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Bar Associations of Cyprus and Greece on the Cyprus Problem

On 20 July 1974, Turkey invaded Cyprus violating Article 2(4) UN Charter on the prohibition of the use of force, which is also part of customary international law and a *ius cogens* rule to the effect that no derogation is permitted. This kind of action was also a breach of the prohibition of aggression, which is an *erga omnes* obligation binding upon every member of the international community. Following the Turkish invasion, nearly 200 000 Greek Cypriots were forced to flee their homes, while at the same time Turkey transferred part of its civilian population into the occupied areas in northern Cyprus in contravention of Article 49, paragraph 6, of the 1949 Fourth Geneva Convention and customary international law.

Moreover, in 1983, Turkey installed a 'puppet state' in the occupied areas, the so-called 'Turkish Republic of Northern Cyprus'. The 'TRNC' is an unlawful regime, which does not have and can never acquire an international legal personality given that it is the corollary of the illegal use of force on the part of Turkey in 1974 and because since its creation it has been under the 'effective control' of Turkey (see UN Security Council Resolutions 541/1983 and 550/1984; ECtHR *Loizidou* case; ICJ *Kosovo Advisory Opinion*).

Accordingly, all states are under an obligation not to recognise either the 'TRNC' as such or any of its actions (principle of non-recognition), as its existence is predicated on serious violations of peremptory norms of international law. This obligation also entails a duty to collaborate with a view to terminating this obvious illegitimacy.

In the following years, Turkey has been condemned by the European Court of Human Rights in four interstate applications lodged by the Republic of Cyprus and in the context of hundreds of individual applications by Cypriot displaced persons whose rights have been flagrantly violated by Turkey, the Occupying Power.

Over the last months, Turkey has commenced an endeavour to impose a two-state solution. Nevertheless, as mentioned earlier, the 'TRNC' can never attain international legal personality owing to the unlawfulness of its creation. In any case, there are no two distinct people in Cyprus entitled to separate self-determination. The Republic of Cyprus is the sole legitimate entity representing the Cypriot people in its entirety, as affirmed, among others, by UN SC Resolution 186/1964.

Moreover, Turkey has announced its intention to open and implant settlers in the fenced-off part of the occupied city of Famagusta (Varosha), an act which is explicitly prohibited by virtue of general international law, as well as UN SC Resolutions 550/1984 and 789/1992. Such illegitimate conduct may very well trigger Turkey's international responsibility according to the 2001 Articles on Responsibility of States for Internationally Wrongful Acts generating an obligation on the part of Turkey to cease that act, offer guarantees of non-repetition and make full reparation for the injury caused. In addition, individuals involved in such actions may be held accountable for the commission of international crimes, particularly war crimes, as envisaged in the

1998 Rome Statute of the International Criminal Court and customary international law.

Unfortunately, the recently published (09 July 2021) report of the UN Secretary-General on the mission of good offices in Cyprus does not address the aforementioned crucial matters. On the contrary, the report deems the government of the Republic of Cyprus and the Turkish Cypriots equally responsible for the failure of the five-plus-one meeting in Geneva last April, although it was Turkey and the Turkish Cypriots who put forward an unacceptable proposal for the solution of the Cyprus Problem based on two states. In a similar vein, the report has taken no position whatsoever in respect of the intention of Turkey to open the closed city of Famagusta and transfer settlers in it.

In light of the above, the Cyprus and Greek Bar Associations would like to draw the attention of the international community to the blatant infringements of international law taking place in Cyprus. The ongoing situation in Cyprus is affront to all the law-abiding states and the international legal order, which governs the conduct of states. With a view to ceasing the outright violations of international law and restoring the rule of law, the Cyprus and Greeks Bar Associations call upon all states to take action against the illicit behaviour of Turkey. Finally, we would like to stress that we remain committed to a peaceful resolution of the Cyprus Problem within the framework of international law in order to secure a better future for the citizens of the Republic of Cyprus.



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