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Summary record of the 9th meeting

Held at the Palais Wilson, Geneva, on Friday 8 May 2009, at 10 a.m.

Chairperson: Mr. Marchan Romero

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The meeting was called to order at 10.05 a.m.

Consideration of reports

(a) Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant (continued)

Fourth and fifth periodic reports of Cyprus (E/C.12/CYP/5, HRI/CORE/CYP/2007, E/C.12/1/Add.28, E/C.12/CYP/Q/5, E/C.12/CYP/Q/5/Add.1)

1. *At the invitation of the Chairperson, the delegation of Cyprus took places at the Committee table.*

2. **The Chairperson** welcomed the delegation of Cyprus and invited it to present the fourth and fifth periodic reports of the State party.

3. **Ms. Koursoumba** (Cyprus) presented the combined fourth and fifth reports of Cyprus which had already been made public. She said that the delegation had just submitted a recently updated version of the core document to the Committee, together with the updated list of the international human rights instruments to which Cyprus was party, which reflected the importance the State party gave to promoting and protecting human rights for everyone under its jurisdiction. Despite the bureaucratic obstacles and limited resources that had delayed the submission of the report, Cyprus was truly determined to cooperate closely with the United Nations treaty bodies. It was in the process of preparing its country report under the universal periodic review mechanism for consideration by the Human Rights Council in November 2009.

4. As a result of the continued illegal occupation and control by Turkish armed forces of 37 per cent of its territory, which prevented the State party from applying the provisions of the International Covenant on Economic, Social and Cultural Rights to the population of that area and gathering reliable data, the combined fourth and fifth reports covered only government-controlled areas. Nonetheless, Turkish Cypriots benefitted individually and collectively from a vast range of services provided by the Government, including drinking water supply, upkeep of dams and irrigation systems, and electricity supply, on which some €169 million had been spent between January 2004 and December 2008.

5. According to the Constitution of Cyprus, which guaranteed the protection of human rights, all domestic law ranked below the Constitution and treaties ratified by the State party, so that any domestic law which was contrary to the Constitution or to an international instrument was null and void. The delegation of Cyprus wished to underline that by virtue of article 188 of the Constitution, any law in effect at the time of the creation of the Republic of Cyprus (16 August 1960), including the Aliens and Immigration Act, was construed and applied subject to the bill of rights incorporated in the Constitution and to international instruments ratified by Cyprus, including the Covenant.

6. In view of its democratic system of government, there was real separation of powers in the State party, and its judiciary was truly independent. Any decision taken by the administration or the executive which was contrary to the law or to international instruments could be overturned by the Supreme Court. Any persons who felt that their rights as enshrined in the Constitution or any applicable international instrument were infringed were entitled to legal assistance and redress, under the terms of an act adopted specifically to that end.

7. Since 1960, the economic, social and cultural landscape of Cyprus had undergone fundamental changes. The most important step taken had been the country's accession to the European Union (EU), on 1 May 2004, which had resulted in greater protection of human rights. Accession had also entailed new obligations and stricter rules. The country's

legislative framework had needed to be harmonized with the “*acquis communautaire*”, which had meant adopting extremely important legislation relating to economic, social and cultural rights and, at the same time, setting up the requisite administrative infrastructure.

8. With a strongly service-oriented market economy, Cyprus had boasted a growth rate much higher than the EU average since 2000. To gain accession to the European Union, the Government had implemented an aggressive austerity programme, which had transformed a budget deficit of 6.3 per cent in 2003 into a 1.2 per cent surplus in 2008. However, that buoyancy was likely to be disrupted by the downturn in the construction and tourism sectors resulting from the global financial crisis. To counter the slower economic growth, the Government had announced the implementation of short-term fiscal measures with a direct impact on the budget.

