

THE PROPERTY ISSUE  
IN THE CYPRUS QUESTION

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## **ABSTRACT**

### **THE PROPERTY ISSUE IN THE CYPRUS QUESTION**

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This thesis aims to provide an evaluation of the property aspect of the Cyprus problem. The 'property issue' is an important aspect of the problem because it concerns the individual human rights and interests of a large population on both sides of the island. Following an introduction and a description of the historical background of the island, there will be a basic account of the Cyprus conflict in order to have a perspective on the disagreement. The bulk of the thesis is then formed by the problem of property in the overall disagreement and both sides' arguments towards the issue. After detailing various peace negotiations in relation to the property issue, the involvement of the European Court of Human Rights in the issue will be discussed, including the most recent developments which have since emerged.

Keywords: Property, Cyprus, The European Court of Human Rights, Turkish Republic of Northern Cyprus

## ÖZ

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Bu tezin amacı, Kıbrıs sorununun mülkiyet yönünü değerlendirmektir. Mülkiyet konusu, Kıbrıs sorununun önemli bir parçasıdır çünkü adanın iki tarafındaki yoğun bir nüfusun haklarını ilgilendirmektedir. Giriş bölümü ve adanın tarihsel geçmişinden sonra Kıbrıs sorununun kökenini anlamak için, anlaşmazlığın genel özeti yer alacaktır. Daha sonra ise, iki tarafın mülkiyet konusundaki fikirleri ve anlaşmazlıkları belirtilecektir. Süregelen barış görüşmeleri ve mülkiyet konusu incelendikten sonra Avrupa İnsan Hakları Mahkemesi'nin Kıbrıs sorunu ve mülkiyet konusu ile ilgisi vurgulanacak ve Kıbrıs'taki son gelişmeler tartışılacaktır.

Anahtar Kelimeler: Mülkiyet, Kıbrıs, Avrupa İnsan Hakları Mahkemesi,  
Kuzey Kıbrıs Türk Cumhuriyeti

To My Dear Parents  
Serdal and Bahadır Pekdemir

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## ABBREVIATIONS

<b>AKEL</b>	Progressive Party of the Working People of Cyprus
<b>CTP</b>	Cumhuriyetçi Türk Partisi (Republican Turkish Party)
<b>ECHR</b>	European Court of Human Rights
<b>EU</b>	European Union
<b>ROC</b>	Republic of Cyprus
<b>SBAs</b>	Sovereign Base Areas
<b>TFSC</b>	Turkish Federated State of Cyprus
<b>TRNC</b>	Turkish Republic of Northern Cyprus
<b>UBP</b>	Ulusal Birlik Partisi (National Unity Party)
<b>UNFICYP</b>	United Nations Peacekeeping Force in Cyprus

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# **CHAPTER ONE**

## **INTRODUCTION**

The 'property issue' is an important aspect of the Cyprus problem. It concerns the individual human rights and interests of a large population on both sides of the island. Also, it has economic, social and political significance which both the Greek and Turkish Cypriot sides ascribe to, a fact rendering the property issue into an important part of an overall solution on the island. In this thesis I am going to analyze the impact of the property issue on the search for the settlement of the Cyprus question. The thesis consists of seven chapters. There will be a summary of the Cyprus conflict in order to understand the essence of the disagreement. Then the problem of property in the overall dispute and both sides' actions towards property will be explained. In order to realize the level of disagreement, the actions, views, arguments and positions of both sides on the issue of property will be addressed. After explaining the ongoing peace solutions for the Cyprus dispute and property, the recent developments concerning the issue will be detailed and discussed for a prospect of a future solution.

The Cyprus dispute is perceived and presented differently by the Turkish and Greek Cypriots. From the universally recognized history of Cyprus, each side tends to choose what is important for their case. Thus as Dodd mentions both sides' historical perceptions became weapons in their struggle. (Dodd 2001, 21) Consequently, as it will be illustrated in the second chapter, it is important to present some basic facts about the modern history of Cyprus that appear as universally acceptable in order to have a perspective on the disagreement.

There exists two different communities on the island who do not have common aspects that unite them as a nation. So they have different arguments and positions in the Cyprus dispute which narrate the history of the problem differently. In the third chapter, the Cyprus problem and both parties' arguments and views about the Cyprus dispute will be detailed. Since the Cyprus conflict has been on the world's agenda about half a century, after stressing both part's different opinions about the issue, the ongoing peace negotiations since the 1960s which were held under the assistance and help of the UN will be described.

This thesis aims to explain that the property issue is an important dimension of the Cyprus conflict. Since the property issue is in the agenda of Cyprus since the beginning of the dispute, in the fourth chapter, the origins of the property dispute and how the two parts tried to deal with this issue will be mentioned with illustrating both parts' different arguments and positions on the issue of property. According to the Turkish Cypriot side, the issue of property should be resolved according to the principle of bizonality which means that the dispute should be resolved 'by way of global exchange and compensation'. (Gürel and Özersay 2006) However, according to the Greek Cypriot side, the property issue is a matter of human rights. They consider the property issue as a violation of human rights by Turkey that has continued for four decades. The only way to resolve the issue is to remove all the violations which are giving the displaced persons the right to have their property back. (Gürel and Özersay 2006, 360)

Until the formulation of the Ghali Set of Ideas in the 1990s, property was not an explicitly discussed issue in the negotiations between the two sides. However in later negotiation processes, the issue has been an important topic of discussion. The impact of the issue of property in the negotiations will be stressed in Chapter 4.



In the fifth chapter, the property provisions of the Annan Plan will be examined in depth. Although there are five versions of the Plan, the fifth version of the Plan is taken as the main text in this thesis in order to analyze the property provisions of this negotiation attempt. In its final form, the UN's Annan Plan had to respect the political concerns and different opinions of both parties on property and achieve a compromise between the arguments of both parties. The Plan's property proposals would not affect the entire population of the communities, however the people that were displaced, land holding refugees and their descendants in displaced areas would be greatly affected by the proposed property regime. (Argerious 2005, 31)

In this chapter the property provisions of the Annan Plan will be defined. The questions about how these provisions would effect the Greek Cypriots and Turkish Cypriots and how did they critique these provisions will be answered.

The Plan was put into a twin referendum in both sides in 2004. The Greek Cypriots did not accept the Plan, however, the Turkish Cypriots voted in favor of the Plan. After the Referandum in 2004 and the decline of the Plan, this attempt to solve the property problems had failed. However, in the next chapters, the Annan Plan will be mentioned again since in the recent negotiations, the Plan's provisions are questioned for negotiating grounds.

The displaced persons in both parts of the island, since they could not return or repossess their left properties, in order to regain their rights, applied to domestic and international courts. The Greek Cypriots and the Turkish Cypriots have applied to the ECHR in order to get compensation and restitution for their properties that they left in the other part of the Island. There exists an enormous case load in the ECHR and a high number of applications by the Greek Cypriots are an important part of the Court's agenda. There are about 1400 applications by the Greek Cypriots, who complain of violations of the Convention by Turkey. Most of these cases concern the right to property. In chapter six, turning point cases like *Loizidou v. Turkey*, *Xenides Arestis v. Turkey*, *Eugenia Michaelidou*

Developments Ltd. And Michael Tymvios v. Turkey and Cyprus v. Turkey will be addressed. Following these cases, the Immovable Property Commission which was formed in TRNC and its contributions to the property problem in Cyprus will be mentioned. In the last part of this chapter, the latest developments in the Island and the recent negotiation attempts between the two parties will be detailed.

As mentioned before, the Cyprus conflict has been on the world's agenda for about half a century. There have been ongoing peace negotiations since the 1960s, but a concrete agreement could not be achieved between the two parties of the conflict, the Greek Cypriots and the Turkish Cypriots. The main problem is that both parties do have different positions on the major issues of conflict on the island. These points are summarized in the conclusion part of the thesis. Also it is pointed that the property issue is a very important component of the Cyprus conflict which is very complex and it is embedded in many layers of politics and approaches of both parties to the issue are very different. However the latest developments in the Island and the recent positive rapprochement between the two parties are emphasized for a prospect of a future solution in the Island.

## **CHAPTER TWO**

### **HISTORICAL BACKGROUND**

For centuries, Cyprus has been under the domination and influence of countless forces including the Phoenicians, Persians, Romans, Byzantines, Frankish, Venetians, Ottomans and the British. (Melakopides 1996, 4)

Since Cyprus had great importance in respect of trade routes in the eastern Mediterranean Sea, the Venetians occupied Cyprus on February 26, 1489. The Venetian rule had restricted the personal liberties of the citizens of Cyprus because of its military and oppressive nature. (Salih 1978, 4) Under the Venetian rule, the Greek Orthodox Church of Cyprus was bounded to the Latin Church. (Salih 1978, 4)

The island's population contains a Greek Cypriot majority (around 80 percent) and a Turkish minority (around 18 percent). (Melakopides 1996, 4) The Greek Cypriots are descendants of the early Greek Colonists. The Mycenaean Greeks migrated to the island during the period from 1400 to 1200 BC and introduced the Hellenic culture. Later, they were followed by the Phoenicians and the Achaean colonists from the Greek mainland. The Greek language and the Christian Orthodox religion are two main factors that identify the Greek Cypriots with the Hellenic world. (Salih 1978, 3)

The Turkish Cypriots are Sunni Muslims. The first Turkish Cypriot leaders were the soldiers of Lala Mustafa Pasha, and the Turkish Cypriots have a strong cultural and historical attachment to Turkey. (Salih 1978, 3)

The Greek Cypriots have a longer history in Cyprus than the Turkish Cypriots. Greek speakers began to arrive at the island around 1300 BC. There have been

a number of invasions and a long period of oppressive rule by the Latin Lusignan Dynasty and Venice but the Greek language and culture has not vanished from the island. (Dodd 2001, 8)

## **2.1 THE OTTOMAN RULE**

The Ottomans conquered the island in 1571. Selim II, the Ottoman Sultan, wanted to safeguard his political and territorial interests in the Levant. (Dodd 2001) Selected peasants, tradesmen and families were compelled to emigrate from Turkey. Also some of the Ottoman soldiers' families settled in the island. But the Greek and Cypriot communities lived in separate villages, or in different parts of a village. Each community practiced its own religion and cultural events.(Dodd 2001, 8) The Ottoman Government was tolerant towards the leaders of the Greek Autocephalous Eastern Orthodox Church and gave them permission to manage the affairs of the Greek Cypriots. Also Ottomans put an end to serfdom which Greek Cypriots were subjected to by the Lusignan rulers. The Church had kept the Greek tradition alive despite the close Latin control. In 1821, sympathy for the independence of the Greeks developed on the island, however, this attempt ended with the execution of the Greek Orthodox Archbishop and prelates. (Dodd 2001, 8)

The Turkish administration of the island was until 1878 when they were forced to leave the island to Great Britain. The reason of this agreement was that Great Britain would come to Turkey's assistance in a case of aggression from Russia. (Salih 1978, 4) The Sultan concluded a pact known as the Cyprus Convention on June 4, 1878. According to this convention, the British Government agreed to help the Sultan guard his empire against Russian expansion. The island was in full possession of Great Britain on July 12, 1878. (Salih 1978, 5)

## **2.2THE BRITISH RULE**

### **2.2.1 The 1878-1955 Period**

A convention of Defensive coalition between Great Britain and the Ottoman Empire was signed on June 4, 1878 in which the Ottomans agreed to hand over Cyprus to the administration and occupation of England. (Chrysostomides 2000, 20) The convention was expanded later that year and the first landing forces arrived in Cyprus. Until the outbreak of the war with Turkey, this legal situation remained unchanged. (Chrysostomides 2000) In the Cypriot history, the British period started in 1878. London began to acquire power of the administration of the island, which formally was part of the Ottoman Empire under the Cyprus Convention. (Melakopides 1996, 4) With the outbreak of World War 1, Turkey sided with Germany and Austria- Hungary. Cyprus was annexed to Britain. With the treaty of Lausanne, Turkey agreed to give up any claim to Cyprus in goodwill of London. (Melakopides 1996, 4)

But in November 1914, Britain officially annexed the island. And with an order in the council, in November 1917 the nationality of Cypriots was regulated. Until then the Cypriot population were subject to the Ottoman Empire. (Chrysostomides 2000, 20)

The British coming to the island in 1878 is another important part of the history of Cyprus. The British governed the island on behalf of the Ottoman Sultan until they annexed it in 1914. In the Treaty of Lausanne in 1923, Turkey and Greece acknowledged the British sovereignty over Cyprus.

Since their arrival, the British had to deal with Greek Cypriot demands for enosis which means union with Greece. Until Cyprus became a vital British base, the British administration was not very insensitive to the idea; in fact they even offered the island to Greece in 1915, on the condition that Greece would take up arms against Bulgaria. (Dodd 2001, 9)

In the Treaty of Lausanne (1923), the annexation of Cyprus was recognized by Turkey. And in that treaty, Turkey granted all rights and titles in political, legislative and administrative jurisdiction in Cyprus. Hence on March 10, 1925 Cyprus officially turned into a 'Crown Colony'. (Chrysostomides 2000, 21)

According to Chrysostomides, it is a universal fact that Great Britain's rule in Cyprus from 1878 to 1960 was a colonial one, without a genuine contribution of the native population. So, he argues that various population groups were given some artificial advantages or disadvantages by the British administration because they thought that this was necessary in order to maintain peace. (Chrysostomides 2000, 22) But this equilibrium between the two population groups did not take into consideration the demographic structure of the island. (22) The Greek majority thought that this led to the oppression of the majority because the colonial regime was collaborating with the Turkish minority.

Coyle points out that; 'Their (Greek Cypriots) frustrations had reached such a point that a mob set fire to the Government House in Nicosia, the first violent offence in support of the union with Greece. The British reacted with a degree of military force and administrative repression that were combined to repress a guerilla struggle culminating in the 1955-59 campaign'. (156) By such actions, the British response was the abolishment of the Legislative Council and exiles. And a fine of 34.315 pounds was imposed on the Greek Cypriot community for the damage they caused during their actions towards the British Government.

In 1915 Britain offered Cyprus to Greece in condition that Greece battled in World War I on the side of the allies. But this offer was rejected by the Prime Minister of Greece. Later on, E. Venizelos made some efforts to make Cyprus left to Greece. One reason for this was that some regional politics and interests of major powers like France, Great Britain and Italy started to increase. In those years the anti-colonial climate in Cyprus started to intensify. After World

War II, the Cypriots were let down because they did not receive any reward for their committed participation in the fight against the Axis Powers. (Chrysostomides 2000, 23)

An attitude of Enosis (union with Greece) surfaced at times like in the 1931 pro- enosis turmoil in Nicosia. This desire was declared dramatically in the 1950 referendum. The plebiscite among the Greek Cypriots, which was organized by Archbishop Makarios 2, showed a 96 percent in favor of enosis. (Melakopides 1996, 4)

In 1954 Greece put forward an application to the United Nations on behalf of the independence of Cyprus. The appeal failed when US, Britain, Luxemburg, Norway and France did not vote in favor of Greece. But there started a Greek Cypriot campaign in favor of enosis. The British response to this wave was to declare a state of emergency. At that time the Turkish Cypriots also declared their desire of Taksim (partition). (Melakopides 1996, 4)

The Greek Cypriots, who composed the majority of the population, welcomed the British rule; however, they started to express their desire for enosis. The Greeks gained independence from the Ottoman rule in 1830 and since that day the Greek Cypriots wanted to be a part of the 'mother Hellas'. The Greek Orthodox Church in Cyprus also acted as a spokesman for enosis and the Megali Idea, which was to recreate the Byzantine Empire under the rule of Greece. (Salih 1978, 5)

The Turkish Cypriots were against the enosists' ideas and argued that if Great Britain was ever to leave the island then it should leave the island back to Turkey. The Müfti who is the highest religious leader in Cyprus put this desire as, 'In case of it being necessary by the illustrious British Government to abandon the island, we all pray and solicit, in the name of justice that... the Island may be restored to our august sovereign, our illustrious Caliph and Monarch, the everlasting Ottoman Empire' (Salih 1978, 5)

According to Salih, a national consciousness could not be achieved in Cyprus because of the division of the Greek and Turkish Cypriot communities. The political polarization of Cyprus made difficult or even impossible any future cooperation. (Salih 1978, 5) The reason for this political polarization was that the British administration did not want any national integration because this would be a threat to its political power. According to Salih, the outsiders expected that this political tradition would be brought to an end since the state gained its independence. But on the contrary, after the Cypriot independence, the two communities' elites encouraged loyalties to Greece and Turkey. This failure of integration created new problems among the two societies. (Salih 1978, 5)

In November 1914, due to the war between Great Britain and Turkey, the convention of 1878 was annulled and Cyprus was annexed to British rule. On July 24 1923 with the Treaty of Lausanne, Britain officially annexed Cyprus. Cyprus was declared a crown colony on 1925. (Salih 1978)

Although they were not against the British domination, the Greek Cypriots did not give up their desire for enosis. On the other hand, the Turkish Cypriots continued to be in opposition of enosis and argued that they wished to stay under British rule or have the island returned to Turkey.

In October 1931, an uprising on behalf on enosis was started by the Greek Cypriot Church. The governor's building was burned down. British forces took measures to prevent this kind of an action from happening again and passed laws to hinder the enosis movements. However, in spite of those actions, after World War II, The Greek Cypriots renewed their desire for enosis. The Orthodox Church carried out a plebiscite on January 15, 1950 and got a result of 95.7 percent in favor of enosis. But Cyprus now, even more than before, had become an important strategic location for Great Britain during the war against the Axis powers. (Salih 1978, 7)



In 1951 Archbishop Makarios III and a retired army officer of Athens, Georgios Grivas organized a guerilla war against the British Colonial rule in Cyprus. Greece officially approached Great Britain for enosis in the fall of 1953. With the refusal of the British Government to discuss the issue, Greece submitted the Cyprus Question to the United Nations General Assembly in 1954. But again this appeal was shelved by the UN General Assembly. The Greek Cypriots eventually started an armed warfare in favor of enosis. (Salih 1978)

The Greek Cypriots, under the leadership of Archbishop Makarios III, formed EOKA (National Organization of Cypriot Fighters). Colonel Grivas was in charge of the military operation of the EOKA. The Greek government supported this organization by supplying weapons and money.(Salih 1978) The underground struggle of EOKA started in 1955 and continued until 1959.The Turkish Cypriots were against the EOKA operations and joined the British government's operation forces against the guerilla movement.

In 1918, the Greek Cypriots were the majority on the island (% 74) and had a strong promotion for enosis. They even had dramatic actions like burneing down the government house in 1931. However, the Turkish Cypriots were against the idea of enosis. The Turkish Cypriots started to get influenced by the new Turkish nationalism developing in Turkey. They also demanded a modern leadership and not the conservative Ottoman elite that the British favored. (Dodd 2001, 9)

In the post World War II period, two major events that were used for the desires of the Greek Cypriot population occurred. Firstly, the Consultative Assembly collapsed in 1948. This assembly was part of a broader constitutional scheme which gave the people of Cyprus and the Greek Cypriots a limited participation in the government. The second event was the 1950 plebiscite, where a high majority of the Greek Cypriots voted for the union

with Greece. Thus, the anti-colonial sentiments were intensifying in the Greek Cypriot population. (Chrysostomides 2000, 23)

However the British rule favored neither the division of the island nor the demand of the Greek Cypriots. On the subject of self determination, the British Colonial Secretary Alan Lenox Boyd declared in 1956 that 'any exercise of self determination should be affected in such a manner that the Turkish community should be given freedom to decide for themselves and their future status. According to Dodd, the Turkish Cypriots still hold the Boyd statement close to their hearts. (Dodd 2001, 10)

In order to solve these tensions and give rise to an international crisis, Sir Anthony Eden invited Greece and Turkey to a tripartite conference in 1955. However, the London Conference broke down and the aggression in Cyprus intensified and diplomatic relations were turned down between Turkey and Greece. (Salih 1978, 10)

The British side made another endeavor called the Macmillan Plan (1958), a partnership plan that provided for a Greek and Turkish Official to work along with a British governor. But Makarios was not sympathetic to this idea because it was the last thing he would want –to have Turkish involvement in the government affairs. Greece, which was supported by the USA, desired Makarios to accept the offer. So at last Makarios and Grivas accepted the offer unwillingly and Turkey also abandoned their wish of partition as a solution. (Dodd 2000, 10)

Although the efforts made in 1950-54 to change the British policy were not achieved, there was a great pressure towards the Government of Greece. Greece brought the Cyprus issue to the United Nations for a debate before the international arena. (Chrysostomides 2000, 23)

### **2.2.2 The 1955-1959 Period**

During these years, the Greek Cypriot EOKA (National Organization of Cypriot Fighters) started a struggle against the British Colonial Government. EOKA's ultimate goal was enosis- union with Greece. (Chrysostomides 2000, 24)

When the young priest, Michael Mouskos was elected Archbishop Makarios, the demand for enosis increased. Violence against the British rule started in 1955, which was led by a Greek Army Colonel; George Grivas. The British took effective action against the Greek Cypriots and exiled Makarios. But the Turkish Cypriots started to fear that the British rule would give up the island at the end. The British alerted the Turks in order to counteract the Greek Cypriot demands of enosis, but the Turks had also supported the division of the island since 1949 because they feared that the British rule was not secure for them. (Dodd 2001, 9)

At first the EOKA's aim was to battle against the British armed forces but when the Turkish Cypriots joined the British forces, they also became the targets of EOKA. The Turkish Cypriots as well started their own underground organization as VOLKAN (Volcano) which later changed its name to Türk Müdafaa Teşkilatı (Turkish Resistance Organization). But this formation was never as organized or as disciplined as the groups under Grivas. (Salih 1978, 9) The TMT members had some training in Turkey and the Turkish Government supplied money and arms to the organization. As Salih argues, now 'the conflict on the island was no longer between the British Colonial Government and the Cypriots, but had shifted to a confrontation of the two major ethnic groups' (Salih 1978, 10)

With those actions, inter communal confrontation began to take place. The EOKA uprising continued until diplomatic talks led to the Zurich Talks and to

the London and Zurich Agreements in 1959. With the Constitution of 1960, the republic of Cyprus was founded. This system was characterized as 'bi-communal'.

The diplomats of the three nations were attempting to create an agreement but a bomb exploded at the Turkish Consulate in Salonika, Greece. This irritated the Turkish citizens and anti-Greek emotions increased. At the London Conference no settlement could be achieved, so Greece took the Cyprus issue to the United Nations in 1957 and 1958. But the British succeeded in blocking the Greek attempts. The opposing policies of Greece and Turkey encouraged the intercommunal turmoil in Cyprus and the two states came to the point of deciding whether they would resolve the conflict by war or find a compromise on the island.

Since all the efforts of the UN and the NATO had failed, London thought that the only alternative was to settle the Cyprus question through direct negotiations and bilateral talks which started in 1959. The Greco- Turkish agreements were reached in Zurich on 11 February 1959. (Salih 1978, 13)

The Greek Cypriots were not totally satisfied with the Zurich- London Agreements. The constitutional subdivision into two communities was not pleasing to the Greek Cypriots. (Salih 1978, 15)

## **2.3 THE 1960 SETTLEMENT**

### **2.3.1 The 1960 Constitution**

In 1960 the Treaty of Alliance and a Treaty of Guarantee were signed. The Treaty of Guarantee was invoked by Ankara to justify the military intervention of 1974. The Treaty was very important because under the treaty –which was signed by the new Republic of Cyprus, Britain, Turkey and Greece; the ideas of enosis and taksim were abandoned. (11, Dodd) Also the 'guarantor powers',

consisting of Britain, Greece and Turkey guaranteed 'the state of affairs established by the basic articles of the Constitution'. (Dodd 2001, 11)

In 1960 Cyprus became subject to international law as an equal member of the international community by being an independent state. Formerly, Cyprus had faced many conquests and domination under imperial powers. (Chrysostomides 2000)

The 1960 Constitution was signed by the British Governor of the Colony of Cyprus, the representatives of Greece and Turkey and Archbishop Makarios and Dr. F. Kuçük. The latter two parts were elected as the president and vice president of the Republic of Cyprus. (Chrysostomides 2000, 25)

Kypros Chrysostamides argues that the Constitution of Cyprus is one of the most complex constitutions of the world and that the arrangements of it were basically aiming to satisfy the need to protect the rights of the Turkish Cypriot minority in the state. He points out that the bi-communal arrangements of the constitution led to the malfunctioning of the constitution.(2000, 26) This view reflects and justifies the Greek Cypriot view on the 1960 constitution and how it was in favor of the Turkish minority

The 1960 Constitution was an original creation. It was not a copy of some other state's constitution. It could not be changed in essentials without the agreement of the external guarantors. Makarios unwillingly approved it but his aim was to change the constitution later. (Dodd 2000, 11)

The Constitution did not work well. It did not have geographically distinct constituent entities so it was often described as a functional federation. Dodd argues that it was unitary in some aspects but it was a partnership state that required the agreement of both sides on major policy matters. (Dodd 2001, 12) Huge disagreements arose in a number of important issues. For example, the Turkish Cypriots wanted less communally integrated units and did not want to

give up their independent municipalities. The Turkish part thought that the President was filling posts with former EOKA members. Also the Greek part did not want any independent Turkish municipalities. They also resented that the Turkish Cypriots had thirty percent of the administrative positions. (Dodd 2001, 12)

A crisis arose when the Turkish Cypriot members of the Parliament refused to vote in a tax law. As giving this action of the Turkish side as an example, Makarios declared the constitution to be unworkable. The Greek Cypriots could not accept the fact that the Turkish Cypriots were only 18 percent of the population and had virtual equality. Also, the Turkish side did not trust the Greek Cypriots. They were very suspicious of every Greek Cypriot move. (Dodd 2001, 13)

When Archbishop Makarios proposed the 13 amendments to the constitution, the Turkish Cypriots thought that they would become a political minority. (Dodd 2001, 13) The British Government was in favor of the proposed changes. Their support according to Dodd still continues nowadays. (Dodd 2001, 13)

The Makarios proposals led to a plan that if necessary, would not hesitate to use intimidation to oust the Turkish Cypriots from their equal role in the parliament. It was called the Akritas Plan. The plan's aim was to convince the world that the 1960 settlement was unreasonable, and that the Treaty of Guarantee was an intrusion to the Cypriot affairs.

