

TURKISH CYPRIOT HUMAN RIGHTS FOUNDATION

**Shadow Report to the United Nations Committee on
Economic, Social and Cultural Rights (CESCR)
Regarding the Report of Cyprus concerning the
International Covenant on Economic, Social and
Cultural Rights**

April 2009

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Abbreviations:

EC:	European Commission
ECHR:	European Court of Human Rights
ECRI	European Commission against Racism and Intolerance
ENAR:	European Network against Racism
EU:	European Union
RoC:	Republic of Cyprus
UN:	United Nations
UNFICYP:	United Nations Peacekeeping Force in Cyprus

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Introduction

After the gaining of independence from the British in 1960, The Republic of Cyprus was established as an independent state under the guarantor ship of Greece, Turkey and the UK. The constitution was based on a sophisticated power-sharing mechanism between Greek Cypriots and Turkish Cypriots. In 1963, Greek Cypriot President Archbishop Makarios proposed changes abrogating Turkish Cypriot participation in governance which they strongly opposed thus resulting in outbreaks of violence against the Turkish Cypriot community. Constitutional order collapsed and Turkish Cypriots are excluded from the power-sharing process. These violent manifestations between the communities in 1964 resulted in the arrival of a UN Peacekeeping Force to monitor violence against Turkish Cypriots. Unease between communities in 1963 – 1974 led to a gradual withdrawal of Turkish Cypriots into enclaves for safety and thus triggering the formation of a Turkish Cypriot administration to meet the needs of the isolated community. However, repeated negotiations for a resolution to the problem were unsuccessful. In 1974 a coup against Archbishop Makarios instigated by the “EOKA” movement with the support of the military junta in Greece, and the declaration of “The Hellenic Republic of Cyprus” towards the goal of “Enosis”, the union of Cyprus with Greece resulted in the July 1974, military intervention of the Turkish Army. Turkey exercised its Guarantor power in order to restore “peace” and “constitutional order.” However, intervention resulted in displacement of 165.000 Greek Cypriots and 45.000 Turkish Cypriots. It was after the physical division of Cyprus that a “population exchange” agreement was undertaken; whereby Greek Cypriots moved south to the Greek Cypriot controlled area and Turkish Cypriots move north to the area under Turkish Cypriot administration. In order to reach a solution, in 1977 -1979 Summit Talks between the leadership of both communities led to an agreement that a “bi-communal bi-zonal, federal” Cyprus was the best solution. However, this did not materialize, and after the fruitless negotiations of 1979 – 1983 the declaration of “The Turkish Republic of Northern Cyprus” (TRNC) was announced in November 1983. As a result “The Turkish Republic of Northern Cyprus” has not been and is still not recognized by the international community. Restrictions to the freedom of movement were partially lifted in 2003 and both communities became eligible to cross to the “other” side in 2003. Negotiations under auspices of UN Secretary General Annan in 2001 -2004 led to the “Annan Plan”, a comprehensive solution combining the resolution of the Cyprus dispute and EU membership to include the Turkish Cypriots as part of a new Republic of Cyprus that would then become a member of the European Union. Once again this proposal proved futile after the 2004 island wide referenda: Turkish Cypriots accepted the Annan Plan with 65% in favour Yes vote, however Greek Cypriots rejected the plan with a large 75% No vote. Ultimately the Republic of Cyprus or the Greek Cypriot administration became a fully fledged member of the European Union. . No significant inter communal negotiations took place till after the election of the new Greek Cypriot leader Demetris Christofias. Serious negotiations have continued since 2008 between the 2 leaders D.Christofias and the Turkish Cypriot leader M.A.Talat.

The Turkish Cypriot Human Rights Foundation (TCHRF) was established after the “Annan Referendum” in 2005 as a Vakf (NGO). The underlying principles relating to Vakfs, (Ahkamül Evkaf) were introduced to Cyprus in the year 1571 with the advent of the Ottoman Rulers. Thereafter many donations to Vakfs were made that supported philanthropy, education and community projects relating to social, economic and cultural fields. The Constitution of the Republic of Cyprus preserved the Ahkamül Evkaf in the entrenched provisions of Articles 110 (2) and 23 (10): "Article 110 (2)

The institution of Vakf and the Principles and Laws of, and relating to, or in any way affecting the institution or foundation of Vakf or the Vakfs or any Vakf properties, including properties belonging to Mosques and any other Moslem religious institution, shall be governed solely by and under the Laws and Principles of Vakfs (ahkamül evkaf) and the laws and regulations enacted or made by the Turkish Communal Chamber, and no legislative, executive or other act whatsoever shall contravene or override or interfere with such Laws or Principles of Vakfs and with such laws and regulations of the Turkish Communal Chamber. Under the body of relevant laws relating to Vakf's and still recognized by the Republic of Cyprus and no legislative, executive, or other act may contravene or interfere with Vakf.'s.

The TCHRF has objectives to protect and defend basic human rights of Turkish Cypriots all over Northern Cyprus. Moreover, TCHRF actively defends the human rights of other groups such as refugees, Greek Cypriots, Maronites, migrant workers and other minority groups in Northern Cyprus. The foundation has increased the scope of its activities in order to improve the standard of both implementation and perceptions of human rights in north Cyprus.

After the restrictions to freedom of movement partially lifted in 2003 Turkish Cypriots were allowed to cross to the RoC government controlled areas. Consequently, the lifting of restrictions allowing Turkish Cypriots to work and reside in the RoC meant that the RoC government now had full 'practical' legal responsibility to protect and uphold the rights of the newly entering workforce.

This shadow report specifically focuses on these issues. Unfortunately, our efforts to create a joint shadow report with Greek Cypriot NGOs have been unsuccessful. This report covers the time period post April 2003 immediately after the restrictions on freedom of movement were lifted.

The main concern of TCHRF is to prepare the shadow report in order to point out the racial incidents directed against Turkish Cypriots as well as their rights as workers that cross daily to the RoC controlled areas. This report will also help to bring the situation of the Turkish Cypriot and Roma population who live in the RoC controlled areas to the close attention of the Committee.

