



Assemblée générale

Distr. générale
27 avril 2022
Français
Original : anglais

Conseil des droits de l'homme

Quarante-neuvième session

28 février-1^{er} avril 2022

Point 2 de l'ordre du jour

Rapport annuel du Haut-Commissaire des Nations Unies aux droits de l'homme et rapports du Haut-Commissariat et du Secrétaire général

Note verbale datée du 30 mars 2022, adressée au Haut-Commissariat des Nations Unies aux droits de l'homme par la Mission permanente de la Turquie auprès de l'Office des Nations Unies à Genève

La Mission permanente de la République turque auprès de l'Office des Nations Unies à Genève et des autres organisations internationales en Suisse à l'honneur de communiquer ci-joint le texte de la lettre du Ministre des affaires étrangères de la République turque de Chypre-Nord, Tahsin Ertuğruloğlu, qui présente le point de vue des autorités chypriotes turques (voir annexe) concernant le rapport du Haut-Commissariat sur la question des droits de l'homme à Chypre (A/HRC/49/22), soumis au Conseil des droits de l'homme à sa quarante-neuvième session.

La Mission permanente de la République turque souhaiterait que la présente note verbale et son annexe* soient distribuées en tant que document du Conseil des droits de l'homme.

* L'annexe est reproduite telle qu'elle a été reçue, dans la langue de l'original seulement



**Annexe à la note verbale datée du 30 mars 2022, adressée
au Haut-Commissariat des Nations Unies aux droits de
l'homme par la Mission permanente de la Turquie
auprès de l'Office des Nations Unies à Genève**

**Letter dated 30 March 2022 of H. E. Tahsin Ertuğruloğlu, Minister of
Foreign Affairs of the Turkish Republic of Northern Cyprus addressed
to the United Nations High Commissioner for Human Rights**

Excellency,

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” dated 2 March 2022 (A/HRC/49/22) which covers the period between 1 December 2020 and 30 November 2021, and convey to Your Excellency, the general comments of the Turkish Republic of Northern Cyprus (TRNC) as well as our assessment of the various factual errors and omissions in the Report.

At the outset, I would like to underline that the Turkish Republic of Northern Cyprus is a full-fledged democratic State with all of its institutions intact, where the rule of law prevails and inalienable human rights and fundamental principles are upheld and well-respected. The TRNC is committed to continuing its efforts to promote human rights enshrined in the relevant international instruments in its territory, including the rights to life, property and education, as well as the freedoms of religion, conscience, movement and speech.

I also would like to emphasize that the Universal Declaration of Human Rights and other international tools on human rights and freedoms have served as a model for the Constitution of the TRNC. Furthermore, they have been incorporated in the domestic law and played a crucial role in the judicial interpretation of domestic law.

As Your Excellency is aware, your esteemed Organisation has requested the Turkish Republic of Northern Cyprus to convey its views as one of the co-owners of the Island of Cyprus, regarding the situation of human rights in the Turkish Republic of Northern Cyprus (TRNC) as well as the human rights concerns of the Turkish Cypriot people relating to the issues included in the Report. However, it is very disappointing to observe, once again, that most of the human rights violations of the Turkish Cypriot people are overlooked in the Report.

It is crucial to underline that any human rights report to be issued on Cyprus should not ignore the unjust isolation imposed on the Turkish Cypriot people for many years. For almost 60 years, the Turkish Cypriot people have been prevented from exercising their basic human rights deriving from principles enshrined in the Universal Declaration of Human Rights without any meaningful and tenable explanation or justification.

The all-encompassing isolation imposed on the Turkish Cypriot people ranges from denial of their right to representation in international fora (i.e. Turkish Cypriot people are prevented from representing themselves at international institutions like United Nations (UN) and its bodies etc.); the prevention or restriction of their travel abroad (i.e. no direct flights, travel documents not accepted) and their communication with the outside world (i.e. no post and telecommunication except Turkey); the hindrance of trade and tourism with the outside world, and the hampering of all cultural and sporting relations of the Turkish Cypriot people with other countries (i.e. Turkish Cypriot people are prevented from participating at international cultural and sporting events such as Olympics, Eurovision, FIFA and UEFA activities).

