

CYPRUS – THE REFERENDUM AND ITS AFTERMATH

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Abstract

The paper analyses the process that led to the 24 April 2004 referendum on 'Annan- 5' and its overwhelming rejection by the Greek Cypriot community. The essay asks how we got to the referenda, why the insistence to have the 'Annan Plan' approved by referendum, what motives guided American, UN and EU initiatives, and the lessons learned from this process. The essay concludes with questions about the day after the 24 April vote and the future.

The Diplomatic Background of the 'Annan Plan'

The 1974 Turkish invasion of Cyprus brought about a series of UN Security Council and General Assembly resolutions,¹ resolutions by other international and regional organisations, mediation initiatives by UN and other Western diplomats, and important precedent setting court cases by international and other national courts.² These actions reflected the policy of the government of Cyprus which relied on the internationalisation of the Cyprus problem and sought the involvement of the United States to reverse the consequences of the 1974 Turkish invasion. The involvement of the United States, at the highest level, was seen as necessary because of Washington's influence in Ankara. By the spring of 2004, the government of Cyprus realised the limits of this policy.

Over the last thirty years, high level meetings between successive presidents of the Republic of Cyprus and Turkish Cypriot leader Rauf Denktash, proximity talks, plans by various UN and other emissaries, proposals for confidence building measures and continuous rounds of negotiations under the 'good offices' of the UN Secretary-General failed to produce results. This can be attributed to the failure to implement UN Security Council resolutions; the prevalence of strategic, economic and political considerations over a functional and viable solution; the intransigent and consistent policies of successive Turkish governments that were based on the assumption that the Cyprus problem was solved in 1974; the political conditions existing in both Cypriot communities, and spasmodic external diplomatic initiatives.

The negotiations were also affected by the fact that all major concessions came from the Greek Cypriot side. In order not to be accused of intransigence, Cypriot governments continued to negotiate on the basis of the principles agreed on in 1977, while Turkey and the Turkish Cypriots regularly changed the bases of the negotiations.³ No Cypriot government had the political courage to call for negotiations from a zero base. Every time a new round of negotiations began, the United States and the UN called on the government of Cyprus to make concessions to 'bridge the gap' between its positions and those of the Turkish Cypriot side, and to encourage the Turkish Cypriots to return to the negotiation table. There was no reciprocity by the Turkish Cypriot side. In addition, they took for granted all concessions made to them.

The end of the Cold War affected the Cyprus problem as well. The United States was left as the only superpower. The crisis in the Balkans and Yugoslavia's disintegration set a bad precedent for Cyprus. For the first time since the end of WWII, partition and ethnic separation were considered acceptable solutions to ethnic problems. Cyprus also applied for membership in the EU. This provided new opportunities to address intractable aspects of the Cyprus problem like human rights and security, but it also became a new method of political pressure on Cyprus.

Traditionally, the United States had opposed the involvement of the EEC/EU in the Cyprus problem. This changed during the Clinton presidency. The American representative to the United Nations Richard Holbrooks, with support from the United Kingdom, advocated the solution of the Cyprus problem prior to the accession of Cyprus to the EU. This was not required by the EU. The accession of Cyprus to the EU was the priority of Cypriot policy. Linking the solution to the accession would increase the political pressure on the government of Cyprus. Holbrooks also saw this as an opportunity to advance Turkey's EU aspirations. Both actions gave Turkey an indirect veto over the Cyprus problem while increasing American credibility in Ankara.

Additional regional developments increased the urgency of a solution of the Cyprus problem in the latter part of the decade of the 1990s. Problems in South-eastern Europe and the Middle East pointed to the importance of stability in this vital region. Managing and stabilising Greek-Turkish relations was an American priority in the aftermath of the near war crisis between Greece and Turkey in 1996 over Greece's Imia islets. This was followed by the conflict over the placement of the S-300 anti-aircraft missile system in Cyprus, and the Greco-Turkish crisis in the spring of 1999 over the arrest of Kurdish leader Abdullah Ocalan in Kenya. Improving Greek-Turkish relations was expected to have a positive effect on the Cyprus problem. This opportunity came with George Papandreou who became the new Greek Foreign Minister in the aftermath of the Ocalan affair. The 'earthquake

diplomacy' between Greece and Turkey in the summer of 1999, created a new positive climate in bilateral relations and improved the prospects for new initiatives on Cyprus.

