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IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”

Report of the Office of the High Commissioner for Human Rights on the question of human rights in Cyprus

Note by the Secretary-General

In its decision 2/102, the Human Rights Council requested the Secretary-General and the High Commissioner for Human Rights to “continue with the fulfilment of their activities, in accordance with all previous decisions adopted by the Commission on Human Rights and to update the relevant reports and studies”. On the current issue of the question of human rights in Cyprus, a comprehensive annual report (E/CN.4/2006/31) was submitted to the sixty-second session of the Commission on Human Rights pursuant to its decision 2005/103. The information in the report remains relevant. The Office of the High Commissioner for Human Rights understands decision 2/102 as preserving the previous annual reporting cycle in respect of this issue until otherwise decided by the Council. The current report to the Human Rights Council accordingly addresses developments in respect of the question of human rights in Cyprus over the last year.

The annex to the present report, prepared by the Office of the United Nations High Commissioner for Human Rights, is herewith transmitted to the Council pursuant to this decision. It covers the period up to 28 December 2006 and provides an overview of human rights issues in Cyprus based on such information as is available.

In the absence of an OHCHR field presence in Cyprus, or any specific monitoring mechanism, the United Nations is not in a position to provide a systematic overview of the situation of human rights in Cyprus.

Annex

REPORT OF THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS ON THE QUESTION OF HUMAN RIGHTS IN CYPRUS

I. OVERVIEW

1. As of December 2006, Cyprus remained divided, with a buffer zone maintained by the United Nations Peacekeeping Force in Cyprus (UNFICYP). The UNFICYP mandate, which dates back to 1964, has been extended by successive Security Council resolutions. By resolution 1728 (2006) of 15 December 2006, the Security Council decided to extend the mandate for a further period ending 15 June 2007.

II. HUMAN RIGHTS CONCERNS

2. The persisting division of Cyprus has consequences in relation to a number of human rights issues on the whole island, including freedom of movement, human trafficking activities, discrimination, property rights, human rights pertaining to the question of missing persons, the right to education and freedom of religion.

3. With regard to freedom of movement, the easing of restrictions by the Turkish Cypriot authorities in 2003 has resulted in approximately 12 million crossings since then.¹

4. In August 2005 the Green Line Regulation was amended by the European Union to include a provision for three additional crossing points in the western part of the island, bringing the total number to seven. However, agreements have yet to be reached on the modalities of opening four of them. The opening of a crossing at Ledra Street in the old town of Nicosia, currently under discussion, would greatly facilitate the bringing together of the two communities.

5. Restrictions on freedom of movement persist in particular with regard to the military zones in the northern part of the island. Access to a number of villages located in these zones is restricted. The Maronite village of Ayia Marina remains completely inaccessible, while access to Asomatos remains severely limited. Restrictions on visitors to these villages also apply to relatives of the inhabitants. In the case of Ayia Marina, its original inhabitants have, to date, not been able to visit their village since 1974.

6. Despite the fact that the opening of the crossing points has allowed individuals from either side to meet freely, the United Nations umbrella remains important for sensitive humanitarian and other meetings. There has been a disturbing trend with regard to the implementation of policies that impinge on the ability of organizations and individuals to carry out activities and projects designed to contribute to bicommunal contacts and cooperation throughout the island. As a result, the United Nations, in particular the United Nations Development Programme (UNDP), has been hampered in the implementation of projects

¹ The figure does not include crossings in Pergamos since 1 September 2006.

that benefit both Greek Cypriots and Turkish Cypriots in areas of common concern. The Security Council, in the eighth preambular paragraph of its resolution 1728 (2006) of 15 December 2006, also expressed concern about the obstruction of bicomunal activities, which undermines the efforts of groups and individuals to contribute to the peace process and build trust across divisions.

7. A number of human rights violations, some serious, remain unpunished. In many cases this is due to lack of cooperation between the two sides, in particular with regard to the law enforcement agencies, as well as to ineffective investigations by the authorities. There is a pressing need to deal with this issue. Additionally, as described in my report of 1 December 2006 to the Security Council on the United Nations operation in Cyprus (S/2006/931), which covers developments from 18 May to 27 November 2006, a rising trend of criminal activity in the buffer zone, in particular human trafficking activities, continues to be reported by both sides. According to information provided by the two sides, fewer individuals have been crossing the buffer zone as illegal immigrants, while the number of arrests for human trafficking has increased.

