

Cyprus

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The Republic of Cyprus (*Kypriake Demokratia – Kibris Cumhuriyeti*) was established as an independent sovereign republic with a presidential regime on 16 Aug. 1960 when its Constitution came into force and the British sovereignty over Cyprus as a

Crown Colony ceased.¹ Its territory comprises the entirety of the Island of Cyprus, except the Sovereign Base Areas at Episkopi and Dhekelia over which the British sovereignty was retained, and it is one and indivisible.

I. CONSTITUTIONAL SYSTEM

1. Nationality

All citizens of the United Kingdom and the Colonies who were born in Cyprus after 5 Nov. 1914 or who became such citizens, by virtue of the Cyprus (Annexation) Orders-in-Council or who are descended in the male line from any such person and who were ordinarily resident in Cyprus during the five years immediately preceding 16 Aug. 1960 became citizens of the Republic.² By the Citizenship of the Republic Law, 1967 (no. 43 of 1967) in force since 1 Dec. 1968, persons born in the Republic after 16 Aug. 1960 become citizens of the Republic by birth if their father, or in case he is stateless their mother, is a citizen of the Republic; and persons born outside the Republic become citizens of the Republic under the same conditions if their birth is registered in the prescribed manner with a consular agent of the Republic at the place of birth. Citizenship of the Republic may also be acquired by registration or by naturalisation, and may be renounced in the prescribed manner. A naturalised Cypriot citizen may be deprived of his Cypriot citizenship by a decision of the Council of Ministers in certain specified events if it is in the public interest to do so.

2. Territorial Division

The territory of the Republic is divided, for purposes of central government, into six districts each of which is under the charge of a District Officer.

3. State Organs

a. *General structure.* – The main state organs are the President of the Republic who is a Greek and is elected by the Greek Community; the Vice-President of the Republic who is a Turk and is elected by the Turkish Community; the Council of Ministers consisting of ten ministers, seven Greek and three Turk, nominated by the President and the Vice-President of the Republic respectively; the independent officers (the Attorney-General of the Republic, the Auditor-General and the Governor of the Issuing Bank); and the heads of the army and the police.

The Greek Community consists of all citizens of the Republic who are of Greek origin and whose mother tongue is Greek or who share the Greek cultural traditions or who are members of the Greek-Orthodox Church. The Turkish Community consists of all citizens of the Republic who are of Turkish origin and whose mother tongue is Turkish or who share the Turkish cultural traditions or who are Moslems.

b. The *Head of State* is the President of the Republic who represents the Republic in all its official functions, receives the credentials of all the diplomatic representatives accredited to him, signs the credentials of all the diplomatic representatives and envoys of the Republic and confers all the honours of the Republic. He exercises executive power on certain specified subjects, convenes and presides over the

* Attorney-General, Nicosia. – Although this report was revised as of March 1975, it does not take into account the circumstances resulting from the Turkish invasion in July 1974 and the occupation of a part of the country since that date.

¹ The Cyprus Act, 1960 (8 & 9 Eliz. 2, c. 52) s. 1 of

the United Kingdom, and the Order in Council thereunder (S. I. 1960 no. 1368).

² Treaty of Establishment, Annex D s. 2 (Cmd. 1093 p. 69–76). That Annex contains provisions as to Cypriots not ordinarily resident in Cyprus who under certain conditions may also become citizens of the Republic.

meetings of the Council of Ministers but without a vote and is vested with the prerogative of mercy. The President promulgates all laws and has a suspensive veto over all decisions of the Council of Ministers and on all laws and decisions of the House of Representatives. He has also an absolute veto over any decision of the Council of Ministers and over any law or decision of the House of Representatives concerning foreign affairs and certain questions of defence and security. The presidential regime of Cyprus is peculiarly different from the genuine regime of the United States of America and the mixed regimes of Latin America.

c. *Legislative body.* – The legislative power of the Republic is exercised by the House of Representatives, consisting of 50 members of which 35 are Greeks elected by the Greek Community and 15 are Turks elected by the Turkish Community. The power is exercised on all matters except certain communal matters expressly specified in the Constitution in respect of which the legislative power is exercised by the respective Communal Chamber consisting of members of the respective Community elected by it.³ There is a President of the House who must be a Greek elected by its Greek members and a Vice-President who must be a Turk elected by its Turkish members. The President of the House of Representatives replaces the President of the Republic and the Vice-President replaces the Vice-President of the Republic in case of the temporary incapacity of either of them.

