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人权理事会

第二十五届会议

议程项目 2

联合国人权事务高级专员的年度报告以及高级专员办事处的报告和秘书长的报告

土耳其常驻联合国日内瓦办事处代表团 2014 年 3 月 21 日致 联合国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联合国人权事务高级专员办事处致意,谨随函附上北塞浦路斯土耳其共和国外交部长Özdil Nami 信件的副本(见附件),其中表达了土裔塞浦路斯人对高级专员提交人权理事会第二十五届会议的关于塞浦路斯人权问题报告(A/HRC/25/21)的看法。

土耳其共和国常驻代表团谨请将本函及其附件*作为人权理事会第二十五届会议的文件正式分发。

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^{*} 附件不译,原文照发。

Annex

[English only]

I have the honour to refer to the Report of the Office of the United Nations High Commissioner for Human Rights on the question of human rights in Cyprus (A/HRC/25/21) which was circulated on 22 January 2014 and to bring to your kind attention the following facts and considerations:

With reference to Paragraph 4 of the "Introduction" section of the Report, which reflects the developments on the Island pertaining to the negotiating process during the reporting period, I would like to take this opportunity to express our pleasure in connection with the resumption of the negotiation process on 11 February 2014 following the agreement by both sides on the joint statement. This development which occurred in the aftermath of the reporting period marks a new window of opportunity which both sides should utilize to reach a just and viable settlement in the shortest period of time. Having said this, one would have expected the Report to give some insight as to why it had not proven possible to resume the talks earlier. The mere citation of Greek Cypriot economic difficulties and outlining political developments without going into some details of the process, certainly does not shed light on this matter.

As regards the main body of the Report, it should be underlined, once again, that the references to the so-called "Republic of Cyprus" reflect neither the realities nor the legal position on the Island. Ever since the forcible expulsion of the Turkish Cypriot co-founding partner from the 1960 partnership Republic, there has been no Government representing both peoples of the Island. The Turkish Cypriot people did not accept the forceful takeover of the partnership State by the Greek Cypriot side in 1963 and, through their decisive resistance, prevented the Greek Cypriot side from extending its authority over them. Hence, since December 1963, there has not been a joint central administration on the Island, capable of representing both peoples, either legally or factually. Each side has since ruled itself, while the Greek Cypriot side has continued to claim falsely that it is the "Government of Cyprus".

Although some unwarranted references which appeared in the previous Reports of the OHCHR have been omitted this time around, the references in the Report to the Turkish Cypriot authorities as "the de facto authorities in the northern part of the Island" which are reflected as part of statements of third parties still pose the risk of reflecting the situation from the Greek Cypriot perspective. It is therefore our expectation that the future Reports avoid including any reference to the term "de facto" as it is contradictory to the established UN terminology, namely the reference to Turkish Cypriot authorities in official UN documents. Therefore, referring to the Turkish Cypriot authorities as "de facto" would seriously undermine the established UN parameters such as political equality of the two peoples and the principle of equal footing, on which the UN negotiation process rests, and therefore should be avoided.

As a general overview, it is difficult to comprehend how the violation of the basic human rights of the Turkish Cypriot people has not been adequately addressed in the Report. Such a negligent stance towards the human rights of the Turkish Cypriot people is both unfortunate and disappointing. In reality, the all-encompassing isolation imposed on the Turkish Cypriots by the Greek Cypriot side ranges from denying the Turkish Cypriot people the right to representation in international fora; preventing or restricting their travel abroad and their communication with the outside world; curtailing the trade and tourism

between the TRNC and the outside world, and hampering all cultural, academic and sporting relations of the Turkish Cypriot people with other countries.

As Your Excellency may recall, after the overwhelming rejection by the Greek Cypriot people of the comprehensive settlement of the Cyprus problem (Annan Plan), which was approved by the Turkish Cypriot people by 65% of the votes, in his report of 28 May 2004 (S/2004/437) Your predecessor addressed the unjust isolation of the Turkish Cypriot people and stated 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". He 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 while your predecessor's above-mentioned report as well as Your Excellency's report of 3 December 2007 (S/2007/699) dwelt on the unjust isolation of the Turkish Cypriot people, a commensurate approach has not been taken in the present human rights report. 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 noteworthy that there is a serious omission in the Report, namely the failure to refer to the Direct Trade Regulation of the European Commission which is most important for the economic development of the Turkish Cypriot side and has been pending since 2004.

