

EU DILEMMAS FOLLOWING CYPRUS' REFERENDUM

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Introduction

An avalanche of articles and editorials followed, as expected, the twin Cypriot referendum of 24 April 2004. In most cases, a thorough knowledge of the Annan Plan was clearly absent. Therefore, the alleged explanations of why the Greek Cypriots' No reached the resounding 76%, whereas the Turkish Cypriots' Yes received 65%, were inevitably defective. The most common, simplistic, generalization asserted that the Greek Cypriots (G/Cs) "rejected reunification" while the Turkish Cypriots (T/Cs) "embraced it" wholeheartedly.¹ Even worse, this false premise is used for two unwarranted "deductions": first, that the G/Cs must now be "punished" and, second, that the Turkish Cypriots must be "rewarded". Regrettably, this grand journalistic *non sequitur* has been co-propagated by the very circles that inspired and "marketed" the Annan Plan. As I hope to show, however, these circles were only eager to *get rid of* the Cyprus problem - as a means to broader ends - as opposed to solving it fairly and functionally. Such a solution should, of course, uphold the principles of International Law and the norms and values of the European Union. The Annan Plan did not honour these principles, norms and values. Therefore, this essay proposes to revisit Cyprus' referendum, to expose the aforementioned *non sequitur*, and to investigate the modus operandi required by a responsible EU.

Schematic Evaluation of the Annan Plan

The 24 April referendum was meant to endorse or reject the Annan Plan, that is, an essentially Anglo-american Cyprus plan carrying

¹ Even Nils Kadritzke, usually informed if not unbiased on Cypriot affairs, fell into the trap of speedy and facile pronouncements. See his "Cyprus: saying no to the future", *Le Monde Diplomatique*, May 2004, where his two targets are President Tassos Papadopoulos and "Greek chauvinism"(sic).

the Secretary General's name. It is common knowledge that the plan ultimately exceeded 9,000 pages; that its convoluted character rendered often incomprehensible even the 220 pages available - until the end - only to English-reading voters; that it was "pushed" openly and crudely on the Cypriots as their "last chance"; and that it was treated by its authors as a plan "for the reunification of Cyprus", whereas - in truth - it was a far more intricate affair, akin to a political/legal/ strategic/diplomatic/etc. Gordian knot serving a variety of analogous interests and needs.

Given its nature, therefore, it was not commonly known that this Plan was inherently and suspiciously defective. Suffice it to mention at the outset that the proposed "United Cyprus Republic" was at odds with fundamental European values and norms and contradicted established principles and rules of International Law; it proposed forgiving Turkey for its 1974 invasion and the ongoing, and universally condemned, occupation; it expected the Greek Cypriots - the primary victims of the invasion - to support and sustain in the final analysis both the proposed "federal state" and the two "constituent states", including the "Turkish Cypriot" one; it called for the demilitarization of the new entity, but permitted the stationing in it of foreign troops *ad infinitum*; and it subjected the proposed "UCR" to experimental constitutional-administrative burdens, including the threat of ever-present vetoes and the provision that, in all cases of political/economic/legal/etc deadlock, the ultimate decision-making authority was vested in the Supreme Court, where determining power was held by three non-Cypriot, that is, foreign, judges!

The "Yes" Side

Even its warmest Greek Cypriot proponents had conceded that the Annan Plan was only "a painful compromise". But they insisted that, "assuming good will" it was bound to improve through membership in the EU. Also, *in tandem* with (or rather echoing) the plan's foreign propagators, they asserted that the following attributes made it endorsable: (1) "reunification" at last; (2) eventual departure of most Turkish occupation troops; (3) return of almost half the refugees to their abandoned homes under G/C

administration; and (4) eventual, if partial and conditional, compensation for the properties that would not be returned. The strongest argument of the plan's supporters, however, was not what was "positive" in it, but rather the constantly articulated "catastrophic consequences of a No".

