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**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

Report of the Office of the United Nations High Commissioner for Human Rights on the question of human rights in Cyprus

Note by the Secretary-General

Summary

The present report has been prepared in accordance with the mandate contained in resolution 4 (XXXI) of the Commission on Human Rights (1975). Moreover, at its forty-third session in 1987, the Commission on Human Rights adopted resolution 1987/50 entitled Question of human rights in Cyprus, which, inter alia, reiterated its previous calls for the full restoration of all human rights to the population of Cyprus, in particular to refugees; called for the tracing of and accounting for missing persons in Cyprus without any further delay; and called for the restoration and respect of the human rights and fundamental freedoms of all Cypriots, including freedom of movement, the freedom of settlement and the right to property. It is in this light that this report reflects a variety of human rights-related issues.

In its decision 2/102, the Human Rights Council requested the Secretary-General and the High Commissioner for Human Rights to “continue with the fulfilment of their activities, in accordance with all previous decisions adopted by the Commission on Human Rights and to update the relevant reports and studies”. The Office of the High Commissioner for Human Rights (OHCHR) understands decision 2/102 to preserve the previous annual reporting cycle in respect of this issue until otherwise decided by the Council. The last annual report on the question of human rights in Cyprus was submitted to the Council at its thirteenth session in March 2010 (A/HRC/13/24).

The annex to this note, prepared by OHCHR and covering the period up to 30 November 2010, is herewith transmitted to the Council. It provides an overview of human rights issues in Cyprus based on the available information. For the purpose of this report, in the absence of an OHCHR field presence in Cyprus, or of any specific monitoring mechanism, OHCHR has relied on a variety of sources with particular knowledge of the human rights situation on the island.

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I. Overview

1. As of November 2010, Cyprus remains divided, with a buffer zone maintained by the United Nations Peacekeeping Force in Cyprus (UNFICYP). The UNFICYP mandate, which dates back to 1964, has been extended by successive Security Council resolutions. In resolution 1930 (2010) of 15 June 2010, the Security Council decided to extend the mandate for a further period ending 15 December 2010.

2. UNFICYP has continued to provide humanitarian assistance to the communities, including to Greek Cypriots and Maronites living in the north and Turkish Cypriots living in the south of the island. Assistance continued to be sought from the mission in addressing day-to-day issues arising from the division of the island, including in relation to economic, social and educational matters, the transfer of the deceased, and commemorative, religious and socio-cultural gatherings¹.

3. UNFICYP has also continued to assist in maintaining good relations and building trust between the Greek Cypriot and Turkish Cypriot communities, including in the mixed village of Pyla in the buffer zone². In order to support reconciliation between the two communities, UNFICYP facilitated more than 100 bi-communal events with the participation of more than 5,000 people in the period from May to November 2010³.

4. The process of full-fledged negotiations between the Greek Cypriot and Turkish Cypriot sides, aimed at finding a comprehensive settlement of the Cyprus problem, was formally launched under United Nations auspices on 3 September 2008. In July 2008, the Secretary-General appointed his Special Advisor on Cyprus with the mandate to assist the parties in the conduct of the negotiations. The talks between the Greek Cypriot and Turkish Cypriot leaders have continued at a steady pace, focusing on various chapters including governance and power-sharing, European Union-related matters, and economic matters. More recently, the talks have also tackled the chapter on property⁴.

5. Meetings between the representatives of the two leaders and technical meetings at the expert level have also taken place. To date, six out of 23 confidence-building measures formulated by the technical committees to ensure a conducive atmosphere for a settlement by improving the daily lives of Cypriots have been implemented, including the establishment of a joint communication room for the exchange of information on crime and criminal matters, the facilitation of ambulances through crossing points, and the implementation of a project to establish an inventory of immovable cultural heritage in Cyprus⁵. UNFICYP has provided assistance in implementing these confidence-building measures⁶.

6. On 18 April 2010, in elections held in the northern part of Cyprus, the Turkish Cypriots elected Derviş Eroğlu as their leader, replacing Mehmet Ali Talat. Following the elections, Greek Cypriot leader Demetris Christofias and new Turkish Cypriot leader

¹ Report of the Secretary-General on the United Nations operation in Cyprus (S/2010/264), paras. 10 and 16; Information received from UNFICYP.

² S/2010/264, para. 19; Information received from UNFICYP.

³ Report of the Secretary-General on the United Nations operation in Cyprus (S/2010/605), para. 17.

⁴ Report of the Secretary-General on his mission of good offices in Cyprus (S/2010/238), paras. 4 and 14; Information received from DPA.

