

***THE STATUS OF TURKISH CYPRIOTS UNDER  
EUROPEAN LAW***



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## **List of Abbreviations**

CEEC – *Central Eastern European Countries.*

EC - *European Community.*

ECJ - *European Court of Justice.*

EP - *European Parliament.*

EU- *European Union.*

FAR- *Financial Aid Regulation*

DTR- *Direct Trade Regulation*

TRNC - *Turkish Republic of Northern Cyprus.*

ROC – *Republic of Cyprus.*

PACE - *Parliamentary Assembly of the Council of Europe.*

UN- *United Nations.*

UNFICYP – *United Nations Peace Keeping Force in Cyprus.*

UK- *United Kingdom.*

## ABSTRACT

The on going explicit controversial political dilemma of Cyprus has been in the forefront of its agenda since 1960s and was acknowledged by the European Union in 2003. At present, it continues to preserve its singularity and is under the auspices of EU. The country owes its unique reputation to its territorial lack of integrity and unity all of which make it an exceptional Member State, together with its breakaway de facto proclaimed in 1983, when compared with the other Member States of the European Union.

The island is divided into two territories and governed by two different administrations; the north where the Turkish Cypriots dwell is governed by the Turkish Cypriot administration, TRNC and is recognized by Turkey only, and the south which is in the sovereignty of the Greek Cypriots, is the internationally acclaimed Republic of Cyprus. The problem statement of this study, therefore, is: “*what is the status of the Turkish Cypriots under the European Law*”. Thereof, the analysis of the territorial disparities of the two territories of Cyprus and their European citizenship rights on the behalf of EU laws is crucially important. The main objective of this study is, therefore, to determine the status of the Turkish Cypriots based on the European Citizenship mentality. This is substantiated as means of the viable analysis of the legal and academic resources concerning the Turkish Cypriot community in the northern part of Cyprus. Conclusively, the study advocates the analysis through the application of the European Union laws to Cyprus, and in particular, the ones considering the citizenship rights of the two communities under the legal tenet of Cyprus. Herein, the study analyzes the status of the Turkish Cypriots with respect to the sources of EU Law.

## INTRODUCTION

The European Union is an entity which has twenty seven Member States, whose citizens adhere to the integrity of the European Union citizenship. At present, the citizenship policies of the European Union are accentuated towards abolishing borders between the nations of the union while maintaining all its citizens under an intact framework. Subsequently, the territorial dimensions become an unfeasible concept for the integration policies of EU which are more concerned with the link between the citizens and Europeanization. In other words, the European Union seeks to achieve a social dimension rather than developing a territorial perspective, and is aiming at creating one Europe for all of its Member States. On one hand, this study quests for a legal analysis of the specific problem of Cyprus, which is one of the Member States of EU by 2004 enlargement, whilst on the other, it will sustain analyzing the different EU policy applications towards the two communities in Cyprus.

Cyprus, the third biggest island in the Mediterranean Sea, has been struggling with political problems for over four decades. The island which hosted different ethnic groups for centuries was subject to endless global arguments between the Greeks and Turks. Nevertheless, these rebellions which were staged in order to reunite its territory were all doomed to failure due to incompetent political approaches.

Cyprus has partially been an official Member State of the European Union since 2004; however, its territory is only recognized as located and controlled by the Greek Cypriots. It evidently received admittance by the European Union as a divided island; the Southern and Northern parts. Regarding this division, however, the Southern Cyprus is accepted either as a unique legal government or a single ruling authority of the island which is under the sovereignty of the Greek Cypriot administration. The North part of Cyprus, on the other hand, is under Turkish Cypriots administration, and does not hold any international right and is an unrecognized void republic. In short, although Cyprus is an official member state of EU, it is only accepted as a single sovereign state and government, which is the Republic of Cyprus. In other words, the European Union, legally, continues to consider northern Cyprus as EU territory under foreign military occupation and thus indefinitely exempt it from EU legislation until a settlement is reached. However, despite EU's awareness of the existing division on the island, it

concurrently denied the solidarity of another community, namely the Turkish Cypriot community, recognizing only that of the Greek Cypriots. Furthermore, with the declaration of the Protocol No 10 in Cyprus, EU laws cannot be performed in the northern territories of Cyprus. That is to say, although Cyprus joined EU, its sovereign is only recognized and perceived as one republic for the entire island; the Republic of Cyprus, rather than a divided state.

North Cyprus, on the other hand, has been continuing its sovereignty under the status of an unrecognized state. In this respect, the Turkish Cypriots have to sustain living under international isolations on both social and economic grounds. The government of the Turkish Republic of Northern Cyprus, then, is subject to international nullity primarily initiated by the UN Resolution.<sup>1</sup> The UN Resolution calls for all world states to recognize no other form of government than that of the Republic of Cyprus on the island. Since the declaration of the UN Resolution<sup>2</sup> in 1983, the government of North Cyprus has been punished by international isolations agreed by all the world states except Turkey. This is because Turkey is regarded as the occupying power in the territories<sup>3</sup> dominated by the Turkish Republic of Northern Cyprus. These international limitations and isolations directly affect the rights of the Turkish Cypriots primarily because:

- (i) They cannot represent themselves in any international organizations.
- (ii) They cannot partake in any social and cultural activity in international arenas.
- (iii) Direct flights from North Cyprus to anywhere in the world other than Turkey is not permitted.
- (iv) Any form of economical relationship and trade of any kind cannot be established internationally except with Turkey.

This is because the Republic of Cyprus is accepted as the only legal representative government of the entire island.

Needless to say, the “Cyprus Affair” has not been subject to any new occurrences, on the contrary, it has been escalating regarding the citizens of the two parts since 2004<sup>4</sup>. However, in recent years, the Cyprus Affair seems to be drawing attention of not only the

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<sup>1</sup> United Nations Security Council Resolution 541 (1983).

<sup>2</sup> United Nations Security Council Resolution 541 (1983).

<sup>3</sup> Cyprus v Turkey, ECHR judgement of 10 May 2001, Application No. 25781/94, [2001] ECHR 331.

<sup>4</sup> Date of accession and results of referenda.

world media, but the leaders and governors of EU states and several international organizations and committees as well. Taking the European Union citizenship rights of the Cypriots at hand, it appears that despite carrying the same ID and passport as the Greek Cypriots, the Turkish Cypriots' citizenship status does not receive the same treatment as that of the Greek Cypriots'. With respect to the European Union Law, the "*acquis*" has been suspended for the northern part of Cyprus until political settlement is attained. The European Union regulations are not practiced equally for the two communities, thus resulting in inequality. Turkish Cypriots do not have the opportunity to utilise all the benefits of the European citizenship rights shared by its host territories.

### **What is the status of the Turkish Cypriots under European Law?**

The main concentration of the study will be on the legal status of the Turkish Cypriot community with respect to the European Union Citizenship. Even though the Turkish Cypriots are eligible for the passport of the Republic of Cyprus which permits them to acquire exactly the same citizenship rights as the Greek Cypriots or other citizens of the Member States, a restriction, for the Turkish Cypriots, is implemented by the European Union. According to this restriction, when Cyprus signed for the Accession Treaty of EU<sup>5</sup>, only the southern part of Cyprus gained membership. Taking this into consideration, EU law is suspended in the northern territories of Cyprus unless any political settlement is declared by Protocol No 10 in Cyprus.<sup>6</sup>

The study underlines the legal and political status of the Turkish Cypriots who are legally the citizens of the European Union. However, these citizens are the occupants of a void and unrecognized state; the northern part of Cyprus. When closely analyzed, then, the status of the Turkish Cypriots in the European Union is of a personal integration nature. It means that the Turkish Cypriots joined into EU with their own individual preferences unlike regular plight of accession. For instance, when a state joins into EU, all EU norms and rules become accessible to its citizens; nonetheless, this is not the case in Cyprus because its segmented political settlement can not allow an equal membership into EU. The fact that the island is divided between the two communities does not allow its citizens to take advantage of the same European citizenship rights on equal basis. In other words,

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<sup>5</sup> Treaty of Accession, 16 April 2003.