The House of Representatives meets without any summons for its ordinary session in each year on specific dates provided in the Constitution. The House itself determines the duration of each session. The House by its own decision may dissolve itself and within the prescribed period provide for the holding of a general election and the date of the holding of the first meeting of the new House. The laws and decisions of the House are passed by a simple majority vote of the Representatives present and voting except for the Electoral Law, any law relating to the municipalities and any law imposing duties or taxes for each of which a separate simple majority vote of the Greek and Turkish members is required. All laws are published in the Official Gazette of the Republic (in Greek and Turkish, since 1963 in Greek only).

d. The *government* consists of the President and the Vice-President of the Republic, the Council of

Ministers and the ministers within the ambit of their respective competence.

The main direct organ exercising the residue of the executive power is the Council of Ministers while each minister exercises executive power on all other subjects falling within the domain of his ministry. The treaty-making power is also vested in the Council of Ministers and not in the Head of State as elsewhere.

The ministers, under the presidential regime of the Republic, cannot be members of the House of Representatives, are not responsible to the House and are not subject to its parliamentary control. They may, however, attend its meetings and make statements or supply any information within their competence to the House.

e. The *territorial authorities* are either authorities of central government or of local government. The main territorial authority of central government is the District Officer who is in charge of a district and represents the central government. The authorities of local government are the councils of the municipalities (mainly in the towns and the more important rural centres), the boards of improvement (in the bigger villages) and the village authorities (in quarters of towns and villages).

4. The Judiciary

a. *The courts in civil, commercial, labour and criminal affairs.* – Civil and commercial cases are tried at first instance by a District Court, of which there is one in each district. The President or a District Judge may try cases in which the amount in dispute does not exceed 500 (Cypriot) pounds (approx. US\$ 1206); in any other case two judges must sit. From every decision in a civil case an appeal lies to the High Court, now the Supreme Court.

In criminal cases the courts of first instance consist of the President of the District Court and a District Judge trying offences committed within their district which are punishable with imprisonment not exceeding three years or a fine not exceeding 500 (Cypriot) pounds or both. All the other offences, wherever committed, are triable by an Assize Court consisting of a President of a District Court and two District Judges or three District Judges nominated by the High Court. From every decision of the President of the District Court or a District Judge or an Assize Court an appeal lies to the High Court, now Supreme Court.

³ The Greek Communal Chamber ceased to exist in 1965 when its legislative functions were transferred to the House of Representatives and its executive functions to the Minister of Education or other execu-

tive organs of the Republic in accordance with the provisions of the Greek Communal Chamber (Transfer of Exercise) and Ministry of Education Law, 1965 (no. 12 of 1965).

b. *The administrative judiciary.* – There are no administrative courts so far in Cyprus, but the Supreme Court has exclusive jurisdiction to adjudicate on a recourse made to it on a complaint that the act or omission of any organ, authority or person exercising an executive or administrative authority is contrary to law or in excess or abuse of powers and may either confirm or annul such act or omission. Such a recourse is tried by a member of the Supreme Court in the first instance and an appeal lies to the full court. The Supreme Court also has a revisional jurisdiction and is empowered to grant orders of *certiorari*, *quo warranto* or *prohibition*.

c. *Constitutional Court and High Court.* – The Constitution provides for both a Constitutional Court and a High Court. The Supreme Constitutional Court, consisting of a neutral President (*i.e.*, a person who is neither a British nor a Greek nor a Turkish citizen) and a Greek and a Turkish judge, exercises exclusive jurisdiction on various matters of a constitutional nature expressly provided in the Constitution. The High Court on the other hand consisting of a neutral President, of two Greek and one Turkish judge exercises exclusive appellate jurisdiction on all appeals from decisions of all courts other than the Supreme Constitutional Court and exercises original jurisdiction on certain specified matters such

as matrimonial causes and admiralty cases, and issues orders in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari*.

After the events of 1963 which led to communal clashes, however, those two courts could not function as provided by the Constitution. By the Administration of Justice (Miscellaneous Provisions) Law, 1964 (no. 33 of 1964), the two courts were amalgamated into one, the Supreme Court, consisting of the judges of both courts under the presidency of the senior judge for the exercise of the jurisdiction hitherto vested in the two courts. The constitutionality of this law was upheld on the basis of the law of necessity.⁴

d. *Prosecution.* – The Attorney-General of the Republic has, under the Constitution, power exercisable at his discretion in the public interest to institute, conduct, take over or discontinue any proceedings for an offence against any person in the Republic and exercises such power either in person or by officers subordinate to him acting in accordance with his instructions. The Attorney-General's independence is stronger in Cyprus than in England because he is not included in the political body. The investigation of offences is usually conducted by the police acting under the direction of the Attorney-General of the Republic.

