

INTERNATIONAL LAW AND CYPRUS PROBLEM

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Abstract

The question of a partitioned Cyprus after World War II has become an especially sensitive and complex question of the modern international community. The paper analyses the history of Cyprus, starting from the time the Republic of Cyprus attained independence, the covering the Turkish invasion of the island and the declaration of independence of the Turkish Republic of Northern Cyprus (TRNC) to the present day. It gives an overview of relevant United Nations resolutions with special reference to United Nations Peacekeeping Force in Cyprus (UNFICYP). The whole problem of the Republic of Cyprus and the self-proclaimed and by International Law not recognised Turkish Republic of Northern Cyprus and illegal occupation that lasts for more than three decades is analysed from the aspect of International Law. Some of the most important plans regarding a solution to the Cyprus problem are also presented and their advantages and shortcomings are commented.

Keywords: *Cyprus, International Law, intervention, human rights, United Nations, independence, secession*

I. Introduction

Due to its specific geographic position, Cyprus has always been interesting to various conquerors throughout its history. The Ottoman Empire conquered the island in 1571 and kept it as late as the year 1878 when, fearing the expansion of Russia after the Russo-Turkish War (1877-1878), the Turks ceded the

administration of Cyprus to the British. On the basis of the Treaty of Lausanne (1923) Turkey formally recognised British possession of Cyprus. Shortly after that Cyprus became a British crown colony and retained that status until it gained independence in 1960. What makes the Cyprus problem additionally complicated and more complex, but also different in relation to all other problems United Nations has dealt with, is the fact that from the beginning the Cyprus issue involves at least five different parties: Greek Cypriots, Turkish Cypriots, Great Britain, Greece and Turkey¹. Both Greece and Turkey worsened the already difficult situation in Cyprus by their unrealistic requests. This conflict refers to co-existence of two different peoples that have lived on the island for centuries – Turkish and Greek Cypriots. These two peoples have different languages, cultures, country of origin and religion, as well as political goals and interests. The only thing they have in common is intolerance towards the other ethnic group.

It is assumed that today there are about 80% of Greek Cypriots and 18% of Turkish Cypriots, whereas the remaining percentage of the population refers to other less represented ethnic groups. Even before gaining independence from the British in 1960, two political currents were organised on Cyprus based upon ethnic foundation. Major part of Greek Cypriots aspires to annexation of the whole island of Cyprus to Greece (*enosis*, in Greek “union”). On the other hand, Turkish Cypriots want Cyprus to be partitioned (*taksim*) into a Turkish and a Greek part, after which the Turkish part would secede and annex to Turkey. Greece and Greek Cypriots oppose partition of the island by ethnic foundation. As noticed by Wippman, neither community’s preference could be fully accommodated without sacrificing entirely the preference of the other community². Tensions rose in the 70s to finally culminate in July 1974 by a coup d’état which overthrew the government of Archbishop Makarios, the president of Cyprus. Makarios was forced into exile, and a pro-Greek government was established on Cyprus.

Turkey decides to undertake a military intervention the consequence of which was that tens of thousands of people were made homeless. Under the pretext of protecting the Turkish minority endangered by the Greek majority on Cyprus, Turkish authorities decided to send military troops to neighbouring Cyprus and occupy one third of the territory. Turkey established control over the northern third of the island. That caused massive displacement of Greek Cypriots from that part, whereas from the remaining part of Cyprus Turkish Cypriots were forced to move to the northern part of Cyprus, causing the then demographic structure

¹ Gordon, J. King: U.N. in Cyprus, *International Journal*, Volume XIX (1963-1964), Number 3, Summer 1964, p. 328.

² Wippman, David: International Law and Ethnic Conflict on Cyprus, *Texas International Law Journal*, Volume 31, Number 2, Spring 1996, p. 151.

to change irretrievably. As early as in February 1975 some political formation was proclaimed in that part of the island, and in November 1983 President of the Turkish part of Cyprus, Rauf R. Denktash, proclaimed the Turkish part of Cyprus an independent republic called the Turkish Republic of Northern Cyprus (TRNC). To this day only Turkey has recognised this Republic. While Greek Cypriots have believed that as a majority they have the right to decide on the island future, Turkish Cypriots believe that they have equal rights (relations in question are relations between two equal communities)³.

II. Historical background to the Cyprus problem

II.1. Events preceding independence of Cyprus (1960)

In order to be able to understand today's situation in Cyprus and provide its legal analysis, it is necessary to give a historical overview of the Cyprus issue, especially after World War II. Due to its specific geostrategic position, throughout history Cyprus was conquered by Assyrians, Egyptians, Phoenicians, Persians, Romans, Byzantines, crusaders, etc. Greek presence on the island dates back to the Mycenaean times. For three millenia or more, Cyprus preserved its Greek language and its people a sense of special identity⁴. Ottoman invasion of *Cyprus* led to the end of *Venetian rule and the island* was under the control of the Ottoman Empire for three centuries. During that period of Turkish rule, there was little mixture between the Greek and Turkish Cypriot population⁵. The main causes of the then conflicts related to different religions and cultures of two peoples, the process of Islamisation, ensuring tight relations of Turkish Cypriots with Turkey, and later on, tight relations of Greek Cypriots with Greece (including ideas of unification with mainland Greece)⁶. The majority of Greek population on the island as well as in Greece itself consider that the island has always been part of Hellenistic culture. But, it has to be mentioned that by the 19th century two communities enjoyed peaceful ethnic co-existence, that was occasionally ruined by Greek Cypriot rebellions⁷. At that time Turkish Cypriots, though a minority, had economic and political control of the island⁸. Since Turkish Cypriots were a minority, they were afraid of the Greek majority

³ Richmond, Oliver P.: *Mediating in Cyprus: The Cypriot communities and the United Nations*, Frank Cass Publishers, New York, 1998, p. xv.

⁴ Gordon, op. cit., p. 326.

⁵ *Ibidem*, p. 327.

⁶ Turk, A. Marco: Cyprus Reunification is Long Overdue: The Time is Right for Track III Diplomacy as the Best Approach for Successful Negotiation of this Ethnic Conflict, *Loyola of Los Angeles International and Comparative Law Review*, Volume 28, Number 2, Spring 2006, p. 207.

⁷ *Ibidem*, p. 208.

⁸ *Ibidem*.

and thus they strongly opposed enosis. As a response to the idea of enosis, Turkish Cypriots announced their counter-request, i.e. partition of Cyprus, where in case of annexing the island to Greece, the Turkish part of Cyprus would be annexed to Turkey.

In 1878 Great Britain and the Ottoman Empire concluded a secret treaty according to which Cyprus would be ceded to the British, whereby the Ottoman Empire retains sovereignty over the island in return for political support of Great Britain to the Ottoman Empire. The Convention of Defensive Alliance of 1878 between Great Britain and Turkey was also known as the Cyprus Convention⁹. It stipulated conditions of British occupation and administration of Cyprus. Turkey decided to make that move in order to provide for British support in defence against the increasing Russian power after Russo-Turkish Wars of 1877-1878. Hence in 1878 Great Britain occupied the island and took over its administration even though Britain acknowledged Turkish sovereignty¹⁰.

Greek population on the island preferred union with Greece to British rule¹¹. Britain annexed Cyprus in 1914, after the outbreak of World War I. Britain annulled the Convention of 1878 as soon as Turkey sided with Germany in World War I. In 1923, in accordance with the Treaty of Lausanne, Turkey waived all rights related to Cyprus and accepted British sovereignty over Cyprus. The Treaty of Lausanne states: “Turkey hereby recognizes the annexation of Cyprus proclaimed by the British Government on the 5th November 1914”¹². In the meantime, Cyprus became a British Crown Colony and the British administrated Cyprus as a colony until the independence of Cyprus in 1960.

In the 30s unrest and riots started to break out on the island. Greek Cypriot demands for “*enosis*” with Greece¹³ grew louder, and there was a growing tension between the two communities on the island. During World War II Greek Cypriots voluntarily fought in the British Army troops hoping in return the British would expedite unification of Cyprus and Greece after World War II as they had previously done with the Ionian Islands¹⁴. But, Great Britain disliked

⁹ Convention of Defensive Alliance between Great Britain and Turkey, June 4, 1878, 68 British and Foreign State Papers 744 (1877-1878); 3 Martens Nouveau Recueil 274 (Ser. 2nd). Cited according to Rossides, Eugene T.: Cyprus and the Rule of Law, *Syracuse Journal of International Law and Commerce*, Volume 17, Number 1, Spring 1991, p. 27.

¹⁰ Gordon. op. cit., p. 327.

¹¹ Turk: Cyprus Reunification is Long Overdue: The Time is Right for Track III Diplomacy as the Best Approach for Successful Negotiation of this Ethnic Conflict, op. cit., p. 208.

¹² Cited according to Rossides, op. cit., p. 27.

¹³ The movement itself dates back from 1830 and the Greek independent state as well as rising nationalism between Greeks living in and outside Greece. The mission of the movement was to unify the Greek people into one state. Musgrave, Thomas, D.: *Self-determination and national minorities*, Oxford monographs in International Law, Oxford University Press, 2000, p. 223.

¹⁴ *Ibidem*.

enosis from the beginning and became even more disturbed in the post-war period about its effect on the NATO alliance¹⁵. During the British rule, appeasement of the Turkish minority in Cyprus aggravated the inter-ethnic relations: Turkish Cypriots sided with the British, while Greek Cypriots were engaged in uprising against the British¹⁶, which resulted in even deeper animosity and intolerance between the two ethnic communities on Cyprus.

At that time, the Greek Orthodox Church started to argue strongly in favour of unification of the island with Greece and in the mid-50s this attitude was supported by the official Greek government. Namely, Greek Cypriots advocated holding a plebiscite on the island under supervision of the United Nations, invoking the right to self-determination. But, relying on a much greater number of Greeks than Turks, they counted on results that would lead to annexation to Greece, and not to independence of Cyprus itself¹⁷. Since Turkey and Great Britain opposed one plebiscite aimed at determining future of the island that would definitely lead to union with Greece, Greece changed its policy and proposed independence of the island of Cyprus itself, which Turkey and Great Britain agreed to¹⁸.

