



ADDRESS BY THE LAW COMMISSIONER  
OF THE REPUBLIC OF CYPRUS, MRS LEDA  
KOURSOUNBA,  
HEAD OF THE CYPRUS DELEGATION,  
AT THE CONSIDERATION OF THE  
FOURTH AND FIFTH PERIODIC REPORTS  
OF THE REPUBLIC OF CYPRUS BY THE COMMITTEE ON  
ECONOMIC, SOCIAL AND CULTURAL RIGHTS  
ON THE IMPLEMENTATION OF THE INTERNATIONAL  
COVENANT ON ECONOMIC, SOCIAL AND CULTURAL  
RIGHTS SUBMITTED UNDER ARTICLES 16 AND 17  
OF THE COVENANT

8 MAY 2009

Mr. Chairman,  
Distinguished Members of the Committee,

It is an honor for me and the other members of the delegation of the Republic of Cyprus to appear before your Committee in order to present the combined Fourth and Fifth Periodic Reports of Cyprus, submitted as per its obligation under Articles 16 and 17 of the Covenant and elaborate on them.

Mr. Chairman,

I would first like to congratulate you and the three vice-chairs, Mr. Abdel-Moneim, Ms <sup>Bras Gomes</sup> ~~Bonnan-Dandan~~ and Mr. Sadi and the Rapporteur, Mr. Kedzia, on the assumption of your duties.

Allow me to present to you the members of our delegation:

- ▶ Myself, the Law Commissioner of the Republic of Cyprus, an independent officer, directly reporting to the President of the Republic, with a mandate of six years, entrusted, inter alia, with the country reporting under international treaties, like the ICESCR, and the submission of proposals for the reform of the national law, to make it compatible with such international treaties;
- ▶ The Permanent Representative of the Republic of Cyprus to the United Nations in Geneva, H.E. Ambassador Andreas Hadjichrysanthou;
- ▶ Mrs. Thalia Nicolaou, Principal Welfare Officer, Section Head of Public Assistance and Services for older persons and persons with disabilities;
- ▶ Mr. Dimitrios Michailidis, Senior Labor Officer, Ministry of Labor and Social Insurance;
- ▶ Mr. Costas Veis, Superintendant B, Cyprus Police;

- ▶ Dr. Ioannis Savvides, Assistant to the Permanent Secretary, Ministry of Education and Culture;
- ▶ Mr. Constantinos Christofides, Human Rights Desk Officer, Ministry of Foreign Affairs;
- ▶ Mrs. Maro Michaelides, Administrative Officer, Ministry of Interior
- ▶ Mr. Nicos P. Nicolaou, Counsellor, Deputy Permanent Representative of the Permanent Mission of the Republic of Cyprus in Geneva
- ▶ Ms Maria Michael, Counsellor of the Permanent Mission of the Republic of Cyprus in Geneva.

*Mr. Chairman,*

The Committee has before it the following documents:

- (1) the combined Fourth and Fifth Periodic Reports of Cyprus, dated 6 August 2007 [Document E/C.12/CYP/5 – 21 October 2008], hereinafter “the present Report”;
- (2) the Replies by Cyprus to the list of issues to be taken up in connection with the consideration of the present Report, dated 10 March 2009 [Document E/C.12/CYP/Q/5/Add.1 – 13 March 2009];
- (3) the Core Document of Cyprus which was drawn up in accordance with the General Assembly Resolution 45/85 and the consolidated guidelines for the initial part of the reports of State Parties [Document HRI/991/1] dated July 2007, which is attached to the present Report as Attachment 1. An updated version of the main part of the Core Document as at 1<sup>st</sup> April 2009, together with an updated List of International Human Rights Instruments to which the Republic is a party as at 1<sup>st</sup> May 2009, has been available to the Committee today.

The information and data, on the basis of which the present Report was compiled, was provided by the Ministries / Departments competent for each matter in the

Report, as well as the Law Office of the Republic. The present Report was drafted on the basis of the Guidelines for the Preparation of Reports by State Parties of 17 June 1991 and focuses on responding to the Concluding Observations of the Committee in relation to Cyprus' Third Periodic Report.

The present Report has been made available to the public. It has been posted on the official website of the Office of the Law Commissioner.

