

For debate in the Standing Committee – see Rule 15 of the Rules of Procedure

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Situation of the inhabitants of the Sovereign Base Areas of Akrotiri and Dhekelia

Report
Committee on Legal Affairs and Human Rights
Rapporteur: Mr Andreas GROSS, Switzerland, Socialist Group

Summary

The report covers specific human rights issues concerning the inhabitants of the British Sovereign Base Areas (SBAs) in Cyprus. These include grievances pertaining to restrictions placed on the use of properties located in the SBAs, the noise caused by aircraft using Akrotiri air base and specific health concerns, including those linked to the operation of high-powered antennae.

Whilst leaving open the question of the legitimacy of the British military presence in Cyprus as such, the Committee makes concrete proposals in its draft resolution to address the inhabitants' grievances in order to ensure that they can benefit from the European Convention on Human Rights insofar as possible.

A. Draft resolution

1. The Parliamentary Assembly stresses the importance it attaches to the non-discriminatory application of the European Convention on Human Rights throughout the territory of all member states.

2. Leaving aside the question of whether the presence of the British Sovereign Base Areas (SBAs) in Cyprus is legitimate, the Assembly considers that the principle of the non-discriminatory application of the Convention must apply to the inhabitants of the SBAs, whose rights should be protected in the same way as those of all other Cypriots.

3. The Assembly commends the United Kingdom for granting the inhabitants of the SBAs the right of individual application to the European Court of Human Rights in 2004. However, it also notes that the First Protocol has not been extended to the SBAs and that the Cypriot inhabitants of the SBAs enjoy neither the full panoply of rights of Cypriot nationals nor that of nationals of the United Kingdom.

4. It also notes that the British authorities in charge of the administration of the SBAs, by and large, treat the local population in a respectful manner.

4.1. Whilst many SBA residents, as well as Cypriots living in the Republic of Cyprus, have reservations as to the presence on the island of the British military, which many perceive as a remnant of colonialism, there have been no specific complaints about the behaviour of representatives of the British military or civilian authorities vis-à-vis the local population.

4.2. Regular contacts between elected representatives of the Cypriot inhabitants of the SBAs and the British authorities have established a continuous dialogue which has enabled both sides to identify and address any practical problems.

4.3. The strong commitment of the SBA authorities to the preservation of the natural environment is documented, *inter alia*, by the draft Akrotiri Peninsula Environmental Management Plan, and by the operation of the Akrotiri Environmental Education and Information Centre (AEEIC), which is performing important monitoring and educational tasks. The current restrictions on property development have spared the SBAs some of the excesses of rapid expansion of settlements having occurred in other parts of the southern part of Cyprus, which were aggravated by the need to rehouse in a short time large numbers of refugees from the north of the island following the events of 1974.

5. Despite the efforts made on both sides, a number of problems persist.

5.1. The inhabitants of Akrotiri village, which is located right at the end of the runway of the British air base, suffer from the almost unbearable noise of military aircraft taking off and landing. Whilst the British forces strive to avoid aircraft movements during the night, during the afternoon rest period in the local kindergarten or during the time of church services on Sundays, there are in some periods too many exceptions.

5.2. The inhabitants of Akrotiri village and other localities nearby worry about the potentially detrimental effects on their health of the high-powered "Pluto" antennae built in 2001 in the Western SBA, as well as on wild birds on the nearby salt lake. The results of an independent study commissioned by the British and Cypriot authorities, which concluded that health risks were minimal, have not allayed the fears of the inhabitants; they consider that the study came too early to properly reflect long-term effects of exposure to the antennae's emissions and doubted its impartiality.

5.3. The inhabitants of both SBAs complain about restrictions placed by the SBA administration on the use of their properties, whose market value remains depressed compared to other areas of Cyprus due to persisting restrictions on land use. The Assembly therefore welcomes the fact the British authorities have recently engaged in consultations aimed at aligning the planning and zoning rules applied to geographic areas situated in SBAs that are not needed for military purposes with the rules applicable in the Republic of Cyprus. Regrettably, the British authorities have so far defined the boundaries of the land concerned by this measure unilaterally.

5.4. The inhabitants of both SBAs also complain about the fact that certain European Union subsidies under the Structural Funds are not available to them.

5.5. Representatives of the inhabitants of the SBAs also complain about a perceived lack of independence of the Sovereign Base Areas Court that is competent to hear disputes, *inter alia*, between local residents and the British authorities, and criminal cases against inhabitants.

5.6. The Turkish Cypriot inhabitants of the villages of Pergamos and Pyla situated in the vicinity of the Eastern SBA complain about:

5.6.1. impediments to their freedom of movement, even within their village separated in two;

5.6.2. the difficulties they face in bringing goods from the northern part of Cyprus to their village, even for their personal use;

5.6.3. perceived discrimination against Turkish Cypriot-owned businesses in the award of outsourcing or privatisation contracts by the British authorities;

and raised specific public health concerns of their own.

6. The Assembly therefore invites the British authorities:

6.1. as regards aircraft noise at Akrotiri:

6.1.1. to consider the possibility of moving the runway of Akrotiri air base closer to the coast so that aircraft can approach and depart over the sea instead of Akrotiri village;

6.1.2. if the displacement of the runway is not feasible, to fund adequate technical noise protection measures, both in the homes and in public buildings that are most exposed to aircraft noise; the tolerance criteria and amounts of subsidies for remedial measures should be the same as those applicable to neighbours of airports located in the United Kingdom or elsewhere in Cyprus;

6.1.3. to negotiate with the representatives of the inhabitants of Akrotiri a binding flight schedule, taking into account not only the nightly rest period but also key school and religious service hours. Whilst such a schedule should allow for well-defined exceptions, the inhabitants should be kept informed about the reasons for any exceptions and granted a modest financial compensation for each aircraft movement taking place outside the agreed timetable to be paid into a fund for community projects;