The growing American interest in a Cyprus solution was reflected in Holbrooke's visit to the island in May 1998. There, he proposed a compromise solution to the Turkish Cypriot demand for recognition. He proposed that the government of Cyprus should 'acknowledge' the existence of a Turkish Cypriot political entity that represented the Turkish Cypriot community through legitimate procedures and institutions. A corollary was that the government of Cyprus did not speak for the Turkish Cypriots. Holbrooke's approach was based on the 1993 Oslo 'acknowledgement' of the PLO by Israel.

The next American action was to bring the Cyprus issue to the G-8 meeting in Cologne, Germany, on 20 June 1999. The G-8 called on the parties⁴ to engage in sustained talks without preconditions; to conduct negotiations on all issues; to continue talks in good faith until a solution was found, and to keep the talks in the context of UN resolutions and other international agreements on Cyprus. The G-8 'formula' on Cyprus was adopted days later by the Security Council in resolutions 1250 and 1251. The significant influence of the American views on Cyprus was reflected in the evolving position of the Secretary-General on the Cyprus problem. In a letter to the Security Council dated 22 June 1999, for the first time he formally called for consideration of the political status of the Turkish Cypriots.

Washington argued that a solution ought to look to the future and not to the past, that the parties ought to avoid legalistic debates on federation/confederation, that the extent of constitutional concessions would be influenced by territorial trade-offs, and that the issue of the settlers was 'humanitarian' and not political. In view of the Turkish Cypriot demand for recognition, Washington considered the 'acknowledgement' of the Turkish Cypriot 'state' as *de facto* recognition without other legal consequences. *De jure* recognition could only be the outcome of negotiations. Washington urged the Greek Cypriots to recognise the 'legitimate concerns'⁵ of the Turkish Cypriots along with the 'reality' created on Cyprus since 1974. This meant the acceptance of a constitutional solution containing elements of 'legitimised partition' in the interest of stability on the island. Washington agreed with Ankara that the parties ought to move to settle issues of 'borders', property and resettlement, while defining the limits of the 'three freedoms'.⁶ Finally, Washington advocated that when a comprehensive solution was agreed upon, there would be a 'momentary suspension' of the Republic of Cyprus in order to be succeeded by a new state of affairs established between two equal component states. For all practical purposes, this meant the end of the Republic of Cyprus that was created in 1960.

The Genesis of the 'Annan Plan'

The American influence on the Secretary-General was manifested in his 12 September 2000 opening statement at the talks held in New York between president Clerides and Turkish Cypriot leader Rauf Denktash. In that statement he called for negotiations "in which each represents its side – and no-one else as the political equal of the other." This was the first time in which the Secretary-General publicly equated the internationally recognised government of Cyprus to that of the illegal regime of the occupied areas. Alfred Moses, President Clinton's emissary on Cyprus, spoke of the "deliberate ambiguity" of this statement which was intended to bring the Turkish Cypriots to the negotiating table. He also indicated that this was done with the knowledge and the support of the United States.⁷

The talks initiated in New York on 12 September 2000 ended in deadlock in Nicosia in January of 2001. Despite the deadlock, I consider these talks to be the foundation of a new process that led to the first 'Annan Plan' that was presented to the parties in Copenhagen in November 2002. I base this conclusion on the following reasons: (a) the decision by the United States and Britain to engage in a sustained negotiating initiative in cooperation with the Secretary-General. This was significant because previous Anglo-American initiatives were spasmodic and were frequently undermined by discord with the Secretary-General; (b) the opportunity for a solution prior to the accession of Cyprus to the EU; (c) a new negotiating process involving the preparation by the UN of 'non-papers' on all aspects of the Cyprus problem, instead of relying on exchanges of documents and position papers prepared by the parties. Lord David Hannay of the UK and Tom Weston of the United States Department of State and their staffs were active participants in the preparation of these 'non-papers'. Through shuttle diplomacy in Athens, Ankara and Nicosia, the two diplomats prepared the ground for Alvaro de Soto, Kofi Annan's Cyprus mediator; (d) the fundamental principles espoused in these 'non-papers' became the foundation of the comprehensive proposals incorporated in all five versions of the Secretary-General's plan. These proposals involved derogations from the Security Council resolutions on Cyprus, from the *acquis communautaire*, and from the decisions of the European Court of Human Rights and other European courts. This is why the mediators sought an agreement prior to the accession of Cyprus to the EU; (e) the decision by the Secretary-General that the comprehensive agreement should be submitted for approval in separate referenda "to ensure the democratic endorsement, legitimisation and ratification by each community...".⁸

The rather extensive background analysis in the first two sections of this article was intended to show that the five plans presented by Kofi Annan between November 2002 and March 2004, should not have come as a surprise to anyone in Cyprus. They were the product of concessions made by successive Cypriot

governments in their willingness to seek a negotiated solution. In addition, significant sections of 'Annan-4 and 5' were the result of the change in the role of Kofi Annan. Without authorisation by the Security Council, but with support from the United States and the United Kingdom, he assumed the power of binding arbitration. This became a precondition for the acceptance of his invitation of 4 February 2004, for a new and final round of talks. Until then, the Greek Cypriots had not faced the reality of Annan's proposals because of the intransigence of Rauf Denktash and Turkey. All this changed in New York with Kofi Annan's ultimatum like invitation of 4 February 2004, and the political conditions created by the new consensus that emerged in Turkish-American relations under the leadership of Turkish Prime Minister Erdogan.

