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**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

Report of the Office of the United Nations High Commissioner for Human Rights on the question of human rights in Cyprus

Note by the Secretary-General

Summary

The present report has been prepared in accordance with the mandate contained in resolution 4 (XXXI) of the Commission on Human Rights. Moreover, in its resolution 1987/50, the Commission reiterated its previous calls for the full restoration of all human rights to the population of Cyprus, in particular to the refugees; called for the tracing of and accounting for missing persons in Cyprus without any further delay; and called for the restoration and respect of the human rights and fundamental freedoms of all Cypriots, including freedom of movement, the freedom of settlement and the right to property. It is in this light that the present report reflects a variety of human rights-related issues.

The annex to this note, prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and covering the period from 1 December 2011 to 30 November 2012, is herewith transmitted to the Council. It provides an overview of human rights concerns in Cyprus, including the right to life and the question of missing persons, the principle of non-discrimination, freedom of movement, property rights, freedom of religion and cultural rights, freedom of opinion and expression, and the right to education. Moreover, it provides an update on activities in Cyprus to promote the implementation of Security Council resolution 1325 (2000), in which the Council called on all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective.

The present report concludes that the persisting division of the island continues to constitute an obstacle to the full enjoyment in mutual confidence by the whole population of Cyprus of all human rights and fundamental freedoms. It stresses the importance of ensuring that there are no human rights protection gaps and that all persons can effectively enjoy their fundamental rights wherever they live. Addressing the underlying human rights

issues and causes should be an increasingly important part of peacekeeping efforts and also underpin the political dialogue for a comprehensive settlement of the Cyprus problem. Moreover, it is welcome that the Special Rapporteur on freedom of religion or belief conducted a mission to Cyprus in March and April 2012, and further visits by special procedure mandate holders are encouraged.

Annex

Report of the Office of the United Nations High Commissioner for Human Rights on the question of human rights in Cyprus

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I. Introduction

1. On 13 February 1975, the Commission on Human Rights adopted resolution 4 (XXXI) on the question of human rights in Cyprus, in which the Commission, inter alia, called upon all parties concerned to adhere strictly to the principles of the Charter of the United Nations, international instruments in the field of human rights and the relevant resolutions of the General Assembly and the Security Council and to take urgent measures for the return of all refugees to their homes in safety. In resolution 361 (1974), the Security Council had called upon “all parties to do everything in their power to alleviate human suffering, to ensure the respect of fundamental human rights for every person and to refrain from all action likely to aggravate the situation”. In resolution 3450 (XXX), the General Assembly expressed its grave concern about the fate of a considerable number of Cypriots who are missing as a result of armed conflict in Cyprus and requested the Secretary-General to provide the Commission on Human Rights at its thirty-second session with information relevant to the implementation of this resolution. The Secretary-General’s first report on this issue (E/CN.4/1186 and Corr.1), prepared in pursuance of Commission on Human Rights resolution 4 (XXXI) and of General Assembly resolution 3450 (XXX), was submitted on 4 February 1976.

2. Subsequently, in resolution 4 (XXXII) of 27 February 1976, the Commission on Human Rights, inter alia, recommended that the communities do their utmost to find a just and lasting peaceful solution to the Cyprus problem based on respect of the sovereignty, independence, territorial integrity and non-alignment of the Republic of Cyprus, which solution would also guarantee the full enjoyment in mutual confidence by the whole population of Cyprus of all human rights and fundamental freedoms. The Commission also urged all parties to refrain from unilateral actions in contravention of the relevant United Nations resolutions, including changes in the demographic structure of Cyprus.

3. Furthermore, in its resolution 1987/50 of 11 March 1987, the Commission on Human Rights, inter alia, reiterated its previous calls for the full restoration of all human rights to the population of Cyprus, in particular to the refugees; called for the tracing of and accounting for missing persons in Cyprus without any further delay; called for the restoration and respect of the human rights and fundamental freedoms of all Cypriots, including freedom of movement, the freedom of settlement and the right to property; and requested the Secretary-General to provide the Commission, at its forty-fourth session, with information relevant to the implementation of resolution 1987/50.

4. Reports on the question of human rights in Cyprus were presented annually to the Commission on Human Rights from 1976 to 2006. In its decision 2/102 of 6 October 2006, the Human Rights Council requested the Secretary-General and the High Commissioner for Human Rights to “continue with the fulfilment of their activities, in accordance with all previous decisions adopted by the Commission on Human Rights and to update the relevant reports and studies”. Since 2007, OHCHR has submitted reports on the question of human rights in Cyprus to the Council on an annual basis.¹

5. As at 30 November 2012, Cyprus remains divided, with a buffer zone maintained by the United Nations Peacekeeping Force in Cyprus (UNFICYP). In its resolution 2058 (2012), adopted on 19 July 2012, the Security Council decided to extend the mandate of UNFICYP for a further period ending 31 January 2013. In the same resolution, the Security Council welcomed the progress made so far in the fully fledged negotiations to bring the Cyprus conflict and division of the island to a comprehensive and durable settlement, and it

¹ A/HRC/4/59; A/HRC/7/46; A/HRC/10/37; A/HRC/13/24; A/HRC/16/21; A/HRC/19/22.

welcomed the leaders' joint statements, including those of 23 May and 1 July 2008. However, the Security Council also noted that the move towards a more intensive phase of negotiations has not yet resulted in an enduring, comprehensive and just settlement based on a bicomunal, bizonal federation with political equality, as set out in the relevant Security Council resolutions, and it encouraged the sides to proceed with the substantive negotiations on the core issues, stressing that the status quo is unsustainable.

