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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, adopted on 13 February 1975. Moreover, on 11 March 1987, the Commission adopted resolution 1987/50, in which it 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.

In its decision 2/102, the Human Rights Council requested the Secretary-General and the United Nations 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. The Office of the High Commissioner (OHCHR) understands decision 2/102 to preserve the previous annual reporting cycle in respect of this issue until otherwise decided by the Council. The most recent annual report on the question of human rights in Cyprus was submitted to the Council at its sixteenth session (A/HRC/16/21).

The present report covers the period from 1 December 2010 to 30 November 2011. 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, the right to education as well as with regard to a gender perspective. For the purpose of the report, in the absence of an OHCHR field presence in Cyprus or of any specific monitoring

mechanism, OHCHR has relied on a variety of sources with particular knowledge of the human rights situation on the island.

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1–6	4
II. Human rights concerns	7–46	5
A. Right to life and the question of missing persons	9–13	6
B. Non-discrimination	14–20	7
C. Freedom of movement	21–25	9
D. Property rights	26–31	10
E. Freedom of religion and cultural rights	32–37	12
F. Freedom of opinion and expression	38–39	13
G. Right to education	40–44	14
H. Gender perspective	45–46	15
III. Conclusions	47–49	16

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 the subsequent resolution 4 (XXXII) of 27 February 1976, the Commission 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.

2. Furthermore, in its resolution 1987/50 of 11 March 1987, the Commission on Human Rights 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. Reports on the question of human rights in Cyprus were presented annually to the Commission and, since 2007, to the Human Rights Council.¹

3. As at 30 November 2011, Cyprus remains divided, with a buffer zone maintained by the United Nations Peacekeeping Force in Cyprus (UNFICYP). The UNFICYP mandate, which is contained in Security Council resolution 186 (1964), has been extended by successive Council resolutions. In resolution 1986 (2011), the Council decided to extend the mandate for a further period ending 15 December 2011.

4. UNFICYP has continued to provide humanitarian assistance to the communities, including to Greek Cypriots and Maronites living in the north and Turkish Cypriots living in the south of the island. Assistance continued to be sought from the mission in addressing day-to-day issues arising from the division of the island, including in relation to economic, educational, medical and social matters. Furthermore, UNFICYP facilitated religious and commemorative events and assisted in addressing legal and humanitarian concerns resulting from the arrest and detention of Turkish Cypriots in the south and Greek Cypriots in the north.² UNFICYP has also maintained efforts to build trust between the Greek Cypriot and Turkish Cypriot communities, including in the mixed village of Pyla in the buffer zone.³ Furthermore, building on previous cooperation, the Turkish Cypriot community of Louroujina village and the Greek Cypriot community of Athienou launched an initiative to restore a medieval chapel in the buffer zone.⁴ In order to support

¹ E/CN.4/1186; E/CN.4/1239; E/CN.4/1275; E/CN.4/1323; E/CN.4/1373; E/CN.4/1442; E/CN.4/1982/8; E/CN.4/1983/23; E/CN.4/1984/31; E/CN.4/1985/22; E/CN.4/1986/26; E/CN.4/1987/19; E/CN.4/1988/27; E/CN.4/1989/28; E/CN.4/1990/21; E/CN.4/1991/27; E/CN.4/1992/25; E/CN.4/1993/36; E/CN.4/1994/46; E/CN.4/1995/69; E/CN.4/1996/54; E/CN.4/1997/48; E/CN.4/1998/55; E/CN.4/1999/25; E/CN.4/2000/26; E/CN.4/2001/31; E/CN.4/2002/33; E/CN.4/2003/31; E/CN.4/2004/27; E/CN.4/2005/30; E/CN.4/2006/31; A/HRC/4/59; A/HRC/7/46; A/HRC/10/37; A/HRC/13/24; A/HRC/16/21.

² S/2011/332, para. 13; S/2011/746, para. 18.

³ S/2011/332, para. 20; S/2011/746, para. 22.

⁴ S/2011/746, para. 22.

reconciliation between the two communities, UNFICYP facilitated more than 180 bi-communal events, with the participation of more than 9,000 people during the reporting period from 1 December 2010 to 30 November 2011.⁵

5. The process of full-fledged negotiations between the Greek Cypriot and Turkish Cypriot sides, aimed at finding a comprehensive settlement of the Cyprus problem, was formally launched under United Nations auspices on 3 September 2008. In July 2008, the Secretary-General appointed his Special Adviser on Cyprus with the mandate to assist the parties in the conduct of the negotiations. Since then, the Greek Cypriot and Turkish Cypriot leaders have met 135 times, including 46 meetings held between 1 December 2010 and 30 November 2011.⁶ During the latter period, the Secretary-General met with the Greek Cypriot leader, Demetris Christofias, and the Turkish Cypriot leader, Derviş Eroğlu, in Geneva on 26 January and 7 July, as well as in New York on 30 and 31 October. Since July 2011, considerable advances have been made in the areas of the economy, European Union-related matters and internal aspects of security; however, much less progress has been made in the areas of governance, property, territory and citizenship matters.⁷ The Secretary-General noted the positive, productive and vigorous discussions held on 30 and 31 October 2011, with both leaders affirming to him their belief that a settlement was possible and within reach.⁸ The Secretary-General invited the two leaders to meet with him again in January 2012, with the expectation that all internal aspects of a settlement will have been resolved by then in order to move to a multilateral conference shortly thereafter.⁹