Executive Summary

Article 2 State Responsibility, non discrimination, international cooperation

Necessity Principle

Since the partial lifting of the restrictions to freedom of movement on the island responsibility of the RoC towards Turkish Cypriots has increased. However, the “necessity principle” has been used as a very strict instrument in order to violate individual rights of Turkish Cypriots. On the grounds of “necessity principle” some constitutional provisions have been suspended by the successive RoC governments since 1963. Very often RoC arbitrarily used “necessity principle” arbitrarily and for this reason Turkish Cypriots had to challenge the policies of the RoC at the local and international courts. In this way, in one of those cases ECHR ruled that the doctrine of necessity cannot override fundamental rights. By seeking their rights at the courts Turkish Cypriots has gained some rights on right to free elections, social security benefits and limited rights on property issues. However, “necessity principle” still leads to violate human rights of Turkish Cypriots.

- **Property Rights:** A special Law was enacted by virtue of the “law of necessity” and The Turkish Cypriot properties came under the management and custody of the Minister of Interior according to the provisions of the Turkish Cypriot Properties (Administration and Other Matters) (Temporary Provisions) Law 1991. Under this law all Turkish Cypriot Properties located in the Republic controlled area expropriated under the “Custodian Law” and Turkish Cypriot individuals cannot fully enjoy their property rights unless they reside in government controlled areas. According to “Custodian Law” Turkish Cypriot properties would be administered by the “Custodian” (the Interior Minister) until resolution of the Cyprus problem and any compensation due for expropriating these properties would be placed in a special fund and not be paid to them until resolution of the Cyprus problem.
- **Right to Education:** After complaining repeatedly about the lack of a Turkish-language school in Limassol, the Turkish Cypriot teachers' union filed suit, seeking a declaration from the Supreme Court that a 2005 decision by the Council of Ministers to operate a mixed elementary school in Limassol with a specialized program and staff to serve the needs of the Turkish-speaking students was null and void. The union argued that, under the 1960 constitution, the Council of Ministers has no competence in matters of education of Turkish Cypriots. On March 26, the Supreme Court rejected the union's appeal. The government stated that, according to surveys of Turkish Cypriots in the government-controlled area, none had requested a Turkish-language school. The court rejected the case on the grounds that Turkish Cypriot Teachers Trade Union has lack of *locus standi*. The case is appealed and still pending since 23 April 2008.

Racism against Turkish Cypriots

RoC has been failed to prevent consecutive racist attacks towards Turkish Cypriots since the partial lifting of the restrictions to freedom of movement on the island in 2003. Greek and Turkish Cypriot media reported racist incidents very often. However, after many

incidents perpetrators did not get effective penalties. On the other hand “hate crime” is still not taken place in criminal code. Moreover, there is no data is available for incidents of xenophobic, antisemitic or Islamophobic nature, by right-wing extremists or hate crime.

RoC to use textbooks at the primary and secondary school levels that included inflammatory language derogatory of Turkish Cypriots and Turks which creates the roots of racist ideology.

Furtermore, there are no effective human rights mechanims that Turkish Cypriots easily benefit. The Ombudsman Office has no Turkish Speaking staff and no information is given in Turkish Language. Establishment of Independent Authority for the Investigation of Complaints and Allegations against the Police has not announced widely and Turkish Cypriots are not aware of it .

Article 7 Just and favorable conditions of work

Discrimination

Turkish Cypriot workers have some rights like other Cypriot citizens. In practice a small number of Turkish Cypriot workers can enjoy their rights fully and have become a vulnerable group. Although the Turkish is one of the official languages of the RoC it has not become an EU language and Turkish Cypriots are in a disadvantaged position.

Other areas of discrimination against for Turkish Cypriots

- Language: Although Turkish is an official language of the Republic all documents and processes are in Greek only, and so they have no idea of their labour rights and social benefit entitlements.
- Harassment abuse on the job: There is widespread perception that Turkish Cypriots are being treated as “inferior” human beings on the job because Greek Cypriots” feeling of “revenge” of the past (e.g. post 1974) and humiliation
- Job Insecurity: The general approach of employers is: “if you don’t like it, just go.”
- Quality of Labour: Greek Cypriot employers frequently remark that only common labourers from the North are welcome. There is no desire or tolerance for any Turkish Cypriots to be employed in administrative or managerial posts.
- Job equality/Social benefits: In general no pay equity exists. Few workers enjoy social security benefits, typically workers paying for these themselves. Relatively few are too benefit from job protection.

Work Safety

Turkish Cypriot workers tend to be more exposed to labour accidents than Greek Cypriot workers, as a result of being employed in high-risk jobs such as construction.

Article 8 Trade union rights

Although there are no legal restrictions, according to a research only 18.9 per cent of the Turkish Cypriot workers in south have Trade Union Membership.

Article 9 Right to Social Security

Although Turkish Cypriots have the right to register in the Social Insurance Scheme and have the same rights as all citizens in Cyprus only a small ratio have done so. According to research only 57.1 percent of Turkish Cypriot workers are registered in social security schemes and 42.8 percent of them were not covered by the Social Security Scheme.

Article 10 Familial Rights

There are serious complaints relating to the procedure for the acquisition of Cypriot nationality when a Turkish Cypriot married to a Turkish National where he/she entered Cyprus “illegally”. At the same time, their children face the same difficulty. In that kind of situation nationality can be granted by the Council of Ministers’ discretion. However, over the last few years the authorities are deliberately freezing and leaving hundreds of unanswered applications.

Article 11 Right to an adequate standard of living

Housing

Although, the government tried to improve the situation of housing conditions of Roma people, it has not been sustainable because of ignorance relating to the needs of Roma people. The Roma population still face housing problems because of the Roma people living in specific types of homes that they are not used to.

Article 12 Right to Health

Although RoC offers free health care to all Turkish Cypriots all the necessary forms are in the Greek language despite the fact that Turkish is one of the official languages of the RoC. Very often, Turkish Cypriots have difficulties to fill out necessary forms and to communicate with medical staff.

