

Preliminary observations of the Working Group on Enforced or Involuntary Disappearances  
at the conclusion of its visit to Cyprus

## **Introduction**

A delegation of the United Nations Working Group on Enforced or Involuntary Disappearances concluded an eight-day official visit to Cyprus, from 5 to 12 April 2022. The delegation was composed of its current Chair, Mr. Luciano Hazan, Ms. Aua Balde, Vice-Chair, and Mr. Henrikas Mickevicius.

At the outset, the Working Group wishes to thank the Government of the Republic of Cyprus for extending an invitation to visit the country. The Working Group thanks the Ministry of Foreign Affairs, in particular, for the cooperation extended prior to and during the visit.

The Working Group also wishes to thank the United Nations Peacekeeping Force in Cyprus (UNFICYP), the Office of the Special Adviser, and the Committee on Missing Persons (CMP) in Cyprus for their support.

During the visit, the Working Group met with the Presidential Commissioner for Humanitarian Issues and Overseas Cypriots and his Special Advisor, and representatives of the Ministry of Foreign Affairs, the Office of the Attorney General, the Ministry of Justice and Public Order, Police Department, Prisons Department, Asylum Office and Institute of Neurology and Genetics. The Working Group also met with the Commissioner for Administration and Protection of Human Rights, acting as the National Human Rights Institution and National Preventive Mechanism against Torture. The Working Group also held a meeting with the leader of the Turkish Cypriot community, which was attended by several of his advisors.

Throughout the visit, the Working Group held meetings with relatives of missing persons<sup>1</sup> from both the Greek Cypriot and Turkish Cypriot communities, as well as human rights defenders, lawyers, academics, and other civil society representatives. The Working Group wishes to thank all stakeholders met. It also visited memorial and excavation sites.

The Working Group does not have any report of enforced disappearances under its humanitarian procedure registered under Cyprus, but notes that 776 Greek Cypriots and 201 Turkish Cypriots out of the total number of 2002 in the official list administrated by the CMP, remain missing following the events of 1963/64 and 1974.<sup>2</sup>

Below is a non-exhaustive list of preliminary observations. The Working Group's final report on the visit will be presented to the UN Human Rights Council in Geneva in September 2022.

The Working Group expresses its readiness to provide technical assistance to the Government in reviewing and amending relevant legislation in line with international standards and in the implementation of the [1992 Declaration on the Protection of All Persons from Enforced Disappearance](#) (the Declaration).

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<sup>1</sup> While the mandate of the Working Group is to deal with issues related to enforced disappearance, the issues related to enforced disappearance and missing persons are clearly interlinked in this particular context. The Working Group remains aware of the legal and factual differences between them.

<sup>2</sup> The interethnic violence of 1963/64 and the Turkish intervention of 1974.

## The search for missing persons

The bi-communal Committee on Missing Persons (CMP) in Cyprus was established in April 1981 by agreement between the Greek Cypriot and the Turkish Cypriot leaders, under the auspices of the United Nations. The mandate of the CMP is humanitarian and as such aims at recovering, identifying and returning to their families the 2002 missing persons included in a list agreed by all parties, who went missing during the events of 1963-64 and 1974.<sup>3</sup>

Since 2006, when the CMP became fully operational, it has achieved significant progress in searching for missing persons, exhuming and identifying their remains, and returning them to relatives for dignified burials. Thus, over 50% of the 2002 persons on the CMP list have been exhumed and identified.<sup>4</sup> The Working Group hopes that the support provided to the CMP by the leaders of both communities, the United Nations and the international donor community will continue unabated, with the aim of establishing the fate and whereabouts of the remaining 977 missing persons as soon as possible.

In spite of the results, the progress in the search for those still missing has slowed down significantly in recent years. Decades have passed since the events of 1963/64 and 1974 and many relatives are passing away without knowing the fate and whereabouts of their loved ones. Many relatives have expressed frustration about slowness of and delays in the process. From the accounts received during the visit, it appears that relevant information, notably on burial sites, is available but not fully utilised. Political and other considerations within both communities, seem to play an important role on the decision to proceed with the investigation on a particular site identified. This is a matter of concern for the Working Group and is reported to have affected - and continues to affect - the search process. In addition, essential information on potential mass grave sites would be reportedly withheld from the other side due to mistrust and political calculations. Politically charged and divisive speeches at the funerals of identified missing persons are said to have further deepened this mistrust.