Paragraph 6 and paragraph 7 of the Report refers to the observations of the Committee on Elimination of Discrimination against Women and the Committee on Elimination of Racial Discrimination which serves nothing but the interests of the Greek Cypriot administration by claiming that the Greek Cypriot side "does not exercise control over all of its territory and thus unable to ensure full application" of the necessary requirements. It should be mentioned at this point that the Turkish Republic of Northern Cyprus with its legislation and implementations gives utmost importance to protect the rights of all individuals regardless of their race, origin, colour or gender and is ready to cooperate and share information with the relevant Committees upon their request.

As regards to the details mentioned in paragraph 14 on the figures pertaining to missing persons in Cyprus, it should be borne in mind that the work of the Committee of Missing Persons (CMP) is ongoing, therefore the figures are frequently updated. As of 12 December 2013, the remains of 1012 individuals have been exhumed; the remains of 475 missing individuals (359 Greek Cypriots and 116 Turkish Cypriots) have been identified and returned to their families.

Another issue of concern which prevails throughout the Report such as in paragraph 15 is the selective references to reports, decisions and declarations of other international bodies. Unfortunately it is observed that the Report chooses to quote from either one-sided bodies such as the EU Parliament or from reports dealing with the monitoring of the application of international Conventions by the so-called "Republic of Cyprus". This misguided approach inevitably affects the impartiality of the Report and culminates in the reflection of Greek Cypriot political views and unfounded allegations on many issues.

It is appreciated that in paragraph 16 the positive stance of the Turkish Cypriot side regarding the granting of access to military sites is acknowledged. However, it is regretted that there is no mention in the Report of the contribution (amounting to 50,000 USD) of the TRNC Ministry of Foreign Affairs on 29 November 2013 to the CMP on behalf of the TRNC Government and its pledge to make additional contributions in the future. In the

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interest of providing a complete account of the developments, future Reports are expected to reflect this factual information.

It is also worth reminding here that in Your Excellency's recent report on the United Nations Operation in Cyprus, which was circulated on 5 July 2013 (S/2013/392), it has also been acknowledged that "in recent years, the Committee has been granted access to unfenced military areas in the north on a case-by-case basis."

It is disappointing that the expectation of the Turkish Cypriot side, as in the previous year regarding inclusion of incidents of intolerance towards the Turkish Cypriots by the Greek Cypriots under the subsection "Non-discrimination" has not been met. It is most crucial to share the relevant examples in this regard which occurred during the reporting period below:

The Greek Cypriot daily newspaper Phileleftheros reported on 2 September 2013 that Mr. Kirakos Kenevezos, the Greek Cypriot Minister of Education has announced that the 2013-2014 education term in South Cyprus should include the notion of the Cyprus problem and also stated that they have decided to name the slogan of the upcoming educational term as "I recognize, I don't forget, I demand." The Greek Cypriot Education Minister noted that they gave this decision due to the 40th anniversary of the 1974 Turkish peace operation in Cyprus and added that the necessary directive has been sent to all teachers. The newspaper reported that the decision of Mr. Kenevezos aims to make the students recognize their country, not to forget the so-called "occupied territories" and to demand their independence. The Greek Cypriot Ministry of Education stated that the main topic in the education programme is to keep the memory of the so-called "occupied" cities and villages alive by trying to visualize their images. This decision of the Greek Cypriot side is the most notable and the most significant example of the extent to which they can go to induce hatred and enmity into young brains.

On 19 September 2013, Turkish football team Trabzonspor and Greek Cypriot team Apollon-Limassol had a football match in Group J of the UEFA EUROPA league. As reported in the Turkish and Turkish Cypriot press, at the end of the match which resulted in favour of the Turkish team with a score of 2-1, many objects were thrown into the field towards the Turkish players by the Greek Cypriot fans. It was also reported that throughout the game the members of the Turkish press were subjected to verbal abuse and were spat on. The booklet distributed by the management of Apollon-Limassol before the game which contained a bloody map of the Island depicting the North under Turkish invasion constituted an insult to the Turkish football fans.