<sup>6</sup> The Protocol No 10 on Cyprus, 2003.

the Turkish Cypriots can benefit from the European citizenship rights only as a national of the Republic of Cyprus. The territorial disunited aspect of the island is an important restriction on the behalf of the northern part of Cyprus against its separate territorial integration into EU. Turkish Cypriots can exploit from the European citizenship rights whereas the northern part of Cyprus can not because the Island is regarded as one territory: the Republic of Cyprus, thus causing the Turkish Cypriots to be devoid of the same opportunities of the European citizenship rights while being part of their own.

The first chapter of the paper adverts to the history of the division of Cyprus, through an analysis of the political problems and conflicts in Cyprus. The political problem of Cyprus existed more than four decades. In chapter one, a background for the research question is provided. It also deals with the associations between the political problem in Cyprus and EU membership by asking the question: 'in what way is the political division of the island is reflected on Cyprus' membership to the European Union.'

In the chapter two, the paper continues with the analysis of the concept of the European citizenship by formulating a problem statement as to which rights can be acquired from the European Union citizenship. Moreover, chapter two constitutes the overall analysis of the concept of the 'European citizenship' as defined in Articles 17-22 of the Treaty which established the European Community. Furthermore, the chapter is made up of the corresponding case laws which deal with the concept of the European citizenship and the legal aspects of North Cyprus as well.

In chapter three, the paper refers to the citizens of Cyprus having the same nationality and passport within the disunited island. Here the paper will be concentrating on finding answers of the two main questions: (i) is there a difference between the nationalities of the Turkish and Greek Cypriots (ii) can their differences or similarities be for the benefit of the Turkish Cypriots in utilising their European Citizenship? With these basic questions in mind, the paper continues to cite its concerns enveloping the similarities and differences of being a Turkish and Greek Cypriot regarding their European Citizenship, particularly concentrating on the differences in the application of the European Union laws to the northern part of Cyprus.

In the final chapter, the study is concluded by the questions: (i) what is the status of the Turkish Cypriots regarding the concept of European citizenship and which rights can be derived from this status? (ii) Which developments took place related to EU citizenship of



the Turkish Cypriots? Correspondingly, the final chapter of the paper focuses on the analysis of the rights of the Turkish Cypriots regarding their European citizenship rights by giving several sources. The entire citizens of Cyprus may have the same passport regardless being subject to any discrimination, nonetheless, they are not treated equally. Therefore, an argument will be generated around the rights of the European citizenship status of the Turkish Cypriots in the final chapter.

To test the tangibility of the answers on these sub questions, experts on Cyprus policy and laws, politicians and legal advisors at the governmental level of the Turkish Republic of Northern Cyprus have been interviewed.

# CHAPTER 1: The History of the Division of Cyprus

## 1. Introduction

The Cyprus conflict with its long historical background is quite complicated. If we examine Cyprus' current agenda, we are able to determine that it is also still at the agenda of the international community. In order to get a better understanding and further evaluate "the reason why Cyprus is in its current position or how Cyprus has become today's unresolved conflict", first, we need to focus on its history. Consequently, the study mentions the brief historical sources in order to reinforce the explicability of the situations in Cyprus.

In conclusion, for several reasons given below, the study prefers to commence with the brief history regarding the conflict in Cyprus. These reasons are being outlined as follows:

- (i) To provide the main discussions related with the reasons and results of the conflict issues.
- (i) To show demands from the both communities - Turkish and Greek - for the peaceful process.
- (ii) To emphasize on the latest solutions or results declared by the United Nations for the Cyprus Problem.

Thus, it may be possible for the reader to understand the background of the division of Cyprus as well as the different status between the Turkish and Greek Cypriots.

### 1.1. Division of Cyprus (1960-1983)

In 1960, the Republic of Cyprus was established by the supports of the three guarantor states: United Kingdom, Greece and Turkey.<sup>7</sup> However, the republic was able to continue its existence for only three years. As a result of the ongoing tensions between the Turkish and Greek Cypriots during 1963, the Republic of Cyprus became inoperative. Because of the insecure relations and tensions between the two communities, the United Nation decided to send its peace-keeping forces (UNFICYP)<sup>8</sup> to the island. The main aim of the

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<sup>7</sup> Treaty of Guarantee, Nicosia 16 August 1960.

<sup>8</sup> United Nations Peace Keeping Force in Cyprus.

UN was to focus on normalizing the relations between the two communities<sup>9</sup>. In other words, the United Nations' main aim was to provide support for the Turkish Cypriots who were not living under the safe areas because of the Greek domination. Since the majority of the population and the upper hand in economic conditions were in favour of the Greek Cypriots, their domination and thus the desire to govern the entire island regardless of the existence of the Turkish community was inevitable.<sup>10</sup> In 1974, Greece, in collaboration with the Greek Cypriot conflict groups, then, decided to execute their plan called ENOSIS. The ENOSIS<sup>11</sup> is an operation for the unification of Cyprus with Greece. ENOSIS' plan was to remove the Turkish identity in Cyprus forever, and with this in mind, a military attack commenced on the island against the Turkish Cypriots.<sup>12</sup>

As a guarantor state, Turkey could not stay unbiased thus intervening with the Cyprus situation using military force. One of the causes of the Turkish intervention was to prevent the execution of ENOSIS which was based on the idea of unifying Cyprus with Greece. As a result, in 1975, the Turkish Federated State of Cyprus (TFSC) was established by the Turkish Community under the support of the Turkish forces (Turkey), on the territory where Turkish Cypriots live. As a result of the Turkish intervention, the island was officially divided into two separate parts in 1974-75. The second reason why Turkey intervened was to maintain safe areas for the Turkish Cypriots. Cyprus was separated into north and south parts as a result of the creation of a buffer zone (Green Line). According to Article 1 of the Treaty of Guarantee;<sup>13</sup> [The Republic of Cyprus] has undertaken not to participate, in whole or in part, in any political or economic union with any State whatsoever. It stated that any activity likely to promote direct or indirect union with any other State or partition of the Island is prohibited.

As outlined above, any union (*Enosis*) and separation (*Taksim*) of the island is prohibited'. According to the foregoing Article, Turkey's act was accepted as an act of separation on the island by the International Community - especially by the United

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<sup>9</sup> The UN Security Council Resolution 186 (1964).

<sup>10</sup> Sozen A. (1998), 'Politics of Cyprus', Printed by Can Reklam, Turkey.

<sup>11</sup> Greek meaning: Union.

<sup>12</sup> Drusotis Makarios (2008), 'Kibris 1963-1964 İlk Bolunme', Galeri Kultur Yayinlari, Nicosia, North Cyprus.

<sup>13</sup> Treaty of Guarantee (1960), Art 1 (2).

Nations. As a result of this act, Turkey became subject to the sanctions of the International Law.<sup>14</sup>

During the years 1975-1983, the United Nations held various peace summits<sup>15</sup> and maintained negotiations with the leaders of the two communities, however, all efforts failed to pre-veil peaceful settlement on the island. The United Nations tried to establish close relations with leaders in order to re-establish the Republic of Cyprus and it was for this purpose that the 1977 and 1979 Summits were held in Nicosia between the Turkish and Greek Cypriots Community leaders: Mr. Denktas and Mr. Klerides respectively<sup>16</sup>. The leaders of both communities discussed the issues of (i) demilitarization, (ii) guarantees of independence, and (iii) territorial integrity and so forth.<sup>17</sup> The main focus of these Summits was based on the establishment of a bi-communal federal Republic on the island. When we examine the final statements of these Summits, we cite that nothing has been achieved towards the reunification of the island so far.