It is regrettable that the Turkish Cypriot people are still being denied their rightful representation and participation in the international fora, including the relevant organs of the UN, effectively preventing Turkish Cypriot people, as one of the equal co-owners of the Island of Cyprus, from being heard. As a consequence, in the absence of the Turkish Cypriot people, the Greek Cypriot side is allowed to exploit its participation in international platforms to blatantly distort historical and legal facts about Cyprus. To our dismay, in the entirety of

the draft Report, the Rapporteur pretends as if there were only one legitimate authority on the island representing the island as a whole. Nothing could be further from the truth. This stance adopted in the draft Report is far from reflecting the realities prevailing on the ground for the past 60 years.

The references in the Report to the so-called “Republic of Cyprus” reflect neither the realities nor the legal situation on the island. It is important to remind that the Cyprus problem commenced in 1963, when the Greek Cypriot side forcibly usurped the title of the partnership Republic of Cyprus and expelled its Turkish Cypriot partner from all organs of the state. During the fateful years from 1963 to 1974, a period that the Greek Cypriot side conveniently choose to ignore, the Greek Cypriots, aided and abetted by Greece, took part in an ethnic cleansing campaign against Turkish Cypriots, known as the Akritas Plan, with the ultimate aim of achieving *Enosis* (the annexation of the island to Greece). This large-scale violence and ensuing gross human rights violations necessitated the UN Security Council to deploy UNFICYP in 1964 in order to stop the bloodshed and the atrocities perpetrated against the Turkish Cypriot people. There is a plethora of UN documents attesting to these crimes against humanity.

Therefore, 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”.

It is a fact that today, there are two separate States in the Island and the TRNC is the only state representing the Turkish Cypriot people, with its fully functioning administrative, judicial and legislative organs.

The introduction section of the Report provides a brief information regarding the political developments on the island in 2021. It is unfortunate that the rapporteur adapted the exact words used by the Greek Cypriot side, in **Paragraph 5** of the Report. The process, which had started in 2008, ended with the collapse of the Cyprus Conference, in Crans-Montana, Switzerland, in July 2017, as a result of the rejectionist stance of the Greek Cypriot side. The Turkish Cypriot side made it clear on many occasions that negotiations cannot “resume”, either in procedure or in substance, from where they were left off in Crans-Montana. In fact, it should be remembered that the Conference was defined as the last-ditch effort for a settlement on the same basis.

I would like to underline that the sole underlying reason for the repeated failures of the negotiations on the basis of now completely exhausted “bi-zonal bi-communal federation” settlement framework is treating the Greek Cypriot side as the so-called “Government of Cyprus” and the Turkish Cypriot people as a mere “community”. This imbalance begotten and maintained by the international community has encouraged the Greek Cypriot side to have easily rejected to share power and prosperity with the Turkish Cypriot people and thus perpetuating the status quo. I remain convinced that a freely negotiated and mutually acceptable agreement can successfully be achieved by establishing the equilibrium between the sides, that is to say the acknowledgment of the sovereign equality and equal international status of the two States on the island, prior to the start of formal negotiations.

Encouraged by the United Nations Secretary-General’s call on the two sides to “*think outside the box*” and “*this time must be different*”, the Turkish Cypriot side put forward a realistic proposal envisaging the establishment of a cooperative relationship between the two States, on the basis of their inherent sovereign equality and equal international status. The rationale behind the Turkish Cypriot proposal is embedded in the reality on the island, the reality being that today there exist two States and each governs itself in its respective territories.

It is unfortunate that the Report draws a direct link between the so-called “division” of the island and the difficulties faced on the implementation of international human rights standards throughout the island in **paragraphs 9, 14 and 15**. The report further alleges that “*as a result of the division, monitoring and reporting by international mechanisms on the human rights situation in the northern part of Cyprus has remained limited*”. In fact, it is not the absence of a political settlement but the refusal of the Greek Cypriot side to set up direct contact and cooperation with the Turkish Cypriot side on the issues of mutual concern, including human rights issues, that impedes the remedies to different challenges. I would like

to stress that the Turkish Cypriot side is prepared to engage in a bi-lateral cooperation with the Office of the High Commissioner for Human Rights (OHCHR) to be able to address all the matters concerning human rights. We, therefore, expect the international community and in particular your esteemed institution not to fall into Greek Cypriot side's propaganda trap and to adhere to the UN Secretary-General's call in his report dated 9 July 2021 (S/2021/635), where he rightly underlines that *"concerns about recognition should not in themselves constitute an insurmountable obstacle to increased cooperation"* between the Turkish Cypriot side and the international actors.

