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**ANNUAL REPORT OF THE UNITED NATIONS HIGH COMMISSIONER
FOR HUMAN RIGHTS AND REPORTS OF THE OFFICE OF
THE HIGH COMMISSIONER AND THE SECRETARY-GENERAL**

**Report of the Office of the United Nations 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 United Nations 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”. The Office of the United Nations High Commissioner for Human Rights (OHCHR) understands decision 2/102 to preserve the previous annual reporting cycle in respect of this issue until otherwise decided by the Council. On the question of human rights in Cyprus, a comprehensive annual report (A/HRC/7/46) was submitted to the Council at its seventh session in March 2008.

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. It covers the period up to 20 December 2008 and provides an overview of human rights issues in Cyprus based on such information as is available. For the purpose of this report, in the absence of an OHCHR field presence in Cyprus, or of any specific monitoring mechanism, OHCHR relied on a variety of sources with particular knowledge of the human rights situation on the island.

* Late submission.

Annex

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

I. OVERVIEW

1. As of December 2008, Cyprus remains 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. In resolution 1847 (2008), the Security Council decided to extend the mandate for a further period ending 15 June 2009.

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, property rights, human rights pertaining to the question of missing persons, discrimination, freedom of religion, the right to education, human trafficking, and economic rights.

3. With regard to freedom of movement, UNFICYP has recorded approximately 16.5 million crossings since the opening of the four crossing points in 2003.¹ The highly symbolic opening of the Ledra Street crossing point on 3 April 2008 has translated into an important confidence-building factor which has had a significant positive impact on contacts between the two communities, as illustrated by the increased number of crossings since its opening.² In the context of the new process aimed at a comprehensive settlement of the Cyprus problem, although no agreement has yet been reached on the opening of additional crossing points, the leaders of the two communities, Demetris Christofias and Mehmet Ali Talat, requested their respective representatives to consider opening Limnitis/Yeşilirmak and other crossing points during a meeting on 25 July 2008.³

4. Restrictions on freedom of movement persist, in particular with regard to a number of villages located in the military zones in the northern part of the island. Since the last reporting period, there has been no positive change in relation to increased access to the Maronite villages

¹ This refers to the Ledra, Pergamos, Strovilia and Ayios Dometios/Metehan crossing points that were opened in April and May 2003, as noted in the report of the Secretary-General on the United Nations operation in Cyprus (S/2003/572), para. 9. The figure does not include crossings in Pergamos since 1 September 2006, when the Turkish Cypriot side discontinued sharing statistics on the movement of people at that crossing.

² S/2008/353, paras. 15 and 24.

³ S/2008/744, paras. 7 and 8.

of Ayia Marina and Asomatos. Restrictions of movement imposed upon UNFICYP by the Turkish forces reportedly have a negative impact on the delivery of its mandated humanitarian tasks in the northern part of the island.⁴

5. Non-governmental organizations (NGOs), including grass-roots organizations, continue to lead the organization and implementation of bicomunal activities, often with the support of donor organizations. They are also playing an important role in the renewed peace process, with representatives of civil society from both communities appointed to a number of the technical committees which seek to find immediate solutions to everyday problems arising from the division of the island. In an effort to reduce the bureaucratic obstacles hampering the work of NGOs, as noted by Council of Europe Commissioner for Human Rights Thomas Hammarberg in a report on his recent visit to the Republic of Cyprus, the Government of the Republic of Cyprus has engaged in a process to explore the reform of the legal framework in which NGOs operate.⁵ Although a process still to be completed, this has involved learning from the good practices of other countries, promoting capacity-building for civil servants and civil society organizations (CSOs), and creating dialogue amongst interested stakeholders on the reforms that need to take place. A Joint Cross-sector Advisory/Working Group has also been established, which has met regularly during the year under the auspices of the Planning Bureau, with representatives from both the Government and CSOs/NGOs.⁶

6. With regard to CSOs operating in the north of the island, although the procedure for establishing civil society organizations is reportedly simple and inexpensive, registration is not voluntary, and all categories of such organizations are obliged to register themselves. Furthermore, the law applied to CSOs in the northern part of Cyprus would appear to restrict membership in such organizations.⁷ Having encountered difficulties in forming registered legal platforms and networks due to the lack of necessary legal infrastructure, civil society organizations in the north have themselves submitted a new draft law for associations, in an attempt to bring the current regulation in line with international standards and best practices. The European Union (EU) has also launched its Cypriot Civil Society in Action II programme, a grant scheme which aims to strengthen and develop a more vibrant civil society in the Turkish Cypriot community and to foster trust, dialogue and cooperation between the two communities.

