

Check Against Delivery

61st Session of the Commission on Human
Rights

Statement by

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Mr. Chairman,

It is an honour for me to address the 61st session of the Commission on Human Rights. Let me begin by congratulating you on your well-deserved election as Chairman of this session and to wish you and the Bureau every success.

I would also like to take this opportunity to congratulate Mrs Louise Arbour on the assumption of her new mandate, as High Commissioner for Human Rights. I wish to express our full confidence in her abilities and skills to confront the great challenges in the execution of her duties and to assure her of Cyprus' unwavering support towards this end. I wish also to commend the new Deputy High Commissioner, Mrs Mehr Khan Williams, on her appointment.

In welcoming the statement of the High Commissioner at the opening of the 61st session of the Commission on Human Rights we share many of her views and concerns, in particular on the absence of effective implementation of human rights, In this regard, Cyprus attaches importance to the task of implementing human rights as set out in the Universal Declaration of Human Rights, the Covenants and the other normative human rights instruments developed over the years.

Cyprus also joins all previous speakers in expressing appreciation for the extensive work of the sixteen members of the High-Level Panel and welcomes the Report's recommendations. We will remain fully involved in the follow-up, and in considering many of the recommendations of the High-Level Panel.

As a body that has a mandate to protect and promote human rights in the world, the Commission on Human Rights is, at this point, faced with a number of challenges for reform. However, the focus for reform should not fall exclusively on the CHR, but should involve the treaty bodies, as well as, the Office of the High Commissioner for Human Rights. To this end, we welcome, in particular,

the recommendation for an increase in the funding of the OHCHR, as this would further contribute to its independent mandate.

As an E.U. member state, Cyprus fully concurs with the statement delivered by the Deputy Prime Minister, Minister for Foreign Affairs of Luxembourg, H.E. Mr. Jean Asselborn on behalf of the European Union. I, therefore, would like to focus particularly on the situation in my own country

Mr. Chairman,

In 1975 I was one of the principal witnesses testifying in the hearings held by the European Commission of Human Rights on three interstate applications of the Republic of Cyprus v Turkey. I was not only testifying as a public office holder, but also in my personal capacity as a refugee.

Since then I have been involved in the promotion of the human rights of my fellow countrymen, in one capacity or another, and in all available fora, particularly in European ones, and in the context of the European Convention of Human Rights.

Ten years later, I addressed this Commission for the first time as Foreign Minister. I presented to the Commission, the case for the restitution of the human rights of my fellow countrymen, those human rights that were violated by the invasion of 1974 and the subsequent occupation. This was repeated since then on many occasions.

The members of this Commission are therefore quite familiar with the Question of Human Rights in Cyprus, as this issue has been on the Agenda of the CHR since 1975. Resolution 1987/50 of the CHR called for “full restoration of all human rights to the population of Cyprus, and in particular to the refugees”, expressed alarm at “changes in the demographic structure of Cyprus” with the continuing influx of settlers, called for the “accounting for missing persons in Cyprus without

any further delay” and also called for the “restoration and respect of the human rights...of all Cypriots, including the freedom of movement and the right to property”.

Over all these years, there have been many developments on the question of human rights in Cyprus. The report of the European Commission in the case of the three interstate applications of Cyprus v Turkey, found the respondent state responsible for massive violations of human rights. In the case of a subsequent 4th interstate application of Cyprus v Turkey, the European Court of Human Rights, in its Judgement, of 10 May 2001, found Turkey in violation of the human rights of Cypriots and that Turkey bore exclusive responsibility. Similarly, in the first individual recourse under Article 25 of the European Convention of Human Rights, in the Loizidou v Turkey case, the Court ruled that Turkey violated Mrs. Loizidou’s rights with respect to her property in occupied Cyprus.

There is no doubt that the violation of the human rights of the Cypriots were truly substantiated and accepted by international tribunals. But these violations were not remedied. Over the years we have identified factors that affect and influence the restitution of human rights, we believe, not only in our case but in other situations too.

Obsolescence and oblivion

In pursuing our concerns for the restitution of the human rights of our fellow citizens, we sometimes have to listen to disappointing and even provocative interjections. In explaining the human rights situation to a distinguished interlocutor, recently he responded: “Mr. Minister, that was 30 years ago...”. I never thought human rights were akin to base-metal that tarnished with time, or even corroded.

Nor do I know that there is a built – in obsolescence in the violations of human rights or that they can be cast to oblivion. To paraphrase the High Commissioner, rights that are forgotten, do not exist.

For if human rights age, they do because the international community was indifferent or incompetent or at any rate unable to offer effective remedies or offer restitution.

There is no “statute of limitations” as far as the violation of human rights is concerned. To accept that, would be tantamount to accepting a “malfeasant’s Charter”.

Some suggest that indefinite postponement is a final remedy. 25 years ago, I recall participating in a discussion with a, by now retired Prime Minister, on the Question of Missing persons. He offered the following piece of advice: “the problem of Missing persons will be solved when the parents of the Missing are dead”. That I thought was a cynical attitude. 25 years later, we still pursue the rights of relatives to know what happened to their loved ones. In spite of many disappointments we shall continue to do so.

