

Frank Hoffmeister, *Legal Aspects of the Cyprus Problem: Annan Plan and EU Accession*. Leiden: Martinus Nijhoff Publishers, 2006. XIV, 289 pages. ISBN 90-04-15223-7. EUR 99.

Cyprus is widely seen as a graveyard for the diplomatic aspirations of the Secretary-Generals of the United Nations ever since U Thant. Kofi Annan, UN Secretary-General from 1997 to 2006, has become the latest incumbent whose hopes for a solution of the intractable Cyprus conflict were buried on the island when on 24 April 2004 his plan for “The Comprehensive Settlement of the Cyprus Problem” (the Annan Plan) failed to gain approval in separate reunification referenda held simultaneously in the two Cypriot communities. While 64.91% of Turkish Cypriots voted in favour, 75.83% of Greek Cypriots, at the advice of their leadership, rejected the Annan Plan. A week later, a divided Cyprus joined the European Union, thus importing the Cyprus conflict into the Union. Kofi Annan commented with resignation

that “a unique and historic chance to resolve the Cyprus problem has been missed.” One may add: yet another historic chance and probably not the last one missed. As a consequence of the clear rejection of his plan on the part of the Greek Cypriots, Kofi Annan saw no basis for a resumption of the mission of good offices entrusted to the Secretary-General by the UN Security Council (a mission that still has not been fully resumed to this present day). The history of the Cyprus conflict shows, however, that this is not the end of either UN or EU endeavours to solve the Cyprus problem. New proximity talks with the two communities and consultations with the “motherlands” Greece and Turkey will lead to talks about talks which, in turn, will lead to renewed negotiations about the substantive issues.

It is a fair guess that the Annan Plan, despite its rejection by the Greek Cypriots, will form the starting point for any such future negotiations between the two communities. Everybody, whether actively involved in these future negotiations or studying the Cyprus conflict as a lawyer, political scientist or international relations scholar, is well advised to turn to Frank Hoffmeister’s excellent book on the *Legal Aspects of the Cyprus Problem*. There are few lawyers who are more qualified than Hoffmeister to write on the Annan Plan and Cyprus’ EU accession. Over the years, an official at the Cyprus desk at the DG Enlargement of the European Commission, a member of the external relations team of the Commission Legal Service and an EU expert seconded to the United Nations for the preparation of the final version of the Annan Plan, he brings a wealth of practical experience and unique insights to the topic. The fact that the book is written by an insider and probably a proponent of the Annan Plan is subtly indicated by the choice of the book’s cover which is adapted from the front page of the original Annan Plan and is kept in the colours of the proposed flag of the “United Cyprus Republic” which was to be established on the basis of that plan.

The book is organized in a short introduction and ten main chapters. Chapters I to III deal with what may be termed the historical and legal basics of the Cyprus conflict: the independence of the Republic in 1960 and the status of the two communities, the breakdown of the bi-communal Republic in 1963/64, the Turkish intervention in 1974 and Turkey’s continued presence in northern Cyprus. Chapter IV traces the UN efforts to foster a political settlement between 1975 and 1995, while Chapters V to IX are dedicated to the EU dimension of the Cyprus problem and EU-UN cooperation in reaching a political settlement on the island. They include Cyprus as candidate for EU membership, EU accession negotiations and versions one to three of the Annan Plan, EU accession and versions four and five of the Annan Plan, Cyprus as EU Member State, and relations between Cyprus and Turkey. Chapter X offers some brief general conclusions on UN-EU relations on Cyprus and Cyprus’ EU accession without a prior settlement, and the significance of international and European law in the Cyprus problem. This is followed by five appendixes presenting some key EU documents concerning the Cyprus conflict, a bibliography and a useful index.

The book is well structured. Each chapter contains two sections. The first sets out the relevant facts necessary for the following legal analysis, and in the second section, the legal arguments put forward by the two Cypriot communities, States, international organizations and academic authorities are reviewed. Hoffmeister clearly identifies the underlying legal issues and offers his own conclusions. Thus, he convincingly refutes the Greek Cypriot legal contention that the Annan Plan did not comply with the principles of EU law and was inconsistent with the relevant UN Security Council resolutions (p. 189–194).

Hoffmeister does not set out to provide merely a treatment of the Annan Plan, the final version of which comprises more than 9000 pages, including the constitution of the United Cyprus Republic and the constitutions of its two Constituent States. Rather, he focuses on the international, European and constitutional law framework in which the Annan Plan was drafted and which will form the backdrop against which any future settlement of the Cyprus conflict will have to be negotiated. It is this thorough analysis of the underlying legal questions in a non-partisan way which will guarantee the study’s lasting relevance. Hoffmeister remarks that the Cyprus conflict is a “goldmine” for international and European lawyers (p. 239) and, it may be added, so is his book stretching from the question of self-determination

and the legality of the use to the compatibility of the various options for the settlement of the Cyprus conflict with the *acquis communautaire*. There is hardly any question concerning the EU and the Cyprus conflict that Hoffmeister does not touch upon. For example, on 19 June 2007, the Court of Appeal of England and Wales made a reference to the European Court of Justice in the *Orams* case asking the ECJ to rule on the ambit of the suspension of the *acquis* in northern Cyprus and the question of whether a civil judgment rendered by a Court of the Republic of Cyprus in the south with regard to property situated in the northern part of the island could be executed under Article 33 of Regulation (EC) No. 44/2001 in other Member States. Turning to Hoffmeister's book the Court may well find the answers to these questions on pages 198–199 and 211–213. As it is impossible in the course of a short review to mention all the questions dealt with in the book it must be left to the readers to explore and exploit this goldmine for themselves.

There is little to criticize in this comprehensive and high-quality study. One of the few issues where the reviewer would, however, part company with Hoffmeister is on the question of statehood of the Turkish Republic of Northern Cyprus (TRNC) (p. 49–52). As State practice shows, economic or political dependence on another country as such does not deprive an entity of its status as a State under international law. In this context it is helpful to remember that the UN Security Council's call for non-recognition of the TRNC was not based on lack of statehood but on the incompatibility of the Turkish Cypriot's declaration of independence with the 1960 Treaty concerning the establishment of the Republic of Cyprus and the 1960 Treaty of Guarantee (S/RES/541 (1983) of 18 November 1983). On the contrary, non-recognition of a second State on the island presupposes that the claimant TRNC fulfils the conditions of statehood under international law, otherwise, as Joe Verhoeven once pointed out, the call for non-recognition would be without *raison d'être*. There is also a minor factual inaccuracy. The Turkish Cypriot leadership did not force "its exporters to use "TRNC" seals which are not recognized internationally" (p. 55). Even after 1983, the Turkish Cypriot authorities continued to issue EUR.1 movement and plant health certificates in the name of and bearing the stamp of the "Republic of Cyprus" or the "Cyprus Custom authorities" (cf. Case C-432/92, [1994] ECR I-3087, 3122, para. 13). While one would have wished for a more detailed treatment in certain parts (such as the validity of TRNC legal acts, p. 52–53), this is like asking for the extra hour of sunshine. In short, this book is a must-have for anyone interested in the settlement of the Cyprus problem and an indispensable read for any UN Secretary-General.

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