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**CYPRUS**

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## **I. LAND AND PEOPLE**

### **A. Geography**

1. Cyprus is the third largest island in the Mediterranean Sea with an area of 9,251 km<sup>2</sup> 33° east of Greenwich and 35° north of the equator. It is situated at the north-eastern end of the Mediterranean basin at a distance of approximately 360 km east of Greece, 300 km north of Egypt, 105 km west of Syria and 75 km south of Turkey. It is a mainly mountainous country with two mountain ranges - Pentadaktylos in the north and Troodos in the south-west culminating in the peak of Mount Olympus (1,953 m). The largest plain, Mesaoria, is situated between them. The climate is temperate (Mediterranean) with its typical seasonal rhythm strongly marked in respect of temperature, rainfall and weather generally. The average annual rainfall is 500 mm, the fall from December to February being nearly two thirds of the yearly total. From time to time the country suffers from drought.

### **B. Historical background**

2. Cyprus has played an important part in the history of the Eastern Mediterranean. Its history spans nine millennia. In the second millennium B.C., the Achaean Greeks established city-kingdoms in the island on the Mycenaean model. They introduced the Greek language and culture which are preserved to this day despite the vicissitudes of history.

3. Cyprus was well known to the ancients for its copper mines and forests. Its geostrategic position, being placed at the crossroads of three continents, and its wealth accounted for a succession of conquerors such as the Assyrians (673-669 B.C.), the Egyptians (560-545 B.C.) and the Persians (545-332 B.C.). During the fifth century B.C., there was considerable interaction between Athens and Cypriot city-states, particularly Salamis.

4. On the partition of the empire of Alexander the Great, who liberated the island from the Persians, Cyprus became a significant part of the empire of the Ptolemies of Egypt. The Hellenistic period ended in 58 B.C. when the Romans came and remained until the fourth century A.D., making Cyprus part of the Roman Empire. The introduction in 45 A.D. of Christianity to Cyprus by the Apostles Paul and Barnabas, the latter being a Cypriot, was the most important event during the period of the Roman rule.

5. In 330 A.D. Cyprus became part of the eastern section of the Roman Empire and later (395 A.D.) of the Byzantine Empire and remained so until the twelfth century A.D. During the period of the Crusades it was conquered by Richard the Lionheart of England (1191) who sold the island to the Knights Templar. They were followed by the Frankish Lusignans who established a Kingdom on the Western feudal model (1192-1489). It then came under the rule of the Republic of Venice until 1571, when it was conquered by the Ottoman Turks. The Ottoman occupation lasted until 1878 when Cyprus was ceded to the United Kingdom. In 1923, under the Treaty of Lausanne, Turkey relinquished every right to Cyprus and recognized its annexation to the United Kingdom, already proclaimed by the British Government in 1914.

6. After a long but unsuccessful peaceful political and diplomatic effort, which included a referendum on self-determination in 1950, the Greek Cypriots took up arms in 1955 against the colonial power to attain freedom. During the anti-colonial struggle, Turkey encouraged the

Turkish Cypriot leaders to identify themselves with the colonial Government in an effort to thwart the struggle for self-determination of the people of Cyprus. The “divide-and-rule” policy of the colonial Government made serious incidents between the two communities inevitable.

7. The British rule lasted until August 1960 when, on the basis of the Zurich-London Agreements, the island became independent and was proclaimed a republic.

### C. Population

8. The population of Cyprus at the end of 1999 was 755,000. Population distribution, by ethnic group is 83.9 per cent Greek Cypriots; 12.0 per cent Turkish Cypriots; 0.4 per cent Armenians; 0.6 per cent Maronites; 0.1 per cent “Latins”; and 3.0 per cent others, i.e., foreign residents, mainly British, Greek, other Europeans and Arabs. These figures do not, of course, include the settlers, numbering approximately 115,000, transferred from Turkey since the 1974 Turkish invasion in order to alter the demographic structure of Cyprus, in contravention of international law, and the Turkish occupation forces (approximately 30,000 troops). An estimated 55,000 Turkish Cypriots have emigrated since 1974. As a result of the Turkish invasion and continuing occupation of 37 per cent of the northern territory of the Republic of Cyprus the Greek Cypriots were forcibly expelled by the invading army from the area it occupied and are now living in the government-controlled area. Almost all the Turkish Cypriots who lived in this area were forced by their leadership to move to the area occupied by Turkish troops, whereas prior to the invasion the two communities lived together in roughly the same ratio of four Greeks to one Turk in all the six administrative districts. The vast majority of the 22,000 Greek and Maronite Cypriots, who remained enclaved in the area occupied by the Turkish army, were subsequently expelled. By November 2001 their numbers had dwindled to a mere 592, mostly elderly - 427 Greek and 165 Maronite Cypriots.

9. The policies pursued by Turkey in the occupied area since its invasion of Cyprus constitute the first example of ethnic cleansing in post-Second World War Europe.

10. The following statistics pertain to the area under the effective control of the Government of the Republic.

Population in the government-controlled area (1999): (males: 332,400; females: 334,400)		666,800
Population distribution by age (1999):	0-14 years:	23.2 per cent
	15-64 years:	65.5 per cent
	over 65 years:	11.3 per cent
Percentage of population (1999) in:	urban areas:	69.8 per cent
	rural areas:	30.2 per cent
Working population as a percentage of the total population (1999):		47.2 per cent

11. The official languages of the country are Greek and Turkish. Nearly all Greek Cypriots are Orthodox Christians; Turkish Cypriots are Muslims and members of the Armenian, Maronite and Latin minorities adhere to their own Christian denominations. Under article 2, paragraph 3, of the Constitution, they opted for the Greek Community of Cyprus.

#### **D. Economy**

12. The economy of Cyprus is based on the free enterprise system. The private sector is the backbone of the economic activity with the Government's role limited basically to safeguarding a transparent framework for the operation of the market mechanism, indicative planning and the provision of public utilities.

13. Although the blow inflicted on the economy by the Turkish invasion of 1974 was devastating (the occupied part at that time accounted for almost 70 per cent of the gross domestic product (GDP)), recovery was remarkable. The decline in GDP during 1974 was quickly reversed and by 1977 it surpassed its pre-1974 level. Business confidence returned followed by a sharp upturn in investment. By 1979 conditions of full employment were restored: unemployment, which approached 30 per cent of the economically active population in the second half of 1974, had been virtually eliminated (1.8 per cent) and the refugees were rehoused temporarily, pending their return to their homes.

14. In more recent years (1990-1999) the economy has been growing at an average rate of 4 per cent in real terms. During 2000, GDP reached the £C 5.457 billion mark and the rate of inflation stood at 4.1 per cent. Near-full employment conditions prevail during the current year with an unemployment rate of only 3.4 per cent. The per capita income is today one of the highest in the region at US\$ 13,190 (2000).

15. In the post-1974 period the economy underwent major structural changes. The manufacturing sector became one of the major engines of growth during the second half of the 1970s and early 1980s, whereas that role was assumed by tourism in the late 1980s and by other services in the early 1990s. These structural changes were reflected in the contribution of the above-mentioned sectors to GDP and gainful employment. To sum up, Cyprus has gradually been converted from an underdeveloped country in which the primary sector was dominant into a service-oriented economy.

16. International trade is of considerable importance to the economy of Cyprus. On the production side, the lack of raw materials, energy resources and heavy industry for the production of capital goods necessitate the import of such inputs. On the demand side, because of the small size of the domestic market, exports are vital in supplementing aggregate demand for Cypriot agricultural and manufactured products and services. The main economic partners of Cyprus are the member countries of the European Union, the neighbouring countries of the Middle East and the countries of Central and Eastern Europe.