⁵ Report of the Secretary-General on his mission of good offices in Cyprus (S/2010/603), paras. 8, 12 and 15.

⁶ S/2010/605, para. 34.

Eroğlu wrote to the Secretary-General, affirming their commitment to continuing with the negotiations⁷.

7. Talks between the two leaders resumed on 26 May 2010, focusing on the chapter on property. In early September, both sides presented their respective comprehensive proposals on property, which were discussed at length in subsequent meetings. On 18 November 2010, the two leaders met with the Secretary-General and reviewed progress made in all the chapters of the negotiations. They agreed to continue the discussions on a number of core issues identified by the Secretary-General and to report back to him on progress made at the end of January⁸.

II. Human rights concerns

8. The persisting division of Cyprus continues to have consequences in relation to a number of human rights issues on the whole island, including freedom of movement, human rights pertaining to the question of missing persons, discrimination, the right to life, freedom of religion and economic, social and cultural rights.

A. Freedom of movement

9. Crossings between the north and the south of the island are still possible only through official crossing points, which limits freedom of movement. In addition, Turkish Cypriot authorities impose restrictions on the length of stay by Greek Cypriots in the north. For a stay that exceeds three months, they need to apply for a “visa”⁹.

10. As agreed between the leaders at the beginning of the negotiations, a seventh crossing point through the buffer zone in the north-west of the island, linking the villages of Limnitis/Yeşilirmak in the north and Kato Pyrgos in the south, was opened on 14 October 2010. This significantly reduces travel time across the region and allows for a more direct route for travellers to Nicosia. The opening of this crossing point also serves as an important confidence building measure to foster an environment conducive to the overall negotiations¹⁰.

11. UNFICYP recorded more than 1.5 million official crossings through the buffer zone in the year between 21 November 2009 and 20 November 2010. Between 21 May and 20 November 2010, more than 10,000 crossings occurred at the newly opened Limnitis/Yeşilirmak crossing point¹¹.

12. The requests made by 11 Greek Cypriot and 44 Maronite internally displaced and refugee families wanting to return to, and permanently reside in the north are still pending, due to differences between the two sides over the eligibility criteria for permanent return¹².

B. Human rights pertaining to the question of missing persons

13. The Committee on Missing Persons in Cyprus (CMP) continued the exhumation, identification and return of the remains of missing persons. By the end of November 2010, the remains of 745 individuals had been exhumed on both sides of the buffer zone by the

⁷ S/2010/238, para. 19.

⁸ S/2010/603, paras. 21, 22 and 25.

⁹ Information received from UNFICYP.

¹⁰ “Limnitis/Yeşilirmak Crossing Point Opens”, 14 October 2010, <http://www.unficyp.org/>

¹¹ S/2010/264, para. 11, and S/2010/605, para. 13.

¹² S/2010/605, para. 14, and S/2009/609, para. 17.

Committee's bi-communal teams of archaeologists; the remains of 407 missing persons had undergone examination at the Committee's bi-communal anthropological laboratory in the United Nations Protected Area in Nicosia; and the remains of 263 individuals had been returned to their respective families¹³.

14. The Committee of Ministers' Deputies of the Council of Europe (CoE CMD), which supervises the execution of judgments of the European Court of Human Rights ("the Court"), fully acknowledged the importance of the activities of the CMP in its March 2010 decision in the case of *Varnava and Others v. Turkey* (2009)¹⁴. The Ministers' Deputies underlined, however, that notwithstanding the importance of these measures as a first step in the investigative process, they do not exhaust the obligation under article 2 (right to life) of the European Convention on Human Rights (ECHR). CoE CMD therefore insisted on its request that the Turkish authorities inform it of the measures envisaged in the prolongation of the CMP's work with a view to the effective investigations required by this judgment¹⁵.

15. In another case concerning the question of missing persons, *Cyprus v. Turkey* (2001)¹⁶, CoE CMD at its March session recalled its invitation to the Turkish authorities to take concrete measures to ensure access by CMP to all relevant information and places, without impeding the confidentiality essential to the implementation of its mandate. While CoE CMD took note with satisfaction of the information provided by the Turkish authorities on allowing the CMP to access several places situated in military zones, it insisted on being informed of the concrete measures envisaged in continuity with the work of CMP¹⁷.

16. The crucial importance of complete access of the CMP to military areas in the northern part of Cyprus for the purposes of exhumation was emphasized also by the Secretary-General, who in his latest report on the United Nations operation in Cyprus urged the Turkish Forces to adopt a more forthcoming approach, given the humanitarian dimension of the issue¹⁸.

