

The EU's Role in the Cyprus Question

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Abstract

In contrast to erstwhile arguments to the effect that the EU has no, or only limited, role to play in the settlement of the convoluted Cyprus Question, this essay will try to show, first, that, not only has the EU been actively involved in the concomitant issues for years, but this involvement has been perforce enhanced since the Republic of Cyprus joined the EU on 1 May 2004. Second, the profound legal, political and ethical anomaly caused by the continuing Turkish occupation of 37% of Cyprus should mobilise the EU even further, since the illegal occupation of Cypriot territory entails today the military occupation of EU territory. Third, the EU's self-proclaimed principles and values should be applied fully to the Republic of Cyprus on pain of a striking normative self-contradiction. Finally, while the EU's obligation to facilitate the settlement of the Cyprus Question is demonstrable, its satisfaction will bring about enormous benefits, beyond the Greek and Turkish Cypriots, to Turkey, Greece, and the EU itself.

Keywords: "Normative power Europe", Cyprus Question, EU principles and values, Turkey's EU candidacy, Cyprus' "ethical acquis"

Introduction

Besides notorious legal, political, and geopolitical issues, the 'Cyprus Question' is burdened by heavy 'conceptual' or definitional problems while being a source of deep methodological puzzles. *Inter alia*, the former problems include the very nature of the 'Cyprus Question' as either primarily an 'inter-communal conflict' or as a paradigm case of an international dispute. Needless to say, the decision on this matter affects immediately the analyst's methodological choice: in the latter case, the proper method necessitates employing the instruments and means of international law, international ethics, institutional analysis, and so forth; whereas conceiving the question as essentially 'inter-communal' carries with it distinct analytic tools.

Similarly, what 'Cyprus' denotes today differs radically depending on whether it is treated by Turkey and the Turkish Cypriots (TCs) or by the Greek Cypriots (GCs) and the international community, including the EU. For whereas the 'Republic of Cyprus' is the only internationally recognised state and an EU full member since 1 May 2004, Turkey, although a candidate for membership, tenaciously refuses to recognise it. Moreover, it remains alone in the world in recognising the secessionist 'Turkish Republic of Northern Cyprus' ('TRNC'). This results from Turkey's 1974 military intervention and the 1983 unilateral declaration of independence (UDI) by the secessionist regime. Turkey's problem, however, is that the international community – through

such organisations, as the United Nations and the EC/EU, and such courts as the European Court of Human Rights (ECHR) and the Court of Justice of the European Communities – has condemned the 1974 action as “invasion”, that is, by definition *illegal*. Moreover, the international community condemned immediately the UDI as legally null and void. Therefore, it has not recognised it because it *could* not. Turkey, however, refuses to abide by the cardinal principles and norms of the global legal culture for two primary reasons: first, its attributes of hard power – including size of territory and population, and geo-strategic and geo-economic significance – have ingratiated it to powerful friends (such as Washington and London) who tolerate Turkey’s disregard of the aforementioned principles and norms for crude *Realpolitik* reasons. And secondly, the first reason, *in tandem* with a host of historical, demographic, socio-psychological and ideological characteristics, has resulted in Turkey’s *sui generis* political culture. This political culture determines in large measure its foreign policy-making, which is marked, *inter alia*, by narcissistic arrogance, excessive ambition, and inventive pettifoggery.

For its part, the EU has supplied Cyprus with a helping – political, legal and ethical – hand *vis-à-vis* Turkey. Among other things, the Union has raised consistently the issue of the occupation of 37% of Cypriot territory; it condemned immediately the 1983 UDI; and has accepted the entire Republic as a full member since 2004. For the Greek Cypriots, however, this cannot possibly suffice: first, the massive and traumatic violation of their, and the Turkish Cypriots’, human rights has lasted for too long; second, the fact that Cypriot territory is under illegal occupation entails that EU territory suffers similarly; and third, it follows that the long overdue application of the EU’s celebrated principles and values to the ‘Cyprus Question’ is necessary, and may become sufficient, to bring about the fair and functional reunification of the Island. In other words, and besides its other dimensions, the ‘Cyprus Question’ emerges today as an *ethical test-case* for the EU.

The GCs insist that they are working diligently to settle the Cyprus problem. They regard their goodwill as self-evident, since they extend friendship and material support to the TCs; they raised no obstacles to the start of Turkey’s EU accession negotiations; and they work towards the problem’s fair and functional resolution. Simultaneously, they perceive Turkey’s bad faith and intransigence – in ignoring the international legal and ethical pronouncements – as deriving from the arrogance of hard power and exploitation of the occupation as leverage for eventual EU accession. Meanwhile, although the entire Republic is now a full member state, the presence of 40,000 Turkish occupation troops prevents the *acquis communautaire* from being applied to the ‘TRNC’ until the settlement of the country’s (legal/political/ethical) problem. Numerous international initiatives – primarily by the UN – to settle the problem have failed. The last such initiative, known as the ‘Annan Plan’, was endorsed by the TCs and the thousands of illegal Turkish settlers in ‘TRNC’; the GCs, however, rejected it as unfair and nonviable, by an overwhelming 76%.¹ According to that plan, its rejection by either Cypriot community would

1 See C. Melakopides (2006a) *Unfair Play: Cyprus, Turkey, Greece, the UK and the EU*. Kingston, Canada: Queen’s University Centre for International Relations.

render it 'null and void'. And yet, those who worked for the plan's endorsement – primarily the UK, the US and Turkey – are at pains to revive it. All this explains why the Greek Cypriots are experiencing anger and frustration caused by their unbearable condition. These sentiments are mitigated by the EU accession in 2004 and the EURO zone entry on 1 January 2008. However, neither these successes nor what this author refers to as Cyprus' "*ethical acquis*" – denoting the Union's tendency to apply its principles and values to the Republic of Cyprus – suffice to eradicate the Greek Cypriots' sense of intolerable unfairness.

It is the author's considered opinion that this schematic account of the 'Cyprus Question' implies that it constitutes an *essentially international dispute*, as shown by the manifest and persistent involvement in it of numerous states and groups of states, and by the countless decisions and actions of international organisations and international courts. Needless to say, the 'inter-communal' dimension of the Cyprus problem is not nugatory: but being secondary or tertiary – as compared to the problem's international character – it should not be elevated to its 'essential' character or level. For to do the latter would only serve those who, fastening on exclusively *Realpolitik* perceptions and conceptions, want to escape or evade the legal and ethical issues that have marked the protracted tragedy of Cyprus. Therefore, this essay is obliged to demonstrate: (1) the solid legal grounds for the international condemnation of Turkey's invasion and occupation; (2) the EU's Cyprus-related decisions and actions that amount to Cyprus' "*ethical acquis*"; (3) the Union's self-proclaimed principles and values that should – on pain of self-contradiction – be applied fully to the Republic's 'existential' problem; and (4) European Union instruments and means that can be mobilised to clear the way for the *principled and functional* resolution of the Republic's legal, political, and ethical problem. Consequently, this essay will combine legal/institutional analysis with a presentation of the normative implications.