17. The main characteristic of the balance of payments position is a large deficit in the trade balance which, during several years, was more than offset by invisible earnings from tourism, international transportation, offshore activities and other services.

### **E. Socio-economic indicators**

18. The following indicators\* are provided:

Life expectancy (1998/1999): males: 75.3; females: 80.4;

Infant mortality (1999): 6 per 1,000 live births;

Total fertility rate (1999): 1.81;

Literacy rate for ages 15 and over (1998/1999): 94 per cent  
(males: 97 per cent; females: 90 per cent);

Gross national product (2000): £C 5.47 billion;

Rate of inflation (2000): 4.1 per cent;

External public debt (2000): £C 853 million;

Unemployment rate (2000): 3.4 per cent  
(males: 2.7 per cent; females: 4.7 per cent);

Persons/doctor (1999): 357;

Persons/hospital bed (1999): 216;

Telephone lines/1,000 population (2000): 657;

Passenger cars/1,000 population (2000): 399.

## **II. GENERAL POLITICAL STRUCTURE**

### **A. Recent political history and developments**

19. The Republic of Cyprus was set up on 16 August 1960 with the coming into force of three main treaties and its Constitution which have their origin in the Zurich Agreement of 11 February 1959 between Greece and Turkey and the London Agreement of 19 February 1959 between Greece, Turkey and the United Kingdom. The Constitution of the Republic together with the three treaties provided the legal framework for the existence and functioning of the new State.

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\* Because of the presence of the Turkish army, the Government of the Republic of Cyprus has no access to the occupied area and therefore figures in respect of the occupied part of Cyprus are not available.

20. The three treaties are:

(a) The Treaty concerning the Establishment of the Republic of Cyprus signed by Cyprus, Greece, Turkey and the United Kingdom. It provided for the establishment of the Republic of Cyprus and, inter alia, for the creation and operation of two British military bases in Cyprus, the cooperation of the parties for the common defence of Cyprus and the recognition and respect of human rights of everyone within the jurisdiction of the Republic comparable to those set out in the European Convention on Human Rights (United Nations, *Treaty Series*, vol. 382 (1960), No. 5476);

(b) The Treaty of Guarantee signed by Cyprus, the United Kingdom, Greece and Turkey by which the independence, territorial integrity and security of the Republic of Cyprus, as well as the state of affairs established by the Basic Articles of its Constitution, are recognized and guaranteed (United Nations, *Treaty Series*, vol. 382 (1960), No. 5475);

(c) The Treaty of Alliance signed by Cyprus, Greece and Turkey, aiming at protecting the Republic of Cyprus against any attack or aggression, direct or indirect, directed against its independence or its territorial integrity (United Nations, *Treaty Series*, vol. 397 (1961), No. 5712).

21. Whilst establishing an independent and sovereign Republic, the Constitution of Cyprus, “unique in its tortuous complexity and in the multiplicity of the safeguards that it provides for the principal minority, ... stands alone among the constitutions of the world” (S.A. de Smith, *The New Commonwealth and its Constitutions*, London, 1964, p. 296). Therefore, it was no surprise that, within less than three years, abuse of safeguards by the Turkish Cypriot leadership led to total unworkability of the Constitution which necessitated the proposals for constitutional amendments submitted by the President of the Republic and which were immediately rejected by the Turkish Government and subsequently by the Turkish Cypriot leadership.

22. Turkey, in furtherance of its designs based on territorial aggrandizement, instigated the Turkish Cypriot leadership’s resort to insurrection against the State, forced the Turkish Cypriot members of the executive, legislature, judiciary and the civil service to withdraw from their posts and created military enclaves in Nicosia and other parts of the island. As a result of the foregoing and the intercommunal violence that ensued, the Security Council of the United Nations was seized with the situation and by resolution 186 (1964) of 4 March 1964 a peacekeeping force (UNFICYP) was sent to Cyprus and a mediator appointed. In his report (S/6253-A/6017) the Mediator, Dr. Galo Plaza, criticized the 1960 legal framework and proposed necessary amendments which were again immediately rejected by Turkey, a fact which resulted in serious deterioration of the situation with constant threats by Turkey against the sovereignty and territorial integrity of Cyprus which necessitated a series of United Nations resolutions calling, inter alia, for respect of the sovereignty, independence and territorial integrity of Cyprus.

23. The Secretary-General of the United Nations in 1965 described the policy of the Turkish Cypriot leaders in this way:

“The Turkish Cypriot leaders have adhered to a rigid stand against any measures which might involve having members of the two communities live and work together, or which might place Turkish Cypriots in situations where they would have to acknowledge the authority of Government agents. Indeed, since the Turkish Cypriot leadership is committed to physical and geographical separation of the communities as a political goal, it is not likely to encourage activities by Turkish Cypriots which may be interpreted as demonstrating the merits of an alternative policy. The result has been a seemingly deliberate policy of self-segregation by the Turkish Cypriots” (S/6426).

Despite this policy, a certain degree of normality gradually returned to Cyprus and by 1974, with the active encouragement of the Government, a large proportion of Turkish Cypriots were living and working alongside their Greek Cypriot fellow citizens.

24. Using as a pretext the coup d'état of 15 July 1974, instigated by the Greek military junta against the Cypriot Government, Turkey invaded the island on 20 July 1974. A total of 40,000 Turkish troops landed on the island, in violation of the Charter of the United Nations, the Treaties of Guarantee and Alliance and the relevant principles and norms of international law. As a result, 35.83 per cent of the territory of the Republic remains occupied. Forty per cent of the Greek Cypriot population, representing 82 per cent of the population of the occupied area, were forcibly expelled. Thousands of people, including civilians, were wounded, ill-treated or killed. Moreover, the whereabouts of hundreds of Greek Cypriots, including women and children and other civilians, many of whom were known to have been captured by the Turkish Army, are still unknown.

25. The Turkish occupation authorities resorted to a policy of systematic destruction of the cultural and religious heritage of Cyprus.

26. Since the Turkish occupation army has assumed effective control of the northern part of the territory of Cyprus, Turkey has pursued a systematic State policy of colonization, resulting in a drastic demographic change, whereby a substantial portion of the population now consists of settlers. Today in the occupied part of Cyprus live 115,000 settlers, 110,000 of whom come from Turkey and are of Turkish nationality and the rest form an assortment of various nationalities. There is of course, also, a permanent presence of 35,000 Turkish occupation troops.

27. Over the same period a total of 5,000 Turkish Cypriots emigrated from Cyprus. In fact, the number of Turkish Cypriots in the occupied area has actually gone down from 116,000 in 1974 to 88,000 at present. A natural population increase would have brought this figure up to 153,578.

