

A Critical Analysis of the proposed UN Annan¹ plan for the settlement of the Cyprus problem and the importance of International and European Law in the Shaping of the new proposed Constitution for Cyprus.

Primary area of concentration: International Law

Supplementary areas that fall within the ambit of the subject matter: Law of the EU, Land Law, Constitutional Law

Introduction: Opening Statement – Overview:

Before advancing this study it will be of the utmost importance to lay down some Historic facts about Constitutional development in Cyprus in order to create the framework of this study and also help the reader draw similarities between the past and present proposals for the solution of the Cyprus question².

The primary legal field of study will fall within the ambit of International Law, although disciplines such as Law of the EU, Property Law, and Constitutional Law will inevitably be explored due to the nature and the complexity of the subject matter.

Aims:

The recently proposed agreement for the solution of the Cyprus problem will be compared with the Foundation London-Zurich agreements that installed the state of Cyprus in 1960. Necessary past and present virtues as well as deficiencies will be exposed in order to prove the striking similarities of the potential³ non-democratic and unworkable⁴ character of both.

¹ APPENDIX A. For future references to UN Annan proposal, please see Appendix A as well.

² Various researchers have different views as to the exact date of the commencement of the Cyprus problem. For the Greek Cypriots the problem spans back to 1821 when all Greek Cypriot Religious leaders were executed by the Ottoman rulers with allegations of conspiracy to unite with the Greek revolt already taking place in mainland Greece. Others support that it was in 1912-13 when Britain promised to give Cyprus to Greece for backing them during the First World War. Although thousands of Cypriots joined with the allied forces with the hope that British would keep their promise, were soon disappointed when the latter stood back on their word. A similar situation also arose during the WWII 1939-1945 when Winston Churchill himself visited Cyprus and promised Cypriots independence for backing British forces on their battle against the axis. Although a small island, Cyprus contributed an astonishing number of 45,000 men for the needs of the Allied forces who served in battle theaters in Italy, Central Europe, and in Middle East manning posts in Palestine and Egypt and also participated in the infamous battle of El-Alamein. Again the Cypriots were betrayed and were not even given the right for self-determination after the end of the Second World War. Some others support that the problem officially begun in 1950 when a referendum of all Cypriots showed that 96% of the population (both Greek and Turkish Cypriots) supported the union of Cyprus to Greece. The British governor of Cyprus at the time did not accept to receive the results of the referendum.

³ The 1960 agreements failed in 1963. The term “potential” is meant for the proposed agreements.

⁴ UN Security Resolution 1475 of the April 14, 2003 reaffirmed its support towards the UN proposal, indicating at the same time the apparent need for further negotiations in order to improve certain aspects and provisions of the proposal in view of the accession of Cyprus into the EU and the inevitable need for full respect of the European *acquis communautaire*.

Literature Review:

Sources to back these assertions will include comments, quotes, statements, judgments, and decisions of the US Senate, the US House of Representatives, the European Commission, the General Assembly and the Security Council of the United Nations, the Non-Aligned Movement, the European Court of Human Rights, and leading US, UK, UN, and EU diplomats that have been involved directly or indirectly in the negotiations.

Previous and Current Research:

Main Body – Political Analysis (as a preamble for legal analysis):

The agreement recently proposed by UN Secretary-General Mr. Koffi Annan for the comprehensive settlement of the Cyprus problem is an even more complicated version of the 1959-1960 London-Zurich⁵ agreement that granted independence and established the state of Cyprus. London-Zurich agreement came after a 4 year long anti-colonial struggle (1955-1959) of the Greek Cypriots against British Colonial Rule. It finally succeeded in granting Cyprus independence, although union with Greece was the primary objective of that anti-colonial struggle.

The 1960 London-Zurich agreements were *forcibly*⁶ imposed upon the Greek Cypriots during the Cold War under conditions of *extortions*⁷ and threats of a Turkish invasion, which nevertheless were implemented a few years later in July 20 1974⁸.

⁵ British Foreign Office papers FO371 15929, 27.10.1960

⁶ (See British Colonial Office papers, CO926/978, Ankara to FO 21.5.59, telegram on conversation between Minister of the Defence and Turkish ministers on Cyprus, at Turkish Prime Minister's dinner, 19.5.59; CO926/778/65, FO's JM Addis note, 26.6.59.) By the term 'forcibly' it is meant that the negotiating power of the Greek Cypriots was eliminated. This was done by the forced exile of their political leader Archbishop Makarios to the remote island of Seychelles. As a consequence, the level of cooperation between the political leadership of Makarios and the military leadership of Major General George Grivas 'Dhighenis' who carried out the guerilla warfare on the island was considerably compromised. The negotiations for the London-Zurich agreements involved Greece, Great Britain, and then in 1957 they invited Turkey. The Greek-Cypriots had little or no contribution in the formation of the agreements and did not know about their existence until they were presented before them. Moreover, the Greek government at the time who was at an extent the advisor of the Greek Cypriots was too weak both politically, as well as economically and militarily to be able to stand firm in the negotiations as a result of the World War II turmoil and the subsequent civil war in Greece from 1945-1949. (See also Woodhouse, Karamanlis, pp.89-91)

⁷ See British Colonial Office papers CO926/627.207; 213. One of alternative proposals to the London-Zurich proposals was the division of the island into three (3) sections, or zones. This trisection of Cyprus would result into the split of the island between Greece, Turkey, and Great Britain, each of which would annex the respective part under their full control. In order to implement that plan, a forced move of population (i.e. ethnic cleansing) would have to take place and therefore not desirable by the Greek Cypriots. . See also Brendan O'Malley and Ian Craig, *The Cyprus conspiracy America, Espionage and the Turkish Invasion* ISBN 1-86064-737-5p.61

⁸ The proposal by its silence expressly disregards the reason for the current Cyprus situation: the Turkish army invaded the island on July 20, 1974 and renewed its use of force on August 14-16, 1974, three weeks after the legitimate government of Cyprus had been restored on July 23, 1974. The invasion violated not only the U.N. Charter (Art. 2 (4)), but also U.S. laws the U.S. Foreign Assistance Act of 1961 (as amended), the U.S. Foreign Military Sales Act, and the NATO Treaty. The

The 1960 London-Zurich agreements *disguised the overall dependency of Cyprus on foreign interests*⁹, under the title of an Independent Cyprus Republic. In fact Cyprus was no more than a mere protectorate of Greek, Turkish, and British interests in the region with virtually no armed forces, a rural and agricultural society, a *sham*¹⁰ constitution, and a political system still in its infancy. Despite their hesitations, the Greek Cypriots accepted the agreements with the hope, and goodwill they would work. The Turkish Cypriots accepted the agreements as well since they secured extended representation in the government.

Methodology:

Below are some of the key provisions of the London-Zurich agreements¹¹.