*Mr. Chairman,*

The Republic of Cyprus, since its establishment on 16 August 1960, attaches great importance to the safeguarding and respect of human rights. The Constitution, upon which the State is structured, has (in its Part II) an extensive bill of rights which incorporates all fundamental rights, enshrined in the basic universal human rights instruments. Furthermore, Cyprus has ratified the majority of binding universal and regional human rights instruments. These include those developed under the auspices of the United Nations, the ILO, UNESCO, ICAO and other, as well as those developed under the auspices of regional institutions, namely the Council of Europe, the European Community / European Union and the CSCE/OSCE.

The International Covenant on Economic, Social and Cultural Rights, as well as the "sister" Covenant on Civil and Political Rights, were ratified by Cyprus 40 years ago (2 April 1969 – Law 14/1969). This demonstrates the importance attached by Cyprus to the promotion and protection of human rights among all people within its jurisdiction.

The Government of Cyprus closely cooperates with UN treaty bodies as well as with other universal and regional treaty bodies, submitting reports on measures taken to implement the rights and freedoms stipulated in such instruments. At present, the preparation of Cyprus' National Report within the framework of the Universal Periodic Review is well under way and will be examined in November

2009. Let me assure you, that Cyprus takes the UPR mechanism very seriously, as it genuinely believes that this is a comprehensive process of self assessment and the appropriate means to depict an accurate representation of the prevailing situation which will help States evaluate the human rights situation in their territory.

Cyprus regrets that due to the continuing illegal occupation and effective control of 37% of its territory by Turkish military forces, the Government is unable to ensure the enjoyment of the rights provided for in the Covenant in the whole of its territory and that, therefore, it is also deprived of its ability to apply the provisions of the Covenant to those living in the part of the country under foreign occupation. Due to this situation, no reliable information and data are available regarding the enjoyment of the relevant rights by the Cypriot population living in the area that is not controlled by the Government. Therefore, all information and data presented in the present Report concern the Government-controlled areas.

Nevertheless, Turkish Cypriots, notwithstanding the fact that they may reside in the area which is not under the effective control of the Government, enjoy, at individual and collective level, the benefits of a wide spectrum of services and measures provided by the Government. These services and measures include (but are not limited to) free medical care, government contributions to social insurance, pensions, social security benefits (maternity, unemployment, sickness), social welfare benefits, tuition and other educational grants, repairs and maintenance of mosques, cemeteries and houses of Turkish Cypriots, television and radio programmes in Turkish. Furthermore, the measures implemented in relation to the area which is not under the effective control of the Government include supply of drinking water and maintenance of the dams and irrigation systems, enhancement of the mobile phone network, and supply of electricity. The sum allocated for this purpose for the period of 1<sup>st</sup> of January 2004 until 31<sup>st</sup> December 2008 amounted to 169 million euros.

*Mr. Chairman,*

While trying to keep this address as short as possible, in order to efficiently use the time for a constructive discussion, I feel the need to stress that Cyprus is a country with democratic principles where the rule of law prevails. The Constitution, including the bill of rights incorporated therein, is by virtue of its Article 179, the supreme law of the Republic and no law or decision of any organ of the state can be contrary to the Constitution and, thus, human rights are safeguarded by the Constitution. Furthermore, by virtue of Article 169, international treaties ratified by Cyprus and, therefore, any rules emanating from such treaties, become part of the national law and have superior force to any national legislation. This means that, any national legislation ranks under the Constitution and the treaties ratified by Cyprus and, consequently, any national legislation which is contrary to the Constitution and/or any international treaty is null and void.

It is also important to underline in this context that, by virtue of the Constitution (Article 188), on the establishment of the Republic of Cyprus, all laws in force on that date were, until amended by subsequent laws made by the competent organs of the state, construed and applied with such modifications as were necessary to bring them in conformity with the Constitution. I consider this a necessary clarification to answer allegations made relating to certain legislation, for instance, the Aliens and Immigration legislation, which pre-existed the Constitution and the treaties ratified by the Republic. Such laws, as from 16 August 1960, are construed and applied subject to the bill of rights incorporated in the Constitution and any international treaties ratified by Cyprus, including the present Covenant.

