JCS

Journal of Cyprus Studies

Kıbrıs Araştırmaları Dergisi

14/15

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Cover: The cover artwork and creative design are an artist's interpretation of Cypro-Minoan writing based on a clay tablet found at Enkomi (*c.* 1200 BC), and the map *Eschkjal Qybrys*, "shapes of Cyprus" (*c.* 1522 AD), from the *Bahriye* (maritime atlas) of the Ottoman admiral and cartographer Piri Reis. On the map a mountain range (either the Troodos or the Kyrenia range) appears in the center, seen in elevation from the north (i.e. looking up from the lower left corner of the cover); significant harbors are enlarged to provide guidance to sailors; and towns are seen in elevation from the side of approach by sea. Towns marked include Larnaca (*Tuzla*), Kyrenia (*Quala'a-i Kernia*), and Famagusta (*Quala'a-i Bagusa*). [*Sources:* John Chadwick, *Reading the Past: Linear B and related scripts* (British Museum Publications, 1987, p. 51); A. Stylianou and J. A. Stylianou, *The History of the Cartography of Cyprus* (Nicosia: Zavallis Press, 1980, pp. 13-14, 192); the original Piri Reis MS is in the manuscript collection of the Österreichische Nationalbibliothek, Vienna, Cod. H.O. 192, fol. 145v.]

Kapak: Kapak tasarımı ve resmi bir sanatçının yorumu olup Enkomi harabelerinde ortaya çıkarılan M.Ö. 1200 yıllarına ait Kıbrıs-Miken yazılı kil tablet, ve Osmanlı Amirali ve haritacısı Piri Reis tarafından yapılan (M.S. 1522) ve *Bahriye* adlı denizcilik atlasında bulunan *Eşkâl-i Kıbrıs* haritası resimleri yorumlanarak yapılmıştır. Haritanın ortasında, Kuzeyden bakıldığında (kapağın sol alt köşesinden yukarı bakıldığında) yükselen sıradağlar görünmektedir (Trodos veya Girne Sıradağları). Önemli limanlar denizcilere kolaylık sağlamak amacı ile büyültülmüş; ve şehirler deniz tarafından yaklaşıldığındaki görüş açısından çizilmişlerdir. Haritada Larnaka (*Tuzla*), Girne (*Hala'a-i Kernia*) ve Gazimağusa (*Hala'a-i Bagusa*) Şehirleri gösterilmiştir. [*Kaynaklar:* John Chadwick, *Reading the Past: Linear B and related scripts* (British Museum Publications, 1987, s. 51); A. Stylianou and J. A. Stylianou, *The History of the Cartography of Cyprus* (Nicosia: Zavallis Press, 1980, s. 13-14, 192.); Piri Reis'in bu haritası Avusturya Milli Kütüphanesi elyazmaları koleksiyonundadir, Cod. H.O. 192, fol. 145v.]

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JCS Journal of Cyprus Studies
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The Center for Cyprus Studies at Eastern Mediterranean University was established for the purpose of encouraging scholarly research on the cultural history and political problems of Cyprus. The fields of research supported by the Center range from archeology, anthropology and economics to history, linguistics and folklore.

In collaboration with the University Library, the Center is working to develop documentation resources on all aspects of the history of Cyprus, and, as part of its mission to establish collaborative projects aimed at the development and preservation of the historical and cultural heritage of the island, is fostering close contacts with other institutions involved in related research. As the Center grows, its resources will include online bibliographical services; audiovisual facilities and archives such as videotapes, diapositives, photographs and microfilm; and rare book and manuscript collections.

The Center for Cyprus Studies coordinates research projects and hosts scholars in fields of study of relevance to its mission. The Center also organizes an annual congress on Cyprus-related studies, and publishes the quarterly *Journal of Cyprus Studies*.

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Kıbrıs Araştırmaları Merkezi, Kıbrıs'ın kültürel tarihi ve siyasi sorunları ile ilgili bilimsel araştırmaları teşvik etmek amacı ile Doğu Akdeniz Üniversitesi bünyesinde kurulmuştur. Araştırma alanları arkeolojiden antropolojiye, ekonomiden tarihe, dilbilimden folklora uzanan geniş bir yelpazeye yayılmıştır.

Üniversite Kütüphanesinin işbirliği ile Merkez, Kıbrıs araştırmalarını her yönüyle içeren bir kaynak arşivi oluşturmak amacı ile, bu konuda faaliyet gösteren diğer kuruluşlarla ortak projeler geliştirmek, Kıbrıs'ın tarihi ve kültürel mirasını korumak ve geliştirmek için yakın ilişkiler kurmayı hedeflemektedir. Merkez geliştikçe, olanakları da genişleyerek, video-bantlar, dia-pozitifler, fotoğraflar ve mikrofilmler gibi görsel ve işitsel kaynaklar, arşivler, ender bulunan kitaplar ve el-yazmaları koleksiyonlarını da içerecektir.

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The *Journal of Cyprus Studies* is a refereed, international, interdisciplinary publication whose primary purpose is twofold: i) to develop an authoritative archive and bibliography of sources for the study of ideas on social, cultural, historical, political and legal matters relevant to the past, present or future of the island of Cyprus; and ii) to provide a scholarly, academic forum for the analysis, development, exchange and critique of ideas on these matters.

The *Journal* is bilingual, and publishes material in English and/or Turkish. Articles submitted for consideration must focus on subject matter specific to the island of Cyprus, and may include (but are not restricted to) the following topics and areas of interest: analysis of archeological artifacts; the culture of the Egyptians, Romans, Persians; the Eastern Roman Empire, the Crusades; Lusignans, Venetians and Ottomans; art, literature, music; cartography, military history and technology; trade routes, water and natural resources; the geopolitics of the Eastern Mediterranean, Cold War, EEC and superpower concerns, contemporary developments in international law, conflict resolution, war; race, religion, ethnicity, nationhood, colonial and post-colonial perspectives, identity. Suggestions for other subject areas will be considered by the Editor.

Material published in the *Journal* may include original critical essays or studies, statements of reasoned opinion, sustained critical responses to published material, book reviews, translations, photographs, reproductions of works of art or cultural artifacts, interviews, official documents, transcripts of media broadcasts, or reprints of significant texts. The *Journal* does not publish partisan material dealing with the internal administration or politics of Eastern Mediterranean University, the Turkish Republic of Northen Cyprus, or the Republic of Turkey.

Because of the unique legal and political contexts of the peoples of Cyprus, problems of ideological and methodological bias in the writing of history are a central issue for the *Journal,* and one of its primary objectives is to establish definitive and authoritative texts for primary source material in the history of Cyprus. Accordingly, each issue of the *Journal* contains an archive of significant historical, legal, political and cultural documents related to this history, meticulously copy-edited and authenticated; annotations are provided where significant textual variants exist. The purpose is to make these documents available to researchers, without censorship, and foregrounding problems of distortion caused by translation or other forms of interpretation.

The *Journal of Cyprus Studies* does not discriminate against contributions on the basis of the nationality, race, ethnicity, religion or gender of the contributors; nor on the basis of their points of view or conclusions, provided that they are conveyed by careful, reasoned argument and discussion. Submissions are sent anonymously for review to readers whose identities also remain confidential. The Editor may, where complex issues are concerned, invite other contributors to submit critical evaluations and responses to an article, or alternative perspectives; and these may be published simultaneously.

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Derginin Amacı

Kıbrıs Araştırmaları Dergisi içerik bakımından çok yönlülüğe sahip uluslararası bir dergi olup temel misyonu şöyle özetlenebilir: i) Kıbrıs adasının geçmişi, geleceği ve bugünü ile ilintili toplumsal, kültürel, tarihsel, siyasi, hukuksal konular ve sorunlar ile ilgili çalışmalara etkin bir arşiv ve kaynakça oluşturmak; ii) sözü edilen konular ve sorunlarla ilgili fikirlerin geliştirilebileceği, tartışılacağı, görüş alışverişinde bulunulabileceği, bilimsel ve akademik bir forum oluşturmak.

Dergi İngilizce ve Türkçe olarak iki dilde yayınlanmaktadır. İncelenmek üzere dergiye gönderilen makaleler içerik bakımından Kıbrıs adası ile ilgili olmalıdır. *Dergi* ye gönderilen makaleler, belirtilen konularla kısıtlı olmamakla birlikte şu konuları içerebilir: arkeolojik eserlerin incelenmesi; Mısır, Roma ve Pers kültürleri; Doğu Roma İmparatorluğu ve Haçlı Seferleri; Lusinyanlar, Venedikliler ve Osmanlılar; sanat, edebiyat, müzik; haritacılık, askeri tarih ve teknoloji; ticaret yolları, su ve doğal kaynaklar; Doğu Akdeniz'in siyasal coğrafyası; Soğuk Savaş, Avrupa Birliği, Süpergüçlerin bölgesel çıkarları, uluslararası hukuk ile ilgili yeni gelişmeler, çözüm önerileri, savaş; ırk, din, etnik köken, ulus kavramı, sömürgecilik ve sömürgecilik sonrası yaklaşımlar, kimlik sorunu. Diğer konularla ilgili öneriler Editör tarafından değerlendirilecektir.

Dergi de yayınlanacak olan yazılar özgün eleştirel denemeler veya araştırmalar, uslamlamaya dayanan kişisel fikirler, önceden yayınlanmış yazı ve yapıtlara yönelik eleştirel yanıtlar, kitap tanıtım ve incelemeleri, çeviriler, fotoğraflar, sanat ve kültür eserlerinin baskıları, söyleşiler, resmi belgeler, medya yayınlarının kopyaları, basın açıklamaları, veya önemli metinlerin yeni baskıları olabilir. *Dergi*, Doğu Akdeniz Üniversitesi, Kuzey Kıbrıs Türk Cumhuriyeti veya Türkiye Cumhuriyeti'nin içişleri ve siyaseti ile ilgili yanlı yazıları yayınlamaz.

Kıbrıs'ta yaşayan halkların kendilerine özgü ve siyasal koşulları nedeniyle ideolojik veya yöntemsel önyargının tarihin yazılmasındaki etkin rolü *Dergi* için ana meseleyi oluşturduğundan, *Dergi* nin temel amaçlarından biri, Kıbrıs tarihinde kesin ve yetkin yazılardan meydana gelen bir ana kaynakça oluşturmaktır. Bu nedenle, *Dergi* nin her sayısı Kıbrıs tarihi ile ilgili, tarihsel, hukuksal, siyasal ve kültürel belgelerden oluşan titiz bir çalışma sonucu elde edilmiş, dikkatle kurgulanmış ve doğrulanmış bir arşiv içerecek ve gereken yerlerde çeşitli ve değişik belgelerle ilgili dipnotlar verilecektir. Amaç, bu belgeleri sansürden uzak bir biçimde araştırmacıların kullanımına sunmak ve bunu yaparken çeviriden veya yorum farklılıklarından kaynaklanan sorunlara da dikkat çekmektir.

Kıbrıs Araştırmaları Dergisi, milliyet, ırk, etnik köken, din veya cinsiyet farkı gözetmeksizin, bakış açıları veya vardıkları sonuçlar itibarı ile, itinalı ve mantıklı tartışma içeren yazılara açıktır. *Dergi* ye gönderilen bütün yazılar, değerlendirilmek üzere incelenirken yazarın olduğu kadar hakemin de kimlikleri saklı tutulur. Tartışmaya açık konular söz konusu olduğunda, Editör herhangi bir makaleye ilişkin eleştirel değerlendirmeler, yanıtlar veya alternatif yaklaşımlar için başka araştırmacılardan görüş isteyebilir ve bu konudaki bütün görüşler *Dergi* nin aynı sayısında yer alır.

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Johann Pillai

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Abstracts
ÖZETLER

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Article Abstracts

Zenon Stavrinides, "Is a Compromise Settlement Still Possible in Cyprus? Revisiting the Ghali 'Set of Ideas'"

The prospect of a peaceful resolution to the Cyprus problem depends on the Greek Cypriot and Turkish Cypriot sides resuming negotiations under the auspices of the UN Secretary-General and reaching agreement on a range of subjects. The "Set of Ideas," presented by Dr Boutros-Ghali in 1992 and endorsed by Security Council Resolution 774, remains the most appropriate framework for a negotiated settlement, despite misgivings by both sides. This article goes through successive chapters of the document and explains the ideas put forward on various subjects; analyzes the responses of the two sides where they differ; and in certain cases makes new proposals aimed at a compromise settlement.

M. Ergün Olgun, "Response to Zenon Stavrinides: Partnership in Cyprus—Gallantry or Futility?"

This response to Zenon Stavrinides' article "Is a Compromise Settlement Still Possible in Cyprus? Revisiting the Ghali 'Set of Ideas'" agrees with some of the latter's conclusions regarding the problems of displaced persons, creation of mixed villages and regional destabilization which will result from EU membership of the Greek Cypriot state prior to a Cyprus settlement. However, it rejects the possibility that the UN "Set of Ideas" can still form the basis for negotiations, in view of continuing Greek and Greek Cypriot government unilateral initiatives and public statements which are directly opposed to and undermine the essential goals and principles of the "Set of Ideas." Such unilateral initiatives and statements have undermined the needed trust and confidence to such an extent, that any future negotiation regarding partnership and cooperation, and with the aim of stability in the region, must necessarily be based on recognition of the sovereign equality and statehood of the Turkish Cypriot people.

Ergin Adnan Ulunay, "The English Common Law under the Legal System of the TRNC" *[in Turkish]*

The English common law was introduced into the Republic of Cyprus legal system by section 49(c) of the 1935 Courts of Justice law. Since then every Courts of Justice law enacted has had a similar provision. The current Courts of Justice law No. 9/76, by section 38(d) applies the common law to the legal system of the Turkish Republic of North Cyprus (TRNC). The interesting issue is how to determine the relationship between the common law and statutory laws. The Supreme Court of the Colony of Cyprus adopted the following test in the case of *Universal Advertising and Publishing Agency v. Vouros* 19 CLR. 87: "A cause of action at common law should after 1935 be available, unless the remedy is either expressly taken away by any law of the Colony or is clearly repugnant to any such law." It follows that those contractual, tortious, criminal provisions which are within the scope of the above test apply to the TRNC: common law tenancies, private international law, and public international law are part of the common law, and they apply to the TRNC.

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James Shiel, "The Cypriot Philosopher-King"

The philosopher Aristotle evidently had friends in Cyprus when he was still a pupil in Plato's Academy. Fragments of his protreptic address to one of them survive, and they indicate a surprisingly Platonic world-view, quite different from that found in the later works of Aristotle, those compiled when he ran his own school, the Lyceum, in Athens. This essay places the *Protrepticus* in the general context of the transmission of Aristotelian writings, and examines some of its arguments in relation to Platonic philosophy and to other works in the Aristotelian corpus.

Cem Giray, "A Preliminary Study of Marine Debris Pollution along the Northern Cyprus Coastline."

A pilot study was carried out on five sand beaches between June-August 1998 to determine the origin, composition, geographic distribution and accumulation rate of marine debris in the Turkish Republic of Northern Cyprus (TRNC). Debris collected included plastic containers and other plastic goods, medical waste and footwear, with minor amounts of glass and metal objects. The largest quantities were recorded on the northern coast of the Karpaz Peninsula, and the smallest on the northwestern site and the southern coast of the Peninsula. Approximately 3200 pieces of debris larger than $4cm^2$ (600 liters total volume) were collected from a 25m stretch of beach at the most polluted site; distribution of debris types was uniform throughout the five study sites. Most of the labeled debris was determined to have originated in Lebanon and other unidentified Arab countries, with minor amounts from Syria, southern Cyprus, Israel, Turkey and the TRNC, indicating a marine origin. The rate of marine debris accumulation on selected beaches was determined to average 286 pieces per 100m stretch of beach per month during the summer. The environmental, health and economic implications of this problem require international attention, to facilitate an end to dumping at sea and the resulting pollution of beaches on Cyprus and other regions in the Eastern Mediterranean.

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Makale Özetleri

Zenon Stavrinides, "Gali Fikirler Dizisi'ne geri dönmek suretiyle, Kıbrıs'ta tüm tarafların üzerinde uzlaşacağı bir çözüm halâ mümkün müdür?" *[İngilizce]*

Kıbrıs sorununun barışçıl bir çözüme kavuşma yönünde ilerleme kaydetmesi iki tarafın BM Genel Sekreteri himayelerinde görüşmelere yeniden başlamalarına ve bir dizi konuda antlaşmaya varmalarına bağlıdır. Her iki tarafın da endişelerine rağmen, Dr. Boutros Ghali'nin 1992'de sunduğu ve BM Güvenlik Konseyi'nin 774 sayılı kararıyla benimsenen "Fikirler Dizisi" görüşmeler yoluyla varılabilecek bir çözüme en uygun çerçeve olarak görülmektedir. Bu makale belgede mevcut paragrafları sırası ile ele alıp çeşitli konularda ileriye sürülen fikirleri açıklar; iki tarafın tepkilerinin farklı olduğu durumları inceler; ve belli konularda uzlaşmacı bir çözümü amaçlayan yeni öneriler yapar.

M. Ergün Olgun, "Zenon Stavrinides'e Cevap: Kıbrıs'ta Ortaklık—Cesaret mi Yoksa Abesle İştigal mi?" *[İngilizce]*

Zenon Stavrinides'in "Halâ Kıbrıs'ta Uzlaşmaya Dayalı Bir Çözüm Mümkün müdür?" başlıklı yazısına verilen bu cevapta onun yerlerinden olmuş kişiler, karışık nüfusa sahip köyler ve Kıbrıs Rum idaresinin bir uzlaşıdan önce AB'ye üye olması halinde doğacak bölgesel istikrarsızlık konularında varmış olduğu sonuçlarla mutabakat vardır. Ancak cevapta, Rum ve Yunanlıların gerginliği artırıcı tek yanlı girişimleri ve saldırgan resmi açıklamaları karşısında, 1992 BM Fikirler Dizisi'ne temel oluşturan anlayış ile zeminin tamamen ortadan kalktığı, ve bu nedenle Fikirler Dizisi'nin yeni bir müzakere sürecinin temelini oluşturabileceği varsayımının gerçekçi olmadığı anlatılmaktadır. Olgun cevabında, Rum ve Yunan ikilisinin tek yanlı girişimleri ve açıklamaları karşısında güvenin tamamen ortadan kalktığını ve ada ile bölgede istikrara hizmet edebilecek yeni (ve arzulanan) bir işbirliği ilişkisinin Kıbrıs Türk halkının egemen eşitliği ve iki devlet temeli üzerine kurulabileceğini anlatmaktadır.

Ergin Adnan Ulunay, "K.K.T.C. Hukuk Sisteminde İngiliz Ortak Hukuku"

İngiliz Ortak Hukuku Kıbrıs Hukuk Sistemine 1935 Adalet Mahkemeleri Yasasının 49(c) maddesiyle girmiştir. O tarihten beri yapılan her Mahkemeler Yasasında benzer madde vardır. Halen yürürlükte bulunan 9/76 sayılı Mahkemeler Yasasının 38(d) maddesi Ortak Hukuku K.K.T.C. Hukuk Sistemine uygulamaktadır. İlginç husus Ortak Hukuk ile Yasalar arasındaki ilişkiyi belirlemektir. *Universal Advertising and Publishing Agency v. Vouros*, 19 C.L.R. 87, içtihat kararında Kıbrıs Sömürge Yüksek Mahkemesi'nin benimsediği Hukuk Kriter şöyledir: "1935'den sonra Ortak Hukuk'daki bir Dava sebebi, çaresi herhangibir Yasa tarafından açıkça yürürlükten kaldırılmadığı takdirde veya herhangibir yasaya karşıtlık derecesinde aykırı olmadığı takdirde o dava sebebi yürürlüktedir." Dolaysıyle yukarıdaki Hukuki Kriterin kapsamı içerisinde olan Sözleşme Hukuku, Haksız Fiiller Hukuku, Ceza Hukuku hususları K.K.T.C.'de uygulanmaktadır. Ortak Hukuk Kiracılık ilişkileri, Milletlerarası Özel Hukuk, Devletler Kamu Hukuku Ortak Hukukun kısımlarıdır ve K.K.T.C.'de uygulanmaktadır.

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James Shiel, "Kıbrıslı Filizof-Kral" *[İngilizce]*

Eflatun'un Akademisi'nde henüz öğrenci olduğu yıllarda, Aristoteles'in Kıbrıs'ta dostları olduğu bilinmektedir. Tavsiyelerine yer vermiş olduğu bu tür yazışmalardan günümüze ulaşmış olanlarına bakıldığında, Eflatun'un dünya görüşünün etkileri açık biçimde görülmektedir. Söz konusu yazılardaki düşünceler, Aristoteles'in Atina'daki kendi okulu *Lyceum*' da ortaya koyduğu çalışmalardan belirgin olarak ayrılmaktadır. Bu çalışma, *Protrepticus*' u Aristoteles'in yazılarının geneli bağlamında ele alarak söz konusu eserde yer alan görüşleri hem Eflatun'un felsefesi ile hem de Aristoteles'in diğer çalışmaları ile olan ilişkileri çerçevesinde değerlendirecektir.

Cem Giray, "Kuzey Kıbrıs Türk Cumhuriyeti Sahillerinde Biriken Atıkların İncelenmesi" *[İngilizce]*

KKTC sahillerinde biriken atıkların kaynaklarını, türlerini, coğrafik dağılımını, yaş ve yığılma hızını belirlemek üzere 1998 yaz döneminde bir pilot çalışma yapılmıştır. Toplam beş kumsal araştırma kapsamına alınmıştır. Toplanan katı atıkların çoğunu plastik maddeler, tıbbi atıklar ve ayakkabılar oluşturmaktadır; bunun yanında az miktarlarda cam ve metal atıklarda bulunmuştur. En yüksek miktarlara Karpaz'ın kuzey sahillerinde rastlanmış, en düşük miktarlara Karpaz'ın güney sahillerinde ve Sadrazamköy'de bir kumsalda rastlanmıştır. Atıkların en yoğun olduğu sahilde, sadece 25 metrelik bir kısımdan $4cm^{2}$'den büyük yaklaşık 3200 parça (600 litre) atık toplanmıştır. Etiketleri okunabilen atıkların çoğunun Lübnan ve tanımlanamayan Arap ülkelerinden, geriye kalanının Suriye, Güney Kıbrıs, İsrail, Türkiye ve KKTC'den geldiği tesbit edilmiştir. Projeye dahil edilen sahillerde atıkların yığılma hızının her 100 metreye ayda ortalama 286 parça olduğu belirlenmiştir. Doğu Akdeniz'deki yüzeysel akıntı ve batıdan esen rüzgarlar, bu atıkların KKTC'nin kuzey sahillerine vurmasına neden olmaktadır. KKTC'de, toplam 50 kilometre uzunluğunda, 88 kumsal bulunduğu göz önünde bulundurulursa, sahillerimize biriken atıkların ne kadar ciddi bir sorun yarattığı ortaya çıkar. Bu projenin amacı atık sorununun sağlık, çevre ve ekonomi yönünden doğurduğu neticeleri uluslararası alanda duyurmak ve Doğu Akdeniz'e çöplerin dökülmesini durdurmaktır.

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Interview
SÖYLEŞİ

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A Conversation with Mr. Rauf Raif Denktaş, President of the Turkish Republic of Northern Cyprus

Johann Pillai

[The following is a transcript of an interview between the President of the Turkish Republic of North Cyprus, Mr. Rauf R. Denktaş, and the Editor of the Journal of Cyprus Studies, *Johann Pillai, taped during lunch (12:30-2:00) at the President's Office on Thursday, March 11, 1999. The transcript has not been edited for content, but minimally for repetitions. Editorial notes, minor grammatical changes or clarifications appear in square brackets [...]; ellipses ... indicate pauses in the conversation; italics or capitalized words indicate vocal emphasis. Quotation marks indicating reported direct speech, paragraph indents, and endnotes, have also been added for clarification. Passages in double square brackets [[...]] are President Denktaş's words in response to requests for clarification of the transcript made subsequent to the interview.]*[1]

PILLAI (JP): I'd like to start in 1948, when you were a member of the Constitutional Commission in search of self-government for Cyprus, and also of the Turkish Affairs Committee.[2]

DENKTAŞ: (RD): Yes. The Turkish Affairs Committee was founded after the Constitutional Commission was closed.

JP: What was the purpose of that Committee?

RD: You see… in 1948, under Lord Winster's governorship, Britain offered self-government to Cyprus, and set up a Constitutional Commission. [They] invited the Turkish Cypriots' representatives and the Greek Cypriots' representatives … The [Greek Orthodox] church boycotted this, saying "it will be the death-bed of Enosis [i.e. the ideology of annexing Cyprus to Greece]. Anyone who joins is a traitor." AKEL, the communists, joined. They worked for some time with us, but eventually, under pressure from the church, they left—they said "we're not going to go ahead with it." Then the British naturally closed down the Commission.

So we objected. We said "we have grievances against the British government"—and we were going to take these all up in the course of the Constitutional work, wanting separate rights and so on—"so this is an injustice, an outrage."

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Upon that, in 1949, they set up this Committee for Turkish Affairs, under Mr. Justice Zeka's chairmanship. And decades-old complaints against the British government were taken up.

[Among] these were: that while Greek Cypriots were free to set up and run their secondary schools, we had only one secondary school, [and it was] under the rule and thumb of the colonial government. The *Vakif* [trust] institution was under the rule of the British government, whereas it should be a communal affair. The *mufti*, the religious head, was abolished, and in his stead what they called a "fetwa emini," a person who gives *fetwas,* was appointed as an officer of the British government … Our percentage in the government services was declining continuously: when it came to the turn of a Turkish civil servant to be promoted, they said, "although it is a Turkish post, we have to choose the best, and we don't make a distinction between Greeks and Turks, and the best is a Greek this time." When it was a Greek post vacated, for which we applied under the same principle, they said "yes, but this is a Greek post, so we cannot do it." And we were being eliminated from the British [government] services.

So all these complaints were taken up, studied … the Committee went around all the villages, all the capitals; we had democratic meetings of all representatives … and finally we produced a report, which was accepted by the British government. And as a result of that I had to pay a big fine [*smiles*]: I was an advocate earning good money; [but] now they created a post—Junior Crown Counsel in the Attorney-General's Office, because it was the Attorney-General's Office which would do, which would make the legislation. And there was no other person eligible. So I was pushed into it, and for nine and a half years I worked in that department.

JP: Now this, of course overlaps with the EOKA[3] period…

RD: Yes. In 1954, the first signs of trouble in Cyprus became eminent when the *St. George* arrived from Greece, bringing [George] Grivas—who escaped without being caught—and ten other people, who were caught. And I was the prosecutor there, with others; and we realized that something was now… going to happen. And while we were dealing with that court, the first of April came and EOKA started. So I started prosecuting EOKA people, [and continued] until the British brought [over] special prosecutors and judges from Britain, and saved us from that obligation.

EOKA started as a criminal organization; the Greek police were very eager to catch them in the beginning. Then EOKA killed a few Greek officers—and [so] they all became members of EOKA.

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JP: During this EOKA period, you were involved in the TMT,[4] the resistance, as well. The circumstances…?

RD:: Well, first of all when EOKA started its campaign, Turkish Cypriots in self-defense, set up a resistance movement. Well, several; but the best known is, was VOLKAN.[5] By 1957, when I saw that the British government was about to make up with the Greek Cypriots at all costs—they were giving a period of seven years… a transitional agreement, tripartite sort of rule in Cyprus, with Greek and Turkish representatives joining the British government and creating an Assembly—but the thing, the thing that was very bad was that in seven years' time they would consider giving the right of self-determination [to Cyprus]. Which Makarios was stupid in rejecting—because what was seven years?

And realizing that, I had decided to quit the service. Dr. Küçük wanted more help, and… about that time I realized that VOLKAN was not the arm of the political will: it was doing things which should not be done, [and] when it had to do things it was not there to do it. And I challenged the representative of the Lycee Graduates Association, a friend of mine, Burhan Nalbantoğlu, telling him that "this is disastrous; we have to organize these things."

And by the next day three of us met—Nalbantoğlu, myself, and somebody from the Turkish Consul-General's office—and we decided that we should do away with VOLKAN, and thank them for their excellent work [*smiles*] and say: "now there is a Turkish Resistance Movement." And we had chosen people from VOLKAN that we trusted; that is why it was very easy to set it up. And that is how [TMT] was set up. But our objective was—we were not experts in this thing—to bring experts from Turkey and arms from Turkey, otherwise we had nothing.

JP:: This was a defensive organization?

RD:: Oh yes. It was defense, in order to prevent enosis. And protect the lives and honors of Turkish Cypriots.

JP:: So at this stage, then—

RD:: —And by then I resigned, and started my private practice again, but soon there were the January incidents, as it is called, the January '58, 1958 incidents, which was the British government trying to cow down Turkish Cypriots, by shooting, [during] a very peaceful demonstration, five Turks in Nicosia and two Turks in Famagusta one day—a thing which they had not done to the Greek Cypriots, who were their actual opponents over the years.

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And there were strong riots all over… the British put on a curfew, so I went up to the governor's house, and said, "what are you trying to do? No one is going to listen to this curfew. Tomorrow the ceremony for burying these five people here and two people in Famagusta must be absolutely free. If any British soldier is seen, [or] any policeman is seen, then there will be … bloodshed."

And he said, "what can I do, I mean, Dr. Küçük is not here"—he was in Turkey—"who takes on the responsibility?" And very stupidly I said, "I do." And he said "all right."

So we announced on the radio that the curfew would be lifted the next day, and next morning I woke up very early in the morning and started going around the streets, telling everybody, "look, I promised them no trouble; we must show them discipline, we must show them determination." … I kept on until twelve noon, when… about 10,000 people had gathered by then. And we moved to the cemetery in a very disciplined way, and the police chief, the British police officer, told me later: "the riots preceding this"—which lasted for 48 hours—"were less frightening than this silent march today."

And the Governor, the Acting Governor, called us and said, "We got the message. It is very difficult for me to tell this to you, but the British government realizes that Turkish Cypriots here are not puppets of Turkey, put up by Turkey to shout 'no' to whatever the Greeks say 'yes'; but you are part of Cyprus, you love Cyprus, and you intend what you mean when you say you will not have Greek Cypriots take over Cyprus. So a new page has been opened; you have paid a very big price, but this I can tell you."

So it was good news—well, as far as it went. We obliged the British government to give compensation to the people killed… And truly a new page opened, because thereafter, Greece also realized that Turkey was ready to support us in all respects, and that we meant business here; and that is how the 1959 Zurich Agreement came about.

JP: In the period just preceding that, Cyprus is still a Crown Colony. Where is Turkey? What role is Turkey playing?

RD: Turkey, as from 1948 started helping us culturally, and it was part of our struggle against the British to [get them to] give us freedom in organizing our secondary schools. And we succeeded in that. And as from 1949, Turkey started building us our secondary schools and sending teachers for us. As Greece was doing [for] the Greek Cypriot side. But Greece had started that in the 1890s or something; we started in 1948…

And so Turkey was there; Turkey was satisfied as long as Cyprus was in the hands of the British, with whom there [were] alliances, was satisfied as long as our lives were protected.

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But when the likelihood of Britain's ceding the island to Greece became a reality, then Turkey got in as an *interested party,* accepted herself as an interested party—for geopolitical and historical reasons, and for reasons of her interest in the security of the Turkish people. So Turkey becomes an interested party, and thereafter the thing develops as a Greco-Turkish affair, until it is settled in Zurich.

JP: You've spoken a bit about Turkey's role in this period. Is there an American role? Is there a Russian role at this point in the 1950s?

RD: The Russians are backing up AKEL. It is the strongest Communist party in the region. And AKEL is very active, trying to incorporate Turkish labor also. But as AKEL also started talking about enosis, voluntarily or by force and threats, the Turks abandoned AKEL… So the Russian involvement is there.

The Americans are anti—of course—Communists, but they were not very active during those days. The British were against the Communists during the EOKA days. [[Under Emergency Regulations, the British Governor could order the detention of suspected persons,]] so they outlawed EOKA, they outlawed the Communist organization AKEL, and put them all in "detention camps"; and finally they outlawed TMT and put our people in [as well]. So we don't see the American influence much; it is left as a British affair.

And in the British versus Greece's and the Greek Cypriots' demand for enosis, Turkey is a natural ally of the British. So are we [the Turkish Cypriots]—until we were hit and killed by the British in 1958.

The Americans come… in about '59, and help Britain to accept the Agreement between Greece and Turkey, by saying, "whatever you agree [on], I will accept, as long as I keep my [military] bases"—some bases in the area. And that was the American influence. So it is after 1960 that the Americans get involved very… badly… with Cyprus, in the sense that in order to fight the Communists, they pay—under the covers, so to speak—great money to Makarios, who utilizes it in establishing, contrary to the Constitution, a special police force composed of civilians, an army. And we protest, we say "what is happening?"—and the Americans say "no, we know nothing about it, it's not our concern."

But later it becomes evident that they were paying one or two million dollars to Makarios for "anti-Communist" work, and they [the Greek Cypriots, used this money and] prepared themselves against us.[6] Thereafter, American policy [was], in order to satisfy the Greek lobby, to back up Makarios. Whatever he did, the Americans were with him.

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JP: Because of the Greek lobby? Even at this stage?

RD: Oh yes. Yes, they start from this stage. Because we start complaining from the beginning: "Makarios is doing this wrong, he's undoing the Constitution, etcetera etcetera"; and the Americans are always on the Greek side, [[but trying at the same time not to lose Turkey as a NATO ally. That is why American policy-makers are upset when we categorically deny the title of the Greek Cypriot side to legitimacy as "the government of Cyprus."

The Greek lobby's activities in favor of enosis *began* in 1954 when Greece brought the Cyprus problem to the UN General Assembly, demanding "the right of self-determination for the people of Cyprus." We protested: "there are two peoples in Cyprus, and the right of self-determination cannot be used to exchange the colonial master [Britain] for one of them." The Greek lobby, however, *backed* this demand for enosis through the unilateral application of the right of self-determination; so the Greek lobby's power of blackmailing or influencing the American policy-makers *was* there from the very beginning, in 1954.

So when Makarios *denounced* the 1960 Agreements and the 1963 events unfolded, the Greek lobby became very active again. That is why in March 1964, when the Cyprus problem was brought before the Security Council, the American policy-makers, though well knowing where the fault lay, could not bring themselves to denounce Makarios—who had declared the Constitution to be dead and buried, and was defending the 1960 International Agreements while trying his best to cleanse Cyprus of Turkish Cypriots.

The ethnic cleansing operations by Serbian leaders in the center of Europe, three decades later, are modeled on Makarios's operation against us in 1963. What the people of Kosovo are going through today, we went through in 1963-64, and but for Turkey's interest in Cyprus, we would have been totally eliminated by now. The treatment of Makarios as "the legitimate government of Cyprus" was wrong in law and in fact, and it has done the Turkish Cypriots great harm over the last three decades.]]

JP: If we move ahead to 1963-64, there are Makarios's thirteen points, and so on, … and there is, of course, the Akritas Plan,[7] which is published later. What is the status of this plan at the time? Are any of you aware of such a plan, as Turkish Cypriots?

RD: We were not aware of the *plan,* but we were quite aware that they were arming, training, [and] sending people to Greece under scholarships to be trained in military services. And because the [Greek Cypriot] Communists were afraid that the rightists might attack them, they

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used to give us all this information. Until Makarios realized this and told AKEL: "look, this is a national problem; there is no rightist or leftist; you [can] also have your [own] militia, secretly." And AKEL also had its militia, in order to be satisfied they would not be attacked [by the rightists].

And therefore, we—I—continuously reported to Turkey, "there is all this going on…" But American ambassadors and the British High Commissioner would tell the Turkish ambassador, "don't you believe it, nothing is happening," and so on. Until it dawned upon them that it *was* going to happen, but it was too late. So Turkey was caught quite unprepared for the 1963 events.

… [And] General Karayiannis is on record, saying [that] in the month of August 1960, when Makarios signed the Republic's Agreements of 1960, he ordered his Minister of the Interior, Yorgadjis, to arm Greek Cypriots and get them ready for battle. And he says [that] by 1963 he was *ready* for battle, and he gave the order.[8] The other day, Clerides, [in] a long interview on the TV—[and] I think, quite unwittingly—said this: he was asked, "were we [the Greek Cypriots] ready for 1963?" And he said, "had we not been ready, the fight would not have started."[9] So they were ready.

But in the meantime they accuse us of also being ready. We were not ready; that's why whatever arms TMT had kept from 1959 onwards, buried, our people were not allowed to take them out until the 22nd of December. [On the] 21st, the [Greek] attack; [on the] 22nd we took them out—and they [had been] unattended for years; the ammunition could not be used… and so on and so forth. We were caught on one foot.

JP: Clerides, whom you just mentioned, has appendices in his memoirs, containing documents which are apparently signed by you and Dr. Küçük.[10] Are those documents authentic?

RD: No. When the Akritas Plan was made public by them [i.e. anti-Makarios, pro-Grivas factions] in order to accuse Makarios of having failed to declare enosis—as the plan foresaw: if the fight spread all over Cyprus enosis should be declared—Makarios would not do it, [would not declare enosis,] because Turkey had sent the aircraft [sorties as a warning] over him, and he was afraid of an intervention…

Anyway, I produced this at the [U.N.] Security Council, and said, "here is the Plan, what are they saying?" Immediately there—I forget who was there, either Kyprianou or someone else—[the Greek Cypriot representative] said, "we also have a plan signed by Dr. Küçük and Denktaş. And we'll produce it."

I got up and said, "I *challenge* you to produce it. There is no such plan." And they couldn't produce it. Then in his book, [Clerides]

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gives the paper, [a copy of a document] which later we discover was taken from the ransacked safe of Dr. Küçük the Vice President; and if you read the document, it is an *unsigned* document—I don't know whether in the book he says [it's] signed—

JP: It says here in the book it's signed.

RD: —But it is an *unsigned* document—no signature. No signature—he's lying, then. [*looking at the text*] Well, it is, it is there.... I mean, he cannot produce [the original of] it. He wrote it there [himself], then; there is no such signature. I challenge him again.

But when you read the document, [what you understand is this: that] somebody, seeing what is coming, is offering [a plan in defense]: "We must do this, in order to prevent this, we must do this"—there is no aggressive sort of thing in it; it is "for heaven's sake do something about it," sort of thing. Dr. Küçük must have put it in his safe, probably in order to call a meeting or something, but which he never did, because the time caught us—what is the date there?

JP: Fourteen—nine—sixty-three. 14th of September.

RD: 14th of September, 63 .... Anyway. Even if he were right, his Akritas plan is 1960! [*laughs*] But that is a fabrication in the sense that he attaches our signatures to it. It's not true.

JP: All right. So now we're somewhere in the 1960s... There is a point at which you leave the island, and you are effectively exiled...

RD: [[After the 1963 attacks, a cease-fire was agreed as a result of the warning flights [over Cyprus] by Turkey, and a Green Line was created around the Turkish sector of Nicosia. 103 villages had to be evacuated: one-fourth of the Turkish Cypriot population became refugees, all of us confined into 3% of the area of Cyprus, from the 32-plus percent that we used to live on.

The London Conference convened on 15 January 1964; I led the Turkish Cypriot delegation. We demanded a federal settlement; the Greek Cypriot side offered us minority rights. Mr. Clerides, years later, confirms that this was their preoccupation: in Volume 3 of his memoirs, he writes the following:

> Just as the Greek Cypriot preoccupation was that Cyprus should be a Greek Cypriot state, with a protected Turkish Cypriot minority, the Turkish Cypriot preoccupation was to defeat any such effort and to maintain the partnership concept, which

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> in their opinion the Zurich Agreement created between the two communities. The conflict, therefore, was a conflict of principle, and for that principle both sides were prepared to go on arguing and even, if need be, to fight, rather than compromise … The same principle is still in conflict, even today, though a federal solution has been accepted—and though a federation is nothing more than a constitutional partnership of the component states, provinces or cantons which make up the federation.[11]

So there was no agreement. The British side forgot the fact that they were the guarantors of a bicommunal Partnership Republic, and tried to press us to yield to Greek Cypriot demands. We refused, and the Cyprus problem was taken to the Security Council in February 1964 …]]

I went to New York and made my statement at the [U.N.] Security Council, telling [them] what [had] happened in Cyprus. And in return, on my way back, they [the Greek Cypriots] said, "if he comes [to Cyprus] he'll be arrested." In those days, [being] arrested meant disappearing. Because all the ports were in their hands now.

So Turkey decided that I should come back with UNFICYP. Or after UNFICYP came to Cyprus. But UNFICYP came; still Makarios would not change his mind.

I tried to infiltrate [[in July 1964 on my return from New York]]: once I went to the Kokkina area [by boat], and the war ensued; I came back after the war … [but] it was impossible to cross to Nicosia; … and then I tried again [[in November 1967 because I wanted to be with my people]], and this time I was caught, and [as a result of] public pressure and international pressure [on Makarios] I was sent back to Turkey.

JP: So you are sent back to Turkey; how is it that you make your way back here in 1968?

RD: After we were sent back, Greek Cypriots attacked two [Turkish Cypriot] villages, with [the assistance of] Greece. Turkey nearly intervened—all the boats were filled with soldiers, and [[warning flights began over]] Cyprus—and [so] Makarios was obliged to send back the Greek army, which was in Cyprus for years, and [to send back] Grivas… Some of them came back later, [[including Grivas, but that is another matter]] …

So Makarios understood that through armed conflict he could get nowhere. Because the guarantee system worked. And no one told Turkey "you cannot intervene in Cyprus," under the guarantee sys-

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tem. So he was testing whether the guarantee system would work or not. He discovered that it was there, and that Turkey was determined to intervene, and therefore he accepted to start the talks, the intercommunal talks. And his representative was Clerides; Dr. Küçük's representative was I; so I came back, this time properly, from the air.

JP: Do you deal with the Americans at all during this period?

RD: Oh yes.

JP: And on what level in the 'sixties?

RD: From '60 to '63 I was the President of the [Turkish] Communal Chamber. In that capacity the American diplomats used to visit me; they used to invite us… once a year I used to go to the American club, as they called it, in order to give a lecture on the events, [on the situation] as I saw it. It was always in November, so in November 1960, when I made my first appearance at the club, and [when] I told them that "Makarios's intention is to gradually do away with the Constitution; he has done this, this, this and that, and they are getting ready for an armed conflict," the American ambassador was very upset—[he said:] "how [can] you say all these things, Mr. Denktaş, there is no evidence of that."

[The] second [time, in] '61 November, when I went there, certain things that I had predicted had happened. So I started with those things: I said, "last year I told you this is what will happen. Today I'm telling you these have happened. *More* will happen." And the ambassador was not there this time; his Number Two was there… I don't know how [[my talk was received. There was no reaction!]].

The third time, in '62, [in] November when I went [there], the person who took me in, as I was escorted, said, "Just before you Mr. Papadopoulos talked, and"—he was a minister then, Minister of Works—"he said whatever the Turkish side says or does, they [the Greeks] are determined to change the Constitution and make it workable." So I said, "thank you very much; that is what I told you two years ago."

And [the] next year, [the Greek Cypriot] declarations were: "1964 will be a year of decision." And my evaluation was: "Makarios will not enter the 1965 elections under the same Agreements, because his excuse was [that] he did not bargain, [and that] these [Agreements] were imposed on him]. So he cannot afford to enter." [And in] '64, they break it up. I was wrong by a week.

JP: Was there in fact any pressure on Makarios to sign [the Agreements]?

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RD: I'll give you Clerides's latest statement for that.[12]

JP: In connection with this, did you, the Turkish Cypriots, see these Agreements as being a final solution to the Cyprus situation? If they were to work. Or were they seen as something temporary? The reason I'm asking this is that also in this document referred to by Clerides, which you've just said is not a genuine document, it says "we accepted the Zurich Agreements as a temporary, interim halting place."

RD: Well, whoever the clever chap was who wrote that....

Our main concern while the Agreements were being made—and we were consulted on and off by Turkey—was: "if it is only going to be your signature as guarantor, then we are not going to tell our people we've got an Agreement; we're all going to immigrate to Turkey. We want physical show, military show."

And finally, [the Turkish Foreign Minister Fatin] Zorlu managed to convince Greece to do this. Zorlu's mind was to prevent pockets [of extremists] from doing something wrong. Now we know the [logic of the] Greek mind was: "a little part of me [i.e. of Greece] will be there to help the Greek Cypriots to arm [themselves] better." That is how *they* worked. But we were satisfied.

And I always say, because of our love of Turkey, we would *never* do anything which would bring the two contingents [i.e. Greece and Turkey] face to face in Cyprus, never. And we thought Greek Cypriots also loved Greece, and would never do this sort of thing. What we miscalculated was that Greece and Makarios had agreed to destroy what they had signed to be indestructible; there we went wrong... So our people were happy. Although we could see that Makarios would not allow the whole Constitution to be implemented, we thought that we should insist on implementation.

Turkey, again through the Americans and the British, kept on inculcating to us: "Don't press him. Let him feel [that he is] the President. Don't continuously impose [things] on him." And it was a wrong policy. They should have shown Makarios from the beginning: "we are guarantors, and you are not going to change anything." They didn't do it, so Makarios thought he could go along—but read Clerides' statement: it will answer most of your questions...

JP:: In '74, then, Turkish troops arrive in Cyprus. Did the United States sanction this in any way? Did the US agree to the Turkish intervention in 1974?

RD: I think what happened is this. Because Turkey—[Prime Minister Bülent] Ecevit—went to England, to London, in order to involve the other guarantor power... Britain refused, so the Americans were in it,

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immediately. And Ecevit told them, "it is impossible, I mean, we cannot stop, and this is happening." So all that [U.S. Secretary of State Henry] Kissinger did was [say:] "tell me the time you are going to stop. You can't continue forever, you can't take the whole island." And that is how the interference [occurred]—the promises were given: "as soon as this point is taken, we shall stop."

JP: [Another] question, because there is a distinction here, I think. Did this intervention result in the partition of the island, [or was the island already partitioned beforehand]? And I'm using "partition" in a neutral way here.

RD: Now this is what I tell the diplomats. Cyprus was divided into thirty little parts, as from 1963—enclaves. We were driven from a 32-plus percent area into 3 percent of the area of Cyprus. And no one said then, "oh poor Cyprus, divided, partitioned!" It was ignored, and Makarios was the supreme ruler. We were living in stables, under tents; no one [in the rest of the world] minded. But when those little areas succeed in coming up and uniting in the north—"ah! Cyprus is divided!"

Cyprus was divided from the beginning. Because what is the division of Cyprus? It is when the two partners, co-founder partners of the Republic, fell apart. *That* was the division of Cyprus. Once they fell apart, geographically how they settled is a triviality. The division happened when one of the partners was thrown out. *That* is the division. And naturally the [one] thrown out will find a geography for himself. The first [division] was by force of arms: enclaves. The second, because of the intervention, was an agreed exchange and settlement in the north and south. So [now there is] a proper, *viable* division. You [i.e. the rest of the world] were not [feeling] hurt when the division was not viable for Turkish Cypriots, but you are hurt when it becomes viable for *both* communities.

They [the Greek Cypriots] are enriching themselves, they have become the richest country "under occupation," in inverted commas. Which country "under occupation" [could] become the richest country in the Mediterranean? They become the richest country in the Mediterranean; and we save ourselves from complete destruction, we get our freedom, division brings us human dignity and so on—[and] everybody is upset! [They tell us:] "You must go back again. You must go back again." O.K. How? "Federation. Bizonal federation. Principle accepted."

[But] why did it not happen until today? Because they [i.e. the Greek Cypriots] didn't want it; they don't need it. As long as you call them the "Government of Cyprus," they will not need it.

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JP: This bizonal bicommunal federation idea. The Europeans are talking about it, the Americans ... what is their stake in that? And secondly, you've been speaking recently about *confederation.* What is the difference, and what is the reaction of the Americans and the Europeans to that?

RD: There is again a pro-Greek approach to this [on their part]. The Security Council endorsed bizonal, bicommunal federation. Why? Because Denktaş and Makarios had agreed in 1977 to settle the problem on [the basis of a] bizonal bicommunal federal system. The Security Council resolutions—the essence of the Security Council [approach] is—that the two sides should freely settle, discuss and settle the Cyprus problem through [a] peaceful process. But because there was an agreement between us for bizonal bicommunal federation, they endorsed that.

Over the years we have produced the documents: the Greek Cypriots do not want federation.[13] Finally Mr. Clerides said to his own people: "I sit at the negotiating table for tactical reasons, to say 'yes' to whatever the other side says 'no,' and to expose them as [being] intransigent. This has been a very successful tactic; we shall continue this."[14]

So, having proved that Greek Cypriots are not for a federal settlement—especially [when] after they applied and [were] accepted as a candidate for [the] EU, they said "we no longer envisage a federal settlement as foreseen in the Set of Ideas"—[it's] finished. Finished! So we—

JP: That is the original Ghali Set of Ideas?

RD: —Yes. So at Glion, Switzerland in August '97, when I met with Clerides to discuss a settlement, I told him "look, Clerides, you are importing missiles, you are buying big guns and tanks, giving bases to [the] Greeks;[15] your unilateral application to the EU—all these are contrary to what we are trying to do here. Why are you doing these [things]?"

He said, "these are governmental activities, you have no right to question these things. Because we are talking, because the intercommunal talks are on, you have no right to—[and] the government will not stop functioning."

So I said: "This is government's function for the good of Cyprus?"

"Yes," [he said].

[So I asked him:] "You are giving bases to Greece for the good of Cyprus, meaning for our [i.e. the Turkish Cypriots'] good also? How can you say this? Do you mean that you are our govern-

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ment, and [that] you are doing all these good things for us?"

He said, "I know I'm not your government, I know I do not represent you; but the world treats me as the 'Government of Cyprus.' Do you expect me to tell the world that I am not?"

I said: "But how can I expect you, my dear friend, to tell the world that you are not? You killed and died in order to be that; and we prevented you, and Turkey prevented you from being that. And you know that you are not that. So why are you hiding behind that false title? And doing all this harm to us, and preventing a settlement also? How can you do it? I expect Mr. Cordovez, the [UN] Secretary-General's representative [here], to tell you that you should not aspire to be the "Government of Cyprus."

Cordovez said: "I have no mandate to do that."

"Well," I said, "then I have a mandate to do something else. I am not going to attend inter-communal talks in which I cannot question this so-called 'Government's' activities against the talks and against my people. If they want to reunite, from now on we shall talk from state to state." And that is how we left.

JP: So that is where the confederation idea came into play.

RD: Yes. And then diplomats started coming to me and saying: "Yes, you said 'state to state,' but what are you going to talk about?"

Well, I said, "from state to state one thing can be talked about, and that is confederation. And confederation can later grow into a federation, if all goes well. But this is the beginning, and we are not going to do anything else." And that is how it stayed.

Naturally, [Abdullah] Öcalan's arrival[16] and the problem, the support they [i.e. the Greeks] started giving the [Kurdish terrorist organization] PKK, and the rest of [these] things, [have] destroyed all chances of starting a negotiated settlement. But if it starts—it can only start if the two states are acknowledged, and for confederation. This is what we described when we talked to [U.S. Ambassador Thomas] Miller today. That it is no use saying, "don't give names, and start talking." What am I to start talking about? How can that be? Because this is not a situation where "talks start *today*." This is a 26-year old negotiated affair.

JP: So what is the reaction of the Americans to this?

RD: Well, the Americans—well, they understand the difficulty. They say "we can help you if you want us to help you. If you don't want us to help you, tell us you don't want us to." Which of course we don't tell them. But we tell them, "if you really want to help Cyprus, then pretend that you are disinterested in Cyprus. Because the more you are

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interested, because of your Greek lobby factor, [the more the] Greek Cypriots hope you will impose something on us. And we are telling you, you cannot impose anything on us." This is a question of our freedom, of our future: *I* don't want my grandchildren, or my children, to go through what *I* went through.

And what is the difference between federation and confederation, you said? The main difference is this: in a federal negotiation, when I said "our rights must be based on our sovereignty, as it is in the cantons in Switzerland," they said "NO! never, never, never!"

Now I say: "I'm not going to argue with you any longer. My rights are based on my statehood. And in the future, if you destroy the new agreement again, you will not be able to use the excuse 'this is an internal matter, don't interfere.' Everybody will know that this is an aggression from one state against the other. And this is the only big further security I can take to my people. And I am not going to go away from that, I'm not going to recede from that.

"And if you have an example [of a precedent]—give me one example: where a people have set up their state, they have their Parliament, [which] decides on these issues; and that state has agreed with another state—Turkey—[its] guarantor power, that any future agreement shall be based on the existence of this state—and then its President accepts to sit at a table where the 'owner of the whole state,'—as 'Government of Cyprus'—sits opposite him? Tell me one example."

And they [i.e. the Americans] go back, frustrated and sorry …

JP: Now in 1983 we have the Declaration of Independence, and a new state, the Turkish Republic of North Cyprus. Why declare independence at this stage?

RD: As you know, if you read Mr. Clerides' book, there is a quotation there—he says: "after the destruction of the constitutional order, two sets of administrations ensued in the island. One was the Greek Cypriot administration, which was recognized as the 'Government of Cyprus'; the other was the Turkish Cypriot administration, which was not so recognized." Well, that doesn't change the facts of the case. And he goes on and says, "in a short time the Turkish Cypriot administrations assumed the characteristics of a mini-state."[17] So we were ruling ourselves from '63 onwards. We ruled for ourselves, we legislated for ourselves, we taxed for ourselves, we defended ourselves, we judged ourselves; all functions were exercised by our people [before]1974.

When [the Greek invasion of Cyprus in] 1974 happened, [and] we were saved [by the Turkish Peace Operation][18]—and [when] by '75 we [had] brought all our people to the north—we, my view was, we have to establish a state, in order to establish our equality, which

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has been denied by the Greek Cypriots, so that negotiations can start on the basis of equality. And Turkey couldn't carry the load at that stage. They said, "declare a federated state, and invite the Greek Cypriots to declare their own side as a federated Greek Cypriot state, and then all that you have to talk [about] is boundary and what functions to give to a central government." Well, I argued "it won't do," and so on and so forth, but finally, [because] that was the only thing Turkey could support internationally, we did that.

And the Greek Cypriots laughed it off. They said, "when there is no federal system, how can one side be a federated state? This is a non-entity," etcetera. Each year, the Greek Cypriot leaders used to go to the Non-Aligned Conference, and get *any* resolution they wanted there, irrespective of what we were talking [about] in Cyprus: [resolutions about] "a minority," "invasion," etcetera. By 1983, as they were getting ready to go again, I warned Mr. Kyprianou several times, I said: "if you do this, if you try to change the criteria at the negotiating table, you will not find us in the same status as you left us." Clerides, who was in the opposition, warned Kyprianou: he said, "he [Denktaş] will do something, don't do it." Kyprianou went, got a resolution [against us] from the Non-Aligned [Conference], went to the General Assembly of the United Nations, endorsed it, and came back making victory signs—Churchillian [*gestures*] victory signs—and invited us to start negotiations under those resolutions.

So we were left with no chance except to do this [i.e. declare independence] and say, "we are not going to talk"... Unfortunately, we continued to talk. Why? Again, because Turkey could not carry the load if we refused. And therefore we lost '83 to '98 or '97, all these years, in order to make people understand what is happening in Cyprus. It is when we said "confederation, state to state," that eyes opened.

JP: There's an international embargo on the Turkish Republic of North Cyprus. When did that start as an *international* embargo?

RD: As from 1963 we were under international embargo. We couldn't do anything which the Greek Cypriots didn't want the international world to [let us] do. [So,] when they say "the embargo is [in place] because there is a Turkish invasion in the north," that is not true. As from '63, all these severe embargoes began. But they [have] had it endorsed officially, with the European Court decision on citrus and potatoes.[19]

JP: Some general questions about the present situation. For example, Russia. We are post-Cold War; technically there's only one superpower. What was the purpose of, and what is the current status of those S-300 missiles [purchased by the Greek Cypriots]?

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RD: Well, the Russians say these are defense missiles. I told the Russian ambassador, "look, what are they going to defend? Paphos airfield. What is in that airfield? Greek aircraft. What are they here for—to protect *what*? Greek Cypriots? Or [isn't it rather] to defend Greek Cypriots against Turkish aircraft?

"When will Turkish aircraft come to Cyprus? When the Greek Cypriots decide, as they say, to 'take the [Greek] flag to Kyrenia,' and start moving [against us]. Then the Turks will come. And you are defending them against that?"

Turkey *has* a right to come [under the Treaty of Guarantee], and these people have no right to buy preventive weapons against Turkey's arrival. They have to welcome Turkey [as a guarantor power], and they welcome Turkey in the wrong way by doing wrong things to us. So we don't accept this [missile installation] as a defensive measure; it is for the protection of an aggressive aircraft, [to be used] against us. And that is how Turkey also looked at it; it would affect Turkey's arrival here… and they were finally taken away to Crete. Turkey will have to deal with that now…

But the Russians, through this—the missiles—entered the Mediterranean officially. And the Russian ambassador was frank enough to say publicly, to the Americans and the British: "we are also in this area …."

And the Greek Cypriots… in the past they were crazy enough to declare "if for Cyprus, in the name of enosis, a Third World War is going to start, we don't mind; let it start, as long as Cyprus becomes part of Greece." [They are continuing today] in the same way—I mean, they shut their eyes, in order to take over Cyprus—[that] they thought they could do something about it [in the past]… Clerides talks about that also in his book…

JP: How about the Öcalan affair, which you mentioned earlier? What is the relation of that to the TRNC?

RD: It shows enmity [towards] the Turk [on the part of the Greeks]. "Turk" meaning Turkey and Turkish Cypriot. If a Greek general during the exercises can [say] to his troops, "Watch Kyrenia. I will be drinking Turkish blood there, through a straw"—and [if] they can continuously talk about bringing the [Greek] flag to Kyrenia, to Karpas, and so on; [if they are] regarding us as enemies of Cyprus, [regarding] Turkey as an enemy of "Cyprus"—[and if for them] "the enemy of my enemy is my friend'; and they have all these people there, help them monetarily, socially; [and] give them time to rest [there] and then go and do something worse in Turkey—[then] it is an act of enmity, and you don't make peace with your enemy, until enmity stops. The… embargoes are an act of enmity, continuous enmity. You don't [make]

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peace with people who are trying to destroy you economically.

And this is not the first time. During the ASALA [activities]—Armenian terrorism against Turkish diplomats—they [i.e. the Greek Cypriots] helped ASALA murderers, to the extent that the leader of the church, the Armenian church, came to [South] Cyprus and decorated Kyprianou with the highest honor decoration—for helping the cause of the Armenians. This is a shameless act. Innocent diplomats are being shot from behind; Turkey is up in arms; here we are all sorry and very angry about this sort of thing—and these people get this decoration and they [the Greek Cypriots] say "we did our humanitarian duty in helping [ASALA]."

So what does this do? It destroys any chance of a negotiated settlement. Until they change their attitude, until they change their voice, you can't negotiate with these people. That is what it does. Today, for example, there [were] all these demonstrations again [at the Buffer Zone by Greeks and Greek Cypriots]. Well, is that, sort of, making them more friends of ours? No.

JP: South Cyprus's application to the EU… what is your objection to this?

RD: First of all, the application is not by Cyprus; it is by Greek Cypriots. And the reason why they made this application—we'll just clarify it. [It is that] "once we [Greek Cypriots] enter, the guarantee system will be invalid. And whatever we promise to Turkish Cypriots—restriction of the three freedoms, [etc.]—will be contrary to the laws of Europe. All Greek refugees—Greek Cypriot refugees—will be able to go back to their houses, [and] Hellenism in Cyprus will be victorious."

So, the application not being by Cyprus but by Greek Cypriots, we cannot join a delegation of Greek Cypriots and convert, correct their title to "Cyprus delegation" [by being there]. I mean, the difficulty of the EU and of the Greek Cypriots is, as everybody knows, [that] this represents a half-Cyprus. If we join, it will be a "full Cyprus"; how nice, we'll help them! You cannot make this application under the 1960 Agreements, because it says "Cyprus cannot join in any union in which both Greece and Turkey are not members." Or the reverse—it says: "it [Cyprus] can join only those [organizations] where both Greece and Turkey *are* members."

So this is an illegal, politically motivated application, in order to achieve something which they failed to achieve through armed conflict. Therefore we cannot help them. So… that is the EU situation.

JP: There is a proposal from the Greek side that there should be a NATO or multinational force in Cyprus rather than a UN force, and you have rejected this…

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RD: The NATO [suggestion]—it [the Greek Cypriot proposal] is not saying, "let us change the troops now and [let] NATO troops come [instead]. It says: "for a settlement, we want a multi-national troop in Cyprus, and no Turkish guarantee"—I mean, that is [essentially] what they're after: no Turkish guarantee, no Turkish troops, no Turkish presence.

NATO troops cannot be in Cyprus forever, whereas the Turkish guarantee is forever. NATO troops will not die for us. Turkish troops *have* died for us and will die again if necessary. So it is—I mean, when you see, when you know, that from the very first day when they signed the Agreement [they planned to abrogate it]—as it says in the Akritas Plan, "once we do away with the guarantee system, then Cyprus is ours"—[then it's] finished. This is what they're trying to do… [with] all these [proposals for] multinational forces, etcetera.

JP: To remove the treaties …

RD: [*nodding*] All of this: it will lead to that, to the same end.

JP: Now to move on, you do not recognize the government of South Cyprus as the legitimate government of Cyprus under the 1960 Constitution and Treaties—

RD: That's right, that's what we say. From the day they threw us out, they ceased to be the legitimate government.

JP: —so what, [in this context,] is their legal situation at the moment—the validity, if you want, the standing, of that Constitution, of those Treaties today? For example, the British [military] bases are here [on Cyprus] under those Treaties …

RD: The Treaties are there. Treaties cannot change unless all the signatories to [them] agree. But certain parts of it have, have changed. By misuse or non-use. And one of them is the Constitution—the Constitution is not there. And Makarios declared this from the first day he hit us: "the Constitution is dead and buried," he said; "I don't recognize the [Turkish Cypriot] Vice President, I don't recognize the special Turkish rights, I offer minority rights; if they [i.e. the Turkish Cypriots] want, let them come back."

So from the beginning we [Turkish Cypriots] said: "thank you very much. We are co-founder partners, this is our status, and under this Constitution you [Makarios] are no longer President of Cyprus, and no longer [the representative of] the legitimate government. But others [have] treated you as if you are"—and it didn't affect us [in any legitimate way]. So we don't recognize it, naturally.

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But the Agreements, as you say, are there, especially the Agreements which give rights to us and to others. What rights do they give to us? Non-domination by Greek Cypriots. Whether you change the Constitution or not, whether the Constitution is there or not, non-domination is my right. Under the Treaties. Then, it gives Turkey guarantee powers, Greece guarantee powers, Britain bases *and* guarantee status, you see. So …

JP: You used the expression "minority rights." What do you understand by the term "minority"?

RD: "Minority" is a legal term, implying a smaller group in a nation. You have to be *in a nation* … numerically smaller, but *within a nation.* …There is no "Cypriot nation." Makarios is on record as saying: "the 1960 Agreements established a state, not a nation. We are Hellenes of Cyprus. No one can accuse me of enhancing Cypriotism. There is no Cypriot nation."[20]

We agree with him. There is no Cypriot nation. But now they [the Greek Cypriots] are trying to use "We the Cypriots," meaning "we the Cypriot nation." [And] "Turkish minority"—they're trying to make us a "minority" within a [non-existent] "Cypriot nation."

I say: [there is] no Cypriot nation; you cannot say "I am Cypriot" and stop, otherwise people will not understand what you are. These people [i.e. the Greek Cypriots] have made the world believe that they are the nation. So you must continue to say: "I am a Turkish Cypriot. I am a member of the Turkish Republic of North Cyprus."

JP: Is the TRNC a nation, a state, or a nation-state?

RD: The TRNC is a *state* established by Turkish Cypriots—who are, again, not a Turkish Cypriot nation. Turkish Cypriots on Cyprus have established a state. Turkish Cypriots, who were co-founder partners of the Cyprus Republic and [whose partnership] fell apart or [who were] thrown apart, have established a state. Is it a nation-state? It cannot be a nation-state, because there is no Turkish Cypriot nation. So it is a *state*, established by Turkish Cypriots.

JP: The logical follow-up to your answer is: what is a Turkish Cypriot?

RD: A Turkish Cypriot is the extension of Turkey in Cyprus. As Greek Cypriots say they are the extension of Hellenism in Cyprus. So we are Turks, *of Cyprus.* "Turkish Cypriot" means—journalists ask us, are you a Turk first or a Cypriot?—The answer is: are you a Londoner first, or an Englishman? One is geography, the other is nation. We are Turks, as Turks of Anatolia are; but because our geography is Cyprus, we are Turkish

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Cypriots. If you were to organize Turkey on a geographical basis you would call a Turk from Erzurum an "Erzurum Turk"…[21]

JP: In connection with what you've just said, we occasionally hear it said by Americans or Europeans that North Cyprus is a colony of Turkey's …

RD: Well, I'll tell you this, this is said and done. Why don't they refer to the Greek side as a Greek colony, when Clerides is on record in his last elections, saying that "I am honored to say we have done a *hundred percent* integration with Greece."[22] *A hundred percent* integration with Greece. And when all the decisions about Cyprus are taken in Athens, and so on. Whatever they are vis-à-vis Greece, we are vis-à-vis Turkey. They cannot do without Greece; we cannot do without Turkey. And that was the idea of the guarantorship…

Um… about colonialism. Do you know that the two legal systems are different?

JP: In Turkey and North Cyprus, you mean.

RD: The legal system in Turkey is completely different [from] our legal system. Would a colonial power allow this to happen? It's the only thing which shows your independence completely.

A very simple thing: until very lately, the first of May [holiday] was prohibited in Turkey. There were huge clashes and things—it was prohibited. Here [in North Cyprus] the first of May was a public holiday. … In Turkey, the civil servants have no right to strike. Here all our civil servants have a right to strike. … In Turkey, Ecevit was prevented from making public speeches under the military rule; he came here and made his most famous public speeches here, so [that] they could do nothing to him in Turkey. [*laughs*]… So where is this "colonialism"?

JP: A question which you must have heard in different forms before: is the Cyprus problem Denktaş?

RD: Well, that is the most convenient thing, which everyone who does not want to understand the Cyprus problem uses.

How can it be Denktaş, when Denktaş is elected by people who believe in his policy, and Denktaş addresses himself to people in whose determination and struggle he believes?

So of course it isn't, but unfortunately, because of non-recognition [of the TRNC], they find it convenient to deal with us by dealing with the leader on the other side. And we have not been able to break *that* up. We must break it up, and say: "you go to the Prime

Minister, this is not *my* affair; you go to the Foreign Minister, this is not my affair…."

JP: I have another thousand questions …

RD: A thousand!

JP: …one of which is this: the law is something that one would like to think of as fair and objective for everyone, and in particular, international law. However, what you see in the case of Cyprus is politics continually intervening in the law. Now you are yourself a lawyer, and you've spoken very often of "the rule of law": do you not feel sometimes that the "rule of law" is a fiction, that it doesn't seem to work as such—it depends on whether you're in Britain, or in Europe, or in America, or …?

RD: Unfortunately it is. I was reading a book the other day, [Percy Corbett's] *Law in Diplomacy,*[23] with the conclusion that the law is there but no one listens to it. You see, it is [the] interests of nations that count.

But if you are doing something, you must be able to say you are doing it on [the basis of] the rule of law, and [that] you are within the rule of law. And I believe that we are. And that is why I have to champion the rule of law, even though others do not listen to it; I have to defend myself within the rule of law.

Under the self-determination rule, the [UN] Charter says: "self-determination is the right of people, etcetera: but this right cannot be used to disrupt a state unless the government of that state no longer represents the whole population, and has become an oppressive government for the rest of the population—and then the right of self-determination arises again."[24] This is the Charter.

But all governments, practically all governments at the United Nations have done, *are doing,* what Makarios has done to us. And they're still doing it to us, denying our existence, denying our rights—and, if we had no guarantor, trying to eliminate us. And this [they say] is an "internal matter." *Internal matter!*

So we have to defend ourselves under the rule of law, and call upon others to respect the rule of law, well knowing that they will not. But at least for us, for our people's morale, and for people who want to think about Cyprus—thinkers and philosophers, diplomats who are honest enough to say "let us look again at Cyprus"—we have to continue to defend it.

JP: So the problem is not legal at all, but political …

RD: Entirely political. *Entirely* political. I'll tell you why. The Greek lobby,

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naturally, is a very big factor. But why did they [i.e. other countries] take the wrong foot in the beginning? Because the Americans and the British thought we [the Turkish Cypriots] would not be able to last more than three weeks. And they backed the "winning horse," as they thought. And they're very much upset that we did not succumb. All their arithmetic was upset, calculations were upset. So they can never forgive us.

I tell this to the diplomats. And their defense is: "don't tell us that, Mr. Denktaş, we were in school then." And I say: "well, I'm not accusing you personally; I'm accusing your government."

There are documents … the British representative at the United Nations in 1964 writes and says: "I want to understand why we are so silent, not accusing this 'so-called Government of Cyprus.' I'm sick and tired of these people coming in and accusing Turkey, when we know who has done wrong. Is it for our [military] bases, or is it for the [sake of the] Commonwealth that we are in this position?"[25]

The so-called "Government of Cyprus," the "gang" of Makarios—the gang of Makarios is there [in the government of South Cyprus] still; they [are] the same people [today].

JP: What is the situation of Turkish Cypriots living abroad, in England, or Australia, or North America?

RD: I think they will [return]—the people who go on economic, for economic reasons; and these people, people who have gone forty years ago, thirty years ago, twenty years ago, are eager to come back if the economy will carry them. And therefore it is our duty to improve the economy of this country, and that is what we are trying to do with Turkey.

I am sure that most people will come back. But every [country] has its nationals living somewhere else in order to make life possible; but they're not sort of separated from the nation: they are there, they're always a substantial force, for all the reasons … We would be much better [off], of course, if they didn't leave. But we educate them, and then we can't give them the jobs they deserve. Are you going to imprison them and say—as they do in China—"well, you can't go anywhere, you must stay here"? They will go, they will earn their livelihood; and when they're ready, when the country is ready, they will come back.

JP: So you are hopeful about the future …

RD: Oh yes. Yes.

JP: A final question: as to the present discussions on Cyprus …? You've

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just met with [the U.S. Ambassador, Thomas] Miller …

RD: Negotiations cannot start until the Greek Cypriots are told in plain English that they are not going to be the government of the whole island. That we are their equals. It is up to those who made them the "Government of Cyprus…."[26]

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Notes

[1] The Editor thanks President Denktaş for taking the time to read a transcript of the interview, and supplying clarifications as well as comprehensive documentation, sources and translations for all statements and quotations queried. Mr. Denktaş's verbal clarifications appear in double square brackets [[…]], and have been inserted in the main text of the interview or the *Notes,* as appropriate

[2] The island of Cyprus was assigned to Britain by the Ottoman Empire under the terms of the Convention of Defensive Alliance of 4 June 1878; the island was formally annexed by an order in Privy Council on 5 November 1914; and by letters Patent of 10 March 1925 it became a British Crown Colony, with a Governor, an Executive Council and a Legislative Council. The colonial period continued until 1960, when the "Republic of Cyprus" was created.

[3] The "National Organization of Cypriot Fighters," known by its acronym EOKA (*Ethniki Organosis Kypriakon Agoniston)* was founded in 1954-55 by George Grivas, a retired Greek army officer of Cypriot origin, with the support of Archbishop Makarios. The purpose of EOKA was to use violence in Cyprus in order to achieve *enosis,* the annexation of the island to Greece. Grivas took the *nom de guerre* of Dighenis, a legendary Byzantine folk hero; other EOKA members were also known by pseudonyms—e.g. Glafcos Clerides, who was named "Hiperides," after an ancient Greek warrior. [*Source:* H. Scott Gibbons, *The Genocide Files.* London: Charles Bravos, 1997, pp. 19-20, 31; Pierre Oberling, *The Road to Bellapais: The Turkish Cypriot Exodus to Northern Cyprus.* New York: East European Monographs, No. CXXV, Atlantic Studies/Brooklyn College Studies on Society in Change, No. 25. Social Science Monographs, Boulder/Columbia University Press, 1982, p. 41.]

[4] The "Turkish Resistance Organization," TMT *(Türk Mukavemet Teşkilatı),* was formed in 1957, for the purpose of strengthening Turkish Cypriot defenses against EOKA attacks, unifying the existing Turkish Cypriot underground anti-terrorist forces, forming ties with sympathizers in Turkey, and inspiring confidence among the Turkish Cypriots. [*Source:* Pierre Oberling, *The Road to Bellapais: The Turkish Cypriot Exodus to Northern Cyprus,* p. 60.]

[5] VOLKAN—the word means "volcano"—was a loosely organized, poorly armed and widely dispersed anti-terrorist militia formed by the Turkish Cypriots as a defense against the EOKA threat to their community.

[6] [[The Minister of the Interior (an ex-EOKA terrorist, Polycarpos Yorgadjis) had "appointed" hundreds of young Greek Cypriots as "special constables." There was no decision for this by the Council of Ministers and there was no budget allocated to them. The number of police and gendarme forces could not be increased, under the Constitution, so Dr. Küçük, the Vice President, queried this at the Council of Ministers, because the "special constables" had become a nuisance to the Turkish Cypriots. We were followed everywhere we went by these gunmen. The Minister of the Interior told Dr. Küçük that these were specially employed for anti-communist activity, and

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that the money for it was supplied by the U.S.A. The American ambassador in Cyprus at the time—Mr. Wilkins, I believe his name was—confirmed this, but could not explain why all these "special constables" were Greek Cypriots. In fact, the 1963 December murders which triggered the civil war were committed by these gunmen called "special constables."]]

[7] On 29 November 1963, Archbishop Makarios submitted to the Vice President, Dr. Küçük, a 13-point proposal for amendment of the Constitution of the Republic of Cyprus; the memorandum was also submitted to the Prime Ministers of the Guaranteeing Powers. The proposal called for amendments to remove rights which had been granted to the Turkish Cypriots under the Constitution, and it was therefore rejected by the Turkish Cypriots and Turkey. The 13 points, under the heading "Suggested Measures for the Removal of Causes of Friction between the Two Communities," were as follows [*Source:* Glafcos Clerides, *My Deposition,* Vol. 1. Nicosia: Alithia Publishing Co., Ltd., 1989. pp. 175-176.]:

1. The right of veto of the President and Vice-President of the Republic to be abolished.

2. The Vice-President of the Republic to deputise for or replace the President of the Republic in case of his temporary absence or incapacity to perform his duties. In consequence, therefore, all the constitutional provisions in respect of joint action by the President and Vice-President of the Republic to be modified accordingly.

3. The Greek President of the House of Representatives and its Turkish Vice-President to be elected by the House as a whole and not as at present the President by the Greek Members of the House and the Vice-President by the Turkish Members of the House.

4. The Vice-President of the House of Representatives to deputise for or replace the President of the House in case of his temporary absence or incapacity to perform his duties.

5. The constitutional provisions regarding separate majority for enactment of Laws by the House of Representatives to be abolished.

6. The constitutional provisions regarding the establishment of separate Municipalities in the five towns to be abolished. Provision should be made so that:

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(a) The Municipal Council in each of the aforesaid towns shall consist of Greek and Turkish Councillors in proportion to the number of the Greek and Turkish inhabitants of such town by whom they shall be elected respectively.

(b) In the Budget of each of such aforesaid towns, after deducting any expenditure required for common services, a percentage of the balance proportionate to the number of the Turkish inhabitants of such town shall be earmarked and disposed of in accordance with the wishes of the Turkish Councillors.

7. The constitutional provision regarding Courts consisting of Greek Judges to try Greeks and Turkish Judges to try Turks and of mixed courts consisting of Greek and Turkish Judges to try cases where the litigants are Greeks and Turks to be abolished.

8. The division of the Security Forces into Police and Gendarmerie to be abolished, (Provision to be made in case the Head of Police is a Greek the Deputy Head to be a Turk and vice versa.

9. The numerical strength of the Security Forces and of the Army to be determined by Law and not by agreement between the President and the Vice-President of the Republic.

10. The proportion of the participation of Greek and Turkish Cypriots in the composition of the Public Service and of the Forces of the Republic, i.e. the Police and the Army, to be modified in proportion to the ratio of the population of Greek and Turkish Cypriots.

11. The number of the members of the Public Service Commission to be reduced from ten to either five or seven.

12. All the decisions of the Public Service Commission to be taken by simple majority. If there is an allegation of discrimination on the unanimous request either of the Greek or of the Turkish members of the Commission, its Chairman to be bound to refer the matter to the Supreme Constitutional Court.

13. The Greek Communal Chamber to be abolished.

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The "top secret" document known as the "Akritas Plan" was first published on 21 April 1966 by a local Greek newspaper *Patris*. It is a plan, in conjunction with Makarios's 13-point proposal, to dissolve the Republic of Cyprus and proclaim *enosis*, the annexation of Cyprus to Greece; and it contains guidelines for producing both domestic and international propaganda in order to have this annexation approved. The newspaper *Patris*, which was politically opposed to Makarios, stated that "Makarios entrusted [Polycarpos] Yorgadjis [then Minister of the Interior], who took the code name of Akritas, with the task of establishing the organisation. The Minister of Labour, Tassos Papadopoulos, was appointed deputy chief of the organisation, and Glafkos Clerides became the Chief of Operations. Makarios himself undertook the work of overall supervision." The authenticity of the Plan has not been denied by the Greek Cypriot authorities, and it is reprinted in Mr. Clerides' memoirs; Richard A. Patrick, in *Political Geography and the Cyprus Conflict, 1963-1971* [Ontario: University of Waterloo Press, *c.*1976] reports that Mr. Clerides confirmed the *Patris* story as genuine when he interviewed him in 1971. [*Source:* H. Scott Gibbons, *The Genocide Files*. London: Charles Bravos, 1997, pp. 81-82, 88]. The plan includes the following statements:

> Generally speaking, it is obvious that today the international opinion is against any form of oppression, and especially against oppression of minorities. The Turks have so far been able to convince world public opinion that the union of Cyprus with Greece will amount to their enslavement. Under these circumstances we stand a good chance of success in influencing world public opinion if we base our struggle not on ENOSIS but on self-determination. But in order to be able to exercise the right of self-determination fully, and without hindrance we must first get rid of the Agreements (e.g. the Treaty of Guarantee, the Treaty of Alliance, etc.) and of those provisions of the Constitution which inhibit the free and unbridled expression of the will of the people and which carry dangers of intervention. For this reason our first target has been the Treaty of Guarantee, which is the first Agreement to be cited as not being recognised by the Greek Cypriots.
>
> When the Treaty of Guarantee is removed no legal or moral force will remain to obstruct us in determining our future through a plebiscite. […]
>
> The only danger that can be described as insurmountable is the possibility of a forceful external intervention. This danger, which could be met partly or wholly by our forces, is important because of the political damage it could do rather than the material losses that it could entail. If intervention took place before … [the provisions of the Treaties of Guarantee and Alliance were removed], then such inter-

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vention would be legally tenable at least, if not entirely justifiable. This would be very much against us both internationally and at the United Nations. The history of many similar incidents in recent times shows us that in no case of intervention, even if legally inexcusable, has the attacker been removed by either the United Nations or the other powers without significant concessions to the detriment of the attacked party. Even in the case of the attack on Suez by Israel, which was condemned by almost all members of the United Nations and for which Russia threatened intervention, the Israelis were removed but, as a concession, they continued to keep the port of Eliat in the Red Sea. There are, however, more serious dangers in the case of Cyprus … [*Source:* "Appendix 11: The Akritas Plan," in R. R. Denktash, *The Cyprus Triangle.* Revised Edition (London: K. Rüstem and Brother, 1988), pp. 235-236, 237-238].

[8] Lt. Gen. George Karayiannis (the Greek Army officer then in charge of the Cyprus Army) made the following statement to an Athens newspaper:

> In August of 1960, his patience having been exhausted by the negative stance of the Turkish Cypriots in the Cyprus Parliament and their menacing offensive for partitioning the island by surprise, President Makarios decided to proceed with the following: A) to organize for battle the Greek Cypriots and arm them; B) to proceed with the revision of the Constitution, so that, with the cancellation of the Vice-President's veto, it would become possible to put the state into proper working order.
>
> First of all he put into operation a specially prepared scheme for organizing the Greek Cypriots for battle. When progress with this organization reached such a point that the opposition of the Turkish Cypriots would be deemed manageable, he would proceed next to the revision of the Constitution.
>
> The organization of the Greek Cypriots for battle which was thus created and which initially bore the title 'the organization,' finally took the name of 'The National Guard of Cyprus.' The Minister of the Interior, Polycarpos Yeorkadjis, was appointed as its commander, and the President of the Parliament, Glafcos Clerides, and the Minister of Labor, Tasos Papadopoulos, as its sub-commanders…. (*Ethnikos Kiryx,* 13 June, 1965 [Translation provided by President Denktaş]).

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[9] Mr. Clerides expressed this view in an interview with Dimitris Andreu on the CyBC (PIK) program "Proektasis," aired at 22:00 hours on 18 February, 1999.

[10] One document in Turkish appears as "Appendix G" in Glafkos Clerides, *My Deposition,* Vol. 1. Nicosia, Cyprus: Alithia Publishing Co., Ltd., 1989. Mr. Clerides' discussion of the text and an "unofficial translation" into English appear on pp. 197-202. It is described as "a document found in December 1963 in the safe of the Vice President of the Republic, after his office had been entered by security forces. The document had been prepared by the militant organisation of the Turkish Cypriots and had obviously been submitted to the political leader of the Turkish Cypriot side, Dr Kutchuk." (p. 197).

Another "translation into English of the document setting out the agreed Turkish Cypriot policy" appears on pp. 203 of the same volume, apparently continuing under the heading "The Secret Document" on pp. 204-207 (no Turkish version is provided), and a discussion follows on pp. 225-227. Mr. Clerides explains the provenance of the text as follows: "The position adopted by the Turkish Cypriot leadership was reduced to writing and the document was signed by Dr Kutchuk and Mr Denktash. It was found in the safe of Dr Kutchuk when the security forces, after the eruption of armed conflict, occupied the office of the Vice President" (202-203).

[11] Glafcos Clerides, *My Deposition,* Vol. 3. Nicosia: Alithia Publishing Co., Ltd., 1989. p. 105.

[12] That Makarios had *not* signed the Agreements under pressure is confirmed by Mr. Clerides in his television interview (See *note 9* above).

The "Akritas Plan" (see *note 7* above) suggests that the idea that the Agreements were signed under pressure is a fabrication for tactical purposes:

(a) Consequently our first aim has been to create the impression in the international field that the Cyprus problem has not been solved and that it has to be reviewed.

(b) The creation of the following impressions has been accepted as the primary objective:

(i) that the solution which has been found is not satisfactory and just;

(ii) that the agreement which has been reached is not the result of the free will of the contending parties;

(iii) that the demand for the revision of the agreements is not because of any desire on the part of the Greeks to dishonour their signature, but an imperative necessity of survival for them;

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(iv) that the co-existence of the two communities is possible; and

(v) that the Greek majority, and not the Turks, constitute the strong element on which foreigners must rely.

(c) Although it was most difficult to attain the above objectives, satisfactory results have been achieved. Many diplomatic missions have already come to believe strongly that the Agreements are neither just nor satisfactory, that they were signed as a result of pressures and intimidations without real negotiations, and that they were imposed after many threats .... [*Source:* R. R. Denktash, *The Cyprus Triangle,* 233-234].

[13] Public statements by the Greek Cypriot leadership and political party leaders indicate that they reject the idea of federation as a basis for a solution in Cyprus:

The Greek Cypriot daily *Mahi* reported on June 18 1996 that in a press conference after meeting with U.S. President Bill Clinton, Mr. Clerides, when asked if the Ghali "Set of Ideas" were on the negotiation table or not, replied: "Even if the ideas are on the negotiation table, they do not constitute a solution for Cyprus." The same paper reported on May 24 1996 Mr. Clerides's statement that "the Ghali 'Set of Ideas' is not desired by the Greek Cypriots as a fundamental element which could form a basis for a Cyprus settlement."

The former Greek Cypriot President Spyros Kyprianou, currently the leader of the political party DIKO was quoted (from a broadcast on the Greek Cypriot Radio *Astra* by the daily *Eleftherotipia* (22 July 1991) as saying: "Personally speaking, I have never been a supporter of a federal settlement. We have never seen federation as an ideal form of settlement." In a statement to the TV channel LOGOS, quoted in the Greek Cypriot daily *Tharrros* (28 October 1996) Mr. Kyprianou said: "A solution based on the Ghali 'Set of Ideas' is bound to collapse."

Former Greek Cypriot President Yorgo Vassiliou, currently the leader of the United Democrats party, is quoted by *Eleftherotipia* (13 June 1992) from an interview given to Mega TV in Athens on 12 June 1992 as follows: "…another sad concession is to decide, at a point, the impossibility of adhering to the Zurich Constitution and the unitary state of [the] Zurich [Agreements]. To accept the federation is a very sad concession."

The Greek Cypriot political party EDEK made the following statement in reply to the main columnist of *Fileleftheros* (28 August 1991): "Federation is a bitter concession and should not contradict with basic human rights and freedoms. Yes, our ultimate goal is to march to the Pentadaktylos (Beşparmak) Mountains which are currently under occupation [i.e. in the TRNC]."

The spokesman of the Greek Cypriot administration, Yannakis

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Casoulides, is quoted in *Fileleftheros* (6 April 1996) as follows: "…we believe that the procedure to be followed should not start from the point where Greek Cypriot leader Vassiliou and Denktaş had discussions in New York in October 1992 on the basis of the 'Set of Ideas.' We cannot go anywhere on this basis." Two months later, on 9 June 1996 the Greek Cypriot Minister of Foreign Affairs, Alekos Mihalides said: "Ghali's 'Set of Ideas' cannot be put into effect. We do not accept any diversions from the principles of the EU. We do not accept a federal system that does not recognize the freedom of movement, settlement and the right to property." [Translations provided by President Denktaş].

[14] During a press conference in Glion, Switzerland, 21:00-22:30 on 6 November, 1997, the following exchange took place between Mr. Clerides and a Greek Cypriot journalist:

> JOURNALIST: Mr. President, although you have been cooperating with the DIKO leader [and former Greek Cypriot president] Mr. Kyprianou in the government, he is not in agreement with you on many issues. For example, while you accepted the Confidence-Building Measures, Kyprianou strongly opposed these measures. You accepted the proposals of [the UN Secretary-General's representative, Mr.] Cordovez in Montreux, but Kyprianou opposed them. Would you like to comment?
>
> CLERIDES: Kyprianou was not the only party leader who had opposed the Confidence-Building Measures. There were others who had also opposed the Confidence-Building Measures. The same was also the case in Montreux. *The trick here is to give the impression that you are going to accept a proposal, in order to get the other side to reject it; and then portray the other side as the intransigent party to the world.* [Translation supplied by President Denktaş; his italics]

[15] According to the *Cyprus Mail* (9 January 1999) and the daily *Alithia* (8 January 1999) the Vice-Chairman of the Greek Cypriot House of Representatives Defense Committee Mr. Antonis Karas, a deputy of the ruling DISI party of Mr. Clerides, disclosed on 7 January 1999 that Greece had sent to Cyprus weapon systems manned by Greek army officers and worth perhaps hundreds of millions of pounds. On 7 January 1999 the Greek Cypriot Foreign Minister, Mr. Yannakis Casoulides, made the following remark on TV regarding the Joint Military Doctrine between Greece and the Greek Cypriot administration, which includes the construction of air and naval bases on Cyprus for use by the Greek armed forces: "The Greek-Greek Cypriot Joint Military Doctrine is not confined to the S-300 missiles alone. Greece has a formidable military presence on the island."

The Paphos military airport has already been made operational for the use of the Greek Air Force, and it has been announced that the construction of

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the Zygi naval base is underway, for allocation to the use of the Greek navy. The Nikiforos/Toksotis military exercises are based on offensive action aimed at cutting off the TRNC-Turkey link; and the Greek Cypriot adminstration has announced a rearmament program which includes the planned purchase of: Russian-made TOR-M1 and Italian-made Aspide missiles; 155mm auto-mobile artillery; multiple rocket launchers (S-MARCH); 41 Russian-made T-80 main battle tanks and 27 BMP3 armoured fighting vehicles; warships armed with Exocet missiles; and attack helicopters. [*Source:* TRNC Public Information Office *Press Release,* 5 February 1999, Ref. 7/99].

[16] Abdullah Öcalan, the leader of the Kurdish terrorist organization PKK, was apprehended in Kenya in February, 1999, after being given shelter by various European governments, including Greece. Öcalan was reportedly found to have in his possession a passport issued to him under a false name by the Greek Cypriot Government. [*Source:* "Turkey vs. Europe." *Newsweek,* Nov. 30, 1998; CNN website http://cnn.com/WORLD/europe/9902/22/kurds (Feb. 22, 1999), and http://cnn.com/WORLD/europe/9902/17/ocalan.turkey.02/index.html (Feb. 17, 1999)].

[17] In his memoirs, Glafcos Clerides, the Greek Cypriot leader, states:

> The constitutional crisis of the year 1963 disrupted the constitutional order, the continuity, and the partnership status of the two communities, which was created by the Zurich Agreements.
>
> Because of the disruption of constitutional order, a peculiar situation was created, by virtue of which the state authority, on the one hand, became under the absolute control of the Greeks, and though the Government was recognized internationally, yet internally Turkish enclaves were created within the territory of the Republic in which at first, an elementary organization for the purpose of governing the Turkish Cypriots was established, the main characteristic of which was the confusion of military and political powers and functions, and the prevailing of military power.
>
> After the crisis of 1967 (Kophinou crisis) the above disruption of constitutional order became more clear and showed tendencies of permanency. Thus in December 1967, the elementary military-political organization of the Turks in the enclaves developed into a 'Temporary Administration' on the basis of a charter, and at the same time the political and military authorities were separated.
>
> In the years that followed a steady, stage by stage development is noted in the Turkish Administration, with the separation in its legislative, Executive and Judicial powers. An administrative organization is created, as well as police force and army. The increase of the financial resources of

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> the Turkish Cypriots through economic aid from Turkey permitted the functioning of their administration on a more permanent basis, a fact which they made clear, by renaming their 'Temporary Turkish Cypriot Administration' to 'Turkish Cypriot Administration.' Thus there exist in Cyprus today two poles of power on a separate geographical basis i.e. the Government of the Cyprus Republic, controlling the largest section of the territory of the state and internationally recognized, and the Turkish Cypriot Administration, which controls a very limited area and is not internationally recognized, but has already taken almost all the characteristics of a small state.
>
> From the above the conclusion can be drawn that our top priority and target must be the dissolution of the Turkish enclaves for the sake of securing the unity of the island. (Glafcos Clerides, *My Deposition,* Vol. 3, pp. 236-237).

Of interest in this context is a confidential despatch dated 17 December 1966 from the outgoing British High Commissioner in Nicosia, Mr. David Hunt, addressed to Herbert W. Bowden, the British Secretary of State for Commonwealth Affairs in London, which notes: "There is a *de facto* partition of Cyprus and Kutchuk and his Ministers and advisers do exercise most of the functions of a Government over the areas in Turkish hands" (*Source:* "Confidential" Despatch No. 17 from the Office of the British High Commissioner, Nicosia, Cyprus, December 17, 1966, paragraph 7, p. 3).

[18] In his address to the UN Security Council on 19 July 1974 following the 15 July coup (Security Council Official Records, S/PV. 1780), Archbishop Makarios stated:

> What has been happening in Cyprus since last Monday morning is a real tragedy. The military regine of Greece has callously violated the independence of Cyprus. Without trace of respect for the democratic rights of the Cypriot people, without trace of respect for the independence and sovereignty of the Republic of Cyprus, the Greek junta has extended its dictatorship to Cyprus (p. 180) […]
>
> The coup did not come about under such circumstances as to be considered an internal matter of the Greek Cypriots. It is clearly an invasion from outside, in flagrant violation of the independence and sovereignty of the Republic of Cyprus. The so-called coup was the work of the Greek officers staffing and commanding the National Guard (p. 184) […]
>
> It may be alleged that what took place in Cyprus is a revolution and that a Government was established based on revolutionary law. This is not the case. No revolution took place in Cyprus which could be considered as an internal

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matter. It was an invasion, which violated the independence and the sovereignty of the Republic. And the invasion is continuing so long as there are Greek officers in Cyprus (p. 185) [...]

As I have already stated, the events in Cyprus do not constitute an internal matter of the Greeks of Cyprus. The Turks of Cyprus are also affected. The coup of the Greek junta is an invasion, and from its consequences the whole people of Cyprus suffers, both Greeks and Turks [...] The Security Council should call upon the military regime of Greece to withdraw from Cyprus the Greek officers serving in the National Guard, and to put an end to its invasion of Cyprus (p. 187-188).

[*Source:* R. R. Denktash, *The Cyprus Triangle,* Revised Edition. London: K. Rüstem and Brother, 1988.]

On the morning of Saturday, 20 July 1974 the Prime Minister of the Republic of Turkey, Mr. Bülent Ecevit, announced [*Source: Excerpta Cypria for Today: A Sourcebook on the Cyprus Problem,* ed. Andrew Faulds. (London: K. Rüstem and Brother, for the Friends of North Cyprus Parliamentary Group, 1988), pp. 120-121.]:

The Turkish Armed Forces have started a peace operation in Cyprus this morning to to end decades of strife provoked by extremist and irredentist elements. At the last stages of the Cyprus tragedy, these extremist elements have started massacring even their own people—the Greeks.

It is acknowledged in all the world that the coup which recently took place was manufactured by the dictatorial regime of Athens. In fact it was much more than a coup. It was the forceful and flagrant violation of the independence of the Cyprus Republic and of the international agreements on which this Republic was based.

Turkey is a co-guarantor of the independence and constitutional order of Cyprus. Turkey is fulfilling her legal responsibility by taking this action. The Turkish Government did not resort to armed action before all the other means were tried, but to no avail.

This is not an invasion, but an act against invasion.

This is not aggression, but an act to end aggression.

The operations of peace that started with the breaking of the day, this morning, will bring an end to the darkest period in the history of Cyprus.

The victory of the Turkish Armed Forces will be a victory for justice, for peace, for freedom.

I appeal to all Greeks in Cyprus who have suffered the atrocities of terrorism and dictatorship. Bury with the past dark days the intercommunal enmities and strifes that

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were the making of those same terrorists. Join hand-in-hand with your Turkish brothers to speed up this victory and together build a new, free and happy Cyprus.

We are there to help you, not to hurt.
We are there with love, not with hate.
We are there not to fight you but to end your plight.

In Cyprus, Rauf Denktaş, who had received word of the intervention, announced over Turkish Cypriot Radio BAYRAK:

> Our century-old aspirations are bearing fruit and our day of salvation is at hand. The Turkish Army has landed in Cyprus. This is a limited action against the Greek Junta and is not directed against the Greek-Cypriot community, our fellow guardians of the independence of this island. Stay peacefully at home and thank God for allowing us to witness this day. [*Source:* M. A. Birand, *Thirty Hot Days*. London: K. Rüstem and Brother, 1985, p. 21].

