

**POLICY
PAPER**

The Cyprus Problem, The EU and the UN: An Overall Assessment and the Way Forward

ANDREAS THEOPHANOUS¹

Introduction

The objective of this Paper is to assess the current phase of the Cyprus problem almost 50 years after the Turkish invasion on 20 July, 1974, and to submit a brief comprehensive proposal for its resolution utilising an evolutionary process. This Paper utilises, amongst others, Reports and ideas on the issue that I have submitted over time.² This discussion takes place in the aftermath of the Russian invasion of Ukraine, on 24 February, 2022.

The last informal five-party conference under the auspices of the Secretary General (SG) of the UN, on 27-29 April, 2021, ended without any tangible result. Despite not issuing a joint press release, the SG of the UN Antonio Guterres noted both the Turkish Cypriot position for a two-state solution and the Greek Cypriot position for a bizonal bicomunal federation with political equality, as described in the relevant resolutions of the Security Council of the UN. The SG of the UN announced at the time that he was going to embark on a new initiative for another five-party conference. This never took place as the gap between the two sides grew even more.

The newly elected President Nicos Christodoulides has stated that he will seek an upgraded role of the EU in the process and the efforts for solving the Cyprus problem. Most Cypriots do not have high expectations in relation to this. In any case though, the current position of the Greek Cypriot side for a bizonal bicomunal federation with political equality had been the flagship of the Turkish Cypriot side for years. It was an array of Turkish maximalist claims which eventually prevented such an outcome. With its current position in favour of a two-state solution, the Turkish side aims at eventually moving towards a confederal solution. With such a settlement, Cy-

¹ Professor of Economics and Public Policy, Head of the Department of Politics and Governance, President of the Cyprus Center for European and International Affairs, School of Law, University of Nicosia

² These include Andreas Theophanous, 'Revisiting the Cyprus Question and the Way Forward', *Turkish Policy Quarterly – Protracted Conflicts in Turkey's Neighborhood: Between Cold Peace and Hot War*, Volume 15, Number 4, Winter/March 2017. See also Andreas Theophanous, 'A Proposal for a Normal State: The Cyprus Problem after the Five Party Informal Conference', Cyprus Center for European and International Affairs, No. 10/2021, revised January, Nicosia 2022.

prus as a whole will become a puppet state of Turkey. This will be the likely outcome of any attempt by the SG of the UN 'to square the circle'.

It is important for the Greek Cypriot side to explore a new approach, as the policy pursued for so many years has failed.³ The Republic of Cyprus should submit guidelines for a *sui generis* federal model which will give due attention both to the communities and to the rights of individual citizens. Any settlement should be the outcome of amending the Constitution of 1960 rather than enacting a new one. The amendment can be shaped with institutional arrangements promoting cooperation on governance, including the Presidency, security considerations, the Supreme Court, the territorial and the property issues. Above all, it is essential to ensure that the Republic of Cyprus should function as a normal state after the settlement, as the SG of the UN himself has acknowledged in 2017. Furthermore, President Christodoulides in his capacity as Head of State (and not as the Greek Cypriot community leader) has the legitimacy to request from the two (out of the three) Guarantor Powers, namely the United Kingdom and Greece, as well as from the EU, to contribute decisively to the reestablishment of the territorial integrity of the Republic of Cyprus. The proposed approach necessitates an evolutionary process including Confidence Building Measures (CBMs). In this respect, I reiterate and/or update comprehensive ideas which I have submitted in the past as well.

The further enrichment of these ideas may constitute a legitimate and substantial step to overcome the current deadlock. While the pursued policy so far has been questioned from various political forces, there had never been a submission of an alternative comprehensive approach up until now. Such an approach is imperative as there is not much difference between a decentralised bizonal bicomunal federation with two constituent states and a confederal solution.

As already noted, this Paper is finalised 15 months after the Russian invasion of Ukraine. During this period there have been tectonic changes in the international system.⁴ Not surprisingly Cypriots compared the stance of the West toward Russia in

³ Andreas Theophanous, 'The Intercommunal Negotiations After 1974 and Future Prospects', *The Cyprus Review*, Issue 1, Volume 31, Spring 2019, pp. 281-309.

⁴ See Special Issue of electronic bimonthly newsletter *In Depth*, 'The Day after the War in Ukraine and the Future of Europe', Volume 19 Issue 3, June 2022 http://cceia.unic.ac.cy/wp-content/uploads/IN_DEPTH_2022_19-3.pdf and Special Issue of electronic bimonthly newsletter *In Depth*, 'Perspectives on the Escalating Conflict between Russia and the West and its Implications', Volume 19 Issue 6, December 2022 http://cceia.unic.ac.cy/wp-content/uploads/IN_DEPTH_2022_19-6.pdf

relation to its invasion of Ukraine and toward Turkey for its ongoing occupation of the northern part of Cyprus as well as other violations of international law.

Historical Background and Context

Cyprus gained a fettered independence in 1960, with Greece, Turkey and Britain being the three guarantor powers. From the early days it appeared that the path of the Republic would be uneasy and turbulent. It is essential to underline that Greek Cypriots were not satisfied with the overall arrangements. Not only the objective of the liberation struggle against Britain –Enosis (unification with Greece)– was not achieved, but also the imposed constitution gave excessive privileges to the Turkish Cypriots.⁵

In 1963-64 there was intercommunal violence and the threat of a Turkish invasion loomed large. At the beginning of the crisis in December 1963, the Turkish Cypriots withdrew from the government. Furthermore, many Turkish Cypriots relocated themselves into enclaves for security purposes, as they claimed. Greek Cypriots, however, saw this move as a preconceived step to create conditions for the partition of Cyprus. The Republic of Cyprus continued to function under the Doctrine of Necessity which was legitimised by Resolution 186 of the Security Council of the UN in March 1964.⁶

Intercommunal strife continued and, in early August 1964, Turkish planes bombed parts of Cyprus on several occasions. Greece started deploying a military contingent in Cyprus following the spring of 1964, with the objective of defending the island from a Turkish invasion. In 1965 the Report of Galo Plaza, the Special Envoy of the UN Secretary General U Thant, was released.⁷ It basically argued that in Cyprus there was no basis for federalisation as the Turkish side was requesting and asked for steps toward an integrated society and a unitary state. At the same time, though, it did not support the Greek Cypriot objective for Enosis.

