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大会 2006 年 3 月 15 日题为“人权理事会”的第 60/251 号决议的执行情况

2006 年 5 月 12 日土耳其常驻联合国日内瓦办事处代表团致人权事务高级专员办事处的普通照会

土耳其共和国常驻联合国日内瓦办事处和瑞士其他国际组织代表团向人权事务高级专员办事处致意，并谨随照附上北塞浦路斯土耳其共和国副总理兼外交部长塞尔达尔·登克塔什先生的信，其中反映了土族塞人对秘书长 2006 年 3 月 27 日提交人权委员会第六十二届会议的关于“塞浦路斯人权问题”的报告(E/CN.4/2006/31)的意见。

土耳其共和国常驻代表团谨请将本照会及其附文 ** 作为人权委员会第六十二届会议的正式文件分发。

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* 附件不译，原文照发。

** 由于技术原因重新印发。

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Annex

TURKISH REPUBLIC OF NORTHERN CYPRUS
DEPUTY PRIME MINISTRY AND MINISTRY OF FOREIGN AFFAIRS
(Lefkoşa, via Mersin – 10, Turkey)

5 May 2006

Your Excellency,

I have the honour to refer to the report of 27 March 2006 (E/CN.4/2006/31) which has been submitted to the 62nd session of the UN Commission on Human Rights held in Geneva, pursuant to decision 2005/103 taken at its 50th meeting on 14 April 2005 regarding the "Question of human rights in Cyprus" and to bring the following considerations to your kind attention:

At the outset, I wish to underline the fact that the references in the report to the so-called "Government of Cyprus", "Supreme Court of the Republic of Cyprus", "a Cypriot court" and "the Department of Antiquities" reflect neither the realities nor the legal position in Cyprus. Ever since the forcible expulsion of the Turkish Cypriot co-founder partner from the legitimate bi-national Government of the 1960 partnership Republic, there has been no constitutional Government representing both peoples of the island. The Turkish Cypriot partner did not accept the forceful takeover of the bi-national State by the Greek Cypriot side and, through its national resistance, prevented the Greek Cypriot side from extending its authority over the Turkish Cypriot people. Hence, since December 1963, there has not been a joint central administration in the island, capable of representing the whole of Cyprus, either legally or factually. Each side has since ruled itself, while the Greek Cypriot side has continued to claim that it is the "Government of Cyprus".

As regards the **"Overview"** section of the report, I wish to recall that the previous report included a section on your mission of good offices and in that context a reference to the Greek Cypriot rejection of the Annan Plan and to Your Excellency's report of 28 May 2004 (S/2004/437) which, inter alia, addressed the isolation of the Turkish Cypriot people. The present report, however, conveniently sidesteps the overall political picture and developments on the island, thus failing to reflect a full perspective on the question of human rights in Cyprus.

H.E. Mr. Kofi Annan
Secretary-General of
the United Nations Organization
New York

Having emphasized in your aforementioned report (S/2004/437) that "in the aftermath of the vote, the situation of the Turkish Cypriots call for the attention of the international community as a whole, including the Security Council," Your Excellency underlined the fact that the "Turkish Cypriot vote has undone any rationale for pressuring and isolating them" and appealed to the UN 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".

It is most disappointing that this appeal has not been reflected in the latest report of 27 March 2006 (E/CN.4/2006/31), despite the fact that the restrictions imposed by the Greek Cypriot side violating the human rights of Turkish Cypriots in various fields, such as the right to freely trade and travel, are continuing and efforts to rectify this situation by many parties, are still impeded by the Greek Cypriot side. It is difficult to comprehend how this most blatant, systematic and all-encompassing violation of human rights on the island has not been addressed in the report apart from a reference in passing in paragraph 25 that "the EU has endeavoured to put an end to the isolation of the Turkish Cypriot community...".

It is also disappointing that in the present report the Greek Cypriot side's rejection of the Annan Plan and its failure to present in writing, with clarity and finality, proposed changes to the Plan have all but been forgotten. Evidently, the Greek Cypriot administration is not held responsible either for the current impasse on the island or the inhuman restrictions imposed on the Turkish Cypriot people; nor, for that matter, for any other human rights related development such as the delay in the opening of a new crossing point at Lokmaci Gate and the decoupling of the European Union's Financial Aid and Direct Trade Regulations.