- The 1960 London-Zurich agreements granted community rights to the 18% Turkish Cypriot minority. These rights reached 30% in the sharing of the powers in civil service, and 40% in the armed forces. Practically all Turkish Cypriots obtained a government position regardless of qualifications whereas highly qualified Greek Cypriots were excluded in order to maintain the 30-70 percentages. Nevertheless, the Greek Cypriots again did not object to these arrangements looking at the big picture of a prosperous and *independent* Cyprus¹². On the other hand the Turkish Cypriots accused the Greek Cypriots for reserving key positions in the government thus violating the London-Zurich Agreements.
- The 1960 London-Zurich agreements established a Turkish Cypriot Vice president with the power to veto any of the decisions of the executive. This, along with the incitement of Turkish propagators¹³ and other irresponsible¹⁴ actions of the Greek Cypriots produced the deadlocks of

invasion displaced 180,000 Greek Cypriots and was accompanied by murder, rape, and theft of property by the Turkish army (see European Commission on Human Rights report of July 10, 1976, not officially published until January 1979 after consideration by the Committee of Ministers of the Council of Europe).

⁹ These interests involved Greece with a demographic and historic interest, the Turkish with a proximity interest, a tactical advantage, and at a lesser extent with a demographic interest, and Great Britain with a strategic military advantage interest dated since 1878.

¹⁰ British Foreign Office papers FO371 152929, 27.10.1960. See also Brendan O'Malley and Ian Craig, *The Cyprus conspiracy America, Espionage and the Turkish Invasion* ISBN 1-86064-737-5 p.79 "So much of the detail of the 1960 agreements is devoted to guaranteeing Britain's continued use of military and intelligence facilities on Cyprus – 56 pages of the 103-page treaty establishing the 'independent' republic, for example – that it is easy to conclude that this was what the 1960 settlement was really about."

¹¹ 1960 London-Zurich agreements collapsed within three years of their enforced installation upon Cyprus, although the Republic of Cyprus government is still functioning, based on that constitution respecting it in all its legal and political ways.

¹² US State Department papers, 78 400A, history of Johnson Administration's policy over Cyprus. The US gave \$20 million in aid between August 1960 and July 1963.

¹³ It is believed the first bomb to spark off two months of massacre, riot, and arson was thrown by a Turkish agent provocateur. A British investigation found that the furniture in the front of the office of the Turkish information center in Nicosia had been removed to a safe place before the explosion occurred. Brendan O'Malley and Ian Craig, *The Cyprus conspiracy America, Espionage and the Turkish Invasion* ISBN 1-86064-737-5 Ch.8 p.61.

1963. At that time the Turkish Cypriot leadership, with direct guidance from Ankara abandoned their positions in government and self-detained themselves in Turkish Cypriot enclaves. (*UN proposal – Constitution Article 25 – the veto powers*)

- The 1960 London-Zurich agreements established the *system of guarantors*¹⁵. Under that system the UK, Greece, and Turkey would be obliged to *guarantee* the 1) independence, 2) sovereignty, and 3) territorial integrity of the Republic of Cyprus. The purpose of the system of guarantors had two heads. The first head targeted into securing that Cyprus would not fall into the (then) Eastern Block of the Treaty of Warsaw. The way to guarantee that was to establish 3 guarantors that were all members of NATO¹⁶. Second head targeted into satisfying the interests of the ‘guarantors’ Greece, Turkey, and Britain in the region. Greece had an interest in Cyprus because the vast majority of Cypriots (78-80%) are Greeks. Turkey wanted to maintain its tactical advantage over Cyprus because of its 50-mile proximity to the island. The pretext of protecting the Turkish-Cypriot community on the island, proved a perfect alibi for their 1974 invasion against Cyprus. Instead of guarantying the territorial integrity of Cyprus, Turkey now occupies 40% of Cyprus’ territory. Finally, Great Britain had long reckoned¹⁷ that the geo-strategic position of Cyprus at the intersection of three continents, and its close proximity to the Middle East, constituted a vital military base for protecting the National Security of the United Kingdom, and therefore indispensable¹⁸.

¹⁴ The Greek Cypriots allegedly breached the agreements relating to the quotas. Brendan O’Malley and Ian Craig, *The Cyprus conspiracy America, Espionage and the Turkish Invasion* ISBN 1-86064-737-5 Ch.11 p.88. See also Oberling, *The road to Bellapais*, pp 71-76.

¹⁵ Many observers have long regarded the system of guarantors as totally anachronistic. It is a unique phenomenon that cannot be traced in any other constitution in the world. According to T.W. Adams and A.J. Cottrell, the U.S. goals for the newly independent Cyprus were: “First the Republic of Cyprus should develop political stability, ...Third, the US should enjoy unrestricted use of its existing communications facilities on the island. Fourth, the British Sovereign Base Areas should remain inviolate and available to any Western Nation for any purpose. (Adams and Cottrell, *Cyprus between East and West*.) 56 out of the 103 pages that constitute the London-Zurich agreements are devoted solely in regulating the powers of the guarantors as well as the function of the two British sovereign military bases in Cyprus. Brendan O’Malley and Ian Craig, *The Cyprus conspiracy America, Espionage and the Turkish Invasion* ISBN 1-86064-737-5 Ch.11 p.79.

¹⁶ It is worth mentioning that at the time, the Soviets had taken a giant leap in the arms race, beating the Americans to the next stage of missile technology with the successful testing of an intercontinental ballistic missile (ICBM) system and a new type of hydrogen bomb. The soviets had managed to launch missile systems in Albania, Bulgaria, and threatened to do so in Syria thus encircling the NATO’s Southern flank. Cyprus spy network was the only reply NATO had to offer in the region and therefore indispensable. Brendan O’Malley and Ian Craig, *The Cyprus conspiracy America, Espionage and the Turkish Invasion* ISBN 1-86064-737-5 Ch.8 p.60., .140-141

¹⁷ British presence in Cyprus is dated back to 1878 when Cyprus was transferred to Britain from the Ottoman Empire.

¹⁸ Observer 11.8.7; Aviation week and Space Technology, 5.8.7, 19.8.7; SIPRI Yearbook 1980, p.295. Ch.17 p.142 The Greek Cypriots favored the formation of the two British military bases on the island for many reasons. First, they added to the perceived feeling of security. Second they were a means to confine military from other operations by concentrating all British military forces within certain limits rather than being deployed throughout the island. Finally, Cyprus economy was and still is considerably benefited by the existence of the two British military bases on the island in the form of tourism, which is mainly British in its origin.

Findings:

There is a considerable similarity between the London-Zurich agreements and the new UN proposal because the new proposal is meant to be the continuation of the London-Zurich agreements. Both share very useful elements in strengthening the independence of Cyprus as a single state. These include a single citizenship, and a single flag, which guarantee a single international representation. However, they both share certain deficiencies, which still need attention before they are incorporated into a new constitution as part of a settlement of the Cyprus problem. This was expressed unanimously by the UN Security Council Resolution 1475, on April 14, 2003, calling for further negotiations on the basis of the UN proposals.

