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**LETTER
FROM THE
EDITOR-
IN-CHIEF**

Dear Readers,

It is with great sadness that in this spring 2022 issue of *The Cyprus Review* I bid farewell to a valuable member of our Editorial Board. Ilias Kouskouvelis, Professor of International Relations and Dean of the School of Social Sciences, Humanities and Arts at the University of Macedonia, and former Rector at the same University, passed away in April 2022. Prof. Kouskouvelis, who until his death was part of our Board, excelled in his field, and will always be remembered for his professionalism, ethos, and scholarly work.

On 14 April 2022, *The Cyprus Review Annual Books Awards* (CRABA) Ceremony for books published in 2020 took place. This is the third annual CRABA event to be held, with the aim of rewarding excellence in Cyprological research in the fields of History and Political Science, Law, and Social Sciences. In the Ceremony, Constantinos Adamides was conferred the ‘Stanley Kyriakides Award’ in History and Political Science for his book *Securitization and Desecuritization Processes in Protracted Conflicts: The Case of Cyprus* (Palgrave Macmillan). The ‘Peter Loizos Award’ in Social Sciences was conferred to Maria Koumariou for her book *Κύπρος. Εθνογραφικό Ημερολόγιο και άλλες Σημειώσεις (Ελεύθερες Περιοχές – Κατεχόμενα – Μαρωνιτοχώρια) 2002-2010* (Εκδόσεις Ηρόδοτος). In the same category, Maria Machaelidou and Anna Neophytou received ‘Honourable Mentions’ for their books *Ιστορία της Προσχολικής – Προδημοτικής Εκπαίδευσης στην Κύπρο* (Εκδόσεις Επιφανίου) and *Λαϊκή λατρεία στην παραδοσιακή κοινωνία της Κύπρου: Οι γιορτές του Πάσχα από τις Αποκριές μέχρι την Πεντηκοστή*, (Εκδόσεις Κέντρου Επιστημονικών Ερευνών), respectively. The ‘Constantinos Emilianides Award’ in Law was awarded jointly to Nicholas A. Ioannides for his book *Maritime Claims and Boundary Delimitation* (Routledge), and to Athanasia Hadjigeorgiou for her book *Protecting Human Rights and Building Peace in Post-Violence Societies* (Hart).

The ‘Lifetime Achievement Award’ was conferred this year to Professor Paschalis Kitromilides, Member of the Academy of Athens, for his internationally recognised and multifaceted work on Cypriot history and political affairs, as well as his work on intellectual history and Modern Greek Enlightenment. Finally, an ‘Honorary Lifetime Achievement Award’ was conferred to the late Rina Katselli (d. May

2021), first Greek-Cypriot female MP, who authored dozens of invaluable books on the history and culture of her native Kyrenia, the last of which were published in 2020. As Editor-in-Chief of *The Cyprus Review*, I would like to congratulate all the awardees and to express my warm appreciation to all members of the scientific committees for their hard work. It is worth mentioning that the committees are currently considering the submissions for the CRABA 2021, the results of which will be announced soon.

The current issue features an article by Fotios Nicolaou on the consumer's right of withdrawal from a distance or off-premises contract, both in the light of the relevant EU Directive, as well as the regulatory framework of the Cypriot Consumer Protection Law. This is followed by this issue's Special Section on *The State and Organised Social Groups in the Republic of Cyprus*, which includes papers that essentially study different aspects of interaction between the State and organised social groups and, more broadly, civil society actors. As outlined by the Editor of this Special Section, Giorgos Charalambous, the "*papers that appear in this special section investigate the input of social and economic forces operating outside of formal institutions and how these shape output-democracy, the real flesh and blood of democratic politics as it is situated in its local, historical and contemporary context*". The Special Section features three papers by Epaminondas Epaminonda, Andreas Panayiotou, and by Nicolas Kyriakides, Athanasios Christias and Jessica Hindle.

This is followed by our Book Reviews Section. This issue's section features reviews of 19 books, all dedicated to different aspects of Cyprological studies. At the end of this issue you can find our open Call for Papers on *Performing Arts in Cyprus: Embodied Identities*, which aims to attract submissions dealing with the trends in contemporary performing arts in Cyprus, with a particular focus on dance, theatre, and performance art, as a way to articulate and theorise political and historical trends in the arts, society, and community.

Christina Ioannou
Editor-in-Chief

ARTICLES

The Consumer’s Right of Withdrawal from a Distance or Off-Premises Contract in the Light of the Cypriot Consumer Protection Law

FOTIOS NIKOLAOU¹

Abstract

This study aims to highlight the various aspects of the consumer’s right of withdrawal from a distance or off-premises contract, as set out in Directive 2011/83/EU and its amending Directive 2019/2161/EU. First, it deals with the regulatory framework of Articles 20-27 of Cypriot Consumer Protection Law 112(I)/2021 (legal-policy objective, period, and ways of exercising of the right, legal consequences arising from the exercise, exceptions). Then, the study discusses the legal nature of the said right. Finally, it analyses the need for a mandatory right of withdrawal, equally accessible to all categories of consumers and simple in its exercise, on the field of distance or off-premises contracts.

Keywords: Cypriot Consumer Protection Law 112(I)/2021, Directive 2011/83/EU, Directive 2019/2161/EU, consumer, trader, right of withdrawal, distance or off-premises contract

Introduction: The regulatory framework of Articles 20-27 of Cypriot Consumer Protection Law 112(I)/2021² on the consumer’s right of withdrawal from a distance or off-premises contract

Justification from the View of Legal Policy

When concluding an off-premises contract,³ the consumer may not have carefully weighed his interests and needs, if taken by surprise and acting under the state of

¹ Dr Fotios Nikolaou, Assistant Professor, School of Law, University of Nicosia.

² Hereinafter referred to as ‘CPL’.

³ See on the concept of ‘off-premises contract’, Article 15 of CPL, as well as Recital 21 and Article 2 (8) of (full targeted harmonisation) Directive 2011/83/EU: ‘off-premises contract’ means any contract between the trader and the consumer: (a) concluded in the simultaneous physical presence of the trader and the consumer, in a place which is not the business premises of the trader; (b) for which an offer was made by the consumer in the same circumstances as referred to in point (a); (c) concluded on the business premises of the trader or through any means of distance communication immediately after the consumer was personally and individually addressed, in a place which is not the business premises of the trader in the simultaneous physical presence of the trader and the consumer; or (d) concluded during an

psychological pressure exerted by the conditions under which the contract in question was concluded and may therefore wish to withdraw from the obligations entered into under the said contract.⁴ The consumer also needs protection when concluding a distance contract,⁵ since he can proceed to check the appearance, texture,

excursion organised by the trader with the aim or effect of promoting and selling goods or services to the consumer'; (see also Article 2 of CPL, as well as Recital 22 and Article 2, indent 9 of Directive 2011/83/EU for the concept of 'business premises').

⁴ See Rigas Giannopoulos, Nikolaos Eleftheriadis, 'Articles 3, 3a-3m' 181-258 in Elisa Alexandriou (ed.) *Consumer Protection Law, Greek-EU, Interpretation by Article of Law 2251/1994 and Other Relevant Legislation (Δίκαιο Προστασίας Καταναλωτή, Ελληνικό-Ενωσιακό, Κατ' Άρθρο Ερμηνεία του Ν. 2251/1994 και Άλλων Σχετικών Νομοθετημάτων)* (3rd edn, Athens: Nomiki Vivliothiki, 2018) Article 3e no 111 (in Greek); Roi Pantelidou, 'Self-Commitment and Release in Off-Premises Contracts' (Άυτοδέσμευση και Αποδέσμευση στις Συμβάσεις που Καταρτίζονται Εκτός Εμπορικού Καταστήματος) (1995) 7 *Armenopoulos* 877 (in Greek) with regard to off-premises contracts under pre-existing law; Apostolos Georgiades, *Manual of Special Contract Law (Εγχειρίδιο Ειδικού Ενοχικού Δικαίου)* (Athens: P. N. Sakkoulas, 2014) para 11 no 3 and 14 (in Greek); Antonios Karampatzos, *Private Autonomy and Consumer Protection – A Contribution to Behavioural Economic Analysis of Law (Ιδιωτική Αυτονομία και Προστασία του Καταναλωτή – Μία Συμβολή στην Συμπεριφορική Οικονομική Ανάλυση του Δικαίου)* (Athens: P. N. Sakkoulas, 2016) no 426, 428 (in Greek), where he refers to 'serious external preferential disturbance' in the trading situation in question, and in particular in the door-to-door contracts; Georgios Argyros 'The Right of Withdrawal of the Consumer in Common European Sales Law' ('Το Δικαίωμα Υπαναχώρησης του Καταναλωτή στο Κοινό Ευρωπαϊκό Δίκαιο Πωλήσεων') (2014) 2 *Civil Law & Civil Procedure Applications* 105, 108 under III (in Greek); Christoph Schärtl, 'The Consumer-Protecting Right of Withdrawal from Off-Premises and Sistant Contracts' ('Der verbraucherschützende Widerruf bei außerhalb von Geschäftsräumen geschlossenen Verträgen und Fernabsatzverträgen') (2014) 7 *Juristische Schulung* 577, 579 under B I 1 b (in German); Marco Loos, 'Rights of Withdrawal', *Centre for the Study of European Contract Law - Working Paper Series no. 2009/04* (2009), (last accessed: 24 March 2021) 6-7, para 3.2 a; Günter Reiner, 'The consumer-protecting right of withdrawal in the law of declarations of will' ('Der verbraucherschützende Widerruf im Recht der Willenserklärungen') (2003) 203 *Archiv für die civilistische Praxis* 1, 9-11 under Teil 1. B. I-III, 44 (in German), speaking of psychological or informative (cognitive) impairment of consumer's self-determination, while as purpose of the consumer's right of withdrawal, he defines the protection of the consumer's free self-determination (substantive contractual freedom); Recital 21 and 37 of Directive 2011/83/EU; Case C-481/99 *Georg Heiningers and Helga Heiningers v Bayerische Hypo- und Vereinsbank AG* [2001] ECR I-9945, para 27 in the light of the previous Directive 85/577/EEC; Case C-412/06 *Annelore Hamilton v Volksbank Filder eG* [2008] ECR I-2383, paras 3, 32, 33 in the light of the previous Directive 85/577/EEC.

⁵ See Article 15 of CPL, as well as Recital 20 and Article 2 (7) of Directive 2011/83/EU on the concept of 'distance contract': "distance contract means any contract concluded between the trader and the consumer under an organised distance sales or service-provision scheme without the simultaneous physical presence of the trader and the consumer, with the exclusive use of one or more means of distance communication [such as e-mail, telephone, fax or Internet], up to and including the time at which the contract is concluded"; see also Commission Notice, 'Guidance on the Interpretation and Application of Directive 2011/83/EU of the European Parliament and of the Council on Consumer Rights' (Text with EEA relevance) OJ C 525, 42-43 under 4.1.

constitution and characteristics of the goods⁶ at the time of their delivery, and can therefore obtain a direct, personal, and accurate picture of the goods. At that point, however, it is possible to establish a discrepancy between the real and the perceived characteristics of the goods at the time of concluding the contract, which might conflict with the real interest, legitimate expectations, and needs of the buyer.⁷ For these reasons, Article 20 of CPL (see also Article 9 of Directive 2011/83/EU) confers on the consumer the right of unreasoned withdrawal (i.e. without any particular reason existing or being invoked, even if the consumer is satisfied both with the quality of the service provided or the product delivered and the behaviour of the trader toward them) (right of withdrawal/droit de rétractation/Widerrufsrecht), merely due to the consumer's change of mind and the desire to be released from the contract concluded (after the careful weighing of all aspects of the transaction concerned and the calm and thoughtful/sober examination of whether or not the transaction has been in the interest, needs and expectations of the consumer) within 14 calendar days, which is the 'cooling off period' and indeed a mandatory time-limit, the shortening of which is prohibited but may be extended with the agreement of the parties; see Articles 68 (2) and 69 of CPL; see also Article 25 of Directive 2011/83/EU.⁸

⁶ For the concept of 'goods' see Article 4 (1) (a) of Directive 2019/2161/EU, as it amended the concept of 'goods' in Article 2 (3) of Directive 2011/83/EU and gave it the meaning of Article 2 (5) of Directive 2019/771/EU.

⁷ See Giannopoulos, Eleftheriadis (no 4) Article 3e no. 111; Karakostas, *Consumer Protection Law, Law 2251/1994 Interpretation - Case-law - Practical application (Δίκαιο Προστασίας Καταναλωτή Ν. 2251/1994 Ερμηνεία - Νομολογία - Πρακτική εφαρμογή)* (3rd edn Athens: Nomiki Vivliothiki, 2016) Article 3-3m no. 401 (in Greek); Karampatzos (no 4) no 383, 385 and 390, who states that the intention to increase consumer confidence in distance transactions and to encourage their further participation in the field of e-commerce can be regarded as the ultima ratio of the right of withdrawal; Argyros (no 4) 105, 109 under III; Reiner (no 4) 1, 8-11 under Teil 1. B. I-III, 44; Loos (no 4) *ibid* 7-9 under 3.2 b-d.

⁸ See Giannopoulos, Eleftheriadis (no 4) Article 3e no. 111, 117; Karakostas (no 7) Article 3-3m no. 324; Georgiades (no 4) para 11 no 15, 19, 25-26; Karampatzos (no 4) no 328, 330 and 372, who states that, in cases such as distance or off-premises sales, the consumer often acts under bounded rationality and in particular bounded self-control; Eviropides Hadjinestoros, George Charalambous, *The Sale of Goods and Consumer Protection in Cyprus (Κυπριακό Δίκαιο Πώλησης Αγαθών και Προστασία Καταναλωτή)* (Athens: Nomiki Vivliothiki, 2016) Part B, 11. Right of withdrawal, 1. Introduction number 1 (in Greek); Pantelidou (no 4) 877, 879-880; Loos (no 4) 15-16 under 5.

Period and Manner of Exercise

The starting point of the 14-day period⁹ shall be the day following¹⁰ the date of the conclusion of the contract for service contracts or contracts for the supply of water, gas, or electricity, where they are not put up for sale in a limited volume or a set quantity, of district heating or of digital content which is not supplied on a tangible medium. For sales contracts,¹¹ the starting point shall be the day following the day of acquisition of the physical possession of the goods by the consumer or a third person other than the carrier, indicated by the consumer¹² [or the day following the day of acquisition of the physical possession of the last good in the case of multiple goods ordered by the consumer in one order and delivered separately (e.g. order for a mobile phone, a TV and a PC from the same e-shop) or the last lot or piece in case of delivery of a good consisting of multiple lots or pieces (sale of a group of items) for the purpose of overseeing the whole order (e.g. order for encyclopedia delivered in 10 separate volumes) or the first good (preceding an identical set of goods) in the case of a contract for the regular delivery of goods over a specified period (i.e. a supply contract; e.g. the order of bottles of a specified variety of wine to be delivered each week for one year) (Article 20 (2) of CPL; see also Article 9 (2) of Directive 2011/83/EU)]. If the trader has not provided the consumer with the information required for the right of withdrawal, the withdrawal period shall expire 12 months after the end of the initial withdrawal period.¹³

If the trader has provided the consumer with the required information within 12 months from the day referred to in Article 20 (2) of CPL, the withdrawal period

⁹ See also Article 4 (8) (a) of Directive 2019/2161/EU, by virtue of which paragraph 1a has been added to Article 9 of Directive 2011/83/EU; see also Article 4 (8) (b) of Directive 2019/2161/EU, under which the introductory part of Article 9 (2) of Directive 2011/83/EU was amended.

¹⁰ See Recital 41 of Directive 2011/83/EU; Commission notice (no 5) 49 under 5.1.1; see also Giovanopoulos, N. Eleftheriadis (no 2) Article 3e no. 117; Hadjinestoros, Charalambous (no 8) Part B', 11. Right of withdrawal, 4.1 no 22.

¹¹ For the concepts of 'sales contract' and 'service contract', see Article 4 no 1 point (c) of Directive 2019/2161/EU, as it amended the concepts of 'sales contract' and 'service contract' referred to in Article 2 no 5 and 6 of Directive 2011/83/EU; see also Hadjinestoros, Charalambous (no 8) Part B', 11. Right of withdrawal, 4.1 no 20; Case C-20/03 *Criminal Proceedings Against Marcel Burmanjer, René Alexander Van Der Linden and Anthony De Jong* [2005] ECR I-4133, paras 34, 35.

¹² See Karakostas (no 7) Article 3-3m no 332, where he adds that the consumer may withdraw prior to the delivery of the product, i.e. before the beginning of the time limit; Karampatzos (no 4) no 331; Recital 40 of Directive 2011/83/EU; Commission notice (no 5) 50 under 5.1.2.

¹³ See Recital 43 of Directive 2011/83/EU, which states that the introduction of a 12-month period is intended to ensure legal certainty; see also Karampatzos (no 4) no 316.

should expire 14 days after the day upon which the consumer receives that information (see Article 21 of CPL; see also Article 10 of Directive 2011/83/EU)¹⁴. The unilateral –addressed to the trader and altering the contractual relationship– statement by the consumer setting out his decision to withdraw must be sent within the 14-day period to the trader, irrespective of the time it was received by the latter [Article 22 (2) in conjunction with (4) of CPL, where the burden of proof of withdrawal within the legal time limits lies with the consumer; see also Article 11 (2) in conjunction with the paragraph 4 of Directive 2011/83/EU]. Any unequivocal (not tacit) statement by the consumer that he exercises the right of withdrawal is sufficient (e.g. by letter, telephone call, SMS, filling in and sending of the model form set out in Annex III, Section B, of CPL or the electronic withdrawal form on the trader's website; however, it is not sufficient to simply refuse or return goods which are not accompanied by an unequivocal statement).¹⁵ During the withdrawal period the contracting parties may, if they so wish, fulfil their contractual obligations.

Legal Consequences

The exercise of the right of withdrawal shall terminate the obligations of the contracting parties to: (a) perform the distance contract or off-premises contract, or (b) conclude a distance or off-premises contract in cases where an offer was made by the consumer (in the latter case, the statement of withdrawal made at a pre-contractual stage is equivalent to a lawful withdrawal of the consumer's proposal for a contract with the trader)¹⁶ (Article 23 of CPL; see also Article 12 of Directive 2011/83/EU). As a result of the exercise of the right of withdrawal, the contractual link is transformed

¹⁴ See also Article 4 no 9 of Directive 2019/2161/EU, amending paragraph 2 in Article 10 of Directive 2011/83/EU; see also Giovannopoulos, Eleftheriadis, (no 2) Article 3e no 116-120; Karakostas (no 7) Article 3-3m no. 330-334 and no 342; Hadjinestoros, G. Charalambous (no 8) Part B', 11. Right of withdrawal, 5 no 33; Case C-412/06 *Annelore Hamilton v Volksbank Filder EG* [2008] ECR I-2383, para 35, which states that incorrect information concerning exercise of the right of cancellation is equivalent to no information, since both situations are equally misleading for the consumer as regards his right of cancellation.

¹⁵ See Recital 44 and Article 11 (1) and (3) of Directive 2011/83/EU; Giovannopoulos, Eleftheriadis (no 2) Articles 3e and 3g no 120, 131-132; Karakostas (no 7) Article 3-3m no. 326, 328; Karampatzos (no 4) no 341-343; Schärfl (no 4) 577, 580 under B I 2; see also Hadjinestoros, Charalambous (no 8) Part B', 11. Right of withdrawal, 3.1 no. 8, and 4.1 no 25; Commission, 'Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, Amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and amending Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council' (DG Justice Guidance Document)(2014); Commission notice (no 5) 51-52 under 5.2-5.3.

¹⁶ See Giovannopoulos, Eleftheriadis (no 2) Article 3n, no 134.

from a performance obligation to a ‘clearing obligation’, in which case the trader is obliged to reimburse any payment received from the consumer, including, where appropriate, delivery costs, unless these are additional delivery costs in case that the consumer has expressly opted for a type of delivery other than the least expensive type of standard delivery offered by the trader (e.g. by courier), without undue delay and in any event within 14 calendar days of the day, in which he was informed of the consumer’s decision to withdraw from the contract [Article 24 (1) and (2) of CPL; see also Article 13 (1) and (2) of Directive 2011/83/EU]¹⁷. As per paragraph 3 of Article 24 of CPL (see also Article 13 of Directive 2011/83/EU), unless the trader has offered to collect the goods himself, with regard to sales contracts, he/she may withhold the reimbursement until he/she has received the goods back, or until the consumer has supplied evidence of having sent back the goods; whichever is the earliest (the consumer’s simple express statement is not sufficient as proof of the return of the goods; however, it is sufficient, for example, to provide a scanned copy of a consignment from a registered post sent by the consumer to the trader).¹⁸

It should also be pointed out that by Article 4 no 10 of Directive 2019/2161/EU, the following paragraphs have been added to Article 13 of Directive 2011/83/EU:¹⁹

4. In respect of personal data²⁰ of the consumer, the trader shall comply with the obligations applicable under Regulation (EU) 2016/679. 5. The trader shall refrain from using any content, other than personal data, which was provided

¹⁷ Id., Articles 3h-3i no. 133, 135-137, who state that the 14th day from the beginning of the time limit is an ex-lege designated payment day, resulting in an interest-bearing obligation as of that day, without prior notice to the consumer (GrCC 341); see also Recital 46 of Directive 2011/83/EU; Case C-511/08 *Handelsgesellschaft Heinrich Heine GmbH v Verbraucherzentrale Nordrhein-Westfalen e.V.* [2010] ECR I-3047.

¹⁸ See Hadjinestoros, Charalambous (no 8) Part B’, 11. Right of withdrawal, 6.1.1 no 40; Loos (no 4) 22 under 8, who states that it is sufficient for the goods to be delivered by the consumer to a postal service or to a carrier within the prescribed 14-day period and for the trader to be provided with proof that the goods have been dispatched (e.g. photocopy of the postal or transport order); Commission notice (no 5) 55 under 5.5.3.

¹⁹ See also Commission notice (no 5) 53 under 5.4.

²⁰ According to Article 4 (1)(b) of Directive 2019/2161/EU, which inserted the point (4a) in Article 2 of Directive 2011/83/EU, ‘personal data’ means personal data as defined in point (1) of Article 4 of Regulation (EU) 2016/679 of the European Parliament and of the Council. In accordance with the above definition, consumers’ personal data could include the consumer’s name, gender, social security number, telephone, credit card, account data, email address, geolocation data, data concerning consumer’s interaction with the trader’s website (e.g. text messages, emails, customer service routes), records of products purchased, internet browsing history and other personal information that identifies, relates to or could reasonably be linked with the consumer.

or created by the consumer when using the digital content or digital service supplied by the trader, except where such content: (a) has no utility outside the context of the digital content or digital service supplied by the trader; (b) only relates to the consumer's activity when using the digital content or digital service supplied by the trader; (c) has been aggregated with other data by the trader and cannot be disaggregated or only with disproportionate efforts; or (d) has been generated jointly by the consumer and others, and other consumers are able to continue to make use of the content. 6. Except in the situations referred to in point (a), (b) or (c) of paragraph 5, the trader shall, at the request of the consumer, make available to the consumer any content, other than personal data, which was provided or created by the consumer when using the digital content or digital service supplied by the trader. 7. The consumer shall be entitled to retrieve that digital content free of charge, without hindrance from the trader, within a reasonable time and in a commonly used and machine-readable format. 8. In the event of withdrawal from the contract, the trader may prevent any further use of the digital content or digital service by the consumer, in particular by making the digital content or digital service inaccessible to the consumer or disabling the user account of the consumer, without prejudice to paragraph 6.

According to Recitals 31 and 33 of Directive 2019/2161/EU, given the similarities and interchangeability of paid digital services and digital services provided in exchange for personal data, such services should be subject to the same rules as provided for in Directive 2011/83/EU, and the scope of Directive 2011/83/EU should be extended to cover also contracts under which the trader supplies or undertakes to supply a digital service to the consumer, and the consumer provides or undertakes to provide personal data. Similarly to contracts for the supply of digital content, which is not supplied on a tangible medium, that Directive should apply whenever the consumer provides or undertakes to provide personal data to the trader, except where the personal data provided by the consumer are exclusively processed by the trader for the purpose of supplying the digital content or digital service, and the trader does not process those data for any other purpose. Directive 2011/83/EU should also not apply to situations where the trader collects personal data for the sole purpose of meeting legal requirements to which the trader is subject (such situations can include, for instance, cases where the registration of the consumer is required by applicable laws for security and identification purposes), as well as situations where the trader only collects metadata, such as information concerning the consumer's device

or browsing history, except where this situation is considered to be a contract under national law (Recital 34 of Directive 2019/2161/EU). It should also not apply to situations where the consumer, without having concluded a contract with the trader, is exposed to advertisements exclusively to gain access to digital content or a digital service. However, Member States should remain free to extend the application of that Directive to such situations, or to otherwise regulate such situations, which are excluded from the scope of that Directive (see Recital 35 of Directive 2019/2161/EU).

On the other hand, the consumer shall not, in principle, incur any liability (e.g. he is not liable for compensation for lost profit or loss of business opportunity of the trader or for compensation for difficulty in selling the product sold after withdrawal or for the restoration of the negative interest due to a pre-contractual fault or due to a breach of confidence of the trader, who has reasonably been convinced by the behaviour of the consumer that the latter will not exercise the right of withdrawal) if he exercises the right of withdrawal²¹ [Article 25 (5) of CPL; see also Article 14 (5) of Directive 2011/83/EU]: unobstructed right to withdraw from the contract without fear of exposure to claims by the trader], however he is subject to the obligations imposed by law, in particular:²²

(a) *the return of goods* (sending back or handing them over) to the trader or to a person authorised by the trader to obtain the goods without undue delay and in any event within 14 days of the day on which he informed the trader of his decision to withdraw from the contract (this time limit shall be respected if the consumer sends back the goods before the expiry of the 14 calendar days' time limit), unless the trader has offered to collect the goods himself (in the case of off-premises contracts, goods delivered at the consumer's home at the time of conclusion of the contract are collected by the trader at his own expense, in so far as they are goods which by their nature cannot normally be returned by post, such as furniture) [Article 25 (1) of CPL; see also Article 14 (1) of Directive 2011/83/EU]; in the case of the return of goods, the consumer shall bear only the direct cost of the return of the goods, unless the trader has agreed to bear it himself or the trader has failed to inform the consumer that the latter has to bear it;²³

²¹ See Giovannopoulos, Eleftheriadis (no 2) Articles 3, 3a-3m no 143; Karakostas, (no 7) Article 3-3m 344.

²² See Giovannopoulos, Eleftheriadis (no 2) Article 3j no 140-143; Karakostas (no7) Article 3-3m no 344-354.

²³ See also Hadjinestoros, Charalambous (no 8) Part B', 11. Right of withdrawal, 3.1 no. 9, who state that in the case of distance contracts where goods cannot normally be returned by post (e.g. furniture),

(b) *liability for any diminished value of the goods*, unless the trader has failed to provide notice of the right of withdrawal, in which case the consumer is not under any circumstances liable for any diminished value of the goods [Article 25 (2) of CPL; see also Article 14 (2) of Directive 2011/83/EU]²⁴ [i.e. the consumer is responsible if he tried the shoes bought on the street and not at home;²⁵ the consumer is liable if he put on the ordered clothes in social events;²⁶ the consumer is responsible, if he tried on a raincoat he bought during a rainy week;²⁷ where the goods are contained in packaging, which the consumer would have to remove by destroying it before verifying the nature of the goods, the diminished value thus generated should not be regarded as a diminished value for which the consumer is responsible;²⁸ it would be different if the consumer removed labels, which need not be removed for the purpose of determining the nature of the good;²⁹ the diminished value which the trader is entitled to recover includes the cost of cleaning or repairing the good or the loss of income of the trader, where the latter should sell the good as second-hand;³⁰ in respect of digital

the trader should inform the consumer for the cost of their return [see Article 6 (1) point i' and (6) of Directive 2011/83/EU] setting, for example, a carrier and a price for the return of the goods, while where the trader has not designated such a carrier and the cost of return cannot be reasonably calculated in advance (e.g. because no return service is offered), he/she should then state that these costs will be payable and the statement should be accompanied by a reasonable estimate of the maximum costs, which could be calculated on the basis of the cost of delivery to the consumer [but the trader is not obliged to calculate the costs on the basis of different scenarios for the return of the goods (e.g. the cost of returning the goods not assembled)]; Commission notice (no 5) 52 under 5.2 and 54 under 5.5.2; Loos(no 4) 23 (8), who states that the consumer shall not bear the cost of returning the goods where the latter withdraws from the contract for reasons of non-conformity of the goods with the contract (e.g. due to a defect); see also Argyros (no 4)105, 112 under III C (b), who proposes an upper limit on the consumer's burden for the cost of returning the goods.

²⁴ See C. Schärfl (no 4) 577, 582 under B III, who states that the consumer's responsibility for any diminished value of the good is independent of fault and adds that the calculation of the diminished value of the good must be based on the actual value of the product and not on the agreed total price; see also Recital 47 of Directive 2011/83/EU; Commission notice (no 5) 56-58 under 5.5.4; Case C-489/07 *Pia Messner v Firma Stefan Krüger* [2009] ECR I-7315, para 29.

²⁵ See Giovannopoulos, Eleftheriadis (no 2) Article 3j no 142; Karakostas (no 7)Article 3-3m no 350.

²⁶ See Hadjinestoros, Charalambous (no 8)Part B', 11. Right of withdrawal, 6.1.1. B no 48; Karampatzos (no 4)no 357.

²⁷ Stephen Weatherill, *EU Consumer Law and Policy* (2nd edn, Cheltenham, UK/Northampton, MA, USA: Elgar European Law, 2013) 114 (in English).

²⁸ See Hadjinestoros, Charalambous (no 8) Part B, 11. Right of withdrawal, 6.1.1. B no. 48.

²⁹ See Hadjinestoros, Charalambous (no 8) Part B, 11. Right of withdrawal, 6.1.1. B no. 48; DG Justice Guidance document (no 15) 47.

³⁰ See Karampatzos (no 4)no 411; Hadjinestoros, Charalambous (no 8) Part B', 11. Right of withdrawal, 6.1.1. B no. 49; see also DG Justice Guidance document (no 15) 47-48.

technology products, where the distinction between use and testing is complicated, it is appropriate not to exclude the right of withdrawal; however, if the goods can no longer be sold as new, the trader should specify the diminished value of the goods in the event of withdrawal, which may consist of the objectively determined loss of income for the trader in the case of sale of the returned goods as used or the reasonable cost of return of the product to the previous condition (e.g. in the case of activation of computer software, which requires prior setup or profile);³¹ the consumer should be able to open the packaging in order to gain access to the goods in question, if normally such goods appear in shops without packaging; hence the damage caused to the packaging, simply by opening it, is not a cause for compensation, however, any protective tapes fitted on the product should be removed, only when it is strictly necessary for the testing thereof³²; the burden of proof that the goods during the withdrawal period were used beyond the reasonable measure to verify their nature is borne by the trader³³;

(c) *the obligation not to use and make available* to third parties the digital content or the digital service [Article 4 (11) (a) of Directive 2019/2161/EU, which added the paragraph 2a in Article 14 of Directive 2011/83/EU];

(d) *obligation to pay* to the trader an amount which is in proportion to what has been provided until the time the consumer has informed the trader of the exercise of the right of withdrawal, in comparison with the full coverage of the contract³⁴; this applies to contracts relating to the performance of services or the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, or

³¹ See Commission notice (no 5) 56-57 under 5.5.4, which states that whether the consumer's testing of the goods went beyond what was necessary to establish their nature, characteristics and functioning will have to be assessed on a case-by-case basis in the event of a dispute. The comparison with what the consumer can normally do in a brick-and-mortar shop serves as a good point of reference, for example: the consumer would not be able to configure software on a computer; hence reasonable costs for any resetting of such equipment would also constitute diminished value.

³² See DG Justice Guidance document (no 5) 46-47; Commission notice (no 5) 56 under 5.5.4.

³³ The burden of proof must lie with the trader, on the one hand because the consumer lacks specialist knowledge (e.g. for digital products) in order to handle the burden of proof, on the other hand, because proof may be easier for the trader due to the development of the use of a specific system/mechanism/tool/procedure designed to control the use or degree of use of a particular product by the consumer (e.g. updated warehouse control system, through which the products enter and any lack or indication of wear of the product is directly controlled); see also Hadjinestoros, Charalambous, (no 8) Part B', 11. Right of withdrawal, 6.1.1. B no. 50; Argyros (no 4) 105, 112-113 under III C (b); Case C-489/07 *Pia Messner v Firma Stefan Krüger* [2009] ECR I-7315, para 27.

³⁴ See Commission notice (no 5) 60 under 5.6.2; see also Case C-641/19 *EU v PE Digital GmbH* [2020] ECLI:EU:C:2020:808, paras 29, 32 and 37.

of district heating, in case that the trader's performance of services or supply of the above mentioned goods starts during the withdrawal period at the express request of the consumer on a durable medium [Article 25 (3) of CPL and Article 14 (3) of Directive 2011/83/EU; see also the case of Article 25 (4) (a) of CPL and Article 14 (4) (a) of Directive 2011/83/EU, where the consumer does not incur the costs referred to above, as well as the case of Article 25 (4) (b) of CPL and Article 14 (4) (b) of Directive 2011/83/EU, where the consumer is not liable, in the case of the supply in whole or in part of digital content not supplied on a tangible medium; see also Article 4 (11) (b) of Directive 2019/2161/EU].

It should also be noted that, if the withdrawal period has expired and the consumer has not exercised his right to do so, he/she is now definitively bound by the contract and cannot be released from his/her contractual obligations, except by invoking the general provisions of civil law and provided that their specific requirements are fulfilled (e.g. provisions prohibiting acts which are contrary to morality or profiteering, provisions on the rights of the buyer in the event of lack of conformity of the goods sold with the contract of sale, provisions on vice of consent).³⁵

Legal Effects on Ancillary Contracts

If there are other contracts ancillary to the distance or off-premises contract concluded (e.g. service, maintenance, installation, technical support, after-sales upgrade, supply contracts for spare parts and consumables for the goods sold), they also shall be automatically terminated, without any costs for the consumer (Article 26 of CPL; see also Article 15 of Directive 2011/83/EU).³⁶ An ancillary contract is any contract by which the consumer acquires goods or services supplementary to a distance contract or to an off-premises contract and where those goods or services are provided by the trader or by a third party on the basis of an arrangement between that third party and the trader (e.g. the trader agrees with the consumer to provide the latter with subscription services on a private channel and sells him a decoder on the basis of a separate sales contract; here the sales contract is the ancillary contract).³⁷

³⁵ See Giannopoulos, Eleftheriadis (no 2) Article 3e no 115;Georgiades (no 4) para 11 no 21; Karakostas (no 7)Article 3-3m no. 341; Pantelidou (no 4)877, 882-883.

³⁶ A specific arrangement is provided for linked credit agreements in accordance with Article 15 of Cypriot Law on Consumer Credit 106(I)/2010 and Article 15 of Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC.

³⁷ See Commission notice (no 5) 65 under 5.10, according to which an ancillary contract may be, for example, a delivery, maintenance or installation contract, an insurance and credit agreement to finance

Exceptions

The right of withdrawal shall not apply to contracts provided for in Article 27 of CPL (see also Article 16 of Directive 2011/83/EU), even if they are distance and off-premises contracts, i.e.: a) *service contracts* after the service has been fully performed; where the contract provides for an obligation on the consumer to pay a price, only if performance has begun with the consumer's prior express consent, and with the acknowledgement³⁸ that he will lose his right of withdrawal once the contract has been fully performed by the trader (see Recital 42 and Article 4 (12) (a) under (i) of Directive 2019/2161, which amended point a' of paragraph 16 of Directive 2011/83/EU); b) *the supply of goods or services for which the price is dependent on fluctuations in the financial market* which cannot be controlled by the trader and which may occur within the withdrawal period; (see also Recital 43 of Directive 2019/2161//EU, where the exception should also be considered to apply to contracts for individual deliveries of non-network energy, because its price is dependent on fluctuations in the commodity markets or energy markets which cannot be controlled by the trader and which may occur within the withdrawal period);³⁹ c) *the supply of goods made to the consumer's specifications or clearly personalised*, due to the difficulty for the trader to resell them to third parties⁴⁰ (see Article 15 of CPL and Article 2 (4) of Directive

the purchase and an additional commercial guarantee; see also Hadjinestoros, Charalambous (no 8) Part B', 11. Right of withdrawal, 6.1.2 no 55-56; see also Karampatzos(no 4) no 360; Schärfl (no 4) 577, 582 under B V.

³⁸ See Giovannopoulos, Eleftheriadis (no 2) Article 31 no 149.

³⁹ See Commission notice (no 5) 65-66 under 5.11.1; Giovannopoulos, Eleftheriadis (no 2) Article 31 no 150, who states that an example of goods whose price depends on fluctuations in the money market may be precious metals, the price of which is formed through the stock exchange; see also Karakostas (no 7) Article 3-3m no 357, who mentions the gold price as an example of this category; Karampatzos (no 4) no 347.

⁴⁰ See Giovannopoulos, Eleftheriadis (no 2) Article 31 no 151; Karakostas (no 7) Article 3-3m no 358, who takes the example of the shirt with a consumer's photo printed on it; Karampatzos, (no 4) no 345, who takes the example of the 'wedding dress', which is 'cut and sewn' to the measurements and needs of a particular bride; see also DG Justice Guidance document (no 5) 54, which states that '[...] where the consumer simply makes up the goods by picking up from the standard (pre-set) options provided by the trader, such as colour or additional equipment in a car, or makes up a set of furniture on the basis of standard elements, it should not be possible to speak of either 'specification' or 'personalisation' in the narrow sense of this provision'; Commission notice (no 5) 66 under 5.11.2, according to which, this exception should cover, for example: goods, for which the consumer has provided specifications, such as measurements for furniture or the size of a fabric; goods, for which the consumer has requested specific personalised features, such as a particular design for a car that is made to order or a specific component for a computer, which has to be individually procured for that particular order and which was not part of the trader's general offer to the public; address labels with the consumer's contact information; see also

2011/83/EU for the concept of 'goods made to the customer's specification'; Recital 49 of Directive 2011/83/EU, which refers as an example to tailor-made curtains; Recital 42 of Directive 2019/2161/EU, where it is stated that the exception covers, for example, the manufacturing and installation of customised furniture at the consumer's home when provided under a single sales contract); d) *the supply of goods which are liable to deteriorate or expire rapidly* (i.e. susceptible products subject to short deterioration or expiration determined according to the type of product and market perception, such as foods and beverages with short expiry time limits, take-away restaurant deliveries, fresh flowers, cosmetics, medicines or products intended for a timed event, e.g. a sporting event);⁴¹ e) *the supply of sealed goods which are not suitable for return* due to health protection or hygiene reasons and were unsealed after delivery [the unsealing of these products, i.e. their export from the enclosed packaging in which they are placed, renders them unfit for resale (e.g. underwear, cosmetics and personal hygiene items such as toiletries, toothbrushes, shavers, combs, medicinal products, deodorants)];⁴² f) *supply of goods which are, after delivery, according to their nature, inseparably mixed with other items* [i.e. products which, by virtue of connection, mixture/blending, have become components of a single thing (e.g. fuel) or due to processing have become a new movable item];⁴³ g) *supply of alcoholic beverages, the price of which has been agreed upon at the time of the conclusion of the sales contract, the delivery of which can only take place after 30 days and the actual value of which is dependent on fluctuations in the market which cannot be controlled by the trader*⁴⁴; h) *contracts where the consumer has specifically requested a visit*

Case 208/19, *NK (Individual house project)* [2020] ECLI:EU:C:2020:382, paras 58-59; Case C-529/19, *Möbel Kraft* [2020] ECLI:EU:C:2020:846, paras 27-29.

⁴¹ See Giannopoulos, Eleftheriadis (no 2) Article 3l no 152; Karakostas (no 7) Article 3-3m no 359; Commission notice (no 5) 67 under 5.11.3.

⁴² See Commission notice (no 5) 67-68 under 5.11.4; Giannopoulos, Eleftheriadis (no 5) Article 3l no 153; Karakostas (no 7) Article 3-3m no. 360; see also Case C-681/17 *slewo – schlafen wohnen GmbH v Sascha Ledowski* [2019] ECLI:EU:C:2019:255, para 26-48.

⁴³ See Giannopoulos, Eleftheriadis (no 2) Article 3l no 154, who argues that the provision includes not only mixtures, alloys, solutions, but also solid articles connected in such a way that they cannot be separated without the product to which the right of withdrawal relates, to substantially deteriorate or decrease its commercial value (e.g. computer parts, which, if used once, cannot easily be resold because of the risk of 'contamination' by malware); so does Karakostas (no 7) Article 3-3m no 361; see also Karampatzos (no 4) no 346.

⁴⁴ See Giannopoulos, Eleftheriadis (no 2) Article 3l no 155, who state that this case, characterised as a result of lobbying the spirit drinks, refers mainly to wine, which is sold with a speculative intent before production or final bottling; see also for the contracts for the pre-purchase of wine (*vin en primeur*), Karampatzos (no 4) no 348.

*from the trader for the purpose of carrying out urgent repairs or maintenance (e.g. plumbing/electrical/carpentry services, maintenance of lift/heating/air conditioning systems, and the sale of equipment, spare parts, materials).*⁴⁵ The relevant contracts must have been concluded by means of distance (e.g. via telephone call or website use) or off-premises⁴⁶ communication. If, on the occasion of such visit, the trader provides services in addition to those specifically requested by the consumer or goods other than replacement parts necessarily used in carrying out the maintenance or in making the repairs, the right of withdrawal shall apply to those additional services or goods (these contracts will be considered as off-premises contracts if they are concluded by the trader himself or by his agent during his on-site visit to the consumer's premises); i) *supply of sealed audio or sealed video recordings or sealed computer software, which were unsealed after delivery* [packaged tangible mediums in which digital content has been stored within the meaning of Article 15 of CPL and Article 2 (11) of Directive 2011/83/EU];⁴⁷ j) *the supply of a newspaper, periodical or magazine with the exception of subscription contracts for the supply of such publications* (the value of these products is to access their content and read rather than hold them, and newspapers in particular are products of short-term use);⁴⁸ k) *contracts concluded at public auction* [see Article 15 of CPL and Article 2 (13) of Directive 2011/83/EU for the concept of 'public auction']; l) *the provision of accommodation other than for residential purpose, transport of goods, car rental services, catering or services related to leisure activities if the contract provides for a specific date or period of performance* ('capacity bookings' relating to hotel bookings or rooms rental or general tourist accommodation or rental of holiday homes, bookings for entertainment events (e.g. concerts, cinemas, theatres, restaurants, sports events));⁴⁹

⁴⁵ See Commission notice (no 5) 69 under 5.11.7; Giovannopoulos, Eleftheriadis (no 2) Article 3l no 156; Karakostas, (no 7) Article 3-3m no 363.

⁴⁶ See Giovannopoulos, Eleftheriadis (no 2) Article 3l no 156.

⁴⁷ See Giovannopoulos, Eleftheriadis (no 2) Article 3l no 157, who states that in this case, after unsealing the packaging of tangible media after delivery, the consumer has the option of (unauthorised) copying of their digital content; so does Karakostas (no 7) Article 3-3m no 364; Karampatzos (no 4) no 349; Loos (no 4) 13 footnote 69. In this respect, it could be argued that an exception to this exception, therefore, a return to the rule of recognition of the right of withdrawal, should be justified in the case that the consumer finds that, following the unsealing of security tapes and the activation of software, the software has a functional defect that does not allow copying the digital content.

⁴⁸ See Giovannopoulos, Eleftheriadis (no 2) Article 3l no 158; Karampatzos (no 4) no 346.

⁴⁹ See Recital 49 of Directive 2011/83/EU; Commission notice (no 5) 68 under 5.11.6; Giovannopoulos, Eleftheriadis (no 2) Article 3l no 160; Karakostas (no 7) Article 3-3m no 367; see also C-336/03, *easyCar*, ECLI:EU:C:2005:150, paras 26 and 31, in particular.

m) *the supply of digital content* [i.e. data produced and supplied in digital form as referred to in Article 15 of CPL and Article 2 (11) of Directive 2011/83/EU] which is not supplied on a tangible medium (e.g. CD, DVD, Blu-ray, USB memory, HDD), if the performance has begun and, if the contract places the consumer under the obligation to pay, where: (i) the consumer has provided prior express consent to begin the performance during the right of withdrawal period; (ii) the consumer has provided acknowledgement that he thereby loses his right of withdrawal; and (iii) the trader has provided confirmation in accordance with Article 18 (2) or Article 19 (7) of CPL (see also Articles 7 (2) and 8 (7) of Directive 2011/83/EU)⁵⁰ [refers to the case where, unlike Article 27 (i) of CPL and Article 16 (i) of Directive 2011/83/EU where digital content is stored on a tangible medium, digital content is delivered online to the consumer either by downloading ('mobile apps' or software), either by streaming of an audio-visual file or by other equivalent means].⁵¹

In addition, it should be noted that where a right of withdrawal is not provided for in accordance with Article 27 of CPL (see also Article 16 of Directive 2011/83/EU), the trader must inform the consumer that he will not benefit from a right of withdrawal prior to the conclusion of the contract [Article 17 (1) (k) of CPL and Article 6 (1) (k) of Directive 2011/83/EU]. In such a case, it is not necessary to inform the consumer about the conditions and time limit for exercising the right of withdrawal, the model withdrawal form, etc., unless where the exceptional unavailability of the right of withdrawal is conditional (e.g. where the good consists of sealed software, the consumer should be informed of his right of withdrawal and of the circumstances in which he may lose his right, since whether the right applies or not depends on whether or not the consumer has unsealed the goods in question).⁵²

Finally, in accordance with Article 4 (12) (b) of Directive 2019/2161/EU, the following subparagraphs have been added to Article 16 of Directive 2011/83/EU:

⁵⁰ See Recitals 30 and 44 and also Article 4 (12) in point (a) (ii) of Directive 2019/2161/EU which replaced point (m) of Article 16 of Directive 2011/83/EU; see also Commission notice (no 5) 61-62 under 5.7.

⁵¹ See *Giovannopoulos, Eleftheriadis* (no 2) Article 31 no 161; *Karakostas* (no 7) Article 3-3m no 368; *Karampatzosi* (no 4) no 299 and no. 350; see also DG Justice Guidance document (no 5) 66, which states that expression of consent and acknowledgment by means of a pre-ticked box or accepting the general terms and conditions is not likely to satisfy the requirements of Article 16 (m) of Directive 2011/83/EU; Commission notice (no 5) 59 under 5.6.1; Case C-673/17 *Planet49* [2019] ECLI:EU:C:2019:801, para 65, concerning personal data processing.

⁵² Commission (no 5) 51-52 under 5.2.

Member States may derogate from the exceptions from the right of withdrawal set out in points (a), (b), (c) and (e) of the first paragraph for contracts concluded in the context of unsolicited visits by a trader to a consumer's home or excursions organised by a trader with the aim or effect of promoting or selling products to consumers for the purpose of protecting the legitimate interests of consumers with regard to aggressive or misleading marketing or selling practices. Such provisions shall be proportionate, non-discriminatory and justified on grounds of consumer protection⁵³. In the case of service contracts which place the consumer under an obligation to pay where the consumer has specifically requested a visit from the trader for the purpose of carrying out repairs, Member States may provide that the consumer loses the right of withdrawal after the service has been fully performed provided that the performance has begun with the consumer's prior express consent.

Legal Nature of the Consumer's Right of Withdrawal from a Distance or Off-Premises Contract

In one view,⁵⁴ the legal effects of a distance or off-premises contract do not occur before the expiry of the withdrawal period, because a condition of the contract's activation is missing, which is the non-exercise of the right of withdrawal within the prescribed time limit. In a different perspective, reference may be made to a contract subject to a condition precedent, with a contractual arrangement similar to the sale under trial. After the expiry of the period of 14 days, the activation condition – otherwise the condition precedent – of the contract is fulfilled and consequently the contract is definitively binding and fully produces its legal effects.⁵⁵

⁵³ See also Recital 55 of Directive 2019/2161/EU.

⁵⁴ See Giovannopoulos, Eleftheriadis (no 2) Article 3e no 113, who state that this position is supported convincingly, but also state the opposite view and point out that the adoption of one or the other view does not represent major differences in legal consequences; Georgiades (no 4) para 11 no 17; see also. Pantelidou(no 4) 877, 882; see also in detail Reiner (no 4)1, 4-13, 19-45 with regard to the two models of German theory [on the one hand the 'ineffectiveness model' (ineffective contract subject to a condition precedent, referred as 'Unwirksamkeitsmodell') and on the other hand the 'effectiveness model' (effective contract subject to a resolutive condition, referred as 'Wirksamkeitsmodell')] in relation to the manner of manifestation and the systematic classification of the right of withdrawal (Widerrufsrecht) and the connected cancellation of the contractual link, as well as the fact that the right of withdrawal referred to above is part of the second model and resembles the right to cancel a voidable transaction (right that also alters the legal relationship).

⁵⁵ See Giovannopoulos, Eleftheriadis (no 2) Article 3e no 115; Georgiades (no 4)para 11 no 21, 40.

From another perspective,⁵⁶ the exercise of the right of withdrawal results in the release of the consumer from the contract and the removal of the effects of the already concluded and fully valid contract (since there is no other reason impairing the validity of the contract). The exercise of the abovementioned right would subsequently break the contractual link and create a new legal situation between the parties, which would result in cancelling the mutual obligations⁵⁷ of giving and receiving.

From a third, more accurate, perspective,⁵⁸ withdrawal is not a reason for the termination of the entire contract, but a reason to cancel the main contractual obligations. In other words, withdrawal does not repeal the contract but merely modifies its content, in that the contract, which originally intended to fulfil the mutual obligations, now has as its content the reciprocal claims for the reimbursement of any benefits received under the provisions on unjust enrichment (for a reason which has ended).⁵⁹ Since the basic contractual relationship is a teleologically structured complex of several obligations (principal and ancillary) joined in a single link leading to fulfilment, it should be accepted⁶⁰ that withdrawal retroactively reverses the principal obligations already fulfilled⁶¹ and cancels the unfulfilled obligations, but does

⁵⁶ See Karakostas (no 7) Article 3-3m 323.

⁵⁷ Ibid. no 339.

