

# A Critical Assessment of the Cyprus Protocol Annexed to the UK's Withdrawal Agreement: The Consensual Continuation of a Metacolonial Realm<sup>1</sup>

GIORGOS KENTAS<sup>2</sup>

## Abstract

*A European Commission memo mentions that UK's Withdrawal Agreement covers inter alia 'a protocol on the Sovereign Base Areas in Cyprus, protecting the interests of Cypriots who live and work' there. This paper suggests that this is neither an accurate nor a fair description. The Protocol may protect some of the rights ascribed to Cypriot citizens due to their EU identity, but at the same time it preserves certain strategic interests of the UK in Cyprus. As such, the Protocol echoes some major elements of a metacolonial realm in Cyprus. This however, is yet another instance demonstrating the consent of the government of Cyprus for the continuation of that realm. The Protocol assigns to the UK the authority for applying the Union's acquis in the 'base areas', whereas the Republic of Cyprus is considered a UK-entrusted EU Member State 'with responsibility for implementing and enforcing provisions of Union law in the Sovereign Base Areas'.*

**Keywords:** postcolonial anomaly, metacolonial realm, incomplete decolonization, servitude regime, Brexit, Withdrawal Agreement, UK 'bases areas' in Cyprus, Protocol 3, 'SBAs' Protocol, Cyprus, UK, EU

## Introduction

This paper makes a critical assessment of the Cyprus ('SBAs') protocol annexed to the draft agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, as agreed at negotiators' level on 14 November 2018. A memo prepared by the Commission states that that protocol is 'protecting the interests of Cypriots

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1 This paper was very much benefited by some extensive fieldwork and background conversations. I would like to thank all people who talked to me. Special thanks to Dr. Nicholas A. Ioannides who discussed with me some aspects of section 1 of the paper in relation to the status of the British bases in Cyprus. I would also like to thank the two anonymous reviewers for their comments and suggestions. The views expressed are solely these of the author.

2 George Kentas is a Visiting Faculty member at the School of Law, University of Nicosia.

who live and work in the Sovereign Base Areas'.<sup>3</sup> That reading of the protocol, however, pertains to just one part of its provisions and, at the same time, it blurs some other essential parts of it which pertain to the strategic context that surrounds the way in which that protocol was drafted in order to preserve and extend certain strategic interests of the UK in Cyprus under a colonial context.<sup>4</sup> At the same time, it constitutes yet another instance of the voluntary acceptance of the UK asserted sovereignty in the 'base areas' by the Government of the Republic of Cyprus.

Writing in 1960s, Antony Verrier observed that the UK kept some territory in Cyprus aiming 'first and foremost to preserve Britain's strategic interests in the island, which, through bases and other installations, provide in theory the facilities for operations in the Middle and Far East'.<sup>5</sup> This conception of the military presence of the UK in Cyprus, which, by paraphrasing,<sup>6</sup> perpetuates an image of Cyprus as a British *strategic prize*, is pertinent to a lasting '*postcolonial anomaly*' that engenders a '*metacolonial realm*'. These two concepts ('postcolonial anomaly' and 'metacolonial realm') are coined to describe the situation, and they constitute the prime theoretical lenses through which the protocol is critically examined. As such, these two concepts,

3 European Commission 'Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, as agreed at negotiators' level on 14 November 2018', *EC.Europa.EU* (2018), available at [https://ec.europa.eu/commission/sites/beta-political/files/draft\\_withdrawal\\_agreement\\_0.pdf](https://ec.europa.eu/commission/sites/beta-political/files/draft_withdrawal_agreement_0.pdf). European Commission 'Fact Sheet - Brexit Negotiations: What is in the Withdrawal Agreement', Brussels. European Commission (2018), available at file:///C:/Users/User/Documents/Desktop%20files%20as%20of%20Nov.%202018/Papers/MEMO-18-6422\_EN.pdf.

4 The UK took administrative control of Cyprus in 1878 after an agreement with the Ottoman Empire (L. Oppenheim, *International Law: A Treatise* (Cambridge: Whewell House, 1920), 309 and 395). In 1914, the UK annexed Cyprus. In 1923 that annexation was 'normalized' in the context of the Treaty of Lausanne, by which Turkey 'recognizes the annexation of Cyprus proclaimed by the British Government on the 5th November, 1914' (J. A. S. Grenville, *The Major International Treaties. A History and Guide with Texts*, (London: Methuen, 1974), 79-80). Between 1923 and 1960 Cyprus was administered as a Crown Colony (M. Simmons, *The British and Cyprus: An Outpost of Empire to Sovereign Bases, 1878-1974* (Gloucestershire: The History Press, 2015)). In 1960, the UK terminated the administration of some 97% of Cyprus' territory (conferred to the newly established Republic of Cyprus). The UK however, kept the rest 3% of Cyprus territory under the same conditions of a colonial regime (Treaty No. 5476, 1960). That territory of Cyprus is one of the fourteen overseas territories of the UK. The so-called Treaty of Establishment and the British 'base areas' constitutes a highly problematic document, from legal and political perspectives (T. Tzionis, 'The Sea and the British Bases: Two overlooked aspects of the Cyprus Problem' [in Greek], *Apopséis* (2018), available at <https://www.apopséis.com/thalassa-ke-vretanikes-vasis-dyo-xechasmenes-ptyches-tou-kypriakou/>.

5 A. Verrier, 'Cyprus: Britain Security Role', *The World Today* (1964), 131.

6 B. O'Malley and I. Craig, *The Cyprus Conspiracy: America, Espionage and the Turkish Invasion*. (London: I.B. Tauris, 1999).

as they are developed here, lie in the field of postcolonial studies.<sup>7</sup> In that regard, the paper should be seen as a critical analysis of a case study in the postcolonial setting of Cyprus.

Postcolonial anomaly is used here to describe the terms upon which the independence of the Republic of Cyprus is restrained by a number of provisions of the Treaty of Establishment,<sup>8</sup> as well as by the subsequent policies of the UK (and other third countries) in Cyprus.<sup>9</sup> The chief element of that anomaly is the British claim for *sovereign control* of the Cypriot territory it kept under colonial rule, even after the independence of the Republic of Cyprus. As such, the postcolonial anomaly in Cyprus pertains to a situation of *incomplete decolonization*,<sup>10</sup> as well as a contested political demand of the UK to exercise effective sovereign control there.<sup>11</sup> This is an *anomaly* (an asymmetrical and irregular situation) in many respects. The (remaining) UK controlled territory in Cyprus is still under British colonial rule,<sup>12</sup> even if it was renamed 'base

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7 A fuller development and analysis of these two concepts deserve a longer discussion, which shall be pursued in a future work. Here, the concepts are developed to the extent needed for elucidating the core arguments of the paper. (Ashcroft, Griffiths and Tiffin, 2000)

8 The actual name of that the treaty is 'Treaty (with annexes, schedules and detailed plans) concerning the establishment of the Republic of Cyprus'. It was not a treaty that Established the Republic of Cyprus, but one that regulates certain issues around the establishment of the Republic of Cyprus, namely, which rights were accorded to the UK over the 3% of the territory of Cyprus and beyond that.

9 That postcolonial anomaly is also part and parcel of the Cyprus Problem, a dimension which is not pursued here; see Tzionis, 'The Sea and the British Bases'.

10 The concept of incomplete decolonization was defined and elaborated by a number of UN members in the context of a recent case before the International Court of Justice (ICJ) that concerns the separation of the Chagos Archipelago from Mauritius in 1965. For a synopsis of the positions expressed before the ICJ, see N. Ioannides, 'The ICJ Advisory Opinion concerning the Chagos Archipelago and the Possible Consequences on the Legal Regime of the British Bases in Cyprus', (manuscript under review for publication, 2018).

11 That claim is occasionally contested, yet not rejected, by the Cypriot authorities. This paper suggests that any such contestation is inconsistent, since the Cypriot authorities have established strong ties with the authorities of the base areas and work with them to embellish the situation. British-asserted 'sovereignty' should be mainly examined from an ethical, legal and theoretical perspective. See N. Crawford, *Argument and Change in World Politics: Ethics, Decolonization, and Humanitarian Intervention*, (Cambridge: Cambridge University Press, 2002); R. Young, *Postcolonialism: An Historical Introduction*, (Oxford: Blackwell 2001).

12 The continuation of the colonial rule of Britain in Cyprus is presented in a recent decision of the UK Supreme Court (see *Tag Eldin Ramadan Bashir and others (Respondents) v. Secretary of State for the Home Department (Appellant)* [2018] UKSC 45). From a legal and political standpoint, this case tested the relevant provisions of Protocol No. 3 (see below) in relation to the asserted right of the UK to regulate issues of refugees and illegal immigrants in the base areas, as well as tested a bilateral agreement between the UK and the Republic of Cyprus for the implementation of the same provisions of Protocol No. 3. Reflecting on arguments raised by the Appellant the Court had to rule on the status

areas' (Treaty No. 5476, 1960, Article 1). In that context, UK advances its national interests at the expense of, and sometimes against the interests of Cyprus and its people, who never actually gave their express consent for this situation.<sup>13</sup> For example, the Treaty of Establishment and the subsequent British policies and practices confine a number of rights, interests and potentials that the state of Cyprus would have had if it could have exercised sovereignty over that territory, as well as utilize all the resources of these areas and their strategic value for the benefit of its people and its communities.<sup>14</sup> In addition, this situation is anomalous because a number of citizens of the Republic of Cyprus (and, as of 2004, EU citizens) who live and/or work in the UK-controlled territory of Cyprus (up to 11,000) are subject to an ambivalent administrative and legal regime, and they are exposed to the strategic interest of the UK with regard to their treatment as Cypriot and EU citizens. Their human rights (e.g. property rights) are restrained, even in the EU context.

That anomaly is further perplexing by the reluctance of the Republic of Cyprus to question or challenge UK's asserted 'sovereignty' in these areas, as well as by claim that the territory is kept under colonial rule. From the standpoint of postcolonial studies this would be problematic, in the sense that postcolonial states feel uncomfortable when their sovereignty is restrained by colonial rulers and they claim restoration of their rights.<sup>15</sup> The case of Cyprus seems to be different. Since 1960, the Cyprus government

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of the British bases in Cyprus, which it did. The relevant segment of paragraph 69 of the judgement reads as follows: 'In the case of the SBAs, the only change which occurred in 1960 was that whereas they had previously been part of the UK-dependent territory of Cyprus, they were thereafter the whole of it. The mere fact the United Kingdom lost 97% of the island of Cyprus did not alter the status of the 3% that it retained. The status of the SBAs vis-à-vis the rest of the world did not change, except in relation to the rest of Cyprus, and that was because of a change in the status of the rest of Cyprus and not because of a change in the status of the SBAs.'