The 'Cyprus Question' and International Law

Given that the 1974 Turkish invasion was immediately and universally condemned, it is not necessary to provide here yet another historical 'narrative' of pre-1974 Cypriot history. For, if all such historical accounts are thoroughly affected by ideological, methodological, nationalistic, and other biases, it follows as far wiser to rely on the universal consensus generated by the international community's response to Turkey's 1974 double military intervention.² Since this response was

2 Alternative approaches are weakened, *inter alia*, by the subjectivism clouding the identification of those responsible for past 'inter-communal' conflicts; the question of the precise guilt of the pre-independence colonial power; the issue of the numbers and comparisons of casualties; the problem whether the Turkish Cypriots were bent on, and preparing for, *Taksim* (partition) since the mid-1950s or were just 'kicked out' of running the newly-founded Republic; and, perhaps most important, the question of deciding on the starting point and historical time-frame of the 'inter-communal' analysis. When all is said and done, the latter analysis is favoured by those holding the Greek Cypriots primarily – if not exclusively – responsible for 'the Cyprus Question'. It is submitted however, that to give pride of analytic place to the pre-1974 inter-communal conflicts and allege the Greek Cypriots' primary

premised on the fundamental principles and norms of international law, the critical question becomes: Why did the international community condemn the military intervention as an “invasion”, i.e. as by definition contrary to international law? For present purposes, the following schematic answer should suffice.

To begin with, Article 2(4) of the UN Charter establishes the solid prohibition of force, and even of the threat to use it, in inter-state relations. Ankara and its defenders, therefore, have been forced to orchestrate a massive *rationalisation* of the 1974 invasion. The relevant arguments have been premised primarily on (a) the 1959 Treaty of Guarantee, frequently on (b) individual self-defence, and occasionally on (c) humanitarian intervention.

Treaty of Guarantee

This is the prime stereotype long employed in Ankara’s ‘justification’ of the invasion and the continuing occupation. As recently as February 2005, asked by a Greek Cypriot journalist, “When will your occupation troops leave Cyprus?”, Mr. Abdullah Gül replied: “What occupation troops? Our troops are there because of international treaties!”³ The *only* thing Mr Gül could refer to is Article IV of the Treaty of Guarantee. Signed by Britain, Greece and Turkey as “guarantors” of the Republic’s 1960 Constitution, this treaty stipulated that, should a constitutional breach occur, consultations among the three should lead to concerted action. Failing this, each guarantor reserved the right “to take action” but “with the sole aim of re-establishing the state of affairs established by the treaty”. Manifestly, therefore, Turkey’s refusal, since 1974, to re-establish the *status quo ante* equals the blatant violation of the territorial integrity and full sovereignty of Cyprus. Clearly, this should suffice to render Turkey’s rationalisation a non-starter. But Turkey’s claim that “to take action” allowed the use of *armed force* is also fatally flawed, since, if this were the case, the treaty would have been null and void *ab initio*. Indeed, according to Article 103 of the UN Charter,

guilt should entail confrontation with the following normative question: Could all this alleged guilt counterbalance and obliterate Turkey’s devastating invasion, the 35-year-long occupation, and the resulting massive and gross violation of the human rights and fundamental freedoms of all legitimate Cypriots? In other words, could any Greek Cypriot guilt exculpate Turkey’s own guilt and consequent multifarious obligations? (Those untutored in the Cyprus Question may be shocked to know that the human cost of the invasion on the Greek side included: 6,000 dead; 180,000 refugees; and hundreds of missing persons. As for the material implications, they included the appropriation by Turkey of around 70% of Cyprus’ productive resources, according to *Strategic Survey 1974*, London: IISS, 1974, p. 82n).

- 3 Mr Gül’s interview with Ms Soula Chatzikiyriakou, *CyBC Evening News*, 11 February 2005. The very same formulation was used by Chief EU Negotiator, Egemen Bagish, in Ankara on 27 October 2009, in response to Dutch MEP Madlener, who called for the withdrawal of the Turkish troops: “The Turkish army is [in Cyprus] in the framework of international treaties ... in order to safeguard peace on the island”. Bagish Furious with Dutch MEP, *Philelefttheros* (Nicosia daily), 28 October 2009.

in case of conflict between UN Members' obligations under the Charter and obligations under other agreements, "their obligations under the present Charter shall prevail". In fact, this is a cardinal reason why world-renown Canadian Law Professor, R.St.J. Macdonald, has evaluated Ankara's actions as clearly violating international law. He added, moreover, that his interpretation (i.e. "that treaty provisions inconsistent with the Charter are void *ab initio*") is also "preferred by Guggenheim, Lauterpacht, Fitzmaurice, McNair, and Schwarzenberger".⁴

Now it might be asked whether Turkey *could appeal* to the only two exceptions to Article 2(4), that is, Articles 51 and 53 regarding the "inherent right of individual or collective self-defence" and enforcement action based on a regional arrangement or agency. Professor Macdonald has addressed such a move as follows: "That the 1974 invasion was not an 'enforcement action' within the meaning of Articles 52 and 53 is fairly obvious". For whereas Article 53 necessitates submission to the Security Council, Turkey never made any such submission. Hence, before considering Article 51, here is Macdonald's general conclusion: "Unless the invasion is justified under Article 51 of the Charter, in which case it would be legal independently of the terms of the treaty, it would contravene Article 2(4). Since the intervention does not fall within the Article 53 exception to Article 2(4), then, by virtue of Article 103, compliance with the Treaty of Guarantee would not save it from illegality".⁵

Individual Self-Defence

As regards this exception, two possible grounds may be distinguished: (a) danger to the Turkish Cypriots; and (b) danger to Turkey itself. The former has been another attempted defence by Ankara's apologists. Its first major problem, however, is that the Turkish Cypriots are not, of course, *its nationals*. This fact suffices to cancel out Turkey's relevant move. Moreover, as Ian Brownlie has long established, Article 51 cannot be stretched to protect *even nationals* outside one's territorial jurisdiction.⁶ In this respect, noteworthy is also Professor Rosalyn Higgins' opinion on extraterritorial intervention: namely, that "at least a case" could be made for Israel's well-known "*in-and-out*" intervention at Entebbe because it did not "in any real sense infringe the territorial sovereignty or political independence of the state".⁷ Indeed, being "in-and-out", Israel's action to save *Israeli citizens*, strikes most of us as legally and morally permissible. And yet, respecting the established legal norms, the UN Secretary-General called it at the time "a flagrant aggression". Therefore, Turkey's "intervention", which *did not* involve Turkish nationals, which has resulted in

4 R.St.J. Macdonald (1981), p. 15.

5 *Ibid.*, p. 22.

6 I. Brownlie (1963) *International Law and the Use of Force by States*. Oxford: Clarendon Press, as discussed by Macdonald (1981).

7 R. Higgins (1984), pp. 38-39.

the occupation of 37% of Cypriot territory, and lasts for over 35 years, must qualify *a fortiori* as “flagrant aggression”.

An identical conclusion is reached by the second aspect of the self-defence claim, concerning Turkey’s own security. To make a case, Turkey should have demonstrated either an imminent danger in 1974 or the certainty of a future attack against it. Because, however, both such claims are demonstrably absurd, Ankara itself never resorted to them. Hence Professor Macdonald concluded his own analysis as follows:

“[T]he facts are that Turkish Cypriots are not nationals of Turkey, and that Turkey was not in imminent danger of an armed attack as a result of the Greek coup d’etat”.⁸

Needless to say, precisely the same applies to any notion of a ‘future attack’ against Turkey by Cyprus or even by Cyprus and Greece combined. Suffice it to contemplate their foreign and defence policies, their asymmetrical military capabilities as compared to the Turkish colossus, and their distinct political cultures.