9. From a social perspective, Cyprus was a pioneer in the settlement of labour disputes, as indicated in paragraph 75 of the report under consideration. Cooperation and consultation between the various social partners was outstanding and had been hailed by the International Labour Organization (ILO) as a model of good practice for the smooth functioning of the labour market. Concerning education, article 20 of the Constitution guaranteed the right to education for all, without discrimination, including for third-country nationals and the children of illegal immigrants. The Government had adopted a series of measures to improve the performance of children of minority groups or immigrants, beginning with the implementation of education on human rights and respect for the dignity of every child, as well as other rights safeguarded by the Convention on the Rights of the Child. Accelerated language courses in Greek were also organized, with teaching materials specific to the needs of migrant students, and information on Cyprus and its education system was provided to students and their families in eight foreign languages.

10. In view of the unprecedented influx of illegal migrants over the past decade, particularly since accession to the European Union, and the island’s position on the EU’s eastern border, migrants and asylum-seekers had become an area of major concern for the Government – a situation made even more difficult by the foreign occupation of one third of its territory. According to statistics of the Office of the United Nations High Commissioner for Refugees (UNHCR), between 2004 and 2008 Cyprus had received the highest number of asylum-seekers in relation to its national population (38 per 1,000 inhabitants). The majority of those were economic migrants from Asian countries (such as Pakistan, Bangladesh or Syria), who entered illegally through ports in the Turkish occupied zone. However, Cyprus did offer full protection to certain nationalities (such as Iraqis and Palestinians). As stated in paragraphs 75 to 77 of the report, a recent amendment to the Refugee Act gave greater protection to recognized refugees and persons who had been granted subsidiary protection, in conformity with European Union Directive 2004/83/EC (articles 23 to 30 in particular). Being fully committed to honouring its obligations towards genuine refugees, the Government of Cyprus applied a national migration management policy that was holistic and respected the rights and dignity of all migrants, both legal and illegal, and it called upon all States involved to try to address those issues at the regional and international level.

11. Police detention centres had recently been refurbished throughout the country and brought up to current standards. A new centre with a capacity for 256 detainees was scheduled for construction in the next two years. In addition, according to a recent order issued by the Chief of Police, visits by representatives of national and international monitoring bodies must be facilitated. Undocumented migrants could no longer be detained for more than six months, except in specific cases of prior convictions or threat to public order.

12. New monitoring mechanisms had been put in place. The Office of the Ombudsman, created in 1991, had since been given the added duties of a national body responsible for

anti-discrimination and equality in employment. In 2007, a Commissioner for Children's Rights had been established by law with the mission of promoting and protecting the rights of children, in full compliance with the Paris Principles and with general comment No. 2 of the Committee on the Rights of the Child. The National Institution for the Protection of Human Rights was currently being restructured to bring it into line with the Paris Principles, and the Council of Ministers was due to appoint a new president and members of the Steering Committee in the following weeks.

13. While recognizing that much remained to be done, but quite aware of its weaknesses and shortcomings, the Government of Cyprus deemed that it had taken a decisive step towards achieving the goal of full compliance with the provisions of the Covenant, and it would give due consideration to the sensible and impartial recommendations of the members of the Committee in order to achieve the desired goal.

Articles 1 to 5 of the Covenant

14. **Mr. Sadi** enquired about the legal status of the Covenant in domestic law and, given the State party's efforts to bring its legislation into line with the EU's principles and directives, asked what prevented it from doing the same for the provisions of the Covenant. He welcomed the information provided on various cases related to the right to education or the right to strike, but would like the delegation to explain how those cases were in fact linked to the provisions of the Covenant. He was surprised that the State party had not yet complied with the Paris Principles, and wished to know the reasons for the delay. In addition, he asked how the activities of the Office of the Ombudsman and the anti-discrimination body were linked to the provisions of the Covenant, and requested specific examples. He also asked the delegation to specify whether human rights education was indeed formal and mandatory. Referring to paragraph 19 of the written replies of the Government of Cyprus to the list of issues, he pointed out that in the Constitution the different communities were termed not "minorities" but "religious groups", which was a completely outdated description. He asked whether the State party intended to amend the Constitution in that respect. He then requested that the delegation expand on the legislative measures taken to combat discrimination against Roma, Pontian Greeks and Maronites.

