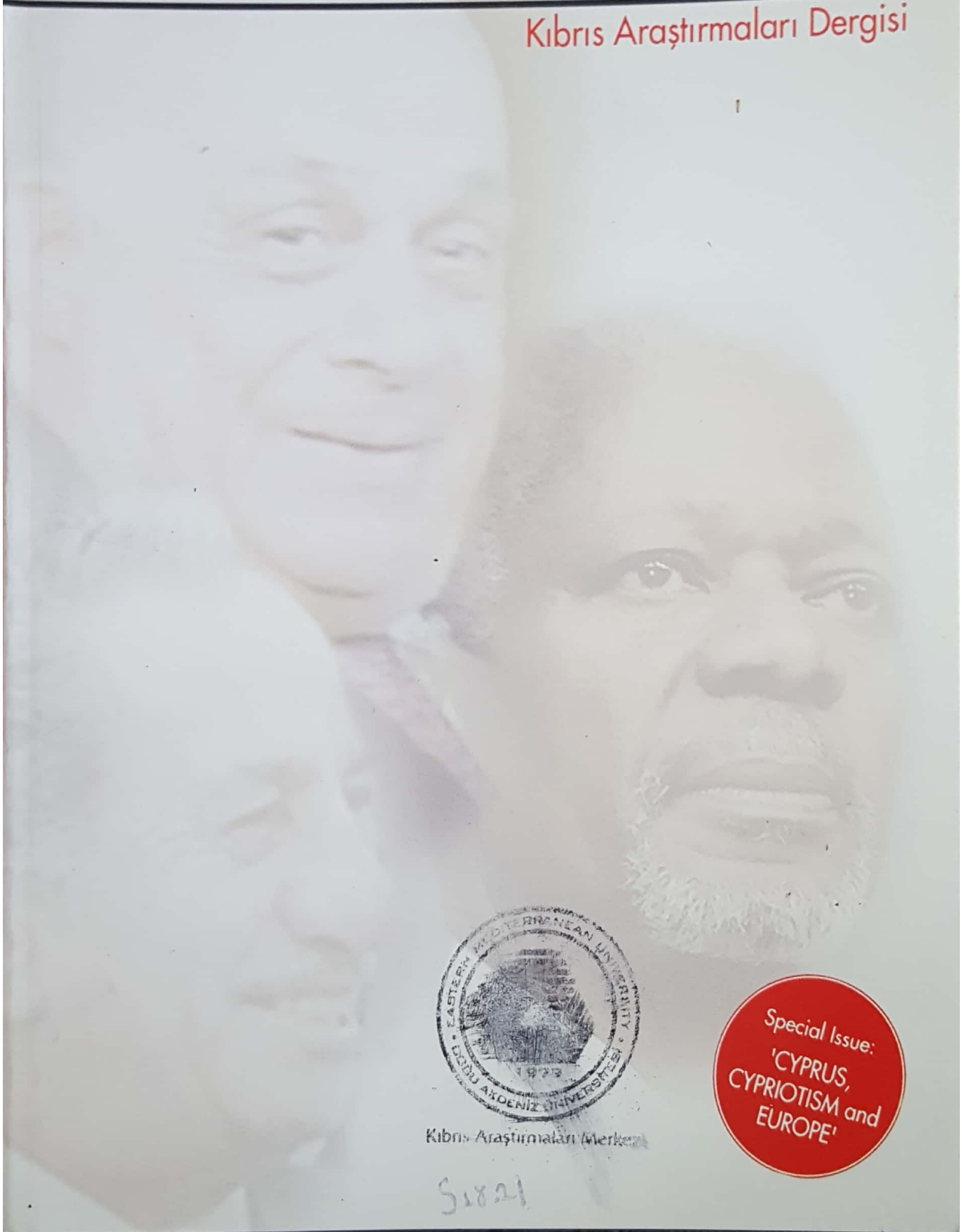


# JCS

Journal of Cyprus Studies

Kıbrıs Arařtırmaları Dergisi



Kıbrıs Arařtırmaları Merkezi

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Special Issue:  
'CYPRUS,  
CYPRIOTISM and  
EUROPE'

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# JCS Journal of Cyprus Studies Kıbrıs Arařtırmaları Dergisi

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The Center for Cyprus Studies at Eastern Mediterranean University was established in 1995 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 issues the biannual *Journal of Cyprus Studies, JCS*.

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Kıbrıs Araştırmaları Merkezi, Doğu Akdeniz Üniversitesi bünyesinde, Kıbrıs'ın kültürel tarihi ve siyasi sorunları ile ilgili bilimsel araştırmaları teşvik etmek amacı ile 1995' de kurulmuştur. Araştırma alanları arkeolojiden antropolojiye, ekonomiden tarihe, dilbilimden folkloru uzanan geniş bir yelpazeye yayılmıştır.

Merkez, Üniversite Kütüphanesinin işbirliği ile, Kıbrıs araştırmalarını her yönüyle içeren bir kaynak arşivi oluşturmayı amaçlamaktadır. Bu arşiv, olanaklar geliştikçe video-bantlar, dia-pozitifler, fotoğraflar ve mikrofilmler gibi görsel ve işitsel kaynaklar ile, arşivler, ender bulunan kitaplar ve el yazması koleksiyonlarını da içerecektir. Ayrıca, Kıbrıs araştırmaları konusunda faaliyet gösteren diğer kuruluşlarla Kıbrıs'ın tarihi ve kültürel mirasını korumak ve geliştirmek için ortak projeler geliştirmek de Merkez'in hedefleri arasındadır.

Kıbrıs Araştırmaları Merkezi araştırma projelerinin gerçekleşmesinde eşgüdümü sağlamanın yanı sıra, misyonuna uygun alanlarda araştırma yapan bilim adamlarına ve akademisyenlere ev sahipliği de yapmaktadır. Merkez aynı zamanda, Kıbrıs ile ilgili araştırmaların sunulup tartışıldığı yıllık Kongreler düzenlemekte ve yılda iki kez çıkan *Kıbrıs Araştırmaları Dergisini* yayınlamaktadır.

## Editorial Policy

*The Journal of Cyprus Studies, JCS*, 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 Northern 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, an occasional issue of the *Journal* will contain an archive of significant historical, legal, political and cultural documents related to this history, meticulously copy-edited and authenticated, with annotations 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.

## Derginin Amacı

*JCS-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 siyasi coğrafyası; Soğuk Savaş, Avrupa Birliği, süper güçlerin 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 yasal ve siyasi 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, zaman zaman *Dergi*'nin bir sayısı Kıbrıs tarihi ile ilgili, tarihsel, hukuksal, siyasi 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 yön 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 araştırmacılarından görüş isteyebilir ve bu konudaki bütün görüşler *Dergi*'nin aynı sayısında yer alır.

## Editor's Note

This Special Issue of the *JCS* has been made possible through the diligence and enthusiasm of a group of individuals whose assistance I would like to acknowledge here. Thanks, of course, go to the authors of the articles, commentaries and reviews, for their professionalism and co-operation in responding to deadlines and editorial suggestions. At the Eastern Mediterranean University I would especially like to thank Jan Asmussen and Gül Barkay for their support of the *JCS* and for their assistance in general on many matters relating to scholarship of the island. I would also like to thank William Donovan and Maryse Posenaer for last minute proof reading. Thanks too to Ülker Vancı Osam, Ayhan Bilsel and also to Ersev Sarper, for overseeing the production process of the *JCS*.

M.W.

December 2003.



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# JCS Journal of Cyprus Studies Kıbrıs Araştırmaları Dergisi

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**Articles**

**Makaleler**

# The Europeanization of the Cyprus Question: A Model for Conflict Resolution

Peter A. Zervakis

## The Cyprus Problem Challenges Europe<sup>1</sup>

Through the Treaties of Rome in 1957, creating the European Economic Community, and the Agreements of Zürich and London in 1959, founding the Republic of Cyprus, two new 'postmodern polities'<sup>2</sup> emerged without historical precedent. Based on international treaties, rather than domestic constitutions, they were constructed to open traditional sovereign nation states, and their borders, to trans-national modes of governance.<sup>3</sup> Given the complicated but carefully balanced institutional power sharing arrangements between the member nations of the EEC, on one hand, and the divergent Greek and Turkish nationalities of the Republic of Cyprus, on the other, these new entities resembled neither classical sovereign nation states, nor post-war modern international organizations such as the United Nations, which were grounded mainly on diplomatic interactions between formally equal governmental representatives. In fact, the creation of supranational organs emphasized the distinctiveness of the European polity. For example, the EEC's Commission with legal 'top down' competencies and initiatives, the directly permeating quality of European law in the member-states, the introduction of direct elections to the European Parliament, the Maastricht and Amsterdam Treaties establishing a single European currency, and a European Union with a closer interstate cooperation, all combined to create *un objet politique non-identifié*.<sup>4</sup>

The 'incomplete statehood of Cyprus'<sup>5</sup> on the other hand, was characterized by the limit of sovereign rights for the fledgling Republic, based on the required consent of the guarantor powers (United Kingdom, Greece, Turkey) to any domestic constitutional changes. Secondly, these powers had the right to intervene, either commonly or singularly for the restoration of state unity. Furthermore, sovereign British military bases (almost three percent of the island surface of Cyprus) provided an anachronistic feature comparable only to the four-power status of Berlin, and so power-sharing between the two contrasting ethnic groups became institutionalised at the cost of the majority principle.<sup>6</sup> Finally, from the beginning, both non-state constructs were missing the unifying concept of a homogenous national identity, and so the founding documents of the

EEC, as well as the Cypriot *Volksgruppenstaat*<sup>7</sup> (communities state), guaranteed to secure peace, welfare and stability on the island by keeping the divergent national interests balanced through permanent negotiations between its members.<sup>8</sup>

Conversely, as the economies of Germany and France integrated step by step, the iniquitous nationalism that had led to two world wars began to dissolve. Following the Franco-German partnership, the pledged political parity between Bonn and Paris became the motor of further integration in Western Europe despite different population ratios and geopolitical considerations.<sup>9</sup> From 1954-1959 on Cyprus, meanwhile, the Greek Cypriots fought a bloody war for independence from the British (and their Turkish Cypriot allies) and for *enosis* (unity) with Greece. Afterwards a complex constitutional order with mutual checks and balances was forced upon the majority of Greek Cypriots to secure political equality with their counterparts, the Turkish Cypriots. This sought to prevent, in the long-term, the outbreak of conflict between not only the Greek and Turkish Cypriots but also their respective mother countries, both of which were NATO members. However, the political goal failed, largely due to the Greek majority's apparent disinterest in mutual cooperation with the Turkish minority based on equal rights.<sup>10</sup> Indeed, three inner-Cyprus 'civil wars' followed in 1963-64, 1967 and 1974 under the direct intervention of Greece and Turkey.<sup>11</sup>

In the past decades the Union has been perceived as a success story concerning peace, stability and welfare among its member-states. By following a more open concept of sovereignty, as opposed to the rigid Cypriot case, the Union's members transferred many of their (mostly) economic rights to Brussels and thus partially became regionally integrated beyond the nation state in response to the challenges of globalisation.<sup>12</sup> The Union's principal supranational 'top down' approach, by harmonizing or Europeanizing national legislation in certain political areas with Community competences, allowed its member-states to treat each other politically equal in all matters, in spite of different sizes and strengths of their national economies as well as populations. Moreover, because of the promise of a European added value, the members learned voluntarily to handle conflicts between each other exclusively without the use of violence and without the need for a supranational instance with its own monopoly of military and/or police powers, but in a permanent and painful process of intergovernmental consultations, negotiations and arbitration within the framework of a common European legal space focussing on a strong European Court of Justice. At the same time it is remarkable to see how the Community resists commitment to ongoing European ethno-reli-

gious minority conflicts in the absence of further competencies. By declaring, for instance, the unresolved Irish (IRA) or Basques (ETA) problems as purely internal matters of the concerned member-states, or simply referring to the Council of Europe or the OSCE, respectively, the Union avoids any unwanted and legally doubtful political interference into the domestic affairs of its members.<sup>13</sup>

Worldwide, the Community, despite its fiascos in the Balkan Wars or in the Iraq crisis, wants to gain a role-model status, as to how peace, prosperity, and negotiated conflict prevention is possible by mutual agreement between a federation of differentially integrated states to the benefit of all parties involved. After German reunification in 1990, the EU members, as the actual 'masters of the treaties' (Walter Hallstein), signed the Treaties of Maastricht and Amsterdam respectively, expanding their predominantly economic association incrementally into a political union. This took place through the introduction of the Euro, reforms of the existing Community institutions, and the Europeanization of further policy areas introducing the CFSP as well as European Security and Defence Policy, to enable the so-called deepening of the Community. Above all, the EU offered to open its doors to eight aspirant countries from former Soviet-communist dominated Eastern Europe, as well as Malta and Cyprus.

Until now the Community has been largely Western European dominated. But with this political project of millennial, developmental proportions, the Community hopes that it will contribute, through its enlargement, to the stabilization of these infant market economic democracies in Central and Eastern Europe by promoting massive modernization, transformation, adaptation and internal reforms, thus evoking European solidarity and a fair burden sharing between its economically asymmetrically developed members.<sup>14</sup> Along with NATO enlargement, the EU will also provide for the eastward expansion of the security community established after World War II, thus creating the foundation for Europe's claim to fulfil its future role as a world player in the 21<sup>st</sup> century.<sup>15</sup>

When the Greek Cypriots finally applied for full membership of the EU, with strong support from the Greek motherland, the Turkish Cypriot community had little intention of assisting their reunification with Greece. Rather, the Greek Cypriots sought to effectively counter the security threat presented by the Turkish army presence in the north to their claim of being the only sovereign people on the island. With the involvement of the Union's superior economic and financial strength, especially with regard to its share in world trade, and with its ambition to act as a

'civilian power Europe'<sup>16</sup> (thus using non-military means in order to promote democratic principles worldwide), the Greeks insisted on integrating the divided island on their terms after the conciliatory, but ineffective, attempts of the UN over more than 30 years.<sup>17</sup> Thus, importing the still unresolved Cyprus dispute into the Community became their primary objective. From Brussels, on the other hand, the first application of the civilian power concept to the Mediterranean region also seemed attractive fundamentally because of its sheer economic preponderance in its relations with Cyprus and Turkey. Both are, in their trade and development, fully dependent on the Union as one of the largest aid donors in the world, but also are politically and institutionally closely linked with the EU since the association agreements with Turkey in 1963 and Cyprus in 1973, respectively. Recent provisional highlights of the Union's active involvement in the (Eastern) Mediterranean for 'Regional Peace, Security, Stability, and Prosperity' include:

- The start of substantial accession negotiations between Nicosia and Brussels since spring 1998 for the adoption of the *acquis communautaire*, the conditions for the internal market, and the common policies (CFSP, ESDP, JHA) on the entire island,
- The realization of the Customs Union with Turkey after Greece dropped its veto, and
- The long-term inclusion of Turkey in the future southern expansion of the Community as necessary completion of the imminent eastward enlargement.

But in analysing the special case of Cyprus, one must ask whether the EU has gained more impact as an actor or whether it acts as a mere framework providing the basic conditions to transform the Cyprus dispute domestically.<sup>18</sup> Therefore, the specific historical reasons for the unresolved ethno-political Cyprus question need to be examined as well as the abortive political-diplomatic approaches under UN mediation up until now. The historical analysis of why all international arbitration attempts have yet failed to resolve the Cyprus problem provides a foundation for the discussion of Europeanization as a new way to be used in the long run as a successful model for the resolution of conflicting domestic ethnic interests.<sup>19</sup> Furthermore, it is vital to determine the contribution of the EU to the mutual approach of both Greek and Turkish Cypriots through civil society actors, like the many non-governmental organizations that are presently blossoming in Northern Cyprus and which are organizing mass protests against its elected government to resume negotiations to reunify.<sup>20</sup> And so, the question must be asked as to what potential exists for the

solution of the ongoing Cyprus problem under the common umbrella of the UN, and the enlarging and constitutionally deepening EU, given the current easing of tensions between both ethnic groups as well as 'mother countries', Greece and Turkey. One has finally to take into consideration that the latter is seriously trying to implement domestically the Union's high democratic standards (Copenhagen criteria) in order to qualify for EU membership, while resisting any change to the status quo on the island of Cyprus.<sup>21</sup>

### The History of the Cyprus Problem

The Cyprus problem embodies an unresolved nationality conflict between two ethnic groups indigenous to the island. Their divergent views on their common past and their different loyalties developed over time to their perceived 'mother countries' and regional powers, Greece and Turkey, keep the problem alive and unsolved. With the decline of the Ottoman Empire, the relatively liberal position of the British colonial administration, which took over Cyprus in 1878 from the Ottomans, faced the penetrating ideologies of Greek nationalist *enosis* (unification) and later the Turkish-Kemalistic reactive movement, *taksim* (separation). Resulting from concessions for extensive administrative autonomy, especially in education, a strict separation of both religious groups favoured the cultural inclination to the respective motherlands. An independent, inclusive, co-determining insular nationality could not develop under these conditions. Thus, the Greek Cypriot revolt against British rule, with demands for annexation to Greece, resembled rather, the irredentist movements in South Eastern Europe as opposed to the Third World anti-colonial independence movement. The 'consociational'<sup>22</sup> democracy as founded in the Constitution of the Republic of Cyprus (since 1960), with its extensive self-administration for both ethnic groups, proportional ethnic composition in the government branches, and comprehensive veto powers for the Turkish Cypriot Community, was therefore not conducive to an amicable solution of the Cyprus issue because there was no common consensual political culture.<sup>23</sup> At the end of 1963, the powder keg exploded when Archbishop Makarios III, as President of the Republic, demanded unilaterally the revision of the constitution, leading to the loss of many of the Turkish Cypriots' guaranteed rights.<sup>24</sup> Their anticipated rejection heightened tensions between the various armed radicals, so that little provocation from the Greeks sufficed to trigger the spiral of violence in Nicosia, which received additional momentum from several interventions from Greece and Turkey. The civil war of 1963-64 resulted in the division of Nicosia and the solidification of the Turkish enclave. The Cyprus issue



became internationalized on several occasions, particularly with the UN Security Council Resolution to deploy UNFICYP (United Nations Peacekeeping Force in Cyprus) for the prevention of further clashes, the restoration of public order, and the return to normality. The blue helmet deployment, originally planned for three months, continues today, developing into the world organization's longest peacekeeping mission and international diplomatic failure. Cyprus thus earned its reputation as a 'grave of diplomacy'.<sup>25</sup> Both local conflicting parties are yet to succeed in finding a way to peaceful conflict management despite the help of UN mediation and endless peace talks between the political leaders of both communities. Moreover, the Turkish army's invasion in 1974 was caused by the Greek coup (EOKA B) against President Makarios, which was supported from the Athens Junta and called for the island's incorporation into Greece (*enosis*). Consequently, a 'population exchange' and the forced military division of the island territory (*taksim*) followed under the auspices of the UNFICYP which succeeded, at least, in keeping the mass killing by extremists of both ethnic groups to a minimum by patrolling the Green Line. Thus, the end of the inner-Cyprus warfare could be enforced by the Turkish intervention and the bold deployment of the UNFICYP-soldiers, who have watched over the ceasefire line since 1964. But this did not suffice for an enduring peace on Cyprus. Despite the noble intentions of all UN General Secretaries since the 1960s to overcome the island's division peacefully, the representatives of both ethnic groups have proven themselves unwilling to reach a durable compromise, as the models for a possible solution from the conflict parties diverge ever more from one another. On the one hand, the Greek side has sought a reunification, namely based on the *status quo ante* in the form of a federation with strong, predominantly Greek, central power. On the other hand, the Turkish minority's determination for separation has strengthened continually since 1964, materializing in their unilateral declaration of independence (as the TRNC) on 15 November 1983, which Turkey alone recognizes.

Another hindrance to a solution among the insular groups lies in the difficulty for involved regional (Greek and Turkish) and international (UN/EU/USA) actors to persuade the Cypriots to change the status quo, (which is at least stable). A survey in the Republic of Cyprus in March 1990 confirmed increasing mutual alienation due to the sweeping absence of social, cultural, and economic contacts between both ethnic groups over almost thirty years. The majority of the surveyed Greek Cypriots wanted to keep the Turkish Cypriots at a distance and exclude closer familiarity or good neighbourly relations categorically.<sup>26</sup> The Turks in the island's northern part illustrate, conversely, sympathy for an approach toward the

EU for economic reasons. Their historically legitimate distrust of looming Greek dominance leads them to insist on independence as well as the prior accession of Turkey to the EU.<sup>27</sup> A simple solution to the Cyprus issue, based on either re-unification due to a postulated, insular identity (common colonial past, customs, norms and practices), on a peaceful co-existence of both communities in one political entity (official Greek view) or, on the contrary, sticking to the status quo (Turkish view), can thus be ruled out in the short-term. But today with the introduction of the European perspective, the Cyprus Problem does not have the same meaning as in 1960, 1964, or 1974. In spite of diplomatic negotiations on re-unification, the issue has not changed over the last forty years.

### **The Internationalization of the Cyprus Problem**

In March 1964 the Greek Cypriot staffed 'skeleton government' of President Makarios succeeded in getting officially recognized by the General Assembly and the Security Council of the UN (Res. 186/1964) as the sole internationally legitimate body for the entire republic. Since then Greek Cypriot politicians have been able to play out to the full their claim of being the sole legitimate representation of the island to their diplomatic and economic advantage. After the island divided in 1974 the Greek south part continued to act internationally as the only legal sovereign over the whole island, and the north was officially treated as 'temporarily' under 'illegal occupation by Turkish forces'. The south accomplished a 'small economic miracle'<sup>28</sup> through massive financial support from international organizations, tourism and offshore activities, though still sought to overcome the island's division, with Greece's support, and with the assistance of the UN. Thanks in part to the efforts of the UN General Secretaries several agreements were made in 1977 and 1979 between the leaders of both Cypriot communities: Makarios (and after his death Spyros Kyprianou) and Rauf Denktaş.<sup>29</sup> These contained, for the first time, basic directives for future negotiations, and included:<sup>30</sup>

- The formation of a bi-communal Federal Republic consisting of two parts and both ethnic groups. Each group should have the rights of its own territory, but the central government would have the core responsibility for guaranteeing national unity.
- The successive demilitarization of Cyprus and the insurance of independence, sovereignty, territorial integrity and non-aligned status of the republic against integration or secession of either section of the island.
- The beginning of negotiations on the restoration of freedom

of movement, free choice of residence, and compensation for property titles from displaced persons.

- The adoption of confidence-building measures to build trust between both communities.

Although the Security Council and the General Assembly commended these principles as a breakthrough in the Cyprus negotiation process, and bolstered them in a few resolutions, a comprehensive accord failed between both ethnic groups. One cause stems from the diametrically opposed understanding of the term 'federalism' between the Greeks and Turks in Cyprus. Greek Cypriots see a central government which has the ultimate responsibility of securing the 'three freedoms' (freedom of movement, property, residence) on the entire island.<sup>31</sup> Turkish Cypriots aspire to the foundation of two partial states with their own sovereign rights, tied to a loose confederation.<sup>32</sup> But the Greek Cypriots equate the admission of an independent Turkish Cypriot sovereignty with the solidification of the island's division since 1974 and thus they reject a confederative concept without certain essential rights given to the island-wide government absolutely.<sup>33</sup>

On the initiative of UN General Secretary Perez de Cuellar, who conceived two further schemes for a resolution in 1983, a rapprochement was once again in sight. But this time, the proposals failed, not because of Rauf Denктаş, who considered the arrangement worthy of signing, rather because of the Greek side which feared that the agreement had diverged too far from its own fundamental ideology.

The catalogue of suggestions presented by Boutros Boutros-Ghali in 1992 was the most comprehensive proposal on the Cyprus issue before the formulation of the Annan Plan. In detail, the future coexistence of both groups was to be managed concretely in the proposal and so the Security Council adopted Ghali's 'Set of Ideas' enthusiastically in two resolutions (No. 774/1992 and No. 789/1992) as the basis for the attainment of a settlement. This time the Greek Cypriots accepted essentially all 100 points, while the Turks agreed to 91. Denктаş demanded a weak central government with strong, partial sovereignty in the sub-states, and representative parity in the council of ministers, while advocating a restrictive course regarding the open issue of the return of refugees (he rejected a Turkish Cypriot resettlement and the surrendering of useable agricultural land in his constituency). He also stipulated effective rules for the protection of his ethnic group as a condition for demilitarization. Ghali therefore introduced a package of 'confidence building measures' (*inter alia* opening of the Green Line for border transport, intensification of encounters between members of both societies, youth and student exchanges, lan-

guage classes etc) to both negotiation leaders.<sup>34</sup> Above all, the Turkish Cypriots would benefit most from this package of measures because it would have contributed to the dissolution of their diplomatic and economic isolation and stimulated up to 20 percent growth of its GNP.<sup>35</sup> Nevertheless, the Turkish Cypriot leadership refused to agree in April 1994.

Subsequently, the relationship between the acrimonious parties worsened dramatically and reached a new all-time low in 1997/98. In addition, the Greek Cypriot policy toward Europe, with its strengthened cooperation and against the resistance of the TRNC, was largely responsible. During this stalemate, the US Delegate to Cyprus, Richard Holbrooke, presented his new plan in November 1997.<sup>36</sup> Along the cease-fire line, the creation of a third, mixed populated Zone was to be created and later given back to the Greek Cypriots. There, the Turkish Cypriots along with Greek Cypriots, who had been displaced from that area, would be allowed to work and live together with the protection of multinational troops under US leadership. The provisional government would prepare the construction of a federal Cypriot Republic as well as the accession of Cyprus to the EU, but under Turkish participation.

However, the speaker of the Turkish Cypriots rejected this, after initial assent, because the Luxembourg EU-summit in December snubbed Turkey's hopes of qualifying as a candidate for membership. The Greek Cypriot government had to realise that the TRNC and Turkey showed no interest in solving the Cyprus issue on UN terms and both sides had now distanced each other farther apart than was the case even at the outbreak of the conflict.

## **Europeanizing the Cyprus Problem**

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### ***The Republic of Cyprus Approaches the Community***

After the internationalization of the Cyprus issue (with the fruitless attempts at peace arbitration from five UN General Secretaries) failed, and the political weakness of that international organization was revealed, the liberal President Geórgios Vasileíou gave in to pressure from the Greek government of Andreas Papandreou and submitted, in the name of all Cyprus, an application for full membership to the EC on July 3, 1990. The step relied considerably on the Association Agreement from 1973, which built an official tie between the EC and the Republic of Cyprus securing the openness of the traditional British market for Cypriot products. The agreement further planned for the creation of a customs union in two stages within two years. The accord also contained numerous

agreements for the removal of all trade and customs barriers between both partners with the help of the adoption of a common customs tariff, the harmonization of several policy areas (competition, national subsidies, legal and administrative convergence), and the guarantee of free movement of goods like agricultural products through the Republic. In addition, the agreement included the provision to form a common Association Council. After extending the first stage several times due to incalculable obstacles regarding the island's division, a *modus operandi* concerning the second stage was reached, according to which the customs union would be realized completely in two phases by 2002.<sup>37</sup> Between 1977 and 1994, Cyprus received a total of 136 million ECUs (European Currency Units, the predecessor of the Euro currency) from the Community in the form of loans, non-repayable assistance, and special payments. With the exception of a certain proportion reserved specifically for the Turkish Cypriot population (but channelled through the Republic), many projects for the improvement of infrastructure in the capital city of Nicosia (city planning and development, waste disposal, and electricity) were financed with those resources.<sup>38</sup> In this fashion, many of the island's urban inhabitants reaped the benefits, though in Northern Cyprus not much money got beyond Nicosia.

When the Greek Cypriot decision-makers were no longer satisfied merely with the customs union towards the end of the 1980s, they began to strive for full membership, though this was less economically motivated than politically. They hoped that the prospect of membership in the EU could give a new impulse to the resolution of the Cyprus problem. At the very least, they wanted to bring in the Community to finally take over responsibility for the local conciliation of the conflict, and provide a minimal guarantee of security for the Greek Cypriots from the Turkish army.<sup>39</sup> Nevertheless, Vasileíou hesitated to carry out this change in policy because he feared that the Europeanization of the Cyprus issue would burden, unnecessarily, any future agreement with the Turkish Cypriots under UN intervention. Furthermore, *Evrópi* enjoyed little respect among the unions and the largest parliamentary party, the communist AKEL, because people feared the sell-out of their own small and highly subsidized industry, and remembered the lukewarm support from the Community in view of the Turkish invasion in the summer of 1974. Therefore, the Greek Cypriot's turn towards Europe can be seen as a tactical move to neutralize the Turkish military occupation, which is seen as a threat to the Greek Cypriot claim to exclusive rule. Moreover, Greece has belonged to the EC as tenth member state since 1981, and all Athens governments up to 1999 have tried adamantly to convince their EU part-

ners that Turkey cannot claim to belong to Europe because of the Cyprus ordeal, nor should the adversary be regarded a part of the Community's Mediterranean interests.<sup>40</sup> Only three years later, the EU Commission supported the petition from the Greek Cypriots-which largely came about due to pressure from Greece.<sup>41</sup> However, the Commission emphasised the economic inequality between both parts of the island and reiterated that integration of Cyprus into the Community would require first a peaceful, balanced, and enduring resolution of the Cyprus 'problem'.<sup>42</sup> It also assured the UN General Secretary of the Community's support of his efforts in the political settlement of the Cyprus question, and here the problematic nature of the accession application for the Turkish parties as well as the (west) European member-states becomes clear.

The Turkish Cypriot leadership and Turkey objected vehemently to the Greek Cypriot unilateral application of EU membership in the name of the entire island. They justified their arguments with the international treaties of 1959/60, which in their view prohibited for Cyprus 'in whole or in part' the entrance into 'any political or economic union with any state whatsoever' (Art. 1 Treaty of Guarantee), to which both Greece and Turkey did not belong.<sup>43</sup> Thus they rejected categorically any EU accession of the island, as favoured by the Greeks, if the open question on Cyprus was not settled; otherwise, they threatened the incorporation of the TRNC into Turkey, if the EU took in the Greek dominated Republic. In addition, the Turks perceived a connection between the entrance of Cyprus into the EU and the integration of the island with Greece, which brought to the surface *enosis*, 'only by other means'.<sup>44</sup> The leadership of the TRNC did not refrain from its main political demands in the face of economic improvement of the population, and since then, has rejected participation in the Cypriot negotiation delegation, as that would mean an affirmation of the Greek Cypriot claim to exclusive representation in the EU. Another reason for the three-year delay for an EU-position on the Greek Cypriot accession application has to do with the EU partner-states' minimal interest in the membership of a divided Cyprus, especially compared to its activity with the Eastern European enlargement.<sup>45</sup> In the case of the accession of a divided Cyprus into the Community, 15 governments, 16 parliaments, and all important institutions of the EU, including the European Investment Bank and the European Central Bank, have a say in the matter. Given the seemingly insuperable difficulties, even into the 90s, neither the heads of states in the Council nor the Commission showed any interest in direct or indirect conflict arbitration in a distant, problematic peripheral region.<sup>46</sup> Instead, the Community limited itself unobtrusively to supporting all pertinent UN resolutions.

*Accession Negotiations as a Catalyst for a Solution?*

With the positive response to the Greek Cypriot accession application, the European Union became directly involved in the conflict for the first time. At the beginning of October 1993, the EU Council of Ministers assigned the Commission to conduct preparatory talks with the Republic of Cyprus, in order to familiarize them better with the *Acquis communautaire*. The peculiarity of the Cyprus application became evident once again at the EU summit in Corfu in June of 1994. On the initiative of the Greek EU presidency, who otherwise threatened not to ratify the accession of Austria, Sweden, and Finland, it was decided to include Cyprus and Malta in the group of Central and Eastern European candidate countries. Eventually, through a historical compromise, the French President succeeded for the first time on 6 March 1995 in finding an actual date for the beginning of accession negotiations with the Greek government of the Republic of Cyprus without making such talks dependent on the condition of a previous agreement with the Turkish Cypriots. Up to 1999, a Fourth Financial Report had been signed with Cyprus for 72 million ECUs for the structural preparation of the Republic's accession (i.e. development of civil society and promotion of projects in the interest of both ethnic groups); 54 million Euros will be given for the period 2000-2004.<sup>47</sup> Consequently, Athens, despite hefty domestic resistance, promised to lift its veto against the establishment of a customs union with Turkey and ceased to boycott the enlargement process. At the end of 1997, the European Council of Luxembourg decided to implement a special convergence strategy with Cyprus and opened a lucrative Community economic adaptation program with the Turkish Cypriot population. At the same time, the EU, however, rejected Turkey's application for membership brusquely. On 30-31 March 1998, formal negotiations over the 'conditions of accession to the Union and the corresponding adjustment to the Treaties' began with Hungary, Poland, Czech Republic, Estonia, Slovenia and Cyprus.<sup>48</sup>

However, none of the Turkish Cypriot representatives participated in the actual accession preparations, such as evaluation or 'screening', intensified convergence strategies, or accession partnerships because of the political leadership's 'negative position'.<sup>49</sup> The former had already closed an association agreement with Turkey in August, which prefaced a partial integration of both partners in certain policy areas.<sup>50</sup> Still, the Community exacerbated the inner-Cypriot conflict with their hellonophile decision, because they refused to treat the Turkish Cypriots as equal partners, which under the circumstances could have been possible without acknowledging the TRNC. Only after receiving some pressure from the

Commission, did the Greek Cypriot government finally allow a few Turkish Cypriot representatives into the delegation, who could have been outvoted in most key issues. Out of these suspicions, and in order to demonstrate his own independence, the Turkish Cypriot leader demanded his own negotiating delegation and separate referenda for the EU-accession as UN General Secretary Ghali had prescribed in 1992. In contrast, the EU maintained its negotiations with the Greek Cypriots with the vague hope that the economic and security-political advantages of EU membership for the whole island would benefit both ethnic groups. Accordingly, the Greeks, with the Commission, persisted in the view that the perspective of EU membership would function as a 'catalyst' for conflict resolution.<sup>51</sup>

At the Helsinki summit of December 1999, the European Council took its most far-reaching steps, given the 'thaw' in Greco-Turkish relations: it recognized Turkey as an accession-willing future candidate for membership. However, this entailed certain political stipulations (respect for human rights, protection of minorities, democratization, rule of law, institutional stability), as the European Council had determined in Copenhagen in 1993 for all candidate countries. In reaction thereto, the leaders of the EU member-states emphasized that a political solution would assist with the Republic of Cyprus' accession to the EU. If there was no solution by the end of the accession negotiations, the Council would then make a decision on accession without using a political solution as a prerequisite, considering all significant factors.<sup>52</sup>

The Helsinki resolutions were depicted as a "masterpiece of Byzantine diplomacy".<sup>53</sup> While the tangible advantages of détente policy on the European level were demonstrated to Athens, the long refused status of EU candidate was granted to Turkey after Greece's assent. Additionally, the EU membership negotiations with the Greek Cypriots closed successfully by the end of 2002, but independent of a political solution to the conflict. Finally, at the last Copenhagen Summit of 12/13 December 2002 the EU-Council concluded unanimously that 'Cyprus' (but not any longer the 'Republic of Cyprus' as it used to be cited formally in all EU documents)<sup>54</sup> was formally accepted to become an EU-member by May 2004 after ratification of the accession treaties by all prospective and old member states and the EU Parliament. At the same time, Turkey was given a so-called 'rendezvous-clause' and so by December 2004 the Union will definitely decide whether Turkey meets all political criteria to start access negotiations "without any further delay".<sup>55</sup> Nevertheless, the reservations of some EU members concerning the accession of a divided Cyprus remain and the EU has not bound itself legally to



solving the problem while it continues to favour the accession of a reunited island:

EU membership, following a political settlement, will provide an effective framework for guaranteeing fundamental democratic and human rights and for raising living standards and reducing disparities in income. Participation in EU programmes and networks and specific EU policies to promote structural adjustment will underpin economic development in the north.<sup>56</sup>

Yet the Community has some leverage to bring the two groups into further negotiations because only a mutually agreeable accession can elicit an easing or resolution of the conflict, though this will require a special accord. Therefore, a few high-ranking representatives of the Commission and the Council frequently visited the island in 2002-03 to explain the complex EU position.<sup>57</sup> There the Europeans promised to accommodate the terms of a comprehensive settlement in the Treaty of Accession until May 2004 at the latest:

... in line with the principles on which the European Union is founded; as a Member State (which is free to determine its own constitutional arrangements) Cyprus would need to speak with a single voice and ensure proper application of EU law. The EU would make a substantial financial contribution to support the development of the northern part of a reunited island.<sup>58</sup>

Brussels continues to promote bi-communal projects like conflict resolution workshops etc. normally organized in the buffer zone or abroad, mainly in cooperation with the UN. For the last two decades mainly upper-middle-class professionals and academics from both sides, more or less fluent in English, the common medium of understanding in those meetings, have tried to build a climate of mutual trust and understanding among Cypriots of both ethnicities with the aim gradually to develop a common Cypriot identity which might prove a necessary condition for the solution of the Cyprus problem.<sup>59</sup> But the participants from both communities often have met with public resistance by their own nationalist media and politicians accusing them of being unpatriotic and even treacherous. This can be seen as a clear sign for the yet underdeveloped Cypriot civil societies dominated by uncompromising political leaders who keep the Cyprus dispute alive for their own internal use and to preserve their traditional power over both weak societies with the help of the two competing ethnic nationalisms on the island.<sup>60</sup> Therefore, without external pressures for internal reforms, mainly as the result of the upcoming accession of the island into the EU, there is little hope that the well-established grip of the politicians on their respective civil societies will loosen. Thus prevailing

nationalistic attitudes in both ethnic camps prevent the creation of a trustful atmosphere which is a precondition for a mutual settlement of the Cyprus problem and the future function of the two communities' co-existence in a bi-communal state. Otherwise, some unresolved questions remain with a sole factual (if not judicial) concerning EU membership of the Greek part of the island: How can Cyprus enter the EU when Turkish forces occupy the island's northern part? How can Brussels start officially accession negotiations with Turkey while its army controls a part of EU territory? And will the membership of just one Cypriot party not further deepen the division of the island? In the meanwhile, has the original UN approach to accept only the Greek Cypriots' official status as representatives of the whole island (which was followed stubbornly by Greece and the EU) not proven finally counterproductive, while bringing them both together to the UN negotiation table as if they were equals? And, as Günter Verheugen, the EU-enlargement Commissioner, recently brought forward in the European Parliament, How can the ongoing deployment of UN peace-keeping soldiers be legitimized in an EU member state?

***Domestic Rapprochement in the Framework of the Annan Plan?***

After the progress report of the EU on 13 November 2001, the Union declared as its goal in Cyprus: "to find a political solution under the auspices of the UN before Cyprus enters the EU, although this does not represent any prerequisite for the accession".<sup>61</sup> EU accession and UN conflict resolution negotiations between both ethnic groups are thus treated complementarily with the intention of adjusting all deviations from community law to the final accession treaty. The EU does not view itself as an active conflict arbitrator (therefore it has never developed its own strategy to solve the Cyprus problem and since 1993 it has regularly sent special envoys just to observe the UN peace talks), but understands how to use the accession dynamics in order to bring about an agreement. However, a failure would intensify the division to the disadvantage of both communities (no regulation of territorial, refugee and compensation issues, elimination of the differences in wealth, recognition of past failures) and their motherlands (bilateral balance, Turkish EU accession) as consequences.<sup>62</sup>

When the EU summit in Helsinki in December 1999 named Turkey a future accession aspirant, the solution to the Cyprus issue came closer, principally during the year 2000 during the new, indirect rounds of 'proximity talks' in Geneva and New York, between the speakers of the two ethnic groups and the UN-special mediator Alvaro de Soto. There he presented concrete, detailed discussion proposals for the central topics of

the distribution of powers between both ethnicities in a Cypriot 'common state' and in the 'component states'.<sup>63</sup> In the autumn of 2000, the 'comments' from UN General Secretary Kofi Annan also proved to be of particular significance for the negotiation process as well as future conflict resolution. He called for the recognition of the political equality of rights of both ethnic groups in order to reach a comprehensive balance between the claim to an exclusive right of representation in the Republic of Cyprus and the claim to sovereignty in the Turkish Republic of Northern Cyprus.<sup>64</sup> Nevertheless, the Turkish Cypriots rejected Annan's suggestions and their leadership refused further participation in the UN talks. Contrarily, the EU Nice Summit greeted Annan's efforts and supported them strongly. The Union criticized the negative position of the Turkish Cypriot leader and turned to Turkey as a means of leverage by making their progress in the EU accession process dependent on Turkey's position in the Cyprus issue.<sup>65</sup>

In analysing Annan's proposals, which later became the framework for his overall masterplan in November 2002, it became apparent that no resettlement of the immigrant Turkish settlers was to take place, nor would all Greek refugees be allowed to return to the island's north. This would certainly lead to difficulties for acceptance from the Greek Cypriot side which has shown little determination to confront the thorny issues from the past and necessary resultant compromises on details of future nation building.<sup>66</sup> Nonetheless, President Clerides announced his willingness to find a compromise so as not to be responsible for the failure of new negotiations. In response, the Turkish side demanded the reestablishment of the confederation model because it did not agree with the accession stipulation – to speak with one voice in the EU. At the same time, the Turkish Cypriots are being asked by the UN to give up their alleged factual co-sovereignty over the whole country. Internationally the Republic of Cyprus should be legally fully responsible for the whole island. Additionally, the occupation of Northern Cyprus is being called into question. But a military presence under UN, NATO or European Rapid Reaction Force command, with mixed mainland Greek and Turkish units, seemed more realistic to Annan, because Turkey cannot afford over-exaggerated security concerns given its own EU membership prospects.

When Rauf Denктаş offered to meet his former school friend Glafcos Clerides for the first time since 1997, the proposition took place with support from Ankara, to show a positive sign of Turkey's renewed willingness for negotiations before the European Council conference in Laeken, 14-15 December 2001. Thus began a new marathon of talks in Nicosia between the UN representative de Soto and the two key ethnic

leaders who had known each other for decades. The new talks, as usual, were regarded by many observers as one of the last opportunities to solve the island's division before the accession of the Republic into the EU.<sup>67</sup> Thus the urgency of the negotiations entailed a set schedule for the following six months (until the end of June 2002) to negotiate three times a week in the buffer zone with UN support and under exclusion of the public. In this manner, the Greek Cypriots and the EU, which pushed both sides to compromise, hoped to be able to include the criteria for a resolution to the conflict into the accession treaty before the accession negotiations ended. Otherwise the Union had to face a new confrontation with the unresolved Cyprus problem after enlargement that could threaten the EU's abilities to manage regional stability and security.

Although more than 40 bilateral meetings finally ended without concrete results, the conditions for a conflict resolution appeared better than at any time since the founding of the Republic of Cyprus. The EU as a peaceful community, and its member-states, were to take a more active role in the Cyprus issue, in that they were to promote a readiness to compromise with appropriate financial, as well as political-diplomatic incentives, for both conflict parties. Otherwise the entrance of an ethnically divided Cyprus would increase the susceptibility to conflict for the whole island as well as between Greece and Turkey. Consequently, this would endanger the security of the Eastern Mediterranean as well as the credibility of the EU Common Foreign and Security Policy.<sup>68</sup> Until now, the EU Commission has led the accession negotiations with Cyprus and Turkey with sole responsibility because most member-states have shown no strong inclination to get involved. In contrast to Macedonia, where representatives of the EU and its member-states sent large amounts of money, prominent officials and military support, their relative lack of interest and involvement in Cyprus is blatant, although the situation is just as unstable.<sup>69</sup> Serious difficulties in finding a compromise are to be expected in the following areas given previous experience:

- Binding constitutional agreements within a future Cypriot EU membership,
- return of (mainly Greek Cypriot) property and territorial changes (to the burden of the Turkish Cypriots),
- the issue of the future of Turkish settlers in Northern Cyprus,
- credible security guarantees for an autonomous economic existence of the Turkish Cypriots,
- unity over transitional steps to build up mutual trust and to receive support in two populations for the unavoidable

adjustment process.

Despite these foreseeable difficulties, it is noteworthy that both sides were beginning, as early in the negotiations as possible, to eliminate their barriers to interethnic and economic contacts over the line of demarcation. The goal was to accomplish this even before the issues concerning status were resolved and the EU promised to support such transitional steps with financial means.

Yet the danger of an unresolved Cyprus issue affecting the complicated internal EU decision-making processes remains, should a political solution not be reached at the last minute. In order to escape the dilemma of the self-made Cyprus trap, the EU Commission tried to reduce the asymmetry in its Greek-Turkish-Cypriot relationship. At the same time, it has concentrated for a long time on convincing the Turkish Cypriots of their advantages in a common EU membership with the Greek Cypriots:<sup>70</sup>

- The Turkish Cypriots are free to determine their own inner order and security measures after entrance into the Community. All existing accords with Turkey concerning the Cyprus solution would not be affected by the EU accession, so long as Cypriots speak with one voice in the EU committees and fulfil their requirements as EU members.
- Since February 2002 the EU-Commission has worked on a one-time only special program (adjustment program) in the amount of over 206 million Euros (from 2004 until 2006) for supporting the Turkish Cypriots with the creation of a functioning market economy in the event of a prior settlement of the Cyprus dispute. In this case, the EU would offer further structural programs for modernisation of agriculture and tourism in northern Cyprus, which would belong undoubtedly to the poorest regions of the enlarged Union, in order to help alleviate fears of domination from the strong entrepreneurial Greek Cypriots. Furthermore, an EU informational centre in the Turkish Cypriot Chamber of Commerce is supposed to contribute efficiently to business people and Community politics as well as support the union movements in both parts of the island. As a result, the EU hopes to achieve improvements in relations between the ethnic groups and develop mutual interests before the EU accession. Likewise, a communication strategy seeks to promote public awareness and interest in the EU in both Cypriot communities.
- The EU refers to opinion polls in northern Cyprus, where

more than 90% of the Turkish Cypriots recognise the economic and political advantages of EU membership and speak in favour of an EU accession after the solution of the Cyprus issue. And it referred to leftwing Non-governmental Organizations that are representing and organizing thousands of dissatisfied Turkish Cypriots who are in a state of unrest campaigning for a Partnership state.

- The Community guarantees all Cypriots to secure the primacy of democratic and human rights including protection of cultural, religious, and linguistic diversity. Democracy and the application of the rule of law are secured as well as inclusion of Greek and Turkish Cypriots in EU institutions.
- The EU has also let the TRNC know that enlargement is the last chance to share in the wealth of the southern part or end up losing out.
- In the end, the Commission has initiated since 1995 and partly in cooperation with the UN several bi-communal projects as a major part of the 'confidence building measures' to construct a strong civil society in both parts of Cyprus.<sup>71</sup> At least a third of the 57 million Euros that the EU allocated to Cyprus for the accession preparations are therefore being used to finance reconciliation projects between the two ethnic groups.

Still, these activities have not been able to unfold between the populations of Cyprus, because for a long time the Turkish Cypriot leadership has built insuperable impediments for the participation of their civil actors in the event of crossing the demarcation line. Consequently, organizations, opposition parties and unions led a demonstration in July 2001 under the slogan, "This Country is Ours!", in which about 3,000-4,000 Turkish Cypriots participated. The protesters contested the prospect of further economic degeneration and demanded their government take a positive position toward bi-communal activities.<sup>72</sup> Furthermore, in summer 2002 some 86 NGOs with about 38,000 members signed a declaration, entitled the 'Common Vision of the Turkish Cypriot Civil Society'<sup>73</sup>, calling for a mutual settlement of the Cyprus problem and full Cyprus EU membership. The 'Common Vision' no longer favours two separate and sovereign states, but two politically equal sides in a 'partnership state' with a single international legal identity and with an effective democracy to manage its relations with the EU along the lines of the Annan proposals.<sup>74</sup> Finally, the mass demonstrations in Lefkoşa continued in 2002/03 demanding even Denktaş's resignation.<sup>75</sup> Indeed the Union has expected

from both negotiation and ethnic community leaders to consider the following basic demands for a successful conclusion of the present Greek-Turkish talks:<sup>76</sup>

- The political representatives from both parts of the island must finally recognize that one-sided suggestions will not lead to acceptable solutions for the unity, freedom, and prosperity of Cyprus. Therefore the two ethnic groups should permanently reject the option of annexation into their motherlands.
- Also, neither ethnic group can seek to dominate the other. The effective concept for the 21st century is the trusting cooperation of all Cypriots in a united Europe, in which the EU member-states as well as the regions and communities have their own powers based on the principles of federalism and subsidiarity. Thus member-states particularly with numerous ethnicities should assure comprehensive societal and cultural rights of autonomy as a compensation for their loyal behaviour toward the central government as a way of preventing separatist tendencies.
- Similar to the Belgian case, ethnic groups may not be limited to their own settlement region, rather a federal solution with two areas and two communities should be reached. An enduring peaceful solution for Cyprus based on the bi-communal negotiations necessitates finally not only the mediation of the UN, but also the Union as a believable regional guarantor of the stability of the entire Cyprus.

When it became clear that the Turkish government had started to earnestly reform the constitution to fully comply with the strict Union's democratic criteria, and that the religious-conservative islamist but *europhile* reformer Recep Tayyip Erdoğan became prime minister in November 2002, Kofi Annan finally decided to present both Cypriot parties with his overall Basis for a Comprehensive Settlement of the Cyprus Problem<sup>77</sup>: "The status and relationship of the State of Cyprus, its 'common state' government, and its 'component states', is modelled on the status and relationship of Switzerland, its federal government, and its Cantons."<sup>78</sup> The 'component states' are to secure the widest possible autonomy for both ethnic groups without giving them their own sovereignty. Together with a rotating presidency it guarantees a real political equality for Greek and Turkish Cypriots and enables Cyprus to speak with one voice as a postmodern state entity in the form of an 'indissoluble partnership' resembling the constitution of 1959. All Cypriot citizens shall

also enjoy internal component state citizen status. Like with European citizenship, the status shall complement and not replace Cypriot citizenship.

At the same time Annan pushed for a separate referendum in both communities on his plan under the option 'take it or leave it' at the end of March 2003. In this way he wanted to prevent new endless rounds of discussions avoiding subsequent revisions after his original plan had already been amended twice.<sup>79</sup>

The plan left room for diplomatic bargaining only on two major aspects of the Cyprus dispute: the problem of refugees whose homes were left behind enemy lines following the Turkish invasion, and the question of how the two communities would share Cyprus' territory.

Notwithstanding their rhetoric, most Greek Cypriot politicians still do not agree to the following points:

- With a Cyprus consisting of two sovereign 'constituent states' the Turkish Cypriots could become so independent that they would gradually secede from the 'United Cyprus Republic';
- the Annan Plan establishes a divisive and dysfunctional system of governance inadequate for running an island like Cyprus,
- the plan essentially legitimises the continued presence of the disliked settlers from Turkey and opens the way for the transformation of the demography of the island.

The Turkish Cypriot officials are discontented with the dominant position of the Greek Cypriots in the powerful central government institutions of the proposed federal state (legislature, executive), which to the UN is a consequence of the numerical superiority of the Greek Cypriots, though it was argued that most legislation would emanate from the EU. Also the plan does not give the TRNC full recognition before agreement to, and signature of, the plan. Finally, whereas the Greeks demand full rights for refugees to return to their pre-1974 homes in northern Cyprus, including reoccupation, the Turks are only willing to offer compensation, because only a few Turkish Cypriots would want to live among Greek Cypriots again.<sup>80</sup>

In the final analysis, Annan failed again with his manoeuvre because on 10 March Denktaş, together with the Turkish government, finally rejected even the third version of the Annan Plan<sup>81</sup> and the referendum, despite a more conciliatory reaction from the new reform government in Ankara and a promise to review its Cyprus policy.<sup>82</sup> They now argued, instead, that the Annan Plan did not meet the Turkish interests, and cited several good reasons for this decision: The ongoing Iraq crisis,



the split in the European family over allying with the US/UK, Turkish disappointment with the EU's decision to postpone the opening of membership negotiations until 2004, an internal dispute between Erdoğan and the Turkish military on who has the final political authority, and, finally, the election of the new Greek Cypriot President Tássos Papadópoulos in February with the support of the traditionally Cypriotist and moderate AKEL because he was believed to be a traditional nationalist and 'hard-line-rejectionist politician'<sup>83</sup> due to his long EOKA past. Opinion polls taken at the time among the Greek Cypriots also showed a principle negative attitude towards the Annan Plan in sharp contrast to the positive views expressed in Athens because there was a widespread fear among Greek Cypriots that Turkish Cypriot longing for political autonomy might reverse the traditional Greek majority over key decisions in territorial and property questions.<sup>84</sup>

But ultimately it was the Turkish refusal that put an indefinite hold on the most intense efforts of the UN to solve the Cyprus problem on the basis of the detailed plan for a comprehensive settlement. In mid April 2003, therefore, it was President Papadópoulos alone who signed the accession treaties with the EU in Athens in a ceremonial act under the Greek EU Presidency.

Only a week later, deputy Prime Minister Serdar Denктаş, son of the President, officially opened the internal 'borders' of northern Cyprus for visitors from both communities commenting in the press that "Cypriots can perhaps begin solving the Cyprus problem on their own, without outside interference – and they should do it gradually".<sup>85</sup> It seems that this shock move to partially lift restrictions on free movement on the island was mainly intended to channel the ever rising amount of internal frustration against the Denктаş regime. But like with the fall of the German wall in 1989, thousands of ordinary Greek and Turkish Cypriots were at least initially euphoric crossing the Green Line that had separated the island since 1963. This sudden and dramatic change transformed the Cyprus problem with a yet unforeseeable result. The experiment will have to prove whether the civil societies are ahead of the politicians and that the Cyprus problem can now be solved 'from the bottom up', i.e. from the grass-roots. If so it might develop to a decisive rapprochement between both communities in the long run.

The parliamentary elections in the TRNC in December 2003 will test whether the anti-Denктаş opposition, in accordance with the support of the EU, is already decisive enough to convince a majority of voters that the President of the TRNC must no longer, automatically, be the speaker of his community in the next inter-communal negotiations.

And for the first time ever, the EU Commission in the latest progress report on Turkey's accession in November 2003, while still avoiding any direct mediation in resolving the Cyprus problem, has put unusually direct political pressure on Turkey to finally push the Turkish Cypriot government to resume negotiation talks on the basis of the Annan Plan. Otherwise it openly threatened that "the absence of a settlement could become a serious obstacle to Turkey's EU aspirations". At the same time it offered its assistance to find a "speedy solution to the Cyprus problem".<sup>86</sup> The message the EU sends to Turkey is clear-there is a link between the settlement of the Cyprus dispute and Turkish EU membership. When the Greek part of Cyprus has become an EU member as the Republic of Cyprus, Turkey will find after May 2004 a country at the negotiation table which Ankara does not officially recognise. Moreover, Turkey will be in the position of an occupation force of EU territory and this makes it obvious why a solution to the problem should be so important in realising Turkish membership to the EU.<sup>87</sup> However, Turkey needs to feel that the EU is serious about Turkey's membership, and only then may it be willing to make compromises for the solution of the problem on the basis of the Annan Plan which has at least failed to meet the most nationalist expectations of the Turkish and the Greek sides.

### **Integration of Cyprus in the EU: an Effective Model Resolving Diverging Ethnic Interests?**

Cyprus signifies a special case in the forthcoming enlargement given its distinctive insular geography between Christian occident and Muslim orient as well as its apparently insurmountable international and historical problems of domestic co-existence between two different ethnic groups with different ethno-religious identities. If one considers that the majority of inter ethnic conflict occurred after Cyprus's independence then it is evident that the two communities coexisted to some degree relatively peacefully when Cyprus was externally dominated by their colonial masters, the Ottomans and then the British.<sup>88</sup> Therefore, Cyprus joining the EU could be presented as going back to a similar but certainly not identical model with the Community as a benign new external master, to which some of Cyprus's sovereignty will have voluntarily to be transferred (and the likelihood is that more and more will have to be shared as the EU matures). Could it be that this is exactly what most Cypriots need to co-exist again?

In view of that, the island offers the unique "window of opportunity" (Kofi Annan) to try out new models of conflict resolution. For the EU, a promotional role as stability provider, peacemaker, and prosperity

benefactor in the Eastern Mediterranean could develop, if it succeeds in applying the enlargement's dynamics as a strategic instrument of flexible cooperation for overcoming the diplomatic stalemate in the island's ongoing conflict. But applying 'democratic conditionality'<sup>89</sup> as the most frequently evoked feature of the enlargement process has led to an asymmetrical impact on the EU in the solution of the Cyprus conflict: the Community under pressure from its member state, Greece, permitted only the Greek Cypriots to enter the EU as the sole representative of the ecumenical government of the already deceased Republic of Cyprus of 1963. Thus the Union lost its own impartiality in the dispute to the advantage of the Greek side. Then the Commission started a material bargaining only with the Turkish Cypriots offering attractive financial incentives to accept the conditions of the Annan Plan and to enter the Greek dominated negotiation team in Brussels in a minority status. All the while Turkey was kept in a long waiting list for membership during which time her commitment to democratic norms and values as well as to resolving the Cyprus dispute would come under intense scrutiny. The EU's credibility as a political actor has suffered as the political representatives in both communities did with their ambivalent positions to the Annan Plan. If both parts will not succeed by May 2004 to officially join the EU together, they will have to pay the price: "The Greeks will not receive any of the occupied lands back, and the Turks will continue in their political isolation and economic misery".<sup>90</sup>

However, the necessary settlement of the deeply divided conflicting parties in Cyprus requires a different approach to problem solving capability beyond the nation-state. Meanwhile, the EU is experiencing new forms of governance in the European multi-level system,<sup>91</sup> which is ideally based on a complex, balanced dialogue led by the governments, the EU institutions and the civil society in Europe, and at the same time interested in a collective, binding arbitration and decision system. If the EU manages to transfer the success of its governance approach to a solution of the Cyprus problem, then it could promote more flexibility, willingness to cooperate, and acceptance among the conflicting parties for an end to the island's division and security dilemma. As an educational community, the EU can act exemplarily for the political elites of divided Cyprus and illustrate how radically the relations in the multi-level system have changed as a result of European integration. It follows, therefore, that the classical terms of nation-state, sovereignty, and statehood have lost everyday political significance. In addition, one needs to consider the large variety of political and constitutional systems within the EU, which reach from the relatively centralistic France and United Kingdom to the

loose federal structure of Belgium. Therefore, it is not too difficult for the Community to bid plausible assurances of protection for the Turkish Cypriot group within its limited territory.<sup>92</sup>

In coming to grips with the Cyprus issue, the EU must develop further practical measures in the near future, to prevent the small island of Aphrodite becoming the largest problem of the enlargement.<sup>93</sup> Simultaneously, an increase in stability can result only if the EU manages to define its relations to Turkey more clearly. Yet, it can prove quite helpful that Cyprus is the first accession country that must bring together on the national level two opposing cultures feeding on Christian and Muslim traditions. The EU should show that the accession of Cyprus cannot be perceived as a victory for the Greek Cypriot population over the Turkish Cypriot minority, rather, that the entire population of Cyprus benefits. Thus, it must be examined, whether, after the freedom to travel has been improved without necessarily acknowledging formally Northern Cyprus, compulsory resettlements can be excluded, and the TRNC can participate in some form in the European free trade and customs union. Additionally, as with the codification in the Turkish language as an official EU language in the accession treaty, the Republic of Cyprus must be persuaded to a constructive contribution.<sup>94</sup> The future of the Community depends considerably on whether the EU succeeds at establishing a broad democratic dialogue between the traditional Christian and Islamic self-perceived archivals in a common, western and secular political framework.<sup>95</sup> Here, the EU will have to involve itself more intensively than previously in the cooperation between the population groups from both Cypriot civil societies in order to demonstrate its integrity and credibility towards these new European citizens. Ultimately, it will also depend on the number of bi-communal networks, whether the Cypriots of both ethnic groups will be able to solve their conflicts amiably with EU support under the common umbrella of Europe. In this manner, Turks and Greeks in Cyprus must first learn that they can realise their interests believably, profitably, and efficiently only in an enlarged European Community.

*Wandel durch Annäherung* (transformation by mutual approach), to cite Egon Bahr, (the architect of the inner German détente policy in the 1970s), advocates that internal change in Cyprus can only be realised if the two parties move closer together from project to project under the stable framework of the EU guaranteeing free inter-communal activities of the different NGOs and creating mutual trust and understanding for interethnic cooperation. Thus both camps will then have to accept that the two existing political systems in one country<sup>96</sup> can in fact peacefully coexist for their own benefit under a loose state federation and with

Greece and Turkey closely integrated in the European Union contributing finally to peace and stability in the Eastern Mediterranean. Thus the real ability of the EU to solve the Cyprus problem lies in its 'power of attraction'.<sup>97</sup> Eventual full EU membership for Cyprus and Turkey offers the necessary incentives and the economic, political, legal and security framework to accommodate integration after the settlement of the Cyprus dispute. But it will depend largely on the political interests of all domestic and external parties involved to provide for rapprochement as the condition for trustworthy and binding commitments to regulate finally inter-communal co-existence on the basis of the Annan Plan.

**Endnotes**

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<sup>1</sup> T. Dietz, ed, *The European Union and the Cyprus Conflict. Modern Conflict, Postmodern Union*, Manchester, 2002, 203.

<sup>2</sup> P. Zervakis, "Globalisierung und Europäisierung als Herausforderungen für den Wandel des Nationalstaats in Europa", R. Elm, ed, *Ethik, Politik und Kulturen im Globalisierungsprozess, Eine interdisziplinäre Zusammenführung*, Bochum, 2003, 295.

<sup>3</sup> A. M. Sbragia, "Thinking about the European Future: The Uses of Comparison", A. M. Sbragia, ed, *Europolitics*, Washington, 1992, 257 and D. Chrysochoou, *Towards a civic conception of the European polity*, Sussex, 2001, (ESRC Working Paper 33), 24.

<sup>4</sup> C. Brewin, *The European Union and Cyprus*, Huntingdon, 2000, 1-3.

<sup>5</sup> P. Zervakis, "Die politischen Systeme Zyperns." Wolfgang Ismayr, ed, *Die politischen Systeme Osteuropas*, Opladen, 2002, 847.

<sup>6</sup> C. Rumpf, "Verfassung und Recht", Klaus-D. Grothusen, W. Steffani, and P. Zervakis, eds, *Handbook on South Eastern Europe. Vol. VIII. Cyprus*, Göttingen, 1998, 158-160.

<sup>7</sup> T. Bahcheli, "Domestic Political Development", Grothusen, Steffani, and Zervakis, *Handbook*, 98 and G. Lundestad, "Empire" by *Integration*, Oxford, 1998, 3-4.

<sup>8</sup> P. Zervakis and S. von Gossler, "40 Jahre Elysée-Vertrag: Hat das deutsch-französische Tandem noch eine Zukunft?", *Aus Politik und Zeitgeschichte B 3-4* (2003): 6-13.

<sup>9</sup> Although this view is hotly disputed by many Greek scholars who blame the UK for all inter-communal problems. See A. Polis, "Intergroup conflict and British colonial policy: the case of Cyprus", *Comparative Politics* 5/4, 1973, 575-599. For the true reasons behind orthodox Greek Cypriots' 'anti-Britishness' see R. Holland, *Britain and the Revolt in Cyprus, 1954-1959*, Oxford 1998, 334-336.

<sup>10</sup> There is a lot of interethnic dispute on the right use of terminology. Greek Cypriots, for instance, usually avoid using the term 'civil war' to describe the events of 1963/64 because they do not regard the Turkish Cypriots to be members of the same nationality or ethnicity. Also they regard the inner Greek fighting between pro and anti-Makarios'

forces in 1974 not as a true civil war, and definitely not the subsequent fighting with Turkey. The Turks, on the other hand, prefer to label their military actions in Cyprus in summer 1974 as 'peace operation' or legal 'intervention'. See P. Zervakis, "Zypern", H. Roth, ed, *Studienhandbuch Östliches Europa*, vol.1, Cologne, 1999, 442-443.

<sup>11</sup> See M. Zürn, *Regieren jenseits des Nationalstaates. Globalisierung und Denationalisierung als Chance*, Frankfurt am Main, 1998.

<sup>12</sup> The protection of minorities in Europe is regarded to be rather an exclusive field for the Council of Europe and the Organization for Security and Cooperation in Europe. See R. Hofmann, "Der Schutz von Minderheiten in Europa", W. Weidenfeld, ed., *Europa-Handbuch*, Bonn, 1999, 823-846.

<sup>13</sup> See B. Lippert, "Von Kopenhagen bis Kopenhagen: Eine erste Bilanz der EU-Erweiterung", *Aus Politik und Zeitgeschichte B 1-2* (2003): 7-15.

<sup>14</sup> See Institut für Friedensforschung und Sicherheitspolitik, *Die europäische Sicherheitsgemeinschaft. Das Sicherheitsmodell für das 21. Jahrhundert*, Bonn, 1995.

<sup>15</sup> F. Duchêne, "Europe in World Peace", R. Mayne, ed, *Europe Tomorrow*, London, 1972, 32-49 and S. Stavridis, "Failing to act like a 'civilian power': the European Union's policy towards Cyprus and Turkey (1974-2000)", *Studia Diplomatica* 54:3, 2001, 75-102.

<sup>16</sup> P. Zervakis, "The Accession of Cyprus to the EU: The Greek Viewpoint", Heinz-J. Axt and H. Brey, eds, *Cyprus and the European Union, New Chances for Solving an Old Conflict?*, Munich, 1997, 137-150.

<sup>17</sup> T. Diez, "Why the EU can nonetheless be good for Cyprus", *Journal of Ethnopolitics and Minority Issues in Europe (JEMIE)* 2, 2002, 14.

<sup>18</sup> See R. Zoll, ed, *Ein Modell zur Vermittlung konfliktärer Interessen. Die griechisch-türkischen Beziehungen und der Zypern-Konflikt*, Münster, 2000 and P. R. Hugg, "Cyprus advances towards Europe: Realism and rationalism", *Perceptions* 6.3 (2001): 94.

<sup>19</sup> N. Schulze, "'Cracks in the Wall'. Bikommunale Aktivitäten und friedensstiftende Maßnahmen auf Zypern", G. Welz and P. Ilyes, eds, *Zypern. Gesellschaftliche Öffnung, europäische Integration, Globalisierung*, Frankfurt am Main, 2001. 23-43.

<sup>20</sup> See the latest Report of the EU-Commission, *Continuing Enlargement. Strategy Paper and Report of the European Commission on the progress towards accession by Bulgaria, Romania and Turkey*, Brussels, 2003, 15-16, <http://europa.eu.int/comm/enlargement/>

[report\\_2002/pdf/strategy\\_paper20\\_03\\_full\\_en.pdf](#) (last access: 10 November 2003).

<sup>21</sup> A. F. Reiterer, *Cyprus. Case study about a failure of ethno-national understanding*, Frankfurt am Main, 2003, 129.

<sup>22</sup> P. Zervakis, "Die politischen Systeme Zyperns", 847-851, 880.

<sup>23</sup> Here again this perception is resolutely denied by many Greeks who note that the proposed change was accepted in principle by the Turkish Cypriot leaders as it was only meant to be a provisional change to make the constitution workable. See P. Tzermias, *Geschichte der Republik Zypern*, 2<sup>nd</sup> edition, Tübingen, 1995, 266-271.

<sup>24</sup> M. Pabst, "Bewegung auf Zypern, aber nicht im Zypern-Konflikt", *Vereinte Nationen* 51/4, 2003, 128.

<sup>25</sup> N. Tocci, *The 'Cyprus Question': Reshaping community identities and elite interests within a wider European framework*, Brussels, 2000 (Working Document, 152), 9.

<sup>26</sup> Dietz, *European Union*, 157-158.

<sup>27</sup> See D. Christodoulou, *Inside the Cyprus Miracle*, Minneapolis, 1992.

<sup>28</sup> For a critical assessment on Denktas's role in the Cyprus dispute see M. Knüppel, *Rauf R. Denktas und seine Rolle im Zypernkonflikt*, Göttingen, 1999.

<sup>29</sup> P. Varvaroussis, *Deutschland und die Zypernfrage*, Munich, 1995, 249-251.

<sup>30</sup> See A. Theophanous, *The Political Economy of a Federal Cyprus*, Nicosia, 1996.

<sup>31</sup> N. Neuwahl, *Cyprus, which way? - In pursuit of a confederal solution in Europe*, Boston, 2000 (Jean Monnet Working Paper, 4), 9.

<sup>32</sup> Bahcheli, 'Domestic', 117.

<sup>33</sup> M. Hadjipavlou-Trigeorgis, "Little confidence in confidence building? Conflict resolution in the context of the United Nations", Axt and Brey, *Cyprus*, 36-54.

<sup>34</sup> M. Pabst, "Zypern: UN, EU und der Status quo", *Vereinte Nationen* 49, 4, 2001, 141.

<sup>35</sup> J. Reuter, "Zypern, Vereinte Nationen und Europäische Union", *KAS/Auslandsinformationen* 9, 2001, 28-30.

<sup>36</sup> Commission of the European Communities, *Regelmäßiger Bericht 1998 der Kommission über Zyperns Fortschritte auf dem Weg zum Beitritt*, Brussels, 1998, 6-7.

<sup>37</sup> Commission of the European Communities, *Stellungnahme der Kommission zu dem Beitrittsantrag der Republik Zypern*, Brussels, 1993, 15.



<sup>38</sup> N. Nugent, "EU Enlargement and the 'Cyprus Problem'", *Journal of Common Market Studies* 38, 1, 2000, 136.

<sup>39</sup> Zervakis, 'Accession of Cyprus', 142.

<sup>40</sup> Commission, *Stellungnahme*, 22.

<sup>41</sup> Commission, *Stellungnahme*, 23.

<sup>42</sup> M. H. Mendelson, *Why Cyprus entry into the European Union would be illegal. Legal opinion*, London, 2001, 7. For the Greeks and the Commission in Brussels, on the contrary, it was evident that since the EU is not regarded a state, the Republic of Cyprus may join it.

<sup>43</sup> T. Bahcheli and N. X. Rizopoulos, "Beyond Partition", *War Report* 54, 1997, 18.

<sup>44</sup> Commission, *Stellungnahme*, 23, 43, 64 and Brewin, *European Union*, 3-14.

<sup>45</sup> Nugent, "EU Enlargement", 138-139.

<sup>46</sup> Commission of the European Communities, *Regelmäßiger Bericht 1998 der Kommission über Zyperns Fortschritte auf dem Weg zum Beitritt*, Brussels, 1998, 8.

<sup>47</sup> Commission, *Regelmäßiger Bericht 1998*, 5.

<sup>48</sup> Commission, *Regelmäßiger Bericht 1998*, 8.

<sup>49</sup> Pabst, "Zypern", 142.

<sup>50</sup> Commission of the European Communities, *Regelmäßiger Bericht 2000 der Kommission über Zyperns Fortschritte auf dem Weg zum Beitritt*, Brussels, 2000, 10, Heinz-Jürgen Axt, "Enttäuschte Hoffnungen auf Zypern", *Europäische Rundschau* 29, 2, 2001, 77, P. R. Hugg, "Cyprus in Europe: Seizing the Momentum of Nice", *Vanderbilt Journal of Transnational Law* 34, 5, 2001, 1360, J. S. Joseph, "Cyprus: from Past of Ethno-Political Division to a Future of Euro-Unity?", G. Erdödy, ed, *Transformationserfahrungen. Zur Entwicklung der politischen Kultur in den EU-Kandidatenländern*, Baden-Baden, 2003, 230. For a critical evaluation on the assumption of a 'catalytic effect' see Diez, "Why the EU", 3-6.

<sup>51</sup> SN 300/99, 3.

<sup>52</sup> P. Zervakis, "Griechenland", W. Weidenfeld, and W. Wessels, eds., *Jahrbuch der Europäischen Integration 1999/2000*, Bonn, 2000. 338.

<sup>53</sup> Heinz-J. Axt, "Gordischer Knoten in Kopenhagen nicht durchschlagen: Zypern, die Türkei und die EU", *Integration* 26,1, 2003, 77, footnote 27.

<sup>54</sup> See <http://europa.eu.int/council/off/conclu/index.htm> (last access: 10 November 2003).

<sup>55</sup> Commission of the European Communities, *2002 Regular Report on Cyprus's progress towards accession*, Brussels, 2002, 29.

<sup>56</sup> O. Bauer, "Die Zypernpolitik der Europäischen Union.

Interessen, Akteure und Szenarien", A. Ashkenasi and G. Duprés, eds, *Perspektiven im Zypernkonflikt*. Frankfurt am Main, 2002, 244.

<sup>57</sup> Commission, *2002 regular report*, 26.