[19] The decision is the Court of Justice of the European Communities' *Judgment of the Court* of 5 July 1994 in Case C-432/92: "EEC-Cyprus Association Agreement—Directive 77/93/EEC—Non-recognition of movement and phytosanitary certificates originating from the part of Cyprus to the north of the United Nations Buffer Zone." The final decision was as follows:

> The Agreement of 19 December 1972 establishing an Association between the European Economic Community and the Republic of Cyprus, annexed to Council Regulation (EEC) No. 1246/73 of 14 May 1973, and Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into Member States of organisms harmful to plants or plant products must be interpreted as precluding acceptance by the national authorities of a Member State, when citrus fruit and potatoes are imported from the part of Cyprus to the north of the United Nations Buffer Zone, of movement and phytosanitary certificates issued by authorities other than the competent authorities of the Republic of Cyprus. [pp.1-15/16]

[20] Makarios made the following statement to the *Cyprus Mail*, published on March 28, 1963: "No Greek who knows me can ever believe that I would wish to work for the creation of a Cypriot national awareness. The Agreements have created a State, but not a Nation." (*Excerpta Cypria for Today: A Sourcebook on the Cyprus Problem,* ed. Andrew Faulds. [London: K. Rüstem and Brother, for the Friends of North Cyprus Parliamentary Group, 1988], p. 28)

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[21] In Turkish the form of the two expressions is identical: *Kıbrıslı Türk*—a Turk from Cyprus, Turkish Cypriot or "Cyprus Turk"; *Erzurumlu Türk*—"an Erzurum Turk."

[22] On 5 July 1998 the Greek Cypriot daily *Fileleftheros* reported: "Clerides stated that the distance between Greece and Cyprus has been reduced to zero and said 'Greece and Cyprus have decided that they will be in the same trenches in order to secure the rights of Cyprus Hellenism.'"

On 25 June 1998 the Greek Cypriot daily *Simerini* quoted Greek President Costis Stephanopoulos as saying, during his visit to Cyprus: "Greece is here because Cyprus is Greece. Greece is not here because I am here, but because it has to be here. Greece is not here as an ally or supporter, but because Cyprus is Greece."

[[Full military integration between Greece and the Greek Cypriots has been accomplished through the "Joint Military Dogma" between Greece and Southern Cyprus. As part of this Dogma, air force and naval bases have been constructed in Southern Cyprus for the armed forces of Greece; sophisticated weapons have been purchased, including the S-300 missile system; and professional soldiers from Greece have joined the ranks of the Greek Cypriot National Guard.

However, the integration between Greece and Southern Cyprus is by no means limited to the military field. As reported variously in the Greek Cypriot press, Greece and Southern Cyprus have also achieved economic and social integration, which they are endeavoring to finalize by the Greek Cypriot side's joining the European Union, of which Greece is already a member, [in continuing violation of the 1960 international Agreements and Treaties.]]

Of interest in this context is U.S. Special Envoy Richard Holbrooke's statement in response to a journalist in his press conference at Ledra Palace on May 4, 1998:

> … Since the United States is not a member of the European Union, we can only speak from the outside. That's what this situation is all about. And again, I cannot stress this too highly, and I want to say particularly, because I read your press, each of your two presses misreports this in a provocative way. Neither of your presses quotes exactly what we say. So just get it straight. The EU invitation to Cyprus was the right thing to do, and to ask to have it withdrawn as a demand beforehand is not realistic, but a joint delegation as part of a negotiated settlement towards a bizonal, bicommunal federation is entirely possible. However, the EU's failure to put Turkey on the same basis as the other eleven countries that have begun the process was a mistake. Twelve countries asked to begin the process; eleven were invited. President Clinton and the U.S. Government have made it clear that we believe Turkey is a European nation and it should have been allowed to participate in the process. And I want to stress again, beginning the process does not mean ending it at the

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> same time. Everybody knows that certain countries: Hungary, Czech Republic, for example, will enter the EU long before other countries, Romania and Bulgaria, for example. And Turkey should be part of that process. Our position on that is very clear. And it is that imbalance—and that word "imbalance" is in the Denktaş-Demirel statement of April 23rd—it is that imbalance which has created so substantially—let me rephrase that—which has contributed so substantially to what I consider a temporary impasse, but a serious one. (p. 6)

In his initial statement at the press conference, Ambassador Holbrooke commented: "We believe the two sides here in Cyprus can and should work out a method by which they can both participate in the European Union dialogue as political equals" (p. 2). (*Source:* "Bicommunal Press Conference with Spe [*sic*] Richard Holbrooke at the Ledra Palace Hotel in the Buffer Zone—Monday, May 4, 1998.")

[23] Percy Ellwood Corbett, *Law in Diplomacy*. Princeton: Princeton University Press, 1959.

[24] The UN General Assembly's Resolution 2625 (XXV) of 24 October 1970 is known as the *Declaration of Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations.* In its Declaration of Principles attached to this resolution, the Assembly expresses "The Principle of Equal Rights and Self-Determination of Peoples" in the following terms:

> By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter ... all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every state has the duty to respect this right in accordance with the provisions of the charter ... [Paragraph (1)]

Paragraph (7) of the Declaration reads:

> Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above, *and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour."* [President Denktaş's italics]

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[25] The reference is to a letter (British Public Record Office, Reference FO 371/174757) from Pat Dean, the British Representative at the United Nations in New York, to Jack O. Rennie, his government's representative at the Foreign Office in London. The letter is printed on "United Kingdom Mission to the United Nations" letterhead, dated August 12 1964, and headed "SECRET." The typed text reads as follows [handwriting is shown by italics]:

> *Dear Jack,*
>
> Now that we have finished the Security Council meeting on Cyprus I am very much hoping to go back to Maine tomorrow to continue my holiday (which I rather badly need). But before I go I would like to ask you a question, and you can send the answer if you will to Roger Jackling. It is this.
>
> What is our policy and true feelings about the future of Cyprus and about Makarios? Judging from the English newspapers and many others, the feeling is very strong indeed against Makarios and his so-called government and nothing would please the British people more than to see him toppled and the Cyprus problem solved by direct dealings between the Greeks and Turks. We are of course supporting the latter course, but I have never seen any expression of official disapproval in public against Makarios and his evil doings. Is there an official view about this, and what do we think we should do in the long run? Sometimes it seems that the obsession of some people with "the Commonwealth" blinds us to everything else and it would be high treason to take a more active line against Makarios and his henchmen. At other times the dominant feature seems to be concern*ed* lest active opposition against Makarios should lead to direct conflict with the Cypriots and end up with our losing our bases.
>
> I ask these questions, partly for background and partly because it really would be useful to know how far *for how long* you feel we really are *to be* inhibited from taking up a more actively hostile attitude to the Greek Cypriots. Their representative here is, as you know, a horror, and even the Communists are thoroughly fed up with him, and it is therefore really not necessary for us to do anything more to weaken his position. But it is curious and sometimes very frustrating to sit in the Security Council and walk around the UN and have to listen to all the stuff about the wickedness of the Turks and their threats of invasion, when I and all my staff know very well what the real state of affairs is and how much Makarios and Co. are to blame. One can say what one thinks of course to a few people, but one cannot produce the evidence or argue the case fully with the vast majority of my

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UN colleagues so long as the official public attitude seems to be not to say anything rude about Makarios and his gang.

These, I realise, are not entirely easy questions, and I suspect that the answers may well depend on differences of view and attitude at your end, revolving around such questions as the Commonwealth and the truth about our defence needs. Nevertheless I hope you can give us some of your real thoughts, if only for private consumption. It would be a *real* help to know what the thinking and planning is, and how far and for how long it is going to be necessary to continue to behave in what at times does appear an unrealistic way and contrary to the popular feeling in Britain. We here can always go on treading water, or holding the ring, or whatever metaphor you like, but it would be a real help if we also knew something of the truth.

Yours Ever,

Pat Dean [signed]

The complicity of the British Government in the Greek/Greek Cypriot aim to annex Cyprus to Greece is revealed in the statement of the outgoing British High Commissioner in Nicosia, Mr. David Hunt, addressed to Herbert W. Bowden, the British Secretary of State for Commonwealth Affairs in London:

> I turn with relief from forecasting the future to the more solid ground of my proper paramount concern, the promotion of British interests. In Cyprus they are as follows: to retain the Bases for as long as we need them; to prevent war breaking out between Greece and Turkey, two NATO allies; and to remove from the Eastern Mediterranean a focus of Russian, Egyptian and neutralist influence. The first of these is not now in danger, though *I hold that the Bases would be even more secure if Cyprus were united to Greece.* The second is also hardly in danger at the moment though it might be so if the dialogue were to collapse, or if UNFICYP were withdrawn and fighting broke out in the island. The third interest has not yet been securely achieved though the situation is slightly better than when I first arrrived. *All three interests would be secured if Enosis were achieved with the consent of Turkey and I conclude that the policy directed to this end which Her Majesty's Government have followed for the last two years is therefore the correct one.* [italics added].

(*Source:* "Confidential" Despatch No. 17 from the Office of the British High Commissioner, Nicosia, Cyprus, December 17, 1966, paragraph 20, p. 10).

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[26] At U.S. Special Envoy to Cyprus Richard Holbrooke's press conference on May 4, 1998, the following exchange took place, as reported in the "Official Text" of the U.S. Information Service's press release:

> REPORTER: Mr. Holbrooke, you said everybody should be positive and reconsider their positions. What about the United States? Are you going to reconsider your position towards Cyprus and realize that the Government of Cyprus is not the government of Turkish Cypriots?
>
> AMB. HOLBROOKE: I think it's very clear, no one has disputed, that Glafcos Clerides does not represent or have control of the people of northern Cyprus. He doesn't deny it. That's a fact. He said it, so I'm not sure what you're referring to, and I don't want to get into a polemic over this. If we get into a real negotiation, the issues that are involved here are all solvable … but you have to have a negotiation. If the sides do not wish to negotiate, one of the sides says "I won't negotiate unless, in advance, I get what should be the long-term goal of the negotiation," in that case you have to deal with the reality as it is. I don't consider this a crisis. I don't consider it a catastrophe. We came to the island knowing this would happen, it had been foreshadowed. We came anyway because we were asked to come and because the United States believes strongly that it has a responsibility to do these things.
> …

(*Source:* "Bicommunal Press Conference with Spe [*sic*] Richard Holbrooke at the Ledra Palace Hotel in the Buffer Zone—Monday, May 4, 1998," p. 5)

Rauf Raif Denktaş was born in Paphos in 1924, and studied law, qualifying as a Barrister-at-Law at Lincoln's Inn in London. He worked in the British Crown Colony of Cyprus as a teacher (1942-3) and a lawyer (1947-49); and in 1948 became a member of the Consultative Assembly in search of self-government for Cyprus, and a member of the Turkish Affairs Committee (1948-9). During the years 1949-57 he served as Junior Crown Counsel to the Attorney-General's office, Crown Counsel, and Ag. Solicitor-General; he also helped organize the Turkish Resistance Movement (TMT) against the Greek Cypriot terrorist organization EOKA, which aimed at uniting Cyprus with Greece

In 1957 he was made President of the Federation of Turkish Cypriot Associations; and the following year represented the Turkish Cypriots at the United Nations General Assembly with their leader, Dr. Fazıl Küçük. In Decem-

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ber, 1958, during the preparation of the Zurich Agreement, he advised the government of the Republic of Turkey on the rights of the Turkish Cypriots; in February, 1959 with Dr. Küçük, he led the Turkish Cypriot delegation at the London Conference, where the establishment of a bicommunal partnership state was endorsed by the two peoples of Cyprus, Turkey, Greece, and Great Britain. During the next two years (1959-60) he headed the Turkish Cypriot delegation of the Constitutional Committee drafting the Constitution of the Republic of Cyprus; and in 1960 he was elected President of the Turkish Communal Chamber.

After the collapse of the partnership state in 1963, Denktaş was prohibited from entering the island of Cyprus for four years (1964-68) by the Greek Cypriot leadership; on his official return in 1968, he took up his duties as President of the Turkish Communal Chamber and Vice-President of the Turkish Cypriot Administration. During 1968-1974 Denktaş was the Turkish Cypriots' interlocutor at the inter-communal talks; in 1970 he was re-elected President of the Turkish Communal Chamber, and in 1973 he was elected President of the Turkish Cypriot Administration and Vice-President of the Republic of Cyprus. In 1975 he formed the National Unity Party, and in 1976 was elected President of the Turkish Federated State of Cyprus. In 1985, following the 1983 Declaration of Independence, Denktaş was elected President of the Turkish Republic of Northern Cyprus; he was re-elected in 1990 and 1995.

President Denktaş is the author of numerous publications, ranging from *Hell Without Fire* (1944), *Criminal Cases* (1954) and *The Akritas Plan* (1968); to *The Cyprus Triangle* (1982, 1989), *Atatürk, Religion and Secularism* (1989); and the nine published volumes of *Hatıralar,* the President's memoirs, other volumes of which are in preparation.

Johann Pillai read Literature at Yale University, and received his M.A. and Ph.D. in Comparative Literature from the State University of New York at Buffalo. He has taught at SUNY at Buffalo and Central Connecticut State University in the U.S.A; Bilkent University and Middle East Technical University in Turkey; and, since 1992, at Eastern Mediterranean University in the Turkish Republic of Northern Cyprus, where he chaired the Departments of English Language and Literature, and Literature and Humanites, during 1993–1996. His research interests are in critical theories as they relate to historiography, translation, and legal hermeneutics; he is currently an associate professor of comparative literature, and teaches courses on literature and critical theory, and on the political history of Cyprus.

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Is a Compromise Settlement in Cyprus Still Possible? Revisiting the Ghali "Set of Ideas"

Zenon Stavrinides

Is there any realistic hope that the Greek and Turkish communities of Cyprus may still manifest the desire and political will to negotiate and eventually achieve a mutually acceptable settlement to the long-festering Cyprus problem, obtain the endorsement of the governments of Greece and Turkey as well as the United Nations, and proceed to forge together a common future? The two communities have been following divergent paths since 1974, if not 1963. The Republic of Cyprus is now going full steam ahead with the European Union (EU) accession talks, and is doing all it can to harmonize its legislation, economic and administrative systems and trading practices with those of the EU. The Turkish Republic of Northern Cyprus (TRNC), whether or not it is referred to in inverted commas or in an ironic tone of voice, exists in complete independence from the Republic of Cyprus (but of course is completely dependent on Turkey) and works to promote ever closer political and economic links with Turkey; so that if the Republic of Cyprus joins the EU before there is a settlement, the TRNC will become to all intents and purposes a province of Turkey. Is there no hope of arresting this drift towards cementing the division of Cyprus into two hostile lands and peoples, in effect the Cyprus-based branches of Hellenism and the Turkish nation?

The last time the leaders of the Greek and Turkish Cypriots conducted serious negotiations for a Cyprus settlement was in the summer of 1992, when the then President of the Cyprus Republic, Mr. George Vassiliou, and the President of the TRNC, Mr. Rauf Denktaş, met for a series of talks under the chairmanship of the UN Secretary-General, Dr. Boutros Boutros-Ghali. In August 1992 Dr. Ghali presented a carefully-crafted body of proposals for a settlement entitled "Set of Ideas" (including a map indicating territorial adjustments), which received Security Council endorsement through Resolution 774/92. The negotiating process broke up in the autumn as the campaign for the Greek Cypriot presidential elections went into full swing. Mr. Vassiliou and AKEL, the political party which supported him, presented the "Set of Ideas" to the Greek Cypriot public as a good basis for the search for a just and lasting settlement. Mr. Glafcos Clerides and other presidential candidates argued that the document was unacceptable as it stood because it contained restrictions on human rights and the implementation of the European Union *acquis communautaire.* Mr. Denktaş had already indicated that 9 out of the 100 paragraphs of the document were unacceptable to him.

The winner of the Greek Cypriot presidential elections of February 1993 was Mr. Clerides, who declared his willingness to negotiate, with Mr. Denktaş, a settlement based on the High Level Agreements of 1977 and 1979, the UN resolutions, human rights norms, and the rules of international law

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(with the *acquis communautaire* sometimes thrown in). By then, however, the momentum gained during the Vassiliou-Denktaş negotiations had been lost, and in the next year the two sides confined their contacts almost exclusively to the creation of a set of Confidence-Building Measures, which again led to nothing. The next UN Secretary-General, Mr. Kofi Annan, revived part of the "Set of Ideas" and presented it through his Special Representative Mr. Diego Cordobez to Mr. Clerides and Mr. Denktaş in the summer of 1997, when they held two abortive sets of meetings at Troutbeck, New York State and Glion, Switzerland. By then Mr. Denktaş was not willing to engage in substantive talks for a Cyprus settlement unless he was recognized as the head of a sovereign Turkish Cypriot state, and unless, further, the Greek Cypriots terminated their efforts to take the Republic of Cyprus into the European Union. Since this was unacceptable to the Greek Cypriots and the United Nations, the negotiating process broke up. Indeed, it is fair to say that during the Clerides years, given the absence of any substantive negotiations for a Cyprus settlement, the Greek and Turkish Cypriot communities no longer discussed among themselves what a Cyprus settlement could be like in any but the vaguest terms.

Yet it is plain that if a settlement is to be found in Cyprus, the two sides will have to negotiate and finally reach agreement on a range of subjects, some of which may be more important to one side and some to the other. The UN has always recommended to the two sides to show understanding for each other's needs, interests and concerns, and to work in good faith for a compromise settlement through mutual concessions. Mr. Denktaş failed to persuade the UN to recognize the TRNC as a sovereign state; but Mr. Clerides failed to persuade the UN that he had a better framework for a comprehensive settlement than the Ghali "Set of Ideas," hence the Cordobez document. If the efforts which Dame Ann Hercus, the UN Secretary-General's Deputy Special Representative on Cyprus, undertook in the autumn of 1998 to get the two sides on the negotiating table bear fruit, it is highly probable that the "Set of Ideas" will be brought back, if perhaps with some alterations or modifications. It may be noted in this connection that some time after Dr. Boutros-Ghali presented the "Set of Ideas," he asked the two sides to state their respective reactions to each of the various proposals set out in the document. He held discussions with Mr. Vassiliou and Mr. Denktaş between 28 October and 6 November 1992 to ascertain their views, and on 11 November he brought out a paper entitled "Summary of the Current Positions of the Two Sides in Relation to the Set of Ideas." This paper represents the only attempt ever made by the UN to codify the positions of the two sides on various aspects of a Cyprus settlement, and wherein their points of agreement and disagreement lie. Indeed, it is a fair assumption that the Greek and Turkish Cypriot positions contained in the paper still express the views of the two sides, *unless* in the meantime Mr. Clerides and Mr. Denktaş have put forward different views. So if the "Set of Ideas" is still the UN frame of reference for intercommunal negotiations, the points of disagreement contained in the "Summary" indicate the obstacles that need to be removed if a compromise settlement can be achieved in Cyprus.

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The Ghali "Set of Ideas" presents its proposals under a number of headings, including "Preamble," "Overall Objectives/Guiding Principles," "Constitutional Aspects of the Federation," "Security and Guarantees," "Territorial Adjustments," and "Displaced Persons." The "Preamble" is a short paragraph which was meant to be uncontroversial, beginning with the words "The leader of the Greek Cypriot community and the leader of the Turkish Cypriot community have negotiated on an equal footing…." This text did not provoke any reactions in the Greek Cypriot or Turkish Cypriot sides in 1992. As was mentioned, in 1997 Mr. Denktaş took the line that the requirement of equality between the negotiating parties implied that he should be recognized by the UN as the president of a sovereign state, as was Mr. Clerides. This would be unacceptable to Greek Cypriots, as indeed to the UN Security Council, which back in November 1983 pronounced that the declaration of the TRNC was illegal. It is to be hoped that the two sides can resume negotiations and proceed to discuss their disagreements on the various aspects of a Cyprus settlement, without making initial demands on each other which cannot be met.

I

The section entitled "Overall Objectives" makes a number of points on the constitutional form of the state that is to be established as part of a Cyprus settlement, one of which is rejected by the Turkish Cypriot side while it is accepted by the Greek Cypriots. The point in question is this:

> … The Cyprus settlement is based on a State of Cyprus with a single sovereignty and international personality and a single citizenship, with its independence and territorial integrity safeguarded, and comprising two politically equal communities… in a bicommunal and bizonal federation, and… the settlement must exclude union in whole or in part with any other country or any form of partition or secession.

The Greek Cypriot side have long insisted that sovereignty and international personality should be the exclusive properties of the federation as a whole, for fear that if the federated states were allowed a *locus standi* under international law, the Turkish Cypriots would be in a position at some point in future to exercise the sovereign right to break away from the federation, declare the Turkish Cypriot federated state to be an independent republic, and as such ask for recognition from the international community and admission to the United Nations.

The Turkish Cypriots' point of view on the matter is based upon their interpretation of the events of December 1963, which is that the Greek Cypriot leaders usurped or hijacked the power of the state against the provisions of the 1960 constitution, shut the Turkish Cypriots out of the machinery of the state, and got themselves accepted by the international community as the government of the Cyprus Republic. Could this not happen again, the Turkish Cypri-

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ots ask, if the projected federal constitution does not grant any sovereign authority to the federated states? Further, the Greek Cypriots argue that there is at present only one sovereign state, the Republic of Cyprus, whose northern sector is under foreign control, and the question is how to reconstitute this state on federal lines in the context of a peaceful settlement. The Turkish Cypriots, however, believe the TRNC to be a real, live, sovereign and independent state, just like the Republic of Cyprus, in which case the real question is how much of this sovereignty and independence the two states are going to transfer to a system of joint organs which will form the federation. Thus the Turkish Cypriot position on the matter is as follows:

> The result of the overall framework agreement will be the establishment of a bicommunal, bizonal federal republic by two politically equal corporate bodies from which the sovereignty of the federal republic shall emanate. The two equal federated states will each freely agree to devolve a portion of their respective federal powers to the federal government. The Turkish Cypriot side declares that the essence of its position is that "The federated states are sovereign insofar as their sovereignty is not limited by the sovereignty of the federal state."[1]

Greek Cypriots may abhor the suggestion that the projected federation will be formed by the union of two currently existing "corporate bodies," but some of them realize that the whole idea about sovereignty is that it consists in the possession of supreme and unrestricted authority to make and enforce laws, policies and administrative decisions. If the aim of the negotiating process is the establishment of a bizonal federation, then there will have to be a division of powers between the federal government and the governments of the two constituent federated states; and further, in those areas which come under the jurisdiction of the federated states, the various organs of each state will exercise due authority without interference from either the other state or the federal government. Thus, if the essence of the Turkish Cypriot position were to be re-formulated in some such terms as "The federated states have unrestricted authority to make laws, policies and administrative decisions in all areas outside the jurisdiction of the federal organs, but consistent with the constitution," Greek Cypriots would have no grounds for objection, for they have already accepted a federal settlement.

II

It is important to note that when the "Set of Ideas" suggested, under the heading "Constitutional aspects of the federation," a list of *powers to be vested in the federal government,* neither side found any cause for disagreement. The list includes all the powers which the central government in a federation would have to have, which includes not only the obvious items like foreign affairs, federal budget and taxation; and customs and the co-ordination of

international trade; but also immigration and citizenship, which Greek Cypriots would not want, for obvious reasons, to be assigned to the jurisdiction of the federated states. The Turkish Cypriots, however, raised certain objections to proposals made on the *structure, composition and functioning of the federal government,* and more specifically the executive branch of government; while the Greek Cypriots asked for certain modifications. The relevant paragraphs of the "Set of Ideas" are as follows:

> 36. The federal executive will consist of a federal president, a federal vice-president, and a federal council of ministers. The president and the vice-president will symbolize the unity of the country and the political equality of the communities…
>
> 38. There will be a council of ministers composed of Greek Cypriot and Turkish Cypriot ministers on a 7:3 ratio… One of the following ministries, that is, foreign affairs, finance, or defence will be allocated to a Turkish Cypriot minister. The president and the foreign minister will not come from the same community.
>
> 40. Decisions of the council of ministers will be taken by majority vote. However, decisions of the council of ministers concerning foreign affairs, defence, security, budget, taxation, immigration and citizenship will require the concurrence of both the president and the vice-president.
>
> 42. The president and the vice-president will, separately or conjointly, have the right to veto any law or decision of the legislature concerning foreign affairs, defence, security, budget, taxation, immigration and citizenship. The president and vice-president will have the right, separately or conjointly, to return any law or decision of the legislature or any decision of the council of ministers for reconsideration.

With regard to Paragraph 36, the Greek Cypriots adopted the position that "The federal president and vice-president symbolize the unity of the country and should have a universal mandate. They must therefore be elected by federation-wide and weighted universal suffrage. Such federation-wide elections would foster intercommunal harmony." The underlying idea seems to be that when an election for the presidency of the federation is held, any citizen who possesses the usual qualifications, whether Greek or Turkish Cypriot, can put himself forward. Assuming that there are four times more Greek Cypriot than Turkish Cypriot voters, the vote from a Turkish Cypriot voter will count as equivalent to two, or three, or possibly four Greek Cypriot votes (depending on the details of the electoral law). If the person who wins the presidential

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election belongs to the Greek Cypriot community, a vice-president will have to be elected from among candidates belonging to the Turkish Cypriot community (or *vice versa*); and again the vote from a Turkish Cypriot voter will count as equivalent to two or more Greek Cypriot votes. The rationale of this system is that candidates for both the presidential and vice-presidential elections will have an interest and a motive to appeal not only to their own community, but to the other too. Although it is most unlikely that, under Greek Cypriot proposals, a Turkish Cypriot could become president, it is worth noting that Mr. Vassiliou won the Greek Cypriot presidential election of February 1988 by a margin of about 1.5%, and Mr. Clerides won the elections of 1993 and 1998 by 0.5% and 1.5% margins respectively: Turkish Cypriot participation in these elections could have made a decisive difference.

The Turkish Cypriot position on the matter of the election of the president and vice-president is as follows: (a) The president and vice-president symbolize the bicommunal nature of the federation and the political equality of the two communities. Therefore, representatives of each community should *rotate* in the presidency. (b) The rotation of representation of the federation at official occasions overseas would reflect internationally the bicommunal nature of the federation. (c) Election by common electoral roll would negate the historical rights of each community and would be contrary to the bicommunal character of the federation.

The Turkish Cypriot positions in relation to Paragraphs 38 and 40 of the "Set of Ideas" are as follows:

> The council of ministers should be composed of an equal number of Turkish Cypriot and Greek Cypriot federal ministers to reflect the political equality of the two communities… [It] should function on the basis of consensus.

Greek Cypriots are only prepared to accept the principle of political equality if it means parity of executive and legislative power between the Greek and Turkish Cypriot communities. If the constitution were to stipulate that there should be the same number of Greek and Turkish Cypriot members of the council of ministers, it would deny the Greek Cypriots the satisfaction that there is some acknowledgement of the fact that their community is four times larger than the Turkish Cypriot community. Whenever Turkish Cypriot leaders express the demand for the rotation of the presidency and the equal distribution of ministerial portfolios between the two sides, Greek Cypriot indignation and bitterness suggest that they believe the Turkish side is trying to walk all over them. Not only Greek Cypriot nationalists, but also their more moderate compatriots take the view that if there has to be a numerical formula for the distribution of portfolios, this must be a ratio which to some extent reflects the relative size of the two communities.

Can the disagreement between the two sides on participation in the council of ministers be resolved? It is difficult to see how—but the following possibility could be explored. Maybe it can be agreed that for each of the ten

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ministries (let us say), there should be one minister, and also one deputy minister who will not be a member of the council of ministers, although he will participate in appropriate ministerial committees. Seven of the ministries should be headed by a Greek Cypriot and three by a Turkish Cypriot, as Dr. Boutros-Ghali suggested; but further, every ministry headed by a minister belonging to one community should have a deputy minister belonging to the other community, in which case there will be seven Turkish Cypriot deputy ministers and only three Greek Cypriot. This system will give the Greek Cypriots the satisfaction that the largeness of their community is acknowledged and is given a higher profile in the executive; while the Turkish Cypriots, with three ministers and ten deputy ministers, will feel that their participation in the executive is full and effective. Perhaps a more important advantage is that every ministry will be under Greek and Turkish Cypriot political officials who will be responsible for the formulation and application of policy, and so no ministry will be thought of as being Greek-controlled or Turkish-controlled.

One may wonder why the Turkish Cypriot side need insist on consensual decision-making in the council of ministers, given that the Greek Cypriots have conceded the proposal contained in Paragraph 40 of the "Set of Ideas." Sir David Hannay suggested, at some point, that the executive should function on the principle of "co-decision" by the president and vice-president. The Greek Cypriots did not like it, but they might accept it, if it served to persuade the Turkish Cypriots that the president should be Greek Cypriot and the vice-president Turkish Cypriot.

III

The next item on the constitutional aspects of the negotiating agenda is concerned with *fundamental rights, including the three freedoms, and political, social and cultural rights.* The "Set of Ideas" proposes that:

> 47. All universally recognized fundamental rights and freedoms will be included in the federal constitution.
>
> 48. The freedom of movement, the freedom of settlement and the right to property will be safeguarded in the federal constitution. The implementation of these rights will take into account the 1977 High Level Agreement and the guiding principles set out above.
>
> 49. The freedom of movement will be exercised without any restrictions as soon as the federal republic is established, subject only to non-discriminatory police functions.
>
> 50. The freedom of settlement and the right to property will be implemented after the resettlement process arising from the territorial adjustments has been completed. The feder-

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> ated states will regulate these rights in a manner to be agreed upon during the transitional period consistent with the federal constitution.

In the autumn of 1992 the Greek Cypriot side accepted these proposals in principle, and added that "these rights and freedoms must be entrenched in the federal constitution and safeguarded by the federation. Their application may be regulated by the federal states, but limitations of these rights contrary to international law and human rights instruments are not acceptable." The Greek Cypriot side fears that the Turkish Cypriots might decide to impose what it considers arbitrary restrictions on the freedom of settlement and property ownership; and so it wants to write these rights into the federal constitution, so that any Greek Cypriots who believe their rights are being denied to them can bring action in the Federal Supreme Court. But exactly how is this course of action going to work in practice?

Let us suppose that following a Cyprus settlement, a group of Greek Cypriot businessmen puts together a large amount of money to buy land in a certain area to the east of Kyrenia which has belonged to Turkish Cypriots since before 1974, with a view to building holiday homes for Greek Cypriots. Let also suppose that the owners of the land are willing to sell but the authorities of the Turkish Cypriot federated state are opposed, and introduce legislation to prohibit the sale to Greek Cypriots, citing reasons of security and public interest. If the Greek Cypriot businessmen file a suit against the Turkish Cypriot authorities in the Federal Constitutional Court, it is possible they will lose—in which case Greek Cypriots may accuse the Court of allowing itself to be influenced by Turkish Cypriot politicians. It is equally possible that the Greek Cypriot businessmen will win the case—and this may provoke anger and indignation among Turkish Cypriots and lead them to use other means, foul or fair, to induce the owners not to sell their land, or to create difficulties for the Greek Cypriot businessmen. It may even be possible for the businessmen to take the case to the European Court of Human Rights; but whatever the outcome of the case, it is likely to cause terrible problems and acrimony between Greek and Turkish Cypriot politicians, officials, and the communities in general. For once Turkish Cypriots come to believe that Greek Cypriots are apt to use their purchasing power to harm their economic and security interests, Greek Cypriots wanting to live and conduct business in the Turkish Cypriot federated state will be antagonized by Turkish Cypriot people, and possibly threatened by them.

The point of this pessimistic thought-experiment is that Greek Cypriots may argue for increased rights for their own people in the north, claiming glibly that such arrangements are "for the benefit of both communities"; however, the brute fact of the matter is that if the Turkish Cypriot authorities judge that such arrangements are not in their own economic and security interests, they will prevent them one way or another. Thus, from this perspective, the only way open to the Greek Cypriot community for achieving effective protection of the rights of Greek Cypriots who wish to live in the north is to persuade

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Turkish Cypriots themselves—and not the European Court of Human Rights—that they have nothing to fear from them.

It is instructive in this context to study the Turkish Cypriot positions in relation to Paragraphs 47-50 cited above. They are as follows:

> The exercise of the freedom of movement without any restriction as soon as the federal republic is established is accepted provided that by that stage arrangements for settling property claims will have been agreed. The freedom of settlement and the right of property will be regulated by the federated states in a manner to be agreed upon, consistent with the federal constitution and which preserves the bicommunal nature of the federation. The freedom of settlement and the right to property will be implemented gradually and in phases after the settlement process arising from the territorial adjustments has been completed and following a moratorium for confidence-building. The federated states, in regulating these rights, will give due regard to the bicommunality and bizonality of the federation, the need to prevent intercommunal conflict, their economic interests and the preservation of communal identity…

These positions clearly indicate that the Turkish Cypriot side is bent on securing what it calls "the settlement of property claims" or "exchange of properties and compensation," before *any* rights of Greek Cypriots are implemented in the north. Thus, for the Turkish Cypriot side, the matter of the implementation of the three freedoms is linked to a solution of two interconnected issues of major importance: first, *territorial adjustments* and second, *displaced persons.* The interconnectedness of the issues is brought out by considering the following points:

1. The Turkish Cypriots, who before the Turkish military intervention constituted 18% of the population of the island, currently control about 34% of the land, and this is regarded by all Greek Cypriots as very unfair. Turkish Cypriot officials sometimes offer arguments as to why the Turkish Cypriot federated state of the projected federation should retain more territory than 18%, and there seems to be some sympathy in international circles for this point of view. Since 1984 it has been assumed that the Turkish Cypriots will keep about 29% of the territory.

2. The Turkish military intervention and the subsequent division of the island caused the displacement of 160,000 Greek Cypriots and 45,000 Turkish Cypriots. All Greek Cypriot refugees were re-housed by the late 1970s, but most of those who are still alive 25 years later, as well as their heirs, demand implementation of the right of return to their homes and properties, and all Greek Cypriot people are in sympathy with them.

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3. It is understood that the more territory that used to be inhabited by Greek Cypriots is to be returned to the Greek Cypriot federated state, the less difficult the problem becomes of what is to happen to other Greek Cypriots whose homes and properties remain in the territory of the Turkish Cypriot federated state.

During the period leading up to the preparation of the "Set of Ideas," Dr. Boutros-Ghali and his officials reflected on a number of criteria to which the Turkish Cypriot side attached particular importance—maintaining the coastline controlled by the Turkish Cypriots, respecting traditionally Turkish Cypriot areas, taking account of the distribution of water resources, etc.—and the Greek Cypriot view that territorial adjustments should permit the largest possible number of Greek Cypriot refugees to return to their own homes and properties; and they proceeded to produce the Ghali map, which marked the borderline of the Greek and Turkish Cypriot federated states. Mr. Vassiliou accepted the map as a basis for a settlement, and although Mr. Clerides at the time expressed some dissatisfaction, he is thought to find it acceptable too.

Territorial adjustments on the basis of the map would mean that the Turkish Cypriot area will be reduced from 3,355 square miles to 2,613 square miles (equivalent to 29.05% of the island of Cyprus, excluding the British Sovereign Base). The 742 square miles which would be given over to the Greek Cypriot side constitute an area which in 1974 was inhabited by about 78,500 Greek Cypriots—about half of all refugees.[2] In the quarter-of-a-century since 1974, some one-third of all Greek Cypriots must have died, but the net increase in population is about 1% per annum. So if the Ghali map is "implemented," about 100,000 Greek Cypriots—surviving refugees and descendants of refugees—will be able to take possession of their homes and properties. How many of these people would *actually* be willing to exercise their right of return is an interesting question, which no Greek Cypriot governmental or other organization has ever attempted to investigate. It is highly probable that the vast majority of Greek Cypriots from Famagusta and its suburbs (estimated to be about 30,000) would return to recreate the thriving community with its tourist and port-based economy; and so would most of the people of the north-eastern area of Morphou (about 7,500 people) and the surrounding villages (another 5-7,000). But how many people would want, given the opportunity, to return to small peasant communities from which, back in the early 1970s, young men tended to leave in order to seek better-paid work and a better life-style in the towns? The best guess is that if 100,000 Greek Cypriots are given the option of returning to their homes and properties under Greek Cypriot administration, only about half of these would want to return, and most of these will be elderly.

But what would the implementation of the Ghali map mean for the Turkish Cypriots? Mr. Denktaş was dismayed when Dr. Boutros-Ghali presented it to the two sides, arguing that it would result in 37,433 Turkish Cypriots' having to leave their present homes—homes to which, in many cases, they had received "title deeds" from the authorities of the

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TRNC. In fact, the "Set of Ideas" shows great sensitivity to the needs of Turkish Cypriots currently in areas which, according to the Ghali map, will come under Greek Cypriot administration; for it provides that:

> 74. The Turkish Cypriots who in 1974 resided in the area that will come under Greek Cypriot administration will have the option to remain in their property or request to receive a comparable residence in the area that will come under Turkish Cypriot administration. Turkish Cypriot displaced persons currently residing in the area that will come under Greek Cypriot administration will have the option to receive comparable residence in that area, to return to their former residence, or to receive a comparable residence in the area that will come under Turkish Cypriot administration.

It should be noted that if this paragraph forms part of a Cyprus settlement, it is theoretically possible that all 7,500 Greek Cypriots who have a right to live in Morphou *will* go there, and all Turkish Cypriots who currently inhabit the town (many of whom were born there) *will* move to "comparable residence in that area." But can Morphou double in size to provide homes and means of livelihood for 15,000 Greek and Turkish Cypriots? It may be possible to build a set of attractive housing estates for a few thousand Turkish Cypriots on the northern edge of Morphou, and persuade the current Turkish Cypriot inhabitants of the town to move there *en masse* to create the municipality of *Yeni Güzelyurt* within the Turkish Cypriot federated state, thereby preserving the identity of the community, its connection with the locality, and its inclusion in the Turkish Cypriot federated state. But is it possible to expand by 100% the citrus groves, or offer alternative employment to those Turkish Cypriots who are currently growing citrus? The answer is plain: all agricultural land in and around Morphou is owned by Greek Cypriots, who will want to claim it, if this option is open to them. Here, then, is a very difficult problem whose solution requires considerable ingenuity. It will be less difficult to solve if it turns out that many Greek Cypriots from Morphou do not wish to live there; or that if they do, they lack the skills and the interest to tend their parents' and grandparents' groves and so are willing to give them up in return for compensation. In that case, it may be possible to create a physically and socially united urban center, split into two municipalities of Morphou and Yeni Güzelyurt, and with each belonging to a different federated state, following the same basic idea as Lefkosia-Lefkoşa and Ammochostos-Mağusa.[3]

Another very difficult problem is bound to arise if a large proportion of the Greek Cypriot displaced persons, who in 1974 lived in what is to form the territory of the Turkish Cypriot federated state or who are descended from those people (and are estimated to be about 100,000 in number), *do* wish to return to their homes or properties. Given that (a) the indigenous Turkish Cypriots currently living in the north are estimated to be about 70,000, and (b) the

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Greek Cypriot side demands that all settlers from mainland Turkey will have to leave, it follows that if all Greek Cypriots return, they will form the majority there. Could the Greek Cypriots form the majority in both the south and the north of Cyprus? Could a situation arise in which the authorities in the Turkish Cypriot federated state find they have a Greek Cypriot population larger than the Turkish Cypriot population? The fact is that both Greek and Turkish Cypriots, as well as the UN and foreign diplomats involved in efforts for a settlement, assume that the majority of the inhabitants of the Turkish Cypriot federated state will be Turkish Cypriots.[4] However, a number of Security Council resolutions recognize the right of all displaced persons to return "voluntarily" to their former homes and properties in conditions of safety, and both UN officials and Greek Cypriot officials and politicians are bound to support the implementation of this right.

But the Turkish Cypriots are steadfastly opposed to the return of great numbers of Greek Cypriots to the Turkish Cypriot federated state, and no major power has ever said that it wants to see all Greek Cypriot refugees return to their homes, much less that it intends to lean on the Turks to ensure that this happens. Those Greek Cypriot politicians, including President Clerides, who think that the problem of Greek Cypriot refugees is soluble, must be supposing either that for some reason the Turkish side is suddenly going to withdraw its opposition, or that the prohibition of any but a small number of Greek Cypriot refugees from returning to the Turkish Cypriot federated state would be tolerable to the majority of Greek Cypriot people, *if other elements in the package settlement are acceptable.*

Let us look at what the "Set of Ideas" has to say about the refugees from what is to form the territory of the Turkish Cypriot federated state. The document proposes a system of arrangements whereby (a) the displaced persons—Greek or Turkish Cypriots—who do not want to go back to their homes and properties will have a right to obtain compensation; and (b) the displaced persons who wish to return will have a right to do so. With regard to the first group the document proposes, among other things, the following:

> 76. Each community will establish an agency to deal with all matters related to displaced persons.
>
> 77. The ownership of the property of displaced persons, in respect of which those persons seek compensation, will be transferred to the ownership of the community in which the property is located. To this end, all titles of properties will be exchanged on a global communal basis between the two agencies at the 1974 value plus inflation. Displaced persons will be compensated by the agency of their community from funds obtained from the sale of the properties transferred to the agency, or through the exchange of property…

The main idea here is clear enough, even though the mechanics of evaluating properties and funding the provision of compensation needs careful and detailed working out.[5] With regard to the second group of displaced persons, the "Set of Ideas" states, among other things, that

> 84. The settlement of those who select to return will take place after the persons who will be affected have been satisfactorily relocated. If the current occupant is also a displaced person and wishes to remain, or if the property has been substantially altered or has been converted to public use, the former permanent resident will be compensated or will be provided an accommodation of similar value.

This proposal was accepted by Mr. Vassiliou as a basis for negotiation, but—predictably—was opposed by Mr. Denktaş. The Turkish Cypriot side theoretically accepted the principle of the refugees' rights of return and property ownership, but in practical terms it dealt the principle the rejection of a thousand conditions. For one,

> most Greek Cypriot properties on the Turkish Cypriot side have been allocated to Turkish Cypriots. These allocations created legally valid title deeds… Most of the Greek Cypriot property currently being used by the Turkish armed forces has been allocated to Vakfs [religious trusts]… Greek Cypriots who owned property in the Turkish Cypriot area will be compensated from funds obtained, *inter alia,* from the sale of Turkish Cypriot properties on the Greek Cypriot side. At current value, the Turkish Cypriot property left in the south roughly corresponds to the Greek Cypriot property left in the north.

Even more significantly, the Turkish Cypriot position states that:

> The option of return will be exercised after a mutually agreed moratorium. The settlement of those who select to return will take place after the persons who will be affected have been satisfactorily relocated. A review mechanism will be established in each federated state in a mutually agreed manner to determine, upon recourse by the present owner and/or occupant, whether there are circumstances which preclude relocation in that particular case. In that event, or if the owner and/or occupant is also a displaced person or a *bona fide* purchaser or heir, or if the residence has been substantially altered; or has been converted to public use or allocated to public service institutions, Vakfs etc., or… [the list of conditions goes on and on], the former permanent owner will be compensated.

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The Greek Cypriots are vehemently opposed to what they consider as Mr. Denktaş's attempts to legalize the usurpation of their homes and properties by the Turkish Cypriots. According to Dr. Boutros-Ghali, Mr. Vassiliou insisted, during the proximity talks that preceded the drafting of the "Set of Ideas," on the right of return and of the right to property, "while recognizing the need to resolve practical difficulties faced by the Turkish Cypriot side. He stressed that he was opposed to any recognition of massive confiscation of the properties of displaced persons, since it would be contrary to resolutions of the United Nations and human rights instruments."[6]

The positions of the Greek Cypriot and Turkish Cypriot sides reflect the moral beliefs, economic interests and political passions of their respective communities; and of course they are in direct conflict. Further, the Greek Cypriots demand that Turkish mainland settlers—estimated to be about 80,000—should be returned to Turkey. The Turkish Cypriots, however, make a distinction between those Turkish settlers who were given TRNC citizenship, and those who came as seasonal workers with the permission of the Turkish Cypriot authorities or even without it; and they say that while seasonal workers will eventually leave, the former group have as much right to stay permanently in the north as the few hundreds of foreigners who received citizenship of the Republic of Cyprus have a right to stay in the south. There is at present no sign that the Turkish Cypriot authorities will cancel or invalidate their own laws and administrative decisions in order to facilitate negotiations for a Cyprus settlement. So is the deadlock on this issue complete and irrevocable?

It seems that the deadlock *is* just that, and no compromise appears practicable, *if* any considerable number of Greek Cypriot refugees, with support from the Greek Cypriot authorities, do actually want to exercise the right of return, and to own and enjoy the use of their property in the Turkish federated state of Cyprus. What needs to be investigated, however, is whether they do want that, and will continue to want that, if and when the political rhetoric which Greek Cypriot politicians and the media have so loudly produced subsides, and a cooler assessment of the situation is formed:

1. It is well known that since the 1960s, if not earlier, there has been a drift of young people, from the countryside, where for the most part agriculture could not support a reasonable standard of living, to the towns, to seek work and better opportunities for advancement. This trend was intensified throughout the 1960s and early 1970s as a result of the development of light manufacturing industries, service industries, and more particularly, tourism, in a number of urban centers. Once young people tasted the satisfactions of urban life and the challenges of a career and social advancement, they turned their backs on country life. Even if the Turkish military intervention and the consequent displacement of the Greek Cypriot inhabitants of the north had not taken place, the likelihood is that the countryside in what is to become the Turkish federated state of Cyprus would not have held many attractions to keep young people in their villages; and

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when older people died, the village communities would gradually have disappeared. (If any evidence is needed for this hypothetical judgment, one need only take a look at the countryside in the Paphos district.) Kyrenia, a town of great charm and considerable potential for tourist development, is a special case; and if the former Greek Cypriot inhabitants were allowed to return, many would consider this option seriously. But with the exception of Kyrenia (whose population in 1974 was about 3,000 Greek Cypriots and 500 Turkish Cypriots), the villages in the Kyrenia mountain range and the plain of Mesaoria would not see many of their former Greek Cypriot inhabitants if they were given the right of return.

2. People want to live near their places of work, and a considerable proportion of Greek Cypriot families have more than one member working outside the home. Let us suppose that following a settlement, Greek Cypriot refugees are allowed to go back to their former homes; and a certain family, in which the husband comes from one of the northern villages, have to consider what to do. Can they find jobs for the husband, the wife, and the adult unmarried children? Quite possibly the wife will not be coming from the same village as her husband and cannot be expected to be attached to it, and the children will not have any experience of, or liking for, the rigors of farming. The chances are that they will want to stay put—where their jobs, current home and friends are—and at most they will want to visit the old village a few times a year, and probably sell any land they may have there.[7]

3. Greek Cypriots often appeal to UN resolutions concerning the rights of refugees, and demand that Turkey and the Turkish Cypriot authorities implement them. For example, General Assembly Resolution 3212 of 1 November 1974 called *inter alia* for "the return of all refugees to their homes in safety," and Resolution 3395 of 20 November 1975 called for "voluntary return of all refugees to their homes in safety." But how safe could Greek Cypriots be in Kyrenia or the villages in the north, in a hypothetical situation in which, put under intolerable international pressure, the Turkish Cypriot authorities and Turkey were to allow them in? International pressure has so far done little to bring about reconciliation and friendship between the two communities of Cyprus, and such contacts as have taken place between tiny groups of Greek and Turkish Cypriots have hardly had an impact on the general situation. If a number among the former Greek Cypriot inhabitants of Kyrenia were to go back there following a settlement and find a hostile Turkish Cypriot and Turkish population of 13,000, how would they feel? Would they demand that the current occupiers of their homes be turned out so that they could move in themselves? Is there a chance of this happening? And if as a result of any disputes intercommunal violence breaks out, from whom are the Greek Cypriots going to seek protection? The Turkish Cypriot police force? The Turkish Cypriot courts? UNFICYP? Greece?

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4. Besides, if all Greek Cypriots who wish to go to the north and take possession of their properties were to be permitted to do so, the same should apply to Turkish Cypriots who wish to go to those parts of the south, in Larnaca, Limassol, and Paphos, which Greek Cypriots have used for nearly a quarter of century and turned into lucrative tourist attractions. Is it so clear that a man who has worked to his bones to make a good living out of a restaurant in the former Turkish quarter of Larnaca which was assigned to him by his government after 1974, would be prepared to simply give it up without a fight to a Turkish Cypriot who happened to be the son of the former owner?

All these considerations, which are occasionally rehearsed by Greek Cypriots in private, but almost never in public, lead to the conclusion that as long as relations between Greek and Turkish Cypriots are bad, few refugees will venture to return to the north, to be dominated by the Turkish Cypriot community, administered by Turkish Cypriot officials, and policed by Turkish Cypriot officers. The forcible creation of mixed villages could cause violent, and even fatal incidents, in which case neither the Greek Cypriot police in the south, nor UNFICYP could afford Greek Cypriots any protection. Therefore, in the circumstances of the protracted Cyprus conflict, there appears to be no better solution to the issue of displaced Greek and Turkish Cypriots than a global exchange of homes and properties between the two communities.[8]

Some years ago, the argument for a global exchange of Greek and Turkish Cypriot properties was marshaled by Mr. Chris Economides in a study which one can now find on the Internet.[9] Mr. Economides cites the First Protocol to the European Convention of Human Rights, which states that “no one shall be deprived of his possessions”; but it adds that the state can expropriate properties “in the public interest.” The practice of expropriation of private property by the state to advance the public good on the basis of compensation at market value, in other words *compulsory acquisition*, is familiar in many modern states, including the Republic of Cyprus. If it is judged that it *is* in the public interest to avoid the recreation of mixed villages in the foreseeable future for the reason that such projects may cause violence and even the breakdown of public order, there is sufficient justification for effecting the expropriation of all Greek Cypriot properties in the north and of all Turkish Cypriot properties in the south, and exchanging them between the two federated states without compensation. The only exceptions to this radical solution would be churches, monasteries, mosques and cemeteries, which should continue to be owned and maintained by the respective religious authorities, and where religious celebrations will be allowed to take place freely.

Once the exchange of properties takes place, there will be little incentive for individual Greek and Turkish Cypriots to buy land for farming or investment in the other community’s state. Mr. Economides suggests that

> for an interim period of 10 to 15 years, resettlement and purchase of land in the Turkish Cypriot zone by Greek Cypriots

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> and in the Greek Cypriot zone by Turkish Cypriots should be subject to permits by the host federated authorities. Thereafter, when relations between the two communities will, hopefully, become harmonious, all restrictions should be abolished.

This seems an eminently reasonable proposal: the Greek Cypriots should accept the need to sacrifice rights which in a better world they would not; and the Turkish Cypriots should appreciate this move and be ready to make similar sacrifices to accommodate Greek Cypriots' sensitivities.

The preceding discussion brings to the fore the point that Cyprus can only become a country in which all its citizens enjoy human rights and a civilized form of life, if there is security for both communities and for the projected federation which is expected to embrace them both. Indeed, the security aspect of the Cyprus settlement is of vital importance in itself, and the key to everything else. Without a political settlement there are no security arrangements; and without security no political settlement is worth very much. The Greek Cypriot community has long been arguing that the best form of security is the demilitarization of the island. Turkish Cypriots are unwilling to contemplate the departure of all Turkish troops—but then, President Clerides did not exactly mean that, as may be gathered from the following evidence.

On 17 December 1993, two months after President Clerides and the Prime Minister of Greece Mr. Andreas Papandreou signed the "Joint Defense Doctrine," the former wrote to the UN Secretary-General Dr. Ghali expressing Greek Cypriot security concerns:

> There is no doubt that the massive presence of Turkish military forces in the occupied part of Cyprus creates serious anxieties and mistrust amongst the Greek Cypriot community regarding Turkish intentions. It also imposes on the Government of the Republic the need to increase the defensive capabilities of the country by purchasing arms. Further, it makes it necessary to request military help from Greece and to include Cyprus in the Greek defensive plans. There are also indications that the above preparations, though entirely defensive in their nature, are misinterpreted and cause anxiety and mistrust with the Turkish Cypriot community regarding Greek intentions.

President Clerides went on to propose that he disband the National Guard and hand over all Greek Cypriot armored cars, armored personnel vehicles and tanks to UNFICYP; and further, that the Cyprus government undertake the total cost of "a substantially numerically increased UNFICYP" which will acquire the right of inspection in connection with security facilities, on condition that the Turkish side agrees to the withdrawal of the Turkish troops and the disbanding of the Turkish Cypriot armed forces.[10] And who

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will form the increased UNFICYP? The answer is implicit in an interview which President Clerides gave a Turkish Cypriot journalist on 1 February 1996, in which he made the following points:[11]

1. A revised Treaty of Guarantee will come into force under which Greece, Turkey, Great Britain, and a number of additional countries will guarantee the security, territorial integrity and constitutional order of the federal republic.

2. An international force made up of contingents from the various guarantor powers (including, therefore, a Turkish contingent) will be stationed in an otherwise demilitarized Cyprus.

3. The international force will have powers (a) to ensure that no paramilitary organizations are formed and no arms are imported in Cyprus, except for arms for which there will be an agreement and which will be deemed necessary for the purposes of the police forces; and (b) to intervene on the basis of a decision by the guarantor powers taken by majority whenever the independence and territorial integrity of Cyprus face threats either from the two communities or through the violation of the constitutional order.

4. This solution has the following advantages: (a) If there is any tension in Cyprus, this will not be exported to Greece and Turkey, which as a rule take the sides of their respective communities. (b) Great Britain will no longer be in the unenviable position of being in the middle and being accused by the two sides of not fulfilling its obligations under the Treaty of Guarantee. (c) Any intervention will be carried out by an international force which will actually be stationed in Cyprus, thereby preventing any issues about invasion, occupation, withdrawal of forces, etc., which complicate matters. (b) Greek and Turkish contingents will continue to be stationed in Cyprus, but they will form part of an international force, and so any involvement or suspicion or allegation concerning chauvinistic activities in their respective communities will be dealt with convincingly.

President Clerides added that "since we wish to accede to the European Union, the guarantor powers should come from the EU and other countries." He indicated elsewhere that he would agree to the Greek and Turkish contingents, manned by about 1,000 troops each. The Turkish Cypriot side prefers the continuation of something like the old Treaty of Alliance, even

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though it wants about 5,000 troops from each of the "Mother Countries" to be stationed on the island. A compromise between these two positions does not seem difficult. What is more difficult is to formulate the terms under which the peacekeeping or guarantor force can take action. At present UNFICYP soldiers will only shoot in self-defence. Is President Clerides, and also are troop-contributing countries, willing to agree that the peacekeepers would be authorized to use force to stop attacks by armed irregulars of one community against civilians of the other? And would there be circumstances in which the Greek or the Turkish contingent would be permitted to go into action on their own? In the mid-1980s, President Clerides, then in opposition, suggested that if there is information or an allegation about a breach of security, then the UN Security Council will send a fact-finding team to Cyprus. If the team establishes that there is such a breach, the Security Council should undertake effective measures. If, and only if, this body proves unable to agree on concrete measures to remedy the situation, the national contingent of Greece or of Turkey will be able to go into action. This is not a very satisfactory arrangement; but it recognizes the fact that if there are violent incidents like those which took place in 1963-64 and 1967, Turkish troops will go in anyway to protect their kith and kin, whatever the terms of the new Treaty of Guarantee.

IV

We come finally to the proposals of the "Set of Ideas" under the heading of "Economic Development and Safeguards." The reason they are considered last is that they contain a reference to the most intractable aspect of a Cyprus settlement: Cyprus's membership of the European Union. This section begins, reasonably enough, by stating that

> A priority of the federal republic will be the development of a balanced economy that will benefit equally both federated states. A major programme of action will be established to correct the economic imbalance and ensure economic equilibrium between the two communities through special measures to promote the development of the federated state administered by the Turkish Cypriot community.

The section proceeds to outline proposals for giving a boost to the Turkish Cypriot economy, and ends up by suggesting that

> Matters related to the membership of the federal republic in the European Economic Community [*sic*] will be discussed and agreed to, and will be submitted for the approval of the two communities in separate referendums.

The Greek Cypriot side had long expressed its willingness to offer all possible help to the Turkish Cypriots to bring the latter's economy to the same level as

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theirs. The controversy between the two sides arose out of their divergent views concerning Cyprus's EU accession. The Greek Cypriot position was stated by President Vassiliou as follows: "... The separate referendums... on matters related to the membership of the federal republic in the European Community should form part of, and be conducted at the same time as, the separate referendums on the overall framework agreement..." In other words, the endorsement by the two communities of a settlement package will have to include an endorsement of the application which the government of Cyprus made in 1990 for accession to the European Community (as it was then).

The Turkish Cypriot side was at the time, and for many years subsequently, adamant in its opposition to the federation's joining Europe before Turkey did the same thing. The Turkish Cypriots claimed to base their position on an article of the Cyprus Constitution of 1960, but this argument did not impress most European governments. With the passage of time, the authorities of the TRNC and the Turkish government were dismayed to realize that their legalistic arguments carried no conviction with the EU countries. When President Clerides came to power in 1993, he intensified his drive for EU accession, and persuaded European governments, as well as the Americans, that Cyprus's EU accession would act as a catalyst for a Cyprus settlement. However, Greek Cypriot successes in Brussels only served to harden the official Turkish and Turkish Cypriot line, which now included the threat to carry out an economic and political integration of the TRNC and Turkey.

Given that Greek and Turkish Cypriots have different ideas about what would be a just settlement, and further, that they both have to agree on a settlement package before Cyprus can re-form or re-invent itself as a (relatively) united, bizonal, bicommunal federation, is it possible for the two communities to achieve such a settlement which each of them will consider to be really and truly just? This is no more possible than squaring the circle. The next best thing is for the two sides to abandon their arrogance and self-righteousness, recognize the limitations of their power and influence over the other community, try to understand the legitimate interests and concerns of the other community; and in light of these factors, proceed with the help of the international community to elaborate a compromise settlement. The "Set of Ideas" represents the considered view of the international community as to what would be a fair and balanced compromise. Any such compromise can only be put into effect and sustained if the traditional ideas of Hellenism and Turkish nationalism are marginalized, and a new, Cyprus-centered outlook is developed among Greek and Turkish Cypriots which respects ethnic autonomy and cherishes cultural diversity in a common federal homeland. If the Greek Cypriots accept the Turkish Cypriots' desire to have their own cultural "space" in Cyprus, if Turkish Cypriots accept the Greek Cypriots' desire to place the whole of Cyprus within the wider space of the EU; and further, if Greece and Turkey agree to work in good faith to solve their differences in Cyprus and elsewhere by peaceful means—all big *ifs*—then there is hope for an honorable and lasting settlement in Cyprus.[12]

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Notes

[1] Mr. Chris Economides pointed out in his study "Cyprus Problem Solution Prospects" that Mr. Denktaş appears to have copied this formula from the first half of Article 3 of the Swiss Constitution, which reads as follows: "The Cantons are sovereign insofar as their sovereignty is not limited by the federal constitution and as such, exercise all rights which are not entrusted to the federal power." Mr. Economides' paper may be found on the Internet at the following web site: http://www.cytanet.com.cy/cyprus-problem/.

[2] I take my figures from Mr. Chris Economides' study "Cyprus Problem Solution Prospects," to which I acknowledge my indebtedness.

[3] Some elements in this proposal were suggested to me by a prominent Turkish Cypriot businessman.

[4] The proposals which the Greek Cypriot National Council put forward in 1989 (at a time when the New Horizons party had not yet been founded) provide that the Turkish Cypriots will form a "substantial" majority in the north.

[5] Tens of thousands of displaced Greek Cypriot families received, within the first few years after 1974, (a) Turkish Cypriot houses and land in the south abandoned by their owners, or (b) houses in refugee estates built by the Cyprus government on land belonging to the state or to Turkish Cypriots who had fled to the north, or (c) state land together with a government grant to build their own houses, etc. It will not always be easy to evaluate claims for loss of house and property against property received under one of the various schemes in operation.

[6] Paragraph 31, *Report of the UN Secretary-General on his Mission of Good Offices in Cyprus* (21 August 1992).

[7] This illustrative example is based on a number of actual cases known to me, which appear to be typical. A number of surveys were carried out to establish whether refugees would want to return to their former homes under Turkish Cypriot authorities; the result was that only between 20 and 30 percent of those asked would want to do so.

[8] The idea of a long lease of Greek Cypriot properties to their current Turkish Cypriot occupiers, once contemplated by President Vassiliou, is foreign to Greek Cypriot financial and commercial practices. What would be the practical sense of telling a Greek Cypriot that his house in Kyrenia has not been expropriated, and is still his property, but that he *must* lease it to the current Turkish occupier for 99, or even just 19 years?

[9] See *Note* 1, above.

[10] Mr. Clerides' letter to Dr. Boutros-Ghali was published by the Press and Information Office of the Republic of Cyprus.

[11] The interview was given to the Turkish Cypriot *Kıbrıs* newspaper. The Cyprus Press and Information Office published a Greek translation of the interview, from which I take the main points on security.

[12] Some of the ideas in this article are summarized in the last section of my paper "Greek Cypriot Perceptions," included in *Cyprus: The Need for New Perspectives*, edited by C. H. Dodd (Huntingdon, England: The Eothen Press, 1999).

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Response to Zenon Stavrinides:

Partnership in Cyprus—Gallantry or Futility?

M. Ergün Olgun

While I agree with some of the conclusions in Zenon Stavrinides' article ["Is a Compromise Settlement in Cyprus Still Possible? Revisiting the Ghali 'Set of Ideas'"], I disagree entirely with his thesis that the UN Set of Ideas can still form the basis of a new round of negotiations. I also have some doubts about his "unspoken" assumption that some kind of negotiated agreement between the two sides is possible under the prevailing circumstances.

Let me first indicate a few points on which I agree with Stavrinides. I fully share his conclusion that "there appears to be no better solution to the issue of displaced Greek and Turkish Cypriots than a global exchange of homes and properties between the two communities." The forcible creation of mixed villages could no doubt cause violence, and even fatal disturbances; Nicos Rolandis has described this situation as one of potential volcanoes, ready to erupt at any time, given the amount of mistrust and institutionalized hatred between the two peoples.[1]

I also agree with the Stavrinides assessment that "if it is judged that it is in the public interest to avoid the creation of mixed villages in the foreseeable future as such projects may cause violence, and even the breakdown of public order, there is sufficient justification for effecting expropriation of all Greek Cypriot properties in the North and all Turkish Cypriot properties in the South, and exchanging them… without compensation."

Finally, I agree with Stavrinides' analysis that if the "Republic of Cyprus" joins the European Union (EU) before there is a settlement, the Turkish Republic of Northern Cyprus (TRNC) will become, to all intents and purposes, a province of Turkey. The membership of the Greek Cypriot Republic in the EU, before a resolution and before the equal sovereign status of the Turkish Cypriot Republic is recognized, will pose a detrimental challenge to the legitimate rights and the survival of the Turkish Cypriot people, as well as the TRNC. The EU would be seen to have completely disregarded Turkish Cypriot and Turkish rights, objections and concerns; and to have finally chosen to take on board the full force of the Cyprus issue. It is unlikely that the TRNC will be able to successfully counter such a challenge alone, as an "unrecognized" state. The further unavoidable dependence of the TRNC on Turkey for protection and survival will inevitably lead to the development of a wider wedge between the EU (now with two Greek votes) and Turkey. This in turn will have an undesirable effect on the orientation and European (Western) vocation of Turkey which will undermine mutual economic and political interests, and hence endanger regional stability as well as wider regional security arrangements. The Greek Cypriots, Greece, and many members of the international

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community have failed to understand that Cyprus is a key national issue in Turkey, and that the Turkish Cypriot people and Turkey will neither allow their rights and interests in Cyprus to be undermined, nor—which amounts to the same thing—allow the Greek Cypriots and Greece to have an advantageous, let alone dominant position in the island.

I. The Past

The Greek Cypriot people and Greece still cherish an ideology (like the "greater Serbia" aspiration of Serbs) that is diametrically opposed to a vision of equal partnership. Mr Glafkos Clerides, the Greek Cypriot President, has ably expressed this in his well-publicized *My Deposition* of 1990:

> Just as the Greek Cypriot preoccupation was that Cyprus should be a Greek Cypriot state, with a protected Turkish Cypriot minority, the Turkish Cypriot preoccupation was to defeat any such effort and to maintain the partnership concept, which in their opinion the Zurich Agreement created between the two communities. The conflict therefore, was a conflict of principle and for that principle both sides were prepared to go on arguing and even, if need be fight rather than compromise.
>
> The same principle is still in conflict today, though a federal solution has been accepted—and though a federation is nothing more than a constitutional partnership of the component states, provinces or cantons which make up the federation.[2]

Recent public statements confirm the continuing Greek Cypriot preoccupation with this ideology. On 20 June 1994, a Greek Cypriot daily newspaper quoted Mr. Clerides as saying:

> … in Cyprus there is already the decision taken by a President named Glafkos Clerides. A Clerides who had been given the code name Hiperides by General Grivas [the founder of the terrorist organization EOKA]. Henceforth, the future course of the Cyprus issue will be decided here in Cyprus. We will not bow to pressures from the Americans and the British. We will continue our struggle, in trenches and our heads up, until the final victory of Cyprus Hellenism."[3]

The Greek Cypriot Foreign Minister, Mr. Yannakis Cassoulides, explained his government's understanding of a solution in Cyprus in a statement to a Greek Cypriot daily on 14 March 1995 as follows: "I wish the Turkish Cypriots accepted that Cyprus is represented by the legal government of the Cyprus Republic. This acceptance would mean that the Cyprus problem can be quickly solved."[4]

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The Greek vision of what would be entailed in a solution to the "Cyprus question" is frequently clarified in public statements by the Greek and Greek Cypriot Presidents. In August 1996, Mr. Clerides declared: "We have been struggling to return for the past 22 years. This struggle is not only to return to Varosha but is also to return to Morphou, Kyrenia, and Karpass. We are struggling to return to all our occupied cities, villages, monasteries and churches."[5] And in June 1998 the President of Greece, Costis Stephanopoulos explained: "Greece is here, because Cyprus is Greece… Greece is not here as an ally or supporter, but because Cyprus is Greece."[6]

This preoccupation and vision does not leave much room for a mutually acceptable negotiated settlement between the two sovereign equal parties in Cyprus. Stavrinides is, of course, reflecting reality when he says that at one time (in 1992) the Turkish Cypriot side accepted 91 out of the 100 paragraphs of the UN Set of Ideas. But since then, the multi-dimensional unilateral course of actions and policies pursued by the Greek Cypriot side has destroyed all the good will needed for a federal settlement. Some of these are the following:

—To continue to pretend that the Greek Cypriot "Government of Cyprus" represents and is the legitimate government of the whole island;
—To vigorously pursue unilateral and unlawful EU membership;
—To strengthen the "Joint Military Dogma" with Greece (including air and naval bases and the introduction of sophisticated weaponry);
—To maximize integration with Greece;
—To continue to vehemently reject the 1960 Guarantee System;
—To support and to try to prepare the ground for the return of all displaced persons in order to undermine territorial separation (by means such as resorting to International Courts);
—To maintain the 36-year-old, inhuman political, economic and social embargo on the Turkish Cypriot people.

All of these unilateral initiatives and pursuits are in violation of the underlying logic, principles and objectives of establishing an equal partnership and of the UN Set of Ideas. While the UN Set of Ideas foresaw that one side cannot claim sovereignty over the other (Paragraph 11), on EU membership, it specifically required that matters related to the membership of the federal republic in the European Economic Community (now the European Union) be discussed and agreed to, and be submitted for the approval of the two communities in separate referendums (Paragraph 92). Furthermore, the Set of Ideas foresaw that the 1960 Treaties of Guarantee and of Alliance will continue in force (Paragraph 54) and that bi-zonality (to be effected through an exchange

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of properties and compensation) will be one of the primary Guiding Principles (Paragraphs 4 and 8).

The above unilateral initiatives by the Greek Cypriots, and many other initiatives based on the same mentality, have irreversibly undermined Turkish confidence in a federal settlement, and even the possibility of any kind of equal partnership. In fact, immediately following the EU's unlawful decisions of 6 March and 12 June 1995 to endorse the Greek Cypriot "Republic of Cyprus" as the sole interlocutor for "Cyprus," Mr. Yannakis Cassoulides, then the Greek Cypriot spokesman, declared that "Cyprus's accession to the EU will change substantially the guarantees."[7] And while the Greek Foreign Ministry's European Affairs Under-Secretary, Mr. Yorgos Mangakis declared at the time that "With the coming of the European Union into operation... today's Cyprus is not the Cyprus prior to March,"[8] Mr. Yannakis Matsis, then leader of Mr. Clerides's party DISI, said that they were now looking for a federal solution based on EU principles "rather than the protection of freedoms as proposed in the High-Level Agreements."[9]

II. The Present

In order not to be at the mercy of the Greek Cypriots again, and in order not to be marginalized and isolated for yet another 36 years, the Turkish Cypriot people are determined to base any future exercise of co-operation with the Greek Cypriots on their sovereign equality and their statehood.

Yet, as demanded through a letter addressed to the members of the US Congress on 29 April 1999 by representatives of the Greek lobby, Greek and Greek Cypriot policy makers still expect pressure to be put on Turkey and the Turkish Cypriots, so that they can achieve their fanatically nationalistic objective of domination under the guise of a settlement to be pushed or "imposed" by the international community. For 36 years what is called "the international community," acting through the UN, has contributed to the perpetuation of the conflict and of injustice in Cyprus by failing to uphold the rule of law of 1960 (which endorsed the equal political powers of the two constituent sides) in the period that followed the violent events of 1963. Glafcos Clerides's understanding of "the international community" is that it "is all about big power play, where interests shift and the buzzwords of human rights, UN resolutions and the like are a poor guide to success."[10]

Although the stance of the UN was questioned before and after its 4 March 1964 Resolution, Security Council members, for reasons of appeasement, chose at the time (and have since continued to choose) to ignore the rule of law and the realities on the island and in the region. Western powers were so afraid in 1964, during the Cold War, of possible retaliation from Archbishop Makarios, that they gave impunity to the Greek Cypriots and Greece. This very quickly led to a situation where the thousands of UN troops stationed in Cyprus were functioning as hostages, rather than as protectors or as restorers of law and order—this is evident in the sudden change of emphasis and tone in the reports that came out of Cyprus during the 1963-1965 period.[11]

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III. The Future

Unfortunately, Greek Cypriot and Greek politicians still continue to look upon the negotiating process in Cyprus as a zero-sum game. They, and many members of the international community, have failed to appreciate that respecting the sovereign equality and statehood of the Turkish Cypriot people, as well as Turkey's legitimate interests and rights in Cyprus, is a vital element of Greek Cypriot, Greek, and regional security and stability, and not a one-sided concession.

Greek Cypriots and other interested parties have to realize that the pre-conditions of an eventual agreement and of equal partnership/co-operation have to be created if success is to be expected from the process of negotiation. The attempt to discredit the Turkish Cypriot insistence on the creation of such pre-conditions is equivalent to not wanting an agreement or equal partnership. The US, the G-8, and the UN should not look upon the means (negotiations) as if it is the end (resolution). They must instead start doing what is necessary—such as calling for an end to embargoes on the TRNC, leveling the political playing field—so that co-operation can be nurtured.

In conclusion, a new vision and a new set of policy objectives is needed for Cyprus. The two sides on the island, as well as the mother countries Turkey and Greece, can maximize their economic, security and political interests if they can work together, accepting their diversity and their differences.

For the Greek Cypriots and Greece, what is needed is the awareness that a politically and economically viable Turkish Cypriot state in North Cyprus, working together and co-operating with the Greek Cypriot state in South Cyprus, is a vital Greek Cypriot and Greek interest. A weak, marginalized and isolated Turkish Republic of Northern Cyprus will continue to pose security, economic and political threats to Greek Cypriots, Greece, and to the entire region.

For the Turkish Cypriots and Turkey, this new vision means that they continue to uphold the objective of equal partnership, in spite of the bitter disillusionment of the last 36 years. They have, in fact, shown their commitment to equal partnership as recent as 31 August, 1998, by making an official confederation proposal.

For the international community headed by the United States, this new vision means supporting the viable statehood of the Turkish Cypriot people, and not describing the request for a level playing field as an unacceptable precondition. The UN needs to update the mandate of its good offices and peace-keeping missions to reflect the level playing field.

There is still a narrow window of opportunity to reach a compromise co-operation/partnership agreement between the two sovereign, equal parties in Cyprus before unilateral Greek Cypriot-Greek processes—such as EU membership; the Joint Military Dogma; or the effects of property claim initiatives through Human Rights Courts before an actual political settlement is reached in Cyprus—get things completely out of control. Given recent history, this nightmare scenario cannot be ruled out; and this is why the Turkish Cypriot side and Turkey have been put in the position of having to develop a BATNA, or "best alternative to a negotiated agreement."[12]

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In a recent article republished in the *International Herald Tribune* on 16 April, 1999, Prof. Nicholas X. Rizopoulos of Adelphi University argues that

> … especially in light of what has transpired during the 12 months, all talk about forcing the Albanian Kosovars to accept autonomous status within Serbia is but a cruel joke. It must be made clear that full independence for Kosovo is by this point both unavoidable and desirable. It is absurd to argue that a "tiny" new republic of Kosovo cannot become a viable sovereign entity or survive in such a "dangerous neighborhood." If that were so, how does one explain the international community's eagerness to support and sustain the equally tiny Republic of Macedonia? But of course the problem is not really about size, location or economic self-sufficiency. Rather, it has to do with outmoded notions of sovereignty: of who deserves to be a member of the sovereign club (particularly if poor, bedraggled and Muslim) …[13]

Compare this to the 36-year-old plight of the Turkish Cypriot people—who are one of the equal signatories of the international Treaties which established the 1960 bi-communal Republic of Cyprus, creating an equal partnership and not simply awarding autonomy to the Turkish Cypriot people—who have had to endure ethnic cleansing and genocidal attacks during the period 1963-1974—and who were only narrowly saved in the end by the intervention, in exercise of its international legal rights as a Guarantor of Cyprus under the Treaties, of Turkey. In its causes, occasion and intention, Turkey's legally authorized intervention in Cyprus is analogous to the current NATO intervention in Serbia, which is desperately trying—with little success—to save the Kosovars.

Consider again, in light of the questions raised by Professor Rizopoulous in the passage above, the position of the Turkish Cypriot people—who have established their own government and state after being thrown out of the partnership republic by the Greek Cypriot partner—who have withstood isolation, humiliation and embargoes since 1963—and yet who still ask for respect and recognition of their sovereign equality in Cyprus so that they can *start confederation (partnership) negotiations with the Greek Cypriot ex-partner.*

The Turkish Cypriot people ought to be awarded a Nobel Peace Prize for so gallantly and consistently supporting the concept of "equal partnership for peace and stability" in the turbulent waters of the Eastern Mediterranean. But in the case of Cyprus for the last thirty-six years, the "international community"—manipulated by lobbies into prejudicially disregarding both history and international law; and into recognizing the Greek Cypriot government as the government of the whole island while refusing to recognize the equal legal and political status of the Turkish Cypriot people and their right to speak for and represent themselves—has rewarded and underwritten only policies of aggression, human rights violations, and destabilization. Time will tell

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whether this partnership obsession is gallantry or futility in the face of the Greek obsession that Cyprus is a Greek island. Time is running out for gallantry.

Notes

[1] Nicos Rolandis as quoted on Greek Cypriot Television (CyBC) *Dialogue Program,* 30 July 1992.

[2] Glafcos Clerides. *Cyprus: My Deposition,* Vol. 3. (Nicosia: Alithia Publishing, 1990), p.105.

[3] Glafcos Clerides, as quoted in the Greek Cypriot daily *Simerini*, 20 June 1994.

[4] Yannakis Cassoulides, as quoted in the Greek Cypriot daily *Cyprus Mail,* 4 March 1995.

[5] Glafcos Clerides, as quoted in the Greek Cypriot daily *Mahi,* 4 August 1996.

[6] Costis Stephanopoulos, as quoted in the Greek Cypriot daily *Simerini*, 25 June 1998.

[7] Yannakis Cassoulides, as quoted in the Greek Cypriot daily *Cyprus Mail,* 4 March 1995.

[8] Yorgos Mangakis, as quoted in the Greek Cypriot daily *Agon,* 13 August 1995.

[9] Yannakis Matsis, as quoted in the Greek Cypriot daily *Fileleftheros*, 12 May 1996.

[10] Glafcos Clerides, as quoted in the Editorial of the Greek Cypriot daily *Cyprus Mail,* 29 April 1999.

[11] For background on UN Security Council Resolution 186 of 4 March 1964 see the observations of George Ball, the then Acting Secretary of State of the USA, which can be found in A. C. Gazioğlu and M. A. Demirer's, *Cyprus: The Island of Sustained Crisis,* Vol.1 (Nicosia: CYREP, 1998), p. 59. On what followed Resolution 186 see the letter dated 12 August 1964 (now made public) sent by the United Kingdom Permanent Representative of the UN Mission in New York to the U.K. Foreign Office in London asking for clarification on the status of the "so called government of Makarios."

On 10 September 1954, the UN Secretary-General wrote in his report on UN operations in Cyprus (S/5950) that "The position of the Turkish side is that by a 'return to normal conditions,' the Security Council intended a complete restoration of the situation in Cyprus exactly as it was before the fighting broke out in December, including, of course, the restoration of the constitutional situation. Therefore, in their eyes, UNFICYP should have been employing force, wherever and whenever necessary, to restore, over the opposition of the Cypriot Government, the constitutional situation relating to the privileges, rights and immunities of the Turkish community of Cyprus. Thus, in this view, UNFICYP should not regard the Cypriot Government or any acts taken by it as

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legal; the present Cypriot army, the National Guard, should be considered as illegal and should be treated as such by UNFICYP; the importation of arms by the Cypriot Government should be considered illegal under the Cypriot Constitution and should be stopped by UNFICYP in pursuance of the Security Council's resolutions." For reasons elaborated in this essay, the Secretary-General could not go along with the Turkish request to uphold the rule of law. It is this failure that has made the Cyprus question intractable.

Of interest is also the "Ortega Report" of the UN detailing the damage done to Turkish Cypriot housing in Cyprus up until July 1964. This report can be found in Necati Ertekün's *The Cyprus Dispute* (Nicosia: Kemal Rüstem, 1984) pp. 195-212. On 10 September 1964 the Secretary General wrote in his Report (S/5950) that "... The economic restrictions being imposed against the Turkish communities in Cyprus, which in some instances have been so severe as to amount to a *veritable siege*, indicate that the Government of Cyprus seeks to force a potential solution by economic pressure as a substitute for military action" (Para 222). Today, the Greek Cypriot side and Greece maintain the pretense that the Cyprus Question started with the Turkish intervention of July 1974; and UN Reports and Resolutions continue to ignore the legal, political and historical realities by making it appear as though the Greek Cypriot "Government of Cyprus" is the sole authority on the island.

[12] Roger Fisher and William Ury. *Getting to YES, Negotiating Agreement Without Giving In* (Penguin Books, 1991), pp. 102-106.

[13] Nicholas X. Rizopoulos. "A People Who Deserve Independence." *International Herald Tribune,* 16 March 1999.

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K.K.T.C. Hukuk Sisteminde Ortak Hukuk

Ergin Adnan Ulunay

İngiliz Common Law'u (Ortak Hukuku) Kıbrıs Hukuk Sistemine 1935 Adalet Mahkemeleri Yasasının 49(c) maddesi ile girmiştir, bundan sonra tüm Adalet Mahkemeleri Yasalarında Common Law'un Kıbrıs hukuk sisteminde uygulanabileceğini öngören hükümler vardır. Halen yürürlükte bulunan 9/76 sayılı Mahkemeler Yasasının 38(d) maddesi de Kuzey Kıbrıs Türk Mahkemelerinde Common Law'un uygulanabileceğini öngörmektedir, sadece 9/76'sının 38(d) maddesine Osmanlıcanın etkisiyle Common Law Osmanlıca "Ahkâm-ı Umumiye" olarak yazılmıştır. "Ahkâmı Umumiye" sözcükleri Türkçe olmadığı gibi Common Law'un Osmanlıca'ya yanlış bir çevirisidir, Common Law'un Türkçe çevirisi "Ortak Hukuk"tur. Ortak Hukuk (Common Law) İngiltere'nin ortak örf ve adetlerinden kaynaklanan ve 12. Yüzyıldan beri yargıçların kararlarıyle geliştirilen ve birleştirilen hukuk kurallarından ibarettir. Bu makalenin amacı Yargı kararları ışığında Kuzey Kıbrıs Türk Cumhuriyeti Hukuk Sistemi'ndeki Ortak Hukuk'un sınırlarını çizmektir.

Ünlü İngiliz hukukçusu Coke "Ortak Hukuku onaylar şekilde yapılmış bir yasa Ortak Hukuk'u yürürlükten kaldırmaz, meğerki yasa'da aksine olumsuz açık veya zimni hükümler olsun" ifadesiyle yasalarla Ortak Hukuk arasındaki ilişkiyi belirlemeye çalışmıştır. Ayni şekilde Kıbrıs Sömürge Yüksek Mahkemesi de Ortak Hukuk ile yasalar arasındaki ilişkiyi 1939 senesinde *Vassiliou v. Vassiliou,* 16 C.L.R. 70'deki içtihat kararında şöyle ifade etmektedir: "1935'den beri, İngiliz Ortak Hukuk ve Nesafet İlkelerinin Kıbrıs Sömürgesi'nde uygulanmasına geçilmesi ile, 5 Kasım 1914 tarihindeki İngiliz Ortak Hukuku'nun tanıdığı herhangibir haksız fiil için, bu haksız fiil Haksız Fiiller Yasası'nda yer almasa dahi, hukuk davası açılabilir, ancak sözkonusu haksız fiille ilgili başka bir yasal düzenleme var olmamalıdır."

Bu alıntı kanımca yasa ile Ortak Hukuk arasındaki ilişkiyi belirlemede yetersizdir. Ancak Ortak Hukuk ile Yasalar arasındaki ilişkiyi en doğru olarak ifade eden kural 1952'de Sömürge Yüksek Mahkemesi'nin *The Universal Advertising and Publishing Agency v. Vouros,* 19 C.L.R. 87 içtihat kararında belirtilmiştir. Alıntısı aynen şöyledir: "1935'den sonra Ortak Hukuk'taki bir dava sebebi, çaresi herhangibir yasa tarafından açıkca yürürlükten kaldırılmadığı takdirde veya herhangibir yasaya karşıtlık derecesinde aykırı olmadığı takdirde, o dava sebebi yürürlüktedir." Bu kural yasaların yorumlanmasında dikkatle uygulanmalıdır. Eğer Ortak Hukuk ilkesi yasa tarafından açıkça kaldırılmamışsa veya yasaya karşıtlık derecesinde aykırı değilse, o zaman ortak Hukuk Kuralı veya dava sebebi yürürlüktedir. Ortak Hukuk ile yasaların ilişkisi aşağıda irdeleyeceğim konularla daha da açıklık kazanacaktır. Ortak Hukuk'un geleneksel konuları Sözleşme Hukuku, Haksız Fiiller Hukuku, Ceza Hukuku'dur. Ancak Ortak Hukuk'un başka birçok konuları da olduğunu ve bu makalede tüm konuları taramanın mümkün olmadığını da belirtmek isterim.

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a) Sözleşme Yasası, Bölüm 149

Bu Yasa 1931'de yürürlüğe girdi ve 2(1) maddesine göre de bu yasa İngiliz yasa yorumlama prensiplerine göre yorumlanacaktır. Yasada kullanılan deyimler İngiliz yasalarının onlara verdiği anlamda kullanılmış sayılmaktadır, meğerki başka tefsir özellikleri göstersinler. Kısacası Sözleşme Yasası sözleşmelerle ilgili Ortak Hukuk kurallarının yasa şekline dönüştürülmesidir. Ancak yukarıdaki *The Universal Advertising and Publishing Agency v. Vouros* kararında belirtilen kural Bölüm 149'a uygulandığında, Ortak Hukuk kurallarını açık olarak yürürlükten kaldıran ve/veya değiştiren ve/veya genişleten ve/veya aykırı olan bazı maddelerin Bölüm 149'da yer aldığını da belirtmek isterim. Örneğin sözleşmelerin ifasını olanaksız hale getiren Bölüm 149'un 56. maddesi, Ortak Hukuk'un ilgili kuralının aynısı değildir. Bilakis ilgili Ortak Hukuk kuralı 56. madde ile büyük ölçüde değiştirilmiştir ve ilgili Ortak Hukuk ilkesi 56. madde ile yürürlükte bırakıldığı oranda geçerlidir. İşbu 56. madde Hindistan Sözleşme Yasası'nın 56. maddesinin aynısıdır ve *Pollock & Mulla on Indian Contracts Act. 9th. Edition*, 393'de aynı görüş belirtilmektedir.

Markou v. Michael, 19 C.L.R. 282 içtihat kararında Sömürge Yüksek Mahkemesi Sözleşme Yasası'nın tazminatla ilgili 73. maddesini incelemiştir. Bu dava bir evlenme vaadinin ihlâli ile ilgili bir tazminat davasıydı. Sömürge Yüksek Mahkemesi 73. maddenin Ortak Hukuk'un *Hadley v. Baxendale* kuralının aynısı olduğunu, bu kuralın Ortak Hukuk'taki istisnalara bağlı olduğunu belirterek, 73. maddenin Ortak Hukuk'un *Hadley v. Baxendale* kuralının istisnalarını da içerecek şekilde yorumlanması gerektiğini belirtti.

Milliotis v. The Commercial Firm P. Ioannou & Co., 20(2) C.L.R. 75 içtihat kararında Sömürge Yüksek Mahkemesi Sözleşme Yasası'nın 93. maddesini (1949'da 141. madde) incelemiştir. Bu 93. madde Ortak Hukuk ilkesinin aynısıdır ve dolayısıyle kefil temel borçluya süre tanıyan bir anlaşmayı öğrendikten sonra onaylasa bile, kefaleti devam eder.

Güney Kıbrıs Rum Yüksek Mahkemesi *Papadapoulou v. Polykarpou,* (1968) 1 C.L.R. 352 içtihat kararında küçüklerin sözleşme yapma yeteneğini düzenleyen Bölüm 149 madde 11(2)'yi incelemiştir. Bu 11(2) maddesinde İngiliz Hukuku'nun uygulanacağı belirtilmektedir. Bu konudaki İngiliz Hukuku, Ortak Hukuk İlkelerine ilaveten İngiltere'nin 1874 Infants Relief Act (Yasası)'dır, bu yasa Kıbrıs için de geçerlidir.

Bu belirtilen kararlardan Ortak Hukuk ile Sözleşme Yasası'nın ilişkisi açıkça görülmektedir.

b) Haksız Fiiller Yasası, Bölüm 148

Bu Yasa 1933'de yürürlüğe girdi ve 2(1) maddesine göre de bu yasa İngiliz yorumlama prensiplerine göre yorumlanacaktır. Yasada kullanılan deyimler İngiliz Hukuku'nun onlara verdiği anlamda kullanılmış sayılır. Bu yasada Haksız Fiillerle ilgili Ortak Hukuk ilkelerinin yasa şekline dönüştürülmesidir. *The Universal Advertising and Publishing Agency v. Vouros,* 19 C.L.R. 87 içtihat kararında Sömürge Yüksek Mahkemesi yasanın 35.

maddesini inceledi. Bu 35. maddenin öngördüğü passing off action (bir kişinin kendi eşyasını başkasının eşyası olarak satması) sadece eşyalarla ilgilidir, halbuki Ortak Hukuk'ta passing off action hem eşyalar, hem hizmetler hem de işletmeyle ilgilidir, yani daha geniştir. Sömürge Yüksek Mahkemesi 35. maddeyi yorumlarken, yasa koyucunun işlemlerini belirtmemekle, Ortak Hukuk'ta passing off action'ı kaldırmak niyeti ile hareket etmediğini, bu nedenle Ortak Hukuk'ta passing off action'ın geçerli olduğunu belirtmiştir. Yani bir haksız fiil hem yasada yer alabilmekte hem de paralel olarak daha geniş bir şekilde Ortak Hukuk'ta yer alabilmektedir.

Vassiliou v. Vassiliou, 16 C.L.R. 69 içtihat kararında Sömürge Yüksek Mahkemesi yasanın 26. maddesindeki müessir fiili (assault) inceledi. Yasanın 26. maddesinde belirtilen müessir fiil gerçekte darptır (battery) ve bir kişiye değmekle meydana gelir. Halbuki Ortak Hukuk'ta müessir fiil (assault) bir kişiye değmeden de meydana gelebilir, yani bir kişiye değmeden onu korkutmak niteliğindedir. Sömürge Yüksek Mahkemesi yasa koyucunun 26. maddede müessir fiil (assault) haksız fiilini düzenlemekle, Ortak Hukuk'taki müessir fiil (assault) haksız fiilini kaldırmak niyetiyle hareket etmediği sonucuna vardı. Dolayısıyla her iki haksız fiil paralel olarak vardır.

Rodosthenous v. Polemides, 19 C.L.R. 177 içtihat kararında Sömürge Yüksek Mahkemesi ışık irtifakına müdahale ve rahatsızlıkla ilgili olan bu davada, Haksız Fiiller Yasası'na atıfta bulunmayarak, Ortak Hukuk'taki ışık irtifakına müdahale ve rahatsızlık Haksız fiiline atıfta bulunarak, davayı karara bağladı.

Güney Kıbrıs Rum Yüksek Mahkemesi *Haji Theodossiou v. Koulia & Another,* (1970) 1 C.L.R. 310 içtihat kararında yasanın 51. maddesinin öngördüğü ihmalkârlığın, Ortak Hukuk'un kodifikasyonu olduğu, bu nedenle Ortak Hukuk'taki ihmalkârlık hukukunun tüm prensiplerinin 51. madde altında uygulanabileceğini belirtti.

Mustafa Hamza v. K. A. Volachos, 21 C.L.R. içtihat kararında yasanın 52, 53 ve 54. maddelerini inceleyen Sömürge Yüksek Mahkemesi bu maddelerin Ortak Hukuk'taki kati sorumluluk davalarını, yani *Rylands v. Fletcher*'deki kuralı kaldırmadığını, bu kuralın yürürlükte olduğunu karara bağladı. Yüksek Mahkeme Birleştirilmiş Yargıtay/Hukuk 33/78-39/78'de de işbu kararı takip etti.

Yukarıdaki yargı kararlarından anlaşılacağı gibi Haksız Fiiller Yasası'nın birçok maddeleri Ortak Hukuk'un haksız fiiller kurallarının aynısıdır. Farklı olan maddeler ise Ortak Hukuk'un ilgili haksız fiilini kaldırmayan ve onu yürürlükte tutacak şekilde yorumlanmaktadır.

c) Ceza Yasası, Bölüm 154

Bu yasa 1929'da yürürlüğe girdi ve 3. maddesine göre bu yasa İngiliz yorumlama prensiplerine göre yorumlanacaktır. Yasada kullanılan deyimler İngiliz Ceza Hukuku'nda onlara verilen anlamda kullanılmış sayılır. 1929 yılına kadar İngiliz Ceza Hukuku Ortak Hukuk ilkelerinden ve belirli Ceza Hukuku konularında yapılmış çeşitli Yasalardan ibaretti. Bu yasalar da Ortak Hukuk ilkelerinin yasa şekline dönüştürülmeleridir. Ancak bu yasalarda da Ortak Hukuk'un aksine hükümler ve düzenlemeler de vardır. Kıbrıs Ceza Yasası da

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İngiltere'den alınmıştır ve birçok maddeleri Ortak Hukuk ilkelerinin aynısıdır. *R. v. Haralambos Erdotou,* 19 C.L.R. 144 içtihat kararında Sömürge Yüksek Mahkemesi Yasanın tahrikle ilgili 208. maddesini inceledi. Bu 208. madde Ortak Hukuk'un tahrik prensipinden farklıdır. Ortak Hukuk'ta tahrik'in taammüden adam öldürmeyi, adam öldürme suçuna düşürebilmesi için, yapılan misillemenin tahrike kıyasla makul olması gereklidir. Bu kararda misillemenin tahrike kıyasla makul olması gerektiği kuralı 208. maddede olmamasına rağmen Sömürge Yüksek Mahkemesi bu kuralı gözönünde bulundurarak, 208. maddeyi yorumladı, yani 208. maddeyi Ortak Hukuk'ta olduğu gibi yorumladı.

A. Georghiou v. The Police, 1961 C.L.R. 254 içtihat kararında Kıbrıs Yüksek Mahkemesi yasanın 242. maddesini yorumladı. Bu 242. maddedeki suç Ortak Hukuk'taki genel müessir fiil suçunun aynısıdır, bir kişiye değmeden onu korkutmak niteliğindedir. Bu iki ceza kararından anlaşılacağı gibi Ceza Yasası'nın Ortak Hukuk'taki suçları içeren maddeleri, Ortak Hukuk'ta olduğu gibi yorumlanmaktadır.

d) Habeas Corpus, Mandamus, Certiorari, Prohibition, Quo Warranto.

Bu emirnameler Anayasanın 151. maddesinde yer almaktadır, ancak bu emirnameleri oluşturan hukuki kurallar Ortak Hukuk kurallarıdır. Bu emirnameler Ortak Hukuk kurallarına göre uygulanmaktadır. *R. Schumel v. The officer in Command, Illegal Jewish Immigrants Camp, Karaolos*, 18 C.L.R. Part II, 158, içtihat kararında bir Musevi yasadışı enterne edildiği için Habeas Corpus yoluyla Sömürge Yüksek Mahkemesi'ne başvurdu. Sömürge Yüksek Mahkemesi başvurusunu reddetti, ancak Habeas Corpus isdar edilip edilemeyeceği hususundaki ön itirazı değerlendiren Yüksek Mahkeme Habeas Corpus'un Ortak Hukuk'tan kaynaklandığını, bu nedenle de Kıbrıs'ta Habeas Corpus isdar etmek yargı yetkisinin var olduğuna karar verdi.

Y. Vanezis v. M. Koursoumbas, 19 C.L.R. 26 içtihat kararında Sömürge Yüksek Mahkemesi Ortak Hukuk'tan kaynaklanan Certiorari emirnamesini isdar etmeye yetkili olduğunu belirtti, ancak bu kararda Kira Takdir Kurulu aleyhine Certiorari emri isdarı reddedildi. Yargıtay/Asli Yetki 11/78 içtihat kararında Yüksek Mahkeme bu emirnamelerin Ortak Hukuk'un bir parçası olduğunu yeniden teyit etti.

e) Kiracılık İlişkileri

Aydan-aya, seneden-seneye, haftadan-haftaya kiracılık ilişkileri ile Tenancy-At-Will ilişkisi birer Ortak Hukuk Kiracı ilişkisidirler. Nitekim Yargıtay/Hukuk 42/83 içtihat kararında Yüksek Mahkeme aydan-aya kiracı ilişkisi var olduğu bulgusunu yaptı ve aydan aya kiracılık ilişkisi kurallarına uyguladı, ancak Yüksek Mahkeme aydan-aya kiracılık ilişkisi kurallarını uygularken, bu kuralları Ortak Hukuk'un bir parçası olduğu için uyguladığını kararında belirtmedi. Bu durum ise hukuk sistemi açısından sakıncalıdır ve belirsizliğe yol açar. Halbuki hukuk kurallarının belirgin ve kesin olması esastır. Bu nedenle kararlarda daima uygulanan kuralların neye dayanılarak ve/veya nereden kaynaklandığı yazılmalıdır.

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f) Milletlerarası Özel Hukuk ve Yasaların İhtilafı Hukuku

KKTC hukuk sisteminde Milletlerarası Özel Hukuk ile bu hukukun bir parçası olan Yasaların İhtilafı Hukuku'nu düzenleyen herhangibir yasa yoktur.