28. A series of United Nations General Assembly and Security Council resolutions condemned the invasion of Cyprus, the continuing military occupation, the colonization and the secessionist acts that followed; demanded the return of the refugees to their homes in safety, as well as the tracing of the missing persons; urged the speedy withdrawal of all foreign troops; and called for respect for the human rights of the Cypriots (General Assembly resolutions 3212 (XXIX)



of 1 November 1974, 3395 (XXX) of 20 November 1975, 31/12 of 12 November 1976, 32/15 of 9 November 1977, 33/15 of 9 November 1978, 34/30 of 20 November 1979 and 37/253 of 13 May 1983; Security Council resolution 353 (1974) of 20 July 1974, 354 (1974) of 23 July 1974, 355 (1974) of 1 August 1974, 357 (1974) of 14 August 1974, 358 (1974) of 15 August 1974, 359 (1974) of 15 August 1974, 360 (1974) of 16 August 1974, 361 (1974) of 30 August 1974, 364 (1974) and 365 (1974) of 13 December 1974, 367 (1975) of 12 March 1975, 370 (1975) of 13 June 1975, 414 (1977) of 15 September 1977, 440 (1978) of 27 November 1978, 541 (1983) of 18 November 1983, 550 (1984) of 11 May 1984, 649 (1990) of 12 March 1990, 716 (1991) of 11 October 1991, 750 (1992) of 10 April 1992, 774 (1992) of 26 August 1992, 789 (1992) of 25 November 1992, 939 (1994) of 29 July 1994, 969 (1994) of 21 December 1994, 1000 (1995) of 23 June 1995, 1032 (1995) of 19 December 1995, 1062 (1996) of 28 June 1996, 1092 (1996) of 23 December 1996, 1117 (1997) of 27 June 1997, 1146 (1997) of 22 December 1997, 1178 (1998) and 1179 (1998) of 29 June 1998, 1217 (1998) and 1218 (1998) of 22 December 1998, 1250 (1999) of 26 June 1999, 1251 (1999) of 29 June 1999, 1283 (1999) of 15 December 1999, 1303 (2000) of 14 June 2000, 1331 (2000) of 13 December 2000, 1354 (2001) of 12 June 2001 and 1384 (2001) of 13 December 2001).

29. On 15 November 1983 the regime installed by Turkey in the part of Cyprus occupied by Turkish troops issued a declaration by which it purported to create an independent State. Turkey immediately accorded recognition to the secessionist entity, which, however, has not been recognized by any other State. Further secessionist acts followed. United Nations Security Council resolutions 541 (1983) and 550 (1984) condemned the unilateral declaration and all subsequent secessionist acts, declared them illegal and invalid and called for their immediate withdrawal. The resolutions also called on all States not to recognize the purported State and not to facilitate or in any way assist it.

30. Moreover, the European Commission on Human Rights held the Government of Turkey responsible for gross, massive and continuing violations of human rights in Cyprus, including murders, rapes, expulsions and refusal to allow more than 180,000 Greek Cypriot refugees, representing almost one third of the entire population, to return to their homes and properties in the occupied part of Cyprus (see Cyprus against Turkey, report of 10 July 1976 on Applications No. 6780/74 and 6950/75, and report of 4 October 1983 on Application No. 8007/77 of the European Commission on Human Rights).

31. The European Court of Human Rights in the *Cyprus v. Turkey* case (application No. 25781/94) has pronounced on the overall legal consequences of Turkey's invasion and continued military presence in Cyprus. The Court's decision of 10 May 2001 set out a number of basic principles the most important of which are the following:

(a) That the Government of the Republic of Cyprus is the sole legitimate Government of Cyprus;

(b) That in the opinion of the international community and of the Court the Turkish Republic of Northern Cyprus is not a State under international law;

(c) That the local administration in northern Cyprus survives by virtue of Turkish military occupation and other forms of support;

(d) That Turkey, having “effective overall control over northern Cyprus” is responsible for all human rights violations committed by its own soldiers, officials or the local administration.

32. The European Court of Human Rights has also issued important judgements on individual applications of Cypriots. On 18 December 1996 the Court, in its judgement in the *Loizidou v. Turkey* case, found that the applicant, Mrs. Titina Loizidou, a Cypriot citizen, remained the legal owner of her property in the town of Kyrenia, in the area of Cyprus occupied by the Turkish forces and that Turkey is and continues to be in breach of article 1 of Protocol No. 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms by its complete negation of the applicant’s rights in the form of total and continuous denial of access and purported expropriation without compensation.

33. On 29 July 1998 the European Court of Human Rights ordered Turkey to pay pecuniary damages of £C 300,000 to Mrs. Loizidou, a further £C 20,000 for non-pecuniary damage and £C 137,084 for her costs and expenses. Turkey has so far refused to comply with the Court’s ruling.

34. From the foregoing, it is evident that the Government of the Republic of Cyprus is prevented by an armed force from exercising its authority and control and ensuring implementation of and respect for human rights in the occupied area. The reports of the European Commission on Human Rights entitled, “Cyprus against Turkey” notes, inter alia, that:

“The Commission concludes that Turkey’s jurisdiction in the north of the Republic of Cyprus, existing by reason of the presence of her armed forces there which prevents exercise of jurisdiction by the applicant Government, cannot be excluded on the ground that jurisdiction in that area is allegedly exercised by the ‘Turkish Federated State of Cyprus’.”

35. In its search for a peaceful solution, the Cypriot Government, despite the continuing illegal occupation, agreed to intercommunal talks being held on the basis of the aforementioned resolutions. These talks are continuing even today. Success has not been possible because of the Turkish intransigence and partitionist designs. In the words of the United Nations Secretary-General, “For the present, the Security Council finds itself faced with an already familiar scenario: the absence of agreement due essentially to a lack of political will on the Turkish Cypriot side” (document S/1994/629, para. 53).

36. The Cypriot Government hopes that Turkey and the Turkish Cypriots will show the necessary commitment, goodwill and respect for international law and will fully cooperate so that the talks currently being held will yield results. The Cypriot Government aims at a just, viable, comprehensive and functional solution under a bizonal, bicommunal federal structure that will guarantee the independence, territorial integrity, unity and sovereignty of Cyprus, free from the occupation troops and illegal settlers, a solution which would ensure full respect for human rights and fundamental freedoms for all Cypriots, irrespective of ethnic origin or religion.

## **B. The constitutional structure**

37. The Constitution provides for a presidential system of government with a President who has to be Greek and a Vice-President who has to be a Turk, elected by the Greek and Turkish Communities of Cyprus respectively for a fixed five-year term (art. 1). The President and the Vice-President of the Republic ensure the exercise of the executive power by the Council of Ministers or the individual ministers. The Council of Ministers which comprises seven Greek and three Turkish Cypriot ministers nominated by the President and the Vice-President respectively but appointed by them jointly, exercises executive power in all matters other than those which under express provisions of the Constitution are within the competence of the President and Vice-President and the Communal Chambers (art. 54).

38. A unicameral House of Representatives is provided for by the Constitution as the legislative organ of the Republic composed of 50 representatives, 35 elected by the Greek Community and 15 by the Turkish Community for a five-year term with a Greek Cypriot President and a Turkish Cypriot Vice-President, elected separately. The House of Representatives exercises the legislative power in all matters except those expressly reserved to the Communal Chambers under the Constitution (art. 61).

39. Two Communal Chambers were also envisaged by the Constitution to exercise legislative and administrative power in certain restricted subjects, such as religious affairs and educational and cultural matters, and over communal taxes and charges levied to provide for the needs of bodies and institutions under the control of the Chamber (arts. 86-90).

40. The Constitution provided for a Supreme Constitutional Court consisting of a neutral President and a Greek and a Turkish judge appointed by the President and the Vice-President of the Republic and a High Court consisting of two Greek judges, one Turkish judge and one neutral President, all similarly appointed. The Supreme Constitutional Court was vested with jurisdiction in all constitutional and administrative law matters. The High Court is the highest appellate court. It has revisional jurisdiction and the power to issue orders in the nature of habeas corpus and other prerogative writs. Ordinary civil and criminal jurisdiction in the first instance is vested in the assize and district courts. The Constitution prohibits the setting up of judicial committees or exceptional or special courts under any guise.

41. The independent officers of the Republic are the Attorney-General and his Deputy, the Auditor-General and his Deputy and the Governor and Deputy-Governor of the Central Bank who are also appointed by the President and Vice-President on a community basis. The public service of the Republic should be composed of 70 per cent Greek Cypriots and 30 per cent Turkish Cypriots with a Public Service Commission similarly composed, responsible for appointments, promotions, discipline, etc.