The proponents' endorsability claims will be exposed below as a sophistical *petitio principii*. First, a word on the alarmist threats. They were massively orchestrated and vociferously expressed to intimidate the people thoroughly. Of course, besides being morally outrageous, the alarmist assertions revealed the willing submission, as against dignified resistance, to some overt or covert threats by the self-regarding foreign decision-making centers.² In other words, instead of condemning such threats as politically unconscionable and morally unbearable, they had succumbed to them. Thus, they were perceived as serving ultimately the special interests of the foreign capitals that wished to attain the Cypriots' Yes at all costs.³

Now, how valid were the supporters' major material expectations (on the return of some refugees and on the properties issue)? The tragic irony is that for any of the plan's benefits to ensue, two pivotal assumptions were required: first, the *existence* of "good will"; and second, that the plan *could actually work!* As intimated already, both assumptions were at best "heroic", that is, unfounded or naive. For if the "UCR" was massively perceived by the G/Cs as partial, unfair and unworkable, it would follow that its life was bound to be short. In this case, however, the implications would be colossal, if only because the Republic of Cyprus would exist no more while the occupied areas would have attained "legitimacy". In

² The threats in question referred primarily to the Republic's future "international isolation" and to the following "certainties": that no other plan would be forthcoming, that the island's division would be rendered permanent, and that the legitimate Turkish Cypriots would flood to the free side of the Republic leaving the occupied north to the settlers from mainland Turkey.

³ Needless to say, this author does not share necessarily this "fifth column" perception about the entire pro-Yes elite. After all, many of them were simply too tired of the problem; others simply could not see the enormity of the plan's negative implications; and some had even participated in some measure in the drafting of the plan...

sum, the entire operation was, at best, inherently risky and, at worst, utterly suspect. As for the remaining “pluses”- i.e., phased departure of the Turkish troops and eventual reunification - far from being the generous bonuses attached to a defective text, they are the manifest legal and political obligations of Turkey. For one must remember that Turkey has been condemned - explicitly and repeatedly - for the 1974 invasion, the illegal occupation, and the massive violation of the fundamental human rights of both Greek and Turkish Cypriots for over 30 years. This condemnation is established through countless resolutions and decisions by the United Nations, by the European Commission, the European Parliament, and by the European Court of Human Rights.⁴ Moreover, with Turkey awaiting the historic December 2004 decision on its EU future, it seems inconceivable that it can succeed while occupying 37% of the territory of a EU member-state. Thus, in the absence of any guarantees whatsoever that this particular UN plan would actually work, the attempt to white-wash Turkey’s aggression in Cyprus, accompanied by the failure to compensate the victims of the occupation, was politically and morally offensive.

The “No” Side

Even a schematic account of the No side’s fears, frustrations and concerns will provide a fuller explanation of the 76%. To begin with, few analysts have noted that around 75% of the G/Cs who voted No had explained - in sophisticated exit-polls - that their primary worry with the plan was “*insecurity*”, while the issues of *properties* and the *settlers* followed far behind.⁵ Upon investigation, it transpired that this insecurity had at least four primary sources: first, the envisaged continuing presence of thousands of Turkish troops for up to 14 more years; second, the permission to allow 600 Turkish troops to remain in Cyprus *ad*

⁴ The most celebrated decisions of the European Court of Human Rights are associated with the *Loizidou v. Turkey* case (1996 and 1998) and the fourth case of *Republic of Cyprus v. Turkey* (May 2001).

⁵ One such sophisticated exit-poll was conducted by Nicosia’s TV Channel, MEGA.

infinitum (i.e. even after Turkey's assumed accession to the Union); third, the plan's granting to Turkey a "right of intervention" even within the G/C constituent state; and fourth, the total absence of any guarantees whatsoever that the plan *will be actually implemented*. In view of the accumulated mistrust caused by the occupation through 40,000 Turkish troops in northern Cyprus, recalling the unmitigated efforts by Ankara and the Denktash regime to undermine all previous reunification initiatives, and given Turkey's rather fuzzy domestic political landscape, it would be odd indeed if the Greek Cypriots did not feel fearful, suspicious and insecure.

President Tassos Papadopoulos stated in his famous address (of 7 April) that the Greek Cypriots were asked to start delivering immediately their part of the bargain - beginning with the dissolution of the Republic of Cyprus itself - whereas the Turkish side's obligation to deliver would be extended over 15 years. In an effort to undermine the Cypriot President's credibility, this statement was viciously attacked.⁶ The statement, in fact, expressed laconically and succinctly the primary fears and suspicions of the G/C's overwhelming majority. Therefore, the statement might have only solidified the Greek Cypriots' opposition to the plan, which was hovering between 70-80% in any case.⁷ Moreover, President Papadopoulos did not "campaign" even once after this address. Arguably, however, he was politically and morally obliged to submit his opinion to the G/C community and the world at large: the referendum's significance was nothing short of cosmogonic since, in case of a *Yes to this plan*, should the entire project collapse the universally recognized Republic of Cyprus would be obliterated. The consequences of the most probable collapse were never addressed by the dazzling rush of the UN. As intimated already, however, the Republic of Cyprus could not be

⁶ Nils Kadritzke's article contains a typical example. See footnote 1.