6. With a new Greek Cypriot leader expected to emerge as a result of presidential elections in the Republic of Cyprus in February 2013, the sides have been focusing on reinvigorating the work of the Technical Committees since April 2012. The Technical Committees continue to address issues that affect the daily lives of people on both sides, including crime and criminal matters, cultural heritage, health, economic and commercial matters, crisis management, humanitarian matters and the environment.²

7. For the purpose of the report, in the absence of an OHCHR field presence in Cyprus, OHCHR has relied on a variety of sources with particular knowledge of the human rights situation on the island as well as on recent findings of international and regional human rights mechanisms.

II. Human rights concerns

8. During the reporting period from 1 December 2011 to 30 November 2012, various United Nations treaty bodies and special procedures discussed human rights issues in Cyprus and addressed relevant recommendations to Cyprus, Turkey and the de facto authorities in the northern part of the island, respectively.

9. In its concluding observations on Cyprus (CRC/C/CYP/CO/3-4), adopted on 15 June 2012, the Committee on the Rights of the Child reiterated its previous observation "that the State party, as a consequence of events that occurred in 1974 and that resulted in the occupation of part of the territory of Cyprus, 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" (para. 6).³ However, the Committee on the Rights of the Child remains concerned that "no information on children living in the occupied territories could be provided" (ibid.).⁴

10. In its concluding observations on Turkey (CCPR/C/TUR/CO/1), adopted on 30 October 2012, the Human Rights Committee expressed concern that Turkey maintains its declarations⁵ and reservation made at the time of ratification of the International Covenant on Civil and Political Rights and its Optional Protocol. The Committee voiced particular concern "that one of these declarations appears in fact to be a reservation limiting the effect of the Covenant to the national territory of the State party, which could result in the complete non-applicability of the Covenant to persons subject to its jurisdiction in

² Information received from the Office of the Special Adviser to the Secretary-General on Cyprus.

³ See also concluding observations on the second periodic report of Cyprus, CRC/C/15/Add.205, para. 5.

⁴ Ibid.

⁵ The declarations of Turkey include the following: "The Republic of Turkey declares that it will implement the provisions of this Covenant only to the States with which it has diplomatic relations. The Republic of Turkey declares that this Convention is ratified exclusively with regard to the national territory where the Constitution and the legal and administrative order of the Republic of Turkey are applied." Available from <http://treaties.un.org>. See also the summary records of the Human Rights Committee's meetings on 17 and 18 October 2012 (CCPR/C/SR.2927, paras. 17, 28, 33, 36 and 37; CCPR/C/SR.2928, paras. 5 and 36; CCPR/C/SR.2929, para. 40).

situations where its troops or police forces operate abroad” (para. 5). The Committee recommended that Turkey should consider withdrawing its reservation and declarations, noting that in accordance with the Committee’s general comment No. 31 (2004) on the nature of the general legal obligation imposed on States Parties to the Covenant “the State party should ensure that all persons under its jurisdiction and effective control are afforded the full enjoyment of the rights enshrined in the Covenant” (ibid.).⁶

11. In the report on his mission to Cyprus from 29 March to 5 April 2012 (A/HRC/22/51/Add.1), the Special Rapporteur on freedom of religion or belief addressed several practical recommendations to the Government of the Republic of Cyprus, to the de facto authorities in the northern part and to other stakeholders, reiterating the “importance of ensuring that there are no human rights protection gaps and that all persons can effectively enjoy their fundamental rights, including freedom of religion or belief, wherever they live” (para. 73).⁷

12. The persisting division of Cyprus continues to have consequences for a number of human rights issues on the whole island, including (a) the right to life and the question of missing persons, (b) the principle of non-discrimination, (c) freedom of movement, (d) property rights, (e) freedom of religion and cultural rights, (f) freedom of opinion and expression, and (g) the right to education. In addition, it is important to adopt a gender perspective when negotiating and implementing peace agreements (see below, chap. II, sect. H).

A. Right to life and the question of missing persons

13. According to article 3 of the Universal Declaration of Human Rights, everyone has the right to life, liberty and security of person. Furthermore, article 1 of the Declaration on the Protection of All Persons from Enforced Disappearance provides that any act of enforced disappearance is an offence to human dignity, placing the persons subjected thereto outside the protection of the law and inflicting severe suffering on them and their families; any act of enforced disappearance also violates or constitutes a grave threat to the right to life.

14. The Committee on Missing Persons in Cyprus (CMP)⁸ continued the exhumation, identification and return of the remains of missing persons. As a result of the inter-communal fighting in 1963 and 1964, as well as the events of July 1974 and afterwards, a total of 1,493 Greek Cypriots and 502 Turkish Cypriots have been officially reported as missing by both communities to the CMP. In July 2012, CMP contracted the International Commission on Missing Persons to perform the typing of the DNA samples from the relatives of missing persons, while further identifications of the remains are carried out by a team consisting of Greek Cypriot and Turkish Cypriot geneticists at the Committee’s anthropological laboratory at the United Nations Protected Area in Nicosia together with

⁶ The Human Rights Committee’s general comment No. 31 (para. 10) provides that: “States Parties are required by article 2, paragraph 1, to respect and to ensure the Covenant rights to all persons who may be within their territory and to all persons subject to their jurisdiction. This means that a State party must respect and ensure the rights laid down in the Covenant to anyone within the power or effective control of that State Party, even if not situated within the territory of the State Party.”