Humanitarian Intervention

It may be the case that the post-Cold War world has experienced some – albeit quite controversial – exceptions to international customary law regarding humanitarian interventions. At the time of Turkey’s invasion, however, the relevant customary law had recognised, as only exception, the *multilateral* confrontation of *genocide*. Moreover, it necessitated *proof* of an impending extermination. This is why the Security Council condemned, in January 1979, Vietnam’s intervention in Cambodia, despite the utter barbarism perpetrated by the Pol Pot regime. Therefore, once again, Ankara’s 1974 invasion had to be condemned *a fortiori*: besides being unilateral, not even a remote suspicion of “genocidal” inclinations by or against anyone could arise. In addition, by trying to create and exploit a military *fait accompli*, Turkey’s invasion contradicted the *sine qua non* condition of purity of motives. As Professor McDonald anticipated back in 1981:⁹

“It is inappropriate to invoke the right of humanitarian intervention in regard to the 1974 invasion: as an anticipatory action, the intervention was premature and of a nature and duration in excess of what might have been necessary to achieve its humanitarian objective ... [I]t may lead to de facto secession of part of the state’s territory, and for this reason alone it seems difficult to see how it could be reconciled with the prohibition of Article 2(4). The intervention appears to have become an occupation”.

It follows that, whereas the first (July 1974) intervention *would have been* defensible had it

8 Macdonald, *op. cit.*, p. 25.

9 *Ibid.*, p. 28.

restored the *status quo ante*, Turkey's second (August) invasion constitutes a 'flagrant aggression':¹⁰ first, it violated the cardinal norm of international law which prohibits the use of force; second, no available exception could negate its illegality; and third, the 1974 invasion has resulted in an over 35-year-old illicit occupation. It follows that any toleration of Turkey's actions contradicts the spirit of fundamental norms of international law, which are premised on disdain for the illegal use of military force and for the cynical exploitation of geo-strategic power. In Cyprus' case, the cynicism that has envisaged the exculpation of Turkey was legally and morally unbearable: for this exculpation would violate the cardinal principle *ex injuria jus non oritur*, that is, injustice does not create right.

The thesis that the 'Cyprus Question' constitutes an EU 'ethical test-case' is fortified by acknowledging that Turkey's invasion abused also the ethical principles of the time-honoured Just War Theory.¹¹ Its principal criteria include (a) a just cause, (b) the right intention, (c) war as a last resort, and (d) the principle of proportionality. A moment's reflection demonstrates that Turkey's invasion violated all of them. Therefore, to exculpate Ankara and to allow it to 'profit' from, as against paying for, its Cyprus aggression would compound the accumulated immorality.

For these reasons, the judgements by the European Court of Human Rights in *Loizidou v. Turkey* (1996 and 1998) and in the Fourth case of *Cyprus v. Turkey* (May 2001) are literally historic.¹² Equally historic is Turkey's paying Ms Loizidou about €1 million in November 2003 to compensate her for the violation of her right to enjoy her property in occupied Kerynia. Therefore, the Annan Plan's provision (see below) to wipe out Turkey's identical compensatory obligation towards all the Cypriot victims was legally and morally contemptible.

Such solid premises of international law have formed the central pillar of the international community's condemnation of Turkey's ongoing victimisation of Cyprus. *Inter alia*, employing the fundamental global legal norms and their implications, the United Nations Security Council condemned immediately the 1983 UDI by Resolution 541 (1983), stating that it:

"1. *Deplores* the declaration of the Turkish Cypriot authorities of the purported secession of part of the Republic of Cyprus; 2. *Considers* the declaration referred to above as legally invalid and calls for its withdrawal; ... 7. *Calls upon* all States not to recognize any Cypriot state other than the Republic of Cyprus ..."

10 The same point was conceded by D.A. Rustow (1987) in *Turkey: America's Forgotten Ally*, who wrote on p. 96 that "the second intervention ... came after any acute danger to the Cypriot-Turkish minority had passed and democracy in Greece had been restored. Hence it was this second intervention far more than the first that, immediately and over the years, subjected Ankara to severe criticism in Greece and among its friends, in Europe, America, and the Third World".

11 This argument was first presented in C. Melakopides (1996) *Making Peace in Cyprus: Time for a Comprehensive Initiative*. Kingston, Canada: Queen's University Centre for International Relations, pp. 51-52.

12 See, for instance, Council of Europe, *Case of Loizidou v. Turkey*, European Court of Human Rights, Strasbourg, judgement 40/1193/435/514, 28 July 1998.

Six months later, in May 1984, UNSC Resolution 550 emphasised that it

“... 1. *Reaffirms* its resolution 541 (1983) and calls for its urgent and effective implementation; 2. *Condemns* all secessionist actions, including the purported exchange of Ambassadors between Turkey and the Turkish Cypriot leadership, declares them illegal and invalid and calls for their immediate withdrawal; 3. *Reiterates* the call upon all States not to recognize the purported state of the ‘Turkish Republic of Northern Cyprus’ set up by secessionist acts ...; 4. *Calls upon* all States to respect the sovereignty, independence, territorial integrity, unity and non-alignment of the Republic of Cyprus ...”

Therefore, the appeal to the cardinal legal premises used by the international community’s condemnation of Turkey’s illegal actions in Cyprus does not constitute a ‘legalistic approach’, as commonly asserted by the aficionados of (amoral) *Realpolitik*, who are forced (methodologically) to bypass or downgrade the international legal culture. Instead, the *legal approach* adopted here forms a solid humane platform from which rational and far more objective political and ethical conclusions can be fairly deduced.

The Formation of the EU’s Cyprus-related ‘Ethical Acquis’

Although widely ignored, the negative political implications of Turkey’s demonstrated illegality in Cyprus have been very costly. To begin with, Ankara’s first application for European Community accession was rejected in December 1989, in part because of its post-1974 and post-1983 Cyprus guilt. As the relevant section of the Opinion concluded:

“At issue are the unity, independence, sovereignty and territorial integrity of Cyprus, in accordance with the relevant resolutions of the United Nations”.¹³

Six years earlier, the 1983 UDI by the ‘TRNC’ in the occupied north could not escape the EC’s immediate condemnation:

“... The Ten reiterate their unconditional support for the independence, sovereignty, territorial integrity and unity of the Republic of Cyprus. They continue to regard the Government of President [Spyros] Kyprianou the sole legitimate Government of the Republic of Cyprus. They call upon all interested parties not to recognize [the UDI], which creates a very serious situation in the area”.¹⁴

As illicit, the secessionist regime remains unrecognised by the entire world except Turkey. And yet, it was elevated to “a constituent state” in the UN-sponsored ‘Annan plan’. The UN was thereby contradicting its countless resolutions on Cyprus, including SC Resolutions 541 and 550.

13 *Europe/Documents*, No. 1589 Luxembourg-Brussels: Agence Europe, 20 December 1989, p. 3.

14 *Bulletin of the European Communities* 16, No. 11. Brussels: General Secretariat, Commission of the European Communities, 1984: point 2.4.1, p. 68.

By implication, it was contravening Article 2(4), one of the UN Charter's definitive norms. For its part, however, the EU felt obliged to reaffirm the exclusive legal status of the Republic of Cyprus over the ensuing years, as we will see.

