



ГЕНЕРАЛЬНАЯ АССАМБЛЕЯ

Distr.
GENERAL

A/HRC/7/G/16
1 April 2008

RUSSIAN
Original: ENGLISH

СОВЕТ ПО ПРАВАМ ЧЕЛОВЕКА

Седьмая сессия

Пункт 2 повестки дня

**ЕЖЕГОДНЫЙ ДОКЛАД ВЕРХОВНОГО КОМИССАРА ОРГАНИЗАЦИИ
ОБЪЕДИНЕННЫХ НАЦИЙ ПО ПРАВАМ ЧЕЛОВЕКА И ДОКЛАДЫ
УПРАВЛЕНИЯ ВЕРХОВНОГО КОМИССАРА И ГЕНЕРАЛЬНОГО СЕКРЕТАРЯ**

**Вербальная нота Постоянного представительства Турции от 28 марта 2008 года
в адрес Управления Верховного комиссара по правам человека
Организации Объединенных Наций**

Постоянное представительство Турецкой Республики при Отделении Организации Объединенных Наций в Женеве и других международных организациях в Швейцарии свидетельствует свое уважение Управлению Верховного комиссара по правам человека и имеет честь препроводить настоящим копию письма* г-на Тургая Авджи, заместителя премьер-министра и министра иностранных дел Турецкой Республики Северного Кипра, в котором излагаются мнения турко-кипрской общины по докладу Генерального секретаря "по вопросу о правах человека на Кипре" (A/HRC/7/46) от 6 марта 2008 года, который был представлен седьмой сессии Совета по правам человека.

Постоянное представительство Турецкой Республики хотело бы просить распространить настоящую ноту и приложение к ней в качестве документа седьмой сессии Совета.

* Воспроизводится в приложении в том виде, в каком оно было получено, только на языке представления.

Annex

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

27 March 2008

I have the honour to refer to the Report on the “Question of human rights in Cyprus” dated 6 March 2008 (A/HRC/7/46) which has been submitted to the 7th session of the UN Human Rights Council held in Geneva, pursuant to decision 2/102 taken at its 29th meeting on 6 October 2006 regarding the "Reports and studies of mechanisms and mandates" 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 “Republic of Cyprus”, “Government of the Republic of Cyprus”, “CYPOL”, “Republic of Cyprus Minister of Education”, “Cypriot National Youth Agency”, and the “Supreme Court of the Republic of Cyprus” reflect neither the realities nor the legal position in Cyprus. Ever since the forcible expulsion of the Turkish Cypriot co-founder partner from all organs of the 1960 partnership Republic, there has been no constitutional Government representing both peoples of the island. The Turkish Cypriots did not accept the forceful takeover of the partnership State by the Greek Cypriot side and, through its decisive 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”.

H.E. Mr. Ban Ki-moon
Secretary-General of
the United Nations Organization
New York

We have taken note of your remarks in the prologue that, “In the absence of an Office of the High Commissioner for Human Rights (OHCHR) field presence in Cyprus or any specific monitoring mechanism, the OHCHR relied on a variety of sources with particular knowledge of the human rights situation on Cyprus for the purposes of the present report”. Indeed, particularly documents of European bodies have been used extensively on the issues of property claims and missing persons unfortunately giving the false image that Turkey is to be held accountable on these issues and that, therefore, Turkey and not the Turkish Cypriot side is the counterpart of the Greek Cypriot administration. This is erroneous and unacceptable.

As regards the “Overview” section of the Report, it is observed once again that the present Report does not include a section on your mission of good offices. Hence, the present Report 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. Sadly, the Greek Cypriot rejection of the UN Plan for a comprehensive settlement and the ensuing impasse has all but been forgotten and the inhuman policy of isolation being employed by the Greek Cypriot administration against the Turkish Cypriot people in all fields is not given due emphasis.

As you will 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 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 observations concerning the restrictions in the education sphere (**paragraphs 19-20-21**) and a mere mention in passing of the economic rights of Turkish Cypriots in **paragraph 2** and again in the context of the implementation of the European Union Regulation of February 2006 establishing an instrument of financial support for the TRNC (**paragraph 25**). It is noteworthy in this context 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.