Following this, the Turkish Republic of Northern Cyprus (TRNC) was established in 1983. TRNC was announced as an independent state governing the northern part of the island, whilst the Republic of Cyprus continued to govern the southern part of the island. However, after the establishment of the Turkish Republic of Northern Cyprus, the United Nations defined TRNC as an illegal republic assuming no recognition for TRNC. United Nations announced TRNC as an unrecognizable state and called it to be withdrawn<sup>18</sup> due to the 1974 intervention by Turkey which was contrary to the Treaty of Guarantee.<sup>19</sup>

Even though the Turkish Republic of Northern Cyprus has been in existence since 1983, today it is solely the Republic of Cyprus (ROC) that is acknowledged internationally. The Republic is representing the whole island and carrying a legal international personality, as oppose to TRNC. However in reality, it has no effective control over the whole island. It is not able to control the northern part of the island, yet the International Community refuses to recognize the Turkish Republic of Northern Cyprus as a state. International Law suggests that Turkey has established an illegal base on the northern part of Cyprus, and that TRNC is not an entity that may be recognized, as it is adopted as a kind of non-

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<sup>14</sup> Sozen A. (1998), 'Politics of Cyprus', Printed by Can Reklam, Turkey.

<sup>15</sup> UN Summit Meetings in Nicosia in 1977 and 1979.

<sup>16</sup> Ibid.

<sup>17</sup> Camp Glen D., (1980), Greek-Turkish Conflict over Cyprus, Political Science Quarterly, Vol. 95, No. 1, pp. 43-70, The Academy of Political Science.

<sup>18</sup> UN Security Council Resolution of 550 (1984).

<sup>19</sup> UN Security Council Resolution 541 (1983).

recognized state owing this to the secession act against an entity.<sup>20</sup> This approach is the main problem against Turkey today, as it relates to several cases arising from the Greek Cypriots in terms of their property rights. Due to its interventionist position in Cyprus, Turkey has been subject to the sanctions of the International Law.<sup>21</sup>

## **1.2. Cyprus and European Union (1990)**

The purpose of this part of the study is to feature negotiations and accession procedures between Cyprus and the European Union. Furthermore, this part intends to address the importance of the “Cyprus application” which when compared to other candidate member states is distinct. The reasons of this unique situation is outlined as follows:

- (i) It is an extraordinary political problem which has been continuing for more than forty years
- (ii) It is an island consisting of residents from completely different origins resulting from:
  - a. Religion
  - b. Language
  - c. Ethnic and Cultural characteristics

In the light of these two main reasons, the purpose of this part is to analyze Cyprus' application process regarding the European Union membership since 1990s as well as its influences on the negotiation policies of the European Union. To sum up, this part of the study intends to provide explicit sources for readers in order to analyze the relations between Cyprus and the European Union since 1990s to present.

First and foremost, Cyprus which knocked on the European Union's door in 1990 was represented as a whole despite the division. According to the European Commission's opinion on Cyprus in 1993, membership negotiations would begin as soon as possible because the prospect of settlement was more certain and Cyprus' integration with the community implies a peaceful, balanced and lasting settlement for Cyprus problem.<sup>22</sup>

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<sup>20</sup> Ozersay K., (2004), The Excuse of State Necessity and its Implications on Cyprus Conflict, Perceptions, Vol IX, No. 4, pp. 31-71.

<sup>21</sup> Gurel and Ozersay, (2006), “Cyprus and the Politics of Property”, Mediterranean Politics. Vol. 11, No3, 349-369.

<sup>22</sup> The Challenge of Enlargement Commission Opinion by the Republic of Cyprus for Membership, COM (93) 313 final.

### 1.3. Vision of EU and Agenda 2000:

During the Copenhagen Summit of 1993, it was confirmed for the first time that the member states desired enlargement as an unambiguous aim of the European Union. It has been stated by EU leaders that the integration will take place as soon as a candidate state is able to comply with the obligations of being a member by fulfilling the requirements of the economic and political criteria.<sup>23</sup> However, this conditionality was cancelled by the European Commission during the 1997 Summit held for “Agenda 2000”.<sup>24</sup> According to Muftuler, once Agenda 2000 had been taken into consideration, EU accession negotiations could commence with Cyprus without requiring any settlement for the Cyprus conflict. Shortly speaking, the political problem of Cyprus would not affect its accession procedures into the European Union<sup>25</sup>.

However, according to the declaration of the European Commission Cyprus’ membership was not in conformity with its official reports in the Agenda 2000 as: “before accession, applicants should make every effort to resolve any outstanding border disputes among themselves or where third parties are involved”<sup>26</sup>

In the year 2002, the Copenhagen Summit was finalized with EU’s resolution for Cyprus’ membership and by 2004 Cyprus signed its EU Accession Treaty<sup>27</sup> with other candidate states. In the year 2004, a major enlargement was observed in EU as a result of the integration of nine and a half member states because of the status of Cyprus.

From this aspect, the focus point should be on ‘how Cyprus completed the negotiation process and became a member state without any settlement on the Cyprus dispute’ as it was decided by the European Council during the Luxembourg Summit held in 1997. The cancelled conditionality raised several questions: (i) why and how the European Commissioner cancelled the most obvious political conditionality on Cyprus’ accession despite its official reports contrary to this issue, and (ii) why EU leaders adopted this resolution that would result in significant risks and problems against EU’s integrity. The answers to these questions may be found in the first and obvious reason; the Greek factor, in other words, Greece. Bearing a potential influence on the other member states, Greece

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<sup>23</sup> The European Council in Copenhagen 21-22 June 1993, Conclusion of Presidency, SN 180/1/93 Rev 1.

<sup>24</sup> The European Commission, 1999, EN 1 25.10, Europe’s Agenda 2000 Strengthening and Widening the European Union, final version 31.8.

<sup>25</sup> Muftuler-Bac Meltem and Guney Aylin, (2005), ‘The European Union and the Cyprus Problem 1961–2003’, Middle Eastern Studies, Vol 41, No 2, p.281-293.

<sup>26</sup> European Commission, 1997:51.

<sup>27</sup> Treaty of Accession, 16 April 2003.

has influenced the processes of EU institutions. For instance, during the Corfu Summit (1994), the Greek Presidency declared that “the next phase of enlargement would include Cyprus and Malta.”<sup>28</sup> This explains why EU commenced accession negotiations with Cyprus in 1998, even though France voted for the prevention of Cyprus' accession unless the negotiations were finalized with a resolution for the partition of the island. The Greeks threatened to block any enlargement through central and Eastern Europe if Cyprus was not to be accepted as a member as well.<sup>29</sup> This was the first incident during the enlargement policy when EU changed its decision for a political conditionality in Cyprus' accession into EU and separated the Cyprus' application from the resolution of the political problem.

From another point of view, as stated by Serge Abou, who observed the progress during the inter-communal talks, the Turkish side was responsible from the failure<sup>30</sup>. It was observed as though the Turkish side was obstructive towards the reunification of the island, and rejected all UN-brokered settlement proposals of the last 30 years. Thereafter, EU - in response to Greek pressure- decided that it could not let the Turkish Cypriots or Turkey veto the ROC application by refusing a settlement and could not let the Greek Cypriots community bear the negative results of non-accession.<sup>31</sup>

#### **1.4. Period of Peaceful Resolutions (2000-2004):**

In between the years 1999 and 2001, due to the resolutions of the Helsinki Summit, the European Union performed efforts to create a new occurrence for both Turkey and the Turkish Cypriots<sup>32</sup>. The policies of the European Union commenced to give further response to the Cyprus Problem. The reason for this attitude may be explained as follows: the purpose of the European Union, in favour of its enlargement project, was to solve the problem in Cyprus before Cyprus' official accession to the European Union membership.