6. In addition, meetings were held between the representatives of the two leaders and technical meetings at the expert level. Since September 2008, the technical committees on crime and criminal matters, cultural heritage, health matters and the environment continued to meet on the implementation of confidence-building measures intended to improve the daily lives of Cypriots. The remaining three technical committees, on economic and commercial matters, crisis management and humanitarian matters, which were dormant since 2008, resumed their work in 2011.¹⁰

II. Human rights concerns

7. The persisting division of Cyprus continues to have consequences for a number of human rights issues on the whole island, 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, as well as with regard to a gender perspective.

8. In the core document forming part of the reports of State parties to United Nations treaty bodies, transmitted on 23 May 2011, the Government of Cyprus stated that it had been “prevented by armed force from exercising its authority and control, and ensuring implementation and respect of human rights in the occupied area.”¹¹

⁵ S/2011/332, para. 18; S/2011/746, para. 20.

⁶ See www.uncyprustalks.org/nqcontent.cfm?a_id=3046.

⁷ See www.uncyprustalks.org/nqcontent.cfm?a_id=5058.

⁸ S/2011/746, para. 4.

⁹ *Ibid.*

¹⁰ S/2011/498, para. 15. See also www.uncyprustalks.org/nqcontent.cfm?a_id=2484.

¹¹ HRI/CORE/CYP/2011, para. 72.

A. Right to life and the question of missing persons

9. 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.

10. The Committee on Missing Persons in Cyprus¹² continued the exhumation, identification and return of the remains of missing persons. As a result of the inter-communal fighting 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 Committee. As at 30 November 2011, the remains of 833 individuals had been exhumed on both sides of the buffer zone by the Committee's bicomunal teams of archaeologists; the remains of 483 missing persons had undergone examination at the Committee's bicomunal anthropological laboratory in the United Nations Protected Area in Nicosia; and the remains of 310 missing individuals (249 Greek Cypriots and 61 Turkish Cypriots) had been returned to their respective families.¹³ However, during the reporting period, the Committee's access to military areas in the north has been restricted.¹⁴ In view of the humanitarian dimension of the issue, it is important that the Committee's exhumation requirements are accommodated throughout the island, including in military areas in the north.¹⁵

11. On 9 June 2011, the European Parliament adopted a declaration in which it fully endorsed the work of the Committee on Missing Persons in Cyprus and recognized its post-conflict role in promoting truth, remembrance and reconciliation in Cyprus. Furthermore, it called on the European Commission to continue to allocate sufficient resources to the Committee to enable it to fulfil its important mandate and called on the Governments of Turkey and of Cyprus to continue to support the Committee's work, to redouble efforts to account for those individuals still listed as missing, and to ensure that all information that could facilitate the mission of the Committee is made freely available to it.

12. In its resolution 1986 (2011) of 13 June 2011, the Security Council welcomed the progress and continuation of the important activities of the Committee on Missing Persons in Cyprus, trusting that this process would promote reconciliation between the communities. The Council also noted with regret, however, that the sides were withholding access to the remaining minefields in the buffer zone, noting the continued danger posed by mines in Cyprus. In this context, the Council called on both sides to allow access to deminers and to facilitate the removal of the remaining mines in Cyprus within the buffer zone, and urged both sides to extend demining operations outside the buffer zone.

¹² 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. It is mandated to look into cases of persons reported missing in the inter-communal fighting as well as in the events of July 1974 and afterwards, however, according to its terms of reference it neither attempts to attribute responsibility for the death of any missing persons nor makes findings as to the cause of such deaths.

See www.cmp-cyprus.org/media/attachments/CMP/CMP%20docs/Terms_of_Reference_1981.pdf.

¹³ See www.cmp-cyprus.org/media/attachments/Quick%20Statistics/Quick_Statistics_30.11.11.pdf.

¹⁴ See S/2011/332, para. 28, and S/2011/746, para. 30. See also Security Council resolution 1986 (2011).

¹⁵ See S/2011/332, para. 40, and S/2011/746, para. 39.

