



# General Assembly

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## Human Rights Council

### Sixteenth session

#### Agenda item 2

#### **Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General**

### **Note verbale dated 25 March 2011 from the Permanent Mission of the Turkey to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights**

The Permanent Mission of the Republic of Turkey to the United Nations Office at Geneva and other international organisations in Switzerland presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to transmit herewith the following:

During the 16<sup>th</sup> session of the Human Rights Council on the General Debate on Cyprus Report, some delegations engaged in an effort to attack Turkey with fabricated allegations to intentionally shift the focus away from the Greek Cypriot human rights violations. Therefore, it is deemed crucial to put the records straight as far as the Cyprus problem and the allegations against Turkey are concerned.

The Permanent Mission of the Republic of Turkey would appreciate it if this Note and its attachment\* could be duly circulated as an official document of the 16th session of the Human Rights Council.

The Permanent Mission of the Republic of Turkey avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

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\* Contained in the annex and circulated as received, in the language of submission only.

## Annex

During the 16<sup>th</sup> session of the Human Rights Council on the General Debate on Cyprus Report, some delegations engaged in an effort to attack Turkey with fabricated allegations to intentionally shift the focus away from the Greek Cypriot human rights violations. Therefore, it is deemed crucial to put the records straight as far as the Cyprus problem and the allegations against Turkey are concerned.

1. The “Republic of Cyprus” was established by the 1960 Treaties as a Partnership State of Turkish Cypriots and Greek Cypriots, as co-founders and the Island’s co-owners. However, this Partnership State was destroyed in 1963 by the Greek Cypriots. Therefore, the Cyprus problem is not an issue of “invasion” or “occupation”, but an issue of the renewal of a Partnership between the two co-owners of the Island. By the end of 1963, the Greek armed onslaught against the Turkish community was launched and the ethnic cleansing of the Turkish Cypriot people began. The Turkish Cypriots were systematically excluded from State mechanisms and were forced to live in enclaves corresponding to 3 % of Cyprus, under Greek Cypriot siege despite the deployment of the UN troops in 1964. The situation lasted until 1974, when the military regime in Greece instigated a coup d’état on the Island in order to achieve Enosis (annexation of the island to Greece), which in turn led to the intervention of Turkey in line with her rights and obligations stemming from the 1960 Treaty of Guarantee. Turkey’s intervention prevented the total extermination of the Turkish Cypriot people and annexation of the Island to Greece.

During the Council debate, while the Turkish military presence on the Island was mentioned, the Greek military forces stationed in the South which is far beyond the numbers in the 1960 treaties, have totally been ignored. The Greek Cypriot National Guard (GCNG) was founded contrary to the 1960 “state of affairs” established through international treaties, to which Turkey is also a party. The GCNG has no legal status under the 1960 Partnership State. Many senior positions in the GCNC such as the Commander in Chief and the Chief of Staff are held by officers from Greece. Recently, it was reflected in this week’s Greek Cypriot press that a new Chief of Staff at the level of major general from Greece is appointed replacing a colonel, who was also from the Greek army.

Under a comprehensive settlement in Cyprus, the number of troops of both Turkey and Greece may be reduced according to a calendar in line with the treaties of Guarantee and Alliance, as was the case with the UN Comprehensive Settlement Plan (Annan Plan). Had the latter not been rejected by the Greek Cypriots in 2004, the Turkish forces would have been reduced to the level of 650 soldiers as foreseen in 1960 treaties, less than the contingent envisaged for the forces of Greece (950).

2. The Greek Cypriot regime, which hijacked the “Republic of Cyprus” in 1963, had in fact, established a separate Greek Cypriot state, which represented a true secessionist act. Therefore, it was the Greek Cypriot side which seceded from the Partnership State of 1960, not the Turkish Cypriots as claimed during the 16<sup>th</sup> session of the Human Rights Council. The Greek Cypriot Administration which continues to usurp the government of the 1960 Partnership Republic of Cyprus since 1963 does not represent the island of Cyprus as a whole or the Turkish Cypriots. Neither can they claim any authority, jurisdiction or sovereignty over the Turkish Cypriots.

It is a fact that since the ousting of the Turkish Cypriot side from the partnership structure in 1963, there exist in Cyprus two separate independent political units and administrations based on the free and democratic will of the two respective peoples - that of the Turkish Cypriot people in the North and that of the Greek Cypriot people in the South. This has also been verified in the reports of the UN Secretary-General since 1964, as well as the Geneva Declaration of 30 July 1974. A federal settlement is targeted under the mission of Good Offices given to the UN Secretary General in 1975. Since the High Level Agreements of

1977 and 1979 between the Turkish Cypriot and Greek Cypriot leaders, bi-zonality, bi-communality and political equality have become pillars of an eventual settlement. The Cyprus problem has been continuing for 47 years, as the UN Secretary General pointed out in his report of mission of good offices dated 24 November 2010. The negotiations for the settlement of the Cyprus problem towards the renewal of the partnership between Turkish Cypriots and Greek Cypriots on the island have been continuing for more than 40 years. Over this period, the Turkish Cypriot side has always strongly supported the UN settlement proposals, whereas the Greek Cypriot side has rejected these initiatives.

