



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2004/27
19 April 2004

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixtieth session
Item 9 (a) of the provisional agenda

**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS IN ANY PART OF THE WORLD, INCLUDING:
QUESTION OF HUMAN RIGHTS IN CYPRUS**

Note by the Secretary-General

1. In its decision 2003/106 the Commission on Human Rights decided, without a vote, on 17 April 2003, to retain its agenda sub-item (a), entitled “Question of human rights in Cyprus”, of the item entitled “Question of the violation of human rights and fundamental freedoms in any part of the world”. It also decided to give the item due priority at its sixtieth session, on the understanding that action required by previous resolutions of the Commission on the subject would continue to remain operative, including the request to the Secretary-General to submit a report to the Commission regarding their implementation.

2. The annexed report, prepared by the Office of the United Nations High Commissioner for Human Rights, is herewith transmitted to the Commission pursuant to this decision. It covers the period up to 2 April 2004 and provides an overview of human rights issues in Cyprus based on such information as is available.

Annex

REPORT ON THE QUESTION OF HUMAN RIGHTS IN CYPRUS SUBMITTED PURSUANT TO COMMISSION ON HUMAN RIGHTS DECISION 2003/106

I. OVERVIEW

1. As of 2 April 2004, Cyprus remains divided, with a buffer zone maintained by the United Nations Peacekeeping Force in Cyprus (UNFICYP) separating the two sides. UNFICYP was set up in 1964. As of 1974, UNFICYP's mandate was expanded, and extended by successive Security Council resolutions, most recently for a further period ending 15 June 2004 (S/RES/1517 (2003)).

2. In accordance with his mandate of good offices, the Secretary-General continued the intense efforts to support the parties in reaching a settlement of the long-standing conflict on Cyprus. The Secretary-General's revised Basis for a Comprehensive Settlement of the Cyprus Problem was presented to the parties on 26 February 2003. This second revision was based on direct talks between the two leaders in the presence of the Secretary-General's Special Adviser on Cyprus and on separate consultations with each of the parties. On 27 February 2003, the Secretary-General invited the two leaders, Mr. Tassos Papadopoulos and Mr. Rauf Denktash, to The Hague on 10 March 2003 to advise him whether they were prepared to submit his proposal to separate, simultaneous referenda on 30 March 2003 so that the people of Cyprus would have the opportunity to decide on their future. Both leaders accepted this invitation. The Hague negotiations proved inconclusive, after Mr. Papadopoulos informed the Secretary-General that he was prepared to commit himself to putting the plan to referendum, whereas Mr. Denktash informed the Secretary-General that he was not prepared to agree to put the plan to referendum. As a result, the Secretary-General announced on 11 March 2003 that the process had reached the end of the road and asked his Special Adviser to return immediately to New York. The Cyprus office of the good offices mission closed on 16 April 2003.

3. On 4 February 2004, the Secretary-General invited the Greek Cypriot and Turkish Cypriot leaders, and representatives of Greece, Turkey and the United Kingdom of Great Britain and Northern Ireland to meet him in New York the following week. On 13 February, the parties agreed to resume negotiations on the basis of the Secretary-General's plan to achieve a comprehensive settlement of the Cyprus problem through separate and simultaneous referenda to be held before 1 May 2004. The parties further agreed that, in the absence of such agreement, the Secretary-General would convene a meeting of the two sides with the participation of Greece and Turkey in a concentrated effort to agree on a finalized text by 29 March. As a final resort, in the event of a continuing and persistent deadlock, the parties would invite the Secretary-General to use his discretion to finalize the text to be submitted to referenda on the basis of his plan. The process agreed on 13 February led to intense negotiations on the Island from 19 February to 22 March, followed by talks in Bürgenstock, Switzerland, from 24-31 March, which led to the submission by the Secretary-General of a final text, which is to go to simultaneous referenda on 24 April 2004.

