CHAPTER NINETEEN

EUROPEAN HUMAN RIGHTS LAW AND TURKEY’S VIOLATIONS IN THE OCCUPIED AREAS OF CYPRUS

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I. INTRODUCTION

It is a distinct pleasure to contribute this essay to the volume published in honor of a distinguished colleague, Professor Kalliopi Koufa. In addition to her work as Director of the Institute of International Public Law and International Relations, Professor Koufa served with distinction as a member of the UN Sub-Commission on the Promotion and Protection of Human Rights and as Special Rapporteur on ‘Terrorism and Human Rights’. Both topics have taken added significance following the events of 11 September 2001 in the United States and their impact on US policy in the Middle East and SW Asia. The fear of terrorism, double standards in the enforcement of human rights and the subordination of human rights to political, economic and security considerations are undermining the foundations of the human rights regime that emerged, particularly in Western Europe, following the end of WWII.

This essay focuses on Turkey’s continuing violations of European and international human rights law in Cyprus. These violations commenced on 20 July 1974 with Turkey’s invasion of a sovereign UN member. Despite universal condemnation, these violations continue to this day. Turkey occupies nearly 37 per cent of the Republic of Cyprus. Its forces have engaged in the systematic and deliberate ethnic cleansing of the occupied areas. Turkey’s actions were directed at Greek Cypriots because of their ethnicity, religion and language. It is ironic that Turkey, as a member of the Council of Europe, has ratified the European Convention on Human Rights. Article 14 of the Convention explicitly prohibits such discriminatory actions. Similar provisions are also included in Article 21 of the Charter of Fundamental Rights of the EU, an organization Turkey aspires to join. In addition, the European Convention and the judgments of the European Court of Human Rights are part of EU law. Turkey’s continuing violations of European and international human rights law in Cyprus present a challenge to the post-Cold War European order.

Turkey’s human rights problems are not limited to Cyprus. Over the years, Turkey’s domestic human rights record has come under international scrutiny by major human rights NGO’s and regional European institutions. Turkey’s domestic human rights record was one
key obstacle in its relations with the EU. Turkey had to adopt new laws, to revise existing laws and to start implementing necessary reforms prior to the commencement of EU accession talks in the fall of 2005. Human rights issues affecting Turkey’s ethnic, linguistic and religious minorities have come under scrutiny and have resulted in legal actions in European institutions. The most recent cases include the Greek minorities of Istanbul, Imbros and Tenedos, and the fate of the Eastern Orthodox Ecumenical Patriarchate in Istanbul.\(^1\) All involve Turkey’s failure to uphold international obligations and treaty commitments.\(^2\) This shows that Turkey’s actions in Cyprus are not an isolated event but part of a pattern reflecting Turkey’s discriminatory treatment of its ethnic, linguistic and religious minorities and of its disregard of international legal obligations. This essay is also a testament of the failure of the international community to consistently enforce international human rights standards, especially when human rights conflict with broader economic, political and security priorities. This is why the case of Cyprus is a test of the validity of the human rights regime established in Europe since the end of WWII.

The record presented in this essay is based on investigations and decisions by NGOs, by the Parliamentary Assembly of the Council of Europe, by the European Court of Human Rights, by the European Commission of Human Rights, and the Committee of Ministers of the Council of Europe.

II. THE EUROPEAN HUMAN RIGHTS SYSTEM

The traumatic experience of WWII was a turning point in the international protection of human rights. It led to the adoption by the newly created United Nations of the Universal Declaration of Human Rights in 1948. This Declaration became the foundation of many of the treaties adopted since then for the international and regional protection of human rights. The combination of the cultural, social and political cohesion of post-WWII Western Europe, along with the experience of WWII, led to the adoption in 1950 of the groundbreaking European Convention on Human Rights that came into effect in 1953. The

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\(^1\) Two recent examples include *Fener Rum Patriklığı (Ecumenical Patriarchate) v. Turkey*, 8 July 2008, European Court of Human Rights, Application No. 14340/2005. Also, Parliamentary Assembly of the Council of Europe, Resolution 1625, 27 June 2008, on the Greeks of Imbros and Tenedos.

\(^2\) Such as the 1950 European Convention on Human Rights, the 1923 Treaty of Lausanne, the 1948 Universal Declaration of Human Rights, and the 1949 Geneva Conventions.