As regards the "Human Rights Concerns" section of the report which reiterates that "human rights concerns in Cyprus derive predominantly from the persisting division of the island" (**para. 2**), one must qualify that the history of human rights violations in Cyprus goes back a long time. It started in 1963 when the Greek Cypriots launched a genocidal attack against the Turkish Cypriots in order to realize their dream of annexing the island to Greece (ENOSIS). It is noteworthy that the Greek Cypriot administration's present policy of applying an all-embracing inhuman embargo against the Turkish Cypriot people originated at that point. It should be recalled that as early as 10 September 1964 in his report to the UN Security Council the then UN Secretary-General described the inhuman restrictions imposed upon the Turkish Cypriot people by the Greek Cypriot authorities, under the usurped title of the "Government of Cyprus", as being so severe that it amounted to a "veritable siege" (UN doc. S/5950).

In this respect, while we fully share the conclusion (**para. 26**) that "the situation of human rights in Cyprus would therefore greatly benefit from the achievement of a comprehensive settlement of the Cyprus problem", one should not overlook the fact that bizonality has provided the Turkish Cypriots with security of life, right to a decent life and

economic freedom, and has enabled them to return to life under humane conditions after having waged a struggle for survival under grave conditions in enclaves during 1963-74.

It should be pointed out that even before the emergence of the new found geographical reality of bizonality and the establishment of a buffer-zone after 1974, a "Green Line" had been established in the wake of the bloody onslaught by the Greek Cypriots in December 1963, with a view to containing atrocities against the Turkish Cypriot people. However, even the establishment of this "Green Line" and the arrival of the UN Peace-keeping Force in March 1964, did not suffice to prevent the Greek Cypriot attacks against the Turkish Cypriot people. Indeed, the 1967 massacres of Turkish Cypriots residing in Boğaziçi (Ayios Theodoros) and Geçitkale (Kophinou) were carried out at a time when the UN Peace-keeping Force was stationed on the island. It has been Turkey's military intervention of 1974, carried out in accordance with her rights and obligations under the 1960 Treaty of Guarantee, and the continued deterrent effect of Turkish forces against the repetition of Greek-Greek Cypriot aggression that has brought peace and stability to the island since 1974.

It is argued in **paragraph 3** that "the opening of a crossing point at Ledra Street in the old town of Nicosia has been delayed due to differences which have arisen over construction activities related to the establishment of this crossing point". I wish to point out that in order to increase contacts and improve trust between the two peoples of the island, which is vital for reconciliation between the two sides, we intensified our efforts to open additional border gates to make crossings easier and more convenient. It is unfortunate that the report fails to mention the unconstructive attitude of the Greek Cypriot leadership on the issue. A telling case in this connection is the case of Bostancı Gate which was unilaterally opened by the Turkish Cypriot side on 31 August 2005. It was only then that the Greek Cypriot side reciprocated, albeit unwillingly.

In the face of its prior statements and commitments, the latest position adopted by the Greek Cypriot administration regarding the Lokmacı (Ledra Street) Gate is astonishing. The Greek Cypriot side is putting forward new preconditions with the ultimate aim of concealing their unwillingness regarding the opening of the Gate. The infrastructural work, aimed at providing unhindered passage to the civilians who will be using the crossing point, has been carried out on the Turkish Cypriot side. In this context, it should be underlined that any work carried out within the territory of the Turkish Republic of Northern Cyprus (TRNC) is within the sole jurisdiction of the relevant Turkish Cypriot authorities, and there is "no violation of the buffer zone", as alleged by the Greek Cypriot side. This was also acknowledged by the UN Peace-keeping Force Spokesman who stated on 29 November 2005 that "the Ledra crossing construction undertaken by the Turkish Cypriot side is outside of the buffer zone". Nevertheless, within the framework of our good working relationship with the UN Peace-keeping Force, the Turkish Cypriot authorities inform the Force in advance on construction activities in the vicinity of the buffer zone. In this particular case too, the UN Peace-keeping Force and UNDP had been informed well before the commencement of the construction work.

It is interesting that **paragraph** 4 of the report which deals with the movement of goods and trade between the two sides states that "trade across the buffer zone has been limited by technical and political hurdles" but fails to mention Greek Cypriot obstructionism regarding the crossing of commercial vehicles from North to South Cyprus. While the Greek Cypriot administration argues that there are no restrictions on the crossing of commercial vehicles, its refusal to accept driving licenses as well as commercial license plates issued in North Cyprus stands as an effective impediment to the crossing into Southern Cyprus of commercial vehicles registered in the North.

As regards the freedom of movement on the island (**para. 6**), one should not lose sight of the geopolitical reality of bizonality and the fact that there is a long standing political dispute on the island which is borne by the fact that a UN Peace-keeping Force has been present on the island for the past 42 years. Hence, drawing attention to identity check procedures at the border gates and to military zone prohibitions is unwarranted since "Cyprus" is not a unitary State where European norms can readily be applied, but a divided island where a comprehensive settlement is still pending. Having said this, it should not be forgotten that military zone prohibitions are commonplace even in most democratic societies. Moreover, the same prohibitions are in force in South Cyprus so it is curious why prohibitions in regard to the military zones in the Southern part of the island are not considered restrictions to the freedom of movement on the island.