6.2. as regards the concerns about the detrimental health effects of the antennae at Akrotiri:

6.2.1. to publish the findings of the independent study also in Greek;

6.2.2. to ensure, in collaboration with the Health Ministry of the Republic of Cyprus, adequate and transparent epidemiological follow-up to the existing study, keeping track, in particular, of all cases of cancer occurring in the local population;

6.3. as regards property development issues:

6.3.1. to continue their consultations with the Government of Cyprus and with the elected representatives of the local inhabitants on the content of the new regulations that shall govern property development in the SBAs and to extend these consultations also to the question of the boundaries of the lands that shall be governed by the new, more favourable rules;

6.3.2. to pay due attention to the possible need to foresee appropriate mechanisms to protect the present inhabitants of the SBAs and the natural environment from excessive speculative pressures;

6.3.3. to phase in the new rules as soon as possible;

- 6.4. as regards access to European Union Structural Funds, to take the necessary steps, jointly with the Government of Cyprus, to ensure that the inhabitants of the SBAs are granted access to these funding sources in the same way as other inhabitants of the Republic of Cyprus;
- 6.5. as regards the courts dealing with cases concerning Cypriot inhabitants of the SBAs:
 - 6.5.1. to explain to the population concerned the procedure by which judges are appointed and how their independence from the SBA administration is guaranteed ;
 - 6.5.2. to extend the existing possibilities for SBA inhabitants to elect to have cases heard by Cypriot courts instead of the SBA court;
- 6.6. as regards the specific complaints of the Turkish Cypriot inhabitants:
 - 6.6.1 insofar as possible, under European Union and United Nations rules and respecting the sovereign rights of the Republic of Cyprus, to facilitate the circulation of the inhabitants of Pergamos and Pyla over the boundaries controlled by the British military, and to enable them to bring goods for their own use from the areas in which the Government of the Republic of Cyprus does not exercise effective control, including by providing the persons concerned with special identification documents designed to speed up controls;
 - 6.6.2. to allow all legally registered companies, including those owned by Turkish Cypriots, to participate on an equal footing in calls for tender for procurement contracts concerning the SBA administration, and to inform companies having submitted tenders and which lack registration about the procedures enabling them to fulfil legal requirements;
 - 6.6.3. to continue investigating and following up specific health concerns raised by the local Turkish community representatives.

B. Explanatory memorandum
by Mr Andreas Gross, Rapporteur

Contents:

I. Introduction

- i. Procedure to date*
- ii. Background information on the British Sovereign Base Areas (SBAs) and the application of the European Convention on Human Rights*
- iii. The SBAs, the European Convention on Human Rights and the European Union*
 - a. Application of the ECHR in the SBAs*
 - b. Application of European Union "acquis" in the SBAs*

II. The human rights situation of the SBAs' Cypriot inhabitants

- i. Good relations between the inhabitants and their - unelected - administration*
- ii. A well-preserved natural environment in the SBAs*
- iii. Specific human rights problems of the inhabitants of the SBAs*
 - a. Aircraft noise in Akrotiri*
 - b. The antennae in Akrotiri – a health hazard?*
 - c. Land use restrictions*
 - d. Independence of the SBA courts*
 - e. Specific problems raised by Turkish Cypriot inhabitants of Pergamos and Pyla¹*

III. Conclusion: concrete proposals to improve the situation of the inhabitants of the SBAs

Appendix: programme of the Rapporteur's visit to Cyprus on 13-15 November 2006

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I. Introduction

- i. Procedure to date*

1. The motion by Mr Pourgourides and others for a resolution on "The situation of the inhabitants of the Sovereign British Areas of Akrotiri and Dhekelia"² was referred to the Committee on Legal Affairs and Human Rights for report by the Standing Committee at its meeting in Paris on 18 March 2005 (Reference No 3057). On 6 April 2005, the Committee appointed Mr Gross as Rapporteur. At its September 2005 meeting, the Committee discussed an introductory memorandum presented by the Rapporteur (AS/Jur (2005) 41) and authorised the Rapporteur to carry out fact-finding visits to Cyprus and to the United Kingdom, if necessary.

2. From 13 to 15 November 2006, the Rapporteur carried out a fact-finding visit including visits to the two Sovereign Base Areas at Akrotiri and Dekhelia (henceforth: SBAs) as well as meetings with representatives of the Cypriot Government and parliament, the British High Commissioner, as well as locally elected representatives of the Greek and Turkish Cypriot inhabitants of villages situated on or near the SBAs, finally with one of the representatives of the Turkish Cypriot community with the Parliamentary Assembly (programme appended hereto). I should like to thank all my interlocutors and their collaborators for the efficiency and exquisite hospitality they showed in organising my programme in Cyprus.

¹ Beyarmudu and Pile in Turkish; the renaming of villages, carried out by the Turkish military authorities as part of an effort to change the demography and geography of the occupied part, is not recognised by the Republic of Cyprus.

² Cf. Doc 10441.

ii. *Background information on the British Sovereign Base Areas and the application of the European Convention on Human Rights*

3. The Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus cover about 254 km² (size of Cyprus: about 9,000 km², including northern Cyprus). A total of 3,500 British soldiers are stationed on both bases (1,300 in Akrotiri and 2200 in Dhekelia) and another 5,000 family members and British civilian employees live on the two bases. The SBAs have their own legal and judicial system that is independent of the system in place in the Republic of Cyprus. By virtue of Article 4 of the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960, the Administrator of the SBA is given power to “make laws for the peace, order and good government of the Sovereign Base Areas”. In line with the declaration to this effect made by the United Kingdom Government in paragraph 3(2) of Appendix O of the Treaty of Establishment, the laws applicable to the Cypriot population of the SBAs are “as far as possible the same as the laws of the Republic” (so-called mirroring legislation). According to the Powers and Duties (Officers of the Republic of Cyprus) Ordinance 2002³, officers of the Republican Government are delegated to carry out many powers and duties imposed under SBA legislation.