Article 13 Right to Education

Racism

Turkish Cypriot and Roma children are often faced with racism and education record stereotypes and discrimination. In a survey it was found that pupils of 11-12 years of age at the refugee school of Karmiotissa carried out a survey with teachers’ supervision on perceptions and degree of acceptance of Turkish Cypriots by sixth form pupils” from which it emerged that the pupils are suspicious towards Turkish Cypriots and consider them as foreigners, see them as ‘bad’ and they reflect negative historical developments of the Cyprus problem.

Higher Education

The government continues to exert political pressure on universities to refrain from any contact with universities in the Turkish Cypriot community because the government considered universities in the Turkish Cypriot community "illegal." Therefore Turkish Cypriot students that study in northern Cyprus universities that are regulated by the High Education Board of Turkey are not eligible to attend Erasmus, Socrates and Bologna processes or other European scholarship programmes.

Article 2 State Responsibility, non discrimination, international cooperation

Necessity Principle

Since the partial lifting of the restrictions to freedom of movement on the island responsibility of the RoC towards Turkish Cypriots has increased. However, the "necessity principle" has been used as a very strict instrument in order to violate individual rights of Turkish Cypriots. On the grounds of the "Necessity principle" some constitutional provisions have been suspended by the successive RoC governments since 1963. Application of "necessity principle" has been based on two main documents: 1) decision of the Greek-Cypriot Supreme Court titled 'The Attorney General of the Republic v. Mustafa Ibrahim and others' in 1964 (the Ibrahim Case), 2) UN Security Council Resolution of 4 March 1964.¹ Although, in "the Ibrahim" case the court stipulated in which conditions² "necessity principle" shall be applied, RoC arbitrarily used this principle. For this reason Turkish Cypriots had to challenge the policies of the RoC at the local and international courts. As a result, in one of those cases ECHR ruled that the doctrine of necessity cannot override fundamental rights.³

Right to Free Elections

Following the decision of the European Court of Human Rights (ECHR) in the case of Ibrahim Aziz v. the Republic of Cyprus⁴ where the government was found guilty of violating the applicant's right to vote, a bill was prepared to recognize for the Turkish Cypriots who reside in government controlled area the right to vote and right to be elected, purporting to bring the legal framework in line with the ECHR decision.

In 2006 two leading members of the group of 78 Turkish Cypriots not residing in the government-controlled area who had been denied the opportunity to run, Ali Erel and Mustafa Damdelen, sued the government for failure to fully reinstate the Turkish Cypriot community's rights to vote and run for office. On April 30, the Supreme Court dismissed their application. On September 3, Erel and Damdelen applied to the ECHR for redress.

¹ Kudret Özersay, *Perceptions Journal of International Affairs*, page 31

² An imperative and inevitable necessity or exceptional circumstances should exist

There should be no other remedy to apply

The measure taken must be proportionate to the necessity

It must be of a temporary character limited to the duration of the exceptional circumstances

³ European Court of Human Rights Application No. 69949/01

⁴ European Court of Human Rights Application No. 69949/01

Social Security Benefits

In the case of *Ulfet Emin v. The Republic of Cyprus*,⁵ Ulfet Emin a Turkish Cypriot judge who was forced by the Greek-Cypriot police to abandon his post in 1966 sought to set aside, under article 146 of the Constitution, the decision of the Ministry of Finance to reject his claim for lost salaries and/or pension. The applicant was a district court judge in 1966 when the police removed him from his office at gunpoint and forced him back into the Turkish-Cypriot enclave. In 2004 he submitted his claim for lost salaries and/or pension which was rejected by the Finance Ministry on the ground that all cases concerning the payment of benefits to Turkish Cypriot government employees or officers who abandoned their positions must remain pending until the settlement of the Cyprus problem, based on a general decision to that effect from the Council of Ministers dated 4.12.1975. The Court found the Finance Ministry's decision unjustified because a judge is not a government employee and because the applicant did not abandon his post out of his own free will but was forced to leave it. The Court did not touch upon the legality of the Council of Ministry's decision of 1975 to deprive Turkish Cypriot government employees of their benefits.⁶

Property Rights

A special law was enacted by virtue of the “law of necessity” and The Turkish Cypriot properties came under the management and custody of the Minister of Interior according to the provisions of the Turkish Cypriot Properties (Administration and Other Matters) (Temporary Provisions) Law 1991.⁷ Under this law all Turkish Cypriot Properties located in the Republic controlled area expropriated under the “Custodian Law” and Turkish Cypriot individuals cannot fully enjoy their property rights unless they reside in government controlled areas. According to “Custodian Law” Turkish Cypriot properties would be administered by the “Custodian” (the Interior Minister) until resolution of the Cyprus problem and any compensation due for expropriating these properties would be placed in a special fund and not be paid to them until resolution of the Cyprus problem.

In the case of *Arif Mustafa v. The Interior Minister*,⁸ Arif Mustafa Turkish-Cypriot residing in the south since 2002, appealed to the Supreme Court for cancellation of the decision of the Interior Minister not to allow him to repossess his property in the south on the ground that the Minister administers these properties until a final settlement of the Cyprus problem is reached. The Supreme Court ruled in favour of the applicant, cancelling the Minister's decision. Main reasoning/argumentation: The court accepted the applicant's arguments that he did not fall within the definition of 'Turkish-Cypriot, because since 2002 he had his ordinary residence in the south; that with the lifting of the restrictions to move from north to south, the need on which the law was based, which was to protect the properties in the owners' absence, had expired; and that the law contravened Article 28 of the Constitution, which embodies the equality principle and the prohibition of discrimination.