In the mid-50s Greek Cypriots began guerrilla warfare and terrorist activities against British authorities. National Organisation of Cypriot Combatants (*Ethniki Organosis Kyprion Agoniston*) was building up with only one goal: annexation to Greece. 1950s and 1960s were characterised by a strong decolonisation process. Greek Cypriots argued that the people of Cyprus, under colonial administration, were entitled to choose their future political status in accordance with the will of the majority, whether the choice was for independence or for union with Greece¹⁹.

¹⁵ Britain's concern to retain strong military bases on the island caused it largely to ignore the Greek Cypriots' clamant demands for independence. On the other hand, Turkish Cypriots were content with British rule, seeing a guarantee of their minority rights in the presence of the British. Gordon, op. cit., p. 327.

¹⁶ Turk: Cyprus Reunification is Long Overdue: The Time is Right for Track III Diplomacy as the Best Approach for Successful Negotiation of this Ethnic Conflict, op. cit., p. 209.

¹⁷ Turks claimed that the Greek proposal for one plebiscite was not a manifestation of the right to self-determination for Turkish Cypriots, but rather a denial of their right to self-determination. Turkey believed that there were two "peoples" on Cyprus and that each of these two "peoples" had the right to self-determination (as a double self-determination). S. G. Xydis: The UN General Assembly as an Instrument of Greek Policy: Cyprus 1954-58, 1968, 12 Journal of Conflict Resolution 141, p. 157, given according to Musgrave, op. cit., p. 224.

¹⁸ *Ibidem*, p. 224.

¹⁹ Turkish Cypriots understood that self-determination for the majority would lead to enosis and they feared that the result would be not just discrimination, but political domination and marginalisation of their group identity. For more details see Wippman, op. cit., p. 166. and further.

Long after World War II Great Britain hesitated to grant independence to Cyprus justifying that by the fact that local authorities were not ready for independence or that they were not capable of ensuring protection of rights of the Turkish minority on the island. British geopolitical interests in this part of the Mediterranean were much more important than ending the decolonisation process. Therefore, on behalf of the people of Cyprus, Greece decided to invoke implementation of the right to self-determination during the session of the United Nations General Assembly held in 1954. But, the United Nations General Assembly adopted Resolution 814 (IX) in which it eliminates the possibility of discussing this topic: "Considering that for the time being it does not appear appropriate to adopt a resolution on the question of Cyprus"²⁰. Meanwhile, unsuccessful negotiations between Great Britain, Greece and Turkey took place in the mid-50s with a goal of finding a solution to the problem of Cyprus. The Suez Crisis was precipitated and the British made a decision to set up a military base in Cyprus²¹. Greece kept insisting that the General Assembly should make its own decision on the future of Cyprus regarding the right to self-determination, but it was unsuccessful²². In 1957 the General Assembly passed a Resolution stating the "earnest desire that a peaceful, democratic and just solution will be found in accord with the purposes and principles of the Charter of the United Nations, and the hope that negotiations will be resumed and continued to this end"²³. Clashes between the two ethnic groups broke out in Cyprus. Turkey did support strongly the Turkish Cypriots' demand for *taksim* or partition, which in the event of British withdrawal would assure the Turkish minority their rights²⁴.

Finally, by the end of 1950s Great Britain made the offer to transfer sovereignty over Cyprus to both Greek and Turkish Cypriots by forming the independent state of Cyprus. The only condition referred to retaining two military bases on the island. Negotiations commenced in Zurich in 1959, but soon after that they continued in London. Five delegations participated in negotiations: Turkey,

²⁰ Application under the Auspices of the United Nations, of the Principle of Equal Rights and Self-Determination of Peoples in the Case of the Population of the Island of Cyprus, United Nations General Assembly Resolution 814 (IX), 17 December 1954.

²¹ Rossides, op. cit., p. 30.

²² In December 1957 the General Assembly passed a resolution stating the "Earnest hope that further negotiations and discussions will be undertaken in a spirit of co-operation with a view to having the right of self-determination applied in the case of the people of Cyprus". Although the resolution was passed by a majority vote of thirty-one to twenty-three with twenty-four abstentions, it did not achieve the 2/3 vote required under United Nations Charter Article 18 (29) to become a "recommendation with respect to the maintenance of international peace and security". UN Department of Public Information, 1957 UN Year Book 72-76 (1958), cited according to Rossides, op. cit., pp. 30-31.

²³ Question of Cyprus, United Nations General Assembly Resolution 1013 (XI), 26 February 1957.

²⁴ Gordon, op. cit., p. 328.

Greece, Great Britain, Turkish Cypriot representatives headed by Dr. Küçük and Greek Cypriot representatives headed by Archbishop Makarios. Based upon the London-Zurich Agreements of 1959-1960 negotiated by Britain, Greece and Turkey, and presented to the Greek and Turkish Cypriots, Cyprus attained independence on August 16, 1960. Archbishop Makarios signed for the Greek Cypriots and Dr. Fazil Küçük signed for the Turkish Cypriots²⁵. The Republic of Cyprus became a member of the United Nations, the Council of Europe and the Commonwealth.

II.2. London-Zurich Agreements (1959-1960)

During the negotiations for independence of the Republic of Cyprus three treaties were signed²⁶. Cypriot representatives did not take part in the drafting of these agreements, but shortly after the agreements were initiated, representatives of the two Cypriot communities were invited to join representatives of Greece, Turkey and Britain at a meeting in London to finalise the Zurich settlement²⁷. Under the Treaty of Establishment between Britain and Cyprus, Great Britain retained sovereignty over two bases (Akrotiri and Dhekelia), training rights in ten specified areas, and the use of roads, communications, harbours and ports, and the airport of Nicosia²⁸. Signatories of the second treaty or the so-called Treaty of Guarantee among Britain, Greece and Turkey acknowledge and guarantee independence, territorial integrity and security of the Republic of Cyprus. The Treaty of Guarantee prohibits enosis (union with Greece) and partition of the island. Finally, the third treaty (i.e. the Treaty of Alliance among Cyprus, Greece and Turkey) obliged the signatories to resist any attack or aggression endangering territorial integrity and independence of the Republic of Cyprus. The Treaty stipulated that the two peoples shall exercise equal constitutive power and have equal rights as to participation in political life of the state. The Treaties of 1960 ban Cyprus from joining an international organisation or alliance that does not count both Turkey and Greece among its members in order to prevent any of these two states from gaining political advantage or prevalence on the island. Any call for partition of Cyprus was forbidden, as well as parties or movements propagating a union with Greece or Turkey.

²⁵ Rossides, *op. cit.*, p. 31.

²⁶ Musgrave, *op. cit.*, pp. 224-226.

²⁷ Cypriot representatives were not present in Zurich for the initial drafting of the Accords and had little opportunity in London for seeking changes in them. On the other hand, Greek Cypriots had reason to fear that a refusal to accept the 1960 Accords might delay the independence of Cyprus indefinitely or result in an imposed settlement even less favourable to Greek Cypriot political aspirations than the 1960 treaty arrangements. Wipman, *op. cit.*, pp. 145 and 149.

²⁸ Gordon, *op. cit.*, p. 330.

The Constitution of the Republic of Cyprus was adopted the same day these three treaties entered into force. The Constitution provided the 18% Turkish Cypriot minority with a veto power over major governmental actions, including taxation, defence, security, foreign affairs and municipal matters, and contained a provision barring amendment of the basic articles²⁹. These Constitutional provisions were a major cause of the dispute between the Greek and Turkish Cypriots³⁰. There was to be a Greek Cypriot President and a Turkish Vice-president. Each had a veto over any decision of the Council of Ministers and over any law passed by the House of Representatives that would relate to foreign affairs or defence³¹. Turkish Cypriots were given three out of ten seats in the Council of Ministers, 30% of the seats in the House of Representatives, 40% of the strength of an army of 2,000, 30% of a police force of 2,000 and 30% of the jobs in the civil service³². The Treaty of Guarantee reinforced the binding terms of the Constitution³³. Under the Treaty of Alliance, Cyprus, Greece and Turkey were obliged to co-operate in common defence³⁴. A Greek Cypriot, Archbishop Makarios was elected first president of the Republic of Cyprus. This made him both a religious and a secular leader – president of the state.

The London-Zurich Agreements were imposed on the Greek and Turkish Cypriots by outside governments and provided for “minority veto government”³⁵. It was more than obvious that Turkish Cypriots were granted much with respect to the fact that they made up only 18% of the overall population. Ehrlich believes that the constitutional framework represented a carefully articulated set of norms designed to permit the two Cypriot communities to live together, but to prevent the richer and more populous Greek community from overwhelming the Turkish minority³⁶. Instead of co-operation, the two communities were

²⁹ The Constitution may be found in 3 Constitutions of Nations – Europe 138-221, A. Peasley, 3rd edition 1968. cited according to Rossides, op. cit., p. 31.

³⁰ *Ibidem*.

³¹ Gordon, op. cit., p. 329.

³² *Ibidem*.

³³ Great Britain, Greece and Turkey recognised and guaranteed independence, territorial integrity and security of Cyprus and also the basic articles of the Constitution. Each of the three powers reserved the right “to take action with the sole aim of re-establishing the state of affairs established under the present treaty”. *Ibidem*, p. 330.

³⁴ A tri-partite military headquarters was to be established in Cyprus and Greek and Turkish contingents of 950 and 650 officers and men respectively were to be stationed on the island. Greek and Turkish officers were to train the Cypriot army. *Ibidem*.

³⁵ Rossides, op. cit., p. 86.