17. In its concluding observations on the third periodic report of Turkey, the Committee against Torture called on Turkey to take prompt measures to ensure effective, transparent and independent investigations into all outstanding cases of alleged disappearances, including those cited by the Court and especially referring to *Cyprus v. Turkey*¹⁹.

18. On 3 June 2010 the Court delivered a partial decision as to the admissibility of *Emin and six other cases v. Cyprus, Greece and the United Kingdom*, where the applicants, relatives of Turkish Cypriot men who went missing in either December 1963 or in April-

¹³ CMP, Quick Statistics, 30 November 2010, http://www.cmp-cyprus.org/media/attachments/Quick%20Statistics/Quick_Statistics_30.11.2010.pdf

¹⁴ In the case of *Varnava and Others v. Turkey* (16064/90) the Grand Chamber of the Court held that there was a continuing violation of article 2 (right to life), of article 3 (prohibition of inhuman or degrading treatment) and of article 5 (right to liberty and security) of the ECHR.

¹⁵ Council of Europe Committee of Ministers' Deputies Decisions adopted at the 1078th meeting, 2-4 March 2010, on *Varnava and Others v. Turkey*.

¹⁶ In its judgment the Court held that Turkey was responsible for 14 violations of the ECHR, grouped by the Committee of Ministers into four categories: (1) the question of missing persons; (2) the living conditions of Greek Cypriots in northern Cyprus; (3) the rights of Turkish Cypriots living in northern Cyprus; and (4) the question of the homes and property of displaced persons.

¹⁷ Council of Europe Committee of Ministers' Deputies Decisions adopted at the 1078th meeting, 2-4 March 2010, on *Cyprus v. Turkey*.

¹⁸ S/2010/605, para. 37.

¹⁹ Concluding observations – Turkey (CAT/C/TUR/CO/3), forty-fifth session, 1-19 November 2010, Advance unedited version, para. 9.

May 1964, raised complaints under several articles of the ECHR²⁰. The Court decided to adjourn the examinations of the applicants' complaints against the Republic of Cyprus concerning the lack of investigation following the discovery of the remains of their relatives between 2006 and 2009 and the trauma and anguish which they suffer as a result²¹.

C. Property rights

19. On 22 April 2010 the Parliament of the Republic of Cyprus passed a law amending the Turkish-Cypriot Properties Law, under which the abandoned Turkish Cypriot properties in the south are administered by the Minister of Interior (Custodian)²². While previously only Turkish Cypriot property owners who lived in the Government-controlled areas or moved abroad before 1974 could claim their property, the amendment extends this right also to those who went abroad after 1974²³. It also establishes the actionable right of Turkish Cypriot property owners to have recourse to the district courts in case of alleged violation of their right guaranteed by the ECHR or its Protocols, but only after their claim has been rejected by the Minister of Interior. If the court finds a violation, compensation or restitution of property may be granted. In exceptional cases, there is a possibility of lifting the custodianship over a particular property²⁴. The changes to the Turkish-Cypriot Properties Law were announced by the Cyprus Government in its declaration to the European Court of Human Rights in the case of *Sofi v. Cyprus*, which ended with a friendly settlement²⁵.

20. On 1 March 2010 the Grand Chamber of the European Court of Human Rights decided as to the admissibility of the application *Demopoulos v. Turkey and seven other cases*²⁶, wherein the applicants claimed to have been deprived of their property rights following the 1974 Turkish intervention in northern Cyprus. The Grand Chamber concluded that Law 67/2005 of December 2005, according to which all natural and legal persons claiming rights to immovable or movable property could bring a claim before the Immovable Property Commission (IPC)²⁷, "provides an accessible and effective framework

²⁰ The applicants complained against Cyprus under article 2 (right to life), article 3 (prohibition of torture and inhuman and degrading treatment or punishment), article 8 (right to respect for private and family life), article 13 (right to an effective remedy) and article 14 (prohibition of discrimination in the enjoyment of Convention rights). *Emin and six other cases v. Cyprus, Greece and the United Kingdom Decision* (59623/08, 3706/09, 16206/09, 25180/09, 32744/09, 36499/09 and 57250/09), 3 June 2010.

²¹ *Ibid.*

²² Turkish-Cypriot Properties (Administration and Other Matters) (Temporary Provisions) Law of 1991 (*Law 139/1991, as amended*).

²³ "House lifts blanket restriction on return of Turkish Cypriot property", 23 April 2010, <http://www.cyprus-mail.com>.