⁷ For instance, Cypriot ANTENNA TV's opinion poll on the "fourth Annan Plan", conducted on 30 March 2004, revealed the following on the Greek Cypriot side: 74% rejected it; 4% were in favour; and 22% did not reply/did not know. See "Gallop: 74% of (Greek) Cypriots vote No", *Eleftherotypia* (Athens daily), 31 March 2004.

“reconstituted”: it would be probably lost forever, together with its presently occupied part!

Additional grounds explaining the overwhelming “No” should be articulated explicitly. Primarily, they derive from the plan’s *nonviable* and *unworkable* features, as shown by some manifest structural defects. First, the constitutional demand to form inter-communal majorities amounted essentially to giving the right of veto to the minority T/Cs. In this manner, the Turkish Cypriots, who constitute around 12% of the legitimate Cypriot citizens - given that the remaining residents of the occupied North are the illegal settlers - were being aided by the plan to “discriminate” against the 88%. Therefore, since this bordered on a tyranny of the minority, it deepened the sense of unfairness or injustice. Second, in cases of inter-communal decision-making impasse, the Annan Plan provided that the three foreign judges of the Supreme Court would also become legislators as well as governors. In the post-colonial History of the world, this is rather unprecedented. Third, most of the economic burden of running the new state would fall on the G/Cs, whose present per capita income is calculated at around four times that of the T/Cs, while the GDP of the occupied territory is around 8% of the free territory’s GDP. Fourth, the pivotal property issue was to be handled by a Property Board. This was a source of intense insecurity and frustration, if only because the Board’s time-horizon for compensations was running to up to 35 years. Moreover, its uncertain sources of funds and its obscure modus operandi did boggle the mind. And fifth, despite disingenuous ambiguities the plan did endorse the legitimation of most of the over 110,000 illegal settlers from mainland Turkey. However, in view of their low literacy level, their limited skills and their socio-cultural distinctness, most of these people have long been in serious conflict with the native Turkish Cypriots, who are now a minority in the occupied land. What is more, the arrival of the illegal Anatolian settlers following the 1974 invasion is an established war crime. This legal fact was just bypassed by the Annan Plan. Suspicion and mistrust, therefore, could be anticipated *a fortiori* between these settlers and the Greek Cypriots, since most of the settlers have occupied and exploited for years the homes and properties of the legitimate citizens of the Republic.

In his letter to Kofi Annan (dated 7 June 2004), President Tassos Papadopoulos complained bitterly about the former's Report on his Cyprus mission. He accused it of factual inaccuracies, biased inferences, and numerous counterproductive suggestions. On the crucial issue of functionality, his letter includes this observation:

“Functionality covers all the areas of the operation of the state and our concern for functionality was reflected in all of our proposals during the process covering, *inter alia*, federal legislation and its practical application, the Central Bank, fiscal and monetary policy, the curtailing of the various transitional periods, ensuring conformity with EU obligations, the administrative structure and function of the federal government, the decision-making process at all levels, the territorial aspect and the issue of missing persons.”⁸

Procedural Sins

Some of these defects and anomalies might have been surmountable if only the Greek Cypriots could come to perceive, somehow, the entire affair as *ultimately* just or fair. In fact, however, feeling manipulated or blackmailed by the whole procedure and the entourage of Mr Annan deepened their sense of injustice. Notable in this regard are the following data. The timetable of the decisions associated with the earlier versions of the plan (November 2002-February 2003) was truly asphyxiating. This in itself caused serious additional suspicions. For, while the content of the highly technical plan was truly incomprehensible to the average citizen, Mr Annan had first demanded agreements, followed by referenda, to be held only days before the Republic of Cyprus was to sign the Treaty of Accession on 16 April 2003.