13. The Committee of Ministers' Deputies of the Council of Europe, which supervises the execution of judgements of the European Court of Human Rights, examined the case of *Cyprus v. Turkey*¹⁶ at its 1128th meeting, held from 29 November to 2 December 2011. With regard to the question of missing persons, the Deputies "renewed with insistence their calls on the Turkish authorities to ensure the CMP's access to all relevant information and places without impeding the confidentiality essential to the carrying-out of its mandate, to inform the Committee of the measures envisaged in the continuity of the CMP's work with a view to the effective investigations required by the judgment and to provide responses to the questions posed by the Committee".¹⁷ Furthermore, the Committee of Ministers' Deputies deeply regretted the refusal of Turkey to participate in the discussions, called on the defendant State to fully cooperate with the Committee and decided to take up this question again at its 1136th meeting in March 2012.¹⁸

B. Non-discrimination

14. 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.¹⁹ 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.

15. Cyprus is still considered to have the highest proportion of internally displaced persons in terms of the percentage of its population (up to 23 per cent).²⁰ In the area under the control of the Government of Cyprus, there were up to 208,000 of internally displaced persons at the end of 2010, including 83,000 people born to men with displaced status. Unlike children whose fathers have displaced person status, the children of women with the same status do not receive a refugee identity card but instead are given a certificate by descent. While the Parliament of Cyprus had in June 2010 adopted amendments to the Registry Laws and to the Law Providing Housing Assistance to Displaced and Other Persons with a view to granting the same status to children of refugee mothers as those of refugee fathers, the Supreme Court of Cyprus decided, on 1 February 2011, that these amendments were unconstitutional since they violated article 80, paragraph 2, of the Constitution, which provides that no bill relating to an increase in budgetary expenditure could be introduced by any member of Parliament.²¹ However, on 5 October 2011, the Government of Cyprus approved the proposal of the Ministry of the Interior to introduce support measures for children of refugee mothers, and the Parliament adopted a law thereon on 17 November 2011. Consequently, children of refugee mothers would be entitled to low-interest housing loans and to rental subsidies in the case of college students.

¹⁶ In its judgement on *Cyprus v. Turkey* (25781/94) of 10 May 2001, the Grand Chamber of the European Court of Human Rights held that Turkey was responsible for 14 violations of the European Convention on Human Rights, grouped by the Committee of Ministers of the Council of Europe into four categories: (1) the question of missing persons; (2) the living conditions of Greek Cypriots in northern Cyprus; (3) the rights of Turkish Cypriots living in northern Cyprus; and (4) the question of the homes and property of displaced persons.

¹⁷ Council of Europe Committee of Ministers' Deputies, decisions adopted at the 1128th meeting, 29 November-2 December 2011 (CM/Del/Dec(2011)1128) on the case of *Cyprus v. Turkey* (application no. 25781/94).

¹⁸ Ibid.

¹⁹ See also article 26 of the International Covenant on Civil and Political Rights.

²⁰ "Internal Displacement: Global Overview of Trends and Developments in 2010", Internal Displacement Monitoring Centre of the Norwegian Refugee Council, May 2011, pp. 58 and 63.

²¹ Supreme Court of Cyprus, reference no. 2/2010 and no. 3/2010, judgement of 1 February 2011.

16. UNFICYP continued to assist Turkish Cypriots living in the south by liaising with local authorities and community representatives in their efforts to provide welfare services and to strengthen support mechanisms for vulnerable members of the Turkish Cypriot community in educational and social areas.²² UNFICYP engaged in mediation at the operational and political levels to defuse rising tensions between the Greek Cypriot and the Turkish Cypriot communities, for example, following an incident on 21 December 2010, when a European club basketball match in south Nicosia between the visiting Turkish team of Pinar Karsiyaka and the Greek Cypriot team of APOEL Nicosia was marred by acts of hooliganism by Greek Cypriot fans against the Turkish team players. Cyprus police intervened decisively at the stadium, providing the team with protection until its departure. The incident was subsequently condemned by both sides.²³

17. In its report on Cyprus of 23 March 2011, the European Commission against Racism and Intolerance referred to reported cases of Turkish Cypriots being targeted for attack and noted the assurance of the authorities that isolated incidents committed by individuals had been unreservedly and unequivocally condemned by the political leadership. In this context, the Commission recommended that the authorities ensure that all acts of racist violence were thoroughly investigated with a view to prosecution, and that the perpetrators were duly punished.²⁴ In the comments made by the Ministry of Foreign Affairs to the Commission's report, the Government of Cyprus recalled that, since 2003, "there has been almost no incidence of hostility and discrimination between Greek Cypriots and Turkish Cypriots", noting that isolated incidents had been condemned by the Government and that all necessary measures had been taken to bring to justice the people responsible for these actions.²⁵

18. On 21 September 2011, the Committee of Ministers of the Council of Europe noted as positive developments the efforts made, in view of the growing diversity of Cypriot society, to improve and complete the anti-discrimination legislative and institutional framework and to increase awareness about human rights, tolerance and the principles of equality and non-discrimination. It also referred to additional measures taken to enable Turkish Cypriots to more effectively participate in public affairs and social, economic and cultural life.²⁶ However, the Committee also raised concern that persons belonging to the three "religious groups" protected under the Framework Convention are still obliged to affiliate themselves either with the Greek Cypriot Community or the Turkish Cypriot Community, and that their members are obliged to vote to elect their representative to Parliament. The Committee recommended taking adequate measures to ensure, during the population census in 2011 and other forthcoming processes, effective implementation of the principle of self-identification, and urgent action to combat and sanction effectively all forms of discrimination and intolerance, including misconduct by members of the police force.