Analysis:

Particular Circumstances and developments in the International Political Arena under which the new proposal was submitted:

- The proposal was submitted in November of 2002 just a month before the landmark date of December 12, 2002 in Copenhagen, which marked the signing of the accession protocol of the 10 new countries that are to fully *de jure* join the EU in May 1 2004, and just 4 months before the presidential elections in Cyprus. The ‘tail’ attached to the accession of Cyprus in the Treaty of Nice, rectified after the second Irish referendum in the fall of 2002, stated that ‘*the European Union in its final decision will take into account all relevant considerations regarding the state of affairs of the progress for the solution of the Cyprus problem*’. Some countries such as Holland suggested that Cyprus could only join the EU only after the Cyprus problem was solved. This worked to complicate the accession process of Cyprus¹⁹. (Article 4)
- After the Greek side²⁰ accepted it and the Turkish side rejected²¹ it, and after the December 12 2002 deadline could not be met, the proposal was resubmitted twice with minor modifications on a ‘take-it-or-leave-it’ basis that involved heavy side scene negotiations. These involved numerous visits of British diplomat responsible for Cyprus, Special Coordinator and negotiator, Sir David Honey, and the American Special attaché for Cyprus Mr. Thomas Weston. The Turkish side rejected²² the proposals of Sir David Honey and Mr. Thomas Weston.
- The United Nations persisted even more and pressed for a solution before the April 16 2003 European Summit in Athens where the 10 candidate countries including Cyprus would be

¹⁹ On one hand the government of Cyprus had fulfilled all economic and political criteria of the treaty of Maastricht, and on the other hand felt tremendous pressure in order to make political concessions regarding the Cyprus problem.

²⁰ Greek side means both the Greek government as well as the Cyprus government.

²¹ The Turkish government first accepted the proposal as a basis for negotiations but then changed its stance after the military establishment in Ankara made it clear that the plan did not serve the interests of Turkey in the region. Turkey also further demanded a prior recognition of the pseudo-state established in the occupied areas of Cyprus before they enter in further negotiations.

²² The Turkish side and more specifically Mr. Rauf Denktash accused the British diplomat Mr. David Honey, American diplomat Mr. Thomas Weston, and the special counselor of the UN for Cyprus Peruvian diplomat Mr. Alvaro De Sotto of being pro-Greek and of drafting the UN proposals alongside the Greek-Cypriots. These false allegations were reflected on the Report of the UN Secretary General of 1 April 2003 discussed further below.

formally accepted into the EU. It is characteristic that while the war on Iraq was eminent, the UN Secretary General Mr. Annan instead of any other region he chose to visit Cyprus twice.

- It was of extreme importance for Turkey that Cyprus did not enter the EU as Republic of Cyprus, but as a work-in-progress-for-a-solution Cyprus²³. The fact that Cyprus' current constitution²⁴ will get stronger²⁵ as a member of the EU, and that the UN²⁶ Annan proposal would undermine its constitutional strength, was a fact totally underestimated and ignored by Turkey²⁷ until it was too late.

The report of the Secretary-General of 1 April 2003 (S/2003/398) on his mission of good offices in Cyprus stated that the Turkish Cypriot leader Rauf Denktash was totally unproductive and even counter productive in the negotiations, totally failing to comprehend the importance of International²⁸ Law.

After the collapse of the talks in Hague, the US House of Representatives has adopted a unanimous resolution in which it affirms the will of the US Senate to support the U.N. Secretary General in his efforts towards a just and viable solution of the Cyprus problem. At the same time it asks the US government to activate once more towards that direction, whereas it attributes the responsibility for the collapse of the Secretary General's initiative to the Turkish-Cypriot leader Mr. Rauf Denktash for rejecting the plan as a basis for further negotiations as he (in effect) has denied the right from the Turkish Cypriots the chance to determine their own future. The resolution, which was introduced by Greek American Senator Michael Birlakis of Florida, was adopted with 422 votes for and none against.

The views of the Secretary-General as well the resolution of the US House of Representatives²⁹ was also adopted, and incorporated in the United Nations 1475 Resolution of April 14 2003³⁰.

²³ It is reminded that even though Cyprus has been accepted into the European Union following the signing of the Athens Summit agreement in April 16, 2002, Turkey, who is an EU candidate country refuses to recognize Cyprus as a state. For this reason Turkey was the only of the candidate countries that did not send any senior diplomat to attend at the signing, receiving very bad remarks from the president of the Commission Italian Diplomat Romano Prodi.

²⁴ The current constitution in Cyprus is one of a unitary state with presidential democracy.

²⁵ The current constitution of Cyprus will be embedded in the norms and mechanisms of the EU. Any future amendment to incorporate the final solution of the Cyprus problem would most probably require full compliance with European norms and *acquis communautaire*.

²⁶ The proposed constitution for Cyprus is one for a federal state with confederation elements, since various articles are open for such interpretation.

²⁷ It would be at least strange, and even suspicious why all these forced and hasty negotiation moves begun in the particular time of early (mid March) 2002, if the Turkish side did not give the answer so blandly and directly. After the final collapse of the talks in February 28 2003 in Hague (*UN proposal – Article 1(1) Foundation Agreement*), the Turkish side publicly admitted that their only concern and final objective was only to stop the accession process of Cyprus into the EU.

²⁸ United Nations and Security Council's Resolutions as well as proposals made by various UN, and EU diplomats.

²⁹ US House of Representatives: <http://www.house.gov/>

³⁰ UN Security Council Resolution 1475 of April 14, 2003. Adopted Unanimously: "...3. Regrets that, as described in the Secretary-General's report, *due to the negative approach of the Turkish Cypriot leader*, culminating in the position taken at the 10-11 March 2003 meeting in The Hague, it was not possible to reach agreement to put the plan to simultaneous referenda as suggested by the Secretary-General, and thus that the Turkish Cypriots and the Greek Cypriots have been

The German Commissioner responsible for the EU Enlargement Mr. Gunter Verheugen very clearly stated that unless “Turkey solves the problem in Cyprus, its own candidacy will fail³¹”. Moreover Mr. Verheugen³² made it absolutely clear that existing decisions of the European Court of Human Rights regarding Cyprus will be incorporated in the compulsory entry requirements compliance list of Turkey alongside the requirements for reforms in the Turkish legal system and improvements in the Human Rights sector. These are to be reviewed by the Commission for compliance before they give Turkey a date for the beginning of entry talks. Finally, Mr. Verheugen stated that after Cyprus is a full member of the EU in May 2004, the EU Legal as well as Political Bodies would consider the 40,000-strong Turkish Occupation Army in occupied Cyprus as occupying European Territory³³.

Legal Findings – Detailed Legal Analysis:

Main Body - Legal Analysis:

After the broad introduction of rather political in context, nevertheless necessary for the general understanding of the subject matter, a more detailed legal analysis will take place below.

International Law relevance of key United Nations (U.N.) resolutions related to the Cyprus problem.

- U.N. Security Council resolution 186, March 4, 1964: (*inter alia*) Calls for the protection of the independence, sovereignty and territorial integrity of the Republic of Cyprus³⁴;
- U.N. General Assembly resolution 3212 of November 12, 1974, adopted by the U.N. Security Council resolution 365 of December 13, 1974: (*inter alia*) Reaffirms previous Resolutions including Res. 186 March 4, 1964 and Calls for the immediate withdrawal of all foreign armies from Cyprus soil³⁵;
- U.N. Security Council resolution 367, March 12, 1975³⁶: (*inter alia*) Reaffirms previous resolutions and calls for the immediate withdrawal of ALL foreign armies from the soil of the Republic of Cyprus, and for the Respect of the Independence and Sovereignty of Cyprus; and

denied the opportunity to decide for themselves on a plan that would have permitted the reunification of Cyprus and as a consequence it will not be possible to achieve a comprehensive settlement before 16 April 2003;...”