³⁶ It can be easily concluded that this constitutional arrangement “was doomed to failure”. But, as Ehrlich noticed, the agreement did function reasonably well for over two years and “given patience and a spirit of compromise” it might well have worked much longer than that. Thomas Ehrlich: Cyprus: the Warlike Isle: Origins and Elements of the Current Crises, 18 *Stanford Law Review*, May 1966, p. 1021, cited according to Wippman, op. cit., p. 146.

separated. As King notices: “the miracle of Zurich had lost its glow”³⁷. Very soon after constitutional provisions got implemented in practice, demands for changes referring to the Constitution emerged. The Constitution was hindered by both sides. Makarios advanced a proposal encouraging constitutional reforms, but it was rejected by the British³⁸. However, equal sharing of power between Greek and Turkish Cypriots has never entered into force³⁹. Greek Cypriots thought that Turkish Cypriots were granted too much. Turkish Cypriots did not want to feel inferior and responded to it by blocking passage of important legislation, including extension of the income tax⁴⁰.

It was a matter of time when the conflicts caused by the idea of partition would be moved out onto the streets. Intercommunal fist fights and street clashes erupted very soon. Due to escalation of serious conflicts between the two communities in Cyprus that took place in 1963, under Security Council Resolution 186 (1964) the United Nations Peacekeeping Force arrived on the island⁴¹. The goal of the United Nations Peacekeeping Force in Cyprus (UNFICYP) was to prevent further conflicts between Greek and Turkish Cypriots⁴². At that time Turkey threatened to invade Cyprus. Turkish Cypriots insisted that the only way to resolve the crisis was through the “physical separation and separate administration of the two communities”⁴³. In August 1964 Turkey did bomb Cyprus and the United Nations Security Council passed Resolution 193 that made an appeal to the government of Turkey “to cease instantly the bombardment of and the use of military force of any kind against Cyprus, and to the Government of Cyprus to order the armed forces under its control to cease firing immediately”⁴⁴. That year, the Security Council passed a series of resolutions stating in some of them

³⁷ Gordon, op. cit., p. 331.

³⁸ Makarios submitted for discussion to the Turkish Cypriots thirteen proposed amendments to the Constitution to correct its “undemocratic features”. Makarios did not get British support for his proposals, and Turkey rejected the proposals before any response from the Turkish Cypriots. For more details about the 13 proposed revisions see Rossides, op. cit., p. 32.

³⁹ Turk: Cyprus Reunification is Long Overdue: The Time is Right for Track III Diplomacy as the Best Approach for Successful Negotiation of this Ethnic Conflict, op. cit., p. 209.

⁴⁰ See Wippman, op. cit., p. 146.

⁴¹ United Nations Security Council Resolution 186 (1964), 4 March 1964, S/5575. Greek Cypriots attacked regions inhabited by Turkish Cypriots, and *Turkey intervened* with *air attacks* against Greek Cypriots. These attacks were condemned by the Security Council by Resolution 193 (1964), 25 March 1964, S/5868. See also Bridge, J. W.: Legal Status of British Troops Forming Part of the United Nations Force in Cyprus, *The Modern Law Review*, Volume 34, 1971, pp. 121-135.

⁴² The mandate of the Mission has been extended to the present day, and the main objective has been to maintain ceasefire, establish a buffer zone between the two communities and undertake humanitarian activities. The information about the Mission itself is available on the official United Nations website: <<http://www.un.org/Depts/dpko/missions/unficypl/index.html>>.

⁴³ Wippman, op. cit., p. 147.

⁴⁴ Security Council Resolution 193 (1964), loc. cit., see note 41.

that the situation on Cyprus was serious and that it could “threaten international peace and security” and inviting all member states “to refrain from any action or threat of action likely to worsen the situation in the sovereign Republic of Cyprus or to endanger international peace”⁴⁵. In November 1967 a new crisis burst in Cyprus and Cyrus Vance was sent to Cyprus on a diplomatic mission to prevent the outbreak of further hostilities. Vance’s mission was assessed as a success by observers, until the fateful events of 1974 precluded further peaceful progress on a negotiated settlement⁴⁶.

III. Turkish invasion of Cyprus and the occupation of the northern part of the island (1974)

On 2 July 1974, in a letter to General Phaidon Gizikis, President of Greece, Archbishop Makarios, President of Cyprus, accused the Greek regime of trying to overthrow his government⁴⁷. Several days after, on 15 July the Greek Cypriot National Guard did overthrow the Government of Cyprus in a coup d’état. Their goal was to kill president Makarios and to install Nicos Sampson, an ultra rightist as president⁴⁸. Makarios was replaced and he left the country. A pro-Greek government was established in Cyprus that invoked the call for enosis openly. According to Turkey, that was a severe breach of the 1960 Treaty⁴⁹.

As a response to activities undertaken by the Greek military junta, on 20 July 1974 Turkish forces invaded Cyprus occupying 5% of the island’s territory. About 35,000-40,000 Turkish soldiers arrived in the northern part of the island and established Turkish administration there⁵⁰. Cyprus’ population in 1974 was about 650,000. Population distribution by ethnic group was about 80% Greek Cypriots and 18% Turkish Cypriots.⁵¹ Consequently 40% of Greek Cypriots were forced to leave their homes in the areas occupied by Turkey, becoming refugees on their own island⁵². Meanwhile, the ethnic composition of Cyprus

⁴⁵ Security Council Resolution 186 (1964), loc. cit., see note 41. See also United Nations Security Council Resolution 187 (1964), 13 March 1964, S/5603 and Security Council Resolution 193 (1964), loc. cit., see note 41.

⁴⁶ For more details see Rossides, op. cit., p. 33.

⁴⁷ *Ibidem*, p. 24.

⁴⁸ *Ibidem*.

⁴⁹ Musgrave, op. cit., pp. 226-227.

⁵⁰ Turk: Cyprus Reunification is Long Overdue: The Time is Right for Track III Diplomacy as the Best Approach for Successful Negotiation of this Ethnic Conflict, op. cit., pp. 206 and 211.

⁵¹ U.S. Army Area Handbook for Cyprus 73 (1971). The 1970 consensus had the population of 628,000. Cited according to Rossides, op. cit., p. 26.

⁵² Greek Cypriots from the north fled to the south, and the Turkish Cypriots from the south fled to the north. Turk: Cyprus Reunification is Long Overdue: The Time is Right for Track III Diplomacy as the Best Approach for Successful Negotiation of this Ethnic Conflict, op. cit., p. 211.

started to change by a great number of Turks coming from the continent to settle on the island. Major natural resources of the island are situated in the occupied northern part.

Turkey obviously violated the most important principles of International Law and the Charter of the United Nations. Turks accounted for that act in the way that the Turkish minority in Cyprus feared that if Turkish troops left Cyprus, Greek authorities in Cyprus would make all Turks leave the island⁵³. Turkey justified that action by Article 4 of the Treaty of Guarantee and believed it was the Treaty providing it with the right to invade and protect the Turkish Cypriot population⁵⁴. The Security Council responded to the invasion on the very same day by adopting Resolution 353 (1974) calling upon “all states to respect the sovereignty, independence and territorial integrity of Cyprus”⁵⁵. By that Resolution the Security Council invoked a ceasefire and insisted on “an immediate end to foreign military intervention”. The Turkish army was demanded to complete “the withdrawal without delay”, and only military personnel present on Cyprus under international agreements was allowed to stay on the island. At the end of July 1974, Britain, Greece and Turkey started negotiations to resolve that new crisis⁵⁶. Meanwhile, truces were declared and ceasefires were systematically violated.

Security Council Resolution 354⁵⁷ invokes immediate compliance with Security Council Resolution 353⁵⁸. Security Council Resolutions 353, 354, 357⁵⁹ and 358⁶⁰ (1974) call for cessation of hostilities and ceasefire. Security Council Resolution 359⁶¹ discusses casualties in the UNFICYP. In Resolution 360⁶² the Security Council expresses “its formal disapproval of the unilateral military actions” undertaken by Turkey against Cyprus. By the same Resolution, the Security Council invokes compliance with previous Resolutions of the Security Council that place special emphasis on the importance of compliance with those resolutions stressing the withdrawal without delay of foreign military personnel (except those present under international agreements). Security

⁵³ *Ibidem*, p. 220.

⁵⁴ Rossides, op. cit., p. 24. and Palmer, Suzanne: The Turkish Republic of Northern Cyprus: Should the United States Recognize It as an Independent State?, *Boston University International Law Journal*, Volume 4, Number 2, Summer 1986, p. 438.

⁵⁵ United Nations Security Council Resolution 353 (1974), 20 July 1974.

⁵⁶ For more details see Rossides, op. cit., p. 25. and further.

⁵⁷ United Nations Security Council Resolution 354 (1974), 23 July 1974.

⁵⁸ Security Council Resolution 353 (1974), loc. cit., see note 55.

⁵⁹ United Nations Security Council Resolution 357, 14 August 1974.

⁶⁰ United Nations Security Council Resolution 358, 15 August 1974.

⁶¹ United Nations Security Council Resolution 359, 15 August 1974.

⁶² United Nations Security Council Resolution 360, 16 August 1974.

Council Resolution 361⁶³ deals with refugees and their right to return to their homes peacefully. Finally, the last resolution on Cyprus in the Security Council in 1974 was Resolution 365⁶⁴. That Resolution urged the parties concerned to implement as soon as possible General Assembly Resolution 3212 on the “Question of Cyprus”. General Assembly Resolution 3212, *inter alia*, “calls upon all states to respect the sovereignty, independence, territorial integrity and non-alignment of the Republic of Cyprus” and “urges the speedy withdrawal of all foreign armed forces and foreign military presence and personnel from the Republic of Cyprus and the cessation of all foreign interference in its affairs”⁶⁵. Turkey failed to comply with these United Nations Security Council and General Assembly resolutions⁶⁶.

On 14 August 1974, Turkey broke off the negotiations unilaterally and launched a second, more massive attack on Cyprus and occupied over 37% of Cyprus, including 70% of its economic resources⁶⁷. The invasion forcibly displaced from 180,000 to some claimed 200,000 Greek Cypriots from their homes and properties, rendering many Cypriots destitute refugees and it left several thousand dead and missing⁶⁸. Approximately 1,500 Greek Cypriots and 500 Turkish Cypriots remain officially registered as missing⁶⁹. The Security Council responded again and adopted a new Resolution calling for a ceasefire⁷⁰. By that Resolution the Security Council also stressed “its formal disapproval of the unilateral military actions undertaken” by Turkey against Cyprus and urged compliance with its previous resolutions⁷¹.