On 26 February 2013 the Greek Cypriot press reported that Greek Cypriot honey producers would launch a protest if honey produced by Turkish Cypriot beekeepers be included on the list of products traded across the buffer zone. The head of the Greek Cypriot Honey Producers Association, Haralambus Hristodulu, was reported to have stated that they had the right to protest to protect their rights. Although, these attitudes were clear examples of an act of discrimination, Turkish Cypriot honey producers, however, worked towards full harmonization with EU regulations on food, with the end result being that the latest tests by European Commission experts came out positive, in turn opening the door to the trade of honey.

Green Island Holidays (GIH) which is based in the UK and is one of the oldest and largest tour operators serving North Cyprus was barred from having a stand at the National Wedding Show in Olympia. The tour operator in question had attended the show in previous years. Upon their application to book a stand for the February 2013 event, they were told by sales staff that they could not allow GIH to participate in this year's exhibition due to complaints received from Greek Cypriots, who threatened to pull out of the exhibition if any TRNC firms were allowed to be present. The Greek Cypriot side

systematically follows a similar course of action aimed at preventing Turkish Cypriot firms and institutions from attending any kind of such events. As a case in point, the Greek Cypriot side, has succeeded in preventing the attendance of a Turkish Cypriot company, namely Noyanlar Construction, from participating in The Norwegian Travel and Real Estate Fair "Reiselivsmessen Oslo".

As regards to the claim on internally displaced persons in paragraph 20, it should be recalled that the issue of displaced persons is also affecting the Turkish Cypriot people and that it dates back to the period between 1963 and 1974 when many Turkish Cypriots were forced to abandon their homes, being internally displaced three or four times. Moreover, in accordance with the Voluntary Exchange of Populations Agreement reached between the two sides at the third round of inter-communal talks in Vienna on August 2, 1975 under United Nations auspices, the Turkish Cypriots remaining in the South moved to the North and Greek Cypriots remaining in the North moved to the South with the exception of a few hundred Greek Cypriots who chose to reside in the North. All Greek Cypriots applying for permanent transfer to the South are interviewed in private by UNFICYP in order to verify that the transfers are voluntary. Both the Agreement and its implementation are well-recorded in relevant UN documents (S/11789 of 5 August 1975, S/11789/Add.1 of 10 September 1975). Greek Cypriots who chose to stay in North Cyprus enjoy all the rights and freedoms that are enjoyed by the TRNC citizens. Their living conditions are on a par with the Turkish Cypriots living in the same area.

As regards paragraph 23 of the Report, as noted under the Turkish Cypriot viewpoint there is already a Turkish Cypriot doctor who speaks fluent Greek serving more than 20 years in the regional health care unit in Dipkarpaz and there has not been any official complaint lodged to the Turkish Cypriot authorities on this matter. Furthermore, according to our legislation before working in the TRNC, a doctor has to be registered to the Cyprus Turkish Doctors Union. So far, no Greek Cypriot doctor has made such an application.

In paragraph 25, regarding the request of a Greek Cypriot family to move to Dipkarpaz, it should be clarified that the application which was sent through UNFICYP on 31 August 2012 from the family was for the permanent return of the said family to reside with the family member who is supposedly living in Dipkarpaz. According to the information gathered by the relevant Turkish Cypriot authorities regarding the aforementioned family member, i.e. the grandfather, our authorities have confirmed that since the opening of the borders in 2003, he has been visiting his family house situated in Dipkarpaz, but not permanently residing in the region. The matter is currently being further investigated.

As regards to the freedom of movement of persons, the references in paragraph 26 should be elaborated further in order to reflect the realities on the ground. The Greek Cypriot side is still creating difficulties on various grounds to the Turkish Cypriots as well as third nationals residing in the TRNC which limit their freedom of movement. Therefore, the examples reflected in footnote (30) should be openly depicted and elaborated on.