After the independence in August, 1960 the two Cypriot communities cooperated in many areas but there remained certain important areas as the constitutional changes. (Salih 1978, 16) The Turkish Cypriots thought that if changes occurred in the Constitution, these changes would make the independence a Greek independence, which would lead to the union with Greece. (16)

According to Salih, national unity is a must for the formation of a stable and lasting state. And in the case of Cyprus, where no national unity existed, the two communities cooperated artificially where no national unity existed. (1978, 16) So in the formation of the state, the political leaders could not overcome the major obstacles that existed between the two parts. The main obstacles were;

1. The establishment of a central government over the whole island and its peoples, regardless of their ethnic or religious background,
  2. The unification of all aspects of the national economy,
  3. The adherence to the political rule to block separatism and ethnic antagonisms,
  4. The creation of a feeling of belongingness, common identity, loyalty and the expansion of nationhood. When these political objectives are nonexistent, the success of a peaceful, stable Cypriot State is in doubt.’
- (Salih 1978, 16)

In 1963, President Makarios tried to amend the constitution of Cyprus. The Turkish part thought that this action was against the treaties of Zurich and London. The Turkish government was also against Makarios’ plan which was known as the 13 Point Plan.

The political differences between the two parts resulted in physical hostilities and civil warfare over the island. Salih argues that the Greek Cypriots did not think that the London settlement was an end to the idea of enosis. The Greek Cypriot leadership drafted the Akritas Plan, which aimed to achieve their political desires by means of armed force if necessary.

The elements that separate the two Cypriot communities are; ethnic origin, religion, language, culture, allegiance, traditions, literature, unity, equality, patriotism. According to Salih these elements prevent the formation of ‘Cypriotism’. (1978, 27)

After years of anti-colonial struggle on the island, the 1959 London and Zurich

Agreements were signed. With this agreement, the four protagonists and Britain guaranteed Cypriot independence. And on August 16 1960, Cyprus became an independent republic. The President was the Greek Cypriot Archbishop Makarios. The vice President was Dr. Fazıl Küçük, a Turkish Cypriot. (Melakopides 1996, 5)

## **2.4 THE VIOLENCE IN THE ISLAND**

In December 1963, two armed Greek Cypriots who claimed to be police, created an incident which resulted in the death of two civilians. This attack, according to Dodd was planned in order to intimidate the Turkish Cypriot population as intended in the Akritas Plan. (Dodd 2001, 14)

The Turkish Cypriots too responded with violence. Makarios used this action to declare the Treaty of Guarantee null, but later had to retract that statement. The violence towards the Turkish Cypriots continued. British troops had to be called to keep the combatants apart. The famous Green Line was formed in Nicosia which became a border between the two sides. But violence did not end. Large numbers of Turkish Cypriots fled to the armed enclaves in Cyprus. (Dodd 2001, 15)

From the universally recognized history of Cyprus each side tends to choose what is important for their case. Thus as Dodd mentions both sides' historical perceptions became weapons in their struggle. (Dodd 2001, 21)

President Makarios argued that the externally imposed constitution made the administration unworkable and proposed a series of constitutional amendments in 1963. But disagreements erupted in the society, and inter communal fighting started on the island. Dr. Küçük announced his support for Taksim in January 1961. The UN Security Council announced the March 1964 Resolution and denounced the use of force and declared its support for the independence and sovereignty of the island. (Melakopides 1996, 5)



Between 1967 and the event of July-August 1974, the following developments were recorded; in 1968 inter communal negotiations started, an attempt of assassination towards Archbishop Makarios occurred in 1971, Athens and Ankara tried to impose a settlement in Cyprus, in 1972 the Colonel's Junta attempted to overthrow Makarios, in 1973 hardliner Rauf Denktaş became the leader of Turkish Cypriots and Papadopoulos' military regime in Athens was overthrown the same year. (Melakopides 1996, 5)

## **2.5 THE COUP AND THE INTERVENTION BY TURKEY**

As explained and detailed, the independence of Cyprus in 1960 was rapidly followed by tensions between the Greek Cypriot majority (80 percent of the population of the island) and the Turkish minority (20 percent). A following debate over sharing power led to inter communal violence by the end of 1963. In the following ten years, the Turks of the island were forced to live in enclaves. Then, in 1974, a coup planned by the military junta in Greece against the Greek Cypriot President took place, and this was followed by the military intervention of Turkish troops on the island in order to defend the rights of the Turkish Cypriots. (Chrysostomides 2000, 36) The junta fell in both Greece and Cyprus. G. Clerides became the president according to the 1960 Constitution since President Makarios was absent. On July 20<sup>th</sup> 1974 the UN Security Council adopted a resolution (353) which called for an immediate cease fire and respect for the territorial integrity of Cyprus. (Chrysostomides 2000 36) By August 1974, 34 percent of the territory of Cyprus was occupied by the Turkish forces. In September 1974, an autonomous Cyprus Turkish administration was formed in the North. And in February 1975, The Turkish Federated State of Cyprus, which in 1983 became the Turkish Republic of Northern Cyprus. (Melakopides 1996) The intervention partitioned the island and approximately 180.000 Greek Cypriots fled to the Southern part and around 60.000 Turkish Cypriots moved to the North. (Dodd 1993) Since 1974 numerous negotiation marathons were held between the two sides and the international arena.

Since the UN supervised the Green Line that partitioned Nicosia in 1963, Cyprus was divided between the Turk and Greek Cypriots. With the Turkish intervention to the island, this partition extended its scope to the entire island. As Istiaq Ahmad argues, ‘The existence of two separate administrations in Cyprus since 1964, when the UN Forces in Cyprus (UNFCYP) were deployed in the buffer zone, and two separate states since 1983, when the Turks declared independence, means a de facto partition of Cyprus is already well in place’ (2001) So it can be argued that this division encompassing distinctions of national history, culture, ethnicity and religion, language dates back in the island as it was narrated in this thesis. The perceptions, arguments, and regional and international settlement attempts and formal proposals of the two parties will be detailed in the next chapter of this thesis.

## CHAPTER THREE

### THE CYPRUS PROBLEM

As it will be discussed in this chapter, there exist two different communities on the island and both communities have different arguments about the Cyprus problem. According to Salih, Cyprus is a nation in name only. And it lacks the conditions for the development of nationalism. (Salih 1978, 25) When Cypriots gained their independence, both communities were not determined to have a common government with national homogeneity. The political aspirations of the Cypriot leaders were to inspire the Cypriots not with a love towards the Cypriot nation, but to a loyalty towards either Turkey or Greece. (25)

Salih points that there are many elements that separate the two Cypriot communities. Some of these elements are;

Ethnic Origin; Greek and Turkish Cypriots are both from the Caucasian race but they are from different ethnic origins. The Greek Cypriots have a Hellenistic past, whereas the Turkish Cypriots are descendants of the Ottoman Empire.

Religion; The Turkish Cypriots are Sunni Moslems, but the Greek Cypriots are followers of the Greek Orthodox Church which directs the Greek schools and acts in a way to follow the Greco-Byzantine tradition.

Language; The Greek Cypriots speak the Hellenic Koine dialect, but the Turks on the island speak Turkish or Ottoman Turkish as sometimes is called.

Culture; Both communities are highly influenced by their motherland cultures which perpetuate the ideas of Hellenism and Kemalism on the island. Most members of the communities do not try to merge their cultural habits with those of the other community.

Equality; The two communities do not want to recognize the equality of the other. Both parts have stereotypes of each other and the literature of each community illustrates its race to be more civilized and superior than the other.

Patriotism; Salih argues that the public spirit for the love of Cyprus is absent. There is a level of love to the island but the supreme loyalty of both parties is to their mother lands. (1978, 27)

As the elements mentioned above indicate, the communities on the island do not have common aspects that unite them as a nation. So they have different arguments and positions in the Cyprus dispute which narrate the history of the problem differently.

### **3.1 THE TURKISH CYPRIOTS' ARGUMENTS ABOUT THE CYPRUS PROBLEM**

The Turkish Cypriots argue that, since the Ottoman Empire colonized and owned the island from the year 1571, they have the right to be treated equally as the Greek Cypriots. (Dodd 2001, 22)

Unlike the Greek Cypriots, they think that the British rule favored the Greek Cypriots because the British found them more akin culturally. The British administration did not protect the Turkish Cypriots and stayed indifferent to the Greek Cypriots' aim of enosis. So the Turkish Government came to the aid of the Turkish Cypriots. (Dodd 2001, 22)

During the violence after 1955, the British forces could only rely on the Turkish Cypriot forces. The Turkish Cypriot even gave up their desire of partition in terms of good will and peace. However, the Greek Cypriots were determined to throw down the 1960 constitution. The Greek Cypriots' Akritas Plan of 1963 even started violent attacks on the Turkish Cypriots in order to take their equal status from their hands. The Turkish Cypriots had to live in

armed enclaves to defend themselves against Greek Cypriot terrorism. (Dodd 2001, 22)

According to the Turkish Cypriots they were victimized by the Greek Cypriot majority between the years of 1963 and 1974. After 1974, with the coup against Makarios, if Turkey had not intervened the Turkish Cypriots would have been led to a further disaster, violation of their rights, assassination of many and the union with Greece (Enosis). (Melakopides 1996, 31)

Therefore, the 1974 Turkish intervention to the island was a peace keeping operation which saved the Turkish Cypriots and brought peace to Cyprus. The Treaty of Guarantee (1959) gave the guarantor powers right to intervene to the island, so Turkey's action was legitimate (Melakopides 1996, 31). The Turkish Cypriot side argues that the pre-1974 events were unacceptable and the state of insecurity of the Turkish Cypriots has been changed with the Turkish intervention and partition of the island. They argue that the present occupation on the island is fully justified as it prevents the pre-1974 events from happening again. (Melakopides 1996, 33)

They point out that, with the Turkish intervention of 1974, around 45.000 Turkish Cypriots were actually glad to move to the North. They felt safe for the first time since 1963. And they gained the freedom to determine their own future.(Dodd 2001, 23) The UN did a great injustice to the Turkish Cypriots by accepting the government of the Greek Cypriots as the legal government of the Republic of Cyprus. (Dodd 2001, 23)The Greek Cypriots always reject equal partnership with the Turkish Cypriots and they propagandize without keeping in mind the truth. The Turkish Cypriots are not a minority on the island. The memories of 1963 have been forgotten or overseen by the Greek Cypriots but the terrifying memories are still fresh in the minds of the Turkish Cypriots. (Dodd 2006, 24)

Turkish Cypriots argue that the separation of the two communities is the most important basis for inter communal negotiations. The only guarantee of the Turkish Cypriots on the island until an agreement is the existence of the Turkish troops on the island. The old insecurity still exists towards the Greek Cypriots so Turkey's security guarantee is a must for the Turkish Cypriots. (Melakopides 1996, 32)

### **3.2 THE GREEK CYPRIOTS' ARGUMENTS ABOUT THE CYPRUS PROBLEM**

For the Greek Cypriots, the main point in their argument against the Turkish Cypriots is that the Greeks constitute the majority on the island so they should rule it on the basis of self determination. The Turkish Cypriots should be content with the minority rights that the Greek Cypriots would give them. (Dodd 2001, 21)

The Greek Cypriots argue that the British administration is mainly responsible for the denial of enosis. The 1960 constitution and independence gave the Turkish Cypriots much more than they deserved. The Turkish Cypriots still were not satisfied and wanted a division of the island, showing their character as rebels. (Dodd 2001, 21). The Turkish Cypriots, who are supported and inspired by Turkey, have regarded taksim (partition) as the first and only solution to the Cyprus problem since the mid 1950s. Union with Turkey is the Turkish Cypriots' ultimate desire and they use the events that occurred until 1974 as propaganda material. Turkish Cypriots exaggerate the instances of inter communal conflict. (Melakopides 1996, 32) Turkey's invasions of 1974 were illegal, immoral and inhumane. As United Nations and other international organizations condemned them, the Turkish justification of her actions is not legal. (Melakopides 1996, 32) The Greek Cypriots argue that nothing of the pre-1974 conditions can justify the Turkish invasions to the island. The invasion and the partition of the island is what effects any negotiation or peaceful settlement on the island.

From the Greek Cypriots' point of view the real victimization occurred towards the Greek Cypriots after the invasion of Turkey. Ankara disregarded over 50 Security Council resolutions and made violations of international law and morality. The cultural genocide in the 'occupied territory', the existence of 35.000 Turkish troops and the illegal settlers in the Northern part are unacceptable. Another proof of this illegality is that no nation but Turkey recognizes the Turkish Republic of Northern Cyprus. (Melakopides 1996, 32)

According to the Greek Cypriots, Turkish Cypriots refused a new settlement between 1967 and 1974 and persisted on having control over the local government. The Turkish government, by using the coup as an excuse against Makarios on 1974, invaded the island. There emerged many problems as the missing persons, illegal occupation, illegal settlers, occupied properties, etc. So their argument is that they are only struggling to gain their lost rights in 1974. (Dodd 2001, 21) The only fair settlement to the Cyprus problem is a federated, territorially integrated, bi-zonal, bi-communal and demilitarized state. The main human rights, as the three freedoms; the rights to free settlement, free movement and ownership of property are necessary for a long and peaceful settlement. (Melakopides 2001, 32)

### **3.3 THE UN IN THE CYPRUS PROBLEM**

After the outbreak of the clashes of 1963 in Cyprus, the Guarantor powers wanted an intervention by the British forces to the island in order to prevent any more danger on the island and restore peace. The Greek and Turkish troops were placed under the command of the British Army Units and formed the 'Joint Truce Force', which established the United Nations Force in Cyprus (UNFICYP). (Chrysostomides 2000, 216)

In March 1964, the UN Security Council issued the Resolution 186 which laid down an agreement to maintain the UNFICYP Force in the island.(Chrysostomides 2000, 217) Clement Dodd argues that The UN

contributed to the intensifying of the Cyprus problem by recognizing the Greek Cypriot government as the Government of the Republic of Cyprus with its Resolution No. 186. (Dodd 2001, 25)

When in 1967 a crisis occurred in Cyprus, Turkey took effective action and the Greek forces withdrew their forces from the island. After this the first inter-communal talks began on the island. As Ertekün argues, the Greek Cypriots did not want to negotiate with the Turkish Cypriots because they considered them as ‘rebels’. (Dodd 2001, 25) But now Greece and Greek Cypriots with the attempts of the UN were eager to start some kind of talks with the Turkish Cypriots. The first inter-communal talks started in June 1968 under the aegis of the representative of the UN Secretary General. (Ertekün 1984, 25) The talks continued until 1974, however, an agreement was not reached. When the junta in Greece attempted a coup to Makarios, fighting started on the island, Turkey once more sent the Turkish Peace Force to the island. After the intervention, the UN Security Council adopted Resolution 353 with an emergency session and called the Guarantor powers to start negotiations. The Geneva Conference took place between the Guarantor powers in 1974 and a second conference also took place, but there was not a positive outcome. Ertekün argues that, after these attempts in which a settlement was not achieved, the Turkish troops started another peace operation to the island which later led to the formation of the Turkish Federated State of Cyprus. (33)

As mentioned before, the UN unsuccessfully tried to stop the military intervention of Turkey to the island in 1974. After the 1974 Turkish military intervention to the island, the functions of UNFICYP were modified and extended in order to perform its task to limit fighting and to protect the civilians of the island. (Chrysostomides 2000, 222) Chrysostomides argues that one of the functions of the UNFICYP was to ‘try pragmatically to maintain surveillance over the cease-fire’ (227) The Security Council achieved a cease-fire on the island on 16<sup>th</sup> August 1974. However there was not an officially announced agreement.



After the fight on the island was over, UN brought the two sides together in order to reach a settlement. However, the most notable action of the UN was in January 1977 when it arranged a meeting between Makarios and Denktas which ended with an agreement between the two parties. The Greek and Turkish Cypriot parties agreed on four principles. According to Dodd, these principles 'are seen as the point from which all negotiations must start'. (2001, 25) These four principles are;

- 1) We are seeking an independent, non-aligned, bi-communal Federal Republic.
- 2) The territory under the administration of each community should be discussed in the light of economic viability or productivity and land ownership.
- 3) Questions of principles like freedom of movement, freedom of settlement, the right of property and other specific matters, are open for discussion taking into consideration the fundamental basis of a bi-communal federal system and certain difficulties which may arise for the Turkish Cypriot community.
- 4) The powers and functions of the central federal government will be such as to safeguard the unity of the country, having regard to the bi-communal character of the state. (Dodd 2001, 26)

These principles acted as a hinge in every negotiation attempt. But the two sides had different interpretations of the points. For example the Greek Cypriots insisted on the importance of the freedoms of movement, settlement and property. But the Turkish Cypriots insist that these matters should be left to discussions after a settlement. Another desire of the Greek Cypriots' is to safeguard the unity of the country by having wide central federal functions. However, the Turkish Cypriots wanted a more federal government which had less central federal functions with equality of participation of both communities. Dodd argues that this system would be more con-federal than federal. (Dodd 2001, 26) The Turkish Cypriots wanted to have communities as states. But, the Greek Cypriots did not want any real borders as states, only communal zones. (Dodd 2001, 26)

### **3.4 THE DRAFT FRAMEWORK AGREEMENT 1984-1986**

The Turkish Cypriots wanted a loose form of federation but this desire was turned down by the Greek Cypriots and there started a deadlock in the negotiation process. (Dodd 2001, 29)

When the two leaders, Spros Kyprianou and Rauf Denktaş met in May 1979, they initiated 10 points which they agreed upon. These points and relevant UN resolutions led to further talks. In 1984, the UN Secretary General Cuellar prepared a draft constitution known as the Draft Framework Agreement in order to solve the Cyprus problem. The Greek side rejected this attempt and the revised version of the draft in 1986. The Turkish Cypriot part accepted both drafts. The Greek Cypriot argument about the refusal of the 1986 Draft was that it did not address itself to the three freedoms of property ownership, movement and residence, removal of the Turkish troops in the island, the return of the ‘ Turkish settlers’ on the island to Turkey, etc. With the Greek Prime Minister’s support, the Greek Cypriot Prime Minister Kyprianou defended his actions. But the UN Secretary General and the United Nations were disappointed by the denial of this solution. (Dodd 2001, 30)

### **3.5 THE SET OF IDEAS (1992)**

The UN Secretary General Boutros Boutros Ghali made a new formulation of proposals in 1992. According to Chrysostomides, The Set of Ideas, known as the Ghali Set of Ideas is the most comprehensive form of agreement in order to solve the Cyprus problem. (2000, 409) Like the Draft Framework Agreement, this proposal had the same provisions for veto and unanimity between the two parties was required in matters of legislation and executive decisions. (Dodd 2001, 32)

The overall framework agreement acknowledged and ensured the political equality of the two communities. The Greek Cypriot and Turkish Cypriot communities would

establish the bi-communal and bi-zonal federation freely. All powers not vested by them in the federal government would rest with the two federated states. The federal republic would be one territory composed of two politically equal federated states. The federal republic would have one-sovereignty which was indivisible and which emanated equally from the Greek Cypriot and Turkish Cypriot communities. One community could not claim sovereignty over the other community. The federal republic would have one international personality and one- citizenship. (Tuncer, 8)

The Turkish Cypriot side wanted a rotating presidency and equality in the Council of Ministers, removal of economic disparities between the two states, and strict arrangements for the return of the Greek Cypriot refugees. The Turkish Cypriots agreed to 91 of the 100 UN proposals. (Dodd 2001, 32) Chrysostomides points out that The Set of Ideas did not contain any provisions to aim to end the military occupation on the island or to recognize the results of the occupation. (2000, 410) So the Greek Cypriots did not commit themselves and the UN Security Council did not put much pressure on the Greek side for the acceptance of the proposals. However they thought that these proposals could be a basis for an agreement or anegotiation process. And the person who proposed the plan, UN Secretary General Boutros Ghali started to think that there were too many provisions in the proposal for the two parts to stay committed. (Dodd 2001, 32)

### **3.6 CONFIDENCE BUILDING MEASURES**

The UN Security Council tried to promote a group of confidence building measures in 1993 and 1994. Although the Turkish Cypriots welcomed these proposals at first, then noted some disadvantages in the picture. The core of the measures was the area of Varosha, which was a tourist centre, to be left to the Greek Cypriots in return to the opening of the Nicosia Airport for joint use. (Dodd 2001, 34) The Turkish Cypriots feared that they would lose their best bargaining tools. The Greek Cypriots feared that these measures would give some degree of recognition to the Northern part of the island. Although the Turkish Cypriots were willing to accept the schemes with some amendments,

the Greek Cypriots did believe that with the membership to the EU they could achieve their objectives better. (Dodd 2001, 34)

### **3.7 TROUTBECK AND GLION NEGOTIATIONS**

In 1997, different from the 1984-86 and 1992 proposals, the UN had a different tactic of persuading both sides to agree on a set of principles that would be a basis for a constitution. Meetings were held in Troutbeck (New York) and in Glion (Switzerland). (Dodd 2001, 32)

There were disagreements on the issue of where sovereignty would be located in the new state of Cyprus. The UN suggested that 'sovereignty emanates equally from the Greek and Turkish Cypriot communities' and that political equality 'should be reflected in the effective participation of both communities in all organs and decisions of the federal government' (Dodd 2001, 32) The Greek Cypriots strongly opposed this idea of equality. The UN pointed out that 'effective' did not mean 'equal'.

At the second meeting in Glion, the UN' declaration was in favor of the Greek Cypriot side since it dropped the idea of shared sovereignty.(Dodd 2001, 32) This and the EU's announcement of accession negotiations with the Greek Cypriots shocked the Turkish Cypriots. So there was not any agreement from the Glion Negotiations either. (Dodd 2001, 33)

The TRNC was supported by Turkey since Ankara learned that Turkey was not included as a candidate for the next EU enlargement. (Dodd 2001, 33)

### **3.8 NEW YORK AND GENEVA (1999-2000)**

In 1999, UN arranged a series of proximity talks. These talks had an exploratory nature in order to find a common ground of agreement. (Dodd 2001, 35) In 1999, the G8 group of seven industrialized countries and Russia

had made a call for negotiations between the two Cypriot communities. The UN responded with a call for negotiations with no preconditions. The two sides had to negotiate through the Secretary General, taking into consideration the UN resolutions and treaties in order to reach a settlement. (Dodd 2001, 34)

There has been five rounds of talks and a sixth round that was scheduled for 2001 but could not be held because Denktaş decided not to attend after consulting Ankara.(Dodd 2001, 35) So five rounds of proximity talks were held between Clerides and Denktaş from December 1999 to November 2000.

Since Turkey was on the route towards the European Union after Helsinki, the pressure was more obvious on the Turkish Cypriot side. In the 5<sup>th</sup> round there were alarming propositions for the Cypriot side. By the end of 2000, Denktaş announced that he would attend to the UN negotiations on the condition that it pays attention to the sovereignty and equality of the Turkish Cypriots. (Dodd 2001, 36) When the UN consulted only the Greek Cypriots about the existence of the UNFICYP on the island, then TRNC declared that these proximity talks had lost their purpose. (Dodd 2001, 36)

Despite the fact that an agreement or solution could not be achieved from these proximity talks, both parties returned to the negotiation table on 2001. During these talks, the Turkish side proposed a state by the partnership of two separate states. But this proposal was rejected by the Greek Cypriots.

Since Cyprus was accepted as a candidate for membership to the EU in 1993, now with the EU in the picture, the Cyprus question and the role of the United Nations in the conflict is affected to some level.

### **3.9 EU AS AN ACTOR IN THE CONFLICT**

The Republic of Cyprus applied for full membership to the European Union in 1990. In all of the agreements between the EU and Cyprus-the Association

Agreement of 1972, the 1977 Protocol and the 1987 Protocol about the Customs Union, Cyprus is acknowledged as a single State. So Chrysostomides argues that this points out that although Cyprus has some occupied areas where the Republic of Cyprus can not have sovereignty upon, this does not change the fact that the only recognized party as a State on the island is the Republic of Cyprus. (Chrysostomides 2000, 465)

Cyprus signed an Association Agreement with the European Union in 1972. Chrysostomides argues that this agreement pointed out Cyprus' European identity of Cyprus and her desire to be a part of Europe. (Chrysostomides 2000, 444)

Since the TRNC is not recognized by the EU like the UN, the Republic of Cyprus was recognized as the sovereign power on the island. (Dodd 2001, 38) Dodd argues that with the support of the Greek mainland support, the application moved fast. The Republic of Cyprus was regarded as eligible for membership. In 1993 when EU stated its opinion, it also mentioned that accession was on the condition that if a settlement is achieved in the island. (Dodd 2001, 39) In 1995, EU agreed to give a date for the beginning of accession negotiations for Cyprus. However the Turkish Cypriots and Turkey argued that the 1960 Treaties forbid the union of Cyprus with any other state. With membership to the EU, Cyprus would be in a union with a number of states. (Dodd 2001, 40) After the year 1995, the member states of EU pointed their doubts about Cyprus' accession to the EU without a peaceful settlement in the island. However, the accession process started in 1998. (Dodd 2001, 48)

In the European Council of Helsinki in 1999, Greece supported Turkey as a candidate for EU membership. At the Helsinki Summit it was decided that the political settlement of the Cyprus problem would not be considered as a condition to Turkey's accession to the EU. (European Council Presidency Conclusion) However, at this summit the EU hoped that that the accession of Turkey would make a drive to find a solution to the Cyprus problem. When

both Cyprus and Turkey were candidates to EU membership, there was a link between the Cyprus problem and Turkey's accession to the EU.

In January 2002, direct talks between the two sides began again under the presence of the UN Secretary General Alvaro De Soto. However, these talks also ended without a solution towards a settlement.

### **3.10 THE LATEST ATTEMPT**

#### **THE ANNAN PLAN**

The Annan Plan is a result of years of negotiations between the two parties. It is an attempt to create a balance between the views of the two parties. The Plan is a product of the UN Secretary General Kofi Annan and his American, British and EU experts.