Political Expediency

Political considerations have been principally responsible for the lack of progress in the restitution of the human rights of Cypriots. I have already put forward the content of the Rulings of the European Commission of Human Rights. The only course of action available to the Commission was to submit its Report to the Committee of Ministers of the Council of Europe, a “par excellence” political body. The Committee of Ministers procrastinated. The Commission’s Report was kept under lock and key, marked “TOP SECRET”. Turkey’s friends and allies rallied to keep the Report secret. It was the press that forced the Committee of Ministers to act. The long awaited decision was finally taken to declassify the

dossier, not to publish it to the general public nor to civil society, but just to take the label "TOP SECRET" off.

I heard many explanations about this extraordinary decision of the Committee of Ministers. One of them was: "The Report shames Turkey to such an extent that it is certain it will take remedial action". That is known as "the adding of insult to injury approach".

In my many interventions in the Committee of Ministers, in the 80's, I argued that the Committee of Ministers which was entrusted by the ECHR to take action on the basis of the Reports of the Commission against malevolent states, had the obligation to act judiciously and not to be motivated by any political considerations. On the contrary to act in a politically motivated way, was against the spirit of the Convention! Even after the revision of the European Convention, the Committee of Ministers remained paramount as a political organ. Yes, it has been debating the Loizidou case since 1996, in spite of the fact that the Court's Judgement was crystal clear. Something finally stirred. Turkey decided to pay compensation to Mrs Loizidou as provided in the first part of the Judgement. What was the secret? It was the other European Commission, that of the European Union, that intimidated that Turkey couldn't hope for commencement of negotiations for accession with the Union without paying up.

The rest of the Judgements are still being debated in the Committee of Ministers included the Judgement on the 4th interstate application!

Take the question of settlers. No one disputes that the settlement of occupied territories is an international crime. It is also a well known fact that there are twice as many mainland Turkish settlers than native Turkish Cypriots. Those who disagree with my figures they should campaign with us to have a census as advocated by the Parliamentary Assembly of the Council of Europe. Their presence in Cyprus poses complex political, military and economic issues. In the first place, they usurped the political rights of the Turkish Cypriot community. In

the second place, they have been allocated properties that belong to Greek Cypriot refugees who were expelled during and after the invasion. This poses considerable difficulties in the restitution of properties to their rightful owners. In discussing the problem, even in well meant plans to solve the Cyprus problem, the argument goes like this: "Accept them all, because if you don't, there will be thousands more coming to flood you".

In fact since the non-approval of a UN sponsored plan by the Greek Cypriot community this line of argument has become common. 45,000 more would-be settlers are on the island now and the argument put forward "they are there because the Greek Cypriots rejected the plan".

The same argument is advanced about land. In the part of Cyprus that is occupied, Turkish Cypriots constituted 16% of the population and owned 12.9 % of the privately owned land. After the expulsion of the Greek Cypriots in 1974, their properties were allocated to Turkish Cypriots and later to Turkish mainland settlers. But there was still unallocated Greek Cypriot land. The theory has been that in a settlement this unallocated land would be returned to Greek Cypriot owners, may be $\frac{1}{4}$ of their rightful ownership, may be less. Of recent, we have heard that the pillage continues at great rate, as unscrupulous officials sell Greek Cypriot owned land to Western European developers.

The answer to this, particularly by those that have duties towards Cyprus, is that "it wouldn't happen if the Greek Cypriots accepted the plan".

The international community surely must credit Cypriots with enough intelligence to judge how the plan deals with rights. A refugee knows exactly whether the plan preserves his right of return and whether this will take in 6 $\frac{1}{2}$ years, or in 21 years, or anything in between, to implement or NEVER. A property owner knows whether he is getting his property back or only a small part of it. They do not need experts to tell them.

It is not my intention to present or argue the plan. Such an approach would in any event be irrelevant. The greatest arbiter on the acceptability of the plan has already spoken in the most authoritative way, by the way of the referendum, as we agreed in New York in February 2004, as an inalienable right of the people to decide on the future of the plan. The people decided that their rights were being discounted in a proposal that was dysfunctional and most probably not viable and which gave foreign powers rights that are contrary to the Charter of the UN.

The people in their infinite wisdom did not give a mark of approval to the specific plan. But a “no” to the plan, is definitely not a “no” for the solution of the Cyprus problem. Leadership and people have sent the message loud and clear. We want a solution immediately. A viable and functional solution, in which all human rights will be respected in a bi-communal, bi-zonal Federation. But at the same time we assert we cannot accept our human rights to be curtailed or be discounted or to be promised to be implemented in such distant horizons as to make them inapplicable. This struggle is not only for our people, but for all those who care for human rights.

Mr. Chairman,

The protection and promotion of human rights are non-negotiable and cannot be sacrificed in favour of political considerations and expediencies. The United Nations’ role as the basic guardian of the human rights system worldwide is, therefore, both instrumental and indispensable. We should all demonstrate our unwavering commitment to fully respecting and implementing our obligations under this universal system of values which has been painstakingly built over the last decades. Certainly, on its part, the Government of the Republic of Cyprus remains fully committed to this noble objective.