19. In its admissibility decision on the case of *Erel and Damdelen v. Cyprus* of 14 December 2010, the European Court of Human Rights did not find that the requirement to have habitual residence in the Government-controlled areas of Cyprus to vote and to stand

²² S/2011/332, para. 14; S/2011/746, para. 17.

²³ S/2011/332, para. 16.

²⁴ European Commission against Racism and Intolerance, report on Cyprus (fourth monitoring cycle), adopted on 23 March 2011, CRI(2011)20, paras. 126-127 and 130.

²⁵ *Ibid.*, appendix: Government's viewpoint, p. 56.

²⁶ Resolution CM/ResCMN(2011)16 on the implementation of the Framework Convention for the Protection of National Minorities by Cyprus, adopted by the Committee of Ministers on 21 September 2011 at the 1121st meeting of the Ministers' Deputies. The Council of Europe Advisory Committee had adopted its third opinion on Cyprus on 19 March 2010; see ACFC/OP/III(2010)002 and A/HRC/16/21, paras. 28-29.

for parliamentary elections was disproportionate or irreconcilable with the underlying purposes of article 3 of Protocol No. 1 concerning free elections. Furthermore, the Court did not find evidence that the applicants of Turkish Cypriot origin living in the northern part of the island had been discriminated against. In this context, the Court argued that there was objective and reasonable justification as well as a legitimate basis for distinguishing, for electoral purposes, between those Turkish Cypriots who chose to remain under the day-to-day administration of the Turkish Cypriot authorities in the north and those who lived within the area controlled by the Government.²⁷

20. The “direct trade regulation” proposed by the European Commission is still pending adoption.²⁸ While the European Union Aid Programme for the Turkish Cypriot community, which seeks to encourage economic development in the northern part of the island, has continued, its implementation faces challenges, inter alia, in relation to cooperation and confidence-building between the Turkish Cypriot and Greek Cypriot communities, at both the people-to-people level and for doing business. The Aid Programme also comprises a number of projects aimed at addressing the gap and promoting reconciliation and confidence-building.²⁹

C. Freedom of movement

21. 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.³⁰

22. In Cyprus, however, crossings between the north and the south of the island are still possible only through official crossing points, a situation that limits freedom of movement. During the period from 21 November 2010 to 22 October 2011, UNFICYP recorded more than 1.5 million official crossings through the buffer zone.³¹

23. The “Green Line” Regulation (EC) No. 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 areas of Cyprus in which the Government does not exercise effective control and the areas in which it does. In the seventh 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.³² While there was a slight fall in the number of Greek Cypriots and Turkish Cypriots crossing the line in 2010, the number of non-Cypriot European Union citizens and third-country nationals crossing the line decreased by 56 per

²⁷ European Court of Human Rights, *Erel and Damdelen v. Cyprus Decision* (39973/07), 14 December 2010, p. 12.

²⁸ Proposal for a Council regulation on special conditions for trade with those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control (COM(2004)0466 final – ACC(2004)0148). On 18 October 2010, the Legal Committee of the European Parliament shared the opinion of the Parliament’s legal service that European Union trade with the northern part of the island should be governed directly by the European Union single market and customs union rules, and would therefore need to be adopted by unanimity in the Council of Ministers. Since the Legal Committee’s decision of 18 October 2010, the Conference of Presidents of the European Parliament has not put the proposal back on the Parliament’s agenda.

²⁹ Information received from the Task Force for the Turkish Cypriot Community, Directorate-General for Enlargement, European Commission.

³⁰ See also article 12 of the International Covenant on Civil and Political Rights.

³¹ S/2011/332, para. 26; S/2011/746, para. 28.

³² Report from the Commission to the Council (COM(2011) 284 final, pp. 1-2), 30 May 2011.

cent. The Ledra Street/Lokmaçı crossing point continued to account for the vast majority of crossings by foreigners, primarily tourists.