⁴ Ibid., paras. 21 and 46.

⁵ Council of Europe, CommDH(2008)36, para. 54.

⁶ Information received from the United Nations Development Programme, Action for Cooperation and Trust in Cyprus.

⁷ Civil society organizations in the northern part of Cyprus are governed by the “Law on unions and associations of the Turkish Communal Chamber (No. 6/1961)”, which was amended on 22 January 1991 by the “Amendment on the Law on unions and associations of the Turkish Communal Chamber”. Article 1 reads: “All types of unions, associations and such organizations that are formed by members who are citizens of the Turkish Republic of Northern Cyprus, for a purpose other than profit making, are subject to this law.” (Information received from the Management Centre of the Mediterranean.)

7. In the context of law enforcement, particularly in relation to trafficking in human beings, the Political Affairs Committee of the Parliamentary Assembly of the Council of Europe notes that organized criminals involved in these activities are able to benefit from the lack of contact and cooperation between the law enforcement agencies from both sides.⁸ There is some concern about trafficking in human beings, in particular trafficking of women for sexual exploitation, as was noted by Mr. Hammarberg in his report.⁹

8. With regard to complaints of discrimination made by the Turkish Cypriot community in Limassol reported last year and principally related to the lack of social services, adequate housing and the difficulty in obtaining identity documents, a committee comprising representatives from different local authorities, including welfare, municipal, education and housing offices, has meanwhile been established in order to improve the coordination of welfare action directed to Turkish Cypriots in the south.¹⁰ The bicomunal social centre established by the municipality of Limassol to address some of these concerns continues to function. Members of the Turkish Cypriot community living in the south, among them Roma, particularly in Limassol and Paphos, have however continued to seek UNFICYP facilitation in obtaining identity documents, housing, welfare services, medical care, and employment.¹¹

9. As in previous years, property rights remain an issue of concern, and property disputes continue to be brought before the European Court of Human Rights (the Court). Meanwhile, the Committee of Ministers of the Council of Europe continues to supervise execution of the judgements of the landmark property cases brought before the Court. On 4 December 2008, the Committee adopted an interim resolution on *Xenides-Arestis v. Turkey*, the pilot case dealing with the issue of displaced persons and violation of their property rights in the north.¹² Concerning the payment of just satisfaction, the Committee of Ministers strongly insisted that Turkey pay the applicant the sums awarded in the judgement of the European Court of 7 December 2006. Also in relation to the issue of the property rights of displaced persons, and in reference to the *Cyprus v. Turkey* (2001) case, the Committee reiterated their insistent invitation to the Turkish authorities to reply to their questions relating to the execution of the judgement of the Court.¹³

⁸ Report on the situation in Cyprus, Political Affairs Committee, Parliamentary Assembly, Council of Europe, 12 September 2008, doc. 11699, para. 48.

⁹ CommDH(2008)36, paras. 32-33.

¹⁰ A/HRC/7/46, para. 8.

¹¹ S/2008/744, para. 30.

¹² Interim resolution CM/ResDH(2008)99.

¹³ Council of Europe Committee of Ministers, Ministers' Deputies' decisions, 1043rd (DH) meeting, 2-4 December 2008.

10. Regarding the *Cyprus v. Turkey* (2001) case, the Committee further noted with satisfaction that according to the explanations given by the Turkish authorities, the restrictions regarding the property rights of the Greek Cypriots departing definitively from the northern part of Cyprus, as well as the inheritance rights of persons living in the southern part in respect of property of deceased Greek Cypriots in the northern part, had been limited. In particular, the Turkish authorities have indicated that the obligation for heirs to start the procedure for administration of their estates situated in the north within a time limit of a year from the date of the death of their relative has been abolished.¹⁴

11. In the case of *Loizidou v Turkey* (1996), where the Court ruled that the applicant remained the legal owner of her property situated in the north of Cyprus, despite having lost control thereof due to lack of access, the Committee of Ministers noted that a first reading of the additional information provided by the Turkish authorities about the offer made to the applicant with regard to her property showed that this offer is in compliance with “law No. 67/2005 for the compensation, exchange or restitution of immovable property”. This law established a compensation and restitution mechanism in the northern part of Cyprus following the judgement of the European Court of 22 December 2005 in the case of *Xenides-Arestis v. Turkey*. Recalling that all the relevant issues of the effectiveness of this mechanism had not been addressed in detail by the European Court so far, the Committee decided to resume consideration of this case at the latest at its June 2009 meeting.¹⁵

12. As for the *Orams v. Apostolides* case, which was referred to the European Court of Justice for a preliminary ruling on 13 September 2007, both parties have presented their cases and are now awaiting the judgement of the Court.