On April 21, 1967, a military regime came to power in Greece. In the fall of the same year, a new crisis broke out over Cyprus. A Turkish invasion was eventually averted, following American mediation, as Greece agreed to withdraw its military contingent from Cyprus. President Makarios insisted on maintaining the Cypriot National Guard and was successful in securing it. (Ironically, the Greek Junta used the

⁵ For interesting reading see Stanley Kyriakides, *Constitutionalism and Crisis Government*, University of Pennsylvania Press, Philadelphia, 1968, and Brendan O'Malley and Ian Craig, *The Cyprus Conspiracy: America, Espionage and the Turkish Invasion*, I.B. Tauris Publishers, London and New York, 1999.

⁶ Security Council Resolution 186, S/RES/186(1964), March 4, 1964.

⁷ See Galo Plaza, United Nations Security Council, *Report of the United Nations Mediator on Cyprus to the Secretary-General, Note by the Secretary-General*, S/6253, 26 March 1965.

National Guard which was led by mainland Greek officers to overthrow him on 15 July, 1974.) The Cypriot President also declared that a solution would be sought on the basis of a unitary state. Thus, officially, the objective of Enosis was put aside.

In 1968 intercommunal negotiations began for the solution of the Cyprus dispute on the basis of a unitary state. Despite a difficult domestic and foreign environment, it seemed possible to achieve a settlement. Cyprus entered into an Association Agreement with the then European Community in 1973.⁸ It is also worth noting that during the period 1960-1973 Cyprus had a 7% annual rate of real economic growth.⁹

Unfortunately, this promising path and record was interrupted by the coup of the American-led Greek Junta against President Makarios, on 15 July, 1974. Turkey invaded Cyprus five days later, on 20 July, 1974, claiming that its objective was 'to re-establish the constitutional order and to protect the Turkish Cypriot Community'. On July 23-24, both the Greek Junta and the putschist regime in Nicosia collapsed. But Turkey did not cease hostilities. It continued violating the ceasefire which was agreed on 22 July, and following the collapse of the negotiations in Geneva (the Greek Cypriots did not accept the ultimatum of Ankara which amounted to terms of surrender), it launched a new attack on Cyprus on 14-16 August by land, air and sea, and captured 37% of the territory of this island state. The international community did not react; it only made statements and issued resolutions for the respect of the independence, territorial integrity and sovereignty of the Republic of Cyprus. It also called for the resumption of negotiations between the two communities for the solution of the Cyprus problem. In one way or another, Turkey, the country which invaded and conquered 37% of the territory of Cyprus, was treated as a third party to the conflict.¹⁰

The socioeconomic and political repercussions were devastating. In addition to the casualties and the missing persons, Cyprus also suffered ethnic cleansing which was the outcome of the Turkish military advance and the brutalities that took place. It also lost the international airport of Nicosia and the port of Famagusta. Furthermore, as most of the economic activity was concentrated in the occupied territory, the country found itself in an extremely difficult situation. Almost 40% of the Greek Cypriot

⁸ Republic of Cyprus, *The Association Agreement Between the Republic of Cyprus and the European Economic Community*, Press and Information Office, Nicosia, 1982.

⁹ See Demetris Christodoulou, *Inside the Cyprus Miracle: Labours of an Embattled Mini-Economy*, Modern Greek Studies, University of Minnesota, Minneapolis, 1992, and Andreas Theophanous, 'Economic Growth and Development in Cyprus 1960-1984', *Modern Greek Studies Yearbook*, vol. 7, 1991, pp. 105-132.

¹⁰ See Christopher Hitchens, *Hostage to History: Cyprus from the Ottomans to Kissinger*, Verso Press, London/New York, 1997.

population became refugees in their own country. In addition, thousands of Greek Cypriots sought opportunities in other countries, as the economy was also dislocated.

The Cypriot leadership had to deal with very harsh realities. Under these extremely difficult circumstances the country managed to survive and the Republic of Cyprus continued to exist. The Greek Cypriots achieved what was subsequently described by others as 'an economic miracle'.¹¹ This included the fast economic recovery, which proved to be critical for the continuity of the Republic of Cyprus under very difficult circumstances. It is important to mention that, by the beginning of the 1980s, Cyprus had begun to experience an inflow of population. This, basically, consisted of Greek Cypriots who had left the country after 1974 and even before.

In 1975 Cyprus renewed the Association Agreement with the EC. Although the Cypriot government had higher expectations at the time, this agreement did not lack its own political significance.

Cyprus' impressive economic record allowed the country to continue functioning and to also have positive expectations. At the same time, however, the Cyprus problem remained the major national issue which dominated the political agenda. It is also essential to understand that there was bitterness toward Greece, Britain, the US, and the West in general, for their responsibilities for the Cypriot tragedy in 1974.

Within this climate, Greece tried to convince the Greek Cypriot leadership that closer relations with the EC, and eventually membership, could facilitate a solution of the Cyprus question. Furthermore, such a policy option, according to Athens, would benefit Cyprus in many other respects.

Gradually a paradigm shift began to take place in Cyprus. Yes, there was bitterness toward the West and also the feeling of having been let down in 1974 by Greece as well, but the most pragmatic perspective was to be forward-looking. Greece was now a democratic nation and it could not be held responsible for the actions of the American-led Greek Junta. Moreover, the EC was gradually becoming a serious player in international relations and, furthermore, it could not be accountable for the actions and omissions of the US and the UK in 1974. In the new era it was also essential for Cyprus to come closer to nations that shared a similar value system.