⁵⁸ See Karampatzos (no 4) no 337-340 with extensive literature on both opinions, and no 351, where the author states that the exercise of withdrawal entails the cancellation of the mutual obligations of the parties to supply, the reversal of the contract (but not with full retroactive effect, since any ancillary obligations of loyalty, protection, etc. remain existing) and its conversion into a 'clearing relationship'; see also Apostolos Chelidonis, 'Article 382' in Apostolos Georgiades (ed.), *Short Interpretation of the Civil Code I (Σύντομη Ερμηνεία του Αστικού Κώδικα I)* (Articles 1-946) (Athens: P. N. Sakkoulas, 2010) 759-766 no 20 on legal withdrawal under GrCC 382 (in Greek); Stamatis Koumanis, 'Article 389', in Apostolos Georgiades (ed.), *Short Interpretation of the Civil Code I (Σύντομη Ερμηνεία του Αστικού Κώδικα I)* (Articles 1-946) (Athens: P. N. Sakkoulas, 2010) 800-805 no 11 (in Greek); Michael Stathopoulos, *Επίτομη of General Contract Law (Επιτομή Γενικού Ενοχικού Δικαίου)* (Athens - Thessaloniki: Sakkoulas Publications, 2016) para 21 V. 4. no 116 (in Greek); Panagiotis Papanikolaou, 'Article 389' in Apostolos S. Georgiades, Michael P. Stathopoulos (eds.) *Civil Code Interpretation by Article - Case law - Bibliography, Volume II, General Contract Law (Articles 287-495) [Ερμηνεία κατ' άρθρο - Νομολογία - Βιβλιογραφία, Τόμος II, Γενικό Ενοχικό (Άρθρα 287-495)]*, (Athens: P. N. Sakkoulas, 1979) 376-380 no 6 and 7 (in Greek).

⁵⁹ See Stathopoulos, (no 58) para 21 V. 4. no 113, 116 on withdrawal in the context of irregular development in bilateral contracts.

⁶⁰ See in particular Koumanis (no 58) no 11, who supports the limited retroactivity of withdrawal; see also Stathopoulos (no 58) para 21 V. 4. no 116-120; the view of the limited retroactive effect of withdrawal is also reflected in Article 12 of Directive 2011/83/EU, where 'the exercise of the right of withdrawal terminates the obligations of the contracting parties (a) to perform the distance or off-premises contract [...] in conjunction with article 13 (1) and 14 (1) of Directive 2011/83/EU.

⁶¹ See Article 25 (3) of CPL and Article 14 (3) of Directive 2011/83/EU.

not affect any ancillary obligations, in particular behavioural obligations (e.g. loyalty, protection) intended to achieve the purpose of the contract or to protect absolute rights of the person, the infringement of which may give rise to claims for compensation [see, for example, the obligation to compensate the trader under Article 25 (2) of CPL and Article 14 (2 a') of Directive 2011/83/EU, if the consumer has caused a diminished value of the goods supplied by exceeding the reasonable degree of use necessary to establish the nature, characteristics and functioning of the goods]. The exercise of the right of withdrawal entails the creation of a new contractual relationship ('clearing relationship') between the parties, which substitutes the initial contractual relationship and is based on the mutual obligation to reimburse the benefits paid. If no benefit was paid and no ancillary obligations were generated, withdrawal shall terminate the contract in total.⁶²

If the distance or off-premises contract concluded were considered to be a conditional contract (*conditio juris*), i.e. a contract subject to the condition of the expiry of the withdrawal period, it would be an incomplete contract, and there would be a risk that it would remain indefinitely incomplete, if the trader did not fulfil his/her obligation to deliver the goods (in the case of a sales contract), when the start of the withdrawal period as referred to in Article 20 (2) (b) of CPL and Article 9 (2) (b) of Directive 2011/83/EU would begin.

Moreover, if the consumer paid the agreed price within the withdrawal period, which is normally the case in a distant contract, the performance would not be sufficient to produce the legal effects of the contract and the consumer would not have any tools at his disposal to activate them, as the fulfilment could not be considered a tacit waiver of the right of withdrawal, since the waiver within the time limit laid down in Article 20 of CPL is invalid (Article 69 of CPL on the imperative nature of its provisions; see also Articles 9 and 25 of Directive 2011/83/EU). Therefore, such a result stemming from the viewing of the contract between the trader and the consumer as a conditional contract would be arduous for the consumer.

Mandatory Nature of the Regulatory Framework of Articles 20-27 of CPL

The provisions of Articles 20-27 of CPL which regulate the consumer's right of withdrawal from a contract concluded at a distance or off-premises are a set of mandatory

⁶² See Koumanis (no 58) no 13.

provisions (jus cogens), as is explicitly stated in Article 69 of CPL (see also Article 25 of Directive 2011/83/EU).

In theory, there is a view⁶³ according to which the information asymmetry in distance contracts could be more effectively addressed in relation to the recognition of a mandatory right of withdrawal universally applied, if by law the consumer was granted the mandatory option between a contract without a right of withdrawal and a contract with a right of withdrawal and an increased price respectively (a model of forced choice, i.e. compulsory provision of choice to the consumer). This would give the consumer the freedom of choice between a purchase without a right of withdrawal (final) and a purchase with the additional guarantee of the right (purchase, whose validity is subject to the condition precedent of non-exercise of the right of withdrawal) and his decision would be based on his personal attitude toward risk-taking, his knowledge and experience, and the occasional level of risk premium payable for increased protection (the cost of the option will be determined by the trader's costs of performing-clearing of withdrawals, replacing any damaged or destroyed goods returned to the trader, processing requests for withdrawal, dealing with legal disputes, and so on).⁶⁴ Thus, in the view of the above, the cost of granting the right of withdrawal would be borne only by consumers who want increased protection (trade-risk intolerant) and not by everyone, to avoid cross-subsidisation, which generally leads to economically inefficient and socially unjust (re)allocations of resources and incomes.⁶⁵

In this respect, we would observe that giving the consumer the right to choose to conclude the contract with or without a right of withdrawal would be tantamount to passing on the decision on consumer protection or not (as provided by the statutory right of withdrawal) from the legislator to the consumer, which would jeopardise the latter's interest. This is because the consumer would not achieve a global and rational balance in his interests due to failure to have adequate knowledge of the functioning market. Also, the consumer's weighing as to whether the contract in question is ad-

⁶³ See Karampatzos (no 4) no 398-406 and no 416-425 with further extensive literature; see also Horst Eidenmüller, 'The Justification of Rights of Withdrawal' ('Die Rechtfertigung von Widerrufsrechten') (2010) 210 *Archiv für die civilistische Praxis* 67-104, 67, 78-81 (in German) and in detail on information asymmetry during the conclusion of the contract as a basis for the recognition of the right of withdrawal 74-81.

⁶⁴ See Karampatzos (no 4) no 399.

⁶⁵ *Ibid.* no 401-402; see also Eidenmüller (no 63) 67, 71-72, 78.

vantageous or not would be linked to the economic incentive, i.e. the lower cost of the product (or service) in the case of the contract without the right of withdrawal.

In addition, it is a fact that the cost of withdrawal incorporated in the price of the product (or service) is borne by both trade risk-tolerant and trade risk-averse consumers, as well as consumers who are prepared to exercise the right of withdrawal; it is important, however, that all categories of consumers have equal access to a right which is simple in its exercise without requiring particular knowledge or complicated procedures and discouraging formalities.⁶⁶ The introduction of such a right, which is equally accessible and easily exercised by all consumers, makes up for the cost of withdrawal, incorporated in the price of the product. Moreover, consumers can very easily switch from the group of trade risk tolerant to the group of non-tolerant ones, depending on the number of transactions concluded, the trading experience acquired, the data, and the context of each transaction. The decision on the need for a right of withdrawal, which is always ready to be activated by each category of consumer, should also consider the cost aspect of exercising the right integrated in the price of the product (or service), however, overestimating the price factor should not result in a rejection of the real value of the right.

Moreover, the trader cannot increase the price of the product excessively by invoking the cost of withdrawal, as most likely consumers — who, in the field of distance contracts have the possibility of market research in relation to the product sold or the service provided and the selection of alternative proposals from other traders — would reject the costly choice of the trader concerned (thus there is an internal assessment of a potential unaccountable lucrative practice of specific traders).

Besides, the right of withdrawal in the case of distance contracts does not have the sole purpose of protecting the consumer because he cannot check and verify the characteristics and properties described (on the trader's website), before the delivery of the product, but it is also a factor of pressure on traders to comply with a high level of pre-contractual information and consumer service (educational impact and

⁶⁶ See also Brigitta Zöchling-Jud, 'Acquis-revision', *Common European Sales Law und Verbraucherschutzrichtlinie* (2012) 212 *Archiv für die civilistische Praxis* 550, 564-565 under IV. 2 b, who argues that the existence of the right of withdrawal may lead to a reduction in consumers' reluctance to conclude a distance contract, which also serves the trader's side, and that a possible removal of the right of withdrawal, which has been embedded in the mind of the European consumer, would have been experienced by the latter as a significant step backwards; in addition, the author states that the formulation of the right of withdrawal as *jus dispositivum*, which would allow national legal orders to rule on the question of the introduction or abolition of such a right, would contest its uniform application within the framework of the single European market.

preventive function of CPL and Directive 2011/83/EU). The trader is more likely to comply with the obligations to inform consumer before the contract is concluded and describe as precisely as possible the characteristics of the product provided (or service offered), if there is a risk of a large wave of withdrawals by his customers in the event of unreliable behaviour, i.e. poor information to the consumer.

Moreover, opportunistic abusive behaviour by the consumer (e.g. temporary acquisition of the good for short-term use and subsequent return by exercising the right of withdrawal)⁶⁷ could be prevented by the tools provided by the legislator [see Article 25 (1) and (2), as well as Article 27 of CPL; see also Article 14 (1) subparagraph c in conjunction with the second paragraph and Article 16 of Directive 2011/83/EU], that is to say, by making it possible for the consumer to bear the cost of returning the goods in the event of the exercise of the right of withdrawal, by introducing the user's liability for any diminished value of the goods resulting from the handling of the goods other than what is necessary to establish the nature, characteristics, and functioning of the goods, and by establishing the list of exceptions from the right of withdrawal, where the granting of the right would amount to undue partiality for the consumer.⁶⁸

Furthermore, in relation to off-premises concluded contracts, it is argued⁶⁹ that the mandatory right of withdrawal is fully justified in the case of door-to-door contracts, where the surprise element and psychological pressure are present and compromise the rational weighting of the advantages and disadvantages of the contract in question, but it cannot be extended to all contracts negotiated off-premises without distinction. It is therefore proposed⁷⁰ that the provision of the right should be conditional on the coexistence of a socio-formal, situationally-defined, and adequately specified disturbance of the mechanism for shaping the consumer's decision to contract, which should be of a temporary nature (an overall assessment of all the specific

⁶⁷ See Karampatzos (no 4) no 398-407 on the risk of creating systemic moral hazard for transactions due to the specific opportunistic behaviour of the consumer.

⁶⁸ See Karampatzos (no 4) no 408, which adds that, in the proposed version of the compulsory option, the burden on the consumer of the return costs in combination with the small price difference between the product with or without a right of withdrawal, would be enough to prevent the opportunistic behaviour of the consumer to acquire the good with a right of withdrawal and then, following the exercise of the right, to buy the same good without the right at a cheaper price, also no. 415.

⁶⁹ See Karampatzos (no 4) no 427-433; see also Zöchling-Jud (no 66) 550, 566 under IV. 2 b, who is skeptical about extending the right of withdrawal to all forms of off-premises contract, such as those launched by the consumer himself, where there is no risk of surprise.

⁷⁰ See Karampatzos (no 4) no 432.

parameters of the particular transaction according to the standard of a *Wilburg*⁷¹ mobile system).

In this respect, it could be observed that the legislator⁷² grants the right of withdrawal to the consumer, who deals with a trader off-premises (at home or at his workplace), as in these trading circumstances he may potentially be under psychological pressure or in surprise, even regardless of whether the consumer has requested the trader's visit or not, that is, whether the consumer is actually in a state of surprise or has been informed of such offers and has been properly prepared to make a decision on the solid ground of a more calm and rational weighing of the situation. Consumer protection is therefore important, not because, in the context of a specific transaction, he/she was actually in a position of surprise and psychological stress, but because of the risk of the transaction in question, in the sense that the trader should either be discouraged from using this off-premises contract practice or contribute on his/her own initiative to inform and prepare the consumer for a rational decision on it in the best way possible.

Moreover, if it had to be investigated in each individual case whether the consumer is actually in a situation of surprise and intense pressure and how long this state lasts (facts which are by their very nature vague and difficult to ascertain), the most likely result would be time consuming and chaotic (by successive preliminary questions to the CJEU by national courts), involving the parties in litigation in order to determine whether or not the transaction in question falls within those which need to be protected by granting the right of withdrawal, ultimately putting legal certainty and trading stability⁷³ at risk.

Of course, the list of exceptions from the right of withdrawal provided for in Article 27 of CPL (see also Article 16 of Directive 2011/83/EU) may be extended over

⁷¹ See Walter Wilburg, 'Development of a Movable System in Civil Law' (Speech given at the inauguration as Rector magnificus of the Karl-Franzens-University of Graz) ('Entwicklung eines beweglichen systems im bürgerlichen Recht', *Rede, gehalten bei der Inauguration als Rector magnificus der Karl-Franzens-Universität in Graz*) (Graz: Kienreich, 1950), 1-26 (in German).

⁷² See Recitals 21 and 37 of Directive 2011/83/EU, which refers to 'potential surprise element and/or psychological pressure'.

⁷³ See also Loos (no 4) 16-17 under 5, who, referring to the possibility of consumers abusing their right of withdrawal, concludes that, in the interests of legal certainty, a tough and speedy rule is preferable, allowing consumers to withdraw, when the conditions laid down are met, from a rule, which takes into account individual circumstances relating to the consumer concerned and leaves room for litigation on the question of whether the individual circumstances justify a limitation of the right of withdrawal in this case.

time either by adding new cases or by a broad interpretation of existing ones, as the regulatory framework for consumer protection is evolving in the context of the ever-changing transactions and is adapting to the needs of each time.⁷⁴ However, this should be done with caution and prudence and on the basis of acknowledgement of the rule of the right of withdrawal granted to distance or off-premises contracts and the trading stability, which this rule provides, and not by conversion (or the possibility of conversion) of the exception to a rule, since the purpose of introducing the right of withdrawal would remain unfulfilled and the legislative effort to develop the right would be like 'drawing water from the pithos of the Danaides'⁷⁵.

Concluding Remarks

The consumer's right of withdrawal from a distance or off-premises contract as provided for in Articles 20-27 of CPL is a concept which is interdependent with the various everyday transactions [this is also reflected in the legislative effort to improve the existing consumer protection regulatory framework by establishing Directive 2019/2161/EU in relation to rapidly evolving digital transactions (e.g. online markets, social media, search engines, comparison websites) and new forms of online contracts (for example, digital services provided in exchange for personal data)].

For the right of withdrawal to produce its legal effects, the consumer's perception is of great importance, as regards the interpretation and the application of the relevant provisions. The consumer is the most vulnerable party in the negotiation, as he/she may enter into the contract under risky conditions for his/her contractual self-determination, either due to information asymmetry between consumer and trader, as is the case with distance contracts, or due to the surprise element and/or psychological pressure, as is the case with off-premises contracts. However, the position, self-determination, interest, and need for protection of the consumer within the system, as well as the complexity of daily transactions make sense only when

⁷⁴ See also Karampatzos (no 4) no 433 on the fact that the list of exceptions in Directive 2011/83/EU cannot be regarded as restrictive, where it is objectively not possible to exhaust all those cases where the right of withdrawal is unduly favourable to the consumer [see also the example of forward contracts the actual value of which is dependent on fluctuations in the market [Article 16 (g) of Directive 2011/83/EU], where, in addition to the category of supply of alcoholic beverages, other categories of goods (or services) that can be sold under the terms of a forward contract (e.g. wheat, nuts) should be included, according to the author].

⁷⁵ According to Greek mythology, the Danaides (all but one, Hypermnestra), in punishment for having murdered their husbands on their wedding night, were condemned after their death to keep filling with water a perforated jar (pithos) to wash off their sins. Due to the leak, the jar could never be filled. The myth reflects the futility of a repetitive task that can never be completed.

assessed together with the interest of the trader, as the main issue is weighing and balancing the conflicting interests of both parties in the light of the harmonising principle of proportionality⁷⁶ with a view to legal certainty, strengthening confidence, and encouraging consumers to participate in e-commerce, stimulating the ever-expanding scope of online transactions and creating a well-functioning market.

⁷⁶ See on the principle of proportionality and the EU consumer protection objective, Articles 4 (2) (f), 5 (1) and (4), 12, 114 (3), 169 and 296 of the Consolidated version of the Treaty of the European Union and of the Treaty on the Functioning of the European Union 2016/C 202/01; see further on the principle of proportionality as a tool for weighing, balancing and harmonising equivalent, but conflicting, constitutionally established interests in the context of private law, Philippos Doris, ‘The Importance of the Principle of Proportionality on Conflicting Rights in Property Law’ (‘Η Σημασία της Αρχής της Αναλογικότητας επί Συγκρούσεως Δικαιωμάτων στο Εμπράγματο Δίκαιο’) in Michael Stathopoulos, Kostas Beys, Philippos Doris, Ioannis Karakostas (eds) *In Honour of Apostolos S. Georgiades*, Vol. I (Athens-Thessaloniki: Ant. N. Sakkoulas Publications, 2006) 249-277 (in Greek); Id., ‘The Principle of Proportionality in the Case Law of the Civil Courts’ (‘Η Αρχή της Αναλογικότητας στη Νομολογία των Πολιτικών Δικαστηρίων’) (2005) *Journal of Human Rights – Issue Out of Series III/2005* 25-39 (in Greek); Id., ‘The Principle of Proportionality in the Field of Regulation of Private Relations and in Particular in Civil Law’ (‘Η Αρχή της Αναλογικότητας στο Πεδίο Ρύθμισης των Ιδιωτικού Δικαίου Σχέσεων και Ιδιαίτερα στο Αστικό Δίκαιο’) in *Honorary Volume for the 75 years of the Council of State* (Athens-Thessaloniki: Sakkoulas Publications, 2004) 229-249 (in Greek); Evangelos Beys, ‘The Principle of Proportionality; From Public to Civil and Administrative Procedural Law and Private Law’ (‘Η Αρχή της Αναλογικότητας – από το Δημόσιο στο Αστικό και Διοικητικό Δικονομικό και Ιδιωτικό Δίκαιο–’) (1999) 30 *Diki* 467-498 (in Greek); Ioannis Sontis, *Mandatory Easements in Accordance with the Civil Code (CC 1012-1017, 1028-1031)* [Αι Αναγκαστικά Δουλείαι κατά το Δίκαιον του Αστικού Κώδικος (AK 1012-1017, 1028-1031)] (Athens: Ant. N. Sakkoulas, 1981) (in Greek); Fotios Nikolaou, *Acquisition of Ownership of a Movable by a Good Faith Transferee (Κτήση Κυριότητας Κινητού από Καλόπιστο Συναλλασσόμενο)* (Athens: Nomiki Vivliothiki, 2014) 35-41 (in Greek); Id., ‘Bona fide Acquisition of Stolen or Lost Movables Sold in a Market (CC 1039 sec. b ’) [‘Η Καλόπιστη Κτήση της Κυριότητας Κλοπιμαίων ή Απολωλότων Κινητών Εκποιηθέντων σε Αγορά (AK 1039 εδ. β ’)]’ (2014) *Civil Law & Civil Procedure Applications* 822, 823-825 (in Greek); Id., ‘The Legislative Attempt to Harmonise Conflicting Constitutional Rights in the Scope of Civil law and the Importance of the Balancing Principle of Proportionality’ (‘Η Νομοθετική Ρυθμιστική Επέμβαση επί Συγκρούσεως Συνταγματικώς Κατοχυρωμένων Δικαιωμάτων στο Πεδίο του Αστικού Δικαίου και η Σημασία της Εναρμονιστικής Αρχής της Αναλογικότητας’) in Stergios Mitas, Costas Stratilatis, Iordanis Koumasidis (eds), *Power and Law (Η Ισχύς & το Δίκαιο)* (Athens - Nicosia: Hippasus Legal Publications, 2019) 209-217 (in Greek); see also under German private law, Claus-Wilhelm Canaris, ‘Effects of Fundamental Rights and the Principle of Proportionality in the Judicial Application and Further Development of Private Law’ (‘Grundrechtswirkungen und Verhältnismäßigkeitsprinzip in der richterlichen Anwendung und Fortbildung des Privatrechts’) (1989) *Juristische Schulung*, 161-172 (in German); Johannes Hager, Protection of Transactions through Bona Fide Acquisition (*Verkehrsschutz durch redlichen Erwerb*), *Münchener Universitätsschriften: Reihe der Juristischen Fakultät*, Bd. 77, (München: Beck, 1990), Kapitel 2., para 3 Die (“Dritt-”) Wirkung der Grundrechte, insbesondere des Art. 14 GG, für bürgerlich-rechtliche Gesetze, 9-46 and in particular V., 40-46 (in German).

The information asymmetry about the functioning of the market and the risks to the consumer in the constantly evolving trader practices is balanced by the introduction of the mandatory right of withdrawal, i.e. a right exercised in a simple and uncomplicated manner and equally accessible to all consumers (whether more or less trade-risk-tolerant). The abovementioned —altering the contractual relationship— right entails a retroactive reversal of the primary obligations already fulfilled and the cancellation of unfulfilled ones, without prejudice to any ancillary obligations arising therefrom, such as behavioural obligations in particular (e.g. loyalty, protection) designed to achieve the purpose of the contract or protect absolute rights of the person, the infringement of which may give rise to claims for compensation [see, for example, the obligation to compensate the trader under Article 25 (2) of CPL].

References

- Argyros G., ‘The Right of Withdrawal of the Consumer in Common European Sales Law’ (‘Το Δικαίωμα Υπαναχώρησης του Καταναλωτή στο Κοινό Ευρωπαϊκό Δίκαιο Πωλήσεων’) (2014) 2 *Civil Law & Civil Procedure Applications* 105-114 (in Greek).
- Beys Ev., ‘The Principle of Proportionality –From Public to Civil and Administrative Procedural Law and Private Law–’ (‘Η Αρχή της Αναλογικότητας –από το Δημόσιο στο Αστικό και Διοικητικό Δικονομικό και Ιδιωτικό Δίκαιο–’) (1999) 30 *Diki* 467-498 (in Greek).
- Canaris, C-W., ‘Effects of Fundamental Rights and the Principle of pPoportionality in the Judicial Application and Further Development of Private Law’ (‘Grundrechtswirkungen und Verhältnismäßigkeitsprinzip in der richterlichen Anwendung und Fortbildung des Privatrechts’) (1989) *Juristische Schulung* 161-172 (in German).
- Chelidonis A., ‘Article 382’ in Apostolos Georgiades (ed.), *Short Interpretation of the Civil Code I* (Articles 1-946) [*Σύντομη Ερμηνεία του Αστικού Κώδικα I (Άρθρα 1-946)*] (Athens: P. N. Sakkoulas, 2010) 759-766 (in Greek).
- Commission notice, ‘Guidance on the Interpretation and Application of Directive 2011/83/EU of the European Parliament and of the Council on Consumer Rights (Text with EEA relevance) [2021] OJ C 525.
- Commission, ‘Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, Amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and

- amending Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council' (DG Justice Guidance Document)(2014).
- Doris Ph., 'The Importance of the Principle of Proportionality on Conflicting Rights in Property Law' ('Η Σημασία της Αρχής της Αναλογικότητας επί Συγκρούσεως Δικαιωμάτων στο Εμπράγματο ίκαιο') in Michael Stathopoulos, Kostas Beys, Philippos Doris, Ioannis Karakostas (eds) *In Honor of Apostolos S. Georgiades*, Vol. I (Athens-Thessaloniki: Ant. N. Sakkoulas Publications, 2006) 249-277 (in Greek).
- Doris Ph., 'The Principle of Proportionality in the Case Law of the Civil Courts' ('Η Αρχή της Αναλογικότητας στη Νομολογία των Πολιτικών Δικαστηρίων') (2005) *Journal of Human Rights – Issue Out of Series III/2005* 25-39 (in Greek).
- Doris Ph., 'The Principle of Proportionality in the Field of Regulation of Private Relations and in Particular in Civil Law' ('Η Αρχή της Αναλογικότητας στο Πεδίο Ρύθμισης των Ιδιωτικού Δικαίου Σχέσεων και Ιδιαίτερα στο Αστικό Δίκαιο') in *Honorary Volume for the 75 Years of the Council of State* (Athens-Thessaloniki: Sakkoulas Publications: 2004) 229-249 (in Greek).
- Eidenmüller H., 'The Justification of Rights of Withdrawal' ('Die Rechtfertigung von Widerrufsrechten') (2010) 210 *Archiv für die civilistische Praxis* 67-104 (in German).
- Georgiades Ap., *Manual of Special Contract Law (Εγχειρίδιο Ειδικού Ενοχικού Δικαίου)* (Athens: P. N. Sakkoulas, 2014) (in Greek).
- Giovannopoulos R., N. Eleftheriadis, 'Articles 3, 3a-3m' in Elisa Alexandridou (ed.), *Consumer Protection Law, Greek-EU, Interpretation by Article of Law 2251/1994 and Other Relevant Legislation (Δίκαιο Προστασίας Καταναλωτή, Ελληνικό-Ενωσιακό, Κατ' άρθρο ερμηνεία του Ν. 2251/1994 και Άλλων Σχετικών Νομοθετημάτων)* (3rd edn, Athens: Nomiki Vivliothiki, 2018) 167-258 (in Greek).
- Hadjinestoros E., G. Charalambous, *The Sale of Goods and Consumer Protection in Cyprus (Κυπριακό Δίκαιο Πώλησης Αγαθών και Προστασία Καταναλωτή)* (Athens: Nomiki Vivliothiki, 2016) (in Greek).
- Hager J., *Protection of Transactions through Bona Fide Acquisition (Verkehrsschutz durch redlichen Erwerb)*, Münchener Universitätschriften: Reihe der Juristischen Fakultät, Bd. 77, (München: Beck, 1990) (in German).
- Karakostas I., *Consumer Protection Law, Law 2251/1994 Interpretation - Case-law - Practical application (Δίκαιο Προστασίας Καταναλωτή Ν. 2251/1994*

Ερμηνεία - Νομολογία - Πρακτική εφαρμογή) (3rd edition, Athens: Nomiki Vivliothiki, 2016) (in Greek).

Karampatzos A., *Private Autonomy and Consumer Protection – A Contribution to Behavioural Economic Analysis of Law (Ιδιωτική Αυτονομία και Προστασία του Καταναλωτή – Μία Συμβολή στην Συμπεριφορική Οικονομική ανάλυση του Δικαίου)* (Athens: P. N. Sakkoulas, 2016) (in Greek).

Koumanis S., 'Article 389' in Georgiades Apostolos (ed.), *Short Interpretation of the Civil Code I (Articles 1-946) [Σύντομη Ερμηνεία του Αστικού Κώδικα I (Άρθρα 1-946)]* (Athens: P. N. Sakkoulas, 2010) 800-805 (in Greek).

Loos M., 'Rights of Withdrawal', *Centre for the Study of European Contract Law - Working Paper Series No. 2009/04* (2009), available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1350224 (last accessed 24 March 2022) 1-31.

Nikolaou F., *Acquisition of Ownership of a Movable by a Good Faith Transferee (Κτήση Κυριότητας Κινητού από Καλόπιστο Συναλλασσόμενο)* (Athens: Nomiki Vivliothiki, 2014) (in Greek).

Nikolaou F., 'Bona Fide Acquisition of Stolen or Lost Movables Sold in a Market (CC 1039 sec. b')' ['Η Καλόπιστη Κτήση της Κυριότητας Κλοπιμαίων ή Απολωλότων Κινητών Εκποιηθέντων σε Αγορά (ΑΚ 1039 εδ. β')'] (2014) *Civil Law & Civil Procedure Applications* 822-832 (in Greek).

Nikolaou F., 'The Legislative Attempt to Harmonise Conflicting Constitutional Rights in the Scope of Civil Law and the Importance of the Balancing Principle of Proportionality' ('Η Νομοθετική Ρυθμιστική Επέμβαση επί Συγκρούσεως Συνταγματικώς Κατοχυρωμένων Δικαιωμάτων στο Πεδίο του Αστικού Δικαίου και η Σημασία της Εναρμονιστικής Αρχής της Αναλογικότητας') in Stergios Mitas, Costas Stratilatis, Iordanis Koumasidis (eds), *Power and Law* (Athens - Nicosia: Hip-pasus Legal Publications, 2019) 209-217 (in Greek).

Pantelidou R., 'Self-Commitment and Release in Off-Premises Contracts' ('Αυτοδέσμευση και Αποδέσμευση στις Συμβάσεις που Καταρτίζονται εκτός Εμπορικού Καταστήματος') (1995) 7 *Armenopoulos* 877-883 (in Greek).

Papanikolaou P., 'Article 389' in Apostolos S. Georgiades, Michael P. Stathopoulos (eds) *Civil Code, Interpretation by Article - Case law - Bibliography, Volume II, General Contract Law (Articles 287-495) [Ερμηνεία κατ' άρθρο - Νομολογία - Βιβλιογραφία, Τόμος II, Γενικό Ενοχικό (Άρθρα 287-495)]*, Athens: P. N. Sakkoulas, 1979) 376-380 (in Greek).

- Reiner G., 'The Consumer-Protecting Right of Withdrawal in the Law of Declarations of Will' ('Der verbraucherschützende Widerruf im Recht der Willenserklärungen') (2003) 203 *Archiv für die civilistische Praxis* 1-45 (in German).
- Schärftl C., 'The Consumer-Protecting Right of Withdrawal from Off-Premises and Distant Contracts' ('Der verbraucherschützende Widerruf bei außerhalb von Geschäftsräumen geschlossenen Verträgen und Fernabsatzverträgen') (2014) 7 *Juristische Schulung* 577-583 (in German).
- Sontis I., *Mandatory Easements in Accordance with the Civil Code (CC 1012-1017, 1028-1031) [Αι Αναγκαστικά Δουλεία κατά το Δίκαιον του Αστικού Κώδικος (ΑΚ 1012-1017, 1028-1031)]* (Athens: Ant. N. Sakkoulas, 1981) (in Greek).
- Stathopoulos M., *Epitome of General Contract Law (Επιτομή Γενικού Ενοχικού Δικαίου)* (Athens - Thessaloniki: Sakkoulas Publications, 2016) (in Greek).
- Weatherill S., *EU Consumer Law and Policy* (2nd edn, Cheltenham, UK/Northampton, MA, USA: Elgar European Law, 2013) (in English).
- Wilburg W., 'Development of a Movable System in Civil Law' (Speech given at the inauguration as Rector magnificus of the Karl-Franzens-University of Graz) ('Entwicklung eines beweglichen systems im bürgerlichen Recht' *Rede, gehalten bei der Inauguration als Rector magnificus der Karl-Franzens-Universität in Graz*) (Graz: Kienreich, 1950), 1-26 (in German).
- Zöchling-Jud B., 'Acquis-revision, *Common European Sales Law* und Verbraucherrechterichtlinie' (2012) 212 *Archiv für die civilistische Praxis* 550-574 (in German).

**SPECIAL
SECTION**

**The State
and Organised
Social Groups in the
Republic of Cyprus**

**INTRO-
DUCTION
TO THE
SPECIAL
SECTION**

The State and Organised Social Groups in the Republic of Cyprus

GIORGOS CHARALAMBOUS¹

The present Special Section is the scholarly outcome of the Cyprus Review’s Spring 2021 call for papers on ‘The State and Organised Social Groups in the Republic of Cyprus’. The call was issued in response to the scarce research that exists on the political and legal aspects of Cypriot institutions and even less popular application of sociological and inter-disciplinary, conceptual and methodological tools. Thereby, the intention was to invite such perspectives and in doing so to publish articles which consider interactions between the State and organised social groups, and more broadly civil society actors (value-based or interest-based). Two main questions were articulated: How do social groups approach the State and what strategies do they craft to oppose it, utilise its structures and services, complement or influence it? What institutional response does collective action outside the State evoke by State and government institutions themselves? Given the multiple crises (the pandemic, economic meltdown and austerity, and the declining democratic legitimacy), Cyprus, like many other countries, has been through, these are timely questions with multiple conceptual and normative implications.

While we know that Cypriot democracy was severely impaired by ethnic division, semi-feudal relations, clientelism, foreign intervention and para-state activity in the 1960s and 1970s, developments thereafter when a monoethnic State took hold with features of party system stability and voter loyalty are much less explored as far as State-society dialectics is concerned. In addition, we know little about Greek Cypriot State-society relations also in the sense that both the State and civil society –the two sides of the political relation under study– may have been potentially changing by facing external pressures or influences, declining political trust and a more fragmented party system. Have recent developments evoked an evolving response by the State to organised pressures and influences from society?

As a stepping-stone towards addressing this gap, the three papers that appear in this special section investigate the input of social and economic forces operating outside of formal institutions and how these shape output-democracy, the real

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flesh and blood of democratic politics as it is situated in its local, historical and contemporary context. According to a number of studies, collective action from without the State has received at best a bureaucratic and suspicious responsiveness by government institutions. In the first article, Epaminondas qualifies this view by tracing how the relationship between the State and the Cyprus Family Planning Association (CFPA) has evolved. In a country where family is sacred as a social unit and given a civil society actor with near-universal and humanist appeal in its aims, the relationship has been smooth, as detailed and accounted for by Epaminondas. Yet, the State's entrenched and hegemonic conservatism contrasted and confronted the association's more liberal profile, most evident in the latter's campaign for the introduction of sexuality education in schools. It took a favourable opportunity structure, contingent on various parameters of politics, the author explains, to render the State accommodating to the particular demand.

Panayiotou takes on the period of 'neoliberal assault', a crisis-ridden series of developments that Cyprus was to witness at a later stage compared to the rest of southern Europe, and through the particularity of the financial bail-in. The author looks into the linkages between the cartel-like banking sector, on the one hand, and the State and government on the other, between the early and late 2010s. Situating his approach historically, the author contextualises state-capital interaction with respect to the nature and level of socio-economic development in Cyprus as embedded in the global system of international political economy. What emerges is how political conflict is directly intertwined with economic interest and vision with alternating heads of State bringing about differentiated linkages between the polity and capital. This is also an article about how mass communication intercepts power struggle. Linkage and input can have very negative consequences when driven by profit-seeking oligopolists, Panayiotou shows. Doesn't this make parties more, not less valuable as an intermediate structure between citizens and the State, one might ask? Such is a question to build upon.

The third article by Kyriakides, Christias and Hindle analyses comparatively the pathologies and gaps in the process of Cypriot public consultations. In Cyprus, there is not an established, common practice for public consultations, prompting the authors to pursue and suggest elements from the UK's public consultation system and the EU's framework of public governance for increasing 'input-legitimacy'. Kyriakides et al provide us with both a thorough and detailed portrait of current deficiencies and a two-pronged way, examining how their suggestions respond to the

present state of affairs in Cyprus. From this rich empirical account, one can deduce virtues and manifestations of deliberative democracy, so that input is enriched not only in quantity, but also in diversity so as to reflect as broadly as possible, and thus strive to aggregate, sectional and value conflicts among the population.

Certainly, this short special section provides through reason and empirical illustration only some indication of the academic challenges ahead for understanding (and trying to better) Cypriot democracy, focusing in particular on a relational perspective, on interaction between State structures and social organisations. In doing so, it provides a three-fold articulation of how democracy works in the Republic of Cyprus in terms of its distinct but inter-connecting constituent principles. What stands out in total is more about deficiencies and entrenched ignorance to progressive reform than any strength in capacity or democracy. However, dialectical effects are there, in so far counter-hegemonic, forward-looking and resistive agency can also be observed across and between the lines of the three contributions. Above all, the articles altogether bear out that although State-civil society relations do not always have a linearly progressive effect on government, they are nevertheless always a key ground for understanding policy outcomes. Whether the interaction is between State, parties and the financial sector, between public bureaucratic structures and civic associations, between citizens at large and the government, or about the media taking side in a conflict, it can illuminate how allied or segmented power networks shape public life, how ideas and interests are contested, and how administrative modes and overarching cultural norms infuse politics. Hopefully, elaboration in these directions will continue to inform future Cyprological research.

The Cyprus Family Planning Association and the Cyprus State: A Review of a 50-Year-Old Relationship (1971-2021)

EPAMINONDAS EPAMINONDA¹

Abstract

This paper analyses the relationship between the Cyprus State and the Cyprus Family Planning Association (CFPA) for all the CFPA's existence in Cyprus (1971 to date). By reviewing relevant documents and interviewing people in the CFPA and the State, it argues that even though aspects of the relationship have changed through the years, it had never been confrontational; on the contrary, there was collaboration on a number of issues, in particular in providing services and information to various social groups, including workers in the government. One contentious issue was the introduction of sexuality education in schools, which was being discussed for several years. The CFPA used a variety of lobbying strategies, and despite a positive occasional response, the topic was not introduced in schools until 2012 when a variety of factors, such as government determination for educational reform, key people, and social attitudes, all contributed to its eventual introduction.

Keywords: Cyprus State, Cyprus Family Planning Association, relationship, sexuality education, lobbying

Introduction

As institutional actors that function within states, organized social groups (OSGs) often need the support, assistance, or at least acceptance of the State to achieve their objectives. A positive attitude on the part of the State, which could include supporting OSGs financially, providing technical assistance or allowing them to work towards their aim unhindered, can have a positive effect on OSGs functioning. The role of the State is especially important in countries where the State has traditionally played a central role in public affairs.

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The kind of relations that develop between the State and OSGs evolve and vary of course between societies and historical periods. On the one hand, an OSG may use various strategies when approaching the State and on the other hand the State may respond in different ways across societies and time periods. These interactions may be of interest to social scientists as they can shed light on the different ways that social actors and state structures interact.

This paper analyses the relationship between the Cyprus Family Planning Association (CFPA) and its relationship with the Cyprus State in the 50 years the organization has been operating in Cyprus (1971 until today). The analysis aims to uncover the ways through which these two entities interacted, the strategies they used and each other's responses as well as the outcomes of their interactions. By doing this, it adds to the discussion encouraged by this special session about the ways in which organised social groups approach the State in Cyprus.

The paper is organized as follows. First, a literature review section outlines key theories and observations relating to the interactions between states and organised social groups. Then, a methodology section explains how information relating to the research aim was collected. After that, a findings and discussion section presents the main findings along with some comments about them. A final concluding section brings the main findings together and concludes the discussion.

Literature Review

State and OSGs

The State is the principal unit for exercising public authority in defined territories in modern times. It is also the central structure in international relations. The State consists of:

- (a) institutions or rules which regulate political, social and economic engagement across a territory and determine how public authority is obtained and used (e.g., constitutions, laws, customs).
- (b) organizations at the national and the sub-national level which operate within those rules (e.g., the executive, legislature, judiciary, bureaucracy, ministries, army, tax authorities).²

OSGs or civil society organizations (CSOs) on the other hand include 'pressure groups, non-governmental organisations, charities, religious groups and other pri-

² Department for International Development, *Building Peaceful States and Societies* (2010), available at <http://gsdrc.org/docs/open/con75.pdf> (last accessed, 25 July 2021), 12

vate non-profit distributing, organisational actors that are neither business nor government institutions, and which are involved in the promotion of societal interests, causes and/or goals.³ In other words, civil society, plays two important societal roles: service delivery, mainly via private, non-profit organizations in sectors like education and health care; and expression, via organizations that are active in civic advocacy or stand up for a cause (like human rights or the environment), or that play a representative role (like unions or consumer organizations).⁴

Changes in state functioning and CSOs

One important change in relation to state functioning in the last few decades is what many analysts have called ‘new public management (NPM)’^{5 6}. This was an attempt by the state to become more ‘business-like’. Its main aim was the improvement of the three ‘E’s’ of public services: its economy, efficiency and effectiveness^{7 8} and it emphasized the centrality of citizens who were the recipient of the services or customers to the public sector.⁹ The core techniques in the NPM-discourse are ‘contracting out, decentralizing, granting greater discretion to managers, increasing citizen or customer choices, deregulating, organizing so that there is competition, and determining effectiveness according to outcome measurement’.¹⁰

In relation to CSOs, a first major change is their number, which has been growing in the last few decades. In the time since the last couple of decades of the 20th century, a period called ‘postmodernity’,¹¹ ‘liquid’ modernity,¹² ‘reflexive’ modernisation¹³,

³ Crane, A. Matten, D. (2010) *Business Ethics*, 3rd ed, Oxford: Oxford University Press, 441

⁴ Anheier, H. (2014) *Nonprofit Organizations. Theory, Management, Policy*, New York: Routledge, 82-83

⁵ Hood, C. (1991), ‘A Public Management for All Seasons?’, *Public Administration*, 69(1), 3–19

⁶ Metcalfe, L., Richards, S. (1990), *Improving Public Management*, SAGE

⁷ Eliassen, K. A., Sitter, N. (2008) *Understanding Public Management*, Los Angeles, CA: SAGE Publications

⁸ Fattore, G., Dubois, H. & Lapenta, A. (2012), ‘Measuring New Public Management and Governance in Political Debate’, *Public Administration Review*, 77(2), 218–227. <http://doi.org/10.1111/j.1540-6210.2011.02497.x>

⁹ Juneja, P. (2021) *New Public Management Model*, available at <https://www.managementstudy-guide.com/new-public-management.htm> (last accessed 23 December 2021)

¹⁰ Frederickson, H. G., Smith, K. B., Larimer, C. W., Licari, M. J. (2012), *The Public Administration Theory Primer (2nd ed)*, Boulder, CO: Westview Press. p.128

¹¹ Lyotard, J.F. (2010), *The Postmodern Condition: A Report on Knowledge*, (G. Bennington & B. Massumi, Trans.) (Reprint), Minneapolis, Minn: Univ. of Minnesota Press

¹² Bauman, Z. (2000), *Liquid Modernity* (Reprinted 2006), Cambridge: Polity Press

¹³ Beck, U., Giddens, A., Lash, S. (1994), *Reflexive Modernization: Politics, Tradition and Aesthetics in the Modern Social Order*, Stanford, Calif: Stanford Univ. Press

‘risk’- society¹⁴, or ‘network society’¹⁵, traditional structures have become less fluid and individuals have more choice to build their own path. In this context, ideological, religious or cultural identification has become more varied and new movements are being initiated. This characteristic of societies, in addition to the more reflexive nature of states¹⁶ has changed the relationship between the state and CSOs. Essentially, decision making in different areas is often the result of power struggles and debate between different stakeholders, including CSOs.

The role of CSOs in different societies

In general, input from civil society creates added value to the policy planning and implementation process, enhancing the legitimacy, quality, understanding and longer-term applicability of the policy initiative¹⁷. CSOs contributions for policy development and implementation include¹⁸:

- (i) **Campaigning and advocating:** CSOs raise issues, concerns and needs for a specific issue, point of view or a general public interest that is not yet covered by legislation or other policy documents.
- (ii) **Information and awareness building:** they share new findings and knowledge gathered by CSOs with authorities, act as channels for reaching citizens, and signalling new trends.
- (iii) **Expertise and advice:** CSOs provide insights, experience and understanding resulting from their wide range of activities, from user involvement to service provision.
- (iv) **Innovation:** they develop new solutions and approaches, demonstrating how these can be functional and supported by a wide opinion-base in the public.

¹⁴ Beck, U. (1992) *Risk Society: Towards a New Modernity*, (M. Ritter, Trans.), London: SAGE Publications

¹⁵ Castells, M. (2010). *The Rise of the Network Society: The Information Age: Economy, Society, and Culture*, John Wiley & Sons

¹⁶ Esmark, A. (2009), ‘The Functional Differentiation of Governance: Public Governance Beyond Hierarchy, Market and Networks’, *Public Administration*, 87(2), 351–370, <http://doi.org/10.1111/j.1467-9299.2009.01759.x>

¹⁷ Pompidou Group, Council of Europe (2015), *Government Interaction with Civil Society. Policy paper on government interaction with civil society on drug policy issues: Principles, Ways and Means, Opportunities and Challenges*, available at <https://rm.coe.int/government-interaction-with-civil-society-policy-paper-on-government-i/168075b9d9> (last accessed, 9 Oct 2021), 7.

¹⁸ Ibid.

(v) Service and resource provision: CSOs are engaged in service provision and they can be in the position to contribute resources to collaborative activities with public authorities.

(vi) Monitoring and evaluation: CSOs follow up and document policy implementation, in particular quality standards and best practice.

(vii) Networking: CSOs provide extensive contacts, platforms and other mechanisms for co-operation on local, national and international level.

It must be noted here though that the role civil society has played in different societies differs considerably between countries.^{19 20} As a number of authors have pointed out, both ‘external’ factors such as the political context and ‘internal’ factors such as CSOs expertise, networks and mobilisation capacity influence CSOs influence on public policy.^{21 22} For instance, in countries like Germany, The Netherlands or Belgium, civil society has played a more prominent role^{23 24} compared to, say, Eastern Europe^{25 26} where CSOs in these post-communist countries still suffer from limited citizen participation and a lack of financial resources and operate in an environment affected by widespread mistrust in institutions and fellow citizens.²⁷ A similar situation may be observed in China, even though as Greenwood (2004) argues CSOs there exercise ingenuity in increasing their role.²⁸

¹⁹ Salamon L. M., Sokolowski S. W., List R. (2003), *Global Civil Society*, Bloomfield: Kumarian Press

²⁰ Smith S. R. and Grönbjerg K. (2006), Scope and Theory of Government–nonprofit Relations, in Powell, W. Steinberg, R. (eds), *The Nonprofit Sector – A Research Handbook*, (2nd edn). New Haven, CT: Yale University Press, 221–242

²¹ MacDonald, T. (1997), *Supporting Civil Society: the Political Role of Non-Governmental Organizations in Central America*, Basingstoke: Macmillan

²² Lewis, D. (1999), *International Perspectives on Voluntary Action: Reshaping the Third Sector*, London: Earthscan

²³ Dekker P. (2004), The Netherlands: From Private Initiatives to Non-profit Hybrids and Back? in Evers, A., Laville, J. (eds), *The Third Sector in Europe*, Cheltenham: Edward Elgar, 144–165

²⁴ Zimmer, A. (1999), *Corporatism Revisited. The Legacy of History and the German Non-profit-Sector*, *Voluntas* 10(1): 37–49

²⁵ Jenei, G., Kuti, E. (2007), The Third Sector and Civil Society, in Osborne S (ed.) *Third Sector in Europe: Prospects and Challenges*, London: Routledge, 9–25

²⁶ Wijkström, F., Zimmer, A. (eds) (2011), *Nordic Civil Society at the Crossroads: Transforming the Popular Movement Tradition*, Baden-Baden: Nomos

²⁷ Fioramonti, L., Heinrich, V. F. (2007), *How Civil Society Influences Policy: A Comparative Analysis of the CIVICUS Civil Society Index in Post-Communist Europe*, CIVICUS – World Alliance for Citizen Participation, <https://www.civicus.org/view/media/CIVICUS.ODL.Fioramonti.Heinrich.pdf>

²⁸ Greenwood B. (2004), ‘Survival Strategies for Civil Society Organizations in China’, *The International Journal of Not-for-Profit Law*, 6(2)

In some countries CSOs have been rather active in interacting with government on important social issues, such as the delivery of social services (e.g., Czech Republic and [North] Macedonia), the protection of children (e.g., Romania) and the protection of women (e.g., [North] Macedonia), and the opposition to torture and unlawful detention (e.g., Georgia). However, when it comes to monitoring government and holding the State accountable on broader policy issues, the overall watchdog and advocacy capacity of CSOs appears rather low in all countries mentioned above.²⁹

How do social groups approach the State?

Two of the main strategies social groups use to approach the State are advocacy and lobbying. The main difference between advocacy and lobbying is that advocacy involves taking various types of actions to bring change, while lobbying involves attempts to influence the decisions, actions, or policies of legislators or members of regulatory agencies.³⁰ In other words, lobbying is a form of advocacy, but not all advocacy is lobbying.

Lobbying strategies refer to how groups try to exercise influence in the political sphere.³¹ The most common differentiation is between inside and outside strategies. As the above authors (p. 502) explain: ‘Inside strategies imply close consultation with decisionmakers³² as groups aim to gain access or make direct contact with policymakers.^{33 34} In terms of specific tactics, this can entail private meetings or contact with policymakers or civil servants, attending events organised by policy makers, or participation in advisory groups. Outside strategies, on the other hand, aim to attract attention to the issue, either by changing public opinion through media-oriented

²⁹ Fioramonti and Heinrich (n 27)

³⁰ Hasa, *What is the Difference Between Advocacy and Lobbying* (2021), available at: <https://pediaa.com/what-is-the-difference-between-advocacy-and-lobbying/> (last accessed, 13 December 2021)

³¹ Colli, F., Adriaensen, J. (2020), ‘Lobbying the State or the Market? A framework to Study Civil Society Organizations’ Strategic Behavior’, *Regulation & Governance*, 14: 501-513 <https://doi.org/10.1111/rego.12227>

³² Beyers, J. (2004), ‘Voice and Access: Political Practices of European Interest Associations’, *European Union Politics*, 5, 211–240

³³ Chalmers, A. W. (2012), ‘Trading Information for Access: Informational Lobbying Strategies and Interest Group Access to the European Union’, *Journal of European Public Policy*, 20, 39–58

³⁴ Dür, A, Mateo, G. (2013), ‘Gaining Access or Going Public? Interest Group Strategies in Five European Countries’, *European Journal of Political Research* 52, 660–686

strategies or through direct mobilization of the public.^{35 36} Common tactics are advertising in public media, issuing press releases, protesting, including conducting strikes and demonstrations, initiating (online) public debates and petitions, and organizing press conferences³⁷. These strategies are presented in Table 1.

Table 1. Inside and outside lobbying strategies

Inside	Outside
Private meetings or contact with policymakers or civil servants	Letter/email campaigns to politicians
Attending events organized by policymakers	Initiating (online) public debates and petitions
Participation in advisory groups	Providing citizens with information about government regulations
	Advertising in public media
	Organizing press conferences
	Issuing press releases
	Protesting, including conducting strikes and demonstrations

Adapted from Colli, and Adriaensen (2020)

Some related comments relating to the above observations include the following: First, studies of CSO strategies recognize that groups’ choices among strategies are ‘not binary, but one of combining tactics so as to maximise the chances of success, given limited resources’.³⁸ Second, many NGOs form coalitions in order to pool resources and work more efficiently.³⁹ Third, a major reason for CSOs’ hesitations to engage governments on delicate matters is their desire to obtain public funding. This often prevents them from taking a critical stance towards public authorities.⁴⁰

To increase the chances of lobbying success a few ideas have been put forward. First, it is helpful if an NGO has access to sufficient funds. Since, as it has been not-

³⁵ Kollman, K. (1998), *Outside Lobbying: Public Opinion and Interest Group Strategies*, Princeton University Press, Princeton, NJ

³⁶ Binderkrantz, A. (2005), ‘Interest Group Strategies: Navigating Between Privileged Access and Strategies of Pressure’, *Political Studies* 53, 694–715.