<sup>58</sup> See S. Bienert, "Konflikt und Kommunikation. Peacebuilding-Aktivitäten der bikommunalen Gruppen auf Zypern", Ashkenasi and Duprés, *Perspektiven*, 301-349, O. Wolleh, "Zypern: Gesellschaftliches Rapprochement im Spannungsfeld von impliziter Anerkennung und Repression", *Südosteuropa Mitteilungen* 42, 2, 2002, 83-99 and *Culture in Common-Living Cultures in the Cypriot Communities. Proceedings of German-Cypriot Forum Conference 22-24 May*, Berlin/Üdersee, 2003.

<sup>59</sup> Although it seems that there is a certain unsymmetrical relationship in the two civil societies in view to the strength of active NGOs. See C. V. Mavratsas, *Ethnikí omopsychía kai politikí omofonía. I atrofia tis ellinokypriakís koinonías ton politón stis aparchés tou 21ou aióna* (National unanimity and political consensus. The atrophy of Greek Cypriot civil society at the dawn of the 21st century), Athens, 2003.

<sup>60</sup> Commission of the European Communities, *Regelmäßiger Bericht 2001 der Kommission über Zyperns Fortschritte auf dem Weg zum Beitritt*, Brussels, 2001, 25.

<sup>61</sup> W. Wallace, *Reconciliation in Cyprus: the Window of Opportunity*. Florence, 2002, (Robert Schuman Centre Discussion Paper), 2.

<sup>62</sup> Reuter, "Zypern", 29-36.

<sup>63</sup> Pabst, "Zypern", 143.

<sup>64</sup> Commission, *Regelmäßiger Bericht 2001*, 22.

<sup>65</sup> For a possible alternative to the problem see N. G. Loizides and M. A. Antoniadis, "A credible commitment model: Settler, refugee, and immigration issues in post-settlement Cyprus", *Journal of Peace Research* (to be published, submitted in August 2003).

<sup>66</sup> J. Reuter and P. Varvaroussis, "Der Beitritt Zyperns zur Europäischen Union: Risiko für neue Instabilität der EU?", *Südosteuropa-Mitteilungen* 42, 2, 2002, 66.

<sup>67</sup> See G. S. Yiangou, "The accession of Cyprus to the EU: challenges and opportunities for the new European regional order", *JEMIE* 2, 2002.

<sup>68</sup> Wallace, *Reconciliation*, 7-12.

<sup>69</sup> Commission, *Regelmäßiger Bericht 2001*, 25 and Commission, *2002 regular report*, 26.

<sup>70</sup> See, for instance, the contribution of the daughter of the former Greek Cypriot president and MP Katie Clerides, "Citizens as Peacemakers: The Experience of Cyprus", R. C. Sharma and S. A. Epaminondas, eds, *Cyprus. In search of peace and justice*, New Delhi, 1997, 248.

<sup>71</sup> Commission, *Regelmäßiger Bericht 2001*, 10, 22.

<sup>72</sup> See the full text in <http://www.dzforum.de> (last access: 10 November 2003).

<sup>73</sup> Commission, *2002 regular report*, 27.

<sup>74</sup> Axt, "Gordischer Knoten", 73.

<sup>75</sup> Athener Zeitung 5 April 2002, 22-24.

<sup>76</sup> See Annan's detailed "Report of the Secretary-General on his mission of good offices in Cyprus" in UN Doc. S/2003/398 from 1 April 2003, 10.

<sup>77</sup> The Annan plan from 26 February 2003 has not been published as an official document of the UN. See <http://www.cyprus-un-plan.org/> and Pabst, *Bewegung*, 121-128.

<sup>78</sup> See <http://www.swp-berlin.org/produkte/brennpunkte/zypern-chance1B.htm> (last access: 17.12.2002) and [http://www.pio.gov.cy/other/revised\\_un\\_plan.pdf](http://www.pio.gov.cy/other/revised_un_plan.pdf).

<sup>79</sup> Foundation Center for Studies on Turkey (FRAME), "Cyprus-Question. Recent developments on Cyprus", 20 April 2003 (<http://www.zft-online.de/news/article/detail.php?ds=090ff54ae1afbd8427af91917d2fe173>, last access: 10 November 2003).

<sup>80</sup> See [http://www.typos.com.cy/nqcontent.cfm?a\\_id=28596](http://www.typos.com.cy/nqcontent.cfm?a_id=28596) (last access: 10 November 2003).

<sup>81</sup> P. Varvaroussis, "Der Beitritt Zyperns zur Europäischen Union und die Sicherheit in der Region", *Südosteuropa Mitteilungen* 43, 3, 2003, 63, footnote 13.

<sup>82</sup> C.V. Mavratsas, "Aspects of the Cyprus Problem: Political Culture and Civil Society", *Culture in Common*, 38.

<sup>83</sup> Axt, "Gordischer Knoten", 76.

<sup>84</sup> Mavratsas, "Aspects", 38.

<sup>85</sup> EU-Commission, *Continuing Enlargement*, 5, 20.

<sup>86</sup> M. Schladebach, "Rechtsfragen des EU-Beitritts der Republik Zypern", *Südosteuropa* 52/1-3, 2003, 146-147.

<sup>87</sup> See J. Asmussen, 'Wir waren wie Brüder': *Zusammenleben und Konfliktentstehung in ethnisch gemischten Dörfern Zyperns*, Hamburg 2001.

<sup>88</sup> See F. Schimmelfennig, S. Engert and H. Knobel, "Costs, commitment, and compliance. The impact of EU democratic conditionality on Latvia, Slovakia, and Turkey", *Journal of Common Market Studies* 41, 3, 2003, 495-517.

<sup>89</sup> Mavratsas, "Aspects", 39.

<sup>90</sup> See Commission of the European Communities, *European Governance. A White Paper*, Luxembourg, 2001.

<sup>91</sup> Wallace, *Reconciliation*, 9.

<sup>92</sup> L. Kühnhardt, "Stolperstein im Mittelmeer. Zypern vor dem Beitritt", *Internationale Politik* 57,1, 2002, 51.

<sup>93</sup> Deutsch-Zyprisches Bürgerforum. *Projektbericht*. Köln, 2001, 11-19.

<sup>94</sup> L. Siedentop, *Democracy in Europe*. London, 2000, 207.

<sup>95</sup> P. Zervakis, "Die politischen Systeme Zyperns", 889 and H. Tarik Oğuzlu, "The EU as an actor in the solution of the Cyprus dispute: The question of 'how'", *JEMIE* 2, 2002, 21.

<sup>96</sup> G. Christou, "The European Union and Cyprus: The power of attraction as a solution to the Cyprus issue", *JEMIE*, 2, 2002, 22.

## Conceptions of National Identity in Cyprus and the Question of European Identity

*Christoph Ramm*

How do people who live in, or come from, Cyprus refer to themselves? What are they called by the 'outside world'? Numerous titles are available, especially in Greek and Turkish, the main languages spoken on the island. The most common are (in English translation): *Cypriots*, *Greek Cypriots* and *Turkish Cypriots*, *Cypriot Greeks* and *Cypriot Turks*, *Turks and Greeks from Cyprus*. Recently some authors have even started to write both components together: *Greekcypriots* and *Turkishcypriots*. Many people, especially in the West, might choose an expression without thinking about it. On the island and in the region, however, the use of a certain term may reveal a particular conception of national identity which the speaker identifies with, or considers as suitable for, the community he or she refers to. In this context it makes a significant difference which component is emphasised, the word *Cypriot* or the word *Greek* or *Turkish* respectively.

In this article it is by no means my intention to define a 'genuine' Cypriot national identity. On the contrary, since I am convinced that there is no 'true' identity and that any identity is constructed through the exclusion of the 'other' from the 'self' in a permanent process, I am far from imposing an identity on another person, a group of people or a certain community. 'Identity' became the subject of an intensified scientific discourse in the 1990s, and many theories about the topic have been discussed since then, especially in the field of Cultural Studies. With respect to this point I want to refer to Stuart Hall's conception of identity, which he describes as follows:

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It accepts that identities are never unified and, in late modern times, increasingly fragmented and fractured; never singular but multiply constructed across different, often intersecting and antagonistic, discourses, practices and positions. They are subject to a radical historicization, and are constantly in a process of change and transformation.<sup>1</sup>

Nevertheless, each individual needs identification points to establish his/her own character in contrast to that of other individuals. But these identification points are never completely fixed, they move with changing conditions. 'Identity' is therefore in a permanent process of

change, or, as Hall puts it: "Identities are thus points of temporary attachment to the subject positions which discursive practices construct for us"<sup>2</sup> If the temporary character of identities is not taken into account, it is impossible to adapt the individual points of identification to the changing conditions.

In a very problematic way this is particularly true for communities, above all regional and national communities. The emergence of a 'national identity' is the result of a complex process in which people increasingly identify with a common project based on territory, language, history or religion. According to Benedict Anderson the members of the 'nation' (and this applies to other larger communities too), though most of them have never met each other, have an 'image of communion' in their minds. Anderson thus described a 'nation' with his famous term 'imagined community'. Nationalism forms the ideological ground on which the imagining of a nation is possible. In addition to Anderson, many other theoretical approaches about the complex forming of national identities, about nation-building and nationalist ideologies, have been developed over the past three decades, investigating the various manifestations of nationalism, the role of historical narratives in the construction of national identities and the part social groups and cultural *milieus* play in the establishment of different nationalist discourses.

As mentioned above, one of the most problematic aspects of the concept of national identity is its lack of flexibility. Once a national identity has established a dominant position in a regional or national community and is regarded as the 'genuine' one, it is permanently forced to maintain its hold against other identity concepts which might emerge inside the community (e.g. national minorities) or come from outside (e.g. immigration) as a result of changing conditions in history. Though the concept of national identity turned out to be a highly attractive and successful model for communities in the last two centuries, it reveals its fragile character in confrontation with profound historical changes. This is particularly the case with regard to the disrupting international developments in the past two decades, often depicted with the popular term 'globalisation', which leave identities, in Stuart Hall's words, 'increasingly fragmented and fractured'. Hall situates the debates about identity:

within all those historically specific developments and practices which have disturbed the relatively 'settled' character of many populations and cultures, above all in relation to the processes of globalization [...] and the processes of forced and 'free' migration which have become a global phenomenon of the so-called 'post-colonial' world.<sup>4</sup>

The growing feeling of insecurity and the fear of losing their 'true' national identity in the wake of these global developments make many people cling even more to traditional identity conceptions, sometimes in a very aggressive way. The rise of various nationalist movements and of 'fundamentalist' groups in nearly every religion, the dissemination of racist and anti-Semitic ideas has become a worldwide phenomenon, affecting also regions and countries in which there seemed to exist stable and established national identities, like in the states of the European Union. Homi K. Bhabha points out the "fear that the engine of social transformation is no longer the aspiration to a democratic common culture... We have entered an anxious age of identity, in which the attempt to memorialize lost time, and to reclaim lost territories, creates a culture of disparate 'interest groups' or social movements"<sup>5</sup>

Being in this way affected by different forms of fragmentation, the dominant concepts of national identity in Europe are at the same time challenged by another, antagonistic process: the process of European unification. The increasing integration of EU-countries in connection with the ongoing enlargement of the European Union means a fundamental upheaval of the traditional, relatively settled European identity conceptions. In this context the search of a 'European identity' is of increasing significance. Politicians and academics therefore started an intensive debate on the character of a suitable identity concept for Europe, about the traditions, values and ideas on which such an identity could rest and which all Europeans could share.

In Cyprus, however, as indicated above, a singular national identity concept has never emerged, neither in the Greek Cypriot nor in the Turkish Cypriot community. As a result of complex historical conditions on the island, a nation-building process similar to that in other European countries never took place. Competing ethnonationalist concepts – Hellenic and Turkish nationalism – which had been imported from the respective 'motherlands', i.e. Greece and Turkey, during British colonial rule, have dominated the political agenda in both communities ever since. After the beginning of the Greek Cypriot armed struggle for *enosis* (union with Greece) and the formation of armed nationalist organisations among Greek and Turkish Cypriots in the 1950s, the failure of the joint Republic of Cyprus, and the ensuing Greek nationalist campaign against the Turkish Cypriots in the 1960s, the partition of the island in the wake of the Greek military coup and the following Turkish intervention in 1974, Hellenic and Turkish nationalism prevailed. But these ethnonationalist concepts were contested by other expressions of national identity-mainly forms of 'cypriotism'-which developed in the Greek Cypriot and the Turkish

Cypriot community after 1974.

Since Turkey and the Greek Cypriot government submitted their applications for membership of the European Union, the future of Greek Cypriots and Turkish Cypriots has been inextricably linked with the EU. As a result, the 'European perspective' will have significant consequences for two communities inside which the understanding of the nation was (in the Greek Cypriot society) and still is (in the Turkish Cypriot society) disputed to a large extent. Since among Cypriots strong identification with Europe is a common phenomenon, the accession of Cyprus as a whole, or of only one part of the island, to the EU, and the confrontation with the complex European reality between globalisation on the one hand and nationalism and regionalism on the other hand, will certainly effect the identity conceptions on Cyprus as well. In this context the EU's approach to small national and regional groups is of eminent interest particularly for Turkish Cypriots because in this community there is a widespread fear of being dominated by others again.

It is therefore worth comparing the various models of national identity existing among Greek and Turkish Cypriots with the common understanding of 'Europeanness' and the debate about European identity. Let me begin by presenting a short overview of the main concepts of national identity in the Greek and Turkish Cypriot communities, about the view of the other community and about the position these concepts hold in the respective society. Secondly, let me address the problems related with an exclusionary understanding of European identity, followed by a description of the difficult position in which the 'Idea of Europe' is situated between the opposite scenarios of globalisation and fragmentation. Finally, I will analyse the possible effect of EU membership on the Turkish and Greek Cypriot communities with respect to the controversial, sometimes antagonistic, ways of understanding national identity within these groups.

## **Identities in Cyprus**

### ***Greek Cypriot National Identities***

Since the 1960s Greek Cypriot nationalism has undergone a profound change. In Greek Cypriot society a new form of national consciousness has replaced the traditional *enosis*-nationalism aiming at union with Greece. This different concept of national identity stresses the common Hellenic roots with Greece, but is proud of the independent republic and the economic achievements in the south of the island. The majority of Greek Cypriots now consider Greeks from the mainland as relatives of the



same Hellenic origin who are different in many respects. This consciousness of cultural and linguistic differences is sometimes even mixed with a feeling of superiority.

As an ethnonationalist concept, the new Greek Cypriot nationalism tends, like the old *enosis*-ideology, to Eurocentric and hegemonic views concerning the Turkish Cypriots. As Vangelis Calotychos puts it:

Since the Greek Cypriot establishment wishes to legitimize its modernity on the foundations of Eurocentric ideology and, like mainland Greece, bases this attempt on its succession to the classical Hellenes and an attachment to principles of rationalization and modernization, it has sought to de-Ottomanize itself.<sup>6</sup>

In this discourse Turkish Cypriots are often depicted as 'backwards', the author argues. "Some Greek Cypriots do not see why they, as nearly 80% of the populace, should be dictated to by a minority".<sup>7</sup> In this way of thinking historical myths play a significant role, e.g. the widespread belief among Greek Cypriots that Turkey had aspirations towards the whole island. According to Papadakis, this fear of 'Turkish expansionism' constitutes an important factor in Greek Cypriot nationalist narratives.<sup>8</sup>

In contrast to dominant nationalism another concept of national consciousness has developed among Greek Cypriots over the past 30 years. This ideology, widely known as cypriotism, emphasizes the different characters of a common Cypriot ethnic and cultural identity. It might have spread particularly after the Greek-sponsored military coup of 1974 and the following events which are often perceived as a betrayal by the Greek military junta. Originally rooted in the left (especially the former communist party AKEL), the concept of a Cypriot identity influenced other political segments as well. Although Cypriotism in most cases does not deny the ethnic differences between Greek and Turkish Cypriots, it stresses the common culture and tradition shared by both communities and "foregrounds citizenship of a Cypriot state over the ethnic demands of the respective motherland or metropolitan nations"<sup>9</sup>. In some respects it might be interpreted as a form of Cypriot regionalism.

In Greek Cypriot society Cypriotism constituted an important challenge to the predominant Hellenic cultural nationalism, but it could never threaten its hegemony. After 1990, in the face of a still unsolved Cyprus problem, supporters of concessions to the Turkish Cypriots lost ground to the partisans of Hellenic ethnonationalism and often adopted their nationalist demands, though they rhetorically continued to defend a

Cypriotist approach. This changed gradually with the growing importance of EU membership in Greek Cypriot society:

It is only the pressure to bring in the Turkish Cypriots into discussions over EU accession that has brought principles of rapprochement – quietly but surely – back into the equation with governmental approbation.<sup>10</sup>

In 2002 UN Secretary-General Annan's plan for a solution to the Cyprus conflict raised a new wave of nationalist sentiment in the Greek Cypriot community against the provisions of the envisaged agreement, but a fragile majority of Greek Cypriots – many of them reluctantly – now seem to accept the necessity of certain fundamental concessions to the Turkish Cypriots in exchange for a comprehensive settlement. In addition, the opening of the border in April 2003 gave many Greek Cypriots the opportunity of visiting the northern part of the island and thereby gaining a more realistic image of the other community.

#### ***Turkish Cypriot National Identities***

Turkish nationalism still dominates the political agenda in Northern Cyprus today. Confronted with the Greek nationalist propaganda for *enosis*, Turkish Cypriots began to adopt Turkish nationalist ideas from the 1920s on. During the years of intensified Greek nationalist pressure after 1955 Turkish nationalism became the predominant ideology within the Turkish Cypriot community. The main nationalist argument is that there are two people living on the island, Greeks and Turks, who are completely different in their culture and ethnic origin. Supporters of this point of view generally state that the best solution for the Cyprus problem is partition of the island (*taksim*), an aim which had been reached with the Turkish military intervention in 1974 and the establishment of the Turkish Republic of Northern Cyprus (TRNC) in 1983. In addition, the nationalist approach does not accept any difference between Cypriot and mainland Turks with regard to their national identity apart from some cultural and linguistic aspects. In the words of Sabahattin İsmail, a Turkish Cypriot journalist and writer:

The formal differences which Cypriot Turks possess within their generally Turkish identity (and for which there are several reasons) are not in conflict with their Turkish identity, quite the reverse, they are elements enriching this identity.<sup>11</sup>

Asked about their relations to Greek Cypriots, many Turkish Cypriots still express a feeling of mistrust because of their experiences in the past. Though, apart from some extremist groups, *enosis* has lost its meaning for the vast majority of Greek Cypriots, there is some concern among people in Northern Cyprus that the Greek side continues its aspirations for a union with Greece, now in the disguise of EU membership. An alleged Greek Cypriot persistence for *enosis* still plays an important part in the nationalist mythology.<sup>12</sup>

As the international isolation of Northern Cyprus continued and the economic situation did not improve substantially after 1974, feelings of discontent grew in the Turkish Cypriot community. Being dissatisfied with their own nationalist leadership and Turkey's policy, some Turkish Cypriots began to dissociate themselves from Turkey and Turkish nationalism.

Since the 1970s, the question of a common Cypriot identity has preoccupied intellectual circles and the parties of the political left. One of the intellectuals involved, the Turkish Cypriot poet Mehmet Yaşın, explained the situation of his community as follows: "we have never been able to adopt Cyprus as our motherland, instead of having a feeling of Cypriotness we feel like a nomad minority dropped somehow on this island."<sup>13</sup> In their view, the 'identity crisis' of Turkish Cypriots could only be solved by contesting the dominant Turkish nationalism with a Cypriot identity. This movement, "which rejects a minority status with regard to the Greek Cypriots and the Turks from Turkey",<sup>14</sup> emphasises a common Cypriot history and tradition against outside interventions, especially from Greece and Turkey.

Although the Cypriotist approach has never been able to outweigh the predominant Turkish nationalism in the political arena of Northern Cyprus, the identity question continues to be one of the most important topics in Turkish Cypriot politics. In 1996, politicians of the conservative Democrat Party (DP) added another model to the existing concepts. In a manifesto they described the idea of a 'Cypriot Turkish nationalism', based on the state in the north, the TRNC:

Our approach is to include all our people [...] in a 'TRNC' consciousness, to embrace every Turk with TRNC citizenship bonds, wherever he was born, whenever and from whatever place in the world he came, as a Cypriot Turk.<sup>15</sup>

However, this attempt to define a separate Cypriot Turkish national identity within the Turkic world – which, like cypriotism, might

be described as a form of regionalism in some respect – has never reached any significant political importance in Northern Cyprus in comparison with Turkish nationalism and Cypriotism, but it illustrates the ongoing search for an identity concept suitable for the complex and fragmented reality in which the Turkish Cypriot community lives. Moira Killoran therefore sees the Turkish Cypriots as a “people without a state”, as a community which is “presently between nationalities”:

Living in an ‘unrecognized state’, suffering from an international economic embargo that leaves them almost completely dependent upon Turkey, ‘history’ has left them without status and without an ‘identity’ for over twenty years. Their economic, political and social needs have come to be expressed as competing exclusionary nationalisms.<sup>16</sup>

The precarious situation of the Turkish Cypriot community is reflected in the fierce inner-communal debate about the character of a solution to the Cyprus problem and about the way Turkish Cypriots should participate in the accession process to the European Union. The discussions about the Annan Plan with its political and territorial concessions to the Greek Cypriots and the ongoing EU integration have intensified this conflict in the Turkish Cypriot society, thereby also influencing the balance of power in Northern Cyprus.

### **In Search of an Identity for Europe: Constructing ‘European Identity’**

What is Europe? What is the common ‘European identity’? Should a European identity refer to cultural and religious traditions, shared political values and ideas, similar social structures or a common mentality?

The continent’s cultural traditions offer only an ambiguous answer: arts and science of ancient Greece and Rome, the Crusades, the Enlightenment, the colonialist expansion, the ideas of the French Revolution, the Holocaust (the genocide of the European Jews), are just a few examples from the long and contradictory European history. Many modern ideological concepts like democracy, nationalism or socialism started in this part of the world and from here spread all over the globe. Democratic values and Human Rights now form the fundamental principles of the European Union, and, in addition to economic prosperity and high social standards, these political principles are often quoted as characteristic for the ‘Idea of Europe’. This idea constitutes an attractive

model for others who identify with similar values, and for several other states it is, apart from economic motivations, a main reason for their application for EU membership.

It is common for EU countries to define the identity of Europe as a 'community of different nations which share the same humanitarian and democratic values'. However, considering a common European identity, it has to be taken into account that the values of the imagined 'Western Christian civilisation' had often been used to legitimise Europe's superiority and its claim to power. In his celebrated work *Orientalism*, Edward W. Said defined the 'idea of Europe' as:

a collective notion identifying 'us' Europeans as against all 'those' non-Europeans, and indeed it can be argued that the major component in European culture is precisely what made that culture hegemonic both in and outside Europe: the idea of European identity as a superior one in comparison with all the non-European peoples and cultures.<sup>17</sup>

In general, European identity is constructed almost exclusively upon the dominant trends in European history, whereas other significant factors like the role of Islamic culture in Spain and in South East Europe are neglected. Kevin Robins writes that Europe came to see itself "as self-identical and self-sufficient" in its cultural development:

Its identity has been instituted in continuity with the (supposedly endogenous) tradition and heritage of Judaeo-Christian and Graeco-Roman cultures. Other influences, particularly western Islam, have been dispelled from the collective memory. The positivity of European culture was defined against the negative image of 'non-Europe'.<sup>18</sup>

Such an exclusionary construction of cultural identity is by no means able to explain the complex reality of modern societies with their high share of immigrants, but it has negative consequences especially for people with a Muslim or a non-European background living in Europe and for relations with countries and people not included in the 'European family'. Kevin Robins identifies a tendency in Europe to 'draw back' to a restricted identity: "In constructing new frontiers and boundaries, it is seeking to exclude those who cannot be assimilated because of their different (alien) origins and traditions". Instead of closing its culture Europe should transform "its perception of the 'non-Europe' that surrounds it".

Robins concludes: "it would need to rid itself of its myths of the others, and to allow that they are real, diverse and complex peoples".<sup>19</sup>

### ***Europe Between Globalisation and National and Regional Identities***

The attempt to construct a European identity on certain chosen historical traditions and on the exclusion of the non-European 'other' proves ambivalent and contradictory in many respects. It needs to assert itself constantly against challenges from two sides, from the global and from the national and regional level. On the one hand there are the so-called globalisation processes characterised by increasing worldwide competition and new opportunities in information and communication technologies. This process is accompanied by the dissemination of a kind of uniform world culture, the emergence of supranational cultural codes and the adoption of similar lifestyles all over the globe. Though many of these cultural elements are of Western, especially European, origin, the global mass culture has some egalitarian effects which constitute a fundamental threat to the idea of a 'genuine' European identity. In a way the whole project of intensified European integration in the 1990s is an answer to the globalisation processes and has to be seen in the context of growing international competition. On a cultural level the EU countries tried to encounter dominant 'foreign', particularly 'American' influences, which they located in the global culture, and adopted some measures to protect their own cultural institutions. However, these measures (e.g. quotas for films produced in Europe) have not proved very fruitful in the long run.

On the other hand, European unification has always been challenged by nationalism and regionalism. Since the revival of nationalist ideas in the 1990s, national peculiarities and characteristics have been used again on a large scale to mobilise people for diverse political aims. The rise of various extremely nationalist and racist movements in countries inside and outside the EU is only one aspect of this development. In general, emphasis on national identity combined with the longing for cultural authenticity and a return to origins began to form a major trend in the 1990s.

The admiration for cultural self-sufficiency also led to a growing influence of regionalism and regionalist movements in Europe. These movements were often quite successful because of their ability to build a closer relationship with the population. The regionalist approach uses regional particularities and cultural differences, whether linguistic, ethnic, religious or other, to construct regional identities which contest the dominant identity models on the national level. In its identity conception

regionalist thinking is largely similar to nationalist ideas:

The concept of national identity is notoriously ambiguous, and applies as much to regions as to nation-states. National and regional identity [...] are inextricably linked. The claim to a cohesive collective identity, affirmed by the elites of national movements as the legitimation of their struggle for independence, is deployed in precisely the same way by regional elites against the nation-state. The elements that are asserted in the cultural discourse as constitutive of a national identity – such as territory, language, history or religion – are identical to those of a regional identity, although different values may be attributed to one or the other of these elements.<sup>20</sup>

In doing so regionalist movements do not always totally reject the nation-state and do not generally take a secessionist character. Some only aim for more control over the affairs of the community they represent, i.e. autonomy to a certain extent.

Within the European Union, the rise of nationalism and regionalism has resulted in an intensive debate about the distribution of responsibilities between the centre in Brussels and the nation-states and regions. The uncontrolled concentration of power in the hands of EU bureaucrats is widely criticised and demands for a re-distribution of political power to the national and regional levels have been raised. As one result of the discussion EU politicians adopted a concept called 'Europe of Regions' in which regions should be given more attention in the Union's policies and where the emphasis is increasingly shifted towards the rights of national or regional minorities.

Another important aspect is the serious debate about whether the EU should stay a confederation of independent states or should become a federation with far more power and responsibility. While some political leaders urge that only a federal European Union would be able to meet the global challenges in the future, others reject such an idea vehemently as a threat to national and regional identities and to the concept of the nation-state. The subject is closely related to the integration and enlargement process of the European Union and the discussion about a European constitution and therefore of significant importance for the new member states. Yet the debate is still going on, and the future shape of the EU remains unclear to a large extent.

The question whether the Union should obtain a more confederal or a more federal character is closely linked to the search of a European

identity. Could Europe develop into a nation-state according to the nation-building processes in the 19th and 20th century? Could a political and economic structure like the European Union form a common territorially based identity? Marco Bifulco declines: "Believing in the existence of *one* European identity means wanting to impose it. The 'European something' thus proves to be [...] pluralism".<sup>21</sup> M. Rainer Lepsius explains why the European Union would not develop into a 'nation-state Europe':

A unified European people can be formed neither through ethnic and cultural homogeneities nor through the idea of civil rights. On the one hand the member states [of the EU] are democratic civil societies formed long ago in history, which see themselves as ethnic-cultural unities and which reached the quality of nation-states a long time before. On the other hand the European Union lacks the oppressive and levelling potential of pre-democratic regimes which formed their people to homogenized nations largely by authoritarian means.<sup>22</sup>

Bo Stråth, on the other hand, describes Europe as "a discourse which is translated into a political and ideological project". "If Europe has a meaning, it is as a political programme", he continues, and as such a political programme it is therefore "something under continuous negotiation and re-negotiation...Both as politics and ideology, Europe must be seen in the plural, always contested and contradictory".<sup>23</sup> Stråth is highly critical of the whole discourse on European identity:

As a discourse on identity, Europe is so diluted that it means anything or nothing. European identity is usually seen in relation to national identity, either in tension-filled opposition to it, that is, as an alternative which might replace the nation, or in a relationship where it overlaps and supplements the nation. The structure of national identity is 'projected' onto the European identity, and this projection has an ideological underpinning, for no projection is ever non-interested/non-ideological [...] <sup>24</sup>

### **The European Perspective for Cyprus**

In the 1990s membership of the European Union began to form a vital component on the political agenda in both parts of Cyprus and has influenced all attempts to solve the Cyprus conflict since then. In the south of the island EU accession is generally considered to be a 'national aim' of outstanding importance. In Northern Cyprus surveys show that about



90 percent of the population approve of EU membership, but the conditions of such membership are widely disputed.

The prevailing ethnic nationalism in both groups, however, might prove antagonistic to the multinational and pluralist character of the European Union. Since Hellenic nationalism tends to Eurocentric views, it regards Europe as the centre of civilisation and modernity in contrast to the 'other', namely the 'Orient', something which is equated with 'backwardness'. In this perspective Greeks and Greek Cypriots are Europeans 'by nature' because of their imagined descent from the classical Hellenes. Consequently many Greek Cypriot nationalists perceive the prospect of Cyprus joining the EU as a victory over the Turkish Cypriots and Turkey.

Turkish nationalism, on the other hand, approaches Europe with reluctance. Though Europe is generally identified with modernity and economic prosperity and is considered as a successful model, Turkish nationalist thought is in a way suspicious about the real aims EU politicians might pursue with regard to Northern Cyprus and Turkey. In this way of thinking negative experiences in the past, especially in the days of European colonialism, play an important role. Some Turkish nationalists allege that the policy of the European Union aims at a 'division of the Turkish nation'. In addition, nationalist groups in the Turkish Cypriot community are raising the fear that the Greek Cypriots could use EU membership to finally achieve *enosis* and bring Turkish Cypriots into the position of an oppressed minority again.

46 Unlike Hellenic and Turkish ethnonationalism, Cypriotism, as a concept of national identity based on territory, looks at first glance much more compatible with the present structure of the European Union. A national identity which does not deny the ethnic differences between Greek and Turkish Cypriots, but emphasises the culture and tradition shared by both communities and the citizenship of a Cypriot state seems to correspond with the way the EU sees itself. Many supporters of a Cypriotist approach therefore think that a joint Cypriotness is only possible within the framework of the European Union: "The EU option seems to be the only project in which cypriotness can be included on a same and equal level".<sup>25</sup> European identity is thus regarded as a model for a common Cypriot identity: "As a liberating/pluralist and radically democratic comprehensive identity Europeanness is a serious option for a political project for Turkishcypriots and Greekcypriots".<sup>26</sup>

While not always being labelled in this way, cypriotness is often understood as equivalent to Cypriot nationalism. Mehmet Yaşın explains how Turkish Cypriot intellectuals expressed their 'Cypriot identity' after 1974: "Hence, in the age of globalization, it was easier for them to express

their belated and un-named Cypriot nationalism under the umbrella of European unification. In any case, they believed that Cypriots are more European than Turks and Greeks".<sup>27</sup> Moira Killoran describes this form of cypriotness as "another alternate nationalism" and critically notes that "the 'resistance' [...] reaffirms the dominant ideology by creating an equally exclusionary nationalist discourse, and is not really contesting 'nationalism' at all but merely attempting to replace it with another".<sup>28</sup>

Furthermore, the strong emphasis on Europe and European identity often associated with cypriotness only reproduces and reaffirms Europe's image of the superior 'self' by excluding the non-European 'other'. Some expressions of Cypriotism identify with a hegemonic concept of Europe seen as 'modern', 'civilised' and 'culturally superior', while the various non-European traditions in Cypriot culture are neglected or even regarded as 'inferior'. Additionally, EU membership is sometimes regarded as a kind of universal panacea for all economic problems and political deficits existing on the island. Mehmet Hasgüler, for instance, criticises parts of the opposition in Northern Cyprus for "seeing the EU economically as a 'way to liberation' and an 'opportunity for earning money', although Turkish Cypriots still do not understand a lot about the union's importance". In Hasgüler's opinion they are in this way incapable of developing "a solution appropriate for Cyprus".<sup>29</sup>

### Conclusion

Like other concepts of national identity, ethnic Greek or Turkish nationalism, or a nationalist understanding of cypriotness, are exclusionary conceptions. Their object of identification may be different, but they presuppose an 'other' which is not included in the national 'self'. Only through the definition of a 'non-Greek', a 'non-Turkish' or a 'non-Cypriot' on the grounds of a different language, religion, territory or history the construction of an own national identity is possible.

Since the idea of a genuine, homogenous identity proves to be an illusion, any concept of identity must be adapted to the changing conditions. The growing fragmentation of identities as a result of the globalisation process, the challenging of traditional national identities through the dissemination of world culture and through increasing migration will have a lasting effect on Cyprus. The population on the island is in a process of constant change too. In addition to the main communities of Turkish and Greek Cypriots and the small native minorities (Maronites, Armenians), different groups of immigrants – migrant workers, students, refugees – have come and begun to settle in the south and in the north part of the island. Regardless of any solution to the Cyprus conflict and a rapproche-

ment of both communities, Greek and Turkish Cypriots have to face the fact that their respective national identities have been subjected to a profound change. The opening of the border and EU integration will certainly accelerate this process. Without a dynamic and flexible adaptation to the new situation, the people in both parts of Cyprus might be confronted increasingly with the forms of racism and discrimination against immigrants which have become a common phenomena in other Western countries.

Under these circumstances membership of the European Union could have an ambivalent effect. As Europe shows a tendency to protect itself against the 'outside world' and to build up new borders, Cyprus as an EU member might become part of the imagined 'European civilisation', but equally it could end up as an outpost of the European border regime designed to prevent any kind of illegal immigration.

Nevertheless, apart from economic considerations, membership of the EU provides certain advantages for people of Cyprus, especially for Turkish Cypriots. The union possesses a multinational and, to a certain extent, pluralist structure and increasingly attaches importance to the development of regions and to the rights of small national and regional groups. If the Turkish Cypriots decide to join the community, the EU will be keen to guarantee their equal rights and status because Cyprus is regarded as a model for Europe's conflict resolution policy.

Moreover, the Turkish Cypriots will be the first native, non-immigrant community with a Muslim tradition to become members of the European Union, and Turkish will obtain the status of one of the union's official languages. This would provide an opportunity for Europe to rediscover traditions which Europeans dispelled from their collective memory, and it might be a practical step to open Europe's self-sufficient 'self' and to change its perception of the 'other'. The 'Orient', which has been the object of European desires and fears for centuries, would come closer to Europe and might lose much of its imagined character.

In view of the traditional understanding of national identity the existing variety of different identity concepts in Cyprus could be regarded merely as the result of an 'incomplete' nation-building process. However, the experience of diverse, multiple identities might prove to be a considerable advantage in a world with increasingly fragmented and fractured identities. Thus, instead of identifying with a supposedly 'superior' European culture, Greek and Turkish Cypriots, autochthonous and immigrated Cypriots have the unique chance of benefiting from a rich island culture which has always been influenced by various people and cultural practices and traditions from Greece, Anatolia, the Middle East, North Africa, the British Isles and other parts of the world.

**Endnotes**

In this paper I prefer the terms *Greek Cypriot* and *Turkish Cypriot* because these expressions are mainly used in publications about Cyprus. This indicates in no way any preference for one of the identity models in Cyprus mentioned below.

<sup>1</sup> S. Hall, "Who Needs 'Identity'". In: S. Hall, P. du Gay, eds., *Questions of Cultural Identity*. London: SAGE Publications, 1996.

<sup>2</sup> Ibid. 6

<sup>3</sup> B. Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. London: Verso, 1983, 15.

<sup>4</sup> Hall, "Who Needs 'Identity'", 4.

<sup>5</sup> K.H. Bhabha, "Culture's In-Between." 'In: S.Hall, P. du Gay, eds., *Questions of Cultural Identity*. London: SAGE Publications, 1996. 59.

<sup>6</sup> V. Calotychos, "Interdisciplinary Perspectives: Difference at the Heart of Cypriot Identity and Its Study." In: V. Calotychos, ed., *Cyprus and Its People: Nation, Identity, and Experience in an Unimaginable Community, 1955-1997*. Boulder, CO: Westview Press, 1998.

<sup>7</sup> Ibid.

<sup>8</sup> Y. Papadakis, "Enosis and Turkish Expansionism: Real Myths or Mythic Realities?" In: V. Calotychos, ed., *Cyprus and Its People: Nation, Identity, and Experience in an Unimaginable Community, 1955-1997*. Boulder, CO: Westview Press, 1998.

<sup>9</sup> Calotychos, "Interdisciplinary Perspectives: Difference at the Heart of Cypriot Identity and Its Study." 16.

<sup>10</sup> Ibid. 19.

<sup>11</sup> S. İsmail, "Kıbrıs Türk Kimliği." *Kıbrıs Üzerine Bildiriler*, Lefkoşa [Nicosia]: CYREP Yayınları, 1998. 108.

<sup>12</sup> Papadakis, "Enosis and Turkish Expansionism: Real Myths or Mythic Realities?" 69-81.

<sup>13</sup> M. Yaşın, "Kıbrıslı Türk Edebiyatında Kimlik Sorununun Tarihsel-Toplumsal Nedenleri". In: N. Kızılyürek, ed., *Edebiyatta Kıbrıslı Türk Kimliği*. İstanbul: Varlık Yayınları, 1988. 58

<sup>14</sup> Ibid. 64.

<sup>15</sup> DP Public Relations Office, 23 September 1996, quoted in: Bizden 1997/1

<sup>16</sup> M. Killoran, "Nationalisms and Embodied Memory in Northern Cyprus." In: V. Calotychos, ed., *Cyprus and Its People: Nation, Identity, and Experience in an Unimaginable*

*Community, 1955-1997*. Boulder, CO: Westview Press, 1998. 168.

<sup>17</sup> E.W. Said, *Orientalism*. New York: Vintage Books, 1978. 7.

<sup>18</sup> K. Robins, "Interrupting Identities: Turkey/Europe." In: S. Hall, P. du Gay, eds., *Questions of Cultural Identity*. London: SAGE Publications, 1996. 81.

<sup>19</sup> Ibid. 82.

<sup>20</sup> H.G. Haupt, and M.G. Müller, S. Woolf. "Introduction." In: H.G. Haupt, M.G. Müller, S. Woolf., ed., *Regional and National Identities in Europe in the XIXth and XXth Centuries*. The Hague: Kluwer Law International, 1998. 10.

<sup>21</sup> M.Bifulco, *In Search of an Identity for Europe*. Bonn: ZEI (Center for European Integration Studies) Discussion Paper, 1998. 28.

<sup>22</sup> M.R. Lepsius, "Die Europäische Union: Ökonomisch-politische Integration und kulturelle Pluralität." In: R. Viehoff, R. T. Segers, eds., *Kultur, Identität, Europa: Über die Schwierigkeiten und Möglichkeiten einer Konstruktion*. Frankfurt/Main: Suhrkamp, 1999.

<sup>23</sup> B.Stråth, "Europe as a Discourse." In: B. Stråth, ed., *Europe and the Other and Europe as the Other*. Brussels: P.I.E. Peter Lang, 2000. 14.

<sup>24</sup> Ibid. 13.

<sup>25</sup> A.Bizden, 'Kıbrıs'ta güç/iktidar mücadelesinin değişen yüzü: Kıbrıs(lı/Türk) milliyetçiliği.' *Birikim* (97) Mayıs [May] 1997. 2.

<sup>26</sup> Ibid.

<sup>27</sup> M. Yaşın, "Three Generations, Three Identities, Three 'Patriae' Within Twentieth-Century Cypriot Poetry." In: V. Calotychos, ed., *Cyprus and Its People: Nation, Identity, and Experience in an Unimaginable Community, 1955-1997*. Boulder, CO: Westview Press, 1998. 231.

<sup>28</sup> M. Killoran, "Nationalisms and Embodied Memory in Northern Cyprus." In: V. Calotychos, ed., *Cyprus and Its People: Nation, Identity, and Experience in an Unimaginable Community, 1955-1997*. Boulder, CO: Westview Press, 1998. 167

<sup>29</sup> M. Hasgüler, *Kıbrıs'ta Enosis ve Taksim Politikalarının Sonu*. Istanbul: İletişim Yayınları, 2000. 282.

## Situating Cypriotism in Cyprus Politics

*Arshi Kahn*

### Perspectival Dilemma

Over the years many scholars have addressed the Cyprus question in different relevant ways. It has been difficult for many of them to satisfy both parties on the island, on the one hand, and other third parties, on the other, by their perspectival narration. Ethnic consciousness appears to be indelibly superimposed onto the analytical mind, even rooted in subconsciousness, particularly in the context of Greek Cypriots and Turkish Cypriots. As rival parties on common ground, the objectivity of the writer seems to become ambiguous, even questionable, when the debate begins and ends with many illiberal or non-liberal issues like religion, influence of Church, ethnicity, history and memory. As a result, many scholarly discourses on the Cyprus issue fail to avoid history as one of the major components of their text. Both memory and history generally become quite vulnerable to both indigenous and foreign scholars who examine Cypriot texts and contexts on the basis of their background, orientation, socialization, and indoctrination of traditional and rational values. As a result, scholars with some exception, belonging to the Anglo-Saxon and European communities and their wider liberal 'rainbow fraternity', perceive the Cyprus case differently from others in the East and the South. However, there are some in both liberal and historical parts of the world who have addressed the Cyprus question in an unorthodox manner. The European Unionists have appeared to be supportive of Greek Cypriots in many respects, while the subject is becoming a favoured debating point within the Organization of the Islamic Conference.

One of the main reasons for such a vulnerable interpretative dimension of the 'Cyprus perspective' was the lack of a dominant 'civic community' or 'public' when the island was an undivided territory (1960-74). Consequential developments post-1974 have fuelled this further, after the Turkish Cypriot community parted its ways from the Greek Cypriot community under the security/interventionist policy adopted by the Republic of Turkey as one of the three Guarantor States under the treaties of settlement in 1959-60. Therefore, the polarizing trend created throughout the history of the united and divided Republic of Cyprus, both in terms of communal divide, ethno-nationalism and societal breakdown, interrupted the growth of a middle space, or zone of tolerance, which has also influenced many scholars. Therefore, one of the main challenges today is to find a substantial space to reasonably situate the issue of cypri-

otism in the politics of a divided, now polarized, Cyprus.

The apparent case of 'neutrality' in the context of 'benign neglect' can be found at institutional level too. For example the United Nations today looks at the Cyprus issue differently, certainly more positively than when it committed to Security Council Resolution 186 in 1964. Similarly the European Union has been engaged with the Greek-Cypriot managed Republic of Cyprus since 1990 and has pursued the latter's case with all economic and political supports. Despite being objectively sincere in its policies of integration, the EU has ignored the fact that Greek Cypriots, and areas under their control, are consuming all its supports and grants for development. It also agrees to go ahead with the programme of integration of the south in case the dispute remains unsettled. On the other hand, it has started to pressurize the Greek Cypriots to be considerate to their Turkish counterparts, though that does not guarantee neutrality.

The prime motive to bring the issue of cypriotism (more in terms of ethnic cooperation and collective effort like communal harmony and cohesion for federal nation building) is to find the *mantra* of living together in a bi-communal and multi-cultural society. Cypriotism can survive both in modern and non-modern situations. In the latter, it can survive on the basis of local indigenous morality or traditional values such as respect, regard, care, charity and neighbourhood. In such a setting conventional wisdom of religions and traditions provide a framework of group and inter-personal relationships, particularly in a non-materialistic age where the main concern is not domination (at non-elite level), but social co-existence and social solidarity. This can be found in age-old villages where the absence of modern means of competence has maintained coordination and not competition, dominance and conflict. The consciousness of togetherness and neighbourhood has long been the portfolio for the management of historical societies in different parts of the world. In a modern setting cypriotism, particularly in divided societies, seems to survive on the democratic system of equality and justice which involves the complicated tasks of power sharing, non-centralisation, autonomy and proportionality among individuals belonging to different groups. The modern system also involves both competition and coordination based on liberal individualism and power-sharing. It becomes problematic when illiberal forces maneuver and direct the modern means and methods of competition and coordination.

### Basic Questions

The subject of cypriotism has rarely been discussed though it has appeared in the context of nation-building discourse. The main question is

how to manage bi-communal and multicultural societies. Ninety-five percent of the population of the world lives in multicultural states, yet ethnic conflicts are one of the major threats to such multicultural societies. Unlike many cases of inter-state wars between sovereign countries in past centuries, intra-state conflicts classified as major armed conflicts became national and international realities, especially after the fall of the Berlin Wall in 1989. Between 1989 and 1996, for example, 95% of the 101 armed conflicts identified in the world were internal, and the vast majority had an 'identity' component to them.<sup>1</sup> Identity-driven conflicts are conflicts based on the mobilisation of groups sharing a communal identity trait such as race, ethnicity, tribe, religion, culture, language, regional origin or heritage. While such conflicts may be triggered by, or combine with, questions of distribution of economic resources or opportunities, their 'identity' driven nature has allowed them to be characterised as more intense, intractable, emotionally charged, and persistent.<sup>2</sup> At the beginning of the twentieth century, civilians accounted for 5% of the casualties of war. By the 1990s that figure was 80%. The numbers of displaced persons and refugees rose dramatically too as the twentieth century drew to a close and 'ethnic cleansing' entered the lexicon of conflict terminology.<sup>3</sup> In the case of Cyprus it was vital to find out, and construct a Cypriot identity (cypriotism) after 1960 which would act as the only instrument to maintain the 'singularity' of national sovereignty in the island. It failed. Therefore, it is essential to examine the 'interrogatives'-'what', 'why' and 'how' of the Cyprus question, which has now become almost irreconcilable and a non-negotiable question between the two neighbours in the Eastern Mediterranean. In this context we may raise some important questions concerning the Cyprus issue? Is it simply the result of the 1974 *coup* (the Turkish intervention) or the unilateral declaration of the Turkish Republic of Northern Cyprus in 1983? Or is it the effect of long troubled and non-compromising experiences of two ethnic groups? In other words, what are the ground realities in history (past) and politics (present)?

The second interrogative: Why has the Cyprus question, which had been initially resolved during 1959-60, remained unsettled and complicated at national and international levels? Why have the two ethnic neighbours failed to safeguard the nascent republic from the menace of the forces of anti-cypriotism? Why has there been no break through, on both sides, in the realm of negotiation? It is, however, a fact that leaders of both the groups have been making many promissive gestures and remarks over their sincerity to resolve the issue.

The third interrogative: How can the Cyprus subject be approached in a more constructive way towards a mutually agreed settle-



ment? Both parties speak of settlement based on mutual agreements but in reality, one's agreement or approach over the issue seems to reject the other's viewpoint. Therefore, 'agreement-disagreement syndrome' continues to hamper the ways and means of settlement. Agreement over an issue is reached through consensus of parties involved in dispute, and in this case would include the common desire for 'cohabitation', whereas disagreement (based on a self-centered approach) is concretized without consensus, and includes self-determination for either separation or greater autonomy (for the numerically weaker group) or for the victory of numbers (for majoritarian dominance).

For decades, it has been difficult for Greek and Turkish Cypriots, and their patrons at both formal and informal levels, to show their collective and combined need, and choice, to live together in undivided territory. They have been involved in many disagreements over the issue of minority/community rights, political equality of ethnic groups, unidimensionality and divisibility of sovereignty, freedom of movement, repatriation, transfer of properties, centralization, loose federation and confederation. But why do they differ so much on these key issues? What are their constraints? What are their expectations from each other and prejudices thereof? Why do they fail to agree on common ground? Does the factor of 'commonality' or 'common consensus' lack enough space in the sensitive sphere of ethnic consciousness? Is it reasonable to predetermine the factor of commonality between the opinion and preference of the world community (mainly referred to those who are dominant players, sovereign States and organisations, in international relations) and that of the Cypriots divided into two ethnically conscious camps?

### **Historic Hang-up**

What can reasonably be suggested here is that attachment to their respective ethnic and historical consciousness based on the growth of dependency on each respective fraternity and motherlands (Greece and the European Union on the one hand and Turkey on the other), has kept them divided. This has been happening in an environment which is influenced by modern political concepts and where the forces of modernity have not overpowered their historicity. Both communities failed to sustain the burden of maintaining Cyprus as a 'nation' which demanded political legitimacy of the new-born State in sharing powers with political institutions, particularly in the absence of classic constituents of a 'nation'. The breakdown of the early political marriage, later concretized by the failure of several initiatives for unification, resulted in keeping both satisfied and secured by maintaining a separatist identity. Greek Cypriot leaders who

wanted unification on their own terms have consistently conveyed the message to their people about the negative attitude of the Turkish Cypriots. Their counterparts, who reject the Greek Cypriots' view, tell their people about the implications of accepting them. This makes a cycle of disagreement, denial and rejection. This politicized cycle survives on how the institutions of negotiation, media and education, belonging to the respective communities, have been feeding their generations. As a result, history and emotions become the syllabus of such indoctrination, and the result is that one community claims the ownership of the island and the other is perceived as occupier and undesirable. At best, a majority-minority framework of relationship has developed.

Cypriotism would have required history and emotion to work, not in conflict, but in harmony and therefore promoting the primacy of 'peace' over nationalistic divisionism, and this may yet be rooted in Cypriot nationalism and cypriotism. Greek and Turkish Cypriots consider themselves as historically defined ethnic groups who rightly claim to possess a rich and proud heritage. The former, one of the oldest settlers on the island, claim to have sovereign rights over Hellenic territory in the Mediterranean and looks at the Turks as a minority, or an element, (*syn-oikon stoicheion*) belonging to invading alien Turks. On the other hand, the Turks, more recent settlers, claim to have ruled over the island for centuries, while according group/collective rights to the Greek Cypriots. The Turks look at Greek Cypriots as their equals, though appreciate that they are now a minority. A large number of Turkish Cypriots migrated to different countries mainly due to an administrative and sovereign shift (in Cyprus) from the Ottomans (established in 1571) to the British colonial rulers in 1878. Also there was, in 1925, another demographic shift with the elimination of the Turks in Crete, and this was further catalyzed by militant nationalist movements of Greek Cypriots since 1955, which resulted in ethnic tensions and violence during 1963-74. Greek Cypriots also migrated but only after the Turkish Cypriots ethnicized the northern territory. Turkish Cypriots are now reduced to 18% of the total population of the island but they consider themselves equally sovereign to Greek Cypriots in governing the island. Therefore, it is basically their 'past' which determines consciousness of the issue of indivisible and bifoliated sovereignty on the island.

One of the principal reasons for the Cyprus dispute is each side's intense historical memory and conviction that history has done it an injustice.<sup>4</sup> The intense efforts of Greek Cypriots, after 1990, for example, to integrate the disputed island of Cyprus with the European Union may be perceived by Turkish Cypriots as not so very different from the objectives

of *enosis* (union of Cyprus with Greece). Similarly the negative attitude of the European Union to the membership of Turkey on several changing pretexts has strengthened doubts about EU-Greek Cypriots' choice of alliance. Zenon Stavrinides quoted Greek Cypriot President Glafcos Clerides saying that Cyprus must belong, and naturally belongs, where its history, geography, civilization and social values have destined it to be: in a united Europe.<sup>5</sup> Stavrinides says that it is an article of faith for all Greek Cypriots, induced by generations of Greek education in the island, that throughout the long history of Cyprus, the dominant culture in the island—including the language, religious faith and institutions, social and economic organization, music, art and other cultural elements—has had the broad features of the culture of Greece, and that in some sense Cyprus has always been part of the Hellenic world. This belief forms a vital part of a Greek Cypriot's sense of his/her own identity.

During the British administration of Cyprus (1878-1959) this belief functioned as the basis for a Cyprus-based Hellenic nationalism, which found expression in the slogan 'Cyprus is Greek' and culminated in a military campaign to break the bonds of colonial rule and achieve *enosis*. Greek Cypriots still tend to see themselves as 'the Hellenes of Cyprus', which implies firstly, that they are quite simply that part or section of the Greek nation which lives in Cyprus, and secondly, that the people of Greece have a national duty to give every possible assistance to their Cypriot brethren in their hour of need.<sup>6</sup> In response to the proposal of the Turkish Cypriot President for a confederation plan on 31 August 1998, President Clerides mentioned in his speech to the Greek Cypriots that Cyprus is nothing but an outpost of Hellenism guarding the Thermopylae of the south.<sup>7</sup>

As a result, the vicious circle of 'historic hang-up' has been further crystallized by a 'clientalist phenomenon' evolved by Turkey on the one hand, and the 'integrationist phenomenon' of Greece and the European Union, on the other. Patrons on both sides have always projected themselves as the only trouble-shooter for the Cypriots who have not been able to maintain a common approach to their fundamental needs and choice relating to prosperity vs. security, autonomy vs. independence, human rights vs. group rights, and state sovereignty vs. popular sovereignty. Turkey's direct involvement in the affairs of the Turkish Cypriots through stationing 30,000 thousand troops and offering annual grants with strong diplomatic cooperation has succeeded in providing security but at the cost of losing many benefits at international level. The Turkish-centric policy of security for the Turkish Cypriots is no more appealing to the new generations for whom the future looks bleak and so the dilemma contin-

ues among them to either opt for security or prosperity. Opinion polls have shown many times that the majority favour prosperity, but this does not wipe out their trust in Turkey as staunch ally and influential neighbour.

Greece, on the other hand, sincerely took up the cause of Greek Cypriots, encouraging them to become full members of the EU. This brotherly approach of the liberal fraternity to the Greek Cypriots enhanced their economic and commercial prospects (free market capitalism). Thus, the EU-Greece support of the Greek Cypriots not only energized them as a people, but also widened the gap between them and their Turkish counterparts. Mounting economic disparities between the two sides have created two contradictory attitudes. The older generations, irrespective of ideological differences, opt for security, whereas the new generation and the weaker sections appeal for prosperity and a higher income. But economic prospects do not guarantee the phasing out of the aforementioned 'historic hang-up'. Soon after the announcement of the UN Plan for Cyprus on November 13, 2002, the majority of Greek public opinion was opposed to the federal package, showing that material development is not necessarily linked with the development of a prejudiced free society. Therefore, a long series of national, regional and international efforts of reconciliation have failed to bring the two together for their new federal political construction.

### Understanding Cypriotism

In Cyprus the manner in which both ethnic groups (operating as nationalities) could have expressed satisfaction over creating a common base for the singularity of sovereignty is problematic. Ethnicization of politics and negotiations has widened the gap between the two ethnic groups who, despite sharing many commonalties, have remained apart, not only from the year 1974, but from the beginning of their experiment with the federal polity of shared rule and governance. The accommodationist sense which had prevailed over their agreements for working together in a bi-cephalous federal polity, was the most reasonable instrument of generating and consolidating Cypriotism by mutual renunciation of *enosis* and *taksim*.

But Cyprus continues to be the victim of history and politics, divided by respective ethnic narratives which violate the basic principles on which cypriotism was to have been constructed. Cypriotism could only grow in strength by the principles of tolerance and recognition of identities and their jurisdictions by those who ruled the island. Cypriotism though was eclipsed when the Ottomans handed over the island to the

British. This cypriotism, as it stood, was finally embraced by the two communities and three outsiders in 1959 when the communities were considered constituent powers in making the State and the Constitution. The historic compromise was reached through the Zurich and London Agreements which assigned competencies, exclusive jurisdictions and obligation of each party at the individual and collective levels in the new exercise of nation building in a bi-communal society. The major objective of power-sharing arrangements was to hold society together in the spirit of a combined or joint-project for nation building and in creating an identifiable cypriotism. This strategy of unity got disrupted in two phases. During 1963-1974, *enosis* became the dominant Greek Cypriot ideological orientation that fuelled inter-communal strife and exclusion of their partners. The second phase was the Turkish intervention, and declaration of the TRNC (Turkish Republic of Northern Cyprus), which symbolized *taksim*, both of which had been shelved originally by the principles of cypriotism. Ultimately, too, the lack of genuine effort made by the European Union and UN Security Council to resolve the Cyprus issue by ensuring all guarantees to Greek and Turkish Cypriots for security and power sharing, proved fatal to cypriotism. Cypriotism, as a kind of nationalism, built by the combined efforts of both communities (in terms of their positive readings of history and mutuality over sharing political institutions) to live together under one State, scarcely got off the ground. Mutual commitment for co-existence, tolerance, equality and justice, a sense of social solidarity and political culture, required both parties to rise above their group/community consciousness in dealing with the sensitive subjects of administration, autonomy and other consociational arrangements, then failed. The birth of cypriotism required an ethnic consciousness or prevalence of common citizenship or strict adherence to constitutionalism, but was still-born.

Cypriotism required an evolutionary process of mutual accommodation in 'societal' and 'political' culture and 'inclusion' and power sharing between the two groups. But the ideology was neither taken up seriously nor was it given the time and space to be rooted strongly in the hard soil of an ethnically conscious Cyprus in an environment which reduced the 'negatives' of communitarian/ethnic consciousness and political engagements to prevent the ethnicization of the state.

The term 'cypriotism' broadly refers to the idea that Cyprus has its own *sui generis* character and thus must be viewed as an entity independent from both the motherlands of the two main communities-Greece and Turkey.<sup>8</sup> This contrasts sharply with the view that dominates nationalist ideology (Greek or Turkish Cypriot) which views Cyprus as an

extension of respective motherlands. So, how is Cyprus to be liberated from consciousness based on ethnic factors? Even if the two communities agree to distance themselves from their emotional and ethnic attachments to the motherlands, they would/could not dissociate themselves from loyalties or affiliations with their ethnic/communitarian identity. The most difficult issue at this juncture is how to achieve this unity? Is this ideal threatened by community consciousness, or is it to be resolved through consociational and power sharing arrangements? Is this ideal of unity hard to achieve in a historical society with a modern (post-historical) system of governance? Nicos Lanitis and the New Cyprus Association, summarized by Mavratsas, presents another viewpoint under which cypriotism does not deny the Greek or Turkish ethnicity of the inhabitants of the island, and stresses that their ethnic identity and, thus, on a more general level, their culture has also acquired *sui generis* features which not only differentiate the Greeks and Turks but also creates some common ground between the two communities of the island.<sup>9</sup> Correspondingly, cypriotism does not therefore promote the idea that there exists a Cypriot nation-unless 'nation' is understood as a strictly political- territorial category.

Cypriotism can be better articulated in two different ways depending upon 'societal' and 'political' culture. In the nation-state framework in which post-historical society is regulated by the principles of modern liberal democracy, cypriotism can be articulated as a 'de-ethnified' political ideology free from historical consciousness. It can also be articulated as a balancing act of ethnically conscious communities by strictly adhering to the principles of constitutionalism. However, in both contexts, success of cypriotism requires power-sharing arrangements. It needs to be recalled that cypriotism may be associated with the strategy and vision of keeping the two different parties together by policies based on their consent, and that this partnership can be achieved both at the individual and collective levels. Similarly it can also be practiced in a nation-state like France and 'no nation-state' like Switzerland. What seems to be very important then is the factor of constitutionalism under which the rights and powers of constituent communities are ensured.

The homogeneous society can succeed in developing national solidarity as seen in the case of France. There are cases of compromises over the 'steel frame' of the nation-state as the Italian Constitution adopts the principles of 'regionalism' by granting autonomy to its five regions. The Swiss nation is normally described as *Willensnation*, a nation that exists as long as, and only because, the Swiss, or more precisely the constitutive groups, are willing to be Swiss. In other words, it shows a voluntary unity in a federal set up. It is also said that the Swiss nation is based

on 'communal civism'. It is interesting to note that the Swiss nation is described both as an ethnic nation and civic nation. The often-claimed right to be and to remain different and free is important for the understanding of the meaning of being Swiss. As a result, the Swiss federal governance sought unity by offering cantonal self-governance and diversity. Thus the above mentioned examples show the dynamics of communal/civic/regional solidarity in nation-building.

In the case of Cyprus, ethnic consciousness is a deep-rooted social reality. What is recommendable in this situation is to harmonise their interests representing 'choice and will' by recognising identities. This may seem to be non-modern and non-liberal in orientation and may even seem to be anti-thesis to the principles of individuality and territoriality. Cypriotism is a case of constitution building, state building and nation building which may need special treatment beyond a modern-liberal paradigm of political settlement.

### **The Need for Cypriotism**

The Cyprus case is quite unique in the sense that a relatively small population on a very small territory lived together for centuries but they maintained two different perspectives. Their different, rather contradictory, approaches were managed by the Ottomans who limited their reactions by the principle of the *millet* system and persuasive policies of the British claiming parity between Greek and Turkish Cypriots. After the collapse of third party rule in two stages 1878 and finally in 1959, two different perspectives began to operate as dynamic forces for dominance and power sharing. This began to develop in a situation in which the numerically larger community felt restrained and compelled under the political set up managed by their mother countries and the former colonizer. On the other hand, the package of governance for the newly created Republic of Cyprus was one of the best alternatives to nurture cypriotism. It is, however, important to recall that the onus for nurturing cypriotism was lying more upon the shoulders of Greek Cypriots whose numerical strength and deep-rooted ethnic and religious consciousness were natural threats to Turkish Cypriots. Cypriotism was, in fact, the only source of creating a responsible citizenship towards safeguarding the republic which was never seriously taken up. In the pre-1974 period, cypriotism rarely took the form of a systematic movement with the ability to challenge ideological orthodoxy, based on ethnicization, on the island. It should not be surprising, therefore, that very few historical documents or declarations of Cypriot ideology exist and those that do are mostly in leftist publications. Later the leftists and rightists who sympathized with communist Russia

and non-aligned movements, became activists of majoritarianism and *pro-*enosis** movements. Communist versions of cypriotism were not free from the homogenization project of leftist internationalism and so the majority of Cypriot communists were also not free from majoritarian ethnic consciousness.

Ceasar V. Mavratsas<sup>10</sup> highlighted the views of Nicos Lanitis,<sup>11</sup> one of the leading industrialists of the island who had founded the Party of Progress in the 1940s, implying that cooperation between the two countries was the *sine qua non* for modernization and economic development and more generally, progress. Lanitis maintained that union, and only union, was essentially a negative policy and urged the Greek Cypriots to apply self-restraint, in (their) nationalist aspirations and to honour their signature on the London-Zurich Agreement.<sup>12</sup> In other words, cypriotism can be viewed, in his case, as an explicit opposition to Greek ethno-nationalism and Turkish separatism. Cypriotism meets many of the definitions of nationalism: the stress upon common history, homeland and culture.<sup>13</sup> Ernest Renan views 'nation' as a soul based on binding merits; possession in common of a rich legacy of remembrance, the actual consent and desire to live together, and the will to continue to value the heritage which all hold in common.<sup>14</sup> Emphasis on commonalty can be guaranteed by either adhering to the principles of liberal neutrality of nation-state, or by institutionalizing the mechanisms of power-sharing as well as checks and balances.

### **Challenges at the Dawn of Independence**

The independence of Cyprus in 1960 was the achievement of both Greek and Turkish Cypriots who agreed to share power in internal and external domains. They were the custodians of the new republic which was in great need of historic sacrifice from the Greek Cypriots to enter into a new phase of democratic and participatory governance. They were required to reject Hellenism which had grown among the Greek Cypriots after the independence of Greece, and which had been boosted with the transfer of the island from the Ottoman Empire to the British in 1878. The statement of Winston Churchill in 1907 that *enosis* was a "desirable consummation" that would "doubtless be fulfilled in the plenitude of time",<sup>15</sup> the British offer of handing over the island to Greece in 1915, on hard conditions, and the prevalence of liberal-democratic west after World War II, had certainly encouraged the Greek Cypriots in their ambitions. Moreover, the British policy of 'benign neglect' vis-à-vis the *enosists*, and the 'silent solidarity' with the numerically stronger group, discouraged many Turkish Cypriots who migrated to Turkey and elsewhere. After



World War II, demands for *enosis* increased and continued to rise even after the establishment of the republic. Thus the independence of Cyprus created two difficult challenges. One, to disown Hellenism and *enosis*, and two, to enter into a new phase of governance and power-sharing. Following independence, cypriotism began to collapse on the ideological level, as closer ties with Greece were sought to reaffirm Greek identity and re-establish the Greekness of the island. After the first five months of independence, Arthur Clark, the British High Commissioner, referred to the unpopularity of the negotiated settlement of the Cyprus issue which did not satisfy the aspirations of either the Greek or Turkish Cypriot communities.<sup>16</sup> As for inter-communal relations, there were no signs as yet of a 'Cyprus national consciousness',<sup>17</sup> indeed both communities had sought to emphasize more strongly than ever their separate identities as Greek and Turks and their close ties with their motherlands. Clark observed that the Turkish Cypriots were particularly conscious of numerical weakness and of the danger of being submerged by the Greek Cypriots.

### Cypriotism on Trial

Relations between the two communities were discouraging despite the optimistic remarks of Archbishop Makarios and Dr. Fazıl Küçük. Mutual distrust and suspicion were strong, and Clark believed that most of the Greek Cypriot and Turkish Cypriot newspapers were completely irresponsible on this issue, seizing every opportunity to fan inter-communal distrust and to exacerbate communal differences.<sup>18</sup> The inter-communal situation deteriorated in February 1961 over the issues of the municipalities and civil service staffing ratio. The statement of Makarios on January 4, 1962 over the possibility of the revision of the constitution underlined the difficulties of cypriotism, and the situation erupted over the issues of taxation, separation of municipalities and the Vice-President's veto on the decision that the Cyprus Army should be an integrated force. Apart from its failure to work within the constitution, Greek ethno-nationalism began to wipe out cypriotism. Makarios even said in his speech on September 4 that "unless this small Turkish community, forming a part of the Turkish race, which has been the terrible enemy of Hellenism, is expelled, the duty of the heroes of EOKA can never be considered as terminated."<sup>19</sup>

Therefore, a vicious ethno-nationalistic circle began to form, fuelled by Makarios' defiance of the Constitutional Court in February 1963, his various press statements in early August calling for the abolition of the Treaty of Guarantee, and the amendment of certain basic provisions of the constitution. The use of force in 1963, and the imposition of politi-

cal, economic and social embargoes, led to Turkish Cypriot retaliation and their retreat, for self defense, into small areas or enclaves. They abandoned their places in parliament and administration, purposely according to the Greek Cypriots, necessarily according to the Turkish Cypriots, because they were in fear of their lives.<sup>20</sup> Violent attacks continued which alarmed Turkey and the UK and so finally the United Nations force took control of the Green Line.

Such a tragic dawn of the new republic eliminated space for cypriotism. Later sustained efforts of deprivation of Turkish Cypriots of their constitutional and national rights between 1963 and 1974, on the one hand, and failure of all inter-communal negotiations, on the other, finally closed the doors for cypriotism. Ergun Olgun<sup>21</sup> quotes Makarios who stated in 1963 that "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." Ernest Forthshoff, President of the Supreme Constitutional Court of Cyprus, who resigned after the defiance of Makarios, said that the latter "bears on his shoulders the sole responsibility of tragic events.... His claim is to deprive the Turkish community of their rights."<sup>22</sup> From 1960 to 1974, *enosis* continued to be the dominant Greek Cypriot ideological orientation and in conjunction with Turkish Cypriot nationalism, as well as the intervention of foreign interests, Greek Cypriot nationalism fuelled inter-communal strife, culminating in the Turkish invasion of 1974.<sup>23</sup>

Apart from the cases of violence, intimidation, restrictions on the freedom of movement and security, Turkish Cypriots helplessly watched the advancement of Greek ethno-nationalism and the shift in the republic from power-sharing to the exclusion of the Turkish Cypriots *in toto*. The reality of the situation was that the Turkish Cypriot population had become concentrated in enclaves, and Turkish participation in the government was no longer possible.<sup>24</sup> Oliver P. Richmond also mentions the failure of Greek Cypriots to make concessions to Turkish Cypriots during the period from 1964 to 1974.<sup>25</sup> This one decade period of Turkish trial and hard policies by the Greek Cypriot administration finally eroded the chances and opportunities of rebuilding the confidence of Turkish Cypriots in the management of the republic.

What seemed to be quite damaging at this juncture was the fact that the exclusion of Turkish Cypriots and total control of the Greek Cypriots over the shared sovereignty converted the republic into a Greek Cypriot controlled territory which, under the principles of the establishment of the republic, was illegitimate. What was most shocking to Turkish Cypriots was that none of the third parties, except Turkey, appeared con-

cerned about their constitutional rights. When the UN and other Guarantors, except Turkey, began to treat the Greek Cypriot administration as the sole representative of the republic, the Turkish Cypriots finally opted for a separate and independent administration, leading to the devastating *coup* of 1974.

### Effects of Ethnicization and Exclusion

What was basically wrong with the system or with the two communities who failed to rescue cypriotism? Why did it happen? So far as the political package is concerned, it can be better understood in the words of Ernest Forthshoff:

Every constitution can have its peculiar problems. There is no constitution in the world which has not got its particular difficulties and problems. This is primarily a question of goodwill. If there is goodwill a constitution can be implemented and this constitution is capable of being implemented.<sup>26</sup>

Thus it was not the failure of the constitutional mechanism as such but the ethnicisation of the state which had its roots in Greek ethno-nationalism. The proclamation of the identity based politics of the Greek Cypriots, particularly since 1963, excluded their Turkish counterparts, and was meant to forward a majoritarian agenda. However, it is important to recall that identity consciousness was never rejected by the Agreements of 1959-1960, and was rather balanced with Turkish Cypriot's identity. What went wrong was the unilateral enforcement of the Greek Cypriot's identity by denying basic rights and safeguards for Turkish Cypriots. The extreme version of Hellenocentric tendency which was essentially a development of the Hellenic nationalist ideas underpinning the *enosis* campaign in 1950s, prospered even after 1960. These neo-nationalists, as they may be called, regarded the Greek community of Cyprus to be Hellenes who were born and live in Cyprus, and who wished to live there in an independent, Greek dominated, Cyprus.<sup>27</sup>

The Turkish Cypriot perspective maintains that the Greek Cypriots wanted to subjugate them as a minority in a state dominated by Greek Cypriots, where sovereignty was vested in the hands of the majority. They felt that the international community's avoidance of the majoritarian approach was a betrayal of their rights. Thus the Greek Cypriots' view of their Turkish counterparts as a minority was the proclamation of their majoritarian status rather than being an acknowledgement of their status as co-founders of the republic. In order to avoid such complexities,

the republic had included some basic articles in the constitution, besides the Treaty of Guarantee and Treaty of Alliance. The provisions for the Supreme Constitutional Court, veto powers of the Vice-President and other package for self-rule and shared-rule had been purposely incorporated to prevent the majority-minority syndrome. Exclusion of the Turkish Cypriots and illegal amendments (without consensus) in the constitution opened the door for the proclamation of majoritarianism.

It is therefore important to mention that basic constitutional rights and provisions were inevitable for keeping control over the two communities whose loyalty to their language, culture and religion, reigned supreme in their consciousness. John Reddaway observes that through the centuries, the two national peoples on the island jealously guarded their national identity and each cherished its own national aspirations. It was, therefore inevitable that sooner or later, the two peoples would come into violent collision<sup>28</sup>. Particularly in the case of the Greek Cypriots, religion and religious institutions played a major role in the formation of different collective identities in the island. Local Orthodox Churches operated as autonomous institutions in local affairs. The Ottomans maintained their autonomy as well. As a result, religious institutions became the dominant source of indoctrination in the construction of group identity. Religion remained the main source of socialization under the Ottoman Empire. Under British rule, Anglo-legal reforms introduced several new elements but the Orthodox Church remained intact. The Roman, Byzantine and the Ottoman empires recognized community identity based on religion and the Ottomans had also recognized the Archbishop as 'ethnarch'.

Thus their ethnic and religious consciousness seemed to create an exclusive identity showing its distinct social base, on the one hand, and a part of the dominant fragment of west European liberal society, on the other. On the contrary, the Turkish Cypriots were forced to increase their associations with the Turkish nation-state. Though the call of Greek Cypriot leaders to become an integral part of European liberal identity may not be taken as deeply politically motivated, the Greek Cypriots' claim of belonging to the liberal fraternity certainly raise some questions on crucial issues concerning the deepening network of the local orthodox church, ethnic consciousness and group identity.