II. SOURCES OF LAW

I. Constitution

There exists a hierarchy of legal norms, the Constitution (Const.) being the supreme law to which all other law in force in the Republic should conform. The Constitution is *sui generis* and very difficult to work owing to its strict adherence to the existence of two Communities, the Greek and the Turkish. It is very lengthy (having 199 articles and 3 annexes), and after the Indian Constitution probably the most elaborate constitutional text.

2. The laws made under the Constitution and those which were in force on the date of its coming into operation are another source of law on the assumption that they are consistent with the constitutional provisions. Certain branches of the law are codified

such as criminal law and procedure, the law of contract and civil wrongs, the law of companies and partnerships and the merchant shipping legislation.

3. The *basic law* is the English law which was applicable in Cyprus on 16 Aug. 1960 comprising the common law and the rules of equity and the Acts of Parliament of general application in England in so far as no other provision was made by a Cyprus law.⁵

4. The *law of personal status*, governing the personal and family relations of persons, is not uniform. The law affecting members of the Greek Community is the law of their Church and that affecting the Turkish Community is the Turkish (Family and Divorce) Law (Cap. 339) (based on the law in force

apply as expounded from time to time by judicial decisions in England, compare *Grossman v. Police* (1944), 17 C.L.R. 123; *Reg. v. Erodoutou* (1952), 19 C.L.R. 144.

⁴ *Attorney-General v. Mustafa Ibrahim*, [1964] C.L.R. 195.

⁵ The Courts of Justice Law, 1960 (no. 14 of 1960) s. 29 (originating in the Courts of Justice Law, 1935 s. 49). The common law not being static continues to

in Turkey which in its turn was taken from the Swiss Civil Code) as may be amended by a communal law of the respective Communal Chamber.

5. The English law principle of *precedent*, under which inferior courts are bound by the decisions of the superior courts, applies in Cyprus. Also the Cyprus courts, on matters of interpretation of legislation based on English law, follow the decisions of the English courts.

6. Publications

The laws of Cyprus were officially revised in 6 volumes by *Tornaritis*, the Attorney-General, and are known as The Statute Laws of Cyprus, 1959 (revised ed. London 1959) (references to chapters cited Cap.),

but since then many amendments and substitutions of existing laws have been made. Current legislation is published in the annual volumes of The Statute Laws of Cyprus, appearing since Independence in 1960 in the Greek language as *Parartema Proton tes Episemon Ephemeridos tes Demokratias* (periodically translated into the English language). The reports of the decisions of the Supreme Constitutional Court (officially known as Reports of Cases decided by the Constitutional Court of Cyprus) were issued in 5 volumes and those of the Supreme Court (entitled Cyprus Law Reports - C.L.R.) in 27 volumes but there are also monthly issues of reported cases. Reports of District Courts are seldom published, but when they are they appear in the Cyprus Law Reports of the Supreme Court.

III. CONCISE HISTORICAL EVOLUTION

At the time of the British occupation of Cyprus in 1878 the Ottoman law was in force, but during the British administration it was gradually replaced by legislation mainly based on English law. Even at the time of the British administration the government intervened in the private sector of business for its regulation when public interest so required. In this way there existed legislation regulating the work in factories and in mines, night work, the running of breweries, the manufacture of intoxicating liquors and tobacco and other matters. Electricity, tele-

communication services and broadcasting services were taken away from private concerns and entrusted to public corporations created *ad hoc*. After the establishment of the Republic such intervention and regulation was expanded.

Under the Annual Holidays With Pay Law, 1967 (no. 8 of 1967) and under the Termination of Employment Law, 1967 (no. 24 of 1967) provision is made for the creation of arbitral tribunals presided over by a lawyer for the determination of disputes under such laws.

IV. PRIVATE (CIVIL) LAW

The sources of law are explained *supra* II. With regard to contracts (including capacity of persons, form, damages and all other matters relating to contracts), the Contract Law (Cap. 149) was based on the Indian Contract Act, 1872, and the Sale of Goods Law (now Cap. 267) on the Indian Sale of Goods Act, 1930 which in their turn were based on the English common law and relevant Acts. With regard to torts (including damages payable in respect thereof) the Civil Wrongs Law (Cap. 148) codifies the English law of torts but that Law is implemented by the

English common law in respect of any civil wrong for which no specific provision was made.⁶ With regard to ownership of immovable property, the Immovable Property (Tenure, Registration and Valuation) Law (Cap. 224) is a codification and improvement on the complex Ottoman land tenure legislation which was in force in Cyprus. The law of succession is contained in the Wills and Succession Law (Cap. 195). Finally, family law is a matter of personal status (see *supra* II 4).