The US, the EU and 'Annan-5'

After a slow start in foreign policy issues the Bush administration, in the aftermath of 9/11, moved to address the Cyprus problem. The Bush approach was based on the new directions set by his predecessor. Washington encouraged new initiatives by the Secretary-General and raised the stakes on the consequences of failure in Cyprus. Through the Fall of 2001 and into the Summer of 2002, Washington argued that the accession of Cyprus to the EU without a solution would (a) undermine Greco-Turkish relations; (b) raise the threat of conflict in the Aegean and in Cyprus; (c) contribute to the alienation of Turkey from Europe; (d) increase internal tensions in Turkey; (d) formalise the partition of Cyprus, and (f) prove disruptive in the front against terrorism.

Washington also urged Turkey to push Rauf Denktash to new talks because: (a) the deadlock gave the political advantage to the Greek Cypriots; (b) it raised doubts about Turkey's sincerity; (c) the economic cost of assistance to the Turkish Cypriots and of maintaining the Turkish forces in Cyprus worsened Turkey's economic conditions; (d) the Turkish Cypriots would be in a better bargaining position before the accession of Cyprus to the EU; (e) absence of Turkish initiatives would hinder Turkey's EU prospects, and (f) Turkey should abstain from any actions likely to increase tensions in the Aegean and in Cyprus. Otherwise, Turkey would affect its EU prospects and undermine its domestic stability. Such problems, in an already troubled region, would also weaken the front against terrorism.

The EU was intentionally kept at arms length during the UN sponsored talks that started in January 2002. Reluctantly, and only near the end of the negotiations in Buergenstock in the Spring of 2004, Washington and Kofi Annan brought in the EU. The purpose was to legitimise the major derogations from the *acquis communautaire* and from European law included in 'Annan-4 and 5'. The move was also intended to pressure the Greek Cypriots on the eve of accession to the EU,

and to gain Turkey's support of Annan's latest plan. Turkey, the United States and Kofi Annan only agreed to an observer role for EU officials at the Buergenstock negotiations. The EU was expected to accommodate what either the two communities agreed on, or what the Secretary-General stood ready to impose through his binding arbitration. Protocol 10 of the Treaty of Accession of Cyprus to the EU contained a clause accommodating a future settlement as long as it complied with the principles on which the EU was founded. EU officials were hard pressed to rationalise their willingness to accept the derogations contained in 'Annan-5'.

There are at least two reasons why they did so. The first was that the EU accepted these derogations in return for not inheriting a protracted international problem, for moderating Turkey's behaviour, and hoping that the EU environment could reduce the negative consequences of these derogations. The second reason has to do with the state of transatlantic relations. In the aftermath of the Iraq war, a solution of a protracted European problem through the UN, with the cooperation of the EU and the United States, would be an important first step in restoring credibility and harmony to the UN and to transatlantic relations. Cyprus, a small and relatively weak prospective EU member, could become such a test case. A solution would also help improve the climate of European relations with Turkey and its future prospects in Europe. At the risk of compromising its principles, the EU chose limited influence than its complete marginalisation.

While actively supporting Kofi Annan's 2004 initiatives, Washington intentionally kept a low profile. This would shift responsibility for any failure in the talks to the parties and to the Secretary-General, if necessary, but not to president Bush on the eve of his re-election campaign. Clinton's failure in the Middle East peace process, on the eve of the American presidential elections in the Fall of 2000, was still fresh in the minds of Bush campaign advisors. The behind the scenes initiatives of Secretary Powell, Tom Weston and others were visible enough so as to claim credit if the talks succeeded. By acting behind the scenes the president could be protected if the talks failed. Supporting the UN in a European problem would go far to restore credibility to American foreign policy in the aftermath of Iraq. It would also be proof that Bush's foreign policy activism produced positive results.