Therefore, it is quite natural for any group, which is conscious of its ethnicity, to operate in a dominant manner. The constitutional mechanisms were deliberately abandoned to give primacy to ethno-nationalism over cypriotism. In other words, politics of settlement in the post-1974 era, began during those critical moments when Turkish Cypriots had also gained secured territories in the arbitrary manner in which the Greek

Cypriots had usurped their rights and freedom a decade ago. They entered into the negotiation process more as independent players with equally strong masters, Greece and Turkey. Cypriotism was forgotten by both. The Turkish Cypriots stressed separateness and the Greeks echoed the singularity of sovereignty and common citizenship. The Turkish Cypriots bracketed independence and confederal arrangements for security and psychological reasons, while the Greek Cypriots, who unlike their pre-1974 attitude, agreed to offer more concessions, and never acceded to the demands of Turkish separatism. Perspectives of the two groups have changed very much and have become more contradictory due to domestic and international developments.

New generations in the divided territories have grown up in a very controlled environment in which the rival groups regulated and institutionalized the means of indoctrination and understanding. A kind of permanent divide or willingness to live apart has become rooted deeply by the means of text-books, religious institutions, party politics and governmental policies. Therefore, a hardcore perspective has developed on both sides. Things changed quite differently at international level after the collapse of communist Russia in what Francis Fukuyama termed it as the 'end of history' by which he meant the triumph of liberal-capitalist forces. Unipolarism on the pretext of creating a peaceful New World Order began to dominate international politics in collaboration with other western liberalisms.

Such developments benefited both Turkey and Greece on their own terms. For Turkey, the New World Order legitimized military intervention on the pretext of democracy, human rights and popular sovereignty. For Greece, post-1989 developments expanded the rim of liberal democracies as a broader satellite in which the former communist countries were no longer treated as enemies. This enlargement of the liberal fraternity created more space for the Greek Cypriots to be included through the integration process. As a result, it is quite visible that the 'accession diplomacy' of the European Union and deeper defense ties between Greece and Greek Cypriots have caused tremendous pressures over Turkish Cypriots and Turkey. However, the doctrine of the New World Order seems to be effective for those whose loyalty to the Neo-conservatives in the United States is confirmed and final, and so the UK and the European Union are more trusted friends of the US than Turkey. In the 1960s and 1970s, there were many instances of irritants between the US and Turkey, while the European Union has also been warning Turkey consistently over the issues of the Kurds, democracy, closure of political parties, support to Turkish Cypriots and human rights. Turkey is yet to

become a full confidant of the US and the European Union as was demonstrated recently over the issue of the invasion and occupation of Iraq. Turkish exclusion in European defense initiatives, and more chances of its incompatibility with the forthcoming EU constitution, clearly indicate vulnerable space for Turkey in a larger Europe. The new world scenario poses a tough challenge to Turkey to stand firm on its policies over Cyprus. On the other hand, Turkish Cypriots belong to the new generation which is not as loyal to Turkey as the older one. They neither want subordination to Turkey nor annexation to it. It is also a fact that Turkey has failed to successfully put forward its case for military deployment and deep engagement in divided Cyprus, to the larger world. Therefore, the 'no loyalty' factor of the new generation of Turkish Cypriots to Turkey, and its emerging differences with highly pro-Turkey Turkish Cypriot leaders, have raised many questions over the 'credibility' of the Turkish stand on the island.

However, it is a fact that the Greek Cypriots now seem to be more interested in 'cosmetic cypriotism' and to reject separation of the Turkish Cypriots. The former is mainly concerned with the territorial integrity of the island whereas the latter is not satisfied at all with this gesture. The contemporary approach of the Greek Cypriots to the lasting and just solution of Cyprus is based on those liberal principles which advocate uniformity without diluting ethnic consciousness in either of the communities. Glafcos Clerides proposed a:

just solution ... which will guarantee the security of all its citizens and respect for fundamental freedoms and human rights; a solution which will usher a new period of cooperation between the two communities of Cyprus, in a mutually acceptable constitutional framework that will safeguard and consolidate the democratic rights of all the citizens...<sup>29</sup>

At this juncture, the Greek Cypriot leader outlined the liberal principle of nation-state in which he clearly mentioned common citizenship, individual rights and human rights which are, in some cases, opposed to differential rights, group rights and privileges for national minorities or sharing of sovereignty by the other community. To President Clerides, the solution of the Cyprus problem could be reached provided, "there is goodwill on all sides." One can find contradiction in the following ideas. He saw federation as a solution in which each community managed its own affairs in absolute equality, while he advocated a Cyprus with a single sovereignty and single citizenship.<sup>30</sup> Then he took up the

issue with the EU and said that "Cyprus must belong, and naturally belongs, where its history, geography, civilization and social values have destined it to be: in a united Europe."<sup>31</sup> It is thus important to point out that over the years, over-arching and exclusive attitudes of the Greek Cypriots have appeared time and again such as *enosis* and *megali idea* (Greece as the epicenter), Greek Cypriot majoritarianism (indigenous cultural and religious nationalism) and now being part of a united Europe (belonging to western liberal fraternity). Now the question is what would happen to the community or group rights of the Turkish Cypriots? When one looks at the strategy of the Greek Cypriots, mobilizing the international community, proceeding towards the EU, exerting intensive pressure to achieve a mutually acceptable solution and building their defense and implementing Cyprus-Greece Joint Defense Doctrine,<sup>32</sup> it is hard to believe that there is really any genuine desire for goodwill and common good. Thus it seems that cypriotism, or a desire for co-existence, has never been taken seriously in the history and the politics of a united and divided Cyprus.

However, it would be difficult for both the ethnic community on the island and their patrons to ignore the effects of globalization, international law and the need of collectivism (of European nations) in the matters of development and defense which have reunited ethnic Germans and divided many other Eastern nationalities for the purpose of maximizing cohesion and unity. What has been remarkable in this recent history of 'ethnic assertion and resettlement' is the triumph of liberal capitalist forces, most of them belonging to western Europe which is determined to take hard decisions on internal and external issues. As a result, the EU has already decided to go beyond the existing framework of legalities while ignoring the Turkish concerns. Similarly the United Nations has come out with a new package recently for a comprehensive settlement to a four-decades-old problem on the island. This UN Plan has reasonably incorporated most of the demands of both the communities while ignoring the basic concerns of both the parties over parity and socio-economic viability. The main lacuna is the time deadline for which the Turks don't seem to be ready with full confidence for immediate settlement. What can be hoped for at this crucial juncture is to create and enforce a genuine desire for cypriotism (together with necessary safeguards on both sides) over the design of partition and domination.

Thomas Fleiner has developed an unconventional, but rational-humanistic, paradigm of thought over managing divided societies, which might usefully be applied to Cyprus at this time. His prime concern is the well being of the people. In other words, the major goal of governance and

politics is the maximum prosperity and peace for human beings. Underlining major challenges (legitimacy and rule of law) to a multicultural state and divided societies, he also stressed 'Liberty and/Peace'. For the sake of peace, individual liberty, consequently, may have to be limited in order to allow specially endangered communities to develop themselves according to their cultural tradition.<sup>33</sup> One can also derive a meaning from this for looking at the Cyprus issue afresh. If peace becomes the agenda of discussion with all parties over the Cyprus problem, there can be a viable solution to rekindle expectations for regaining cypriotism as the greatest value in Cyprus politics. Therefore, the plant of cypriotism can be rooted in the soil of peace and not sovereignty or modern nationalism.



**Endnotes**

- <sup>1</sup> P. Harris and B. Reilly, eds, *Democracy and Deep-rooted Conflict: Option for Negotiators*, Stockholm, 1998, 1-10.
- <sup>2</sup> Harris and Reilly, eds, *Democracy and Deep-rooted Conflict*, 10.
- <sup>3</sup> Harris and Reilly, eds, *Democracy and Deep-rooted Conflict*, 14-15.
- <sup>4</sup> C. H. Dodd, "Historical Overview", *Cyprus The Need for New Perspectives*, England, 1999, 1.
- <sup>5</sup> Z. Stavrinides, "Greek Cypriot Perceptions." In: Dodd, ed, *Cyprus The Need for New Perspectives*, England, 1999, 56.
- <sup>6</sup> Stavrinides, "Greek Cypriot Perceptions", 63.
- <sup>7</sup> Stavrinides, "Greek Cypriot Perceptions", 94.
- <sup>8</sup> C. V. Mavratsas, "The ideological context between Greek-Cypriot nationalism and Cypriotism 1974-1995: politics, social memory and identity", *Ethnic and Racial Studies*, 20, October 1997, 721.
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- <sup>11</sup> N. Lanitis, "Our destiny: A consideration of some crucial problems pertaining to Cyprus" (based on material incorporated in a series of articles in the *Cyprus Mail*, 3-7 March 1963).
- <sup>12</sup> Lanitis, 6-8.
- <sup>13</sup> J. G. Kellas, *The Politics of Nationalism and Ethnicity*, London, 1991; A. D. Smith, *National Identity*, Reno and Nevada, 1991.
- <sup>14</sup> E. Renan, "Qu'est-ce qu'une nation." In: J. Hutchinson and A. D. Smith, eds, *Nationalism*, Oxford and New York, 1994, 17.
- <sup>15</sup> Dodd, "A Historical Overview", *Cyprus the Need for New Perspectives*, 1999, 3.
- <sup>16</sup> S. R. Sonyel, "New Light on the Genesis of the Conflict: British Documents 1960-1967." In: C. H. Dodd, ed, *Cyprus The Need for New Perspectives*, 17.
- <sup>17</sup> Z. Stavrinides, *The Cyprus Conflict*, Nicosia, 1975, 42-3.
- <sup>18</sup> Sonyel, "New Light on the Genesis of the Conflict", 18.
- <sup>19</sup> Sonyel, "New Light on the Genesis of the Conflict", 20-21.
- <sup>20</sup> Dodd, "A Historical Overview", 7.
- <sup>21</sup> E. Olgun, "Recognising Two States in Cyprus Would Facilitate Co-existence and Stability", *Survival*, 40, Autumn 1990, 36.
- <sup>22</sup> Olgun, *Survival*, 36.
- <sup>23</sup> Mavratsas, "The Ideological Contest Between Greek-Cypriot Nationalism and Cypriotism", 717.
- <sup>24</sup> J. H. Wolfe, "Cyprus: Federation Under International Safeguards", *Publius: The Journal of Federalism*, 18, Spring 1988, 78.
- <sup>25</sup> O. P. Richmond, "Ethno-Nationalism, Sovereignty and Negotiating

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<sup>26</sup> R. R. Denктаş, *Documents and Comments on the Cyprus Dispute*, Lefkosa, 1996, 11.

<sup>27</sup> Stavrinides, "Greek Cypriot Perceptions." In: Dodd, ed, *Cyprus The Need for New Perspectives*, 64.

<sup>28</sup> J. Reddaway, *Burdened With Cyprus: The British Connection*, London, 1986, 5.

<sup>29</sup> Stavrinides, "Greek Cypriot Perceptions", 55.

<sup>30</sup> Stavrinides, "Greek Cypriot Perceptions", 55.

<sup>31</sup> Stavrinides, "Greek Cypriot Perceptions", 55.

<sup>32</sup> Stavrinides, "Greek Cypriot Perceptions", 56.

<sup>33</sup> T. Fleiner, "Some General Remarks on the Challenges of a Multicultural State", in Lidija R. Basta Fleiner, et. al., eds, *Rule of Law and Organization of the State in Asia The Multicultural Challenge*, Geneva, Munich, 2000, 9-10.

# Limassol 1912-Dali 1922: Cypriots in Nationalist Conflict

*Jan Asmussen*

## Introduction

Cyprus has suffered considerably through the influence of diverse nationalism manipulating the psyche of its inhabitants and subsequently directing the fate of its history. Many books have been published to investigate the origins of the conflict, though, little work has been done identifying the point when the conflict became an interethnic one, rather than an encounter between the British and Greek Cypriots. Likewise, there has been no shortage of accounts on the Cyprus Conflict which focus on the landslide struggles between Greek and Turkish Cypriots during the years of 1958, 1963/64 and 1974 respectively.<sup>1</sup> The outbreak of intercommunal violence in 1958 clearly underlined that the conflict had started to become dominated by Turco-Greek discord. But where were the roots of that discord?

Recent research into interethnic relations in Cyprus before the outbreak of violence indicates, indeed emphasises, common values and culture shared by both communities as well as a general cooperation in the fields of business and agriculture.<sup>2</sup> It is less well known, however, that there were two early incidents of nationalistically motivated clashes between members of the two Cypriot communities during the first half of the 20<sup>th</sup> century. Those were the so-called 'Limassol Riots' of 1912, and the interethnic clashes of 1922. Speculating why these events have been largely ignored in contemporary Cypriot historiography, this article aims to examine the roots of these early conflicts as well as their possible impact on the subsequent and present relations between Greek and Turkish Cypriots on the island.

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## **The Limassol-Riots of 1912: *The Event***

On May 27, 1912, for the first time in Cypriot history, Greeks and Turks clashed out of nationalistic motivations. The British High Commissioner, Sir Hamilton Goold-Adams, reported the event in the following telegram to the Colonial Office:

Disturbances broke out between the Turks, Greeks, within the past two days, Nicosia, Limassol, and a few isolated villages. The only very serious trouble occurred at Limassol yesterday, where three killed by knives, seventeen otherwise were wounded. Police obliged to procure assistance of company infantry to put down disturbance.<sup>3</sup>

After two days the clashes ceased and the notables of both communities tried to cool down the tensions among them:

Reports from districts to-day show no fresh disturbances [...]. Leaders of both parties were helping to restore order in conjunction with Government.<sup>4</sup>

But what had caused this sudden outbreak of violence?

### *Origins*

The Ottoman Empire had just lost the war against Italy (1911/12),<sup>5</sup> who then occupied Libya and the Dodecanese Islands. The Ottoman loss of the Aegean islands was especially welcomed by the Greek Cypriots, who were hoping their island would eventually be transferred to Greece. The *Megali Idea* of Greece (the unity of ancient and Byzantine provinces of the Hellenic areas) had its regional counterpart in the concept of *enosis* (the union of Cyprus with Greece). Having been mainly an upper class phenomenon during the 19<sup>th</sup> century, it was widely propagated and disseminated by the Greek-Cypriot school system,<sup>6</sup> and therefore well established among the Greek-Cypriot population by the beginning of the 20<sup>th</sup> century. Some Greek Cypriots even volunteered in the Greek-Ottoman War of 1897 and during the Balkan Wars of 1912-13.<sup>7</sup>

The British Government, however, until the outbreak of the First World War had given no serious thought to the wishes of the Greek Cypriots for *enosis* since it did not need to win their sympathies, nor to court Greece's alliance.<sup>8</sup> Edward Fairfield, Colonial Office bureaucrat, returning from a trip to Cyprus in January 1882, however, advocated selected separate electoral rolls for Christians and Moslems. He argued that Greeks and Turks were deeply divided by history, customs and language:

There are men living in Cyprus today whose fathers were hanged by the Turks along with the Archbishop on the trees outside the Nicosia Konak. The Greeks loathe the Turks, and the Turks loathe all Christians. This feeling on the part of the latter is likely for the present to become stronger and stronger partly because the Turks of Cyprus are losing the position of pre-eminence they formerly enjoyed, and partly because there is a general air of madness and fanaticism passing over the Mahomedan world, the influence of which reaches even Cyprus by means of the annual pilgrimage (...)<sup>9</sup>

Georghallides has rightly pointed out that this pessimistic analysis

of the island's problems and possibilities did less than justice to the evidence of the good every-day relations existing between ordinary Greeks and Turks. In spite of the tragedies of the past, in 1881 Greek and Turkish villagers had for many decades been living peacefully next to one another, while their leaders knew one another, one another's language and ways of thinking.<sup>10</sup>

The British Colonial Secretary, Lord Kimberly, however, followed Fairfield's conclusions and arranged the Cyprus Constitution and the administration of education according to the Ottoman principle of *millet* (religious community), whereby voting, representation and school education was organized according to the religious affiliations of Christians (Greek-Cypriots) and Muslims (Turkish-Cypriots).<sup>11</sup> Consequently, the 1878 separation of Cyprus from the Ottoman Empire did not altogether eliminate the importance and ideas and loyalties which had existed during the centuries of Ottoman rule.<sup>12</sup> As the British occupation found a distinct Turkish community and many Turkish Cypriots with a varied administrative experience, so it encountered a clearly defined Greek community too.<sup>13</sup>

The events of 1821, in which Archbishop Kyprianos and some 500 leading clerical and lay members of the Greek Cypriot society had been executed,<sup>14</sup> had a negative effect on the relations between Greek and Turkish Cypriots. Furthermore, the establishment of an independent Greek state in 1829 increased the suspicions of the island's masters as to the loyalties of their Greek Cypriot subjects. But, as Georghallides put it, "friendship between Greeks and Turks as individuals did not succeed in developing into a significant political partnership."<sup>15</sup>

Indeed the division became more pronounced throughout the century and the Cypriot Turks frequently called attention to inflammatory articles in the Greek-Cypriot press, which celebrated every Ottoman defeat. In 1895 Turks had cause to complain of Christian insults on Greek Independence Day, such as the torchlight procession of schoolchildren who paraded through the predominantly Turkish Tahta Kale quarter of Nicosia singing about slaughtering the hated Moslems. The Mufti of Cyprus, Hacı Ali Rifki Efendi, complained of Christian insults to Moslem women and notables, and of Christians using the words 'boom, boom' to imply that the Moslems would be shot.<sup>16</sup> During the same year, at Tokhni, a mixed village on the Limassol road, there was a disturbance, and now even the women were insulting one another. In Nicosia, Moslem children had reacted when Christian ones threw stones into their school, and Greeks in the market-place were calling Turks 'Dogs and Donkeys'. Though, the Mufti added that he had persuaded many Moslems not to be present at the coming Christian (pro-*enosis*) meeting, he anticipated that some would go, and he foresaw a disturbance if the meeting were not forbidden.<sup>17</sup> A further report by the British Commissioner B. Travers in 1895

speaks of Greeks deliberately provoking the Turks at Vitsadha and Vatili<sup>18</sup> and in 1902, Canon F. D. Newham, Chief Inspector of Schools, recorded that when he asked to hear Greek schoolchildren sing, they usually responded with a war-song, "Forward, follow the drum that leads us against the Turks".<sup>19</sup> In 1904 the Greek schoolmaster of Kalavassos paraded his pupils carrying Greek flags and chanting, "the heads of the Turks must be cut off and their bodies thrown into filth". Other insults were evidently regarded by the Turks as unrepeatable, for they referred to them as "indecent words" causing "precipitancy and boiling anger".<sup>20</sup> From about 1903 onwards the initial cooperation of Greek and Turkish Cypriots within the Legislative Council (during the 1880s and 1890s) was more and more undermined by the "increasing unionist [pro-enosis] activities of the Greek-Cypriots".<sup>21</sup> With the rising influence of the Turkish Delegate of Evkaf, Mussa Irfan, who after struggling against any kind of co-operation with the Greek Cypriots since 1902, became a member of the Legislative Council in 1913, the polarization of the two communities, at least at this elite level, became more than obvious.<sup>22</sup>

At the time of the Limassol-riots the Greek Cypriot press had stirred up propaganda against the Ottoman Empire. A reporter of the *Kypriakos Phylax* was, for example, sentenced to pay a penalty because he wrote a virtually anti-Turkish article, which appeared in that newspaper on 7 April, 1911.<sup>23</sup> This, and other similar articles calling for a dismantling of the Ottoman Empire and a revival of the Byzantine imperial tradition of Greece (*Megali-Idea*), had of course an impact on the Greek Cypriot readers, who welcomed news on every defeat of the Ottomans.

In contrast, there was a significant growth of fatalism among the Turkish Cypriots who had to cope morally with the loss of prestige and territory suffered by their Empire. Greek Cypriot euphoria stood in marked contrast to Turkish Cypriot disappointment. The Turks' confidence in their own future appeared to diminish as they realised that Britain, especially after the Anglo-Russian agreements of 1907, was no longer committed to the territorial preservation of the Ottoman Empire; indeed the Empire's decadent condition had also in practice destroyed the possibility of the retrocession to it of Cyprus.<sup>24</sup> With the October 1911 Italian invasion of Libya, and in May 1912 of the Dodecanese, the final dismemberment of the Ottoman Empire began.<sup>25</sup> Anticipating these developments the Turkish Cypriot leaders believed "that for them any change [in the status of the island or the constitution] would be a change for the worse",<sup>26</sup> and so "the three Turkish elected members of the Legislative Council usually operated in concert with the British officials."<sup>27</sup> The Turkish attitude towards British rule "was certainly not shared by the Greek Cypriots. The motives and aims of [Greek] Cypriot nationalism did not differ from those of the broader Greek national movement."<sup>28</sup>

The British Administration of Cyprus was becoming alarmed by the growing tensions between the two communities from about November 1911:

Feelings [of animosity] have been accentuated in Cyprus within the past six months by two causes, viz. the increased agitation which has been organised among Greek Christians for annexation of the island to Greece, the excitable speeches which have been made by the Christian leaders, the writings of the local Greek press, and the taunts hurled at the Moslems regarding the approaching doom of the Ottoman Empire at the hands of Italy, especially since the occupation of the Turkish Islands in the Aegean Sea. On the other hand, the Moslems have unquestionably been rendered rather despondent by the results of the present Italian war, and many of their fanatical members have become more sensitive to anti-Ottoman displays on the part of the Greek Christians.<sup>29</sup>

### *The Riots*

In the background of these divergent emotions a minor interethnic clash occurred close to Nicosia in early May 1912 as Turkish Cypriots in Hamid Mandres felt provoked by Greek Cypriot pupils and teachers passing their village at night time. The official report about the event goes as follows:

The principal event which has more or less been the cause of the present rioting was an attack made by some Moslem villagers a few miles from Nicosia upon some fifty students with two masters of the local Greek gymnasium, who unwisely and probably noisily passed through a Turkish village late in the evening after dark. The Moslems turned out and assaulted them.<sup>30</sup>

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According to the Turkish (Cypriot) daily *Vatan*, the students had conducted military exercises and sung nationalistic songs. This provoked the Turks into attack.<sup>31</sup> *Vatan* had for some time campaigned against nationalistic Greek teachers and on one occasion celebrated the fact that a certain mathematics teacher called Kandalos had been expelled to Smyrna.<sup>32</sup> As a result of the disturbances in Hamid Mandres a confrontation with police forces in Nicosia developed:

Some of the students did not reach their homes in Nicosia until after daylight next morning, their absence being attributed to their being murdered. The following night both sections of the population attempted to come in conflict with one another but were prevented

by the Police. The latter however in the course of their task met with some resistance, and both the English Local Commandant and the Moslem Inspector were struck and stoned by the Greek section, the Moslem Inspector at one time being believed to have been shot with a revolver, several of which were discharged by the crowd. The Police fired in the air and eventually restored order.<sup>33</sup>

*Vatan* blamed Greek nationalist provocateurs and called on the authorities to protect the Turks wherever they were in a minority. The paper recorded other incidents in Hamid Mandres where the imam of the mosque was insulted by Greeks, a yoghurt seller attacked with a stick and his yoghurt cups broken, and a Turkish Cypriot High school student allegedly attacked with stones, suffering head injuries. Apart from that, there were other random attacks on Turks while passing Greek neighbourhoods. Finally, Greeks called for a boycott of Turkish goods.<sup>34</sup> However, there is no reference to these events in official sources.

As the news of these incidents spread to Limassol they led to much more serious clashes between the two communities. High Commissioner Goold-Adams commented:

I imagine that exaggerated reports of the events at Nicosia were the cause of the rioting at Limassol the next night, and do not believe that there has been any organised attempt on the part of one side or the other to force trouble.<sup>35</sup>

As a result of the news from Nicosia a Greek and a Turkish Cypriot had a quarrel in a Limassol coffeshop:

The only really serious trouble occurred at Limassol on the night of the 27th, resulting in three being killed, two from knife stabs and one from a bullet, two dangerously wounded, one of whom from a knife stab and one from a bullet, forty-eight seriously injured by knives and sticks, two slightly wounded by bullets. This particular riot was caused by a brawl in a café between a Greek and Turk, and ended by both sections of the population becoming involved. The Police eventually were ordered to fire on the rioters with the result of injury to four persons and an immediate termination of the disturbance. The disturbances at Nicosia and a few isolated villages were of no very serious kind, and resulted in a few persons being more or less injured by sticks and stones.<sup>36</sup>



The situation deteriorated during the so-called Djoumada-Incident (named after the Islamic month of *Djumada l-Akhira*) in Limassol when some Greek Cypriots, who were alarmed by the ringing of Church bells, started to throw stones at a Mosque:

...the Djoumada incident, where a number of Christians threw missiles at two passing carriages containing Moslems and one of the latter drew a knife and stabbed two Christians. Casualties caused by rioters to Civilians 3 killed, 100 wounded; caused by the rioters to the Police 1 Officer and 14 men wounded; caused by the rifle fire of the Police 2 killed and 9 wounded.<sup>37</sup>

In anticipation of further trouble to come a detachment of the 2<sup>nd</sup> Battalion of the Devonshire Regiment was landed at Famagusta on 1 June and went to Nicosia, but its services were not required and the reinforcements returned to Egypt on 2 October.<sup>38</sup> High Commissioner Goold-Adams appointed a commission to inquire into the origins of this incident. Its members, the district commissioner of Limassol W. N. Bolten, Mustafa Sami Yorghhanji Bashizade Efendi and S. Stavrinaki, interviewed 80 eyewitnesses and reviewed the files of the three main law cases, which were handled at the district court. The commission, however, couldn't reach a unanimous conclusion. Different views were expressed about the question, whether Greek Cypriots had planned the disturbances in advance or whether they had been the result of a spontaneous uprising. Agreement was only reached on the grounds that the commander of the police was justified to order his constables to fire on the rioters.<sup>39</sup> Bolten and Stavrinaki stated that:

the primary cause of the riot was the Djoumada incident, which in all probability would not have led to further trouble had not the bells of the Katholidji Street Church been rung to collect the people, and that a grave responsibility rest on the Church authorities for allowing them to be used for such a purpose. [Finding:] That the riot was not premeditated. The two chief reasons for this conclusion being the nature of the weapons used, mostly sticks and stones, and the fact that the women and children of both parties were at the Fair. The local Commandant was quite justified ... to fire on the rioters.<sup>40</sup>

Mustafa Sami Efendi insisted:

that only the Greeks were the producers of the Djouma (sic) disturbance, which became the beginning of a serious and seditious event ... I feel

quite convinced that the wild attack was planned and forethought.<sup>41</sup>

Sami Efendi failed, however, to provide any proof for his judgement. The commission could, nevertheless, agree that the Turks were not to blame for starting the riot; the great majority of the accused and convicted were Greeks.<sup>42</sup> The final numbers of the victims of the riots were given with five dead and 134 wounded:

List of injured [...] I expect the total will be <sup>43</sup>

5	Dead.
17	Severely wounded - detained in hospital
2	Slightly wounded treated by private practitioners
50	Dressed at Hospital and sent home
17	Greeks treated at home
48	Turks treated at home
139	Total

Neither was this an individual or isolated occasion of interethnic violence. The following incidents of violence in other parts of the island, not recorded in the official files, were reported by the Turkish (Cypriot) press:

1. Monagroulli village / Limassol district:

A Turk was insulted and threatened by his Greek Cypriot co-villagers. After he left the village with his family for Pendakomo village his house and other property was looted.

2. Perapedhi village / Limassol district:

Between eight and ten policemen were sent to the village because of incidents.

3. Aya Andem village / Nicosia district:

Stones were thrown at the car of Engineer Hacı Hafız Faik Efendi as he was passing Aya Andem village with his family. A Turkish yoghurt seller was attacked too and his products destroyed.

4. Lakatamia village / Nicosia district:

Between eight and ten Turkish families were attacked in this ethnically mixed village at night. The well digger (*kuyuncu*) Kara Mustafa was beaten up and suffered head injuries.

5. Perada village / Nicosia district:

Inhabitants of Perada (Ibsimlof/Pera) village south of Lakadamia complained to the police that because of threats and provocations by the Greeks they were unable to safeguard their homes.

6. Lefke and surroundings:

Hüseyin Zihni Efendi and businessman Atanas Efendi complained

to the police about threats by neighbouring Greek villages and demanded protection.<sup>44</sup>

The rioters were put on trial under the Ottoman Penal Code. Of some forty who had been arrested, eighteen Turks and Christians were sentenced to terms of imprisonment ranging from nine months to fifteen years.<sup>45</sup>

In Nicosia, where only a minor incident had occurred, the interethnic relations swiftly relaxed. In Limassol and in the surrounding villages on the other hand the atmosphere remained tense for a while:

I have been trying hard to bring the leaders of both parties together but have so far failed as the Moslems are exceedingly bitter about the desecration of their Mosque [...]. The villages have been exceedingly frightened by absurd rumours of large bands of wandering Turks and many of them have entirely lost their self-control, but in the villages and those nearby where Lt. Bellfield and his men have patrolled there is now quiet.<sup>46</sup>

### *The Aftermath*

As Hill noted, tension in Limassol continued for a while, and *Vatan* accused the Greeks of being worse than the Vandals had been.<sup>47</sup> While most of the island remained calm a second incident occurred at Hamid Mandres, where the entire affair had initially started. *Vatan* reported that on 25 June 1912 a Turkish shepherd boy was attacked by Greek shepherd boys from Dikomo. As news of the incident spread people from both villages took up weapons and ran to the scene. As some Turks and Greeks tried to negotiate a peaceful solution, the number of Greeks increased, and eventually numbered 66, when they started to insult the Turks. One of the Turks, Ali Bey, raised his gun and a struggle broke out. Ali Bey was attacked with sticks and Ali Hüseyin Ağa who tried to interfere was attacked as well. Police approaching the scene fired in the air and the Greeks ran away leaving behind their donkeys.<sup>48</sup>

Tension lasted until the end of the year. Some hundred Greek Cypriot volunteers, including the Mayor, went from Limassol to Greece to serve in the war, and subscriptions for the Greek War Fund amounted to £1700. As rumours of impending cession to Greece spread, the Turks became angered by Greek Cypriot leaders who were campaigning in Athens for the annexation of Cyprus by Greece. The Turkish Ambassador in London complained of outrages by Greeks on Moslems and was informed that the Government of Cyprus had taken effective measures to preserve the peace.<sup>49</sup>

Elsewhere the Ottoman Empire had not only experienced the Italian conquest of Libya, but also the Balkan wars, which started in October 1912 and resulted in the loss of Edirne, the Aegean Islands, Thrace and Macedonia.

The Young Turks responded to the decline of Ottoman power by erecting a dictatorship under Enver Bey. The new Government could not prevent the take-over of South Albania by Greece nor the occupation of Edirne by Bulgaria, but it managed finally to restructure the army in a way that permitted the recapture of Edirne (22 July 1913). This event restored the authority of the Young Turks even if Bosnia, Eastern Rumelia, Albania, Macedonia and parts of Thrace were lost during their reign.<sup>50</sup>

In Cyprus, the Limassol disturbances proved to be a local phenomenon, with no serious aftermath during the following years. There was no detectable impact on the collective consciences of the two communities, nor was there a practical change in the living conditions of the Cypriots connected with the political-historical background of the Italian-Ottoman War (1911/12), and so the events were finally forgotten.

## **The Interethnic Clashes of 1922**

### ***The Events***

In late September 1922 an attack on a Turkish Cypriot family was reported in Pyla.<sup>51</sup> Shortly after, in October, following a brawl in the local coffeshop in Dali, a Turkish Cypriot shot several rounds of bullets into a group of Greek Cypriots, which were besieging his house.<sup>52</sup>

### ***The Origins***

Before and during the First World War, Cypriot Turks were essentially on the defensive, complaining of provocations and combating *enosis*. Greco-Turkish antagonisms were above all stimulated by the Cretan question, which came to a head in the 1890s and which bore many resemblances to Cyprus in the early twentieth century. The Cypriot Turks lived through a period of great apprehension in 1915, when Cyprus was offered to Greece, but in 1917, when they were given the choice of becoming British subjects or leaving the island, only one-eighth of their number left. Others went later, but many returned after 1923.<sup>53</sup> There seemed to be no real alternative for most of them but to remain in Cyprus.

The years from 1920-1922 saw Turkey in decline, with large parts of the country occupied by French, English and Italian troops. Following the Treaty of Sevres (10 August 1920) Greece captured Edirne and the majority of Thrace. Simultaneously the Greek army advanced from Smyrna north, and eastwards, conquered Bursa and threatened to take-over Anatolia almost entirely, thus extending their territory far beyond what had been allocated to them in the Treaty of Sevres. In Cyprus these events prompted Greek Cypriot hopes for *enosis*. Greek manifestations towards this goal resulted in a near

disaster in 1921 on the occasion of the March 25/April 7 centenary of the Greek War of Independence. After clashes between police and Greek Cypriot demonstrators, the police prepared to fire into the crowd. The Abbot of Kykko, Kleopas, and J. N. Demetriou, a Greek judge, who were passing by, pleaded to be given a chance to disperse the demonstrators, which they succeeded in doing after a short address.<sup>54</sup>

On May 8 further celebrations were planned by the Greeks in connection with Greek Independence, though these would coincide with the Turks' Ramazan Bairam. Stephenson warned the Colonial Office that "unless adequate forces are available it will be hard to prevent collision between the two races."<sup>55</sup> Georghallides doubts whether the Greek demonstrations really affected Greek-Turkish relations in Cyprus and argues that:

in fact the British authorities in Cyprus had no concrete evidence that the Greeks were planning to attack the Turks or *vice versa*... In order to prove to the Secretary of State the truth of this danger he forwarded to him reports from [Lieutenant-Colonel] A. Gallagher and [Turkish delegate of Evkaf Mussa] Irfan [Bey] testifying that on April 6 and 7 the Turks of Nicosia were in a sullen and dangerous mood. Irfan wrote that he had advised some hundreds of them who had gathered outside the Police Station to stay there and not to go into the Greek quarters and he had praised the police for preventing the Greeks from coming into contact with them.<sup>56</sup>

It is astonishing that Georghallides, in most other respects detailed and thorough in his account of the political history of Cyprus, fails to record the important events that this paper is dealing with. Taken into account, they strongly back up the idea that the British fears of imminent clashes between the communities were far from exaggerated.

While the vast majority of Turkish Cypriot leaders opted for continued British rule in Cyprus as the only realistic choice for their community, a small group of Turkish Nationalist started to connect themselves to the new national movement in Turkey. Georghallides noted that:

the only event which momentarily threatened to destroy the harmonious Anglo-Turkish relations occurred in the spring of 1919 when a small Turkish nationalist party calling itself 'Union with Turkey' planned to provoke anti-Greek disturbances during Easter week. According to information received by the Government, the success of the disturbances would have been followed by an attempt at a break-out of the Turkish prisoners of war held at Famagusta and a

general Turkish rising. [High Commissioner Malcolm] Stevenson took prompt action involving the dispatch of 30 British troops with a machine-gun to the Turkish quarter of Nicosia and arrested, under martial law, the ringleaders. These were Dr. Mehmed Essad, a Turkish refugee living in Cyprus since 1914, Dr. Hussein Behije, born in Beirut of Cypriot extraction and resident in Cyprus since 1912<sup>57</sup> and Hassan Karabardak, the chief of the butchers and *hamals* (market porters). Their detention was sufficient to prevent the outbreak of any trouble.<sup>58</sup>

Meanwhile, the Turkish Nationalist Movement under Mustafa Kemal managed to regroup itself in central Anatolia with the help of the Soviets, resisted the Greek advance and put pressure on the allied troops there. In March 1921 Italy withdrew in exchange for economic concessions, the Greeks were defeated in the battle at the Sakarya River (24 August – 16 September 1921) and within a few months the entire Greek army had collapsed. The Greeks were finally forced to surrender Smyrna and retreated from Anatolia (9 -11 September 1922), where thousands of Greek peasants, fearing Turkish revenge, were forced to flee to Greece.<sup>59</sup>

The Turkish victory at Smyrna, which was now renamed Izmir, was regarded as a national tragedy in Greece. The Greek Cypriots shared this view, since it was a blow to their own aspirations to an immediate fulfilment of *enosis*. Hill noted that:

the disaster to Greek arms in Asia Minor, culminating on 10 September 1922, when the Turks entered Smyrna, caused the Cypriote favour for Union to cool for the time. The National Council appeared to be moribund; at the first meeting after the summer recess there was not a quorum. The shock of the Greek defeat made the more intelligent Cypriotes ponder what Union with Greece might mean.<sup>60</sup>

Hill's colonialist assumption that the "more intelligent Cypriots" would give up their hopes for *enosis* since they would be able to see the benefits of British rule, falls into the category of wishful thinking. Georghallides appears to be more realistic by assuming that, for the time being, Greek-Cypriots simply did not see the chance to fulfil their national aspirations. In his account the Greek-Cypriot reaction to the Greek Anatolian defeat appears as follows:

In Cyprus itself the misfortunes which afflicted Greece greatly

moved the [Greek-Cypriot] people, who repeatedly subscribed to funds for the relief of refugees in Greece and on the island.<sup>61</sup>

Greece's general situation was such that no one could doubt that in the foreseeable future it would be unable to take up the question of Cyprus. The acknowledgement that the destruction of Asia Minor Hellenism had dealt "a crucial blow" against all unredeemed Greeks' expectations of national unification appeared early in September in the authoritative *Elevtheria*.<sup>62</sup> It was accomplished by a sad, though unqualified, acceptance of the fact that no power existed which could force Britain to leave Cyprus against its will.<sup>63</sup>

### *The Interethnic Clashes*

Ten years after the Limassol riots history seemed to repeat itself. This time, however, things went differently. On 9<sup>th</sup> of September 1922, Turkish troops went into Smyrna and sealed the fate of Greek dreams to capture vast portions of Anatolia. In Turkish Cypriot eyes this marked an end of a long chain of heavy disappointments and setbacks for their self-confidence<sup>64</sup> and so the news of the Turkish victory was extremely welcome. In the immediate aftermath Turkish pamphlets celebrating the "great victory" circulated in Cyprus.<sup>65</sup> During the Greek advance in Anatolia the Turkish (Cypriot) press had resorted to desperate statements which inflamed Turkish Cypriot sentiments against Greeks. The daily newspaper *Söz* commented, for example, on the visit of Greek King Constantine to Smyrna "that (finally) his head with his crown will be crushed by the Turkish iron paw".<sup>66</sup> In its celebration of the victory *Söz* managed to triple its nationalistic tone by praising the "eternal victory" of their "heroes".<sup>67</sup>

Greek Cypriots on the contrary regarded the defeat, like most of the Greeks in the motherland, as a national tragedy, which accompanied the end of the *Megali Idea* and at least temporarily the end of their desire for *enosis*. Greek leaflets complaining about Turkish massacres committed against Greeks in Anatolia appeared on the island.<sup>68</sup> The events in Smyrna were discussed quite naturally in the coffee shops throughout Cyprus, especially in mixed villages, where Greek and Turkish Cypriots came together to discuss village, island and world affairs, and this resulted, of course, in very controversial arguments. In some cases, however, things didn't stop at the level of 'academic' discussion. In some, mainly mixed villages, these arguments led to violent confrontation, mostly resulting in coffee shops brawls. This time, however, the fights did not result in fatal casualties.

A typical and still very well remembered case happened in the mixed village of Dali in October 1922. A few weeks before a Turkish family living close to Pyla had been attacked apparently out of nationalist motives.<sup>69</sup> The

Turkish (Cypriot) daily newspaper *Söz* linked the incident to the 1912 riots in Limassol.<sup>70</sup> The subsequent infamous event in Dali has been documented in detail in two police reports preserved in the Cyprus public record office:

On the 15th October, 1922, I was at Louroudjina for enquiry into a sheep stealing case [...] Suleiman Murat of Dali shot and wounded 8-10 persons with a gun [...] I arrested him and seized his gun [...] I visited afterwards the 9 wounded persons [...]. The seven ones have at 2 - 3 shots and they are out of danger. The 8th one Yiannakis Loizou has 7 shots one on his breast, one in his armpit and five in his feet. The 9th one Petris Demitri Zonias is wounded in his left thigh and one [in] his heart, it seems to me that he is seriously wounded but all the other ones are out of danger.[...] I at once Informed the Rural Medical Officer [...]. I will inform you for the above: - The cause is that a certain Petros Loizou Pattoura, discussed with Elmaz Yussuf that Elmaz told the Doctor that he will support him and Petro told what man are you 'Vre' and you will support the Doctor and Elmaz told him that I am only a Turk but I cost one thousand of Christians and Petro was offended. At that moment Suleiman Murat was also present and received cigarettes from Yanco's shop and Petros Loizou Pattoura told, 'Here is another puppy' and he rushed at him. It appears that Suleiman told him something and then they rushed to beat him. He ran and entered his house, he went upstairs took his gun and fired four shots from the window and he wounded 9 men, who were on the road opposite the house of Suleiman Murat. The accused does not deny it.<sup>71</sup>

In order to avoid any impression of partiality both Turkish and Greek Cypriot police officers were ordered to inquire into this case. They managed to discover further details:

It appears that as the result of a good tempered drunken quarrel between Petros Patrouas and Elmas Youssuf of Dali at about 8 p.m. the former went into the square and shouted that 'Elmaz, the dirty hound says that he is worth 500 Christians. These words were heard by Suleiman Murad brother of the Turkish Mukhtar and a quarrel started. Apparently the Christian resented some words said by Suleiman Murad and made an attempt to rush him but there are no marks of violence on him. He reached his house and coming down into the street faced the crowd and fired 4 shots. The Police arrived and dispersed the crowd and arrested him at his house. The evidence [...] is conflicting both parties refusing to give any



evidence against these co-religionists [...] I am charging Elmaz Yussuf and Petros Patrouras [...] for being drunk and creating a disturbance and Suleiman Murad for shooting and wounding.'<sup>72</sup>

On 16.12.1922 Suleiman Murad was sentenced to nine months hard labour for 'deliberate shooting and wounding' and ordered to pay of £ 2.13 to cover the costs of medical treatments of his victims.<sup>73</sup>

### *The Aftermath*

Apparently, the inhabitants regarded the entire affair as a disgrace for the village, and so arguments about the responsibility for the incident rarely occurred. The accused either admitted the charges right away or tried to cover up for each other. The atmosphere within the village cooled down and the police force did not report any further interethnic conflicts:

The village is now quiet and [...] there is no likelihood of any racial disturbances taking place.<sup>74</sup>

The story of the Dali shooting, however, was told in the coffee shops of the neighbouring villages during the following decades. In the course of time, however, it suffered some dramatic changes, leading to the tale that one Turk killed seven Greeks:

Always, if my father said he came from Dali, people said: 'Ah that is, where one Turk shot dead seven Greeks!'. Around the start of the 1920's a Greek had beaten a Turk there. This [Turk] fell down, ran home to his house, which lies on a junction, and started, next morning, to shoot everything, which moved. This story was very well known and often told. And [he] is said to have shot nine people, but in fact killed none. After 24 hours he gave himself up to the police.<sup>75</sup>

This story gave an impression about the Turks of Dali as being violent and aggressive. And it remained as such in the 'memories' of the Greek Cypriots living in the neighbouring villages.

In the political field, the agitation for *enosis* was somewhat damped down by the catastrophe for Greek arms in Asia Minor. The Greek-Cypriot national movement could not even benefit from a possible demographic change through the resettlement of Greek Anatolian refugees in Cyprus since the British authorities from the beginning only permitted entry into Cyprus to persons who were British subjects, Cypriots and Armenians. Greeks were only allowed to land if persons were found willing to vouch for all their

expenses. The British administration adhered to this decision with singular heartlessness, frequently refusing even the temporary disembarkation from overcrowded ships of sick or dying Greek refugees. When, in November 1922, in the course of an interview, the Bishop of Kition asked Chief Secretary Fenn why Armenian but not Greek refugees were allowed to land, he answered that the Armenians had no country but the Greeks could go to Greece.<sup>76</sup> On the understanding that the Government of Cyprus could not become financially liable for any Greek refugees the authorities ensured that the Greek population of Cyprus was not increased by a settlement of Asia Minor refugees.<sup>77</sup> Between September and December 1922 about 2,400 Asia Minor fugitives landed in Cyprus: 200 British subjects, 800 Cypriots, 500 Armenians and 900 Greeks.<sup>78</sup>

The Greek Cypriot leadership tried to overcome the Anatolian shock by changing its short term policy. A memorandum was presented on 16 December 1922 by the Archbishop on behalf of the National Council to the Secretary of State for the Colonies, in which fairly extensive demands were put forward; for full self-government and also for participation of Turks as well as Greeks in the Legislative and the Executive Council and the Administration, in proportion to their numbers in the population. But the High Commissioner was to be allowed to retain his veto in the Legislative Council.<sup>79</sup> Against these demands a Turkish deputy, Dr Eyyub, presented petitions from Moslem communities and villages, pressing for, among other things, the restoration of Cyprus to the Ottoman Empire or return to the pre-annexation system. They also asked for a Moslem Council to exercise control over the Sheri Court, Muslim education and the Evkaf, and opposed the grant of extended constitutional powers to the native inhabitants.<sup>80</sup> These demands could not, the High Commissioner thought, be considered seriously. Nevertheless, in December 1922 the Moslems dispatched a delegation to Ankara to press for the return of the island to Turkey.<sup>81</sup> Hill noted that:

The reaction against the extremists was plainly seen at the next elections. In spite of the efforts of the National Council to engineer a boycott, no less than fourteen candidates were nominated for seven non-Moslem seats, and ten of them were agriculturists or villagers. Of the seven Greek Christians elected, three were farmers, two farmer-traders, one a motor-car agent and one a tobacco-factory manager. There were also two Maronites.<sup>82</sup> The result was a shock to the National Council. When in the reply to the High Commissioner's opening speech the usual attempt was made to include a paragraph in favour of Union with Greece, four Greek Christians voted against it. They had come to the council, they said,

not to agitate for Union, but to work for the good of the island.<sup>83</sup>

Daily life between the ethnic groups in villages involved in the disturbances of 1922, nevertheless, remained unchanged. The events were regarded as a disgrace for the honour of these villages and not mentioned anymore and discussions on Greek-Turkish conflict were avoided. But it marked as well a certain change in the way of opinion making within the ethnic villages of Cyprus. Greek and Turkish Cypriots started to discuss vital political issues first among themselves, before they conferred about them with the 'other side'.

Thus, the conflict of 1922 did not poison the atmosphere between the two communities and can therefore not be compared with the far more violent conflicts of the 1950s, 60s and 70s. However, it brought about a significant change in the communication structures that influenced different national self-consciousnesses as well.<sup>84</sup>

### **Conclusion**

The interethnic clashes of 1912 and 1922 may be regarded as small footnotes in the early history of Cyprus. Long periods would follow in which no violence or fighting between Greek and Turkish Cypriots occurred. It has to be noted that both incidents were unique and had no repercussions in the decades to follow. Another 36 years would pass before both communities would take up weapons against each other. Therefore, a direct link between those events and the 1958 intercommunal violence and other subsequent tensions can't be established. Nevertheless, it must be noted, that both events indicate the extent to which diverse nationalism already had intoxicated the Cypriot communities by the first and second decades of the twentieth century. Given the improvements in Greek and Turkish school education which followed during the 1930s and 1940s, it comes as no surprise that the national sentiments intensified and finally reached a point of no return. Nineteenth century Europe had supplied Cyprus with the dangerous gift of nationalism. Today a different Europe is offering the island's population membership to its Union. Nationalism has not vanished in Europe, but it has been canalised and seems to have been given room for a wider interest shared by most Europeans at least in economic terms. It remains to be seen, whether or not, the Europe of the 21<sup>st</sup> century will offer better ideas and concepts to the islands population and whether these will help the Cypriot communities to overcome nationalist sentiments and xenophobic fears.

*Endnotes*

<sup>1</sup> See N. Crawshaw, *The Cyprus Revolt*, London, 1978; L. Battle and D. Williams, *Cyprus. A Decade of Crisis*, Washington 1974; K. C. Markides, *The Rise and Fall of the Cyprus Republic*, London 1977.

<sup>2</sup> J. Asmussen, "Wir waren wie Brüder". *Zusammenleben und Konfliktentstehung in ethnisch gemischten Dörfern auf Zypern*, Lit-Verlag, Hamburg, 2001.

<sup>3</sup> CO 67/166 High Commissioner Goold-Adams to Secretary of State for the Colonies Lewis Harcourt, 28.5.1912.

<sup>4</sup> CO 67/166 Goold-Adams to Harcourt, 29.5.1912.

<sup>5</sup> The Italians had secured their interest in Libya by contracts with France in 1900, 1902 and 1911 and forced the Ottoman Empire to agree to a treaty that put Libya under an Italian protectorate. G.E. von Grunebaum, ed, *Der Islam II. Die islamischen Reiche nach dem Fall von Konstantinopel*, Weltbild Verlag, Augsburg 1998, 406-410.

<sup>6</sup> The disastrous effects of the divided educational system were emphasized by P.M. Kitromilidis and T. A. Coulombis, "Ethnic Conflict in a Strategic Area. The Case of Cyprus." In: A. Said and L. R. Simmons, eds, *Ethnicity in an International Context*, New Brunswick, 1976, 170.

<sup>7</sup> G.S. Georghallides, *A Political and Administrative History of Cyprus 1918 – 1926. With a Survey of the Foundations of British Rule*, Cyprus Research Centre, Nicosia 1979, 81.

<sup>8</sup> *Ibid.*, op. cit., 14.

<sup>9</sup> CO 67/21 Minute by E. Fairfield, 31.1.1882.

<sup>10</sup> Georghallides, op. cit., 46.

<sup>11</sup> *Ibid.*, 46-52.

<sup>12</sup> *Ibid.*, 52.

<sup>13</sup> *Ibid.*, 54.

<sup>14</sup> The executions in July 1821 were carried out on the grounds of alleged collaboration with the Greek Revolution.

<sup>15</sup> Georghallides, op. cit., 55.

<sup>16</sup> H.D. Purcell, *Cyprus*, London 1969, 238.

<sup>17</sup> C.O.67/91, 3.5.1895.

<sup>18</sup> Purcell, op.cit., 238.

<sup>19</sup> *Ibid.*, 239.

<sup>20</sup> Purcell, op.cit., 239.

<sup>21</sup> Georghallides, 75.

<sup>22</sup> Georghallides, 75.

<sup>23</sup> George Hill, *The History of Cyprus*. Vol. 4. Cambridge 1952, 518.

<sup>24</sup> Georghallides, op. cit., 76.

<sup>25</sup> Ibid., 76.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid., 80.

<sup>29</sup> CO 67/166 Goold-Adams to Harcourt, 30.5.1912.

<sup>30</sup> Ibid.

<sup>31</sup> *Vatan*, 27.5.1912.

<sup>32</sup> *Vatan*, 12.5.1912.

<sup>33</sup> CO 67/166 Goold-Adams to Harcourt, 30.5.1912.

<sup>34</sup> Harid Fedai, in: *Yeni Kıbrıs*, June, 1985, 15.

<sup>35</sup> CO 67/166 Goold-Adams to Harcourt, 30.5.1912.

<sup>36</sup> CO 67/166 Goold-Adams to Harcourt, 30.5.1912.

<sup>37</sup> CO 67/167 Goold-Adams to Harcourt, 2.8.1912.

<sup>38</sup> Hill, op. cit, 519.

<sup>39</sup> 'The local Commandant was quite justified [...] to fire on the rioters. [...] the rioters were all Christians attacking Moslems.' CO 67/167 Finding Bolten and Sami Efendi, 2.7.1912; W.N. Bolton, Commissioner, Limassol to C.S., 3.7.1912.

<sup>40</sup> CO 67/167 Finding Bolten and S. Stavrinakis, 2.7.1912.

<sup>41</sup> CO 67/167 Mustafa Sami Yorghhanji Bashizade to H.C., 3.7.1912.

<sup>42</sup> Hill, op. cit, 519, footnote 1.

<sup>43</sup> CO 67/166 W.N. Bolton, Commissioner, Limassol to C.S.,

2.6.1912.

<sup>44</sup> Sabahattin İsmail, *Türk-Rum İlişkileri ve İlk Türk-Rum Kavgaları* [Turkish-Greek Relations Under British Administration and First Turkish-Greek quarrels], Lefkoşa 1997, 196-97.

<sup>45</sup> Hill, op. cit., 519.

<sup>46</sup> CO 67/166 W.N. Bolton, Commissioner, Limassol to C.S., 2.6.1912.

<sup>47</sup> 'Afrika vahşilerinden daha vahşi' [They are more vandals than African Vandals]. Headline: '1912 Senesi Vahşileri' [The Vandals of the year 1912], *Vatan*, 3.6.1912.

<sup>48</sup> *Vatan*, 1.7.1912.

<sup>49</sup> Hill, op. cit., 519, footnote 2.

<sup>50</sup> Ibid., 142/143.

<sup>51</sup> SA1/1064/1922 Disturbances at Pyla.

<sup>52</sup> SA1/1149/1922 Disturbances between Greeks and Turks at Dali; Sava Eleftheriou, Sgt. 2362 to Local Commandant of Police, Nicosia, 16.10.1922.

<sup>53</sup> Purcell, op.cit., 241.

<sup>54</sup> CO 67/202 Confidential, Stevenson to Churchill, 13.4. and 25.4.1921.

<sup>55</sup> CO 67/202 Telegram, Stevenson to Churchill, 23.4.1921.

<sup>56</sup> Georghallides, op. cit., 191-192; CO 67/202 Gallagher to Fenn, 9.4. and 23.4.1921; Irfan to Fenn, 11.4.1921.

<sup>57</sup> Dr. Behije was sentenced to death and hanged for the murder of his wife on 24.6.1924; *Elevtheria*, 14.5. and 25.6.1924.

<sup>58</sup> Georghallides, op. cit., 178-179; CO 67/191 Secret, Stevenson to Milner, 26.4.1919; CO 67/191 Secret, Stevenson to Milner, 6.5.1919.

<sup>59</sup> Grunebaum, op. cit., 145-47.

<sup>60</sup> Hill, op. cit., 537.

<sup>61</sup> *Elevtheria*, September to December 1922 passim.

<sup>62</sup> *Elevtheria*, 9.9. and 13.9.1922.

<sup>63</sup> *Elevtheria*, 9.9./16.9. and 7.10.1922; Georghallides, op. cit., 222.

<sup>64</sup> Annexation of Cyprus by Britain, decline and dismembering of the Ottoman Empire.

<sup>65</sup> SA1/1145/22 Political agitation by Moslems; the file is listed in the register of correspondence, but is indicated as 'wanting' i.e. not accessible in the Cyprus Public Record Office.

<sup>66</sup> 'Konstantin'in taçlı başı Türkün demir pençesi altında ezilecektir.'; article titled: Gordian knot – Gordian Düğümü, *Söz*, July 1921.

<sup>67</sup> 'Bahri Sefidin haşin dalgaları arasında sıkışmış ve her gün mahzun göylere Anadolu'dan bir zafer, bir memlektin Türk ruhlarından, bin saygı o kahramanlara' [From the Turkish souls of one country squeezed by the violent waves of Bahri Sefidin and looks at Anatolia every day with sad eyes is waiting an eternal victory. Thousands of respect to those heroes!], M.R. Okan in *Söz*, 29.7.1922.

<sup>68</sup> SA1/1289/22 Massacre (in Turkey) Greek Leaflets.

<sup>69</sup> SA1/1064/1922 Disturbances at Pyla.

<sup>70</sup> 'On sene once meydana gelen ve birkaç masum Türkün kurban gitmesi ile sonuçlanan kıyım da, Rum terbiye ve seciyesine bir örnek teşkil eder...', [The slaughter which took place ten years ago that ended with the sacrifice of a few innocent Turks is a good example of Greek training of good manners and characters...] *Söz*, 30.9.1912.

<sup>71</sup> SA1/1149/1922 Disturbances between Greeks and Turks at Dali; Sava Eleftheriou, Sgt. 2362 to Local Commandant of Police, Nicosia, 16.10.1922.

<sup>72</sup> SA1/1149/1922 B.J. Surridge, Local Commandant of Police, Nicosia to Chief Commandant of Police, 21.10.1922.

<sup>73</sup> SA1/1149/1922 Chief Commandant of Police to Chief Secretary,

2.1.1923.

<sup>74</sup> SA1/1149/1922 B.J. Surrige, Local Commandant of Police, Nicosia to Chief Commandant of Police, 21.10.1922.

<sup>75</sup> Interview with a Greek Cypriot from Dali, 1996.

<sup>76</sup> *Elevtheria*, 22.11.1922.

<sup>77</sup> Georghallides, op. cit., 231, footnote 1.

<sup>78</sup> HMSO, ed., No. 1159, *Cyprus. Report for 1922*, London 1923, 8.

<sup>79</sup> *Ibid.*, 426.

<sup>80</sup> *Ibid.*, 537, footnote 3.

<sup>81</sup> *Ibid.*, 538, footnote 1.

<sup>82</sup> See Marios Lysiotis, "The Legislative Council" *Cyprus Review*, 2: 2, 1990, 55-69.

<sup>83</sup> *Ibid.*, 538.

<sup>84</sup> The worsening of the Turko-Greek relationship, which suffered through the forced exchange of population, had its repercussions in Cyprus. Anti-Turkish sentiments were transported to the island through the use of Greek textbooks in Greek Cypriot [Christian] schools as well as Turkish textbooks in Turkish Cypriot [Muslim] schools; Asmussen, op. cit., 110.

# **From Peacekeeping to Humanitarian Intervention. The United Nations' Approach to Peace: The Case of Cyprus**

*Dilek Latif*

Humanitarian intervention is an issue that has been attracting growing attention in the International Relations discipline, with the increasing number of interventions on humanitarian grounds in the post-Cold War era. The international community, mostly under the UN's umbrella, has intervened to stop human suffering in Haiti, Cambodia, Somalia, Bosnia, Rwanda, Kosovo and East Timor, where a new practice has replaced the strict Cold War principle of non-interference into the internal affairs of sovereign countries, even in cases of utter violations of human rights. During the Cold War, due to the quasi-sacred principles of state sovereignty and non-intervention, states could not justify coercive actions on humanitarian grounds. Therefore, the UN's peace keeping operations were one of the available multilateral instruments for seeking peaceful solutions to conflicts and terminating human rights violations, and the Cyprus conflict has been an important case in this respect. The parties of the conflict, both Turkish and Greek Cypriots, each called upon the international community several times to intervene in order to stop human suffering from December 1963, and as a consequence, the United Nations eventually installed a permanent peace keeping force for Cyprus in 1964, which was named UN Force in Cyprus (UNFICYP).

This article aims to analyze the UN's engagement in Cyprus and question whether it was an involvement in the name of humanitarian concerns or an example of a traditional peace keeping operation for the preservation of peace on the island. This will be an effort to illuminate the case since the objective of the UN peace operation in Cyprus went beyond a traditional peace keeping mission and overlapped with humanitarian intervention in some aspects. The basic objectives and main conditions for humanitarian intervention and peace keeping operations will be discussed as a background to the UN's mission to Cyprus from 1964 until today. Regarding the UN's early involvement in the Cyprus conflict the following fields will be examined: What was the major concern of the UN in interfering in the dispute? What was the initial aim? To what extent did the humanitarian aspect of the conflict influence the establishment of the mission?



## **Humanitarian Intervention**

The term humanitarian intervention has been defined and categorized in various ways though generally may be said to be:

...forcible action by a state, a group of states or international organizations to prevent or to end gross violations of human rights on behalf of the nationals of the target state, through the use or threat of armed force without the consent of the target government, with or without UN authorization'.<sup>1</sup>

Principally, its primary purpose is the relief of human suffering, and so humanitarian intervention is usually justified by the need to prevent disproportional loss of life and the collapse of the social and political fabric of a country. It occurs without the explicit consent of the target state. This is what distinguishes it from traditional peacekeeping operations. Peacekeeping operations have come to be defined as operations involving military personnel, but without enforcement powers, to maintain or restore international peace and security in areas of conflict. The objective in peacekeeping operations is not to defeat an aggressor, but to prevent fighting, act as a buffer, keep order and maintain a cease-fire. However, traditional peacekeeping missions in some cases involve a civilian affairs element which include activities that can be defined as 'humanitarian'.<sup>2</sup> Nevertheless, to count as purely humanitarian, the intervention must be:

...a response to actual or threatened denial or violation of basic or fundamental rights, along with innocent civilians that have been deliberately starved by actions or inactions of belligerents, undertaken with a view to remedy the situation, and carried out in the name of the international community.<sup>3</sup>

Besides, there are four proposed requirements which an intervention must meet to qualify as humanitarian. First, there must be a supreme humanitarian emergency; secondly, the use of force must be a last resort; thirdly, it must meet the requirement of proportionality; and finally there must be a high probability that the use of force will achieve a positive humanitarian outcome.<sup>4</sup> The basis of this assistance must be humane, neutral and impartial. So long as these crucial principles are observed, the suffering of afflicted populations is a legitimate concern of the international community.

Although humanitarian intervention is not a new concept, and in the 19<sup>th</sup> century European states occasionally intervened to protect Christian minorities,<sup>5</sup> the United Nations system after 1945 banned intervention into domestic affairs and asserted the principle of state sovereignty. Even though

one of the purposes of the UN is the promotion of human rights, it does not allow the Security Council to authorize use of force in the case of violations of human rights. At this point traditional principles of state sovereignty and non-intervention are in tension with the value for the promotion of universal human rights. Although there are some writers against intervention through the UN,<sup>6</sup> the new political environment in the post-Cold War era, and the new concern for human rights, has encouraged the UN to deploy forces to protect humanitarian activity where there is widespread suffering.

### **United Nations' Role in Cyprus**

Since the eruption of inter-communal violence in 1963, the United Nations has been intensively involved in the Cyprus conflict due to the call of both parties for assistance. In 1964, from 18 February to 4 March, the Security Council engaged in the problem, taking up issues regarding the Cypriot constitution and the appeal for a UN peacekeeping force. On 4 March it adopted resolution 186 calling for a peaceful resolution to the dispute on the part of all disputants and parties, and for the establishment of a temporary UN force to preserve peace and security. The resolution sponsored by Bolivia, Brazil, the Ivory Coast, Morocco, and Norway was unanimously adopted. The UN Security Council resolution included the following:

The Security Council,

Noting that the present situation with regard to Cyprus is likely to threaten international peace and security and may further deteriorate unless additional measures are promptly taken to maintain peace and to seek out a durable solution. Considering the positions taken by the parties in relation to the Treaties signed at Nicosia on 16 August 1960. Having in mind the relevant provisions of the Charter of the United Nations and its Article 2, paragraph 4, which reads: 'All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.'

1. Calls upon all Member States, in conformity with their obligations under the Charter of the United Nations, to refrain from any action or threat of action to worsen the situation in the sovereign Republic of Cyprus, or to endanger international peace;

2. Asks the Government of Cyprus, which has the responsibility for the maintenance and restoration of law and order, to take all additional measures necessary to stop violence and bloodshed in Cyprus;

3. Calls upon the communities in Cyprus and their leaders to act with the utmost restraint;

4. Recommends the creation, with the consent of the Government of Cyprus, of a United Nations Peace-Keeping Force in Cyprus. The composition and size of the Force shall be established by the Secretary-General, in consultation with the Governments of Cyprus, Greece, Turkey and the United Kingdom. The commander of the Force shall be appointed by the Secretary-General and report to him. The Secretary-General, who shall keep the Governments providing the Force fully informed, shall report periodically to the Security Council on its operation;

5. Recommends that the function of the Force should be in the interest of preserving international peace and security, to use its best efforts to prevent a recurrence of fighting and, as necessary, to contribute to the maintenance and restoration of law and order and a return to normal conditions;

6. Recommends that the stationing of the Force shall be for a period of three months, all costs pertaining to it being met, in a manner to be agreed upon by them, by the Governments providing the contingents and by the Government of Cyprus. The Secretary-General may also accept voluntary contributions for the purpose;

7. Recommends further that the Secretary-General designate, in agreement with the Government of Cyprus and the Governments of Greece, Turkey and United Kingdom a mediator who shall use his best endeavors with the representatives of the communities and also with the aforesaid four Governments, for the purpose of promoting a peaceful solution and an agreed settlement of the problem confronting Cyprus, in accordance with the Charter of the United Nations, having in mind the well-being of the people as a whole and the preservation of international peace and security. The mediator shall report periodically to the Secretary-General on his efforts;

8. Requests the Secretary-General to provide, from funds of the United Nations, as appropriate, for the remuneration and expenses of the mediator and his staff.<sup>7</sup>

Shortly afterwards the Secretary General U Thant appointed Prem Singh Gyani as commander of the UN peacekeeping force in Cyprus and later Mr. Sakari S. Tuomioja as the mediator.<sup>8</sup> This force became operational with the Secretary General's declaration on 17 March and with the arrival of the Canadian contingent ten days later. The number of UN troops reached 6,000 by June of the same year. The countries supplying either troops or civilian

police to the operation were Australia, Austria, Canada, Denmark, Ireland, Sweden and the United Kingdom (UK). At present, Argentina, Austria, Canada, Finland, Hungary, Ireland, Slovakia and the UK are providing military personnel, while Ireland, Nepal, Australia and Netherlands provide civilian police personnel to the UNFICYP.<sup>9</sup>

The peacekeeping force in Cyprus was set up with the consent of both parties. Since the resolution of the Security Council was taken under Article 24, it was considered vital that the consent of the government of the country where the force was to be deployed must be obtained. Hence, all of UNFICYP's functions carried out in contact and consultation with the 'government of Cyprus' and the Turkish Cypriot authorities, and also, on many occasions, with the governments of Greece and Turkey.

In general, the UN force in Cyprus tried to observe the three fundamental principles of traditional peace-keeping, which are: consent of the parties, impartiality on the part of UN forces and the assurance to resort to force only in self-defense. Therefore, the UNFICYP troops could not take the initiative in using armed force. The mandate was conceived within Chapter VI, that is, under Article 24 of the UN Charter and not Chapter VII concerning enforcement action.<sup>10</sup> Chapter VI of the Charter empowers the Security Council, relating to peaceful settlement of disputes, the continuation of which is "likely to endanger the maintenance of international peace and security".<sup>11</sup> Under those provisions, the Council has mediatory functions and unlike Chapter VII, only enjoys recommendatory powers over the disputing parties.<sup>12</sup> Hence, to be applicable it requires the consent and acceptance of the parties.

#### **The Role of the UN from 1964 to 1974**

During this period, the UN force played an important role in Cyprus. Its functions were mainly based on the March 4, 1964 resolution and a few subsequent resolutions. In accordance with its mandate, UNFICYP's functions basically were divided into two categories of pacification and normalization activities.<sup>13</sup> The aim of the pacification activities was to keep both sides from fighting with each other, while the UN Force tried to act as a buffer separating the two sides. The objective of the normalization activities was to get the two sides to work together again with the hope that this would avoid a civil war. Therefore, the Force also acted as a link between the two groups.<sup>14</sup> Whereas pacification activities mainly focused on preventing a civil war in Cyprus, normalization activities had the objective to restore conditions that would enable all people to continue their daily business without fear for their lives. UNFICYP was the main link between the two communities and between their leaders who were not talking to each other from 1963 until

1968.<sup>15</sup>

The pacification activities included de-confrontation activities like; acting as a buffer, persuading the disputants to restrain themselves, prevention of external interference, obtaining cease-fires and so on. UNFICYP also acted between the two sides to prevent a recurrence of fighting and when fighting broke out intervened to stop it. Such major instances of crises occurred at Kokkina-Mansoura in August 1964, and later at Kophinou and Ayios Theodoros in November-December 1967.<sup>16</sup>

In January 1967, General George Grivas, the Greek Commander of the Cyprus National Guard, deployed a battalion of troops in the Kophinou area. These remained in place despite an understanding reached by UNFICYP with the local Turkish Cypriot commander to avoid incidents. As the National Guard unit was reinforced on 28 February, Turkish Cypriot fighters moved forward at nearby Ayios Theodoros, where they also manhandled senior UNFICYP officers. However, UNFICYP could control the situation.

In November 1967, the Greek Cypriot police sought to resume the practice of patrolling Ayios Theodoros, passing through the Turkish Cypriot quarter, and informed UNFICYP that the National Guard would, if necessary, escort the policemen. On 15 November, heavy fighting broke out, and the National Guard overran most of Ayios Theodoros and part of Kophinou. The Turkish Government protested to the Secretary-General, who requested the Cyprus and Greek Governments bring about a withdrawal of the National Guard from the areas it had occupied. The withdrawal was carried out on 16 November. On 18 and 19 November, there were several Turkish over-flights of Cyprus, and armed clashes spread to the Kokkina and Kyrenia areas.

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These events set off a severe political crisis. The Secretary-General appealed to the President of (Greek) Cyprus and to the Prime Ministers of Greece and Turkey, on 22 and 24 November 1967, to avoid an outbreak of hostilities, and he sent a personal representative to the three capitals. In the second appeal, the Secretary-General urged the three parties to agree upon a staged reduction and ultimate withdrawal of non-Cypriot armed forces, other than those of the United Nations, and he offered the assistance of UNFICYP in working out a program of phased withdrawals and helping to maintain calm.

The Security Council met on 24 November and, after consultations with the representatives of the parties called all parties to assist in keeping the peace. On 3 December 1967, the Secretary-General addressed a third appeal to the President of Cyprus and to the Prime Ministers of Greece and Turkey, in which he called for Greece and

Turkey to carry out an expeditious withdrawal of their forces in excess of their contingents in Cyprus. In response to the Secretary-General's appeals, Greece and Turkey reached an agreement under which Greek national troops were withdrawn from Cyprus between 8 December 1967 and 16 January 1968.<sup>17</sup>

On the other hand, normalization activities of the UN concentrated mainly on the humanitarian aspect of the conflict. Thus, a significant aspect of the UNFICYP's procedures under this heading concerned humanitarian and relief assistance. Since the beginning of its operation, UNFICYP undertook *ad hoc* measures designed to save lives, minimize suffering and to the largest extent possible, restore essential civilian activities.<sup>18</sup> They included a broad variety of activities such as the attainment of freedom of movement throughout the island, the elimination of economic restrictions against the Turkish Cypriots, the prevention of separate economic development of the two communities, and the working of public services. This also covered; the reopening of schools and industries, finding land-records and getting the judicial system to function normally, the facilitation of agricultural activities, the opening of local and export markets, and the maintenance of human rights. UNFICYP supported human rights by assisting in relief operations, resettling refugees, locating missing persons, freeing hostages, and resettling refugee camps. It also facilitated the negotiations for entry of the Turkish Red Crescent relief shipments into Cyprus which provided food and medical services for both communities.<sup>19</sup> However, since the basic political problem continued, the comprehensive approach of UNFICYP has achieved very limited success, principally through the mistrust between the two Cypriot communities. Besides, restrictions imposed upon the UN Force negatively affected its mandate. The Force had to have the consent of the 'Cyprus (Greek) government'<sup>20</sup> to enter the island. It could use force only in self-defense. The 'Cyprus (Greek) government' was ultimately responsible for the restoration of law and order, which occasionally created difficulties. Lastly, failure of the UN member states to make sufficient financial contributions worsened conditions.

For its own part, the UN Force was successful in reducing civil strife and increasing the security of the people, although; it was not always capable of preventing shootings, killings and the taking of hostages. Nevertheless, it was effective in normalizing the daily life of Cypriots and in promoting human rights.

The overall performance of the UN from 1964 to mid-1974 was generally evaluated then as satisfactory. However, the Turkish government of the time did not share the same view and intervened in the island to protect the Turkish Cypriots, which the UN had failed to do in their opinion. Yet there is

a consensus, mostly among scholars, that the UN Force in the island froze the conflict and that the UN presence halted the incentives to find a permanent solution for the dispute since it provided substantial security to both communities. Moreover, in the following 30 years the two societies have grown further apart thus making reconciliation more difficult today than in the 1970s.

#### The Role of the UN after 1974

On 15 July 1974, the Greek National Guard under the direction of Greek officers staged a *coup d'etat* against the Cyprus (Greek) government headed by President Makarios, after which followed the Turkish intervention on 20 July 1974. This Turkish intervention in Cyprus changed the role of the UN in the island. The peace keeping force became more of a 'peace observing force'<sup>21</sup> since it was watching the Turkish army moving across Cyprus with no power to enforce 'peace'. As a consequence of the events, UNFICYP was faced with a situation that had not been foreseen in its mandate. The best UNFICYP could achieve under the circumstances was to arrange local cease-fires to prevent further loss of life and damage to property and were mainly deployed to protect isolated villages and towns. However, after the first shock, the UN peace keeping and peace making activities were re-established. Nonetheless, the UN mission had changed and the primary concern of the UNFICYP was now refugees, thus, humanitarian activities had become its most important task.