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<sup>28</sup> European Council 1994: 14.

<sup>29</sup> Oudenaren John Van, 2005, *Uniting Europe: An Introduction to the European Union*, Second Edition, USA, Rowman and Littlefield Publisher.

<sup>30</sup> O'Rourke Breffni, (2004), ‘Cyprus: Failure of Referendum Means Headache for the EU’.

<sup>31</sup> Redmond, John (1997) *From Accession towards the Application for Full Membership: Cyprus's Relations with the European Union*, in *Cyprus and the European Union. New Changes for Solving and Old Conflict*, eds Hans-Jurgen Axt and Hans jorg Brey. Munchen: Sudosteuropa-Gesellschaft.

<sup>32</sup> Verney Susannah and Ifantis, (2009), ‘Turkey's Road to European Union Membership’, Routledge Press, USA.

Consequently, the European Union undertook its real role during the years 2002-2004 after the Helsinki Summit. During these years, EU has performed detailed discussions for Cyprus in order to solve problems between the Turkish and Greek Cypriots' governments before the date of the major enlargement of the European Union (2004). In other words, the purpose of the European Union was to solve the Cyprus problem until the official membership date (May 1, 2004). Therefore, during the years 2002-2004, for the first time, the European Union policies really concentrated on the solution of Cyprus Problem under the support of the UN Secretary General-Mr. Kofi Annan.

The period up until the year 2004, and in particular the period after the Helsinki and (2002) Copenhagen Summits, can be considered as the most important years for Cyprus' future of unification or separation. On the other hand, it may be stated that the two communities had never come close to unification before as they were during the years 2002-2004. After the elections, organized both in Turkey and North Cyprus, the new leaders, whose slogans were in favour of the unification of the island and EU, were elected. After the elections, the process towards what they favoured started which followed a different route based on the unification in comparison with the policies of the previous leaders.

On the other hand, in November 2002, the UN Secretary General, Mr. Kofi Annan, prepared a well constructed plan for the solution process which is known as the 'Annan Plan'. The context of the Annan Plan contained all requested issues which were put forward by both the Turkish and Greek communities during their talks or discussions which started with the bi-communal negotiations (1975-2002).

In April 2003, together with nine other European states, Cyprus signed the European Union Treaty of Accession as a representative for the whole island. Simultaneously, the European Union Enlargement Commissioner declared that EU policies on Cyprus will continue until an acceptable peaceful solution for the unification of the island is attained. As expected, in accordance with the Treaty of Accession (Protocol No 10 on Cyprus), EU agreed that the *acquis-communitaire* would not apply to Northern part of the Cyprus until the resolution.



Treaty of Accession 2003 (Protocol No 10 on Cyprus)<sup>33</sup>:

Article 1:

- 1. The enforcement of the acquis shall be suspended in those areas of the Republic of Cyprus in where the Government of the Republic of Cyprus does not exercise effective control.*
- 2. The Council, which acts unanimously for the proposals submitted by the Commission, shall decide on the withdrawal of the suspension mentioned under the paragraph 1.*

In fact, the Turkish Republic of Northern Cyprus would be excluded from the European Union rules and regulations until achieving the political settlement or the re-unification with the Republic of Cyprus. However, after the Treaty of Accession, the negotiation process had not yet been concluded between the two leaders. It continued until Cyprus' official date of the European Union membership by the supports of EU and UN. For instance, on March 21, 2004, two years after the negotiation period, the Annan Plan was finalized by the United Nations Secretary General, Mr. Kofi Annan. In addition, both the European Union and United Nations suggested a second chance for the Turkish and Greek Cypriots to vote for the last version of the Annan Plan.

In conclusion, from 2003 to 2004, external and internal changes were both on the agenda of the Cyprus dilemma. Elections were made on each part; both the Turkish and Greek communities elected their new presidents and resumed negotiations via new leaders of the two sides in collaboration with the European Union and United Nations. Within this timeline, in 2004, a Summit was held in New York, during which the both sides agreed to finalize the Annan Plan before May 1, 2004.

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<sup>33</sup> Treaty of Accession, (2003) Protocol No 10 on Cyprus, OJ L 236/955, dd. 23.9.2003.

### **1.5. Accession of EU (2004 till present)**

On 24<sup>th</sup> of April 2004, a referendum took place simultaneously in both south and north Cyprus. All the citizens voted for the last version of the Annan Plan on the same day. The governments of Turkey and the Turkish Cypriots were conducting propagandas based on the peace and unification on the island under the framework of the Annan Plan. In contrast, the Greek government's slogan cited 'No votes for the Annan Plan'. The main reason may be explained as follows: The Greek government was not willing to accept the re-unification of the island for several reasons, such as, the ones regarding the issue of property, religious identity, the Turkish settlers and so forth. The results of the referenda were as expected: Turkish Republic of Northern Cyprus accepted the Annan Plan by 64.9 percent of 'yes' votes (all citizens of TRNC had a right to vote for the referendum), and in contrast, the Republic of Cyprus rejected the plan by 74.8 percent of 'no' votes.<sup>34</sup>

Following these referenda, all hopes for the overall re-unification of Cyprus have been trusted aside once more. On May 1, 2004, Cyprus became an official member state of the European Union and represented the whole island. In conclusion, when the results of the referenda are taken into consideration, it may be stated that these results helped the European Union to change its perspective on the Turkish Cypriots. In other words, the European Commission has commenced to re-evaluate its policies regarding the TRNC government and especially the Turkish Cypriots. For instance, since 2004 (after the referenda), the European Commission has commenced to support the Turkish Cypriots in the form of financial aids to North Cyprus for the purpose of improving the economic and social conditions of the Turkish Cypriots.

European Union opened a European Commission office in Nicosia in the northern part of Cyprus (the capital city of both TRNC and ROC). This office performs activities like arranging EU financial aids for the Turkish Cypriots. Moreover, it performs activities for the purpose of keeping the Turkish Cypriots close to the European Union identities and policies.<sup>35</sup> In the mean time, in 2004, EU financial aid regulation<sup>36</sup> was adopted by the EC in order to provide further economic development for the community of the Turkish Cypriots. The basic aim of the Financial Aid Regulation is to achieve economic

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<sup>34</sup> *Cyprus Mail*, April 25, 2004

<sup>35</sup> Such as Kibris Newspaper, European Commission North Office News and Brochures.

<sup>36</sup> COUNCIL REGULATION (EC) , establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community ,COM (2004)/ 465 final, Recital 2.

integration of an entire island and improve the contacts between the two communities with EU.<sup>37</sup> For example, an establishment aim of the European Commission Office (support office) in the northern part of Cyprus is simply based on the definition of the principles and notions of EU towards the citizens of north Cyprus.<sup>38</sup>

All these new circumstances are evidence enough to point at the gradual change in EU mentality in favour of the Turkish Cypriots and its tendency to try and minimize the isolations of the Turkish Cypriots.

In conclusion, the second part of the study contains all relative sources regarding the relations between Cyprus and the European Union since 1990s. The aim of the second part is to give details for better the understanding and to evaluate the process comparing with each other. Before 1990, Cyprus could be judged as a problematic candidate country for the EU membership; nonetheless, following 2004, it has become an official EU member state with a segmented society- not embodying all the nations of the island, meaning that the Turkish Cypriots have been in isolation without possessing an international sovereignty.