- 13 This is not the way in which the situation is seen by UK officials and officers of the Foreign Office. Although it is admitted that the bases emanate from the colonial legacy, that legacy is deemed not strong in the British thinking when dealing with bilateral issues. They are 'very much focused on the here and now', as a source put it. This paper suggests that there is a merit in looking into aspects of the bilateral relationship that reproduce some strong elements of the colonial legacy, which, from some angle, may be seen as a perpetual situation.
- 14 Some British scholars suggest that this is not the case. The work of James Ker-Lindsay may be the more paradigmatic in that regard; see for example J. Ker-Lindsay, 'Great Powers, Counter Secession, and Non-Recognition: Britain and the 1983 Unilateral Declaration of Independence of the 'Turkish Republic of Northern Cyprus'', *Diplomacy & Statecraft*, Vol. 28, No. 3 (2017), 431-453, DOI: 10.1080/09592296.2017.1347445.
- 15 For example, G. Premnath, 'The Weak Sovereignty of the Postcolonial NationState', in *World Bank Literature*, eds. A. Kumar, J. Berger and B. Robbins, (Minneapolis, MN: University of Minnesota Press, 2003); H. K. Babha, 'The Other Question: Difference, Discrimination, and the Discourse of Colonialism', in *Black British Cultural Studies: A Reader*, eds. H. A. Baker, Jr., M. Diawara, R. H. Lindeborg and S. Best, (Chicago, Illinois: University of Chicago Press, 1996); P. Chatterjee, *The*

undertook a number of actions that seem to regulate and normalize the postcolonial situation. Although the Republic of Cyprus expresses some legal arguments that challenge the continuation of colonial regimes in world politics,<sup>16</sup> for its own case it does nothing more than contribute to the embellishment and the continuation of a metacolonial realm. In the last 15 years (2003-2018), the Republic of Cyprus, as an acceding EU Member State and as a Member State of the EU, has concluded two agreements with the UK (a Protocol in 2003 and another Protocol in 2018), which were adopted by EU Treaties (Cyprus' Act of Accession and UK's draft Withdrawal Agreement) to provide for the application of EU law in the British 'base areas', under the 'sovereign' authority of the UK. Whether these actions are voluntary or taken in the context of a 'compulsive' colonial regime is a subject to be examined in the context of international law analysis.<sup>17</sup> From a political science standpoint, however, these actions seem to be – independent of the soundness of their calculation – quite aimful since, as shown in this paper, they are celebrated as successful.

The concept 'metacolonial realm' denotes the strategic and other implications of the postcolonial anomaly in Cyprus. In postcolonial studies, the situation described here is discussed in the context of a long critical literature on decolonization, postcolonialism, postcolonial state, neo-colonialism and neo-imperialism.<sup>18</sup> I use the prefix 'meta' to underline the continuation and adaptation (the metamorphosis) of the British colonial realm in Cyprus by political, military and other means. In that regard, the metacolonial realm in Cyprus should be examined, as Crawford suggests for similar situations,<sup>19</sup> not under the conditions that it was founded, but under the conditions that it functions in the course of time. The way in which the Treaty of Establishment is implemented and enforced in the areas under UK civil-military (metacolonial) control in Cyprus, as well as the context and the actual implementation and enforcement of some provisions of EU *acquis* and policies, there (and, at the same time, the restrictions on the full implementation and enforcement of the EU treaties and *acquis* in these areas) constitute some typical examples of that metacolonial realm.

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*Nation and its Fragments: Colonial and Postcolonial Histories*, (Princeton, NJ: Princeton University Press, 1993).

16 Republic of Cyprus, 'Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965 (Request for Advisory Opinion)' Written Statements for the ICJ, (2018). Republic of Cyprus, 'Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965 (Request for Advisory Opinion)', Oral statement for the ICJ, (2018).

17 Cf. M. Craven, *The Decolonization of International Law: State Succession and the Law of Treaties*, (Oxford: Oxford University Press 2007).

18 B. Ashcroft, G. Griffiths and H. Tiffin, *Post-Colonial Studies*, (London: Routledge, 2000), 56-59, 146-148, 168-173, 174-175.

19 J. Crawford, *The Creation of States in International Law*, 2<sup>nd</sup> ed., (Oxford: Oxford University Press, 2006).

In the context of UK's Withdrawal Agreement, that metacolonial realm is extended to include elements of EU treaties, as well as some institutional arrangements for the UK to be responsible for the implementation and enforcement of EU policies, whereas UK will entrust the Republic of Cyprus to implement and enforce a limited number of EU policies .

With the EU context being the focal point of analysis, this paper suggests that the UK (on the voluntary or reluctant consent of the Cyprus government) instrumentalized the accession of Cyprus to the Union as a means to preserve, enhance and extend the strategic interests it enjoys on the island in an adapted and reconfigured metacolonial realm. When Cyprus joined the Union in 2004, Protocol No. 3,<sup>20</sup> as well as Article 2(2) of Protocol No. 10<sup>21</sup> ingrained that realm in the EU *acquis* under some 'exceptional' conditions. That instance also reveals the strategic lever and power of imposition the UK employed for securing the benefits of its metacolonial regime. The analysis also reveals that the new Cyprus ('SBAs') protocol annexed in the draft Withdrawal Agreement shall be used by the UK as yet another convenient vehicle to consolidate and even further its strategic posture in Cyprus vis-à-vis the Republic of Cyprus and vis-à-vis the EU. This protocol is primed to perpetuate and extend the British postcolonial (geopolitical) anomaly in Cyprus and enhance the implications of the metacolonial (hegemonic) realm, which are engendered by it. In other words, Cyprus' participation in the EU is effectively instrumentalized by the UK as a means to preserve and extend its strategic interests, even on its way out of the Union.

If there is any merit in that analysis, research must also be directed to the way in which that (diplomatic and legal) outcome emerged in the context of the negotiations between the British and the Cypriot delegations (in 2002-2003 and in 2017-2018). This issue is acknowledged and examined without, however, delving into details, mainly due to space limitations. The main conclusion is that UK's political will is stronger and more effective in preserving its metacolonial realm in Cyprus, i.e., in preserving all the elements that pertain to its assertive 'sovereign' control over its base areas in Cyprus. The Republic of Cyprus appeared eager in collaborating to that end, although, under the new protocol, it assumed some more responsibility in implementing and enforcing some provisions of EU Treaties in the base areas, which the UK (i.e., the 'sovereign' authority there) entrusted to it. If, compared with the previous situation, under Protocol No. 3, where the Cypriot authorities had responsibility to implement

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20 Official Journal of the European Union, 'Protocol No 3 on the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus', L 236, Vol. 46, (2003, September 23), 940-943.

21 Official Journal of the European Union, 'Protocol No 10 on Cyprus,' L 236, Vol. 46, (2003, September 23).

just one element of the Union's agricultural policy in the base areas (e.g., for the administration and payment of Community funds to farmers), the new arrangement could be interpreted as an extension of its responsibility to implement the *acquis*. In the end, however, although under Protocol No. 3 the Republic of Cyprus assumed the responsibility to implement just one EU policy, under the new protocol, it will have responsibility to implement more policies in the bases areas, but only because the UK will entrust it to Cyprus. In that regard, the UK was successful in 'restoring' a tiny rift in its 'absolute sovereignty' in the base areas, by claiming successfully the full authority to hold and entrust responsibility for the implementation of EU law there. The new protocol is nothing else but an explicit acceptance by the Republic of Cyprus of the asserted British 'sovereignty' in the base areas.

In sum, the new protocol annexed to the Withdrawal Agreement allows for a more functional and more convenient metacolonial realm in the UK-controlled territory in Cyprus. On the day the European Commission announced the agreement, the President of the Republic of Cyprus saluted it and expressed 'full support to the final result [as] the continuation of the *acquis* in the British Bases, which was right from the start a primary objective of the Government' was achieved.<sup>22</sup> That statement conveys a political acknowledgement of British asserted 'sovereignty' in the base areas and the intention not to question it, but instead to live with it. The case study of the protocol is another instance in the course of a number of iterated instances by which the Cyprus government agrees with the British government to accommodate the metacolonial realm in Cyprus, or, as this paper suggests, another instance that reproduces and elaborates the British metacolonial realm in Cyprus.

### **Implications of an Intentionally Lasting Postcolonial Anomaly**

The theoretical premise upon which this paper is written pertains to the strategic objective of the UK to preserve, enhance and perpetuate its strategic interests in Cyprus, in the context of a metacolonial 'sovereign' regime. The analysis also takes into account the response of the Republic of Cyprus (and other actors) toward that objective. Although UK's strategic objective has a number of facets and may be discussed in many different contexts, the focal point is on the way in which the UK instrumentalized Cyprus' EU accession negotiations and its membership to the Union as a means for perpetuating its metacolonial realm on the island. The diplomatic effort attached to that goal demonstrates that the postcolonial situation is far from static;

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22 Stockwatch, 'Anastasiades welcomes agreement in principle on Brexit', *Stockwatch.com.cy* (2018). Available at <https://www.stockwatch.com.cy/en/article/politika/anastasiades-welcomes-agreement-principle-brexit>.

it seems to be a dynamic and evolving situation which responds and adjusts (mainly) to external, regional and international, contingencies. Developments in the EU that pertain to Brexit and more particularly to the protocol on the UK-occupied territory in Cyprus (known as the Sovereign Base Areas, or SBAs), demonstrate just one instance of the dynamic nature of the UK's postcolonial regime in Cyprus.

Ever since the inception of the Republic of Cyprus, UK's rule in the base areas maintains all the elements of a (meta)colonial regime. The Treaty of Establishment, which spells out the terms of the British metacolonial rule in Cyprus, constitutes the cornerstone of a lasting postcolonial anomaly. According to that treaty:

'The territory of the Republic of Cyprus shall comprise the Island of Cyprus, together with the islands lying off its coast, with the exception of the two areas defined in Annex A to this Treaty, which areas shall remain under the sovereignty of the United Kingdom. These areas are in this Treaty and its Annexes referred to as the Akrotiri Sovereign Base Area and the Dhekelia Sovereign Base Area' (Treaty No. 5476, 1960, Article 1).

