

HUMAN
RIGHTS
VIOLATIONS
IN CYPRUS
BY TURKEY

*Universal
Declaration of
Human Rights*

*European Commission
of Human Rights*

*European Convention
of Human Rights*

European Court of Human Rights



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VIOLATIONS
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Text: Van Coufoudakis

Editor: Miltos Miltiadou

Assistant Editor: Polly Lyssiotis

Design: Anna Theodosiou

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Introduction

This brief booklet contains substantive information on the documented and continuing violations of internationally protected human rights committed by Turkey in Cyprus. These violations are the direct outcome of Turkey's unlawful 1974 invasion of the Republic of Cyprus, of the continuing occupation of nearly 37% of its sovereign territory, and the systematic ethnic cleansing that occurred in the area of Cyprus under Turkish occupation.

The Republic of Cyprus is a member of the EU, while Turkey is engaged in accession talks with the EU. The material on which this booklet is based comes from reports, investigations and decisions by NGO's, the European Commission of Human Rights, the European Court of Human Rights, the Committee of Ministers of the Council of Europe, the Parliamentary Assembly of the Council of Europe, and the European Parliament among others. These independent sources fully document Turkey's violations of contemporary international and European human rights laws and treaties that Turkey has also signed and ratified. This presents a major legal and political challenge to the principles of democracy, the rule of law and human rights espoused in article VI of the Founding Treaty of the EU, and which are the foundations of the post-Cold War European order.

The human rights violations presented in this booklet have been and continue to be directed against Greek Cypriots because of their ethnicity, religion and language. Such discrimination is explicitly prohibited under both the European Convention of Human Rights (article 14) and by the Charter of Fundamental Rights of the EU (article 21). It is our fundamental position that the restoration of human rights will provide the foundation of a just and viable settlement of the Cyprus problem.

A Brief Historical Background

Cyprus gained its independence from the United Kingdom on 16 August 1960, following a four-year anti-colonial struggle. Independence was the outcome of agreements reached between Greece, Turkey and the United Kingdom without the participation of either the Greek or Turkish Cypriot communities. The Zurich and London Agreements (1959), provided a complex sui generis constitutional framework for the proposed Republic of Cyprus. The agreements granted extraordinary veto powers to the minority Turkish Cypriot community and vaguely defined intervention rights to Greece, Turkey and the United Kingdom, the three guarantors of Cypriot independence. The United Kingdom also retained 2.7% of Cypriot territory as “sovereign base areas.”

A constitutional crisis erupted late in 1963. Turkey outright rejected constitutional amendment proposals submitted for discussion by the president of the Republic of Cyprus. This led to intercommunal clashes and to the withdrawal of the Turkish Cypriots from the government institutions. A United Nations peacekeeping force (UNFICYP) was dispatched to Cyprus in March 1964, with the consent of the government of Cyprus, because of intercommunal clashes and threats of a Turkish military intervention. The UN Security Council requested that the Secretary-General offer his “good offices” in the search for a solution of the Cyprus problem. An outline of a solution had been reached by the parties on 13 July 1974 following UN sponsored talks between the two communities that were initiated in 1968. A short lived coup was carried out on 15 July 1974 against the elected government of the Republic of Cyprus by the junta ruling Greece at the time. In turn, Turkey, on 20 July 1974, using the coup as a pretext launched a two phase invasion of Cyprus. Despite unanimous decisions and resolutions by the UN Security Council for the immediate withdrawal of all foreign troops and respect for the independence, sovereignty and territorial integrity of the Republic of Cyprus, Turkey continues to occupy nearly 37% of the Republic of Cyprus.

Since the 1963 constitutional crisis on Cyprus and the 1974 Turkish invasion and continuing occupation of the northern part of Cyprus, the consistent policy of the international community and of all international organizations has been to recognize the legitimacy and continuity of the Republic of Cyprus and its government, along with the sovereignty, unity and territorial integrity of the Republic created in 1960. On 1 May 2004, the Republic of Cyprus became a member of the EU. The application of the EU *acquis communautaire** has been suspended in the area of Cyprus under Turkish occupation.

**All EU rules, laws, regulations, decisions, opinions and treaties.*

Turkey has formally attempted to partition Cyprus by creating and recognizing in 1983 a secessionist political entity in occupied Cyprus known as the “Turkish Republic of Northern Cyprus” (“TRNC”). This entity has been declared illegal and its actions null and void by the international community.*

The Cyprus problem was and remains one of invasion, continuing occupation and violations of internationally recognized human rights. The Cyprus problem was and remains a European problem that challenges the principles of democracy, the rule of law and human rights that are the foundation of post-Cold War Europe. Failure to address that reality has led to:

- The current stalemate on Cyprus
- Turkey’s continuing violations of human rights in Cyprus
- Continuing violations of European and international human rights laws
- The undermining of the European human rights regime.

The European Human Rights System

The experience of WWII marks a turning point in the international protection of human rights. The adoption of the Universal Declaration of Human Rights (1948) by the newly created United Nations provided the foundation of many of the treaties that have become the core of the international human rights law.

Because of its cultural, social and political cohesion, Western Europe set the standard for the international protection of human rights. In 1950, the Council of Europe adopted a ground breaking “European Convention of Human Rights” that came into effect three years later. This Convention and the various supplementary protocols that have been adopted since then, provide important procedures and institutions for the protection of human rights along with appropriate implementation mechanisms. All signatories are obligated to comply with the Convention and with the decisions of its institutions. The legitimacy of these institutions is shown by the high rate of implementation of their decisions. The only distinct case of disregard remains that of Turkey.

* See for example UN Security Council Resolutions 541 of 18 November 1983 and 550 of 11 May 1984.

The European Convention is now part of EU law. EU members have also adopted their own “Charter of Fundamental Rights” (2000). EU membership is fully conditioned on the respect of human rights, democracy and the rule of law. Finally, the 1975 Helsinki Final Act contains important commitments in the area of human rights. Thus, post-Cold War Europe has evolved into a community based on democracy, human rights and the rule of law.

Cyprus and European Human Rights Institutions

Cyprus became the sixteenth member of the Council of Europe. On 24 May 1961 it ratified the “European Convention of Human Rights.” The Republic is also a signatory of the 1975 Helsinki Final Act and a member of the OSCE. On 1 May 2004 Cyprus became a member of the EU and acceded to the EU’s “Charter of Fundamental Rights.”

The Republic of Cyprus and its citizens are victims of Turkey’s 1974 invasion, continuing occupation and of massive documented violations of human rights. This is why the institutional and procedural framework of the Council of Europe provided appropriate means to remedy this situation. Turkey is a signatory of the European Convention. It is obligated to observe its provisions as well as the decisions of the European Commission of Human Rights and of the European Court of Human Rights. As an aspiring EU member, Turkey must abide by the provisions of European human rights laws. This has been upheld by all institutions of the Council of Europe and of the EU.

“...Turkey’s obligation to abide by judgments of the Court is unconditional...the failure on the part of a High Contracting Party to comply with a judgment of the Court is unprecedented...[it] demonstrates a manifest disregard for its international obligations...”

(Committee of Ministers, Council of Europe, Interim Resolution DH(2000) 105, 24 July 2000).