15. **Mr. Pillay** asked whether the bill of rights in the Constitution guaranteed all the economic, social and cultural rights provided for in the Covenant, particularly the right to health, the right to decent housing and the right to culture, and whether the provisions of the Covenant were directly applicable in domestic law, since, according to legislative hierarchy, treaties took precedence over national legislation.

16. He wanted to know why the National Institution for the Protection of Human Rights had still not been given the human and financial resources it needed. He also asked whether the fact that the State party had failed to answer the second part of question 2 on the list of issues — in which it was asked whether the institution's mandate covered economic, social and cultural rights — meant that those rights were indeed not covered by the institution's mandate.

17. **Ms. Bras Gomes** asked whether the State party deemed it had established minimum safeguards for all the rights provided for in the Covenant, which would mean that the human dignity of all its citizens was guaranteed.

18. She asked whether the anti-discrimination body had finally received sufficient financial and human resources and whether its actions were more effective as a result.

19. Given that the Republic of Cyprus had gone from being a country of origin of immigration to a country of destination, it would be interesting to learn how it had succeeded both in adapting its legal framework accordingly and in helping mentalities adopt to the constant influx of immigrants.

20. **Mr. Zhan Daode** requested an explanation of the answers, or rather lack of answers, given in paragraphs 274 to 284 of the report under consideration. Without details of the situation of the various population groups concerned, the Committee could not obtain an accurate picture of the application of the Covenant in the State party.

21. **Mr. Texier** said that it was inadmissible that none of the documents on the application of the Covenant by the Republic of Cyprus had been translated into French. While that was acceptable for the core document submitted at the start of the session by the State party, it was not so for the combined fourth and fifth periodic reports submitted on 6 August 2007, in an English version dated 21 October 2008.

22. Regretting that Cyprus was divided in two, he recalled article 1 of the Covenant and asked what stage the negotiations between the Government of Cyprus and Turkey had reached. He asked whether Turkish Cypriots living in the south had access to social security, education and health care, and to economic, social and cultural rights in general.

23. Welcoming the fact that the State party took in a very large number of refugees in proportion to its population size, he asked whether asylum-seekers and their families had access to housing, health care and sufficient food and clothing, and whether those who had been victims of ill-treatment or torture in their countries of origin received special care.

24. **Mr. Shrijver** asked whether, in view of its high gross national income, Cyprus intended to increase development assistance, in accordance with the international commitments it had assumed in adopting the Monterrey Consensus in 2002 and as a member of the European Union. EU member States had pledged to step up significantly their development assistance budget, increasing it to 0.33 per cent of GDP by 2015. Citing paragraph 25 of the report he asked whether the European Parliament or Cyprus took the decision to allocate 35 per cent of total development aid to basic social services. If it was indeed up to Cyprus, the delegation might indicate how much the State party actually allocated. Lastly, he asked the delegation to specify how the provisions of the Covenant guided the State party's development policy.

25. **Mr. Kedzia** expressed surprise that even though, according to case law, individuals had already invoked the Covenant before the courts, the judges had based their rulings only on the Constitution and had never cited the Covenant as a source of law. If that was so, there was a possibility that economic, social and cultural rights were not protected as well as they might be if judges used the Covenant as a basis for their rulings. Consequently, it was important to determine the status of the Covenant in domestic law.

26. He also asked whether disadvantaged groups, such as the poor, migrants and asylum-seekers, had access to legal aid. Lastly, he asked whether those groups had been consulted in the drafting of legislation on the economic, social and cultural rights that affected them closely or had been involved in the preparation of the report under consideration.

27. **Ms. Barahona Riera** did not understand why the National Institution for the Protection of Human Rights had still not been declared as being in compliance with the Paris Principles, and wondered whether the problem resided in a lack of autonomy, resources or competence.