Following the failure of that effort -on account of Rauf Denktaş as explicitly acknowledged by the SG himself⁹ - the last negotiating round began with the 13 February 2004 New York agreement. But

⁸ President Papadopoulos 7 June 2004 letter circulated as a UN document, being a reply to Kofi Annan's Report on Cyprus (S/2004/437).

⁹ See his Statement after the collapse of the negotiations at The Hague, on 11 March 2003.

this agreement was also reached under unconscionable pressures that solidified the suspicion that the UN Secretariat, Washington and London were all demanding the plan's unquestioned endorsement at all costs. In fact, the 13 February agreement contained another unprecedented provision: namely, should no consensus be reached by the Cypriots themselves by the end of March 2004 -even assisted for a week by Ankara and Athens - the Secretary General himself would "exercise his discretion" and thus "fill in the remaining gaps"... Equally important, the new referenda were set for 24 April 2004, that is, only days before the Republic's formal EU Accession on May 1! In addition, the UN allowed the settlers to vote in the referendum, obliterating the distinction between them and the native Turkish Cypriots. This fortified the suspicion that the plan's makers had actually decided to "legitimize" most settlers by fiat. Finally, President Papadopoulos' proposals for functional improvements were utterly ignored by the SG's Special Advisor, Mr Alvaro de Soto.¹⁰

Thus, one could hear Greek Cypriots argue that the final plan was so inimical to their interests, and so contrary to international principles and rules, that it was engineered so as to ascertain their No. In any case, all this amounted to a travesty of any conception of a free and democratic "referendum". Equally important, whereas the New York agreement stated explicitly that, in case of a No, the entire affair would be considered null and void, it is a sad fact that, after 24 April, the Republic of Cyprus has undergone unconscionable pressures while Turkey and the T/Cs have enjoyed unprecedented favours.

Could the European Legal Culture be Ignored?

Unfairness and manipulation were embedded in various additional legal aspects of the case. This plan contradicted central commitments of International Law, of the European Union's legal culture, and its defining political values and norms, as shown by the following examples. First, the orchestrated attempt to wipe out

¹⁰ On Mr De Soto's controversial, undiplomatic behaviour, see President Papadopoulos' Reply to Kofi Annan's Report.

Turkey's guilt and responsibility for the 1974 invasion would constitute serious injury to the EU's prestige and a deleterious precedent for the entire international community. Second, the only partial and conditional satisfaction of the Greek Cypriots' human rights - regarding, *inter alia*, the right of all persons to return to their homes and properties, to be compensated for the loss of property enjoyment, the right of unimpeded residence anywhere on the island, and to vote if residing in the T/C constituent state - constitutes flagrant violation of elementary human rights and offends the European Constitution. Third, as we know, the European Court of Human Rights has condemned Turkey in the historic *Titina Loizidou vs Turkey* case. This decision - concerning the violation of Ms Loizidou's right to enjoy her occupied property - forced Ankara to pay 1 million EUR to Ms Loizidou in November 2003 (that is, shortly before the sudden and unexpected reactivation of the SG's initiative).¹¹ And yet, the Annan Plan demanded that all similar cases now pending at the ECHR and all future such cases would have to be abandoned! This meant that, except for Ms Loizidou, no other refugee could receive compensation from Turkey for the violation of the same right. It followed that under this plan, such compensation would have to come from the Greek Cypriot constituent state. In other words, the Greek Cypriots were being forced by the Annan Plan to compensate themselves! Finally, let us recall that the plan envisioned both demilitarization of the "UCR" plus the presence of foreign troops with "intervention rights" in its territory. Surely, as this arrangement flies in the face of any notion of sovereignty, it sufficed to render the "United Cyprus Republic" a second - (if not a third-) rate state or, as some commentators put it, a "satrapy of Turkey". In any event, the proposed experimental political entity could not function as a full, not to mention an equal, member of the European Union.

¹¹ It is notable that Ankara paid this sum in November 2003, that is, more than five years after the compensation ruling of 1998. During this period, Turkey stubbornly attempted to evade the issue, causing repeated austere warnings by the Council of Europe. As for the Secretary General's initiative, it was indeed "sudden and unexpected", if only because, until January 2004, Ankara had kept referring to the Annan Plan as dead and buried. Ankara's relevant change of mind is explained in this essay.

Who was Meant to Benefit?