³⁷ Dür, A, Mateo, G. (2010), ‘Irish Associations and Lobbying on EU Legislation: Resources, Access Points, and Strategies’, *Irish Political Studies* 25, 107–122.

³⁸ Dellmuth, L. M., Tallberg J. (2017) ‘Advocacy Strategies in Global Governance: Inside versus Outside Lobbying’, *Political Studies*, 65(3): 705-723, 708, doi:10.1177/0032321716684356

³⁹ Gray, V., Lowery, D. (1996), ‘A Niche Theory of Interest Representation’, *The Journal of Politics* 58, 91–111.

⁴⁰ Fioramonti and Heinrich (n 33)

ed by Fioramonti and Heinrich (2007), this is sometimes challenging to do, partly because of the declining foreign donor commitment due to the accession of some countries to the EU and low levels of citizen participation, these authors suggest that CSOs could strive to broaden their membership, work on a stronger relationship with the State and between CSOs and the strengthen dialogue and interaction with the private sector.⁴¹ Another idea that can help is the use of informal contacts since, as has been noted by Burt (1992), they play a prominent role and provide CSOs with more concrete avenues to impact on public policy than institutionalised channels.⁴² Also, as Mahoney (2007) noted, whether a focusing event occurred on an issue can also play a role in the likelihood of lobbying success.⁴³ Finally, as Smith et al (2013) point out, Family Planning advocates need to map out their audiences and tailor the messaging, formats, and forums to the audience.⁴⁴

Relationships between the State and CSOs

State-civil society relations are ‘interactions between state institutions and societal groups to negotiate how public authority is exercised and how it can be influenced by people’ and are ‘focused on issues such as defining the mutual rights and obligations of state and society, negotiating how public resources should be allocated and establishing different modes of representation and accountability’.⁴⁵ The State sometimes views NGOs with suspicion or even hostility.⁴⁶ One main reason for this is that some NGOs are engaged in conflictual issues⁴⁷. For example, it is more likely that NGOs’ and government actions are closely linked in areas such as human rights, civil rights, the elderly, women’s issues, and the environment.⁴⁸

⁴¹ Fioramonti and Heinrich (n 33)

⁴² Burt, R. S. (1992), *Structural Holes: The Social Structure of Competition*, Cambridge, MA: Harvard University Press.

⁴³ Mahoney, C. (2007), ‘Lobbying Success in the United States and the European Union’, *Journal of Public Policy*, 27(1), 35-56, doi:10.1017/S0143814X07000608

⁴⁴ Smith, E., Godbole, R., Musila, R., Murunga, V., Zulu, E. (2013), *Evidence for Family Planning Advocacy, An Assessment of Decisionmakers’ and Advocates’ Needs and Strategies in East Africa*. Washington, DC: Futures Group, Health Policy Project.

⁴⁵ Department for International Development, Building Peaceful States and Societies (2010), available at <http://gsdrc.org/docs/open/con75.pdf> (last accessed, 25 July 2021), 15

⁴⁶ Brinkerhoff Derick W. (1999), Exploring State–Civil Society Collaboration: Policy Partnerships in Developing Countries, *Nonprofit and Voluntary Sector Quarterly* 28(4):59-86, doi:10.1177/089976499773746438

⁴⁷ Mahoney (n 42)

⁴⁸ Mahoney, C., Baumgartner, F. (2008), ‘Converging Perspectives on Interest Group Research in Europe and America’, *West European Politics*, 31:6, 1253-1273, doi: 10.1080/0140238080237268

A typology often used to describe relationships between government and non-governmental organizations is a model developed by Coston (1998). The model and typology describe these relationships on an 8-point continuum considering government's resistance or acceptance of institutional pluralism, the relative balance of power in the relationship, and the degree of formality and the level of government linkage. The eight types of relationships and their main characteristics are presented in Table 2.

Table 2. Types of relationships between the State and NGOs

Type of relationship	Summary of Key features
Repression	No NGO linkage with government, government policy highly unfavourable (probably outlawing NGO)
Rivalry	Probably sluggish provision of supportive services, government policy unfavourable
Competition	Government policy unfavourable to neutral, NGO seen as unwanted critics and competitors for power
Contracting	Government policy contingent with NGO, division of labour based on competitive advantage
Third party government	Government policy contingent with NGO, greater diversity of services than contracting
Cooperation	Increasing NGO influence, Information sharing
Complementarity	Moderate to high linkage with government, NGO autonomy, resource sharing, potential NGO participation in planning and policy, technical financial and geographic complementarity
Collaboration	High linkage with government, government policy favourable, joint action, NGO participation in planning, policy and implementation, relationship: partnership, mutual strategy and coproduction

Adjusted from Coston (1998)

These relations can take different forms depending on the role of the State in different societies^{49 50} and the societal group.^{51 52} In Bulgaria, for example CSO representatives can take part in various forums, including district councils for regional development; however these forums have a very restricted composition and an almost

⁴⁹ Brinkerhoff (n 44)

⁵⁰ Fisher J. (1993), *The Road from Rio: Sustainable Development in the Non-governmental Movement in the Third World*, Westport CT Praeger publishers

⁵¹ Frishtak, L. (1994), *Governance Capacity and Economic Reform in Developing Countries*, Washington DC: World Bank technical of paper No. 254

⁵² Rothchild D. (1994), 'Structuring State Society Relations in Africa to Work in Enabling Political Environment' in Widner, J. (ed) *Economic Change in Political Liberalisation in Sub-Saharan Africa*, Baltimore John Hopkins University press, 201-227

non-existent influence on policy.⁵³ In China, CSOs consider their relations with relevant government authorities relatively positive, characterized by cooperation rather than friction.⁵⁴

It has also been noted that in many cases the government does not provide reasons why certain NGOs are subsidised and others are not. Often, there are no clear rules regarding application procedures and selection criteria.⁵⁵ This lack of transparency often causes mistrust between the state and NGOs and influences negatively their relationships since trust is important in state-civil society partnerships.^{56 57}

Methods

A combination of methods was used for collecting data and information for this paper. Initially, a review of key documents of the CFPA were studied. These included policy papers, historical documents and annual reviews. Annual reviews were particularly useful as they provided information about the activities of the organization each year and this provided an overview of aims, policies and actions.

Then, interviews were conducted with key people in the organization and state institutions. From the part of the Association, interviews were conducted with the two people who were leading the organization, one from 1979 until 2009 and the other from 2009 until today. Two interviews were also conducted with individuals working in the Ministry of Education, Culture, Sport and Youth. As it will be argued in the following section, the interaction of the CFPA with the State took primarily the form of interacting with different ministries, out of which the Ministry of Education, Culture, Sport and Youth was a prominent one because of the central role that the introduction of sexuality education in schools had all these years in the aims of the Organization. For this reason, the Ministry of Education, Culture, Sport and Youth was chosen. One of the participants has experience on relations between state structures and CSOs and the other experience on the relationship between the Ministry and the CFPA.

⁵³ Fioramonti and Heinrich (n 27)

⁵⁴ Greenwood B. (2004), 'Survival Strategies for Civil Society Organizations in China', *The International Journal of Not-for-Profit Law*, 6 (2)

⁵⁵ Fioramonti and Heinrich (n 27)

⁵⁶ Fowler, A. (1997) *Striking a Balance: A Guide to Enhancing the Effectiveness of Non-governmental Organisations in International Development*, London: Earthscan

⁵⁷ Lewis, D. (2000), 'Building "active" partnership in aid-recipient countries: lessons from a rural development project in Bangladesh' in Osborne, S. P. (Org.), *Public-private Partnerships: Theory and Practice in International Perspective*, London: Routledge, 252-264

Finally, the personal experience of the author also informed some of the analysis. The author has been member of the CFPA for 25 years and member of the Board for eight years, two as president. This provided a wealth of experience in relation to the actions of the organization but also the response of State institutions. In particular, the author was President of the Board at a time when the decision about sexuality education introduction in schools was taken and had a number of meetings especially with officers of the Ministry of Education, Culture, Sport and Youth, including the minister himself. This gave him the opportunity to experience first-hand communication and actual responses from state officials.

Findings

A review of the history of the CFPA and its relationship with the State

The Cyprus Family Planning Association was founded in 1971, 19 years after Margaret Sanger, the American birth control activist and sex educator who opened the first birth control clinic in the United States and established organizations that evolved into the Planned Parenthood Federation of America, visited Cyprus in 1952 and had meetings with a number of prominent Cypriots from the fields of Health, Education, Psychology and Sociology. The time gap between the visit and the founding of the Association probably shows the mentality of society at the time (even though political developments may also have played a role).

Even though at the time the CFPA was founded Cyprus was a conservative society and issues relating to sexual and reproductive rights were not openly discussed, the Association was generally positively received by wider society. Many women welcomed it as it provided information about contraception and clinical services at very low prices; parents' associations because it offered seminars that informed children about sexuality; and, to some extent, even the government because it probably had seen that it could play a role that complemented government services.

During the first years of its operation, Cyprus was included in the Middle East and North Africa (MENA) Region of the International Planned Parenthood Federation (IPPF), which meant significant funding for the Association by the IPPF. In the first few years of its operation, it could afford five members of permanent staff and relatively easy funding for its operations, which included providing information sessions for parents and children, giving lectures in schools and specific groups, e.g., rural women, and providing clinical services. The funding of the organization changed drastically when it was moved to the European network region when funding was

significantly decreased and the Association had to look for other sources of income from the beginning of the 80s. This was done mainly in two ways. First, more government funding was sought; second, applications for funding specific programs were submitted to various organizations. After entry of the Cyprus in the EU in 2004, this included various EU funded projects.

In the years 1971-1974 the Association was bicomunal. There were both Greek and Turkish Cypriots on its Board and the Association addressed the needs of both communities on the island. This changed with the war of 1974 which separated the two communities. The association continued its functioning in the areas controlled by the Republic of Cyprus. The Board consisted of Greek Cypriots and the Association addressed primarily the needs of the Greek Cypriot community.

In the period that followed the war a priority of the Association was addressing some of its effects such as assisting women who had been raped during the war. During this time the law regarding abortion was changed in Cyprus and became somewhat more liberal. Whereas before the war abortion was illegal, it was now allowed in specific cases. Members of the association also visited refugee settlements for information sessions on family planning.

In 1979, a national survey showed that parents and educators were in favour of the introduction of sexuality education in schools, a long-standing aim of the CFPA. The request was not materialized however due to reluctance of the political establishment for an educational change of such scale and reaction mainly by the Church. Despite this, however, the Association was very active in providing informational, educational and clinical services to a number of different social groups and parts of the government that belonged to various ministries. These included:

- Ministry of Health: information on contraception to young mothers at hospitals and mothers to be, seminars to student nurses
- Ministry of Justice: Information sessions on family planning to members of the police (police cadets)
- Ministry of Labour, Welfare and Social Insurance: Lectures to children on social welfare, provision of clinical services to women under the care of the Ministry, member of the committee on Population Policies
- Ministry of Agriculture: Lectures to female peasants (rural women)
- Ministry of Education: Lectures in public schools in cooperation with specific teachers, private schools in cooperation with the school authorities. Seminars for teachers at the Pedagogical Institute and other parts of Cyprus

- Planning Bureaux: Actively participated in the reform of NGOs, took part in overseas development aid (ODA) programs

At the same time, seminars with international speakers were organized and individuals or groups from different ministries took part.

Relationship with the Ministry of Education, Culture, Sport and Youth, was, as described by one of the interviewees ‘a love and hate’ relationship. On the one hand, in (almost) every meeting with new ministers of Education – the Association had a policy of meeting every new minister of Education – there were positive comments about the work of the Association and about the possibility of introducing sexuality education in schools; however, in most cases – except the period 2010-11 when sexuality education was indeed introduced – they remained, to a large extent, empty promises.

A representative of the Association—typically the Executive Director—has been participating in meetings of the parliamentary committees of Human Rights, Health and Education for many years. The Association has also been on the Advisory Committee on the Prevention and Combating of Domestic Violence and the National AIDS Committee. It has also fostered a close relationship with the Commissioner of Children’s rights. One strategy that has been employed in recent years is that of a collaboration with other organizations. It was mentioned for example that in the advocacy efforts to change the abortion law, a close collaboration was formed with organizations such as Mediterranean institute of gender studies and the Cyprus women’s lobby. Working with partners is a strategy used extensively by the respective Swedish Family Planning Association, RFSU, with success.⁵⁸

Lobbying strategies and actions of the CFPA

This section attempts to summarise the lobbying strategies and actions of the CFPA for policy development and implementation. Table 3 presents some comments about the lobbying strategies used by the CFPA. As it may be seen in the table, all inside strategies and some outside strategies have been used quite extensively. This is in line with international data that show that 70% of NGOs at the UN use at least one inside and one outside strategy commonly or very commonly.⁵⁹ Regarding inside strategies, private meetings or contact with policymakers or civil servants have been very common throughout the Association’s existence, the Association attended events organ-

⁵⁸ IPPF (n.d.), *Riksförbundet för Sexuell Upplysning – Sweden*, available at: <https://www.ippf.org/about-us/member-associations/sweden> (last accessed, 25 July 2022).

⁵⁹ Dellmuth and Tallberg (n 37).

ised by policymakers frequently and consulted the State on various occasions, in particular in relation to sexual and reproductive health and rights.

Regarding outside lobbying strategies, issuing press releases, traditional media and more recently social media are being used extensively. Letters/email campaigns to politicians, initiating (online) public debates and petitions, and providing citizens with information about government regulations have been used less frequently while advertising in public media had been used even less frequently (and that during the first years of the organization’s existence when funding was more plentiful). ‘Protesting, including conducting strikes and demonstrations’ was, in general, not used. Only in the last few years the Association has taken part in activities initiated by other organizations (e.g., as members of the women’s lobby or taking part in Pride parade).

Table 3. Lobbying strategies used by the CFPA

Strategies	Comments
<i>Inside</i>	
Private meetings or contact with policymakers or civil servants	Very common strategy throughout the life of the association
Attending events organized by policymakers	Frequently
Consulting the state	Yes, in particular in relation to sexual and reproductive rights and sexuality education
<i>Outside</i>	
Letter/email campaigns to politicians	Yes, on some occasions. For example, a questionnaire is sent to Cypriot candidates for the European Parliament
Initiating (online) public debates and petitions	Occasionally, for example on sexuality education or abortion
Providing citizens with information about government regulations	Sometimes, for example on a new government law about sexual rights
Advertising in public media	Not often (it occurred primarily when there were available funds mostly in the first few years of the organization’s life)
Organizing press conferences	Occasionally, usually to present research data, launch a program or an awareness campaign

Issuing press releases	Frequently, e.g., for a position on a current issue relating to sexual and reproductive health
Traditional media	Frequently. In general, good relationships exist with TV and radio stations and CFPA representatives are invited often to comment. Also, interviews/articles in newspapers appear quite often.
Social media	Very frequently (once or twice a week) on Facebook and Instagram. Postings include campaign videos, interviews, debates.
Protesting, including conducting strikes and demonstrations	In general, not used. Only occasionally in the last few years in collaboration with other organizations (e.g., as members of the women’s lobby or taking part in Pride parade).

Table 4 summarises CFPA’s actions for policy development and implementation. As may be seen from the table, all actions for policy development and implementation have been used by the CFPA to a significant extent. ‘Networking’, ‘campaigning and advocating’, and ‘information and awareness building’ have been extensively used while ‘expertise and advice’ have been utilised in areas of the Association’s expertise such as AIDS awareness campaigns and sexual and reproductive health more generally. Information and awareness building was also used with success in other cases, such as in Indonesia when an increase in the budget for Family Planning was sought.⁶⁰ ‘Innovation’ has also been utilised across the association’s life. To a large extent because of the sensitivity of the topics of the Association’s specialty, innovative ways of talking about them have always been sought. An example here is the adoption of games, role plays, outdoors events etc. that have been used to reach especially young audiences. The use of games and role plays are used frequently in discussion of sexuality with young people (for example in Canada ⁶¹). ‘Service and resource provision’ was used in the first four decades of the Association’s functioning (until 2011) through the provision of clinical services and resource provision occasionally throughout its life. ‘Monitoring and evaluation’ is generally done (used more comprehensively in funded projects and applied more formally in the last two decades when formal strategic plans are more in place).

⁶⁰ Family Planning 2020 (n.d.), *Advocating for change*, 2012-2013 FP2020 Progress Report, available at: <http://2013-2014progress.familyplanning2020.org/advocating-for-change> (last accessed 25 March 2022).

⁶¹ Alberta Health Services (n.d.), *Instructional Methods*, available at: <https://teachingsexualhealth.ca/teachers/sexual-health-education/understanding-your-role/get-prepared/instructional-methods/> (last accessed 25 March 2022).

Table 4. CFPAs actions for policy development and implementation

(i) Campaigning and advocating: CSOs raise issues, concerns and needs for a specific issue, point of view or a general public interest that is not yet covered by legislation or other policy documents.	Yes, used very frequently in particular in relation to sexuality education and sexual and reproductive rights.
(ii) Information and awareness building: they share new findings and knowledge gathered by CSOs with authorities, act as channels for reaching citizens, and signalling new trends.	Yes, a lot. Through traditional media (articles in newspapers and magazines, discussions on television and radio), and by reaching out to the public through lectures, seminars, printed information and recently social media.
(iii) Expertise and advice: CSOs provide insights, experience and understanding resulting from their wide range of activities, from user involvement to service provision.	Yes. For example, very active in AIDS awareness campaigns.
(iv) Innovation: they develop new solutions and approaches, demonstrating how these can be functional and supported by a wide opinion-base in the public.	Yes. For example, innovative ways to talk about sexuality in youth campaigns, activities on special days (for example Valentine's Day), awareness raising in malls, streets.
(v) Service and resource provision: CSOs are engaged in service provision and they can be in the position to contribute resources to collaborative activities with public authorities.	Health services provision for the first four decades of the organization's life. Resource provision (for example information leaflets or condoms) takes place occasionally.
(vi) Monitoring and evaluation: CSOs follow up and document policy implementation, in particular quality standards and best practice.	Generally, it is being used (more so for projects that are funded and in the last couple of decades when more formal strategic plans are in place)
(vii) Networking: CSOs provide extensive contacts, platforms and other mechanisms for co-operation on local, national and international level.	Definitely, both at local level with other NGOs with similar goals, for example organizations for children's or young people's rights and internationally primarily with the International Planned Parenthood Federation.

State Response

The interviews with the participants working for the government revealed interesting findings relating to the way in which the State views NGOs and deals with their requests or proposals. Initially, a comment was made by the first interviewee that higher hierarchy is generally more reserved towards NGOs for three main reasons.

First, there are sometimes concerns about NGOs' agendas. Government agencies/representatives may be worried that an NGO's aims may go against government policy or be suspicious that an NGO's aims may be presented in a more appealing way and then, when applied, certain policies may not be in line with the Government's or a Ministry's objectives. Second, there could be reactions from other social groups or stakeholders who may have opposing views, and if an NGO's ideas are accepted other groups may react. This reason for state officials' reluctance to accept proposals of family planning groups has also been noted other cases, for example, those of Ethiopia, Kenya, and Malawi, where some elected officials feared that doing so could decrease their public support.⁶² Third, there could be concerns about an NGO's quality. The NGO's aims in other words may be seen as broadly in agreement with the government's policies, but state officials may be concerned that the NGO may not be able to deliver to the appropriate standard what it aims to do.

The second comment made by the first participant was that there is more diversity in lower ranks of state officials. Government workers vary in the opinions they hold about different NGOs and, depending on the position and the freedom to choose collaborators, they may choose to collaborate more closely with some NGOs. In addition, it was noted that, not only lower ranked officials had some freedom to decide on policy issues but they could also influence higher ranking officials to change somewhat their approach towards some NGOs. For example, in the period before the introduction of sexuality education in schools a number of workers in the Ministry of Education, Culture, Youth and Sport had been volunteers of the CFPA and their experience in the Association and their values may have influenced both the attitude of the Ministry towards the Association and the inclusion of material—at least supportive cases, exercises etc—in the curriculum. Overall, lower ranked officials seem to play a noteworthy role in how the State apparatus behaves towards NGOs. This observation has also been made in other countries, for example, in the case of Uganda where it was noted that advocacy at the lower levels of government was a critical factor in the establishment of the National Population Council.⁶³

Another factor that contributes to diversity in the Ministry of Education, Culture, Sport and Youth was the Cyprus Pedagogical institute. The Institute's mission is to 'ensure the continuous training of teachers of all levels, to inform them about current trends in education, to document research and theory of the educational policy to

⁶² Smith et al (n 43)

⁶³ Family Planning (n 60).

be followed and to facilitate teachers in their efforts for professional and personal development'.⁶⁴ Since the Educational Reform in June 2008, the Centre for Educational Research and Evaluation (KEEA) was established and a Scientific Council was appointed which has the mission to advise the Ministry of Education, Culture, Sport and Youth on issues related to the continuous professional development of teachers, research and more generally on issues that fall within the responsibilities of the Pedagogical Institute. This has added to the autonomy of the Pedagogical Institute and made the collaboration with NGOs such as the CFPA easier. The Institute has had more flexibility to offer training on issues related to sexuality education, especially when these trainings are not compulsory (therefore not appearing as officially required training by the Ministry). When sexuality education was formally introduced in schools, members of the CFPA were called to provide training to teachers on related topics.

Another significant point that was made by the first of the interviewees from the Ministry of Education, Culture, Sport and Youth was that pressure from the EU was an important factor that has been influencing the Ministry's response to NGOs in general and the CFPA in particular. It was mentioned for example that suggestions by the EU for consultation with key stakeholders was a factor that decreased the Ministry's tendency not to consult with stakeholders when making decisions and probably considering their positions more carefully.

A final comment that was made by the interviewees in the Ministry of Education, Culture, Sport and Youth was that two other factors that influence positively the chances of an NGO having an impact on government policy are political influence and technical knowledge. The first factor contributes to the voice of the NGO be heard more clearly in the political arena and, depending on the strength of the political support, to get its aims transformed into policy. The second factor increases the power of the NGO, and if the expertise it has is of value to the government, the State might utilise it. A related comment made by the second of the interviewees is that the ministry should examine the academic and educational knowledge of an NGO before it decides to collaborate. The fact that an NGO deals with a subject does not necessarily mean that the proposed projects are based on evidence based practices.

⁶⁴ Cyprus Pedagogical Institute General Information, available at: https://www.pi.ac.cy/pi/index.php?option=com_content&view=article&id=329&Itemid=161&lang=en (last accessed 24 December 2021)

In addition to the above, it must also be noted that the Minister himself/herself plays an important role in how the Ministry views a specific NGO. In the case of the CFPA, for example, there was a marked difference in how the Ministry of Education, Culture, Sport and Youth dealt with the issue of introducing sexuality education in schools and the CFPA itself when Andreas Demetriou, became a minister of Education and Culture in 2008. His determination to push forward the reform was probably the main factor in its introduction in the curriculum and his positive attitude towards suggestions and material produced by the Association influenced the content of the curriculum.

CFPA – State relations in Cyprus

Having in mind the above analyses, and acknowledging the difficulty in arriving in a clear-cut description of the relationship between the State and the CFPA, some summary comments are presented in Table 5 and discussed briefly below. As may be seen from the table, ‘repression’ was probably never the type of relationship between the State in Cyprus and CFPA. The government was not at any point highly unfavourable or considered outlawing the NGO. Characteristics of ‘Rivalry’ and ‘Competition’ were probably present in the 80’s when the attitude of the government was rather unfavourable and the Association was seen as antagonistic, in particular in relation to the introduction of sexuality education in schools. Characteristics of ‘Contracting’, ‘Third party government’ and ‘Cooperation’ seem to have existed in projects such as contraception seminars to women at the early stages of the Association’s life or AIDS awareness campaigns, where the government utilized the Association’s expertise on the topics and cooperated through information sharing. Finally, it may be argued that elements of the last two relationships existed in the case of designing and delivering the sexuality education programs in schools where the CFPA was consulted on several occasions and many of the materials produced were the result of resource sharing, with the CFPA having participation in planning and implementation. The relationship can thus be described as partnership with mutual strategy and coproduction.

Table 5. Types of relationships between the State and CFPA

Type of relationship	Key features	Comments
Repression	No NGO linkage with government, government policy highly unfavourable (probably outlawing NGO)	Did not happen

Rivalry	Probably sluggish provision of supportive services, government policy unfavourable	Probably during the 80's
Competition	Government policy unfavourable to neutral, NGO seen as unwanted critics and competitors for power	
Contracting	Government policy contingent with NGO, division of labour based on competitive advantage	On projects such as AIDS awareness campaigns or contraception seminars to women
Third party government	Government policy contingent with NGO, greater diversity of services than contracting	
Cooperation	Increasing NGO influence, Information sharing	
Complementarity	Moderate to high linkage with government, NGO autonomy, resource sharing, potential NGO participation in planning and policy, technical financial and geographic complementarity	In relation to sexuality education in the last decade
Collaboration	High linkage with government, government policy favourable, joint action, NGO participation in planning, policy and implementation, relationship: partnership, mutual strategy and coproduction	

Conclusions

This research sought to study the relationship between the State and the Cyprus Family Planning Association in Cyprus during its time of operation. It looked at the ways through which the Association approached the State, how the State responded and what the overall relationship between them entailed. In relation to the first topic, the CFPA used a variety of lobbying strategies to approach the State. The most common ones were private meetings or contact with policymakers or civil servants, attending events organised by policymakers and consulting the State, in particular in relation to sexual and reproductive health and rights. It also used traditional media such as magazines, newspapers, TV and radio to present and advance its positions, issued press releases and, more recently, has been using social media quite extensively. The extensive use of inside strategies is in agreement with Dellmuth and Tallberg, (2017) who argued that NGOs primarily seeking political influence have more incentives to rely more extensively on inside strategies.⁶⁵

⁶⁵ Dellmuth and Tallberg (n 37)

CFPAs actions for policy development and implementation have included networking with other NGOs with similar goals; campaigning and advocating primarily in relation to sexuality education and sexual and reproductive rights; providing information and raising awareness through traditional media (articles in newspapers and magazines, discussions on television and radio), and by reaching out to the public through lectures, seminars, printed information and recently social media. It has also provided expertise and advice, for example in AIDS awareness campaigns; provided clinical services and resources; and used innovative methods in talk for example about sexuality to youth.

In relation to the response of the State a few main points have been made. First, higher hierarchy is generally more reserved towards NGOs because of concerns about their agenda, reactions from other social groups or stakeholders who may have opposing views, and an NGO's quality. There is more diversity in lower ranks of state officials however, and they have some flexibility to divert somewhat from the official policy on some, probably more minor issues, and also influence higher ranked officials. The importance of the EU has also been noted. EU priorities and encouragement for citizen participation and consulting do influence the way the State views NGOs, by giving them more voice or at least a forum to be heard. To get their agenda adopted though factors such as political influence, technical knowledge play a role.

Overall, the relationship between the State and the CFPA has not been negative. Even though not always positive, there have been several phases of cooperation, even collaboration. The State recognised the Association's expertise in the areas of sexual and reproductive health rights and has been open to utilise them in a number of occasions, in particular in offering the Association the opportunity to provide training to various sections of the government in different ministries. In the case of sexuality education, the relationship has been more complicated. There was reluctance for its introduction in schools for various reasons and the Association had to use various forms of lobbying to achieve it. In the end, factors such as curriculum reform, individual decisions and probably societal change influenced the outcome. Looking at the relationship between the CFPA and the State as a whole, it may be argued that it has had some characteristics of the relationship in Eastern Europe, where there is limited citizen participation and a lack of financial resources and an environment affected by

widespread mistrust in institutions,⁶⁶ but also in Western Europe where it played a more important role and influenced public policy.⁶⁷

Overall, it seems that historical inertia in government policy makes the government relatively inflexible in introducing new policies and NGOs need to work hard to achieve meaningful change. Having said this though, factors in the State, for example changes in government policy or people in key posts, in NGOs, such as a consistent lobbying strategy, changes in societies values and external factors such as the EU make change more feasible. But for its achievement, a multitude of factors interplay and its timing cannot be predicted.

References

- Alberta Health Services (n.d.), *Instructional Methods*, available at: <https://teachingsexualhealth.ca/teachers/sexual-health-education/understanding-your-role/get-prepared/instructional-methods/> (last accessed 25 March 2022).
- Anheier, H. (2005), *Nonprofit Organizations. Theory, Management, Policy*, New York: Routledge
- Bauman, Z. (2000), *Liquid Modernity (Reprinted 2006)*, Cambridge: Polity Press
- Beck, U. (1992), *Risk Society: Towards a New Modernity* (M. Ritter, Trans.), London: SAGE Publications
- Beck, U., Giddens, A., Lash, S. (1994), *Reflexive Modernization: Politics, Tradition and Aesthetics in the Modern Social Order*, Stanford, Calif: Stanford Univ. Press
- Beyers, J. (2004), 'Voice and Access: Political Practices of European Interest Associations' *European Union Politics* 5, 211–240
- Beyond Hierarchy, Market and Networks', *Public Administration*, 87(2), 351–370. doi: <http://doi.org/10.1111/j.1467-9299.2009.01759.x>
- Binderkrantz, A. (2005), 'Interest Group Strategies: Navigating Between Privileged Access and Strategies of Pressure' *Political Studies*, 53, 694–715
- Brinkerhoff Derick W. (1999), Exploring State–Civil Society Collaboration: Policy Partnerships in Developing Countries, *Nonprofit and Voluntary Sector Quarterly* 28(4):59-86. DOI:10.1177/089976499773746438
- Burt, R. S. (1992), *Structural Holes: The Social Structure of Competition*, Cambridge, MA: Harvard University Press

⁶⁶ Fioramonti and Heinrich (n 26)

⁶⁷ Dekker (n 22), Zimmer (n 23)

- Castells, M. (2010), *The Rise of the Network Society: The Information Age: Economy, Society, and Culture*, John Wiley & Sons
- Chalmers, A. W. (2012), 'Trading Information for Access: Informational Lobbying Strategies and Interest Group Access to the European Union', *Journal of European Public Policy* 20, 39–58.
- Colli, F., Adriaensen, J. (2020), Lobbying the State or the Market? A framework to Study Civil Society Organizations' Strategic Behavior, *Regulation & Governance*, 14: 501-513, doi: <https://doi.org/10.1111/rego.12227>
- Coston, J. M. (1998), 'A model and typology of government-NGO relationships' *Non-profit and Voluntary Sector Quarterly*, 27(3), 358–382.
- Dekker, P. (2004), 'The Netherlands: From private initiatives to non-profit hybrids and back?' in Evers, A., Laville, J. (eds) *The Third Sector in Europe*, Cheltenham: Edward Elgar, 144–165.
- Dellmuth, L. M., Tallberg, J. (2017), 'Advocacy Strategies in Global Governance: Inside versus Outside Lobbying' *Political Studies* 65(3): 705-723, 708. doi: 10.1177/0032321716684356
- Dür, A., Mateo, G. (2010), 'Irish Associations and Lobbying on EU Legislation: Resources, Access Points, and Strategies', *Irish Political Studies* 25, 107–122.
- Dür, A., Mateo, G. (2013), 'Gaining Access or Going Public? Interest Group Strategies in Five European Countries', *European Journal of Political Research* 52, 660–686.
- Eliassen, K. A., Sitter, N. (2008) *Understanding Public Management*, Los Angeles, CA: SAGE Publications
- Esmark, A. (2009), 'The Functional Differentiation of Governance: Public Governance Family Planning 2020 (n.d.), *Advocating for change*, 2012-2013 FP2020 Progress Report, available at: <http://2013-2014progress.familyplanning2020.org/advocating-for-change> (last accessed 25 March 2022).
- Fattore, G., Dubois, H., Lapenta, A. (2012), 'Measuring New Public Management and Governance in Political Debate', *Public Administration Review*, 77(2), 218–227, doi: <http://doi.org/10.1111/j.1540-6210.2011.02497.x>
- Fioramonti, L., Heinrich, V. F. (2007), *How Civil Society Influences Policy: A Comparative Analysis of the CIVICUS Civil Society Index in Post-Communist Europe*. CIVICUS – World Alliance for Citizen Participation. <https://www.civicus.org/view/media/CIVICUS.ODI.Fioramonti.Heinrich.pdf>

- Fisher, J. (1993), *The Road from Rio: Sustainable Development in the Non-governmental Movement in the Third World*, Westport CT Praeger publishers
- Fowler, A. (1997), *Striking a Balance: A Guide to Enhancing the Effectiveness of Non-Governmental Organisations in International Development*, London: Earthscan
- Frishtak, L. (1994), *Governance Capacity and Economic Reform in Developing Countries*, Washington DC: World Bank technical of paper No. 254
- Greenwood B. (2004), 'Survival Strategies for Civil Society Organizations in China', *The International Journal of Not-for-Profit Law*, 6 (2)
- Hood, C. (1991), 'A Public Management for All Seasons?', *Public Administration*, 69(1), 3–19
- IPPF (n.d.), *Riksförbundet för Sexuell Upplysning – Sweden*, available at: <https://www.ippf.org/about-us/member-associations/sweden> (last accessed, 25 July 2022).
- Jenei, G., Kuti, E. (2007), The Third Sector and Civil Society, in Osborne, S. (ed.) *Third Sector in Europe: Prospects and Challenges*, London: Routledge, 9–25
- Kollman, K. (1998), *Outside Lobbying: Public Opinion and Interest Group Strategies*, Princeton University Press, Princeton, NJ
- Lewis, D. (1999), *International Perspectives on Voluntary Action: Reshaping the Third Sector*, London: Earthscan
- Lewis, D. (2000), 'Building "Active" Partnership in Aid-recipient Countries: Lessons from a Rural Development Project in Bangladesh' in Osborne, S. P. (Org.) *Public-private Partnerships: Theory and Practice in International Perspective*, London: Routledge, 252-264
- Lyotard, J. F. (2010), *The Postmodern Condition: A Report on Knowledge*. (G. Bennington & B. Massumi, Trans.) (Reprint), Minneapolis, Minn: Univ. of Minnesota Press
- MacDonald, T. (1997), *Supporting Civil Society: The Political Role of Non-Governmental Organizations in Central America*, Basingstoke: Macmillan.
- Mahoney C. Baumgartner, F. (2008), 'Converging Perspectives on Interest Group Research in Europe and America', *West European Politics*, 31:6, 1253-1273, doi: 10.1080/01402380802372688

- Mahoney, C. (2007), 'Lobbying Success in the United States and the European Union', *Journal of Public Policy*, 27(1), 35-56, doi:10.1017/S0143814X07000608
- Metcalf, L., Richards, S. (1990), *Improving Public Management*, SAGE
- Michalowicz, I. (2004), *EU Lobbying – Principals, Agents and Targets: Strategic Interest Intermediation in EU-policy-making*, Munster: Lit Verlag.
- Pompidou Group, Council of Europe (2015), *Government Interaction with Civil Society. Policy paper on government interaction with civil society on drug policy issues: Principles, Ways and Means, Opportunities and Challenges*, available at <https://rm.coe.int/government-interaction-with-civil-society-policy-paper-on-government-i/168075b9d9> (last accessed, 9 Oct 2021), 7.
- Rothchild D. (1994), 'Structuring State Society Relations in Africa to Work in Enabling Political Environment' in Widner, J. (ed) *Economic Change in Political Liberalisation in Sub-Saharan Africa*, Baltimore John Hopkins University press, 201-227
- Salamon, L. M., Sokolowski, S. W., List, R. (2003), *Global Civil Society*, Bloomfield: Kumarian Press.
- Smith, E., Godbole, R., Musila, R., Murunga, V., Zulu, E. (2013), *Evidence for Family Planning Advocacy, An Assessment of Decisionmakers' and Advocates' Needs and Strategies in East Africa*. Washington, DC: Futures Group, Health Policy Project.
- Smith S. R. and Grönbjerg K. (2006), Scope and Theory of Government–nonprofit Relations, in Powell, W. Steinberg, R. (eds), *The Nonprofit Sector – A Research Handbook*, (2nd edn). New Haven, CT: Yale University Press, 221–242
- Wijkström, F., Zimmer, A. (2011), *Nordic Civil Society at the Crossroads: Transforming the Popular Movement Tradition*, Baden-Baden: Nomos.
- Zimmer, A. (1999), 'Corporatism revisited. The legacy of history and the German non-profit-Sector', *Voluntas* 10(1): 37–49.

The Relation Between Business Interests and the State during the Period 2010 -2020: State and Social Agents in the Period of Neoliberal Assault

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Abstract

This paper examines the relation between the political elites and business interests in Cyprus, and how the elites attempted to enhance their position during the period 2010-2020. The methodology is social-historical. Its empirical data are drawn from the major political and economic events during the period under review and are contextualised in broader systemic trends, such as the global banking crisis and the ambiguous, borderline status of the island. The banking mechanism (as a representative of finance capital) and its relation to other forms of capital (developers/construction industry, law firms and large accounting firms related to foreign capital and the ‘golden passports’ scheme as it turned out, and media owners) will be the focus in analysing business interests.

Introduction: The Socio-Historical Context

The decade of 2010-2020 was a novel period in the politics of the Republic of Cyprus.² For the first time since independence in 1960, State power was administered by a political party, DISI³ (Democratic Rally/*Dimokratikos Sinayermos*), whose leadership proposed a ‘modernization’ which included the adoption of neoliberal economic policies, i.e. de-regulation, privatisation, and a focus on free markets. The following analysis will attempt to evaluate the success or failure of this effort.

To move on with this evaluation, we need to comprehend the, until then, existing forms of macroeconomic management. In this context, this essay relies on previous historical analysis by the author, who codified the Cypriot model of the welfare State as a form of class compromise, which emerged after the bitter class conflicts of the period 1920-50. These conflicts were a reaction to a form of proletarianisation due to

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² Implying primarily the Greek Cypriot (G/C) political landscape given the de facto separation of the two communities pending a reunification solution.

³ DISI, albeit with a different leadership, had ruled also in the period 1993-2003 but, as noted below, with a much less neoliberal focus.

the impact of international economic trends on the local network of money-lending.⁴ That class compromise was based on the model of the British effort at regulating class relations and became even more entrenched after independence, and after the crisis of 1974,⁵ in both communities. The first attempt to challenge this class compromise came in the 1990s, when the right-wing DISI came to power for the first time since its establishment in 1976. But despite some timid rhetoric on the issue, nothing substantial was initiated. The major economic novelty of the period was the promotion of the stock market as a form of ‘popular capitalism’ in 1999. This popular capitalism (in which key players of the ruling party were involved) transpired to be nothing more than a scam. It was essentially a mechanism for the transfer of money from ordinary citizens, who were lured to invest, to a small group who evidently knew when to invest and when to sell.⁶ Another tentative move to a more free market economy was the ‘liberalisation’ of airplane companies, which, again, came to be associated with disaster after a plane belonging to a new Cypriot airline company, Helios, crashed in Greece in 2005 with 125 victims.

Two other ‘liberalisations’, however, which actually started in the period prior to DISI’s rise to power, were less controversial at the time, but were to prove very significant for what was to follow: banking became less introvert and progressively developed into a major vehicle for international money flows. At the same time, State control of electronic communication was relaxed and private radio and TV stations proliferated. Radio remained, to a degree, decentralised, but TV stations very soon became a powerful tool of the Right since the owners were people of money who belonged to or had interests with the Right, especially DISI, or the Centre if viewed in the context of the Cyprus Problem.

⁴ Andreas Panayiotou, ‘Business Group Strategies vis-a-vis Political Power: Invisible Dimensions of Linkage’ in G. Charalambous, C. Christophorou (eds), *Party – Society Relations in the Republic of Cyprus. Political and Societal Strategies* (London: Routledge) 93-110.

⁵ For the effort to construct a separate but still State-regulated economy, in the Turkish Cypriot community, see Nikos Moudouros *State of Exception in the Mediterranean. Turkey and the Turkish Cypriot Community* (Switzerland: Palgrave Macmillan - Springer, 2021).

⁶ Christiana Argridou-Demetriou, Pani Karamanou Pani, Lena Petousi-Kleanthous, Application of Monetary Policy in Cyprus, 6.3.1. The Liberalization of the Financial Sector, 1996-1999, 6.3.2. The Cyprus Stockmarket Crisis in 2000 (Εφαρμογή της Νομισματικής Πολιτικής στην Κύπρο, Η ελευθεροποίηση του Χρηματοοικονομικού Τομέα 1996-1999, Η Κρίση του Χρηματιστηρίου Αξιών Κύπρου το 2000) in Athanasios Orfanides Yioryos Sirihias (eds), *The Cypriot Economy* (Κυπριακή Οικονομία) (Nicosia, Central Bank of Cyprus, 2012) 211-221 (in Greek).

The situation in the decade under review was, however, dramatically different. In 2008, the Left party, AKEL (Uplifting party of working people/*Anorthotiko Komma Eryazomenou Laou*) managed to elect its leader, Demetris Christofias, as president of the Republic. Until then, given the ambiguous status of the island,⁷ the leftist party preferred to support centrist politicians in power to avoid, or even resist, the Right, and especially the extreme Right wing which sought cover in DISI after the fiasco of 1974 when it joined a coup organised by the Greek military government, which in turn led to the Turkish invasion and de facto occupation of Northern Cyprus. The leftist leader created a coalition government with the centrist DIKO Party (Democratic Party/*Dimokratiko Komma*) and the small Socialist/Social Democratic party, EDEK (Unified Democratic party of the Centre/*Eniea Dimokratiki Enosi Kentrou*), which, however, withdrew from the government due to the compromising attitude of the president in relation to the talks on resolving the Cyprus Problem. The problem that the Left would soon face, however, was that the banking sector had expanded, especially after the Republic of Cyprus joined the EU in 2004, and the administration of economic policy was put under European surveillance due to the island joining the euro area in January 2008. Thus, the economic agenda of the Left would soon be under very close scrutiny both locally and at the European level. In that context, the Right with a new leadership had moved further to more explicitly neoliberal positions.⁸ At the same time, with the global economic crisis which originated in the USA

⁷ Indicatively, the Guarantor powers of the 1960 constitution had agreed among themselves that the leftist-communist party should be made illegal. The then president though, archbishop Makarios, refused to carry forward the pledge.

⁸ A shift to neoliberal positions occurred in part of the leadership of the centrist ally of the Left, DIKO. This party, and its historical leaders, were associated with the construction of the welfare State with the support of the Left (Peonides, 1995). In class terms, DIKO represented a section of the bourgeoisie (the other being represented by DISI). Its positions had been fluid. In the period prior to the 2010s (when the party was in alliance with the Left who helped elect DIKO's leader as president, in 2003-08) the party allied itself with Social Democracy in the European parliament and tried to mediate the confrontation between the Left and the Right locally. After its withdrawal from the government in 2011, it moved to a de facto alliance with DISI and then moved again to opposition, after 2018. Panicos Peonides, Andreas Ziartides, *Without Fear or Passion* (Χωρίς Φόβο και Πάθος) Pathos (Nicosia, 1995) (in Greek).

The causes of the role of DIKO and a section of the bourgeoisie towards more moderate positions was attributed by a historical figure of leftist trade unionism, to a 'more progressive' section of this class, after the conflicts of the 1940s. And to people from the Left who moved to the middle and upper class. See Ziartides, who, in the context of the emergence of the 'leftist employer/business man' referred to ex-workers/employees who had influential positions in the main business association, namely OEB (Employers and Industrialists Federation). See Panicos Peonides, Andreas Ziartides *Horis Fovo ke Pathos* (Nicosia, 1995) (in Greek).

in 2007, and the EU policy of ordoliberalism —the German-inspired version of neoliberalism which advocated State austerity as an answer to the spreading crisis— the time of neoliberalism seemed to have come for Cyprus.

The Assault: The Banking Crisis, Mari and the Rise of DISI to Power

The leftist government enjoyed relative popularity during its first two years of government. But the efforts of the president to move on with a solution of the Cyprus Problem started creating cracks in the coalition and reactions from the rejectionists of the Centre. Economic policy in this sense wasn't a major issue on the agenda until the beginning of 2011. During the parliamentary elections of May 2011, the Centre Left coalition had a rather impressive result reaching 48.43% of the vote, (32.67% with 19 parliamentary seats for the leftist party, AKEL, and 15.76% with nine parliamentary seats for its centrist ally, DIKO) while it was obvious that on internal policy the government could rely on the socialist party, EDEK (8.9% with five parliamentary seats), which had withdrawn from the government. In contrast, the right-wing DISI received 34.28% (and 20 parliamentary seats) and the extreme nationalist party, EVROKO, received 5.8% (with three parliamentary seats).

However, clouds were forming. The global economic crisis had spread to Greece where the EU imposed a memorandum of understanding which created a political storm, eventually leading to a crisis for the, until then, dominant socialist party, PASOK. Cyprus, in comparison, seemed relatively stable. It had a mild recession and seemed to be returning to growth. But it was becoming increasingly obvious in the spring of 2011 that the banking sector was in serious trouble, while the head of the Central Bank had allied himself clearly with the right-wing opposition in criticising the government, claiming that its economic policies were not pursuing the austerity needed, as the bankers' lobby also supported. There was in this sense a marked disagreement on economic policy, even though the finance minister of the government was in fact an ex-banker and his policies could be described as mild-Keynesianism.

On another note, Michalis Attalides raised the issue of the failure of the Greek Cypriot bourgeoisie to promote independence from which they benefitted vis-à-vis the option of annexation to Greece. It would seem in that case that business interests were served by the intervening State, and thus the Centrist, politically, section of it, relied on the State also for its interests. See Michalis Attalides, 'Factors Which Shaped Society' in *Cypriot Life and Society: Before the Independence and until 1984* (Κυπριακή Ζωή και Κοινωνία. Από Πριν την Ανεξαρτησία και Μέχρι το 1984) (Nicosia: Ekdosi Dimou Lefkosias, 1993) (in Greek).

As an independent factor of local business interests, one must also refer to the Church, which, in the period under discussion had a staunchly anti-Left archbishop.

But the underlying conflict which accompanied the political spectacle, which followed, had to do with the banking sector.

The underlying conflict suddenly came to the fore in July of the same year. While the government, from a position of power following the elections, invited the opposition for talks on the economy, an explosion at a military camp, in Mari, led to the death of 13 people (sailors, fire-workers, and officers). This put the government on the defensive. An impressive unanimity emerged in most of the press and TV stations, blaming the government and focusing specifically on the president. It is indeed hard to understand this looking at it from a distance and from a historical perspective. The documented information which emerged from the military camp, and which was subsequently documented by all investigations, was the following: the cause of the explosion was some containers confiscated (under pressure from the USA) by the government of Cyprus in 2009 as suspicious military material, which was destined for Lebanon-Syria. The government did not wish to keep the containers, but due to western (USA and UK) insistence via the UN, the government reluctantly agreed, despite their suggestions to hand over the confiscated containers to the UN (either in Lebanon or Malta). Subsequently, the story ran as a series of repeated failures by the military, including the local military camp, to protect the explosive materials (even, at the very least, to construct a cover over the containers, despite money allocated for it). Eventually, by February 2011, the involved ministries (defence and foreign affairs) decided to get rid of the material and assigned the army to investigate which parts should be sold and which should be destroyed. Despite clear signs of deterioration, and possible explosions, again the military did nothing. To make things worse, the local military authorities removed the guard for the containers. It was therefore possible that material was stolen.⁹

When in early July, the material in the containers showed signs of minor explosions, the local authorities continued to avoid taking any action, despite warnings from the fire department which visited the site. On the morning of 11 July, when the material was supposed to be removed,¹⁰ after instructions from the ministry, the explosion took place in the most unlikely of times, early morning before dawn, if one is

⁹ In his biographical account, Costas Papacostas, 2016, the then minister of defence, noted that there was an extreme right-wing group in the military camp which was about to be disbanded by transferring its members to other camps exactly on the day of the explosion. Whether this was a conspiracy or not, is an open, not investigated practically issue. (Kostas Papakostas, , *Wind-Battered Course (Ανεμοδαρμένη Πορεία)* (Nicosia: Fyllis, 2016) (in Greek).

¹⁰ Ibid.

to assume that the cause was summer heat. But even with the explosion taking place, nobody would have been hurt if the military rules of ordering the personnel to keep a safe distance had been observed. On the contrary, the military commander ordered a group of soldiers/sailors¹¹ to try to put out the fire with water hoses spraying the vegetation around the containers, which was supposed to have been already cut, per the advice/instructions of the fire department. Sadly, the military commander also ordered a group of firefighters to do the same, despite their documented reluctance. None of them survived.

On the basis of the above, the one-dimensional attack on the president of the Republic could be understood as an effort by the opposition to attack the government. But the unanimity of the media and obvious cases of misinformation and manipulation seemed overwhelming. Newspapers spanning the spectrum from neoliberal (*Politis* – which previously supported the government on the Cyprus Issue) to nationalists/rejectionist (*Simerini*) launched an attack based on blatant lies. For example, *Politis* claimed on its front page that the containers were put there by presidential order. But there were also two, not so hidden, subtexts: both neoliberal and nationalist media, and political blocs attacked the president for his friendly relations with the Arab countries (for example, Syria), which were not friendly with the West and Israel, and were also demanding, via the right-wing dominated media, emergency economic measures. Those measures demanded were uniformly directed towards the EU: in another strange occurrence, the opposition and the media seemed to want a memorandum which had created so much reaction in Greece and Spain. Ironically, the crowd mobilised by the Right outside the presidential palace were called “*ayanaktismeni*” (the indignant) after similar mobilisations in Greece and Spain, even though they were, in effect, allies of those who wanted a memorandum against which the original *Indignados* were protesting.

The discourse of the neoliberal Right was indeed mixing the two subtexts (geopolitical and economic) to avoid the responsibility of the banks: thus, via the right-wing controlled media, there were efforts to present the banking crisis as a public-sector crisis, i.e. the crisis was the result of high public-sector spending. Mari was presented in this context as ‘a major economic catastrophe’. Given this transfer of focus from the real causes of the crisis to a media spectacle about Mari, the ‘solution’, it was argued, must be a bailout similar to the one imposed on Greece. This was certainly

¹¹ The camp was a navy camp.

what the banking sector and other business group interests wanted,¹² and this would enable them to cover up for their scandals and failures.