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<sup>37</sup> Ibid.

<sup>38</sup> Hoffmeister Frank, (2008), “Three years after EU accession– the practical effect of European law in Cyprus”.

# CHAPTER 2: The European Citizenship

## 2.1. Introduction

To understand the meaning of the concept of the European Citizenship, such as what rights are derived and which are entailed by the European Union citizens, it is necessary to look at the basic aspects related with the concept of the European Citizenship. This will provide the content of the second chapter of the study which will try and clarify the content of the subsequent chapters.

The primary concern of chapter two is the background of the European citizenship concept. Here, a brief detail of the main intent of this citizenship is analyzed and importance is given on to focusing, briefly, the background of this concern, as this leads to the development of the rights of the European Citizenship and ultimately goes on to providing information for the basic classification related with the rights of the European citizens before finally revealing its advance and the route by which it has spread since its establishment. Therefore, with regards to this, brief background knowledge would be an essential part of the study which will indicate the significant points of the EU policies towards its citizens.

Chapter two also tries to analyze the selected Articles of the Treaty (Article 17 and 18, TEU) which are defined as the two major Articles related with the main structure of the European Citizenship. In the light of this, the second chapter is refers to several sources while addressing the question of how the rights of the European citizens are defined in Europe.

Additionally, the second chapter will mention the fundamental logic of the concept of the European citizenship by giving several particular case laws. Considering these selected case laws, will reveal additional aspects that are required in order to focus on different grounds of the European citizens. For instance, the selected cases will help to appreciate the Articles of Treaty (Art. 17 and 18, TEU) by analyzing the final declarations of the European Court of Justice. In brief, the second chapter will shape the context of the European Citizenship as representing all the citizens in Europe, by addressing relevant sources.

## 2.2. Background of the Concept of the European Citizenship

The Treaty of Rome (1957) is accepted as the establishment Treaty of the European Community and has been signed by the initiated member states.<sup>39</sup>

According to the Treaty, it creates the four freedoms of the European Community:

- The free movement of goods
- The free movement of capital
- The free movement of services
- The free movement of persons

In short, the Treaty of Rome (1957) is accepted as the basic document on the behalf of the structure of the European Community.

Article 8<sup>40</sup>

1. *Citizenship of the Union is hereby established.*

*Every person holding the nationality of a Member State shall be a citizen of the Union.*

2. *Citizens of the Union shall enjoy the rights conferred by this Treaty and shall be subject to the duties imposed thereby.*

In accordance with the Treaty of Rome, new rights are granted and established by the European Community towards all the citizens of the Community. Firstly, citizens start to move and reside freely without dealing with any economic reference.<sup>41</sup> Secondly, with the right to vote and become a candidate, citizens start to participate in the European and local elections.<sup>42</sup> Thirdly, citizens start to obtain diplomatic and consular protection in third countries where his or her state is not represented.<sup>43</sup> Finally, citizens have the right to petition the European Parliament and to complain the European Ombudsman.<sup>44</sup>

As stated above, the first attempt to create the concept of the European Citizenship had been initiated by the Treaty of Rome. This makes it the significant treaty to analyze the guidance of the early case laws, which leads to the starting point of the next phase of the chapter.

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<sup>39</sup> Belgium, Luxembourg, the Netherlands, France, Germany, Italy.

<sup>40</sup> Treaty of Rome, Article 8, 1957.

<sup>41</sup> Treaty of Rome, Article 8 (a), 1957.

<sup>42</sup> Treaty of Rome, Article 8 (b), 1957.

<sup>43</sup> Treaty of Rome, Article 8 (c), 1957.

<sup>44</sup> Treaty of Rome, Article 8 (d), 1957.

The first and foremost Case 41/74 Van Duyn v. Home Office,<sup>45</sup> claims that the Member States may not independently maintain the public policy, so the ECJ authorizes that an accurate standard should be applied to EC national in spite of being applied to the host state national. Consequently, the public policies of the Member States are changeable from one State to the other. However, the significant point is that the Member States cannot be decided independently, which means that the Member States should apply to the European Court of Justice before decisions are made into the legal process. Furthermore, the European Court of Justice assumes that the Member States may not reject residence of the EC nationals if the act is not illegal or controlled in the nationals of the host state.<sup>46</sup>

Case 115/78<sup>47</sup> deals with the grounds of the freedom of establishment and services in the other member states, for those who do not have a residence permit of that member state. In this respect, the case is based on the rights of the self employed persons or small craft industries, in another member state, who do not possess its citizenship. The Case resulted in the abolition of restriction of the freedom of establishment for the national of the member states for they should follow the process without subject to any distinction. As a result of this case, an important point was attained; the transnational measures related with the activities of the self employed persons had to define for its application, with respect to the state whose nationality they possess.

On the other hand, Case 186/87<sup>48</sup> is subject to the prohibition of any discrimination on the grounds of nationality, with respect to persons within the member states of the EC. Parallel to the case, the question is whether the prohibition of discrimination prevents the member state, with respect to persons in an illegal situation by stating the victim of an assault resulting in physical injury based on a mutual agreement with that member state.

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<sup>45</sup> Judgment of the Court of 4 December 1974, Yvonne van Duyn v Home Office preliminary ruling: High Court of Justice, Chancery Division - United Kingdom, Public policy, Case 41/74.

<sup>46</sup> Kent Penelope, 2008, Law of European Union, Fourth Edition, Pearson Education Limited, London, Great Britain, pp. 208-209.

<sup>47</sup> Judgement of the Court of 7 February 1979, J. Knors v Secretary of State for Economic Affairs.-Reference for a preliminary ruling: College van Beroep voor het Bedrijfsleven-Netherlands. -Right of Establishment.-Case 115/78.

<sup>48</sup> Judgment of the Court of 2 February 1989. - Ian William Cowan v Trésor public. - Reference for a preliminary ruling: Tribunal de grande instance de Paris - France. - Tourists as recipients of services - Right to compensation following an assault. - Case 186/87.

As a result of this case, regarding the freedom of travel to the member states, the Court decided that the states may not follow any reward of state compensation due to the demonstration caused in that state to the victim of an assault resulting in physical injury, subject to the condition that, he or she hold a residence permit or is a national of a country by application of the mutual agreement with that Member State.

### **2.3. Fundamental Logic of the European Citizenship**

Since the Maastricht Treaty which created the European Community<sup>49</sup>, other Treaties<sup>50</sup> have been contributing to the adjustment of the new rules of the European Union and those that are applied simultaneously through the enhanced rights of the [European] citizens.

EU's expansion in size due to the addition of new Member States<sup>51</sup>, new rules and directives became a vital element for the European Union in order to protect its integrity against its growing solidarity in Europe. Growing solidarity refers to the growing number of the Member States and the number of its nationals. This progression obviously affects the policy of the European citizenship due to the different grounds of nationalities.

In the line with these, the study recommends dealing with the Maastricht Treaty with respect to one of the most important objectives of the European citizenship. For instance, the Maastricht Treaty is one of the most significant milestones behind the advance of the concept or the logic of the European Citizenship. During the earlier stages of the Maastricht Treaty, the logic of the citizenship rights of the Community mainly depended on the economic status or basis, however, the Treaty of Maastricht has improved the logic of the European citizenship as an aspect of the political union.<sup>52</sup>

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<sup>49</sup> Treaty of EU, 1992.

<sup>50</sup> Such as Single European Act, Maastricht , Amsterdam, Nice Treaties and so forth,

<sup>51</sup> At present, 27 Member States.

