INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)

Concluding Observations on the Fourth Periodic Report of Cyprus

(CCPR/C/CYP/CO/4)

Responses by the Republic of Cyprus in relation to the Recommendations made by the Committee in paragraphs 5, 10, and 23

**C. Principal matters of concern and recommendations**

**National human rights institution**

5. The Committee is concerned that the Office of the Commissioner of Administration (the Ombudsman) lacks the necessary financial, technical and human resources to fulfil its very broad mandate, that it cannot appoint its own staff and it lacks financial autonomy. In addition, the Committee is concerned about the absence of Turkish-speaking staff and that the reports generated by the Office are not published in Turkish (art.2).

***The State party should ensure that the Ombudsman has the financial and technical resources and personnel necessary to perform its task effectively on a fully independent basis, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (General Assembly resolution, 48/134, annex).***

Indeed, despite the expansion of the mandate of the Commissioner of Administration and Human Rights (Ombudsman) and the significant increase of the institution’s responsibilities (especially on issues related to human rights and discrimination), the number of the staff has remained the same and has even been decreased, since two officers were seconded elsewhere. The Ombudsman considers that this situation raises serious issues as regards both the functionality as well as the independence of the institution and has repeatedly requested for additional staff and for the possibility to appoint his/her own staff.

Regarding the absence of Turkish speaking staff in the Office of the Ombudsman, this is due to the provisions of the Public Service Law (L.1/1990, as amended) which provide knowledge of Greek as a requirement. Thus the Reports are not published in the Turkish language, unless they evolve around an issue that concerns the Turkish Cypriot Community, in which case a translation is provided by the Press and Information Office (a Government Department providing translations). The website has been updated and now includes all relevant information in the Turkish, Greek and English language.

The Government is aware that the shortage of staffing is a vital general problem which affects the whole of the public service. This has arisen from the freezing of the filling of all vacant posts due to the financial crisis resulting to budget restrictions with a minimal exceptions in specific essential services, such as hospitals, schools and courts. The issue will be dealt holistically when the financial conditions of the country permit. The secondment of members of the Ombudsman’s Office were only effected with the written consent of the Ombudsman herself.

Regarding the concern that the Ombudsman is not able to appoint his/her own staff directly, it is clarified that the same applies for the Judiciary, the Legislature (that is, the two branches of Government other than the Executive) and other independent institutions/ authorities. This is so, because pursuant to article 122 of the Cyprus Constitution, their staff are deemed to be “civil servants” who are appointed, promoted and dismissed by the Public Service Commission and, as such, are subject to the provisions of the Public Service Law (L.1/1990, as amended).

Ιn July 2015, the Office of the Commissioner of Administration and Human Rights submitted to the UN ICC (International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights) Subcommittee on Accreditation (SCA), an application for accreditation as NHRI under the Paris Principles. The Ombudsman has been informed that the SCA considered the application during its session from 16 to 20 November 2015 and recommended that the Office be accredited with B Status, and now awaits for the final decision of the ICC Bureau.

**Missing persons**

10. While welcoming the support given by the State party to the Committee on Missing Persons in the implementation of its mandate, the Committee is concerned about reports that investigations of missing persons of Greek Cypriot nationality are prioritized over those relating to missing Turkish Cypriots. The Committee is also concerned about the lack of information regarding redress afforded to relatives of victims and the measures taken to investigate cases of missing persons and to prosecute those responsible (arts.2, 3, 6, 7 and 23).

***The State party should continue to provide support to the Committee on Missing Persons and take immediate steps to investigate all outstanding cases of missing persons from both the Greek and Turkish communities in an effective, transparent, independent and impartial manner. It should also ensure that the families of the victims obtain appropriate redress, including adequate compensation and psychological rehabilitation, and that the perpetrators are prosecuted and punished as appropriate.***

Such reports are unfounded and are being reproduced without any check as to their legitimacy. The Committee on Missing Persons (CMP), which operates as a bicommunal programme is established under the auspices of the UN Secretary General and its terms of reference were agreed upon in 1981 and in subsequent agreements by the leaders of the two communities. It consists of three members, one Greek Cypriot and one Turkish Cypriot and an official selected by the ICRC for that purpose with the agreement of both sides and appointed by the Secretary General of the United Nations. Its mandate is to conduct investigations in order to establish the fate of all the missing persons in Cyprus. According to the latest data issued by the CMP, out of total of 2001 missing persons on its official list, there are currently 1428 whose whereabouts have yet to be determined, of which 1073 are Greek Cypriots and 355 Turkish Cypriots. Such data clearly indicates that there is no discrimination in favour of Greek Cypriot missing persons.