*Mr. Chairman,*

The Republic of Cyprus has a democratic system of Government; the Judiciary is independent and Judges cannot be removed from office otherwise than for misconduct and by a decision of the Supreme Council of Judicature. The doctrine of separation of powers is strictly, perhaps some times more so than in any other

country, enforced by the Supreme Court. The Rule of Law prevails and all acts by the Administration and the Executive which are contrary to law and, therefore contrary to international treaties, can be annulled by the Supreme Court, on recourse, by any person who feels aggrieved. And such person, may be awarded damages by the Courts.

Mr. Chairman,

Since the creation of the Cypriot state in 1960, fundamental changes took place in the economic, social and cultural sectors of Cyprus. Consequently, the necessary political and legal framework has been developed for the implementation of the provisions of fundamental international instruments in the field of human rights.

The most important step in Cyprus' post-independence history and, at the same time, a significant positive development since the examination of its previous Report, is its accession to the European Union on 1 May 2004. This development had a beneficial effect on the enhancement and further protection of human rights. At the same time, it entailed a new set of stricter rules that the Government had to adhere to and also several obligations in that direction for the Republic. Cyprus' EU accession process started in 1998 and progressed at an intensive pace. It necessitated the harmonization of its legal framework with the *acquis communautaire* resulting in the timely enactment of very important legislation relating to economic, social and cultural rights and, in parallel, to the creation of the necessary administrative infrastructure for the implementation of the relevant legislation and policies.

In the years following its independence Cyprus has managed to attain and enjoy a high standard of living. Cyprus has a market economy dominated by the service sector, which accounts for 78% of our GDP. Tourism, financial services, and real estate are the most important sectors. The economy has grown at a rate well above the EU average since 2000. Cyprus has adopted the euro as its national

currency on January 1<sup>st</sup> 2008, following a successful two year monitoring period within the European Exchange Rate Mechanism II. In order to achieve the accession to the Eurozone, the Government of the Republic implemented an aggressive austerity program that helped turn a soaring fiscal deficit, 6.3% in 2003, into a surplus of 1.2% in 2008. This prosperity will, however, come under pressure as construction and tourism slow in the face of reduced foreign demand triggered by the ongoing global financial crisis. Growth is expected to slow to less than 1%, which would be its lowest level since 2003. In order to deal with this situation, the Government of Cyprus has announced the implementation of short term fiscal measures with direct budgetary impact.

Cyprus can be considered a pioneer in the field of settling labor disputes. As mentioned in the Replies to the List of Issues, Cyprus has a long tradition of voluntarism and tripartite cooperation, of which the Industrial Relations Code was and remains the result of this tradition. This Code is essentially a procedural agreement which lays down the rules to be followed when labor disputes arise. The signatory parties, namely the State, the Employers Organisations and the Trade Unions freely decided to voluntarily regulate industrial relations as the main method to promote the use of collective agreements.

The co-operation of the Social Partners, namely the Government, the Employers' Organizations and the Trade Unions, has been favorably commented on various occasions, by the International Labour Organization (ILO) and was considered an example of good practice for the smooth functioning of the labour market.

Mr. Chairman,

Article 20 of the Constitution of the Republic of Cyprus safeguards the right to education. Cyprus offers free and accessible education to all students at all educational levels (Primary, Secondary General, Secondary Technical and Vocational Education and Training and Higher Education) without any

discrimination based on gender, ability, language, colour, religion, political beliefs or ethnicity. This also applies to all third-country nationals, including children whose parents are illegally on the island.

Our focused efforts to enhance the educational and social achievements of minority students and students coming from other countries, who have enrolled in public schools, as well as to better assist them to smoothly integrate within the Cypriot society while respecting their cultural backgrounds, have produced a set of concrete measures. A starting point is the ongoing upgrading of the national curriculum, emphasizing human rights education and respect of the dignity of every child as well as all other rights and principles safeguarded by the UN Convention on the Rights of the Child. Further measures include special classes for accelerated learning of Greek, employment of interpreters in schools in order to develop communication trails with students' families, appropriate teaching materials for the needs of migrant students, employment of bilingual teachers who conduct the instruction of classes in the native language of these students, publication of information about Cyprus and its educational system in 8 foreign languages for the students and their families, training of language teachers in the teaching of Greek as a foreign and/or as a second language and monitoring of the needs and the progress of the students. Emphasis is also placed on the initial training and the continuous professional development of teachers and school personnel.

