

Distr.: General
7 September 2022
Arabic
Original: English

الجمعية العامة



مجلس حقوق الإنسان

الدورة الحادية والخمسون

12 أيلول/سبتمبر - 7 تشرين الأول/أكتوبر 2022

البند 3 من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية

والاجتماعية والثقافية، بما في ذلك الحق في التنمية

الزيارة إلى قبرص

الفريق العامل المعني بحالات الاختفاء القسري أو غير الطوعي * *

موجز

قام وفد من الفريق العامل المعني بحالات الاختفاء القسري أو غير الطوعي بزيارة إلى قبرص استغرقت ثمانية أيام في الفترة من 5 إلى 12 نيسان/أبريل 2022.

ويؤثر الانقسام المستمر في الجزيرة على جهود تعزيز حقوق الإنسان وحمايتها بشكل عام، بما في ذلك حقوق أقارب المختفين بعد أحداث 1963-1964 و1974 في معرفة الحقيقة وفي العدالة والتعويض وتخليد الذكرى.

وبينما يقر الوفد بالإنجازات الكبيرة التي تحققت فيما يتعلق بأنشطة البحث عن المختفين، ولا سيما بفضل العمل الطويل الأمد الذي قامت به اللجنة المشتركة بين الطائفتين المعنية بالأشخاص المفقودين في قبرص، يلاحظ تباطؤ التقدم المحرز فيما يتعلق بأنشطة البحث هذه خلال السنوات الأخيرة ويشير إلى أن هناك تحديات كبيرة لا تزال قائمة. وبالنظر إلى الفترة الزمنية التي انقضت منذ وقوع حالات الاختفاء في قبرص وتقدم العديد من الأقارب والشهود في السن، يلزم اتخاذ تدابير عاجلة لتسريع عمليات استخراج رفات الضحايا وتحديد هويتهم وإعادةهم. وفي هذا الصدد، من الضروري عدم تسييس مسألة الأشخاص المختفين في قبرص والتعاطي معها على أنها مسألة تتعلق بحقوق الإنسان وتثير شواغل إنسانية. ولا يمكن تحقيق نتائج ملموسة بشأن مسألة الأشخاص المختفين إلا من خلال التعاون الصادق والشفاف فيما بين جميع أصحاب المصلحة المعنيين والتزامهم الواضح وغير المشروط بحماية حقوق الأقارب في معرفة الحقيقة وفي العدالة والتعويض وتخليد الذكرى وبالدفاء عن هذه الحقوق. ومن

* موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق هذا الموجز، فيُعمم باللغة التي قُدم بها فقط.

** تأخر تقديم هذا التقرير عن مواعده لتضمينه أحدث المعلومات.



الضروري تبديد انعدام الثقة من أجل تفرّج كروب جميع الأسر وآلامها في نهاية المطاف. ويُعتبر حل مسألة الأشخاص المختفين أمراً ضرورياً للأقارب وللمستقبل قبرص على حد سواء.

ويلاحظ الفريق العامل بقلق أنه لم يحرز أي تقدم في قبرص فيما يتعلق بالتحقيقات الجنائية والمحاکمات المتعلقة بانتهاكات حقوق الإنسان التي أدت إلى فقدان أفراد، بما في ذلك حالات اختفاء قسري محتملة. وفي حين أن التحقيقات والمحاکمات تمثل ركناً آخر من الأركان الأساسية، إلى جانب معرفة الحقيقة والتعويض وتخليد الذكرى، فإن المساءلة في قبرص لا تحظى إلا بقدر قليل من الاهتمام. وأشار العديد من المحاورين الذين تحدثوا إلى الفريق العامل أثناء زيارته، بمن فيهم الأقارب، إلى أن تركيز الأولوية على عنصر المساءلة من شأنه أن يعرض للخطر جهود البحث عن المختفين، تمثيلاً أيضاً مع الولاية الإنسانية للجنة المعنية بالأشخاص المفقودين. وفي حين أن الفريق العامل يتفهم موقف الأقارب في هذا السياق بالذات ويحترمه، فإنه يود أن يشدد على أن أي تحقيق فعال في حالات الاختفاء القسري يجب أن يشمل، وفقاً للمعايير الدولية، جمع معلومات عن أماكن وجود الأشخاص المختفين ومصيرهم وظروف اختفائهم وهوية الجناة. وهذا التحقيق لا تقتضيه الالتزامات الدولية الواقعة على عاتق الدولة فحسب، وإنما هو أيضاً أفضل وسيلة لمكافحة الإفلات من العقاب بفعالية ولإعمال الحق في معرفة الحقيقة وفي العدالة، لصالح كل من الضحايا والمجتمع برمتيه وضمان عدم تكرار هذه الجريمة الشنيعة. وبالإضافة إلى ذلك، ينبغي جمع جميع المعلومات ذات الصلة التي يتم الحصول عليها في إطار عملية البحث، بما في ذلك الأدلة الجنائية المحتملة، وحفظها على النحو المناسب من أجل الكشف عنها واستخدامها في مرحلة لاحقة، عند الاقتضاء.

وفي الوقت نفسه، وفيما يتعلق بالحق في معرفة الحقيقة، أكد معظم الأقارب أن تلقي رفات أحبائهم، وأحياناً مجرد عظمة صغيرة، ليس كافياً، ويمكن في كثير من الأحيان أن يوجج المواجه ويثير المزيد من الأسئلة. ويعتقد الفريق العامل أن البدء في عملية لقول الحقيقة أمرٌ بالغ الأهمية لحماية ودعم حق الأسر في معرفة الحقيقة، بوصفه حقاً جماعياً وفردياً على حد سواء.

وهناك مجالات أخرى تحتاج إلى إحرار المزيد من التقدم، لا سيما فيما يتعلق بالإطار التشريعي والتدابير الوقائية. ويمكن اتخاذ بعض هذه التدابير بسرعة، بما في ذلك التصديق على الاتفاقية الدولية لحماية جميع الأشخاص من الاختفاء القسري، وإدراج جريمة الاختفاء القسري في قانون العقوبات باعتبارها جريمة قائمة بذاتها. وفيما يتعلق بمنع حالات الاختفاء القسري، فإن الفريق العامل - بينما يلاحظ التحديات التي يشكلها العدد المتزايد من الوافدين إلى الجزيرة - يشعر بالقلق إزاء المعلومات الواردة بشأن عمليات الرد التي تتفد في البحر وعلى الخط الأخضر على حد سواء. ويتعين أيضاً بذل المزيد من الجهود لضمان عدم طرد أي شخص أو إعادته أو إبعاده أو تسليمه إلى بلد حيث توجد أسباب حقيقية تدعو إلى الاعتقاد بأنه سيتعرض لخطر الاختفاء القسري.