Since a pro-Greek coup d'état failed due to Turkish invasion of Cyprus, Makarios returned to Cyprus and took over as president. Since the fighting of 1974 both sides have attempted, with the help of their motherlands, to maximise their political rights over each other and minimise involvement of the opposing side's motherland⁷². From that period to the present day, *the northern third of the island of Cyprus* is entirely occupied by Turkey. Turkish Cypriots are convinced that in case the Turkish army leaves Cyprus Greek authorities in Cyprus will

⁶³ United Nations Security Council Resolution 361, 30 August 1974.

⁶⁴ United Nations Security Council Resolution 365, 13 December 1974.

⁶⁵ United Nations General Assembly Resolution 3212 (XXIX), 1 November 1974.

⁶⁶ Rossides, *op. cit.*, p. 54.

⁶⁷ *Ibidem*, p. 26. and Jacovides, Andreas J.: Cyprus – The International Law Dimension, *The American University Journal of International Law and Policy*, Volume 10, Number 4, Summer 1995, p. 1225.

⁶⁸ Jacovides, *op. cit.*, p. 1225. and N.Y. Times, August 15, 1974. Cited according to Rossides, *op. cit.*, p. 26.

⁶⁹ *Rainsford, Sarah*: Bones of Cyprus missing unearthed, BBC News website <<http://news.bbc.co.uk/2/hi/europe/6166560.stm>>.

⁷⁰ Security Council Resolution 357 (1974), *loc. cit.*, see note 59.

⁷¹ *Ibidem*.

⁷² Richmond, *op. cit.*, p. xv.

displace all Turks from the island⁷³. A demarcation line established after the Turkish invasion of Cyprus in 1974 has not changed to the present day. United Nations forces control the ceasefire line (or the so-called Green Line) between the two communities.

IV. Declaration of the independence of the Turkish Republic of Northern Cyprus (1983)

On 13 February 1975 Turkish Cypriots proclaimed, as transitional measures, a semi-dependent Turkish Federative State of Cyprus. In June 1975 they enacted the Constitution confirmed by the referendum held in the Turkish part of Cyprus with 99.4% of votes cast in its approval⁷⁴. Following eight years of unsuccessful negotiations, on 15 November 1983 the Legislative Assembly of the Turkish Federative State of Cyprus, referring to the exercise of the right to self-determination, proclaimed the Turkish Republic of Northern Cyprus by the unanimous vote⁷⁵. By that Declaration the Turkish part of Cyprus seceded from the Republic of Cyprus.

Since 1983 two autonomous administrations, one *de facto* and one *de jure*, have existed on the island⁷⁶. The unilateral Declaration was rejected by the Republic of Cyprus, the United Nations and the international community in general. The TRNC has been recognised only by Turkey⁷⁷. In relation to this issue, the Security Council passed two important Resolutions in 1983. In the first, Resolution 541 the Security Council stated that “the attempt to create a Turkish Republic of Northern Cyprus is invalid”, and therefore the Council called “for its withdrawal”⁷⁸. According to the Security Council, the establishment of the TRNC violates provisions of the 1960 Treaty that prohibited secession of either part of Cyprus. Therefore, the Security Council considered the declaration of independence by the TRNC legally invalid.

⁷³ Turk: Cyprus Reunification is Long Overdue: The Time is Right for Track III Diplomacy as the Best Approach for Successful Negotiation of this Ethnic Conflict, op. cit., p. 220.

⁷⁴ For more details regarding the TRNC Constitution see Necatigil, Zaim M.: *The Cyprus Question and the Turkish Position in International Law*, Revised Second Edition, Oxford University Press, 2001, pp. 296-310.

⁷⁵ See Necatigil, op. cit., pp. 184-205, Musgrave, op. cit., p. 227 and Shaw, op. cit., pp. 166-167. See also official websites of the Turkish Republic of Northern Cyprus <<http://www.trncwashdc.org>>.

⁷⁶ Çarkoglu A. and Sözen A.: The Turkish Cypriot General Elections of December 2003, Setting the Stage for the Cyprus Conflict?, *South European Society & Politics*, Vol. 9, No. 3, p. 124, cited according to Arslan, Kaya and Güven, Halil: *International Law in Cyprus Problem*, Presented at the 38 International Congress of Asian and North African Studies, ICANAS 38, 10-15 September, 2007, Ankara, Turkey, p. 5.

⁷⁷ See Wippman, op. cit., p. 147.

⁷⁸ United Nations Security Council Resolution 541 (1983), 18 November 1983.

In the second, Resolution 550 the Security Council expressed that it was “gravely concerned” about “the further secessionist acts in the occupied part of the Republic of Cyprus”⁷⁹. The Security Council again called upon all states not to recognise the TRNC. The Security Council expressed their special concern about “the purported exchange of ambassadors between Turkey and the legally invalid Turkish Republic of Northern Cyprus”. They also condemned “the contemplated holding of a constitutional referendum and elections”. By Resolution 550 the Security Council called upon all states “to respect the sovereignty, independence, territorial integrity, unity and non-alignment of the Republic of Cyprus”. On the basis of those Resolutions it was clear that proclamation of an independent state in the northern part of Cyprus was contrary to International Law and as such illegal. Pro-Turkish authors consider that the Turkish Cypriot community, exercising its right to self-determination and sovereignty, has evolved administratively into a *de facto*, independent, democratic entity⁸⁰.

Turkish Cypriots suffered severe economic consequences because of the isolation and exclusion⁸¹. Since no *state except for Turkey recognises the TRNC*⁸², this political formation remained outside international developments and it does not participate in the international processes at all, especially from the economic point of view. Hence it is entirely dependent on Turkey. While Turkish Cypriots are economically weak and dependent on Turkey, their southern neighbours, Greek Cypriots, have made economic prosperity.

V. United Nations Peacemaking in Cyprus

As can be seen, the United Nations played an active role in resolving the Cyprus crisis. A number of resolutions and recommendations were passed. These resolutions systematically called upon all states to respect sovereignty, independence and territorial integrity of Cyprus, whose sovereignty was violated and endangered by the Turkish invasion of Cyprus. The Security Council and the General Assembly expressed their deep concern about the continuation of violence and bloodshed in Cyprus. They also called for the immediate cessation of military intervention on the island and demanded a withdrawal of Turkish military troops from Cyprus. It was stressed that all the refugees should return to their homes in safety. In spite of repeated calls of the Security Council and

⁷⁹ United Nations Security Council Resolution 550 (1984), 11 May 1984.

⁸⁰ Arslan and Güven, *op. cit.*, p. 5.

⁸¹ *Ibidem*.

⁸² More details on the Turkish interpretation of non-recognition of the TRNC by other states can be found in Necatigil, *op. cit.*, pp. 310-331.

the General Assembly⁸³ for withdrawal of Turkish forces from the island, the situation has not changed to the present day. Turkish-Cypriot leader Rauf Denktash stated several times that the two communities could not live together and that only two separate states on the island were the solution to the crisis in Cyprus⁸⁴.

United Nations Peacekeeping Force in Cyprus (UNFICYP)⁸⁵ was established in 1964 which makes it one of the longest-running UN Peacekeeping *missions* ever⁸⁶. Based upon the demand for urgent action that was put forward by representatives of Great Britain and Cyprus, on 4 March 1964 the Security Council unanimously adopted the aforementioned Resolution 186 (1964)⁸⁷, by which it noted that the situation in Cyprus was likely to threaten international peace and security, and recommended the creation of a United Nations Peacekeeping Force in Cyprus (UNFICYP), with the consent of the government of Cyprus. As for the force, the Council said its composition and size were to be established by the then Secretary-General U Thant, in consultation with the Governments of Cyprus, Greece, Turkey and Great Britain. Under Resolution 186 (1964), the Secretary-General was obliged to report periodically to the Security Council on its operation. According to Resolution 186 (1964), the *function* entrusted to *UNFICYP* was to use its best efforts to prevent a recurrence of fighting and, as necessary, to contribute to the maintenance and restoration of law and order and a return to normal conditions. In the same Resolution the Security Council recommended the designation of a mediator to promote a peaceful solution and an agreed settlement of the Cyprus problem.

⁸³ In this historical context it should be mentioned that the United Nations General Assembly adopted the following resolutions on Cyprus: Resolution 3212 (XXIX), 1 November 1974, loc. cit., see note 65; Resolution 3395 (XXX), 20 November 1975; Resolution 3450 (XXX), 9 December 1975; Resolution 32/128, 16 December 1977, A/RES/32/128; Resolution 33/15, 9 November 1978, A/RES/33/15; Resolution 33/172, 20 December 1978, A/RES/33/172; Resolution 34/30, 20 November 1979, A/RES/34/30; Resolution 36/164, 16 December 1981, A/RES/36/164; Resolution 37/181, 17 December 1982, A/RES/37/181; Resolution 37/253, 13 May 1983, A/RES/37/253.

⁸⁴ See the official BBC website, World News, "Cyprus: Divided for 25 years", July 18 1999, <http://news.bbc.co.uk/1/hi/english/world/europe/newsid_397000/397652.stm>. See also Meier, Benjamin M.: Reunification of Cyprus: The Possibility of Peace in the Wake of Past Failure, *Cornell International Law Journal*, Volume 34, Number 2, 2001, pp. 455-481.

⁸⁵ See the official United Nations website <<http://www.un.org/Depts/dpko/missions/unficypr/>>, and the official UNFICYP website <<http://www.unficypr.org>>.

⁸⁶ Of all ongoing peacekeeping operations, only UNTSO (United Nations Truce Supervision Organization) in Palestine and UNMOGIP (United Nations Military Observer Group in India and Pakistan) in the region of India and Pakistan last longer than UNFICYP. UNTSO was set up in 1948 and UNMOGIP in 1949. See the official United Nations website <<http://www.un.org/Depts/dpko/dpko/bnote.htm>>.