The Cyprus conflict has been on the world's agenda about half a century. As mentioned above, the ongoing peace negotiations since the 1960s which were held under the assistance and help of the UN have created some parameters that the international community sees as fundamental. These parameters are; creation of a federal state that is bi-zonal in terms of territory and bi-communal in terms of constitutional aspects which see the two communities as politically equal. Another parameter is to have a shared sovereignty between the two communities where an international personality is formed. (Sözen and Özersay 2007, 125) So the Annan Plan is not considered as a product of five years of work. As mentioned in the PRIO report 'All the successive Secretaries General, who have been in the office since the rise of the problem, have worked on this issue closely and, ... they produced proposals for a settlement many of which came to be incorporated in the latest plan. In fact the Annan Plan can be seen as a kind of *summa* of most of the more viable earlier ideas.' (Gürel et al. 2006, 44)

The most recent plan towards a solution is the Annan Plan, which includes the above mentioned parameters. This solution endorsed a reunification of the island under the name of United Cyprus Republic. (Sözen and Özersay 2007, 125) The Annan Plan is a comprehensive document which tried to deal with all the issues of conflict and legal instruments such as government and law. (Gürel et al. 2006, 45) The Annan Plan proposed a bi-communal, bi-zonal federal structure which was based on the political equality of both the Greek and Turkish Cypriots. (Internal Displacement Organization) The final revision of the plan (5th) has 131 completed laws, 1.134 treaties and is about 9.000 pages. (Gürel et al. 2006, 45)

As argued in the PRIO Report, both parties entered negotiations with different perceptions about the outcomes. The parties perceived the future of the island from different lenses. (Gürel et al. 2006, 45)

The Greek Cypriots thought that the best solution for Cyprus was ‘a single sovereignty and international personality, and a single citizenship under a firm federative state structure.’ (Quo Vadis Cyprus? 2005, 45) The Turkish Cypriots, on the other hand, wanted a confederative structure where two separate sovereign and political states exist. (United Nations The Report of the Secretary General to the Security Council 5/2003/398)

In the issue of federal governance, the Greek Cypriots wanted a freestanding federal government where representation would be based on population ratios with a federal constitution. The Turkish Cypriots were against freestanding central institutions and wanted a model where no community could have domination over the other. About the issue of representation, the Turkish Cypriots wanted numerical equality and consensus on decision making. (United Nations The Report of the Secretary General to the Security Council 5/2003/398)



On territorial issues, the Greek Cypriots wanted a substantial amount of the island's territory which was under Turkish Cypriot administration to be handed over to them. The Greek Cypriots wanted unlimited right to return for all displaced persons and descendants. The Turkish Cypriots wanted to preserve as much land as possible. However, they were not totally against a minor territorial handover. (United Nations The Report of the Secretary General to the Security Council 5/2003/398)

On the issues of property and residence rights, the Greek Cypriots wanted full reinstatement of property. According to them, the freedom of movement, the freedom of settlement and the right to return to former lands are necessary for a settlement. Nevertheless the Turkish Cypriot side argues that bizonality is very important for them, so property rights should be settled under a global exchange and compensation system where freedom of movement and residence must be under control. (United Nations The Report of the Secretary General to the Security Council 5/2003/398)

The military presence of Turkey on the island is unacceptable for the Greek Cypriots, they want a full withdrawal. But the Turkish Cypriots do not totally trust the UN presence and feel secure with the presence of the Turkish troops on in the island. So they want an extension of the rights of the Guarantor Powers. (Quo Vadis Cyprus? 2005, 46)

The Republic of Cyprus, which is recognized as the Government of the whole island by the UN Security Council in 1964, became a member of the European Union in 2004. The same year a referendum was organized in Cyprus. On April 24, 2004 the Annan Plan was voted in both parts of the island. The Greek Cypriots voted against the plan by 75 percent whereas the Turkish Cypriots voted for the plan by 65 percent.(Sert 2005, 12) When the Turkish Cypriots approved the Annan Plan, although only the Greek Cypriots were considered as part of the European Union, the EU planned direct trade and financial

assistance to the TRNC. However, these attempts were not permitted by the Greek Cypriots. (Internal Displacement Monitoring Centre)

The result of the referendum about the Annan plan ended another attempt to resolve the Cyprus question. The Annan plan had comprehensive, detailed provisions in order to solve the property issue. However the arguments of the two parties on the issue could not merge. According to Clement Dodd, the Turkish Cypriots do not trust the UN Security Council's proposal because of its recognition of the Greek Cypriot sovereignty on the island. So the Turkish Cypriots demand a political equality in every proposed solution by the UN. The Greek Cypriots, on the contrary, being aware that they are the majority in the island, want the opinion of the majority to have the principal say on the island. (Dodd 2006, 1) Despite their suspicions, the Turkish Cypriots accepted this proposal in order to reach a settlement. The Greek Cypriots argued that they refused the plan because according to them too many concessions were given to the Turkish Cypriots. (Internal Displacement Monitoring Centre)

Over the last four decades, international actors could not achieve a solution in order to solve the Cyprus problem. The EU, who was seen as a catalyst in the Cyprus problem, had a strong advantage because it linked the settlement of the Cyprus problem with the EU ambitions of the Turkish Republic, but failed to aid the UN to bring both sides into a solution table. However, the Cyprus problem became a catalyst for the Turkish accession in the negotiations. (Richmond 2005)

Sir David Hannay, the former British Representative at the UN suggested the notion that EU could be a catalyst; later the British special representative working on Cyprus argued that since all interested parties in the problem were members or prospective members of EU, a European solution to the Cyprus problem could be achieved. But there is the fact that Turkey and the Turkish Cypriots are not members of the EU. So they feel that the European solution could be in favor of the Greek Cypriots' positions. Before the referendum that

Kofi Annan introduced with his plan, it was argued that with the EU, which supported the plan with the UN, a rejection was not in the future. But a rejection took place and the Greek Cypriots did not accept the plan. After the referendum the UN began to scale down its presence in Cyprus. However, the Greek Cypriots opposed this idea. The UN at that time thought that the Cyprus issue would be a concern of the EU. Now since the Turkish Cypriots accepted the plan, the EU wanted to reward them for their 'yes' vote. However as mentioned before, this could not be achieved because of the Greek Cypriot opposition. (Richmond 2005)

There have been many factors that contributed to the escalation of the Cyprus problem. The historical narratives picture both sides to each other very differently and this can be easily observed in official political discourses, media, schools and religious institutions. So the perception of threat from each side and mother lands is another aspect of the problem. The Cyprus conflict does not have only two actors. Global actors and motherland states are also parts of the problem and are trying to solve it. In the disagreement there exists competition over representation in key position in the government, competition over the provisions of economic resources and different visions on justice relating to refugee and property return.(Richmond 2005) According to Richmond, there exists two domestic polities in Cyprus but what is lacking is a stable relation between the two societies.(2005) And there is the fact that an agreement could not be reached on key issues like sovereignty, territory, return and refugees and property compensation. The importance of property in the Cyprus problem is the subject of this thesis and the issue will be detailed in the next chapters.

## **CHAPTER FOUR**

### **PROPERTY IN THE CYPRUS QUESTION**

Property is an important dimension in the Cyprus question which originated 40 years ago and still an agreement has not been achieved on the issue. (Garlick 2003, 1) It is a fact that most armed conflicts may end in forcible displacement of persons which in the peace process, this issue is considered as a key component for a lasting peace. (Phuong 2005, 1) As Richard Patrick points out ‘the matter of land ownership is the most sensitive because of its significance in any future geopolitical settlement’. (1976, 15) As it can be seen, the property issue is an important aspect of conflict since the beginning of the Cyprus dispute. As Ayla Gürel and Kudret Özersay argue, the controversy over property and land ownership has been a problematic topic between Cypriots of both sides. And since the division of the island in 1974, it has become more complex and dramatic. (Gürel and Özersay 2006)

It is important to realize that the property issue will be at the focus center to the macro-level economic and social aspects of reunification. In the event of a possible reunification, the property rights of a higher number of the population would be in question. Most of these persons or their parents have been displaced because of the inter-communal clashes of 1963-64. (Patrick 1976) Since the issue is undecided for 4 decades, this makes the attempts for a solution more complicated. The dispute has started with the Cyprus conflict itself, and since time passed, the ownership of property changed and led to inheritance changes. Properties changed hands to third parties and properties have been developed since they are habited by other displaced persons. (Gürel and Özersay 2006, 350)

It must also be recognized that the property issue does not only have an economic aspect. The Greek and Turkish Cypriots ascribe a huge political significance to the issue. (350) So it can be argued that ‘therefore a proper understanding of the right ranging political significance of the property issue is imperative in any effort to resolve it’. (Gürel and Özersay 2006, 350) This issue is considered to have a huge political significance for he both sides in terms of how the idea of bizonality will be effected, and respect for human rights. (Gürel and Özersay 2006, 239)

As a consequence of the events from 1963 to 1974, according to UN estimated numbers, 45.000 Turkish Cypriots were displaced from the Greek Cypriot administrated south and 165.000 Greek Cypriots were displaced from their properties in the Turkish Cypriot controlled area of the island. (Garlick 2003)

**Table 4.1** Pre- 1974 distribution of private ownership by community, which is based on the Greek Cypriot Lands and Surveys Department figures (includes land in the SBAs)

Private Ownership	Area in donums	%
Greek Cypriot (Church properties included)	4,123,711	81.4
Turkish Cypriot (Evkaf properties included)	852,455	16.8
Other communities (Armenians, Maronites, etc.)	91,406	1.8
Total	5,067,572	100.0

Source: (Karouzis 1976, 60) (Gürel, Özersay 2006)

**Table 4.2** Pre- 1974 distribution of private ownership by community, which is based on the Turkish Cypriot Cartography Department records (includes land in the SBAs)

Private ownership	Area in donums	%
Greek Cypriot (Church properties included)	3,624,754	71.5
Turkish Cypriot (Evkaf properties included)	1,352,792	26.7
Other communities (Armenians, Maronites, etc.)	90,026	1.8
Total	5,067,572	100.0

Source: (Giray 1993) (Gürel, Özersay 2006)

As it can be realized from the Tables 3.1 and 3.2, the pre- 1974 distribution of private ownership by communities according to the Greek records and Turkish records do highly differ. There is not a concrete number of property ownership that both sides do agree upon.

**Table 4.3** Percentages of privately owned land in the post -1974 territories. These numbers are based on 1964 figures by the Greek Cypriot Department of Lands and Surveys and the Planning Bureau. (Land in the SBAs not included.)

Area	Greek Cypriot (%)	Turkish Cypriot (%)	Non-Cypriot (%)	Total
North	78.5	21.1	0.4	100
Buffer Zone	80.1	18.1	1.8	100
South	85.7	13.9	0.3	100
Whole island	82.9	16.7	0.4	100

Source: (Gürel Özersay 2006)

**Table 4.4** Percentages of privately owned land in the post- 1974 territories. These numbers are based on 1974 records by the Turkish Cypriot Mapping Department ('south' includes the SBAs).

Area	Greek Cypriot (%)	Turkish Cypriot (%)	Other (%)	Total
North	63.8	33.1	4.1	100
Buffer Zone	76.7	21.8	1.5	100
South	76.2	22.8	0.9	100
Whole island	71.5	26.7	1.8	100

Source: (Gürel, Özersay 2006)

In Tables 3.3 and 3.4 it can also be realised that the private land ownership percentages after 1974 are also very different according to the statistics of both Parties.

#### **4.1 THE ACTIONS OF THE NORTHERN ADMINISTRATION ON PROPERTY**

The northern part of the island, by comprising 37% of the island, is populated by 200.000 people, consisting of Turkish Cypriots and ethnic Turks. This is approximately 20% of the island's population.

Both parts have different numbers and figures about the owned land in the other part of the island. The Greek Cypriots argue that the total amount of privately owned land by them in the northern part of the island is approximately 1.4 million donums. (Garlick 2003)

With the intervention of the Turkish troops to the island in 1974 and the departure of the Greek Cypriot population, the Turkish administration began to allocate left properties to the Turkish Cypriots. They introduced a system based on points. This consists of a number of points in exchange of what the Turkish Cypriots left in the south. These points were used to apply for a Greek Cypriot owned property in the North. In the first years the certificates that were given to Turkish Cypriots for the possession of Greek Cypriot property were only used for limited dealings on property. And in 1995 these certificates could be freely sold, bought, leased in other words with neglecting the rights of the Greek Cypriot former owners. (Garlick 2003, 3)

#### **4.2 THE ACTIONS OF THE SOUTHERN ADMINISTRATION ON PROPERTY**

The Southern administration on the island comprises about 60% of the land and its population is 80% of the inhabitants of the island and consists of Greek Cypriots, Maronities, Armenians and Latins.

The Greek Cypriot regime placed the Turkish Cypriot property in the South under the care of Ministry of Interior as a guard of the Turkish Cypriot property. As a theory, the Cypriot government is a trust until the property is returned to its owner. But these properties are symbolically rented to Greek Cypriots for a minimum amount of money which is allocated in an account in order to make an ultimate payment to the owners. But there is the fact that the Greek Cypriot government will not consider giving the property back to its former owner until a long political solution is found to the overall Cyprus problem. By this action we can see that a solution to the property issue is highly linked to an overall solution of the Cyprus problem vice versa. (Garlick 2003)

#### **4.3 THE TURKISH CYPRIOTS' POSITION ON THE ISSUE OF PROPERTY**

According to the Turkish Cypriot side the issue of property should be resolved according to the principle of bizonality which means that the dispute should be resolved 'by way of global exchange and compensation' (Gürel and Özersay 2006) The Turkish side sees a practical and a sustainable way to solve the issue because a huge proportion (63.8- 78.5 percent) of the property in North Cyprus belongs to Greek Cypriots.(Gürel and Özersay 2006) As it can be seen, if a full restitution of property occurs as the Greek Cypriots desire, the territory of Northern Cyprus will have huge changes which is not welcomed by the Turkish side.

The Turkish side wants a settlement where each community lives in its own separate zone or a federated state. This is mainly because of the psychological facts that the Turkish Cypriots faced in the period of 1963-74.

The Turkish Cypriots, different from the Southern part of the island, see the Turkish intervention on the island over the events until 1974 as a peace that



ended their suffering which led to a high level of trauma. For them the 1974 intervention was a peace action which:

- a) stopped the annihilation of the Turkish cypriots, which would have followed if the greek-Greek cypriot coup of 15 july 1974( which constituted, in fact, the final step towards the materialization of Enosis) had succeeded;
- b) Put an end to the supression of the Turkish Cypriots by the Greek Cypriots who, for the last twelve years, have managed to deprive the Turkish community of the economic, administrative and financial resources of the state; have rendered 1/3 of the Turkish community unemployed and destituted refugees; have tried to reduce all the Turkish Cypriots of the Island to the status of second class citizens through economic blokades and other oppressing majors; and have use to the total of ‘Cyprus Government’ as an instrument of attrition for greek about the complite capitulation of the Turkish community by usurping it through the use of force, violence and terror;
- c) Brought about a bizonal defacto situation with a safe Turkish zone in the North into which all of the turkish cypriot population could move and live away from greek hegemony and as matters of their of their own destiny.(Gürel and Özersay 2006, 357)

So we can realize that the Turkish Cypriots do not want to bargain on the principle of bizonality. They want to secure and guarantee their existence because they feel that the Greek Cypriot agression may lead to the events of 1963-74. As Gürel and Özersay (2006) argue, ‘this principle lies at the core of the Cypriot sides’ approach to the land question.

#### **4.4 THE GREEK CYPRIOTS’ POSITION ON THE ISSUE OF PROPERTY**

According to the Greek Cypriot side, the property issue is a matter of human rights. They consider the property issue as a violation of human rights by Turkey that has continued for four decades. The only way to resolve the issue

is to remove all the violations which are giving the displaced persons the right to have their property back. (Gürel and Özersay 2006, 360)

What the Greek Cypriots consider as a Formula for a property settlement has two elements;

- a) territorial concessions by the Turkish Cypriot side about returning a considerable number of properties and homes to displaced Greek Cypriots under the Greek Cypriot administration.
- b) The application of the three freedoms in the island, which are the freedom of movement, the freedom of settlement and the right to property which comes to the conclusion that all remaining displaced persons should have the right to return to their home and native land that they left in the Turkish Cypriot administrated area. (Theophanous 1996, 42)

As mentioned before, the Greek side had different views about the intervention of the Turkish troops in 1974. They see this intervention as a crime committed by Turkey to Cyprus. And the idea of bizonality, which is considered as the only solution by the Turkish Cypriots, is seen as the continuing a setting by 'an illegal use of armed forces by Turkey'. (Gürel and Özersay 2006, 361)

The Greek Cypriots, unlike the other part, argue that the Cyprus problem started in July 1974. The Greek side does choose to overlook the Greek-Turkish Cypriots' disputes and tensions that have occurred since 1963. According to them, the Cyprus problem started with the 'invasion and occupation by the Turkish forces of substantial territory of the republic of Cyprus'. (Gürel and Özersay 2006, 361)

The Greek Cypriot view of the conflict can be understood by quoting Tassos Papadopoulos, the Greek Cypriot president; 'The Cyprus problem is not always perceived in its correct parameters. The fact remains that this problem is the result of a military invasion and continued occupation of part of the territory of a sovereign state'. (Papadopoulos 2004)

So the Greek Cypriots' answer for a solution of the Cyprus problem is to reverse this 'situation of invasion' (Gürel and Özersay 2006, 361) They see the idea of bizonality perceived by the Turkish side on the island as unbearable because this is 'a situation that violates the right of the majority Greek Cypriot community to exist in that part of the island' (Gürel and Özersay 2006, 361) But they do have a different idea of bizonality which means 'two zones each administrated by one community' which is subject to the rights of freedom of movement, settlement and the right to property.

#### **4.5 THE CYPRUS NEGOTIATIONS**

The return of the displaced persons to their properties may not always be the right solution for a lasting peace because it may change the ethnic balance or create renewed tensions like in the case of Cyprus, where the Turkish Cypriot side wants a bizonal state where the two societies do not become a homogeneous one where disputes may arise.

Until the formulation of the Ghali Set of Ideas in the 1990s property was not an explicitly discussed issue in the negotiations between the two sides. However territorial issues, fundamental human rights and security which were the topics of discussion, were indirectly addressing the property issue (Gürel and Özersay 2005, 240). In the UN proposals and the negotiations until 1989 the concept of bizonality and the three freedoms were pointing out different views that were property relations that did not merge. (Gürel and Özersay 2005, 241)

In the year 1992, talks between the two parties were carried under the observation of UN. The UN aimed to create a draft for an agreement in Cyprus. At the end of these efforts the UN came up with a document which was called 'The Ghali Set of Ideas'. According to Ayla Gürel and Kudret Özersay, the set of ideas were 'the progenitor of the Annan Plan of ten years later' (Gürel and Özersay 2005, 242)

According to this document, the three freedoms would be applied on the basis of the 1977 High Level Agreement. (Paragraph 48) The freedom of movement would not have any restrictions but the freedom of settlement and the right to property would be implemented after the resettlement process. The Ghali set of Ideas had a separate section about the matter of property. (Section IV 'displaced persons') For the first time, the property claims of the displaced persons from both parties were emphasized. (Gürel and Özersay 2005, 242)

According to Haladjian the property issue, other than the issue of defence, is the most deeply focused issue of the Annan Plan. The issue of property is seen as an important issue which, if a compromise can be achieved, would contribute to an overall solution on the island. (2006, 5)

According to Garlick 'the Annan Plan's proposals on property are amongs its most complex provisions and probably attracted great public interest and concern, given the emotional, economic and political significance of the issue to both parties'. (4) The property provisions of the Annan Plan will be detailed and examined in the next chapter of this thesis.

## **CHAPTER FIVE**

### **PROPERTY PROVISIONS OF THE ANNAN PLAN**

#### **5.1 THE ANNAN PLAN**

A number of countries have tried to make contributions to the process of conflict resolution on the island in the last years. But the primary actor who worked in the negotiation process was Kofi Annan. (Platis, Orphanides, Mullen 2006, 32) The plan became to be called as the 'Annan Plan' because of the UN Secretary General Kofi Annan's attempts to solve the disputed issues as the constitutional, territorial and property questions between the two sides. (2006, Introduction) According to Mete Hatay, Annan became the 'final arbiter' who could use 'his discretion' in order to fill in the blanks in case the parties failed to complete the Foundation Agreement (2004).

The UN had to produce provisions and proposals taking into consideration that more than 40 years had passed since the first displacements and both parts' displaced persons had been forced to rebuild their lives and economies during this period. Also, these provisions had to be in accordance with the agreements and political negotiations made between the two parties over the years. Garlick argues that the UN had to find a solution which, while not giving both sides everything they want, would be a fair balance between the arguments and aims of the two parties. (5)

In its final form, the UN's Annan plan had to respect the political concerns of both parties and to be based on international law. So Sözen and Özersay point out that, the Annan Plan's relevant provisions on property reflected and tried to achieve a compromise between the arguments of the two parties. (2007, 138)

Before the twin referendum in Cyprus, there have been many discussions and a long period of negotiations between national politicians and national and international actors. (Platis, Orphanides, Mullen 2006, 31) ‘The referendum was historically special for a project of the unification of Cyprus, since it could have been combined with the entrance of the whole island to the EU’.(2006, 31)

Since the aim of this thesis is to analyze the importance of the property issue in the Cyprus dispute, the latest version of the Annan Plan’s property regime will be mentioned and detailed. Annan V reflects the disputed issues about property and it is the latest detailed attempt to solve the property problem.

The Annan Plan was put into a referendum in which both sides had arguments about the property provisions. In the Greek Cypriots’ rejection of the plan, the property issue constituted an important part. The Turkish Cypriots voted for the plan but still they had some arguments on the property provisions of the plan. (Sert 2005, 2) As Platis and Orphanides argues, in both communities the referendum campaigners who were arguing either in favor of or against the plan in 2004 often based their arguments on the effects of the Plan’s provisions on this crucial aspect of the Cyprus problem –the property question. (2005, 2)

## **5.2 THE PROPERTY PROVISIONS**

The fifth version of the UN Plan for Cyprus aimed to achieve a comprehensive settlement to the Cyprus problem. In April 2004, the plan was put into twin referenda where 76% of the Greek Cypriots rejected, whereas 65% of the Turkish Cypriots accepted it

According to Platis, the territorial form of intervention of the Annan Plan was a delicate issue because it consisted of problems like the territorial division and management of property distribution. So as these problems are crucial aspects of the lives of both Cypriot parties, they have had a big influence on the vote

of the plan. (Platis, Orphanides, Mullen 2006, 33) The territorial division of the island and the redistribution of property were two important aspects of the plan which tried to find a solution to the property aspect of the Cyprus problem.(2006, 44)

As in the previous settlement attempts on the island, in the Annan Plan, access to property, property claims, disputes and the use of property were the issues that an agreement could not be achieved. (Sert 2005, 2) However, regulation of the property rights was an important part of the latest version of the plan (2005, 12)

The plan's property provisions did not leave anyone empty-handed. For example, for the people who were displaced, the plan provided the realization of their rights in such forms as reinstatement, sale, exchange, lease or compensation. For the current users of the properties, who themselves also had properties, they would have the right to claim their properties. Even those who did not have any property left behind, would also have an assistance in the form of housing or financial aid. Garlick points out that the plan's recognition of everyone affected by the displacement showed the plan's balanced approach of recognition of ownership rights and humanitarian concerns (5)

The Annan Plan included detailed provisions for a property regime and a territorial adjustment. In these provisions, the Turkish Cypriot territory was proposed to be reduced to 29 percent which at the time the plan was proposed, the territory of the Turkish Cypriots was around 36 percent. These propositions would make an increase in the Greek Cypriot territory. After the adaptation of these provisions, 54 percent of the displaced Greek Cypriot population would return to their original homes and the properties under the Greek administration. In the territorial adjustment areas, properties would be reinstated to its previous owners but in other areas, property rights would be exercised partly by reinstatement and partly by compensation.(Özersay, Gürel 2006, 365)

The Annan Plan proposed a property regime which dealt with properties that were affected from the events since 1963. The property provisions of the plan included schemes that offered alternative properties to individuals, excluding the reinstatement of the properties that would be used for public purposes. The emphasis was on issuing bonds for compensation and paying compensation rather than reinstating property to owners when the property was somehow developed. (Gürel, Özersay 2007, 243) These provisions will be detailed in this chapter.

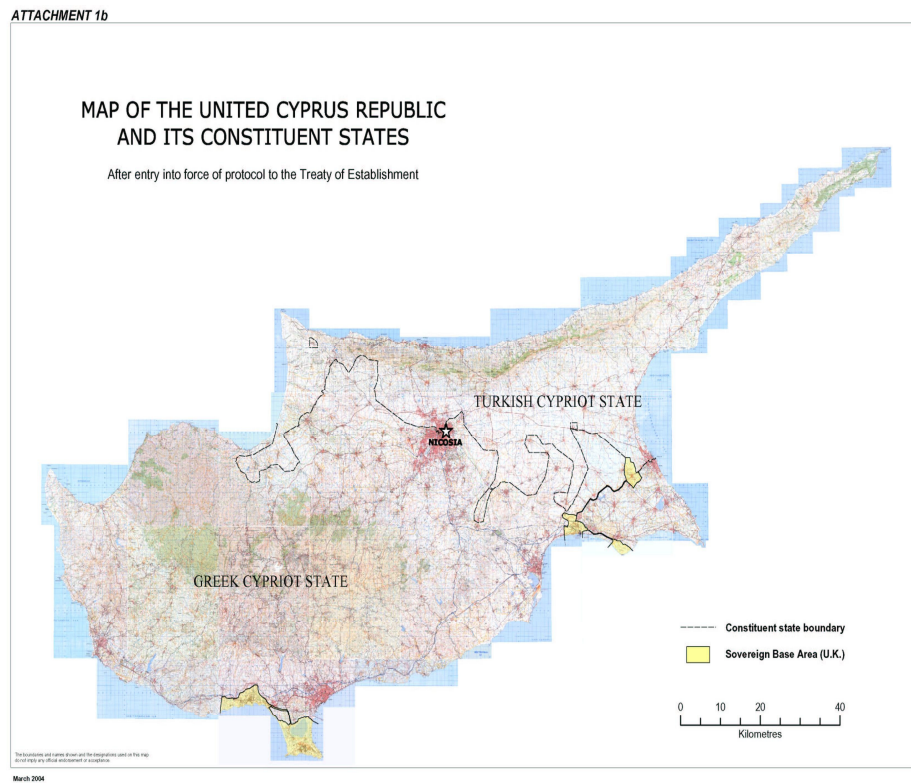
The Annan Plan proposed the formation of an impartial and independent Property Board on the island. This was a right step according to Sert since both sides on the island did not trust each other's impartiality. So, in the case of reunification this would constitute a problematic issue between the two 'constituent states' if the impartial board would not be formed. (Sert 2005, 2)

In the Annan Plan, the Property Board was empowered to receive claims and make decisions about the affected properties. Dispossessed owners of property would have to file claims to the board in which they have to specify how they wish to exercise their rights of property. They could select from three options which would be; compensation, reinstatement into possession or sale and exchange or long term lease arranged by the Property Board. (Garlick, 6)

The 'choice rule' provides a situation where the redistribution of properties is not centrally decided by the property board and hence it offers a choice that makes the system more flexible. This argument is mentioned by Didier Pfirter, the Legal Adviser of Secretary General's Mission of Good Offices of the UN, in an interview he gave to the newspaper *Lefteris Adelinis* where he says that in the 'final version of the Annan Plan, the property provisions and management is easier and more functional' (A Failed Attempt of Conflict Resolution: The Case of Cyprus)



The Annan plan proposed to change the borders that divide the two communities on the island by moving some of the territory that was part of the Turkish Cypriot part towards the Greek Cypriot's administration. (Platis, Orphanides, Mullen 2006, 45) The greatest enlargement of the Greek Cypriot land would be in Morphou and around the town in the western part of the border. Also in the eastern border of the island there would be significant changes since the border would be changed into an irregular and longer one than the existing status in the island. In Attachment I of the Annan plan there is the map which shows the proposed borders of 'the two constituent states' which shows the proposed borders.