In the case of *Zehra Kemal Ahmet and Nuray Kemal Ahmet v. The Republic of Cyprus through the Interior Minister as Custodian of Turkish Cypriot Properties*⁹ The applicants

⁵ Supreme Court case No. 1473/2005, dated 21.03.2007

⁶ Nicos Trimikliniotis & Corina Demetriou, Cyprus 2007: Racism and Policy Report I, EU Raxen National Data Collection Report, 2007- Cyprus & Symphilioti Policy Paper, page 12

⁷ Law No. 139/1991

⁸ Case no.125/2004

⁹ Case No. 1011/2004

were Turkish Cypriots claiming their property situated in the Republic-controlled areas, arguing that they do not fall under the scope of Law N. 139/1991, which provides for the administration of Turkish Cypriot properties by the Interior Minister, because they did not “abandon” their properties, as the law provides. In fact the applicants claimed that they did not leave their properties as a result of “mass movement of population”, as stated in the law, but because they feared for their lives. The judge rejected the applicants argument, stating that the reason for their movement is deemed to be the Turkish invasion and further added, quoting previous case law on the matter, that the law which gives to the Interior Minister the right of administration of Turkish Cypriot properties is not based only on the absence of freedom of movement and on the need to protect the abandoned properties, but also on meeting the housing needs of Greek Cypriot displaced persons; that the right to property as enshrined in Article 23 of the Constitution is not violated by the Custodian law due to the doctrine of necessity; and that the measure of placing all Turkish Cypriot properties under the administration of the Custodian for a period of time until resolution of the Cyprus problem was “absolutely necessary and proportionate to the situation that had to be addressed.” For this reason, the applicants appeal failed. The scope of applicability of the Custodian law is once again examined by the Court, as in other cases concerning Turkish Cypriot properties reported above. In this case argumentation focused on the reason why the Turkish Cypriot owners left their properties and whether such reason would still constitute “abandonment” or “mass movement of populations” as the law provides. The Court took a very wide approach in defining these two terms, rejecting the owners argument that they left their properties against their will as irrelevant. This decision, as well as all other decisions issued in 2007 on the question of Turkish Cypriot properties appears to be a departure from the principle established in the case of Arif Mustafa v. The Interior Minister as well as in the ECHR decision in the case of Ibrahim Aziz v. The Republic of Cyprus ECHR which ruled that the doctrine of necessity cannot override fundamental rights.¹⁰

In December 2005, Turkish Cypriot Erdogan Durmus filed a case against the Republic of Cyprus at the European Court of Human Rights for the expropriation of his property in the south, alleging discrimination on the ground of his ethnic origin. The applicant had first applied to the Minister of the Interior requesting information regarding the expropriation of his property and requested reinstatement or compensation. In response, he was informed that his application would be examined after resolution of the Cyprus problem. A power plant has been build on the property of Erdogan Durmus and in any case he has right to have compensation for the expropriation of his property. The applicant resorted directly to the European Court of Human Rights despite not having exhausted local remedies. The argument for not exhausting all national measures was that even if he applied to the courts in Cyprus, there would be effective remedy because he would never get his property back based on the current state of legislation and case law, which require prior residence of six months in the south. The case is still pending.¹¹

Right to Education

After complaining repeatedly about the lack of a Turkish-language school in Limassol, the Turkish Cypriot teachers' union filed suit, seeking a declaration from the Supreme Court that a 2005 decision by the Council of Ministers to operate a mixed elementary school in Limassol with a specialized program and staff to serve the needs of the Turkish-speaking students was

¹⁰ Nicos Trimikliniotis & Corina Demetriou, Cyprus 2007: Racism and Policy Report I, EU Raxen National Data Collection Report, 2007- Cyprus & Symphiliosi Policy Paper, page 114

¹¹ Interview with Ali Fevzi Yesilada, the lawyer of Erdogan Durmus

null and void. The union argued that, under the 1960 constitution, the Council of Ministers has no competence in matters of education of Turkish Cypriots. On March 26, the Supreme Court rejected the union's appeal. The government stated that, according to surveys of Turkish Cypriots in the government-controlled area, none had requested a Turkish-language school. The court rejected the case on the grounds that Turkish Cypriot Teachers Trade Union has lack of *locus standi*. The case is appealed and still pending since 23 April 2008.

As we can see from the case law of the local and international courts RoC interpret “principle of necessity” very widely and fundamental individual rights have been breached. It is an obstacle for Turkish Cypriot citizens of the RoC to overcome so that they can enjoy equal economic, social and cultural rights.

Racism

Racist Incidents towards Turkish Cypriots

RoC has been failed to act consecutive racist attacks towards Turkish Cypriots since the partial lifting of the restrictions to freedom of movement on the island in 2003. In 2005, three incidents of violence against Turkish-Cypriots were reported by the media¹². In two out of the three cases the accused who was a member of a far right group,¹³ the emblem of which is based on the Nazi swastika. The members of the group were acquitted on the grounds that the prosecution failed to prove its case beyond reasonable doubt and that any actions of the accused were in self-defense. The incidents and the acquittal that followed have raised concerns that acts inciting ethnic hatred are not effectively dealt with and the activities of Chrysi Avgi in Cyprus are not monitored and addressed.

In November 2006, 15 to 20 Greek Cypriot teenagers, believed to be members of the ultranationalist group National Voice of Youth with a Greek Soul, entered the grounds of The English School and attacked a group of the school's Turkish Cypriot students, causing minor injuries.¹⁴

In 2006 the Turkish Cypriot press reported that a Greek Cypriot individual verbally harassed and threatened Turkish Cypriot Mustafa Guven and his family while driving their car in the government-controlled part of Nicosia. The Greek Cypriot individual allegedly caused extensive damage to Guven's car with a metal bar. In 2006 such incidents occurred repeatedly, specifically at bicommunal activities, including the January 2006 "Together for Peace" and the February 2006 "Cyprus Literature Union" events. In 2006 there was also a physical attack on Turkish Cypriot students in Nicosia by a group of Greek Cypriot teenagers.¹⁵ Moreover, In

¹² Kalatzis, M. (2005) “Xespanan anev logou se Tourkokyprio” in *Politis* (30.09.2005), p.22; Nearchou J. (2005) “Katathese o Tourkokyprios: Anagorise ton Chrysavgiti” in *Politis* (21.09.2005), p.21; Nearchou J. (2005) “Katigoreitai oti ktypise Tourkokyprious- Se apologia o Chrysavgitis” in *Politis* (05.10.2005), p.22