4. The SBAs contain an important British listening post covering the most sensitive regions of the Middle East, and the only fully-fledged RAF station in the Mediterranean. They were used as a British rear base during both Iraq wars.

5. Whilst many Cypriots work in the SBAs, mainly for the British forces or as farmers, only those Cypriots with a local connection are permitted to live there, such as those living in Akrotiri village, or in the outskirts of other villages neighbouring the bases. The villages of Xyloimbou and Ormidhia are exclaves of the Republic of Cyprus surrounded by the Dhekelia SBA. Pergamos and Pyla are also situated on or in the vicinity of the Eastern SBA and inhabited partly by Turkish Cypriots.

6. In line with the purpose of the motion, I have looked into the situation of the inhabitants of the SBA and made concrete proposals for improvements. It is not part of my mandate to take position on the legitimacy of the SBAs in general, which is still disputed between the United Kingdom and the Republic of Cyprus. In short, the British Government considers the SBAs as an overseas territory of the United Kingdom, which it retained at the end of British colonial rule over Cyprus in Article 1 of the Treaty of Establishment of the Republic of Cyprus. The Cypriot view – impressively presented by the Speaker of the House of Representatives, Demetrios Christofias, at our meeting on 14 November 2006 in Nicosia – is that the SBAs are a remnant of colonialism and that the British should leave; pending their departure, they should at least pay rent for the facilities put at their disposal by Cyprus. Some Greek Cypriots say that the United Kingdom has forfeited its right to maintain the bases, as it had violated its side of a deal, that had included security guarantees for Cyprus, when the British forces stationed on the bases made no move to resist the Turkish invasion in 1974. But my British interlocutors have not failed to point out to me that the Government of Cyprus has made no move in the direction of requesting the closure of the bases.

7. In recent years, the continued presence of the British forces has come under increasing criticism from the people of Cyprus and its elected representatives. In July 2001, Britain’s plan to build six massive radio antennae triggered riotous demonstrations outside the Akrotiri base. Local residents and environmentalists were worried about the electromagnetic radiation generated by the antennae, which they linked to increased risks of brain tumours and leukemia, particularly among children. Environmentalists also fear the impact on wildlife of the antennae sited at a large salt lake within the Akrotiri base that is also home to many birds, including flamingos, and an important relay for migratory birds.

8. Since the two Iraq wars, criticism of the British military presence in Cyprus has also been motivated by wide-spread opposition to the use of Cypriot territory for military interventions in the region, which is perceived as violating Cyprus’ deeply-rooted neutrality.

9. On 30 June 2005, the Cyprus House of Representatives unanimously adopted a resolution on the legal status of the two bases, which illustrates the critical view taken by all political parties in the Republic of Cyprus. The resolution refers to “relevant UN decisions on the abolition of colonialism,

³ Based on paragraph 3(4) of Appendix O of the Treaty of Establishment.

as well as the fundamental principles of international law, which forbid the occupation of territory within the domain of any other country." The House also took into account "that the British Bases were established in Cyprus according to the Treaty of Establishment and the treaties in force during the period of signing the Treaty" as well as "the adverse consequences from the operation of the Bases on the human rights and quality of life of the Cypriot citizens residing within the Bases' area, as well as the danger of the Bases becoming involved in aggressive military actions against friendly states in the southeastern Mediterranean." The Cypriot parliament also noted "the contractual obligations of the United Kingdom to pay a financial fee, including rent, for the facilities provided by the Republic of Cyprus for the operation of the Bases" and argues in its resolution that "the British Bases cannot be used for offensive purposes, which will lead to the violation of the sovereignty and territorial integrity of independent states and the undermining of international peace and security." The House calls on the government of the United Kingdom "to fulfill its financial obligations towards the Republic of Cyprus, which derive from the Treaty of Establishment" and calls on the government of the Republic of Cyprus "to investigate every conducive legal means to claim the debt of the United Kingdom to the Republic of Cyprus." The House considers that the operation of the Bases should neither violate the rights of Cypriot citizens residing in their areas, nor adversely affect the environment and human health, and thus must comply with international treaties, the law of the Republic of Cyprus and the "acquis communautaire". It also supports "the final settlement of the issue of the British Bases' presence in the context of international law, including the principle of respect of state sovereignty and self-determination of peoples." In its resolution, the House further reaffirms its steadfast support to the full demilitarisation of Cyprus and notes that "it considers the present resolution as a statement of the body's opposition to the inclusion of provisions for the British Bases as they are encompassed in the Constitutional Treaty for Europe."

iii. *The SBAs, the European Convention on Human Rights (ECHR) and the European Union*

a. *Application of the ECHR in the SBAs*

10. As regards the application of the European Convention on Human Rights (ECHR), the United Kingdom made the following declaration in a letter from the Permanent Representative of the United Kingdom, dated 31 March 2004, registered at the Secretariat General of the Council of Europe on 1 April 2004:

"The Government of the United Kingdom declares that it extends the Convention to the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus, being a territory of whose international relations the United Kingdom is responsible.

The Government of the United Kingdom declares on behalf of the above territory that the Government accepts the competence of the Court to receive applications as provided by Article 34 of the Convention."

Accordingly, any inhabitant of the SBA considering that his rights protected under the ECHR have been violated can now apply to the European Court of Human Rights, following exhaustion of the internal remedies that have been put into place in accordance with the Administrator's legislative powers under the 1960 Order in Council.