**Map 1:** Map of the United Cyprus Republic and its Constituent States.

Source: (Annan Plan Attachment.1b)

Property management rules differed according to the belonging of the areas subject to territorial adjustments that the plan proposed. ( Annan Plan Foundation Agreement: Main Articles 10)

The Plan also proposed some measures in order to protect the current users of the properties that could be reinstated. In Article 8 of the European Convention on Human Rights, it is guaranteed the right to respect for private and family life, home and correspondence. (ECHR 1950) As it can be realized, although the plan proposed changes in both sides, it also included provisions that would benefit or, as mentioned before, protect the current users of the properties in question.

Now the property provisions of the Annan Plan V will be detailed in order to Further understand the outcomes of the Plan if accepted.

## **5.3 FOUNDATION AGREEMENT**

### **5.3.1 ARTICLE 10 PROPERTY**

In the Foundation Agreement of the Annan Plan, Article 10 dealt with the property issues. Article 10 of the Main Article Section summarized the property regime of the plan. With the annexes to the plan, the property regime was further detailed and explained.

The aim of the Plan was to handle the claims of the dispossessed persons in accordance with international law, respect for human rights of both the dispossessed owners and current users, and the principle of bizonality.

According to Article10, in the areas subject to territorial adjustment, the properties would be reinstated to their dispossessed owners. But in the areas that are not subject to territorial adjustment, there would be some arrangements about issues of exercise of property rights like reinstatement or compensation.

The dispossessed owner or an institution who choose to apply for compensation would receive full compensation of his/her property on the basis of value of the dispossession time which would be adjusted to reflect appreciation of property values in similar comparable locations. The compensation would be paid as guaranteed bonds and appreciation certificates. (UN Annan Plan Article 10 2004)

All other dispossessed owners would be entailed to the reinstatement of one-third of the value or the land of their total property. And they would receive compensation for the remaining two-thirds of their property. However, if a person has a dwelling that he/she has built or lived in for at least ten years, then he/she has the right of reinstatement. Also he/she has the right up to one donum of adjacent land even though this numbers exceed the one-third value or area of his/her properties. (UN Annan Plan Article 10,3b )

The 1/3rd Rule was introduced for the Greek and Turkish Cypriots, who cannot enjoy full restitution rights on the territorial adjustment proposals in the plan. According to this principle, persons “who lost property located in the other constituent state could get back up to 1/3rd of their property (in value and area) and be paid compensation for the rest in guranteed bonds and appreciation certificates that ara backed up by real property assets and are likely to appreciate considerably over time”. (Annan Plan Annex VII Article 16)

There are some preconditions in order to benefit from the one-third rule. For instance, a person must have had a land of at least 15 donums in 1974. The reason of this is that the 1/3 rule requires at least five donums to be the 1/3 of the land a person must have had in 1974. Sert points out that the 1/3rd rule does not apply to houses if the person has built the house and/or lived in it for ten years before 1974. In this case, the person would get full restitution of his/her property. (2005, 15)

As Garlick states, a former UN officer defined, the aim of these detailed and strict provisions' aim as to enable displaced persons to regain their homes, which have emotional and historical importance to them, but still keeping in mind the economic and practical interests of both sides.(15)

When there would occur the circumstance that a dispossessed property had been exchanged by a current user or bought by an improver of the property, then the dispossessed owner would not be able to claim that property for reinstatement. Instead he/she would have the right to get another property of equal size and value that is in the same village or municipality. He/she also could sell his/her property to an owner from the same place who may unite with his/her own property entitlement. (Annan Plan Article 10, 3c)

A current user of a dispossessed property, due to the administrative decisions, may gain the title of that property if he/she agrees to renounce his/her property that exists in the other constituent state where he/she was dispossessed from of the same value. (Article 10,3d)

If a person has made significant improvement to a dispossessed property, then he/she would be able to apply for a title of the property on the condition that he/she would pay for the value of the property in its original state.(Article 10, 3e)

A current user of a dispossessed property who is a Cypriot citizen, would not have to vacate the property in question until adequate accommodation has been made available to him/her. (Article 10, 3f)

No direct dealing between individuals would be necessary because all property claims would be received and administrated by an impartial Property Board, which would consist of equal members from each constituent state and non-Cypriot members. (Article 10,4)

## **5.4 ANNEX VII**

### **TREATMENT OF PROPERTY AFFECTED BY EVENTS SINCE 1963**

With Article 10 of the Foundation Agreement, the property issue in the Cyprus problem was targeted in order to be solved. However, it was not very specific and detailed. So with the Annexes to the plan, the proposed property regime would be understood better in a detailed way.

Annex VII and its attachments aim to deal with the properties which were affected by the intercommunal strife, military action and the division of the island since 1963 onwards until all matters according to properties would be covered by these provisions. (Annan Plan Annex VII Article 1/1)

These property provisions would be implemented by the Cyprus Property Board and its divisions, as the Claims Bureau, The Cyprus Housing Bureau and The Compensation Bureau. (Annex VII Article 2)

The Churches and Evkaf would be entitled to the reinstatement of any property that they owned, and was used as a religious site in 1963 to 1974. The Churches and Evkaf would be entitled to these rights within 3 years of entry into force of the Foundation Agreement. (Annex VII Article 4) The properties owned by institutions, other than the religious sites, would be transferred to the Property Board in exchange of compensation. (Annex VII Article 9)

In the Annex VII it is mentioned that since the Foundation Agreement provides a domestic remedy for the affected dispossessed properties, then the United Cyprus Republic would be pursuant to the Article 37 of the 1950 European Convention to the Protection of Human Rights. The Republic would inform the ECHR that the United Cyprus Republic would be the sole responsible party about the property claims. The United Cyprus Republic would ask the ECHR

to strike out any proceeding concerning the property issue. (Annex VII Article 5, p2)

In the case where, a property could be used for public benefit purposes upon entry into force of the Foundation Agreement, the property would be transferred to the Federal Government or to the relevant constituent state where she would be entitled to pay the current value of the property to the Property Board. (Annex VII Article 10)

If an affected property would be required for military purposes, then it would be transferred to the constituent state where it is located. The current value of that property would be paid to the Property Board by the relevant constituent state. (Annan Plan Annex VII Article 11)

The dispossessed owners of properties that would not be reinstated according to the above mentioned provisions, would be entitled to compensation. (Annex VII Article 8, p4)

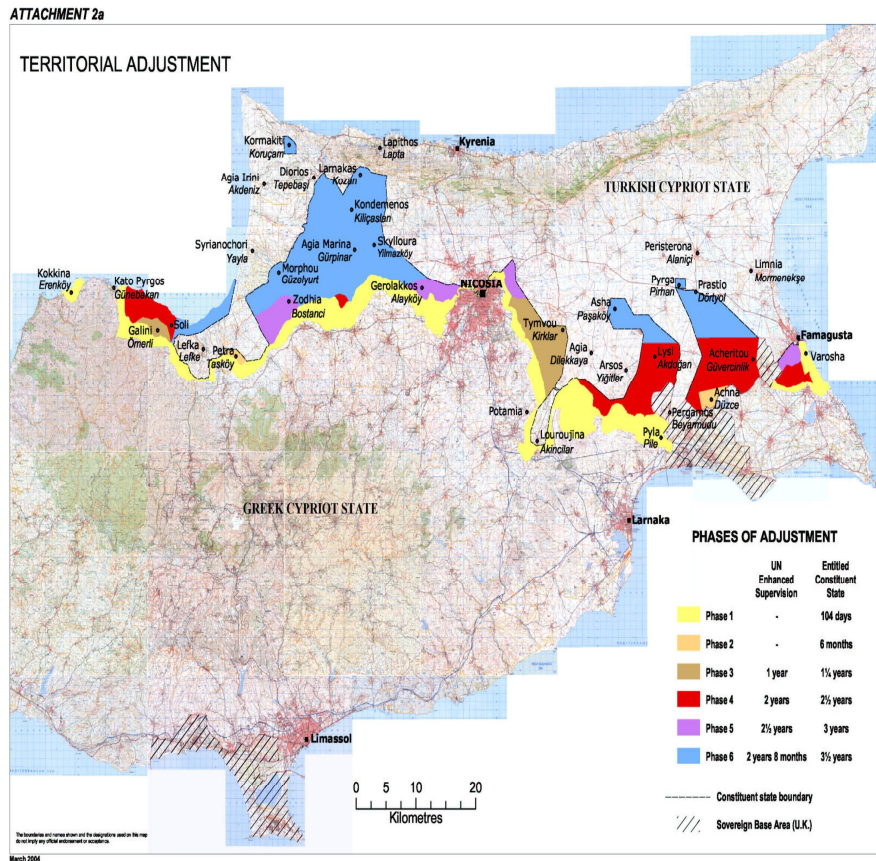
#### **5.5 ATTACHMENT IV PROPERTY LOCATED IN AREAS SUBJECT TO TERRITORIAL ADJUSTMENT**

Since the beginning of the intercommunal talks between the two sides, the Greek Cypriots argue the importance of maximum number of displaced persons to return to their former homes. With the provisions of the plan about the territorial adjustments, more than half of the Greek Cypriots, who were displaced, and their descendants could get their properties reinstated and live under the Greek Cypriot administration where areas would be handed to them after 3 ½ and 42 months after the plan enters into force. (Annan Plan Attachment IV)

In areas subject to territorial adjustment, dispossessed property owners would be entitled to reinstatement. The Property Board would give the final decisions of reinstatement and would order reinstatement as soon as the current user has been relocated, but 'no later than three years after into force of the Foundation Agreement'. (Attachment IV, Article 2)

According to Annan V, the territory that presently is not under the control of the Republic of Cyprus, would become part of the Greek Cypriot State, which would be one of the constituent states that the plan proposed. So, these areas would be subject to the process of territorial adjustment. If a solution could be achieved, the properties would be reinstated to their original owners. After these arrangements, around half of the Greek Cypriots, who were dispossessed, would get their properties back. (Platis, Orphanides, Mullen 2006, 3)

The areas subject to territorial adjustment and how this process would be implied is clarified with the map below which is an attachment to the plan. As it can be observed, the arrangements were not planned to be achieved on a single date. On the contrary, there would be time phases of the adjustments planned.



**Map 2:** Territorial Adjustment

Source: (UN Annan Plan Attachment 2a)

In the fifth and latest version of the Annan Plan, property return provisions for the displaced persons whose property was outside the areas of territorial adjustments, were further clarified. All the dispossessed persons would have one third of the value or land of their total property ownership. Also, as mentioned in the Security Council 4940th meeting, these persons who benefit from these provisions would receive a full compensation of the remaining two thirds of their property ( United Nations 2004)

About the one-third rule for reinstatement, there would be some provisions for large land owners where there would be a lease obligation for a dispossessed land owner who would get more than 100 skales/donums. Then they would



have to give to long term lease (20 years) anything that exceeds 100 skales to the current user or to another person in the constituent state. The lease price would be addressed by the Property Board based on market prices. However, if no lease could be achieved, then the dispossessed owner would have full use of the property in question. (Platis, Orphanides, Mullen 2006, 4)

When an agricultural land were in question for reinstatement of one-third, there would be a 'minimum size' requirement. If the land would be divided into plots less than five skales/donums or less than 2 skales/donums for the irrigable lands, Then such land would not be reinstated. When a situation like this occurred, then the owner would be able to sell his entitlement for reinstatement to another dispossessed owner from the same municipality or receive compensation. (Platis, Orphanides, Mullen 2006, 5)

In the cases where dispossessed owners who would not receive back the one-third of their properties because of the above mentioned conditions and exceptions or a voluntary action of giving the property to current users, then they would be entitled to receive another dwelling in the same village or municipality. (Annan Plan Main Article 10(3)) Or, they could exchange their entitlement with the Property Board in order to receive an equivalent property in the same village or a neighbouring municipality, or receive compensation for their dispossessed property. (Platis, Orphanides, Mullen 2006, 5-6)

## **5.6 COMPENSATION BONDS AND APPRECIATION CERTIFICATES**

In the situation where a dispossessed property's owner's property could not be reinstated, then he/she would firstly receive 'claim receipts' that would indicate the current value of their property in the Property Board's portfolio. After five years of entry into force of the settlement then he/she would be able to exchange these claim receipts for 'interest-bearing compensation bonds with 25 years of maturity and property appreciation certificates'. (Platis, Orphanides

and Mullen 2006, 6) Also, this user would be able to use his/hers certificates for the purposes of purchasing property located in their own constituent state. (Annex VII Attachment II Article 18(3))

The Property Board would hold the reinstated properties in its portfolio in order to lease it at market prices or to dispose it. The revenues of this management would be deposited in the Compensation Fund. (Annex VII Attachment II Article 9(4))

The Compensation Fund would be established in the Central Bank of Cyprus. The Federal Government would give a loan of CYP 100 million to the fund to have an initial capital, but this amount would be returned to the Federal Government when the bonds would be redeemed. Also according to Annan V, there also existed a possibility to receive contributions to the fund by international donors. (Annex VII Attachment II Article 17)

The holders of ‘property appreciation certificates’ would be able to receive any revenues from the sales and lease of the properties after all bonds had matured. (Annex VII Attachment II, Article 18(6))

## **5.7 ALTERNATIVE ACCOMODATION**

Annan V aimed to create an alternative accomodation for the affected population who would be relocated. The current users’ situation would be guaranteed with taking into consideration their occupations, communities they belong to, their financial situations and capabilities, health, etc. (Annan Plan Annex VII, Article 5(1)) This would be achieved by the Relocation Board, which would also cooperate with international agencies. (Platis, Orphanides, Mullen 2006, 7)

Since the Turkish Cypriots feared from a mass return of the Greek Cypriots to the Northern part, with the application Annan V, which was a different and a revised form of Annan III and IV, their numbers could be restricted to a greater number compared to Annan III. In Annan V, they could constitute only 18%

percent of the population but this would happen over a period of 19 years. However, eventually the Greek Cypriots could constitute a third of the population. This term would also be bounding for the Turkish Cypriots who would return to the South. But since the Turkish Cypriot population is smaller than the Greek Cypriots, this would not be regarded as a huge threat to the South.(Dodd 2006, 32)

The Turkish Cypriot state if so wished could put a moratorium on residence by the Greek Cypriots in the North before other provisions on residence came into effect. However, Dodd argues that effect of this option on other restrictions is not clear in the Plan (2006, 33) With the Annan Plan there would be a moratorium on reinstatement for all categories of affected property that would last five years for any occupied property in Cyprus. (Garlick, 8)

A new limitation would also be put on the purchase of immovable property by members of 'the other'community for a period of 20 years. Or in the Turkish Cypriot side's case, this time period would be until its economy reaches 85 percent of the per capita gross domestic product of the Greek Cypriot side .(Dodd 2006, 33)

About the issue of Turkish immigrants, who were about 45.000 plus their families, they would be able to stay in Cyprus with immigration limited in the future. (Dodd 2006, 33)

## **5.8 TURKISH CYPRIOTS' REACTIONS TO PROPERTY PROVISIONS**

The Turkish Cypriots had fears about the social and economic impacts of the Plan's property regime. With this regime, a large number of Turkish Cypriots would be relocated with the one-third reinstatement rule and exchange of properties between the parties. The Turkish Cypriots would have to pay over 4 billion CYP as compensation or in order to buy Greek Cypriot properties from

the Property Board. This would affect the economy of the TRNC, which is less developed than the southern part.(Gürel and Özersay 2005, 243)

According to Gürel and Özersay, despite the fact that the Turkish Cypriot side had approved the plan, they were ambivalent about the property regime of the plan (2005, 365). There were worries within the Turkish Cypriot community because with this property regime, around 70.000 of the Turkish Cypriots would have to be relocated due to the reinstatement of property or territorial adjustments. The Turkish Cypriots, as argued in previous chapters, were in favour of Global exchange and a compensation scheme which suited their idea of bizonality.

According to Gürel and Özersay, the ‘yes’ vote of the Turkish Cypriots did not mean the preferences on the property issue had changed. They argue that the Turkish Cypriots accepted the plan as a compromise. The reason of this was that, the Turkish Cypriot kept in mind the prospect of EU membership, they had the desire to join the system of international law and Turkey’s support for the plan led to the acceptance of the proposed settlement. (2005, 365) The Turkish Cypriots were also seriously concerned about the property related cases in the ECHR, which were brought by the Greek Cypriots. They were not comfortable about the fact that this would lead to a turn of the property situation back to the situation before 1974. Gürel and Özersay argue that the Turkish Cypriots regarded the Annan Plan’s property regime as a ‘lesser evil’ one than the ECHR’s judgements. So, they accepted to compromise to the plan taking into consideration this fact.(2005, 365)

## **5.9 GREEK CYPRIOTS’ REACTIONS TO THE PROPERTY PROVISIONS**

According to Lordos, many Greek Cypriots on the island thought that the Annan Plan’s property regime would have a disastrous impact on the island’s property market. (Lordos 2004 in Gürel and Özersay 2005, 365) The Greek

Cypriots, as mentioned in the previous chapters, thought that the 'right to return' and 'right to property' were issues that are non-negotiable. So the proposed property arrangements which would bring some restrictions to the exercise of displaced persons' property rights were against their 'inalienable right to full and unqualified restitution' (2005, 360)

According to Gürel and Özersay the Greek Cypriots regarded the Annan Plan's property regime as a violation of international law and the European conventions.(244) The Greek Cypriots argue that their human rights were not sensitively considered as those of the Turkish Cypriots in the Annan Plan. (Haladjian 2006, 5) With the 1/3 rule, different than Annan III, the Greek and Turkish Cypriots could regain 1/3 of their properties. For the Greek Cypriots this was considered as an improvement than the provisions of Annan III, but still they were not totally satisfied since they could not achieve full return of all the displaced persons to their lands. (Dodd 2006, 33) The Greek Cypriots rejected the plan because they were not happy about the limits placed on their right to property in the Northern part.

According to Platis, 'the many and complex reasons for the Greek Cypriot rejection of AnnanV were concerns about the property aspects of the proposed plan and what was perceived as its unpredictable impact on a reunited economy'. (2)

Also, the Greek Cypriots thought that since they were soon to access the European Union, they could continue to struggle for much better conditions and get a settlement closer to their ideal solution. (Gürel 366) Accession to the European Union would bring them a stronger hand in the negotiation process, so the 'No' vote would lead a way to better conditions in favor of the Greek Cypriots.

## **5.10 CRITIQUES TOWARDS THE PROPERTY PROVISIONS OF THE ANNAN PLAN**

The property regime of Annan Plan V and its earlier versions got many critiques from researchers who claimed that the property provisions were complex and had probable negative effects on Cyprus. The main issue of their criticisms was the Federal Government guaranteed compensation bonds. They were concerned about ‘the economic viability of the public finances of the proposed United Cyprus Republic’ (Platis, Orphanides, Mullen 2006,11)

In a report addressed to the government of the Republic of Cyprus, the researchers argued that ‘ the implementation of the treatment of the dispossessed owners proposed in the Annan Plan is not efficient or equitable’. ( Eichengreen et al. 2004, 26) The concern of this research was the problem of the value of the properties which was stated in the Foundition Agreement as being considered with their ‘current value’. This meant that the value of the property would be the value at the time of dispossession plus an adjustment that would reflect the appreciation since that time. (Annan Plan Annex VII Attachment I Article1) So, they argue that the prices that would be used by the Property Board would not reflect the value that the market would reach in the long run because the properties in the Northern part of the island would be higher without a division of the Island. This could create ‘inequities and recriminations’ by trying to ‘substitute rules to actual market values’ (Eichengreen et al 2004, 27) There would be inequities between the owners because there may be wrong determinations of the property value that the plan could bring.

Einchengreen et al mentions another scenario about the possible malfunctions of property management according to the Annan plan that the Federal State would face. According to them, if the state pays compensation to a dispossessed owner his two thirds of his property that could not be returned to him, it may be the case that the value of that particular property would be

lower after a few years. If this occurred, the government could be in loss of money because it would not be able to sell the property at a sufficient price as the amount of compensation paid to the dispossessed owner. Their argument on this probability is that the management of the property issue of the Annan plan would not leave enough time to the property market to function properly in order to stabilise the prices. (2004, 27) This economic risk of uncertainty, where the 'current value' could be higher than the market value, then 'the solution proposed by the Annan plan is likely to bankrupt the federal government at its very beginning'. (2004, 29) This shows that the 'financial considerations of the evaluation of the properties are not considered in a long term perspective in the property management of the Foundation Agreement'. (Platis, Orphanides, Mullen 2006, 54)

Market value is the price that a buyer would pay and the price that a seller would sell his/her property. So if 'current values' were higher than the market values, the Property Board would realise that its liabilities may be higher than its assets.(2006, 11)

With the process of reunification of the two parts in Cyprus according to the Annan Plan, there would be significant changes in the properties in the two parts. The territory that the Greek Cypriots controlled would increase to a significant level. Their area would include urban places like Famagusta and Morphou, including large portions of the plains of Morphou and Mesaoria.(2006, 15) So as Platis, Orphanides and Mullen point out, this would decrease the property supply in the jurisdiction of the Turkish Cypriot State. (2006, 17)

Under the provisions of Annan V, Cyprus would become a united bizonal territory habited by the Turkish and Greek Cypriots. This would make the issue of dispossessed property more complicated because of the reunification of two communities who have lived separately geographically, politically and

by administration for four decades. The economies of the two communities have operated differently since 1974 without having any relations.(2006, 23)

According to Haladjian, on the issue of property, the plan did not bring a satisfactory solution because a limited percent of people would be able to regain their properties. (38) She argues that the property legislation of the plan would have resulted on the property loss of two thirds of the properties of the displaced persons in the Northern part of Cyprus. There would be the fact that compensation to these displaced persons would come only from their government in Southern Cyprus. So, she points out that this would have affected the economy of the Republic of Cyprus and brought it to the level of TRNC' s economy. (38)

Another argument by Haladjian is that despite the plan's proposal that the persons who will not get their actual home would be compensated with a secondary residence, this may not be satisfactory since displacement of home would be another obstacle for a compromise. The proportion that would get their homes back in a period of time, would still not be satisfied because of the long time period since the Cyprus conflict dates back to about 40 years back. With an additional time period, some legal owners would not live enough to see this return.(39)

The Annan Plan's property proposals would not affect the entire population of the communities, however the people that were displaced, land holding refugees and their descendants in displaced areas would be greatly affected by the proposed property regime. (Argerious 2005, 31)

In the situation where bond maturation for the 2/3rd of the dispossessed land is 25 years, the dispossessed land owner would have to wait for 25 years in order to be reconciled for the entire worth of his/her land. Argerious mentions that in this kind of a situation it would not be enough to regain only the 1/3rd of property in order to make the estate fully functional. (2005, 32)



About the four variations of the 1/3 rule, the first two apply to all Cypriots, while the latter two apply to former Greek Cypriot residents of the villages of the Karpas area and some specific religious sites. In the case of religious sites, they would automatically be given back to the communities. (United Nations Annan Plan) In the case of the small land owner, if they have lived or built a singular house or apartment in a small plot of land, they would be able to reclaim the structure and up to one donum (1.338 meters square). (United Nations Annan Plan) These can be considered as provisions that tried to protect the small land owners, and have respect on the religious history of the both sides of the conflict. However there are other variations that could not be considered as very helpful for the interests of the dispossessed persons and the property issue.

In the 'the significant improvement exception' of the plan, if the current user of the dispossessed property had made some improvements on the property in question and hence raised the market value of the property and would be willing to pay the market value of the property as it was in its original state after 1974, then the occupier would gain legal title of the property. (United Nations Annan Plan) However, Argerious points out that there is no indication if the dispossessed owner would be able to pay for the improvement to the current user. So this 'hinders the chance of both the current occupant and the title holder to be treated on an even level and as equal citizens' (2005, 40)

In the public benefit exception, the land owner who claims his/her property would not have any course of political action to take, if the local government considered the land in question as being a public domain after the reclamation process has ended. (Argerious 2005, 41) So this could be another issue that would have confused and intimidated the voters in the referendum

The fourth exception was about situations where the decisions would be left to the Property Relocation Board. This exception may decrease the dispossessed refugee's power when she/he attempts to reclaim his/her property because with

this exception there may raise a need to have something more than a legal documented claim to have that claim validated. (Argerious 2005, 41)

Another stipulation in the plan that diminishes the young Cypriots' power to gain their claims. A person is required to be at least 10 years old at the time of displacement. This condition is required in order to gain compensation for not receiving his/her claimed property or to be able to receive an equal property in the same city or town as where his/her dispossessed property is located. Argerious argues that this could work against the claims of inherited property and land rights.(2005, 42)

In the minimum size requirement it is mentioned that, when an entire house, apartment or land is irrigated, it can not be divided into any amount less than two donums. Also non-irrigated lands that are meant for agricultural purposes, can not be divided into any amount less than five donums. (United Nations Annan Plan) According to Argerious this may go against the assumption proposed by the 1/3 rule where the small land owner would be able to regain his/her property. (2005, 42)

As it can be realized, these terms of the exceptions would highly confuse the people that would reclaim their dispossessed property their chance about if they could receive any actual allotment. Because an average person would not know if these stipulations would apply to their property if he/she reclaims it. So the ambiguity of the situaton would affect the voter because they would not be sure about the outcome they would get in regards of restitution of their property.

Argerious argues that the neutral voter would want to vote against the plan. Because he/she would still have his/her legal rights to property and a possibility to receive a better choice in the future that would not leave them in such ambiguity and risk that the Annan Plan would put them in. (2005, 46)

In this chapter the property provisions of the Annan Plan were defined. How these provisions would effect the Greek Cypriots and Turkish Cypriots and how did they critique these provisions were detailed. After the Referandum in 2004 and the decline of the Plan, this attempt to solve the property problems had failed. However, in the next chapters, the Annan Plan will be mentioned again since in the recent negotiations, the Plan's provisions are questioned for negotiating grounds.