²⁴ Turkish-Cypriot Properties (Administration and Other Issues) (Temporary Provisions) Amending Law of 2010 (*Law 39(I)/2010*).

²⁵ *Sofi v. Cyprus Decision* (18163/04), 14 January 2010. The applicant complained that she was denied access to and enjoyment of her immovable property in the district of Larnaca, which disclosed a continuing violation of article 1 of Protocol No. 1 (right to peaceful enjoyment of possessions), a continuing violation of article 8 (right to respect for one's home), a violation of article 14 (prohibition against discrimination in enjoyment of Convention rights) in that she had been discriminated against as a Turkish Cypriot and article 13 (right to an effective remedy).

²⁶ Grand Chamber's *Demopoulos and Others v. Turkey Decision* (46113/92), 1 March 2010.

²⁷ The IPC was set up under Law No. 67/2005 for the compensation, exchange and restitution of immovable properties following the Court's judgment in the *Xenides-Arestis v. Turkey* (46347/99) case. It officially began its activities on 17 March 2006. As of 30 November 2010, 773 applications have been lodged with the IPC (330 in 2010) and 130 of them have been concluded through friendly settlements and four through formal hearing. The IPC has paid 49,164,000 pounds sterling to the

of redress in respect of complaints about interference with the property owned by Greek Cypriots²⁸. As the applicants had not made use of this mechanism, their complaints under article 1 of Protocol No. 1 (protection of property) to the ECHR were rejected for non-exhaustion of domestic remedies²⁹.

21. The Court stressed that notwithstanding the fact that the IPC was recognized as a domestic remedy for cases involving Greek Cypriot properties in the north, its decision in this case was not to be interpreted as an obligation to make use of the IPC; the claimants could choose to await a political solution. However, if applicants wished to lodge an application before the Court, its admissibility would be decided in line with the present principles³⁰.

22. The CoE CMD is currently assessing the consequences of the *Demopoulos* decision on the supervision of *Loizidou v. Turkey* (1996)³¹, *Cyprus v. Turkey* (2001), *Demades v. Turkey* (2003)³², *Xenides-Arestis v. Turkey* (2006)³³ and other individual cases concerning property rights of displaced Greek Cypriots³⁴.

23. In the *Xenides-Arestis v. Turkey* case the CoE CMD at its March 2010 session adopted an interim resolution strongly urging Turkey to pay without any further delay the just satisfaction awarded to the applicant by the Court's judgment of 7 December 2006, as well as the default interest due³⁵.

24. In the reporting period CoE CMD also examined the question of the property rights of enclaved persons in relation to the *Cyprus v. Turkey* case (2001). Following the Turkish authorities' timely submission of the legislative texts and a related decision relevant for the examination, the delegation of the Republic of Cyprus on 21 May 2010 provided written

applicants as compensation. In addition, it has ruled for exchange and compensation in two cases, for restitution in one case and for restitution and compensation in five cases. In one case it has delivered a decision for restitution after the settlement of the Cyprus problem, and in one case it has ruled for partial restitution. Source: IPC, Monthly Bulletin (November 2010), <http://www.northcyprusipc.org>.

²⁸ Grand Chamber *Demopoulos and others v. Turkey Decision* (46113/92), 1 March 2010, para. 127.

²⁹ The applicant property owners' complaints of an ongoing interference with their right to respect for their homes (article 8) also failed for non-exhaustion of domestic remedies as they had not been brought before the IPC (*ibid.*, para. 133).

³⁰ Grand Chamber *Demopoulos and others v. Turkey Decision* (46113/92), 1 March 2010, para. 128. Following the *Demopoulos* decision, the Court declared several applications concerning alleged violations of property rights in northern Cyprus inadmissible for the non-exhaustion of domestic remedies, e.g. *Economides and others v. Turkey Decision* (68110/01), *Stylianou v. Turkey Decision* (33574/02), *Eleftheriades and others v. Turkey Decision* (3882/02, 3883/02, 3887/02, 3884/02, 3896/02).

³¹ In *Loizidou v. Turkey* (15318/89), the Court ruled that the applicant remained the legal owner of her property situated in the north, despite having lost control thereof due to lack of access.

³² The case of *Demades v. Turkey* (16219/90) concerns the violation of the applicant's right to the peaceful enjoyment of his property located in the northern part of Cyprus, insofar as he has been denied access to it, and control, use and enjoyment of it since 1974.

³³ The case *Xenides-Arestis v. Turkey* concerns the violation of the applicant's right to respect for her home (situated in Famagusta) due to the denial since 1974 of access to her property situated in the northern part of Cyprus and consequent loss of control thereof.