³¹ Political observers noted that Turkey now faces the dilemma of either making considerable concessions in Cyprus, or otherwise jeopardize its own candidacy to the EU.

³² Romano Prodi, the president of the European Commission shares the same ideas with Mr. Verheugen.

³³ Judging from his very important position in the European Commission, the words of Mr. Verheugen seem to indicate that the Rule of International and European Law is finally catching up with Turkey and add pressure on its authorities to solve the Cyprus problem democratically.

³⁴ Although the proposal intends for a federal solution, it allows in certain occurrences for a wider interpretation ranging from federation to a very loose confederation. <http://www.un.int/cyprus/scr186.htm>

³⁵ The proposal allows a Greek and a Turkish regiment in Cyprus, whereas at the same time provides for the complete dismantle of the Cyprus National Guard. http://www.hri.org/Cyprus/Cyprus_Problem/UNdocs/gad3212.html

³⁶ <http://www.un.int/cyprus/scr367.htm>

- U.N. Security Council resolution 541, November 18, 1983: (*inter alia*) Reaffirms previous resolutions and regrets for the developments on the island i.e. the creation of a pseudo-state in the occupied areas of Cyprus recognized only by Turkey (the occupying country). It declares that act as non-valid and with no legal content. All acts committed in the occupied areas of Cyprus are treated, as internal affairs of Turkey, and for all violations of International Law, Turkey shall be liable³⁷.
- U.N. Security Council resolution 1475, April 14, 2003: (*inter alia*) “3. Regrets that, as described in the Secretary-General's report, due to the negative approach of the Turkish Cypriot leader, culminating in the position taken at the 10-11 March 2003 meeting in The Hague, it was not possible to reach agreement to put the plan to simultaneous referenda as suggested by the Secretary-General, and thus that the Turkish Cypriots and the Greek Cypriots have been denied the opportunity to decide for themselves on a plan that would have permitted the reunification of Cyprus and as a consequence it will not be possible to achieve a comprehensive settlement before 16 April 2003; 4. Gives its full support to the Secretary-General's carefully balanced plan of 26 February 2003 as a unique basis for further negotiations, and calls on all concerned to negotiate within the framework of the Secretary-General's Good Offices, using the plan to reach a comprehensive settlement as set forth in paragraphs 144-151 of the Secretary-General's report; 5. Stresses its full support for the Secretary-General's mission of Good Offices as entrusted to him in resolution 1250 (1999) and asks the Secretary-General to continue to make available his Good Offices for Cyprus as outlined in his report; 6. Decides to remain actively seized of the matter.”

In a report released to the Security Council³⁸, the Secretary-General said that Mr. Denktash³⁹ "bears prime responsibility" for the failure of this latest intensive effort to resolve the long-standing conflict on the island. "Except for a very few instances, Mr. Denktash by and large declined to engage in negotiation on the basis of give and take," Mr Annan wrote. "This greatly complicated my efforts to accommodate not only the legitimate concerns of principle but also the concrete and practical interests of the Turkish Cypriots."

In the report, the Secretary-General noted that his plan to enable a united Cyprus to join the EU remained on the table, but said that he would not undertake any new initiatives to reach a deal until he saw that the political will necessary for a successful outcome existed.

³⁷ <http://www.un.int/cyprus/scr541.htm> According to the Turkish (unilateral) interpretation the proposal in effect gives a valid legal standing to the Turkish pseudo-state, and in an oxymoron way violating the International Law. The report of the Secretary-General of 1 April 2003 (S/2003/398) on his mission of good offices in Cyprus this is not the case.

³⁸ The report of the Secretary-General of 1 April 2003 (S/2003/398) on his mission of good offices in Cyprus.

³⁹ First it indirectly recognizes and legitimizes the present status quo in Cyprus, that is, the military occupation of 37% of Cyprus territory by the Turkish army. Turkey has already been condemned for these actions by the UN General Assembly itself with resolution 3212 of November 12, 1974. Second, it indirectly recognizes and legitimizes the illegal pseudo-state established in the occupied areas of Cyprus by Turkey (*Constitution Article 12(1), (2)*) that again was condemned with U.N. Security Council resolution 541, November 18, 1983. Third, it legitimizes the illegal settlers brought in the occupied areas of Cyprus by Turkey in order to destroy the demographic composition of the occupied areas (*Constitution Article 2(1)(c)*).

Legal Analysis and Critical Reflection:

European Law relevance of key Treaty Articles, ECHR judgments, and European Commission decisions directly or indirectly related to the Cyprus problem.

It is useful to introduce this subject by noting that all EU member states are obliged to exercise the European Union's (EU) democratic norms and *acquis communautaire*, as expressed through the Treaties.

Treaty of Amsterdam (ToA) Article 43 states:

' Member states which intent to establish closer cooperation between themselves may make use of the institutions, procedures and mechanisms laid down by this treaty and by the Treaty establishing the European Community provided that the proposed cooperation:

(c) respects the *acquis communautaire* and the measures adopted under the other provisions of the said Treaties; ...'

Based on these fundamental Articles Cyprus assumes the responsibility to comply with certain rules such as Free Movement of People/Labor throughout the European Union⁴⁰; freedom of Establishment⁴¹, free Movement of Services⁴² as well as the right to Own and Enjoy Real Property⁴³. These fundamental breaches could spark a chained reaction of breaches of many more EEC Treaty Articles and the cost of reparations would burden the Cyprus state.

By implementing the UN proposal, Article 43 mentioned above, Article 10 regarding the obligation of co-operation, and Article 169 of the EEC Treaty regarding the failure to fulfill existing obligations⁴⁴ would most probably be affected either directly violated, or otherwise be compromised⁴⁵.

The UN Annan proposal introduces the idea of temporary, as well as permanent divergence⁴⁶ from all these fundamental European *acquis communautaire*⁴⁷. Under this approach certain rights would be

⁴⁰ Treaty of Amsterdam Article 39 in conjunction to Directive 68/360 and Regulation 1612/68 Article 7(2)

⁴¹ Treaty of Amsterdam Article 43

⁴² Treaty of Amsterdam Article 49

⁴³ (Article 1 of Protocol 1 of the Convention 14)

⁴⁴ In this case is the existing obligations of Cyprus involve the process of bringing its laws (including its constitutional laws) in line and full compliance with the European *acquis communautaire*.

⁴⁵ The Commission retains the right to unilaterally investigate the activities of any member state and issue special regulations, or directives to that state in order for the necessary measures to be taken to bring laws in line with the European *acquis communautaire*.

⁴⁶ Some of the divergences include restrictions in free movement of Greek Cypriots to the entire territory of Cyprus, restrictions in owning property, and restrictions in the participation in public life (i.e. voting). These issues will be discussed in much detail.