The UN Comprehensive Settlement Plan (Annan Plan) of 2004 which provided an ample window of opportunity for the settlement of the decades-long Cyprus problem was overwhelmingly rejected by the Greek Cypriot side in the referenda held in 2004. The Turkish Cypriot side is committed to reaching a just and lasting comprehensive settlement which will be a real remedy to all problems related to Cyprus issue. Former UN Secretary General Annan in his report dated May 28, 2004 stated that *“The rejection of such a plan by the Greek Cypriot electorate is a major setback. What was rejected was the solution itself rather than a mere blueprint...If the Greek Cypriots are ready to share power and prosperity with the Turkish Cypriots in a federal structure based on political equality, this needs to be demonstrated, not just by word, but by action”*.

A new window of opportunity opened with the resumption of the UN settlement process on September 3, 2008. It aims for a new partnership based on political equality and bi-zonality with a federal government and two Constituent States of equal status, as had been declared in the joint statement of the Turkish and Greek Cypriot leaders of May 23, 2008. The Turkish Cypriot initiatives have so far paved the way for progress in the ongoing negotiation process. However, the efforts of the Turkish side seem to remain unreciprocated. If the Greek Cypriot side displays the required political will as well, it is possible to achieve a comprehensive settlement soon. Turkey fully supports the ongoing UN negotiating process and the Turkish Cypriot side's constructive efforts. The success of the process needs the effective support of both Turkey and Greece as two motherlands and guarantor powers. Cyprus could be a basis of cooperation between the two countries.

3. The recent demonstrations in Northern Cyprus referred to during the session, were reactions to economic measures taken by the Turkish Cypriot Government, which is currently pursuing some reforms aiming at restructuring the economy and sustaining the fiscal balance, with the financial support of Turkey. Reactions to economic measures are common in democracies. North Cyprus has a well-functioning democracy with most marginal groups freely expressing their views. This democratic atmosphere is one of the most valuable assets empowering the Turkish Cypriot society. In the long run, these reforms will not only contribute to the amelioration of the economic situation in Northern Cyprus, but also to the aim of comprehensive settlement by contributing to the TRNC's economy. In the absence of a comprehensive settlement, the unjust restrictions imposed upon the Turkish Cypriots are the main cause of their economic problems. The restrictions imposed upon the Turkish Cypriots have no legal or legitimate basis. This has also been explicitly reflected in the various reports of the UN Secretary Generals, as well as in the EU resolutions. The UN Secretary General in his report of May 28, 2004 following the Annan Plan referenda stated that *“in the aftermath of the vote, the situation of the Turkish Cypriots calls for the attention of the international community as a whole, including the Security Council”* and that *“the Turkish Cypriot vote has undone any rationale for pressuring and isolating them”*. Underlining that there is no Security Council resolution as regards imposing restrictions upon the Turkish Cypriots, the Secretary General also called on the members of the Security Council to give a strong lead to all States to cooperate both bilaterally and in international bodies to eliminate unnecessary restrictions and barriers that have the effect of isolating the Turkish Cypriots and impeding their development, thus stating that such a move would be consistent with the UN Security Council Resolutions 541

(1983) and 550 (1984). The UN Secretary-General Ban in his report to the UN Security Council in December 2007, once again confirmed the call in the 28 May 2004 report of the former UN Secretary General Annan towards lifting the isolations. The UN Secretary-General Ban called the international community to develop economic, social and cultural relations with the Turkish Cypriots, underlining that the steps towards lifting the isolations are in accordance with the UN Security Council resolutions.

In the aftermath of the Annan Plan referenda, the European Council also decided on 26 April 2004 to put an end to the isolation of the Turkish Cypriots and stated the following: *The Council noted the results of the referenda in Cyprus on 24 April 2004 and expressed its strong regret that the accession to the EU of a united Cyprus will not now be possible on 1 May... The Council is determined to put an end to the isolation of the Turkish Cypriot community and to facilitate the reunification of Cyprus by encouraging the economic development of the Turkish Cypriot community*".