⁸⁷ Security Council Resolution 186 (1964), loc. cit., see note 41.

At the request of the representative of Cyprus, the Security Council held an emergency meeting on 13 March and adopted also aforementioned Resolution 187 (1964)⁸⁸. The resolution noted the Secretary-General's assurances that the force was about to be established, called on member states to refrain from action or threats likely to worsen the situation in Cyprus or endanger international peace, and requested the Secretary-General to press on with his efforts to implement Resolution 186 (1964). The peacekeeping force became established operationally on 27 March 1964, when sufficient troops were available to it in Cyprus to enable it to discharge its functions. By 8 June 1964, the force had reached the strength of 6,411⁸⁹. UNFICYP troops were positioned mainly along the length of the "green line" as interposition of forces that would, in case of any confrontation between the warring parties, reduce tension and prevent further escalation of the conflict in the most effective way possible. The consolidation of the security situation that was achieved by the beginning of 1965 made a gradual reduction of the strength of UNFICYP possible. From a total of 6,275 in December 1964, the force was gradually reduced by half by the spring of 1974⁹⁰. UNFICYP played a very important role in the events in the summer of 1974 aimed at preventing further armed conflicts. Because of the suffering caused by the hostilities, UNFICYP undertook an increasing number of humanitarian tasks to assist the afflicted population of both communities.⁹¹

UNFICYP has maintained the status quo to the present day. The Security Council has routinely extended the UNFICYP mandate every six months⁹². The United Nations buffer zone in Cyprus between the two warring parties runs for approximately 180 km along the island and the width of the zone ranges from 20 m at some points to some 7 km, covering about 3% of the island⁹³. Peacekeepers are only allowed to employ their weapons for self-defence. UNFICYP *operates in Cyprus* with the consent and *cooperation* of the Turkish *Cypriot* and the Greek *Cypriot* sides and have complete freedom of movement.

In 1980s and 1990s, due to the deteriorating financial situation of the force and the lack of progress towards a lasting political solution to the Cyprus

⁸⁸ Security Council Resolution 187 (1964), loc. cit., see note 45.

⁸⁹ The official UNFICYP website

<http://www.unficy.org/nqcontent.cfm?a_id=1354&tt=graphic&lang=11>.

⁹⁰ See the official UNFICYP website

<http://www.unficy.org/nqcontent.cfm?a_id=1491&tt=graphic&lang=11>.

⁹¹ The official UNFICYP website

<http://www.unficy.org/nqcontent.cfm?a_id=1599&tt=graphic&lang=11>

⁹² The list of Security Council resolutions which extended the UNFICYP mandate in the last ten years available on the official website of the United Nations

<<http://www.un.org/Depts/dpko/missions/unficy/unficy Drs.htm>>.

⁹³ The official UNFICYP website

<http://www.unficy.org/nqcontent.cfm?a_id=1605&tt=graphic&lang=11>.

problem, a number of troop-contributing governments decided to withdraw their contingents. In March 1996, the total strength of UNFICYP was about 1,200⁹⁴. Following the adoption of UN Security Council Resolution 1568 (2004)⁹⁵, UNFICYP military reduced its presence to 860 troops and placed emphasis on liaison and mediation rather than interposition of forces. The UN Security Council adopted Resolution 1847 (2008) of 12 December 2008⁹⁶ extending the UNFICYP mandate until 15 June 2009.

VI. Implementation of International Law in the case of Cyprus

The consequence of irredentist aspirations of Greek Cypriots, dating back to the 19th century, was the Turkish Cypriot aspiration of secession, and both communities called upon their right to self-determination⁹⁷. According to Greek-Cypriot understanding, self-determination should be achieved by a referendum which shows what the majority of the population wants. Greeks interpreted unification with Greece as a consequence of the right to self-determination by which the people could choose between independence and “*annexation to other state*”⁹⁸. Nevertheless, Turkish Cypriots believe that they have a separate right to self-determination based upon the fact that they constitute a separate ethnic group characterised by common tradition, language, religion and political aspirations. Furthermore, Turkish Cypriots believe that they cannot preserve their community in the present state⁹⁹. Although there are much less Turkish Cypriots than Greek Cypriots, Turkish Cypriots consider themselves a people not a minority, and as such they have the right to self-determination. With

⁹⁴ The official UNFICYP website

<http://www.unficy.org/nqcontent.cfm?a_id=1607&tt=graphic&lang=11>.

⁹⁵ United Nations Security Council Resolution 1568 (2004), 22 October 2004, S/RES/1568 (2004).

⁹⁶ United Nations Security Council Resolution 1847 (2008), 12 December 2008, S/RES/1847 (2008).

⁹⁷ Musgrave, op. cit., p. 227. For more details concerning the relationship between the two communities see *World Directory of Minorities*, Minority Rights Group, Longman Group, St. James Press, Chicago, 1991, pp. 188-190.

⁹⁸ Greek Cypriots believe that Turkish Cypriots are not entitled to the right to self-determination since they are just an ethnic minority. In December 1983 the Greek Cypriot Permanent Representative to the UN expressed his attitude saying that Turkish Cypriots are not entitled to the right to self-determination. He referred to the Declaration on decolonisation (1960) by which self-determination is exercised by the people as a whole, and not based upon different religious or ethnic criteria. If the right to self-determination was exercised by every ethnic group within the state, it would lead to the “*breakdown of every state and nation in the world, including Turkey*”. Musgrave, op. cit., p. 228.

⁹⁹ Since in 1963 the pro-Greek government did not provide for representation of the Turkish people in the government, Turkish Cypriots believe they are entitled to the right to secede under Article 7 of Resolution 2625 (XXV). According to them, the TRNC Constitution represents the exercise of the right to self-determination. *Ibidem*.

respect to Turkish invasion of Cyprus in 1974, the Turkish side would justify their actions in Cyprus stating that they “did not start the Cyprus conflict”, and that all Turkish Cypriots “have been deprived of their rights since 1964”, that they are “subjected to discrimination, suffered from ethnic cleansing in the hands of Greek Cypriots from 1963-74”, and “kept in isolation”¹⁰⁰. On the other hand, Greek Cypriots would say that Turkey is responsible for aggression, invasion, occupation and massive violation of human rights on Cyprus. In their opinion, the Cyprus problem involves “the illegal invasion and occupation of a small country by a far larger and militarily much stronger neighbour”, the systematic destruction of the cultural heritage and ethnic cleansing on a massive scale with the forced displacement of all Greek Cypriots of the area under Turkish occupation¹⁰¹. A double standard has been applied in Turkey’s favour in the name of alleged strategic value, as in Rossides¹⁰². Because, removals of Soviet troops from Afghanistan, Cuban troops from Angola, Vietnamese troops from Cambodia and Iraqi soldiers from Kuwait took place, but Turkish soldiers have not been withdrawn from Cyprus.

The United Nations responded in the case of Cyprus in line with the UN mission “to maintain international peace and security” (Article 1, paragraph 1 of the Charter of the United Nations), and definitely in the case of Cyprus there was a breach of the peace. Use of force by one state (Turkey) against another state (Cyprus) is explicitly forbidden by International Law. Under Article 3, paragraphs 3 and 4 of the Charter, all states shall resolve their international disputes by peaceful means. All states “shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state”. Turkey did not resolve the dispute peacefully, but contrary to the provisions of International Law, it used force. Under Article 51 of the UN Charter every member state has the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken “measures necessary to maintain international peace and security”. Although Turkey tried to justify its invasion of Cyprus by calling upon the provision under Article 51 of the UN Charter, that argument could not have been accepted. Namely, Turkey itself was neither attacked nor threatened by anyone. By calling upon protection of minority rights (Turkish minority on Cyprus), Turkey abused the norms of International Law and launched aggression against the neighbouring state.

¹⁰⁰ Arslan and Güven, *op. cit.*, p. 7.

¹⁰¹ Jacovides, *op. cit.*, p. 1222.

¹⁰² For more details see Rossides, *op. cit.*, pp. 79-81.

Turkey has stated it had the right to invade and intervene in Cyprus under article 4 of the Treaty of Guarantee¹⁰³: “In the event of a breach of the provisions of the present Treaty, Greece, Turkey and the United Kingdom undertake to consult together with respect to the representation or measures necessary to ensure observance of those provisions. Insofar as common or concerted action may not prove possible, each of the three guaranteeing Powers reserves the right to take action with the sole aim of re-establishing the state of affairs created by the present Treaty”¹⁰⁴. After the Turkish invasion of 1974 various legal interpretations of that item of the Treaty have been distinguished. Generally, all provisions of any treaty that would be in conflict with the Charter of the United Nations became null and void, including the provisions of the London-Zurich Agreements¹⁰⁵. Let us recall that Turkish understanding of Article 4 conflicts with *ius cogens* norms prohibiting forcible interference with the restrictions on force enshrined in Article 2 (4) of the UN Charter¹⁰⁶. But, the London-Zurich Agreements did not authorise Turkey to invade Cyprus. In this disputable article 4 it cannot be seen anywhere that a unilateral right to the use of force without prior authorisation of the Security Council¹⁰⁷ is permitted. That article neither implies the use of “military force” when it refers to “action”, not mentions the word “force” anywhere in the Treaty¹⁰⁸. Article 51 of the UN Charter gives the right to the use of force only in terms of self-defence. But, Turkey was neither attacked nor threatened by such an attack, which means that Turkey severely violated International Law.

As a consequence of the conflict between Greeks and Turks, Greek Cypriot cultural heritage and religious places were considerably damaged or completely destroyed in the northern part of the island. Though, one of the most tragic consequences of the Turkish invasion of Cyprus is the unknown fate of missing persons: the Cypriot government identified 1,614 missing Greek Cypriots and five missing American citizens of Greek Cypriot descent¹⁰⁹. The United Nations passed several resolutions on the issue of missing persons and set up a Committee on Missing Persons that was to investigate the situation on the field, but Turkey

¹⁰³ Legal interpretation of the Treaty of Guarantee by the Turkish side is available in Necatigil, *op. cit.*, pp. 108-133.