Following the cessation of hostilities, ceasefire lines and a buffer zone were established between the areas controlled by the opposing forces. Strict adherence to the military *status quo* in the buffer zone, as recorded by the UN Force at the time, became a vital element in preventing a recurrence of fighting. The UNFICYP maintained surveillance through a system of observation posts and through air, vehicle and foot patrols.

The UN Force co-operated with the UN High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross (ICRC), the UN Development Program (UNDP), and local agencies in its humanitarian activities. It provided food, clothing, blankets, camp beds, oil and other necessary equipment. It was in charge of exchanging prisoners and detainees. It also offered assistance to injured people, children, university students, and tourists who were in Cyprus at that time. It distributed medical aid, delivered mail, provided temporary accommodation, schools and other services for children. Lastly, it attempted to find missing persons, and secure the transfer of Turkish Cypriots to the north and Greek Cypriots to the south.<sup>22</sup> As a result of the Population Exchange Agreement,<sup>23</sup> concluded in Vienna between Greek and Turkish Cypriot leaders on 2 August 1975, the UNFICYP organized and supervised the voluntary transfer of Turkish Cypriots from the south

to the north and the remaining Greek Cypriots from the north to the south.<sup>24</sup> Unlike its peace keeping and humanitarian activities the UN's peace making efforts have not been fruitful to the present day.

Before 1974, the UN Force concentrated mainly on its pacification and normalization activities in the island. The post-1974 developments pushed the UN to change its priorities and place emphasis on different functions. The UNFICYP mostly directed its attention to the humanitarian needs of both Cypriot communities soon after the intervention, and in the years following the Turkish intervention, fighting and casualties among the two communities dropped to a considerably lower level. Both sides have generally respected the ceasefire and the military *status quo*.<sup>25</sup> From the cease-fire of 1974 to May 1996, six Greek Cypriots and three Turkish soldiers have been killed in, or along, the buffer zone.<sup>26</sup>

Therefore, the UNFICYP drastically reduced in size after 1974. In June 1964 the strength of UNFICYP was 6411; by June 1967, 4627; by 1974, 4440; by 1987, 2328; by 1990, 2126; by December 1994, 1206; and by 2000, 1265. As of 7 November 2003, the strength of UNFICYP stood at 1,230 military personnel and 42 civilian police officers.<sup>27</sup> With its current strength, the Force tries to prevent military construction and improvements in positions in and along the buffer zone, to stop soldiers or unauthorized civilians from entering the buffer zone, to stop both sides from antagonizing each other across the buffer zone, and to investigate whatever incidents occur in and along the buffer zone.<sup>28</sup> Therefore, the UN, after the Turkish intervention, seeks not only to maintain a cease-fire but also to keep tensions low and appease threats to the cease fire. Additionally, since the opening of crossing points on 23 April 2003 UNFICYP civilian police monitor and assist in ensuring the safe and orderly crossing of people and vehicles through the buffer zone at the authorized crossing points.<sup>29</sup>

In the absence of a political settlement to the Cyprus problem, the mandate of the Force has been periodically extended for six-month periods by the Security Council. However, after the declaration of the Turkish Republic of Northern Cyprus (TRNC), the Turkish Cypriot authorities announced that UNFICYP would be allowed to operate in North Cyprus only as 'guests'. The authorities insisted that a separate status of the forces agreement should be concluded with the TRNC, and that UNFICYP could operate on both sides of the island only on the basis of the consent of both parties. This view was reflected in addenda to the relevant reports to the UN Secretary-General, however, due to the Greek Cypriot Administration's objection there has been no reference to that in the subsequent Security Council resolutions concerning the extension of the UN mandate for another six months.<sup>30</sup> Despite the persistent call from the authorities in the North, the Secretary-General did not



publish any addendum and did not mention the need for obtaining the consent of the Turkish Cypriot party in the June 2000 resolution.<sup>31</sup> As a response, in July 2000, Turkish Cypriot authorities restricted UNFICYP's activities in the north. The UN forces were allowed to enter and exit the TRNC only through Ledra Palace border gate, all UN vehicles used in the North were required to have insurance by an agency operating in the TRNC and were asked to pay for the water and electricity used at its camps in the north.<sup>32</sup> However, there has been a limited easing of these restrictions imposed on the UNFICYP in May 2003.<sup>33</sup>

In the absence of a comprehensive settlement, which will bring an end to the Cyprus problem, the presence of UNFICYP is regarded by the United Nations as necessary for the maintenance of the ceasefire on the island. Therefore, upon the recommendation of the Secretary General and agreed to by the government of the 'Republic of Cyprus', the Security Council has extended the mandate of UNFICYP for a further period ending on 15 June 2004.<sup>34</sup>

#### **The Humanitarian Dimension of the UN's Engagement in Cyprus**

The case of missing persons in Cyprus has been one of the main humanitarian issues concerning the UN. Between 1963 and 1974 over 2000 people, both Greek and Turkish Cypriots, disappeared in Cyprus.<sup>35</sup> They disappeared in the course of hostilities among rival Greeks as well as between Greek and Turkish Cypriots during the Greek *coup* and the subsequent Turkish intervention.<sup>36</sup> In response to the request of the international human rights bodies, an investigatory body, the Committee on Missing Persons, was established in 1981 to resolve the problem.<sup>37</sup> The Committee on Missing Persons was composed of three members; a Greek Cypriot, a Turkish Cypriot and a third member appointed by the Secretary-General. However, due to disagreements over procedural rules and workable criteria, the Committee did not begin its investigative work until May 1984.<sup>38</sup> Both sides were expected to submit names, according to mutually agreed criteria, to the other side for investigation but the submission of names was very slow. By 1993, only 210 cases of missing persons had been submitted by the Greek Cypriot side and only 318 cases on the Turkish Cypriot side.<sup>39</sup> Therefore, the first information concerning missing people could only be achieved, due to lack of cooperation, in late 1995. Turkish Cypriot authorities reported that some of the Greek Cypriots listed as missing since 1974 had in fact died in action. The Committee on Missing Persons has operated largely in secret, although it has occasionally issued brief and largely uninformative press releases about its activities. The Committee however has not publicly resolved a single case of 'disappearance' or 'missing' persons. Its work has not led to a single person

being brought to justice by either side for these crimes and its efforts have not resulted in compensation to a single relative. Furthermore, as a result of its limited mandate, the Committee on Missing Persons could not continue to investigate the cases of 'disappearance' and 'missing' persons once it was determined that the people involved had been victims of deliberate and arbitrary killing. It has stated that it 'will not attempt to attribute responsibility for the deaths of any missing persons or make findings as to the cause of the deaths'.<sup>40</sup>

The Commission could not successfully resolve the issue because of the failure of parties to cooperate fully. In addition, the third member was acting mostly as a mediator with little independent means to exert pressure. Amnesty International claims that another important reason for its failure was that the Committee on Missing Persons failed to satisfy strict international standards necessary for effective investigations of disappearances and of deliberate and arbitrary killings in those cases where evidence suggests that the person concerned was killed.<sup>41</sup> It was also argued that the Commission's entirely confidential method of work undermined public confidence and defeated its goal to provide information to the families of the missing persons.<sup>42</sup>

Another humanitarian concern following the Turkish intervention in 1974 was the tragedy of the huge number of refugees and displaced persons. The significance of the issue brought the UNHCR (United Nations High Commissioner for the Refugees) to the island and they provided a great amount of emergency relief and aid to the refugees and displaced persons. The UNHCR's initial work in Cyprus has changed over the years and this can be characterised into three periods. The first period was the phase of emergency between 1974 and 1976 when the UNHCR's basic mission was to provide relief for the immediate needs of the refugees and alleviate their hardship. During that period, the UNHCR provided basic food, staff, medical and domestic supplies such as blankets, utensils and heaters to the refugees living in the camps and tents. After the emergency period was over, the organization shifted its support between 1977-86 to help refugees to rebuild their lives, improve their general living conditions and reach self-sufficiency. The main goals at that time were to assist in the rehabilitation and integration of the refugees into their communities' economic and social life. Therefore, the UNHCR has focused on strengthening the infrastructure of both sides. The third period of UNHCR's activity in Cyprus started in 1987. It introduced a bi-communal aid program as a way of bringing Greek Cypriots and Turkish Cypriots together to work on joint projects.<sup>43</sup> The aim was to foster personal and professional interaction between members of the two communities through long-term projects. Bi-communal activities met many humanitarian

and communal needs of the Greek and Turkish Cypriot communities, such as; housing for refugees, sanitation, forestry, protection of environment and preservation of cultural heritage. The United Nations Office for Project Services (UNOPS) took over the UNHCR's humanitarian mission in 1998.

On the other hand, UNOPS mission in Cyprus has been to contribute peace-building and cooperation throughout the island with joint projects benefiting both Greek and Turkish Cypriots in areas of common concern. Particular focus has been given to; governance and civil society, public infrastructure, public and animal health, humanitarian assistance, education and culture, information and communication technology, and the environment. Many projects have been successfully concluded on those issues such as the Nicosia Master Plan, the establishment of a Turkish Cypriot Women's Library, Mediation Centers, and Cyprus Folk Arts. An important project is still under way on both sides, through the parallel restoration of two cultural and religious shrines, Apostolos Andreas Monastery and Hala Sultan Tekke. The project is part of the Bi-Communal Development Program of UNOPS to help preservation of the common heritage of the island.

### **Conclusion**

The United Nations engagement in Cyprus conflict started in 1964 and has continued until the present day. The primary aim of the UN's early involvement in Cyprus was the preservation of peace and the restoration of law and order in the island. The UN's peacekeeping operation between 1964 and 1974, until the Turkish intervention, was basically focused on pacification and normalization activities. Its overall performance in that period was regarded as satisfactory by the spectators committed to the UN. However, the UN's role changed dramatically after 1974. The UNFICYP attention shifted to the humanitarian dimensions of the conflict and besides providing emergency relief shortly after the intervention, the UN also concerned itself with other humanitarian issues of missing persons and refugees. The UNHCR was successful in providing relief, assisting the rehabilitation and integration of the refugees into their communities' economic and social life (which in a way polarized the island) then later in introducing bi-communal projects.

Since the initial aim was the preservation of peace and maintenance of order in the island, we can not consider the UN's engagement in Cyprus as a case of humanitarian intervention. Although the humanitarian side of the conflict came to the fore after 1974, it does not change the fact that the operation did not start primarily to stop a humanitarian emergency in the island. The objective of the peace operation was considerably different than the post-Cold War humanitarian intervention cases, which were launched to stop gross

and systematic human rights violations in other locations.

In addition, the UN's operation in Cyprus is classified as a classical peacekeeping effort of the Cold War era because it was established by the consent of the both parties and observed the key principles of impartiality, consent and minimum force. In contrast, the principles and practices of humanitarian intervention in the post-Cold War period has become completely different from traditional peacekeeping operations. The UN had to violate traditional principles of state sovereignty, non-intervention and non-use of force to stop extreme human right abuses in various internal conflicts. In those cases there was no peace to keep or a legitimate authority from which to seek consent. The UN forces in Cyprus have long engaged in humanitarian activities, however, they generally followed UN procedures without imposing conditions. However, institutionalization of humanitarian aid has been generally modest in traditional peace keeping missions of the Cold War era since humanitarian missions were not articulated. In this respect, Cyprus was an exception.

Lastly, current developments on the island, and the question of European Union membership for the 'Republic of Cyprus', pose questions about the continuing presence of the UN peacekeeping forces in Cyprus. The latest effort of the Secretary General's mission of good offices in Cyprus to achieve a comprehensive settlement of the Cyprus problem, which takes shape in the Annan Plan, envisages that "there shall be a UN peacekeeping operation to monitor the implementation of this Agreement and use its best efforts to promote compliance with it and contribute to the maintenance of a secure environment, to remain as long as the federal government, with the concurrence of both constituent states, does not decide otherwise."<sup>44</sup>

**Endnotes**

<sup>1</sup> S. Kardas, *Humanitarian Intervention: the Evolution of the Idea and Practice*, unpublished Masters Thesis, Ankara, 2001, 15.

<sup>2</sup> M. Pugh, "Military Intervention and Humanitarian Action, Trends and Issues", *Disasters*, 22: 4, 344.

<sup>3</sup> R. Williams, *Some Corner of a Foreign Field*, MacMillan Press, London, 1988, 123.

<sup>4</sup> J. N. Wheeler, *Saving Strangers, Humanitarian Intervention in International Society*, Oxford University Press, New York, 2000, 34.

<sup>5</sup> The principle of non-intervention finds its first explicit manifestation, and had acquired general recognition, by the nineteenth century. At this period states could intervene in another state on two grounds. First, a state could intervene to protect the lives and property and material interests of its nationals abroad. Second, a state could intervene in situations where another state mistreated its own citizens in a way falling so far below the general standards recognized by civilized peoples as to shock the conscience of mankind. One example could be the intervention of Western powers in the Ottoman Empire concerning the treatment of Christian minorities living on the territory of the Empire. Nevertheless, in the 19<sup>th</sup> century states failed to entirely satisfy the basic principles of humanitarian intervention which involve severe human rights violations.

<sup>6</sup> Some examples; S. R. Shalom, "Reflections on Intervention", *Peace Review*, 8: 4, 1996; M. Ayoob, "Humanitarian Intervention and International Society", *Global Governance*, 7: 3, Jul-Sept, 2001; V. R.J, "Grotius, Human Rights and Intervention." In: H. Bull, B. Kingsbury and A. Roberts eds., *Hugo Grotius and International Relations*, Oxford Univ. Press, Oxford, 1990; N. Chomsky, *The New Military Humanism: Lessons from Kosovo*, Common Courage Press, Monro, 1999.

<sup>7</sup> UN Doc. S/5575, 4 March 1964, paras.1-8.

<sup>8</sup> A. Gazioğlu, *Cyprus the Island of Sustained Crises March 1964-August 1964*, CYREP, Lefkosa, 2000, 3.

<sup>9</sup> UN Doc. S/2003/1078, 12 November 2003, 5.

<sup>10</sup> M. Z. Necatigil, "UN Security Council Resolutions: Peace-Keeping and Peace-Making", in R. Arim ed., *Cyprus*, Foreign Policy Institute, Ankara, 2002, 40.

<sup>11</sup> L. A. Karaosmanoğlu, "UNFICYP and the Problem of Consent" in Arim, op. cit., 60.

<sup>12</sup> Ibid. 61.

<sup>13</sup> A. J. Stenga, "UN Peace-Keeping, The Cyprus Venture", *Journal of Peace Research*, 1, 1970, 8.

<sup>14</sup> Ibid. 8.

- <sup>15</sup> S. G. Kaloudis, *The Role of the UN in Cyprus from 1964 to 1979*, P. Lang, New York, 1991, 59.
- <sup>16</sup> Necatigil, 41.
- <sup>17</sup> United Nations, *The Blue Helmets: A Review of UN Peace-keeping*, UN Publication, New York, 1996, 167.
- <sup>18</sup> Ibid. 158.
- <sup>19</sup> Kaloudis, 60.
- <sup>20</sup> At that time the Cyprus government was composed of only Greek representatives in the absence of Turkish representatives.
- <sup>21</sup> Kaloudis. 96.
- <sup>22</sup> C. Thornberry, "Peacekeepers, Humanitarian Aid and Civil Conflicts", *Journal of Humanitarian Assistance*, 2000, [http:// www.jha.ac/articles/aoo2.htm](http://www.jha.ac/articles/aoo2.htm), 1.
- <sup>23</sup> UN Doc. S/11789, 2 August 1975.
- <sup>24</sup> Karaosmanoğlu, 70.
- <sup>25</sup> However, violence blew up for a while, between June and October of 1996, when a Greek Cypriot national guard, a Turkish soldier and three Greek Cypriot civilians were killed in and along the buffer zone, on the background of a Greek Cypriot demonstration.
- <sup>26</sup> O. Richmond and J. Ker-Lindsay, *The Work of the UN in Cyprus Promoting Peace and Development*, Palgrave, London, 2001, 83.
- <sup>27</sup> UN Doc. S/2003/1078, 12 November 2003, 1.
- <sup>28</sup> Richmond and Ker-Lindsay, 85.
- <sup>29</sup> UN Doc. S/2003/1078, 12 November 2003, 2.
- <sup>30</sup> Necatigil, 54.
- <sup>31</sup> Ibid., 54.
- <sup>32</sup> Karaosmanoğlu, 70.
- <sup>33</sup> See UN Doc. S/2003/572, para. 5.
- <sup>34</sup> UN Doc. S/RES/1517 (2003), para. 2.
- <sup>35</sup> Richmond and Ker-Lindsay, 194.
- <sup>36</sup> "Proposal to the United Nations to establish an effective commission of inquiry to investigate 'disappearances', 'missing' persons and deliberate and arbitrary killings in Cyprus", *Amnesty International Index, EUR 17/01/96*, <http://www.web.amnesty.org/Cyprus>, 3.
- <sup>37</sup> Ibid., 4.
- <sup>38</sup> Richmond and Ker-Lindsay, 218.
- <sup>39</sup> Report of Secretary General S/267777, 22 November 1993, 21, para.88.
- <sup>40</sup> Press Communiqué, 11 April 1990.
- <sup>41</sup> Richmond and Ker-Lindsay, 234.
- <sup>42</sup> Ibid., 234.

<sup>43</sup> *Ibid.*, 239.

<sup>44</sup> Basis for Agreement on a Comprehensive Settlement of the Cyprus Problem, Version III, Article

8.1, para. d, 12, available on <http://www.un.org>. Also the mandate of the UN peacekeeping operation in Cyprus explained in detail on Article 3, paras. a-f, 182.

# Uluslararası Hukukta Objektif Rejim (Statü) Yaratan Antlaşmalar ve 1959-1960 Kıbrıs Antlaşmaları

Kudret Özersay

## Özet

Uluslararası hukukta, taraf olmayan üçüncü devletler bakımından hak ve yükümlülük yaratan antlaşmaların varlığı uzun süre tartışılmıştır. Bir grup yazar, “objektif rejim yaratan antlaşmalar” şeklinde tanımladığı bu antlaşmaları, antlaşmalar hukukuna özgü bir kurumun parçası olarak görmüştür. Bazı başka yazarlarsa, bu türden genel bağlayıcılığa sahip antlaşmaların varlığını kabul etmekle birlikte, bu bağlayıcılığın kaynağı konusunda daha farklı görüşler ortaya koymuşlardır. Makale, bu tartışmalar bağlamında 1959-1960 Kıbrıs Antlaşmalarının nereye oturtulabileceğini belirlemeye çalışmaktadır.

## Giriş

Antlaşmalar hukukunun en temel kurallarından biri, *pacta tertiis nec nocent nec procunt*'dur. Bu klasik kural uyarınca bir antlaşma, sadece taraf devletler arasında (*inter partes*) hukuksal etki doğurur ve ona taraf olmayan devletler bakımından hak ve yükümlülük yaratmaz. *Pacta tertiis* Roma hukukundaki “sözleşme” kavramından esinlenir ve devletlerin bağımsızlığı ve egemen eşitliği ilkeleri temeline oturtulmuştur (Chinkin, 1993, 26). İlke olarak, antlaşma kökenli hukuk kuralları üçüncü devletler bakımından *res inter alios acta* olarak kabul edilmektedir. *Pacta tertiis* kuralının uluslararası hukukun en eski kurallarından biri olduğu bilinmektedir. Pek çok uluslararası metin bu saptamayı doğrular niteliktedir. Örneğin, Antlaşmalara Dair Harvard Taslak Sözleşmesi'nin 18. maddesi (paragraf b), bir antlaşmanın kendisine taraf olmayan bir devleti yükümlülük altına koyamayacağını vurgulamaktadır (Harvard Draft, 1935, 661). Antlaşmalar hukukunun önde gelen isimlerinden Lord McNair, 1961 yılında bahse konu paragrafı *lex lata* olarak tanımlamıştır (McNair, 1961, 309). Benzer yaklaşım, bu kez üçüncü devletlerin elde edecekleri haklar bakımından 1928 Havana Sözleşmesi'nin 9. maddesinde de yer almıştır (Havana Convention, 1928, 1206). Pek çok yazar, *pacta tertiis* kuralının varlığını doğrulayan çok sayıda uluslararası yargı ve hakemlik kuralına işaret etmektedir (Jennings and Watts, 1992, 1261 ve Chinkin, 1993,



27). Tüm bu verilere Uluslararası Hukuk Komisyonu (UHK) tarafından, 1969 Viyana Antlaşmalar Hukuku Sözleşmesi hükümleriyle ilgili olarak yapılan yorumdaki ifadeler eklendiğinde, *pacta tertiis* kuralının yapılageliş karakteri netlik kazanır. UHK, devletlerin egemenliğine ve bağımsızlığına dayalı bu tür bir genel kurala ilişkin olarak “neredeyse evrensel bir uzlaşının” belirlediği görüşünü taşımaktadır (ILC Yearbook, 1966, 226).

### Objektif Rejim (Statü) Yaratan Antlaşmalar

*Pacta tertiis* konusundaki bu görüş birliği yanında, bu kuralın belirli birtakım istisnaları olduğu da kabul edilmektedir (Chinkin, 1993, 27). 1969 Viyana Sözleşmesi hükümleri hazırlanırken, *pacta tertiis* kuralına istisna oluşturabilecek nitelikte birtakım hükümlerin Sözleşme’ye dahil edilmesiyle ilgili tartışmalar yaşanmıştır. Bu tartışmalar, 1969 Viyana Sözleşmesi öncesinde, kimi ülkesel düzenlemelerin ya da birtakım ülke parçalarına bir “statü” kazandıran antlaşmaların, *pacta tertiis* kuralının istisnası olarak kabul edildiğini göstermekteydi (Chinkin, 1993, 31). Bu tartışmalar sonunda, antlaşmaların üçüncü devletlere etkisi konusunda 1969 Viyana Sözleşmesi, şu düzenlemeleri içermiştir:

34. madde uyarınca bir antlaşma, rızası olmadan üçüncü bir devlet için ne hak ne de yükümlülük yaratır. Fakat bu madde, taraf olan ve olmayan devletlerin rıza göstererek taraf olmayanlar bakımından yaratabilecekleri hak ve yükümlülükler hanel getirmemektedir. Çünkü 35 ve 36. maddelerde, bu nitelikte haklar ve yükümlülükler ayrıca ele alınmıştır. 35. madde, bir antlaşma hükmünün bir üçüncü devlet bakımından yükümlülük yaratabilmesi için, antlaşmanın tarafı olan devletlerin bu yönde niyet belirtmelerini ve üçüncü devletin de bahse konu yükümlülüğü açıkça ve yazılı olarak kabul etmesini zorunlu kılmaktadır. 36. maddede yer alan hüküm gereği, üçüncü devletler için taraf olmadıkları bir antlaşmadan kaynaklanacak haklar bakımından, yükümlülükler oranla daha farklı bir yöntem kabul edilmiştir. Buna göre, üçüncü devletler bakımından bu şekilde hak ortaya çıkabilmesi için, antlaşma taraflarının bu yönde niyet belirtmeleri ve kendisi bakımından hak doğacak olan üçüncü devletin de rıza göstermesi gereklidir. Fakat antlaşma başka türlü öngörmüyor ve aksi belirtilmiyorsa bu rıza verilmiş kabul edilecektir. Yani haklar bakımından üçüncü devletlerin üstü kapalı rızası yeterli görülmektedir (mad. 36/1).

1969 Viyana Sözleşmesi’nde yer alan bu düzenlemeler, tarafların rızasına dayalı olarak ortaya çıkabilecek irade uyuşmasıyla *pacta tertiis* kuralına istisna oluşturabilecek durumlara işaret eder. Yani sonraki ortak irade ile adeta yeni bir antlaşma bahis konusu olur. Sözleşme’de yer alan bir diğer istisna, uluslararası hukuk kaynakları arasında yerleşmiş bulunan bir ilişkiden doğar ve yine taraf olan ve olmayan devletlerin rızalarıyla yakından

ilgilidir. 38. madde, Sözleşme içerisinde üçüncü taraflara dair düzenleme getiren maddelerin (Mad. 34-37), bir antlaşmada düzenlenen bir kuralın, uluslararası hukukun yapılageliş kuralı şeklinde bir üçüncü devlet bakımından bağlayıcı hale gelmesini engellemediğini hükme bağlar.

38. maddede atıfta bulunulduğu üzere çok-taraflı antlaşmalar, değişik şekillerde yapılageliş kurallarına dönüşebilir ve üçüncü tarafları da bağlayabilir. Bu yöntemlerden biri, antlaşmanın, önceden yapılageliş niteliğini kazanmış olan bir kuralın “delili”ni oluşturması veya ortaya çıkmış olan bir kuralı “kristalize” etmesidir. Bunu anlayabilmemize imkan veren farklı birtakım belirtiler bulunmaktadır. Antlaşma metninde, sözü edilen işlevin açıkça yer alması, bu belirtilerden biridir. Örneğin, 1948 tarihli Soykırım Sözleşmesi’nin 1. maddesi, Sözleşme’nin taraflarının, soykırımın bir uluslararası hukuk suçu olduğunu teyit ettiklerini yazmaktadır. Yine 1958 tarihli Cenevre Açık Deniz Sözleşmesi’nin girişinde benzer ifadeler yer verilmiştir (Mendelson, 1998, 295-298).

Aslında, antlaşma metninde doğrudan yapılageliş kuralını açıklayan bir nitelikten söz edilmesi, çok sık rastlanan bir durum değildir. Örneğin, Kuzey Denizi Kıta Sahanelığı Davası sırasında tartışma konusu olan Kıta Sahanelığı Sözleşmesi’nde bu türden bir ifade yer almamış olmasına rağmen, Danimarka ve Hollanda, “UHK’nun çalışmaları, hükümetlerin bu çalışmalara yönelik tepkileri ve Cenevre Konferansı tutanakları yoluyla, ortaya çıkmakta olan yapılageliş kurallarının tanımlanması ve güçlendirilmesi süreci”nden söz ederek, bu yapılageliş kuralının, Kıta Sahanelığı Sözleşmesi’nin konferansta kabul edilmesiyle “kristalize” olduğunu ileri sürmüşlerdir (Baxter, 1970, 45). UAD, tartışma konusu 6. maddeyle ilgili olarak bu argümanı reddetmiş olmakla birlikte, bir hükmün yapılageliş kuralını yansıtıp yansıtmadığının belirlenmesinde hazırlık çalışmalarına bakılabileceğini karara bağlamıştır (Baxter, 1970, 46). Bu durumda, yukarıda sözü edilen belirtilerden bir diğerinin, antlaşmaların hazırlık çalışmaları olduğu söylenebilir.

UAD’nın, Kuzey Denizi Kıta Sahanelığı Davası sırasında takınmış olduğu tavır, bir antlaşma hükmünün varolan yapılageliş kuralını yansıtması bakımından dikkat edilmesi gereken bir diğer belirtiyi daha karşımıza çıkarır. Bu, bahse konu antlaşmaya çekince konulabilmesiyle ilgilidir. Kıta Sahanelığı Sözleşmesi’nin 12. maddesi, tartışma konusu 6. maddeyi de kapsayan birçok maddeye çekince konulabilmesine imkan tanımaktaydı. Divan, yapılageliş kuralları söz konusu olduğunda, bu kuralların doğası gereği tüm devletlere eşit muamele yapılmasının kaçınılmaz olduğuna dikkat çekerek, 6. maddeye çekince konulabilmesinin, bu maddenin yapılageliş kuralını yansıtabilme niteliğini zayıflattığını vurgulamıştır.<sup>1</sup>

UAD tarafından geliştirilen ve bir antlaşma hükmünün yapılageliş kuralını yansıtıp yansıtmadığını anlamamıza imkan veren belirtilerden bir

diğeryise, bahse konu hükmün formüle ediliş biçimiyle ilgilidir. Kuzey Denizi Kıta Sahanlığı Davası kararında Divan, yapılagelişi yansıtabak mad-denin, “esasen norm yaratan karaktere” sahip olması gerektiğine vurgu yapmıştır (ICJ Reports, 1969, 42, prg. 72). 6. maddedeki eşit uzaklık yönteminin, aynı maddedeki ifade nedeniyle, kıta sahanlığı sınırlandırmasında anlaşma yoluyla çözüm bulunmasından sonra bir ikincil metot olarak düşünüldüğüne dikkat çeken Divan, eşit uzaklığın “esasen norm yaratan karakter”de olmadığını belirtmiştir. Divan bu karakterin eksikliğine dikkat çekerken, eşit uzaklığın istisnası biçimindeki “özel durumlar”ın anlamı ve kapsamı bakımından, taraf devletlerin görüş ayrılığı içinde olduklarına da vurgu yapmıştır (Mendelson, 1998, 319).

Çok-tarafli antlaşmaların 1969 Viyana Sözleşmesi’nin 38. maddesi ışığında üçüncü devletleri bağlayabilmesi bakımından bir diğery yöntem, antlaşma hükümlerinin sonraki devlet uygulaması ve *opinio juris* aracılığıyla yapılageliş kuralı haline dönüşmesi şeklinde karşımıza çıkmaktadır. Bu yöntem, yine Kuzey Denizi Kıta Sahanlığı Davası sırasında net biçimde ortaya çıkmıştır. Danimarka ve Hollanda, Kıta Sahanlığı Sözleşmesi’nin yapıldığı tarihte Sözleşme’nin 6. maddesindeki eşit uzaklık ilkesi lehinde bir yapılageliş kuralı belirmemiş ya da bu türden bir yapılageliş kuralı 6. maddeyle kristalize olmamış olsa dahi, “kısmen Sözleşme’nin kendi etkisi, kısmen de sonraki devlet uygulaması nedeniyle” eşit uzaklık doğrultusunda bir yapılageliş kuralının ortaya çıktığını ileri sürmüşlerdir (Baxter, 1970, 57). Aslında bu iki devletçe ileri sürülen yöntem, başka bazı mahkeme kararlarında da kabul edilmişti (Baxter, 1970, 58-59).

Kuzey Denizi Kıta Sahanlığı Davası’nda antlaşma hükmünün, sonraki devlet uygulaması ve *opinio juris* aracılığıyla yapılageliş kuralı halini alması konusundaki iddiayı ele alan UAD, uluslararası hukukta bu türden bir sürecin mümkün olduğunu ve zaman zaman ortaya çıktığını belirterek, bu süreci “yeni yapılageliş kurallarının oluşturulmasında bilinen bir metot” şeklinde tanımlamıştır. Fakat, Danimarka ile Hollanda’nın iddiasını reddetmiştir (Baxter, 1970, 62). Divan ayrıca, bu süreç içerisinde değinilen sonraki devlet uygulaması bakımından da bazı sınırlamaların varlığına dikkat çekmiştir. Buna göre, antlaşma hükmünün yapılageliş kuralına dönüşmesini sağlayacak olan devlet uygulaması, bu antlaşmaya taraf devletlerin uygulamalarıyla sınırlı kalmamalıdır. Yani Divan’a göre, yapılagelişin oluşumu veya tespiti bakımından bahse konu antlaşmaya taraf devletlerin sonraki davranışlarına çok fazla ağırlık verilmemelidir. Çünkü, bu davranış ve uygulamaların, antlaşmadan doğan yükümlülüklerden kaynaklanıyor olması ihtimali oldukça yüksektir (Mendelson, 1998, 315).

1969 Viyana Sözleşmesi’nin 38. maddesiyle ilgili olarak, UHK’nun yorumu anlamlıdır. Komisyon, ülkesel ve nehirler veya denizlerle ilgili

“rejimler” kuran antlaşma hükümlerinin, diğer devletler tarafından da genel olarak kabul edilmesi sonucunda, yapılageliş yoluyla taraf olmayan devletler açısından da bağlayıcı olabileceğini belirterek, İsviçre’nin tarafsızlığıyla ilgili antlaşmalarla uluslararası nehirler veya su yollarıyla ilgili antlaşmaları, bu duruma örnek olarak göstermiştir (ILC Yearbook, 1966, 230-231). Komisyon ayrıca, hak ve yükümlülüklerin *erga omnes* olduğu “objektif rejim (statü)” yaratan antlaşmaların, ayrı bir biçimde ele alınmasının gerekli olup olmadığını da tartışmıştır. Komisyon’un 38. madde konusundaki yorumunda aktardığı üzere bu tartışmalar sırasında bazı üye ülkeler, “objektif rejim” yaratan antlaşmaların uluslararası hukukta var olduğunu ve ayrıca ele alınmasının gerekli olduğunu ileri sürmüşlerdir. Bu devletler, bahse konu antlaşmalara, kimi ülkelerin veya bölgelerin tarafsızlaştırılmasını veya askerleştirilmesini, uluslararası nehir veya su yollarında seyir serbestisini ve Antartika’nın statüsünü düzenleyen antlaşmaları örnek olarak göstermişlerdir. Başka bazı devletlerse, bazı durumlarda antlaşmalardan doğan hak ve yükümlülüklerin *erga omnes* etkiye sahip olabileceğini kabul etmekle beraber bunun, antlaşmalar hukukunda yer alan özel bir kavramdan veya kurumdan (*objektif rejim-statü*) kaynaklandığı fikrini reddetmişlerdir. Yapılan tartışmalar sonunda Komisyon, hazırlık çalışmalarına katılan devletlerin genel kabulünün sağlanamayacağını düşündüğünden, “objektif rejim” yaratılması konusunun 38. maddeden ayrı olarak ele alınmamasına ve bu konuda özel bir hüküm düzenlenmemesine karar vermiştir (ILC Yearbook, 1966, 231).

Komisyon tarafından yapılan yorumda kullanılan ifadelerden de anlaşılacağı üzere, bu konunun Sözleşme metninden dışlanmış olması, uluslararası hukukta bu türden bir kavramın var olmadığını göstermemektedir. Rossenne de, kodifiye edilmiş antlaşmalar hukuku içerisinde “değinilmemiş” konular başlığı altında özetlediği objektif rejim konusunda benzer sonuca vararak, 1969 Viyana Sözleşmesi’nin bu konudaki suskunluğunu bir son nokta şeklinde kabul etmemiştir (Rosenne, 1989, 73-74). Buradaki temel tartışma, sözü edilen “objektif rejim” kuran antlaşmaların bağlayıcı gücünün, yapılagelişten farklılaşan bir yanının bulunup bulunmadığı veya başka bir ifadeyle antlaşmalar hukukuna özgü özel bir kavramdan kaynaklanıp kaynaklanmadığı noktasında yoğunlaşmıştır. Aust tarafından da vurgulandığı üzere Komisyon’un, mevcut maddelerin *erga omnes* etkiye sahip antlaşma kökenli hak ve yükümlülükler konusunda yeterli hukuksal temeli yaratabileceği yönündeki tavrı, literatürde eleştiriye konu olmuştur (Aust, 2000, 209).<sup>2</sup> Antlaşmalar Konusunda Harvard Araştırmaları Taslak Sözleşmesi ve bu çerçevede yapılan yorumlarda da, objektif etkileri bulunan antlaşmaların varlığı kabul edilmiş, fakat bunun, antlaşmalar hukuku ilkelerine dayanmadığına dikkat çekilmiştir. Harvard Taslağı, bu türden bağlayıcılığı bulunan

antlaşmaların hukuksal temeli olarak üç ayrı olasılığa işaret etmiştir: a) taraf devletlerin “genel çıkarlar”a hizmet etme niyeti; b) üçüncü devletlerin üstü kapalı kabulü; c) yapılageliş oluşumu.<sup>3</sup>

UHK'nun, 1969 Viyana Sözleşmesi'nin 38. maddesine yönelik özetlenen tavrını, daha sonraki kodifikasyon çalışmalarında devam ettirmediği ve objektif rejim yaratan antlaşmalar benzeri durumları dikkate almaya başladığı gözlenmiştir. 1978, Devletlerin Antlaşmalara Ardıl Olmasına Dair Viyana Sözleşmesi'nin 11 ve 12. maddeleri konusunda UHK tarafından 1974 yılında yapılan açıklamayla, “objektif rejim” terimi kullanılmamış olmakla birlikte, Komisyon'un uluslararası antlaşma ilişkileri bakımından var olan bu olgunun incelenmesinden artık daha fazla kaçınamayacağı ortaya çıkmıştır. UHK burada, özel ülkesel hak ve yükümlülükler yaratan antlaşmalar yaklaşımına yer vermiş ve bu tür antlaşmaların, devletlerin ardıllığı halinde, özel ve istisnai kurallara tabi olmasını teklif etmiştir (Rosenne, 1989, 74). 1996 yılında yürürlüğe giren 1978 Viyana Sözleşmesi'nin “Sınır Rejimleri” başlığını taşıyan 11. maddesi, sınır oluşturan antlaşmalarla, bir sınır rejimine ilişkin hak ve yükümlülükler kuran antlaşmaların devletlerin ardıllığından etkilenmeyeceğini hükme bağlamıştır. Öte yandan “Öteki Ülkesel Rejimler” başlıklı 12. madde, belirli bir ülke parçasının yabancı bir ülke yararına kullanılmasına ilişkin yükümlülükler ya da sınırlamalar içeren antlaşmaların da ardıllık işleminden etkilenmeyeceğini ortaya koymaktadır. Fakat aynı maddenin 3. Paragrafı, bu hükmün önceki devletin yabancı askerî üsler kurulmasına dair antlaşma yükümlülüklerine ardıllık bakımından uygulanmayacağını da hükme bağlamıştır. Üstelik Uluslararası Adalet Divanı (UAD) da, yukarıda sözü edilen 11. maddeye Tunus-Libya Kıta Sahaneliği Davası kararıyla Burkina Faso-Mali Sınır Uyuşmazlığı Davası kararında atıfta bulunmuştur (ICJ Reports, Tunisia/Libya, 1982, prg. 84; Burkina Faso/Mali, 1986, prg. 17).

Bazı antlaşmaların, nitelikleri gereği, taraf olmayan üçüncü devletleri bağlayabileceği fikri, ya da başka bir ifadeyle objektif rejim yaratan antlaşmaların varlığı, antlaşmalar hukukunun önde gelen bazı yazarlarınca da tanınmaktadır. Lord McNair bunlardan biridir. Yazar, bu tür antlaşmaların *erga omnes* etkilerinin, bu uluslararası metinlerin doğalarından ya da içerdikleri ayırıcı yargısal unsurdan kaynaklandığını benimser görmektedir (McNair, 1961, 255). McNair'in taraf olmayan devletler bakımından da hak ve yükümlülük yaratabileceğini düşündüğü antlaşmaların bir bölümü ulusal hukukta yer alan taşınmaz mal kökenli haklarla yakından ilgilidir. Yazara göre bu tür antlaşmaların ayırıcı özelliği, “rights in rem” olarak tanımlanan haklar yaratmaları veya devretmeleridir. Bu çerçevede, bir ülke parçasının ayrılması ya da devrine ilişkin antlaşmalarla sınır antlaşmaları örnek olarak gösterilmektedir. Buna göre, bahse konu antlaşmalar belirli türden sürekli

hakları yaratır, fakat yaratılan haklar sonradan kendilerini yaratan antlaşmalardan bağımsız hale gelir (McNair, 1961, 256). Yazara göre benzer niteliklere sahip bir diğer antlaşma grubu “Kurucu ya da yasa koyan antlaşma” şeklinde tanımlanabilir. Yargıç Roxburg’un ifadeleriyle “uluslararası çözümler” (*International Settlements*) şeklinde ifade edilen bu grup, belirli bir zaman ertesinde ve taraf olmayan devletlerin üstü kapalı rızasıyla *de facto* durumu *de jure* hale dönüştüren özel bir karakter taşımaktadır. McNair bu antlaşmaları, objektif rejim yaratan antlaşmalar kapsamına yerleştirmiştir. Bu çerçevede verdiği örnek ise, 1856 tarihinde İngiltere, Fransa ve Rusya arasında akdedilen Aaland Adaları Sözleşmesi’dir. Bu Sözleşme uyarınca, Aaland Adaları silahlandırılmayacak ve bu ülke üzerinde herhangi bir deniz üssüne veya askeri üsse yer verilmeyecektir. Birinci Dünya Savaşı sonunda Aaland Adalarının statüsü, Milletler Cemiyeti Konseyi önüne getirilmiş ve bu tartışmalar sırasında İsveç, bu statüyü yaratan antlaşmalara taraf olmamakla beraber, bir tür uluslararası irtifak hakları kavramından hareketle, bahse konu askersizleştirme durumundan yararlanma hakkına sahip olduğunu iddia etmiştir. Konsey tarafından atanan özel komisyon, irtifak hakkı kavramından kaynaklanan bu yaklaşımı reddetmiş olmakla birlikte, 1856 Antlaşması hükümlerinin “Avrupa Çıkarları” için “özel bir uluslararası statü” yarattıklarını ve bu nedenle antlaşmanın tarafı olmasalar da ilgili tüm devletlerin bu hükümlere uyulması yönünde ısrar etme hakkı bulunduğunu saptamıştır. McNair, Komisyon tarafından kullanılan daha pek çok ifadenin de (“çözümün objektif karakteri”; “Avrupa Hukuku” gibi), bir tür objektif rejim yaratan antlaşmalar fikrini desteklediğini düşünmektedir (McNair, 1961, 259-264).<sup>4</sup>

McNair’e göre, objektif rejim yaratan bir diğer antlaşma kategorisi, “uluslararası bir yapıya varlık kazandıran” antlaşmalardır. Uluslararası bir antlaşmayla kurulmuş olan Belçika ya da Danzig Serbest Kenti’nin varlığı bu çerçevede ele alınabilir. Buna göre, pek çok Avrupa devletinin taraf olduğu 1839 Antlaşması sonunda kurulmuş olan Belçika’yla ilgili olarak, bu antlaşmanın tarafı olmayan üçüncü bir devletin, kendisinin bu antlaşmanın tarafı olmadığını ve Hollanda’dan Belçika’ya egemenlik devri şeklinde ortaya çıkan bu yapıya rıza göstermediğini belirtmesinin somut bir anlamı olmayacaktır. Yazar, 1919 Versay Antlaşması’yla yaratılmış olan Danzig Serbest Kenti konusunda şu saptamaya yer vermiştir: “üçüncü devletler, antlaşmayla yaratılmış olan yeni devleti tanıma konusunda herhangi bir hukuksal yükümlülük altında değildirler; fakat bu durum, antlaşmayı ya da ortaya çıkardığı yaratıcı etkilerin (devlet kastediliyor) varlığını görmezlikten gelebilecekleri anlamına gelmemektedir.” (McNair, 1961, 264-269).

Waldock da, bazı çekinceleri bulunmasına rağmen, uluslararası hukukta *erga omnes* etkiye sahip bu türden antlaşmaların var olduğu fikrini,

UAD'nın Güney-Batı Afrika Davası kararına ve Uluslararası Sürekli Adalet Divanı'nın (USAD) Wimbledon Davası kararına atıfla, destekler görünmektedir (Waldock, 1962, 77-78). Bilindiği üzere sözü edilen ilk davada UAD, Güney-Batı Afrika'nın manda rejimini (emirnamesini-*Mandate*) "uluslararası amaca" sahip bir belge şeklinde nitelmiş ve bu rejimi düzenleyen kuralların, "bahse konu ülke bakımından uluslararası bir statü oluşturduğunu" vurgulamıştır (ICJ Reports, 1950, 132). Wimbledon Davası kararında ise mahkeme, Versay Antlaşması'nın 380. maddesinin, Almanya'nın tarafsızlık yükümlülüğüne üstün gelecek şekilde bir "uluslararası rejim" tesis ettiğini ve bu durumun, antlaşmanın tarafı olmayan devletler bakımından da geçerli olacağını saptamıştır (PCIJ Reports, 1923, 22). Bu ifadeleri ayrı ayrı ele alan ve UHK'nun, antlaşmalar hukuku konusundaki dördüncü özel raportörlüğü görevini de yapan Waldock, Komisyon'a sunmuş olduğu üçüncü raporunda açıkça, objektif rejim yaratan antlaşmalar fikrini desteklemiştir (ILC Yearbook, 1964, Mad. 64).

Gerek Waldock, gerekse McNair uluslararası örgüt kuran birtakım antlaşmaların da, üçüncü devletler bakımından hak ve yükümlülük yaratabileceğini, UAD'nın *Reparations for Injuries Case* kararına atıfla dile getirmişlerdir. Divan burada, elli devletin uluslararası hukuk kurallarına uygun olarak, kendileri dışındaki devletler bakımından da geçerli "objektif uluslararası kişiliğe sahip bir entite" kurabileceklerini vurgulamıştır (Waldock, 1962, 80 ve McNair, 1961, 269-270). Öte yandan O'Connell da, Wimbledon ve Güney-Batı Afrika Davası kararlarına atıfta bulunarak, bazı antlaşmaların taraf olmayan devletlerin kabulünden bağımsız olabileceği sonucuna varmaktadır (O'Connell, 1965, 268).

### Kaynağa Dair Tartışma

Bu noktada, antlaşmalar hukukuna özgü bir kurum olarak objektif rejim ya da statü konusuna karşı çıkan yazarların görüşlerine değinmek, meselenin özünü anlamak bakımından yararlı olabilecektir. Bu konuda kapsamlı bir değerlendirme yapmış olan Reuter'in görüşleri dikkat çekicidir. Yazarın ilk adımda, herkes tarafından bağlayıcı olduğu iddia edilen bu türden antlaşmaların, *pacta tertiis*'in gerçek istisnaları mı, yoksa antlaşmalar hukuku dışında yer alan başka kurallar mı olduğunu sorgulamaktadır (Reuter, 1995, 121-122). Bu çerçevede ilk olarak "uluslararası *de facto* hükümetler" şeklinde ifade edilen yaklaşım ele alınmaktadır. Bu yaklaşım uyarınca, büyük savaşlar ertesinde galip gelmiş olan devletlerin, çoğu zaman barış antlaşmaları kanalıyla, bir tür "uluslararası toplumun çıkarı" hedefi doğrultusunda hareket ettikleri varsayılmakta ve sınırlı sayıda tarafı olmasına rağmen yürürlüğe koymuş oldukları antlaşmaların, üçüncü tarafları da bağladığı ileri sürülmektedir. Özellikle, 1815 Viyana ve 1856 Paris Sözleşmeleri bakımından gün-

deme getirilen bu yaklaşım, yukarıda özetlenen ve McNair tarafından ortaya konulmuş olan birtakım örnekleri akla getirmektedir. Aslında bu saptama, UHK'nun tutumuyla da desteklenmektedir. Çünkü Komisyon, özellikle İkinci Dünya Savaşı ertesinde bazı önemli galip devletler arasında yapılan ve saldırgan devletlerin cezalandırılması temel mantığına oturtulmuş olan birtakım antlaşmaların, sonradan antlaşmalar hukuku ilkeleri kullanılarak tehdit edilmemeleri için bazı kayıtlar geliştirmiştir. Buna göre örneğin, 1969 Viyana Sözleşmesi'nin 75. maddesi, bu Sözleşme'nin saldırgan devletler bakımından BM Şartı'na uygun olarak bir antlaşmadan kaynaklanacak yükümlülüklerine hâlel getirmeyeceğini hükme bağlamıştır. Fakat Reuter, bu antlaşmaların da, kendilerine taraf olmayan devletlerin sonradan tanımayı kabul etmeleri sonucunda bu tür bir *erga omnes* durumun ortaya çıktığını ve bu nedenle bahse konu "uluslararası *de facto* hükümetler" yaklaşımının *pacta tertiise* istisna oluşturmadığını düşünmektedir (Reuter, 1995, 123). Antartika'nın statüsü konusunda çeşitli hukuksal varsayımlar üzerinde duran Watts da, üçüncü devletler bakımından hak ve yükümlülük yaratan antlaşmaların hukuksal bağlayıcılık temelini, en azından ilke olarak bu devletlerin üstü kapalı rızasında bulur görünmektedir (Watts, 1992, 294-295).

Yazarın bu çerçevede ele aldığı bir diğer yaklaşım, "statü antlaşmaları" ya da "objektif rejimler" şeklinde nitelenebilecek olan ve yukarıda çeşitli örneklerine yer verdiğimiz uluslararası hukuk kurumudur. Belçika'nın tarafsızlığı, BM örgütünün objektif uluslararası kişiliği konusundaki UAD kararı benzeri örnekleri ele alan Reuter, buradaki temel hareket noktasının iç hukukta yer alan birtakım kural ve kurumlar olduğunu, halbuki uluslararası hukukla iç hukukun pek çok noktada farklılaştığını gündeme getirmekte ve üçüncü devletler bakımından bağlayıcı karakterlerini bu devletlerin sonradan üstü kapalı olarak rıza göstermesine ya da açıkça tanımalarına bağlamaktadır (Reuter, 1995, 124-125). Son olarak, yukarıda da ele aldığımız "rights in rem" konusuna değinen yazar, özellikle sınır antlaşmaları ve ülkesel rejimlerle ilgili olarak *rebus sic stantibus* ilkesinin uygulamasına getirilmiş olan istisnaları kaydetmiş olmakla birlikte, bu tür hakların ya da yükümlülüklerin devlet rızasına dayanmayan varlığını kabul eder görünmemektedir. Daha önce özetlemeye çalıştığımız devletlerin antlaşmalara ardılığını düzenleyen 1978 Viyana Sözleşmesi'nin 11 ve 12. maddelerini inceledikten sonra Reuter, yapılageliş niteliği kazanmamış olan bu Sözleşme hükümlerinin, esasen devletlerin antlaşmalara ardılığıyla sınırlı olduğunu ve bunlara genel bir anlam yüklenemeyeceğini ileri sürmüştür (Reuter, 1995, 128).

Aslında, tüm bu eleştirilerin sözü edilen türden antlaşmaların bağlayıcı gücüyle ilgili olmadığı, sadece taraf olmayan devletler bakımından ortaya çıkan hak ve yükümlülüklerin temelini sorguladığı açıktır. Zaten Reuter de, bu hukuksal etkilerin antlaşmanın kendisinden değil, fakat bu tür-



den antlaşmalarca yaratılmış olan “durumdan” (*circumstances*) kaynaklandığını açıkça ifade etmiştir (Reuter, 1995, 128). Antlaşmanın niteliğinden değil de başka bazı dışsal mekanizmalardan kaynaklansa dahi, yani objektif rejim yaratan antlaşmalardan değil de bazı antlaşmaların, taraf olmayan devletlerce gösterilecek üstü kapalı rızasına (*tacit consent*) veya sonradan ortaya çıkacak yapılageliş kurallarına dayansa da, üçüncü devletler bakımından hak ve yükümlülük yaratılması konusunda genel bir uzlaşının varlığından söz edilebilir. Jennings ve Watts da, *erga omnes* etkiye sahip çeşitli antlaşma örneklerine değindikten sonra, bu hukuksal metinlerin bağlayıcı gücünün kaynağı konusunun henüz çözüme kavuşturulmadığını özellikle vurgulamışlardır (Jennings ve Watts, 1992, 1206). Bu durumda, hiçbirinin doğruluğu konusunda genel bir kabul olmamakla birlikte, *erga omnes* karakterde hak ve yükümlülük yaratan rejimlerin kaynağına ilişkin olarak şu üç temel teorik yaklaşım ortaya konulabilecektir: a) *pacta tertiis* ilkesine istisna oluşturan bağımsız bir antlaşmalar hukuku kurumu-kavramı; b) sınırlı sayıda devletin, tüm uluslararası toplum yararına hareket ederek, belirli bir ülke parçası bakımından yasama benzeri bir misyon üslenmesi; c) tanıma, rıza gösterme (*acquiescence*), *estoppel*, tarihsel sıfat ya da uluslararası yapılageliş kurallarının oluşum süreçleri (Chinkin, 1993, 35).

Yukarıda aktarılan saptamalar, UHK tarafından 1969 Viyana Sözleşmesi içerisine yerleştirilmiş olan üçüncü devletler konusundaki hükümlerin, *erga omnes* etki yaratabilecek antlaşmaların bağlayıcılık kökeninin açıklanmasıyla ilgili olarak ortaya çıkan tüm yaklaşımları kapsamadığını göstermektedir. Zaten Komisyon da, “en çok gözetilen ulus kaydı” (*most-favoured nation clause*) konusundaki değerlendirmesinde, 1969 Viyana Sözleşmesi’nin antlaşmalar ve üçüncü devletlerle ilgili bölümünün kapsamlı olmadığını ve bahse konu kaydın uygulanmasına hanel getirmeyeceğini açıkça kabul etmiştir (Chinkin, 1993, 36).

### 1959-1960 Kıbrıs Antlaşmalarının Durumu

Aslında, 1969 Viyana Sözleşmesi hükümlerinin objektif rejim yaratan antlaşmaları da kapsayacak şekilde geniş tutulmamış olması, sadece yukarıda özetlemeye çalıştığımız teorik tartışmayla ilgilidir. 1959-1960 Kıbrıs Antlaşmaları tarafından yaratılmış olan hukuksal statü değerlendirilirken, sözü edilen Sözleşme’nin kapsamı doğrudan etki ve anlam taşımayacaktır. Çünkü, Viyana Sözleşmesi Kıbrıs Antlaşmaları bakımından doğrudan uygulanabilir bir uluslararası metin özelliği göstermemektedir. Bu saptama, hem Sözleşme’nin geriye yürümemesinden ve Kıbrıs Antlaşmalarından çok uzun yıllar sonra yürürlüğe girmiş olmasından, hem de Kıbrıs Antlaşmalarına taraf devletlerin sadece bir bölümünün bu Sözleşme’ye taraf olmasından kaynaklanmaktadır.<sup>5</sup>

Kıbrıs uyuşmazlığına uygulanabilir nitelikteki antlaşmalar hukuku kuralları yapılageliş nitelikli kurallardır. Bu nedenle, 1969 Viyana Sözleşmesi içinde yer almamış olan objektif rejim (statü) yaratan antlaşmaların bir yapılageliş kuralı şeklinde yerleşmiş olduğu benimsenirse, 1959-1960 Kıbrıs Antlaşmalarının, bu antlaşmalara taraf olmayan üçüncü devletler bakımından da bağlayıcı olduğu saptaması tartışmasız kabul edilmelidir. Çünkü, daha önce bu türden antlaşmalar bakımından verilen tanımlar ve unsurlar dikkate alındığında, 1959-1960 Kıbrıs Antlaşmalarının objektif bir statü yarattığı kendiliğinden ortaya çıkmaktadır. Antartika'nın hukuksal statüsü konusunda değerlendirmede bulunan Watts da, *erga omnes* etkiye sahip objektif rejimlerin, 1969 Viyana hükümlerine rağmen, modern uluslararası hukuk literatüründen tam anlamıyla dışlanmamış olduğunu ve özellikle, Viyana Sözleşmesi'nden çok önce yürürlüğe girerek, bu metnin kapsamı dışında kalmış olan antlaşmalar bakımından geçerli olabileceğini dile getirmiştir (Watts, 1992, 298).

1959-1960 Kıbrıs Antlaşmaları, hem siyasal hem de ülkesel objektif bir hukuksal statü yaratmışlardır. Objektif siyasal bir statü, çünkü yaratmış oldukları 1960 Kıbrıs Cumhuriyeti, Garanti Antlaşması hükümleri uyarınca başka hiçbir devletle kısmen veya tamamen, herhangi bir ekonomik veya siyasal birliğe katılmama yükümlülüğü altındadır (Mad. 1). Öte yandan, bahse konu devleti oluşturan iki halkın *self-determination* haklarının nihai hedefi durumundaki Enosis ve Taksim de yasaklanmıştır. Üstelik, üç Garantör devlet, Kıbrıs Cumhuriyeti'nin bağımsızlığını, ülke bütünlüğünü, güvenliğini ve anayasasının temel maddeleriyle kurulmuş olan düzenini garanti altına aldığından, objektif bir siyasal statü ortaya çıkmaktadır. Ayrıca, Garantör durumdaki Türkiye, Yunanistan ve İngiltere'ye, devletin yapacağı tüm antlaşmalar bakımından en-çok gözetilen ulus muamelesi yapılacaktır (Anayasa, Mad. 170). Öte yandan, içeride değiştirilemez hükümlerle tesis edilen, bir diğer yetki kısıtlaması ve siyasal statü bahis konusudur. İki halkın içsel *self-determination* hakları sınırlandırılmış ve ortaklık devletine bir anayasa özerkliği tanınmamıştır.<sup>6</sup> Çok genel olarak bu yapı, Kıbrıs Cumhuriyeti'nin gerek içeride, gerekse dışarıda "yetkileri kısıtlı devlet" olarak ortaya çıkmasına ve devlet iradesinin sadece iki halkın ortak iradesinden türetilebileceği bir siyasal statünün şekillendirilmesine işaret etmektedir.

Objektif ülkesel bir statü, çünkü bu Antlaşmalar sonunda hem yeni sınır rejimleri, hem de "öteki ülkesel rejimler" şeklinde tanımlanabilecek olan durumlar yaratılmıştır. Örneğin Kurucu Antlaşma'nın 1. maddesi, Kıbrıs Cumhuriyeti ülkesinin sınırlarını tanımlamaktadır. Bu bakımından bir sınır antlaşması özelliğini gösterir. Öte yandan, aynı Antlaşma hükümlerince tesis edilmiş olan iki İngiliz egemen üs bölgesinin, Kıbrıs ülkesiyle olan sınırları da sözü edilen belgelerde netlik kazanır. Bahse konu üslerin "egemen" karak-

teri, iki devlet arasındaki (Birleşik Krallık ve Kıbrıs Cumhuriyeti) sınırın belirlenmesini gündeme getirir.

Öte yandan, daha önce verilen örneklerden de hatırlanacağı üzere silahsızlandırma ya da askersizleştirme benzeri antlaşmalar, daimi ülkesel statü yaratan uluslararası metinler içerisinde değerlendirilmiştir. Kıbrıs'ta da, devlete ait ordunun ve öteki güvenlik kuvvetlerinin içerebileceği asker sayısının sınırlandırılmış olması; iki Garantör devletin bu devlet ülkesinde askeri birlik bulundurma hakkını elde etmiş olması ve özellikle İngiliz askeri üslerinin varlığı ve görevleri, 1959-1960 Kıbrıs Antlaşmalarının bir başka bakımdan, ülkesel statü yaratan antlaşma olarak ele alınmasına imkan tanıyacaktır.

Daha önce McNair'den aktarılan, *international settlements*, antlaşmayla yaratılan devletler (Belçika, Danzig) ya da bazı devletlerin sürekli tarafsızlığı (İsviçre) şeklindeki örneklerin de, 1959-1960 Antlaşmalarının statüsü bakımından anlamlı ve yararlı olduğu açıktır. Üstelik, bu Antlaşmalar tarafından yaratılan düzenin daimi olması ve sona erme, süre veya çekilme konularına değinilmemesi de bu saptamayı destekleyecektir. Tüm bu nedenlerle, objektif rejim yaratan antlaşmalar sınıfına kolaylıkla dahil edilebilecek olan 1959-1960 Kıbrıs Antlaşmaları, bu antlaşmalara taraf olmayan devletlerin de saygı göstermek zorunda oldukları bir statüye sahiptirler. Bu antlaşmaların, üçüncü devletleri bağladığı kabul edilmelidir.<sup>7</sup>

Üstelik, bir diğer yaklaşım benimsenir ve uluslararası hukukta antlaşmalar hukuku kökenli bir objektif rejim kurumunun bulunmadığı kabul edilir ise, 1959-1960 Kıbrıs Antlaşmaları bakımından durum değişmeyecektir. Bu durumda, 1969 Viyana Sözleşmesi'nin 38. maddesi ve Chinkin'in ifadeleriyle tanıma, rıza gösterme (*acquiescence*), *estoppel* ya da tarihsel sıfat benzeri süreçler, Kıbrıs Antlaşmalarına aynı hukuksal etkiyi kazandıracaktır. Yani, sadece bu nedenlerle dahi 1959-1960 Kıbrıs Antlaşmaları, bu antlaşmalara taraf olmayan devletler bakımından da bağlayıcı olacaktır. Peki Kıbrıs'ta, bahse konu antlaşmaların yapılışı sırasında ve ertesinde bu türden süreçler yaşanmış mıdır? Evet. Bu Antlaşma'ya taraf devletler dışında kalan devletlerin itirazda bulunmaması, Kıbrıs Cumhuriyeti'nin BM'ye üye olarak kabul edilmesi, öteki devletlerce herhangi bir çekince belirtilmeden tanınması ve Antlaşmaların BM'ye tescil ettirilmiş olması, bu yanıtı zorunlu kılmaktadır.

## Sonuç

1959-1960 Kıbrıs Antlaşmaları, ister antlaşmalar hukuku kökenli özel bir kavramdan, isterse yapılageliş kurallarının ortaya çıkmasında etkili süreçlerden kaynaklansın, yaratmış oldukları bu özel hukuksal statü nedeniyle, taraf olmayan devletler bakımından da bağlayıcıdır. Bu sapta-

ma, Kıbrıs uyuşmazlığı bakımından pek çok noktanın hukuksal yönüne ışık tutabilecek niteliktedir. Örneğin, bu Antlaşmaların ruhunu oluşturan “devlet iradesinin sadece iki toplumun iradesiyle ortaya çıkabilmesi ve aksi durumda, ortaklık devletinin temsil edilemeyeceği” yönündeki temel ilke çerçevesinde, taraf olmayan uluslararası toplum üyelerinin bugüne değin izlemiş oldukları tutum nedeniyle bir uluslararası hukuk ihlali ortaya çıkmıştır. 1959-1960 Kıbrıs Antlaşmalarının ortaya çıkardığı devletin temel ve ayırıcı özelliklerine saygı yükümlülüğü, Avrupa Birliği’ne üye tüm devletler bakımından da geçerlidir. Bu nedenle Birlik üyeleri, sadece Kıbrıslı Rumlardan müteşekkil otoriteye “Kıbrıs Cumhuriyeti” muamelesi yaptığı anda, bu devletin kendileri bakımından da bağlayıcı olan kuruluş antlaşmalarına saygı göstermek zorunda olacaklardır. Bu saptama, uluslararası hukukun gereğidir.

**Dipnotlar**

<sup>1</sup> Mendelson, 1998, 304-305; Baxter, 1970, 47-48. Aslında, UAD'nın çekince konulan hükümlerin yapılageliş niteliğine dair saptamaları, hem mantık hem de içtihat bakımından tutarsızlıklar içerdiğinden, birçok eleştiriye neden olmuştur. Kuzey Denizi Kıta Sahanlığı Davası'nda karşıt görüş veren yargıç Lachs, 1907 IV. La Haye Sözleşmesi'ne beş devletin çekince koyduğunu, ama bunun, bu Sözleşme'nin yapılageliş kurallarının bir parçası haline gelmesini engelleyemediğini belirtmiştir. Bkz. Mendelson, 1998, 310'da 436 Numaralı dipnotu. Üstelik aynı yargıç, 1930 La Haye Sözleşmesi'ne altı ayrı devletin çekince koyduğunu ama bu durumun, hem UAD hem de bir hakemlik mahkemesi tarafından, bahse konu Sözleşme'ye, yapılagelişi açıklayan bir metin olarak atıfta bulunulmasına engel oluşturmadığına da dikkat çekmiştir. Öte yandan Baxter da, Divan'ın benimsediği yaklaşımla, bir antlaşmanın sona erdirmeye konusunda hüküm içermesi durumunda da, bu antlaşmadan kaynaklanan bir yapılageliş kuralından söz edilemeyeceğini belirtmiştir. Bkz. Baxter, 1970, 51-52.

<sup>2</sup> Komisyon'un üçüncü devletler konusunda ortaya koymuş olduğu maddelerin eleştirel bir değerlendirmesi için bkz. Chinkin, 1993, s. 25-50 ve 134-144.

<sup>3</sup> Rozakis de, bu türden yükümlülüklerin varlığına değil, "objektif rejim" temeline oturtulmalarına (yani kaynağa) karşı çıkmaktadır. UHK'nundaki bu tartışmalardan yola çıkan Rozakis, yapılageliş yoluyla üçüncü devletler bakımından yükümlülük yaratılmasına karşı çıkmamakla birlikte, uluslararası hukukun halen devlet rızasını temel alması nedeniyle, antlaşmaların taraf olmayan üçüncü devletler için otomatik olarak yükümlülük yaratma gücüne sahip olamayacaklarını vurgulamaktadır. Bkz. Rozakis, 1975, 5-13.

<sup>4</sup> McNair ayrıca, USAD'nın Wimbledon Davası kararında, Versay Antlaşması'nın 380. md.'sinin Kiel Kanalı için "uluslararası bir rejim" yarattığı saptamasına vurgu yapmıştır. McNair, 1961, 267.

<sup>5</sup> 1969 Viyana Antlaşmalar Hukuku Sözleşmesi hükümlerini, 1959-1960 Kıbrıs Antlaşmaları bakımından doğrudan uygulanabilir olmaktan alıkoyan nedenlerin kapsamlı bir incelemesi için bkz., Özersay, 2002, 135-143.

<sup>6</sup> Kıbrıs Cumhuriyeti'nin, *self-determination* hakkı bakımından kapsamlı bir analizi için bkz. Arsava, 1996, 43-52.

<sup>7</sup> Toluner, Kıbrıs Antlaşmalarının taraf olmayan üçüncü devletler bakımından da bağlayıcı olduğu sonucuna, özetlemeye çalıştığımız iki temel yaklaşım dışında daha farklı bir kaynaktan hareketle varır görünmektedir. Yazara göre bir ülke üzerinde aynı hak yaratan antlaşmaların *erga omnes* etkisi, "...hukuken bir ülke üzerinde hak sahibi olan bir devletin, hukuka uygun bir biçimde yapmış olduğu bir işleme, hukukun bağladığı bir sonuçtur. Diğer

devletlerin böylece yaratılan durumu tanımak yükümü, hukukun o ülke üzerinde tasarruf etmek hakkını yalnızca bazı devletlere tanıyıp diğerlerine tanımamış olmasından doğar.” Yazara göre Kıbrıs’ta bu tür tasarrufta bulunma yetkisine sahip devletler, Garantör devletlerdir (Toluner, 1977, 86-89).

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## The Thorny Path: Turkey–EU Relations in Perspective

*Şahnaz Yılmaz*

The Helsinki Summit of 1999, during which the EU recognized Turkey's candidacy status, was a milestone in Turkey-EU relations. However, the real turning point took place in 2002, with the initiation of a series of reforms in Turkey, finally indicating a genuine political will to fulfill the Copenhagen criteria. To the surprise of many European leaders, this drastic reform and democratization process suddenly made the starting of accession negotiations with Turkey not just a possibility in the distant future, but an immediate concern that sparked an unprecedented debate in the Union.

In the last two months of 2002, two developments with significant repercussions shaped the political agenda in Turkey. First, the moderate Islamic politicians of the Justice and Development Party, who present themselves as 'Muslim Democrats,' had an overwhelming election victory. Despite the Islamic roots of the party, they made it very clear from the outset that relations with the EU formed the highest priority in their foreign policy agenda. In this period, the United States also displayed strong support for Turkey's European ordeal.

Then, the European Union's Copenhagen summit delivered yet another mixed message to the Turks. On the one hand, there was disillusionment regarding the setback in negotiating an earlier date for starting accession talks and the uncertainty of the path ahead. On the other hand, the Turkish leaders have been successful in getting a firm 'rendezvous date.' In this respect, 2004 is certainly going to be a very critical year in determining the future course of Turkey-EU relations. The implementation of the reforms in the domestic scene and the developments concerning Cyprus in the international arena will play a particularly important role in determining how much Turkey will advance on its thorny path towards full membership.

This commentary aims to provide an analysis of the interplay between domestic and foreign variables in shaping Turkey's relations with the EU. The study, in its first part, examines the important changes in Turkey that brought it much closer to fulfilling the Copenhagen criteria and critically assesses the remaining obstacles. The second part of the paper argues that, while Turkey is preoccupied with tackling its challenging problems, there are also pressing issues for the Union countries to address. How does the Union want to define itself, its borders and EU citizenship, particularly in the wake of its new enlargement? And where will Turkey fit in this new picture? The



answers to these questions will not only determine the future course of Turkey-EU relations, but will also be critical in defining the physical, cultural, and psychological boundaries of Europe and what it means to be European. Within this framework, this article stresses the importance of open societies and the significance of co-existence rather than the clash of civilizations.

### **Copenhagen Summit: Before and After**

On the eve of the Copenhagen summit, the government and opposition, as well as business circles and civil society, displayed a concerted effort to set a firm date to start accession negotiations before the next wave of EU enlargement in 2004.

There was, and is, also significant public support. The expectations concerning economic benefits and democratization have been the underlying reasons of the public enthusiasm regarding EU membership. As indicated by the results of the 2001 *Eurobarometer* survey conducted among 3050 people over a wide geographic and income distribution covering 17 cities, 64% of the people stated that they supported membership, while 30% were against it and 6% of those who were interviewed had no specific idea. The anticipations regarding economic improvement, the decrease in unemployment and inflation, free movement of Turkish nationals in EU countries, and improvement of democracy were cited as the top three reasons for favoring EU membership.<sup>1</sup>

Immediately after the Justice and Development party came to power, its leader Erdogan started touring European capitals to gain support for Turkey's cause. While the Franco-German camp remained reluctant, contacts in Britain, Italy, Spain, Greece and Belgium were encouraging. Given the strategic significance of Turkey as a critical ally in a military campaign against Iraq and as a good model for the Muslim world, the United States strongly supported Turkey's efforts.

In the Copenhagen Summit of December 2002, European leaders made a momentous move finalizing the Union's biggest enlargement by agreeing to take in ten more countries by May 2004. As for Turkey, the Union decided on a review in December 2004 to evaluate its progress in fulfilling the Copenhagen criteria. If everything went well, negotiations could start "without further delay" meaning not earlier than 2005.<sup>2</sup> While Turkish leaders succeeded in establishing a firm 'rendezvous date,' they were concerned that the newcomers (particularly Cyprus) might block Turkey's path.

To alleviate Turkish fears, twenty-five countries of the enlarged Union issued a joint statement endorsing Turkey's accession process.<sup>3</sup> While this was a promising development, it did not provide any guarantees for Turkey.

### Obstacles on Turkey's Path

Turkey still has important political and economic obstacles on its path towards membership. Their resolution is not only critical for Turkey's integration with Europe, but is also essential to democratic consolidation and economic development at home. The Union countries are particularly concerned with Turkey's large population, troubled economy, volatile neighborhood, and cultural and religious differences. Moreover, European leaders are already facing problems regarding the financial and bureaucratic burden of the current enlargement. Hence, the process of accession will be neither quick nor easy. In the meantime, although somewhat disappointed by the Copenhagen decision, it is crucial for the Turkish leaders to give impetus to the reform process.

Despite the resistance from the nationalist MHP (Nationalistic Action Party), the outgoing coalition government introduced thirty-four important constitutional amendments on a number of previously taboo issues. In August 2002, the Turkish Parliament adopted a comprehensive reform package of historic importance. These radical changes which were made as a part of the Third EU Reform Package included highly controversial issues such as the abolishment of the death penalty at a sensitive time, when the fate of jailed Kurdish separatist leader Abdullah Öcalan was being decided. The removal of the ban on education and broadcasting in languages other than Turkish, thus, providing educational and broadcasting rights to the Kurdish minority was another very significant development. In the areas of Radio/TV broadcasting and education, these constitutional reforms also need to be supplemented by the adoption of implementing secondary legislation within one year. With the Third Package, human trafficking also started to be treated as a criminal offense.<sup>4</sup>

When the Justice and Development Party came to power, it also introduced a new reform package to enhance democracy and individual liberties. In response to the Commission's numerous warnings concerning the shortcomings in the fight against torture, the new government has vowed zero tolerance on this. Moreover, it formally ended the fifteen-year state of emergency in the last two provinces in the South Eastern parts of Turkey, which are heavily populated by the Kurds. Since 1987, the Turkish government had imposed emergency rule in this region to undermine Kurdish separatist activities. During the emergency rule, the security forces had extraordinary powers to conduct investigations and to detain suspects. People in the region welcomed the end of emergency rule and more than a thousand gathered in Diyarbakir city center to celebrate what they perceived as a return to normalcy. Improving human rights and democracy, particularly for the Kurdish minority, will be an important test. The recent developments in Iraq make this

issue particularly sensitive and significant.

Another complicated issue is curbing the military's role in politics. The Islamic roots of the Justice and Development Party and the strong public perception of the army as the guarantor of the secular state make it much easier for the new government to treat this controversial issue within a European framework.