From the fall of 1974 following the Turkish invasion to 1994, the Republic of Cyprus filed four interstate applications against Turkey because of numerous violations of the European Convention. This booklet will show that the European Commission of Human Rights and the European Court of Human Rights have found Turkey guilty of gross violations of several key articles of the European Convention. Despite objections by Turkey and by some non-European countries supporting Turkey, the Commission and the Court explicitly declared that:

- Repeated interstate applications are not abusive (decision as to the admissibility of *Cyprus v. Turkey*, Application 8007/77, 10 July 1978, par. 54-57)
- Interstate applications are not obstacles to ongoing intercommunal talks for a solution of the Cyprus problem
- Ongoing intercommunal talks cannot legitimize continuing violations of the European Convention or become an excuse for not remedying these violations (European Court of Human Rights, *Cyprus v. Turkey*, Application 25781/94, Judgment, 10 May 2001, par. 169)
- Turkey is obligated to comply with all decisions of European human rights institutions.

Thus, the interstate application process is an important procedure of collective enforcement of a state member's obligations under the European Convention in the absence of effective diplomatic remedies. Individuals have also sought relief through cases filed with the European Court of Human Rights. Several precedent setting cases will be highlighted in this discussion. Cyprus, a small state victim of external aggression has had to rely on legal principles to protect its sovereignty, territorial integrity and independence as well as the rights of its aggrieved citizens. The institutional and procedural framework of the Council of Europe provides important protections to a small country member confronted by a powerful and aggressive neighbor enjoying the support of influential powers.

Actions in European institutions under the European Convention by the Republic of Cyprus and its citizens:

- Elevated the importance of human rights in the search for a viable and legitimate solution of the Cyprus problem
- Documented that the Cyprus problem is a problem of invasion and continuing occupation whose solution must conform to fundamental principles of European law
- Have shown that the downgrading of human rights in the name of political expediency destroys the legitimacy of any proposed political solution. The failure of the former UN Secretary-General's 2004 Cyprus initiative is a classic example
- Have upheld the principle that there is no statute of limitations on Turkey's violations of human rights in Cyprus and that Turkey's compliance with its obligations under the Convention does not depend on the state of its domestic politics or the stability of the regional political environment.

While the judicial and semi-judicial institutions of the Council of Europe have upheld the principles of the European human rights regime, the same cannot be said of the executive organs of the Council of Europe or of the EU. The Foreign Ministers of the member-states have often subordinated the importance of human rights under the European Convention to broader political, economic and security considerations. Turkey has capitalized on its domestic political conditions, the rise of Islamic fundamentalism, and Middle East regional instability to gain the support of key external players in order to avoid sanctions for its documented violations of international law. Members of the European Parliament and of the Parliamentary Assembly of the Council of Europe have reacted to the subordination of human rights to political, security and economic considerations. Repeated resolutions by both bodies have demanded that the Foreign Ministers enforce the decisions of European human rights institutions in the case of Turkey. The joint pressure of European Court of Human Rights decisions and Turkey's aspiration for EU accession talks has brought about renewed political efforts to force Turkey's compliance with its obligations under the Convention.

Invasion, Continuing Occupation and Human Rights Violations

Evidence of the gross and continuing violations of human rights by Turkey in Cyprus come from, among others:

- Eyewitness accounts
- NGO investigations
- Various international organizations
- The European Commission of Human Rights
- The European Court of Human Rights
- Reports by international media.

These violations are even more striking considering the small size of Cyprus and its population. There is hardly anyone who has not been affected by these violations which have been exclusively directed at Greek, Maronite and Armenian Cypriots because of their ethnicity, language and religion. Such discrimination is explicitly prohibited by both the European Convention (article 14) and by the EU Charter of Fundamental Rights (article 21).

“...The Commission has found...that the acts violating the Convention were exclusively directed against members of...the Greek Cypriot community...Turkey has failed to secure the rights and freedoms set forth in these articles without discrimination on the grounds of ethnic origin, race and religion as required by article 14 of the Convention...”

(Council of Europe, European Commission of Human Rights, Application Nos. 6780/74 and 6950/75, Cyprus v. Turkey, par. 503).

Despite claims to the contrary and attempts by Turkey to shift responsibility to its Turkish Cypriot surrogates and avoid the application of the European Convention for its actions outside Turkey, the European Court of Human Rights has explicitly declared these violations to be imputable to Turkey.

“...the responsibility of Contracting States can be involved by acts and omissions of their authorities which produce effects outside their own territory...the responsibility...could also arise when as a consequence of military action...it exercises effective control outside its national territory...whether it be exercised directly, though its armed forces, or through a subordinate local administration...”

(Council of Europe, European Court of Human Rights, Cyprus v. Turkey, Application No. 25781/94, Judgment, 10 May 2001, par. 76).

In view of the evidence presented in this booklet, Cyprus has become the testing ground of the rule of law, democracy and human rights in post-Cold War Europe.

Ethnic Cleansing

Following the unprecedented ferocity of its two phase invasion of Cyprus, Turkey proceeded with the systematic and deliberate ethnic cleansing of the areas of Cyprus under its occupation. The Nuremberg and Tokyo indictments at the end of WWII and the indictment of Serbian leaders in July 1995 by the United Nations specifically condemn ethnic cleansing. Turkey also created a puppet state in occupied Cyprus in violation of the 1949 Fourth Geneva Convention (articles 2 and 49 among others), which Turkey has also signed and ratified.

The ethnic cleansing of occupied Cyprus affected nearly 28% of the Greek Cypriot population, and about 70% of the population of the areas that came under Turkish occupation, more than 170,000 Greek Cypriots. These persons have not been allowed to voluntarily return to their habitual homes and properties in peace and safety since 1974. The techniques utilized by the occupation authorities to bring about this ethnic cleansing include but are not limited to:

- Forcible eviction
- Deportation across the ceasefire line
- Forced evacuation and transportation to other sections of occupied Cyprus
- Intimidation
- Looting
- Indiscriminate bombing
- Killing of civilians in cold blood
- Separation of families
- Illegal detention
- Terror
- Torture
- Assault and Battery
- Forced Labor.

Refugees and Displaced

In a very short time period following the Turkish invasion some 170,000 Greek Cypriots were involuntarily displaced from their habitual homes and properties. Most were expelled by the occupation forces, while others fled to the safety of the government controlled areas having witnessed the brutality of the occupation forces. This created a dramatic economic and social dislocation requiring emergency measures for the health, welfare, the housing, education and employment of the displaced. The government of Cyprus made a humanitarian decision not to “Palestinianize” the problem, of the displaced. Within five years after the invasion the Cypriot economic recovery was a fact which, unfortunately, has been used by Turkey and its apologists to justify the continuing division of the island Republic.

Turkey’s systematic and deliberate ethnic cleansing policy had one clear objective, the partition of Cyprus through the creation of two homogeneous and ethnically cleansed areas on the island. This was achieved in 1975 when Turkey compelled the Turkish Cypriots living in the government controlled areas to move to the areas under Turkish occupation.

The victims of Turkey’s ethnic cleansing can be classified either as refugees, i.e. those who sought safety and employment in another country, or displaced, i.e. those who sought shelter and employment in their own country. In either case they have the right to voluntarily return to their habitual homes and properties in peace and safety. This right has been upheld by:

- Provisions of contemporary international law
- Resolutions by the UN Security Council and the General Assembly
- Resolutions of the European Parliament and by the Parliamentary Assembly of the Council of Europe
- Decisions by the European Commission of Human Rights and by the European Court of Human Rights.

