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political, economic, social and cultural rights,
including the right to development**

Report of the Working Group on Enforced or Involuntary Disappearances on their visit to Cyprus

Comments by the State*

* Reproduced as received.



The Government of the Republic of Cyprus would like to express appreciation to the Working Group on Enforced or Involuntary Disappearances for the visit conducted in Cyprus from 5 to 12 April 2022.

In relation to the advanced unedited version of the report received on 30 June 2022 the Government of the Republic of Cyprus is submitting as Annexes, further to comments in this Addendum by the Ministry of Foreign Affairs of the Republic of Cyprus, comments from the Presidential Commissioner, the Law Office of the Republic of Cyprus, Cyprus Police and the Asylum Department of the Ministry of Interior. Attached to this Addendum is also a document with references to errors of fact and/or law that need to be taken into consideration by the Working Group before finalizing the report.

General Comments:

In 1974, Turkey illegally invaded Cyprus, flagrantly violating public international law, human rights and the UN Charter. As a consequence of the Turkish military invasion, up to date 36% of the territory of the Republic of Cyprus remains occupied by Turkey. In full accordance with Turkey's stated goal of partition and national segregation on the island, on 15 November 1983, the occupying regime unilaterally declared the so-called "Turkish Republic of Northern Cyprus", an act which was condemned by the international community as legally invalid. The United Nations Security Council with Resolution 541(1983) deplored the declaration of the purported secession of part of the Republic of Cyprus and considered the declaration of the so-called "TRNC" as legally invalid and called for its withdrawal. UNSC Resolution 550/1984 condemned all secessionist acts, declared them illegal and invalid and called for their immediate withdrawal. Also, UNSC Res 550/1984 called upon all States not to recognize the purported state of "TRNC", not to facilitate or in any way assist the secessionist entity, and respect the sovereignty, independence and territorial integrity, unity and non-alignment of the Republic of Cyprus. In addition, the European Court of Human Rights in the 4th Interstate Case *Cyprus v. Turkey* (2001), upholding its judgment in the *Titina Loizidou v. Turkey* case (1996) found that Turkey

"(...) Having effective overall control over northern Cyprus, its responsibility cannot be confined to the acts of its own soldiers or officials in northern Cyprus but must also be engaged by virtue of the acts of the local administration which survives by virtue of Turkish military and other support. It follows that, in terms of Article 1 of the Convention, Turkey's "jurisdiction" must be considered to extend to securing the entire range of substantive rights set out in the Convention and those additional Protocols which she has ratified, and that violations of those rights are imputable to Turkey."

Taking into consideration the above justification, any references in this report to "Turkish intervention" need to be accurately reported and therefore to be amended to "Turkish military invasion (footnote 1, par. 9 and 47). Also, references in the present report indicating a different entity to the Authorities of the Republic of Cyprus, namely the so called "Turkish Cypriot Authorities", are highly problematic, cannot be accepted and need to be deleted from this report (par. 29, 33, 34, 40 (reference to "prosecutorial authorities"), 41 (including the references in footnote 11 to a so called "office of the attorney general" and footnote 13), 43 (reference to "prosecutorial authorities"), 51 (including footnote 19).

The attention of the Working Group is also drawn to the correct use of geographical names of towns and villages (toponyms) in the occupied areas of the Republic of Cyprus mentioned in par.21, 23 and 54 of the report. Regretfully, since 1974, Turkey has been changing and renaming the internationally accepted official toponyms. The illegal change of toponyms constitutes an unauthorized interference in the internal affairs of an independent state as well as an indisputable violation of international law. In addition, this action contravenes relevant United Nations Resolutions on Cyprus, including "Recommendation A of Resolution 4 of the First United Nations Conference on the Standardization of Geographical Names (1967), Resolution No. 16 of the Third United Nations Conference on the Standardization of Geographical Names (III/17/1977) and Resolution No. 19 of the Fourth United Nations Conference on the Standardization of Geographical Names (IV/19/1992). Furthermore, according to the national legislation of the Republic of Cyprus

(Law 66(I)/1998) as amended by Law 146(I)2001), the only recognized competent national authority, which is responsible for the collection, standardization and romanization of the geographical names in Cyprus, is the Cyprus Permanent Committee for the Standardization of the Geographical Names. Therefore, the correct references to Cyprus' toponyms in the relevant paragraphs of the report are "Aloda" both in Greek and Turkish language (par.21), "Dikomo" (par. 23) and Aloda (both in Greek and Turkish language), Maratha/Marata (Greek/Turkish language) and Santalaris/Santalar (Greek/Turkish language) (par. 54).