Sadece hangi hallerde yurt dışına dava tebliğgatı için emir verilebileceği hususlarında Hukuk Yargılama Tüzüğünde bazı düzenlemeler vardır. Aynı şekilde sınırlı olarak karşılıklılık ilkesine bağlı olarak yabancı mahkeme kararlarının KKTC'de uygulanmasını öngören Bölüm 10, Yabancı Mahkeme Kararları (Karşılıklı İcra) Yasası vardır. Yine Bölüm 195, Vasiyet ve Tevarüs Yasası'nın 5 ve 12. maddelerinde taşınmaz malların veraset yoluyla intikalinde Milletlerarası Özel Hukuk'un Lex Situs ilkesini ve taşınır malların veraset yoluyla intikalinde ise Milletlerarası Özel Hukuk'un domisil (domicile-yasal ikametgâh) ilkesini benimseyen düzenlemeler vardır. Ancak bu Yasal düzenlemeler çok geniş kapsamlı olan, yani birçok hukuki konuları kapsayan Milletlerarası özel Hukuk kurallarının birer küçük ayrıntısından ibarettir. Kıbrıs hukuk sisteminde, Ortak Hukuk'un bir parçası olan İngiliz Milletlerarası Özel Hukuk kurallarının uygulanıp uygulanamayacağı ilk defa 1954 yılında Sömürge Yüksek Mahkemesi'nin huzuruna geldi. Sömürge Yüksek Mahkemesi *Patiki v. Patiki*, 20(1) C.L.R. 36 içtihat kararında İngiliz Milletlerarası Özel Hukuk kurallarının İngiliz Ortak Hukuku'nun birer parçası olduğunu ve Ortak Hukuk'un birer parçası olarak da Kıbrıs Hukuku'nda uygulanabileceklerine karar verdi. Bu kararda *Dicey's Conflict of Laws* ve G. C. Cheshire'nın *Private International Law* isimli yapıtlarında öngörülen kurallar uygulanarak, bu davada merhum G. A. Patiki'nin Yunanistan'da domisil olduğuna karar verilerek, evlat edindiği kızının da Yunanistan'da domisil olduğuna ve taşınır malların veraset yoluyla intikalinde Yunan Hukuku'nun uygulanmasına karar verdi. Yabancı bir ülkede işlenen zem ve kadih haksız fiillerinin Milletlerarası Özel Hukuk ilkeleri ışığında Kıbrıs'ta yargılanabileceğine Sömürge Yüksek Mahkemesi 1958'de *L. D. Georghiades v. R. Kaminaras*, 23 C.L.R. 276, içtihat kararında karar verdi. Bu kararı verirken Ortak Hukuk'un bir parçası olarak, İngiliz Milletlerarası Hukuk kurallarından *Dicey's Conflict of Laws, 7th. Edition*'daki 181. kuralı uyguladı. Sözkonusu 181. kural şöyledir:

i) Şikayet edilen fiilin İngiliz Hukuku'na göre (bu davada Kıbrıs Hukuku'na göre) bir haksız fiil oluşturması ve

ii) Fiilin işlendiği ülkenin hukukuna göre de haklı sayılmaması.

Sömürge Yüksek Mahkemesi yukarıdaki 181. kuralın 2 unsurunun da var olduğuna karar vererek Kıbrıs'ta sakin bir kişinin Kıbrıs Mahkemeleri'nde sözkonusu zem ve kadih'ten yargılanabileceğine hükmetti. Aynı şekilde Güney Kıbrıs RumYüksek Mahkemesi de *Jupiter Electrical (Overseas) Ltd. v. Christides*, (1975) 6 J.S.C. 787 içtihat kararında Kıbrıs'ta sakin işveren aleyhine Libya'daki bir kaza sonucu yaralanan kişinin açtığı davanın Kıbrıs'ta yargılanıp yargılanamayacağına yukarıdaki *Georghiades v. R. Kaminaras*, 23 C.L.R içtihat kararındaki kuralı benimseyerek, Ortak Hukuk'un bir parçası olan Milletlerarası

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Özel Hukuk kurallarının uygulanarak, Kıbrıs'ta yargılanabileceğine karar verdi.

1988 yılında KKTC Yüksek Mahkemesi Yargıtay/Hukuk 48/88 (D. 50/88'deki) içtihat kararında, karşılıklılık ilkesi var olmadığından bir İngiliz Yüksek Mahkeme kararının Bölüm 10, Yabancı Mahkeme Kararları (Karşılıklı İcra) Yasası altında KKTC'de tescilini reddetti. Ancak sözkonusu kararda yabancı bir mahkeme kararının Ortak Hukuk'a göre dava yoluyla tescil edilebileceğini belirterek İngiliz Milletlerarası Hukuku üzerinde en büyük otorite olan Dicey & Morris, *The Conflict of Laws*, 8. Baskı'ya atıfta bulundu. Bu karardan Ortak Hukuk'un bir parçası olarak İngiliz Milletlerarası Özel Hukuk prensiplerinin KKTC'de uygulanabileceği sonucu çıkmaktadır.

g) Devletler Hukuku

Kıbrıs Cumhuriyeti Yüksek Anayasa Mahkemesi *The Republic v. C. Zacharia*, 2 R.S.C.C., 1'de Devletler Hukuku kurallarına özellikle intikal ve egemenliğin değişmesi kurallarına atıfta bulunarak, bu kuralları uyguladı.

Yüksek Anayasa Mahkemesi kararında belirtilmemekle birlikte, bu Devletler Hukuku kuralları Ortak Hukuk'un parçası oldukları için uygulanabilmişlerdir.

Bu görüşe katılmayan hukukçular da olabilir. Ünlü İngiliz Yargıcı Lord Mansfield 1764'de *Triquet v. Bath*, (1764) 3 Burr 1478, içtihat kararında şöyle yazmıştır: "Devletler Hukuku İngiltere Hukuku'nun bir parçasıdır. Devletler Hukuku çeşitli milletlerin tatbikatlarından ve ünlü yazarların yapıtlarından derlenebilir." Yine İngiltere Lordlar Kamarası 1853'te bir deklarasyon yayınladı: "En büyük yargıçlarımızın kararlarına göre Devletler Hukuku İngiltere Hukuku'nun Parçasıdır." İngiltere'nin *Trendtex Trading Corporation Ltd. v. Central Bank of Nigeria*, (1977) 1 A.E.R., 881 içtihat kararında Lord Denning şöyle yazmıştır: "Devletler Hukuku ilkeleri İngiliz Hukuku'nun parçasıdır. Devletler Hukuku'nda *stare decisis* yoktur. Devletler Hukuku değiştikçe İngiliz Hukuku da otomatikman değişir." Bu alıntılarda sözü edilen İngiltere Hukuku veya İngiliz Hukuku, İngiliz Ortak Hukuku'ndan başka birşey değildir ve KKTC Ortak Hukuk'u yoluyla Devletler Hukuku Kuralları uygulanabilir.

Sonuç:

9/76 sayılı Mahkemeler Yasasının 38(d) maddesi gereğince İngiliz Ortak Hukuku Kuzey Kıbrıs Türk Cumhuriyeti'nde uygulanmaktadır. Ancak gerek KKTC'de ve gerek Güney Kıbrıs'ta İngiliz Ortak Hukuku'nu Kıbrıs'ın genel örf ve adetleriyle ve/veya gelişen sosyal koşullarıyla kaynaştırarak Kıbrıs'a özgü bir Ortak Hukuk Sistemi geliştirilememiştir. Bu durum Asya ve Afrika'daki eski İngiliz sömürgeleri için de geçerlidir. Sadece Avustralya, Yeni Zelanda ve Kanada gibi İngiliz dominyonları kendilerine özgü Ortak Hukuk sistemleri geliştirebildiler. Dolayısıyla İngiliz Ortak Hukuku KKTC Hukuk sisteminde eğreti bir durumdadır.

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Ergin Adnan Ulunay Hukuk Lisans diplomasını Londra Üniversitesinden almış olup, 1973 den beri Kuzey Kıbrıs Türk Cumhuriyetinde avukat olarak çalışmaktadır. Halen Uluslararası Amerikan Üniversitesi Hukuk Fakültesinde, İngiliz Şirketler Hukuku ve Kıbrıs Ceza Usulü Hukuku derslerini vermektedir. Doğu Akdeniz Üniversitesi de dahil olmak üzere Kuzey Kıbrıs Türk Cumhuriyetindeki diğer üniversitelerde de Ticaret Hukuku derslerini vermiş, aynı zamanda sayısız yuvarlak masa görüşmelerinde bulunmuş ve hukuk, insan hakları ve Kıbrıs meselesi ile ilgili çeşitli makaleler yazmıştır.

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The Cypriot Philosopher-King

James Shiel

My curiosity is focused on an Aristotelian anecdote, which I would like to see added to the excellent collection of classical excerpts translated in the first volume of Wallace and Orphanides' *Sources for the History of Cyprus:*

> Krates [the Cynic philosopher] was sitting in a shoemaker's workshop reading aloud the "exhortation" (*protreptikos*) which Aristotle had written to Themison, a Cypriot king, telling him that no one had greater advantages than he for becoming a philosopher: he had great wealth and so could afford to spend money on philosophy, and he had reputation as well. The shoemaker listened to the reading while going on with his stitching. Then Krates said to him: "I think, Philiskos, that I shall inscribe a protreptic to you; for I see that you have more advantages for the study of philosophy than the man Aristotle was writing for."[1]

Nothing other than what is provided in this fragment is known about Themison. He is here styled "king of Cypriots," but it is more likely—for the Aristotelian work is explicitly aimed at a young readership—that he was simply a young royal aspiring to be ruler of one of the island city-states; and it is also highly probable—in view of the fact that similar Greek works were addressed to members of the court at Salamis by Isocrates—that Themison was a member of the royal household there. One would like to know why Aristotle should dedicate his protreptic, an entire educational work, to a Cypriot prince; what the doctrine of the work was and how it came to be held; and what practical relevance it could possibly have had for a hard-headed political ruler so far away from the Athenian schools of philosophy.

The transmission of Aristotelian texts

The Greek anecdote has been included in the third volume, recently re-edited by Olof Gigon, of the four-volume Berlin edition of Aristotle begun by Immanuel Bekker in 1831. That volume originally contained a selection of medieval Latin translations; but as these were eventually rendered redundant by the vast modern editorial enterprise of *Aristoteles Latinus,* it is now more usefully devoted to a collection of Greek quotations of Aristotle by ancient authors, fragments patiently assembled by the efforts of over a century of scholarship. The significance of the latter was highlighted in 1923 by Werner Jaeger's epoch-making study of the development of the philosopher's thought, which showed that Aristotle, far from being the static authority so dogmatically invoked through the medieval centuries, was in fact a thinker who changed his

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opinions as he grew older, developing from Platonist believing in transcendental archetypes to down-to-earth empiricist. The evidence for Aristotle's early Platonism is largely these collected fragments, and the provenance of his proptreptic to Themison is one of the many threads in the fascinating story of the transmission of the philosopher's writings.

Our extant Aristotelian corpus, seen to good advantage in Bekker's four volumes, comprises a vast array of technical treatises spreading over logic, epistemology, ontology, cosmology, biology, ethics or politics, and natural theology. These works are ragged and disorderly in style, with none of the graces one would expect from a disciple of Plato; most of them rather resemble lecture or classroom notes. But in the nineteenth century scholars began to notice and collect quotations which had been attributed to Aristotle by later classical writers but were nowhere to be found in the extant corpus.

Because the doctrines of these fragments failed to tally with those of the treatises, and because compositionally they revealed glimpses of a style and themes much more like Plato's, their first editor, Valentin Rose, thought them spurious, the work of later Platonists. Some were evidently dialogues composed in the Platonic manner, meant for a wider readership than the classroom—Aristotle himself, in the treatises, sometimes refers to "published works" (*exōterikoi logoi*), which are evidently these dialogues—and yet it seems odd to any student of the extant treatises that they were praised for their style by later writers such as Cicero or Quintilian. The explanation usually given was that at the death of Aristotle his library of school treatises disappeared from view and was recovered only in the first century BCE; once the treatises were edited and published in Rome by Andronicus they commanded universal attention, and so the stylish exoteric works were lost, except for these fragments of quotation—an extraordinary literary shipwreck.

Post-Hegelian studies greatly enhanced German historiography in the nineteenth century. In particular, the evolutionary idea of "development" brought a new devotion to collecting and editing ancient and medieval texts, which meant that an ancient writer like Aristotle could be presented in a wholly new light. For instance, the heterogeneous collection of books called the *Metaphysics* had been considered by St Thomas Aquinas (who was able to study them only in Latin translation) to be a literary unity, and this view was commonly held through the nineteenth century. Now an entirely different perspective was provided by Jaeger's analysis of the Greek texts, which showed that Aristotle's work was not a single dogmatic system but a gradual evolution (*Entwicklung*).

Since Jaeger, the "development" of Aristotle has been set by scholars into three periods. The first was when he was still a pupil in Plato's Academy and accepted the typical Platonic doctrines, about ontological archetypes (*ideai*), about pre-natal existence and recollection therefrom, and about post-mortem existence. The second period he spent in what is now Turkey when he did admirable biological research on the copious specimens he found there. The third was when he came back to Athens and started his own school. The

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lost dialogues belong to the first, Platonic, period. Jaeger claimed to detect some earlier and later layers even within the school treatises; it is, however, a difficult procedure to decide on what precisely is "early," or "middle" or "late." A similar triad of phases has been discerned for Plato; in his case the evidence is firmer. Aristotle's earliest phase would seem to coincide with Plato's latest—but here again there is no irrevocable certainty: in 1965 Gwilym Owen startled the composure of Platonic scholarship by arguing that the *Timaios*, which had until then been firmly regarded, like the *Laws*, as very "late" Plato, actually belonged to an earlier phase.

It is a trifle sad to see that Jaeger's great book, which was such an inspiration to young classicists of my generation, has itself suffered the penalties of *Entwicklung*. Doubts about his classification of periods were acutely presented by Owen and, as regards the evolving doctrine of soul, by Nuyens. Gigon in his introduction to the collected fragments even warns the reader that he cannot be cautious enough when employing the "Goethean" term *Entwicklung*.[2] These developments are an example of how an idea such as Jaeger's, put forward tentatively and modestly, can have an immense teaching effect, even if aspects of it are ultimately superseded.

Reconstructing the *Protrepticus*

The "lost" dialogues of Aristotle left a long trail of influence. They deeply affected the thought of the atomist philosopher Epicurus, who found in Aristotle's second-phase doctrine of the "fifth element" a very useful support for his own materialist theory of life and mind. In Latin, Cicero's *Hortensius* was closely modeled on the Aristotelian *Protrepticus*, and the dramatic effect of its "exhortation" on an acute mind in later antiquity is vividly exemplified by Saint Augustine's autobiography. The Aristotelian writings evidently affected many other Christian thinkers as well, a topic which has been explored by Giuseppe Lazzati; and similar influence on the world of Islam is described in the research of Jaeger's pupil, Richard Walzer. Quotations from these "lost" texts are found throughout antiquity: in later Greek authors, especially the neoplatonist students of Plato and Aristotle; in Christian writers who found Platonic doctrines congenial; in classical Latin writers like Cicero familiar with the Greek schools; and in later ones such as Augustine and Boethius, who were influenced either directly or indirectly by Greek neoplatonist writings. The quotations of Aristotle that appear in the work of the very last of ancient philosophers, the senator Boethius, were no doubt gleaned directly from Greek schoolwork.

The scholarly arguments about which later quotations or topics really belong to the "exoteric" works are not all tidy ones. In the case of the *Protrepticus* some parallel arguments in Aristotle's later treatises on ethics are explicitly attributed by the philosopher himself to the "published" writings, so scholars have included them in the protreptic work. Where snippets from later writers are concerned, similarity of theme or style is relied upon in identifying fragments if explicit attribution is missing. A great many of the fragments of the

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Protrepticus are taken from the neoplatonist Iamblichus, a follower of Plotinus, who himself wrote a *Protrepticus* heavily dependent on Plato and Aristotle. Scholars have disagreed about the ascription of particular fragments, but the general theme must surely be genuinely Aristotelian. In Gigon's large volume the fragments from Iamblichus are quoted with broader verges of context than in the smaller compact editions by Walzer and Ross; some puzzles still remain about how much is original Aristotle and how much Iamblichus himself.

It has not been possible to harmonize the collected fragments of the *Protrepticus* into a single, consecutive argument. They are too scattered and diverse for that. But there is a drift of emphasis in the fragments that no reader can miss: the importance of "the theoretic life" in the conduct of human affairs.

Socratic philosophy and the influence of the Sophists

Platonic studies had started from ethical problems about real life raised orally by Socrates—practical problems about "excellence" (*aretē*)—and had concluded that only knowledge of the highest truth could form the foundation for authentic politics, or indeed for daily living. Thinkers before Socrates had based their philosophy on study of the material universe or mathematical explanations of it; but this to Socrates seemed a barren enterprise, one which had produced only warring opinions and the relativism he saw professed in Athens by philosophic teachers. Seeing that the rebellious young were no longer satisfied with following the traditional norms prescribed by their cities, he listened to them carefully (always as enquirer, never as judge) and, taking no fees from them in return, turned the focus of their thought onto the human world, the world of human thinking and willing and acting,

In Athens in the fourth century BCE there were a number of highly trained men who set out to teach "general proficiency," in which public speaking was a central skill. In contrast to Socrates, these professors (*sophistai*) were the earliest European example of professionals teaching for money. They were generally itinerant, lecturing in one city after another and charging fees; and their teaching had to do with success, with getting on in the world. They may have described career proficiency by the high name of "excellence" (*aretē*), but this was essentially window-dressing. Some of them, such as Gorgias, confined their teaching to oratory, one of the main roads to worldly success in cities governed by democratic persuasion and vote-catching. They taught pupils how to argue for any given point of view, "how to make the worse appear the better case." This naturally made for scepticism in thought and relativism as regards traditions of conduct; and it encouraged in the young the pursuit of personal ambitions rather than public well-being, or the *bonum commune*. The Sophists wrote brochures aimed at persuading students to take their courses of study, especially those studies required for success in politics, and they published addresses to students or "exhortations" to this end, some of which—notably those of the Sophist Isocrates—survive.

At this time, as we know from Isocrates' extant writings, rulers of Cyprus were very receptive of Hellenist influence. Just before the time of

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Aristotle, Evagoras, the ruler of the Salamis city-state, welcomed Athenian *émigrés* to his court. His son Nicocles received three addresses (still extant) from Isocrates, mainly on the theme of kingship; and was told by the Sophist that these counsels were "gifts that he would never wear out even if he gave them constant use every day." The advice given by Isocrates is perhaps a shade nearer to Machiavelli than it is to the early Aristotle, whose emphasis is on theoretical study; the later Aristotle, the philosopher of the school treatises, is closer to Isocrates, admitting even rhetoric as a proper subject for school study.

Against the relativism of the Sophists, Socrates, in his dealings with the young, emphasized the need for clearly defined ethical standards. He combated the Sophists' venal professionalism by encouraging disinterested philosophic reflection, and demonstrated to his young followers how to cross-question the assumptions of the Sophists, showing how hollow these often were when divorced from clear convictions about morality and conduct of life. The Sophists seemed to him to be a disruptive influence, as when, for instance, they drew sharp distinctions between laws of nature and laws of the state: the former, they argued, liberated the individual, while the latter, enacted by mere convention, enchained him.

Socrates was convinced that such external guidance, indoctrination, was not what young Athenians needed. They had to reach their own ethical convictions by self-examination and rigorous reflection. To the question "what is good and what is evil?" the common answer, then as now, was likely to be a simple quotation of what *others* had said. But knowledge of values, Socrates thought, is a matter of direct insight, like seeing the daylight. The young had to achieve it as individuals, to deepen personal vision. Even if they submitted to some external authority they had to make their own choice of that authority. Each one's own personal vision had to be clear and thorough: one cannot see with another person's vision. So true education consisted in opening the "eye of the soul" to basic principles of personal conduct, even if this seemed to be "de-moralizing" as regards accepted conventional norms. Within each person is a faculty of insight which, if nourished and clarified, is an infallible guide to behavior. All moral failure is therefore a failure of insight, hence the Socratic maxim: "knowledge is virtue." The personal morality advocated by Socrates meant clear intellectual definition of moral ideals by rigorous discussion and re-examination. If these ideals were really defined clearly they would take hold of the entire person: it was a morality of aspiration, not of social coercion.

The Platonic "science" of man

Plato grafted a more theoretical emphasis onto these Socratic procedures. While Socrates had turned away from physical science to the study of man, Plato wished to make human problems part of a wider study, for the milieu of humanity is the universe. According to Plato scientific knowledge is never crudely divorced from practical conduct. It cannot be purely theoretical study, but consists rather in "prudence" (*phronēsis*), an innate, intuitive sense of ultimate goodness which will inevitably issue in good practice. Greek ideals

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had become split between a practical economic or civic emphasis, and a moral or religious one. But Plato insistently emphasized the dominance of the intellectual factor, and what in Socrates was mainly ethical became the Platonic "science" (*epistēmē*) of Being, whereby pure theoretical reason expressed itself in dialectic, ethics and physics.

Platonic study of the ultimate realities became ever more mathematical, more metaphysical, indeed theological, because such intellectual activity seemed to be man's most "divine" faculty. God is the good "itself," unmixed, immaterial, unextended and therefore indivisible, the pure monad, the measure of measures. Scientific exactness (*akribeia*) is crucial to the Platonic doctrine, rather like "clear and distinct ideas" in the system of Descartes: philosophy has to be exact, mathematical—not just with the rule-of-thumb mensuration of the surveyor, but with the theoretical accuracy of the geometer. Knowledge will have to be exact even if it is then declared to be useless in practice. The philosopher will take his rules from the "first things," the primary entities "themselves," not from the secondary and derivative. He will follow the primary exactness, exactness itself, not its "imitations." And the "first things" are not just the logician's abstract universals, but the archetypes which these abstractions imitate. These convictions, developed from the Socratic ethic, were the mainstay of the schoolwork in the last two decades of Plato's life when Aristotle was his pupil in the Academy.

Plato's influence on Aristotle: the *Eudemus*

Themison was not the only person from Cyprus known to Aristotle. Indeed there was a Cypriot fellow-student and close friend in the Academy, Eudemus, who evidently shared the philosopher's deepest interests. Aristotle named his early dialogue on the nature of the soul, *Eudemus*, after this friend, who was mysteriously banished from Cyprus and travelled widely in the Greek world. The dialogue began with an account of a dream Eudemus had when he was ill in Thessaly, foretelling that he would return to Cyprus in five years' time. In fact, however, he lost his life in Syracuse, defending, along with other volunteers from the Platonic Academy, the liberal ruler Dion. Eudemus' death, curiously, occurred exactly five years from the date of the dream, and Aristotle interpreted this, in Platonic manner, as showing that the soul of Eudemus had in actuality returned home to its heavenly origin.

Aristotle supports belief in immortality by adducing the common religious beliefs of many nations with all their myths and rituals concerning afterlife, and the *Eudemus* follows closely the doctrines of Plato in the *Phaedo* about a higher world and the soul's return thereto. It condemns, as Plato does, the materialist notion that the soul is merely a harmony of bodily elements—for harmony is only an attribute, whereas soul is a substance. Harmony admits degrees; but soul, being a substance, does not. Aristotle expresses this argument more concisely than Plato, invoking his own distinction between predicates of substance and of attribute. In his later period, that of the school treatise *On the Soul* (*De Anima*), he comes much closer to a materialist view, saying

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that soul is an "entelechy" of body and therefore not separable from body, not immortal. But here in the *Eudemus* soul is not a form *of something*, but a form by itself, a subsistent Platonic idea. Other arguments in the *Eudemus* to support immortality are based on the faculty of self-movement, which is a prerogative of reason only; on the theory that all our learning is recollection of a pre-natal state; and on the idea that pure reason possesses a likeness to God and is the immortal part of us. Aristotle has abandoned these Platonic notions by the time he comes to write the school treatise, *De Anima*.

The world-view of the *Protrepticus*

The *Eudemus* described the imprisonment of soul in the body, and so the *Protrepticus* stresses the philosopher's duty to liberate self from that bondage. The best thing, in fact, is never to have entered body at all, never to have been born: the philosopher must try to undo the error of birth and the pain of lapsing from the realm of Being into that of Becoming.

Later on Aristotle would be content with the lesser destiny of a "human good," and not the transcendent perfection of pure Being. His research into the psycho-physical relationship made him abandon Plato and assert that only the intellectual faculty (*nous*) within the soul is divinely independent and immortal, and that faculty is not individual but common to all men; all our other faculties are psycho-physical and disappear with their substratum the body. *Nous*, scientific reason, is our only share in divinity. The Platonic doctrine of immortality for the "whole soul" had only been partly scientific, for part of it had come from the comforting religious experiences of Orphism. But at the youthful stage of writing the *Eudemus* Aristotle was still a Platonist: he had not yet abandoned the theory of Ideas or the triple doctrine of Pre-existence and Recollection and Immortality, had not yet left behind him the conviction that life without a body is the soul's normal state, life in the body an illness. And yet, even at that early stage, before the death of Plato in 347, we can glimpse in his distinctive style the arch-logician and scientific analyst already at work.

In the surviving fragments of the *Protrepticus* the lifestyle prescribed for the politician is based on intellectual enquiry: "Enquiry is what makes philosophy" (*fr. 2*). Philosophy is the only basis for good politics: "we must philosophize if we are to be good citizens" (*fr. 4*). Riches or other external endowments will not benefit a ruler if he is not gifted with character and training: he would be like "a bad horse with a golden bridle" (*fr. 3*). This last repeats the theme of the anecdote in the first fragment, expressed in Krates' comment that the cobbler in his shop is more of a philosopher than the prince.

Happiness, the politician's ultimate aim for himself and for his people, does not come from riches: "happiness depends on a condition of soul" (*fr. 3*). The correct condition of soul for a ruler results from philosophic training: "only philosophy contains in itself the right judgment and unerring wisdom needed for giving commands" (*fr. 4*). "The best man, the man of strongest character, is the one who ought to rule" (*fr. 5*). Some say that such theoretical study is no use for practical politics, that "practical land-surveyors succeed

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with tasks in which mathematicians fail" (*fr. 5*). So they say; but on the contrary, it is the person with trained thinking power who achieves success: "if a man possessed everything but was spoilt and diseased in his thinking part his life would not be worth living" (*fr. 9*).

Thinking ability arrives last in a person's development. It is the end product for the sake of which the earlier stages occurred: "that which is later in coming to be is prior in essence and perfection" (*fr. 8*). That final endowment is worth striving for: "endure every labor and bestow every care to gain the wisdom (*phronēsis*) which will know the truth" (*fr. 9*). "The philosopher is the only one who lives with his eye on nature and the divine" (*fr. 13*). The faculty of sight provides a good analogy to the philosophic faculty of wisdom: "sight by itself does not produce anything but yet it gives us the power to produce as it directs: it thus affords the greatest help to action" (*fr. 13*). Similarly, "philosophy is indeed theoretical but it enables us to frame all our practice in accordance with it" (*fr. 13*).

In politics this means that "the statesman must borrow from nature and reality certain limits by reference to which he will judge what is just, noble or useful …, but this he cannot do unless he has practised philosophy" (*fr. 13*). The politician must not forget that the battle for wisdom is never totally won in this everyday world, where, as the *Eudemus* had pointed out, "learning and insight are difficult, but if we can escape back to where we came from these things will be pleasant and easy" (*fr. 15*). Despite such difficulties, proficiency in thought gives us a measure of happiness: "thinking is more pleasant than any other single thing …. Well-being must be defined as thinking" (*fr. 15*). For the sake of that happiness the philosophic thinker can even "despise strength, health, beauty, riches, honor, power" (*fr. 18*).

Theoretical life and practical life

The doubts about these arguments that occur to a modern reader mainly spring from the theoretical, impractical emphasis of the work, and it is interesting to note that these very doubts had preoccupied the Greeks, and would affect Aristotle himself as he got older. The ideal of the philosophers had been the "theoretic life"—how far was it to be pursued? Plato had given an answer as follows: There is a supreme, all-perfect object of knowledge in which truth and reality and value coincide. Without a knowledge of that, all lesser knowledge, including politics, will be illusory and misleading. There is a higher, more real world than that of the here and now, higher than riches, power, bodily beauty, and all that goes with this world of matter. Death is a welcome escape from the present world, as ancient mystics had proclaimed. Moral will and action have to be subordinated to vision of the higher, the eternal good. People aiming to rule others must gain knowledge of what is really true and good and unitary; they "must pass from Becoming to Truth and Being" (*Republic* 525 b11). By engaging in the assiduous intellectual pursuit called *dialektikē* the ruler can "attain at last to the absolute good by intellectual vision" (532 a7). When the young Aristotle describes this moment of philosophic enlightenment with the

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religious term "visionary" (*epoptikē*), he is following his master's teaching that "the persons who hold power in cities have to be led by some dispensation of providence to become philosophers" (*Seventh Letter* 325d). For the state exists to render possible the good life for each citizen.

The Platonic wellsprings of such ideas in the Aristotelian protreptic are easy enough to discern, for example in Plato's dialogue *Euthydemus,* where we find Socrates in ironic debate with two well-known brother Sophists, Euthydemus and Dionysodorus. These men are publicly undertaking to "teach" the youth Kleinias, employing clever wordplay of the sort that might flummox an opponent in a lawsuit. Socrates, on the other hand, aims to get the young man thinking about real human values; and as he ends he describes his question-and-answer session as a "model" (*paradeigma*) for genuine protreptic. His convictions are faithfully followed in the *Protrepticus*, even though Aristotle has deserted the lively Socratic dialogue form to imitate the sermon-like monologue used by Isocrates and other Sophists.

It is difficult, however, from today's perspective, to make the case that intellectual attention to invisible entities would be useful for an aspiring ruler. Disinterestedness, of course, has its political appeal and charisma; the would-be ruler must project an image of integrity and solid character. But the Greeks did not draw a dividing line between personal and political ethics, and it was understood that a good person was necessarily a good citizen. It is for this reason that the young prince Themison is repeatedly recalled to the Platonic conviction that the divine ultimate is truth, is goodness, is unity. And that all things, high and low, are united in a harmony or proportion or analogy.

In the early dialogues Aristotle had confidently asserted the separability and immortality of the soul, but when he comes to write the later *De Anima* that doctrine has faded away. In his politics we see a similar transition: the political line of the *Protrepticus* is still clearly Platonic, whereas in the school treatise the *Politics*, we find instead a much more down-to-earth situation. Here clearly Aristotle is no longer thinking of a contemplative commonwealth alive amid the stars; he is thinking about real Greek cities, and about town planning, and about social equality based not on birth or riches but on merit. He studies existing constitutions, one hundred and fifty-eight of them; and he accepts slavery, as even Plato had done. His final ideal in the *Politics* seems to us rather static: a city-state with a stable constitution and a stable population. But none of this, of course, had been heard by the young Themison.

In the school treatise named after his son, the *Nicomachean Ethics,* Aristotle has some chapters about the life of contemplation quite akin to those he had written in the *Protrepticus* and possibly borrowing from it; and it seems at times that he still believes in the life of the contemplative scholar rather than that of the man of affairs. But the audience in his school consisted of young men who had been born like Eudemus or Themison into influential families; they were going to be the legislators of the future, not reclusive scholars. So Aristotle appears to be giving these men the sort of practical understanding that leaders ought to have, intellectual insight into human behavior, into

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what makes for excellence of character, into practical thinking as well as theoretical, into the psychology of willpower. And he stresses at the very end that all this is but an introduction into how to be a lawmaker (1180b 28)—which is the practical essence of the art of politics.

Happiness and the law

Plato, remembering the political tragedies in his city, not least the execution of his teacher Socrates, had been a great believer in law, the drafting of good law; and indeed he ended his writing career with a long and rather straggling dialogue on the subject, as he had begun with a portrait of Socrates in prison addressing the laws of his country (which decreed his death) as personified sanctities.

But laws enacted democratically are ineffective if they lack broad citizen assent, and that always brought Plato and his pupil back to questions of human character and its educational formation. Aristotle's political prescriptions are heavily dependent on the self-restraint of the citizens. The philosophic aim is the happiness of every citizen (*Politics* 1324a 23), but that depends on *aretē* and the formation thereof. So in Aristotle's later vocabulary the Platonic word *phronēsis* has shifted meaning to denote practical intelligence, not beatific contemplation; and he makes detailed case studies of various Greek cities, for he always has in mind the problem of which is more important, the best law or the best individual.

There is thus a particular emphasis, in the exhortation to the Cypriot prince, on the nature of happiness. His success would ultimately depend on the happiness of both himself and his subjects; and without that contentment other achievements would prove futile. So it seems that the Aristotelian work, like others which imitated it later on, ended with a description of "the happy life." True happiness, it argued, came through Platonic knowledge (*phronēsis*), not through pleasure or commercial success or reputation or even good conduct (*aretē*). If one imagines detached souls enjoying beatific status as in the mythical "isles of the blest" none of these achievements would be relevant: those souls would not need any arts or even the cardinal virtues of prudence, justice, fortitude and temperance; for contemplation, the life of pure knowledge, would be all-sufficing. The life of pure knowledge is preferable to all other modes of existence, even the most ethical.

Cosmic order and social order

It is sometimes asserted by modern scientists that life, or the germ of life, permeates the physical universe through all its evolution. This was a basic belief of the Platonic school, much more deeply held than, say, our modern opinion that there may once have been life on Mars. The universe, said the Greeks, is "ensouled," and there are even individual "intelligences" directing the orderly movements of the heavenly bodies. These rational forces operate by attraction: the universe, like the Socratic morality, works by aspiration rather than force, moving towards ideals and towards a single highest ideal, the

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"supreme good." In consequence, if life so permeates the cosmos, its human manifestation can only be understood within that universal setting.

It does not seem absurd, therefore, that the study of the heavens was recommended by the youthful Aristotle to an aspiring politician. The ultimate rules of life would be discerned in that study, pursued mathematically. No wonder Plato had conceded that even if the realization of his ideal society could nowhere be found on earth its model was "set up in the sky" for all men to contemplate, even if one were only establishing the inner commonwealth of one's own soul. For the cosmos is one vast "living being," a kind of city with perfect political organization. In the Platonic tradition there is frequent reference to the ancient dictum of Pythagoras that his purpose in life was to observe the heavens. The ideal is to establish an order and organization "on earth as it is in heaven." This idea eventually becomes part of Christian idiom: we find it later in Augustine with his doctrine of the "two cities," earthly and heavenly, and in the philosophic verses of Boethius. Later still it appears in the philosophy of Berkeley: "He who has not much meditated on God, the human mind, and the *summum bonum*, may possibly make a thriving earthworm, but will most indubitably make a sorry patriot and a sorry statesman" (*Works,* iii, 291).

Even in our own time it is interesting to find the universal historian, Arnold Toynbee, in his comparison of all discernible past civilizations, constantly seeking a priority as between politics and religion, between "universal states" and "universal churches." At first he concluded that political states were prior and churches only a subsequent deterioration or "cancer" on the body politic; but then, halfway through his vast study he changed his mind, giving the priority to the religious institution with its aspiration to a transcendent "city of god." That, as in the case of Aristotle with the Cypriot prince, is Toynbee's prescription to aspiring politicians with their blueprints for social progress:

> The brotherhood of Man is impossible for man to achieve in any other way than by enrolling himself as a citizen of a *civitas Dei* which transcends the human world and has God himself as its king. And anyone who holds this belief will feel certain, *a priori*, that the Marxian… socialism is an experiment which is doomed to failure because it has denied itself the aid of the spiritual power.[3]

But Aristotle, even in his latest phase, is far from thinking of a brotherhood of man, and there are puzzling limitations in his mature view of politics. He thinks only in terms of a Greek-speaking city-state with a limited population and a limited territory. Little is said about possible relations with other such states or their ancestral rivalries—for instance, the ruination of the impressive political achievement of Periclean Athens by a conflict with the neighboring city of Sparta. And in spite of the fact that Aristotle had been tutor to Alexander the Great and had witnessed his pupil's experiment in pan-Hellenic imperialism, he shows no strategy for welcoming non-Greek-speak-

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ing aliens (*barbaroi*) into any larger community. His narrow and exclusive Hellenism left untouched the political problems of insider versus outsider, majority versus minority, problems which remain to this day. Proverbially "every Jew is somebody else's Gentile."

Yet despite such imperfections, the development of Aristotle from Platonist pupil to empiricist master displays to the reader a constant reliance on question and reflection and discussion. There is no sacred book to be followed, no dogmatic institution to prescribe orthodoxy or proscribe changing opinion. In fine, it was an extremely otherworldly exhortation which Aristotle, in his Platonic enthusiasm, addressed to Themison; and no doubt it was a daunting moment for the young prince when told by the greatest living philosopher that he had no hope of setting right the politics of Cyprus unless he first gained an insight into the politics of the universe.

Notes

[1] Walzer, p. 21, *fr.* 1. All translations of the fragments are my own, made from the Greek texts in Gigon; other brief passages of Plato or Aristotle are quoted from the Oxford Classical Texts.

[2] Gigon, Vorbemerkung.

[3] Toynbee, *A Study of History* Vol. V, 585.

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A Preliminary Study of Marine Debris Pollution along the Northern Cyprus Coastline

Cem Giray

Introduction

The accumulation of debris along the coastline of the Turkish Republic of Northern Cyprus (TRNC) has become a serious problem. No beach is spared, while some pristine beaches are so covered by litter that they are rendered inaccessible to tourists and locals (Figs. 1a, 1b). Plastic containers and bags are the most visible debris material; however, medical waste such as syringes, uncapped needles, empty and filled pharmaceutical containers, dialysis bags and IV tubes are also commonplace. Superficial observations of the debris may lead one to assume that the litter is of local origin, but closer visual inspection shows a prominence of material with Arabic labels, which indicates that a large amount of the material may actually consist of marine debris washing up on northern Cyprus beaches.

The presence of such materials on TRNC beaches not only creates an unpleasant scene; it also pollutes the environment, hurts tourism, becomes an economic burden, and presents a serious health hazard to all beach-goers. Many containers are found still oozing oil, detergents and other compounds into the environment. Medical waste such as syringes, needles, sealed glass containers holding blood samples, pharmaceuticals, and unidentifiable chemicals, poses a serious health hazard. Beaches under such conditions are not the kind of environment sought after by tourists, and this can result in the loss of important revenues for the country. The ecological damage caused by the debris is more subtle. More than a third of all green turtles (*Chelonia mydas*) and a tenth of all loggerhead turtles (*Caretta caretta*) believed to exist in the Mediterranean Sea nest on the beaches of the TRNC (Broderick and Godley, 1997). The hatchlings as well as adults can be seriously affected by the debris both at sea and on land (Carr, 1987; Laist, 1987). Fish, cetaceans and the nearly-extinct Mediterranean monk seal (*Monachus monachus*) are also negatively affected due to entanglement in or swallowing of debris (Ryan, 1985; Galt, 1985; Balasz, 1985; Cawthorn, 1985).

One of the solutions to this problem is, of course, to continually clean the beaches, as is currently done in all of the popular beach resorts used by tourists and locals. But this is limited in scope and not a practical long-term solution: considerable expenses will be incurred in the removal of the waste, there will be an extra burden on municipal landfills, and the ecological damage will continue. A second option is to determine the sources of the debris and take the steps necessary to stop further pollution. The existence of any foreign-based source of marine debris can also be identified, and pollution from such sources halted through better enforcement of existing international anti-pollution regulations. This study aims to help bring a lasting solution to the debris pollution problem on northern Cyprus beaches by identifying the sources,

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Figure 1a. Photograph of polluted beach located on the northeastern tip of Cyprus.

Figure 1b. Photograph of study site White Sands.

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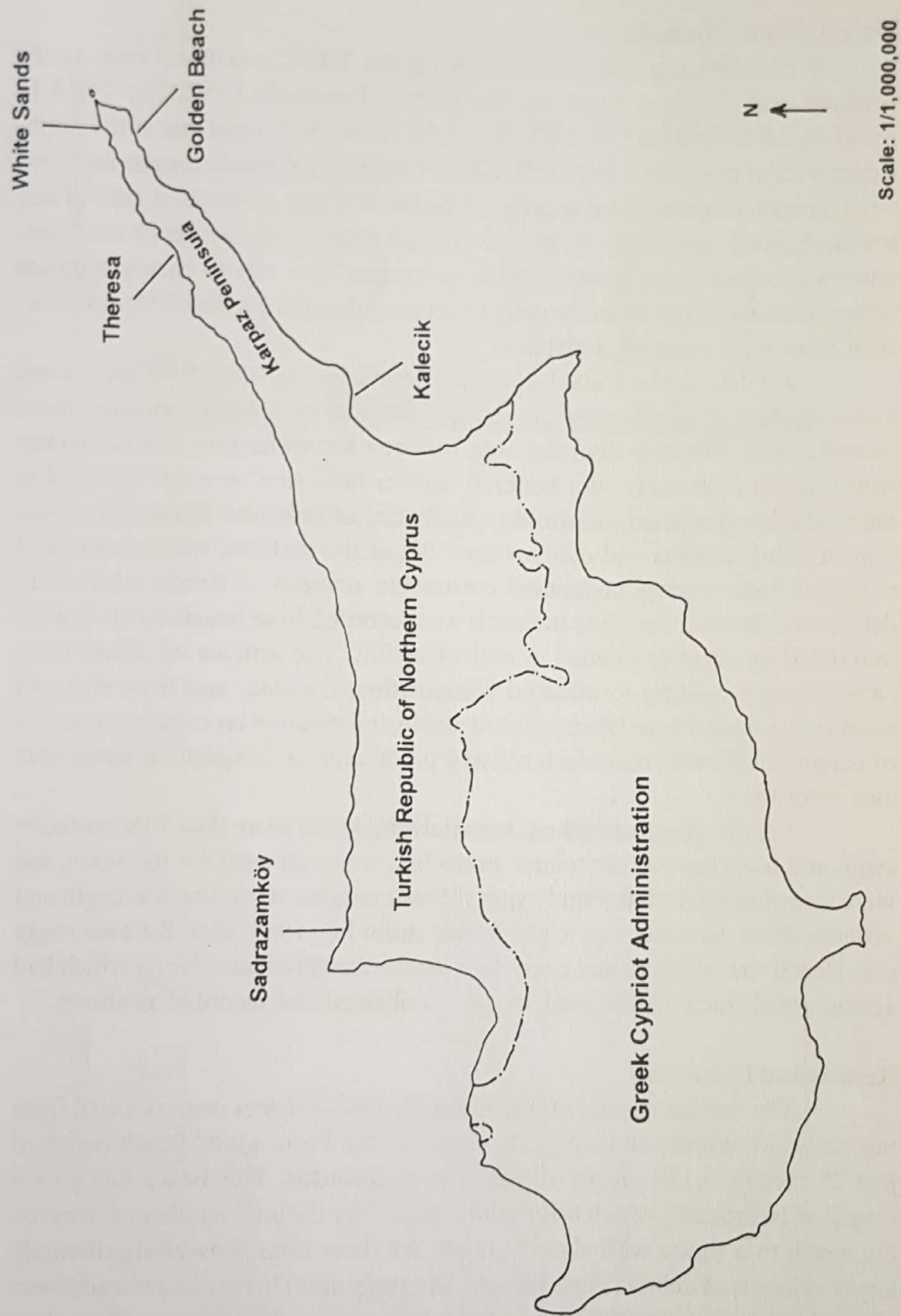

Figure 2. Location of study sites along the TRNC coastline.

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composition, distribution and accumulation rate of the debris, and gathering the evidence necessary to cut the debris flow at the source.[1]

Materials and Methods

Five beaches were selected along the TRNC coastline: four on the northern and southern coasts of the Karpaz Peninsula (35°33'N, 34°14'E; 35°40'N, 34°30'E; 35°38'N, 34°31'E; 35°19'N, 34°00'E) and one at the north-western tip of the TRNC (35°23'N, 32°58'E) (Fig. 2). Criteria for site selection were based on minimal use as public beaches and the subsequent lack of any beach-cleaning activities, as verified through nearby inhabitants or local volunteers involved in an annual cleanup program. This was to ensure accurate determinations of the monthly debris accumulation rate, without any interference from local cleaning activities.

All debris which was larger than 4cm^2 and more than 50% uncovered, hence readily observed standing up and likely to have been deposited more recently, was collected from the area between the water line and the winter storm line at each study site. Material smaller than 4cm^2 was not included in the study, because such material is usually not informative in the determination of debris origins and composition. All of the material was counted and recorded from beaches containing reasonable amounts of debris, while only debris from several 5m-wide transects was recorded from beaches which were inundated by litter too dense to collect in full. The articles of debris were categorized according to material composition, counted, and their size and condition noted. Where labels were readable, information on contents, country of origin, distributor, manufacturer, and production and expiration dates, was also recorded.

Smaller pieces of debris, material which was more than 50% buried in sand, and litter beyond the winter storm line were not used for the study, but were also cleared from the study sites. Measurements of total beach length and distance from the water line to the winter storm line were taken for each study site. Beach sites were visited every four weeks thereafter, and debris which had accumulated since the last sampling was collected and recorded as above.

Results and Discussion

The largest amount of initial standing stock debris was collected from the study site White Sands (Fig. 1b, Figs. 3a, 3b). From a total beach length of just 25 meters, 3,139 pieces of debris were recorded. This beach has a total length of 105 meters, which brings the estimate for the total number of items on the beach to a figure well above 13,000. All other sites showed significantly lower amounts of debris (Figs. 3a, 3b). The study site Theresa had already been cleaned in late October 1997 by a nearby bed-and-breakfast owner. The values given for Theresa (Figs. 3a, 3b) therefore reflect debris accumulated during the preceding seven months, while dates on containers collected from the other four beaches indicated that they had not been cleaned for several years.

The debris collected was mainly composed of plastic materials: plas-

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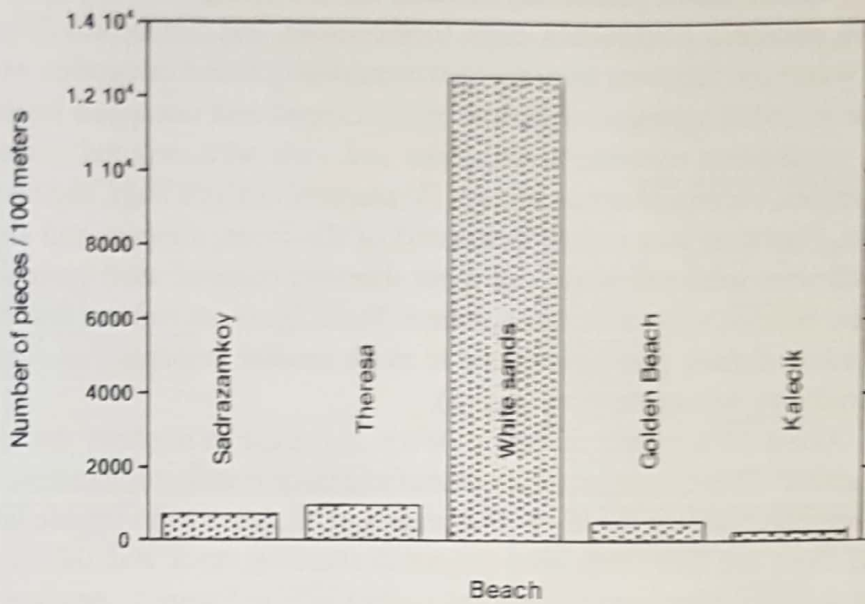

Figure 3a. Comparative densities of standing stock debris at the five study sites

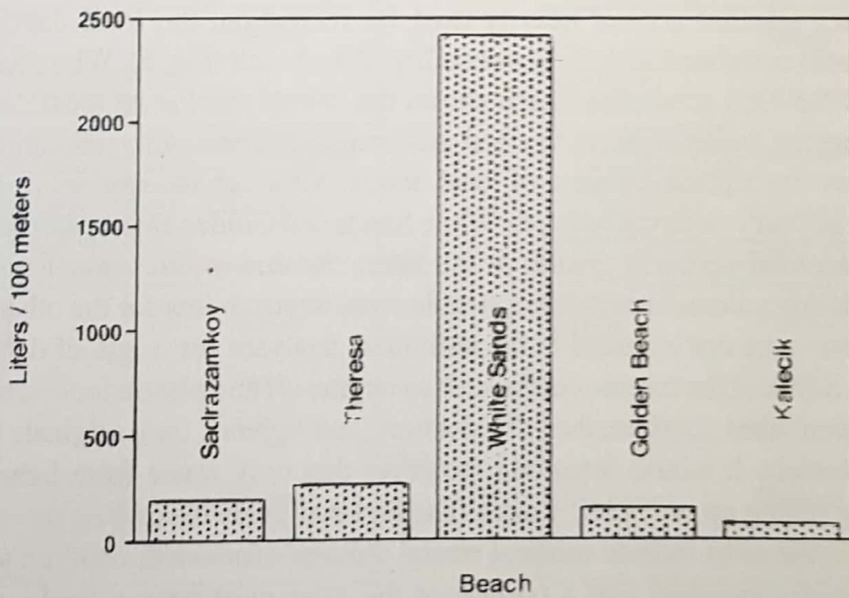

Figure 3b. Comparative volumes of standing stock debris at the five study sites

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tic containers, lids, pieces of broken-up plastic, and other plastic items such as lighters, cyalume sticks, plastic bag handles, toys, drinking straws, pens, aerosol straws, pacifiers, hairbrushes, cups, toothbrushes, and clothespins (Fig. 4). Medical waste and footwear were the next consistently found categories. Medical waste included syringes of various sizes, capped and uncapped injection needles, medication containers, ampoules and vials with original contents, blood samples, various pharmaceuticals, IV adapters, dialysis bags, and breathing tubes. Footwear was mainly composed of flip-flops, slippers and shoes, along with shoe soles and heels, and spent sheets of material used for making shoe soles. Women's footwear was common. Metal, glass, styrofoam, and other debris such as fishing gear were found in much smaller amounts, but showed some variability among the sites (Fig. 4).

About 10% of the labels on debris collected throughout the study were readable. These were sorted by manufacturer or distributor location, and by the language used on the label. The origins of all debris with legible labels gathered from the five study sites as initial standing stock and subsequent monthly accumulations, are represented collectively in Figure 5. As observed from the figure, the largest portion of the debris is Lebanese in origin or from other (unidentifiable) Arab countries. The only other Arabic-speaking country from which debris was found to originate was Syria; however, since the amounts from Syria were negligible in comparison to those from Lebanon, most of the unidentifiable debris carrying Arabic labels is possibly also of Lebanese origin. Debris originating from southern Cyprus and Israel was minimal. Due to the marine origin of all these materials, they are henceforth referred to as "marine debris."

The amount of debris on beaches originating from local sources is low in comparison to marine debris originating from elsewhere. It is difficult to distinguish between materials originating from Turkey and the TRNC; therefore these were grouped together under the category "local." Even though the study sites selected are not heavily used for recreation, the local debris on beaches still correlated with the accessibility of the beach (Fig. 6). White Sands, which is the least accessible beach shows the lowest amount of local debris; while Theresa, being adjacent to a bed-and-breakfast/restaurant, gets some use and shows the highest amounts of local debris. Although the amount of local debris is not very different between White Sands and Golden Beach, its proportion to the total debris is greater in the latter site due to the lower levels of marine debris accumulation. Since sample sizes were too low for the other two sites, these were not included in the individual analyses for origin of debris.

Some of the marine debris such as engine oil and plastic food containers, silicone tubes, toothbrushes, fly swatters, and lighters, may originate from marine vessels. It would seem odd, however that only waste from Lebanese ships is washing up on TRNC shores. The fact that items making up the debris are so diverse as to include medical waste, women's footwear, children's toys and pacifiers, indicates that a portion of the litter must have a land source. Some of it may well be items washing out to sea from beaches, but this cannot account for all of the material. Whether this debris ends up on the northern

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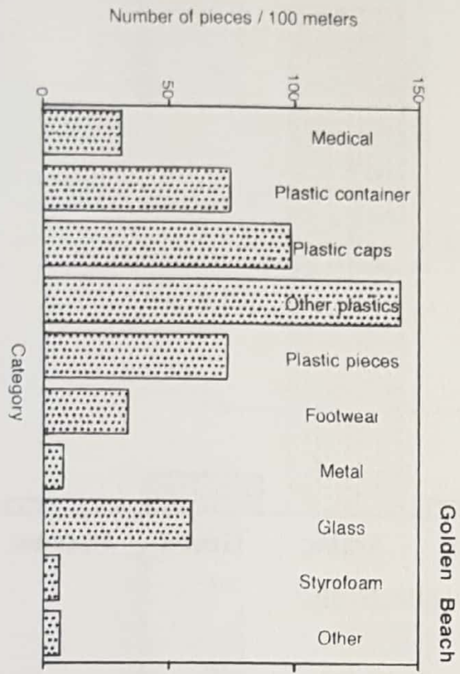

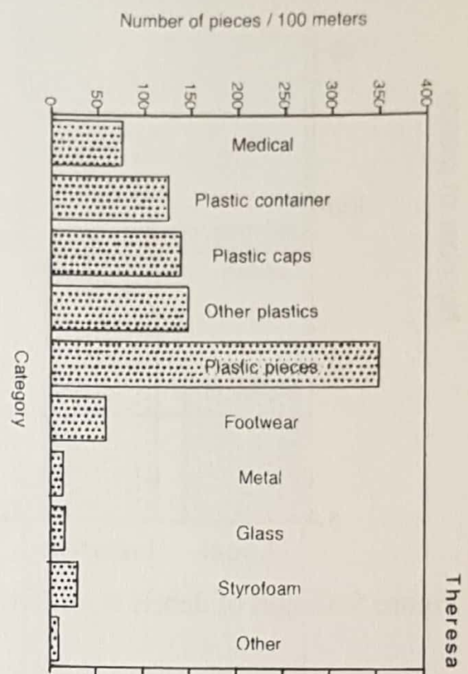

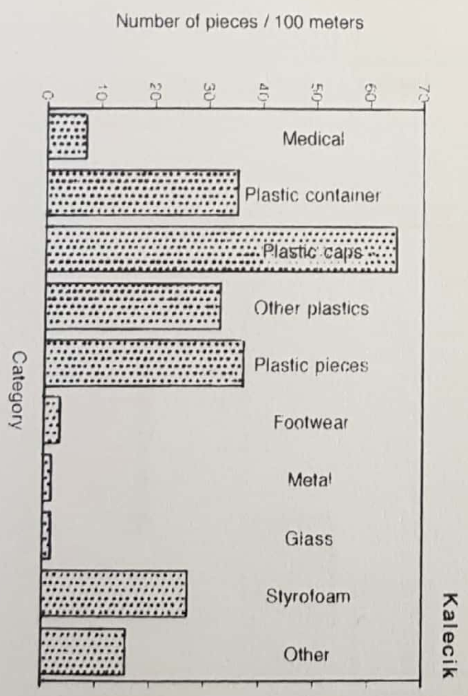

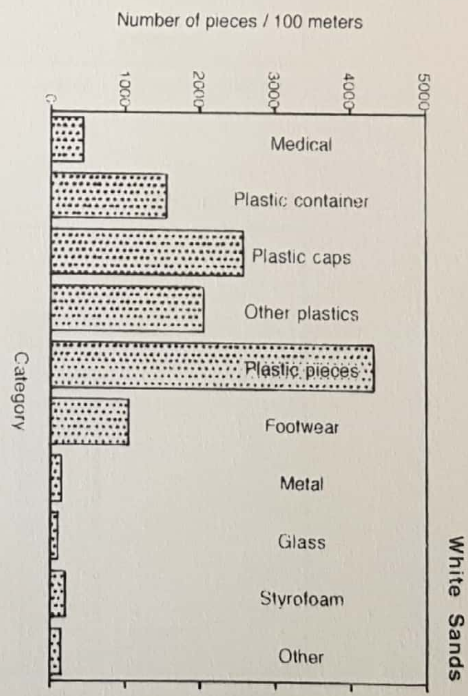

Figure 4. Composition of standing stock debris at study sites.

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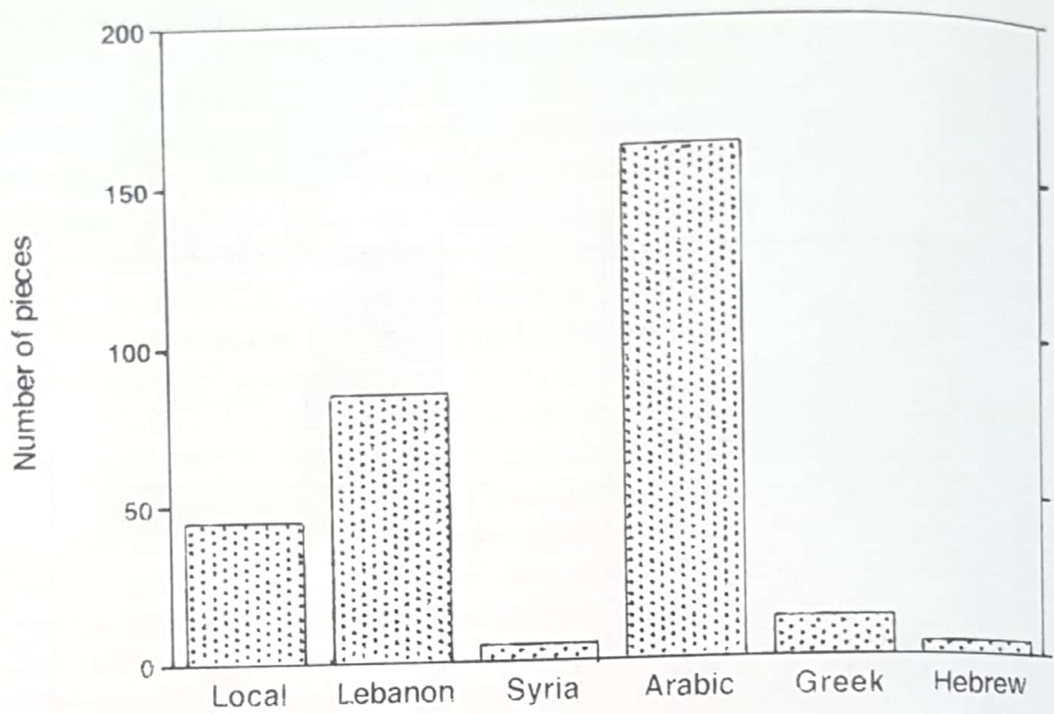

Figure 5. Origin of debris at all five sites collectively.

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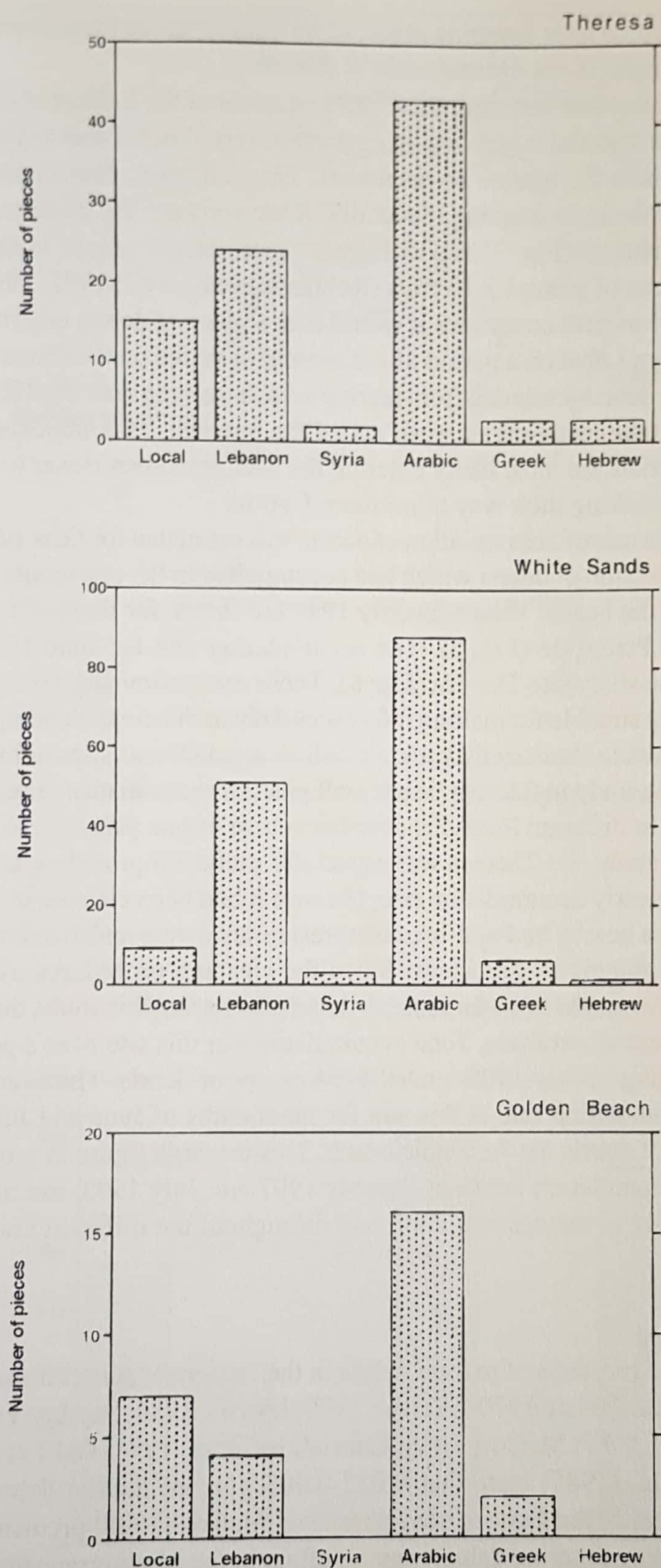

Figure 6. Origin of debris at individual study sites.

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shores of Cyprus after dumping at sea, or by transfer to sea from nearby land by rains and winds, is not determinable at this time.

Production and expiration dates on some of the Lebanese debris indicate that this material is arriving on northern Cyprus shores about eight months after entry into the marine environment. This indicates, first of all, that the pollution problem is ongoing. Secondly, if we consider the counterclockwise circulation pattern (Fig. 7) and average surface current speeds in the Eastern Mediterranean of around 5-10 cm/s (Robinson et al., 1987; 1991; 1992), under theoretically perfect conditions it would take a piece of debris entering the sea from northern Lebanon a period of 1-2 months to arrive on the shores of northern Cyprus; debris discarded from marine vessels passing near the TRNC coastline would take less time to wash up on the beaches. This indicates that the debris materials are most likely entering the Mediterranean closer to Lebanon, and slowly making their way to northern Cyprus.

The rate of accumulation of debris was estimated for three of the study sites by collection of debris which had accumulated in the one month since full cleaning of the beach. Values for July 1998 are shown for three of the sites on the Karpaz Peninsula (Fig. 8). The accumulation rate for June 1998 is also given for the study site Theresa (Fig. 8). These are preliminary results, and are therefore not suitable for making inferences from at this time. Pending funding, monthly visits to these study sites, as well as to additional sites to be incorporated into the study in the near future, will give a more realistic idea of accumulation rates in different locations over the course of one year.

The study site Theresa was especially useful for providing a first-hand look at the yearly accumulation rate, because it had been cleaned in late October 1997 by a nearby bed-and-breakfast/restaurant owner and then left as it was until the beginning of this study. Since the cleaning procedures used by the restaurant owner were not the same as those used during this study, these values only represent an estimate. Total accumulations at this site over a period of 9 months ending in July 1998 totaled 1194 pieces of debris. The average value for the accumulation rate at this site for the months of June and July 1998 is 190 pieces of debris for the whole beach. This is a high figure in proportion to the total accumulation between October 1997 and July 1998, but may reflect the variability in the accumulation rate throughout the different seasons.

Conclusions

The presence of marine debris in the Eastern Mediterranean has been reported since the late 1970s (Shiber, 1979; Morris, 1980; Saydam et al., 1985; Bingel et al., 1987; McCoy, 1988; Gabrielides et al., 1991; Galil et al., 1995). Saydam et al. (1985) state that 0.012-0.003 g/m^2 of marine debris exist in surface waters of the Eastern Mediterranean. McCoy (1988) predicted that 3.6 million pieces of marine debris may be afloat in the Mediterranean Sea at any one time. Plastic materials were shown to be the most common debris on the sea surface and on beaches (McCoy, 1988; Gabrielides et al., 1991). Studies

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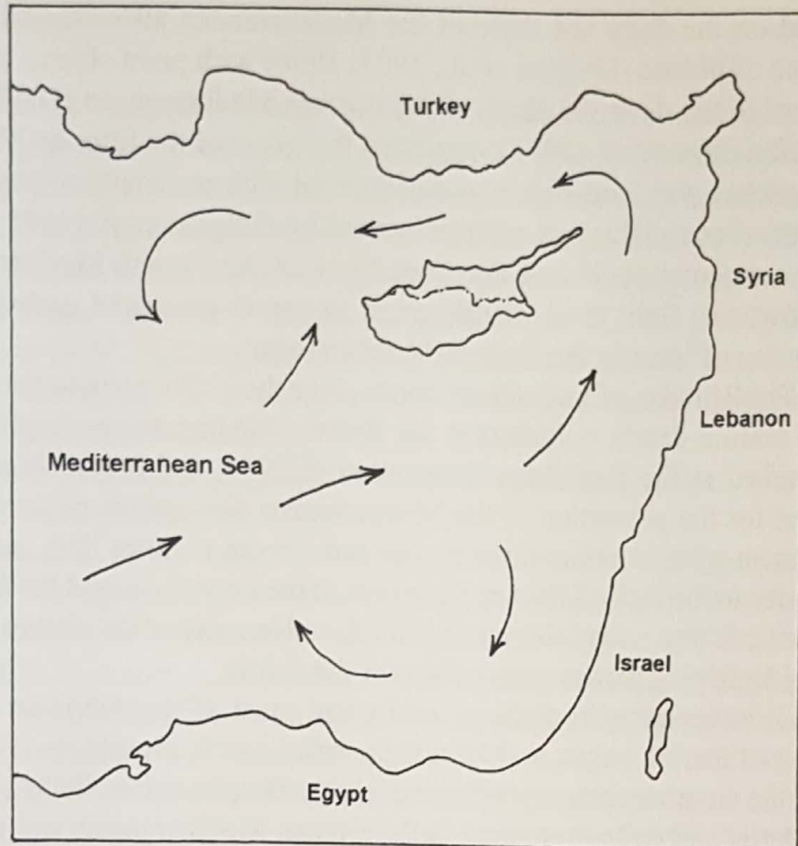

Figure 7. General surface currents around the island of Cyprus (modified from Robinson et al. 1992).

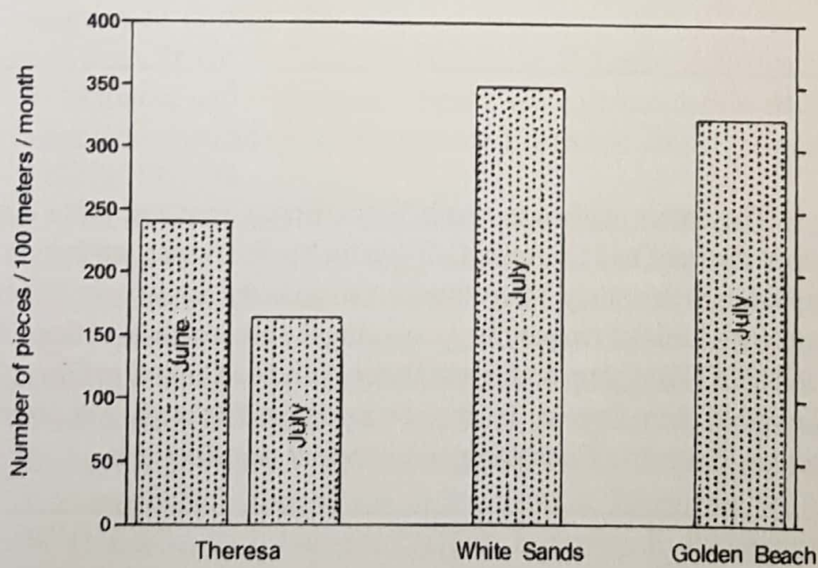

Figure 8. Monthly accumulation rates of marine debris at three of the study sites.

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conducted on the deep sea floor of the Mediterranean also showed a predominance of plastic (Galgani et al., 1995; 1996) with paint chips a popular component in the deep sea floor of the Eastern Mediterranean (Galil et al., 1995). Gabrielides et al. (1991) suggested that most of the litter on Mediterranean beaches was land-based, and correlated with proximity to populated centers. Similar conclusions were presented by Galgani et al. (1995; 1996) for the continental shelf and deep sea floor of the French Mediterranean coast. However, Galil et al. (1995) point to vessel-generated garbage as a major source of litter in the Eastern Mediterranean.

Publications of such observations since the 1970s point to the persistence of marine debris pollution in the Eastern Mediterranean despite decisions reached at the Barcelona Convention in 1976, and protocols adopted thereafter, for the protection of the Mediterranean Sea against pollution, and enhancement of its marine environment and coastal regions. This may partially be due to the lack of strict enforcement of the provisions, and the fact that the origins of these materials were not disclosed in most of the studies, therefore not identifying parties responsible for the debris.

It is apparent from these results that most of the debris on TRNC beaches is of marine origin, and potentially forms a serious problem. It is damaging to the environment, economy and health. Despite anti-pollution regulations, litter is still quite prominent in the Eastern Mediterranean; and judging from production and expiration dates on some of the articles of marine debris washing up on TRNC shores, much of it is of recent arrival. Whether its route into the Mediterranean is land-based or via dumping at sea, is only speculative at this time. However, it is clear that enforcement of regulations and policies on litter management is lacking in the Eastern Mediterranean: parties responsible for this environmental problem must be held responsible and urged to stop, before the floating garbage in the Eastern Mediterranean causes further, and irreparable damage.

Notes

[1] The author wishes to thank Yonca Berk-Giray and Mike Hardy for their help in the field, and Dr. Aram Calhoun for her financial contribution toward the completion of this study. Many thanks also go to the Society for International Development's Lefkoşa chapter for sponsoring the presentation of these findings at the 1998 ECO Workshop on Air and Water Pollution Control in Girne, Turkish Republic of Northern Cyprus. Financial support for this study was provided by BioSpectives Scientific Consulting and personal contributions.

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The Constitution of the Turkish Republic of Northern Cyprus

[Following the declaration of the independence of the Turkish Republic of Northern Cyprus on 15 November 1983, a Constitutional Commission composed of a chairman and fourteen members was established by a decision of the Constituent Assembly, taken at its meeting of 23 December 1983. The Constitutional Commission prepared a draft constitution, which was published in the Official Gazette *on 8 June 1984 for notification. The Constitution was adopted by the Assembly on 12 March 1985 and was again published in the* Official Gazette. *A referendum on the Constitution was held on 5 May: out of 91,810 eligible voters 71,933 cast their votes. Of the 70,459 valid votes 49,447 (70.16%) were in favor of the Constitution and 21,002 (29.82%) against. The Constitution was again published in the* Official Gazette *on 7 May 1985 and became the Constitution of the Turkish Republic of Northern Cyprus. (Source:* North Cyprus Almanack. *[London: K. Rüstem and Brother, 1987], p. 45)]. Translation provided by Z. Necatigil.]*

Preamble

Whereas the Turkish Cypriot People is an inseparable part of the great Turkish Nation which has lived independent and fought for its rights and liberties all through its history; and

Whereas the Turkish Cypriot People has, in the face of events directed against its national existence and right to life, and since 1878 when it was broken away from its motherland, which were intensified especially after 1955 and took the form of armed terrorism, aggression and suppression, organized its resistance as a mature community in unity and integrity; and

Whereas the Turkish Cypriot People has established through the bitter experiences it had undergone until the year 1974 when the Peace Operation, which was carried out by the heroic Turkish Armed Forces by virtue of the Motherland's natural, historical and legal right of guarantorship emanating from the Agreements, provided to the Turkish Cypriots the means of living in peace, security and liberty; that there cannot be individual rights and liberties without the acquisition of communal rights and liberties; and

Whereas, in the face of attempts made to deprive it of all its rights emanating from history, international agreements and from human rights declarations and covenants and to destroy completely its existence in Cyprus; and in view of the fact that the Republic of Cyprus having, since 21 December 1963, come under the monopoly of the Greek Cypriots through unlawful means, has been transformed into a Greek Cypriot State not only from the point of view of its composition but also from the point of view of the policy it followed, and has, as a result of its racist and discriminatory policy and actions been serving Pan-Hellenist expansionism, departed from the Agreements and the principles embodied in the Constitution and thus lost its legitimacy, the Turkish Cypriot People has, in the exercise of its right of self-determination, proclaimed before the world and history the establishment of the Turkish Republic of Northern Cyprus;

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Now, therefore,

For the purposes of Giving life to the Proclamation of Independence which was accepted unanimously and with great enthusiasm on 15th November 1983; Continuing its existence in its own homeland in full security and humane order;

Establishing a democratic and secular State with a plural party system based on social justice aiming to protect human rights and liberties, the rule of law and the peace and welfare of the individual and the community; and Being faithful to the principles of Atatürk and in particular with the purpose of spreading his principle of "peace in the homeland, peace in the world";

THE TURKISH CYPRIOT PEOPLE,

With whom the absolute right to sovereignty rests;

Approves and proclaims this Constitution, passed by the Constituent Assembly of the Turkish Republic of Northern Cyprus, as the Constitution of the Turkish Republic of Northern Cyprus which has been established on 15th November 1983; and

Entrusts it to the vigilant protection of its people who are devoted to freedom, justice and virtue, with the belief that the real guarantee lies in the hearts and the will of the citizens.

Part I – General Provisions

Article 1 [The Form and Characteristics of the State]

The Turkish Republic of Northern Cyprus is a secular republic based on the principles of democracy, social justice and the supremacy of law.

Article 2 [The Integrity, Official Language, Flag, National Anthem and Capital of the State]

(1) The State of the Turkish Republic of Northern Cyprus is an indivisible whole with its territory and people.

(2) The official language is Turkish.

(3) The Flag and the National Anthem of the Turkish Republic of Northern Cyprus shall be prescribed by law.

(4) The capital of the Republic is Lefkoşa.

Article 3 [Sovereignty]

(1) Sovereignty shall vest in the people comprising the citizens of the Turkish Republic of Northern Cyprus, without condition or reservation.

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(2) The people shall exercise its sovereignty, within the framework of the principles laid down by the Constitution, through its competent organs.

(3) No group, class or person can claim sovereignty to itself.

(4) No organ, office or authority can exercise any power which does not emanate from this Constitution.

Article 4 [Legislative Power]

Legislative power shall vest in the Assembly of the Republic on behalf of the people of the Turkish Republic of Northern Cyprus.

Article 5 [The Duties and Powers of the Executive]

The executive duties and powers shall be carried out and exercised by the President of the Republic and the Council of Ministers in accordance with the Constitution and laws.

Article 6 [Judicial Power]

The judicial power shall be exercised on behalf of the people of the Turkish Republic of Northern Cyprus by independent courts.

Article 7 [Supremacy and Binding Force of the Constitution]

(1) Laws shall not be contrary to or inconsistent with the Constitution.

(2) The provisions of the Constitution shall be the fundamental legal principles binding the legislative, executive and judicial organs, the administrative authorities of the State and individuals.

Article 8 [Equality]

(1) Every person shall be equal before the Constitution and the law without any discrimination. No privileges shall be granted to any individual, family, group or class.

(2) The organs and the administrative authorities of the State are under an obligation to act in conformity with the principle of equality before the law and not to make any discrimination in their actions.

(3) The benefits acquired or to be acquired by persons who are economically weak, by virtue of the Constitution and the laws, cannot be eliminated by putting forward this Article.

Article 9 [Provisions that cannot be changed]

The provisions embodied in Article 1, in paragraphs (1) and (2) of Article 2 and in Article 3 of this Constitution cannot be changed and no proposal can be made for changing them.

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Part II – Fundamental Rights, Liberties and Duties

Chapter I. General Provisions

Article 10 [The Nature of Fundamental Rights and their Protection]

(1) Every person has, by virtue of his existence as an individual, personal fundamental rights and liberties which cannot be alienated, transferred or renounced.

(2) The State shall remove all political, economic and social obstacles which restrict the fundamental rights and liberties of the individual in a manner incompatible with the individual's security, social justice and the principles of the State being subject to the rule of law; it shall prepare the necessary conditions for the development of the individual's material and moral existence.

(3) The legislative, executive and judicial organs of the State, within the spheres of their authority, shall be responsible for ensuring that the provisions of this Part are implemented in full.

Article 11 [The Essence and Restriction of Fundamental Rights and Liberties]

Fundamental rights and liberties can only be restricted by law, without affecting their essence, for reasons such as public interest, public order, public morals, social justice, national security, public health and for ensuring the security of life and property of persons.

Article 12 [Fundamental Rights and Liberties and Powers not to be Misused]

No provision of this Constitution shall be construed or interpreted as to give any physical or legal person, group or class of persons the right and authority to commit acts or to engage in activities aimed at changing the rights and status of the Turkish Republic of Northern Cyprus and of the Turkish Cypriot people guaranteed by this Constitution or at destroying the order established by this Constitution or at removing the fundamental rights and liberties recognized by this Constitution.

Article 13 [The Status of Aliens]

The rights and liberties referred to in this Constitution may be restricted by law in respect of aliens, in accordance with international law.

Chapter II. Rights, Liberties and Duties of Persons

Article 14 [Personal Immunity]

(1) Every person shall have the right to live in peace, security and tranquillity and to develop and protect his material and moral existence.

(2) No person shall be subjected to ill-treatment or torture.

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(3) No person shall be subjected to any punishment or treatment which is incompatible with human honor and dignity.

(4) A person's honor and dignity are inviolable. Every person shall be under the obligation to respect and protect this.

Article 15 [Right to Life and Corporal Integrity]

(1) Every person has the right to life and corporal integrity.

(2) No person shall be deprived of his life except in the due execution of a sentence of a competent court upon his conviction of an offence for which the death penalty is provided by law.

A law may provide for such penalty only in cases of high treason in times of war, piracy and terrorism jure gentium or repeated conviction of an offence punishable with life imprisonment.

(3) Deprivation of life shall not be deemed to be inflicted in contravention of the provisions of paragraphs (1) and (2) when it results from the use of force which is no more than absolutely necessary

(a) in defending one's self or property against the infliction of a proportionate and otherwise unavoidable and irreparable evil; or

(b) in effecting an arrest or in preventing the escape of a person lawfully detained; or

(c) in action taken for the purpose of quelling a riot or insurrection, when and as provided by law.

Article 16 [Liberty and Security of Person]

(1) Every person has the right to personal liberty and security.

(2) No person shall be deprived of his liberty save in the following cases when and as provided by law:

(a) the detention of a person after conviction by a competent court;

(b) the arrest or detention of a person for non-compliance with the lawful order of a court;

(c) the arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

(d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

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(e) the detention of persons who are likely to spread an infectious disease, of persons of unsound mind, alcoholics or drug addicts or vagrants;

(f) the arrest or detention of a person to prevent him from making an unauthorized entry into the territory of the State or of an alien against whom action is being taken with a view to deportation or extradition;

(g) the arrest or detention of an alien for the purpose of preventing him from leaving the Republic in order to evade a financial responsibility;

(h) the detention of those citizens of the Turkish Republic of Northern Cyprus who are nationals of more than one country, for the execution of court decisions given against them for offences committed under the laws of the other country of which they are the nationals; provided that there is in force between the Turkish Republic of Northern Cyprus and that other country an agreement for extradition and for reciprocal enforcement of judgments.

(3) Save when and as provided by law in case of a flagrant offence punishable with death or imprisonment, no person shall be arrested save under the authority of a reasoned judicial warrant issued according to the formalities prescribed by law.

(4) The position of the person arrested or detained shall be brought to the knowledge of his close relatives at the earliest possible time and quickly, except in cases where there are grave objections to the disclosure of the extent and substance of the investigation.

(5) Every person arrested or detained shall be informed, at the time of his arrest, in a language which he understands, of the reasons of his arrest or detention and shall be allowed immediately to have the services of a lawyer to be chosen by him or by his relatives.

(6) The person arrested shall, as soon as practicable and in any event not later than twenty-four hours after his arrest, be brought before a judge, if he is not in the meantime released.

(7) The judge shall promptly proceed to inquire into the grounds of the arrest in a language understandable by the person arrested and shall, as soon as possible and in any event not later than three days from such appearance, either release the person arrested on such terms as he may deem fit or where the investigation into the commission of the offence for which he has been arrested has not been completed remand him in custody. The judge may remand him in custody for a period not exceeding eight days at any one time Provided that the total period of such remand or detention in custody shall not exceed three months from the date of the arrest; on the expiration of the said period every person or authority having the custody of the person arrested or detained shall forthwith set him free.

(8) The exercise of the right of appeal against the decisions of the judge under paragraph (7) cannot be denied.

(9) Every person who is deprived of his liberty by reason of his arrest or detention shall be entitled to take legal proceedings so that the lawfulness of his detention may be decided speedily by a court. If his detention is found to be illegal, the Court shall order his release.

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(10) Every person who has been the victim of arrest or detention in contravention of the provisions of this Article shall be entitled to claim compensation by filing an action.

Article 17 [Rights Relating to Judicial Trials]

(1) No person shall be denied access to the court assigned to him by or under this Constitution. The establishment of judicial committees or special courts under any name whatsoever is prohibited.

(2) Every person shall, in the determination of his civil rights and obligations or of any criminal charge against him, be entitled to a fair and public hearing within a reasonable time by an independent, impartial and competent court established by law. Judgment shall be reasoned and pronounced in public session.

(3) The press and the public may be excluded from all or any part of the trial upon a decision of the court in cases where it is in the interest of national security or constitutional order or public order or public safety or public morals or where the interest of juveniles or the protection of the private life of the parties so require or, in special circumstances where, in the opinion of the court, publicity would prejudice the interests of justice.

(4) Every person has the right

(a) to be informed of the reasons why he is required to appear before the court;

(b) to present his case before the court and to have sufficient time necessary for its preparation;

(c) to adduce or cause to be adduced his evidence and to demand that witnesses are directly examined according to law;

(d) to have the services of a lawyer chosen either by him or by his relatives and where the interests of justice so require to have free legal assistance as provided by law;

(e) to have free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 18 [Rights of Accused Persons]

(1) No person shall be considered guilty on account of any act or omission which did not constitute an offence under the law at the time when it was committed; and no person shall have a heavier punishment imposed on him for an offence other than that expressly provided for it by law at the time when it was committed.

(2) A person who has been acquitted or convicted of an offence shall not be tried again for the same offence. No person shall be punished twice for the same act or omission except where death ensues from such act or omission.

(3) No law shall provide for a punishment which is disproportionate to the gravity of the offence.

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(4) Every person charged with an offence shall be presumed innocent until proved guilty according to law.

(5) Every person charged with an offence has the following minimum rights:

(a) to be informed promptly and in a language which he understands and in detail of the nature and grounds of the charge preferred against him;

(b) to have adequate time and facilities for the preparation of his defense;

(c) to defend himself in person or through a lawyer of his own choice or, if he has no sufficient means, and the interests of justice so require, through a lawyer to be appointed for him free of charge;

(d) to examine personally or through his lawyer, the witnesses against him or to cause them to be examined and to secure the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 19 [Privacy of Individual's Life]

(1) Every person shall have the right to demand that his private and family life is respected. There shall be no violation of the individual's private and family life. The exceptions necessitated by legal proceedings shall be reserved.

(2) There shall be no bodily search of a person or his private papers and belongings and these shall not be confiscated, except in cases expressly defined by law and on the basis of a court or judge's decision made in accordance with usual procedure; and in cases where delay is considered undesirable on grounds of national security and public order, without an order of the competent authority duly authorized by law.

Article 20 [Inviolability of Dwelling House]

(1) Every person's dwelling house is inviolable.

(2) There shall be no entry into any dwelling house, no search shall be made therein and the property found therein shall not be confiscated, except in cases expressly defined by law and on the basis of a court or judge's decision made in accordance with usual procedure; and in cases where delay is considered undesirable on grounds of national security or public order, without an order of the competent authority duly authorized by law.

Article 21 [Freedom of Communication]

(1) Every person has the right to freedom of communication.

(2) The secrecy of communication is a fundamental principle. In cases required by law unless there is a decision given by a court or a judge in accordance with the law, this secrecy shall not be interfered with.

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Article 22 [Freedom of Movement and Residence]

(1) Every citizen has the right to freedom of movement; this freedom can only be restricted by law for the purposes of providing national security and the prevention of epidemics.

(2) Every citizen has the right to reside in any place of his choice; this freedom can only be restricted by law when considered necessary in the interest of national security, the prevention of epidemics, the protection of public property and of achieving social, economic and agricultural development and proper town planning.

(3) Every citizen has the right to freedom of entry to, and exit from the country. The freedom of exit from the country shall be regulated by law.

(4) No citizen shall be banished or excluded from the territory of the State against his will and he shall not likewise be prevented from returning thereto.

Article 23 [Freedom of Conscience and Religion]

(1) Every individual has freedom of conscience, religious faith and opinion.

(2) Forms of worship and religious ceremonies and rites are free provided they do not contravene public order or public morals or the laws enacted for these purposes.

(3) No person shall be compelled to worship, to participate in religious ceremonies and rites or to disclose his religious faith or belief; and no person shall be reproached for his religious faith or belief.

(4) Religious education and teaching shall be carried out under the supervision and control of the State.

(5) No person shall exploit or abuse, in any manner whatsoever, religion or religious feelings or things considered sacred by religion for the purpose of basing, even though partially, the basic social, economic, political or legal order of the State on religious precepts, or for the purpose of securing political or personal advantage or influence. In the case of physical or legal persons violating this prohibition or inducing others to do so, relevant legal provisions shall be applied and political parties in contravention of such provisions shall be permanently closed down by the Supreme Court sitting as the Constitutional Court.

Article 24 [Freedom of Thought, Speech and Expression]

(1) Every person has the right to freedom of thought or opinion. No person shall be compelled to disclose his thoughts and opinion. There can be no crime in view of the thoughts of a person.

(2) Every person has the right to express and publish his thoughts and opinion, by himself or collectively, by word of mouth, in writing, through pictures or other media.

This right includes freedom to express opinion and to receive and impart information and ideas without interference by any public authority and regardless of the boundaries of the State.

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(3) The exercise of the freedom of speech and of the freedom of expression may be subject to such formalities, conditions, restrictions, or penalties as are necessary and as prescribed by law, only in the interest of national security or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the reputation or rights of others or for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.

Article 25 [Freedom of Science and Art]

Every person has the right to freedom of learning and teaching and expressing and disseminating fully science and art and of making all kinds of research in these fields.

Article 26 [Freedom of the Press]

(1) The freedom of the press and publications is guaranteed for all citizens and shall not be subjected to censorship.

(2) The State shall take the necessary measures to ensure the freedom of the press, publication and of receiving information.

(3) The freedom of the press and of receiving information may be restricted by law for the purpose of safeguarding public order or national security or public morals or for preventing attacks on the honor, dignity or rights of persons and for preventing incitement to commit an offence or for the purpose of assuring the proper functioning of the judiciary in accordance with its aims.

(4) Save when it is imposed by a decision to be given by any court or judge, within the limits to be prescribed by law, for the purpose of ensuring the proper functioning of the judiciary in accordance with its aims, no ban shall be imposed on the publication of news about events.

Article 27 [The Right to Publish Newspapers, Magazines and Pamphlets]

(1) The publication of newspapers, magazines and pamphlets by citizens shall not be subject to obtaining prior permission or to furnishing of financial security.

(2) The publication, distribution and financial resources of newspapers, magazines and pamphlets and the conditions pertaining to the profession of journalism shall be regulated by law. Such law shall not impose political, economic, financial and technical conditions preventing or making difficult the free dissemination of news, thoughts and opinion.

(3) Newspapers and periodicals shall benefit, in accordance with the principle of equality, from the media and facilities provided by the State and other public corporate bodies or by institutions attached to them.

(4) Newspapers, magazines and pamphlets published within the boundaries of the State may be seized by an order of a judge in cases where any of the offences specified by the relevant law has been committed; and by an order of the authority expressly empowered by law in cases where a delay is considered undesirable from the point of view of safeguarding national security, public order or public morals. The competent authority giving the

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order for the seizure, shall inform the court of its decision on the same day. If the court does not confirm the decision within two days, at the latest, the order for the seizure shall be considered null and void.

Article 28 [The Right to Publish Books]

(1) The publication of books by citizens shall not be subject to prior permission or to censorship.

(2) Books published within the boundaries of the State may be seized by an order of a judge in cases where any of the offences specified in the relevant law has been committed; and by an order of the authority expressly empowered by law in cases where a delay is considered undesirable from the point of view of safeguarding national security, public order or public morals. The competent authority giving the order for the seizure shall inform the court of its decision within twenty-four hours, at the latest. If the court does not confirm the decision within seven days, at the latest, the order for the seizure shall be considered null and void.

Article 29 [The Protection of Printing Equipment]

Printing works and their auxiliary buildings and printing presses and equipment belonging to the citizens shall not be confiscated or seized or prevented from operating, even on the ground of having been used in the commission of an offence.

Article 30 [The Right to Make Use of Means of Communication other than the Press]

Citizens and political parties have the right to benefit from means of communication and publication, other than the press, which are owned by public corporate bodies. The conditions and the procedures for benefiting from such means of communication and publication shall be regulated by law in accordance with democratic and equitable principles. The law shall not impose conditions preventing the public from receiving news and from having access to thoughts and opinion through such means or the free formulation of public opinion through such means on grounds other than the protection of the secular State based on human rights and the principles of the supremacy of democracy, social justice and rule of law, or the protection of national security and of public morals.

Article 31 [The Right to Correction and Reply]

(1) The right to correction and reply shall be recognized only in cases where the honor and dignity of persons are hurt or incorrect statements are published concerning them and it shall be regulated by law.

(2) In cases where a correction or reply is not published, the judge shall decide whether its publication is essential or not within seven days, at the latest, of the receipt of the application made by the person concerned.

Article 32 [The Right of Assembly and Demonstration]

Citizens have the right to organize unarmed and non-violent assembly or public demonstration without obtaining prior permission. This right may be restricted by law for safeguarding public order.

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Article 33 [The Right to Form Associations]

(1) Citizens have the right to form associations without prior permission. The manner and procedures for exercising this right shall be provided by law. The law may impose restrictions in the interests of national security, public order and public morals.

(2) No citizen shall be compelled to become a member of any association or to remain as a member of any association.

(3) Associations may, where provided by law, be closed down by an order of a judge; and in cases where a delay is considered objectionable from the point of view of safeguarding national security, public order and public morals, an association's functions may be suspended until a decision is given by a judge, by an order of the authority expressly so empowered by law.

Article 34 [Right to Adduce Evidence]

In libel and slander actions relating to imputations made against public servants in connection with the discharge of their duties and functions, the accused shall have the right to adduce evidence to prove the truth of the imputation. In cases other than the above, the granting of the request to adduce evidence shall depend upon whether it would be considered in the public interest to ascertain the truth or falsity of the imputation or upon whether the complainant consents to such evidence.

Chapter III. Social and Economic Rights and Liberties and Duties

Article 35 [Protection of the Family]

(1) The family is the foundation of the community. The State and other public bodies shall adopt the necessary measures and set up the necessary establishments for the protection of the family, the mother and the child.

(2) The rights and obligations of any male or female person reaching marriageable age to marry and to set up a matrimonial home shall be regulated by law.

Article 36 [General Provisions Relating to Property Rights]

(1) Every citizen has the right to ownership and inheritance. These rights may only be restricted by law in the interest of the public.

(2) Restrictions or limitations which are absolutely necessary in the interests of public safety or public health or public morals or town and country planning or the development and utilization of any property for public benefit or for the protection of the rights of others may be imposed by law on the exercise of the right to ownership.

(3) Just compensation shall be promptly paid for any such restrictions or limitations which materially decrease the economic value of property; in case of disagreement such compensation shall be determined by a civil law court.

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(4) The provisions of paragraphs (2) and (3) above shall not affect the provisions imposed by law for the purpose of recovering any tax or penalty, executing any judgment, enforcing any contractual obligation or protecting life or property from danger.

(5) The right of the State to the immovable properties mentioned in Article 159 is reserved.

Article 37 [Protection of Land]

The State shall take the necessary measures for the purpose of achieving the efficient utilization of land and for providing farmers who have no land or who have insufficient land, with enough land. The law may specify the extent of land to be utilized for these purposes having regard to the requirements of different agricultural regions and types of farming.

Article 38 [Protection of Foreshores]

(1) The foreshores are under the exclusive control and possession of the State and may be used only in the public interest.

(2) Outside municipal boundaries, only structures belonging to the State which are very essential and in the public interest, may be erected within the area of the coastal strip of one hundred meters width. Provided that such structures shall not be of a nature spoiling the natural beauty of the shores. Matters relating to the existing buildings and structures shall be regulated by law.

(3) The protection of foreshores within municipal boundaries and the position of the buildings and structures to be erected in future and of the existing ones within the area of the coastal strip of one hundred meters width, shall be regulated by law in accordance with the requirements of public interest and town planning.

(4) The access by citizens into the area of the coastal strip of one hundred meters width cannot be hindered by anyone or be subjected to any entrance fee unless restrictions have been imposed by law for the purpose of safeguarding national security, public order, public interest, general health and the protection of the environment. Provided that this provision shall not be interpreted as rendering possible infringement upon property rights.

Article 39 [Protection of Historical, Cultural and Natural Wealth]

The State shall ensure the protection of works and monuments of historical and cultural value as well as the natural wealth; and for this purpose it shall take regulating, supporting and incentive measures. The limitations to be imposed on such property that is privately owned, and the assistance to be rendered and privileges to be granted to their rightful owners in view of the imposition of such limitations shall be regulated by law. No other buildings shall be erected in the place of buildings of historical value which have been demolished, or which have in any way ceased to exist or suffered destruction. If the necessity to build arises, the historical building which was demolished or in any way suffered destruction may be re-built or repaired in such a way as to conform to the original building. The State shall take the necessary measures and shall make the necessary legal regulations for this purpose.

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Article 40 [Protection of the Environment]

(1) Every person has the right to live in a healthy and balanced environment.

(2) No physical or legal person shall drain or dump into the sea or into any dam, lake or river, for any purpose whatsoever, any liquid, gas or solid matter which is of such a nature as to cause harm to human health or to endanger marine life and resources.

(3) It shall be the duty of the State, and of physical and legal persons to develop the environment, to protect environmental health and to prevent pollution of the environment.

(4) The State shall take the necessary measures for the establishment of national parks.

Article 41 [Acquisition and Requisition]

(1) The State, municipal corporations and such public corporate bodies or institutions of public utility as are empowered by law to make compulsory acquisitions, shall be entitled to acquire compulsorily any movable or immovable property or any right over or interest in any such property:

(a) for a purpose of public utility specifically provided by a general law for compulsory acquisition; and

(b) when such purpose is contained in a decision of the acquiring authority and is made under the provisions of such law stating clearly the reasons for such acquisition; and

(c) upon payment in cash, immediately or by installments to be prescribed by law and spread over a period not exceeding five years, of a just and equitable compensation which shall be determined, in case of disagreement, by a civil law court.

(2) The manner and the procedure for the assessment of the value of the property compulsorily acquired shall be regulated by law.

(3) Any immovable property or any right over, or interest in, such property which has been compulsorily acquired, shall be used only for the purpose for which it has been acquired. If within three years of the acquisition such purpose has not been attained, the acquiring authority shall, immediately after the expiration of the said period of three years, offer the property at the price it was acquired to the person from whom it was so acquired. The person receiving this offer shall signify his acceptance or rejection of the offer within three months of the receipt thereof; if he signifies acceptance, and returns the price at which it was acquired within a period of three months from such acceptance, the property shall be returned to him immediately.

(4) The provisions of the above paragraph shall not affect any provisions of law for the purpose of recovering any taxes or penalty, executing any judgment, enforcing any contractual obligation or protecting life or property against danger.