Given the new political climate and strongly encouraged by Greece, Cyprus pursued a Customs Union Agreement with the EC in accordance with the provisions of the existing Association Agreement between the two sides. Several European nations had reservations regarding the prospect of signing such an agreement with Cyprus,

¹¹ The Economist, 'Cyprus: Miracle in Half an Island', Vol. 264, no. 6991, 1977, pp. 50-51.

considering the political situation on the island and the implications for Turkey. Greece, however, made it clear that, without the Customs Union with Cyprus, it would veto the accession of Spain and Portugal to the EC. The Customs Union Agreement between Cyprus and the EC was ratified in October 1987; this became applicable as of 1 January, 1988. This agreement had great political significance: if in the absence of a solution to the Cyprus problem the EC had reached a Customs Union Agreement with the Republic of Cyprus, accession without a solution would also be possible.

From an economic perspective it is doubtful whether Cyprus gained. Following the implementation of this agreement the relative importance of the primary and secondary sectors of the economy continued to decline. Simultaneously, the tertiary sector continued to grow.

The Accession Process of Cyprus

On 4 July, 1990, the Republic of Cyprus submitted an application for membership to the EU. President Vassiliou made this decision despite the fact that the left-wing party AKEL, which was backing him, was opposed to this move. AKEL changed its stance officially in 1995. Furthermore, the UK, one of the three guarantor powers of the Republic of Cyprus, had strong reservations. The UK advised President Vassiliou to focus on the negotiations for the solution of the Cyprus issue and to seek accession after the resolution of the problem.

Turkey also opposed this move by the Republic of Cyprus. Greece was a staunch supporter of the application of Cyprus to become a member of the EU. Moreover, the vast majority of Greek Cypriots were in favour of the application for membership to the EU. Indeed, President Vassiliou was well aware of that; it was one of the reasons for his decision, although initially he was hesitant. Above all, though, he was eventually convinced that this was the appropriate policy step to take.

Greek Cypriots at the time had a rather idealistic view of the EU and also developed great expectations. They believed that it was a Union in which the rule of law prevailed and a democratic value system reigned supreme. Furthermore, they also believed that solidarity among member states was a value adhered to both in theory and in practice. This implied that once Cyprus had become a member state of the EU, the Union would not tolerate the occupation of the northern part of the island by Turkey as, after all, this would be European territory.

In addition, Greek Cypriots also believed that the standing of Cyprus in the regional and international arena would be enhanced. There was also a prevailing perception that the value system of the EU, as well as its institutions, would benefit Cyprus.

In June 1993 the European Commission issued its 'Opinion on Cyprus Application'.¹² This island state was considered eligible for membership as it had a democratic system of government and a vibrant economy. Any shortcomings could be addressed accordingly in due time. Nevertheless, the anomaly with the division of Cyprus was a major issue which, according to the European Commission, should be addressed before accession to the EU. Cypriot policymakers knew that the Cyprus problem was unresolved due to the stance of Turkey. Nevertheless, they expressed their satisfaction with the Opinion of the European Commission and vowed to work and act in the best possible way to move on with the accession process.

There was a growing belief in the US, as well as in various circles of the EU, that the Cyprus problem and the Greco-Turkish issues could be addressed constructively within the framework of the Union. The policy perspective was to offer Turkey the vision of becoming a member of the EU; this, it was thought, could open the way to resolve both the Cyprus problem and all issues between Greece and Turkey.

In March 1995, a major step forward was made. The EU offered Turkey a Custom Union Agreement which was not vetoed by Greece; Cyprus was to start accession negotiations with the EU 18 months after the end of the then Intergovernmental Conference; and Greece received a new financial Protocol.¹³ This was another major step for Cyprus. Ankara also considered that this was an important development which could address multiple objectives.

Accession negotiations between Cyprus and the EU begun in March 1998. At the time President Clerides invited the Turkish Cypriot leadership to join the Cyprus negotiations team. This offer though was rejected.

In December 1999 a major decision regarding Cyprus was made at the Helsinki European Council. The EU considered the accession of a reunified Cyprus to the EU desirable, but in the absence of a solution this would not be an obstacle to membership. At the same time Turkey was offered candidacy for membership.¹⁴

The accession negotiations between EU and Cyprus were taking place simultaneously with renewed efforts to resolve the Cyprus problem. The Cypriot negotiating team knew that the Cyprus problem could create complications; consequently, one chapter after another was closed without the best possible elaboration of the issues

¹² Commission of The European Communities, 'Commission Opinion on the Application by the Republic of Cyprus for Membership', COM(93)313 final, Brussels, 30 June 1993.

¹³ European Council, SN 1661/95.

¹⁴ See Helsinki European Council, 'Presidency Conclusions', 10 and 11, December 1999, I. Preparing for Enlargement, paragraphs 4, 9 (a) (b) and 12.

under consideration. In other words, under different circumstances Cyprus could have secured a better agreement on various issues.

The negotiations for the solution of the Cyprus problem were not progressing well. It was evident that there was a serious gap in the positions of the two sides. When the UN Secretary General Kofi Annan finalised his Plan for a settlement shortly before accession, the Greek Cypriots found it grossly biased. Indeed, in the referendum that took place on 24 April, 2004, a few days before accession, 75,8% of the Greek Cypriots voted 'No' while 65,6% of the Turkish Cypriots (and the settlers) voted 'Yes'.¹⁵

There is no doubt that the US, the UK and other countries wanted to facilitate Turkey's European path. The occupation of the northern part of Cyprus by Turkey was an obstacle to this. In a cynical act of political expediency, they directed their pressure towards the weaker side. The Annan Plan satisfied all Turkish objectives. In the event of a simultaneous 'Yes', the European path of Turkey would be enhanced, while at the same time it would have satisfied its objectives in Cyprus. In the case of rejection that should come from the Greek Cypriot side; as it did. In such a case Turkey would not be held responsible for the continuing stalemate in Cyprus and could proceed with its European ambitions.