## **CHAPTER SIX**

### **THE EUROPEAN COURT OF HUMAN RIGHTS AND THE PROPERTY PROBLEM**

#### **6.1 THE EUROPEAN CONVENTION ON HUMAN RIGHTS**

The European Convention on Human Rights is an international treaty which established the European Court of Human Rights and specified its functions and the rights and guarantees that the member states have to respect. The Convention could be signed only by the member states of the Council of Europe. The Convention and its protocols protect many rights as the right to live; the right to a fair hearing in civil and criminal matters; the right to respect for private and family life; freedom of expression; freedom of thought, conscience and religion; the right to an effective remedy; the right to the peaceful enjoyment of possessions and the right to vote and to stand for election. (ECHR 2003)

The Convention for the protection of Human Rights and Fundamental Freedoms was adopted in 1950 and entered into force in September 1953..The Convention was signed by 32 countries including Cyprus and Turkey. In this convention, the right to property is mentioned in Article 1 protocol 1 as; 'Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided by law by the general principles of international law' (ECHR 2003)

## **6.2 THE EUROPEAN COURT OF HUMAN RIGHTS**

The European Court of Human Rights was set up in 1959. The European Court of Human Rights is located in Strasbourg and its members consist of a number of judges which should be equal to the number of the member states of the Council of Europe who have ratified the Convention and its protocols. The number of countries that ratified the Convention is 45. However, the judges of the Court do not represent any member state. Lawyers from all member states also assist the Court as legal secretaries. But, these lawyers do not represent any applicants or their states and they assist as a Registry in order to deal with the applicants. (ECHR 2006)

The duty of the European Court of Human Rights' is to guarantee that states respect the rights set out in the Convention. Individual applicants or states complain to the Court and the Court examines these complaints and reaches a judgement if it finds that a member state has violated the rights set out in the Convention. (ECHR 2006) The judgements of the Court are binding for the countries bound by the Convention.

In order to lodge an application to the ECHR, a person has to use all national remedies of the state that they consider to apply against. This means that the person has to apply to the appropriate court of the State and to an appeal and even to a higher court if it is possible. After using all these national remedies, the person has to apply to the ECHR in 6 months from the decision taken at the domestic level. (ECHR 2006)

The Court examines an application and then, if the case complies with the above condition, the case is considered as admissible. Then the Court tries to reach a friendly settlement between the two parties. If there can not be a settlement, then the Court has to consider the application 'on the merits' and decide if there has been a violation of the rights protected by the convention. (ECHR 2006) In the cases where the court decides that there has been a violation of rights, then the

Court could require the State concerned to pay an award as 'just satisfaction' to the applicant. However, as it is pointed by the ECHR, the Court is not responsible for the execution of its judgments. However, the Committee of Ministers of the Council has the task of supervising the execution of the judgment of the Court. But there may be cases that the Court could consider as inadmissible. This decision would be final. (ECHR 2006)

The States that signed the Convention and agreed on its articles and protocols with Article 46/1 have to 'undertake to abide by the final judgement of the Court in any case to which they are parties' (ECHR 2006) If the Council of Ministers decide that the state concerned has taken all necessary measures, then it adopts a resolution pointing out that its functions under Article 46/2 have been fulfilled. The Council of Ministers would try to persuade the state concerned to execute the decision of the Court. (Council of Europe 2003)

The right of individual complaint to the court was not originally accepted by all the Contracting States. However, by 1990, all Contracting States accepted and recognized this right. (ECHR 2006)

There exists an enormous case load in the ECHR and a high number of applications by the Greek Cypriots are an important part of the Court's agenda. There are about 1400 applications by the Greek Cypriots, who complain of violations of the Convention by Turkey. Most of these cases concern the right to property.

The displaced persons in both parts of the island since they could not return or repossess their left properties, in order to regain their rights, applied to domestic and international courts. Since the de facto partition of the island, many displaced persons who owned properties on the other side of the island have died with the land titles registered in their names. (IDMC 2007) According to the Internal Displacement Monitoring Centre, while the displaced Greek Cypriots and Turkish Cypriots do not have basic humanitarian needs as housing and have

integrated to the places they have settled they still want to take their dispossessed possessions and to return to their properties (IDMC 2007)

The Greek Cypriots like the Turkish Cypriots have applied to the ECHR in order to get compensation and restitution for their properties that they left in the Northern part of the Island.

In many cases in which the Turkish Cypriots made claims on property in the South, first they had to demonstrate that they legally owned and inherited the property in question. According to Vroisha Yağmuralan Association, this process could last for several years and may not come to an end because there is the difficulty that many documents which are needed in order to transfer a will are in Greek. ( 2007) According to the Turkish Cypriot Human Rights Foundation, the Turkish Cypriots who tried to push their cases in the court system of the South have faced many obstacles like delays that can last for years and the fact that the applications to the Courts have to be in Greek like the Court hearings. So, the Turkish Cypriots may not be able to defend their cases as they could in their native language. (2007) Since the Turkish Cypriots exhausted local remedies, like the Greek Cypriots, they started to apply to the European Court of Human Rights for compensation and restitution rights from the Republic of Cyprus. (Turkish Cypriot Human Rights Foundation 2007) Erdoğan Durmuş, a Turkish Cypriot applied to the European Court Of Human Rights concerning his land in the South Cyprus village of Tatlısu (Mari) on which where a power plant was built. Emine Erk, the President of the Turkish Cypriot Foundation, points out that there will be similar cases filed by the Turkish Cypriots in the future. (Cyprus Observer, 2006) According to Sümer Erkmen, the reason why many Turkish Cypriots did not apply to the ECHR in order to get their property in the South of Cyprus is that they did not want to return to the South because they feel safe in the Northern part of Cyprus. She further adds that the displaced Turkish Cypriots received equal properties in the North that the Greek Cypriots left in the North. So they gave up their property rights to the Turkish Cypriot Government because they were satisfied with their new condition. (Interview 2008)

### **6.3 GREEK CYPRIOT CASES TO THE ECHR**

As it has previously been mentioned, in the Greek Cypriots idea of a peace settlement, the property issue has a huge importance. The principle of respect for human rights, which includes the three freedoms, is fundamental for a long term solution for the complete settlement of the Cyprus dispute. This requirement is necessary to in a way to reverse the consequences of the intervention by Turkey in 1974. According to the Greek Cypriots, there has to be a reinstatement of property to the Greek Cypriots who left their ancestral land in the Northern part of the island. (Gürel and Özersay 2006)

This opinion of the Greek Cypriots may be better understood by quoting the speech made by the Greek Cypriot president Tassos Papadopoulos at the Foreign Policy Association in New York in 15 September 2005

When I speak about reunification, I mean reunification of the territory, the society, the economy and institutions. When the Greek Cypriots rejected the Annan Plan, they did not reject a solution of the Cyprus Problem. They rejected that particular plan because it did not provide for the reunification of which I have spoken of before. There was not a reunification of the territory, of the economy, of the society; of the institutions- On the contrary it contained division and arrangements which would have perpetuated division. This, Greek Cypriots will never accept. (Gürel and Özersay 2006, 362)

So in accordance with their view on human rights and property, the Greek Cypriots to get their rights restored applied to the European Court of Human Rights by either various applications by individuals or directly by the Cypriot Government. What they expected was that the court would confirm that ‘Turkey’s occupation of Cyprus is unlawful’ and the Greek Cypriots should have the rights to their properties in the North.



The Greek Cypriots wanted the property right problems solved in citizen human rights based way rather to wait for an overall individual solution on the island. (Sezer 2006, 33-34)

In standard Greek Cypriot official statements, it is argued that the property issue should be solved in accordance with the decisions of ECHR. As Papadopoulos put in his speech in a seminar held in Limassol in 2004:

‘We will not abandon the rights of the Cypriot Citizens, as they were confirmed by the ECHR, and we will nor accept any settlement which will not be in line with the respect of the human rights of all Cypriots, Greek Cypriots and Turkish Cypriots, the fair solution of property issues, according to the ECHR’s decision, and the respect of the refugees’ right to return to their properties.’ (Greek News Online)

As it can be understood, the settlement of the property issues is a core component for an overall solutionoin the Island.

Turkey had accepted the jurisdiction of the Court of Human Rights in matters performed within the boundaries of the national territory of the Republic of Turkey in 1990. But the ECHR, by looking at Article 1 Protocol One, took notice of the large number of Turkish troops stationed in ‘the occupied lands’ when the Greek Cypriots applied as cases against Turkey because of their deprivation of right to property. The court noticed that the TRNC was not recognized by the international community and was not considered as a state. So, Turkey was considered responsible for the violation of rights in the TRNC. They considered Turkey’s obligation to secure the rights and freedoms set out in the convention in the Northern part of Cyprus. (ECHR 2001)

## **6.4 LOIZIDOU V. TURKEY**

(Application no. 40/1993/435/514)

Titina Loizidou is a Cypriot national residing in Nicosia. She complained that she could not access her property which she left in 1974 in Kyrenia, Northern Cyprus.

The application *Loizidou v. Turkey* was lodged with the Commission on 22 July 1989 and it was declared admissible on 4 March 1991. The Commission prepared a report on 8 July 1993 after attempting an unsuccessful settlement. And the case was referred to the Court by the Government of the Republic of Cyprus. The Government alleged that there existed violations of the applicant's property rights (Article 8 of the Convention) (ECHR Press Release 138) The Court decided that Mrs. Loizidou was entitled to a just satisfaction and for pecuniary damages the Court awarded her with CYP 300.000. For non-pecuniary damage the Court awarded Loizidou with CYP 20000.

On 18 December 1996, the Court gave its judgement on the merits where *inter alia* decided that the continuous denial of the applicant's rights was under the jurisdiction of Turkey. The Court also decided that there has been a breach of Article 1 Protocol No.1 because the applicant had lost effective control of use of her property and possibilities to use and enjoy her property in Northern Cyprus. (ECHR 1996) On 28 July 1998, the European Court of Human Rights decided that Mrs. Loizidou was entitled to an award in respect of pecuniary and non-pecuniary damage and legal costs and expenses. (ECHR Press Release 517, 29, 798)

This case was referred to the court by the Republic of Cyprus because ROC claimed that Turkey was violating the Convention of Human Rights in Cyprus because of the military operations and the continuing division of the territory of Cyprus after 1974. So, the Republic of Cyprus argued that Turkey was accountable of the alleged violations on the island since the 'TRNC was an illegal

entity according to international law'. However, the Turkish Republic argued that the TRNC was a sovereign, legal state which was independent from Turkey. So Turkey pointed that the allegations should be against the TRNC and that Turkey was not accountable under the Convention for the accusations which the Republic of Cyprus arguedt. (ECHR)

The Turkish Government, in its preliminary objections, claimed that the applicant had irrevisibly lost her property ownership right prior to Turkey's declaration of accepting the Court's jurisdiction in 1990. (ECHR Press Release 725) According to the Turkish Government, Mrs. Loizidou had lost her ownership when the TRNC, on 7 May 1985 with the Article 159 of its constitution, purported properties within the boundaries of TRNC, which were abandoned after 1975. But the Court considered the UN Security Council Resolution 541 and 550 where the TRNC was declared as a 'non-recognized' legally invalid state. Since the TRNC was not internationally considered as a state under international law, the 'Court could not attribute legal validity for purposes of the Convention to such provisions as Article 159 of the 'TRNC' Constitution and Mrs. Loizidou could not be deemed to have lost title to her property as a result of it'. (ECHR Press release 725) The Court dismissed the Turkish Government's preliminary objection *natione temporis* and held that the violation of the applicant's property rights under Article 1 of Protocol 1 was imputable to Turkey. (ECHR Press Release 725)

On 2 December 2003, Turkey executed the 1998 decision of the European Court of Human Rights regarding Titinia Loizidou. Turkey paid the just satisfaction awarded by the Court amount after 5 years of the judgement of the case and after Four Interim Resolutions 'condemning Turkey for its refusal to comply with the judgement of the Court' (Ministry of Foreign Affairs of the Republic of Cyprus)

Maud de Boer Buquicchio, the Deputy Sec. General of the Committe of Ministers of the Council of Europe, claimed that 'we are waiting for further clear indications on the side of the Turkish Government on how they can meet the

demands of Ms Loizidou which have been identified as being in breach of Article One of the First protocol to the Convention on ECHR' (Financial Mirror 2007)

According to the Cypriot Ministry of Foreign Affairs, 'Turkey's belated compliance with the 1998 ECHR judgement in the Loizidou v. Turkey case is of historic importance for Cyprus since it undeniably proves that Turkey accepts the ruling of the Court, namely that Mrs. Loiziou and all the other dispossessed owners for that matter, are still 'the legal owners of the land' and that Turkey 'actually exercises detailed control over that part of the island. In other words, with her compliance with the said judgement, Turkey accepts her responsibility for the continuing violation of the human rights of all Greek Cypriots. The execution of the judgement also proves that the secessionist entity, created by the use of arms, is a subordinate to Turkey local administration.''(Ministry of Foreign Affairs of the Republic of Cyprus) This argument shows how the Greek Cypriot Administration sees in the decisions of the ECHR as being in the same line with them.

In the European Court of Human Rights the case of Loizidou vs Turkey (Application no.15318/89) is a turning point where Turkey was found guilty because Loizidou could not return to her home in North Cyprus since Turkey had control of the Northern part of the Island. So, the court ruled that violations existed by Turkey to the property and human rights of Loizidou. Turkey had to pay 600.000 US dollars for violations, 400.000 US dollars for non-pecuniary damages and 244,168 US dollars for her costs and expenses.

In the case of Loizidou, Erkmen argues that Turkey did not make an efficient defense and had to pay a big amount of money, where with a good defense and agreement efforts, this sum would not be as much since she points out that Loizidou's property in the Northern part was not worth such a high value. (Interview 2008)

The Court found Turkey in breach of the human rights of the convention in the case of Loizidou vs Turkey (ECHR 1996) and ruled to maintain the applicant

who was a Greek Cypriot, Titinia Loizidou, her right to her property in the northern part of Cyprus (Gürel and Özersay 2006, 25) So the decision of the court made the Greek Cypriots confident that their view on the property issue was right about the illegal situation on the island since the division of 1974. The significance of this case was reflected in the statements for lobby of Cyprus.

According to the Greek Cypriots the significance of this case is not so much in its financial impact, but in the political repercussions of the decision. The idea of offering Greek Cypriot refugees the exchange of properties or compensation in order to surrender ownership of their land is dead. (Gürel and Özersay 2006)

### **6.5 CASE OF CYPRUS V. TURKEY (Application no. 25781/94)**

The application of Cyprus v. Turkey was brought to the ECHR on 22 November 1994. The ECHR declared the application admissible on 28 June 1996. The Commission appointed some delegates in order to take evidence on the application. This took place in Strasbourg (1997), Cyprus (1998) and London (1998). The Commission concluded that both parties could not come to an agreement and settlement. After this, the Commission adopted a report that included the facts of the case and expressed their opinions about the facts and the alleged breaches in 1999. (ECHR Press Release 341)

The case Cyprus v Turkey was referred to the Court by the Republic of Cyprus on 30 August 1999 and to the Commission on 11 September 1999. Then, the Panel of the Grand Chamber decided that this case had to be examined in the Grand Chamber. (ECHR Press Release 341)

The Republic of Cyprus accused and made allegations against Turkey about Greek Cypriot missing persons, home and property of the displaced persons in the North and the living conditions of the Greek Cypriots and Turkish Cypriot gypsies in the North part of the island. (ECHR Press Release 341)

The Grand Chamber of the ECHR delivered its judgement on the case on 10 May 2001 and the Court 16 votes to 1 held that Turkey's responsibility the complaints of Republic of Cyprus and that there had been 14 violations of the convention (ECHR Press Release 341)

The Greek Cypriot Government argues that 'Turkey's invasion in 1974 and the continued military occupation of the 35.83% of the territory of the Republic of Cyprus resulted in the violation of the human rights of thousands of people in Cyprus' (Ministry of Foreign Affairs of the Republic of Cyprus 2008) The Republic of Cyprus made four interstate applications to the ECHR against Turkey (1974, 1975, 1977, 1994) about the alleged violations of the Convention by Turkey. (Ministry of Foreign Affairs of the Republic of Cyprus 2008)

According to the Greek Cypriots, these cases and more importantly in the recent one of the four, the Court decisions showed that 'Turkey was guilty of violating numerous articles of the ECHR' and that this case proved to be of a great importance for the people of Cyprus and their struggle for the just solution of the Cyprus problem (Ministry of Foreign Affairs of the Republic of Cyprus 2008) In the decision of Cyprus v. Turkey (2001), the ECHR ruled and pronounced that Turkey had 'effective overall control over Northern Cyprus', so it was her responsibility to secure and protect the human rights under the Convention.

On the issues relating to property, the Court concluded that Turkey was in a continuous violation of the articles of the Convention like the right to respect for private and family life and home and protection of property because the Greek Cypriot owners of the property in the North could not access or enjoy their properties and return to their homes in Northern Cyprus. In addition, the court noted that there was a violation of right to an effective remedy which concerned the rights of the Greek Cypriots rights mentioned above. (ECHR 2001)

According to the Greek Cypriots, the issues of 'displaced persons, homes and properties' are very important parts of the Cyprus problem. The Greek Cypriots

argue that ‘the continuing and total denial of physical access of displaced Greek Cypriots to their property is a clear interference with their right to the peaceful enjoyment of their possessions (Ministry of Foreign Affairs of the Republic of Cyprus)

The Greek Cypriots argue that the European Court of Human Rights in its judgements in the *Loiuzidou vs Turkey* case (18 December 1996) and the fourth interstate application of *Cyprus vs Turkey* (10 May 2001), pointed that Turkey has been verdicted as responsible for the situation in the occupied area via having effective control with a large number of troops.

## **6.6 CASE OF XENIDES-ARESTIS V. TURKEY**

**(Application no.46347/99)**

Myra Xenides-Arestis is a Greek Cypriot who lives in Nicosia. This applicant owned half a share in a plot of land in Ayios Memnon, Famagusta (TRNC), which she was given by her mother. She had a shop, three houses and a flat on her land. She also owned part of a plot of land as an orchard. (ECHR Press Release, 761)

She argued that she was prevented from living, having access to using and enjoying her property in Northern Cyprus side since 1974 because of the military operations of the Turkish Armed Forces to the island. (ECHR Press Release 761)

The Court gave its principal judgement on 22 December 2005. The Court found continuous violations of Article 8 due to the denial of the applicant’s right to respect her home and of Article 1 of Protocol No.1 because the applicant could not access and enjoy her properties. (Procedure and Facts) In this principal judgement, the Court also held that ‘the respondent state must introduce a remedy which secures genuinely effective redress of the violations of the Convention identified in the instant judgement in relation to the present applicant as well as in respect of all similar applications pending before it, in accordance with the

principles for the protection of the rights laid down in Article 8 of the Convention and Article 1 of Protocol No. 1 and in line with its admissibility decision of 14 March 2005. Such a remedy should be available within 3 months from the date on which the present judgement is delivered and redress should be offered three months thereafter' (ECHR)

After the principal judgement of the ECHR, 'TRNC' enacted a new compensation law called 'Law for the Compensation, Exchange and Restitution of Immovable Properties' (Law no. 67/2005) This law entered into force in December 2005 and a 'By-Law made under sections 8(2) (A) and 22 of the above law entered into force on March 2006('Law no. 67/2005') Also an 'Immovable Property Commission' was established under this law in order to examine applications on properties within the 'Law no.67/2005'. The Immovable Property Commission started to work in March 2006 (Cyprus Mail 2006). So the Parliament of the TRNC actually aimed to create a local remedy for the Greek Cypriots' property cases. (Sezer 2006, 34)

At the Admissibility stage of this case, the Court examined the implementation of the Compensation Law (Law no.49/2003) enacted by the Turkish Republic of Northern Cyprus but ruled that the remedy proposed by this law was not 'effective or adequate' for the complaints of the applicant Xenides Arestis. (ECHR 2005)

The Court 'welcomed' the steps that the Turkish Government took in order to provide redress for the application's rights in similar cases. Also, the Court 'noted' that this compensation mechanism had fulfilled the requirements of the Court's decision on admissibility (14 March 2005) and its judgment of 22 December 2005. (ECHR)

Xenides-Arestis and the Turkish Government could not reach a friendly settlement on just-satisfaction. So, the Court could not further examine the effectiveness of the remedy in detail. (ECHR Press Release) And the Court



argued that it could not accept the Government's argument that Xenides-Arestis had to apply to the Commission, since the Court had already decided on the case on the merits. So, the Court determined a sum of money in order to compensate losses resulting from the denial of access and loss of control, use and enjoy her property. (ECHR Press Release 761)

The judgment of the Chamber, which dealt with the issue of just satisfaction in this case, Under Article 41 of the Convention, was as awarding the applicant 80.000 Euros in respect of pecuniary damage, 50.000 Euros in respect of non-pecuniary damage and 35.000 Euros for costs and expenses.(ECHR Press Release 761)

The property case of Xenides-Arestis brought to the ECHR has been concluded on a decision where Turkey has to pay an amount of 885.000 Euros by the date of 22 August 2007. Turkey and Xenides- Aresti requested to take this decision to the plenary, but the ECHR' chamber decided on not to refer this case to the plenary of the Court. So the decision of the chamber is the final and it is in the same idea as the decision of the court in December 2006, where the Court decided that Arestis' right to property has been violated. According to Financial Mirror, with the decision, Turkey would not be able to claim rights on the properties in the fenced area of Fomagusta. According to the Greek Cypriot media, 'Arestis has vanished the legality of the property commission established in the TRNC'. (Financial Mirror 2007)

The Property Commission had also produced a decision for the Arestis case at the ECHR. The Commission offered to pay a total of 460.000 CYP (Cyprus pounds), 220.000 CYP of this for the property and 240.000 CYP for the loss of income, to Arestis who applied to the ECHR requesting compensation for her former property in Varosha. (Arca Haber Ajansı)

## **6.7 CASE OF EUGENIA MICHAELIDOU DEVELOPMENTS LTD AND MICHAEL TYMVIOS V. TURKEY**

### **(Application no. 16163/90)**

Eugenia Michaelidou Developments Ltd. is a private company registered in Nicosia on 3 July 1986. Michael Tymvios, who is the second applicant, is the director and the main shareholder of the first applicant company. In April 1988, the second applicant became the owner of property of 51 plots of land in Nicosia and in April 1996 he became the only owner of this property. (ECHR Press Release 414)

These applicants complained that they could not access, use or enjoy their property in Northern Cyprus because of the Turkish authorities. They argued that Turkey was violating the Articles 1,8,14 of the Convention, Article 1 Protocol 1 and articles 2, 3 of the Protocol no.4. (ECHR Press Release 414) These applications were transmitted to the ECHR in 1998 and on 8 June 1999. The application was considered as 'admissible' (ECHR)

The Court did not depart from the conclusions in the Louzidou v. Turkey (App. No. 15318/89) and Cyprus v. Turkey (no.25781/94) in which it reached to the judgment that there had been a continuous violation of the right to access, control, use and enjoy their properties on the Northern side (ECHR Press Release 414)

The Court argued that there had been a violation of Article 1 of Protocol no 1 by Turkey. The Court awarded Mr Tymvios 8,480 EURO for costs and expenses.

The Turkish Government made an objection that the applicants could apply to the TRNC since the 'Law on Compensation for Immovable Properties in Northern Cyprus' was enacted on 2003. However, the Court rejected this objection arguing that this law was enacted after the application was declared as admissible by the Court (ECHR)

According to Sümer Erkmen, the Head of the Immovable Property Commission, the commission's greatest achievement was to attract the Tymvios case. Tymvios wanted to retrieve his case from the ECHR and agreed with the Commission. Although the Tymvios v. Turkey case was decided in favor of Tymvios in the ECHR in 2003, Tymvios also applied to the Immovable Property Commission and reached an agreement where the applicants agreed to give up their rights of the 51 plot of land in the Northern part in exchange of having a land of 22 donums in Larnaca which used to be a Turkish Cypriot property left after 1974. Also, Tymvios would receive 1 billion US dollars as a monetary compensation. (Kıbrıs Postası 2008)

The Tymvios v. Turkey case and the case of Demades v. Turkey case were met in the high court of the ECHR on 1 April 2008 in Strasburg. The Tymvios case was cancelled by the Court according to the request by Micheal Tymvios, who reached a settlement with the Immovable Commission in the TRNC. The Tymvios Decision to pull out his case from the ECHR is considered as a huge disappointment for the Greek Cypriot Administration since ECHR has accepted the agreement between Tymvios and the Property Commission as a legal decision. (Kıbrıs Postası 2008) So, we can observe that actually the ECHR does not want to be with any side on the island on its decisions. But, it is a huge achievement that now the Commission's efforts are not neglected for the good of the Greek Cypriots.

The Greek Cypriot Administration argued that the properties left by the Turkish Cypriots in Southern Cyprus are under the administration of the Republic of Cyprus. So, without the consent and approval of the Greek Administration, this exchange of property could not be regarded as legal. But the ECHR did not take into consideration this opposition of the Greek side. Still, the Greek Administration argued that Micheal Tymvios was in a bankruptcy and the administration of his properties was in a guardian appointed by the Nicosia Greek County, District Court. So, he did not have any 'saying' on his properties in question and that an exchange was not possible. But the court pointed that this

argument was put forward after the decision of the court, so the court would not take into consideration. And the Court ruled to the cancellation of the case against Turkey. (Kıbrıs Postası 2008) (ECHR) (Arca Haber Ajansı 2008)

The Greek Cypriot Administration did not want the ECHR to accept the agreement between a Greek Cypriot citizen and the Turkish Immovable Property Commission. Greek Cypriot Parliament members warned the society saying that ‘the approval of such a verdict by the ECHR will surely be a case-law and sample for other cases which may cause a dangerous turn in the Cyprus Problem’ (Cyprus Observer, 2007)

This is a big gain for the Turkish Cypriot side and Turkey because the Greek Cypriot side does not want to accept the exchange of property. The willingness of the Turkish Cypriot side on cooperation and their aim to solve the property problem will be recognized by international actors. And sympathy would rise in the international arena for the Turkish Cypriots. The unwillingness of the Greek Cypriot Administration would be perceived as a negative attitude towards a solution regarding property problems.