The most recent developments regarding promotion of religious freedom are reflected in paragraph 28 where it is explained that in accordance with the agreement reached between the two sides in the Island, the Turkish Cypriot side has removed the name of Mr. Tsiakkas from the stop-list and enabled his crossing to the North on a regular basis. His first visit took place to Apostolos Andreas Monastery on 16 October 2013 and as a further gesture of good will the Turkish Cypriot side enabled him to conduct the Divine Liturgy in the Apostolos Andreas Monastery in Dipkarpaz together with Dipkarpaz resident Reverend Zacharias Georgiou on 30 November 2013. In a reciprocal manner, the Greek Cypriot side permitted crossing of Dr. Talip Atalay, the Head of the TRNC Religious Affairs Department, to cross to South Cyprus to attend a collective pilgrimage at the Hala

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Sultan Tekke, the most important Islamic monument on the Island, on the last day of the religious holiday of Eid ul-Adha, on 18 October 2013.

It is worth reminding here that the permission granted to Mr. Atalay was an exceptional case and does not reflect the common practice of the Greek Cypriot side regarding the crossings of people originating from Turkey. Moreover, it has not been confirmed by the Greek Cypriot side whether Mr. Atalay's crossings will be facilitated on a regular basis. The Greek Cypriot side has a policy of prohibiting crossing of TRNC citizens of Turkish origin to the South, including visits to religious sites. On many occasions, citizens of the TRNC originating from Turkey who attempted to cross to South have been turned away at the border and denied their right of freedom of movement.

We are expecting the future Reports of the Office of the United Nations High Commissioner for Human Rights to make a clear distinction between the practices of the Greek Cypriot side and the Turkish Cypriot side regarding freedom of movement on the Island where it should be duly noted that the Turkish Cypriot side continues to uphold the policy that all citizens of the Greek Cypriot administration, irrespective of their place of birth or ethnic origin, are able to cross to North, including to fulfil their religious duties at the churches in the TRNC.

Regarding the "Property Rights" section of the Report, it is unfortunate that the present Report failed to fully address the difficulties encountered by the Turkish Cypriots who have left property in South Cyprus. By virtue of the Greek Cypriot Law No: 139/1991 concerning "The Administration of the Turkish Cypriot Properties in the Republic and Other Related Matters" the administration of all the Turkish Cypriot properties is vested in the Minister of Interior acting in his capacity as "Custodian". The residence requirement in this law denotes that any Turkish Cypriot who resides in Northern Cyprus or abroad cannot exercise any property rights in respect of their possessions in South Cyprus. Turkish Cypriots who are non-resident in Southern Cyprus have to fulfil a residence requirement of 6 months before they can even commence any legal proceedings in Southern Cyprus. However, even in the event of fulfilling the residency requirement the Turkish Cypriots are still faced with the stipulation of the Greek Cypriot Ministry of Interior which states that "all Turkish Cypriot properties have come under the protection of the Interior Minister in a law passed in 1991, pending resolution of the Cyprus problem". It should, also, be noted that the considerable amount of property in the South left by the Turkish Cypriots has been exploited by the Greek Cypriot administration under the pretext of expropriation, ruling out the possibility of restitution for the Turkish Cypriots. Furthermore, as in the case of land acquired for Larnaca airport, the Greek Cypriot administration did not even offer to pay compensation for the loss of enjoyment, or for the acquisition of the property which was owned by certain Turkish Cypriots.

As regards the details regarding the work of the Immovable Property Commission provided in paragraph 31, it should be noted that as of 21 February 2014, 5789 applications have been lodged with the Commission and 483 of them have been concluded through friendly settlements and 11 through formal hearing. The Commission has paid GBP 149,190,181 to the applicants as compensation. Moreover, it has ruled for exchange and compensation in two cases, for restitution in one case and for restitution and compensation in five cases. In one case it has delivered a decision for restitution after the settlement of Cyprus issue, and in one case it has ruled for partial restitution.

In paragraph 33 a reference is made to the decision by the Higher Regional Court of Munich and remarks of the said court such as "occupation" and "de jure this part still belonged to the Republic of Cyprus" are included in the Report. Unfortunately, this does not serve the purpose of the Report, which is supposed to reflect the concerns on human rights instead of political considerations and raises concerns over its impartiality. It should also be duly noted that the problem regarding the maintenance of cultural heritage is not an

issue that is only affecting North Cyprus but the Island as a whole. The Turkish-Muslim heritage in South Cyprus is in urgent need of cleaning and restoration. There are many Turkish-Muslim cultural monuments, including mosques, baths, fountains and cemeteries in South Cyprus that are in very bad condition due to negligence and wilful destruction.