The Positions of the UN and the EU

The Role of the UN

Over time, Cyprus has held great expectations from the UN. And while the stance of the UN had been positive for the Republic of Cyprus before 1974, there have been drastic changes after the invasion and the new state of affairs. Despite the primacy of the occupation over other dimensions of the Cyprus problem, the Security Council adopted a neutral position and supported the bicomunal negotiations for seeking a solution. This procedure has been sustained irrespective of the fact that the Turkish Cypriot leadership is not in a position to take any major decision(s) without the approval of Ankara.

While there are justified disappointments from the stance of the UN after 1974, it is important to understand that the functioning of this Organisation is influenced by the political realities and the balance of power. In addition, in the various conflicts where the UN acts as an intermediary, it does not usually take a position on the sub-

¹⁵ See Claire Palley, *An International Relations Debacle: The UN Secretary-General's Mission of Good Offices in Cyprus 1999-2004*, Hart Publishing, Oxford and Portland, Oregon, 2005, and Andreas Theophanous, *The Cyprus Question and the EU: The Challenge and the Promise*, Intercollege Press, Nicosia, 2004.

stance of the conflict. Consequently, any illusions about the role of the UN should be put aside. Indicatively, it is also noted that the ex-Director General of the Ministry of Foreign Affairs of Israel and Professor Emeritus of the Hebrew University of Jerusalem Shlomo Avineri stated, in 2004, in relation to the Annan Plan, that it reflects a position which amounts to ‘the UN’s and the EU’s favourite occupation’.¹⁶

During the informal five-party conference, on 27-29 April 2021, the Turkish Cypriot leader Ersin Tatar, with the support of Ankara, submitted a proposal for a two-state solution. This proposal is outside the mandate of the Security Council of the UN. The reaction of the Greek Cypriot side to this was rather modest; perhaps this was the outcome of fear for the termination of the mandate by the SG of the UN for the continuation of the efforts to find a solution to the Cyprus problem. Such an act would constitute a blackmail of the Greek Cypriot side, which, given the realities on the ground, is militarily disadvantaged. We should also be reminded that the systematic concessions made by the Greek Cypriot side after 1974 were, to a great extent, the outcome of the military imbalance on the island and in the Eastern Mediterranean.

In any case, it is clarified that the SG can only make suggestions. The change or the end of the mandate to the SG takes place only with a decision of the Security Council of the UN. Until such a decision is made, or any other course is adopted by the Security Council, the SG is bound to follow the resolutions which describe his mandate.

It is also noted that the tolerance of the SG of the UN toward the actions of Turkey in the occupied part of Cyprus tends to undermine the credibility of the Organisation itself. Even the terminology used is unfortunate, to say the least. For example, the terms ‘North’ and ‘South’ should be avoided by the UN. While, according to the Constitution of 1960, the two communities are in equal standing, the Republic of Cyprus and the ‘Turkish Republic of Northern Cyprus’ (‘TRNC’), are not equal. It is essential to convey the message that in Cyprus there is a legitimate state member of the UN and of the EU and an occupation entity, the ‘TRNC’, which has been created and recognised by Turkey. Consequently, there cannot be negotiations on the basis of two states.

The EU

When the Republic of Cyprus applied to become a member of the European Union (EU), in 1990, there were high expectations. Among others, there was a widespread conviction that the value system of the Union and its institutional framework, in con-

¹⁶ See Shlomo Avineri, ‘A Deeply Flawed Peace Plan for Cyprus’, *Jerusalem Post*, February 29, 2004.

junction with the European ambitions of Turkey, could contribute to a just resolution of the Cyprus problem. However, these expectations were not fulfilled.

The moral high ground of the Republic of Cyprus was eroded with the rejection of the Annan Plan in 2004, while the occupying force, Turkey, claimed that it had done its own fair share toward the solution of the problem.¹⁷ The reality, though, was different. While the Annan Plan satisfied most of the Turkish demands, most Greek Cypriots felt that its implementation would have dissolved the legitimate state, and that their position would have deteriorated. In addition, the EU did not exhibit the appropriate solidarity toward the Republic of Cyprus, while, at the same time, its tolerance for Turkey remains almost unlimited. This is because the various dimensions of the Euro-Turkish relations, as well as the entangled political and economic interests weigh much more than the principle of solidarity and other values of the EU.

The reaction of the EU, in view of Turkey's systematic violations of the Cypriot Exclusive Zone (EEZ), the continuing colonisation and the hybrid warfare against the Republic of Cyprus, has been very limited. This persists even following the new *fait accompli* in the fenced city of Varosha and the involvement of Erdoğan in the elections for the new leader of the occupation regime, in October 2020. Therefore, it comes as no surprise that the efforts of the Cypriot government for sanctions against Turkey have not had any results so far.

In the informal five-party conference on 27-29 April, the representation of the EU was downgraded due to Turkey's insistence. And while, in the discussions for the future of Cyprus, two out of the three major guarantor powers which are not members of the EU, namely Britain and Turkey, were present, the Union, of which the Republic of Cyprus is a member, was in essence a mere spectator. Consequently, it seems that a dismal precedent has been created for the Greek Cypriot side. The President at the time Nicos Anastasiades should have been more demanding on this issue. But, above all, the EU itself should not have accepted its downgrading.

It is interesting to compare the stance of the EU toward the Russian invasion of Ukraine and the ongoing Turkish occupation of the northern part of Cyprus. Although by definition each case has its own characteristics, there are also some common issues. In both cases there have been violations of international law. In the case of the Russian invasion the response of the EU has been firm and punitive. In the case,

¹⁷ The Report of the International Crisis Group in 2006 is indicative. See 'Reflections on The Cyprus Stalemate: What Next', Europe Report no.171, 8 March 2006. (Report prepared by the International Crisis Group).

though, of Cyprus, Turkey has been tolerated and accommodated. This is because Russia is considered a foe, while Turkey is perceived as a strategic partner.