It is unacceptable that **paragraph 15** of the Report underestimates the adverse effects of Covid-19 on the Turkish Cypriot economy. The rapporteur instead opts to limit the effects of Covid-19 pandemic only with the movement of persons and goods between the two sides in **paragraph 37**. The most important human right concern on the island is the non-existence of international support to the Turkish Cypriot side to be able to address the challenges it has experienced during the Covid-19 pandemic. It is very unfortunate that, in order to appease the Greek Cypriot side, the international community has opted not to engage with the Turkish Cypriot side even on such a humanitarian issue. Unfortunately, the Turkish Cypriot people are curtailed to benefit from global initiatives, such as COVAX and access to the World Health Organization to discuss the means to fight the pandemic, while the peoples of other countries have enjoyed, very rightly, from the international cooperation during such extraordinary times. If this is not discrimination against the Turkish Cypriot people that has to be highlighted in the Report, I wonder what is.

The Report refers to the restrictions of movement between the two sides on the island during the reporting period without referring to the fact that it is the Greek Cypriot side which has continued its obstructive and arbitrary attitude as regards the crossings of the TRNC citizens of different origins and/or with foreign residency as well as the European Union (EU) and foreign nationals from the crossing points to and from the Turkish Cypriot side. I deem it necessary to underline that it is the Greek Cypriot administration's ill-intentioned and politically-motivated applications which are hampering the Turkish Cypriot economy and tourism, even at a time of a pandemic. Lokmacı (Ledra Street) crossing point, which the predominant majority of pedestrians, both Turkish Cypriots and Greek Cypriots, as well as foreigners travel through and contributes enormously to the businesses around the area, was the first one closed by the unilateral decision of the Greek Cypriot leadership, citing Covid-19 measures. The Report, also, falls short of mentioning the protests of Greek Cypriot taxi drivers at the border gates in November 2021, who were prevented by the Greek Cypriot authorities from crossing to the TRNC to buy fuel from our country, as well as the long withstanding obstacles of the crossing of the Turkish Cypriot commercial vehicles through the borders, due to the Greek Cypriot policies.

Regarding the references in **Paragraphs 22, 23 and 24** on the issue of missing persons, I would like to reiterate that the Turkish Cypriot side is doing its utmost on this humanitarian issue, which affects both Turkish Cypriot and Greek Cypriot peoples alike, and contributing to the work of the Committee on Missing Persons (CMP) so that the CMP can successfully deliver on its mandate.

Despite the humanitarian stance of the Turkish Cypriot side, the sole aim of the Greek Cypriot side, unfortunately, has always been to politicize this humanitarian issue for political expediency before the eyes of international organisations, including the UN, rather than to engage positively in the work of the CMP. With a view to supporting the work of the CMP, the Turkish Cypriot side has established an Archive Committee in 2016, which is composed of military authorities, police authorities, experts from the Ministry of Health and National Archives as well as other relevant units of the Government, to examine the relevant archives for the information requested by the CMP regarding the location of missing persons. In this connection, access was given to the Turkish Cypriot Member's Office to check the aerial photos dating 1974. The Turkish Cypriot side has also established an investigation unit under the TRNC Presidency to examine all relevant archives in order to gather information requested by the CMP regarding the potential locations of missing persons, as well as the Missing Persons Unit (MPU) which conducts criminal investigation into the cases of the identified Greek Cypriot missing persons under the supervision of the constitutionally independent TRNC Attorney-General's Office. Furthermore, upon finding evidence on

potential burial places, the Turkish Cypriot side accommodates the access of the CMP to any area throughout the TRNC, be it by interrupting the construction of a major road or giving access to those military areas CMP asks for according to its work plan. In this regard, in April 2021, access to 5 additional suspected burial sites in military areas in the Turkish Republic of Northern Cyprus was granted where the excavations are done according to the excavation planning of the CMP. It should be also noted that both the TRNC and Turkey continue to support CMP financially.