⁷ See also A/HRC/22/51/Add.1, paras. 74-87.

⁸ The Committee on Missing Persons in Cyprus was established in April 1981 by agreement between the Greek Cypriot and Turkish Cypriot communities under the auspices of the United Nations. According to its terms of reference the Committee neither attempts to attribute responsibility for the death of any missing persons nor makes findings as to the cause of such death (see www.cmp-cyprus.org/media/attachments/CMP/CMP%20docs/Terms_of_Reference_1981.pdf).

the CMP anthropologists. As at 30 November 2012, the remains of 896 individuals had been exhumed on both sides of the buffer zone by the Committee's bicomunal teams of archaeologists; the remains of 592 missing persons have been analysed in the initial phase at the Committee's bicomunal anthropological laboratory; and the remains of 336 missing individuals (269 Greek Cypriots and 67 Turkish Cypriots) have been identified and returned to their respective families.⁹

15. In its resolutions 2026 (2011) and 2058 (2012), the Security Council highlighted the importance of the activities of the Committee on Missing Persons and urged all parties to be more forthcoming in accommodating the Committee's exhumation requirements throughout the island, including in military areas in the north. After the initial statement by the Turkish military that the Committee must first exhaust all locations in the civilian areas, the Committee has been given access to the military control areas on a case-by-case basis; no request was denied so far and the Turkish military has granted permission to the Committee to dig in the military control areas sixteen times since 2006.¹⁰

16. On 3 April 2012, the European Court of Human Rights delivered two inadmissibility decisions with regard to the issue of missing persons in the cases of *Emin and Others v. Cyprus* (concerning 17 Turkish Cypriot men who went missing in 1963-1964) and *Charalambous and Others v. Turkey* (concerning 29 Greek Cypriot men who went missing in 1974). In both decisions the Court held that a fresh obligation to investigate arose for the respondent States following the discovery of the missing persons' bodies, as the state of the remains and their location gave disturbing signs of the apparent use of unlawful violence.¹¹ With regard to the investigations carried out since 2010, following the identification of bodies by the CMP in the cases at stake, the Court found that it was too early to conclude at this stage that the authorities' actions are a mere sham or that there is bad faith, wilful footdragging and calculated prevarication involved; however, the Court also noted that "prolonged inactivity and silence by the authorities over a more significant period of time might eventually render such a conclusion possible, but not yet".¹² Consequently, the applicants' complaints under the procedural aspect of article 2 of the European Convention on Human Rights (on the right to life) were considered premature by the Court and rejected as manifestly ill-founded.

17. On 6 June 2012, the Committee of Ministers' Deputies of the Council of Europe, which supervises the execution of judgements of the European Court of Human Rights, encouraged the steps undertaken following the identification by the CMP of missing persons, while underlining the urgency to make further progress in the process of effective investigations into deaths of persons identified.¹³ The Committee of Ministers' Deputies also called on the Turkish authorities to adopt a proactive approach as regards effective investigations into the fate of persons who are still missing and reiterated their request to obtain further concrete information on the steps taken by the authorities aimed at giving CMP and investigative officers access to all relevant information and places, in particular concerning military zones. The Committee of Ministers' Deputies noted that a certain

⁹ www.cmp-cyprus.org/media/attachments/Quick%20Statistics/Quick_Statistics_November_2012.pdf.

¹⁰ Information received from the Secretariat of the Committee on Missing Persons in Cyprus.

¹¹ European Court of Human Rights, *Emin and Others v. Cyprus* (application No. 59623/08), decision of 3 April 2012, paras. 24 and 30; *Charalambous and Others v. Turkey* (application No. 46744/07), decision of 3 April 2012, paras. 53 and 58.

¹² *Ibid.*, *Emin and Others v. Cyprus*, para. 36; *Charalambous and Others v. Turkey*, para. 65.

¹³ Council of Europe Committee of Ministers' Deputies, decisions adopted at the 1144th meeting on 6 June 2012 (CM/Del/Dec(2012)1144) on the cases of *Cyprus v. Turkey* (application No. 25781/94) and *Varnava and Others v. Turkey* (applications Nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90).

number of questions are raised in this context, among which the investigators' access to forensic data and evidence found and/or conserved by CMP, and invited the Turkish authorities to provide replies to all the questions raised by the Committee, while also drawing on all relevant information contained in military archives and reports. Concerning the case of *Varnava and Others v. Turkey*, the Committee of Ministers' Deputies called upon the authorities to provide further information on the conduct of investigations in the cases in issue in this judgment, as well as on the payment of just satisfaction granted by the Court.

18. In its concluding observations on Turkey (CAT/C/TUR/CO/3), the Committee against Torture expressed concern in particular at "the lack of information on progress in investigating disappearances cases for which the State party has been found in violation of articles 2, 3 and 5 under the European Convention on Human Rights (*Cyprus v. Turkey* and *Timurtas v. Turkey* of the European Court of Human Rights)" (para. 9). According to the Committee, "this lack of investigation and follow-up raises serious questions with respect to the State party's failure to meet its obligations under the Convention and, as concluded by the European Court of Human Rights, constitutes a continuing violation with respect to relatives of the victims (arts. 12 and 13)" (ibid.). The Committee recommended Turkey to take prompt measures to ensure effective, transparent and independent investigations into all outstanding cases of alleged disappearances, including those cited by the European Court of Human Rights, carry out prosecutions as appropriate, and notify relatives of the victims of the outcomes of such investigations and prosecutions. The Committee furthermore called upon Turkey to consider signing and ratifying the International Convention for the Protection of All Persons from Enforced Disappearance.