In this respect, the Working Group emphasizes that it is essential for both sides to depoliticize the issue of missing persons in Cyprus and genuinely treat it as a human rights and humanitarian issue.

In addition to the above, as reported by the CMP, the number of successful identifications and exhumations has steadily declined in the last couple of years due to, *inter alia*, difficulties in locating new burial sites with passage of time, tampering with primary sites and subsequent relocation of remains, and the impact of the COVID-19 pandemic<sup>5</sup>.

Another important element is the lack of access to information from relevant archives of countries and organizations that had maintained a military, police or humanitarian presence in Cyprus in 1963/1964 and 1974. The Working Group notes that in the course of 2021 access to the archives of the National Guard of Cyprus was granted to the CMP, which also

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<sup>3</sup> During the visit the Working Group has been informed that there is also another list and a related search programme administered by the Presidential Commissioner for Humanitarian Issues and Overseas Cypriots, which operated exclusively in the Republic of Cyprus.

<sup>4</sup> Since 2006, the CMP has exhumed 1179 and identified 1025 mortal remains of missing persons. See: [Statistics - CMP \(cmp-cyprus.org\)](https://www.cmp-cyprus.org)

<sup>5</sup> See [Key Guidelines on COVID-19](#) and Enforced Disappearances issued in 2020 jointly by the Working Group and the Committee on Enforced Disappearances (CED) calling on member States to continue, during the COVID-19 pandemic, to respect their international obligations in relation to enforced disappearances, including with respect to the search.

conducted research of the UNFICYP archives in Nicosia as well as the UN Headquarters archives in New York.

The Working Group recalls the request of the Security Council<sup>6</sup>, which called upon all parties to continue their cooperation with the CMP, in particular through providing full access without delay to all areas and responding in a timely manner to requests for archival information on possible burial sites. While welcoming the CMP's increased access to military areas in the north of the island, the Working Group reiterates the call on Turkey's military authority to make the sites in the northern part of the island accessible to the CMP at all times, as well as to allow full and unimpeded access to military archives with a view to identifying new burial sites.<sup>7</sup>

The Working Group considers that it is essential that the search process is enhanced and that all the information brought to the attention of the CMP by relatives, witnesses, human rights defenders and investigative journalists, is appropriately analysed, and acted upon. The experts welcome in this regard the steps taken by the CMP to digitalize its combined records and strengthen its efforts to improve investigative capacities with a view to boosting the excavation success rate and increasing accuracy and speed of operations during the archaeological phase - as indicated in its 2021-2024 Strategy.

The Working Group also emphasizes, in accordance with international standards<sup>8</sup>, the importance of the participation of relatives throughout the search process. It is essential to keep all relatives informed of the progress of the search, or lack thereto, which means that also those whose loved ones are still missing need to be regularly kept abreast at all stages of the process. In this respect, it is welcomed that increasing the support, and improving its quality, to the families of the missing is one of the strategic objectives of the CMP for 2021-2024.

The Working Group also underscores that, in accordance with the Declaration, relatives and human rights defenders assisting them must be protected from any harassment, intimidation or reprisals at all stages of the search process and upon return of mortal remains<sup>9</sup>.

## **Truth**

Over the course of the visit, the Working Group was disheartened to learn about the pain and anguish suffered by the relatives in the absence of information on the fate and whereabouts of their loved ones. With every passing year, many close relatives of missing persons perish without being able to bury their parents, spouses, siblings or children in a dignified manner and reach closure.

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<sup>6</sup> Resolution 2587 (2021), para. 9.

<sup>7</sup> Follow-up report on measures taken to implement the recommendations that were made after the Working Group's visit to Turkey in March 2016, A/HRC/45/13/Add.4, 28 August 2020, page 30. See also WGEID's thematic report on standards and public policies for an effective investigation of enforced disappearances, A/HRC/45/13/Add.3, par. 24, and 77-79; and Committee on Enforced Disappearances, [Guiding principles for the search for disappeared persons, Principle 10, par. 4.](#)

<sup>8</sup> [Guiding principles for the search for disappeared persons, Principle 5.](#)

<sup>9</sup> See Declaration, art. 13.