The president, and the Left, held their ground on the economic demands, but fell victims to a naïve belief in the obviousness of their innocence on the causes of the explosion. Thus, given the pressure from the media and the opposition, the president appointed a lawyer, P. Poliviou, who had been for many years, and continued to be, the legal adviser to the Bank of Cyprus (at the time the largest commercial bank on the island) as investigator. Evidently, the president failed to see the connection of a coming banking crisis to the venom of the opposition. The appointment of Poliviou, a suggestion by the attorney general, seems to have been based on the fact that he had been the lawyer in the trial of the airline company in the 2005 tragedy – where he argued that the problem had to do with management during the flight and not with the broader organisation/company. However, the Bank of Cyprus lawyer would totally reverse his rhetoric in the case of the Mari explosion. In this case, he seemed focused on finding evidence that the president had received warnings about the containers so he could pin responsibility on him. Despite not getting the evidence, he presented the conclusion of his investigation in a theatrical manner, blaming the president personally in the fall of 2011.¹³

Given the paradoxes of that hysteria, we must look into the broader picture on the underlying issue of the banking crisis, which became clear almost a year later. The major banks, Laiki and Bank of Cyprus, had invested heavily in Greek State bonds. This investment continued even after the realisation of the sovereign crisis of

¹² July 2011 was indicative. In the midst of the Mari crisis, in a meeting on the economy on the 19 July, DISI demanded more measures (in addition to what had already been proposed) and the OEB issued an announcement demanding more ‘courageous’ measures, blaming problems on the public sector. This rhetoric would continue until the agreement on the memorandum in November 2012. Even in the fall of that year, the Right and the majority of the media criticised the president that he was not amenable to the demands of the Troika. Indicative of the fact that the media followed the bankers’ rhetoric of attacking the public sector and covering up for the banks, was a commentary by a journalist who noted with surprise, when eventually the memorandum was agreed, that he had discovered in the American magazine *The Atlantic* that the Cypriot bailout programme was the second biggest (in relation to GDP) in History: M. Evriviades *Fileleftheros* (9 December 2021) 5.

¹³ It should be noted that the evidence noted above was presented as documents in the Appendix, which seemed to play no significant role in his analysis. He seemed to be bent on blaming the president. The analysis strayed, interestingly enough, into a general commentary, as if it was pre-election speech. Apart from an attack on political parties, he also voiced the demand of the banking lobby: to ‘to realize that we belong to the West’. Leaving the innuendo that the problem had to do with the president’s effort at friendly relations with the Arab world.

the Greek State.¹⁴ In early July, before the Mari explosion, the consensus in Europe seemed to be that the only viable solution to the Greek crisis was a haircut of the bonds. This would mean, however, major losses for the two Cypriot banks. In the stress tests of that period:

In 2011, the European Banking Authority (EBA) carried out an EU-wide stress tests on 91 European banks, including Marfin Popular Bank (known as 'Laiki') and Bank of Cyprus. The results were published in July 2011. Both the banks passed the tests but only marginally; the passing capital ratio was set at 5% of risk-weighted assets under an adverse scenario of a 4% shock to real GDP. Banks that obtained a marginal pass, like the two Cypriot ones, were given until the end of June 2012 to raise fresh capital.¹⁵

It is interesting and analytically significant that the bankers (including their ne-liberal ally in the Central Bank, A. Orphanides) had known since July, during the 'Mari assault', that they had a problem. Thus shifting the responsibility, through the media, to the State and a leftist president who opposed covering up for the banks, was a realistic plan in front of a coming danger for the bankers' lobby and its allies. The marginal passing of the stress tests in July 2001 and the approved haircut of Greek bonds, meant, that the banks would need State assistance. Christofias was reluctant to appease the banks, especially if it meant covering up their responsibility. His first move, while under attack for the Mari explosion, was to secure a sovereign loan from Russia to avoid succumbing to a memorandum. But his move created more resentment from the banking lobby, which insisted that a memorandum was a better solution.¹⁶ In a way, the two subtexts, critique of not being pro-Western enough and

¹⁴ In an impressive testimony to this, Orfanides, the head of the Central Bank, allowed Laiki in the spring of 2011 to take over the Greek bank, Egnatia, which in effect piled its problems to the already existing problems of Laiki.

See Andreas Panagiotou, *The Banks, the Media and the Effort at Cover up, Diversion and Censorship of the Scandals (The Introduction and the Representations of the Economic Crisis in Cyprus (Οι Τράπεζες, τα ΜΜΕ και οι Προσπάθειες Συγκάλυψης, Μετατόπισης και Λογοκρισίας των Σκανδάλων (Η εισαγωγή και οι αναπαραστάσεις της οικονομικής κρίσης στην Κύπρο))*(Limassol: Πρωτοβουλία για την Λογοδοσία των Τραπεζών) 28-29 (in Greek).

¹⁵ Panicos Demetriades, *A Diary of the Euro Crisis in Cyprus* (Switzerland: Palgrave McMillan) 8.

¹⁶ The insistence that a Troika austerity memorandum was a better solution (rather than trying to protect society from strict measures for bailing out the banks) was evident from the spring of 2011 when the then head of the Central Bank, Orphanides, questioned the government economic data, thus pressing for austerity. In relation to the Russian loan, an incident recorded subsequently may be indicative. In September 2011, Rybolovlev offered to put forward half a billion (which eventually was around the sum that the Bank of Cyprus asked from the government, in June 2012) in exchange for more seats in

not being pro-bank enough, seemed to converge. They climaxed in the spring and early summer of 2012 when the two banks, Laiki and Bank of Cyprus, acknowledged that they couldn't recapitalise by the end of the EU/ECB June deadline and asked for State support. The European Central Bank practically blackmailed the Republic of Cyprus to accept a memorandum.

The Left (which was now ruling without the centrist support and thus had a minority position in parliament) was forced to accept the memorandum. But it had gained three points in the ongoing public debate:

1. It managed to make the issue of the responsibility of the banks a public issue.
2. It managed, after the expiration of the tenure of the head of the Central Bank, to appoint a more Keynesian, and more honest head, Professor Panicos Demetriadis, who launched an investigation into the banks' role.
3. And the context was now, summer 2012, more lenient than that of 2011. The climax of the Greek crisis in 2012, and the change of head at the European Central Bank, with the advent of Draghi's 'whatever it takes' (to save the euro), meant that the effort of the Cypriot leftist president to negotiate a viable agreement which would serve the interests of the working class and the public in general, was more amenable. Indeed, the memorandum negotiated by the end of November of 2012 had significant caveats, like not incorporating major privatisations and not abolishing working-class rights but freezing them, which implied that with the end of the memorandum they could be reclaimed, as it does seem to happen – especially in the public sector.

When the Right came to power in February 2013, it decided to launch a neoliberal assault, accusing, ironically, the Left, for the memorandum, and catering to the banks, whose interests were, as it appeared, controlling most of the media. But the problem was that the Left had created, despite its isolation in the previous period, its own subtext of resistance. Thus, when the new president, Nicos Anastasiades, tried to modify the memorandum so that the predominantly foreign clients of law firms (including his own), and the foreign customers of the major banks in general, would avoid being hit by the bail negotiated with the EU, he came up against a storm. His

the Board of the Bank. His offer was declined. Obviously, if the majority of the Bank Board rejected such an offer, then the move of Christofias to seek a sovereign loan was a hindrance to the goal of seeking a bailout with austerity for society, which would have promoted, in the meantime, various interests via privatisations, wage cuts etc. Interview of the lawyer Neoclous, *Fileleftheros*, (19 May 2013) 6: "Everybody lost and first of all the Bank of Cyprus. A. Neoclous: The previous bank administration didn't allow Rybolovlev to add "fresh money".

suggestion was to spread the cost of the bail by imposing a haircut on all banks and on all depositors, thus violating the safety of the EUR 100,000 limit. It was a typical neoliberal move, which triggered a strong reaction. The government was forced to back off. Thus, the assault made the government apprehensive about facing a possible mass reaction. The Left lost but it left a lasting counter-discourse.

The Rise of the Bankers' Lobby, Their Persistent Suspicion and the Endless Problem of Non-Performing Loans

Panicos Demetriades' book, *Diary of the Euro Crisis in Cyprus* is by far the best account of what happened with the banking crisis in Cyprus. It also describes how the 'bankers' lobby' managed to assume control with the rise to power of the Right. Demetriades' book demonstrates that the root of the crisis lay in the inflow of capital, which in many ways transformed Cyprus into a money laundering centre and, in effect, put the local economy second place in relation to the interests of the foreign capital deposited in the banks. In this sense, neoliberalism in Cyprus ended up functioning as an ideology serving a 'laundry economy'.

Demetriades' experience, as head of the Central Bank, was also indicative of how the foreign controlled 'money-nexus', which involved banking interests, lawyer services, and related politicians, came to create a parallel structure, which utilised the EU memorandum in order to promote its interests by circumnavigating promises, rules, and legal frameworks.

Demetriades not only tried to investigate the causes of the crisis, but he also refused to cover up the transgressions of powerful individuals, such as the transfer of funds abroad by the family of President Anastasiades shortly before the haircut of depositors. Demetriades also insisted on checking for conflicts of interest in the government-nominated appointments to the boards of banks. He was, in effect, applying the EU rules for fit and proper checks. However, the local establishment wanted to use the EU as a legitimising reference to impose the memorandum, but had no plans for following the rules for avoiding conflicts of interest.

The political and economic elites saw Demetriades' actions as a threat to their interests and thus orchestrated an attack on him with the ultimate aim of ousting him. The attack was launched via the main instrument of the banking lobby and the Anastasiades government: the media. He was demonised as a danger and eventually forced to resign under threats. The climactic attack was launched in September 2013, when Demetriades insisted on checking for conflicts of interest in the new appoint-

ments to the board of the Bank of Cyprus (which had absorbed Laiki, despite the EU's advice for the merging of the two banks).¹⁷

The hegemony of the new government on the media rested to a large degree on the advertising expenditure and the debts of media to banks.¹⁸ Eventually, a powerful cabal consisting of law firms, politicians, banks, and the media started developing.

Yet the achievements of the new regime, which tried to demonise the Left, were comparatively small. In terms of liberalisations, it privatised the ports, and it also managed to abolish regulations on shopping hours for the benefit of malls and large-scale businesses,¹⁹ but despite its overwhelming power in setting the agenda via the media, it did not manage to privatise the two major public utilities, that is, electricity and telecommunications. We will talk in the subsequent section on the power of trade unions from multiple political wings. But in the period after 2013, the government seemed to be anxious not to provoke another reaction like the one of March 2013. This fear was evident in the slow process of addressing the issue of non-performing loans. The issue, as Demetriades noted, and as had been documented by a subsequent investigation, had to do with the banking practices before 2010, as well as with the lax Central Bank supervision/regulation.

[...] over the period 2004-2010, Cyprus banks grew dangerously large through a combination of aggressive management and weak governance, compounded by a failure of public authorities to appreciate the risks that the banks were running. And therefore to take effective measures to rein them in. At its height in 2009, the banking sector was equivalent to 9 times GDP, one of the highest in the EU.²⁰

In the new atmosphere of the memorandum, large companies and homeowners were both under pressure to repay their loans to banks, which they couldn't. The government and the banks tried to help the larger companies (via the logic of 'too big to

¹⁷ Demetriades (no 15) 130 – 131.

¹⁸ One of the most well-known cases, since it was presented as a document in court on the fact that the Bank of Cyprus tried to manipulate the public, was the case of the newspaper *Politis* censoring one of its writers, M. Olimpios, after being blackmailed by the Bank of Cyprus with an advertising package of 50,000 euros.

¹⁹ In this context one can also refer to the closing of the the State airplane company, Cyprus Airways. The closing, though, was attributed, this time, to financial problems, rather than to 'modernisation' and the whole affair was marked with suspicions that the Law Company of the president's family was involved in negotiations for the selling of the company.

²⁰ Independent Commission on the Future of the Cyprus Banking Sector, Final Report (31 October 2013); Demetriades (no 15) p. 11

fail’).²¹ But launching a free-for-all sell out of mortgaged property (in non-performing loans) of small owners, turned out to be difficult. There is a strong historical tradition of small ownership in Cyprus.²² In this context, the government moved to abolish the major alternative to commercial banks, the cooperative credit associations, by scandalously handing over performing loans guaranteed by public money against the risk of future defaults, to Hellenic Bank, a pro government bank. This helped create a banking cartel, but the reaction of the public was again negative. The attorney general set up a three-man committee, headed by a former judge, to investigate the government’s handling of the issue. The committee’s damning report revealed clientilism and incompetence. Thus, the effort of the government to appear ‘modernizing’ was backfiring, while the images which started emerging were of a government returning to a client-State regime. And the issue of non-performing loans remained hanging around.²³

In the parliamentary elections of 2016, the governing party, DISI, tried to present the end of the memorandum as its own success, when, in reality, all countries had got out of a memorandum by then. Despite its control of the media, DISI lost votes and fell to 30.7% but AKEL (still under attack and in the context of an internal conflict over the punishment of a senior party member)²⁴ lost more and scored 25.7%. The distinct characteristic of the election was the rise in abstentions to 33.2% (a rise of 11.96%) and the emergence of personality-oriented parties which drew from the two leading ones, namely Citizen’s Alliance/*Simmahia Politon* (6%) drawing large-

²¹ Some of the largest non-performing loans belonged to representatives of big capital: Shacolas, Lep-tos etc. Also, the chairman of the Bank of Cyprus leading up to the crisis was the owner of Aristos Developers. This is a typical example of conflict of interest between banks and capital.

²² See Rolandos Katsiaounis, Rolandos, *Labour, Society and Politics in Cyprus during the Second Half of the Nineteenth Century* (Cyprus Research Centre, 1996); Andreas Panayiotou ‘Lenin in the Coffee-shop: The Communist Alternative and Forms of Non-Western Modernity’ 9(3) *Postcolonial Studies*.

²³ In the ECB ‘Supervisory Banking Statistics for the Third Quarter of 2021’ in chart 5 on the ‘Non-Performing Loans Ratio by Country, Cyprus is Second After Greece’, available at <https://www.bankingsupervision.europa.eu/press/pr/date/2022/html/ssm.pr220112~618de6b7dd.en.html> (last accessed 5 May 2022).

²⁴ Nicos Katsourides was a member of the leadership of AKEL after the transition of the early 1990’s. There was, however, a distance between him and Christofias. In 2014-5 in the context of accusations that he had played a role in an ambiguous investment –and he didn’t take up the responsibility (since the investment involved an area of his party responsibilities)– he was sidelined; not expelled but not a party participant either. The trial itself was in part paradoxical; the alleged ring master was not even accused. Some saw it as a Lawfare against the Left, but as far as Katsourides’ supporters were concerned, the issue had to do with him being sidelined because he could have claimed the leadership –and, according to another narrative, because he disagreed in part with Christofias’ policy on the Cyprus Issue.

ly from AKEL and Solidarity/*Allilegii* (5.2%) drawing from DISY. But both parties, which were dubbed 'protest parties', split off and/or disappeared from parliament by the next elections. DISI failed to capitalise on the end of the memorandum and there seemed to be a broad feeling of dissatisfaction. By the time of the presidential elections of 2018, AKEL's candidate managed to obtain 30.24% of the vote in the first round and 44% in the second, while DISI's candidate, the incumbent, scored 35.51% in the first round and 56% in the second. DISI won but the neoliberal agenda didn't. DISI had to pull back from many of its most ambitious projects and be content with control of the banking sector. It was obvious that its victory had more to do with its control of the media, and the still isolated position of AKEL. But there was a feeling of disgruntlement.

The Last ttempt and the Legitimation Crisis

After the second victory by DISI in the 2018 presidential elections, there was an attempt to press forward with an attack on worker rights (or 'privileges', according to the neoliberal Right) and, thus, cutting back on public expenditure. Picking up a comment by the general auditor (usually attacked by DISI for his criticism of corruption/clientilism of DISI's connected interests), the government tried to introduce changes to the working status of State schoolteachers. DISI and its media pulled together the classic opposition between private and public employees; but it didn't work. On the contrary, it united the trade unions of different political affiliations and DISI had to confront a massive march by teachers. The government pulled back. It had an analogous experience when it attempted to confront the nurses' trade union.

The failure to defeat trade unions was decisive, and it was the fear of trade unions which kept DISI back, in addition to the fear of mass demonstrations. Historically, it was the Left which initiated and championed trade unionism (AKEL was to a large degree created by the unions in the 1940s) but the Right moved to create its own unions and so did the small socialist party. In the public sector, e.g. among Teachers and Public Utilities organisations, there were also trade unions affiliated to the Centre party, DIKO. The existence of these unions did not essentially hinder trade union activity; on the contrary, it created a more decisive/influential front. The section of DISI's leadership that represented the business associations' interests, had to think of the party's own trade unionists in pursuing a neoliberal agenda; obviously, it did no dare to do so.

The most significant and positively received government initiative of the decade came from the EU memorandum but, ironically, it was something traditionally as-

sociated with the Left rather than the neoliberal Right. This was GESY, the national health system. The president and the leader of DISI wanted a mixed system to incorporate private interests and insurance companies. But the programme was established due to an alliance of the Minister of Health (of the populist Right), trade unions, and the Left, against the wish of the leaders of the governing party.

DISI and its president faced a reckoning. They had managed to weave their positions from 2016 to 2018 to appeal to a disgruntled electorate, hoping to mobilise their voters and keep the voters of the Left at home, but there was a strong feeling of a widespread return to client relations and ‘conflict of interests’. It was Demetriades’ opposition to this ‘conflict of interest’ which resulted in him being forced to resign. But after 2018, a series of global journalistic revelations²⁵ concerning tax havens turned the spotlight on Cyprus, again. The climax was the revelation (or ‘exposé’) of how the State programme of selling passports functioned. It was not just another scandal - it involved the presidential family. The programme came under attack from both the EU and locally, including sections of the media.²⁶ Anastasiades tried to shield himself by appointing ex-ministers of his government in the office of the attorney general. However, it was obvious that the DISI government was enmeshed in corruption.

The widespread feeling of corruption, however, was coupled with an issue of a different nature: the crisis of the negotiations for a solution to the Cyprus Problem. In this sense, one can say that the Republic of Cyprus seems to have entered a period of ‘legitimation crisis’. The term was introduced by Jürgen Habermas to describe a crisis of the socio-cultural framework upholding a polity.²⁷ To understand this type of crisis in Cyprus one must see that the legitimation of the polity in the Greek Cypriot community, which is de facto the focus of this analysis, rested on two pillars. The first one was that the State was protecting the citizens –or at least providing them for their needs. This was largely the product of the leftist influence on society. The second pillar of legitimation of the post 74 period was the belief that the Cyprus Problem

²⁵ Panama papers, Pandora Papers.

²⁶ An additional dimension to the issue of ‘Golden passports’, that of commodification, was incisively raised by T. Rakopoulos and L. Fischer. See Theodoros Rakopoulos, ‘In Cyprus. The Golden Passports Scheme Shows Us How Capitalism and Corruption Go Hand in Hand’, *Jacobin* (11 October 2020), available at <https://www.jacobinmag.com/2020/11/cyprus-golden-passports-citizenship-corruption> (last accessed . . .).

²⁷ Jürgen Habermas, *Legitimation Crisis* (USA: Beacon Press, 1973/1975).

would be resolved and the Republic of Cyprus would be a place/country for both communities.

It is evident that the leadership of DISI tried consciously to shift the first pillar in the direction of the argument that individual welfare would be better served by helping big business, banks and encouraging 'enterprise'. This dimension, as we saw, came up against reactions from the street (a broader new type of mass mobilisations, with a postmodern aesthetic, emerged in this period) and from the still strong trade union movement. But the revelations on the conflict of interests and the involvements of the presidential family in the scandal of passports, made the period appear as one of conflict of interest and regression to client relations. Increased abstentions and a drop in votes for the historical big parties may be some form of indication. There seems, however, to exist, at a deeper level, a sense of demand for change. Even the introduction of the concept of 'conflicts of interest', as major rhetorical code in public discourse, is a novelty, as is the popularity of the auditor general. Thus, one may say that the Republic of Cyprus is in a situation of a legitimisation crisis originating from a conflict of concepts on the sociocultural boundary of the political and the economic sub-systems:

The idea of joining the EU was presented as an issue of modernisation, of 'becoming modern'. And suddenly, the staunchest supporters of Europe, DISI, turns out to be a backward client State party 'shaming Cyprus' as some put it.

In addition to the above, as Gregoris Ioannou noted in his perceptive analysis of the developments on the Cyprus Issue,²⁸ a section of the political and economic elite of the Greek Cypriot community seems to have moved to the position of accepting partition, which was the historical goal of Turkish nationalism. The contradiction, with the second pillar of legitimisation noted above, is analogous to DISI supporting Europe/europeanisation and falling back on 1930s colonial client politics. Anastasiades had been involved in both the scandal of conflict of interests and allegations of having proposed partition to Turkish officials.²⁹ The crisis of the hegemonic narrative of power implies another

²⁸ Grigoris Ioannou, *Denktas in the South (Ο Ντενκτας στον Νότο)* (Thessaloniki, Psifides, 2019) (in Greek).

²⁹ The first reference to the issue came from the pro-government newspaper, but also pro-compromising solution to the Cyprus Problem, *Politis*, in the fall of 2017. There, it was revealed that the President had asked several people on the issue of accepting a two-state solution. The Archbishop, an ally of the president, also referred to something analogous subsequently, as did Anastasiades' ex-advisor, Makarios Droushiotis.

need, that of redefining the goal of the polity. The UN and the EU are obviously committed to re-unification, and a significant section of the population seems to experience a form of de facto unification from below by crossing the checkpoints since their opening in 2003,³⁰ and, these days, by trying to utilise changes in prices, as in the massive move of G/C to T/C northern gas stations. The Greek Cypriot polity which presented itself as Republic of Cyprus is in crisis in this sense, both externally (as the UN keep an equal distance, according to the foreign observers, after Anastasiades , abandoned the negotiations at Crans-Montana in 2017) and internally.

Conclusion

In evaluating the results of the period from the perspective of business class interests, the banking sector is an inevitable beginning site. The banking sector survived, albeit as a cartel (in the sense that its regulating mechanism based on previous conflicts, the cooperative banking sector, has been closed down) of two Cypriot banks, which had been supported by the government of DISI in multiple forms. Yet one can hardly call this a victory for local business interests. In effect, a result of the crisis was the entry to the local economy of foreign investment, and/or speculators, who acquired a significant role and say in the Cypriot banks at the expense of local players. The banks have become an institution via which foreign interests can intervene in local society. Demetriades' description of the Archbishop in 2013 as the latter realised his losses, is indicative in a broader manner (the Archbishop was a staunch opponent of the Left on economics and the Cyprus Problem):

‘The Archbishop wasn’t a happy man. He had risked the property of the Church on bank shares and had lost out. It wasn’t just financial losses. It was also loss of power. Not only did he lose influence over the Bank of Cyprus but he had also lost control of Cyprus’ third largest bank, Hellenic.’³¹

Local business interests hoped to become controllers; they ended up being local interests for foreigners who bought out their risks.

This inability to retain control of the banking sector, which still needs a rather steady State support, is indicative of something deeper structurally: right when the

³⁰ Cypriot Public Opinion Remains Open to Reunification, Survey Reveals, available at https://blogs.lse.ac.uk/greeceatlse/2022/01/06/cypriot-public-opinion-remains-open-to-reunification-survey-reveals/?fbclid=IwAR3OityiAT_37RtUyolvypCij03dJZXHd17p3-1TRWC9mx4sS-B2vPeMLCM (last accessed 5 May 2022).

³¹ Demetriades (no 15) 150.

business elites thought they had conquered the State, they realised that it was now captive to a broader regulatory control mechanism. As the Archbishop, and others realised, if Cyprus was not part of the EU, or even the euro, then managing the local crisis might have been easier for them. After all, the island managed to pull through the disaster of war after 1974. But then it was an introvert economy which accepted the class compromise of the previous decades.³² After 2004, the island became a site of capital flows, which initially appeared to local administrators (lawyers, bankers, politicians) of foreign capital, as 'becoming powerful'. However, the local economy would eventually be regulated by the EU and the 'would be powerful' would be bought up by foreign capital.

Joining the EU, and the euro economically, meant that the Republic of Cyprus would be dependent on regulations on the EU level. This put another strain in the actualisation of business interests; the practice of investigating "conflict of interests", and questioning 'under-the-table' practices, like the passport selling program, were new European norms which hindered the regime of client relations and 'under-the-table' agreements which the Right wing and its economic allies seemed to prefer.

Thus, however, the local State itself was in part delegitimised, since for a section of the population there were also principles and interests which had to be seen through an EU lense, like adhering to EU rules for defending or promoting local interests against the control of the local State by neoliberalism (as in avoiding regulation and equality before the law). This was, and still is, a major dimension of ecological activism, for example.

The other characteristic of the period (apart from outside interests or regulation) was the emergence of local forms of resistance. The trade-union resistance, especially when it united trade unions of different ideologies, had been noted. But street mobilisations acquired a new dynamic and repertoires, as the major mobilisations of 2013 against the universal haircut, and the teachers' mobilisations in 2018, testified. There were also multiple types of activism on ecological issues, women's rights, mobilisations against the construction of high buildings (linked to the interests of the passport-selling lobbies), anti-corruption mobilisations (which led to the resignation of the head of the parliament, an ex-member and current ally of DISI), etc. One may say that the new wave of indignation for the "golden passports" scandal, created more visibility for capital-State relations, in association, this time, with criminal and

³² Christodoulou, Demetrios. 1992. *Inside the Cyprus Miracle. The Labours of an Embattled Mini-Economy.* Minnesota: University of Minnesota Press

illegal activities/behaviour happening in broad daylight. In this context, the social media provided a communication platform which managed to bypass censorship by the main TV and most of the print media.

In effect, the new types of mobilisation observed in Northern Cyprus, in the Turkish Cypriot community, at the beginning of the new century, after a banking crisis, seemed to be developing in the southern part of the island also.³³ And there seemed to be a convergence of various movements beyond communal divisions.

In the context of the above, the neoliberal agenda may not have been successful, but the issues raised by the turbulence of the decade, the reactions from below and forms of de-legitimation, seem to have prepared the ground for a future which, compared to past cases with analogous symptoms in the past, will probably be different from the present.

References

- Argridou-Demetriou, Ch., P. Karamanou Pani, L. Petousi-Kleanthous, Application of Monetary Policy in Cyprus, 6.3.1. The Liberalization of the Financial Sector, 1996-1999, 6.3.2. The Cyprus Stockmarket Crisis in 2000 (Εφαρμογή της Νομισματικής Πολιτικής στην Κύπρο, Η ελευθεροποίηση του Χρηματοοικονομικού Τομέα 1996-1999, Η Κρίση του Χρηματιστηρίου Αξιών Κύπρου το 2000), in Athanasiou Orfanides Yioryos Sirihias (eds), *The Cypriot Economy (Κυπριακή Οικονομία)* (Nicosia, Central Bank of Cyprus, 2012) 211-221.
- Attalides, M., 'Factors Which Shaped Society. *Cypriot Life and Society: Before the Independence and until 1984 (Κυπριακή Ζωή και Κοινωνία. Από Πριν την Ανεξαρτησία και Μέχρι το 1984)* (Nicosia: Ekdoti Dimou Lefkosias, 1993) (in Greek).
- Christodoulou, D., *Inside the Cyprus Miracle. The Labours of an Embattled Mini-Economy* (Minnesota: University of Minnesota Press, 1992).
- Demetriades, P., *A Diary of the Euro Crisis in Cyprus* (Switzerland: Palgrave MacMillan, 2017).
- Evriviades, M., *Fileleftheros* (9 December 2012) 5.
- "Everybody lost and first of all the Bank of Cyprus. A. Neocleous: The previous bank administration didn't allow Rybolovlev to add "fresh money", *Fileleftheros* (19 May 2013)

³³ Andreas Panayiotou, 'Border Dialectics: Cypriot Social and Historical Movements in a World Systemic Context', in Nicos Trimikliniotis, Umut Bozkurt (eds), *Beyond a Divided Cyprus: A State and Society Transformation* (New York: Palgrave MacMillan, 2012).

- Habermas, J., *Legitimation Crisis* (USA: Beacon Press, 1973/1975).
- Independent Commission on the Future of the Cyprus Banking Sector, Final Report (31 October 2013).
- Ioannou G., *Denktas in the South (Ο Ντενκτας στον Νότο)* (Thessaloniki: Psifides, 2019) (in Greek)..
- Katsiaounis R., *Labour, Society and Politics in Cyprus during the Second Half of the Nineteenth Century* (Cyprus Research Centre, 1996).
- Moudouros N, *State of Exception in the Mediterranean. Turkey and the Turkish Cypriot Community* (Switzerland: Palgrave Macmillan - Springer, 2021).
- Panayiotou A, 'Lenin in the Coffeeshop: the Communist Alternative and Forms of non-Western Modernity' 9(3) *Postcolonial Studies*.
- Panayiotou A., 'Border Dialectics: Cypriot Social and Historical Movements in a World Systemic Context' in Trimikliniotis N., U. Bozkurt (eds), *Beyond a Divided Cyprus: A State and Society Transformation* (New York: Palgrave MacMillan, 2012).
- Panayiotou A., *The Banks, the Media and the effort at Cover up, Diversion and Censorship of the scandals (The introduction and the representations of the Economic Crisis in Cyprus (Οι Τράπεζες, τα ΜΜΕ και οι προσπάθειες Συγκάλυψης, Μετατόπισης και Λογοκρισίας των σκανδάλων (Η εισαγωγή και οι αναπαραστάσεις της οικονομικής κρίσης στην Κύπρο)* Λεμεσός: Πρωτοβουλία για την Λογοδοσία των Τραπεζών (in Greek).
- Panayiotou, A. Business Group Strategies vis-à-vis Political Power: Invisible Dimensions of Linkage, in Charalambous G., C. Christophorou (eds), *Party – Society Relations in the Republic of Cyprus. Political and Societal strategies* (London: Routledge, 2016).
- Papakostas K., *Wind-Battered Course (Ανεμοδαρμένη Πορεία)* (Nicosia: Fyllis, 2016) (in Greek).
- Peonides, P., A. Ziartides, *Without Fear or Passion (Horis Fovo ke Pathos)*. (Nicosia, 1995) (in Greek).
- Rakopoulos, T., L. Fischer, 'In Cyprus. The Golden Passports Scheme Shows Us How Capitalism and Corruption Go Hand in Hand', *Jacobin* (11 October 2020), available at <https://www.jacobinmag.com/2020/11/cyprus-golden-passports-citizenship-corruption> (last accessed 5 May 2022).

Public Consultations in Cyprus: A Comparative Analysis with Model Democracies

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Abstract

A comparative analysis of public consultations in Cyprus, United Kingdom and the European Union with the aim of refining the important and successful elements which could be most simply transplanted into the focus country, Cyprus. The article commences with an analysis of the background on public consultations. Subsequently, it analyses the factors that should be considered when conducting public consultations with the view to gathering input from the public. The main part of the article consists of a comparative analysis of public consultations in Cyprus, the United Kingdom and the European Union. The article highlights that in Cyprus -unlike in the United Kingdom and the European Union- there is no institutionalised common practice for public consultations. Finally, it concludes that Cyprus should immediately take drastic steps, preferably by adopting a flexible framework like the one of the UK, whilst simultaneously incorporating the general principles and minimum standards set out by the EU framework.

Keywords: public consultations, Cyprus, EU, lobbying, democracy

Background on Public Consultation

Overview

Democracy might be the worst form of government except for all others that have been tried, as Churchill said, but it is suggested that, depending on the quality and quantity of public participation, the standard of living of the majority of the population can fluctuate a lot. Public consultations are an important tool as they are the ideal means to improve democratic governance; they help governments consult their citizenry on the key public policy issues they face.² British MP John Hutton once said:

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² Konstantin Kovshenin, 'What is Public Consultation?' (Program for Public Consultation) <<https://publicconsultation.org/what-is-public-consultation/>> accessed 14 July 2021.

*Government is committed to effective consultation; consultation which is targeted at, and easily accessible to, those with a clear interest in the policy in question. Effective consultation brings to light valuable information which the Government can use to design effective solutions.*³

The exact aim of this article is to examine to what extent Cyprus uses public consultations in its current policymaking processes, as well as to analyse the United Kingdom and the European Union as examples where public consultations have been successfully carried out over the years. Moreover, this article will propose measures that could be taken to improve the utilisation of public consultations in the developing domain of Cyprus. The decision to use the UK and EU specifically as comparative models is based on their efficient public consultation systems at present. In this regard we can view them as models for other countries.

For the sake of this article, it is most useful to consistently refer to the select model countries above. Having said this, we should acknowledge public consultation occurring in other countries in Europe. For example, public consultation is mandatory for all primary laws in Greece⁴. However transparent publication of how comments from such public consultations are taken into account is often amiss. In the case of Portugal, a series of recommendations were made by the OECD in 2010 in an attempt to better regulate the country's public consultation system. At the time, the country tended to use public consultations too late in the process of drafting but was praised for its use of the internet in hosting open consultations.⁵

History of Public Consultations

Notably, the very first steps of popular participation in political decisions were taken during the Golden Age of Pericles. It was at this time that democracy was established as a political system. Under this system, political power was in the hands of the people, manifesting in popular assembly known as Ecclesia. All problems concerning domestic or foreign policy were decided at these assemblies on the iconic Pnyx hill, gathering at least 40 times a year. Every male adult Athenian, regardless of his financial background, had the right to take part, speak, and finally vote by raising his

³ John Hutton, 'Code of Practice on Consultation' [2008] HM Government.

⁴ OECD Regulatory Policy Outlook 2018, available at <https://www.oecd.org/gov/regulatory-policy/greece-country-note-regulatory-policy-2018.pdf>, accessed 28 March 2022

⁵ OECD Better Regulation in Europe: Portugal 2010, available at <https://www.oecd.org/gov/regulatory-policy/44830208.pdf>, accessed 28 March 2022

hand. The decision was made according to majority rule.⁶ However, those who could attend these meetings remained a small and select sample of the total citizen population. This was due to the inaccessibility for non-wealthy citizens who lived far from the urban centre. Access was however improved eventually with the introduction of financial motivation for attending assembly meetings.⁷

Over the last forty years, public consultation has become an established, major aspect of urban planning.⁸ The main reason is a shift in the role of citizens, the conception of public and the notion of ‘participation’, as a result of significant societal changes, such as the revolt against the urban renewal and the increased awareness of global environmental and ecological disasters⁹. [Therefore, it is worth using this area to illustrate the origin of public consultation before exalting its value or comparing its implementation in various states. Public participation has not always been part of urban planning and development. In the distant past, in dynastic China or Imperial Rome, land-use was either a highly institutionalised government function or a series of decisions concentrated in the hands of powerful land-owning elites.¹⁰ The centrally directed approach to planning continued into the twentieth century, arguably sustained by both the civil and military planning that accompanied the two world wars.¹¹ There were many factors that prevented a more democratic approach beyond the simple desire of elites to monopolise power. A lack of widespread education

⁶ D.John Smart, «*H APXAIA AΘHNAÏKH ΔΗΜΟΚΡΑΤΙΑ*» (1975) <https://olympias.lib.uoi.gr/jspui/bitstream/123456789/30100/1/H%20αρχαία%20Αθηναϊκή%20Δημοκρατία.pdf> accessed 13 July 2021, (p.404-405)

⁷ Britannica, Ecclesia, available at <https://www.britannica.com/topic/Ecclesia-ancient-Greek-assembly>, accessed 9 December 2021

⁸ See Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. Its second pillar refers to public participation in environmental decision-making; Sherry Arnstein, A Ladder of Citizen Participation (1969) 35(4) *Journal of the American Institute of Planners*, p. 217.

⁹ Sally Hussey, *International Public Participation Models 1969-2020*, available at <https://www.bangthetable.com/blog/international-public-participation-models/>, Robert Shipley, Stephen Utz, “*Making it Count: A Review of the Value and Techniques for Public Consultation*” [2012], *Journal of Planning Literature* Vol 27, Issue 1, 2012,

¹⁰ Robert Shipley, Stephen Utz, “*Making it Count: A Review of the Value and Techniques for Public Consultation*” [2012], *Journal of Planning Literature* Vol 27, Issue 1, 2012,

¹¹ Ibid

meant that national issues and an understanding of the framework through which they could be dealt was something relatively few citizens possessed. Furthermore, an efficient means through which to spread this information widely and quickly was not at their disposal at the time.

One view is that drastic change occurred during the 1980s when public consultation entered the stream of planning practice, derived from the most basic principles of democracy. Hereafter, legislation mandating public consultation became common practice in planning regimes for most developed countries and even constitutes a requirement for the World Bank aiding developing countries.¹² There unfortunately remains little to no significant and formal literature on the theory of consultation, or how it works in practice.¹³

Alternatively, some people have also argued that public consultation is a legal phenomenon, primarily rooted in common law. According to this, the distinction between primary and secondary legislation was established during the nineteenth century in the United Kingdom¹⁴. Due to rapid social change brought about by the Great Reform Act of 1832,¹⁵ the legislative authority of administrative bodies and authorities whose purpose was to produce binding rules, increased rapidly. Specifically, the Rules Publication Act 1832 was introduced and concerned a specific range of regulatory acts. It required pre-legislative publication at least forty days before the notification of the rule proposal, along with a clear indication of the points from which copies of the draft could be obtained. Written submissions and proposals from each public body were taken into consideration by the drafting committee before the final text was completed. The provisions of this act were a precursor to the Administrative Procedure Act 1946, another turning point in the legislative development of the public consultation.¹⁶ For example, this 1946 Act required most rules to have a thirty-day delayed effective date.

¹² Ibid

¹³ Centre for Public Impact, available at <https://www.centreforpublicimpact.org/insights/public-consultation-everywhere-worry-politics>

¹⁴ *Legislation of the United Kingdom: subordinate legislation, Social Sciences Collection Guides Official Publications*, available at <file:///C:/Users/thchr/Downloads/subordinate-legislation.pdf>

¹⁵ Mitsi Christina (2020), «Το δικαίωμα στη δημόσια διαβούλευση στο ενωσιακό και ελληνικό δημόσιο δίκαιο: μια συγκριτική θεώρηση με τις έννομες τάξεις της Γαλλίας και του Ηνωμένου Βασιλείου», PhD Thesis, National and Kapodistrian University of Athens. Available at: <https://freader.ekt.gr/eadd/index.php?doc=49219&lang=el#p=92> (Accessed 13 July 2021),(p.90)

¹⁶ Ibid, p. 91

It is worth caveating that across the examples of imperial Rome, dynastic China or industrial Britain, women did not have the right to vote or to be elected under any circumstance. As we all know, it would take a lot longer for this to change.

Importance of Public Consultation

Public consultation improves the quality of rules, compliance, and reduces enforcement costs for both governments and the citizens to whom rules are applied. Additionally, it increases the data available to governments on which policy decisions can be based.¹⁷ The utilisation and evaluation of policy tools have revealed that public consultation is increasingly vital for collecting empirical information for analytical purposes, measuring expectations, and identifying non-evident policy alternatives when taking a policy decision. As is well established, regulation and its reforms affect all the participants in civil society.¹⁸ Therefore, in order to better assess the impacts and minimise costs, all relevant stakeholders should be facilitated to participate in the regulatory processes.

Furthermore, public consultation will help to improve regulatory quality by bringing into the discussion the expertise, perspectives, and ideas for alternative actions of those directly affected. It can help regulators to balance opposing interests and identify ramifications and practical problems. Also, by using pre-notification, it is possible to foresee the consequences of some planned policies more easily, thus constituting it as one of the most productive ways to identify potential administrative problems. Moreover, it can provide a quality check on the administration's assessment of costs and benefits and identify interactions between regulations from various parts of government.

The consultation process can also enhance voluntary compliance in two ways: changes are announced in a timely manner so there is time to adjust to changes and the process emphasises a sense of legitimacy and shared ownership that motivates affected parties to comply.¹⁹ In addition, public consultations can ensure transparency and accountability.²⁰ Contributions by stakeholders can undoubtedly render the policymaking process more open and inclusive. Therefore, the output of the poli-

¹⁷ Delia Rodrigo, Pedro Andrés Amo, “*Background Document on Public Consultation*” ,[-], < <https://www.oecd.org/mena/governance/36785341.pdf> > (accessed 13 July 2021), (p.1-2)

¹⁸ Ibid (p.2)

¹⁹ Ibid

²⁰ The World Bank, Environmental Department, Environmental Assessment source book, 1999, available <http://web.worldbank.org/archive/website00672/WEB/PDF/UPDATE26.PDF>

cymaking process gains legitimacy and the overall level of trust towards regulators exponentially rise.

Public consultations enhance the quality of democracy by enabling people to express their views and ideas in regards to the policymaking process. Public input into the policymaking process is an indispensable part of democracy.²¹ The larger the input of stakeholders and the general public, the increasingly democratic the whole process becomes.

In a theoretical context, German intellectual Habermas analysed consultation as the process that legitimises and strengthens the rule of law. The individual, regardless of gender, race, age, or social class, independently forms their identity through their participation in public life. Translating into a democracy which includes the interaction of law and open discussion. Thus, the consultative policy becomes crucial, providing a mechanism to will channel the voice of the citizens to the decision-making centres.²²

American philosopher John Rawls suggests a general view that through consultations, political groups are able to engage in debate with those with alternative views. In this way, they will be forced to sharpen their views to convince a wider audience of their rationality. If they succeed beyond the benefit of the majority that has gathered around them, a political conception of justice of wide acceptance and legitimacy will be formed.²³

The democratic qualities of public consultation can be assessed against the backdrop of theories of deliberative democracy. According to Bohman, deliberative democracy shall be defined as a “family of views according to which the public deliberation of free and equal citizens is the core of legitimate political decision making”.²⁴ Admittedly, public deliberation of citizens can take place through the institutionalization of public consultation processes. Nevertheless, for the deliberative processes to function properly, participants should be given access to reasonably accurate information.²⁵ Thus, transparency is part and parcel of deliberative processes. In the light

²¹ JS Fishkin, RC Luskin, R Jowell, Deliberative polling and public consultation, *Parliamentary Affairs*, Volume 53, Issue 4, October 2000, Pages 657–666

²² Ibid, footnote 6

²³ Ibid, p. 45-46

²⁴ Weller Julian, Democratic legitimacy? The online consultations of the European Commission, 2012, available at https://pure.port.ac.uk/ws/portalfiles/portal/6085480/PhD_10_24.pdf

²⁵ Fishkin James, *When the People Speak: Deliberative Democracy and Public Consultation*, Oxford Scholarship Online, 2011

of the above, it is obvious that democracy, public consultation and transparency are inextricably linked.

Comparative Analysis of Cyprus and Model Democracies

Cyprus

In general, there is no set common practice for public consultations in Cyprus. Moreover, Cyprus along with Luxembourg are the *only* EU countries without a central consultation portal or separate websites on ministries for ongoing consultations for either primary laws or subordinate regulations.²⁶

However, over the past few years a positive advancement of public consultations usage in this domain can be observed. Some concrete examples include the Consultation Guide of the Ministry of Finance and the Public Consultation Decree of 2005. This decree is under sections 26 and 152 of the Law on the Regulation of Electronic Communications and Postal Services of 2004, which describes the procedure for conducting a public consultation by the Commissioner. The Consultation Guide of the Ministry of Finance text states the following:

The Consultation Guide was prepared in collaboration with the Law Office of the Republic of Cyprus and aims to provide general guidelines to all Ministries, which in cooperation with competent Departments, Services, Offices, Independent Services, intend to adopt new legislation. The content of the Consultation Guide was approved by the Council of Ministers at its meeting on 8/7/2009.

However, unfortunately there is nothing to indicate that this guide needs to be widely used or that it has been institutionally ratified by Parliament. In addition, and in the absence of a broader framework, dozens of posts from various ministries and public bodies inviting stakeholders to “public consultations” can be found. For example there was a Public Consultation for the new bill on Open Data and the Further Use of Public Sector Information - Department of Public Administration and Personnel;²⁷ the Cyprus Sports Organisation announced the holding of a Public Consultation for the amendment of the Private Gymnastics Schools Regulations from 1995 to 2012;

²⁶ OECD, Better Regulation Practices Across the European Union, Chapter 2, Stakeholder Engagement across the European Union, 2019, available at <https://www.oecd-ilibrary.org/sites/dd9b13ad-en/index.html?itemId=/content/component/dd9b13ad-en>

²⁷ Andreas Mallouppas and Takis Stylianides, ‘Public administration characteristics and performance in EU28: Cyprus’ [2018] European Commission 158

the Digital Security Authority announced a Public Consultation on the Decision on the Public Hearing Procedure; the Ministry of Finance issued an invitation to Public Consultation regarding the Bill entitled ‘the Law on Stamps’. Another instance of public consultation also took place at the University of Cyprus recently: the President of the European Commission, Ursula von der Leyen, and the President of the Republic of Cyprus, Nicos Anastasiades discussed the Recovery and Sustainability Plan with students and researchers.

Past initiatives have tried to increase transparency in Cyprus. However, many of these are now inactive. Vouliwatch Cyprus was an innovative, politically independent and nonprofit, online platform that aimed to introduce transparency and accountability into Cyprus’ Parliament, bridging the gap between the citizens and their parliamentary representatives.²⁸ Despite the importance of this initiative, after approximately 2 years of operation Vouliwatch had to close their Cypriot branch in 2019, due to insufficient funds. Recently, another independent parliamentary observatory was launched by the non-governmental organisation Oxygono, called Nomoplatform.²⁹

Another related problem in Cyprus is the lack of transparent and evidence-based lobbying culture.³⁰ At first glance lobbying does not seem to ‘exist’ in Cyprus, neither the term ‘lobbyist’ nor ‘lobbying’ are defined in the Greek language. The term lobbying has its origin at the gathering of Members of Parliament and peers in the hallways (or lobbies) of Houses of Parliament before and after parliamentary debates. After many negative reports, the Government of Cyprus put together a set of rules that aim to prevent political corruption and will restrict unregulated lobbying. It is also noted that the regulation of lobbying is included in the recommendations of the Council of Europe’s Group of States against Corruption (GRECO).³¹ Moreover, the need to establish a holistic legal framework regulating lobbying has been highlight-

²⁸ ‘Vouliwatch Cyprus: Η Πλατφόρμα Που Δίνει Στον Πολίτη Ρόλο Και Θέση Στη Βουλή’ (Συμβούλιο Νεολαίας Κύπρου, 29 May 2017) <<https://cyc.org.cy/vouliwatch-cyprus->> accessed 26 July 2021

²⁹ Found at www.nomoplatform.cy.

³⁰ Mary Pyrgos, ‘Lobbying in Cyprus’ [2018] LPAP Cyprus Association of Lobbyist & Public Affairs Professionals 1-15

³¹ See Greco, Fourth Round Evaluation Report on Cyprus, GrecoEval4Rep(2016)7, available at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900016806c2fb1>; Greco, Fourth Round Compliance Report Compliance Report GrecoRC4(2018)9, available at <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/16808d267b>; Greco, Second Compliance Report Greco RC4(2020)17, available at [https://www.pio.gov.cy/assets/pdf/other/GrecoRC4\(2020\)17-Final-Cyprus-2ndRC-PUBLIC_%CE%95%CE%9D.pdf](https://www.pio.gov.cy/assets/pdf/other/GrecoRC4(2020)17-Final-Cyprus-2ndRC-PUBLIC_%CE%95%CE%9D.pdf)

ed by the Organisation for Economic Co-operation and Development (OECD).³² Undoubtedly, transparent lobbying constitutes an indispensable part of the democratic process, given that it ensures that citizens actively and equitably participate in the decision-making process. Lobbying regulations are intricately related to the problems of transparency and corruption. Lobbying and decision-making must be under public scrutiny in Cyprus to create a more just society. The adoption of the bill regulating lobbying activities will serve as a significant milestone in the battle against corruption and bribery. The adoption of the said bill constitutes a prerequisite in order for the European Stability Mechanism to release the first instalment of the Cyprus Recovery and Resilience Plan.³³

According to a survey with 1521 Cypriot participants, conducted by the organisation “Transparency Cyprus”, there is a severely negative image of corruption in Cyprus. The results revealed that 70% of participants considered corruption a major issue in Cyprus, with 60% reported to have been directly affected by a form of corruption directly. In addition, the Global Corruption Barometer for the European Union for 2021, reports that 65% of Cypriots think corruption has increased over the past year, whereas 78% fear of retaliation for reporting corruption.³⁴

From the above as well as from other empirical evidence, it becomes clear that positions in public bodies in Cyprus are often ceremonial. They may seem to be potentially accessible to the general public, but are nevertheless difficult or impossible to be appointed to without working through unregulated networks. Moreover, public consultations are limited to sending suggestions from stakeholders without any substantive consultation. In addition, in the above-mentioned practices there is an ambiguity regarding various terms and parameters of public consultation, like what defines a stakeholder and what are the restrictions on topics of discussion.

Finally, Cyprus is among several EU member states that are consistently facing legal action from the European Commission for failing to comply with their obligations under EU law. A typical example can be seen in the investor citizenship scheme. The Commission initiated infringement procedures against Cyprus, putting forward

³² OECD, Recommendation of the Council on Principles for Transparency and Integrity in Lobbying, OECD/LEGAL/0379

³³ See Cyprus’ Recovery and Resilience Plan for 2021-2026, available at [http://www.cyprus-tomorrow.gov.cy/cypresidency/kyprostoavrio.nsf/all/B37B4D3AC1DB73B6C22586DA00421E05/\\$file/Cyprus%20RRP%20For%20Upload%20052021.pdf?openelement](http://www.cyprus-tomorrow.gov.cy/cypresidency/kyprostoavrio.nsf/all/B37B4D3AC1DB73B6C22586DA00421E05/$file/Cyprus%20RRP%20For%20Upload%20052021.pdf?openelement)

³⁴ Global Corruption Barometer, European Union 2021, Citizens Views and experiences of corruption, available at https://files.transparencycdn.org/images/TI_GCB_EU_2021_web_2021-06-14-151758.pdf

that the granting of Cypriot citizenship –and thereby EU citizenship- in exchange for a pre-determined payment or investment and without a genuine link with Cyprus, contravenes the principle of sincere cooperation set out on Article 4(3) TEU. Moreover, it undermines the status of EU citizenship set out in Article 20 TFEU.³⁵ Several of the regulations and directives that Cyprus has failed to transpose into its national laws concern matters on the theme of transparency, corruption and bribery. Striking examples are the setting up of an anticorruption agency, the protection of whistleblowers and the regulation of lobbying.³⁶ All these have very recently been regulated after long battle.³⁷

From the above, it is clear that Cyprus needs a new model of participatory democracy with regulated lobbying, transparency in decision-making and more a sophisticated process of public consultations.