Mr. Chairman,

Migration and asylum seekers has been an area of major concern for the Government during the period under review. An unprecedented influx of irregular migrants in the last decade, placed extreme pressure on financial and human resources of a small island state like Cyprus.

For many reasons, including the accession of the State to the European Union in 2004, but also the unique tragic situation of the country due to foreign occupation of one third of its territory over which the Government has no effective control, Cyprus has been a destination of a consistently increasing number of irregular migrants. This is enhanced by its geographical position, being the outer eastern border to the European Union.

According to a statistical overview of UNHCR (Asylum Levels and Trends in Industrialized Countries 2008 – Statistical Overview of Asylum Applications Lodged in Europe and selected Non-European Countries), during the period 2004-2008, Cyprus received the highest number of asylum seekers compared to its national population (38 asylum seekers per 1000 inhabitants).

A great majority of these are proven to be economic migrants, who after the expiration of their work permit, apply for asylum in an effort to extend their stay in Cyprus. Furthermore, in recent years there has also been a massive inflow of persons from Asian countries (such as Pakistan, Bangladesh, Syria, etc) who enter through illegal ports in the Turkish occupied area of Cyprus, then cross over to the Government controlled area and, immediately, proceed with the submission of an application for international protection. The vast majority of these persons are economic migrants. This is basically the reason for which the recognition rates in Cyprus are relatively low. However, Cyprus grants 100% protection (refugee status or subsidiary protection status) to certain nationalities, such as Iraqis and Palestinians.

As stated in paragraphs 75-77 of the Present Report, the national legislation is fully compatible and effectively implements the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees. By an amendment to the Refugee Law enacted in 2007, recognized refugees as well as persons granted subsidiary protection, have increased benefits in full harmonization with the EU Directive 2004/83/EC, in particular its Articles 23

(Maintaining family unity), 24 (Residence permits), 25 (Travel document), 26 (Access to employment), 27 (Access to education), 28 (Social welfare), 29 (Health care), 31 (Access to accommodation), 32 (Freedom of movement within the Member State), 33 (Access to integration facilities), and 34 (Repatriation). There are also special provisions for unaccompanied minors (Article 30).

Cyprus attaches great importance to this issue, which is neither a national, nor a European, but a global one. Cyprus calls upon all states involved to share responsibility and address these issues at regional as well as international level. Cyprus has been supporting the further promotion of practical cooperation and burden sharing in the field of asylum towards a better and more efficient application of a Common European Asylum System and has been promoting the cooperation with other EU Member States, such as the Netherlands, Denmark, the UK and Greece. Cyprus is fully committed to honor its obligations towards genuine refugees and those entitled to subsidiary protection and, yet, to respect the dignity of those illegally on the island. Nevertheless, illegal migrants cannot be addressed in such a way as to limit the opportunities of legal migration.

The basic declared policy of the Government is the holistic and rational management of the illegal and the legal migration, always with full respect of the human beings and the protection of their rights. We are determined, through coordinated efforts to implement this target, recognizing and, at the same time, tackling the complex issues we will encounter.

Mr. Chairman,

I would also like to mention that, persons detained in police detention centers, including foreign nationals, enjoy all rights and accommodation facilities according to the standards of international monitoring bodies. In the last few years, the police detention centers have been renovated and improvements have been made, so that conditions of detention are consistent with the specifications and

recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) as stated in its Fifth Periodic Report on Cyprus (7/11/2008) and ensure that detainees can enjoy humane and safe conditions of detention. Furthermore, a new detention building with capacity for 256 persons is scheduled to be constructed in the next two years. By an Order of the Chief of the Police, dated 7 February 2008, national and international monitoring bodies, including the UNHCR, should be facilitated during their visits to inspect police detention centers. It is now the declared Government policy that, the detention of irregular migrants should not exceed a period of six months. If deportation of an illegal migrant cannot be executed within a reasonable time, he is set free and given a special residence and employment permit, usually for a year, provided that he has not been convicted for a criminal offence, other than his illegal entry or stay, or he does not pose a threat to public order.