Despite the Republic's vicissitudes in the long pre-accession period, the building of the EU's *ethical acquis* regarding Cyprus was being progressively solidified. Thus, recognising that the post-1974 victimisation would have to end, the Council decided in March 1995 that Cyprus (with Malta) would start accession negotiations six months after the completion of the Intergovernmental Conference. In spite of the Turkish government's protestations and the vehement opposition of TC leader, Rauf Denktash, these negotiations did begin in March 1998. Then, in November of that year, the first *Regular Report from the Commission on Cyprus' Progress towards Accession* painted an optimistic picture of the Republic's preparations for membership. Meanwhile, conceiving these negotiations as a potential 'catalyst' for the resolution of the Cyprus Question, the Nicosia government continued to invite Mr Denktash to join the Cypriot negotiating team – albeit to no avail. Brussels, however, openly expressed its satisfaction with President Glafkos Clerides' March 1998 invitation, calling it "fair and generous".¹⁵ Moreover, the EU's moral consistency was also demonstrated through the persistent legal-political statement, in every Progress Report on Cyprus, that "the status quo [in Cyprus] is unacceptable".

Next, a decisive moment was reached at the December 1999 Helsinki European Council. With Turkey now being accepted as eligible for membership, Cyprus could celebrate the presidency conclusions:

"The European Council underlines that a political settlement will facilitate the accession of Cyprus to the European Union. If no settlement has been reached by the completion of accession negotiations, the Council's decision on accession will be made without the above being a precondition. In this the Council will take account of all relevant factors".¹⁶

All the above signify already the Union's ethical commitment to Cyprus. But perhaps the most telling proof of the EU's Cyprus-related *Moralpolitik* is the very accession. Being the culmination of the accumulated *ethical acquis*, it entailed, *inter alia*, the Union's recognition that the Republic's victimisation should be contained.¹⁷ In any event, the accession was preceded by the 16 April 2003 signing of the Treaty of Accession to the Union by President Tassos Papadopoulos. This Treaty declared that the entire Republic of Cyprus would be a full Member State on 1 May 2004, while Protocol 10 clarified that the *acquis communautaire* will be applied to the occupied territory upon settling the country's problem.

15 *Unfair Play, op. cit.*, p. 20.

16 Helsinki 1999 European Council Conclusions, para. 9(b).

17 The author recognises that the EU's motives here were *not exclusively* "ethical". A parallel role was played by Athens' warning that, were Cyprus' accession to be denied, Greece would be forced to veto the Eastern enlargement. The author would like to thank the anonymous reviewer who recommended that recognition of this should be stated explicitly.

Be that as it may, the Greek Cypriots' rejection of the Annan plan, in the April 2004 twin referenda, caused consternation in the capital's long campaigning for its promotion. Hence, for a few months, the life and times of the Republic and President Tassos Papadopoulos were made far from ecstatic in Brussels. However, Nicosia soon after began to accumulate moral and political support in COREPER and the Council of General Affairs and External Relations. One reason could well be the increasing appreciation of the inappropriate plan's unfairness. But Ankara itself helped a lot towards changing the previous climate. Aspiring to start accession negotiations on 3 October 2005, Turkey signed the Additional Protocol to its Customs Union agreement on 29 July 2005. However, it "declared" simultaneously that its signature *does not amount to any form of recognition* of the Republic of Cyprus.¹⁸

Turkey's novel provocation was deemed 'incomprehensible' at least in Athens, Nicosia and Paris. It need not be surprising, however, to those sharing this viewpoint, that Turkey's foreign policy cannot be fully comprehended, and therefore assessed, if disassociated from its idiosyncratic political culture.¹⁹ This political culture has been long perceived by the author as consisting in pessimism, self-doubts and confusion, co-habiting simultaneously with narcissism and arrogance resulting in aggressive tendencies.²⁰ For instance, disregard of such considerations helps explain the inability of two younger Turkish scholars to account for the EU's alleged "inability" to resolve "the Greek-Turkish conflicts": instead of acknowledging the arrogant and maximalist urges of Turkey's political and military elites, they blamed the EU for limited and "biased" results.²¹ Moreover, Turkey's July 2005 "declaration" revealed that the collective reasoning of "the many Ankaras"²² can contradict what "the rational actor model" would dictate or expect from even *Realpolitik* decision-making. For it seems *prima facie* absurd to deny recognition of a member state of the very organisation you aspire to join, and to pose as oblivious to the entailed political risks.

In any event, after protracted consultations, an EU "Counter-declaration" was issued on 21 September 2005. Manifesting anew the Union's intention to affirm its essential principles and values, the "Counter-declaration" embodied telling legal, political and ethical commitments. It

18 See both Turkey's "declaration" and the EU's "Counter-declaration" in C. Melakopides, A. Emilianides and G. Kentas (eds.) (2007) *The Cyprus Yearbook of International Relations 2006*. Nicosia: Power Publishing, pp. 203-205.

19 See, for instance, C. Melakopides (2006c) 'Implications of the Accession of Cyprus to the European Union for Greek-Turkish and Euro-Turkish Relations', *Mediterranean Quarterly*, Vol. 17, No. 1, Winter, pp. 91-97.

20 The valiant efforts by the Erdogan government and by Dr Ahmet Davutoglu to change this traditional picture, are recognised; however, given many improvisations and some apparent contradictions, far more time is needed before concluding that the former picture has not remained essentially the same.

21 A.B. Celik and B. Rumelili (2006) 'Necessary But Not Sufficient: The Role of the EU in Resolving Turkey's Kurdish Question and the Greek-Turkish Conflicts', *European Foreign Policy Review*, Vol. 11, pp. 203-222.

22 This notion has been introduced to account for the numerous conflicting decision-making centres and circles among Turkey's various elites, in C. Melakopides (2006b) "Turkey's Identity Conundrum and the Foreign Policies of 'the Many Ankaras'", *The Cyprus Yearbook 2006*, *op. cit.*, pp. 179-199.

stressed that Turkey's declaration "is unilateral, does not form part of the Protocol and has *no legal effect on Turkey's obligations under the Protocol*" (para. 2). According to Paragraph 4, "The European Community and its Member States recall that the Republic of Cyprus became a Member State of the European Union on 1st May 2004. They underline that they *recognise only the Republic of Cyprus as a subject of international law*".²³ Equally explicit was the next paragraph: "Recognition of all Member States is a necessary component of the *accession process*. Accordingly, the EU underlines the importance it attaches to the normalization of relations between Turkey and all EU Member States, as soon as possible". Finally, while reiterating support for the UN's efforts towards a comprehensive settlement of the Cyprus problem, the Union's anti-declaration (para. 7) stated that Cyprus's settlement should now be "*in line with the principles on which the Union is founded*".²⁴

Unambiguous support for the Cypriot cause was also entailed by the Council's endorsement, on 3 October 2005, of the "Negotiating Framework for Turkey". Here, the Union demanded *inter alia*: Turkey's "continued support for efforts to achieve a comprehensive settlement of the Cyprus problem within the UN framework and *in line with the principles on which the Union is founded ...*"; and "progress in the *normalisation* of bilateral relations between Turkey and all EU Member States, including the Republic of Cyprus" (emphases added).