⁴⁷ Whereas a German or Portuguese citizen could travel and live in the Turkish Cypriot state, a Greek Cypriot European citizen would not be able to do the same in his own country. According to the plan Greek Cypriots are only allowed to visit the "Turkish Cypriot state" in percentages with maximum quota, and if they want to stay there overnight they will have to

restored gradually over a period of time⁴⁸ in order for the transition to be smooth and workable. Others would not be restored based on the current provisions.

Perhaps the most characteristic of all comments regarding the level of respect for democratic norms and workability of the UN proposal in the light of EU and International Law were the comments of the Peruvian diplomat commissioned by the UN to lead the negotiations between Greek and Turkish Cypriots Mr. Alvaro De Soto. Mr. De Soto stated that

“ ... after the accession of Cyprus into the EU, the UN Annan plan is “dead” since it violates the European *acquis communautaire*.” He continued saying that all UN efforts were directed and concentrated towards incorporating the UN proposal into the accession agreement of Cyprus before Cyprus joins the EU.

The UN Annan plan, although balanced, it needs further negotiation in order to incorporate the provisions required by the EU *acquis communautaire*, since on April 16 2003 Cyprus was formally accepted into the EU at the Athens European summit of the now 25 European States.

A more detailed study on UN proposal provisions related to the Legislative, Executive, and Judicial Powers is given below:

1. The Legislature (Parliament/ Senate): (Constitution Article 22)

The proposal creates a bicameral legislature referred to as Parliament, which consists of a Senate and a Chamber of Deputies. The Senate shall be composed of 48 members with 24 members from each component state. The Chamber of Deputies shall also be composed of 48 members elected on a proportional basis. However, each component state is guaranteed to have a minimum of one-fourth of the seats of the Chamber of Deputies⁴⁹.

Laws are enacted by majority vote of each house of Parliament as long as at least one-fourth of the senators from each component state comprise the majority vote in the Senate, thus creating a veto power for the 18% Turkish Cypriot minority. The following key matters require a vote of 2/5⁵⁰ of the senators from each component state⁵¹:

- A. Ratification of international agreements on matters within the competence of the component states,

obtain a special permission by the Turkish Cypriot authorities, that would have the broad discretion not to allow them to stay. This provision includes Greek Cypriot refugees that were forcibly expatriated during the Turkish invasion against Cyprus in 1974.

⁴⁸ Inclinations could start from 3 years and span for up to 20 years.

⁴⁹ UN proposal - *Constitution Article. 20*

⁵⁰ The parliamentary system essentially creates a minority veto in the context of a shared (federal) state.

⁵¹ UN proposal - *Constitution Article 23*

- B. Ratification of treaties, adoption of laws concerning airspace, continental shelf and territorial waters of Cyprus,
- C. Adoption of laws concerning citizenship, immigration, and taxation,
- D. Approval of the budget of the common state,
- E. Election of the Presidential Council.

The classic comparison to this proposal could be the Swiss model in which 3 cantons⁵² comprise the state, or even the Swedish model, although the situation in Cyprus has its own peculiarities⁵³.

Regardless of the composition of the Parliament, each component state in effect has 1 vote on fundamental (federal) laws⁵⁴. No fundamental (federal) laws can be enacted unless both of the component states consent to any such law and that federal laws are not superior to state laws⁵⁵. This means that although the Turkish Cypriot component state will comprise 18% of the population of Cyprus, it will have a weighed vote equal to the vote of the Greek Cypriot component state, which will comprise 80% of the population. In other words the 9%⁵⁶ of the Turkish Cypriot population will be able to take the future of the entire 91%⁵⁷ of the population in their hands⁵⁸.

One could argue that in the US each state is represented by 2 senators in the senate regardless of the population of their state. The distinction is that whereas USA consists of 50 states, in Cyprus, following the UN proposal for Cyprus, there will be only 2 states that are ethnically defined. The more the states (US system) the more democratic the process is. It is much more democratic to have a vote of 25 states against 25 states for a particular Act, instead of having a draw 1-1 and the minority veto coming from the state with 18% of the population being able to paralyze the whole system with only 9+% of the votes.

Moreover, the US system has much more control mechanisms and the Veto is only allowed to democratically elected bodies that acquired office through the electoral majority, like the President.

⁵² Italian, French, and German.

⁵³ In Cyprus there has been prior violence, ethnic segregation, and forced ethnic cleansing, whereas neither in Sweden nor Switzerland any acts of violence ever took place. The relative isolation of each group was a natural historic development mutually accepted by all parties and with no intervention by any foreign centers of decision making.

⁵⁴ UN proposal - *Constitution Article 2(2)*

⁵⁵ UN proposal - *Constitution Article 2(3)*

⁵⁶ 9% plus one.

⁵⁷ 91% minus one.

⁵⁸ This arrangement could be a recipe for stalemate especially in view of the failed London-Zurich agreements that followed similar philosophy and failed in a very short period of time as a result of their inability to get redirect and defuse possible disagreements.

Another arguable distinction of the UN proposal for Cyprus with the US model is that US states are not ethnically, racially, nor religiously defined⁵⁹. That is clearly not the case, where political parties rather than religious and ethnic minority groups play the predominant role in the political life. In this way an equal opportunity is given to virtually everybody⁶⁰ living in each state to get involved in politics⁶¹. According to the UN plan, no political rights will be given to the repatriated Greek and Turkish Cypriot refugees that according to the plan can return back to their homes in the respective states⁶². This scheme creates a ‘minority within a minority’⁶³ and there an apparent need for further analysis in order for the necessary corrective measures⁶⁴ to take place.

According to the UN proposal citizenship is given purely and solely based on religious grounds. If you are Christian, then automatically you are “baptized” as Greek and become a resident of the Greek Cypriot state, whereas if you are Muslim you become resident to the respective Turkish state. This is fundamental breach of European Convention on freedom of expression and discrimination against people who choose to follow different religious groups like Protestants, Catholics, Jews etc including atheists.

Subsequently Article 95(1)-(10) of the EEC Treaty regarding the facilitation of harmonization measures would in effect be affected⁶⁵.

2. The Executive (Government): (*Constitution Article 22*)

The minority veto that is embodied in the Parliamentary voting procedure⁶⁶ is also present in the Presidential Council⁶⁷, which exercises the Executive⁶⁸ power of the state⁶⁹. The Presidential

⁵⁹ The (graphical) equivalent with the United States would be for instance that the 2 Senators of New York must be Jews, the 2 Senators of California must be Mexicans, the 2 Senators of New England must be White English, the 2 senators of New Jersey must be black, and the 2 Senators of Illinois must be Greeks.

⁶⁰ An arguable exception to this might have been the presidential elections in Florida in 2001. Nevertheless, that exception proves the rule.

⁶¹ When referring to “politics” is meant the mere right to elect (vote), or be elected (run for any office).

⁶² They will not be allowed to elect or be elected in any body, in other words be excluded from all public life. Moreover they will not be allowed to apply for employment to any public body/position.

⁶³ This proposed article could be in violation of the European Convention of Human Rights and Fundamental Freedoms relating to racial and religious discrimination. *Constitution Article 4* regarding Fundamental Rights and Liberties contradicts itself and also violates the European Convention of Human Rights and Fundamental Freedoms in numerous ways.

⁶⁴ I.e. harmonization with the European *acquis communautaire*.