<sup>52</sup> Oudenaren John Van, 2005, Uniting Europe: An Introduction to the European Union, Second Edition, USA, Rowman and Littlefield Publisher

## Article 2 TEU<sup>53</sup>

*“The Union shall set itself the following objectives:*

*To strengthening the protection of the rights and interests of the nationals of its Member States through the introduction of a citizenship of the Union.”*

The ‘logic of the European citizenship’ came into existence by the Treaty which created the European Community-Articles between 17-22.<sup>54</sup> Therefore, the paper follows giving details on the behalf of the the Treaty of Establishing the European Community-Articles between 17-22 in order to clarify the significant points of the ‘concept of the European citizenship’. Consequently, this analysis will give a better understanding of what is dealt in the basic aim of the research in the following chapters.

## Article 17

- 1. Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall complement and not replace national citizenship.*
- 2. Citizens of Union shall enjoy the rights conferred by this Treaty and shall be subject to the duties imposed thereby.*

As outlined above, Article 17 clearly defines ‘who the European Union citizens are’. Moreover, Article 17 shows the legal obligations for Union citizens’ dealing with the issue of their host nationality.

## Article 18

*Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in this Treaty and by the measures adopted to give it effect.*

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<sup>53</sup> Treaty of EU, 1992.

<sup>54</sup> The Treaty of EU, 1992.



According to *Martinez Sala v. Freistaat Bayern* Case 85/96<sup>55</sup>, the rights of the citizens are facilitated, which may be taken as a blueprint for the citizenship rights.<sup>56</sup> The case emerged when the German authorities refused to grant a Spanish citizen, Ms Salsa, a permit of residence and the child raising allowance on grounds of nationality. The German authorities allowed her to continue to reside in Germany but refused to issue her a residence permit and to grant her a child-raising allowance because she did not possess a proper residence permit. The European Court of Justice responded to this case in favour of the applicant as it found a violation of article 6: where a Union citizen is lawfully a resident in the territory of the host state, he or she can rely on the principle of non-discrimination in all areas on the behalf of the Treaty.<sup>57</sup> To sum up, Ms Sala won the case against German authorities; meaning that she can demand the benefit of child-rearing from the German government.

The last important case, *C-184/99 Grzelczyk v. Centre Public de l'Aide Sociale d'Ottignies-Louvain-la-Neuve*,<sup>58</sup> took place for the sustention of the financial aid of a French national who was studying in Belgium. In this case, the Court concluded that the student had a right to have financial resources and without the need to fulfil the conditions for residence, and could withdraw his or her residence permit during the period of study.<sup>59</sup> With respect to this case, the Court made an important declaration about the status of the Union citizenship. The ECJ declared that: all union citizens have the privilege of equal treatment irrespectively in all the member states of EU after issuing of their nationality.

These selected cases are given in order to better understand the basic judgements of the rights of the European Union citizenship rights. The outlined cases simply identify the rights of the EU nationals and non-EU national on the behalf of the Treaty of EU.

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<sup>55</sup> Judgment of the Court 12 May 1998, - under Article 177 of the EC Treaty by the Bayerisches Landessozialgericht (Higher Social Court of Bavaria) (Germany) for a preliminary ruling in the proceedings pending before that court between María Martínez Sala and Freistaat Bayern, Case 85/96.

<sup>56</sup> Kent Penelope, 2008, *Law of European Union*, Fourth Edition, Pearson Education Limited, London, Great Britain, pp. 195-197.

<sup>57</sup> *Ibid.*

<sup>58</sup> Judgment of the Court 20 September 2001, under Article 177 of the EC Treaty (now Article 234 EC) by the Tribunal du travail de Nivelles (Belgium) for a preliminary ruling in the proceedings pending before that court between Rudy Grzelczyk and Centre public d'aide sociale d'Ottignies-Louvain-la-Neuve, Case 184/99.

<sup>59</sup> Kent Penelope, 2008, *Law of European Union*, Fourth Edition, Pearson Education Limited, London, Great Britain, pp. 195-197.

## 2.4. European Citizenship and Case of Cyprus

Besides the analyses of the case laws dealing with the four freedoms of the European citizenship, this part of the study tries to emphasize the important case laws of Cyprus. Unfortunately there are only a few cases associated with the concept of the European citizenship in the area of political and legal status of Cyprus. For this reason, the study offers the selected case laws, all of which will be mentioned later. Additionally, the case laws of Cyprus will be introduced as a starting point for the arguments of the next chapters.

Another Case C-432/92<sup>60</sup>, was related with the agreement establishing an association between the European Economic Community and North Cyprus, concerning the movement of citrus fruits and potatoes originating from a non-EU state under phytosanitary certificates.<sup>61</sup> This case was based on the trade facilities between the northern parts of Cyprus and the United Kingdom. The citrus fruit and potatoes trade in-between the Republic of Cyprus and the Community is governed by the Association Agreement, and, more specifically, the Protocol concerning the definition of the concept of "originating products" and methods of administrative cooperation annexed to the Additional Protocol of the Agreement which shows the originating status of products by a movement certificate, phytosanitary certificates, to be issued by the customs authorities of the exporting State. This must be interpreted as precluding acceptance by the national authorities of a Member State, when citrus fruit and potatoes are imported from the part of Cyprus to the north of the United Nations Buffer Zone, by movement certificates issued by authorities other than the competent authorities of the Republic of Cyprus.

The claim of the case, regarding the products produced in the north part of Cyprus, would allow their import (citrus and potatoes) without being subject to the phytosanitary certificates issued by the authorities of the Republic of Cyprus. In response to this claim, the United Kingdom declared that this could not be accepted nor could any documents referring to the

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<sup>60</sup> Judgment of the Court of 5 July 1994, *The Queen v Minister of Agriculture, Fisheries and Food, ex parte S. P. Anastasiou (Pissouri) Ltd and others*, Reference for a preliminary ruling: High Court of Justice, Queen's Bench Division - United Kingdom, Case C-432/92.

<sup>61</sup> EEC-Cyprus Association Agreement - Directive 77/93/EEC.

Turkish Republic of Northern Cyprus, and subsequently the UK refused to accept imports that are produced in the northern part of Cyprus, for the following reasons:

- (i) The Republic of Cyprus is a single sovereign state which is recognized by all Member States of European Community since 1960.
- (ii) Neither the United Kingdom nor the other Member States do recognize a "Turkish Republic of Northern Cyprus".
- (iii) There is no any movement or phytosanitary certificates based on the plant products- citrus products or potatoes- imported from north Cyprus into the UK, issued by the authorities of the Republic of Cyprus.

It may be concluded that the UK government does not recognise phytosanitary certificates issued in the name of TRNC. Consequently, only the products that are produced under the control of the Republic of Cyprus can get the issue of movement certificates which will ensure administrative custom cooperation with the other states, meaning that it prevents acceptance of certificates issued by the other Member States. In short, the decision of this case can be stated as: any product that is produced in the north part of Cyprus cannot be imported to the United Kingdom which does not conform to the rules of the Association Agreement and Directive 77/93.<sup>62</sup>

The above mentioned case law was followed by the Case 219/98,<sup>63</sup> which was another important case law for Cyprus dealing with the imports from the north part of Cyprus to the United Kingdom. The claim of the Case 219/98 was the same as the Case 432/92; however, its result was not exactly so. In the reduction of several import risks<sup>64</sup> between the non-member states and the member states of the European Community, this case resulted in a different decision as that of the previous case law. At this point, the case law led to a new

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<sup>62</sup> Deal with the harmful to plants or plant products must be interpreted as precluding acceptance by the national authorities of a Member States.

<sup>63</sup> Judgement of the Court, 4 July 2000, REFERENCE to the Court under Article 177 of the EC Treaty (now Article 234 EC) by the House of Lords (United Kingdom) for a preliminary ruling in the proceedings pending before that court between Regina and Minister for Agriculture, Fisheries and Food, ex parte S.P. Anastasiou (Pissouri) Ltd and Others, C-219/98.