A serious shortcoming of the report in connection with freedom of movement in the island has been the failure to mention the repeated cases of maltreatment of the Turkish Cypriot people at border gates by the Greek Cypriot police and customs officers. It is noteworthy in this regard that the Greek Cypriot administration, in line with a new procedure implemented on 7 April 2006, has started to inspect the vehicles of the Turkish Cypriots at border gates while crossing to the South and after keeping them under the sun for hours for interrogation purposes, arresting them, as well as foreigners, in the event that they carry any kind of document pertaining to the North (title deeds, brochures, projects). Most recently (16 April 2006), 18 Turkish Cypriots who wanted to cross over to the South from Bostanci border gate for a picnic, were not allowed to cross the gate and were subjected to maltreatment by the Greek Cypriot police and customs officers, on grounds that they had poultry, fish and meat products in their cars.

It is disappointing to observe that in **paragraph** 7 it is stated that the UN attributes responsibility to Turkey with regard to Varosha. We deem it necessary to underline that Turkey has no political authority or jurisdiction in Northern Cyprus. This jurisdiction extends over the whole territory of the TRNC, including Varosha. Therefore, any matters pertaining to Varosha are matters that are solely in the hands of the legitimate, democratically elected authorities of the TRNC.

We consider it a serious shortcoming that in **paragraph** 9 which deals with the new problems that arose in the aftermath of the opening of crossing points, the report failed to

refer to the uncooperative policy of the Greek Cypriot administration in this respect. A recent example of the uncooperative policy of the Greek Cypriot administration has been their refusal to cooperate in the fight against avian influenza. It is a fact that the size of Cyprus and the proximity of the two sides to each other call for cooperation and simultaneous action on issues such as this. Unfortunately, the Greek Cypriot side has chosen to ignore our calls for cooperation even on a delicate matter such as avian influenza, the spread of which would have catastrophic consequences.

Regarding **paragraphs 10-13**, I wish to underline the fact that one of the most fundamental issues in the Cyprus question is the property issue. The Turkish Cypriot side has for long been proposing to the Greek Cypriot side that a Joint Property Claims Commission be set up to look into Turkish Cypriot and Greek Cypriot property claims and to develop the modalities as to how the property issue can be settled on the basis of the agreed principle of bizonality. The Greek Cypriot side, however, instead of seeking to resolve the issue with the Turkish Cypriot side in accordance with established parameters, has over the years encouraged recourse to the European Court of Human Rights in a bid to carry the issue to the European platform. As noted in paragraph 13 of the report (*Apostolides v. Orams*), the Greek Cypriot side's unilateral accession to the EU has presented it with the opportunity to further complicate the issue of property rights by encouraging recourse to courts in the South for the issuing of EU arrest warrants against those buying or selling property in the North.

In the absence of cooperation from the Greek Cypriot side, since June 2003 the Turkish Cypriot side has been taking unilateral steps aimed at providing internal legal remedies to the concerned parties. In this connection, on 22 December 2005 the Legislative Assembly of the TRNC has adopted a new legislation that envisages restitution, exchange and compensation for movable and immovable properties located within the boundaries of the TRNC which were possessed by the Greek Cypriots before 1974 and were abandoned thereafter. In accordance with this legislation the Immovable Property Commission was established on 22 March 2006. The Commission that comprises seven members, two of which are internationally renowned personalities of not Turkish descent, has the status of a court and its decisions will be binding and implemented just as the decisions of the judiciary. The initial reaction of the Greek Cypriot administration has not been encouraging; it has threatened to take legal action against potential applicants. Sadly, Greek Cypriot officials are attempting to undermine an effective legal instrument which conforms fully with relevant international norms.

The report deals with the issue of missing persons in **paragraphs 14-16**, in this connection referring to Security Council resolution 1642 (2005) of 14 December 2005 which reiterated its call to the parties to assess and address the issue "with due urgency and seriousness" and noting that a detailed account of the activities of the CMP is contained in the report of the Secretary-General on the UN Operations in Cyprus (S/2005/743 and Corr.1). On account of the reference to the said report, the positive developments on the issue of missing persons have not been recounted but the observation in the report (S/2005/743) that "despite

positive developments in the implementation of the July 1997 Agreement, the CMP has been unable to begin its investigative work" has been carried a step further toward an unconstructive direction. As is the case with Varosha and the issue of property rights once again Turkey is ultimately held responsible on the issue of missing persons as reference is made to a decision taken by the Committee of Ministers of the Council of Europe in June 2005 which called upon Turkey "to envisage the necessary measures, further to its contribution to the work of the CMP, so that the effective investigation required by the Court's [ECHR] judgment can be conducted as soon as possible". This kind of approach which attempts to bypass or override Turkish Cypriot authorities and institutions thereby undermining the political equality of the Turkish Cypriot side, clearly does not augur well either for the resolution of the issues at hand or for the prospects of a comprehensive settlement in the island.