24. In his 2011 reports on the United Nations operation in Cyprus,³³ the Secretary-General emphasized that the restrictions on the movement of locally employed United Nations civilian personnel regrettably continued, and called upon the Turkish Cypriot authorities to respect the freedom of movement of all United Nations personnel. Furthermore, in view of restrictions reportedly imposed on a journalist working for the Turkish Cypriot newspaper *Afrika* in May 2011, the South East Europe Media Organisation called upon the Turkish Cypriot authorities to respect the freedom of movement of journalists.³⁴

25. With regard to freedom of residence, nine Maronite families and two Greek Cypriots asked UNFICYP to convey their request to reside permanently in the north. However, these requests remain under consideration by the Turkish Cypriot authorities.³⁵

D. Property rights

26. 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.

27. On 27 October 2011, the deadline for applications of Greek Cypriots to the Immovable Property Commission,³⁶ which was 21 December 2011, was extended for a further two years. As at 30 November 2011, a total of 2,453 applications had been lodged with the Commission; 191 of them have been concluded through friendly settlements and seven through formal hearing. The Commission has paid 62,310,510 pounds sterling to the applicants as compensation. Moreover, the Commission has ruled for exchange and compensation in two cases, for restitution in one case and 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.

28. Following the Grand Chamber admissibility decision in the case of *Demopoulos and others v. Turkey*, the European Court of Human Rights declared several applications concerning alleged violations of property rights in the northern part of the island inadmissible for the non-exhaustion of domestic remedies.³⁷ In its *Demopoulos* decision of 1 March 2010, the Grand Chamber had concluded that Law 67/2005 of December 2005,

³³ S/2011/332, para. 35; S/2011/746, para. 36.

³⁴ See www.seemo.org/activities/pressfreedom/11/press1146.html.

³⁵ S/2011/746, para. 16; information received from UNFICYP.

³⁶ See www.northcyprusipc.org. 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* (46347/99), judgement (merits) of 22 December 2005 and judgement (just satisfaction) of 7 December 2006.

³⁷ European Court of Human Rights, *Economides and others v. Turkey Decision* (68110/01); *Stylianou v. Turkey Decision* (33574/02); *Hatzigeorgiou and others v. Turkey Decision* (56446/00); *Cacoyanni and others v. Turkey Decision* (55254/00); *Nicolatos and others v. Turkey Decision* (45663/99, 46155/99, 46222/99, 46756/99, 47377/99, 47888/99, 50648/99, 51272/99, 54432/00, 54442/00, 54779/00, 55250/00, 56324/00, 57457/00, 57782/00, 60808/00, 60811/00, 60829/00, 63532/00, 63535/00, 65259/01, 65261/01, 65262/01, 65658/01, 65725/01, 65737/01, 3905/02, 3907/02, 37996/02); *Papayianni and others v. Turkey Decision* (479/07, 4607/10 and 10715/10); *Ioannou Iacovou and others v. Turkey Decision* (24506/08, 24730/08, 60758/08); *Fieros and others v. Turkey Decision* (53432/99, 54086/00, 57899/00, 58378/00, 63518/00, 66141/01, 77752/01, 10192/02, 25057/02, 35846/02); *Eleftheriades and others v. Turkey Decision* (3882/02, 3883/02, 3887/02, 3884/02, 3896/02); *Chrysostomos v. Turkey Decision* (66611/09).

according to which all natural and legal persons claiming rights to immovable or movable property could bring a claim before the Immovable Property Commission, “provides an accessible and effective framework of redress in respect of complaints about interference with the property owned by Greek Cypriots”.³⁸ The Grand Chamber had also stressed that, despite the fact that the Commission was recognized as a domestic remedy for cases involving Greek Cypriot properties in the north, the Demopoulos decision was not to be interpreted as an obligation to make use of the Commission. Claimants could choose to await a political solution; however, if they wished to lodge an application before the Court, its admissibility would be decided in line with the principles and approach of the Demopoulos decision.³⁹

29. In cases where the European Court of Human Rights had already issued a judgement on the merits prior to the Demopoulos decision, however, the Court continued examination in 2011 of the applicants’ claims for just satisfaction. For example, in the case of *Anthousa Iordanou v. Turkey* (just satisfaction), the Court held, on 11 January 2011, that Turkey was to pay the applicant €143,000 in pecuniary damage, costs and expenses following its earlier judgement of 24 November 2009, in which the Court found that the applicant had been denied access to and control, use and enjoyment of her properties in the north as well as any compensation for the interference with her property rights.⁴⁰ The Court reiterated its case law according to which objections based on non-exhaustion of domestic remedies raised after an application has been declared admissible cannot be taken into account at the merits stage or at a later stage.⁴¹ Furthermore, in the case of *Loizou and others v. Turkey* (just satisfaction), the Court decided, on 24 May 2011, to award €1.3 million in pecuniary and non-pecuniary damages.⁴²

30. On 13 and 14 September 2011, the Committee of Ministers’ Deputies of the Council of Europe decided to classify under its enhanced procedure 33 individual cases concerning interference in property rights in the northern part of the island and/or respect for home.⁴³ Enhanced supervision is applied to cases requiring urgent individual measures or revealing important structural problems. It is also applied to repetitive cases linked to cases already

³⁸ European Court of Human Rights, Grand Chamber, *Demopoulos and others v. Turkey Decision* (46113/99, 3843/02, 13751/02, 13466/03, 10200/04, 14163/04, 19993/04, 21819/04), 1 March 2010, para. 127.