Annex

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

I. Introduction

1. The Working Group on Enforced or Involuntary Disappearances, represented by Luciano Hazan (Chair), Aua Baldé (Vice-Chair) and Henrikas Mickevičius (member), conducted an eight-day visit to Cyprus from 5 to 12 April 2022.
2. The Working Group wishes to thank the Republic of Cyprus for inviting it to visit the country. The Working Group also thanks the Ministry of Foreign Affairs, in particular, for the cooperation extended prior to and during the visit.
3. The Working Group also wishes to thank the United Nations Peacekeeping Force in Cyprus (UNFICYP), the Office of the Special Adviser to the Secretary-General on Cyprus and the Committee on Missing Persons in Cyprus for their support.
4. During the visit, the Working Group met with the Presidential Commissioner for Humanitarian Issues and Overseas Cypriots and his special adviser and representatives of the Ministry of Foreign Affairs, the Office of the Attorney General, the Cyprus Police Department, the Prisons Department, the Asylum Service and the Cyprus Institute of Neurology and Genetics. The Working Group also met with the Commissioner for Administration and Protection of Human Rights, whose office acts as the national human rights institution and national preventive mechanism against torture. The Working Group regrets that most of its requests for meetings with high-level officials and decision makers were not accommodated. As a result, a number of issues of concern for the Working Group could not be appropriately discussed or addressed during the visit, including the subjects of the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance, the criminalization of enforced disappearance and the remedies available to victims of enforced disappearances.
5. The Working Group held a meeting with the leader of the Turkish Cypriot community, which was also attended by several of his advisers.
6. Throughout the visit, the Working Group held meetings with relatives of disappeared persons from both the Greek Cypriot and Turkish Cypriot communities, as well as human rights defenders, lawyers, academics and other civil society representatives. The Working Group wishes to thank all those involved in those meetings. It also visited memorial and excavation sites.
7. The Working Group does not have any cases of enforced disappearance registered in its database related to Cyprus under its humanitarian procedure. It notes, however, that 775 Greek Cypriots and 201 Turkish Cypriots out of the total number of 2,002 in the official list administered by the Committee on Missing Persons remain disappeared following the events of 1963–1964 and 1974.¹
8. The Working Group acknowledges the legal and factual differences between the concepts of “missing persons” and “victims of enforced disappearance”, the latter being the subject of its mandate. However, the broader concept of missing persons also encompasses persons who have been forcibly disappeared, which can be applied to many of those missing in Cyprus. In the present report, the Working Group will thus refer to “disappeared persons”, unless the word “missing” is used in an official document or in the name of an institution.

¹ The intercommunal strife of 1963–1964 and the Turkish intervention of 1974.

A. Background

9. In its resolution 3450 (XXX), the General Assembly stipulated that every effort should be made, in coordination with the International Committee of the Red Cross (ICRC), to trace and account for people reported missing in Cyprus.² The resolution garnered momentum for the establishment, by the leaders of the Greek Cypriot and Turkish Cypriot communities, in 1981, of the bicomunal Committee on Missing Persons in Cyprus, with the participation of the United Nations. An agreed list of missing persons was drawn up and the objective of the Committee, to recover, identify and return to their families the remains of 2,002 persons (492 Turkish Cypriots and 1,510 Greek Cypriots) who disappeared during the intercommunal fighting of 1963–1964 and the events of 1974, was established.

B. Search for disappeared persons

10. The Committee on Missing Persons has a humanitarian mandate, namely to recover, identify and return to their families the remains of the 2,002 persons included in an agreed list who disappeared during the events of 1963–1964 and 1974. The Committee is composed of three members: two appointed by the respective communities and a third member selected by ICRC and appointed by the Secretary-General of the United Nations.

11. More than two decades passed before the Committee on Missing Persons became operational, in 2006. The period between 1981 and 2006 was marred by disagreements between the political leadership of the two communities, which undermined the mandate and work of the Committee. As a result, no progress was made by the Committee with respect to the exhumations and identifications. On 31 July 1997, the community leaders agreed to exchange all information at their disposal on the locations of mass graves, and to facilitate the return of human remains. However, the agreement did not engender effective cooperation between the communities; instead, it highlighted differences over the modalities of the search process.

12. Agreement on a joint list of missing persons was reached in 1995 on the basis of tracing requests compiled by ICRC and information received from relatives. According to the information received, the list did not include about 550 cases of the “known dead” persons who were buried in mass graves across the island and whose remains were not identified and returned to the families for dignified burials. The Working Group was informed during the visit that the Committee on Missing Persons did not actively search for those remains, but rather exhumed, identified and returned them to the families only if they were found intermingled with the remains of persons on the list.

13. The Republic of Cyprus has conducted its own search programme, in cooperation with the Cyprus Institute of Neurology and Genetics, since 1995.³ The Working Group was informed that there had not been any overlap with the search conducted by the Committee on Missing Persons, given that the Republic of Cyprus had exhumed and identified remains pertaining to the “known dead” in the areas under its control, most notably from the Lakatamia military cemetery, the Tymvos Makedonitissas and other known places of burial. It is estimated that about 95 per cent of the cases of Greek Cypriots and Turkish Cypriots had been clarified as a result of those efforts.⁴

14. The Committee on Missing Persons has achieved significant progress in searching for disappeared persons, exhuming and identifying their remains, and returning them to relatives for dignified burials. The remains of over 50 per cent of the 2,002 persons on the joint list have been exhumed and identified. As at 12 August 2022, the remains of 735 out of 1,510

² The intensification of efforts aimed at tracing and accounting for missing persons was already called for by the Commission on Human Rights in its resolution 4 (XXXI), which was noted by the General Assembly in its resolution 3450 (XXX).

³ The Missing Persons’ Department comes under the immediate political supervision of the Presidential Commissioner for Humanitarian Issues and Overseas Cypriots. The main objective of the Department is to ascertain the fate and whereabouts of all persons who remain unaccounted for since the events of 1963, 1964 and 1974. The responsibilities of the Office of the Presidential Commissioner include management, coordination, support and resolution of matters pertaining to disappeared persons.

⁴ With the exception of the problems related to the spraying of chemicals on some of the remains.

disappeared Greek Cypriots had been identified; the remains of 775 had not been found. By comparison, the remains of 291 out of 492 disappeared Turkish Cypriots had been identified and the remains of 201 had not been found.⁵

15. The search process of the Committee on Missing Persons is divided into five phases. During the investigation phase, the Committee's investigation unit is responsible for the collection and analysis of information and data in order to identify potential burial sites for excavation. Committee teams from the Greek Cypriot and Turkish Cypriot communities carry out the entire investigation jointly, abiding by strict rules of confidentiality.