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(5) The State may requisition any movable or immovable property:

(a) for a purpose of public utility specifically provided by a general law for requisition; and

(b) when such purpose is established by a decision of the requisitioning authority and made under the provisions of such law stating clearly the reasons for such requisition; and

(c) for a period not exceeding three years; and

(d) upon payment in cash, immediately or by installments to be prescribed by law and spread over a period not exceeding five years, of a just and equitable compensation which shall be determined, in case of disagreement, by a court exercising civil law jurisdiction.

(6) Any interested person shall have the right of recourse to the court in respect of any of the provisions of this Article and such recourse shall have the effect of a stay of proceedings of the compulsory acquisition. Any decision of the court under this paragraph shall be subject to appeal.

Article 42 [Acquisitions, Requisitions and Restrictions connected with Vakf Properties]

(1) Matters relating to the acquisition and requisition of Vakf properties shall be regulated by law in accordance with the Basic Principles of Evkaf (Ahkâmül Evkaf). Provisions relating to the restrictions and limitations which shall be imposed on Vakf properties for purposes of town and country planning, shall also be specified in such law.

(2) In cases where any act of limitation or restriction is involved, the court may order stay of proceedings in respect thereof.

Article 43 [Nationalization]

Private enterprises which possess the characteristics of a public service and the movable and immovable properties belonging to aliens may, where necessitated in the public interest be nationalized provided that their actual value is paid in the manner indicated by law. Where the law provides that payment be made by installments, such payment shall be effected by equal installments spread over a period not exceeding ten years. Any amount not paid in advance shall be subject to the highest rate of interest prescribed for State loans.

Article 44 [Right to a Dwelling House]

The State shall regulate by law the measures necessary for meeting the housing requirements of families who do not own a dwelling house or who do not have a home conforming to sanitary conditions suitable for human habitation.

Article 45 [Right to Health]

It shall be the duty of the State to ensure that every person enjoys sound physical and mental health and receives medical care.

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Article 46 [Right to Enter into Contract]

(1) Subject to compliance with such conditions, limitations or restrictions as are laid down by the general principles of the law of contract and the provisions of the laws in force, every person has the right to enter freely into any contract. The exploitation by persons who are economically strong of other persons, shall be prevented by law.

(2) The rights and obligations arising from contracts may be regulated or restricted by law for such reasons as public interest, social justice and national security.

(3) The State, having regard to the social and economic requirements and to the characteristics of specific areas may, by law, take the necessary measures, impose restrictions and make adjustments regarding house rents.

Article 47 [Order of Economic and Social Life]

(1) Economic and social life shall be regulated in accordance with the principles of justice and full employment and with the aim of ensuring for every citizen a standard of living befitting human dignity.

(2) It shall be the duty of the State to materialize economic, social and cultural development through democratic means and for this purpose to increase national savings, to direct investments to priorities necessitated by public interest and to prepare development projects.

Article 48 [Freedom to Work]

(1) Every citizen shall be free to work in any field of his choice. The establishment of private enterprise is free. This freedom may be restricted by law in the public interest.

(2) The State shall take the steps necessary to ensure that private enterprise shall progress in accordance with the requirements of the national economy and in conformity with social aims and shall function in security and stability.

Article 49 [Right and Duty to Work]

(1) It is the right and duty of every citizen to work.

(2) The State shall protect the workers and support employment by taking social, economic and financial measures for securing a decent life to workers and for ensuring that working conditions shall improve in a stable manner; the State shall take measures aimed at preventing unemployment.

(3) No person shall be compelled to work. Forced labor is prohibited. However, any labor required to be performed by convicts during their detention for rehabilitation purposes shall not be deemed to be forced labor.

(4) The forms and conditions of physical or intellectual work which is in the nature of civil duty, in fields necessitated by the country's requirements, shall be regulated by law in accordance with democratic principles.

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Article 50 [Conditions of Employment]

(1) No person shall be employed in any work which is incompatible with that person's age, capability and sex.

(2) Children, young persons, women, and persons who are physically and mentally handicapped, shall be accorded special protection in respect of conditions of work.

Article 51 [Right to Rest]

(1) Every worker has the right to rest.

(2) The right to weekend and to national and religious holidays with pay and to annual leave with pay, shall be regulated by law.

Article 52 [Equity in Pay]

The State shall adopt the necessary measures enabling workers to receive just and equitable wages commensurate with the work they perform and sufficient to secure a standard of living befitting human dignity.

Article 53 [The Right to Establish Trade Unions]

(1) Employers and employees have the right to establish, without prior permission, trade unions and federations of trade unions, to become members and to resign from membership thereof freely. The manner and procedures whereby these rights shall be exercised shall be prescribed by law. The law may impose restrictions for the purpose of safeguarding national security, public order and public morals.

(2) The rules and the administration and functioning of trade unions and trade union federations shall not be contrary to democratic principles.

Article 54 [The Right to Collective Agreement and to Strike]

(1) Workers shall have the right to collective agreement and to strike involving their relations with employers for the purpose of protecting and improving their economic and social positions.

(2) The exercise of the right to strike may be regulated by law only for the purpose of safeguarding national security, constitutional order, public order, or the rights and liberties guaranteed by this Constitution to any person.

(3) Judges, law officers, members of the armed forces, members of the police and civil defense personnel holding key positions, have no right to strike.

(4) The rights of the employers shall be regulated by law.

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Article 55 [Right to Social Security]

Every person has the right to social security. It shall be one of the duties of the State to establish, and to help establish social insurance and similar social security schemes and social assistance organizations, for the purpose of ensuring this right.

Article 56 [The Right to Protection Against Hunger]

The State shall protect the right of everyone to be free from hunger and with this in view it shall take individually and through international co-operation the measures necessary to improve the methods of production, conservation and balanced distribution of food and to create the means for effective nutrition. For this purpose it shall follow, disseminate and apply scientific developments. These duties of the State shall be regulated by law.

Article 57 [The Right to Special Protection]

(1) The State shall protect the widows and orphans of martyrs and of those who die in action or whilst on active duty and the disabled war veterans and shall secure for them within the society a standard of living befitting them.

(2) The State shall secure the establishment of the institutions and organizations necessary for the education, rehabilitation, employment and social assistance of the mentally and physically handicapped persons in order to enable their adaptation to society.

(3) The State shall take all kinds of measures to protect the disabled, the war veterans, the elderly people and those unable to work, and to render children in need of care and protection useful to the society.

(4) These rights and facilities shall be regulated by law.

Article 58 [Rehabilitation of the Poor]

The State shall take social, economic, financial and other measures necessary for the purpose of rehabilitating socially and economically weak persons and rendering them useful to their families and to society.

Article 59 [Right to Education and Training]

(1) No person shall be deprived of the right to education and training.

(2) Every kind of educational and training activity under the supervision and control of the State shall be free.

(3) No educational and training centers which are contrary to the principles of contemporary science and education shall be opened.

(4) It shall be one of the primary duties of the State to provide for the educational and training needs of the people. The state shall carry out this duty in accordance with the principles and reforms of Atatürk, within a framework embellished with national culture and moral values, and in such a planned manner, as to meet the demands of the age and of

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technological progress as well as the demands and the needs of the individual and the community.

(5) Every child, irrespective of sex, shall have the right to compulsory education until the age of fifteen and to free education until the age of eighteen.

(6) The State shall take the necessary measures for bringing up children, who, owing to their circumstances, are in need of special training or education within or outside a school, in such a way as to render them useful to society.

(7) The State shall give the necessary assistance, through scholarships or otherwise, for the purpose of enabling successful pupils who lack financial means to receive the highest level of education.

Article 60 [Protection of Youth]

The State shall ensure that the youth shall grow up and mature as intelligent, healthy, good charactered and useful citizens.

Article 61 [Promotion of Sports]

The State shall take measures for the improvement of the physical and mental health of citizens of all ages and for bringing sports within the reach of the masses; it shall provide the necessary facilities for sports and shall support successful athletes.

Article 62 [Protection of Arts, Artists and Cultural Rights]

(1) The State shall create the conditions necessary to enable the free development of art; it shall take measures for the protection, support and encouragement of the artists and for rewarding them.

(2) The State shall protect the right of every person to take part in cultural life, to enjoy the benefits of scientific progress and its applications, to benefit from the material and moral interests resulting from the protection of any scientific, literary or artistic production and shall ensure due respect for freedoms necessary for the promotion of scientific research and creative activity.

Article 63 [Promotion of Co-operative Activities]

The State shall take the measures necessary for the promotion of co-operative activities and shall regulate by law the functioning of co-operatives in accordance with democratic principles.

Article 64 [Protection of Agriculture and Farmers]

(1) The State shall take the necessary measures for the adequate nourishment of the citizens and for the increase of agricultural production in conformity with the interest of the community, for the prevention of soil erosion and for the evaluation of agricultural products and appreciation of the labor of those engaged in agriculture.

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(3) The State shall take all kinds of measures to protect the disabled, the war veterans, the elderly people and those unable to work, and to render children in need of care and protection useful to the society.

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(2) Every kind of educational and training activity under the supervision and control of the State shall be free.

(3) No educational and training centers which are contrary to the principles of contemporary science and education shall be opened.

(4) It shall be one of the primary duties of the State to provide for the educational and training needs of the people. The state shall carry out this duty in accordance with the principles and reforms of Atatürk, within a framework embellished with national culture and moral values, and in such a planned manner, as to meet the demands of the age and of

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technological progress as well as the demands and the needs of the individual and the community.

(5) Every child, irrespective of sex, shall have the right to compulsory education until the age of fifteen and to free education until the age of eighteen.

(6) The State shall take the necessary measures for bringing up children, who, owing to their circumstances, are in need of special training or education within or outside a school, in such a way as to render them useful to society.

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(2) The State shall protect the right of every person to take part in cultural life, to enjoy the benefits of scientific progress and its applications, to benefit from the material and moral interests resulting from the protection of any scientific, literary or artistic production and shall ensure due respect for freedoms necessary for the promotion of scientific research and creative activity.

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(2) The State shall facilitate the acquisition by farmers of agricultural equipment.

(3) The protection of persons engaged in agriculture against natural disasters shall be regulated by law.

Article 65 [Protection of Consumers]

The State shall take protective and enlightening measures for consumers. It shall encourage consumers to take steps to protect themselves.

Article 66 [The Limit of the Economic and Social Duties of the State]

The State shall carry out its duties for attaining the economic and social aims specified in this Constitution in so far as economic development and financial resources permit.

Chapter IV. Political Rights and Duties

Article 67 [Citizenship]

(1) All persons who –

(a) acquired citizenship of the Republic of Cyprus under Annex D of the Treaty of Establishment of the 1960 Republic of Cyprus and were ordinarily resident in the Turkish Republic of Northern Cyprus on the 15th November, 1983; and

(b) were admitted to citizenship of the Turkish Federated State of Cyprus before the 15th November, 1983;

shall be citizens of the Turkish Republic of Northern Cyprus.

(2) The rights to acquire citizenship of the Turkish Republic of Northern Cyprus of Cypriots of Turkish origin, who possessed the right to acquire citizenship of the Republic of Cyprus under Annex D of the 1960 Treaty of Establishment of the Republic of Cyprus, but were not on the 15th November 1983 ordinarily resident in the Turkish Republic of Northern Cyprus, shall be reserved.

(3) (a) The children of a father or mother who acquired the right to become citizens but died before exercising such right and the surviving spouses of such persons, may acquire citizenship of the Turkish Republic of Northern Cyprus by application.

(b) A child born in the Turkish Republic of Northern Cyprus after the 15th November 1983, whose father or mother is a citizen of the Turkish Republic of Northern Cyprus, shall be a citizen of the Turkish Republic of Northern Cyprus.

(c) The grant of citizenship to children born in the Turkish Republic of Northern Cyprus after the 15th November 1983 of a father or mother who is not a citizen of the Turkish Republic of Northern Cyprus, shall be regulated by law in accordance with the provisions of international law.

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(4) No one shall be deprived of citizenship acquired by birth from a father or a mother who is a citizen of the Turkish Republic of Northern Cyprus or a Cypriot Turk.

(5) Citizenship shall, subject to the above provisions of this Article, be acquired under the conditions provided by law and shall be lost only in the circumstances provided by law.

The right of citizenship acquired under legal conditions before the coming into operation of this Constitution shall be reserved.

Article 68 [The Right to Elect, to be Elected and to Participate in a Public Referendum]

(1) It shall be the right and duty of every citizen who has completed the age of eighteen years to vote at elections and referenda.

(2) Every citizen who has completed the age of 25 years shall have the right to be elected. As a condition to be elected such a person must have ordinarily resided in North Cyprus for at least three years and completed his national service.

(3) Other qualifications for the right to vote and to be elected shall, subject to the provisions of this Constitution, be regulated by law.

(4) Elections and referenda shall be held in accordance with the principles of free, equal, secret, direct ballot and universal suffrage, open counting and tabulation and shall continue without interruption until the counting and tabulation are completed.

(5) To become a candidate shall not be subject to the condition of resigning from the public service. The public officers and the conditions under which they can become candidates in view of the security of elections and of the public service, shall be regulated by law.

Judges, law officers, members of the armed forces and members of the police force shall not become candidates and shall not be elected unless they first resign from their posts.

(6) In any referendum and in the presidential and general elections, national servicemen may vote at the nearest polling station to their units.

(7) The other provisions connected with elections and referenda and the exercise of the rights under this Article shall be regulated by law.

Article 69 [The General Administration and Control of Elections]

(1) Elections and referenda shall be held under the general direction and control of the judicial organs.

(2) It shall be the duty of the High Electoral Council composed of judges, to take and cause to be taken all necessary action for the orderly administration and fairness of the elections and referenda from the beginning to the end, to examine and give a final decision, during and after the election or referendum, on all irregularities, complaints and objections on matters concerning the elections and the referenda and to accept the election records of the President of the Republic and of deputies.

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(3) The establishment, functions, duties and powers of the High Electoral Council and other election councils shall be regulated by law.

(4) Subject to the provisions of paragraph (1), special provisions may be made by law for the general administration and control of local authority elections for villages or quarters.

Article 70 [The Right to Form Political Parties and the Place of the Parties in Political Life]

(1) Citizens have the right to form political parties and in accordance with normal procedure to become members, or to resign from membership, of parties.

(2) Political parties are formed without prior permission and they function freely.

(3) Political parties, whether in power or in opposition, shall be the indispensable elements of democratic political life.

(4) Political parties shall not be entitled to take part in an election unless they are formed and acquire legal personality at least ninety days before such election.

(5) Judges, law officers, members of armed forces, members of police force, public servants and persons under the age of eighteen years cannot form political parties or become members of political parties.

(6) The assistance to be given by the State to political parties shall be regulated by law.

Article 71 [The Principles with which Political Parties Must Comply]

(1) The rules, programs and activities of political parties shall not violate the indivisibility or the integrity of the State together with its territory and people, human rights, the sovereignty of the people and the principles of a democratic and secular Republic, and the principles of Atatürk.

(2) Political parties shall not carry out any activities outside their rules and programs; and shall not exceed the limitations imposed by Article 12 of the Constitution.

(3) The activities and decisions of political parties concerning their internal affairs shall not violate democratic principles.

(4) The financial control of political parties shall be carried out by the Supreme Court, sitting as the Constitutional Court.

(5) The Attorney-General of the Republic shall, after the formation of political parties, control whether their rules and programs and the legal position of their founders are in conformity with the provisions of the Constitution and laws and shall follow up their activities.

(6) Political parties shall not receive pecuniary assistance from foreign States and shall not participate in the decisions taken by such States against the independence and territorial integrity of the Turkish Republic of Northern Cyprus.

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(7) Political parties acting in contravention of the provisions of this Article may be permanently closed by the Supreme Court sitting as the Constitutional Court, upon the institution of an action by the Attorney-General of the Republic.

(8) The control of the formation and activities of political parties and their closing down shall, subject to the above provisions, be regulated by law.

(9) The provisions of this Article shall not be interpreted or applied as preventing political parties from engaging in activities for the amendment of this Constitution in accordance with Article 162 thereof.

Article 72 [Right to Enter the Public Service]

(1) Every citizen has the right to enter the public service.

(2) No discrimination, other than the qualifications required for the post, shall be made in appointments to the public service.

Article 73 [Declaration of Property Wealth]

The declaration of property wealth by public personnel upon entry into, and during their service in, the public service shall be regulated by law. Those performing duties in the legislative and executive organs shall not be exempted from this requirement.

Article 74 [National Service]

(1) National service in the armed forces shall be the right and the sacred duty of every citizen.

(2) Conditions relating to national service shall be regulated by law.

Article 75 [Duty to Pay Tax]

(1) Every person is liable to pay taxes according to his financial means towards meeting public expenditure.

(2) No tax, duty or charges or similar financial burdens shall be imposed save by or under the authority of law.

(3) The Council of Ministers may be authorized to make amendments in the provisions relating to deductions and exemptions from taxes, duties and charges and in the rates and limits of such taxes, duties and charges, provided that such amendments shall be within the minimum and maximum limits, and in conformity with the standards and principles, specified in the law.

(4) No financial obligations shall be imposed with retrospective effect.

Article 76 [Right to Petition]

(1) Every person shall have the right to make written applications, either individually or jointly with others, to the competent authorities concerning requests and complaints relat-

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ing to themselves or to the public in general, and to expect that such applications are considered and decided upon expeditiously.

Such decision, duly reasoned, shall be communicated to the person making the request or complaint within thirty days at the latest. Any person who is aggrieved by such decision, or when no such decision is communicated to the interested person within thirty days, the person concerned may have recourse to a competent court concerning his request or complaint.

(2) Citizens shall have the right to make applications in writing, either individually or jointly with others, to the Assembly of the Republic. The manner in which this right shall be exercised shall be regulated by law.

Part III – The Assembly of the Republic

Chapter I.

Article 77 [The Composition of the Assembly of the Republic]

The Assembly of the Republic shall be composed of fifty deputies.

Article 78 [The Duties and Powers of the Assembly of the Republic]

The duties and powers of the Assembly of the Republic shall be to enact, amend and repeal laws; to exercise control over the Council of Ministers and Ministers; to debate and approve bills concerning the budget and final accounts; to decide on the issue of currency and on the declaration of war; to approve the ratification of international agreements; to approve development plans; to decide on the grant of general and special amnesty and on the carrying out of death sentences pronounced by Courts which have become final; and to exercise the powers and perform the duties envisaged in the other Articles of the Constitution.

Article 79 [Elections for the Assembly of the Republic]

(1) The elections for the Assembly of the Republic shall be held every five years.

(2) The electoral system and principles governing it shall be regulated by law.

(3) The powers of the Assembly which has been dissolved shall continue until the election of a new Assembly.

(4) By-elections shall be held every year on a specified date. No by-elections shall be held within the period of one year preceding the general elections.

(5) If the holding of elections shall become impossible due to emergency conditions, the elections may be postponed for a period of one year by the Assembly of the Republic. The decision to postpone the elections shall be taken by a two-thirds majority of the total number of members.

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Article 80 [The Inviolability of the Assembly of the Republic and the Internal Security and Administrative Service]

(1) The Assembly of the Republic is inviolable. No one can restrict the freedom of the Assembly, act in a manner disturbing its peace and insult its formal personality.

(2) The internal security and administrative services within the premises, installations, annexes and courtyard of the Assembly of the Republic shall be provided for and administered by the President of the Assembly of the Republic. For police and other internal security services, a sufficient force shall be allocated to the President of the Assembly of the Republic by the authorities concerned.

Article 81 [The Meetings and Procedure of the Assembly of the Republic]

(1) The meetings of the Assembly of the Republic shall be held in the Assembly's own premises.

(2) The Assembly of the Republic shall meet without summons at 10.00 hours on the tenth day following the publication of the results of the general elections in the Official Gazette. The eldest deputy present at the meeting shall act as the President of the Assembly and the two youngest deputies present at the meeting shall perform the duties of Clerks to the Assembly. At this meeting the deputies shall take the oath and then the Assembly shall proceed with the election of its Presidential Council. The election of the Presidential Council of the Assembly shall commence as from this date and shall be completed within ten days.

(3) The Assembly of the Republic shall meet without summons on the first working day of the month of October every year and shall continue its ordinary functions until the end of the month of June.

(4) The Assembly of the Republic shall carry out its functions in accordance with Rules made by it.

The Rules shall be so made as to enable the participation of the political party groups in all the activities of the Assembly of the Republic in proportion to the number of members in the group. The political party groups shall consist of at least five members.

(5) The quorum for meetings of the Assembly of the Republic shall consist of the absolute majority of the total number of its members and decisions shall, unless there is provision to the contrary in the Constitution, be taken by the absolute majority votes of the members present at the meeting. In case of equality of the positive and negative votes, the issue submitted to the vote shall be considered as rejected. Provided that abstentions from voting shall be deemed to denote the acceptance in advance of a decision in favor of the positive or negative votes, whichever is the greater.

(6) The Assembly of the Republic may be summoned to an extraordinary meeting on the request of the President of the Republic, the President of the Assembly of the Republic, the Council of Ministers or on the request of at least ten deputies.

(7) The debates in the General Meetings of the Assembly of the Republic shall be public and minutes thereof shall be published in full in the bulletin of minutes of the Assembly.

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(8) The Assembly of the Republic may hold closed sessions by a decision of the General Meeting of the Assembly. The publication of the verbatim reports of such debates shall be subject to the decision of the General Meeting of the Assembly of the Republic.

(9) The publication by any means whatsoever of the public debates held in the Assembly of the Republic shall be free of any restrictions unless a decision to the contrary is taken upon the proposal of the Presidential Council of the Assembly at the same session.

Article 82 [Taking the Oath]

The deputies shall take the following oath before assuming their duties:

> "I do swear upon my honor and dignity that I shall preserve the existence and independence of the State, the indivisibility of the homeland and its people and the unconditional sovereignty of the people; that I shall be bound by the principle of the supremacy of law and by the principles of a democratic, secular and social State under the rule of law and the principles of Atatürk; that I shall work for the welfare and happiness of my people; that I shall not depart from the ideal that every citizen must benefit from human rights and fundamental rights and liberties, and that I shall remain loyal to the Constitution."

Article 83 [Presidential Council of the Assembly of the Republic]

(1) The Presidential Council of the Assembly of the Republic shall be composed of the President of the Assembly of the Republic, the Deputy-President of the Assembly of the Republic and of a sufficient number of Clerks and Administrative Officers elected from amongst the deputies.

(2) The Presidential Council of the Assembly of the Republic shall function as a Council and shall be constituted proportionately with the number of members of the groups in the Assembly.

(3) The election of the President and Vice-President of the Assembly shall be held twice during the term of office of the Assembly. Those elected for the first period shall hold office for three years and those elected for the second period shall hold office for two years.

The elections for the President and Vice-President of the Assembly for the second period shall commence on the first day of the fourth year of the term of office of the Assembly and shall be completed in ten days, at the latest. The duties of the former President and Vice-President of the Assembly shall continue until the new President and Vice President for the second period shall be elected.

(4) The election of the President and Vice-President of the Assembly shall be by secret ballot. At the first four rounds of voting an absolute majority of the total number of members shall be required. If an absolute majority of the total number of members cannot be had at the fourth round, a fifth round of voting shall be held between the two candidates who have received the greater number of votes at the fourth round of voting and the one who receives most of the votes at the fifth round shall be elected.

(5) The provisions relating to the number, term of office and election of the Clerks and Administrative Officers shall be prescribed by the Rules of the Assembly of the Republic.

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Article 84 [Immunity of Deputies]

(1) Deputies shall not be held liable for their votes or statements at the meetings of the Assembly of the Republic and for repeating or disclosing these outside the Assembly.

(2) Where it is alleged that a deputy committed an offence before or after the elections, he cannot be arrested or prosecuted without the leave of the Assembly. Such leave shall not be necessary in the case of a flagrant offence, punishable with death or imprisonment for five years or more. Provided that the competent person shall notify forthwith the Assembly.

(3) A sentence imposed on a deputy before or after the elections, shall not be carried out until after the end of his term of office. The period during which a deputy remains in office shall not be reckoned for purposes of limitation of time.

Article 85 [The Termination of a Deputy's Term of Office]

(1) The term of office of a deputy shall come to an end on his death, on his final conviction of an offence that constitutes disqualification for election, on his withdrawal, disqualification, acceptance of a duty not compatible with the office of a deputy, and on his failure to attend the meetings of the Assembly for a period of one month without any excuse or leave.

(2) The termination of the term of office of a deputy shall be decided upon by the General Meeting of the Assembly of the Republic.

Article 86 [Duties not Compatible with the Office of a Deputy]

(1) Deputies shall not accept employment in the State or public establishments as public personnel or other public official and shall not, directly or indirectly, undertake any business engagements of the State or of public establishments.

(2) Other duties and functions not compatible with the office of a deputy shall be regulated by law.

Article 87 [Remuneration of Deputies]

(1) The salaries, representation and cost of living allowances and travelling expenses of the deputies shall be regulated by law. The monthly amount of the salary shall be equal to the monthly amount of salary drawn by the highest-ranking public officer. The total sum of travelling expenses and representation allowances shall not exceed one-half of the total annual salary.

(2) An additional allowance, as shall be prescribed by law, shall be paid to the President and members of the Presidential Council of the Assembly of the Republic.

Article 88 [Holding of New Elections for the Assembly of the Republic]

(1) The Assembly of the Republic may, by an absolute majority vote of the total number of its members decide to hold new elections. Abstentions and invalid votes shall be taken into account only for purposes of the quorum of such meeting; they shall not be taken into consideration for the purpose of the minimum number of votes required for the taking of a decision.

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(2) If it is not possible to appoint a Council of Ministers having the support of the majority of the Assembly of the Republic in conformity with paragraph (2) of Article 106 of this Constitution within a period of sixty days, the President of the Republic may decide to dissolve the Assembly and to hold new elections for the Assembly of the Republic.

(3) If the Council of Ministers falls, or is defeated three times within a year for inability to receive a vote of confidence or as a result of a vote of no confidence, under Article 109 of this Constitution, the President of the Republic may decide to hold early elections for the Assembly of the Republic.

(4) The President of the Republic may, if he considers it necessary, have recourse to a referendum before deciding to hold new elections for the Assembly of the Republic under paragraphs (2) and (3) of this Article.

(5) The President of the Republic, when deciding to hold new elections or to have recourse to a referendum, shall obtain the views of the President of the Assembly of the Republic, the Council of Ministers and of the Chairmen of political parties having a group in the Assembly of the Republic.

Chapter II. Enactment of Laws

Article 89 [General Provisions Relating to Enactment of Laws and Taking of Decisions]

(1) The Council of Ministers and the deputies shall be entitled to introduce bills and resolutions. The method and principles governing the debate in the Assembly of the Republic of bills and draft resolutions shall be regulated by the Rules of the Assembly.

(2) The manner in which bills and draft resolutions shall be brought to the notice of the public shall be regulated by the Rules of the Assembly.

Article 90 [The Ratification of International Agreements]

(1) The ratification of agreements to be entered into on behalf of the Turkish Republic of Northern Cyprus with foreign States or international organizations shall be subject to the approval of the Assembly of the Republic by enactment of a law.

(2) Treaties regulating economic, commercial and technical relations, the duration of which do not exceed one year, may be put into effect through publication, provided that such treaties do not impose any burden on the State finances and do not affect the status of persons and the right of ownership of citizens in foreign countries. In such cases, the treaties shall be brought to the knowledge of the Assembly of the Republic within one month of their publication.

(3) It shall not be necessary for treaties relating to enforcement of an international treaty and for economic, commercial, technical or administrative treaties made pursuant to powers given by law, to be ratified by the Assembly of the Republic; but such economic and commercial treaties so made and treaties affecting rights of the individual shall not come into force before publication.

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(4) The provisions of paragraph (1) of this Article shall be applied in the case of all treaties which result in a change in the laws of the Turkish Republic of Northern Cyprus.

(5) International treaties which have been duly put into operation shall have the force of law. Recourse cannot be made to the Supreme Court sitting as the Constitutional Court in respect of such treaties on the grounds of unconstitutionality.

Article 91 [Declaration of State of War and Authorization of the Use of the Armed Forces]

(1) The power to authorize declaration of a state of war in circumstances considered legitimate under international law and the sending of the armed forces to foreign countries or the presence of the armed forces of foreign countries in the Turkish Republic of Northern Cyprus in circumstances other than those necessitated by international treaties to which the Turkish Republic of Northern Cyprus is a party or by the rules of etiquette is vested in the Assembly of the Republic.

(2) In the event of the country facing a sudden armed attack and due to the impossibility of summoning a meeting of the Assembly of the Republic it is imperative that an immediate decision should be taken on the use of armed force at the time of the attack, the President of the Republic shall also have the power to decide on the use of armed force. The President of the Republic shall immediately bring such decision to the knowledge of the Assembly of the Republic. The Assembly of the Republic shall convene at the first opportunity and take the necessary decisions on the matter.

Article 92 [The Preparation, Application, Debating and Acceptance of the Budget]

(1) The expenditure of the State and of Public Corporate Bodies, other than the Public Utility Enterprises, shall be provided for by annual budgets.

(2) The provisions governing the preparation and the application of the budget shall be regulated by law.

(3) No provisions other than those relating to the budget shall be included in the Budget Law.

(4) The draft budget shall be submitted by the Council of Ministers to the Assembly of the Republic at least two months before the beginning of the financial year.

(5) The Budget Committee shall complete its work on the budget within one month, at the latest.

(6) During the debate of the draft budget at the general meeting of the Assembly of the Republic, the deputies cannot propose any increase of expenditure or any decrease in revenue.

(7) The President of the Republic shall promulgate the Budget Law enacted by the Assembly of the Republic by publishing it in the Official Gazette of the Republic within ten days.

Article 93 [Final Accounts]

The bills for final accounts shall, unless a shorter period has been provided in the law, be submitted by the Council of Ministers to the Assembly of the Republic within one year from the end of the financial year to which they relate, at the latest. The Office of Audit shall

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submit its notification of general approval to the Assembly of the Republic within a period of six months, at the latest, from the date of the submission of the bill of final accounts to which it relates.

Article 94 [Promulgation of Laws by the President of the Republic]

(1) The President of the Republic shall promulgate the laws enacted by the Assembly of the Republic by publishing them in the Official Gazette of the Republic within fifteen days. He shall return any law which he does not consider appropriate to promulgate, together with the reasons therefor, to the Assembly for reconsideration within the said period of fifteen days.

(2) If the Assembly of the Republic approves the law returned, either after amending it or as it is, by an absolute majority of the total number of its members, the law shall be promulgated by the President of the Republic. Abstentions shall not be taken into account for the purposes of computing the votes required for the taking of a decision.

(3) The President of the Republic shall, at the request of the Council of Ministers, refer any law enacted by the Assembly of the Republic to a referendum within the period prescribed for promulgation. The laws approved by referendum shall be promulgated by publication in the Official Gazette within ten days of their approval.

(4) The President of the Republic may exercise the authority vested in him under Article 146 within the period of fifteen days. In such a case the provisions of Article 146 shall be applied.

Article 95 [The Publication of Decisions]

(1) The decisions taken by the Assembly of the Republic on the following matters shall, unless there is provision to the contrary in the decision, come into force immediately and shall be published by the President of the Assembly in the Official Gazette within ten days

(a) Decisions relating to the declaration of war;

(b) Decisions relating to the supervision of the Council of Ministers and Ministers and to votes of confidence and to votes of no confidence;

(c) Decisions relating to the holding of new elections and to the postponement of elections;

(d) Decisions relating to the termination of the Office of a deputy;

(e) Decisions relating to the removal of the immunity of a deputy;

(f) Results of elections held for internal matters of the Assembly;

(g) Decisions to prefer charges against the President of the Republic, the Prime Minister and the Ministers before the Supreme Council;

(h) Decisions relating to the supervision of public utility enterprises;

(i) Decisions relating to a state of emergency and martial law;

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(j) Decisions relating to the approval of development plans.

(2) Decisions of the Assembly of the Republic which are of a general nature and which do not come under paragraph (1) of this Article shall be dealt with in accordance with the provisions governing the promulgation of laws.

(3) Decisions relating to the application of the Rules of the Assembly of the Republic and decisions which relate to the Assembly's internal organization and activities which the Assembly decides should be published, shall be published by the President of the Assembly in accordance with paragraph (1) above.

(4) No recourse shall be made to the courts and no annulment proceedings shall be instituted in the Constitutional Court in respect of decisions other than those referred to under sub-paragraphs (d), (e) and (i) of paragraph (1) above.

Chapter III. Methods of Obtaining Information and Supervision by the Assembly of the Republic

Article 96 [Power of Obtaining Information and Exercising Supervision in General]

The Assembly of the Republic shall have power to table questions, to hold a general debate, an inquiry, an investigation and to take a vote of confidence.

Article 97 [Tabling of Questions and Holding of a General Debate]

(1) Tabling of a question consists in asking information on a specific subject from the Prime Minister or Ministers which shall be furnished orally or in writing on behalf of the Council of Ministers. The Prime Minister and Ministers shall furnish a reply to the question tabled within thirty days, at the latest.

(2) General debate means a debate held on a specific subject upon the proposal of a deputy and its acceptance by the Assembly of the Republic. No voting is taken at the end of a general debate.

Article 98 [Inquiry or Investigation]

(1) An Assembly inquiry is an examination carried out for the purpose of obtaining information on a specific subject.

(2) (a) Requests for an investigation concerning the Prime Minister or Ministers shall be signed by at least nine deputies.

(b) Requests for an investigation shall be debated and decided upon by the Assembly of the Republic.

(c) Investigations shall be conducted by a special committee made up of deputies.

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(d) The Assembly of the Republic may, after debating the report of the Committee of Investigation, accuse the Prime Minister or the Ministers by a decision to be taken by at least two-thirds of the total number of members.

(e) The Prime Minister and Ministers shall be tried before the Supreme Council.

(f) No discussions shall be held or decisions taken at political party groups in the Assembly of the Republic in connection with Assembly investigations.

(3) The Committees of Inquiry and Investigation of the Assembly of the Republic shall have authority to examine any document relating to the inquiry or investigation, to obtain information and to summon and examine witnesses.

The sanctions to be applied against persons who shall refuse to furnish the information and documents required by the Committees of Inquiry and Investigation or persons who disobey summons issued by these Committees and other relevant principles shall be regulated by law.

Part IV – The Executive

Chapter I. The President of the Republic

Article 99 [The President of the Republic]

(1) The President of the Republic shall be elected for a period of five years. The candidates for the office of the President of the Republic must possess the following qualifications:

(a) they must be qualified for election as a deputy;

(b) they must have had higher education;

(c) they must have completed the age of thirty-five years;

(d) they must have been born of a Turkish father and mother and must be a citizen of the Turkish Republic of North Cyprus; and

(e) they must have been ordinarily resident in Cyprus for a minimum period of five years immediately preceding the election.

(2) In order to be elected as President of the Republic a candidate must obtain the absolute majority of the total number of valid votes cast. If no candidate obtains such absolute majority, the election shall be repeated after seven days between the two candidates who obtained the greater number of valid votes cast and the candidate who obtains the highest number of valid votes cast at such repeated election shall be elected as the President of the Republic.

(3) The President of the Republic cannot do any work other than his official duties. He cannot, directly or indirectly, undertake any business engagements of the State or of public bodies.

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(4) The salary, representation and cost of living allowances and travelling expenses of the President of the Republic shall be regulated by law.

Article 100 [The Taking of Oath by the President of the Republic]

The President of the Republic shall take the following oath on his investiture

> "I do swear upon my honor and dignity that I shall preserve the existence and independence of the State, the indivisibility of the homeland and its people and the unconditional sovereignty of the people; that I shall be bound by the principle of the supremacy of law and by the principles of a democratic, secular and social State under the rule of law and the principles of Atatürk; that I shall work for the welfare and happiness of my people; that I shall not depart from the ideal that every citizen must benefit from human rights and fundamental rights and liberties and that I shall remain loyal to the Constitution and the laws; and that I shall do all in my power to exalt the Turkish Republic of Northern Cyprus and to perform impartially the duties I have undertaken."

Article 101 [The Relations of the President of the Republic with his Political Party]

In the event of the President of the Republic being a member of a political party, he shall not be bound by the decisions of his party and he shall act independently. A person cannot at the same time be the President of the Republic and the chairman of a political party.

Article 102 [The Duties and Powers of the President of the Republic]

(1) The President of the Republic shall be the Head of the State. In this capacity he shall represent the unity and integrity of the State and the community.

(2) The President of the Republic shall ensure respect for the Constitution of the Republic, the carrying out of public affairs in an uninterrupted and orderly manner and the continuity of the State.

(3) The President of the Republic shall represent, on behalf of the Assembly of the Republic, the office of the Commander-in-Chief of the Armed Forces of the Republic.

(4) The President of the Republic shall exercise any other powers and shall perform impartially any other duties entrusted to him by this Constitution and the laws.

Article 103 [Immunity and Liability of the President of the Republic]

(1) The President of the Republic shall not be responsible for acts relating to the execution of his duties. The Prime Minister and the Minister concerned, whose signatures appear thereon, shall be responsible for decrees jointly signed with the President of the Republic.

(2) The Assembly of the Republic may accuse the President of the Republic of high treason by a decision taken by at least a two-thirds majority of the total number of its members.

(3) The President of the Republic shall be tried before the Supreme Council and if the Supreme Council considers the accusation justified, the term of office of the President

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shall be terminated. If he is not found guilty he shall resume his duties as the President of the Republic.

(4) Upon the decision of the Assembly of the Republic to level such an accusation, the President of the Republic cannot continue his duties. In this event, the provisions of Article 105 of this Constitution shall be applied.

(5) The formal personality of the Office of the President cannot be insulted.

Article 104 [Vacancy in the Office of the President of the Republic]

(1) The Office of the President of the Republic shall become vacant upon his death, upon his absence from work, other than temporary absence, and upon his written resignation sent to the President of the Supreme Court.

(2) If due to health reasons the President of the Republic shall become permanently incapable of performing his duties, the Council of Ministers shall inform the President of the Supreme Court of the situation. If the Supreme Court sitting as the Constitutional Court decides that the President of the Republic is permanently incapable of performing his duties, the Office of the President of the Republic shall be deemed to have become vacant.

(3) In the event of the Office of the President of the Republic becoming vacant, the vacancy shall be filled by an election to be held within a period not exceeding forty-five days from the occurrence of such vacancy.

Article 105 [Deputizing for the President of the Republic]

(1) In the event of the President of the Republic being temporarily absent from his office for reasons such as sickness or travel abroad, or in the event of the Office of the President of the Republic becoming vacant, for any reason, the President of the Assembly shall act as President of the Republic until the President of the Republic resumes his duties or until a new President of the Republic is elected, as the case may be.

(2) The President of the Assembly of the Republic cannot exercise the powers enumerated in Article 88 of this Constitution, while acting as President of the Republic.

Chapter II. Council of Ministers

Article 106 [The Formation of the Council of Ministers]

(1) The Council of Ministers of the Turkish Republic of Northern Cyprus shall be composed of the Prime Minister and the Ministers. The Prime Minister shall be appointed by the President of the Republic from amongst the deputies in accordance with the provisions of this Article.

(2) The President of the Republic shall entrust the duty of the formation of the Council of Ministers to the leader of a group or to a deputy who is likely to obtain a vote of confidence. Every deputy who is given a mandate to form the Council of Ministers shall be bound to complete the mandate or return it within fifteen days, at the latest.

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(3) The President of the Republic shall appoint the Prime Minister and on the proposal of the Prime Minister, the Ministers in accordance with the provisions of paragraph (2) above. The President of the Republic shall terminate the appointment of any Minister at the request of the Prime Minister.

(4) The Ministers may be appointed from amongst persons who are not deputies; provided that such persons shall possess the qualifications required of a person to be elected as a deputy.

(5) The Prime Minister and the deputies who have been appointed as Ministers shall not lose their membership of the Assembly of the Republic. The Ministers appointed to the Council of Ministers from outside the Assembly shall benefit from immunity in the same way as deputies but shall not vote in the Assembly of the Republic.

(6) The existing Council of Ministers shall continue in office until the new Council of Ministers is appointed by the President of the Republic.

Article 107 [The Duties, Powers and Responsibilities of the Prime Minister]

(1) The Prime Minister shall ensure interministerial co-operation, the carrying out of the general policy of the Council of Ministers and the application of the laws.

(2) The Prime Minister shall be responsible for ensuring that the Ministers perform their duties in accordance with the Constitution and the laws, for securing the orderly functioning and discipline of the Council of Ministers and for taking the necessary corrective measures.

(3) The Prime Minister shall be responsible to the Assembly of the Republic for the program of the Council of Ministers and for its application or for any important political initiative.

(4) The Prime Minister shall preside over the Council of Ministers. The President of the Republic may preside over the Council of Ministers in circumstances which he considers it necessary, or at the request of the Prime Minister. The President of the Republic shall not have the right to vote.

(5) The Prime Minister cannot do any work other than his official duties. He cannot undertake, directly or indirectly, any business engagement of the State and of public bodies. The salary, representation and cost of living allowances and the travelling expenses of the Prime Minister shall be regulated by law.

(6) The Prime Minister shall exercise any other powers and perform any other duties conferred on him by this Constitution and the laws.

Article 108 [The Establishment of the Ministries]

(1) The Ministries shall be established and abolished according to the number and principles provided by the Constitution, on the proposal of the Prime Minister and upon approval of the President of the Republic, by a decree published in the Official Gazette.

Provided that such a decree shall come into operation only if the Prime Minister concerned receives a vote of confidence.

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(2) The number of ministries shall under no circumstances exceed ten. The central organization of each Ministry and the departments and services that shall be attached to each ministry, shall be regulated by rules to be made in accordance with the principles laid down by law.

(3) In Ministries where the office of the Minister is vacant or where a Minister is on leave or is incapacitated from performing the duties of his office, another Minister may deputize for him temporarily. Provided that a Minister shall not act for more than one Minister.

(4) A Minister, against whom a charge is preferred before the Supreme Council by a decision of the Assembly of the Republic, shall cease to be a Minister. In the event of the Prime Minister being so charged before the Supreme Council, the Council of Ministers shall be deemed to have resigned.

(5) In the event of a vacancy occurring in the office of any Minister for any reason, such vacancy shall be filled within ten days, at the latest.

Article 109 [The Assumption of Duty by the Council of Ministers and its Responsibilities]

(1) The complete list of the Council of Ministers appointed by the President of the Republic shall be submitted to the Assembly of the Republic. If the Assembly of the Republic is in recess, it shall be convened immediately. The program of the Council of Ministers shall be read by the Prime Minister or by a Minister within a week from the date of its appointment at the latest.

(2) After the program is read before the Assembly of the Republic, recourse shall be had to a vote of confidence. The debate on the vote of confidence shall begin after the lapse of two full days from the reading of the program and the vote of confidence shall be held after the lapse of one full day from the end of such debate. No motion for a vote of no confidence shall be tabled against a Council of Ministers, which has obtained a vote of confidence, before the lapse of three months from the date of the vote of confidence.

(3) A motion for a vote of no confidence against the Prime Minister may be tabled by at least nine deputies. No further motion of no confidence shall be tabled before the lapse of three months from the date of the refusal of the previous motion of no confidence.

The decision whether a motion of no confidence shall be included on the agenda or not, shall be taken at the second meeting following its submission. A vote of no confidence cannot be taken before the lapse of one full day after the close of the general debate on the motion of no confidence.

(4) After having discussed the matter at the Council of Ministers, the Prime Minister may, if he considers it necessary, ask for a vote of confidence from the Assembly of the Republic at any time. The request for a vote of confidence cannot be debated until after the lapse of one full day from the making of the request to the Assembly of the Republic and the requests cannot be put to a vote until after the lapse of one full day from the end of the debate. The vote of confidence sought in this manner can be rejected only by an absolute majority of the total number of the members of the Assembly of the Republic.

(5) In the event of the majority of the members of the Council of Ministers being replaced within a period of thirty days, the Prime Minister shall ask for a vote of confidence.

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(6) The Prime Minister, who fails to obtain a vote of confidence, or whose request for a vote of confidence is rejected or a motion for a vote of no confidence against him is carried by an absolute majority of the total number of members of the Assembly of the Republic, shall submit his resignation to the President of the Republic.

Article 110 [The Duties, Powers and Responsibilities of the Ministers]

(1) Each Minister is responsible to the Prime Minister and shall also be responsible for matters coming under his authority and for the actions of those working under him.

(2) Each Minister shall be the person responsible at the top of the hierarchy of his Ministry's central organization and of the Departments and administrative units attached to his Ministry.

(3) The executive duties of each Minister shall include the following:

(a) to apply the laws concerning his Ministry and to administer all matters and affairs which normally come within the authority of his Ministry;

(b) to prepare the orders, rules and regulations concerning his Ministry for submission to the Prime Minister and the Council of Ministers;

(c) to publish directions, circulars and similar texts for the application of any law concerning his Ministry and of any rules and regulations issued thereunder;

(d) to prepare that part of the Budget of the Republic which concerns his Ministry for submission to the Council of Ministers and to apply such Budget.

(4) The Ministers cannot engage in any work other than their official duties. They cannot undertake, directly or indirectly, any business engagement of the State and of public bodies.

The salaries, the representation and cost of living allowances and the travelling expenses of the Ministers shall be regulated by law.

(5) The Ministers shall exercise any other powers and shall perform any other duties conferred on them by the legislation in force, by the Prime Minister and by the Council of Ministers.

Article 111 [The Security Council of the Republic]

(1) The Security Council of the Republic shall be composed of the President of the Assembly, the Prime Minister, the Ministers of Interior, Foreign Affairs and Defense, the Commander of the Armed Forces and the Commander of Police, under the Chairmanship of the President of the Republic. Depending on the nature of the agenda, other interested Ministers and persons may be invited and their views obtained. At the request of the Prime Minister, Secretarial work of the Security Council shall be carried out by the Office of the Prime Minister.

(2) The Security Council of the Republic shall inform the Council of Ministers of its views on the taking of decisions relating to the determination and implementation of the security policy of the State and of the country and on securing the necessary co-

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ordination. Decisions relating to measures considered necessary by the Security Council for the protection of the existence and independence of the State, of territorial integrity and indivisibility of the country and of the peace and security of the community shall be considered with priority by the Council of Ministers.

Article 112 [Decrees Having the Force of Law]

(1) The Council of Ministers may, in cases of urgency, issue decrees having the force of law in economic matters. A decree having the force of law shall come into force on its publication in the Official Gazette and it shall be submitted to the Assembly of the Republic, together with its objects and reasons, on the same day.

(2) Decrees having the force of law submitted to the Assembly of the Republic shall be debated and decided upon in the Committees and the General Assembly with priority and urgency before any other matter, in accordance with the provisions of the Rules relating to the debate of laws.

(3) The Assembly shall give its decision on these matters within ninety days.

(4) New financial burdens cannot be imposed and personal and political rights and liberties cannot be restricted by means of decrees envisaged by this Article.

Chapter III. Administrative Provisions

Article 113 [The State Administration]

(1) The State administration is a whole with its structure and duties and shall be regulated by law.

(2) The structure and duties of the State administration shall be based upon the principles of central and local government.

(3) A public corporate body can only be established by law or on the authority expressly given by law.

Article 114 [High Supervisor of the Administration (Ombudsman)]

(1) An Ombudsman shall be appointed by the President of the Republic with the approval of the Assembly to control whether any service or act of the administration has been carried out in accordance with the legislation in force and court decisions or to control any service or act done by or on behalf of any executive or administrative unit or officer and to carry out inquiries and submit reports on such services and acts and to perform any other duties specified by law.

(2) The qualifications, powers and duties of the Ombudsman shall be regulated by law.

The conditions for the dismissal of the Ombudsman shall be the same as those applied to a member of the Supreme Court.

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(3) Matters connected with the judiciary, foreign policy and the defense of the country are not within the duties of the Ombudsman.

Article 115 [Establishment of Government Departments and Service Units]

The establishment, duties and powers of the Government departments and service units shall be regulated by law.

Article 116 [Central Administration]

The Turkish Republic of Northern Cyprus shall, from the point of view of the organization of central administration, be divided into divisions prescribed by law according to geographical situation, economic conditions and exigencies of the public services.

Article 117 [Defense of the Realm and Establishment of the Armed Forces]

(1) Defense of the country shall be undertaken by the Armed Forces of the Turkish Republic of Northern Cyprus.

(2) The Council of Ministers shall be responsible to the Assembly of the Republic for ensuring the security of the country and for preparing the armed forces for the defense of the country.

(3) In time of war, the Commander of the Armed Forces shall perform the duties of the Commander-in-Chief on behalf of the President of the Republic.

(4) The Commander of the Armed Forces shall be appointed by the President of the Republic upon the proposal of the Minister of Defense and the approval of the Council of Ministers.

(5) The establishment, duties, powers and responsibilities of the armed forces under the Minister of Defense and the commands attached to the armed forces shall be regulated by law.

Article 118 [Police Organization]

(1) The establishment, duties, powers and responsibilities of the Police Organization shall be regulated by law.

(2) The police are charged with performing their duties within the framework of the Constitution and the laws with due respect to the principles of a democratic State under the rule of law and to the fundamental rights of citizens.

Article 119 [Local Authorities]

(1) Local authorities are public legal bodies established for meeting the local common requirements of the people of a district, municipality, village or quarter, the principles governing the establishment of which are specified by law and the decision-making organs of which are constituted by elections.

(2) The establishment, duties and powers of local authorities shall be regulated by law in accordance with the principle of local administration.

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(3) Elections for the organs of local authorities shall be held once in every four years in accordance with the provisions of Article 68.

Article 120 [The Carrying Out of the Basic and Continuous Duties Connected with the Public Services]

(1) The substantive and continuous duties necessitated by the public services which the State is obliged to provide in accordance with the principles of general administration, shall be carried out by public servants.

(2) The substantive and continuous duties necessitated by the public services which the public utility enterprises and other public corporate bodies are obliged to provide in accordance with the principles of general administration, shall be carried out by other public personnel.

Article 121 [Provisions in Connection with Public Personnel and Other Public Officers]

(1) The qualifications, appointments, duties and powers, rights and responsibilities, salaries and allowances and other personal matters of public personnel shall be regulated by law.

(2) Impartial and independent organ or organs shall be established to exercise power with regard to the appointment, confirmation, emplacement on the permanent and pensionable establishment, promotion, transfer, retirement of public personnel and any disciplinary proceedings against them including dismissal and removal from office, but excluding disciplinary proceedings necessitating the punishment of warning or reprimand. The establishment and functions of such organ or organs shall be regulated by law so as to render possible the making of separate arrangements in respect of a particular section of public personnel having regard to the particular nature of the services rendered by them.

Provisions relating to judges, law officers, members of the armed forces and the police and the other provisions of the Constitution on this matter shall be reserved.

(3) The qualifications, appointments, duties and powers, rights and responsibilities, salaries and allowances and other personal matters of the public personnel shall be regulated by law in accordance with the particular nature of the services carried out by the bodies employing such personnel.

(4) Where it is intended to take disciplinary action against public personnel and other public officers, the person concerned shall be notified expressly and in writing of the accusation against him, he shall be asked to make his written defense and he shall be given a certain period for putting forward his defense. No disciplinary action shall be taken unless the above provisions are complied with and disciplinary decisions shall be subject to review by courts of justice.

The provisions of this Constitution relating to judges and law officers shall be reserved.

(5) Public personnel carrying out duties as a high ranking administrator shall be appointed by a decree signed by the Minister concerned, the Prime Minister and the President of the Republic. Provisions in this respect shall be regulated by law.

(6) With the exception of the employment of laborers, no appointments shall be

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made to the public service, public bodies and public utility enterprises from the date of the publication in the Official Gazette of the election date for the Assembly of the Republic until the date when the new Council of Ministers shall assume duties after the election; promotions, transfers and revision of salary scales shall be suspended completely during the said period.

The manner and the circumstances under which these provisions shall be applied, shall be regulated by law.

Article 122 [Rules and Regulations]

Unless the Constitution or a law gives express power, no organ of the State shall make rules and put them into force. Regulations shall be made and put into force only in accordance with rules.

Article 123 [Illegal Orders]

(1) Any person employed in the public service under any capacity whatsoever, shall not obey an order given by his superior, if he considers such order to be contrary to the provisions of any regulations, rules, law or of the Constitution and shall notify the person giving the order of such contravention. But if the superior insists on his order and repeats it in writing, the order shall be obeyed and in such a case the person obeying the order shall not be held responsible.

(2) Any order, the subject matter of which constitutes an offence, shall not be obeyed under any circumstances; any person obeying such an order cannot escape responsibility.

(3) Exceptions relating to the execution of military services, and to the safeguarding in emergency situations of public order and public security, as provided by law, shall be reserved.

Chapter IV. State of Emergency

Article 124 [Declaration of State of Emergency due to Natural Disasters and Serious Economic Crisis]

The Council of Ministers meeting under the chairmanship of the President of the Republic may, in the event of natural disasters, dangerous infectious diseases or serious economic crisis, declare a state of emergency, in one or more areas or in the whole of the country for a period not exceeding three months.

Article 125 [Declaration of a State of Emergency due to the Spread of Violence and Serious Deterioration of Public Order]

The Council of Ministers meeting under the chairmanship of the President of the Republic, may, after consulting the Security Council of the Republic, in the event of strong signs of widespread acts of violence aimed at the elimination of the liberal and democratic order set up by the Constitution or the fundamental rights and liberties, or in the event of serious

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deterioration of public order, declare a state of emergency in one or more areas or in the whole of the country, for a period not exceeding three months.

Article 126 [Arrangements Regarding State of Emergency]

(1) Where it is decided to declare a state of emergency in accordance with Articles 124 and 125 of the Constitution, the declaration shall be published in the official Gazette and shall immediately be submitted to the approval of the Assembly of the Republic. If the Assembly of the Republic is in recess it shall immediately be convened for the purpose. The Assembly of the Republic may, by a majority of the total number of its members, amend the declaration or the period of the state of emergency, abolish the state of emergency or, at the request of the Council of Ministers, extend it for periods not exceeding two months at a time.

(2) On the declaration of a state of emergency, the Articles of the Constitution, the operation of which have been partly or wholly suspended during the continuation of the state of emergency, shall be expressly stated; the Articles of the Constitution to be so suspended shall be limited to those Articles of the Constitution which are necessary for the elimination of the causes which necessitated the declaration of the state of emergency. Provided that, on the declaration of such a state of emergency, the operation of only the following articles of the constitution can be suspended:

Articles 16, 20, 21, 22, 24, 32, 33, 41 paragraph 5 (d), 42, 48, 49 paragraph 3, 53 and 54.

Article 127 [Martial Law, Mobilization and State of War]

(1) The Council of Ministers meeting under the chairmanship of the President of the Republic may, after consulting the Security Council of the Republic, proclaim martial law in one or more areas or in the whole of the country, for a period not exceeding three months for reasons such as the spread of violence more serious than that necessitating the declaration of a state of emergency or activities aimed at the elimination of the liberal and democratic order recognized by the Constitution or of the fundamental rights and liberties; the existence of a state of war or circumstances necessitating war; the starting of an insurrection or the spread of a strong and active uprising against the country or the Republic or of acts of violence endangering internally or externally the indivisibility of the country and of the people. Such proclamation shall immediately be published in the Official Gazette and shall be tabled forthwith before the Assembly of the Republic, for approval. If the Assembly of the Republic is not in session, it shall immediately be convened for the purpose. The Assembly of the Republic may, by an absolute majority of the total number of its members amend the proclamation or martial law, extend or shorten the period of martial law or abolish martial law if it considers this necessary.

(2) The extension of martial law for a period not exceeding two months at a time is subject to the decision of the Assembly of the Republic. This period may be dispensed with in times of war.

(3) Matters such as the provisions which shall be applied and the manner as to how proceedings will be conducted, relations with the Administration, and matters as to how liberties will be restricted or suspended and the obligations to be imposed on citizens in the event of war or of a situation necessitating war, shall be regulated by law.

Provided that in the proclamation of martial law in circumstances other than a state of war,

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the Articles of the Constitution, the operation of which have been suspended, partly or wholly, during the continuation of martial law, shall be expressly stated. The Articles of the Constitution to be so suspended shall be limited to those Articles of the Constitution the suspension of which are necessary for the elimination of the causes which necessitated the proclamation of martial law. In such cases of martial law, only the Articles of the Constitution which are listed under Article 126 (2) of the Constitution can be suspended.

Article 128 [Issue of Decrees having the Force of Law during State of Emergency and Martial Law]

(1) The Council of Ministers meeting under the chairmanship of the President of the Republic may, while a state of emergency or martial law is in force, issue decrees having the force of law on matters necessitated by the state of emergency or martial law. Such decrees shall be published in the Official Gazette and submitted forthwith to the Assembly of the Republic for approval. Such decrees, unless rejected by the absolute majority of the total number of the members of the Assembly of the Republic, shall remain in force for the duration of the state of emergency or martial law.

(2) The provisions of paragraphs (2) and (3) of Article 112 shall also apply to decrees having the force of law so submitted.

Chapter V. Organizations

Article 129 [Professional Bodies of Public Nature]

(1) Professional bodies of a public nature shall be established by law and their organs shall be elected by them and from amongst their members.

(2) The elected organs of these bodies shall not be removed, either permanently or temporarily, from office without a court order.

(3) The rules and the administration and functions of professional bodies shall not be contrary to democratic principles.

Article 130 [Radio and Television Broadcasting and News Agencies]

(1) The establishment and administration of radio and television broadcasting stations shall be regulated by law.

(2) All radio and television broadcasts shall be made in accordance with the principles of impartiality.

(3) The principles of compliance with the requirements of a democratic, secular and social State under the rule of law based on human rights and on the exigencies of national security and public morals, the selection and transmission of news and programs and the carrying out of the duty for the furtherance of culture and education and the securing of the correctness of news; and the election of the executive organs, their powers, duties and responsibilities shall be regulated by law.

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(4) News agencies established by the State or receiving financial assistance from the State shall comply with the above provisions.

(5) The right of political parties to benefit from radio, television, news, agencies and other similar State establishments shall be regulated by law.

(6) Facilities for propaganda and election speeches over the radio and television by political parties taking part in the elections or in a referendum, shall be regulated by law.

Article 131 [Vakfs Organization and the Office of Religious Affairs]

(1) The institution of Vakf and the Fundamental Evkaf Rules (Ahkâmül Evkaf) are recognized by this Constitution.

(2) All matters relating to or in any way affecting the institution or foundation of Vakf or any Vakf properties, including properties belonging to mosques and any other Moslem Religious institutions, shall be subject exclusively to the Fundamental Evkaf Rules (Ahkâmül Evkaf) and the legislation in force and the laws to be enacted by the Assembly of the Republic after the coming into force of this Constitution.

(3) Vakfs, the income of which belong to the Evkaf Administration, shall be exempted from any form of taxation.

(4) The establishment and functioning of the Vakfs Organization and the Religious Affairs Office shall be regulated by law and they shall carry out the duties prescribed by law.

(5) The State shall help the Vakfs Organization in the execution of religious services and in meeting the expenses of such services.

Chapter VI. Economic and Financial Provisions

Article 132 [Financial Control]

(1) The Office of Audit, which is an organ of financial control, shall audit public revenue and expenditure and shall inform the Assembly and the Council of Ministers of the Republic of the result by the submission of a report. It shall assist the Assembly and the Council of Ministers in financial matters.

(2) The appointment of the President and members of the Office of Audit and its establishment and functions shall be regulated by law.

Article 133 [The Control of Public Utility Enterprises]

The control of the income and expenditure of public utility enterprises shall be regulated by law.

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Article 134 [Development and Planning]

(1) Economic, social and cultural development shall be based on a plan and shall be carried out according to such plan.

(2) The establishment and duties of the organization concerned with planning, the principles to be observed in the preparation, execution, application and change of the plan, and measures to guard against amendments tending to impair the unity of the plan, shall be regulated by legislation.

Article 135 [Putting the State Under Financial Obligation and the Establishment of Funds]

Unless express power is given by law, the State shall not, directly or indirectly, be put under any financial obligation and no fund shall be constituted unless established by law.

Part V – The Judiciary

Chapter I. General Provisions

Article 136 [Independence of Courts]

(1) Judges shall be independent in their duties. They shall give judgments in accordance with the Constitution, the laws, legal principles and the opinion dictated by their conscience.

(2) No organ, office, authority or person can give orders or instructions, send circulars or make recommendations or suggestions to courts and judges in the exercise of their judicial powers.

(3) No questions can be asked, no debate can be held and no statement can be made in the Assembly of the Republic relating to the exercise of judicial power in an action which is pending. The Legislative and Executive organs and the administrative authorities of the State shall comply with Court decisions. Such organs and authorities cannot in any way change court decisions or delay their execution.

Article 137 [The Security of Tenure of Judges]

(1) Judges cannot be dismissed; they cannot be retired before the age provided by the Constitution, unless they so desire, and they cannot be deprived of their acquired rights even in the event of the abolition of a court or a post.

(2) The exceptions provided by law concerning judges who are convicted of an offence entailing dismissal from office; concerning judges whose incapability to discharge their duties for reasons of ill health has been definitely established; concerning judges who do work incompatible with their profession; and concerning judges who have been pronounced unsuitable to remain in their profession, shall be reserved.

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(3) No action shall be brought against judges in respect of words spoken or any act done in the execution of their judicial duties.

Article 138 [The Profession of Judges]

(1) The qualifications, appointments, rights and duties, salaries and allowances and promotions of judges, the temporary or permanent change of their duties or of their places of duty, the commencement of disciplinary proceedings against them and the imposition of disciplinary penalties, decision to hold an inquiry and to institute legal proceedings against them for offences connected with their duties, instances of incapacity and conviction of an offence which entails dismissal from the profession and other personnel matters shall be regulated by law in accordance with the principle of the independence of courts.

(2) The President and members of the Supreme Court shall hold office until they attain the age of sixty-five and other judges until they attain the age of sixty.

(3) Judges shall not undertake any general or special duty other than the duties specified by law. They shall not do any work other than their official duties and they shall not undertake, directly or indirectly, any business engagement of the State or public bodies.

Article 139 [Hearings to be Public and Judgments to Contain Reasons]

(1) Subject to the provisions of Article 17 (3) of this Constitution, sittings of the courts shall be public.

(2) All kinds of judgments given by all courts shall be reasoned judgments in writing.

Article 140 [Trial of Juveniles]

Special provisions may be made by law on matters relating to the trial of juveniles and to the execution of judgments concerning juveniles.

Article 141 [Supreme Council of Judicature]

(1) The Supreme Council of Judicature shall consist of the following members:

(a) President and judges of the Supreme Court;

(b) One member to be appointed by the President of the Republic;

(c) One member to be appointed by the Assembly of the Republic;

(d) The Attorney-General of the Republic; and

(e) One member to be elected by the Bar Association. The term of office of the members mentioned in paragraphs (b), (c) and (e) above shall be for three years; any member whose term of office ends may be re-elected as a member.

(2) The President of the Supreme Court shall be the chairman of the Supreme Council of Judicature; he shall ensure the implementation of the decisions of the Council.

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(3) The Supreme Council of Judicature shall:

(a) take the necessary measures for the general functioning and orderly working of the judiciary, for the regular attendance to their duties of the judges and of the public personnel working in the courts, for the running of the affairs in a proficient manner and for the training of the judges and the safeguarding by them of the dignity and the honor of the profession; and

(b) at the end of each financial year submit a report to the President of the Republic, the Assembly of the Republic and the Council of Ministers on the state of judicial affairs and the defects in running them and the reasons, if any, of such defects and advise on measures which it considers necessary to remedy them.

(4) Subject to the provisions of Article 138 of this Constitution, the Supreme Council of Judicature shall be competent to determine all matters relating to the appointment, the promotion, the temporary or permanent change of the duties or place of appointment, the termination of appointment and the discipline of judges.

(5) The duties, powers and working procedure of the Supreme Council of Judicature shall be regulated by law.

(6) The appointment of the President and judges of the Supreme Court shall be approved by the President of the Republic.

Article 142 [Punishment of Persons not Complying with Court Decisions or Orders]

The Supreme Court or any other court shall have power to punish a person who does not obey any of its decisions or orders with imprisonment until he complies with such decision or order, provided that the period of such imprisonment shall not in any case exceed the period of one year.

Chapter II. Supreme Court

Article 143 [The Constitution of the Supreme Court and Allocation of Functions]

(1) The Supreme Court of the Turkish Republic of Northern Cyprus shall be composed of a President and seven judges. In the absence of the President the most senior judge shall act in his place.

(2) The Supreme Court shall carry out the functions of the Constitutional Court, the Supreme Council, the Court of Appeal and the High Administrative Court.

(3) The Supreme Court, sitting with the President and four Judges, shall have jurisdiction to act as the Constitutional Court. The two last appointed judges of the Supreme Court shall act as the alternate judges. In the event that the President is not present at the sitting, the most senior judge shall preside.

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Where a case is referred to the Constitutional Court under Article 148 of this Constitution, a judge or judges who took part in the decision to refer, shall not sit at the hearing of the matters referred or take part in the judgment to be given.

(4) The Supreme Court sitting with the President and two judges, or just three judges, shall have jurisdiction to act as the Court of Appeal or as the High Administrative Court. The judgments given within the framework of such jurisdiction shall be final. In the event that the President is not present at the sitting the most senior judge shall preside.

Provided that recourses made directly to the Supreme Court, acting as the High Administrative Court, other than those recourses specified by law, shall be examined and determined by a single judge nominated for such duty in the High Administrative Court.

Judgments given by a single judge are subject to appeal to the High Administrative Court sitting with three judges.

(5) Judges of the Supreme Court who shall perform duties in the Court of Appeal or in the High Administrative Court, shall, before the beginning of each judicial year, be nominated for that judicial year by the Supreme Court and that judge shall perform his duty in the Court of Appeal or in the High Administrative Court for one judicial year.

Provided that where any one of the judges nominated for duty for a year in the Court of Appeal or in the High Administrative Court becomes temporarily incapacitated from performing his duties, another judge to be nominated by the President of the Supreme Court may perform such duties.

Chapter III. Duties and Powers of the Constitutional Court

Article 144 [Powers of the Constitutional Court]

(1) The Supreme Court shall have exclusive jurisdiction to adjudicate finally on all matters prescribed by the provisions of this Constitution, the laws and the Rules of Court.

(2) The Constitutional Court, sitting as the Supreme Council, shall within the framework of legislation in force, have jurisdiction to try the President of the Republic, the Prime Minister and the Ministers, for any offence committed by them. The duties of the Prosecuting Officer at the Supreme Council shall be performed by the Attorney-General or the Deputy Attorney-General. The judgments of the Supreme Council shall be final.

Article 145 [Conflict of Power Between Organs]

(1) The Constitutional Court shall have jurisdiction to adjudicate finally on a recourse made in connection with any matter relating to any conflict or contest of power or competence arising between State organs.

(2) Where in any matter a question arises which falls within the jurisdiction of the Constitutional Court, such question shall be determined finally by the Constitutional Court.

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(3) In accordance with paragraph (1) of this Article:

(a) the President of the Republic; or

(b) the Assembly of the Republic; or

(c) any other organ of the State, may have recourse to the Constitutional Court, if involved in such conflict or contest of power.

(4) Such recourse shall be made within thirty days of the date when such power or competence is contested.

(5) Upon such a recourse, the Constitutional Court may declare that the law or the decision or the act which is the subject matter of the recourse is void, either from the time when the conflict or contest arose or ab initio and without any legal effect whatsoever, either in whole or in part, on the ground that such law or decision or act was made or taken or done without power or competence and in either case the Constitutional Court may give directions as to the effect of anything done or left undone under such law, decision or act.

(6) Any decision of the Constitutional Court upon such recourse, shall forthwith be notified in writing to the parties concerned and to the President of the Republic who shall cause its publication in the Official Gazette.

(7) Upon a recourse under this Article, the Constitutional Court may order that the operation of the law or decision or act, which is the subject matter of such recourse, shall be suspended until the determination of the recourse; such order shall be published forthwith in the Official Gazette.

Article 146 [Unconstitutionality of Laws]

(1) The President of the Republic may, at any time prior to the promulgation of any law or of any specified provision thereof or of any decision of the Assembly of the Republic, refer it to the Constitutional Court for its opinion as to whether such law or any specified provision thereof or decision is repugnant to or inconsistent with any provision of the Constitution.

(2) The Constitutional Court shall consider every question referred to it under paragraph (1) of this Article and having heard the arguments made on behalf of the President of the Republic and of the Assembly of the Republic shall give its opinion on such question within forty-five days at the latest and notify the President of the Republic in writing accordingly.

(3) In the event that the Constitutional Court is of the opinion that such law or decision or any provision thereof is repugnant to or inconsistent with any provision of this Constitution, such law or decision or provision shall not be promulgated by the President of the Republic but it shall be returned to the Assembly of the Republic together with reasons therefor.

(4) The provisions of Article 94 relating to the return of laws or decisions or provisions thereof to the Assembly shall not apply to any law, decision or provision so returned.

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Article 147 [Annulment Suits]

(1) The President of the Republic, political parties represented in the Assembly of the Republic, political groups and at least nine deputies or other associations, institutions or trade unions on matters concerning their existence and functions, may directly initiate an annulment suit in the Constitutional Court on the ground that a law, decree, rules, Rules of the Assembly of the Republic, decision of the Assembly of the Republic, regulations, or any of the provision thereof, is repugnant to or inconsistent with any provision of the Constitution.

(2) The right to institute an annulment suit directly in the Constitutional Court, shall lapse after ninety days from the date of the publication in the Official Gazette of the law, decree, rules, Rules of the Assembly of the Republic, decision of the Assembly of the Republic, regulations, or any of the provision thereof, the annulment of which is desired.

Article 148 [Reference of Questions of Unconstitutionality by Courts to the Supreme Court]

(1) A party to any judicial proceedings, including proceedings on appeal, may, at any stage thereof, raise the question of the unconstitutionality of any law or decision or any provision thereof which is material for the determination of any matter at issue in such proceedings and thereupon the Court shall reserve the question for the decision of the Constitutional Court, and stay further proceedings until such question is determined by the Constitutional Court.

Provided that where a decision has been previously given by the Constitutional Court on the same or similar question regarding the unconstitutionality of any law or decision or any provision thereof the Court may refuse to reserve the question for the decision of the Constitutional Court.

(2) The Constitutional Court shall, after hearing the parties, consider and determine the question so reserved for its decision and transmit its decision thereon to the court by which such question has been reserved.

(3) Any decision of the Constitutional Court under paragraph (2) of this Article shall be binding on the Court by which the question has been reserved and on the parties to the proceedings. In the event that such decision is to the effect that the law or decision or any provision thereof is unconstitutional, such decision shall, unless the Constitutional Court decides to the contrary, so operate as to make such law or decision or any provision thereof inapplicable to such proceedings only.

Article 149 [The Interpretation of the Constitution]

The Constitutional Court shall have exclusive jurisdiction to interpret any provision of this Constitution. In the exercise of this jurisdiction it may avail itself of the committee reports concerning the Constitution and of the minutes of the Assembly.

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Article 150 [Decisions of the Constitutional Court]

(1) The decisions of the Constitutional Court shall be final. Such decisions shall not be pronounced unless the reasons therefor are expressed in writing.

(2) Any law, decree, rules, Rules of the Assembly of the Republic, decision of the Assembly of the Republic, regulations or any provisions thereof, the annulment of which has been decided upon by the Constitutional Court, for being inconsistent with the Constitution, shall be null and void as from the date of publication in the Official Gazette of the reasoned judgment.

(3) Where necessary, the Constitutional Court may also decide on the date when the annulment decision shall come into force. This date shall be a date within the period of one year from the date of publication of the judgment in the Official Gazette.

(4) The annulment decision shall not be retrospective.

Chapter IV. Duties and Powers of the Supreme Court Sitting as the Court of Appeal

Article 151 [The Powers of the Court of Appeal]

(1) The Court of Appeal shall be the highest appellate court in the State; it shall have jurisdiction to hear and determine, subject to the provisions of this Constitution and of any laws and Rules of Court made thereunder, all appeals from a decision of any court.

(2) Subject to paragraph (3) of this Article, the Court of Appeal shall have such original and revisional jurisdiction as is provided by this Constitution or any law.

Provided that where original jurisdiction is so conferred, such jurisdiction shall be exercised by such judge or judges as the Supreme Court shall determine. There shall be a right of appeal to the Court of Appeal against decisions so given.

(3) The Supreme Court, sitting as the Court of Appeal shall have exclusive jurisdiction to issue orders in the nature of *habeas corpus,* to effect release from unlawful detention; *mandamus,* to secure the exercise of powers; *prohibition,* to prohibit the effects of a wrong decision of any court or of any authority exercising power of a judicial nature; *quo warranto,* to inquire as to upon what authority an office is being held; and *certiorari,* to quash a decision of any court or an authority exercising quasi-judicial powers.

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Chapter V. Duties and Powers of the Supreme Court Sitting as the High Administrative Court

Article 152 [The Powers of the High Administrative Court]

(1) The High Administrative Court, shall have exclusive jurisdiction to adjudicate finally on a recourse made to it on a complaint that a decision, an act or omission of any organ, authority or person exercising any executive or administrative authority is contrary to any of the provisions of this Constitution, or of any law or of any subsidiary legislation made thereunder, or is made in excess or in abuse of powers vested in such organ or authority or person.

(2) Such a recourse may be made by a person whose legitimate interest is adversely and directly affected by such decision or act or omission.

(3) Such a recourse shall be made within seventy-five days from the date when the decision or act was published or, if not published or in the case of an omission, within seventy-five days from the date it came to the knowledge of the person making the recourse.

(4) Upon such a recourse the High Administrative Court may, by its decision:

(a) confirm either in whole or in part, such decision or act or omission; or

(b) declare, either in whole or in part, such decision or act to be null and void and of no effect whatsoever; or

(c) declare that such omission, either in whole or in part, ought not to have been made and that whatever act has been omitted should have been performed.

(5) Any decision given under paragraph (4) of this Article shall be binding on all courts and all organs or authorities of the State and shall be given effect to and acted upon by the organ or authority or persons concerned.

(6) Any person aggrieved by any decision or act declared to be void under paragraph (4) of this Article or by any omission declared thereunder that it ought not to have been made, shall be entitled, if his claim is not met to his satisfaction by the organ, authority or person concerned, to institute legal proceedings for damages or for being granted any other remedy and to recover just and equitable compensation to be determined by the court or to be granted such other just and equitable compensation as such court is empowered to grant.

Chapter VI. Other Duties and Powers of the Supreme Court

Article 153 [Other Duties and Powers of the Supreme Court]

Subject to the provisions of this Constitution, the establishment, composition, functions, duties and powers of the Supreme Court shall be regulated by law.

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Article 154 [Power to make Rules of Court]

(1) The Supreme Court shall make Rules of Court under the provisions of this Constitution and of the laws, for regulating the practice and procedure of itself and of any other court.

(2) Without prejudice to the generality of paragraph (1) of this Article the Supreme Court may make Rules of Court for the following purposes:

(a) for regulating the court sittings and allocating duties to judges for any purpose;

(b) for the determination by summary proceedings of any appeal or other proceedings which appear to the Supreme Court or such other court before which such proceedings are pending to be frivolous or vexatious or to have been instituted for the purpose of delaying the course of justice;

(c) for prescribing forms and fees in respect of proceedings in the courts and regulating the cost of, and expenses incidental to, any such proceedings;

(d) for prescribing and regulating the composition of the registries of the courts and the powers and duties of the public personnel working in the courts;

(e) for prescribing the time within which any requirement of the Rules of Court is to be complied with.

Chapter VII. Subordinate Courts

Article 155 [Establishment, Duties and Powers of Subordinate Courts]

(1) Judicial power, other than that exercised by the Supreme Court under this Constitution and the laws, shall be exercised by such subordinate courts and specialized courts as may, subject to the provisions of this Constitution, be provided by a law made thereunder.

(2) The establishment, duties and powers, functions and rules of procedure of subordinate courts and specialized courts exercising judicial power shall be regulated by law.

Chapter VIII. Military Judicial Power and Military Court of Appeal

Article 156 [Military Judicial Power]

(1) Judicial power relating to military matters shall be exercised by military courts and disciplinary courts.

(2) Military courts shall have jurisdiction to try such military offences, as may be specified by a special law, committed by persons who are not members of the Armed Forces. Such

courts shall also have jurisdiction to try offences committed by persons who are not members of the Armed Forces in the execution of the duties specified in such special law or offences committed by such persons against members of the Armed Forces in places belonging to the Armed Forces as may be specified in such law.

(3) The specific offences and persons over which military courts shall have jurisdiction in cases of war, martial law or state of emergency, shall be regulated by law.

(4) The establishment, functions, procedure to be followed in trials, personnel matters of judges of military judicial courts and the provisions relating to those performing the duties of prosecuting officer in military courts shall be regulated by law in accordance with the principle of the independence of the courts, the security of tenure of judges and the exigencies of the services of the Armed Forces.

Article 157 [Military Court of Appeal]

(1) The Military Court of Appeal is the Court of last instance to review decisions and judgments given by military courts.

(2) The establishment, functions, procedure to be followed in trials, disciplinary and personnel matters of its members, shall be regulated by law in accordance with the principle of the independence of Courts, the security of tenure of judges and the exigencies of the services of the Armed Forces.

Chapter IX. The Attorney-General's Office

Article 158 [The Attorney-General and Counsels of the State]

(1) The Law Office of the Turkish Republic of Northern Cyprus shall be an independent office and its Head shall be the Attorney-General. The Deputy Attorney-General shall act for the Attorney-General in the event of his absence.

(2) The Attorney-General shall be appointed from amongst persons qualified for appointment as a judge of the Supreme Court and he shall be a permanent member of the judicial service of the Turkish Republic of Northern Cyprus. The Attorney-General shall hold office under the same terms and conditions as a judge of the Supreme Court and shall not be removed from office except on the like grounds and in the like manner as a judge of the Supreme Court.

(3) The Attorney-General of the Turkish Republic of Northern Cyprus shall be the legal adviser of the State, of the President of the Republic, of the Prime Minister, of the Council of Ministers, of the Ministers and of other State organs. He shall exercise all such other powers and shall perform all such other functions and duties as are conferred or imposed on him by this Constitution or by law.

(4) (a) The Attorney-General shall have power, in the public interest, to institute, conduct, take over and continue or discontinue any proceedings for an offence,

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in the courts of the Turkish Republic of Northern Cyprus. In Criminal courts the conduct of prosecutions and responsibility therefor shall vest in the Attorney-General. Such power shall be exercised by him in person or by the Deputy Attorney-General or by the Counsels of the State acting in accordance with his instructions.

(b) The Attorney-General may, where he considers it necessary, by an order to be published in the Official Gazette, authorize a member of the police organization, whom he considers suitable, to prosecute in courts, under his direction and responsibility, road traffic offences which can be settled without a trial under the law.

(c) The Attorney-General may, where he considers it necessary, by an order to be published in the Official Gazette, authorize a lawyer appointed to a Ministry or other public institution and qualified to practice as an advocate, to conduct proceedings in Courts in which the Ministry or other public institution concerned is a party.

(5) The Attorney-General shall have power to represent the State or its organs in civil and constitutional proceedings in which the State is a party.

(6) The Attorney-General, the Deputy Attorney-General and the Counsels of the State shall have the right of audience before any court, and in the exercise of this right shall take precedence over any other person appearing before the court.

(7) The Attorney-General shall, at the end of each calendar year, submit a report to the President of the Republic, the Assembly of the Republic and the Council of Ministers on the defects seen in the general functioning and in the execution of the duties of the Law Office and the reasons, if any, for such defects and submit his recommendations on the measures which he considers necessary to remedy them.

(8) Subject to the provisions of this Constitution, the establishment and functions of the Law Office of the Turkish Republic of Northern Cyprus, the qualifications and appointment of the Attorney-General, Deputy Attorney-General and Counsels of the State, their rights and duties, salaries and allowances, the promotion, the taking of disciplinary action against, and the imposition of disciplinary penalties on them and their other personnel matters shall be regulated by law in accordance with the principles governing the independence of the courts and the security of tenure of judges.

Part VI – Miscellaneous Provisions

Article 159 [Right of the State to Ownership]

(1) (a) All immovable properties registered in the name of the Government of Cyprus before the l6th of August 1960 and all immovable properties transferred to the Government of Cyprus after the l6th of August 1960; roads, waters, water resources, ports, harbors and shores, docks and piers, lakes, riverbeds, and lakebeds, historical cities, buildings, ruins and castles and the sites thereof, natural resources and underground resources, forests, defense buildings and installations, green areas and parks belonging to the public; village roads and rural pathways open to the public; and buildings used for public services;

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(b) All immovable properties, buildings and installations which were found abandoned on 13th February, 1975 when the Turkish Federated State of Cyprus was proclaimed or which were considered by law as abandoned or not being owned after the abovementioned date, or which should have been in the possession or control of the public even though their ownership had not yet been determined; and

(c) all immovable properties found within the area of military installations, docks, camps and other training grounds specified in the 1960 Treaty of Establishment and its Annexes, situated within the boundaries of the Turkish Republic of Northern Cyprus on 15th November 1983, shall be the property of the Turkish Republic of Northern Cyprus notwithstanding the fact that they are not so registered in the records of the Land Registry Office; and the Land Registry Office records shall be amended accordingly.

(2) Notwithstanding any other provisions of this Constitution, the ownership of the immovable properties specified in sub-paragraphs (a) and (c) of paragraph (1) above shall not be transferred to physical and legal persons. Provided that the making of the necessary adjustment by the State to public roads and to public village roads and field pathways is exempted from the above provision.

Easements and other similar rights for specified periods and long term leases over such immovable properties may be established and registered in the manner and under the conditions prescribed by law for purposes of public interest.

The establishment and registration of such rights, the period of which exceeds fifty years, shall be subject to the approval of the Assembly of the Republic.

(3) Out of the properties specified in subparagraph (b) of paragraph (1) above, the transfer of the right of ownership to physical and legal persons of immovable properties other than forests, green areas, monuments and parking places, waters, underground waters, natural resources and buildings, installations and sites required for defense, public administration and military purposes and those required for purposes of town and country planning and soil conservation, shall be regulated by law.

(4) In the event of any person coming forward and claiming legal rights in connection with the immovable properties included in subparagraphs (b) and (c) of paragraph (1) above, the necessary procedure and conditions to be complied with by such persons for proving their rights and the basis on which compensation shall be paid to them, shall be regulated by law.

(5) Places of religious worship and the immovable properties in which they are situated shall not be transferred to physical and legal persons. The State shall take the necessary measures for the safeguarding, maintenance and preservation of such places and properties.

Article 160 [Reserving the Rights of Public Personnel]

(1) Any person who, immediately before the date of the coming, into operation of this Constitution, holds an office in the public service shall, after that date, be entitled to the same terms and conditions of service as were applicable to him before that date. Those terms and conditions shall not be altered to his disadvantage on the date of the coming into

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operation of this Constitution or thereafter during the period he shall be in the public service of the Turkish Republic of Northern Cyprus.

Public personnel referred to in this Article shall continue in office without new appointments being necessary.

(2) For the purposes of this Article "public personnel" includes any person who immediately before the coming into operation of this Constitution held any office in the public service of the Turkish Republic of Northern Cyprus and any person described as other public officer by this Constitution.

(3) For the purposes of this Article "terms and conditions of service" includes remuneration, leave, dismissal, termination of service, pension, gratuity and similar rights prescribed under legislation in force on the date of the coming into operation of this Constitution.

Article 161 [The Official Gazette of the Republic]

(1) The laws, rules, regulations and other subsidiary legislation and notices, notifications and similar public instruments prescribed by law, shall be published in the Official Gazette printed at the State Printing Office under the supervision of the Prime Minister's Office.

(2) The administration of the Official Gazette, its form and conditions and the manner in which it shall be published and distributed and other matters, shall be regulated by law.

(3) The legislation and other public instruments specified in paragraph (1) above shall not come into force unless published in the Official Gazette.

Part VII – Transitional Provisions

Transitional Article 1 [Safeguarding of the Rights]

(1) The necessary social, economic, financial and other measures, including compensation, for the protection of the citizens who have emigrated or sustained, directly or indirectly, any loss because of the national resistance of the Turkish Community or during such resistance, shall be regulated by law.

(2) The right of the citizens of the Turkish Republic of Northern Cyprus to claim immovable property of equal value, from the State, in return for their immovable properties left in Cyprus outside the boundaries of the State, shall be reserved; such right shall be regulated by law and the transfer of ownership of the immovable properties included in paragraph (2) of Article 159 of this Constitution to the persons entitled shall be effected with priority. Property shall also be granted to the martyrs and to disabled veterans and to those other persons entitled to the grant of property for other reasons specified in the law.

(3) The State shall take the necessary social, economic, financial and other measures for the rehabilitation of the refugees under equal status and for rendering them useful to themselves, to their families and to the community; the State shall give the necessary assistance until such rehabilitation is realized.

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(4) The rights of the Turkish citizens of the Turkish Republic of Northern Cyprus to claim compensation for loss of income or damage sustained by them as a result of being obliged to abandon their movable and immovable properties, shall be reserved. Such rights shall be regulated by law.

(5) Subject to compliance with the requirement of giving priority to the grant of immovable property of equal value, the transactions concerning the transfer of property rights relating to immovable properties to entitled persons shall be completed within a period of five years, at the latest, as from the date of the coming into operation of this Constitution.

Transitional Article 2 [Evaluation of Rights and Obligations]

The income or the annual rents of the movable and immovable properties held by citizens who have become entitled persons under the provisions of Transitional Article 1, shall be realistically calculated as from the date when they came into possession of such properties and deducted from their entitlements as specified, or to be specified by law should the latter be more. On completion of this transaction, the State shall pay any balance that may be due to the persons entitled; and if any entitled persons are found to owe any amount to the State, they shall pay their debts to the State within a reasonable period.

Transitional Article 3 [Forest Lands]

(1) Notwithstanding the provisions of paragraph (2) of Article 159 of this Constitution, the property rights on State lands known as "forest land" situated in areas of Minor State Forests and used as agricultural land since 1st January, 1955, may be transferred to the actual possessors of such lands.

For the purposes of this paragraph, "actual possessor" means the person who turned the immovable property into an agricultural land and who has continued to utilize it as from 1st January, 1955 and includes the legal heirs of such persons and the person who has taken over from such heirs. The application of this paragraph shall be regulated by law.

(2) The future of the State lands included in the category specified in paragraph (1) which were until 20th July 1974, in the actual possession of persons who were not members of the Turkish Cypriot Community, shall be regulated by law.

Transitional Article 4 [Validity of the Existing Legislation and Allegation of Inconsistency of such Legislation with the Constitution]

(1) The legislation in force on the date of the coming into operation of this Constitution shall continue to be in force, in so far as such legislation is not contrary to or inconsistent with the provisions of this Constitution.

(2) Resolution No. 50 of the Assembly of the Turkish Federated State of Cyprus dated the 15th November 1983 which approved the establishment of the Turkish Republic of Northern Cyprus and the text of the Declaration of Independence shall also continue to be in force in so far as it is not contrary to or inconsistent with the provisions of this Constitution.

(3) The persons, associations and institutions specified in Article 147 of this Constitution may initiate an annulment suit in the Constitutional Court in respect of the legislation in force on the allegation that such legislation is contrary to or inconsistent with this Consti-

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tution. The right to initiate such annulment suit shall lapse at the end of a period or sixty days commencing as from the date of assumption of duty by the Assembly of the Republic. The provisions of Article 148 are reserved.

(4) Legislation deemed to have remained in force under this Article shall not be treated as legislation having the force of or possessing the quality of the Constitution and may, according to its nature, be annulled, amended or repealed by any law or by the decision of any organ authorized by this Constitution.

Transitional Article 5 [Elections for the Assembly of the Republic]

Elections for the Assembly of the Republic shall be held on a date to be decided upon by the Constituent Assembly of the Turkish Republic of Northern Cyprus after this Constitution is accepted at a referendum and put into operation by publication in the Official Gazette. Such date shall be the polling day from the point of view of electoral proceedings. The dates of other electoral proceedings shall be fixed by the High Electoral Council.

Transitional Article 6 [Election of the President of the Republic and the Termination of Office of the Former President of the Republic]

The first elections for the Presidency of the Republic under this Constitution shall be held on the same day and together with the elections for the Assembly of the Republic and the elected President of the Republic shall take office after taking the oath before the Assembly on the next day following the day on which the Assembly of the Republic meets and takes over its duties. The office of the former President of the Republic shall come to an end at the same time as the elected President of the Republic takes office. Provided that, the Constituent Assembly may, where the circumstances so require, decide on the holding of the elections for the Presidency of the Republic on a different day.

Transitional Article 7 [Termination of the Legal Existence of the Constituent Assembly]

Upon the meeting of the Assembly of the Republic established in accordance with this Constitution, the legal existence of the Constituent Assembly constituted under Decision No. 3 of the Assembly dated 2nd December 1983 shall come to an end and the Constituent Assembly shall be automatically dissolved.

Transitional Article 8 [Temporary Rules of the Assembly]

The provisions of the Rules of the Assembly of the Turkish Federated State of Cyprus which are not contrary to or inconsistent with this Constitution, shall continue to apply until new Rules regulating the meetings and functions of the Assembly of the Republic set up under this Constitution, are made.

Transitional Article 9 [The Position of the Council of Ministers]

Upon the formation, by the President of the Republic of the new Council of Ministers in accordance with Article 106 of this Constitution, the term of office of the present Council of Ministers shall automatically come to an end.

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Transitional Article 10 [Defense and Cooperation]

The provisions of Article 117 of this Constitution shall not come into force as long as the defense and internal security of the Turkish people of Cyprus and the international situation so necessitate. All forces used in providing the external and internal security on the date of the coming into operation of the Constitution, shall continue to be so used, and the procedure and provisions being implemented regarding such forces and the bases of cooperation accepted and to be accepted in respect of these matters shall continue to be implemented.

Transitional Article 11 [Position of the Organs, Institutions and Establishments Envisaged by the Constitution]

Until the laws relating to the establishment and functions of the new organs, institutions and establishments envisaged by this Constitution are enacted by the Assembly of the Republic and put into force, the provisions of the existing legislation on these matters shall continue to be applied and the existing organs, institutions and establishments shall continue with their duties.

Transitional Article 12 [Publication of the Text of the Constitution]

The text of this Constitution shall be published in the Official Gazette within ten days from the date of its approval by the Constituent Assembly.

Transitional Article 13 [Commutation of Death Sentences to Life Imprisonment]

Death sentences provided for offences necessitating the death sentence under the legislation in force, excluding the death sentences provided in paragraph (2) of Article 15 of this Constitution, shall be commuted to life imprisonment as from the date of the coming into operation of this Constitution.

Part VIII – Final Provisions

Article 162 [Amendment of the Constitution]

(1) The provisions of this Constitution may be amended, partially or wholly, only by a proposal made by at least ten members of the Assembly of the Republic and by the approval of the proposal by a two-thirds majority of the total number of the members of the Assembly. The provisions of Article 9 of this Constitution are reserved.

(2) The debating of the proposals made in connection with the amendment of the Constitution and the acceptance of such proposals shall, without prejudice to the conditions set out in paragraph (1), be subject to the provisions relating to the debate and acceptance of laws. Provided that amendment proposals shall not be debated before the lapse of thirty days as from the date of the submission of the proposal.

(3) The amendments to the Constitution, if accepted by a referendum, shall come into force upon publication in the Official Gazette by the President of the Republic within ten days of such referendum.

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Article 163 [The Preamble]

The preamble which specifies the communal struggle and the basic views and principles on which this Constitution is based, shall be considered as part of the text of this Constitution.

Article 164 [Coming into Operation of the Constitution]

This Constitution shall come into operation and become the Constitution of the Turkish Republic of Northern Cyprus after its submission to a referendum and acceptance thereby and upon its publication in the Official Gazette, within ten days of such acceptance, at the latest, together with the results of the referendum.

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Kuzey Kıbrıs Türk Cumhuriyeti Anayasası

15 Kasım 1983 tarihinde Kuzey Kıbrıs Türk Cumhuriyetinin ilanından sonra, Kurucu Meclisin 23 Aralık 1983 tarihinde aldığı kararla, bir başkan ve ondört üyeden oluşan bir Anayasa Komisyonu kuruldu. Bu Komisyon bir Anayasa taslağı hazırladı ve hazırlanan bu taslak 8 Haziran 1984 tarihli Resmi Gazete*'de basıldı. 12 Mart 1985 te Anayasa taslağı Meclis tarafından kabul edildi ve yeniden* Resmi Gazete*'de basıldı. 5 Mayıs 1985 te yeni Anayasa ile ilgili bir referanduma gidildi. Oy kullanma hakkına sahip 91,810 kişiden 71,933 kişinin oy kullandığı referandumda geçerli 70,459 oydan 21,002 (% 29.82) oy'a karşılık 49,447 (% 70.16) kabul oyu ile Anayasa halk tarafından kabul edilmiş oldu. Meclisten sonra halk tarafından da kabul edilen Anayasa 7 Mayıs 1985 tarihinde* Resmi Gazete*'de bir kez daha yayınlanarak Kuzey Kıbrıs Türk Cumhuriyetinin Anayasası olarak resmen kabul edildi. (Kaynak:* North Cyprus Almanack, *[London: K. Rüstem and Brother, 1987], p.45)]*

Başlangıç

Tarihi boyunca bağımsız yaşamış, hak ve özgürlükleri için savaşım vermiş büyük Türk Ulusunun ayrılmaz bir parçası bulunan;

Anavatanından koparıldığı 1878 yılından bu yana ulusal varlığına ve yaşam hakkına yöneltilen ve özellikle 1955 yılından sonra silâhlı tedhiş, saldırı ve sindirme biçiminde yoğunlaştırılan olaylar karşısında, birlik ve bütünlük içinde, yetkin bir toplum olarak direnişini örgütlemiş olan;

Toplumsal hak ve özgürlüklere sahip olmadan, bireysel hak ve özgürlüklerin sözkonusu olamayacağını, Anavatanın doğal, tarihsel ve andlaşmalardan doğan yasal garantörlük hakkını kullanması suretiyle Kahraman Türk Silâhlı Kuvvetlerinin sonuçlandırdığı ve Kıbrıs Türklüğüne huzur, barış, güvenlik ve özgürlük ortamı içinde yaşama imkânı sağlayan Barış Harekâtının yapıldığı 1974 yılına kadar süren acı deneyimlerle saptamış bulunan; ve

Tarihten, uluslararası andlaşmalardan, insan hakları beyanname ve sözleşmelerinden doğan bütün hakları elinden alınmak ve Kıbrıs'taki varlığı tamamen yok edilmek istenen; 21 Aralık, 1963 tarihinden sonra bütün organları, yasa dışı yollarla Kıbrıs Rumlarının tekeline giren, oluşum biçimi yanında, izlediği politikalarla da sadece Kıbrıs Rumlarının devleti haline gelen, Pan-Helenist yayılmacılığa hizmet eden, ırkçı ve ayrımcı düşünce ve eylemlerle andlaşmalardan ve Anayasa esaslarından tamamıyle ayrılarak meşruluğunu yitirmiş bulunan Kıbrıs Cumhuriyeti karşısında, kendi kaderini tayin etme hak ve özgürlüğünü kullanarak, dünya ve tarih önünde, Kuzey Kıbrıs Türk Cumhuriyeti Devletini ilân etmiş bulunan

KIBRIS TÜRK HALKI

Egemenliğin kayıtsız şartsız sahibi olarak;

15 Kasım 1983 tarihinde, büyük bir coşku ve oybirliği ile kabul edilen Bağımsızlık Bildirisini yaşama geçirmek; Kendi yurdunda tam bir güven ve insanca bir düzen

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içinde varlığını sürdürmek;
İnsan hak ve özgürlüklerini, hukukun üstünlüğünü, kişilerin ve toplumun huzur ve rafahını korumayı içeren çok partili, demokratik, lâik ve sosyal hukuk devletini gerçekleştirmek; ve Atatürk ilkelerine bağlı kalmak ve özellikle O'nun "Yurtta barış dünyada barış" ilkesini yaygınlaştırmak amaçları ile, Kuzey Kıbrıs Türk Cumhuriyeti Kurucu Meclisinin yaptığı bu Anayasayı, 15 Kasım 1983 tarihinde kurulan Kuzey Kıbrıs Türk Cumhuriyetinin Anayasası olarak kabul ve ilân eder; ve Asıl güvencenin yurttaşların gönül ve iradelerinde yer aldığı inancı ile özgürlüğe, adalete ve erdeme tutkun evlâtlarının uyanık bekçiliğine emanet eder.