³⁹ *Ibid.*, para. 128.

⁴⁰ European Court of Human Rights, *Anthousa Iordanou v. Turkey* (46755/99), judgement (merits) of 24 November 2009 and judgement (just satisfaction) of 11 January 2011.

⁴¹ European Court of Human Rights, *Demades v. Turkey* (16219/90), judgement (merits) of 31 July 2003, and *Alexandrou v. Turkey* (16162/90), judgement (merits) of 20 January 2009.

⁴² European Court of Human Rights, *Loizou and others v. Turkey* (16682/90), judgement (merits) of 22 September 2009 and judgement (just satisfaction) of 24 May 2011.

⁴³ Council of Europe Committee of Ministers’ Deputies Decisions adopted at the 1120th meeting, 13 and 14 September 2011 (CM/Del/Dec(2011)1120) on *Loizidou v. Turkey* (15318/89), *Eugenia Michaelidou Developments Ltd and Michael Tymvios v. Turkey* (16163/90), *Demades v. Turkey* (16219/90), *Alexandrou v. Turkey* (16162/90), *Papi Andreou v. Turkey* (16094/90), *Sophia Andreou v. Turkey* (18360/91), *Diogenous and Tseriotis v. Turkey* (16259/90), *Economou v. Turkey* (18405/91), *Epiphaniou and others v. Turkey* (19900/92), *Evagorou Christou v. Turkey* (18403/91), *Gavriel v. Turkey* (41355/98), *Hadjiprocopiou and others v. Turkey* (37395/97), *Hadjithomas and others v. Turkey* (39970/98), *Hapeshis and Hapeshi-Michaelidou v. Turkey* (35214/97), *Hapeshis and others v. Turkey* (38179/97), *Ioannou v. Turkey* (18364/91), *Iordanis Iordanou v. Turkey* (43685/98), *Iordanou Anthousa v. Turkey* (46755/99), *Josephides v. Turkey* (21887/93), *Kyriakou v. Turkey* (18407/91), *Loizou and others v. Turkey* (16682/90), *Lordos and others v. Turkey* (15973/90), *Michael v. Turkey* (18361/91), *Nicolaidis v. Turkey* (18406/91), *Olymbiou v. Turkey* (16091/90), *Orphanides v. Turkey* (36705/97), *Ramon v. Turkey* (29092/95), *Rock Ruby Hotels Ltd v. Turkey* (46159/99), *Saveriades v. Turkey* (16160/90), *Skyropiia Yialis Ltd v. Turkey* (47884/99), *Solomonides v. Turkey* (16161/90), *Vrahimi v. Turkey* (16078/90) and *Zavou and others v. Turkey* (16654/90).

classified in the enhanced procedure and to inter-State cases. In respect of the question of the homes and property of displaced Greek Cypriots, the Deputies at their 1128th meeting, took note of the request of the Cypriot delegation to the Committee of Ministers, to suspend its examination of this question in the *Cyprus v. Turkey* inter-State case until the European Court of Human Rights has pronounced itself on the recent application for just satisfaction, and the Deputies decided to continue their discussion on this question, along with that related to the property rights of enclaved persons, at their 1136th meeting in March 2012.⁴⁴

31. The situation in Varosha, the former resort town near Famagusta which is currently under the control of the Turkish military, remains unchanged and the United Nations holds the Government of Turkey responsible for the status quo in Varosha.⁴⁵

E. Freedom of religion and cultural rights

32. 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.⁴⁶ 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.⁴⁷

33. Access to sites and icons of religious and cultural significance continues to be facilitated by UNFICYP. During the reporting period, the mission facilitated more than 30 religious and commemorative events, involving more than 9,000 individuals, which were either held in or required crossing of the buffer zone.⁴⁸

34. However, several incidents and problems for Greek Cypriots with regard to manifesting their right to freedom of religion or belief were taken up by the Special Rapporteur on freedom of religion or belief and UNFICYP also made representations to the Turkish Cypriot authorities.⁴⁹ On 25 December 2010, Turkish Cypriot authorities interrupted a Christmas service for the Greek Cypriot residents in the Church of Saint Sinesios in Rizokarpaso and reportedly refused permission for the holding of Christmas mass in the Church of the Holy Trinity in the nearby village of Yialoussa. On 4 February 2011, Christian worshippers on the Karpas peninsula were allegedly prevented from holding evening masses. On 17 March 2011, Turkish Cypriot authorities confiscated 100 copies of the New Testament and 104 prayer books that the Greek Cypriot side had sought to transport to the north, and pilgrims to the Monastery of Apostolos Andreas were reportedly required to pay an entrance fee. Furthermore, Turkish Cypriot authorities rejected requests to hold religious services in Rizokarpaso on 25 March 2011, and in Vatyli on Easter Monday, 20 April 2011.