16. In the excavation phase, 50 Cypriot archaeologists from both communities excavate sites and recover human remains using standard archaeological principles and methodologies, together with new technological tools and barrel-drilling techniques. Next is the anthropological phase, during which Committee on Missing Persons laboratory specialists aim to identify gender and age characteristics, pathological and dental features and other relevant information obtained from clothes and other personal belongings. In the genetic phase, the individual's genetic profile is extracted, analysed and then matched with genetic material obtained from relatives and stored in the Committee's DNA laboratories.

17. Once the anthropological and genetic analyses are concluded, ante-mortem data and the circumstances of disappearance as reported by the investigative teams are compared with the post-mortem and DNA datasets from the anthropological and genetic analyses. The last phase is the return of remains, during which psychologists employed by the Committee on Missing Persons inform the family about the identification of their loved one and assist with the return of the remains with due respect for cultural customs.

18. During the visit, the Working Group witnessed first-hand the benefit of bicomunal cooperation within the context of the search process led by the Committee on Missing Persons, which continues to be instrumental in the clarification of all outstanding cases of disappeared persons. In particular, the Working Group commends the Committee's readiness to employ new technologies throughout the process, which includes the use of ground-penetrating radar and satellite imagery. The Working Group also welcomes the steps taken by the Committee to digitize its combined records and strengthen its efforts to improve investigative capacities with a view to boosting the excavation success rate and increasing the accuracy and speed of operations during the archaeological phase, as indicated in its strategy for the period 2021–2024.

19. The rate of successful exhumations and identifications has dropped significantly since 2016: 42 identifications were successfully completed in 2019, in comparison with 117 in 2017. As indicated by the Committee on Missing Persons, this decline is attributed mainly to difficulties in locating new burial sites with the passage of time, primary sites being tampered with and remains subsequently relocated, and the impact of the coronavirus disease (COVID-19) pandemic.

20. The passage of time is one of the main factors hindering the search for disappeared persons in Cyprus. It is observed that the memories of eyewitnesses are fading as they grow old and gradually pass away, which also affects the reliability of the information collected. Information received indicates that identifying burial sites has been particularly challenging due to the changing topography of the island over time. Against that backdrop, the Committee on Missing Persons reported that mortal remains had been exhumed in only 11 per cent of the 1,473 sites excavated in 2019. That ratio increased to 25 per cent in the first months of 2022.⁶

21. During the visit, many relatives expressed frustration about the slowness of and delays in the process. The Working Group heard allegations that seemingly valuable information provided by relatives and witnesses had not been fully utilized by the Committee on Missing Persons during the investigative phase. Moreover, given that operational decisions were taken by consensus within the Committee, political and other considerations, such as the balancing of successful identifications between the communities, were reported to have hampered the progress of the search process, notably in exhumations at known burial sites. For instance, during its visit, the Working Group was informed that exhumations had been

⁵ Committee on Missing Persons in Cyprus, "Statistics", 12 August 2022.

⁶ Committee on Missing Persons strategy for the period 2021–2024.

pending for years in the village of Aloda/Atlılar, where dozens of Turkish Cypriot civilians were murdered and buried by a Greek Cypriot paramilitary group in 1974. In that regard, the Working Group welcomes the Committee's readiness to start exhumations at that site in 2023.

22. The Working Group also received reports of essential information on potential mass gravesites being withheld from the other community due to mistrust and political calculations. In other words, a *de facto quid pro quo* practice, whereby one side would only disclose information that would lead to the exhumation of remains of disappeared persons from the other provided that the other side acted in the same manner. The Working Group is deeply concerned about these reports and urges both sides to depoliticize the issue of disappeared persons and treat it as a human rights and humanitarian issue.

23. Some burial sites discovered by the Committee on Missing Persons had been tampered with and some of the remains transferred to unknown locations. Most of those sites were located in the northern part of the island. As a result, the families concerned often receive residual remains, or none at all, which further prolongs their ordeal.

24. First-hand accounts were shared on how the handover of residual remains had revictimized the relatives, aggravating and prolonging their agony. Cognizant of the challenges that the Committee on Missing Persons is facing in accessing secondary and tertiary gravesites, particularly in the northern part of the island, many families agreed to bury partial fragments in order to reach a semblance of closure. Other families refused to accept partial remains, which were sometimes as tiny as a person's tooth, requesting the Committee to continue the search. The Committee confirmed that, irrespective of the relatives' decision to accept or refuse residual remains, a case was removed from the joint list when a DNA match was confirmed. However the search could continue until the remains had been exhumed in full and presented to the relatives, in accordance with principle 7.3. of the Guiding Principles for the Search for Disappeared Persons adopted by the Committee on Enforced Disappearances in 2019.

25. Another important element is accessing information from the relevant archives of countries and organizations that maintained a military, police or humanitarian presence in Cyprus in 1963, 1964 and 1974. The Working Group notes that, in the course of 2021, access to the archives of the National Guard of the Republic of Cyprus was granted to the Committee on Missing Persons. The Committee also conducted research at the UNFICYP archives in Nicosia and at the archives at United Nations Headquarters, in New York.

26. While welcoming the increased access by the Committee on Missing Persons to military areas in the north of the island, which reportedly includes 30 new sites to be examined over the next three years, the Working Group reiterates its call to the military authority of Turkey to make the sites in the northern part of the island accessible to the Committee at all times. It is also instrumental that the Committee be granted full access to Turkish military archives, with a view to identifying new burial sites.⁷

27. The relatives from both communities expressed their frustration at the alleged lack of transparency in relation to the investigation and excavation phases of the process led by the Committee on Missing Persons. The Working Group emphasizes, in accordance with international standards, the importance of the participation of relatives throughout the search process and of keeping all relatives informed of the progress of the search, or lack thereof. This also means that those whose loved ones have still not been found need to be kept abreast of all stages of the search process.⁸ The Working Group welcomes the information that the strategic objectives of the Committee for 2021–2024 include increasing support to the families of the disappeared and improving the quality of that support, as well as increasing public outreach.

28. With respect to the handover of remains and subsequent burials, the Working Group received concerning reports of pressure directed against some relatives from both communities. The Working Group reminds all duty bearers of the obligation to protect

⁷ Updated set of principles for the protection and promotion of human rights through action to combat impunity, principles 14–18; and [A/HRC/45/13/Add.3](#), paras. 77–79.

⁸ [A/HRC/45/13/Add.3](#), paras. 60, 62 and 98 (i), and annex, para. 111. See also the Guiding Principles for the Search for Disappeared Persons, principle 5.

relatives of disappeared persons from any undue pressure, intimidation or harassment. The authorities must ensure that the relatives are able to carry out burials of their family members in a dignified manner in a safe and enabling environment without interference, fear of threats, intimidation or reprisals of any kind.

29. More generally, the Working Group learned about a persistent practice whereby the authorities of the Republic of Cyprus and the Turkish Cypriot authorities would deliver divisive speeches at funerals, with the intention of further politicizing the issue. It was reported that high-level officials would use every opportunity to condemn the other side, which would often prompt a strong response. In that regard, the Working Group urges representatives of both communities to refrain from those practices, mindful of the fact that the solution to the issue of disappeared persons in Cyprus depends on effective bicomunal cooperation.