Birinci Kısım. Genel İlkeler

Madde 1 [Devletin Şekli ve Nitelikleri]

Kuzey Kıbrıs Türk Cumhuriyeti Devleti, demokrasi, sosyal adalet ve hukukun üstünlüğü ilkelerine dayanan lâik bir Cumhuriyettir.

Madde 2 [Devletin Bütünlüğü, Resmi Dili, Bayrağı, Ulusal Marşı ve Başkenti]

(1) Kuzey Kıbrıs Türk Cumnhuriyeti Devleti, ülkesi ve halkı ile bölünmez bir bütündür.

(2) Resmi dil Türkçe'dir.

(3) Kuzey Kıbrıs Türk Cumhuriyetinin Bayrağı ve Ulusal Marşı yasa ile belirlenir.

(4) Cumhuriyetin başkenti Lefkoşa'dır.

Madde 3 [Egemenlik]

(1) Egemenlik, kayıtsız şartsız Kuzey Kıbrıs Türk Cumhuriyeti yurttaşlarından oluşan halkındır.

(2) Halk, egemenliğini, Anayasanın koyduğu ilkeler çerçevesinde, yetkili organları eliyle kullanır.

(3) Halkın hiçbir zümresi, kesimi ve kişisi, egemenliği kendine mal edemez.

(4) Hiçbir organ, makam veya merci, kaynağını bu Anayasadan almayan bir yetki kullanamaz.

Madde 4 [Yasama Yetkisi]

Yasama yetkisi, Kuzey Kıbrıs Türk Cumhuriyeti halkı adına Cumhuriyet Meclisinindir.

Madde 5 [Yürütme Yetkisi ve Görevi]

Yürütme yetkisi ve görevi, Cumhurbaşkanı ve Bakanlar Kurulu tarafından Anayasa ve yasalara uygun olarak kullanılır ve yerine getirilir.

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Madde 6 [Yargı Yetkisi]

Yargı yetkisi, Kuzey Kıbrıs Türk Cumhuriyeti halkı adına bağımsız mahkemelerce kullanılır.

Madde 7 [Anayasanın Üstünlüğü ve Bağlayıcılığı]

(1) Yasalar Anayasaya aykırı olamaz.

(2) Anayasa kuralları, yasama, yürütme ve yargı organlarını, Devlet yönetimi makamlarını ve kişileri bağlayan temel hukuk kurallarıdır.

Madde 8 [Eşitlik]

(1) Herkes, hiçbir ayırım gözetilmeksizin, Anayasa ve yasa önünde eşittir. Hiçbir kişi, aile, zümre veya sınıfa ayrıcalık tanınamaz.

(2) Devlet organları ve yönetim makamları, bütün işlemlerinde yasa önünde eşitlik ilkesine uygun olarak hareket etmek ve ayrıcalık yapmamak zorundadırlar.

(3) Ekonomik bakımdan güçsüz olanların Anayasa ve yasalar ile elde ettikleri veya edecekleri kazanımlar, bu madde ileri sürülerek ortadan kaldırılamaz.

Madde 9 [Değiştirilemeyecek Kurallar]

Bu Anayasanın 1. maddesi ile 2. maddesinin (1). ve (2). fıkrasında ve 3. maddesinde yer alan kurallar değiştirilemez ve değiştirilmesi önerilemez.

İkinci Kısım. Temel Haklar, Özgürlükler ve Ödevler

Birinci Bölüm. Genel Kurallar

Madde 10 [Temel Hakların Niteliği ve Korunması]

(1) Herkes, kişiliğine bağlı, dokunulmaz, devredilmez, vazgeçilmez temel hak ve özgürlüklere sahiptir.

(2) Devlet, kişinin temel hak ve özgürlüklerini, kişi huzuru, sosyal adalet ve hukuk devleti ilkeleriyle bağdaşmayacak biçimde sınırlayan siyasal, ekonomik ve sosyal bütün engelleri kaldırır; insanın maddi ve manevi varlığının gelişmesi için gerekli koşulları hazırlar.

(3) Devletin yasama, yürütme ve yargı organları, kendi yetki sınırları içinde, bu Kısım kurallarının tam olarak uygulanmasını sağlamakla yükümlüdürler.

Madde 11 [Temel Hak ve Özgürlüklerin Özü ve Sınırlanması]

Temel hak ve özgürlükler, özüne dokunmadan, kamu yararı, kamu düzeni, genel ahlâk, sosyal adalet, ulusal güvenlik, genel sağlık ve kişilerin can ve mal güvenliğini sağlamak gibi nedenlerle ancak yasalarla kısıtlanabilir.

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Madde 12 [Temel Hak ve Özgürlükler ile Yetkilerin Kötüye Kullanılmaması]

Bu Anayasanın hiçbir kuralı, herhangi bir gerçek veya tüzel kişiye, zümre veya sınıfa, bu Anayasa ile güvence altına alınan Kuzey Kıbrıs Türk Cumhuriyetinin ve Kıbrıs Türk halkının hak ve statüsünün değiştirilmesini veya bu Anayasanın kurduğu düzenin yok edilmesini veya tanınan temel hak ve özgürlüklerin ortadan kaldırılmasını amaçlayan hareketlere girişmek ve faaliyetlerde bulunmak hak ve yetkisini verir biçimde anlaşılamaz ve yorumlanamaz.

Madde 13 [Yabancıların Durumu]

Bu Anayasada gösterilen hak ve özgürlükler, yabancılar için, uluslararası hukuka uygun olarak yasa ile kısıtlanabilir.

İkinci Bölüm. Kişinin Hak, Özgürlük ve Ödevleri

Madde 14 [Kişi dokunulmazlığı]

(1) Herkes, barış, güven ve huzur içinde yaşama, maddi ve manevi varlığını koruma ve geliştirme hakkına sahiptir.

(2) Kimseye eziyet ve işkence yapılamaz.

(3) Kimse, insanlık onuruyla bağdaşmayan bir cezaya çarptırılamaz veya muameleye bağlı tutulamaz.

(4) Kişinin şeref ve haysiyeti dokunulmazdır. Herkes buna saygı göstermek ve korumakla yükümlüdür.

Madde 15 [Hayat ve Vücut Bütünlüğü Hakkı]

(1) Herkes, hayat ve vücut bütünlüğü hakkına sahiptir.

(2) Yasanın ölüm cezası ile cezalandırdığı bir suçtan dolayı hakkında yetkili bir mahkemece verilen bir hükmün yerine getirilmesi dışında kimsenin hayatına son verilemez.

Yasa böyle bir cezayı, ancak savaş halinde vatana ihanet, devletlerarası hukuka göre korsanlık ve tedhiş suçları için veya müebbet hapis cezası gerektiren bir suçtan mükerrer mahkumiyet halinde koyabilir.

(3) Yasa ile konduğu zaman ve gösterildiği şekilde:

(a) Kişinin ve malvarlığının, başka türlü kaçınılması ve tamiri olanaksız aynı derecede bir zarara karşı savunulması; veya

(b) Bir kişinin yakalanması veya yasaya uygun tutukluluktan kaçmasının önlenmesi; veya

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(c) Bir ayaklanmanın veya karşı koymanın bastırılması amacıyla girişim eylem sırasında kesin olarak gerekli olduğu kadar zor kullanmak suretiyle yaşama son verilmesi, (1). ve (2). fıkra kurallarına aykırı sayılmaz.

Madde 16 [Kişi Özgürlüğü ve Güvenliği]

(1) Herkes, kişi özgürlüğü ve güvenliği hakkına sahiptir.

(2) Bir kişi, yasa ile öngörülmek ve yasanın gösterdiği biçimde olmak koşuluyla, ancak aşağıdaki hallerde özgürlüğünden yoksun bırakılabilir:

(a) Yetkili mahkemece hakkında hüküm verilmiş bir kişinin tutukluluğu;

(b) Mahkemece verilmiş yasal bir emre uymamaktan dolayı bir kişinin yakalanması veya tutukluluğu;

(c) Bir kişinin, suç işlediği makul şüphesi üzerine, yetkili yargı mercii önüne getirilmesi amacıyla veya suç işlemesini önlemenin veya işledikten sonra kaçmasına engel olmanın makul olarak gerekli görüldüğü hallerde yakalanması veya tutukluluğu;

(ç) Bir küçüğün ıslahı amacıyla yasal bir emirle bakım altına alınması veya yetkili yargı mercii önüne getirilmesi amacıyla yasal tutukluluğu;

(d) Bulaşıcı bir hastalık yayabilecek kişilerin, akıl hastalarının, alkoliklerin, uyuşturucu madde düşkünlerinin veya serserilerin tutukluluğu;

(e) Bir kişinin, Devlet topraklarına izinsiz girmesini önlemek için veya bir yabancının sınırdışı edilmesi veya geri verilmesi işlemine girişilmesi nedeniyle, yakalanması veya tutukluluğu;

(f) Herhangi bir yabancının Cumhuriyette herhangi bir maddi yükümlülükten kurtulmak amacı ile Cumhuriyeti terk etmesini önlemek için yakalanması veya tutukluluğu;

(g) Birden fazla uyruklu Cumhuriyet yurttaşlarının, uyruğunda bulundukları diğer ülke yasaları karşısında işlemiş oldukları suçlar nedeniyle haklarında verilmiş mahkeme kararlarının, Kuzey Kıbrıs Türk Cumhuriyeti ile o ülke arasında adli yardım ve mahkeme ilâmlarının karşılıklı tenfizi andlaşması bulunması kaydıyla, Kuzey Kıbrıs Türk Cumhuriyetinde infazı için tutukluluğu.

(3) Kimse, ölüm veya hapis cezasını gerektiren bir suçüstü halinde, yasa ile konduğu zaman ve gösterildiği usul müstesna, yasanın gösterdiği usullere uygun olarak ve gerekçeli yargıç kararına dayanarak düzenlenmiş adli bir belge bulunmaksızın yakalanamaz.

(4) Yakalanan veya tutuklanan kişinin durumu, soruşturmanın kapsam ve konusunun açığa çıkmasının sakıncalarının gerektirdiği kesin zorunluluk dışında, yakınlarına en erken bir zamanda ve süratle bildirilir.

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(5) Yakalanan veya tutuklanan herkese, yakalanmasını veya tutuklanmasını gerektiren nedenler, yakalanması veya tutuklanması sırasında anladığı dilde bildirilir ve herkes, kendisinin veya yakınlarının seçtiği bir hukukçunun hizmetinden derhal yararlandırılır.

(6) Yakalanan kişi, yakalandıktan sonra mümkün olan en kısa zamanda ve daha önce salıverilmediği takdirde herhalde yirmi dört saat geçmeden bir yargıç önüne çıkarılır.

(7) Yargıç, derhal, yakalanan kişinin anladığı dilde yakalanma nedenlerini soruşturur ve en kısa zamanda ve herhalde yargıç önüne çıkma tarihinden başlayarak üç günü geçmeyen bir süre içinde, uygun göreceği koşullarla yakalananı ya salıverir veya yakalanma nedeni suç hakkındaki soruşturma tamamlanmadığı takdirde, yakalanmanın devamına karar verir. Yargıç, her defasında sekiz günü geçmemek koşuluyla, bu yakalanmanın devamına karar verebilir. Ancak, yakalanma veya tutuklanma süresinin toplamı, yakalanma tarihinden başlayarak üç ayı geçemez ve bu sürenin sonunda yakalamayı veya tutuklamayı uygulamakla görevli kişi veya makam, yakalanan veya tutuklanan kişiyi derhal serbest bırakır.

(8) Yargıcın (7). fıkraya göre verdiği kararlara karşı istinaf yolu kapatılamaz.

(9) Yakalanması veya tutukluluğu nedeniyle özgürlüğünden yoksun bırakılan herkes, tutukluluğunun yasaya uygunluğu hakkında bir mahkemece süratle karar verilmesi için, yasal yollara başvurma hakkına sahiptir. Tutukluluğu yasaya aykırı görüldüğü takdirde, serbest bırakılması mahkemece emredilir.

(10) Bu madde kurallarına aykırı olarak bir yakalanmanın veya bir tutukluluğun mağduru herkes, dava açmak suretiyle tazminat alma hakkına sahiptir.

Madde 17 [Hak Arama Özgürlüğü ve Yasal Yargı Yolu]

(1) Kimse, bu Anayasa ile veya bu Anayasa gereğince kendisine gösterilen mahkemeye başvurmak hakkından yoksun bırakılamaz. Her ne ad altında olursa olsun adli komisyonlar veya istisnai mahkemeler oluşturulması yasaktır.

(2) Herkes, yurttaş hak ve yükümlülüklerinin veya kendisine karşı yapılan bir suçlamanın karara bağlanmasında, yasa ile kurulan bağımsız, tarafsız ve yetkili bir mahkeme tarafından makul bir süre içinde adil ve açık bir surette davanın dinlenmesi hakkına sahiptir. Karar gerekçeye dayanır ve açık bir oturumda okunur.

(3) Ulusal güvenlik, anayasal düzen, kamu düzeni, kamu güvenliği veya genel ahlâk yararına olduğu veya küçüklerin çıkarları veya tarafların özel hayatlarının korunması için gerekli olduğu ve yayının, adaletin sağlanması için mahkemece zararlı görüldüğü özel durumlarda, mahkeme duruşmanın kısmen veya tamamen kapalı yapılmasına karar verebilir.

(4) Herkes:

(a) Mahkeme önüne çıkarılması nedenlerinin kendisine bildirilmesi;

(b) Davasını mahkemeye sunmak ve bunu hazırlamak için gerekli zamana sahip olmak;

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(c) Delillerini göstermek veya göstertmek veya tanıkların yasaya uygun olarak doğrudan doğruya sorguya çekilmesini istemek;

(ç) Kendisinin veya yakınlarının seçtiği bir hukukçu tutmak ve adaletin sağlanması için gerekli görülüyorsa, yasanın gösterdiği şekilde kendisine parasız bir hukukçu atanması;

(d) Mahkemede kullanılan dili anlayamadığı veya konuşamadığı takdirde, bir tercümanın yardımından parasız yararlanmak,

hakkına sahiptir.

Madde 18 [Cezaların Yasal ve Kişisel Olması ve Sanık Hakları]

(1) Kimse, işlendiği zaman yasaca suç teşkil etmeyen bir eylem veya ihmalden dolayı suçlu sayılamaz; herhangi bir suç için, işlendiği zaman yasanın bu suç için koyduğu cezadan daha ağır bir cezaya çarptırılamaz.

(2) Bir suçtan dolayı beraat eden veya hüküm giyen bir kişi, aynı suçtan dolayı tekrar yargılanamaz. Kimse, aynı eylem veya ihmalden dolayı, bu eylem veya ihmal ile ölüme sebebiyet verilmiş olmadıkça, iki defa cezalandırılamaz.

(3) Hiçbir yasa, suçun ağırlığı ile orantılı olmayan bir ceza koyamaz.

(4) Bir suçtan sanık herkes, suçluluğu yasaya uygun olarak ispat edilinceye kadar suçsuz sayılır.

(5) Bir suçtan sanık herkes, en azından:

(a) Hakkında yapılan suçlamanın nitelik ve nedeninin anladığı bir dilde ve etraflı şekilde derhal kendisine bildirilmesi;

(b) Savunmasını hazırlaması için yeterli zamana ve kolaylıklara sahip olmak;

(c) Kendi kendini bizzat veya seçeceği veya eğer yeterli mali olanaklardan yoksun bulunuyor ve adaletin sağlanması için gerekli görülüyorsa, kendisine parasız olarak atanacak bir hukukçu aracılığı ile savunmak;

(ç) İddia tanıklarını bizzat veya avukatı vasıtasıyla sorguya çekmek veya çektirmek ve savunma tanıklarını da iddia tanıkları ile aynı koşullar altında getirtmek ve sorguya çekilmelerini sağlamak;

(d) Mahkemede kullanılan dili anlayamadığı veya konuşamadığı takdirde, bir tercümanın yardımından parasız yararlanmak,

hakkına sahiptir.

(6) Malların toptan müsaderesi cezasının konması yasaktır.

Madde 19 [Özel Hayatın Gizliliği]

(1) Herkes, özel hayatına ve aile hayatına saygı gösterilmesini isteme hakkına sahiptir. Özel hayatın ve aile hayatının gizliliğine dokunulamaz. Adli kovuşturmanın gerektirdiği istisnalar saklıdır.

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(2) Yasanın açıkça gösterdiği durumlarda, usulüne göre verilmiş mahkeme veya yargıç kararı olmadıkça, ulusal güvenlik ve kamu düzeni bakımından gecikmede sakınca bulunan durumlarda da, yasa ile yetkili kılınan merciin emri bulunmadıkça, kimsenin üstü, özel kâğıtları ve eşyası aranamaz ve bunlara el konulamaz.

Madde 20 [Konut Dokunulmazlığı]

(1) Kimsenin konutuna dokunulamaz.

(2) Yasanın açıkça gösterdiği durumlarda, usulüne göre verilmiş mahkeme veya yargıç kararı olmadıkça, ulusal güvenlik veya kamu düzeni bakımından gecikmede sakınca bulunan durumlarda da, yasa ile yetkili kılınan merciin emri bulunmadıkça konuta girilemez, arama yapılamaz ve buradaki eşyaya el konulamaz.

Madde 21 [Haberleşme Özgürlüğü]

(1) Herkes, haberleşme özgürlüğüne sahiptir.

(2) Haberleşmenin gizliliği esastır. Yasanın gösterdiği durumlarda mahkeme veya yargıç tarafından yasaya uygun olarak verilmiş bir karar olmadıkça, bu gizliliğe dokunulamaz.

Madde 22 [Gezi ve Yerleşme Özgürlüğü]

(1) Her yurttaş, gezi özgürlüğüne sahiptir; bu özgürlük ancak ulusal güvenliği sağlama ve salgın hastalıkları önleme amaçlarıyla ve yasa ile sınırlanabilir.

(2) Her yurttaş, dilediği yerde yerleşme özgürlüğüne sahiptir, bu özgürlük, ancak ulusal güvenliği sağlama, salgın hastalıkları önleme, kamu mallarını koruma, sosyal, ekonomik ve tarımsal gelişmeyi ve sağlıklı kentleşmeyi gerçekleştirme zorunluluğuyla ve yasa ile sınırlanabilir.

(3) Her yurttaş, yurda girme ve çıkma özgürlüğüne sahiptir. Yurt dışına çıkma özgürlüğü yasa ile düzenlenir.

(4) Hiçbir yurttaş, isteği dışında Devlet sınırları dışına çıkarılamaz ve aynı şekilde girmekten alıkonulamaz.

Madde 23 [Vicdan ve Din Özgürlüğü]

(1) Herkes, vicdan, dini inanç ve kanaat özgürlüğüne sahiptir.

(2) Kamu düzenine, genel ahlâka veya bu amaçla çıkarılmış yasalara aykırı olmayan ibadetler, dinsel ayin ve törenler serbesttir.

(3) Kimse, ibadete, dinsel ayin ve törenlere katılmaya, dini inanç ve kanaatlarını açıklamaya zorlanamaz; dini inanç ve kanaatlarından dolayı kınanamaz.

(4) Din eğitim ve öğretimi, Devletin gözetim ve denetimi altında yapılır.

(5) Kimse, Devletin sosyal, ekonomik, siyasal veya yasal temel düzenini, kısmen de olsa, din kurallarına dayandırma veya siyasal ve kişisel çıkar veya nüfuz sağlama amacı ile, her

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ne surette olursa olsun, dini veya din duygularını yahut dince kutsal sayılan şeyleri istismar edemez ve kötüye kullanamaz. Bu yasak dışına çıkan veya başkasını bu yolda kışkırtan gerçek veya tüzel kişiler hakkında, yasanın gösterdiği kurallar uygulanır ve siyasal partiler, Anayasa Mahkemesi olarak görev yapan Yüksek Mahkemece temelli kapatılır.

Madde 24 [Düşünce, Söz ve Anlatım Özgürlüğü]

(1) Herkes, düşünce ve kanaat özgürlüğüne sahiptir; kimse, düşünce ve kanaatlarını açıklamaya zorlanamaz. Düşünce suçu yoktur.

(2) Herkes, düşünce ve kanaatlarını, söz, yazı, resim veya başka yollarla tek başına veya toplu olarak açıklama ve yayma hakkına sahiptir.

Bu hak, herhangi bir resmi makamın müdahalesi ve Devlet sınırları söz konusu olmaksızın, kanaatını anlatma, haber ve fikir alma ve verme özgürlüklerini kapsar.

(3) Söz ve anlatım özgürlüklerinin kullanılması, yalnız ulusal güvenlik, anayasal düzen, kamu güvenliği , kamu düzeni, genel sağlık, genel ahlâk yararı için veya başkalarının şöhret veya haklarının korunması veya bir sırrın açıklanmasının önlenmesi veya yargının otorite veya tarafsızlığının sürdürülmesi için gerekli ve yasanın koyduğu yöntemlere, koşullara, sınırlamalara veya cezalara bağlı tutulabilir.

Madde 25 [Bilim ve Sanat Özgürlüğü]

Herkes, bilim ve sanatı serbestçe öğrenme ve öğretme, açıklama, yayına ve bu alanlarda her türlü araştırma yapma hakkına sahiptir.

Madde 26 [Basın Özgürlüğü]

(1) Yurtaşlar için basın ve yayın özgürdür, sansür edilemez.

(2) Devlet, basın, yayın ve haber alma özgürlüğünü sağlayacak önlemeleri alır.

(3) Basın ve haber alma özgürlüğü, kamu düzenini, ulusal güvenliği veya genel ahlâkı korumak, kişilerin şeref, haysiyet ve haklarına tecavüzü, suç işlemeye kışkırtmayı önlemek veya yargı görevinin amacına uygun olarak yerine getirilmesini sağlamak için yasa ile sınırlanabilir.

(4) Yargı görevinin amacına uygun olarak yerine getirilmesi için, yasa ile belirtilecek sınırlar içinde, mahkeme veya yargıç tarafından verilecek kararlar saklı kalmak üzere, olaylar hakkında yayın yasağı konamaz.

Madde 27 [Gazete, Dergi ve Broşür Çıkarma Hakkı]

(1) Gazete, dergi ve broşür çıkarılması, her yurttaş için önceden izin alma ve mali güvence yatırma koşuluna bağlanamaz.

(2) Gazete, broşür ve dergilerin çıkarılması, yayımı, mali kaynakları ve gazetecilik mesleği ile ilgili koşullar yasa ile düzenlenir. Yasa, haber, düşünce ve kanaatların serbestçe yayımlanmasını engelleyici veya zorlaştırıcı siyasal, ekonomik, mali veya teknik kayıtlar koyamaz.

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(3) Gazete ve dergiler, Devletin ve diğer kamu tüzel kişilerinin veya bunlara bağlı kurumların araç ve olanaklarından eşitlik ilkesine göre yararlanır.

(4) Devlet sınırları içinde yayımlanan gazete, dergi ve broşürler, yasanın gösterdiği suçların işlenmesi halinde, yargıç kararı ile; ulusal güvenliğin, kamu düzeninin veya genel ahlâkın korunması bakımından gecikmede sakınca bulunan durumlarda da, yasanın açıkça yetkili kıldığı merciin emriyle toplatılabilir. Toplatma kararını veren yetkili merci, bu kararı aynı gün mahkemeye bildirir. Mahkeme bu kararı, en geç iki gün içinde onaylamazsa, toplatma kararı geçersiz sayılır.

Madde 28 [Kitap Çıkarma Hakkı]

(1) Kitap yayımı, yurttaşlar için izne bağlı tutulamaz; sansür edilemez.

(2) Devlet sınırları içinde yayımlanan kitaplar, yasanın gösterdiği suçların işlenmesi halinde, yargıç kararı ile; ulusal güvenliğin, kamu düzeninin veya genel ahlâkın korunması bakımından gecikmede sakınca bulunan durumlarda da, yasanın açıkça yetkili kıldığı merciin emriyle toplatılabilir. Toplatma kararını veren yetkili merci, bu kararı en geç yirmi dört saat içinde mahkemeye bildirir. Mahkeme bu kararı en geç yedi gün içinde onaylamazsa, toplatma kararı geçersiz sayılır.

Madde 29 [Basın Araçlarının Korunması]

Yurttaşlara ait basımevi ve eklentileri ve basın araçları, suç aracı oldukları gerekçesiyle de olsa, zorla alınamaz veya el konulamaz veya işletilmekten alıkonamaz.

Madde 30 [Basın Dışı Haberleşme Araçlarından Yararlanma Hakkı]

Yurttaşlar ve siyasal partiler, kamu tüzel kişilerinin elindeki basın dışı haberleşme ve yayın araçlarından yararlanma hakkına sahiptir. Bu yararlanmanın koşulları ve usulleri, demokratik ilkelere ve hakkaniyet ölçülerine uygun olarak yasa ile düzenlenir. Yasa, insan haklarına, demokrasi, sosyal adalet ve hukukun üstünlüğü ilkelerine dayanan lâik devletin, ulusal güvenliğin ve genel ahlâkın korunması halleri dışındaki bir nedene dayanarak, halkın bu araçlarla haber almasını, düşünce ve kanaatlara ulaşmasını ve kamuoyunun serbestçe oluşumunu engelleyici kayıtlar koyamaz.

Madde 31 [Düzeltme ve Cevap Hakkı]

(1) Düzeltme ve cevap hakkı, ancak kişilerin şeref ve haysiyetine dokunulması veya kendileriyle ilgili gerçeğe aykırı yayınlar yapılması hallerinde tanınır ve yasa ile düzenlenir.

(2) Düzeltme ve cevap yayınlanmazsa, yayınlanmasının gerekip gerekmediğine, ilgilinin başvurusu tarihinden başlayarak en geç yedi gün içerisinde yargıç tarafından karar verilir.

Madde 32 [Toplantı ve Gösteri Yürüyüşü Hakkı]

Yurttaşlar, önceden izin almaksızın, silâhsız ve saldırısız toplanma veya gösteri yürüyüşü yapma hakkına sahiptir. Bu hak, kamu düzenini korumak için yasa ile sınırlanabilir.

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Madde 33 [Dernek Kurma Hakkı]

(1) Yurttaşlar, önceden izin almaksızın, dernek kurma hakkına sahiptir. Bu hakkın kullanılmasında uygulanacak şekil ve usuller yasada gösterilir. Yasa, ulusal güvenliğin, kamu düzeninin ve genel ahlâkın korunması amacıyla sınırlar koyabilir.

(2) Hiçbir yurttaş, herhangi bir derneğe üye olmaya veya herhangi bir dernekte üye kalmaya zorlanamaz.

(3) Dernekler, yasanın öngördüğü durumlarda, yargıç kararıyla kapatılabilir; ulusal güvenliğin, kamu düzeninin ve genel ahlâkın korunması bakımından gecikmede sakınca bulunan durumlarda da, yargıç kararına kadar, yasanın açıkca yetkili kıldığı merciin emriyle faaliyetten alıkonulabilir.

Madde 34 [İspat Hakkı]

Kamu görev ve hizmetinde bulunanlara karşı, bu görev ve hizmetin yerine getirilmesiyle ilgili olarak yapılan isnatlardan dolayı açılan hakaret davalarında, sanık, isnadın doğruluğunu ispat hakkına sahiptir. Bunun dışındaki hallerde ispat isteminin kabulü, ancak isnat olunan eylemin doğru olup olmadığının anlaşılmasında kamu yararı bulunmasına veya şikâyetçinin ispata razı olmasına bağlıdır.

Üçüncü Bölüm. Sosyal ve Ekonomik Haklar, Özgürlükler ve Ödevler

Madde 35 [Ailenin Korunması]

(1) Aile toplumun temelidir. Devlet ve diğer kamu tüzel kişileri ailenin, ananın ve çocuğun korunması için gerekli önlemleri alır ve örgütleri kurar.

(2) Evlenme çağındaki bir kadın ile bir erkeğin, evlenip aile yuvası kurma hak ve yükümlülükleri yasa ile düzenlenir.

Madde 36 [Mülkiyet Hakkına Ait Genel Kural]

(1) Her yurttaş, mülkiyet ve miras haklarına sahiptir. Bu haklar, kamu yararı amacıyla ve yasa ile sınırlanabilir.

(2) Mülkiyet hakkının kullanılmasına, kamu güvenliği, genel sağlık, genel ahlâk, kent ve ülke plânlaması veya herhangi bir malvarlığının kamu yararı için geliştirilmesi ve faydalı kılınması veya başkalarının haklarının korunması için kesin olarak gerekli kısıntı veya sınırlamalar yasa ile konabilir.

(3) Malvarlığının ekonomik değerini fiilen azaltan kısıntı ve sınırlandırmalar için derhal tam bir tazminat ödenir; anlaşmazlık halinde tazminatı hukuk mahkemesi saptar.

(4) Yukarıdaki (2). ve (3). fıkra kuralları, herhangi bir verginin veya para cezasının tahsili,

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herhangi bir hükmün yerine getirilmesi, sözleşmeden doğan bir yükümün yerine getirilmesi veya can veya malın tehlikeden korunması amacı ile yasa ile konmuş kuralları etkilemez.

(5) Devletin, 159. maddede belirtilen taşınmaz mallar üzerindeki hakkı saklıdır.

Madde 37 [Toprağın Korunması]

Devlet, toprağın verimli olarak işletilmesini gerçekleştirmek ve topraksız olan veya yeter toprağı bulunmayan çiftçiye toprak sağlamak amaçlarıyla gereken önlemleri alır. Yasa bu amaçlarla, değişik tarım bölgelerine ve çeşitlerine göre toprağın genişliğini gösterebilir.

Madde 38 [Kıyıların Korunması]

(1) Kıyılar, Devletin hüküm ve tasarrufu altındadır ve yalnız kamu yararına kullanılabilir.

(2) Belediye sınırları dışındaki kıyıların yüz metrelik şeridi içinde kalan bölgede yalnız Devlete ait, çok gerekli ve kamu yararına olan tesisler kurulabilir. Ancak, bu gibi tesisler, kıyıların doğal güzelliğini bozacak nitelikte olamaz.
Mevcut bina veya tesislerin gelecekteki durumu yasa ile düzenlenir.

(3) Belediye sınırları içindeki kıyıların korunması ve yüz metrelik kıyı şeridi içinde kalan bölgede inşaa edilebilecek yapı ve tesisler ile mevcutların durumu, kamu yararının ve kent plânlamasının gereklerine uygun olarak yasa ile düzenlenir.

(4) Ulusal güvenlik, kamu düzeni, kamu yararı, genel sağlık ve çevre korunması amacıyla yasa ile sınırlama konmadıkça, yurttaşların yüz metrelik kıyı şeridi içerisine girmesi kimse tarafından engellenemez ve giriş ücrete bağlı tutulamaz.
Ancak, bu kural, mülkiyet haklarına tecavüz edilmesine olanak tanır biçimde yorumlanamaz.

Madde 39 [Tarih, Kültür ve Doğa Varlıklarının Korunması]

Devlet, tarih ve kültür değeri olan eser ve anıtlar ile doğa varlıklarının korunmasını sağlar; bu amaçla düzenleyici, destekleyici ve özendirici önlemleri alır. Bunlardan özel mülkiyete konu olanlara getirilecek sınırlamalar ve bu nedenle hak sahiplerine yapılacak yardımlar ve sağlanacak bağışıklıklar yasa ile düzenlenir. Yıkılan veya herhangi bir şekilde yok olan veya tahribata uğrayan tarihi yapıların yerine başka bir yapı inşa edilemez. İnşa edilme zorunluluğu doğarsa, yıkılan veya herhangi bir şekilde hasar gören tarihi yapı aslına uygun bir şekilde yeniden inşa veya tamir edilir. Devlet, bu amaçla gerekli önlemleri alır ve yasal düzenlemeleri yapar.

Madde 40 [Çevrenin Korunması]

(1) Herkes, sağlıklı ve dengeli bir çevrede yaşama hakkına sahiptir.

(2) Gerçek veya tüzel kişiler, hiçbir amaçla, insan sağlığını bozacak veya deniz varlıklarını tehlikeye düşürecek nitelikteki sıvı, gaz ve katı maddeleri denizlere, barajlara, göllere veya derelere akıtamaz veya dökemez.

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(3) Çevreyi geliştirmek, çevre sağlığını korumak ve çevre kirlenmesini önlemek Devletin, gerçek ve tüzel kişilerin ödevidir.

(4) Devlet, milli parklar oluşturulması amacıyla gerekli önlemleri alır.

Madde 41 [Kamulaştırma ve El Koyma]

(1) Devlet, Belediyeler, yasanın kendilerine kamulaştırma hakkı tanıdığı kamu tüzel kişileri veya kamu yararı güden kuruluşlar:

(a) Genel bir kamulaştırma yasasında özel olarak gösterilen ve kamu yararına olan bir amaç için; ve

(b) Bu amacın, kamulaştırma yapan makamın, kamulaştırma ile ilgili yasa kurallarına uygun olarak verdiği ve kamulaştırma nedenlerini açıkça bildiren bir kararı ile gösterilmesi halinde; ve

(c) Anlaşmazlık çıktığı takdirde, bir hukuk mahkemesince saptanacak tam ve hakkaniyete uygun bir tazminatın hemen veya yasanın belirleyeceği beş yılı aşmayan taksitlerle ödenmesi koşuluyla,
herhangi bir taşınır veya taşınmaz malı veya bu gibi mal üzerindeki herhangi bir hak veya yararı kamulaştırmaya yetkilidirler.

(2) Kamulaştırma bedelinin hesaplanma biçim ve usulleri yasa ile düzenlenir.

(3) Kamulaştırılmış herhangi bir taşınmaz mal veya bu gibi bir mal üzerindeki herhangi bir hak veya yarar, sadece bu kamulaştırma amacı için kullanılabilir. Bu amaç, kamulaştırma tarihinden başlayarak üç yıl içinde gerçekleşmediği takdirde, kamulaştırmayı yapan makam, bu üç yıllık sürenin sonunda kamulaştırılan malı, kamulaştırma bedeline eski sahibine geri vermeyi önerir. Bu öneriyi alan kişi kabul veya ret cevabını bu öneriyi aldığı tarihten başlayarak üç ay içinde bildirir; kabul ettiğini bildirdiği takdirde, kabul tarihinden başlayarak yine üç ay içinde, kamulaştırma bedelini geri vermesi üzerine, kamulaştırılan mal hemen kendisine geri verilir.

(4) Yukarıdaki (1). fıkra kuralları, herhangi bir verginin veya para cezasının tahsili, herhangi bir hükmün yerine getirilmesi, sözleşmeden doğan bir yükümün yerine getirilmesi veya can veya malın tehlikeden korunması amacı ile konmuş bir yasanın kurallarını etkilemez.

(5) Devlet:

(a) Genel bir el koyma yasasında özel olarak gösterilen kamu yararına bir amaç için; ve

(b) Bu amacın, el koymayı yapan makamın genel el koyma yasasının kurallarına uygun olarak verdiği ve el koyma nedenlerini açıkça bildiren bir kararı ile gösterilmesi halinde; ve

(c) Üç yılı geçmeyen bir süre için; ve

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(ç) Anlaşmazlık çıktığı takdirde bir hukuk mahkemesince saptanacak tam ve hakkaniyete uygun bir tazminatın hemen veya yasanın belirleyeceği beş yılı aşmayan taksitlerle ödenmesi koşuluyla,

herhangi bir taşınır veya taşınmaz mala el koyma yetkisine sahiptir.

(6) İlgili kişi, bu madde kuralları ile ilgili olarak mahkemeye başvurma hakkına sahiptir ve böyle bir başvurma kamulaştırma işlemini durdurur.
Mahkemenin bu fıkra kurallarına göre vereceği her karar istinaf edilebilir.

Madde 42 [Vakıf Mallarla İlgili Kamulaştırma, El Koyma ve Sınırlandırma]

(1) Kamulaştırma ve el koyma konularında vakıf mallarla ilgili kurallar, Temel Evkaf Kurallarına (Ahkâmül Evkaf) uygun olarak yasa ile düzenlenir. Bu Yasada, kent ve ülke plânlaması için vakıf mallar hakkında yapılması gereken kısıntı ve sınırlandırmalara ilişkin kurallar da gösterilir.

(2) Kısıntı ve sınırlandırma işleminin konu olduğu hallerde, mahkeme bu işlemleri yasa esaslarına göre durdurabilir.

Madde 43 [Devletleştirme]

Kamu hizmeti niteliği taşıyan özel girişimler ve yabancılara ait taşınır ve taşınmaz mallar, kamu yararının gerektirdiği durumlarda, gerçek karşılıkları yasada gösterilen şekilde ödenmek koşuluyla devletleştirilebilir. Yasanın taksitle ödemeyi öngördüğü durumlarda, ödeme süresi on yılı aşamaz ve taksitler eşit olarak ödenir. Peşin ödenmeyen kısım, Devlet borçları için öngörülen en yüksek faiz haddine bağlıdır.

Madde 44 [Konut Hakkı]

Devlet, konut sahibi olmayan veya sağlık ve insanca yaşama koşullarına uygun konutu bulunmayan ailelerin konut gereksinimlerini karşılayacak önlemleri yasa ile düzenler.

Madde 45 [Sağlık Hakkı]

Devlet, herkesin beden ve ruh sağlığı içinde yaşayabilmesini ve tıbbi bakım görmesini sağlamakla ödevlidir.

Madde 46 [Sözleşme Hakkı]

(1) Herkes, sözleşme hukukunun genel ilkelerince konan koşullara, kısıntılara, sınırlandırmalara ve yürürlükteki yasalara uymak kaydıyla, serbestçe sözleşme yapma hakkına sahiptir. Ekonomik bakımdan güçlü kişilerin diğer kişileri istismarı yasa ile önlenir.

(2) Sözleşmelerden doğan hak ve yükümlülükler kamu yararı, kamu düzeni, sosyal adalet ve ulusal güvenlik gibi nedenlerle yasa ile düzenlenebilir ve kısıtlanabilir.

(3) Devlet yasa ile, belirli yörelerdeki sosyal ve ekonomik gereksinmeleri ve özellikleri dikkate alarak, konut kiraları konusunda gerekli önlemleri alabilir, kısıtlama ve düzenlemeler yapabilir.

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Madde 47 [Ekonomik ve Sosyal Hayatın Düzeni]

(1) Ekonomik ve sosyal hayat, adalete, tam çalışma ilkesine ve her yurttaş için insanlık onuruna yaraşır bir yaşam düzeyi sağlanması amacına göre düzenlenir.

(2) Ekonomik, sosyal ve kültürel kalkınmayı demokratik yollarla gerçekleştirmek; bu amaçla ulusal tasarrufu artırmak, yatırımları toplum yararının gerektirdiği önceliklere yöneltmek ve kalkınma plânlarını yapmak Devletin ödevidir.

Madde 48 [Çalışma Özgürlüğü]

(1) Her yurttaş dilediği alanda çalışma özgürlüğüne sahiptir. Özel girişimler kurmak serbesttir. Yasa, bu özgürlüğü, kamu yararı amacıyla sınırlayabilir.

(2) Devlet, özel girişimlerin, ulusal ekonominin gereklerine ve sosyal amaçlara uygun yürümesini, güvenlik ve kararlılık içinde çalışmasını sağlayacak önlemleri alır.

Madde 49 [Çalışma Hakkı ve Ödevi]

(1) Çalışma her yurttaşın hakkı ve ödevidir.

(2) Devlet, çalışanların insanca yaşaması ve çalışma hayatının kararlılık içinde gelişmesi için, sosyal, ekonomik ve mali önlemlerle çalışanları korur ve çalışmayı destekler; işsizliği önleyici önlemleri alır.

(3) Kimse zorla çalıştırılamaz. Angarya yasaktır. Ancak, hükümlülerin, hükümlülükleri süresince rehabilitasyon amacıyla çalıştırılmaları zorla çalıştırma sayılmaz.

(4) Ülke gereksinmelerinin zorunlu kıldığı alanlarda, yurttaşlık ödevi niteliği olan beden veya fikir çalışmalarının şekil ve koşulları, demokratik ilkelere uygun olarak yasa ile düzenlenir.

Madde 50 [Çalışma Koşulları]

(1) Kimse, yaşına, gücüne ve cinsiyetine uygun olmayan işte çalıştırılamaz.

(2) Çocuklar, gençler, kadınlar ve bedensel ve ruhsal yetersizler çalışma koşulları bakımından özel olarak korunur.

Madde 51 [Dinlenme Hakkı]

(1) Her çalışan dinlenme hakkına sahiptir.

(2) Ücretli hafta ve bayram tatili ve ücretli yıllık izin hakkı yasa ile düzenlenir.

Madde 52 [Ücrette Adalet Sağlanması]

Devlet, çalışanların, yaptıkları işe uygun ve insanlık onuruna yaraşır bir yaşam düzeyi sağlamalarına elverişli, adaletli bir ücret elde etmeleri için gerekli önlemleri alır.

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Madde 53 [Sendika Kurma Hakkı]

(1) Çalışanlar ve işverenler, önceden izin almaksızın sendikalar ve sendika birlikleri kurma, bunlara serbestçe üye olma ve üyelikten ayrılma hakkına sahiptirler. Bu hakların kullanılışında uygulanacak biçim ve usuller yasada gösterilir. Yasa, ulusal güvenliğin, kamu düzeninin ve genel ahlâkın korunması amacıyla sınırlar koyabilir.

(2) Sendikaların ve sendika birliklerinin tüzükleri, yönetim ve işleyişleri demokratik ilkelere aykırı olamaz.

Madde 54 [Toplu Sözleşme ve Grev Hakkı]

(1) Çalışanlar, işverenle olan ilişkilerinde, ekonomik ve sosyal durumlarını korumak ve düzeltmek amacıyla toplu sözleşme ve grev hakkına sahiptir.

(2) Grev hakkının kullanılması, yalnız ulusal güvenliği, anaysal düzeni, kamu güvenliğini veya bu Anayasanın herhangi bir kişiye sağladığı hak ve özgürlükleri korumak amacıyla yasa ile düzenlenebilir.

(3) Yargıçlar, savcılar, silâhlı kuvvetler mensupları, polis mensupları ve sivil savunma kilit personelinin grev hakkı yoktur.

(4) İşverenlerin hakları yasa ile düzenlenir.

Madde 55 [Sosyal Güvenlik Hakkı]

Herkes, sosyal güvenlik hakkına sahiptir. Bu hakkı sağlamak için sosyal sigortalar ve benzeri sosyal güvenlik kurumları ile sosyal yardım örgütleri kurmak ve kurdurmak Devletin ödevlerindendir.

Madde 56 [Açlıktan Korunma Hakkı]

Devlet, herkesi açlığa karşı korur ve bu amaçla uluslararası işbirliğinden de yararlanarak besin maddelerinin üretimini artırmak, israfını önlemek, dengeli biçimde dağılımını sağlamak ve etkin beslenme olanaklarını yaratmak amacıyla gerekli önlemleri alır. Bu yönde bilimsel gelişmeleri izler, yayar ve uygular. Devletin bu görevleri yasa ile düzenlenir.

Madde 57 [Özel Olarak Korunma Hakkı]

(1) Devlet, savaş ve görev şehitlerinin dul ve yetimleri ile malûl gazileri korur ve toplumda kendilerine yaraşır bir yaşam düzeyi sağlar.

(2) Devlet, ruhen ve bedenen özürlülerin topluma uyumlarını sağlamak amacı ile onların eğitim, rehabilitasyon, istihdam ve sosyal yardımları için gerekli kurum ve kuruluşların kurulmasını sağlar.

(3) Devlet, malûlleri, gazileri, yaşlıları ve çalışamayacak durumda olanları korumak, korunmaya muhtaç çocukları topluma kazandırmak için her türlü önlemi alır.

(4) Bu hak ve kolaylıklar yasa ile düzenlenir.

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Madde 58 [Güçsüzlerin Esenlendirilmesi]

Devlet, sosyal ve ekonomik bakımdan güçsüz olanların esenlendirilmesi, kendilerine, ailelerine ve topluma yararlı duruma getirilmeleri için gerekli sosyal, ekonomik, mali ve diğer önlemleri alır.

Madde 59 [Öğrenim ve Eğitim Hakkı]

(1) Kimse, öğrenim ve eğitim hakkından yoksun bırakılamaz.

(2) Her türlü öğretim ve eğitim etkinliği Devletin gözetim ve denetimi altında serbesttir.

(3) Çağdaş bilim ve eğitim ilkelerine aykırı öğretim ve eğitim yerleri açılamaz.

(4) Halkın öğrenim ve eğitim gereksinimlerini sağlama Devletin başta gelen ödevlerindendir. Devlet, bu ödevini, Atatürk İlkeleri ve Devrimleri doğrultusunda, ulusal kültür ve manevi değerlerle bezenmiş bir muhteva, çağın ve teknolojinin gelişmesine, kişinin ve toplumun istek ve gereksinimlerine yanıt verecek plânlı bir şekilde yerine getirir.

(5) Her çocuk, kız erkek ayırımı yapılmaksızın on beş yaşına kadar zorunlu; on sekiz yaşına kadar ücretsiz öğrenim hakkına sahiptir.

(6) Devlet, durumları dolayısıyla okul içi ve dışında özel eğitime gereksinmeleri olanları topluma yararlı kılacak şekilde yetiştirmek için gereken önlemleri alır.

(7) Devlet, maddi olanaklardan yoksun başarılı öğrencilerin, en yüksek öğrenim derecelerine kadar çıkmalarını sağlamak amacıyla burslar ve başka yollarla gerekli yardımları yapar.

Madde 60 [Gençliğin Korunması]

Devlet, gençlerin bilgili, sağlıklı, sağlam karakterli ve topluma yararlı birer yurttaş olarak yetişme ve geliştirilmelerini sağlar.

Madde 61 [Sporun Geliştirilmesi]

Devlet, her yaştaki yurttaşın beden ve ruh sağlığını geliştirecek, sporun kitlelere yayılmasını sağlayacak önlemleri alır, gerekli spor tesislerini yapar ve başarılı sporcuları korur.

Madde 62 [Sanatın, Sanatçının ve Kültürel Hakların Korunması]

(1) Devlet, sanatın özgürce gelişebileceği ortamı yaratır; sanatçıyı koruyucu, destekleyici, özendirici ve ödüllendirici önlemleri alır.

(2) Devlet, herkesin, kültür yaşamında yer almak; bilimsel gelişmelerden ve bu gelişmelerin uygulanması sonuçlarından yararlanmak; bilimsel edebi ve sanatsal ürünlerin korunmasının sağladığı maddi ve manevi çıkarlardan yararlanmak hakkını korur ve bilimsel araştırma ve yaratıcı etkinliklerin yürütülmesinin gerektirdiği özgürlüklere saygıyı sağlar.

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Madde 63 [Kooperatifçiliğin Geliştirilmesi]

Devlet, kooperatifçiliğin gelişmesini sağlayacak önlemleri alır ve kooperatiflerin demokratik ilkelere uygun olarak çalışmalarını yasa ile düzenler.

Madde 64 [Tarım ve Çiftçinin Korunması]

(1) Devlet, yurttaşların gereği gibi beslenmesini, tarımsal üretimin toplumun yararına uygun olarak artırılmasını sağlamak, toprak aşınmasını önlemek, tarım ürünlerini ve tarımla uğraşanların emeğini değerlendirmek için gereken önlemleri alır.

(2) Devlet, çiftçinin işletme araçlarına sahip olmasını kolaylaştırır.

(3) Tarımla uğraşan kişilerin doğal afetlere karşı korunması yasa ile düzenlenir.

Madde 65 [Tüketicilerin Korunması]

Devlet, tüketicileri koruyucu ve aydınlatıcı önlemleri alır. Tüketicilerin kendilerini koruyucu girişimlerini özendirir.

Madde 66 [Devletin Ekonomik ve Sosyal Ödevlerinin Sınırı]

Devlet, bu Anayasada belirtilen ekonomik ve sosyal amaçlara ulaşma ödevlerini, ekonomik gelişme ile mali kaynaklarının yeterliği ölçüsünde yerine getirir.

Dördüncü Bölüm. Siyasal Haklar ve Ödevler

Madde 67 [Yurttaşlık]

(1) (a) 1960 Kıbrıs Cumhuriyeti Kuruluş Andlaşmasına bağlı "D" eki uyarınca Kıbrıs Cumhuriyeti yurttaşlığını kazanan ve 15 Kasım 1983 tarihinde Kuzey Kıbrıs'ta yerleşik bulunan; ve

(b) 15 Kasım 1983 tarihinden önce Kıbrıs Türk Federe Devleti yurttaşlığına kabul edilen herkes, Kuzey Kıbrıs Türk Cumhuriyeti yurttaşıdır.

(2) 1960 Kıbrıs Cumhuriyeti Kuruluş Andlaşmasına bağlı "D" Eki uyarınca Kıbrıs Cumhuriyeti yurttaşı olma hakkına sahip olup 15 Kasım 1983 tarihinde Kuzey Kıbrıs'ta yerleşik olmayan Türk asıllı Kıbrıslı'ların, Kuzey Kıbrıs Türk Cumhuriyeti yurttaşlığını kazanma hakları saklıdır.

(3) (a) Yurttaşlığa hak kazandığı halde bu hakkını kullanmadan ölen bir baba veya ananın çocukları ile bu gibi kişilerin dul eşleri, başvuru yoluyla Kuzey Kıbrıs Türk Cumhuriyeti yurttaşlığını alabilirler.

(b) Babası veya anası Kuzey Kıbrıs Türk Cumhuriyeti yurttaşı olan ve 15 Kasım 1983 tarihinden sonra Kuzey Kıbrıs'ta doğan çocuk, Kuzey Kıbrıs Türk Cumhuriyeti yurttaşıdır

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(c) 15 Kasım 1983 tarihinden sonra Kuzey Kıbrıs Türk Cumhuriyeti yurttaşı olmayan ana ve babanın, Kuzey Kıbrıs Türk Cumhuriyetinde doğan çocuklarının yurttaşlığa alınmaları, uluslararası hukuk kurallarına uygun olarak yasa ile düzenlenir.

(4) Kuzey Kıbrıs Türk Cumhuriyeti yurttaşı Kıbrıs'lı Türk baba veya anadan doğum yoluyla kazanılan yurttaşlıktan kimse çıkarılamaz.

(5) Yurttaşlık, bu maddenin yukarıdaki kuralları saklı kalmak koşuluyla, yasanın gösterdiği koşullarla kazanılır ve ancak yasada belirtilen durumlarda kaybedilir. Yasal koşullarla bu Anayasanın yürürlüğe girdiği tarihe kadar kazanılmış olan yurttaşlık hakkı saklıdır.

Madde 68 [Seçme, Halkoylamasına Katılma ve Seçilme Hakkı]

(1) Seçme ve halkoylamasına katılma, onsekiz yaşını bitirmiş olan her yurttaşın hakkı ve ödevidir.

(2) Yirmibeş yaşını bitirmiş olan her yurttaş seçilme hakkına sahiptir.
Seçilebilmek için en az üç yıldan beri daimi ikâmetgahı Kuzey Kıbrıs'ta olmak ve yurt ödevini yerine getirmiş bulunmak koşuldur.

(3) Seçme ve seçilme ile ilgili diğer nitelikler, bu Anayasanın kuralları saklı kalmak koşuluyla, yasa ile düzenlenir.

(4) Seçimler ve halkoylamaları, serbest, eşit, gizli, tek dereceli, genel oy, açık sayım ve döküm ilkelerine uygun olarak yapılır; sayım ve döküm işlemleri tamamlanıncaya kadar aralıksız sürdürülür.

(5) Aday olmak, kamu görevinden çekilme koşuluna bağlanamaz. Seçim ve kamu hizmetlerinin güvenliği bakımından hangi kamu görevlilerinin ne gibi koşullarla aday olabilecekleri yasa ile düzenlenir.

Yargıçlar, savcılar, silahlı kuvvetler mensupları ile polis mensupları mesleklerinden çekilmedikçe aday olamazlar ve seçilemezler.

(6) Yurt ödevini yerine getirmekte olan yükümlüler halkoylamasında, Cumhurbaşkanı ve milletvekili seçimlerinde görev yerlerine en yakın sandıkta oy kullanabilirler.

(7) Seçimler ve halkoylamaları ile ilgili diğer kurallar ile bu maddedeki hakların kullanılması yasa ile düzenlenir.

Madde 69 [Seçimlerin Genel Yönetimi ve Denetimi]

(1) Seçimler ve halkoylamaları, yargı organlarının genel yönetimi ve denetimi altında yapılır.

(2) Seçimlerin ve halkoylamalarının başlamasından bitimine kadar, seçimin ve halkoylamasının düzen içinde yönetimi ve dürüstlüğü ile ilgili bütün işlemleri yapma ve yaptırma, seçim ve halkoylaması süresince ve seçimden ve halkoylamasından sonra seçim ve halkoylaması konuları ile ilgili bütün yolsuzlukları, şikâyet ve itirazları inceleme ve kesin karara bağlama ve Cumhurbaşkanı ile milletvekillerinin seçim tutanaklarını kabul etme görevi, yargıçlardan oluşan Yüksek Seçim Kurulunundur.

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(3) Yüksek Seçim Kurulu ile diğer seçim kurullarının kuruluşu, işleyişi, görev ve yetkileri yasa ile düzenlenir.

(4) Köy ve mahalle yerel yönetim seçimlerinin, genel yönetimi ve denetimi için, (1). fıkra kuralları saklı kalmak koşuluyla, yasa ile özel kurallar konabilir.

Madde 70 [Siyasal Parti Kurma ve Partilerin Siyasal Hayattaki Yeri]

(1) Yurttaşlar, siyasal parti kurma ve usulüne göre partilere girme ve çıkma hakkına sahiptir.

(2) Siyasal partiler, önceden izin almadan kurulur ve serbestçe faaliyette bulunur.

(3) Siyasal partiler, ister iktidarda ister muhalefette olsunlar, demokratik siyasal hayatın vazgeçilmez öğeleridir.

(4) Siyasal partiler, bir seçimden doksan gün öncesine kadar kurulup tüzel kişilik kazanmadıkça o seçime katılamaz.

(5) Yargıçlar, savcılar, silâhlı kuvvetler mensupları, polis mensupları, kamu görevlileri ve on sekiz yaşından küçük olanlar siyasal parti kuramaz ve siyasal partilere üye olamaz.

(6) Siyasal partilere Devletçe yapılacak yardım yasa ile düzenlenir.

Madde 71 [Siyasal Partilerin Uyacakları İlkeler]

(1) Siyasal partilerin tüzük, program ve çalışmaları, Devletin ülkesi ve halkı ile bölünmez bütünlüğüne, insan haklarına, halk egemenliğine, demokratik ve laik Cumhuriyet ve Atatürk İlkelerine aykırı olamaz.

(2) Siyasal partiler tüzük ve programları dışında faaliyette bulunamaz; Anayasanın 12. maddesindeki sınırlamalar dışına çıkamaz.

(3) Siyasal partilerin parti içi çalışmaları ve kararları, demokratik ilkelere aykırı olamaz.

(4) Siyasal partilerin mali denetimi, Anayasa Mahkemesi olarak görev yapan Yüksek Mahkemece yapılır.

(5) Cumhuriyet Başsavcısı, kurulan partilerin tüzük ve programlarının ve kurucularının hukuksal durumlarının Anayasa ve yasa kurallarına uygunluğunu, kurulmalarını takiben denetler ve faaliyetlerini izler.

(6) Siyasal partiler, yabancı devletlerden nakdi yardım alamaz, bunların Kuzey Kıbrıs Türk Cumhuriyetinin bağımsızlığı ve ülke bütünlüğü aleyhine kararlarına katılamaz.

(7) Bu maddedeki kurallara aykırı hareket eden siyasal partiler, Cumhuriyet Başsavcısının açacağı dava üzerine, Anayasa Mahkemesi olarak görev yapan Yüksek Mahkemece temelli kapatılabilir.

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(8) Siyasal partilerin kuruluş ve çalışmalarının denetlenmesi ve kapatılmaları, yukarıdaki esaslar çerçevesinde yasa ile düzenlenir.

(9) Bu madde kuralları, siyasal partilerin, bu Anayasa'nın 162. maddede öngörüldüğü şekilde değiştirilmesini sağlamak amacıyle faaliyette bulunmalarını engeller biçimde anlaşılamaz ve uygulanamaz.

Madde 72 [Kamu Görevine Girme Hakkı]

(1) Her yurttaş, kamu görevlerine girme hakkına sahiptir.

(2) Hizmete alınmada, ödevin gerektirdiği niteliklerden başka hiçbir ayırım gözetilemez.

Madde 73 [Mal Bildirimi]

Kamu görevine girenlerin girişte ve görev sırasında mal bildiriminde bulunmaları yasa ile düzenlenir. Yasama ve yürütme organlarında görev alanlar bundan istisna edilemez.

Madde 74 [Yurt Ödevi]

(1) Silahlı Kuvvetlerde yurt ödevi, her yurttaşın hakkı ve kutsal ödevidir.

(2) Yurt ödevine ilişkin kurallar yasa ile düzenlenir.

Madde 75 [Vergi Ödevi]

(1) Herkes, kamu giderlerini karşılamak üzere, mali gücüne göre, vergi ödemekle yükümlüdür.

(2) Vergi, resim ve harçlar ve benzeri mali yükümler ancak yasa ile konulur.

(3) Yasanın belli ettiği yukarı ve aşağı hadler içinde kalmak, ölçü ve ilkelere uygun olmak koşuluyla, vergi, resim ve harçların bağışıklık ve istisnalarıyla oran ve hadlerine ilişkin kurallarda değişiklik yapmaya Bakanlar Kurulu yetkili kılınabilir.

(4) Geriye yürüyen mali yükümlülükler konulamaz.

Madde 76 [Dilekçe Hakkı]

(1) Herkes, kendileriyle veya kamu ile ilgili dilek ve şikâyetleri hakkında tek başına veya topluca, yetkili makamlara yazı ile başvurma ve bunların süratle incelenmesi ve karara bağlanması hakkına sahiptir.
Gerekçeye dayanacak olan bu karar, en geç otuz gün içinde, dilek ve şikâyet sahibine yazılı olarak bildirilir. Böyle bir karardan zarar gören herkes veya otuz gün içerisinde kendisine bir karar bildirilmeyen her ilgili, dilek ve şikâyet konusu hakkında yetkili mahkemeye başvurabilir.

(2) Yurttaşlar, tek başlarına veya topluca Cumhuriyet Meclisine yazı ile başvurma hakkına sahiptir. Bu hakkın kullanılma biçimi yasa ile düzenlenir.

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Üçüncü Kısım. Yasama

Birinci Bölüm. Cumhuriyet Meclisi

Madde 77 [Cumhuriyet Meclisinin Oluşumu]

Cumhuriyet Meclisi, elli milletvekilinden oluşur.

Madde 78 [Cumhuriyet Meclisinin Görev ve Yetkileri]

Cumhuriyet Meclisinin görev ve yetkileri, yasa koymak, değiştirmek ve kaldırmak; Bakanlar Kurulunu ve bakanları denetlemek; Bütçe ve kesin hesap yasa tasarılarını görüşmek ve kabul etmek; para basılmasına ve savaş ilânına karar vermek; uluslararası andlaşmaların onaylanmasını uygun bulmak; kalkınma plânlarını onaylamak; genel ve özel af ilânına, mahkemelerce verilip kesinleşen ölüm cezalarının yerine getirilmesine karar vermek ve Anayasanın diğer maddelerinde öngörülen yetkileri kullanmak ve görevleri yerine getirmektir.

Madde 79 [Cumhuriyet Meclisi Seçimleri]

(1) Cumhuriyet Meclisi seçimleri, beş yılda bir yapılır.

(2) Seçim sistemi ve esasları yasa ile düzenlenir.

(3) Yenilenmesine karar verilen Meclisin yetkileri, yeni meclis seçilene kadar sürer.

(4) Ara seçimleri, her yıl belli bir zamanda yapılır. Genel seçimlerin yapılmasına bir yıl kala ara seçimi yapılamaz.

(5) Olağanüstü nedenlerle seçimin yapılması olanağı yoksa, seçimler, bir yıl süreyle, Cumhuriyet Meclisi tarafından ertelenebilir. Seçimlerin ertelenmesi kararı, üye tamsayısının üçte ikisinin oyu ile alınır.

Madde 80 [Cumhuriyet Meclisinin Dokunulmazlığı, Kolluk ve Yönetim Hizmetleri]

(1) Cumhuriyet Meclisi dokunulmazdır. Kimse Meclisin özgürlüğünü kısıtlayamaz; huzurunu bozucu hareketlerde bulunamaz ve manevi kişiliğini tahkir edemez.

(2) Cumhuriyet Meclisinin bina, tesis, eklenti ve arazisinde kolluk ve yönetim hizmetleri, Cumhuriyet Meclisi Başkanlığı eliyle düzenlenir ve yürütülür. Emniyet ve diğer kolluk hizmetleri için yeteri kadar kuvvet, ilgili makamlarca Cumhuriyet Meclisi Başkanlığına tahsis edilir.

Madde 81 [Cumhuriyet Meclisinin Toplantıları ve Çalışma Düzeni]

(1) Cumhuriyet Meclisi toplantıları, Meclisin kendi binasında yapılır.

(2) Cumhuriyet Meclisi, milletvekili genel seçimi sonuçlarının Resmi Gazete'de yayımlanmasından sonraki onuncu gün, saat 10.00'da kendiliğinden toplanır. Meclise, toplantıda hazır bulunan en yaşlı milletvekili başkanlık eder; en genç iki milletvekili de

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katiplik görevini yerine getirir. Bu toplantıda, milletvekilleri and içerler ve Başkanlık Divanı seçimlerine geçilir. Başkanlık Divanı seçimleri bu tarihten başlayarak en geç on gün içinde tamamlanır.

(3) Cumhuriyet Meclisi, her yıl Ekim ayının ilk iş günü kendiliğinden toplanır ve olağan olarak Haziran ayı sonuna kadar çalışır.

(4) Cumhuriyet Meclisi çalışmalarını kendi yaptığı İçtüzük kurallarına göre yürütür. İçtüzük kuralları, siyasal parti gruplarının Cumhuriyet Meclisinin bütün faaliyetlerine üye sayısı oranında katılmalarını sağlayacak yolda düzenlenir. Siyasal parti grupları en az beş üyeden oluşur.

(5) Cumhuriyet Meclisi üye tam sayısının salt çoğunluğu ile toplanır ve Anayasada başka kural yoksa, toplantıya katılanların salt çoğunluğu ile karar verir. Olumlu ve olumsuz oyların eşitliği halinde, oya sunulan husus reddedilmiş sayılır. Ancak çekimserlik, olumlu veya olumsuz oylardan fazla olanın yönünde karar verilmesini peşin olarak kabul etmek anlamına gelir.

(6) Cumhuriyet Meclisi, Cumhurbaşkanı, Cumhuriyet Meclisi Başkanı, Bakanlar Kurulu veya en az on milletvekilinin istemi üzerine olağanüstü toplantıya çağrılabilir.

(7) Cumhuriyet Meclisi Genel Kurulundaki görüşmeler açıktır ve tutanak dergisinde tam olarak yayımlanır.

(8) Cumhuriyet Meclisi, Genel Kurul kararı ile kapalı oturumlar yapabilir, Bu oturumlardaki görüşmelerin yayını, Cumhuriyet Meclisi Genel Kurul kararına bağlıdır.

(9) Cumhuriyet Meclisindeki açık görüşmelerin, o oturumdaki Başkanlık Divanının önerisi üzerine Genel Kurulca başka bir karar alınmadıkça her türlü vasıta ile yayını serbesttir.

Madde 82 [Andiçme]

Milletvekilleri görevlerine başlarken aşağıdaki şekilde andiçerler:

> "Devletin varlığını ve bağımsızlığını, yurdun ve halkın bölünmez bütünlüğünü, halkın kayıtsız şartsız egemenliğini koruyacağıma; hukukun üstünlüğüne, demokratik, laik ve sosyal hukuk devleti ve Atatürk ilkelerine bağlı kalacağıma; halkımın refah ve mutluluğu için çalışacağıma; her yurttaşın insan haklarından ve temel hak ve özgürlüklerden yararlanması ülküsünden ve Anayasaya bağlılıktan ayrılmayacağıma; namusum ve şerefim üzerine andiçerim."

Madde 83 [Başkanlık Divanı]

(1) Cumhuriyet Meclisi Başkanlık Divanı, milletvekilleri arasından seçilen bir Meclis Başkanı, bir Meclis Başkan Yardımcısı, yeterli sayıda Kâtip ve İdare Amirinden oluşur.

(2) Cumhuriyet Meclisi Başkanlık Divanı, bir kurul olarak çalışır ve Meclisteki grupların sayılarıyla orantılı olarak oluşturulur.

(3) Meclis Başkanı ve Meclis Başkan Yardımcısı seçimi, bir yasama döneminde iki kez yapılır. İlk devre için seçilenlerin görev süresi üç, ikinci devre için seçilenlerin görev süresi ise iki yıldır. İkinci devre Meclis Başkanı ve Meclis Başkan Yardımcısı seçimi dördüncü yasama yılının

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başlangıcından başlayarak en geç on gün içinde tamamlanır. İkinci devre Meclis Başkanı ve Meclis Başkan Yardımcısı seçilinceye kadar eskilerin görevi devam eder.

(4) Meclis Başkanı ve Meclis Başkan Yardımcısı seçimi gizli oyla yapılır. İlk dört oylamada üye tamsayısının salt çoğunluğu aranır. Dördüncü oylamada da salt çoğunluk sağlanamazsa, bu oylamada en çok oy alan iki aday için beşinci oylama yapılır. Beşinci oylamada en fazla oy alan aday seçilmiş olur.

(5) Kâtip ve İdare Amirlerinin sayısı, hizmet süreleri ve seçimlerine ilişkin kurallar Cumhuriyet Meclisi İçtüzüğünde belirlenir.

Madde 84 [Yasama Dokunulmazlığı]

(1) Milletvekilleri, Cumhuriyet Meclisi çalışmalarındaki oy ve sözlerinden, bunları dışarıda tekrarlamaktan veya açığa vurmaktan sorumlu tutulamazlar.

(2) Seçimden önce veya sonra suç işlediği ileri sürülen milletvekili, Cumhuriyet Meclisinin kararı olmadıkça tutuklanamaz ve yargılanamaz. Ölüm veya beş yıl veya daha çok hapis cezasını gerektiren suçüstü durumu, bu kuralın dışındadır; ancak yetkili kişi, durumu derhal Cumhuriyet Meclisine bildirmek zorundadır.

(3) Seçimden önce veya sonra milletvekili hakkında verilmiş cezanın yerine getirilmesi, dönem sonuna bırakılır. Milletvekilliği süresince zamanaşımı işlemez.

Madde 85 [Milletvekilliğinin Sona Ermesi]

(1) Milletvekilinin ölümü; seçilmeye engel bir suçtan dolayı kesin olarak hüküm giymesi; çekilmesi; kısıtlanması; milletvekilliği ile bağdaşmayan bir görevi kabul etmesi; bir ay süre ile özürsüz veya izinsiz olarak Cumhuriyet Meclisinin çalışmalarına katılmaması hallerinde milletvekilliği sona erer.

(2) Milletvekilliğinin sona ermesine Cumhuriyet Meclisi Genel Kurulu, karar verir.

Madde 86 [Milletvekilliği ile Bağdaşmayan Görevler]

(1) Milletvekilleri, Devlet veya kamu kuruluşlarında kamu görevlisi veya diğer kamu personeli olarak görev alamazlar ve bunların herhangi bir yüklenme işini doğrudan doğruya veya dolaylı olarak kabul edemezler.

(2) Milletvekilliği ile bağdaşmayan diğer görevler ve işler yasa ile düzenlenir.

Madde 87 [Milletvekillerinin Ödenekleri]

(1) Milletvekillerinin maaşları, temsil ve hayat pahalılığı ödenekleri ve yollukları yasa ile düzenlenir. Maaşın aylık tutarı, en yüksek kamu görevlisinin almakta olduğu aylık maaş miktarına eşit olur. Yolluk ve temsil ödeneğinin toplamı ise, yıllık maaş tutarının yarısını aşamaz.

(2) Cumhuriyet Meclisi Başkanlık Divanı başkan ve üyelerine, yasada belirlenecek miktarda ek ödenek verilir.

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Madde 88 [Cumhuriyet Meclisi Seçimlerinin Yenilenmesi]

(1) Cumhuriyet Meclisi, kendi seçiminin yenilenmesine, üye tamsayısının salt çoğunluğu ile karar verebilir. Çekimser ve geçersiz oylar sadece toplantı yetersayısına dahil olur; karar yetersayısı bakımından dikkate alınmaz.

(2) Cumhurbaşkanı, bu Anayasanın 106. maddesinin (2). fıkrası kurallarına uygun olarak, altmış günlük süre içinde Cumhuriyet Meclisi çoğunluğuna dayalı bir Bakanlar Kurulunun atanmasına olanak bulunmaması halinde, Cumhuriyet Meclisi seçimlerinin yenilenmesine karar verebilir.

(3) Bu Anayasanın 109. maddesi uyarınca, Bakanlar Kurulunun bir yıllık süre içinde, güven oyu alamama veya güvensizlik oylaması sonucu üç kez düşmüş veya düşürülmüş olması halinde, Cumhurbaşkanı, Cumhuriyet Meclisi seçimlerinin yenilenmesine karar verebilir.

(4) Cumhurbaşkanı, yukarıdaki (2). ve (3). fıkra kuralları uyarınca Cumhuriyet Meclisi seçimlerinin yenilenmesine karar vermeden önce, gerekli gördüğü takdirde, halkoylamasına başvurabilir.

(5) Cumhurbaşkanı, seçimlerin yenilenmesini veya halkoylamasına başvurulmasını kararlaştırırken, Cumhuriyet Meclisi Başkanı, Bakanlar Kurulu ve Cumhuriyet Meclisinde grubu bulunan siyasal parti aşkanlarının görüşlerini alır.

İkinci Bölüm. Yasaların Yapılması

Madde 89 [Yasa ve Kararların Yapılması ile İlgili Genel Kurallar]

(1) Yasa ve karar önermeye, Bakanlar Kurulu ve milletvekilleri yetkilidir.
Yasa ve karar tasarı ve önerilerinin Cumhuriyet Meclisinde görüşülme usul ve esasları İçtüzükle düzenlenir.

(2) Yasa tasarı ve önerilerinin halkın bilgisine nasıl sunulacağı İçtüzükle düzenlenir.

Madde 90 [Uluslararası Andlaşmaları Uygun Bulma]

(1) Kuzey Kıbrıs Türk Cumhuriyeti adına yabancı devletlerle veya uluslararası kuruluşlarla yapılacak andlaşmaların onaylanması Cumhuriyet Meclisinin onaylamayı bir yasa ile uygun bulmasına bağlıdır.

(2) Ekonomik, ticari veya teknik ilişkileri düzenleyen ve süresi bir yılı aşmayan andlaşmalar, Devlet maliyesi bakımından yüklenme getirmemek, kişi hallerine ve yurttaşların yabancı memleketlerdeki mülkiyet haklarına dokunmamak koşuluyla, yayımlanma ile yürürlüğe konabilir. Bu takdirde, bu andlaşmalar, yayımlanmalarından başlayarak bir ay içinde Cumhuriyet Meclisinin bilgisine sunulur.

(3) Uluslararası bir andlaşmaya dayanan uygulama andlaşmaları ile yasanın verdiği yetkiye dayanılarak yapılan ekonomik, ticari, teknik veya idari andlaşmaların Cumhuriyet Meclisince uygun bulunması zorunluluğu yoktur; ancak bu şekilde yapılan ekonomik ve ticari andlaşmalarla gerçek kişilerin haklarını ilgilendiren andlaşmalar, yayımlanmadan yürürlüğe konulamaz.

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(4) Kuzey Kıbrıs Türk Cumhuriyeti yasalarına değişiklik getiren her türlü andlaşmaların yapılmasında, (1). fıkra kuralları uygulanır.

(5) Usulüne göre yürürlüğe konulmuş uluslararası andlaşmalar yasa hükmündedir. Bunlar hakkında Anayasaya aykırılık iddiası ile Anayasa Mahkemesi olarak görev yapan Yüksek Mahkemeye başvurulamaz.

Madde 91 [Savaş Hali İlânı ve Silahlı Kuvvetlerin Kullanılmasına İzin Verme]

(1) Uluslararası hukukun meşru saydığı durumlarda savaş hali ilânına ve Kuzey Kıbrıs Türk Cumhuriyetinin taraf olduğu uluslararası andlaşmaların veya nezaket kurallarının gerektirdiği durumlar dışında Silahlı Kuvvetlerin yabancı ülkelere gönderilmesine veya yabancı silahlı kuvvetlerin Kuzey Kıbrıs Türk Cumhuriyetinde bulunmasına izin verme yetkisi Cumhuriyet Meclisinindir.

(2) Ülkenin ani bir silahlı saldırıya uğraması ve Cumhuriyet Meclisinin toplanamaması nedeniyle, silahlı kuvvet kullanılmasına derhal karar verilmesinin kaçınılmaz olması halinde, saldırının yapıldığı anda, silahlı kuvvet kullanılmasına karar vermeye Cumhurbaşkanı da yetkilidir. Cumhurbaşkanı bu kararını, derhal Cumhuriyet Meclisinin bilgisine sunar. Cumhuriyet Meclisi ilk fırsatta toplanarak bu konuda gerekli kararları alır.

Madde 92 [Bütçenin Hazırlanması, Uygulanması, Görüşülmesi ve Kabulü]

(1) Devletin ve kamu iktisadi teşebbüsleri dışındaki kamu tüzel kişilerinin harcamaları yıllık bütçelerle yapılır.

(2) Bütçenin hazırlanması ve uygulanmasına ilişkin kurallar yasa ile düzenlenir.

(3) Bütçe yasasına, bütçe ile ilgili kurallar dışında hiçbir kural konulamaz.

(4) Bütçe tasarısı, Bakanlar Kurulunca, mali yıl başından en az iki ay önce Cumhuriyet Meclisine sunulur.

(5) Bütçe Komitesi, en geç bir ay içinde, bütçe konusundaki çalışmalarını tamamlar.

(6) Milletvekilleri, bütçe tasarısının Cumhuriyet Meclisi Genel Kurulunda görüşülmesi sırasında, giderleri artırıcı veya gelirleri azaltıcı önerilerde bulunamazlar.

(7) Cumhurbaşkanı, Cumhuriyet Meclisi tarafından kabul edilen bütçe yasasını on gün içinde Resmi Gazete'de yayımlar.

Madde 93 [Kesin Hesaplar]

Kesin hesap yasa tasarıları, yasada daha kısa bir süre kabul edilmemiş ise, ilgili oldukları mali yılın sonundan başlayarak en geç bir yıl içinde Bakanlar Kurulunca Cumhuriyet Meclisine sunulur. Sayıştay, genel uygunluk bildirimini ilişkin olduğu kesin hesap yasa tasarısının verilmesinden başlayarak en geç altı ay içinde Cumhuriyet Meclisine sunar.

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Madde 94 [Yasaların Cumhurbaşkanınca Yayımlanması]

(1) Cumhurbaşkanı, Cumhuriyet Meclisince kabul edilen yasaları on beş gün içinde Resmi Gazete'de yayımlar. Yayımlanmasını uygun bulmadığı yasaları bir daha görüşülmek üzere gerekçesi ile birlikte aynı süre içinde Cumhuriyet Meclisine geri gönderir.

(2) Cumhuriyet Meclisi, geri gönderilen yasaları, değiştirerek veya aynen üye tamsayısının salt çoğunluğu ile kabul ederse, yasa Cumhurbaşkanınca yayımlanır. Çekimser oylar karar yetersayısı bakımından dikkate alınmaz.

(3) Cumhurbaşkanı, Cumhuriyet Meclisince kabul edilen yasaları, yayımlanma süresi içinde, Bakanlar Kurulunun istemi üzerine halkoylamasına sunar. Halkoylamasında kabul edilen yasalar, kabul tarihinden başlayarak on gün içinde Resmi Gazete'de yayımlanır.

(4) Cumhurbaşkanı, 146. maddedeki yetkisini, on beş günlük süre içinde kullanabilir. Bu takdirde 146. madde kuralları uygulanır.

Madde 95 [Kararların İlânı]

(1) Cumhuriyet Meclisinin aşağıdaki konularda alacağı kararlar, kararın içeriğinde aksine kural yoksa, derhal yürürlüğe girer ve Cumhuriyet Meclisi Başkanınca on gün içinde Resmi Gazete'de ilân edilir:

(a) Savaş ilanına ilişkin kararlar;

(b) Bakanlar Kurulunu ve bakanları denetleme ve güvenoyu ile güvensizlik konularındaki kararlar;

(c) Seçimlerin yenilenmesine veya ertelenmesine ilişkin kararlar;

(ç) Milletvekilliğinin sona ermesine ilişkin kararlar;

(d) Yasama dokunulmazlığının kaldırılmasına ilişkin kararlar;

(e) Meclis içi seçim sonuçları;

(f) Cumhurbaşkanının, Başbakanın veya bakanların Yüce Divana sevki ile ilgili kararlar;

(g) Kamu iktisadi teşebbüslerinin denetimine ilişkin kararlar;

(h) Olağanüstü durum ve sıkıyönetim kararları;

(ı) Kalkınma plânlarının onaylanmasına ilişkin kararlar.

(2) Yukarıdaki (1). fıkra kapsamı dışında kalan genel nitelikli Meclis kararlarının ilânı, yasaların ilânı gibi işlem görür.

(3) Cumhuriyet Meclisi, İçtüzüğünün uygulanmasına, Meclisin iç düzenine ve çalışmalarına ilişkin olup, Cumhuriyet Meclisi tarafından yayımlanmasına karar verilen kararlar, yukarıdaki

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(1). fıkra uyarınca Cumhuriyet Meclisi Başkanı tarafından yayımlanır.

(4) Yukarıdaki (1). fıkranın (ç), (d) ve (h) bendlerinde yer alan kararlar dışında kalan kararlara karşı mahkemeye başvurulamaz ve Anayasa Mahkemesinde iptal davası açılamaz.

Üçüncü Bölüm.
Cumhuriyet Meclisinin Bilgi Edinme ve Denetim Yolları

Madde 96 [Genel Olarak Bilgi Edinme ve Denetleme Yetkisi]

Soru, genel görüşme, meclis araştırması, meclis soruşturması ve güven oylaması Cumhuriyet Meclisinin yetkilerindendir.

Madde 97 [Soru ve Genel Görüşme]

(1) Soru, Bakanlar Kurulu adına sözlü veya yazılı olarak cevaplandırılmak üzere Başbakan veya bakanlardan belli bir konuda bilgi istemekten ibarettir. Başbakan ve bakanlar her hangi bir soruya en geç otuz gün içinde yanıt verir.

(2) Genel görüşme, bir milletvekilinin önergesi ve bunun Cumhuriyet Meclisince kabulü üzerine, belli bir konuda yapılan görüşme demektir. Genel görüşme sonunda oylama yapılmaz.

Madde 98 [Araştırma ve Soruşturma]

(1) Meclis araştırması, belli bir konuda bilgi edinmek için yapılan incelemeden ibarettir.

(2) (a) Başbakan ve bakanlar hakkında yapılacak soruşturma istemleri en az dokuz milletvekili tarafından imzalanmış olmalıdır.

(b) Soruşturma istemleri Cumhuriyet Meclisince görüşülür ve karara bağlanır.

(c) Soruşturma, milletvekillerinden kurulu özel bir komitece yürütülür.

(ç) Cumhuriyet Meclisi, Soruşturma Komitesinin raporunu görüştükten sonra, üye tamsayısının en az üçte ikisinin vereceği kararla, Başbakan veya Bakanları suçlayabilir.

(d) Başbakan ve bakanlar Yüce Divanda yargılanır.

(e) Cumhuriyet Meclisindeki siyasal parti gruplarında, Meclis Soruşturması ile ilgili görüşme yapılamaz ve karar alınamaz.

(3) Cumhuriyet Meclisi Araştırma ve Soruşturma Komiteleri, araştırma ve soruşturma ile ilgili her türlü belgeyi görmeye, bilgi almaya, tanık çağırmaya ve onları sorguya çekmeye yetkilidir. Araştırma ve Soruşturma Komitelerince istenen bilgi ve belgeleri vermeyen ve Komite çağrılarına uymayanlar hakkında uygulanacak yaptırımlar ve diğer esaslar yasa ile düzenlenir.

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Dördüncü Kısım. Yürütme

Birinci Bölüm. Cumhurbaşkanı

Madde 99 [Cumhurbaşkanı]

(1) Cumhurbaşkanı beş yıllık bir süre için seçilir. Cumhurbaşkanı adaylarının aşağıdaki nitelikleri taşıması gerekir:

(a) Milletvekili seçilme yeterliliğine sahip olmak;

(b) Yüksek öğrenim yapmış olmak;

(c) Otuz beş yaşını doldurmuş bulunmak;

(ç) Türk ana ve babadan doğmuş olmak ve Kuzey Kıbrıs Türk Cumhuriyeti yurttaşı olmak; ve

(d) En az beş yıldan beri daimi ikâmetgahı Kıbrıs'ta bulunmuş olmak.

(2) Bir adayın Cumhurbaşkanı seçilebilmesi için, kullanılan geçerli oyların salt çoğunluğunu alması gerekir. Hiçbir aday salt çoğunluk sağlayamazsa, seçim yedi gün sonra en çok oy alan iki aday arasında yinelenir. Bu takdirde, en çok oy alan aday Cumhurbaşkanı seçilir.

(3) Cumhurbaşkanı, resmi görevleri dışında hiçbir iş yapamaz; Devlet veya kamu kuruluşlarının herhangi bir yüklenme işini doğrudan doğruya veya dolaylı olarak kabul edemez.

(4) Cumhurbaşkanının maaşı, temsil ve hayat pahalılığı ödeneği ve yollukları yasa ile düzenlenir.

Madde 100 [Cumhurbaşkanının Andiçmesi]

Cumhurbaşkanı görevine başlarken Cumhuriyet Meclisi önünde aşağıdaki şekilde andiçer:

> "Devletin varlığını ve bağımsızlığını, yurdun ve halkın bölünmez bütünlüğünü, halkın kayıtsız ve şartsız egemenliğini koruyacağıma; hukukun üstünlüğüne, demokratik, laik ve sosyal hukuk devleti ve Atatürk ilkelerine bağlı kalacağıma; halkımın refah ve mutluluğu için çalışacağıma; her yurttaşın insan haklarından ve temel hak ve özgürlüklerden yararlanması ülküsünden ve Anayasa ve yasalara bağlılıktan ayrılmayacağıma; Kuzey Kıbrıs Türk Cumhuriyetini yüceltmek ve üzerime aldığım görevi tarafsızlıkla yerine getirmek için bütün gücümle çalışacağıma; namusum ve şerefim üzerine andiçerim."

Madde 101 [Cumhurbaşkanının Partisi ile İlişkisi]

Cumhurbaşkanı partili ise, partisinin kararları ile bağlı değildir, bağımsız hareket eder. Cumhurbaşkanlığı ile parti başkanlığı aynı kişide birleşemez.

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Madde 102 [Cumhurbaşkanının Yetki ve Görevleri]

(1) Cumhurbaşkanı Devletin başıdır. Bu sıfatla Devletin ve toplumun birliğini ve bütünlüğünü temsil eder.

(2) Cumhurbaşkanı, Cumhuriyet Anayasasına saygıyı, kamu işlerinin kesintisiz ve düzenle yürütülmesini ve Devletin devamlılığını sağlar.

(3) Cumhurbaşkanı, Cumhuriyet Meclisi adına Cumhuriyet Silahlı Kuvvetleri Başkomutanlığını temsil eder.

(4) Cumhurbaşkanı, bu Anayasa ve yasalarla kendisine verilen diğer yetkileri kullanır ve görevlerini tarafsız olarak yerine getirir.

Madde 103 [Cumhurbaşkanının Sorumsuzluğu ve Sorumluluğu]

(1) Cumhurbaşkanı, görevleri ile ilgili işlemlerinden sorumlu değildir. Cumhurbaşkanı ile birlikte imzalanan kararnamelerden, imzası bulunan başbakan ve ilgili bakanlar sorumludur.

(2) Cumhuriyet Meclisi, Cumhurbaşkanını vatan hainliğinden dolayı, üye tamsayısının en az üçte ikisinin vereceği kararla suçlayabilir.

(3) Cumhurbaşkanı Yüce Divanda yargılanır. Yüce Divanın suçlamayı yerinde görmesi halinde Cumhurbaşkanlığı görevi sona erer; suçlu bulunmazsa, görevine yeniden döner.

(4) Cumhuriyet Meclisinin suçlama kararı üzerine, Cumhurbaşkanı görevine devam edemez. Bu takdirde, 105. madde kuralları uygulanır.

(5) Cumhurbaşkanı makamının manevi kişiliği tahkir edilemez.

Madde 104 [Cumhurbaşkanlığının Boşalması]

(1) Cumhurbaşkanlığı, ölüm veya geçici olanların dışında görev başında bulunamama halinde veya Yüksek Mahkeme Başkanlığına gönderilen yazılı istifa ile boşalır.

(2) Cumhurbaşkanının sağlık nedeni ile görevini devamlı olarak yapamayacak bir duruma gelmesi halinde, Bakanlar Kurulu, durumu Yüksek Mahkeme Başkanlığına bildirir. Anayasa Mahkemesi olarak görev yapan Yüksek Mahkeme, Cumhurbaşkanının görevini devamlı olarak yapamayacağına karar verirse, Cumhurbaşkanlığı boşalmış sayılır.

(3) Cumhurbaşkanlığı boşaldığında, boşalma tarihinden başlayarak kırk beş günü geçmeyen bir süre içinde yapılacak seçimle Cumhurbaşkanlığı doldurulur.

Madde 105 [Cumhurbaşkanlığına Vekillik Etme]

(1) Cumhurbaşkanının hastalık veya yurt dışına çıkma gibi nedenlerle geçici olarak görevinden ayrılması halinde, görevine dönünceye kadar, herhangi bir nedenle Cumhurbaşkanlığının boşalması halinde de yenisi seçilinceye kadar, Cumhuriyet Meclisi Başkanı, Cumhurbaşkanlığına vekillik eder.

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(2) Cumhuriyet Meclisi Başkanı, Cumhurbaşkanlığına vekillik ettiği süre içinde, bu Anayasanın 88. maddesinde sayılan yetkileri kullanamaz.

İkinci Bölüm. Bakanlar Kurulu

Madde 106 [Bakanlar Kurulunun Oluşumu]

(1) Kuzey Kıbrıs Türk Cumhuriyeti Bakanlar Kurulu, Başbakan ve bakanlardan oluşur. Başbakan, bu madde kuralları çerçevesinde, Cumhurbaşkanınca, milletvekilleri arasından görevlendirilir.

(2) Cumhurbaşkanı, Bakanlar Kurulunu kurma görevini, güvenoyu alabilecek bir grup başkanına veya milletvekiline verir.
Bakanlar Kurulunu kurma görevi alan her milletvekili, bu görevini en geç on beş gün içinde tamamlamak veya görevi geri vermekle yükümlüdür.

(3) Cumhurbaşkanı, yukarıdaki (2). fıkra kurallarına göre Başbakanı ve Başbakanın önerisi üzerine bakanları atar; Başbakanın istemi üzerine, bakanlardan herhangi birinin görevine son verir.

(4) Bakanlar, milletvekili olmayan kişiler arasından da atanabilir. Ancak bu gibi kişilerin milletvekili seçilme niteliklerine sahip olması gerekir.

(5) Başbakan ve bakan olan milletvekilleri, Cumhuriyet Meclisi üyeliğini kaybetmezler. Bakanlar Kuruluna Cumhuriyet Meclisi dışından girmiş olan bakanlar, yasama dokunulmazlığından aynen yararlanırlar, fakat Cumhuriyet Meclisinde oy kullanamazlar.

(6) Yeni Bakanlar Kurulu Cumhurbaşkanınca atanıncaya kadar, mevcut Bakanlar Kurulu görevine devam eder.

Madde 107 [Başbakanın Görev, Yetki ve Sorumluluğu]

(1) Başbakan Bakanlıklar arası işbirliğini, Bakanlar Kurulunun genel siyasetinin yürütülmesini ve yasaların uygulanmasını sağlar.

(2) Başbakan, bakanların görevlerinin Anayasa ve yasalara uygun olarak yerine getirilmesini gözetmek, Bakanlar Kurulunun çalışma düzeni ve disiplinini sağlamak ve düzeltici önlemleri almakla yükümlüdür.

(3) Başbakan, Bakanlar Kurulunun programından ve uygulanmasından veya önemli bir politika girişiminden, Cumhuriyet Meclisine karşı sorumludur.

(4) Bakanlar Kuruluna Başbakan başkanlık eder. Cumhurbaşkanı gerekli gürdüğü hallerde veya Başbakanın istemi üzerine Bakanlar Kuruluna başkanlık edebilir. Cumhurbaşkanı oy kullanamaz.

(5) Başbakan, resmi görevleri dışında başka bir iş yapamaz; Devletin ve kamu kuruluşlarının herhangi bir yüklenme işini doğrudan doğruya veya dolaylı olarak kabul edemez.
Başbakanın maaşı, temsil ve hayat pahalılığı ödeneği ve yollukları yasa ile düzenlenir.

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(6) Başbakan bu Anayasa ve yasalarla kendisine verilen diğer yetkileri kullanır ve görevleri yerine getirir.

Madde 108 [Bakanlıkların Kurulması]

(1) Bakanlıklar, Anayasanın öngördüğü sayı ve ilkelere uygun olarak Başbakanın önerisi ve Cumhurbaşkanının onayı ile Resmi Gazete'de yayımlanacak bir kararname ile kurulur ve kaldırılır.

Ancak, böyle bir kararname, ilgili Başbakanın güvenoyu alması halinde yürürlüğe girer.

(2) Bakanlık sayısı hiçbir halde onu aşamaz. Bakanlık merkez örgütünün kuruluşu ve hangi dairelerin ve hizmet birimlerinin hangi bakanlığa bağlanacağı, yasanın öngördüğü ilkelere uygun olarak çıkarılacak tüzükle düzenlenir.

(3) Açık olan bakanlıklarla izinli veya özürlü olan bir bakana, diğer bir bakan geçici olarak vekillik eder. Ancak, bir bakan birden fazla bakana vekillik edemez.

(4) Cumhuriyet Meclisi kararı ile Yüce Divana verilen bir bakan, bakanlıktan düşer. Başbakanın Yüce Divana verilmesi halinde Bakanlar Kurulu istifa etmiş sayılır.

(5) Herhangi bir nedenle boşalan bakanlığa, en geç on gün içinde atama yapılır.

Madde 109 [Bakanlar Kurulunun Göreve Başlaması ve Sorumluluğu]

(1) Cumhurbaşkanınca atanan Bakanlar Kurulunun listesi, tam olarak, Cumhuriyet Meclisine sunulur. Cumhuriyet Meclisi tatilde ise derhal toplantıya çağrılır. Bakanlar Kurulunun programı, atanma tarihinden başlayarak en geç bir hafta içinde, Başbakan veya bir bakan tarafından, Cumhuriyet Meclisinde okunur.

(2) Programın Cumhuriyet Meclisinde okunmasından sonra güvenoyuna başvurulur. Güvenoyu için görüşmeler programın okunmasından iki tam gün geçtikten sonra başlar ve görüşmelerin bitiminden bir tam gün geçtikten sonra oylama yapılır. Güvenoyu alan Bakanlar Kuruluna karşı, güven oylamasından sonra üç ay geçmedikçe güvensizlik önergesi verilemez.

(3) Başbakana karşı güvensizlik önergesi, en az dokuz milletvekili tarafından verilebilir. Bir güvensizlik önergesinin reddedilmesi tarihinden üç ay geçmedikçe başka bir güvensizlik önergesi verilemez.

Güvensizlik önergesinin gündeme alınıp alınmayacağı, verilişinden sonraki ikinci birleşimde karara bağlanır. Güvensizlik önergesi üzerine yapılan genel görüşmeler bittikten sonra, aradan bir tam gün geçmedikçe güvensizlik önergesi oylanamaz.

(4) Başbakan gerekli görürse, Bakanlar Kurulunda görüştükten sonra, Cumhuriyet Meclisinden herhangi bir zaman güven isteyebilir. Güven istemi, Cumhuriyet Meclisine bildirilmesinden bir tam gün geçmedikçe görüşülemez ve görüşmelerin bitiminden bir tam gün geçmedikçe oya konulamaz. Güven istemi, ancak üye tamsayısının salt çoğunluğuyla reddedilebilir.

(5) Bakanlar Kurulu üyelerinin çoğunluğunun otuz günlük bir süre içinde değişmesi halinde, Başbakan tarafından güvenoyuna başvurulur.

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(6) Güvenoyu alamayan veya güven istemi reddedilen veya hakkında verilen güvensizlik önergesi üye tamsayısının salt çoğunluğu ile kabul edilen Başbakan istifasını Cumhurbaşkanına sunar.

Madde 110 [Bakanların Görev, Yetki ve Sorumluluğu]

(1) Her bakan, Başbakana karşı sorumlu olup, ayrıca kendi yetkisi içindeki işlerden ve emri altındakilerin eylem ve işlemlerinden sorumludur.

(2) Her bakan, bakanlık merkez örgütü ile bakanlığına bağlı dairelerin ve hizmet birimlerinin en üst hiyerarşik amiridir.

(3) Her bakanın yürütme görevi aşağıdaki konuları da kapsar:

(a) Bakanlığını ilgilendiren yasaları uygulamak ve normal olarak bakanlığının yetki çevresine giren tüm konu ve işleri yönetmek;

(b) Başbakana ve Bakanlar Kuruluna sunulmak üzere bakanlığını ilgilendiren kararname, tüzük ve yönetmelikleri hazırlamak;

(c) Kendi bakanlığını ilgilendiren herhangi bir yasa ve bu yasalara uygun olarak çıkarılan tüzük ve yönetmeliklerin uygulanabilmesi için yönerge, genelge ve benzeri metinleri yayınlamak;

(ç) Bakanlar Kuruluna sunulmak üzere Cumhuriyet Bütçesinin kendi bakanlığına ait kısmını hazırlamak ve uygulamak.

(4) Bakanlar, resmi görevleri dışında başka bir iş yapamaz; Devletin ve kamu kuruluşlarının herhangi bir yüklenme işini doğrudan doğruya veya dolaylı olarak kabul edemez. Bakanların maaşları, temsil ve hayat pahalılığı ödenekleri ve yollukları yasa ile düzenlenir.

(5) Bakanlar, yürürlükteki mevzuatın, Başbakanın ve Bakanlar Kurulunun kendilerine verdiği diğer yetkileri kullanır ve görevleri yerine getirir.

Madde 111 [Cumhuriyet Güvenlik Kurulu]

(1) Cumhuriyet Güvenlik Kurulu, Cumhurbaşkanının başkanlığında, Cumhuriyet Meclisi Başkanı, Başbakan, Savunma, İçişleri ve Dışişleri Bakanları ile Silahlı Kuvvetler Komutanı ve Emniyet Genel Müdüründen kurulur.