³⁴ Council of Europe Committee of Ministers' Deputies Decisions adopted at the 1092nd meeting, 14-15 September 2010, on *Cyprus v. Turkey*, *Loizidou v. Turkey* and *Xenides-Arestis v. Turkey*; Council of Europe Committee of Ministers, Ministers' Deputies Decisions adopted at the 1086th meeting, 1-3 June 2010, on *Demades v. Turkey*.

³⁵ Interim Resolution CM/ResDH(2010)33 in the case of *Xenides-Arestis v. Turkey* adopted by the Committee of Ministers on 4 March 2010 at the 1078th meeting of the Ministers' Deputies.

explanation as to the reasons why it should have at its disposal additional documents in order to be able to assess this issue³⁶.

25. In the case of *Orams v. Apostolides*³⁷ the Court of Appeal of England and Wales in its final judgment of 19 January 2010³⁸ concurred with the ruling of the European Court of Justice in favour of Greek Cypriot Meletis Apostolides. The European Court of Justice on 28 April 2009 concluded that the judgment of the District Court of Nicosia deciding a claim over property in the north is enforceable despite the fact that it concerns an area over which the Government does not exercise effective control³⁹. In relation to the above case, the European Court of Human Rights on 10 June 2010 declared inadmissible the application in the case of *Orams v. Cyprus*⁴⁰.

26. The situation in Varosha remains unchanged and the United Nations holds the Government of Turkey responsible for the status quo, states the latest Secretary-General's report on the United Nations operation in Cyprus⁴¹.

D. Discrimination

27. There were up to 201,000 internally displaced persons (IDPs) in the area under the control of the Government of Cyprus in 2009, which made Cyprus the country with the highest proportion of IDPs as a percentage of its population (up to 22.3 per cent). Unlike children whose fathers have displaced person status, the children of women with this status are still not entitled to a refugee identity card. They are given a certificate by descent which does not enable them to access any benefits deriving from a refugee identity card, such as housing assistance⁴². In order to rectify the situation, the Parliament of the Republic of Cyprus in June 2010 passed amendments to the Registry Laws and to the Law Providing Housing Assistance to Displaced and other Persons. President Christofias found the amendments, due to their implications on the State budget, unconstitutional and referred them back to the Parliament. The decision now lies with the Supreme Court, which on 11 October 2010 reserved its judgment as to the constitutionality of the amendments⁴³.

28. In March 2010, the Advisory Committee on the Framework Convention for the Protection of National Minorities of the Council of Europe (CoE AC) noted the new steps taken by the Government of Cyprus to create more favourable conditions for effective participation of the Turkish Cypriots living in the south in the social, economic and cultural

³⁶ Council of Europe Committee of Ministers' Deputies Decisions adopted at the 1078th meeting, 2-4 March 2010, on *Cyprus v. Turkey*.

³⁷ In 2004 the District Court of Nicosia (civil action, no. 9968/04) ruled in favour of Mr. Apostolides claiming ownership of the land bought by the Orams in the north of Cyprus in 2002. The District Court ordered immediate demolition of the villa and other constructions which the Orams had erected on the land, for the land to be returned to Apostolides for his free possession and it also required the Orams to refrain from continuing the unlawful intervention on the land.

³⁸ Case No: A2/2006/2114; [2010] EWCA Civ 9, <http://www.bailii.org/ew/cases/EWCA/Civ/2010/9.rtf>.

³⁹ Official Journal of the European Union, C 153/7, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:153:0007:0008:EN:PDF>.

⁴⁰ *Orams v. Cyprus Decision* (27841/07), 10 June 2010. The Court rejected various complaints under article 6(1) (right to a fair trial) as being manifestly ill-founded. Regarding complaints under article 13 (right to an effective remedy), the Court found that no separate issue arises under this article. The complaints under article 14 (prohibition of discrimination in enjoyment of Convention rights) were found out of time by the Court.

⁴¹ S/2010/605, para. 7.

⁴² Internal Displacement: Global Overview of Trends and Developments in 2009, Internal Displacement Monitoring Centre of the Norwegian Refugee Council, May 2010, p. 58.

⁴³ "Supreme Court reserves judgement on status of refugee mothers", 12 October 2010, <http://www.cyprus-mail.com/>

life of Cypriot society⁴⁴. The Committee also mentioned the efforts of the Government to promote dialogue and co-operation between the Greek Cypriot and Turkish Cypriot community⁴⁵. Nevertheless, the Committee noted, Turkish Cypriots are reportedly still at times facing hostile attitudes and difficulties, for instance in accessing social services and in education. The very limited use of Turkish, in spite of its status as an official language, complicates access to various public services for Turkish Cypriots, notwithstanding the measures taken by the authorities to provide information⁴⁶.