C. Truth

30. During its visit, the Working Group met with representatives of family associations of both communities, as well as a bicomunal family association. Supported by the Committee on Missing Persons, the Working Group also met with relatives of disappeared persons from both the Greek Cypriot and the Turkish Cypriot communities who did not take an active part in the work of the above-mentioned family associations.

31. The Working Group was disheartened to learn about the pain and anguish suffered by all relatives in the absence of information on the fate and whereabouts of their loved ones. With every passing year, many people perished without being able to bury their parents, spouses, siblings or children in a dignified manner and achieve closure. As a result, in many instances, only distant relatives were left to organize funerals and bury the remains. The testimonies highlighted the urgent need for the authorities to have the relatives' best interests at heart, not least in upholding their rights to truth, justice, reparations and memory.

32. Limited by its mandate, the Committee on Missing Persons does not provide official information to relatives on the causes of death, the circumstances of the disappearances or the identity of the perpetrator or perpetrators, even when such information is available. Nevertheless, the relatives, including representatives of Greek Cypriot, Turkish Cypriot and bicomunal family associations, underlined the need to protect and uphold their right to truth, as both a collective and an individual right. On a number of occasions, it was suggested that there was a knowledge gap about many human rights violations committed during the events of 1963–1964 and 1974, including enforced disappearances and extrajudicial killings. With the passage of time, that knowledge also faded away, rendering the discovery of truth impossible in the absence of a meaningful and holistic truth-telling exercise.

33. In the course of the visit, the authorities of the Republic of Cyprus and the Turkish Cypriot authorities were reluctant to challenge the existing narratives and to speak about “inconvenient truths”. The official discourse and positions on what happened and who was to blame seemed to be as entrenched as in the immediate aftermath of the events of 1963–1964 and 1974. The Working Group believes that it is regrettable that no meaningful reflection and proposals have been made on how to build trust between the communities, which is essential not only to advance on the issue of disappeared persons, but also to reach a sustainable reconciliation.

34. The established narratives have been challenged by the work of the bicomunal association, which has been able to demonstrate that bicomunal cooperation at the grass-roots level is possible, and actually favoured by many families. Supported by several prominent human rights defenders and investigative journalists from both communities, families have worked side by side to identify and approach alleged perpetrators and witnesses across the island, convince them to come forward and share their testimonies with the Committee on Missing Persons. They also shared grief during funerals, with the aim of leading by example and effectively challenging the status quo. At the same time, they admitted having received limited or no support from either the Republic of Cyprus or the Turkish Cypriot authorities during the process.

35. The Working Group notes that there have been recent discussions – especially within civil society and some family associations – about the possibility of the establishment of a truth-telling mechanism. In the context of discussions on the general measures stemming from relevant judgments of the European Court of Human Rights, proposals were made to the authorities of the Republic of Cyprus to establish a truth and reconciliation commission without further delay. Should there be no political agreement on the bicomunal nature of the truth-telling organ, some prominent civil society actors have called for the establishment of a mechanism with competence solely over human rights violations committed in the southern part of Cyprus.

36. Against this backdrop, the Working Group regrets that the political situation on the island has effectively undermined the exercise of the right to truth. It has also prevented the truth from being told collectively as a vital safeguard against the recurrence of violations. Truth may also be seen as a form of reparation for families, in particular those that have not been able to find their loved ones. The Working Group encourages the leaders of both communities to give due consideration to this idea, initially through the organization of public consultations with relatives, civil society, the media and the international community.⁹

37. The Working Group emphasizes that the right to the truth encompasses several dimensions, including the right to know about the progress and results of an investigation, the fate or the whereabouts of the disappeared persons, the circumstances of the disappearance and, to some extent, the identity of the perpetrator.¹⁰ There is also the collective right of society to know what has happened.

D. Justice

38. The Working Group observes that there is little emphasis on the issue of accountability in Cyprus. In open discussions with the Working Group, representatives of the Republic of Cyprus, the Turkish Cypriot community and the Committee on Missing Persons claimed that pursuing justice for alleged crimes committed during the events of 1963–1964 and 1974 might dissuade perpetrators and witnesses from coming forward and sharing their valuable testimonies. In effect, during the visit, many of the interlocutors suggested that the Committee's mandate and the fragile political consensus underpinning it would be jeopardized if accountability were prioritized over the search process.

39. In most cases, relatives supported that position, believing that the right to know the whereabouts of the remains of their loved ones, coupled with the right to truth about the circumstances of their enforced disappearance, should be paramount. Some relatives who had buried the remains of their formerly disappeared family members suggested that they had not pursued justice for fear of undermining the search process. That process remained the last hope for the families still awaiting information on the 976 disappeared persons. Others admitted that, given the small size of the island, each community knew who had perpetrated the crimes, and no effort had ever been made to hold them to account. In the light of the increasing politicization of the issue, their hopes for advancing the right to justice had been dashed. In the view of many, the right to justice, as much as other fundamental rights of the victims and their relatives, had therefore been hijacked by political considerations.

40. It was confirmed to the Working Group by a number of stakeholders during the visit that, in the 1990s, the prosecutorial authorities from the two communities had assured the Committee on Missing Persons through an exchange of letters that no witnesses would be prosecuted for sharing confidential information about gravesites. Although never enshrined in any legislation, this may have afforded a *de facto* amnesty to alleged perpetrators, given that no investigation initiated by the respective authorities ever led to a successful prosecution. The Working Group recalls that article 18 of the Declaration on the Protection of All Persons from Enforced Disappearance prohibits amnesties and other similar measures that could

⁹ See also the updated set of principles for the protection and promotion of human rights through action to combat impunity, principles 6–13.

¹⁰ [A/HRC/16/48](#), para. 39.

benefit the perpetrators or alleged perpetrators of acts of enforced disappearance, as they may contribute to impunity and violate the rights of the families to an effective remedy.¹¹

41. The Working Group received information from the Law Office of the Republic of Cyprus¹² and the National Police that investigations had been initiated into 46 cases related to the alleged enforced disappearance and summary execution of 331 Turkish Cypriots during the events of 1963–1964 and 1974.¹³ In a similar vein, Turkish Cypriot authorities reported having launched 485 investigations into the disappearance of Greek Cypriots; 374 of those investigations had not progressed. Information received during the visit indicated that the investigative authorities had failed to cooperate due to a deep mistrust between the communities, but also due to other practical issues, such as the language barrier.