Given the legal anomalies and political and moral contradictions embedded in this rushed plan, the Greek Cypriots concluded that they confronted an apparent trap. They also asked, precisely who would wish them such a fate and why? A fair answer is that the labyrinthine text was concocted primarily by “experts” serving the current “Cyprus” agenda of the General Secretariat; and that they were all influenced or guided by policy-makers from Washington and London. This was manifest in their open and direct involvement in all stages of this “good offices mission”. The self-regarding interests of these two capitals were -and still are- very hard to hide. They also suffice to explain the indignation with which they received the G/Cs’ No.

On London’s part, these interests center on legitimating the perpetual presence in Cyprus of the two British sovereign bases. Being equivalent to around 3% of the Republic’s territory, they are a remnant of the Republic’s colonial past. The strategic value and multidimensional role of these bases are too well-known to require any comment here. But Annan-related British interests also included the attempted expansion of Britain’s rights to the territorial waters and arguably the continental shelf of these bases.¹² The makers of the Annan Plan performed this attempt surreptitiously, with superbly calculated textual ambiguity.¹³

As regards Washington, its persistent manifold pressures on the Greek Cypriots to accept this Plan are a causal extension of its long-term regional strategic designs and perceptions. Thus, beyond

¹² Three years ago, it was revealed that exploitable deposits of petroleum and natural gas had been located in the area between Cyprus and Egypt. Since then, the issue remains dormant.

¹³ See “Annan V”, Part C “Treaty on Matters Related to the New State of Affairs in Cyprus”, Annex II, “Additional Protocol to the Treaty of Establishment”, Article 5.3. Noteworthy is also the Protocol’s Article 8: “Any dispute about the interpretation or application of this Protocol shall be resolved by consultations and shall not be referred to any international tribunal or third party for settlement.” The “Annan Plan” can be found on the Web at www.cyprus-un-plan.org

hoping to contribute to settling the “triangular” disputes of Turkey-Cyprus-Greece, the current US vision looked as follows: first, to score some “diplomatic victory” on the island, following especially the monumental catastrophe in Iraq and the growing anti-Americanism in the area; second, to help Ankara reach the historic goals regarding the EU by unloading Turkey’s heavy Cyprus-related legal burden; third, were a “Cyprus constitutional model” to emerge, it could conceivably be “applied” to other countries in the region, in association with the ambitious US project for the Greater Middle East. And fourth, the following hypothesis seems irresistible: should Turkey fulfill the dream towards full EU membership, by removing its “Cyprus malaise”, Washington would certainly count on increasing dramatically the power and influence of “New Europe” within the EU.

Finally, it would be redundant to enumerate the manifold - legal, political, diplomatic, economic and strategic - beneficial implications accruing to Ankara by the entire process. One of these, however, should be singled out, because it borders on political, legal and moral deception. That is, whereas Turkey and the T/Cs would only gain by the Annan project and therefore their endorsement was a forgone conclusion - whereas the G/Cs were being pressed to endorse their victimization- Turkey and the T/Cs are now being variously “rewarded”, while the Greek Cypriots have undergone a period of “punishment” or asphyxiating pressures.¹⁴

Our analysis might have conveyed the Greek Cypriots’ melancholy and frustration. For, once again,¹⁵ they saw themselves as the

¹⁴ As this essay was nearing completion (early October 2004), the Republic of Cyprus was scoring some notable diplomatic gains, as shown in the Epilogue below.

¹⁵ One of the most blatant revelations of the manner in which Cyprus has been perceived by crucial decision-making centres is contained in George Ball’s memoir, *The Past Has Another Pattern* (New York: Norton, 1982, p.342). Referring to Washington’s 1964 perception of the Cyprus problem, the former Under Secretary of State wrote: “Viewed from Washington, the issues were clear enough. Cyprus was a strategically important piece of real estate at issue

expendable pawns in (machievellian) geopolitical and “diplomatic” games, whereas they have long perceived the European Union as their political vocation and legal-moral salvation. (Recall that the Republic of Cyprus applied for membership in 1990; its accession negotiations began in March 1998; and was long subjected to manifold threats and sacrifices in order to achieve the status of a full member.) Simultaneously, we must clarify why the Turkish Cypriots, in their eagerness to join the EU,¹⁶ had rationally opted for the plan: for it would liberate themselves from the occupation, improve dramatically their sad living standards, while also granting them, immediately, real human rights. We should also recall the Greek Cypriots’ final reason to reject the plan on 24 April: the Republic of Cyprus’ formal EU accession was only one more week away.