In the context of that article, as well as in the context of a number of other provisions of the same treaty, the sovereign rights of the Republic of Cyprus are restrained to a considerable degree (at a territorial and non-territorial level). The latter is also obliged to accord to the UK (and to other third states) a number of rights and privileges, which are not pertinent to independent, sovereign and territorially integrated (normal) states. Article 2 of the treaty, for instance, sets out that: '[t]he Republic of Cyprus shall accord to the United Kingdom the rights set forth in Annex B to this Treaty... [and] shall co-operate fully with the United Kingdom to ensure the security and effective operation of the military bases situated in the Akrotiri Sovereign Base Area and the Dhekelia Sovereign Base Area, and the full enjoyment by the United Kingdom of the rights conferred by this Treaty' (Treaty No. 5476, 1960, Article 2).<sup>23</sup> In that regard, not only the UK confined the territorial and sovereign rights of the Republic of Cyprus during and after independence, but it also imposed upon the Republic of Cyprus a *suis generis* postcolonial servitude regime,<sup>24</sup> which in this paper

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23 Annex B comprises a catalogue of rights and privileges that the Republic of Cyprus must provide to the United Kingdom. That Annex is one of the longest sections in the Treaty of Establishment and comprises 50 pages. An additional annex to that treaty, Annex C (50-pages long), provides for arrangements concerning the status of military forces in Cyprus, including the way in which the military presence of Britain in Cyprus will be served by the Cyprus government. Lastly, a number of provisions in Annexes B and C provide for the role, obligations and rights of other foreign troops in Cyprus, i.e. Turkish and Greek forces.

24 That servitude regime was imposed by the UK (with the consent of Greece and Turkey, who also signed the Treaty of Establishment) as a condition for accepting the Establishment of the Republic of Cyprus. Cyprus was left with no option but to accept a servitude regime, otherwise it would not have been established. (cf. A. J. Esgain, 'Military Servitudes and the New Nations', in *New Nations* in



is dealt with as part and parcel of a broader metacolonial realm. The same regime is also extended to two other third states, namely Greece and Turkey, to which the treaty offers special rights and privileges (Treaty No. 5476, 1960, Articles 3 and 10; Annexes B and C).<sup>25</sup>

The perpetuation of such a postcolonial anomaly, and the metacolonial realm that it entails, are made possible due to the might and determination of the UK to preserve and extend its strategic interests in Cyprus, as well as to adjust them in accordance with domestic, regional and international developments. The continuation of that situation however is also facilitated (yet not determined) by activities (and perceptions) of other parties who are involved. Considered from a global strategic perspective, UK's postcolonial regime in Cyprus was consistent with the Cold War contingency.<sup>26</sup> UK military bases in Cyprus were essential for advancing British and generally Western security and strategic objectives in the Middle East and beyond, as well as in containing the influence of the Soviet Union in key countries. In the post-Cold War era, these bases were readily available for the UK's new strategic planning in the region<sup>27</sup> and they were deemed vital assets for US's (new) strategic objectives. For instance, UK military installations and capabilities in Cyprus were used in critical instances, such as the Gulf War of 1991, the Iraq War of 2003 and the Syrian crisis in early 2010s.

In addition to the strategic interests of the UK and the services its military bases occasionally offer to the US and other allies, one may also need to consider the way in which UK's metacolonial realm is contemplated by other parties. The Cyprus government, although not (always) in concord with UK interpretation(s) of the Treaty of Establishment and its subsequent implications for Cyprus, it appears generally not willing to question UK's metacolonial realm, with a limited number of exceptions that concern the actual content and breadth of the (unilateral) British assertion of the 'sovereign' nature of its base areas. A number of actions and cooperation agreements attest to the opposite.<sup>28</sup> The general approach of the Cyprus government, as it will

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*International Law and Diplomacy*, ed. W. V O'Brien, (London: Stevens & Sons, 1965), 42-97.

25 Of particular importance are the Treaty of Alliance and the Treaty of Guarantee, especially Article 3 of the latter.

26 K. A. Kyriakides, *British Cold War strategy and the struggle to maintain military bases in Cyprus, 1951-60*, (University of Cambridge, Doctoral thesis 1996).

27 K. A. Kyriakides, 'The Sovereign Base Areas and British Defence Policy Since 1960', in H. Faustmann and N. Peristianis (eds), *Britain in Cyprus: Colonialism and Post-Colonialism 1878-2006*, (Mannheim: Bibliopolis, 2006).

28 An example pertains to an agreement on development policy, see 'Arrangement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Cyprus relating to the regulation of development in the Sovereign Base Areas', (2014, January 15), available at [http://www.sbaadministration.org/docs/admin/announcements/NMD\\_signed.pdf](http://www.sbaadministration.org/docs/admin/announcements/NMD_signed.pdf).

be demonstrated in more detail below, is to make the British metacolonial realm in Cyprus more functional and convenient. The overall rationalization given for that approach is that the right time to open that front is after the solution of the Cyprus Problem. In the aftermath of the crisis of 1964 and after the de-facto division of the island, following a Turkish invasion in 1974, and the unilateral declaration of independence of the 'Turkish Republic of Northern Cyprus' in 1983, the Treaty of Establishment, as well as other arrangements of 1960s, is considered by Greek Cypriot politicians as important for preserving the legal continuation of the Republic as well as its transformation in the context of a future settlement. Occasionally, some Greek Cypriot politicians would even consider the military presence of UK in Cyprus essential for the security of the island.<sup>29</sup> On the other hand, the UK is not considered as a credible guarantor power, in the context of a future settlement, by neither Greek Cypriot nor Turkish Cypriot grassroots. In general, the UK's presence in Cyprus is approached with skepticism. Both communities generally considered the UK to be a biased actor in the Cyprus Problem.<sup>30</sup> The prevalent preference among Greek Cypriots and Turkish Cypriots is the ultimate termination of the UK's military presence in Cyprus and the dismantlement of its military bases.

Of particular interest is the political and military posture of Turkey on the subject matter. In the context of Cyprus's talks on security and guarantees, Ankara referred, on a number of occasions, to the British military bases in Cyprus. Turkey opposes the idea of the demilitarization of the island on strategic grounds, contending that, if there will be no Greek and Turkish military forces in Cyprus, the 'strategic value' of the island, in the context of the regional (Eastern Mediterranean and Middle East) security complexes will be fully in control of the UK. In that regard, Turkey insists on preserving an active military base on the island in the context of a post-settlement new security architecture. This standpoint is instrumental for rebalancing Cyprus, which is not limited to Greece and Turkey (as sometimes suggested),<sup>31</sup> but is also extended to

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29 This is expressed occasionally, even by Government officials or by Government sources cited in Newspaper reports. It seems to relate however to a misperception (or wishful thinking) that UK's military presence in Cyprus function will be a 'protective shield' against any further Turkish actions on the island. It is also necessary to note that after 1974, and apart from the Greco-Turkish dispute, Cyprus security was externally threatened three times (i.e. in 1991 (during the first Gulf War), in 2003 (during the Iraq War) and in 2011-2012 (during the Syrian crisis)) due to the military activities of the UK and allies in the region, using the installations of the British bases. For a discussion and documentation see Kentas 2013. On the other hand, some see the British base of Dhekelia as a 'buffer zone' between the Turkish troops and the National Guard of the Republic of Cyprus. Should Britain abandon the area under the existing situation, 'there is no guarantee that the Turkish forces will not occupy that area' a source stated. This however is an issue not discussed any further here.

30 For a different view see Ker-Lindsay, 'Great Powers, Counter Secession, and Non-Recognition'.

31 That conception of 'balance' was incorporated in the UN Plan (known as the Annan Plan) that

the military presence of the UK on the island.<sup>32</sup>

A number of developments seem to have benefited the perpetuation of UK's (intentional) metacolonial regime in Cyprus.<sup>33</sup> This, however, is far from a convenient situation. UK's metacolonial regime constitutes an anomalous international, regional and domestic experience from both an international law standpoint<sup>34</sup> and a diplomatic/political/legal perspective.<sup>35</sup> In the EU context, two important historic junctures put the content and the resilience of the metacolonial realm in Cyprus to the test, one when Cyprus was negotiating its entrance to the Union and one when the UK was negotiating its withdrawal from the Union. As it is demonstrated in the sections that follow, the content of that realm was amended to the extent that some provisions of the Union's *acquis* are implemented in the base areas, but its resilience (i.e., UK's claim on 'sovereign' control of these areas) was generally left unaltered, mainly due to the consensual approach of the Republic of Cyprus in the context of various perceptions and misperceptions (which are presented at a later stage). The UK seems to have been quite effective in enhancing and furthering the metacolonial realm in Cyprus by adjusting it in the context of the Union's *acquis* (when it was an EU member) and by ingraining it firmly in the framework of its future relationship with the Union (on its way out of the EU). The Republic of Cyprus, on the other hand, could not achieve any more than the consent of the UK (as the self-declared 'sovereign' authority) to be delegated with the implementation and enforcement of some provisions of EU law there.

### **The British Occupied Areas in the EU Context**

During accession negotiations between the EU and the Republic of Cyprus (1998-2002), the status of the British base areas (SBAs) was dealt with as a special issue,<sup>36</sup> but only in the very last moment before the conclusion of these negotiations. The last Regular Report on Cyprus revealed the issue with a very brief (one paragraph)

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was submitted in November 2002 and rejected in 2004. That Plan however confined the concept of 'balance' in Cyprus between Greece and Turkey, by ignoring the UK element in the strategic equation.

32 G. Kentas, 'The peculiar concept of "balance" between Turkey and Greece in Cyprus', *Great Power Politics in Cyprus: Foreign Interventions and Domestic Perceptions*, eds M. Kontos et al., (Newcastle: Cambridge Scholars Publishing 2014).

33 Cf. H. Faustmann and N. Peristianis, *Britain in Cyprus: Colonialism and Post-Colonialism 1878-2006*, (Mannheim: Bibliopolis 2006).

34 Ioannides, 'The ICJ Advisory Opinion concerning the Chagos Archipelago'; A. Pellet, 'The British Sovereign Areas', *Cyprus Yearbook of International Law* (2012).