11. The First Protocol has not yet been extended to the SBAs. The British position is that whilst Article 1 (protection of property) and 2 (right to education) would not be a problem, Article 3 (right to free elections) would be, as the election of the SBA administrator by the local population would not be compatible with the character of the SBAs as an overseas territory and its military purpose⁴. In their view, Article 57(1) of the ECHR, which does not permit reservations of a general character, prevents the United Kingdom from extending only Articles 1 and 2 of the First Protocol to the SBAs. According to the Cypriot side, it should be possible for the United Kingdom to extend the First Protocol to the SBAs whilst making a reservation (only) in respect of Article 3. I tend to agree with the Cypriot view, as the purpose of Article 57(1) of the ECHR is to ensure that Convention rights are given the widest possible application, and not to prevent the applicability of certain rights.

⁴ The Administrator of the SBAs is appointed by the Secretary of State for Defence.

12. In fact, two pieces of legislation – the Protection of Property Ordinance 2004 and the Right to Education Ordinance 2005 – were enacted by the SBA administration in order to provide domestic equivalents to the Convention rights set out in Articles 1 and 2 of the First Protocol. Whilst these ordinances cannot provide a right of recourse to the European Court of Human Rights, they make it unlawful for a public authority to act in a way which is incompatible with these rights.

b. Application of European Union “acquis” in the SBAs

13. The position of the SBAs is complicated by the fact that both the United Kingdom and the Republic of Cyprus became members of the European Union at different times, and that the northern part of the island has *de facto* not yet been integrated into the Union, pending an overall solution of the Cyprus problem. When the United Kingdom joined the European Communities, the SBA did not simply become part of the territory of the customs union. Article 299(6)(b) of the Treaty establishing the European Community stipulated that the said Treaty “shall not apply to the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus”. The “Joint Declaration on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus annexed to the Final Act of the Treaty concerning the Accession of the United Kingdom to the European Communities” provided that the arrangements applicable to relations between the EEC and the Sovereign Base Areas would be defined within the context of any agreement between the Community and the Republic of Cyprus. “Protocol No. 3 on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus” modifies Article 299(6)(b) of the EC Treaty in such a way as to make the Treaty applicable to the extent necessary to ensure the implementation of the arrangements set out in the “Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus annexed to the Act concerning the conditions of accession of [...] Cyprus [...] to the European Union”. Protocol No 3, which lists in some detail the provisions of EU law applicable to the SBAs, also refers back to the Treaty of Establishment, by “confirming that the accession of the Republic of Cyprus to the European Union should not affect the rights and obligations of the parties to the Treaty of Establishment”.

14. Many local representatives have complained that the inhabitants of the SBAs do not have access to subsidies under the EU's Structural Funds. I have raised this with my interlocutors representing the British and Cypriot authorities, who have assured me that they are in the process of taking the necessary steps to take up this issue in a joint initiative vis-à-vis the European Commission.

15. The fact that the Republic of Cyprus has become a member of the European Union has led to the establishment in practice of an EU outside border cutting right through the island, separating even members of the same (Turkish Cypriot) local community living in the same village (Pergamos).

II. The human rights situation of the SBAs' Cypriot inhabitants

i. Good relations between the inhabitants and their - unelected - administration

16. During my fact-finding visit, I had extensive contacts both with the leading representatives of the SBA administration and with locally elected representatives of the Cypriot inhabitants or neighbours of the base areas, including representatives of the Turkish Cypriot community. It was evident to me that my interlocutors from the two sides knew each other very well, and had due respect for one another. Regular contacts between locally elected representatives of the Cypriot inhabitants of the SBAs and the British authorities have established a continuous dialogue, which has enabled both sides to identify and address most practical problems.

17. Whilst many SBA residents, as well as Cypriots living in the Republic of Cyprus, have expressed reservations as to the presence of the British military in general, which many perceive as a remnant of colonialism, there were no specific complaints about the behaviour of representatives of the British military or civilian authorities vis-à-vis the local population. In an animated meeting in Akrotiri town hall, harsh words such as “arrogance” and “neo-colonialist attitude” were used, but when I asked for specific instances of arrogant behaviour of British officials, I was told that these terms were not directed at the officials who are in charge of the SBA administration personally, but at the attitude of the United Kingdom vis-à-vis the bases and Cyprus in general. My conclusion is that the British authorities in Cyprus, by and large, treat the local population in a respectful and civilised manner. Their declared aim – as a matter of principle, and as a means to ensure the continued acceptance of

the British presence by those most directly concerned – is to ensure that the Cypriot inhabitants of the SBAs suffer no disadvantage vis-à-vis other Cypriots. As we will see, the British authorities have succeeded to some extent, although certain problems remain to be solved.

18. The fact that the SBA administration is not democratically elected by the inhabitants was not raised as a problem by the local representatives. As this question is closely related to that of the legitimacy of the British military presence as a whole, which is not covered by my mandate as Rapporteur, I do not wish to discuss it any further either⁵.

ii. A well-preserved natural environment in the SBAs

19. During my extensive visits of the base areas, including a visit to the Akrotiri Environmental Education and Information Centre (AEEIC), I was impressed by the generally good state of the natural environment of the base areas. The restrictions of land use in force in these areas, which are the source of understandable discontent of property owners, have had as a consequence the protection of large swaths of land in a natural or near-natural state – land that might otherwise have been developed for housing or tourism, to the detriment of the area's natural beauty. My Cypriot interlocutors were in agreement that the base areas should continue to be spared the excesses of rapid expansion of settlements in other parts of southern Cyprus, which, as I was told, were aggravated by the need to resettle, in a short time, a large number of refugees from the north of the island, following the events of 1974.