Search for disappeared persons:

One of the most tragic consequences of the 1963 intercommunal strife in Cyprus and of the Turkish military invasion of Cyprus in 1974, is the missing persons, both Greek Cypriots and Turkish Cypriots. Despite the humanitarian nature of this issue, the fate and whereabouts of many missing Cypriots are still unknown to this day, causing anguish to their loved ones who, on many occasions, have passed away without hearing from them since their disappearance. The Government of the Republic of Cyprus has always considered the issue of missing persons as a purely humanitarian issue and works tirelessly for its speedy solution, in order to ease the pain and the agony of the families concerned. The Government of the Republic of Cyprus has never politicized the issue of missing persons, disassociating it from the efforts to find a solution on the political problem.

As stated also by the European Court of Human Rights, progress in relation to the issue of missing persons due to the Turkish military invasion in Cyprus depends solely on Turkey. The Committee of Ministers of the Council of Europe underlined many times that it remains urgent for Turkey to provide the Committee on Missing Persons (CMP) with all necessary assistance. There are very specific requirements on which Turkey is expected to deliver: a) Allow immediate and unhindered access to CMP archaeological teams to conduct excavations in all military zones in the occupied areas of Cyprus, b) Provide unrestricted access to CMP investigators to visit military areas with witnesses for the preparation of site profiles for excavation c) Make available to CMP any information from the military archives that can lead to the location of burial places, including new locations of relocated remains, d) Facilitate the humanitarian work of CMP for the recovery and identification of remains to be returned to the families for burial. The Government of the Republic of Cyprus continues to support the work of the Committee on Missing Persons. The Republic of Cyprus is the second biggest donor to CMP after the EU, and has donated 3,285,700 euro up to date.

In 1999, due to the negative attitude of Turkey to cooperate on the humanitarian issue of missing persons in Cyprus, the Government of the Republic of Cyprus decided to implement a programme of exhumations and identifications of remains in the areas under its effective control. The objective of the programme remains to provide answers to the families of missing persons and to carry out whatever actions necessary with a view to put an end to the uncertainty and pain endured by the families for so many decades. The programme of the Republic of Cyprus continues. The Government remains committed to determining the fate of all missing persons, Greek Cypriot and Turkish Cypriots. More information on the position of the Government of the Republic of Cyprus in relation to the issue of missing persons is provided by the Presidential Commissioner in ANNEX I.

Turning into the issue of funerals and speeches during funerals presented in paragraphs 28 and 29 of the report, the Government of the Republic of Cyprus would like to unequivocally state that there are no cases of intimidation and harassment of Greek Cypriot families by the authorities and services of the Republic of Cyprus during the funerals of Greek Cypriot missing persons related to the Turkish illegal military invasion of 1974. Also par. 29 can be described as arbitrary, interfering with the internal affairs of a state. It is the responsibility of the State and the authorities of the Republic of Cyprus to honour the dead, who sacrificed their lives serving the state. What is impeding progress is not the public speeches at funerals but the policies of Turkey. Both paragraphs should be deleted in this regard.

Justice

In relation to the chapter referring to Justice, comments by the Law Office of the Republic of Cyprus and Cyprus Police are submitted in this Addendum and can be found as Annex II and Annex III.

Asylum process and non-refoulement

In relation to the chapter referred to Asylum process and non-refoulement, the Government of the Republic of Cyprus would like to reiterate that, is fully committed to adhering to international law, including international human rights law, international humanitarian law, including international refugee law. The report omits to identify and highlight the root cause of the problem of migration in Cyprus: which is the continued Turkish illegal military occupation and the systematic Turkish policy of instrumentalization of irregular migration.