4. Like the earlier versions of the settlement plan, the 31 March 2004 revised document provides for the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols and the International Covenant on Civil and Political Rights to be an integral part of the Constitution, and for the prohibition of discrimination against any person on the basis of his or her gender, ethnic or religious identity, or internal "constituent state" citizenship status. The document provides for freedom of movement and freedom of residence other than are expressly provided to the contrary. It also contains provisions for the protection of the rights of the Maronite, Latin and Armenian minorities, and of Greek Cypriot residents of certain villages to be within the Turkish Cypriot "constituent state" and Turkish Cypriot residents of certain villages to be within the Greek Cypriot "constituent state". It proposes a comprehensive regime for dealing with properties affected by events since 1963, in accordance with international law, respect for the individual rights of dispossessed owners and current users, and the principle of bizonality; and for the relocation to adequate alternative accommodation of persons affected by territorial adjustment. The document also proposes that steps be taken to conclusively resolve the missing persons issue as well as establish an independent and impartial reconciliation committee to promote understanding, tolerance and mutual respect between Greek Cypriots and Turkish Cypriots which, inter alia, would have the effect of promoting a culture of respect for human rights.

II. HUMAN RIGHTS CONCERNS

5. The human rights concerns in Cyprus derive predominantly from the persisting division of the island and the political situation which, to date, remains unresolved. Cyprus' division has consequences on the enjoyment, on the whole island, of a number of human rights including freedom of movement, freedom of association, property rights, freedom of religion, family rights, freedom of expression, voting rights, right to education, right to health, and the human rights issues pertaining to the question of missing persons.

6. Over the past several years, United Nations treaty bodies have noted in their concluding observations and recommendations on Cyprus' reports that the impact of the division of the island constitutes a serious obstacle to the enjoyment of human rights; see, inter alia, the concluding observations of the Committee on the Elimination of Racial Discrimination on Cyprus, adopted on 10 August 2001 (A/56/18, paras. 256-277).

7. Regret has also been expressed as to the fact that the current political situation in Cyprus prevents an adequate assessment of the human rights situation on the whole island. Most recently, the Committee on the Rights of the Child, in its concluding observations, adopted on 2 July 2003 (CRC/C/15/Add.205), expressed the concern that the State party is not in a position to exercise control over all of its territory and consequently cannot ensure the application of the Convention in areas not under its control.

8. On 23 April 2003, the Turkish Cypriot authorities partially eased restrictions on freedom of movement within the country. Consequently, from this date on to 29 March 2004, more than 3.3 million Turkish and Greek Cypriots crossed the buffer zone through the four authorized crossing points.

9. It should be noted that freedom of movement is still limited. Whereas Turkish Cypriots are able to enter the south showing their identity cards, Greek Cypriots need to show their passports at the crossings in the north and are additionally required to obtain a "visa" to enter the north. Turkish Cypriot authorities require that Turkish Cypriots visiting the south return by midnight to the north. According to the report of the Council of Europe's Commissioner for Human Rights on his visit to Cyprus (CommDH(2004)2), published on 12 February 2004, any delay is noted in a police report when passing the checkpoints with - as many testify - threats of penal sanctions which seem, however, not to be put into practice. Greek Cypriots visiting the north are allowed to stay overnight up to three days at any given time. Non-Cypriot visitors wishing to enter the south are restricted from gaining entry if they have not entered through the authorized entry points in the south.

10. The partial easing of restrictions has slightly improved the situation of the enclaved Greek Cypriots in the north and their relatives as regards freedom of movement. If they wish to stay more than one day in the south, the enclaved have to seek permission from the Turkish Cypriot authorities 15 days in advance. Since 23 April 2003, relatives wishing to visit the Greek Cypriots in the north are required to present their passports to the Turkish Cypriot authorities at the crossings, whereas previously they were permitted to do so by presenting, with prior permission, their identity card. In addition, both the enclaved and their relatives can only use the Ledra Palace checkpoint (one of the authorized crossing points) if they are on foot. As crossing by car is not allowed at Ledra Palace, the enclaved and their relatives wishing to stay overnight have to visit Ledra Palace to obtain the required permission, and then use other crossings to travel from the south to the north or vice versa.