35 Tzision, 2018

36 cf. Shaelou, 2011

reference.<sup>37</sup> It was actually the first time after Cyprus' independence that the British metacolonial realm was brought in a result-oriented political framework that entailed bilateral and multilateral negotiations at an international (EU) level.<sup>38</sup>

In the context of accession negotiations, a number of bilateral meetings were held between the UK and the Commission, as well as some trilateral meetings among UK, the Commission and Cyprus. Cyprus' accession to the EU would ultimately have an impact on the British base areas, since some thousands of Cypriots were living and working there. These citizens of the Republic of Cyprus would inevitably need to have the same rights with all other Cypriots. Although this was relatively undisputed, there were a number of other issues to be dealt with, taking into account that, on its entrance into the European Community, the UK had excluded its bases in Cyprus from all Community/Union treaties, and hence the Union's *acquis* (and policies) were not implemented there. Four of these issues were of particular interest. First, the civic status of Cypriot citizens living and/or working in the SBAs was regulated by the Treaty of Establishment, as well as by some relevant agreements and arrangement between the Cyprus government and the UK government. In that regard, there was an issue on whether that status would change when Cyprus entered the EU. Second, since the base areas were excluded from the territorial and sovereign control of the Republic of Cyprus, accession negotiations that pertained to the adoption of the Union's *acquis* and the relevant EU policies in the Republic of Cyprus would not include these areas. In that regard, there was a question on how the citizens of the Republic of Cyprus who live or work in these areas would have the same treatment with all other citizens of the Republic. Third, the Union's *acquis* and policies were not implemented in the base areas. In that regard, there were questions as to whether, to what extent and how would or could the Union's *acquis* and policies apply there. If the Union's *acquis* and policies would be applied to the base areas, there were questions regarding (i) the extent that they would be applied, (ii) who would be affected and how (e.g., only Cypriot citizens or the entire base areas), and (iii) which authority would be responsible for the effective implementation and enforcement of the *acquis* there, if that would be the outcome of the negotiations. Four, there was a question on how would an overall agreement on the three previous issues be presented and adopted in the context of Cyprus' accession to the EU.

From the UK's standpoint, the starting point of the discussion was the very fact that its Treaty of Accession to the European Economic Community in 1972 provided

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37 European Commission (2002), 14.

38 In 1972, when the UK joined the Union, it (unilaterally) excluded the territory of SBAs from its accession treaty, without any consultation or negotiation with the Cyprus government or any other actor.

that all the Treaties of the European Communities shall not apply to the SBAs. That provision, a primary law of the Union, was incorporated in Article 299(6)(b) of the Treaty Establishing the European Community (TEEC). The UK was not willing to renegotiate the status of the SBAs under the Union's law,<sup>39</sup> but would only discuss some exceptions which would be necessary for the adoption of special arrangement that would facilitate the application of some parts of the *acquis* for Cypriots who live and/or work in the SBAs. In addition, the UK's position was that any discussion on the exceptional implementation of the Union's *acquis* in the SBAs must be in accord with the Treaty of Establishment. Thirdly, the UK insisted that, as the 'sovereign' authority in the SBAs, it (i.e., the relevant authorities in the SBAs) would be solely responsible for the implementation and enforcement of any exceptional arrangements for the adoption of the *acquis*, in accordance with the Treaty of Establishment.

In addition to the above, there was still another difficult issue to deal with. The Republic of Cyprus would accede to the EU with all its territory, but the Union's *acquis* would be suspended in the areas of the Republic of Cyprus which are not under the effective control of its government (which are effectively under Turkish military control). The base areas of Dhekelia and Akrotiri would not be part of the EU (as they were excluded from the territory of the Republic of Cyprus), and the British base of Dhekelia would have an artificial boundary with the Turkish controlled areas, where the Republic of Cyprus did not exercise effective control. In that regard, the question was how would that boundary issue be dealt with. The UK insisted that it should be defined as an external border of its military base of Dhekelia with the aforementioned areas, and subsequently an external boarder between the EU and the UK-occupied territory in Cyprus.

In the context of the negotiations, the Cyprus government expressed a number of views on these issues by emphasizing the implementation of the Union's *acquis* in the base areas without any discrimination. The Cypriot delegation expressed a number of observations and variant interpretations of all the elements of the negotiation, but in the end the British positions were accepted by the chief Cypriot negotiator(s), on political directions from the government. The outcome may also need to be considered in the context of some perceptions or misperceptions that the Cyprus government held at the time. Out of the many views expressed, three must be put in perspective. First, the UK, being a member of the EU and holding veto power over the accession

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39 UK excluded the base areas from the then EEC territorial scope under the principle of 'full territorial exclusion': According to Article 299(6)(b) of the TEEC (2002), 'This Treaty shall not apply to the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus except to the extent necessary to ensure the implementation of the arrangements set out in the Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus'.

of Cyprus to the Union, was negotiating from a superior position and it certainly had a stronger lever on the outcome. Second, the Cyprus government set EU accession as a strategic goal and was not willing to risk the conclusion of the negotiations for different viewpoints on certain provisions of the Treaty of Establishment or by claiming authority in applying the *acquis* in the base areas. Although the implementation of the *acquis* was of primary importance, Nicosia ultimately appeared willing to accept an arrangement that would be in accordance with the UK perspective, as already explained (and detailed in the following section). Third, during the same period (2002-2003), when accession negotiations were climaxing, there was a simultaneous effort to reach a comprehensive agreement on the Cyprus Problem, on the basis of a UN Plan. In that regard, Nicosia invested more resources and energy in dealing with the Cyprus talks. In the context of Cyprus talks, an element of the future status of the base areas (i.e., the size of its territory and nothing but that) was also considered in the context of a UK gesture to 'cede' a part of these areas to a 'reunited Cyprus'.<sup>40</sup> Founded or unfounded, these perceptions or misperceptions were essential in ultimately leading to Protocol No. 3.

### **Protocol No. 3**

Protocol No. 3 (hereafter Protocol<sup>41</sup>), as ratified in April 2003 and published in the Official Journal of the European Union in September 2003,<sup>42</sup> spells out the terms under which some part of the Union's *acquis* would be implemented in the base areas. The Protocol takes into account provisions of the Treaty of Establishment with regard to customs arrangements between the SBAs and the Republic of Cyprus, as well as arrangements that authorize the Cyprus government to administer public services in the base areas. It also clarifies that the accession of Cyprus to the EU will not affect rights and obligations of the UK and the Republic of Cyprus to the Treaty of Establishment. The Protocol does not affect whatsoever any political or strategic interest of the UK, but instead it makes the situation to look more convenient for all sides.

The Protocol comprises nine articles and one annex with four parts. Article 1 reaffirms that the TEEC shall not apply to the base areas. It amends Article 299(6)(b) of the TEEC in order to allow some exceptions, as they are provided in the subsequent Articles of the Protocol. In fact, Article 1 reaffirms that the UK occupied territory in Cyprus is not part of the Union, but it allows for some exceptional implementation

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40 Palley, 2005

41 In order to differentiate between one another, Protocol No. 3 will be written with a capital 'P' and the new one (a protocol annexed to the Withdrawal Agreement) with a small 'p'.

42 Official Journal of the European Union, 'Protocol No 3.

and enforcement of the *acquis* there, under some very specific provisions. Article 2 provides that the base areas shall be included within the customs territory of the Community, under special conditions, amendments and exceptions listed in Part One of the Annex. In addition, Article 2 states the way in which acts on turnover taxes, excise duties and other forms of indirect taxation will apply to the SBAs, under special conditions, amendments and exceptions set out in the Annex. All relevant provisions on the same subject that apply to the case of Cyprus, in the context of its accession to the EU, will also apply to the SBAs, but only to the extent that the special conditions, amendments and exceptions of the Annex would allow that. The same Article safeguards all reliefs and exemptions from duties and taxes on supplies to the military forces of the UK and the personnel of the base areas as provided by the Treaty of Establishment.

Article 3 stipulates that 'Title II of Part Three of the EC Treaty, on agriculture and provisions adopted on that basis', as well as 'measures adopted under Article 152(4)(b) of the EC Treaty' will apply to the base areas.<sup>43</sup> Article 4 affirms the relevant arrangements of the Treaty of Establishment with regard to the social security rights of Cypriot and other Community citizens living and employed in the base areas. Those persons shall be treated for the purposes of Council Regulation 1408/71 as if they were residents or employed in the territory of the Republic of Cyprus.

In essence, Articles 2 through 4 regulate issues and broaden an already agreed upon and functional regime in the SBAs to take into account provisions of the Union's *acquis* (i.e., tax policy and employment rights) that pertain to the status of Cyprus as an EU Member State. At the same time however, these articles preserve all the relevant interests of the UK in Cyprus and reaffirm all the relevant obligations of the Republic of Cyprus *vis-à-vis* the UK. All these, by the ratification of the Protocol, were endorsed as primary law of the Union.

Although the aforementioned provisions pertain to relatively soft political and economic issues (that provide for the way in which SBAs shall be part of the customs territory of the Union, with certain exceptions), Article 5 introduces provisions which are pertinent to the maintenance and extension of some of the most problematic areas of the metacolonial realm in Cyprus. In particular, paragraph one of this article states that "[t]he Republic of Cyprus shall not be required to carry out checks on persons crossing their land and sea boundaries with the Sovereign Base Areas and any Community restrictions on the crossing of external borders shall not apply in relation to such persons.' In that regard, the boundaries between the territory of the base areas and the Republic of Cyprus (as defined by the Treaty of Establishment)

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43 A European Commission Declaration attached to the Protocol clarifies the provisions of Community law that will be applicable to the SBAs pursuant to Article 3(a).

are introduced, in the context of the Protocol, as boundaries between the EU and the British military-controlled areas of Akrotiri and Dhekelia. In fact however, it would not be practically possible to carry out checks on persons crossing these boundaries, since (i) this was an already established practice on the island, (ii) these boundaries may be marked in different ways, but they are not fenced (protected or patrolled),<sup>44</sup> and the entrance and exit would always be discernible enough for people crossing them, and (iii) the UK has already assumed a commitment (under the Treaty of Establishment) not to create customs ports or other frontier barriers between the base areas and the Republic of Cyprus, as well as not to establish commercial or civilian seaports or airports. In addition, such a control would have created mutual concerns in Cyprus for both the Cypriot citizens and the British military and civilian personnel who cross these boundaries. In other words, apart from emphasizing the existence of boundaries between the territory of the Republic of Cyprus and the territory occupied by Britain in Cyprus, paragraph one reconfirms a pre-existing practice of unobstructed crossing across boundaries, which is incorporated in the Union's primary law. This is important from a legal perspective, but from a political perspective it is just a reminder that these boundaries exist.

Paragraph two of Article 5 however adds some perplexity to, or even redefines the metacolonial realm in Cyprus in the EU context. That paragraph makes it a condition that '[t]he United Kingdom shall exercise controls on persons crossing the external borders of the Sovereign Base Areas in accordance with the undertakings set out in Part Four of the Annex to this Protocol.' The concept of 'external border' of the base areas is an unfortunate novelty of the Protocol, since such a reference does not exist in the Treaty of Establishment, but it was agreed upon between the Cyprus government, the British government, and the Commission, to be adopted in the Protocol.<sup>45</sup> According to Part Four of the Annex, "external borders of the Sovereign Base Areas" means their sea boundaries and their airports and seaports, but not their land or sea boundaries with the Republic of Cyprus.' According to the same Part "crossing points" shall mean any crossing point authorized by the competent authorities of the United Kingdom for the crossing of external borders.'