¹⁰⁴ Cited according to Rossides, *op. cit.*, p. 56. Also, although Turkey apparently consulted with Britain, Turkey did not consult with Greece and therefore did not meet the requirements of Article 4. Taylor G. Belcher, former United States Ambassador to Cyprus. Cited according to *ibidem*, p. 59.

¹⁰⁵ See Article 103 of the UN Charter.

¹⁰⁶ Wippman, *op. cit.*, p. 148.

¹⁰⁷ See *ibidem*, pp. 153-155.

¹⁰⁸ Rossides, *op. cit.*, p. 56.

¹⁰⁹ *Ibidem*, p. 54.

failed to comply with those resolutions¹¹⁰. The Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 1949, in article 49 prohibits colonisation by an occupying power¹¹¹. Article 49 states in its last paragraph: “The Occupying Power shall not deport or transfer part of its own civilian population into the territory it occupies”.

Despite the lack of consensus on the exact figures, it is estimated that by the year 2003 there were 115,000 Turkish settlers in Northern Cyprus¹¹², and by 2009 that number has undoubtedly increased by several thousands. These Turkish settlers illegally brought by *Turkey* to the occupied areas represent a serious stumbling block to resolving the future of the Cyprus problem. A massive settlement of Turkish settlers is a problem not only to Greek Cypriots, but also to indigenous Turkish Cypriots, whose animosity towards the dominant newcomers from Turkish mainland with whom they share no points of contact other than religion is on the increase. Turkish Cypriots and Turks from Turkey differ significantly as to culture and tradition, and with respect to a rather small number of Turkish Cypriots in comparison with those from mainland, there is a real danger of extermination directed toward their specific cultural heritage. E.g., one of the Turkish Cypriot opposition party leaders Ozgur warned in 1983 that if settlement of Turks from the continental part of Turkey continues at the same rate, the Turkish Cypriots would become a minority in the north of Cyprus¹¹³. The Parliamentary Assembly of the Council of Europe expressed its concern about the continuous outflow of the indigenous Turkish Cypriot population from the northern part of the island. Their number decreased from 118,000 in 1974 to an estimated 87.600 in 2001. In consequence, what is alarming is the information that the settlers outnumber the indigenous Turkish Cypriot population in the northern part¹¹⁴. The question remains open as to what would happen with

¹¹⁰ See *ibidem*, p. 54.-55. General Assembly Resolution 3450 (XXX), 9 December 1975, loc. cit., see note 83, and General Assembly Resolution 37/181, 17 December 1982, see note 83.

¹¹¹ The Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949, Article 49, Official Gazette – International Treaties of the Republic of Croatia, No. 5/1994.

¹¹² Colonisation by Turkish settlers of the occupied part of Cyprus, Parliamentary Assembly, Council of Europe, Recommendation 1608 (2003), 24 June 2003, paragraph 2.

¹¹³ In a speech in Nicosia on April 14, 1989 Ozker Ozgur accused the Denktash regime and the Ozal government in Turkey of cooperating in turning the north of Cyprus into a Turkish province. Ozgur stated that from 1974 to 1989 around 30,000 Turkish Cypriots had emigrated. “We are against the use of the workers and peasants from Turkey for the destruction of the identity of the Turkish Cypriots and in rendering the Turkish Cypriots ineffective as a communal entity. We must tell the Turkish workers that the Denktash regime sees them as cheap labour and vote for their own selfish interests”. It proves that the Turkish Cypriots are also victims of Turkey’s actions in Cyprus. Rossides, *op. cit.*, pp. 84-85.

¹¹⁴ The Assembly cannot accept the claims that the majority of arriving Turkish nationals are “seasonal workers or former inhabitants who had left the island before 1974”. Therefore it condemns the

those new settlers in the northern part of Cyprus in case of a possible future reunification of the island. Many of these settlers started their families and have children born and brought up in Cyprus. There are doubts about whether they would agree to return to Turkey after years or decades of living in the northern part of Cyprus.

Communication between the Turkish and the Greek part of Cyprus was impossible by the year 2003. Since 2003 it is possible to cross the border at designated points on a daily basis. Some border control points allow pedestrians only, whereas the others allow vehicles as well. Nevertheless, freedom of movement and settlement has been systematically and heavily violated.

The TRNC was set up in violation of International Law, by the Turkish invasion of Cyprus, and it is not independent. It was an invasion, a foreign intervention in internal affairs of one state and occupation of one third of the territory. Pursuant to the norms of International Law, the United Nations does not allow either unification of the Greek Cypriots with Greece or formation of the Turkish Cypriot state¹¹⁵. To this day, the international community does not recognise that “state”. It is recognised only by Turkey which did that on the day following the declaration of independence¹¹⁶. Since the territory depends heavily on Turkey, it cannot be considered modern and independent state, but it remains a *de facto* entity within the internationally recognised Republic of Cyprus¹¹⁷. The United Nations failed in its long-term efforts to provide for a withdrawal of all foreign military troops from Cyprus in order to preserve sovereignty and independence of the central Cypriot authorities. Except for Turkey, the

policy of “naturalisation” designed to encourage new arrivals which was introduced by the Turkish Cypriot administration with the full support of the Turkey. Colonisation by Turkish settlers of the occupied part of Cyprus, Parliamentary Assembly, Council of Europe, Recommendation 1608 (2003), 24 June 2003, paragraphs 4 and 5.

¹¹⁵ Musgrave, op. cit., p. 229. See also Jacovides, op. cit., pp. 1221-1233, Kliot, Nurit and Mansfeld, Yoel: Resettling Displaced People in North and South Cyprus: A Comparison, *Journal of Refugee Studies*, Volume 7, Number 4, 1994, pp. 328-360, Nedjati, Zaim and Leathes, Geraint: Study of the Constitution of the Turkish Federated State of Cyprus, *Anglo-American Law Review*, Volume 5, Issue 1, 1976, pp. 67-93, Blay, S. K. N.: Self-Determination in Cyprus: The New Dimensions of an Old Conflict, *Australian Year Book of International Law*, Volume 10, 1981-1983, pp. 67-101, Evriviades, Marios L.: Legal Dimension of the Cyprus Conflict, *Texas International Law Journal*, Volume 10, Number 2, Spring 1975, pp. 227-265 and Wippman, op. cit., pp. 141-181.

¹¹⁶ A constitution for the TRNC was adopted and approved in a referendum held in May 1985. Nearly 70% of voters voted in favour of the constitution. Musgrave, op. cit., p. 227. See also Palmer, op. cit., pp. 423-451.

¹¹⁷ Shaw, Malcolm N.: *International Law*, A Grotius Publication, Cambridge University Press, 1997, p. 167.

international community and the United Nations agree that the central Cypriot authorities in the Greek part are the only legitimate authorities on Cyprus¹¹⁸.

VII. Problems related to entrance of Cyprus into the European Union

As previously seen, since 1963 the United Nations has played a key role in resolving the Cyprus problem. Until the beginning of a new millennium these efforts of the United Nations did not fall on fertile ground, primarily due to obstinate standpoints of the Turkish Cypriots who wanted to achieve complete independence¹¹⁹. However, at the beginning of the year 2000, on the eve of the accession of the Republic of Cyprus to the European Union a significant number of the Turkish Cypriots was intrigued by the idea of the entrance into the European Union after an age-long international isolation. That seemed to be the right moment for reunification of Cyprus¹²⁰. The then United Nations Secretary-General Kofi Annan stated later on: "The European Union factor in particular offered a framework of incentives to reach a settlement as well as deadlines within which to reach it."¹²¹ In what follows, we will give a brief overview of the 2002-2004 negotiations which, with respect to the reunification, failed to make substantive progress, but they were used as a sound basis for a new round of negotiations on the reunification that commenced in 2008.

The Republic of Cyprus applied for EU membership in the early 1990s, and its application was registered as valid in 1995. The leadership of the Republic of Cyprus invited the Turkish Cypriot community to join the Cypriot negotiating team as full members, but the Turkish Cypriot leadership rejected the invitation and continued advocating their standpoint according to which the two communities cannot live together in the same state¹²². At the Helsinki Summit held in 1999 the European Council adopted the viewpoint according to which the solution to the Cyprus problem is not a condition for the accession of the Republic of Cyprus to the European Union, but both sides were invited to resolve the dispute so that the island as a whole could enter into that organisation¹²³. In an

¹¹⁸Turk: Cyprus Reunification is Long Overdue: The Time is Right for Track III Diplomacy as the Best Approach for Successful Negotiation of this Ethnic Conflict, op. cit., p. 219.

¹¹⁹Vassiliou, George: Cypriot accession to the EU and the solution to the Cyprus problem, *Brown Journal of World Affairs*, Volume X, Issue 1, Summer/Fall 2003, p. 213.

¹²⁰See Atasoy, Seymen: Cyprus, Turkey, and the EU: The Need for a Gradual Approach, *ibidem*, p. 259.

¹²¹Report of the Secretary-General on his mission of good offices in Cyprus, 1 April 2003, S/2003/398.

¹²²Turk: Cyprus Reunification is Long Overdue: The Time is Right for Track III Diplomacy as the Best Approach for Successful Negotiation of this Ethnic Conflict, op. cit., p. 221.

¹²³See Atasoy, op. cit., p. 259. and Barkey, Henry J.: Cyprus: Between Ankara and a hard place, *Brown Journal of World Affairs*, Volume X, Issue 1, Summer/Fall 2003, p. 230.

attempt to secure an agreement the Council set the deadline for the Copenhagen Summit scheduled for December 2002, which would decide on the accession of the Republic of Cyprus to the EU in 2004¹²⁴. At the beginning of the year 2002, the leadership of the Turkish Republic of Northern Cyprus, headed by President Rauf Denktash, after initial opposition, consented to negotiations under the auspices of the United Nations. However, as the year passed by, it was clear that the progress of negotiations was too slow, and that the two parties would not manage to reach an agreement within the given deadline¹²⁵. On 11 November 2002 Kofi Annan presented his plan for Cyprus reunification – *The Comprehensive Settlement of the Cyprus Problem*, known as *The Annan plan*¹²⁶, that will be discussed in the next chapter.