20. The strong commitment of the SBA authorities to the preservation of the natural environment is documented, *inter alia*, by the detailed draft Akrotiri Peninsula Environmental Management Plan, which is published on the SBA administration's website, and by the operation of the AEEIC, which is performing important conservation, monitoring and educational tasks. According to the staff of the AEEIC, with whom I spoke, the Akrotiri antennae have not had a measurable negative impact on the wild birds living on and migrating via the nearby salt lake, including its impressive flamingo population.

iii. Specific human rights problems of the inhabitants of the SBAs

21. Despite the efforts made on both sides, some problems persist as regards certain Convention rights of the inhabitants of the base areas. They include serious health concerns, property rights and doubts as to the independence of the courts dealing with inhabitants' cases vis-à-vis the SBA authorities.

a. Aircraft noise in Akrotiri

22. The inhabitants of Akrotiri village, which is located right at the end of the runway of the British airbase suffer from the almost unbearable noise of military aircraft taking off and landing. Whilst I was assured by my British interlocutors that the British forces strive to avoid aircraft movements during the night, during the afternoon rest period in the local kindergarten, or during the time of church services on Sundays, there are many exceptions, for unforeseeable operational reasons, especially during such busy periods as the two gulf wars. The inhabitants acknowledged that agreements had been made but were "never kept". The British had paid for some noise insulation work (double glazing) at the local school, but the villagers found these measures insufficient. The inhabitants also claimed that they were told by "the British" that it would cost (only) £ 12 million to move the runway to a nearby site on the coast of the Akrotiri peninsula, where aircraft could approach and depart over the sea.

23. The British authorities drew my attention to the fact that, upon the establishment of the bases, the inhabitants of Akrotiri had been paid a financial compensation⁶ in order to move out of the village. The villagers responded by pointing out that this compensation was paid merely to compensate for the loss of possession (not of the title of ownership) of their houses, but not of their fields and pastures. They were therefore obliged to move back to their old houses in Akrotiri, not having been able to resettle elsewhere. The British authorities had accepted this *de facto* ever since the time of

⁵ See para. 11 above – the SBA administrator, a senior military officer, is appointed by the Secretary of State for Defence. This is the reason why the First Protocol, which, in its paragraph 3, foresees a right to democratic elections, has not been extended to the SBAs. I do see the point that it would be difficult to reconcile with the SBAs' quality as a military base to allow civilian inhabitants to elect the Bases' commander-in-chief.

⁶ CYP £ 1,000,000 in 1960.

Prime Minister Margaret Thatcher. The cost of moving the airfield and of all the related infrastructures was considered prohibitive and certainly higher than the figure of £12 million mentioned by the villagers, which had not been communicated to them by any official British source⁷.

24. In my view, the inhabitants of Akrotiri are undisputedly allowed to live in their houses legally, and they deserve the protection for their health and private lives that any other inhabitants living in the proximity of airports would enjoy in the United Kingdom or in Cyprus⁸. The fact that they live in the SBAs must not make them "second class citizens"⁹. If it is indeed prohibitively expensive to move the airfield, and this should first be properly assessed, other measures must be taken urgently in order to alleviate the suffering of the villagers of Akrotiri, for example improved noise protection of houses, and stricter adherence to time slots for take-off and landing negotiated with the inhabitants¹⁰.

b. The antennae in Akrotiri – a health hazard?

25. The inhabitants of Akrotiri village and other localities nearby worry about the potentially detrimental effects of the high-powered antennae built in 1999 and 2001 in the Western SBA (Pluto 1 and 2) on their health. They fear that the powerful electromagnetic radiation may lead to an increased risk of leukaemia, brain tumours, or even just headaches, sleeplessness and dizziness. The results of an independent study commissioned by the British and Cypriot authorities¹¹, which concluded that health risks were minimal, have not allayed the fears of the inhabitants, which were exacerbated by the delayed publication of the study by the Cypriot side. The representatives of the inhabitants found that the study came too early to reflect properly the long-term effects of exposure to the antennae's emissions. In my view, the delay in publication of the study was indeed regrettable. I tend to agree that less than four years after the more powerful antennae began operating may still be too early to say what its long-term effects will be. It is therefore important that adequate follow-up work is done ensuring that the population concerned is monitored very carefully for any adverse health effects. This work must be done transparently, in close cooperation with the local representatives. It appears that significant progress has been made on this count since my fact-finding visit¹².

c. Land use restrictions

26. The inhabitants of both SBAs complain about restrictions placed by the SBA administration on the use of their properties for development purposes. Property values remain depressed compared to other areas of the Republic of Cyprus, due to the persisting restrictions on land use and on the sale of land to non-Cypriots. In this context, I should like to recall that restrictions placed on the use of property that are not justified by considerations of general interest and properly compensated may constitute violations of Article 1 of the First Additional Protocol to the ECHR.

27. The British authorities have recently engaged in consultations aimed at largely aligning the planning and zoning rules applied to geographical areas situated in SBAs that are not needed for

⁷ I was told subsequently that the cost of moving the runway and associated infrastructures is estimated to be in the region of £ 200 million, environmental and associated costs adding significantly to this figure.

⁸ Cf. the Grand Chamber judgment of the European Court of Human Rights in the case of *Hatton and Others v. the United Kingdom* (Application No 36022/97) of 8 July 2003 concerning complaints of local residents against night flights at Heathrow; the Grand Chamber (contrary to the Chamber judgment of 2 October 2001) found no violation of Article 8 ECHR (right to respect for private and family life and home), but a violation of Article 13 (right to an effective remedy).

⁹ A term used by several local representatives, and Cypriot parliamentarians.

¹⁰ According to data provided by the SBA Chief Officer, between 1 September and 21 November 2006, 1,690 aircraft movements (take-offs or landings) took place during what is considered as normal operating hours (7h-19h, 7 days/week), and 142 outside these hours; the British authorities recalled that this is nonetheless a military airfield with operational imperatives.