*Mr. Chairman,*

Internal monitoring bodies in Cyprus do substantial work for the implementation of international universal and regional human rights instruments. During the period under review, new mechanisms have been put in place. Existing ones have been strengthened and enhanced: The Commissioner for Administration (Ombudsman), was established by law in 1991 with the general responsibility to protect rights of citizens affected by actions or decisions of administrative authorities which are contrary to law or violate human rights. Since May 2004, the Office of the Ombudsman functions also as the Cyprus Anti-Discrimination Body and the Equality Authority in employment occupation, pursuant to legislation enacted on the basis of two relevant European Community Directives. The Ombudsman informs citizens on their rights and for their ability to participate in the formation of state policy and to influence the correct exercise of state power. The institution covers every person in Cyprus (including illegal migrants) and perceives its relations with the state on the basis of liberty, equality, transparency and mutual

trust. A Commissioner for Children's Rights was established by law in 2007 as a national human rights institution. It is fully compatible with the "Paris Principles" and General Comment No. 2 of the UN Committee on the Rights of the Child, with basic mission to promote and protect children's rights and a very wide mandate. Despite the short period since it was established, the institution of the Commissioner for Children's Rights has been engaged in a wide range of activities, leading to the proper implementation by Cyprus of the Convention on the Rights of the Child.

The National Institution for the Protection of Human Rights (NIPHR) established in 1998, is another example of an internal monitoring body. The NIPHR which has been very active during the period under review, promoting and protecting human rights for all persons in Cyprus, particularly migrants, asylum seekers and persons illegally residing on the island. As mentioned in the Replies to the List of Issues, the NIPHR is currently undergoing institutional restructuring in order to bring it in line with the "Paris Principles". Consultations between the President of the Institution at that time and the former High Commissioner for Human Rights in Geneva, produced a set of suggestions for improvement, which have been taken into consideration by the Council of Ministers. In the coming weeks, the Council of Ministers is expected to appoint a new President, as well as members of the Steering Committee of the Institution.

*Mr. Chairman,*

Our efforts were focused on submitting the present Report on time. However, we should acknowledge the fact that there has been a considerable delay in the submission of the fourth and fifth periodic reports. Despite the Government's firm commitment in pursuing policies that all persons, enjoy fully the fundamental rights and freedoms safeguarded by the Constitution and the human rights instruments to which Cyprus is a party, and benefit from the rule of law and democratic institutions, obligations for submitting reports, such as the one under consideration,

may experience occasional delays, which are mainly due to bureaucratic limitations encountered by small administrations with limited resources. We are constantly working on finding ways for alleviating setbacks of this nature and we hope that such issues will cease to exist in the near future.

Mr. Chairman,

The Government, the House of Representatives, the Attorney-General of the Republic (an independent officer under the Constitution in its capacity as the legal adviser to the Government on all legal issues including respect of human rights) myself, as the Law Commissioner (who is entrusted, among others, with the task of supervising the proper incorporation into national law of all human rights instruments) the Courts (which have competence to examine any violation of any provision of any international instrument, as being part of the internal law with the superior force) consider it our duty to achieve, inter alia, the goal of complying with the provisions of the Covenant on Economic, Social and Cultural Rights.

We do recognize that there is a lot to be done, but being aware of our weaknesses and shortcomings, I believe that, we have taken a decisive step towards achieving our goal: the full implementation of the Covenant.

Mr. Chairman,

Distinguished members of the Committee,

May I express the appreciation of the Government of Cyprus for your efforts and invaluable contribution in promoting, what we think is a common cause of all civilized societies, namely, to safeguard the economic, social and cultural rights of all individuals, regardless of their race, ethnicity, sex, beliefs and preferences or status in society.

We look upon your Committee not as a Court of Law, sitting in judgment of our system and of our actions, or lack thereof, but as an experienced body, whose impartiality can by no means be put into question and whose recommendations should be taken into consideration, in order to achieve the required effectiveness in reaching the common goal.

Mr. Chairman,

Due to time constraints, my presentation today could not highlight all Cyprus' efforts to promote and protect the economic, social and cultural rights of its people. For the same reason, I could not elaborate further on Cyprus' difficulties and challenges. Nor could I address in detail each and every issue that has been raised so far. Thus, my delegation and I will do our utmost to address your concerns in a constructive, structured, candid and open manner in the dialogue that will follow.

Thank you for your kind attention. We are naturally at your disposal for answering any questions and providing any further clarification you may wish to raise.

I thank you Mr. Chairman.