Gündemin özelliğine göre, Kurul toplantılarına diğer ilgili bakan ve kişiler, Başbakanın istemi üzerine çağrılıp görüşleri alınabilir. Kurulda sekreterlik görevleri Başbakanlık örgütünce yürütülür.

(2) Cumhuriyet Güvenlik Kurulu, Devletin ve yurdun güvenlik politikasının saptanması ve uygulanması ile ilgili kararların alınması ve gerekli eşgüdümün sağlanması konusundaki görüşlerini Bakanlar Kuruluna bildirir. Kurulun, Devletin varlığı ve bağımsızlığı, ülkenin bütünlüğü ve bölünmezliği, toplumun huzur ve güvenliğinin korunması hususunda alınmasını zorunlu gördüğü önlemlere ait kararlar, Bakanlar Kurulunca öncelikle dikkate alınır.

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Madde 112 [Yasa Gücünde Kararname]

(1) Ekonomik konularda, ivedilik varsa, Bakanlar Kurulu yasa gücünde kararname çıkarabilir. Yasa gücünde kararname, Resmi Gazete'de yayımlanarak yürürlüğe girer ve aynı gün gerekçesi ile birlikte Cumhuriyet Meclisine sunulur.

(2) Cumhuriyet Meclisine sunulan yasa gücünde kararnameler, İçtüzüğün, yasaların görüşülmesi için koyduğu kurallara göre komitelerde ve Genel Kurulda, diğer bütün konulardan önce, öncelik ve ivedilikle görüşülüp karara bağlanır.

(3) Meclis bu konudaki kararlarını doksan gün içinde verir.

(4) Bu maddede öngörülen yasa gücünde kararnameler ile, yeni mali yükümlülükler getirilemez, kişisel ve siyasal hak ve özgürlükler kısıtlanamaz.

Üçüncü Bölüm. Yönetsel Kurallar

Madde 113 [Devlet Yönetimi]

(1) Devlet yönetimi, kuruluş ve görevleriyle bir bütündür ve yasa ile düzenlenir.

(2) Devlet yönetiminin kuruluş ve görevleri merkezden yönetim ve yerinden yönetim ilkelerine göre yürütülür.

(3) Kamu tüzel kişiliği ancak yasa ile veya yasanın açıkça verdiği yetkiye dayanılarak kurulur.

Madde 114 [Yüksek Yönetim Denetçisi (Ombudsman)]

(1) Yönetimin herhangi bir hizmet veya eyleminin, yürürlükteki mevzuata ve mahkeme kararlarına uygun olarak yapılıp yapılmadığını veya herhangi bir yürütsel veya yönetsel birim veya görevli tarafından veya onlar adına yapılan herhangi bir hizmet veya eylemi denetlemek, soruşturmadaki yetkililere rapor sunmak veya yasada belirlenecek diğer görevleri yerine getirmek amacı ile, Cumhurbaşkanlığınca, Meclisin onayı ile, bir Yüksek Yönetim Denetçisi atanır.

(2) Yüksek Yönetim Denetçisinde aranan nitelikler, yetki ve görevleri Yasa ile düzenlenir. Yüksek Yönetim Denetçisinin görevden alınma koşulları, bir Yüksek Mahkeme üyesine uygulanan koşullara denk tutulur.

(3) Yargı organları ile dış politikayı ve ülke savunmasını ilgilendiren konular Yüksek Yönetim Denetçisinin yetki alanı dışındadır.

Madde 115 [Daire ve Hizmet Birimlerinin Kuruluşu]

Dairelerin ve hizmet birimlerinin kuruluşu, görev ve yetkileri yasa ile düzenlenir.

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Madde 116 [Merkezi Yönetim]

Kuzey Kıbrıs Türk Cumhuriyeti Ülkesi, merkezi yönetim kuruluşu bakımından, coğrafya durumuna, ekonomik koşullara ve kamu hizmetlerinin gereklerine göre yasa ile belirlenen bölümlere ayrılır.

Madde 117 [Yurt Savunması ve Silahlı Kuvvetlerin Kuruluşu]

(1) Yurt savunması, Kuzey Kıbrıs Türk Cumhuriyeti Silahlı Kuvvetlerince sağlanır.

(2) Yurdun güvenliğinin sağlanmasından ve silahlı kuvvetlerin yurt savunmasına hazırlanmasından, Cumhuriyet Meclisine karşı Bakanlar Kurulu sorumludur.

(3) Silahlı Kuvvetler Komutanı, savaşta Başkomutanlık görevlerini Cumhurbaşkanlığı adına yerine getirir.

(4) Silahlı Kuvvetler Komutanı, Savunma Bakanının önerisi ve Bakanlar Kurulunun kararı üzerine, Cumhurbaşkanınca atanır.

(5) Savunma Bakanlığına bağlı silahlı kuvvetlerin ve bağlı komutanlıkların kuruluşu, görev, yetki ve sorumlulukları yasa ile düzenlenir.

Madde 118 [Polis Örgütü]

(1) Polis Örgütünün kuruluşu, görev, yetki ve sorumlulukları yasa ile düzenlenir.

(2) Polis, demokratik hukuk devleti ilkelerine ve yurttaşların temel haklarına saygılı olarak Anayasa ve yasalar çerçevesinde görev yapmakla yükümlüdür.

Madde 119 [Yerel Yönetimler]

(1) Yerel yönetimler, bölge, belediye veya köy ve mahalle halkının yerel olarak gereksinmelerini karşılamak üzere kuruluş ilkeleri yasa ile belirtilen ve karar organları seçimle oluşturulan kamu tüzel kişileridir.

(2) Yerel yönetimlerin kuruluş ve görevleri ile yetkileri, yerinden yönetim ilkesine uygun olarak yasa ile düzenlenir.

(3) Yerel yönetim organlarının seçimleri, 68. maddedeki ilkelere uygun olarak dört yılda bir yapılır.

Madde 120 [Kamu Hizmeti ile İlgili Asıl ve Sürekli Görevlerin Yürütülmesi]

(1) Devletin genel yönetim ilkelerine göre yürütmekle yükümlü olduğu kamu hizmetlerinin gerektirdiği asıl ve sürekli görevler, kamu görevlileri eliyle yürütülür.

(2) Kamu iktisadi teşebbüslerinin ve diğer kamu tüzel kişilerinin, genel yönetim ilkelerine göre yürütmekle yükümlü oldukları kamu hizmetlerinin gerektirdiği asıl ve sürekli görevler ise diğer kamu personeli eliyle yürütülür.

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Madde 121 [Kamu Görevlileri ve Diğer Kamu Personeli ile İlgili Kurallar]

(1) Kamu görevlilerinin nitelikleri, atanmaları, görev ve yetkileri, hakları ve yükümlülükleri, aylık ve ödenekleri ve diğer özlük işleri yasa ile düzenlenir.

(2) Kamu görevlilerinin atanmalarını, onaylanmalarını, sürekli ve emeklilik hakkı kazandıran kadrolara yerleştirilmelerini, terfilerini, nakillerini, emekliye sevklerini, uyarma ve kınama cezasını gerektiren disiplin işlemleri dışında, azil ve görevden uzaklaştırma dahil diğer tüm disiplin işlemlerini yapmak üzere tarafsız ve bağımsız organ veya organlar kurulur. Bu organ veya organların kuruluş ve işleyişi, belirli kamu görevlileri kesimi için, hizmet özellikleri gözetilerek ayrı düzenlemeler yapılmasına olanak tanıyacak biçimde, yasa ile düzenlenir.

Yargıçlar, savcılar, silâhlı kuvvetler mensupları ve polis mensupları hakkındaki kurallar ile Anayasanın bu konudaki diğer kuralları saklıdır.

(3) Diğer kamu personelinin nitelikleri, atanmaları, görev ve yetkileri, hakları ve yükümlülükleri, aylık ve ödenekleri ve diğer özlük işleri, bu personelin bağlı oldukları kurumlarca yürütülen hizmetlerin özelliklerine göre yasalarla düzenlenir.

(4) Kamu görevlileri ile diğer kamu personeli hakkında yapılacak disiplin kovuşturmalarında isnat olunan hususun ilgiliye açıkça ve yazılı olarak bildirilmesi, yazılı savunmasının istenmesi ve savunma için belli bir süre tanınması gereklidir. Bu ilkelere uyulmadıkça, disiplin cezası verilemez ve disiplin kararları yargı mercilerinin denetimi dışında bırakılamaz. Yargıçlar ve savcılar hakkında bu Anayasanın kuralları saklıdır.

(5) Üst kademe yöneticiliği yapan kamu görevlileri, ilgili Bakan, Başbakan ve Cumhurbaşkanının imzalarını taşıyan üçlü kararname ile atanırlar. Bu konudaki kurallar yasa ile düzenlenir.

(6) Cumhuriyet Meclisi seçim gününün Resmi Gazete'de ilânından başlayarak, seçim sonrasında yeni Bakanlar Kurulunun göreve başlayacağı güne kadar, kamu hizmetlerinde, kamu kuruluşlarında ve kamu iktisadi teşebbüslerinde, işçi dışında atama yapılamaz; terfi, nakil ve barem ayarlamaları tamamen durdurulur.

Bu kuralların nasıl ve hangi koşullarla uygulanacağı yasa ile düzenlenir.

Madde 122 [Tüzük ve Yönetmelikler]

Anayasa ve yasa açıkça yetki vermedikçe Devletin hiçbir organı, tüzük yapamaz ve yürürlüğe koyamaz. Yönetmelikler de ancak tüzüklere uygun olarak yapılır ve yürürlüğe konur.

Madde 123 [Yasa Dışı Emirler]

(1) Kamu hizmetlerinde herhangi bir sıfat ve suretle çalışmakta olan kimse, üstünden aldığı emri, yönetmelik, tüzük, yasa veya Anayasa kurallarına aykırı görürse, yerine getirmez ve bu aykırılığı emri verene bildirir. Ancak, üstü emrinde direnir ve bu emrini yazı ile yinelerse, emir yerine getirilir; bu durumda emri yerine getiren sorumlu olmaz.

(2) Konusu suç oluşturan emir, hiçbir şekilde yerine getirilmez; yerine getiren kimse sorumluluktan kurtulamaz.

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(3) Askeri hizmetlerin görülmesi ve ivedi durumlarda kamu düzeni ve kamu güvenliğinin korunması için yasa ile gösterilen istisnalar saklıdır.

Dördüncü Bölüm. Olağanüstü Durumlar

Madde 124 [Tabii Afet ve Ağır Ekonomik Bunalım Nedeniyle Olağanüstü Durum İlânı]

Tabii afet, tehlikeli salgın hastalıklar veya ağır ekonomik bunalım hallerinde, Cumhurbaşkanı başkanlığında toplanan Bakanlar Kurulu, yurdun bir veya birden fazla bölgesinde veya bütününde, süresi üç ayı geçmemek üzere, olağanüstü durum ilân edebilir.

Madde 125 [Şiddet Olaylarının Yaygınlaşması ve Kamu Düzeninin Ciddi Şekilde Bozulması Nedenleriyle Olağanüstü Durum İlânı]

Anayasa ile kurulan özgür demokratik düzeni veya temel hak ve özgürlükleri ortadan kaldırmaya yönelik yaygın şiddet hareketlerine ait ciddi belirtilerin ortaya çıkması veya şiddet olayları nedeniyle kamu düzeninin ciddi şekilde bozulması hallerinde, Cumhurbaşkanının başkanlığında toplanan Bakanlar Kurulu, Cumhuriyet Güvenlik Kurulunun da görüşünü aldıktan sonra, yurdun bir veya birden fazla bölgesinde veya bütününde, süresi üç ayı geçmemek üzere, olağanüstü durum ilân edebilir.

Madde 126 [Olağanüstü Durumlarla İlgili Düzenleme]

(1) Anayasanın 124. ve 125. maddeleri uyarınca olağanüstü durum ilânına karar verilmesi halinde, bu karar Resmi Gazete'de yayımlanır ve derhal Cumhuriyet Meclisinin onayına sunulur. Cumhuriyet Meclisi tatilde ise, derhal toplantıya çağrılır. Cumhuriyet Meclisi üye tamsayısının salt çoğunluğu ile, olağanüstü durum kararını veya süresini değiştirebilir; olağanüstü durumu kaldırabilir; Bakanlar Kurulunun istemi üzerine her defasında iki ayı geçmemek üzere süreyi uzatabilir.

(2) Herhangi bir olağanüstü durum ilânında, ancak olağanüstü durumu oluşturan nedenlerin giderilmesi ile sınırlı olarak sözü edilen olağanüstü durumun devamı süresince yürürlüğü kısmen veya tamamen durdurulan Anayasa maddeleri açıkca gösterilir.

Ancak, bu gibi herhangi bir olağanüstü durum ilânında, Anayasanın aşağıda öngörülen maddelerinin yürürlüğü durdurulabilir:

16. madde; 20. madde; 21. madde; 22. madde; 24. madde; 32. madde; 33. madde; 41. maddenin (5). fıkrasının (ç) bendi; 42. madde; 48. madde; 49. maddenin (3). fıkrası; 53. madde ve 54. madde.

Madde 127 [Sıkıyönetim, Seferberlik ve Savaş Hali]

(1) Anayasanın tanıdığı özgür demokratik düzeni veya temel hak ve özgürlükleri ortadan kaldırmaya yönelen veya olağanüstü durum ilânını gerektiren hallerden daha vahim şiddet hareketlerinin yaygınlaşması veya savaş hali, savaşı gerektirecek bir durumun başgöstermesi, ayaklanma olması veya yurda veya Cumhuriyete karşı kuvvetli ve eylemli bir kalkışmanın veya ülkenin ve halkın bölünmezliğini içten veya dıştan tehlikeye düşüren şiddet hareketlerinin yaygınlaşması nedenleriyle, Cumhurbaşkanının başkanlığında toplanan

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Bakanlar Kurulu, Cumhuriyet Güvenlik Kurulunun da görüşünü aldıktan sonra, süresi üç ayı geçmemek üzere yurdun bir veya birden fazla bölgesinde veya bütününde sıkıyönetim ilân edebilir. Bu karar, derhal Resmi Gazete'de yayımlanır ve derhal Cumhuriyet Meclisinin onayına sunulur. Cumhuriyet Meclisi toplantı halinde değilse, derhal toplantıya çağrılır. Cumhuriyet Meclisi, üye tamsayısının salt çoğunluğu ile sıkıyönetim kararını değiştirebilir, gerekli gördüğü takdirde sıkıyönetim süresini uzatabilir, kısaltabilir veya sıkıyönetimi kaldırabilir.

(2) Sıkıyönetimin her defasında iki ayı geçmemek üzere uzatılması, Cumhuriyet Meclisinin kararına bağlıdır. Savaş hallerinde bu süre aranmaz.

(3) Sıkıyönetim, seferberlik ve savaş hallerinde, hangi kuralların uygulanacağı ve işlemlerin nasıl yürütüleceği, Yönetim ile olan ilişkiler, özgürlüklerin nasıl kısıtlanacağı veya durdurulacağı ve savaş veya savaşı gerektirecek bir durum başgöstermesi halinde yurttaşlar için getirilecek yükümlülükler yasa ile düzenlenir.

Ancak, savaş hali dışında sıkıyönetim ilânında, sıkıyönetimi gerektiren nedenlerin giderilmesi ile sınırlı olmak koşuluyla, sıkıyönetim süresince yürülüğü kısmen veya tamamen durdurulan Anayasa maddeleri açıkça gösterilir ve böyle bir sıkıyönetim ilânında, sadece Anayasanın 126. maddesinin (2). fıkrasında belirtilen maddelerin yürürlüğü durdurulabilir.

Madde 128 [Olağanüstü Durum ve Sıkıyönetim Süresince Yasa Gücünde Kararname Çıkarma Yetkisi]

(1) Olağanüstü durum ve sıkıyönetim süresince, Cumhurbaşkanının başkanlığında toplanan Bakanlar Kurulu, olağanüstü durumun veya sıkıyönetimin gerekli kıldığı konularda, yasa gücünde kararname çıkarabilir, bu kararnameler, Resmi Gazete'de yayımlanır ve derhal Cumhuriyet Meclisinin onayına sunulur. Bu kararnameler, Cumhuriyet Meclisinin üye tamsayısının salt çoğunluğunun oyu ile reddedilmedikçe, olağanüstü durum ve sıkıyönetim süresince yürürlükte kalır.

(2) Bu şekilde sunulan yasa gücünde kararnameler hakkında 112. maddenin (2). ve (3). fıkra kuralları da uygulanır.

Beşinci Bölüm. Kuruluşlar

Madde 129 [Kamu Kurumu Niteliğindeki Meslek Kuruluşları]

(1) Kamu kurumu niteliğindeki meslek kuruluşları, yasa ile kurulur ve organları kendileri tarafından ve kendi üyeleri arasından seçilir.

(2) Bu kuruluşların seçilmiş organları, bir yargı mercii kararına dayanmaksızın, geçici veya sürekli olarak görevlerinden uzaklaştırılamazlar.

(3) Meslek kuruluşlarının tüzükleri, yönetim ve işleyişleri demokratik ilkelere aykırı olamaz.

Madde 130 [Radyo, Televizyon ve Haber Ajansları]

(1) Radyo ve televizyon istasyonlarının kuruluş ve yönetimleri yasa ile düzenlenir.

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(2) Her türlü radyo ve televizyon yayınları, tarafsızlık ilkelerine göre yapılır.

(3) Haber ve programların seçiminde, sunulmasında, kültür ve eğitime yardımcılık görevinin yerine getirilmesinde, insan haklarına dayanan demokratik, lâik ve sosyal hukuk devletinin, ulusal güvenliği, genel ahlâkın gereklerine uyulması, haberlerin doğruluğunun sağlanması ilkeleri ile organların seçimi, yetki, görev ve sorumlulukları yasa ile düzenlenir.

(4) Devlet tarafından kurulan veya Devletten mali yardım alan haber ajansları da yukarıdaki kurallara uymakla yükümlüdürler.

(5) Siyasal partilerin radyo, televizyon, haber ajansları ve benzeri Devlet kuruluşlarından yararlandırılmaları yasa ile düzenlenir.

(6) Seçim veya halkoylamasına katılan siyasal partilerin Devlet radyo ve televizyonundan propaganda ve seçim konuşmaları yapmaları yasa ile düzenlenir.

Madde 131 [Vakıflar Örgütü ve Din İşleri Dairesi]

(1) Vakıf Kuruluşu ve Temel Evkaf Kuralları (Ahkâmül Evkaf), bu Anayasaca tanınır.

(2) Vakıf kuruluşlarına veya vakıflara veya camilere ve diğer herhangi bir islâm dini kuruluşuna ait mallar da dahil olmak üzere, vakıf malları ilgilendiren veya herhangi bir suretle bunları etkileyen bütün konular, münhasıran Temel Evkaf Kuraları (Ahkâmül Evkaf), yürürlükteki mevzuat ve bu Anayasa yürürlüğe girdikten sonra Cumhuriyet Meclisince yapılan yasalara bağlıdır.

(3) Geliri Vakıflar Örgütüne ait olan vakıflar, her türlü vergiden bağışık tutulur.

(4) Vakıflar Örgütü ile Din İşleri Dairesinin kuruluşu ve işleyişi yasa ile düzenlenir ve yasada gösterilen görevleri yerine getirir.

(5) Dini hizmetlerin yürütülmesinde ve bu hizmetlerin giderlerinin karşılanmasında Devlet, Vakıflar Örgütüne yardımcı olur.

Altıncı Bölüm. Ekonomik ve Mali Kurallar

Madde 132 [Mali Denetim]

(1) Mali denetim organı olan Sayıştay, kamu gelir ve giderlerini denetler ve sonucu bir raporla Cumhuriyet Meclisine ve Bakanlar Kuruluna bildirir. Mali konularda Cumhuriyet Meclisine ve Bakanlar Kuruluna yardım eder.

(2) Sayıştayın başkan ve üyelerinin nitelikleri, atanmaları, kuruluş ve işleyişi yasa ile düzenlenir.

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Madde 133 [Kamu İktisadi Kuruluşlarının Denetimi]

Kamu iktisadi kuruluşlarının gelir ve giderlerinin denetlenmesi yasa ile düzenlenir.

Madde 134 [Kalkınma ve Plânlama]

(1) Ekonomik, sosyal ve kültürel kalkınma, plâna bağlanır. Kalkınma bu plâna göre gerçekleştirilir.

(2) Plânlama ile ilgili örgütün kuruluş ve görevleri, plânın hazırlanmasında, yürürlüğe konmasında, uygulanmasında ve değiştirilmesinde gözetilecek ilkeler ve plânın bütünlüğünü bozacak değişikliklerin önlenmesini sağlayacak önlemler yasa ile düzenlenir.

Madde 135 [Devletin Mali Yükümlülük Altına Konması ve Fon Kurulması]

Yasa açıkça yetki vermedikçe Devlet doğrudan doğruya veya dolaylı olarak hiçbir mali yükümlülük altına konamaz ve yasa ile kurulmadıkça hiçbir fon oluşturulamaz.

Beşinci Kısım. Yargı

Birinci Bölüm. Genel Kurallar

Madde 136 [Mahkemelerin Bağımsızlığı]

(1) Yargıçlar, görevlerinde bağımsızdırlar, Anayasaya, yasaya ve hukuka uygun olarak vicdani kanaatlarına göre hüküm verirler.

(2) Hiçbir organ, makam, merci veya kişi yargı yetkisinin kullanılmasında, mahkemelere ve yargıçlara emir ve talimat veremez; genelge gönderemez; tavsiye ve telkinde bulunamaz.

(3) Görülmekte olan bir dava hakkında, Cumhuriyet Meclisinde yargı yetkisinin "kullanılması ile ilgili soru sorulamaz; görüşme yapılamaz veya herhangi bir demeçte bulunulamaz. Yasama ve Yürütme organları ile Devlet Yönetimi makamları, mahkeme kararlarına uymak zorundadır. Bu organ ve makamlar, mahkeme kararlarını hiçbir surette değiştiremez ve bunların yerine getirilmesini geciktiremez.

Madde 137 [Yargıçların Güvenceleri]

(1) Yargıçlar görevlerinden uzaklaştırılamaz; kendileri istemedikçe, Anayasa gösterilen yaştan önce emekliye çıkarılamaz; bir mahkemenin veya kadronun kaldırılması yolu ile de olsa, kazanılmış haklarından yoksun bırakılamaz.

(2) Meslekten çıkarılmayı gerektiren bir suçtan dolayı hüküm giymiş olanlarla, görevlerini sağlık bakımından yerine getiremeyeceği kesin olarak anlaşılanlar, meslekleri ile bağdaşmayan işler yapanlar ve meslekte kalmaları caiz olmadığına karar verilenler hakkında, yasa ile konan istisnalar saklıdır.

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(3) Yargıçlar aleyhinde, yargısal görevleri sırasında ve yargısal işlemleri ile ilgili olarak söyledikleri söz ve eylemlerden dolayı, kovuşturmada bulunulamaz.

Madde 138 [Yargıçlık Mesleği]

(1) Yargıçların nitelikleri, atanmaları, hakları ve ödevleri, aylık ve ödenekleri, meslekte ilerlemeleri, görevlerinin veya görev yerlerinin geçici veya sürekli olarak değiştirilmesi, haklarında disiplin kovuşturması açılması ve disiplin cezası verilmesi, görevleri ile ilgili suçlardan dolayı soruşturma yapılmasına ve yargılanmasına karar verilmesi, meslekten çıkarılmayı gerektiren suçluluk veya yetersizlik halleri ve diğer özlük işleri, mahkemelerin bağımsızlığı ilkesine göre, yasa ile düzenlenir.

(2) Yüksek Mahkeme Başkanı ve yargıçları altmış beş yaşını, diğer yargıçlar almış yaşını bitirinceye kadar görev yaparlar.

(3) Yargıçlar, yasada belirtilenlerden başka genel ve özel hiçbir görev alamaz; resmi görevleri dışında hiçbir iş yapamaz; Devlet veya kamu kuruluşlarının herhangi bir yüklenme işini doğrudan doğruya veya dolaylı olarak kabul edemezler.

Madde 139 [Duruşmaların Açık ve Kararların Gerekçeli Olması]

(1) Mahkemelerde duruşmalar bu Anayasanın 17. maddesinin (3). fıkrası kuralları saklı kalmak koşuluyla herkese açıktır.

(2) Bütün mahkemelerin her türlü kararları gerekçeli olarak yazılır.

Madde 140 [Küçüklerin Yargılanması]

Küçüklerin yargılanması ve küçükler hakkında verilen kararların infazı konusunda yasa ile özel kurallar konabilir.

Madde 141 [Yüksek Adliye Kurulu]

(1) Yüksek Adliye Kurulu aşağıdaki üyelerden oluşur:

(a) Yüksek Mahkemenin Başkan ve Yargıçları;

(b) Cumhurbaşkanının atayacağı bir üye;

(c) Cumhuriyet Meclisi'nin atayacağı bir üye;

(ç) Cumhuriyet Başsavcısı; ve

(d) Barolar Birliğinin seçeceği bir üye.

Yukarıdaki (b), (ç) ve (d) bendlerinde belirtilen üyelerin görev süresi üç yıldır; süresi biten üye yeniden seçilebilir.

(2) Yüksek Adliye Kurulu'nun Başkanı, Yüksek Mahkeme Başkanıdır; Kurul kararlarının yerine getirilmesini sağlar.

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(3) Yüksek Adliye Kurulu;

(a) Yargının genel işleyişi, düzenli çalışması, yargıçların ve mahkemelere bağlı kamu görevlilerinin görevlerine devamları, işlerin verimli bir biçimde yürütülmesi, yargıçların yetişmeleri ve mesleğin vakar ve onurunu korumaları yönünde gerekli önlemleri alır; ve

(b) Her takvim yılı sonunda yargı işlerinin durumu ve bunların yürütülmesinde aksaklık veya varsa nedenleri hakkında Cumhurbaşkanına, Cumhuriyet Meclisine ve Bakanlar Kuruluna rapor verir ve alınmasını gerekli gördüğü önlemler hakkında tavsiyelerde bulunur.

(4) Bu Anayasanın 138. madde kuralları saklı kalmak koşuluyla, yargıçların atanmaları, meslekte ilerlemeleri, görevlerinin veya görev yerlerinin geçici veya sürekli olarak değiştirilmesi, görevlerine son verilmesi ve disiplin konuları hakkında karar verme yetkisi Yüksek Adliye Kurulunundur.

(5) Yüksek Adliye Kurulunun görev, yetki ve çalışma usulleri yasa ile düzenlenir.

(6) Yüksek Mahkeme Başkan ve yargıçlarının atanmaları Cumhurbaşkanı tarafından onaylanır.

Madde 142 [Mahkeme Karar ve Emirlerine Uymayanların Cezalandırılması]

Yüksek Mahkeme veya herhangi bir mahkeme, bir karar veya emrine uymayan herhangi bir kişiyi, sözkonusu karar veya emre uyuncaya kadar ve herhalde on iki ayı aşmayan bir süre için hapsetme yetkisine sahiptir.

İkinci Bölüm. Yüksek Mahkeme

Madde 143 [Yüksek Mahkemenin Oluşumu ve Görev Bölümü]

(1) Kuzey Kıbrıs Türk Cumhuriyeti Yüksek Mahkemesi bir Başkan ve yedi yargıçtan oluşur. Başkanın yokluğunda en kıdemli yargıç ona vekillik eder.

(2) Yüksek Mahkeme; Anayasa Mahkemesi, Yüce Divan, Yargıtay ve Yüksek İdare Mahkemesi görevlerini yapar.

(3) Yüksek Mahkeme, Başkan ve dört yargıç ile toplanarak Anayasa Mahkemesi görevini yapar. Yüksek Mahkemenin en son atanan iki yargıcı yedek yargıç olarak görev yapar. Başkanın oturumda bulunmadığı hallerde, en kıdemli yargıç başkanlık eder.

Bu Anayasanın 148. maddesi uyarınca Anayasa Mahkemesine havale edilen konuların duruşmasında, havale kararına taraf olan yargıç veya yargıçlar görev alamaz veya karara iştirak edemezler.

(4) Yüksek Mahkeme, Başkan ve iki yargıç ile veya sadece üç yargıç ile toplanarak Yargıtay veya Yüksek İdare Mahkemesi olarak görev yapar. Bu görev çerçevesinde verilen kararlar nihaidir. Başkanın oturumda bulunmadığı hallerde en kıdemli yargıç Başkanlık eder.

Ancak, Yüksek Mahkemeye Yüksek İdare Mahkemesi olarak doğrudan doğruya

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başvurulması yasa ile gösterilen haller dışındaki başvurular, Yüksek İdare Mahkemesinde görevli tek yargıç tarafından incelenip karara bağlanır.

Tek yargıç tarafından verilecek kararlara karşı üç yargıçtan oluşan Yüksek İdare Mahkemesine istinafen başvurulabilir.

(5) Yargıtay veya Yüksek İdare Mahkemesinde görev yapacak olan Yüksek Mahkeme yargıçları, her adli yılın başlangıcından önce o adli yıl için Yüksek Mahkeme tarafından belirlenir ve bir adli yıl için o yargıç, Yargıtay veya Yüksek İdare Mahkemesinde görev yapar.

Ancak, Yargıtay veya Yüksek İdare Mahkemesinde bir yıl için görevli olan yargıçlardan herhangi birinin geçici olarak görevini yürütemediği hallerde Yüksek Mahkeme Başkanının görevlendireceği başka bir yargıç o görevi yürütebilir.

Üçüncü Bölüm. Anayasa Mahkemesinin Görev ve Yetkileri

Madde 144 [Anayasa Mahkemesinin Yetkileri]

(1) Anayasa Mahkemesi bu Anayasa, yasa ve Mahkeme Tüzüğü kurallarında gösterilen bütün konularda kesin olarak karar vermek hususunda münhasır yargı yetkisine sahiptir.

(2) Anayasa Mahkemesi, yürürlükteki mevzuat çerçevesinde, Cumhurbaşkanını, Başbakanı ve bakanları, ilgili suçlarından dolayı Yüce Divan sıfatıyla yargılar. Yüce Divanda savcılık görevini Başsavcı veya Başsavcı Yardımcısı yapar. Yüce Divan kararları kesindir.

Madde 145 [Organlar Arasında Yetki Uyuşmazlığı]

(1) Anayasa Mahkemesi Devlet organları arasında kuvvet veya yetki uyuşmazlık veya itirazlarına dair herhangi bir konu ile ilgili olarak yapılan başvuru hakkında, kesin olarak karar vermek yargı yetkisine sahiptir.

(2) Herhangi bir konu ile ilgili olarak Anayasa Mahkemesinin yetkisine giren bir sorun ortaya çıktığı takdirde, bu sorun Anayasa Mahkemesinde kesinlikle karara bağlanır.

(3) Bu maddenin (1). fıkrası gereğince:

(a) Cumhurbaşkanı; veya

(b) Cumhuriyet Meclisi; veya

(c) Devletin diğer herhangi bir organı, uyuşmazlık veya itiraz ile ilgili olmaları halinde, Anayasa Mahkemesine başvurabilirler.

(4) Başvurular, sözkonusu kuvvet veya yetkiye itiraz edilmesinden başlayarak otuz gün içinde yapılır.

(5) Böyle bir başvuru üzerine Anayasa Mahkemesi başvuru konusu olan yasa, karar veya işlemin, kuvvet veya yetki olmaksızın kabul edildiği, alındığı veya yapıldığı sebebine dayanmak suretiyle uyuşmazlığın çıkmasından veya itirazın yapılmasından veya

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başlangıcından başlayarak tamamen veya kısmen hükümsüz olduğuna ve hiçbir hukuki hükmü olmadığına karar verebilir; her iki halde de Anayasa Mahkemesi, böyle bir yasa, karar veya işlem gereğince yapılan veya yapılmamış olan herhangi bir eylem veya işlemin hükmü hakkında yöneride bulunabilir.

(6) Böyle bir başvuru üzerine Anayasa Mahkemesi tarafından verilen herhangi bir karar, derhal ilgili taraflara ve Resmi Gazete'de yayımlanmak üzere, Cumhurbaşkanına yazılı olarak bildirilir.

(7) Bu madde gereğince yapılan başvuru üzerine, Anayasa Mahkemesi, başvuruya konu olan yasa, karar veya işlemin, karar verilinceye kadar, yürürlülüğünün durdurulmasını emredebilir; böyle bir emir, derhal Resmi Gazete'de yayımlanır.

Madde 146 [Yasaların Anayasaya Aykırılığı Konusu]

(1) Cumhurbaşkanı, bir yasayı veya herhangi bir yasanın herhangi belli bir kuralını veya Cumhuriyet Meclisinin herhangi bir kararını yayımlamadan önce, bu Anayasanın herhangi bir kuralına aykırı veya ona uygun olup olmadığı konsusunda görüşünü bildirmek üzere Anayasa Mahkemesine sunabilir.

(2) Anayasa Mahkemesi, bu maddenin (1). fıkrası gereğince kendisine sunulan her konuyu inceler ve Cumhurbaşkanı ve Cumhuriyet Meclisi adına ileri sürülen iddiaları dinledikten sonra, konu hakkındaki görüşünü en geç kırkbeş gün içinde karara bağlar ve bunu Cumhurbaşkanına yazılı olarak bildirir.

(3) Anayasa Mahkemesi böyle bir yasa, karar veya onun herhangi bir kuralının bu Anayasanın herhangi bir kuralına aykırı olduğu veya ona uygun olmadığı görüşünde ise, sözkonusu yasa, karar veya kural Cumhurbaşkanı tarafından yayımlanmaz ve gerekçesi ile birlikte Cumhuriyet Meclisine geri gönderilir.

(4) Bu şekilde geri gönderilen yasa, karar veya kural hakkında 94. maddenin geri gönderme ile ilgili kuralları uygulanmaz.

Madde 147 [İptal Davası]

(1) Cumhurbaşkanı, Cumhuriyet Meclisinde temsil edilen siyasal partiler, siyasal gruplar ve en az dokuz milletvekili veya kendi varlık ve görevlerini ilgilendiren alanlarda diğer kurum, kuruluş veya sendikalar bir yasanın, kararnamenin, tüzüğün, Cumhuriyet Meclisi İçtüzüğünün, Cumhuriyet Meclisi kararının, yönetmeliğinin veya bunların herhangi bir kuralının Anayasanın herhangi bir kuralına aykırı veya ona uygun olmadığı gerekçesi ile Anayasa Mahkemesinde doğrudan doğruya iptal davası açabilirler.

(2) Anayasa Mahkemesinde doğrudan doğruya iptal davası açma hakkı iptali istenen yasanın, kararnamenin, tüzüğün, Cumhuriyet Meclisi İçtüzüğünün, Cumhuriyet Meclisi kararının, yönetmeliğin veya bunların herhangi bir kuralının Resmi Gazete'de yayımlanmasından başlayarak doksan gün sonra düşer.

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Madde 148 [Anayasaya Aykırılık Konusunun Mahkemeler Tarafından Yüksek Mahkemeye İletilmesi]

(1) İstinaf işlemleri de dahil olmak üzere, herhangi bir mahkeme işlemindeki bir taraf, bu işlemin herhangi bir safahsında bu işlemdeki uyuşmazlık konularından herhangi birinin karara bağlanmasında etkisi olabilen herhangi bir yasanın veya kararın veya sözkonusu yasa veya kararın herhangi bir kuralının Anayasaya aykırılığını ileri sürebilir ve bunun üzerine, mahkeme bu konuyu, Anayasa Mahkemesine sunar ve bu konu hakkında Anayasa Mahkemesince bir karar verilinceye kadar sözkonusu işlemi durdurur.

Ancak Anayasa Mahkemesince herhangi bir yasanın veya kararın veya sözkonusu yasa veya kararın herhangi bir kuralının Anayasaya aykırılığı konusunda aynı veya benzeri bir konuda daha önce karar verilmişse, mahkeme konunun Anayasa Mahkemesine iletilmesinin reddine karar verebilir.

(2) Anayasa Mahkemesi kendi kararına sunulan bir konuyu, tarafları dinledikten sonra inceler ve kararını verir. Alınan karar konuyu sunan mahkemeye bildirilir.

(3) Anayasa Mahkemesinin, bu maddenın (2). fıkrası gereğince verdiği herhangi bir karar, konuyu sunan mahkemeyi ve ilgili tarafları bağlar. Alınan karar, yasanın veya kararın veya sözkonusu yasa veya kararın herhangi belli bir kuralının Anayasaya aykırı olduğu yolunda ise, sözkonusu yasa veya karar veya sözkonusu yasa veya kararın herhangi belli bir kuralı, Anayasa Mahkemesince aksine karar verilmedikçe yalnız sözkonusu mahkeme işlemine uygulanmaz.

Madde 149 [Anayasanın Yorumu]

Anayasa Mahkemesi, bu Anayasanın herhangi bir kuralını yorumlamak münhasır yetkisine sahiptir. Bunu yaparken Anayasa ile ilgili komite raporları ile Meclis tutanaklarından da yararlanır.

Madde 150 [Anayasa Mahkemesinin Kararları]

(1) Anayasa Mahkemesinin vereceği kararlar kesindir. Kararlar, gerekçesi yazılmadan açıklanamaz.

(2) Anayasa Mahkemesince, Anayasaya aykırı olduğundan iptaline karar verilen yasa, kararname, tüzük, Cumhuriyet Meclisi İçtüzüğü, Cumhuriyet Meclisi kararı, yönetmelik veya bunların herhangi bir kuralı, gerekçeli kararın Resmi Gazete'de yayımlandığı tarihte yürürlükten kalkar.

(3) Gereken hallerde, Anayasa Mahkemesi, iptal hükmünün yürürlüğe gireceği tarihi ayrıca kararlaştırabilir. Bu tarih kararın Resmi Gazete'de yayımlandığı tarihten başlayarak bir yılı geçemez.

(4) İptal kararı geriye yürüyemez.

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Dördüncü Bölüm.
Yüksek Mahkemenin Yargıtay Olarak Görev ve Yetkileri

Madde 151 [Yargıtayın Yetkileri]

(1) Yargıtay, Devlette en yüksek istinaf mahkemesidir; bu Anayasa ve onun gereğince yapılan yasa ve Mahkeme Tüzüğü kurallarına bağlı olarak, herhangi bir mahkeme kararının istinafına ait davalara bakmak ve karara bağlamak yetkisine sahiptir.

(2) Bu maddenin (3). fıkrası kuralları saklı kalmak koşuluyla, Yargıtay, bu Anayasanın veya herhangi bir yasanın gösterdiği hallerde ilk mahkeme olarak ve istinafen davalara bakmak yargı yetkisine sahiptir.

Ancak, ilk mahkeme olarak yetki verildiği hallerde, bu yetki Yüksek Mahkemenin atayacağı Yüksek Mahkeme yargıç veya yargıçları tarafından kullanılır. Bu suretle verilecek kararlara karşı Yargıtaya istinafen başvurma hakkı vardır.

(3) Yetkisiz tutuklamanın kaldırılması için emirname (Habeas Corpus), bir yetkinin kullanılmasını sağlamak için emirname (mandamus), herhangi bir mahkeme veya yargı niteliğinde yetki kullanan herhangi bir makamın yanlış bir kararının uygulanmasını önlemek için emirname (Prohibition), bir makamın herhangi bir yetkiye dayanılarak işgal edildiğinin soruşturulmasına ilişkin emirname (quo warranto) ve herhangi bir mahkeme veya yargı niteliğinde yetki kullanan herhangi bir makamın kararının iptali için emirname (certiorari) çıkarmaya münhasıran Yüksek Mahkeme, Yargıtay olarak yetkilidir.

Beşinci Bölüm. Yüksek Mahkemenin
Yüksek İdare Mahkemesi Olarak Görev ve Yetkileri

Madde 152 [Yüksek İdare Mahkemesinin Yetkileri]

(1) Yüksek İdare Mahkemesi, yürütsel veya yönetsel bir yetki kullanan herhangi bir organ, makam veya kişinin bir kararının, işleminin veya ihmalinin, bu Anayasanın veya herhangi bir yasanın veya bunlara uygun olarak çıkarılan mevzuatın kurallarına aykırı olduğu veya bunların sözkonusu organ veya makam veya kişiye verilen yetkiyi aşmak veya kötüye kullanmak suretiyle yapıldığı şikâyeti ile kendisine yapılan başvuru hakkında, kesin karar vermek münhasır yargı yetkisine sahiptir.

(2) Böyle bir başvuru, sahip olduğu meşru bir menfaatı, bu gibi karar veya işlem veya ihmal yüzünden olumsuz yönde ve doğrudan doğruya etkilenen kişi tarafından yapılabilir.

(3) Söz konusu başvuru, karar veya işlemin yayınlanması tarihinden veya yayınlanmadığı takdirde veya bir ihmal halinde, başvuran kişinin bunu öğrendiği tarihten başlayarak yetmiş beş gün içinde yapılır.

(4) Böyle bir başvuru üzerine Yüksek İdare Mahkemesi, kararında:

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(a) Sözkonusu karar veya işlem veya ihmali, tamamen veya kısmen onaylayabilir; veya

(b) Sözkonusu karar veya işlemin, tamamen veya kısmen, hükümsüz ve etkisiz olduğuna ve herhangi bir sonuç doğurmayacağına karar verebilir; veya

(c) Sözkonusu ihmalin, tamamen veya kısmen yapılmaması gerektiğine ve yapılması ihmal olunan eylem veya işlemin yapılması gerektiğine karar verebilir.

(5) Bu maddenin (4). fıkrası gereğince verilen herhangi bir karar, Devlet içerisindeki bütün mahkemeleri ve bütün organları veya makamları bağlar. Karar, ilgili organ veya makam veya kişi tarafından uygulanır ve ona göre hareket edilir.

(6) Bu maddenın (4). fıkrası gereğince hükümsüz kılınan herhangi bir karar veya işlemin veya yapılmaması gerektiğine karar verilen herhangi bir ihmalin, kendisine zarar verdiği herhangi bir kişi, ilgili organ, makam veya kişi tarafından, istemi kendisini tatmin eder şekilde yerine getirilmediği takdirde, zararların tazmini veya kendisine başka bir tazminat verilmesi için dava açmak ve mahkeme tarafından saptanacak tam ve muhik bir tazminat almak ve sözkonusu mahkemenin vermeye yetkili olduğu diğer tam ve muhik bir tazminat almak hakkına sahiptir.

Altıncı Bölüm. Yüksek Mahkemenin Diğer Görev ve Yetkileri

Madde 153 [Yüksek Mahkemenin Diğer Görev ve Yetkileri]

Yüksek Mahkemenin kuruluşu ve oluşumu, işleyişi, görev ve yetkileri bu Anayasada belirtilen kurallar saklı kalmak koşuluyla, yasa ile düzenlenir.

Madde 154 [Mahkeme Tüzükleri Yapma Yetkisi]

(1) Yüksek Mahkeme, kendisinin veya herhangi bir diğer mahkemenin uygulama ve usul kurallarını düzenlemek için bu Anayasa ve yasalarda belirlenen kurallar çerçevesinde mahkeme tüzükleri yapar.

(2) Bu maddenin (1). fıkrasının genelliği saklı kalmak üzere Yüksek Mahkeme, aşağıdaki amaçlar için, mahkeme tüzüklerine kurallar koyabilir:

(a) Mahkeme oturumlarının düzenlenmesi ve herhangi bir amaç için yargıçların görevlendirilmesi;

(b) Yüksek Mahkemedeki veya başka bir mahkemedeki istinaf veya diğer işlemlerin gereğinden fazla veya taciz edici olduğu veya adaletin gerçekleştirilmesini geciktirmek amacıyla yapıldığı görünenlerin seri yargılama usulü ile karara bağlanmaları;

(c) Mahkemelerdeki yargılama işlemleri ile ilgili şekillerin, harçların, işlemlerin ve onlarla ilgili giderlerin düzenlenmesi;

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(ç) Mahkemelerin kayıt kalemlerinin oluşumu ve mahkemelere bağlı kamu görevlilerinin yetki ve görevlerinin saptanması ve düzenlenmesi;

(d) Mahkeme tüzüklerinde herhangi bir kuralın yerine getirilmesi için gereken sürenin saptanması.

Yedinci Bölüm. Alt Mahkemeler

Madde 155 [Mahkemelerin Kuruluşu, Görev ve Yetkileri]

(1) Bu Anayasa ve yasalar gereğince, Yüksek Mahkeme tarafından kullanılan yargı yetkisi dışındaki yargı yetkisi, bu Anayasa kurallarına bağlı olarak ve bunlar gereğince yasada gösterilen alt mahkemeler ve ihtisas mahkemeleri tarafından kullanılır.

(2) Yargı yetkisi kullanan alt mahkemeler ile ihtisas mahkemelerinin kuruluşu, görev ve yetkileri, işleyişi ve yargılama usulleri yasa ile düzenlenir.

Sekizinci Bölüm. Askeri Yargı ve Askeri Yargıtay

Madde 156 [Askeri Yargı]

(1) Askeri yargı, askeri mahkemeler ve disiplin mahkemeleri tarafından yürütülür.

(2) Askeri mahkemeler, Silahlı Kuvvetlerde görevli olmayan kişilerin özel yasada belirtilen askeri suçları ile yasada gösterilen görevlerini yaptıkları sırada veya yasada gösterilen Silâhlı Kuvvetlere ait yerlerde Silâhlı Kuvvetlerdeki görevlilere karşı işledikleri suçlara bakmakla görevlidir.

(3) Askeri mahkemelerin, savaş veya sıkıyönetim hallerinde veya olağanüstü durumda, hangi suçlar ve hangi kişiler bakımından yetkili olduğu yasa ile düzenlenir.

(4) Askeri yargı organlarının kuruluşu, işleyişi, yargılama usulleri Silâhlı Kuvvetlere bağlı yargıçların özlük işleri, askeri mahkemelerde savcılık görevlerini yapanlarla ilgili kurallar, mahkemerlin bağımsızlığı, yargıçların güvenceleri ve Silâhlı Kuvvetlerdeki hizmetlerin gereklerine göre yasa ile düzenlenir.

Madde 157 [Askeri Yargıtay]

(1) Askeri Yargıtay, askeri mahkemelerce verilen karar ve hükümlerin son inceleme merciidir.

(2) Askeri Yargıtayın kuruluşu, işleyişi, yargılama usulleri ve üyeleri hakkındaki disiplin ve özlük işleri, mahkemelerin bağımsızlığı, yargıçların güvenceleri ve Silâhlı Kuvvetlerdeki hizmetlerin gereklerine göre yasa ile düzenlenir.

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Dokuzuncu Bölüm. Başsavcılık

Madde 158 [Başsavcı ve Savcılar]

(1) Kuzey Kıbrıs Türk Cumhuriyeti Hukuk Dairesi bağımsız olup Başkanı Başsavcıdır. Başsavcının yokluğunda kendisine Başsavcı Yardımcısı vekillik eder.

(2) Başsavcı, Yüksek Mahkeme yargıcı atanabilmek için gerekli niteliklere sahip kişiler arasından atanır ve Kuzey Kıbrıs Türk Cumhuriyeti adliyesinin daimi üyesidir. Başsavcı, Yüksek Mahkeme yargıçlarının bağlı olduğu aynı koşul ve kayıtlarla görev yapar ve görevine ancak Yüksek Mahkeme yargıçlarına uygulanan aynı nedenlerle ve aynı usulle son verilebilir.

(3) Kuzey Kıbrıs Türk Cumhuriyeti Başsavcısı, Devletin, Cumhurbaşkanının, Başbakanın, Bakanlar Kurulunun, bakanların ve diğer Devlet organlarının hukuk danışmanıdır. Kendisine bu Anayasa veya yasa tarafından verilen veya emrolunan diğer bütün yetkileri kullanır ve görevleri yapar.

(4) (a) Başsavcı, kamu yararının gereğine göre, Kuzey Kıbrıs Türk Cumhuriyeti mahkemelerinde, herhangi bir suç hakkında dava açmak, izlemek, davayı devralmak, devam ettirmek veya ettirmemek yetkisine sahiptir. Ceza mahkemelerinde, kovuşturmanın kesin yönetim ve sorumluluğu Başsavcıya aittir. Bu yetki doğrudan doğruya kendisince veya yönerisine uygun olarak Başsavcı Yardımcısı veya savcılar tarafından kullanılır.

(b) Başsavcı, gerekli gördüğü hallerde, Resmi Gazete'de yayımlayacağı bir emirname ile, davasız çözümlenmesine yasa ile olanak tanınan yol trafik suçlarını, kendi yönerisi ve sorumluluğu çerçevesinde mahkemelerde kovuşturmak üzere, uygun göreceği bir polis mensubunu yetkilendirebilir.

(c) Başsavcı, gerekli gördüğü hallerde, Resmi Gazete'de yayımlayacağı bir emirname ile bakanlıkların veya diğer kamu kuruluşlarının taraf olduğu davalarda, ilgili bakanlık veya diğer kamu kuruluşlarında görevli ve avukatlık yapmak ehliyetine sahip bir hukukçuyu, bu davaları mahkemelerde yürütmekle yetkili kılabilir.

(5) Başsavcı, Devletin taraf olduğu hukuk ve Anayasa davalarında Devleti veya organlarını da temsil etme yetkisine sahiptir.

(6) Başsavcı, Başsavcı Yardımcısı ve Savcılar, herhangi bir mahkemede dinlenilmek hakkına sahiptirler ve bu hakkın kullanılmasında, mahkeme önüne çıkan bütün diğer kişilere karşı öncelik kazanırlar.

(7) Başsavcı, her takvim yılı sonunda, Hukuk Dairesinin genel işleyişi ve görevlerinin yürütülmesinde görülen aksaklık veya varsa nedenleri hakkında Cumhurbaşkanına, Cumhuriyet Meclisine ve Bakanlar Kuruluna rapor verir ve alınmasını gerekli gördüğü önlemler hakkında tavsiyelerde bulunur.

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(8) Bu Anayasanın kuralları saklı kalmak kaydıyla, Kuzey Kıbrıs Türk Cumhuriyeti Hukuk Dairesinin kuruluşu, işleyişi, Başsavcı, Başsavcı Yardımcısı ve savcıların nitelikleri ile atanmaları, hakları ve ödevleri, aylık ve ödenekleri, meslekte ilerlemeleri, haklarında disiplin kovuşturması yapılması ve disiplin cezası uygulanması ve diğer özlük işleri, mahkemelerin bağımsızlığı ve yargıçların güvenceleri kurallarına göre yasa ile düzenlenir.

Altıncı Kısım. Çeşitli Kurallar

Madde 159 [Devletin Mülkiyet Hakkı]

(1) 15 Kasım 1983 tarihinde, Kuzey Kıbrıs Türk Cumhuriyeti sınırları içinde bulunan, ve;

> (a) Tapusu, 16 Ağustos 1960 tarihinden önce Kıbrıs Hükümeti adına kayıtlı tüm taşınmaz mallar ile, 16 Ağustos, 1960 tarihinden sonra Kıbrıs Cumhuriyetine intikal eden tüm taşınmaz mallar; kamuya ait yollar, sular, su kaynakları, liman ve sahiller, rıhtım ve iskeleler, göller, dere ve göl yatakları, tarihi kent, bina ve kalıntılar ile kaleler ve bunların alanları, doğal servetler ve yeraltı kaynakları, ormanlar, savunma yapı ve tesisleri ile yeşil saha ve parklar; kamuya açık köy ve tarla yolları, kamu hizmetinde kullanılan binalar;
>
> (b) Kıbrıs Türk Federe Devletinin ilân edildiği 13 Şubat, 1975 tarihinde terkedilmiş bulunan veya sözkonusu tarihten sonra yasanın terkedilmiş veya sahipsiz taşınmaz mal olarak nitelendirdiği veya hüküm veya tasarrufu kamuya ait olması gerekli olup da aidiyeti saptanamamış olan tüm taşınmaz mallar, bina ve tesisler; ile
>
> (c) 1960 Kuruluş Andlaşmasında ve ona bağlı eklerde belirlenen askeri tesis, rıhtım, kamp ve sair talim sahaları içinde bulunan tüm taşınmaz mallar, tapuda böyle kayıtlı olup olmadığına bakılmaksızın, Kuzey Kıbrıs Türk Cumhuriyetinin mülkiyetindedir ve tapu kayıtları buna göre düzeltilir.

(2) Yukarıdaki (1). fıkranın (a) ve (c) bendlerinde sözü edilen taşınmaz malların mülkiyeti, bu Anayasanın başka herhangi bir kuralına bakılmaksızın gerçek veya tüzel kişilere devredilemez. Ancak, kamuya ait yollar ile kamuya açık köy ve tarla yolları üzerinde Devletin gerekli düzenlemeleri yapması bu kuralın dışındadır.

Bu taşınmaz mallar üzerinde kamu yararı için belli sürelerle irtifak ve intifa hakkı gibi ayni haklar ile uzun vadeli icarlar, yasa ile belirlenen biçim ve koşullarla tesis ve tescil edilebilir. Süresi elli yılı aşan bu gibi hakların tesis ve tescili, Cumhuriyet Meclisinin onayı ile mümkündür.

(3) Yukarıdaki (1). fıkranın (b) bendinde belirtilen taşınmaz mallardan, orman, yeşil saha, anıt ve park yerleri, sular, yeraltı suları, doğal kaynaklar ve savunma alanları, kamu yönetimi ve askeri amaçlar için gerekli bina, tesis ve arsalar ile şehir ve kırsal plânlama ve toprak koruma amaçları için gerekli görülenler dışında kalan taşınmaz mallar üzerindeki mülkiyet hakkının gerçek veya tüzel kişilere devredilmesi yasa ile düzenlenir.

(4) Yukarıdaki (1). fıkranın (b) ve (c) bendlerinin kapsamına giren taşınmaz mallar ile ilgili olarak meşru hak iddia edenlerin ortaya çıkması halinde, haklarının ispatı için gerekli usul ve koşullar ile alacakları tazminat esasları yasa ile düzenlenir.

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(5) Dini ibadet yerleri ile bunların içinde bulundukları taşınmaz mallar gerçek veya tüzel kişilere devredilemez. Devlet, bunların korunması, bakımı ve idamesi için gerekli önlemleri alır.

Madde 160 [Kamu Görevlilerinin Haklarının Saklı Tutulması]

(1) Bu Anayasanın yürürlüğe girdiği tarihten önce kamu görevlisi bulunan herhangi bir kişi, bu tarihten sonra, kendisine bu tarihe kadar uygulanan aynı hizmet koşullarına bağlı olmak hakkına sahiptir. Bu hizmet koşulları, Anayasanın yürürlüğe girdiği tarihte veya ondan sonra, Kuzey Kıbrıs Türk Cumhuriyeti'nin kamu görevlisi bulunduğu sürece, herhangi bir kişi aleyhine değiştirilemez.

Bu maddede belirtilen kamu görevlileri yeni bir atama işlemine gerek olmaksızın görevlerine devam ederler.

(2) Bu madde amaçları bakımından, kamu görevlisi, Anayasanın yürürlüğe girdiği tarihten önce Kuzey Kıbrıs Türk Cumhuriyetinin kamu hizmetinde herhangi bir hizmeti gören kişiyi anlatır ve bu Anayasa ile diğer kamu personeli olarak tanımlanan kişileri de kapsar.

(3) Bu madde amaçları bakımından hizmet koşulları, bu Anayasanın yürürlüğe girdiği tarihte mevcut olan yürürlükteki mevzuat uyarınca saptanmış ücret, izin, azil, görevden uzaklaştırma, emeklilik maaşı, ikramiyeleri ve benzeri hakları kapsar.

Madde 161 [Cumhuriyet Resmi Gazete'si]

(1) Cumhuriyetin yasa, tüzük, yönetmelik ve diğer düzenleyici hukuki belgeleri ile kamuyu ilgilendiren ve yasalarla belirlenen ilân, ihbar ve benzeri işlemleri, Başbakanlığın denetimi altında Devlet Basımevinde basılan Resmi Gazete'de yayımlanır.

(2) Resmi Gazete'nin yönetimi, şekil ve koşulları ile nasıl bastırılıp dağıtılacağı ve diğer hususlar yasa ile düzenlenir.

(3) Yukarıdaki (1). fıkrada belirlenen hukuki belge ve işlemler Resmi Gazete'de yayımlanmadıkça yürürlüğe giremez.

Yedinci Kısım. Geçici Kurallar

Geçici Madde 1 [Hakların Korunması]

(1) Türk Toplumunun ulusal direnişi uğruna veya direniş sırasında göç eden veya doğrudan doğruya veya dolaylı olarak zarara uğrayan yurttaşları korumak amacıyla gerekli sosyal, ekonomik, mal ve tazminat dahil diğer önlemler yasa ile düzenlenir.

(2) Kuzey Kıbrıs Türk Cumhuriyeti yurttaşlarının Devlet sınırları dışında, Kıbrıs'ta kalan taşınmaz malları için Devletten, eşdeğerde taşınmaz mal isteme hakları saklıdır; bu hak yasa ile düzenlenir ve bu Anayasanın 159. maddesinin (2). fıkrası kapsamına giren taşınmaz malların hak sahiplerine mülkiyetinin devri öncelikle gerçekleştirilir.

Şehitlik, malûl gazilik nedeniyle yasanın mülkiyet hakkı tanıdığı kişilere ve yasada belirtilen diğer nedenlerle hak sahibi olanlara da mülkiyet verilir.

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(3) Devlet, göçmenlerin eşit statü altında esenlendirilmesi, kendilerine, ailelerine ve topluma yararlı duruma getirilmeleri için gerekli sosyal, ekonomik, mali ve diğer önlemleri alır; esenlendirmeyi gerçekleştirinceye kadar gerekli yardımları yapar.

(4) Kuzey Kıbrıs Türk Cumhuriyeti Türk yurttaşlarının, terketmek zorunda kaldıkları taşınır ve taşınmaz mallar nedeniyle gelir kaybına veya zarara uğramışlarsa tazminat isteme hakları saklıdır. Bu haklar yasa ile düzenlenir.

(5) Bu Anayasanın yürürlüğe girdiği tarihten başlayarak, eşdeğerde mal uygulamalarının önceliğine uyulmak koşuluyla, hak sahiplerine taşınmaz mallarla ilgili mülkiyet hakkı devir işlemleri en geç beş yıl içinde tamamlanır.

Geçici Madde 2 [Hak ve Yükümlülüklerin Değerlendirilmesi]

Geçici 1. madde kuralları uyarınca hak sahibi kılınan yurttaşların ellerinde bulundurdukları kaynakların, ellerine geçtiği tarihten itibaren gelirleri veya yıllar itibarıyle kiraları, gerçekçi olarak hesaplanır ve yasanın belirlediği veya belirleyeceği haklarından çıkarılır. Bu işlem yapıldıktan sonra, Devlet, alacaklı olanlara alacaklarını tamamlar; verecekli olanlar ise, Devlete, makul bir süre içerisinde vereceklerini öderler.

Geçici Madde 3 [Orman Tarlaları]

(1) Bu Anayasanın 159. maddesinin (2). fıkrası kurallarına bakılmaksızın, alçak orman bölgelerinde orman tarlası olarak anılan ve 1 Ocak 1955'ten beri tarım arazisi olarak kullanılan Devlet arazilerinin mülkiyet hakkının fiili zilyedlerine devri mümkündür.

Bu fıkra amaçları bakımından fiili zilyed, taşınmaz malı tarım arazisi haline getiren ve 1 Ocak, 1955'ten beri kullanmayı sürdüren kişiyi anlatır ve yasal mirasçıları ile bunlardan devralan kişiyi de kapsar.

Bu fıkranın uygulanması yasa ile düzenlenir.

(2) (1). fıkrada belirtilen statü içinde olup 20 Temmuz 1974 tarihine kadar Kıbrıs Türk toplumu mensubu olmayan kişilerin fiili zilyedliğinde bulunan Devlet arazilerinin geleceği yasa ile düzenlenir.

Geçici Madde 4 [Mevcut Mevzuatın Geçerliliği ve Bu Mevzuatın Anayasaya Aykırılığı İddiası]

(1) Bu Anayasanın yürürlüğe girdiği tarihte yürürlükte olan mevzuat, bu Anayasa kurallarına aykırı olmadığı ölçüde yürürlükte kalır.

(2) Kıbrıs Türk Federe Meclisinin, Kuzey Kıbrıs Türk Cumhuriyeti'nin kuruluşunu ve Bağımsızlık Bildirisini onaylayan 15 Kasım 1983 tarihli ve 50 sayılı kararı da, bu Anayasa kurallarına aykırı olmadığı ölçüde yürürlükte kalır.

(3) Yürürlükte olan mevzuat hakkında, bu Anayasaya aykırılığı iddiası ile, bu Anayasanın 147. maddesinde belirtilen kişi, kurum ve kuruluşlar, Anayasa Mahkemesinde iptal davası açabilirler. İptal davası açma hakkı, Cumhuriyet Meclisinin göreve başladığı tarihten başlayarak altmış günlük süre sonunda düşer. 148. madde kuralları saklıdır.

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(4) Bu madde uyarınca yürürlükte sayılan mevzuat, Anayasa gücünde veya Anayasa nitelikli mevzuat sayılmaz ve mevzuatın niteliğine göre, herhangi bir yasa ile veya bu Anayasanın yetkili kıldığı organ kararı ile iptal edilebilir, değiştirilebilir veya yürürlükten kaldırılabilir.

Geçici Madde 5 [Cumhuriyet Meclisi Seçimleri]

Bu Anayasa, halkoylamasında kabul edilip Resmi Gazete'de yayımlanarak yürürlüğe girdikten sonra, Kuzey Kıbrıs Türk Cumhuriyeti Kurucu Meclisinin karara bağladığı tarihte Cumhuriyet Meclisi seçimi yapılır. Sözkonusu gün, seçim işlemleri bakımından oy verme günüdür. Diğer seçim işlerinin tarihleri Yüksek Seçim Kurulunca saptanır.

Geçici Madde 6 [Cumhurbaşkanının Seçimi ve Eski Cumhurbaşkanının Görevinin Sona Ermesi]

Bu Anayasaya göre ilk Cumhurbaşkanlığı seçimi, Cumhuriyet Meclisi seçimleriyle birlikte aynı gün yapılır ve seçilen Cumhurbaşkanı, Cumhuriyet Meclisinin toplanıp göreve başladığı günü izleyen gün Mecliste andiçerek göreve başlar. Seçilen Cumhurbaşkanı, göreve başladığı anda da eski Cumhurbaşkanının görevi sona erer.

Ancak, Kurucu Meclis, koşulların gerektirdiği hallerde, Cumhurbaşkanlığı seçiminin değişik bir günde yapılmasını karara bağlayabilir.

Geçici Madde 7 [Kurucu Meclisin Hukuki Varlığının Sona Ermesi]

Bu Anayasaya göre kurulan Cumhuriyet Meclisinin toplanmasıyla 2 Aralık 1983 tarihli ve 3 sayılı Meclis Kararı ile oluşturulan Kurucu Meclisin hukuki varlığı sona erer ve kendiliğinden dağılmış olur.

Geçici Madde 8 [Geçici İçtüzük]

Bu Anayasaya göre kurulan Cumhuriyet Meclisinin toplantı ve çalışmaları için, kendi İçtüzüğü yapılıncaya kadar, Kıbrıs Türk Federe Meclisi İçtüzüğünün, bu Anayasaya aykırı olmayan kuralları uygulanır.

Geçici Madde 9 [Bakanlar Kurulunun Durumu]

Bu Anayasanın 106. maddesine göre yeni Bakanlar Kurulu Cumhurbaşkanınca atandığı zaman, mevcut Bakanlar Kurulunun görevi kendiliğinden sona erer.

Geçici Madde 10 [Savunma ve İşbirliği]

Kıbrıs Türk halkının savunması ve iç güvenliği ile milletlerarası durum gerektirdiği sürece bu Anayasanın 117. maddesinde yer alan kurallar yürürlüğe girmez. Anayasa yürürlüğe girdiği tarihte dış ve iç güvenliğin sağlanmasında kullanılan bütün kuvvetlerle, bunlara ilişkin olarak uygulamada olan usul ve hükümlerin ve bu konularda kabul edilmiş ve edilecek işbirliği esaslarının uygulanmasına devam olunur.

Geçici Madde 11 [Anayasanın Kabul Ettiği Organ, Kurum ve Kurulların Durumu]

Bu Anayasa ile kabul edilmiş olan yeni organ, kurum ve kurulların kuruluş ve işleyişleriyle ilgili yasalar Cumhuriyet Meclisince kabul edilip yürürlüğe konuncaya kadar, bu konularda

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mevcut mevzuat kurallarının uygulanmasına devam edilir ve mevcut organ, kurum ve kurullar görevlerine devam ederler.

Geçici Madde 12 [Anayasa Metninin Yayımlanması]

Bu Anayasa metni, Kurucu Meclisce kabul edildiği tarihten başlayarak on gün içinde Resmi Gazete'de yayımlanır.

Geçici Madde 13 [Ölüm Cezalarının Müebbet Hapse Dönüştürülmesi]

Anayasanın 15. maddesinin (2). fıkrasında öngörülen ölüm cezaları dışında, yürürlükteki mevzuatta ölüm cezasını gerektiren suçlar için öngörülen ölüm cezaları, bu Anayasanın yürürlüğe girdiği tarihten başlayarak, müebbet hapse dönüştürülür.

Sekizinci Kısım. Son Kurallar

Madde 162 [Anayasanın Değiştirilmesi]

(1) Bu Anayasa kuralları kısmen veya tamamen ancak Cumhuriyet Meclisinin en az on üyesinin önerisi ve üye tamsayısının üçte iki çoğunluğunun oyuyla değiştirilebilir. Bu Anayasanın 9. maddesi kuralları saklıdır.

(2) Anayasanın değiştirilmesi hakkındaki önerilerin görüşülmesi ve kabulü, (1). fıkrada yer alan kayıtlar dışında, yasaların görüşülmesi ve kabulü hakkındaki kurallara bağlıdır.

Ancak, değişiklik önerileri, önerilerin verildiği tarihten başlayarak otuz gün geçmedikçe görüşülemez.

(3) Anayasa değişiklikleri, halkoylamasından sonra, kabul edildiği takdirde, Cumhurbaşkanınca on gün içinde Resmi Gazete'de yayımlanarak yürürlüğe girer.

Madde 163 [Başlangıç Kısmı]

Toplumsal mücadeleyi ve bu Anayasanın dayandığı temel görüş ve ilkeleri belirten Başlangıç Kısmı, bu Anayasanın metninden sayılır.

Madde 164 [Anayasanın Yürürlüğe Girmesi]

Bu Anayasa halkoylamasına sunulup kabul edildikten sonra, en geç on gün içinde halkoylaması sonuçlarıyla birlikte Resmi Gazete'de yayımlanarak yürürlüğe girer ve Kuzey Kıbrıs Türk Cumhuriyetinin Anayasası olur.

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The Declaration of Independence and the Resolution of the Turkish Cypriot Parliament approving the establishment of the Turkish Republic of Northern Cyprus

["On 15 November 1983 the Turkish Republic of Northern Cyprus was proclaimed by the unanimous vote of the Legislative Assembly of the Turkish Federated State of Cyprus, a democratic representative body of the Turkish people of Cyprus. The proclamation stressed that the Republic would adhere to all treaties and agreements binding on it, including the Treaty of Guarantee, would follow a policy of non-alignment, would remain faithful to the principles of the United Nations Charter, and would endeavor to facilitate the establishment of a bizonal, bicommunal Federal Republic where Turkish Cypriots and Greek Cypriots could cooperate in peace and harmony. The proclamation emphasized, among other things, that the founding of the Turkish Republic of Northern Cyprus was a manifestation of the right to self-determination of the Turkish Cypriot people of Cyprus."] (Source: North Cyprus Almanack *[London: K. Rüstem and Brother, 1987, p. 44].)*

Introduction

Developments which have taken place in Cyprus for the last 20 years, and the critical stage which these developments have reached at present, necessitate the placing of certain facts with clarity before world public opinion.

We expect all those who desire peace and fundamental human rights to prevail on Earth, who reject discrimination among men on grounds of race, national origin, language or religious belief and who are against colonialism and racism, to give serious consideration to these indisputable facts, free from prejudice and preconception.

Destruction of the Partnership State by Greek Cypriots

1. The establishment of the Republic of Cyprus as an independent State was based on the partnership of the Turkish Cypriot People and the Greek Cypriot People. This joint Republic, which was established through the agreement of the two national communities, has been deliberately undermined and destroyed by the Greek Cypriot Administration since 1963. The Legislative, Executive and Judiciary of the partnership State, its entire Civil Service, from the most senior to the most junior ranks, have been usurped and taken over by the Greek Cypriots, placing them under the monopoly of only one of the two co-founder national communities.

Police and armed forces consisting exclusively of Greek Cypriots were formed and these armed elements have been used against the Turkish Cypriot People as an instrument of oppression and persecution.

For the past 20 years, the Turkish Cypriot People has been in a state of legitimate resistance and self-defence in the face of threats and attacks directed against its fundamental rights and freedoms, its political status and its very existence in Cyprus.

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Usurpation of the Legislature

2. There has not been a single Turkish Cypriot member since 1964 in the "House of Representatives" of the so-called "Republic of Cyprus" whose bi-communal partnership character had been abrogated in December 1963 by brute force and armed violence. The right to elect and to be elected to this assembly, has been under the *de facto* monopoly of the Greek Cypriots for the past 20 years. A "House of Representatives" elected exclusively by the Greek Cypriots, and to which only the Greek Cypriots could be elected, cannot under any circumstances be regarded as the parliament of a partnership state based on two national communities. Although according to the Constitutional structure of 1960, religious affairs and similar communal functions of the Turkish/Muslim and the Greek/Orthodox communities had been entrusted to two separate Communal Chambers, the Greek Cypriot Communal Chamber was unconstitutionally and unilaterally abolished by the Greek Cypriot side and its functions were transferred to the so-called "House of Representatives". Even this fact alone is sufficient to show that the said House had become the legislative assembly of only the Greek/Orthodox community.

Such an assembly to which no Turkish Cypriot can be elected and in the election of which no Turkish Cypriot can participate surely cannot in any way represent the Turkish Cypriot People. The only assembly which can represent the free will of the Turkish Cypriots is the parliament elected by the Turkish Cypriot People themselves through democratic elections.

The fact that the so-called "House of Representatives of the Republic of Cyprus", which had thus come under the monopoly of the Greek Cypriots by force and armed violence, could not represent the entire population of the island had also been acknowledged by the Parliamentary Assembly of the Council of Europe as far back as 1964. In spite of this fact the Greek Cypriot leadership has, in complete disregard of every principle of equity and justice, recently attempted to create yet another *fait accompli* with a view to having Cyprus represented in the Parliamentary Assembly of the Council of Europe unilaterally by the Speaker of the Greek Cypriot parliament. The call made by the Speaker of the Turkish Cypriot parliament, proposing that the Speakers of the national assemblies of the two communities should meet to resolve this question, was not even given a reply by the Speaker of the Greek Cypriot assembly.

Usurpation of the Executive

3. Like the parliament of the so-called "Republic of Cyprus", its executive organ also came under the *de facto* monopoly of the Greek Cypriots. The leader of the Turkish Cypriot Community, who was empowered to exercise executive powers jointly with the leader of the Greek Cypriot community, has been prevented from doing so by brute force and intimidation, since 1963. For 20 years, the seats in the Council of Ministers belonging to the Turkish Cypriots have been unlawfully occupied by the Greek Cypriot "Ministers".

Such an executive organ, of course, is obviously not entitled to act or speak on behalf of the Turkish Cypriot People.

The only President entitled to speak on behalf of the Turkish Cypriot People is the President empowered to do so through democratic elections by the Turkish Cypriot People themselves. The only Government that can represent the Turkish Cypriot People is the Government responsible to the Parliament elected by the free will of the Turkish Cypriot People.

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Usurpation of the Judiciary

4. Even after the premeditated armed attacks against the Turkish Cypriot People in 1963, Turkish Cypriot judges had tried to continue to perform their duties. In a short while, however, these judges were also ejected from the judiciary by armed threats and brute force. There is not a single Turkish Cypriot judge in any of the judicial organs since established by the Greek Cypriot Administration in complete disregard of the Agreements and in violation of Constitutional provisions.

Just like the legislative and executive organs, the Greek Cypriot leadership had also put an end to the joint judicial organs of the partnership State and placed them completely under the monopoly of the Greek Cypriots. In these circumstances, the Turkish Cypriot People were obliged to establish their own independent courts in order to meet judicial requirements.

Monopolization of the Civil Service

5. The Greek Cypriots had seized all the public posts, ranging from under-secretary to messenger, which under the partnership State had to be shared by both communities. Obviously, the Turkish Cypriot People cannot regard such a Civil Service as their own legitimate public administration.

Unilateral Foreign Representation

6. All the representatives of the so-called "Republic of Cyprus" assigned to foreign countries and international organizations, without a single exception, belong to the Greek Cypriot community. There is not a single diplomat or even a secretary belonging to the Turkish Cypriot community in the entire foreign service of the Greek Cypriot Administration.

This foreign service protects only the interests of the Greek Cypriots and regards the political and economic strangulation of the Turkish Cypriot Community as a prime duty. Such a foreign service and its members abroad, who have constantly been acting in hostility against the Turkish Cypriots can not possibly be accepted by the Turkish Cypriot People as their own representatives.

Police and Armed Forces

7. It was an obligation arising from the Agreements leading to the establishment of the partnership State, that the police, gendarmerie and the armed forces should consist of persons belonging to both national communities. The Head of one of the armed forces had to be a Turkish Cypriot and the Heads and Deputy Heads of each of the armed forces had to belong to different communities.

In the past 20 years, there has not been any Turkish Cypriot of any rank in the police and armed forces, which have completely been taken over by the Greek Cypriot Administration. Can these armed elements, who have in the past held under siege Turkish Cypriot villages and Turkish quarters of the towns, be possibly regarded by the Turkish Cypriot People as their own "security forces"? Can it ever be possible for the Turkish Cypriot People to entrust its life, property, honour, and dignity to these armed elements who have in the past, hand in hand with the EOKA terrorists, set Turkish Cypriot villages on fire and indiscriminately massacred Turkish Cypriots without even sparing women, children and the elderly?

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Budget and Public Services

8. Not a single penny from the budget of the so-called "Republic of Cyprus" is ever spent on the Turkish Cypriots. Notwithstanding the fact that all the public establishments and institutions which have been set up with the contribution of the Turkish Cypriot People are the common property of both national communities, the State machinery which has been usurped by the Greek Cypriots, naturally, does not extend to the Turkish Cypriot People any of the public services required of a State.

In the past, the Greek Cypriot Administration, purporting to be the "Government of Cyprus", while providing electricity and water for the Greek Cypriot villages, has deliberately left even the neighbouring Turkish Cypriot villages without electricity and water. For many years , a veritable siege had been imposed on Turkish Cypriot enclaves prohibiting the provision of even the most basic items such as medicine, foodstuffs, construction material and even Red Crescent assistance. Turkish Cypriots who were studying abroad faced obstacles on returning to their own homeland. Obstacles were even created for the registration of newly born children and, in fact, the majority of Turkish Cypriot children born after 1963 were not registered at all. On the "State" television, Greek Cypriot primary school children were told that the Turkish Cypriots were their "national enemy". In brief, the Greek Cypriot Administration has pursued a relentless policy of discrimination against the Turkish Cypriots.

What has compelled the Turkish Cypriot People to establish its own administration, to prepare its own budget and to organize its own public services is precisely this hostile and discriminatory attitude of the Greek Cypriot Administration.

Economic Warfare Against Turkish Cypriots

9. The above-mentioned discriminatory policies and practices have also aggravated the economic and social disparity between the Turkish Cypriot People and the Greek Cypriots. This obvious economic gap between the two co-founder partners is closely related to the Greek Cypriot policies of domination and exploitation.

Even today, the Greek Cypriots are trying to impose an all-out embargo on the Turkish Cypriot People and to create every conceivable obstacle in order to strangle, by economic means, the Turkish Cypriot People whom they have not been able to subjugate through armed violence and terrorism. This attitude has assumed the dimensions of an aggression directed against the fundamental rights and freedoms of the Turkish Cypriot People.

Armed Onslaught and Extermination Plans

10. The Greek Cypriot leadership has in the past tried to force a choice on the Turkish Cypriots between "death or exile". In order to eradicate totally the Turkish-Islamic presence in the island, numerous plans of aggression and massacre, all well documented and verified, such as the notorious Akritas plan, the "extermination" plans for implementation by the Greek Cypriot National Guard against the Turkish Cypriot People and the "Ioannides-Sampson" plan, were prepared.

Ever since 1955, when the EOKA terrorist organization first launched its campaign of terror and violence, intimidation and extermination plans have been put into operation on many occasions in hundreds of Turkish Cypriot villages and in the Turkish Cypriot quarters of towns.

Even today, the Greek Cypriot leadership refuses to recognize the Turkish Cypriot

Community's right to live in security and freedom in its own zone. It has become more and more evident with every passing day that the aim of the Greek Cypriot leadership is none other than to force the Turkish Cypriot People to live as a "subject community" with the status of second class citizens within a State which in practice would be dominated by the Greek Cypriots.

A faction of the Greek Cypriot leadership, and the pan-Hellenists in Greece who manipulate them, have not given up the illusion of totally hellenising the island of Cyprus, in which two separate national communities live and where these two communities must co-exist in peace.

The fanatical Greek-Orthodox Church of Cyprus, which does not even make any secret of its aim of hellenising the entire island, continues to prevail over the Greek Cypriot Administration.

Inhuman Discrimination

11. The afore-mentioned facts clearly demonstrate that the Greek Cypriot Administration's claim to represent also the Turkish Cypriot People is incompatible with the principles of democracy, human rights, the principles of the United Nations and with reason and morality. The Greek Cypriot leadership, who wishes to subjugate the Turkish Cypriots to alien domination and who has placed all State organs under the monopoly of the Greek Cypriots, has in fact displayed one of the most flagrant examples of discrimination based on race, national origin, language and religion.

Why We Owe No Allegiance to the Greek Cypriot Administration

12. The Greek Cypriot leadership which denies to the Turkish Cypriot People the right to security, equality and fundamental freedoms; the right to participate effectively in the administration of the State; the right to self-government and the right to self-determination; and even the right to existence, can no longer claim any legitimate connection whatsoever with the Turkish Cypriot People.

The Turkish Cypriot People could owe no allegiance whatsoever to an administration:

which has implemented racist and discriminatory policies;

which has attempted to usurp all the rights of the Turkish Cypriot People emanating from History, from international Agreements, and from Declarations and Conventions on human rights;

which has lost all legitimacy by totally ignoring and violating international Agreements and the constitutional order;

which has placed all the organs of the State under the monopoly of the Greek Cypriots;

which has become exclusively the administration of the Greek Cypriots, not only because of its composition, but also because of the policies it continues to pursue;

which is serving the interests of pan-hellenist expansionism; and

which aims at the very elimination of the Turkish Cypriot existence in the island.

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A Fully Working Democracy

13. Today the Turkish Cypriot People has a democratically elected President chosen by the people through direct universal suffrage; a democratically elected Parliament which represents the free will of the Turkish Cypriot People within a democratic multi-party system; a Government which is responsible to this Parliament; an independent Judiciary with a Supreme Court which also reviews the constitutionality of all legislation; a public administration which covers all the functions of a contemporary State; security forces which maintain law and order; laws enacted through the votes of the elected representatives; taxation imposed by these laws; its own budget and its own social security institutions.

A People Determined to Live Together in Security and Freedom

14. In order to save themselves from oppression and tyranny and from the constant danger of being annihilated, and in order to be able to live in security and freedom amongst their own national community; thousands of Turkish Cypriots who had been living in South Cyprus had clandestinely crossed over to the North through mountain passes, leaving all their belongings behind and at the risk of their lives. As a result of the opportunity provided by the "Vienna Agreement" of 2 August 1975, the Turkish Cypriot People in its entirety have settled in Northern Cyprus.

The Turkish Cypriot People are determined to live together; they are determined to protect their national identity, to govern themselves in a democratic manner. They are willing to reach just and peaceful solutions, on all issues, through negotiations on the basis of equality with the Greek Cypriot People.

Rejection of Re-Colonization by Greece

15. Although Cyprus has never been a part of Greece, either geographically or historically, the Greek Cypriot leadership, under the influence of Greece, has never given up the aim of annexing Cyprus to Greece.

The Turkish Cypriot People, who have all along rejected all forms of colonialism have always defended the independence of Cyprus at the cost of their lives, by resisting against ENOSIS. Had it not been for this valiant resistance of the Turkish Cypriot People, the whole of Cyprus would have been annexed to Greece long ago, the independence of Cyprus terminated and the Turkish Cypriot People once again put under colonial rule.

The Turkish Cypriot People, after having freed themselves from colonial rule and after having established a bi-communal State as a co-founder partner, and subsequently having been ejected from all the organs of that State, could never accept to live once again as an oppressed "subject community" under an administration totally in the monopoly of the Greek Cypriots; nor could they accept to be put, as a result of ENOSIS, under the rule of a foreign nation.

Turkish Cypriot Efforts for a Bi-zonal Federal Solution

16. The Turkish Cypriot People have earnestly strived for years for the re-establishment of an order which would be based on the equal partnership of the two peoples within a bi-zonal federal solution.

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The Turkish Cypriot People, faced with the continued need for self-government, while formally establishing its own state in 1975, had adopted the name and status of a "federated state" in order to pave the way for the foundation of a federal union.

In the Summit Agreement of 1977, concluded between the leaders of the two communities, the establishment of a bi-communal, bi-zonal federation was accepted as the common aim. This aim was later confirmed in the 1979 Summit Agreement, in the Opening Statement of the UN General-Secretary of 1980 and in the UN Evaluation Document of 1981.

In order to achieve this aim, direct negotiations between the two national communities, and on the basis of equality, under the auspices of the UN Secretary-General, have been accepted as the only valid method. Believing that a just and lasting solution could only be achieved through this process, the Turkish Cypriot People and its leadership have made sincere efforts within this framework.

Destruction of the Negotiating Process by Greek Cypriot Leadership

17. The Greek Cypriot leadership, especially since towards the end of 1981, under the negative influence of Greece, constantly has acted with the intention of undermining the negotiating process, of destroying the framework of the negotiations as well as eroding the major points of agreement on which the negotiations were based. All warnings and calls made by the Turkish Cypriot side in order to preserve the basic points of agreement achieved through great efforts and patience and in order not to jeopardize the negotiating process have all gone unheeded with blind intransigence.

In the course of the last three years, while the intercommunal talks were continuing, the Turkish Cypriot side actively made constructive contributions to the negotiating process, with a view to giving effect to the agreed basis for a bi-zonal federal solution. The basic negotiating position of the Turkish Cypriot side took into account the agreed criteria in the Summit Agreements of 1977 and 1979, and was in harmony with the approach in the UN Secretary-General's Opening Statement of 1980 and the UN Evaluation Document of 1981. The Turkish Cypriot side made comprehensive proposals on all aspects of the problem, explored all constructive means and approaches in order to pave the way for a compromise and was prepared to make a great sacrifices to this end.

However, all proposals made in good will and all steps taken by the Turkish Cypriot side to pave the way for a compromise have remained unreciprocated. Although it had been emphasized on numerous occasions that the Turkish Cypriot side was ready for meaningful negotiations in order to move rapidly towards a federal solution, the Greek Cypriot leadership first slowed down and frustrated the negotiating process, and then they abandoned the negotiating table altogether, eventually taking the Cyprus question to international fora where the Turkish Cypriot people had no opportunity of being heard and of defending their rights.

It has become quite clear that the Greek Cypriot leadership does not wish to accept the Turkish Cypriot People as an equal co-founder partner within a federal structure.

A negative attitude, especially in recent months, has been predominant in the Greek Cypriot leadership - an attitude which is not compatible with the concept of a federal state and the concept of co-founder partnership; which does not take into account the bitter experiences of the past; which does not recognize the right of the Turkish Cypriot People to live in security and freedom in their own zone; and which even aims at destroying mutually accepted fundamental points of agreement.

Under these circumstances, the Turkish Cypriot People has been confronted with the necessity of determining its own destiny.

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Inalienable Right to Self-Determination

18. The Parliament elected by the free will of the Turkish Cypriot People has, as the only legitimate body capable of representing them, already declared to the world that the Turkish Cypriot People possess the right of self-determination.

The right of self-determination of the Turkish Cypriot People stems naturally from the fundamental rights and freedoms possessed by all men. Many a State, large or small, has been established through the exercise of the right of self-determination.

This right constitutes one of the fundamental principles of the Charter of the United Nations.

Article 1 of the "International Covenant on Civil and Political Rights" as well as Article 1 of the "International Covenant on Economic, Social and Cultural Rights" also confirm the inalienable right of the Turkish Cypriot People to "self-determination".

As stated in Article 1 of the Universal Declaration of Human Rights, "all human beings are born free and equal in dignity and rights". All of the international documents relating to fundamental human rights emphasize that these rights must be exercised without discrimination of any kind as to race, colour, language, religion or national origin.

The participation of every citizen , directly or through freely chosen representatives, in the conduct of public affairs, and access, on terms of equality, to public service, are among the fundamental rights protected by basic documents relating to human rights.

As mentioned before, the Turkish Cypriot People have been prevented from all kinds of participation in the conduct of the public affairs of the so-called "Republic of Cyprus". The Greek Cypriot leadership has, for long years, given the most inhuman examples of discrimination based on national origin, language and religious belief. Turkish Cypriot citizens of the partnership State have been deprived of all their civil, political and social rights, and of all economic opportunities and public services.

Even individuals known by the Greek Cypriot Administration to have committed crimes and atrocities against Turkish Cypriots have gone unpunished and not a single Greek Cypriot official who had oppressed and discriminated against Turkish Cypriots has ever been prosecuted for his offences.

The Greek Cypriot Administration, by its very composition and its own actions; by destroying the partnership State; by trying to deprive the Turkish Cypriots of their fundamental rights and liberties; and by pursuing a policy of hostility against them, has disqualified itself from any claim to be the legitimate "Government" of the whole of Cyprus.

The exercise of the right of self-determination has become an imperative for the Turkish Cypriot People.

Not Only a Right but also a Duty

19. For years, the Turkish Cypriot People, having been deprived of its fundamental rights, has sacrificed the lives of many of its sons in order not to bow to servitude and domination.

It is the inalienable right of the Turkish Cypriot People to live freely in security, peace and happiness under a Government emanating from its own free will and to determine its own destiny. To declare that we have decided to do so has become not only a "right" for us, but also a "duty" towards future generations.

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Eternal and Universal Principles

20. No one can expect the Turkish Cypriot People to renounce the principle that:

> "All people have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

No one can prevent the Turkish Cypriot People from declaring the following eternal truths:

> "…all men are created equal, they are endowed by their Creator with certain inalienable rights; among these are Life, Liberty and the pursuit of Happiness... Governments derive their just powers from the consent of the governed."

The Turkish Cypriot People believe that there must be in the World:

> "…peaceful and friendly relations based on respect for the principles of equal rights and self-determination of all peoples, and of universal respect for, and observance of human rights and fundamental freedoms for all with out distinction as to race, sex, language or religion".

The Turkish Cypriot People have as much right to live in freedom and independence as the Greek Cypriots.

Confirmation of an Existing Reality

21. The Turkish Cypriot People have in fact exercised this right a long time ago; they have established their own State with all its organs. All that is being done today is the confirmation and declaration of an existing reality and the re-naming of our State.

An Appeal to the Greek Cypriot People for Peace and Friendship

22. On this historic day, we extend once again our hand in peace and friendship to the Greek Cypriot People:

Peaceful Solutions to All Differences

a) We firmly believe that the two Peoples, who are destined to coexist side by side in the island, can and must find peaceful, just and durable solutions to all differences between them, through negotiations on the basis of equality.

Door Open to Federation

b) The proclamation of the Turkish Republic of Northern Cyprus will not hinder the two equal Peoples and their administrations from establishing a new partnership within the framework of a genuine federation; on the contrary, such a proclamation can facilitate efforts in this direction by fulfilling the necessary requisites for the establishment of a federation. The Turkish Republic of Northern Cyprus, determined to make every constructive effort in this direction, will not unite with any other State.

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U.N. Mission of Good Offices

c) The Turkish Cypriot side desires the continuation of the mission of good offices of the UN Secretary-General for a peaceful and conciliatory solution of all the issues between the two Peoples and urges the pursuit of negotiations under the auspices of the U.N. Secretary-General.

Good Will Measures

d) We urge the Greek Cypriot Administration to abandon, once and for all, its illusion of "Enosis" which aims at subjugating the Turkish Cypriot People to a foreign State; to give up its false pretence of speaking on behalf of all Cyprus in the international field; to accept the fact that it has no authority whatsoever to represent the Turkish Cypriots and to facilitate the immediate taking of measures of good will on matters which can be resolved in the short term, with the object of narrowing the gap between the two Peoples.

Basic Policy

23. We consider it our duty to announce that the Turkish Republic of Northern Cyprus which we are declaring:

a) Is, and shall remain, faithful to the principles of the United Nations Charter,
b) Shall adhere to no other policy than non-alignment,
c) Shall, in her relations with the two Super Powers and with all other countries attach the greatest importance to the need for peace and stability and for the preservation of the balance of power in the Eastern Mediterranean and shall not join any military bloc,
d) Shall endeavour to establish friendly relations with all countries and shall remain firmly decided not to allow any hostile activity against any country on its territory,
e) Shall continue to adhere to the Treaties of Establishment, Guarantee and Alliance,
f) Shall strive to establish the closest possible ties and relations with the Islamic countries, the Non-Aligned countries and the Commonwealth countries.

We are resolved and determined to preserve Northern Cyprus as an independent and non-aligned region of tranquillity and stability which will serve the cause of peace in the World and in the Mediterranean.

Declaration

24. Expressing the legitimate and irrepressible will of the Turkish Cypriot People, in the light of the aforesaid realities, convictions and necessities, WE HEREBY DECLARE BEFORE THE WORLD AND BEFORE HISTORY THE ESTABLISHMENT OF THE TURKISH REPUBLIC OF NORTHERN CYPRUS AS AN INDEPENDENT STATE.

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On this historic day, we reiterate our gratitude to our Martyrs who sacrificed their lives in order that the Turkish Cypriot People may never again be subjected to servitude under foreign domination and may live in dignity and freedom. May God's mercy be upon our Martyrs.

Resolution

Our Assembly

—Representing the free will of the Turkish Cypriot People;
—Believing that all human beings, who are born free and equal, should live in freedom and equality;
—Having declared, in this belief, the right of the Turkish Cypriot People to self-determination, by its Resolution of June 17 1983;
—Rejecting discrimination between human beings on grounds of race, national origin, language, religion or any other grounds; and rejecting also all forms of colonialism, racism, oppression and domination;
—Expressing the hope that peace and stability will prevail and that freedom and human rights will flourish not only in Cyprus, but also in the Eastern Mediterranean, the Middle East and the World at large;
—Believing that the two Peoples in Cyprus each has the right to live and govern itself in its own territory in peace and security, and has the right to preserve its own national identity;
—Firmly adhering to the view that these two Peoples, who are destined to co-exist side by side in the island, can and must find peaceful, just and durable solutions to all the differences between them, through negotiations on the basis of equality;
—Firmly convinced that the proclamation of the Turkish Republic of Northern Cyprus will not hinder but facilitate the re-establishment of the partnership between the two Peoples within a federal framework and will also facilitate the settlement of the problems between them;
—Earnestly hoping that negotiations will be carried out, on the basis of equality and under the auspices of the UN Secretary-General, with a view to resolving, in a peaceful and conciliatory manner, all the outstanding issues between the two Peoples, and convinced that the proposed Summit Meeting would be useful in this regard;

And ACTING ON BEHALF OF THE TURKISH CYPRIOT PEOPLE,

Approves the establishment of the Turkish Republic of Northern Cyprus and the "Declaration of Independence".

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Draft Constitution of the Republic of Cyprus

[Following the Zurich and London Agreements of 11 February 1959 and 19 February 1959 respectively, and in accordance with provisions made on the latter date, three committees were set up: a Joint Commission with representatives of Greece, Turkey, and the Greek and Turkish Cypriots, to draft the Constitution; a Transitional Committee, to orchestrate the transfer of authority to the new Republic of Cyprus; and a Joint Committee to prepare the final treaties giving effect to the conclusions of the London Conference. The Joint Commission completed its "Draft Constitution of the Republic of Cyprus" on 6 April 1960, and the document was signed on that date (Cyprus, *HM Stationery Office [1960, Cmnd. 1093], 3). The Constitution came into force on 16 August by an Order-in Council (SI 1368/1960) made under the Cyprus Act of 1960, upon its signature by the governor of Cyprus, representing the British government, by the representatives of Greece and Turkey, and by the President-elect, Archbishop Makarios, and the Vice-President-elect, Dr. Fazıl Küçük. The London Joint Committee completed its preparation of the final treaties on 1 July, 1960; following the signature of the Constitution and the Treaties by the parties concerned, Cyprus was declared to be an independent sovereign Republic on 16 August 1960. (Source: Zaim Necatigil,* The Cyprus Question and the Turkish Position in International Law. *Revised Second Edition. Oxford: Oxford University Press, 1998; pp. 11-12).]*

Part I. - General Provisions

Article 1

The State of Cyprus is an independent and sovereign Republic with a presidential régime, the President being Greek and the Vice-President being Turk elected by the Greek and the Turkish Communities of Cyprus respectively as hereinafter in this Constitution provided.

Article 2

For the purposes of this Constitution -

(1) the Greek Community comprises all citizens of the Republic who are of Greek origin and whose mother tongue is Greek or who share the Greek cultural traditions or who are members of the Greek-Orthodox Church;

(2) the Turkish Community comprises all citizens of the Republic who are of Turkish origin and whose mother tongue is Turkish or who share the Turkish cultural traditions or who are Moslems;

(3) citizens of the Republic who do not come within the provisions of paragraph (1) or (2) of this Article shall, within three months of the date of the coming into operation of this Constitution, opt to belong to either the Greek or the Turkish Community as individuals,

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but, if they belong to a religious group, shall so opt as a religious group and upon such option they shall be deemed to be members of such Community:

Provided that any citizen of the Republic who belongs to such a religious group may choose not to abide by the option of such group and by a written and signed declaration submitted within one month of the date of such option to the appropriate officer of the Republic and to the Presidents of the Greek and the Turkish Communal Chambers opt to belong to the Community other than that to which such group shall be deemed to belong:

Provided further that if an option of such religious group is not accepted on the ground that its members are below the requisite number any member of such group may within one month of the date of the refusal of acceptance of such option opt in the aforesaid manner as an individual to which Community he would like to belong.

For the purposes of this paragraph a "religious group" means a group of persons ordinarily resident in Cyprus professing the same religion and either belonging to the same rite or being subject to the same jurisdiction thereof the number of whom, on the date of the coming into operation of this Constitution, exceeds one thousand out of which at least five hundred become on such date citizens of the Republic;

(4) a person who becomes a citizen of the Republic at any time after three months of the date of the coming into operation of this Constitution shall exercise the option provided in paragraph (3) of this Article within three months of the date of his so becoming a citizen;

(5) a Greek or a Turkish citizen of the Republic who comes within the provisions of paragraph (1) or (2) of this Article may cease to belong to the Community of which he is a member and belong to the other Community upon -

(a) a written and signed declaration by such citizen to the effect that he desires such change, submitted to the appropriate officer of the Republic and to the Presidents of the Greek and the Turkish Communal Chambers;

(b) the approval of the Communal Chamber of such other Community;

(6) any individual or any religious group deemed to belong to either the Greek or the Turkish Community under the provisions of paragraph (3) of this Article may cease to belong to such Community and be deemed to belong to the other Community upon -

(a) a written and signed declaration by such individual or religious group to the effect that such change is desired, submitted to the appropriate officer of the Republic and to the Presidents of the Greek and the Turkish Communal Chambers;

(b) the approval of the Communal Chamber of such other Community;

(7) (a) a married woman shall belong to the Community to which her husband belongs;

(b) a male or female child under the age of twenty-one who is not married shall belong to the Community to which his or her father belongs, or, if the father is unknown and he or she has not been adopted, to the Community to which his or her mother belongs.