European institutions have found Turkey guilty of violations of various articles of the European Convention because of the denial of the right to return to Greek Cypriot displaced and refugees and because of the absence of effective local remedies. Moreover, these institutions have concluded that the restoration of the rights of the refugees and the displaced cannot wait for a political settlement of the Cyprus problem.

“...The Commission concludes... that by the refusal to allow the return of more than 170,000 Greek Cypriot refugees to their homes in the north of Cyprus, Turkey, violated, and was continuing to violate article 8 of the Convention...”

(Council of Europe, European Commission of Human Rights, Applications 6780/74 and 6950/75, Cyprus v. Turkey, p. 163).

“...the intercommunal talks cannot be invoked in order to legitimate a violation of the Convention...the Court concludes that there has been a continuing violation of article 8 of the Convention by reason of the refusal to allow the return of any Greek Cypriot displaced persons to their homes in northern Cyprus...”

(Council of Europe, European Court of Human Rights, Cyprus v. Turkey, Application No. 25781/94, Judgment, 10 May 2001, par. 174, 175).

Separation of Families

This has been a direct consequence of the Turkish invasion. Deportation, expulsion, forcible transportation to other areas of occupied Cyprus and terror tactics were applied on those left behind in order to complete the ethnic cleansing of occupied Cyprus. Moreover, those expelled or those who fled to the safety of the government controlled areas were not allowed to voluntarily return to their habitual homes in peace and safety. These actions had a serious impact on Cypriot family structure, given the close knit social structure of Cypriot society. For months after the invasion Cypriot social service agencies and the Red Cross worked to reunite families. The continuing disrespect and violations of family and private life has been defined as a major violation of article 8 of the European Convention in all four interstate applications filed by Cyprus against Turkey in the European Commission of Human Rights and the European Court of Human Rights.

Respect for the Home, Homelife and Deprivation of Possessions

During the course and in the aftermath of the invasion, the Turkish forces and their surrogates engaged in systematic looting, pillage, wanton property destruction and seizure of private property. What could not be carried away was often destroyed. This involved the confiscation and expropriation of Greek Cypriot homes which were given to Turkish Cypriots and to Turkish settlers. Other Greek Cypriot property has been illegally sold to foreign nationals without the owner's permission. These actions have included industrial goods and properties, agricultural produce, farm animals and others. In the weeks following the invasion, international media provided ample evidence of Cypriot cars, buses, household goods and other items for sale and/or in use in cities of Southern Turkey. These items had been transported to Turkey by Turkish naval vessels. These violations of the home and the deprivation of possessions served no public purpose. It was one more intimidation tactic employed in the ethnic cleansing of occupied Cyprus.

These actions have been examined by the European Commission of Human Rights and by the European Court of Human Rights in the four interstate applications filed by Cyprus against Turkey between 1974 and 1994. Both institutions have found these actions to be serious violations of article 8 of the European Convention (respect of private and family life and home), and article 1 of Protocol I of the Convention (right to peaceful enjoyment of possessions and not being deprived of possessions). These violations were even more evident in the absence of effective remedies (article 13) and by the refusal to allow Greek Cypriot displaced to return to their homes and properties. Turkey's actions were also in violation of articles 33 and 53 of the 1949 Fourth Geneva Convention.

Rape and Forced Prostitution

The Turkish army, during and in the aftermath of the invasion, committed large numbers of documented cases of rape of Greek Cypriot women and children from the ages of 12-71. It was part of the tactic to humiliate, intimidate and terrorize the Greek Cypriot civilians in occupied Cyprus. Rape and dishonoring women is a particularly heinous crime in a conservative and close knit society such as that of

Cyprus. The evidence of rape came from the testimonies of victims, witnesses, medical personnel and even from Turkish military personnel. Some of the instances of rape involved pregnant and retarded women, while others occurred in the presence of family members. Rape was carried out by Turkish soldiers and their officers. There is no evidence of any disciplinary action having been taken by the military for these actions.

Rape and enforced prostitution is explicitly prohibited by article 27 of the 1949 Fourth Geneva Convention and by article 3 of the European Convention. The European Commission of Human Rights has found that these acts constitute “inhuman treatment” under article 3 of the European Convention. These violations were imputable to Turkey in the Commission’s decision in the first two interstate applications filed by Cyprus against Turkey in 1974 and 1975.

“...rapes were committed by Turkish soldiers and...even by Turkish officers, and this not only in some isolated cases of indiscipline. It has not been shown that the Turkish authorities took adequate measures to prevent this happening or that generally took any disciplinary measures following such incidents. The Commission...considers that the non-prevention of the said acts is imputable to Turkey under the Convention...[and that] the incidents of rape...as established constitute “inhuman treatment” in the sense of article 3 of the Convention...”

(Council of Europe, European Commission of Human Rights, Applications 6780/74 and 6950/75, Cyprus against Turkey, Report of the Commission, 10 July 1976, par. 373, 374).

Torture - Inhuman Treatment - Assault and Battery - Murder and Killings

In the course of the invasion and its aftermath, Turkish forces and their surrogates engaged in actions against the Greek Cypriot civilian population that violated article 3 of the 1949 Fourth Geneva Convention and article 2 of the European Convention. Subsequent investigations by the European Commission of Human Rights and by the German NGO “Asme Humanitas” have shown that the Turkish authorities took no preventive measures or any disciplinary action in the aftermath of these violations. Both investigations concluded that killings of civilians, including women, children and pregnant women, took place on a “substantial scale.” These killings were not connected with any military operations and could not be justified. Similar findings involved the ill-treatment of persons in captivity including torture, withholding food, water and medical care.

These violations continued even after the cessation of hostilities. In August 1996, during demonstrations along the UN ceasefire line, in the presence of Turkish Cypriot “officials” and with the participation of members of the Turkish terrorist group the “Grey Wolves”, two Greek Cypriots were murdered in cold blood and several others were wounded. Despite calls by the European Parliament that those responsible be brought to justice, no sanctions have been applied on those responsible either by the Turkish authorities or by its surrogates.

In cases brought to the ECHR by the families of the victims (Case of Solomou and others v. Turkey, Application No. 36832/97 and Case of Isaak v. Turkey, Application No. 44587/98) the ECHR in separate judgments issued on 24 June 2008 found Turkey guilty of violating articles 1 and 2 of the European Convention. In addition the Court concluded that:

- There were no effective remedies to those affected by the killings
- There was no effective investigation by the occupation authorities
- There was disproportionate use of lethal force by the security forces
- The killings took place with the tacit agreement of agents of Turkey
- More than eleven years after the incidents, notwithstanding available photographic evidence, none of those responsible for the killings had been identified and/or arraigned.

- Turkey was responsible for acts outside its territory violating the Convention because it was in effective control of certain areas of Cyprus.

The families of the victims were awarded financial damages for these killings.

“...The European Parliament deeply shocked by the killings that took place in August during peaceful demonstrations for the reunification of the island...with the active involvement and participation of elements belonging to the Turkish armed forces and the illegal occupying powers...calls on Turkey to cooperate by taking all necessary measures to identify, arrest and bring to justice all those implicated in the murders and in the decision to fire on unarmed civilians...”

(European Parliament, Resolution, 19 September 1996).