29. The CoE AC recommended that the Government continue and strengthen its efforts to provide the necessary conditions for Turkish Cypriots to be able to exercise their rights effectively and have full and equal access to public services⁴⁷. Special attention should be paid to the linguistic problems encountered by Turkish Cypriots in access to services and enjoyment of rights, as well as to the implementation of constitutional provisions on the use of official languages in Cyprus⁴⁸.

30. The “direct trade regulation”⁴⁹ proposed by the European Commission is still pending adoption⁵⁰. While the European Union (EU) aid programme for the Turkish Cypriot community, which seeks to encourage economic development in the northern part of the island, has continued, its implementation faces challenges, inter alia, in relation to cooperation between the Turkish Cypriot and Greek Cypriot communities⁵¹.

31. UNFICYP continued to assist Turkish Cypriots living in the south with access to welfare services, including basic services such as medical care, housing and education⁵². UNFICYP also continued to monitor the welfare of Turkish Cypriot prisoners and detainees in the south and Greek Cypriot prisoners in the north. No cases of discrimination were observed in the period from May to November 2010⁵³.

⁴⁴ CoE AC: Third opinion on Cyprus adopted on 19 March 2010; ACFC/OP/III(2010)002, para. 99.

⁴⁵ *Ibid.*, para. 22.

⁴⁶ *Ibid.*, para. 103.

⁴⁷ *Ibid.*, para. 105.

⁴⁸ *Ibid.*, para. 106.

⁴⁹ Proposal for a Council Regulation on special conditions for trade with those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control (COM(2004)0466 final – ACC(2004)0148).

⁵⁰ On 18 October 2010 the Legal Committee of the European Parliament shared the opinion of the Parliament’s legal service that EU trade with the northern part of Cyprus should be governed directly by the EU single market and customs union rules, and not by the EU’s rules for international trade. The proposed direct trade regulation would therefore need to be adopted by unanimity in the Council of Ministers and not under the ordinary legislative procedure and the qualified majority voting in the Council, which is used for international trade issues following the entry into force of the Lisbon treaty. The Conference of Presidents of the European Parliament still has to give its opinion on the Legal Committee’s decision. Source: “MEPs reject legal treatment of the northern part of Cyprus as a third country”, 19 October 2010, <http://www.europarl.europa.eu/>; Committee on Legal Affairs Opinion on the Proposal for a Council regulation on special conditions for trade with those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control (JURI_AL(2010)450882), 20 October 2010.

⁵¹ Information received from the Task Force for the Turkish Cypriot Community, Directorate-General for Enlargement, European Commission.

⁵² S/2010/605, para. 15.

⁵³ There were 12 Turkish Cypriot prisoners in the south on charges varying from theft to drug trafficking and no Greek Cypriots in the north. UNFICYP visited them in detention, attended their court appearances and liaised with their legal representatives and prison authorities, as needed. Source: Information received from UNFICYP.

E. Right to life

32. On 27 January 2010, the Court delivered final judgements in two cases concerning unjustified killings by State agents in the context of the 1996 Greek-Cypriot demonstrations and the lack of an effective investigation into those killings (violation of article 2 of the ECHR) - *Andreou v. Turkey* and *Kallis and Androulla Panayi v. Turkey*⁵⁴. Because of their similarities, both are being considered by the CoE CMD in the same group as the cases of *Solomou and others v. Turkey* (2008) and *Isaak v. Turkey* (2008). Regarding the latter, information is awaited on the regulatory framework governing the use of force and firearms by the police and on the measures taken to ensure that effective investigations are carried out into the killings of civilians in the northern part of Cyprus⁵⁵. As regards the lack of effective investigation into killings, the Ministers' Deputies took note at their September 2010 meeting that information is awaited as to whether investigations into the killings have been opened, and if so as to their results, as well as an action plan/action report in respect of all cases in the group⁵⁶.

33. As regards the case of *Kakoulli v. Turkey* (2006)⁵⁷, CoE CMD at its 1078th meeting recalled that the Cypriot authorities had indicated that it would be possible to carry out a further forensic examination of Mr. Kakoulli's body. The Committee considered that the competent Turkish authorities should reassess the possibility of carrying out a new investigation into the death of Mr. Kakoulli and invited them to submit information in this respect⁵⁸. On 26 March 2010 the Turkish authorities provided the desired information, which is being assessed by the CoE CMD. Regarding the excessive use of force and firearms, the Deputies noted that it had not been clear from the information provided that the regulatory framework governing the use of firearms by the security forces requires that the use of force must be "absolutely necessary" and invited the Turkish authorities to provide clarifications in this respect. Bilateral contacts are under way concerning the questions identified by the Committee⁵⁹.