¹¹ The Akrotiri Military Antennae Health Survey; authors: Professors A. W. Preece, E.J. Dunn and S.J. Farrow of the University of Bristol Medical Physics & Oncology Department, Bristol Haematology & Oncology Centre and Dr A. G. Georgiou, Chief Medical Officer, Medical & Public Health Services, Ministry of Health, Cyprus; the final report dated 2 June 2005 is made public on the official SBA website (<http://www.sba.mod.uk/>), shortcut: http://www.sba.mod.uk/environment_forms/Antennae%20Health%20survey.pdf.

¹² I was recently informed that on 25 January 2007, the British authorities, jointly with the Cypriot Minister of Health, presented the findings of the Bristol University study to the Akrotirians, and the Minister undertook to provide a translation of the report. The British authorities are also working with the Cypriot Chief Medical Officer on a plan for a follow-up survey.

military purposes with the relevant rules applicable in the Republic of Cyprus. Regrettably, in defining the areas concerned by this offer¹³, the British authorities have acted unilaterally.

28. In my view, the general idea of aligning SBA zoning rules to those applicable in the Republic of Cyprus is a good one, as it goes in the direction of giving SBA inhabitants the same rights as other Cypriots. I should like to add two additional considerations:

- the new rules on land use in the SBAs should foresee a mechanism agreed between the representatives of the local inhabitants and the British and Cypriot authorities designed to alleviate the negative effects of easing land use restrictions on the natural environment, and to diminish the risk for the current inhabitants to be displaced from their homes in the base areas by unfettered speculation. It is especially important that the locally elected representatives of the SBA inhabitants are fully involved in the necessary dialogue.
- the precise boundaries of the areas concerned by the planned change in zoning rules should not be fixed unilaterally by the British side, but negotiated between all stakeholders. Whilst the current and future needs for military purposes must be an important consideration, there should be a certain amount of flexibility allowing for the interests of the property owners, and of neighbouring communities, to be given the consideration due to them under Article 1 of Protocol No 1 to the ECHR.

After the talks I have had on this topic during my visit to Cyprus, I am optimistic that a reasonable solution can be found, and in good time. In January 2007, I received a copy of the actual proposals submitted to the Cypriot authorities, which appear to be in line with the indications given to me in November 2006.

d. Independence of the SBA courts

29. Representatives of the inhabitants of the SBAs also complained about a perceived lack of independence of the British courts that are competent to hear disputes, *inter alia*, between local residents and the British authorities, and criminal cases against inhabitants. Smaller civil cases and less serious criminal offences are dealt with by the Resident Judge seconded by the UK Department of Constitutional Affairs. The most important cases, as well as appeals against decisions of the resident judge, are decided by the Senior Judges Court, staffed by a panel of visiting judges from England and Wales.

30. I personally do not doubt the independence and neutrality of the British judges providing the judicial services to the SBAs. But from the perspective of the Cypriot inhabitants, especially in cases involving disputes with the SBA administration, the SBA Court appears to be an extension of the administration. I was told by my British interlocutors that in some cases, Cypriot inhabitants of the base areas have the option to take their case to a Cypriot court. In my view, it would be a good confidence-building measure to extend this possibility as far as possible, whilst at the same time making an effort to explain to the residents in some more detail how the Resident Judge and the Senior Judges Court are appointed, stressing the safeguards for their independence from the SBA administration.

e. Specific problems raised by Turkish Cypriot inhabitants of Pergamos and Pyla

31. The Turkish Cypriot inhabitants of the villages of Pergamos and Pyla situated in the vicinity of the Eastern SBA share a number of the issues raised by Greek Cypriots. Interestingly, whilst many Greek Cypriots found the British to be too pro-Turkish Cypriot, the Turkish Cypriot residents I met complained about the SBA administration being too closely linked with the Republican Government.

32. The Turkish Cypriot residents bitterly complained about impediments to their freedom of movement, even within their village separated in two. Farmers could not go to work on their fields, relatives could not visit each other, without passing each time through burdensome immigration and

¹³ Corresponding to an offer made by the United Kingdom as a contribution to a general settlement of the Cyprus problem in the framework of the Annan Plan, which involved a cession to the proposed Constituent States of parts of SBA territory that are not or no longer needed for military purposes.

customs controls. They also faced difficulties in taking goods from the northern part of Cyprus to their village, even for their own personal use.

33. The British authorities acknowledged the existence of a problem, which they insisted was not attributable to any decision of the SBA authorities, but to their obligations under EU law¹⁴ to treat the boundary between the SBA and the areas in which the Government of the Republic of Cyprus does not exercise effective control as a *de facto* EU customs 'border' with all associated controls on crossings of goods and people. The SBA authorities explained to me that they attempted to alleviate the inhabitants' practical problems as much as was in their power, in view of the complicated legal and factual situation on the island. They were using a number of pragmatic means to help residents, but they were also, at times, faced with attempts to abuse their leniency for purposes of smuggling goods brought in unlawfully from Turkey for commercial purposes, as well as with illegal immigration.

34. Turkish Cypriots also complained about perceived discrimination by the SBA administration of Turkish Cypriot-owned businesses in the award of outsourcing or other privatisation contracts. When I raised this complaint, the British representatives replied that the SBA administration was bound to award contracts only to legally registered companies, i.e. companies registered by the competent Republican authorities or in the SBAs. I was assured by my Greek Cypriot interlocutors that it is legally and practically possible for Turkish Cypriot businesses located in the areas in which the Government of the Republic of Cyprus does not exercise effective control to be legally registered in the Republic of Cyprus – a procedure many companies had gone through precisely in order to be legally eligible to do business in the Republic, or with the SBA administration. Having been faced with the complaints of Turkish Cypriot small businessmen who genuinely feel discriminated, I cannot but conclude that there is a need for more information on the legal procedures for the registration of companies in the Republic of Cyprus.