These initiatives strengthened Turkey's image as a source of regional stability, democratisation and reform, and Erdogan's image of being a promoter of democratic pluralism in an Islamic country. This was an important goal in Bush's foreign policy in the aftermath of the Iraq war. In addition, a Cyprus solution could be used as a model for other cases of ethnic conflict and division, as in Kosovo, Afghanistan, and Nagorno Karabagh. In view of these objectives, it is not surprising to see Washington's negative response to the rejection of 'Annan-5' by the Greek Cypriots.

Why the Referendum? Why the Greek Cypriots said 'NO'

One of the new elements in the Secretary-General's negotiating strategy starting in the fall of 2000 was his insistence for approval and legitimisation of the comprehensive settlement by simultaneous and separate referenda in the two Cypriot communities. There were at least three reasons behind the demand for approval by referendum. First, it removed the stigma that the final settlement was imposed on the Cypriots through the Secretary-General's binding arbitration. Annan wanted to avoid the precedent of the 1959 Zurich and London agreements Greek Cypriots had complained that these agreements were imposed under the threat of the partition of Cyprus. Second, it legitimised and affirmed Turkey's intervention rights. Under 'Annan-5' Turkey would retain these rights even after its entry in the EU. The Greek Cypriots had questioned the legality of Turkey's intervention rights and the use of force in 1974 under the 1959 agreements. Approval by referendum would remove any future legal questions. Third, all derogations from EU law would also be legitimised. This would make difficult any future demand for changes in these derogations.

It has now become almost a cliché in Cyprus that the rejection of 'Annan-5' by nearly 76% of the Greek Cypriot voters was not a vote against reconciliation or reunification as some have claimed. It was a rejection of a process that led to a one sided plan perceived harmful to Greek Cypriot interests and to the survival of the Republic of Cyprus.

Alvaro de Soto, in recent interviews and lectures,⁹ said that he was not surprised by the Greek Cypriot rejection of 'Annan-5', but by the "vehemence" of the campaign against it. He was also astonished by the "galvanizing effect" of President Papadopoulos' 7 April 2004 speech to the nation against 'Annan-5'. However, public opinion polls showed 70% public opposition to the plan even before the president's speech. The 76% of Greek-Cypriots voting against 'Annan-5' came from all political parties, ages, and gender. In contrast, nearly 65% of Turkish Cypriots followed Ankara's lead and supported 'Annan-5'.

The Turkish Cypriot vote is easier to explain. 'Annan-5' maintained the Turkish Cypriot 'state' while removing the isolation it faced since 1983. The Turkish Cypriot 'component state' would remain under Turkey's protection while acquiring significant veto powers in Annan's new republic. With Turkey's policy shift, Denktash' near dictatorial powers were marginalized. Finally, the promise of significant economic assistance from external as well as domestic sources and the benefits of EU accession may have been the biggest selling point of 'Annan-5' for the Turkish Cypriots.

The Greek-Cypriot perception of 'Annan-5' was quite different. Starting with Kofi Annan's ultimatum like invitation of 4 February 2004, the parties were confronted with rigid negotiating deadlines and no real time for discussion of a most complex document running in the thousands of pages. In addition to discussing new security arrangements, Greece and Turkey were to have a voice on constitutional issues left unresolved by the two communities. This had clear reminders of the 1959 Zurich and London agreements. All issues not resolved by the parties, or by Greece and Turkey, were to be addressed through Kofi Annan's binding arbitration. The whole negotiating effort aimed at approval on 24 April 2004, so that the 'new state of affairs' would take effect prior to the accession of Cyprus to the EU. Greek Cypriot suspicions were increased by threats of 'serious consequences' if they rejected the plan in the referendum,¹⁰ and by the last minute attempt to bring together a donors conference for pledges to support the economic cost of reunification,¹¹ which was a major Greek Cypriot concern.

Promoters of 'Annan-5' questioned why the overwhelming majority of Greek Cypriots did not pay greater attention to the positive elements of the plan.¹² The simple answer is that had 'Annan-5' been approved by the referenda, it would have been applied as a whole. Whatever positive aspects may have been included in the plan for Greek Cypriots, the totality of the plan was seen as negative to their interests.