4. There has never been an attempt to change the demographic structure of Northern Cyprus neither by Turkey nor by the Turkish Cypriot side. This has again been exploited by the Greek Cypriot administration, notwithstanding the fact that it is the Greek Cypriot side itself which, in collaboration with Greece, has long been trying to alter the demographic structure of the Island in favour of the Greek Cypriot side. As part of this campaign, a total of 10,350 mainland Greeks had been settled on the Island as early as the Second World War, as documented by the records of the then British Colonial Office (Document No. C.O.67.328). Following the Greek Cypriot onslaught on the Turkish Cypriot community in 1963, as many as 20,000 mainland Greek troops were brought to the Island clandestinely, in order to enable the annexation of the Island to Greece. This has been admitted by high-ranking Greek officials. Ample evidence also exists in the reports of the United Nations Secretaries-General to the Security Council (for example, reports S/5950 of 10 September 1964 and S/8286 of 8 December 1967) pertaining to the illegal importation of Greek mainland troops and their being given "legal status" in order to resettle them on the Island on a permanent basis. While this was being done, a parallel process of evicting the Turkish Cypriots from their ancestral homeland was put into effect, resulting in the forced emigration of thousands of Turkish Cypriots to other countries. Furthermore, Turkish Cypriots born after 1960 were not registered in order to lower the growth rate of the Turkish Cypriot population.

After 1974, the Turkish Cypriots who were forced to emigrate between 1964-74, returned to their homes and the new economic activity in Northern Cyprus created opportunities and vacancies, hence a need for new and greater manpower. Under the labor exchange agreement signed with Turkey, a number of workers went to Northern Cyprus to be employed in various sectors. Foreign workers from the Middle East and even from some European countries also went to Northern Cyprus for employment purposes. Most of them returned to their countries of origin once the projects for which they had been called were finalized. A number of these people who fulfilled the requirements of citizenship either by marriage or duration of residence, or by virtue of having been born on the island, have been granted citizenship according to the domestic legal provisions of the Turkish Cypriot side, which exercises jurisdiction within its territorial boundaries, as the Greek Cypriots do in the South. Therefore, to portray the efforts to fill the gap in the Northern Cyprus economy as "colonization" is totally unfounded and a futile effort to distort the facts. It should also be noted that the Greek Cypriot administration has allowed the resettlement and employment of thousands of non-Greek Cypriot immigrants in Southern Cyprus in addition to settlers from mainland Greece, in accordance with its own legislation. The issues of population and citizenship on the Island are currently being taken up by the two leaders within the framework of the UN-sponsored comprehensive settlement negotiations. The validity of past acts, whether of a legislative, executive or judicial nature, by any authority in Cyprus since the ending of the Partnership State in 1963, was covered by the Annan Plan, and is

discussed in a similar perspective within the framework of the ongoing negotiating process on the Island.

5. The fate of the missing persons in Cyprus cannot be taken up in a vacuum, nor can it be addressed in a general framework without considering the historical circumstances that led to this human tragedy. The majority of the Turkish Cypriot missing persons since 1963 have proved to be civilians, whereas the majority of the Greek Cypriot missing persons have been military personnel. Nevertheless, the TRNC authorities, looking at it from a human rights perspective, have always displayed their good-will and constructive attitude on this issue. The Turkish Cypriot authorities have thus been facilitating the Committee's access to all relevant areas including military zones in Northern Cyprus. Mr. Christopher Girod, the Third Member of the Committee, stated during a panel held on 10 November 2010 at the European Parliament that the Committee is satisfied with the Turkish side's cooperation in this regard. Furthermore, from its inception in 1981, Turkey as motherland and guarantor power has given strong support for the work of the Committee on Missing Persons. It is of utmost importance for the missing persons issue to be solved within the Committee, and we hope that the momentum gained in the Committee's work will be preserved. With this in mind, Turkey has provided close to half a million Dollars in funding for the Committee to date. It should also be kept in mind that there are also applications lodged before the European Court of Human Rights concerning the Turkish Cypriot missing persons. Therefore, the matter should not be politicized. Neither should it be presented as an issue, which only affects the Greek Cypriots.

6. In a similar manner, the property issue in Cyprus affects not only the Greek Cypriots, but also the Turkish Cypriots, as there are Turkish Cypriot properties left in the South. In 1975, through a voluntary Population Exchange Agreement reached in Vienna, 65.000 Turkish Cypriots moved to the North, while 120.000 Greek Cypriots settled in the South. Bi-zonality which has been a fact of life in Cyprus from the earliest times was thus formalized and consolidated by the voluntary Population Exchange Agreement. Subsequently, both the Turkish Cypriots and the Greek Cypriots were allocated property in their respective regions. The property issue is to be settled through the comprehensive settlement of the Cyprus problem and property is one of the six chapters in the ongoing negotiation process. In the absence of a comprehensive settlement, claims on properties in North could be referred to the Immovable Property Commission (IPC) which was found as an effective domestic remedy by the European Court of Human Rights' judgment of 5 March 2010. IPC, as the only effective remedy pending a comprehensive settlement, gives the opportunity to the Greek Cypriots to solve their property claims. A similar mechanism regarding the former Turkish Cypriot properties left in the South does not exist in the Greek Cypriot Administration. The Turkish Cypriot properties in the South remain to be under the custodian regime and the claims of the Turkish Cypriots for their property are yet to be satisfied. Therefore, the allegations on the property issue stated during the Council session are baseless as well.

