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

Note by the Secretary-General

In its decision 2005/103, the Commission on Human Rights decided, without a vote, on 14 April 2005, to retain on 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” and to give due priority at its sixty-second session. It is understood 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.

The annex to the present 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 23 December 2005 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 2005/103

I. OVERVIEW

1. As of 15 December 2005, Cyprus remains divided, with a buffer zone maintained by the United Nations Peacekeeping Force in Cyprus (UNFICYP). The UNFICYP mandate, which dates back to 1964, has been extended by successive Security Council resolutions. By resolution 1642 (2005), the Security Council decided to extend the mandate for a further period ending 15 June 2006.

II. HUMAN RIGHTS CONCERNS

2. The persisting division of Cyprus has consequences for the enjoyment, on the whole island, of a number of human rights, including freedom of movement, property rights, freedom of religion, the right to education, and human rights issues pertaining to the question of missing persons.

3. Since the easing of restrictions on freedom of movement by the Turkish Cypriot authorities in 2003, more than 9 million crossings between the north and the south of the island have been registered. In August 2005, an additional crossing point (Astromeritis/Bostanci) was opened under temporary arrangements agreed between the Greek Cypriot and the Turkish Cypriot sides. Also in August 2005, the European Union (EU) amended the Green Line Regulation to include a provision for three more possible crossing points in the western part of the island. The opening of a crossing point at Ledra Street in the old town of Nicosia has been delayed due to differences which have arisen over construction activities related to the establishment of this crossing point.

4. With regard to movement of goods, as of November 2005, about 1 million Cyprus pounds (about US\$ 2 million) worth of goods had crossed the Green Line from the north to the south, and 127,000 Cyprus pounds (approximately US\$ 250,000) worth of goods had crossed from the south to the north since the opening of the crossing points. However, trade across the buffer zone has been limited by technical and political hurdles.

5. In February 2005, the European Council decided to raise the ceiling on a number of personal goods that could be taken across the Green Line and to expand the list of personal items and agricultural foodstuffs. The Turkish Cypriot side reciprocated with its own measures with regard to personal goods.

6. Despite the overall positive developments, it should be noted that freedom of movement is still limited, not least due to the identity checks applied at the crossing points. Restrictions to the freedom of movement persist in particular with regard to the military zones in the northern part of the island. Movement to a number of villages located in these zones, including the

Maronite villages of Ayia Marina and Asomatos, remains severely limited. Restrictions on visitors to these villages also apply to relatives of the inhabitants. In the case of Ayia Marina, its original inhabitants have to date not been able to visit their village in spite of the recent general relaxations.

7. With regard to the area of Varosha, the United Nations continues to hold the Government of Turkey responsible for the maintenance of the status quo. In response to reports of improper use of a beach area in Varosha for tourism, the Turkish Forces asserted that the number of authorized visitors had increased but that there had been no change in the status quo. UNFICYP was unable to verify the situation because of the established restrictions on the Force in that area.

8. Although individuals from either side are able to meet freely since the opening of the crossing points, the United Nations umbrella has remained important for sensitive humanitarian and other meetings, including those of political parties from the north and the south. Between October 2004 and the end of November 2005, 109 bi-communal events were facilitated by UNFICYP, including some organized by the United Nations Development Programme and the United Nations Office for Project Services, bringing together approximately 4,500 Greek Cypriots and Turkish Cypriots.

9. The opening of crossing points also gave rise to new problems, best illustrated by the growing number of crimes across the ceasefire line, such as smuggling, drug trafficking, illegal immigration and human trafficking. However, increasing interaction between civil society representatives on both sides has led to cooperation on issues of mutual concern, including human trafficking and women's rights.

10. Property continues to be an extremely sensitive issue on both sides, increasingly characterized by cases of litigations. Hundreds of Greek Cypriot claims against Turkey for loss of property rights in the north are pending before the European Court of Human Rights (ECHR) in Strasbourg, France. At the same time, a number of Turkish Cypriot property cases have been taken to courts in the south. A few examples are mentioned in paragraphs 12 and 13 below.

11. In the northern part of the island, while Greek Cypriots are still restricted from bequeathing their property if their heirs are not resident in the north, Maronites are now able to bequeath their property to heirs living in the south.

12. In September 2004, the Supreme Court of the Republic of Cyprus ordered the return of Turkish Cypriot property in Episkopi that had been granted to two Greek Cypriot women refugees since the 1974 Turkish intervention. The appeal by the Government and the Greek Cypriot refugee occupants is expected to be heard in January 2006.¹ Another example concerns the *Xenides-Arestis v. Turkey* case regarding the right to peaceful enjoyment of property and home. In December 2005, ECHR decided that within three months Turkey should introduce a remedy, which would secure genuinely effective redress for the applicant as well as in relation to all similar applications pending before the Court. Meanwhile, the Court adjourned its consideration of all similar applications, including the *Loizidou v. Turkey* case. In particular, the Court held that it could not ignore the fact that there were already approximately 1,400 property cases pending before the Court brought primarily by Greek Cypriots against Turkey.

13. The membership of Cyprus in the EU has given impetus to a series of new property cases related in particular to transactions involving Greek Cypriot property in the northern part of the island. In 2005, Greek Cypriots approached courts in the south for the issuing of EU arrest warrants against non-Cypriots buying or selling Greek Cypriot property in the north. In the ongoing case of *Apostolides v. Orams*, a Cypriot court in April 2005 ordered the British couple Orams to demolish a house built on Greek Cypriot property in the north, return the plot of land and pay compensation to the original, displaced, title-holder. Subsequently, lawyers of the original Greek Cypriot landowner registered the judgement with the British High Court under European law.