Some of the reasons for the Greek Cypriot vote include: (a) Major derogations from the European Covenant of Human Rights that deprived all Cypriots of fundamental rights. Agreement prior to 1 May would secure these derogations. This is why Kofi Annan pressed for the ratification of his settlement prior to that date. Under these derogations, Cypriots would become second class citizens in their own country. Other EU nationals would enjoy in Cyprus rights that Cypriots would not. (b) The internationally recognised Republic of Cyprus would be dissolved and replaced by a loose confederation of two largely autonomous states. The new polity would be confederal in character due to the absence of a hierarchy of laws and the fact that the powers of the central government emanated from the component states. (c) The functionality of the new state was questionable in view of the provisions on the executive, the legislative and the judicial branches, the presence of minority vetoes, and of non-Cypriot third parties casting deciding votes. (d) The economic cost of reunification¹³ and the vague pledges of external assistance¹⁴ meant that the Greek Cypriots would bear the economic cost of reunification. (e) Security issues involving the gradual reduction and continuing presence of Turkish troops with expanded intervention rights, even after Turkey joined the EU. Cyprus was excluded from the common European defence policy and would be totally demilitarised. Cyprus would become a subordinate, dependent state within the EU. (f) Issues of citizenship definition and the future of the Turkish

settlers. Most of the settlers would remain in Cyprus as citizens. (g) Unilaterally, under his binding arbitration, the Secretary-General deleted the internationally acknowledged Cypriot ratification of the 1936 Montreux Treaty on the navigation through the Straits. This was important as Cyprus possesses one of the largest commercial fleets in the world. Turkey, in recent years, has been trying to remove all peacetime restrictions on her control of the Straits. Kofi Annan's action raised questions about his accommodation of Turkey's demands, but also about his role as the guardian of international law. (h) The same can be said of the accommodation of Britain's demand that it be granted rights on the territorial waters and the subsoil of Cyprus, rights that Britain did not enjoy under the 1959 agreements. This was the result of evidence of gas and oil deposits on the Cypriot continental shelf. Neither the issue of the Montreux Treaty nor the new British claims have anything to do with the settlement of the constitutional problem in Cyprus. All this shows that 'Annan-5' was a Christmas tree loaded with gifts for everyone but the Greek Cypriots.

The Lessons Learned

The process that started on 12 September 2000 in New York ended in Nicosia on 24 April 2004. The lessons learned from this process are important for any future attempt to reunify Cyprus.

The Secretary-General and his interlocutors presented the referendum as the democratic affirmation of the outcome of their mediation/arbitration. The referendum would remove the stigma of a settlement imposed by the Secretary-General through his binding arbitration. If external interlocutors believe in the democratic process, then they should be willing to accept and respect its outcome. Even though they have made such statements, UN and American spokesmen have repeatedly called on the Greek Cypriots to rethink their vote and accept the plan as it stands especially because of the unconditional acceptance of 'Annan-5' by the Turkish Cypriots. The same diplomats insist that, other than some cosmetic clarifications on security and economic issues, no renegotiation of the comprehensive settlement was possible. Such absolute positions show how far removed from Cypriot reality are some of the foreign interlocutors. In view of the provisions of 'Annan-5' and the post-referendum response of the United States and the United Nations, one wonders whether these interlocutors were ever serious about seeking a settlement acceptable to both sides.

The last phase of the negotiation process that started with the Secretary-General's 4 February 2004 ultimatum like invitation and culminated in the talks at Buergenstock, will become a classic study of how not to negotiate. Leaving aside the content of 'Annan-5', the combination of threats, of unrealistic deadlines

amounting to an ultimatum, propaganda, last minute financial promises, attempts to by-pass the legitimately elected government of an internationally recognised country, and external interventions in the politics of both Cypriot communities, backfired at the end of the day. Only in the case of a small and weak country would such tactics have ever been attempted. In the case of Cyprus they failed and rightly so. Time has come for external interlocutors to reflect on their actions that led to the outcome of 24 April, instead of blaming those who voted 'no'. The question should be asked of Alvaro de Soto and Kofi Annan to assess what they may have done wrong in this negotiating process. Was there any miscalculation on their part or on the part of their staff? What could they have done differently? Alvaro de Soto and Kofi Annan have had time to reflect on these issues. Will they have the political courage to talk about their actions?1s

Another sign of the desperation of American and UN mediators, as public opinion polls in the Greek Cypriot community accurately predicted the outcome of the 24 April referendum, was their last minute attempt to gain the endorsement of 'Annan-5' by the EU and by the UN Security Council. They also called a last minute draft pledge conference to entice Greek Cypriot voters with vague offers of future financial assistance. Greek Cypriots saw through these tactics and responded appropriately. At the Security Council, the Russian Federation had the political courage to cast what has been described as a 'technical veto' to stop the charade Washington and London attempted to play by seeking the Council's endorsement of 'Annan-5' on the eve of the referendum.