19. The Human Rights Committee expressed concern in its concluding observations on Turkey (CCPR/C/TUR/CO/1) that "no comprehensive approach to cases of enforced disappearance and exhumations has been adopted, including in those cited by the European Court of Human Rights (*Cyprus v. Turkey* and numerous other individual cases)" (para. 11). The Committee recommended that Turkey "should ensure the effective, transparent and independent investigations into all outstanding cases of alleged disappearances" and that in all such cases it "should prosecute and punish the perpetrators and grant effective reparation, including appropriate compensation, to victims or their families" (ibid.).

B. Non-discrimination

20. According to article 7 of the Universal Declaration of Human Rights, all are equal before the law and are entitled without any discrimination to equal protection of the law.¹⁴ Furthermore, all are entitled to equal protection against any discrimination in violation of the Universal Declaration of Human Rights and against any incitement to such discrimination.

21. Cyprus is still considered to have the highest proportion of internally displaced persons in terms of the percentage of its population (up to 22 per cent).¹⁵ In the area under the control of the Government of the Republic of Cyprus, there were up to 208,000 of internally displaced persons at the end of 2011, including over 86,000 people born to people with displaced status. Discrimination against children of internally displaced women with "refugee status" in access to the status partially ended in 2011, as the children of women with displaced person status became eligible for more of the same benefits as

¹⁴ See also article 26 of the International Covenant on Civil and Political Rights.

¹⁵ Internal Displacement Monitoring Centre of the Norwegian Refugee Council, *Global Overview 2011 – People internally displaced by conflict and violence* (Geneva, 2012), pp. 17 and 66.

children of men with the status.¹⁶ However, children of women with displaced person status are still not accorded the status or counted by the Government of the Republic of Cyprus as internally displaced persons, unlike the children of men with the status.

22. In its concluding observations of 15 June 2012 (CRC/C/CYP/CO/3-4), the Committee on the Rights of the Child expressed its concern at the policy of Cyprus of issuing children of internally displaced persons a certificate of refugee status instead of a refugee identity card, resulting in limitations on the housing schemes that they are eligible for, and the Committee urged Cyprus to ensure that children of internally displaced persons have equal access to all essential services, including housing schemes (paras. 46 and 47).

23. Furthermore, the Committee on the Rights of the Child remained concerned that there continues to be discrimination against children of Turkish origin and other minorities. In accordance with article 2 of the Convention on the Rights of the Child, the Committee urged Cyprus to increase its efforts to adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds, including by considering the establishment of a targeted programme specifically addressing discrimination against children of Turkish descent and other ethnic minorities (paras. 21 and 22).

C. Freedom of movement

24. According to article 13 of the Universal Declaration of Human Rights, everyone has the right to freedom of movement and residence within the borders of each State, as well as the right to leave any country, including his own, and to return to his country.¹⁷

25. In Cyprus, however, crossings between the northern and the southern parts of the island are still possible only through official crossing points, which limits freedom of movement. During the reporting period, UNFICYP recorded more than 1,370,000 official crossings through the buffer zone.¹⁸ The “Green Line” Regulation (EC) 866/2004 continues to define the terms under which provisions of European Union law apply to the movement of persons, goods and services across the line between the northern and the southern parts. In the eighth report on the implementation of Council Regulation (EC) 866/2004, the European Commission noted that the Green Line Regulation provided a stable legal framework for the free movement of Cypriots, other European Union citizens and third-country nationals who cross the Green Line at authorized crossing points.¹⁹ While there was a slight increase in the number of Greek Cypriots crossing the line in 2011, the number of Turkish Cypriots, non-Cypriot European Union citizens and third-country nationals crossing the line decreased slightly. The Ledra Street/Lokmaçi crossing point continued to account for the vast majority of crossings by non-Cypriots, primarily tourists.

26. The Special Rapporteur on freedom of religion or belief noted in his mission report (A/HRC/22/51/Add.1, paras. 38, 46, 51, 55, 71, 77 and 85) that the opening of a number of crossing points since 2003 allows people – albeit not all – to move about more or less freely and have access to religious sites previously inaccessible to them. However, the Special Rapporteur also referred to the case of the Greek Orthodox Bishop of Karpasia, whose name had been put by the de facto authorities on a “stop-list” since January 2012, with the result that he has been prohibited from visiting his Bishopric which lies in the northern part. The de facto authorities argued that they did not recognize his title and that he was “well-

¹⁶ Ibid., pp. 62 and 66; see also A/HRC/19/22, para. 15.

¹⁷ See also article 12 of the International Covenant on Civil and Political Rights.

¹⁸ Information received from UNFICYP.