Guidelines for the Solution of the Cyprus Problem

The Republic of Cyprus as a Normal State After the Solution

During the discussions for the Annan Plan, those who were against it were asked about their proposition, given their stance. In addition to the analysis of various models that could be adopted in Cyprus, I had, since 2002, submitted the position that it was essential to have a normal state. It was therefore with satisfaction that I heard after many years, in 2017, the use of this term by the then President of the Republic, Nicos Anastasiades, the Minister of Foreign Affairs of Greece at the time, Nicos Kotzias, as well as by the SG of the UN, Antonio Guterres.

In this regard, it is essential to have in mind some guidelines as follows:

- The Evolution of the Republic of Cyprus:

The continuity of the Republic of Cyprus should be ensured within the framework of the resolution of the Cyprus problem. It is inconceivable for a member state of the UN and the EU to cease to exist by its own choice, to equate itself with the ‘TRNC’, a Turkish protectorate, and after an indirect/instant mutual recognition a new common state to be created.

Until recently, the basis of negotiations, which is codified in the relevant resolutions of the Security Council of the UN, if successful, would lead to the creation of a dysfunctional political system based on ethnonationalist pillars. Such an outcome would worsen the *status quo*.

Consequently, the starting point should be the Constitution of 1960 which will be amended. After all, when Turkey invaded, in 1974, it declared that its major objective was the reestablishment of the constitutional order. We should be reminded that, today, the Republic of Cyprus functions on the basis of the Doctrine of Necessity, which was legitimised in March 1964 with the Resolution 186 of the Security Council of the UN.¹⁸

- Guarantees, Foreign Troops, and the Cypriot Army:

The current guarantees system should be put aside or at least be revised, given that it was one of the sources of the problem. The Security Council of the UN

¹⁸ United Nations, S/RES/186, The Cyprus Question, 1964, https://peacemaker.un.org/sites/peacemaker.un.org/files/CY_640304_SCR186.pdf

could have a special role in the guarantees system.¹⁹ It is, in any case, paradoxical for any country member-state of the EU, to have guarantor powers, two of which are not even members of the Union. By the same token, there must be no foreign troops in the Republic of Cyprus.

While there should be a withdrawal of all foreign troops for which there is no provision in any Treaty, it would be useful to have an enhanced, strengthened multinational force under the auspices of the UN for a provisional period.

It is also noted that in this *sui generis* federal state, there should be a Cypriot Army on the numerical base of 3:1.

- Presidency and Governance:

After the referendum of 2004, I submitted the proposal for a common ticket for the President and Vice President who should not be from the same community. This suggestion, which emanates from an integrationalist federal philosophy, is democratic, and, in addition, encourages the creation of common objectives.

The provisions for double majorities in the decision-making process should be revisited. Double majorities and even strong ones (i.e. 66,7%) should always apply in the cases of constitutional amendments. For certain serious issues, there should be provisions for enhanced (and not absolute, i.e. 40%) double majorities, while on other issues there should only be a simple majority of those voting (irrespective of their ethnic origin).

Taking into consideration the mixed composition of various bodies, as well as the equal representation in the Upper House, we can presume there will always be an effective Turkish Cypriot participation in the decision-making process.

- Supreme Court:

The Supreme Court should consist of four Greek Cypriot and four Turkish Cypriot judges and one judge from the other three smaller communities (Maronites, Armenian and Latins) of Cyprus. It is noted that in the plan that had been finalised before the coup in 1974 there was a provisional agreement for six Greek Cypriot and three Turkish Cypriot judges. In the Annan Plan the relevant provision provided for three Greek Cypriot, three Turkish Cypriot, and three foreign judges.

- Bicommunality:

¹⁹ I understand that after the invasion of Ukraine by Russia the implementation of such a suggestion may be difficult. Nevertheless, the point is to ensure the drastic alteration of the system of guarantees in Cyprus.

The philosophy of bicommunality should be considered as an integral but not exclusive element of the solution framework. The same number of Greek Cypriot and Turkish Cypriot Senators in the Upper House secures the political equality of the two communities. Nevertheless, it is not possible to address all issues with the perspective of bicommunality. That is why, and among others, in the issue of the Presidency a specific idea which emanates from an integrationalist federal philosophy (see point 3) is advanced.

- The Importance of the Economy and of a Modern State:

The content of the solution of the Cyprus problem should be enriched with the rules of a smooth operation of the economy, of the society and the institutions of a contemporary state. At the same time, it is essential to take into consideration the European *acquis* and, in general, the overall developments in the EU. Among others, the creation of a unified economy is vital. The market economy should be considered as a necessary, though not sufficient, condition for the convergence of the standard of living between the two communities.

- Settlers:

Colonialism is by definition a war crime, while at the same time it entails political dimensions. The ultimate objective of Turkey is the gradual demographic transformation, not only of the occupied territories but of Cyprus as a whole. Consequently, the issue is serious. It is within this framework that the relevant humanitarian issues which arise should be assessed. The relevant agreement between Christofias and Talat for maintaining the demographic base 4:1 and its implementation is of vital importance.

- The Territorial and Property Issue:

The importance of the territorial issue will be altered if instead of two constituent states there are six regions. If the Turkish Cypriot community insists on one indivisible region under its own administration, it should be accepted. In such a case, this should be a region or, at most, a component state but certainly not a constituent state.

The property issue can be addressed within the framework of the tentative agreements made so far, as well as within the market forces. It is noted that a compensation fund endowed from foreign sources as well, will be supportive of the efforts of resolving this thorny issue. Nevertheless, a considerable amount is not expected to be secured.

The Turkish Cypriot region, which will be around 28,7% of the territory, will have the broader possible autonomy. In the territory under the Greek Cypriot administration, it is possible to have five regions. This arrangement will not affect the composition of the Upper House, which will be 50-50.

- Cooperation:

It is of vital importance to encourage the creation of an environment of cooperation between the two communities and the promotion of a framework of common objectives. Without such an environment, any attempt at state-building will be futile. The above chapters may be explored and expanded even more. In addition to the evolutionary approach, the positive stance of Turkey, or at least its tolerance, is also significant.