The Government of the Republic of Cyprus express its disappointment for the fact that the Report depicts a situation of monitoring against the Government of the Republic of Cyprus whilst at the same time it totally disregards the root cause of this continuously growing challenge, which is the deliberate policy of Turkey to use migration as tool for the exercise of political pressure at the expense of the migrants themselves who are primarily victimized via this approach. It is worth mentioning that between September 2021 and June 2022, 858 sub-Saharan African unaccompanied minors arrived at the illegal “airport” of Tymbou, from Istanbul, with flights of Turkish and Pegasus airlines. Also, another proof is the instrumentalization of African so called “students” in the occupied areas. Nowadays 108,000 sub-Saharan Africans remain at the occupied areas as registered “students” at the so called “university institutions” of the secessionist entity. These “students” are channelled through the Green Line to the areas controlled by the Republic and following the crossings, they submit asylum applications which among other issues, causes a serious financial burden on the national budget. In relation to par.63-66, the Government of the Republic of Cyprus is stating that references to migration in areas not under its effective control cannot be accepted and should be deleted. As mentioned in the general comments above, Turkey exercises the effective control in the occupied part of the Republic of Cyprus and therefore the occupied areas cannot be described and presented as “state” describing asylum procedures. In relation to (par.56-62), comments to this report are submitted by the Asylum Service as ANNEX IV.

Ratification of the International Convention on the Protection of All Persons from Enforced Disappearances

The Government of the Republic of Cyprus would like to reiterate its readiness to begin a dialogue between the Ministries/Offices of the Republic of Cyprus and the Working Group in order to better understand the provisions of the Convention. The Permanent Mission of the Republic of Cyprus in Geneva will act as the contact point facilitating this dialogue.

Recommendations:

The Government of the Republic of Cyprus reserves the right to elaborate further on the Recommendations contained in this report.

Nicosia, 27 July 2022

Annex I

Comments of the Presidential Commissioner on the problem of missing persons

Forty-eight years have elapsed since the disappearance of Greek Cypriots during and after the Turkish invasion. Despite the efforts of the Government of Cyprus and the relatives of the missing, the tragic problem of the missing persons in Cyprus, affecting thousands of Cypriot families and causes so much pain and agony, has not yet been solved. There are also cases of missing persons Greek Cypriots and Turkish Cypriots from the 1963-64 period.

The Government of the Republic of Cyprus considers and always considered the problem of the missing as purely humanitarian and worked for the last forty-eight years for its speedy solution, in order to alleviate the pain and the agony of the families concerned. **The Government considers that this humanitarian issue should not be linked to the efforts to find a solution of the political problem.**

The programme of exhumations of the Committee on Missing Persons, which operated under the auspices of the United Nations started in 2005. Looking at the CMP's statistics for the identifications of each year, we consider the results not satisfactory, since with this pace it will take a very long time for the families to get answers about the fate of their loved ones. It should be noted that more than 700 cases or approximately 50% of the cases submitted to the CMP are still pending.

It is evident and at the same time alarming that a **dramatic decrease** has occurred in the number of remains exhumed during the excavations carried out by the CMP during the last few years. If this trend continues then the CMP's programme will face very serious difficulties. **It is therefore urgent and necessary for the CMP to find ways to increase the number of remains of missing Greek Cypriots exhumed from burial sites in the occupied part of Cyprus.**

It should be stressed that the Government of Cyprus supported and continues to support in every possible way, the humanitarian efforts of the CMP. Nevertheless, the Government is not satisfied with the lack of initiatives within and outside the CMP to solve the problems that the CMP is facing. The solution to the problems will enable the CMP to improve its effectiveness for the sake of the families of the missing. We consider the main problems to be the following:

- i. **The dramatic decrease in the number of remains exhumed from burial sites in the occupied northern part of Cyprus.** Most of the excavations carried out do not contain remains.
- ii. As a result, a lot of resources financial and human are wasted since no remains are **located**. **The main reason is that the CMP has relied so far exclusively on information from ordinary Greek and Turkish Cypriots. This source of information appears to be exhausted.**
- iii. The Turkish army is in a position to provide the needed information from its archives to the CMP so to increase its effectiveness. The Turkish army carried out a lot of burials that **Turkish** Cypriots are not aware of, especially burials of Greek Cypriots missing in action. These burials took place after the clearing of the battlefields by the units of the Turkish army. **The Secretary-General of the United Nations in one of his letters to the leaders of the communities requested that this information from the clearing the battlefields should be provided to the CMP. Unfortunately, there has never been a response to the call of the Secretary-General from the part of the government of Turkey.**
- iv. **Concerning the Turkish military archives, although there has been an agreement in the framework of the CMP no information has been submitted yet from the Turkish military archives or the CMP has access to the archives.**
- v. There is also a need for more information to the families, who receive for burial the remains or fragmented skeletal elements of their loved ones. There is a legitimate

request from these families for more information about the case of their loved ones so they can **proceed to a closure**. In this case too, we feel that the Turkish military has information in its archives that might help significantly alleviate the pain of these families and enables them to proceed to a human closure.

vi. It has been scientifically established that in the past, a number of mass burial places of Greek **Cypriots** had been purposely interfered with and the remains have been removed to unknown places. As a result, during the exhumations carried out by the CMP teams, only fragmented and **commingled** skeletal elements are located. This unfortunate development increases dramatically the cost and time of the exhumations as well as the other scientific processes that are necessary for the identification. **The worst, however, is that the families receive for burial only small parts of skeletal elements of their loved ones.** This creates a lot of additional problems to the families and does not allow them to proceed to a closure of a chapter of their tragedy. **The majority of identifications of the CMP relating to missing Greek Cypriots relate only to few bones and in some cases only to one single bone. In this tragic aspect, there is no cooperation on the part of the Turkish government.**

vii. A lot of information still exists about mass burial places located in areas classified as military by the Turkish army in the occupied part of Cyprus. The CMP does not have unhindered access for exhumations or for carrying out investigations to document and record **the** burial sites in military areas. It is true that the Turkish military has in the past given permission to CMP teams to carry out excavations in a small number of sites located in military zones. Few years ago, Turkey informed the CMP of its decision to allow the CMP to carry out excavations in military areas in ten different sites each year. Although this decision, is considered as a move in the right direction, the obstacles and the restrictions imposed by Turkey are still in place. Moreover, in view of the documented intentional removal of remains from primary burial places, the results from excavations in military zones, have been disappointing.

viii. The Government of the Republic of Cyprus despite the shortcomings of the CMP and the problems and challenges is facing, wants to reiterate its support and commitment to the CMP's project **of** exhuming **and** returning remains to all the families of the missing Greek and Turkish Cypriot alike. We want to stress that it is absolutely necessary that ways and means should be urgently examined and considered in order to improve the effectiveness of the CMP and its project for exhumations for the sake of all the families of the missing in Cyprus.

The Government of Cyprus is and has always been committed to determining the fate of all missing Turkish Cypriots. A lot of information has been submitted to the CMP, for burial places of missing Turkish Cypriots by the Greek Cypriot Member from 1989 onwards, that is 16 years before the programme of exhumations started by the CMP. This will continue and intensify so the Turkish Cypriot families concerned can be informed fully and conclusively about the fate of their loved ones. **At the same time, we expect a similar response from Turkey for the missing Greek Cypriots.** In addition to the work in the CMP, the Government of Cyprus in 2003 has taken a lot of unilateral steps concerning the tragic problem of the missing Turkish Cypriots and their families.

1. In order to improve the effectiveness of the CMP and to secure the needed information it is imperative that:

- i. Turkey releases the information concerning the mass burials of Greek Cypriots carried out by the Turkish army after the clearing of the battlefields*
- ii. Allow access to the Turkish military archives*
- iii. Release the information concerning the location of the new burial sites pertaining to the remains they were removed intentionally by the Turkish army from the primary burial places.*
- iv. Implements without further delays the 2001 and 2014 Judgments of the European Court of Human Rights concerning the missing Greek Cypriots.*

It should be stressed that without the sincere cooperation of Turkey no progress will be achieved or expected.