13. Considering the need to ensure respect of ownership rights, also in cases where properties remain unoccupied, reports regarding the ongoing demolition of Greek Cypriot houses in the north raise concern. These include demolitions carried out in the village of Kondemenos in Kyrenia without the consent of the Greek Cypriot owners of the properties.¹⁶ With regard to the demolition since April 2007 of several houses situated in the Karpas region belonging to displaced persons, and taking into account the reply received from the Turkish authorities that such measures are aimed at ensuring public security, the Committee of Ministers is seeking clarification on the procedure followed by the Turkish authorities and the concrete remedies

¹⁴ Regarding cases of definitive departure from the north, according to information received by the Committee of Ministers, a new decision was adopted by the Turkish Cypriot authorities which stipulates that Greek Cypriots who reside in Karpas would continue to enjoy their property after their departure, as long as they maintain “minimal contacts with their property/or ties with the Karpas society”. The Committee of Ministers is awaiting further information and clarification on this matter, Council of Europe Committee of Ministers, Ministers’ Deputies’ decisions, 1043rd (DH) meeting, 2-4 December 2008, public notes on the *Cyprus v. Turkey* case, 25781/94.

¹⁵ See footnote 13.

¹⁶ S/2008/353, para. 27.

available to owners wishing to challenge demolition and to obtain compensation, if appropriate.¹⁷ Concerns continue to be received from the Government of the Republic of Cyprus regarding the trend towards increased construction on the Turkish Cypriot side, as reported last year.¹⁸ The situation in Varosha remains unchanged.

14. Concerning Turkish Cypriot property south of the buffer zone, the applicable law continues to place constraints on the return or compensation of the property of any Turkish Cypriots whose “usual residence” is outside the Republic of Cyprus.¹⁹

15. The Committee on Missing Persons (CMP) has continued to work on its project on the exhumation, identification and return of remains of missing persons. As of November 2008, the remains of 455 individuals had been exhumed from sites on both sides of the buffer zone by the Committee’s bicommunal teams of scientists. The remains of more than 292 missing persons have undergone examination at the Committee’s bicommunal anthropological laboratory in the United Nations Protected Area in Nicosia. Following DNA genetic analysis, the remains of 105 individuals have been returned to their respective families. In October 2008, following a training period which lasted more than two years, full operational responsibility for running the Committee’s anthropological laboratory was handed over to a bicommunal team of Cypriot scientists. This was the culmination of the capacity-building and local ownership dimension of the Committee’s project.²⁰

16. The Committee will resume further investigations into the fate of the missing persons as soon as it is in a position to do so. The Secretary-General has noted his gratitude that the CMP continues its humanitarian work unhindered and in a depoliticized manner, and urged all parties concerned to take every possible action in order to speed up the exhumation process.²¹

17. In relation to the *Cyprus v. Turkey* case, the Committee of Ministers reiterated its evident interest for the work of the CMP, reaffirmed the need for the Turkish authorities to take additional measures to ensure that the effective investigations required by the judgement are carried out, and urged them to provide without further delay information on the concrete means envisaged to achieve this result.²² In the case of *Varnava and others v. Turkey* of 10 January 2008, the Court recalled its previous finding that, whatever its humanitarian usefulness, the CMP did not provide procedures sufficient to meet the standard of an effective investigation into the fate of nine of the applicants who disappeared in life-threatening

¹⁷ See footnote 14 above.

¹⁸ A/HRC/7/46, para. 12.

¹⁹ Law including interim provisions with regard to the administration of Turkish Cypriot properties in the Republic and other related issues.

²⁰ S/2008/744, paras. 39 and 40.

²¹ S/2008/353, para. 37 and S/2008/744, para. 41.

²² See footnote 13 above.

circumstances, as required by article 2 of the European Convention on Human Rights. While the remains of one of the applicants, Savvas Hadjipanteli, had recently been discovered, that did not demonstrate that the CMP had been able to take any meaningful steps beyond the belated location and identification of remains. This judgement is not final, as the case has been referred to the Grand Chamber, where it is currently pending.