Undoubtedly, it is extremely difficult to expect that these ideas will be accepted by Turkey. On the other hand, though, implementing the negotiating framework used until recently will lead to a dysfunctional state and to the deterioration of the situation. Consequently, the proposed philosophy must by all means be promoted, as it maintains the prospect of an eventual settlement. Toward this direction, hard work, multilateral cooperation, a pragmatic foreign policy, an effective state, and a comprehensive narrative are required. And while the Republic of Cyprus will continue to work for a settlement of the Cyprus problem, at the same time it must continually enhance its defense capabilities in order to face Turkish expansionism.

The Evolutionary Process

The Evolutionary Approach and the CBMs

It is essential to understand that it is impossible to have a federal solution and enter a new state of affairs in 24 hours. Even in the best-case scenario, in which there would be no distrust, no suspicion, and no heavy historical past, an evolutionary path and approach would still be required. It is also underlined that the narratives of the two sides are quite opposite. The fulfillment of several prerequisites is necessary for the building of a viable federal polity; these include a minimum framework of common objectives. Currently, such a framework and a common vision for the future do not exist.

Despite a very difficult situation, the submission of suggestions for the following major CBMs, as well as the parallel simultaneous discussion of the guidelines for a settlement, may prove useful and create a new momentum.

- Co-exploitation of the energy sources between Greek Cypriots and Turkish Cypriots, with the simultaneous *de facto* delimitation of the Exclusive Economic Zone of the Republic of Cyprus and Turkey.²⁰ Such a development will also help the Greco-Turkish dialogue. The parallel delimitation of the EEZ between Greece, Turkey and the Republic of Cyprus, could also be proposed by the Greek Cypriot side. A common recourse to the International Court of Justice at The Hague will facilitate such a development.
- Acknowledging the occupied territories as Region under Turkish Cypriot administration with the implementation of the *acquis communautaire* (i.e., suspension of Protocol 10). It is significant that the EU should undertake its responsibilities in the process of harmonisation of the occupied territories of the Republic of Cyprus with the *acquis communautaire*. Such an action will most likely upgrade the relations of the Turkish Cypriots with the Republic of Cyprus, and especially with the EU.
- Return of the legitimate residents and their beneficiaries to the fenced city of Varosha under Greek Cypriot administration.
- Gradual return of territories under Greek Cypriot administration. With the beginning of normalisation, the occupied village of Achna should be immediately returned under Greek Cypriot administration, and the utilisation of the entire Buffer Zone should immediately commence without obstacles.
- The functioning of the airport of Tymbou and of the port of Famagusta (in the occupied part of Cyprus) under the auspices of the UN and the EU. The implementation of such measures will take place in a way that the legal status of the Republic of Cyprus will not be negatively affected.
- Implementation of the Ankara Protocol by Turkey. Such an action entails the implementation of the Custom Union Agreement of Turkey with all member states of the EU, including the Republic of Cyprus.
- Part of the normalisation of the situation would be the further encouragement of trade between the two sides; the necessary legal and health standards will be taken into consideration for this purpose.
- Immediate ending of the colonisation of the occupied territories and of the hybrid warfare against the Republic of Cyprus on behalf of Turkey. These issues concern not only the Greek Cypriots, but also the Turkish Cypriots and the EU.

²⁰ The delimitation of the Exclusive Economic Zone between Israel and Lebanon with the strong support and encouragement of the US could serve as a precedent.

- Discussion of issues of common interest such as the extension of cooperation as well as addressing the concerns of the two sides within the framework of a *sui generis* federal model. It is essential that the Constitution of 1960, that is based on consociational democracy, is amended in a way that will include elements of an integrationalist federal model.
- Turkey should assume its responsibilities. We should be reminded that when Turkey invaded Cyprus, on 20 July, 1974, it claimed that its objective was the reestablishment of the constitutional order and the protection of the Turkish Cypriot community. Consequently, it has to contribute toward this direction by gradually normalising its relations with the Republic of Cyprus; the first steps will include the beginning of the withdrawal of the occupation troops.
- In the next elections for the European Parliament, the EU should offer two extra seats to Cyprus that will be taken by Turkish Cypriot residents of the Region under Turkish Cypriot administration. These two Turkish Cypriots MEPs would like those 6 elected in the government controlled areas come from the Republic of Cyprus.
- Any solution should be the outcome of a voluntary agreement between the two sides in Cyprus. For such a development it is essential that Turkey respects the right of the Republic of Cyprus to exist. An evolutionary approach will offer the required time for the gradual strengthening of the relations between the two communities and the forging of the concept of an integrationalist federal model. In case that this is not feasible, other ways should be sought to promote peace and security within the framework of the participation of the entire territory of Cyprus, given that this has been ensured by the accession in 2004, including Protocol 10. This cannot take place on the basis of two independent states. It is possible, though, for one region to exist under Turkish Cypriot administration, which will have the greatest degree of autonomy.

In case such measures are implemented, great benefits will accrue for all the parties involved; in addition, there will also be a drastic reduction of tension in the Eastern Mediterranean. It is understandable that, for the implementation of such measures, the consent of Turkey is indispensable. Even in the most likely case of rejection of these suggestions by the Turkish side, the Republic of Cyprus will have enhanced its moral high ground and will have submitted a road map for the creation of favourable conditions that will facilitate the solution of the Cyprus problem. Although this

may not be possible currently, the prospect for positive developments in the future will nevertheless be maintained.

Concluding Remarks

At the theoretical level, a question that is raised is whether the 1960 London-Zurich Constitution could have been functional. It is stressed that with such a Constitution, tolerance, mutual understanding, maturity, and mutual respect, are required. These characteristics did not exist in 1960 when the Republic of Cyprus was founded and do not exist today at the required level. Consequently, under the current circumstances, it is not possible to secure a viable and functional settlement on the basis of a bizonal bicomunal federation as discussed so far. I note that, taking all relevant factors into consideration, the legitimacy deficit that existed with the birth of the Republic of Cyprus will appear again on the day after a settlement if in essence this is considered as an outcome of imposition.