¹⁹ Report from the Commission to the Council, COM(2012) 251 final, p. 3.

known for his past statements aimed at stirring [up] enmity and hatred". The Special Rapporteur recommended that the de facto authorities should respect the right of religious leaders to visit their community in the northern part without undue restrictions. The Special Rapporteur also referred to instances where pilgrimages from the northern part, including settlers from Turkey and their descendants, to the Hala Sultan Tekke in the southern part have been stopped, with the result that those who had not entered the Republic of Cyprus from the "legal points of entry" were prevented from crossing the checkpoints if they wish to visit Hala Sultan Tekke and other religious sites. In this regard, the Special Rapporteur recommended that the Government of the Republic of Cyprus should respect pilgrimages, including visits to the Hala Sultan Tekke, as an inextricable part of freedom of religion or belief, whose rank as a universal human right should not be supplanted by citizenship issues.

27. With regard to freedom of residence, nine Maronite families and two Greek Cypriots had asked UNFICYP to convey their request to reside permanently in their traditional villages in the north, however, during the reporting period no answer has been received from the Turkish Cypriot authorities on these requests.²⁰

D. Property rights

28. According to article 17 of the Universal Declaration of Human Rights, everyone has the right to own property alone as well as in association with others, and no one shall be arbitrarily deprived of his property.

29. With regard to property claims of Turkish Cypriots in the southern part, the European Court of Human Rights on 6 March 2012 rejected for non-exhaustion of domestic remedies the applications of 21 Turkish Cypriot property owners who had complained about the restrictions on the use of their property within the Republic of Cyprus. The European Court of Human Rights concluded that the new provisions in the Turkish-Cypriot Properties Law 139/1991, as amended on 7 May 2010, "are formulated in broad terms and by express reference to the guarantees of the Convention as interpreted by this Court", allowing the applicants to make a claim to the Custodian alleging a violation of their Convention rights and, in the absence of a favourable response, to lodge a case in the District Court.²¹ The European Court of Human Rights therefore could not exclude that the amended Turkish-Cypriot Properties Law 139/1991 provides an accessible and effective framework of redress in respect of complaints about interference with the property owned by Turkish Cypriots.²²

30. With regard to property claims of Greek Cypriots in the northern part, the European Court of Human Rights on 10 January 2012 awarded eight applicants between EUR 100,000 and EUR 8,000,000 for pecuniary and non-pecuniary damage (in total more than EUR 20 million).²³ In its principal judgement, delivered on 2 November 2010, the Court held in particular that there had been a violation of the right of eight of the applicants to peaceful enjoyment of their possessions, most of which are located in Famagusta, and that

²⁰ S/2012/507, para. 17; information received from UNFICYP.

²¹ European Court of Human Rights, *Kazali and Others v. Cyprus* (application No. 49247/08), decision of 6 March 2012, para. 152.

²² *Ibid.*, para. 153.

²³ European Court of Human Rights, *Lordos and Others v. Turkey* (application No. 15973/90), judgement (just satisfaction) of 10 January 2012, para. 70.

the right to respect for private and family life had been violated with regard to seven of the applicants.²⁴

31. As at 30 November 2012, a total of 4,157 applications had been lodged with the Immovable Property Commission;²⁵ 291 of them have been concluded through friendly settlements and nine through formal hearing. The Commission has paid 93,833,265 pounds sterling to the applicants as compensation. Moreover, the Commission has ruled for exchange and compensation in two cases, for restitution in one case, as well as for restitution and compensation in five. In one case, the Commission delivered a decision for restitution after the settlement of the Cyprus issue, and in another case it ruled for partial restitution.

32. In July 2012, the Government of the Republic of Cyprus reportedly approved the exchange of land belonging to Greek Cypriot refugee Michael Tymvios near Tymvou village in the northern part with Turkish Cypriot land in Larnaca in the southern part. This approval came four years after the European Court of Human Rights welcomed an agreement reached between Mr. Tymvios and Turkey, which provides for the payment of 1 million USD to the applicant and the exchange of property insofar as the exchange decision can be executed within the control and power of the authorities in the northern part.²⁶ Subsequently, Mr. Tymvios filed domestic lawsuits at the Larnaca District Court against Cyprus for initially refusing to allow the transfer of title deeds.

33. In his mission report, the Special Rapporteur on freedom of religion or belief noted that unsettled property issues and fear of deprivation of real estate in the northern part, in particular in connection with a restrictive and unfair handling of inheritance claims by the administration in the northern part, continue to cause bitterness in the Christian Orthodox community. The Special Rapporteur recommended that the de facto authorities should handle heritage claims of Christian minorities in the northern part, including real estate issues, in a fair and transparent manner, which would be an important signal for the Christian minorities that they have long-term prospects in the region (A/HRC/22/51/Add.1, paras. 44 and 84).

34. On 14 February 2012, the European Parliament adopted the Declaration on the return of the sealed-off section of Famagusta to its lawful inhabitants,²⁷ in which the European Parliament called on the Government of Turkey to act according to Security Council resolutions 550 (1984) and 789 (1992) as well as to the recommendations of the 2008 Report of the Committee on Petitions on petition 733/2004.²⁸ The European Parliament's Declaration stresses that the sealed-off section of Famagusta (Varosha) should be returned to its lawful inhabitants, who must resettle under conditions of security and peace. Furthermore, the European Parliament urged the European Union institutions to coordinate their efforts with the European Parliament to promote the cooperation of Turkey

²⁴ Ibid., judgement (merits) of 2 November 2010.

²⁵ See www.tamk.gov.ct.tr. The Immovable Property Commission was set up under Law No. 67/2005 for the compensation, exchange and restitution of immovable properties following the European Court of Human Rights case of *Xenides-Arestis v. Turkey* (application No. 46347/99), judgement (merits) of 22 December 2005 and judgement (just satisfaction) of 7 December 2006.