18. History books used both in the Greek Cypriot and Turkish Cypriot education systems remain, although to varying degrees, focused on their respective ethnic identity and history. A publication on the comparison of Greek Cypriot and Turkish Cypriot schoolbooks by the International Peace Research Institute notes that although some general weaknesses remain, the publication of three new Turkish Cypriot history textbooks in 2004 (revised in 2005) has led to a significant convergence with the principles set out in the Council of Europe Recommendation (2001) 15 on history teaching in twenty-first century Europe. An additional four history textbooks have since been published for secondary schools. History textbooks used by the Republic of Cyprus have yet to be revised in accordance with the principles therein.²³ The Education Minister of the Government of the Republic of Cyprus has stated that the revision of history books and history education is one of his main priorities within the wider reform of the Greek Cypriot education system.²⁴

19. In relation to the right to education of Greek Cypriots living in the north, the elementary and secondary Greek Cypriot schools in Rizokarpaso continue to function, ensuring full elementary and secondary education for Greek Cypriot children. There are some concerns regarding the appointment procedures of academic staff. In his report of November 2008, the Secretary-General noted that UNFICYP continues to facilitate the appointment of teachers to both schools, and that of the fourteen teachers and other academic staff appointed for the current academic year, eight have been denied permission to teach. No reason was provided by the Turkish Cypriot side for the denial of the appointments.²⁵

20. Turkish Cypriot students still face a lack of access to EU exchange and educational programmes due to the non-recognition by the Republic of Cyprus of the universities in the north. While facilitation by the Cypriot National Youth Agency continues to allow for the participation of a very small number of Turkish Cypriots in the European Union Youth Programme, students do not have access to the Lifelong Learning Programme of the EU.

²³ Yiannis Papadakis, "Narrative, memory and history education in divided Cyprus." A comparison of schoolbooks on the "History of Cyprus", *History and Memory*, vol. 20, No. 2 (2008), p. 128.

²⁴ Circular distributed to all state schools on 27 August 2008, entitled "Targets for School Year 2008-2009".

²⁵ S/2008/744, para. 29.

The European Commission has unsuccessfully urged the Government of the Republic of Cyprus to take a more flexible approach to the issue of the participation of Turkish Cypriots in this programme. To compensate for the lack of mobility that would be offered by the Erasmus programme, the Commission has, under the EU aid programme, set up a community scholarship scheme for the Turkish Cypriot community, allowing students and teachers to spend one year abroad at an EU university or higher education institution.²⁶

21. There have been no further developments on the establishment of a Turkish-language primary school in Limassol, to which the Greek Cypriot side had committed in March 2005. On 26 March 2008, the Supreme Court of the Republic of Cyprus rejected the lawsuit filed by the Cyprus Turkish Teachers' Trade Union, arguing that the Republic of Cyprus had made adequate provisions for the education of Turkish-speaking children through the existing school system and citing the lack of interest from the Turkish-speaking community in Limassol.²⁷

22. The preservation, protection and physical restoration of the cultural heritage on the island is being discussed within the framework of the ongoing negotiations towards a comprehensive settlement of the Cyprus problem. With regard to freedom of movement and worship, the two sides have yet to agree on the modalities to allow free access to sites and icons of religious and cultural significance. They continue to seek UNFICYP facilitation. Concerns remain over obstruction to access to religious sites and commemorative events, as was the case in September 2008, when the Turkish Cypriot side denied use of the Limnits/Yeşilirmak crossing point to members of the Greek Cypriot community of Kato Pyrgos who wished to attend the planned annual prayers at Ayios Mamas church.²⁸

23. There continue to be issues between the two communities in the area of economic rights. Although the EU aid programme for the Turkish Cypriot community, which seeks to encourage economic development in the northern part of the island, has continued, its implementation faces challenges, inter alia in relation to cooperation between the Turkish Cypriot and Greek Cypriot communities.²⁹ The regulation proposed by the European Commission on special conditions for

²⁶ Information received from the Task Force for the Turkish Cypriot Community, Directorate-General for Enlargement, European Commission.

²⁷ S/2008/353, para. 28 and S/2008/744, para. 31.

²⁸ S/2008/744, paras. 34 and 35.

²⁹ Second Annual Report 2007 on the implementation of Community assistance under Council Regulation (EC) No. 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community. Communication from the Commission to the European Parliament and the Council, COM(2008) 551 final.

trade with those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control (the “direct trade regulation”) is still pending adoption in the Council of Ministers of the European Union.

III. CONCLUSION

24. The persisting de facto partition of the island of Cyprus continues to constitute an obstacle to the enjoyment of human rights. It is hoped that the new momentum to achieve a comprehensive settlement of the Cyprus problem will provide avenues to improve the human rights situation on the island, and that relevant stakeholders will actively contribute to achieving enhanced human rights protection and promotion.