Busy with spreading disinformation about the Turkish Cypriot side and Turkey, the Greek Cypriot side is yet to give any response to the call of the CMP to search its military or police reports, logbooks, medical reports or any other document that may include information about potential burial sites or remains belonging to missing persons. None of the criminal investigations conducted into the deaths of Turkish Cypriot missing persons resulted in the identification of the perpetrators or the prosecution of those identified. Moreover, to this day, the Greek Cypriot side has failed to reciprocate in terms of facilitating access to the military areas as well as the archives of the Greek Cypriot police which was involved at first hand in the mass atrocities against Turkish Cypriot people particularly during 1963-1964. In spite of the fact that the Turkish Cypriot side has continuously been bringing all these facts to the knowledge of your Office, it is very regretful to see that your Office hesitates to include them in its reports.

We regret to see that the rapporteur tried to appease the Greek Cypriot side by deliberately omitting a factual information which was previously covered in the draft Report regarding the landmines. As you know very well that the Rapporteur rightly acknowledged the fact in the draft report that the Turkish Cypriot side is willing to cooperate on the issue of a mine-free island and that the Greek Cypriot side refuses to discuss it. You will appreciate that the deletion of this acknowledgement which was in line with Paragraph 21 of the Report of the UN Secretary-General on UNFICYP dated 9 July 2021 (S/2021/635), causes grave concerns and compromises deeply the impartiality of the Report. The Report also overlooks that it is the Turkish Cypriot side putting forward proposals in the past, with the sole purpose of clearance of all remaining minefields on the island starting with areas adjacent to the buffer zone, namely a minefield under the Turkish Cypriot jurisdiction in Derinya and the three minefields under Greek Cypriot jurisdiction near the Akincılar Village.

The Report, in **paragraph 28**, refers to “internally displaced persons”, which is in harmony with the archaic Greek Cypriot propaganda. The *Voluntary Exchange of Populations Agreement*, at the inter-communal talks held on 2 August 1975, in Vienna, was agreed between the two sides, in the aftermath of which Turkish Cypriots and Greek Cypriots were respectively transferred to North Cyprus and South Cyprus under the auspices of the United Nations. As a result, for almost 50 years, the Turkish Cypriot people as well as the Greek Cypriot people have been living peacefully side by side in their own territories. Within these circumstances, referring to people living in their respective territories as “displaced” is far from the prevailing reality.

Paragraph 32 of the Report refers to the religious track and claims that politically or ethnically motivated attacks were counterbalanced by the swift response by religious leaders, completely ignoring the fact that it is the same Greek Cypriot religious leader who participates at the religious track process on one hand and fuelling the increase of racism and animosity in the Greek Cypriot side. Labelling “the Turks’ actions as barbaric” (on the occasion of Papa Francis’ visit on 3 December 2021, Alpha News) and Turkish Cypriot people as “minority” (interview in Kathimerini Newspaper, September 2021) is per se politically and ethnically motivated statements by the Greek Cypriot religious leader. Such statements will continue to incite hatred in the Greek Cypriot side and the inaction of the Greek Cypriot administration, in the face of continuous politically motivated attacks, in the Greek Cypriot side can only lead to repetition of such incidents.

Another important shortcoming of the Reports is the lack of reference to the segregationist and racially motivated discourse and actions by the Greek Cypriot side during the reporting period. In September 2021, a decision was taken by the Greek Cypriot Ministry of Education to first tear the page containing a section about our Great Leader Mustafa Kemal Atatürk from the textbook used in the secondary education in the Greek Cypriot side and then having it collected altogether, claiming that the textbook is “inappropriate”. It is not possible to

accept the disrespect towards the Leader of the Turkish Nation. On 9 November 2021, the walls of a technical school in Nicosia, South Cyprus was filled with chauvinistic and racist words towards Turkish Cypriot people such as “Cyprus is Hellenic land”, “Turks out”, “EOKA once again”. It is obvious that by refraining from penalizing such vandals, who represent an outdated and backwards mentality and ceasing inciting intolerance, the Greek Cypriot leadership is fuelling the increase in racism and animosity in the Greek Cypriot side.