Deprivation of Liberty and False Detention

The investigations conducted by the European Commission of Human Rights in the first two Cypriot interstate applications against Turkey and by the German NGO “Asme Humanitas”, found Turkey in violation of article 5 of the European Convention (right to liberty and security of the person), and of various violations of the Fourth Geneva Convention (1949) on the conditions of internment, internment locations and others. These violations involved the arbitrary detention of thousands of persons including women, children and elderly Greek Cypriots. They were placed in concentration camps in crowded and unsanitary conditions at the height of summertime heat when temperatures reach above 105°F (40°C). Many male captives ranging in age from 17-70 were transported to Turkey and detained in Turkish prisons in Adana, Amasia and other locations in violation of the Fourth Geneva Convention. Turkey has never provided complete lists of detainees as required by international law and many of these persons never returned to their homes. The issue of the “missing” will be examined separately.

These deliberate measures:

- Were applied on Greek Cypriots because of their ethnicity, language and religion
- Were intended to create terror, fear and intimidation among innocent Greek Cypriot civilians.

If not expelled, these civilians were forced to flee to the safety of the government controlled areas. Even though the European Commission of Human Rights has found these violations to be imputable to Turkey, no Turkish official or any of Turkey’s subordinate local administrators have been punished for these deliberate actions.

The Missing

One of the most tragic and continuing consequences of the Turkish invasion involves the fate of 1,619 Greek Cypriot missing persons. Of the persons missing 61% are military personnel and 39% are civilians, including 116 females and 27 persons under the age of 16. This number is staggering if taken in proportion to the population of Cyprus at the time of the invasion, i.e. 0.26%. The number of the missing is now declining as the remains of 262 (April 2008) Greek Cypriots have been identified by the Argentine Forensic Anthropology Team working on behalf of the United Nations and the Committee on Missing Persons (CMP) in Cyprus. These remains have been identified since 2005, some three decades after the Turkish invasion. Turkey, on the eve of its accession talks with the EU, came under increased European pressure to cooperate in a primarily humanitarian matter. It is important to bring closure through the recovery and burial of the remains of the missing according to the customs and traditions of Cypriot society.

Evidence compiled from various sources including testimonials, media accounts, and records of the International Red Cross show that these missing persons were in Turkish custody under life threatening circumstances at the time of their disappearance. Many of these persons had been transported to Turkey but were not returned when the prisoner exchanges took place. The Turkish government has never produced any of its records on the missing or on the POW’s as required by the Geneva Convention and has not cooperated with any international agency on this issue. On 3 January 1996, in an interview to Turkish Cypriot and Greek Cypriot

media, Turkish Cypriot leader Rauf Denktaş acknowledged that the Turkish army had turned over to Turkish Cypriot irregulars many of the Greek Cypriot captives who were later executed. This was a clear violation of both the Third and the Fourth Geneva Convention of 1949, which Turkey has signed and ratified.

On 9 December 1975, the UN General Assembly adopted resolution 3450 calling on the Secretary-General and the International Committee of the Red Cross to assist in tracing all Greek and Turkish Cypriot missing persons. After protracted negotiations due to Turkey's obstructionist tactics, a Committee on Missing Persons (CMP) was formed in Cyprus on 22 April 1981. The CMP was finally able to agree on guidelines for investigations in 1994, nearly thirteen years after its establishment. The three person CMP includes a representative from each of the two major Cypriot communities and a United Nations representative. The work of the CMP was stymied by a number of factors including:

- Turkey's non-cooperation and non-participation in any proceedings
- The CMP's limited terms of reference. The Committee could not attribute responsibility for the death of any missing person or determine the cause of death
- The Committee's lack of authority to conduct investigations in Turkey, interview Turkish officials, or compel witnesses to testify
- The consensus based decisions of the CMP
- Budgetary issues and, until late, the absence of appropriate technical support
- The reluctance of witnesses to testify; fading memory of events, death of witnesses
- Heavy construction and land use projects in areas of occupied Cyprus suspected to be burial sites
- Mistrust among CMP members
- The ineffective leadership of the early UN representatives to the CMP.

The CMP's performance improved after 2005 when Turkey, under European pressure, allowed more flexibility to the Turkish Cypriot representative. Improved budgetary conditions and technical support facilitated the investigations, the exhumation of remains and the DNA identification of these remains.

Turkey has not participated in these proceedings in order to:

- Avoid responsibility for the actions of its officials and its surrogates
- Elevate the status of its "subordinate local administration" as the interlocutor in an issue created by the Turkish invasion
- Attribute the issue of the missing to earlier intercommunal problems and not to the Turkish invasion and continuing occupation
- Define the issue of the missing as proof of communal incompatibility requiring a solution based on the total separation of the two communities.

The issue of the Greek Cypriot missing has been the object of discussions and actions by:

- The UN Security Council
- The UN General Assembly
- The UN Human Rights Commission
- The Parliamentary Assembly of the Council of Europe
- The European Commission of Human Rights
- The European Court of Human Rights.

Turkey's non-cooperation in a primarily humanitarian matter has had significant political implications as European legal institutions determined that any violations involving the rights of the missing and their families are imputable to Turkey because of its effective control of occupied Cyprus.

The issue of the missing was raised in the first two interstate applications filed by Cyprus against Turkey in 1974 and in 1975 in the European Commission of Human Rights. In its 1976 report, the Commission found Turkey in violation of numerous articles of the European Convention. There was presumption of responsibility for those under Turkish custody in life threatening conditions. There was also the issue of the lack of information to the families of the missing.

In the historic decision of the European Court of Human Rights on 10 May 2001 on the fourth Cypriot interstate application against Turkey, the Court by a vote of 16-1, the one negative vote being that of the Turkish judge, found Turkey guilty of major violations of the Convention including:

- A continuing violation of article 2 of the Convention (right to life), because of the failure of the Turkish authorities to conduct an effective investigation on the fate of the missing who disappeared in life threatening circumstances
- A continuing violation of article 5 (right to liberty and security) for failing to conduct an effective investigation on the whereabouts and fate of Greek Cypriots who were in Turkish custody at the time of their disappearance
- A continuing violation of article 3 (prohibition of inhuman or degrading treatment). The lack of responsiveness by the Turkish authorities in the face of the real concerns of the relatives of the missing attained a level of severity which could only be categorized as “inhuman treatment”.

In addition, the European Court of Human Rights concluded that its decision and investigation was not precluded by the work of the CMP as Turkey argued. The CMP had a limited mandate, could not determine the parties responsible for the fate of the missing, while its territorial jurisdiction was limited to Cyprus and excluded access to any Turkish officials.

A recent judgment of the European Court of Human Rights (10 January 2008) on the cases brought against Turkey by nine of the families of the missing reached similar conclusions to the ones the Court determined in the fourth Cypriot interstate application on 10 May 2001.

The government of Cyprus has requested that Turkey provide:

- Complete lists of Greek Cypriot POW’s transported to Turkey and not just those on the International Red Cross repatriation lists
- Complete accounting of persons listed on International Red Cross documents but not repatriated to Cyprus
- Information on detainees and POW’s transported to Turkey before the activation of the International Red Cross
- Military reports and records on the numbers of persons transported to Turkey and detained in Turkish jails
- Documents on Greek Cypriot battlefield dead and the numbers of POW’s killed and detained in 1974

- Information on detainees in Turkish prisons transferred for medical treatment
- Photographs of all Greek Cypriots transported to Turkey, given that two photographs of each person were taken by the Turkish authorities.