<sup>64</sup> Those may caused by lack of certificated (phytosanitary certificate) product import from non-member states into the Member States of European Community based on the quality of products.

import policy through the non-member states of the EC with special requirements. The special requirements<sup>65</sup> apply to the non-member states which can import their products to the member states of the EC.

In short, Cases 219/98 and 432/92 resulted in two different decisions of the Court. According to the first case law<sup>66</sup>, the Court stated that: *the movement certificates issued by the Turkish community in the northern part of Cyprus were not acceptable as proof of the Cypriot origin of goods for the purpose of the application of preferential tariffs under the EC-Cyprus Association Agreement*. As a result, the Court declined the acceptance of the import products from the north part of Cyprus into the United Kingdom. On the other hand, the second case law<sup>67</sup>, allowed imported products from the north part of Cyprus to enter into the British markets by fulfilling the special requirements. For instance, trade ships<sup>68</sup> have to stop in Turkey first and then after the series of controls<sup>69</sup>, all imported products would be able to reach the ports of the United Kingdom.<sup>70</sup> In short, since the decision of the second case law, the north part of Cyprus is able to import its products into the Member States of the European Community under Turkish authorization<sup>71</sup>. It means that, compared to the final decision of the first case law; the second one is more flexible in dealing with the trade links between the north part of Cyprus and the Member States of the European Community<sup>72</sup>.

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<sup>65</sup> Those are related with the absence of a certificate issued by the authorities empowered to issue certificates in the plants' country of origin.

<sup>66</sup> Judgment of the Court of 5 July 1994, *The Queen v Minister of Agriculture, Fisheries and Food, ex parte S. P. Anastasiou (Pissouri) Ltd and others*, Reference for a preliminary ruling: High Court of Justice, Queen's Bench Division - United Kingdom, Case C-432/92.

<sup>67</sup> Judgement of the Court, 4 July 2000, REFERENCE to the Court under Article 177 of the EC Treaty (now Article 234 EC) by the House of Lords (United Kingdom) for a preliminary ruling in the proceedings pending before that court between Regina and Minister for Agriculture, Fisheries and Food, ex parte S.P. Anastasiou (Pissouri) Ltd and Others, C-219/98.

<sup>68</sup> Which are transporting citrus fruit from north part of Cyprus.

<sup>69</sup> Strict competent to the Turkish authorities issue certificates confirming that the fruit has been inspected in accordance with the applicable provisions and complies with the phytosanitary regulations applicable in the importing country. The ships' stay in the port is normally less than 24 hours. The fruit is not unloaded nor does it pass the customs barrier. Separate bills of lading consign the produce to Turkey and from Turkey to the importing country.

<sup>70</sup> Opinion of Advocate General, Fennelly, delivered on 24 February 2000 (1), Case C-219/98, *Regina v Minister of Agriculture, Fisheries and Food, ex parte S.P. Anastasiou (Pissouri) Limited and Others*.

<sup>71</sup> Trade ships of north Cyprus do use the Mersin port in Turkey, also in all kind of foreign links between north Cyprus authorities and Member States of EU have to link with the Mersin por. For example, the postal code of north Cyprus is called as 'Mersin 10 Turkey'.

<sup>72</sup> This issue rather analyze in chapter four.

The last example case law is a completely different case law which allows a comparison with the cited case laws. The Case T-455/04<sup>73</sup>, was opened by Ms. Beyatli and Ms. Candan against the European Personnel Selection Office of the European Union<sup>74</sup> due to an exam evaluation issue<sup>75</sup>. The claim of this case, made a Cypriot nationality whose mother tongue is Turkish, apply to Court against language discrimination<sup>76</sup> regarding the job opportunities in the EU institutions<sup>77</sup>.

The applicants applied to the Court with the following letter:

*‘Our marks indicate that we passed all tests we had taken, apart from test (e) which was the one in Greek language. We are aware that we applied indicating “Greek” as our first language; however we were told by many EU officials that “we wouldn’t fail the test due to not being able to speak Greek.” ... At a time when it’s crystal clear that Turkish Cypriots are determined to reunite Cyprus and become a part of the European family as the equal partner of the United Cyprus Republic and when European Commission and the European Council are working on measures “to bring the Turkish Cypriots closer to the European Union”, we find this result very discouraging and bitter. We consider this as a discrimination against Turkish speaking EU citizens. We nevertheless remain trustful to the justice of the European Union and believe that the EU will take necessary steps to solve this problem, since it’s clearly stated in Article 21 of the Charter of Fundamental Rights of the EU that “Any*

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<sup>73</sup> Order of the Court First Instance (Fifth Chamber), 5 March 2007, (Officials – Open competition – Notice of competition – Time-limits – Complaint – Inadmissibility), In Case Derya Beyatli, residing in Nicosia (Cyprus), Armagan Candan, residing in Istanbul (Turkey), v Commission of the European Communities.

<sup>74</sup> Following the notice of open competitions (OJ 2003 C 120, p. 20) with a view to the recruitment of assistant administrators (A 8) for citizens of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, the applicants applied for competition EPSO/A/1/03 (‘the competition’).

<sup>75</sup> By letter of 5 May 2004 of the chairman of the selection board (‘the contested decision’), the applicants were informed that they had passed tests (a), (b), (c) and (d) but had failed test (e), having received a mark of 6.5 out of 10 when the minimum mark required was 8 out of 10.

<sup>76</sup> The applicants were admitted to the written tests, which took place on 12 December 2003, and for written test (e) they drafted a statement declaring that they did not speak Greek.

*discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.” ...’*

In short, the applicants argued that the EPSO made a false decision at the end of the competition which initiated this law case in order to defend their rights and also that of all the Turkish Cypriots.

With respect to this application letter of the case cited above, the Commission’s Representation in Cyprus answered with following statement (23 August 2004):

*‘The issue of the Turkish Cypriot candidates in the ongoing EPSO competitions is indeed one of great concern to us, for obvious reasons. I can confirm that there were a small number of Turkish Cypriot candidates that were successful in the pre-selection as well as the main written test, while not receiving pass mark in the test which the Cypriots were obliged to do in Greek. I do, however, believe there has been a misunderstanding as to the possibility of the selection boards to take the political situation into account. The procedures of a competition are governed by the Notice of Competition, which constitutes its legal basis, and which leaves no room for political considerations. Furthermore, the Selection Board is bound by the absolute requirement to respect equal treatment of all candidates. If a candidate wishes to request a review or make an appeal, information on procedural rules can be found in the relevant Notice of Competition ...’*

In contrast, in line with the Article 90 (2) of the Staff Regulations of the Officials of the European Communities (‘the Staff Regulations’) provide:

*‘Any person to whom these Staff Regulations apply may submit to the appointing authority a complaint against an act adversely affecting him, either where the said authority has taken a decision or where it has failed to adopt a measure prescribed by the Staff Regulations. The complaint must be lodged within three months.*

To sum up, this Case showed that the application must be dismissed as inadmissible and the two parties have to accept their own costs<sup>78</sup> by the declaration of the Court.

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<sup>78</sup> They lodged a complaint against the contested decision by letter of 18 November 2004, which reached EPSO on 22 November 2004, but in view of the date on which the contested decision was notified that complaint did

This case actually fits in quite well with the intent of this study. However, due to the application deadline of the Court the applications were rejected without any critical decision. This case is very important in leading to new circumstances in respond to the rights of the Turkish Cypriots.