You will recall that the Committee on Missing Persons (CMP) was established in 1981 by the UN as a tripartite committee composed of a Turkish Cypriot, a Greek Cypriot and a Third Member appointed by the UN Secretary General, to address the problem of the missing. As such, it must be evident that Turkey is not a party to the issue of missing persons in Cyprus, but fully supports the work of the CMP as it equally desires the resolution of this humanitarian issue.

It should be remembered that the resumption of the activities of the CMP in August 2004 came about as a result of the constructive initiative of the Turkish Cypriot side and the failure of the Committee so far to complete its mandate is not due to any lack of cooperation on the part of the Turkish Cypriot side. It is worth noting in this context, for instance, that even in the face of the rejection by the Greek Cypriot side of our rightful demand for effective and equal participation of the Turkish Cypriot side in the Cyprus Institute of Neurology and Genetics which was originally designed as a bi-communal institution the Turkish Cypriot side refrained from politicizing this humanitarian issue so as not to impede the work of the Committee. Hence, a significant reason behind the positive developments which have ensued in the implementation of the July 1997 Agreement has been the constructive spirit in which the Turkish Cypriot side contributed to the work of the Committee. There is no doubt that it has been the steady progress on the issue that has moved Your Excellency to recently make the long-awaited appointment of a Third Member, namely Mr. Christopher Girod.

The financial contribution of the Turkish Cypriot side to the work of the CMP clearly demonstrates its determination in solving this humanitarian problem. You will recall that the Turkish Cypriot side has committed itself to meet the total cost of the excavations carried out in North Cyprus and within this context spent nearly 200,000 US Dollars between August 2004 and August 2005. Furthermore, on 1 November 2005, the Turkish Cypriot Government decided to contribute 125,000 US Dollars for the establishment of the anthropological laboratory in the buffer zone. Also as noted in Your Excellency's report on the UN Operations in Cyprus (S/2005/743) the Turkish Government has also pledged a financial contribution to the work of the Committee.

Regarding the education of Turkish Cypriot children in the South, I wish to point out that the terminology in **paragraph 18** falls short of depicting the unconstructive Greek Cypriot attitude with respect to the opening of a Turkish Cypriot school in Southern Cyprus. As the Turkish Cypriot side we have continuously taken concrete steps designed to contribute to confidence building and mutual trust between the two peoples of the island paying utmost attention to provide for the education of Greek Cypriot children resident in the TRNC. The opening of the Greek Cypriot secondary school in Dipkarpaz in September 2004, is one such step. In this connection, the opening of a school for the Turkish Cypriot children resident in Southern Cyprus is not only a natural expectation but also an obligation of the Greek Cypriot administration brought about by international legal instruments.

Despite the recommendation made by the then UN Secretary-General in his report to the Security Council dated 10 December 1995 (S/1995/1045) and a written commitment of the Greek Cypriot side to the UN Peace-keeping Force authorities in March 2005, along with our continuous calls and the efforts of UN Peace-keeping Force for the establishment of a Turkish Cypriot elementary school staffed by Turkish Cypriot teachers, the school is yet to be established in South Cyprus. In the light of these circumstances, the reference in your report to the so-called special measures adopted by the Greek Cypriot side only serves to relieve it from its clear obligation by giving the wrong impression that it is taking the necessary steps in providing for the education of the Turkish Cypriot pupils. The truth of the matter is that the Greek Cypriot side is employing such tactical moves in an attempt to absolve itself of its responsibility regarding the opening of a Turkish school in Limassol.

On the freedom of movement and worship (**para.20**), the Maronites, as well as the Greek Cypriots in the TRNC have access to and attend religious services without hindrance. Catholic and Greek Orthodox priests regularly carry out religious functions at churches situated where Maronites and Greek Cypriots reside in the TRNC. There is an ongoing procedure to assign additional priests to such churches. In this context, Greek Cypriot priests from the South as well as Greek Cypriot worshippers cross over to the TRNC on important religious days to visit religious shrines such as Apostolos Andreas Monastery and St. Mamas Church. Thousands of Greek Cypriots living in the South have benefited from this opportunity in recent years. Also, as noted in the report, for the first time in 31 years, a Greek Orthodox liturgy took place at St. Barnabas Church in Gazimağusa with the participation of thousands of Greek Cypriots from the South in June 2005.