United Kingdom

In the UK, public consultations conducted by central government departments are governed by a flexible non-binding framework based on the Code of Practice on Consultation and a set of Consultation Principles. The first Code was enacted in 2000 and has since been reviewed twice, in 2004 and 2008.³⁸ The most recent version of Consultation Principles is from 2018.³⁹

There is no general legal, and therefore strictly binding, duty for the public authorities to consult, so it is the relevant ministers who have discretion in the matter. However, it is customary to conduct consultations on every ‘policy area’ and it is expected that the Code will be utilised in conducting such consultations, with a few exceptions, such as emergency legislation or tax.⁴⁰ There is no exact definition of what constitutes a ‘policy area’; this is decided on a ‘case-by-case’ basis.⁴¹ However, a

³⁵ European Commission - Press release, Investor citizenship schemes: European Commission opens infringements against Cyprus and Malta for “selling” EU citizenship, 20 October 2020, available at https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1925

³⁶ European Commission (2021), Commission Staff Working Document, 2021 Rule of Law Report – Country Chapter on the rule of law situation in Cyprus, SWD(2021), 704 final, available at https://ec.europa.eu/info/sites/default/files/2021_rolr_country_chapter_cyprus_en.pdf

³⁷ See Cyprus Mail, After long battle, anti-corruption body bill is finally passed, available at: <https://cyprus-mail.com/2022/02/17/after-long-battle-anti-corruption-body-bill-is-finally-passed/>

³⁸ Code of Practice on Consultation (2011), available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/100807/file47158.pdf.

³⁹ Consultation Principles (2018), available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf.

⁴⁰ OECD, “Better Regulation in Europe: United Kingdom” (2010), 79.

⁴¹ Ibid.

decision not to use the Code where it might have been expected, customarily calls for a public explanation from the relevant Minister.⁴²

Notwithstanding the general rule, there might be a specific statutory duty to consult on a particular matter. For instance, section 5D of the Childcare Act 2006 requires a local authority to conduct consultations before providing or before ceasing to provide children's centres.⁴³ Moreover, a legal duty to consult may arise if there is an overarching duty to act fairly, or if there is a legitimate expectation that the public at large or a particular group should be consulted.⁴⁴

The UK has an impressive and deeply rooted tradition of consulting the general public rather than merely focusing on narrow groups of stakeholders such as businesses and trade unions, as is the case in other European countries such as Sweden.⁴⁵ Companies are the most represented group of respondents in public consultations but civic society engagement through non-governmental organisations and direct participation of individuals is significant too.⁴⁶

This tradition of consulting the general public, has resulted in the creation of streamlined systems for the public to lobby for new policies, as shown by Acts like Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration 2014.⁴⁷ Corruption is also kept to a minimum through the extensive anti-corruption laws and monitoring agencies. This is illustrated by organisations like the National Crime Agency established in 2013, and reports like the 2014 UK Anti-Corruption Plan.

The UK has ensured that the Code will be used, and properly controlled when used, for the most part by a system of political accountability rather than an enforceable legal framework. This is an option often used in UK public law. The Code and Principles set a common standard but leave room for the discretion of the Minister.⁴⁸ A system of checks is also supported by a regular gathering of data about the usage of public consultations, although a more robust approach to quality assurance would

⁴² Ibid.

⁴³ Childcare Act 2005, s 5D.

⁴⁴ *R (Plantagenet Alliance Ltd.) v Secretary of State for Justice*, [2014] EWHC 1662 at [98].

⁴⁵ OECD, "Better Regulation in Europe: United Kingdom" (2010), 79.

⁴⁶ Anne Rasmussen, "Participation in Written Government Consultations in Denmark and the UK: System and Actor-level Effects", *Government and Opposition* 50(2) (2015) 271, 285-287.

⁴⁷ Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 available at: <https://www.legislation.gov.uk/ukpga/2014/4/contents/enacted>

⁴⁸ Didier Chabanet and Alexander H. Trechsel, "EU Member States' Consultation with Civil Society on European Policy Matters", EUDO Report, 2011/04.

be welcomed.⁴⁹ However, according to section B of the 2018 Consultation Principles, there are situations that constitute a legal duty to consult and that in these scenarios the relevant departmental lawyers should advise.⁵⁰ For example, local planning authorities are required to undertake a formal period of public consultation prior to deciding a planning application; however, how they inform interested parties about the application submission falls within their discretion. Herein we can observe the characteristic flexibility of the UK structure.

There is little information on how effectively the system of public consultations works in general and how much it contributes to genuine public participation. That is because, as mentioned above, data is gathered about the usage of public consultations, but it is not analysed properly and further quality assurance is needed.⁵¹ Academic commentary seems to focus on a single area in which consultation is conducted, for example planning or environmental matters, and analysis of effectiveness seems to be heavily context dependent.⁵² The Consultation Principles do dictate that ‘consultation should facilitate scrutiny’ and that any responses should be visible along with a clear indication of the governmental response. In this way, the system is at least transparent and easily moderated and critiqued by those who do choose to engage. Additionally, most departments operate a Consultation Hub; this is a website which clearly displays all open consultations, the date upon which they close and prior consultations relevant to the specific department.⁵³

There are some limitations, of the flexible and lightly enforced framework, the OECD notes that there does appear to be a desire, especially amongst stakeholders, for better consultation practice.⁵⁴ Concerns included self-serving selection of the issues put forward and their timing by the government. Also, some guidelines regarding appropriate response time were also reported as not being followed. On a positive note, the OECD remarked upon stakeholders’ request for a single, unified website which would streamline the entire consultation process. The aforementioned ‘Con-

⁴⁹ OECD, “Better Regulation in Europe: United Kingdom” (2010), 78.

⁵⁰ Consultation Principles (2018), available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf.

⁵¹ Ibid.

⁵² See for instance, Yvonne Rydin and Lucy Natarajan, “The materiality of public participation: the case of community consultation on spatial planning for north Northamptonshire, England” [2016] *The International Journal of Justice and Sustainability* 21; or Axel Kaehne and Helen Taylor, “Do public consultations work? The case of the Social Services and Well-being (Wales) Bill” [2016] 31(1).

⁵³ Ministry of Justice, Consultation Hub. Available at <https://consult.justice.gov.uk/>

⁵⁴ OECD, “Better Regulation in Europe: United Kingdom” (2010), 78.

sultation Hubs' do appear to satisfy this with the caveat that the hubs remain segregated by department; however, this seems unlikely to hinder stakeholders and their specific fields of concern.

It is argued that replicating a similar regime of public consultations in Cyprus would be easier than establishing a more institutionalised and binding system of public consultations. Introducing the UK's flexible approach would not require many structural changes in the public administration system, and it would consume less resources. Moreover, the UK's approach is characterised by a desirable degree of flexibility, leaving discretion to a particular department to decide on given facts if and how public consultations should be conducted (provided, of course, that requisite explanations are provided by the relevant Minister). However, such a flexible framework relies on highly developed political accountability mechanisms to serve its purpose, an aspect which cannot easily be transplanted to Cyprus.

European Union

The European Union's legitimacy crisis in the early 2000s was a trigger to revise and improve the policies relating to public participation in policymaking.⁵⁵ Since then, the EU has put the inclusion of social partners, such as business companies or trade unions, as well as the public, at the forefront of policy development.⁵⁶ One can now speak of a well-established, non-binding, ie not legally enforceable, yet institutionalised regime for public consultations.⁵⁷

The pivotal role of stakeholder consultations in the EU legal order is demonstrated by the fact that Article 11 para 3 of the Treaty on European Union (TEU) provides that "[t]he European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent".⁵⁸ In addition, Article 2 of the Protocol on the application of the principles of subsidiarity and proportionality annexed to the Treaty states that "[b]efore proposing legislative acts, the Commission shall consult widely".⁵⁹ Therefore, it is self-evident

⁵⁵ Raphaël Kies and Patrizia Nanz, *Is Europe Listening to Us?: Successes and Failures of EU Citizen Consultations*, Taylor & Francis Group (2013) 30.

⁵⁶ *Ibid.*

⁵⁷ Christine Quittkat and Barbara Finke, "The EU Commission consultation regime," in B. Kohler-Koch, D. d. Bièvre, & W. Maloney (Eds.), *Opening EU-governance to civil society: gains and challenges*, Mannheim: Universität Mannheim, Mannheimer Zentrum für Europäische Sozialforschung (MZES), 188.

⁵⁸ Article 11 para. 3 TEU

⁵⁹ Article 2 of Protocol on the application of the principles of subsidiarity and proportionality

that consultations of interested groups constitute part and parcel of the EU legal order.

The 2001 White Paper on European Governance,⁶⁰ along with the 2002 Communication on Consultation entitled ‘Towards a Reinforced Culture of Consultation and Dialogue’,⁶¹ the 2015 ‘Better Regulation Guidelines’⁶² and most recently the 2021 ‘Better Regulation Guidelines’⁶³ and the toolbox which accompanies it,⁶⁴ set out common standards and principles which need to be met when conducting consultations by the EU bodies. It is worth mentioning that the four general principles governing relationships with stakeholders as consolidated in the 2021 “Better Regulation Guidelines” are (i) participation; (ii) openness and accountability; (iii) effectiveness and (iv) coherence. The said principles are complemented by five minimum standards, namely clarity, targeting, outreach, sufficient time for participation and publication of contributions and results.⁶⁵ However, these provisions incorporating principles and minimum standards applicable to consultations are only guidelines that fall short of being legally enforceable at court.⁶⁶ The said guidelines are considered to constitute internal instructions to the Commission staff and cannot be construed as legal commitments towards outside actors and stakeholders.⁶⁷ A situation where a decision of the European Commission could be challenged at court because of lack of consultation with a relevant party was described as ‘over-legalistic’.⁶⁸ Nonetheless,

⁶⁰ European Commission, *European Governance A White Paper* (2001), available at: https://ec.europa.eu/commission/presscorner/detail/en/DOC_01_10

⁶¹ Communication from the Commission, *Towards a Reinforced Culture of Consultation and Dialogue? General Principles and Minimum Standards for Consultation of Interested Parties by the Commission*, COM (02)704 final, December 11, 2002.

⁶² European Commission, *Better Regulation Guidelines* (2018), available at: <https://ec.europa.eu/info/sites/default/files/better-regulation-guidelines.pdf>.

⁶³ European Commission, *Better Regulation Guidelines* (2021), available at https://ec.europa.eu/info/sites/default/files/swd2021_305_en.pdf

⁶⁴ European Commission, *Better Regulation Guidelines* (2018), available at: <https://ec.europa.eu/info/sites/default/files/better-regulation-guidelines.pdf>.

⁶⁵ European Commission, *Better Regulation Guidelines* (2021), available at https://ec.europa.eu/info/sites/default/files/swd2021_305_en.pdf

⁶⁶ Francesca Bignami, “Three Generations of Participation Rights before the European Commission” [2004] *Law and Contemporary Problems* Vol. 68, No. 1, 73. Anne Skorkjær Binderkrantz, Jens Blom-Hansen & Roman Senninger, *Countering bias? The EU Commission’s consultation with interest groups*, (2021) *Journal of European Public Policy*, 28:4, 471-472

⁶⁷ European Commission, *Better Regulation Guidelines* (2021), available at https://ec.europa.eu/info/sites/default/files/swd2021_305_en.pdf

⁶⁸ Communication from the Commission, *Towards a Reinforced Culture of Consultation and Dialogue? General Principles and Minimum Standards for Consultation of Interested Parties by the Com-*

the lack of heavy-handed measures of enforcement, does not take away from how detailed the consultation process and requirements are, especially in the 2015 and 2021 documents and toolbox.

The consultations are to be used for all initiatives subject to impact assessments, initiatives subject to evaluation, fitness checks, and green papers (policy discussion documents).⁶⁹ However, this represents only a minimum and the Commission or national committees of regulators might choose to consult on more specific matters.⁷⁰

Over the years, the Commission has enabled stakeholder participation in multiple stages of the policy cycle, thus promoting inclusivity, reflexivity and transparency,⁷¹ while substantially increasing the overall level of input legitimacy in the EU law-making process. Moreover, since the 2000s, the scope and variety of tools used for consultation have broadened significantly to include, *inter alia*, ad hoc online consultations, online debate forums, public hearings, institutionalised consultations in advisory committees, and business test panels.⁷² E-governance tools especially have been very important in changing the make-up of the consulted groups and widening the diversity of people participating in the consultations through their ability to reach a geographically dispersed audience⁷³. The 2002 Communication on Consultation requires all ‘relevant parties’ to be able to express their views, but it is not entirely clear what is referred to under the expression ‘relevant parties’.⁷⁴

Of utmost importance is the role of civil society organisations. Their role is inextricably linked to the fundamental right of citizens to form associations in order to pursue a common goal, as provided for under Article 12 of the European Charter of

mission, COM (02)704 final, December 11, 2002, at [10].

⁶⁹ European Economic and Social Committee, *EU public consultations in the digital age: Enhancing the role of the EESC and civil society organisations* (2017), 10, available at: <https://www.eesc.europa.eu/en/our-work/publications-other-work/publications/eu-public-consultations-digital-age-enhancing-role-eesc-and-civil-society-organisations>.

⁷⁰ Francesca Bignami, “Three Generations of Participation Rights before the European Commission” [2004] *Law and Contemporary Problems* Vol. 68, No. 1, 73.

⁷¹ Anastasia Deligiaouri, Jane Suiter, *Evaluation of public consultations and citizens’ participation in 2015 Better Regulation Agenda of the EU and the need for a deliberative e-rulemaking initiative in the EU*, *EUROPEAN POLITICS AND SOCIETY* 2021, VOL. 22, No 1, p. 79

⁷² Thomas Persson, “Democratising European Chemicals Policy: Do Online Consultations Favour Civil Society Participation?” [2008] *Journal of Civil Society*, 226.

⁷³ *Ibid*, footnote 46, p. 75

⁷⁴ *Ibid.*, 227.

Fundamental Rights.⁷⁵ These organisations can serve as a connecting point between citizens and the political system and may be the catalyst for addressing the EU legitimacy deficit.⁷⁶ Traditionally, consultations have been dominated by businesses.⁷⁷ However, online consultations have allowed broadening of the range of civil society organisations involved and individual citizens are now more represented than ever.⁷⁸ In this respect, of paramount importance is the web portal called ‘Have your Say’, which constitutes an online portal through which various stakeholders can contribute to initiatives undertaken by the Commission.⁷⁹ Over the years, the Commission has widely promoted the said portal with a view to encouraging more people to engage in the consultation process.⁸⁰ With the aim of achieving inclusivity and in line with its Strategy for the Rights of Persons with Disabilities,⁸¹ the Commission made the portal more accessible to people with disabilities,⁸² thus enabling even more groups of people to be represented and provide their input in the EU policymaking.

The EU also has clear regulations surrounding issues of lobbying. Dividing these regulations into National, European, and International categories, the EU has a clear

⁷⁵ Communication from the Commission, Towards a Reinforced Culture of Consultation and Dialogue? General Principles and Minimum Standards for Consultation of Interested Parties by the Commission, COM (02)704 final, December 11, 2002; See also Article 12 of the European Charter of Fundamental Rights stating that “Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters [...]”

⁷⁶ Kröger, S., ‘Democracy promoter or interest defender? How the European Commission influences non-electoral representation by civil society organizations’, in Kröger, S., Friedrich, D. (Eds.), *The challenge of democratic representation in the European Union*, Palgrave Macmillan, United Kingdom, p. 226; see also European Economic and Social Committee, EU public consultations in the digital age: Enhancing the role of the EESC and civil society organisations, available at <https://www.eesc.europa.eu/sites/default/files/files/qe-07-17-001-en-n.pdf>

⁷⁷ Beate Kohler-Koch and Barbara Finke, “The Institutional Shaping of EU-Society Relations: A Contribution to Democracy via Participation?” [2007] *Journal of civil society* Vol.3(3), 217.

⁷⁸ Christine Quitkat and Barbara Finke, “The EU Commission consultation regime,” in B. Kohler-Koch, D. d. Bièvre, & W. Maloney (Eds.), *Opening EU-governance to civil society: gains and challenges*, Mannheim: Universität Mannheim, Mannheimer Zentrum für Europäische Sozialforschung (MZES), 189.

⁷⁹ European Commission, Better Regulation Guidelines (2021), available at https://ec.europa.eu/info/sites/default/files/swd2021_305_en.pdf

⁸⁰ European Commission, Better Regulation Guidelines (2021), available at https://ec.europa.eu/info/sites/default/files/swd2021_305_en.pdf

⁸¹ European Commission, Union of Equality Strategy for the Rights of Persons with Disabilities 2021-2030, available at file:///C:/Users/thchr/Downloads/KE0221257ENN_002%20proof%202.pdf

⁸² European Commission, Better Regulation, Joining forces to make better laws, available at https://ec.europa.eu/info/sites/default/files/better_regulation_joining_forces_to_make_better_laws_en_0.pdf

framework into which citizens can engage with public consultation. The laws surrounding corruption are equally clear.

Suggested way forward

Taking everything into consideration, conducting public consultations will give the public a greater voice and will create an opportunity for a real dialogue that moves beyond current mistrust. Not only will the law-making process in Cyprus become more transparent and gain legitimacy, but public consultations will help in the application of legislation and addressing the challenge of corruption. As observed from the examples of the UK and EU, public consultations are the ideal means to fight against corruption and to fill the gap between political decisions and citizens. Unfortunately, despite small advancements, Cyprus must take more drastic steps to develop the domain of public consultations. Cyprus should immediately adopt an institutionalised public consultations process and set up a central consultation portal, as is the case in most EU Member States. It seems better for Cyprus to adopt a flexible framework like the one of the UK, by simultaneously incorporating the general principles and minimum standards set out by the EU framework. This will undoubtedly lead to a healthier and more peaceful society, as well as to the enhancement of the quality of democracy in Cyprus.

Public consultations need to provide participants with a feeling that their contribution has a genuine impact, that their stance is fully considered and that the consultation is being conducted at a time where change is possible, and the government has not yet sided with a decision. The demographics which constitute the participants must also be taken into consideration, specifically the contrast between stakeholders like businesses and trade unions as opposed to the public. Questionnaires should comprise a combination of closed and open-ended questions. Closed questions should be mostly used for the gathering of quantitative data, whereas open-ended questions are ideal for the gathering of qualitative data.⁸³ It is vital to strike the right balance in order to achieve the optimal output. It should also be taken into account that outcomes of consultations are not statistically representative and thus should not be perceived as such.⁸⁴ All in all, the public consultation process in Cyprus needs to be inclusive, transparent, relevant, righteous, able to respond to expectations of the participants and credible.

⁸³ European Commission, “Better Regulation Toolbox 2001”, available at https://ec.europa.eu/info/sites/default/files/br_toolbox-nov_2021_en_0.pdf

⁸⁴ Ibid.

References

- Arnstein S., 'A Ladder of Citizen Participation' (1969) 35(4) *Journal of the American Institute of Planners* 216-224
- Bignami F., 'Three Generations of Participation Rights before the European Commission' (2004) 68(1) *Law & Contemporary Problems* 61-83.
- Britannica, Ecclesia, <https://www.britannica.com/topic/Ecclesia-ancient-Greek-assembly>
- Chabanet D., Trechsel A. H., 'EU Member States' Consultation with Civil Society on European Policy Matters' EUDO Report 2011/04.
- Deligiaouri A., Suiter J., 'Evaluation of Public Consultations and Citizens' Participation in 2015 Better Regulation Agenda of the EU and the Need for a Deliberative e-Rulemaking Initiative in the EU' (2021) 22(1) *European Politics & Society* 69-87
- European Commission, 'Commission Staff Working Document, 2021 Rule of Law Report'
- European Commission, Press Release, 'Investor Citizenship Schemes: European Commission Opens Infringements Against Cyprus and Malta for "Selling" EU Citizenship' (20 October 2020), https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1925
- Fishkin J. S., Luskin R. C., Jowell R., 'Deliberative Polling and Public Consultation' (2000) 53(4) *Parliamentary Affairs* 657-666
- Fishkin J. S., *When the People Speak: Deliberative Democracy and Public Consultation* (Oxford University Press, 2011)
- Global Corruption Barometer, European Union 2021, Citizens Views and Experiences of Corruption
- Hussey S., *International Public Participation Models 1969-2020*
- Hutton J., 'Code of Practice on Consultation' [2008] HM Government
- Kaehne A., Taylor H. 'Do Public Consultations Work? The Case of the Social Services and Well-being (Wales) Bill' (2016) 31(1) *Public Policy & Administration* 80-99
- Kies R. (ed), *Is Europe Listening to Us?: Successes and Failures of EU Citizen Consultations* (London: Routledge, 2013)

- Kohler-Koch B., Finke B., 'The Institutional Shaping of EU-Society Relations: A Contribution to Democracy via Participation?' (2007) 3(3) *Journal of Civil Society* 205-221
- Kovshenin K., 'What is Public Consultation?' (Program for Public Consultation), <<https://publicconsultation.org/what-is-public-consultation/>>
- Kröger, S., 'Democracy Promoter or Interest Defender? How the European Commission Influences Non-Electoral Representation by Civil Society Organizations' in Kröger S., Friedrich D. (eds), *The Challenge of Democratic Representation in the European Union*, (London: Palgrave Macmillan, 2012) 226-240
- Mallouppas A., Stylianides T., 'Public Administration Characteristics and Performance in EU28: Cyprus', [2018] European Commission 158
- Mitsi Christina, 'The Right to Public Consultation in EU and Greek Public Law: A Comparativist Approach vis-à-vis the Legal Orders of France and United Kingdom' ('Το Δικαίωμα στη Δημόσια Διαβούλευση στο Ενωσιακό και Ελληνικό Δημόσιο Δίκαιο: Μια Συγκριτική Θεώρηση με τις Έννομες Τάξεις της Γαλλίας και του Ηνωμένου Βασιλείου') PhD dissertation, National and Kapodistrian University of Athens, 2020 (in Greek)
- OECD Better Regulation in Europe: Portugal 2010, <https://www.oecd.org/gov/regulatory-policy/44830208.pdf>,
- OECD Regulatory Policy Outlook 2018, <https://www.oecd.org/gov/regulatory-policy/greece-country-note-regulatory-policy-2018.pdf>
- OECD, 'Better Regulation Practices Across the European Union'
- OECD, Recommendation of the Council on Principles for Transparency and Integrity in Lobbying,
- Persson Th., 'Democratising European Chemicals Policy: Do Online Consultations Favour Civil Society Participation?' (2007) 3 *Journal of Civil Society* 223-238.
- Pyrgos M., 'Lobbying in Cyprus' [2018] LPAP Cyprus Association of Lobbyist & Public Affairs Professionals 1
- Quittkat Ch., Finke B. 'The EU Commission Consultation Regime' in Kohler-Koch B., Bièvre D. & Maloney W. (eds), *Opening EU-Governance to Civil Society: Gains and Challenges* (Mannheim: Mannheimer Zentrum für Europäische Sozialforschung, 2008) 183-222

- Rasmussen A., 'Participation in Written Government Consultations in Denmark and the UK: System and Actor-level Effects' (2015) 50(2) *Government and Opposition* 271-299.
- Rodrigo D., Amo P. A., 'Background Document on Public Consultation'
- Rydin Y., Natarajan L., 'The Materiality of Public Participation: The Case of Community Consultation on Spatial Planning for North Northamptonshire, England' (2016) 21(10) *International Journal of Justice and Sustainability* 1243-1251
- Shipley R., Utz St., 'Making it Count: A Review of the Value and Techniques for Public Consultation' (2012) 27(1) *Journal of Planning Literature* 22-42
- Skorkjær Binderkrantz A., Blom-Hansen J. & Senninger R., 'Countering Bias? The EU Commission's Consultation with Interest Groups' (2021) 28(4) *Journal of European Public Policy* 469-488
- Smart D. J., 'The Ancient Athenian Democracy' ('Η Αρχαία Αθηναϊκή Δημοκρατία') (1975), <https://olympias.lib.uoi.gr/jspui/bitstream/123456789/30100/1/H%20αρχαία%20Αθηναϊκή%20Δημοκρατία.pdf> accessed 13 July 2021 (in Greek)
- Weller J., 'Democratic legitimacy? The Online Consultations of the European Commission' PhD dissertation, University of Portsmouth (2012)
- World Bank, Environmental Department, *Environmental Assessment Source Book* (1999)

**BOOK
REVIEWS**

Studies, Lectures, Speeches, Articles
[Άπαντα Κωνσταντίνου Σπυριδάκι:
Μελέται, Διαλέξεις, Λόγοι, Άρθρα]

CONSTANTINOS SPYRIDAKIS

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Introduction

The 3-volume publications of Constantinos Spyridakis highlight the educational policy in Cyprus during the last years of the British rule (1923-1960) and the first decade after the establishment of the Republic of Cyprus. They highlight the opposing trends between the Greek Cypriot educational policy, mainly formulated and expressed by the author, and the British Government’s plans for the control and disorientation of Greek primary and secondary education. In this context, *Studies, Lectures, Speeches, Articles* reflects the moral standards and the mindset of Greek Cypriots towards the foreign government and the rulers’ escalation of their strategy to thwart Greek Cypriots’ political plans for *Enosis* with Greece.

It is important to comprehend the historical background of *Studies, Lectures, Speeches, Articles* and the educational role of the author. Spyridakis was the Pan-cyprian Gymnasium Principal (1936-1950), President of the Educational Council (1959-1960), the first President of the Greek Cypriot Communal Chamber (1960-1965), and the first Minister of Education (1965-1970), a bright scholar in the fields of Greek civilisation and Greek literature, and an active supporter of the Hellenic orientation of education in Cyprus. He was responsible for the conceptualization and implementation of the educational policy during the years in which the Greek Cypriots’ aspiration for union with Greece had been growing. The aspiration had been frustrated several times until the October 1931 uprising and the 1950 referendum, in which 95,7% of the Greek Cypriots declared *Enosis* as a non-negotiable goal. The EOKA liberation struggle (1955-1959) expressed the culmination of the demand for *Enosis*.

Aiming at strengthening the ties that bind Greece and Cyprus and the consciousness of the Greek Cypriots’ Hellenic roots, Spyridakis is recognized as a prominent

scholar who enriched the cultural capital of Cyprus with his scientific studies and his philological and historical work, most of which is contained in the volumes under review.

What is the educational response to such political challenges? What is the author's contribution to the struggle against English colonialism and the educational plans the English had for Cyprus? What is the role of education and educational leadership during the national struggles of Greek Cypriots and the author's role against the rulers' plans? After reading Spyridakis' work, readers will be able to form their own answers and better appreciate the role attributed by the author to education.

Main Issues and Ideas

The review aims at presenting issues the book itself raises in the concrete time of its content writing. Volume 1 consists of three separate parts and it contains speeches and articles, with the majority having been written before Independence. The reader recognizes the author's deep knowledge of and reverence for the Greek cultural capital, the history, the sustainable value of the ancient Greek literary treasures, as well as the Greek humanitarian background. It is obvious that the publications and speeches aim to stimulate adherence and respect for the Greek tradition of Cyprus, which the author points out through studies on the Hellenic character of ancient Cyprus and with articles referring to the archeological findings that reveal the roots of Greek civilisation in Cyprus. This aim is also obvious in his speeches to the various 'national' associations where he was honourably invited –usually as their founder– and in which he urged the participants to work as a team and in collaboration for the continuity of the Greek tradition of Cyprus (Vol. 1, Part 3, p. 314).

The two Parts of Volume 2 contain studies on the education of Cyprus. In the prologue of the first part –written in 1972– the writer refers to his 37 years of contribution to the Greek education in Cyprus (1923-1960). Presenting his mission during those years, he states:

I considered the issue of the protection of Greek education in Cyprus as the main goal of my professional mission, because I believe that Greek education on the island was a very important factor for the national survival of its Greek population (p. xiii).

The Greek educational policy espoused by the author focused on the need for the Greek schools of Cyprus to persist as cultural centres of Greek ideals, and it was diametrically opposed to the colonial plans and efforts to change the political orientation of Cyprus, in order to safeguard the political interests of the British. The second

volume reveals the efforts to resist the alienation of the Greek character of the Cyprus educational system.

In the decade before the Independence, the author had the power to develop and defend educational policy by exercising his multiple roles as Headmaster, Advisor of the Cyprus Ethnarchy, Chairman of the Cyprus Greek Secondary School Teachers' Organisation, and President of the Organisation of the Greek Educators of the Secondary Education Community Schools. The chapter entitled 'The Educational Policy of the English Government in Cyprus (1878-1954)' is a critical chronological review (Vol. 2, Part 2, p. 119-158). In it, the author stresses the negative effects of the 1923 Law, which was described as a step for the subjection of elementary education to the government's control, and as an interference in Greek education that enacted the conflict between the rulers on the one hand and the Church and the people on the other. The conflict intensified with subsequent laws and especially the 1933 law that provided for the full control of elementary education by the British Director of Education.

The orientation of the Cyprus educational system during British rule had become the subject of great rivalry between the Greek educators and the colonial government. The correspondence exchanged between the author and the British Directors of Education, constitutes an important historical document highlighting the efforts to safeguard the national character of education and to resist the colonial policy. Government funding for schools was offered on the condition that the schools modify their programmes according to the government's instructions and recognise the rulers' control over teachers' qualifications, the subject matter of the curriculum, the textbooks, and the schools' operation in general. Since 1935, the conditions for funding had been implemented in elementary schools, resulting in the 'allegiance of the schools' to the Government, a situation that was not accepted when it came to secondary education, the bulwark against the government's plan to 'change the national character of secondary education schools'.

The 1957 memorandum of the Educational Council of the Cyprus Ethnarchy on the educational situation on the island, addressed to the United Nations Organization and UNESCO, aimed to shed light 'on the educational policy of the British Government, a policy dramatically opposed to the sentiments and wants of the Greek people of Cyprus' (Vol. 2, Part 1, p. 526).

The author highlights the risks Greek education encountered and acknowledges the intensification of efforts at the government's Office of Education to change the

Hellenic orientation of education, especially after 1935, and take full control of the elementary schools. He also argues that the government's changes in the curricula, the teaching methods, and teachers' education resulted in law achievements.

In a number of publications, the author points to the decline in the standards of elementary education and to graduates' 'poor results' in the secondary education entrance exams. In an article for the newspaper *Eleftheria*, dated 8.1.1946, he defended his dissent and contradicted the accusations against him by a number of elementary teachers:

The majority of the primary school students, when they come for the examination, do not know the alphabet or to write their names. [...] I am in the position to confirm that only 1/5 of the students coming for the examination are able to continue attending the Gymnasium without obstacles (Vol. 2, Part I, p. 430).

From 1936 onwards, the government stopped recognising graduates of the Greek Teachers' Training Schools and established the Teachers' Training Colleges attended by Greeks, Turks and other students, in the same classrooms with lectures in English. The encouragement of the Turkish minority, which constituted 17-18% of the population, to be actively involved and interested as an equal partner, hindered *Enosis* with Greece and preserved the interests of the British government in the area. British colonialism had long implemented the policy of introducing a third interested party in order to lessen the power of the principal opponent. In the above-mentioned memorandum, Spyridakis reports the differential treatment of the Turkish schools, which were supported by financial aid and the appointment of teachers from Turkey 'who propagate with fanaticism the slogan "Cyprus is Turkish"'.

During the first five years of the Independence, the author served as President of the Greek Communal Chamber and later as the first Minister of the Republic of Cyprus. During his service as the President of the Greek Communal Chamber, he pointed out the dividing provisions of the operation of the Chambers and the loose connection between the Greek and the Turkish one that enhanced the separatist economic and educational policy. He also commented on a report of the Council of Europe in 1963:

As long as the Turkish leaders are unwilling to abandon their separatist tendencies and continue to take advantage of the economic partition for political reasons, Cyprus will never, as Professor Heckscher remarks, achieve a satisfactory development programme (Vol. 2, Part 2, p. 470).

He also reported that the establishment of the Chambers was the result of the British intervention, which aimed, according to the British, to protect the Turkish minority from the Greek majority. The independence of the Chambers and their extended powers in financial matters and administration created 'a state within a state' that 'shatters the unity of the state and leads to financial separation between the Greek and Turkish communities' (p. 458).

The British principle of 'Divide and Rule' had been intensified in the colonial educational policy over the 30 years leading to the Independence, when the British Governor tried to distract the Greek Cypriot policy from union with Greece via measures aimed at controlling Greek-centered educational policy and upgrading the demands of the Turkish Cypriots.

The dividing seeds had been inserted in the foundation of the Republic of Cyprus, into the very fabric of its Constitution. In a number of interviews and publications, contained in Volume 3, Spyridakis accused the Turkish-Cypriot leaders of using the constitutional provisions 'not for the purpose of protecting their communal interests as a minority of only 18% of the population, but as a means to force the Greeks to yield to their demands by threatening to decide the future by partition of the island' (p. 408-409).

Publishing regularly in magazines and newspapers after the 1963 Turkish withdrawal, he explains why the constitution was 'unworkable' and why the submitted revisions of the Constitution by the President of the Republic, Archbishop Makarios, were both necessary and justified. He blamed the Turkish leaders once again for using the privileges of the Constitution for separatist purposes.

During his service as Minister of Education, Spyridakis' articles explicitly declared that the only final settlement of the Cyprus problem was *Enosis* with Greece after the withdrawal of the Turkish Cypriots from the government and that the President of the Republic of Cyprus and the Greek government both shared this policy. Despite the fact that the author unveiled the political plans of both the British and the Turkish leaders, as well as the dividing character of the Communal Chambers, he was not a politician. He was judged negatively for the declaration of *Enosis* after the 1963 Turkish Cypriots' withdrawal. The criticism was based on the argument that, as the most knowledgeable person on the British and Turkish efforts to prevent the union of Greece and Cyprus, he should not have returned, as Minister of Education, to the declaration of *Enosis*.

Epilogue

The three volumes under review constitute important documents, not only for the history of education, but also for the history of Cyprus, and the role of the British rulers in the dividing and unworkable character of the Constitution for the establishment of the Republic of Cyprus.

The reader should review the author's studies, lectures, speeches and articles taking into account the political and historical context of the era they were written, the last 37 years of the British rule and the ten years after the Independence. In this context, the volumes mirror the aspirations of the Greek Cypriots for *Enosis*, aspirations that remained an unfulfilled desire.

Spyridakis spared no effort to defend the Greek cultural heritage of Cyprus and to cultivate the national ideals in the Cyprus educational system, schools and society, maintaining a steady vision geared toward the ideal of *Enosis*. He used all the available means at his disposal, writing articles in newspapers and magazines, giving speeches in official and unofficial circles, creating memoranda and reports, issuing circulars at schools, and through his correspondence with the British rulers. He fought against the British policy and empowered students and teachers to remain committed to their Greek ideals and aspirations.

Reviewing the three volumes, my intention has not been to present or summarize their content, but to reveal the main argument and ideas that underlie the author's writing. It is obvious that the main idea of the author is that 'Cyprus is an integral part of the broader national space', with its national traditions having been maintained through the ages, and that it should continue cultivating the Greekness of its citizens. In 1963, in an article for *Cyprus Today*, which was republished in Vol. 2 (Part 2, p. 460), he refers to the publication 'Orientations', authored by Sir Ronald Storrs, the British Governor, in 1931, copying the following extract:

The Greekness of Cypriots is, in my opinion, indisputable. Nationalism is more, is other, is greater than pigmentations or cephalic indices. A man is of the race of which he passionately feels himself to be. No sensible person will deny that the Cypriots are Greek-speaking, Greek-thinking, Greek-feeling, Greek.

The above extract also reflects Spyridakis' beliefs, spread throughout his writings in the volumes *Studies, Lectures, Speeches, Articles* and communicated during his 47 years of service in the name of national ideals.

Mary Koutselini

The Normalisation of Cyprus' Partition Among Greek Cypriots

GREGORIS IOANNOU

Cham: Palgrave Macmillan, 2020

ISBN: 978-3-030-50815-9 (print), 978-3-030-50816-6 (eBook)

This well-argued book by a self-avowed social scientist comes across as a heartfelt plea to reunify Cyprus, and bewails the rejection of the Annan Plan. It provides a deep and thoughtful analysis of the mentality and feelings, even, of the two main communities of Cyprus, and of their institutions (deep state and all) vis-à-vis partition and reunification. Although not a historian, Ioannou gives history its due, which lends credibility to his argumentation, namely on p. 7, where he writes: '[h]istory does not end and everything can change [...]. The future of the country will happen in conditions given by the past'.

He deals with a difficult topic, in that the continuing *status quo*, partition –with all its ramifications– and unification with its various ramifications, are difficult to reconcile, even within themselves, since there are so many interpretations. As for the mantra of 'bicomunal, bizonal federation', it means different things to different people and ideologies.

Let us start with the positive aspects:

First, he manages to combine an instructive account with deep and clear analysis.

Second, his analysis of political parties and their internecine problems, particularly AKEL, is incisive, realistic, informative and sensible.

Third, he is negatively critical of extremism, especially of the right-wing variety, bewailing its negative role in cementing divisions. In this connexion, although Ioannou has been accused of presenting a left-wing viewpoint, he is sufficiently detached (p. 144) to criticise left wing analyses from Greece, with their 'downright skewed references to "imperialism" and "bourgeoisie"'.

Fourth, he bewails and describes how the educational system on both sides of the divide has hardened and even falsified to a certain extent how Greek and Turkish Cypriots perceive each other. He would probably agree with this view by a British High Commissioner to Cyprus in 1969: '[...] the younger generation of Greeks and Turks are educated separately and brought up to regard one another as enemies waiting to commit genocide'.

Fifth, he provides a good argument against partition with the very thoughtful words (p. 184) that if the prospect of reunification completely disappears, '[i]t will no longer be a case of Turkish people in northern Cyprus becoming Turkish Cypriots, as it will be a case of Turkish Cypriots in northern Cyprus becoming Turks'.

But now, we must turn to what I consider to be the negative aspects of his book, namely omissions and downplaying.

First, to mention 'Greek expansionism' is somewhat misplaced, since the '*Megali Idea*' died a long time ago, and is barely entertained today, apart from by a minute band of fanatics. He is of course correct about Turkish expansionism, which now seems to be an official part of 'neo-Ottoman' policy. It could be that the author has been constrained in his writing and emphases by the fact that the book is available in Greek and Turkish, and that he therefore has to play to somewhat incompatible audiences.

Second, and more specifically, although he is right in stating that the 1958 violence laid the foundations of the 1963-67 violence, he does not say that this was instigated mainly by the Turkish side. The bomb explosion at the Turkish Press Counsellor's house that triggered the anti-Greek rioting was planted, as the Colonial Governor Foot wrote at the time, by the Turks, as Denktash admitted to him. Needless to say, Foot kept this fact secret, only telling the Foreign and Colonial Offices.

Third, although he tacks on in a postscript Britain's 'instrumentalisation' of the 'growing political division between the two communities and its 'fomenting the unfolding conflict', its role should have been dealt with much earlier on in the book. There is very little about how Britain divided Greek and Turkish Cypriots, and concomitantly, Greece and Turkey. Given his emphasis on the importance of Greek and Turkish Cypriots sorting out their own problems, that might explain why he does not point to Britain's role in dividing the communities, mentioning only that the British hired Turkish Cypriot auxiliary policemen. He omits the fateful 1955 conference, cynically planned to 'embarrass the Greek Government', and to divide Greece and Turkey, and Greek and Turkish Cypriots, leading to the expulsion and forced exile of nearly all of Greek stock from Turkey, and bringing Turkey illegitimately into Cypriot affairs, in breach of Article 16 of the Lausanne Treaty.

Fourth, he omits the fact that it was the British who encouraged Makarios to introduce the Thirteen Points that led to the strife. He appears unaware that the British even helped with drafting the Thirteen Points. Thus, he again downplays Britain's re-

sponsibility, thereby leaving the uninitiated reader to assume that it was all the fault of the Cypriots, at least until he reaches the postscript.

Fifth, he might have pointed out that the whole 1960 settlement was predicated on the British retaining the Sovereign Base areas, and that the NATO-friendly arrangement was at least as much to blame as the Cypriots themselves for the strife that was to follow.

Sixth, on the Annan Plan, although he analyses very well the steppenwolfish dilemmas in the minds of Cypriots about partition and unification, he omits to mention some factors that surely influenced the resounding Greek Cypriot 'no' to the plan: the plan was to some extent contrived to oblige Greece and Cyprus to accept Turkey's putative membership of the EU; to re-impose the very 1960 treaties that had led to strife; and to ensure that the 'single international personality' that the new state was intended to have, would be invested in three non-Cypriot judges and the guarantor powers, making Cyprus *de facto* a protectorate. He ought also to have mentioned Russia's strong opposition to the last-minute attempt to 'guarantee' the plan at the UN Security Council.

But for the rest, his analysis is incisive and informative. In this connexion, he writes (p. 180) '[s]ometimes, it takes societies a long time to process the facts that they themselves created in the first place'. Again, this detracts from the fact that Britain, from 1878, shaped –and even institutionalised– the social divisions.

Reverting to a more positive observation, Ioannou is realistic –and indeed pessimistic– in writing (p. 170) that it will take a regression to violence for partition to be completed (also adding, however, the oxymoronic phrase 'a grey but clear legal status in northern Cyprus').

I can but strongly agree with him, when he writes: 'the Cyprus problem is only really a problem of and for those who live in Cyprus and only they can resolve it and build peace on the island. [...] I strongly believe that reunification can only be a Cypriot matter and a matter for those who live in Cyprus'.

Such an ideal has of course been sullied by external powers biting their fingernails of geopolitical ambition. Were Russian suggestions for an international conference not opposed by NATO, then it is possible that a wholly sovereign and probably neutral Cyprus would somehow emerge, with every individual and group protected by EU law. However, power politics within a NATO context seems to have put paid to such common sense.

This welcome, frankly written, and informative book is yet another useful addition to the literature on Cyprus, and if this review comes across as slightly promiscuous, this reflects the divisions which history, the selfishness of outside powers, and the Cypriots themselves have imposed on the beautiful island. Hopefully, a new edition will take into account my comments, which will provide an even more complete historical picture.

William Mallinson

Partitioned Island: Cold War and the Cyprus Question in the Years 1960-1974 **[Διχοτομημένη Νήσος: Ψυχρός Πόλεμος και Κυπριακό την Περίοδο 1960-1974]**

JAN KOURA

(Translated by COSTAS TSIVOS)

Athens: Alexandria Publications, 2021

pp. 224

ISBN 978-960-221-922-5

This is an important book historically and academically because it is a ‘first’. It is a first in exploring, even in a limited and specific manner, East European declassified documents from the official archives of the former Czechoslovak Socialist Republic about its relations with the Republic of Cyprus. This is attempted in the wider context of the Cold War. The closest to Jan Koura’s *Διχοτομημένη Νήσος* is the work of the late Balkan scholar Spyridon Sfetas, *Cyprus and Yugoslavia: Documents from the Yugoslavian Archives 1967-1974*.¹ However, these archives, which explore Cypriot-Yugoslav relations during the Cold War, were from former Yugoslavia. Tito’s Yugoslavia cannot be said to have been an Eastern European State and, most importantly for the purposes of this review, not part of the Eastern Communist Bloc controlled by the Soviet Union.

Koura’s work is the first that comes out of the Soviet Bloc. It draws on three sets of archives. Two State ones, namely the Ministry of Foreign Affairs (AMZV, *Archiv Ministerstva Zahrancnich Veci*) and the State Security (ABS, *Archiv Bezpecnostnich Slozek*), and those of the Communist Party (KSC, *Komunisticka strana Ceskoslovenska*). There appears to be another bunch of documents (NA) which are not listed in the abbreviations but which almost certainly belong to the Communist Party (*Mezinaarodni oddeleni*, NA, AUV, KSC, p. 100).

From the contents of the book, one assumes that the parts of the archives that are specifically, though not exclusively, explored are about the well-known issue of the repeated importation of arms from Czechoslovakia by the Nicosia government dur-

¹ *Κύπρος και Γιουγκοσλαβία: Έγγραφα από τα Γιουγκοσλαβικά Αρχεία 1967-1974* (Θεσσαλονίκη: University Studio Press 2016).

ing the 1960s and early 1970s; and this is, after all, the original contribution of the work by Koura. Therefore, it would have been useful if the author provided potential researchers with details of the process by which he acquired access to these archives, precisely because they are a 'first'. Is access, in what is now the Czech Republic, institutional or gained through the efforts of private researchers like himself? In other words, is there a declassified government policy, akin to those that exist in the West? Is it access open or privileged? Can copies be made or is only note taking allowed? Can non-citizens who speak the language have access to such documents?

I raise these questions, because the author makes much of the opening of such archives in the former Communist Bloc, as well as of their potential for revising the bipolar nature of the Cold War and indeed, for example, of the post-independence history of the Republic of Cyprus. He is also critical of the 'over-reliance' on Western sources in interpreting post-WWII history. Even though I do not want to belabour this point, I must stress that at least in the United States –besides the voluminous federal archives (National and Presidential) that are accessible even before the end of the Cold War– research projects² have made available voluminous archives from the former Soviet Bloc States as well as through collaborative publications. There may be nuances of the Cold War of which scholars may not be aware. However, we do know what happened in the bipolar post-WWII Cold War period and of its impact on regional conflicts.

Now back to Cyprus. Czechoslovakia only opened an embassy in Cyprus in 1964. Until then, it covered Cyprus through its legation in Athens. Here, it must be pointed out that Moscow, Bulgaria (and Romania) had full legations in Cyprus in 1960 because newly independent Cyprus was 'assigned' to Sofia in the context of Moscow's Cold War 'management'. The Czechoslovak ambassador in Athens was accredited to Nicosia as well. From 1964 until March 1973, it only had one accredited diplomat (*chargé d'affaires*) in Nicosia. From 1964 to 1970, this person is not named, although he may have been Joseph Manis (sp.? at p.150, in Greek). In 1970, Joseph Gregra was appointed as *chargé*. He was promoted to ambassador in 1973. Koura describes him as operating in a dual capacity, as a diplomat and as a veteran agent of Czechoslovak intelligence (SiB, *Statni bezpecnost*) with the code name 'ABDUL'. He began his career in Beirut in the 1950s. Koura also credits him with establishing,

² Such as the truly remarkable National Security Archive of George Washington University (founded in 1985 by journalists) or the also excellent 'Cold War International History Project' of the Woodrow Wilson Center (1991), to mention just two out of many.

within months after his arrival, contacts with high-ranking Cypriot politicians. It is also claimed that he had established an asset in the Presidential Palace (p. 162-3).

The Czechoslovak government exhibited a keen interest in Cyprus from the 1960s onwards. The presence of British bases on the island and the proximity of Cyprus to the Middle East and Africa were the main reasons. SiB agents were regularly sent there from the Athens embassy or from Prague (p. 86). In Cyprus, unlike in Greece, they could operate more freely. They also cooperated with AKEL communists, with whom they had maintained brotherly relations since the 1950s (p. 86). This cooperation, implemented through the communist party of Czechoslovakia, is made evident throughout the book and played a significant role in the arms deals. After his arrival in Nicosia, it is clear that a super-active Grega had taken over from Athens entirely.

As already suggested, the value, interest, and contribution of this work lies in the documentation provided of the deals concerning the arms supplied by Prague to Nicosia from 1966 to 1973. The need for these arms supplies —mostly light weapons— arose from the urgency and double need of Nicosia to defend itself from coordinated international as well as local machinations against its independence and territorial integrity. Originally, these machinations commenced in 1964 by the directly aggressive behaviour of Turkey, a NATO country that bombed Cyprus in 1964, as well as the indirect aggression by Greece, another NATO State, which —after 1967— became the first NATO member to be governed by a military junta. The United States and the United Kingdom governments, and the whole NATO mechanism, were the ones aiding and abetting (that is pulling the strings) these Turco-Greek machinations

What was in fact happening in Cyprus from 1964 to 1974 was an orchestrated attempt to eliminate Cypriot independence, based on the bogus claim that the nascent Cypriot Republic could potentially endanger the security of the Atlantic Alliance by 'going communist through the ballot box' because it had a strong communist party. The 'strategic' argument behind this reasoning upheld that in the same way that Czechoslovakia went communist in 1948 with the so-called Prague coup so would Cyprus. There is significant irony here. Before US Army intelligence officer T.W. Adams (author of the first U.S. Army *Area Handbook on Cyprus* and of *AKEL: The Communist Party of Cyprus*),³ coined the sexy, propagandist moniker 'Cuba of the Mediterranean' for Cyprus and 'Cassocked Castro' for President Makarios, the Re-

³ In the early 1980s, while serving as Press Counsellor of the Republic of Cyprus in the American capital, I befriended T. W. Adams, who had retired by then. He admitted to me proudly that it was on his policy suggestion that that the moniker 'Cuba of the Mediterranean' for Cyprus was adopted by the US intelligence community.

public of Cyprus was called the 'Czechoslovakia' of the post-WWII era. To this effect, Koura entitles one of his chapters 'Cuba of the Mediterranean'.

With an arms embargo by the West against it, Cyprus turned to the East to ward off Atlantic schemes against its independence. Indeed, initially Greece sent arms and men to Cyprus in 1964 for defence against an overt attack by Turkey. However, it soon became patently clear to all, and certainly to the Cypriots, that the Greek forces were there on a double mission, namely to also 'prevent', even by force, Cyprus from 'going communist'. Through the subterfuge of NATO, the strategic objective aimed at eliminating Cypriot independence and imposing over it a tri-partition/tri-condominium of Greece, Turkey, and the United Kingdom. It was all about the vivisection and Natoisation of the newly independent State.

Cyprus first sought arms from the Soviet Union in 1964 –three agreements were signed in August, September, and December respectively– and a deal was consummated for anti-aircraft missiles to be delivered through, friendly to Cyprus, Nasser's Egypt. Cypriots were also sent to Egypt for training. Nonetheless, with Athens pressuring Nicosia as an instrumentality of the West, these weapons never reached Cyprus. Significantly, Czechoslovakia had no part in this first deal.

It was on 30 November 1966 and onwards, that Prague became the chief supplier of mostly light weapons to the Cypriot State. There is a significant political nuance highlighted by Koura here. Unlike 1964 when, under Khrushchev, Moscow stood firmly with Cyprus, by 1966, under Leonid Brezhnev, a rapprochement with Ankara was under way, so Czechoslovakia was given the green light to respond to official Cypriot requests for Eastern arms; basically, Prague fronted for Moscow.⁴ However, Prague also had its own reasons, which were economic, as Cyprus paid promptly and upfront in foreign exchange. Koura does make the point that (in 1966) Moscow pretended to Ankara that it had no knowledge of the 1966 deal (p. 138-51).