As regards the “**Human Rights Concerns**” section of the Report which reiterates that “The persisting division of Cyprus has consequences in relation to a number of human rights issues on the whole island...” (**paragraph 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 an organized attack against the Turkish Cypriots throughout the island 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 (**paragraph 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 armed attacks on Turkish Cypriots residing in Bogaziçi and Geçitkale 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.

Although in **paragraph 3** it is reported that "...both sides continued to use the crossing points for various activities, including trade..." the present Report does not adequately address the issue of trade between the two sides within the context of the Green Line Regulation. Hence, the Report not only fails to address the difficulties encountered by the Turkish Cypriots in the area of international trade but also the difficulties encountered in the area of intra-island trading due to the Greek Cypriot side's obstructionist policies. Contrary to the Turkish Cypriot practice of allowing unhindered access to all Greek Cypriot vehicles and the EU Commission's view that unless restrictions were lifted the Green Line Regulation would be meaningless, the Greek Cypriot administration is still preventing Turkish Cypriot commercial vehicles from transporting goods and people across the Green Line on the pretext of refusing to recognize driving licenses issued in Northern Cyprus.

Moreover, exporters face arbitrary and discriminatory restrictions by the Greek Cypriot customs and other officials at crossing points even if their products fall within the scope of the Green Line Regulation. The Greek Cypriot administration's adoption of tough measures and strict controls on products crossing from the North clearly expose the Greek Cypriot intolerance of every effort that would even minimally contribute to the economic development of the Turkish Cypriot people. It should be noted that the volume of trade from North to the South,

within the framework of the Green Line Regulation, is far from being at a substantive level. What constitutes bigger urgency for the Turkish Cypriot people is the adoption of the Direct Trade Regulation, which would be a positive step towards eliminating the restrictions and the creation of the necessary conditions for the economic and social development of the North.

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 crossing points by the Greek Cypriot police and customs officers or in some cases by ultra-nationalist groups whose behaviour is condoned by the Greek Cypriot police.

For instance, Mr. Bülent Can, a Turkish Cypriot, went to the Metehan crossing point on 10 July 2007 with a view to travelling to Larnaca, South Cyprus. However, he was subjected to harassment and discrimination by the Greek Cypriot custom and police officers at the crossing point on account of a 1.5 cm crescent and star pendant (the symbol on the Turkish flag) that he was wearing. The Greek Cypriot police officers told Bülent Can to take off the pendant when crossing over to the South, but when Bülent Can resisted it was made clear to him that if he did not take it off he could not cross the border. Eventually, Mr. Can was actually denied entry for wearing the pendant. The Greek Cypriot administration is now part of the EU, yet the Greek Cypriots continue to display appalling behaviour which is far from what one would expect from “Europeans”. This is particularly true when one considers that a Greek Cypriot has never been denied entry to the TRNC for wearing the symbol of the cross which is what they believe in and stand for.

It is observed in the Report that there is a reference to the opening of additional crossing points, including the Lokmacı (Ledra Street) crossing point (**paragraph 4**). Since our position regarding the opening of new crossing points and our constructive attitude aimed at increasing contacts and building confidence between the two peoples of the island have been demonstrated through concrete steps, the Report should have clearly indicated that the crossing point in question could not be opened during the reporting period due to the difficulties put forward by the Greek Cypriot authorities. In this regard, I wish to underline that the Confidence Building Measures (CBMs) proposed by the Turkish Cypriot side were sincere proposals intended to promote confidence between the two sides and prepare the ground for full-fledged negotiations aimed at a fair and urgent solution whereas the ones proposed by the Greek Cypriot side have obviously been made for tactical purposes. This is also evident from the fact that the Greek Cypriot CBM proposals were conveyed to Your Excellency only a day before your meeting with President Talat (16 October 2007) just to divert attention from this meeting. In his proposal, among other things, the former Greek Cypriot leader Mr. Papadopoulos had introduced a new precondition for the opening of the Lokmacı (Ledra) crossing point by establishing a linkage between the opening of this crossing point and the Yeşilırmak (Limnitis) crossing point. However, in the present Report the two sides are put on an equal footing in this matter (i.e. CBMs).