42. It is noteworthy that, upon request, the Committee on Missing Persons provided substantial information to the investigative bodies, including relevant data collected from the exhumed mortal remains. However, it must be added that, because of its limited, humanitarian mandate, the Committee does not consider gravesites as potential crime scenes and thus does not comply with evidentiary rules, such as rules on collection, verification and preservation of evidence so that it is admissible in criminal proceedings, whether national or international, during its excavations. This situation creates a gap that appears to have undermined the effectiveness of the investigations from their very outset.

43. There is a pervasive view among the relatives and some civil society actors that any follow-up inquiries conducted by prosecutorial authorities on the island are far from thorough, with the outcome being predetermined before the inquiry is launched. The Working Group concludes that these shortcomings feed into the culture of impunity and strengthen the narrative of “forgetting” rather than “remembering”, which perpetuates distrust between the two communities. While conscious of the Cyprus context, the Working Group reiterates that, according to international standards, an effective investigation into enforced disappearances must include information about the whereabouts and fate of disappeared persons, the circumstances of their disappearance and the identity of the perpetrators. Such an investigation is not only required under the State’s international obligations, but is also the best way to effectively combat impunity and realize the right to truth and justice for the victims and society as a whole.¹⁴

44. It was reported to the Working Group that, while it had been possible to determine the facts and circumstances of enforced disappearances and identify perpetrators in some cases, the investigations had been discontinued due to a lack of sufficient evidence. It was suggested that the testimony collected, which implicated specific individuals, was hearsay and the source could not be established with the passage of time. In addition, given that enforced disappearance was not recognized as an autonomous crime in the Penal Code of the Republic of Cyprus, the allegations were investigated as kidnappings, abductions or murders, thus failing to deal with the specificities of the crime. Police and other officials who met with the Working Group during the visit were not familiar with the concept of enforced disappearance and would benefit from capacity-building activities in that regard.

45. Officials from the Law Office and the Ministry of Justice of the Republic of Cyprus referred to the fact that enforced disappearance might be criminalized under other offences contained in the Penal Code; however, that is not sufficient to fulfil the requirement under article 4 of the Declaration on the Protection of All Persons from Enforced Disappearance.

¹¹ [A/HRC/45/13/Add.3](#), paras. 27–30.

¹² The Law Office of the Republic of Cyprus is an independent authority that has a discretionary power to initiate, conduct and suspend criminal proceedings. According to the Constitution, it should be headed by a Greek Cypriot Attorney General and a Turkish Cypriot Assistant Attorney General. Since 1974, both positions have been held by Greek Cypriots. The Turkish Cypriot community has a separate “Office of the Attorney General”.

¹³ At the request of the Attorney General, the National Police carries out investigations in order to establish facts, including whether the alleged enforced disappearances were perpetrated by government forces or armed groups acting with the support or acquiescence of the Government. A special investigation team was set up in 2010 for this purpose within the Crime Investigation Department.

¹⁴ [A/HRC/45/13/Add.3](#), para. 97.

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

46. In order for the criminal law framework for preventing, investigating and punishing enforced disappearances to be complete, the legislation should cover the various modes of criminal liability, including in relation to any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance. It should also expressly provide for the application of command or superior individual criminal responsibility for such a crime. In addition, it should expressly mention that enforced disappearance is a continuous crime to which amnesties or immunities cannot be applied. Finally, enforced disappearance should be included in the definition of crimes against humanity to which the statute of limitations does not apply.

47. In the apparent absence of an effective legal remedy on the island, the Working Group notes that a number of relatives have applied to the European Court of Human Rights.¹⁵ These judgments concern mainly the failure of Turkey to conduct an effective investigation into the fate and whereabouts of those who disappeared after the Turkish intervention in 1974,¹⁶ although recently there have been cases lodged against Cyprus with respect to the failure to inform relatives of the progress in investigations and of the location of remains.¹⁷ The Working Group urges the concerned States to fully implement all relevant judgments concerning disappeared persons in Cyprus, including when it comes to reparations and just satisfaction, without further delay.¹⁸ In this respect, the Working Group welcomes that the Republic of Cyprus has publicly declared its willingness to enforce the Court's ruling in the case of *Vassiliou and others v. Cyprus*.

E. Reparations

48. All victims of enforced disappearance and their relatives have the right to full reparation, which includes compensation, satisfaction, restitution, rehabilitation and guarantees of non-repetition, as provided for in article 19 of the Declaration on the Protection of All Persons from Enforced Disappearance.

49. The Working Group received information that, in the absence of a comprehensive reparation programme, relatives of disappeared persons throughout the island had benefited from some financial and housing assistance, psychosocial support and free health care.

50. It was reported that the Republic of Cyprus had enacted the Law on Missing Persons (Temporary Provisions) in 1979, which authorized relatives to administer the property of

¹⁵ The cases of a number of Greek Cypriot and, notably, Turkish Cypriot relatives of disappeared persons were rejected by the European Court of Human Rights on the basis that they were introduced out of time.

¹⁶ European Court of Human Rights, *Cyprus v. Turkey*, Application No. 25781/94, and *Varnava and others v. Turkey*, Application Nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90.

¹⁷ European Court of Human Rights, *Vassiliou and others v. Cyprus*, Application No. 58699/15. In another case (*Gurtekin and others v. Cyprus*, Application Nos. 60441/13, 68206/13 and 68667/13), the Court did not find a violation of articles 2, 3 or 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) in relation to the investigation into the discovery of the bodies of the applicants' relatives, while at the same time recalling that issues relating to the disappearances in 1963–1964 had already been rejected as having been submitted out of time.

¹⁸ See Council of Europe, decision of the Committee of Ministers at its 1398th meeting, held from 9 to 11 March 2021 (CM/Del/Dec(2021)1398/H46-32); and Council of Europe, decision of the Committee of Ministers at its 1428th meeting, held on 8 and 9 March 2022 (CM/Del/Dec(2022)1428/H46-34).

their missing family members. The Working Group received information after the visit¹⁹ that “missing persons benefits” were provided by the Ministry of Labour and Social Insurance under the provisions of the 2010 Social Security Law, which replaced the 1980 Social Security Law. According to those provisions, the beneficiaries of the benefits were the dependent spouse (but only if the disappeared person was eligible to receive a pension at the time of the disappearance), and underage children (if both parents had disappeared or one had disappeared and the other had died). In addition, there was also a fund for the relief of adversely affected persons, which was reportedly used to grant special pensions and other benefits to dependants of disappeared persons, including parents, in addition to the categories mentioned above. Other relevant laws address the retirement benefits of disappeared civil servants, the professional rehabilitation of relatives with disabilities and the regulation of other property issues.

51. As early as 1974, the Law on Aid to Martyrs and Family Victims of War was passed by the Turkish Cypriot authorities, which only protected the rights of members of the Turkish Armed Forces and Turkish Cypriots who had been subjected to enforced disappearance by Greek Cypriot armed groups. Another piece of legislation was adopted in 1985, which regulated the inheritance of land by the children of disappeared Turkish Cypriot persons. According to information received from the Turkish Cypriot authorities, disappeared persons need to be legally recognized as dead as a condition for relatives to receive assistance in the northern part of the island.