Next, the *Proposal for a Council Decision on the Principles, Priorities, and Conditions contained in the Accession Partnership with Turkey* reiterated that Turkey should "Continue to support efforts to find a comprehensive settlement of the Cyprus problem within the UN framework and in line with the principles on which the Union is founded". Moreover, Turkey should "Undertake steps towards *normalisation of bilateral relations* between [itself] and all EU Member States, *including the Republic of Cyprus*".²⁵ Throughout this period, therefore, the Commission was adamant that the Cyprus settlement should be *co-determined* by the Union's axiological principles and norms.

In 2006, Cyprus' case received additional moral and political support from many European capitals, distinguished MEPs, and the European Parliament itself, all increasingly impatient with Turkey's antics. Most revealing was the September 2006 Report of the EP's Committee on Foreign Affairs, written by Dutch MEP Camiel Eurlings (EPP).²⁶ Turkey's non-fulfilment of its obligations to Cyprus was the central preoccupation. Hence the Committee expressed "disappointment over the fact that, *in spite of its contractual obligations*, Turkey continues to

23 See Appendices I and II, *The Cyprus Yearbook of International Relations 2006*, *op. cit.*, pp. 203-205 (emphasis added).

24 *Ibid.*, emphases added.

25 Commission of the European Communities, Brussels, 9 November 2005, COM (2005), p. 10, emphases added.

26 European Parliament, Committee on Foreign Affairs, *Report on Turkey's Progress towards Accession*, Final, A6-0269/2006, 13 September 2006, Rapporteur: Camiel Eurlings.

maintain restrictions against vessels flying the Cypriot flag ...; reminds Turkey that this practice *constitutes a breach* by Turkey of the Association Agreement, the related Customs Union and the Additional Protocol, as the restrictions infringe the principle of the free movement of goods; ... regrets that Turkey maintains its veto against the participation of the Republic of Cyprus in international organisations and in multilateral agreements” (para. 52 emphases added).

Equally important, paragraph 53 “Urges Turkey to take concrete steps for the normalisation of bilateral relations between Turkey and all EU Member States, including the Republic of Cyprus, as soon as possible; in this context, recalls the Council’s Declaration of 21 September 2005”. In the next three paragraphs (54-56) the Report transcends the Council’s September 2005 “Counter-declaration”. It talks again of an “equitable solution based upon the principles on which the EU is founded”, but then adds: “*as well as on the aquis, and, pursuant to the relevant UN resolutions, to effect an early withdrawal of their forces in accordance with a specific timetable[.]*”²⁷ Then again, the Report reiterates the withdrawal of the occupation troops, recognising them as pivotal to Turkey’s intransigence and muscle-flexing: “Points out that the withdrawal of Turkish soldiers could facilitate the resumption of substantive negotiations and, *pursuant to the relevant UN resolutions, calls on the Turkish government to effect an early withdrawal of Turkish forces in accordance with a specific timetable[.]*”²⁸

The *ethical aquis* was further strengthened by leading MEPs such as Elmar Brok and Jan Marinus Wiersma, who responded to the November 2006 publication of the *Regular Report on Turkey’s Progress towards Accession*. Thus, Mr Brok (EPP) – then Chairman of the EP’s Foreign Affairs Committee – lamented a “shift of responsibility” by the Commission to the December 2006 summit: “The Commission evades a final evaluation of Turkey, in particular with respect to the unresolved Cyprus question. This means *not only lack of credibility towards the European public*, but also *continues to weaken the EU negotiation position vis-à-vis Turkey*.” Similarly, Socialist Group Vice-President, Jan Marinus Wiersma, stated: “[The] Ankara protocol *is an important question of law*: it is not up for negotiation and it must be implemented fully”.²⁹

Finally, the EU’s “ethical role” concerning Cyprus was reaffirmed quite dramatically by the December 2006 “freezing” of eight chapters in the EU-Turkey negotiations. Moreover, it was demonstrated by the decision to “re-assess” that country’s candidacy after a “grace period” of three years. Therefore, in order to pronounce on what more the EU can and ought to do concerning the legitimate EU citizens of the Republic, we may now review schematically the Union’s treasured principles and values.

27 *Ibid.*, paragraph 53, emphasis added.

28 *Ibid.*, paragraph 57, emphases added.

29 See “Last Opportunity for Turkey” [www.euractiv.com], accessed on 8 November 2006, emphases added by the author.

The EU's Essential Principles and Values

Despite sceptical reservations in some circles,³⁰ and some well-known structural drawbacks and concomitant crises (such as Iraq and Kosovo), the Union keeps advancing its role towards a “better global order”, banking primarily on its “soft power”.³¹ Indeed, the Union is accumulating international ethical prestige through the protection of human rights, peace-keeping and peace-making, generous development aid, the international advancement of democratic governance, humanitarian assistance, and conscientious ecological measures. Therefore, and especially if one endorses the notion of ‘mixed ethical motives’ – acknowledging as morally permissible some quota of self-regarding EU intentions – the European Union may qualify by now as a *prima facie* ‘ethical power’.

Accordingly, the literature on “civilian power EU” or “normative power Europe” has continued to expand during the last decade.³² By implication, expanding also is the broadly ‘ethical’ discourse on the EU’s cardinal principles, norms and values, and their professed implementation world-wide. It is, therefore, intriguing that no scholarly discussion had, until recently, raised the EU’s moral obligations towards the Republic of Cyprus.³³ Indeed, two of the best recent books on EU foreign policy do not even mention Cyprus, while a third one contains only seventeen Cyprus-related words.³⁴ Given, however, that 37% of Cypriot – and therefore EU – territory remains occupied by over 40,000 Turkish troops; given the proven illegality and immorality of the occupation; and given Turkey’s stubborn pettifoggery – it follows logically, legally and morally that the human rights and fundamental freedoms of all legitimate Cypriots must be promptly restored. Therefore, while the EU should maintain advancing its global ethical role, its moral obligation towards one of its Members should have *logical and political priority*, if the Union’s persistent self-characterisation as a “value-based community” is to be authenticated.

Elaborating on the normative character of this “value-based community”, Professor Ian Manners noted in 2002:

“The broad normative basis of the European Union has been developed over the past 50 years through a series of declarations, treaties, policies, criteria and conditions. It is possible

30 For a brief review of sceptical arguments, see D. Armstrong (2009) ‘Normative Power Europe – or Normative Power Germany?’ in Melakopides, C. (ed.), *The Cyprus Yearbook of International Relations 2008-2009*. Nicosia: Power Publishing, pp. 13-22.

31 Hence, some years ago the author called the EU, “an emerging superpower with a moral difference” (Melakopides, 2000).

32 See, for instance, Manners (2002); Lucarelli and Manners (2006) and the rich bibliography therein. See also Armstrong, *op. cit.*

33 Until Melakopides (2008).

34 The first two are Smith and Light (2001); and Lucarelli and Manners (2006). Karen Smith (2003, p. 146) refers to Cyprus thus: “The prospect of enlargement to the Republic of Cyprus, for example, increased tension in the Eastern Mediterranean”.

to identify five 'core' norms within this vast body of Union laws and policies which comprise the *acquis communautaire* and *acquis politique*" (Manners, 2002, p. 242).

These five "core norms" consist of the centrality of peace, the idea of liberty, democracy, the rule of law, and respect for human rights and fundamental freedoms (*ibid.*). These norms – referred to in this article as "the EU's essential principles and values" – are celebrated in every programmatic or constitutive document of the EC/EU: from the 1957 Treaty establishing the European Communities (TEC, art. 177 and art. 11) to the "Reform Treaty" or "Lisbon Treaty" of December 2007.