The section titled “freedom of movement and the right to seek asylum” elaborates the concerns over the human rights of asylum seekers. We are well aware of the fact that such issues, which do not recognize boundaries and is a concern to all countries with no exception, should be our collective responsibility to address. Issue of refugees and asylum seekers are challenges that can only be resolved through concerted and coordinated actions. Our numerous calls to the Greek Cypriot side to cooperate on the issue of refugees and asylum seekers have not been reciprocated yet. It is worth mentioning that TRNC has been doing its utmost with its meagre financial and technical resources to provide assistance to refugees arriving to the TRNC. However, the United Nations High Commission for Refugees (UNHCR) refrains from jointly addressing in collaboration with the Turkish Cypriot side this global phenomenon which may be perceived as a political stance rather than a stance focusing on the wellbeing of refugees and asylum seekers. On the other hand, the Greek Cypriot administration has received around 75 million Euros in aid from the EU to tackle the irregular migration for the period of 2014-2020. In view of the above, TRNC Council of Ministers introduced, on 21 June 2019, a visa regime for Syrian citizens. Since the inception of the visa regime for Syrian citizens, the number of applicants, who arrive at our ports to seek refugee status from South Cyprus, has fallen drastically. I am compelled to note that establishing contact and communication with and relying on the information provided by only the Greek Cypriot side in this or any other matter, as if it was true, compromises the impartiality of the Report.

Moreover, as regards the section on freedom of movement under **paragraphs 35 and 36**, it should be stressed that the opening of crossing points in 2003 was a unilateral decision by the Turkish Republic of Northern Cyprus initiated by the Founding President Rauf Raif Denktaş. As the party taking initiative towards enhancing the freedom of movement across the island, the Turkish Cypriot side imposes no restrictions on freedom of movement on anyone crossing between the Turkish Cypriot side and the Greek Cypriot side. What is impeding the freedom of movement on the island is the discriminatory and arbitrary policies employed by the Greek Cypriot side against some Turkish Cypriots and third party nationals in this regard. It is very explicit that the Turkish Cypriot people, for many years, have been stripped of their freedom of movement, a fundamental right for everyone, and that this blatant violation of Turkish Cypriot people’s right is only perpetuated by the involvement of the international community into the policy of restricting their travel abroad.

In **paragraph 37**, the Report refrains from referring to the fact that the root of the cause of the problem on restrictions on the freedom of movement on the island is the Greek Cypriot side’s obstructionist and arbitrary implementations which has increased during the reporting period, especially using Covid-19 as a pretext to further intensify its obstructive and arbitrary implementation as regards the crossings of Turkish Cypriot citizens of different origins and/or with foreign residency as well as EU and foreign nationals from the crossing points to and from North Cyprus.

The origins of this reinforced implementation goes back to February 2020 when Greek Cypriot council of ministers approved a series of amendments to the Green Line Regulation’s Code of Implementation (EU Council Regulation 866/2004), particularly prohibiting foreign nationals from crossing to North Cyprus. These amendments in question are in violation of the Green Line Regulation, which provides for crossing of the border by “*all citizens of Southern Cyprus, EU citizens and third-country nationals who are legally residing in Northern Cyprus, and by all EU citizens and third country nationals who entered the island through Southern Cyprus*”. Though the said amendments made by the Greek Cypriot administration is referred to as the GLR’s Code of Implementation, what, in fact, is done by the Greek Cypriot leadership is changing the very substance, content and spirit of the GLR, which can only be amended with the agreement of the European Commission. It is unquestionable that the recent Greek Cypriot implementation, preventing crossings of

Turkish Cypriot citizens of different origins as well as foreign nationals from the crossing points between North and South Cyprus, is furthered by the Greek Cypriot administration, at a time when measures taken at the crossing points in relation to Covid-19 pandemic have been eased, shows that this administration is bent on even exploiting a humanitarian issue such as a pandemic as a pretext to suit its political agenda. If this decision was taken for health purposes, the people in question would not have been allowed to enter South Cyprus in the first place. However, they have been allowed to enter South Cyprus and now they are stuck there unable to cross to North Cyprus.