In any case, we are very pleased that the change of leadership in South Cyprus has produced the momentum for the two sides to engage in cooperation for putting the Lokmacı crossing point to the service of both peoples, in line with the procedures at other crossing points.

As regards the freedom of movement on the island (**paragraph 5**), 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 44 years. 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. In **paragraph 5** the reference to villages in Northern Cyprus without indication of their Turkish names is unacceptable. The same holds true for the reference in **paragraph 17** to the village of Dipkarpaz (Rizokarpasso) in the Turkish Republic of Northern Cyprus (TRNC). In this context, it should also be reminded that Cyprus is the common home of the Turkish Cypriots and the Greek Cypriots where a great number of villages enjoyed both Greek and Turkish names.

As for **paragraph 7**, which deals with the criminal activities through the buffer zone, it should be reiterated that we have repeatedly expressed our readiness to establish contacts at all levels and to cooperate with the Greek Cypriot side in the fight against smuggling, drug trafficking, illegal immigration, human trafficking and similar illicit activity as well as in areas such as health and radiocommunication which have ramifications for both sides.

It should be recalled that during the winter of 2005-06, the Greek Cypriot administration had even refused to cooperate in the fight against the spread of avian influenza. Relevant authorities of the Turkish Cypriot side, in a letter dated 17 November 2005 addressed to the Greek Cypriot authorities had stated that the avian influenza continued to be a threat to the region and that it would be beneficial to establish cooperation in the preventive measures and actions to be taken regarding the virus. Subsequently, a case of the avian influenza had been reported in İncirli village in North Cyprus, the spread of which would have had catastrophic consequences for the Greek Cypriot side as well, since this kind of threat transcends borders.

In another area, namely the usage of radio frequency spectrum in Cyprus, the Greek Cypriot authorities have submitted to the International Telecommunication Union digital frequency requirements for the whole island. The frequency requirements submitted by the Greek Cypriot administration have been determined totally overlooking the frequency requirements of Northern Cyprus. The Greek Cypriot submitted requirements included channels which have already been allocated to the Turkish Cypriot broadcasting corporations by the competent Turkish Cypriot authority and, needless to say, are currently being utilized by the Turkish Cypriot broadcasting corporations. It is unavoidable that the two parties should prepare their radio frequency plans separately and simultaneously in their respective regions, both in terms of number of transmissions and the broadcasting coverage areas. Cooperation and due consideration for the rights of the two sides in this area would enable interference free transmissions and lay the ground for synchronization of plans.

It was with the understanding that cooperation between the two sides in certain spheres was essential that we had called for the establishment of technical committees that would take up issues relating to the daily lives of the two peoples in the island, and criminal matters was one of the topics. We trust that the two sides will now seize the opportunity to cooperate in this regard.

The argument in **paragraph 9** to the effect that “The Court has in several cases concluded a continuing violation of property rights of displaced persons, stating that these persons have remained legal owners in the north” does not reflect the truth. It must be noted that the European Court of Human Rights (ECtHR) explicitly cited this argument only in the

Loizidou Case. In the *Xenides-Arestis* case it has been left undecided and open to changes in the case law.

Having said this, 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 established 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 the established parameters, has over the years encouraged recourse to the ECtHR in a bid to carry the issue to the European platform. As in the case of *Apostolides v. Orams* (**paragraph 11**), 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 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, taking into account the ECtHR's admissibility decision of 14 March 2005 and its judgment of 22 December 2005 on the merits of the *Xenides-Arestis v. Turkey* application, the Law entitled "Law for the Compensation, Exchange and Restitution of Immovable Properties (Law no. 67/2005)" ("the Law" hereafter), was enacted in North Cyprus in December 2005. This Law envisages compensation, exchange and restitution 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 (IPC) was established on 22 March 2006, the mechanism of which is entirely based on the comprehensive guidelines suggested by the ECtHR. The Commission that comprises seven members, two of which are internationally renowned personalities of not Turkish decent, has the status of a court and its decisions are binding and implemented just as the decisions of the judiciary.