35. Finally, Turkish Cypriot SBA residents have also raised specific public health concerns of their own. One of their locally elected representatives, a medical doctor, alleged that the high levels of radiation found throughout Cyprus after the nuclear accident in Chernobyl never decreased in the vicinity of the Eastern SBA, whereas they decreased over time in other parts of Cyprus. He therefore suspected that the high level of radiation found in this area was not caused by Chernobyl, but was only discovered in the wake of this accident, which prompted numerous measurements being taken in different places. He suspected that the British military were stockpiling or using in exercises certain types of uranium-tipped ammunition that were also used during the first Iraq war. In addition, an inexplicably high proportion of workers in the Eastern SBA's sewage plant suffered from cancer, which had him suspect that they were exposed to a dangerous source of pollution in their workplace.

36. The British representatives with whom I raised these complaints were surprised that the local representatives concerned had not raised these issues before, during one of the meetings they hold routinely¹⁵. They undertook to investigate these matters as soon as possible. I was informed shortly after my return from Cyprus that no uranium-tipped ammunitions, nor any other nuclear weapons or other materials, were ever stockpiled in the SBAs, or used in military exercises. The SBA administration would also follow-up closely the health problems of the sewage workers it employed and investigate their possible causes¹⁶.

III. Conclusion: concrete proposals to improve the situation of the inhabitants of the SBAs

37. In the draft resolution, I am proposing expressly to leave aside the issue of the legitimacy of the British military presence in Cyprus. In line with the terms of my mandate, I am instead submitting a number of specific proposals aimed at improving the human rights situation of the inhabitants of the British bases in Akrotiri and Dhekelia. These proposals address, one by one, the different issues

¹⁴ Cf. Protocols numbers 3 and 10 to the EU Accession Treaty, EC Regulations 866/2004 (as amended), 1480/2004, 1624/2005 and Decision 2004/604/EC governing the 'Green Line'.

¹⁵ By way of example, the SBA Chief Officer provided me with the agendas of recent meetings of this type.

¹⁶ The Chief Officer informed me on 21 November 2006 that neither the Facilities Manager at Dhekelia nor Headquarters were aware of any reported health issues with the workers at the sewerage plant. He informed me subsequently that he had visited the Turkish Cypriot community leader on two further occasions since my visit to discuss this and their other concerns. Having informed them that the British authorities could trace no evidence of illness amongst the sewage workers, he had on both occasions sought information from them to help a wider investigation. They had not been able to assist.

raised by the locally elected representatives of the residents: the aircraft noise in Akrotiri, the "Pluto" antennae, the land use restrictions, access to Structural Funds, the independence of the SBA courts, and the specific problems raised by the Turkish Cypriot residents. I am therefore proposing that the Assembly invite the British authorities

1. as regards aircraft noise at Akrotiri:

1.1. to consider the possibility of moving the runway of Akrotiri air base near the coast so that aircraft can approach and depart over the sea instead of Akrotiri village;

1.2. if the displacement of the runway is not feasible, to fund adequate technical noise protection measures, both in the homes and in public buildings that are most exposed to aircraft noise; the tolerance criteria and amounts of subsidies for remedial measures should be the same as those applicable to neighbours of airports located in the United Kingdom, or elsewhere in Cyprus;

1.3. to negotiate with the representatives of the inhabitants of Akrotiri a binding flight schedule taking into account not only the nightly rest period, but also key school and religious service hours. Whilst such a schedule should allow for well-defined exceptions, the inhabitants should be kept informed about the reasons for any exceptions, and granted a modest financial compensation for each aircraft movement taking place outside the agreed timetable, to be paid into a fund for community projects;

2. as regards the concerns about detrimental health effects of the antennae at Akrotiri

2.1. to publish the findings of the independent study also in Greek;

2.2. to ensure, in collaboration with the Health Ministry of the Republic of Cyprus, adequate and transparent epidemiological follow-up to the existing study, keeping track, in particular, of all cases of cancer occurring in the local population;

3. as regards property development issues:

3.1. to continue their consultations with the Government of Cyprus and with the elected representatives of the local inhabitants on the content of the new regulations that shall govern property development in the SBAs and to extend these consultations also to the question of the boundaries of the lands that shall be governed by the new, more favourable rules;

3.2. to pay due attention to the possible need to foresee appropriate mechanisms to protect the current inhabitants of the SBAs and the natural environment from excessive speculative pressures;

3.3. to phase in the new rules as soon as possible;

4. as regards access to EU Structural Funds, to take the necessary steps, jointly with the Government of Cyprus, to ensure that the inhabitants of the SBAs are granted access to these funding sources in the same way as other inhabitants of the Republic of Cyprus;

5. as regards the courts dealing with cases concerning Cypriot inhabitants of the SBAs:

5.1. to explain to the population concerned the procedure by which judges are appointed, and how their independence from the SBA administration is guaranteed;

5.2. to extend the existing possibilities for SBA inhabitants to appeal to Cypriot courts instead of the SBA court;

6. as regards the specific complaints of the Turkish Cypriot inhabitants:

6.1 insofar as possible, under European Union and United Nations rules and respecting the sovereign rights of the Republic of Cyprus, to facilitate the circulation of the inhabitants of Pergamos and Pyla over the boundaries controlled by the British military, and to enable them to bring goods for their own use from the areas in which the Government of the Republic of Cyprus does not exercise

effective control, including by providing the persons concerned with special identification documents designed to speed up controls;

6.2. to allow all legally registered companies, including those owned by Turkish Cypriots, to participate on an equal footing in calls for tenders for procurement contracts concerning the SBA administration, and to inform companies having submitted tenders and which lack registration about the procedures enabling them to fulfil legal requirements;

6.3. to investigate and follow up specific health concerns raised by the local Turkish community representatives.

