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**THE TURKISH ILLEGAL SETTLERS  
AS A FACTOR INFLUENCING  
A JUST SOLUTION TO THE CYPRUS ISSUE.**

A solution to the Cyprus issue can only be achieved if it is based on at least the minima standards of international law and the protection and respect of human rights and fundamental freedoms. After all, Cypriots are of course entitled to enjoy the rights and freedoms guaranteed to each and every human being on our globe.

One of the major aspects of the Cyprus issue is the presence of tenths of thousands of Turkish settlers, illegally brought by Turkey to the occupied areas of Cyprus. These Turkish civilians were given the “status” of the “citizen” of the non existing “Turkish Republic of Northern Cyprus”, (according, *inter alia*, to the judgment of the European Court of Human Rights in the case of Loizidou v. Turkey and the Fourth interstate application of Cyprus v. Turkey) and are considered as being part of the “population” of the illegal puppet administration established by Turkey in the occupied territories of the island.

During the years following the Turkish invasion of Cyprus, Turkey has applied a policy of ethnic cleansing in the Turkish occupied areas, consisting of two parallel actions:

- a. The persecution of the Greek Cypriots who remained in their homes in the occupied areas of Cyprus following the Turkish invasion of the island, by applying inhuman conditions of living and by refusing them fundamental rights and freedoms (as verified by reports prepared by UNFICYP, the Council of Europe and international organizations).
- b. The illegal transfer of large numbers of Turkish settlers to the areas of Cyprus occupied by her armed forces and by giving them the homes and properties of the Greek Cypriots who were forced to flee to the government – controlled areas.

**THE LEGAL FRAMEWORK**

According to international law, the wilful deport or transfer by the occupying power of parts of its own civilian population into the territory under its occupation is considered as being an international crime or crime against humanity. Relevant provisions are found in:

- article 49 of the Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War (12 August 1949), ratified by both Cyprus and Turkey,
- paragraph 4(a) of article 85 of Protocol I Additional to the Geneva Convention of 12 August 1949, which is particularly strict and regards as “grave breach” of the Protocol “the transfer by the Occupying Power of parts of its own civilian population into the territory it occupies...”
- article 8(b)(viii) of the Statute of the International Criminal Court (ICC), established in July 1998 in Rome.

In view of the above, the wilful (in fact the well planned and applied) transfer of Turkish civilian population from Turkey to the Turkish occupied areas of Cyprus is regarded by international customary law as an international war crime or crime against humanity. According to well established principles of international law, which are accepted as being *jus cogens*, criminal actions can not produce lawful rights.

### **THE POLITICAL ASPECT**

Having in mind the above legal framework and considering that no solution to an inter-state problem can be reached if it is not based on the international legal order, we have to examine the situation created in Cyprus regarding the presence and the fate of the Turkish settlers in the occupied areas of Cyprus, before and after the implementation of a solution to the Cyprus issue.

Due to the very small number of the population of Cyprus (less than a million) any consideration of the Turkish settlers as being part of the Turkish Cypriot community will dramatically alter the demographic structure of the state. Such an artificial demographic structure will give to Turkey a justification for demanding higher percentage of land for the Turkish Cypriot community, in case of a federal solution to the Cyprus issue. In fact, this was the original political plan when Turkey decided to transfer the Turkish settlers in Cyprus.

It is, therefore, unacceptable both legally and politically for the Republic of Cyprus to provide the platform leading to the completion of an international crime against its land and its population.

### **THE FACTUAL AND HUMANITARIAN FACTORS**

It is a fact that the Turkish settlers come from another culture, completely strange to the culture of the Cypriots. Such fact creates serious social problems, especially to the Turkish Cypriot community, and influences negatively the cultural continuity of the Cypriot population.

There is an allegation that the whole issue is a humanitarian one, since the Turkish settlers are married and have children born in Cyprus. Therefore, their compulsory withdrawal will produce major social and economic problems to them.

If that is so, what can be said for the humanitarian issue arising from the violent persecution of the Greek Cypriots who were forced to leave their homes and properties in the Turkish occupied areas and live as displaced persons in their own country? At least it has to be a balance in expressing humanitarian feelings, especially when the humanitarian issues regarding the Greek Cypriots are based on the rule of law, while the same issues regarding the Turkish settlers are based on an international crime.

### **CONCLUDING REMARKS**

The Republic of Cyprus has a duty to protect its sovereignty and the rights of its people, both Greek and Turkish Cypriots, against Turkey's expansive policy. No person can suggest that Cyprus's small size may justify any deviation from the minima standards of human rights protection and respect.

The Republic of Cyprus, in the form which will emerge from a final solution to the Cyprus issue, exercising its sovereign rights, may decide to give a solution to any particular cases of Turkish settlers with obvious humanitarian nature. Such decisions must be based on concrete criteria and must be implemented by the state in exercising its authority. There is no justification for a massive, uncontrolled naturalization by a non existing state-entity, of so many foreigners, brought to Cyprus in breach of the international legal order.