42. Both communities were given the right to maintain a special relationship with Greece and Turkey, including the right to receive subsidies for educational, cultural, athletic and charitable institutions and of obtaining and employing schoolmasters, professors or clergymen provided by the Greek or Turkish Government (art. 108).

43. The entrenched communal character of the Constitution was confirmed by the voting system. All elections were to be held on the basis of separate communal electoral lists (arts. 63 and 94) and separate voting (arts. 1, 39, 62, 86, 173 and 178). Elections are now based on the proportional representation principle.

44. The withdrawal of the Turkish Cypriot officials and their refusal to exercise their functions rendered governance in accordance with certain constitutional provisions impossible. Matters came to a head when the neutral Presidents of the Supreme Constitutional and High Courts resigned in 1963 and 1964 respectively and, therefore, neither Court could function. It should be noted that the Turkish Cypriot judges in both the superior and district courts remained in their posts until 1966 when they were forced by the Turkish Cypriot leadership to leave the bench, whereupon half of them fled abroad.

45. The situation described above necessitated the introduction of remedial legislative measures. Thus, a new Administration of Justice (Miscellaneous Provisions) Law of 1964 was enacted creating a new Supreme Court which took over the jurisdiction of both the Supreme Constitutional Court and the High Court. The first President of the Supreme Court was the Turkish Cypriot most senior judge of the High Court. The same law reconstituted the Supreme Council of the Judicature which is the organ that ensures the independence of the judiciary.

46. The constitutionality of the Administration of Justice (Miscellaneous Provisions) Law, 1964 was challenged before the Supreme Court which, in the case of *The Attorney-General of the Republic v. Mustafa Imbrahim* (1964) (*Cyprus Law Reports*, p. 195), decided that the Law was justified under the doctrine of necessity in view of the abnormal situation prevailing in Cyprus. Thereafter, the administration of justice reverted to normal.

47. Other main areas where, on the basis of the same doctrine, legislative action remedied similar situations were the Communal Chamber, the Public Service Commission and membership of the House of Representatives.

### **III. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED**

48. The basis of the legal system of Cyprus is the common law and the principles of equity applicable at the time of independence as amended or supplemented thereafter by the Republic's statutes and case law. Independence also saw the introduction and development of the continental administrative and constitutional law.

49. It was natural for Cyprus, a country with a long history and tradition of civilization and culture, to accord, immediately after emancipation from colonial rule, vital importance to international law and particularly to human rights norms. Given the superior force of international instruments, international human rights law enriched and reinforced the body of municipal law that protects human rights and liberties. Therefore, one of the first tasks of the new Republic was to examine treaties extended to it by the United Kingdom and notify, as appropriate, succession thereto, whilst examining existing regional and international human rights instruments and ratifying or acceding to nearly all of them, a policy that continues to date.

50. Central in the conduct of international relations of Cyprus is the recognition of the predominance of international law, the purposes and principles of the Charter of the United Nations and particularly the peaceful settlement of disputes based on respect for human rights and fundamental freedoms.

51. The Government of Cyprus has signed, ratified or acceded to the following conventions and international or regional human rights legal instruments, among others:

Convention on the Prevention and Punishment of the Crime of Genocide (1948);

International Covenant on Civil and Political Rights (Ratification Law 14/69) and the two Optional Protocols thereto (ratified by Laws 17(III)/92 and 12(III)/99, respectively);

International Covenant on Economic, Social and Cultural Rights (ratified by Law 14/69);

European Convention for the Protection of Human Rights and Fundamental Freedoms (Ratification Law 39/62) and all its Additional Protocols;

European Social Charter (Ratification Law 64/67, as amended by Laws 5/75, 3/88, 203/91 and 10(III)/00) and the Optional Protocol thereto (ratified by Law 9(III)/00);

Revised European Social Charter (ratified by Law 27(III)/00);

International Convention on the Elimination of All forms of Racial Discrimination (ratified by Law 12/67, as amended by Laws 11/92, 6(III)/95 and 28(III)/99);

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ratified by Law 235/90);

European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ratified by Law 24/89);

Convention on the Political Rights of Women (ratified by Law 107/68);

Convention on the Elimination of All Forms of Discrimination against Women (ratified by Law 78/85);

Convention on the Nationality of Married Women (succeeded to by the Republic of Cyprus on 26 April 1971);

Convention on the Prevention and Punishment of the Crime of Genocide (ratified by Law 59/80);

ILO Conventions No. 111 concerning Discrimination (Employment and Occupation) (ratified by Law 3/68), No. 97 concerning Migration for Employment (Revised) (ratified by the Government of the United Kingdom before independence and extended to Cyprus. After independence the Republic of Cyprus notified on 23 September 1960, that it considered itself bound by the Convention), and No. 143 concerning Migrant Workers (Supplementary Provisions) (ratified by Law 36/77);

Convention relating to the Status of Refugees (ratified by the Government of the United Kingdom and extended to Cyprus in 1956. After independence, the Republic of Cyprus on 16 May 1963, notified the Secretary-General of the United Nations that it considered itself bound by the said Convention) and its Protocol (ratified by Law 73/68);

Slavery Convention and the Protocol amending the Slavery Convention (The Republic of Cyprus submitted a notification of succession on 24 June 1986);

Framework Convention for the Protection of National Minorities (ratified by Law 28(III)/94);

The European Charter for Regional or Minority Languages (ratified by Law 39(III)/93);

The European Cultural Convention (ratified by Law 48/68);

Convention on the Rights of the Child (ratified by Law 243/90);

Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (ratified by Law 26(III)/94);

European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (ratified by Law 36/86);

ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ratified by Law 31(III)/00);

Convention on the Civil Aspects of International Child Abduction (ratified by Law 11(III)/94);

European Convention on the Legal Status of Children Born out of Wedlock (ratified by Law 50/79);

International Agreement for the Suppression of the White Slave Traffic, as amended by the Protocol thereto (succeeded to by the Republic of Cyprus on 16 May 1963);

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (ratified by Law 57/83).

52. The constitutional structure of Cyprus, whilst embodying all norms necessary for the promotion of human rights and securing the separation of powers, particularly the independence of the judiciary, is permeated by communalism leading to separatism even to polarization. The 1960 Constitution, the supreme law of the Republic, is the main instrument that recognizes and protects human rights. Part II of the Constitution, entitled “Fundamental Rights and Liberties”, incorporates and expands upon the Universal Declaration of Human Rights and the European Convention on Human Rights.

53. Although the legislative, executive and judicial authorities are all enjoined by article 35 of the Constitution to secure, within the limits of their respective competence, the efficient application of human rights, it is the totally independent judiciary that is the ultimate protector of human rights and liberties.

54. All laws, and especially Criminal law and procedure, must and do protect fundamental rights. Any law or provisions thereof that violate human rights in any way will, upon a finding of inconsistency, be declared unconstitutional by the Supreme Court; this has occurred in many instances. Any restrictions or limitations of the human rights guaranteed under the Constitution have to be provided by law and have to be absolutely necessary only in the interests of the security of the Republic, or the constitutional order, or public safety, or public order or public health, or for the protection of the rights guaranteed by the Constitution to any person. Provisions relating to such limitations or restrictions should be interpreted strictly. The Supreme Constitutional Court in the case of *Fina Cyprus Ltd. v. The Republic* (RSCC, vol. 4, p. 33) decided that “legislation involving interference with the fundamental rights and liberties safeguarded under the Constitution ... and their construction is governed by the settled principle that such provisions should be construed in case of doubt in favour of the said rights and liberties”.

55. Wherever positive action was contemplated by the Constitution or other instruments in respect of certain, mainly social, economic or cultural rights, such action should be taken within a reasonable time.