¹³ Chrysi Avgi”, Chrysi Avgi was described by the major political parties in Cyprus as “Nazi”, “racist”, “fascist” as reported in Psyllides, G. (2005) “Ultra-nationalist group in the dock after Turkish Cypriot beaten” in *The Cyprus Mail*, (02.08.2005)

¹⁴ Country Reports on Human Rights Practices - 2007 released by the Bureau of Democracy, Human Rights, and Labor March 11, 2008

¹⁵ Country Reports on Human Rights Practices - 2007 released by the Bureau of Democracy, Human Rights, and Labor March 11, 2008

2006 there were multiple reports that ultranationalist Greek Cypriot groups verbally harassed Turkish Cypriot journalists.¹⁶

In June 2006 the government arrested Turkish Cypriot architect Osman Sarper, crossing from the north to the south, who was allegedly found to be in possession of architectural blueprints for structures being built on Greek Cypriot properties in the area administered by Turkish Cypriots. Authorities charged him with intent to commit a crime, illegal possession and use of property, and attempt to conceal a crime and released him on bail. Sarper failed to appear, citing a medical condition, in three successive hearings. On September 27, the attorney general suspended charges against Sarper due to his condition. A psychiatric examination subsequently showed that he was suffering from manic depression.¹⁷ After the incident many Greek and Turkish Cypriot organisations criticised the government.

In early February 2009 a Turkish Cypriot cemetery was attacked by unknown persons.

On 19th February 2009 a group of Turkish Cypriots were attacked by Appollon Football Club hooligans. After a football game, football fanatics attacked Turkish Cypriot cars while they were waiting at traffic light junction.

Statistical data and tables on racist and related crime

The recording mechanism of the police for offences with a racist motive has recorded three offences during the year 2007. According to information supplied by the police, the aforesaid recording mechanism does not record complaints of racist incidents, but only offences with a racist motive. No data is available for incidents of xenophobic, antisemitic or Islamophobic nature, by right-wing extremists or hate crime.¹⁸

State Supported Racism

Various international human rights reports underlined that RoC use textbooks at the primary and secondary school levels that included inflammatory language derogatory of Turkish Cypriots and Turks. This was a particularly serious concern with history textbooks.¹⁹ Also, according to anecdotal evidence, there have been teachers who used handouts and held discussions that incorporated insulting for Turkish language in the classroom.²⁰

Human Rights Mechanisms

Although the government of RoC enacted necessary laws in order to prevent discrimination, human rights mechanisms remain ineffective for Turkish Cypriots. The Ombudsman Office has no Turkish Speaking staff and no information is given in the Turkish Language. Even the

¹⁶ Country Reports on Human Rights Practices - 2007 released by the Bureau of Democracy, Human Rights, and Labor March 11, 2008

¹⁷ Country Reports on Human Rights Practices - 2007 released by the Bureau of Democracy, Human Rights, and Labor March 11, 2008

¹⁸ Nicos Trimikliniotis & Corina Demetriou, Cyprus 2008: Racism and Policy Report II, , 2008- Cyprus & Symphiliosi Policy Paper, page 8

¹⁹ Country Reports on Human Rights Practices - 2007 released by the Bureau of Democracy, Human Rights, and Labor March 11, 2008

²⁰ Anthoula Papadopoulou – Andriana Kossiva – Oncel Polili, ENAR Shadow Report 2007, Racism in Cyprus, Action for Equality, Support, Anti-racism, Turkish Cypriot Human Rights Foundation, page 22

web page of Ombudsman is in the Greek language only and no useful information is given either in Turkish or the English language.²¹

An Independent Authority for the Investigation of Complaints and Allegations against the Police was established in 2006. The said body purports to be independent but the participation of a senior former police officer and the appointees from the Attorney General's office may raise doubts as to the institutional impartiality of this body.²² This body has not announced widely and Turkish Cypriots are not aware of it .

Article 7 Just and favorable conditions of work

Turkish Cypriot workers employed in the government-controlled area of the island

Discrimination

Since the partial lifting of the restrictions to freedom of movement on the island in 2003, some three to six thousand Turkish Cypriots are reportedly working in the government-controlled area of Cyprus the majority of whom cross the checkpoints on a daily basis and a small number live there. The ECRI Third Report on Cyprus dated 2005 mentions that officially some 3000 Turkish Cypriots are regularly employed in the government-controlled area by the RoC while it is estimated that twice as many Turkish Cypriots may be working there unregistered.²³ Turkish Cypriots compose up to 60-70% of the construction workforce.²⁴ Additionally, Turkish Cypriots are employed in manufacturing and services sectors. Generally, the education level of Turkish Cypriots that work in the south is fairly low, with three out of four having no more than secondary schooling and only 22.3% having a high school education, and only 4% possessing university-level education.²⁵ Furthermore, only 8.3% of the Turkish Cypriot workers are female.²⁶ Furthermore, although Turkish is one of the official languages of the RoC it is not accepted as an official EU language and it puts Turkish Cypriots in a disadvantaged position. As can be seen from these figures, Turkish Cypriot women and Turkish Cypriot university graduate citizens of the Republic Cyprus are under represented .

Turkish Cypriot workers working in the area under the control of the Republic of Cyprus are discriminated against and suffer abuse on the job on matters such as payments and benefits, Social Security Protection, insecurity and harrasment at work.²⁷ The third ECRI Report on Cyprus refers to manifestations of racism and discrimination affecting Turkish Cypriots,

²¹ www.ombudsman.gov.cy

²² Nicos Trimikliniotis & Corina Demetriou, Cyprus 2008: Racism and Policy Report II, , 2008- Cyprus & Symphiliosi Policy Paper, page 11

²³ European Commission against Racism and Intolerance, Third Report on Cyprus, 16 May 2006, page 24 http://www.coe.int/t/e/human_rights/ecri/1-ecri/2-country-by-country_approach/cyprus/CYP-CbC-III-2006-17-ENG.pdf.

²⁴ Nicos Trimikliniotis & Corina Demetriou, Cyprus 2007: Racism and Policy Report I, EU Raxen National Data Collection Report, 2007- Cyprus & Symphiliosi Policy Paper, page 45, paragraph 68.