‘Government Spokesman Stephanos Stephanou said that the Cyprus problem can not be solved in the courts but through comprehensive negotiations that will lead to a mutually accepted settlement.’ (Cyprus News Agency 2008) This has to be considered as a big change of the Greek Cypriot Administration’s policy. Because before the Government encouraged its citizens to apply to courts in order to get judgments that would accuse Turkey for the Cyprus problem. But, since now the decisions of the ECHR are not considered as in favor of the Greek Cypriot side, like the case of Tymvios, then their reliance on the judgments has changed. The Greek Cypriots considered the decisions of Loizidou and Arestis as indicators that the Turkish Cypriots and Turkey are responsible from the problems in the Island. They also argued that these decisions proved that the Greek Cypriots were the ones that suffered from the ongoing situation in the island.

## **6.8 DEMADES V. TURKEY (Application No. 16219/90)**

John Ioannis Demades was a Greek- Cypriot who was living in Nicosia. He argued that he was the registered owner of a two storey house on a land located in the district of Kyrenia in Northern Cyprus. He stated that, since of the Turkish armed forces located on the island, he had been prevented from access to use and enjoy his property since 1974. He argued that there was a violation of article 8, 13 and article 1 the Protocol No.1 (ECHR Press Release 414)

Mr. Demades applied to the Court in January 1990. The Court declared the application admissible on 24 August 1999. (ECHR) The Court decided that there had been a violation of Article 1 of Protocol No. 1 of the Convention like in the Tymvios case.

In the case of Demades v. Turkey, the court unanimously awarded the applicant with a 'just satisfaction' of 785.000 Euros for pecuniary damages and 45.000 Euros for non-pecuniary damages and 5000 Euros for cost and expenses. (ECHR 2008)

The Loizidou case was an important way for other cases to come to ECHR, such as Cyprus vs Turkey, (Application no. 25781/94), Xenides Arestis vs Turkey (Application no.46347/99) .The Arestis case is very important because it led to the decision of ECHR about forming the law on Compensation for Immovable Properties Located in the TRNC . The Immovable Property Commission was set up with the aim of creating an internal law procedure for property issues in line with "The Law on Compensation, Exchange and Restitution of the Immovable Property", which after long debates was approved and put into force on 19 December 2005. The Commission is responsible for implementing the law which envisaged compensation, exchange and restitution of the former Greek Cypriot properties in North Cyprus. Since there are over 1500 cases against Turkey pending in ECHR against Turkey, this commission was seen as a national remedy which could solve this problem. The European Court of Human Rights has

announced its final verdict on the Arestis Case on 7 December 2006 and accepted the Immovable Property Commission which was established in the TRNC, as an “internal law procedure“(domestic remedy). So we can realize that the decision is expected to affect the future of more than 1400 Greek Cypriot cases at the ECHR. (Arca Haber Ajansı)

## **6.9 THE IMMOVABLE PROPERTY COMMISSION IN NORTHERN CYPRUS**

The first Immovable Property Commission was formed in 2003. But the Law which the first Commission based did not include restitution of a property. And the ECHR did not consider this remedy as an effective tool that would satisfy the displaced persons. The law that established the first Commission was changed in 2005. The new law was enacted in December 2005, and in March 2006, the new Property Commission started to work. With the changes in the law, now restitution and exchange was also possible. The commission consisted of 5 Turkish Cypriots and two foreign members. In order to meet the requests for impartiality, in the formation of the second Commission, any member should not have any relation with the left properties in Northern Cyprus. (Law No.67/2005) The two foreign members of the Immovable Property Commission do not reside in Cyprus. They come to Nicosia when their assistance is required by the Commission. One of them is of Swedish origin and the other member is French. (Erkmen Interview 2008)

The Property Commission acts as a court. A Greek Cypriot applies to the Commission in the case where he/she demands a compensation or restitution of his/her property that he/she left and could not enjoy or live in since 1974. The Property Commission was formed according to the Article No. 159 of the TRNC Constitution. Its formation, procedure and rules are specified under this article and by-law that can be seen in the Appendix section of the thesis. Any Greek Cypriot who accepts this situation is not considered to have rights regarding property in Northern Cyprus. (Erkmen Interview 2008)

The applicants to the Commission should prove that he/she owned the property in question or that he/she inherited this property from a displaced Greek Cypriot owner. The necessary conditions and documents that are required are listed in the application form to the Commission which is added to the Annex section of the thesis. When the Commission receives the necessary documents, they analyze them and give the documents to the Attorney General and to the related parts of the State in order to examine the documents and decide if the claim is true. The current situation of the property is also examined. That is to say, according to the Property Law, 'The real properties which the right of ownership or use do not belong to any real or legal individuals and do not have any interests for the national security, public order or interest due to its place and attributes are offered restitution at once. If the verdict concludes that the restitution is for allocated, occupied or developed properties, the return of the property is delayed until the solution of the Cyprus problem. Properties with equivalent values are kept in restitution consideration.....If the verdict concludes payment of compensation; it is paid by the Ministry of Internal Affairs in the name of the state. (Cyprus Observer 2006) Also there exists the option of exchange where the Greek Cypriot may receive a property of the same value in the Southern part if he gives up his property right in the Turkish Cypriot side. (Law No. 67/2005) However, Sümer Erkmen, in her interview points out that, the exchange of a property is not a useful decision since the Greek Cypriot Administration would not accept the decision of the Turkish Republic of Northern Cyprus because the Greek Administration would consider the decision as illegal. (2008)

After 1974, The Turkish Cypriot Government nationalized the properties of the displaced Greek Cypriots. According to Sümer Erkmen, this fact is not recognized by the world and the displaced persons want the return of their property rights. So, the Immovable Commission tries to be an effective tool to solve these property issues. She points out that the Greek Cypriots who applied to the ECHR did not apply to get compensation and give up their property rights in the North. They aimed full restitution of their property and a sum of money for 'loss of use' since they could not enjoy, use and live on their property. So they expected

enormous amounts of money for compensation. The Immovable Property Commission tried and wanted to draw these cases to themselves and hence to reach more reasonable agreement terms. (Erkmen Interview 2008)

The applicants to the Commission so far have preferred the compensation option most of the times. This is because they know the difficulties that they would face in case of restitution or exchange. The Commission has solved all its cases through a friendly settlement between the Greek Cypriot applicant and the Ministry of Interior. If the two parties do not agree on the amount of compensation, he/she can cancel his/her application to the Commission. But still his/her property rights would remain. The Immovable Property Commission does prefer to reach a friendly settlement between both parties. And as Erkmen points out, the court, in all the cases that it gave a decision it based on a friendly settlement by the two parties and not a court decision. The Commission can act as a court but she addresses that this court process may be too long and a friendly settlement would solve the problem in a shorter amount of time with less efforts a court process would take. Erkmen says that although there are oppositions from the Turkish Cypriot side to the Commission, the law would not put the Turkish Cypriots who will be affected by the Commission's decisions through any unjust treatment or condition. (Interview 2008)

Although the Immovable Property Commission is considered as a local court of the Turkish Republic, Erkmen points out that the commission is an organ of the Turkish Republic of Northern Cyprus. So, the Greek Cypriots do not want to apply to the commission because in a way they feel that they are recognizing the 'illegal government' in Northern Cyprus. The Greek Cypriot government does not want its citizens to apply to the Commission and as she argues, the ones who apply are considered as 'traitors to the Republic of Cyprus. (Interview 2008) In order to increase the number of applicants -as it can be seen in the application form to the commission in the Annex C, the commission keeps the names of the applicants as confidential.



Erkmen points out that every applicant to the Commission does not want her/his name to be revealed because the Greek Cypriot Administration is totally against its citizens applying to the Commission. But the Tymvios case is a very important gain for the Turkish Cypriot side because Tymvios agreed with the Commission despite the existence of such pressures from the Greek side. Although the Greek Cypriots did not accept the Annan Plan, and since this was an internationally accepted Plan, they started to realize that they should get accustomed to the idea of a bi-zonal state and that not all the displaced Greek Cypriots may have the right to return to their properties in the North. So now the Greek Cypriot citizens, in order to get their property rights compensated, are more willing to apply to the Commission like Tymvios. (Interview 2008)

In the interview, Erkmen said that in the cases that the commission concluded, compensation was paid in a very short amount of time. However, she acknowledges that with many cases, the economy of the TRNC would be negatively affected. So, the best result would be to reach an overall solution on the island. She also addressed that in the property provisions of the Annan Plan there was the idea to form a fund in order to pay these compensations which would help to reduce the negative economical aspects of the cases to the TRNC. (2008)

The Council of Europe ‘welcomed’ the commission committee that visited the Council in Strasburg in 2007 according to Erkmen. In the previous, years the functioning of the commission was not seen as effective, however, during this visit she saw that the Council also respected the Commission’s efforts in order to ‘try to solve’ the property problems on the island. (2008)

The Greek Cypriot Administration feels uncomfortable by the increasing number of applications by the Greek Cypriots to the Property Commission. The Greek Cypriot Government passed an act demanding the international community to influence Turkey to prevent the exploitation of the displaced Greek’s properties. Also, Greek Cypriot politicians began making condemning statements about the

Greek Cypriots who applied to the Immovable Property Commission. The names of the applicants were not declared by the Commission; however, some applicants' names were somehow broadcast in the Greek Cypriot media. The Greek Cypriot administration and the media accused the applicants as traitors who 'sell the land of their forefathers'. So the Government and Parliament made calls to prevent the Greek Cypriots from applying to the Commission. (Cyprus Observer, 2007) However, the applications did not lessen with the efforts of the Greek Government, who claims that 'the Commission is illegal and against all legal principles and the constitutional monarchy'. (Cyprus Observer, 2007)

The Greek Cypriot Administration tried to prove the inefficiency of the Property Commission by working with Greek Cypriot advocates. Achilleas Dimitriadis who was the advocate of Louzidou and Arestis argued that the Commission was not only illegal but also it was not in accordance with The European Convention of Human Rights. (Cyprus Observer, 2007) However, the ECHR argued that the Commission was an effective domestic solution to the property problems in the island. As Sümer Erkmen responded to the above claims 'the validity of the Commission should not be decided by Greek Cypriots but the ECHR itself. (Cyprus Observer 2007)

About the accusations of the Greek side on the efficiency of the Commission, she addresses that the cases in question need delicate analysis since it has been 45 years since the property problem has started. Every case has to go through some bureaucratic procedures that may take some time. Both sides have different numbers on the property owned before 1974 in Cyprus. There exist a big mixture of the deed records, there does not exist very concrete statistics on property records. Despite all these facts, she says that the Commission concluded 50 cases in 1.5 years. The ECHR concluded 5 cases from the 1500 cases in 18 years. So the Commission workings can not be considered as ineffective. (Erkmen 2008)

Sümer Erkmen addressed the fact that the European Court of Human Rights 'welcomed' the formation and decisions of the 'Immovable Property Commission' because the Court had to struggle with around 1400 cases

concerning the issue of property in the Cyprus Problem. But, with the efficient performance of the commission, the Court could send similar cases to the Commission to minimize its case load on an issue that needs local expertise and analysis and which could take years. She argues that the level of difficulty of the property cases can be seen with the number of cases solved in the ECHR. From the great number of cases, only 5 of them have been concluded by the Court. So, the fact that the ECHR could give judgement in 5 cases in almost 18 years of time shows that the commission is an effective tool because in two year's time around 30 cases have been solved and this is a high number when considering the number of the decisions of the ECHR. (2008)

Sümer Erkmen concludes by saying that, the property commission would make huge contributions to the property problem, however, it should not be considered as the only tool to solve the problem. A political solution is needed in order to reach a long lasting peace settlement on the Island. (Interview 2008)

It can be realized that ECHR's decision, which accepted the Immovable Property Commission as an internal law procedure, can be seen as a positive development for the Turkish side because in time all the cases could be directed to the Commission. Also in the Arestis case there is the fact that while deciding on the amount of the compensation, the ECHR considered the amount envisaged by the Commission. (Turkish Weekly) Sümer Erkmen said that by the date of 12 April 2008 313 applications have been lodged to the Immovable Property Commission where 50 of them have been decided. Compensation has been paid to 30 of the applicants who in return lost their property rights in the North. In two cases the Commission offered the Greek Cypriots to exchange their properties in the North with properties of Turkish Cypriots who the properties are of comparable value in the South and with a sum of money as compensation. The applicants agreed with the Commission. In three of the cases the Commission offered the applicants a sum of money as compensation and restitution of their property. In one case the Commission agreed with the applicant on the condition of restitution after an

overall settlement in the Island. Fourteen applications to the Commission were withdrawn by the applicants. (Interview 2008)

## **6.10 LATEST DEVELOPMENTS**

The 2006 Gambari Agreement was another UN attempt to reach a political settlement on the island. The meeting took place on 8 July 2006 between the President of the Republic of Cyprus; Papadopoulos and the Turkish Cypriot President; Mehmet Ali Talat They agreed on some principles in order to have a basis for future negotiations. However, the implementation of this agreement has not moved forward in a very effective way (IDMC 2007)

On 17-24 February 2008, presidential elections took place in the Republic of Southern Cyprus. Tassos Papadopoulos, the former president could not be elected. The General Secretary of the Progressive Party of the Working People (AKEL), Dimitris Cristofias became the new president of the Republic after the elections on 24 of February 2008. In his election campaign, Cristofias pointed out that he was eager to start negotiations with the Turkish Cypriots in order to reach a settlement. So, when he got elected, hopes for a future settlement started to rise in the international arena. (Sezer, 20)

As a result of these negotiation efforts, Mehmet Ali Talat and Dimitris Cristofias met on 21 March 2008 in the residence of Michael Möller, the special representative of the UN General Secretary in Cyprus. The two sides reached an agreement where they decided to a formation of technical committees which would work on the daily issues of Cyprus and ‘working groups’ which would discuss the essential points of the Cyprus problem. Both leaders agreed to meet in three months under the observation of the UN General Secretary in order to discuss and scrutinize the achievements and arguments of the working groups and technical committees and use them in order to start full negotiations. (Sezer 2008, 22)

The technical committees and groups would meet 4 days a week and the 5th day would be left to Yakovu and Nami's meetings where they would argue on the outcomes. There are 7 technical committees as 'Law', 'Economic and Commercial Issues', 'Cultural Heritage', 'Crisis Management' 'Humanitarian Issues', 'Health' and 'Environment'. There are 6 working groups established as 'EU Issues' 'Security and Guarantees', 'Land Issues', 'the issue of Property', 'Economic Issues' and 'Administration and Power Distribution Issues'. (Kıbrıs Postası 2008) (Arca Haber 2008). There will be 5 Turkish Cypriot and 5 Greek Cypriot members on every group.

As Erkmen points out in her interview, in the process of negotiations, Cristofias would feel in an advantage due to the fact that Cyprus is member of the European Union. There is the fact that AKEL had a different policy until 1995 where it did not want Cyprus to be a member of the EU. However, later AKEL started to be in favor of the EU. In AKEL'S 20th Congress on 24-27 November 2005, the party put forward its negotiation basis as 'We have a duty to intensify our struggle for the search of a viable and workable solution which will be based on the resolutions and the decisions of the UN on Cyprus, the High-Level agreements, International Law and the principles of the EU. As AKEL, we remain firmly dedicated to the search of a bi-zonal, bi-communal federal solution which will safeguard the basic freedoms and human rights of the whole of our people, Greek Cypriots and Turkish Cypriots, as well as the political equality of the two communities'. (AKEL 2005)

Cristofias and AKEL are more open to the negotiation process, but when it comes to the reawakening of the Annan Plan, their view is that the Annan Plan Chapter is closed and that the process has to be on the basis of the agreement on 8 July 2006 agreement. (Sezer, 28) President Talat pointed his desire of conducting the negotiations on the basis of the Annan Plan, but Cristofias declared that if Talat would be persistent in this claim, the negotiation process would be locked. (Sezer, 1)

The special representative of the presidency of the TRNC, Özdil Nami gave an interview to the Greek Cypriot Filelefteros Newspaper where he pointed out that the conduct of the negotiations on the basis of Annan Plan is the desire of the Turkish Cypriot side. However, he mentioned that there has to be changes in the issue of land, which is an important issue in the negotiations between both sides. (Kıbrıs Postası 2008)

As mentioned in previous chapters, the Annan Plan's property provisions are very detailed and try to satisfy the arguments of both sides on property. As Sümer Erkmen pointed out in an interview I made with her in Nicosia, the Annan Plan's property provisions are the result of years of work and analysis. So, technical communities and working groups could benefit from the property provisions of the Plan. Nevertheless, as she points out, there could be changes to meet the views of both parties on property. (12 April 2008) 'Property is in the center of the Cyprus problem', she further explained. According to her, an overall solution on the island can not be achieved until the property problem is solved. 'It is not something that is unsolvable, but both parties need to be ready to make some sacrifices and come to an agreement on the issue of property' she pointed.

Erkmen argues that, both parties have to come to an agreement on property and then start further negotiations because although the distribution of authority is another problematic issue, once the property problem is solved, then other issues of discussion would be easier to agree upon. The property issue is very complex and got worse over the years. Compromise is very important and both parties have to be willing to reach to each others arguments. (Interview 2008)

Sümer Erkmen made an observation during the interview by saying that the bi-zonal, bi-communal state that the Annan Plan envisaged was easily accepted by the Turkish Cypriots. This was because the Turkish Cypriots did not want to return to the southern Cyprus after the division in 1974. They felt safe and protected so; this type of a state would be more desirable for them. However, the Greek Cypriot administrations during all those years have pointed that one day

every Greek will return to their properties in the Northern Cyprus and that this situation of a divided territory would be temporal. So, the Greek Cypriots rejected the plan on the grounds that they would not fully enjoy their property rights and return to Northern Cyprus. But since 4 years have passed since the referendum, the Greek Cypriots became more accustomed to the idea of bizonality and to the fact that they may not return back to the lands that they left 44 years ago. (Interview 2008)

In the agenda of the technical committees, according to Özdil Nami, ‘the issue of property’ is a classical problem that the committees would have a hard time dealing with. He argues that the problematic issues in the Cyprus problem like property, expertise of law professionals is required on the issue of international acceptance of the property issue and its application to the Cyprus Question. He further points out that in the Annan Plan, the provisions were satisfying for the international experts, however, the Greek Cypriots did not accept this formula. So, there may be another mechanism or a change in some parts of the Annan Plan in order to solve the property problem. ‘We expect a huge amount of work in the property issue’ he said in an interview he made with a Greek Cypriot newspaper (Kıbrıs Postası 2008) As it can be seen from these arguments, the issue of property is an important component of the Cyprus Problem. And an agreement is needed in order to have an overall peace settlement on the island.

The special representative of presidency Nami further said that the Turkish Cypriots had accepted the Annan Plan and its property provisions and the 1/3 rule, so their duty is to start negotiations on that ground. However, changes should be available because not only the Greek Cypriots were disappointed by the Annan Plan. The Turkish Cypriots would also be badly affected from some property provisions of the plan since around 40.000 Turkish Cypriots would have to move from their locations and huge compensation payments would affect the economy of the TRNC. (Kıbrıs Postası 2005)

The Greek Cypriot Foreign Minister, Marcos Kyprianu gave an interview to the Greek News Agency (ANA) where, like Özdil Nami, he pointed out that the issue of land and property are difficult issues to reach an agreement upon. He further argued that there can be disagreements on these issues between Mehmet Ali Talat and Dimitris Cristofias at the beginning of the negotiation process. According to him, the job of the working groups and technical committees is not to come to an agreement on these issues, but to note the problematic areas in them and come up with alternative propositions (Kıbrıs Postası 2008), and that, 'The aim of the committees and working groups is to prepare the ground for substantive negotiations towards a political settlement'. (Ministry of Foreign Affairs of the Republic of Cyprus 2008) The formation of these Committees and Working Groups is an important development in order to reach an agreement in the Island since both parts will mutually point out their arguments and negotiate on them.

The Presidents of the technical committees' and working groups' met on UN bufferzone for the first time on 18 April 2008. The UNFICYP Mission Chief Elizabeth Spehar and UN spokesman Jose Diaz were also present in the meeting. The Special Representative of the President Mehmet Ali Talat; Özdil Nami and the Greek Cypriot Presidency Commissioner Yorgos Yakovu also attended this important meeting. In her speech at the meeting, Elizabeth Spehar pointed out that the technical committees and working groups raised the hopes for an overall solution on the island and that the UN was eager to assist and make contributions to the research for an agreement between the two parties. Özdil Nami also made a speech in this meeting in which he addressed that with the 21 March process, more achievements has been made in 20 days than the 20 months time since the 8 July Agreement 2006. (Kıbrıs Postası 2008) (Arca Haber Ajansı 2008)

In the administration of Tassos Papdopoulos, the technical committees and working groups could not be formed in 2 years since the 8 July agreement between him and Talat in 2006. However, after the 21 March Agreement, committees were formed in one month's time. The Turkish Cypriot members of the committees are formed mostly from public servants and academicians. The



Greek Cypriots' members, who are politically known names in the Republic of Cyprus, are from different segments of the society. (Arca Haber Ajansı 2008)

In a conference that Mehmet Ali Talat gave in ASAM on 24 April 2008, he pointed out that, in the Papadopoulos administration the two parties could not even determine and agree on the names of the technical committees and working groups. (Kıbrıs Gazetesi 2008) So, the new rapprochement and negotiations between the two parties is an important indication that both sides are more sympathetic towards each other and willing to continue peace negotiations.

## **CHAPTER SEVEN**

### **CONCLUSION**

As mentioned before, the Cyprus conflict has been on the world's agenda for about half a century. There have been ongoing peace negotiations since the 1960s. But a concrete agreement could not be achieved between the two parties of the conflict, the Greek Cypriots and the Turkish Cypriots. The main problem is that both parties do have different positions on the major issues of conflict on the island.

The issue of property which started in the first years of conflict, with the ethnic clashes between 1963 -1964 and the Turkish intervention on the island in 1974, led to huge population movements on the island. Almost one third of the population of the island (estimated numbers as 180.000 Greek Cypriots and 60.000 Turkish Cypriots), had to displace and leave their property back and move to the other part of the island.

It can be realized that the issue of property is a very important component of the Cyprus conflict. However, this issue is very complex and it is embedded in many layers of politics.

As mentioned in this thesis, approaches of both parties to the issue are very different. The key for the Turkish side is the principle of bizonality, whereas the Greek Cypriot side sees this issue as respect for human rights. We can realize that these ideas can not merge because for the principle of bizonality that the Turkish side argues there has to be no restitution of property as a defensive measure to prevent the clashes of 1963-64 to occur again.

However, the Greek Cypriot side, seeing the Turkish side's efforts towards bizonality as moves that violate the principle of 'respect for human rights' and international norms. The Greek side wants full restitution of property and freedom of movement on the island. So the maintenance of these two incompatible arguments is an important part of the Cyprus problem. The solution for the property issue will be an important component of a long settlement of the Cyprus problem.

There has been great effort to solve the property issue in the Cyprus conflict. As mentioned before, the Ghali Set of Ideas and the Annan Plan had important parts concerning a solution to the property issue but neither of them achieved an agreement between the two parties. The Greek Cypriot side also applied to international organizations such as the ECHR in order to get their rights to property. There have been cases like the Loizidou case and the Xenides Arestis case, which were important in the issue of conflict. The ECHR also wanted from Turkey a Commission on the island that would solve the issue of the property left behind.

However, the Greek Cypriot side is not very content with the decision of the ECHR about the compensation commission as an effective way of reconciling the property issue. The Cypriot Government does not find it right for their citizens to apply to the government organs of the TRNC. As mentioned before, the Cypriot Government does not recognize the TRNC as a sovereign state. With the previous cases like Loizidou, they thought that ECHR legally considered Turkey as an illegal force occupying the island and that Turkey was responsible for the human rights violations on the island towards the Greek Cypriots. It can be argued that the property issue is more likely to be a political issue rather than the Greek Cypriots' desire to return to their ancestral lands. Otherwise, the result that the ECHR found for the compensation and restitution via applying to the compensation committee of TRNC would not receive this negative reaction by the Cypriot Government. With the decision of the ECHR to cancel the application of Tymvios in 2008, and Tymvios' agreement with the Property Commission, the

Greek Cypriots' beliefs and reliance to the ECHR has further lessened. This can be realized by the government spokesman Stephanos Stephanou's statement where he said that 'the Cyprus problem cannot be solved in the Courts but through comprehensive negotiations that will lead to a mutually accepted settlement'. (Cyprus News Agency)

As Sezer said in her article and Sümer Türkmen in an interview she made with me point out that although a % 65 percent of the Turkish Cypriots voted in favor of the Annan Plan, after the developments in the last 4 years, their views and expectations have changed. They have lost their faith that the Cyprus problem will be solved and lost their trust in the international community. So, the Greek Cypriots feared that this may lead to a partition of the island (taksim) that they strongly oppose. And they became more eager to initiate negotiations with the Turkish Cypriot side that would lead to an overall settlement.

In 21 March 2008 both parties reached an agreement on forming working groups and technical committees in order to point the problematic issues between the two parties and make recommendations in order to reach a peace settlement in Cyprus. One of these Working Groups' title is 'The Issue of Property'. In Simerini, a Greek Cypriot newspaper, the issue of property is considered as the most problematic issue that the committees have to work on. (Simerini 2008) The Turkish Cypriot President Mehmet Ali Talat also adressed this fact by saying that the property problem is the most argued and delicate problem they they would face in the negotiation process. The different descriptions of 'a settlement' and their different expectations from a negotiation process of both parties make the chance of a permanent settlement a limited one. (Sezer, 29)

The issue of property is very complex and the demands of both sides do highly differ. There has not been an agreement since the beginning of the conflict, which is half a century ago. Since years pass, the problem is getting more complicated because the properties change hands and there is the fact that there exist two different societies which do not merge socially, territorially, economically or

politically on the island. So both parties have different ideas and memories and the huge demographic changes resulting from property restitution may lead to more problems on the island. As Dr Andrew Mango argues 'The absence of bloodshed in Cyprus, achieved since 1974, is a boon to be treasured. There has been no bloodshed because the Island's inhabitants are secure in their lives, homes and property. Any settlement which jeopardizes this security would lead to a renewal of intercommunal violence.' (2000) This quote summarizes the idea of the Turkish side on the issue of property, and since the Greek part has a contrary idea to this principle it may be argued that a solution is hard to achieve however, the new negotiation process between the two Parties can be considered as a positive development to point the disagreements and try to solve them in order to reach a long lasting peace settlement in the Island.