In **paragraph 37** of its decision on just satisfaction in the *Xenides-Arestis* decision of 7 December 2006 the Court held that "...the new compensation and restitution mechanism, in principle, has taken care of the requirements of decision of the Court on admissibility of 14 March 2005 and the judgment on the merits of 22 December 2005". Evidently the situation has changed substantially since the inter-state judgment of *Cyprus v. Turkey*. In other words, since the said judgment of 2001, the Court in its subsequent judgment of *Xenides-Arestis* indicated a general measure for property claims which has been put into effect and is functioning effectively.

It must be noted in this context that the reaction of the Greek Cypriot administration to the establishment of the IPC has not been encouraging. Sadly the Greek Cypriot authorities are attempting to undermine an effective legal instrument which conforms fully with relevant international norms. To this effect, the Greek Cypriot side has disclosed the names of the Greek Cypriot applicants in the press under a list entitled "shame list" and it has threatened to take legal action against potential applicants.

In this context, it is necessary to emphasize the importance of the Michael Tymvios case, which involves a Greek Cypriot national who has taken the Greek Cypriot administration to the ECtHR on account of the treatment meted out to him in the aftermath of his signing of a friendly

settlement agreement accepting the decision of 21 May 2007 of the IPC in Northern Cyprus. Michael Tymvios, a Greek Cypriot refugee, agreed with the IPC to exchange his property in the North with a Turkish Cypriot immovable property in Larnaca. Following the settlement, the Greek Cypriot administration black-listed Tymvios and exerted immense pressure on him by launching a legal investigation in an attempt to intimidate him and deter would be applicants. Tymvios, who went bankrupt 6 years ago and faces financial difficulties, complains that the Greek Cypriot administration sold his property in the South without having notified him as a reprisal for the exchange agreement reached with the IPC. The approval by the ECtHR of the above referred decision in the application by Mr. Tymvios would most likely result in increased applications to the Commission.

As for the so-called “enclaved” Greek Cypriots, referred in **paragraph 10** it is noteworthy that the term “enclaved” was first used in the relevant reports of the former UN Secretaries-General to describe the areas which Turkish Cypriots had been forced to live by the Greek Cypriots during the period between 1963-1974. Unfortunately, the Greek Cypriot side has been trying to utilize this term with a view to exploiting the presence of several hundred Greek Cypriots living in North Cyprus. The fact is that there have been no “enclaved” people in Cyprus since the liberation of the Turkish Cypriots by Turkey in 1974 and particularly since the opening of the border for reciprocal crossings by the Turkish Cypriot side. It should also be noted that the Greek Cypriots living in North Cyprus enjoy the same rights and living conditions as other residents living in the TRNC.

Regarding **paragraph 13** 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 & Other Related Matters” the administration of all the Turkish Cypriot properties is vested in the Minister of the 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 fulfill 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, Turkish Cypriots are still faced with the stipulation of the Greek Cypriot Ministry of the 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.

This indeed displays an example of double standards; encouraging and supporting individual applications by the Greek Cypriots to the ECtHR against Turkey claiming compensations for their properties in TRNC, while at the same time, adamantly refusing the claims of the Turkish Cypriots for reinstatement of their properties in South Cyprus or compensation for expropriation.

It is unfortunate to observe the reference, in **paragraph 12**, to the “demolition of Greek Cypriot houses in the Karpas, including residences of those who had indicated their desire to return permanently...”. In this context, I would like to bring to your kind attention that the Turkish Cypriot side’s detailed explanation regarding this issue has already been conveyed by the relevant authorities of our Ministry to UNFICYP through the letters of 5 June and 19 June 2007. Therefore, I will refrain from giving full particulars. Yet suffice to say, the cleaning up of old, vacant and partly demolished buildings is being carried out in accordance with the legal duty and responsibility of the Ministry of the Interior in creating a safer and healthier environment for all inhabitants. In this respect, all buildings which constitute a threat to the safety of the villagers had been identified and included in this effort. It should be noted that this work is not only carried out in the Karpas region but throughout the whole of Northern Cyprus wherever it is required. All the work that has been done has been implemented for the sole purpose of public safety with no particular focus on the owners of such properties, be they Turkish Cypriot or Greek Cypriot. It should be stressed that prior to demolishing such buildings our relevant authorities have contacted the owners, heirs or relatives and in accordance with the law gave due notice to them. It is unfortunate that the Greek Cypriot administration is misrepresenting and exploiting, for political propaganda purposes, a routine clean-up process required by law and carried out for the safety of all residents of the Dikarpas area, Greek Cypriot and Turkish Cypriot alike.