In August 2003, the Turkish Parliament ratified the Seventh Adjustment Package to the Copenhagen Criteria of the Union. The Seventh package is a milestone in Turkey-EU relations because for the first time the political leadership in Turkey had to tackle the sensitive question of civil-military relations and it made an attempt to limit the role of the National Security Council (NSC). The new reform package significantly curbs the influence of the military in politics, at least in principle, through measures including reducing the areas of responsibility and executive powers of the NSC, increasing the number of civilian members on the NSC, and subjecting military expenditures (which were not publicly audited in the past) to the inspection of the Court of Accounts.<sup>5</sup> These rather revolutionary reforms were highly welcomed in Brussels. After making the major legislative changes to meet the Copenhagen criteria, the Turkish government's main challenge now is the implementation of these reforms in all areas.

In addition to giving impetus to reforms, while not much emphasized, a major investment in education targeting an improvement of the education system and opportunities will yield high returns for Turkey in the long run. It will also significantly contribute to Turkish-EU relations. Currently the Europeans are apprehensive about the size of Turkey, but a young, well-educated population could be an asset in a rapidly ageing Europe in the near future.

### **Cyprus: The Gordian's Knot**

In foreign affairs Turkey will be hard pressed until December 2004. Bilateral problems with Greece over the Aegean, as well as Cyprus will have important repercussions for relations with the Union. The Justice and Development Party has already presented a more moderate approach to the future of the divided island. Consequently, Greek Prime Minister Costas Simitis was the first foreign leader to congratulate Erdogan on the election victory and Erdogan made Athens one of the first stops in his European tour. While there are negotiations going on regarding the bilateral problems in the Aegean, Cyprus will be the most pressing issue.

The December 2003 elections in the Turkish Republic of Northern Cyprus (TRNC) were seen as an early referendum on the UN-sponsored Annan Plan to reunite the island ahead of accession to the European Union in

May 2004, whether or not it remains divided. The parliamentary elections, however, ended in deadlock with no clear victors. The opposition parties that were advocates of the UN plan and the governing parties which opposed it, split the 50-seat parliament winning 25 seats each and neither side received a strong enough mandate to take control of the parliament. With these election results, the Turkish Cypriot people have indicated that they want a settlement and to join the EU, but they also want to make sure that their rights, sovereignty and security will be protected.

At the time this article was written, the discussions of President Denktash with all the parties concerning who would form the government and how were still on going. The even distribution of the parliamentary seats among the two blocks, the polarized positions of the parties concerned, as well as the lack of a clear signal due to competing views within Turkey regarding the future of Cyprus, make the task of forming a well-functioning new government extremely challenging. However, given the narrow window of opportunity for a solution on the island until May 2004, it is also an urgent and critical one.

If there is no agreement by May, by admitting a divided Cyprus to the EU, the Union countries would be exporting a very complicated foreign policy problem. The stalemate on Cyprus also threatens to jeopardize Turkey's plans for starting accession negotiations with the EU and would further weaken the hand of Turkish Cypriots and Turks in the post-May 2004 period when the Greek Cypriots as a full-member of the EU would negotiate from a position of enormous strength. Under these conditions, it is essential to form a broad-based coalition government in the TRNC, which could restart negotiations and display a genuine political will with support from Turkey towards reaching an equitable and mutually acceptable solution.

Turkey has major concerns, particularly regarding territorial issues in Cyprus, but the UN proposal for a settlement presents an opportunity that all sides should take seriously.<sup>6</sup> However, the EU decision concerning admission to the EU of a divided Cyprus, while the Turkish case is still rather unclear, certainly provides asymmetric incentives and leverages for the parties concerned and it also weakens the position of pro-EU forces in Turkey and the TRNC in taking bold steps towards a mutually acceptable compromise solution.<sup>7</sup>

In any case, as is also clearly indicated by the 2003 EU Commission Progress Report, Turkey will be hard pressed to reach a deal on Cyprus in 2004. The European Commission has warned that the absence of a settlement could become "a serious obstacle" to Turkey's aspirations of starting formal accession talks with the European Union. For the first time a direct link was established in an EU report between the resolution of the Cyprus problem and

the starting of negotiations with Turkey. While this strong tone was relatively softened in the EU's Brussels Summit Presidency Conclusions by underlining "the importance of Turkey's expression of political will to settle the Cyprus problem" and stating that in this respect the settlement of the Cyprus problem along the lines of the Annan Plan "would greatly facilitate Turkey's membership aspirations," both of these reports have been sending a clear signal of increased pressure on Turkey regarding Cyprus.<sup>8</sup>

### **The US Factor in Turkey-EU Relations**

In order to have a better understanding of Turkey-EU relations, it is also essential to have a triangular approach by integrating the US factor. The role of the United States in promoting closer ties between Turkey and the EU has indeed been critical. Nevertheless, this impact should not be overemphasized, since American influence on decision-making by the EU elites remains limited over decisions concerning 'deep integration.' Moreover, the widening transatlantic rift under the Bush administration, particularly in the wake of the war in Iraq, further limits American influence over Brussels.

After the major setback Turkey experienced at the Luxemburg summit of 1997, the support by the Clinton administration was very helpful for achieving a favorable turn in Turkey-EU relations in the Helsinki Summit. However, the limits of the US influence were revealed in the context of the Copenhagen Summit, when explicit pressure by the Bush Administration to accelerate the progress for Turkish membership appeared to have backfired. There were three underlying reasons for this difference. First, in Helsinki it was merely giving candidate status to Turkey, whereas in Copenhagen the issue was about determining a date to start accession negotiations which made the prospects of Turkey's membership much more concrete and imminent. Second, as a result of the hawkish and often unilateralist policies of the Bush administration particularly concerning Iraq, a number of European countries led by France and Germany were reluctant to yield to US diplomatic pressures.<sup>9</sup> Third, in the aftermath of 9/11 and on the eve of the War in Iraq, while the US favored Turkey's closer integration with the EU as a strategic asset, for the Union countries expanding the EU borders to Turkey's volatile neighborhood that has been further destabilized by the developments in Iraq was perceived as a security liability.<sup>10</sup>

The long-standing strategic partnership between Turkey and the US was also challenged during the early months of 2003 in the context of the War on Iraq. The decision of the Turkish Parliament on March 1 refusing to authorize the deployment of US troops to Iraq via its territory was interpreted as a major blow by Washington resulting in a serious setback in relations.<sup>11</sup> What is significant for our purposes is the effect of this tension in Turkish-US

relations on Turkey's relations with the Union. This question becomes more complex and pertinent at a time when the Iraq War gave way to a major rift in the transatlantic alliance as well as creating deep divisions within the EU itself.

The war on Iraq and the subsequent problems with the US has pushed Turkey closer to the EU. First, the Turkish Parliament's decision indicated that despite its shortcomings Turkey had a functioning democracy even under heavy US pressure. Second, while straining Turkey's relations with the US and Britain which are the major supporters of Turkey's European quest, this decision ironically brought Turkish position closer to EU's powerful Franco-German core which have traditionally been a major center of resistance to Turkey's EU membership. Finally, the war has helped to swing the pendulum within Turkey's domestic politics further in the direction of the 'pro-EU coalition', which had already been gaining more strength since the Helsinki Summit of 1999. The realization that an over-reliance on a security triangle formed by Turkey's close ties with US and Israel as an alternative to European integration is not a viable option for Turkey further empowered the 'pro-EU coalition' and accelerated the reform process on the economic and democratization fronts.

While short-term dynamics appear to favor closer relations between Turkey and the Union, it should also be stressed that achieving a smooth and rapid progress towards EU membership would be extremely difficult in the absence of US support. Thus, it is critical from a Turkish perspective, that relations with the US are restored and placed on a sound footing. This is also important for the future course of Turkey-EU relations. The restoration and enhancement of the Turkey-EU-US triangle will not only assist Turkey's quest for EU membership, but it would also enable Turkey to develop a more balanced relationship with the United States. This, in turn, will enable Turkey to develop a multi-dimensional foreign policy and to play a more effective and constructive regional role.

These projections for Turkey's prospects, however, should be qualified by the fact that serious obstacles need to be overcome in relations with both the EU and the US. In doing this, instead of a passive attitude based on an over reliance on the vague notion of 'geo-strategic importance', a proactive strategy designed to enhance relations with the EU and the US simultaneously is essential. Yet, the ability to develop and implement such a strategy depends heavily on the interaction of contending forces in Turkey's domestic political scene and the intricate dynamics of transatlantic relations.

### Shaping the New Europe

While Turkey is dealing with its challenging domestic and international problems, there are also questions for European Union countries that they have long been delayed. First, how does the Union want to define itself and EU citizenship, particularly after the new wave of enlargement? And what should be done about the future of Turkish-EU relations?

On the European front, in addition to the issues highlighted by the Copenhagen criteria, there are also significant concerns regarding Turkey's size, economic problems and volatile neighborhood. The question of Turkish admission has also initiated an intensive debate about the definition of Europe and the future of the Union. While many view it as a 'common project of shared values and destinies' and emphasize multiculturalism, there is also an opposing group whose views were voiced by the former French President and European Convention Chairman Valéry Giscard d'Estaing. They tend to define Europe in culturally exclusive and religious terms and strongly object to Turkey's membership arguing that it would mean 'the end of Europe.'

This view overlooks the historical development of Turkey's relations with Europe and the Union. Throughout the Cold War, as a member of NATO, Turkey was acknowledged as an indispensable European country essential for the continent's security. Even Giscard d'Estaing's predecessor, General Charles de Gaulle, argued back in 1963 that Turkey was a European country and therefore eligible to join, while at the same time that he was vetoing the membership of Britain. Turkey has already signed an association agreement with the European Community in 1963 and established a Customs Union in 1996. It has been officially admitted as a candidate country at the Helsinki summit of 1999.

Moreover, if the Union is defined exclusively in religious and cultural terms, where would Europe's own substantial Muslim population fit? And most importantly, what about the other core values and the open societies that the EU claims to stand for? These complicated issues also found resonance during the heated debates in the EU Brussels Summit in December 2003 over the question of whether there should be an ascription to Christianity in the EU constitution.

At the most fundamental level, an open society is characterized by the rule of law, respect for human rights and minority opinions, and freedom of thought and expression.<sup>12</sup> Instead of an exclusive and rigid political and social structure, it is based on participation and inclusion. The concept underlines the positive aspects of democracy and it is supposed to define the core values of European identity. At this critical juncture, it is crucial that these values and open societies prevail in shaping the future of Turkey, the EU and the relations between them.

In conclusion, the EU serves as a powerful external anchor for Turkey in stimulating reforms that give impetus to democratization and economic recovery. On the domestic front, Turkey has made a giant step towards fulfilling the Copenhagen criteria by introducing key changes through legislation. However, fully implementing them in practice will be essential and will serve as the real challenge. In the foreign policy arena, the Cyprus issue will dominate the agenda throughout 2004 and will be the most complicated problem that Turkey needs to overcome on its thorny path towards membership. In assessing the Turkey-EU relations another important external factor, which needs to be taken into consideration is the impact of the United States. Finally, the developments concerning the EU's own internal dynamics regarding how it wants to define its borders, whether it desires to be a genuine global power and finally which core values will prevail in the Union, will not only determine the course of Turkey-EU relations, but will also shape the future of New Europe.



## Endnotes

<sup>1</sup> "Eurobarometer 2001 Survey." In: A. Çakırcıoğlu, & E. Refik, K. Kemal, Y. Hakan, *Türk Halkının Avrupa Birliği Üyeliğine Bakışı*, İstanbul: TESEV Yayınları, Haziran 2002.

<sup>2</sup> Copenhagen European Council, *Council Presidency Conclusions*, 12-13 December 2002.

<sup>3</sup> For early assessments of the Copenhagen Summit, see B. Gökyay and B. Aras, "Turkey after Copenhagen: walking a tightrope", *Journal of Southern Europe and the Balkans*, Vol. 5, No. 2, August 2003, 147-163; S.Yılmaz, "At the Gates of Europe" *The World Today*, Vol. 59, No.1, January 2003, 47-56.

<sup>4</sup> "The Third Reform Package in Turkey", *Information from the European Commission*, 29 August 2002; P. O'Toole, "Analysis: Turkey's EU-Friendly Reforms", BBC, 30 July 2003.

<sup>5</sup> S. Çağatay, "European Union Reforms Diminish the Role of the Turkish Military: Ankara knocking on Brussels' Door", *Analysis of Near Policy from the Washington Institute*, Policywatch no. 781; "7. Paket Devrimi", *Hürriyet*, July 3, 2003.

<sup>6</sup> For the details of the UN Plan, see Kofi Annan, "The Annan Plan", <http://www.cyprus-un-plan.org/>.

<sup>7</sup> For an extensive analysis of Turkey-Greece-EU relations and the issue of asymmetric incentives in Cyprus, see Z. Onis, "The Role of the European Union in Greek-Turkish Relations: Perpetuator of Conflict or Contributor to Peace?" In: C. Kollias and G. Gunluk Senesen, eds., *Greece and Turkey in the 21st Century: Conflict or Cooperation- A Political Economy Perspective*, New York: Nova Science Publishers, 2003.

<sup>8</sup> See European Council, *Presidency Conclusions*, Brussels, 12 December 2003; *Presidency Conclusions*, Thessaloniki, 19-20 June 2003; *Presidency Conclusions*, Copenhagen, 12-13 December 2002.

<sup>9</sup> For a comprehensive analysis of US foreign policy after 9/11 and its implications for Turkey, see F. Keyman, "11 Eylül Sonrası Dünya, Türkiye ve Dış Politika," *Foreign Policy*, December 2003, 108-116.

<sup>10</sup> On the different perceptions of the US and the EU regarding Turkish accession, see B. Kuniholm, "Turkey's Accession to the European Union: Differences in European and US Attitudes, and Challenges for Turkey", *Turkish Studies*, Vol. 2, No. 1, Spring 2001, 25-53.

<sup>11</sup> See M. R. Parris, "Starting Over: US-Turkish Relations in the Post-Iraq War Era", *Turkish Policy Quarterly*, Vol. 2, No. 1, Spring 2003, 7.

<sup>12</sup> The term open society was coined by the French philosopher Henri Bergson and developed further by Austrian philosopher Karl Popper in his 1945 book *Open Society and its Enemies*.

## The Challenges of Citizenship in Cyprus

*Niyazi Kızılyürek*

To talk about the modernity of citizenship is to talk about a juridical and political belonging to a modern state or to a political community. In this respect, Cyprus could be categorized as one of the most peculiar, to say nothing of complicated, cases when it comes to the notion of citizenship. An explanation for this is to be found in the fact that Cypriot nationalism did not seek the formation of a state on Cypriot soil, and due to historical and political circumstances, state-building has not attracted the two communities of Cyprus into one nationally coherent unit. Historically speaking, neither the nationalist anti-colonial struggle of the Greek Cypriots, nor the counter-nationalist struggle of the Turkish Cypriots, had at stake an independent statehood in Cyprus.

Due to the lack of common political aims and objectives, one could argue, the traditional Ottoman System of *millet*, which was based on the autonomy of the religious communities, has continued throughout the modern period, where nationalism has come to politicize and reconstruct the religious groups and turn them into separate national communities. As a result the traditional Cypriot communities have not developed a common sense of political belonging and the members of the two communities did not become members of one political community. Under the influence of bi-polar nationalism, the inhabitants of Cyprus, Greek Cypriots and Turkish Cypriots, found themselves in antagonistic stances concerning the political future of Cyprus which carried the historical burden of Greco-Turkish warfare and the ideological legacy of Greek and Turkish nationalism. Thus, an organic concept of nation, based on ethnicity and culture in the Greek case, and on blood ties and ethnicity in the Turkish case, has undermined anything civil, territorial and civic, and turned the inhabitants of Cyprus into 'co-nationals' of the Greek and Turkish nations respectively. The formation of the Cypriot state in 1960, despite the will of the Cypriot communities, has accommodated the two separate collective identities without having constructed a common sense of citizenship and political belonging, and has failed to develop those ties that politically bind. In fact, the state of Cyprus has been systematically undermined by the inherent *Anschluss* nationalism (union with motherlands) of the two communities. Although the members became 'subjects' of the Cypriot state, they have either failed or have been obstructed, in becoming citizens of the republic and therefore continued to act as 'co-nationals' of the Greek and Turkish nations. Cyprus as a space, territory and *patrie*, became politically meaningless for its own population and the only meaning the island could

have was within the national maps of Greece and Turkey.

Now, a major problem for the development of a contemporary democratic form of citizenship is directly related to the whole problem of statehood in Cyprus. How can we achieve political attachment to the future common state which will be based on a compromise between the national communities with such a strong sense of ethnic attachment and with such a legacy of national antagonism?

It is a historical fact, and a political reality, that the age of modernity and nationalism in Cyprus turned the pre-modern traditional communities into two distinct national and separate political communities. In this respect, the challenge today is to develop political solutions in order to cope with the consequences of the nationalist period. In other words, the task is to devise political systems that incorporate the reality of nationalism without turning our history into 'a tale of good and evil sides'.

First of all, I would like to emphasise that it is no longer possible to eliminate the sense of distinct identity, which has formed distinct national societies. The attempts to subordinate these separate identities to a common identity will backfire since national communities perceive them as threats to their very existence. On the other hand, neither complete Turkish independence through separation, nor a Greek nation-state through domination or assimilation, is acceptable or appropriate. Hence, the answer must be a form of political accommodation in which the national communities live together under one political roof without fear of domination or separation, on the basis of equality, both in an individual and collective sense. This is why federalism seems to be an appropriate system. The questions such as national culture and sovereignty or diversity, and unity, can be dealt with through federalism. For, "Federalism allows us to deal with the question of national culture without idealising, privatising, or disregarding it."<sup>1</sup> Further, in a federal state each national community can achieve a limited national self-determination but not a separate national sovereignty. While they are part of one country, this is not a renunciation of their right of self-government. Rather, it is a matter of transferring some aspects of their powers to the common polity, on the condition that other powers remain in their own hands.

However, here lie the difficult and painful problems of political unity and social justice. Certainly, unity in Cyprus cannot be based on the shared traditions, cultures and languages that characterise successful nation-states. Instead, Cypriot unity must be founded, as Habermas would say, on a post-national constitutional patriotism based on shared principles of justice and democracy. In other words, what is at stake here is not 'belonging together' but 'belonging to a polity'. "The notion of 'belonging to a polity' refers to vertical recognition, that is, mutual recognition between political institutions

and citizens.”<sup>2</sup> In short, ‘belonging together’ refers to a cultural identity, whereby ‘belonging to a polity’ refers to a kind of political identity. One of the priorities of the common Cypriot State would be to strengthen the ‘belonging to a polity’, rather than the ‘belonging together’. As a nineteenth-century English theorist, Dicey, once said, “a stable multinational federation requires a very peculiar state of sentiment among its citizens, since they must desire union and must not desire unity”.<sup>3</sup> Hence, we are in need of an arrangement that unifies the ethnic groups without fusing them, and accommodate questions of identity and recognition, as well as those of justice and democracy.

This again seems not to be an easy task, given that in a society which recognises group-differentiated rights, the members of the groups are incorporated into the political community, not only as individuals but also through the group, in which their rights depend, in part, on this very group membership/identity. If citizenship means membership in a political community, then by having overlapping political communities, group-differentiated rights necessarily give rise to a sort of ‘dual citizenship’ and to potential conflicts about which community citizens identify with most closely. Moreover, this may simply fuel the ambitions of nationalist leaders who will be satisfied with nothing short of their own nation-state or will use the group rights as a basis for the implementation of a kind of Ottoman-Millet-System where the interaction between groups will be strictly limited, and the rights of the individual completely renounced.<sup>4</sup> These are already the essentials of the Turkish Cypriot proposals for a possible settlement in Cyprus. However, denying self-government rights can also threaten political unity and social justice by encouraging secession or by delivering the smaller community to the mercy of the majority.

What is in need then is a combination of universal individual rights and group-specific ‘community rights’. But here too we face certain difficulties, as in an asymmetric society, to achieve justice between groups may require that the members of different groups be accorded different rights. The accommodation of existence difference may impose restrictions on the members of the bigger community; hence it is a burden. One of the challenges facing Cyprus, therefore, is finding an acceptable form of ‘asymmetrical federalism’, which grants powers to one region, not given to the other. I do not see an inherent contradiction between equality and differentiated citizenship or asymmetrical federalism. If one approaches the notion of differentiated citizenship, not as an institutional solution for its own sake, but as a social and political process, it should not be considered only as a set of extra-rights, but also-and above all-as a process that, even sometimes contradictory and unstable, aims to achieve a progressive political and social integration.<sup>5</sup> In this con-

text, the possible limitations are not to be imposed unilaterally but are to be defined by all interested parties through consensus. Moreover, these limitations are not to be permanent and should not be stated as such in the federal constitution. As with integration progresses in the years following the initial settlement, these restrictions should be gradually removed for a fully-fledged integration on the island. Of course, it would be an important obligation of the common state to ensure that group specific rights do not abolish individual rights.

It is evident that neither the classic liberalism based only on individual rights, nor classic republicanism of common good which may neglect collective particularities, can respond to the demands of a political accommodation which aims at political unity in a society where the ethnic identities are manifested and transferred into the public sphere. However, in order to overcome the possible difficulties of the Cypriot Union we need something more than just a *modus vivendi* between the two separate communities or normative exercises. Without a kind of intrinsic bond, or political will, and without the political principles that would lead the members of one national community to make sacrifices for the other, the multinational federal state will be inherently unstable. And without mutual recognition and co-operation, common purpose and ability to achieve consensus, it will be almost impossible to make the common state functional. Hence, federalism, while endorsing the perpetuation of several cultural groups in a single political society, also requires the existence of a common political culture. Members of all cultural groups will have to acquire a common political language and conventions of conduct to be able to participate effectively in the competition for resources and the protection of group as well as individual interests in a shared political arena. Thus a multinational democratic state is not grounded in a kind of national identity, but in the socialisation of each citizen in a common political culture.<sup>6</sup> This would mean the rise of a sort of common patriotism, as for example, has been defined by Karl Deutsch, which differs fully from nationalism and is based on the political will to consider the interests of all citizens who share the same country, independent of their ethnic and cultural peculiarities.

A union of citizens, as Habermas says, "does not derive its identity from some common ethnic and cultural properties, but rather from the praxis of citizens who actively exercise their civil rights."<sup>7</sup> The legitimacy of a polity constituted by such citizens, "does not refer to some substantive collective will which would owe its identity to a prior homogeneity of descent or form of life, but will derive from a consensus achieved among free and equal citizens whose relations are based on mutual recognition, that is, where everyone receives equal protection and respect in his/her integrity as a unique individual but also as a member of an ethnic or cultural group and as a citizen".<sup>8</sup> In

this kind of Pluralist Union the 'patriotic citizen' is not the one who in a passionate way enjoys his/her own ethnicity and gets enslaved in to identity politics that may disregard the rights and cultural peculiarities of the other citizens, but is the one who knows to act passionately to defend democratic principles.

However, this common political culture is only to be developed and maintained if the members of the multicultural society are enjoying those social benefits, which are to be derived from the common democratic political culture. This is a necessity for the strengthening of the sense of solidarity among the members of society.

Although federalism seems to offer a solid foundation for a common state in Cyprus, the chance of a political culture based on a sort of post-national patriotism and on a democratic citizenship emphasises the difficulties of this enterprise. Hence, attention should be given to the formation of a common political culture, which goes beyond respect and tolerance of cultural diversity. Cultural diversity is given. What is missing is the political culture and democratic citizenship to accommodate this diversity. To be Greek, Turk or Cypriot does not necessarily make one a good citizen, neither does one need to give up anything from his/her culture in order to become a good citizen. The struggle to arrive at federalism should be accompanied with a struggle to form a kind of democratic citizenship, otherwise Cyprus may repeat the same experience as in 1960, namely to arrive at common statehood without citizens, only 'subjects'.

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<sup>1</sup> G. Jusdanis, *The Necessary Nation*, Princeton University Press, Princeton and Oxford, 2001. 223.

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<sup>3</sup> W. Kymlicka, *Multicultural Citizenship*, Oxford University Press, Oxford, 1995. 192.

<sup>4</sup> Ibid. 182.

<sup>5</sup> M. Gianni, "Multiculturalism, Differentiated Citizenship, and the Problem of Self-Determination" 236.

<sup>6</sup> J. Habermas, *Die Einbeziehung des Anderen*, Suhrkamp Verlag, Frankfurt am Main, 1996. p. 175.

<sup>7</sup> N. Porter, *Rethinking Unionism, An Alternative Vision for Northern Ireland*, The Blackstaff Press, Belfast, 1996. 158.

<sup>8</sup> Ibid. 158.

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# **B**ook Review

# **K**itap Tanıtımı



## Milliyetçilik Kıskaçında Kıbrıs,

*Niyazi Kızılyürek,*

İletişim Yayınevi, İstanbul, 2002.

**Muhayyel Cemaat<sup>1</sup> ve Evladı**

**Ya da Hayal Edilmiş/Tasarlanmış Topluluklar ve Çocukları**

Gizli adı “Kıskaç İçinde Milliyetçilik” olan ve Niyazi Kızılyürek tarafından kaleme alınan “Milliyetçilik Kıskaçında Kıbrıs” isimli kitap, 2002 yılında İletişim Yayınları tarafından yayınlandı. Kitabın yayını, uluslararası arenada Kıbrıs sorununa çözüm arayışlarının doruğa çıktığı, Kıbrıs meselesi hakkında söz söyleyip söylememenin siyasi bir tavır alıp almamakla özdeşleştirildiği bir döneme rastladı. Kitap, içeriği itibarıyla, sorunun kaynağına bilimin merdiveniyle inmesi, sorunun etrafında süregiden güncel tartışmaları milliyetçilik kavramını merkeze alarak incelemesi ve bu tartışmaların nasıl bir kısır döngü içerisine hapsedildiğini göstermesi açısından büyük önem taşımaktadır.

Yazım macerasının son aşamasında çift isimle doğan kitap, Kıbrıs sorununun “dört öteki”<sup>1</sup>sinin bir araya getirmektir. Kıbrıs’ta milliyetçilik olgusunun incelenmesinin yolunun Türk ve Helen milliyetçiliklerinin tanımlanmasından geçtiğini ve Kıbrıs’ta milliyetçiliğe bakmanın Kıbrıslılar kadar Türk ve Yunan toplumlarının da kendilerine ayna tutmasını gerektirdiğini belirten Kızılyürek, eserinin kurgusunu da bu yaklaşım üzerine kurmuş ve sırasıyla Helen, Kıbrıs’ta Helen, Türk ve Kıbrıs’ta Türk milliyetçiliklerinin oluşumunu ve gelişimini tarihsel arkaplanlarıyla ele almıştır.

Giriş bölümünde okuyucuyu milliyetçi ideoloji ve onun terminolojisiyle tanıştıran Kızılyürek, onu, bu ideoloji etrafında uluslararası literatürde yeralan tartışmaların merkezine çekmeyi de ihmal etmemiştir. Kızılyürek, kitabının ilerleyen bölümlerinde Kıbrıs pratiği/pratikleri ekseninde ele alacağı milliyetçilik ideolojisinin kuramsal çerçevesini de bu bölümde çizmiştir.

Eserin ilk iki bölümü Helen ve Kıbrıs’taki Helen milliyetçiliklerine ayrılmış. Yazar, ilk bölümde, Helen milliyetçiliğinin tarih sahnesine çıkışı ile Avrupa Aydınlanmasının eşzamanlılığını vurguluyor ve tanımını bu tarihsel paralellik üzerinden inşa ediyor. Bu bölümde, Megali İdea’nın doğuşunun ve çöküşünün hikayesi aktarılmakta. Kronolojik anlatım 1940’larda sona eriyor. Kıbrıs Rum toplumunun etnik/kültürel kimliğinin milliyetçilik ideolojisi etrafında siyasallaşmasını ise Kızılyürek, başka bir tarihsel eşzamanlılıkla açıklıyor. Kitabın ikinci bölümünde, Yunanistan’da Megali İdea’nın çöküşüyle Kıbrıs’ta Helen milliyetçiliğinin (Enosis milliyetçiliği) yükselişinin paralelliliğini tarihin bir ironisi olarak irdeleyen yazar, Enosis milliyetçiliğinin

ekonomik alt yapısının nasıl şekillendiğini detaylı bir biçimde okuyucusuna aktarıyor. Bu bölümün en ilgi çeken kısımlarından biri de, 1960 doğumlu Kıbrıs devletinin, 1974 sonrasında, Kıbrıslı Rumlar tarafından nasıl olup da "halkat garibesi"nden can simâline dönüştürüldüğünün hikayesinin anlatıldığı, "Enosis'ten Epanenosis'e ya da Devletin Geri Dönüşü" alt başlığıdır.

Milliyetçilik dördemesinin üçüncü ayağı olan Türk milliyetçiliğinin tanımını ve tarihsel arkaplanı, kitabın üçüncü bölümünde, zengin detaylara bezenerek aktarılmıştır. Milliyetçilik bağlamında son dönem Osmanlı ve Cumhuriyet dönemlerinin sürekliliğinin vurgulandığı bu bölümde eksik kalan tek değerlendirme, Abdülhamit Dönemi ve bu dönem özelinde ele alınmayı gerektiren öncül "resmî milliyetçilik" söylemine<sup>2</sup> ilişkindir. Bu bölümde de kronolojik anlatım, Helen milliyetçiliğinin ele alındığı bölüm paralelinde, 1940'larda sona ermektedir.

Kızılyürek, kitabının giriş bölümünde ip uçlarını verdiği ve ikinci bölümde (Kıbrıs'ta Helen milliyetçiliği) etraflıca işlediği kuramsal modelinin Kıbrıs milliyetçiliği pratiğinde uygulanışını dördüncü bölümünde de etraflıca ele alıyor. Yazar, adada ortak bir modernleşme sürecinin yaşanmadığını, geç kapitalistleşmeyle bağlantılı Kıbrıs Türk milliyetçiliğinin Enosis milliyetçiliğine karşı bir milliyetçilik olarak geliştiğini belirtiyor. Bu değerlendirme kapsamında, Türkiye'nin Kıbrıs Davasına/Sorununa angaje edilme sürecinin, Enosis'e karşı İngiliz sömürge yönetimi ile oluşturulan işbirliğinin, Kıbrıs Sorununun uluslararasılaşmasının ve taksim tezinin doğuşunun dış politika dinamikleriyle bağlantılı olarak ele alındığını görüyoruz. Kızılyürek, özellikle 1974 sonrası icat edilen gelenekteki soykütükçü yaklaşım ile Kıbrıs Türk etnikliğinin Türk milliyetçiliğine eklemelendiğini belirtiyor ve Türk-merkezci milliyetçilik anlayışı ile Kıbrıs Türk-merkezci ve Kıbrıs-merkezci anlayışların, politikaların gel-gitli, çapraşık ve karmaşık denklemini bu veri üzerinden değerlendiriyor.

Kitabın beşinci bölümü, Kıbrıs Birliği'nin Tarihsel, Siyasi ve Hukuksal Temelleri başlığını taşıyor ve diğer bölümlerden farklı olarak kurgulanmış. Bilgi aktarımından ziyade siyasi önermelerin<sup>3</sup> yer aldığı bu bölümde yazar, Kıbrıs'ın milliyetçilik kaskacından ancak AB şemsiyesi altında bir federasyon ile kurtulabileceğini belirtiyor. Federalizm çerçevesinde ortaya çıkabilecek sorunlara da (ki bunlar daha çok ekonomik olacak) "pozitif ayrımcılık" kavramıyla ışık tutmaya çalışan Kızılyürek, Habermas'ın "anayasal yurtseverlik" kavramından yola çıkarak, postnasyonel dönemde Kıbrıs ve Kıbrıslılar için kültürel değil ama siyasi bir birliği öneriyor. Yazar, 21. yüzyılda ve bu tarz bir siyasal birlik çerçevesinde tasarlanacak bir toplumun (muhayyel cemaatin) barış içinde yaşayabilmesi için, 19. yüzyıldakinden farklı olarak, ortak kültürel (geleneksel, dilsel, dinsel) kimlik arayışı içinde olmayacağını, hatta olmaması gerektiğinin altını çiziyor.

Bu kısa tanıtım yazısı çerçevesinde yukarıda değinilen aktarımlar, kitabın

içerdiği kuramsal tartışmanın, yoğun bilgi bombardımanının yüzeyine dokunabiliyor ancak. Kitabın bir diğer özelliği ise, Yunanca ve Türkçe kaynakların kullanılması ve okuyucuya, dört ötekinin tamamının bakış açılarının yansıtılması.

**Son söz:** Daha önce, Kıbrıs Sorunu ve tarihi ile ilgili, Türkçe ve Yunanca olmak üzere bir çok makale ve kitaba (Kıbrıs Sorununda İç ve Dış Etkenler(1983), Paşalar ve Papazlar(1988), İ Olike Kipros (1993), Ulus Ötesi Kıbrıs (1993), Kipros To Adioksodo Ton Ethnikismon (1999) imza atmış bir akademisyen olarak Kızılyürek, bu önemli çalışması ile, Kıbrıs sorunu etrafında ulusal/uluslararası siyaset tarafından yaratılan toz duman ortamına akademik duruşun serinkanlılık ve berraklığını sunuyor.

**Yrd. Doç. Dr. Gül Barkay**

*Doğu Akdeniz Üniversitesi*

**Notlar**

<sup>1</sup> "...Muhayyel Cemaat fikrine gelince, onun kısa tanımını da aşağıdaki şekliyle yapmak mümkündür. Bir bakıma muhayyel cemaat (veya tasarlanmış toplum) kavramı icad edilen geleneğin bir alt türüdür... belli bir kitle sathına yayılmak istendiği zaman hedef alınan kitle yönetici sınıf tarafından belirli bir biçimde hayal edilir (ya da tasarlanır). Bundan sonraki aşama bu kitlenin de kendi kendisini o prizmadan bakarak bir muhayyal cemaat olarak vaz etmesini temin etmektir..." S. Deringil, "Osmanlı İmparatorlu'nda Geleneğin İcadı, Muhayyel Cemaat (Tasarlanmış Topluluk) ve Panislamizm", *Toplum ve Bilim*, Güz 1991, s. 48. Deringil bu makalesinde Benedict Anderson'ın Imagined Community fikrini Osmanlı toplumu çerçevesinde irdelemektedir.

<sup>2</sup> P. Patersoo, "Nationalism and Dialectic with the Other, Positive and Negative Others in Estonia", *The Electronic Review of Politics*, C: I, No. 1, Mayıs 2000. Patersoo, bu çalışmasında, Estonya örneğinde öteki kavramını ikili içeriğinden sıyrarak, negatif dışsal öteki, pozitif dışsal öteki, negatif içsel öteki ve pozitif içsel öteki olarak çeşitlendiriyor.

<sup>3</sup> S. Deringil, *The Well Protected Domains*, I.B. Taurus, London, 1998.

<sup>4</sup> Kızılyürek Kıbrıs Sorununun çözümü bağlamında bir diğer önermeyi eserinin başlangıcında Mevlana'dan yaptığı bir alıntıyla okuyucuya aktarıyor:

"Karşındakinde gördüğün suç  
Sendeki suçun cinsindedir  
Önce o huyu  
Kendi tabiatında arıtman gerek  
Sendeki çirkin huy  
Sana onda göründü  
O sana adeta bir aynadır"

**Mevlana**

COMMITMENT TO SUPPORT THE  
FOUNDATION AGREEMENT TO APPROVAL  
AT SEPARATE SIMULTANEOUS REFERENCE  
IN ORDER TO ACHIEVE A COMPREHENSIVE  
SETTLEMENT OF THE CYPRIOT PROBLEM

We have previously stated in our report on the  
Cyprus Question that we support the  
Foundation Agreement as a basis for  
achieving a comprehensive settlement of  
the Cypriot problem. We have also  
stated that we support the Foundation  
Agreement as a basis for achieving a  
comprehensive settlement of the  
Cypriot problem. We have also stated  
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BASIS FOR A COMPREHENSIVE  
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comprehensive settlement of the  
Cypriot problem.

**Archive**  
Arşiv

Revision: 26 February 2003

**BASIS FOR A COMPREHENSIVE  
SETTLEMENT OF THE CYPRUS PROBLEM**

## **COMMITMENT TO SUBMIT THE FOUNDATION AGREEMENT TO APPROVAL AT SEPARATE SIMULTANEOUS REFERENDA IN ORDER TO ACHIEVE A COMPREHENSIVE SETTLEMENT OF THE CYPRUS PROBLEM**

We, the democratically elected leaders of the Greek Cypriots and the Turkish Cypriots, following negotiations under the auspices of the Secretary-General of the United Nations in which each side represented itself, and no-one else, as the political equal of the other, agree to put for approval in separate simultaneous referenda on 30 March 2003 the attached Foundation Agreement, dated [...] 2003, incorporating any alterations we may jointly agree on by 25 March 2003 and including its completed annexes and attachments, in particular, regarding

- (i) the flag and anthem of the United Cyprus Republic as chosen according to the procedures of the flag and anthem competitions currently being conducted;
- (ii) the List of International Treaties binding on the United Cyprus Republic and the texts of the Constitutional Laws, Cooperation Agreements, and federal laws as negotiated by the technical committees; and
- (iii) the appointees to the transitional Supreme Court and the transitional Board of the Central Bank;

with any indispensable suggestions the Secretary-General of the United Nations might make to complete these attachments should they not be completed by 25 March 2003 (or, in the case of appointees, 10 March 2003), together with a constituent state Constitution consistent with the draft Foundation Agreement and containing the following article:

- i) "constituent state laws adopted pursuant to a provision put to referendum together with the Foundation Agreement and this Constitution shall, as from entry into force of the Foundation Agreement, be applied in this constituent state with such modifications as may be necessary to bring them into conformity with the Foundation Agreement and the Constitution of this constituent state.

- ii) No provision in any such law which is contrary to or inconsistent with any provision of the Foundation Agreement or this Constitution shall so continue to be in force.
- iii) The term “modification” in the above paragraphs includes amendment, adaptation and repeal.”;

and a provision specifying those laws that shall become laws of our respective constituent state, by asking the following question:

“Do you approve the Foundation Agreement with all its Annexes, as well as the Constitution of the Greek Cypriot/Turkish Cypriot constituent state and the provisions as to its laws to be in force, to bring into being a new state of affairs in which Cyprus joins the European Union united? Yes/No”;

and invite the Secretary-General of the United Nations to request the Security Council to take decisions as set out in an appendix to this Document.

We welcome the willingness of the European Commission to organise an international donors’ conference and request the full support of the international community.

Done at [            ] this [    ] day of [            ] 2003 in four copies in the English language.

Signature  
For the Greek Cypriot side

Signature  
For the Turkish Cypriot side

### **Statement by Greece, Turkey and the United Kingdom**

The Hellenic Republic, the Republic of Turkey, and the United Kingdom of Great Britain and Northern Ireland hereby confirm:

- (i) that they agree to the Foundation Agreement being so put to separate simultaneous referenda; and
- (ii) that, upon approval of the Foundation Agreement at separate simultaneous referenda, they are committed to signing together with the United Cyprus Republic the Treaty on matters related



to the new state of affairs in Cyprus as annexed to the Foundation Agreement, which shall be registered as an international treaty in accordance with Article 102 of the Charter of the United Nations.

Done at [ ] this [ ] day of [ ] 2003 in four copies in the English language.

Signature  
Hellenic Republic

Signature  
United Kingdom  
of Great Britain and  
Northern Ireland

Signature  
Republic of Turkey

Witnessed by

Kofi A. Annan  
Secretary-General of the United Nations

**Appendices: Foundation Agreement  
Matters to be Submitted to the United Nations  
Security Council for Decision**

## FOUNDATION AGREEMENT

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**Note on marking up:** All changes where text is added or restructured are highlighted (with the exception of the consequential changes flowing from changes to Article 1.1 of the Constitution). Deleted text is indicated (~~struck out~~) only if it is not replaced by new text. Substantial changes are further highlighted in **bold**.

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## Main Articles

- i. *Affirming that Cyprus is our common home and recalling that we were co-founders of the Republic established in 1960*
- ii. *Resolved that the tragic events of the past shall never be repeated and renouncing forever the threat or the use of force, or any domination by or of either side*
- iii. *Acknowledging each other's distinct identity and integrity and that our relationship is not one of majority and minority but of political equality*
- iv. *Deciding to renew our partnership on that basis and determined that this new bi-zonal partnership shall ensure a common future in friendship, peace, security and prosperity in an independent and united Cyprus*
- v. *Underlining our commitment to international law and the principles and purposes of the United Nations*
- vi. *Committed to respecting democratic principles, individual human rights and fundamental freedoms, as well as each other's cultural, religious, political, social and linguistic identity*
- vii. *Determined to maintain special ties of friendship with, and to respect the balance between, Greece and Turkey, within a peaceful environment in the Eastern Mediterranean*
- viii. *Looking forward to joining the European Union, and to the day when Turkey does likewise*
- ix. ~~*Welcoming the Comprehensive Settlement freely reached by our democratically elected leaders on all aspects of the Cyprus Problem, and its endorsement by Greece and Turkey, along with the United Kingdom*~~

*We, the Greek Cypriots and the Turkish Cypriots, exercising our inherent constitutive power, by our free and democratic, separately expressed common will adopt this Foundation Agreement.*

**Article 1**            *The new state of affairs*

1. This Agreement establishes a new state of affairs in Cyprus.
2. The treaties listed in this Agreement bind Cyprus and the attached legislation ~~indispensable for the functioning of the federal government~~ shall apply upon entry into force of this Agreement.
3. The Treaty of Establishment, the Treaty of Guarantee, and the Treaty of Alliance remain in force and shall apply *mutatis mutandis* to the new state of affairs. Upon entry into force of this Agreement, Cyprus shall sign a Treaty with Greece, Turkey and the United Kingdom on matters related to the new state of affairs in Cyprus, along with additional protocols to the Treaties of Establishment, Guarantee and Alliance.
4. Cyprus shall sign and ratify the Treaty of Accession to the European Union.
5. Cyprus shall maintain special ties of friendship with Greece and Turkey, respecting the balance established by the Treaty of Guarantee and the Treaty of Alliance and this Agreement, and as a European Union member state shall support the accession of Turkey to the Union.
6. Any unilateral change to the state of affairs established by this Agreement, in particular union of Cyprus in whole or in part with any other country or any form of partition or secession, is prohibited. Nothing in this Agreement shall in any way be construed as contravening this prohibition.

**Article 2**            *The United Cyprus Republic, its federal government, and its constituent states*

1. The status and relationship of the **United Cyprus Republic**, its **federal government**, and its **constituent states**, is modeled on the status and relationship of Switzerland, its federal government, and its cantons. Accordingly:
  - a. The United Cyprus Republic is an independent state in the form of an indissoluble partnership, with a federal government and two equal constituent states, **the Greek Cypriot State and the Turkish Cypriot State**. Cyprus is a member of the United Nations and has a single international legal personality and sover-

- eignty. The United Cyprus Republic is organised under its Constitution in accordance with the basic principles of rule of law, democracy, representative republican government, political equality, bi-zonality, and the equal status of the constituent states.
- b. The federal government sovereignly exercises the powers specified in the Constitution, which shall ensure that Cyprus can speak and act with one voice internationally and in the European Union, fulfill its obligations as a European Union member state, and protect its integrity, borders, resources and ancient heritage.
  - c. The constituent states are of equal status. Within the limits of the Constitution, they sovereignly exercise all powers not vested by the Constitution in the federal government, organising themselves freely under their own Constitutions.
2. The constituent states shall cooperate and co-ordinate with each other and with the federal government, including through Cooperation Agreements, as well as through Constitutional Laws approved by the federal Parliament and both constituent state legislatures. In particular, the constituent states shall participate in the formulation and implementation of policy in external relations and European Union affairs on matters within their sphere of competence, in accordance with Cooperation Agreements modeled on the Belgian example. The constituent states may have commercial and cultural relations with the outside world in conformity with the Constitution.
  3. The federal government and the constituent states shall fully respect and not infringe upon the powers and functions of each other. There shall be no hierarchy between federal and constituent state laws. Any act in contravention of the Constitution shall be null and void.
  4. The Constitution of the United Cyprus Republic may be amended by separate majority of the voters of each constituent state in accordance with the specific provisions of the Constitution.

**Article 3**            **Citizenship**

1. There is a single Cypriot citizenship. Special majority federal law shall regulate eligibility for Cypriot citizenship.
2. All Cypriot citizens shall also enjoy internal constituent state citizenship status. Like the citizenship status of the European Union, this status shall complement and not replace Cypriot citizenship.



3. Political rights at the federal level shall be exercised based on internal constituent state citizenship status. Political rights at the constituent state and local level shall be exercised at the place of permanent residency.
4. Until Turkey's accession to the European Union, a constituent state may limit the establishment of residence by persons hailing from the other constituent state. To this effect, it may establish a moratorium until the end of the sixth year, after which limitations are permissible if the number of residents hailing from the other constituent state has reached 7% of the population of a village or municipality between the 7th and 10th years and 14% between the 11th and 15th years and 21% of the population of the relevant constituent state thereafter. After the second year, no such limitations shall apply to former inhabitants over the age of 65 accompanied by a spouse or sibling, nor to former inhabitants of specified villages.

*Article 4            Fundamental rights and liberties*

1. Respect for human rights and fundamental freedoms shall be enshrined in the Constitution. There shall be no discrimination against any person on the basis of his or her gender, ethnic or religious identity, or internal constituent state citizenship status. Freedom of movement and freedom of residence may be limited only where expressly provided for in this Agreement.
2. Greek Cypriots and Turkish Cypriots living in specified villages in the other constituent state shall enjoy cultural, religious and educational rights and shall be represented in the constituent state legislature.
3. The rights of religious ~~and other~~ minorities, namely the Maronite, the Latin and the Armenian, shall be safeguarded in accordance with international standards, and shall include cultural, religious and educational rights as well as representation in federal Parliament and constituent state legislatures.

*Article 5            The federal government*

1. The federal Parliament composed of two chambers, the Senate and the Chamber of Deputies, shall exercise the legislative power:
  - a. Each Chamber shall have 48 members. The Senate shall be composed of an equal number of Senators from each constituent state.

The Chamber of Deputies shall be composed in proportion to persons holding internal constituent state citizenship status of each constituent state, provided that each constituent state shall be attributed no less than one quarter of seats.

- b. Decisions of Parliament shall require the approval of both Chambers by simple majority, including one quarter of voting Senators from each constituent state. For specified matters, a special majority of two-fifths of sitting Senators from each constituent state shall be required.
2. The Office of Head of State is vested in the Presidential Council, which shall exercise the executive power:
    - a. The Presidential Council shall comprise six members elected on a single list by special majority in the Senate and approved by majority in the Chamber of Deputies. The composition of the Presidential Council shall be proportional to the number of persons holding the internal constituent state citizenship status of each constituent state, though no less than one-third of the members of the Council must come from each constituent state.
    - b. The Presidential Council shall strive to reach decisions by consensus. Where it fails to reach consensus, it shall, unless otherwise specified, take decisions by simple majority of members voting, provided this comprises at least one member from each constituent state.
    - c. The members of the Council shall be equal and each member shall head a department. The heads of the Departments of Foreign Affairs and European Union Affairs shall not come from the same constituent state.
    - d. The offices of President and Vice-President of the Council shall rotate every ten calendar months among members of the Council. No more than two consecutive Presidents may come from the same constituent state. The President, and in his absence or temporary incapacity, the Vice-President, shall represent the Council as Head of State and Head of Government. The President and Vice-President shall not enjoy a casting vote or otherwise increased powers within the Council.
    - e. The executive heads of the constituent states shall be invited to participate without a vote in all meetings of the Council in the first ten years after entry into force of the Agreement, and thereafter on a periodical basis.

3. The Central Bank of Cyprus, the Office of the Attorney-General and the Office of the Auditor-General shall be independent.

**Article 6**                    *The Supreme Court*

1. The Supreme Court shall uphold the Constitution and ensure its full respect.
2. It shall comprise an equal number of judges from each constituent state, and three non-Cypriot judges until otherwise provided by law.
3. The Supreme Court shall, *inter alia*, resolve disputes between the constituent states or between one or both of them and the federal government, and resolve on an interim basis deadlocks within federal institutions if this is indispensable to the proper functioning of the federal government.

**Article 7**                    *Transitional federal institutions*

1. The federal institutions shall evolve during transitional periods, after which these institutions shall operate as described above.
2. Upon entry into force of this Agreement, the leaders of the two sides shall become Co-Presidents of the United Cyprus Republic for thirty calendar months. Each Co-President shall be confirmed by their respective constituent state legislature, which may instead elect another person as Co-President, and which shall elect a replacement should the office of Co-President fall vacant. The Co-Presidents shall exercise the executive power during the first year, assisted by a Council of Ministers which they shall appoint. For the following eighteen months, the executive power shall be exercised by a Council of Ministers elected by Parliament, and the Co-Presidents shall together hold the office of Head of State.
3. Constituent state legislatures to be elected within 40 days of entry into force of this Agreement shall each nominate 24 delegates (reflecting the political composition of their legislature) to a transitional federal Parliament to operate for one year.
4. A transitional Supreme Court shall assume its functions upon entry into force of this Agreement.

**Article 8**                      **Demilitarisation**

1. Bearing in mind that:
  - a. The Treaty of Guarantee, in applying *mutatis mutandis* to the new state of affairs established in this Agreement and the Constitution of Cyprus, shall cover, in addition to the independence, territorial integrity, security and constitutional order of the United Cyprus Republic, the territorial integrity, security and constitutional order of the constituent states;
  - b. The Treaty of Alliance shall permit Greek and Turkish contingents, each not exceeding 6,000<sup>1</sup> all ranks, to be stationed under the Treaty of Alliance in the Greek Cypriot State and the Turkish Cypriot State respectively; **and that upon accession of Turkey to the European Union, all Greek and Turkish troops shall be withdrawn from Cyprus unless otherwise agreed between Cyprus, Greece and Turkey;**
  - c. Greek and Turkish forces and armaments shall be redeployed to agreed locations and adjusted to agreed levels, and any forces and armaments in excess of agreed levels shall be withdrawn;
  - d. There shall be a United Nations peacekeeping operation to monitor the implementation of this Agreement and use its best efforts to promote compliance with it and contribute to the maintenance of a secure environment, to remain as long as the federal government, with the concurrence of both constituent states, does not decide otherwise;
  - e. The supply of arms to Cyprus shall be prohibited in a manner that is legally binding on both importers and exporters; and
  - f. A Monitoring Committee composed of representatives of the guarantor powers, the federal government, and the constituent states, and chaired by the United Nations, shall monitor the implementation of this Agreement,

Cyprus shall be demilitarised, and all Greek Cypriot and Turkish Cypriot forces, including reserve units, shall be dissolved, and their arms removed from the island, in phases synchronized with the redeployment and adjustment of Greek and Turkish forces.

<sup>1</sup> Reference: This number may be changed if the Additional Protocol to the Treaty of Alliance is revised by agreement between Cyprus, Greece and Turkey.

2. There shall be no paramilitary or reserve forces or military or paramilitary training of citizens. All weapons except licensed sporting guns shall be prohibited.
3. The constituent states shall prohibit violence and the incitement to violence against the United Cyprus Republic, the federal government, the constituent states, or the guarantor powers.
4. Cyprus shall not put its territory at the disposal of international military operations other than with the consent of both constituent states; **until the accession of Turkey to the European Union, the consent of Greece and Turkey shall also be required.**
5. The federal government and the constituent states shall cooperate with the United Nations operation. The cost of the operation to the United Nations shall be borne by the United Cyprus Republic.
6. These provisions do not prejudice the provisions of the Treaty of Establishment, the Treaty of Guarantee, the Treaty of Alliance, the mandate of a United Nations peacekeeping operation and the provisions of the Constitution on federal and constituent state police and the Joint Investigation Agency.

*Article 9            Constituent state boundaries and territorial adjustment*

1. The territorial boundaries of the constituent states shall be as depicted in the map which forms part of this Agreement.<sup>2</sup>
2. Areas subject to territorial adjustment which are legally part of the Greek Cypriot State upon entry into force of this Agreement, shall be administered during an interim period no longer than three years by the Turkish Cypriot State. Administration shall be transferred under the supervision of the United Nations to the Greek Cypriot State in agreed phases, beginning 90 days after entry into force of this Agreement with the transfer of administration of largely uninhabited areas contiguous with the remainder of the Greek Cypriot State.
3. Special arrangements shall safeguard the rights and interests of current

<sup>2</sup> Observation: There are, in fact, two maps attached to the Constitution. The first map depicts the territory of the United Cyprus Republic and the territorial boundaries of the constituent states upon entry into force of the Foundation Agreement. The second map depicts the territory of the United Cyprus Republic and the territorial boundaries of the constituent states upon entry into force of the Additional Protocol to the Treaty of Establishment.

inhabitants of areas subject to territorial adjustment, and provide for orderly relocation to adequate alternative accommodation in appropriate locations where adequate livelihoods may be earned.

**Article 10**      **Property**

1. Claims by property owners dispossessed by events prior to entry into force of this Agreement shall be resolved in a comprehensive manner in accordance with international law, respect for the individual rights of dispossessed owners and current users, and the principle of bi-zonality.
2. In areas subject to territorial adjustment, properties shall be reinstated to dispossessed owners.
3. In areas not subject to territorial adjustment, the arrangements for the exercise of property rights, by way of reinstatement or compensation, shall have the following basic features:
  - a. Dispossessed owners who opt for compensation or whose properties are not reinstated under the property arrangements shall receive full and effective compensation on the basis of value at the time of dispossession adjusted to reflect appreciation of property values in comparable locations;
  - b. Current users, being persons who have possession of properties of dispossessed owners as a result of an administrative decision, may apply for and shall receive title if they agree in exchange to renounce their title to a property, of similar value and in the other constituent state, of which they were dispossessed;
  - c. Persons who own significant improvements to properties may apply for and shall receive title to such properties provided they pay for the value of the property in its original state;
  - d. There shall be incentives for owners to sell, lease or exchange properties to current users or other persons from the constituent state in which a property is located;
  - e. Properties not covered by the above shall be reinstated five years after entry into force of this Agreement (three years for vacant properties), provided that no more than **10%** of the area and residences in either constituent state and **20%**<sup>3</sup> in any given municipality or village (other than villages specifically designated in this

<sup>3</sup> Note: These percentages are directly related to the agreed territorial adjustment.

Agreement) shall be reinstated to owners from the other constituent state; and

- f. Current users who are Cypriot citizens and are required to vacate property to be reinstated shall not be required to do so until adequate alternative accommodation has been made available.
4. Property claims shall be received and administered by an independent, impartial Property Board, composed of an equal number of members from each constituent state, as well as non-Cypriot members. No direct dealings between individuals shall be necessary.

**Article 11**      **Reconciliation Commission**

1. An independent, impartial Reconciliation Commission shall promote understanding, tolerance and mutual respect between Greek Cypriots and Turkish Cypriots.
2. The Commission shall be composed of men and women, in equal numbers from each constituent state, as well as at least one non-Cypriot member, which the Secretary-General of the United Nations is invited to appoint in consultation with the federal government and the constituent states.

**Article 12**      **Past acts**

1. Any act, whether of a legislative, executive or judicial nature, by any authority in Cyprus<sup>4</sup> whatsoever, prior to entry into force of this Agreement, is recognised as valid and, provided it is not inconsistent with or repugnant to any other provision of this Agreement or international law<sup>5</sup>, its effect shall continue following entry into force of this Agreement.<sup>6</sup> No-one shall be able to contest the validity of such acts by reason of what occurred prior to entry into force of this Agreement.
2. Any claims for liability or compensation arising from acts prior to this Agreement shall, insofar as they are not otherwise regulated by the pro-

<sup>4</sup> Observation: The term Cyprus here is to be understood in the sense of the island of Cyprus excluding the Sovereign Base Areas.

<sup>5</sup> Observation: This refers to questions of substantial international law and not to any question of the legitimacy or status of the relevant authorities under international law.

<sup>6</sup> Observation: Matters of citizenship, immigration, and properties affected by events since 1963 are dealt with in a comprehensive way by this Agreement; any validity of acts prior to entry into force of this Agreement regarding these matters shall thus end unless they are in conformity with the relevant provisions of this Agreement.

visions of this Agreement, be dealt with by the constituent state from which the claimant hails.

**Article 13**      ***Entry into force and implementation***

1. This Agreement shall enter into force at 00:00 hours on the day following confirmed approval by each side at separate simultaneous referenda conducted in accordance with the Agreement.
2. Upon entry into force of this Agreement, there shall be ceremonies throughout the island at which all flags other than those prescribed in the Constitution are lowered, the flags of the United Cyprus Republic and of the constituent states raised in accordance with the Constitution and relevant legislation, and the anthems of the United Cyprus Republic and of the constituent states played.
3. Upon entry into force of this Agreement, the Co-Presidents shall inform the United Nations that henceforth the membership rights and obligations of Cyprus in the United Nations shall be exercised in accordance with the new state of affairs. The agreed flag of Cyprus shall be raised at United Nations Headquarters.
4. This Agreement shall be implemented in accordance with the binding timeframes laid down in the various parts of the Agreement and reflected in the calendar of implementation.

**Article 14**      ***Annexes***

The above main articles are reflected in detailed legal language in the Annexes which form an integral part of this Agreement.



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## PART I: BASIC ARTICLES

### *Article 1      The United Cyprus Republic*

1. **The United Cyprus Republic** is an independent and sovereign state with a single international legal personality and a **federal government** and consists of **two constituent states, namely the Greek Cypriot State and the Turkish Cypriot State.**
2. The independence, territorial integrity, security, and constitutional order of the United Cyprus Republic shall be safeguarded and respected by all.
3. Union of Cyprus in whole or in part with any other country, any form of partition or secession, and any other unilateral change to the state of affairs established by the Foundation Agreement and this Constitution is prohibited.
4. The United Cyprus Republic shall be organised under this Constitution in accordance with the basic principles of rule of law, democracy, representative republican government, political equality of Greek Cypriots and Turkish Cypriots, bi-zonality and the equal status of the constituent states.

### *Article 2      The constituent states*

1. The constituent states are of equal status. Each constituent state exercises its authority within the limits of this Constitution and its territorial boundaries as set out in the attachment to this Constitution.
2. The identity, territorial integrity, security and constitutional order of the constituent states shall be safeguarded and respected by all.
3. The constituent states shall organise themselves freely within the limits of this Constitution and in conformity with the basic principles of rule of law, democracy, and representative republican government under their own Constitutions.

**PART II: GENERAL PROVISIONS****Article 3**      *Constitution as supreme law*

1. This Constitution, having been democratically adopted by the Greek Cypriots and the Turkish Cypriots through their separately expressed common will, is the supreme law of the land and is binding on all federal authorities and the constituent states. Any act by the federal government or either constituent state in contravention of this Constitution shall be null and void.
2. The federal government shall fully respect and not infringe upon the powers and functions of the constituent states under this Constitution. Each constituent state shall fully respect and not infringe upon the powers and functions of the federal government or the other constituent state under this Constitution. There shall be no hierarchy between federal and constituent state laws.<sup>7</sup>
3. The Supreme Court shall uphold this Constitution and ensure its full respect by other federal organs and the constituent states.

**Article 4**      *Rule of law*

1. The law is the basis of and limitation for all acts of government at all levels.
2. All acts of government at all levels shall conform with the principles of public interest, proportionality and good faith.
3. The federal government as well as the constituent states shall respect international law, including all treaties binding upon the United Cyprus Republic, which shall be considered an integral part of this Constitution.

**Article 5**      *Secular nature of the United Cyprus Republic*

1. The United Cyprus Republic, its federal government and its constituent states are secular.

<sup>7</sup> **Observation:** This Constitution gives the Supreme Court power to determine the validity of any law.

2. Religious functionaries shall not hold elected or appointed political or public office.

**Article 6**      *Demilitarisation of the United Cyprus Republic*

1. The United Cyprus Republic and its constituent states shall be demilitarised. There shall be no paramilitary or reserve forces or military or paramilitary training of citizens.
2. Cyprus shall not put its territory at the disposal of international military operations other than with ~~the consent of Greece and Turkey~~ or the consent of the governments of both constituent states.
3. All weapons, except licensed sporting guns, shall be prohibited.
4. **The constituent states shall prohibit by law violence and the incitement to violence against the United Cyprus Republic, the federal government, the constituent states, or the guarantor powers and shall not tolerate such acts by persons, groups or organisations operating within their boundaries.**
5. The provisions of this Article are without prejudice to the provisions of the Treaty of Establishment, the Treaty of Guarantee, the Treaty of Alliance, the mandate of a UN peacekeeping operation in Cyprus and the provisions of this Constitution on federal and constituent state police and the Joint Investigation Agency.

**Article 7**      *Seat of the federal government*

The seat of the federal government shall be greater Nicosia.

**Article 8**      *Flags and anthems*

1. The flag of the United Cyprus Republic shall be [insert description of flag], as attached to this Constitution. This flag shall be flown alone or together with the flag of the European Union on federal government buildings.
2. The anthem of the United Cyprus Republic shall be [insert name of anthem], as attached to this Constitution.
3. The constituent states shall have their own anthems and flags. The constituent state flag shall be flown on constituent state government buildings, along with and in the same manner as the flag of the United Cyprus Republic and, if constituent state law so provides, that of the

European Union. No other flags shall be flown on constituent state government buildings or public property.

**Article 9**            *The official languages and promulgation of official acts*

1. The official languages of the United Cyprus Republic are Greek and Turkish. The use of English for official purposes shall be regulated by law.
2. Legislative, executive, administrative and judicial acts and documents of the federal government shall be drawn up in all official languages and shall, unless otherwise provided, be promulgated by publication in the official Gazette of the United Cyprus Republic in all official languages.
3. All persons shall have the right to address the federal authorities in any of the official languages and to be addressed in that same language.
4. The official languages of the United Cyprus Republic shall be taught mandatorily to all secondary school students.

**Article 10**            *Official Holidays of the United Cyprus Republic*

1. The National Holiday of the United Cyprus Republic shall be the day of the referenda on the Foundation Agreement.
2. In addition to Sundays, the following official holidays shall be observed throughout Cyprus:
  - a. 1 January (New Year's Day);
  - b. 1 May (Labour Day);
  - c. 25 December (Christmas);
  - d. Good Friday;
  - e. Easter Monday;
  - f. The first day of Ramadan/Sheker Bayram;
  - g. The first day of Kurban Bayram; and
  - h. The birthday of the Prophet Mohammed.
3. Each constituent state shall determine and observe its own holidays in addition to those of the United Cyprus Republic.
4. Federal public servants shall be entitled to observe, in addition to the above, the official holidays of either one constituent state or the other.

## PART III: FUNDAMENTAL RIGHTS AND LIBERTIES

### Article 11 *Fundamental Rights*

1. In accordance with Article 4(3) of this Constitution, the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Additional Protocols which are in force for the United Cyprus Republic and the United Nations Covenant on Civil and Political Rights shall be an integral part of this Constitution.
2. There shall be no discrimination against any person on the basis of his or her gender, ethnic or religious identity, or internal constituent state citizenship status.
3. There shall be freedom of movement and freedom of residence throughout Cyprus, except as otherwise expressly provided in this Constitution or any other parts of the Foundation Agreement or a Constitutional Law.
4. The rights of religious ~~and other~~ minorities, namely the Maronite, the Latin and the Armenian, shall be safeguarded. The federal government and the constituent states shall, within their respective spheres of competence, afford minorities the status and rights foreseen in the European Framework Convention for the Protection of National Minorities, in particular the right to administer their own cultural, religious and educational affairs and to be represented in the legislature.
5. Greek Cypriots residing in the Karpas villages of Rizokarpaso/Dipkarpaz, Agialousa/Yeni Erenköy, Agia Trias/Sipahi, Melanarga/Adacay, and Turkish Cypriots residing in the Tillyria villages of Amadhies/Günebakan, Limnitis/Yeşilyirmak, Selemani/Suleymaniyeh, Xerovounos/Kurutepe Karovostasi/Gemikonagi, Agios Georgios/Madenliköy and Kokkina/Erenköy, as well as the Mesaoria villages of Pyla/Pile, Skylloura/Yilmazköy and Agios Vasilios/Türkeli shall, within the constituent states in which these villages are situated, enjoy the right to administer their own cultural, religious and educational affairs and to be represented in the constituent state legislature and to be consulted on matters of zoning and planning regarding their villages.

**Article 12**      **Citizenship**

1. There is a single Cypriot citizenship.
2. All persons holding Cypriot citizenship shall also enjoy internal constituent state citizenship status as provided for by Constitutional Law. Such status, like the European Union citizenship status, is complementary to and does not replace Cypriot citizenship. Only Cypriot citizens shall enjoy internal constituent state citizenship status.
3. Where any provision of this Constitution or of the Foundation Agreement refers to the constituent state origins of a person (or where a person hails from), the criterion shall be the holding of internal constituent state citizenship status. No one may hold the internal constituent state citizenship status of both constituent states.

**Article 13**      **Exercise of political rights**

Cypriot citizens who are at least 18 years old shall enjoy political rights at the federal level and exercise them based on their internal constituent state citizenship status.

**PART IV: THE FEDERAL GOVERNMENT AND THE  
CONSTITUENT STATES**

**Article 14** *Competences and functions of the federal government*

1. The federal government shall, in accordance with this Constitution, sovereignly exercise legislative and executive competences in the following matters:
  - a. External relations, including conclusion of international treaties and defence policy;<sup>8</sup>
  - b. Relations with the European Union;<sup>9</sup>
  - c. Central Bank functions, including issuance of currency, monetary policy and banking regulations;
  - d. federal finances, including budget and all indirect taxation (including customs and excise), and federal economic and trade policy;
  - e. Natural resources, including water resources;
  - f. Meteorology, aviation,<sup>10</sup> international navigation and the continental shelf and territorial waters<sup>11</sup> of the United Cyprus Republic;
  - g. Communications (including postal, electronic and telecommunications);
  - h. Cypriot citizenship (including issuance of passports) and immigration (including asylum, deportation and extradition of aliens);
  - i. Combating terrorism, drug trafficking, money laundering and organised crime;

<sup>8</sup> **Reference:** Defence policy must be formulated and exercised in accordance with agreed security arrangements, and the international obligations of Cyprus.

<sup>9</sup> **Observation:** This power authorises the federal government to take necessary measures for the participation of Cyprus in the Economic and Monetary Union, the Common European Defence (non-military matters) and Security Policy and the "closer cooperation" within the meaning of the Treaty on the European Union.

<sup>10</sup> **Observation:** In conformity with the principle of eiusdem generis, this covers all matters related to aviation, including the airspace of the United Cyprus Republic and the Flight Information Region (FIR).

<sup>11</sup> **Observation:** In conformity with the principle of eiusdem generis, this includes all matters regulated by the 1982 United Nations Convention on the Law of the Sea.

<sup>12</sup> **Observation:** This proviso is to be understood as crimes against a constituent state's law where (all) perpetrator(s) and victim(s) hail from that constituent state.



- j. Pardons and amnesties (**other than for crimes concerning only one constituent state**<sup>12</sup>);
  - k. Intellectual property and weights and measures; and
  - l. Antiquities
2. Incidental to the above competences and to other provisions of this Constitution, the federal government shall exercise legislative and executive competences over federal administration (including public service, federal police, as well as its independent institutions and officers); federal elections and referenda; offences against federal laws; federal administration of justice; federal property, including public works for federal facilities and expropriation; and like matters which are clearly incidental to the specified powers of the federal government.
  3. The federal government shall, as appropriate, entrust the implementation of its laws including the collection of certain forms of taxes, to constituent state authorities.
  4. Obligations of the United Cyprus Republic under international treaties shall be implemented by the federal government or constituent state authority which enjoys legislative competence in the subject matter to which the treaty pertains.
  5. The federal government shall confer upon the constituent states a portion of its revenue from indirect taxation as provided for by special majority law.

**Article 15**      *Competences and functions of the constituent states*

1. The constituent states shall, within the limits of this Constitution, sovereignly exercise within their territorial boundaries all competences and functions not vested by this Constitution in the federal government.<sup>13</sup>
2. The constituent states shall have primary criminal jurisdiction over offences against federal laws, unless such jurisdiction is reserved for the Supreme Court of Cyprus by federal legislation.

<sup>13</sup> **Observation:** These include security, law and order and the administration of justice within their territorial boundaries.

<sup>14</sup> **Observation:** This is without prejudice to the right of hot pursuit as agreed in the Cooperation Agreement on Police Matters.

3. The police of a constituent state shall be stationed and operate exclusively within that constituent state<sup>14</sup> and shall be responsible for the protection and enforcement of law and order and public safety within that constituent state, including offences against federal laws, without prejudice to the functions of the federal police and the Joint Investigation Agency. A Constitutional Law shall regulate the strength and equipment of constituent state police and a Cooperation Agreement between the federal government and the constituent states shall provide for cooperation on police matters.

**Article 16**      *Cooperation and coordination*

1. Where expressly provided for in this Constitution, legislative matters may be regulated in a manner binding upon the federal government and the constituent states, through Constitutional Laws. Such laws shall be approved by the federal Parliament and both constituent state legislatures in accordance with procedures set down in a Constitutional Law and shall have precedence over any other federal or constituent state laws.
2. The constituent states may conclude agreements with each other or with the federal government. Such agreements may create common organisations and institutions on matters within the competence of the parties. Such agreements shall have the same legal standing as Constitutional Laws, provided they have been approved by the federal Parliament and both constituent state legislatures.
3. The constituent states shall strive to coordinate or harmonise their policy and legislation, including through agreements, common standards and consultations wherever appropriate, in particular on the following matters:
  - a. Tourism;
  - b. Protection of the environment and use and conservation of energy; ~~and natural resources, including water;~~
  - c. Fisheries and agriculture;
  - d. Industry and commerce, including insurance, consumer protection, professions and professional associations;
  - e. Zoning and planning, including for overland transport;
  - f. Sports and education;
  - g. Health, including regulation of tobacco, alcohol and drugs, and veterinary matters;

- h. Social security and labour;
  - i. Family, company and criminal law; and
  - j. Acceptance of validity of documents.
4. Either constituent state or any branch of the federal government may initiate the coordination or harmonisation process.
  5. Agreements on such coordination or harmonisation shall be approved by the competent branch of the constituent state governments and, if federal participation is required, by the competent branch of the federal government.
  6. The federal government shall support, both financially and logistically, cooperative endeavours between the constituent states or between municipalities and villages located in different constituent states.
  7. The <common states> and the constituent states shall accept valid documents issued by government authorities and educational, medical and other public service institutions.

**Article 17      *Joint Investigation Agency***

There shall be a Joint Investigation Agency, comprising federal and constituent state police personnel and reporting to the federal Attorney-General. Its composition and functions, as well as the strength and equipment of the federal and constituent state police, shall be regulated by Constitutional Law.

**Article 18      *External relations***

1. Cyprus shall maintain special ties of friendship with Greece and Turkey, respecting the balance established by the Treaty of Guarantee and the Treaty of Alliance and the Foundation Agreement, **and shall by agreement on appropriate terms accord them most favoured-nation treatment to the extent that this is compatible with its obligations as a member of the European Union and under the Treaty of Establishment.**
2. The constituent states shall be consulted on federal decisions on external relations that affect their competences.
3. The constituent states may appoint representatives on commercial and cultural matters<sup>15</sup>, who shall be accredited as part of diplomatic missions of Cyprus.

4. The constituent states may also conclude agreements on commercial and cultural matters<sup>16</sup> with authorities of States that have relations with the United Cyprus Republic, provided that such agreements do not cause prejudice to the United Cyprus Republic, the authority of the federal government, or the other constituent state, and are compatible with the European Union membership of Cyprus.
5. In the exercise of the powers conferred by paragraphs 3 and 4 of this Article, the following procedures shall be observed:
  - a. The constituent states shall use the channel of the federal ministry of foreign affairs for contacts at a political level with foreign governments; and
  - b. The constituent states may have direct contacts with constituent- or sub-entities or subordinate authorities of other states. In this case they shall inform the federal ministry of foreign affairs upon starting negotiations on any agreement with such authorities and continue to advise on the progress and outcome of such negotiations.
6. A Cooperation Agreement between the federal government and the constituent states on external relations shall regulate the implementation of this Article.

**Article 19**      *Cyprus as a member of the European Union*

1. The United Cyprus Republic shall be a member of the European Union.
2. The governments of the constituent states shall participate in the formulation of the policy of Cyprus in the European Union.
3. Cyprus shall be represented in the European Union by the federal government in its areas of competence or where a matter predominantly concerns an area of its competence. Where a matter falls predominantly or exclusively into an area of competence of the constituent states, Cyprus may be represented either by a federal government or a constituent state representative, provided the latter is able to commit Cyprus.