34. CoE CMD at its March 2010 meeting decided to close the examination of the *Adali v. Turkey* case (2005)⁶⁰, after having satisfied itself that, within the time limit set, Turkey had paid the applicant the just satisfaction provided in the judgement⁶¹.

⁵⁴ The case of *Andreou v. Turkey* (45653/99) concerns an unjustified killing in the area of the UN buffer zone and *Panayi v. Turkey* (45388/99) in the area of entry into the UN buffer zone.

⁵⁵ Council of Europe Committee of Ministers' Deputies Decisions adopted at the 1078th meeting, 2-4 March 2010, on *Kakoulli v. Turkey*, *Isaak v. Turkey* and *Solomou and others v. Turkey*.

⁵⁶ The Deputies decided to resume consideration of these items at the latest at their March 2011 meeting. Council of Europe Committee of Ministers' Deputies Decisions adopted at the 1092nd meeting, 14-15 September 2010, on six cases mainly concerning the excessive use of force by State agents.

⁵⁷ The *Kakoulli v. Turkey* case (38595/97) concerns the killing of the applicants' husband and father, in 1996, by Turkish soldiers on guard duty along the ceasefire line in Cyprus and the lack of an effective and impartial investigation into this killing in violation of article 2 of the ECHR.

⁵⁸ Council of Europe Committee of Ministers' Deputies Decisions adopted at the 1078th meeting, 2-4 March 2010, on *Kakoulli v. Turkey*, *Isaak v. Turkey* and *Solomou and others v. Turkey*.

⁵⁹ The Deputies decided to resume consideration of this item at their 1100th meeting (December 2010). Council of Europe Committee of Ministers' Deputies Decisions adopted at the 1092nd meeting, 14-15 September 2010, on *Kakoulli v. Turkey*.

⁶⁰ The *Adali v. Turkey* case (38187/97) concerns the lack of an effective investigation into the death of the applicant's husband (violation of articles 2 and 13), and a refusal by authorities to grant the applicant permission to cross from the northern to the southern part of Cyprus to attend a bi-communal meeting (violation of article 11).

⁶¹ Resolution CM/ResDH(2010)12 in the case of *Adali v. Turkey* adopted by the Committee of Ministers on 4 March 2010 at the 1078th meeting of the Ministers' Deputies.

F. Right to education

35. While there have been no new developments regarding the establishment of a Turkish-language primary school in Limassol, UNFICYP continued to work with the local authorities and community representatives in Limassol and Paphos to strengthen support mechanisms for vulnerable members of the Turkish Cypriot community in educational and social areas⁶².

36. UNFICYP continued to facilitate the delivery of textbooks and the appointment of teachers to the elementary and secondary Greek Cypriot schools in Rizokarpaso, on the Karpas peninsula in the northern part of the island⁶³. As in previous years, the Turkish Cypriot authorities objected to the use of some (eight out of 281) Greek textbooks (on history, Cypriot literature, and religion) for the Karpas schools, claiming that they contain material offensive to Turkish Cypriots. They also continued to exercise the authority to approve and reject teachers appointed to the schools on the basis of political or other considerations⁶⁴.

37. The textbooks in the Greek Cypriot and Turkish Cypriot community have traditionally portrayed history according to their own interpretations, official narratives and preconceptions⁶⁵. The results of recent research confirmed significant influence of school books on the impressions regarding the other community in Cyprus. For the Turkish Cypriots, school books were the second and for the Greek Cypriot community the fourth most important source of information in formulating opinion on the other community⁶⁶. While history books revised in the northern part of the island in 2004 included references to the shared past and experiences of both communities, they reverted to an ethnocentric approach following the 2009 elections⁶⁷. The Republic of Cyprus' Ministry of Education and Culture has committed itself to revising the existing history textbooks within the next few years in the framework of an educational reform, which will affect all subjects⁶⁸.

38. UNFICYP has suggested that both sides review their teaching materials with a view to promoting tolerance and understanding of all communities⁶⁹.