⁴⁴ Council of Europe Committee of Ministers' Deputies Decisions adopted at the 1128th meeting, 29 November-2 December 2011 (CM/Del/Dec(2011)1128), on the case of *Cyprus v. Turkey* (25781/94).

⁴⁵ S/2011/332, para. 7; S/2011/746, para. 10.

⁴⁶ 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).

⁴⁷ See also article 15 of the International Covenant on Economic, Social and Cultural Rights.

⁴⁸ S/2011/332, para. 13; information received from UNFICYP.

⁴⁹ A/HRC/18/51, cases OTH 2/2011 (allegation letter of 17 February 2011) and OTH 3/2011 (urgent appeal of 21 April 2011); S/2011/332, para. 17.

35. In this regard, Turkish Cypriot authorities defended their actions on the basis that the long-standing authorization procedures had not been followed.⁵⁰ In March 2011, Turkish Cypriot authorities revised existing procedures for Greek Cypriots to obtain permission for religious observances at places of worship in the north. Consequently, the minimum number of days required to make an application for religious services has been reduced to 10 working days. Furthermore, Turkish Cypriot authorities indicated that Greek Cypriots living in the north could hold religious services on any day of the week without permission if they are conducted by two designated Greek Cypriot priests at three churches located near the areas where they reside.

36. Archbishop Chrysostomos II of the Greek Orthodox Autocephalous Church of Cyprus and New Justinian complained to the European Court of Human Rights that he, the Church and its parishioners had been continuously prevented from holding religious services in the religious sites situated in the northern part of the island, which they were forced to leave in 1974. The Archbishop claimed that many properties had been destroyed, vandalized, looted or stripped of their religious function and that ecclesiastical vessels had been destroyed or sold. However, in its admissibility decision of 4 January 2011, the Court noted that the complaints with regard to freedom of religion were closely linked to the applicant's inability to enjoy the property concerned. In this regard, the Court found that domestic remedies had not been exhausted before the Immovable Property Commission, "which is able both to order restitution of property and to award pecuniary and non-pecuniary damages in respect of any loss of enjoyment of the property".⁵¹ Consequently, the complaints concerning property issues were rejected for non-exhaustion of domestic remedies and the Court held that the complaints concerning freedom of religion and freedom of assembly did not raise any separate issues.

37. The Turkish Cypriot authorities also voiced concern at alleged limitations on freedom of religion or belief negatively affecting the more than 1,000 Turkish Cypriots living in the south.⁵² They are reportedly allowed to worship only in two mosques, namely, the Hala Sultan Tekke Mosque in Larnaca and the Koprulu Mosque in Limassol. In addition, the Greek Cypriot authorities reportedly do not allow for the designation of Turkish Cypriot Imams by their religious authorities to the mosques located in the south. Furthermore, during the annual Turkish Cypriot pilgrimage to Hala Sultan Tekke in August 2011, only some of the Turkish Cypriots were able to cross the buffer zone owing to the lack of a clear advance agreement on procedures. In protest, the Turkish Cypriots cancelled a follow-on visit to the same mosque; UNFICYP intervention helped to defuse the tension.⁵³

F. Freedom of opinion and expression

38. 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.⁵⁴

39. With regard to freedom of expression in the north, during the period under review, it was reported that journalists of the Turkish-language daily newspaper *Afrika* were attacked

⁵⁰ See S/2011/332, para. 17 and A/HRC/18/51, case nos. OTH 2/2011 and OTH 3/2011 (reply of 3 May 2011).

⁵¹ European Court of Human Rights, *Chrysostomos II v. Turkey Decision* (66611/09), 4 January 2011, p. 4.

⁵² A/HRC/18/51, cases OTH 2/2011 and OTH 3/2011 (reply of 3 May 2011).

⁵³ S/2011/746, para. 19.

⁵⁴ See also article 19 of the International Covenant on Civil and Political Rights.

and received death threats in response to critical reporting on Turkey's policy with regard to the northern part of the island.⁵⁵ On 25 February, unknown attackers opened fire on the newspaper's office door and left a note that the journalists would be targeted next. On 2 March, the newspaper's editor-in-chief reportedly received a death threat. One day after the publication of new information about the case of a Turkish Cypriot journalist who had been murdered in 1996, on 3 July, an armed man came to the *Afrika* office and shot at one of the newspaper employees who opened the door. In addition, on 1 November, Turkish Cypriot authorities forcefully entered the newspaper's premises and removed from the building's balcony a banner consisting of old newspaper headlines.