According to Part Four of the Protocol, the UK will be the only authority to allow people to cross the 'external borders' of the SBAs, under some provisions provided in

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44 Within the Akrotiri and Dhekelia bases there are some restricted areas which are effectively and meticulously controlled by military and civic personnel. The residential and industrial areas of the military bases which are generally inhabited by Cypriots are 'freely' accessible.

45 The Treaty of Establishment refers to 'boundaries' of the 'base areas'; some see that as equivalent to borders. From a legal perspective this may make sense. The point made here is that the use of the concept 'external borders' is meant to stress some of the most problematic elements of the metacolonial realm in Cyprus.



paragraph three of the same Part of the Protocol. The provision on external borders of the UK-defined, controlled, surveilled and patrolled crossing points introduce new modalities in the administration of the base areas that enhance UK's metacolonial realm in Cyprus.<sup>46</sup>

Another problematic provision of Part Four of the Protocol that relates to the concept of 'external borders' is defined in paragraph seven, in which it provides for the treatment of asylum seekers and illegal migrants who may enter the island of Cyprus from the SBAs.<sup>47</sup> These persons 'shall be taken back or readmitted to the Sovereign Base Areas at the request of the Member State of the European Community in whose territory the applicant is present.' This provision is problematic, since the Protocol ascribes to the UK the exclusive right and authority to control the newly defined external borders and crossing points of its occupied territory in Cyprus, without however giving to the Republic of Cyprus any authority to control or check (i) the movement of those persons within the territory of the base areas (ii) and/or their entrance in its own territory. To the contrary, the second subparagraph of paragraph seven obliges the Republic of Cyprus to 'work with the United Kingdom with a view to devising practical ways and means of respecting the rights and satisfying the needs of asylum seekers and illegal migrants in the Sovereign Base Areas, in accordance with the relevant Sovereign Base Area Administration legislation.' This provision is problematic because it draws beyond the provisions of the Treaty of Establishment in a way that extends the obligations of the Republic of Cyprus vis-à-vis the UK and it makes SBA 'legislation' abiding by the Cyprus government in the EU context.<sup>48</sup>

Article 6 of the Protocol refers to the conditions under which the Council may amend Articles 2 through 5 (including the Annex) or 'apply other provisions of the EC Treaty and related Community legislation to the Sovereign Base Areas on such terms and subject to such conditions as it may specify.' Both the UK and the Republic of Cyprus shall be consulted before the Commission may bring a proposal in that regard. This article is generally unproblematic and fair to the extent that it introduces

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46 The concept of 'external border' is also used in Protocol 10 (Protocol No. 10, 2003) as follows: 'The boundary between the Eastern Sovereign Base Area and those areas referred to in Article 1 shall be treated as part of the external borders of the Sovereign Base Areas for the purpose of Part IV of the Annex to the Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus for the duration of the suspension of the application of the acquis according to Article 1.'

47 The same paragraph defines the British controlled territory in Cyprus an area 'outside the European Community.'

48 The UK and the Republic of Cyprus concluded an agreement on the treatment of asylum seekers, but when that agreement was put on test it was proved difficult to be implemented due to a number of complications which are not discussed here. For more information see the *Tag Eldin Ramadan Bashir and others (Respondents) v. Secretary of State for the Home Department (Appellant)* [2018] UKSC 45.

a clear process for amending the relevant articles, but it gives an equal say to the two sides over the possible extension of Community legislation with regard to Cypriot citizens who live or work in the base areas. From a legal perspective this makes sense, but a careful reading of Article 6 reveals a sense that the rights of citizens of the Republic of Cyprus and the EU are eternally subject to the political whims of the UK, if not a sense that they are eternally enclaved in UK-controlled territory.

The final observation is that Article 7 amplifies the application of the *acquis* in the base areas, and the UK not only exercises some administrative control but it also acts as a self-asserted 'sovereign' metacolonial ruler that controls the degree to which the rights of Cypriot/EU citizens who live or work there may be restricted or extended. That Article provides that 'the United Kingdom shall be responsible for the implementation of this Protocol in the Sovereign Base Areas.' The only exception is the responsibility ascribed to the Republic of Cyprus, as provided in paragraph two of this Article, 'for the administration and payment of any Community funds to which persons in the Sovereign Base Areas may be entitled pursuant to the application of the common agricultural policy in the Sovereign Base Areas under Article 3 of this Protocol and the Republic of Cyprus shall be accountable to the Commission for such expenditure.' The UK demanded and ultimately succeeded in maintaining the exclusive executive legal responsibility to implement and enforce the EU *acquis* and its subsequent policies 'in the fields of customs, indirect taxation and the common commercial policy in relation to goods entering or leaving the island of Cyprus through a port or airport within the Sovereign Base Areas'; 'customs controls on goods imported into or exported from the island of Cyprus by the forces of the United Kingdom through a port or airport in the Republic of Cyprus may be carried out within the Sovereign Base Areas'; as well as it shall be responsible 'for issuing any licenses, authorizations or certificates which may be required under any applicable Community measure in respect of goods imported into or exported from the island of Cyprus by the forces of the United Kingdom'. Paragraph three of Article 7 provides for some conditional delegation by the UK to the 'competent authorities of the Republic of Cyprus[...]any functions imposed on a Member State by or under any provision referred to in Articles 2 to 5 above'. Paragraph four of Article 7 refers to the aims and scope of cooperation between the UK and the Republic of Cyprus for the effective implementation of the Protocol.

From the standpoint of this paper, Article 7 is the most important one. It affirms that the sole 'sovereign' authority in the base areas is the UK (and the British administration there), with one responsibility given to the Republic of Cyprus. This is an epiphenomenon (or a direct 'legal' implication) of the Treaty of Establishment. That legal normality, however, is not necessarily a reasonable reality. From the perspective of world politics, it is a sustained outcome of the UK's power of imposition, in the context of a colonial regime. This is an abnormal, anomalous phenomenon in the

context of contemporary European politics.<sup>49</sup> Nevertheless, the fact is that between 2003 and 2004 that situation was incorporated into the EU context, with the consent of the Republic of Cyprus (and of some other 23 EU Member States who ratified the Protocol, in addition to the UK).

Concerning the actual implementation of the Protocol, to date it is not pursued by the authority that assumed the responsibility to do that. Essentially, it is the authorities of the Cyprus government, which under the terms of a bilateral Memorandum of Understanding between the UK and the Republic of Cyprus,<sup>50</sup> are delegated by the UK to do so. In that regard, the relevant authorities of the Cyprus government act as delegated agencies of 'Grown ordinances', as one source described it, to implement and enforce the *acquis* in the SBAs. This is yet another paradox of the metacolonial realm in Cyprus that may be interpreted from different angles. From the perspective of this paper, this is an instance of the demonstrated consent of the Cyprus government for the continuation of the metacolonial realm under the most convenient circumstances.

Article 8 states that the Protocol will not constitute 'a precedent, in whole or in part, for any other special arrangements which either already exist or which might be set up in another European territory provided for in Article 299 of the Treaty', but it is exclusively pertinent for 'the sole purpose of regulating the particular situation of the Sovereign Base Areas of the United Kingdom in Cyprus.'

The last Article of the Protocol, Article 9, states that the 'Commission shall report to the European Parliament and the Council every five years on the implementation of the provisions of this Protocol.'<sup>51</sup> Parts One, Two and Three of the Annex mainly concern Directives and Regulations which are part of the Protocol. It is provided that these Directives and Regulations 'shall be interpreted as references to those Directives and Regulations as amended or substituted from time to time and their implementing acts'. A number of Regulations and Directives are amended and replaced in those three parts to correspond to the relevant provisions of the Protocol.

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49 J. M. Magone, *Contemporary European Politics*, (Oxon: Routledge, 2011).

50 That Memorandum has not been made public to date.

51 No such report came to the attention of the author.

## UK's Withdrawal Agreement<sup>52</sup>

The strategic implications of the metacolonial realm in Cyprus are omnipresent and ever-evolving, but they are made (more) visible during some critical historic junctures. As already discussed, at the EU level, Cyprus' accession negotiations was a first instance, whereas Brexit negotiations was a second one. In the context of negotiations for the withdrawal of the UK from the EU, as well as in the context of its future relationship with the Union under Article 50 of the Treaty on the European Union, some strategic implications of that realm were elaborated. The specific situation relating to UK-controlled territory in Cyprus came under consideration. The main issue that was discussed was the application of the Union's *acquis* in the base areas. The main questions to be addressed concern the degree to which EU law will (continue to) apply there, the authority that will implement and enforce it, and the arrangements needed to handle those points. This section discusses the specific provisions in the draft Withdrawal Agreement (hereafter the Agreement) on the subject matter, and the following section specializes on the relevant protocol annexed to the Agreement.<sup>53</sup>

The Agreement was presented on 14 November 2018.<sup>54</sup> With regard to the territorial scope of the overall Agreement (under Article 3), it covers *inter alia* the SBAs of Akrotiri and Dhekelia in Cyprus. There is a clause, however, that limits the territorial scope of the Agreement with regard to SBAs only 'to the extent necessary to ensure the implementation of the arrangements set out in the Protocol [No. 3] on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus annexed to the Act concerning the conditions of accession of [...] the Republic of Cyprus, [...] to the European Union' (Article 3). In that regard, the Agreement reproduces and incorporates the provisions of Protocol No. 3, into a new protocol named 'a protocol relating to the sovereign base areas of the United

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52 In the overall context of Brexit negotiations at the EU level, the Cyprus government approached the relevant issues from two angles: (i) issues of general concern to the Union and its Member States; and, (ii) issues that relate to the situation in the British bases. Regarding the former, a number of concerns were expressed, which are not discussed here e.g. the economic impact of Brexit on Cyprus, the Cypriot students in the UK.

53 In addition to the Cyprus protocol, the Withdrawal Agreement also covers two other issues in the context of two additional separate protocols, i.e. a protocol on Ireland/Northern Ireland and a protocol on Gibraltar. Although there are some similarities (as well as differences) with the case of Cyprus, no analysis is made to that direction due to space limitations.

54 European Commission, 'Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, as agreed at negotiators' level on 14 November 2018', EC.Europa.com (2018), available at [https://ec.europa.eu/commission/sites/beta-political/files/draft\\_withdrawal\\_agreement\\_0.pdf](https://ec.europa.eu/commission/sites/beta-political/files/draft_withdrawal_agreement_0.pdf).