Regarding the references to the closed area of Maraş (Varosha) in **paragraphs from 49 to 52** of the Report, I would like to put on record that the steps we have taken are in line with international law and without prejudice to private property claims. As a matter of fact, it is a clear contradiction on the part of the international community to repeatedly stress the fact that the status quo is unacceptable and unsustainable while at the same time criticizing the constructive steps taken in the closed area of Maraş, which has long become a major symbol of the status quo.

It is obvious that the Greek Cypriot administration of Southern Cyprus tries to convince the international community that the steps taken by the Turkish Republic of Northern Cyprus in the fenced-off area of Maraş would adversely affect the individual property rights of its former Greek Cypriot inhabitants. Moreover, the Greek Cypriot administration, benefiting unilaterally from the status quo on the island, does its utmost to prevent its citizens from applying to the IPC.

Therefore, accurate interpretation of the steps taken by the TRNC in the fenced-off area of Maraş is crucial. It should be noted that the fenced-off area of Maraş is located in the Turkish Republic of Northern Cyprus and as such, is an area under the full sovereignty of the TRNC. Over the course of many decades, the fenced-off area of Maraş has become a major symbol of the status-quo in Cyprus. Rejection by the Greek Cypriot side of all the plans for an agreement and the Confidence Building Measures containing, among others, the fenced-off area of Maraş, made it necessary to take steps pertaining to the fenced-off area of Maraş. It is an undeniable fact that leaving the fenced-off area of Maraş closed in its current condition is in the interest of no one. In July 2021, TRNC Government has lifted the military zone status of a pilot area, which corresponds to %3.4 of the fenced-off area of Maraş. The purpose of this decision was to enable the Immovable Property Commission (IPC) to process the property claims, as this was previously not possible due to the military zone status of the area. According to the statement of Növber Ferit Veçhi, the President of the IPC, on 30 November 2021, the number of applications to the IPC concerning the Maraş/Varosha region has increased from 280 in February 2020, to 338 on 12 November 2021, reaching 410 by 30 November 2021. This shows that the Maraş/Varosha opening has been well received by the former inhabitants of the area.

There are currently almost 50 applications related to the properties in the pilot area before the IPC. For the pilot area in question, the IPC will now be able to process and decide on the applications made through any one of the remedies in place, namely, restitution, compensation and/or exchange. IPC was established in 2005 by the TRNC and is recognized as an effective domestic remedy by the European Court of Human Rights with the authority to deal with applications and deliver decisions on the property claims by providing remedies in the form of restitution, compensation and/or exchange.

Regarding the reference in **Paragraph 52** to “population of Cyprus”, I wish to reiterate that as the Turkish Cypriot and Greek Cypriot peoples live separately within their own States, the reference to the so-called “population of Cyprus” contradicts the reality. Therefore, reference should be made to two separate Peoples and populations existing in their own States.

Paragraphs 65 and 66 of the Report refers to the education rights of the Turkish Cypriots however fails to mention the fact that the Turkish Cypriot students have limited access to European Union exchange and educational programmes. This limitation is very extensive and includes total exclusion from access to the most important educational programmes of the European Union, such as the Erasmus Programme and Bologna Process, as a result of the Greek Cypriot side’s obstructionist actions which politicize the issue of education.

The Report, **in paragraph 67** refers to the calls of the Security Council upon the leaders to address impediments to peace in school materials, including text books, as a contribution to trust-building between the communities but overlooks the fact that the Turkish Cypriot side has already revised its school books a few years back, removing all negative language in the textbooks while the Greek Cypriot side has been refusing to revise the elements of enmity and discrimination contained in the school books used in Greek Cypriot schools in South Cyprus. For example, the religious book for primary Greek Cypriot school students contains Islamophobic references. The said book, under the title of “women in Islam”, among others claims that “holy book of Quran refers to men as superior to women and dictates rules that limits women’s activities outside their households by making them subject to the men’s will”.

In the interest of reflecting the human rights situation on the island objectively, I hope and trust that the views and contributions of the Turkish Republic of Northern Cyprus will duly be taken into account by the OHCHR.

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

Tahsin Ertuğruloğlu
Minister of Foreign Affairs