39. The CoE AC welcomed special measures and programmes developed by the Government of Cyprus in the field of education to offer Turkish Cypriots living in the Republic of Cyprus easier access and provide classes in Turkish language and culture in the schools they attend⁷⁰. Nevertheless, it noted with deep concern that, while specific steps

⁶² S/2010/264, para. 17; S/2010/605, para. 15.

⁶³ S/2010/605, para. 14.

⁶⁴ Information received from UNFICYP.

⁶⁵ Education for Peace III: Rewriting history textbooks – History education: As a tool for polarisation or reconciliation? – Textual and visual analysis of the upper secondary school Cyprus history textbooks, 2010, POST Research Institute, p. 20.

⁶⁶ The research entailed interviews conducted with 600 Greek Cypriots and 600 Turkish Cypriots in 2010. In both communities impressions regarding the other community are mostly influenced by stories heard from family or friends. Among Greek Cypriots, the mass media and personal experiences took second and third place before school books. Source: General Population Quantitative Research Project: Level of Trust between the Two Communities in Cyprus, 2010, Cymar Market Research and Prologue Consulting, p. 15.

⁶⁷ Education for Peace III: Rewriting history textbooks – History education: As a tool for polarisation or reconciliation? Textual and visual analysis of the upper secondary school Cyprus history textbooks, 2010, POST Research Institute, pp. 18 and 86.

⁶⁸ Third Report submitted by Cyprus pursuant to article 25, paragraph 1 of the Framework Convention for the Protection of National Minorities, received on 30 April 2009; ACFC/SR/III(2009)005, pp. 54 and 58.

⁶⁹ S/2010/605, p. 15.

⁷⁰ CoE AC: Third opinion on Cyprus adopted on 19 March 2010; ACFC/OP/III(2010)002, para. 100.

have been taken to promote multicultural education, many teachers were reportedly proving unresponsive to this policy and hostile attitudes to Turkish Cypriots continued to be reported in schools in the south⁷¹.

40. Turkish Cypriot students still face a lack of access to EU exchange and educational programmes due to the non-recognition by the Republic of Cyprus of the universities in the northern part of the island. The European Commission is currently in contact with the authorities of the Republic of Cyprus regarding the possibility of offering Turkish Cypriots the option of studying at universities in the areas under the effective control of the Government of Cyprus in the academic year 2011/2012. This would happen within the framework of the scholarship scheme for the Turkish Cypriot community, which was set up by the Commission under the EU aid programme in order to compensate for the lack of mobility that would be offered by the Erasmus programme. The scheme allows Turkish Cypriot students and teachers to spend one year abroad at an EU university or higher education institution and the level of funding is far higher than that of Erasmus. In the academic year 2009/2010 scholarships were granted to 203 individuals and in the current academic year 102 students and teachers participate in the scheme⁷².

G. Freedom of religion and cultural rights

41. Access to sites and icons of religious and cultural significance continued to be facilitated by UNFICYP. From November 2009 to November 2010, the mission facilitated 22 religious and commemorative events, of which 16 involved crossing the buffer zone to the northern part of the island, two involved crossing the buffer zone to the southern part and four were held in the buffer zone. A total of approximately 6,660 individuals participated in those events⁷³.

42. For the first time since 1974, permission was granted for the Maronite community to conduct a religious service at the Ayia Marina Skyllouris church, despite its location inside a Turkish Forces military base. Encouraged by this positive development, UNFICYP received many more requests to facilitate religious observances and pilgrimages by Greek Cypriots in churches in the northern part of the island. Some of these were denied on various grounds, including the use of a church for other purposes such as a cultural centre or clinic, or its proximity to military bases; or for no specified reason⁷⁴.

43. While generally enjoying freedom of worship, the Greek Cypriots living in the northern part of Cyprus must still inform/request permission from the authorities there to conduct religious services on specified days in some of the churches in their own villages and at the Apostolos Andreas monastery⁷⁵.

III. Conclusion

44. While there have been some positive developments in the reporting period, such as the opening of a new crossing point and passing of legislative amendments aimed at ensuring equal treatment of children of displaced mothers, the division of the island of Cyprus continues to constitute an obstacle to the full enjoyment of human rights. It is hoped that the current efforts by the Greek Cypriot and Turkish Cypriot leaders to

⁷¹ Ibid., para. 104.

⁷² Information received from the Task Force for the Turkish Cypriot Community, Directorate-General for Enlargement, European Commission.

⁷³ S/2010/264, para. 20; Information received from UNFICYP.

⁷⁴ Information received from UNFICYP.

⁷⁵ Ibid.

negotiate and achieve a comprehensive settlement of the Cyprus problem will provide avenues to improve the human rights situation on the island.