11. An issue related to freedom of movement as well as freedom of association is that of participation in intercommunal activities by members of both the Turkish Cypriot and Greek Cypriot communities. During the reporting period, UNFICYP facilitated a record number of 250 bicomunal meetings at the former Ledra Palace Hotel. In addition, bicomunal projects and cultural activities aiming to promote tolerance and a multicultural society in Cyprus have been supported by the Delegation of the European Commission to Cyprus. In this context, it is to be mentioned that the European Court of Human Rights, in its judgement of 20 February 2003 in the case of *Djavit An v. Turkey*, decided that the repeated refusal of granting permits to the applicant, resident in the northern part, wishing to attend bicomunal meetings in the south that were designed to promote dialogue and an exchange of ideas and opinions between Turkish and Greek Cypriots, amounted to a violation of article 11 of the European Convention on Human Rights.

12. In the north, Turkish Cypriot authorities reportedly continue to restrict Greek Cypriots and Maronites from bequeathing their property if their heirs are not resident in the north. Since the easing of restrictions on movement, property of enclaved Greek Cypriots having left to the south has been placed in the "custody" of the Turkish Cypriot authorities, while previously property had been confiscated.

13. In June 2003, an Independent Judicial Commission, empowered to resolve property disputes that have arisen since 1974 in the northern part of the island, was established by a law adopted by the Turkish Cypriot authorities. The law provides that persons wishing to approach the Commission shall have unrestricted right of access to the northern part of the island for the

purposes of the relevant procedure. It should be underlined that it is not within the Commission's competence to provide redress to the owners of immovable property regarding the enjoyment of their property rights, but merely to deal with compensation.

14. Turkey has executed the European Court of Human Rights judgement of 28 July 1998 in the case of *Loizidou v. Turkey* by paying to Mrs. Loizidou the sum which had been awarded to her by the Court as just satisfaction. Nonetheless, according to the Council of Europe Committee of Ministers' resolution ResDH (2003)191, the judgement of 18 December 1996 in the case of *Loizidou v. Turkey* still remains to be executed. In its judgements of 31 July 2003 in the cases of *Eugenia Michalidou and Michael Tymvios v. Turkey* and *Demades v. Turkey*, the European Court of Human Rights concluded that, in the absence of a compensation for the interference with their property rights, the denial of access, control, use and enjoyment of their property constitutes a violation of article 1, protocol 1, of the European Convention of Human Rights.

15. With respect to freedom of religion, there have been improvements as regards reciprocal visits to places of worship due to the partial easing of restrictions on movement. In May 2003, the Bishop of Morphou, whose traditional seat is located in the north, but who at present is resident in the southern part, visited a church in the northern part of the island used as a religious museum. Reportedly, the Bishop was barred by Turkish Cypriot authorities from performing services when he visited the church accompanied by Greek Cypriot television crews. As church services in the northern part are only permitted in designated religious facilities and if conducted by a priest resident in the north or with a special permit, the Bishop was not able to perform services as he was not granted this permit. Maronites are reportedly not allowed to visit religious sites in the north which are located near the military zones.

16. In relation to the prohibition of arbitrary interference with family life, the European Court of Human Rights decided in the aforementioned judgement in the case of *Demades v. Turkey* that the complete denial of the right of Greek Cypriot displaced persons to their homes in the northern part of Cyprus amounted to a continuing violation of article 8 of the European Convention of Human Rights. Progress has been made with regard to family rights, as a law was passed by the Cypriot parliament in July 2003 making it legal for all Cypriot citizens of different faiths to marry at civil weddings.

17. As regards freedom of expression and the right to impart and receive information, several attacks on Turkish Cypriot opposition journalists were reported in the northern part. In addition, in November 2003, legal action was allegedly brought against five Turkish Cypriot journalists on charges of insulting the army, following the publication of reports criticizing police violence against demonstrators who were calling for a referendum on reunification of the island. The journalists face possible prison sentences of up to 11 years; some will be tried by military courts. Moreover, the editor and editorial writer of the Turkish Cypriot daily newspaper *Afrika* was prevented from crossing into the southern part on 4 May 2003 because he had no identity papers, having been stripped of these papers by the Turkish Cypriot authorities in 2000. In his aforementioned report (para. 9), the Council of Europe's Commissioner for Human Rights highlighted an alarming situation in respect of the exercise of freedom of expression in the northern part of Cyprus.