²⁵ Dr. Ozay Mehmet, M. Tahiroglu, F. Lisanailer, S. Katircioglu, Labour Mobility and Labour Market Convergence in a Possible United Republic of Cyprus, Turkish Studies, Vol. 8, No. 1, (March 2007), p. 51.

²⁶ Dr. Ozay Mehmet, M. Tahiroglu, F. Lisanailer, S. Katircioglu, Labour Mobility and Labour Market Convergence in a Possible United Republic of Cyprus, Turkish Studies, Vol. 8, No. 1, (March 2007), p. 51.

²⁷ Dr. Ozay Mehmet, M. Tahiroglu, F. Lisanailer, S. Katircioglu Labour Mobility and Labour Market Convergence in a Possible United Republic of Cyprus, Turkish Studies, Vol. 8, No. 1, (March 2007), p. 54.

which appears to confirm, or at least agree with the findings of various studies that record evidence of discrimination against migrant workers, including Turkish Cypriots working in the territory under the control of the Cyprus Republic²⁸ and the few Roma, who reside there.²⁹ Although, The Ministry of Labour and Social Insurance recognizes that some groups are vulnerable to discrimination in the workplace: women, persons with disabilities, older people, young people, people of a different national or ethnic origin or of a different religion and people of a different sexual orientation, Turkish Cypriots and Roma have not been considered as vulnerable groups as it is mentioned in the Third ECRI Report on Cyprus.³⁰

Specific reasons causing discrimination against Turkish Cypriots³¹

- Language: Although Turkish is an official language of the Republic all documents and processes are in Greek only, and so they have no idea of their labour rights and social benefit entitlements.
- Harassment abuse on the job: There is widespread perception on behalf of the Turkish Cypriots that they are treated as “inferior” human beings on the job, because of Greek Cypriots' feeling of “revenge” of the past (e.g. post 1974) and humiliation
- Job Insecurity: The general approach of employers is: “if you don't like it, just go.”
- Quality of labour: Greek Cypriot employers frequently remark that only common labourers from north Cyprus are welcome. There is no desire or tolerance for any Turkish Cypriots to be employed in administrative or managerial posts.
- Job equality/Social benefits: In general no pay equity exists. Few workers enjoy social security benefits, typically workers paying for these themselves. Relatively few are union members able to benefit from job protection.

Issues mentioned above are proven by the studies that in all sectors of the economy Greek Cypriot workers earn at least double the wages compared to their Turkish Cypriot counterparts.³²

²⁸ Third ECRI report on Cyprus, paragraph 82

²⁹ Third ECRI report on Cyprus, paragraph 83

³⁰ Third ECRI report on Cyprus, paragraph 84

³¹ Dr. Ozay Mehmet, M. Tahiroglu, F. Lisanailer, S. Katircioglu, a.g.m. , p. 54.

³² All Trade Union Forum (2004) “Chasma stis Apolaves E/K kai T/K ergazomenon”, in: Haravghi, (03.01.2005), p.9.

Table 1: Index of wage differentials provided by the All Trade Union Forum

WAGES		
Sector	Greek Cypriot workers	Turkish Cypriot workers
Shops and offices	£ 345 per month £ 367 per month after a six month employment	£ 193.85 per month
Construction		
Technicians	£ 195.57 per week	£ 92.30 per week
Unskilled labour	£ 161.90 per week	£ 53.35 per week
Trainees	£164.94 per week	£ 48.36 per week
Clothing Industry		
Unskilled labour A	£ 81. 28 per week	£ 48.46 per week
Unskilled labour B	£ 111.24 per week	£ 55.50 per week
Hotels		
Maid	£ 502 per month	£193.85 per month
Receptionist A	£ 663 per month	£ 209.40 per month
Technicians A	£ 752 per month	£ 307.70 per month
Waiter A	£ 675 per month	£ 230.76 per month
Cook A	£ 901 per month	£ 384.61 per month

Table 2 ³³ Net Pay of The Turkish Cypriot Workers with Comparable Greek Cypriot Workers

	Frequency	Percent	Cumulative Percent
The Same	92	30.6	30.6
<25%	155	51.5	82.1
<25-50%	45	15.0	97.0
<50%	3	1.0	96.0
>GC Workers	6	2.0	100
	301	100	

Work Safety

Turkish Cypriot workers tend to be more exposed to labour accidents than Greek Cypriot workers, as a result of being employed in high-risk jobs such as construction. Moreover, big amounts of Turkish Cypriots are employed without registering to the Social Security Scheme and they are not eligible for employment injury benefits. During 2006 out of the total 2,107 recorded labour accidents about three quarters occurred in sectors, where there is an overwhelming presence of manual migrant workers and Turkish Cypriots such as construction (545 accidents), manufacturing (525), hotels and restaurants (332), wholesale and retail (289); transport (94). (see table3.)

³³ Dr. Ozay Mehmet, M. Tahiroglu, F. Lisanailer, S. Katircioglu, Labour Mobility and Labour Market Convergence in a Possible United Republic of Cyprus, Turkish Studies, Vol. 8, No. 1, (March 2007), p. 53.

Table 3
Labor Accidents Frequency Index 2006 According to the Field of Activity

No.	Economic Activity	Number of Accidents	Number of Employees*	Indicator**
1	Agriculture, farming, hunting and forestry	44	15.212	289.2
2	Fisheries	3	780	384.6
3	Mining and quarrying	11	713	8
4	Manufacturing	525	36.885	1423.3
5	Electricity, gas , water supply	18	2.825	637.2
6	Construction	542	39.319	1381
7	Whole sail, retail trade and repairs	289	64.905	445.3
8	Hotels and restaurants	332	23.942	1,386.7
9	Transport, storage and communication	94	20.373	461.4
10	Financial intermediation	22	19.045	115.5
11	Real Business Activities	23	27.386	84
12	Public Administration	105	29.939	350.7
13	Education	10	24.027	41.6
14	Health and Social Work	26	14.010	185.6
15	Private Households	1	15.422	6.5

* Number of employees according to the Labour Survey, Cyprus Statistical Service, third quarter 2006