56. The remedies available to an individual who claims that his rights have been violated are the following:

- (a) Right of petition and hierarchical recourse;
- (b) Recourse to the Supreme Court for the annulment of any decision, act or omission of an organ or authority (both original and revisional jurisdiction);
- (c) Raising by a party to any judicial proceedings of the question of unconstitutionality of any law or decision, whereupon the Court is obliged to reserve the question for the decision of the Supreme Court and stay the proceedings;
- (d) Civil action for compensation, restitution and declamatory judgement. In cases of possible irreparable damage an injunction may be granted;
- (e) Private criminal prosecution;
- (f) Right of appeal in both civil and criminal cases;
- (g) The prerogative writs of habeas corpus, *certiorari*, prohibition, *mandamus* and *quo warranto*;
- (h) Courts exercising criminal jurisdiction may award compensation to victims of crimes up to, in the case of Assize Courts, £C 3,000;

- (i) The Republic is also liable for any wrongful act or omission causing damage committed in the exercise or purported exercise of the duties of its officers or authorities;
- (j) The Council of Ministers may set up a Commission of Inquiry to investigate and report on serious allegations of misconduct, including violations of human rights;
- (k) The House of Representatives and its Committees in the exercise of their functions, including parliamentary control, consider, on many occasions, allegations or situations that involve abuse of human rights;
- (l) The Attorney-General of the Republic has a special responsibility to ensure the observance of legality and the rule of law and may often, *proprio motu* or at the instance of a complainant, order inquiries or advise on remedies;
- (m) The Commissioner for Administration (Ombudsman) has, inter alia, competence to investigate complaints by an individual that the Administration has violated his individual rights or acted contrary to law or in circumstances amounting to maladministration;
- (n) An individual, having exhausted domestic remedies, may have recourse or submit a communication under the optional procedures of various international human rights instruments such as the International Convention on the Elimination of All Forms of Racial Discrimination, the European Convention on Human Rights, the Optional Protocol to the International Covenant on Civil and Political Rights and the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- (o) Cyprus has also accepted the compulsory jurisdiction of the European Court of Human Rights and the optional clause of compulsory jurisdiction of Article 36 (2) of the Statute of the International Court of Justice.

57. In case of war or public danger threatening the life of the Republic or any part thereof, certain of the fundamental rights guaranteed under and specified by the Constitution may be suspended during the period of the emergency by a proclamation of emergency issued by the Council of Ministers. Such proclamation must be laid forthwith before the House of Representatives which has the power to reject it. The rights that may be suspended are the following:

- (a) The right to life and corporal integrity, only insofar as it relates to death inflicted by a permissible act of war;
- (b) Prohibition of forced and compulsory labour;
- (c) The right to liberty and security of person;
- (d) Freedom of movement;
- (e) Inviolability of the dwelling;
- (f) Interference with correspondence;



- (g) Freedom of speech and expression;
- (h) The rights of assembly and freedom of association;
- (i) Right to property, only insofar as prompt payment of compensation for requisitioning is concerned;
- (j) The right to practise any profession or to carry on any business;
- (k) The right to strike.

58. It should be noted that Cyprus has never proclaimed a state of emergency since independence, not even when the country was invaded by Turkey and part of it was, and continues to be, occupied.

59. International conventions ratified or acceded to by the Republic are incorporated into the Republic's municipal law and have, as from their publication in the *Official Gazette*, superior force to any municipal law. Such conventions are directly applicable in the Republic and can be, and are in fact, invoked before and directly enforced by the courts and administrative authorities (cf. decision of the Supreme Court in civil appeal No. 6616, *Malachtou v. Aloneftis*, 20 January 1986). When an international convention contains non-self-executing provisions, the legislature has a legal obligation to enact appropriate legislation in order to harmonize the municipal law with the convention and make the latter fully enforceable.

60. Furthermore, the Law Commissioner, an independent officer responsible for the updating of legislation (the present holder of the post is the former Head of the EU Department of the Law Office of the Republic), is also tasked with ensuring compliance of Cyprus' reporting obligations under international human rights instruments, as well as identifying areas of inconsistency of municipal law and administrative practice with current international law standards in the field of human rights and proposing necessary action.

61. Cyprus is a practising pluralist democracy with absolute respect for the rights and freedoms of the individual. It continuously strives to achieve more progress in the field of human rights by overcoming difficulties chief of which is the continued occupation of more than a third of its territory. Through instruction and education and other positive action by the State it combats the remnants of prejudice, especially in respect of the equality of the sexes.

62. There are several non-governmental organizations covering all sectors of life, including human rights associations. There are also a number of statutory bodies such as the one for the promotion and protection of women's rights, the tripartite Labour Advisory Board and the Prices and Incomes Board.

63. The role of the mass media in the promotion and protection of human rights is considerable. The press is entirely free and the several daily, weekly and other newspapers and periodicals are privately owned. The same applies to radio and television broadcasting where only one radio and one television station is State-owned but is run by an independent corporation.

#### IV. INFORMATION AND PUBLICITY

64. All international conventions and treaties to which Cyprus becomes party are published in the *Official Gazette*. Appropriate publicity is given to them in the media, printed and electronic press and includes the acceptance of the right under optional procedures to petition or address communications to human rights organs.

65. Human rights are considered a particularly important issue and special action is always taken to promote awareness among the public, and the relevant authorities, of the rights contained in the various human rights instruments. Awareness, as the necessary precondition to, inter alia, claiming one's rights and preventing abuses, is pursued mainly through education by including the teaching of human rights in the curricula at all levels of education, teachers' and police training academies, parents' guidance and other similar institutions.

66. The Government, the media and the private sector publish books and pamphlets on the question of violation of human rights in various languages. Posters and brochures are distributed to schools, youth centres and organizations. Special press releases regarding human rights are issued as necessary covering both local and international developments including conferences, seminars, lectures, colloquies and other similar events. Articles on human rights frequently appear in the newspapers and in specialized publications including those of the Bar Association and human rights organizations.

#### V. LATEST DEVELOPMENTS

67. The latest effort aimed at resolving the problem of Cyprus was initiated following Security Council resolution 1250 (1999), which requested the Secretary-General of the United Nations to convene negotiations pursuant to United Nations resolutions. Within the framework of this initiative, the President of the Republic of Cyprus, Mr. Glafcos Clerides, in his capacity as leader of the Greek Cypriot community, and the Turkish Cypriot leader, Mr. Rauf Denktaş, took part in five rounds of proximity talks as follows:

New York, 3-14 December 1999;

Geneva, 31 January-12 February 2000;

Geneva, 5-12 July 2000 and 24 July-4 August 2000;

New York, 12-20 September 2000;

Geneva, 1-10 November 2000.

68. The Greek Cypriot side agreed to the principles defined in the aforementioned resolution and negotiated in good faith with the aim of achieving a solution on the basis of the relevant United Nations resolutions and the 1977 and 1979 High-Level Agreements, providing for a bicomunal, bizonal federation with a single sovereignty, international personality and a single citizenship.

69. However, no progress had been achieved during those talks due to the refusal of the Turkish Cypriot leader, Mr. Denktash, to engage in substantial negotiations on the core issues of the problem of Cyprus unless his demands with regard to the so-called “acknowledgement of realities” in Cyprus were accepted. In fact, Mr. Denktash demanded that the solution called for by the United Nations resolutions on Cyprus, namely a bizonal and bicomunal federation, be abandoned in favour of a confederation.