7. It should be emphasized that those who were forced to live in enclaves in Cyprus were the Turkish Cypriots under Greek Cypriot siege between 1963 and 1974. Thanks to the unilateral decision of the Turkish Cypriot authorities back in 2003, crossings and trade between the two sides on the Island were liberalized despite the Greek Cypriot side's attempts to obstruct. There are currently no restrictions placed on the freedom of movement of anyone living in Northern Cyprus and thus both the Greek Cypriots and Maronites are free to move from North to South and vice versa. Therefore, claiming that Maronites and Greek Cypriots in the North are living in enclaves is another futile attempt for distorting facts. They enjoy social, cultural and religious rights and freedoms.

Committed to sharing a common future in a new partnership state, the Turkish Cypriots have taken unilateral steps to contribute to the spirit of cooperation and tolerance between

Turkish Cypriots and Greek Cypriots. Acknowledging that education is a fundamental human right, there has been a Greek Cypriot school in the North for many years. The Greek Cypriot schools in the North can also follow the curricula in the South, with teachers appointed by the Greek Cypriot Administration. Furthermore, religious communities in Northern Cyprus practice their religion freely and they are able to hold all kinds of religious services. On February 21, 2011, the Turkish Cypriot authorities further eased formalities. Mass in Karpas peninsula during Christmas, however, has been widely publicized in the international fora due to the Greek Cypriot efforts. This is indeed part of the orchestrated international campaign that the Greek Cypriots have been pursuing to exploit the freedom of religion and cultural heritage in the TRNC.

The Greek Cypriots, on the other hand, have not yet taken similar steps to contribute to the efforts aimed at sharing a partnership and thus addressing the very basic needs of the Turkish Cypriots. The Greek Cypriot side, as reflected in the report of the Office of the High Commissioner for Human Rights on Cyprus, is yet to honor its long-standing commitment to open an elementary school for the children of Turkish Cypriots living in Limassol on a permanent basis. The school text books at the primary and secondary schools in the South include biased language against Turkish Cypriots and Turks. There were press reports that the Financial Committee of the Greek Cypriot parliament last year blocked the financial assistance to be allocated to the British school in the South on grounds that the school's "Hellenic character has been tarnished" due to the Turkish Cypriot students. The exercise of the religious rights of the Turkish Cypriots in the South is also limited. Imams from the Turkish Cypriot Authority for Religious Affairs cannot render religious services to the Turkish Cypriot community in the South. In contrary to 19 churches, chapels and monasteries in Northern Cyprus open for worship, most mosques in the South are either locked or in poor condition, with only two mosques open for worship. Religious practice at Hala Sultan Mosque and Tekke, which is one of the most significant sites for Islam, is allowed only within working hours.

8. The issue regarding the maintenance of cultural heritage does not only affect North Cyprus, but the island as a whole. The Turkish-Muslim heritage in South Cyprus is also in urgent need of maintenance and restoration. There are many Turkish-Muslim cultural monuments including mosques, baths, fountains and cemeteries in South Cyprus that fell into a state of dilapidation due to negligence. Therefore, with a view to contributing to the restoration of the cultural heritage on both sides of the island, the Turkish Cypriot side, from its inception strongly supports the Cultural Heritage Committee founded upon the agreement of Turkish Cypriot and Greek Cypriot sides on March 21, 2008.

9. Last but not least, violent fanaticism against Turks and Turkish Cypriots over the last months has increased, with many instances of Turkish Cypriots being subjected to violence after crossing to the South. Neither the stabbing of the Turkish Cypriot performer at the "Rainbow Festival" in the South in November nor the outrageous assault against the Turkish basketball team Pınar-Karşıyaka on December 21 after its game against Apoel in the Greek Cypriot side is reflected in the report of the Office of the High Commissioner for Human Rights on Cyprus. These incidents are not compatible with the efforts towards building a partnership and common future for Turkish Cypriots and Greek Cypriots. Like the Turkish Cypriots, the Greek Cypriots should see the solution of their problems in a mutually-agreed settlement.