⁶⁵ Article 3, Art. 141, and Art 137 of the EEC Treaty regarding sex discrimination would also be affected.

⁶⁶ Legislative.

⁶⁷ Executive.

⁶⁸ Federal.

⁶⁹ *Constitution, Art. 24*.

(Executive) Council is composed of either 6 members⁷⁰ or 9 members⁷¹ who are elected by the Parliament and with the super majority vote of the Senate. The Presidential Council shall effectively make decisions by majority vote however each such a majority must comprise at least one Council member from each component state⁷², and at least 2 votes in the second proposal⁷³. In other words the Turkish Cypriot votes will have more than double the weight of Greek Cypriot votes. Based on this, a decision of the executive will still not pass even if it is voted by 7 to 2⁷⁴. Moreover, it is proposed that the presidency of this scheme will revolve every 10 months to cover a period of 5 years until the next elections. It is more than obvious that ministerial responsibility and accountability (as we know it) is scrapped. The most likely result of this arrangement is at the very best forced compromise of all parties and at the very worse political paralysis in the exercise of the executive power.

To add more to the complexity and the confusion, there has been no provision for any future changes, i.e. increase on the number of ministries to cover up-to-date needs. Finally, no provision regarding the Cyprus obligations towards the European Union was taken under consideration. As an eminent member state, Cyprus has to fulfill positions in European bodies by sending representatives, i.e. council of ministers, etc. The number of 6 or even 9 ministers is insufficient to cover up these needs, where other European Countries have more than 30 ministries i.e. the UK, and whereas Cyprus at present has 11 ministries⁷⁵ and deputy-ministries with apparent need to expand their number to cover new needs, since most of them are covering 2 or even 3 fields.

The proposal strengthens the minority vetoes of the ill-advised⁷⁶ 1959-1960 agreements, which vetoes led to the breakdown of the Cyprus constitution. Institutionalizing the minority veto in Cyprus will open the door for similar demands in other places where one ethnic group is outnumbered by another, e.g. Kurds in Turkey, Arabs in Israel, Hungarians in Romania, Turks in Bulgaria, Albanians in the Former Yugoslav Republic of Macedonia, Serbs in Kosovo, Greeks in Albania, and minorities in Africa, Asia, and North and South America. It will also put the U.S. and the E.U. in the unseemly position of justifying its support of a minority veto in some places while reviling it in others. Rather than supporting undemocratic norms, the U.S. and E.U. should promote with consistency and vigor the democratic policy espoused for Cyprus by Vice President George H.W. Bush on July 6, 1988⁷⁷.

⁷⁰ 4 Greek Cypriots and 2 Turkish Cypriots

⁷¹ (6 Greek Cypriots and 3 Turkish Cypriots)

⁷² (6 members 4 G/C, 2 T/C)

⁷³ (9 members 6 G/C, 3 T/C)

⁷⁴ 6 G/C + 1 T/C, as opposed to the 2 T/C dissenting votes

⁷⁵ 1) Interior, 2) Defence, 3) Labour & Social Security, 4) Economy, 5) Foreign Affairs, 6) Commerce, Industry, and Tourism, 7) Education and Culture, 8) Transport and Infrastructure, 9) Agriculture and Natural Resources, 10) Health, 11) President's Office and Returning migrant Cypriots (Deputy ministry).

⁷⁶ (See Bureau of Intelligence and Research Publication no. 8047 "Analysis of Cyprus Agreements," July 1959). Also see: Brendan O' Malley and Ian Craig, *The Cyprus conspiracy, America, Espionage and the Turkish Invasion* ISBN: 1-86064-737-5 I.B. Tauris chapter 10 p.p.77- A sham independence.

⁷⁷ "We seek for Cyprus a constitutional democracy based on majority rule, the rule of law, and the protection of minority rights having as their starting point the United Nations resolutions."

3. The Judicial (Supreme Court): (*Constitution Article 34*)

It is useful to recall that the State Department's Bureau of Intelligence and Research issued an analysis of the 1959 London-Zurich agreements, calling them dysfunctional. It predicted problem areas that were manifested in 1963⁷⁸. The minority veto, which the new proposal would institutionalize, was a key reason for the failure of the complicated 1959-1960 agreement⁷⁹.

Specifically, the proposal does not indicate with clarity⁸⁰, which law is the supreme law⁸¹ thus planting the seeds for a con-federal interpretation of the constitution.

In a disagreement on any legal point and dispute between Legislature⁸², and Executive⁸³ bodies the Supreme Court will make the final decisions. The Court will be comprised of 3 Greek Cypriots, 3 Turkish Cypriots and 3 Foreign Judges⁸⁴. All of the judges will be appointed, not elected. This creates vary many problems of workability.

First, in a case of an ethnic or otherwise clash or disagreement, the foreign judges will most probably make the decision. In that case one, or neither side might accept it causing even more deadlocks.

Second, and interrelated to the first, the fact that the judges will be appointed and not elected by the people of Cyprus will make their position weaker in terms of authority and legitimacy.

Third is the issue of enforcing the decisions of the 'Supreme Court'. This issue is directly related to workability. Under the proposed scheme, each component state will maintain a state police force but no provision is made for a federal/ central security forces.

Forth is the fact that Cyprus will be the only country in the world that adopts schemes today of eras that are long gone. The system of foreign judges brings in mind the Privy Council where legal cases were brought from Commonwealth countries to be tried in UK.

Fifth, the fact that 3 foreign judges will be the supreme executors of law in Cyprus raises issues of sovereignty of the Republic of Cyprus as an independent State especially when viewing this matter in

⁷⁸ See Bureau of Intelligence and Research Publication no. 8047 "Analysis of Cyprus Agreements," July 1959.

⁷⁹ The new proposal, although balanced in retaining equal distances, is even more complicated than the 1959-1960 agreements and creates the conditions for continuous squabbling, disagreements and deadlock. According to the UN Security Council Resolution 1475 15th April 2003, it is the proposal constitutes the basis for further negotiation. By this it is implied that the plan need to be in line with the European *acquis communautaire*.

⁸⁰ UN proposal - *Constitution Article 2(3)*

⁸¹ State law or federal law.

⁸² the case of veto.

⁸³ the case of minority voting.

⁸⁴ UN proposal - (*Constitution Article 6*)

conjunction to the provision of complete demilitarization of Cyprus and the establishment of foreign forces⁸⁵ as guarantors⁸⁶.

4. Property Rights⁸⁷: (*Constitution Articles 9 & 10*)

The Plan proposes a highly complicated⁸⁸, ambiguous⁸⁹ and uncertain⁹⁰ regime for resolving property issues. However, the proposals are clearly based on the principle that real property owners⁹¹ can ultimately be forced⁹² to give up their property rights and abide by whatever regime created by the Plan for property issues.