28. She asked if the plan for promoting gender equality had indeed improved the condition of women in the State party and whether the issue was still a central one.

29. **Mr. Atangana**, referring to paragraphs 8 and 9 of the report, asked whether the Government of the Republic of Cyprus intended to find a speedy and viable solution to the conflict with Turkey and whether it would be able to present detailed information on the application of the Covenant throughout the whole territory in its sixth periodic report. He

also enquired whether any rights provided for under the Covenant but not under the Constitution had ever given rise to legal proceedings, and if so, which.

30. **Mr. Kerdoun** asked why the Republic of Cyprus had not signed or ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, even though the country was at the heart of the Mediterranean and greatly concerned by the refugee problem. Could the delegation identify which were the main countries of origin of illegal immigrants to Cyprus, and say whether such immigrants were placed in holding centres, as required by the European Union in certain Maghreb countries and Libya?

31. **Ms. Koursoumba** (Cyprus) said that it was true that the Constitution of Cyprus, which included a bill of rights, did not in fact cover economic, social and cultural rights because it had been drafted in the late 1950s, at a time when less importance had been attached to rights to work, housing, culture, etc. Nevertheless, by ratifying international human rights instruments, Cyprus had recognized that economic, social and cultural rights were an integral part of its domestic legislation and were directly applicable. The Covenant and economic, social and cultural rights were and must be upheld in Cyprus. Furthermore, no violation of the international instruments ratified by Cyprus was tolerated. Concerning the rights of minorities, she explained that the Constitution used the term religious groups to refer to the Maronite, Armenian and Latin communities because the notion of minorities had not been familiar or recognized in the 1960s, when the Constitution had entered into force. Admittedly, the notion of religious groups did not fully comply with international law and international human rights instruments, but the Council of Europe, acknowledging the specificity of the situation in Cyprus, had deemed it unnecessary to request the country to amend its Constitution until such time as the political problem had been solved. To enable the Maronite, Armenian and Latin communities to exercise their civil and political rights, they had been asked to choose between the Greek Cypriot and Turkish Cypriot communities to represent them in the Communal Chambers. They had all chosen the Greek community. Moreover, Turkish Cypriots were part of Cypriot society and enjoyed the same rights and services as other citizens. More and more Turkish Cypriots commuted daily between the occupied area and the rest of the territory without any hindrance.

32. The National Institution for the Protection of Human Rights, which had been established by the Council of Ministers in 1998, was chaired by an independent senior civil servant. The body was competent to bring legal proceedings where rights guaranteed by domestic law and international instruments were violated, receive and consider complaints, and visit prisons. Cyprus spared no effort to enhance the transparency and independence of its national human rights institution, but its financial resources were limited. In 2004, Cypriot authorities had requested the assistance of OHCHR to find ways of bringing the institution into line with the Paris Principles. Since then, other institutions, such as the offices of the Ombudsman and the Commissioner for Children's Rights, had been established.

33. With regard to the condition of women and gender inequality, the situation had improved considerably but more time was needed to change male chauvinist mentalities and customs. The enrolment rate for girls in schools was higher than that for boys and more and more women occupied decision-making positions. To date, the Ombudsman, who handled gender equality issues, had not reported any cases of manifest discrimination against women. It was clear that the Government of Cyprus would have to put in place the necessary structures and services to increase women's participation in the labour market and allow them to find a balance between their working and family lives. With regard to paragraphs 274 to 276 of the report, she recognized that Cyprus should have provided more details, even though, as indicated there, the State party was not affected by hunger or malnutrition.