²⁶ European Court of Human Rights, *Eugenia Michaelidou Developments Ltd and Michael Tymvios v. Turkey* (application No. 16163/90), judgement (friendly settlement) of 22 April 2008, para. 15. In its earlier judgement of 31 July 2003, the European Court of Human Rights found that there had been and continued to be a violation of Article 1 of Protocol No. 1 (peaceful enjoyment of possessions) as Mr. Tymvios was denied access to and control, use and enjoyment of his property as well as any compensation for the interference with his property rights.

²⁷ Declaration of the European Parliament of 14 February 2012, P7_TA-PROV(2012)0039.

²⁸ See www.europarl.europa.eu/meetdocs/2004_2009/documents/dt/710/710127/710127en.pdf.

and instructed its President to forward the declaration to the European Commission, the Council of the European Union, the Governments of European Union member States and Turkey, and the Secretary-General of the United Nations. The latest report of the Secretary-General on the United Nations operation in Cyprus (S/2012/507, para. 9) reiterates that the United Nations holds the Government of Turkey responsible for the status quo in Varosha.

E. Freedom of religion and cultural rights

35. According to article 18 of the Universal Declaration of Human Rights, everyone has the right to freedom of thought, conscience and religion, which includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.²⁹ Furthermore, according to article 27, everyone has the right freely to participate in the cultural life of the community, to enjoy the arts as well as to share in scientific advancement and its benefits.³⁰

36. Access to sites and icons of religious and cultural significance continues to be facilitated by UNFICYP. During the reporting period, the mission facilitated 36 religious and commemorative events, involving 7,224 individuals, which were either held in or required crossing of the buffer zone. UNFICYP also continues to monitor the welfare of Turkish Cypriots in the south, including with regard to access to places of worship, such as the Hala Sultan Tekke mosque near Larnaca.³¹

37. The Special Rapporteur on freedom of religion or belief addressed the current situation of different religious communities and the impact of the Cyprus conflict on freedom of religion or belief in his mission report (A/HRC/22/51/Add.1, paras. 33–57). With regard to the Greek Orthodox minority in the northern part of the island, he referred to various issues of concern, including derelict and looted churches, acts of vandalism vis-à-vis tombstones and crosses, the recent flattening of a cemetery in Trachoni village, alleged restrictions on holding religious services in churches in Agia Triada and Angastina in June and October 2012, as well as the destruction or sale of ecclesiastical vessels. Members of the Maronite minority in the northern part also raised issues of ongoing restrictions, such as lack of regular access to some of their traditional churches and monasteries which are located in military compounds, the recent looting of one of their traditional churches and cases of surveillance by the de facto authorities. While no members of the Latin and Armenian communities currently reside in villages in the northern part, the Special Rapporteur strongly recommended that the Armenian Church and Monastery complex in the north of Nicosia, which have been restored since July 2012 with funding coming from the international community, will in the future be used also for religious purposes and be accessible to the Armenian community. However, in a joint press release of 2 November 2012, the United Nations Development Program-Action for Cooperation and Trust and the United States Agency for International Development expressed serious concerns that the Evkaf administration (in charge of religious foundations and related issues) had leased the site through a tender process that was neither fair nor transparent; the Turkish Cypriot

²⁹ See also article 18 of the International Covenant on Civil and Political Rights, and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (General Assembly resolution 36/55).

³⁰ See also article 15 of the International Covenant on Economic, Social and Cultural Rights.

³¹ S/2012/507, para. 17; information received from UNFICYP.

leadership has reportedly agreed to investigate the outcome and take action as appropriate.³² Furthermore, it is reported that more than 100 churches, chapels and monasteries in the northern part have been desecrated and that many churches have been converted into mosques or are used by the Turkish army as hospitals or military camps.³³

38. With regard to Muslim minorities in the southern part, who mainly live with larger communities based in Larnaca and Limassol, the Special Rapporteur on freedom of religion or belief noted that their situation differs structurally from the living conditions of Christian Orthodox and Maronite minorities in the northern part. Main concerns of Muslims in the southern part related to a lack of professional religious education of their youth, the alleged destruction of more than 30 mosques, inadequate funding for the maintenance of mosques and cemeteries, limited accessibility of some mosques which are open only on Fridays or during opening hours, which prevent Muslims from regularly praying five times a day at the Hala Sultan Tekke. The Special Rapporteur also received information regarding an arson attack on the Köprülü Mosque in Limassol on 14 April 2012, which reportedly destroyed the front door, window and roof of the gallery; the Government of the Republic of Cyprus strongly condemned the intentional actions of arson and destruction of public and private property. It also indicated that the Turkish Cypriot Properties Management Service spent EUR 504,331 in 2011 for the restoration and maintenance of Muslim places of worship (A/HRC/22/51/Add.1, paras. 53-57).

39. In his conclusions and recommendations, the Special Rapporteur on freedom of religion or belief noted that the overall picture of the island was largely shaped by the reality of bicomunalism, which refers – concerning religious issues – to the Greek Orthodox Church (plus the three official religious minorities of Armenians, Latins and Maronites, which have associated themselves collectively with the Greek Community) and Islam. While this understanding of bicomunalism undoubtedly reflects a historic and contemporary reality, the Special Rapporteur argued that religious diversity on the entire island has de facto developed beyond the confines of this concept, for example through the arrival of migrants, settlers and their descendants as well as new religious communities in the northern and southern parts (A/HRC/22/51/Add.1, paras. 72). The Special Rapporteur recommended that projects which may contribute to improving the relations between different religious and/or ethnic communities should be further strengthened, explicitly referring to the commendable work done by the Bi-communal Technical Committee on Cultural Heritage and by the Committee on Missing Persons in Cyprus (ibid., para. 88).