Building on the EU's "founding principles", Manners has added the "fundamental rights" implied by the Union's normative corpus: dignity, freedom, equality, solidarity, citizenship, and justice. More recently, he clarified further the notion of "EU normativeness" (Manners, 2006a); and he also extended its scope to cover the EU's ("normative") obligations for "sustainable peace" by employing a set of EU "normative principles".³⁵

Respecting fully Manners' sustained contribution to demonstrating the EU's inherent ability to help civilise further the life of international society, it is submitted that, once the EU's "normative basis" is coupled with its constantly expanding internationalist record, and then judged by Joseph Nye's "three-dimensional moral reasoning", i.e. the criteria of motives, means and consequences (Nye, 1986), the outcome may qualify for an even stronger thesis: namely, the Union's (international) *ethical distinctiveness*. Similarly, when the scope, the commitment, and the results of the EU's ethical role are compared today with those of most international actors, many may agree that the EU is, after all, "an emerging superpower with a moral difference".

In any case, subsuming the case of Cyprus under the ethical facts associated with the EU's "core norms" and "founding principles" should demonstrate that, despite the "ethical *acquis*", the EU is today experiencing a profound *internal ethical anomaly*. Indeed, the post-1974 Cyprus *status quo* keeps violating all these essential EU principles and norms: liberty, justice, democracy, rule of law, respect for human rights and fundamental freedoms, dignity, and solidarity. All these, of course, constitute the treasured elements of European modernity. The following puzzle, therefore, arises: can the EU qualify as an *authentic and consistent* "normative" power, if it keeps tolerating such a colossal ethical anomaly?

Before addressing this 'puzzle', however, let us turn to the promised excursus to the Annan Plan, necessary both because it demonstrates yet another attempted victimisation of Cyprus by crude *Realpolitik* and because clear echoes of that plan keep reverberating during the current inter-communal negotiations.

35 The nine normative principles in question are: good governance, sustainable development, social solidarity, equality, rule of law, human rights, freedom, democracy, and sustainable peace (Manners, 2006b).

A Schematic Recollection of the 'Annan Plan'

The attempt to sell the 'Annan Plan' constitutes a blatant recent instance of *Realpolitik* immorality towards Cyprus. Although promoted as a "UN reunification plan", it transpired on reflection that it was orchestrated to serve the strategic interests of the US, the UK, and Turkey, and the idiosyncratic needs of the TCs. Aiming to *get rid of* the Cyprus problem, as opposed to *settling it fairly*, the plan intended primarily: to exculpate Turkey for the invasion and the occupation; to strengthen thereby Turkey's aspirations for EU accession; to ascertain the Cypriots' legitimisation of the British 'Sovereign Base Areas'; to give George W. Bush's Washington a desperately needed 'diplomatic victory'; and to proffer the TCs dignified liberation from the Turkish occupation, EU-sponsored human rights, and asymmetrical power in the new state. To this end, the plan had to circumvent the complete restoration of the human rights and fundamental freedoms of all Cypriots and ignore the additional insecurities and anxieties of the primarily victimised GCs.

The work *Unfair Play* (Melakopides, 2006a) shows how the plan is manifestly unworkable, and blatantly unfair to the GCs, given its fundamental structural flaws. Moreover, the plan violates cardinal principles and norms of international ethics and international law, setting thereby a deleterious precedent in the European and global legal and ethical culture. Here is a laconic survey of some telling flaws:³⁶

- (1) Constitutional provisions for inter-communal majorities essentially gave the minority TCs veto powers.
- (2) Cases of inter-communal decision-making impasse were to be resolved by resorting to the new Supreme Court. Besides the GC and TC judges, however, the plan had imported three foreign judges!
- (3) The primary economic burden of running the new state would fall necessarily on the GCs, whose present per capita income is about three times that of the TCs and their population around nine times that of the *legitimate* TCs.
- (4) The fact that pivotal property issues were handed to a Property Commission was causing insecurity and frustration: many – very foggy – compensations could stretch to 35 years while its unclear funding and obscure mechanism were unfathomable by most ordinary persons.
- (5) Behind "calculated ambiguities", the plan had legitimated most of the illegal settlers. Demonstrating utter insensitivity towards the GCs, the plan also ignored the settlers' serious – social, economic, psychological and political – tensions with the indigenous TCs. This conflict was explicitly recognised by the 2003 Report on Cyprus of the Parliamentary Assembly of the Council of Europe:³⁷

³⁶ Some of the following arguments are borrowed from *Unfair Play, op. cit.*

³⁷ Council of Europe, Parliamentary Assembly, Committee on Migration, Refugees and Demography, Colonisation

“The settlers come mainly from the region of Anatolia, one of the less developed regions of Turkey. Their customs and traditions differ in a significant way from those in Cyprus. These differences are the main reason for the tensions and dissatisfaction of the indigenous Turkish Cypriot population who tend to view them as a foreign element”.

Additionally, the plan sinned on the following legal *cum* ethical, substantive and “procedural” matters:

- (1) it offered, surreptitiously, even continental shelf to the British ‘Sovereign Bases’, following the reported discovery of large hydrocarbon deposits south of Cyprus;
- (2) it annulled the citizens’ right to appeal to the ECHR for compensation regarding the violation of their right to enjoy their occupied properties, obliterating thereby the historic precedent in the *Titina Loizidou v Turkey* case;
- (3) it caused disappointment and anger by the asphyxiating timetables of the entire process, which included the UN Secretary-General’s “discretionary power” to fill in any gaps in the negotiations;
- (4) the Secretary-General’s entourage exhibited insulting arrogance against the GC negotiators; and
- (5) finally, Kofi Annan fully endorsed PM Erdogan’s “terms” at Bürgenstock, while rejecting all requests by then President Tassos Papadopoulos.

All these points convinced even further the GCs that this plan had grossly violated the rules of fairness. The plan’s rejection by 76% of the Greek Cypriots was, therefore, fully rational. And as Annex IX of ‘Annan V’ put it, “Should the Foundation Agreement not be approved at the separate simultaneous referenda ... it shall be null and void, and have no legal effect”. And yet, influential power-centres in Europe and beyond embarked immediately on ‘punishing’ the Republic for the GCs’ rational rejection while attempting to ‘reward’ the TCs for the plan’s endorsement. Manifestly, this made a mockery of the very notion of *referendum*. Moreover, it was cynically immoral: for one just cannot ‘punish’ the rejection of something unfair and unworkable or ‘reward’ the endorsement of what serves one’s interests and needs! It follows that the “Annan plan affair” demonstrated an additional attempt to victimise the Greek Cypriots by ruthless *Realpolitik*, instead of enhancing their protection by *Moralpolitik*.

Confronting Anew Turkey’s Victimisation of Cyprus

To recapitulate, Turkey’s accumulated guilt *vis-à-vis* Cyprus has resulted from the sustained use of military force in the illegal occupation of 37% of Cypriot territory; the gross and massive violation

by Turkish settlers of the occupied part of Cyprus, Doc. 9799, 2 May 2003, Rapporteur: Mr Jaakko Laakso (Finland), p. 2.

of basic human rights and fundamental freedoms of Greek and Turkish Cypriots alike; the refusal to recognise the Republic, in contrast to the entire worldwide community and the EU itself; recurrent threats and military muscle-flexing (the latest concerning Nicosia's search for hydrocarbons in its exclusive economic zone); the constant exercise of veto against the Republic's membership in various international organisations; the unrelenting application of psychological warfare against a small EU state; the deliberate distortion of legal, political and ethical *facts*; and the callous violation of the cardinal norm *pacta sunt servanda*.