Needless to say that Turkey has yet to comply with this request or with the decision of the European Court of Human Rights or with the decision of the European Commission on Human Rights on the Cypriot missing persons. This great humanitarian drama is a stain on Turkey, a country aspiring to become an EU member.

“...For the Court, the silence of the authorities of the respondent state (ed. Note: Turkey) in the face of the real concerns of the relatives of the missing persons attains a level of severity which can only be categorized as inhuman treatment within the meaning of article 3...”

(Council of Europe, European Court of Human Rights, Case of Cyprus v. Turkey, Application No. 25781/94, Judgment, 10 May 2001, par. 157).

The Enclaved

At the end of the second phase of the Turkish invasion late in August 1974, about 20,000 Greek and Maronite Cypriots inhabiting in villages and townships primarily in the Karpass Peninsula of northeast Cyprus and in villages west of the city of Kyrenia remained behind the ceasefire line. Today, only a total of 484 (July 2008) persons remain behind the “green line,” of whom 361 are Greek Cypriot and 123 Maronite Cypriots. These persons are known as the “enclaved”. Most of these persons chose to stay behind because of their attachment to their homes and properties, the fear of displacement and the hope that following the ceasefire they would be able to remain and continue with their lives. They were proven wrong!

On 2 August 1975, at the conclusion of UN sponsored intercommunal talks the leaders of the Greek and the Turkish Cypriot communities reached an agreement known as the “Third Vienna Agreement” addressing important humanitarian aspects affecting the lives of the enclaved. The agreement provided that:

- Greek Cypriots at present in the north of the island were free to stay. They were to be given every help to lead a normal life, including facilities for education and for the practice of religion as well as medical care by their own doctors. They were entitled to free movement in the north of Cyprus
- Greek Cypriots residing in the north of Cyprus, who at their own request and without having been subjected to any kind of pressure, wished to move to the government controlled area of Cyprus would be allowed to do so
- The UN Peacekeeping Force would have free and normal access to Greek Cypriot villages in the north
- Priority would be given to the reunification of families, including the possible transfer of a number of Greek Cypriots at present in the south, to the north.

Despite the Third Vienna Agreement, Turkey and its Turkish Cypriot surrogates have violated all its terms. Since 1974, the enclaved have endured conditions of hardship and oppression because of their ethnicity, language and religion.

“...The treatment complained of was clearly discriminatory against them on the basis of their “ethnic origin, race and religion”...the hardships which the enclaved Greek Cypriots were subjected... attained a level of severity which constituted an affront to human dignity...”

(Council of Europe, European Court of Human Rights, Case of Cyprus v. Turkey, Application No. 25781/94, Judgment, 10 May 2001, par. 304).

The treatment of the enclaved has been examined in the interstate applications filed by the Republic of Cyprus against Turkey under the European Convention; by the European Parliament; by the Parliamentary Assembly of the Council of Europe and by the United Nations. The evidence of the mistreatment of the enclaved and of the violations of their rights is overwhelming:

- During the course of the invasion and until the end of military operations, men, women and children of all ages were detained under inhuman conditions. Many were also held as hostages
- Restrictions were imposed on the movement of the enclaved to 1km from their home
- The enclaved were not allowed to visit nearby villages or family members in other parts of occupied Cyprus
- Special permission was required to work in one’s own fields. When granted such permission was given under degrading conditions
- The disruption of economic life forced the enclaved to rely on limited humanitarian assistance received from the free areas under UN auspices
- In the early days of the occupation males had to report to Turkish Cypriot police twice daily
- The total supervision of daily life by the occupation authorities
- The use of public phones was allowed only in police presence. The privacy of correspondence was not respected
- The enclaved were abused, beaten, arrested and even jailed for reasons as not saluting a member of the occupation army
- Searches of persons and homes were carried out indiscriminately even during the night
- Assault and battery became a common occurrence. It increased with the influx of Turkish mainland settlers in the Karpass Peninsula
- Looting of properties was common
- No effective local remedies were available
- Medical care was not available by Greek Cypriot physicians who could communicate with their patients. Persons receiving medical care in the free areas of the Republic were not allowed to return to their homes
- Separation of families and disruption of family life were one of the outcomes of ethnic cleansing

- The enclaved needed Turkish Cypriot escorts to go to Church or to the market
- Until 2003, education was limited to a few poorly equipped and staffed elementary schools. Books brought in from the free areas of the Republic were heavily censored while the few teachers allowed to teach had to be approved by the occupation authorities
- The freedom of religion was severely restricted. Churches were looted, desecrated and destroyed. The faithful and their priests were not allowed freedom of movement to participate in religious ceremonies
- The enclaved had their properties confiscated, looted and destroyed. They could not bequeath property to their relatives living in the free areas of the Republic
- UNFICYP faced severe restrictions in their freedom of movement and their ability to ensure the safety and well being of the enclaved
- The enclaved were not able to communicate with family members in the government controlled areas of Cyprus. This was a special hardship as children over the age of 12 attending school in the free areas of Cyprus had no contact with their parents.

These inhuman and degrading conditions had the objective of completing the ethnic cleansing of occupied Cyprus and were directed at Greek and Maronite Cypriots because of their language, ethnicity and religion. All these actions are in violation of both the European Convention and of the Third Vienna Agreement of 1975. These violations have been documented by multiple European missions and institutions. It is ironic that the judgment of the European Court of Human Rights in the fourth Cypriot interstate application against Turkey, the only negative vote cast in the damning judgment against Turkey was the vote cast by the Turkish judge. The European Court of Human Rights determined by 16-1 votes gross violations of article 9 of the European Convention (freedom of thought, conscience and religion), article 10 (freedom of expression), article 1 of Protocol I of the Convention (peaceful enjoyment of possessions, confiscation of property), article 2 of Protocol I of the Convention (access to education), article 3 (discriminatory treatment), article 8 (respect for the home and private and family life), article 13 (absence of effective remedies).

The Third Section of the European Court of Human Rights on 9 November 2006 declared admissible the case of Mrs. Eleni Foka against Turkey. She is a Greek Cypriot teacher expelled from the occupied areas, mistreated and not allowed to return to her home and to her occupation.

Even though the Fourth Section of the European Court of Human Rights in its judgment of 24 June 2008 found in favor of the applicant in certain aspects of her case, Fokas' attorneys have appealed the ruling to the plenary session of the ECHR in order to clarify certain technical and other legal points arising from the ruling.

The European Court of Human Rights has held Turkey to be responsible for all these violations whether committed by its agents or those of its subordinate local administration, because Turkey is in effective control of the occupied areas. Both the European Parliament and the Parliamentary Assembly of the Council of Europe have condemned Turkey's practices against the enclaved. These violations continue more than thirty years after the Turkish invasion, while Turkey aspires to become an EU member.

“...The Assembly is particularly shocked by the imposed division of families, the prohibition of young people returning to their homes, the arbitrary confiscations and expropriations and the general climate of apprehension and uncertainty, even fear, to which members of these communities are deliberately subjected...[The Assembly calls on Turkey]...to cease all humiliation of the Greek and Maronite communities and put an end to the climate of intimidation...”