First Implications

A number of conclusions seem to follow. First, the notion of “punishing” the Greek Cypriots for the referendum adds insult to protracted injury. The G/Cs, by appealing to the EU’s pivotal values and norms as well as to the elementary norms of International Law, deserve to be rewarded by the EU. They resisted an un-European project and celebrated the principles and values assumed to make the Union distinct. As for the Turkish Cypriots, they should be persuaded that the Cyprus Government’s insistence on changes to the plan only aim at fair and functional improvements to render reunification viable and solid. Such improvements, beyond serving the common, pan-Cypriot interests and needs, would realize in fact the Turkish Cypriots’ passion to join “Europe”.¹⁷

between two NATO partners: Greece and Turkey. We needed to keep it under NATO control.”

¹⁶ Nils Kadritzke was among the first to identify this eagerness. See his “Turkish Cypriots Dream of Europe”, *Le Monde Diplomatique*, August-September 1998.

¹⁷ This “passion” was manifested in the Turkish Cypriots’ dramatic demonstrations in December 2002 and January 2003. See Costas Melakopides, “Euro-Mediterranean Peacebuilding: The Exit from the Cypriot-Greco-Turkish Labyrinth”, in *Euro-Med Integration and the ‘Ring of Friends’: The*

Second, it may be understandable - from a rather crude *Realpolitik* point of view - that the European Union, just like the UN General Secretariat, desired to fix quickly a long drawn-out international problem. It is, however, politically and morally inexcusable that the EU appeared ready to tolerate the aforementioned violations of the *acquis communautaire* and the European Constitution.

Third, the time is ripe for the Union's own creative initiative to resolve the Cyprus problem as a clear case of (judicially condemned) invasion and occupation, resulting in long and blatant violation of the human rights of nearly one million Europeans.¹⁸ To be fair and effective, the Union's Cyprus initiative should rest on the EU's nonnegotiable legal, political, and philosophical principles, values and norms. This initiative is not only *morally and legally required*. Equally important, it would constitute the EU's foremost diplomatic triumph, demonstrating its power and influence in a domain where everyone else has failed. In addition, a European initiative to remove the EU's "Cyprus headache" will affirm that the EU means what it says on values and does what it says on norms. Moreover, the EU's success in Cyprus will show that, beyond rhetoric, Brussels is sincerely and pragmatically committed to the project of the Euro-Mediterranean Partnership. Finally, such an outcome would cure Turkey's serious Cyprus malaise. After all, Ankara cannot really expect to be embraced by a Union whose *raison d'être* it contradicts, if only by occupying EU territory and refusing to recognize the Republic of Cyprus!

After Helsinki (December 1999), the EU relied too religiously on the UN's role, presumably because of the latter's traditional involvement in and alleged "expertise" on the matter and also because it was eager to see a "reunited Cyprus" enter the Union, come what may. But Washington and London's asphyxiating pressures (for the self-regarding and Turkey-regarding reasons analysed earlier) contributed to Brussels' yielding and hoping for

Mediterranean's European Challenge, Vol.IV, ed. Peter G. Xuereb (EDRC University of Malta, 2003), esp. pp.191-193

¹⁸ The Greek Cypriots number today around 750,000; the legitimate Turkish Cypriots in the occupied territory are calculated about 90,000.

the best in the future. In any event, if even part of my argument is valid, it should follow that the time for EU “neutrality” is over, now that the Republic of Cyprus is a full member-state.

Suppose, however (for the sake of argument), that the EU *does not wish* to solve the Cyprus problem according to its legal, political and axiological commitments. One cynical reason for this might be the conceivable inclination to postpone *ad infinitum* Turkey’s European vocation. Although we know of a number of capitals that favour this stance about Turkey, any such connection with Cyprus seems too uncivil and inhuman to be contemplated.