<sup>15</sup> **Observation:** Cultural matters includes the arts, education and sports.

<sup>16</sup> **Observation:** Cultural matters includes the arts, education and sports.

4. Obligations of the United Cyprus Republic arising out of European Union membership shall be implemented by the federal or constituent state authority which enjoys legislative competence for the subject matter to which an obligation pertains.<sup>17</sup> Where the *acquis communautaire* prescribes the creation of single national administrative structures, such structures and the necessary regulations will be established at federal government level. The establishment of other administrative structures necessary for the implementation of the *acquis communautaire* will be decided on the basis of efficiency requirements.
5. If a constituent state fails to fulfil obligations of the United Cyprus Republic vis-à-vis the European Union within its area of competence and the United Cyprus Republic may be held responsible by the Union, the federal government shall, after notification of no less than 90 days (or a shorter period if indispensable according to European Union requirements), take necessary measures in lieu of the defaulting constituent state, to be in force until such time as that constituent state discharges its responsibilities.
6. Paragraphs 2-5 of this Article shall be the subject of a Cooperation Agreement between the federal government and the constituent states.
7. Any new treaty or agreement on the European Union and amendments to the treaties on which the European Union is founded or acts of accession of any applicant states to the European Union, ~~which require ratification by all member states of the European Union~~, shall be ratified by Cyprus unless this opposed by the federal Parliament and both constituent state legislatures. The President or the Vice-President of the Presidential Council shall be entitled to sign the respective instrument of ratification and thereby bind the United Cyprus Republic.
8. No provision of this Constitution shall invalidate laws, acts or measures by the federal government or the constituent states required by the obligations of European Union membership, or prevent laws, acts or measures by the European Union, or institutions thereof, from having the force of law throughout Cyprus.

<sup>17</sup> **Observation:** Penalties, fines or damages imposed by European Union Courts shall be borne by the federal government or the relevant constituent state which fails to implement an obligation within its sphere of competence.

## PART V: FEDERAL INSTITUTIONS

### *Article 20 Eligibility and incompatibility and discharge of duties*

1. Unless otherwise provided by this Constitution or law, a person shall be qualified to be elected or appointed to serve in the federal institutions if he or she is a citizen of the United Cyprus Republic and has reached the age of 18.
2. Unless otherwise provided by this Constitution or law, no person may be a member of more than one branch of the federal government or of the federal government and a constituent state government.
3. Persons elected to or appointed to serve in the federal institutions shall act in the best interests of the federal government.

### *Article 21 Federal government immunities and exemptions*

1. Members of Parliament, the Presidential Council, the Supreme Court and the Board of the Central Bank of Cyprus, as well as the Independent Officers, shall enjoy immunity from arrest or judicial prosecution unless federal law provides otherwise.
2. Federal property used for official purposes shall be exempt from the application of constituent state legislation, including taxation. Such property shall be under the direct and sole authority of the federal government. The constituent states shall assist the federal police in assuring the safety of federal property located within their territorial boundaries.

## Section A: The Legislature

### *Article 22 Composition and election of Parliament*

1. The federal Parliament shall be composed of two Chambers: the Senate and the Chamber of Deputies.

2. Each Chamber shall have 48 members, elected for five years on the basis of proportional representation. The constituent states shall serve as electoral precincts unless special majority law provides otherwise, in which case each precinct may have no less than ten seats.
3. The Senate shall be composed of an equal number of senators from each constituent state. The people of each constituent state shall elect, on a proportional basis, 24 members of the Senate.
4. The Chamber of Deputies shall be composed of deputies from both constituent states, with seats attributed on the basis of the number of persons holding internal constituent state citizenship status of each constituent state; provided that each constituent state shall be attributed a minimum of one quarter of the seats.
5. The Maronite, Latin and Armenian minorities shall each be represented by no less than one deputy. Members of such minorities shall be entitled to vote for the election of such deputies irrespective of their internal constituent state citizenship status. Such deputies shall be counted against the quota of the constituent state where the majority of the members of the respective minority reside.

### **Article 23      Organisation**

1. The law shall regulate the time and duration of the ordinary sessions of the federal Parliament. At any time, the Presidential Council or one quarter of sitting members of either Chamber may convene Parliament for an extraordinary session.
2. Each Chamber shall elect a President and two Vice-Presidents, one from each constituent state, for a period of one year. The Presidents of the two Chambers shall not come from the same constituent state. The Vice President who does not come from the same constituent state as the President of the relevant Chamber shall be the First Vice-President of that Chamber.
3. Each Chamber shall organise its own committees in accordance with the law.

<sup>18</sup> **Observation:** This is without prejudice to the entry into force, upon signature, of the Treaty between Cyprus, Greece, Turkey and the United Kingdom on Matters related to the New State of Affairs in Cyprus as well as the Treaty of Accession of Cyprus to the European Union, given these Treaties' approval in referenda, together with the Foundation Agreement.

4. Each Chamber shall require the presence of a majority of sitting members in order to take decisions.
5. The law shall regulate the obligation of members of Parliament to attend meetings and the consequences of failure to do so without authorisation.

**Article 24**      **Powers**

1. Parliament shall legislate and take decisions.
2. Parliament shall approve international treaties for ratification<sup>18</sup>, except where it has delegated that power to the Presidential Council.
3. Parliament shall elect and oversee the functioning of the Presidential Council.
4. Parliament may by special majority refer to the Supreme Court allegations of impeachment regarding the members of the Presidential Council and of organs of the independent institutions, and independent officers, for grave violations of their duties or serious crimes.
5. Parliament shall adopt the federal budget.

**Article 25**      **Procedure**

1. Unless otherwise specified in this Constitution, decisions of Parliament need the approval of both Chambers with simple majority of members present and voting, including one quarter of senators present and voting from each constituent state.
2. A special majority comprising at least two fifths of sitting senators from each constituent state, in addition to a simple majority of deputies present and voting, shall be required for:
  - a. Ratification of international agreements on matters which fall within the legislative competence of the constituent states;<sup>19</sup>
  - b. Ratification of treaties and adoption of laws and regulations concerning the airspace, continental shelf and territorial waters of the United Cyprus Republic, including the exclusive economic zone and the contiguous zone;

<sup>19</sup> **Reference:** This is without prejudice to the special rules defined in Article 19(7) regarding ratification of European Union acts that require unanimity of European Union member states.



- c. Adoption of laws and regulations concerning citizenship, immigration, water resources and taxation;
  - d. Approval of the federal budget;
  - e. Election of the Presidential Council; and
  - f. Other matters which specifically require special majority approval pursuant to other provisions of this Constitution.
3. The law shall provide for a conciliation mechanism between the Chambers of Parliament.

## **Section B: The Executive**

### **Article 26      *The Presidential Council***

1. The Office of Head of State is vested in a six-member Presidential Council, which shall exercise the executive power.
2. The members of the Presidential Council shall be elected by Parliament for a fixed five-year term on a single list by special majority.
3. Members of the Presidential Council shall not hold any other public office or private position.
4. The members of the Presidential Council shall continue to exercise their functions after expiry of their term in office until a new Council has been elected.
5. In the event of a vacancy in the Council, a replacement shall be elected by Parliament by special majority for the remainder of the term of office.<sup>20</sup>
6. The composition of the Presidential Council shall be proportional to the numbers of persons holding the internal constituent state citizenship status of each constituent state, though at least two members must hail from each constituent state.

<sup>20</sup> **Observation:** The parties may wish to agree to more detailed rules during the finalisation period.

7. The Presidential Council shall strive to reach all decisions by consensus. Where it fails to reach consensus, it shall make decisions by simple majority of members voting unless otherwise stated in this Constitution. Such majority must in all cases comprise at least one member from each constituent state.
8. The members of the Presidential Council shall be equal. Any member of the Council shall be able to place an item on the agenda of the Council.
9. The Presidential Council may, where appropriate, invite the executive heads of the constituent states to participate without a vote in its meetings.
10. The Presidential Council shall suggest candidates or appoint members for European Union and international bodies, including the European Commission, the European Human Rights Court in Strasbourg, the European Court of the Communities in Luxemburg and the European Court of First Instance.

**Article 27**      ***The President and the Vice-President of the Council***

1. The President and Vice-President of the Council shall not hail from the same constituent state.
2. The offices of the President and Vice-President of the Council shall rotate every ten calendar months among members of the Council on the basis of time spent on the Council since last serving in either office and with no more than two consecutive Presidents to come from the same constituent state. Among members of the Council who have spent equal time on the Council without having served as President or Vice-President, a lot shall be drawn, unless the members concerned agree to an order of precedence.
3. The Vice-President of the Council shall assume the duties of the President in the absence or temporary incapacity of the President.
4. The President of the Council shall convene and chair the meetings of the Presidential Council.
5. Neither the President nor the Vice President of the Council shall have a casting vote.

**Article 28      The Departments**

1. Each member of the Presidential Council shall head a department.
2. Departments shall be attributed by decision of the Council. Where the Council is unable to reach a decision, departments shall be attributed on the basis of time spent on the Council; among members who have spent equal time, a lot shall be drawn.
3. The heads of the Departments of Foreign Affairs and European Union Affairs shall not hail from the same constituent state.
4. The heads of department shall prepare and execute decisions of the Presidential Council relating to their departments.

**Article 29      Representation of the Presidential Council**

1. The President of the Council shall represent the Presidential Council as Head of State.
2. In representing the Presidential Council as Head of State, the President shall attend official functions, sign and receive credentials of diplomatic envoys, and confer the honours of the United Cyprus Republic.
3. The President of the Council shall represent the United Cyprus Republic at meetings of heads of government, unless the Presidential Council, deciding with separate majorities of members from each constituent state, designates another member.
4. **The member of the Presidential Council responsible for European Union affairs shall represent the Presidential Council (in its function as Head of Government) at meetings of the European Council, and shall be assisted on such occasions by the member of the Presidential Council responsible for external relations, unless the Presidential Council, deciding with separate majorities of members from each constituent state, decides otherwise.**
5. The heads of the relevant Departments/~~Secretariats/Ministries~~ shall represent the United Cyprus Republic at meetings of government ministers unless otherwise provided for by law or by agreement between the federal government and the constituent states.
6. Where an international meeting is likely to address vital interests of a constituent state, and the Council representative to that meeting hails from the other constituent state, the Council shall, upon special request

of a majority of Council members from the interested constituent state, appoint a member from that constituent state to accompany the Council representative, provided delegations to such meetings may comprise more than one person.

7. Any representative of the United Cyprus Republic at international meetings shall be bound by decisions of the Presidential Council. Where the Council has appointed one of its members to accompany its representative in accordance with paragraph 5 of this Article, the representative of Cyprus shall exercise any discretion in concord with such member.

**Article 30**      *Federal administration*

1. A Public Service Commission composed of men and women hailing in equal numbers from each constituent state shall have authority to appoint and promote federal public servants. It shall take its decisions in accordance with the law.
2. The composition of the public service shall, where not otherwise specified in this Constitution or special majority law, be proportional to the population of the constituent states, though at least one-third of the public servants at every level of the administration must hail from each constituent state.
3. A federal public servant may not simultaneously serve as a public servant of a constituent state.

**Article 31**      *The federal police*

The shall be a federal police composed of an equal number of personnel hailing from each constituent state. The federal police shall control Cyprus' border and protect federal officials, buildings and property, as well as foreign dignitaries and diplomatic missions.

**Section C: Independent Officers and Institutions**

**Article 32**      *Central Bank of Cyprus*

1. The Central Bank of Cyprus shall be the monetary authority of the

United Cyprus Republic. It shall, *inter alia*, issue currency, determine monetary policy and the prime lending rate, and regulate and supervise the banking sector.

2. The Central Bank shall be independent and operate in accordance with European Union requirements.
3. The primary objective of the Central Bank of Cyprus shall be to maintain price stability.
4. The Central Bank shall be governed by a Board of three members, one of whom shall be the Governor. At least one member shall hail from each constituent state; the third member may be a non-Cypriot. All decisions of the Board of the Central Bank shall be taken by simple majority.
5. The Governor and the other two members of Board shall be appointed by the Presidential Council for a term of seven years.
6. Within the framework of the European Union the responsibilities and powers of the Central Bank of Cyprus may be transferred to the European Union Central Bank.
7. The law may provide for the establishment of branches of the Central Bank in each constituent state, and for inclusion of branch directors in the Board of the Central Bank.

**Article 33**      ***Other independent officers***

1. The Attorney-General and the Deputy Attorney-General and the Auditor-General and the Deputy Auditor-General shall be independent officers and not come under any department. They shall be appointed by the Presidential Council for a non renewable term of office of nine years but no longer than until their 75<sup>th</sup> birthday.
2. The Attorney-General and the Auditor-General shall not hail from the same constituent state nor shall the Attorney-General and the Deputy Attorney-General or the Auditor-General and the Deputy-Auditor General.

**Article 34**      ***The office of the Attorney-General and the Deputy Attorney-General***

1. The Attorney-General and the Deputy Attorney-General shall be the

- Head and Deputy Head, respectively, of the Federal Law Office. They shall be appointed and hold office in the same manner and under the same terms and conditions as judges of the Supreme Court of Cyprus and shall not be removed from office except on like grounds and in the same manner as such a judge.
2. The Attorney-General, assisted by the Deputy Attorney-General, shall be the legal adviser of the federal government and shall exercise all such other powers and shall perform all such other functions and duties as are conferred or imposed on him/her by this Constitution or by law.
  3. The Attorney-General shall have power, exercisable at his/her discretion in the public interest, to institute, conduct, take over and continue or discontinue any proceedings regarding offences against federal law against any person in the United Cyprus Republic.
  4. The law shall regulate further aspects of the office of the Attorney-General and the Deputy Attorney-General.

**Article 35**      *The office of the Auditor-General and the Deputy Auditor-General*

1. The Auditor-General and Deputy Auditor-General shall be the Head and Deputy Head, respectively, of the Federal Audit Office. They shall be members of the federal public service and shall not be retired or removed from office except on like grounds and in like manner as judges of the Supreme Court of Cyprus.
2. The Auditor-General, assisted by the Deputy Auditor-General, shall, on behalf of the federal government, 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 of the federal government and for this purpose, shall have the right of access to all books, records and returns relating to such accounts and to places where such assets are kept.
3. 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/her by law. The Auditor-General shall submit annually a report on the exercise of his functions and duties under this Constitution to the Presidential Council who shall cause it to be laid before Parliament.

## Section D: The Judiciary

### *Article 36 The Supreme Court of Cyprus*

1. The Supreme Court of Cyprus shall count an equal number of judges from each constituent state among its members. The Presidential Council shall appoint the judges, for a renewable term of office of seven years, in accordance with criteria and procedures stipulated in a special majority law which shall also fix the number of judges.
2. The Supreme Court shall have exclusive jurisdiction over disputes between the constituent states, between one or both constituent states and the federal government and between organs of the federal government.
3. The Supreme Court shall have exclusive jurisdiction to determine the validity of any federal or constituent state law under this Constitution or any question that may arise from the precedence of Constitutional laws. Upon request of constituent state courts or other federal or constituent state authorities it may do so in the form of a binding opinion.
4. The Supreme Court shall be the appeals court in all other disputes on matters which involve the interpretation or an alleged violation of the Foundation Agreement, this Constitution, federal laws (including federal administrative decisions), or treaties binding upon the United Cyprus Republic.<sup>21</sup>
5. The Supreme Court shall have primary jurisdiction over violations of federal law where provided by federal legislation.
6. If a deadlock arises in one of the federal institutions preventing the taking of a decision without which the federal government or its institutions could not properly function, or the absence of which would result in a substantial default on the obligations of the United Cyprus Republic as a member of the European Union, the Supreme Court may, upon application of a member of the Presidential Council, the President or Vice-President of either Chamber of Parliament, or the

<sup>21</sup> **Observation:** this includes the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms and its Additional Protocols in force for Cyprus.

Attorney-General or the Deputy Attorney-General, take an ad interim decision on the matter, to remain in force until such time as a decision on the matter is taken by the institution in question. In so acting, the Supreme Court shall exercise appropriate restraint.

7. The Supreme Court shall decide on the organisation of its work. If it chooses to divide itself into Chambers for the treatment of certain cases, such Chambers shall always include an equal number of judges from each constituent state.
8. The Supreme Court shall strive to reach its decisions by consensus and issue joint judgments of the Court. However, all decisions of the Supreme Court may be taken by simple majority as specified by law.
9. **The federal government shall by special majority law create a Court of First Instance to exercise some of the functions vested by this Constitution in the Supreme Court within three years of entry into force of the Foundation Agreement.**

## **PART VI: AMENDMENTS OF THIS CONSTITUTION**

### *Article 37 Amendments of this Constitution*

1. Amendments of this Constitution, including the attachments which are an integral part of it, shall be considered and adopted by the federal Parliament after consultation with the constituent state governments and interested sectors of society.
2. The Basic Articles of this Constitution cannot be amended.
3. After adoption by both Chambers of Parliament, proposed amendments shall be submitted to referendum for approval by separate majority of the people in each constituent state.
4. Amendments shall enter into force 90 days after their approval, unless the amendment otherwise provides.



## PART VII: TRANSITIONAL PROVISIONS

### *Article 38      Constituent state institutions*

1. No later than 40 days after entry into force of the Foundation Agreement, the constituent states shall elect the members of their legislatures and other popularly elected officials in accordance with the constituent state Constitution and legislation approved in referenda.
2. The newly elected members of the constituent state institutions shall assume office within ten days of their election.<sup>22</sup>

### *Article 39      Transitional federal Parliament*

1. Each newly elected constituent states legislature shall, without delay designate from among its membership 24 delegates to the federal Parliament. To this effect, each group in a constituent state legislature shall designate as many delegates as corresponds to its proportional strength in the legislature.
2. The transitional parliament shall exercise the constitutional functions and prerogatives of the federal Parliament during the first year after entry into force of the Foundation Agreement in accordance with the procedural provisions in this Constitution regarding the Senate.
3. No later than ten calendar months after entry into force of the Foundation Agreement, the senators and deputies shall be elected in accordance with this Constitution. The newly elected Parliament shall assume its functions one year after entry into force of the Foundation Agreement.

### *Article 40      Transitional Head of State*

1. For a transitional period of thirty calendar months, the office of the Head of State shall be vested in the Co-Presidency.
2. Upon entry into force of the Foundation Agreement, the Greek Cypriot leader and the Turkish Cypriot leader shall become Co-Presidents of

<sup>22</sup> **Observation:** The modalities for assuming office, including the taking of an oath, is a matter for the constituent states to regulate.

the United Cyprus Republic. Each constituent state legislature, as soon as it is constituted, shall confirm the Co-President from its constituent state or elect another person to the office.

3. In case of resignation or permanent incapacity of either leader, the legislature of the relevant constituent state shall elect a replacement. If such resignation or incapacity occurs before the legislature of the relevant constituent state has been elected, the most senior judge from that constituent state selected for or appointed to the Supreme Court shall assume the role of Co-President.
4. The Co-Presidents shall alternate every calendar month in representing the Co-Presidency as Head of State.

**Article 41**      ***Transitional federal government***

1. The Co-Presidents shall exercise the executive power during the first year of the transitional period in accordance with the relevant provisions for the Presidential Council. They shall act and decide by consensus.
2. The Co-Presidents shall name six Cypriot citizens to head the federal government departments during the first year of the transitional period. The heads of departments shall be confirmed by Parliament through simple majority. They shall exercise the functions of the executive, which the Co-Presidents shall delegate to them, in accordance with the procedures provided for in this Constitution for the Presidential Council.
3. One year after entry into force of the Foundation Agreement, the newly elected Parliament shall elect a Council of Ministers composed of six members. The provisions of this Constitution for the Presidential Council shall apply *mutatis mutandis* to the election, functioning and powers (other than those vested in the Head of State) of the Council of Ministers.
4. During a second phase of the transitional period, the Council of Ministers shall act as the Government of the United Cyprus Republic while the functions of Head of State shall continue to be vested in the Co-Presidency.
5. Thirty calendar months after entry into force of the Foundation Agreement, the Council of Ministers shall become the Presidential

Council in accordance with the provisions of this Constitution, assuming also the function of Head of State, for a remaining three and a half years, during which time the rotation period for the offices of President and Vice-President shall be seven months.

**Article 42**      *Participation of executive heads of constituent states in meetings of Presidential Council*

During the first ten years after entry into force of the Foundation Agreement, the executive heads of the constituent states shall be invited to participate without a vote in meetings of the Council of Ministers and, later, the Presidential Council.

**Article 43**      *Entry into force of accession treaty to the European Union*

The referenda approving, together with the Foundation Agreement, the conditions of accession of Cyprus to the European Union, shall authorise and oblige the Co-Presidents to sign and ratify the Treaty of Accession of Cyprus to the European Union.<sup>23</sup>

**Article 44**      *Transitional Board of the Central Bank*

The members of the transitional Board of the Central Bank ~~selected in accordance with Appendix B of the Comprehensive Settlement~~ shall assume their functions immediately upon entry into force of the Foundation Agreement and shall remain in office for 15 calendar months, when they shall be replaced by the Board appointed in accordance with the provisions of this Constitution by the Council of Ministers elected by the two chambers of Parliament. The transitional Board shall exercise the powers provided for the Board in the Constitution until the regularly appointed Board takes office.

**Article 45**      *Judges of the transitional Supreme Court*

1. The judges of the transitional Supreme Court ~~selected in accordance with Appendix B of the Comprehensive Settlement~~ shall assume their functions immediately upon entry into force of the Foundation Agreement and shall remain in office for 15 calendar months, when they shall be replaced by the judges appointed in accordance with the provisions of this Constitution by the Council of Ministers elected by

<sup>23</sup> **Observation:** It is understood that given the mandate of the people expressed in separate referenda to sign and ratify the Treaty of Accession, either of the Co-Presidents is empowered to execute the common will of the people of the two constituent states on behalf of Cyprus.

the two chambers of Parliament. The transitional Court shall exercise the powers provided for the Supreme Court in the Constitution until the regularly appointed Supreme Court takes office.

2. **The Registrar, who shall be a non-Cypriot, and two Deputy Registrars of the transitional Supreme Court shall assume their functions immediately upon entry into force of the Foundation Agreement. They will remain in office for 15 calendar months, when they shall be replaced in accordance with the law.**

**Article 46**      *Public Service*

The Law shall specify implementation procedures and timeframes, not exceeding **three** years from the entry into force of the Foundation Agreement, for the full implementation of the provisions of this Constitution relating to the composition of the public service for the different branches of that service.

**Article 47**      *Responsibility for debts incurred prior to the entry into force of the Foundation Agreement*

1. As a matter of principle, debts incurred between 1964 and the entry into force of the Foundation Agreement shall be serviced and paid by the constituent state whose population benefited from the relevant loan. If a loan was used for public works and infrastructure which, after entry into force of the Foundation Agreement, benefit the whole of Cyprus, the relevant debt shall be serviced and paid by the federal government. The same applies to debts incurred prior to 1964 and their refinancing.

2. The federal government shall however assume responsibility for all external debts ~~incurred prior to the entry into force of the Foundation Agreement~~ other than debts to Greece or Turkey or debts from purchase of armaments, which shall be assumed by the relevant constituent state. The internal financial responsibility for servicing and repayment of such debts shall nonetheless be borne in accordance with the above paragraph. ~~Special majority law may provide for reimbursement of the federal government by the constituent states.~~

**Article 48**      *Treaties concluded prior to the entry into force of the Foundation Agreement*

1. During the first two years after entry into force of the Foundation Agreement, a constituent state may object to a particular treaty having been listed in the relevant Annex to the Foundation Agreement after the signature of the "Commitment to submit the Foundation Agreement for approval through separate simultaneous referenda in order to achieve a comprehensive settlement of the Cyprus problem", or any reservation or declaration related to such treaty, on grounds of incompatibility with the Foundation Agreement. Such objection shall be addressed to the Co-Presidents or the Council of Ministers.
2. Upon receipt of such objection, the Co-Presidents or Council of Ministers shall within two weeks decide on the compatibility of the treaty with the Foundation Agreement. If they cannot reach a decision within that time, they shall immediately refer the matter to the Supreme Court which shall decide without delay.
3. Where in accordance with the procedure in paragraph 2 a treaty is determined to be incompatible with the Foundation Agreement, Cyprus shall denounce or otherwise terminate the treaty as soon as possible under international law.
4. Where in accordance with the procedure in paragraph 2 a determination is made that particular provisions of a treaty are incompatible with the Foundation Agreement and separable from the other provisions of the treaty, Cyprus shall seek a modification of the treaty. If the other High Contracting Party does not agree to the modification, Cyprus shall denounce or otherwise terminate the treaty as soon as possible under international law.
5. Upon request of either constituent state within six months of entry into force of the Foundation Agreement, the Co-Presidents may accord a transitional period for the application of a treaty in either constituent state where this seems appropriate, and shall inform the other High Contracting Party accordingly.
6. The Co-Presidents or Council of Ministers shall consider favourably a request by a constituent state during the first two years after entry into force of the Foundation Agreement, to modify a treaty concluded prior to the entry into force of the Foundation Agreement, so that it shall not apply to that constituent state, if

- a. the scope of the treaty falls exclusively within the competence of the constituent states, and
- b. the treaty is of a nature that would permit its application to only one of the constituent states.

If the Co-Presidents or Council of Ministers decide positively, they shall request the other High Contracting Party to modify the treaty accordingly. If the other High Contracting Party refuses such request, the treaty shall remain in force for the entire territory of the United Cyprus Republic.

7. If conditions (a) and (b) of paragraph 6 are fulfilled, and the treaty, in addition, is on commercial or cultural matters and thus is on a subject on which the constituent states may conclude agreements with authorities of States that have relations with the United Cyprus Republic, the Co-Presidents or Council of Ministers shall transmit the request of the relevant constituent state unless there are mandatory reasons with regard to foreign affairs.

*Article 49 Teaching of official languages*

The mandatory teaching of the official languages of the United Cyprus Republic to all secondary school students prescribed in Article 8(4) shall commence no later than three years after entry into force of the Foundation Agreement.

*Article 50 State-owned property*

1. Public property, other than federal property listed in an attachment to this Constitution, is the property of the constituent state in which it is located.
2. The Co-Presidents and the executive heads of the constituent states shall agree on the list of federal property no later than three months after entry into force of the Foundation Agreement. Should they fail to agree, the transitional Supreme Court shall decide on this list based on representations by all interested parties. Such properties shall be considered as federal properties from the date of entry into force of the Foundation Agreement unless otherwise decided.

**Article 51**      *Economic transition and harmonisation*

1. **In the first years after entry into force of the Foundation Agreement, federal economic policy shall give special attention to the harmonisation of the economies of the constituent states and the eradication of economic inequalities between them within the shortest possible time.**
2. Without prejudice to the application of European Union law, the Foundation Agreement and the new state of affairs shall not be construed as altering rights enjoyed by businesspeople under import and/or distribution licenses prior to entry into force of the Foundation Agreement, and such licenses shall where possible be construed as licensing such persons to continue operating their businesses in their constituent state after entry into force of the Foundation Agreement.
3. **Persons holding bank accounts in foreign currency in Cyprus upon entry into force of the Foundation Agreement shall be allowed to maintain such accounts after entry into force of the Foundation Agreement in accordance with the rules and regulations of the Central Bank.**
4. **Federal authorities shall accept book-keeping by private individuals and legal persons in Euros. The Central Bank shall issue regulations, in particular on applicable exchange rates.**

**Article 52**      *International military operations*

**Until the accession of Turkey to the European Union, the United Cyprus Republic shall not put its territory at the disposal of international military operations other than with the consent of Greece and Turkey, in addition to the consent of the governments of both constituent states.**

**Article 53**      *Missing persons*

The executive heads of the constituent states shall without delay take steps to conclusively resolve the issue of missing persons. Both constituent states shall cooperate fully with the Committee on Missing Persons in Cyprus, in accordance with its terms of reference and keeping in mind the agreement reached between H.E. Glafcos Clerides and H.E. Rauf Denktash on 31 July 1997. Each constituent state shall carry out and conclude any and all necessary inquiries, including exhumations.

**PART VIII: ADDITIONAL PROVISIONS**

**[INSERT FURTHER ARTICLES]**

**ATTACHMENT 1:**



**MAP OF THE UNITED CYPRUS REPUBLIC AND ITS  
CONSTITUENT STATES**

[Map]

**ATTACHMENT 2: FLAG OF THE  
UNITED CYPRUS REPUBLIC**

[insert image of agreed flag]

**ATTACHMENT 3: ANTHEM OF THE UNITED  
CYPRUS REPUBLIC**

[insert agreed anthem]

**ATTACHMENT 4: FEDERAL PROPERTY**

[insert agreed list/description of federal property]

**ANNEX II: CONSTITUTIONAL LAWS**

The attachments of this Annex shall be Constitutional Laws upon entry into force of the Foundation Agreement, able to be amended in accordance with the Constitution.

**ATTACHMENT 1: CONSTITUTIONAL LAW  
ON THE ELABORATION AND ADOPTION OF  
CONSTITUTIONAL LAWS**

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.]

## **ATTACHMENT 2: CONSTITUTIONAL LAWS ON POLICE MATTERS AND COMPOSITION AND FUNCTIONS OF THE JOINT INVESTIGATION AGENCY**

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.]

### **Law 1: Constitutional Law on Constituent State Police**

#### **Article 1**      *Constituent state police*

Each constituent state police may not number more than 700 police personnel plus six police personnel per thousand constituent state inhabitants. constituent state police may only carry weapons appropriate for normal police civilian duties.

### **Law 2: Constitutional Law on the Joint Investigation Agency**

#### **Article 1**      *Joint Investigation Agency*

There shall be a Joint Investigation Agency comprising federal and constituent state police personnel, hailing in equal numbers from each constituent state, and reporting to the federal Attorney-General. It shall combat terrorism, drug trafficking, money laundering and organised crime. It shall also investigate alleged violations of police duties by federal or constituent state police, or of Article 6(3) and (4) of the Constitution, upon request of any federal or constituent state authority.

**Article 2 Cooperation**

The Joint Investigation Agency and the federal police shall cooperate with each other and with the police of the constituent states pursuant to the Cooperation Agreement on police matters between the federal government and the constituent states.

**ATTACHMENT 3: CONSTITUTIONAL LAW ON  
INTERNAL CONSTITUENT STATE CITIZENSHIP  
STATUS AND CONSTITUENT STATE  
RESIDENCY RIGHTS**

[insert further agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.]

**Article 1 Internal constituent state citizenship status upon entry  
into force of the Foundation Agreement**

1. Upon entry into force of the Foundation Agreement, Cypriot citizens shall hold the internal constituent state citizenship status of the constituent state which at that time administers the territory where they reside.
2. Persons residing, at the time of entry into force of the Foundation Agreement, in the Maronite villages of Agia Marina/Gürpınar, Asomatos/Özhan, Karpasha/Karpaşa and Kormakiti/Koruçam, the Mesaoria village of Pyla/Pile, Skylloura/Yilmazköy and Agios Vasilios/Türkeli, the Tillyria villages of Amadhies/Günebakan, Limnitis/Yeşilyirmak, Selemani/Suleymaniye, Xerovounos/Kurutepe, Karovostasi/Gemikonagi, Agios Georgios/Madenliköy and Kokkina/Erenköy, and the Karpas villages of Rizokarpaso/Dipkarpaz, Agialousa/Yeni Erenköy, Agia Trias/Sipahi, Melanarga/Adacay, Agios Andronikos/Yeşilköy, Agios Therisos and Leonarisso/Ziyamet may, within one year of that date, elect to have the internal constituent state citizenship status of the other constituent state.
3. Cypriot citizens residing abroad shall be afforded the internal constituent state citizenship status of the Greek Cypriot State if they or

their forebears belonged to the Greek Cypriot community before 1974, or the internal constituent state citizenship status of the Turkish Cypriot State if they or their forebears belonged to the Turkish Cypriot community before 1974.

**Article 2**      *Acquisition of internal constituent state citizenship status*

1. Newborn children automatically acquire the internal constituent state citizenship status of their parents. If the parents have different internal constituent state citizenship status, the newborn child shall acquire both internal constituent state citizenship statuses, and shall choose one upon reaching the age of 18.
2. Persons acquiring Cypriot citizenship shall also acquire the internal constituent state citizenship status of the constituent state in which they reside, provided they have resided there for seven years preceding their naturalisation. If this requirement is not fulfilled, they shall acquire the internal constituent state citizenship status of the constituent state in which they have resided longer.
3. The constituent states may regulate the acquisition of their internal constituent state citizenship status by persons hailing from the other constituent state.
4. ~~Any Cypriot citizen who has been resident in a constituent state for any seven consecutive years shall be entitled to apply to change his/her internal constituent state citizenship status to that of the constituent state where s/he resides.~~

**Article 3**      *Exercise of political rights at the constituent state level*

~~A constituent state may restrict, within the limits of European Union law and this Constitution, the exercise of political rights at its level to persons holding its internal constituent state citizenship status.~~

**Cypriot citizens shall exercise political rights at the constituent state level at their place of permanent residence, regardless of their internal constituent state citizenship status. They shall be entitled to be included in the electoral rolls at such place of residency, without any discrimination, within six months of establishing permanent residence.**

**Article 4**      *Supreme Court injunctions on entry or residence*

A constituent state may apply to the Supreme Court of Cyprus for an injunc-

tion barring a person who does not hold its internal constituent state citizenship status from entering or residing in that constituent state. The Supreme Court shall grant the injunction if the relevant person has been, or is actively engaged, in acts of violence or incitement to violence and his/her presence in that constituent state would be a danger to public safety or public order.

**Article 5** *Permissible limitation on residency of non-Cypriots*

The constituent states may, within the limits of international law, European Union law and this Constitution, establish rules and regulations on establishment of residence by non-Cypriots more restrictive than federal rules and regulations.

~~**Permissible limitation on residency of Cypriots**~~

[.....]

**Article 6** *Permissible transitional limitations on establishment of residence*

1. A constituent state may, **until Turkey accedes to the European Union**, limit, on a non-discriminatory basis, the establishment of residence by Cypriot citizens who do not hold the relevant internal constituent state citizenship status.
2. **Permissible limitations include a moratorium on such residence during the first six years after entry into force of the Foundation Agreement. Thereafter, there may be limitations if the number of such residents has reached 7% of the population of a village or municipality between the 7<sup>th</sup> and 10<sup>th</sup> years and 14% between the 11<sup>th</sup> and 15<sup>th</sup> years. Thereafter, there may be limitations if the number of such residents has reached 21% of the population of the relevant constituent state.**
3. Within the permissible limit, priority shall be given first to persons to whom properties have been reinstated by order of the Property Board, and their families; second to other persons who were inhabitants of the relevant municipality or village before 1963 or 1974 respectively, and their families; and third to the heirs of either category of persons.
4. **Notwithstanding the above, two years after entry into force of the Foundation Agreement, there shall be no limitations on the right of return for:**

- a. any former inhabitant over the age of 65 and his/her spouse or one sibling (alone), regardless of the latter's age<sup>24</sup>; or
  - b. any former inhabitant and his/her descendant(s) in the Tillyria vil-  
lages of Amadhies/Günebakan, Limnitis/Yeşilyirmak,  
Selemani/Suleymaniye, Xerovounos/Kurutepe  
Karovostasi/Gemikonagi, Kokkina/Erenköy, and Agios  
Georgios/Madenliköy, and the Mesaoria villages of Pyla/Pile,  
Skyloura/Yilmazköy and Agios Vasilios/Türkeli, and the Karpas  
villages of Rizokarpaso/Dipkarpaz, Agialousa/Yeni Erenköy,  
Agia Trias/Sipahi and Melanarga/Adacay.
5. No later than 20 years after entry into force of this Agreement, the fed-  
eral government and the constituent states shall review this Article in  
light of experience.
  6. Any restrictions on residence shall not prevent the freedom of move-  
ment throughout Cyprus, including the right of any Cypriot citizen to  
temporarily (i.e. no more than an average of three nights a week) stay  
or holiday in their own properties or any other accommodation any-  
where in Cyprus.

<sup>24</sup> The constituent states shall favourably consider exceptional humanitarian cases such as adult children who have special needs or are otherwise dependent upon their parents.

**Annex III: FEDERAL LAWS**

The attachments to this Annex shall be federal legislation upon entry into force of the Foundation Agreement, able to be amended in accordance with the Constitution.

**ATTACHMENT 1: FEDERAL LAW ON THE ANTHEM,  
FLAG, INSIGNIA AND HONOURS OF THE UNITED  
CYPRUS REPUBLIC (AND THEIR USE)**

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 1 June 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 1 July 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.]



## ATTACHMENT 2: FEDERAL LAW ON CONDUCT OF EXTERNAL RELATIONS

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.]

### *Article 1                      Composition of diplomatic missions of Cyprus*

1. The heads of the diplomatic missions of the United Cyprus Republic to the United Nations in New York, the United Nations in Geneva, the European Union, Greece, Turkey, the United Kingdom, France, the United States, Russia and China shall hail in equal numbers from each constituent state. **The deputy heads of these missions shall hail from the other constituent state.**
2. This Article shall be fully implemented no later than three years after entry into force of the Foundation Agreement.

**ATTACHMENT 3: FEDERAL LAW ON CONDUCT OF  
EUROPEAN UNION AFFAIRS**

[see separate document]

## ATTACHMENT 4: FEDERAL LAW ON CITIZENSHIP OF THE UNITED CYPRUS REPUBLIC

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.]

### *Article 1            General provisions*

This Law determines the conditions for the acquisition [and loss] of Cypriot citizenship, in accordance with the terms of the Foundation Agreement, the Constitution and international and European Union standards.

### *Article 2            [Dual citizenship]*

[insert article, if any.]

### *Article 3            Cypriot citizenship upon entry into force of the Foundation Agreement*

Upon entry into force of the Foundation Agreement, the following persons shall be considered citizens of the United Cyprus Republic:

- a. Any person who held Cypriot citizenship in 1963 and his or her descendants and the spouses of such citizens; and
- b. Any person whose name figures on a list handed over to the Secretary-General of the United Nations by each side no later than 25 March 2003. Each side's list may number no more than **45,000 persons**, inclusive of spouses and children, unless there are specific reasons preventing such spouses and children from being considered Cypriot citizens. The list shall contain the name of each person and the basis for their inclusion on the list, as well as, where relevant, the date of their entry into Cyprus. Applicants shall be included on the list based on the following criteria and in the following order of priority:
  - i) persons 18 years of age or older who enjoyed permanent residence in Cyprus<sup>25</sup> for at least seven years before reaching the age of 18 and

<sup>25</sup> Observation: The term Cyprus here is to be understood in the sense of the island of Cyprus excluding the Sovereign Base Areas and in light of Main Article 12 of the Foundation Agreement.

for at least one year during the last five years and their minor children who enjoy permanent residence in Cyprus;

- ii) other persons who have enjoyed permanent residence in Cyprus for more than seven consecutive years, based on the length of their stay.

Should one side fail to produce a list in time, it shall be prepared by the Citizenship Board. A person living under the administration of the relevant constituent state may apply to the Citizenship Board to be included on the list within one month of publication of a notice in the federal Official Gazette, which notice shall also be published in the main newspapers of the relevant constituent state.

The lists shall be published in the federal Official Gazette. Any person who can demonstrate that s/he was wrongly omitted from a list or that someone else was wrongly included may submit a complaint with evidence to the Citizenship Board within three months of publication of the relevant Official Gazette. The Citizenship Board shall determine any such disputes without delay and be empowered to rectify the lists in accordance with the above criteria and order of priority with retroactive effect.

#### *Article 4 Acquisition of Cypriot citizenship*

Cypriot citizenship is acquired in accordance with the provisions of this law:

- a. Automatically by birth, where either parent is a Cypriot citizen;
- b. By naturalisation; or
- c. [insert additional articles, if any].

#### *Article 5 Acquisition by naturalisation*

A foreigner may submit a request for acquisition of Cypriot citizenship if s/he fulfils the following conditions:

- a. S/he has reached 18 years of age;
- b. S/he has enjoyed permanent residence in Cyprus for at least **nine** consecutive years, including for no less than four years after entry into force of the Foundation Agreement, before submitting a request (**time spent in Cyprus on the basis of a permit as a student or temporary academic staff of a university shall not be counted for the purpose of this paragraph**);

- c. S/he has some knowledge of one of the official languages of Cyprus;
- d. S/he is not the object of a security measure or a protective measure to remove him/her from the territory of the United Cyprus Republic undertaken by an authority of the federal government or the constituent states in accordance with their respective laws; and
- e. S/he was not sentenced to a term of imprisonment for a premeditated criminal act for longer than one year within seven years of the submission of the request.

**Article 6**            *Acquisition by facilitated naturalisation*

Cypriot citizenship may be acquired through facilitated naturalisation:

- a. Upon request, by spouses of persons who have or acquire Cypriot citizenship in accordance with these provisions, provided they have been married for at least two years; or
- b. Automatically by minor children of persons who acquire Cypriot citizenship in accordance with these provisions.

**Article 7**            *Loss of Cypriot citizenship*

[insert article, if any]

**Article 8**            *Passports*

1. The Citizenship Board shall issue passports to Cypriot citizens in accordance with these provisions.
2. During an interim period of six months, the Citizenship Board shall stamp travel documents of citizens issued prior to entry into force of the Foundation Agreement, testifying to the recognition of these documents by the United Cyprus Republic.

**Article 9**            *The Citizenship Board*

1. The Citizenship Board shall be composed of six persons, three hailing from each constituent state, and the chair shall rotate on an annual basis.
2. For the first two years of its operation, the Citizenship Board shall, in addition, comprise two non-Cypriots who are not citizens of Greece, Turkey or the United Kingdom. The non-Cypriots may simultaneously serve on the Aliens Board.

3. The members of the Citizenship Board shall be appointed by the Presidential Council and confirmed by Parliament by special majority.

**Article 10**      **Implementation of this law**

1. The Citizenship Board shall be entrusted with the implementation of this law and shall adopt rules and regulations for this purpose.
2. The Citizenship Board shall appoint and supervise agents who shall process requests relating to Cypriot citizenship, in accordance with this law and its rules and regulations.

**Article 11**      **Review of decisions on citizenship**

1. There shall be a right of appeal to the Citizenship Board from decisions by agents of the Board regarding citizenship.
2. Decisions of the Citizenship Board are subject to review by the Supreme Court.

**Article 12**      **Transitional rules and regulations**

Until the federal Parliament adopts detailed rules and regulations governing citizenship, the Citizenship Board shall adopt such rules and regulations in accordance with these provisions and the abovementioned international instruments, bearing in mind the obligations of Cyprus under the Treaty of Accession to the European Union.

## ATTACHMENT 5: FEDERAL LAWS ON ALIENS, IMMIGRATION AND ASYLUM

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.]

### Law 1: Federal Law on Aliens and Immigration

#### *Article 1*            *General provisions*

This Law prescribes the conditions for residency, immigration and asylum, in accordance with the terms of the Foundation Agreement, the Constitution and international and European Union standards.

#### *Article 2*            *Entry and residency rights of Greek and Turkish nationals*

1. The United Cyprus Republic shall grant equal treatment to Greek and Turkish nationals with respect to entry and residency rights to the extent permissible under European Union law and the Treaty of Accession of Cyprus to the European Union.
2. Upon entry into force of the Foundation Agreement, the Aliens Board shall authorise the constituent states to grant permanent residence to nationals of Greece up to a level of 10% of the number of resident Cypriot citizens who hold the internal constituent state citizenship status of the Greek Cypriot State and to nationals of Turkey up to a level of 10% of the number of resident Cypriot citizens who hold the internal constituent state citizenship status of the Turkish Cypriot State. Such nationals who do not so receive permanent residence may apply for financial assistance to relocate to their country of origin if they have lived in Cyprus<sup>26</sup> for no less than five years. Such assistance shall be in the form of cash grants payable on their arrival in their coun-

<sup>26</sup> Observation: The term Cyprus here is to be understood in the sense of the island of Cyprus excluding the Sovereign Base Areas and in light of Main Article 12 of the Foundation Agreement.

try of origin, within five years of entry into force of the Foundation Agreement. The amount of the grant shall be in accordance with a scale, based on a figure of no less than 10,000 Euros for a household of four.<sup>27</sup>

3. The Aliens Board shall not authorise further immigration of Greek nationals if the number of permanent residents who are Greek nationals has reached 5% of the number of resident Cypriot citizens who hold the internal constituent state citizenship status of the Greek Cypriot State nor shall it authorise further immigration of Turkish nationals if the number of permanent residents who are Turkish nationals has reached 5% of the number of resident Cypriot citizens who hold the internal constituent state citizenship status of the Turkish Cypriot State.<sup>28</sup>
4. Limitations on immigration of Greek and Turkish nationals shall not apply to full-time students and temporary academic staff of universities, for up to a period of seven years. The Aliens Board shall issue regulations regarding the conditions under which students may hold limited gainful employment.

*Article 3 Asylum*

The Aliens Board shall grant asylum in accordance with the 1951 Geneva Convention on the Status of Refugees and its 1967 Protocol, the 1997 Dublin Convention on Asylum Seekers, the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms and its Additional Protocols which are in force for the United Cyprus Republic, as well as other relevant international instruments in force for the United Cyprus Republic.

*Article 4 The Aliens Board*

1. The Aliens Board shall be composed of six persons, three hailing from each constituent state, and the chair shall rotate on an annual basis.
2. For the first two years of its operation, the Aliens Board shall, in addition, comprise two non-Cypriots who are not citizens of Greece, Turkey or the United Kingdom. The non-Cypriots may simultaneously serve on the Citizenship Board.

<sup>27</sup> Observation: The services of the International Organisation for Migration could be requested in this regard.

<sup>28</sup> Observation: In accordance with international practice, for the purpose of this Article, persons who are citizens of both Cyprus and Greece or Turkey shall be counted as citizens of Cyprus only.



3. The members of the Aliens Board shall be appointed by the Presidential Council and confirmed by Parliament by special majority.

**Article 5**            ***Implementation of this law***

1. The Aliens Board shall be entrusted with the implementation of this law and shall adopt rules and regulations for this purpose.
2. The Aliens Board shall appoint and supervise agents who shall process requests relating to immigration, asylum, deportation or extradition in accordance with this law and its rules and regulations.

**Article 6**            ***Review of decisions on immigration, asylum, deportation and extradition***

1. There shall be a right of appeal to the Aliens Board from decisions by agents of the Board regarding immigration, asylum, deportation or extradition.
2. Decisions of the Aliens Board are subject to review by the Supreme Court.

**Article 7**            ***Transitional rules and regulations***

Until the federal Parliament adopts detailed rules and regulations governing immigration, asylum, deportation and extradition, the Aliens Board shall adopt such rules and regulations in accordance with these provisions and the abovementioned international instruments, bearing in mind the obligations of Cyprus under the Treaty of Accession to the European Union.

[insert further agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 15 October 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 15 November 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.]

**Law 2: Federal Law on Refugees**

**Law 3: Federal Law on the Free Movement of Residents or the Nationals of the Member States of the European Union and their Families**

**Law 4: Federal Law on the Extradition of Fugitives**

## ATTACHMENT 6: FEDERAL LAW ON THE CENTRAL BANK

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.]

### PART I: TRANSITIONAL PROVISIONS

*Article 1*                      *Exchange of deposits of citizens and residents of Cyprus  
and accounts in foreign currency*

The Central Bank of Cyprus shall, upon request within three months of entry into force of the Foundation Agreement, exchange or procure exchange by local banks of deposits held by citizens and residents of Cyprus (including legal persons) in Turkish lira in banks in Cyprus on the date of entry into force of the Foundation Agreement into Cyprus pounds at the rate at which the Bank of Turkey shall credit the relevant amounts to the Bank of Cyprus in Euros, being at the Cyprus pound/Turkish Lira rate of exchange as determined by the market rate of the two currencies in terms of Euro. **Any Cypriot citizen or resident shall, in addition, be entitled to exchange up to one billion Turkish lira in cash within three months of entry into force of the Foundation Agreement.**

## ATTACHMENT 7: FEDERAL LAWS ON TAXATION AND FINANCES

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.]

### Law 1: Federal Law on Value-Added Tax

#### *Article 1            Transfer to constituent states*

1. The federal government shall confer upon each constituent state, **one third** of the value-added tax collected within its boundaries.
2. The federal government shall, in addition, confer upon the constituent states, in proportion to their population, no less than **one-third** of revenue from indirect taxation which is not transferred to the European Union.
3. The federal government shall spend no less than 5% of revenue from indirect taxation which is not transferred to the European Union to finance cooperative endeavours between the constituent states or between municipalities located in different constituent states.

## ATTACHMENT 8: FEDERAL LAW ON BUDGET

### *Article 1            Carry over of previous budget*

If Parliament is unable to approve a budget before the beginning of the fiscal year, the budget of the previous year, adjusted by inflation minus 1%, shall be carried on to the next fiscal year, unless the Supreme Court in the exercise of its deadlock resolving power decides otherwise.

## **ATTACHMENT 9: FEDERAL LAW ON INTERNATIONAL TRADE, CUSTOMS AND EXCISE**

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.]

### **Law 1: Federal Law on Customs**

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 15 June 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 15 July 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.]

### **Law 2: Federal Law on Excise Duties**

## ATTACHMENT 10: FEDERAL LAW ON AVIATION AND AIRSPACE MANAGEMENT

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 1 July 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 1 August 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.

The text shall take into account the vital interests and legitimate concerns of neighbouring states, the geographical position of the island of Cyprus in the Eastern Mediterranean, the terms of treaties binding on the United Cyprus Republic upon entry into force of the Foundation Agreement, and the relevant principles and rules of international law]

## ATTACHMENT 11: FEDERAL LAWS ON INTERNATIONAL NAVIGATION, TERRITORIAL WATERS, AND CONTINENTAL SHELF

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 1 July 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 1 August 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.

The text shall take into account the vital interests and legitimate concerns of neighbouring states, the geographical position of the island of Cyprus in the Eastern Mediterranean, the terms of treaties binding on the United Cyprus Republic upon entry into force of the Foundation Agreement, and the relevant principles and rules of international law]

### SUBJECT A. INTERNATIONAL NAVIGATION

- Law 1: Federal Law on Merchant Shipping  
(Registration of Ships, Sales and Mortgages)
- Law 2: Federal Law on Merchant Shipping (Masters and Seamen)
- Law 3: Federal Law on Cyprus Ships (Prohibition of Transportations)
- Law 4: Federal Law on Merchant Shipping (Fees and Taxing Provisions)
- Law 5: Federal Law on High Speed Small Vessels
- Law 6: Federal Law on Merchant Shipping  
(Safe Manning, Hours of Work and Watchkeeping)
- Law 7: Federal Law on Merchant Shipping  
(Criminal and Disciplinary Liability of Seafarers, Suspensions or Cancellation of Certificates)
- Law 8: Federal Law on Merchant Shipping  
(Medical Examination of Seafarers and Issue of Medical Fitness Certificates)
- Law 9: Federal Law on Merchant Shipping  
(Registration of Seafarers and Seafarers Register)



- Law 10: Federal Law on Merchant Shipping  
(Issue and Recognition of Certificates and  
Marine Training)
- Law 11: Federal Law on Merchant Shipping  
(Recognition and Authorisation of Organisations)
- Law 12: Federal Law on Merchant Shipping  
(Port State Control)
- Law 13: Federal Law on Merchant Shipping  
(Marine Equipment)
- Law 14: Federal Law on Merchant Shipping  
(Harmonised Safety Regime for  
Fishing Vessels of 24 Metres and over)
- Law 15: Federal Law on Merchant Shipping (Registration of  
Persons Sailing on Board Passenger Ships)
- Law 16: Federal Law on Merchant Shipping (Safety Rules and  
Standards for Passenger Ships)
- Law 17: Federal Law on Merchant Shipping (Mandatory  
Surveys for the Safe Operation of Regular Ro-Ro  
Ferry and High-Speed Passenger Craft Services)
- Law 18: Federal Law on Merchant Shipping (Minimum Safety  
and Health Requirements for Work on Board  
Cyprus Fishing Vessels)
- Law 19: Federal Law on Merchant Shipping (Minimum  
Requirements for Medical Treatment on  
Board Vessels)
- Law 20: Federal Law on Cyprus Admiralty Jurisdiction
- Law 21: Federal Law on Emergency Powers  
(Control of Small Vessels)
- Law 22: Federal Law on Merchant Shipping  
(Safety Regulations and Seamen)
- Law 23: Federal Law on the Carriage of Goods by Sea
- Law 24: Federal Law on Wrecks
- Law 25: Federal Law on Shipwrecked Passengers
- Law 26: Federal Law on the Implementation of the 1966  
International Convention on Load Lines and  
its 1988 Protocol
- Law 27: Federal Law on the Implementation of the 1948  
International Convention for the Intergovernmental  
Maritime Consultative Organisation
- Law 28: Federal Law on the Implementation of the 1972

- Convention on International Regulations for Preventing Collisions At Sea
- Law 29: Federal Law on the Implementation of the 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers
- Law 30: Federal Law on the Implementation of the 1974 International Convention for the Safety of Life at Sea and its 1978 Protocol
- Law 31: Federal Law on the Implementation of the 1969 International Convention on Tonnage Measurement of Ships
- Law 32: Federal Law on the Implementation of the 1926 International Convention for the Unification of Certain Rules Concerning the Unity Of State Ships and its 1934 Additional Protocol
- Law 33: Federal Law on the Implementation of the 1969 International Convention on Civil Liability for Oil Pollution Damage and its 1976 and 1992 Protocols
- Law 34: Federal Law on the Implementation of the 1973 International Convention for the Prevention of the Pollution of the Sea from Ships
- Law 35: Federal Law on the Implementation of the 1971 International Convention for the Establishment of an International Fund for Compensation for Oil Pollution Damage and its 1976 and 1992 Protocols
- Law 36: Federal Law on the Implementation of the 1971 Special Trade Passenger Ships Agreement and the 1973 Protocol on Special Requirements for Special Trade Passenger Ships
- Law 37: Federal Law on the Implementation of the International Convention for the Prevention of Pollution of the Sea by Dumping of Waste and other Matters of Collision of Ships
- Law 38: Federal Law on the Implementation of the International Convention for the Unification of Certain Rules Concerning Civil Jurisdiction in Matters of Collision of Ships
- Law 39: Federal Law on the Implementation of the 1972 International Convention for Unification of Certain Rules Relating to Penal Jurisdiction in Matters of

- Collision or other Incidents of Navigation**
- Law 40:** Federal Law on the Implementation of the 1979 International Convention of Maritime Search and Rescue
- Law 41:** Federal Law on the Implementation of the (Revised) 1936 Convention Fixing the Minimum Age for the Admission of Children to Employment at Sea
- Law 42:** Federal Law on the Implementation of the Convention Concerning the Repatriation of Seamen
- Law 43:** Federal Law on the Implementation of the 1976 Convention Concerning Minimum Standards in Merchant Ships
- Law 44:** Federal Law on the Implementation of the Convention Concerning Crew Accommodation on Board Ships
- Law 45:** Federal Law on the Implementation of the International Convention for Safe Containers
- Law 46:** Federal Law on the Implementation of the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation

**SUBJECT B. TERRITORIAL WATERS**

- Law 47:** Federal Law on the Breadth of Territorial Waters, the Establishment of Contiguous Zone, the Exclusive Economic Zone and other Related Matters

**SUBJECT C. CONTINENTAL SHELF**

- Law 48:** Federal Law on the Exploitation of the Continental Shelf of Cyprus and other Related Matters

## ATTACHMENT 12: FEDERAL LAW ON WATER RESOURCES

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 15 September 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 15 October 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.

The text shall include provisions ensuring that the natural water resources of Cyprus shall be equitably shared between the constituent states]

**ATTACHMENT 13: FEDERAL LAW ON  
NATURAL RESOURCES**

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 15 September 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 15 October 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.]

**ATTACHMENT 14: FEDERAL LAWS ON  
IMPLEMENTATION OF FEDERAL LAWS  
~~LAW ON POSTAL SERVICES~~**

**Law 1: Federal Law on the Issuing of Regulations**

[see separate document]

**Law 2: Federal Law on Implementation of Federal Laws by Constituent  
State Authorities**

[see separate document]

## **ATTACHMENT 15: FEDERAL LAWS ON COMMUNICATIONS**

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 15 July 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 15 August 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.

### **Law 1: Federal Law on Radio Communications**

### **Law 2: Federal Law on the Regulation of Telecommunications and Postal Services**

## ATTACHMENT 16: FEDERAL LAW ON METEOROLOGY

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 1 October 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 1 November 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.



**ATTACHMENT 17: FEDERAL LAW TO  
PROVIDE FOR THE ESTABLISHMENT OF  
STANDARDS OF WEIGHTS AND MEASURES BASED  
ON THE METRIC SYSTEM AND TO PROVIDE FOR  
MATTERS CONNECTED THEREWITH OR  
INCIDENTAL THERETO**

[see separate document]

## **ATTACHMENT 18: FEDERAL LAWS ON INTELLECTUAL PROPERTY**

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 15 May 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 15 June 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.

**Law 1: Federal Law on Copyright**

**Law 2: Federal Law on the Legal Protection of Topographies of Semiconductor Products**

**Law 3: Federal Law on Trade Marks**

**Law 4: Federal Law on Patents**

**Law 5: Federal Law on the Legal Protection of Designs**

**Law 6: Federal Law on the Designation of Origin and Geographical Indications of Agricultural Products and Foodstuffs**

**Law 7: Federal Law on the Control of Movement of Goods which Infringe Intellectual Property Rights**

## ATTACHMENT 19: FEDERAL LAWS ON ANTIQUITIES

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 15 October 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 15 November 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.]

### **Law 1: Federal Law on Antiquities**

### **Law 2: Federal Law on the Return of Cultural Objects**

### **Law 3: Federal Law on the Extent of Cultural Objects**

**ATTACHMENT 20: FEDERAL LAWS ON ELECTIONS**

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 1 August 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 1 September 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.]

**Law 1: Federal Law on the Members of Parliament (Senate and the Chamber of Deputies) (Transitional Provisions)**

[text shall include provisions on eligibility and incompatibility for members of federal institutions]

**Law 2: Federal Law on the Members of Parliament (Senate and the Chamber of Deputies)**

[text shall include provisions on eligibility and incompatibility for members of federal institutions]

## **ATTACHMENT 21: FEDERAL LAW ON FEDERAL GOVERNMENT IMMUNITIES AND EXEMPTIONS**

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.]

## ATTACHMENT 22: FEDERAL LAWS ON ADMINISTRATION

**Law 1: Federal Law on the Functioning of the Public Service Commission, for the Appointment, Promotion and Retirement of Public Officers, and for Conditions of Service, Disciplinary Proceedings and other Matters relating to the Public Service**

[see separate document]

**Law 2: Federal Law on Pensions**

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 1 August 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 1 September 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.

## ATTACHMENT 23: FEDERAL LAW ON OFFICIAL LANGUAGES

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 1 June 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 1 July 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.

## ATTACHMENT 24: FEDERAL LAW ON FEDERAL POLICE AND JOINT INVESTIGATION AGENCY

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.]

### *Article 1      Composition*

1. The Head of the federal police and the Deputy Head of the federal police and the Head of the Joint Investigation Agency and the Deputy Head of the Joint Investigation Agency shall not hail from the same constituent state.
2. All units of the federal police and the Joint Investigation Agency shall be composed of an equal number of personnel hailing from each constituent state.



**ATTACHMENT 25: FEDERAL LAW ON LEGISLATIVE  
PROCEDURE AND ON PROCEDURE FOR  
AMENDMENTS OF THE CONSTITUTION**

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement. Text should include, *inter alia*, regulation of procedure for consultation of constituent state governments and other interested sectors of society.]

**Article 1**            *Vacancy in the Presidential Council*

In the event of a vacancy in the Council, a replacement shall be elected by Parliament by special majority for the remainder of the term of office. The replacement shall hail from the same constituent state and the same political party as the member being replaced.

**Article 2**            *Conciliation Mechanism*

[insert provision in conformity with Article 25.3 of the Constitution]

## ATTACHMENT 26: FEDERAL LAW ON ADMINISTRATION OF JUSTICE

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.]

### *Article 1*            *Judges of the Supreme Court*

1. The Supreme Court judges shall not hold any other public office in the federal government or either constituent state.
2. The judges shall not serve beyond their 75<sup>th</sup> birthday.
3. The Presidential Council shall appoint the judges from among the candidates listed by the Judiciary Board, three judges hailing from each of the constituent states and three non-Cypriot judges who shall not be citizens of Greece, Turkey or the United Kingdom.
4. In case of a vacancy, the Presidential Council shall appoint a replacement for the remainder of the term of office upon suggestion of the Judiciary Board, without altering the composition of the Court as prescribed in this Article.

### *Article 2*            *The President of the Supreme Court*

The Supreme Court Judges shall elect from among their number a President of the Supreme Court for a renewable three-year term of office.

### *Article 3*            *Seniority of judges*

The President of the Supreme Court shall be considered the most senior Supreme Court judge. Among the other judges, seniority shall be determined firstly by time served in office and by age in case of equal time served.

### *Article 4*            *Decisions of the Supreme Court*

1. **In accordance with the Constitution, the Supreme Court shall strive to reach decisions by consensus and issue joint judgments of the court.**
2. **In the absence of consensus, a majority of the Cypriot judges may take the decision of the court and issue a joint judgment.**

3. In the absence of a majority among the Cypriot judges, the non-Cypriot judges, acting together and speaking with one voice, shall participate in the decision of the court.

**Article 5**            *Judiciary Board*

1. The Judiciary Board shall comprise the three most senior judges of the Supreme Court of Cyprus, each being the most senior of the group of judges from each of the constituent states and the non-Cypriot judges respectively; the federal Attorney-General and Deputy Attorney-General; and the Attorney-General, the head of the highest court and the President of the Bar Association of each constituent state.
2. If the most senior judge from any group in the transitional Supreme Court is also the head of the highest constituent state court, the second most senior judge from the relevant group shall take his/her place on the Judiciary Board.
3. The Judiciary Board shall decide on a list of names by a two-thirds majority.

**Article 6**            *Partial periodic renewal of the Supreme Court*

1. To ensure partial periodic renewal of the Supreme Court, the terms of office of the original members shall be as follows:
  - a. Three years for one judge from each constituent state as well as one non-Cypriot judge;
  - b. Six years for one judge from each constituent state as well as one non-Cypriot judge; and
  - c. Nine years for one judge from each constituent state as well as one non-Cypriot judge.
2. If the judges in each group cannot agree among themselves who shall hold each term of office, a lot shall be drawn among each group of judges.

**Article 7**            *Transitional Supreme Court*

~~The provisional Judiciary Board shall be composed of the Attorney General, the head of the highest court and the President of the Bar Association of each constituent state.~~

1. The Cypriot judges may maintain any functions as constituent state judges during their fifteen-month term of office on the transitional

Supreme Court to the extent that their tasks at the Supreme Court shall allow it. They shall give priority to their tasks as judges of the Supreme Court of Cyprus.

2. The non-Cypriot judges and the non-Cypriot registrar on the transitional Supreme Court shall be remunerated like the judges and the registrar of the International Court of Justice.

**Article 8**      *Right of Appeal to the Supreme Court*

Any individual shall have the right of appeal to the Supreme Court in all disputes on matters which involve the interpretation or an alleged violation of the Foundation Agreement, the Constitution of the United Cyprus Republic, federal laws (including federal administrative decisions) or treaties binding upon the United Cyprus Republic.

## **ATTACHMENT 27: FEDERAL LAWS ON FEDERAL OFFENCES**

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 1 October 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 1 November 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.

### **Law 1: Federal Law on Terrorism**

[insert text; i.e. criminal code on terrorism]

### **Law 2: Federal Law on Drug Trafficking**

[insert text; i.e. drug trafficking, money laundering, organised crime and offences against federal laws.]

### **Law 3: Federal Law on the Prevention and Suppression of Money Laundering Activities**

## ATTACHMENT 28: FEDERAL LAW ON IMPEACHMENT

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 1 August 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 1 September 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.

The text shall include provisions that cases alleging impeachment shall be referred to the Supreme Court; the Supreme Court shall determine the appropriate punishment]

**ANNEX IV: COOPERATION AGREEMENTS  
BETWEEN THE FEDERAL GOVERNMENT AND THE  
CONSTITUENT STATES**

The attachments to this Annex shall be Cooperation Agreements between the federal government and the constituent states upon entry into force of the Foundation Agreement. These agreements may be amended by agreement of the federal government and both constituent states.

**ATTACHMENT 1: COOPERATION AGREEMENT ON  
EXTERNAL RELATIONS**

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.]





### **ATTACHMENT 3: COOPERATION AGREEMENT ON POLICE MATTERS**

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.

Text should include provisions on cooperation arrangements between constituent state police, between constituent state police and federal police, and regarding joint investigation agency; these provisions should create a cooperation committee; they should, *inter alia*, address the issue of hot pursuit]

## **ANNEX V: LIST OF INTERNATIONAL TREATIES BINDING ON THE UNITED CYPRUS REPUBLIC**

The following treaties bind the United Cyprus Republic and apply *mutatis mutandis* to the new state of affairs:

### **Multilateral Instruments**

1. The Charter of the United Nations
  - Amendments to Articles 23, 27 and 61 of the Charter of the United Nations.
  - Amendment to Article 109 of the Charter of the United Nations.
  - Amendment to Article 61 of the Charter of the United Nations.
  - Declaration Recognizing as Compulsory the Jurisdiction of the International Court of Justice Under Article 36, Paragraph 2, of the Statute of the Court<sup>29</sup>
2. Treaty of Establishment
  - annexes A to F, schedules and detailed plans and 14 Exchanges of Notes.
3. Treaty of Guarantee
4. Treaty of Alliance
  - Its Additional Protocols
  - Agreement for the Application of the Treaty of Alliance.
5. European Convention for the Protection of Human Rights and Fundamental Freedoms
  - Protocols 2 through 11
6. International Covenant on Civil and Political Rights.
  - Optional Protocol to the International Covenant on Civil and Political Rights.
  - Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty.
7. Framework Convention for the Protection of National Minorities
8. United Nations Convention on the Law of the Sea

<sup>29</sup> The Declaration registered on 3 September 2002 (Declaration Recognizing as Compulsory the Jurisdiction of the International Court of Justice Under Article 36, Paragraph 2 of the Statute of the Court) shall, on the day of entry into force of the Foundation Agreement be replaced by a declaration accepting the Court's jurisdiction without reservation

9. Convention Relating to the Status of Refugees.  
-Protocol in Relation to the Status of Refugees.
10. ILO Convention 58 concerning Fixing the Minimum Age for the Admission of Children to Employment at Sea
11. ILO Convention 150 Concerning Labour Administration
12. ILO Convention 151 Concerning Labour Relations (Public Service)
13. ILO Convention 138 Concerning Minimum Age for Admission to Employment
14. ILO Convention 141 Concerning Organizations of Rural Workers
15. ILO Convention 142 Concerning the Development of Human Resources
16. ILO Convention 144 Concerning Tripartite consultations (International Labour Standards)
17. Agreement with United Nations concerning the Privileges and Immunities, Exemptions and Facilities to be accorded to the United Nations Mediator in Cyprus and his Staff.
18. Agreement concerning the Status of United Nations Force in Cyprus.  
-Amendment to the Agreement concerning the Status of the United Nations Force in Cyprus.
19. Convention on International Liability for Damage Caused by Space Objects.
20. Convention on Registration of Objects Launched into Outer Space.
21. Convention on the Elimination of All Forms of Discrimination Against Women.  
-Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women.
22. Convention on the Legal Status of Children Born out of Wedlock

## **Bilateral Instruments**

### **with Greece**

1. Agreement on Commercial Scheduled Air Transport  
-Amendment and Corrigendum of the Agreement on Commercial Scheduled Air Transport.
2. Agreement on International Road Transport  
-Amendment of Agreement on International Road Transport

### **with Turkey**

1. Cooperation Agreement on Civilian Aviation
2. Cooperation Agreement in the Field of Air Rescue

[insert further treaties by 25 March 2003. If agreement is not reached by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.

In completing the list, the following guidelines shall be observed:

- Each side shall submit an exhaustive list of treaties and instruments which it suggests to be binding on the United Cyprus Republic no later than 7 March 2003. Treaties and instruments submitted later shall not be considered for inclusion in the list.
- Each side shall furthermore submit an exhaustive list of reservations and declarations to treaties and instruments so listed by 7 March 2003.
- Each party shall provide English translations of all its treaties and instruments with Greece or Turkey, no later than 14 March 2003.
- There shall be a presumption of inclusion of all multilateral instruments and all bilateral instruments, other than agreements on defence matters with Greece and Turkey; either side may raise objections with respect to a specific instrument ~~provisionally listed~~ on grounds of incompatibility with ~~the Comprehensive Settlement~~ or the Foundation Agreement.]

- ~~Instruments with Greece and Turkey in areas not related to defence shall be examined and, unless incompatible with the Comprehensive Settlement or the Foundation Agreement, shall be included in the list;~~
- ~~Instruments with Greece and Turkey on defence matters shall not be included in the list, unless otherwise agreed.]~~

## ANNEX VI: TERRITORIAL ARRANGEMENTS

### *Article 1 Delineation of constituent state boundaries*

1. The boundaries of the constituent states, depicted in the map attached to the Constitution, is described in detail in the attached table.
2. There shall be a boundary committee comprising three representatives of each constituent state and at least one non-Cypriot. The committee shall be appointed upon entry into force of the Foundation Agreement, and shall demarcate the boundary on the ground.
3. The demarcation by the committee may deviate 25 metres from the stipulated boundary to take account of ownership of properties in the area of the boundary, significant topographical features such as graveyards and pre-existing paths. In towns (namely Nicosia and Famagusta) and built up areas in general, the final boundary shall be demarcated in such a way as to take into account as an overriding concern ownership of properties in the area of the boundary. Functionality of street use and administration shall also be a consideration. Any inconsistency between the above description of the course of the agreed boundary and the map shall be decided by consensus by the committee, or, where it is unable to reach consensus, by the Supreme Court of Cyprus.

### *Article 2 Access and connecting roads*

1. Civilian traffic on direct connecting roads between the main part of a constituent state and a non-contiguous part, as well as on direct connecting roads through a non-contiguous part of a constituent state, may only be restricted pursuant to an injunction of the Supreme Court.

2. The highway connecting north Nicosia and Famagusta is under the territorial administration of the Turkish Cypriot State for its entire length. The Greek Cypriot State shall be entitled to construct an underpass or overpass for access to Pyrga.
3. The road connecting Pyrogi and Athienou is under the territorial administration of the Greek Cypriot State for its entire length. The Turkish Cypriot State shall be entitled to construct an underpass or overpass for access to Akincilar (Louroujina).
4. The Greek Cypriot State shall be entitled to construct roads under its territorial administration between Kontea and Kalopsida, south of Köprülü (Kouklia), and between Pentageia and Prastio, south of Gaziveren (Kazivera) across the territory administered by the Turkish Cypriot State and to expropriate the necessary land in exchange for full and effective compensation, in cooperation with the Turkish Cypriot State. The constituent states shall agree on the location of any necessary underpasses or overpasses to be built at the expense of the Greek Cypriot State.
5. After entry into force of the Additional Protocol to the Treaty of Establishment, the Turkish Cypriot State shall be entitled to construct a road under its territorial administration between Beyarmudu (Pergamos) and the Dhekelia Sovereign Base Area, across the territory administered by the Greek Cypriot State and to expropriate the necessary land in exchange for full and effective compensation, in cooperation with the Greek Cypriot State. The constituent states shall agree on the location of any necessary underpasses or overpasses to be built at the expense of the Turkish Cypriot State.

**Article 3**            *Phasing of territorial adjustment*

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1. Administration of areas within the agreed territorial boundaries of a constituent state which are subject to territorial adjustment, while legally part of that constituent state upon entry into force of the Foundation Agreement, shall be delegated to the other constituent state for an interim period ending no later than the time specified in this Article for the transfer of administration of the relevant area.
2. Administration shall be transferred in agreed phases from the date of entry into force of the Foundation Agreement ("A-Day") as depicted on the attached map, and described in detail in the further attachment.

3. All areas subject to territorial adjustment shall be vacated, prior to agreed dates of transfer of administration, of any forces and armaments and no forces and armaments shall be located thereafter in those areas.<sup>30</sup>
4. The constituent states shall render full cooperation to the United Nations which, in conformity with its mandate, shall supervise activities relating to the transfer of areas subject to territorial adjustment and contribute to the maintenance of a secure environment.