70. The extent to which each side was in fact committed to the efforts for finding a just and viable solution to the question of Cyprus was demonstrated at the fifth round of proximity talks held in Geneva, from 1 to 10 November 2000. The Secretary-General of the United Nations submitted, during this round of talks, an informal paper in which he outlined his preliminary thoughts on the procedure to be adopted in the future and also on the four main issues of substance, that is, those pertaining to the constitution, territory, security and property. The Turkish side reacted very negatively to these developments. On 24 November 2000, a conference on Cyprus was held at the Presidential Palace in Ankara, under the chairmanship of the President of the Republic of Turkey, Mr. Ahmed Sezer, with the participation of Turkey’s military and political leadership and of Mr. Denktash. At the conclusion of the conference, Mr. Denktash made a statement to the press according to which he saw no point in continuing with the talks because the Secretary-General’s informal paper was not leading to a confederal solution. Ankara fully supported the stance taken by Mr. Denktash. Following the conference at the Presidential Palace, the Prime Minister of Turkey, Mr. Bulent Ecevit, stated that Turkey supported Mr. Denktash’s position to withdraw from the talks.

71. From November 2000, intense efforts were undertaken by the international community in order to have the talks resumed. President Clerides expressed on several occasions his readiness to accept an invitation from the Secretary-General of the United Nations for the resumption of the talks. The Turkish side, however, adopted a hostile attitude towards these efforts, insisting on the recognition of two States in Cyprus. On 12 December 2000, at the Nice Summit the European Council reiterated the European Union’s support for the efforts of the Secretary-General and called for a solution of the Cyprus problem in accordance with the resolutions of the Security Council of the United Nations.

72. The sustained efforts of the Special Adviser to the Secretary-General on Cyprus, Mr. Alvaro De Soto, and other foreign envoys for the resumption of the talks failed to produce any results. Following his meeting with Mr. De Soto during the second half of January 2001, Mr. Denktash stated that “the new round of talks was not necessary”. Furthermore, the Foreign Minister of Turkey, Mr. Ismail Cem, during a visit to the occupied north of Cyprus between 16 and 18 April 2001, warned against the accession of Cyprus to the European Union and went as far as threatening the European Union by stating that, if accession takes place, Turkey’s reaction “will have no limits”.

73. An important development was the publication on 10 May 2001 of the judgement of the European Court of Human Rights in the fourth inter-State recourse of Cyprus against Turkey (application 2578/94). The Court has found Turkey in violation of 14 articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols. These concern the rights of Greek Cypriot persons missing as a result of Turkey’s invasion, the

rights of their families, the rights of persons displaced from their homes and properties and the rights and freedoms of Greek Cypriots and Turkish Cypriots living in the occupied areas. Beyond these findings, the Court has elaborated on a number of key issues of principle and has pronounced the following:

That the Government of the Republic of Cyprus is the sole legitimate Government of Cyprus;

That in the opinion of the international community and of the Court the Turkish Republic of Northern Cyprus is not a State under international law;

That the subordinate local administration of Turkey in northern Cyprus survives by virtue of Turkish military occupation and other forms of support;

That Turkey, having “effective overall control over northern Cyprus”, is responsible for all human rights violations by her own soldiers, officials or subordinate local administration.

74. The international community’s commitment to a solution within the framework of the United Nations was reiterated in a communiqué issued by the G-8 Foreign Ministers who, on 19 July 2001, issued a statement reiterating their support for the efforts of the United Nations Secretary-General aimed at the resumption of the talks. Working towards this end, the European Union Commissioner for Enlargement, Mr. Gunter Verheugen, arranged a meeting with Mr. Denktash in Geneva, on 27 August 2001. The efforts towards the resumption of the talks culminated in the arrangement of a meeting between the United Nations Secretary-General and Mr. Denktash in Salzburg, Austria, on 28 August 2001. Both Mr. Verheugen and Mr. Annan tried to convince Mr. Denktash to return to the negotiating table. Unfortunately, their efforts were to no avail. Following the meeting in Salzburg Mr. Alvaro De Soto embarked on a mission to Cyprus, from 28 August to 5 September 2001. At the end of his consultations with President Clerides and Mr. Denktash, Mr. De Soto extended to each of them, on behalf of the United Nations Secretary-General, an invitation to go to New York on 12 September in order to resume negotiations. President Clerides immediately accepted the invitation. Mr. Denktash, nevertheless, rejected the invitation. The Turkish Cypriot leader insisted on placing preconditions before he could return to the negotiating table. In all his preconditions he insisted on the acceptance of a confederal solution between two equal and sovereign States in Cyprus, despite the fact that these preconditions are contrary to all United Nations resolutions on the subject, in particular Security Council resolutions 541 (1983), 550 (1984) and 1250 (1999).

75. On 6 September 2001 in a written statement from Brussels, European Union Commissioner for Enlargement, Mr. Gunter Verheugen, expressed his disappointment that Mr. Denktash had not accepted the United Nations Secretary-General’s invitation to take part in talks scheduled for 12 September.

76. Due to the temporary halt in the United Nations activities, as a result of the events of 11 September 2001 in the United States of America, the Security Council was briefed on the outcome of the talks only on 26 September 2001. That day the President of the Council made a statement to the press in which he commended the Secretary-General and his Special Adviser for their efforts to move the process forward, including an invitation to the leaders to resume the

search for a comprehensive settlement in New York. The President of the Council added that the “Council members expressed disappointment at the unjustified decision by the Turkish side to decline that invitation”.

77. The President of the European Commission, Mr. Romano Prodi, accompanied by Commissioner Verheugen, visited Cyprus on 25 and 26 October 2001 and held talks with President Clerides. This was the first visit ever by a President of the European Commission to Cyprus. In a speech before a special plenary session of the House of Representatives, President Prodi referred, inter alia, to the Cyprus problem and, alluding to the Helsinki European Council Decision of December 1999, reiterated that, although the European Union would be delighted if the efforts of the United Nations to find a solution to the Cyprus problem were to bear fruit before enlargement, this is not a precondition for Cyprus’s accession. The President of the European Parliament, Mrs. Nicole Fontaine, during an official visit to Cyprus on 22 and 23 November 2001, gave the same unequivocal message concerning accession of Cyprus to the European Union, in even stronger terms.

78. The unequivocal stance of the European Union at all levels and the consistent attitude of all major actors involved in the efforts for the promotion of a solution to the problem of Cyprus led to the meeting between the leaders of the two communities on 4 December 2001 and the subsequent decision to resume talks on 16 January 2002.

79. The members of the United Nations Security Council on 13 December 2001 welcomed “this and other positive developments” and expressed “the hope that progress will be achieved at the negotiating table resulting in a comprehensive settlement”. The President of the Security Council said that Council members gave their full support to the Secretary-General’s mission of good offices, conducted pursuant to Council resolution 1250 (1999).

80. The Greek Cypriot side engaged in the resumed talks with the will to reach a solution to the problem as soon as possible, and prior to the conclusion of the negotiations for the accession of the Republic of Cyprus to the European Union.

81. On 26 February 2002 the Security Council heard a briefing from Mr. Alvaro De Soto on the series of direct talks held from 16 January to 19 February 2002. In a statement by the President, the members of the Security Council welcomed the commencement of regular negotiating sessions under the auspices of the Secretary-General and indicated that the objective should be to reach agreement by June 2002.

82. On 4 April 2002 the President of the Security Council issued a press statement after the Council members heard an interim report from Mr. Alvaro De Soto. The statement reiterated the June target date for agreement, and urged the two sides to reach a comprehensive settlement, which would take full account of relevant United Nations resolutions and treaties.

83. A further interim report was submitted by Mr. Alvaro De Soto to the Security Council on 2 May 2002. In a press statement by the President of the Council the Council members reiterated their support for a comprehensive settlement, which would take full consideration of relevant United Nations resolutions and treaties, and urged both sides, and in particular the Turkish side, to cooperate fully with the Secretary-General in such an effort.