18. In relation to the right to vote and to be elected, since the de facto partition of the island, Turkish Cypriots living in the south have been barred from voting in national elections, but may travel to the north of Cyprus to vote in elections. Greek Cypriots and Maronites living in the north cannot participate in Turkish Cypriot elections; they are, however, eligible to vote in Greek Cypriot elections, but must travel to the south to exercise that right.

19. With regard to the right to education, in the Karpas peninsula in the north, Turkish Cypriot authorities rejected the request of adding a seventh grade at the Greek Cypriot primary school in Rizokarpasso, so that there are still no secondary school facilities for Greek Cypriots or Maronites in the north. Consequently, 15 of the 23 pupils moved to the south to pursue their secondary education. This raises concern, as children living in the northern part, who opt to attend secondary school in the southern part, are denied their right to return permanently to the north upon completion of their studies. Furthermore, Turkish Cypriot authorities rejected 41 out of 125 books intended for the school on the ground that they contained objectionable teaching material. Moreover, a lyceum for Greek Cypriots has been closed down. In the southern part, some 30 children of different school-going ages of the itinerant Turkish Cypriot community do not attend school, possibly because of the absence of a Turkish-medium school.

20. As regards the right to health, according to the report by the Committee on Legal Affairs and Human Rights of the Council of Europe's Parliamentary Assembly on "Rights and fundamental freedoms of Greek Cypriots and Maronites living in the northern part of Cyprus", published on 20 February 2003, it has been difficult for enclaved Greek Cypriots and Maronites to consult a Greek Cypriot or Maronite doctor in the areas where they reside.

21. In relation to the right of the citizens to change their government peacefully, concern has been expressed by the Parliamentary Assembly of the Council of Europe over the fact that the demographic structure of the island has been continuously modified since 1974 as a result of the policies of the Turkish Cypriot authorities and Turkey. In its recommendation 1608 (2003) of 24 June 2003, the Assembly refers to the policy of naturalization of Turkish mainland nationals designed to encourage new arrivals and points out that this process is an additional and important obstacle to a peaceful negotiated solution of the Cyprus problem.

22. It is claimed that the economic situation of the Turkish Cypriots in the northern part is constantly deteriorating owing to the trade restrictions imposed by the Government. According to the report by the Committee on Political Affairs of the Parliamentary Assembly of the Council of Europe on the "Situation in Cyprus", published on 12 January 2004, the growing gap between the standards of living in the two parts is a serious threat to the island's stability.

23. The Committee on Missing Persons (CMP), established in 1981, is composed of three members. The Greek Cypriot and Turkish Cypriot sides each appoint a member. The Third Member is appointed by the United Nations Secretary-General, upon recommendation of the International Committee of the Red Cross. Since January 2000, there has been no Third Member, but the First Assistant to the Third Member of CMP has continued to work with the two sides, as Acting Third Member, to overcome obstacles and enable CMP to resume its activities and achieve its aims. During the period under review, the Third Member ad interim, continued to work with the two sides.

24. On 30 April 2003, as part of the measures for Turkish Cypriots, the Greek Cypriot side published a list of 500 missing Turkish Cypriots whose cases have been submitted to CMP in the *Official Gazette* of the Republic of Cyprus and said it would provide their relatives with access to records and information. The Greek Cypriot side proceeded with its programme of exhumation and identification by establishing, inter alia, a DNA databank. Turkish Cypriot authorities have so far not cooperated in this DNA identification effort.

25. In December 2003, the Secretary-General wrote to the two leaders noting that a solution to this humanitarian issue was long overdue and that a fresh and sincere commitment to solve it was necessary. CMP should be reactivated and should be able to conclude its work without delay, taking full account of the 31 July 1997 Agreement. To this end, the Secretary-General suggested that the respective members of CMP be invited to resume formal meetings of the Committee, with the participation of the Third Member ad interim. Both leaders expressed their readiness to follow the Secretary-General's suggestions.

III. CONCLUSION

26. Despite some recent positive developments, the persisting de facto partition of the island constitutes a major obstacle to the enjoyment of human rights by all Cypriots throughout the island. It should be reiterated that the situation of human rights in Cyprus would therefore greatly benefit from the achievement of a comprehensive settlement which would bring about a just and lasting peace in Cyprus.