**Frequency indicator amounts to the number of accidents divided by the number of persons employed multiplied by 1000.000

Issues of employment in the implementation of the “Green Line Regulation”³⁴

The Green Line Regulation defines the terms under which the provisions of the EU law apply to the movement of persons, goods and services across the line between the areas in which the Government of the Republic of Cyprus does not exercise effective control and the areas in which it does. According to *The Annual Report on the implementation of Council Regulation (EC) 866/2004 of 29 April 2004* and the situation resulting from its application Turkish Cypriots face “many obstacles for trade across the Green Line” such as the fact that “Turkish Cypriot commercial vehicles such as buses, lorries, taxis, minibuses and rented cars cannot move freely through the island” and “the Republic of Cyprus does not accept roadworthiness certificates of commercial vehicles nor professional driving licenses issued by the Turkish Cypriot authorities”³⁵ The report also mentions “difficulties for Turkish Cypriot traders to advertise in parts of the press in the Republic of Cyprus [which] were reported as another example of a barrier which could limit trade across the line”. Additionally, the Commission received “some complaints from Turkish Cypriot traders regarding delays in the clearing of goods crossing the line including those crossing the line temporarily to be exhibited at trade fairs in the government-controlled areas.”

Although, theoretically the Government of the Republic of Cyprus recognizes the same rights to Turkish Cypriot citizens of Cyprus, in practice they face discrimination on various grounds mentioned above. Therefore, Turkish Cypriot workers have to be recognized as a vulnerable group in the employment sector as mentioned in the Second ECRI Report on Cyprus and special measures have to be implemented in order to reduce the discrimination against Turkish Cypriot workers.

Article 8 Trade Union Rights

Although there are no legal restrictions, according to a research³⁶, only 18.9 per cent of the Turkish Cypriot workers in the government-controlled area have trade union membership. The majority of Turkish Cypriot workers are not registered in the Social Security Scheme and therefore, cannot benefit from trade union rights either. The government has to take special measures in order to increase and enable the trade union memberships of Turkish Cypriot workers. This would be possible through stronger measures to prevent unregistered employment.

³⁴ This is the division line of Cyprus, which nothing more than a ceasefire line. When Cyprus acceded in the EU as a divided island the EU decided to make this into a „soft border“ of the EU. See Corrigendum to Council Regulation (EC) No 866/2004 of 29 April 2004 on a regime under Article 2 of Protocol 10 to the Act of Accession At OJ L 161, 30.4.2004), [http://eurlex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=304R0866R\(01](http://eurlex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=304R0866R(01)

³⁵ See Communication from the Commission COM(2006) 551 final, Brussels, 25.9.2006, http://eurlex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&numdoc=506DC0551&lg=en

³⁶ Dr. Ozay Mehmet, M. Tahiroglu, F. Lisanailer, S. Katircioglu, Labour Mobility and Labour Market Convergence in a Possible United Republic of Cyprus, Turkish Studies, Vo. 8, No. 1, (March 2007), p. 52

Article 9 Right to Social Security

Although Turkish Cypriots have the right to register in the Social Security Scheme and have the same rights as all citizens of RoC the ratio of unregistered Turkish Cypriots is still significantly higher than the majority of the population. According to a research³⁷ only 57.1 percent of Turkish Cypriot workers are registered in Social Security Scheme and 42.8 percent of them were not covered by Social Security Scheme. Of those covered, no less than 89 percent paid for this coverage themselves out of their regular pay, whereas only 11 percent were covered by the employer. The vast majority of covered workers have not yet received any benefit. The figures reflect extensive underutilization of the social security system by Turkish Cypriot workers in the area controlled by the RoC and a lack of monitoring by the state to ensure that they do so.³⁸ Some measures have been taken in order to prevent unregistered employment such as employing a Turkish speaking officer to Ministry of Labour. The high numbers shows that the government has not taken the maximum of its available resources to implement the right to social security for Turkish Cypriots.

Article 10 Familial Rights

There are serious complaints relating to the procedure for the acquisition of Cypriot nationality when a Turkish Cypriot is married to a Turkish National, and he/she is deemed to have entered Cyprus “illegally”. Their children face the same difficulties. In that kind of situation nationality can be granted by the Council of Ministers’ discretion. However, over the last few years the authorities are deliberately freezing and leaving unanswered hundreds of applications. The Ministry of Interior gave an interview to a Turkish Cypriot newspaper and he stated that situations concerning people will only be solved after a solution in Cyprus.³⁹ As a result many applicants face severe difficulties. However, the European Court of Justice ruled in a case against Ireland⁴⁰ that a state cannot breach citizenship rights on the grounds that a person allegedly enters the country illegally and then marries a national.

Article 11 Right to an adequate standard of living

Housing

Roma in south Cyprus are generally considered and treated as belonging to the Turkish Cypriot community. Although precise figures are not available, a few hundred Roma are reported to live at the present in the area under control of the RoC, mostly in the Limassol and Pafos areas, where they moved from the area not under control of the RoC in 2001 and 2002.⁴¹ According to the European Commission against Racism and Intolerance, Third Report on Cyprus, some Roma families live without access to basic facilities such as water and

³⁷ Dr. Ozay Mehmet, M. Tahiroglu, F. Lisanaier, S. Katircioglu, Labour Mobility and Labour Market Convergence in a Possible United Republic of Cyprus, Turkish Studies, Vo. 8, No. 1, (March 2007), p. 53

³⁸ Dr. Ozay Mehmet, M. Tahiroglu, F. Lisanaier, S. Katircioglu, Labour Mobility and Labour Market Convergence in a Possible United Republic of Cyprus, Turkish Studies, Vo. 8, No. 1, (March 2007), p. 54

³⁹ <http://www.kibrisgazetesi.com>

⁴⁰ European Court of Justice, C-127/08

⁴¹ European Commission against Racism and Intolerance, Third Report on Cyprus, 16 May 2006, page 25 http://www.coe.int/t/e/human_rights/ecri/1-ecri/2-country-by-country_approach/cyprus/CYP-CbC-III-2006-17-ENG.pdf.

electricity.⁴² Also UNDP funded research shows that some Roma houses lack basic necessities such as electricity and water as well as basic hygiene. Large numbers of individuals are reported to be crammed under the same roof and children very often share their sleeping space with their parents.⁴³ Although, the government of the RoC tried to improve the situation of housing conditions of Roma, it has not been sustainable, because of the ignorance relating to the Roma culture and the attempt to make the Roma people live in specific types of homes that they are not used to.