In the final analysis, this is not the time for spasmodic reactions and punitive moves against the Greek Cypriots for exercising their democratic right. Attempts to upgrade the Turkish Cypriot pseudo-state in violation of unanimous Security Council resolutions, unanimous EU decisions, actions by other international organisations and decisions of British, American and European courts will destroy the credibility of American and EU 'objectivity' in any future mediation. Hiding behind alleged humanitarian motives toward the Turkish Cypriots in order to secure Turkey's strategic cooperation in the Middle East, will come back to haunt Washington, London, Brussels and New York.

The Task Ahead for Cyprus

What needs to be done in Cyprus to counter developments since 24 April? The post-referendum situation requires long term planning and the development of a national consensus as to where Cyprus wants to go after 24 April, and what role it expects the EU and the UN to play in the resolution and reunification process. This requires a clear understanding of what is a viable and a functional solution in the aftermath of EU accession, and not waiting for '*deus ex-machina*' to bring forward

another plan. This also requires a clear strategy addressing the broader political environment in which Cyprus operates.

Cypriots, in the post-referendum environment, will need to look beyond petty partisan domestic political games. As the dust settles down from the fall out of 24 April and from the partisan manoeuvres of the European Parliament elections, Cypriots will need to separate domestic partisan bickering from the future of their country. Diversity of opinion is the essence of democracy and Cyprus is a democratic country. However, partisanship and partisan gain should be separated from the search for a viable, functional solution protecting the rights of all Cypriots. Domestic partisan differences must not provide outsiders venues for determining the future of Cypriot Hellenism. Past experience with external interventions and political machinations validates this point.

Cypriots, not just the external interlocutors, will need to think critically about the future of 'Annan-5'. Is this plan 'dead on arrival' in the aftermath of 24 April? If not, what is salvageable from this plan that can be used as a foundation in the reunification process? The Greek Cypriots cannot be entrapped in the politically convenient rhetoric of 'negotiations on the basis of the Annan Plan' as it happened in February 2004 at the New York meetings.

What role does Cyprus expect the EU to play in the resolution of the problem? What will be the role of Cyprus in the EU? There is no doubt that the Cyprus problem is in the EU now, but it is not of the EU. Cyprus is in the EU and will need to develop and define issue oriented alliances that may also influence the Cyprus problem. However, looking at the EU as another tool in the Cypriot diplomatic arsenal against Turkey will backfire and will undermine the credibility of Cypriot motives for seeking membership in the EU. What can the EU do for Cyprus in the political arena? The best Cyprus can hope for should be the harmonisation of any future settlement to European laws and to the *acquis communautaire* from the very beginning of any talks. Cyprus must avoid any last minute accommodation like the one Kofi Annan and Guenther Verheugen attempted to impose prior to the accession of Cyprus. However, Cyprus should have no illusions about bold political initiatives on the part of the EU for one of its members. One needs to consider the reluctance and/or the inability of the EU to get involved or to even discuss other long standing EU ethnic and political division problems. At least four such problems readily come to mind: Northern Ireland, the Basque region of Spain, Corsica and Gibraltar.

Now, more than ever before, the need for long term planning is evident. Political leaders and diplomats do not have the time, the knowledge or the resources to engage in long-term analysis and planning. This is a most propitious time for turning

some of this urgent work to a non-partisan independent think tank to study alternatives and to engage in contingency planning. Successive Cypriot governments have resisted this idea. The post-referendum environment requires that policy makers rethink this issue.

Confronting Negative Scenarios

Since the beginning of 2004 and the new climate in Turkish-American relations,¹⁶ Turkish Prime Minister Erdogan engaged in an intensive public relations campaign capitalising on his image of America's loyal Middle East ally and as the Islamic, democratic, pluralist leader who would "stay a step ahead" in the resolution of the Cyprus problem. In return, Washington fully endorsed Turkey's European vocation and took the leadership, in the post-referendum period, in ending the "isolation of the Turkish Cypriots". Let us look briefly at this issue.

The so-called 'TRNC' was illegal and remains illegal because of unanimous decisions by the Security Council, the EEC/EU, decisions of courts in the UK and by the European Court of Human Rights. All court decisions reflect the fact that the 'government' of the occupied areas is nothing more than 'a subordinate local administration to Turkey'. Approval of 'Annan-5' by the Turkish Cypriots does not change that reality. EU members take pride in the fact that they have a community where law is supreme. Cyprus, as an equal member of the EU, will exercise its legal and political rights, whether alone or in coalition with others, in order to protect the institutional integrity of the EU.