8. UNFICYP has received complaints of systematic discrimination from the representative of the Turkish Cypriot community in Limassol concerning immigration and deportation related cases, delays in issuance of government documents and permits, and difficulties for Turkish Cypriots to secure citizenship for a foreign spouse. These cases can be aggravated by the fact that official documents and application forms are not available in Turkish, even though Turkish is an official language of the Republic as per the Constitution of 1960. In a report made public on 16 May 2006, the European Commission Against Racism and Intolerance of the Council of Europe had recommended that the "Cypriot authorities pay attention and address problems of racism and racial discrimination facing Turkish Cypriot citizens".²

9. An incident of particular concern, reported on 22 November 2006 and mentioned in my latest report on the United Nations operations in Cyprus (S/2006/931), involved an attack by 15-20 Greek Cypriot youths on a group of Turkish Cypriot students on the grounds of the English school, located on the Greek Cypriot side of Nicosia. Although President Papadopoulos issued a statement condemning the attack shortly after its occurrence, no judicial action is known to have been taken to date.

10. Property continues to be an extremely sensitive issue, with the trend of increasing cases of litigation continuing and the situation in Varosha remaining unchanged (E/CN.4/2006/31, para. 7). Hundreds of Greek Cypriot claims against Turkey for loss of property rights in the north are still pending before the European Court of Human Rights. At the same time, a number of Turkish Cypriot property cases have been taken to courts in the south. A few examples of current legal proceedings are mentioned in the paragraphs below.

11. In the case of *Cyprus v. Turkey* (2001), the European Court of Human Rights had found a continuing violation of the property rights of displaced Greek Cypriots. In a judgement

² CRI (2006) 17, para. 82.

of 22 December 2005 in *Xenides-Arestis*, the Court required Turkey to introduce within three months an effective remedy, including possibilities of restitution. In a further judgement, on just satisfaction in this latter case, the Court noted that the compensation and restitution mechanism subsequently introduced by the Turkish authorities had in principle taken care of the requirements of its 2005 judgement. At the same time, it underlined that it was unable to address the effectiveness of this remedy in general since the parties had failed to reach an agreement on the issue of just satisfaction and that the applicant could not be expected to have recourse to the new mechanism at this early stage. This judgement is, however, not yet final; it may still be referred to the Grand Chamber.

12. Meanwhile, the implementation of the judgement in the *Loizidou v. Turkey* (1996) case, in which the European Court of Human Rights ruled that Ms. Loizidou, and consequently all other refugees, have the right to return to their former properties, has been regularly examined by the Committee of Ministers, and the measures to be taken are still being discussed.

13. In the British High Court case of *Orams-Apostolides*, 6 September 2006, the High Court in London backed an appeal against the judgement of a court in Cyprus to return land to its original Greek Cypriot owner. The Greek Cypriot owner of the property in question appealed this decision, and the matter is ongoing. Concerning Turkish Cypriot property south of the buffer zone, under current Republic of Cyprus law, Turkish Cypriots are obliged to reside for six months in the south prior to reclaiming any abandoned property, either by return or compensation. In early 2007, the Supreme Court rejected an appeal by a Turkish Cypriot relating to his father's land in the south, based on the fact that he was still residing in the area north of the buffer zone. A number of cases in this regard are currently pending at the European Court of Human Rights.

14. Political will has been demonstrated by all concerned with regard to the settlement of the issue of missing persons within the context of the Committee on Missing Persons (CMP), notably since its meeting of 3 July 2006. In its resolution 1728 (2006) of 15 December 2006, the Security Council, reiterating its call to the parties to assess and address the humanitarian issue of missing persons with due urgency and seriousness, welcomed progress made since the resumption of CMP activities and the appointment of a third member of the Committee, who officially took up his duties in July 2006.

15. CMP has now launched its project on the exhumation, identification and return of remains of missing persons, which is expected to last several years. As of 28 December 2006, 174 remains have been exhumed on both sides of the Green Line. Following the final DNA identification process, the first sets of remains are expected to be handed over to the concerned relatives during the first half of 2007.

16. In 2007 CMP will also resume its investigations into the fate of the missing persons beyond what the exhumation and identification process will yield. In the *Cyprus v. Turkey* case, in their 982nd meeting on 6 December 2006 regarding the issue of missing persons, the Committee of Ministers of the Council of Europe recalled the urgency of obtaining concrete and conclusive results, respecting the requirements of effective investigations stemming from the judgement of the Court both within the framework of the CMP work and by any other appropriate means and took note of the commitment by the Turkish authorities to keep them

regularly informed of progress achieved. However, no information has been received regarding the additional measures required, since the present mandate of CMP does not allow it to address all the aspects of such “effective investigations”.