Article 12 Right to Health

Cyprus offers free health care to persons under a certain level of real income. The government of RoC offers free health care to Turkish Cypriots, because of the impossibility to know the real income of Turkish Cypriots who live in the area outside its control and it offers free health care to any Turkish Cypriot who has the necessary health documents. All the forms are in Greek language and Turkish Cypriots have difficulties to fill out necessary forms and to communicate with medical staff.

Poor hygienic conditions in the settlement⁴⁴ of Roma population attributed to the Hepatitis incidents of June 2005⁴⁵ and the incidents of Visceral leishmaniasis of May 2006.

Article 13 Right to Education

Education in Mother Tongue

According to the 1960 Cyprus Constitution, the Turkish Cypriot community has jurisdiction through the Communal chamber over the educational issues of its community. Although, various NGOs pressured the government to provide Turkish language education to Turkish Cypriot and Roma children, not enough effort has been shown by the government of the Republic of Cyprus in this regard, despite the fact that Turkish is one of the official languages of the Republic of Cyprus. The idea of setting up a Turkish school was initiated by UNFICYP in 1995 and was supported by the Turkish Cypriot leadership. During 2004, UNFICYP carried out a survey amongst the Turkish-speaking families in Limassol (Roma and Turkish Cypriots) which established the desire of these families to have their children attend a Turkish speaking school and being taught the Turkish language, literature and culture. Following this, the Cyprus Government carried out its own survey amongst the same families, which established that the vast majority of these families prefer their children to remain in their existing (Greek-Cypriot) school. UNFICYP and the RoC Government agreed to resolve this by conducting a third joint survey, but meanwhile the government has agreed on the creation of the Turkish-speaking school, in order to have a choice for the children to which school they will attend. According to the proposal of the Ministry of Education, the school will be run by a five-member Board consisting of two representatives of the parents' association, two

⁴² European Commission against Racism and Intolerance, Third Report on Cyprus, 16 May 2006, page 25.

⁴³ Spyrou, S. (2004), Educational Needs of Turkish-speaking Children in Limassol, UNOPS, February-March 2004, Nicosia. Research conducted in 2003 shows that the Roma themselves consider housing to be their most serious concern.

⁴⁴ Theodoulou, J. (2006), "Authorities play down rare disease in Gypsy camp" in the Cyprus Mail, (26.05.2006).

⁴⁵ Nanos, C. (2005): "Se eksetaseis oloi oi athigganoi" in *Politis* (24.09.2005).

representatives of the teaching staff and one representative of the RoC Government. The proposal stated that the school was to come into operation in September 2005, however, this has not happened, yet.⁴⁶ After complaining repeatedly about the lack of a Turkish-language school in Limassol, the Turkish Cypriot teachers' union filed suit, seeking a declaration from the Supreme Court that a 2005 decision by the Council of Ministers to operate a mixed elementary school in Limassol with a specialized program and staff to serve the needs of the Turkish-speaking students was null and void. The union argued that, under the 1960 constitution, the Council of Ministers has no competence in matters of education of Turkish Cypriots. On March 26th, the Supreme Court rejected the union's appeal. The government stated that, according to surveys of Turkish Cypriots in the government-controlled area, none had requested a Turkish-language school. The court rejected the case on the grounds that Turkish Cypriot Teachers Trade Union has a lack of *locus standi*. The case is appealed and still pending since 23 April 2008.

Racism

Turkish Cypriot and Roma children are often faced with racism and education record stereotypes and discrimination. In a survey it was found that pupils of 11-12 years of age at the refugee school of Karmiotissa carried out a survey with teachers' supervision on perceptions and degree of acceptance of Turkish Cypriots by sixth form pupils” from which it emerged that the pupils are suspicious towards Turkish Cypriots and consider them as foreigners, bad and reflects on them the historical developments of the Cyprus problem. The survey revealed that the children, without knowing much about the Turkish-Cypriots, developed a negative position based on the information they received from the school, the media and the family.⁴⁷ In November 2006, 15 to 20 Greek Cypriot teenagers, believed to be members of the ultranationalist group National Voice of Youth with a Greek Soul, entered the grounds of The English School and attacked a group of the school's Turkish Cypriot students, causing minor injuries. Criminal charges were brought against 13 suspects in the case. Ten of the accused pleaded guilty to the offenses; nine of them, all minors, were sentenced to perform social work for 12 months. The sentencing of the tenth was adjourned pending presentation to the court of all facts relevant to sentencing. The court scheduled a hearing in January 2008 for the three remaining suspects.⁴⁸

Higher Education

The government continues to exert political pressure on universities to refrain from any contact with universities in the Turkish Cypriot community because the government considered universities in the Turkish Cypriot community "illegal."⁴⁹ Turkish Cypriot students studying in universities in the areas not under the control of the RoC are regulated by the High Education Board of Turkey and therefore, they are not eligible to attend Erasmus and Socrates and other European scholarship programmes.

⁴⁶ Nicos Trimikliniotis & Corina Demetriou, National Annual Report 2005-Cyprus, Cyprus Labour Institute (INEK-PEO), National Focal Point for Cyprus for RAXEN NETWORK, p. 31

⁴⁷ Nicos Trimikliniotis & Corina Demetriou, Cyprus National Data Collection Report 2006, National Focal Point for Cyprus for the EU RAXEN data collection, page 48

⁴⁸ The Bureau of Democracy, Human Rights, and Labor, Country Reports on Human Rights Practices - 2007, 11 March 2008.

⁴⁹ 2008 Human Rights Report: Cyprus, Bureau of Democracy, Human Rights and Labor, 2008 Country Reports on Human Rights Practices, February 25, 2009