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## **APPENDIX A**

### **LAW 67/2005**

#### **LAW FOR THE COMPENSATION, EXCHANGE AND RESTITUTION OF IMMOVABLE PROPERTIES WHICH ARE WITHIN THE SCOPE OF SUB- PARAGRAPH (B) OF PARAGRAPH 1 OF ARTICLE 159 OF THE CONSTITUTION**

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The Republican Assembly of the Turkish Republic of Northern Cyprus enacts as follows:

- Short title 1. This Law shall be cited as the Law for the Compensation, Exchange and Restitution of Immovable Properties, which are within the scope of sub-paragraph (b) of paragraph 1 of Article 159 of the Constitution.
- Interpretation 2. In this Law, unless the context otherwise requires,  
“Ministry” means the Ministry Responsible for Housing Affairs.  
“Applicant” means the person applying to the Commission with a claim of right in respect of immovable properties which are within the scope of sub-paragraph (b) of paragraph 1 of Article 159 of the Constitution, and in respect to movable property which is claimed to be owned by such person, such property having been abandoned in the North prior to 13 February 1975, being the date of the proclamation of the Turkish Federated State of Cyprus.  
“Commission” means the commission constituted under section 11 of this Law.  
“Movable property” means property remaining abandoned on 13 February 1975, the date of the proclamation of the Turkish Federated State of Cyprus, and property described by law as such after that date, or described by law as movable property not being owned by any person.  
“Immovable property” means immovable property within the scope of sub-paragraph (b) of paragraph 1 of Article 159 of the Constitution.
- Purpose 3. The purpose of this Law is to regulate the necessary procedure and conditions to be complied with by persons in order to prove their rights regarding claims in respect to movable and immovable properties within the scope of this Law, as well as, the principles relating to restitution, exchange of properties and compensation payable in respect thereof, having regard to the principle of and the provisions regarding protection of bizonality, which is the main principle of 1977-1979 High level Agreements and of all the plans prepared by the United Nations on solving the Cyprus Problem and without prejudice to any property rights or the right to use property under the Turkish Republic of Northern Cyprus legislation or to any right of the Turkish Cypriot People which shall be provided by the comprehensive settlement of the Cyprus Problem.
- Application 4. (1) All natural or legal persons claiming rights to movable and immovable properties specified in this Law may bring a claim within two years by way of an application in person or through a legal representative, to the Immovable Property Commission constituted under section 11 of this Law, requesting restitution, exchange or compensation for such property. Applications made to the Commission shall be subject to the Rules made under the Civil Procedure Law and the Rules made under this Law, notwithstanding any other provision to the contrary in any law or legislative instrument, only a fee of 100-YTL (one hundred New Turkish Liras) shall be paid for each application.  
(2) The entry in and the exit out of the Turkish Republic of Northern Cyprus of persons, their legal representatives or agents applying to
- Cap.6  
9/1971  
28/1984  
31/2003

the Commission with a claim under the provisions of this Law, as well as of any person to be heard as witnesses on their behalf, shall be free.

Production of Documents To the Commission

5. In applications made to the Commission under this Law, original documents, or copies of documents certified by a certifying officer for purposes of control together with the original documents which the parties wish to submit, shall be produced and filed.

Burden of Proof and Factors as Basis of Decision

6. In proceedings before the Commission the burden of proof shall rest with the applicant who must satisfy the Commission beyond any reasonable doubt as to the following in order for a decision to be taken in his favour:

(1) That, the movable or immovable property in respect of which rights are claimed is the one claimed in the application.

(2) That, in case of immovable property in respect of which the applicant claims rights, that the property was registered in his name before 20 July 1974 and/or he is the legal heir of the individual in whose name the immovable property was registered.

(3) That, according to the Land Registry records, there are no other persons claiming rights in respect of the immovable properties subject to the claim other than those claiming rights under this Law.

(4) That, in the case of a claim for compensation, the compensation claimed by the applicant represents the total of the market value of the immovable property on 20 July 1974, together with compensation for loss of use and, if the immovable property is claimed and proved to be used as a home prior to that date, includes the non-pecuniary damages arising out of its non-use, and in case of movable properties, that the compensation claimed is the market value at the date of the application.

(5) That, the immovable property in respect of which rights are claimed was not subject to a mortgage and/or to a seizure or any other restraint imposed by a judgment or order of a competent court before 20 July 1974; otherwise, it must be clearly stated in whose favour such liabilities are, the amount of debt and the rate of interest, the date on which the debt has been incurred and its amount, and the date and amount of partial payment if any.

(6) That, the movable property in respect to which there is a claim for compensation belonged to the applicant prior to 13 February 1975 and that he had to abandon it due to conditions beyond his own volition.

Parties to the Application

7. In respect of applications to be made under this Law, the defendant party shall be the Ministry and/or the Turkish Republic of Northern Cyprus's Attorney-General representing the Ministry. The Commission shall issue an invitation to the individual who, according to the legislation of the Turkish Republic of Northern Cyprus, holds the property right or the right to use the property in respect to which a claim is made, to participate in the proceedings



Hearing and  
Reaching a Decision

before the Commission. The individual invited to the Commission has the same rights as interested parties in administrative cases.

8. The Commission, after having heard the arguments of the parties and witnesses, and having examined the documents submitted, shall, within the scope of the purposes of this Law, taking into consideration the below-mentioned matters, decide as to restitution of the immovable property to the person whose right in respect to the property has been established, or to offer exchange of the property to the said person, or decide as to payment of compensation. In cases where the applicant claims compensation for loss of use and/or non-pecuniary damages in addition to restitution, exchange or compensation in return for immovable property, the Commission shall also decide on these issues.

(1) Immovable properties that are subject to a claim for restitution by the applicant, ownership or use of which has not been transferred to any natural or legal person other than the State, may be restituted by the decision of the Commission within a reasonable time period, provided that the restitution of such property, having regard to the location, and the physical condition of the property, shall not endanger national security and public order and that such property is not allocated for public interest reasons and that the immovable property is outside the military areas or military installations.

(2) If the restitution of an immovable property, other than property described in paragraph (1) above, is claimed by the applicant, the following rules shall apply, provided that the said immovable property has not been allocated for public interest or social justice purposes.

(A) If the increase in the value of the immovable property due to improvement made on such property between the date it was abandoned and the date of application with the Commission for restitution, is less than the value of the property when it was abandoned; or if there is no increase in the value of property between these dates; or if no project was approved by competent authorities that would cause such an increase; or if this immovable property is not property of equal value in accordance with the legislation in force, which has been acquired by any person in exchange of property left in South Cyprus, such person having had to leave the south of Cyprus and to move to the North, the decision for restitution of such property may take effect after the settlement of the Cyprus Problem, in line with the provisions of the settlement. In such a case, the person who is in possession or holds the ownership of the property in question under the legislation in force but would have to abandon the property after a settlement, shall not have to do so unless such person has been provided with compensation or alternative accommodation under the provisions of the settlement.

As from the date of the announced decision of the Commission no construction shall be permitted on the immovable property that would be restituted after the

settlement of the Cyprus Problem within the framework of the provisions of the settlement or in any event within a 3-year period; such immovable property cannot be improved, purchased or sold. However, the Ministry may permit the improvement of such property in a way that is also beneficial for the applicant. The principles governing the issue of permits under this sub-paragraph shall be regulated by rules. Natural or legal persons who under the legislation of the Turkish Republic of Northern Cyprus, are in possession or hold the ownership of property to be reinstated after a settlement, shall have the right to be compensated for the damage caused by such a decision of the Commission or to apply to the authorities, in order to have the property they own or possess purchased by the authorities. If this right is not exercised, the immovable property to be reinstated after a settlement, shall, prior to restitution, be expropriated in accordance with the legislation in force.

- (B) If the increase in the value of the immovable property as a result of the improvement made to such property between the date it was abandoned and the date of the application to the Commission for its restitution is more than the value of the property at the time it was abandoned; or if a project that would cause such an increase in the value of the property has been approved by the competent authorities, the claim of the applicant for restitution shall be subject to the provisions of paragraph 3, below.
- (3) If the applicant claims restitution of immovable property and such an immovable property is not immovable property within the provisions of paragraph (1) and sub-paragraph (a) of paragraph (2) of this section, a proposal for exchange may be made, or compensation may be awarded to such person. The compensation shall be determined on the basis of the market value of the immovable property on 20 July 1974, and, if claimed, on the basis of damages for loss of use and non-pecuniary damages due to the loss of the right to respect for home.
- (4) If the applicant applies to the Commission with a claim for compensation in return for immovable property and the Commission decides in favour of the applicant; or if the Commission decides to award an applicant compensation in return for the immovable property, the compensation to be paid shall be determined on the basis of the following criteria:
  - (A) If the immovable property is a building its market value on 20 July 1974, taking into consideration the date of its construction.
  - (B) Loss of income and increase in value of the immovable property between 1974 and the date of payment.
  - (C) Whether the applicant is in possession of any immovable property in the south of Cyprus owned by citizens of the Turkish Republic of Northern Cyprus.

- (D) Whether the applicant is receiving income from such property; if so, the amount of such income; whether such person is paying rent in respect of immovable property in his possession in the South which is owned by any citizen of the Turkish Republic of Northern Cyprus; if so, the amount and the identity of the beneficiary of rent.
  - (E) The non-pecuniary damages which the Commission shall decide in favour of the applicant shall be assessed having regard to the manner of the use of the property, as well as the establishment of individual, family and moral links to such immovable of the applicant on the date the property had to be abandoned.
  - (F) Where compensation is decided to be awarded for movable property, the amount shall be the market value of such property at the time the Commission reaches its decision.
- (5) In cases where the applicant claims exchange or where the Commission decides to propose exchange to the applicant, the current market value of the immovable property to be proposed for exchange shall be approximately equal to the current market value of the immovable property on which the applicant has a right. If the property which is proposed to the applicant in exchange is of a value higher than the value of the property on which he claims a right, he shall pay the Commission the difference between the two values. If the property which is proposed to the applicant is of a value lower than the value of the property on which a right is claimed, the difference between the two prices shall be paid by the Commission to the applicant. If exchange is decided upon, precedence shall be given to the evaluation of the immovable property forming the subject matter of the applicant's application, which the owner or user thereof had to leave in the South. The rights of the person applying to the Commission for exchange of property shall be reserved in respect of claims for compensation for loss of use and non-pecuniary damage due to loss of the right to respect for home.
- (6) Upon the request of the applicant, the Commission may award restitution, exchange, compensation in return for rights over the immovable property and compensation for loss of use if claimed.

Right to Apply to Court 9. Parties have the right to apply to the High Administrative Court against the decisions of the Commission. If the applicant is not satisfied with the judgment of the High Administrative Court, he may apply to the European Court of Human Rights.

Loss of Ownership  
Upon Exchange of  
Property or  
Award of  
Compensation

10. (1) Applicants who receive compensation in return for their rights over immovable properties in virtue of the application of the provisions this Law, can under no condition, make a claim of right of ownership over immovable property for which they have received compensation.
- (2) Applicants who receive new immovable property by way of exchange in virtue of the application of the provisions of this Law, can, under no condition, make a claim to a right of ownership over the immovable property on which their application was based.

Composition of  
Immovable Property  
Commission

11. (1) For the implementation of this Law, an Immovable Property Commission composed of a President, a Vice-President, and minimum 5, maximum 7 Members, whose qualifications are specified below, shall be established. At least 2 members of the Commission to be appointed shall not be nationals of the Turkish Republic of Northern Cyprus, United Kingdom, Greece, Greek Cypriot Administration or Republic of Turkey. The decisions regarding the appointment of the members shall be published in the Official Gazette.
  - (A) The President, Vice-President and the Members of the Commission shall be appointed by the Supreme Council of Judicature among persons nominated by the President of the Republic. The President of the Republic shall nominate a number of candidates twice the number of members to be appointed.
  - (B) The President, Vice-President and Members of the Commission may be appointed from among lawyers or from among persons with experience in public administration and evaluation of property.

Any persons directly or indirectly deriving any benefit from immovable properties on which rights are claimed by those who had to move from the north of Cyprus in 1974, abandoning their properties, cannot be appointed as members of the Commission.
  - (C) The salary of the President of the Commission is equivalent to the salary received by a Supreme Court Judge at initial appointment. Salaries of other members are equivalent to the amount prescribed for the salary scale 18A. Upon approval by the Council of Ministers, foreign members of the Commission may also receive an appropriation payment of a certain amount.
- (2) The Commission shall convene by minimum two-third majority of the total number of members and shall take decisions by simple majority of the members attending the meeting, including the President.
- (3) The term of office of a member not participating in the Commission meetings without a valid reason (illness, official duty abroad, and the like) for three times, may be terminated by the Supreme Council of Judicature upon the request of the President of the Commission. The term of office of the President

of the Commission not participating in the Commission meetings without a valid reason (illness, official duty abroad, and the like) for three times, may be terminated by the Supreme Council of Judicature upon the request of the President of the Republic. In other cases, the conditions for the termination of the term of office of a member of the Commission shall be the same as those applied to a Supreme Court Judge.

(4) A secretariat shall be established in order to carry out the clerical and administrative work of the Commission. A sufficient number of personnel shall be employed in the secretariat upon the proposal of the President of the Commission and in accordance with the authorisation of the Council of Ministers. Employment of personnel under this section may be on a contractual basis. The number of personnel employed in this manner shall be no more than 10.

However, if the President of the Commission reaches a conclusion that the secretariat is not able to carry out its legal obligations within a reasonable period of time, he has the authority to employ an additional number of personnel on contract, subject to the authorisation of the Council of Ministers.

(5) All employees of the Commission, including the President, Vice-President and Members, shall be employed as long as their services are required and subject to conditions determined by the Council of Ministers, notwithstanding any provision to the contrary in any other law relating to employment of service, duration of service, age limit, duration of contract, renewal of contract and condition of non-retirement.

(6) The President, Vice-President and Members of the Commission shall not hold any other office during their term of office.

(7) Decisions taken shall be served on those concerned with the signature of the President and at least one Member.

Duration of Term of Office of the President, Vice-President and Members of the Commission

12. The President, Vice-President and Members of the Commission established in accordance with the provisions of this Law shall be appointed for a period of 5 years. At the end of this period the President, Vice-President and Members may be re-appointed in the same manner. The President, Vice-President and Members of the Commission shall carry out their duties objectively and independently during their term of office which may only be terminated before the end of term subject to the provisions of section 11, above. No person or authority can give any order or instruction to the President, Vice-President and Members of the Commission.

If the function of the Commission is completed before the period envisaged in the Law the terms of office of the Commission members shall be automatically terminated.

Duties and Powers of the Commission

13. The Commission shall have the following duties and powers:

(1) To examine and reach a decision on applications made under this Law.

(2) To determine the amount and method of payment of

compensation.

- (3) To take necessary measures and decisions in order to conclude the proceedings concerning the amount of compensation to be paid to the applicants following the application of this Law.
- (4) The Commission, in carrying out its duties and exercising its powers mentioned above, may, if it deems necessary, collect written or oral testimony or hear witnesses.
- (5) The Commission may require written and oral testimony of any witness for the purpose of resolving any problems that may arise in the application of this Law, either under oath or by way of a declaration. Such evidence under oath, or by declaration shall be identical to that required for testimony before a Court of law.
- (6) To summon any person residing in the Turkish Republic of Northern Cyprus to attend any meeting of the Commission in order to give testimony or produce any document in his possession and to be questioned as a witness.
- (7) To compel any person to give evidence or to produce a document, when such person refuses to do so, following a request by the Commission, whether under oath or by way of declaration, if the person concerned does not offer any satisfactory excuse to the Commission for such refusal. However, witnesses may not be compelled to answer any incriminating question and no legal proceedings may be commenced for refusal to do so.
- (8) The Commission may decide that expenses shall be paid to any persons summoned to give evidence in virtue of the application of this Law.

Binding Effect of the  
Decisions of the  
Commission

14. The decisions of the Commission have binding effect and are of an executory nature similar to judgments of the judiciary. Such decisions shall be implemented without delay upon service on the authorities concerned.

Offences and Penalties

15. It is an offence to refuse to produce any document or information required by the Commission in accordance with the provisions of this Law, or to fail to appear before the Commission upon being legally summoned to do so, or to refuse to give evidence, without legal excuse, and any such person shall upon conviction be liable to a fine of 2,000 YTL (two thousand New Turkish Liras) or imprisonment up to one year, or both.

Procedure and  
Principles  
Applicable to  
Witnesses before  
the Commission  
Cap. 6  
9/1971  
28/1984  
31/2003

16. The processes to be carried out in accordance with the provisions of this Law, summons to be issued to witnesses, the procedure for attendance before the Commission and that relating to the hearing shall be subject to the provisions of the Civil Procedure Law.

Responsibility Cap.154 3/1962 43/1963 15/1972 20/1974 31/1975 6/1983 22/1989 64/1989 11/1997	17. Members and other personnel of the Commission employed under this Law carry the same responsibility in respect of their acts as public servants do and proceedings may be brought against them under the legislation in force.
Payment of Compensation	18. The Ministry responsible for Financial Affairs shall make a provision under a separate item in the Budget Law for each year for the payment of compensation awarded by the Commission and other expenses incurred by the application of this Law.
Reservation of Rights of Persons who have not Applied to the Commission	19. Rights and benefits of persons upon movable and immovable properties located within the boundaries of the Turkish Republic of Northern Cyprus who do not apply to the Commission shall be determined and dealt with in accordance with the framework and principles laid down in a political settlement regarding the Cyprus issue, to be reached after taking into consideration the public interest, housing and rehabilitation needs of refugees and the protection of public order.
Non-prevention of Proceedings under Certain Laws 15/1962 21/1962	20. The provisions of this Law shall not prevent any proceedings being instituted under the provisions of the Requisition of Property Law, or the Compulsory Acquisition of Property Law.
Right to apply of those that applied to European Court of Human Rights	21. Those persons, who have applied to the European Court of Human Rights before the entry into force of this law, claiming that their right of ownership of movable and immovable properties located in the north of Cyprus were infringed, may also apply to the Commission.
Authority to Make Rules	22. Rules for the better implementation of the provisions of this Law, may be prepared by the Commission, approved by the Council of Ministers and published in the Official Gazette.
Repeal 49/2003 18/2005	23. From the date of entry into force of this Law, the Law on Compensation for Immovable Properties Located within the Boundaries of the Turkish Republic of Northern Cyprus which fall within the Scope of Article 159 Paragraph (4) of the Constitution, shall be repealed without prejudice to the proceedings taken under this law.
Executory Powers	24. This Law shall be implemented by the Ministry Responsible for Housing Affairs on behalf of the Council of Ministers.
Entry into force	25. This Law shall enter into force upon its publication in the Official Gazette.

## APPENDIX B

### RULES MADE UNDER SECTIONS 8(2)(A) AND 22 OF THE LAW FOR THE COMPENSATION, EXCHANGE AND RESTITUTION OF IMMOVABLE PROPERTIES WHICH ARE WITHIN THE SCOPE OF SUB-PARAGRAPH (B) OF PARAGRAPH 1 OF ARTICLE 159 OF THE CONSTITUTION (LAW NO: 67/2005)

The Council of Ministers of the Turkish Republic of Northern Cyprus hereby approves the 2006 Immovable Property Commission Rules, made under sections 8(2)(A) and 22 of the Law No: 67/2005 entitled the Law for the Compensation, Exchange and Restitution of Immovable Properties, which are within the scope of sub-paragraph (b) of paragraph 1 of Article 159 of the Constitution and decides for the publication thereof in the Official Gazette for entry into force.

- Short title** 1. These Rules may be cited as the Immovable Property Commission Rules 2006.
- Interpretation** 2. In these Rules, unless the context requires otherwise;  
“Commission” means the Immovable Property Commission established under section 11 of Law No: 67/2005 entitled the Law For The Compensation, Exchange and Restitution Of Immovable Properties Which Are Within The Scope Of Sub-paragraph (b) Of Paragraph 1 Of Article 159 Of The Constitution.  
“Application” means the Application made to and/or the application commenced before the Commission and the affidavit attached thereto.  
“Applicant” means“ the person applying to the Commission with a claim of right in respect of immovable properties which are within the scope of sub-paragraph (b) of paragraph 1 of Article 159 of the Constitution, and in respect to movable property which is claimed to be owned by such person, such property having been abandoned in the North prior to 13 February 1975, being the date of the proclamation of the Turkish Federated State of Cyprus.  
“Chairman” means the Chairman of the Commission.  
“Secretariat” means the secretariat responsible to conduct the administrative and secretarial work of the Commission.  
“Secretary” means the person responsible in the Secretariat or a person authorized by the Chairman.  
“Immovable Property” means immovable properties which are within the scope of sub-paragraph (b) of paragraph 1 of Article 159 of the Constitution.  
“Member” means a member of the Commission or the Chairman or Deputy Chairman thereof, as the case may be.  
“Law” means Law No:67/2005 entitled the Law For The Compensation, Exchange and Restitution Of Immovable Properties Which Are Within The Scope Of Sub-paragraph (b) Of Paragraph 1 Of Article 159 Of The Constitution.



**Form of Application**

3.(1) Any application made to the Commission shall be as shown in Form 1 attached to the Rules in which the claims of the applicant shall be stated.

(2) Every application and all its attachments submitted to be stamped by the secretariat shall be signed by the applicant or by his representative or lawyer. In the event that a lawyer makes the application, the retainer should also be filed. The affiant should sign the affidavit attached to the application. Applications, which are personally made by the applicant together with the affidavit and other documents, should be made as much as possible similar to Form 1.

(3) The application should include its number, the name and surname of the applicant, his identity card and/or passport numbers, his address, the request for confidentiality, if any, the Ministry Responsible for Housing Affairs and/or Attorney General representing the Ministry Responsible for Housing Affairs as the respondent party, in the event of representation by the lawyer the name, surname and address for service of the lawyer, if pro se, an address for service for the applicant, phone number, statement of claim, a definite description of the movable and/or immovable property for which compensation is claimed and the share constituting the claim on the property and whether any kind of mortgage exists on the property.

(4) The affiant should give detailed information on the facts in issue regarding his claims in the application.

(5) (a) In applications for immovable property, the applicant, together with the application, should submit the originals or duly approved photocopies by the notary public of his identity card and/or passport, the land registration certificate showing his share on the immovable property and that his rights still exist.

(b) For movable properties, the applicant must;

(i) show the originals or duly approved photocopies of documents that prove that the movable property was bought before 13 February 1975 including receipt, cheque, bank transfer, exchange transfers; or

(ii) show the originals or duly approved copies or photocopies of official documents and/or documents from the archive of a real or legal person that prove that the movable property has been acquired thorough inheritance and/or gift and/or present before 13 February 1975.

(c) The applicant must also show by original or duly approved copies of documents that he had to abandon in the North the movable properties under his possession prior to 13 February 1975.

(d) Such an application, together with its attachments and other valid original documents or their copies certified by a notary public or photocopies thereof, shall be submitted to the secretariat in thirteen copies or any other sufficient number. A revenue stamp worth 100 YTL should be affixed to the application.

(6) The secretariat shall accept all applications made in conformity with the procedure, assign every application a number and sign the application verifying that it has been received. A copy of the application signed in this manner shall be given to the applicant and another copy shall be served to the Ministry in the TRNC responsible for Housing Affairs and/or the Attorney General representing the Ministry and/or a natural or legal person who under the legislation of the TRNC is in possession of or hold the ownership of property within twenty one working days of the filing of the application. The service of documents shall be effected by the secretariat.

Should the applicant demands confidentiality; the person ,who holds the right of ownership or the right of tenure according to the Rules and Legislation of the Turkish Republic of Northern Cyprus, is given a written notice as set forth in the Sample 1 A attached to this Regulations.

(7) An application which is not in conformity with the Rules may be accepted by the secretariat. The Chairman may request the applicant to amend the application according to these Rules. The request has to be fulfilled within one month the latest. Otherwise, the application will be rejected. The application will not be put in effect until the request is fulfilled.

(8) The Ministry in the TRNC responsible for Housing Affairs and/or the Attorney General representing the Ministry and/or a natural or legal person who under the legislation of the TRNC is in possession of or hold the ownership of property shall within 30 working days file with the secretariat a defence or opinion prepared in accordance with Form 2

attached to these Rules and serve a certified copy thereof on the address of the applicant.

(9) The defence or opinion given by the Ministry in the TRNC responsible for Housing Affairs and/or the Attorney General representing the Ministry and/or a natural or legal person who under the legislation of the TRNC is in possession of or hold the ownership of property in accordance with the legislation in force in the TRNC shall consist of the summary of the facts in issue. If deemed necessary, the Ministry in the TRNC responsible for Housing Affairs and/or the Attorney General representing the Ministry and/or a natural or legal person who under the legislation of the TRNC is in possession of or holds the ownership of property shall attach to the defence or opinion an affidavit by persons who have knowledge on the matter.

**Criteria in calculating compensation**

4. Compensation to be paid under section 8 (4) of the Law shall be determined by the Commission in an equitable manner and in accordance with the criteria enumerated in the said section and, if any, by taking into account the opinions of the experts.

**Criteria in issuing a permit for improvement on immovable properties subject to restitution**

5. (1) In accordance with section 8(2)(A) of the Law, the Ministry responsible for Housing Affairs may, by also taking into account the interests of the applicant who has demonstrated his legitimate rights over the immovable property, permit the improvement of the immovable property that will be restituted after the settlement of the Cyprus Problem, in line with the provisions of the settlement, to a natural or legal person who under the legislation of the TRNC is in possession of or holds the ownership of property. In this context, the Ministry for Housing Affairs shall take into account whether the improvement will increase the value of the property and the economic and social need of the person who has requested permission for such improvement.

(2) Subject to the exceptions mentioned in subsection (1) above, the Ministry may also consider the possibility of creating new jobs and employment opportunities and significant contribution to the economy at large or substantial contribution to educational, scientific, sports and cultural fields of the improvement to the immovable property that will be restituted after the settlement of the Cyprus Problem in line with the provisions of the settlement in accordance with section 8(2) of the Law in issuing a permit, provided that a just balance between the applicant who has

demonstrated his legitimate rights over the immovable property and public interest in improvement is achieved.

**Friendly settlement agreement on the satisfaction of the applicant**

6. (1) The Ministry responsible for Housing Affairs shall execute the decision of the Commission relating to restitution, exchange, compensation in lieu of the immovable property, compensation for non-pecuniary damages due to loss of the right to respect for home and compensation for loss of use. In execution of such decision, the Ministry responsible for Housing Affairs shall prepare a draft friendly settlement agreement in accordance with Form 3 and serve it to the applicant who has demonstrated his legitimate rights together with an invitation letter.

(2) The invitation letter shall state that the applicant who has demonstrated his legitimate rights should either personally or through a representative come to sign the draft friendly settlement agreement within one month. Otherwise, the draft friendly settlement agreement will be deemed rejected and he shall have the right to apply to the High Administrative Court.