84. In an effort to expedite the process the Secretary-General, Mr. Kofi Annan, arrived in Cyprus on 14 May 2002, where he held meetings with the leaders of the two communities. Upon his departure on 16 May 2002, he expressed the conviction that until the end of June 2002, the two leaders could resolve all the core issues, provided they would go about their task decisively and with the necessary political will. By 2 July 2002, four rounds of talks had been held without achieving substantial progress, despite the fact that the target date set for reaching an agreement was the end of June 2002.

85. On 9 July 2002, the Security Council reviewed the whole process since the initiation of direct talks on 16 January. Following a briefing by Mr. Alvaro De Soto the President of the Council issued a press statement in which he expressed disappointment at the failure to meet the target date for agreement, which was June 2002, and noted that the Turkish Cypriot side had been less constructive in its approach so far and had declined to support the goal of resolving the core issues by the end of June. The statement called for a comprehensive settlement, which would take full consideration of relevant United Nations resolutions and treaties, strongly underscoring the need for the Turkish side in particular to move in this direction. The Council finally invited the Secretary-General to submit a further report in early September 2002.

86. On 6 September 2002, the Secretary-General held a meeting in Paris with the leaders of the two communities. In a statement issued after the meeting, the Secretary-General announced a new meeting with the two leaders on 3 and 4 October 2002 in New York and expressed his belief that though serious differences still existed, the gaps dividing the parties could be bridged.

87. On 3 and 4 October 2002, the Secretary-General held two days of intensive consultations with the leaders of the two communities in New York. In a press statement issued on 4 October 2002, the Secretary-General announced the establishment of two ad hoc bilateral technical committees with the purpose of making recommendations on technical matters and focusing on treaties and future [common State] laws. While the Greek Cypriot side immediately appointed the members of the committees the Turkish side used delaying tactics. As stated in the Secretary-General's latest report on his mission of good offices in Cyprus, "this led to a debilitating delay in the work of the committees, which began only in mid-January 2003: more than three of the five months available were lost".

88. On 11 November 2002, the Secretary-General conveyed to the two sides a detailed plan for a comprehensive settlement of the problem of Cyprus, asking the two leaders to give an initial response to the plan within a week. On 18 November 2002, President Clerides handed the reply of the Greek Cypriot side to Mr. Alvaro De Soto, expressing his readiness to start negotiations without any delay on the basis of the document that was before the two sides. The Turkish Cypriot side replied belatedly, on 27 November 2002, indicating that it was willing to negotiate the plan of the Secretary-General while stating that certain of its provisions constituted a source of grave concern and should therefore be taken up and clarified.

89. On 10 December 2002, Mr. Alvaro De Soto delivered to the two sides a revised version of the United Nations proposed "Basis for Agreement on a Comprehensive Settlement of the Cyprus Problem". In his accompanying letter the Secretary-General asked the two leaders to give the revised version their most urgent consideration with a view to reaching a decisive

conclusion so that a reunited Cyprus could accede to the European Union. The Secretary-General also asked the two sides to be available for talks in Copenhagen, where the European Council would convene.

90. In response to the Secretary-General's request the Greek Cypriot side presented itself in Copenhagen in full composition (the President of the Republic accompanied by the negotiating team and the leaders of most political parties). By contrast, the Turkish Cypriot leader did not respond to the pleas of the Secretary-General. At the last moment Mr. Ertugruloglu presented himself as Mr. Denktash's representative only to inform the Secretary-General's Special Adviser that he was not prepared to sign an agreement as, in any case, he had no authorization from the Turkish Cypriot leader to do so.

91. The European Council at Copenhagen decided, on 13 December 2002, that Cyprus together with nine other candidate countries would accede to the European Union on 1 May 2004. On the same day, the spokesperson of the Secretary-General, Mr. Fred Eckhard, stated, *inter alia*, that "an opportunity remains, particularly until 28 February, to resolve this problem and achieve a comprehensive settlement, which would allow a reunited Cyprus to accede to the European Union".

92. On 18 December the President of the United Nations Security Council, Mr. Alfonso Valdívieso of Colombia, issued a press release in which the members of the Council regretted that the Turkish Cypriot leadership had not responded in a timely manner to the initiatives of the Secretary-General and called for constructive efforts to reach a settlement in conformity with the timetable proposed by the Secretary-General.

93. The stance taken by the Turkish Cypriot leader proved to be in contrast to the will of the Turkish Cypriots. On 26 December 2002, a mass rally was organized in the Turkish occupied part of Nicosia, in which around 30,000 Turkish Cypriots called for the acceptance of the Secretary-General's plan, so that a solution to the Cyprus problem could be reached by 28 February 2003, and criticized Mr. Denktash for his negative approach during the negotiations. In his address to the participants, the Turkish Cypriot politician Mr. Mustafa Akinci accused Mr. Denktash of dragging Cyprus into permanent division. A statement issued at the end of the rally read: "We are announcing to the world that Denktash does not represent the Turkish Cypriots. The struggle will continue until we reach a lasting peace."

94. Moreover, on 14 January 2003, more than 50,000 Turkish Cypriots took to the streets of occupied Nicosia, for the second time in 20 days, demonstrating in favour of a solution to the Cyprus problem and accession to the European Union, and urging Mr. Rauf Denktash to negotiate on the basis of the revised plan, with a view to reaching a solution by 28 February. The demonstrators carried and chanted slogans such as: "Denktash has to resign", "We do not want to live in an open prison", "Denktash, sign the plan by 28 February or resign", "We want peace", "No one can obstruct peace", "This country is ours", and "Denktash will go, peace will come".

95. Commenting on these developments the Secretary-General stated: "First of all, I am pleased that the people are out in the streets promoting peace and demanding peace and demanding the unification. I think that this is something that we have worked very hard on and many people in the region had hoped for." At the same time he urged the two leaders to listen to the "voices of the ordinary people about their desire for peace".

96. In addition, the spokesman for the United States State Department, Mr. Richard Boucher, noted that "there are very large demonstrations in Cyprus that show that Turkish Cypriots understand the significant benefits of achieving that kind of comprehensive settlement and achieving it now. Obviously we couldn't agree more". On the same issue, the United States State Department's Special Coordinator on Cyprus, Mr. Thomas Weston, stated: "There can be no doubt that this is an expression of the will of the Turkish Cypriots. We obviously support democratic expressions of the will of the people and we obviously support what they are saying."

97. On 15 January 2003 President Clerides and Mr. Denktash met at the United Nations-protected area of the Nicosia Airport, in the presence of Mr. Alvaro De Soto, and reiterated their commitment to negotiate on the basis of the Secretary-General's revised proposal of 10 December 2002. At the same time, the Governments of Greece and Turkey were asked to focus on reaching an agreement on the security aspects of the plan. Unfortunately, due to the Turkish Government's unwillingness there was no progress on this issue as well. Meanwhile, presidential elections were held in Cyprus, on 16 February 2003, and a new Government was voted in. Newly elected President Tassos Papadopoulos reaffirmed the continuation of the policy of the Greek Cypriot side on the United Nations process and expressed his willingness to immediately engage in negotiations.

98. During the last week of February 2003 the Secretary-General visited Turkey, Greece and Cyprus and formally presented a third version of his plan on 26 February 2003. In a move to indicate the continuity in the approach of the Greek Cypriot side regarding the talks, acting President Mr. Clerides and President-elect Mr. Papadopoulos met together with the Secretary-General and the Turkish Cypriot leader, Mr. Denktash. The following day Mr. Annan extended an invitation to the leaders of the two communities to meet him at The Hague on 10 March 2003, in order to inform him whether or not they were prepared to sign a commitment to put the United Nations plan to separate simultaneous referendums on 30 March 2003.