The 1966 deal produced a major crisis between Athens and Nicosia with Ankara, the West, and Greece, demanding that the light arms imported be placed under UN custody; apparently, not all of them were (p. 157). With the junta taking over in Greece in 1967, the fears of a similar coup in Cyprus became widespread. Urged by AKEL, Moscow revised its stand. In turn, it counselled Prague –all this done through the communist party mechanisms– to meet new Cypriot requests. However, it was now the turn of Prague to refuse delivery, as it was concerned with Turkey's reaction

⁴ Prague's role, experience, and existing arms industry in supplying arms to Israel in 1948 and to Egypt in 1955 were probably the key parameters.

(p. 144-5). Koura highlights this as a unique incident of Prague's defiance of Moscow (p. 144-5). Yet, according to Czechoslovakian documents, Soviet arms reached Cyprus in 1967 through Egypt, as part of a secret deal. Apparently, fears of aggression by the Greek junta overrode all other concerns. The tergiversations of the Soviet Bloc on arms supplies to Cyprus were repeated yet again, in 1969, when Prague cancelled another deal. The main excuse given was that, in the aftermath of the 1968 invasion of Czechoslovakia, the new communist leadership did not want potential international problems.

Two other cases of important arms supplies by Czechoslovakia, in 1971 and 1973, are recorded. By then, the Greek junta had been sponsoring the EOKA B terrorist organisation as an instrumentality for the assassination of Makarios and the overthrow of the Cypriot government. The danger was very real, and a junta now existed in Turkey as well. Both juntas were in cahoots and determined to rein in or overthrow Makarios. A 1971 arms deal and the delivery of Czechoslovakian arms were used as an excuse by the Athens junta to force Makarios out, by force if necessary (on 14 February 1972). This junta move was preempted, literary at the last minute, through local and international action. Pro-government forces, partly armed with Czechoslovakian weapons, and thousands of civilians surrounded the *Archiepiskopi* in support of President Makarios, who, resided there at the time. This prompted the Secretary General of AKEL in 1972 to thank publicly Czechoslovakia for helping avert a coup (p.160, No 30). Again, the 1971 arms ended up under UN control; but (yet again) not all of them. By 1973, the domestic situation had deteriorated dangerously and both the Soviet Union and Czechoslovakia responded to Nicosia's urgent arms requests by delivering small bunches of automatic weapons from April all the way to the week before the Greek junta organised the coup of 15 July 1974. Readers should be aware that Koura's work on the 1966 and 1971 deals especially are complemented by two important Cypriot protagonists of the arms deals, Andreas Azinas and Glafkos Clerides. Both were once ministers and confidants of Makarios, and they detail the arms deals in their memoirs.⁵ Needless to say that there was extensive coverage of the attendant crises in the local and international press as well.

There is one particular incident in the documentation provided by Koura, which puts to rest existing speculation about the underlying facts and it is thus worth mentioning. After the 1971 importation, the terrorist organisation EOKA B led by George

⁵ *Fifty Years of Silence (50 Χρόνια Σιωπής*, Nicosia: Airwaves Ltd, 2001/2008) by Azinas and *My Testimony (Η Κατάθεση μου*, Nicosia: Aletheia, 1988/1989) by Clerides.

Grivas was reported to have received Czechoslovak light arms from Lebanon. At the same time, there was rife speculation that Prague was double-dealing. Gregra, in Nicosia, denied this vehemently. However, Prague was so concerned that it assigned the head of SiB to investigate (p. 161 Nos 35-36). In his report to his superiors, he concluded that the Greek junta urged a well-known Greek shipowner and supporter of Grivas who, with the help of local bishops opposing Makarios, provided the funds for the purchase of the weapons from the black market in Beirut. Nevertheless, they spread the disinformation to rattle Prague and Nicosia (p. 161 Nos 35-36).

The worth of Jan Koura's book lies in the documentation it provides readers on the arms deals between Prague and Nicosia and the political and ideological motivations that prompted the various parties to act, including their tergiversations –those of Prague and Moscow– when they had to make choices. Prague and Moscow aided Cyprus to ward off western machinations up until the Greek junta unleashed massively the Greek contingent stationed in Cyprus (under the 1960 Accords) against the government of a State, whose independence it was supposed to protect. The bloody coup provided the excuse for another NATO State –ostensibly another protector of the Republic– to attack, forcefully partition the country, and implement an ethnic-cleansing policy against its autochthonous population in the northern part of the country. In the meantime, a third NATO State, the United Kingdom, another ostensible protector of Cyprus, stood by and watched the Turkish army running amok on Cyprus and killing one percent of the population of the country in the space of one month. Thus was Cyprus vivisected and partitioned. This brings us to the title of the book with which I take issue., Jan Koura has titled his book *Διχοτομημένη Νήσος*. I do not know if this is an exact translation of the original, but I presume that the closest translation would be *Partitioned Island*.

The author presents his analysis under the umbrella of the Cold War and adopts the western conventional wisdom about Cyprus lock, stock and barrel. This is evident from most of the secondary sources he uses. He concludes, *inter alia*, that East European arms supplies did not help solve the Cyprus Problem but may have made it worse. Like most, he treats Cyprus merely as an island, as an object and as an appendix of the West, lacking any standing of its own, an autonomous existence and an international personality. Yes, Cyprus is an island, but it is a lot more than just that. It is a country. It is a State with a population that emerged from a struggle against colonialism and imperialism, like so many other Afro-Asian States in the 1960s. It is not just an island at the mercy of the winds and of others' whims.

Neither is it, by the way, a small State. It is a State, albeit a weak State in the international system of sovereign and equal States. However, like most weak States in the international system, it has sought protection by membership in international and regional organisations and through political alliances. Cyprus is today *de facto* partitioned. On the other hand, the attempt to destroy its independence and sovereignty has spectacularly failed – at a huge human cost, nonetheless, to its people. It would therefore behoove those in the West who care about an international rules-based system to reflect and act on this. The late Christopher Hitchens, one of the most perceptive students of Cypriot history, has written that no other people have gone through – in the space of one generation – an anti-colonial guerrilla war, a civil war, a coup, and an invasion. Cypriots seek security above all. In this endeavour, they deserve support and respect; and they certainly do not see themselves as the satrapy of any power or powers, all trying to ‘solve’ Cypriot internal problems through *diktats* and coercion.

A final comment to make; even though I have, as a reviewer, overlooked some translation misprints, especially of names into Greek, one factual mistake must stand corrected. The author repeatedly states that due to political differences between the President and the Vice-President, the Cypriot Army, as called by the 1960 Accords, was not established, and that its non-establishment led to the establishment of paramilitary groups (p. 89). A Cypriot Army was established and functioned until 1963. Its first commander was the Cypriot-born retired General of the Greek Army, Menelaos Pantelides. His deputy was the Cypriot-born retired General of the Turkish Army, Kemal Gursel.

Marios L. Evriviades

The Islamification of Occupied Cyprus **[Η Ισλαμοποίηση της Κατεχόμενης Κύπρου]**

PETROS SAVVIDES

Nicosia: Armatolos Editions, 2019

pp. 148

ISBN: 978-9963-9841-0-7

Turkey's conduct towards Greece and in the wider Eastern Mediterranean region has become an ever more pressing issue in recent years. This obviously creates a need for us to understand Turkey's motives and the means it uses to pursue its ends. One of these means is the burnishing of political Islam's image within and beyond Turkey's borders. Cyprus is one of places where Ankara is employing this strategy.

In the context of my personal and academic interest in both Turkey and Cyprus, I read Petros Savvides' *The Islamification of Occupied Cyprus* published by Armatolos Editions in 2019. In this book, Mr Savvides undertakes a detailed inventory of key elements that point to the systematic and intensive nature of Ankara's efforts to alter the political, cultural, demographic, and religious landscape in the territory of the Republic of Cyprus that has been under illegal occupation for 47 years now.

Mr Savvides's work is divided into three sections. The first chapter gives us a cultural and religious profile of the Turkish Cypriots, highlighting and interpreting the qualitative differences between the characteristics of Turkish Cypriots and Turks, through a comparative analysis of the typology and morphology of places of worship in Cyprus.

In the second chapter, the reader is given a detailed and analytical inventory of the three action plans Turkey has systematically implemented in occupied Cyprus since 1974 in its efforts toward political, demographic, religious, and administrative Turkification of both the Turkish Cypriot people and the nature of occupied Cyprus as a whole.

In the third chapter, Mr Savvides points to the accelerated pace of Turkey's Islamification campaign in occupied Cyprus under the Justice and Development Party (the Turkish political party headed by Recep Tayyip Erdoğan), in particular following the failed attempt to resolve the Cyprus issue through the 2004 Annan Plan.

The book's structure helps the reader gain not only the necessary background to assess and understand the differences between the Turkish Cypriots and the Turks,

but also a picture and clear timeline of the evolution of Turkish efforts to islamify occupied Cyprus. This timeline of Turkey's activities, separated into distinct periods, convincingly differentiates the quality and intensity of the Turkification operations in occupied Cyprus under secular governments in Ankara, on the one hand, and the Islamic governments of Erbakan and Erdoğan on the other. These differences, as Mr Savvides is right to underscore, are directly related to the efforts to islamify Turkey itself during the same period.

The writer's straightforward, clear style, coupled with extensive use of photographs and maps, makes this book —and the arguments it puts forward — easy to read and understand, even for readers with no previous knowledge of the subject.

Also commendable is the author's reliance on primary sources which are accessed in the field and are mainly Turkish in provenance. He thus avoids influences that could undermine the objectivity of his work, given the sensitive nature of his topic.

I was fascinated by Mr Savvides' groundbreaking analysis of Turkey's political, military, and religious use of minarets in occupied Cyprus throughout the period under examination. This alone, I think, elevates the book to the status of required reading.

However, I also wanted to read more about how political Islam is linked and intertwined with Ankara's geopolitical doctrine: a deeper analysis that highlights the strong interdependence between the two, given how the nature of political Islam has changed during Erdoğan's time in power.

In short, I believe that Mr Savvides's *The Islamification of Occupied Cyprus* is a study that offers a unique perspective on a chronic but also very current issue that concerns not only experts in the field of international relations but also the Greek public as a whole. Its structure, clear style, and use of photographs and maps make this book an important tool for future researchers and scientists. At the same time, it is good reading for anyone who wants to deepen their knowledge of this subject.

Constantinos Fillis

A Decade of Crises and the Future **[Η Δεκαετία των Κρίσεων και το Αύριο:** **Οι Προκλήσεις της Κυπριακής Δημοκρατίας** **και η Αναζήτηση Προοπτικής]**

ANDREAS THEOPHANOUS

Athens: I. Sideris Publications, 2021

pp. 473

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The soft cover of Professor Andreas Theophanous' latest book is of a good design. Painted in variations of olive green, it features the title *A Decade of Crises and the Future* [my translation] and hides an excellent anthology of short texts. They represent a selected part of the author's contributions to Greek language newspapers in the period 2011-2021. In terms of content, the papers constitute a series of insightful accounts of political and economic developments in Cyprus during this period. Taking into consideration the quality of this array of contributions to the local press, as well as the broad range of themes that they address, it would not be an exaggeration to describe the book as a treasure chest of the history of crises that befell Cyprus in the past decade.

The book, introduced by Paschalis M. Kitromilides, appears divided into five broad thematic areas or sections. They cover the Cyprus dispute and Turkish policy, the regional, European and international context, the economic crisis and the pandemic, public policy and social issues and, finally, the author's 'philosophical positions.' With the exception of the latter, a rather unusual definitional rubric, the remaining headings correspond fully to the content of the articles. The organization of papers made by the Professor resembles a Herculean task especially in view of the fact that he attempted it long after their publication in the press. As for the last section, it represents a challenging effort to put together articles of a diverse content. The author could have rendered the content of the last section under the slightly more conventional heading 'General Political Views'. For the product of Theophanous' work is a quintessentially *political book* and one should assess it as such.

The purpose for which Theophanous originally wrote these articles determined the length, the style and the emotional substratum of his texts as they now appear in the book. These very short articles, usually two pages long, make the book an ex-

tremely pleasant reading. Initial constraints compelled the author to employ precision in his writing without sacrificing the eloquence of his analysis. In short, the texts are dry without the author appearing inarticulate. Long narrative excursions, unnecessary verbosity and pretensions to literary skill are completely absent from the book. A critical calmness imbued in the texts marks the combination of the author's academic detachment with his pervasive critique of the country's political establishment. In short, Theophanous remains calm without becoming indifferent. The Doric nature of the texts and the Stoic predisposition of the author make the book a refuge in a maze of meaningless talks and arguments about public issues in Cyprus.

Precisely because the book is so good in what *it says*, one could quibble a bit about what *it does not say*. Despite the impressively wide range of themes it addresses, there is very little on the military aspect of the Cyprus standoff. To be fair, Theophanous is not a military expert and his silence on the matter is in discreet conformity to a tendency in Greek Cypriot politics to approach the Cyprus dispute from a legal standpoint while ignoring hard power issues. In contrast to neighboring Israel, where military expertise plays a vital role in the formulation of policy, this matter remains a taboo issue in the public sphere of the blissful islanders. This public syndrome of political naiveté is largely the result of the crushing military defeat that Greek Cypriots suffered in 1974 and their almost traumatic denial to confront the fact that the imbalances of military power in the Eastern Mediterranean are rather depressing for the Greek side. When it comes to the precarious nature of a political settlement in Cyprus, however, the devil is not in the legal terms of the federal constitution but in the details of military arrangements on and around Cyprus.

Marios Sarris

Hard Questions, Still Unanswered

The Cyprus Experience: Constitutionalism, Fundamental Law and the Doctrine of Necessity

POLYVIOS G. POLYVIUO

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pp. 407

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The case of Cyprus is an exceptional one in the field of comparative constitutional law. To address the most salient issue: A long distance between the capital-c Constitution, i.e. the constitutional requirements as they stand according to the text, and the small-c constitution, i.e. the political system as it actually operates, is a typical feature of authoritarian regimes. In Cyprus, the distance of the capital-c from the small-c constitution has been long for many decades, but it has been maintained in tandem with rule of law (*if* we leave out the discrepancy between the Constitution and the constitution) and democracy (*if* we leave out the non-participation of the representatives of the Turkish Cypriot community in state organs as per the fundamental principle of bi-communalism). To address another issue: Many constitutions contain ‘eternity clauses’, i.e. provisions that protect basic structures and values from being altered through constitutional amendments. Supreme courts are often given, or assume on their own initiative, the power to enforce eternity clauses by annulling constitutional amendments. But what about the sovereign Republic of Cyprus where the immutability of the basic structures, including the integrity of the eternity clause, is ‘guaranteed’ by three other states, the UK, Greece and Turkey –that is, neither by the international community nor by an international court, as could have been the case– due to the infamous Treaty of Guarantee? Is this kind of unamendability compatible with the principle of equal sovereignty as enshrined in the Charter of the United Nations? A third interesting issue, and one, which is treated extensively in the book under consideration, has as follows: Emergency doctrines are typically used by courts to excuse unconstitutional actions of a temporary character. The doctrine of necessity, as used by the Cypriot Supreme Court since 1964, has been condoning the permanent, as it came to be, deviations from the constitutional provisions, which require until today the participation of the representatives of the Turkish Cypriot community in all state organs.

These are just some of the idiosyncratic features of the Republic of Cyprus; and one may not find a better introduction to them than the latest book by P. G. Polyviou. This is not to say that *The Cyprus Experience* has an introductory character. On the contrary, Polyviou presents and develops views and arguments which he had expounded in his previous books⁶; and in doing so, he invites us to the theoretical depths of the issues at hand. *The Cyprus Experience* is a lengthy book, comprising five parts (A. Constitutional Perspectives and Developments, B. Cyprus and Europe, C. The International Dimension, D. Constitutionalism, E. Conclusion), addressing a wide variety of issues apart from the aforementioned ones (e.g. the legal framework of the Sovereign British Bases in Cyprus, the integration of EU law into the Cypriot legal order etc.), all united under a central theme: the constitutional survival of the Republic of Cyprus notwithstanding turbulences such as the conflict of 1963-1964 and the consequent departure of Turkish Cypriots from the constitutional organs of the Republic; the failed Greek coup d'état of July 1974, and the consequent Turkish invasion; the establishment and continuing de facto existence of the Turkish Republic of Northern Cyprus, posing numerous thorny legal issues (among them, ones having to do with the Namibia principle); and the accession of Cyprus to the EU in 2004 (provoking new constitutional challenges such as the suspension of the *acquis communautaire* in the occupied areas, and the re-organization of the hierarchy of the sources of law through a constitutional amendment that took place without the participation of the Turkish Cypriot representatives, as all other constitutional amendments did, in the part of the Republic which remains free).

In what follows I cannot but glean from the book some of Polyviou's views, taken mostly from the first and most extensive part, under the title 'Constitutional Perspectives and Development', also from the fourth part, under the title 'Constitutionalism'. My comments will necessarily be rather short.

Reassessing the 1960 Constitution

Polyviou does not deviate from the standard thesis regarding the complexity and the illiberal character of the Constitution of 1960 –this taken as a crucial factor for the constitutional collapse of 1963-1964. However, Polyviou also maintains that 'the

⁶ Among others, *The Case of Ibrahim, the Doctrine of Necessity and the Republic of Cyprus* (Nicosia: Chryssafinis & Polyviou, 2015); *Cyprus on the Edge: A Study in Constitutional Survival* (Nicosia: Chryssafinis & Polyviou, 2013); *Cyprus: A Study in the Theory, Structure and Method of the Legal System of the Republic of Cyprus* (Nicosia: Chryssafinis & Polyviou, 2015). In what follows I shall be referring exclusively to *The Cyprus Experience*, through brackets in the main text.

1960 Constitution has much more to commend it than critics acknowledge' (27). He aptly suggests that 'one has to put up with constitutional and other arrangements that appear complex and illiberal, in order to avoid more serious and potentially irreversible developments at the time. The truth is that if it was not for the 1959-1960 arrangements, flawed though they may have been, Cyprus would have been partitioned, with no recourse to any international body at the time since Cyprus was after all a British Colony. The 1960 Constitution was indeed complex, illiberal and difficult to operate, but it was infinitely better than either the alternatives at the time or subsequent developments [...] Cooperation [of the two communities and their leaders] and economic prosperity could easily have led to a relaxation of attitudes in respect of the constitutional arrangements as well, provided that any proposed amendments did not detrimentally affect the bicomunal balance and the basic interests of the Turkish Cypriot Community. Regrettably, the Greek Cypriot side (led by Archbishop Makarios) misread the situation and embarked on its futile and dangerous attempt to amend the 1960 Constitution, with disastrous consequences' (27-28). Polyviou immediately proceeds to observe that, even under a positive light, the Constitution of 1960, with all the defects of communalism, was a factor for the degeneration of the co-existence of the two communities into the conflict of 1963-1964.

Apart from the historical judgments that Polyviou's assessment inevitably contains (I agree with most of them), there is a serious legal issue, which Polyviou could have recognised and treated explicitly: Can we speak of some kind of normative priority between the demand for preservation of international peace and the constitutional autonomy of states, both being fundamental values of the United Nations (the second may be derived from the principle of sovereign equality and from the right of peoples to self-determination)? I believe that this legal issue, arising when someone examines closely the constitutional history of Cyprus, deserves to be openly addressed in light of the relevant international law theory. Of course, here is not the place to do so.

On the Doctrine of Necessity, its Justification, Application, and Effects

In his extensive analysis of *Ibrahim*, the judgment of the Supreme Court that articulated the doctrine of necessity in 1964⁷ (laying down the constitutional foundation for the survival of the Republic of Cyprus even without the participation of the Turkish Cypriot community), Polyviou does not miss an important, though rarely mentioned fact: the absence of any discussion in *Ibrahim* of the previous judgment of the

⁷ *The Attorney-General of the Republic v. Mustafa Ibrahim and others* (1964) CLR 195.

Supreme Constitutional Court in the case *The Turkish Communal Chamber v. The Council of Ministers*⁸ in which the invocation of the doctrine of necessity had been rejected on the grounds that such doctrine is not compatible with the normative concept of a (written) Constitution. Polyviou discusses this issue at some length (56-59). He concludes that the said case was ‘easily distinguishable, both in terms of facts and in the light of its central issues’ (59). In my view, such distinguishing would have been feasible, but it would be by no means easy. In any case, the absence of any reference to the aforementioned case is a grave error of the Greek Cypriot judges of *Ibrahim*, given that the principle of *stare decisis* applies in Cyprus (also, given that one of three judges, Triantafyllides, J., had been the one who suggested the application of the doctrine of necessity in *The Turkish Communal Chamber*).

Another remarkable point made by Polyviou, this time concerning the impact of the doctrine of necessity on the Cypriot constitutional order overall, is his conclusion that, especially after the Supreme Court reversed its earlier hesitation and decided to condone amendments of non-basic articles in the absence of the Turkish Cypriot representatives from the amending organ, i.e. the House of Representatives, the doctrine of necessity ‘resulted not so much in the validation of specific exercises of state power but in a redefinition of the State, the Government and the Constitution, in a more or less permanent and irreversible way, so as to reflect the new realities which had come about with the passage of time’ (111). If this is so (and in my view, it is), then it seems that we have lost nothing less than the justificatory grounds of the doctrine of necessity – at least those which may justify the view that it is not an extra-constitutional source of law, but part of Cypriot constitutional law. This situation is hardly compatible with constitutionalism, but it was perhaps inevitable. What *could* have been avoided, and was *not*, was another development which Polyviou mentions without fully exploring its consequences: ‘despite ritual invocations of the concept of proportionality, once acknowledged to exist the power and competence resulting from the doctrine of necessity appear to be capable of use in most ways the governmental organs concerned might consider “necessary”: with “necessity” here encompassing at times the notion of “desirability” in the modern social, political and economic context – something which of course considerably enlarges the powers and competences generated by the doctrine of necessity’ (111). But if we accept such enlargement, then we have subverted the only requirement that makes the doctrine of necessity compatible with rule of law: proportionality as an inherent guarantee that deviations from

⁸ 5 RSCC 59 (1963).

particular constitutional provisions shall be condoned only when they have become *really* necessary. And I am afraid that the few cases in which the Court has denied the (possible or actual) invocation of the doctrine of necessity, some presented by Polyviou (111-116), are not sufficient to support the view that ‘the Supreme Court has never allowed the doctrine of necessity to be used either for the convenience of Government or in order to facilitate Government and Administration’ (112).

In any case, the constitutional identity of Cyprus has changed after 1964, and the foundation of that change can be traced to the doctrine of necessity. This brings us to the lengthy parts of the book (128-161) in which Polyviou examines the construction of the doctrine of necessity in *Ibrahim* from the standpoint of the theory of the constituent power (of the people)⁹. Was *Ibrahim* an exercise of such power, that is, a constituent act (‘constitutive act’, in the terminology of Polyviou)? Polyviou’s conclusion has as follows: ‘Though in theory, and primarily as a result of its outcome, *Ibrahim* does not fall into the category of “constitutive acts”, since it entailed neither adoption nor endorsement or approval of a Constitution, still it contains within itself what we might call “quasi-constitutive elements”. At the end of the day, the invocation and development of the doctrine of necessity in Cyprus did not only deal with the immediate and severe crisis threatening the country, but also resulted in nothing less than the transformation and the metamorphosis of the 1960 Constitution, which would now operate (and of course still does) in a very different way than what was originally envisaged’ (160).

The missing part of this constitutional narrative has to do with the democratic or other legitimacy of the agents of that ‘metamorphosis’. From where (other than necessity) did the judges of the new Supreme Court derive the *power* to proceed into such quasi-constitutive acts as the ones which legitimized severe deviations from the

⁹ Constitutional theory almost invariably assumes that the subject of constituent power is the people. See, e.g., E.-W. Böckenförde, Die verfassunggebende Gewalt des Volkes – Ein Grenzbegriff des Verfassungsrechts (1986), in: E.-W. Böckenförde, *Wissenschaft, Politik, Verfassungsgericht* (Berlin: Suhrkamp Verlag, 2011), 97-119; O. Beaud, *La puissance de l’État* (Paris: PUF, 1994), part II; A. Arato, *The Adventures of the Constituent Power. Beyond Revolutions?* (New York: Cambridge University Press, 2017); Y. Roznai, We the people”, “oui, the people” and the collective body: perceptions of constituent power, in: G. Jacobsohn/M. Schor (eds), *Comparative Constitutional Theory* (Cheltenham: Edward Elgar Publishing, 2018) 295-316. But see also the historical approaches in J. Colón-Ríos, Five Conceptions of Constituent Power, Victoria University of Wellington Legal Research Paper No. 127/2017, at <<https://ssrn.com/abstract=2319154>>; J. Colón-Ríos, *Constituent Power and the Law* (New York: Oxford University Press, 2020); L. Rubinelli, *Constituent Power: A History* (UK: Cambridge University Press, 2020).

basic articles that required the participation of Turkish Cypriot representatives in all state organs? More generally, can we afford stipulating into existence and keeping in place a subject of constituent power who is other than the people(s)? Who could be this people, or these peoples, and how can we sustain a constitutional narrative about their constituent power in Cyprus? How precisely were Turkish Cypriots represented in the process of the making of the new constitution of Cyprus in 1964 and afterwards? Is it sufficient to say that the new Supreme Court included two Turkish Cypriot judges, even though they did not participate in *Ibrahim*?

If we suppose that the judges of the Supreme Court have been exercising quasi-constituent power, then we might also ask: Would not juristocracy at the level of constituent power necessarily lead to a situation in which judges upset the balances of a liberal-democratic state in their favour, asserting a greater portion of legislative power than is their due (through a disproportional intensification of judicial review), asserting even the power to amend the Constitution (in the form of indicating to the amending organ which amendments –other than ones that touch the basic articles– are permissible and which are not, even in the form of allowing constitutional amendments in contravention of the procedural requirements of the Constitution)? This last question brings me to the third and final part of this review.

On the Arrival of the Basic Structure Doctrine to Cyprus

One of the most intriguing issues which Polyviou expounds in his book (324-344) arose after the recent judgment of the Supreme Court (acting as the Electoral Court) in *Michailides* which held that (at least some part of) the Law on the Twelfth Amendment of the Constitution of 2019, Law 128(I)/2019, is unconstitutional, on the grounds that it is repugnant to the democratic principle (by introducing an unacceptable method of by-election) and to the principle of the separation of powers (by surpassing previous judgments of the Court that had found the legislative attempt to implement the alternative method of by-elections contrary to the Constitution), both principles taken as forming part of the basic, unalterable structure of the Constitution of Cyprus¹⁰. Polyviou first proceeds into a general analysis of the doctrine of implicit unamendability (i.e. non-explicit limitations of the amendment power), bearing in

¹⁰ Electoral Court of Cyprus, *Andreas Michailides and Dimos Diamantis v. General Commissioner for the Elections et al.*, Election Petition No. 1/2019, judgment of 29 October 2020 (in Greek) (hereinafter: *Election Petition 1/2019*).

mind mainly an article of Yaniv Roznai, who has written extensively on that topic, and the famous judgment of the Supreme Court of India in the case *Kesavananda Bharati v State of Kerala*¹¹, which is the usual starting point of every analysis of implicit unamendability. Then, Polyviou deploys a series of critical remarks focusing on the question of whether the judiciary can identify the exact provisions which make up the basic structure of a constitution in an objective way, without substituting their own policy preferences for those which are incorporated in the constitutional provisions that are supposed to be unamendable. ‘Surely, the basic structure theory goes well beyond traditional methods of interpretation and cannot be disguised merely as textual analysis. It is rather closer to reality to say that this approach *purports to begin* with the constitutional provisions and the text of the Constitution, but that the basic features and structure thereof *only emerge and are finally formulated* when one takes into account history, tradition, context and indeed desirable social and political objectives which a majority of the particular Court regards as worth pursuing’ (337).

Taking stock of these critical remarks (with which I generally agree), Polyviou proceeds to an assessment of the arrival of the basic structure doctrine to Cyprus. He first observes that the ‘central pillar’ of the Constitution of 1960, and thus the most basic feature thereof, had been the principle of bi-communalism. And it was a feature that was ‘eliminated’ in 1964 from the Constitution, based on the doctrine of necessity. According to Polyviou (and in contradiction to his remarks about the ‘metamorphosis’ of the Constitution in previous parts of the book), such elimination took place ‘without changing the identity or continuity of the 1960 Constitution, at least in the context of the doctrine of necessity’ (340). Polyviou then proceeds into a critique of the *Michailides* judgement of the Supreme Court, i.e. the judgment that introduced the basic structure doctrine to the Cypriot constitutional order. Polyviou finds this judgment ‘unsatisfactory ... in both result and reasoning’ (340-341). Interestingly, he attempts here to specify which features of the constitution should be considered as forming part of its basic structure if one were to follow the reasoning of the Court. Alluding to a possible inconsistency in the ruling of the Court, Polyviou points out that some of these features (e.g. the principle of popular sovereignty) would be considerably broader than others (e.g. the demand for respect of the principles of *res*

¹¹ (1973) AIR 1461.

judicata and of *ratio decidendi*). But the core of Polyviou's criticism lies elsewhere: He (correctly) observes that, by activating the basic structure doctrine, the Supreme Court disallows constitutional amendments, in contrast to what the same Court had done when it took recourse to the doctrine of necessity to allow the amendment of the Constitution in the absence of the Turkish Cypriot members of the Parliament, thus in contravention of the constitutional requirement that constitutional amendments of non-basic articles shall be effected through separate two thirds majorities in the House of Representatives. An additional difficulty has to do with the fact that, 'as things now stand, "basic structure" refers to the Constitution *as it has become* as a result of the successful use of the doctrine of necessity and not the Constitution *as adopted and accepted in 1960*, whose basic pillar was not constitutionalism but communalism' (344).

Two points are missing from Polyviou's critique, both related to the justificatory grounds of the doctrine of implicit unamendability. First, this doctrine is supplemented by, and in many cases presupposes, the theory of the constituent power of *the people*. This observation applies to significant proponents of implicit unamendability today (Yaniv Roznai¹², Joel Colón-Ríos¹³, and Olivier Beaud¹⁴), and to the formulation of the doctrine by various courts¹⁵, among others the Constitutional Court of Colombia with its famous 'non-replacement' or 'non-substitution' doctrine¹⁶, and (strongly enough in several opinions) the Supreme Court of India in *Kesavananda Bharati*¹⁷. In Cyprus the basic structure doctrine cannot be justified as a means of protecting the constituent power of the people (both in the sense of protecting the products of such power in the past and its exclusive competence to re-draft basic articles in the future),

¹² See Y. Roznai, *Unconstitutional Constitutional Amendments: The Limits of Amendment Powers* (New York: Oxford University Press, 2017), 105-134.

¹³ See J. Colón-Ríos, *Weak Constitutionalism: Democratic Legitimacy and the Question of Constituent Power* (Abingdon: Routledge, 2012), 126-156.

¹⁴ O. Beaud, *La puissance*, 329-402.

¹⁵ See the review in Roznai, *Unconstitutional*, 42-70.

¹⁶ See Corte Constitucional de Colombia, Sentencias C-551/03, C-1200/03, C-970/04, C-1040/05, C-180/07, C-757/08, C-588/09, C-141/10, C-1056/12, C-010/13, C-579/13, C-577/14, C-084/16, C-285/16, C-332/17, all available at: <<http://www.corteconstitucional.gov.co/relatoria/>>. See also C. Bernal, 'Unconstitutional Constitutional Amendments in the Case Study of Colombia: An Analysis of the Justification and Meaning of the Constitutional Replacement Doctrine' (2013) 11 *International Journal of Constitutional Law* 2013, 339-357.

¹⁷ See Roznai, *Unconstitutional*, 42-47.

since such power was never exercised, and it is still certain whether it will ever be able to do so. The basic structure of the Constitution of Cyprus was decided by the governments of Greece and of Turkey in the Zurich Conference (5-11 February 1959), and the people(s) of Cyprus did not participate in the drafting of their Constitution in any way other than having first their (not elected at the time, but undisputed) political leaders endorsing (without any room for discussion) the long list of the basic articles of Zurich in the London Conference (17-19 February 1959), and then by having their (not elected) representatives participating in a fourpartite Constitutional Commission which in no way could be assimilated to a constituent assembly.

Of course, the basic structure doctrine *can* be justified on grounds other than the constituent power of the people (e.g. the proper meaning of the term ‘amendment’, the stipulation of some hierarchy of constitutional values)¹⁸, and Polyviou alludes to some of them in the first pages of his chapter on amendment and constitutional transformation. But given that the prevalent theoretical justification of the doctrine of implicit unamendability is today connected with the theory of the constituent power of the people and given that such theory is not available in Cyprus (unless we stipulate that the constituent power of the two communities is active, but in this case the basic structure doctrine should refer to the Constitution of 1960 as it originally has), one must be very thorough in constructing the relevant argumentative basis. This cannot be done here.

Second, the Constitution of the Republic of Cyprus does not include any reference to the democratic principle, or to *popular* sovereignty, or to the people of Cyprus, in any way whatsoever. This omission was not accidental. The Constitution of 1960 provides for the election of all state organs by the two ethnic communities *through separate electoral rolls*. The Republic of Cyprus has been characterized as ‘sovereign’ in the first article of its Constitution only after the insistence of the Greek and of the Greek Cypriot representatives to the Joint Constitutional Commission¹⁹. However, the Turkish and the Turkish Cypriot delegates to the Joint Commission managed to avert any reference to the democratic principle (which could be interpreted as entailing majority rule), or to one, instead of two, people of Cyprus (the reference to one people would entail that Turkish Cypriots would not be entitled to exercise separately their own right to self-determination in the future, a right which the Turkish view continues vindicating until today). In *Michailides*, the Supreme Court derived

¹⁸ For some of them see Roznai, *Unconstitutional*, 141-156.

¹⁹ See S. G. Xydis, *Cyprus: Reluctant Republic* (The Hague: Mouton, 1973), 493-494.

the principle of popular sovereignty from the constitutional provisions that refer to the election of the members of the House of Representatives. However, these provisions, as they still stand in the Constitution, provide for the election not only of Greek Cypriot but also of Turkish Cypriot representatives; and such elections shall be held *through separate electoral rolls*. One could thus argue that the bearer of popular sovereignty, that is, the people of Cyprus, if any (and if one puts aside the different view of many, if not all, Turkish Cypriots about the non-existence of such a people), expresses its will, as regards the election of their representatives in the legislature, by means of two separate elections. And the same people can express its all-important amendment power, *qua* derivative constituent power, only through a bi-communal House of Representatives that has been elected in this particular and unusual way.

One may retort here that, notwithstanding the absence of Turkish Cypriot representatives, the use of the democratic principle as an interpretative tool when the Supreme Court decides hard cases is legitimate, insofar as the opposite view would amount to depriving the Greek Cypriots of their democratic rights when it comes to judicial review, i.e. the control of constitutionality of ordinary legislation through the interpretation of the Constitution in accordance with, or in the light of, the democratic principle. However, the same does not necessarily hold true when the interpretative act leads to the invalidation of a constitutional amendment on the grounds that it is repugnant to popular sovereignty as a matter of the basic structure of the Constitution of Cyprus. Here, in the field of secondary constituent power, one is obliged to presuppose the constituent people(s) of Cyprus in toto, at least when the major premise of the judicial syllogism includes the democratic principle. I am afraid that the invocation of popular sovereignty in *Michailides* fails to do much else than remind us of the absence of an indispensable component of the Cypriot peoplehood, that is, the Turkish Cypriots. Or are we perhaps supposed to assume that the bearer of constituent power in Cyprus now comprises only the members of the Greek Cypriot community? But how can this be so when, at the same time, Greek Cypriot leaders participate in bi-communal negotiations with the Turkish Cypriot leader (under the auspices of the UN and on the premise that any agreement must be endorsed by three other states) with the aim to arrive at an agreed solution of the Cyprus problem whose main element will be a new Constitution of the Republic of Cyprus? Apart from being internationalised, the constituent power in Cyprus cannot be exercised by the Greek Cypriots alone. From this standpoint, the judgment of the Supreme Court which activated the basic structure doctrine in Cyprus is a perplexing factor –and one

which, to make things worse, was entirely unnecessary in the case in which the issue of unamendability arose.

Reading again some of the pages of *The Cyprus Experience*, I think that one of the merits of the book lies in the ability of Polyviou to present nuances to his original positions, after he has exposed different views and arguments on any given issue. After all, this is the most demanding, and at the same time the most important, methodological aspiration that one may have in the field of constitutional theory.

Costas Stratilatis

The Cyprus Problem: Past, Present and Future **[*Το Κυπριακό Πρόβλημα: Παρελθόν, Παρόν και Μέλλον*]**

POLYVIOS G. POLYVIU

Thessaloniki: Epikentro Publishers, 2020, pp. 318

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The latest publication by prolific author Polyvios G. Polyviou represents a timely and significant addition to the literature on the Cyprus Problem, even if the academic niche in which it resides is not immediately apparent. Polyviou provides erudite observations and a unique viewpoint to an increasingly saturated topic. The review will highlight the difficulty of pigeonholing the book into the established academic discourse on the Cyprus Problem, survey the book's coverage, and then discuss the book's contribution in proposing a radical reformulation of the negotiating framework of the Cyprus Problem on both philosophical and practical grounds.

The book presents something of a conundrum from the perspective of a purely academic review, as it straddles the already imprecise line that demarcates academic works from those intended for a wider, proverbially layman audience on the Cyprus Problem. The literature on the subject is, of course, voluminous from both perspectives. Thus, judged as an academic publication, the book presents a number of significant departures from established practice. It relies too heavily on secondary literature; for example, about half of Chapter 1 consists of lengthy references taken from seminal contributions to the field to the point where entire pages (see p. 34) are at times devoted to these expositions. Furthermore, it lacks any specific methodological grounding, as it integrates a number of approaches pertaining to various facets of the issue under examination with no one academic predominant discipline; as a result, the book incorporates constitutional analysis, international legal doctrinal analysis, and a political scientific perspective within a broader historical narrative. Lastly, the book does not present a central objective that specifically pertains to original research; instead –as the title suggests– it separates its analysis of the Cyprus Problem in three chronological/thematic sections that aim respectively to: 1) present and evaluate a historical review from the establishment of the Republic of Cyprus in 1960 to the present *status quo*, 2) analyse the current conditions and assess the extent to which they are conducive to a negotiated settlement of the Cyprus Problem, and 3) ask what form such a settlement might take and what effective level of long-term vi-

ability it would provide. The book presents some challenges from the perspective of general interest as well. It is very wide in its coverage both in terms of historical scope and in its conceptual usage. It demands a lot from the reader, as it assumes a fairly sophisticated understanding of the interconnections among all these political and legal concepts and variables. At the same time, this serves to illustrate the complexity of one of the most enduring political puzzles of the international system that is so often treated superficially in its comprehensiveness. Also, perhaps most significantly in this respect, the book is written in clear and direct language that aims to simplify and present these intricate aspects in a common-sense approach, as much as possible.

Therefore, having established that this book is neither focused on making an exclusively academic contribution nor aimed as a simple and general introduction to the topic, is it then rendered irrelevant? This not only depends on the contribution that the book actually makes –rather than by focusing merely on what it does not do– but on the author as well. Polyviou is undoubtedly a leading figure in the study of Cypriot law, having authored more than 20 authoritative texts on various legal issues.²⁰ Having studied law at Oxford and London, and political science at Princeton, he returned to teach law at Oxford between 1973 and 1980 before returning to Cyprus to practice law. In that capacity, he has represented the Republic of Cyprus in various cases before European and international courts, and he has contributed to the negotiations over the resolution of the conflict on behalf of the Republic of Cyprus in various settings since 1974. However, in addition to his output on purely legal issues, Polyviou has also authored books on the Cyprus Problem with an emphasis on its constitutional dimensions in two distinct periods. During his academic career, Polyviou authored three books in English in the aftermath of the events of 1974 and in the ensuing years.²¹ In this reviewer’s opinion, this collection remains required reading for scholars of this research area, and –especially the 1980 volume– has exerted tremendous influence on the post-1974 framing of the study of the conflict in its combination of political and legal parameters. More recently, Polyviou revisited

²⁰ For a review of Polyviou’s massive contribution to the analysis of the Cypriot legal order, see the collective review of 11 books that he has published since 2016 by Achilles C. Emilianides in (2021) *The Cyprus Review* 33(1) 261.

²¹ Polyvios G. Polyviou, *Cyprus: The Tragedy and the Challenge* (London: John Swain & Son, 1975); Polyvios G. Polyviou, *Cyprus in Search of a Constitution* (Nicosia: Chr. Nicolaou & Sons, 1976); and Polyvios G. Polyviou, *Cyprus: Conflict and Negotiation 1960-1980* (New York: Holmes and Meier, 1980).

this research topic with multiple contributions.²² Therefore, the volume under review represents the latest contribution in a long line of publications. As a result, the author reproduces a unique and authoritative voice on the topic and a singular perspective that lends authenticity to the substance of this latest offering to which we turn next.

As already stated, the book is divided into three parts that aim to correspond roughly to the title's reference to the past, the present, and the future of the Cyprus Problem. However, this neat correspondence is not quite borne out; instead, Parts 1 and 2 both reflect on past developments. Part 1 covers the period between 1960 and 1974 with an emphasis on the constitutional arrangement of the Zurich-London Agreements and the 1960 Constitution (Chapter 1), the 13 Points of the proposed constitutional amendment by President Makarios in 1963 (Chapter 2), and the ensuing intercommunal negotiations (Chapter 3), with each chapter presenting an assessment of its topic. Part 2 covers the period since 1974 with primary emphasis on the negotiations during the Genera Tripartite Conferences and the Geneva Declaration (Chapter 4), the rise of a federal solution –and, more specifically, the formulation of a bizonal, bicomunal federation– to the top of the agenda in subsequent negotiations (Chapter 5), an evaluation of Greek Cypriot leadership in the management of these negotiations by focusing on Presidents Makarios and Spyros Kyprianou as well as the role of Glafkos Clerides (Chapter 6), and an evaluation of Greek leadership under the premiership of Konstantinos Karamanlis (Chapter 7). Parts 1 and 2 do not cover any particularly original ground; the topics have been extensively discussed by the author himself in earlier scholarly output as well as by a multitude of other authors. The main value of these chapters to the book is in establishing the framework and the rationale for the proposed suggestions in Part 3.

²² Polyvios G. Polyviou, *Makarios: The Three Errors (Μακάριος: Τα Τρία Λάθη)* (Athens: Kastaniotis, 2009) (in Greek); Polyvios G. Polyviou, *The Cyprus Problem: Absurdities and Concerns (Το Κυπριακό Πρόβλημα: Παραλογισμοί και Προβληματισμοί)* (Athens: Papazisis, 2010) (in Greek); Polyvios G. Polyviou, *Kyprianou and the Cyprus Problem: The New York Summit of 1985 (Κυπριανού και Κυπριακό: η Συνάντηση Κορυφής της Νέας Υόρκης το 1985)* (Athens: Kastaniotis, 2010) (in Greek); Polyvios G. Polyviou, *Invasion Diplomacy (Η Διπλωματία της Εισβολής)* (Athens: Kastaniotis, 2010) (in Greek); Polyvios G. Polyviou and Levon H. Arakelian, *Fall of the Guardians: The European Court of Human Rights and the Case of Demopoulos* (Nicosia: University of Nicosia Press, 2011); Polyvios G. Polyviou, *Cyprus on the Edge: A Study in Constitutional Survival* (Nicosia: Chryssafinis and Polyviou, 2013); Polyvios G. Polyviou, *The Case of Ibrahim: The Doctrine of Necessity and the Republic of Cyprus* (Nicosia: Chryssafinis and Polyviou, 2015); Polyvios G. Polyviou, *The Cyprus Problem: Another Approach (Το Κυπριακό Πρόβλημα: Μια Άλλη Προσέγγιση)* (Nicosia: Chryssafinis and Polyviou, 2018) (in Greek).

Part 3 represents the most important contribution of the book by covering both the current state in the various parameters of the Cyprus Problem, as well as an evaluation of the possibility of resolution with a very specific set of recommendations for an immediately implementable approach. Chapter 8 considers whether the current situation is resolvable through judicial means. Chapter 9 surveys all proposed solution concepts in broad terms. Chapter 10 may represent a potentially controversial aspect of the book: it asks whether it is possible for any solution concept to be implementable without Turkey's consent and concludes that the question can only be answered in the negative. Chapter 11 presents the parameters of recent and future negotiations in order to set the stage for the proposed approach that is presented in Chapter 12 and the concluding remarks of Chapter 13.

Polyviou's proposition is both simple and elegant and represents a conclusion that follows logically from the premises of the book as established in previous chapters and as outlined above. He argues that the only acceptable course of action that can lead to an enforceable negotiated settlement with long-term viability is an evolutionary approach based on incremental mutual concessions.²³ In other words, he argues quite strongly against the traditional methodology of past negotiations that aspired to the establishment and proposal of comprehensive negotiated settlements that incorporated all constitutional provisions, all practical adjustments, and all adoptions of new fundamental ordering principles at the same time. Polyviou presents a multi-layered attack on this approach on grounds of principle, practicality, and efficacy. However, his most significant objection is with respect to a crucial parameter of the negotiating framework: the consequences of failure. Polyviou argues that an evolutionary process allows sides –and, of course, this does not only apply in the abstract but also in fact to the institutions, decisionmakers and, ultimately, the individual subjects of such a settlement– to continuously evaluate progress, to recognise the mutual acceptance of the process, and to evaluate the *quid pro quo* as a necessary precondition to building trust for subsequent steps in the evolution. Most crucially, it allows the sides to revert to a *status quo ex ante* at any step during the process; therefore, the consequences of the failure of one iteration do not equate to the failure of the entire process. Conversely, the acceptance of a comprehensive negotiated settlement raises the stakes prohibitively high by raising the spectre of the absence of limitations to a

²³ For a theoretical contribution that makes a similar proposition see Maria Hadjipavlou-Trigeorgis and Lenos Trigeorgis, 'Cyprus: An Evolutionary Approach to Conflict Resolution' (1993) *Journal of Conflict Resolution* 37(2), 340-360.

failure of implementation; in other words, there may be no concrete mechanism or institutional structure to fall back to if the entire edifice falls.

Polyviou's proposed approach is supplemented by specific measures that can serve as actual steps in this evolutionary process. But the entire point of proposing this approach is that these are not necessary for the success of the entire mechanism; others could easily be proposed to either supplement them or replace them entirely. And, whether someone agrees with the author's specific suggestions or not, not considering the value of such a proposition remains—at least in this reviewer's opinion—potentially catastrophic. If for no other reason, it is important to reflect on the fact that decades of 'everything on the table' negotiating frameworks have yielded little in terms of real progress and served to intensify entrenched positions that both render each side susceptible to strong inertia against making concessions and reinforce mutual perceptions of intransigence. The author states his motivation for the book as the need to reflect on the mistakes of the past and to propose the adoption of a rationalised negotiating approach under the assumption that the window of opportunity for a viable settlement—that has been slowly but steadily narrowing for a long time—is now almost shut. It is precisely for this reason that the book not only represents a vital contribution to the academic but also to the broader social dialogue on the realistic prospects for resolution.

Odysseas Christou

Theatre in Modern and Contemporary Cyprus **[Το Θέατρο στη Νεότερη και στη Σύγχρονη Κύπρο]**

ANDRI CONSTANTINOU, KAITI DIAMANTAKOU, AND LEONIDAS GALAZIS (eds)

Athens: Herodotus & Cyprus Theatre Museum, 2020

pp. 640

ISBN: 978-960-485-327-4

It is a great pleasure to welcome the publication of the Proceedings of the conference *Theatre in Modern Cyprus*, which took place in Limassol, from October 30 to November 1, 2015. The conference was organized by the Cyprus Theatre Museum, the Bank of Cyprus Cultural Foundation, the Municipality of Limassol and the Cyprus Theatre Organization (THOC), in collaboration with the Graduate Program ‘Theatre Studies’ of the Open University of Cyprus. The conference was dedicated to the memory of the writer and philologist Giannis Katsouris (1935-2010), who is regarded as the father of Cypriot Theatre Studies.

The voluminous book is edited by Dr Andri H. Constantinou, Associate Professor at Frederick University, Dr Kaiti Diamantakou, Associate Professor at the Department of Theatre Studies of the National and Kapodistrian University of Athens, and Dr Leonidas Galazis, reviewer of literary courses of the Ministry of Education and Culture of Cyprus. It gathers numerous contributions from theatre experts and is a treasure trove of information and theoretical reflection on the subject of theatre in Cyprus and its place in the modern international theatrical scene. The book constitutes the ‘statutory act of a distinctive Cypriot theatre studies discipline’, to reproduce the apt expression of the professor emeritus of the National and Kapodistrian University of Athens, Walter Puchner, in the relevant foreword to the volume. The proceedings are part of the series ‘Theatrologica’ directed by Professor Puchner and were published in 2020 by Herodotus Publications in collaboration with the Cyprus Theatre Museum.

In the editorial note, Andri Constantinou and Kaiti Diamantakou provide an outline of the methodological parameters applied to their scientific work, as editors of the volume. It is followed by a preface by Professor Walter Puchner, offering a diagrammatic overview of Cypriot theatre, from the medieval Cypriot Passion Circle to the dialectal theatre of Cyprus and the modern institutions of Cypriot theatre. His main conclusion is that the ‘small-scale’ history of theatre in Cyprus is an integral

part of the 'larger' history of Modern Greek theatre and the even wider history of the European theatre.

This position dominates in the next chapter by Professor Puchner, entitled 'Theatre and Space: Small-Scale theatre studies (with special reference to Cyprus)'. This is one of the honorary keynote speeches of the conference, which serves as a general introduction to the broader topics of the volume. The chapter discusses the issue of spatiality and timeless locality through the prism of modern theatrical historiography. The case of theatre in Cyprus is representative of the emphasis that the historical approaches give to local stories, which are irreplaceable pieces in the larger mosaic of the theatre history of the Western World.

In the next chapter, which has emerged from the second honorary keynote speech of the conference, professor emeritus Savas Patsalidis also focuses on the concept of spatiality, national boundaries and locations in the age of globalisation. The title of the chapter is 'The theatre of "small" countries in the age of global empires', and it examines in detail aspects of the international cultural market, the cultural policy of the metropolitan centers compared to that of the small states of the periphery and seeks answers to key questions regarding the position of Greek or Cypriot theatre on the world theatrical map. In the end, the expectation for an inclusive theatre of humanity –and no longer a theatre of nations and states or subservient to the laws of the market– is expressed.