(Parliamentary Assembly, Council of Europe, Resolution 1333 (2003), 24 June 2003, par. 8 and 9).

Property Usurpation

Property rights are protected by both the tradition and practice of Western societies as well as by Western jurisprudence. This right was incorporated in the 1948 UN Universal Declaration of Human Rights (article 17), it is protected by the European Convention (article 1, Protocol I), and by the Charter of Fundamental Rights of the EU (article 17). In addition to their legal and economic aspects, property rights in Cyprus are also an important indicator of heritage and identity.

In the aftermath of the Turkish invasion and the deliberate ethnic cleansing of the occupied areas, the Turkish authorities and their subordinate local administration proceeded with the expropriation and usurpation of Greek Cypriot properties as part of the policy of eradicating the Greek Cypriot heritage in occupied Cyprus. Since 1974, Greek Cypriot displaced and refugee property owners have been denied access to and enjoyment of their property. Moreover, relatives of the displaced and refugees have also been denied inheritance rights to these properties. The usurpation of property has been directed at Greek Cypriots because of their language, ethnicity and religion in clear violation of the European Convention.

Property related issues are an important part of the Cyprus problem and were one of the key reasons for the Greek Cypriot rejection of the “Annan Plan” in the 2004 referendum. The former Secretary-General’s “plan” aimed primarily at property exchange and compensation rather than restitution as provided by international law. In occupied Cyprus 82.5% of the privately owned land is owned by Greek Cypriots. Under regulations adopted by the unrecognized authorities of the occupied areas starting in 1975, the confiscated and expropriated Greek Cypriot properties were redistributed and/or sold to Turkish Cypriots, Turkish mainland settlers, other foreign nationals and business interests leading to an unprecedented construction boom and land sales in occupied Cyprus. This was largely due to:

- The area’s natural beauty and pristine environment
- The relatively cheap prices compared to Western Europe
- The implication that under the 2004 UN plan on Cyprus these illegal transactions would be safeguarded and legalized.

Under international law and the decisions of the European Court of Human Rights, titles of usurped Greek Cypriot properties issued by Turkey’s subordinate local administration are invalid. Any violations of European law are imputable to Turkey because of its effective control of occupied Cyprus.

The objectives and extent of property usurpation:

The usurpation of Greek Cypriot property in occupied Cyprus serves various Turkish policy objectives including:

- The objective that the property issue will be solved on a global political settlement based on two ethnically cleansed states through compensation and property exchange, rather than restitution
- The creation of a new reality in occupied Cyprus that cannot be reversed on humanitarian or other legal grounds
- Buying off political influence and creating dependence on the occupation regime by Turkish Cypriots and settlers brought in by Turkey to occupied Cyprus
- Attracting badly needed foreign investment in the faltering economy of occupied Cyprus
- Providing incentives for the movement of settlers from the Turkish mainland to occupied Cyprus.

The extent of the usurpation of Greek Cypriot property in occupied Cyprus is well documented by the Turkish Cypriot press; by Turkish and Turkish Cypriot websites; extensive advertising in occupied Cyprus and in the UK; by statements of Turkish Cypriot and Turkish officials on the public record and available data on land sales and building products. For example:

- In 2003 land sales were estimated at 613,000 sq. meters
- In 2004, some 2,827 applications for land sales had been submitted by foreigners, an increase of 196% over the previous year
- In 2004 land “sales” were estimated at \$2 billion
- Property prices doubled in the period of 2003-05
- The granting of development licenses in pristine and environmentally sensitive areas as in the Karpas Peninsula
- The import of construction material (primarily iron, cement and bricks) in the occupied areas in amounts not justified by the population needs. For

example in 2003 over 38,222 tons of iron (a 60% over the preceding year); over 85,000 tons of cement (a 67% increase over the preceding year) were imported.

Addressing property usurpation:

The government of Cyprus has taken a number of measures to address the problem of Greek Cypriot property usurpation and exploitation in occupied Cyprus. These measures include:

- Informational activities through official channels outlining the risks facing potential buyers of stolen properties and invalid titles
- The criminalization of the promotion and sale of stolen properties
- Cooperation with realtors associations to inform their counterparts abroad of the risks involved in illicit property transactions in occupied Cyprus
- Diplomatic actions informing foreign governments of legal risks to their citizens dealing with usurped properties
- Actions in Cypriot courts and the enforcement of Cypriot court judgments in EU countries under EU regulation 44/2001
- Incorporating the issue of property usurpation and exploitation in the interstate applications filed by the Republic of Cyprus against Turkey. In all four interstate applications the decisions favored the rights of the citizens of the Republic of Cyprus.

Court rulings on usurped Greek Cypriot property:

Greek Cypriot citizens of the Republic of Cyprus have also filed cases against Turkey in the European Court of Human Rights in an attempt to reclaim their property rights. Four cases will be summarized here. The first is the ground breaking case of *Loizidou v. Turkey* (1995-1998), while the second is that of *Xenides-Arestis v. Turkey* (2005-2006).

In the *Loizidou v. Turkey* case, the European Court of Human Rights:

- Found that Turkey as an occupying power is responsible for its actions and those of its “subordinate local administration” in occupied Cyprus
- Found that Ms. T. Loizidou retains title to her property
- Found that Ms. Loizidou is entitled to more than \$1.5 million in damages from Turkey arising from the non-use and enjoyment of her property
- Determined that Turkey is in violation of article 1 of Protocol I of the European Convention by denying the petitioner access and enjoyment to her property
- Determined that the absence of effective local remedies was an additional violation of the European Convention.

In the *Xenidis-Arestis* case, the European Court upheld the precedent set in the *Loizidou* case and:

- Awarded the petitioner over \$1.1 million for having been denied access to and enjoyment of her property
- Upheld that *Xenidis-Arestis* retains the title to the property in question
- Determined that Turkey had committed multiple violations of the Convention including article 8 (respect for the home) and article 1 of Protocol I (protection of property)
- Determined that these violations occurred because of the petitioners’ ethnic origin, thus violating the non-discrimination provision (article 14) of the Convention
- Determined that available domestic remedies were neither effective nor adequate
- Determined that the Greek Cypriot rejection of the “Annan Plan” in 2004 did not affect the petitioner’s property rights.

Similar have been the conclusions in the 22 April 2008 judgment (just satisfaction) in the case of Demades v. Turkey, Application No. 16219/90, which awarded to the applicant over \$1.2million for loss of use of his property. At this time, there are a large number of property cases pending in front of the ECHR.

Another Greek Cypriot, M. Apostolides, on 26 October 2004 filed a case in the District Court of Nicosia against David and Linda Orams of the UK, who built illegally on Apostolides' property in occupied Cyprus. Mr. Apostolides sought enforcement of the Nicosia Court decision under EU regulation 44/2001. The Nicosia Court had decided that Orams must demolish the home illegally built on Apostolides' property. The Orams appealed the decision to the UK High Court of Justice-Queens Bench Division. Mr. Apostolides lost the case in the British court on technical grounds, i.e. that the EU regulation could not be enforced in occupied Cyprus. The case is currently on appeal. Despite this negative ruling, the British Court affirmed several significant legal points:

- Cypriot courts have jurisdiction over all of the territory of the Republic of Cyprus
- Mr. Apostolides remains the legitimate owner of his property and cannot be deprived of the title to his land
- Persons buying property in the occupied areas belonging to displaced Greek Cypriots are trespassers and can be treated as such.