G. Right to education

40. According to article 26 of the Universal Declaration of Human Rights, everyone has the right to education.⁵⁶ 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.

41. In the north, UNFICYP continues to facilitate the delivery of textbooks and the appointment of teachers to the elementary and secondary Greek Cypriot schools in the Karpas peninsula.⁵⁷ As in previous years, the Turkish Cypriot authorities objected to the use of seven Greek textbooks in Karpas schools and rejected the appointment of seven teachers, which created problems for the smooth functioning of Greek Cypriot schools in the north.

42. In the south, UNFICYP continued to work with the local authorities and community representatives in Limassol and Paphos to strengthen support mechanisms for vulnerable members of the Turkish Cypriot community in educational and social areas. However, the Turkish Cypriot side again raised concerns about the lack of a Turkish-language primary school in Limassol.⁵⁸

43. Furthermore, 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 2010-2011, a total number of 102 students and teachers participated in the scheme; in the current academic year, 93 students and teachers were awarded a scholarship. The European Commission is in contact with the authorities of Cyprus regarding the possibility of offering Turkish Cypriots the option of studying at universities in the areas under the effective control of the Government of Cyprus in the near future.⁵⁹

⁵⁵ See www.seemo.org/activities/pressfreedom/11/press1184.html and http://ifex.org/turkey/2011/07/11/levent_gunman_attack/.

⁵⁶ 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.

⁵⁷ S/2011/332, paras. 15; S/2011/746, para. 16.

⁵⁸ S/2011/332, paras. 14-15; S/2011/746, para. 17.

⁵⁹ Information received from the Task Force for the Turkish Cypriot Community, Directorate-General for Enlargement, European Commission.

44. In its report on Cyprus of 23 March 2011, the European Commission against Racism and Intolerance noted that a number of positive measures had been taken in favour of Turkish Cypriots in the field of education, such as free education in any public or private school (including the prestigious bicomunal English School in Nicosia), free meals provided to all Turkish speaking pupils in public schools, and free Turkish and Greek language classes offered to Turkish Cypriot children and their parents in adult education centres.⁶⁰ Moreover, the Commission was pleased to learn about new history textbooks, to be introduced in the school year 2011-2012, which would reflect the diversity and plurality of society and include specific references to the two communities of Cyprus.⁶¹ The Commission also highlighted, however, the disproportionately high concentration of Turkish Cypriot children in particular schools and, in this context, strongly recommended that the authorities review the way in which pupils are admitted to schools in order to eliminate any discriminatory practices and take other necessary measures to ensure a more even distribution of Greek-speaking and non-Greek-speaking children in different schools.

H. Gender perspective

45. 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.

46. The Office of the Special Adviser to the Secretary-General on Cyprus is working closely with the United Nations Development Programme and an expert group comprising Greek Cypriot and Turkish Cypriot women, known as the Gender Advisory Team, to promote the implementation of Security Council resolution 1325 (2000). The Team was formed in response to concerns about the inclusion of gender issues and women's rights in the peace process and overall peacebuilding efforts in Cyprus. The Team's civil society activists and scholars from across the island have been meeting since October 2009 to develop gender-focused recommendations relating to the main areas under discussion in negotiations. Recent activities undertaken by the Team included a written submission to the leaders setting out the key principles of gender equality; the formal presentation to the two leaders of a poster on the tenth anniversary of the adoption of resolution 1325 (2000), which now hangs in the foyer of the negotiating room; the placement of a billboard at the Ledra Street/Lokmaçı crossing inviting the public to express their views by writing their answers to the question, "What does peace mean to you?" directly on the billboard; and the circulation of a petition calling for the negotiators to integrate a gender perspective in the peace talks "because women have a different experience of conflict, of security, of property issues, of peace and development".⁶²

⁶⁰ European Commission against Racism and Intolerance, report on Cyprus (see footnote 28), para. 65.

⁶¹ *Ibid.*, para. 223.

⁶² Information received from the Office of the Special Adviser to the Secretary-General on Cyprus.

III. Conclusions

47. There have been some positive developments in the question of human rights in Cyprus, such as the recent extension of the deadline for applications of Greek Cypriots to the Immovable Property Commission as well as measures taken to allow Turkish Cypriots to participate more effectively in public affairs and social, economic and cultural life.

48. The persisting division of the island continues, however, to constitute an obstacle to the full enjoyment in mutual confidence by the whole population of Cyprus of all human rights and fundamental freedoms. 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, the right to education as well as with regard to a gender perspective.

49. It is hoped that the current efforts made by the Greek Cypriot and Turkish Cypriot leaders to negotiate and achieve a comprehensive settlement of the Cyprus problem will open avenues to improve the human rights situation on the island. Addressing the underlying human rights issues should be an increasingly important part of peacekeeping efforts and also underpin the political dialogue for a comprehensive settlement of the Cyprus problem.