Finally, can we preclude that some EU circles might have envisaged the permanent division of Cyprus? Such a notion might be based on the (false) premise that the two communities cannot live together;¹⁹ or the (falsified) premise that the Greek Cypriots do not desire reunification;²⁰ or the (untenable) thesis that no plan can succeed where the Annan Plan has failed.²¹ Since none of these premises is true and defensible, one should conclude that any idea of a permanent Cypriot division could only result from ruthless geopolitical designs contrary to the Cypriots’, and the EU’s own, interests. Therefore, to tolerate any such designs would be a paradigm of international illegality and immorality. Moreover, it would be fought by all means by Nicosia, Athens, and many from among the EU’s 25 member-states. If need be, Nicosia would be forced to take its case to the Court of the European Communities.

Nicosia might also be advised to appeal to a crucial, but generally neglected, statement of Helsinki’s Presidency Conclusions. The first paragraph on “The enlargement process” contains the following cardinal points:

¹⁹ This was falsified by the post-April 2003 freer (if conditional) movement of most Cypriots across the Green Line and the tangible proofs of even friendly relations among them on a person-to-person basis.

²⁰ This premise should collapse upon reflection on this essay’s arguments and data.

²¹ This is untenable because the falsified assumptions of the Annan Plan made its future failure all but certain. Obviously, whether the EU initiative can succeed will depend upon its wisdom.

“The candidate States are participating in the accession process on an equal footing. They must share the values and objectives of the European Union as set out in the Treaties. In this respect the European Council stresses the principle of peaceful settlement of disputes in accordance with the United Nations Charter and urges candidate States to make every effort to resolve any outstanding border disputes *and other related issues*. Failing this they should within a reasonable time bring the dispute to the International Court of Justice. The European Council will review the situation relating to any outstanding disputes, in particular concerning the repercussions on the accession process and in order to promote their settlement through the International Court of Justice, at the latest by the end of 2004”. (emphasis added)

Maybe what primarily inspired this paragraph was the Aegean dispute. But now its relevance to the Cyprus Problem is quite evident. President Papadopoulos once mentioned that he does not contemplate using a veto against Turkey in the December 2004 European Council. Surely, however, the Greek Cypriots cannot rely exclusively on Ankara’s good will or good faith. It seems to follow, that logically, legally, ethically and politically, the only exit from the Union’s Cyprus-related dilemmas is a settlement according to the EU’s legal principles and political norms. In this manner, the peoples of Cyprus, Greece and Turkey are bound to enter an era of unmitigated friendship and cooperation, while the European Union would be resting on some well-deserved diplomatic laurels...

Epilogue

As October 6 was approaching, further vicissitudes marked EU-Turkey relations and associated perceptions. First, the new Turkish Penal Code caused consternation by its proposal to penalize adultery. Then, PM Erdogan reassured Europeans that the relevant article would be removed and he kept his word. Ironically, however, the adultery issue might have been a red herring: other articles in the new TPC may question seriously the notion of Turkey’s galloping democratic revolution. For instance, Article 306 threatens with 3-10 years’ imprisonment any actions that oppose “basic national benefits”, that is, “independence, territorial

integrity, national security and the basic principles of Turkish democracy”. Remarkably, the article contains some disconcerting examples: “propaganda regarding the departure of Turkish troops from Cyprus, endorsement of a solution [in Cyprus] contrary to Turkey, and propaganda regarding the subject of the Armenian genocide”.²² The TPC case, therefore, is far from closed.

Secondly, prominent Europeans started questioning openly the wisdom of granting Turkey the green light in December 2004 and of giving assurances that negotiations entail full membership. Along with the reservations expressed by well-known Commissioners, and some important French and Austrian politicians, President Jacques Chirac proposed that the ultimate decision on Turkish membership should rest with referenda. Suddenly, Turkey’s membership became quite unpopular among many Europeans, especially after estimates of the economic burdens it would imply.

Third, preparations were underway in Turkey for the envisaged (4-5 October 2004) Forum between EU and the OIC. Ankara insisted rather stubbornly that the secessionist regime of occupied Cyprus participate under the name “Turkish Cypriot State”, that is, the name given to the T/C community by the Annan Plan! While FM Abdullah Gul kept reassuring Brussels that his insistence had “nothing to do with recognizing” the (illegal) regime, the Dutch presidency was not persuaded. Hence it withdrew EU participation and the forum was cancelled.