34. With regard to migration problems, until 1970 Cyprus had been a country from which many workers had left in search of better living conditions. Since its accession to the European Union, the situation had been completely reversed and Cyprus had become a destination country that received a large number of illegal immigrants. The legal system was currently being updated to adapt to the new situation. Measures had also been taken to facilitate the integration of all migrants, regardless of status. No serious incidents of discrimination against migrants had been reported. Asylum-seekers were not considered illegal immigrants and were received in the best conditions that the State's limited finances would allow. In recent months, the immigration situation had worsened. Some 5,000 illegal immigrants had come through the occupied territory, chiefly heading for Nicosia, and close to half of them had requested asylum. Most of the irregular immigrants were Iraqi Kurds, Syrians, Pakistanis, Bangladeshis and Sri Lankans. Anyone who felt their rights had been violated could bring legal action and receive legal aid. Furthermore, the Government was about to table a bill that would provide free legal aid to asylum-seekers.

35. As for a political solution to the conflict, she was unable to say whether the situation would have changed by the time of the next periodic report. Lastly, the delegation would provide written replies to a number of questions raised by the Committee members, particularly regarding the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

36. **Mr. Savvides** (Cyprus) said that human rights education in schools was based on a multidisciplinary approach and would be incorporated more systematically in new curricula. The instructions given to all stakeholders in the current reform process referred specifically to the right to education and to the Convention on the Rights of the Child, and to the fact that children must learn to respect and accept differences with all groups living on the island as well as with children of other origins. Emphasis was also placed on equal treatment for all children and on the protection of children with special needs and those from disadvantaged groups or different cultures. The Ministry of Education had also carried out a number of teacher training activities in human rights.

37. **Mr. Veis** (Cyprus), referring to holding centres, said that it should be remembered that Cyprus' detention system had not been designed to deal with the current immigration situation. There were plans to increase capacity in the years ahead in order to apply the law more efficiently, while respecting the rights and dignity of all detainees, regardless of their situation. Two detention centres with a total capacity of 69 places were reserved exclusively for illegal immigrants, not out of a desire to discriminate against them, but to separate them from common offenders. In addition, there were reception centres for asylum-seekers that were in no way obligatory.

38. **Mr. Michaelides** (Cyprus) said that Turkish Cypriots were given equal treatment, which was a principle in all State policies, including in employment. Cyprus had gone from being a country of emigration to one of immigration, which endeavoured to attract local skilled workers to the labour market as much as possible, including Turkish Cypriots. The Government had set up a committee in charge of facilitating the employment of Turkish Cypriots. At the employment services in Nicosia, where most of them worked, there were Turkish-speaking officials and there was also a telephone hotline. As of January 2009, 3,000 Turkish Cypriots had been registered with social security and 4,200 were receiving pensions, regardless of their place of residence.

39. **Mr. Kerdoun** wanted to know what Cyprus' conversion from a country of emigration to one of immigration had been like, and if it was due to their entry into and assistance from the European Union. In that case, it was the duty of Cyprus and EU Member States to put a halt to illegal immigration and to help countries of the South in their development.

40. **Mr. Texier** asked if Cyprus intended to ratify the Optional Protocol to the Covenant.

41. **Ms. Kouroumba** (Cyprus) said that her Government was actively considering the possibility of ratifying the Optional Protocol and that if it came to a favourable decision Cyprus would sign that instrument without delay when it was opened for signature.

Articles 6 to 9 of the Covenant

42. **Mr. Texier** enquired about the current unemployment trends, especially regarding youth and long-term unemployment. He wanted to know whether there was a particular problem with foreigners and whether migrants had access to all private-sector jobs, given the preference that seemed to be accorded to Cypriots and EU citizens as far as access to jobs was concerned. He asked whether legal immigrants from non-EU countries were given the same access to employment and what happened in the case of illegal aliens.

43. He then asked whether the current minimum wage ensured workers a decent living for themselves and their families, in compliance with article 7 of the Covenant, and whether it was readjusted periodically according to the cost of living. He also wished to know if there was a significant proportion of undeclared, in other words illegal, workers in Cyprus.

44. Noting that according to his figures, the wage gap between men and women was 25 per cent, he asked what measures Cyprus was taking to reduce that discrepancy and, furthermore, whether Cyprus had a dynamic policy regarding women's access to jobs in the public service, particularly at a senior level.