A serious omission in the Report is the fate of the Turkish Cypriot houses within the Greek Cypriot controlled areas which have been demolished and razed to the ground. A noteworthy case in this regard is what has unfolded in Yağmurlan (Vroisha) village in South Cyprus. Yağmurlan Village came to attention as a result of the legal struggle initiated by the former residents of the village against the Greek Cypriot administration. The Association of Yağmurlan was formed in the UK whose members are Turkish Cypriots who used to be residents of the village. The Association has filed a complaint against the Greek Cypriot administration on the grounds that their houses and hundreds of acres of vineyards and orchards have been plundered and demolished and turned into forest areas. The members of the Association made an application to the so-called “Interior Ministry of Cyprus” via the “Cyprus High Commission” in London seeking to be compensated for their loss. In response the Greek Cypriot administration referred to the law 139/1991 which has been mentioned hereinabove.

We consider the reference to the construction sector in North Cyprus in **paragraph 12** of the Report to be inappropriate. As one can recall the issue of reciprocal property claims would have been settled within the context of the Annan Plan, had it not been for its rejection by the Greek Cypriots. It should be known that in the absence of a comprehensive settlement and in view of the ongoing unjust isolation such a reference to the construction sector, which plays an important role in our economy, amounts to lending support to the Greek Cypriot aspiration of keeping the Turkish Cypriot economy under constant pressure.

The Report deals with the issue of missing persons in **paragraphs 14-16**, in this connection referring to Security Council resolution 1758 (2007) of 15 June 2007 which reiterated its call to the parties “to assess and address the humanitarian issue of missing persons with due urgency and seriousness, the Security Council welcomed the progress and continuation of the important activities of the Committee on Missing Persons”. As is the case with the issue of property rights once again Turkey is ultimately held responsible on the issue of missing persons as reference is made to the meetings of the Committee of Ministers of the Council of Europe

held on 15-17 October 2007 (1007th meeting) and 3-5 December 2007 (1013th meeting) to consider the relevant aspect of the Cyprus v. Turkey judgment of the ECtHR. 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.

In **paragraph 18** there is a reference to the revision of the Turkish Cypriot textbooks, and although the Report emphasizes the positive steps that have been taken, it also notes that “some general weaknesses remained”. This assessment does not fully reflect the developments in this regard and overlooks the unilateral steps taken by the TRNC, in conformity with the guidelines of the Council of Europe, since the Council of Europe Committee of Ministers recommendation 2001(15) adopted on 31 October 2001.

We are gratified that **paragraphs 19- 20** of the Report address the Turkish Cypriot students’ continuing lack of access to the European Union exchange and educational programmes. This no doubt constitutes a violation by the Greek Cypriot administration of the fundamental right to education of the Turkish Cypriot students whose plight continues despite efforts to rectify the situation.

The Turkish Cypriot side has always adopted a constructive approach towards the Greek Cypriots residing in the North and in line with this understanding, in addition to the existing primary school which has been functioning there for over three decades, opened a secondary school in September 2004 for the Greek Cypriot students residing in the Karpaz area thus enabling students to complete their education uninterrupted, without having to move away from their families while studying. Having said this, I would like to state that although we welcome the recording of the fact that the Turkish language primary school in Limassol is still not operational (**paragraph 21**), it is unfortunate that the structure and wording of the said paragraph downgrades the negative attitude of the Greek Cypriot administration in this regard.