The Annan plan was revised on the eve of the Copenhagen Summit, mainly because of objections raised by the Turkish Cypriot leadership, but the deadline for securing an agreement was postponed to 28 February 2003¹²⁷. Since the deadline passed and no agreement was reached, so that the Secretary-General asked to meet with the leaders of the two communities before signing the EU Treaty of Accession planned for 16 April 2003. The meeting was held at The Hague on 10 and 11 March 2003, but it also ended up as a failure¹²⁸. In his report of April 2003 to the Security Council Annan stated that during negotiations the Turkish Cypriot leadership headed by President Glafcos Clerides and his successor Tassos Papadopoulos (as of February 2003) was more flexible and open to securing an agreement than the Turkish Cypriot leadership headed by President Denktash¹²⁹.

In February 2004, on the eve of the accession of the Republic of Cyprus to the European Union, leaderships of the two communities agreed to an additional round of negotiations under the auspices of the United Nations and on the foundations of the Annan plan. Fearing that an agreement would not be ensured, Annan managed to make both sides give their consent to put the Plan to a referendum. The text of the Annan plan was finally presented on the referendum that was held on 24 April 2004 both in the Greek and in the Turkish

¹²⁴ *Ibidem*.

¹²⁵ See *ibidem*, pp. 230-231.

¹²⁶ The Comprehensive Settlement of the Cyprus Problem (The Annan plan), full text of the final version of 31 March 2004 is available at the official website of the United Nations Peacekeeping Force in Cyprus (UNFICYP)

<<http://www.unficypr.org/media/Other%20official%20documents/annanplan.pdf>>.

¹²⁷ Barkey, op. cit., pp. 231-232.

¹²⁸ *Ibidem*, p. 232.

¹²⁹ Atasoy, op. cit., p. 260.

part of the island¹³⁰. This double referendum marked “the reversal of historical roles between Greek Cypriots and Turkish Cypriots”¹³¹. Namely, Turkish Cypriots supported the Annan plan and a joint entrance into the European Union, but this time unification was halted by Greek Cypriots, the vast majority of whom voted against the entrance of the Turkish part of the island into the Union¹³². On 1 May 2004 the Republic of Cyprus became a new member of the European Union without the northern part of the island.

Although after accession of the southern part of the island to the European Union it seemed that a historic opportunity for the reunification of Cyprus was missed, recent developments reflect considerable optimism. Currently, both communities are headed by politicians that are more moderate than their predecessors. In April 2005 Rauf Denktash was succeeded by Mehmet Ali Talat at the head of Turkish Cypriots. During his 30-year period of Turkish Cypriot leadership, Denktash was known for his hard-line secessionist policy and resistance to reunification. On the other hand, Talat is a fervent advocate of reunification who was dedicated to revitalisation of negotiations and suspension of international isolation of the northern Cyprus¹³³. On 4 July 2006 the United Nations set up a meeting between the two leaders, Ali Talat and Papadopolous, in which they obliged with a number of bilateral talks referring mainly to some technical, but also political issues. However, it was obvious that the lack of political agreement represented a major obstacle to serious negotiations¹³⁴. After winning the elections in February 2008, Papadopolous was replaced by Demetris Christofias, a left-wing politician who strongly argues in favour of reunification of Cyprus, so that the situation has changed significantly. In March 2008 the two Presidents agreed to reopen formal negotiations on reunification of Cyprus. Opening of a crossing at Ledra Street in Nicosia in April 2008 was as a sign of good will before resuming talks on reunifying the island. Ledra Street, the main artery road of the city, was *divided by a cease-fire line*, known as the *Green Line*,

¹³⁰ Turk: Cyprus Reunification is Long Overdue: The Time is Right for Track III Diplomacy as the Best Approach for Successful Negotiation of this Ethnic Conflict, op. cit., p. 217.

¹³¹ Turk, A. Marco: Rethinking the Cyprus Problem: Are Frame-breaking Changes Still Possible Through Application of Intractable Conflict Intervention Approaches to This «Hurting Stalemate», *Loyola of Los Angeles International and Comparative Law Review*, Volume 29, Number 3, Summer 2007, pp. 463-501, p. 465.

¹³² See the BBC News website: Country profile: Cyprus, <http://news.bbc.co.uk/2/hi/europe/country_profiles/1016541.stm>, and Analysis: Cyprus result adds to EU woes, by Gerald Butt, <<http://news.bbc.co.uk/2/hi/europe/3656553.stm>>.

¹³³ The BBC News website: Country profile: Cyprus, <http://news.bbc.co.uk/2/hi/europe/country_profiles/1016541.stm>.

¹³⁴ The BBC News website: Q&A: Cyprus peace process, <<http://news.bbc.co.uk/2/hi/europe/2839603.stm>>.

since 1964 thus becoming the symbol of the divided Cyprus¹³⁵. Intensive talks between Ali Talat and Christofias commenced in September 2008 with a view to find a final solution to the question of Cyprus¹³⁶. A new round of negotiations was also welcomed by the Security Council by the said Resolution 1847 (2008) of 12 December 2008¹³⁷.

VIII. Proposals for a solution to the Cyprus problem

In addition to the United Nations working on the problem in the last forty years, a number of proposals for a solution to the Cyprus problem have come, inter alia, from the three guarantor powers (Greece, Turkey and Great Britain), NATO, the USA, Canada and the then USSR¹³⁸. Those proposals basically fall into four categories: a) *partition* – splitting of the island in two autonomous and independent states, b) *enosis* – annexation of the island to Greece, c) *double enosis* – annexation of the southern and the northern part of the island to Greece and Turkey, respectively, and d) reunification of the island on a federal, confederal or some other principle¹³⁹.

One of the most known proposals is the one that was submitted in 1965 by Galo Plaza Lasso, the United Nations mediator on Cyprus and ex-President of Ecuador¹⁴⁰. Plaza Lasso put forward a proposal as to creation of an independent, sovereign and demilitarised state in Cyprus with a single constitution.¹⁴¹ As a minority in comparison to Greek Cypriots, Turkish Cypriots would be protected under a general system of human rights protection¹⁴². Plaza Lasso believed that a system based upon the 1960 Accords or some other similar system separating the two communities by giving them special rights, would influence alienation of communities on a long-term basis, which, in his opinion, would be fatal to successful functioning of a common state¹⁴³. Turkey thought that Plaza Lasso's

¹³⁵ See the BBC News website: Symbolic Cyprus crossing reopens, <<http://news.bbc.co.uk/2/hi/europe/7327866.stm>>, and Symbolic Nicosia wall falls down, by Tabitha Morgan, <<http://news.bbc.co.uk/2/hi/europe/6434919.stm>>.

¹³⁶ See the BBC News website: Cyprus peace back on the agenda, by Tabitha Morgan, <<http://news.bbc.co.uk/2/hi/europe/7308912.stm>>, Cyprus unity hopes rekindled, by Kirsty Hughes, <<http://news.bbc.co.uk/2/hi/europe/7444113.stm>>, and Cyprus rivals begin peace talks, <<http://news.bbc.co.uk/2/hi/europe/7595359.stm>>.

¹³⁷ United Nations Security Council Resolution 1847 (2008), 12 December 2008, loc. cit., see note 96.

¹³⁸ Wippman, op. cit., p. 165.

¹³⁹ *Ibidem*.

¹⁴⁰ Report of the United Nations Mediator on Cyprus to the Secretary-General, 26 March 1965, S/6253.

¹⁴¹ *Ibidem*, paragraph 147.

¹⁴² *Ibidem*, paragraph 159.

¹⁴³ *Ibidem*, paragraph 163.

proposal did not provide for enough protection of Turkish Cypriots, whereas Greece met the proposal with a reserve, primarily because it excluded the possibility of enosis¹⁴⁴. Plaza Lasso was aware of perspectives on such system in a state that was significantly influenced by the opposed foreign powers (Turkey and Greece) and with a history of interethnic conflicts, proposing therefore the United Nations to take over certain commitments becoming in that way guarantors of protection provided for Turkish Cypriots¹⁴⁵. Although that proposal for a solution to the Cyprus problem was found suitable by the prevailing attitude of the international community regarding the protection of human rights after World War II, according to which the emphasis was placed on the protection of individuals rather than groups, it simply did not correspond to the current political reality in Cyprus, which was the main reason why it was not adopted.

It was after 1974 and the *de facto* division of Cyprus into two zones, Greek-Cypriot and Turkish-Cypriot, the option of creating one Cypriot state on the federal (confederal) principle opened up. Namely, by that time Greek and Turkish Cypriots lived mingled on the whole island and at the time of signing the 1960 Accords it was not possible to create a federal (confederal) state¹⁴⁶. Since 1974 to the present day, federalism is a prevailing idea in considerations as to the future of Cyprus, which was especially advocated by the United Nations during a number of negotiations between the two warring parties that were held under UN auspices¹⁴⁷.

In 1989, following a series of negotiations and talks with the warring parties, the then Secretary-General Javier Perez de Cuellar completed a detailed draft called a *Set of Ideas on an Overall Framework Agreement on Cyprus*¹⁴⁸. The draft was based upon the idea that “Cyprus is the common home” of the two communities and that “their relationship is not one of majority and minority but one of two communities in the federal republic of Cyprus”¹⁴⁹. “Set of Ideas” was basically founded on creation of “a bizonal and bicomunal federation”¹⁵⁰, which makes it principally different from the 1960 one. Both of these attitudes are based upon division of powers between the two communities in a way that the Turkish Cypriot community as minority can veto some important decisions made by

¹⁴⁴ Wippman, op. cit., p. 168.

¹⁴⁵ Report of the United Nations Mediator on Cyprus to the Secretary-General, 26 March 1965, op. cit., paragraph 168.

¹⁴⁶ See Wippman, op. cit., p. 171.

¹⁴⁷ See *ibidem*, pp. 173-174.