The Republic of Cyprus is the major country donor to the CMP programme (after the EU collective contribution) and spares no effort in supporting and assisting the CMP in its work, while it has itself undertaken a number of steps to address this humanitarian issue. In this respect, the Republic covers expenses incurred by the CMP for excavations in the Government-controlled areas and, at the same, time has been carrying out its own parallel programme of exhumations of both missing and known dead persons since 1999. A DNA Data Bank established by the Government served to collect necessary information from the relatives of missing persons, which was later passed on to the CMP. The Government continues to pay the salaries and/or pensions of the Greek-Cypriot missing persons to their families. A stipend is also granted to the families towards the expenses of the burial of the missing persons once they have been identified.

Contrary to the views expressed by the CCPR, the provenance of which is unclear, the European Court of Human Rights in its Judgment on the Fourth Interstate Application of Cyprus vs. Turkey of 10 May 2001, has found Turkey guilty of gross violations on the issue of the missing persons in Cyprus and has held Turkey responsible for carrying out investigations into the whereabouts, fate and conditions of disappearance of the Greek Cypriot missing persons. This has been ascertained by the UN Secretary General, the Committee Against Torture and other bodies, all of which have called on Turkey to comply with its international obligations and take effective measures in this regard. It is in fact Turkey that has so far failed to meet its obligations under international law.

Turkey has been called upon on numerous occasions to provide all relevant information from its archives, as well as to allow complete and unrestricted access to military zones in the occupied areas of Cyprus, in order for exhumations to be carried out where there is substantial information of the existence of burial sites of missing persons. This would contribute substantially towards facilitating and accelerating the work of the CMP. There are currently 31 areas classified as military zones where reliable information exists for the presence of mass graves and in relation to which the CMP is awaiting permission from the Turkish army to begin excavations.

Turkey’s responsibilities on this humanitarian issue go well beyond the mandate of the CMP. This was reaffirmed by the Committee of Ministers of the Council of Europe, which recalled that the Court found that “the respondent state’s procedural obligations at issue cannot be discharged through its contribution to the investigatory work of the CMP. The Court notes that, although the CMP’s procedures are undoubtedly useful for the humanitarian purpose for which they were established, they are not themselves sufficient to meet the standard of an effective investigation required by Article 2 of the Convention, especially in view of the narrow scope of that body’s investigations.”

Notwithstanding Turkey’s responsibilities on the issue, the Cyprus Republic has itself undertaken the initiative to inform the families of the Turkish-Cypriot missing persons that they could have access to information secured by the Government in relation to the investigations and to any possible results in order to determine the fate of their missing relatives. Information in the possession of the competent Government Services concerning the fate of the Turkish-Cypriot missing persons of the period 1963-1974 and of their burial places has also been conveyed to the International Committee of the Red Cross.

According to consistent standing practice, the Greek-Cypriot Member of the CMP informs the Attorney General of the identification and/or finding of remains of Turkish Cypriots who had gone missing during the inter-communal violence in 1963 and 1964 and during the 1974 Turkish invasion. Upon receipt of such information the Attorney General directs the Chief of Police to carry out investigations to ascertain the circumstances of the death of the missing persons and whether this was the result of unlawful acts, and in such a case, to identify and prosecute those responsible.

In the recent years the European Court of Human Rights rejected as premature, due to the fact that investigations were ongoing, individual applications submitted by relatives of Turkish Cypriot missing persons alleging that the Republic has not conducted any investigations into their relative’s deaths (see among others Emin and others vs Cyprus, and six others applications, application no. 59623/08, Gunezel and others and other applications vs Cyprus, application no. 30979/10). The Court rejected further individual applications by relatives of Turkish Cypriot missing persons, due to the fact that the investigations that had been carried out had not been shown to have infringed the minimum standards established by the European Convention on the Protection of Human Rights (article 2) (see among others Gurtekin and others vs Cyprus, Akay and others vs Cyprus, Eray and others vs Cyprus, applications nos. 60441/13, 68206/13 and 68667/13).