In accordance with its policy of deceiving the world, the Greek Cypriot side finds it convenient to claim that North Cyprus is "occupied" in order to divert attention from its own responsibilities. However it is an acknowledged fact that, neither the Greek Cypriot Department of Antiquities nor the Greek Cypriot Church has any updated and complete registers of the cultural property in their custody before 1974. Therefore, whenever an icon or an antique piece of Cypriot origin appears in the international art market, the Greek Cypriots, instead of admitting to their inability to protect their cultural heritage, and spending their resources to rectify this shortcoming, find it more expedient to falsely accuse the Turkish Cypriots. Archbishop Chrysostomos II of the Greek Orthodox Church of Cyprus in an interview clearly stated that they did not have the registers of the movable cultural objects of the churches in North Cyprus. (Turkish Cypriot daily newspaper Kıbrıs, 22 January 2009).

The Greek Cypriot administration, which attempts to present itself as the champion of conservation of cultural heritage, has, since 1963, been trying to eradicate all traces of the Turkish-Muslim heritage of Cyprus. During the period from 1963 to 1974, mosques, shrines and other holy sites in Turkish villages all around the Island were destroyed by the Greek Cypriots. During this tragic period, mosques, shrines and other places of worship in 103 villages across the Island were either damaged or destroyed.

Paragraph 36 of the Report claims that no new sites were opened for worship by Turkish Cypriot authorities. In this context, I would like to underline the commitment of the Turkish Cypriot side to fully ensure that the freedom of religion or belief is respected. In fact, the Turkish Cypriot side is currently working to facilitate the requests from the Greek Cypriots to hold religious liturgies and masses at traditional religious sites in the Turkish Republic of Northern Cyprus such as Apostolos Andreas, Saint Mamas and Saint Barnabas on the days prominent to the Greek Orthodox faith. The Turkish Cypriot side currently facilitates the requests of Greek Cypriots, Maronites and Armenians to hold religious liturgies and masses at 21 different churches and monasteries in the Turkish Republic Northern Cyprus. Between 1 January and 31 December 2013, a total of 37 religious services were facilitated in the TRNC, 13 of which were conducted at churches situated within military zones.

Also within the context of religious freedom, it should be noted that the Turkish Cypriot authorities facilitated a religious service at Agios Georgios Xorinos Church in Gazimağusa (Famagusta) on 8 December 2013 for the first time in 56 years. The Turkish Cypriots also facilitated the celebration of the Feast of Theophany by the Greek Cypriots in Yenierenköy village on 6 January 2014 for the first time in 39 years and the religious service conducted at Saint Charalambos Church in Türkmenköy on 9 February 2014 first time in 40 years, both made possible by the good will demonstrated by Turkish Cypriot authorities in this regard.

In the name of objectivity, the future Reports should also reflect the fact that the Greek Cypriot leadership continues to hinder Turkish Republic of Northern Cyprus citizens' access to religious worship places, primarily to Hala Sultan Mosque. Also, the Köprülü Mosque situated in Limassol is closed for prayers except only on Fridays. Despite the Muslim residents in the area, the Greek Cypriot side still have not taken any steps to ensure that the Mosque is available everyday for prayers. Moreover, the Greek Cypriot side condones systematic destruction of Muslim-Turkish heritage in the South and takes no concrete measures against the rise of racism. Mosques located in South Cyprus have also been frequent target of arson attacks.

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For example, small mosque (masjid) in Aṣağı Baf (Paphos) falls short of meeting the needs of 400 Muslims who reside in South Cyprus. Moreover, Cedit Mosque in Baf (Paphos) has been completely destroyed in 1964 and its land is currently been used as a parking lot. In case of Prophet Ebubekir Mosque in the same area, although its restoration work has been completed, the Greek Cypriot Antiquities Department does not allow Muslims to pray at the said Mosque. Therefore, as the Turkish Cypriot side we have asked for reconstruction of the Cedit Mosque. It is unfortunate that our request has been declined.