14. The Committee on Missing Persons in Cyprus (CMP) has been working on a regular basis since its reactivation in August 2004. One of the first steps taken by CMP after the resumption of its work was a re-evaluation of its activities on the basis of its Terms of Reference of April 1981 and the 31 July 1997 Agreement between the leaders of the Greek Cypriot and the Turkish Cypriot communities. A detailed account of the activities of CMP is contained in the Report of the Secretary-General on the United Nations Operations in Cyprus (S/2005/743 and Corr.1). The report noted, inter alia, that despite positive developments in the implementation of the July 1997 Agreement, CMP had been unable to begin its investigative work.

15. In its resolution 1642 (2005) of 14 December 2005, the Security Council reiterated its call to the parties to assess and address the humanitarian issue of missing persons with due urgency and seriousness, and welcomed in this regard the resumption of the activities of CMP. A third member of CMP should be appointed in early 2006.

16. The urgency of achieving concrete results in respect of effective investigations into the fate of the missing persons as well as the establishment of a special information unit for families within the office of the Turkish Cypriot member of CMP was re-emphasized by the Council of Europe Committee of Ministers in June 2005. The Committee of Ministers recalled that the ECHR judgement of May 2001 in the case of *Cyprus v. Turkey* found that, although the CMP procedures are undoubtedly useful for the humanitarian purposes for which they were established, they are not of themselves sufficient to meet the standard of an effective investigation required by article 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms. It therefore called upon Turkey to envisage the necessary measures, further to its contribution to the work of CMP, so that the effective investigation required by the Court's judgement can be conducted as soon as possible.

17. In relation to the right to education, improvements have been made with regard to the education of Greek Cypriot schoolchildren living in the northern part of the island. In September 2005, the Turkish Cypriots agreed to allow the Greek Cypriot secondary school in Rizokarpaso in the north to function in all six grades.

18. Regarding the education of Turkish Cypriot children in the south, the Government of Cyprus pledged in March 2005 that a Turkish elementary school would be established in Limassol. UNFICYP continues to discuss with the relevant departments the modalities for implementing that commitment. Meanwhile special measures aimed at upgrading the provision of primary education for the Turkish Cypriot community were adopted by hiring four Turkish Cypriot teachers to provide instruction in the Turkish language and culture.

19. In the mixed village of Pyla in the buffer zone, UNFICYP arranged in October 2005 the first meeting of Greek Cypriot and Turkish Cypriot primary school principals to discuss areas for common action. Since then, further meetings were held and efforts to bridge the gaps continued. At their third meeting, the principals agreed on a joint children's project to be organized in March 2006.

20. With regard to freedom of movement and worship, the Greek Cypriots and Turkish Cypriots were able in 2005 to access places of worship and participate in religious events. UNFICYP facilitated the observance of a number of Greek Cypriot and Turkish Cypriot events of religious and historical importance on both sides of the island. For example, on 10 and 11 June, about 1,000 Greek Cypriots were able to make a pilgrimage to the Church of Saint Barnabas near Famagusta for the first time in 31 years. On 1 and 2 September, over 900 Greek Cypriots visited the St. Mamas Church in Morphou. In addition, around 30 Turkish Cypriots were able to visit Kokkina. However, access by the Maronite community to places of worship in the north, such as Ayia Marina, located in the confines of a military zone, has so far been denied for security reasons.

21. An arrangement, facilitated by UNFICYP, for the installation of a second priest in the Karpas region has not yet materialized due to disagreement on the nomination of a suitable candidate.

22. Concern persists about reports of alleged incidents of destruction or misuse of religious sites in the northern part of the island. The Department of Antiquities maintains a list of all reported incidents. However, to date, independent verification of these reports has not been possible.

23. In its interim resolution ResDH(2005)44 of 7 June 2005, the Committee of Ministers of the Council of Europe decided to close the examination of the judgement of the ECHR of 10 May 2001 in the *Cyprus v. Turkey* case, as the trial of civilians by military courts had been discontinued. Cases that were removed from military courts have been transferred to civilian courts.

24. As far as economic rights are concerned, the gap in the standards of living between the two parts of the island persists. As overall economic opportunities in the north remain limited, the trend toward emigration continues.

25. Since April 2004, the EU has endeavoured to put an end to the isolation of the Turkish Cypriot community and to facilitate the reunification of Cyprus by encouraging the economic development of the Turkish Cypriot community. In July 2004, the European Commission submitted to the EU Council of Ministers two proposals on measures to regulate direct trade with, and financial aid to, the north. The implementation of these proposals, including its recommendation of a €259 million aid package for the north, was still outstanding at the end of 2005.²

III. CONCLUSION

26. **As reported at the sixty-first session of the Commission on Human Rights last year, the persisting de facto partition of the island of Cyprus constitutes a major obstacle to the enjoyment of human rights. The situation of human rights in Cyprus would therefore greatly benefit from the achievement of a comprehensive settlement of the Cyprus problem.**

Notes

¹ Both appeals were withdrawn at the Supreme Court hearing in February 2006 and the property was subsequently reinstated to its original owner.

² Half of the €259 million aid package was lost on 31 December, while the rest was allocated in February 2006.