Such illegal behaviour is morally and politically unbearable. It demonstrates Turkey's readiness to disregard the EU's *normative* (i.e. *legal and ethical*) *acquis* in order to satisfy narcissistic geopolitical ambitions. Also blameworthy is that *some* among the '27' and (at times) the European Commission have stood idly by Turkey's legerdemain. Finally, the role of Washington and London *vis-a-vis* the Republic leaves a lot to be desired regarding respect for the fundamental principles of international law and the essential EU principles and values. Therefore, once the Republic's orchestrated victimisation is exposed, any further delay to satisfy its rightful claim to liberation from the illegal and immoral occupation amounts to an ethical, legal, and political scandal.

Now, Immanuel Kant has demonstrated that "ought implies can". Accordingly, having shown why the Union ought to satisfy fully the rights of its legitimate Cypriot citizens – for otherwise it would be in clear contradiction to its professed principles and values – can the EU be shown as *capable* of satisfying them? This article responds as follows.

First, we have seen how the Union – through the Council, the Commission, the European Parliament and various distinguished personalities – has demonstrated, repeatedly, both the will and the ability to protect Cyprus' rights to a considerable extent. It has done so by criticising, chastising and even *punishing* Turkey for its Cyprus policies. The last term, for instance, reflects the "freezing" of the eight negotiating chapters, following Turkey's disregard of its signature on the Additional Ankara Protocol, which also forced the EU essentially to "threaten" the very re-assessment of Turkey's candidacy.

Second, this article has shown that an *ethical acquis* regarding Cyprus has been crystallised by resolutions, declarations, statements and actions, issued by central EU institutions, by the UN with EC/EU participation, and by distinguished Europeans. This *acquis* entails the Union's proven *capability to protest* against the persecution of Cyprus.

Third, the EU does apply grave sanctions to Third Parties should they violate their citizens' human rights. Karen E. Smith has recalled countless cases of "aid suspended and sanctions imposed by the European Union for violations of human rights and democratic principles in third countries since 1988" (Smith, 2003, pp. 205-208, Appendix 1). It is, therefore, morally and politically indefensible that no *substantial sanctions* have been imposed on a candidate state that continues to violate the human rights and fundamental freedoms of *EU citizens*. To be sure, it was traditionally argued that the EC/EU relies on the UN to settle the Cyprus problem. Today,

however, the Cyprus picture has changed dramatically: since May 2004 the Republic has been a full EU member; the UN's role in the 'Annan plan' has been exposed and discredited; and Turkey's unreliability and bad faith are being demonstrated. Now, therefore, the EU can and ought to assert its essential principles and values *in tandem* with securing a fair UN role: beyond protecting the human rights of all legitimate Cypriots, it can and must defend its own credibility, prestige, and self-respect.

Fourth, regarding the measures of an effective EU *modus operandi*, it is within the Union's power to demand: (a) the speedy withdrawal of Turkey's troops of occupation; (b) the gradual departure of the illegal settlers; (c) an immediate stop to the illicit construction of houses and hotels on GC properties in the occupied territory; and (d) full respect by Turkey of *pacta sunt servanda*. As regards (d), the EU can and should prioritise Turkey's legal commitment to honour its obligations according to the Additional Protocol and the September 2005 "counter-declaration", including the *normalisation* of Turkey-Cyprus relations which should lead to the Republic's *recognition*. Of course, the latter should entail Turkey's *de-recognition* of the secessionist regime. But this, like the normalisation of Turkey-Cyprus relations, will not be an act of generosity. Turkey should have done it long ago, given the legal analysis provided herein, the explicit obligations that EU candidacy entails, the countless UN and EC/EU Resolutions and decisions, and the unambiguous decisions by international courts.

In fact, the argument for Turkey's legal obligations was recently fortified even further. The 28 April 2009 judgement by the Court of Justice of the European Communities in *Meletis Apostolides v David Charles Orams and Linda Elizabeth Orams*, confirmed once again the demonstrable illegality of the occupation and the consequent illegality of purchasing Greek Cypriot properties in the occupied territory.³⁸

Towards December 2009

Following the electoral defeat of former President Tassos Papadopoulos, in February 2008, the international engagement in settling the Cyprus Question was intensified anew. Structured encounters under UN auspices between newly-elected President Dimitris Christofias and Turkish Cypriot leader Mehmet Ali Talat have taken place in direct, 'face-to-face negotiations'. In recent months, there is room for both optimistic and deeply pessimistic predictions about the outcome.

38 See Court of Justice of the European Communities, *Meletis Apostolides v David Charles Orams and Linda Elizabeth Orams*, 'A Judgment of a Court in the Republic of Cyprus Must be Recognised and Enforced by the Other Member States Even if it Concerns Land Situated in the Northern Part of the Island', Press Release No. 39/09, 28 April 2009.

On the optimistic side, there is insistence that the two community leaders exhibit “the will” to reach a settlement; have seen eye-to-eye on some issues; and they appreciate that yet another failure “might be fatal” to the cause of “reunification”.

But then, there is mounting evidence that, since 3 September 2008, little or no progress has in fact been achieved on such critical issues as the future form of governance, on properties, the notorious “security guarantees”, the illegal settlers, etc. On them, the two sides are separated by an abyss. Moreover, President Christofias’ “generous offers” – including his proposals for a “rotating presidency” and the legitimization of 50,000 illegal settlers – have not been reciprocated in the least. Leading members of the GC political elites, many academics, and influential opinion-makers have been lamenting that “the will” of the TC side is not autonomous, since Mr Talat admits constantly seeking “guidance” from Ankara; that TC (i.e. Turkey’s) maximalism involves the never-ending alteration of the initial negotiating terms; that Mr Christofias’ concessions have been “pocketed” by the other side, while Ankara officials continue to perform provocative verbal and non-verbal acts against Cyprus; and that Turkey is once again engaged in a game of international impression-making in view of its December 2009 evaluation.

Hence the rising pessimism is accompanied by an incessant debate on the advisable stance until and during the December 2009 European Council. During newly elected Greek Prime Minister George Papandreou’s official visit to Nicosia on 19-20 October 2009, his precise intentions on this matter remained essentially obscure. Admittedly, Papandreou and Christofias re-emphasised the long-standing position of Athens and Nicosia in support of eventual Turkish accession – assuming Turkey fulfils the established for all candidates requirements. To be sure, after a long hiatus, George Papandreou – in a rare emulation of his late father, Andreas – “defined” the Cyprus Question as “a problem of invasion and occupation”. He then insisted that Athens will “stand by Nicosia in every sense”. But he also referred to a “new road map for Turkey”, leaving unclear whether this should operate before or after December 2009.