¹⁴⁸ Set of Ideas on an Overall Framework Agreement on Cyprus, Annex to the Report of the Secretary-General on his Mission of Good Offices in Cyprus, 21 August 1992, S/24472. See Wippman, op. cit., pp. 173-174.

¹⁴⁹ Set of Ideas on an Overall Framework Agreement on Cyprus, op. cit., paragraph 3.

¹⁵⁰ *Ibidem*, paragraph 4.

the government it considers harmful to their interests. In contrast to the 1960 organisation, by this draft there would be two politically equal federal units, with the Greek Cypriot and the Turkish Cypriot majority in either of them¹⁵¹. The draft was accepted by both sides as a foundation for further negotiations¹⁵², and supported by the Security Council in 1992¹⁵³. Soon the negotiations came to a stalemate since the Turkish Cypriot leadership was unwilling to adopt all conditions stipulated in the Draft¹⁵⁴.

Nevertheless, even after that the United Nations persisted on the idea of federalism, which can be seen in the aforementioned, very detailed proposal for a solution to the Cyprus problem that was put forward in November 2002 by the then Secretary-General Kofi Annan¹⁵⁵. In the *intensive talks held in the period from November 2002 to March 2004*, that were discussed earlier, i.e. on the eve of the entrance of Cyprus into the European Union, certain parts of the Annan plan were revised several times, so that the text that was put to the referendum in both Cypriot communities on 24 April 2004 was the fifth and the last version of the Annan plan¹⁵⁶.

The Plan explicitly called for the establishment of a federal state based largely on the Swiss model¹⁵⁷. The Annan plan proposed the establishment of the “United Cyprus Republic” as “an independent state in the form of an indissoluble partnership, with a federal government and two equal constituent states, the Greek Cypriot State and the Turkish Cypriot State“. The state in question would be a member of the United Nations and would have “a single international legal personality and sovereignty“¹⁵⁸. “Within the limits of the Constitution (...)”, two constituent states would have the right to “sovereignly exercise all powers not vested by the Constitution in the federal government, organising themselves freely under their own Constitutions“¹⁵⁹. The Annan plan did not provide for hierarchy between the federal and constituent state laws¹⁶⁰. On the other hand,

¹⁵¹ See *ibidem*, paragraphs 5, 18 and 19.

¹⁵² See *ibidem*, paragraph 1.

¹⁵³ See United Nations Security Council Resolution 750 (1992), 10 April 1992, S/INF/48 (1992).

¹⁵⁴ Wippman, *op. cit.*, p. 147.

¹⁵⁵ The comprehensive settlement of the Cyprus problem, *loc. cit.*, see note 126.

¹⁵⁶ Key points of all five versions of the Annan plan are available at Turk: Cyprus Reunification is Long Overdue: The Time is Right for Track III Diplomacy as the Best Approach for Successful Negotiation of this Ethnic Conflict, *op. cit.*, pp. 211-218.

¹⁵⁷ The comprehensive settlement of the Cyprus problem, *op. cit.*, Main articles, Article 2, paragraph 1.

¹⁵⁸ *Ibidem*, Article 2, paragraph 1, subparagraph a.

¹⁵⁹ *Ibidem*, Article 2, paragraph 1, subparagraph c.

¹⁶⁰ *Ibidem*, Article 2, paragraph 3.

it provided for a dual citizenship, i.e. a single Cypriot citizenship and an internal constituent state citizenship¹⁶¹.

With respect to the most important provisions, it has to be mentioned that the federal Parliament would be composed of two chambers, the Senate and the Chamber of Deputies¹⁶², each consisting of 48 members. As to the proportions, while the Senate would be composed of an equal number of Greek Cypriot and Turkish Cypriot representatives, the Chamber of Deputies should be “composed in proportion to persons holding internal constituent state citizenship status of each constituent state, provided that each constituent state shall be attributed no less than one quarter of seats¹⁶³. Under the Plan, “decisions of Parliament shall require the approval of both Chambers by simple majority, including one quarter of voting Senators from each constituent state“, and in some cases “a special majority of two-fifths of sitting Senators from each constituent state shall be required¹⁶⁴. The main federal executive body would be the Presidential Council “elected on a single list by special majority in the Senate and approved by majority in the Chamber of Deputies for a five-year term¹⁶⁵. According to the same subparagraph, the Presidential Council would have six voting members. Pursuant to the Parliament decision, they could be joined by a certain number of non-voting members, in the way that the composition of the Council be “proportional to the number of persons holding the internal constituent state citizenship status of each constituent state, though no less than one third of the voting members and one-third of any non-voting members of the Council must come from each constituent state¹⁶⁶. The Presidential Council should tend to reach decisions by consensus, and if that failed, the Council would, if not otherwise prescribed, “take decisions by simple majority of members present and voting, provided this comprises at least one member from each constituent state¹⁶⁷. Members of the Presidential Council would elect two of its members not hailing from the same constituent state “to rotate every twenty months in the offices of President and Vice-President of the Council“, but the President and Vice-President would not have “a casting vote or otherwise increased powers within the Council¹⁶⁸. The Supreme Court of the new state would consist of an equal number of judges from each constituent state, and three foreign judges¹⁶⁹.

¹⁶¹ *Ibidem*, Article 3, paragraph(s) 1-2.

¹⁶² *Ibidem*, Article 5, paragraph 1.

¹⁶³ *Ibidem*, Article 5, paragraph 1, subparagraph a.

¹⁶⁴ *Ibidem*, Article 5, paragraph 1, subparagraph b.

¹⁶⁵ *Ibidem*, Article 5, paragraph 2, subparagraph a.

¹⁶⁶ *Ibidem*.

¹⁶⁷ *Ibidem*, Article 5, paragraph 2, subparagraph b.

¹⁶⁸ *Ibidem*, Article 5, paragraph 2, subparagraph d.

¹⁶⁹ *Ibidem*, Article 6, paragraph 2.

One of the main functions of the Supreme Court would be to “resolve disputes between the constituent states or between one or both of them and the federal government, and resolve on an interim basis deadlocks within federal institutions if this is indispensable to the proper functioning of the federal government”¹⁷⁰.

Although Kofi Annan’s attempts to encourage the reunification of Cyprus on the basis of his Plan finally failed after the referendum held in April 2004, solutions from the Annan plan still remain current as a possible basis of all future talks. Even so, it is obvious that the Plan has advantages as well as disadvantages. Since Turkish Cypriots are obviously a minority on the island, it does not seem very logical that constitutional provisions ensure important and great authorities in the system of authority. Turks are a clear-cut minority on the island so that agreeing that the two peoples are equal and sovereign represents a huge cession to Turkish Cypriots. It seems that instead of one single state with a clear-cut majority and minority, division of Cyprus by ethnic lines and establishment of two ethnic states would be the least desirable solution. On the other hand, with regard to the history of violence and history of former talks, and the fact that Turkish Cypriots would, in certain aspects, gain more with keeping the status quo than being a minority in united Cyprus, it is hard to expect that Turkish Cypriots will accept significantly different solution from one envisaged in the Annan plan.

IX. Concluding remarks

Demands for self-determination of both the Turkish Cypriot and the Greek Cypriot community on Cyprus are contradictory and mutually exclusive. Although the right to self-determination frequently clashes with the right of a state to preserve its territorial integrity as one of the basic principles in International Law, in this case the preference should be given to the protection of territorial integrity (in this case - Cyprus). By invoking International Law (and protection of minority rights) Turkey should not have severely violated the same International Law by invading another member of the United Nations. Turkish invasion is undoubtedly illegal, without the consent of the Security Council and contrary to later Security Council decisions. The Turkish Republic of Northern Cyprus is not a state; it is a non-recognised political formation with no status in the international community although it is a self-proclaimed “state”. In that way, the United Nations have not managed to resolve the Cyprus problem. Since the solution of the crisis in Cyprus is still unachievable, the only possible solution seems to be to maintain the current status quo. Nevertheless, the United Nations succeeded in avoiding any further escalation of conflicts on Cyprus that could

¹⁷⁰ *Ibidem*, Article 6, paragraph 3.

grow into large scale confrontation (e.g. direct military conflict between Turkey and Greece), which would definitely result in a very serious humanitarian crisis and severe violations of international peace and security.

A number of more or less promising solutions to the Cyprus problem of higher or lower quality has been offered so far. But, from the Turkish invasion of Cyprus and after a couple of decades, the solution is not within reach. None of the proposals has been equally attractive and promising for both communities at the same time. All sides are dissatisfied. As we can see, with respect to a solution to the problem of Cyprus various solutions are offered: from partition, to enosis (the union of Cyprus with Greece), to “double enosis” (the union of northern Cyprus with Turkey and southern Cyprus with Greece), to modification of the 1960 Constitutional Accords, to a variety of federal and confederal solutions¹⁷¹. Crucial political issues referring to the territory and sovereignty are still far from being resolved.

A number of questions on Cyprus remain open: return of refugees and property claims from both sides, the issue of fair property compensation for both sides and the issue on citizenship of Turkish settlers in northern Cyprus. Especially sensitive will be issues on the presence of military troops on Cyprus, compulsory disarmament of individuals and paramilitary formations, establishment of joint or separate military and police forces, but also strong condemnation of all forms of extremism. Intolerance and unresolved issues between Turkey and Greece with respect to Cyprus significantly influence developments within the international and regional organisations. Memories of murders, torture, displacement, rape and other misdeeds are still fresh in minds of both Greek Cypriots and Turkish Cypriots. Both sides must be strong enough to overcome long-lasting antagonism and animosity, which will be accomplished with difficulty. Each group should overcome negative stereotypes about the other group, as well as hatred and intolerance that governments of both sides encouraged wholeheartedly. Both sides must learn how to respect culture and tradition of the other side. Media can also play a crucial, positive role on both sides. Communities should connect and discuss their problems openly, try to overcome them and provide opportunity for co-existence. Establishing mutual trust between the two communities will be an extremely difficult task for mediators.

¹⁷¹ Wippman, *op. cit.*, p. 165.

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