporary Comparative Law Studies*, 6(10), 127-144.[in Persian]
 18. Milliyet (2020). UNESCO'yamaddemaddeAyasofyacevabi, <https://www.milliyet.com.tr/gudem/unescoya-madde-madde-ayasofya-cevabi-6257026> (Jul 27,2020).
 19. Razavi News (2019). Will Erdogan's action in converting "Hagia Sophia" into a mosque destroy the relations between Islam and Christianity? Retrieved from <https://www.razavi.news/fa/report/58336> (2019, August 1)
 20. Smithsonianmag (2020).Turkey Controversially Converts Hagia Sophia From Museum Into Mosque, <https://www.smithsonianmag.com/smart-news/turkey-turns-hagia-sophia-museum-mosque-drawing-criticism-180975300/> (26Jul, 2020).
 21. Terman, Ali Akab, Malkooti, Seyyed Hossein. (2015). "A Reflection on the Concept of the Right to Vote with the Approach of Promoting the Theoretical Foundations of the Right to be Elected as Members of Islamic City and Village Councils in the Light of the Constitution". *Contemporary Comparative Law Studies*, 14(31), 83-111. doi: 10.22034/law.2023.40448.3046.
 22. The Operational Guidelinesfor the Implementation ofthe World Heritage Convention 2019, Paragraph 49
 23. Unesco (2020). <https://en.unesco.org/news/unesco-statement-hagia-sophia-istanbul>, (21Jul, 2020).
 24. Unesco. <https://whc.unesco.org/en/decisions/3232> (3 oct, 2020).
 25. Unesco. <https://whc.unesco.org/en/list/313> (2 oct,2020).