52. In its study on enforced or involuntary disappearances and economic, social and cultural rights, the Working Group highlighted that the right to obtain redress for acts of enforced disappearance includes medical and psychological care and guarantees of employment or property.²⁰ In its general comment on article 19 of the Declaration on the Protection of All Persons from Enforced Disappearance, the Working Group established a wide interpretation of the right to obtain redress for acts of enforced disappearance, including medical and psychological care and rehabilitation for any form of physical or mental damage and to legal and social rehabilitation, guarantees of non-repetition, restoration of personal liberty, family life, citizenship, employment or property, return to one’s place of residence and similar forms of restitution, satisfaction and reparation that might remove the consequences of the enforced disappearance.²¹ If a person is subjected to enforced disappearance, States have an obligation to provide prompt, adequate and effective reparation to victims and their relatives. It is also essential that reparation plans or mechanisms are designed with the participation of the communities affected, taking into account their needs. Furthermore, the Working Group always emphasizes that the provision of social services for victims should not be confused with their right to obtain reparation.²²

53. The Working Group notes with regret that a comprehensive national reparation programme that includes compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition for all victims of human rights violations, including enforced disappearance, without discrimination, was never rolled out.

F. Memory and human rights education

54. During its visit, the Working Group visited Makedonitissa Tomb, the “House of Missing Persons” Memorial and the Chapel of Saint Alexandros. It could also see the Maratha/Muratağa, Aloda/Atlılar and Santalaris/Sandallar memorial sites. Memorial sites represent a fundamental element for the families of the disappeared, both individually and collectively. The Working Group notes that, in spite of the passage of time, there has been no attempt to create a common space of remembrance for all the disappeared on the island.²³ Various stakeholders, including relatives, have recognized that the pain of families is the

¹⁹ By means of note verbale from the Republic of Cyprus on 22 June 2022.

²⁰ A/HRC/30/38/Add.5, para. 59.

²¹ See also E/CN.4/1998/43, para. 75; and A/HRC/22/45 and A/HRC/22/45/Corr.1, paras. 46–68.

²² A/HRC/22/45 and A/HRC/22/45/Corr.1, para. 68.

²³ Updated set of principles for the protection and promotion of human rights through action to combat impunity, principle 3. See also A/HRC/45/45.

same, irrespective of whether they are Greek Cypriots or Turkish Cypriots, and that all the disappeared should be found in order to put an end to the pain of the families.

55. On the basis of this common sentiment, and in order to advance the issue of disappeared persons and for the sake of future generations, it is essential that all relevant stakeholders, in particular the leaders of the two communities, promote peace education across the island, including in schools and textbooks, with a view to contributing to confidence-building between the communities, refrain from divisive narratives and promote grass-roots bicommunal initiatives.²⁴

G. Asylum process and non-refoulement

56. On 10 March 2020, the Council of Ministers of the Republic of Cyprus adopted a national action plan for the holistic management of migration.²⁵ The Minister of the Interior of the Republic of Cyprus indicated that the decision had been taken following the dramatic increase in irregular migration to Cyprus and the spiralling numbers of asylum-seekers. Access to asylum procedures at the Green Line was suspended as a first step.

57. The action plan has been implemented incrementally since its adoption. In November 2021, the Government announced, further to an emergency meeting to discuss migration and the increasing number of persons irregularly crossing at the Green Line, that a request would be submitted to the European Commission for the right to suspend asylum applications by persons entering the country in an irregular manner, pursuant to article 78 (3) of the Treaty on the Functioning of the European Union. This rigid political stance on asylum has inevitably affected access to procedures and international protection processes and has had a negative effect on the portrayal of asylum-seekers and refugees.²⁶

58. The Working Group understands the challenges posed by the increased number of arrivals and asylum applications on the island; there has indeed been a rise in asylum applications in Cyprus since 2016,²⁷ except for 2020, which saw a decrease attributable to the travel restrictions related to the COVID-19 pandemic. At the same time, the Working Group is concerned at reports of pushbacks both at sea and at the Green Line, which may trigger the responsibility of the State in the context of the violation of the principle of non-refoulement as included in the Declaration on the Protection of All Persons from Enforced Disappearance.²⁸ The Working Group recalls that all returns of migrants must be formally documented and undertaken in accordance with the law in order to avoid enforced disappearances during those processes, including temporary or short-term disappearances. Likewise, the practice of pushing back or collectively expelling migrants does not comply with the international obligation of non-refoulement and may result in enforced disappearance.

59. In 2020, for the first time, the authorities of the Republic of Cyprus reportedly engaged in more than a dozen pushbacks of boats arriving from Lebanon and Turkey (mostly with Syrian, Palestinian and Lebanese nationals on board). Some of those boats had already entered the territorial waters of Cyprus or the passengers were transferred by the Republic of Cyprus to vessels that then returned them to Lebanon, thus engaging the non-refoulement

²⁴ Updated set of principles for the protection and promotion of human rights through action to combat impunity, principle 3.

²⁵ Republic of Cyprus, Ministry of the Interior, Press and Information Office, "Statements by the Minister of Interior on immigration", 10 March 2020. Available at www.pio.gov.cy/en/press-releases-article.html?id=12571.

²⁶ Asylum applications are submitted to the immigration police, and the competent authority that receives the applications is the Asylum Service of the Ministry of the Interior. Appeals against negative decisions can be submitted to the Administrative Court of International Protection. According to the information received by the Working Group, this court proceeds quite slowly due to a backlog of cases.

²⁷ Office of the United Nations High Commissioner for Refugees (UNHCR), "Cyprus: asylum statistics (2002–2021).

²⁸ [A/HRC/49/22](#), paras. 38–42.

obligations of the Republic of Cyprus. Some arrivals at the first reception centre were subsequently returned to Lebanon despite their reported intention to seek asylum.²⁹

60. The practice of the pushbacks of vessels at sea, notably to Lebanon, reportedly continued throughout 2021; at least eight pushbacks were documented. At least three vessels that had departed from the Syrian Arab Republic were rerouted to Lebanon, with the Republic of Cyprus forced to accept back two. As a result of the pushbacks, there have been eight confirmed incidents of refoulement of Syrian males who had no right to re-enter Lebanon. In August 2021, two asylum-seekers, one heavily pregnant woman and a seriously ill man, were forcibly separated from their young children and spouses, who were pushed back to Lebanon, while they were brought ashore due to their medical conditions. A person went missing during the same incident, when eight Syrian men jumped into the water and seven were rescued. A missing person report was issued some weeks later.

61. Pushbacks were also noted across the buffer zone in Cyprus. In early March 2021, the Republic of Cyprus began to erect a barbed wire fence along the buffer zone, accompanied by a new law to increase the penalties for smugglers and provide for prison sentences of up to 15 years and fines of up to €200,000.