In addition, while federation is discussed all these years, there has not been an adequate understanding of the federal systems, or the different approaches to them. It has not been comprehended that there are federal polities/systems which are not based only on ethnonationalist pillars and the model of consociational democracy.²¹ The fact that there are other forms of federation and especially those that fall under the integrationalist federal philosophy, has been ignored.²² Such a system is that of the USA, where the Constitution secures the rights of citizens irrespective of ethnic origin and religious beliefs, and, does so without relying on ethnocommunal pillars. It is noted that in 1960 in the USA, John Kennedy was elected not because it was the turn of a Catholic to become President, but as an outcome of the triumph of politics. The same, and in a more intense way, took place with the election of Barack Obama, an Afroamerican politician, in 2008 and 2012, to the Presidency of the USA. This is a response to the request of the Turkish Cypriot side for rotation Presidency.

If we judge by their results, the endless cycles of bicomunal negotiations that have taken place since 1974 until today for the solution of the Cyprus problem, have obviously failed.²³ While the negotiating framework from 1974 up until today moved

²¹ See Arend Lijphart, *Democracy in Plural Societies: A Comparative Exploration*, New Haven, Yale University Press, 1977; 'Consociation and Federation: Conceptual and Empirical Links', *Canadian Journal of Political Science*, 12:3 Sept. 1979, pp. 499-515.

²² Donald L. Horowitz, 'The Many Uses of Federalism', 55 *Drake Law Review*, 2007, pp. 953-966

²³ http://scholarship.law.duke.edu/faculty_scholarship/1855

²³ Andreas Theophanous, 'The Intercommunal Negotiations After 1974 and Future Prospects', *The Cyprus Review*, Issue 1, Volume 31, op. cit.

toward the positions of the Turkish side, Turkish maximalism has prevented a solution. Despite the passing of time, the Greek Cypriot side should try to promote a new negotiating framework based on a federal approach in a way that would acquire legitimisation in Cyprus and simultaneously support externally. With Ersin Tatar as the leader of the occupation regime and the submission of the position for a two-state solution, the Greek side should take initiatives for a new approach.

At the current juncture, it is important that the Greek Cypriot side submits new ideas. Among others, it is possible to stress that in Cyprus there is a legitimate state and an illegal occupation entity. In addition, any federal arrangement must take into consideration four decisive factors:

- the Constitution of the Republic of Cyprus;
- the events of 1974;
- the accession of the Republic of Cyprus in the EU and subsequently in the Eurozone;
- the relevant resolutions of the Security Council of the UN.

Taking into consideration the suspicion and the absence of common objectives between the two communities, we must adopt an evolutionary path and process. The discussion must include the reassessment of the kind of federal system within the framework of a settlement of the Cyprus problem. Understandably, though, no development can take place without the consent of Turkey.

It would be a pleasant surprise if Turkey changed its policy and accepted a functional compromise. In this regard, the evolutionary process and the CBMs would facilitate finding a *sui generis* federal solution of the Cyprus problem. In such a polity, the region under Turkish Cypriot administration would have the greatest possible autonomy. At the same time, there would be effective participation in the institutions of the federal state. The gradual building of a minimum framework of common objectives would also be feasible.

However, the expected scenario is the insistence of Turkey on a settlement in which the Republic of Cyprus would be pushed aside and the new three-headed entity that will be created would, in essence, be a Turkish protectorate. Obviously, the Republic of Cyprus would not dissolve itself; under these difficult circumstances, it must continue to function under the Doctrine of Necessity. The Official State has the legitimacy to take all necessary decisions for its survival, including additional constitutional amendments as well as the strengthening of its defense capabilities.

Finally, the projection of a narrative is indispensable. If Turkey insists on its expansionist policy, it is appropriate to project the point that Ankara denies minority rights for the millions of Kurds of Turkey, while in Cyprus it demands a two-state solution. This is a great contradiction.²⁴

Combined with the militarisation and the islamisation of the occupied part of Cyprus, the Turkish demands remove the possibility of an understanding and a final settlement. It is also essential to note that, since April 2021, the Turkish side has escalated the rhetoric for a two-state solution. Most likely, however, the Turkish objective remains a confederal settlement through which Ankara would exercise strategic control over Cyprus as a whole. It is worth noting that the Turkish Cypriot leader Ersin Tatar stated, on 10 September, 2021, that Cyprus should be returned to Turkey.²⁵

The President of Turkey Recep Tayyip Erdoğan tried to promote the narrative of a two-state solution in Cyprus while addressing the UN General Assembly on 22 September, 2021. This was repeated in September 2022. It may be appropriate to raise the question whether what Erdoğan recommends as a solution of the Cyprus problem could also apply to the Kurdish issue in Turkey.

In either case, the Republic of Cyprus must have a comprehensive policy. In addition to adopting a holistic approach and submitting specific proposals for the Cyprus problem, the continuous enhancement of the state entity is very significant. The maximum objective is the reestablishment of the territorial integrity and the end of the Turkish occupation. The minimum objective is the protection and security of the free part of Cyprus. Simultaneously, it is imperative that the Republic of Cyprus enhances its defense capabilities. Furthermore, the widening and deepening of networks of cooperation with other powers is indispensable. In addition, Cyprus should ask Greece and Britain to coordinate their efforts as Guarantor Powers and work toward the reestablishment of its unity and territorial integrity.

Undoubtedly, the accession of the Republic of Cyprus in the EU, on 1 May, 2004, and the adoption of the euro on 1 January, 2008, have been great achievements. Nev-

²⁴ We should also recall that a few months after the invasion, on 1 October, 1974, President Makarios declared at the UN Assembly that 'the Turkish policy in Cyprus reminds us of the practices of Nazi Germany in relation to the German-speaking people of Sudetenland and the capture of Czechoslovakia before the beginning of the second World War'. See Miltiades Christodoulou, *The Course of an Era: Greece, the Cypriot Leadership and the Cyprus Problem* (in Greek), Ioannis Floros, Athens 1987, p. 708.