In June 1999, officials of the Republic of Cyprus commissioned a legal opinion entitled “Legal Issues Arising from Certain Population Transfers and Displacements on the Territory of the Republic of Cyprus in the Period since 20 July 1974.” 10 experts in international law prepared that opinion. The basic conclusions of that legal opinion are as follows:

- A. Forced population transfers effected on a discriminatory basis are unlawful under international law whether such transfers occur between or within a state and whether they occur during peacetime or war,
- B. It is unlawful to seek to maintain a situation arising from forced population transfers by legal or other measures that prohibit the return of the displaced population,

⁸⁵ Greek, Turkish, and British

⁸⁶ The scheme of ‘foreign guarantors’ had failed in the past with catastrophic consequences for the people of Cyprus since each ‘guarantor’ was serving their own interests instead of guarantying the sovereignty of the Republic of Cyprus. This proposal plants the seeds of transforming Cyprus from a Republic, into a Protectorate transferring the whole of its Legal, Foreign Policy, Security, and Defence affairs into the hands of foreigners.

⁸⁷ The UN proposal in a compromising way allows for partial return of Greek Cypriots back to their homes on one hand, but on the other hand subverts property rights, undermines prior and current decisions of the ECHR, and also violates Fundamental Articles of the European Convention of Human Rights and Fundamental Freedoms.

⁸⁸ The proposal introduces a complex system of percentages and time periods. Under that system the older of the Refugees (75 years old and above) have priority for return in the first three (3) years reaching at 3%. The number will increase by 1% for every year with a time frame of 20 years. This is an example of a temporary divergence from the European *acquis communautaire*. An example of a permanent divergence from the European *acquis communautaire* is the fact that the maximum number of refugees allowed to return must not exceed the 24% of the population of the respective component state.

⁸⁹ The final arrangements for the settlement of the property issues of the parties affected are left open for future negotiation.

⁹⁰ It is proposed in Articles 9 & 10 that a special office will be created to handle property issues offering three options to refugees. First, to choose whether they want their properties, second, whether they want to exchange their property with something else, and third, whether they prefer to be compensated. It is uncertain as to which body would bear the burden of billions of pounds of possible compensations.

⁹¹ One of the long lasting effects of the illegal Turkish occupation of northern Cyprus is that rightful owners of real property that is located in northern Cyprus have been and continue to be excluded from their real property by the Turkish military.

⁹² It has been suggested in the proposal that it would be for the benefit of the public interest for property owners to give up their property rights and rather seek compensations.

- C. Compulsory exchanges of property belonging to affected persons are unlawful if the purpose of the exchanges is to legitimize a situation arising from force population transfer,
- D. Any compulsory exchange scheme even if contained in a treaty would have to be independently scrutinized under the European Convention on Human Rights and, by implication, would be illegal despite being in a treaty if the scheme was found to violate the right of persons to use and enjoy their rightful property⁹³.

To the extent that the transfer of property regime set forth in the proposal provides for any forcible exchange of property, that regime violates both the Convention and International law⁹⁴. Any attempt by the common state or the component states to implement any such regime would render them liable to the affected property owners.

In addition to the report are numerous cases decided in the European Court of Human Rights in favor of Greek Cypriot Applicants claiming back from Turkey deprived real estate properties.

More specifically the leading cases of Loizidou v. Turkey (Article 50) (1998)⁹⁵ relating to remedies, Loizidou v. Turkey (1997)⁹⁶ relating to grounds, and Loizidou v. Turkey (1995)⁹⁷ relating to standing, set the legal authoritative precedence of successful private applicants claims for property rights.

Successful Intergovernmental cases have also been brought against Turkey for violating Articles 2, 3, 4, 5, 8, 9, 10, 11, 13, 17, 18 and also Articles 1, 2, 3 of Protocol 1, of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Specifically the cases which set the authoritative precedence are: Cyprus v. Turkey (2002)⁹⁸, Cyprus v. Turkey (1997)⁹⁹, Cyprus v. Turkey (1993)¹⁰⁰, Cyprus v. Turkey (1982)¹⁰¹

⁹³ (see Article 1, Protocol I Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms)

⁹⁴ UN General Assembly and Security Council Resolutions.

⁹⁵ Loizidou v. Turkey (Article 50) (1998) 26 E.H.R.R. ECHR. This case relates to the remedies after a successful claim. The decision found Turkey liable and guilty for violating the rights of rightful and peaceful enjoyment of Mrs. Loizidou's properties in occupied Kyrenia. Turkey is obliged to pay compensations. It is characteristic that for loss of profits only, (excluding the actual property value that still belongs to the applicant) compensations exceed half million (CY 500,000) pounds. (1 CY = 1.7 US = 1.2 UK)

⁹⁶ Loizidou v. Turkey (1997) 23 E.H.R.R. 513 ECHR. This case relates to the grounds after a successful standing. The Court found Turkey liable for violating numerous Articles of the European Convention of Human Rights and Fundamental Freedoms including Article 1 of Protocol 1, which relates to the rightful ownership and enjoyment of property.

⁹⁷ Loizidou v. Turkey (1995) 20 E.H.R.R. 99 ECHR. This case relates to the standing. Turkey has been found liable for all violations committed in the occupied areas of Cyprus by the "puppet administration" in the occupied areas of Cyprus.

⁹⁸ Cyprus v. Turkey (2002) 35 E.H.R.R. 30 ECHR

⁹⁹ Cyprus v. Turkey (1997) 23 E.H.R.R. 244 Eur Comm HR

¹⁰⁰ Cyprus v. Turkey (1993) 15 E.H.R.R. 509 Eur Comm HR

Although the UN proposal is balanced in its effort to provide a comprehensive solution to the property rights problem, it imposes no obligation on Turkey, either directly or through its *puppet regime*¹⁰² in northern Cyprus, to rectify the losses of life and property or to account for violations of laws and treaties in violation and contradiction of numerous decisions of European Union judicial and executive bodies like the ones mentioned above.

In the face of the proposal's silence regarding Turkey's role in creating the current state of affairs, the International Community U.S./U.N./E.U. must apply a double standard to support the proposal. The proposal also requires the International Community to turn its back on brave Turkish citizens and also Turkish Cypriots in the occupied areas of Cyprus struggling for human rights and real democratic reforms. Support of the proposal is inconsistent with former U.S. President George H.W. Bush's September 9, 1990 condemnation of aggression made in the context of Iraq's invasion of Kuwait¹⁰³.

Likewise, the U.S. must not ignore the wisdom of the Eisenhower Doctrine¹⁰⁴, articulated by President Eisenhower on October 31, 1956, during the Middle East crisis.

5. Demilitarization of Cyprus: (*Constitution Article 8*)

The UN plan provides for the full disbanding and dismantling of the Cyprus National Guard¹⁰⁵. The proposal allows for a significant number of Turkish troops to remain on the island under expanded intervention rights. This will transform Cyprus into a military protectorate of Turkey first by stripping Cyprus from its own military and then establishing Turkish bases on the island. Supporting the proposal requires the setting aside of the U.N.'s requirement for a full and true demilitarization of Cyprus¹⁰⁶. The anachronistic¹⁰⁷ 1959 Treaty of Guarantors has no place in the post-Cold War era and new millennium.

¹⁰¹ Cyprus v. Turkey (1982) 4 E.H.R.R. 482 Eur Comm HR

¹⁰² Cyprus v. Turkey (2002) 35 E.H.R.R. 30 ECHR, Loizidou v. Turkey (1997) 23 E.H.R.R. 513 ECHR.