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Article 3

1. The official languages of the Republic are Greek and Turkish.

2. Legislative, executive and administrative acts and documents shall be drawn up in both official languages and shall, where under the express provisions of this Constitution promulgation is required, be promulgated by publication in the official Gazette of the Republic in both official languages.

3. Administrative or other official documents addressed to a Greek or a Turk shall be drawn up in the Greek or the Turkish language respectively.

4. Judicial proceedings shall be conducted or made and judgments shall be drawn up in the Greek language if the parties are Greek, in the Turkish language if the parties are Turkish, and in both the Greek and the Turkish languages if the parties are Greek and Turkish. The official language or languages to be used for such purposes in all other cases shall be specified by the Rules of Court made by the High Court under Article 163.

5. Any text in the official Gazette of the Republic shall be published in both official languages in the same issue.

6. (1) Any difference between the Greek and the Turkish texts of any legislative, executive or administrative act or document published in the official Gazette of the Republic, shall be resolved by a competent court.

(2) The prevailing text of any law or decision of a Communal Chamber published in the official Gazette of the Republic shall be that of the language of the Communal Chamber concerned.

(3) Where any difference arises between the Greek and the Turkish texts of an executive or administrative act or document which, though not published in the official Gazette of the Republic, has otherwise been published, a statement by the Minister or any other authority concerned as to which text should prevail or which should be the correct text shall be final and conclusive.

(4) A competent court may grant such remedies as it may deem just in any case of a difference in the texts as aforesaid.

7. The two official languages shall be used on coins, currency notes and stamps.

8. Every person shall have the right to address himself to the authorities of the Republic in either of the official languages.

Article 4

1. The Republic shall have its own flag of neutral design and colour, chosen jointly by the President and the Vice-President of the Republic.

2. The authorities of the Republic and any public corporation or public utility body created by or under the laws of the Republic shall fly the flag of the Republic and they shall have

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the right to fly on holidays together with the flag of the Republic both the Greek and the Turkish flags at the same time.

3. The Communal authorities and institutions shall have the right to fly on holidays together with the flag of the Republic either the Greek or the Turkish flag at the same time.

4. Any citizen of the Republic or any body, corporate or unincorporate other than public, whose members are citizens of the Republic, shall have the right to fly on their premises the flag of the Republic or the Greek or the Turkish flag without any restriction.

Article 5

The Greek and the Turkish Communities shall have the right to celebrate respectively the Greek and the Turkish national holidays.

Part II. - Fundamental Rights and Liberties

Article 6

Subject to the express provisions of this Constitution no law or decision of the House of Representatives or of any of the Communal Chambers, and no act or decision of any organ, authority or person in the Republic exercising executive power or administrative functions, shall discriminate against any of the two Communities or any person as a person or by virtue of being a member of a Community.

Article 7

1. Every person has the right to life and corporal integrity.

2. No person shall be deprived of his life except in the execution of a sentence of a competent court following his conviction of an offence for which this penalty is provided by law. A law may provide for such penalty only in cases of premeditated murder, high treason, piracy jure gentium and capital offences under military law.

3. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary -

(a) in defence of person or property against the infliction of a proportionate and otherwise unavoidable and irreparable evil;

(b) in order to effect an arrest or to prevent the escape of a person lawfully detained;

(c) in action taken for the purpose of quelling a riot or insurrection, when and as provided by law.

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Article 8

No person shall be subjected to torture or to inhuman or degrading punishment or treatment.

Article 9

Every person has the right to a decent existence and to social security. A law shall provide for the protection of the workers, assistance to the poor and for a system of social insurance.

Article 10

1. No person shall be held in slavery or servitude.

2. No person shall be required to perform forced or compulsory labour.

3. For the purposes of this Article the term "forced or compulsory labour" shall not include -

(a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 11 or during conditional release from such detention;

(b) any service of a military character if imposed or, in case of conscientious objectors, subject to their recognition by a law, service exacted instead of compulsory military service;

(c) any service exacted in case of an emergency or calamity threatening the life or well-being of the inhabitants.

Article 11

1. Every person has the right to liberty and security of person.

2. No person shall be deprived of his liberty save in the following cases when and as provided by law: -

(a) the detention of a person after conviction by a competent court;

(b) the arrest or detention of a person for non-compliance with the lawful order of a court;

(c) the arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

(d) the detention of a minor by a lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

(e) the detention of persons for the prevention of spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;

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(f) the arrest or detention of a person to prevent him effecting an unauthorised entry into the territory of the Republic or of an alien against whom action is being taken with a view to deportation or extradition.

3. Save when and as provided by law in case of a flagrant offence punishable with death or imprisonment, no person shall be arrested save under the authority of a reasoned judicial warrant issued according to the formalities prescribed by the law.

4. Every person arrested shall be informed at the time of his arrest in a language which he understands of the reasons for his arrest and shall be allowed to have the services of a lawyer of his own choosing.

5. The person arrested shall, as soon as is practicable after his arrest, and in any event not later than twenty-four hours after the arrest, be brought before a judge, if not earlier released.

6. The judge before whom the person arrested is brought shall promptly proceed to inquire into the grounds of the arrest in a language understandable by the person arrested and shall, as soon as possible and in any event not later than three days from such appearance, either release the person arrested on such terms as he may deem fit or where the investigation into the commission of the offence for which he has been arrested has not been completed remand him in custody and may remand him in custody from time to time for a period not exceeding eight days at any one time:

Provided that the total period of such remand in custody shall not exceed three months of the date of the arrest on the expiration of which every person or authority having the custody of the person arrested shall forthwith set him free.

Any decision of the judge under this paragraph shall be subject to appeal.

7. Every person who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

8. Every person who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

Article 12

1. No person shall be held guilty of any offence on account of any act or omission which did not constitute an offence under the law at the time when it was committed; and no person shall have a heavier punishment imposed on him for an offence other than that expressly provided for it by law at the time when it was committed.

2. A person who has been acquitted or convicted of an offence shall not be tried again for the same offence. No person shall be punished twice for the same act or omission except where death ensues from such act or omission.

3. No law shall provide for a punishment which is disproportionate to the gravity of the offence.

4. Every person charged with an offence shall be presumed innocent until proved guilty

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according to law.

5. Every person charged with an offence has the following minimum rights: -

(a) to be informed promptly and in a language which he understands and in detail of the nature and grounds of the charge preferred against him;

(b) to have adequate time and facilities for the preparation of his defence;

(c) to defend himself in person or through a lawyer of his own choosing or, if he has no sufficient means to pay for legal assistance, to be given free legal assistance when the interests of justice so require;

(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

6. A punishment of general confiscation of property is prohibited.

Article 13

1. Every person has the right to move freely throughout the territory of the Republic and to reside in any part thereof subject to any restrictions imposed by law and which are necessary only for the purposes of defence or public health or provided as punishment to be passed by a competent court.

2. Every person has the right to leave permanently or temporarily the territory of the Republic subject to reasonable restrictions imposed by law.

Article 14

No citizen shall be banished or excluded from the Republic under any circumstances.

Article 15

1. Every person has the right to respect for his private and family life.

2. There shall be no interference with the exercise of this right except such as is in accordance with the law and is necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this Constitution to any person.

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Article 16

1. Every person's dwelling house is inviolable.

2. There shall be no entry in any dwelling house or any search therein except when and as provided by law and on a judicial warrant duly reasoned or when the entry is made with the express consent of its occupant or for the purpose of rescuing the victims of any offence of violence or of any disaster.

Article 17

1. Every person has the right to respect for, and to the secrecy of, his correspondence and other communication if such other communication is made through means not prohibited by law.

2. There shall be no interference with the exercise of this right except in accordance with the law and only in cases of convicted and unconvicted prisoners and business correspondence and communication of bankrupts during the bankruptcy administration.

Article 18

1. Every person has the right to freedom of thought, conscience and religion.

2. All religions whose doctrines or rites are not secret are free.

3. All religions are equal before the law. Without prejudice to the competence of the Communal Chambers under this Constitution, no legislative, executive or administrative act of the Republic shall discriminate against any religious institution or religion.

4. Every person is free and has the right to profess his faith and to manifest his religion or belief, in worship, teaching, practice or observance, either individually or collectively, in private or in public, and to change his religion or belief.

5. The use of physical or moral compulsion for the purpose of making a person change or preventing him from changing his religion is prohibited.

6. Freedom to manifest one's religion or belief shall be subject only to such limitations as are prescribed by law and are necessary in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this Constitution to any person.

7. Until a person attains the age of sixteen the decision as to the religion to be professed by him shall be taken by the person having the lawful guardianship of such person.

8. No person shall be compelled to pay any tax or duty the proceeds of which are specially allocated in whole or in part for the purposes of a religion other than his own.

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Article 19

1. Every person has the right to freedom of speech and expression in any form.

2. This right includes freedom to hold opinions and receive and impart information and ideas without interference by any public authority and regardless of frontiers.

3. The exercise of the rights provided in paragraphs 1 and 2 of this Article may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the reputation or rights of others or for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.

4. Seizure of newspapers or other printed matter is not allowed without the written permission of the Attorney-General of the Republic, which must be confirmed by the decision of a competent court within a period not exceeding seventy-two hours, failing which the seizure shall be lifted.

5. Nothing in this Article contained shall prevent the Republic from requiring the licensing of sound and vision broadcasting or cinema enterprises.

Article 20

1. Every person has the right to receive, and every person or institution has the right to give, instruction or education subject to such formalities, conditions or restrictions as are in accordance with the relevant communal law and are necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or the standard and quality of education or for the protection of the rights and liberties of others including the right of the parents to secure for their children such education as is in conformity with their religious convictions.

2. Free primary education shall be made available by the Greek and the Turkish Communal Chambers in the respective communal primary schools.

3. Primary education shall be compulsory for all citizens of such school age as may be determined by a relevant communal law.

4. Education, other than primary education, shall be made available by the Greek and Turkish Communal Chambers, in deserving and appropriate cases, on such terms and conditions as may be determined by a relevant communal law.

Article 21

1. Every person has the right to freedom of peaceful assembly.

2. Every person has the right to freedom of association with others, including the right to form and to join trade unions for the protection of his interests. Notwithstanding any restriction under paragraph 3 of this Article, no person shall be compelled to join any association or to continue to be a member thereof.

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3. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are absolutely necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this Constitution to any person, whether or not such person participates in such assembly or is a member of such association.

4. Any association the object or activities of which are contrary to the constitutional order is prohibited.

5. A law may provide for the imposition of restrictions on the exercise of these rights by members of the armed forces, the police or gendarmerie.

6. Subject to the provisions of any law regulating the establishment or incorporation, membership (including rights and obligations of members), management and administration, and winding up and dissolution, the provisions of this Article shall also apply to the formation of companies, societies and other associations functioning for profit.

Article 22

1. Any person reaching nubile age is free to marry and to found a family according to the law relating to marriage, applicable to such person under the provisions of this Constitution.

2. The provisions of paragraph 1 of this Article shall, in the following cases, be applied as follows:-

(a) if the law relating to marriage applicable to the parties as provided under Article 111 is not the same, the parties may elect to have their marriage governed by the law applicable to either of them under such Article;

(b) if the provisions of Article 111 are not applicable to any of the parties to the marriage and neither of such parties is a member of the Turkish Community, the marriage shall be governed by a law of the Republic which the House of Representatives shall make and which shall not contain any restrictions other than those relating to age, health, proximity of relationship and prohibition of polygamy;

(c) if the provisions of Article 111 are applicable only to one of the parties to the marriage and the other party is not a member of the Turkish Community, the marriage shall be governed by the law of the Republic as in sub-paragraph (b) of this paragraph provided:

Provided that the parties may elect to have their marriage governed by the law applicable, under Article 111, to one of such parties in so far as such law allows such marriage.

3. Nothing in this Article contained shall, in any way, affect the rights, other than those on marriage, of the Greek-Orthodox Church or of any religious group to which the provisions of paragraph 3 of Article 2 shall apply with regard to their respective members as provided in this Constitution.

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Article 23

1. Every person, alone or jointly with others, has the right to acquire, own, possess, enjoy or dispose of any movable or immovable property and has the right to respect for such right.

The right of the Republic to underground water, minerals and antiquities is reserved.

2. No deprivation or restriction or limitation of any such right shall be made except as provided in this Article.

3. Restrictions or limitations which are absolutely necessary in the interest of the public safety or the public health or the public morals or the town and country planning or the development and utilization of any property to the promotion of the public benefit or for the protection of the rights of others may be imposed by law on the exercise of such right.

Just compensation shall be promptly paid for any such restrictions or limitations which materially decrease the economic value of such property: such compensation to be determined in case of disagreement by a civil court.

4. Any movable or immovable property or any right over or interest in any such property may be compulsorily acquired by the Republic or by a municipal corporation or by a Communal Chamber for the educational, religious, charitable or sporting institutions, bodies or establishments within its competence and only from the persons belonging to its respective Community or by a public corporation or a public utility body on which such right has been conferred by law, and only -

> (a) for a purpose which is to the public benefit and shall be specially provided by a general law for compulsory acquisition which shall be enacted within a year from the date of the coming into operation of this Constitution; and
>
> (b) when such purpose is established by a decision of the acquiring authority and made under the provisions of such law stating clearly the reasons for such acquisition; and
>
> (c) upon the payment in cash and in advance of a just and equitable compensation to be determined in case of disagreement by a civil court.

5. Any immovable property or any right over or interest in any such property compulsorily acquired shall only be used for the purpose for which it has been acquired. If within three years of the acquisition such purpose has not been attained, the acquiring authority shall, immediately after the expiration of the said period of three years, offer the property at the price it has been acquired to the person from whom it has been acquired. Such person shall be entitled within three months of the receipt of such offer to signify his acceptance or non-acceptance of the offer, and if he signifies acceptance, such property shall be returned to him immediately after his returning such price within a further period of three months from such acceptance.

6. In the event of agricultural reform, lands shall be distributed only to persons belonging to the same Community as the owner from whom such land has been compulsorily acquired.

7. Nothing in paragraphs 3 and 4 of this Article contained shall affect the provisions of any law

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made for the purpose of levying execution in respect of any tax or penalty, executing any judgment, enforcing any contractual obligation or for the prevention of danger to life or property.

8. Any movable or immovable property may be requisitioned by the Republic or by a Communal Chamber for the purposes of the educational, religious, charitable or sporting institutions, bodies or establishments within its competence and only where the owner and the person entitled to possession of such property belong to the respective Community, and only -

> (a) for a purpose which is to the public benefit and shall be specially provided by a general law for requisitioning which shall be enacted within a year from the date of the coming into operation of this Constitution; and
>
> (b) when such purpose is established by a decision of the requisitioning authority and made under the provisions of such law stating clearly the reasons for such requisitioning; and
>
> (c) for a period not exceeding three years; and
>
> (d) upon the prompt payment in cash of a just and equitable compensation to be determined in case of disagreement by a civil court.

9. Notwithstanding anything contained in this Article no deprivation, restriction or limitation of the right provided in paragraph 1 of this Article in respect of any movable or immovable property belonging to any See, monastery, church or any other ecclesiastical corporation or any right over it or interest therein shall be made except with the written consent of the appropriate ecclesiastical authority being in control of such property and the provisions of paragraphs 3, 4, 7 and 8 of this Article shall be subject to the provisions of this paragraph:

Provided that restrictions or limitations for the purposes of town and country planning under the provisions of paragraph 3 of this Article are exempted from the provisions of this paragraph.

10. Notwithstanding anything contained in this Article, no deprivation, restriction or limitation of any right provided in paragraph 1 of this Article in respect of any vakf movable or immovable property, including the objects and subjects of the vakfs and the properties belonging to the Mosques or to any other Moslem religious institutions, or any right thereon or interest therein shall be made except with the approval of the Turkish Communal Chamber and subject to the Laws and Principles of Vakfs and the provisions of paragraphs 3, 4, 7 and 8 of this Article shall be subject to the provisions of this paragraph:

Provided that restrictions or limitations for the purposes of town and country planning under the provisions of paragraph 3 of this Article are exempted from the provisions of this paragraph.

11. Any interested person shall have the right of recourse to the court in respect of or under any of the provisions of this Article, and such recourse shall act as a stay of proceedings for the compulsory acquisition; and in case of any restriction or limitation imposed under paragraph 3 of this Article, the court shall have power to order stay of any proceedings in respect thereof.

Any decision of the court under this paragraph shall be subject to appeal.

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Article 24

1. Every person is bound to contribute according to his means towards the public burdens.

2. No such contribution by way of tax, duty or rate of any kind whatsoever shall be imposed save by or under the authority of a law.

3. No tax, duty or rate of any kind whatsoever shall be imposed with retrospective effect:

Provided that any import duty may be imposed as from the date of the introduction of the relevant Bill.

4. No tax, duty or rate of any kind whatsoever other than customs duties shall be of a destructive or prohibitive nature.

Article 25

1. Every person has the right to practice any profession or to carry on any occupation, trade or business.

2. The exercise of this right may be subject to such formalities, conditions or restrictions as are prescribed by law and relate exclusively to the qualifications usually required for the exercise of any profession or are necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this Constitution to any person or in the public interest:

Provided that no such formalities, conditions or restrictions purporting to be in the public interest shall be prescribed by a law if such formality, condition or restriction is contrary to the interests of either Community.

3. As an exception to the aforesaid provisions of this Article a law may provide, if it is in the public interest, that certain enterprises of the nature of an essential public service or relating to the exploitation of sources of energy or other natural resources shall be carried out exclusively by the Republic or a municipal corporation or by a public corporate body created for the purpose by such law and administered under the control of the Republic, and having a capital which may be derived from public and private funds or from either such source only:

Provided that, where such enterprise has been carried out by any person, other than a municipal corporation or a public corporate body, the installations used for such enterprise shall, at the request of such person, be acquired, on payment of a just price, by the Republic or such municipal corporation or such public corporate body, as the case may be.

Article 26

1. Every person has the right to enter freely into any contract subject to such conditions, limitations or restrictions as are laid down by the general principles of the law of contract. A law shall provide for the prevention of exploitation by persons who are commanding economic power.

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2. A law may provide for collective labour contracts of obligatory fulfilment by employers and workers with adequate protection of the rights of any person, whether or not represented at the conclusion of such contract.

Article 27

1. The right to strike is recognised and its exercise may be regulated by law for the purposes only of safeguarding the security of the Republic or the constitutional order or the public order or the public safety or the maintenance of supplies and services essential to the life of the inhabitants or the protection of the rights and liberties guaranteed by this Constitution to any person.

2. The members of the armed forces, of the police and of the gendarmerie shall not have the right to strike. A law may extend such prohibition to the members of the public service.

Article 28

1. All persons are equal before the law, the administration and justice and are entitled to equal protection thereof and treatment thereby.

2. Every person shall enjoy all the rights and liberties provided for in this Constitution without any direct or indirect discrimination against any person on the ground of his community, race, religion, language, sex, political or other convictions, national or social descent, birth, color, wealth, social class, or on any ground whatsoever, unless there is express provision to the contrary in this Constitution.

3. No citizen shall be entitled to use or enjoy any privilege of any title of nobility or of social distinction within the territorial limits of the Republic.

4. No title or nobility or other social distinction shall be conferred by or recognised in the Republic.

Article 29

1. Every person has the right individually or jointly with others to address written requests or complaints to any competent public authority and to have them attended to and decided expeditiously; an immediate notice of any such decision taken duly reasoned shall be given to the person making the request or complaint and in any event within a period not exceeding thirty days.

2. Where any interested person is aggrieved by any such decision or where no such decision is notified to such person within the period specified in paragraph 1 of this Article, such person may have recourse to a competent court in the matter of such request or complaint.

Article 30

1. No person shall be denied access to the court assigned to him by or under this Constitution. The establishment of judicial committees or exceptional courts under any name whatsoever is prohibited.

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2. In the determination of his civil rights and obligations or of any criminal charge against him, every person is entitled to a fair and public hearing within a reasonable time by an independent, impartial and competent court established by law. Judgment shall be reasoned and pronounced in public session, but the press and the public may be excluded from all or any part of the trial upon a decision of the court where it is in the interest of the security of the Republic or the constitutional order or the public order or the public safety or the public morals or where the interests of juveniles or the protection of the private life of the parties so require or, in special circumstances where, in the opinion of the court, publicity would prejudice the interests of justice.

3. Every person has the right -

(a) to be informed of the reasons why he is required to appear before the court;

(b) to present his case before the court and to have sufficient time necessary for its preparation;

(c) to adduce or cause to be adduced his evidence and to examine witnesses according to law;

(d) to have a lawyer of his own choice and to have free legal assistance where the interests of justice so require and as provided by law;

(e) to have free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 31

Every citizen has, subject to the provisions of this Constitution and any electoral law of the Republic or of the relevant Communal Chamber made thereunder, the right to vote in any election held under this Constitution or any such law.

Article 32

Nothing in this Part contained shall preclude the Republic from regulating by law any matter relating to aliens in accordance with International Law.

Article 33

1. Subject to the provisions of this Constitution relating to a state of emergency, the fundamental rights and liberties guaranteed by this Part shall not be subjected to any other limitations or restrictions than those in this Part provided.

2. The provisions of this Part relating to such limitations or restrictions shall be interpreted strictly and shall not be applied for any purpose other than those for which they have been prescribed.

Article 34

Nothing in this Part may be interpreted as implying for any Community, group or

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person any right to engage in any activity or perform any act aimed at the undermining or destruction of the constitutional order established by this Constitution or at the destruction of any of the rights and liberties set forth in this Part or at their limitation to a greater extent than is provided for therein.

Article 35

The legislative, executive and judicial authorities of the Republic shall be bound to secure, within the limits of their respective competence, the efficient application of the provisions of this Part.

Part III.- The President of the Republic, the Vice President of the Republic and the Council of Ministers

Article 36

1. The President of the Republic is the Head of the State and takes precedence over all persons in the Republic.

The Vice-President of the Republic is the Vice-Head of the State and takes precedence over all persons in the Republic next after the President of the Republic.
Deputizing for or replacing the President of the Republic in case of his temporary absence or temporary incapacity to perform his duties is made as provided in paragraph 2 of this Article.

2. In the event of a temporary absence or a temporary incapacity to perform the duties of the President or of the Vice-President of the Republic, the President or the Vice-President of the House of Representatives and, in case of his absence or pending the filling of a vacancy in any such office, the Representative acting for him under Article 72 shall act for the President or the Vice-President of the Republic respectively during such temporary absence or temporary incapacity.

Article 37

The President of the Republic as Head of the State-

(a) represents the Republic in all its official functions;

(b) signs the credentials of diplomatic envoys appointed under Article 54 and receives the credentials of foreign diplomatic envoys who shall be accredited to him;

(c) signs-

(i) the credentials of delegates appointed under Article 54 for the negotiation of international treaties, conventions or other agreements, or for signing any such treaties, conventions or agreements already

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negotiated, in accordance with, and subject to, the provisions of this Constitution;

(ii) the letter relating to the transmission of the instruments of ratification of any international treaties, conventions or agreements approved as provided in this Constitution;

(d) confers the honours of the Republic.

Article 38

1. The Vice-President of the Republic as Vice-Head of the State has the right to-

(a) be present in all official functions;

(b) be present at the presentation of the credentials of the foreign diplomatic envoys;

(c) recommend to the President of the Republic the conferment of honours of the Republic on members of the Turkish Community which recommendation the President shall accept unless there are grave reasons to the contrary. The honours so conferred will be presented to the recipient by the Vice-President if he so desires.

2. For the purposes of sub-paragraphs (a) and (b) of paragraph 1 of this Article, the necessary information shall be given to the Vice-President of the Republic in writing in sufficient time before any such event.

Article 39

1. The election of the President and the Vice-President of the Republic shall be direct, by universal suffrage and secret ballot, and shall, except in the case of a by-election, take place on the same day but separately:

Provided that in either case if there is only one candidate for election that candidate shall be declared as elected.

2. The candidate who receives more than fifty per centum of the votes validly cast shall be elected. If none of the candidates attains the required majority the election shall be repeated on the corresponding day of the week next following between the two candidates who received the greater number of the votes validly cast and the candidate who receives at such repeated election the greatest number of the votes validly cast shall be deemed to be elected.

3. If the election cannot take place on the date fixed under this Constitution owing to extraordinary and unforeseen circumstances such as earthquake, floods, general epidemic and the like, then such election shall take place on the corresponding day of the week next following.

Article 40

A person shall be qualified to be a candidate for election as President or Vice-President of the Republic if at the time of election such person-

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(a) is a citizen of the Republic;

(b) has attained the age of thirty-five years;

(c) has not been, on or after the date of the coming into operation of this Constitution, convicted of an offence involving dishonesty or moral turpitude or is not under any disqualification imposed by a competent court for any electoral offence;

(d) is not suffering from a mental disease incapacitating such person from acting as President or Vice-President of the Republic.

Article 41

1. The office of the President and of the Vice-President of the Republic shall be incompatible with that of a Minister or of a Representative or of a member of a Communal Chamber or of a member of any municipal council including a Mayor or of a member of the armed or security forces of the Republic or with a public or municipal office.

For the purposes of this Article "public office" means any office of profit in the public service of the Republic or of a Communal Chamber, the emoluments of which are under the control either of the Republic or of a Communal Chamber, and includes any office in any public corporation or public utility body.

2. The President and the Vice-President of the Republic shall not, during their term of office, engage either directly or indirectly, either for their own account or for the account of any other person, in the exercise of any profit or non-profit making business or profession.

Article 42

1. The President and the Vice-President of the Republic are invested by the House of Representatives before which they make the following affirmation:-

> "I do solemnly affirm faith to, and respect for, the Constitution and the laws made thereunder, the preservation of the independence and the territorial integrity, of the Republic of Cyprus."

2. For this purpose the House of Representatives shall meet on the date the five years' period of office of the outgoing President and the outgoing Vice-President of the Republic expires, and in the case of a by-election under paragraph 4 of Article 44 on the third day from the date of such by-election.

Article 43

1. The President and the Vice-President of the Republic shall hold office for a period of five years commencing on the date of their investiture and shall continue to hold such office until the next elected President and Vice-President of the Republic are invested.

2. The President or the Vice-President of the Republic elected at a by-election under paragraph 4 of Article 44 shall hold office for the unexpired period of office of the President or the Vice-

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President of the Republic, as the case may be, whose vacancy he has been elected to fill.

3. The election of a new President and Vice-President of the Republic shall take place before the expiration of the five years' period of office of the outgoing President and the outgoing Vice-President of the Republic so as to enable the newly-elected President and Vice-President of the Republic to be invested on the date such period expires.

Article 44

1. The office of the President or the Vice-President of the Republic shall become vacant-

(a) upon his death;

(b) upon his written resignation addressed to the House of Representative through, and received by, its President or Vice-President respectively;

(c) upon his conviction of high treason or any other offence involving dishonesty or moral turpitude;

(d) upon such permanent physical or mental incapacity or such absence, other than temporary, as would prevent him to perform effectively his duties.

2. In the event of a vacancy in the office of the President or the Vice-President of the Republic, the President or the Vice-President of the House of Representatives respectively shall act, during such vacancy, as President or Vice-President of the Republic, respectively.

3. The Supreme Constitutional Court shall decide on any question arising out of sub-paragraph (d) of paragraph 1 of this Article on a motion by the Attorney-General and the Deputy Attorney-General of the Republic upon a resolution of the Representatives belonging to the same Community as the President or the Vice-President of the Republic respectively, carried by a simple majority:

Provided that no such resolution shall be taken and no item shall be entered on the agenda or debated in the House of Representatives in connexion therewith unless the proposal for such resolution is signed by at least one fifth of the total number of such Representatives.

4. In the event of a vacancy in the office of either the President or the Vice-President of the Republic, the vacancy shall be filled by a by-election which shall take place within a period not exceeding forty-five days of the occurrence of such vacancy.

Article 45

1. The President or the Vice-President of the Republic shall not be liable to any criminal prosecution during his term of office except under the provisions of this Article.

2. The President or the Vice-President of the Republic may be prosecuted for high treason on a charge preferred by the Attorney-General and the Deputy Attorney-General of the Republic before the High Court upon a resolution of the House of Representatives carried by a secret ballot and a majority of three-fourths of the total number of Representatives:

Provided that no such resolution shall be taken and no item shall be entered on the agenda

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or debated in the House of Representatives in connexion therewith unless the proposal for such resolution is signed by at least one-fifth of the total number of Representatives.

3. The President or the Vice-President of the Republic may be prosecuted for an offence involving dishonesty or moral turpitude upon a charge preferred by the Attorney-General and the Deputy Attorney-General of the Republic before the High Court with the leave of the President of the High Court.

4. (1) The President or the Vice-President of the Republic upon being prosecuted under paragraph 2 or 3 of this Article shall be suspended from the performance of any of the functions of his office and thereupon the provisions of paragraph 2 of Article 36 shall apply.

(2) The President or the Vice-President of the Republic on any such prosecution shall be tried by the High Court; on his conviction his office shall become vacant and on his acquittal he shall resume the performance of the functions of his office.

5. Subject to paragraphs 2 and 3 of this Article the President or the Vice-President of the Republic shall not be liable to prosecution for any offence committed by him in the execution of his functions but he may be prosecuted for any other offence committed during his term of office after he ceases to hold office.

6. No action shall be brought against the President or the Vice-President of the Republic in respect of any act or omission committed by him in the exercise of any of the functions of his office:

Provided that nothing in this paragraph contained shall be construed as in any way depriving any person of the right to sue the Republic as provided by law.

Article 46

The executive power is ensured by the President and the Vice-President of the Republic.

The President and the Vice-President of the Republic in order to ensure the executive power shall have a Council of Ministers composed of seven Greek Ministers and three Turkish Ministers. The Ministers shall be designated respectively by the President and the Vice-President of the Republic who shall appoint them by an instrument signed by them both. The Ministers may be chosen from outside the House of Representatives.

One of the following Ministries that is to say the Ministry of Foreign Affairs, the Ministry of Defence or the Ministry of Finance, shall be entrusted to a Turkish Minister. If the President and the Vice-President of the Republic agree they may replace this system by a system of rotation.

The Council of Ministers shall exercise executive power as in Article 54 provided.

The decisions of the Council of Ministers shall be taken by an absolute majority and shall, unless the right of final veto or return is exercised by the President or the Vice-President of the Republic or both in accordance with Article 57, be promulgated immediately by them by publication in the official Gazette of the Republic in accordance with the provisions of Article 57.

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Article 47

The executive power exercised by the President and the Vice-President of the Republic conjointly consists of the following matters that is to say:

(a) determining the design and colour of the flag of the Republic as in Article 4 provided;

(b) creation or establishment of the honours of the Republic;

(c) appointment by an instrument signed by them both of the members of the Council of Ministers as in Article 46 provided;

(d) promulgation by publication in the official Gazette of the Republic of the decisions of the Council of Ministers as in Article 57 provided;

(e) promulgation by publication in the official Gazette of the Republic of any law or decision passed by the House of Representatives as in Article 52 provided;

(f) appointments in Articles 112, 115, 118, 124, 126, 131, 133, 153 and 184 provided; termination of appointments as in Article 118 provided and of appointments made under Article 131;

(g) institution of compulsory military service as in Article 129 provided;

(h) reduction or increase of the security forces as in Article 130 provided;

(i) exercise of the prerogative of mercy in capital cases where the injured party and the convicted person are members of different Communities as in Article 53 provided; remission, suspension and commutation of sentences as in Article 53 provided;

(j) right of reference to the Supreme Constitutional Court as in Article 140 provided;

(k) publication in the official Gazette of the Republic of decisions of the Supreme Constitutional Court as in Articles 137, 138, 139 and 143 provided;

(l) replacement by a system of rotation of the system of appointment of a Turkish Minister to one of the three Ministries of Foreign Affairs or of Defence or of Finance as in Article 46 provided;

(m) exercise of any of the powers specified in paragraphs (d), (e), (f) and (g) of Articles 48 and 49 and in Articles 50 and 51 which the President or the Vice-President of the Republic respectively can exercise separately;

(n) address of messages to the House of Representatives as in Article 79 provided.

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Article 48

The executive power exercised by the President of the Republic consists of the following matters, that is to say:-

(a) designation and termination of appointment of Greek Ministers;

(b) convening the meetings of the Council of Ministers as in Article 55 provided, presiding at such meetings and taking part in the discussions thereat without any right to vote;

(c) preparing the agenda of such meetings as in Article 56 provided;

(d) right of final veto on decisions of the Council of Ministers concerning foreign affairs, defence or security as in Article 57 provided;

(e) right of return of decisions of the Council of Ministers as in Article 57 provided;

(f) right of final veto on laws or decisions of the House of Representatives concerning foreign affairs, defence or security as in Article 50 provided;

(g) right of return of laws or decisions of the House of Representatives or of the Budget as in Article 51 provided;

(h) right of recourse to the Supreme Constitutional Court as in Articles 137, 138 and 143 provided;

(i) right of reference to the Supreme Constitutional Court as in Article 141 provided;

(j) publication of the communal laws and decisions of the Greek Communal Chamber as in Article 104 provided;

(k) right of reference to the Supreme Constitutional Court of any law or decision of the Greek Communal Chamber as in Article 142 provided;

(l) right of recourse to the Supreme Constitutional Court in connection with any matter relating to any conflict or contest of power or competence arising between the House of Representatives and the Communal Chambers or any of them and between any organs of, or authorities in, the Republic as in Article 139 provided;

(m) the prerogative of mercy in capital cases as in Article 53 provided;

(n) the exercise of any of the powers specified in Article 47 conjointly with the Vice-President of the Republic;

(o) addressing messages to the House of Representatives as in Article 79 provided.

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Article 49

The executive power exercised by the Vice-President of the Republic consists of the following matters, that is to say:-

(a) designation and termination of appointment of Turkish Ministers;

(b) asking the President of the Republic for the convening of the Council of Ministers as in Article 55 provided and being present and taking part in the discussions at all meetings of the Council of Ministers without any right to vote;

(c) proposing to the President of the Republic subjects for inclusion in the agenda as in Article 56 provided;

(d) right of final veto on decisions of the Council of Ministers concerning foreign affairs, defence or security as in Article 57 provided;

(e) right of return of decisions of the Council of Ministers as in Article 57 provided;

(f) right of final veto on laws or decisions of the House of Representatives concerning foreign affairs, defence or security as in Article 50 provided;

(g) right of return of laws or decisions of the House of Representatives or of the Budget as in Article 51 provided;

(h) right of recourse to the Supreme Constitutional Court as in Articles 137, 138 and 143 provided;

(i) right of reference to the Supreme Constitutional Court as in Article 141 provided;

(j) publication of the communal laws and decisions of the Turkish Communal Chamber as in Article 104 provided;

(k) right of reference to the Supreme Constitutional Court of any law or decision of the Turkish Communal Chamber as in Article 142 provided;

(l) right of recourse to the Supreme Constitutional Court in connection with any matter relating to any conflict or contest of power or competence arising between the House of Representatives and the Communal Chambers or any of them and between any organs of, or authorities in, the Republic as in Article 139 provided;

(m) the prerogative of mercy in capital cases as in Article 53 provided;

(n) the exercise of any of the powers specified in Article 47 conjointly with the President of the Republic;

(o) addressing messages to the House of Representatives as in Article 79 provided.

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Article 50

1. The President and the Vice-President of the Republic, separately or conjointly, shall have the right of final veto on any law or decision of the House of Representatives or any part thereof concerning-

(a) foreign affairs, except the participation of the Republic in international organisations and pacts of alliance in which the Kingdom of Greece and the Republic of Turkey both participate.

For the purposes of this sub-paragraph "foreign affairs" includes-

(i) the recognition of States, the establishment of diplomatic and consular relations with other countries and the interruption of such relations. The grant of acceptance to diplomatic representatives and of exequatur to consular representatives. The assignment of diplomatic representatives and of consular representatives, already in the diplomatic service, to posts abroad and the entrusting of functions abroad to special envoys already in the diplomatic service. The appointment and the assignment of persons, who are not already in the diplomatic service, to any posts abroad as diplomatic or consular representatives and the entrusting of functions abroad to persons, who are not already in the diplomatic service, as special envoys;

(ii) the conclusion of international treaties, conventions and agreements;

(iii) the declaration of war and the conclusion of peace;

(iv) the protection abroad of the citizens of the Republic and of their interests;

(v) the establishment, the status and the interests of aliens in the Republic;

(vi) the acquisition of foreign nationality by citizens of the Republic and their acceptance of employment by, or their entering the service of, a foreign Government;

(b) the following questions of defence:-

(i) composition and size of the armed forces and credits for them;

(ii) (nominations des cadres – διορισμοι στελεχων – kadrolara tayinler) and their promotions (και η προαγωγη αυτων – ve bunlardaki terfiler);

(iii) importation of war materials and also explosives of all kinds;

(iv) cession of bases and other facilities to allied countries;

(c) the following questions of security:-

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(i) (nominations des cadres – διορισμοι στελεχων – kadrolara tayinler) and their promotions (και η προαγωγη αυτων – ve bunlardaki terfiler);

(ii) distribution and stationing of forces;

(iii) emergency measures and martial law;

(iv) police laws.

It is specified that the right of veto under sub-paragraph (c) above shall cover all emergency measures or decisions, but not those which concern the normal functioning of the police and the gendarmerie.

2. The above right of veto may be exercised either against the whole of a law or decision or against any part thereof, and in the latter case such law or decision shall be returned to the House of Representatives for a decision whether the remaining part thereof will be submitted, under the relevant provisions of this Constitution, for promulgation.

3. The right of veto under this Article shall be exercised within the period for the promulgation of laws or decisions of the House of Representatives as in Article 52 provided.

Article 51

1. The President and the Vice-President of the Republic shall have the right, either separately or conjointly, to return any law or decision or any part thereof of the House of Representatives to the House for reconsideration.

2. On the adoption of the Budget by the House of Representatives the President and the Vice-President of the Republic, either separately or conjointly, may exercise his or their right to return it to the House of Representatives on the ground that in his or their judgment there is a discrimination.

3. In case a law or decision or any part thereof is returned to the House of Representatives as in paragraph 1 of this Article provided, the House of Representatives shall pronounce on the matter so returned within fifteen days of such return and in the case of return of the Budget as in paragraph 2 of this Article provided the House of Representatives shall pronounce on the matter so returned within thirty days of such return.

4. If the House of Representatives persists in its decision the President and the Vice-President of the Republic shall, subject to the provisions of this Constitution, promulgate the law or decision or the Budget, as the case may be, within the time limit fixed for the promulgation of laws and decisions of the House of Representatives by publication of such law or decision or Budget in the official Gazette of the Republic.

5. Whenever the President or the Vice-President of the Republic exercises his right to return as provided in this Article he shall immediately notify the other of such return.

6. The right of return under this Article shall be exercised within the period for the promulgation of laws or decisions of the House of Representatives as in Article 52 provided.

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Article 52

The President and the Vice-President of the Republic shall, within fifteen days of the transmission to their respective offices of any law or decision of the House of Representatives, promulgate by publication in the official Gazette of the Republic such law or decision unless in the meantime they exercise, separately or conjointly, as the case may be, their right of veto as in Article 50 provided or their right of return as in Article 51 provided or their right of reference to the Supreme Constitutional Court as in Articles 140 and 141 provided or in the case of the Budget their right of recourse to the Supreme Constitutional Court as in Article 138 provided.

Article 53

1. The President or the Vice-President of the Republic shall have the right to exercise the prerogative of mercy with regard to persons belonging to their respective Community who are condemned to death.

2. Where the person injured (βλαβεν προσωπον – zarar gören kimse – mağdur) and the offender are members of different Communities such prerogative of mercy shall be exercised by agreement between the President and the Vice-President of the Republic; in the event of disagreement between the two the vote for clemency shall prevail.

3. In case the prerogative of mercy is exercised under paragraph 1 or 2 of this Article the death sentence shall be commuted to life imprisonment.

4. The President and the Vice-President of the Republic shall, on the unanimous recommendation of the Attorney-General and the Deputy Attorney-General of the Republic, remit, suspend, or commute any sentence passed by a court in the Republic in all other cases.

Article 54

Subject to the executive power expressly reserved, under Articles 47, 48 and 49, to the President and the Vice-President of the Republic, acting either separately or conjointly, the Council of Ministers shall exercise executive power in all other matters other than those which, under the express provisions of this Constitution, are within the competence of a Communal Chamber, including the following:-

(a) the general direction and control of the government of the Republic and the direction of general policy;

(b) foreign affairs as in Article 50 set out;

(c) defence and security, including questions thereof as in Article 50 set out;

(d) the co-ordination and supervision of all public services;

(e) the supervision and disposition of property belonging to the Republic in accordance with the provisions of this Constitution and the law;

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(f) consideration of Bills to be introduced to the House of Representatives by a Minister;

(g) making of any order or regulation for the carrying into effect of any law as provided by such law;

(h) consideration of the Budget of the Republic to be introduced to the House of Representatives.

Article 55

The President of the Republic convenes the meetings of the Council of Ministers. Such convening is made by the President of the Republic on his own motion or on being asked by the Vice-President of the Republic in due time for a specific subject.

Article 56

The agenda of any meeting of the Council of Ministers is prepared by the President of the Republic at his discretion and is communicated to all concerned prior to such meeting. The Vice-President of the Republic may propose to the President any subject for inclusion in the agenda of any meeting. The President of the Republic shall include such subject in the agenda if it can conveniently be dealt with at such meeting, otherwise such subject shall be included in the agenda of the meeting next following.

Article 57

1. On a decision being taken by the Council of Ministers such decision shall be transmitted forthwith to the office of the President and of the Vice-President of the Republic respectively.

2. The President or the Vice-President of the Republic or both shall have the right of return, within four days of the date when the decision has been transmitted to their respective offices, of such decision to the Council of Ministers for reconsideration, whereupon the Council of Ministers shall reconsider the matter and if they persist in such decision the President and the Vice-President of the Republic shall, subject to paragraph 4 of this Article, promulgate by publication such decision:

Provided that the exercise of the right of return shall not, in cases where the right of veto exists, prevent either the President or the Vice-President of the Republic or both from exercising the right of veto, within four days of the transmission to their respective offices, of the decision persisted upon.

3. If a decision relates to foreign affairs, defence or security as in Article 50 set out, the President or the Vice-President of the Republic or both shall have a right of veto which they shall exercise within four days of the date when the decision has been transmitted to their respective offices.

4. If the decision is enforceable and no right of veto or return has been exercised as in paragraph 2 or 3 of this Article provided, such decision shall be forthwith promulgated by the President and the Vice-President of the Republic by publication in the official Gazette of the Republic unless the Council of Ministers otherwise states in that decision.

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Article 58

1. A Minister is the Head of his Ministry.

2. Subject to the executive power expressly reserved, under this Constitution, to the President and the Vice-President of the Republic, acting either separately or conjointly, and to the Council of Ministers, the executive power exercised by each Minister includes the following matters:-

(a) the execution of laws relating to, and the administration of all matters and affairs usually falling within, the domain of his Ministry;

(b) preparation of orders or regulations concerning his Ministry for submission to the Council of Ministers;

(c) the issuing of directions and general instructions for the carrying out of the provisions of any law relating to his Ministry and of any order or regulation under such law;

(d) the preparation for submission to the Council of Ministers of the part of the Budget of the Republic relating to his Ministry.

Article 59

1. No person shall be appointed as a Minister unless he is a citizen of the Republic and has the qualifications required for a candidate for election as a member of the House of Representatives.

2. The office of a Minister shall be incompatible with that of a Representative or of a member of a Communal Chamber or of a member of any municipal council including a Mayor or of a member of the armed or security forces of the Republic or with a public or municipal office or in the case of a Turkish Minister with that of a religious functionary (din adamı).

For the purposes of this paragraph "public office" has the same meaning as in Article 41.

3. The Ministers shall hold office in the case of the Greek Ministers until their appointment is terminated by the President of the Republic and in the case of the Turkish Ministers until their appointment is terminated by the Vice-President of the Republic.

4. Any person appointed as a Minister shall, before entering upon his office, make before the President and the Vice-President of the Republic the following affirmation:-

> "I do solemnly affirm faith to, and respect for, the Constitution and the laws made thereunder, the preservation of the independence and the territorial integrity, of the Republic of Cyprus."

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Article 60

1. There shall be a Joint Secretariat of the Council of Ministers headed by two Secretaries, one belonging to the Greek Community and the other belonging to the Turkish Community, who shall be public officers.

2. The two Secretaries of the Joint Secretariat of the Council of Ministers shall have charge of the Council of Ministers' Office and shall, in accordance with any instructions as may be given to them by the Council of Ministers, attend its meetings and keep the minutes thereof and convey the decision of the Council of Ministers to the appropriate organ or authority or person.

Part IV.- The House of Representatives

Article 61

The legislative power of the Republic shall be exercised by the House of Representatives in all matters except those expressly reserved to the Communal Chambers under this Constitution.

Article 62

1. The number of Representatives shall be fifty:

Provided that such number may be altered by a resolution of the House of Representatives carried by a majority comprising two-thirds of the Representatives elected by the Greek Community and two-thirds of the Representatives elected by the Turkish Community.

2. Out of the number of Representatives provided in paragraph 1 of this Article seventy per centum shall be elected by the Greek Community and thirty per centum by the Turkish Community separately from amongst their members respectively, and in the case of a contested election, by universal suffrage and by direct and secret ballot held on the same day.

The proportion of Representatives stated in this paragraph shall be independent of any statistical data.

Article 63

1. Subject to paragraph 2 of this Article every citizen of the Republic who has attained the age of twenty-one years and has such residential qualifications as may be prescribed by the Electoral Law shall have the right to be registered as an elector in either the Greek or the Turkish electoral list:

Provided that the members of the Greek Community shall only be registered in the Greek electoral list and the members of the Turkish Community shall only be registered in the Turkish electoral list.

2. No person shall be qualified to be registered as an elector who is disqualified for such registration by virtue of the Electoral Law.

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Article 64

A person shall be qualified to be a candidate for election as a Representative if at the time of the election that person-

(a) is a citizen of the Republic;

(b) has attained the age of twenty-five years;

(c) has not been, on or after the date of the coming into operation of this Constitution, convicted of an offence involving dishonesty or moral turpitude or is not under any disqualification imposed by a competent court for any electoral offence;

(d) is not suffering from a mental disease incapacitating such person from acting as a Representative.

Article 65

1. The term of office of the House of Representatives shall be for a period of five years.

The term of office of the first House of Representatives shall commence on the date of the coming into operation of this Constitution.

2. The outgoing House shall continue in office until the newly-elected House assumes office under paragraph 1 of this Article.

Article 66

1. A general election for the House of Representatives shall be held on the second Sunday of the month immediately preceding the month in which the term of office of the outgoing House expires.

2. When a vacancy occurs in the seat of a Representative such vacancy shall be filled by a by-election to be held within a period not exceeding forty-five days of the occurrence of such vacancy on a date to be fixed by the House of Representatives.

3. If an election under paragraph 1 or 2 of this Article cannot take place on the date fixed by or under this Constitution owing to extraordinary and unforeseen circumstances such as earthquake, floods, general epidemic and the like, then such election shall take place on the corresponding day of the week next following.

Article 67

1. The House of Representatives may dissolve itself only by its own decision carried by an absolute majority including at least one third of the Representatives elected by the Turkish Community.

2. Any such decision shall, notwithstanding anything contained in paragraph 1 of Article 65 and paragraph 1 of Article 66, provide for the date of the holding of the general election, which shall not be less than thirty days and not more than forty days from the date of such decision, and also for the date of the first meeting of the newly elected House which shall

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not be later than fifteen days after such general election and until such date the outgoing House shall continue to be in office.

3. Notwithstanding anything in paragraph 1 of Article 65 contained, the term of office of the House of Representatives to be elected after dissolution shall be for the unexpired period of the term of office of the dissolved House. In case of dissolution within the last year of the five years' term of office, a general election for the House of Representatives shall take place both for the unexpired part of the term of office of the dissolved House, during which any session of the newly elected House shall be considered to be an extraordinary session, and for the subsequent five years' term of office.

Article 68

Whenever a House of Representatives continues to be in office until the assumption of office by a newly elected House under either paragraph 2 of Article 65 or paragraph 2 of Article 67, such House shall not have power to make any laws or to take any decisions on any matter except only in case of urgent and exceptional unforeseen circumstances to be specifically stated in the relevant law or decision.

Article 69

A Representative before assuming duties as such in the House of Representatives and at a public meeting thereof shall make the following affirmation:-

> "I do solemnly affirm faith to, and respect for, the Constitution and the laws made thereunder, the preservation of the independence and the territorial integrity, of the Republic of Cyprus"

Article 70

The office of a Representative shall be incompatible with that of a Minister or of a member of a Communal Chamber or of a member of any municipal council including a Mayor or of a member of the armed or security forces of the Republic or with a public or municipal office or, in the case of a Representative elected by the Turkish Community, of a religious functionary (din adamı).

For the purposes of this Article "public office" means any office of profit in the service of the Republic or of a Communal Chamber the emoluments of which are under the control either of the Republic or of a Communal Chamber, and includes any office in any public corporation or public utility body.

Article 71

The seat of a Representative shall become vacant-

(a) upon his death;

(b) upon his written resignation;

(c) upon the occurrence of any of the circumstances referred to in paragraph (c) or (d) of Article 64 or if he ceases to be a citizen of the Republic;

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(d) upon his becoming the holder of an office mentioned in Article 70.

Article 72

1. The President of the House of Representatives shall be a Greek, and shall be elected by the Representatives elected by the Greek Community, and the Vice-President shall be a Turk and shall be elected by the Representatives elected by the Turkish Community. Each shall be elected separately as above at the same meeting at the beginning and for the whole period of the term of office of the House of Representatives.

2. In case of any vacancy in either of the offices provided in paragraph 1 of this Article, an election as provided in such paragraph shall take place with all due speed and at an extraordinary session if necessary in order to fill such vacancy.

3. In case of temporary absence or pending the filling of a vacancy as provided in paragraph 2 of this Article in either of the offices of the President or the Vice-President of the House, their functions shall be performed by the eldest Representative of the respective Community unless the Representatives of such Community should otherwise decide.

4. In addition to the President and the Vice-President of the House there shall be appointed from amongst the Representatives and by the President and the Vice-President of the House respectively two Greek and one Turkish Clerks of the House and two Greek and one Turkish Administrative Clerks of the House who shall be attached respectively to the office of the President and the Vice-President of the House.

Article 73

1. Subject to the ensuing provisions of this Article, the House of Representatives by its Standing Orders regulates any matter of parliamentary procedure and of functions of its offices.

2. There shall be a Committee to be known as the Committee of Selection consisting of the President of the House as Chairman, the Vice-President of the House as Vice-Chairman and eight other members elected by the House of Representatives at its meeting after the election of the President and the Vice-President of the House, six from amongst the Representatives elected by the Greek Community and two from amongst the Representatives elected by the Turkish Community.

3. The Committee of Selection shall set up the Standing Committees and any other temporary, ad hoc or special Committee of the House of Representatives and shall appoint Representatives to be members thereof and in so doing due regard should be had to the proposals made by the Greek and the Turkish Communal groups or political party groups in the House for such setting up and appointments. The appointments to such Committees shall be subject to the provisions of the paragraph next following.

4. The Greek and the Turkish Communal groups and political party groups in the House of Representatives shall be adequately represented on each of the Standing, and of any other temporary, ad hoc or special, Committee of the House:

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Provided that the total number of the seats on such Committees distributed respectively to the Representatives elected by the Greek and the Turkish Communities shall be in the same proportion as that in which the seats in the House are distributed to the Representatives elected by the Greek and the Turkish Communities respectively.

5. Every Bill on being introduced in the House of Representatives shall be referred for debate in the first instance before the appropriate Committee.

With the exception of those which are considered to be of an urgent nature, no Bill shall be debated by a Committee before the lapse of forty-eight hours after its being distributed to the Representatives constituting such a Committee.

With the exception of those which are considered to be of an urgent nature, no Bill which has passed the Committee stage shall be debated in the House of Representatives before the lapse of forty-eight hours after it has been distributed to the Representatives together with the report of the Committee.

6. The agenda of the meetings of the House of Representatives, which shall include any additional subject proposed by the Vice-President of the House, shall be drawn up and presented to the House of Representatives by the President of the House. After the presentation of the agenda to the House of Representatives, any Representative may move any addition or amendment to such agenda, and such motion shall be decided upon by the House of Representatives.

7. No Representative can speak at any meeting of the House of Representatives unless he registers his name in the proper Register or unless he obtains the permission of the person presiding at such meeting.

Every Representative who has complied with such formality is entitled to be given reasonably sufficient time, having regard to the particular subject, to speak and to be heard at the relevant meeting.

The speeches shall be made in order of the registration or of oral request, as the case may be, of those who desire to speak:

Provided that where there are opposite views held, a speaker shall, as far as practicable, follow another one who supports the opposite view. But Representatives speaking on behalf of the Committees or of the political party groups of the House of Representatives shall not be subject to such order of precedence.

Representatives desiring to speak in connexion with motions with regard to any matter relating to the agenda, the application of the Standing Orders or the closure of the debate shall be given precedence in time over the Representatives desiring to speak in connexion with the subject of the debate, and in such a case two Representatives, one in favour and one against the motion, shall be allowed fifteen minutes each for their respective speeches.

8. All speeches in the House of Representatives shall be made from the rostrum of the House and addressed to the House of Representatives. All speeches and other proceedings in the House and at all the Committee meetings shall, simultaneously as they are being made or taking place, be translated from the official language in which they are being made or taking place into the other official language.

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9. Save as otherwise provided in the Standing Orders, interruptions of the speech of a Representative or personal attacks against any Representative unconnected with the subject under debate, both in the House and at the Committee meetings, are prohibited.

10. The votes in the House of Representatives shall be jointly counted and recorded by one Greek and the Turkish Clerk of the House.

11. The minutes of the debates in the House of Representatives shall comprise all proceedings fully.

The minutes of the proceedings of the Committees shall be kept in a summary form. Upon objection to the minutes of a meeting of the House of Representatives through the oral submission of a Representative at the first following meeting or by a written objection sent to the President of the relevant meeting, the House of Representatives may decide to correct such minutes accordingly.

12. Any political party which is represented at least by twelve per centum of the total number of the Representatives in the House of Representatives can form and shall be entitled to be recognised as a political party group.

Article 74

1. The House of Representatives shall meet on the fifteenth day next following a general election and thereafter in each year on the corresponding day in such year without summons for its ordinary session.

2. The ordinary session of the House of Representatives shall last for a period of three to six months in each year, as the House of Representatives may determine.

3. The House of Representatives shall be summoned to an extraordinary session by the President or the Vice-President of the House on the request of ten Representatives addressed to both the President and the Vice-President of the House.

Article 75

1. The meetings of the House of Representatives shall be open to the public and the minutes of its debates shall be published.

2. The House of Representatives may, if it thinks necessary, hold secret sessions on a resolution carried by a three-quarters majority vote of the total number of Representatives.

Article 76

1. The President of the House shall declare the commencement and the end of every meeting.

2. The President of the House in declaring the end of a meeting shall at the same time announce the date and time fixed, with the consent of the House of Representatives, of the meeting next following and shall present to the House of Representatives the agenda of such meeting and thereupon the provisions of paragraph 6 of Article 73 shall apply.

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3. Any agenda shall be printed and distributed to the Representatives at least twenty-four hours prior to the meeting. but if such agenda relates to the topic already under debate such distribution may be made at any time prior to the meeting.

Article 77

1. The quorum of the House of Representatives shall consist of at least one-third of the total number of its members.

2. The debate relating to any particular topic shall be adjourned once for twenty-four hours at the request of the majority of the Representatives of either Community who are present at a meeting.

Article 78

1. The laws and the decisions of the House of Representatives shall be passed by a simple majority vote of the Representatives present and voting.

2. Any modification of the Electoral Law and the adoption of any law relating to the municipalities and of any law imposing duties or taxes shall require a separate simple majority of the Representatives elected by the Greek and the Turkish Communities respectively taking part in the vote.

Article 79

1. The President or the Vice-President of the Republic may address the House of Representatives by message, or transmit to the House of Representatives their views through the Ministers.

2. The Ministers may follow the proceedings of the House of Representatives or any Committee thereof, and make a statement to, or inform, the House of Representatives or any Committee thereof, on any subject within their competence.

Article 80

1. The right to introduce Bills belongs to the Representatives and to the Ministers.

2. No Bill relating to an increase in budgetary expenditure can be introduced by any Representative.

Article 81

1. The Budget is introduced to the House of Representatives at least three months before the day fixed by law for the commencement of the financial year and is voted by it not later than the day so fixed.

2. Within three months from the end of the financial year the final accounts shall be submitted to the House of Representatives for approval.

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Article 82

A law or decision of the House of Representatives shall come into operation on its publication in the official Gazette of the Republic unless another date is provided by such law or decision.

Article 83

1. Representatives shall not be liable to civil or criminal proceedings in respect of any statement made or vote given by them in the House of Representatives.

2. A Representative cannot, without the leave of the High Court, be prosecuted, arrested or imprisoned so long as he continues to be a Representative. Such leave is not required in the case of an offence punishable with death or imprisonment for five years or more in case the offender is taken in the act. In such a case the High Court being notified forthwith by the competent authority decides whether it should grant or refuse leave for the continuation of the prosecution or detention so long as he continues to be a Representative.

3. If the High Court refuses to grant leave for the prosecution of a Representative, the period during which the Representative cannot thus be prosecuted shall not be reckoned for the purposes of any period of prescription for the offence in question.

4. If the High Court refuses to grant leave for the enforcement of a sentence of imprisonment imposed on a Representative by a competent court, the enforcement of such sentence shall be postponed until he ceases to be a Representative.

Article 84

1. Representatives receive from the Public Revenue remuneration defined by law.

2. Any increase of such remuneration shall not become operative during the term of office of the House of Representatives in which such increase has been made.

Article 85

Any question with regard to the qualifications of candidates for election and election petitions shall be finally adjudicated by the Supreme Constitutional Court.

Part V.- The Communal Chambers

Article 86

The Greek and the Turkish Communities respectively shall elect from amongst their own members a Communal Chamber which shall have the competence expressly reserved for it under the provisions of this Constitution.

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Article 87

1. The Communal Chambers shall, in relation to their respective Community, have competence to exercise within the limits of this Constitution and subject to paragraph 3 of this Article, legislative power solely with regard to the following matters:-

(a) all religious matters;

(b) all educational, cultural and teaching matters;

(c) personal status;

(d) the composition and instances (βαθμους δικαιοδοσιας – dereceleri) of courts dealing with civil disputes relating to personal status and to religious matters;

(e) in matters where the interests and institutions are of purely communal nature such as charitable and sporting foundations, bodies and associations created for the purpose of promoting the well-being of their respective Community;

(f) imposition of personal taxes and fees on members of their respective Community in order to provide for their respective needs and for the needs of bodies and institutions under their control as in Article 88 provided;

(g) in matters where subsidiary legislation in the form of regulations or bye-laws within the framework of the laws relating to municipalities will be necessary to enable a Communal Chamber to promote the aims pursued by municipalities composed solely of members of its respective Community;

(h) in matters relating to the exercise of the authority of control of producers' and consumers' co-operatives and credit establishments and of supervision in their functions of municipalities consisting solely of their respective Community, vested in them by this Constitution:

Provided that-

(i) any communal law, regulation, bye-law or decision made or taken by a Communal Chamber under this sub-paragraph (h) shall directly or indirectly be contrary to or inconsistent with any law by which producers' and consumers' co-operatives and credit establishments are governed or to which the municipalities subject;

(ii) nothing in paragraph (i) of this proviso contained shall be construed as enabling the House of Representatives to legislate on any matter relating to the exercise of the authority vested in a Communal Chamber under this sub-paragraph (h): (i) in such other matters as are expressly provided by this Constitution.

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2. Nothing in sub-paragraph (f) of paragraph 1 of this Article contained shall be construed as in any way curtailing the power of the House of Representatives to impose, in accordance with the provisions of this Constitution, any personal taxes.

3. Any law or decision of a Communal Chamber made or taken in exercise of the power vested in it under paragraph 1 of this Article shall not in any way contain anything contrary to the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or which is against the fundamental rights and liberties guaranteed by this Constitution to any person.

Article 88

1. The power of imposing taxes under sub-paragraph (f) of paragraph 1 of Article 87 of a Communal Chamber shall be exercised for the purposes of meeting the part of its expenditure provided in its budget in each financial year which is not met by the payment made to such Communal Chamber in respect of such financial year by the Republic out of its Budget as provided in paragraph 2 of this Article or by any other revenue which such Chamber may have in that financial year.

2. The House of Representatives shall, in respect of each financial year, provide in the Budget and make available for payment to both Communal Chambers in respect of their respective financial year for the purposes of their respective needs relating to matters within their respective competence an amount not less than two million pounds to be allocated to the Greek and the Turkish Communal Chambers as follows:-

(a) to the Greek Communal Chamber an amount not less than the sum of one million and six hundred thousand pounds; and

(b) to the Turkish Communal Chamber an amount not less than the sum of four hundred thousand pounds:

Provided that in the case of the increase of the minimum total amount payable to both Communal Chambers the allocation to each of the Communal Chambers of such increased amount shall be made in such manner as the House of Representatives may decide.

3. If a Communal Chamber so requests the taxes imposed by it shall be collected on its behalf and paid to such a Communal Chamber by the authorities of the Republic.

4. For the purposes of this Article and of sub-paragraph (f) of paragraph 1 of Article 87 "member" includes corporate and unincorporate bodies to the extent of the interest held in such bodies by such members.

Article 89

1. The Communal Chambers shall, in relation to their respective Community, also have competence-

(a) (i) to direct policy ("determiner les principes directeurs") within their communal laws;

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(ii) to exercise administrative powers in the manner and through such persons as may be provided by a communal law, with respect to any matter on which they are competent to exercise legislative power under the provisions of Article 87 other than those provided in sub-paragraphs (g) and (h) of paragraph 1 of such Article for which specific provision is made in the ensuing sub-paragraphs;

(b) to exercise control on producers' and consumers' co-operatives and credit establishments created for the purpose of promoting the well-being of their respective Community and which will be governed by the laws;

(c) to promote the aims pursued by municipalities composed solely of members of their respective Community and to supervise in their functions such municipalities to which the laws shall apply.

2. Nothing in sub-paragraph (e) of paragraph 1 of Article 87 and in sub-paragraph (b) of paragraph 1 of this Article contained shall be construed as precluding the creation of mixed and common institutions of the nature therein provided if the inhabitants so desire.

3. In the case where the central administration shall, on its part, proceed to control the institutions, establishments or municipalities mentioned in sub-paragraphs (b) and (c) of paragraph 1 of this Article by virtue of legislation in force, such control shall be carried out through public officers belonging to the same Community as that to which the institution, establishment or municipality in question belongs.

Article 90

1. Subject to the ensuing provisions of this Article each Communal Chamber shall have power by or in its own communal laws to provide for the application (εφαρμογη – tatbik) of its laws and decisions.

2. A Communal Chamber shall have no power to provide in any of its laws or decisions for imprisonment or detention for any violation thereof or failure to comply with any directions given by a Communal Chamber in exercise of any power vested in it under this Constitution.

3. The Communal Chambers shall have no competence to use measures of constraint (αναγκαστικα μετρα – cebir) to secure compliance with their respective communal laws or decisions and of the judgments of the Courts dealing with civil disputes relating to personal status and to religious matters within their respective competence.

4. Where it becomes necessary to use measures of constraint in compelling compliance with any law or decision of a Communal Chamber or with any matter connected with the exercise of the authority of control or supervision by a Communal Chamber such measures of constraint shall, on the application by or on behalf of the Communal Chamber, be applied by the public authorities of the Republic which shall have exclusive competence to apply such measures of constraint.

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5. The execution of any judgment or order of a court in connexion with any matter within the exclusive competence of a Communal Chamber shall be carried out through the public authorities of the Republic.

Article 91

1. Each Communal Chamber shall once yearly prepare and adopt a budget of its revenue and expenditure for the ensuing financial year.

2. Such budget shall be voted by the Communal Chamber not later than the day fixed by a communal law for the commencement of the communal financial year.

Article 92

The number of the members of each Communal Chamber shall be determined by a communal law carried by a two-thirds majority of the total number of the members of the Communal Chamber concerned.

Article 93

The elections for both the Communal Chambers shall be by universal suffrage and by direct and secret ballot.

Article 94

1. Subject to paragraph 2 of this Article every citizen of the Republic who has attained the age of twenty-one years and has such residential qualifications as may be prescribed by the respective communal electoral law shall have the right to be registered as an elector in the respective communal electoral list:

Provided that the members of the Greek Community shall only be registered in the Greek communal electoral list and the members of the Turkish Community shall only be registered in the Turkish communal electoral list.

2. No person shall be qualified to be registered as an elector who is disqualified for such registration by virtue of the respective communal electoral law.

Article 95

A person shall be qualified to be a candidate for election as a member of a Communal Chamber if at the time of the election that person-

(a) is a citizen of the Republic and is registered in the respective communal electoral list;

(b) has attained the age of twenty-five years;

(c) has not been, on or after the date of the coming into operation of this Constitution, convicted of an offence involving dishonesty or moral turpitude or is not under any disqualification imposed by a competent court for an electoral offence;

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(d) is not suffering from a mental disease incapacitating such person from acting as a member of a Communal Chamber.

Article 96

1. The term of office of the Communal Chambers shall be for a period of five years commencing on such date as a communal law respectively shall appoint.

2. The outgoing Communal Chambers shall continue in office until the newly elected Communal Chambers assume office under paragraph 1 of this Article.

Article 97

1. A communal general election for a Communal Chamber shall be held at least thirty days before the expiration of the term of office of the outgoing Chamber.

2. When a vacancy occurs in the seat of a member of a Communal Chamber such vacancy shall be filled by a by-election to be held within a period not exceeding forty-five days of the occurrence of such vacancy.

3. If an election under paragraph 1 or 2 of this Article cannot take place on the date fixed by or under this Constitution owing to extraordinary and unforeseen circumstances such as earthquake, floods, general epidemic and the like, then such election shall take place on the corresponding day of the week next following.

Article 98

1. Either Communal Chamber may dissolve itself only by its own decision carried by an absolute majority.

2. Any such decision shall, notwithstanding anything contained in paragraph 1 of Article 96 and paragraph 1 of Article 97, provide for the date of the holding of the communal general election with respect to the Communal Chamber in question which shall not be less than thirty days and not more than forty days from the date of such decision and also for the date of the first meeting of the newly-elected Communal Chamber which shall not be later than fifteen days after such communal general election and until such date the outgoing Communal Chamber shall continue to be in office.

3. Notwithstanding anything contained in paragraph 1 of Article 96, the term of office of the Communal Chamber to be elected after dissolution shall be for the unexpired period of the term of office of the dissolved Communal Chamber. In case of dissolution within the last year of the five years' term of office of the Communal Chamber concerned a communal general election for such Chamber shall take place for the unexpired part of the term of office of the dissolved Communal Chamber and for the subsequent five years' period of office of such Communal Chamber.

Article 99

Whenever a Communal Chamber continues to be in office until the assumption of office by a newly-elected Communal Chamber, either under paragraph 2 of Article 96 or paragraph

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2 of Article 98, it shall not have power to make any laws or take any decisions on any matter except only in case of urgent and exceptional unforeseen circumstances to be specifically stated in the relevant law or decision.

Article 100

A member of a Communal Chamber before assuming duties as such in the Communal Chamber and at a public meeting thereof shall make the following affirmation:-

> "I do solemnly affirm faith to, and respect for, the Constitution and the laws made thereunder, the preservation of the independence and the territorial integrity, of the Republic of Cyprus."

Article 101

1. The office of a member of a Communal Chamber shall be incompatible with that of a Minister or of a Representative or of a member of any municipal council including a Mayor or of a member of the armed or security forces of the Republic or with a public or municipal office and, in the case of that of a member of the Turkish Communal Chamber, with that of a religions functionary (din adamı).

2. For the purposes of this Article "public office" means any office of profit in the public service of the Republic or of a Communal Chamber the emoluments of which are under the control either of the Republic or of a Communal Chamber and includes any office in any public corporation or public utility body.

Article 102

The Communal Chambers shall, by Standing Orders, make rules relating to all matters of procedure including the holding of ordinary and extraordinary meetings, the dates and duration of such meetings, the manner of voting and the transaction of business.

Article 103

1. The meetings of the Communal Chambers shall be open to the public and the minutes of its debates shall be published.

2. Any Communal Chamber may, if it thinks necessary, hold secret sessions on a resolution carried by a two-thirds majority vote of the total number of its members.

Article 104

1. The laws or decisions passed by the Greek or the Turkish Communal Chamber shall be published in the official Gazette of the Republic immediately after being signed by the President or the Vice-President of the Republic respectively within fifteen days of the receipt by him of such laws or decisions.

2. A communal law shall come into operation on its publication in the official Gazette of the Republic unless another date is provided by such law.

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Article 105

1. The President of the Republic with regard to the Greek Communal Chamber and the Vice-President of the Republic with regard to the Turkish Communal Chamber may, within fifteen days of the receipt by him of any law or decision passed by the respective Communal Chamber, return such law or decision to such Chamber for reconsideration.

2. If the Communal Chamber concerned maintains that the law or decision so returned to it shall stand, the President or the Vice-President of the Republic, as the case may be, shall sign and publish such law or decision in accordance with the provisions of the immediately preceding Article.

Article 106

1 A member of a Communal Chamber shall not be liable to civil or criminal proceedings in respect of any statement made or vote given by him in the Chamber.

2. A member of a Communal Chamber cannot without the leave of the High Court, be prosecuted, arrested or imprisoned, so long as he continues to be a member. Such leave is not required in the case of an offence punishable with death or imprisonment for five years or more in case the offender is taken in the act. In such a case the High Court, being notified forthwith by the competent authority, decides whether it should grant or refuse leave for the continuation of the prosecution or detention, as the case may be, so long as he continues to be a member.

3. If the High Court refuses to grant leave for the prosecution of a member of a Communal Chamber, the period during which such member cannot thus be prosecuted shall not be reckoned for the purposes of any period of prescription for the offence in question.

4. If the High Court refuses to grant leave for the enforcement of a sentence of imprisonment imposed on a member of a Communal Chamber by a competent court, the enforcement of such sentence shall be postponed until he ceases to be such member.

Article 107

The seat of a member of a Communal Chamber shall become vacant-

(a) upon his death; or

(b) upon his written resignation; or

(c) upon the occurrence of any of the circumstances referred to in paragraph (c) or (d) of Article 95, or if he ceases to be a citizen of the Republic or if he ceases to be qualified to be registered as an elector in the respective Communal electoral list; or

(d) upon his becoming the holder of an office mentioned in Article 101.

Article 108

1. The Greek and the Turkish Communities shall have the right to receive subsidies from the Greek or the Turkish Government respectively for institutions of education, culture,

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athletics and charity belonging to the Greek or the Turkish Community respectively.

2. Also where either the Greek or the Turkish Community considers that it has not the necessary number of schoolmasters, professors or clergymen (κληρικιο-din adamı) for the functioning of its institutions, such Community shall have the right to obtain and employ such personnel to the extent strictly necessary to meet its needs as the Greek or the Turkish Government respectively may provide.

Article 109

Each religious group which under the provisions of paragraph 3 of Article 2 has opted to belong to one of the Communities shall have the right to be represented, by elected member or members of such group, in the Communal Chamber of the Community to which such group has opted to belong as shall be provided by a relevant communal law.

Article 110

1. The Autocephalous Greek-Orthodox Church of Cyprus shall continue to have the exclusive right of regulating and administering its own internal affairs and property in accordance with the Holy Canons and its Charter in force for the time being and the Greek Communal Chamber shall not act inconsistently with such right.

2. The institution of Vakf and the Principles and Laws of, and relating to, Vakfs are recognised by this Constitution.

All matters relating to or in any way affecting the institution or foundation of Vakf or the vakfs or any vakf properties, including properties belonging to Mosques and any other Moslem religious institution, shall be governed solely by and under the Laws and Principles of Vakfs (ahkâmül evkaf) and the laws and regulations enacted or made by the Turkish Communal Chamber, and no legislative, executive or other act whatsoever shall contravene or override or interfere with such Laws or Principles of Vakfs and with such laws and regulations of the Turkish Communal Chamber.

3. Any right with regard to religious matters possessed in accordance with the law of the Colony of Cyprus in force immediately before the date of the coming into operation of this Constitution by the Church of a religious group to which the provisions of paragraph 3 of Article 2 shall apply shall continue to be so possessed by such Church on and after the date of the coming into operation of this Constitution.

Article 111

1. Subject to the provisions of this Constitution any matter relating to betrothal, marriage, divorce, nullity of marriage, judicial separation or restitution of conjugal rights or to family relations other than legitimation by order of the court or adoption of members of the Greek-Orthodox Church or of a religious group to which the provisions of paragraph 3 of Article 2 shall apply shall, on and after the date of the coming into operation of this Constitution, be governed by the law of the Greek-Orthodox Church or of the Church of such religious group, as the case may be, and shall be cognizable by a tribunal of such Church and no Communal Chamber shall act inconsistently with the provisions of such law.

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2. Nothing in paragraph 1 of this Article contained shall preclude the application of the provisions of paragraph 5 of Article 90 to the execution of any judgment or order of any such tribunal.

Part VI.- The Independent Officers of the Republic

Chapter I. The Attorney-General of the Republic and the Deputy Attorney-General of the Republic

Article 112

1. The President and the Vice-President of the Republic shall appoint jointly two persons who are qualified for appointment as a judge of the High Court one to be the Attorney-General of the Republic and the other to be the Deputy Attorney-General of the Republic:

Provided that the Attorney-General and the Deputy Attorney-General of the Republic shall not belong to the same Community.

2. The Attorney-General of the Republic shall be the Head and the Deputy Attorney-General of the Republic shall be the Deputy Head of the Law Office of the Republic which shall be an independent office and shall not be under any Ministry.

3. The Attorney-General and the Deputy Attorney-General of the Republic shall have the right of audience in, and shall take precedence over any other persons appearing before, any court:

Provided that the Attorney-General of the Republic shall always take precedence over the Deputy Attorney-General of the Republic.

4. The Attorney-General and the Deputy Attorney-General of the Republic shall be members of the permanent legal service of the Republic and shall hold office under the same terms and conditions as a judge of the High Court other than its President and shall not be removed from office except on the like grounds and in the like manner as such judge of the High Court.

5. In all matters affecting persons belonging to the Community of the Attorney-General of the Republic or of the Deputy Attorney-General of the Republic, as the case may be, the one belonging to such Community shall be consulted by the other before any decision is taken by the Attorney-General of the Republic:

Provided that for the prosecutions in the courts exercising criminal jurisdiction composed of judges of one Community, the Attorney-General of the Republic or the Deputy Attorney-General of the Republic, as the case may be, belonging to that Community, shall have the effective charge and responsibility.

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Article 113

1. The Attorney-General of the Republic assisted by the Deputy Attorney-General of the Republic shall be the legal adviser of the Republic and of the President and of the Vice-President of the Republic and of the Council of Ministers and of the Ministers and shall exercise all such other powers and shall perform all such other functions and duties as are conferred or imposed on him by this Constitution or by law.

2. The Attorney-General of the Republic shall have power, exercisable at his discretion in the public interest, to institute, conduct, take over and continue or discontinue any proceedings for an offence against any person in the Republic. Such power may be exercised by him in person or by officers subordinate to him acting under and in accordance with his instructions.

Article 114

1. The Deputy Attorney-General of the Republic shall have such powers and shall perform such duties as normally appertain to his office and also shall, subject to the directions of the Attorney-General of the Republic, exercise all the powers and perform all the functions and the duties vested in the Attorney-General of the Republic under the provisions of this Constitution or by law.

2. The Deputy Attorney-General of the Republic shall act for the Attorney-General of the Republic in case of his absence or his temporary incapacity to perform his duties.

Chapter II. The Auditor-General and the Deputy Auditor-General

Article 115

1. The President and the Vice-President of the Republic shall appoint jointly two fit and proper persons one to be the Auditor-General and the other to be the Deputy Auditor-General:

Provided that the Auditor-General and the Deputy Auditor-General shall not belong to the same Community.

2. The Auditor-General shall be the Head and the Deputy Auditor-General shall be the Deputy Head of the Audit Office of the Republic which shall be an independent office and shall not be under any Ministry.

3. The Auditor-General and the Deputy Auditor-General shall be members of the permanent public service of the Republic and shall not be retired or removed from office except on the like grounds and in like manner as a judge of the High Court.

Article 116

1. The Auditor-General assisted by the Deputy Auditor-General shall, on behalf of the Republic, control all disbursements and receipts and audit and inspect all accounts of moneys and other assets administered, and of liabilities incurred, by or under the authority

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of the Republic and for this purpose he shall have the right of access to all books, records and returns relating to such accounts and to places where such assets are kept.

2. The Auditor-General assisted by the Deputy Auditor-General shall exercise all such other powers and shall perform all such other functions and duties as are conferred or imposed on him by law.

3. The powers, functions and duties of the Auditor-General provided in this Chapter may be exercised by him in person or by such subordinate officers acting under and in accordance with his instructions.

4. The Auditor-General shall submit annually a report on the exercise of his functions and duties under this Chapter to the President and the Vice-President of the Republic who shall cause it to be laid before the House of Representatives.

Article 117

1. The Deputy Auditor-General shall have such powers and shall perform such functions and duties as normally appertain to his office and also shall, subject to the directions of the Auditor-General, exercise all the powers and perform all the functions and duties vested in the Auditor-General under the provisions of this Constitution or by law.

2. The Deputy Auditor-General shall act for the Auditor-General in case of his absence or his temporary incapacity to perform his duties.

Chapter III. The Governor and the Deputy Governor of the Issuing Bank of the Republic

Article 118

1. The President and the Vice-President of the Republic shall appoint jointly two fit and proper persons one to be the Governor and the other to be the Deputy-Governor of the Issuing Bank of the Republic:

Provided that the Governor and the Deputy-Governor of the Issuing Bank of the Republic shall not belong to the same Community.

2. The Governor of the Issuing Bank of the Republic shall be the Head and the Deputy-Governor of the Issuing Bank shall be the Deputy Head of the Issuing Bank of the Republic which shall not be under any Ministry.

3. The Governor and the Deputy-Governor of the Issuing Bank of the Republic shall be either members of the permanent public service or shall be persons appointed under such terms and conditions as laid down in the instruments of their appointment.

4. The President and the Vice-President of the Republic acting jointly may, at any time, terminate the appointment of either the Governor or the Deputy-Governor of the Issuing Bank of the Republic or both as such Governor or Deputy-Governor, as the case may be.

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5. In the case of such termination the Governor or the Deputy-Governor of the Issuing Bank of the Republic or both, as the case may be, shall, subject to paragraph 6 of this Article, and to the provisions of this Constitution relating to the public service of the Republic, be given other suitable post in the permanent public service of the Republic if such Governor or Deputy-Governor was, immediately before such termination, a member of such service.

6. Any disciplinary matter in connexion with the exercise of the functions of the Governor and the Deputy-Governor of the Issuing Bank of the Republic shall be within the competence of the Council established under paragraph 8 of Article 153.

Article 119

1. The Governor of the Issuing Bank of the Republic assisted by the Deputy-Governor of the Issuing Bank of the Republic shall administer the currency laws of the Republic and shall be in charge of the management of the Issuing Bank of the Republic and shall exercise all other powers and perform all other functions and duties within the domain of the issuing Bank of the Republic.

2. The Governor of the Issuing Bank of the Republic assisted by the Deputy-Governor of the Issuing Bank of the Republic shall exercise all such powers and shall perform all such other functions as are conferred or imposed on him by law.

3. The powers, functions and duties of the Governor of the Issuing Bank of the Republic provided in this Chapter may be exercised by him in person or by such subordinate officers acting under and in accordance with his instructions.

4. The Governor assisted by the Deputy-Governor of the Issuing Bank of the Republic shall, with regard to the financial policy relating to his office, carry out the decisions of the Council of Ministers in this respect and the provisions of any law and, with regard to the manner of the carrying out of such policy, he shall consult and be guided by the advice of the Minister of Finance.

5. The Governor of the Issuing Bank of the Republic shall submit half yearly reports on the state of currency, funds and securities of the Republic to the President and the Vice-President of the Republic who shall cause such reports to be laid before the House of Representatives.

Article 120

1. The Deputy-Governor of the Issuing Bank of the Republic shall have such powers and shall perform such functions and duties as normally appertain to his office and also shall, subject to the directions of the Governor of the Issuing Bank of the Republic, exercise all the powers and perform all the functions and duties vested in the Governor of the Issuing Bank of the Republic under the provisions of this Constitution or by law.

2. The Deputy-Governor of the Issuing Bank of the Republic shall act for the Governor of the Issuing Bank of the Republic in case of his absence or his temporary incapacity to perform his duties.

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Article 121

Nothing in this Chapter contained shall be construed as precluding the Issuing Bank of the Republic from becoming a Central Bank:

Provided that in such a case, subject to the provisions of this Chapter, the Governor and the Deputy-Governor of the Issuing Bank of the Republic shall be respectively the Governor and the Deputy-Governor of the Central Bank of the Republic.

Part VII.- The Public Service

Chapter I. General

Article 122

For the purposes of this Chapter, unless the context otherwise requires-

"public office" means an office in the public service;

"public officer" means the holder, whether substantive or temporary or acting, of a public office;

"public service" means any service under the Republic other than service in the army or the security forces of the Republic and includes service under the Cyprus Broadcasting Corporation, the Cyprus Inland Telecommunications Authority and the Electricity Authority of Cyprus and any other public corporate or unincorporate body created in the public interest by a law and either the funds of which are provided or guaranteed by the Republic or, if the enterprise is carried out exclusively by such body, its administration is carried out under the control of the Republic, but does not include service in an office the appointment to or the filling of which is, under this Constitution, made jointly by the President and the Vice-President of the Republic or service by workmen except those who are regularly employed in connexion with permanent works of the Republic or any such body as aforesaid.

Article 123

1. The public service shall be composed as to seventy per centum of Greeks and as to thirty per centum of Turks.

2. This quantitative distribution shall be applied, so far as this will be practically possible, in all grades of the hierarchy in the public service.

3. In regions or localities where one of the two Communities is in a majority approaching one hundred per centum the public officers posted for, or entrusted with, duty in such regions or localities shall belong to that Community.

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Article 124

1. There shall be a Public Service Commission consisting of a Chairman and nine other members appointed jointly by the President and the Vice-President of the Republic.

2. Seven members of the Commission shall be Greeks and three members shall be Turks.

3. Each member of the Commission shall be appointed for a period of six years, but he may at any time resign his office by writing under his hand addressed to the President and the Vice-President of the Republic.

4. The remuneration and other conditions of service of a member of the Commission shall be provided by a law and shall not be altered to his disadvantage after his appointment.

5. A member of the Commission shall not be removed from office except on the like grounds and in the like manner as a judge of the High Court.

6. (1) No person shall be appointed as a member of the Commission unless he is a citizen of the Republic, of high moral character and has the qualifications for election as a member of the House of Representatives.

(2) No person shall be appointed as, or be, a member of the Commission who is, or within the preceding twelve months in the case of the Chairman or six months in the case of any other member, has been-

a) a Minister;

(b) a member of the House of Representatives or of any Communal Chamber;

(c) a public officer or a member of any of the armed forces;

(d) an officer or employee of any local authority or of a body corporate or authority established by law for public purposes;

(e) a member of a trade union or of a body or association affiliated to a trade union.

7. Where, during any period, a member of the Commission has been granted leave of absence or is unable, owing to absence from the Republic, or to any other cause, to discharge his functions as a member, the President and the Vice-President of the Republic may jointly appoint at his place any person who would be qualified to be appointed to exercise such functions, during that period.

Article 125

1. Save where other express provision is made in this Constitution with respect to any matter set out in this paragraph and subject to the provisions of any law, it shall be the duty of the Public Service Commission to make the allocation of public offices between the two Communities and to appoint, confirm, emplace on the permanent or pensionable establishment, promote transfer, retire and exercise disciplinary control

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over, including dismissal or removal from office of, public officers.

2. The Chairman shall convene the meetings of the Commission and shall preside thereat:

Provided that-

(a) no meeting shall be held unless prior notice thereof has been given to all the members;

(b) on an equality of votes the Chairman shall not have a second or casting vote.

3. (1) Subject to the ensuing provisions of this paragraph any decision of the Commission shall be taken by an absolute majority vote of its members.

(2) If the question relates to an appointment or promotion to fill a vacant or newly created post, the decision whether such post shall be filled, under the provisions of this Constitution, by a Greek or a Turk, shall be taken by such absolute majority vote including at least the votes of two Turkish members of the Commission:

Provided that if such a decision cannot be taken on such majority, the question shall be referred by the Commission to the Supreme Constitutional Court for a decision; the decision of such Court shall be final and binding on the Commission.

(3) Where the question relates solely to a Turk any decision of the Commission shall be taken by such an absolute majority vote including the votes of at least two Turkish members. Where the question relates solely to a Greek, any decision of the Commission shall be taken by such an absolute majority vote including the votes of at least four Greek members.

(4) Where the question relates to the selection of the Greek or the Turk to be appointed or promoted, the decision shall, subject to sub-paragraph (3) of this paragraph, be taken by an absolute majority vote:

Provided that the unanimous recommendation, of five Greek members in the case of the selection of a Greek, or of the three Turkish members in the case of the selection of a Turk, shall be acted upon by the Commission.

Chapter II. The Accountant-General and the Deputy Accountant-General

Article 126

1. The President and the Vice-President of the Republic shall appoint jointly two fit and proper persons one to be the Accountant-General and the other to be the Deputy Accountant-General:

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Provided that the Accountant-General and the Deputy Accountant-General shall not belong to the same Community.

2. The Accountant-General shall be the Head and the Deputy Accountant-General shall be the Deputy Head of the Treasury.

3. The Accountant-General and the Deputy Accountant-General shall be members of the permanent public service of the Republic.

4. The retirement and any disciplinary control, including dismissal or removal from office, of the Accountant-General and the Deputy Accountant-General shall be within the competence of the Public Service Commission.

Article 127

1. The Accountant-General assisted by the Deputy Accountant-General shall manage and supervise all accounting operations in respect of all moneys and other assets administered, and of liabilities incurred, by or under the authority of the Republic and, subject to the provisions of this Constitution or of any law, shall receive and make all the disbursements of moneys of the Republic.

2. The Accountant-General assisted by the Deputy Accountant-General shall exercise all such other powers and shall perform all such other functions and duties as are conferred or imposed on him by law.

3. The powers, functions and duties of the Accountant-General provided in this Chapter may be exercised by him in person or by such subordinate officers acting under and in accordance with his instructions.

Article 128

1. The Deputy Accountant-General shall have such powers and shall perform such functions and duties as normally appertain to his office and also shall, subject to the directions of the Accountant-General, exercise all the powers and perform all the functions and duties vested in the Accountant-General under the provisions of this Constitution or by law.

2. The Deputy Accountant-General shall act for the Accountant-General in case of his absence or his temporary incapacity to perform his duties.

Part VIII.- The Forces of the Republic

Article 129

1. The Republic shall have an army of two thousand men of whom sixty per centum shall be Greeks and forty per centum shall be Turks.

2. Compulsory military service shall not be instituted except by common agreement of the President and the Vice-President of the Republic.

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Article 130

1. The security forces of the Republic shall consist of the police and gendarmerie and shall have a contingent of two thousand men which may be reduced or increased by common agreement of the President and the Vice-President of the Republic.

2. The security forces of the Republic shall be composed as to seventy per centum of Greeks and as to thirty per centum of Turks:

Provided that for an initial period and in order not to discharge those Turks serving in the police on the 11th February, 1959, except those serving in the auxiliary police, the percentage of Turks may be kept up to a maximum of forty per centum and consequently that of the Greeks may be reduced to sixty per centum.

Article 131

1. The Heads and Deputy Heads of the army, the police and the gendarmerie of the Republic shall be appointed jointly by the President and the Vice-President of the Republic.

2. One of the Heads of the army, the police and the gendarmerie shall be a Turk and where the Head of the army, the police and the gendarmerie belongs to one Community the Deputy Head shall belong to the other Community.

Article 132

Forces which are stationed in parts of the territory of the Republic inhabited in a proportion approaching one hundred per centum only by members of one Community shall belong to that Community.

Part IX.- The Supreme Constitutional Court

Article 133

1. (1) There shall be a Supreme Constitutional Court of the Republic composed of a Greek, a Turk and a neutral judge. The neutral judge shall be the President of the Court.

   (2) The President and the other judges of the Supreme Constitutional Court shall be appointed jointly by the President and the Vice-President of the Republic:

   Provided that in the case of a vacancy solely in the post of either the Greek or the Turkish judge the proposal of the President or the Vice-President of the Republic to whose Community the judge to be appointed shall belong shall prevail if the President and the Vice-President of the Republic do not agree on the appointment within a week of such proposal.

2. The seat of the Supreme Constitutional Court shall be in the capital of the Republic.

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3. The neutral judge shall not be a subject or a citizen of the Republic or of the Kingdom of Greece or of the Republic of Turkey or of the United Kingdom and the Colonies.

4. The Greek and the Turkish judge of the Supreme Constitutional Court shall be a citizen of the Republic.

5. The President and the other judges of the Supreme Constitutional Court shall be appointed from amongst lawyers of high professional and moral standard.

6. (1) The President of the Court shall be appointed for a period of six years.

(2) The remuneration and other conditions of service of the President of the Court shall be laid down in the instrument of his appointment.

(3) The conditions of service of the President of the Court to be laid down in the instrument of his appointment as provided in sub-paragraph (2) of this paragraph shall include-

(a) provision for his retirement on the same grounds as those on which the Greek or the Turkish judge may be retired under sub-paragraph (3) of paragraph 7 of this Article; and

(b) provision for his dismissal on the same grounds as those on which such Greek or Turkish judge may be dismissed under sub-paragraph (4) of paragraph 7 of this Article.

7. (1) The Greek and the Turkish judge of the Court shall be permanent members of the judicial service of the Republic and shall hold office until they attain the age of sixty-eight.

(2) Without prejudice to any retirement pension, gratuity or any other like benefit he may have acquired under the provisions of any law, the Greek or the Turkish judge of the Court may at any time resign his office by writing under his hand addressed to the President and the Vice-President of the Republic.

(3) The Greek or the Turkish judge of the Court shall be retired on account of such mental or physical incapacity or infirmity as would render him incapable of discharging the duties of his office either permanently or for such period of time as would render it impracticable for him to continue in office. A judge so retired shall be entitled to all benefits and emoluments provided by any law in force for the time being.

(4) The Greek or the Turkish judge of the Court may be dismissed on the ground of misconduct.

8. (1) There shall be established a Council consisting of the President of the High Court as Chairman and the senior in appointment Greek judge and the Turkish judge of the High Court as members.

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(2) This Council shall have exclusive competence to determine all matters relating to-

(a) the retirement, dismissal or otherwise the termination of the appointment of the President of the Court in accordance with the conditions of service laid down in the instrument of his appointment;

(b) the retirement or dismissal of the Greek or the Turkish judge of the Court on any of the grounds provided in sub-paragraphs (3) and (4) of paragraph 7 of this Article.

(3) The proceedings of the Council under sub-paragraph (2) of this paragraph shall be of a judicial nature and the judge concerned shall be entitled to be heard and present his case before the Council.

(4) The decision of the Council taken by a majority shall be binding upon the President and the Vice-President of the Republic who shall jointly act accordingly.

9. In the case of temporary absence or incapacity of the President or of the Greek judge or of the Turkish judge of the Court, the President of the High Court or the senior in appointment of the two Greek judges or the Turkish judge thereof respectively shall act in his place during such temporary absence or incapacity.

10. No action shall be brought against the President or any other judge of the Court for any act done or words spoken in his judicial capacity.

11. The remuneration and other conditions of service of the Greek and the Turkish judge of the Court shall be fixed by a law.

12. The remuneration and other conditions of service of any judge of the Court shall not be altered to his disadvantage after his appointment.

Article 134

1. The sittings of the Supreme Constitutional Court for the hearing of all proceedings shall be public but the Court may hear any proceedings in the presence only of the parties, if any, and the officers of the Court if it considers that such a course will be in the interest of the orderly conduct of the proceedings or if the security of the Republic or public morals so require.

2. When a recourse appears to be *prima facie* frivolous the Court may, after hearing arguments by or on behalf of the parties concerned, unanimously dismiss such recourse without a public hearing if satisfied that such recourse is in fact frivolous.

Article 135

The Supreme Constitutional Court shall make Rules of Court for regulating the practice and procedure of the Court in the exercise of jurisdiction conferred upon it by this Constitution, for prescribing forms and fees in respect of proceedings in the Court and for prescribing and regulating the composition of its registry and the powers and the duties of the officers thereof.

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Article 136

The Supreme Constitutional Court shall have exclusive jurisdiction to adjudicate finally on all matters as provided in the ensuing Articles.

Article 137

1. The President and the Vice-President of the Republic, either separately or conjointly, shall have a right of recourse to the Supreme Constitutional Court under the provisions of this Article on the ground that any law or decision of the House of Representatives or any provision thereof discriminates against either of the two Communities.

2. A recourse under paragraph 1 of this Article shall be made within seventy-five days of the promulgation of any such law or decision.

3. Notice of the filing of such a recourse shall be published in the official Gazette of the Republic by the President and the Vice-President of the Republic within a period of twenty-four hours from such filing. Upon the publication of such notification in the official Gazette of the Republic the operation of such law or decision shall be suspended from the day following such publication until the Supreme Constitutional Court determines such recourse.

4. Upon such recourse the Court may confirm or annul such law or decision or any provision thereof or return it to the House of Representatives for reconsideration, in whole or in part:

Provided that in the case of annulment of a law or decision or any provision thereof such annulment shall operate from the date of the publication of the decision of the Supreme Constitutional Court under paragraph 5 of this Article without prejudice to anything done or left undone under such law or decision or provision thereof.

5. The decision of the Court shall be notified forthwith to the President and the Vice-President of the Republic and to the President and the Vice-President of the House of Representatives and shall be published forthwith by the President and the Vice-President of the Republic in the official Gazette of the Republic.

Article 138

1. Where on the adoption of the Budget by the House of Representatives the President and the Vice-President of the Republic, either separately or conjointly, has or have exercised his or their right to return it to the House of Representatives on the ground that in his or their judgment there is a discrimination and the House has persisted in its decision, the President and the Vice-President of the Republic, either separately or conjointly, as the case may be, shall have a right of recourse to the Supreme Constitutional Court on such ground.

2. Such recourse shall be made within the period fixed by this Constitution for the promulgation of the laws or decisions of the House of Representatives.

3. Upon such a recourse the Court may annul or confirm the Budget or return it to the House of Representatives, in whole or in part.

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4. The decision of the Court shall be notified forthwith to the President and the Vice-President of the Republic and to the President and the Vice-President of the House of Representatives and shall be published forthwith by the President and the Vice-President of the Republic in the official Gazette of the Republic.

Article 139

1. The Supreme Constitutional Court shall have jurisdiction to adjudicate finally on a recourse made in connexion with any matter relating to any conflict or contest of power or competence arising between the House of Representatives and the Communal Chambers or any one of them and between any organs of, or authorities in, the Republic:

Provided that nothing in this paragraph contained shall apply to any conflict or contest between any courts or judicial authorities in the Republic, which conflict or contest shall be decided by the High Court.