62. The Working Group recalls that States have an obligation to adopt effective legislative, administrative, judicial and other measures, including migration policy-related measures, to prevent and terminate acts of enforced disappearances of migrants in their territory. Among the main obligations in this category is the obligation of States not to expel, return (*refouler*) or extradite migrants to another State where there are substantial grounds for believing that they would be in danger of enforced disappearance. As specified in article 8 (2) of the Declaration on the Protection of All Persons from Enforced Disappearance, for the purpose of determining whether there are such grounds, the competent authorities are to take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights. The Working Group has reiterated the importance of this prohibition in the context of its country visits, as well as in a dedicated report on the issue of enforced disappearances in the context of migration.³⁰ The Working Group has noted that asylum officers are not familiar with the concept of enforced disappearance, which may have consequences for the quality of their assessment and/or their decision to grant asylum.

63. The Working Group is concerned at reported instances of refoulement from the northern part of the island. This is one of the areas in which the impact that the political divide has on the protection of human rights is particularly evident, creating a gap in both monitoring and protection in the north, including due to the lack of an asylum system, which results in asylum-seekers being considered as irregular migrants and subjected to arrest, detention and deportation procedures. While access to the territory is relatively easy, with tourist visas being available at entry points for a small fee, access to the territory is refused if a person claims asylum or is considered to be intending to seek asylum. Since 2020, the Green Line has been closed for the crossing of asylum-seekers, no longer enabling those at risk of refoulement to seek protection in the southern part of Cyprus. For instance, the several hundreds of Syrians who were returned to Turkey included unaccompanied children and children who had parents or other close family members in the south.³¹ Conditions of detention for migrants and asylum-seekers are also of concern.

64. While the law in Turkey enables access to asylum procedures for persons seeking asylum, persons of concern deported from Cyprus do not have the opportunity to seek asylum while in the transit zone at airports; in practice, access would only be possible for Syrians

²⁹ On 12 July 2021, the Working Group transmitted, jointly with other special procedure mechanisms, an allegation letter concerning reported pushbacks of migrants from Cyprus to Lebanon and Turkey carried out at sea by the Cyprus Port and Marine Police and the alleged unreasonable use of force involved in some of those pushback operations. On 8 September 2021, the Government provided a reply to the allegation letter. See also UNHCR, "UNHCR and UNICEF: urgent need to address the root causes of life-risking journeys from Lebanon and ensure swift rescue of people distressed at sea", 18 September 2020.

³⁰ [A/HRC/36/39/Add.2](#).

³¹ [A/HRC/49/22](#), para. 43.

provided with temporary protection. African and Asian asylum-seekers deported from the northern part of Cyprus are thus subject to the risk of refoulement.

65. The Working Group notes that experts from both sides, including from several bicomunal technical committees,³² held a meeting on the topic of irregular migration in May 2021.³³ The objective of the meeting, which was facilitated by the United Nations and attended by the representative of the Office of the United Nations High Commissioner for Refugees (UNHCR) in Cyprus, was to discuss various aspects of the issue. It was planned that such discussions would be held on a regular basis.

66. The Working Group hopes that an effective mechanism will be identified for the protection of refugees and asylum-seekers throughout Cyprus and looks forward to being kept informed on the unfolding of these discussions.

H. Notification and registration

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

68. The Working Group welcomes the information received on the training that prison officers receive about the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and the Minnesota Protocol on the Investigation of Potentially Unlawful Death.

I. Ratification of the International Convention

69. The Working Group regrets that Cyprus is not yet a State party to the International Convention for the Protection of All Persons from Enforced Disappearance, despite its signature in 2007. During the meetings held with government officials, the Working Group perceived some hesitation with respect to ratification, which may be the result of some misconceptions, which the Working Group would be happy to clarify through its technical and advisory services. In this respect, the Working Group welcomes the information received from the Republic of Cyprus after the visit that experts from the relevant ministries and offices wish to commence informal consultations on the Convention to better understand its provisions.³⁴

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

³² Bicomunal technical committees were established on a number of matters by the leaders of the Greek Cypriot and Turkish Cypriot communities under the auspices of the United Nations, to address issues that affect the day-to-day life of people, through encouraging and facilitating greater interaction and understanding between the two communities. In March 2021, following the call made by the Security Council in its resolution 2561 (2021) for the two sides to agree upon and implement confidence-building measures and to enable the technical committees to function effectively, the Special Representative of the Secretary-General in Cyprus and Head of UNFICYP, who also serves as the Deputy Special Adviser to the Secretary-General on Cyprus, established regular meetings with representatives of the Greek Cypriot and the Turkish Cypriot leaders (A/HRC/49/22, para. 4).

³³ A/HRC/49/22, para. 44.

³⁴ Note verbale of 22 June 2022.

II. Conclusions

71. The continued division on the island has an impact on the promotion and protection of human rights in general, including on the right to truth, justice, reparations and memory of the relatives of those disappeared after the events of 1963–1964 and 1974.

72. While recognizing considerable achievements in the search activities, notably due to the long-standing work of the bicomunal Committee on Missing Persons in Cyprus, progress has slowed in recent years and significant challenges remain. Considering the amount of time that has passed since the disappearances occurred in Cyprus and the advanced age of many relatives and witnesses, urgent measures are needed to accelerate the exhumation, identification and return of the remains of the victims. In this respect, it is essential to depoliticize the issue of disappeared persons in Cyprus, including by abandoning the balancing of the successful identification rate per community and the *quid pro quo* practice as described above, and treat it as a human rights and humanitarian issue. Results on the issue of disappeared persons can be achieved only through sincere and transparent cooperation and a clear and unconditional commitment among all concerned stakeholders to protect and uphold the rights of relatives to truth, justice, reparations and memory. It is essential to dispel mistrust to finally put an end to the anguish and pain of all families. The solution of the disappeared persons issue is essential both for the relatives and for the future of Cyprus.

73. The Working Group notes with concern that there has been no progress in Cyprus in relation to criminal investigations and prosecutions for human rights violations resulting in individuals going missing, including possible enforced disappearances. While this is another essential pillar, together with truth, reparation and memory, there is very little emphasis on accountability in Cyprus. Many of the interlocutors who spoke to the Working Group during its visit, including relatives, suggested that progress in the search for the disappeared would be jeopardized if accountability was prioritized, also in line with the humanitarian mandate of the Committee on Missing Persons. While the Working Group understands and respects relatives' position in this particular context, it wishes to stress that, according to international standards, an effective investigation into enforced disappearances must include information about the whereabouts and the fate of the disappeared persons, the circumstances of their disappearance and the identity of the perpetrators. Such an investigation is not only required under the State's international obligations, but is also the best way to effectively combat impunity, realize the right to truth and justice for the victims and society as a whole and guarantee the non-recurrence of this heinous crime. In addition, all relevant information gathered in the search process, including possible criminal evidence, should be adequately collected and preserved for possible disclosure and use at a later stage.