Kingdom of Great Britain and Northern Ireland in Cyprus'.<sup>55</sup>

It is affirmed that the new protocol relating to the UK-controlled territory in Cyprus shall form an integral part of the Agreement (Article 182). With regard to the entry into force and the application of the Agreement, there is a provision (Article 185) clarifying that the new protocol shall apply as from the end of the transitional period (i.e., at the moment when the UK will cease to be treated as a Member State), with the exception of Article 11 of the new protocol. The latter refers to any measures that may be adopted in the SBAs during the transitional period (i.e., the period during which the EU will treat the UK as if it were a Member State) that relate to Article 6 of Protocol No. 3.<sup>56</sup> The Agreement, also makes reference to the establishment of a Specialized Committee on issues related to the implementation of the new protocol (Article 165(1)(d)). The mission of that Committee is defined in Article 9 of the new protocol.

Finally, one of the other two protocols annexed to the Agreement, the Protocol on Ireland/Northern Ireland makes a specialized reference with regard to provisions on a single customs territory and movement of goods between the EU and the UK (Protocol on Ireland/Northern Ireland, Article 6) that concern the implementation of the SBA protocol. According to that provision, until the future relationship between the UK and the EU becomes applicable, there will be a single customs territory between the Union and the United Kingdom. Northern Ireland shall be in the same customs territory as Great Britain. The single customs territory between the UK and the EU shall comprise the customs territory of the Union as defined in Article 4 of Regulation (EU) No 952/2013 and the customs territory of the UK. Under the same Article, it is clarified that the customs territory of the UK is without prejudice to the specific arrangements set out in the Protocol relating to the SBAs in Cyprus. These arrangements are spelled out in Article 2 of Protocol No. 3 (which shall remain 'active' during the transitional period).

A close reading of the areas covered by the Agreement – without any detailed reference to the content of the SBA protocol – seems to show that the UK has achieved all kinds of safeguards for ingraining its metacolonial realm in Cyprus within the EU context even after it leaves the Union. The extent to which this was achieved is examined in the section that follows.

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55 Ibid., 476-495.

56 Article 6 of Protocol No. 3 concerns possible amends that may be adopted by the Council of the EU on Articles 2-5 (of Protocol No. 3).

## The New Cyprus (SBA) Protocol

The prospect of the application of certain provisions of the Union's law in the base areas (after the UK has left the EU) was not an actual issue of contestation in the bilateral negotiations between the UK and the Republic of Cyprus.<sup>57</sup> Bearing in mind that the *acquis* was already implemented and enforced there under Protocol No.3 and the relevant bilateral arrangements, both sides expressed a mutual intention to find the proper way for the continuation of that situation. What was left to negotiate, however, i.e. the modalities for applying the *acquis* and certain EU policies in the base areas, entailed some legal complexities and political challenges.

Looking at these issues from the standpoint of the Cypriot side, the political goal was confined to the continuation of the *acquis* in the base areas. Beyond that, it was up to the negotiations/negotiators to show the way. There was however, an intra-governmental debate (mainly in the Ministry of Foreign Affairs and the Office of the Attorney General) on how to approach the situation legally and politically.<sup>58</sup> No consultation or any kind of deliberations were held with the political parties or the public (not even with the people who live or work in the base areas, whose interests were supposed to be the major issue of the negotiations). Apart from some public statements on the intention to preserve the application of the *acquis* in the SBAs, no other elements of the pursued goals were made known. Even after the new protocol was published, very few details of the negotiations were revealed.<sup>59</sup>

From the theoretical and conceptual standpoint of this paper, there are some elements of the negotiations that need to be taken into account in order to understand the outcome. At the early stage, the British side insisted on the continuation of the same legal and political arrangement for the application of the *acquis* in the base areas, as provided by Protocol No. 3. The central aim of the British government was to avoid any (new) arrangement that would entail a sense of joint sovereignty between the UK and the Republic of Cyprus in the base areas, as this would have constituted a problematic development in relation to other cases. In particular, the Spanish government has been claiming joint sovereignty in Gibraltar, which the UK rejects systematically. In addition, any arrangement in Cyprus that would question the sovereign control of the UK in the base areas could also have had negative implications for Northern Ireland. From that end, the aim was to adapt the arrangements of the previous Protocol in the context of the general terms of the (would-be) Withdrawal

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57 The Commission was involved in drafting the protocol and played an important role in finalizing it.

58 The Office of the Attorney General offered specific legal advice, which was discussed at the Ministry Foreign Affairs level, where some different views were expressed.

59 P. Xanthoulis, 'Skliros Simvivasmos Lefkosias-Londinou gia tis Vaseis', *Phileleftheros* (2018, November 18).

Agreement, always in accord with the Treaty of Establishment (UK's interpretation of it) and Protocol No. 3. Another element of the negotiations that was generally kept out of sight is the British position that, as long as the Cyprus Problem is unsettled, there will be no change of the legal and political status of the British bases in Cyprus. The UK believes that it is in the interest of the Republic of Cyprus not to attempt any amendments of the status of the Treaty of Establishment before a solution is reached. This view seems to be shared by the Cyprus government, which is supported by Turkey and the leadership of the Turkish Cypriot community.<sup>60</sup>

The UK was successful in having its major legal and political position adopted in a Joint Statement between the UK and the EU negotiators in June 2018. With regard to the case of Cyprus, the statement read that 'both Parties have confirmed their commitment to establish appropriate arrangements for the SBAs, in particular with the aim to protect the interests of Cypriots who live and work in the SBAs following the UK's withdrawal from the Union, in full respect of the rights and obligations under the Treaty of Establishment'.<sup>61</sup> The same statement announced progress that was made 'in agreeing the text of the Protocol that will give effect to this'.<sup>62</sup> The main aim of the UK was the new protocol to preserve its asserted sovereign control of the territory it occupies in Cyprus. From the moment that this would have been secured – which was indeed secured in the very early stages of the negotiations with the consent of the Cyprus government – the UK could have considered a number of options in finalizing the new protocol. In addition, the UK held a number of outreach meetings in Cyprus on Brexit<sup>63</sup> and a debate opened in the context of the UK Parliament's Exiting the European Union Committee.<sup>64</sup>

With regard to the preparation of the Cypriot side, a number of different views were stated and different angles from which negotiations could have been approached were

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60 Both Turkey and the leadership of the Turkish Cypriot community intervened in the process of the negotiations leading to the new protocol. The intervention was directed to the Commission and the UK Government. The main claim was not to alter the status of the bases or make an agreement that would be to the political benefit of Greek Cypriots.

61 European Commission, 'Joint statement from the negotiators of the European Union and the United Kingdom Government on progress of negotiations under Article 50 TEU on the United Kingdom's orderly withdrawal from the European Union', EC.Europa.eu (2018), par.8, available at [https://ec.europa.eu/commission/sites/beta-political/files/joint\\_statement.pdf](https://ec.europa.eu/commission/sites/beta-political/files/joint_statement.pdf).

62 Ibid.

63 S. Lillie, 'Brexit – ask the High Commissioner', *Cyprus Mail*, (2018, November 11), available at <https://cyprus-mail.com/2018/11/11/brexit-ask-the-high-commissioner/>.

64 C.f. K. A. Kyriakides, 'The European Union (Withdrawal) Bill in the context of the Republic of Cyprus and the Sovereign Base Areas of Akrotiri and Dhekelia – Written Evidence', UK Parliament (2018), available at <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/constitution-committee/european-union-withdrawal-bill/written/71167.html>.

expressed. These approaches were stated in the context of internal brainstorming and discussions, as there were different legal and political interpretations of the situation.<sup>65</sup> For instance, some issues on which different views were expressed concerned the status of Protocol No. 3 and the extent to which the Republic of Cyprus could claim legal responsibility for the implementation and enforcement of the *acquis* in base areas after the UK has left the Union. Views were also expressed as to whether the asserted sovereignty of the UK in the base areas could have been challenged or even questioned. In addition, different views were expressed with regard to the possibility of a no-deal, not only in the overall context of the Brexit negotiations but also in case the Cypriot side would not be satisfied with a draft protocol. A number of instances are relevant with all these different views and perspectives. Three of them are of particular interest. One concerns different views expressed on risk assessment, with regard to the pros and cons of a deal or a no-deal with the UK. The view that prevailed was that there was no other option but a deal. A second concern related to estimations on the extent to which the Cypriot delegation would be able to press for certain issues/outcomes. This was a crucial aspect, especially with regard to the authority that would have the responsibility to implement the *acquis* in the base areas. A third issue was negotiation tactics. This was the most difficult one for many reasons, some of which are examined below.

Beyond the internal dimension that relates to the preparation and the approaches of the two negotiating sides, the very structure of the negotiation and its process are also vital for understanding the result. In the particular case, negotiations were structured on a bilateral level, between the UK and the Republic of Cyprus, at a trilateral level, among the two sides and the Commission, as well as at a level of (separate) consultations between the Commission and the two sides. The Cypriot side also had the Commission as part of its delegation during meetings with the British delegation. There are different perspectives as to the authorship of the first draft of the protocol. A first draft seems to have been drafted by the Commission (with UK insertions), whereas a first comprehensive draft was finalized by the Cypriot delegation and the Commission before it was presented to the British side. The final draft of the protocol was concluded after consultations between the Commission and the sides.

Although certain provisions of the protocol were not satisfactory to the Cypriot side, it consented to the final text (for reasons which are not deemed necessary to be narrated here). What matters is that the Ministry of Foreign Affairs decided not to reopen negotiations, although the Commission gave this option to both sides.

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65 The first chief negotiator (a senior diplomat) disagreed with a certain legal approach/interpretation and resigned from that position to be replaced by another senior diplomat. The members of Cypriot negotiation team were also changed.



Regarding the process leading to the final outcome, the bilateral negotiations were not systematic, but rather sporadic and occasional. Judging with the benefit of hindsight, the British side was successful in playing the tactic of a last minute arrangement, as within a year or so of negotiations, some 'tough issues' were left open to the last minute. This may also be related to the tactical approach of the Cypriot side, as well as the degree of coherence of the negotiation positions. There seems to have been some discontinuity of commitment to the process due to internal disagreements and a gap in making final decisions by the political leadership. The final text was brokered under a very interesting contingency, the details of which are not necessary to be narrated here.

Having Protocol No. 3 as the founding document and the basis for the new arrangement, as well as the Cypriot side having accepted British sovereignty in the base areas as an undisputed reality, what was left for the sides to discuss was the extent to which the *acquis* (and EU policies) will be implemented in the base areas and the extent to which the Republic of Cyprus will have any more responsibility with regard to the application of the *acquis* there, than it had in the context of Protocol No. 3. The result shows that the sides took every effort to make the British metacolonial realm in Cyprus as functional and convenient as possible in the context of the UK's withdrawal from the Union. The membership of the Republic of Cyprus to the EU was the vehicle by which the new arrangement will give effect to a elaborated metacolonial realm in Cyprus in the context of an agreement between the EU and the UK.