17. In relation to the right to education, four additional teachers were assigned for the Greek Cypriot secondary school in Rizokarpasso in the north, before the beginning of the academic year in September 2006. The Greek Cypriot authorities still object to textbooks being subjected to Turkish Cypriot “inspection”. It should be noted that the Turkish Cypriot side has revised its history books in accordance with the Council of Europe principles to remove any offensive references, while to date, the Greek Cypriot side has yet to do so.³

18. Turkish Cypriot students continue to be confronted with lack of access to the Erasmus, Socrates and Bologna processes or other European scholarship programmes. The issue has been linked to the non-recognition of Turkish Cypriot universities. The right to education is a fundamental human right, and the current situation prevents the free movement of students and staff and constrains academic freedom, the exchange of ideas and international competition.

19. Regarding the education of Turkish Cypriot children in the south, UNFICYP continued its discussions with the Greek Cypriot authorities, initiated in March 2005, regarding the establishment of a Turkish-language primary school in Limassol, which is not yet operational. The Greek Cypriot authorities committed themselves in March of 2005 (via a letter from the President’s office to the UNFICYP Chief of Mission), and again in September 2005 (in a public statement of the Permanent Representative in New York), to opening a school in the Turkish-language medium for the Turkish Cypriot community in Limassol. Additionally, a Republic of Cyprus Council of Ministers decision in 2005 stipulated that a separate school be established for the Turkish Cypriot community in Limassol. This decision is still to be implemented. At its request, UNFICYP met with the Turkish Cypriot Teachers’ Trade Union on that subject and other issues related to the education of Turkish Cypriot schoolchildren in the south, including curricula and textbooks. The formal proceedings of a lawsuit filed by the Turkish Cypriot Teachers’ Trade Union with the Supreme Court to guarantee Turkish Cypriots the right to an education in their mother tongue began on 5 May 2006 and have been adjourned several times, most recently on 10 November 2006. A new trial date has been set for 6 February 2007.

20. With regard to freedom of movement and worship, the Greek Cypriots and Turkish Cypriots were able in 2006 to access places of worship and participate in pilgrimages and religious events. UNFICYP assisted in arranging six visits by Greek Cypriots and Maronites to the north, and a commemorative event by Turkish Cypriots inside and outside the buffer zone. On 10 and 11 June, in the northern part of the island, 800 Greek Cypriots attended services at Saint Barnabas Church near Famagusta, and on 23 July, for the first time since 1974, 300 Maronites visited the Prophet Elias Monastery in the village of Saint Marina. On 1 and 2 September, 900 Greek Cypriots attended the annual religious services at Saint Mamas

³ Council of Europe CM Recommendation (2001) 15 on *History teaching in 21st century in Europe* adopted by the CM on 31 October 2001.

Church in Morphou. On 8 August, 429 Turkish Cypriots travelled for an annual visit to Kokkina in the western part of the island. In the buffer zone, 773 Greek Cypriots visited Saint Marina Church in Dherynia on 17 July, and approximately 70 Greek Cypriots attended services at Ayios Neophytos Church in Troulli on 27 September.

21. UNFICYP also continued to liaise with both sides on the preservation and restoration of cultural and religious sites on the island, and has been requested by both communities to facilitate the resolution of issues regarding the desecration and deterioration of sites with cultural and religious significance. An arrangement, facilitated by UNFICYP, for the installation of a second priest in the Karpas region in the north has not yet materialized, due to disagreement on the nomination of a suitable candidate.

22. Concern has been raised regarding allegations of discriminatory treatment against Turkish Cypriot prisoners in the southern Nicosia Central Prison. Denial of entry of relatives from Turkey to the Republic of Cyprus in practice impedes prisoners' visitation rights, as does the fact that home visits are only permitted to take place in the Republic of Cyprus. The latter rule also affects eligibility for the more lenient "open prison regime", for which successful conclusion of two home visits is a prerequisite. UNFICYP has intervened, and in at least three cases, inmates who complained are now benefiting from the open prison arrangement.

23. As far as economic rights are concerned, while the gap in the standards of living between the Greek Cypriots and the Turkish Cypriots has narrowed, overall economic opportunities in the northern part of the island remain limited. The situation might change further with the implementation of the European Council regulation of February 2006 on establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community, and the pending adoption of a regulation on direct trade.

III. CONCLUSION

24. **The persisting de facto partition of the island of Cyprus continues to constitute an obstacle to the enjoyment of human rights. The situation of human rights in Cyprus would therefore greatly benefit from the achievement of a comprehensive settlement of the Cyprus problem.**