Contrary to our expectations, the mere reference to the lawsuit filed by the Turkish Cypriot Teachers’ Union is far from reminding the Greek Cypriot administration of its obligation to establish a Turkish Cypriot elementary school in Limassol. Similarly, the phraseology that “over 60 Turkish-speaking children in Limassol attend the existing Greek Cypriot school, which provides Turkish language instruction” only serves the purpose of the Greek Cypriot leadership which is to refrain from fulfilling its commitment to open a Turkish primary school in Limassol in order to meet the educational needs of the Turkish Cypriot children living in Southern Cyprus, whose number is well over the Greek Cypriot children living in Northern Cyprus. This particular incident is only one example that good-willed unilateral steps taken by the Turkish Cypriot side are not reciprocated by the Greek Cypriot side. Needless to say, the right to education in one’s mother tongue is a fundamental human right which is enshrined in most of the fundamental international documents. Taking these facts into consideration, the Turkish Cypriot side expects

the UN Organization to give a strong message to the Greek Cypriot administration to honour its decade-old commitment and establish a separate Turkish Cypriot school in Limassol.

As for the matter of the repair and restoration of sites of religious significance on the island (**paragraph 23**), I wish to draw Your Excellency's attention to the insincerity of the Greek Cypriot side on the matter. I would like to underline that the protection of cultural heritage is of great importance to the Turkish Cypriot side since the cultural heritage of Cyprus, whether in the North or in the South, emanates from the diverse and rich cultures and civilizations which have populated the island throughout history and it is the common heritage of humanity regardless of its origin which should be protected and preserved. The relevant competent authority in the TRNC, namely the Department of Antiquities and Museums, works diligently to realize these objectives with limited resources.

However, 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 cultural and religious monuments including mosques, baths, fountains and cemeteries are under threat of destruction. A study carried out in 2006 by the Political and Research Office of the Presidency of the Turkish Republic of Northern Cyprus, clearly revealed that 16 of the mosques out of 106 located on the Greek Cypriot side of the island have been totally ruined, while 61 mosques remain in a state of neglect. While claiming to care very much for the cultural heritage of the island, the Greek Cypriot administration, at the same time, blocks the passage of aid to the Turkish Cypriot authorities in the North, although it is there that so many of the cultural monuments 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. They even try to prevent archaeologists from conducting research in North Cyprus. So far international bodies, including UNESCO, have failed in its task to provide any direct assistance of any kind to relevant Turkish Cypriot authorities as a result of the Greek Cypriot political pressures exerted with a view to preventing the North from obtaining the means to provide sufficient care. The Turkish Cypriot side believes that the protection of cultural heritage should not be held hostage by the continuation of the political situation on the island for which the Turkish Cypriot side cannot be held responsible.

With respect to **paragraph 25** it should 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 (259 million Euro), is that concrete steps be taken for the realization 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.

At this juncture, one would expect the Greek Cypriot administration to desist from pursuing an anachronistic policy aimed at isolating the Turkish Cypriot people and rather adopt behavior which conforms with the current positive atmosphere created by the meeting of the Turkish Cypriot and Greek Cypriot leaders on 21 March 2008. The following are glaring examples of the Greek Cypriot administration's restrictive practices during the reporting period which constitute a grave violation of human rights that have not found a place in the present Report.

Last summer the Greek Cypriot administration concentrated all its energy and efforts to prevent a friendly football match which was scheduled to be played between the Turkish Cypriot First Division football team Çetinkaya and the English First League football team Luton Town on 11 July 2007. Although the teams had arrived at the stadium in Lefkosa, North Cyprus, and actually started warming-up for the match, it was cancelled at the last moment after the Greek Cypriot administration exerted intense pressure to that effect.

The Greek Cypriot Football Association protested to the International Federation of Football Association (FIFA), Union of European Football Association (UEFA) and the English Football Association. UEFA and FIFA warned Luton Town against playing the match but even though Luton Town was determined to go ahead the English Football Association did not give such permission and consequently Luton Town announced the cancellation of the friendly match at the last moment.