Some family members are faced with a prospect of receiving residual remains as tiny as a person's tooth, principally caused by relocation of remains. This may revictimize the families further aggravating and prolonging their agony.

Limited by its mandate, the CMP does not provide information on the circumstances of the disappearances nor on the identity of the perpetrator(s). The relatives, including representatives of Greek Cypriot, Turkish Cypriot and bi-communal family associations, underlined the need to protect and uphold their right to truth both as a collective and an individual right. While there have been recent discussions - especially within civil society - about the possibility of a truth-telling mechanism, the Working Group regrets that the political situation on the island has effectively undermined the exercise of this right, also preventing that the truth be told collectively as a vital safeguard against the recurrence of violations. It may also be a form of reparation for families, in particular to those who have not been able to find their loved ones.

The Working Group encourages both communities to give due consideration to this idea, which could also be conducive to sustainable reconciliation.

### **Justice and reparations**

No progress has been made in relation to criminal investigations and prosecutions for human rights violations resulting in individuals going missing, including possible enforced disappearances. While this is another essential pillar, together with truth, reparation and memory, there is very little emphasis on accountability in Cyprus.

The Working Group received information that in the early 1990s *de facto* amnesty, with dubious legality, was offered to anyone who may present a self-incriminating testimony on potential grave sites, with a view to enhancing the effectiveness of the search process conducted by the CMP. While a number of criminal investigations have been initiated into disappearances stemming from the events of 1963/64 and 1974, no perpetrators have been identified or brought to justice.

The Working Group also observes that there is no autonomous crime of enforced disappearance in Cyprus and encourages the Government to swiftly introduce it in its domestic legislation, consistent with the definition given in the Declaration and punishable by appropriate penalties that take into account its extreme seriousness.

The importance of introducing an autonomous crime of enforced disappearance should not be underestimated, as the lack thereof creates a situation whereby acts of enforced disappearances are investigated and prosecuted under other crimes (e.g. murder, kidnapping, abuse of authority or arbitrary deprivation of liberty). This is highly problematic because enforced disappearance is a complex crime of a continuous nature and has specific requirements in terms of investigations and creates a situation whereby suspects of enforced disappearance can be acquitted if the standards of proof for the other crimes of which they are accused are not met.

The Working Group notes that a number of relatives applied to the European Court of Human Rights after exhausting legal remedies on the island. These cases mainly concern Turkey's failure to conduct an effective investigation into the fate and whereabouts of those missing

after the Turkish intervention in 1974,<sup>10</sup> though recently there have been also cases lodged against the Republic of Cyprus, with respect to the failure to inform relatives of the progress in the investigation and of the location of remains.<sup>11</sup> The Working Group urges that all relevant judgements concerning missing persons in Cyprus be fully implemented by the concerned States, including when it comes to reparation and just satisfaction, without further delay.<sup>12</sup> In this respect, the Working Group welcomes that the Republic of Cyprus has publicly declared its willingness to respect the Court's ruling in the case of *Vassiliou and others v. Cyprus*.

In terms of reparations, the Working Group received information from families that the relatives of missing persons have benefited from some financial and housing assistance, psychosocial support and free healthcare.

## Memory

During the visit, the Working Group could visit some memorial sites, which represent a fundamental element for the families of the missing, both individually and collectively. It notes, though, that in spite of the passage of time, there has been no attempt to create a common space of remembrance for all missing on the island. Various stakeholders met, including relatives, have recognized that the pain of the families is the same, irrespective of whether they are Greek Cypriots or Turkish Cypriots, and that all the missing should be found in order to put an end to the pain of the families.

Based on this common sentiment, and in order to advance on the issue of missing persons and for the sake of future generations, it is essential that all relevant stakeholders involved, and in particular the leaders of the two communities, promote peace education across the island, including in schools and textbooks with a view to contributing to confidence-building between the communities, as well as refraining from divisive narratives while promoting grassroots bi-communal initiatives.<sup>13</sup>

## Non-refoulement

In relation to prevention of enforced disappearances, the Working Group is concerned at information received on pushbacks both at sea and at the Green Line.<sup>14</sup> For instance, since 2020, the authorities of the Republic of Cyprus have reportedly engaged in more than twenty pushbacks of boats.<sup>15</sup> As a result of the pushbacks, according to the information received, there have been eight confirmed incidents of refoulement.