⁶ *Vassiliou v. Vassiliou* (1939), 16 C.L.R. 69; *Universal Advertising and Publishing Agency v. Vouros* (1952), 19 C.L.R. 87.

V. COMMERCIAL LAW

In Cyprus commercial law as such does not exist as a separate branch; it is part of the civil law (as distinguished from the criminal law) but there are certain laws on commercial and economic subjects. Apart from the laws dealing with commercial matters (such as the Partnership Law (now Cap. 116), the Bills of Exchange Law (Cap. 262), the Sale of Goods Law (*supra* IV), and the Bankruptcy Law (Cap. 5)), reference may be made to the laws relating to

industrial property all of which were taken from and based upon the corresponding English Acts. Companies are governed by the Companies Law (Cap. 113) copied from the English Companies Act, 1948. As regards foreign trade the Council of Ministers has power under the provisions of the Imports (Regulation) Law, 1962 (no. 49 of 1962) to restrict and regulate imports and in such a case a licensing system may be adopted.

VI. STATE DIRECTION OF TRADE

Authority for economic planning and direction of trade is given by Const. art. 25 par. 2 under which conditions, limitations or restrictions, if absolutely necessary for certain prescribed purposes including requirements of public interest, may be imposed by law. Some such laws already existed before the establishment of the Republic and were saved under the Constitution, but others were enacted after the establishment of the Republic. Apart from the law regulating imports (see *supra* V) reference may be made to the Commodities and Services (Regulation and Control) Law, 1962 (no. 32 of 1962) under which certain commodities may be put under control and

their prices fixed, to the laws regulating the marketing of certain commodities such as potatoes and carrots, the Hire-Purchase, Credit Sale and Hiring of Property (Control) Law, 1966 (no. 32 of 1966) (imposing certain restrictions on hire-purchase and credit sales) and the Insurance Companies Law, 1967 (no. 27 of 1967).

Reference may also be made to the Five-Year Economic Plans (there is one for 1962 to 1966 and a new one is in preparation) supplemented by the Development Budget. These are consistent with the free economy contemplated by the Constitution.

VII. INDUSTRIAL PROPERTY RIGHTS AND COPYRIGHT

Industrial property is protected by various laws, mainly based on the corresponding English Acts. Copyright is governed by the Copyright Law, 1976. Trade marks are governed by the Trade Marks Law (Cap. 268) based on the English Trade Marks Act, 1938 and merchandise marks are governed by the Merchandise Marks Law (Cap. 265) based on the Merchandise Marks Act, 1953. With regard to patents, any patent granted in the United Kingdom may be registered in Cyprus under the Patents Law

(Cap. 266) and the law applicable in England in respect of patents for the time being applies in Cyprus. With regard to patents, however, the Republic of Cyprus, a member of the Council of Europe, took part in the preparation of a European Convention on Patents. By Law no. 63 of 1965 the Paris International Convention for the Protection of Industrial Property of 1883, as revised in Lisbon in 1958, was approved, and it is now part of the law of the Republic.

VIII. PRINCIPLES OF JUDICIAL PROCEDURE

Judicial procedure is governed by the Civil Procedure Rules which are almost a copy of the English Rules of the Supreme Court (Subsidiary Legislation of Cyprus, vol. II (1955) 120-278). The procedure in courts in cases where no specific provision is made is

governed by the procedure followed before the English courts.⁷ Arbitration tribunals function under the Arbitration Law (Cap. 4) which again was based on the English Arbitration Acts, 1889 to 1930.

IX. PRIVATE INTERNATIONAL LAW AND INTERNATIONAL LAW OF PROCEDURE

The private international law, substantive and procedural, which applies in Cyprus is the common law which related to the conflict of laws.⁸ Since marriage is a matter of personal status, the law applicable as regards members of the Greek Community is that of their particular Church and as regards members of the Turkish Community is their communal law. When the parties to a marriage, though members of the Greek Community, do not belong to the same Church and the laws of their respective Churches are

not the same, then the law applicable is the law of the Church of one of the parties at their election and in any other case the law of the Republic in this respect (Const. art. 22). Thus the principle of private international law that the formalities of marriage are governed by the law of the celebration of the marriage – *lex loci celebrationis* – does not apply when under the relevant law of the Church a religious ceremony is required.⁹ The law of procedure and evidence is based on the English law.

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⁷ Westcott and Lawrence Line v. the Mayor etc. of Limassol (1957), 22 C.L.R. 193.

⁸ Patiki v. Patiki (1954), 20 C.L.R. Part I 36, 45.

⁹ Cheshire and North, Cheshire's Private International Law (ed. 9 London 1974) 318-319.

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