¹⁰³ "We must demonstrate beyond any doubt that aggression cannot and will not pay." "No peaceful international order is possible if larger states can devour their smaller neighbors."

¹⁰⁴ "There can be no peace without law. And there can be no law if we were to invoke one code of international conduct for those who oppose us and another for our friends."

¹⁰⁵ Cyprus National Guard has grown into a formidable mechanized force of 150,000 men including the reserves capable to guarantee the security of the island. This has only been the last 10 years with the signing in 1993 the Mutual Defence Dogma between Greece and Cyprus. Under that doctrine Greece has undertaken the obligation to assess the military needs of Cyprus and make certain suggestions whereas the Cyprus government has proceeded in the development of its military infrastructure with the build-up of airfields, naval bases, has been mechanized entirely, and expanded its naval and air force capabilities considerably and exponentially at a geometric progression.

¹⁰⁶ (See unanimous U.N. General Assembly resolution 3212 of November 1, 1974, adopted by the U.N. Security Council resolution 365 of December 13, 1974)

¹⁰⁷ Treaty of establishment, exchange of notes between Sir Hugh Foot, Makarios, and Dr. Kutchuk. British Colonial Office papers, CO926/978, Ankara to FO 21.5.59, telegram on conversation between Minister of Defence (UK) and Turkish ministers on Cyprus, at Turkish Prime Minister's dinner, 19.5.59; CO926/778/65, FO's JM Addis note, 26.6.59.

Moreover it establishes a unique precedence: A country, member of the European Union, would have no Armed Forces, and its entire Military and Security system would be depended solely on a country that is not a member of the European Union.

Recommendations:

The alternative to this proposal would be to redefine the entire security system of the whole Eastern Mediterranean region and bring it in line with the new requirements deriving from the eminent accession of Cyprus to the European Union. The president of European Commission¹⁰⁸ underlined on statements he made during the Athens Summit on April 16, 2003 that the re-unification of Cyprus is *inevitable*¹⁰⁹ regardless of a political settlement as a result of the accession of Cyprus into the EU. He further stated that the EU would continue in a more active way to try to make the necessary corrections to the UN proposal in order to bring it in line with the European *acquis communautaire*.

The first limb of the alternative is that Cyprus joins NATO. By doing so, Cyprus military and servicemen will stop depending on Greek or Turkish militaries for support, but will have their own military schools within the ambit of NATO. The existing relation of dependency will be transformed into one of cooperation. It will also bring in line the military interests of all countries in the region as members of NATO. The second limb of the alternative that I propose is that Cyprus joins the European Defence System. This relation with NATO has been cultivated for some time now¹¹⁰, and took a new boost after Cyprus allowed NATO (UK, US) forces use its airspace, along with military and political airfields and also ports. These facilities have been used by the “Alliance of the willing” for both supplying their troops in the Persian Gulf, as well as for launching direct attacks¹¹¹.

Conclusions:

As currently written, the new UN proposal for the solution of the Cyprus problem introduces some interesting and indeed beneficial elements that under the current circumstances could be a *unique basis*¹¹² for further negotiations for the settlement of the Cyprus problem. This was expressed by the

¹⁰⁸ Italian Diplomat Romano Prodi.

¹⁰⁹ Mr. Romano Prodi paused and stated “I repeat: Inevitable...”

¹¹⁰ British Cabinet Papers C59 32, 16.2.59

¹¹¹ In Cyprus there are two British sovereign garrisons on the South coast of the island; one of them is in Akrotiri, near Limassol, and the other in Dhekhelia near Larnaca. There are also further facilities amounting to a total of 30 different locations with military installations (British Cabinet papers C60 44, 7.3.60). In these facilities the British maintain sophisticated spy equipment that are part of the worldwide “Echelon” spy network (Report of Senate Commission, October 1986, Cmnd 9923). They also maintain American U-2 spy planes, and also squadrons of Fighter Jets. From their military bases in Cyprus the British and American forces have the capability to launch nuclear attacks (British Colonial Office papers CO926 778, GCHQ MEALF to London, 4.5.59). UK bases in Cyprus have been regarded as of extreme strategic importance for the security of the United Kingdom. They have been used in every conflict in the region since 1878 (British Chiefs of Staff meeting minutes COS57 214, 25.9.57).

¹¹² UN Security Council Resolution 1475 (2003) of April 14, 2003.

UN Security Council Resolution 1475 (2003) adopted unanimously on Monday April 14, 2003. It also introduces elements that need further analysis and explicit reform in order to fully comply with the European *acquis communautaire*¹¹³.

The eminent accession of Cyprus into the EU in May of 2004, the respect of international law by all related parties¹¹⁴, and the application of the decisions of International, US, as well as European legal and political bodies, could prove the necessary *catalyst* to lead to a solution of the chronic Cyprus question.

¹¹³ Statements of the President of Commission Mr. Romano Prodi during the April 16-17 European Summit in Athens where the accession protocol for Cyprus (along with the other 9 new EU members) was signed.

¹¹⁴ Political leaderships of Greece, Turkey, Cyprus, and the UK.

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Hellenic Research Institute – Washington D.C. <http://www.hri.org>

United Nations and Security Council Resolutions Regarding Cyprus - www.un.int/cyprus/resolut.htm

APPENDIX A

NOTE: Due to the extensive length of the UN Annan proposal for the solution of the Cyprus question, the Proposal has been uploaded by the author on the internet for easier and more practical access.

1. UN Proposal for settlement of the Cyprus Problem - www.cyprus.org/Occupied_Cyprus/unplan.pdf
2. UN Proposal Revision 1 - www.cyprus.org/Occupied_Cyprus/1revised_un_plan.pdf
3. UN Proposal Revision 2 - www.cyprus.org/Occupied_Cyprus/2revision2_un_plan.pdf
4. UN Proposal Revision 2 - Cooperation Agreement on European Union
www.cyprus.org/Occupied_Cyprus/2Cooperation_Agreement_On_European_Union_R2.pdf
5. UN Proposal Revision 2 - Federal Law on Conduct of European Union Affairs
www.cyprus.org/Occupied_Cyprus/2Federal_Law_Conduct_On_EU_Affairs.pdf
6. UN Proposal Revision 2 - Federal Law on the Issuing of Regulations
www.cyprus.org/Occupied_Cyprus/2Federal_Law_On_Issuing_Of_Regulations.pdf
7. UN Proposal Revision 2 - Federal Law on Implementation of Federal Laws by Constituent State Authorities
www.cyprus.org/Occupied_Cyprus/2Federal_Law_On_Implementation_Of_Federal_Laws_of_Constituent_State_Authorities.pdf
8. UN Proposal Revision 2 - Federal Law to Provide for the Establishment of Standards of Weight and Measures based on the Metric System and to Provide for Matters Connected there with or Incidental thereto.
www.cyprus.org/Occupied_Cyprus/2Federal_Metric_Regulations.pdf
9. UN Proposal Revision 2 - Federal Law on the Functioning of the Public Service Commission for the Appointment, Promotion and retirement of Public Officers and for Conditions of Service, Disciplinary Proceedings and other Matters Relating to the Public Service.
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