Concerning the substance of the protocol, as presented in the draft Withdrawal Agreement, the intention here is not to discuss the 'points' that each side 'scored' or to analyse the legal interpretations or perspectives on certain provisions but to assay its main implications for the future of the metacolonial realm in Cyprus in the EU context.<sup>66</sup> The crux of the protocol is that the base areas shall continue to be relevant with regard to the EU treaties, by being part of the customs territory of the Union, in accordance with the relevant EU law, and to the extent that certain provisions of the Treaty of Establishment, and the subsequent (established) policies that emanate from that treaty (as they are implemented at the time) would enable or restrain that, as provided by Article 2 of the protocol. In the same context concerning the SBAs as a 'customs territory of the Union', the UK assumed the responsibility to implement and enforce Regulation EC No. 866/2004 'in relation to the Sovereign Base Areas in accordance with the provisions of that Regulation' with regard to '[g]oods arriving from the areas of the Republic of Cyprus in which the Government of the Republic

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66 Problematic aspects of provisions of the new protocol which emanate from the re-introduction of provisions of Protocol No. 3, as discussed in the relevant section, are not discussed here, as the same approach applies.

of Cyprus does not exercise effective control [into the] the Eastern Sovereign Base Area' (Article 2(8)).

Provisions of 'Union law on turnover taxes, excise duties and other forms of indirect taxation adopted pursuant to Article 113 TFEU shall apply to and in the Sovereign Base Areas', as well as '[t]ransactions originating in or intended for the Sovereign Base Areas shall be treated as transactions originating in or intended for the Republic of Cyprus for the purposes of value added tax (VAT), excise duties and other forms of indirect taxation' (Article 3(1)(2)). In addition, the protocol incorporates all the relevant provisions and established policies that emanate from the Treaty of Establishment and relate to a peculiar regime of duty relief in the interest of the UK (Article 4(1)). Article 4(2) regulates 'duties that may be collected by the United Kingdom authorities in the Sovereign Base Areas as a result of sale of the goods referred to in paragraph 1 [which] shall be remitted to the authorities of the Republic of Cyprus'.

Regarding issues of social security that relate to 'persons resident or employed in the territory of the Sovereign Base Areas', Article 5 envisions the necessity for further arrangements between the UK and the Republic of Cyprus 'to ensure the proper implementation of Article 4 of Protocol No 3 after the end of the transition period'. The extent to which EU law will apply in the base areas in relation to agriculture, fisheries and veterinary and phytosanitary rules is regulated in Article 6. Article 7 incorporates all the relevant provisions referred to in Protocol No. 3 with regard to checks on persons crossing the external borders of the base areas, as well as the function of crossing points there. This Article is essential for defining the base areas as a Cypriot territory which is outside the EU, and for incorporating certain policies of the UK in the EU context (i.e., carrying out checks on persons crossing, giving permission to third country nationals to cross the external borders, dealing with asylum seekers and illegal emigrants, and exercising external boarder surveillance).

The necessity of cooperation between the UK and the Republic of Cyprus, as well as the aims of such cooperation, is spelled out in Article 8. The role and the mission of a Specialized Committee is provided in Article 9. A Joint Committee shall be also established in accordance with the provisions of Article 10. Article 11 provides for the operation of Article 6 of Protocol No. 3 during the transitional period.

Article 12 provides for the supervision and the enforcement of the new protocol. This is an interesting Article (with some equally interesting background during the phase of negotiations). In particular, this Article states that 'the institutions, bodies, offices and agencies of the Union shall have the powers conferred upon them by Union law in relation to this Protocol and provisions of Union law made applicable by it' over the base areas and 'in relation to natural and legal persons residing or established in the territory of those' areas (Article 12(1)). In this respect, 'the Court of Justice of

the European Union shall have jurisdiction as provided for in the 'Treaties' which shall apply in the base areas (Article 12(1)). In essence, the UK, at the Commission's request (and Cyprus' insistence), accepted that, when it assumes the responsibility to implement the *acquis* in the base areas, it also needs to accept the jurisdiction of the Court of Justice of the European Union there (over the aspects of EU treaties applied there). As clarified, '[a]cts of the institutions, bodies, offices and agencies adopted in accordance with paragraph 1 shall produce the same legal effects with regard to and in the Sovereign Base Areas as those which they produce within the Union and its Member States' (Article 12(2)).

This was a sensitive issue for the UK, since the jurisdiction of EU Court of Justice was a principal 'red line' for London in Brexit negotiations (i.e., something that it would not accept). The acceptance of Article 12 (i.e., the exceptional acceptance of the jurisdiction of EU Court of Justice in the base areas) was the price the UK was willing to pay for not conceding any sovereignty to another authority in the territory it occupies in Cyprus. One may also observe that the UK (through its bases in Cyprus) shall acquire a peculiar legal and (considering together provisions of various Articles of the protocol) political status in the EU context, even though the UK (as a State) shall leave the EU. In that regard, UK's asserted sovereignty in Cyprus has some legal and political implications for the Union and the Republic of Cyprus as a Member State of the EU. In Article 12, there are some safeguards and assurances for the implementation of EU treaties in the base areas (to the extent that they will apply there), but at the same time, this Article is yet another confirmation of the base areas as a territory of Cyprus where special provisions of the *acquis* will apply, even though this territory shall remain outside the EU.

Article 13 assigns to the UK the responsibility for the implementation and enforcement of the new protocol, while it also entrusts some responsibility to the Republic of Cyprus. It is stated that '[u]nless otherwise provided in this Protocol, the United Kingdom shall be responsible for the implementation and enforcement of this Protocol in the Sovereign Base Areas' (Article 13(1)). The same paragraph clarifies that '[n]otwithstanding paragraph 3 [of Article 1], the competent authorities of the United Kingdom shall enact the domestic legislation necessary to give effect to this Protocol in the Sovereign Base Areas'. In essence and with regard to the EU treaties applied in the base areas and to the extent that the UK assumes the responsibility to implement and enforce them, these EU treaties and the relevant *acquis* (and the EU policies they entail) will be implemented and enforced in accordance with domestic legislation that the UK will introduce in the territory it occupies in Cyprus. This paragraph of Article 13 is essential for understanding that the UK will be responsible and, at the same time, accountable to the EU for the implementation of the protocol.

Paragraph 2 of Article 13 stipulates that '[t]he United Kingdom shall retain the

exclusive right to implement and enforce this Protocol in respect of its own authorities or on any immovable property owned or occupied by the Ministry of Defense of the United Kingdom, as well as any coercive enforcement power requiring the power to enter a dwelling house or a power of arrest.’ The same paragraph also provides that ‘[t]he United Kingdom shall retain other coercive enforcement powers unless otherwise provided in the legislation referred to in paragraph 1’. This paragraph is meant to underline the exclusive sovereignty of the UK over the issues referred to in relation to the territory it occupies in Cyprus. In the context of the negotiations leading to this protocol, this paragraph was a contested one, for which the Republic of Cyprus expressed reservations. In the end, however, it was accepted as it stands. It is also important to note that this paragraph reveals the dominant role of the British Ministry of Defense (over the Foreign Office) in pursuing some sensitive issues in Cyprus.

Another provision that was contested during negotiations (maybe the most contested one) was paragraph 3 of Article 13. That paragraph sets out that ‘[t]he Republic of Cyprus is entrusted with the responsibility for implementing and enforcing this Protocol in the Sovereign Base Areas in accordance with Article 2(10) and Articles 3 and 6’. The preamble of the protocol leaves no doubt as to who is entrusting the Republic of Cyprus with that responsibility, i.e., the UK. During the negotiations, the Republic of Cyprus claimed responsibility in implementing and enforcing the protocol in many areas, even claimed to have full responsibility for implementing and enforcing the protocol, except maybe some areas that the UK deemed sensitive. Nevertheless, in the course of time, that claim was watered down and ultimately confined by the UK to Article 2(10) and Articles 3 and 6.

The most problematic aspect of paragraph 3 is the use of the word ‘entrusted’. This explicitly demonstrates that the Republic of Cyprus shall have responsibility to implement the relevant acquis, because some other authority (the UK) entrusted that responsibility to it. That wording (i.e., the legal definition of the source of responsibility) took away from the Republic of Cyprus even a clear responsibility it had under Protocol No. 3, as explained in this article’s Introduction. Whereas the UK appears to have an ‘inherent’ responsibility in implementing and enforcing the protocol in the territory it occupies, the Republic of Cyprus appears to have an externally acquired responsibility for implementing and enforcing some Articles of the protocol.

## **Conclusion**

Articles 12 and 13 of the new protocol – and especially paragraph 3 of Article 13 – summarize the essence of what this paper defines as the UK’s instrumentalization of Cyprus’ EU membership for enhancing, extending and perpetuating its metacolonial

realm in Cyprus, on its way out of the Union. The very fact that UK's claim for sovereignty over the territory it occupies in Cyprus – the gist of a lasting postcolonial anomaly in Cyprus that engenders a metacolonial realm – is (directly) envisaged by the new protocol as amenable, not only to the strong will of Britain to achieve that goal but also to the reluctance of the Republic of Cyprus to question or challenge it. To the contrary, as the Minister of Foreign Affairs of Cyprus affirmed in a statement he made in the context of the General Affairs Council in November 2018, '[I]t is very important [for the Cyprus government] that the Protocol safeguards the unabstracted continuation of the implementation of the European [EU] acquis in the Base areas, in the domains provided by Protocol [No.] 3 of the Act of Accession of the Republic of Cyprus to the EU, as well as [it preserves] the legal rights and interests of the Cypriots and other European citizens who live and work in the areas of the British Bases'.<sup>67</sup> The emphasis attached by the Cypriot minister to the application of some part of EU law in the base areas was meant to depict the achievement of negotiations (i.e., the protocol). At the same time, his silence on the continuation of the postcolonial anomaly in Cyprus (ingrained in the EU in the context of the protocol) is read by this article as a political intention to present the metacolonial realm in Cyprus as a functional and convenient situation, as well as an attempt to do away with the problems it entails. The protocol seems to give comfort to the Cyprus government which appears satisfied that the UK has entrusted some responsibility to it 'for implementing and enforcing provisions of Union law in the Sovereign Base Areas'.

In conclusion, the new protocol is primed to perpetuate a metacolonial realm in Cyprus in a politically convenient way. This paper reveals and problematizes the eagerness of the UK and the Republic of Cyprus to achieve that goal. An external shock or some political and democratic maturity may be the trigger for a thorough debate on that situation in the future.<sup>68</sup> Unavoidably, sooner or later this situation will meet its limits as all similar situations shown in world politics. Although nothing seems capable to alter that metacolonial state of affairs in the foreseeable future, there is an epistemological merit in defining and elucidating its many facets in the best possible way.