45. With regard to freedom of association, he asked whether all workers regardless of their origin had access to trade unions. Lastly, he asked whether the labour inspectorate had the necessary resources to verify that the working conditions of domestic workers were normal and healthy.

46. **Mr. Bras Gomes**, referring to the payment of pensions, wanted to know what happened in the case of foreigners who left Cyprus too early to have accrued pension entitlements, but who had nevertheless contributed to the social insurance scheme for a number of years.

47. It was her understanding that asylum-seekers were not entitled to any social benefits, with the exception of an allowance given during the first six months after their arrival, and she would like more information on that point, and on the situation of asylum-seekers who were homeless and could not receive benefits because they had no fixed address, and those with special needs.

48. She then asked for details on several points: the percentage of Turkish Cypriot workers who were not registered with social security, which appeared markedly higher than for the population as a whole; the fact that more than 40 per cent of those registered did not have effective coverage; and the fact that the majority of those workers paid contributions out of pocket while only 11 per cent had their contributions paid by their employers.

Articles 10 to 12 of the Covenant

49. **Mr. Sadi** asked what the percentage was of mixed marriages in Cyprus between Greek and Turkish Cypriots, whether those marriages lasted, and whether the State party had a comprehensive policy to promote Cypriot identity irrespective of ethnic origin. Regarding the replacement of the 2000 Combating of Trafficking in Human Beings and Sexual Exploitation of Minors Act by the 2007 Combating of Trafficking and Exploitation of Human Beings and the Protection of Victims Act, which was more general in scope than the 2000 Act, he wondered whether it would not be more appropriate, as had been the case in the previous legislation, to provide for special treatment for children, given their greater vulnerability.

50. **Ms. Barahona Riera** wanted to know how much of the State's health budget was allocated to sexual and reproductive health programmes. She asked whether contraception was made available and included under universal health care, and whether there was pressure from society for certain sexual and reproductive health-care services not to be offered by the State. Lastly, she would like to know the State party's current stance on the issue of abortion.

51. **Mr. Atangana**, noting a discrepancy between the number of prosecution cases referred to by the Government of Cyprus at the beginning of its written reply to question 28 of the list of issues and the data given subsequently on the number of cases actually tried, asked what had happened to the cases that were unaccounted for, or cited as pending. In the same context, he would also like clarifications regarding the difference between "suspended" and "interrupted" cases.

52. **Ms. Bras Gomes** noted persistent inequality in the treatment of the children of displaced persons depending on the sex of the parent with displaced person status. The children of displaced women were entitled not to a refugee identity card but to a certificate that did not entitle them to housing benefits or school transport. Furthermore, some migrants were unable to meet the requisite conditions for obtaining a permanent residence permit, which caused problems regarding family reunification.

53. Concerning the situation of Roma families, who were still subjected to considerable inequality regarding access to social services, housing and education, she requested information on the results of the measures taken to improve their condition and on the difficulties that remained. She also asked whether it was true that gynaecological care was not included in minimum coverage and that women who did not have such coverage were therefore not reimbursed. If that was so, she wanted to know whether the State party intended to change that policy.

54. **Mr. Zhan Daode**, noting in paragraph 288 of the report that there were no homeless persons in Cyprus according to the 2001 census, asked whether the situation had since changed.

55. **Mr. Sadi** wanted to know whether marriage rules were different for Muslims and Christians, and whether Cyprus aimed to adopt a code to regulate marriage uniformly for both communities.

56. **Mr. Srivjer** said that according to some sources, Turkish Cypriots who wished to marry Turkish citizens sometimes ran into difficulties. He asked for clarification on the matter, particularly on the consequences that might have on the acquisition of nationality, not only for the partners but also for the children of such unions.

57. **Mr. Kerdoun** asked why the Government of Cyprus did not envisage abrogating the 2005 circular requesting all school principals in primary and secondary education to notify the immigration authorities about migrant children enrolled in their schools in order to investigate their legal status.

The meeting rose at 12.55 p.m.