**Article 4**      *Security cooperation during period of territorial adjustment*

1. During the phasing period, the areas under the administration of the Greek Cypriot State and the Turkish Cypriot State shall be clearly marked by **temporary poles with marking flags**. During this period, and without prejudice to the paragraph below, there shall be no less than ten agreed crossing points **along the lines of the following roads or routes: Dherinia to Famagusta road, Pyla/Pile to Beyarmudu (Pergamos) road, Athienou to Melousha road, Limpia to Akincilar (Louroujina) road, Ledra crossing point, Astromeritis to Morphou road, Nicosia-Kaimakli to Nicosia-Omorphita, Skouriotissa to Lefke (Lefka) road, Galini to Potamos Tou Kambou road, and Kato Pyrgos to Karavostasi road.**
2. For the period of territorial adjustment, there shall be a Transitional Committee, comprising five persons, including two representatives of each constituent state (of whom at least one shall be a police official) and one representative from the United Nations who shall chair the Committee. The Committee shall consider all issues regarding public order and security that relate to the territorial adjustment or the presence in a constituent state of persons holding the internal constituent state citizenship status of the other constituent state brought to its attention by one of its members. In particular, the Committee shall determine when and for how long, for reasons of public order and security, the agreed crossing points need to be closed or changed or limits on the number of persons using the crossing points need to be temporarily imposed.

<sup>30</sup> **Observation:** This does not apply to the United Nations peacekeeping forces.



3. ~~All areas subject to territorial adjustment, shall be vacated, prior to agreed dates of transfer of administration, of any forces and armaments and no forces and armaments shall be located thereafter in those areas.~~

*Article 5 Current inhabitants*

1. The following special arrangements shall safeguard the rights and interests of current inhabitants of areas subject to territorial adjustment, and provide for orderly relocation to adequate alternative accommodation (in accordance with Annex VII) in appropriate locations where adequate livelihoods may be earned:
  - a. persons to be relocated shall be registered by household, including details of their current occupation or means of livelihood;
  - b. communities may request to be relocated as a community;
  - c. persons with sufficient financial means shall vacate properties no later than one month prior to the agreed date of transfer of administration of the relevant area, unless the Relocation Board exceptionally decides otherwise;
  - d. persons without sufficient financial means shall receive no less than three months' notice of the date for relocation once alternative accommodation has been identified; during this time they may access this alternative accommodation to prepare it for their arrival;
  - e. persons to be relocated who do not have sufficient financial means shall be provided with transport for the members of their household and their belongings, as necessary; and
  - f. special arrangements shall be made for families with young children, the elderly and the disabled.
  
2. Persons other than Cypriot citizens who, on the date of entry into force of the Foundation Agreement, reside in areas subject to territorial adjustment and have lived in Cyprus for no less than five years, may apply for financial assistance to relocate to their country of origin. Such assistance shall be in the form of cash grants payable on their arrival in their country of origin, within five years of entry into force of the Foundation Agreement. The amount of the grant shall be in accordance with a scale, based on a figure of no less than 10,000 Euros for a household of four.<sup>31</sup>

<sup>31</sup> **Observation:** The services of the International Organisation for Migration could be requested in this regard.

**Article 6**      **Monuments and memorial sites**

Any Turkish Cypriot monument or other memorial site connected to the events between 1963 and 1974 which is located in an area subject to territorial adjustment shall, upon transfer of such area, come under the administration of the Reconciliation Commission which shall determine the final status and management arrangements (including, where appropriate, care and maintenance) for such monument or site, which shall be respected by any person or body with an interest in the site or surrounding property. For this purpose, the Reconciliation Commission may create or nominate a particular trust or foundation, which shall be entitled to access the monument or site under such arrangements.

**Article 7**      **Relocation Board**

1. Relocation pursuant to Article 5 shall be managed by a Relocation Board, comprising five persons, including one representative of each constituent state and three non-Cypriots who are not citizens of Greece, Turkey or the United Kingdom and of whom one shall be a United Nations representative. The latter is invited to chair the Board. The Secretary-General of the United Nations is invited to appoint the non-Cypriot members of the Board.
2. The constituent states shall each nominate a representative of their authority competent for housing and property issues, their authority competent for employment/economic issues, their constituent state police and each of the local authorities for the areas subject to territorial adjustment, to cooperate and liaise with the Relocation Board and attend extended planning meetings at the request of the Board.
3. Among other responsibilities, the Relocation Board shall verify that alternative accommodation is ready for inhabitation before setting dates for relocation. It shall initiate arrangements with the competent authorities in the receiving municipalities to ensure that persons relocating there are assisted in establishing a livelihood in those municipalities.
4. The Relocation Board shall also work closely with the Property Board regarding decisions on reinstatement in the areas subject to territorial adjustment and the identification of alternative accommodation. When planning the construction of alternative accommodation, special consideration shall be given to requests of communities wishing to relocate as a community.

5. The Relocation Board shall adopt rules and regulations in accordance with these provisions. The constituent states shall fully respect and implement the decisions of the Relocation Board in a timely manner, and adopt any necessary legislation or regulations to ensure their enforcement.

**Article 8 Properties**

Properties located in areas subject to territorial adjustment shall be handled in accordance with the provisions of Attachment 4 of Annex VII.

**ATTACHMENT 1: DETAILED DESCRIPTION OF THE COURSE OF THE BOUNDARY BETWEEN THE CONSTITUENT STATES**

Longitude (E)	Latitude (N)	Description
32° 54' 32.3"	35° 11' 33.3"	Starting point on West (W) coastline north (N) of Ghaziveran follows track south-east (SE) to
32° 54' 40.4"	35° 11' 28.4"	Turning point (TP) N of Ghaziveran follows south (S) to
32° 53' 52.5"	35° 9' 12.0"	TP east (E) of Pedayia follows south-west (SW) to
32° 50' 45.3"	35° 7' 59.2"	TP hilltop "48" SE of Karovostasi follows west (W) to
32° 49' 23.5"	35° 7' 46.1"	TP hilltop "76" SW of Karovostasi follows west (W) to
32° 48' 23.7"	35° 7' 51.8"	TP follows SW to
32° 48' 5.2"	35° 7' 39.0"	TP of junction of road N of Ambelikou follows road to
32° 47' 54.7"	35° 7' 20.7"	TP hilltop "393" follows SW to
32° 47' 45.4"	35° 7' 10.1"	TP on current Turkish Forces Ceasefire Line (TFCFL) W of Ambelikou
32° 48' 1.0"	35° 6' 56.4"	Follows current TFCFL through points:
32° 48' 12.5"	35° 6' 33.9"	
32° 48' 26.9"	35° 6' 21.7"	
32° 48' 35.6"	35° 6' 7.6"	
32° 48' 45.6"	35° 6' 3.8"	
32° 48' 55.8"	35° 5' 57.6"	
32° 49' 6.9"	35° 5' 56.0"	
32° 49' 21.5"	35° 5' 50.0"	
32° 49' 27.7"	35° 4' 43.7"	
32° 49' 37.9"	35° 5' 20.9"	
32° 50' 3.6"	35° 5' 1.2"	
32° 50' 28.7"	35° 4' 53.4"	Dry river bed
32° 50' 39.8"	35° 4' 53.9"	
32° 50' 49.6"	35° 4' 57.9"	
32° 50' 59.8"	35° 4' 56.2"	
32° 51' 6.8"	35° 4' 53.1"	
32° 51' 16.8"	35° 4' 53.6"	
32° 51' 23.9"	35° 4' 57.5"	

32° 51' 38.9"	35° 4' 58.6"	Turns N
32° 51' 41.1"	35° 5' 3.9"	
32° 51' 47.3"	35° 5' 18.1"	
32° 51' 43.3"	35° 5' 25.1"	W of Skouriotissa
32° 51' 46.1"	35° 5' 42.5"	
32° 51' 40.5"	35° 5' 50.0"	
32° 51' 41.3"	35° 6' 2.0"	SW of Lefka
32° 51' 55.3"	35° 6' 11.0"	
32° 52' 5.5"	35° 6' 14.4"	
32° 52' 34.1"	35° 6' 16.5"	Crosses power line
32° 52' 59.1"	35° 6' 25.9"	Crosses riverbed
32° 53' 16"	35° 6' 33.7"	Between road (N) and church (S) follows E to
32° 53' 26.8"	35° 6' 34.2"	TP follows N to
32° 53' 29.6"	35° 6' 47.5"	Hilltop "216" NE of Kalokhorio follows E to
32° 54' 43.3"	35° 6' 52.4"	Hilltop 19 N of Petra follows SE to
32° 55' 53.2"	35° 6' 4.4"	TP follows current TFCFL E through
32° 56' 29.7"	35° 6' 7.5"	
32° 56' 39.1"	35° 6' 7.5"	
32° 56' 53.7"	35° 6' 10.8"	
32° 57' 9.3"	35° 6' 10.7"	
32° 57' 20.4"	35° 6' 13.4"	
32° 57' 38.9"	35° 6' 35.5"	
32° 57' 49.5"	35° 6' 44.3"	
32° 58' 0.9"	35° 6' 59.1"	
32° 58' 19.9"	35° 7' 9.6"	TP N of Kato Kourtraphas follows NE away from TFCFL along riverbed through
32° 58' 15.2"	35° 7' 18.4"	
32° 57' 51.8"	35° 7' 42.6"	
32° 57' 43.8"	35° 7' 46.3"	
32° 57' 32.9"	35° 8' 1.4"	Crosses road
32° 57' 14.6"	35° 8' 21.9"	Crosses minor road
32° 57' 6.2"	35° 8' 38.5"	Vatha Laxia
32° 56' 34.5"	35° 9' 13.0"	Crosses two roads and river
32° 55' 47.8"	35° 10' 7.5"	TP SW of Prastion follows N to
32° 55' 45.5"	35° 10' 22.2"	TP between Ghaziveran and Prastion, follows S of road NW through

32° 56' 1.4"	35° 10' 31.5"	
32° 56' 15.3"	35° 10' 34.8"	
32° 56' 19.2"	35° 10' 37.7"	
32° 56' 30.3"	35° 10' 39.7"	
32° 56' 42.0"	35° 10' 48.9"	
32° 57' 43.4"	35° 11' 12.3"	
32° 57' 52.1"	35° 11' 10.8"	
32° 58' 17.4"	35° 11' 21.8"	Turns N to skirt Morphou through
32° 58' 11.6"	35° 11' 31.4"	
32° 58' 18.78"	35° 12' 2.5"	
32° 58' 34.0"	35° 12' 18.9"	
32° 58' 54.9"	35° 12' 30.6"	
32° 59' 34.2"	35° 12' 44.8"	
32° 59' 56.0"	35° 12' 41.9"	
33° 0' 12.2"	35° 12' 45.5"	TP N of Morphou follows NE along E of main road through
33° 0' 46.2"	35° 13' 36.9"	E of buildings
33° 0' 57.1"	35° 13' 37.2"	
33° 1' 1.4"	35° 13' 41.0"	
33° 1' 6.3"	35° 13' 57.7"	Back to E of main road
33° 1' 48.1 "	35° 14' 36.0"	Follows E of road to
33° 2' 39.9"	35° 16' 14.9"	
33° 2' 41.8"	35° 16' 29.3"	TP E of Dhiorios forest follows NE to
33° 3' 17.6"	35° 17' 17.3"	TP follows N to
33° 3' 17.9"	35° 17' 49.7"	TP S of Dhiorios follows NE to
33° 4' 4.3"	35° 18' 33.1"	Spot height "269" N of Myrthou follows NE to
33° 4' 26.3"	35° 18' 43.2"	TP S of road junction follows SE to
33° 4' 38.6"	35° 18' 23.6"	TP E of Myrthou follows E to
33° 5' 32.7"	35° 18' 8.7"	Trig point "298" W of Kambyli follows SE to
33° 6' 28.8"	35° 17' 11.6"	Spot height "234" N of Asomatos follows NE to
33° 7' 20.2"	35° 18' 4.2"	
33° 7' 26.6"	35° 18' 23.5"	Spot height "188" follows NE to
33° 7' 52.4"	35° 18' 52.7"	Road W of Larnaca
33° 8' 24.5"	35° 19' 7.3"	
33° 8' 48.1"	35° 19' 4.1"	Spot height "581"
33° 9' 14.5"	35° 19' 1.1"	

33° 9' 37.5"	35° 18' 43.8"	
33° 11' 20.6"	35° 18' 29.9"	TP NE of Sisklipos follows S to
33° 11' 14.3"	35° 18' 4.1"	Spot height "471"
33° 11' 21.2"	35° 16' 59.1"	Spot height "311" E of Ayios Ermolaos
33° 11' 14.6"	35° 16' 20.8"	
33° 11' 3.3"	35° 15' 51.4"	
33° 10' 43.5"	35° 15' 22.4"	
33° 11' 2.5"	35° 14' 6.6"	TP W of Skyllouria follows SE to
33° 15' 50.4"	35° 11' 37.6"	Spot height "164" N of Yerolakkos
33° 19' 13.6"	35° 10' 51.2"	Meets TFCFL at Ayios Dhometios Nicosia

### Nicosia - ESBA

Longitude (E)	Latitude (N)	Description
33° 22' 28.2"	35° 11' 26.9"	Starting point Omorphita, NE Nicosia follows TFCFL through:
33° 22' 35.7"	35° 11' 34.3"	
33° 22' 37.6"	35° 11' 42.1"	
33° 22' 42.8"	35° 11' 45.7"	
33° 22' 54.9"	35° 11' 51.7"	
33° 23' 9.8"	35° 12' 4.9"	Crosses power line
33° 23' 17.7"	35° 12' 1.8"	
33° 23' 56.4"	35° 12' 1.9"	TP follows NE to
33° 25' 11.7"	35° 12' 49.3"	Crosses road north (N) of Mia Milea follows SE to
33° 25' 30.2"	35° 12' 29.9"	
33° 25' 34.2"	35° 11' 20.6"	Road junction W of Filtration Beds fol lows SE to
33° 27' 2.0"	35° 9' 58.7"	Spot height '126"
33° 28' 47.2"	35° 8' 26.0"	Spot height "137" follows E to
33° 31' 2.7"	35° 8' 19.8"	TP at Yialias River, NE of Tymvou fol lows south (S) to
33° 31' 16.7"	35° 7' 33.9"	Ayios Eliag
33° 30' 38.8"	35° 5' 7.4"	
33° 29' 51.1"	35° 4' 14.5"	North of road SE of Pyroi follows SE to
33° 30' 21.7"	35° 4' 1.3"	TP north of road follows NE to
33° 30' 40.9"	35° 4' 13.4"	TP at road follows TFCFL through:

33° 30' 48.9"	35° 4' 16.9"	Power line
33° 31' 15.2"	35° 4' 25.6"	
33° 31' 18.5"	35° 4' 31.0"	
33° 31' 27.1"	35° 4' 38.6"	
33° 31' 31.4"	35° 4' 44.9"	
33° 31' 46.8"	35° 4' 50.9"	
33° 32' 1.6"	35° 4' 52.4"	
33° 32' 13.1"	35° 4' 53.5"	
33° 32' 24.8"	35° 4' 47.8"	Road N of Athienou follows E to
33° 33' 10.5"	35° 4' 46.5"	Follows SE to
33° 35' 53.0"	35° 3' 20.2"	Spot height "300" follows E to
33° 35' 53.8"	35° 3' 20.0"	Spot height "200" follows NE to
33° 38' 1.5"	35° 4' 16.9"	Spot height "136"
33° 38' 52.5"	35° 5' 11.6"	Spot height "139" E of Arsos
33° 39' 8.1"	35° 5' 47.9"	Spot height "124"
33° 39' 38.1"	35° 7' 44.1"	Road S of Vatili
33° 39' 18.3"	35° 8' 6.4"	TP in Vatili follows W to
33° 36' 20.8"	35° 8' 7.4"	TP follows NW to
33° 35' 37.4"	35° 9' 5.4"	TP SE of Asha
33° 36' 2.1"	35° 10' 9.7"	TP NE of Asha
33° 37' 35.2"	35° 10' 7.9"	TP NW of Asha
33° 38' 34.7"	35° 9' 2.3"	TP E of Asha
33° 40' 11.6"	35° 9' 2.7"	
33° 40' 50.6"	35° 8' 31.4"	
33° 43' 31.1"	35° 7' 7.3"	TP at road N of Kondea follows S to
33° 43' 37.2"	35° 6' 45.3"	Following W of road
33° 43' 39.9"	35° 6' 23.4"	
33° 43' 26.6"	35° 5' 59.6"	
33° 43' 27.3"	35° 5' 28.4"	
33° 42' 59.1"	35° 4' 13.6"	Joins ESBA

**ESBA – Ayios Nikolaos**

Longitude (E)	Latitude (N)	Description
33° 44' 15.9"	35° 3' 22.2"	Follows N to
33° 46' 5.8"	35° 6' 15.7"	Road E of Koukλια
33° 44' 46.9"	35° 8' 43.0"	Crosses road at Sigouris Castle
33° 43' 12.2"	35° 10' 47.9"	TP road S of Pygra follows road E through:
33° 43' 53.9"	35° 10' 43.4"	



33° 44' 19.3"	35° 10' 37.9"	
33° 45' 10.8"	35° 10' 40.1"	
33° 45' 25.4"	35° 10' 36.7"	S of X roads in Prastio
33° 46' 14.8"	35° 10' 19.4"	
33° 47' 17.4"	35° 10' 14.4"	Road N of Gaidhouras
33° 47' 35.5"	35° 10' 15.4"	TP NE of Gaidhouras
33° 52' 20.0"	35° 7' 25.2"	ESBA marker No. 204 Ayios Nikolaos

#### ESBA (AyNik) – Famagusta

Longitude (E)	Latitude (N)	Description
33° 54' 28.4"	35° 5' 46.5"	ESBA marker No. 243 follows NW to
33° 54' 25.8"	35° 5' 52.7"	TP follows NE, S of road to
33° 54' 42.9"	35° 6' 3.4"	
33° 55' 18.4"	35° 6' 34.8"	
33° 55' 40.2"	35° 6' 48.1"	
33° 55' 51.2"	35° 6' 56.3"	Follows S of main road into Port area of Famagusta

#### Pyrga Pocket

Longitude (E)	Latitude (N)	Description
33° 43' 11.5"	35° 10' 51.7"	SW corner
33° 43' 11.6"	35° 11' 30.34"	NW corner
33° 44' 18.5"	35° 11' 28.1"	NE corner
33° 44' 19.9"	13° 10' 46.1"	SE corner

#### Kormakiti – clockwise from NW corner

Longitude (E)	Latitude (N)	Description
33° 0' 0.2"	35° 21' 10.6"	
33° 0' 21.2"	35° 21' 10.6"	Spot height "250"
33° 0' 58.5"	35° 20' 52.8"	Spot height "281"
33° 1' 19.3"	35° 20' 34.6"	
33° 1' 19.1"	35° 19' 59.8"	
33° 0' 0.2"	35° 19' 59.8"	Closes to point
33° 0' 0.2"	35° 21' 10.6"	

**Louroujina Pocket – clockwise from NE corner**

Longitude (E)	Latitude (N)	Description
33° 30' 14.5"	35° 3' 56.1"	
33° 29' 48.2"	35° 3' 32.9"	
33° 29' 42.2"	35° 3' 18.1"	
33° 29' 25.7"	35° 2' 50.2"	
33° 28' 43.2"	35° 0' 26.1"	SE corner
33° 27' 46.9"	35° 0' 20.6"	S of Louroujina
33° 27' 10.4"	35° 0' 36.9"	SW corner
33° 27' 11.9"	35° 1' 23.7"	
33° 27' 54.4"	35° 2' 44.7"	
33° 29' 17.9"	35° 3' 49.7"	
33° 29' 27.3"	35° 3' 59.9"	
33° 29' 41.1"	35° 4' 9.8"	NW corner
33° 30' 14.5"	35° 3' 56.1"	Close at NW corner

**Addition to Border after SBA change**

Longitude (E)	Latitude (N)	Description
33° 42' 58.7"	35° 4' 11.7"	ESBA marker No. 71 follows W of road S to
33° 42' 41.6"	35° 3' 33.6"	TP follows W along old Larnaca/Famagusta District boundary through:
33° 42' 29.5"	35° 3' 34.6"	
33° 41' 32.7"	35° 3' 40.1"	
33° 41' 13.8"	35° 3' 40.2"	
33° 40' 29.1"	35° 3' 33.2"	Join ESBA boundary just N of marker No 57 follows ESBA boundary S to
33° 42' 15.2"	35° 1' 36.61"	ESBA boundary marker No. 35 follows E to
33° 42' 19.3"	35° 1' 35.9"	N of road
33° 42' 23.7"	35° 1' 34.8"	
33° 42' 31.5"	35° 1' 30.2"	TP follows NE to
33° 42' 41.0"	35° 1' 36.5"	
33° 43' 13.9"	35° 2' 13.6"	
33° 43' 32.9"	35° 2' 22.9"	
33° 43' 43.1"	35° 2' 42.9"	
33° 44' 15.8"	35° 3' 22.0"	ESBA boundary marker No. 111

**ATTACHMENT 2: MAPS OF TERRITORIAL ADJUSTMENT**

Phase 1 - The first phase of the territorial adjustment process involves the transfer of the territory of the Republic of Serbia to the Republic of Montenegro. This phase is completed on 13 June 2006.

**ATTACHMENT 3:**

Phase 2 - The second phase of the territorial adjustment process involves the transfer of the territory of the Republic of Serbia to the Republic of Montenegro. This phase is completed on 13 June 2006.

Point	Coordinates (Easting)	Coordinates (Northing)
1	327117.00	327117.00
2	327117.00	327117.00
3	327117.00	327117.00
4	327117.00	327117.00
5	327117.00	327117.00
6	327117.00	327117.00
7	327117.00	327117.00
8	327117.00	327117.00
9	327117.00	327117.00
10	327117.00	327117.00
11	327117.00	327117.00
12	327117.00	327117.00
13	327117.00	327117.00
14	327117.00	327117.00
15	327117.00	327117.00
16	327117.00	327117.00
17	327117.00	327117.00
18	327117.00	327117.00
19	327117.00	327117.00
20	327117.00	327117.00
21	327117.00	327117.00
22	327117.00	327117.00
23	327117.00	327117.00
24	327117.00	327117.00
25	327117.00	327117.00
26	327117.00	327117.00
27	327117.00	327117.00
28	327117.00	327117.00
29	327117.00	327117.00
30	327117.00	327117.00
31	327117.00	327117.00
32	327117.00	327117.00
33	327117.00	327117.00
34	327117.00	327117.00
35	327117.00	327117.00
36	327117.00	327117.00
37	327117.00	327117.00
38	327117.00	327117.00
39	327117.00	327117.00
40	327117.00	327117.00
41	327117.00	327117.00
42	327117.00	327117.00
43	327117.00	327117.00
44	327117.00	327117.00
45	327117.00	327117.00
46	327117.00	327117.00
47	327117.00	327117.00
48	327117.00	327117.00
49	327117.00	327117.00
50	327117.00	327117.00

**DETAILED DESCRIPTION OF PHASING LINES OF TERRITORIAL  
ADJUSTMENT**

**PHASE 1 – 104 DAYS. PHASE 1 INCLUDES UNFICYP RELIN-  
QUISHING AUTHORITY OVER THE BUFFER  
ZONE (BZ) AND THE HANDOVER OF VAROSHA  
AND KOKKINA. THIS PHASE BOUNDARY GENE-  
RALLY FOLLOWS THE NORTHERN EDGE OF  
THE BZ WITH THE EXCEPTION OF THE  
KOKKINA POCKET WHICH IS HANDED OVER  
AND VAROSHA DETAILED BELOW:**

**VAROSHA**

<b>Longitude (E)</b>	<b>Latitude (N)</b>	<b>Description</b>
33°59'57.90"	35°4'13.46"	Along Coast to
33°57'28.40	35°7'4.05"	Then along Fence line
33°57'9.25"	35°7'8.36"	
33°56'52.06"	35°7'8.08"	
33°56'47.34"	35°6'52.75"	
33°57'3.20"	35°6'26.06"	
33°57'1.40"	35°6'1.99"	
33°57'3.31"	35°5'52.43"	
33°57'24.42"	35°5'0.36"	
33°57'56.92	35°5'15.05"	
33°58'0.24"	35°4'56.34"	
33°58'22.99"	35°4'15.47"	Joining the northern edge of the BZ

**Phase 2 – 6 months.** Phase 2 phase boundary line is the same as Phase 1 with the addition of the handover areas of Achna and Petra detailed below:

**Achna**

Longitude (E)	Latitude (N)	Description
33°48'54.81"	35°4'12.51"	At SBA Boundary
33°45'48.74"	35°3'48.46"	
33°45'43.46"	35°3'44.49"	
33°46'5.29"	35°2'35.35"	At SBA Boundary

**Petra**

Longitude (E)	Latitude (N)	Description
32°55'53.22"	35°6'4.79"	Joining the northern edge of the BZ
32°55'21.12"	35°6'29.86"	
32°54'42.81"	35°6'52.79"	
32°53'29.86"	35°6'47.63"	
32°53'25.74"	35°6'37.85"	
32°53'27.29"	35°6'35.72"	
32°53'25.74"	35°6'34.01"	
32°53'13.84"	35°6'34.01"	
32°53'4.02"	35°6'28.05"	Joining the northern edge of the BZ

**Phase 3 – 1 year.** Phase 3 phase boundary line is the same as Phase 2 with the addition of the handover areas of Loutros/Gallini and Tymvou detailed below:

**Loutros/Gallini**

Longitude (E)	Latitude (N)	Description
32°47'26.31"	35°7'24.11"	Joining the northern edge of the BZ
32°47'22.82"	35°7'40.69"	
32°47'3.01"	35°8'21.93"	
32°46'17.63"	35°8'42.89"	
32°46'2.32"	35°8'53.79"	
32°45'54.44"	35°8'54.99"	
32°45'46.07"	35°8'53.75"	
32°45'23.43"	35°8'45.62"	
32°45'11.10"	35°8'50.04"	
32°44'44.97"	38°8'54.85"	
32°44'35.12"	35°8'54.82"	
32°44'25.75"	35°8'56.83"	
32°43'44.91"	35°8'40.55"	
32°43'43.93"	35°8'38.53"	Joining the northern edge of the BZ

**Tymvou**

Longitude (E)	Latitude (N)	Description
32°25'3.64"	35°10'18.11"	Joining the northern edge of the BZ
32°25'43.96"	35°10'8.13"	
32°26'45.03"	35°10'13.89"	
32°28'46.70"	35°8'26.25"	Spot Height '137'
32°31'2.53"	35°8'20.49"	VIALIAS Riverbed
32°31'16.78"	35°7'34.36"	
32°30'38.10"	35°5'7.64"	
32°29'50.41"	35°4'16.18"	
32°30'21.74"	35°4'10.59"	
32°30'14.68"	35°5'56.80"	
32°29'40.77"	35°4'10.44"	
32°28'47.06"	35°3'27.67"	Joining the northern edge of the BZ

**Phase 4 – 2 years.** Phase 4 phase boundary line is the same as Phase 3 with the addition of the handover areas of south Famagusta, Kalopsida/Acheritou, Lysi/Kontea, Avlona and Lymnitis/Soli detailed below:

**South Famagusta**

Longitude (E)	Latitude (N)	Description
33°57'57.298"	35°5'51.42"	Joining the Varosha line Following minor rd. to
33°55'55.77"	35°5'28.55"	
33°55'26.85"	35°5'37.49"	
33°54'58.10"	25°5'11.11"	At corner of SBA boundary

**Kalopsida/Acheritou**

Longitude (E)	Latitude (N)	Description
33°52'19.71"	35°7'24.71"	At SBA boundary
33°45'27.93"	35°7'27.48"	Then follows final boundary to
33°44'15.26"	35°3'22.52"	At SBA boundary

**Kontea/Lysi**

Longitude (E)	Latitude (N)	Description
33°43'0.34"	35°4'11.89"	At SBA boundary Following final boundary to
33°43'31.64"	35°7'6.99"	
33°39'28.55"	35°7'9.19"	At final boundary Following final boundary to
33°32'26.68"	35°4'47.4"	

**Avlona**

Longitude (E)	Latitude (N)	Description
33°7'6.00"	35°10'1.03"	Joining the northern edge of the BZ
33°6'51.78"	35°10'17.46"	
33°6'39.61"	35°10'25.59"	
33°6'5.14"	35°10'31.09"	
33°5'40.32"	35°10'29.20"	
33°5'36.18"	35°10'19.98"	Joining the northern edge of the BZ

**Limnitis/Soli**

Longitude (E)	Latitude (N)	Description
32°47'30.75"	35°7'22.33"	Joining the northern edge of the BZ
32°47'42.35"	35°7'37.65"	
32°47'59.71"	35°8'24.08"	
32°48'5.45"	35°8'55.67"	Joining the coast

**Phase 5 – 2\_ years.** Phase 5 phase boundary line is the same as Phase 4 with the addition of the handover areas of Famagusta, Mia Milia, Gerolakkos, and Zodhia detailed below:

**Famagusta**

Longitude (E)	Latitude (N)	Description
33°57'11.28"	35°7'15.01"	At the coast
		Following final boundary to
33°54'21.16"	35°5'51.76"	At SBA boundary

**Mia Milia**

Longitude (E)	Latitude (N)	Description
33°26'44.57"	35°10'13.87"	At Phase 3 boundary
		Following final boundary to
33°23'58.58"	35°12'3.58"	

**Gerolakkos**

Longitude (E)	Latitude (N)	Description
33°19'12.48"	35°10'51.85"	At the final boundary line
		Following final boundary to
33°15'49.58"	35°11'37.29"	At the final boundary line
		Following phase line
33°14'54.21"	35°11'27.11"	
33°13'20.59"	35°11'2.00"	Joining the northern edge of the BZ

**Zodhia**

Longitude (E)	Latitude (N)	Description
33°1'38.42"	35°9'38.43"	Joining the northern edge of the BZ
33°1'30.36"	35°9'58.77"	
33°1'20.59"	35°10'6.80"	
33°0'58.62"	35°10'16.24"	
33°0'24.38"	35°10'24.07"	
32°59'53.09"	35°10'26.08"	
32°59'32.07"	35°10'18.05"	
32°58'8.99"	35°9'31.27"	
32°56'45.69"	35°9'0.34"	At the final boundary line Following final boundary to
32°58'20.28"	35°7'9.79"	Joining the northern edge of the BZ

**Phase 6 – 3 years.** Phase 6 is the final boundary line.



ANNEX VII: TREATMENT OF PROPERTY AFFECTED BY  
EVENTS SINCE 1963

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## PART I: GENERAL ARTICLES

### Article 1 *General provisions*

1. The provisions in this Annex and its attachments deal with *properties* which were affected as a consequence of intercommunal strife, military action or the unresolved division of the island between December 1963 and entry into force of the Foundation Agreement and introduces an extraordinary regime to deal with these *properties*. The provisions in this Annex and its attachments will continue to apply to such *properties* until all matters covered by these provisions have been closed by the Property Board or the Supreme Court.
2. Terms used in this Annex and its attachments are defined in Attachment 1.
3. Provisions of this Annex and its attachments shall be referred to hereinafter as 'these provisions'.

### Article 2 *The Cyprus Property Board*

These provisions, unless otherwise stated, shall be implemented by the Cyprus Property Board. Its composition, powers and procedures, as well as the obligations of the federal government and the constituent states in relation to it, are further regulated in Attachment 2.

### Article 3 *Property in areas subject to territorial adjustment*

Property located in areas subject to territorial adjustment is regulated by Attachment 4. Where there are no specific provisions in Attachment 4, the other provisions of this Annex shall apply.

### Article 4 *Religious sites*

1. The Churches and Evkaf shall be entitled, without exception and within three years of entry into force of the Foundation Agreement, to *reinstatement* of any *affected property* owned by them which was used as a *religious site* in 1963 or 1974.
2. This Article shall not limit the right of Churches and Evkaf to claim compensation in lieu of *reinstatement* for any *affected property* under these provisions.

**PART II: REGULATION OF EXERCISE OF PROPERTY RIGHTS****Article 5**      *Suspension of dealings, proceedings or alterations with respect to affected property*

1. Any transaction, dealing, or any proceeding in any court or legal or administrative body in Cyprus, or any physical alterations (apart from minor or emergency maintenance), with respect to any *affected property* shall be suspended or prohibited upon entry into force of the Foundation Agreement, until the Property Board:
  - a. Authorises such dealing, proceeding or physical alteration to continue or occur;
  - b. Refers the dealing or proceeding to another competent court or authority; or
  - c. Makes a final determination in relation to the *property*.
2. The United Cyprus Republic and the constituent states shall, pursuant to Article 37 of the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, request the European Court of Human Rights to strike out any proceedings currently before it concerning *affected property*.

**Article 6**      *Claims and applications*

1. A *dispossessed owner* shall be entitled to claim compensation for his/her title to *property* or the *reinstatement* of his/her *property* or apply for assistance in arranging the sale, long-term lease or exchange of his/her *property*.
2. *Current users* of affected *properties* who are themselves *dispossessed owners* or persons who own *significant improvements* to affected *properties* may apply to receive title to such *properties*.
3. *Current users* of *properties* to be reinstated may apply to benefit from the special measures detailed in Attachment 3.
4. All such claims and applications shall be made to the Property Board within the time limit specified and shall be processed and determined in accordance with these provisions.

5. All payments required as a condition for the transfer of title or *reinstatement* shall be made to the Property Board within three years of the relevant decision of the Property Board, unless the decision specifies an earlier date. Transfer of title or *reinstatement* shall not take effect until all stipulated payments are made in full. Failure to make payments within the specified period may result in loss of or modifications to rights with respect to the *property*.

**Article 7**      *Liability for damage*

Persons responsible for serious damage to or destruction of *properties* after 11 November 2002 shall be liable to the *dispossessed owner* and/or the Property Board for the cost of the damage up to the *market value* of the *property*. In addition, the Property Board may fine such persons and take other punitive measures, including modifying decisions previously made in their favour.

**Section A: Compensation**

**Article 8**      *Entitlement to full and effective compensation*

1. Any *dispossessed owner* shall be entitled to claim full and effective compensation as determined by the Property Board in accordance with international standards (hereinafter referred to as “compensation”) in exchange for transfer of title to the *affected property* to the Property Board.
2. Entitlements to compensation shall be assessed and paid by the Property Board at *current value*, unless otherwise specified in these provisions.
3. Compensation shall be paid in the form of compensation bonds drawn on a compensation fund. The establishment of the Compensation Fund, issuing and use of bonds shall be regulated by the provisions in Attachment 2.<sup>32</sup>
4. *Dispossessed owners* of *properties* which, according to the following provisions, are not reinstated, shall be entitled to compensation.

<sup>32</sup> **Observation:** expert advice is needed on questions of the issuing, use and value of compensation bonds.

**Article 9**      **Property owned by institutions**

Title to affected *properties*, other than *religious sites*, which are owned by *institutions* shall be transferred to the Property Board in exchange for compensation.

**Article 10**      **Property used for public benefit purposes**

Title to an *affected property* which is being used for a purpose in the public benefit upon entry into force of the Comprehensive Settlement which objectively justifies compulsory acquisition shall be transferred to the federal government or the relevant constituent state in exchange for payment of the *current value* by the relevant authority to the Property Board.

**Article 11**      **Property required for military purposes**

Title to any *affected property* which is specified in the Additional Protocols to the Treaty of Alliance, or any attachment thereto, as being required for military purposes shall be transferred to the constituent state in which it is located, in exchange for payment of the *current value* by the relevant constituent state to the Property Board.

**Article 12**      **Property currently used by dispossessed owners**

1. A *dispossessed owner* who is the *current user* of an *affected property* of similar *current value* to a *property* of which s/he was dispossessed and has been using the *affected property* on a continuous basis for at least ten years, may apply to the Property Board to receive title to that *property* in exchange for title to the *property* of which s/he was dispossessed.
2. The application shall be granted if the *current value* of the *affected property* is no greater than 50% more than the *current value* of the *property* of which s/he was dispossessed.
3. If the *current value* of the *affected property* is more than 50% greater than the *current value* of the *property* of which the *current user* was dispossessed, the Property Board shall assist the *dispossessed owner* and the *current user* to reach an amicable agreement. If this fails, the Property Board may grant or refuse the exchange, taking into account the arguments of both sides, or partition the *property* as appropriate.
4. If the *current value* of the *affected property* is less than that of the *property* of which the *current user* was dispossessed, s/he may claim compensation for the difference in value.

5. If the *current value* of the *affected property* is more than the *current value* of the *property* of which the *current user* was dispossessed, s/he shall pay the difference to the Property Board prior to the transfer of title.

**Article 13**      *Property currently used by subsequent purchasers from dispossessed owners*

1. Any purchaser (or his/her successors in title) of an *affected property*, which was assigned to a *dispossessed owner* (hereinafter "the vendor") and was of a similar *current value* to a *property* of which the vendor was dispossessed, shall have the same rights and obligations as the vendor would have had according to Article 12 with respect to the *affected property*, provided that s/he and the vendor and any predecessors in title have collectively been *current users* of the *affected property* on a continuous basis for at least ten years. Title to the *property* of which the vendor was originally dispossessed shall be transferred to the Property Board. If the *current value* of the *affected property* is less than that of the *property* of which the vendor was originally dispossessed, the vendor may claim the difference in compensation.
2. The above provision does not apply if the Property Board cannot obtain title to the *property* of which the vendor was dispossessed because the vendor has already legally disposed of it.

**Article 14**      *Significantly improved property*

The owner of a *significant improvement* to an *affected property* may apply to receive title to that *property*, in exchange for payment of the *current value* of the *affected property* without the improvement. The Property Board shall order transfer of title after payment of compensation to the *dispossessed owner* at the *current value* for his/her interest in the *property*.

## **Section B: Reinstatement into possession**

**Article 15**      *Eligibility for reinstatement*

*Affected properties* which do not fall into the above categories shall be generally eligible to be reinstated.

**Article 16**      *Agreed levels of reinstatement*

1. In either constituent state, no more than 10%, and in any given municipality or village no more than 20%,<sup>33</sup> of the total land area and of the number of residences shall be reinstated to persons hailing from the other constituent state.<sup>34</sup> To this effect, the Property Board shall first decide any claims for reinstatement of residences and thereafter, claims for land<sup>35</sup> within any given municipality or village.
2. Eligible claimants shall be awarded *reinstatement* based on priority in descending order of age, until the agreed levels are reached.
3. These limitations shall not apply to *religious sites* or to villages which were predominantly inhabited by Maronites in 1974 or the Karpas villages of Rizokarpaso/Dipkarpaz, Agialousa/Yeni Erenköy, Agia Trias/Sipahi, and Melanarga/Adacay.

**Article 17**      *Moratorium for reinstatement*

No order of the Property Board shall require *reinstatement* of *affected property* to a *dispossessed owner* before a date which is:

- a. Three years after the Foundation Agreement enters into force, for *property* which is *vacant* at that date; or
- b. Five years after the Foundation Agreement enters into force, in all other cases.

**Article 18**      *Improvements on reinstated property*

1. The owner of any improvement with a *market value* of more than 10% of the *current value* of a *property* to be reinstated may apply for compensation for his/her interest in the *property*.
2. The *dispossessed owner* shall be entitled to retain any improvement on the *affected property* after *reinstatement*, provided s/he pays the *market value* of the improvement to the Property Board.
3. The *dispossessed owner* shall not be required to make such a payment if s/he satisfies the Property Board that the improvement is inappropri-

<sup>33</sup> **Note:** These percentages are directly related to the agreed territorial adjustment.

<sup>34</sup> **Observation:** The limitations per municipality or village apply in accordance with municipal and village boundaries as at 1960.

<sup>35</sup> **Observation:** The land on which a residence is built shall also be counted towards the total.

ate for or irrelevant for his/her intended future use of the property for his/her own purposes, provided the intended future use is more or less similar to its use prior to dispossession. If the Property Board subsequently finds that the *dispossessed owner* or any successor in title makes use of the improvement, the Property Board may pursue him/her to recover the amount of compensation paid to the owner of the improvement under paragraph 1 of this Article.

## Section C: Sale, exchange and long-term lease

### Article 19 *Option to sell, exchange or lease*

1. *Properties* eligible for *reinstatement* may be sold, exchanged or leased on a long-term basis (20 years or longer) to *current users* or other people hailing from the constituent state in which the *property* is located, at any time prior to the final determination on *reinstatement*, in accordance with these provisions.
2. *Dispossessed owners* and *current users* may seek the assistance of the Property Board with the sale, exchange or lease of such *properties*.

### Article 20 *Incentives for dispossessed owners to sell, exchange or lease*

*Dispossessed owners* shall be offered incentives to sell, exchange or lease on a long-term basis their *properties* according to Article 19, including:

- a. Exemptions for such *properties* from being counted for the purposes of determining when agreed levels of *reinstatement* have been reached;
- b. Exemptions from taxes, governmental fees, charges and duties payable on signing of instruments, or on completion and registration of transfers or leases of such *properties*;
- c. Exemptions or substantial reductions in taxes on capital gains derived from transfers or from rental income under such leases;
- d. Exemptions from any incidental taxes, governmental fees, charges and duties relating to sale, exchange or lease of such *properties*;



- e. Exemptions from *property* taxes for the duration of such leases; and
- f. Such other additional incentives as the federal government and the constituent states may choose to provide.

### **PART III: LOSS OF USE**

#### **Article 21**            *Compensation for loss of use*

Any claims for compensation for loss of use of an *affected property* for any period commencing with dispossession shall be considered by the constituent state from which the claimant hails, taking into account:

- a. Benefits previously enjoyed by the *dispossessed owner* on the grounds of his/her displacement; and
- b. Any entitlements received by or payable to the *dispossessed owner*, whether before or after the Foundation Agreement, for the period of lost use.

### **PART IV: JUDICIAL REVIEW**

#### **Article 22**            *The Property Court*

1. A Property Court shall be established with power to conduct final judicial review of decisions of the Property Board.
2. The Property Court shall be composed of an uneven number of judges. This number shall be specified by the President of the Supreme Court after consultation with members of the Supreme Court, and shall include an equal number of judges from each of the constituent states and no less than three non-Cypriot judges who are not citizens of Greece, Turkey or the United Kingdom. The President and judges of the Property Court shall be chosen in the same manner and for the same term of office as judges of the Supreme Court, unless the Supreme Court decides otherwise.

3. Decisions of the Property Board shall not be subject to appeal or challenge in any constituent state court or otherwise, except by way of judicial review by the Property Court in accordance with the law and these provisions.
4. Decisions of the Property Court shall not be subject to further review or appeal to the Supreme Court.
5. An application for judicial review of a Property Board decision may be made to the Property Court by any party with a legal interest in the decision or the *property* in question, within 60 days of publication of the decision by the Property Board in accordance with its rules.
6. The Property Court shall have power to levy fees upon parties for procedural steps in initiating and contesting matters before it.
7. The Property Court shall continue in operation until such time as the Supreme Court may decide to assume its functions.

#### **PART V: AMENDMENT**

1. These provisions may be amended by the executive heads of the constituent states acting by consensus and with the approval of the legislatures of both constituent states.
2. The text of any proposed amendment shall be agreed between the executive heads of the constituent states and submitted in identical form to each constituent state legislature. It shall come into force 30 days after its approval by both legislatures.

## ATTACHMENT 1: DEFINITIONS

### Article 1      *Definitions*

In Annex VII and its attachments, the following terms are defined as:

1. *Affected property* – immovable *property* in Cyprus which the owner, being a natural or legal person, left or of which s/he lost use and control as a consequence of intercommunal strife, military action or the unresolved division of the island between December 1963 and entry into force of the Foundation Agreement, and which has not since been reinstated to the owner (or his/her heir, personal representative or successor in title), and over which s/he has not regained use and control. *Affected property* shall not include any *property* which was voluntarily sold, transferred or otherwise permanently disposed of by the owner, to a natural or legal person who was able to gain effective control over the *property*, including through compulsory acquisition or expropriation (provided such compulsory acquisition or expropriation was carried out in accordance with international standards, including through payment of full and effective compensation). The onus of proof of any such voluntary transfer or lawful expropriation shall lie with the transferee or his/her successor in title. In the absence of evidence to the contrary for the individual case in question, dispossession shall be presumed to have been unlawful and/or involuntary. People who are successors in title of *dispossessed owners* and have not been able to gain effective control over the relevant affected property shall be treated in the same manner as the *dispossessed owners* themselves would be.
2. *Alternative accommodation* – residential housing for people affected by the return and *reinstatement* of owners, who satisfy eligibility requirements. Such accommodation shall at least be of a level which is comfortable by reasonable modern standards (including being connected to public utilities where available, such as water and electricity); provides a reasonable ratio of living space for the number of household members which it must accommodate; is no less than 70 square metres for a household of up to two persons, 100 square metres for three persons, 120 square metres for four to five persons and 140 square metres for larger households; and, where practicable, is compa-

able to the residence which the recipient is vacating or which s/he possessed prior to his/her displacement (up to a maximum standard to be defined in regulations of the Property Board).

3. *Current user* – a person who has been granted a form of right to use or occupy *property* by an authority under a legal or administrative process established to deal with *property* belonging to *dispossessed owners*, or any member of his/her family who has a derivative right to use or occupy such *property*, or his/her heir or successor in title. The definition does not include any person who occupies or uses a *property* without any legal, administrative or formal basis, nor any person using or occupying *property* under a lease contract from a private person, nor any military force, body or authority.
4. *Current value*<sup>36</sup> – value of a *property* at time of dispossession, plus an adjustment to reflect appreciation based among other things on increase in average sale prices of *properties* in Cyprus in comparable locations<sup>37</sup> in the intervening period up to the date of entry into force of the Foundation Agreement. The *current value* of property shall be assessed as at the date of entry into force of the Foundation Agreement. This value shall bear interest, at the same rate as interest on compensation bonds, from the date of entry into force of the Foundation Agreement until compensation bonds are issued.
5. *Dispossessed owner* - a natural or legal person who, at the time of dispossession, held a legal interest in the *affected property* as owner or part owner, his/her legal heir, personal representative or successor in title, including by gift.

<sup>36</sup> **Observation:** Expert advice shall be sought from quantity surveyors, economists and/or specialists in property valuation on the final formulation of provisions relating to assessment of value.

<sup>37</sup> **Observation:** The calculation of the increase should be based on the hypothesis that events between 1963 and 1974 had not taken place, i.e. not take into account depreciation in values due to those events; it should if possible therefore be based on comparable locations where property prices were not negatively affected by those events.

<sup>38</sup> **Observation:** This definition is not intended to include private family corporations (whose shareholders are members of the same family), or corporations, the shareholders of which hold shares that relate to separate and self-contained tenements used for their own purposes.

<sup>39</sup> **Observation:** provisions defining market rent and value shall be reviewed by relevant experts in valuation.

<sup>40</sup> **Observation:** provisions defining market rent and value shall be reviewed by relevant experts in valuation.

6. *Institutions* – entities other than natural persons, including privately or publicly-owned or controlled bodies, such as public or private trusts, religious institutions; military forces and companies (other than sole corporations);<sup>38</sup>
7. *Market rent* – the amount of rent which could be charged for a *property* on the open market, based on an assessment of *market rents* paid for comparable *properties* in comparable locations at the time of assessment.<sup>39</sup>
8. *Market value* - the amount for which a *property* could be sold on the open market, based on an assessment of purchase prices or amounts paid for comparable properties in comparable locations at the time of assessment.<sup>40</sup>
9. *Original state* - the state or condition of *affected property* at the time of dispossession of the *dispossessed owner*, not including improvements subsequently made by any party, assessed at *current value*.
10. *Property* - immovable *property*, being land and fixtures attached to land (or an ownership interest or undivided share in such a *property*).
11. *Reinstatement* – restitution through the award of legal and physical possession to the *dispossessed owner*, so as to enable him/her to exercise effective control over such *property*, including *use for his/her own purposes*.
12. *Religious site* – a mosque, church, chapel, cemetery, monastery, shrine, tomb or other place of worship. In exceptional cases, where living quarters, contiguous gardens or other land and buildings owned by the Church or Evkaf form an inseparable unit with the religious site, such property up to a maximum of [insert figure] decar<sup>41</sup> shall be considered part of the religious site.
13. *Significant improvement* – an improvement (including any new construction on *vacant land*) to an *affected property*, which was made between the time of dispossession and 31 December 2001<sup>42</sup>, or based on a building permit issued prior to 31 December 2001, and of which the *market value* is greater than the value of the *affected property* in its *original state*. For the purposes of determining the ownership of the improvement, it shall not be considered as having attached to the land; the owner of the improvement is the natural or legal person who paid for the improvement or his/her heir, personal representative or succes-

sor in title. The burden of proof concerning the value, ownership and date of construction of any improvement lies on the owner of the improvement.

14. *Sufficient financial means* – income (taxable or otherwise) of more than X (X being the amount required to meet mortgage payments) or wealth of more than Y (Y being the amount required to purchase the currently-used *property* or *alternative accommodation*). Entitlements and interests in *affected property* shall be taken into account for the purposes of calculating wealth. The Property Board shall determine the amounts of X and Y and revise the amounts annually, based on market figures and expert input.
15. *Use for own purposes* – use and enjoyment of *affected property* by a person, his/her family member, employee or representative (other than a tenant) through regular personal use (not necessarily as a permanent residence). *Use for own purposes* shall not include selling, renting, transferring by gift or otherwise disposing of an interest in *affected property*.
16. *Vacant* - not used or occupied by a *current user* or any member of his/her family or successor in title who has a derivative right to use or occupy such *property*.

<sup>41</sup> In the case of Apostolos Andreas monastery and the Hala Sultan Tekke, the maximum adjacent area to be considered part of the religious site shall be [insert figure] dekar and [insert figure] dekar respectively.

<sup>42</sup> **Observation:** The Property Board shall have discretion in deciding cases of improvements which were in an advance stage as at that date and completed thereafter.

## ATTACHMENT 2: THE CYPRUS PROPERTY BOARD AND COMPENSATION ARRANGEMENTS

### Section A: Establishment, operation, powers, staff and costs of the Cyprus Property Board

#### *Article 1 Establishment and conduct of the Cyprus Property Board*

1. There shall be an independent, impartial, administrative body known as the Cyprus Property Board (hereafter the 'Property Board').
2. The Property Board shall act in accordance with the principles and terms of the Foundation Agreement and in particular with these provisions.

#### *Article 2 Membership*

1. The Property Board shall be composed of a total of seven members, being two members hailing from each constituent state and three non-Cypriot members who are not citizens of Cyprus, Greece, Turkey or the United Kingdom.
2. Members shall be legally qualified and of high moral and professional standing. Members shall be prohibited from holding any other federal or constituent state office during their membership of the Property Board.
3. The Cypriot and non-Cypriot members' remuneration shall be at the level of nine-tenths of the salary of the Cypriot and non-Cypriot judges of the Supreme Court respectively.
4. Within 30 days of entry into force of the Foundation Agreement, the Co-Presidents shall appoint by consensus the initial members of the Property Board. For subsequent appointments, the members shall be appointed by the executive heads of the constituent states acting by consensus.
5. The members shall elect from among their number a presiding member, who shall preside over the Board for a period of three years or until

the end of his/her term, whichever is the sooner.

6. The members of the Property Board shall be appointed for a term of three years. At the end of each three-year term, each member shall be replaced or reappointed for a further term. Members may resign with 90 days prior notice. The Supreme Court may remove any member upon the application of the federal government or either constituent state in case of misconduct or grave breach of the member's duties. In case of any vacancy, a new member shall be appointed within 45 days of notice of the vacancy or of its occurrence, whichever is the sooner.
7. If there is failure to agree on the appointment of any member of the Property Board in the time specified under these provisions, the Secretary-General of the United Nations or his representative is invited to appoint a replacement member to hold office for a minimum of eighteen calendar months.

### **Article 3 Powers**

The Property Board shall have the power to:

- a. Receive and rule on claims for *affected property*;
- b. Decide any question or dispute before it regarding claims, entitlements of *dispossessed owners*, *current users* or owners of improvements, allegations of sale under duress, *property* valuation, right of first refusal or title to or other rights in respect of *affected property*;
- c. Decide in individual cases on, and set and revise scales and values for the purposes of calculating compensation for *affected property* and improvements; rent, sale and purchase amounts; entitlements to *alternative accommodation* and other amounts under these provisions;
- d. Demand and receive prompt, full and unhindered access to any and all records, archives, databases or other information regarding *property* in Cyprus, and to any and all *property* in Cyprus for the purpose of inspection, valuation and assessment related to its tasks and operation, and to receive copies or extracts of information, without fee, tax or other charge;
- e. Order or procure the registration of interests in *affected property* or correction of entries in the relevant Land Titles Register or other records, based on entitlements under these provisions or other applicable law;



- f. Refer any question arising in respect of an *affected property* to another competent court or authority, as appropriate and for finalisation or any interim or other ruling;
- g. Order the suspension of any proceeding in any court or other authority, or any physical alterations (other than minor or emergency maintenance) with respect to *affected property*;
- h. Order or procure the completion of any steps as required to transfer interests in *affected property* or, where necessary, partition *affected property*, under these provisions or other applicable law;
- i. Issue legally binding orders to competent federal or constituent state bodies as required to implement its decisions;
- j. Acquire and deal with *affected property* in a responsible manner under these provisions, including the administration and disposal of *affected property* transferred to it or coming under its control;
- k. Facilitate the provision and allocation of *alternative accommodation*;
- l. Assist persons, upon their request, in the sale, lease or exchange of *affected property*;
- m. Collect damages from and issue fines against any persons found responsible for damaging or destroying *affected property*;
- n. Administer and/or supervise a preferential loans scheme under these provisions;
- o. Adopt such rules, regulations, procedures, forms and other instruments as required for the performance of its functions;
- p. Consult and seek recommendations from qualified experts to assist in the performance of its functions, including experts in valuation, economics, law, *property* markets, quantity and land surveying, registration, mapping and others; and
- q. Perform other tasks, including those which may be assigned to it by the federal government or either constituent state, or which are incidental or related to the performance of its functions.

**Article 4**            ***Obligations of the federal government and the constituent states in respect of the Property Board***

1. The federal government and the constituent states shall take all steps as required to implement these provisions in good faith and in a timely manner.

2. In order to fulfil their obligations under these provisions, the federal government and the constituent states shall, among other things:
  - a. Cooperate fully with the Property Board, and respect, recognise and comply with its decisions in accordance with their legally binding nature, including by officially publishing its decisions at the request of the Property Board;
  - b. Implement the decisions of the Property Board fully and promptly;
  - c. Cooperate with other relevant *institutions* dealing with *affected property* under these provisions;
  - d. Provide the Property Board with prompt, full and unhindered access to any and all records, archives, databases or other information regarding *property* in Cyprus, and to any and all *property* in Cyprus for the purpose of inspection, valuation and assessment related to its tasks and operation, and to provide copies or extracts of information, without fee, tax or other charge;
  - e. Adopt special measures, including at the request of the Property Board, to ensure the physical protection of *property* from damage or destruction; and
  - f. Act otherwise as necessary to respect *property* rights.
3. The federal government and the constituent states shall adopt and enforce any legislation, regulations, procedures, orders, instructions, practice notes and other legislative instruments as necessary or appropriate to acknowledge the binding force of Property Board decisions, and ensure their enforcement and implementation, including as necessary through local administrative bodies, police or other agents. Such legislative instruments shall be drafted in consultation with the Property Board.
4. In case the federal government or a constituent state fails within one year after entry into force of the Foundation Agreement to adopt laws for enforcement and implementation of decisions of the Property Board, the Property Board shall issue rules providing for enforcement and implementation of its decisions, which shall come into force as binding legal instruments of the federal government or the relevant constituent state, and which shall remain in force until the federal government or the relevant constituent state enacts effective laws in fulfilment of its obligations under these provisions.

5. The federal government and the constituent states shall adopt legislation in accordance with any guidelines provided by the Property Board on the treatment of loans which are still outstanding and which were incurred prior to July 1974 for the purchase of affected property and on unresolved dealings in affected property.

**Article 5**                    *Obligations of federal and constituent state courts and competent authorities*

1. The courts, administrative bodies and other authorities of the federal government and the constituent states shall cooperate with the Property Board and acknowledge the legally binding force of its decisions, and shall take any steps as necessary to implement and enforce its decisions.
2. If the Property Board refers a question to a court or other competent authority, such court or authority shall hear and determine the claim on its merits and shall not reject or refuse to decide the claim solely on the grounds that the claim is out of time or that any applicable limitation period has expired.
3. The constituent states shall put land for *alternative accommodation* at the disposal of the Property Board, including, where necessary, through expropriation (against full and effective compensation). In allocating such land, the constituent states shall take into account the need for relocating persons, in particular those from areas subject to territorial adjustment, to be able adequately to earn their livelihood.<sup>43</sup>

**Article 6**                    *Staff*

The Property Board shall employ a director who, under the supervision of the members of the Property Board, shall be responsible for the administration and management of the work of the Property Board. The director may employ staff qualified in law, valuation, land titles, records management, economics, accountancy, information technology, mediation and other forms of dispute resolution, *property* management and other technical and relevant fields, to assist and perform the work of the Property Board.

<sup>43</sup> Observation: The Property Board shall not have to pay for such land.

**Article 7**            **Costs**

1. The costs of establishing and running the Property Board shall be met by the federal government, which may request contributions from the guarantor states and other international donors.
2. The Property Board shall prepare an annual budget for its running costs in accordance with the relevant public service scales of remuneration and, in the case of non-Cypriot employees, United Nations guidelines. The federal government shall pay the budgeted amount for such running costs to the Property Board before the beginning of each financial year. Any surplus funds at the end of each financial year shall be repaid to the federal government, and any shortfall shall be met by the federal government.
3. The Property Board shall submit its running costs and other accounts to independent audit each financial year, and the audit report shall be publicly available.
4. Should any additional task or function be assigned to the Property Board, the federal government or any constituent state which assigns such task or function shall provide or procure the provision of resources to enable the Property Board to perform the task or function.

**Article 8**            **Period of operation of the Property Board**

1. Ten years after entry into force of the Foundation Agreement, the Property Board shall be wound up. If the Property Board by that date has not completed determination of all claims or any other task before it, the Supreme Court may extend the period of operation of the Property Board for one year at a time. In case of such an extension, the Supreme Court may order retention by the Property Board of specified assets to enable it to continue its work in accordance with these provisions.
2. The Property Board may decide, by majority of five to two and subject to the approval of the executive heads of the constituent states acting by consensus, to wind itself up on a date earlier than ten years after commencement of its operations, provided that its work has been completed or appropriate provision has been made for transfer to a competent body of any outstanding functions or matters.
3. The Supreme Court may, upon application by the Property Board or by

the executive heads of the constituent states acting by consensus, extend the period of operation of a specific section or sections of the Property Board for one year at a time, in order to enable completion of a specified function, and may order retention by that section or sections of specified assets to enable the continuation of work. Notwithstanding any such limited extension of operation of a particular section or sections, the Property Board shall be considered to be wound up for the purposes of these provisions, unless the Supreme Court orders otherwise.

4. For the purposes of hearing and determining disputes over claims, entitlements of *dispossessed owners*, *current users* or owners of improvements, *property* valuation, right of first refusal, or title to or other rights in respect of *property*, the relevant section of the Property Board shall continue in operation for as long as the Supreme Court deems fit.
5. Prior to its winding-up, the Property Board shall make arrangements for the completion of any tasks or functions assigned to it under these provisions, including any claims or disputes which are pending or which may arise in future. For this purpose, it may refer or request the Supreme Court to assign specified claims or cases to other competent bodies or courts or to a section of the Property Board, which will continue in operation by order of the Supreme Court. The obligation to ensure or make arrangements for completion of any tasks or functions under these provisions shall also apply to any section of the Property Board which continues in operation for any extended period.
6. At the time of winding-up of the Property Board and each of its sections, each constituent state shall purchase any *property* or assets located within that constituent state which are still held by the Property Board, and which are no longer required for the purpose of carrying out its functions or the functions of any section which continues to operate for an extended period under this Article. Purchase shall be at a price equal to *current value* at the time of sale and the proceeds shall be deposited in the Compensation Fund.

**Section B: Handling of *property* transferred to or via the Property Board**

**Article 9**      *Handling of property transferred to or via the Property Board*

1. The Property Board shall receive transfer of title to *affected property* which is:
  - a. Not claimed by a *dispossessed owner* within the time period set by these provisions for submission of claims;
  - b. Owned by a *dispossessed owner* who receives compensation from the Property Board or title to another *property* in exchange for his/her title; or
  - c. Owned by a *dispossessed owner* who disposed of his/her interest in an *affected property* of which s/he was the *current user*, in exchange for transfer of title to such *affected property* to the subsequent purchaser (or his/her successors in title) in accordance with Article 13.
2. In disposing of *property* transferred to it under these provisions, the Property Board shall, in this sequence:
  - a. Offer the *property* for sale to the *current user* at *current value*;
  - b. Offer the *property* for sale to persons hailing from the constituent state in which the *property* is located, at *current value*, including potentially in exchange for compensation bonds;
  - c. Use it as *alternative accommodation*; or
  - d. Otherwise dispose of it in a prudent manner, at *market value*, to generate funds for compensation purposes.
3. In all cases and at all times, the Property Board shall supervise management of *property* transferred to it or otherwise under its control in a prudent manner and in accordance with these provisions.
4. All funds generated from the sale or use of *affected property* held by the Property Board shall be deposited into the Compensation Fund.

## Section C: Decision-making and claims for *affected property*

### Article 10 *Decision-making*

1. The Property Board shall aim to reach all decisions by consensus. If the members are unable to reach consensus on a decision, the decision shall be taken by majority vote.
2. The Property Board shall consider any relevant material or evidence put before it in respect of any claim for *affected property* or any other matter which is within its jurisdiction or decision-making power.

### Article 11 *Claims procedure*

1. A *dispossessed owner* shall be entitled to file a claim with the Property Board for recognition of his/her interest in or title to *affected property*. In filing a claim for recognition of an interest or title, a claimant shall also specify how s/he seeks to exercise his/her *property* rights, namely by way of:
  - a. Compensation;
  - b. *Reinstatement*; or
  - c. Sale, exchange or lease.
2. A *current user* of an *affected property* who is also a *dispossessed owner*, or a person who owns a *significant improvement* to an *affected property* may apply to receive title to such *properties*.
3. Claims or applications for transfer of title must be filed within a period of one year, commencing on a date to be determined by the Property Board which shall be no later than one year after entry into force of the Foundation Agreement. The decision fixing the relevant date shall be published in the Official Gazettes of the federal government and the constituent states, in the most widely circulated newspaper of each constituent state and in any other such appropriate manner as determined by the Property Board.
4. A claim or application shall be filed together with certified copies of any available evidence of the claimant's or applicant's interest in or title to the *affected property*.

5. Holders of a part interest in or title to an *affected property* shall, whenever possible, file joint claims.
6. A *dispossessed owner* who does not file a claim within the stipulated period and can show good cause why s/he did not or was not able to do so, is entitled to compensation.
7. Further detailed requirements for the filing and determination of claims and applications in respect of *affected property* shall be set out in rules, regulations, procedures, forms, evidence and any other instruments adopted by the Property Board in accordance with these provisions.

**Article 12**      *Determination of claims and applications*

1. Upon receipt of any claim for *affected property*, the Property Board shall, following any necessary investigation and verification, determine whether the claimant has a lawful interest in the *property*.
2. Upon receipt of any application with respect to *affected property*, the Property Board shall, following any necessary investigation and verification, determine whether the applicant has a sufficient interest in the *property* under these provisions.
3. If the Property Board determines that the claimant or applicant is not the sole *dispossessed owner* or person with an interest in the *affected property*, it shall make reasonable efforts to contact the other interested parties, including the *current user*, before deciding the claim or application.
4. The Property Board shall then determine whether the claimant or applicant is entitled to exercise his/her rights in the manner requested in the claim or otherwise under these provisions.
5. In its decision, the Property Board shall, if possible, state the name and interest of any other holder of a lawful interest in the *property*. Where it has been unable to locate or contact such persons before deciding the claim or application, it shall publish its decision in an appropriate manner.
6. In its decision, the Property Board shall also indicate the steps necessary for the execution or implementation of the decision and, where appropriate, shall order that they be taken within specified time frames.



7. If the Property Board decides that a claimant or applicant has no legal interest in the claimed *affected property*, it shall reject the claim or application. At the same time, it may decide on the interests of the other parties to the proceedings and issue orders with respect to the *property* as appropriate.
8. The Property Board shall deal, in the following order of priority, with
- a. claims regarding *affected property of dispossessed owners* currently living in areas subject to territorial adjustment and the claims of the *current users* of those properties;
  - b. claims or applications of:
    - i) *dispossessed owners* for compensation
    - ii) *current users* for transfer of title to the properties they are currently using in exchange for transfer of title to the Property Board of *properties* of which they were dispossessed, and
    - iii) persons who own *significant improvements* to *affected properties* in exchange for payment of the current value of the *properties* without the improvement;
  - c. claims of *dispossessed owners* of *affected properties* in areas subject to territorial adjustment
  - d. any other claims and applications.

In doing so, it shall further prioritise decisions which shall have a positive economic impact.

**Article 13**      *Decisions on reinstatement*

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1. Upon determination that a *property* is eligible to be reinstated, the Property Board shall inform the claimant of its decision. It shall hold the case as pending until all claims for *reinstatement* have been reviewed, in order to determine the priority for *reinstatement* in accordance with Article 16 of Annex VII.
2. The Property Board shall endeavour to determine the eligibility of all claims for *reinstatement* before issuing final decisions on *reinstatement*. If the determination of eligibility in some cases is delayed, because of exceptional circumstances, the Property Board may issue final decisions on *reinstatement* as soon as it has determined the eligi-

bility of at least 90% of the claims for *reinstatement*. *Reinstatement* shall only be granted in the delayed cases if the agreed levels for *reinstatement* have not yet been reached, irrespective of the priority that the claimant might otherwise have had.

3. The Property Board shall issue final decisions on *reinstatement* of *properties* that are not subject to the agreed levels of *reinstatement* in Article 16 of Annex VII as soon as it has determined their eligibility for *reinstatement*.
4. Upon issuing a final decision on *reinstatement*, the Property Board shall inform the *current user* of the *affected property* of the decision, of his/her obligation to vacate the *affected property* and of his/her rights to *alternative accommodation*; it may also inform the authorities of the relevant constituent state responsible for enforcement and implementation of the decision.
5. *Reinstatement* shall only occur after the *current user* has been provided with *alternative accommodation* or the final deadline for vacating the *property* as determined by the Property Board in accordance with Attachment 3 has expired, whichever is the sooner.

## Section D: Assistance with sale, exchange or lease

### Article 14 Assistance with sale, exchange or lease

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1. A *dispossessed owner* may request the Property Board for assistance in connection with:
  - a. Sale of an interest in *affected property*;
  - b. Exchange of *affected property* for another *property* of similar value in the constituent state from where he/she hails;
  - c. Purchase of an interest in *affected property*; or
  - d. The leasing of *affected property*.
2. A *current user* or other person may request the Property Board for assistance in connection with the purchase, exchange or acquisition of a leasehold interest in a *property*, which, if available, could enable him/her to vacate the *affected property*.

3. The Property Board shall maintain a register of interested *dispossessed owners, current users* and others who wish to engage in sale, exchange or lease transactions and keep a record of such transactions.
4. Upon the request of a *dispossessed owner, current user*, or other person wishing to engage in a sale, exchange or lease transaction, the Property Board may:
  - a. Offer basic advice and assistance on options and implications of sale, exchange or lease transactions;
  - b. Provide services through mediation to facilitate sale, exchange or lease transactions between interested parties, on an anonymous or open disclosure basis, as preferred by the parties; or
  - c. Provide information about potential sale, exchange or lease counterparts from its sale, exchange and lease register, to other bona fide interested parties, in cases where the relevant person has given consent to disclosure of such information.

**Article 15**      *Standard form lease*

The Property Board shall provide on request a standard form of lease agreement.

**Article 16**      *Sale, exchange and lease: other assistance*

1. The Property Board shall refer any interested party on request to a list of real estate agents of a high professional standard, who are acting in one or both constituent states and who can assist persons seeking advice regarding sale, exchange or lease transactions in one or both constituent states.
2. Subject to these provisions, the Property Board's involvement in a sale, exchange or lease transaction shall be limited to conveying information between the counterparts to the potential transaction. The Property Board shall not be responsible for negotiation or completion of contractual arrangements, nor any resulting dispute or loss.

## Section E: Compensation fund and bonds

### Article 17 *Compensation Fund*

A Compensation Fund shall be established in the Central Bank of Cyprus and administered by the Property Board. The Fund shall receive all proceeds from the use or disposal of *property* that has been transferred to the Property Board. In addition, the federal government shall provide a **first contribution of 100 million Cyprus pounds towards the initial capital of the Fund within 18 months of entry into force of the Foundation Agreement, and shall seek a matching contribution from international donors. If the Fund would otherwise be unable to meet its obligations, the federal government shall, upon request of the Property Board, make further contributions.**

### Article 18 *Use of compensation bonds*<sup>44</sup>

1. The Property Board shall issue bonds drawn on the Compensation Fund, known as 'compensation bonds'.
2. Compensation bonds shall bear interest **at a rate per annum equal to or greater than that applying to federal government bonds of equal maturation periods at the time of issuance of the bonds.**
3. Compensation bonds may be used by holders for the following purposes:
  - a. To purchase *affected property* from the holdings of the Property Board at *current value*; or
  - b. To procure the payment by the Property Board of a deposit for purchase of *alternative accommodation* on the open market; or
  - c. For sale to any person, who thereby acquires all entitlements of the initial holder.
4. Compensation bonds and interest thereon shall be guaranteed by the federal government.
5. **Compensation bonds shall mature 10 or 15 years after issuance and shall be redeemable for cash from the Compensation Fund. A claimant shall receive 10-year bonds for two-thirds of the compen-**

<sup>44</sup> **Observation:** Expert banking advice is needed on the question of the issuing, value and use of compensation bonds

sation value and 15-year bonds for the remaining third, unless s/he elects to receive a larger share in 15-year bonds.

6. **After the final maturity date on issued bonds**, the Compensation Fund shall be wound up and the federal government shall receive any surplus remaining in the Fund or cover its deficit, as applicable. Proceeds of any subsequent sale of *affected property* from the holdings of the Property Board shall go directly to the federal government, which shall be obliged to pay any compensation which may be awarded by the Property Board after the winding-up of the Compensation

Fund.

## ATTACHMENT 3: MEASURES IN FAVOUR OF *CURRENT USERS*

### Section A: Extension of deadlines for vacating *affected property*

#### *Article 1* Property occupied by current users with sufficient financial means

1. A current user of a property designated for reinstatement, with sufficient financial means, may apply to the Property Board for an extension to enable him/her to continue to use the property for his/her own purposes for up to three years after the Property Board's decision.
2. An application for an extension shall be granted by the Property Board unless and up to the time when it is found that the current user is not using the property for his/her own purposes, or that the current user has immediate access to alternative accommodation.
3. The Property Board may extend the time limit under this Article in cases of urgent humanitarian need, as determined by the Property Board.
4. The current user shall pay market rent to the Property Board for the period of continued use of the affected property from the date of the Property Board's decision on eligibility for reinstatement.
5. At the end of the period fixed by the Property Board, the current user shall vacate the affected property.

#### *Article 2* Property occupied by current users without sufficient financial means

1. A current user of a property designated for reinstatement, without suf-

- sufficient financial means*, who is a Cypriot citizen and is *using the property for his/her own purposes*, shall not be required to vacate the *property* until *alternative accommodation* is made available for them or until they are able, including through the provision of preferential loans or other assistance, to buy or lease on the market a *property* which meets the standard of *alternative accommodation*.
2. Such *current users* may apply to the Property Board for:
    - a. Assistance to purchase or lease *alternative accommodation*, in the form of preferential loans under these provisions; or
    - b. In cases of urgent humanitarian need and where not eligible for preferential loans, the allocation of low-cost or cost-free *alternative accommodation* from the holdings of the Property Board. The Property Board shall grant such applications to persons meeting its criteria, provided that *alternative accommodation* is available in its holdings.
  3. *Current users* of *properties* designated for *reinstatement*, without *sufficient financial means*, who are not citizens of Cyprus but enjoy permanent residence and are *using the property for their own purposes*, may apply for social housing or other housing assistance, or for financial assistance from the constituent state in which they enjoy permanent residence. Such *current users* shall not be required to vacate the *property* until such housing or financial assistance is available, up to a maximum of two years after the Property Board's decision on eligibility for *reinstatement*.
  4. The Property Board shall charge rent to any *current user* without *sufficient financial means*, up to the maximum amount possible based on his/her income and wealth.