For the purposes of this paragraph the expression "courts or judicial authorities in the Republic" does not include the Supreme Constitutional Court.

2. Where any question arises as to the competence of the Supreme Constitutional Court regarding any matter, such question shall be determined by the Supreme Constitutional Court.

3. Recourse to the Court under paragraph 1 of this Article may be made by-

(a) the President or the Vice-President of the Republic; or

(b) the House of Representatives; or

(c) one of, or both the Communal Chambers; or

(d) any other organ of, or authority in, the Republic, if involved in such conflict or contest.

4. Such recourse shall be made within thirty days of the date when such power or competence is contested.

5. Upon such a recourse the Court may declare that the law or the decision or the act, the subject or the recourse, is void, either from the time when the conflict or contest arose or ab initio, and without any legal effect whatsoever, either in whole or in part, on the ground that such law or decision or act was made or taken or done without power or competence, and in either case the Court may give directions as to the effect of anything done or left undone under such law or decision or act.

6. Any decision of the Court upon such recourse shall be forthwith notified to the parties concerned and to the President and the Vice-President of the Republic who shall forthwith publish it in the official Gazette of the Republic.

7. Upon a recourse under this Article the Court may order that the operation of the law or decision or act, as the case may be, which is the subject matter of such recourse, shall be suspended until the determination of the recourse; such order shall be published forthwith in the official Gazette of the Republic.

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Article 140

1. The President and the Vice-President of the Republic acting jointly may, at any time prior to the promulgation of any law or decision of the House of Representatives, refer to the Supreme Constitutional Court for its opinion the question as to whether such law or decision or any specified provision thereof is repugnant to or inconsistent with any provision of this Constitution, otherwise than on the ground that such law or decision or any provision thereof discriminates against either of the two Communities.

2. The Supreme Constitutional Court shall consider every question referred to it under paragraph 1 of this Article and having heard arguments on behalf of the President and the Vice-President of the Republic and on behalf of the House of Representatives shall give its opinion on such question and notify the President and the Vice-President of the Republic and the House of Representatives accordingly.

3. In case the Supreme Constitutional Court is of the opinion that such law or decision or any provision thereof is repugnant to or inconsistent with any provision of this Constitution such law or decision or such provision thereof shall not be promulgated by the President and the Vice-President of the Republic.

Article 141

1. The President or the Vice-President of the Republic may, at any time prior to the promulgation of any law imposing any formalities, conditions or restrictions on the right guaranteed by Article 25, refer to the Supreme Constitutional Court for its opinion the question as to whether such formality, condition or restriction is not in the public interest or is contrary to the interests of his Community.

2. The Supreme Constitutional Court shall consider such question and having heard arguments on behalf of the President or the Vice-President of the Republic, as the case may be, and on behalf of the House of Representatives shall give its opinion and notify the President and the Vice-President of the Republic and the House of Representatives accordingly.

3. In case the Supreme Constitutional Court is of opinion that such formality, condition or restriction is not in the public interest or is contrary to the interests of such Community such law or any provision thereof prescribing such formality, condition or restriction shall not be promulgated by the President and the Vice-President of the Republic.

Article 142

1. The President of the Republic with regard to any law or decision of the Greek Communal Chamber and the Vice-President of the Republic with regard to any law or decision of the Turkish Communal Chamber, may, at any time prior to the publication of such law or decision, refer to the Supreme Constitutional Court for its opinion the question as to whether such law or decision or any specified provision thereof is repugnant to or inconsistent with any provision of this Constitution.

2. The Supreme Constitutional Court shall consider every question referred to it under paragraph 1 of this Article and having heard arguments on behalf of the President or the Vice-President of the Republic, as the case may be, and on behalf of the Communal

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Chamber concerned, shall give its opinion on such question and notify accordingly the President or the Vice-President of the Republic, as the case may be, and the Communal Chamber concerned.

3. In case the Supreme Constitutional Court is of the opinion that such law or decision or any provision thereof is repugnant to or inconsistent with any provision of this Constitution such law or decision or such provision thereof shall not be published by the President or the Vice-President of the Republic, as the case may be.

Article 143

1. The President or the Vice-President of the Republic or Representatives consisting of at least one-fifth of the total number of a newly-elected House of Representatives shall have a right of recourse to the Supreme Constitutional Court on the question whether there exist such urgent and exceptional unforeseen circumstances as to justify a House of Representatives which continues to be in office until the assumption of office of a newly-elected House to make any laws or take any decisions as in Article 68 provided.

2. Such recourse, if made by the President or the Vice-President of the Republic shall be made within the period provided by this Constitution for the promulgation of the laws and decisions of the House of Representatives, and if made by such Representatives shall be made within fifteen days of the date when the new House first meets.

3. The decision of the Court shall be notified forthwith to the President and the Vice-President of the Republic and to the President and the Vice-President of the House of Representatives and shall be published forthwith by the President and the Vice-President of the Republic in the official Gazette of the Republic.

Article 144

1. A party to any judicial proceedings, including proceedings on appeal, may, at any stage thereof, raise the question of the unconstitutionality of any law or decision or any provision thereof material for the determination of any matter at issue in such proceedings and thereupon the Court before which such question is raised shall reserve the question for the decision of the Supreme Constitutional Court and stay further proceedings until such question is determined by the Supreme Constitutional Court.

2. The Supreme Constitutional Court, on a question so reserved, shall, after hearing the parties, consider and determine the question so reserved and transmit its decision to the Court by which such question has been reserved.

3. Any decision of the Supreme Constitutional Court under paragraph 2 of this Article shall be binding on the court by which the question has been reserved and on the parties to the proceedings and shall, in case such decision is to the effect that the law or decision or any provision thereof is unconstitutional, operate as to make such law or decision inapplicable to such proceedings only.

Article 145

The Supreme Constitutional Court shall have exclusive jurisdiction to adjudicate finally on any election petition, made under the provisions of the Electoral Law, with regard to the

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elections of the President or the Vice-President of the Republic or of members of the House of Representatives or of any Communal Chamber.

Article 146

1. The Supreme Constitutional Court shall have exclusive jurisdiction to adjudicate finally on a recourse made to it on a complaint that a decision, an act or omission of any organ, authority or person, exercising any executive or administrative authority is contrary to any of the provisions of this Constitution or of any law or is made in excess or in abuse of powers vested in such organ or authority or person.

2. Such a recourse may be made by a person whose any existing legitimate interest, which he has either as a person or by virtue of being a member of a Community, is adversely and directly affected by such decision or act or omission.

3. Such a recourse shall be made within seventy-five days of the date when the decision or act was published or, if not published and in the case of an omission, when it came to the knowledge of the person making the recourse.

4. Upon such a recourse the Court may, by its decision-

(a) confirm, either in whole or in part, such decision or act or omission; or

(b) declare, either in whole or in part, such decision or act to be null and void and of no effect whatsoever, or

(c) declare that such omission, either in whole or in part, ought not to have been made and that whatever has been omitted should have been performed.

5. Any decision given under paragraph 4 of this Article shall be binding on all courts and all organs or authorities in the Republic and shall be given effect to and acted upon by the organ or authority or person concerned.

6. Any person aggrieved by any decision or act declared to be void under paragraph 4 of this Article or by any omission declared thereunder that it ought not to have been made shall be entitled, if his claim is not met to his satisfaction by the organ, authority or person concerned, to institute legal proceedings in a court for the recovery of damages or for being granted other remedy and to recover just and equitable damages to be assessed by the court or to be granted such other just and equitable remedy as such court is empowered to grant.

Article 147

The Supreme Constitutional Court shall have exclusive jurisdiction to adjudicate finally on a motion made by the Attorney-General and the Deputy Attorney-General of the Republic, in accordance with the provisions of paragraph 3 of Article 44, with regard to the question of the existence of such permanent or temporary incapacity, or absence, otherwise than temporary, of the President or the Vice-President of the Republic, as would prevent him to perform effectively his duties as in sub-paragraph (d) of paragraph 1 of Article 44 provided.

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Article 148

Subject to the provisions of paragraph 3 of Article 144, any decision of the Supreme Constitutional Court on any matter within its jurisdiction or competence shall be binding on all courts, organs, authorities and persons in the Republic.

Article 149

The Supreme Constitutional Court shall have exclusive jurisdiction-

(a) to determine any conflict between the two texts of this Constitution by reference to the text of the draft of this Constitution signed at Nicosia on the 6th April, 1960, in the Joint Constitutional Commission together with the schedule of amendments thereto signed on 16 August, 1960 by representatives of the Kingdom of Greece, the Republic of Turkey and the Greek and Turkish Cypriot communities, due regard being had to the letter and spirit of the Zurich Agreement dated the 11th February, 1959, and of the London Agreement dated the 19th of February, 1959;

(b) to make, in case of ambiguity, any interpretation of this Constitution due regard being had to the letter and spirit of the Zurich Agreement dated the 11th February, 1959, and of the London Agreement dated the 19th February, 1959.

Article 150

The Supreme Constitutional Court shall have jurisdiction to punish for contempt of itself.

Article 151

1. Notwithstanding anything in the foregoing provisions of this Part, the Supreme Constitutional Court shall have exclusive competence to decide finally on a reference made to it by the Public Service Commission under sub-paragraph (2) of paragraph 3 of Article 125.

2. Nothing in this Article contained shall preclude any recourse to the Supreme Constitutional Court under Article 146 on a complaint concerning any decision, act or omission of the Public Service Commission.

Part X.- The High Court and the Subordinate Courts

Article 152

1. The judicial power, other than that exercised under Part IX by the Supreme Constitutional Court and under paragraph 2 of this Article by the courts provided by a communal law, shall be exercised by a High Court of Justice and such inferior courts as may, subject to the provisions of this Constitution, be provided by a law made thereunder.

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2. The judicial power with respect to civil disputes relating to personal status and to religious matters which are reserved under Article 87 for the Communal Chambers shall be exercised by such courts as a communal law made under the provisions of this Constitution shall provide.

Article 153

1. (1) There shall be a High Court of Justice composed of two Greek judges, one Turkish judge and a neutral judge. The neutral judge shall be the President of the Court and shall have two votes.

   (2) The President and the other judges of the High Court shall be appointed jointly by the President and the Vice-President of the Republic:

   Provided that in the case of a vacancy solely in the post of either a Greek judge or the Turkish judge the proposal of the President or the Vice-President of the Republic to whose Community the judge to be appointed shall belong shall prevail if the President and the Vice-President of the Republic do not agree on the appointment within a week of such proposal.

2. The seat of the High Court shall be in the capital of the Republic.

3. The neutral judge shall not be a subject or a citizen of the Republic or of the Kingdom of Greece or of the Republic of Turkey or of the United Kingdom and the Colonies.

4. The Greek judges and the Turkish judge of the High Court shall be citizens of the Republic.

5. The President and the other judges of the High Court shall be appointed from amongst lawyers of high professional and moral standard.

6. (1) The President of the High Court shall be appointed for a period of six years.

   (2) The remuneration and other conditions of service of the President of the High Court shall be laid down in the instrument of his appointment.

   (3) The conditions of service of the President of the High Court to be laid down in the instrument of his appointment as provided in sub-paragraph (2) of this paragraph shall include-

      (a) provision for his retirement on the same grounds as those on which a Greek or the Turkish judge may be retired under sub-paragraph (3) of paragraph 7 of this Article; and

      (b) provision for his dismissal on the same grounds as those on which such Greek or Turkish judge may be dismissed under sub-paragraph (4) of paragraph 7 of this Article.

7. (1) The Greek judges and the Turkish judge of the High Court shall be permanent members of the judicial service of the Republic and shall hold office until

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they attain the age of sixty-eight.

(2) Without prejudice to any retirement pension, gratuity or any other like benefit he may have acquired under the provisions of any law, any Greek judge or the Turkish judge of the High Court may at any time resign his office by writing under his hand addressed to the President and the Vice-President of the Republic.

(3) Any Greek or the Turkish judge of the High Court shall be retired on account of such mental or physical incapacity or infirmity as would render him incapable of discharging the duties of his office either permanently or for such period of time as would render it impracticable for him to continue in office. A judge so retired shall be entitled to all benefits and emoluments provided by any law in force for the time being.

(4) A Greek or the Turkish judge of the High Court may be dismissed on the ground of misconduct.

8. (1) There shall be established a Council consisting of the President of the Supreme Constitutional Court as Chairman and the Greek and the Turkish judge of the Supreme Constitutional Court as members.

(2) This Council shall have exclusive competence to determine all matters relating to-

(a) the retirement, dismissal or otherwise the termination of the appointment of the President of the High Court in accordance with the conditions of service laid down in the instrument of his appointment;

(b) the retirement or dismissal of any Greek judge or the Turkish judge of the High Court on any of the grounds provided in sub-paragraphs (3) and (4) of paragraph 7 of this Article.

(3) The proceedings of the Council under sub-paragraph (2) of this paragraph shall be of a judicial nature and the judge concerned shall be entitled to be heard and present his case before the Council.

(4) The decision of the Council taken by a majority shall be binding upon the President and the Vice-President of the Republic who shall jointly act accordingly.

9. In the case of temporary absence or incapacity of the President of the High Court or of one of the Greek judges or of the Turkish judge thereof the President of the Supreme Constitutional Court or the Greek judge or the Turkish judge thereof respectively shall act in his place during such temporary absence or incapacity:

Provided that if it is impracticable or inconvenient for the Greek or the Turkish judge of the Supreme Constitutional Court to act, the senior in office Greek or Turkish judge in the judicial service of the Republic shall so act respectively.

10. No action shall be brought against the President or any other judge of the High Court for any act done or words spoken in his judicial capacity.

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11. The remuneration and other conditions of service of the Greek judges and of the Turkish judge of the High Court shall be fixed by a law.

12. The remuneration and other conditions of service of any judge of the High Court shall not be altered to his disadvantage after his appointment.

Article 154

The sittings of the High Court for the hearing of all proceedings shall be public but the court may hear any proceedings in the presence only of the parties, if any, and the officers of the court if it considers that such a course will be in the interest of the orderly conduct of the proceedings or if the security of the Republic or public morals so require.

Article 155

1. The High Court shall be the highest appellate court in the Republic and shall have jurisdiction to hear and determine, subject to the provisions of this Constitution and of any Rules of Court made thereunder, all appeals from any court other than the Supreme Constitutional Court.

2. Subject to paragraphs 3 and 4 of this Article the High Court shall have such original and revisional jurisdiction as is provided by this Constitution or as may be provided by a law:

Provided that where original jurisdiction is so conferred, such jurisdiction shall, subject to Article 159, be exercised by such judge or judges of the High Court as the High Court shall determine:

Provided further that there shall be a right of appeal to the High Court from their decision.

3. The High Court shall, to the exclusion of any other court, determine the composition of the court which is to try a civil case where the plaintiff and the defendant belong to different Communities and of the court which is to try a criminal case in which the accused and the injured party belong to different Communities. Such court shall be composed of judges belonging to both the Greek and the Turkish Communities.

4. The High Court shall have exclusive jurisdiction to issue orders in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari.

Article 156

The following offences in the first instance shall be tried by a court composed of such judges belonging to both Communities as the High Court shall determine presided over by the President of the High Court:-

(a) treason and other offences against the security of the Republic;

(b) offences against the Constitution and the constitutional order:

Provided that in the appeal from any decision of such court the High Court shall be presided over by the President of the Supreme Constitutional Court in the place of the

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President of the High Court and in such a case the President of the Supreme Constitutional Court shall have all the powers vested in the President of the High Court.

Article 157

1. Save as otherwise provided in this Constitution with regard to the Supreme Constitutional Court, the High Court shall be the Supreme Council of Judicature, and its President shall have two votes.

2. The appointment, promotion, transfer, termination of appointment, dismissal and disciplinary matters of judicial officers are exclusively within the competence of the Supreme Council of Judicature.

3. No judicial officer shall be retired or dismissed except on the like grounds and in the same manner as a judge of the High Court.

Article 158

1. A law shall, subject to the provisions of this Constitution, provide for the establishment, jurisdiction and powers of courts of civil and criminal jurisdiction other than courts to be provided by a communal law under Article 160.

2. Any such law shall provide for the establishment of adequate courts in sufficient number for the proper and undelayed administration of justice and for securing within the limits of their respective competence the efficient application of the provisions of this Constitution guaranteeing the fundamental rights and liberties.

3. A law shall provide for the remuneration and other conditions of service of the judges of the courts to be established under paragraph 1 of this Article. The remuneration and other conditions of service of any such judge shall not be altered to his disadvantage after his appointment.

Article 159

1. A court exercising civil jurisdiction in a case where the plaintiff and the defendant belong to the same Community shall be composed solely of a judge or judges belonging to that Community.

2. A court exercising criminal jurisdiction in a case where the accused and the person injured belong to the same Community, or where there is no person injured, shall be composed of a judge or judges belonging to that Community.

3. Where in a civil case the plaintiff and the defendant belong to different Communities the court shall be composed of such judges belonging to both Communities as the High Court shall determine.

4. Where in a criminal case the accused and the person injured belong to different Communities the court shall be composed of such judges belonging to both Communities as the High Court shall determine.

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5. A coroner's inquest where the deceased belonged to the Greek Community shall be conducted by a Greek coroner and where the deceased belonged to the Turkish Community shall be conducted by a Turkish coroner. In case there are more than one deceased belonging to different Communities the inquest shall be conducted by such coroner as the High Court may direct.

6. The execution of any judgment or order of a court exercising civil or criminal jurisdiction, if the court is composed of a Greek judge or Greek judges shall be carried out through Greek officers of the court, if the court is composed of a Turkish judge or Turkish judges shall be carried out through Turkish officers of the court, and in any other case such execution shall be carried out by such officers as the court of trial shall direct.

Article 160

1. A communal law made by the Communal Chamber concerned shall, subject to the provisions of this Constitution, provide for the establishment, composition and jurisdiction of courts to deal with civil disputes relating to personal status and to religious matters which are reserved for the competence of the Communal Chambers by the provisions of this Constitution.

2. By such law provision shall be made for appeals against the decisions of such courts and for the composition of the courts by which such appeals are to be heard and determined and for the jurisdiction and powers of such appellate courts. A communal law made under this paragraph may provide that such appellate court may be composed of a judge or judges of the High Court either sitting alone or with such other judge or judges in the judicial service of the Republic as such law may determine.

3. Any such court as aforesaid in the exercise of its jurisdiction, shall apply the laws made by the Communal Chamber concerned:

Provided that nothing in this paragraph contained shall preclude a court of the Republic from applying in a case, where an issue relating to personal status or to religious matters is raised incidentally, the relevant communal law.

Article 161

Subject to paragraph 3 of Article 160 the courts of the Republic shall have power to apply also the relevant communal laws other than those relating to personal status and to religious matters.

Article 162

The High Court shall have jurisdiction to punish for any contempt of itself, and any other court of the Republic, including a court established by a communal law under Article 160, shall have power to commit any person disobeying a judgment or order of such court to prison until such person complies with such judgment or order and in any event for a period not exceeding twelve months.

A law or a communal law, notwithstanding anything in Article 90 contained, as the case may be, may provide for punishment for contempt of court.

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Article 163

1. The High Court shall make Rules of Court for regulating the practice and procedure of the High Court and of any other court established by or under this Part of this Constitution, other than a court established under Article 160.

2. Without prejudice to the generality of paragraph 1 of this Article the High Court may make Rules of Court for the following purposes:-

(a) for regulating the sittings of the courts and the selection of judges for any purpose;

(b) for providing for the summary determination of any appeal or other proceedings which appear to the High Court or such other court before which such proceedings are pending to be frivolous or vexatious or to have been instituted for the purpose of delaying the course of justice;

(c) for prescribing forms and fees in respect of proceedings in the courts and regulating the costs of, and incidental to, any such proceedings;

(d) for prescribing and regulating the composition of the registries of the courts and the powers and duties of officers of the courts;

(e) for prescribing the time within which any requirement of the Rules of Court is to be complied with;

(f) for prescribing the practice and procedure to be followed by the Supreme Council of Judicature in the exercise of its competence with regard to disciplinary matters relating to judicial officers.

3. Rules of Court made under this Article may fix the number of judges of the High Court who are to hear any specified matter:

Provided that in the exercise of the jurisdiction conferred on the High Court by or under this Constitution no matter shall be determined unless the provisions of Article 159 are complied with and for the hearing of any appeal, including an appeal under Article 156, the High Court shall, subject to paragraph 2 of Article 160, be composed of all its members.

Article 164

1. Any appellate court created under paragraph 2 of Article 160 shall make Rules of Court for regulating the practice and procedure of such court and the practice and procedure of any court from which any appeal shall lie to it.

2. Without prejudice to the generality of paragraph 1 of this Article such appellate court may make Rules of Court for itself and for the Courts from which an appeal shall lie to it for the following purposes:

(a) for regulating the sittings of such courts;

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(b) for prescribing forms and fees in respect of proceedings in such courts and for regulating the costs of, and incidental to, any such proceedings;

(c) for prescribing and regulating the composition of registries of such courts and the powers and duties of officers of such courts;

(d) for prescribing the time within which any requirement of such Rules of Court is to be complied with.

Part XI.- Financial Provisions

Article 165

1. All revenues and moneys, howsoever raised or received by the Republic, shall, subject to the provisions of this Constitution and of the law, be paid into and form one fund to be known as the Consolidated Fund of the Republic.

2. All revenues and moneys, howsoever raised or received by a Communal Chamber, shall, subject to any communal law, be paid into and form one fund, to be known as the Consolidated Fund of that Communal Chamber.

3. Unless the context otherwise requires any reference in this Constitution to the Consolidated Fund shall be construed as a reference to the Consolidated Fund of the Republic provided in paragraph l of this Article.

Article 166

1. There shall be charged on the Consolidated Fund, in addition to any grant, remuneration or other moneys charged by any other provision of this Constitution or law-

(a) all pensions and gratuities for which the Republic is liable;

(b) the emoluments of the President and the Vice-President of the Republic and the salaries of the judges of the Supreme Constitutional Court and of the High Court, of the Attorney-General and of the Deputy Attorney-General of the Republic, of the Auditor-General and of the Deputy Auditor-General, of the Governor and the Deputy Governor of the Issuing Bank of the Republic and of the members of the Public Service Commission;

(c) all debt charges for which the Republic is liable; and

(d) any moneys required to satisfy any judgment, decision or award against the Republic by any court.

2. For the purposes of this Article debt charges include interest, sinking fund charges, the repayment of amortisation of debt and all expenditure in connexion with the raising of

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loans on the security of the Consolidated Fund and the service and redemption of debt created thereby.

Article 167

1. The Minister of Finance shall, upon receipt of the estimates of each Ministry and of each Independent Office of the Republic, cause to be prepared in respect of every financial year a comprehensive Budget of the Republic for that year which, when approved by the Council of Ministers, shall be laid before the House of Representatives.

2. The estimates of expenditure in the Budget shall show separately-

(a) the total sums required to meet expenditure charged on the Consolidated Fund; and

(b) the sums respectively required to meet other expenditure.

3. The said Budget shall also show, so far as is practicable, the assets and liabilities of the Republic at the end of the last completed financial year, the manner in which those assets are invested or held and particulars in respect of outstanding liabilities.

4. The expenditure to be met from the Consolidated Fund but not charged thereon shall be submitted to the House of Representatives for adoption and if adopted shall be included in the Budget in respect of that financial year.

5. If in respect of any financial year it is found that the amount adopted by the House of Representatives for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been adopted a supplementary budget showing the sums required shall be laid before the House of Representatives for adoption and if adopted by the House of Representatives shall be included in the Budget in respect of that financial year.

6. The House of Representatives may approve or refuse its approval to any expenditure contained in a supplementary Budget but may not vote an increased amount or an alteration in its destination.

Article 168

1. No expenditure shall be met from the Consolidated Fund or other Public Funds except upon the authority of a warrant under the hand of the Minister of Finance:

Provided that the Minister of Finance shall not refuse to sign any such warrant for an expenditure provided for in the Budget.

2. Subject to the provisions of paragraph 3 of this Article, no such warrant shall be issued unless such expenditure has been adopted in the Budget for the financial year to which the warrant relates in the Budget.

3. If the Budget has not been adopted by the House of Representatives by the first day of the financial year to which it relates, the House of Representatives may, subject to the provisions of this Constitution, by a resolution, authorise the meeting of any expenditure required, for a period not exceeding one month at any one time but in any event not exceeding two months in the aggregate, from the Consolidated Fund or other Public

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Funds as they may consider essential for the continuance of the public services shown in the Budget until the expiration of such period:

Provided that the expenditure so authorised for any service shall not exceed the proportion with respect to such period of the amount voted for that service in the Budget for the preceding financial year.

Part XII.- Miscellaneous Provisions

Article 169

Subject to the provisions of Article 50 and paragraph 3 of Article 57-

(1) every international agreement with a foreign State or any International Organisation relating to commercial matters, economic co-operation (including payments and credit) and *modus vivendi* shall be concluded under a decision of the Council of Ministers;

(2) any other treaty, convention or international agreement shall be negotiated and signed under a decision of the Council of Ministers and shall only be operative and binding on the Republic when approved by a law made by the House of Representatives whereupon it shall be concluded:

(3) treaties, conventions and agreements concluded in accordance with the foregoing provisions of this Article shall have, as from their publication in the official Gazette of the Republic, superior force to any municipal law on condition that such treaties, conventions and agreements are applied by the other party thereto.

Article 170

1. The Republic shall, by agreement on appropriate terms, accord most-favoured-nation treatment to the Kingdom of Greece, the Republic of Turkey and the United Kingdom of Great Britain and Northern Ireland for all agreements whatever their nature might be.

2. The provisions of paragraph 1 of this Article shall not apply to the Treaty concerning the Establishment of the Republic of Cyprus between the Republic, the Kingdom of Greece, the Republic of Turkey and the United Kingdom of Great Britain and Northern Ireland concerning the bases and military facilities accorded to the United Kingdom.

Article 171

1. In sound and vision broadcasting there shall be programmes both for the Greek and Turkish Communities.

2. The time allotted to programmes for the Turkish Community in sound broadcasting shall not be less than seventy-five hours in a seven-day week, spread to all days of such week in daily normal periods of transmission:

Provided that if the total period of transmissions has to be reduced so that the time allotted

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to programmes for the Greek Community should fall below seventy-five hours in a seven-day week, then the time allotted to programmes for the Turkish Community in any such week should be reduced by the same number of hours as that by which the time allotted to programmes for the Greek Community is reduced below such hours:

Provided further that if the time allotted to programmes for the Greek Community is increased above one hundred and forty hours in a seven-day week, then the time allotted to programmes for the Turkish Community shall be increased in the ratio of three hours for the Turkish Community to every seven hours for the Greek Community.

3. In vision broadcasting there shall be allotted three transmission days to the programmes for the Turkish Community of every ten consecutive transmission days and the total time allotted to the programmes for the Turkish Community in such ten transmission days shall be in the ratio of three hours to seven hours allotted to programmes for the Greek Community in such ten transmission days.

4. All official broadcasts in sound and vision shall be made both in Greek and Turkish and shall not be taken into account for the purposes of calculating the time under this Article.

Article 172

The Republic shall be liable for any wrongful act or omission causing damage committed in the exercise or purported exercise of the duties of officers or authorities of the Republic.

A law shall regulate such liability.

Article 173

1. Separate municipalities shall be created in the five largest towns of the Republic, that is to say, Nicosia, Limassol, Famagusta, Larnaca and Paphos by the Turkish inhabitants thereof:

Provided that the President and the Vice-President of the Republic shall within four years of the date of the coming into operation of this Constitution examine the question whether or not this separation of municipalities in the aforesaid towns shall continue.

2. The council of the Greek municipality in any such town shall be elected by the Greek electors of the town and the council of the Turkish municipality in such town shall be elected by the Turkish electors of the town.

3. In each such town a co-ordinating body shall be set up composed of two members chosen by the council of the Greek municipality, two members chosen by the council of the Turkish municipality and a President chosen by agreement between the two councils of such municipalities in such town. Such co-ordinating body shall provide for work which needs to be carried out jointly, shall carry out joint services entrusted to it by agreement of the councils of the two municipalities within the town and shall concern itself with matters which require a degree of co-operation.

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Article 174

Within the limits of any such town no municipal tax, rate, fee or any other revenue shall be imposed or levied upon or collected from any person by any such municipality unless such person belongs to the same Community as the municipality concerned:

Provided that-

(a) fees payable in connexion with the use of municipal markets, slaughter houses and other municipal places which are in the region within which the council of one of such municipalities in any such town exercises its jurisdiction:

(b) entertainment fees payable in connexion with premises or places in the region within which the council of one of such municipalities in any such town exercises its jurisdiction;

(c) such fees as may be agreed upon between the two councils of such municipalities in any such town for any services additional to, or in excess of, those usually rendered by a municipality, to a person not belonging to the Community thereof, shall be paid to the council of such municipality:

Provided further that in case any service in the way of control, inspection and the like is rendered by one of the municipalities to a person belonging to the Community of the other municipality in any such town any fees in respect thereof shall be payable to the municipality rendering such service.

Article 175

No licence or permit shall be issued to any person by a municipality in any such town not beloning to the Community of such municipality:

Provided that licences or permits relating to premises, places or building operations in the region within which one of such municipalities in any such town exercises its jurisdiction shall be issued by the council of such municipality and any service, control or supervision in connexion with such licences or permits shall be performed by the council of such municipality and any such fee payable in respect thereof shall be collected by such council.

Article 176

Nothing in Articles 173 to 178, both inclusive, contained shall be construed as precluding a law to provide for town planning with respect to any such municipalities subject to the following conditions:-

(a) the planning authority for any such town shall consist of ten members, out of whom seven shall be Greeks and three shall be Turks;

(b) all decisions of such authority shall be taken by an absolute majority:

Provided that no decision affecting a Greek municipality shall be taken unless such majority includes the votes of at least four Greek members, and no decision

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affecting a Turkish municipality shall be taken unless such majority includes the votes of at least two Turkish members.

(c) all matters of a town planning nature affecting any such town and any regulation of any such matter shall be entrusted exclusively to such planning authority.

Article 177

Subject to the provisions of Articles 173 to 178, both inclusive, each municipality in any such town shall exercise its jurisdiction and perform all its functions respectively within a region the limits of which shall be fixed for each municipality by agreement of the President and the Vice-President of the Republic.

Article 178

With regard to other localities, a special provision shall be made for the constitution of the organs of the municipalities in accordance, as far as possible, with the rule of proportional representation of the two Communities.

Part XIII.- Final Provisions

Article 179

1. This Constitution shall be the supreme law of the Republic.

2. No law or decision of the House of Representatives or of any of the Communal Chambers and no act or decision of any organ, authority or person in the Republic exercising executive power or any administrative function shall in any way be repugnant to, or inconsistent with, any of the provisions of this constitution.

Article 180

1. The Greek and the Turkish texts of this constitution shall both be originals and shall have the same authenticity and the same legal force.

2. Any conflict between the two texts of this Constitution shall be determined by the Supreme Constitutional Court by reference to the text of the draft of this Constitution signed at Nicosia on the 6th April, 1960, in the Joint Constitutional Commission together with the Schedule of amendments thereto signed on [Note: Date to be inserted later] by representatives of the Kingdom of Greece, Republic of Turkey and the Greek and Turkish Cypriot communities, due regard being had to the letter and spirit of the Zurich Agreement dated the 11th February, 1959, and of the London Agreement dated the 19th February, 1959.

3. In case of ambiguity any interpretation of the Constitution shall be made by the Supreme Constitutional Court due regard being had to the letter and spirit of the Zurich Agreement dated the 11th February, 1959, and of the London Agreement dated the 19th February, 1959.

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Article 181

The treaty guaranteeing the independence, territorial integrity and Constitution of the Republic concluded between the Republic, the Kingdom of Greece, the Republic of Turkey and the United Kingdom of Great Britain and Northern Ireland, and the Treaty of Military Alliance concluded between the Republic, the Kingdom of Greece and the Republic of Turkey, copies of which are annexed to this Constitution as Annexes I and II, shall have constitutional force.

Article 182

1. The Articles or parts of Articles of this Constitution set out in Annex III hereto which have been incorporated from the Zurich Agreement dated 11th February, 1959, are the basic Articles of this Constitution and cannot, in any way, be amended, whether by way of variation, addition or repeal.

2. Subject to paragraph 1 of this Article any provision of this Constitution may be amended, whether by way of variation, addition or repeal, as provided in paragraph 3 of this Article.

3. Such amendment shall be made by a law passed by a majority vote comprising at least two-thirds of the total number of the Representatives belonging to the Greek Community and at least two-thirds of the total number of the Representatives belonging to the Turkish Community.

Article 183

1. In case of war or other public danger threatening the life of the Republic or any part thereof, the Council of Ministers shall have power, by a decision taken in this respect, to issue a Proclamation of Emergency:

Provided that the President and the Vice-President of the Republic shall, separately or conjointly, have a right of veto against any such decision which they shall exercise within forty-eight hours of the date when the decision has been transmitted to their respective offices.

2. Any such Proclamation shall specify the Articles of the Constitution which shall be suspended for the duration of such emergency:

Provided that only the following Articles of the Constitution may be suspended by any such Proclamation that is to say:-

> Article 7, only in so far as it relates to death inflicted by a permissible act of war; Article 10, paragraphs 2 and 3; Article 11; Article 13; Article 16; Article 17; Article 19; Article 21; Article 23, paragraph 8, sub- paragraph (d); Article 25 and Article 27.

3. The President and the Vice-President of the Republic shall, unless, separately or conjointly, they have exercised their right of veto as provided in paragraph 1 of this Article, promulgate forthwith such Proclamation by publication in the official Gazette of the Republic.

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4. A Proclamation promulgated under the foregoing provisions of this Article shall be laid forthwith before the House of Representatives. If the House of Representatives is not sitting it must be convened as soon as possible for this purpose.

5. The House of Representatives shall have the right to reject or confirm such Proclamation of Emergency. In the case of rejection the Proclamation of Emergency shall have no legal effect. In the case of confirmation the President and the Vice-President of the Republic shall promulgate forthwith such decision of the House of Representatives by publication in the official Gazette of the Republic.

6. The Proclamation of Emergency shall cease to operate at the expiration of two months from the date of confirmation by the House of Representatives unless the House, at the request of the Council of Ministers, decides to prolong the duration of the state of emergency, whereupon the President and the Vice-President of the Republic, separately or conjointly, shall have a right of veto against such decision of prolongation to be exercised in accordance with Article 50.

7. (1) While a Proclamation is in operation, notwithstanding anything in this Constitution, the Council of Ministers if satisfied that immediate action is required may, subject to the right of veto of the President and the Vice-President of the Republic under Article 57 to be exercised, separately or conjointly, make any ordinance strictly connected with the state of emergency having the force of law.

(2) If no right of veto is exercised under sub-paragraph (1) of this paragraph the President and the Vice-President of the Republic shall forthwith promulgate by publication in the official Gazette of the Republic such ordinance.

(3) Such ordinance if not sooner revoked shall cease to be in force at the expiration of the emergency.

Article 184

1. Where any ordinance promulgated in pursuance of sub-paragraph (2) of paragraph 7 of Article 183 provides for preventive detention-

(a) the authority on whose order any person is detained under that ordinance shall, as soon as may be, inform him of the grounds for his detention and, subject to paragraph 3 of this Article, the allegations of fact on which the order is based, and shall give him the opportunity of making representations against the order as soon as may be;

(b) no citizen shall be detained under that ordinance for a period exceeding one month unless an advisory board constituted as mentioned in paragraph 2 of this Article has considered any representations made by him under sub-paragraph (a) of this paragraph and has reported, before the expiration of that period, that there is in its opinion sufficient cause for the detention.

2. An advisory board constituted for the purposes of this Article shall consist of a Chairman, who shall be appointed jointly by the President and the Vice-President of the Republic from among persons who are or have been judges of the High Court or are qualified to

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be judges of such Court, and two other members, who shall be appointed jointly by the President and the Vice-President of the Republic after consultation with the President of the High Court.

3. This Article does not require any authority to disclose facts of which disclosure would in its opinion be against the national interest.

Article 185

1. The territory of the Republic is one and indivisible.

2. The integral or partial union of Cyprus with any other State or the separatist independence is excluded.

Article 186

1. In this Constitution, unless otherwise expressly provided or required by the context-

(1) "Community" means the Greek or the Turkish Community;
"court" includes any judge thereof;
"Greek" means a member of the Greek Community as defined in Article 2;
"law" when used in relation to the period after the coming into operation of this Constitution means a law of the Republic;
"person" includes any company, partnership, association, society, institution or body of persons, corporate or unincorporate;
"Republic" means the Republic of Cyprus;
"Turk" or "Turkish" means a member of the Turkish Community as defined in Article 2;

(2) words importing the masculine gender include females and words in the singular include the plural and vice-versa.

2. Where a power is conferred by this Constitution to make any order, rules, regulations or bye-laws or to give any directions the power shall be construed as including a power exercisable in like manner to amend or revoke any such order, rules, regulations, bye-laws or directions.

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Transitional Provisions

Article 187

1. Any person elected-

(a) as first President or first Vice-President of the Republic;

(b) as a member of the House of Representatives or of any Communal Chamber, under any law in force immediately before the date of the coming into operation of this Constitution shall be deemed to be the President of the Republic or the Vice-President of the Republic, a member of the House of Representatives or a member of the Communal Chamber concerned, elected respectively under the provisions of this Constitution.

2. All laws and regulations relating to elections expired on the date of the coming into operation of this Constitution and notwithstanding such expiration shall continue to be in force until a new electoral law is made by the House of Representatives or by any Communal Chamber, as the case may be, and in any case not later than eighteen months of the date of the coming into operation of this Constitution with regard to any by-election to fill any vacancy occurring during such period in the office of the President of the Republic, the Vice-President of the Republic, any Representative or any member of a Communal Chamber.

Article 188

1.Subject to the provisions of this Constitution and to the following provisions of this Article, all laws in force on the date of the coming into operation of this Constitution shall, until amended, whether by way of variation, addition or repeal, by any law or communal law, as the case may be, made under this Constitution, continue in force on or after that date, and shall, as from that date be construed and applied with such modification as may be necessary to bring them into conformity with this Constitution.

2. Save where otherwise provided in the Transitional Provisions of this Constitution no provision in any such law which is contrary to, or inconsistent with, any provision of this Constitution and no law which under Article 78 requires a separate majority shall so continue to be in force:

Provided that the laws relating to the municipalities may continue to be in force for a period of six months after the date of the coming into operation of this Constitution and any law imposing duties or taxes may continue to be in force until the 31st day of December, 1960.

3. In any such law which continues in force under paragraph 1 of this Article, unless the context otherwise requires-

(a) any reference to the Colony of Cyprus or to the "Crown" shall, in relation to any period beginning on or after the date of the coming into operation of this Constitution, be construed as a reference to the Republic;

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(b) any reference to the Governor or the Governor in Council shall, in relation to any such period, be construed as a reference to the President and the Vice-President of the Republic, separately or conjointly, according to the express provisions in this Constitution, to the House of Representatives in matters relating to exercise of legislative power other than those expressly reserved to the Communal Chambers, to the Communal Chamber concerned in all matters within its competence under this Constitution, and to the Council of Ministers in matters relating to exercise of executive power;

(c) any reference to the Administrative Secretary or the Financial Secretary, shall in relation to any such period, be construed as a reference to the Ministry or Independent Office of the Republic for the time being charged with responsibility for the subject in relation to which reference is made;

(d) any reference to the Attorney-General or the Solicitor-General, shall, in relation to any such period, be construed as a reference to the Attorney-General of the Republic or the Deputy Attorney-General of the Republic respectively;

(e) any reference to any other person holding a public office or to any authority or body, shall, in relation to any such period, be construed as a reference to the corresponding public officer or corresponding authority, body or office of the Republic.

4. Any court in the Republic applying the provisions of any such law which continues in force under paragraph 1 of this Article, shall apply it in relation to any such period, with such modification as may be necessary to bring it into accord with the provisions of this Constitution including the Transitional Provisions thereof.

5. In this Article-

"law" includes any public instrument made before the date of the coming into operation of this Constitution by virtue of such law;

"modification" includes amendment, adaptation and repeal.

Article 189

Notwithstanding anything in Article 3 contained, for a period of five years after the date of the coming into operation of this Constitution-

(a) all laws which under Article 188 will continue to be in force may continue to be in the English language;

(b) the English language may be used in any proceedings before any court in the Republic.

Article 190

1. Subject to the ensuing provisions of this Article any court existing immediately before

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the date of the coming into operation of this Constitution shall, notwithstanding anything in this Constitution, as from that date and until a new law is made regarding the constitution of the courts of the Republic and in any event not later than four months from that date, continue to function as hitherto but constituted, as far as practicable, in accordance with the provisions of this Constitution:

Provided that any pending proceedings, civil or criminal, part heard on the date of the coming into operation of this Constitution shall continue and be disposed of, notwithstanding anything contained in this Constitution, by the court as constituted in such a case.

2. Notwithstanding anything in this Constitution and until the Supreme Constitutional Court established thereunder is constituted within a period not later than three months of the date of the coming into operation of this Constitution, the registry of the High Court shall be the registry of the Supreme Constitutional Court.

3. The registry of the High Court shall be deemed to be the registry of the Supreme Constitutional Court for all its purposes, including a recourse, until such Court is constituted; the constitution of such Court shall be effected not later than three months of the date of the coming into operation of this Constitution.

4. In computing any time with regard to a recourse to the Supreme Constitutional Court under the provisions of this Constitution, the period between the date of the coming into operation of this Constitution and the constitution of such Court as aforesaid shall not be counted.

5. The Supreme Court existing immediately before the date of the coming into operation of this Constitution shall be deemed to be the High Court as established under this Constitution until the constitution of such Court under the provisions thereof; the constitution of such Court shall be made not later than three months of the date of the coming into operation of this Constitution:

Provided that a reference to the Chief Justice shall be a reference to the senior member of such Court, and such Court shall be deemed to be validly constituted during such period notwithstanding that its membership shall be below four.

Article 191

Any proceedings pending on the date of the coming into operation of this Constitution in which the Attorney-General on behalf of the Government of the Colony of Cyprus or any Department or officer thereof is a party shall continue, on and after such date, with the Republic or its corresponding office or officer being substituted as a party.

Article 192

1. Save where other provision is made in this Constitution any person who, immediately before the date of the coming into operation of this Constitution, holds an office in the public service shall, after that date, be entitled to the same terms and conditions of service as were applicable to him before that date and those terms and conditions shall not be altered to his disadvantage during his continuance in the public service of the Republic on or after that date.

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2. Subject to paragraph 1 of this Article the judges of the Supreme Court other than the Chief Justice and the judges and magistrates of the subordinate courts holding office immediately before the date of the coming into operation of this Constitution shall, notwithstanding anything contained in Articles 153 and 157, as from that date continue to hold their respective offices as if they had been duly appointed thereto under the provisions of those Articles until an appointment is made under the provisions of those Articles and the provisions of this Constitution shall apply to them accordingly.

3. Where any holder of an office mentioned in paragraphs 1 and 2 of this Article is not appointed in the public service of the Republic he shall be entitled, subject to the terms and conditions of service applicable to him, to just compensation or pension on abolition of office terms out of the funds of the Republic whichever is more advantageous to him.

4. Subject to paragraph 5 of this Article any holder of an office mentioned in paragraphs 1 and 2 of this Article whose office comes, by the operation of this Constitution, within the competence of a Communal Chamber, may, if he so desires, waive his rights under paragraph 3 of this Article and choose to serve under such Communal Chamber and in such a case such holder of such office shall be entitled to receive from the Republic any retirement pension, gratuity or other like benefit to which he would have been entitled under the law in force immediately before the date of the coming into operation of this Constitution in respect of the period of his service before such date if such period by itself or together with any period of service under such Communal Chamber would, under such law, have entitled him to any such benefit.

5. Any teacher who, immediately before the date of the coming into operation of this Constitution, was a serving teacher and was in receipt of remuneration out of the public funds of the Colony of Cyprus and whose office comes, by the operation of this Constitution, within the competence of a Communal Chamber shall be entitled to receive from the Republic any retirement pension, gratuity or other like benefit to which he would have been entitled under the law in force before the date of the coming into operation of this Constitution in respect of the period of his service before such date if such period by itself or together with any period of service under such Communal Chamber would, under such law, have entitled him to any such benefit.

6. Any person who, immediately before the date of the coming into operation of this Constitution, being in the public service of the Colony of Cyprus is on leave prior to retirement therefrom or on transfer from that service to any service other than that of the Republic shall, irrespective of whether he is a citizen of the Republic or not, continue to be entitled to the same terms and conditions of service as were applicable to him under such circumstances before that date and such terms and conditions shall not be altered to his disadvantage.

7. For the purposes of this Article-

> (a) "public service" in relation to service before the date of the coming into operation of this Constitution means service under the Government of the Colony of Cyprus and in relation to service after that date means service in a civil capacity under the Republic and includes service as a member of the security forces of the Republic:

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(b) "terms and conditions of service" means, subject to the necessary adaptations under the provisions of this Constitution, remuneration, leave, removal from service, retirement pensions, gratuities or other like benefits.

8. Save as provided in paragraph 6 of this Article nothing in this Article shall apply to a person who is not a citizen of the Republic.

Article 193

Any person who, immediately before the date of the coming into operation of this Constitution, was in receipt of any pension or other retirement benefit out of the public Funds, including the Widows' and Orphans' Pension Fund, of the Colony of Cyprus shall on and after the date of the coming into operation of this Constitution, continue to be paid such pension or other retirement benefit out of the public Funds of the Republic under the same terms and conditions as were applicable to such pensions or other retirement benefits immediately before the date of the coming into operation of this Constitution or under terms and conditions made thereafter not less favourable to that person and applicable to his case.

Article 194

The eligibility of any person to receive a pension under the Widows' and Orphans' Pension Fund shall, on and after the date of the coming into operation of this Constitution, continue to be subject to the same terms and conditions as were in force immediately before the date of the coming into operation of this Constitution and shall not be altered to the disadvantage of any such person so long as such eligibility remains.

Article 195

Notwithstanding anything in this Constitution contained, the person elected as first President of the Republic and the person elected as first Vice-President of the Republic, who under Article 187 are deemed to be the first President and the first Vice-President of the Republic, whether before or after their investiture as in Article 42 provided, conjointly shall have, and shall be deemed to have had, the exclusive right and power to sign and conclude on behalf of the Republic the Treaty concerning the Establishment of the Republic of Cyprus between the Republic, the Kingdom of Greece, the Republic of Turkey and the United Kingdom of Great Britain and Northern Ireland together with the Exchange of Notes drawn up for signature with that Treaty, and the Treaty guaranteeing the independence, territorial integrity and Constitution of the Republic, between the Republic, the Kingdom of Greece, the Republic of Turkey and the United Kingdom of Great Britain and Northern Ireland, the Treaty of Military Alliance between the Republic, the Kingdom of Greece and the Republic of Turkey and the Agreement between the Republic, the Kingdom of Greece and the Republic of Turkey for the application of the Treaty of Alliance concluded between these countries, and such Treaties, Agreements and Notes exchanged shall be thus validly concluded on behalf of the Republic and shall be operative and binding as from the date on which they have been so signed.

Article 196

The term of office of the first Communal Chambers shall commence on the date of the coming into operation of this Constitution.

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Article 197

1. Any movable or immovable property, or any right or interest thereon, which, immediately before the date of the coming into operation of this Constitution, was vested in, held by, or registered in the name of, the Government of the Colony of Cyprus or any other person or body, for and on behalf of, or in trust for, any school, or other body or institution which come, by or under the provisions of this Constitution, within the competence of the Communal Chambers shall, as from that date, be vested in, and be held by such person, body or authority as provided by a law of the respective Communal Chamber subject to such terms and conditions as such communal law may provide:

Provided that no such law shall direct that any such property shall vest in, or be held by, the Communal Chamber itself.

2. Nothing in this Article contained shall apply to any bequest or other donation administered by trustees or to any vakf in connexion with any educational purposes.

Article 198

1. The following provisions shall have effect until a law of citizenship is made incorporating such provisions-

(a) any matter relating to citizenship shall be governed by the provisions of Annex D to the Treaty of Establishment;

(b) any person born in Cyprus, on or after the date of the coming into operation of this Constitution, shall become on the date of his birth a citizen of the Republic if on that date his father has become a citizen of the Republic or would but for his death have become such a citizen under the provisions of Annex D to the Treaty of Establishment.

2. For the purposes of this Article "Treaty of Establishment" means the Treaty concerning the Establishment of the Republic of Cyprus between the Republic, the Kingdom of Greece, the Republic of Turkey and the United Kingdom of Great Britain and Northern Ireland.

Article 199

The Turkish Communal Chamber shall have the right to receive from the Government of the United Kingdom of Great Britain and Northern Ireland the sums specified in the Notes exchanged between the Governor of the Colony of Cyprus, on behalf of the Government of the United Kingdom and the representatives of the Turkish Community of Cyprus drawn up for signature on [Note: date to be inserted later.]

Annex I

(Article 181) (Here insert the Treaty guaranteeing the independence, territorial integrity and Constitution of the Republic concluded between the Republic, the Kingdom of Greece, the Republic of Turkey and the United Kingdom of Great Britain and Northern Ireland.)

Annex II

(Article 181) (Here insert the Treaty of Military Alliance concluded between the Republic, the Kingdom of Greece and the Republic of Turkey.)

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Annex III

List of Basic Articles of the Constitution

(Article 182)

Articles

1		
3	paragraphs 1 and 2	
4	paragraph 1	
	paragraph 2	in so far as it relates to the Authorities of the Republic
	paragraph 3	in so far as it relates to Communal authorities
	paragraph 4	in so far as it relates to citizens of the Republic
5		
23	paragraph 4	in so far as it relates to the Republic or a municipal corporation and sub-paragraph (c) thereof
	paragraph 5	in so far as it relates to the use of compulsorily acquired property by the Republic or a municipal corporation and its restoration to the owner
	paragraph 6	
	paragraph 11	in so far as the compulsory acquisition is made by the Republic or a municipal corporation and in so far as this paragraph relates to the recourse to the courts and its suspending effect
36	paragraph 2	
39	paragraph 1	in so far as it relates to universal suffrage
42	paragraph 1	except the text of the affirmation other than its part relating to faith to, and respect for, the Constitution
	paragraph 2	
43	paragraph 1	in so far as it relates to the five years' period
44	paragraphs 2 and 4	
46		except its fourth paragraph
50	paragraph 1	except the part of its sub-paragraph (a) items (i) to (vi) both inclusive
51	paragraphs 1 and 2	
	paragraph 3	except for the time of thirty days provided for the Budget
	paragraphs 4 and 6	
52		except its part relating to the recourse to the Supreme Constitutional Court under Article 140
53	paragraphs 1, 2 and 3	
57	paragraph 2	except its part relating to time limits and its proviso
	paragraph 3	except its part relating to time limits
	paragraph 4	in so far as it relates to promulgation
61		
62	paragraph 2	in so far as it relates to the percentages, to the separate and universal suffrage and to the proportion being independent of any statistical data

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65	paragraph 1	in so far as it relates to the five years' period
78		
86		
87	paragraph 1	sub-paragraphs (a) to (e) both inclusive and sub paragraph (f) except its final words referring to Article 88
89	paragraph 1	sub-paragraphs (b) and (c) and paragraphs 2 and 3
92		in so far as it relates only to the determination of the number of its members by the Communal Chambers
108		
112	paragraph 1	except its part relating to qualifications
115	paragraph 1	except its part relating to qualifications
118	paragraph 1	except its part relating to qualifications
123		
126	paragraph 1	except its part relating to qualifications
129		
130		
131		
132		
133	paragraph 1	except the proviso to its sub-paragraph (2)
137	paragraph 1	
	paragraph 3	only in so far as it relates to the suspension of the laws or decisions
	paragraph 4	except its proviso
138	paragraph 1	
139	paragraph 1	in so far as it relates to conflict of competence between the House of Representatives and the Communal Chambers
153	paragraph 1	except the proviso to its sub-paragraph (2)
157	paragraphs 1 and 2	
159	paragraphs 1, 2, 3, and 4	
160	paragraph 1	its part which provides the matter with which the courts are dealing
	paragraph 3	except its proviso
170		
173	paragraph 1	except the names of the towns
	paragraph 3	except its part relating to the carrying out of joint services entrusted to the co-ordinating body
178		
181		
182		
185	paragraph 2	

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The Joint Constitutional Commission

The Greek Government Delegation:

Professor Themistocles Tsatsos (Head of the Delegation)
Mr. George Charbouris
Mr. Alexandros Lekkas
Mr. Constantinos Choidas

Mr. Demetrios Apostolides
Mr. Demetrios Kyriazis
Mr. Georghios Zotiades
Mr. Demetrios Petrounakos

The Turkish Delegation:

Professor Nihat Erim (Head of the Delegation)
Dr. Suat Bilge
Mr. Sherif Kolhan
Mr. Ahmet Asim Akyamach
Mr. Kaya Pirnar
Mr. Alaeddin Gülen

The Cyprus Greek Delegation:

Mr. Glafkos Clerides (Head of the Delegation)
Mr. George Polyviou
Mr. Michalakis Triantafyllides
Mr. Tasos Papadopoullos
The Legal Adviser: Mr. Criton George Tornaritis

The Cyprus Turkish Delegation:

Mr. Rauf Raif Denktash (Head of the Delegation)
Mr. Halit Ali Riza
Mr. Hakki Süleyman
Mr. Ali Dâna
The Legal Adviser: Mr. Mehmet Nedjati Münir

The Legal Adviser to the Joint Constitutional Commission:

Professor Marcel Bridel

His Assistant:

Mr. Louis Bagi

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Statement by Her Majesty's Government

The Rights of Smaller Religious Groups in Cyprus

1. In the negotiations leading up to the establishment of the Republic of Cyprus, Her Majesty's Government have been concerned to secure for the minor religious groups in Cyprus (Armenians, Maronites and Latins) the continued enjoyment of the liberties and status which they have had under British rule. The following paragraphs set out the safeguards which are to this end being provided in the Constitution of the Republic.

2. Under the Constitution, members of these groups will, as individuals, be guaranteed human rights and fundamental freedoms comparable to those set out in the European Convention for the protection of Human Rights and Fundamental Freedoms and the Protocol thereto. Both as individuals, and as groups, they will also enjoy constitutional protection against discrimination.

3. The Constitution will enable the Armenians, the Maronites and the Latins, as groups, to choose to belong to either the Greek-Cypriot or the Turkish-Cypriot Community. In the event of option, the members of the group will enjoy the same benefits as the other members of the Community. For example, they will be eligible for the Public Service of the Republic.

4. Any religious group which has opted as a group to belong to one of the two Communities will have the right under the Constitution to be represented in the Communal Chamber of the Community for which it has opted.

5. It will also be possible under the Constitution for any religious group, in common with other bodies, to have recourse as a group to the Supreme Constitutional Court to complain of any breach of the Constitution or abuse of power directly affecting the group as a body.

6. Finally the Constitution will provide for members of the smaller religious groups to enjoy no less extensive rights in respect of religious matters than they enjoyed in law before the Constitution came into force, and matters of personal status will be under the jurisdiction of the religious groups themselves. In respect of education and cultural matters, the President-elect and the Vice-President-elect have given an assurance that the smaller religious groups need have no fear that they will be at a disadvantage in future in the allocation of public funds.

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The Zurich and London Agreements

[Following consultations with the Greek and Turkish Cypriot leaders, negotiations were held in Zurich in February 1959, between the Turkish and Greek Prime Ministers, Mr. Menderes and Mr. Karamanlis. On 11 February they reached agreement on the establishment of an independent state, the Republic of Cyprus, and initialled the three documents known as the "Zurich Agreement": a draft "Basic Structure of the Republic of Cyprus," a draft "Treaty of Guarantee" between Greece, Turkey, the United Kingdom and the Republic of Cyprus, and a draft "Treaty of Alliance" between Cyprus, Greece and Turkey.

In London, the Greek and Turkish Ministers for Foreign Affairs, Mr. Averoff and Mr. Zorlu, consulted the British Secretary of State, and agreement was made that certain areas of Cyprus should remain under the sovereignty of the United Kingdom, and that an additional article should be inserted in the draft Treaty of Guarantee concerning theses areas. The London Conference was held at Lancaster House on 17-19 February 1959; the governments of Britain, Greece and Turkey were represented by their Foreign Ministers, and the Greek and Turkish Cypriot communities by Archbishop Makarios and Dr. Fazıl Küçük respectively. The "London Agreement" comprised a Memorandum signed on 19 February by the Prime Ministers of Britain, Greece and Turkey, and a collection of agreements, including an outline of the "Basic Structure of the Republic of Cyprus" and texts for the Treaties of Guarantee and Alliance, which were also signed by the representatives of the Greek and Turkish Cypriot communities. Provision was made and initialed by the three Foreign Ministers for the setting up of three committees: a Joint Commission to draft the Constitution; a Transitional Committee to effect the transfer of authority to the new Republic of Cyprus; and a Joint Committee to prepare the final treaties giving effect to the conclusions of the London Conference. (Source: Zaim Necatigil, The Cyprus Question and the Turkish Position in International Law. *Revised Second Edition. Oxford: Oxford University Press, 1998, pp. 9-11.). The texts below are reprinted from Necati Münir Ertekün,* Inter-Communal Talks and the Cyprus Problem. *Nicosia: Turkish Federated State of Cyprus, 1977. Editorial discretion has been used to standardize the format, and page numbers have been omitted on the Contents page.]*

[Title Page]

Miscellaneous No. 4 (1959)

Conference on Cyprus:

Documents signed and initialled at Lancaster House on February 19, 1959

Presented to Parliament by the Prime Minister
By Command of Her Majesty February 1959

LONDON
HER MAJESTY'S STATIONERY OFFICE
ONE SHILLING NET

Cmnd. 679

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VIII.— Agreed measures to prepare for the new arrangements in Cyprus

Note: The documents were either signed in full or initialled, as shown in the texts.

I
Memorandum Setting Out the Agreed Foundation for the Final Settlement of the Problem of Cyprus

The Prime Minister of the United-Kingdom of Great Britain and Northern Ireland, the Prime Minister of the Kingdom of Greece and the Prime Minister of the Turkish Republic,

Taking note of the Declaration by the Representative of the Greek-Cypriot Community and the Representative of the Turkish-Cypriot Community that they accept the documents annexed

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to this Memorandum as the agreed foundation for the final settlement of the problem of Cyprus.

Hereby adopt, on behalf of their respective Governments, the documents annexed to this Memorandum and listed below, as the agreed foundation for the final settlement of the problem of Cyprus.

On behalf of the Government of the United Kingdom of Great Britain and Northern Ireland

Harold Macmillan

On behalf of the Government of the Kingdom of Greece

C. Karamanlis

On behalf of the Government of the Turkish Republic

A. Menderes

London,
February 19, 1959.

List of Documents Annexed

A.—Basic Structure of the Republic of Cyprus.
B.—Treaty of Guarantee between the Republic of Cyprus and Greece, the United Kingdom and Turkey.
C.—Treaty of Alliance between the Republic of Cyprus, Greece and Turkey.
D.—Declaration made by the Government of the United Kingdom on February 17, 1959.
E.—Additional Article to be inserted in the Treaty of Guarantee.
F.—Declaration made by the Greek and Turkish Foreign Ministers on February 17, 1959.
G.—Declaration made by the Representative of the Greek-Cypriot Community on February 19, 1959.
H.—Declaration made by the Representative of the Turkish-Cypriot Community on February 19, 1959.
I.—Agreed Measures to prepare for the new arrangements in Cyprus.

II.
English Translation of the Documents Agreed in the French Texts and Initialled by the Greek and Turkish Prime Ministers at Zurich on February 11, 1959.

(a) Basic Structure of the Republic of Cyprus

1. The State of Cyprus shall be a Republic with a presidential régime, the President being Greek and the Vice-President Turkish elected by universal suffrage by the

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Greek and Turkish communities of the Island respectively.

2. The official languages of the Republic of Cyprus shall be Greek and Turkish. Legislative and administrative instruments and documents shall be drawn up and promulgated in the two official languages.

3. The Republic of Cyprus shall have its own flag of neutral design and colour, chosen jointly by the President and the Vice-President of the Republic. Authorities and communities shall have the right to fly the Greek and Turkish flags on holidays at the same time as the flag of Cyprus. The Greek and Turkish communities shall have the right to celebrate Greek and Turkish national holidays.

4. The President and the Vice-President shall be elected for a period of five years. In the event of absence, impediment or vacancy of their posts, the President and the Vice-President shall be replaced by the President and the Vice-President of the House of Representatives respectively.In the event of a vacancy in either post, the election of new incumbents shall take place within a period of not more than 45 days. The President and the Vice-President shall be invested by the House of Repre sentatives, before which they shall take an oath of loyalty and respect for the Constitution. For this purpose, the House of Representatives shall meet within 24 hours after its constitution.

5. Executive authority shall be vested in the President and the Vice-President. For this purpose they shall have a Council of Ministers composed of seven Greek Ministers and three Turkish Ministers. The Ministers shall be designated respectively by the President and the Vice-President who shall appoint them by an instrument signed by them both. The Ministers may be chosen from outside the House of Representatives. Decisions of the Council of Ministers shall be taken by an absolute majority. Decisions so taken shall be promulgated immediately by the President and the Vice-President by publication in the official gazette. However, the President and the Vice-President shall have the right of final veto and the right to return the decision of the council of Ministers under the same conditions as those laid down for laws and decisions of the House of Representatives.

6. Legislative authority shall be vested in a House of Representatives elected for a period of five years by universal suffrage of each community separately in the proportion of 70 per cent. for the Greek community and 30 per cent. for the Turkish community, this proportion being fixed independently of statistical data. (N.B.- The number of Representatives shall be fixed by mutual agreement between the communities.)

The House of Representatives shall exercise authority in all matters other than those expressly reserved to the Communal Chambers. In the event of a conflict of authority, such conflict shall be decided by the Supreme Constitutional Court which shall be composed of one Greek, one Turk and one neutral, appointed jointly by the President and the Vice-President. The neutral judge shall be president of the Court.

7. Laws and decisions of the House of Representatives shall be adopted by a simple majority of the members present. They shall be promulgated within 15 days if neither the President nor the Vice-President returns them for reconsideration as provided in Point 9 below.

The Constitutional Law, with the exception of its basic articles, may be modified by a majority comprising two-thirds of the Greek members and two-thirds of the Turkish members of the House of Representatives.

Any modification of the electoral law and the adoption of any law relating to the municipalities and of any law imposing duties or taxes shall require a simple majority of the

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Greek and Turkish members of the House of Representatives taking part in the vote and considered separately. On the adoption of the budget, the President and the Vice-President may exercise their right to return it to the House of Representatives, if in their judgement any question of discrimination arises. If the House maintains its decisions, the President and the Vice-President shall have the right of appeal to the Supreme Constitutional Court.

8. The President and the Vice- President, separately and conjointly, shall have the right of final veto on any law or decision concerning foreign affairs, except the participation of the Republic of Cyprus in international organisations and pacts of alliance in which Greece and Turkey both participate or concerning defence and security as defined in Annex I.

9. The President and the Vice-President of the Republic shall have, separately and conjointly, the right to return all laws and decisions, which may be returned to the House of Representatives within a period of not more than 15 days for reconsideration.

The House of Representatives shall pronounce within 15 days on any matter so returned. If the House of Representatives maintains its decisions, the President and the Vice-President shall promulgate the law or decision in question within the time-limits fixed for the promulgation of laws and decisions.

Laws and decisions, which are considered by the President or the Vice-President to discriminate against either to the two communities, shall be submitted to the Supreme Constitutional Court which may annul or confirm the law or decision, or return it to the House of Representatives for reconsideration, in whole or in part. The law or decision shall not become effective until the Supreme Constitutional Court or, where it has been returned the House of Representatives has taken a decision on it.

10. Each community shall have its Communal Chamber composed of a number of representatives which it shall itself determine.

The Communal Chambers shall have the right to impose taxes and levies on members of their community to provide for their needs and for the needs of bodies and institutions under their supervision.

The Communal Chambers shall exercise authority in all religious, educational, cultural and teaching questions and questions of personal status. They shall exercise authority in questions where the interests and institutions are of a purely communal nature, such as sporting and charitable foundations, bodies and associations, producers' and consumers, co-operatives and credit establishment, created for the purpose of promoting the welfare of one of the communities. (N.B.— It is understood that the provisions of the present paragraph cannot be interpreted in such a way as to prevent the creation of mixed and communual [sic] institutions where the inhabitants desire them.)

These producers' and consumers' co-operatives and credit establishments, which shall be administered under the laws of the Republic, shall be subject to the supervision of the Communal Chambers. The Communal Chambers shall also exercise authority in matters initiated by municipalities which are composed of one community only. These municipalities, to which the laws of the Republic shall apply, shall be supervised in their functions by the Communal Chambers.

Where the central administration is obliged to take over the supervision of the institutions, establishments, or municipalities mentioned in the two preceding paragraphs by virtue of legislation in force, this supervision shall be exercised by officials belonging to the same community as the institution, establishment or municipality in question.

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11. The Civil Service shall be composed as to 70 per cent. of Greeks and as to 30 per cent. of Turks.

It is understood that this quantitative division will be applied as far as practicable in all grades of the Civil Service.

In regions or localities where one of the two communities is in a majority approaching 100 per cent., the organs of the local administration shall be composed solely of officials belonging to that community.

12. The deputies of the Attorney-General of the Republic, the Inspector-General, the Treasurer and the Governor of the Issuing Bank may not belong to the same community as their principals. The holders of these posts shall be appointed by the President and Vice-President of the Republic acting in agreement.

13. The heads and deputy heads of the Armed Forces, the Gendarmerie and the Police shall be appointed by the President and the Vice-President of the Republic acting in agreement. One of these heads shall be Turkish and where the head belongs to one of the communities, the deputy head shall belong to the other.

14. Compulsory military service may only be instituted with the agreement of the President and the Vice-President of the Republic of Cyprus.

Cyprus shall have an army of 2,000 men, of whom 60 per cent. shall be Greek and 40 per cent. Turkish.

The security forces (gendarmerie and police) shall have a complement of 2,000 men, which may be reduced or increased with the agreement of both the President and the Vice-President. The security forces shall be composed as to 70 per cent. of Greeks and as to 30 per cent. of Turks. However, for an initial period this percentage may be raised to a maximum of 40 per cent. of Turks (and consequently reduced to 60 per cent. of Greeks) in order not to discharge those Turks now serving in the police, apart from the auxiliary police.

15. Forces, which are stationed in parts of the territory of the Republic inhabited, in a proportion approaching 100 per cent., by members of a single community, shall belong to that community.

16. A High court of Justice shall be established, which shall consist of two Greeks, one Turk and one neutral, nominated jointly by the President and the Vice-President of the Republic.

The President of the court shall be the neutral judge, who shall have two votes.

This court shall constitute the highest organ of the judicature (appointments, promotions of judges, & c.).

17. Civil disputes, where the plaintiff and the defendant belong to the same community, shall be tried by a tribunal composed of judges belonging to that community. If the plaintiff and defendant belong to different communities, the composition of the tribunal shall be mixed and shall be determined by the High Court of Justice.

Tribunals dealing with civil disputes relating to questions of personal status and to religious matters, which are reserved to the competence of the Communal Chambers under Point 10, shall be composed solely of judges belonging to the community concerned. The composition and status of these tribunals shall be determined according to the law drawn up by the Communal Chambers and they shall apply the law drawn up by the

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Communal Chambers.

In criminal cases, the tribunal shall consist of judges belonging to the same community as the accused. If the injured party belongs to another community, the composition of the tribunal shall be mixed and shall be determined by the High court of Justice.

18. The President and the Vice-President of the Republic shall each have the right to exercise the prerogative of mercy to persons from their respective communities who are condemned to death. In cases where the plaintiffs and the convicted persons are members of different communities the prerogative of mercy shall be exercised by agreement between the President and the Vice-President. In the event of disagreement the vote for clemency shall prevail. When mercy is accorded the death penalty shall be commuted to life imprisonment.

19. In the event of agricultural reform, lands shall be redistributed only to persons who are members of the same community as the expropriated owners.

Expropriations by the State or the Municipalities shall only be carried out on payment of a just and equitable indemnity fixed, in disputed cases, by the tribunals. An appeal to the tribunals shall have to effect of suspending action.

Expropriated property shall only be used for the purpose for which the expropriation was made. Otherwise the property shall be restored to the owners.

20. Separate municipalities shall be created in the five largest towns of Cyprus by the Turkish inhabitants of these towns. However:

(a) In each of the towns a co-ordinating body shall be set up which shall supervise work which needs to be carried out jointly and shall concern itself with matters which require a degree of co-operation. These bodies shall each be composed of two members chosen by the Greek municipalities, two members chosen by the Turkish municipalities and a President chosen by agreement between the two municipalities.

(b) The President and the Vice-President shall examine within four years the question whether or not this separation of municipalities in the five largest towns shall continue.

With regard to the localities, special arrangements shall be made for the constitution of municipal bodies, following, as far as possible, the rule of proportional representation for the two communities.

21. A Treaty guaranteeing the independence, territorial integrity and constitution of the new State of Cyprus shall be concluded between the Republic of Cyprus, Greece, the United Kingdom and Turkey. A Treaty of military alliance shall also be concluded between the Republic of Cyprus, Greece and Turkey.

These two instruments shall have constitutional force. (This last paragraph shall be inserted in the Constitution as a basic article.)

22. It shall be recognised that the total or partial union of Cyprus with any other State, or a separatist independence for Cyprus (i.e., the partition of Cyprus into two independent States,) shall be excluded.

23. The Republic of Cyprus shall accord most-favoured- nation treatment to Great Britain, Greece and Turkey for all agreements whatever their nature.

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This provision shall not apply to the Treaties between the Republic of Cyprus and the United Kingdom concerning the bases and military facilities accorded to the United Kingdom.

24. The Greek and Turkish Governments shall have the right to subsidise institutions for education, culture, athletics and charity belonging to their respective communities.

Equally, where either community considers that it has not the necessary number of schoolmasters, professors or priests for the working of its institutions, the Greek and Turkish Governments may provide them to the extent strictly necessary to meet their needs.

25. One of the following Ministries—the Ministry of Foreign Affairs, the Ministry of Defence or the Ministry of Finance—shall be entrusted to a Turk. If the President and the Vice-President agree they may replace this system by a system of rotation.

26. The new State which is to come into being with the signature of the Treaties shall be established as quickly as possible and within a period of not more than three months from the signature of the Treaties.

27. All the above Points shall be considered to be basic articles of the Constitution of Cyprus.

E. A.-T. [Evangelos Averoff-Tossizza]
S.L. [Selwyn Lloyd]
F.R.Z [Fatin R. Zorlu]
†A.M. [Archbishop Makarios]
F.K. [Fazıl Küçük]

Annex I

The defence questions subject to veto under Point 8 of the Basic Structure are as follows:

(a) Composition and size of the armed forces and credits for them.
(b) Appointments and promotions.
(c) Imports of warlike stores and of all kinds of explosives.
(d) Granting of bases and other facilities to allied countries.

The security questions subject to veto are as follows:

(a) Appointments and promotions.
(b) Allocation and stationing of forces.
(c) Emergency measures and martial law.
(d) Police Laws.

(It is provided that the right of veto shall cover all emergency measures of decisions, but not those which concern the normal functioning of the police and gendarmerie.)

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(b) Treaty of Guarantee

The Republic of Cyprus of the one part, and Greece, the United Kingdom and Turkey of the other part:

I. Considering that the recognition and maintenance of the independence, territorial integrity and security of the Republic of Cyprus, as established and regulated by the basic articles of its Constitution, are in their common interest;

II. Desiring to co-operate to ensure that the provisions of the aforesaid Constitution shall be respected;

HAVE AGREED AS FOLLOWS:

Article 1

The Republic of Cyprus undertakes to ensure the maintenance of its independence, territorial integrity and security, as well as respect for its Constitution.

It undertakes not to participate, in whole or in part, in any political or economic union with any State whatsoever. With this intent it prohibits all activity tending to promote directly or indirectly either union or partition of the Island.

Article 2

Greece, the United Kingdom and Turkey, taking note of the undertakings by the Republic of Cyprus embodied in Article 1, recognise and guarantee the independence, territorial integrity and security of the Republic of Cyprus, and also the provisions of the basic articles of its Constitution.

They likewise undertake to prohibit, as far as lies within their power, all activity having the object of promoting directly or indirectly either the union of the Republic of Cyprus with any other State, or the partition of the Island.

Article 3

In the event of any breach of the provisions of the present Treaty, Greece, the United Kingdom, and Turkey undertake to consult together, with a view to making representations, or taking the necessary steps to ensure observance of those provisions.

In so far as common or concerted action may prove impossible, each of the three guaranteeing Powers reserves the right to take action with the sole aim of re-establishing the state of affairs established by the present Treaty.

Article 4

The present Treaty shall enter into force on signature.

The High Contracting Parties undertake to register the present Treaty at the earliest possible date with the Secretariat of the United Nations, in accordance with the provisions of Article 102, of the Charter.

E. A.-T. [Evangelos Averoff-Tossizza]
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F.K. [Fazıl Küçük]

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(c) Treaty of Alliance Between the Republic of Cyprus, Greece and Turkey

1. The Republic of Cyprus, Greece and Turkey shall co-operate for their common defence and undertake by this Treaty to consult together on the problems raised by this defence.

2. The High Contracting Parties undertake to resist any attack or aggression, direct or indirect, directed against the independence and territorial integrity of the Republic of Cyprus.

3. In the spirit of this alliance and in order to fulfil the above purpose a tripartite Headquarters shall be established on the territory of the Republic of Cyprus.

4. Greece shall take part in the Headquarters mentioned in the preceding article with a contingent of 950 officers, non-commissioned officers and soldiers and Turkey with a contingent of 650 officers, non-commissioned officers and soldiers. The President and the Vice-President of the Republic of Cyprus, acting in agreement, may ask the Greek and Turkish Governments to increase or reduce the Greek and Turkish contingents.

5. The Greek and Turkish officers mentioned above shall be responsible for the training of the Army of the Republic of Cyprus.

6. The command of the tripartite Headquarters shall be assumed in rotation and for a period of one year each by a Cypriot, Greek and Turkish General Officer, who shall be nominated by the Governments of Greece and Turkey and by the President and the Vice-President of the Republic of Cyprus.

E. A.-T. [Evangelos Averoff-Tossizza]
S.L. [Selwyn Lloyd]
F.R.Z [Fatin R. Zorlu]
†A.M. [Archbishop Makarios]
F.K. [Fazıl Küçük]

III
Declaration by the Government of the United Kingdom

The Government of the United Kingdom of Great Britain and Northern Ireland, having examined the documents concerning the establishment of the Republic of Cyprus, comprising the Basic Structure for the Republic of Cyprus, the Treaty of Guarantee and the Treaty of Alliance, drawn up and approved by the Heads of the Governments of Greece and Turkey in Zurich on February 11, 1959, and taking into account the consultations in London, from February 11 to 16, 1959, between the Foreign Ministers of Greece, Turkey and the United Kingdom

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Declare:

A. That, subject to the acceptance of their requirements as set out in Section B below, they accept the documents approved by the Heads of the Governments of Greece and Turkey as the agreed foundation for the final settlement of the problem of Cyprus.

B. That, with the exception of two areas at

(a) Akrotiri — Episkopi — Paramali, and

(b) Dhekelia — Pergamos — Ayios Nikolaos — Xylophagou, which will be retained under full British sovereignty, they are willing to transfer sovereignty over the Island of Cyprus to the Republic of Cyprus subject to the following conditions:

(1) that such rights are secured to the United Kingdom Government as are necessary to enable the two areas as aforesaid to be used effectively as military bases, including among others those rights indicated in the Annex attached, and that satisfactory guarantees are given by Greece, Turkey and the Republic of Cyprus for the integrity of the areas retained under British sovereignty and the use and enjoyment by the United Kingdom of the rights referred to above;

(2) that provision shall be made by agreement for:

(i) the protection of the fundamental human rights of the various communities in Cyprus;
(ii) the protection of the interests of the members of the public services in Cyprus;
(iii) determining the nationality of persons affected by the settlement;
(iv) the assumption by the Republic of Cyprus of the appropriate obligations of the present Government of Cyprus, including the settlement of claims.

C. That the Government of the United Kingdom welcome the draft Treaty of Alliance between the Republic of Cyprus, the Kingdom of Greece and the Republic of Turkey and will co-operate with the Parties thereto in the common defence of Cyprus.

D. That the constitution of the Republic of Cyprus shall come into force and the formal signature of the necessary instruments by the parties concerned shall take place at the earliest practicable date and on that date sovereignty will be transferred to the Republic of Cyprus.

Selwyn Lloyd
Alan Lennox-Boyd
E. A.-T. [Evangelos Averoff-Tossizza]
F.R.Z [Fatin R. Zorlu]
†A.M. [Archbishop Makarios]
F.K. [Fazıl Küçük]

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Annex

The following rights will be necessary in connection with the areas to be retained under British sovereignty:—

(a) to continue to use, without restriction or interference, the existing small sites containing military and other installations and to exercise complete control within these sites, including the right to guard and defend them and to exclude from them all persons not authorised by the United Kingdom Government;

(b) to use roads, ports and other facilities freely for the movement of personnel and stores of all kinds to and from and between the above-mentioned areas and sites;

(c) to continue to have the use of specified port facilities at Famagusta;

(d) to use public services (such as water; telephone, telegraph, electric power, &c.);

(e) to use from time to time certain localities; which would be specified, for troop training;

(f) to use the airfield at Nicosia, together with any necessary buildings and facilities on or connected with the airfield to whatever extent is considered necessary by the British authorities for the operation of British military aircraft in peace and war, including the exercise of any necessary operational control of air traffic;

(g) to overfly the territory of the Republic of Cyprus without restriction;

(h) to exercise jurisdiction over British forces to an extent comparable with that provided in Article VII of the Agreement regarding the Status of Forces of Parties to the North Atlantic Treaty, in respect of certain offences committed within the territory of the Republic of Cyprus;

(i) to employ freely in the areas and sites labour from other parts of Cyprus;

(j) to obtain, after consultation with the Government of the Republic of Cyprus, the use of such additional small sites and such additional rights as the United Kingdom may, from time to time, consider technically necessary for the efficient use of its base areas and installations in Cyprus.

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IV
Additional Article to be Inserted in the Treaty of Guarantee

The Kingdom of Greece, the Republic of Turkey and the Republic of Cyprus undertake to respect the integrity of the areas to be retained under the sovereignty of the United Kingdom upon the establishment of the Republic of Cyprus, and guarantee the use and enjoyment by the United Kingdom of the rights to be secured to the United Kingdom by the Republic of Cyprus in accordance with the declaration by the Government of the United Kingdom.

S.L. [Selwyn Lloyd]
E. A.-T. [Evangelos Averoff-Tossizza]
F.R.Z [Fatin R. Zorlu]
†A.M. [Archbishop Makarios]
F.K. [Fazıl Küçük]

V
Declaration made by Greek and Turkish Foreign Ministers on February 17, 1959

The Foreign Ministers of Greece and Turkey, having considered the declaration made by the Government of the United Kingdom on February 17, 1959, accept that declaration, together with the document approved by the Heads of the Greek and Turkish Governments in Zurich on February 11, 1959, as providing the agreed foundation for the final settlement of the problem of Cyprus.

E. Averoff - Tossizza
Fatin R. Zorlu
S.L. [Selwyn Lloyd]
†A.M. [Archbishop Makarios]
F.K. [Fazıl Küçük]

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VI
Declaration made by the Representative of the Greek-Cypriot Community on February 19, 1959

Archbishop Makarios, representing the Greek Cypriot Community, having examined the document concerning the establishment of the Republic of Cyprus drawn up and approved by the Heads of the Governments of Greece and Turkey in Zurich on February 11, 1959, and the declarations made by the Government of the United Kingdom, and by the Foreign Ministers of Greece and Turkey on February 17, 1959, declares that he accepts the documents and declarations as the agreed foundation for the final settlement of the problem of Cyprus.

† Archbishop Makarios
S.L. [Selwyn Lloyd]
E. A.-T. [Evangelos Averoff-Tossizza]
F.R.Z [Fatin R. Zorlu]
F.K. [Fazıl Küçük]

VII
Declaration made by the Representative of the Turkish-Cypriot Community on February 19, 1959

Dr. Kutchuk, representing the Turkish Cypriot Community, having examined the documents concerning the establishment of the Republic of Cyprus drawn up and approved by the Heads of the Governments of Greece and Turkey in Zurich on February 11, 1959, and the declarations made by the Government of the United Kingdom, and by the Foreign Ministers of Greece and Turkey on February 17, 1959, declares that he accepts the documents and declarations as the agreed foundation for the final settlement of the problem of Cyprus.

F. Kutchuk
S.L. [Selwyn Lloyd]
E. A.-T. [Evangelos Averoff-Tossizza]
F.R.Z [Fatin R. Zorlu]
†A.M. [Archbishop Makarios]

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VIII
Agreed Measures to Prepare for the New Arrangements in Cyprus

1. All parties to the Conference firmly endorse the aim of bringing the constitution (including the elections of President, Vice-President, and the three Assemblies) and the Treaties into full effect as soon as practicable and in any case not later than twelve months from to-day's date (the 19th of February, 1959). Measures leading to the transfer of sovereignty in Cyprus will begin at once.

2. The first of these measures will be the immediate establishment of:

(a) a Joint Commission in Cyprus with the duty of completing a draft constitution for the independent Republic of Cyprus, incorporating the basic structure agreed at the Zurich Conference. This Commission shall be composed of one representative each of the Greek-Cypriot and the Turkish-Cypriot community and one representative nominated by the Government of Greece and one representative nominated by the Government of Turkey, together with a legal adviser nominated by the Foreign Ministers of Greece and Turkey, and shall in its work have regard to and shall scrupulously observe the points contained in the documents of the Zurich Conference and shall fulfil its task in accordance with the principles there laid down:

(b) a Transitional Committee in Cyprus, with responsibility for drawing up plans for adapting and reorganising the Governmental machinery in Cyprus in preparation for the transfer of authority to the independent Republic of Cyprus. This Committee shall be composed of the Governor of Cyprus, the leading representative of the Greek community and the leading representative of the Turkish community and other Greek and Turkish Cypriots nominated by the Governor after consultation with the two leading representatives in such a way as not to conflict with paragraph 5 of the Basic Structure;

(c) a Joint Committee in London composed of a representative of each of the Governments of Greece, Turkey and the United Kingdom, and one representative each of the Greek Cypriot and Turkish Cypriot communities, with the duty of preparing the final treaties giving effect to the conclusions of the London Conference. This Committee will prepare drafts for submission to Governments covering *inter alia* matters arising from the retention of areas in Cyprus under British sovereignty, the provision to the United Kingdom Government of certain ancillary rights and facilities in the independent Republic of Cyprus, questions of nationality, the treatment of the liabilities of the present Government of Cyprus, and the financial and economic problems arising from the creation of an independent Republic of Cyprus.

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3. The Governor will, after consultation with the two leading representatives, invite individual members of the Transitional Committee to assume special responsibilities for particular departments and functions of Government. This process will be started as soon as possible and will be progressively extended.

4. The headquarters mentioned in Article 4 of the Treaty of Alliance between the Republic of Cyprus, the Kingdom of Greece and the Republic of Turkey will be established three months after the completion of the work of the Commission referred to in paragraph 2 (a) above and will be composed of a restricted number of officers who will immediately undertake the training of the armed forces of the Republic of Cyprus. The Greek and Turkish contingents will enter the territory of the Republic of Cyprus on the date when the sovereignty will be transferred to the Republic.

S.L. [Selwyn Lloyd]
E. A.-T. [Evangelos Averoff-Tossizza]
F.R.Z [Fatin R. Zorlu]

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Draft Treaties

Draft Treaty Concerning the Establishment of the Republic of Cyprus

The United Kingdom of Great Britain and Northern Ireland, the Kingdom of Greece and the Republic of Turkey of the one part and the Republic of Cyprus of the other part;

Desiring to make provisions to give effect to the Declaration made by the Government of the United Kingdom on the 17th of February, 1959, during the Conference at London, in accordance with the subsequent Declarations made at the Conference by the Foreign Ministers of Greece and Turkey, by the Representative of the Greek Cypriot Community and by the Representative of the Turkish Cypriot Community;

Taking note of the terms of the Treaty of Guarantee signed to-day by the Parties to this Treaty;

Have agreed as follows:

Article 1

The territory of the Republic of Cyprus shall comprise the Island of Cyprus, together with the islands lying off its coast, with the exception of the two areas defined in Annex A to this Treaty, which areas shall remain under the sovereignty of the United Kingdom. These areas are in this Treaty and its Annexes referred to as the Akrotiri Sovereign Base Area and the Dhekelia sovereign Base Area.

Article 2

(1) The Republic of Cyprus shall accord to the United Kingdom the rights set forth in Annex B to this Treaty.

(2) The Republic of Cyprus shall co-operate fully with the United Kingdom to ensure the security and effective operation of the military bases situated in the Akrotiri Sovereign Base Area and the Dhekelia Sovereign Base Area, and the full enjoyment by the United Kingdom of the rights conferred by this Treaty.

Article 3

The Republic of Cyprus, Greece, Turkey and the United Kingdom undertake to consult and co-operate in the common defence of Cyprus.

Article 4

The arrangements concerning the status of forces in the Island of Cyprus shall be those contained in Annex C to this Treaty.

Article 5

The Republic of Cyprus shall secure to everyone within its jurisdiction human rights and fundamental freedoms comparable to those set out in section I of the European Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on the 4th of November, 1950, and the Protocol to that Convention signed at Paris on the 20th of March.

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Article 6

The arrangements concerning the nationality of persons affected by the establishment of the Republic of Cyprus shall be those contained in Annex D to this Treaty.

Article 7

The Republic of Cyprus and the United Kingdom accept and undertake to carry out the necessary financial and administrative arrangements to settle questions arising out of the termination of British administration in the territory of the Republic of Cyprus. These arrangements are set forth in Annex E to this Treaty.

Article 8

(1) All international obligations and responsibilities of the Government of the United Kingdom shall henceforth, in so far as they may be held to have application to the Republic of Cyprus, be assumed by the Government of the Republic of Cyprus.

(2) The international rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of their application to the territory of the Republic of Cyprus shall henceforth be enjoyed by the Government of the Republic of Cyprus.

Article 9

The Parties to this Treaty accept and undertake to carry out the arrangements concerning trade, commerce and other matters set forth in Annex F to this Treaty.

Article 10

Any question or difficulty as to the interpretation of the provisions of this Treaty shall be settled as follows:

(a) Any question or difficulty that may arise over the operation of the military requirements of the United Kingdom, or concerning the provisions of this Treaty in so far as they affect the status, rights and obligations of United Kingdom forces or any other forces associated with them under the terms of this Treaty, or of Greek, Turkish and Cypriot forces, shall ordinarily be settled by negotiation between the tripartite Headquarters of the Republic of Cyprus, Greece and Turkey and the authorities of the armed forces of the United Kingdom.

(b) Any question or difficulty as to the interpretation of the provisions of this Treaty on which agreement cannot be reached by negotiation between the military authorities in the cases described above, or, in other cases, by negotiation between the Parties concerned through the diplomatic channel, shall be referred for final decision to a tribunal appointed for the purpose, which shall be composed of four representatives, one each to be nominated by the Government of the United Kingdom, the Government of Greece, the Government of Turkey and the Government of the Republic of Cyprus, together with an independent chairman nominated by the President of the International Court of Justice. If the President is a citizen of the United Kingdom and Colonies or of the Republic of Cyprus of Greece or of Turkey, the Vice-President shall be requested to act; and, if he also is such a citizen, the next senior Judge of the Court.

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Article 11

The Annexes to this Treaty shall have force and effect as integral parts of this Treaty.

Article 12

This Treaty shall enter into force on signature by all the Parties to it.

Treaty of Alliance

The Republic of Cyprus, Greece and Turkey,

I. In their common desire to uphold peace and to preserve the security of each of them,

II. Considering that their efforts for the preservation of peace and security are in conformity with the purposes and principles of the United Nations Charter,

Have agreed as follows:

Article I

The High Contracting Parties undertake to co-operate for their common defence and to consult together on the problems raised by that defence.

Article II

The High Contracting Parties undertake to resist any attack or aggression, direct or indirect, directed against the independence or the territorial integrity of the Republic of Cyprus.

Article III

For the purpose of this alliance, and in order to achieve the object mentioned above, a Tripartite Headquarters shall be established on the territory of the Republic of Cyprus.

Article IV

Greece and Turkey shall participate in the Tripartite Headquarters so established with the military contingents laid down in Additional Protocol No. 1 annexed to the present Treaty.

The said contingents shall provide for the training of the army of the Republic of Cyprus.

Article V

The Command of the Tripartite Headquarters shall be assumed in rotation, for a period of one year each, by a Cypriot, Greek and Turkish General Officer, who shall be appointed respectively by the Governments of Greece and Turkey and by the President and the Vice-President of the Republic of Cyprus.

Article VI

The present Treaty shall enter into force on the date of signature.

The High Contracting Parties shall conclude additional agreements if the application of the present Treaty renders them necessary.

The High Contracting Parties shall proceed as soon as possible with the registration of the present Treaty with the Secretariat of the United Nations, in conformity with Article 102 of the United Nations Charter.

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[Additional Protocol] No. I

I. The Greek and Turkish contingents which are to participate in the Tripartite Headquarters shall comprise respectively 950 Greek officers, non-commissioned officers and men, and 650 Turkish officers, non-commissioned officers and men.

II. The President and the Vice-President of the Republic of Cyprus, acting in agreement, may request the Greek and Turkish Governments to increase or reduce the Greek and Turkish contingents.

III. It is agreed that the sites of the cantonments for the Greek and Turkish contingents participating in the Tripartite Headquarters, their juridical status, facilities and exemptions in respect of customs and taxes, as well as other immunities and privileges and any other military and technical questions concerning the organisation and operation of the Headquarters mentioned above shall be determined by a Special Convention which shall come into force not later than the Treaty of Alliance.

IV. It is likewise agreed that the Tripartite Headquarters shall be set up not later than three months after the completion of the tasks of the Mixed Commission for the Cyprus Constitution and shall consist, in the initial period, of a limited number of officers charged with the training of the armed forces of the Republic of Cyprus. The Greek and Turkish contingents mentioned above will arrive in Cyprus on the date of signature of the Treaty of Alliance.

Additional Protocol No. II

Article I

A Committee shall be set up consisting of the Foreign Ministers of Cyprus, Greece and Turkey. It shall constitute the supreme political body of the Tripartite Alliance and may take cognisance of any question concerning the Alliance which the Governments of the three Allied countries shall agree to submit to it.

Article II

The Committee of Ministers shall meet in ordinary session once a year. In a matter or urgency the Committee of Ministers can be convened in special session by its Chairman at the request of one of the members of the Alliance.

Decisions of the Committee of Ministers shall be unanimous.

Article III

The Committee of Ministers shall be presided over in rotation and for a period of one year, by each of the three Foreign Ministers. It will hold its ordinary sessions, unless it is decided otherwise, in the capital of the Chairman's country. The Chairman shall, during the year in which he holds office, preside over sessions of the Committee of Ministers, both ordinary and special.

The Committee may set up subsidiary bodies whenever it shall judge it to be necessary for the fulfilment of its task.

Article IV

The Tripartite Headquarters established by the Treaty of Alliance shall be responsible to the Committee of Ministers in the performance of its functions. It shall submit

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to it, during the Committee's ordinary session, an annual report comprising a detailed account of the Headquarter's activities.

Treaty of Guarantee

The Republic of Cyprus of the one part, and Greece, Turkey and the United Kingdom of Great Britain and Northern Ireland of the other part,

I. Considering that the recognition and maintenance of the independence, territorial integrity and security of the Republic of Cyprus, as established and regulated by the Basic Articles of its Constitution, are in their common interest,

II. Desiring to co-operate to ensure respect for the state of affairs created by that Constitution,

Have agreed as follows:

Article I

The Republic of Cyprus undertakes to ensure the maintenance of its independence, territorial integrity and security, as well as respect for its Constitution.

It undertakes not to participate, in whole or in part, in any political or economic union with any State whatsoever. It accordingly declares prohibited any activity likely to promote, directly or indirectly, either union with any other State or partition of the Island.

Article II

Greece, Turkey and the United Kingdom, taking note of the undertakings of the Republic of Cyprus set out in Article I of the present Treaty, recognise and guarantee the independence, territorial integrity and security of the Republic of Cyprus, and also the state of affairs established by the Basic Articles of its Constitution.

Greece, Turkey and the United Kingdom likewise undertake to prohibit, so far as concerns them, any activity aimed at promoting, directly or indirectly, either union of Cyprus with any other State or partition of the Island.

Article III

The Republic of Cyprus, Greece and Turkey undertake to respect the integrity of the areas retained under United Kingdom sovereignty at the time of the establishment of the Republic of Cyprus, and guarantee the use and enjoyment by the United Kingdom of the rights to be secured to it by the Republic of Cyprus in accordance with the Treaty concerning the Establishment of the Republic of Cyprus signed at Nicosia on to-day's date.

Article IV

In the event of a breach of the provisions of the present Treaty, Greece, Turkey and the United Kingdom undertake to consult together with respect to the representations or measures necessary to ensure observance of those provisions.

In so far as common or concerted action may not prove possible, each of the

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three guaranteeing Powers reserves the right to take action with the sole aim of re-establishing the state of affairs created by the present Treaty.

Article V

The present Treaty shall enter into force on the date of signature. The original texts of the present Treaty shall be deposited at Nicosia.

The High Contracting Parties shall proceed as soon as possible to the registration of the present Treaty with the Secretariat of the United Nations, in accordance with Article 102 of the Charter of the Charter of the United Nations.

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Üçüncü Uluslararası Kıbrıs Araştırmaları Kongresi

13-17 Kasım, 2000

Doğu Akdeniz Üniversitesi Kıbrıs Araştırmaları Merkezi, genel olarak Kıbrıs, özel olarak Kıbrıs Türk tarihi, arkeolojisi, coğrafyası, dili, edebiyatı, sanatı, doğası, folkloru, hukuku, siyaset bilimi, ekonomisi, maliyesi, turizmi, sporu ile Kıbrıs'a ilişkin diğer konuları inceleyen Türkçe veya İngilizce olarak bildirileri davet ediyor. Katılım için kısa özgeçmiş ve bildiri özetinin (100-200 kelime, A-4 kağıda, çift ara olacak şekilde) 29 Şubat 2000 tarihini geçmeyecek şekilde, posta, faks ya da e-posta ile Merkezimiz'e ulaştırılması gerekmektedir. 15 Mart, 2000 bildiri özetlerinin son değerlendirilme tarihi, 31 Temmuz, 2000 ise bildiri metinlerinin Merkezi'ne ulaştırılması için son tarihdir. Seçilen bildiriler yayınlanacaktır.

I. Uluslararası Kıbrıs Araştırmaları Kongresi, 92 katılımcı ile 20-23 Kasım 1996 tarihleri arasında gerçekleştirilmiştir. Kongre tutanakları *Proceedings of the First International Congress on Cyprus Studies* (editörler: E. Doğramacı, W. Haney ve G. König, DAÜ Basimevi, 1997) başlığı altında kitaplaştırılmış bulunmaktadır. II. Uluslararası Kıbrıs Araştırmaları Kongresi, 24-27 Kasım 1998 tarihleri arasında gerçekleştirilmiştir, ve bu Kongre'ye sunulan bildiriler dört cilt halinde basım aşamasındadır.

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