Meanwhile, the political forces of centrist DIKO, centre-left EDEK, of (*sui generis*) EVROKO as well as the Ecologists, all concur on Nicosia’s need to “assert itself” at long last. In fact, Foreign Minister Marcos Kyprianou and President Christofias himself reaffirmed regularly in October 2009 what all political forces unanimously agreed in the latest four-day-long National Council: namely, that – given Turkey’s obstinate violation of its post-December 2006 EU-imposed, obligations – “Turkey cannot escape *unscathed*’ in December 2009”. In addition, political elites, some serious academics, influential opinion-makers and activist members of Cypriot civil society anticipate the support of, at least, Athens, Berlin, Paris and Vienna when they urge Nicosia to stand up and raise its objections at the forthcoming “historic summit”. And for the first time, most political figures, respected columnists and commentators *in tandem* with the *vox populi* were employing the self-same term, «*δικαίωμα!*», i.e. “*Claim (our rights!)*” regarding the December 2009 Summit.

The picture, crystallising in Nicosia in October 2009, owes a lot to the widely-held perception that Ankara’s recent policy-making *vis-à-vis* Cyprus (and Greece), has turned even more

narcissistic, arrogant and aggressive. President Barack Obama's warm geopolitical gestures to Ankara during his April visit to the country; the encouraging impressions generated by a number of activist foreign policy initiatives in recent months; rather promising results of Turkey's diplomatic openings to a few neighbours; and new Foreign Minister, Dr Ahmet Davutoglu's "hyperkinetic" diplomatic creativity – all these help account for the said attributes of Turkey's novel political-cultural tendencies.

Thus, while Greek Cypriot political classes and activist members of civil society are at pains to identify effective measures that the EU ought to take at the end of 2009, here is a preliminary catalogue of what Nicosia can assert in December 2009 that the Union can do, and *therefore* morally ought to do: First, to recognise explicitly – in novel statements, declarations, decisions and actions – that one of its members is being *victimised* by a candidate state. Second, it should call on Turkey to begin withdrawing its troops and the illegal settlers. Third, it should *demand* that Turkey recognise the Republic of Cyprus, as per the "anti-declaration" of September 2005. Fourth, the European Parliament, as the proverbial 'moral conscience' of the Union, should sustain its own pressure and propose further bold initiatives, besides its constant assertion that Turkey should withdraw its troops. Fifth, the EU's role in the ongoing 'inter-communal' negotiations should be strengthened so as to set the outer limits of *acquis communautaire* permissibility, as opposed to almost standing idly by while Ankara and its candidacy's more passionate supporters are exercising unconscionable intransigence and pressure. Sixth, and simultaneously, a "Committee of Wise Persons", guided by *Moralpolitik* and the concomitant norms of the Union could well be formed to act as 'honest broker' between Nicosia and Turkey and between the two main Cypriot communities. Finally, the EU High Representative for Foreign Affairs and Security Policy – envisaged by the 'Lisbon Treaty' – should include among his/her first priorities the coordination and implementation of the above.

If, however, some of the proposed measures are not adopted by the Union despite its proven moral and political duties to Cyprus; and if Turkey does not abandon in time its arrogant obduracy; then the Nicosia government, supported by the like-minded fellow-Members, should declare its considered decision: unless and until Ankara fulfils its obligations to the Republic and the Union, Nicosia could well veto the opening of any new chapter in Turkey's negotiations with the EU during the December 2009 European Council.

The author fully acknowledges the manifold support that Turkey enjoys within the EU and beyond the Atlantic on account of its geopolitical value, its growth potential, its possible role as a 'bridge' between the EU and the Muslim world, etc. As a matter of fact, these reasons, combined with an eagerness to see a zone of permanent peace and friendship established among Turkey, Cyprus and Greece – once Turkey became 'Europeanised' – explain the author's earlier warm support for Turkey's EU accession (Melakopides, 2000). But the assumption of Turkey's 'Europeanisation' has been undermined regarding both Cyprus and Greece. On the one hand, Greece distinguished itself both during the December 1999 Helsinki European Council, where it arguably 'led' the Member States in defence of Turkey's European vocation; it also led the way to

the (quite bumpy) 'détente' with Ankara ever since. For its part, semi-occupied Cyprus did not exercise any veto to Turkey's EU trajectory in either 2004 or 2005, voting twice in favour of starting its accession negotiations. On the other hand, the Turkish government has opted for a protracted, bellicose challenge to Greece's sovereignty through 'revisionist' tactics in the Aegean Sea, which include the *casus belli* threat, incessant violations of its airspace, and the current flights by armed military aircraft over Greek islands in the Eastern Aegean; it has sustained the victimisation of the Republic since 1974; it violated its signature to the Additional Protocol of July 2005; it has taken no measures whatsoever towards fulfilling its EU obligations arising from the "Counter-declaration" of September 2005 during the three-year-long "grace period"; it persists in referring to "two nations, two governments, and two states" in Cyprus in clear opposition to its established legal, political and moral obligations; finally, Ankara has sustained aggressiveness and bellicosity both in the occupied territory and beyond, as we have seen.

Such realities conspire to cause anger and frustration to the GCs for their predicament and the missed opportunities to establish a radically new period in the trilateral relationship of Cyprus-Turkey-Greece, with its tangible positive implications for Turkey's own EU prospects. These sentiments were intensified by the realisation that the UK government, the Swedish EU presidency during 2009, and Commissioner Olli Rhen were openly at pains to obliterate Turkey's established obligations before the December 2009 "re-evaluation".

To be sure, we have long heard, *inter alia*, that since Turkey's road to full accession looks increasingly bumpy; one should not expect it now to conform to EU values and norms. Such reasoning, however, is premised on a serious political, legal and moral fallacy: for it entails either that the EU must alter its normative identity to accommodate Turkey; or that accession must precede conformity to EU values and norms. Both readings imply that the Union should yield to Turkey's essential blackmail – something politically, legally, and morally unbearable.

There is, however, a third way: first, whatever the EU-Turkey future holds, including "privileged partnership", Turkey should fulfil its legal-political-moral obligations, *for its own good*, without either affirmative action or negative discrimination. And second, the Union's demonstrable political and moral obligations to Cyprus must be fulfilled promptly and at all costs: because of the manifest necessity to end the victimisation of all the legitimate citizens of a member state; and because these obligations currently represent a test-case of the European Union's normative *authenticity*, ethical *consistency*, and moral *identity*, on which, in the final analysis, its internal credibility and international prestige largely depend.

Needless to say, Nicosia's endorsed assertiveness in Brussels in December 2009 would aim to force Turkey to merely honour its demonstrated obligations. By fulfilling them, Turkey would validate its assertion that it cares about the negotiations in Cyprus and remove the disingenuous insistence that it has met its obligations by supporting the Annan plan. Only such developments, giving Turkey the opportunity to exhibit good faith, could usher in promising conditions for the ongoing inter-communal negotiations. Therefore, Nicosia's expected political assertiveness would

entail serving the EU's own principles and values, for the ultimate benefit of the peoples of Cyprus, Turkey, Greece, and the European Union itself.³⁹

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39 This article was submitted some weeks before the December 2009 European Council. In mid-January 2010, it is worth recording that, in fact, Nicosia opted for a "softer" than anticipated stance: that is, Cypriot Foreign Minister Marcos Kyprianou presented a declaration to the effect that the Republic of Cyprus will block in the future six further chapters in Turkey's accession negotiations should Ankara fail to satisfy Nicosia's conditions or terms. Clearly, Nicosia's relevant decision was determined by the desire to prevent further obstruction in the ongoing inter-communal negotiations.

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