On the other hand, September 2004 was a rather good month for the Republic of Cyprus. A series of statements and EU decisions about it have undermined the catastrophology of the “Annanites”. Optimism resurfaced that the EU will, after all, honour its principles and legal commitments. To begin with, the new President of the European Parliament, Josep Borrell, apparently

²² Aris Abatzis’ report in *Eleftherotypia*, 27 September 2004. According to him, the new Penal Code is in some areas even stricter - and in some others, more ambiguous - than the previous TPC, thus arguably not improving the Turkish people’s freedoms.

gave full endorsement to President Papadopoulos' expose' of Nicosia's stance. Following their meeting in Brussels on 28 September, Mr Borrell stated:

“The solution proposed to the Cypriots could not have been that good, thus it was not accepted. We must listen to the Cypriots so as to find another solution, and the European Parliament is intensely involved in this effort”.²³

Secondly, COREPER has debated the Regulation on economic assistance to the T/C community. Nicosia has long supported all assistance, for it will help reduce the disconcerting economic gap between the two sides. Nicosia insisted, however, that any such assistance cannot bypass the Cyprus Government and that no impression should be left that occupied Cyprus enjoys any legitimate authorities. After prolonged debate - where, reportedly, the British representative antagonized Nicosia's arguments-COREPER endorsed the theses of the Cyprus Government.

Third, the Cyprus Government is constantly proving its good faith regarding the “upgrading” of the life of the Turkish Cypriots, by extending generous social, medical, economic and commercial measures to assist them. But it emphasizes also that no measures can be legitimized if, instead of helping reunification, they would tend to cement division. Therefore, the Dutch Presidency's decision on the EU-OIC Forum is especially noteworthy. First, it resisted Ankara's sustained efforts to exploit the Annanian term, “Turkish Cypriot constituent state”. Evidently, this term has no substance or content since the Plan's rejection. Second, it exposed Ankara's real motives (i.e. to extract some quasi- or crypto-recognition for the secessionist entity), a fact revealed by Ankara's refusal to back down. And third, the Dutch Presidency helped decisively to draw the line on the meaning and the manner of “upgrading” the status of the T/C community.

Finally, the Commission's October 6 Report and Recommendation on Turkey lend themselves to various, even contradictory, readings

²³ *Eleftherotypia*, 29 September 2004.

regarding the final form of the EU-Turkey relationship and the role of Cyprus in the intervening process. As regards the latter, Nicosia was not pleased by the absence of reference to the occupation troops on the Republic's - and therefore EU's - territory as well as to Turkey's associated legal obligations. (The relevant silence was interpreted by some observers as Commissioner Verheugen's protracted, personal, "vendetta" against the Greek Cypriots, following the referendum.) On the other hand, the recommendation that the accession negotiations take place in the framework of an Intergovernmental Conference, where unanimity is required by all 25 EU member-states, entails that Nicosia's vote becomes a *sine qua non*. Needless to say, another crucial presupposition, for even the start of Turkey's accession negotiations, is the formal recognition by Ankara of the Republic of Cyprus.

Therefore, the debate that immediately erupted among the Greek Cypriots' political and intellectual elites concerned the need to draw up short - and medium-term strategies vis-à-vis Turkey's accession prospects. In fact, the Commission's aforementioned stance generated a fresh look at the Republic's right to veto. Thus, whereas President Papadopoulos was once perceived to have precluded "a priori" the use of this weapon, the landscape created by 6 October seemed to change matters radically.²⁴ In sum, within days after the Commission spoke, Greek Cypriot opinion-makers tended to flirt with the notion that the newly-founded EU status of the Republic empowered it to demand satisfaction of a few elementary needs: the recognition of the Republic of Cyprus by Turkey; the end of the occupation; the departure of most settlers; and the speedy start of honest and dignified negotiations for the solution of the Cyprus problem in terms of the principles, values and norms of the European Union. If need be - that is, if the satisfaction of these rightful needs is not explicitly endorsed by the Conclusions of the December 2004 European Council - the

²⁴ This landscape included the (early October 2004) revelation that the European public was far more inimical to Turkey's EU membership than was hitherto supposed. For instance, according to a poll by *L'Express*, only 26% of the French public supports this membership now, whereas 61% is "categorically against". As reported by the Macedonian Press Agency (www.mpa.gr), 11 October 2004.

Republic of Cyprus, hopefully backed by like-minded member-states, could even veto granting Turkey a date to start accession negotiations at the present stage.