74. At the same time, with respect to the right to truth, most of the relatives underlined that receiving the remains of their loved ones, sometimes only a small bone, was not enough and could often open more wounds and trigger more questions. The Working Group believes that a truth-telling exercise would be extremely important to protect and uphold the right to truth of the families, as both a collective and an individual right.

75. There are other areas that need further progress in terms of legislative framework and preventive measures. Some of these measures can be taken swiftly, including the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance, and the introduction of an autonomous crime of enforced disappearance in the Penal Code. In relation to the prevention of enforced disappearances, the Working Group, while noting the challenges posed by an increased number of arrivals on the island, is concerned at information received on pushbacks both at sea and at the Green Line. More efforts are needed to ensure that people are not expelled, returned, surrendered or extradited to a country where there are substantial grounds for believing that they would be in danger of enforced disappearance.

III. Recommendations

76. The Working Group makes the following recommendations:

To the Republic of Cyprus

Legislation and institutional framework

(a) **Codify enforced disappearance as an autonomous crime in the Penal Code, punishable by appropriate penalties that take into account its extreme seriousness. The introduction of this crime should be independent from the ratification of the Convention and should encompass:**

- (i) **The introduction of the various modes of criminal liability, including in relation to any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance;**
- (ii) **The application of command or superior individual criminal responsibility for such crimes;**
- (iii) **The express mention that enforced disappearance is a continuous crime to which amnesties or immunities cannot be applied and that statutes of limitations, if provided, shall be substantial and commensurate with the extreme seriousness of the offence, and only commence from the moment when the offence of enforced disappearance ceases;**

(b) **Complete the ratification process of the International Convention for the Protection of All Persons from Enforced Disappearance as soon as possible, with the express recognition of the competence of the Committee on Enforced Disappearances pursuant to articles 31 and 32 of the Convention;**

Truth, justice and reparations

(c) **Ensure that the authorities in charge of investigations related to enforced disappearances have access to all relevant information, and that all the information gathered in the search process, including possible criminal evidence, is collected, investigated and preserved for possible disclosure and use at a later stage;**

(d) **Prohibit amnesties and other measures that may be aimed at avoiding or indirectly hindering the obligation to investigate, prosecute and punish the perpetrators of enforced disappearances;**

(e) **Enforce all relevant judgments of the European Court of Human Rights concerning disappeared persons in Cyprus, including by implementing general measures stemming from the judgments;**

(f) **Establish a comprehensive national reparation programme, with the participation of the communities affected, that includes compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition for all victims of human rights violations, including enforced disappearance, without discrimination;**

(g) **Ensure that the provision of social services for victims is not confused with their right to obtain reparation;**

Preventive measures in the context of non-refoulement

(h) **Ensure strict adherence by the relevant authorities to the applicable procedures for extradition, return and expulsion, and formally document all returns of migrants in order to avoid disappearances during those process, including temporary or short term;**

(i) **Guarantee the evaluation of returns on a case-by-case basis in order to establish whether there are grounds for believing that the person could be subjected to**

enforced disappearance, in accordance with article 8 (1) of the Declaration on the Protection of All Persons from Enforced Disappearance;

(j) Expressly prohibit, in law and practice, the pushing back or collective expulsion of migrants, which is contrary to the international obligation of non-refoulement and may lead to enforced disappearances;

(k) Develop awareness-raising and capacity-building activities for State officials, including asylum officers, on the concept of enforced disappearance and on the return of individuals in this context potentially constituting a violation of the principle of non-refoulement;

Engagement with United Nations human rights mechanisms

(l) Engage further with United Nations human rights mechanisms, including through further visits by special procedure mandate holders, such as the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, and the Special Rapporteur on the human rights of migrants;

(m) Ensure that the Office of the United Nations High Commissioner for Human Rights and other relevant actors, such as UNHCR, have access to all persons potentially affected in order to avoid any protection gap, notably in the northern part of the island;

To the leaders of both communities

(n) Stop politicizing the issue of disappeared persons and treat it as a human rights and humanitarian issue. Political and other considerations should be put aside in order to allow the Committee on Missing Persons to fully and effectively fulfil its mandate;

(o) Continue the cooperation with, and the support provided to, the Committee on Missing Persons, in particular through providing full access without delay to all areas, responding in a timely manner to requests for archival information on possible burial sites, as also recommended by the Security Council,³⁵ and adequately preserving archives;

(p) Consider the creation of an inclusive and impartial truth-telling mechanism, which could bring together and respond to the need of families of both communities, clearly expressed during the visit, to protect and uphold their right to truth as both a collective and an individual right;

(q) Ensure that families can carry out burials of their family members in a dignified manner in a safe and enabling environment without fear, interference or pressure;

(r) Provide unconditional support to the work of all family associations in an effort to raise awareness about humanitarian and human rights aspects of the disappeared persons issue;

(s) Review the legality of the de facto amnesty initiated in the 1990s, which has resulted in a total lack of accountability for enforced disappearances;

(t) Consider creating a common space of remembrance for all disappeared on the island;

(u) Promote peace education across the island, including in schools and textbooks, with a view to contributing to confidence-building between the communities, refrain from divisive narratives and promote grass-roots bicomunal initiatives and activities;

(v) Provide the necessary political support and overall guidance to the technical committees, notably those in charge of the question of irregular migration,

³⁵ See, for instance, Council resolution 2587 (2021).

and spare them from obstructions due to political considerations in their work, so that they can function effectively – as requested also by the Security Council. A mechanism should be adopted in the northern part of the island to ensure adherence to the principle of non-refoulement, to allow the timely identification of all persons in need of international protection;

To the Government of Turkey

(w) Continue supporting and cooperating with the Committee on Missing Persons in Cyprus,³⁶ including by making sites in the northern parts of Cyprus accessible to the Committee for further assessments at all times, providing full access to military archives to the Committee and family associations, with a view to identifying new burial sites,³⁷ and adequately preserving archives;

(x) Implement all relevant judgments of the European Court of Human Rights concerning disappeared persons in Cyprus, including when it comes to reparations and just satisfaction, without further delay;

(y) Allow all asylum-seekers returned from the northern part of Cyprus access to the territory and to the asylum procedures in Turkey in view of the principle of non-refoulement and the lack of asylum procedures in the northern part of Cyprus;

To the international community

(z) Continue unabated the support provided to the Committee on Missing Persons, with the aim of establishing the fate and whereabouts of the remaining 976 disappeared persons as soon as possible.

³⁶ [A/HRC/33/51/Add.1](#), para. 79.

³⁷ See [A/HRC/45/13/Add.4](#).