The European Court of Human Rights in its historic decision on Cyprus v. Turkey of 10 May 2001 addressed the issue of violations of Greek Cypriot property rights. It determined that:

- The government of Cyprus is the sole legitimate government of the Republic
- That the so-called "TRNC" is not a state and is illegal under international law
- That Turkey being in effective control is responsible for all violations of the European Convention in occupied Cyprus
- There are continuing violations by Turkey of the rights of the displaced who are not allowed to return to their homes and properties

- That the on-going talks on Cyprus and/or the need to house displaced Turkish Cypriots cannot be invoked as a legitimate reason for the expropriation of Greek Cypriot property
- That denial of access and enjoyment of one's own property violated article 1 of Protocol I of the European Convention
- There is absence of effective local remedies in occupied Cyprus.

The issue of "domestic remedies":

In an attempt to remedy the findings of the European Court of Human Rights on the absence of effective local remedies (article 35, par. 1 of the Convention), the Turkish Cypriot "authorities" adopted "law" 67/2005 providing for the establishment of a Compensation Commission to which Greek Cypriot applicants would be directed to apply prior to a recourse to the European Court. It should be noted that:

- Resort to such a Commission is not obligatory if an applicant considers the remedies to be inadequate, ineffective and that the "authorities" have failed to investigate and address misconduct that inflicted harm
- The "law" provides primarily for property compensation and exchange rather than restitution as required under international law
- The Commission is not empowered to investigate, halt or control violations of Greek Cypriot property rights.

Turkey's non-cooperation:

Turkey has refused to consider a request by the government of Cyprus that a moratorium be imposed on all construction activity in occupied Cyprus and that a census be taken on the status of Greek Cypriot immovable property. This would help clarify many of the issues raised in this section.

Turkey's refusal to comply with the implementation of the European Court of Human Rights decision in the historic Loizidou case brought strong condemnation of Turkey by the Committee of Ministers of the Council of Europe on the eve of Turkey's accession talks with the EU. Under the threat of sanctions, Turkey paid the penalties imposed in the Loizidou case (December 2003). However, Turkey has not taken any steps leading to the restitution of her property.

“...The Assembly also notes with grave concern Turkey’s continued refusal to respect the Court’s judgments in the Loizidou case... This refusal demonstrates a manifest disregard by Turkey for its international obligations both as a High Contracting Party to the Convention and as a State of the Council of Europe...”

(Parliamentary Assembly, Council of Europe, Resolution 1297(2002), 23 September 2002, par. 11).

Turkey’s documented and continuing violations of Greek Cypriot property rights are a clear indication of her intent to consolidate its conquest of nearly 37% of the Republic of Cyprus and the creation of two ethnically homogeneous states on Cyprus.

The Settlers

“...the arrival and establishment of the Turkish settlers is the most notable demographic occurrence in Cyprus since 1974...”

This is the conclusion in the 1992 report by A. Cuco, Rapporteur of the Committee on Migration, Refugees and Demography of the Parliamentary Assembly of the Council of Europe. The settlers now outnumber the native Turkish Cypriots by a ratio of 2:1. Their number is estimated at around 160,000 and rising. These settlers:

- Are not economic refugees
- Are not seasonal workers
- Are not former residents of Cyprus returning to the island.

The settlers are mainly Anatolian shepherds, peasants, manual laborers, along with a small number of managers, businessmen and retired Turkish military who have been brought into Cyprus under a deliberate and systematic Turkish government policy aiming at:

- The alteration of the demographic character of the Republic of Cyprus
- The creation of a new political and social reality in the aftermath of the ethnic cleansing of occupied Cyprus
- Prejudicing any future political settlement on humanitarian, property and other grounds
- The alteration of the demographic structure of the Turkish Cypriot community
- The control of political power in occupied Cyprus through the dependence of the settlers on the occupation authorities
- Providing trained reserves for the occupation army. All male settlers have entered Cyprus after the completion of their military service in Turkey.

The dimensions of the settler problem:

The overwhelming presence of about 160,000 settlers along with an estimated 43,000 Turkish military has created social and economic conditions leading to the flight of the native Turkish Cypriots to Western Europe and Australia. Today, only 88,900 Turkish Cypriots remain out of an estimated 116,000 in 1974. The following data are indicative of the changing demographic conditions in occupied Cyprus:

- Turkish Cypriot data show that over the last decade the population of occupied Cyprus has risen to 240,000 persons, an unnatural 31.7% rate of increase
- The number of “registered voters” in occupied Cyprus has doubled from 75,781 in 1976 to 151,635 in 2006. That number appears to grow higher especially prior to each “election” in occupied Cyprus
- The ratio of 1 Turkish soldier per 6 civilians is the highest in Europe
- In 2004, the year of the referendum on the “Annan Plan”, some 40,000 Turkish settlers entered Cyprus
- Some 34,000 “title deeds” mainly from usurped Greek Cypriot properties have been granted to Turkish settlers who, since 2002, are allowed to sell these “titles” to third parties other than Greek Cypriots for a handsome profit

- Settlers make up 90% of the population in the Karpass Peninsula
- Settlers provided the winning margin in the approval of the “Annan Plan” in the occupied area in the 2004 referendum.

The settlers have been lured to occupied Cyprus by incentives offered by the occupation authorities and their subordinate local administration. The incentives include:

- “Citizenship” and/or permanent residence in the unrecognized “TRNC”, along with the right to vote
- Work permits and preferential treatment in employment and in the allocation of housing and property
- Access to assistance from European Union and other external aid sources directed to the Turkish Cypriot community
- The prospect of easier access to another EU country.

The influx of settlers, their acquisition of “citizenship” and participation in the political life of occupied Cyprus has been criticized even by Turkish Cypriot leaders including Mr. Ozger Ozgur, Mustafa Akinci and even Mehmet Ali Talat prior to his becoming “president” of the unrecognized “TRNC”. These Turkish Cypriot leaders have also pointed to social and cultural tensions created by the settlers in an otherwise cohesive and largely secularized Turkish Cypriot community. These tensions are largely due to:

- The preferential treatment extended to settlers in jobs and housing by the occupation authorities
- The increase in local crime
- The growing cultural influence of fundamentalist Islam in occupied Cyprus.

The Turkish Cypriot leadership has been unable to control the influx of settlers or change the policies of the Turkish government. This is one more indicator of Turkey’s decisive control of occupied Cyprus. Turkey’s actions are in direct violation of international law, including treaties ratified by Turkey, most notably the 1949 Fourth Geneva Convention, the 1998 Rome Statute of the International Criminal Court, and Protocol I to the 1949 Fourth Geneva Convention. Turkey has disregarded calls by the United Nations and by the Parliamentary Assembly of the Council of Europe to

suspend its colonization of Cyprus. Turkey has also disregarded proposals made by both the government of Cyprus and by Rapporteur A. Cuco of the Council of Europe. These proposals call for Turkey to impose a moratorium on the influx of settlers and to conduct an internationally supervised population census. The census could also determine who is entitled to be a citizen under the 1960 Treaty of Establishment that created the Republic of Cyprus.

Turkey’s disregard of its international obligations is one more indication of the objective of her partitionist and discriminatory policies in occupied Cyprus.