Annex II

The Law Office of the Republic of Cyprus comments on paras 40-47 of the Report of the Working Group on Enforced or Involuntary Disappearances as follows:

1. For compliance with the Republic's international obligations arising out of Articles 2 and 3 of the European Convention on Human Rights, as these rights have been interpreted by the European Court of Human Rights within the specific context of the Turkish Cypriot missing persons in Cyprus (see *Emin and others v Cyprus and other applications decision*, no. 59623/08, decision of 3 April 2012, paragraph 30)¹, we reiterate that the Attorney General directs the Chief of Police to carry out investigations to ascertain the circumstances of disappearance and death of Turkish Cypriot missing persons once their remains have been found and/or identified. These investigations are allocated to a special unit within the Police, entitled Missing Persons Investigating Team, which is comprised of experienced investigators.
2. At the investigation stage, police take statements from missing persons' relatives and in the absence of any complaint from relatives, police publish an announcement at the daily Turkish Cypriot press in which they call the relatives of the missing person to get in touch with the police in order to arrange for their statement to be taken. Moreover, inquiries are made with a number of authorities/organizations which might possibly have any files or records in their keeping, giving leads for investigative steps, including Cyprus Central Intelligence Service (Missing Persons Department), Cyprus Red Cross, the Greek Cypriot member of the CMP, UNFICYP, the Missing Persons Service, the National Guard Authorities, the Police Operations Office and National Archives. As *per* the Working Group's recommendation number 76(iii), these authorities/bodies cooperate fully with the police.
3. Police take statements from witnesses in the villages where the bodies of the missing persons had been found, and where events were reported to have occurred. Police pursue all available leads and directions for collecting further evidence in respect of each case. The investigation is supervised by the Attorney General, an independent officer, who may refer the case back to the police with instructions to take further investigative steps. The decision as to whether prosecutions will be ordered rests with the Attorney General who studies the investigation files with all evidential material collected and reaches a conclusion in each case separately as to whether there is sufficient evidence to bring prosecutions before a court of law. The Attorney General's instructions to the police are for the investigation to be returned to him, if any further evidence is uncovered during other investigations. The relatives of the missing persons are kept informed of the investigation and the Attorney General's office issues detailed reports on the investigations which are sent to the missing persons' relatives and/or counsel.
4. The investigations are not "dropped" as suggested in para. 44 of the Report, due to lack of credible evidence. Rather, the Attorney General may decide not to bring prosecutions before a court of law because in the particular circumstances of a case there is insufficient evidence. This decision however, maybe reviewed if further evidence is uncovered in the future in the course of other criminal investigations. It is noted that under domestic law there are no statute of limitations for the crimes that are investigated. Moreover, the reason why there are no prosecutions thus far does not lie with any alleged or perceived amnesty, as suggested in para. 40 of the Report. It is noted in this regard that the Attorney General is not bound by any decision of any of his predecessors, let alone any decision of the former Attorney General in the 1990s.

¹ Paragraph 30 states: "[...] the Court considers that the discovery of the remains of the applicants' relatives bearing signs of violence and buried in circumstances highly suggestive of extra-judicial execution or murder triggered an obligation on the authorities to take investigative steps to identify the remains, the likely cause and circumstances of death and the identity of the perpetrators of any unlawful violence."

5. The investigations that are carried out are effective within the meaning of Article 2 of the European Convention of Human Rights and the European Court of Human Rights' case law. The European Court of Human Rights had the chance to review/examine four such investigations in the case *Gurtekin and others v. Cyprus* (dec.) nos. 60441/13, and *Semra Emin Mustafa and others v. Cyprus* (dec.), no. 1476/14. The applicants'/relatives of Turkish Cypriot missing persons' principal argument under Article 2 of the European Convention of Human Rights concerned the effectiveness of the investigations carried out by the Cypriot authorities into the deaths of the missing persons following the discovery of their bodies. They also complained under Article 3 that the failure of the authorities to pursue an effective investigation caused them distress.