²⁵ On top of that, the Vice President of Turkey Fuat Oktay stated, on 16 October, that, given that the Ottoman Empire occupied Cyprus in 1571, Turkey has legitimate claims on Cyprus as a whole. Oktay also stated that 'Cyprus has been ours since 1571'. It is not the first time that he has made such statements.

ertheless, the expectations of Cypriots were not fulfilled. On the contrary there were several disappointments.²⁶ Be that as it may it is important that Cyprus should do its best as a member of the Union to advance its own objectives, as well as to make a notable contribution to the European project.

While the EU has reacted strongly toward Russia for its invasion in Ukraine, it has been very tolerant to Turkey's actions in Cyprus. Despite the rhetoric the Union has not taken any measures which would create a cost to Turkey for its actions. To the present day, Turkey does not recognise the Republic of Cyprus and has not yet implemented the Ankara Protocol in a way so as to include this island state as well. Furthermore, it has systematically been violating the Cypriot EEZ and has also been waging a hybrid warfare against this island state. This situation undermines peace, stability and cooperation in the Eastern Mediterranean.

Although the EU stance on the Cyprus problem has not lived up to the expectations of Cypriots and to its own value system, it is also important to underline that this island state should have worked in a better way to make its case. It is essential for Cyprus to have a narrative and a comprehensive vision for the future. Although it may be extremely difficult, or even impossible, for the EU to promote a policy of sanctions against Turkey, it is possible to advance a policy which will ease tensions on the island and pave the way for some major steps forward.

References

- Avineri S., 'A Deeply Flawed Peace Plan for Cyprus', *Jerusalem Post*, February 29, 2004.
- Christodoulou D., *Inside the Cyprus Miracle: Labours of an Embattled Mini-Economy*, Modern Greek Studies, University of Minnesota, Minneapolis, 1992.
- Christodoulou M., *The Course of an Era: Greece, the Cypriot Leadership and the Cyprus Problem* (in Greek), Ioannis Floros, Athens 1987.
- Commission of The European Communities, 'Commission Opinion on the Application by the Republic of Cyprus for Membership', COM(93)313 final, Brussels, 30 June 1993.

²⁶ Cypriots also feel that the EU did not exhibit solidarity during the economic crisis which culminated in 2013. Yes, Cyprus should blame itself for the structural problems it has had to address; at the same time, though, there were international dimensions to the crisis. Furthermore, the architecture of the Eurozone was problematic to say the least, while the logic of the measures taken to rescue Cyprus remains questionable.

- 'Cyprus: Miracle in Half an Island', *The Economist*, Vol. 264, no. 6991, 1977, pp. 50-51.
- European Council, SN 1661/95.
- Helsinki European Council, 'Presidency Conclusions', 10 and 11, December 1999, I. Preparing for Enlargement, paragraphs 4, 9 (a) (b) and 12.
- Hitchens Chr., *Hostage to History: Cyprus from the Ottomans to Kissinger*, Verso Press, London/New York, 1997.
- Horowitz D.L., 'The Many Uses of Federalism', 55 *Drake Law Review*, 2007, pp. 953-966 http://scholarship.law.duke.edu/faculty_scholarship/1855
- International Crisis Group, 'Reflections on The Cyprus Stalemate: What Next', *Europe Report*, no.171, 8 March 2006.
- Kyriakides St., *Constitutionalism and Crisis Government*, University of Pennsylvania Press, Philadelphia, 1968.
- Lijphart A., 'Consociation and Federation: Conceptual and Empirical Links', *Canadian Journal of Political Science*, 12:3 Sept. 1979, pp. 499-515.
- Lijphart A., *Democracy in Plural Societies: A Comparative Exploration*, New Haven, Yale University Press, 1977.
- O'Malley B. and Craig I., *The Cyprus Conspiracy: America, Espionage and the Turkish Invasion*, I.B. Tauris Publishers, London and New York, 1999.
- Palley C., *An International Relations Debacle: The UN Secretary-General's Mission of Good Offices in Cyprus 1999-2004*, Hart Publishing, Oxford and Portland, Oregon, 2005.
- 'Perspectives on the Escalating Conflict between Russia and the West and its Implications', *In Depth*, Volume 19 Issue 6, December 2022 http://cceia.unic.ac.cy/wp-content/uploads/IN_DEPTH_2022_19-6.pdf
- Plaza G., United Nations Security Council, *Report of the United Nations Mediator on Cyprus to the Secretary-General, Note by the Secretary-General*, S/6253, 26 March 1965.
- Republic of Cyprus, *The Association Agreement Between the Republic of Cyprus and the European Economic Community*, Press and Information Office, Nicosia, 1982.
- Security Council Resolution 186, S/RES/186(1964), March 4, 1964.

- 'The Day after the War in Ukraine and the Future of Europe', *In Depth*, Volume 19 Issue 3, June 2022 http://cceia.unic.ac.cy/wp-content/uploads/IN_DEPTH_2022_19-3.pdf
- Theophanous A., 'A Proposal for a Normal State: The Cyprus Problem after the Five Party Informal Conference', Cyprus Center for European and International Affairs, No. 10/2021, revised January, Nicosia 2022.
- Theophanous A., 'The Intercommunal Negotiations After 1974 and Future Prospects', *The Cyprus Review*, Issue 1, Volume 31, Spring 2019, pp. 281-309.
- Theophanous A., 'Revisiting the Cyprus Question and the Way Forward', *Turkish Policy Quarterly – Protracted Conflicts in Turkey's Neighborhood: Between Cold Peace and Hot War*, Volume 15, Number 4, Winter/March 2017.
- Theophanous A., *The Cyprus Question and the EU: The Challenge and the Promise*, Intercollege Press, Nicosia, 2004.
- Theophanous A., 'Economic Growth and Development in Cyprus 1960-1984', *Modern Greek Studies Yearbook*, vol. 7, 1991, pp. 105-132.
- United Nations, S/RES/186, *The Cyprus Question*, 1964, https://peacemaker.un.org/sites/peacemaker.un.org/files/CY_640304_SCR186.pdf