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<sup>10</sup> *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)

<sup>11</sup> *Vassiliou and others v. Cyprus* (Application no. 58699/15)

<sup>12</sup> See Council of Europe Committee of Ministers, 1398th meeting, 9–11 March 2021 (CM/Del/Dec(2021)1398/H46-32) on *Cyprus v. Turkey* and *Varnava and Others v. Turkey*.

<sup>13</sup> See also S/RES/2561 (2021), para. 4.

<sup>14</sup> See also A/HRC/49/22, paras. 38-42

<sup>15</sup> On 12 July 2021, the Working Group transmitted, jointly with other special procedure mechanisms, [an allegation letter](#) concerning reported pushbacks of migrants from Cyprus to Lebanon and Turkey carried out at sea by the Cyprus Port and Marine Police and the alleged unreasonable use of force involved in some of those pushback operations. On 8 September 2021, the Government provided a [reply](#) to the allegation letter.

While noting the challenges posed by increased number of arrivals and asylum applications on the island, the Working Group recalls that article 8 of the Declaration clearly prohibits the return of any person where there are substantial grounds to believe that she/he would be in danger of enforced disappearance. The experts recommend that State officials be made aware that returning individuals in this context may constitute a violation of the non-refoulement principle.

Concerns were expressed to the Working Group also in relation to instances of refoulement from the northern part of the island, including due to the lack of an asylum system therein.

The Working Group has additional concerns in relation to the asylum process as a whole, which will be elaborated in the country visit report.

### **Notification and Registration**

With respect to the steps taken to effectively prevent enforced disappearance, the Working Group notes in particular the work of the Cyprus Prisons Department in complying with procedural safeguards upon deprivation of liberty. These safeguards include immediate registration and judicial oversight of detention, notification of family members as soon as an individual is deprived of liberty, the assistance of a defence lawyer of one's choice, wide possibilities of contact by telephone and prompt registration of any transfers.

The Working Group welcomes the information received about the training that prison officers receive about the Istanbul<sup>16</sup> and Minnesota<sup>17</sup> Protocols.

### **Ratification of the Convention**

The Working Group regrets that the Republic of Cyprus is not yet a State party to the International Convention on the Protection of All Persons from Enforced Disappearances, despite its signature in 2007<sup>18</sup>. During the meetings held with Government officials, the Working Group perceived some hesitation with respect to the ratification, which may be however resulting from some misconceptions thereon.

The Convention contains useful guidance for States to build a more solid and robust legal and institutional framework and help them to implement it in practice. This would be particularly relevant in the case of Cyprus, given how central the question of missing persons is and also in view of its important preventive functions. The Working Group recommends the Government to ratify the Convention as soon as possible without reservations, and with the express recognition of the competence of the Committee on Enforced Disappearances provided for in articles 31 and 32 of the Convention.

### **Conclusion**

The Working Group considers that it is essential to depoliticize the issue of missing persons in Cyprus and treat it as a human rights and humanitarian issue. Concrete results on the issue

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<sup>16</sup> <https://www.ohchr.org/sites/default/files/documents/publications/training8rev1en.pdf>

<sup>17</sup> <https://www.ohchr.org/en/special-procedures/sr-executions/minnesota-protocol>

<sup>18</sup> By signing an international treaty, a State indicate its intention to become a party to it in the future and to refrain from acts which would defeat its object and purpose.

of missing persons can only be achieved through sincere and transparent cooperation and a clear and unconditional commitment among all concerned stakeholders to protect and uphold the rights of relatives to truth, justice, reparations, and memory. Time is running out.

It is essential to dispel mistrust to finally put an end to the anguish and pain of all families. The initiatives and activities, notably those of bi-communal nature, which are aimed at reconciliation and social cohesion should be fully supported.

The solution of the missing persons issue is essential both for the relatives and for the future of Cyprus.