**Article 3**      ***Payment of rent to dispossessed owner up to reinstatement***

The Property Board shall pay *market rent* to the *dispossessed owner*, effective from the date of the decision of the Property Board that the *property* is eligible for *reinstatement* up to the date on which *reinstatement* occurs.

## Section B: Preferential loans

### Article 4 *Preferential loans*

1. The Property Board shall oversee and administer a preferential loans scheme with the assistance of international and local banks, the federal government, the constituent states and other donors. The federal government shall provide funds from its budget to support the scheme.
2. Under this scheme, preferential loans shall be made available on favourable terms for *dispossessed owners*, *current users* of *affected property* and owners of *significant improvements* to *affected property* who are Cypriot citizens and who are without *sufficient financial means*, in order to facilitate the purchase, lease or reconstruction of *property* (including the purchase of significantly improved *property*) or make payments required under these provisions.
3. Loans under this scheme will be made available to people who meet the criteria on condition that they agree to a 20 year moratorium on sale of any *property* which they purchased or reconstructed or for which they received title after making a payment to the Property Board with preferential loan funds. This moratorium period may be shortened or waived with the authorisation of the Property Board.

## Section C: Right of first refusal

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### Article 5 *Right of first refusal for current user and others in sales of affected property*

1. For a transitional period of 20 years after entry into force of the Foundation Agreement, any sale of an *affected property* to a person who has not enjoyed permanent residence for at least three years in the constituent state in which such *property* is located, is subject to a right of first refusal by a *current user*, who is a Cypriot citizen, at the proposed contract price. Such right shall apply:
  - a. For as long as the *current user* continues to use such *property*, and



- b. For five years thereafter, if the *current user* has vacated it to allow *reinstatement* of the *dispossessed owner*.
2. If the *current user* does not exercise the right of first refusal under the previous paragraph, any other person hailing from the constituent state in which the relevant *property* is located shall have a secondary right of first refusal, at the contract price.
3. Rights of first refusal under this Article may be exercised within 45 days after the *dispossessed owner* signs a sales contract with a potential purchaser, and at the same price as stated in any such contract.
4. Any dispute regarding rights of first refusal shall be referred to the Property Board. The constituent states shall enact harmonised legislation as required to regulate and ensure enforcement of contracts concluded under these provisions for rights of first refusal, and otherwise between *current users* and persons hailing from different constituent states.

## ATTACHMENT 4: PROPERTY LOCATED IN AREAS SUBJECT TO TERRITORIAL ADJUSTEMENT

**Article 1**      *Application of these provisions to property in areas subject to territorial adjustment*

The Articles in this Attachment shall prevail over the other provisions of Annex VII and its other attachments in relation to *affected property* and other *property* in areas subject to territorial adjustment. Where there are no specific provisions in this Attachment, the other provisions of Annex VII and its other attachments shall apply.

**Article 2**      *Reinstatement of dispossessed owners*

1. Subject to the modalities and conditions established in this Attachment, any *dispossessed owner* of a *property* in areas subject to territorial adjustment shall be entitled to *reinstatement*.<sup>45</sup>
2. The Property Board shall issue final decisions on *reinstatement* of *properties* located in areas subject to territorial adjustment, as soon as it has determined that *property* is eligible for *reinstatement* and shall order that such *reinstatement* take place as soon as the *current user* has been relocated, but no later than three years after entry into force of the Foundation Agreement.
3. The general moratorium and agreed maximum levels on *reinstatement* under Annex VII shall not apply to areas subject to territorial adjustment nor shall provisions permitting transfer of *properties* to a *current user* or a subsequent purchaser.
4. The Property Board shall deal with claims regarding *affected property* of *dispossessed owners* currently living in areas subject to territorial adjustment, the claims of the *current users* of those properties and the

<sup>45</sup> **Observation:** It is understood that a dispossessed owner of an affected property in an area subject to territorial adjustment whose property can be reinstated shall not have the option of claiming compensation.

claims of *dispossessed owners* of *affected properties* in areas subject to territorial adjustment, in that order of priority.

**Article 3**            ***Improved properties***

1. The *dispossessed owner* of any improved *property* shall pay the *market value* of any improvement worth more than 10% of the *value* of the *property* in its *original state* to Property Board. The owner of the improvement is entitled to seek compensation from the Property Board for its *market value*.
2. If the *dispossessed owner* satisfies the Property Board that an improvement worth less than the *value* of the *property* in its *original state* is inappropriate for his/her intended use of the *property* which is similar to the use prior to dispossession, the *dispossessed owner* shall not be required to pay for the improvement. The Property Board may recover any compensation paid to the improver if it subsequently finds that the *dispossessed owner* makes use of the improvement.
3. Where the *market value* of the improvement is greater than the *value* of the *property* in its *original state* and the *dispossessed owner* is not prepared to pay for it, the owner of the improvement may apply to receive title to the *property* in exchange for payment of the *value* of the *property* in its *original state*. The *dispossessed owner* shall retain a right of first refusal for a period of 20 years after entry into force of the Foundation Agreement, for any contract for sale, exchange or long-term lease of the *property*, at the proposed contract price.
4. Where the *market value* of the improvement is greater than the *value* of the *property* in its *original state* and both the *dispossessed owner* and the owner of the significant improvement seek title to the *property* in exchange for the value of the significant improvement or the value of the affected property without the improvement, respectively, the Property Board shall facilitate an amicable solution between the dispossessed owner and the owner of the *significant improvement* regarding title and/or future use of the improvement. If no amicable solution can be reached, the Property Board shall decide whether immediately to grant reinstatement to the dispossessed owner or to first grant a lease of one to twenty years to the owner of the significant improvement, as

appropriate in the particular circumstances of the case<sup>46</sup>.

**Article 4** *Owners of property in areas subject to territorial adjustment who wish to leave*

An owner of *property* in an area subject to territorial adjustment who vacates such *property* after entry into force of the Foundation Agreement may claim compensation from the Property Board for such *property* at *current value* in exchange for his/her title to such *property*, provided s/he can produce evidence of ownership before 1974 or of bona fide transfer from the 1974 owner.

**Article 5** *Current users of property in areas subject to territorial adjustment*

1. A *current user* of *property* in an area subject to territorial adjustment who is a Cypriot citizen may choose to:
  - a. Remain in that area and purchase *property* there;
  - b. Receive *alternative accommodation* in that area, if entitled under these provisions (see Attachment 3);
  - c. Claim *reinstatement* of his/her own *affected property*; or
  - d. Be relocated in the other constituent state and purchase *property* or receive *alternative accommodation* there, if entitled under these provisions (see Annex VI).
2. A *current user* who is not a Cypriot citizen may seek housing or financial assistance from the constituent state in which s/he enjoys permanent residence or apply for assistance according to Annex VI.

<sup>46</sup> **Observation:** The use of the significant improvement for income generation shall be an important consideration in such a decision.

## ANNEX VIII: RECONCILIATION COMMISSION

### *Article 1*            *Establishment*

1. There shall be an independent, impartial Reconciliation Commission.
2. The authorities of the federal government and the constituent states shall render the Commission full cooperation and shall issue instructions to that effect to all concerned.

### *Article 2*            *Aims*

With the objective of promoting understanding, tolerance and mutual respect between Greek Cypriots and Turkish Cypriots, the Reconciliation Commission shall, *inter alia*:

- a. Promote a dispassionate dialogue between Greek Cypriots and Turkish Cypriots regarding the past, by addressing, *inter alia*, historical perspectives, experiences, and memories;
- b. Prepare a comprehensive report on the history of the Cyprus Problem as experienced and interpreted by Greek Cypriots and Turkish Cypriots;
- c. Make specific recommendations for action by the federal government and the constituent states aimed at promoting reconciliation, including guidelines for publications and school textbooks so as to promote mutual understanding of different perspectives on the past;
- d. Make recommendations for the implementation of the requirement in the Constitution for the teaching of the official languages to all secondary school students; and
- e. Make recommendations on guidelines for the observance of secular public holidays by the constituent states.

### *Article 3*            *Powers*

1. In furtherance of these aims the Reconciliation Commission may, among other things:
  - a. Convene public or private hearings and set up research groups or

- b. Receive information from varied sources, from parties, governments or individuals inside or outside Cyprus;
  - c. **Request a person attending a hearing of the Commission to give their statement or answer under oath or affirmation, and administer such oath or affirmation;**
  - d. Consult experts in relevant fields;
  - e. Request and receive prompt, full and unhindered access to any and all records, archives or information;
  - f. Administer and determine the final status and management arrangements for monuments and memorial sites connected to the events of or between 1963 and 1974, that are located in areas subject to territorial adjustment;
  - g. Prepare and publish interim reports, findings and recommendations;
  - h. Adopt and publish rules, regulations and procedures required for the performance of its functions; and
  - i. Perform other tasks which may be incidental or related to the performance of its functions.
2. The Commission shall have no prosecutorial or other criminal legal function or powers.
  3. The Commission may decide to protect the confidentiality of its sources and proceedings.
  4. The work, proceedings, reports and recommendations of the Commission shall be without prejudice to the work of other existing bodies or committees, including the Committee on Missing Persons in Cyprus.

**Article 4**                      **Composition**

1. The Reconciliation Commission shall be composed of **seven** men and women, including at least one non-Cypriot member, committed to reconciliation in Cyprus and possessing appropriate integrity, credibility and expertise. The Cypriot members shall hail in equal numbers from each constituent state.
2. The Secretary-General is invited to appoint the members of the

Commission, after consultation with the federal government and the constituent states and the public, and to appoint any replacements in the same way.

3. The Commission shall be assisted by a group of qualified staff.

**Article 5**            **Duration**

1. The process of consultation for appointment of the members of the Reconciliation Commission shall commence no later than **90** days after the entry into force of the Foundation Agreement. The Commission members shall be appointed within a further 60 days and be inaugurated within a further two weeks.
2. Unless the Secretary-General, in consultation with the federal government, the constituent states and the members of the Commission, decides to grant an extension of up to **one year**, the Commission shall submit its final report on its conclusions and recommendations no later than three years after the constitution of the Commission.

**Article 6**            **Costs**

The costs of establishing and running the Reconciliation Commission shall be met by the federal government, which may request contributions from the guarantor powers and other international donors.

**Article 7**            **Remuneration**

**The remuneration of the non-Cypriot members of the Reconciliation Commission shall be at the level of the salary of the non-Cypriot members of the Property Board.**

**Article 8**            **Recommendations and reports**

1. The Reconciliation Commission shall submit its reports and recommendations to the Secretary-General of the United Nations, the federal government and the constituent states.
2. The final report and all recommendations by the Reconciliation Commission shall be given wide dissemination by the constituent states. The final report shall be published in English, Greek and Turkish. The findings of the final report shall be reflected in relevant school textbooks.

**Article 9**            **Follow-Up Procedures**

1. After the submission of the Commission's final report, a follow-up committee, appointed **by the Presidential Council after consultation with the constituent states**, shall monitor the implementation of the Commission's recommendations.
2. The authorities of the federal government and each constituent state shall be required to submit reports every 120 days to the committee on the implementation of recommendations. Such reports shall explain the reasons for failure to implement specific recommendations.



## ANNEX IX: COMING INTO BEING OF THE NEW STATE OF AFFAIRS

### *Article 1            Entry into force of the Foundation Agreement*

The Foundation Agreement shall enter into force, and bring into being a new state of affairs, through its approval by separate simultaneous referenda asking the following question:

**“Do you approve the Foundation Agreement with all its Annexes, as well as the constitution of the Greek Cypriot/Turkish Cypriot State and the provisions as to the laws to be in force, to bring into being a new state of affairs in which Cyprus joins the European Union united?”**

Yes [ ]

No [ ]”

The time of entry into force shall be 00:00 hours the day after confirmation by the Secretary-General of such approval.

### *Article 2            Flag-raising ceremonies*

Upon entry into force of the Foundation Agreement, there shall be ceremonies throughout the island at which all flags other than those prescribed in the Constitution shall be lowered, the flags of the United Cyprus Republic and of the constituent states shall be raised in accordance with the Constitution of the United Cyprus Republic and relevant legislation, and the anthems of Cyprus and of the constituent states shall be played.

### *Article 3            Treaty between Cyprus, Greece, Turkey and the United Kingdom on Matters related to the new state of affairs in Cyprus*

Upon entry into force of the Foundation Agreement, the Co-Presidents of the United Cyprus Republic shall, on invitation and in the presence of the Secretary-General of the United Nations (or his representative), sign the attached Treaty with Greece, Turkey and the United Kingdom, which shall be registered as an international treaty in accordance with Article 102 of the

Charter of the United Nations.

**Article 4**                    ***The United Nations***

Upon entry into force of the Foundation Agreement, the Co-Presidents shall inform the United Nations that henceforth the membership rights and obligations of Cyprus in the United Nations shall be exercised in accordance with the new state of affairs. The agreed flag of United Cyprus Republic shall be raised at United Nations Headquarters.

**Article 5**                    ***The Council of Europe***

**Upon entry into force of the Foundation Agreement, the Co-Presidents shall inform the Council of Europe that henceforth the membership rights and obligations of Cyprus in the Council of Europe shall be exercised in accordance with the new state of affairs and shall request the Parliamentary Assembly to endorse the Foundation Agreement.**

**Article 6**                    ***The European Union***

Upon entry into force of the Foundation Agreement, the Co-Presidents shall inform the European Union that a united Cyprus wishes to accede to the European Union in accordance with the Conclusions of the Copenhagen European Council of 12 and 13 December 2002 and shall request the European Union to endorse the Foundation Agreement, to incorporate the attached protocol in the Treaty of Accession of Cyprus to the European Union in order to accommodate the terms of the settlement, and to include the following paragraph in the conclusions of the Thessaloniki European Council:

“The European Union undertakes to adopt special measures, including financial aid, to contribute to the alignment of Turkish Cypriot legislation to the *acquis communautaire*, to the enhancement of administrative capacity in the Turkish Cypriot State, and to the narrowing of economic disparities within Cyprus.”

## **ATTACHMENT 1: TREATY BETWEEN CYPRUS, GREECE, TURKEY AND THE UNITED KINGDOM ON MATTERS RELATED TO THE NEW STATE OF AFFAIRS IN CYPRUS**

*The United Cyprus Republic, the Hellenic Republic, the Republic of Turkey  
and the United Kingdom of Great Britain and Northern Ireland,*

- i. Welcoming the comprehensive settlement of the Cyprus problem by the approval of the Foundation Agreement through separate referenda by the Greek Cypriots and the Turkish Cypriots, and the decision for Cyprus to accede to the European Union and*
- ii. Desiring to contribute to a peaceful and harmonious future for Cyprus and for Cyprus to be a bridge of friendship between Greece and Turkey within a peaceful environment in the Eastern Mediterranean*

*Adopt the following provisions:*

### **Article 1            *Approval of Foundation Agreement***

The appended Foundation Agreement is herewith approved and agreed and shall be considered an integral part of this Treaty.

### **Article 2            *Monitoring Committee***

1. The parties agree on the creation of a Monitoring Committee composed of one representative of each guarantor power, two representatives of the federal government (one hailing from each constituent state), one representative of each constituent state and, pursuant to a decision of the United Nations Security Council, one representative of the United Nations who shall chair the committee.
2. The Monitoring Committee shall monitor the implementation of the Foundation Agreement, and may make recommendations regarding any development which may endanger its implementation.
3. The parties commit to each other that they shall cooperate with the United Nations operation in Cyprus.

### **Article 3            *Additional Protocol to the Treaty of Establishment***

The appended Additional Protocol to the Treaty of Establishment is herewith

approved, and shall enter into force on the day following that on which the United Kingdom has notified the other parties of the completion of its constitutional requirements for the implementation of the Protocol.

**Article 4** *Additional Protocol to the Treaty of Guarantee*

The appended Additional Protocol to the Treaty of Guarantee is herewith approved and agreed, and shall enter into force together with this Treaty.

**Article 5** *Additional Protocol to the Treaty of Alliance*

The appended Additional Protocol to the Treaty of Alliance is herewith approved and agreed by the parties concerned, and shall enter into force for them upon signature together with this Treaty.

**Article 6** *Transitional Security Arrangements*

The appended Transitional Security Arrangements are herewith approved and agreed by the parties concerned, and shall enter into force for them upon signature together with this Treaty.

**Article 7** *Entry into force*

1. This treaty shall enter into force upon signature.
2. The parties shall proceed as soon as possible to the registration of this Treaty with the Secretariat of the United Nations, in accordance with Article 102 of the Charter of the United Nations.

Done at [ ] this [ ] day of [ ] 2003 in four copies in the English language.

Signature	Signature	Signature	Signature
United Cyprus Republic	Hellenic Republic	Republic of Turkey	United Kingdom of Great Britain and Northern Ireland

## APPENDIX I. FOUNDATION AGREEMENT

### APPENDIX II. ADDITIONAL PROTOCOL TO THE TREATY OF ESTABLISHMENT

*The United Kingdom of Great Britain and Northern Ireland, Cyprus, Greece and Turkey*

*Desiring to make provision to give effect to the intention of the Government of the United Kingdom to relinquish sovereignty over parts of the Akrotiri Sovereign Base Area and Dhekelia Sovereign Base Area,*

*Have agreed as follows*

#### **Article 1**

The areas in respect of which the United Kingdom relinquishes its sovereignty are described in Part 1 of the Codicil to this Protocol. Those areas are in this Protocol referred to as the relinquished areas.

#### **Article 2**

1. All international obligations and responsibilities of the United Kingdom in relation to the relinquished areas shall henceforth, insofar as they may be held to have application to the Akrotiri Sovereign Base Area or the Dhekelia Sovereign Base Area, be assumed by the United Cyprus Republic.
2. All international rights and benefits heretofore enjoyed by the United Kingdom by virtue of their application to the relinquished areas shall henceforth be enjoyed by the United Cyprus Republic.

#### **Article 3**

All legal liabilities and obligations incurred by or on behalf of the Administration of the Sovereign Base Areas or the Government of the United Kingdom in relation to the relinquished areas and subsisting immediately before the date of entry into force of this Protocol shall have the effect as from that date as if they were incurred by or on behalf of Cyprus.

*Article 4*

Immovable property in the relinquished areas held by the Government of the United Kingdom or the Administration of the Sovereign Base Areas shall be subject to the provisions of Annex B, Part III of the Treaty of Establishment.

*Article 5*

1. Section 3 of Annex A to the Treaty of Establishment shall be replaced by the following:

“Section 3

Cyprus shall not claim, as part of its territorial sea, waters lying between the lines described in the report referred to in the Additional Protocol to this Treaty.”

2. The lines referred to in Section 3, as amended, of the Treaty of Establishment, which delimit the territorial seas between Cyprus and the Sovereign Base Areas, shall be set out in a report to be prepared by a duly qualified person to be designated by the Government of the United Kingdom. S/he shall begin the work not later than one month after the entry into force of this Protocol and complete it as soon as possible and in any event within a period of nine months. The designated person may appoint technical advisers to assist him/her. S/he shall report to the appropriate authorities of the United Kingdom and Cyprus upon completion of the work.

*Article 6*

The Sotira locality, in which minor routine training is permitted pursuant to paragraph 2 of Section 3 of Part IV of Annex B to the Treaty of Establishment, shall be extended south of Sotira, Sterakovou and Paramali, the additional area comprising land north of the Limassol-Paphos highway. The new boundaries of the Sotira locality shall be defined and marked on maps by the person to be designated by the Government of the United Kingdom under Section 2 of the Codicil to this Protocol.

*Article 7*

1. The United Kingdom and Cyprus may conclude an Exchange of Notes with respect to:
  - a. arrangements concerning rights of access to power cables and pipelines by the Administration of the Sovereign Base Areas or a

United Kingdom authority; and

- b. arrangements with regard to the nationality of persons affected by the relinquishment of the relinquished areas.

*Article 8*

Any dispute about the interpretation or application of this Protocol shall be resolved by consultations and shall not be referred to any international tribunal or third party for settlement.

*Article 9*

This Protocol shall enter into force on the day following that on which the United Kingdom notifies the other parties that it has completed its constitutional requirements for the implementation of this Protocol.

~~In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.~~

Done at [ ] this [ ] day of [ ] 2003 in four copies in the English language.

Signature

Signature

Signature

Signature

United Kingdom  
of Great Britain  
and Northern  
Ireland

United Cyprus  
Republic

Signature

Hellenic Republic

Republic of Turkey

## **Codicil**

### ***Article 1***

The relinquished areas shall comprise the areas which are indicated in blue and red on Map A and Map B which are an integral part of this Codicil.<sup>47</sup>

The Akrotiri Sovereign Base Area and the Dhekelia Sovereign Base Area shall comprise the two areas which are indicated in yellow on Map A and Map B attached to this Codicil. The references to those Areas in the Treaty of Establishment and the accompanying Exchanges of Notes and other documents shall be read accordingly.

### ***Article 2***

The land boundaries of the Akrotiri Sovereign Base Area and of the Dhekelia Sovereign Base Area shall be marked clearly and effectively on the ground by a duly qualified person to be designated by the Government of the United Kingdom. S/he shall begin the work not later than one month after the entry into force of this Protocol and complete it as soon as possible and in any event within a period of nine months. The designated person may appoint technical advisers to assist him/her. S/he shall report to the relevant authorities in the United Kingdom and Cyprus upon completion of the work.

<sup>47</sup> Observation: The allocation of the relinquished areas to each of the two constituent states is indicated on the maps attached to the Constitution.



### APPENDIX III. ADDITIONAL PROTOCOL TO THE TREATY OF GUARANTEE

Cyprus, Greece, Turkey and the United Kingdom of Great Britain and Northern Ireland have agreed as follows:

#### Article 1

1. The Treaty of Guarantee shall apply *mutatis mutandis* to the new state of affairs established in the Foundation Agreement and the Constitution of the United Cyprus Republic, thereby covering, in addition to the independence, territorial integrity, security and constitutional order of the United Cyprus Republic, the territorial integrity, security and constitutional order of its constituent states.
2. "Constitutional order" shall mean the Constitution of the United Cyprus Republic and, as the case may be, the Constitution of each constituent state, including any amendments to any of them in accordance with the provisions for amendment laid down in the relevant constitution.

#### Article 2

This Protocol shall enter into force upon signature.

Done at [ ] this [ ] day of [ ] 2003 in four copies in the English language.

Signature  
Signature

Signature

Signature

Signature

United Cyprus  
Republic

Hellenic Republic

Republic of Turkey

United Kingdom of  
Great Britain and  
Northern Ireland

## APPENDIX IV. ADDITIONAL PROTOCOL TO THE TREATY OF ALLIANCE

*Cyprus, Greece and Turkey*

- i. *Bearing in mind that in accordance with the Foundation Agreement and its Constitution, Cyprus shall be demilitarised*
- ii. *Reaffirming their pledge to resist any attack or aggression against the independence or the territorial integrity of Cyprus*

*Have agreed as follows*

### **Article 1**

The Treaty of Alliance shall apply and operate *mutatis mutandis* in accordance with the new state of affairs established in the Foundation Agreement and the Constitution of the United Cyprus Republic, taking into account in particular the demilitarisation of Cyprus.

### **Article 2**

There shall be no Tripartite Headquarters. The provisions of the Treaty of Alliance shall apply *mutatis mutandis* to the commanders of the Greek and Turkish contingents, who shall consult and cooperate in the performance of their functions pursuant to the Treaty.

### **Article 3**

1. The Greek and Turkish contingents, each not exceeding **6,000** all ranks shall be permitted to be stationed under the Treaty of Alliance in the Greek Cypriot State and the Turkish Cypriot State respectively. The composition, equipment, locations and activities of the Greek and Turkish contingents shall be in accordance with the Codicil to this Additional Protocol.
2. **Upon accession of Turkey to the European Union, all Greek and Turkish troops shall be withdrawn from Cyprus unless otherwise agreed. This will in no way undermine the provisions of the Treaty of Alliance and its Additional Protocols, and the rights and responsibilities conferred thereby.**

**Article 4**

Cyprus, Greece and Turkey shall review this Protocol and, in particular, the permissible number of troops to be stationed under the Treaty of Alliance no later than 1 June 2010.

**Article 5**

This Protocol shall enter into force upon signature and shall have precedence over other provisions of the Treaty of Alliance.

Done at [ ] this [ ] day of [ ] 2003 in four copies in the English language.

Signature Signature United Cyprus Republic	Signature Hellenic Republic	Signature Republic of Turkey

## Codicil: Composition, equipment, locations and activities of Greek and Turkish contingents

### Article 1 *Composition*

1. Each contingent may be structured to include the following capabilities within the permissible numbers and the overall limitations placed on weapons and equipment: a headquarters element, armour, reconnaissance, infantry, field engineers, artillery, signals, aviation, air defence, logistic, administrative and medical support.
2. In the interests of transparency and mutual confidence, Greece and Turkey shall inform Cyprus, each other and the United Nations of the detailed organisation, structure, weapons and equipment of their contingents.

### Article 2 *Permissible weapon and equipment holdings*

~~The contingents shall have equivalent weapons and equipment commensurate with the type and number of units.~~ Each contingent may deploy only the following weapons and equipment up to the maximum limits stated below ~~notably concerning armoured vehicles, heavy weapons and artillery systems and offensive weapons such as attack helicopters:~~

Type of Weapon/ Equipment	Maximum number	Remarks
Battle tanks (medium) Infantry fighting vehicles	50	Up to 50 tonnes
(with main gun up to 25 mm)	180	Includes armoured personnel carriers
Towed artillery pieces (up to 155 mm caliber)	18	
Air defence missiles (short range up to 7000m)	18	
Transport helicopters	6	Utility type, unarmed – up to 12 passengers
Light helicopters	4	Light observation/liaison type, unarmed – up to 6 passengers
Light armoured vehicles	17	Reconnaissance type – main gun up to 90 mm
Air defence cannons (up to 45 mm caliber)	16	

**Article 3**      **Activities**

The contingents shall be restricted to typical peacetime activities for formed military units, mainly encompassing training within the compounds and military quarters, maintenance of equipment and material, ceremonies and parades and training in designated training fields.

**Article 4**      **~~Location of Designated facilities and training fields~~**

1. Both Greece and Turkey shall designate no more than six delineated military facilities, (headquarters or barracks<sup>48</sup> covering a total area of no more than [insert figure in decars]) in which troops and equipment shall be based, and no more than three training fields<sup>49</sup> (covering a total area of no more than [insert figure in hectares]), in consultation with the federal government of the United Cyprus Republic and the relevant constituent state.
2. The ~~agreed~~ designated military facilities and training fields shall in any case not be in areas which prior to entry into force of the Foundation Agreement were within the buffer zone, or in areas of the Greek Cypriot State which, pursuant to the Foundation Agreement, are or have been subject to territorial adjustment, or in the area of the Turkish Cypriot State south of the highway connecting north Nicosia and Famagusta, or within 1000 metres of the boundary between the constituent states.
3. Within three months of entry into force of the Foundation Agreement, Greece and Turkey shall inform Cyprus, each other, and the United Nations of the precise location and size of their respective training fields and designated military facilities, as well as the number of troops to be deployed in each facility. They shall further inform Cyprus, each other, and the United Nations, in advance, of any changes to the deployment thereafter.
4. Without prejudice to the Treaty of Establishment, any existing military facilities not designated in accordance with this Article shall be dismantled or converted for exclusive civilian use, unless otherwise agreed between Cyprus, Greece and Turkey or made available to the United Nations' peacekeeping operation.

<sup>48</sup> **Observation:** Barracks are areas for the housing of troops and equipment. Open areas adjacent to barracks shall be counted as training areas.

<sup>49</sup> **Observation:** Training fields refer to all ranges (including small arms, impact areas and outside gun positions, and field training areas), whether permanent or temporary.

*Facilities*

~~The designated military facilities in which troops and equipment shall be based are the following:~~

[.....]

*Training fields*

~~The designated training fields for each contingent are the following:~~

[.....]

*Article 5 Movement*

The contingents shall move troops in the constituent state in which they are located by the most direct route between points of embarkation; garrisons and training areas and shall not approach the boundary between the constituent states, or enter areas which prior to entry into force of the Foundation Agreement were within the buffer zone, or the areas of the Greek Cypriot State which, pursuant to the Foundation Agreement, are or have been subject to territorial adjustment, or the area of the Turkish Cypriot State south of the highway connecting north Nicosia and Famagusta, unless the existing road and port infrastructure necessitates otherwise.

*Article 6 Notice*

In the interest of transparency and mutual confidence, the contingents shall inform each other and the United Nations in writing at least 48 hours in advance of the timing, location and purpose of any significant ground, air or maritime movement of troops, including for field training. ~~A movement of troops shall be defined as more than three military transport vehicles with a capacity of thirty passengers or more in each vehicle.~~ This shall apply to movements of four or more military vehicles, three or more military aircraft flying together in a single movement, one or more military vessels, or 100 or more troops for whatever reason by any means of transportation. When the purpose of the movement is for field exercises, the notice shall be given at least 72 hours in advance and shall include other relevant information about the main activities and purpose of the exercise (e.g. live fire training, movement of tanks or artillery pieces, maneuvers of infantry, etc.)<sup>44</sup>

[insert additional articles as necessary]

<sup>44</sup> **Observation:** This requirement to inform the United Nations does not imply a hierarchy since it is a commitment of Greece and Turkey to each other, in the interest of transparency, contained in a treaty to which the United Nations is not a party.

## APPENDIX V. TRANSITIONAL SECURITY ARRANGEMENTS

### *Article 1            Dissolution of Greek Cypriot and Turkish Cypriot forces, including reserve units*

All Greek Cypriot and Turkish Cypriot forces, including reserve units, shall be dissolved, and their arms removed from the territory of the United Cyprus Republic, in accordance with the following timetable (based on the day of entry into force of the Foundation Agreement ("A-Day")): ~~a timetable which shall commence no later than five months following the signature of the Treaty on matters related to the new state of affairs in Cyprus ["T day"] and shall be carried out as follows:~~

- a. From A-Day + 150 to A-Day + 270: 20 per cent; (4 months)
- b. From A-Day + 271 to A-Day + 450: 25 per cent; (6 months)
- c. From A-Day + 451 to A-Day + 630: 25 per cent; (6 months)
- d. From A-Day + 631 to A-Day + 870: 30 per cent. (8 months)

### *Article 2            Adjustment of Greek and Turkish forces*

Greek and Turkish forces and armaments shall be redeployed to the locations and facilities designated in accordance with the Codicil to the Additional Protocol to the Treaty of Alliance and adjusted to agreed levels. Any excess forces and armaments shall be withdrawn, in accordance with the following timetable (based on the day of entry into force of the Foundation Agreement ("A-Day")): ~~which shall commence no later than five months following T day and shall be carried out as follows:~~

- a. From A-Day + 150 to A-Day + 270: 20 per cent; (4 months)
- b. From A-Day + 271 to A-Day + 450: 25 per cent; (6 months)
- c. From A-Day + 451 to A-Day + 630: 25 per cent; (6 months)
- d. From A-Day + 631 to A-Day + 870: 30 per cent. (8 months)

### *Article 3            Redeployment from areas subject to territorial adjustment prior to transfer of administration*

1. Notwithstanding the above, any forces and armaments<sup>50</sup> shall be redeployed so as to vacate:

<sup>50</sup> **Observation:** This does not apply to the United Nations peacekeeping forces.

- a. a zone extending 1,000 metres from either side of the August 1974 cease-fire lines, in an initial disengagement of forces deployed along that line, within 90 days of entry into force of the Foundation Agreement;
  - b. an area subject to territorial adjustment for which administration is to be transferred and a zone extending 1,000 metres beyond it, two weeks prior to the date agreed in the Foundation Agreement for the transfer of administration.
2. The relevant forces shall be responsible for the clearance of areas that they have mined. Such clearance shall be completed prior to the date of redeployment. Upon redeployment, all relevant records, technical information and maps concerning such mined areas shall be handed over to the United Nations in conformity with the technical annex of Amended Protocol II of the Convention on Certain Conventional Weapons.



## ATTACHMENT 2: PROTOCOL REQUESTED TO BE ATTACHED TO THE TREATY OF ACCESSION OF CYPRUS TO THE EUROPEAN UNION

- i. *Taking into account the comprehensive settlement of the Cyprus Problem through the Foundation Agreement agreed between the Greek Cypriots and the Turkish Cypriots*
- ii. *Taking into account the Treaties of Guarantee and Alliance, the Additional Protocols thereto, and the Treaty of Establishment*
- iii. *Bearing in mind and respecting the demilitarisation of Cyprus*
- iv. *Considering that the Treaty of Accession of Cyprus to the European Union shall not prevent the implementation of the Foundation Agreement, and shall accommodate its terms in line with the principles on which the European Union is founded*
- v. *Bearing in mind that Cyprus shall take all appropriate measures, whether in general or particular, to ensure the fulfillment of the obligations arising out of European Union membership, in line with the specifications of the Treaty of Accession and this Protocol, and that transitional periods agreed during the accession negotiations shall apply to the United Cyprus Republic and its two constituent states, subject to the division of powers as laid down in the Foundation Agreement*
- vi. *Underlining that the political equality of Greek Cypriots and Turkish Cypriots, the equal status of the two constituent states, and the prohibition on any unilateral change to the state of affairs established by the Foundation Agreement, fall within the terms of Article 6(1) of the Treaty of the European Union*
- vii. *Recognising the need to protect the balance between Greek Cypriots and Turkish Cypriots in Cyprus, the bi-zonal character of the Cyprus and the identity of the constituent states*
- viii. *Underlining that accession to the European Union shall benefit Greek Cypriots and Turkish Cypriots alike and promote development to help reduce economic disparities*

- ix. *Recalling that, in accordance with the Presidency Conclusions of the Brussels European Council of 24 and 25 October, a programme will be established by the Council, with disbursement of 206 million euros between 2004 to 2006, in support of the economic development of the northern part of a reunited Cyprus, and that this programme shall be established in addition to the normal operation of the European Union's structural funds*
- x. *Taking into account the special relations of Greek Cypriots and Turkish Cypriots with Greece and Turkey respectively*
- xi. *Bearing in mind that, as a European Union member state, Cyprus shall apply the rules of the European Union-Customs Union with Turkey, thereby according European Union treatment to Turkey in the fields where this is provided for*
- xii. *Wishing to accord, to the extent compatible with the European Union membership of Cyprus, similar rights for Greek and Turkish nationals vis-à-vis Cyprus*

*The High Contracting Parties have agreed as follows:*

**Article 1**            **Arrangements relating to property and residency rights**

***The provisions of the Treaty shall not preclude the application of restrictions, on a non-discriminatory basis, on:***

- a. the right of natural persons who have not been resident for at least three years in the Turkish Cypriot State, and for legal persons, to purchase real property in the Turkish Cypriot State without permission of the competent authorities of the Turkish Cypriot State;
- b. the right of Cypriot citizens to reside in a constituent state of which they do not hold internal constituent state citizenship status, if
  - i) in the form of a moratorium during the first six years after entry into force of the Foundation Agreement;
  - ii) if the percentage of such residents of the total population of a municipality or village has reached 7% between the 7th and 10th years

- and 14% between the 11th and 15th years;
- iii) until Turkey's accession to the European Union if the percentage of such residents of the total population of a constituent state has reached 21%.
- c. the right of Greek nationals to reside in Cyprus, if the number of resident Greek nationals has reached 5% of the number of resident Cypriot citizens who hold the internal constituent state citizenship status of the Greek Cypriot State;
- d. the right of Turkish nationals to reside in Cyprus, if the number of resident Turkish nationals has reached 5% of the number of resident Cypriot citizens who hold the internal constituent state citizenship status of the Turkish Cypriot State.

**Article 2**                    *Safeguard measures*

1. Where, in exceptional circumstances, the operation of the European Union's internal market characterised by the abolition, as between Member States, of obstacles to the free movement of goods, persons, services and capital, cause, or threaten to cause, serious economic difficulties in the Turkish Cypriot State, the competent Cypriot authorities may take the appropriate safeguard measures for a period of three years. These measures may be prolonged with the consent of the Commission. Such measures shall be proportional and shall not constitute disguised restrictions on trade.
2. If measures taken in the circumstances referred to in paragraph 1 have the effect of distorting the conditions of competition in the internal market, the Commission shall, together with Cypriot representatives, examine how these measures can be adjusted.
3. By way of derogation from the procedure laid down in Articles 226 and 227 of the Treaty establishing the European Community, the Commission or any Member State may bring the matter before the European Court of Justice if it considers that Cyprus is making improper use of the powers provided for in paragraph 1.

**Article 3**                    *Entry and residency rights of Turkish nationals*

The European Union shall authorise Cyprus to accord equal treatment regarding entry and residency rights with respect to its territory to Greek and Turkish nationals without prejudice to policies and arrangements applying to entry and residency rights of Turkish nationals in other member states of the

European Union. Rules of implementation for such entry and residency rights for Turkish citizens, compatible with the above principle and the participation of Cyprus in the Schengen acquis, shall be negotiated between the Commission, Cyprus and Turkey without delay of entry into force of the Foundation Agreement.

**Article 4**            *The European Security and Defence Policy*

The participation of Cyprus in the European Security and Defence Policy shall fully respect the provisions of the Foundation Agreement and the provisions of the Treaties of Guarantee and Alliance and the Additional Protocols thereto, and in no sense undermine those provisions.

**Article 5**            *Representation in the European Parliament*

Cyprus will be represented in the European Parliament according to proportional representation, provided that each constituent state is attributed no less than one third of the Cypriot seats in the European Parliament.

## ANNEX X: CALENDAR OF IMPLEMENTATION

[insert descriptive calendar of implementation of obligations created elsewhere in the Foundation Agreement, ~~as well as in other parts of the Comprehensive Settlement.~~]

## **ANNEX XI: APPOINTEES TO THE TRANSITIONAL SUPREME COURT AND THE TRANSITIONAL CENTRAL BANK**

### *Article 1 Appointees to the transitional Supreme Court*

The members of the transitional Supreme Court of Cyprus shall be:

[insert names of nominees no later than 10 March 2003. If no nominees are agreed upon, the Secretary-General shall make his suggestions which shall be put to referenda with the rest of the Foundation Agreement.]

### *Article 2 Appointees to the transitional Central Bank*

The members of the transitional Board of the Central Bank of Cyprus shall be:

[insert names of nominees no later than 10 March 2003. If no nominees are agreed upon, the Secretary-General shall make his suggestions which shall be put to referenda with the rest of the Foundation Agreement.]

## MATTERS TO BE SUBMITTED TO THE UNITED NATIONS SECURITY COUNCIL FOR DECISION

By agreement of the parties to the "Commitment to submit the Foundation Agreement to approval at separate simultaneous referenda in order to achieve a comprehensive settlement of the Cyprus problem", the Security Council is requested to take decisions to enter into force simultaneously with the Foundation Agreement, in which the Security Council would:

1. endorse the Foundation Agreement and, in particular;
  - a. take formal note that any unilateral change to the state of affairs established by the Foundation Agreement, in particular union of Cyprus in whole or in part with any other country or any form of partition or secession, is prohibited; and
  - b. acknowledge the political equality and distinct identity of Greek Cypriots and Turkish Cypriots and the equal status of their constituent states in the United Cyprus Republic; and
2. prohibit the supply of arms to Cyprus in a manner that is legally binding on both importers and exporters;
3. decide to maintain a United Nations peacekeeping operation in Cyprus, which shall remain so long as the federal government, with the concurrence of both constituent states, does not decide otherwise, and shall be authorised to deploy and operate freely throughout Cyprus with the following mandate:

"to monitor the implementation of the Foundation Agreement and use its best efforts to promote compliance with it and contribute to the maintenance of a secure environment; and in particular:

- a. to monitor and verify compliance with the security provisions in the Foundation Agreement, including:
  - i) the dissolution of all Greek Cypriot and Turkish Cypriot forces, including reserve units, and the removal of their arms from the island;

- ii) the adjustment of Greek and Turkish forces and armaments to agreed equal levels;
- b. to monitor and verify compliance with the provisions in the Foundation Agreement pertaining to the federal and constituent states police;<sup>51</sup>
- c. to use its best efforts to ensure the fair and equal treatment under the law of persons from one constituent state by the authorities of the other;
- d. to supervise the activities relating to the transfer of areas subject to territorial adjustment;
- e. to chair, and provide administrative support to, the Monitoring Committee to be established under the Treaty between Cyprus, Greece, Turkey and the United Kingdom on matters related to the new state of affairs in Cyprus;
- f. to implement its mandate through, for example, conducting patrols and establishing positions and roadblocks, as well as receiving complaints, making inquiries, presenting facts, giving formal advice and making representations to the authorities.”

<sup>51</sup> Observation: The United Nations operation would not assume direct responsibility for the enforcement of law and order.



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# Attachment 1: MAP OF THE UNITED CYPRUS REPUBLIC AND ITS CONSTITUENT STATES

(After entry into force of protocol to the Treaty of Establishment)



Approximate Scale  
1:600,000

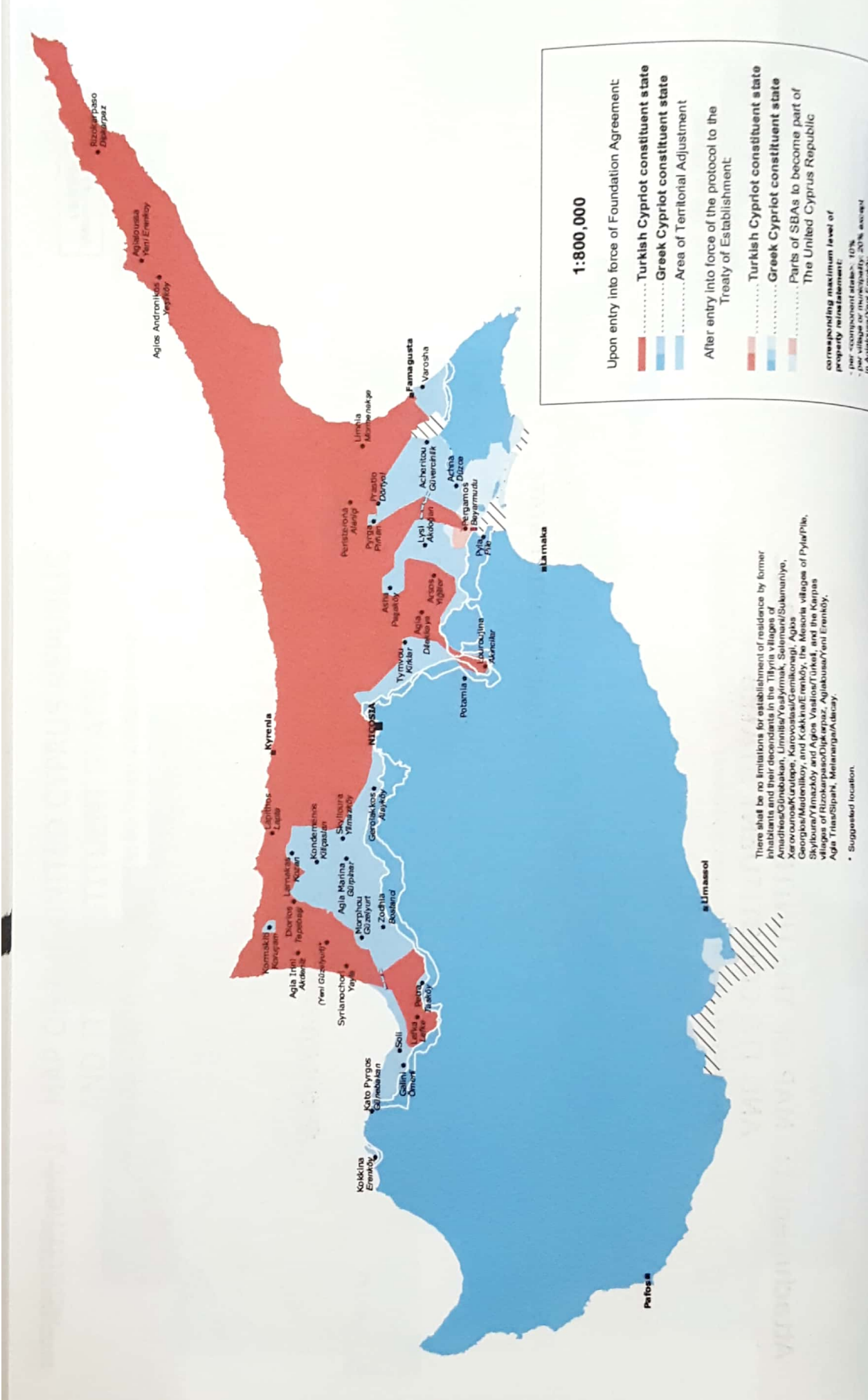
# Attachment 1: MAP OF THE UNITED CYPRUS REPUBLIC AND ITS CONSTITUENT STATES

(Upon entry into force of Foundation Agreement)



Approximate Scale  
1:800,000

The boundaries and names shown and the designations used on this map do not imply any official endorsement or acceptance.



1:800,000

- Upon entry into force of Foundation Agreement
- Turkish Cypriot constituent state
  - Greek Cypriot constituent state
  - Area of Territorial Adjustment
- After entry into force of the protocol to the Treaty of Establishment
- Turkish Cypriot constituent state
  - Greek Cypriot constituent state
  - Parts of SBAs to become part of The United Cyprus Republic

corresponding maximum level of property reinstatement:

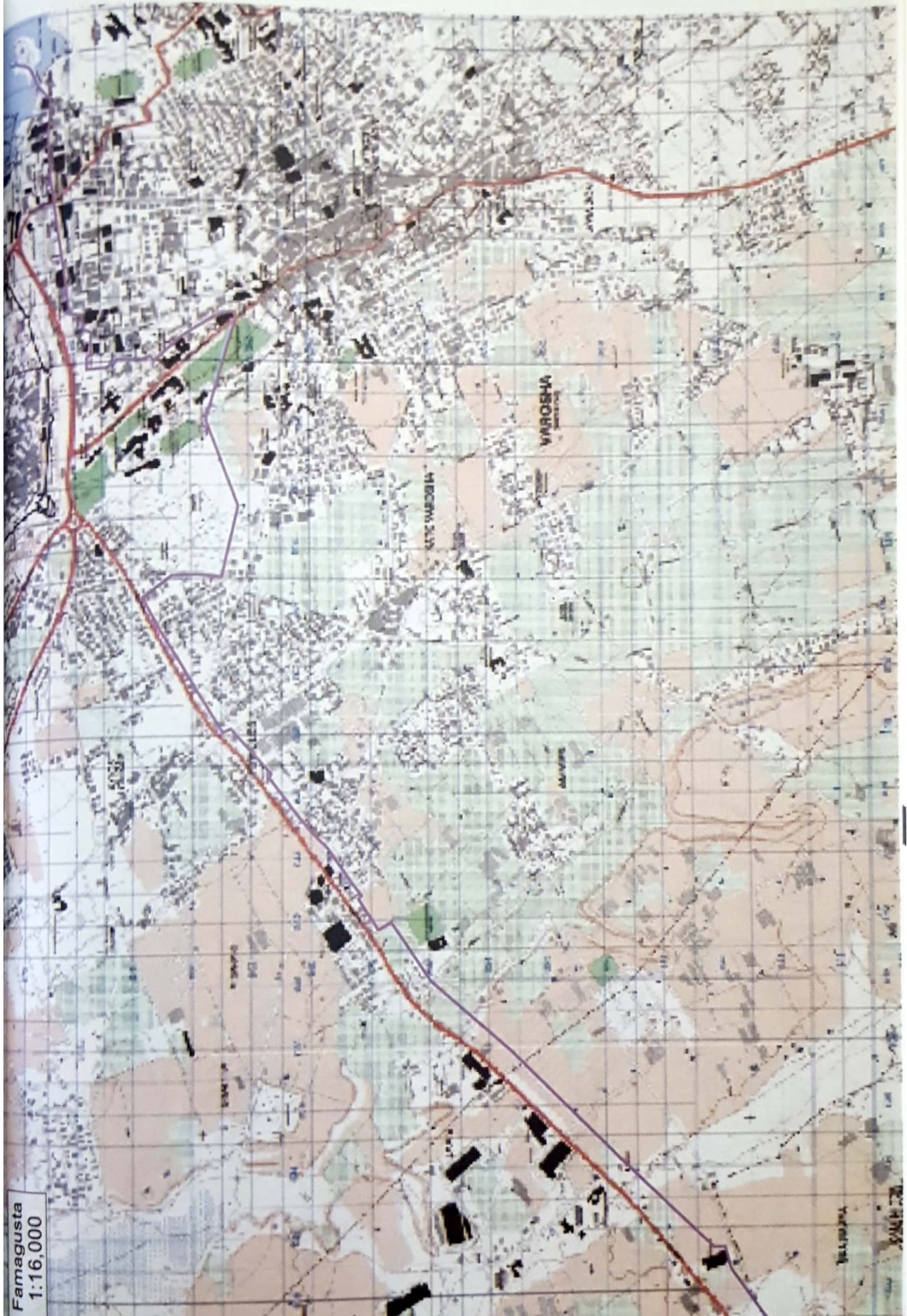
- per component state: 10%
- per village or municipality: 20% average

Agia Triada/Sitaki, Melanorghi/Aldasy

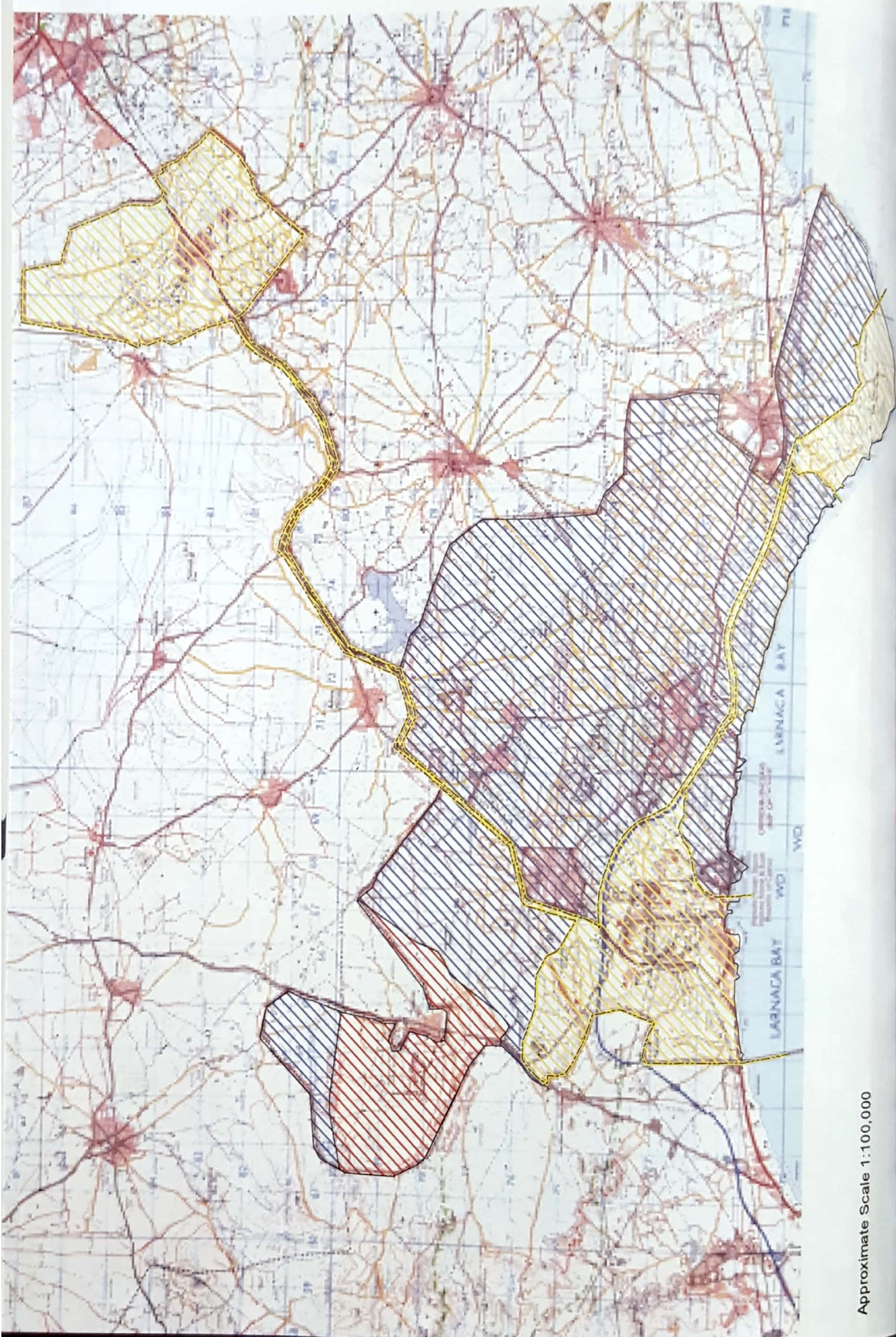
There shall be no limitations for establishment of residence by former inhabitants and their descendants in the Tillyria villages of Amathous/Günebakan, Limnitis/Yayirmak, Salomara/Sulamirliye, Xerocroft/Gülpas, Karposas/Gemlikonagi, Agios Chrysos/Kristofos, and Agios Vasileios/Timari, and the Koppas villages of Rizokarpas/Dükergaz, Agiakou/Pent Ennedy, Agia Triada/Sitaki, Melanorghi/Aldasy.

- Suggested location.

# MAP OF FAMAGUSTA



# MAP OF NEW SBA EAST



Approximate Scale 1:100,000



# MAP OF NEW SBA WEST



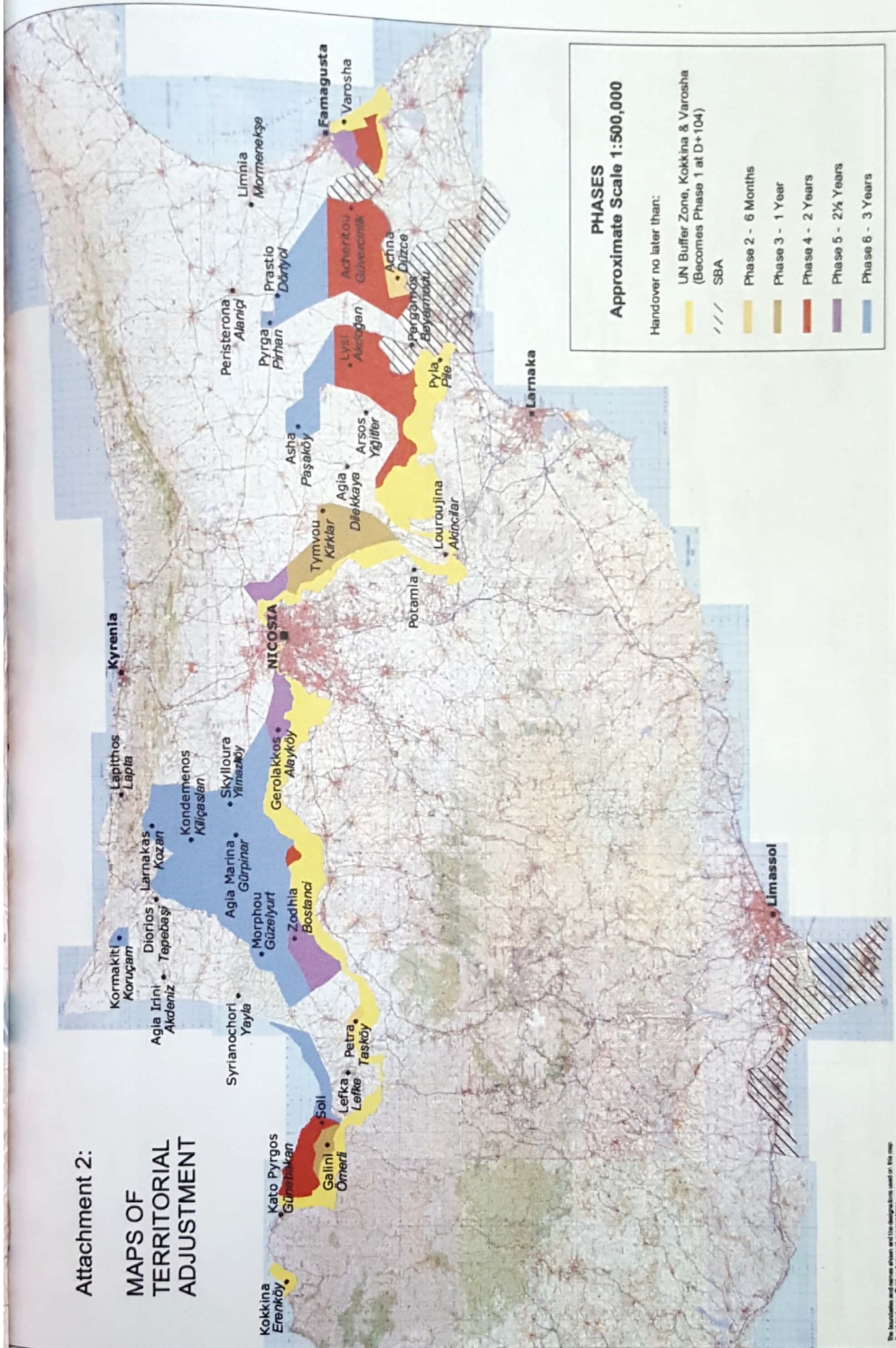
Approximate Scale 1:100,000

# MAP OF NICOSIA



Attachment 2:

**MAPS OF  
TERRITORIAL  
ADJUSTMENT**



The boundaries and names shown and the designations used on this map do not imply any official endorsement or acceptance.



Phases  
South East  
1:250,000



The boundaries and names shown on this map do not constitute an official endorsement of any country.

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# Announcements

## Duyuru

## THE FIFTH INTERNATIONAL CONGRESS ON CYPRUS STUDIES

organized by

Center for Cyprus Studies - Eastern Mediterranean University

14-15 April, 2005

The Fifth International Congress on Cyprus Studies will be held at the Eastern Mediterranean University on 14-15 April 2005. The aim of the Congress is to open up a discussion platform for the analysis, development, exchange and critique of ideas on Cyprus-related matters.

### Themes:

The Organising Committee will accept papers related to Cyprus issues in general, specifically related to Cypriot history, archeology, geography, language, literature, education, art, folklore, law, politics, economy, tourism, sports, and the like.

Presentations can be done both in English and Turkish.

### Presentation Types:

*Paper Presentations* Single or joint authors can present their unique research paper in 20 minutes. Additional 10 minutes will be provided for discussion.

*Poster Presentations* A completed or ongoing research can be presented in a poster to be displayed openly to the participants during the Congress days.

*Round-Table Talks* This session is for those who would like to discuss an issue in depth with a number of related speakers. Time allocated for the round-table talk is maximum 2 hours.

### Proposals:

Deadline for submission of proposals is **15 June 2004**. One participant can submit maximum two proposals, one single and one joint.

Proposals should include minimum 400, maximum 600 words. Proposals with less than 400 words will not be taken into consideration. Also, a biodata of maximum 100 words should be attached.

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The proposals should include information on the presentation topic, and clearly express the aim, scope, method and data analysis of the study. In round-table talk proposals, the participant who would like to chair the session should give information on the topic as stated above and should list the other speakers who would take part in the talk.

The participants can submit their proposals either through post, fax, or e-mail. Proposals attached as word document to the e-mail messages will be most appreciated. All proposals (paper, poster and round-table talk) will be blind-reviewed by the Advisory Board. Relevance to the congress theme(s), quality of the research and originality of the ideas will be considered when reviewing submissions. Upon notification of acceptance, the authors are expected to submit their full papers by **3 December 2004**. Successful papers accepted by the Advisory Board will be published in the Proceedings Book by the Eastern Mediterranean University Press.

**Other Activities:**

Workshops  
Exhibitions  
Concerts and shows  
Sightseeing tours

**Registration Fees:**

Participants with presentations 80 Euro  
Post-graduate students with presentations 40 Euro  
Participants without presentations 60 Euro

The registration fee will cover

participation to all sessions  
congress documents, bag, badge, certificate of attendance, brochures, maps,  
program  
proceedings (which can also be purchased by those participants who didn't  
have a presentation)  
welcome and closing receptions  
lunches, tea/coffee/cookie services  
participation to exhibitions, concerts, and sightseeing tours.

**Important Dates:**

Deadline for submitting the forms of participation and proposals

**15 June 2004**

Acceptance notification for the proposals

**30 June 2004**

Deadline for submitting the full papers

**3 December 2004**

Acceptance notification for the presentations

**14 January 2005**

Deadline for registration

**1 March 2005**

Congress dates

**14-15 April 2005**

For further information contact

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<<mailto:nihal.sakarya@emu.edu.tr>>nihal.sakarya@emu.edu.tr

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**Web page:** <http://www.emu.edu.tr/daukam>

Eastern Mediteranean University  
Center For Cyprus Studies  
Famagusta – North Cyprus  
via Mersin 10, Turkey





## İnançlar, Halk Hekimliği, Kötü Sözler Kıbrıs Türk Halk Kültürü Çalışmaları III

Yayın Kurulu:

Fedora ARNAUT, Ramazan KORKMAZ, Rıdvan ÖZTÜRK,  
Sabahattin ÇAĞIN

İnançlar, Halk Hekimliği, Kötü Sözler adlı kitapta, Kıbrıs Türk kültürünü yansıtan çeşitli yazılar bir araya getirilmiştir.

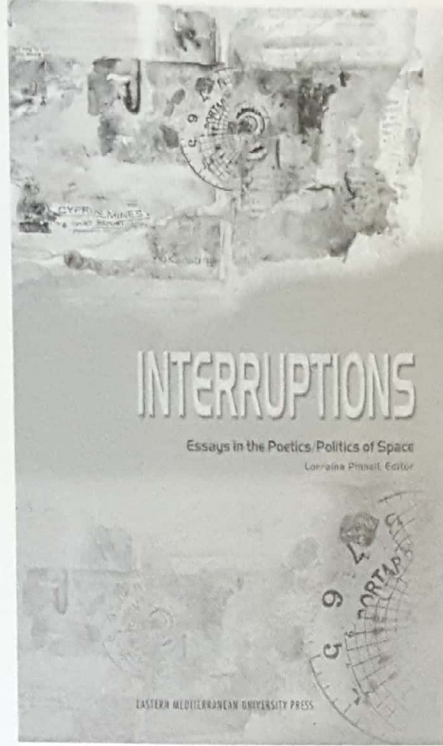
362

Doğu Akdeniz Üniversitesinde yapılan III.Kıbrıs Türk Halk Kültürü Kollokyumu'nda sunulan bildirilerden yola çıkarak metinleştirilmiş olan bu yazılar, Kıbrıs Türk kültürüyle ilgili çeşitli saptamaları ve yorumları içermektedir. Bu bağlamda; Kıbrıs Türk kültüründeki şaman izleri, efsaneler, dualar, beddualar, tuz, nazar 'göz değmesi', gaipten gelen sesler vb. konulardaki çeşitli inanışlar, rüyalar, küfürler, ve kötü sözler, halk hekimliği ve halk meteorolojisi ile ilgili çeşitli konular yer almaktadır.

2002 · ISBN 975-8401-09-02 · 254 sayfa · 9,000,000 TL

**DOĞU AKDENİZ ÜNİVERSİTESİ YAYINLARI**

emupress@emu.edu.tr



## **Interruptions: Essays in the Poetics / Politics of Space**

Lorraine Pinnell, Editor

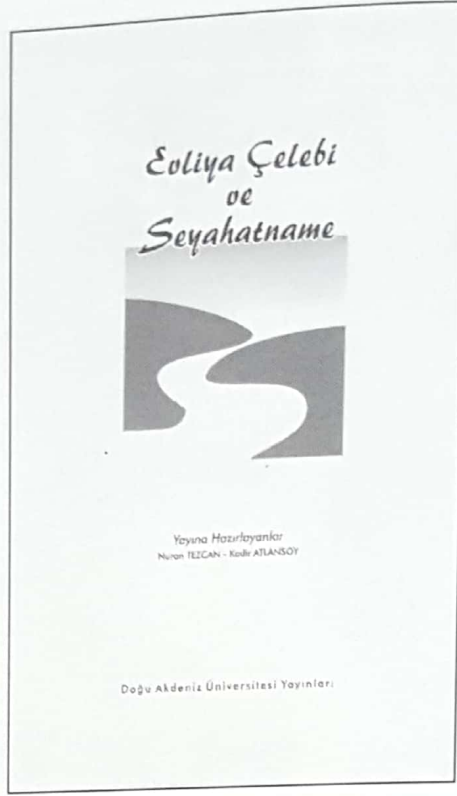
This anthology of essays illustrates the growing and necessary interest in the spatial imagination and its interactions and conflicts within a wide range of disciplines. Panoramic on scope, interdisciplinary in substance, *Interruptions* argues for a powerful and radical rethinking of the dialectics of space and time in such diverse fields as politics, classical and contemporary literature, modern drama, history, film, popular culture, architecture.

*Interruptions* charts both the dynamic impact of the spatial imagination in current thinking, as well as the dubious consequences of its exclusion. Each essay offers a unique perspective around a central theme, that is, the reassertion of a critical spatial perspective in contemporary theory and analyses. Ultimately, *Interruptions* offers a more critically revealing view of the spatial imagination and interdisciplinary thought.

2003 · ISBN 975-8401-14-9 · 145 pages · 10,000,000 TL (\$7)

**DOĞU AKDENİZ ÜNİVERSİTESİ YAYINLARI**

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## **Evliya Çelebi ve Seyahatname** **Essays in the Poetics / Politics of Space**

**Yayına Hazırlayanlar:** Nuran Tezcan – Kadir Atlansoy

Evliya Çelebi ve Seyahatname, Doğu Akdeniz Üniversitesinin düzenlemiş olduğu Uluslararası Evliya Çelebi Sempozyumunda sunulan bildirileri içermektedir.17. yüzyıl yazarlarından olan Evliya Çelebi ve onun dev eseri Seyahatname, kitapta alanlararası bir yaklaşımla değerlendirilmiştir.Yazılar dil, edebiyat ve tarih konularını kapsamaktadır.

"Kendi türünün mükemmel örneği. Bir başyapıt."

**Dünya**

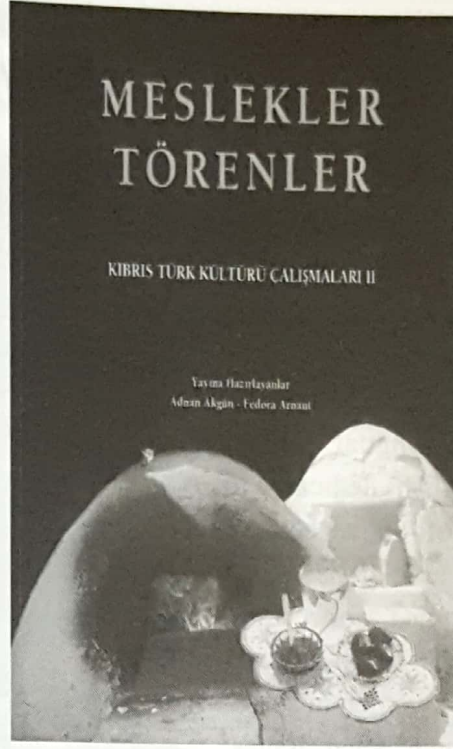
"Kitap, Evliya Çelebi ve Seyahatname'si hakkındaki çalışmalara, özellikle dil ve edebiyat yönünden, yeni bir soluk getirecek özelliktedir."

**Toplumsal Tarih**

2002 · ISBN 975-8401-10-6 · 263 sayfa · 10,000,000 TL.

**DOĞU AKDENİZ ÜNİVERSİTESİ YAYINLARI**

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## **Meslekler, Törenler** **Kıbrıs Türk Kültürü Çalışmaları II**

**Yayına Hazırlayanlar:**

Adnan AKGÜN - Fedora ARNAUT

Meslekler Törenler, Kıbrıs Türk kültürünü yansıtan çeşitli yazıları içermektedir. Kitap Doğu Akdeniz Üniversitesinde gerçekleştirilen II. Kıbrıs Türk Halk Kültürü Kollokyumunda sunulan bildirilerden oluşmaktadır. Metinlerde fırın, ekme, zeytinyağı yapımı gibi meslekler; sünnet, kına yakma, cenaze törenleri gibi konularla ilgili farklı saptama ve yorumlar yer almaktadır.

2003 · ISBN 975-8401-08-4 · 103 sayfa · 7,000,000 TL.

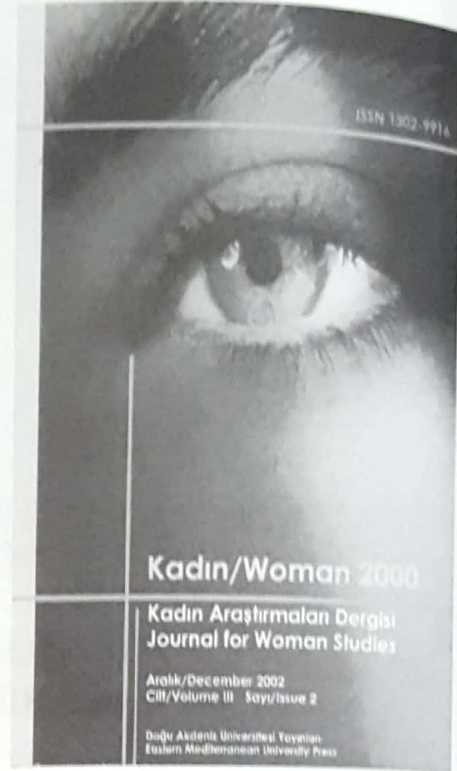
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## KADIN/WOMAN 2000

### Kadın Araştırmaları Dergisi/Journal for Woman Studies

KADIN/WOMAN 2000 - Kadın Araştırmaları Dergisi/Journal for Woman Studies is a publication of Eastern Mediterranean University - Centre for Woman Studies. It is published biannually and is a multi-disciplinary, refereed and bilingual journal (both Turkish and English) dedicated to the scholarly study of all aspects of women's issues. The articles published are primarily on topics concerning women's rights, the socio-cultural aspects and position of women in society as well as particular legal issues. Articles are accepted from all disciplines such as literature, sociology, psychology, anthropology, law, political science, economics, medicine, cultural history as well as book reviews on recent publications and news and reports on important scientific events.



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Reddaway, J. *The British Connection with Cyprus Since Independence*. Oxford: Oxford University Press, 1986.

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Hadjiyanni, T. "The Persistence of Refugee Consciousness: The Case of Greek-Cypriot Refugees." *The Cyprus Review* 13 (2001): 93-110.

(c) *Book Article/Chapter Citation:*

Zambouras, S. "Current Greek Attitudes and Policy." In *Cyprus: The Need for New Perspectives*, edited by H. Dodd, 114-127. Cambridgeshire: The Eothen Press, 1999.

- 6. The *Journal of Cyprus Studies* invites evaluative reviews of books on the island of Cyprus. Reviews should provide a

descriptive and evaluative summary and a brief discussion of the significance of the work in the context of current Cyprus studies. Submissions should not exceed three type-written pages. References in book reviews should be fully documented.

7. Any information on activities, research projects, conferences and congresses of interest to scholars and researchers in the field of Cyprus studies is welcomed.

8. Deadlines are 15 November for the spring issue and 15 May for the fall issue.

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1. *Kıbrıs Araştırmaları Dergisi*, 'Derginin Amacı' bölümünde belirtilen ilkeler doğrultusunda Türkçe ve İngilizce makaleler yayınlar. *Dergiye* gönderilen bir yazının içeriğinin özgün olduğu ve önceden yayınlanmamış veya yayınlanmak üzere başka bir dergiye gönderilmemiş olduğu varsayılır. *Dergide* yayınlanan makalelerde ifade edilen inanç, görüş ve fikirler tamamen yazar veya yazarlara ait olup, Kıbrıs Araştırmaları Merkezi'nin veya Doğu Akdeniz Üniversitesi'nin görüşlerini ve genel politikasını yansıtmaz. Telif haklarının elde edilmesi yazar veya yazarların sorumluluğundadır.

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Örn: Reddaway, J. *The British Connection with Cyprus Since Independence*. Oxford: Oxford University Press, 1986.

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(c) *Kitap içinden bölüm alıntıları*

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Örn: Zambouras, S. "Current Greek Attitudes and Policy." In *Cyprus: The Need for New Perspectives*, edited by H. Dodd, 114-127. Cambridge: The Eothen Press, 1999.

6. *Kıbrıs Araştırmaları Dergisi*, Kıbrıs hakkında yazılmış kitapları tanıtan ve 3 sayfayı aşmayan yazıları da yayımlar. Kitap tanıtım yazılarında kullanılacak alıntılar da, yukarıda belirtilen formata uygun olmalıdır.

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8. Yazıların editöre son ulaşma tarihi, ilkbahar sayısı için 15 Kasım, sonbahar sayısı için 15 Mayıs'tır.

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