The US and some other EU members have shed crocodile tears about the isolation of the Turkish Cypriots and their economic disparity. Conveniently, in order to appease Ankara, they lay the blame on the doorstep of the Greek Cypriots. It was the Turkish invasion and continuing occupation of Cyprus that brought about international actions that led to the ghettoisation of the Turkish Cypriots. The economic disparity issue is real. However, Turkey's friends should look at the consequences of Turkey's actions in Cyprus. Turkey brought in the settlers; it introduced the Turkish lira in the occupied areas as the official currency in 1983; and it brought Turkish bureaucrats to manage the Turkish Cypriot economy. Having seen on numerous occasions the near bankruptcy of the Turkish economy, it is small wonder that we talk about the economic disparity between the free and the occupied areas of Cyprus. 'Annan-5' absolved Turkey of all financial liability for its actions in occupied Cyprus. Instead, it placed the burden on the Greek Cypriots and on the international community.

With the connivance and tolerance of Turkey, Washington, since January 2003, has proceeded with another little noticed 'regime change' operation in the occupied

areas of Cyprus. We are now told that Rauf Denktaş is in the dustbin of history as 'president' of an unrecognised country. In contrast, Mr. Talat is now promoted as 'Mr. Prime Minister' and as the person that will lead the Turkish Cypriots into a new European era. But, isn't Mr. Talat the so-called 'prime minister' of the same unrecognised entity whose 'president' happens to be Rauf Denktaş? Shedding crocodile tears may serve Washington's regional strategic objectives but will not change the reality of what exists in the occupied areas. Any moves leading to the *de facto* recognition of the occupied areas will undermine regional stability, will set a dangerous precedent for situations as that of Kosovo, and will not lead to the reunification of Cyprus. Statements on behalf of Mr. Talat by the United States and Britain will enhance Mr. Talat's intransigence and will destroy any semblance of objectivity for both countries in any future attempt to resolve the Cyprus problem. The same holds true for the UN.

Various scenarios leading to the upgrading, if not also the *de facto* recognition of the occupied areas, have been making the rounds since the referendum. Advocates of the Annan plan are accusing those who voted 'no' of contributing to the *de facto* recognition of the 'TRNC'. Although this risk exists, approval of 'Annan- 5' would not have spared Cyprus of that reality. On the contrary, the powers granted to the Turkish Cypriot component state and/or a collapse of the 'United Republic of Cyprus' would have left the reality of two states on Cyprus which would have *de facto*, if not also *de jure*, existence in the EU. At least now, Cyprus can fight actions leading to the *de facto* upgrading of the 'TRNC'. This includes any international economic assistance to limit the economic disparity between the occupied and the free areas of Cyprus. Measures must be taken to assure that the administration of aid programmes does not lead to the *de facto* recognition of the Turkish Cypriot regime. The World Bank has already warned that before any assistance is extended to the so-called 'TRNC', it must reform its banking system, combat corruption and the illicit transfer of funds. It must also improve its accounting procedures. This is why assistance from the EU and the US will be better monitored if channelled through the government of Cyprus. Otherwise, Western assistance will be lost to operators like Asil Nadir. Nor should international assistance be allowed to attract new settlers in Cyprus.

A variety of scenarios to upgrade the status of the Turkish Cypriots and break their economic isolation have been promoted by the United States and the United Kingdom. These include ideas for expanding trade and travel opportunities for Turkish Cypriots, in addition to financial assistance to narrow the economic gap with the free areas. Each scenario⁷ has serious legal and political implications for the Republic of Cyprus and for any future efforts for the reunification of the island. This is why independent think tanks and the legal services of the Republic should be studying these issues. This is how the Republic can avoid surprise moves by

external actors and be ready to seek appropriate legal remedies available to EU members.

The next few months will prove critical for Turkey's European aspirations.¹⁸ In addition to the fulfilment of the Copenhagen criteria, the issue of Turkey's relations with the Republic of Cyprus cannot be avoided. Some have expressed concern that Cyprus would veto a decision on Turkey's accession. Political reasons¹⁹ suggest that this is unlikely to happen. However, the fact remains that Turkey, since 1974, does not recognise the Republic of Cyprus which is an EU member that will cast a vote on Turkey's accession prospects. Instead, Turkey is the only country recognising *de jure* the so-called 'TRNC'; a political entity created by secession from the Republic of Cyprus. The EU and all of the international community recognise the Republic of Cyprus as created in 1960, even though the government of Cyprus cannot exercise its authority in the occupied areas. Prime Minister Erdogan has hinted at the possibility of the recognition of Cyprus. This raises a whole host of legal and political questions²⁰ in view of Turkey's continued recognition of the so-called 'TRNC'.