The main part of the volume is divided into five sections, developed around the following main issues: Cypriot drama: the beginnings, The younger generation of Cypriot playwrights, The theatre in Cyprus and Greece. A dialogue, Theatre, Society, Politics and Criticism and The reception of ancient Greek and foreign drama.

The first contribution of the section on the beginnings of Cypriot drama is signed by the co-editor of the volume Leonidas Galazis and focuses on the painstaking and systematic work of Giannis Katsouris on Cypriot playwriting. The tireless Cypriot theatre historian has collected more than 500 titles of works and has proceeded to a periodisation of modern drama, starting from 1869 until the end of the first decade of the 21st century.

Professor emeritus Chrysothemis Stamatopoulou-Vasilakou then presents, in a biographical study, two Cypriot sisters, both teachers and intellectuals, who embarked on theatrical writing in the second half of the 19th century. Sappho and Emilia Leontias developed a remarkable activity within the schools where they taught, writing plays and performing them with the participation of their students, but at the

same time they were active (especially the latter), in the field of theatrical translation, while contributing significantly to the issue of women's liberation. Remaining in the 19th century, the philologist and researcher Angelos Kyriacouides deals with the theatrical work and the general intellectual contribution of the physician and intellectual Ioannis Karageorgiades, while analyzing two of his historical dramas, as well as a fairy tale comedy.

Moving into the 20th century, Dr Katerina Karra studies the work of Loukis Akritas, who was active in Athens in the 1940s. Through her research, which is based mainly on indexing the press of the time, the portrait of the Cypriot writer is completed and at the same time new light is shed on the Athenian theatrical movement during the years of German Occupation and Resistance. The following article is penned by Ph.D. candidate Anthi G. Chotzakoglou, to develop her research around the Cypriot puppet shadow theatre performer Christodoulos Antoniadis Pafios and a handwritten screenplay focusing on the myth of Oedipus, which enriches his work. At the end of the chapter the reader can browse the pages of the manuscript.

In the next chapter, professor emeritus Kyriaki Petrakou delves into the ancient dramaturgy of Kypros Chrysanthis, a highly productive writer who dealt with many literary genres, always with a dominant Cypriot theme, and at the same time distinguished himself as a theatre critic. Continuing this in-depth Cypriot dramaturgy, the architect, director and actress Angela Constantinidou analyzes the presence and function of the traditional Cypriot residence in a number of Cypriot plays, concluding that the Cypriot folk drama is a first-class source of information regarding the rural architecture of the island.

Many contributions revolve around the younger generation of Cypriot playwrights, which is the broad theme of the next section of the volume. Dr Efsevia Chasapi-Christodoulou examines the creative versions of the myth of Pygmalion and Prometheus in the work of the Cypriot writer and playwright Panos Ioannides. Dr Eleni Gkini raises the issue of the perception of historical memory in the dramaturgy of Giorgos Neophytou and Vassilis Katsikonouris. In the next contribution, associate professor and co-editor of the volume Kaiti Diamantakou turns her attention to the innovative dramatic writings of Antonis Georgiou and explores his sources, drawn from mythology, history, literature, theatre, cinema, as well as from collective memory.

The playwriting of Charalambos Giannou is the subject of the contribution of the associate professor and co-editor of the volume Andri Constantinou, who focuses on his idiosyncratic theatrical writing that goes beyond the narrow limits of Cypriot or

Greek drama production, competing for a place in the large family of modern European drama. At the same time, interesting documentary elements are presented, which mark the stage life of these dramatic works. In the same thematic context, theatre director Dr Magdalena Zira attempts to introduce us to contemporary Cypriot drama, through representative works, which were distinguished in events and institutions, and to construct a first typology of their topics.

In the next, fourth part of the volume, the dialectical relationship of Cyprus and Greece in the field of theatre is explored. The contribution of associate professor Konstantina Ritsatou centers on the performances of the actor Konstantinos S. Prevelis in Cyprus, examined within a wider tradition of tours or visits of Greek theatrical companies to the island at the end of the 19th century. The author tries to trace the artist in the murky landscape of the largely unexplored theatrical life and activity in 19th century Cyprus. More generous will prove to be the primary sources of the first decades of the 20th century, as evidenced by the contribution of Ph.D. candidate Kostas Karasavvidis, who studies the appearances of the 'Nea Skini' troupe of Fürst, Myrat, Rosan and Louis in Limassol, Larnaca and Nicosia, during the 'excellent season' of the spring of 1931. The study shows that Cyprus was established as a major stop for tours and visits of the Greek troupes of the time.

In her paper, associate professor Barbara Georgopoulou focuses her interest on the activity of the Cypriot troupe 'Prometheus' and the invaluable contribution of two important theatrical personalities, Adamantios Lemos and Mary Giatra, in the renewal of its repertoire, the professional empowerment of its members, its gradual establishment and the wide dissemination of its activity inside and outside the island. Respectively, professor of Theatre Studies Konstantza Georgakaki presents the action of a Cypriot theatre company in Athens in the 1950s. This is the 'Kypriako Teatro', the first Cypriot troupe that dares to try its hand outside the island, in a demanding theatrical market, such as that of Athens at the time, in fact emphasizing the elements of its specific locality, such as folklore themes and the idiomatic recitation of dialect speech.

In the next contribution, Dr Eleni Doundoulaki offers an approach to the activity of an international star of lyric theater, the Cypriot baritone John Modenos, who distinguished himself by performing major roles in the international opera scene and was active as a protagonist and artistic director of the Greek National Opera. Another Cypriot artist, who distinguished himself on a Greek state stage, is the subject of the contribution of associate professor Sophia Felopoulou, who examines the artistic

career of the Cypriot director Evis Gabrielides at the National Theater of Northern Greece. His work spans the period 1978 to 2007 and includes directing and translating highly successful performances, with Menander's 'The Girl from Samos' as its highlight.

The political and social dimensions of the theatre in Cyprus are analyzed in the next section of the volume, which contains numerous related thematic contributions. The theatrical columns of Cypriot educational journals are collected and presented by PhD candidate Maria Andr. Spyropoulou. Dr Eleni Petritsi sheds light on aspects of colonial British cultural policy in Cyprus during the period 1940-1970 and evaluates its consequences. Ph.D. candidate Marina Athanasiou discusses amateur theatre in Cyprus during the critical years 1955-1974, which was inextricably linked to the dramatic historical events of the period (Liberation Struggle, Independence, Coup, Turkish Invasion). Of particular interest are the paragraphs discussing the amateur theatre of the Turkish Cypriot community, the Armenian community and the Maronite community respectively.

Moving on to the Cypriot diaspora, Dr Styliani Keramida observes the action of the Cypriot Theatro Technis in London, a robust theatrical organisation that has been operating since 1957, constituting an important chapter of the Cypriot theatre. Dr Panagiota Sotirchou then takes the discussion back to dramaturgy, in order to look for aspects of immigration representations in Greek Cypriot drama of 1960-1974. Actress and playwright Vasiliki Andreou tackles the issue of actors' education in Cyprus in her study, in which she attempts a flashback to its history. The theatrical poster in Cyprus and its function as a tool of intervention in the visual culture of the island as well as of political expression forms the topic of discussion of the next authors, stemming from the field of Journalism and Mass Media Emilios Charalambides, assistant professor at Frederick University, and Christiana Karayianni, lecturer at the same institution. In their research, selected representative posters of the Cyprus Theatre Organization from four different periods of the history of the institution are analyzed.

There follows an interesting study by professor Yannis Leontaris, who approaches the case of the iconic performance of the documentary theatre production 'Forget-me-not', presented in Cyprus and abroad in 2010 and 2011, and attempts to interpret the levels of its experiential and intellectual reception by the audience in proportion to the degree of awareness of the historical memory and the political events that the play deals with. An in-depth overview of contemporary theatre practice and cultural policy in 21st century Cyprus is provided by the contribution of associate professor

Avra Sidiropoulou. All aspects of the Cypriot theatrical activity of the 21st century are examined: institutions, drama, artistic groups and performers, theatrical education, ideological and social dimensions, major performances.

Modern Cypriot dramaturgy also lies at the centre of Sotiris Theocharides' and Emilios Charalambides' joint paper, both at Frederick University, in the light of the shifts in its subject matter around the central axis of the traumatic experience of the Invasion. The section closes with the study by assistant professor Zoe Ververopoulou, who examines contemporary theatrical criticism in Cyprus and evaluates its practices through a thorough research in print and online press.

The last part of the volume is dedicated to the reception of ancient Greek and foreign drama in modern and contemporary Cyprus. Elena Christophorou (UNIC online) in the first study of the section examines the teaching of ancient Greek drama in the Cypriot educational system and the ideological implications of the integration of ancient Greek tragedy in school activities. It is followed by a paper by playwright Antonis Georgiou (MA Theatre Studies), who investigates the reception of Euripides' 'Medea' on the Cypriot stage, starting with the amateur performances of 1940 to the present day. In a similar vein, music in contemporary ancient drama productions is examined by Dr Angeliki Zachou, with a special case study of the work of the composer Michalis Christodoulidis, who has been for many years a regular collaborator of the Cyprus Theater Organization and especially of the director Nikos Charalambous.

The presence of ancient drama in the Pancyprrian School Theatre Games is the subject of the next contribution, signed by Dr Neophyta Kyprianou. Her study offers quantitative data in order to document the pedagogical function of ancient drama and its central position in the performances of this remarkable state institution. The next study, by Aspasia Skouroumouni Stavrinou, focuses on the dominant visual element in the production of Euripides' 'Hecuba', staged by the Cypriot director Magdalena Zira. The performance is analyzed in detail, while the photographic material that accompanies the text allows us to visualize the detailed descriptions.

The reception of the American drama in Cyprus is discussed by Dr Maria Hamali, in an attempt to compare it with the corresponding reception of American repertoire on the Modern Greek stage. In this context, the author surveys the performances presented initially by the Greek theatre companies visiting Cyprus and then the relatively late introduction of this repertoire to the permanent theatrical stages of the island. Dr Christakis Christofi, in the last article of the volume, studies the introduction of Sam-

uel Beckett's drama in the Cypriot theatrical scene, pointing out that it too develops with a relative lag and to a cautious reception from the Cypriot theatrical audience.

The volume concludes with summaries of the contributions in English.

The voluminous book *Theatre in Modern Cyprus* brings rich and multifarious fruits concerning a subject matter that is approached with such completeness and multiplicity for the first time. It offers the theatrical community a valuable legacy of sources, information, and critical approaches and is expected to become a reference work for any further research and publication on the subject of theatre in Cyprus. This volume strengthens the position of Cypriot theatre studies in the Greek and international academic field, while upgrading the role and contribution of the theatre of a small country on the world stage. Finally, it is worth praising the exemplary work of the team that edited the volume, Andri Constantinou, Kaiti Diamantakou and Leonidas Galazis, who were confronted with 38 studies, 640 pages and more than 800 bibliographic references!

Avra Xepapadakou

Commercial Arbitration in Cyprus: Law and Practice

[Η Εμπορική Διαιτησία στην Κύπρο: Δίκαιο και Πρακτική]

NICOS G. PAPAEFSTATHIOU

Nicosia: Rizes, 2020

pp. 636

ISBN: 9789963243440

This book fills a gap in Cypriot legal literature. Commercial arbitration has long been used and developed in Cyprus, but –so far– guidance could be found only in case law and foreign literature. The gap made practice in this area overtly complicated and time-consuming. It also resulted in notable uncertainties pertaining to several important issues that practitioners are faced with. This new book by Mr Papaefstathiou functions as an important tool to the legal practitioner interested in commercial arbitration and constitutes a significant step towards filling the above-mentioned gap.

The book starts with an elaborate introduction to the origins, meaning and development of arbitration and other forms of alternative dispute resolution in their modern form. The introduction also outlines the basic statutory and constitutional provisions that regulate arbitration in Cyprus. The analysis is practice-oriented, and the structure allows for a quick and easy access. Despite the fact that the book is not written on a dogmatic basis, and is not academic and research-oriented, critical thinking is not absent from this work, as the author has included his personal thoughts and criticisms on several important issues that arise from his examination of the case law.

In the main part of the book, the author begins by addressing important preliminary considerations that arise in arbitration practice, including arbitrability and limitation. This is followed by an analysis of the law on agreements to refer existing or future disputes to arbitration and on the appointment of arbitrators and umpires. The effect of valid arbitration agreements is examined in subsequent chapters, with due regard to the differences between the relevant legislation for domestic and international arbitrations. Another important matter addressed in the book is the reference to arbitration by court order.

The author devotes a whole chapter on interim measures in support of arbitration. This is a complicated and dynamic area in arbitration practice, which practition-

ers are often called to address. The analysis by the author is particularly useful on this matter, summarising the relevant procedures and rules in a well-structured manner.

In subsequent chapters, the author covers all the main issues that are addressed in most authoritative textbooks on this topic. The book includes a chapter on arbitrators' duties and powers, and a separate chapter on court intervention. These are followed by chapters on receiving evidence in arbitration and conducting the hearing. All these matters are analysed from the perspective of an experienced practitioner, in a workable and concise manner.

The last part of the book covers issues in relation to the arbitration agreement, its validity and effect, and court intervention after an award is issued. Special mention is made to certain forms of statutory arbitration. This is followed by an elaborative analysis of the procedural and substantive law on setting aside and enforcing awards, in relation to both domestic and international arbitrations. In the last chapter, the author makes some proposals for the future of arbitration practice in Cyprus.

Overall, this book is useful to practitioners and a starting point for researchers on Cyprus arbitration law. It is supplemented by a well-structured alphabetical index and lists of cases and is generally organised in a manner that makes the book easy to use and quick to search. The book is recommended to all professionals interested in commercial arbitration and can provide guidance to university students studying this subject at an undergraduate or a graduate level.

Anna Plevri

Criminal Law and Criminal Procedure in Cyprus
Volume I: General Principles – Theft Crimes
[Ποινικό Δίκαιο και Ποινική Δικονομία στην Κύπρο,
Τόμος Ι: Γενικές Αρχές – Τα Εγκλήματα της Κλοπής]

ARTEMIS SAVVIDOU

Nicosia: Hippasus Publications, 2020

pp. 374

ISBN 978-9963-676-19-4

There is a new book ‘on the block’ and it is a nice attempt to see Cypriot law ‘out of the box’. *Criminal Law and Criminal Procedure in Cyprus - Volume I: General Principles - Theft Crimes*, written in Greek by Dr Artemis Savvidou, was published by Hippasus Publications in 2021. The monograph, which constitutes the author’s PhD thesis (written under the supervision of Professor Stephanos Pavlou, Law School of Democritus University of Thrace), approaches the whole spectrum of theft crimes in Cypriot Criminal Code, trying to be comparative as it examines the crime in the Cypriot legal order (which is a mixed legal system, a combination of common and continental law legal system) while referring to the Greek provision. The book is prefaced by Prof. Pavlou, as well as Dr Charis Papacharalambous, Associate Head in the University of Cyprus.

The book is divided into seven main (not isomeric) parts; the structure brings in mind the way that the Greek Doctrine has decided to deal with criminal provisions during their analysis through the decades. However, the writer decides to extend her analysis both to substantive and to procedural criminal law, and even more to general and special parts of each Code. The book is completed with an annex including the provisions of Cypriot and Greek law and it is accompanied by the list of court decisions that are invoked (Cypriot, Greek, European Court of Human Rights) and bibliography.

The first part of the book (A. The criminal law of Cyprus in its historical development, pp. 29–48) is structured concerning the peculiarities of the Cypriot legal system that emerged through the centuries and the different eras (before and after Cyprus’ Independence) and referring simultaneously to the Ottoman rule, the English rule and the Law of necessity. We think that this introduction is more than necessary given that criminal law is a deeply political law reflecting the era that shapes it.

The second part (B. The crimes of theft in the criminal code - The crucial provisions, pp. 49-56) just includes the relevant provisions (and that is why its necessity is questionable).

The third part (C. The structural principles of the Cypriot criminal and criminal procedural law, pp. 57-78) extremely briefly describes some of the most important principles in the Cypriot legal order; such as Fauerbach's well-known principle of legality ('*nullum crimen nulla poena sine lege*'), the prohibition of retroactive application of law against the accused, *res judicata*/'*ne bis in idem*', the principle of proportionality, the evidence of innocence/'*in dubio pro reo*' principle. Obviously, the reference to the principles is epigrammatic, like a revision or a need to again point out the fundamental context of a criminal trial -in general terms.

In the fourth part of the monograph (D. The structure of the criminal rule –*actus reus, mens rea*– under Common law and Cypriot law in general, pp. 79-100), the author introduces the reader to basic concepts of common law (as they have been adopted in Cyprus). As a result, the part is divided in two main sections, regarding the two prominent elements of the crime: *actus reus* and *mens rea*. Both are presented briefly (their meaning and content) while separate space is devoted to some special issues such as causation omissions, contributory negligence as well as intention, recklessness, negligence and transferred intent. We would like to underline the importance of this part for anyone that comes from another legal order, despite its length.

On the other hand, we expected a somehow more extensive analysis and comparative presentation in the fifth part of the monograph (E. The protected legal interest, pp. 101-106) which is the cornerstone in any substantive criminal law study. Of course, we cannot ignore the fact that 'legal interest's doctrine' is a German-orientated theory that has been adopted in the majority of 'civil law' countries. Nonetheless, instead of legal interest (or simultaneously with it) there is always the 'harm principle' to be checked to justify (or neglect) the criminalisation of every single behaviour (related to the basic crime).

The sixth part of the thesis (F. Interpretation of the crime of theft, pp. 107-272) depicts a great and ambitious effort to include whatever somebody might wish to examine when the analysis of the crime of theft is considered. As a result, the chapter refers firstly to the definition of the crime and then to the main pillars of the criminal structure: *actus reus* and *mens rea*. In the context of *actus reus*, the writer deals with the theft's object, the discrimination and the categories of 'object', its characteristics

(valuable, mobile, foreign) as well as the delimitation of theft's act (meaning especially the possession and removal of the object as well as the owner's consent). In *mens rea's* context, the writer seems to devote inevitably less lines to explain the kind of 'dolus' that is required. 'The criminal sanction' follows, with a specific devotion to 'the totality principle' and to the 'flexibility' of penalties and sanctions. There is no point in underlying the extremely complicated issues that arise from such criminal subjects; and that is why it is preferable to avoid demanding further analysis by the writer.

The following four sections are also disproportionately presented (in terms of length, showing their different importance). Under the title of fifth section (Specific Issues) the author initially lays out some extremely interesting problematics, such as the defenses (self-defense, necessity, superior orders, consent, insanity, diminished responsibility, intoxication, mistake, mistake of fact, mistake of law, duress per minas, marital subjection); it is crucial to underline that all the aforementioned definitions in English/Latin are attributed to the author that adopts them.

In my opinion, terms as error of law/error of fact that are widely approved in English terminology could substitute for the author's translation, others had to be developed in one place only in the book (that is a matter for 'consent' and –generally speaking– it would be preferable to develop the problematic of less, using the criterion of relevance with the specific crime of theft). Among the next chapters we select 5.2 (Preliminary offenses in the Penal Code) and 5.3 (Participation) as essential to the completeness of such a substantive presentation, so much so that even a greater analysis and the addition of separate examples based on case studies would be more than welcome. Lastly, if we had to choose a crucial subchapter of the greatest part (F) that would be F.6 which refers to aggravated forms (theft of a will, theft of material transmitted by post, theft of animal/products, theft in transit, theft by public officers, theft by secretaries and servants, theft by directors, theft after a previous conviction etc.).

The seventh part of the book (G. The crime of theft in its procedural treatment) is a way to speak for the crime holistically and approaching the legal practitioners as well; that is why there is no doubt that the book is useful not only to academics but also to Cypriot barristers/legals. In this part, even somebody who is not familiar with the Cypriot criminal procedure could find preliminary (or sometimes deeper) answers related to the trial, detention, warrant of arrest etc.

The monograph is completed with an annex including Cypriot and Greek provisions and a table with the relevant decisions, as already mentioned.

To sum up, the book manages to examine and analyse the crime of theft in Cyprus, providing an integrated view of the issue with a comparative view, filling the gap between the notion of Criminal Justice in common law and the way that countries of continental law deal with any crime (*in abstracto* and *in concreto*). Dogmatically, it could further examine some issues (and omit others); but, most of all, it could also prove useful to the reader to find a conclusion or some concentrated *de lege lata* and/or *ferenda* proposals at the end of the book. It is, nevertheless, beyond any doubt that the book is a complete ‘manual’ for a legal practitioner and scholar.

Vagia Polyzoidou

Subordinate Labour Relationship and Shareholders of Private Companies

[Σχέση Εξαρτημένης Εργασίας και Μέτοχοι Ιδιωτικών Εταιρειών]

ΝΙΚΟΣ ΠΑΝΑΓΙΟΤΟΥ

Nicosia : Hippasus Publications, 2019

pp. 110

ISBN: 978-9963-676-12-5

A new book by Nikos Panagiou, which is related to the subordinate labour relationship has recently been published. It is titled *Subordinate Labour Relationship and Shareholders of Private Companies*, it is written in Greek and was published by Hippasus Publications in 2019. The monograph examines the concept of subordination in Labour Law and analyses the provisions of the Cypriot legal order regarding the shareholders of private companies. The book is prefaced by Judge Iosif Chadjitziovanes, Head of the Court of Labour Disputes, and Professor Achilles C. Emilianides, Dean of the School of Law of the University of Nicosia.

The book is divided into two parts; (1) the rule of protection of Labour Law exclusively for those working under a subordinate labour relationship and (2) the provisions of the Cypriot Labour Law with respect to the shareholders of private companies offering independent services to their companies. The book is completed with the author's conclusions and is accompanied by the list of court decisions that are invoked, as well as the list of the relative legislation (Cypriot --Greek --European).

The first part of the book ('The Rule of Protection by Labour Law Exclusively for Subordinate Work') (pp. 19-55) introduces us to the concept of subordination, which is a prerequisite for the recognition of labour rights and privileges in the Cypriot legal system. Initially, the rule that Labour Law regulates only employment contracts is analysed: Labour Law aims to intervene drastically at the level of the employment relationship's bargaining power of the parties and establish regulations that will shield the employee as the weak member in the employment relationship (pp. 19-21).

The concept of subordination is examined and delimited comparatively with reference to continental law (pp. 22-25), common law (pp. 25-32) and European law (pp. 32-37).

The courts of the countries that apply continental law have concluded that there can be no legal definition of the concept of subordination, but that the employment relationship arises according to the facts of each case. Special reference is made to Greece, where the theory of personal subordination has prevailed; there, subordination arises mainly through the commitment of the employee to follow the instructions of the employer regarding the execution of his work within the managerial right of the employer.

Courts that apply common law determine the existence of subordination — when control is exercised by the employer to the employee — and carry out certain tests to identify the subordination between them. The main tests are the control test (p 26), the integration test (p 27), and the economic reality test (p 27), while special reference is made to the multifactorial approach, which supports the global analysis of the data of each case.

The concept of subordination in the European legal order is approached through the invocation of several judgments of the European Court of Justice (ECJ), where it is emphasised that it is up to the national courts to judge whether there is a subordinate labour relationship.

The main section of the first part of the book refers to the approach of the concept of subordination in the Cypriot legal order through rich reference to Cypriot courts' decisions (pp. 37-51). The concept of subordination in the Cypriot legal order has been shaped mainly through the English approach, which focuses on the criterion of control, while the Greek approach of the personal subordination has been seriously taken into account as well. The book analyses the findings of the Cypriot case law on the concept of subordination and makes special reference to the criterion of financial subordination, the characterisation of the contract by the parties, the payment of benefits as an indication of an employer-employee relationship, the analysis of the control criterion, as well as other criteria for diagnosing an employment relationship. The book emphasises the main points of each court decision to clarify the basic criteria, upon which the existence of an employment relationship is identified and labour legislation is implemented. Overall, the author manages to provide a critical and comparative overview of the evolution of the Cypriot case law regarding the concept of subordination.

The third section of the first part of the book (pp. 51-55) deals with the exceptions to the rule that Labour Law protection is granted only to employment contracts. The author divides the exceptions into two main categories: firstly, cases where specific

provisions of Labour Law do not apply to certain employment contracts, and secondly, cases where specific provisions of Labour Law apply to persons who do not work under employment contracts, He then further analyses an example of each exception: the example of executives and the example of dependent self-employed individuals respectively.

The second part of the book ("The Application of the Provisions of Cypriot Labour Law Regarding the Shareholders of Private Companies that Offer Independent Services to their Companies") (pp. 57-98) analyses the definition of the term 'employee' in the Cypriot Labour Law. The definition of employee is given in Article 2 of Law 24/1967, and the author defines the employee as the one who provides subordinate work to his employer under a private-law employment relationship and who therefore enjoys the protection offered by the provisions of the Cypriot Labour Law. The Cypriot legal order provides exceptions to the rule that Labour Law protection is provided to those who work under an employment contract. The book focuses on the exception provided in Law 24/1967, as amended by Law 52(I)/1994, according to which the protective provisions of the law apply to the shareholders of private companies that provide their services to their companies. The author clarifies, by invoking relevant case law, that the law does not intend to provide equal protection to shareholders in relation to employees but intends to grant a right of payment when dismissed because of redundancy.

Plenty of crucial issues are analysed in this part of the book. Indicatively, we may mention the following: (1) the prerequisites for the implementation of the protective legal framework of Law 24/1967 in favour of shareholders of private companies (pp. 71-72), (2) issues arising from the distinction between employers and employees by creature of law (p 72 -78), (3) issues that arise regarding the continuation of employment in case of transfer of a company (pp. 78-80), (4) the issue of application of the provisions of Law 24/1967 to employees by creature of law (pp. 80-83), (5) the case law approach regarding the criteria that determine the distinction between employees and shareholders who offer independent services (pp. 83-93) and (6) the question of the existence of a kinship between the shareholder and the person who manages the company (pp. 94-98). The author places special emphasis on the element of control of the company by the shareholder and interprets it through specific criteria. He has managed to argue the views he supports by invoking a number of court decisions of the Court of Labour Disputes, which he analyses with a critical disposition to draw important conclusions from his research.

The book is completed with the citation of the conclusions of the author's research, where special reference is made to the need to address the phenomenon of false self-employment.

Subordinate Labour Relationship and Shareholders of Private Companies manages to examine and analyse the general context regarding subordination, which is a basic condition for the implementation of Labour Law. The author provides a completely integrated view of the issue of the protection of the shareholders of private companies based on Law 24/1967 by constant references to the Cypriot case law. In conclusion, the book is characterised by clarity and completeness and can be extremely useful to legal practitioners and scholars on the concept of subordination in Labour Law.

Konstantinos Dimarellis

Competition Law in Cyprus

ACHILLES C. EMILIANIDES & ANASTASIOS A. ANTONIOU

The Hague: Kluwer, 2021

pp. 200

ISBN: 978-90-411-3368-7

Free competition plays a significant role not only in national legal orders but also in the European Union as a crucial factor for the achievement of an integrated common European market.²⁴ The present book by Professor Achilles C. Emilianides and Mr Anastasios A. Antoniou is a concise treatise about Cypriot Free Competition Law. In this respect, it should be pointed out at the outset that this study has an honourable purpose not to deepen its analysis of EU legal instruments on Competition Law but to introduce academics working on laws of EU Member States to a reflected perspective of the Cypriot legal order in an area which is fully harmonised. This is important, since a reciprocal influence between national and European competition policies known as the ‘Europeanisation process’ is today beyond doubt.²⁵

At first, Professor Emilianides introduces the reader to the geographical, historical, and political background of Cyprus. It is important for the reader to fully understand the political idiosyncrasies of Cyprus, namely the principle of bi-communality, as well as the doctrine of necessity arising from the Cyprus Problem due to the Turkish invasion and the illegal pseudo-state. On that basis, the author furthermore attempts to approach the process of Cyprus’ Europeanisation in relation to the aforementioned political problem.

Subsequently, the author focuses on the Cypriot legal system in general. Emphasis is given to the constitutionally protected fundamental rights and liberties, which may be subject to limitations or restrictions that should be interpreted strictly. Other instruments are EU Law, International Treaties, and, finally, common legislation. This Section concludes by reference to the judicial power, thereby elucidating in full spectrum the legal system where Cypriot competition law is produced and enforced.

²⁴ George D. Triantafyllakis, *Free Competition Law* (Athens: Nomiki Vivliothiki, 2019) 15, 191. (in Greek)

²⁵ See also Adrian Kuenzler, Laurent Warlouzet, *National Traditions of Competition Law: A Belated Europeanization through Convergence?* in Kiran Klaus. Patel, Heike Schweitzer (eds), *The Historical Foundations of EU Competition Law* (OUP, 2013) 89.

The last Section of the General Introduction plays a transitional role, connecting the general legal background with the Antitrust Law through a historical analysis of the latter's background, especially focusing on the institution of the Commission for the Protection of Competition (CPC).

The parts of the book following the preliminary General Introduction refer to the core of the competition law in Cyprus. The book serves its elucidating role through an analysis of basic notions and provisions of Antitrust Law. It is then insightfully specified in appropriately structured thematic chapters for restrictive Agreements, Dominant Undertakings' Prohibited Practices further divided into exploitative and exclusionary ones, and Concentrations. As is expressly stated, however, State Aid Law is not in the main objectives of the monograph (par. 137).

Part I, written by Professor Emilianides, is titled 'Structure of Antitrust Law and Its Enforcement'. After having referred to the legal sources in general, Professor Emilianides specifically examines the sources of Antitrust Law in detail (Ch. 1). The author's goal is not just to string together laws and other institutional instruments, but to engage in a more transparent and systematic analysis, while being mindful of the normative hierarchy of the legal sources. Here, the author's constitutional sensitivity is all too evident; we should here take due account of the basic conflict between competition policy, aiming to prevent private firms from distorting a competitive environment,²⁶ and property rights.²⁷ As the author aptly puts it, the imposition of restrictions and limitations to freedom of contract through the antitrust instruments is based on Article 26 of the Constitution of Cyprus, while noting the superior hierarchical status of the main legislative sources of Cypriot competition law is consequent upon the EU legislation's normative radiance.

The Cyprus Problem is highlighted once more in the author's analysis about the territorial scope of application of Antitrust Law (Ch. 2). The occupied-by-Turks northern territory of Cyprus, as well as the British Bases in Cyprus (SBAs), are topics of concern to the author who unfolds their dynamics through case-law of Cyprus, EU, and ECtHR.²⁸ After that, the author embarks upon a detailed analysis of special

²⁶ Anestis S. Papadopoulos, *The International Dimension of EU Competition Law and Policy* (Cambridge University Press, 2010) 37.

²⁷ See also Rudolph J. R. Peritz, *Competition Policy in America, 1888-1992* (OUP, 1996) 4, 9 *et seq.*, analysing the public debate around the Sherman Act (1888-1890) on free competition and freedom of contract.

²⁸ See, *inter alia*, *Cyprus v. Turkey* Appl. No 25781/94 (ECtHR, May 2001); *Orams v. Apostolides* Case C-420/07 (CJEU, April 2009).

sectors such as Electronic Communications and Energy, while also examining the definition of an ‘undertaking’ under CPC Law, as well as the ‘De Minimis’ rule. Of particular interest is the *Stylianou* case, where the Supreme Court of Cyprus held that the Ministry of Labour (a public entity) and its autonomous economic behaviour remain subject to the competition rules, but without prejudice towards the Ministry’s public task.²⁹

Chapters 3 and 4 of Part I of the book are devoted to a vivid overview of substantive elements of Antitrust Law, thereby fulfilling the book’s illustrative objective. Besides pointing to basic legislative provisions of Cypriot Law, Professor Emilianides insightfully provides clarity as to the purpose of the above provisions by focusing, amongst other things, on the principle of proportionality (Ch. 3).³⁰ For example, on anti-competitive practices capable of exemptions, the writer observes that ‘[t]he existence of the ‘public interest’ objectives does not suffice, unless it is also shown that the restrictions to competition are absolutely necessary and that the negative consequences do not outweigh the positive, on the basis of the statutory criteria’ (par. 94). A crucial consideration is worth recalling in this regard: the American ‘rule of reason’ shall be clearly perceptible from the European criteria used to examine if restraints already illegal should be authorised nonetheless. As Justice Stevens puts it, the inquiry under the rule of reason is confined to a consideration of the impact of the challenged conduct on competition and does not inquire whether a policy favouring competition is in the public interest.³¹

Chapter 4 is a core element of the Book. Building on a body of case-law, Professor Emilianides manages in just a few pages to summarise the most important academic information on Cypriot Antitrust Law concerning main notions, such as Undertaking, Relevant Market, Dominant Position, Agreements and Concerted Practices, Restriction of Competition, Monopolisation and Abuse of Dominance, and Concentrations and Joint Ventures, which is a concept that is exclusively found in Competition Law.³² In this way, the reader gets a solid view of the issues addressed in the whole Book.

²⁹ *Stylianou v. CPC* Case 1782/12 (30 June 2014) (in Greek).

³⁰ Cf. also Justice Brandeis’s opinion in *International News Service (1918)*, defining property rights as a balancing of public and private interests; Peritz (no 4) 302.

³¹ *National Society of Professional Engineers v. United States*, 435 U.S. 679 (1978) 690, 692. See also Spencer W. Waller, *Book Review: EEC Competition Law: Business Issues and Legal Principles in Common Market Antitrust Cases by U.P. Toepke*, 5 Nw. J. Int’l L. & Bus. 951 (1983-1984), 955-956.

³² See Triantafyllakis (no 1) 261.

However, the legal research would not be complete without reference to competition law enforcement bodies, procedures, and consequences;³³ Chapter 5 pursues that objective. Indeed, without a possibility to effectively challenge anti-competitive practices, the relevant legislation would remain a dead letter. The study acknowledges that, thereby focusing mainly on the CPC's structure, functioning and powers, particularly its administrative competences. The relevant issues are analysed in breadth and depth. For instance, the author: (i) examines the qualifications of the members of the CPC and cites interesting case-law of the Supreme Court of Cyprus, such as a series of cases holding that any decision made with the participation of an unlawfully appointed member of the CPC is void (§ 123); (ii) handles the question regarding the application of the principle of *non bis in idem* in the context of administrative fine proceedings (par.149); (iii) analyses the principle of proportionality in relation to the procedural obligation of disclosing confidential information that may be imposed on the defendant undertaking (paras 164 *et seq*), etc.

Part II, written by Anastasios A. Antoniou, is titled 'Application of the Prohibitions' and provides a comprehensive analysis of the three basic areas of competition law, i.e., restrictive agreements and practices (Ch. 1), abuse of a dominant position (Ch. 2), and mergers (Ch. 3). State Aid Law is expressly excluded from the main book's scope and objectives. Articles 101 and 102 TFEU (as implemented in CPC Law) establish different standards in judging agreements between undertakings on the one hand, and the conduct of dominant undertakings on the other. This two-fold division in modern antitrust law (multilateral and unilateral conduct, respectively) is also found in the United States³⁴ and is rightly reflected in the author's study linking law to examples drawn from case studies.

The *Cypriot Oil Companies* case³⁵ is an example of how the author attempts, through case editing, to illustrate a legal problem, such as that of price-fixing and parallel behaviours. Cartels have been defined as 'the supreme evil of antitrust'³⁶ and, for that reason, it is no coincidence that the book reserves an important place for

³³ For an interesting view on criminalisation of antitrust enforcement in the EU Member States, see Wouter P. J. Wils, *Is Criminalization of EU Competition Law the Answer?* (2005) 28(2) *World Competition* 117, paras 63 *et seq*.

³⁴ Richard A. Epstein, *Monopolization Follies: The Dangers of Structural Remedies under Section 2 of the Sherman Act*, (2009-2010) 76(1) *Antitrust L.J.*205.

³⁵ *ExxonMobil Cyprus Ltd, Petrolina (Holdings) Public Ltd, Hellenic Petroleum Cyprus Ltd and Lukoil Cyprus Ltd v Commission for the Protection of Competition* (2011) 3 CLR 449 (in Greek).

³⁶ *Sic Verizon Communications v Law Offices of Curtis V. Trinko* (2004) 540 U.S. 398, 408. *See also* Papadopoulos (no 3) 40.

them. Other examples illustrating different legal issues are: the *Ready-mix concrete* case³⁷ on safeguarding free competition to the public works market; the *Cattle farmers* case³⁸ on anti-competitive exclusivity clauses and non-compete obligations; the *Kapodistriasis/Kyros/Daimler/CIC* case³⁹ on the assessment of a selective distribution scheme leaving only one player on the relevant market of spare parts of vehicles; the *Thunderworx/Cyta* case⁴⁰ on the objective character of ‘abuse of dominance’; the *Great Minds Marketing* case⁴¹ as well as the *Alpha Electic/Fissler* case⁴² on the abuse of a relationship of economic dependence, which is distinguishable from the abuse of dominance and forms a special characteristic of Cypriot legal order; the *Hertz/Hermes* case⁴³ on exploitative pricing in the field of airport operators; the *K.A.C./Henkel* case⁴⁴ on exploitative practices aiming at preventing parallel imports; the *Wyeth and Phadisco* case⁴⁵ on abusive rebates schemes in the pharmaceutical domain; the *Kapnisis/Misos/LLPA/Cyprus Ports Authority* case⁴⁶ on abusive refusal to deal; the *Pittas Diaries/POCF* case⁴⁷ on assessing abusive margin squeezes; the *Acquisition of Blue Circle Engineering Ltd by Hellenic Petroleum Cyprus Holding Ltd* case⁴⁸ on mergers; the *V LPG* case⁴⁹ on joint ventures, and so on.

Part III, written by Professor Emilianides, is titled ‘Administrative Procedure’ and focuses on the relationship between subjects of competition (undertakings) and Administrative Antitrust Authorities in Cyprus. This relationship is characterised by the fact that the CPC, just like the European Commission, has powers of investigation in competition matters (Ch. 1). The detection of infringements is growing ever more difficult and for that reason the CPC’s powers of investigation are extended. The full spectrum of these powers takes shape with clarity in the author’s attempt to present CPC’s modus operandi. The investigation of an infringement may finally lead,

³⁷ CPC Decision 29/2018, 18 July 2018.

³⁸ CPC Decision 42/2014, 17 October 2014.

³⁹ CPC Decision 11/2015, 23 April 2015 (in Greek).

⁴⁰ CPC Decision 48/2012, 8 October 2012 (in Greek).

⁴¹ CPC Decision 38/2014, 4 September 2014 (in Greek).

⁴² CPC Decision 22/2018, 22 June 2018 (in Greek).

⁴³ CPC Decision 20/2015, 23 June 2015 (in Greek).

⁴⁴ CPC Decision 53/2019 (in Greek).

⁴⁵ CPC Decision 36/2013, 12 April 2013 (in Greek).

⁴⁶ CPC Decision 54/2012, 10 October 2012 (in Greek).

⁴⁷ CPC Decision 32/2018, 24 July 2018 (in Greek).

⁴⁸ CPC Decision 26/2019, 22 April 2019.

⁴⁹ CPC Decision 35/2017, 27 July 2017 (in Greek).

through hearings and other proceedings, to a decision by CPC, as explained in the study.

Subsequently, the book turns to the special field of Mergers, analysing, *inter alia*, notification matters and other similar investigative procedures pursuant to the Concentrations Law (Ch. 2). In this respect, the study also examines how the CPC of Cyprus coordinates with the European Commission and other Merger Control Authorities (par. 4).

The last Chapter of the Book tackles both procedural as well as material substantive issues concerning the undertaking's right to effective legal protection against administrative action, which is a fundamental right guaranteed in Article 47 of the Charter of Fundamental Rights of the European Union as well as in Article 6 of the ECHR. After analysing issues on the jurisdiction of the administrative courts, Professor Emilianides embarks upon a detailed analysis of the scope of the judicial review in the light of the considerable volume of Supreme Court case law. From a dogmatic point of view, examining how the general Principles of Administrative Law, such as the principle of legality of administrative action, the principle that administrative decisions must be duly reasoned, etc., shall be applied for effective judicial protection is of particular interest.

To conclude, the present study should be welcomed as giving a balanced and nuanced picture of the basic elements, as well as the peculiarities of the antitrust legal environment in Cyprus. Its methodology is based on a thorough analysis of case-law, first and foremost of that of Cyprus, thereby making this publication an important contribution to the study and implementation of Cypriot competition law and policies.

Apostolos F. Manthos

When the Cemetery Becomes Political: Dealing with the Religious Heritage in Multi-Ethnic Regions Conferences in Münster (24-25 March 2017) and Nicosia (16 March 2018 and 1 November 2019)

THORSTEN KRUSE, HUBERT FAUSTMANN, AND SABINE ROGGE (eds)

Münster/New York: Waxmann, 2020

pp. 226

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The book being presented by Waxmann publications under the editorship of Thorsten Kruse, Hubert Faustmann and Sabine Rogge, includes the papers of three conferences which were conducted in Münster (24-25 March, 2017) and in Nicosia (16 March, 2018 and 1st of November, 2019) by the Institute of Interdisciplinary Cypriot Studies (University of Münster) in cooperation with the Cyprus Office of the German Friedrich - Ebert Foundation (Friedrich-Ebert-Stiftung, FES). The work grapples with an always relevant matter, namely of the interconnection of religion to politics, focusing on the management of the religious cultural heritage and in particular the case of cemeteries in regions where a greater number of national and religious communities are active. It is particularly interesting that we have a selection of characteristic countries, in which diachronically there emerge issues of coexistence and occasionally of conflict between different religious communities. Subsequently, the book is divided into four units, corresponding to the countries of location of the cemeteries being presented. The first unit concerns Bosnia-Herzegovina, the second Cyprus, the next Greece, and the last Lebanon. All the contributions included in the volume are accompanied by rich photographic material from the cemeteries constituting the subject of each paper. Moreover, at the end of each contribution an extensive bibliographical list is attached with the aim of guiding the reader to a more in-depth knowledge of the individual matters.

The first unit is devoted to Bosnia-Herzegovina and includes the paper by Željana Tunić under the title ‘The meaning of bones in post-conflict societies’. The second unit pertains to Cyprus and is the most extensive, with five different contributions. The first contribution was drafted by Theodosios Tsivolas under the title ‘Cypriot religious heritage. Legal reflections on a divided cultural property’. The second paper, by Th. Kruse, has as subject ‘The fate of the religious heritage of Cyprus in the reports of

international organisations: The northern part of Cyprus'. There follows the contribution by Petros Savvides, 'The Islamization of occupied Cyprus: A religious affair or political engineering?'. The fourth paper's topic is 'The politics of restoring religious sites and cemeteries in the north of Cyprus: An ethnography among Greek Cypriot refugees' and it was drafted jointly by Lisa Dikomitis and Vassos Argyrou. The last is the joint paper by Theopisti Stylianou-Lambert and Alexandra Bounia, analysing the topic of 'Cultural "wars", religious artefacts, and visitors: Icon museums and the Women of St Barnabas'. The next part pertains to Greece, with the contribution by Leon Saltiel, which analyses 'The destruction of Thessaloniki's Jewish cemetery'. Then the case of the country of Lebanon is presented, with three individual papers. In the first Elie Al Hindy elaborates on the matter of 'Religious pluralism –problems and solutions'. This is followed by the contribution by Ziad Fahed, the subject being the influence of religious denominations on the consolidation of peace and bearing the title 'From war to reconciliation –lessons from and for Lebanon: The role of religions in peacebuilding in time of war'. The last study of the unit and of the volume is the one by Dima de Clerck, which focusses on the Christian cemeteries of Lebanon and is titled 'The place of the Christian dead in southern Mount Lebanon'.

In conclusion, this volume constitutes a thorough approach of the ever relevant and difficult issue of the relationship between politics and religion, though not in generality and abstractness, but from a specific and sensitive perspective. How the resting place of the dead, the known to all cemeteries, become a reflection of this relationship and at times of this conflict. This polished publication makes for a fine read and enriches the knowledge of the thoughtful reader. In parallel, it affords an occasion for productive scholarly investigation and further delving into the matters elaborated in it.

Ioannis E. Kastanas

Emerging Voices of Critical International Law in the Hellenic World

Achilles C. Emilianides: The Complete Legal Works [Αχιλλέως Κ. Αιμιλιανίδη: Άπαντα τα Νομικά]

ACHILLES C. EMILIANIDES
Nicosia: Hippasus, 2021
pp. XLIX + 523
ISBN: 978-9963-676-18-7

Dr Petros Papapolyviou recently provided an exhaustive account of Achilles C. Emilianides' life and work.⁵⁰ The celebrated historian painted a multilayered portrait of the jurist, the man of letters, the true patriot, and the exemplary citizen that Achilles C. Emilianides was. However, this is an international lawyer's account of Emilianides and as such it will focus on his legacy as a member of the 'invisible college'⁵¹, while trying to be as descriptive as possible.⁵² Emilianides belonged to the Hellenic School of international legal thought.⁵³ Much like his mentors, Stelio Sfériadès and Nicolas Politis,⁵⁴ he was a staunch supporter of the concept of international morality. Emilianides advocated for the strict but dynamic construction of international norms and usually espoused a historical-sociological analysis of jural relations. Moreover, as a *maître* of the Hellenic School, he also devoted much of his work and energy to the re-discovery of the individual as the true subject of international law.

⁵⁰ Petros Papapolyviou, 'The Jurist and Belletrist Achilles C. Emilianides (1903-1978)' [‘Ο Νομικός και Λογοτέχνης Αχιλλεύς Κ. Αιμιλιανίδης (1903-1978)'] in Achilles C. Emilianides, *The Complete Legal Works* (Nicosia: Hippasus Publishing, 2021) xix-xlix.

⁵¹ Oscar Schachter, 'The Invisible College of International Lawyers' (1977) 72(2) *Northwestern University Law Review* 217.

⁵² Anne Orford, 'In Praise of Description' (2012) 25(3) *Leiden Journal of International Law* 609.

⁵³ Miltiadis Sarigiannidis, 'The "Hellenic School" of International Law' [‘Η «Ελληνική Σχολή» του Διεθνούς Δικαίου'] in Costas Chatzikonstantinou, Charalambos Apostolides, Miltiadis Sarigiannidis, *Fundamental Concepts in International Public Law* [Θεμελιώδεις Έννοιες στο Διεθνές Δημόσιο Δίκαιο] (Athens/Thessaloniki: Sakkoulas, 2014) 112-115.

⁵⁴ See indicatively Stelio Sfériadès, *The Future of Public International Law* [Το Μέλλον του Δημοσίου Διεθνούς Δικαίου] (Athens: Blazoudakis Brothers' Publishing, 1920); Nicolas Politis, *La morale internationale* (New York: Brentano's, 1944). On international morality and the language of progress in the Hellenic School, see Thomas Skouteris, *The Notion of Progress in International Law Discourse* (The Hague: TMC Asser, 2009) Chap. 2.

Achilles C. Emilianides was a prolific writer. In the recently published *compendium* of his extant legal works, we can find an erudite analysis of the law of prize courts,⁵⁵ a foundational work on the place of the individual and the State in the post-war international legal order,⁵⁶ alluding to the intellectual tradition of *droit international de l'avenir*,⁵⁷ a concise analysis of the legal regime of capitulations and extra-territorial privileges in Cyprus,⁵⁸ an interesting study on the law of mixed marriages,⁵⁹ which reveals the historical and comparative methodology of the author, and a brief discussion of the legal regime of Cypriot citizenship under the British rule.⁶⁰ All these introductory works prepare us for the next part of the book, where Emilianides engaged into a thorough discussion of the normative and historical underpinnings of several topical questions of international and comparative law.

What is clear from the volume is that Emilianides extensively studied the legal consequences of international treaties. In an epoch when the study of the history of international law was nascent, he devoted a monograph to the historic treaty adopted on 7 September 1450 CE between the French King of Cyprus John II and the Emir of the region of Candelor,⁶¹ which –as Emilianides informs us– was probably located near the ancient Hellenic city of Side in Pamphylia (Asia Minor).⁶² This monograph offers an interesting, if not innovative –given the time of its authorship (1940)– analysis. Emilianides used the medieval *pactum* as his point of departure to offer insightful comments about his contemporary treaties, including the Balkan Pact, conventions of friendship, commerce, and navigation, and compromissory clauses submitting disputes to international arbitration.

In another treaty-related study, Emilianides addressed the legal challenges posed by the Zurich/London Agreements.⁶³ Underneath his calm and neutral analysis, we can already understand that, as an international lawyer, Emilianides had his doubts about the viability, wisdom, and flexibility of the dense treaty regime, which the framers of the Zurich/London formula prepared for the nascent State. The concluding re-

⁵⁵ Emilianides (n. 1) 1-66.

⁵⁶ *Ibid.* 69-109

⁵⁷ See indicatively Jan de Louter, 'L'avenir du droit international public' (1912) 19 *Revue générale de droit international public* 281; Alejandro Alvarez, *Le droit international de l'avenir* (Washington DC, 1916).

⁵⁸ Emilianides (n. 1) 111-161.

⁵⁹ *Ibid.* 163-197.

⁶⁰ *Ibid.* 199-215.

⁶¹ *Ibid.* 217-250.

⁶² *Ibid.* 220-221.

⁶³ *Ibid.* 335-347.

marks⁶⁴ of his study allow us to glimpse an emerging critical international lawyer. Although Emilianides as a proponent of the Hellenic School was a cosmopolitan statist, his commentary on the Agreements proves that he was also able to employ the idiom of post-coloniality. By using the concept of State sovereignty, sovereign equality, and independence as enshrined in the United Nations Charter, he stigmatised the inherent deficiencies of the conventional regime, which gave rise to the right of Cyprus to exist as a primary subject of international law. Despite his careful use of international legal concepts, much like the proponents of the TWAIL School of international law,⁶⁵ Emilianides both framed the Agreements as half-hearted concessions of the three Powers falling short of complete independence, and used the admission of Cyprus to the United Nations as a juridical point of no return. As he argued, heralding one of the basic tenets of TWAIL, Cyprus' participation in the system of the United Nations rendered the State fully sovereign and thus able to administer its domestic affairs free from foreign intervention, but always within the limits prescribed by international law.