After its "success" in preventing the Çetinkaya - Luton Town match, the Greek Cypriot administration did not enjoy the same success with the Syrian officials. In the wake of a series of meetings between the Turkish Cypriot and Syrian representatives, on 21 September 2007 the ferry line between Gazimağusa (Famagusta), North Cyprus and Latakia, Syria, has been reactivated after 28 years. The reaction of the Greek Cypriot administration to this simple step towards easing the isolations has been in the form of an all-out campaign aimed at preventing it. Ever since, it has made numerous representations at all levels to the Government of Syria for the purpose of discontinuing this ferry service. According to the Greek Cypriot official news agency (CNA), these representations include summoning the Syrian *Charge d'Affaires* to the Greek Cypriot Ministry of Foreign Affairs on 24 September 2007; former Greek Cypriot Foreign Minister Ms. Marcoullis taking up the matter with her Syrian counterpart on the sidelines of the opening of the UN General Assembly and telephoning him to follow up on this meeting on 6 October; the sending of a letter by Ms. Marcoullis to her Syrian counterpart on 7 October; the dispatching of Mr. Lyssarides as special envoy to Syria on 20 October and finally Ms. Marcoullis officially visiting Syria for holding meetings with the Syrian President, Vice-President and her Syrian counterpart on 11-12 November 2007.

At the same time, the Greek Cypriot administration went as far as involving Georgia on this matter with a view to persuading her to remove from her register the Turkish Cypriot passenger ferry carrying her flag. Furthermore, the Greek Cypriot administration has also tried to exploit, once again, its unilateral EU membership against Turkish Cypriots by trying to get the support of the EU on this matter. In reply the European Commission made the following statement on 17 October 2007:

"The Commission is aware that in 1974, [the Greek Cypriot] Government has declared the sea ports in the northern part of Cyprus (Famagusta, Kyrenia, Karavostassi) prohibited and closed

for all vessels. This was a unilateral decision of the Republic of Cyprus with consequences under domestic Cypriot law, but with no apparent consequences under international law.

In other words, it is the Commission's understanding that there is no prohibition under general international law to enter and leave seaports in the northern part of Cyprus.

Furthermore, neither the UN Security Council nor the European Community has ever imposed a trade embargo with respect to those areas. Taking this into account, the Commission proposed in 2004 the so-called Direct Trade Regulation.

Against this background, the Commission is not in a position to intervene with the authorities of the Syrian Arab Republic in this matter. The issue should be solved bilaterally between the Republic of Cyprus and Syria”.

A case in point of the Greek Cypriot policy aimed at isolating the Turkish Cypriot people is the attempt of the Greek Cypriot administration to hinder the utilization by the Turkish Cypriots of the funds earmarked for capacity building and infrastructural projects in North Cyprus under the EU's Financial Aid Package amounting to 259 million Euros. Towards this end, the Greek Cypriot administration has taken the European Commission to the European Court of Justice (ECJ) over a tender process for an energy project in North Cyprus, on the grounds that the implementation involves Turkish Cypriot authorities. The Greek Cypriot administration claims that the tender process constitutes a violation of the EU Financial Aid Regulation and an attempt to upgrade the status of the TRNC. The Greek Cypriot administration has sought interim measures to prevent the project's execution until the case is heard at the ECJ. The Greek Cypriot *Cyprus Weekly* of 15-21 February 2008 reported that the EU Enlargement Commissioner Mr. Olli Rehn did not welcome the Greek Cypriot action since the EU considers the tender procedure to be in line with the Financial Aid Regulation endorsed by the Greek Cypriot administration.

As long as the international community does not take the necessary steps towards lifting the inhuman embargoes and the isolation imposed on the Turkish Cypriot side, which has continuously displayed a positive stance in the search for a settlement in Cyprus, the Greek Cypriot side's utter disrespect for the human rights of the Turkish Cypriot people will continue.

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 problem”. 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 does not uphold the principle of the political equality of the two sides and fails to hold the Greek Cypriot side responsible for its application of inhuman restrictions, will not contribute to the search for a comprehensive settlement.

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; if indeed the current process of reporting on the human rights situation on the island is to continue in spite of its exploitation by the Greek Cypriot administration at the Human Rights Council.

In conclusion, I would like to reiterate that, as the Turkish Cypriot side, we remain fully committed to the comprehensive settlement of the Cyprus issue under Your Excellency's mission of good offices and on the basis of the UN established parameters and body of work. Taking this opportunity, I would like to express my hope and trust that under your able guidance, efforts to find a comprehensive settlement would come to fruition without further delay.

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

Signed:

Assoc. Prof. Turgay Avcı
Deputy Prime Minister
and Minister of Foreign Affairs

- - - - -