“...The Assembly is convinced that the presence of settlers constitutes a process of hidden colonization and an additional and important obstacle to a peaceful and negotiated solution of the Cyprus problem...[the Assembly]...calls on Turkey as well as its Turkish Cypriot subordinate local administration...to stop the process of colonization by Turkish settlers...”

(Council of Europe, Parliamentary Assembly, Recommendation 1608 (2003), 24 June 2003, par. 6 and 7).

The Destruction of Cultural Heritage

“...The vandalism and desecration are so methodical and so widespread that they amount to institutionalized obliteration of everything sacred to a Greek...”

(J. Fielding, “The Rape of Northern Cyprus,” The Guardian (London), 6 May 1976).

Cyprus has been at the crossroads of civilization in the Eastern Mediterranean. Its recorded history of more than 11,000 years is considered to be of central importance in the history of European art and civilization. The systematic and deliberate

destruction and obliteration of the Greek Cypriot cultural heritage is the final touch in Turkey's policy of ethnic cleansing and of the colonization of occupied Cyprus. It is a tragic and irreversible consequence of the Turkish invasion. Turkey is in violation of international law and of major international conventions it signed and ratified, including the 1954 UNESCO Convention on the Protection of Cultural Property in the Event of Armed Conflict, the 1949 Fourth Geneva Convention, and the 1970 UNESCO Convention on the Illicit Import, Export and Transfer of Ownership of Cultural Property. The destruction of the Greek Cypriot cultural heritage has been enhanced by:

- The lure of money in the black market for art objects
- The unwillingness of the occupation authorities to devote the necessary resources to protect the Greek Cypriot cultural heritage
- The unwillingness of the occupation authorities to cooperate with UNESCO
- The attempt by the Turkish Cypriot subordinate local administration in occupied Cyprus to gain de facto recognition in return for its cooperation with international institutions
- The expulsion of foreign archaeological schools working in the northern part of Cyprus until the time of the Turkish invasion.

Dimensions of the destruction of cultural heritage:

The deliberate destruction of the cultural heritage includes, but is not limited to:

- The destruction of ancient historic sites and monuments
- The looting of museums and other private collections
- The destruction and desecration of important religious sites to Orthodox, Maronite and Armenian Cypriots. Known as the "island of the saints", Cyprus has played an important role in the evolution and spread of Christianity in the West
- The deliberate name changes of historic sites, towns and villages in an attempt to erase the documented historic past of the island

- The destruction and disappearance of historical ancient artifacts and important movable religious items such as icons, sacerdotal vestments, books and precious items used in religious services
- The removal and illicit sale of historic frescoes and mosaics from UNESCO designated and protected religious sites, some dating back to the 6th century AD. Classic cases became those of the Antiphonitis frescoes and the Kanakaria mosaics whose recovery showed the depth of the official illicit networks and money involved in the black market for art objects. The removal of frescoes and mosaics requires scientific expertise, connivance and involvement of local authorities.

The historic wealth of occupied Cyprus is shown by the presence of:

- 31 major archaeological sites and ancient cemeteries
- 11 major fortresses, towers and fortifications
- 37 historic designated homes and bridges
- 520 churches, monasteries and chapels.

The fate of the churches and monasteries (Orthodox, Maronite and Armenian) is indicative of the systematic and deliberate policies of the occupation regime.

- 125 churches have been turned into mosques, an old Islamic tradition in occupied territories
- 67 have been turned into stables or hay warehouses
- 57 have become museums, cultural centers or hotels
- 17 have become hostels, restaurants or military warehouses
- 25 have been demolished
- 229 have been totally desecrated.

The official response:

In an attempt to limit the damage to the Cypriot cultural heritage the government of the Republic along with the Church of Cyprus have expanded their cooperation with foreign museums and auction houses to identify and seek the return of stolen historical and religious artifacts. In cooperation with Cypriot foundations they have also invested in the recovery of such items from the international market. Occasionally, compromises have been made in which items of secondary importance were sacrificed for the recovery of other more important historic artifacts and religious items. In addition, agreements have been reached for the temporary safekeeping of such items abroad, as in the case of the Menil Foundation of Houston. Part of the costly and lengthy recovery process involves the requirements of foreign courts for proof of ownership. This is often difficult given the lack of access to records and facilities in occupied Cyprus and reliance on photographic evidence to identify stolen items.

The Church of Cyprus has also resorted to foreign courts to recover looted religious items. The precedent setting case of the Kanakaria mosaics in the United States District Court for the Southern District of Indiana in Indianapolis is one such example. The case involved the ownership of plundered 6th century Byzantine mosaics from the Church of Kanakaria in the occupied part of Cyprus. The mosaics had been scientifically removed by Turkish antiquities smugglers and sold to an American art dealer for \$1.2 million. In a far ranging precedent setting decision on the protection of cultural property the Court, on 3 August 1989, ordered the return of the plundered mosaics to their legitimate owner, the Church of Cyprus. This decision was affirmed by the United States Court of Appeals for the Seventh Circuit on 24 October 1990 (*Autocephalous Greek Orthodox Church of Cyprus v. Goldberg & Feldman Fine Arts Inc.*, 917 F.2d278, US Court of Appeals for the 7th Circuit, Decision of 24 October 1990). The government of Cyprus has also undertaken various bilateral agreements with foreign governments intended to protect its archaeological and cultural heritage. One such recent example is the Memorandum of Understanding “To Protect the Archaeological and Ethnological Heritage of Cyprus” signed between the United States and the Republic of Cyprus in 2002 and extended for another five years in July 2007.

The unending battle to protect the Cypriot cultural heritage and Turkey’s unwillingness to cooperate with UNESCO and other international institutions to protect the Cypriot cultural heritage is one more example of Turkey’s deliberate policy of eradicating the historic Greek Cypriot presence from occupied Cyprus.

“...Points out that the cultural heritage of each people must be preserved and condemns the systematic policy of expunging the past and the Hellenic and Christian culture pursued by Turkey in the part of Cyprus occupied by its troops, as regards both the imposition of place names and the disappearance or transformation of the island’s cultural heritage...”

(European Parliament, Resolution, 10 March 1988, par. 9a).

In Conclusion

This brief booklet has provided substantive information on the massive and continuing violations of human rights by Turkey in occupied Cyprus. The information presented from independent sources leaves no doubt about the systematic and deliberate policy of eradicating all aspects of the Greek Cypriot heritage and presence in the occupied areas. These discriminatory policies were directed at Greek, Maronite and Armenian Cypriots because of their ethnicity, religion and language. This is a stigma on the international community at a time when, with support from the Republic of Cyprus, Turkey is engaged in accession talks with the EU. Turkey continues to violate its international obligations capitalizing on regional instability and the support extended to Turkey by influential external powers. The subordination of human rights to economic, political and security considerations undermines not only the European human rights regime, but also the European commitment to the rule of law, democracy and human rights. Cyprus, since 1974, was and remains the testing ground of these principles.



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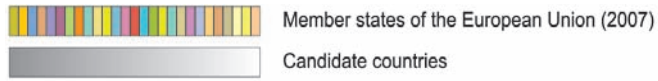
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Second Edition



P.I.O. 431/2008 – 5.000 (English)

ISBN 978-9963-38-579-9

Published by the Press and Information Office, Republic of Cyprus

www.moi.gov.cy/pio

Printed by Konos Ltd.