F. Freedom of opinion and expression

40. According to article 19 of the Universal Declaration of Human Rights, everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

41. With regard to freedom of expression in the northern part, it is reported that independent newspapers and journalists who choose to cover controversial issues are frequently targeted, including through attacks and death threats, for example vis-à-vis journalists of the Turkish-language daily newspaper *Afrika* in response to critical reporting

³² Joint media statement of the United Nations Development Programme-Action for Cooperation and Trust (UNDP-ACT) and the United States Agency for International Development (USAID), 2 November 2012.

³³ Information received from the Committee of Cyprus Occupied Municipalities.

on the policy of Turkey with regard to the northern part of the island.³⁴ While there are some press freedom “laws” in the northern part, the de facto authorities are allegedly hostile to the independent press and journalists can be arrested, put on trial and sentenced under the unjust actions section of the “Criminal Code”.³⁵

G. Right to education

42. According to article 26 of the Universal Declaration of Human Rights, everyone has the right to education.³⁶ Education should be directed to the full development of the human personality and the strengthening of respect for human rights and fundamental freedoms; it should promote understanding, tolerance and friendship among all nations, racial or religious groups, and it should further the activities of the United Nations for the maintenance of peace. Furthermore, parents have a prior right to choose the kind of education that is given to their children.

43. Turkish Cypriot students still face a lack of access to European Union exchange and educational programmes owing to the non-recognition by Cyprus of the universities in the northern part of the island. The framework of a scholarship scheme for the Turkish Cypriot community was set up by the European Commission under the European Union aid programme in order to compensate for the lack of mobility that would be offered by the Erasmus programme. The scheme allows Turkish Cypriot students and teachers to spend one year abroad at a university or higher education institution in the European Union, and the level of funding is far higher than that for Erasmus. In the academic year 2011/12, a total number of 92 students and teachers participated in the scheme; in the current academic year, 28 undergraduate students and teachers were awarded a scholarship. The European Commission is in contact with the Government of the Republic of Cyprus in order to finalize the call for applications as the 2013/14 scholarship programme will offer the Turkish Cypriots the option of studying at universities in the southern part of the island.³⁷

44. During its thirty-ninth session on 15–17 November 2012, the Council of Foreign Ministers of the Organization of Islamic Cooperation (OIC) adopted a resolution on the situation in Cyprus, which inter alia invites OIC member States “to encourage cooperation with the Turkish Cypriot universities, including the exchange of students and academicians”.³⁸

45. In its concluding observations of 15 June 2012 (CRC/C/CYP/CO/3-4), the Committee on the Rights of the Child expressed its concern that Cypriot Turkish-speaking children continue to have limited access to education, beyond the restricted context of language lessons, in their native language. The Committee urged the State party to take measures to allocate resources for ensuring that Turkish Cypriot children are provided with the option of receiving bilingual education, including in their mother tongue (paras. 44–45). Furthermore, the report of the Secretary-General (S/2012/507, para. 17) noted that there were no new developments regarding the establishment of a Turkish language primary school in Limassol.

³⁴ See A/HRC/19/22, para. 39.

³⁵ See www.freedomhouse.org/report/freedom-press/2012/cyprus.

³⁶ See also International Covenant on Economic, Social and Cultural Rights, arts. 13 and 14, and Convention on the Rights of the Child, arts. 28 and 29.

³⁷ Information received from the Task Force for the Turkish Cypriot Community, Directorate-General for Enlargement, European Commission.

³⁸ Resolution No. 6/39-POL on the situation in Cyprus, para. 5. Available in document OIC/CFM-39/2012/POL/RES.

46. With regard to the situation of Greek Cypriot students in the northern part of the island, the Special Rapporteur on freedom of religion or belief noted in his mission report that – despite the existence of a Greek Cypriot school in the northern part – there is a general feeling that young people will likely leave the villages and that the community has no long-term prospects in the area (A/HRC/22/51/Add.1, para. 44).

47. Furthermore, the Government of the Republic of Cyprus protested in November 2012 that the de facto authorities had rejected the appointment of a music teacher for the secondary school, a primary school teacher and a nursery school teacher and terminated the appointment of a primary school teacher who had served in Rizokarpaso for two years. After the Government had provided information concerning four teachers to replace those rejected and an additional Greek literature teacher who will serve at the secondary school in Rizokarpaso, the de facto authorities reportedly rejected two new primary school teachers once more on 19 October 2012. In addition, out of the 128 textbooks submitted by the Ministry of Education and Culture, seven textbooks were not allowed to enter the north in September 2012, as they allegedly contain references that are objectionable to the Turkish Cypriot side, including the primary school textbook entitled “I Know, I Never Forget and I Struggle” and the secondary school textbooks entitled “Anthology of Cypriot Literature”.

H. Gender perspective

48. In its resolution 1325 (2000), the Security Council called on all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including, inter alia: (a) the special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction; (b) measures that support local women’s peace initiatives and indigenous processes for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements; (c) measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary.