Appendix

Programme of the visit to Cyprus of Mr Andreas Gross, Rapporteur

13-15 November 2006

Monday 13 November 2006

- 09.30 Meeting with the SBA Chief Officer and staff and the British High Commissioner's desk officer
- 11.00 Tour of WSBA
- 11.45 Visit to the Akrotiri Environmental Centre
- 13.15 Lunch hosted by officers of the British Bases, with mayors of neighbouring villages
- 15.30 Meeting with members of local authority of Episkopi village
- 17.00 Meeting with **Mr Giorgos Christou**, Chairman of the local authority of Akrotiri village
- 20.00 Dinner hosted by Mr Christos Pourgourides, MP, Member of the Cyprus Delegation to the PACE, in Limassol

Tuesday 14 November 2006

- 09.00 Meeting with **Mr Petros Clerides**, Attorney General of the Republic
- 10.00 Meeting with **Mrs Erato Kozakou-Marcoullis**, Director of the Cyprus Question and Euro-Turkey Affairs Division of the Ministry of Foreign Affairs, Ambassador
- 11.00 Meeting with **Mr Demetris Christofias**, President of the House of Representatives, followed by a press conference
- 12.15 Working lunch with the Members of the Cyprus Delegation to the Parliamentary Assembly of the Council of Europe
- 14.00 Meeting with **Mr Peter Millett**, British High Commissioner
- 15.30 Meeting with **Mr Özdal Nami**, representative of the Turkish Cypriot community with the Parliamentary Assembly
- 16.30 Meeting with **Mr Ylker Edip**, Muhtar de Pergamos, and other Turkish Cypriot local representatives (in the presence of Mr Nami)
- 17.30 Tour of the village of Pyla, in the presence of **Mr Nejdet Ermetal**, Mukhtar
- 18.30 Reception with M. Nami and Turkish Cypriot local representatives

Wednesday 15 November 2006

- 08.00 Meeting with the SBA Chief Officer and staff and British High Commissioner desk officer
- 08.30 ESBA overview by Chief Officer and ESBA Area Officer
- 10.00 Tour of ESBA
- 11.00 Meeting with **Mr Panayiotis Pouis** and **Mr Andreas Sergiou**, Chairmen of the local authorities of Ormidia and Xylotympou villages
- 12.45 Lunch hosted by officers of the British Bases

Reporting committee: Committee on Legal Affairs and Human Rights

Reference to committee: Doc 10441, Reference No. 3057 of 18 March 2005

Draft resolution adopted by the Committee on 12 March 2007 with one vote against

Members of the Committee: Mr Dick **Marty** (Chairperson), Mr Erik **Jurgens**, Mr György Frunda, Mrs Herta Däubler-Gmelin (Vice-Chairpersons), Mr Athanasios **Aletras**, Mr Miguel Arias, Mr Birgir Ármannsson, Mrs Aneliya **Atanasova**, Mr Abdülkadir Ateş, Mr Jaume **Bartumeu Cassany**, Mrs Meritxell Batet, Mrs Soledad Becerril, Mrs Marie-Louise Bemelmans-Videc (alternate: Mr Pieter **Omtzigt**), Mr Erol Aslan **Cebeci**, Mrs Pia **Christmas-Møller**, Mrs Ingrida **Circene**, Mrs Lydie Err, Mr Valeriy Fedorov, Mr Aniello Formisano (alternate: Mr Andrea **Manzella**), Mr Jean-Charles **Gardetto**, Mr József Gedei, Mr Stef Goris, Mr Valery **Grebennikov**, Mr Holger Haibach, Mrs Gultakin **Hajiyeva**, Mrs Karin Hakl, Mr Nick Harvey, Mr Serhiy **Holovaty**, Mr Michel Hunault, Mr Rafael Huseynov, Mrs Fatme Ilyaz, Mr Kastriot Islami, Mr Želiko **Ivanji**, Mr Sergei Ivanov, Mrs Kateřina **Jacques**, Mr Antti Kaikkonen, Mr Karol Karski, Mr Hans Kaufmann (alternate: Mr Andreas **Gross**), Mr Andrés Kelemen, Mrs Kateřina Konečná, Mr Nikolay Kovalev (alternate: Mr Yuri **Sharandin**), Mr Jean-Pierre Kucheida, Mr Eduard **Kukan**, Mrs Darja Lavtižar-Bebler, Mr Andrzej Lepper, Mrs Sabine Leutheusser-Schnarrenberger, Mr Tony Lloyd, Mr Humfrey **Malins**, Mr Pietro **Marcenaro**, Mr Alberto Martins, Mr Andrew **McIntosh**, Mr Murat Mercan, Mrs Ilinka Mitreva, Mr Philippe Monfils, Mr João Bosco **Mota Amaral**, Mr Philippe **Nachbar**, Mrs Nino Nakashidzé, Mr Tomislav Nikolić, Mrs Carina Ohlsson, Ms Ann Ormonde, Mr Claudio Podeschi, Mr Ivan Popescu, Mrs Maria Postoico, Mrs Marietta **de Pourbaix-Lundin**, Mr Christos **Pourgourides**, Mr Jeffrey Pullicino Orlando, Mr Valeriy Pysarenko, Mr François Rochebloine, Mr Francesco Saverio Romano, Mr Armen Rustamyan, Mrs Rodica Mihaela Stănoiu, Mr Christoph Strässer, Mr Mihai Tudose (alternate: Mrs Florentina **Toma**), Mr Øyvind Vaksdal, Mr Egidijus **Vareikis**, Mr Miltiadis Varvitsiotis, Mrs Renate **Wohlwend**, Mr Marco Zacchera, Mr Krysztof **Zaremba**, Mr Vladimir Zhirinovskiy, Mr Miomir Žužul

N.B.: The names of the members who took part in the meeting are printed in **bold**

Secretariat of the Committee: Mr Drzemczewski, Mr Schirmer, Mrs Maffucci-Hugel, Ms Heurtin, Ms Schuetze-Reymann