**Minority Rights**

23. While welcoming the measure taken by the State Party to remove economic, linguistic and cultural barriers faced by ethnic minorities, including Turkish Cypriots, the Committee is concerned about the small number of Turkish Cypriots in the State party’s civil service, including its police force and judiciary. It is also concerned about reports that demanding Greek language proficiency tests serve as de factobarriers to the integration of minority communities in the civil service. Finally, the Committee is concerned that no steps have been taken to establish a Turkish school in Limassol (arts.2, 26, 27).

***The State Party should continue its efforts to eradicate the economic, linguistic and cultural barriers facing Turkish Cypriots and other minorities. In that regard, it should intensify its efforts to integrate Turkish Cypriots into the civil service and the judiciary, including through the introduction of temporary special measures and consider easing the language requirements needed to enter the civil service. It should also consider establishing a Turkish school in Limassol.***

The Turkish Cypriot Community, by its own decision, withdrew its participation from the State institutions in 1963. Despite the fact that the implementation of the provisions of the Constitution pertaining to the participation of the Turkish Cypriots in the State institutions has since been suspended because of the refusal of the Turkish Cypriot Community to participate in the functioning of the State, the relevant positions remain vacant for their return (e.g Vice President of the Republic, Vice President of the Parliament, members of Parliament). Turkish Cypriots are also free to participate in procedures for any post in the civil service, as the language criterion has been eased and measures are taken to facilitate those wishing to do so.

Furthermore, it is pointed out that, pursuant to the Constitution (Part VIII), the Police is not part of the Civil Service but of the Security Forces of the Republic and is subject to different regulation for each Community (that is the Greek and Turkish Community).

The main concern of the Ministry of Education and Culture (MOEC) is to ensure equal access to education for all children living on the island, taking into account that the right to education is safeguarded by the Constitution. Towards this end, all necessary measures are taken so that effective access to compulsory education for all is guaranteed. Since 2006 the number of Turkish Cypriot pupils attending the Agios Antonios Primary School has been considerably decreased. Whereas in 2006-2007, 47 pupils attended, for the current school year 2015-2016 there are only 23 all of whom are self-identified as Roma. Despite this decrease of 51 per cent, the number of Turkish-speaking teachers and interpreters remains the same. Taking into account that, the general rule, for all schools is one teacher for 25 pupils, the fact that in Agios Antonios there are two teachers and an interpreter for 23 pupils is considered sufficient to cater for their linguistic and educational needs. In addition, during the school year 2014-2015, two teaching assistants (one for the period September –April and the other for the period January-June) were placed at the school through a programme funded by the Human Resource Development Authority.

The Adult Education Centres have also organized for two consecutive school years (2013-2014 and 2014-2015) two groups of Roma children where their history and other elements of their cultural heritage were taught, free of charge. The course titled “History-language-culture” was offered once a week (90 minutes) for 24 weeks. This programme is repeated for the current school year, and 13 pupils attend in two separate groups. All teachers in the specific school have postgraduate degrees (nine have an M.A and two a Ph.D) and attend in-service seminars to enhance their teaching practice. Since January 2016, the school participates in a European funded programme titled “Schools as Learning Communities in Europe: Successful Educational Actions for All (SEAS4ALL)” where all stakeholders are involved with an aim to provide a variety of learning opportunities. The MOEC considers the measures adopted by the Government adequate and the educational needs of Turkish Cypriot pupils are met and up to their expectations, taking seriously into consideration the country’s current financial situation. The MOEC has fully implemented the programme “Zones of Educational Priority”, particularly in respect of the Agios Antonios Primary School and has ensured that the right to education is respected in practice. This programme is now replaced by “School and Social Inclusion Actions” that includes the following additional measures:

● Extra support provided to pupils in language and mathematics;

● Teacher assistants in all classes;

● Additional extra-curricular activities (such as sports and dancing) during school hours as well as after school hours.

Morover, the MOEC provides extra psychological assistance to the school with school psychologist once a week on a regular basis.

As for the establishment of a Turkish school in Limassol, mentioned in the Responses to the List of Issues submitted prior to the examination of the 4th Periodic Report of Cyprus, the Council of Ministers had taken a decision in principle to establish a school in Limassol with Turkish as the language of instruction. However, a survey conducted in 2005 among Turkish Cypriot parents on the proposal for establishing a separate Turkish school, indicated that parents favored attendance at the public school of their area. This demonstrates that, in the view of those concerned, ie the Turkish Cypriot families, the measures adopted by the Government are adequate and the educational needs of Turkish Cypriot pupils are met and up to their expectations.