6. The European Court of Human Rights reached the following conclusions: First, with regards to the investigation's impartiality and independence, the European Court of Human Rights noted: "There is no indication of any links existing between the police authorities or Attorney General and any political figures or organizations purportedly tainted by involvement in events in 1963-1964. The applicants' allegations largely amount to a general assertion that no Cypriot authority could claim to be independent of past events or those involved in them. The Court sees no basis on the materials or arguments before it for finding any such theoretical impossibility for the Republic of Cyprus to carry out an effective investigation."² Second, with regards to the effectiveness of the investigation, the European Court of Human Rights noted: "[...] the police have followed numerous leads in the three cases, making enquiries with official bodies and organizations, updated statements from the relatives of the deceased, looking for witnesses in the villages where the bodies were found or where events were reported to have occurred and tracking down to the extent possible the names of potential suspects which have been mentioned by witnesses. [...] those named as being incriminated in events who have been found and questioned by the police, all have denied any knowledge of, or participation in, any unlawful acts."³ Third, with regards to transparency of the investigation, the European Court of Human Rights noted: "the Attorney General issued reports on the investigations."⁴ The Court observed that "[these] reports were detailed, gave relevant and plausible reasons for the decision not to prosecute and made it clear that if any further evidence was uncovered during other investigations that this decision would be reviewed."⁵ Fourth, with regards to the complaint that the investigations have ended without prosecutions, the European Court of Human Rights noted that "a prosecution, particularly on such a serious charge as involvement in mass unlawful killings, should never be embarked upon lightly as the impact on a defendant who comes under the weight of the criminal justice system is considerable, being held up to public obloquy, with all the attendant repercussions on reputation, private, family and professional life. Given the presumption of innocence enshrined in Article 6§2 of the Convention, it can never be assumed that a particular person is so tainted with suspicion that the standard of evidence to be applied is an irrelevance. Rumour and gossip are a dangerous basis on which to base any steps that can potentially devastate a person's life."⁶

7. The Government submits that all pending and/or completed investigations of this kind are investigated (or have been investigated) with the same rigour in terms of effectiveness, transparency, independence and impartiality as the above four investigations.

8. Reference to the above decisions must be made in para. 47 of the Report where the Working Group notes that relatives of the missing persons applied to the European Court of Human Rights. These decisions are appended to the present comments.

² *Gurtekin and others v Cyprus* (dec.), nos. 60441/13, 68206/13 and 68667/13 paragraph 31.

³ *Ibid.*, paragraph 25.

⁴ *Ibid.*, paragraph 24.

⁵ *Ibid.*, paragraph 29.

⁶ *Ibid.*, paragraph 27.

Annex III

Cyprus Police comments on paras 40-41 of the Report of the Working Group on Enforced or Involuntary Disappearances as follows:

Paragraph 40:

In relation to the reference “(...) *that in the 1990’s the prosecutorial authorities from the two communities assured the CMP through an exchange of letters that no witness would be prosecuted for sharing confidential information about gravesites*” we would like to clarify that the investigative team of the Police, which deals with the criminal investigation of cases of missing persons of the periods 1963-1964 and 1974, has never used or is using the said letter within the framework of the examinations it carries out.

Paragraph 41:

In relation to the reference regarding “(...) *information received from the Law Office of the Republic of Cyprus and the National Police that investigations were initiated into 44 cases related to the alleged enforced disappearance and summary executions of 121 Turkish Cypriots during the events of 1963/1964 and 1974(...)*” we would like to clarify that further to the above cases the investigative team of the Police investigated two more cases of the 1974 period. One case concerns the abduction and subsequent murder of 84 residents of Tochni village in Larnaca District and the other case concerns the abduction and subsequent murder of 126 Turkish Cypriots of the villages of Aloda, Maratha, Santalaris in Famagusta District.

Cyprus Police has informed the Working Group on Enforced or Involuntary Disappearances during their meeting in Cyprus that 46 cases that concern the death of 331 Turkish Cypriots are investigated or have been investigated.