(3) Should the applicant who has demonstrated his legitimate rights either personally or through his representative accept the draft friendly settlement agreement, this draft shall be signed by the Minister responsible for Housing Affairs and by him or his representative.

(4) Should the friendly settlement agreement is rejected or when it is deemed rejected according to sub-section (2) of this section, a disagreement document shall be served on the interested parties.

(5) In case a dispute is not resolved through a friendly settlement, the right of the interested parties to appeal to courts shall be preserved.

**The functioning and meetings of the Commission**

7(1) Following the submission of the defence or opinion of the Ministry in the TRNC responsible for Housing Affairs and/or the Attorney General representing the Ministry and/or a natural or legal person who under the legislation of the TRNC is in possession of or hold the ownership of property in accordance with these Rules, the parties will be convened

on a specified date for the meeting concerning the giving of directions regarding the application in the Chairman's office or any other place he may determine which is convenient for the parties. The Chairman may, following the hearing of the views of the parties, give the necessary directions regarding further detail, the discovery or examination of further documents, the manner in which testimony will be heard, whether or not a site investigation shall be carried out, the persons who should be required to be present during the presentation and on other matters deemed appropriate.

The proceedings that would be attended by the foreign members shall be in English. In all other cases, it will be in Turkish. However, upon the request of the applicant, an interpreter shall be provided.

(2) The proceedings of the Commission shall be based on the documents. All material relating to the applications shall be translated into English for foreign members. Provided that if deemed appropriate the Commission may hear the views and arguments of the parties and take the oral or sworn testimony of the witnesses they may wish to call. The proceedings of the Commission shall be held at its own premises provided that if necessary the Commission may also use the existing courtrooms or chambers to be allocated to the Commission with the approval of the President of the Supreme Court.

The Commission, when it deems necessary, may delegate the task of on-site exploration of the immovable property and preparation of an exploration report by a group of three members.

(3) The Commission may at any stage of the proceedings on its own motion call any person to give evidence or produce any document for the purpose of reaching a fair decision. No such testimony will be given without prior notice to the parties. The parties' rights to express their views on the matter of calling such witnesses shall be reserved. The proceedings of the Commission, other than those on the documents, shall be in public. However, the rights of the applicant to request confidential proceedings should be preserved and upon request all proceedings shall be in camera.

(4) The Commission shall take its decisions with the simple majority of those present during sittings with a quorum of the

2/3 of the total number of its members. For the purposes of this section, the Chairman and the Deputy Chairman are each to be counted as one member of the Commission. Those dissenting or in the minority may write their views and opinions separately. Such separate views and opinions shall be part of the decision. At the meetings the voting shall be in public. Those present at the meetings shall not be entitled to cast any abstention vote. In case of equality of votes, the matter voted upon shall be deemed to have been rejected. The decision of the Commission shall be signed by the Chairman and another member and shall be conveyed to the parties or served on their address for service after having been sealed by the seal of the Commission.

(5) The Commission shall, after hearing all the views and claims of the parties, announce its reasoned decision within three months. However, depending on its work load and the unique character of the application, the writing of the reasoned decision may be extended up to six months.

#### **The Commission Secretariat**

8(1) There shall be an official seal at the Commission Secretariat. All documents received and those sent out shall be sealed by the official seal. The seal shall bear the words "Immovable Property Commission". Every sealed document shall be signed and dated by the Secretary.

(2) Applications shall be entered into the official register. The summary of the proceedings relating to each application shall also be noted in the register. These inputs may also be computerized.

(3) No other fee shall be charged by the Secretariat for the certification or service of any application or any other document.

(4) The required fee for the typing or preparation of the notes of proceedings relating to the application shall be as specified in the Civil Procedure Rules.

#### **The Application of Civil Procedure Rules**

9. For the purpose of the better application of these Rules, the appropriate provision or provisions of the Civil Procedure Rules shall apply, mutatis mutandis, as regards the

circumstances not provided for, or not specifically provided for, under these Rules.

#### **Transitional Secretariat**

10. Until the Commission Secretariat becomes active, the Registry of the Supreme Court shall perform the functions of the transitional Secretariat

11 (1) The Commission shall convene upon the invitation of the Chairman with 2/3 majority of the total number of its members. In the absence of the Chairman, the invitation shall be made by the Deputy Chairman and in his absence, by the most senior member. The decisions shall be taken by the simple majority of the participants. In case of the equality of votes the matter forming the subject of the voting shall be deemed to have been rejected.

(2) There shall be two kinds of decision registers at the Commission. One is related to the applications. The second is for the other decisions to be taken by the Commission. The decisions relating to applications may be inspected at the place they are kept at reasonable times by those interested.

(3) The term of office of a member not participating in the Commission meetings without a valid reason (illness, official duty abroad, and the like) for three times, may be terminated by the Supreme Council of Judicature upon the request of the Chairman of the Commission. The term of office of the Chairman of the Commission not participating in the Commission meetings without a valid reason (illness, official duty abroad, and the like) for three times, may be terminated by the Supreme Council of Judicature upon the request of the President of the Republic. In other cases, the conditions for the termination of the term of office of a member of the Commission shall be the same as those applied to a Supreme Court Judge.

(4) As long as the quorum is sustained, any shortcoming in the composition of the Commission shall not affect the functioning of the Commission.

FORM 1

Form TMK1

APPLICATION

Before the Immovable Property  
Commission established under  
Law No:67/2005

Application No:

Applicant: \_\_\_\_\_ (a)

Id. No: \_\_\_\_\_ /Passport No: \_\_\_\_\_

and

Respondent: The Ministry responsible for Housing Affairs and/or Office of the  
Attorney General representing the Ministry responsible for Housing Affairs,  
Lefkoşa.

The parties cited above are invited to attend the meeting taking place at the  
Immovable Property Commission, Atatürk Square, opposite the Court Buildings,  
Lefkoşa, on \_\_\_\_\_ for the directions stage of the  
application. The summary of the claims of the applicant in this application are as  
follows:

The facts supporting the claims in the application can be seen in  
\_\_\_\_\_ (b)'s affidavit dated \_\_\_\_\_.

Applicant's address for service is as stated below: (c)

(Signature)  
Personal application (d)  
Application by lawyer

Registered and sealed  
on the \_\_\_\_\_ day of the  
month of \_\_\_\_\_ of  
the year 200 \_\_\_\_\_

(Signature)

Commission Secretary

Note: The observations and opinion of the Ministry responsible for Housing Affairs and/or Office of  
the Attorney General and/or a natural or legal person who under the legislation of the TRNC is in  
possession of or holds the ownership of property shall be filed with the Secretariat within a month of  
service of this application and its attachments, and a copy thereof shall be served at the address for  
service of the applicant.

- (a) Insert the name, surname, address and identity or passport number of the applicant. State your  
request for confidentiality of the proceedings if any.
- (b) Insert the name, surname and identity or passport number of the affiant.
- (c) Insert the address for service of the applicant and his telephone number if available.
- (d) Delete those not applicable.



FORM 2

Form TMK2

DEFENCE/OBSERVATION

Before the Immovable Property  
Commission established under  
Law No:67/2005

Application No:

Applicant: \_\_\_\_\_ (a)

Id. No: \_\_\_\_\_ /Passport No: \_\_\_\_\_

and

Respondent: The Ministry responsible for Housing Affairs and/or Office of the  
Attorney General representing the Ministry responsible for Housing Affairs,  
Lefkoşa.

The observations of the respondent on the application cited above, filed by  
\_\_\_\_\_ (a) which has been notified to have been fixed  
for the directions stage on the date of \_\_\_\_\_ 200\_\_  
a.m/p.m. at \_\_\_\_\_ o'clock, is as follows:

The facts regarding the observations and opinion given above by the respondent  
are as stated below/as stated in the affidavit by \_\_\_\_\_, dated  
\_\_\_\_\_ (b)

Filed on \_\_\_\_\_ 200\_\_  
Secretariat

(Signature)

The Ministry responsible for Housing  
Affairs and/or the Attorney General  
representing the Ministry responsible  
for Housing Affairs

- (a) Insert the name of the applicant.  
(b) Delete those not applicable.

**FORM 3**  
**TURKISH REPUBLIC OF NORTHERN CYPRUS**  
**MINISTRY**

Date:  
Number:

**FRIENDLY SETTLEMENT**

Number and date of the Immovable Property Commission  
decision: \_\_\_\_\_

Decision of the Immovable Property  
Commission: \_\_\_\_\_

I declare and accept that with the execution of the decision of the Immovable Property Commission dated \_\_\_\_\_ and numbered \_\_\_\_\_ served to me regarding the compensation and/or exchange and/or restitution, the damage I have suffered with respect to the relevant movable and/or immovable property is fully recovered.

I declare and accept that I shall not claim any right regarding the movable and/or immovable property set forth in my application upon the receipt of compensation in lieu of the said properties pursuant to the application of the Law (a).

I declare and accept that I shall not claim any right regarding the immovable property set forth in my application upon the acquisition of a new immovable property in exchange and/or receipt of compensation in lieu of the said properties pursuant to the application of the Law (b).

Ministry responsible for Housing Affairs

Applicant who has  
demonstrated his legitimate  
rights or his Person  
Representative

Name-Surname  
(Signature)

Name-Surname  
(Signature)

(a), (b) Delete those not applicable.

SAMPLE 1 A

Form TMK 1 A

NOTIFICATION

Before the Immovable Property Commission

Established under Law no 67/2005

No:

Dear .....

The person, who claims to be the property owner of the immovable property registered under your name, demands the compensation and/or exchange and/or restitution of the immovable property the details of which is given hereinafter.

The situation is predicated to you in accordance with the Regulations set under the Law no 67/2005. For further information regarding this matter, you should apply to the Commission no later than.....

( signature )

The President of the Immovable  
Property Commission

Registered and sealed  
on the ..... day of the  
month of .....of  
the year 200...

## APPENDIX C

### Başvuruda Gerekli Evraklar/Documents Required in Application/Αποδείξεις Έννομα Για Την Αίτηση

1. Başvuru formu, Taleplerin özeti.  
Application Form. Brief description of claims.  
*Φόρμα Αίτησης. Περίληψη απαιτήσεων.*
2. Yemin varakası. (Yemin eden; mali ve talepleri hakkında detaylı bilgi sunmalıdır.)  
Affidavit (Detailed information by the affiant regarding the claimed property and claims.)  
*Ένορκη δήλωση. (Το πρόσωπο που κάνει την ένορκη δήλωση, πρέπει να παρουσιάσει λεπτομερειακή πληροφορία σχετικά με την περιουσία και τις απαιτήσεις του.)*
3. Kimlik kartı ve/veya pasaportun tasdikli kopyaları.  
Duly approved copies of ID and/or passport.  
*Εγκεκριμένα αντίγραφα της ταυτότητας και/ή του διαβατηρίου.*
4. (i) Taşınmaz mal kayıt belgelerinin(koçanların) aslı veya tasdikli kopyaları.  
(i) Originals or duly approved copies of the land registration certificate of the immovable property.  
*(i) Η πρωτότυπη βεβαίωση ιδιοκτησίας της περιουσίας ή τα εγκεκριμένα αντίγραφα της.*  
(ii) Taşınır malın 13 Şubat 1975 tarihinden önce satın alındığını kanıtlayan makbuz, çek, banka havalesi, döviz transferi veya ödemenin yapıldığını ispatlayan başka belgelerin aslı veya tasdikli kopyaları.  
(ii) Originals or duly approved copies of documents including receipt, cheque, bank transfer, exchange transfers proving that the movable property is bought prior to 13 February 1975.  
*(ii) Τα πρωτότυπα ή τα εγκεκριμένα αντίγραφα της απόδειξης, της επαγής, της τραπεζικής μεταβίβασης, της μεταβίβασης συναλλάγματος ή άλλων έγγραφων που αποδεικνύουν ότι η κινητή περιουσία αγοράστηκε πριν από τις 13 Φεβρουαρίου 1975.*
5. Başvuru, ekleri ve sair belgelerin her biri 13 adet çoğaltılarak sekreteryaya sunulur. (Başvuruya 100 YTL'lik ve her diğer belgeye 1,5 YTL'lik damga pulu yapıştırılmalıdır.)  
Thirteen sets of photocopies of originals or duly approved copies of the application form with its attachments. (A revenue stamp worth 100 YTL should be affixed to the application form and revenue stamp worth of 1,5 YTL for each attachment).  
*13 συλλογές φωτοτυπιών της αίτησης, των παραρτήματων της και άλλων έγγραφων δίνονται στην Γραμματεία.*  
*(Στην αίτηση πρέπει να επικολληθούν χαρτόσημα 100 Καινούριων Τουρκικών Λίρων και σε κάθε άλλο έγγραφο να επικολληθούν χαρτόσημα 1,5 Καινούριας Τουρκικής Λίρας)*
6. Başvurunun bir avukat tarafından yapılması durumunda avukat tutma varakası da sunulur.  
In the event that a lawyer makes the application, the retainer should also be filed.  
*Αν ένας δικηγόρος κάνει την αίτηση, επισυνάψτε το επίσημο έγγραφο για τον διορισμό δικηγόρου.*
7. Başvuranlar, Güney Kıbrıs'ta Türk mallarından yararlanıp yararlanmadıklarını belirtmeli ve bunu belgelemeye çalışmalıdır.  
Applicants should state if they are holding and/or benefiting from any Turkish property in South Cyprus and should try to document this.  
*Οι αιτητές πρέπει να δηλώσουν αν αποκομίζουν όφελος από καμία τουρκοκυπριακή περιουσία στην Νότια Κύπρο και πρέπει να προσπαθούν να αποδείξουν αυτό με έγγραφα.*
8. Tazminat talep ederken; sadece miktar belirtmek tavsiye edilmez. Bir uzmandan değerlendirme belgesi sunmak faydalıdır.  
When claiming compensation, expressing only an amount is not advisable. Providing valuation report by experts is useful.  
*Όταν απαιτείται αποζημίωση δεν προτείνουμε να δηλώσετε μόνο ποσότητα. Είναι βοηθητικό να δωθεί και ένα έγγραφο εκτίμησης από έναν εκτιμητή.*
9. Başvuranlar, hak talep ettikleri mal üzerinde herhangi bir engel veya ödenmemiş borç veya ipotek olup olmadığını açıkça belirtmelidir.  
Applicants should clearly express whether the property that rights are claimed is subject to a mortgage and/or to a seizure or any other restraint.  
*Οι αιτητές πρέπει να διαπρανώσουν αν η περιουσία έχει καμία υποθήκη και/ή κανένα ανεξόφλητο χρέος και/ή κανένα εμπόδιο από τα δικαστήρια.*

Taşınmaz Mal Komisyonu Sekreteryası.  
Immovable Property Commission Secretariat.  
Γραμματεία της Επιτροπής Ακινήτων Περιουσιών

Not: Her belgenin kopyası noter tarafından usûlüne uygun olarak tasdik edilmelidir. (Eğer tasdik Komisyon Sekreteryası tarafından yapılacaktır, ekstradan 1,5 YTL'lik damga pulu yapıştırılmalıdır.)  
Note: Copies of documents shall be duly approved by the notary public. (Extra 1,5 YTL is to be paid, if the documents are to be approved by the Commission)

Σημείωση: Τα αντίγραφα των έγγραφων πρέπει να εγκριθούν κανονικά από τον συμβολαιογράφο. (Αν τα έγγραφα εγκρίνονται από την Επιτροπή, πρέπει να πληρωθεί ακόμα 1,5 Καινούρια Τουρκική Λίρα

67/2005 sayılı Yasa tahtında oluşturulan  
Taşınmaz Mal Komisyonu Huzurunda.  
Before the Immovable Property  
Commission established under  
Law No:67/2005  
Ενώπιον της Επιτροπής Ακινήτων  
Περιουσιών που δημιουργήθηκε υπό  
τον νόμο 67/2005

Başvuran:(a) / Applicant:(a) / Αιτητής:(a) ..... Başvuru No.: / Application No.: / Αρ. Αίτησης:  
Kimlik Kartı No.: / Id. No.: / Αρ. Ταυτότητας:...../Pasaport No.: / Passport No.: / Αρ. Διαβατηρίου:.....

ile / and / και

Davalı: İskan İşleri ile görevli Bakanlık ve/veya Bakanlık temsilen KKTC Başsavcılığı, Lefkoşa  
Respondent: The Ministry responsible for Housing Affairs and/or Office of the Attorney General representing the Ministry responsible for  
Housing Affairs, Lefkoşa.  
Εναγόμενος: Εισαγγελία της Τ.Δ.Β.Κ ως αντιπρόσωπος του Αρμόδιου Υπουργείου με θέματα στέγασης, Λευκωσία.

**ΥΕΜΙΝ ΒΑΡΑΚΑΣΙ / AFFIDAVIT / ΕΝΟΠΚΗ ΔΗΛΩΣΗ**

Ben aşağıda imza sahibi .....yemin eder ve aşağıdaki hususları beyan ederim.  
I, ..... confirm the following facts and sign the document.  
Εγώ, ο υπογεγραμμένος..... ορκίζομαι και επικυρώνω ότι:

1. Malın tarifi.(Kasaba/Köy, Pafta/Plan, Blok, Parsel ve Hissesi belirtilecektir.)  
1. The description of the property (Town/Village, Sheet/Plan, Block, Plot and Share will be stated)  
1. Η περιγραφή της περιουσίας (Πόλη/Χωριό, Φύλλο/Σχέδιο, Τμήμα, Τεμάχιο και Μερίδιο πρέπει να γραφτούν.)
2. Taşınmaz Malın 1974'deki kayıtlı mal sahibi ve/veya yasal mirasçısı olup olmadığı belirtilerek, akrabalık derecesi yazılacaktır.  
2. The registered owner of the property in 1974 and/or any legal heirs will be stated, the degree of kinship will be written.  
2. Γράφοντας τον εγγεγραμμένο ιδιοκτήτη ή τον κληρονόμο του ιδιοκτήτη της περιουσίας το 1974, πρέπει να αναφερθεί επίσης η συγγένεια μεταξύ τους
3. Mal üzerinde şu an herhangi bir engel, ipotek ve kısıtlama olup olmadığı yazılacaktır.  
3. Whether or not there are any mortgage, liability and restriction on the property will be stated.  
3. Πρέπει να γραφτεί αν η περιουσία έχει καμία υποθήκη και/ή κατάσχεση και/ή κανένα εμπόδιο από τα δικαστήρια.
4. Güneyde herhangi bir Türk malından yararlanıp yararlanmadığı belirtilecektir.  
4. Whether or not the applicant is the beneficiary of any Turkish property in the South will be stated.  
4. Πρέπει να αναφερθεί αν ο ιδιοκτήτης της περιουσίας αποκομίζει όφελος από καμία τουρκοκυπριακή περιουσία στην Νότια Κύπρο.
5. Komisyon tarafından ne talep ettiği belirtilecektir. (Tazminat, İade, Takas) (Tazminat talep ediliyorsa miktar yazılacaktır.)  
5. The applicant will state his/her demands from the Commission. (Compensation, Restitution, Exchange) (If the applicant demands compensation, s/he should write the total sum of money demanded.)  
5. Πρέπει να γραφτεί η απαίτηση του αιτητή από την Επιτροπή (Αποζημίωση, Επιστροφή, Ανταλλαγή) (Αν απαιτείται αποζημίωση, πρέπει να αναφερθεί και η επιζητούμενη ποσότητα)
6. Diğer  
6. Miscellaneous  
6. Άλλα σχόλια

(İmza) / (Signature) / (Υπογραφή)

Yemin Yapanın İsmi: / Name Surname: / Όνομα- Επώνυμο:  
Kimlik Kartı No.:/Pasaport No.: Id. No.:/Passport No.: Αρ. Ταυτότητας:/Αρ. Διαβατηρίου:

200.....yılı .....ayının  
.....nci günü kaydedilip  
mühürlenmiştir.  
Registered and sealed  
on the ..... day of the  
month of.....of  
the year 200....  
Καταχωρήθηκε και σφραγίστηκε στις ...../...../200..

(İmza) / (Signature) / (Υπογραφή)

Komisyon Sekreteri / Commission Secretary / Γραμματέας της Επιτροπής

## BASVURU / APPLICATION / ΑΙΤΗΣΗ

Form 7001 / Φορμή 6001 /

57/2005 sayılı Yasa tahtında oluşturulan  
Taşınmaz Mal Komisyonu Huzurunda.  
Before the Immovable Property  
Commission established under  
Law No:57/2005  
Ενώπιον της Επιτροπής Ακινήτων  
Περιουσιών που δημιουργήθηκε υπό  
τον νόμο 67/2005

Başvuran:(a) / Applicant:(a) / Αιτητής:(a) ..... Başvuru No.: / Application No.: / Αρ. Αίτησης:  
Kimlik Kartı No.: / Id. No.: / Αρ. Ταυτότητας:..... / Pasaport No.: / Passport No.: / Αρ. Διαβατηρίου:.....

ile / and / και

Davali: İskan İşleri ile görevli Bakanlık ve/veya Bakanlık temsilen KKTC Başsavcılığı, Lefkoşa  
Respondent: The Ministry responsible for Housing Affairs and/or Office of the Attorney General representing the Ministry responsible for  
Housing Affairs, Lefkoşa.

Εναγόμενος: Εισαγγελέας της Τ.Δ.Β.Κ ως αντιπρόσωπος του Αρμόδιου Υπουργείου με θέματα Στέγασης, Λευκωσία.

Taraflar yukanda unvani verilen başvurunun talimat safhasinin yapılacağı ..... tarihinde Atatürk Meydanı, Mahkemeler Önü, Lefkoşa adresinde  
görev yapan Taşınmaz Mal Komisyonunda yapılacak toplantıya davet edilirler. Bu başvurudaki başvuranın istemi özetle şöyledir:

The parties cited above are invited to attend the meeting taking place at the Immovable Property Commission, Atatürk Square, opposite the  
Court Buildings, Lefkoşa, on ..... for the directions stage of the application. The summary of the claims of the  
applicant in this application are as follows:

Οι συμβαλλόμενοι προσκαλούνται να παρουσιαστούν στην διάσκεψη που θα γίνει στις ..... για να πραγματοποιηθεί η φάση διαταγής της αίτησης  
στην Επιτροπή Ακινήτων Περιουσιών που υπηρέτει στην Πλατεία Ατατούρκ, απέναντι από τα Δικαστήρια, Λευκωσία. Η απαίτηση του αιτητή σ' αυτή την  
αίτηση είναι περιληπτικά έτσι:

Başvurudaki işleme dayanak teşkil eden olgular ..... (b)'nin ..... tarihli yemin varakasında görülebilir.

The facts supporting the claims in the application can be seen in ..... (b)'s affidavit dated .....

Τα γεγονότα που αποτελούν στήριγμα στην αίτηση φαίνονται στην ένορκη δήλωση του ..... με ημερομηνία ..... (β).

Başvuranın tebliğ adresi aşağıdaki gibidir: (c)  
Applicant's address for service is as stated below: (c)  
Η διεύθυνση επιδόσεως του αιτητή είναι σαν παρακάτω: (γ)

(imza) / (Signature) / (Υπογραφή)

Bizzat başvuran (d) / Personal application (d) / Αιτητής (δ)

Başvuran tarafından avukat / Application by lawyer / Δικηγόρος από μέρος αιτητή

200.....yılı ..... ayının  
.....ncı günü kaydedilip  
mühürlenmiştir.  
Registered and sealed  
on the ..... day of the  
month of ..... of  
the year 200....  
Καταχωρήθηκε και σφραγίστηκε στις ..../200...

(imza) / (Signature) / (Υπογραφή)

Komisyon Sekreteri / Commission Secretary / Γραμματέας της Επιτροπής

Not: Başsavcılığın görüş ve mütalaası, bu başvuru ve eklerinin Başsavcılığa ve/veya İskan İşleriyle görevli Bakanlığa ve varsa Kuzey Kıbrıs Türk  
Cumhuriyeti mevzuatına göre Başvuru konusu malın mülkiyet hakkını ya da kullanım hakkını elinde bulunduran şahsa tebliğinden itibaren, bir ay zarfında  
Sekreteryaya verilir ve bir sureti de başvuranın tebliğ adresine bırakılır.

Note: The observations and opinion of the Ministry responsible for Housing Affairs and/or Office of the Attorney General and/or a natural or  
legal person who under the legislation of the TRNC is in possession of or holds the ownership of property shall be filed with the Secretariat  
within a month of service of this application and its attachments, and a copy thereof shall be served at the address for service of the applicant.

Σημείωση: Η άποψη και η μελέτη της Εισαγγελέας, δίνονται στην Γραμματεία μέσα σ' έναν μήνα μετά που η αίτηση και τα παραρτήματα της γνωστοποιούνται  
στην Εισαγγελία και/ή στο Αρμόδιο Υπουργείο με θέματα στέγασης και σύμφωνα με τους νόμους της Τουρκικής Δημοκρατίας της Βόρειας Κύπρου και αν  
υπάρχει στο πρόσωπο που κατέχει το δικαίωμα ιδιοκτησίας ή το δικαίωμα χρήσης της επίδικης περιουσίας και ένα αντίγραφο αποστέλλεται στην διεύθυνση  
επίδόσεως του αιτητή.

- (a) Başvuranın adı, soyadı, adresi ve kimlik No. Veya Pasaport No:sunu yazınız. Varsa, çalışmalarının gizlilik esasına göre yürütülmesi  
yönündeki talebinizi de belirtiniz.  
(a) Insert the name, surname, address and identity or passport number of the applicant. State your request for confidentiality of  
the proceedings if any.  
(α) Γράψτε το όνομα, το επώνυμο, την διεύθυνση και τον αριθμό ταυτότητας ή τον αριθμό διαβατηρίου. Αν υπάρχει, δηλώστε την απαίτησή  
σας για να πραγματοποιηθούν οι αναφερόμενες εργασίες κρυφά.
- (b) Yemin Varakasını yaparın adı, soyadı ve hamili olduğu kimlik veya pasaport numarasını yazınız.  
(b) Insert the name, surname and identity or passport number of the affiant.  
(β) Γράψτε το όνομα, το επώνυμο και τον αριθμό ταυτότητας ή τον αριθμό διαβατηρίου του προσώπου που κάνει την ένορκη δήλωση.
- (c) Başvuranın tebliğ adresini ve varsa telefon numarasını yazınız  
(c) Insert the address for service of the applicant and his telephone number if available.  
(γ) Γράψτε την διεύθυνση επιδόσεως και αν έχει το τηλέφωνο του αιτητή.
- (d) Uygun olmayanı çiziniz.  
(d) Delete those not applicable.  
(δ) Διαγράψτε τα στοιχεία που δεν είναι κατάλληλα.