99. On the same day, the Turkish Cypriots held their biggest rally to date, demanding a solution to the Cyprus problem in accordance with the United Nations plan and the accession of Cyprus to the European Union. On 28 February 2003 both President Papadopoulos and Turkish Cypriot leader Mr. Denktash responded positively to the invitation of the Secretary-General to meet him at The Hague on 10 March 2003. At the same time though, Mr. Denktash engaged in a series of public statements claiming that he could not undertake any commitment as regards the holding of referendums and following the Secretary-General's departure from the island withdrew Turkish Cypriot participation in the work of the technical committees.

100. At The Hague, the Greek Cypriot side once again acted in a constructive and positive manner by expressing its willingness to put the Secretary-General's plan to referendum as long as the whole legal framework was in place, and in particular the legislation related to the common State and its common Government. President Papadopoulos also indicated that "as



long as the plan had the question of security as an indispensable prerequisite, the Governments of Greece and Turkey as the main interested parties had to reach an agreement so that when the referendum would be put to the people they would fully understand what they were called upon to vote on, especially as regards the issue of security”.

101. The Turkish Cypriot leader, once again, with the support of the hard-line military and diplomatic bureaucracy of Turkey, turned down the proposal to put the plan to referendum, and wanted to make basic and radical changes to the plan and to change its philosophy. This stance was clearly manifested by the Secretary-General himself in his statement of 11 March 2003, which noted that Mr. Denktash “had fundamental objections to the plan on basic points. He believed that further negotiations were only likely to be successful if they began from a new starting point and if the parties agreed on basic principles. He added that Turkey was in any case not in a position to sign the statement requested of the guarantors because this first required the authorization of Parliament”.

102. Following the breakdown of the talks at The Hague, President Papadopoulos expressed his sadness and disappointment and reiterated the Greek Cypriot side’s desire to seek a settlement within the framework of the Secretary-General’s plan even after the Republic of Cyprus joins the European Union. As he put it: “We do not intend, because of Cyprus’s accession to the European Union, to turn our backs on a speedy and viable solution. We shall continue to make persistent efforts to secure this solution.” Addressing himself to the Turkish Cypriots he expressed “the hope that wiser views will prevail and that both sides will be able to create the foundation for a viable solution so that both sides may enjoy the benefits of the accession of a reunited Cyprus in the European Union”.

103. Various statements made by foreign Governments and international organizations reflected the disappointment at the failure to reach an agreement and, at the same time, expressed frustration because once again we were confronted with the same old scenario: the absence of an agreement due to the lack of political will on the part of the Government of Turkey and the Turkish Cypriot side.

104. In this respect the Special Representative of the United Kingdom, Lord David Hannay, blamed Mr. Denktash for the failure of the negotiations at The Hague by recognizing that “Mr. Denktash did not leave the Secretary-General with any other alternative”. United States State Department spokesman, Mr. Richard Boucher, pointed out: “We find it regrettable that Mr. Denktash has denied Turkish Cypriots the opportunity to determine their own future and to vote on such a fundamental issue.” The spokesperson for the European Union Enlargement Commissioner, Mr. Jean Christofe Filori, when asked whether the European Union would consider part of its territory under illegal occupation after Cyprus’s accession, replied: “Yes, we can look at things in that way. The international community, including the European Union, has always considered this occupation illegal. Nothing changes there.”

105. Facing strong criticism not only from international public opinion, but also from the Turkish Cypriot opposition, and just a few days before the release of the United Nations report analysing the negotiation process and of the latest United Nations initiative and two weeks before Cyprus was due to sign the European Union accession treaty, Mr. Denktash sent a letter to

President Papadopoulos in which he proposed a series of what he called “ideas and suggestions” that “would bring about a positive climate to the island and to our region”. Denktash’s proposals were based on his so-called vision of “two separate States and peoples” and were a clear attempt to bypass the United Nations and get out of the corner in which he put himself.

106. In his reply, President Papadopoulos stressed that if any resumption of the talks is to be meaningful, giving hope for a solution to the Cyprus problem on a comprehensive basis in the very near future, Mr. Denktash has to accept (a) the continuation of the mission of good offices of the Secretary-General as provided for in the relevant United Nations Security Council resolutions and (b) the United Nations plan as a basis for a further negotiating process. On the same issue, the European Commission said that a solution to the Cyprus issue could only be found within the framework of the United Nations.

107. On 7 April 2003, the Secretary-General’s report on his mission of good offices in Cyprus was officially released. It objectively demonstrated the negative attitude of the Turkish Cypriot leader throughout the three-year negotiating process since 1999 and the constructive approach adopted by the Greek Cypriot side.

108. The following abstracts of the Secretary-General’s report suffice to show the familiar pattern of the negative attitude of the Turkish Cypriot leader:

“In the case of the failure of this latest effort, I believe that Mr. Denktash, the Turkish Cypriot leader, bears prime responsibility. ... Except from a very few instances, Mr. Denktash by and large declined to engage in negotiation on the basis of give and take” (para. 130).

“Notwithstanding the considerable efforts ... to accommodate the interests of the Turkish Cypriots, Mr. Denktash, at The Hague, rejected my appeal to send the plan to a referendum so that his people could decide on it. ... Faced with Mr. Denktash’s adamant opposition to consider credible ways to meet that deadline, I was left with no alternative but to terminate the process” (para. 134).

109. By contrast, the report demonstrates the positive attitude of the Greek Cypriot side during the process of negotiations:

“... Mr. Clerides sought to find ways to address the interests and concerns of the Turkish Cypriot side ... he was quite prepared to explore approaches different from his own ... Throughout the process, Mr. Clerides showed a capacity to accept that his side bore its share of responsibility for the bitter experiences of the past” (para. 137).

“Mr. Papadopoulos, although thrown into the leadership of the Greek Cypriot side at a very late stage, accepted that continuity existed with his predecessor” (para. 139).  
“... at The Hague, Mr. Papadopoulos agreed conditionally to my request that the plan be submitted to referendum, and he expressed the willingness not to reopen negotiations on the plan itself if Mr. Denktash reciprocated in kind” (para. 140).

110. On 14 April 2003, the Security Council unanimously adopted resolution 1475 (2003) on Cyprus which, inter alia, stated that the Security Council “regrets that, as described in the Secretary-General’s report, due to the negative approach of the Turkish Cypriot leader, culminating in the position taken at the 10-11 March 2003 meeting in The Hague, it was not possible to reach agreement to put the plan to simultaneous referenda as suggested by the Secretary-General ...”. The resolution also calls on all concerned to negotiate within the framework of the Secretary-General’s Good Offices, using the plan to reach a comprehensive settlement as set forth in the Secretary-General’s report.

111. On 16 April 2003 the Republic of Cyprus signed in Athens, along with nine other countries, the Treaty of Accession to the European Union. President Papadopoulos, in a statement he delivered during the signing ceremony, expressed “regret that the artificial walls of division and the line of separation that was imposed by force prevent our Turkish Cypriot compatriots from proceeding with us, within the framework of a reunited Cyprus, on the way to Europe”. While reiterating his “firm commitment to exert every effort to achieve a peaceful, workable and viable solution to the Cyprus problem, which will reunite the people and the country” he affirmed that accession does not mean “that we shall give up our sincere efforts to resolve the problem. On the contrary, we now feel that it is all the more imperative to multiply our efforts to achieve a workable solution that will allow the implementation of the *acquis communautaire* throughout the territory of the Republic of Cyprus, and will reverse the tragic division of our country in a united Europe”.

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