As regards to Paragraph 43 of the section titled "Freedom of opinion and expression" which refers to the amended Law on the "Procedure for the Standardization of Geographical Names" adopted by the Greek Cypriot administration in July 2013, the Turkish Cypriot side has already expressed its concerns in the letter dated 27 August 2013 conveyed to Your Excellency by our President, Dr. Derviş Eroğlu. With the said amendment, the Greek Cypriot side seeks to punish anyone who acts against the decisions of the so-called "Cyprus Permanent Committee for the Standardization of Geographical Names" which has, in the guise of "standardization", unilaterally portrayed geographical and place names in the whole Island, including the North. This is clearly an attempt, with racist underpinnings, ignoring or rejecting the presence of all other civilizations in the Island in its long multicultural heritage.

Place names "can identify and reflect culture, heritage and landscape" and are important as "significant elements of the cultural heritage of a nation" (UN conference resolutions V/6 and VIII/9). The United Nations has taken a leading role in facilitating the setting of common rules for standardization of names in Conferences held under its auspices. The guiding principle adopted for standardization in these Conferences has been a practical one; it relates to how the inhabitants refer to an area. The Greek Cypriot Committee, on the other hand, admitted before a number of UN Conferences, such as in the report it has submitted in the Fifth UN Conference on the Standardization of Geographical Names in 1987, its own inability to engage in proper standardization in the North where it does not have the competence to verify place names under the control and jurisdiction of the Turkish Cypriot authorities, where the Greek Cypriot administration exercises no control or jurisdiction. The purported "standardization" by the Greek Cypriot Committee is ultra vires, and void ab initio.

Paragraph 50 reflects the protest of Greek Cypriot authorities in face of rejection of some of the textbooks to be used and three teachers to teach at the Greek Cypriot Schools in Dipkarpaz. It should be made clear once again that the Turkish Cypriot authorities do not have a policy of interfering with the use of Greek Cypriot textbooks or the appointment of Greek Cypriot teachers unless they disseminate enmity against the Turkish Cypriots. Upon the rejection of the said teachers, the Turkish Cypriot side expected the Greek Cypriot side to submit a new list of teachers for approval. However, contrary to the established practice, it was most disappointing to discover that four Greek Cypriot school teachers were unilaterally appointed by the Greek Cypriot side without the knowledge and approval of the Turkish Cypriot side, as well as UNFICYP. This unilateral action is in violation of the regulatory procedures which were established between the two sides and facilitated by UNFICYP and which have been customarily applied.

Furthermore, there is no mention of the Turkish Cypriot students living the Greek Cypriot side. The Greek Cypriot side still refuses to fulfil its long-overdue commitment and obligation to open a Turkish primary school in Limassol so as to meet the educational needs of the Turkish Cypriot students living in Southern Cyprus. Needless to say, the right to education in one's mother tongue is a fundamental human right which is enshrined in international human rights doctrines. In this context, it should also be underlined that the interviews carried out by UNFICYP with the families of Turkish Cypriot children residing

in Limassol in 2004 demonstrate that there is considerable demand among the Turkish Cypriots for a separate Turkish Cypriot school.

It should be recalled that the report of the then UN Secretary-General dated 7 June 1996 (S/1996/411) stressed that the Greek Cypriot side had sent a written commitment to the United Nations for the opening of a Turkish Cypriot school in Limassol. Despite the fact that almost 20 years have elapsed since this report, the Greek Cypriot administration is yet to take any initiative towards opening a Turkish Cypriot school in the South as reported in Your Excellency's report (S/2013/781) dated 30 December 2013.

I would like to take this opportunity to emphasize that the Turkish Cypriot side reiterates its strong commitment to continue its efforts for promoting human rights in North Cyprus.

We hope and trust that in the interest of reflecting a more objective and balanced account of the situation vis-à-vis the issue of human rights in Cyprus, the views and observations of the Turkish Cypriot side will be duly taken into consideration and would be reflected accordingly in future Reports of the Human Rights Council.

Özdil Nami Minister of Foreign Affairs