A few months have passed since the referendum and the accession of the Republic of Cyprus to the EU. It is clear to this author that the Greek Cypriot 'no' vote was not a rejection of reconciliation or reunification. Instead, it was a rejection of a subjective process. This is why the next few critical months will require retrospection by all those involved in the search for a solution. Retribution, or actions having the appearance of retribution, in response to a democratic decision will set back the peacemaking process and will undermine even further the already weakened credibility of foreign interlocutors.

Prior to the referendum and immediately afterwards, American and UN spokesmen characterised 'Annan-5' as the 'last opportunity' to solve the Cyprus problem. They also claimed that the international community would lose interest in the Cyprus problem, and that there would never be another comprehensive plan for Cyprus. Based on my experience in international politics, there are never 'last opportunities'. Good, credible and effective diplomats never say 'never'. What we need now is a calm reassessment of where we are, how we got here, and where do we go from here.

Notes

1 Republic of Cyprus, Press and Information Office (1994) *Resolutions Adopted by the United Nations on the Cyprus Problem 1964-1994*, Nicosia, PIO.

2. Coufoudakis, Van (2003) 'The Cyprus Question: International Politics and the Failure of Peacemaking' in Theodore A. Couloumbis, et.al., *Greece in the Twentieth Century*, London and Portland OR, Frank K. Cass, pp. 111-135.
3. For example: The 1983 Turkish Cypriot UDI and the proclamation of the so-called 'TRNC'; the abandonment of the principle of federation in 1994, etc.
4. Press Release, 'Declaration on Regional Issues', 20 June 1999, p. 3.
5. Security, economic viability, limitations to the three freedoms, etc.
6. The 'three freedoms' were a core Greek Cypriot demand.
7. Alfred Moses at the American Hellenic Institute in Washington DC, 24 October 2000. AHi Press Release 54/2000.
8. Point 6 of the comprehensive document submitted to the parties by Kofi Annan in November 2000.
9. Characteristic is his 23 May 2004 interview with Elena Marouletti on New York's 'Aktina-TV'. Transcript published by the Permanent Mission of the Republic of Cyprus to the United Nations in New York on 24 May 2004.
10. See Tom Weston's arrival statement at the Larnaca International Airport on 29 February 2004. Similar statements were made by Alvaro de Soto and others.
11. The conservative EU cost estimate for the first five years was approximately \$2.5 billion. This was much lower than the estimate of the government of Cyprus that placed the cost closer to \$14 billion. At the preparatory donors conference on 15 April 2004, the United States pledged \$400 million, the United Kingdom nearly \$37 million, while the EU pledged nearly \$360 million over three years.
12. The gradual reduction of Turkish troops, gradual return of territory and resettlement of displaced Greek Cypriots, etc.
13. Costs of reunification included convergence, reconstruction, property compensation, compensation to settlers, monetary policy.
14. For example, the American pledge of \$400 million would have to be approved by the US Congress. The cost of the Iraq war and Congressional attitudes on foreign assistance raised questions about the reality of that pledge.
15. After lengthy diplomatic manoeuvring, the Secretary-General submitted his report to the Security Council on 28 May 2004 (S/2004/437). Facing the possibility of another veto, the United States, the United Kingdom and Kofi Annan gave up on the idea of a Security Council endorsement of this report. The report praised Turkey and the Turkish Cypriots and placed the blame for the failure of 'Annan-5' on the president of the Republic of Cyprus. President Papadopoulos responded in detail on 7 June 2004. His detailed rebuttal was contained in a seven page letter and a thirteen page addendum on the allegations in Annan's report.
16. During the course of 2003, Turkish-American relations had deteriorated because of Turkey's refusal to support the American invasion of Iraq. Paul Woitowitz and other traditional friends of Turkey in Washington had complained about Turkey's betrayal of the US. All this changed following the Erdogan Bush meeting in January 2004.
17. The Brussels based Centre for European Policy Studies has advocated dealing with the 'TRNC' as an 'autonomous entity of the EU'. Others have suggested the 'Taiwan model' or a possible variation of the 'Kosovo Free Trade Area', an agreement signed between Albania and Kosovo's self governing authority. Retired Cypriot Ambassador Nikolas Makris has studied the latter two models.
18. In October 2004, the Commission is expected to rule on whether/when Turkey can

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start accession negotiations. The Council will decide this issue in December 2004.

19. Prior to 1995, Greece had been accused of being the obstacle to Turkey's accession process. Since the lifting of the Greek veto, the issue of Turkey's membership in the EU has become a European problem. Greece cannot be used as a convenient excuse.

20. The 'Armenian model' has been suggested as an alternative. Turkey recognises the Republic of Armenia but has no diplomatic relations with it. However, the application of this model is complicated by Turkey's continued recognition of the 'TRNC'.