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67 Philelefteros, 2018

68 Not many alternative views were expressed during Brexit negotiations in Cyprus. An interesting contribution was made by Emily Yiolitis who recommended the renegotiation of the status of the British bases (E. Yiolitis, 'Back to base: what does Brexit mean for UK sovereign bases in Cyprus?' *Lexology*, 2017), available at <https://www.lexology.com/library/detail.aspx?g=aa35f06c-c8f6-402d-8d5c-40f2fdf96525>; E. Yiolitis, 'Brexit kai Vretanikes Vaseis, [in Greek], *Sigmalive* (2017), available at [http://www.sigmalive.com/news/opinions\\_sigmalive/460317/brexit-kai-vretanikes-vaseis](http://www.sigmalive.com/news/opinions_sigmalive/460317/brexit-kai-vretanikes-vaseis). See also G. Kentas, 'Local concerns over Brexit: the peculiar case of the British military bases in Cyprus' unpublished note, available upon request (2017); a note shared across many interested parties, yet not published. Unfortunately and unlike the British Government, the Cyprus government did not initiate any public debate on the issue.

## References

- Ashcroft, B. Griffiths, G. and Tiffin, H. (2000) *Post-Colonial Studies*, London: Routledge.
- Bhabha, H. K. (1996) 'The Other Question: Difference, Discrimination, and the Discourse of Colonialism', in H. A. Baker, Jr., M. Diawara, R. H. Lindeborg and S. Best (eds) *Black British Cultural Studies: A Reader*, Chicago, Illinois: University of Chicago Press
- Chatterjee, P. (1993) *The Nation and its Fragments: Colonial and Postcolonial Histories*, Princeton, NJ: Princeton University Press.
- Christou, J (2018, November 15) 'EU rights of Cypriots on British bases secured under Brexit deal' *Cyprus Mail*. Available at <https://cyprus-mail.com/2018/11/15/eu-rights-of-cypriots-on-british-bases-secured-under-brexit-deal/>, accessed November 2018.
- Crawford, J. (2006), *The Creation of States in International Law*, 2nd ed., Oxford: Oxford University Press.
- Crawford, N. (2002) *Argument and Change in World Politics: Ethics, Decolonization, and Humanitarian Intervention*, Cambridge: Cambridge University Press.
- Craven, M. (2007) *The Decolonization of International Law: State Succession and the Law of Treaties*, Oxford: Oxford University Press.
- Esgain, A, J. (1965) 'Military Servitudes and the New Nations', in W. V O'Brien (ed), *New Nations in International Law and Diplomacy*, Stevens & Sons: 42-97.
- European Commission (2018) 'Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, as agreed at negotiators' level on 14 November 2018'. Available at [https://ec.europa.eu/commission/sites/beta-political/files/draft\\_withdrawal\\_agreement\\_0.pdf](https://ec.europa.eu/commission/sites/beta-political/files/draft_withdrawal_agreement_0.pdf), accessed November 2018.
- European Commission (2018) 'Fact Sheet - Brexit Negotiations: What is in the Withdrawal Agreement', Brussels. Available at [file:///C:/Users/User/Documents/Desktop%20files%20as%20of%20Nov.%202018/Papers/MEMO-18-6422\\_EN.pdf](file:///C:/Users/User/Documents/Desktop%20files%20as%20of%20Nov.%202018/Papers/MEMO-18-6422_EN.pdf), accessed November 2018.
- European Commission (2018, June 19) 'Joint statement from the negotiators of the European Union and the United Kingdom Government on progress of negotiations under Article 50 TEU on the United Kingdom's orderly withdrawal from the European Union'. Available at [https://ec.europa.eu/commission/sites/beta-political/files/joint\\_statement.pdf](https://ec.europa.eu/commission/sites/beta-political/files/joint_statement.pdf), accessed November 2018.
- European Commission (2002) *2002 Regular Report On Cyprus's Progress Towards Accession* SEC(2002) 1401, Brussels: European Commission.
- Faustmann, H. and Peristianis, N. (eds) (2006) *Britain in Cyprus: Colonialism and Post-Colonialism 1878-2006*, Mannheim: Bibliopolis.
- Grenville, J. A. S. (1974) *The Major International Treaties. A History and Guide with Texts*, London: Methuen.
- Ioannides, N. (2018) 'The ICJ Advisory Opinion concerning the Chagos Archipelago and the Possible Consequences on the Legal Regime of the British Bases in Cyprus', manuscript under review for publication.

- Kentas, G. (2013) *Security in the Context of a Cyprus Settlement* [in Greek]. Athens: A.A. Livanis.
- Kentas, G. (2014) 'The peculiar concept of "balance" between Turkey and Greece in Cyprus', in M. Kontos, H. Alexandrou, N. Panayiotides and S.-C. Theodoulou (eds.) *Great Power Politics in Cyprus: Foreign Interventions and Domestic Perceptions*. Newcastle: Cambridge Scholars Publishing.
- Kentas, G. (2017) 'Local concerns over Brexit: the peculiar case of the British military bases in Cyprus' unpublished note, available upon request.
- Ker-Lindsay, J. (2007) 'Great Powers, Counter Secession, and Non-Recognition: Britain and the 1983 Unilateral Declaration of Independence of the "Turkish Republic of Northern Cyprus"', *Diplomacy & Statecraft*, Vol. 28, No. 3: 431-453.
- Ker-Lindsay, J. (2017) 'Great Powers, Counter Secession, and Non-Recognition: Britain and the 1983 Unilateral Declaration of Independence of the "Turkish Republic of Northern Cyprus"', *Diplomacy & Statecraft*, Vol. 28, No. 3 (2017): 431-453, DOI: 10.1080/09592296.2017.1347445
- Kyriakides, K. A. (2018) 'The European Union (Withdrawal) Bill in the context of the Republic of Cyprus and the Sovereign Base Areas of Akrotiri and Dhekelia – Written Evidence', Available at, <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/constitution-committee/european-union-withdrawal-bill/written/71167.html>, accessed November 2018.
- Kyriakides K. A. (2006) 'The Sovereign Base Areas and British Defence Policy Since 1960', in H. Faustmann and N. Peristianis (eds), *Britain in Cyprus: Colonialism and Post-Colonialism 1878-2006*, Mannheim: Bibliopolis: 511-534.
- Kyriakides, K. A. (1996), *British Cold War strategy and the struggle to maintain military bases in Cyprus, 1951-60*, University of Cambridge, Doctoral thesis.
- Lillie, S. (2018, November 11) 'Brexit – ask the High Commissioner' *Cyprus Mail*. Available at <https://cyprus-mail.com/2018/11/11/brexit-ask-the-high-commissioner/>, accessed November 2018.
- Magone, J. M. (2011) *Contemporary European Politics*, Oxon: Routledge.
- Official Journal of the European Union (2003a) 'Protocol No 3 on the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus', L 236, Volume 46, 23 September 2003: 940-943.
- Official Journal of the European Union, 2003b, 'Protocol No 10 on Cyprus,' L 236, Volume 46, 23 September 2003: 955.
- O'Malley, B. and Craig, I. (1999), *The Cyprus Conspiracy: America, Espionage and the Turkish Invasion*. London: I.B. Tauris.
- Oppenheim, L. (1920), *International Law: A Treatise*, Cambridge: Whewell House.
- Palley, C. (2005) *An International Relations Debauch*, Oxford: Hart Publishing
- Pellet, A. (2012) 'The British Sovereign Areas'. *Cyprus Yearbook of International Law*. 57-72.
- Phileleftheros (2018, November 17) 'Efcharisties YPEX gia to Ptotocollo Vaseon', *Phileleftheros*. Available at <http://www.philenews.com/eidiseis/politiki/article/612492/efcharisties-ypex-ga-protokollo-baseon>, accessed November 2018.
- Republic of Cyprus (2018), 'Legal Consequences of the Separation of the Chagos Archipelago

- from Mauritius in 1965 (Request for Advisory Opinion)' Written Statements for the ICJ.  
Republic of Cyprus (2018), 'Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965 (Request for Advisory Opinion)', Oral statement for the ICJ.
- Premnath, G. (2003) 'The Weak Sovereignty of the Postcolonial NationState' in A. Kumar, J. Berger and B. Robbins (eds) *World Bank Literature*, Minneapolis, MN: University of Minnesota Press: 253–264.
- Shaelou, L. (2011) 'The Principle of Territorial Exclusion in the EU: SBAs in Cyprus-A Special Case of Sui Generis Territories in the EU', in D. Kochenov (ed), *EU Law of the Overseas: Outermost Regions, Associated Overseas Countries and Territories, Territories Sui Generis* (Wolters Kluwer 2011): 153-175.
- Simmons, M. (2015) *The British and Cyprus: An Outpost of Empire to Sovereign Bases, 1878-1974* Gloucestershire: The History Press.
- Stockwatch (2018) 'Anastasiades welcomes agreement in principle on Brexit'. Available at <https://www.stockwatch.com.cy/en/article/politika/anastasiades-welcomes-agreement-principle-brexite>, accessed November 2018.
- Treaty No. 5476. United Kingdom Of Great Britain And Northern Ireland, Greece And Turkey And Cyprus, 12 December 1960, Available at [https://www.mfa.gr/images/docs/kypriako/treaty\\_of\\_establishment.pdf](https://www.mfa.gr/images/docs/kypriako/treaty_of_establishment.pdf), accessed November 2018.
- Tzionis, T. (2018) 'The Sea and the British Bases: Two overlooked aspects of the Cyprus Problem'[in Greek]. *Apopseis.com*. Available at <https://www.apopseis.com/thalassa-ke-vretanikes-vasis-dyo-xechasmenes-ptyches-tou-kypriakou/>, accessed November 2018.
- Verrier, A., (1964) 'Cyprus: Britain Security Role', *The World Today* (1964): 131-137.
- Xanthoulis, P. (2018, November 18) 'Skliros Simvivasmos Lefkosias-Londinou gia tis Vaseis' *Phileleftheros*.
- Yiolitis, E. (2017) 'Back to base: what does Brexit mean for UK sovereign bases in Cyprus?' *Lexology*. Available at <https://www.lexology.com/library/detail.aspx?g=aa35f06c-c8f6-402d-8d5c-40f2fdf96525>, accessed November 2018.
- Yiolitis, E. (2017) 'Brexit kai Vretanikes Vaseis' [in Greek]. *Sigmalive*. Available at [http://www.sigmalive.com/news/opinions\\_sigmalive/460317/brexit-kai-vretanikes-vaseis](http://www.sigmalive.com/news/opinions_sigmalive/460317/brexit-kai-vretanikes-vaseis), accessed November 2018.
- Young, R. (2001) *Postcolonialism: An Historical Introduction*, Oxford: Blackwell.