49. In its resolutions 2026 (2011) and 2058 (2012), the Security Council noted that active participation of civil society groups, including women’s groups, is essential to the political process and can contribute to making any future settlement sustainable, recalled that women play an important role in peace processes, and welcomed all efforts to promote bicomunal contacts and events including, inter alia, on the part of all United Nations bodies on the island.

50. Following recommendations submitted to the two leaders by an expert group comprising Greek Cypriot and Turkish Cypriot women, known as the Gender Advisory Team in July 2011, the project team of the bicomunal “ENGAGE: Do Your Part for Peace” initiative has developed the “Active Dialogue Network”. This process is aimed at supporting a platform for dialogue and exchange on the peace process and for incorporating a gender perspective into the peace process, as called for by the Security Council in its resolution 1325 (2000). In his 2012 assessment report on the status of the negotiations (S/2012/149), the Secretary-General emphasized that women of Cyprus have an important stake in a durable solution to the Cyprus problem, as well as specific needs that would need to be addressed in the context of a settlement and he commended such initiatives from civil society organizations, including women’s groups, which seek to contribute to the peace process (para. 15). The Secretary-General also called on the sides to step up their engagement with civil society and women’s groups, with a view to building public confidence in the benefits of a settlement and ensuring that, once it is reached, the settlement is sustainable and truly representative of the needs and aspirations of all Cypriots (para. 22).

51. On 21 September 2012, a discussion on “barriers to women’s participation in decision making” took place in the bicomunal rooms of the Ledra Palace hotel in the United Nations buffer zone, organized as a follow-up of Security Council resolution 1325 (2000).³⁹ In the discussion, representatives of 18 non-governmental organizations presented nine recommendations which could be implemented with a United Nations contribution in order to enhance Cypriot women’s role in the Cyprus peace process. The Special Adviser to the Secretary-General on Cyprus and the Special Representative of the Secretary-General attended the gathering and received the civil society’s recommendations on behalf of the United Nations. The recommendations were the result of a workshop that same morning where non-governmental organizations addressed gender issues from both the Greek Cypriot and the Turkish Cypriot communities in Cyprus as they focused on the role of women in peace, security and decision-making. Participants raised the need for the United Nations to enhance the relationship between non-governmental organizations and stakeholders to support public consultations on policy matters. They also urged the United Nations to support a campaign on human security, support training for men on gender issues and provide technical support to a women’s dialogue on the Cyprus problem. The Special Representative of the Secretary-General described the concerns expressed as very serious, noting that there should be more gender balance in the peace process. The Special Adviser to the Secretary-General on Cyprus reminded that the United Nations has raised the issue of gender balance with the two sides on a number of occasions and tried to promote greater community-level participation, in particular by engaging more women in the process.

52. In his mission report (A/HRC/22/51/Add.1), the Special Rapporteur on freedom of religion or belief encouraged civil society organizations to continue the important work on building trust between the southern and northern parts and different communities, noting the importance of active and equal participation of women in civil society programmes and interreligious dialogue initiatives (paras. 89 and 90). Referring to the Security Council’s call on all actors, when negotiating and implementing peace agreements, to adopt a gender perspective, the Special Rapporteur reiterated the views of the Gender Advisory Team that “effective representation of women should be guaranteed in decision-making on matters pertaining to property held in common by minority groups and other religious or cultural associations administering property on behalf of communities or minority or cultural groups” (para. 91).⁴⁰

III. Conclusions

53. There have been some positive developments on the question of human rights in Cyprus, such as efforts by civil society organizations, including women’s groups, to build sustainable trust between Greek Cypriots and Turkish Cypriots as well as the commendable work done by bicomunal committees, including the Technical Committee on Cultural Heritage and the Committee on Missing Persons in Cyprus.

54. The persisting division of the island, however, continues to constitute an obstacle to the full enjoyment in mutual confidence by the whole population of Cyprus of all human rights and fundamental freedoms. It is important to ensure that there are no human rights protection gaps and that all persons can effectively enjoy their fundamental rights wherever they live.

³⁹ See www.unfcyp.org/nqcontent.cfm?a_id=5245.

⁴⁰ Referring to the Gender Advisory Team’s recommendations on property rights. Available from www.uncyprustalks.org/nqcontent.cfm?a_id=5183&tt=graphic&lang=11.

55. The present report provides examples of adverse consequences and recent developments in relation to the right to life and the question of missing persons, the principle of non-discrimination, freedom of movement, property rights, freedom of religion and cultural rights, freedom of opinion and expression, as well as the right to education.

56. Furthermore, the present report highlights the benefits to be gained in adopting a gender perspective when negotiating and implementing peace agreements, in line with Security Council resolution 1325 (2000). It is hoped that efforts to negotiate and achieve a comprehensive settlement of the Cyprus problem will ultimately open avenues to improve the human rights situation on the island. Addressing the underlying human rights issues and causes should be an increasingly important part of peacekeeping efforts and also underpin the political dialogue for a comprehensive settlement of the Cyprus problem.

57. During the reporting period, United Nations treaty bodies discussed various human rights issues and made recommendations in their concluding observations with regard to Cyprus and Turkey. It is also welcome that the first ever visit to Cyprus by a special procedure mandate holder took place in March and April 2012, and that the Special Rapporteur on freedom of religion or belief had access to both the southern part and northern part, including the relevant authorities. Further visits by special procedure mandate holders are encouraged, in particular with regard to cultural rights, internally displaced persons, enforced or involuntary disappearances, and the right to education.