However, no account of Emilianides' international legal scholarship can be complete without addressing his fundamental contributions to the development of the discipline's *Dogmatik*.⁶⁶ Emilianides advocated for a republican construction of international law, where both the individual and the State acquired not only rights but also responsibilities. In his foundational study on the trusteeship of the State and the protection of the human person, we can discern his republican and Stoic influences and how they shaped his legal arguments. Instead of demonising the State, Emilianides sought to re-articulate the basic concepts of State sovereignty and ground it, not on some Hobbesian formula, but on the notion of humanity. To Emilianides, the State owes to the individual a duty of protection, which justifies State supremacy and permeates all manifestations of State sovereignty. At the same time, like his mentors, Emilianides saw a gradual diminishment of the *domaine réservé*. He understood the specialised systems of the League of Nations (minorities, mandates, refugees) as an early sign of the transformation of the international order. As he opined, ultimately

⁶⁴ *Ibid.* 344-347.

⁶⁵ Third World Approaches to International Law; Anthony Anghie, 'TWAIL: Past and Future' (2008) 10 *International Community Law Review* 479; see also James Thuo Gathii, 'TWAIL: A Brief History of Its Origins, Its Decentralized Network, and a Tentative Bibliography' (2011) 3(1) *Trade, Law & Development* 26; Makau Mutua, 'What is TWAIL?' (2000) 94 *Proceedings of the American Society of International Law Annual Meeting* 31.

⁶⁶ Emilianides (n. 1) 69-109.

the protection of the human person will be entrusted to the collective tutelage of the international community.

Achilles C. Emilianides also contributed to the development of international criminal law. In 1950 he authored a comprehensive study⁶⁷ on the Convention on the Prevention and Punishment of the Crime of Genocide,⁶⁸ which was presented during the London Conference of the International Bar Association (19-26 July 1950).⁶⁹ Strikingly Emilianides started with a brief history of the concept of genocide since the ancient times. Even though we can be almost certain that he was not aware of Raphael Lemkin's lifetime project on the history and sociology of genocide, which remained incomplete and was published in fragments posthumously,⁷⁰ Emilianides' study can be read parallel to Lemkin's own historical account. He traced genocide back to the history of the Persians, the Israelites, the Romans, and the Babylonians. Like Lemkin, he saw religious persecutions during the Middle Ages as part of the history of genocide. Furthermore, he explicitly addressed the practice of *devşirme* (blood tax, *paidomazoma*) as a prelude to genocide, while he directly framed the annihilation of Indigenous Peoples in the Americas as genocidal. The next part of this study closely follows the gradual emergence of the concept of genocide. Emilianides discussed the shortcomings of the minorities treaties under the League of Nations and the rupture of the international order through the Holocaust. Most notably, he explicitly addressed the extermination of the Russians, the Poles, and the Greeks (Great Famine, 1941-1942) during the Second World War as instances of biological genocide.

Emilianides also analysed the question of the Greek children, who were evacuated from Macedonia during the civil war. In his reasoning, Emilianides espoused the arguments of the Greek government that the affair constituted proof of a plan to commit genocide against the Greeks *qua* national group. Moreover, he posited that the persecutions of the Jews and the Greeks in the Soviet Union and the mass expulsion of Greeks from Romania constituted genocide as well. Emilianides' analysis was influenced by the politics of the Cold War, the arguments of the Greek government, and

⁶⁷ *Ibid.* 253-278.

⁶⁸ Convention on the Prevention and Punishment of the Crime of Genocide (adopted 9 December 1948, entered into force 12 January 1951) 78 *United Nations Treaty Series* 277.

⁶⁹ See International Bar Association, *Third International Conference of the Legal Profession, London, July 19-26, 1950: Summary of Proceedings and Resolutions Adopted by the Conference* (The Hague: Martinus Nijhoff, 1952) 57.

⁷⁰ Steven Leonard Jacobs (ed.), *Lemkin on Genocide* (Lanham MD: Lexington Books 2012).

the emerging practice of using genocide to castigate politically motivated atrocities.⁷¹ The final part, which includes Emilianides' remarks on the Genocide Convention, is the most significant contribution of this study. It is evident that he remained critical of the negative penal protection granted by the Convention, despite the enunciation of the collective right of certain human communities to exist. Furthermore, he deplored the exclusion of political, linguistic, professional, and economic groups from the remit of the Convention. It is worth noting that he was one of the first theorists to suggest that the prohibition of genocide covers not only minorities but also majoritarian groups, including peoples under colonial rule.

Emilianides diagnosed several of the problems of the Convention that have vexed international lawyers until our days. First, he considered the specific *mens rea* of genocide and, like many of his contemporaries, opined that the mental element of the crime incorporated the question of motives into the penal norm. Furthermore, he explicitly addressed the possibility of commission by omission, a point, which still attracts much debate in international criminal law. In another insightful take, he pointed out the confusion that has been (and still is) caused by the use of the terms 'national' and 'ethnic' to define the protected groups. Finally, Emilianides raised interesting questions regarding both the prevention of genocide, an obligation established under Article I of the Convention, and the issue of State responsibility as alluded in its Article IX (the compromissory clause). Suffice it to say, that the inconsistencies noted by Emilianides in 1950 were only addressed by the International Court of Justice through dynamic interpretation in the 2007 *Bosnian Genocide Case*.⁷²

The rest of the book covers a wide range of topics, including the collective statelessness of Cypriots in Egypt, created due to the inadequacy of the British administration and its inability to comprehensively address the issue after the collapse of the Ottoman Empire,⁷³ the Hellenic Laws of pre-independence Cyprus,⁷⁴ questions of marriage and nationality,⁷⁵ the legal regime of interethnic and interreligious relations in Cyprus,⁷⁶ issues of regional administration,⁷⁷ the role of the United Nations

⁷¹ Anton Weiss-Wendt, *A Rhetorical Crime: Genocide in the Geopolitical Discourse of the Cold War* (New Brunswick NJ: Rutgers University Press, 2018).

⁷² *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia & Herzegovina v Serbia & Montenegro)*, Judgment (Merits) of 26 February 2007 [2007] ICJ Rep 43.

⁷³ Emilianides (n. 1) 281-292.

⁷⁴ *Ibid.* 295-311.

⁷⁵ *Ibid.* 303-311

⁷⁶ *Ibid.* 313-333.

⁷⁷ *Ibid.* 349-360.

peacekeeping forces in international conflicts and situations of civil strife,⁷⁸ a project for a truly international law of tourism,⁷⁹ private international law in Cyprus,⁸⁰ sovereignty in the air and the outer space (a cutting-edge study which reveals Emilianides' sociological thinking),⁸¹ the right to unionise,⁸² and the institutions of polyarchy in medieval Cyprus.⁸³

Overall, the *Complete Legal Works* of Achilles C. Emilianides is an extremely useful contribution, which can assist contemporary international lawyers and guide them while engaging with complex issues pertaining to the histories, legacies, and politics of international law. It epitomises the basic principles of the Hellenic School, offers an early critical view adumbrating the rise of TWAIL after the 1960s, and contextualises several forgotten debates in international law, including the question of motives in the application of Article II of the Genocide Convention. The legal works of Achilles C. Emilianides introduce us to an international lawyer who was not eager to accept the *Zeitgeist* of his era, who consciously tried to develop international law, and who – despite his cosmopolitanism – was well-versed in the idiom of anti-colonialism. Much like his colleagues in the 1960s, Emilianides considered that international law could address the colonial problem, but only through radical transformation. In his own words:

[...] Article 73 [of the United Nations Charter] needs a more radical revision and especially the part referring to the interests of the inhabitants of the Dependent Territories. [...] In the minds of these peoples the Charter is devoid of any practical value to them, and despite the noble words it only means the perpetuation of the present system of Colonial domination by other powers. [...] The Colonial problem is one of the major issues of the twentieth century and unless it is approached in a spirit of international cooperation and on a basis of mutual understanding it will divide the world into two opposing and enemy sections to the detriment of the prestige of the United Nations.⁸⁴

Dimitrios A. Kourtis

⁷⁸ *Ibid.* 363-385.

⁷⁹ *Ibid.* 387-394 (in French).

⁸⁰ *Ibid.* 397-452.

⁸¹ *Ibid.* 455-487.

⁸² *Ibid.* 489-503.

⁸³ *Ibid.* 505-523.

⁸⁴ 'Review of the United Nations Charter' (Tuesday, 10 August 1954, at 9.30 am and 2.00 pm) (1954) 46 *International Law Association Reports of Conferences* 37, 88.

The Icon Hunter: A Refugee's Quest to Reclaim Her Nation's Stolen Heritage

[Η Κυνηγός Εικόνων: Η Περιπέτεια μιας Πρόσφυγα στην Προσπάθεια να Επανακτήσει την Κλεμμένη Εθνική της Κληρονομιά]

TASOULA HADJITOFI WITH KATHY BARRETT

(Translated by KRISTY KOUNINIOTI)

Athens: Livanis Publishing, 2019

pp. 525

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The Icon Hunter is the powerful story of Tasoula Hadjitofi, a Greek Cypriot refugee in the Netherlands. It revolves around her true passion and commitment to return stolen artifacts to her country, Cyprus, through years of dangerous operations. Tasoula is the central figure of the book, however, through her eyes the personalities of many different characters involved in the events are outlined, i.e. church officials (an archbishop and a bishop), art dealers, financiers, buyers, a private detective, a notorious Turkish smuggler, lawyers, police officers, civil servants, diplomats, family members, etc. This rich cast of characters, combined with the gripping plot full of negotiations, agreements, strategies, legal solutions, legal disputes, search for hard evidence, police operations, setbacks, sacrifices and flashbacks, captivate readers until the last page.

Through the presentation of the passion, drama and danger in the life of this dynamic woman, the book is valuable because it touches on the effects of armed conflicts. On the one hand, people lose their lives or are forcibly displaced from their homes and become the main victims of armed conflicts around the world. Tasoula was born and raised in Famagusta, Cyprus. She had a happy childhood in her hometown during the 60s and early 70s. However, in 1974, she was forced to leave her hometown with her family when the Turkish military invaded the country and occupied the northern part of Cyprus. This tragic event was a major turning point in her life and deeply influenced her later actions and beliefs. The young, talented and dynamic Tasoula relocated to the Hague, the Netherlands, and managed to build a new life as a wife, mother, successful businesswoman, Honorary Consul of the Republic of Cyprus in The Netherlands, and Representative of the Church of Cyprus.

On the other hand, armed conflicts and subsequent refugee crises have many collateral damages. In this context, a major issue is the destruction, looting and illicit trafficking of cultural heritage. It affects movable and immovable property, as well as intangible cultural heritage, archives, and documentary heritage. The issue is further complicated by the fact that illicit trafficking of cultural heritage is linked to international terrorism and other illegal activities. Destruction, looting, illicit trafficking and fight for the repatriation of cultural heritage are the most important points of the book. As such, *The Icon Hunter* is particularly relevant in today's world suffering from numerous violent armed conflicts and refugee crises while public awareness for stolen cultural heritage has increased. After Tasoula and the thousands of Greek Cypriot refugees fled their homelands, hundreds of Orthodox churches in the northern occupied part of the island, dating back to different historical periods of Cyprus (from the Byzantine to early modern times), were destroyed, while their contents, i.e. religious icons, mosaics, frescoes, wooden iconostasis, etc., were looted. These precious religious objects started another journey in the underworld of illicit trafficking of cultural goods.

Tasoula treats this stolen cultural heritage not as inanimate objects of art but as 'refugees' reflecting emotions, values and meanings. Although the Greek Cypriot refugees lost everything, what hurt the most was the looting and defacing of their religious objects. Through the pages of the book, Tasoula seeks to make readers understand how meaningful and revered these objects are to those communities. Her story shows how refugees are emotionally attached to their cultural heritage, which is an important part of their identity. Refugees stand between memories of their past and the attempt to build a new life. For many of them cultural heritage, especially religious objects, is a bridge that connects their past, present and future. The story of Tasoula shows that the looting and trafficking of cultural heritage deprives refugees of their history and culture. It destroys the important link between their past, present and future, which is reflected in the unquenchable desire of the refugees to return to their homelands. In an attempt to better illustrate this relationship and the importance of religious objects, Tasoula's narrative moves back and forth in time, offering interesting highlights of her happy life before 1974. This makes it easier for readers to understand how these objects can serve as a bridge between her former life in Cyprus before the Turkish invasion and her new life in the Netherlands.

Tasoula was fully aware of the significance of cultural heritage and was therefore committed to the hunt for stolen Cypriot religious objects. She worked with both the

church and the government, embarking on a long venture to track down, expose and bring to justice those responsible for the looting and trafficking of Cyprus' cultural heritage after the Turkish invasion of 1974. Its ultimate goal was justice for the looting of Cyprus' cultural heritage through the return of the stolen cultural objects to their rightful owner, the Church of Cyprus, and therefore the people of Cyprus. She put everything on the line to locate and repatriate these objects, even if it meant setting aside her husband and children, as well as her business. The Munich Operation was the result of years of sustained, hard, arduous and persistent effort, which led to the arrest of art trafficker Aydin Dikmen and the recovery of numerous stolen antiquities from Turkish-occupied Cyprus. The book also describes other smaller cases successfully handled by Tasoula.

This zeal may have been for her a kind of redemption dictated by the fact that she cannot return to her homeland, which is illegally occupied by the Turkish army. The book gives us a deep insight into the venal underworld of looting and selling cultural heritage. It describes in detail how complex trafficking networks are constructed and operated, taking advantage of inadequate legislation on illicit trade of cultural objects in many European countries. Although the international and regional legal framework for preventing the illicit trafficking of cultural property has been strengthened since the 90s, further steps need to be taken in this direction. The book also presents the various 'players' involved in the illicit trafficking of cultural goods, both through legal markets, such as auctions, and in underground illegal markets.

As for the style of the book, it should be noted that it is quite dramatic in many sections. Despite some repetition and the fact that narrative moves back and forth in time describing complex events and different characters, the book is easy to read. The Greek translation of the original English text is of good quality.

To sum up, *The Icon Hunter* is not only for Cyprus and the Greek Cypriots who lost everything during the Turkish invasion in 1974 while their cultural heritage was looted and sold worldwide. The true value of the book is that it is addressed to every refugee in every country in the world, helping to raise public awareness of the international issue of illicit trafficking of cultural heritage. Through the case of Cyprus, the book also encourages future generations to protect and fight for the world's cultural heritage. It points out that the application of high ethical standards of due diligence should be a priority for individuals, museums, other institutions and governments that engage with transactions concerning cultural objects. The book conveys clear messages to readers about condemning the illicit trafficking of cultural objects, ac-

quiring only ethically acceptable items through due diligent research, respecting the cultural property of every country in the world, and promoting cultural activism.

Long after orchestrating the Munich Operation, Tasoula Hadjitofi never lost sight of her goal to efficiently protect cultural heritage against illicit trafficking. She founded the non-profit organization Walk of Truth, which focuses on the importance of cultural heritage, promoting the idea that culture unites people rather than divides them. She also founded the Culture Crime Watchers Worldwide (CCWW), a digital platform that engages ordinary people, including refugees, in the struggle against the looting of antiquities from conflict zones.

Konstantinos Roussos

Women's Organizations for Peace: Moving Beyond the Rhetoric of the Cyprus Problem

SOPHIA PAPASTAVROU

Cham: Palgrave Macmillan, 2021

pp. 113

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Writing on gender is not static; it is a fluctuating process, just like gender. Writing on gender is writing on everyday life through the perspective of gender. Everyday life in Cyprus involves dealing with the Cyprus Problem as an everyday reality. Over the years, much ink has been spilled on the Cyprus Problem, but there have been very few writing attempts to shed light on the inner workings within the Cypriot society, let alone the visibility and role of women in this context. All that, until *Women's Organizations for Peace: Moving Beyond the Rhetoric of the Cyprus Problem* by Sophia Papastavrou was published.

It is the first time the Cyprus Problem and gender are correlated in a book. This book offers an insight into the feminist struggles of Cypriot women's organisations in the patriarchal heterosexual framework of the Cyprus Problem and the Cypriot society. It unveils the misogynous discrimination against those whose lives are immaterial because of the normalisation of violence through military occupation, while exposing the role of nationalism, in times of war, in relation to gender roles. Nationalism has reduced women to specific roles, which serve its workings. The role of women as national actors is the role of a woman as a mother, a daughter, a wife, a reproductive object, and a symbol. Papastavrou exposes those workings by emphasising the unsaid history of womanhood in Cyprus through its undoubted absence in the Cyprus Problem negotiations and in general.

Women's voices, despite UN and EU efforts, are still not heard, and this reality is reflected in the peace negotiations of the Cyprus Problem. This is a primary and ongoing argument in this book. In fact, throughout its exploration, several themes emerge, such as the complexity of activism on the island between the two (Greek Cypriot and Turkish Cypriot) communities, the challenges of talking about sexism and gender — as this act involves intervention within the family structure in both communities— as well as the impact of race, ethnicity, religion, and gender in a pause-war period in relation to the issues surrounding women and war. In Cyprus, the hegemonic male

discourse erases every effort made by women's voice. Issues of women's space and women's history or, rather, their absence are intertwined in this book, as women in Cyprus, through nationalist functions, are reduced into reproductive machinery or used as symbols of the nation State.

The same symbolic function of the female body is used by men as an excuse for gendered violence; men from either side, men in conflict, or even men of the UN forces in some areas of the world commit acts of rape and male aggression. This experience traumatises women's bodies causing wounds that are difficult to heal or forget. Using that problematisation and context, Papastavrou focuses specifically on three Cypriot women organisations (HAD, GAT and MIGS) to indicate their purpose, principles, and mission and underline the importance of their efforts and the semiology of their existence: the groups include only women from both the Greek and Turkish-Cypriot community that work to address a gender-friendly solution to the Cyprus Problem to disrupt the ongoing narrative of finding a solution first and then deal with gender, as well as talk about women's trafficking and immigrant women and raise awareness of violence against women.

This book unveils the efforts of these three organisations towards women's rights and reunification, the consistency of their activism, their changes, their successes, and their limitations and failures in chronological order. The negative impact of the failure of the Annan plan referendum in 2004 and of the creation of the Gender Equality Technical Committee (GETC) in 2015 on these organisations is indicative.

By the end of this book, the reader inevitably realises the need for the development of a different, more intersectional, inclusive, and ongoing approach to women's activism that will contribute to the peace discourse and move beyond the male-perpetuated rhetoric of the Cyprus Problem. Therefore, *Women's Organizations for Peace: Moving Beyond the Rhetoric of the Cyprus Problem* is highly recommended for its ability to tackle the complexities of the issues it investigates, stay relevant and do justice to female history, discourse, and struggles in Cyprus.

Ekaterini Symeou

The Cyprus Issue 1954-1974

[Το Κυπριακό 1954-1974: Στοχαστικές Προσαρμογές και Αιώνιος Δηλιγιαννισμός]

GEORGE KALPADAKIS

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pp. 612

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As George Theotokas describes, and the author George Kalpadakis very eloquently explains in his book, by 1954 populism, just like the one that was expressed by the late premier of Greece in 1897 Theodoros Deligiannis, had mainly dominated the shaping of the political thinking, and consequently the foreign policy of Greece towards Cyprus. George Theotokas characterizes this current within Greek politics as the ‘eternal diligiannism’ (p. 487) and the author in order to describe the politics of the period under examination, chooses this phrase as a subtitle for his book. George Kalpadakis is an Assistant Researcher at the Modern Greek History Research Centre (KEINE) of the Academy of Athens, with particular research interest in foreign policy. His book is an excellent addition to the historiography of the Cyprus Problem throughout three decades, 1950s, 1960s and 1970s.

The main scope of this book is to present from a fresh point of view, the factors that affected Greece’s strategy towards the Cyprus Issue during the critical period of 1954-1974. More specifically, the author makes a thorough examination of the two schools of thought within the diplomatic service and of the Greek politicians in relation to the handling of the Cyprus issue and the pressing demand of the Greek-Cypriot leadership for imminent *Enosis*.

The starting point of the book is in 1954, explaining about the first recourse of the Papagos’ Government to the UN General Assembly for Cyprus’ demand of self-determination and consequently *Enosis*. The narrative of the book ends with the catastrophic Turkish invasion of 1974. Kalpadakis sheds light upon the pragmatic approach taken by several Greek diplomats, which was embodied with pure strategic thinking and shaped by taking into consideration the Greek national interests *in toto*. These diplomats, who held key posts in the diplomatic service, in relation to the Cyprus case –such as Aggelos Vlachos, General Consul in Nicosia 1956-1958 and later Secretary-General of the Ministry of Foreign Affairs and Vasileios Mostras,

Greek Ambassador in London 1953-1956– tried to convince the Greek leadership throughout the period under examination, to adopt this moderate approach. However, Kalpadakis points out that in most cases the Greek leadership had adopted short-sighted strategies led by the populist outbursts and emotional demands of the public opinion in Greece and Cyprus. More specifically, the author presents the voices within the Greek-Cypriot leadership and Greek political arena, who fiercely and constantly demanded in the 1950s from the Greek Government to support imminent *Enosis* and to proceed with internationalization of the issue within the UN. Contrary, however, to these voices several diplomats according to Kalpadakis, urged for the prevailing of moderation and diplomacy, as envisioned by Eleftherios Venizelos in the 1930s. This moderate strategy was shaped under the below considerations:

- a) Support Cyprus' struggle for liberation but not through internalization of the issue via UN recourses, or even through military means, because that would have mobilized Ankara into getting involved in the discussions for Cyprus' future status. Conversely, pragmatist approaches were arguing in favour of using purely diplomatic means, having always in mind the balance of the regional and Western powers, as well as the international context. A gradual solution should have been sought through the establishment of a purely Cypriot independent State at first, in which the two communities would have existed peacefully and closely. This would have been a 'second small Greek state' (p. 26)
- b) Use diplomatic channels through the Western alliance. In that way, Greece should have entered into bilateral discussions with London about the Cyprus Issue. This would have averted the danger of involving Turkey. Simultaneously, Greek diplomacy should have exploited the decolonization movement that was emerging in the United States and worldwide (solution as India's example).
- c) Keep always in mind that radicalization of the Cyprus Issue and the constant and strong demand for *Enosis* in Cyprus and in Greece, would have a negative impact on Greek population in Turkey and Greek interests in general.

Contrary to the above approach, Kalpadakis explains throughout the book how the Athenian Governments failed to grasp the importance of adopting a strategy on Cyprus that would not have been monolithic but it would have aimed to address all open Greco-Turkish affairs instead. Through his interesting citations and abstracts from various archives, the author explains that the Greek foreign policy was highly affected by the public opinion of the strong *Enotists* supporters in Greece and in Cyprus and by the press. The Greek Governments did not also have the ability to control

Makarios, neither before 1960 nor after 1963, while after 1964 Athens was operating under the illusion that it could have exerted some control over Makarios by giving an underlying support to Grivas' clandestine actions in Cyprus.

The book is split into three parts. The author adopts a chronological analysis in the first two parts, while in the third part, Kalpadakis summarizes what have affected the various strategies analyzed in the previous two sections and what it was eventually adopted by the various Greek Governments and certain Greek diplomats in key posts, throughout the whole period of 1954-1974.

The first part sets the context of the Greco-Turkish relations, the critical interests of Britain over Cyprus, the international dynamics within the UN and the demands of the Greek-Cypriot leadership about imminent *Enosis* mainly during the 1950s. More specifically, it explains how the first Greek UN recourse of 1954 on Cyprus' request for self-determination had mobilized Ankara into actively getting involved in the discussions for Cyprus' future status. Moreover, it elaborates on the 'side-effects' of the internationalization strategy of the Cyprus Issue, as well as the adverse impact of the crises in Cyprus in 1955-1959 and in 1963-1964, on the Greek population, the status of Patriarchate in Istanbul and the Greco-Turkish relations in general. On the other hand, Kalpadakis presents the 'rapprochement' of the Greco-Turkish affairs during the first three years of the fragile independence in Cyprus, and how during Karamanlis' implementation of the moderate and pragmatic approach on the Cyprus Issue, both the Greek community in Turkey and the Patriarchate had thrived.

In the same part the author cites abstracts of the warnings from various diplomats in key posts and especially of the Greek Ambassador in London, Vasileios Mostras, who up until his recall in 1957, was constantly advising his Government about the British interests at stake in Cyprus, the actual possibilities that Athens could have used through a Greco-British dialogue, how the UN recourse was premature with limited chances of success and why it would have never been supported by London. Moreover, the warnings of the Greek General-Consul in Cyprus, Aggelos Vlachos are presented in detail. More specifically, Vlachos tried to convince the Greek Governments for the need to exert moderate influence on Makarios on terminating the armed struggle of EOKA and find ways to break the impasse with the British government through bilateral talks. Finally, the author presents why the Greek Governments were not able to take into account the above warnings for adopting a moderate strategy for Cyprus future, and sheds some light upon Makarios' manoeuvres when he was in Athens, after he was released from his exile in 1957.

The second part of the book presents the voices of key diplomats from the late 1958 and the discussions for the Zurich-London Agreements until the Turkish invasion of 1974. The main difference of the beginning of this period, was the prevailing of the moderate voices within the Greek Foreign Ministry led by Evangelos Averoff, and the Government led by Constatninos Karalamnlis. The Greek Government was aiming at settling the Greek-Turkish differences and the Cyprus Issue as well, through the establishment and consolidation of Independence. However, the realities on the island have disillusioned Athens, which was unable to convince Makarios for the need to make the Zurich-London agreements fully operational. Kalpadakis in this part makes a brief presentation of the realities on the island up until 1974, both in the Greek and Turkish-Cypriot community, and explains why the successive Greek Governments, the diplomats, and Papadopoulos regime from 1967 up until 1973 were unable to influence in any way the Greek-Cypriot leadership.

The author adopts the position of the pragmatist diplomats, which supported that even though Makarios had made grave mistakes and miscalculations in the handling of the Cyprus Issue, Athens needed to protect his position as the sole political leader of Greek-Cypriots and President of Cyprus. For this reason, during the first years of the dictatorship in Greece, the moderate diplomats managed to convince Papadopoulos regime that Makarios should not be marginalized in any discussions for Cyprus' fate, while Grivas was dangerous and needed to be contained. However, by the end of 1973 and the change of military leadership, led by Dimitrios Ioannidis, the already minimum dynamic of the pragmatist diplomats over junta had vanished. The diplomats were neither able to convince junta for the need to protect Makarios nor for the need to preserve a fruitful inter-communal dialogue over Cyprus, nor for the need for bilateral discussions with Turkey in order to settle the increase of tension in the Aegean due to Turkey's provocations. It was evident that Ioannides' regime consulted only the secret services and CIA instead of the official diplomatic sources either in Greece or elsewhere. Due to their failure, prominent diplomats have resigned from the Ministry of Foreign Affairs, some days before the military coup in Cyprus in July 1974.

In the third part of the book, Kalpadakis presents in more detail the factors and persons that influenced the Greek policies towards Cyprus throughout the period under examination. In particular, he explains that due to the previous civil war, the Cold War political rivalries and their belief that communism could have prevailed in Cyprus due to AKEL's dynamic, the Greek Governments were not politically strong

enough either to disregard any public accusations led by populism or to undertake a strict and pragmatic strategy for Cyprus that would have taken under wider consideration Greece's national interests. Interestingly in this part, Kalpadakis also gives emphasis to several prominent diplomats who held different approaches on the Cyprus Issue and explains why each of them adopted a different approach on the Cyprus Issue. In spite of these voices, the Greek Governments were still highly affected by the public opinion rather than their diplomatic service.

Kalpadakis' book is certainly unique. Both the way that the chapters are being evolved and the subject itself have not been examined in this way before. Through the citation of various abstracts of primary sources, and the biographies and autobiographies of the diplomats, he creates a vivid narrative, which is very interesting to read. In certain occasions, the book needs particular attention, since the author cites many examples and arguments of various chronological periods and the reader has to be careful to grasp the different chronological context, despite the existence of the same realities on the ground. There is, however, one critical juncture that it is missing from Kalpadakis analysis, which it would have been very interesting addition to the narrative of the book. This is a summary of the mobilization Greek Foreign Ministry and of the Greek diplomats after the second inter-communal crisis in Cyprus in November 1967 and the shuttle diplomacy of Cyrus Vance between Athens, Ankara, and Nicosia. Nonetheless, Kalpadakis book contains a very rich analysis of the Greek strategies towards Cyprus in one of the most critical historical periods of the island. Most importantly, the book reflects upon a critical question about the Greek foreign policy; has the decision-making been shaped under pragmatic factors with a thorough calculation of the Greek national interests, or has it traditionally been affected by the 'eternal diligianssim' of Greek politics?

Marilena Varnava

Improving School and Teaching in the Context of Cultural Pluralism

[Βελτιώνοντας το Σχολείο και τη Διδασκαλία σε Συνθήκες Πολιτισμικού Πλουραλισμού]

Aimilios Solomou and Christina Hadjisoteriou (eds)

Athens: Diadrasi Publications, 2019

pp. 222

ISBN: 978-618-5059-99-6

The book features a compilation of ten articles written by educators, teachers and teacher trainers, academics and PhD candidates, mainly from the University of Nicosia. It is not an attempt to impose solutions, but it rather aims at weaving together sociocultural contexts, ideologies and pedagogies, policies, and curricula. The essays allow the reader to follow the complex and conflicting issues that have contributed in formulating the rhetoric and practice of cultural pluralism in educational contexts. The editors attempted to bring together different perspectives on questions that arise in the course of teachers' daily work such as 'How can a framework for the development of an intercultural ethos be created and guide teachers' pedagogical decisions in Cypriot schools?' or 'Can values and practices, such as critical awareness or commitment to equal opportunities and outcomes, be promoted so that teachers can critically examine, document their decisions, recognise and manage their emotions, question entrenched perceptions, and ultimately enable the transformation of society?' and 'Can teachers influence decisions about education policy in the context of cultural pluralism?'

Ideas and suggestions based on research data are used to provide answers to these questions as well as to pose new ones connecting aspects of intercultural education, terms, factors, and conditions with the social and cultural aspects of school life. Thus, the book is addressed to four target groups: school leaders, teachers, people who facilitate teachers in continuous professional learning contexts, and students in the field of Education Sciences.

As the editors note in their introductory preface chapter, at a time defined by globalisation, economic crisis, poverty, conflicts, people moving across borders and borders moving over people, the culturally pluralistic school is called upon to create new routes of interaction and intercultural dialogue. The implementation and success of

a policy depends on the ability of teachers to utilise intercultural knowledge, values, and skills, resulting from the study of books such as the one presented here, and to act effectively pedagogically, with an intercultural ethos. 'We usually talk about equality, but we talk much more', as C. Xenophonos points out in his paper in the book, 'about access and achievement and much less about identity and power issues'. The concepts of equality and equity, participation, democracy, acceptance, multiple identity, and diversity, are systematically encountered in the book aiming at understanding the Other's cultures and diversities and reducing conflicts in identity negotiations and power. Most of the articles in the book focus on equality and equity, respect for diverse ideas, communication and learning support. Migration is regarded as a route through which, according to A. Solomou, Chr. Hadjisoteriou and M. Antoniou, 'we learn to seek, to choose, and to read critically'.

When focusing on the concepts of school improvement and learning outcomes, the aim is to conceptualise three levels of analysis that interact, and which the book fully covers: the macro-level of the educational system, as characteristics of educational systems are associated with differences in the learning outcomes of children with migrant background; the meso-level of the school, focusing on the way organisations connect individuals with society, since school as an organisation deals with differences between children's performance and feelings. However, we mostly focus on the micro-level of the classroom and the interaction of individuals. More specifically, we focus on their perspectives, the definition of the situation, their choices, goals and needs.

The book is divided in two parts. In the first part, the papers focus on the macro- and meso-level, on educational policy issues, and school development and improvement. In the second part, the focus is on the micro-level of the teacher-student interaction in the school classroom and on teaching issues in particular.

In Part I, in Chapters One (Chr. Hadjisoteriou, Chr. Kousiou and P. Angelidis) and Three (A. Evdokiou and Chr. Hadjisoteriou), the authors focus on the role of leadership and its interaction with the significant Others in the school role-set. They discuss how this interaction contributes to the improvement of the culturally pluralistic school, concluding that intercultural skills are a prerequisite for changes in school culture, and for the vision of mutual respect, autonomy, and the pursuit of high-goal achievements for all. Chapter Two (G. Sorkos and Chr. Hadjisoteriou) compares and contrasts intercultural education and inclusive education to clarify sustainable intercultural inclusion as the unique solution ensuring social cohesion. Chapters Four

(M. Zembylas and E. Papamichael) and Five (P. Maniatis and Chr. Hadjisoteriou) move one step further by focusing on teacher professional learning and continuous professional development. They reflect on teacher training activities that deal with stereotypes, prejudices, and the pedagogy of discomfort and empathy.

In Part II, the five chapters focus on the micro-level of the classroom and deal with materials, approaches, and teaching proposals for different subjects. Readers interact with cultural awareness and diverse issues of everyday school life. In all papers of Part II, the concluding remarks concern teaching tools that function critically and reflectively and contribute to intercultural openness. The concepts of intercultural education and differentiation of teaching and learning in Chapter Six (L. Neophytou, St. Valianti and Chr. Hadjisoteriou), culturally responsible research and innovation in History teaching in Chapter Seven (A.I. Solomou, Chr. Hadjisoteriou and M. Antoniou), refugee literature in Chapter Eight (M. Rodosthenous and C. Magos), intercultural mathematics and equity in Chapter 9 (C. Xenophontos), and culturally sensitive science in Chapter Ten (M. Evagorou and N. Mousoulides) are discussed and elaborated in order to highlight ideas for the enhancement of cultural pluralism in the classroom. Thus, the book serves the dual function of mirror and window, as recorded by Marina Rodosthenous and Costas Magos in their own text in the book: it functions as a window through which readers interact with data, research results, and diverse authors' perspectives. It also functions as a mirror, as readers have the opportunity to explore deeply their own pedagogical theory and their choices and decisions in their daily work in the educational field.

The professional learning of teachers is a process of social participation, interaction, and formation of identities. The motivation to participate in such a learning process can come from typical pedagogical opportunities, such as training seminars. It can arise informally through interaction with colleagues as they converse outside the formal institutional framework or come from the individuals themselves and their desire for success. The topics and the individual texts of the book promote teachers' learning through all three aforementioned paths, both in the context of trainings, as well as in personal study reflection and informal discussions. Teachers can identify elements in the book that enable reflection on whether cultural diversity in society is identified and enhanced in their classrooms, and on whether their pedagogical decisions promote respect and social justice and allow participation and interaction between identities and diversities without 'exoticising' or 'flattening' them. Throughout the book, one can find stimuli to adapt to the context of cultural pluralism and use

the energy, the passion, and the enthusiasm to understand the change and structure of interactions in different learning places: in the school classroom, the university theatre, and the professional learning seminar.

The book, edited by Emilios Solomou and Christina Hadjisoteriou in a volume issued by the UNESCO Chair on Cultural Diversity and Intercultural Dialogue for a Culture of Peace of the University of Nicosia, is at the core of the purpose of this Chair: it promotes the production and dissemination of ideas for dialogue, respect for common values, cultures, and human rights. This book is addressed to the educational world and seeks to bring the authors close to the potential readers and promote social dialogue, discussion, and collaborations on current issues. Reading the book creates feelings of pedagogical discomfort and opportunities for critical empathy, which are concepts dealt with by Michalinos Zembylas and Elena Papamichael in their paper in the volume, and which constitute the purpose of a book focusing on cultural pluralism and education: to create interest, expectations, and personal connections and feelings about its content. A criticism of the book would probably include the absence of a final concluding chapter or an introduction to each part, which would have made the exploration of the concepts easier to follow.

Overall, *Improving School and Teaching in the Context of Cultural Pluralism* will be of interest to those who want to better understand how pedagogical discourse can be based on reconstruction of meanings, pressures for equality and equity, and to confront power dynamics in school leadership and school teaching. Reflection on and adoption of certain terms, ideas, practices, or ideology frameworks presented in the book can be used to address diversity in a social-justice-focused and culturally pluralistic educational context.

Pavlina Hadjitheodoulou-Loizidou

The Cyprus Frenzy of 1878 and the British Press

MARINOS POURGOURIS

Lanham: Lexington Books, 2019

pp. XII + 219, 13 illustrations

ISBN: 9781498576604 (cloth: alk. paper)

The Cyprus Frenzy was, as Marinos Pourgouris argues, just that: a frenzy in the public and political spheres of the colonial metropolis of Victorian Britain, which erupted in the summer of 1878 upon the news that Cyprus had been acquired by Britain from its Ottoman overlords. Pourgouris, an Associate Professor of Literary Theory and Modern Greek Studies at the University of Cyprus, examines how and why this ‘fixation [...] perhaps unprecedented in the history of British colonialism’ (6) over Cyprus exploded and not long thereafter why it faded into oblivion (or a ‘fiasco,’ as it was in some instances described (81)), until the other bookend of Britain’s colonisation of Cyprus. Pourgouris’ main protagonist is the first British High Commissioner of Cyprus, Sir Garnet Wolseley, and his administration – but this is not a biography or a history book. Instead, building on archival research into the contemporary British press, it analyses the dispatches of six correspondents who travelled to Cyprus to report on the British occupation of the island.

These six special correspondents, who are the focus of chapters 3 to 8, were commissioned by their newspapers to travel to the newly acquired territory of the British Empire and report on what they found there: St. Leger Algernon Herbert was sent by *The Times of London*, Archibald Forbes by *The Daily News*, John Augustus O’Shea by *The London Evening Standard*, Edward Henry Vizetelly by *The Glasgow Herald*, Samuel Pasfield Oliver by *The Illustrated London News*, while Hepworth Dixon worked for various provincial publications. In meticulous detail, Pourgouris denotes their respective backstories and how and why they came to report on the 1878 Cyprus occupation, as well as their lives thereafter. But a central tenet that weaves through this narrative is the interlinkage between the military elite (Wolseley) and these reporters – irrespective of whether these relations were extremely close or contemptuous. Herbert travelled with Wolseley, where he was employed as Wolseley’s first private secretary, while retelling Wolseley’s colonisation of Cyprus for *The Times*. Forbes, meanwhile, had military experience and had admired Wolseley since their time serving together during the Anglo-Zulu War, and also accompanied Wolseley

on his journey to Cyprus. O'Shea, who also 'had some military experience' and had covered the Franco-Prussian War almost a decade earlier, advocated for the army's role in making the colonisation a success (101). Oliver had graduated from the Royal Military Academy and served in the army for twenty years before resigning his commission to work as a correspondent. Meanwhile, Vizetelly who had considerable experience as a war correspondent and came from a family of publishers and reporters, frequently criticised the British military in their handling of the occupation of Cyprus (106), whereas Dixon's relationship with Wolseley could be characterised as one of mutual contempt (155). However, all six of them were interconnected with the new administration of the island, even if they did not all share a 'deeply intimate alliance' in the positive sense (107).

From the very first chapter, the author sets out this intimate relationship not merely within the 'Wolseley Ring' of soldier-friends and associates of Sir Garnet, but also of the special correspondents. The latter, Pourgouris explains, aspired to the same social class as the military elite (29), and through the battlefield, had got to know each other well. It is important to underscore that this intimacy does not necessarily mean close, friendly or even familial ties, but includes room for disagreements or even animosity (see previous example of Dixon). Instead, the intimacy between soldier/colonial administrator and correspondent means a personal connection through the imperial project, through similar personal experiences.

The colonial power's military officers and the special correspondents reporting back 'to the centre' formed a symbiotic relationship: correspondents needed military connections to get to the 'field' from which they were dispatching their telegrams or letters and in order to obtain information. Today's 'embedded journalist'. Even Wolseley, who disliked journalists and wrote about it, understood that the press was vital in attaining military objectives (52). After all, the Empire needed correspondents to depict acts of heroism, and satiate the Victorian public's imagination of the glorification of the colonial project. Pourgouris in fact underscores this intimacy throughout *The Cyprus Frenzy*, setting this group apart from everyone, the familiar and the foreign, the civilised and the barbaric – which falls within 'colonialism's ontological function' (125) as argued by Edward Said in his seminal 1978 *Orientalism*.⁸⁵

The illustrations in chapter 7 reproduced from *The Illustrated Police News* are apt examples of the exaggerations, caricatures and tropes used by Victorian illustrators of the people of Cyprus within the orientalist context. Probably the starkest example

⁸⁵ Edward W. Said, *Orientalism* (New York: Pantheon Books, 1978).

is entitled 'Cyprus Illustrated' (128), the composites of which were based on drawings from engravings by a French artist made almost a century earlier called *The Costume of Turkey*, but for the British soldiers (Wolseley et al) in the piece's centre. Thereby both in terms of the era and location from whence the original was produced, 'Cyprus Illustrated' was a fib, or fake news in today's parlance, not least because the editorial note stated that the 'reproductions from water colour drawing, [were] made from the life. There cannot, therefore, be any doubt about their accuracy' (127). Pourgouris uses this image to showcase *orientalisation* of the Cypriot in full. Other depictions from *The Graphic* as well as *The Illustrated London News*, are also included. The latter publication had dispatched Samuel Pasfield Oliver as special artist/correspondent, and Oliver's illustration of the ceremony in which the Union Jack was blessed in a Greek Orthodox liturgy at Kykkos Monastery before being hoisted by clergy (147) contrasts the British coloniser and the colonised (including the Indian troops who were brought in by the British) in illustrated form. The colonisers are set apart from the 'rest' as they are hatless and standing apart and aloof. The colonised however all wear hats (including the Indian soldiers), stand together *en masse*, with their attention on the British flag.

This is a pivotal moment of the early days of the British colonial experience in Cyprus which Pourgouris points out was also reported on by Herbert and O'Shea. This is a trait of the author, who frequently encapsulates moments of the initial period of the occupation and compares each of his six correspondents' retelling of them. But as Pourgouris argues, the importance of illustrations – unlike reports in word form – was that these helped 'even the uneducated masses' have a means of understanding the colonialist project, and fed into Victorian Britain's public perception of 'the mighty British Empire' (136).

The seminal moments of Sir Garnet's arrival and early days in Cyprus were an important and common theme of the correspondents' early dispatches of an island which, erstwhile Ottoman, is now to be British, paving the way for opportunity, for trade, for tourism, for future prospects of a 'civilising mission' (61) and not least 'its significance as a strategic base' (6). A country with ancient Hellenistic ruins, a largely Christian population, a territory that Richard the Lionheart had conquered (which, as chapter 8 depicts, enabled Dixon to construct a narrative whereby Britain thus had a right to possess Cyprus since it was 'stolen from the British through treachery and deceit' by the Lusignans (161)), the setting of Shakespeare's *Othello* was the island that 'could seemingly satisfy practically [the colonial imagery of] everyone who

looked to it for inspiration or gain (political or economic)' (9). The *Cyprus Frenzy* centres on newspapers of the day, advertisements, but also lectures and theatrical performances to depict the fascination of Victorian Britain with its newest colony.

While the aforementioned illustrations – with a picture being worth a thousand words – could be the most immediately striking set of caricatures of the Cypriot reproduced in the book, Pourgouris navigates us through their depiction as it appeared in the British metropolis in the Victorian press. This task would not have been an easy feat, given that early on the author points out that correspondents' by-lines in the Victorian era were not utilised and so matching each dispatch appearing in the British press with its author required considerable archival research.

Vizetelly seemed to be the only one of the reporters dispatched to Cyprus who was highly critical of the occupation army (108) arguably because he didn't share the degree of intimacy and connection of the other correspondents with the military. He also portrayed the newly arrived English immigrants in a bad light, spotlighting their consumption of alcohol and subsequent penchant for fights (110-111). He was disparaging of Greek Cypriots who were 'grumblers and malcontents', and who were but 'miserable shadows' when compared to the Greeks of the mainland (109). Interestingly, his portrayal of the Turks ('bad rulers') comes across as less pejorative, which Pourgouris explains as rooted in Vizetelly's time as a soldier in the Ottoman irregular troops during the Russo-Turkish War.

O'Shea, meanwhile, found that the blessing and hoisting of the British flag by the colonised, the illustration of which Oliver dispatched with a rather neutral write-up, was unnecessary as it could 'beget in the Greeks a delusion that we identify ourselves in sympathy with one race in this island to the contempt of the other, and that other the governing race from whom we got the island' (144). Wolseley's biographer Charles Low is quoted as writing about the 'greed of their race' when describing the Greek Cypriots attending said ceremony (147). Dixon, however, was an exemplar of the colonialist depiction of the subaltern, describing them as 'indolent, careless, and mimetic,' or 'creatures of the lower types [...] holding on by simple animal tenacity' (162). He proclaims that colonisation may 'improve them; but an Oriental race is very slow to change' (163). Forbes would later use a similar element when writing how the colonial project would 'improve Cypriotes out of their existing state of semi-barbarism', while talking of the 'debased Greek patois' of Cyprus, the 'ugly women', and how he would come to 'regard the pig-faced lady as passable' in his final report from the island (after only a month there) (80-81). Herbert, meanwhile, in his

dual capacity as Wolseley's close associate and *The Times of London* correspondent portrayed the Greek Cypriots in how, in his mind, they viewed the British occupiers: the 'Deliverer.' Writing about a state reception in Nicosia on the occasion of the second Bayram, Herbert reflects that the 'subordination of the natives' was solidified on that occasion (54-55).

None of the correspondents share an alliance with the colonised and all fall into executors of colonialism's ontological function. And it is this aspect of Pourgouris' *Frenzy* that is at the core of his thesis. While the diplomatic history of how Cyprus came into Britain's fold has been recounted innumerable times, this targeted deciphering of the reporting of Britain's acquisition of Cyprus adds a novel element to the existing literature. From the methodically researched clippings about Cyprus published in the British press, the insularity and the orientalist gaze of the coloniser is very apparent. Empire was about giving means of opportunity and exploitation to the imperial centre, as well as to these correspondents' readership in Victorian Britain whose imaginations were briefly caught up in Cyprus as it became yet another 'province' painted red on the map of Empire.

Andrea Petranzi



Announcement on the Passing of Professor Ilias Koussouvelis

The Editorial Team of The Cyprus Review expresses its deep sorrow for the untimely death of Professor Elias Koussouvelis, Dean of the Faculty of Social Sciences, Humanities and Arts of the University of Macedonia and former Rector of the same University.

The late Ilias Koussouvelis was, until his death, a member of the Editorial Board of our journal. His significant contribution to the development of Cypriological research must also be mentioned. He leaves behind a unique legacy of scientific and social work.

Finally, we express our sincere condolences to his family and friends.

CALL FOR PAPERS

The Cyprus Review (Fall 2022)

The Cyprus Review invites submissions for a Special Section on

Performing Arts in Cyprus: Embodied Identities

Cyprus has a thriving performing arts scene, especially in contemporary dance and performance art. Although it does not have a long history, the artistic development has been exciting and rife with socio political ideas that demand reflections on the trends, patterns, and ideologies thereof.

This special section of *The Cyprus Review* (CR) invites papers that seek to examine the identity (-ies) of Cypriot performing arts and what socio-political ideas they communicate through embodiment.

Following Jane Desmond's suggestion that the bodily 'texts' further the understanding of 'how social identities are signalled, formed, and negotiated through bodily movement', we invite papers that consider the role of the body and embodiment in live performing arts in Cyprus.

We invite scholars and artists to reflect on the role of the body as a material and physical act, as a lived body that Anna Pakes describes as a subjective locus of worldly experience rather than an objective fact, a complex of subjectively felt sensation or embodied thoughtfulness, not something separable from the consciousness.

In this special section, we hope to reflect on the trends in contemporary performing arts in Cyprus, with a particular focus on dance, theatre, and performance art, as a way to articulate and theorise political and historical trends in the arts, society, and community. Following Mark Franko's ideology that dance has been used and created in order to reflect political and cultural identities, as well as a vehicle of critical theory of society, we seek contributions that aim to analyse issues of representation, history, politics, and sociological concerns in and through embodiment in various performing arts in Cyprus.

We especially invite original proposals on the following subjects as they pertain to contemporary performing arts in Cyprus:

- Archives (or lack thereof) and knowledge circulation

- Memory as embodied process
- Representation of bodily difference
- Location and Temporality
- Post-colonialism
- Ethnicity
- Gender
- Feminism
- Queerness

This is not an exhaustive list of ideas and issues. Articles can present research that addresses and investigates various socio-political ideologies as they relate to performing arts in Cyprus.

We invite proposals for traditional academic papers, provocations, and artist reflections that respond to the theme of the Special Issue.

Submission Instructions

- Authors should consult the journal's guidelines for submission which can be found at: <http://cyprusreview.org/index.php/cr/about/submissions#authorGuidelines>
- For specific enquiries, please contact the CR via <cy_review@unic.ac.cy>.
- Submission should be sent to cy_review@unic.ac.cy or submitted through the CR's webpage, not later than **31st March 2022**. All email submissions should be identified in the subject line with the heading 'Performing Arts Special Section – Article Submission'.
- This section is **Guest-Edited** by **Dr Pascal Caron** and **Dr Dara Milovanović**.

CALL FOR NOMINATIONS

The Cyprus Review Annual Books Awards for books published in 2021

The Editorial Team of the scientific Journal *The Cyprus Review* announces, as every year, the Call for Nominations for its Annual Book Awards in the following fields: (I) History and Political Science, (II) Law, and (III) Social Sciences.

We accept nominations regarding books published during 2021, either in Greek or in English, which are Cyprological, i.e. their subject matter is Cyprus. Nominations may be submitted by the authors, publishers, or third parties.

This Call refers to the following awards:

- I. «Stanley Kyriakides Award» in History and Political Sciences.
- II. «Junior Researcher Award» in History and Political Sciences.
- III. «Peter Loizos Award» in Social Sciences.
- IV. «Junior Researcher Award» in Social Sciences.
- V. «Constantinos Emilianides Award» in Law.
- VI. «Junior Researcher Award» in Law.

The deadline for nominations is **31st March 2022**. All nominations should be submitted via email to the following address cy_reviewbooks@unic.ac.cy specifying expressly the award(s) for which the nomination is submitted.

Books in physical form should be sent to *The Cyprus Review*, University of Nicosia, 46 Makedonitissas Ave., CY-1700 Nicosia, Cyprus, P.O. Box 24005.

For the purpose of this Call, a «Junior Researcher» is any scholar not older than 40 years of age.

Furthermore, for the purposes of this Call, social sciences include: sociology, anthropology, economics, psychology, archaeology, education, geography, communications and media studies, cultural heritage studies, ethnography, folklore studies, demography, and development studies.

All Awards are decided by Scientific Committees, consisting of scholars and practitioners of recognised standing in their field.

The Scientific Committee reserves the right to award honourable mentions to any shortlisted books, or not to confer any of the awards.

*It is noted that members of the Editorial Team of *The Cyprus Review* and members of the Scientific Committees are not eligible for the Awards.*