Although reflected as "alleged incidents" that have not been verified by independent sources, the reference in **paragraph 22** to the so-called "destruction or misuse of religious sites in the northern part of Cyprus" is unwarranted. It should be noted that despite considerable technical and financial difficulties faced by successive Turkish Cypriot Governments, the relevant competent authority in the TRNC, namely the Department of Antiquities and Museums works diligently to preserve the cultural wealth of Northern Cyprus with available meager resources. The ongoing Greek Cypriot claims that the cultural heritage

in the North has been systematically destroyed, have always been refuted by foreign observers, including prominent experts from UNESCO and the World Council of Churches. While claiming to care very much for the cultural heritage of the island, the Greek Cypriot side block the passage of aid to the Turkish Cypriot authorities in the North, although it is there that so many of the cultural artifacts lie. The Greek Cypriots go to great lengths to prevent international organizations or private institutions from taking an interest in or providing assistance to the TRNC. Unfortunately, the report fails to mention the fact that the Greek Cypriot administration, which attempts to present itself as the champion of the conservation of cultural heritage, continues, to show utter contempt for the Turkish-Muslim heritage in Southern Cyprus, where Ottoman Turkish shrines are under threat of destruction.

Although the references made to "the gap in the standards of living between the two parts of the island" (**para. 24**) and to the endeavours by the European Union to end the isolation of the Turkish Cypriots (**para. 25**) constitute a positive development, it is unfortunate that the Greek Cypriot administration's initiatives to further entrench the unjust isolation imposed on the Turkish Cypriot people have not been addressed in the report beyond a mere citation as such. It will be recalled that subsequent to the referenda and in response to the positive stance of the Turkish Cypriot people, the European Commission prepared two draft regulations, namely the Financial Aid and Direct Trade Regulations, the latter of which would have the effect of significantly alleviating the embargoes imposed on the Turkish Cypriots. However, because of the concerted efforts of the Greek Cypriot side, the European Union has decoupled the two regulations despite the Turkish Cypriot side's objection and adopted only the Financial Aid Regulation with amendments in line with the Greek Cypriot demands. The future of the Direct Trade Regulation is now uncertain. The main expectation of the Turkish Cypriot people, who each year receive from the Republic of Turkey much more than the amount earmarked in the Financial Aid Regulation in question, is that concrete steps be taken for the realisation of direct trade, which would ensure the Turkish Cypriot people's integration with the world. Countries attempting to take steps, albeit small, in the direction of easing the isolation of the Turkish Cypriot people, have also met with Greek Cypriot obstruction, sometimes involving undignified threats.

As the party which has demonstrated its firm commitment to the resolution of the Cyprus issue on the basis of political equality, we have noted with pleasure the observation in the "**Conclusion**" section of the report that "the situation of human rights in Cyprus would therefore greatly benefit from the achievement of a comprehensive settlement of the Cyprus issue". However, for reasons that must be evident from our foregoing observations, in our opinion there is a disparity between the content and conclusion of the report in the sense that such reporting which casts a shadow on the equal political status of the Turkish Cypriot side and fails to hold the Greek Cypriot side responsible for the current impasse, its application of inhuman restrictions and other human rights related developments on the island, will not contribute to the search for a comprehensive settlement.

We believe it is high time that the international community takes concrete steps towards ending all economic, social and political embargoes that have been unjustly applied on the Turkish Cypriot people since 1963. Undoubtedly, such an approach is also important for the credibility of the UN and the international community. Ending isolation will demonstrate to the Greek Cypriot side that the current state of affairs on the island is their responsibility and that its rejectionist path is counter-productive, thus, impressing upon it the need to realign its position to a more constructive one.

In this context, I would like to take the opportunity to reiterate the full support of the Turkish Cypriot side to the Action Plan announced by H.E. Mr. Abdullah Gül, Deputy Prime Minister and Minister for Foreign Affairs of the Republic of Turkey on 24 January 2006. In my opinion this proposal provides us with the opportunity to break the current impasse and move forward towards reconciliation in Cyprus as well as stability and harmonious relations in the region.

We hope and trust that the views expressed above will be duly taken into consideration and that sensitivity will be shown towards the rights and interests of the Turkish Cypriot people in the future reports.

Please accept, Excellency, the assurances of my highest consideration.

Serdar Denktaş
Deputy Prime Minister
and Minister of Foreign Affairs

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