The first most obvious reason is because it is the first concluded significant case, opened by the Turkish Cypriots, which is related with the European citizenship rights of the European Union. The second reason is that, it presents the decision of the European Union based on the different legal status between the Turkish and Greek Cypriots. Looking at this, it is possible to determine that the case would open new grounds in the redefinition of the terms of the European citizenship rights of the Turkish Cypriots. Additionally, if the case is concluded by the Court, it will reveal to what extent the political status of Cyprus has an influence over the European citizenship rights of the Turkish Cypriots. For this reasons, if we examine the claim of the case, we may see that the Turkish Cypriots, whose mother tongue is Turkish, are victimized due to Greek language requirement, which also is not the official language of the European Union.

Firstly, if we accept it as the failure of the applicants, it would not be a correct argument, because their mother tongue is Turkish which is not the official language of the European Union. In contrast, the Greek Cypriots who applied for the same competition could easily fulfil the requirement of language because it is their own mother tongue and it is accepted as the official language of Cyprus in the EU institutions.

The case shows significance in the Turkish Cypriots' deal with an optimistic viewpoint that it might declare Turkish as the new language of the European Union, if only the Court concludes the case by accepting the discrimination over the Turkish Cypriots when rejecting Turkish as the official language of EU. That is to say, it could be the support towards the declaration of the Turkish language as the additional language of the EU.

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not reach EPSO within the three-month period laid down in Article 90(2) of the Staff Regulations. Moreover, in EPSO's express decision of 21 March 2005 rejecting the complaint, the complaint was rejected as inadmissible for that reason.

## **2.5. Conclusion**

Chapter two contains the arguments dealing with the logic of the European citizenship by emphasizing on the main Articles (17-18). The study tries to analyse which citizenship rights can be obtained by becoming the European Union subject and which EU law regulations will be applied on its citizens. According to the Article 17 and 18, the most obvious explanation to further developments to strengthen the European Community is argued by the Maastricht Treaty. .

The Maastricht Treaty, which created the European Union, is commonly known as the pillar structure of the European Union and thus started the process of further integration for all the nations of the European Union. In Further Articles (17-18) outlined, this is stated as the basic aspect of the concept of the EU citizenship. Thereby, all case laws showing any condition of discrimination are strictly prohibited and the Community must act in accordance with the principles of equality.

In short, all the nations of Europe must be protected by legal basis regarding their national origins. Additionally, the primary objective of the EU is to try to achieve further integration between all the nations of the member states by introducing a single citizenship policy. These arguments lead to indentify the relationships between the European integration and citizenship.

Chapter two, on the other hand, tries to accomplish the notion of the European citizenship by illustrating several case laws related with Cyprus. For that reason, the selected cases are able to connect the basic arguments of the following chapters of the study.

Consequently, the following chapters of the study will concentrate on the citizens of Cyprus by addressing different benchmarks of the concept of the European citizenship. Therefore, chapter two had to point out the basic logic of the meaning of the European citizenship in order to provide basic sources for the following chapters.



# Chapter 3: Citizens of Cyprus

## 3.1. Introduction

Chapter three mainly focuses on the rights concerning the European Citizenship in favour of the Turkish Cypriots. In this chapter, the reader is going to find several arguments related with the rights of the European citizenship in terms of:

- (i) The Greek Cypriots,
- (ii) The Turkish Cypriots

The first part of this chapter will mention the mutual concerns of the Turkish and Greek Cypriots for the European Citizenship. The second part of the chapter will continue with the analyses of the conflicting status of the Turkish and Greek Cypriots regarding their European Citizenships. Taking this diversity into consideration, this part will evaluate various applications of the EU citizenship rights in the two sides of Cyprus. Last but not least, under the third subtitle, the study will mention the Green Line Regulation by addressing the problems arising from the status of the Turkish Cypriots.

## 3.2. Citizens of Cyprus: Republic of Cyprus

First of all, if we look into the assumption that the Republic of Cyprus is accepted into EU as a unitary and legal government, then, all of its citizens would be called the 'Nationals of Cyprus,' and have the right to use the same passport. That is to say, all the citizens of Cyprus would have the right to apply for the 'Cypriot' passport without being subject to any of the discriminations. By taking this into account, it would be appropriate to say that the Turkish Cypriots do have a right to apply and become holders of the same passport as the Greek Cypriots under certain conditions.

The first and foremost condition is if a person is born in Cyprus or has parents who are born in Cyprus, as this will give them the right to hold the passport of the Republic of Cyprus. In other words, regardless of a person's nationality if a Turkish Cypriot person is or his/her

parents are born in Cyprus; he/she becomes the righteous bearer of the same passport with the Greek Cypriots in the Republic of Cyprus. For this reason, this, therefore, may be the most important equality right of the Turkish and Greek Cypriots since both are considered to be the nationals of Cyprus; the Cypriots.

This clearly portrays that the Cyprus passport does not differentiate between nationalities; on the contrary, it basically shows the nationality of the 'Cypriots'. In addition, it would not create a problem to mention the three languages as: Greek, Turkish and English in the passport. On the contrary, it will show that, since the establishment of the Republic of Cyprus (1960), the government adheres to the Treaty of Establishment.<sup>79</sup> The reason simply argues; "both the Greek and English languages are already used as official languages by EU institutions. Therefore, Turkish, which is only used by Turkish Cypriots, does not require to be used as an official language of EU. However, in case it would be a problematic situation in against the institutions of EU".<sup>80</sup>

- **Citizens from Turkey**

In case of the Turkish citizens that have emigrated and been living in Cyprus since 1974, the study recommends not to mention some of the issues and rather put them aside. For instance, if the study focuses on the historical background of the population exchange between Turkey and north Cyprus, it is well observed that this process is directly affecting the population rise in the northern part since 1974. At the beginning, approximately 20.000 Turkish citizens moved from Turkey during 1975-79.<sup>81</sup> The Turkish citizens from Turkey have begun to move to the northern part of Cyprus in 1974 and since then this has become the policy and has been encouraged by the government of Turkey.

Considering the legal basis of the national mobility between Turkey and TRNC, no complaints have been raised against this situation so far. Furthermore, mobility of the citizens may cause questions regarding the evaluation of this act in terms of legal or illegal grounds. The main purpose of this policy was to contrive balance in Cyprus' population because the

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<sup>79</sup> Treaty of Concerning the Establishment of Republic of Cyprus, 16 August 1960, Annex D (Nationals of Cyprus).

<sup>80</sup> See the Case The Case T-455/04, in the chapter two.

<sup>81</sup> Hatay, M., 2007, Is Turkish Cypriot Population Shrinking? : An Overview of the Ethno-Demography of Cyprus in the Light of the Preliminary Results of the 2006 Turkish Cypriot Census, Nicosia/Oslo: PRIO.

population of the Greek Cypriots was much higher and still is higher than that of the Turkish Cypriots'. Therefore, the government of North Cyprus signed a treaty with Turkey in order to maintain a balance between the two parts of the island. As a result, the Turkish citizens left their mother lands and settled in the towns the Greek Cypriots abandoned.

To sum up, the main reason why the population exchange policy took place between Turkey and North Cyprus is because the Turkish nationals acted in favour of the population in Northern Cyprus by settling there and maintaining the stability in population against the outnumbering Greek Cypriots.

Depending on the data received from the last population census in North Cyprus (2006), the total population is now 265.100.<sup>82</sup> The population distribution of the TRNC citizens' when only the permanent residences are taken into consideration, is a total of 178.031. Of course this is done under the light of the following classification which is based on the place of birth of parents:<sup>83</sup>

- (i) The number of persons, whose mothers and fathers were born in Cyprus sums up to 120.007,
- (ii) The number of persons, whose mothers were born in Cyprus and whose fathers were born in Turkey sums up to 7.289,
- (iii) The number of persons, whose mothers were born in Turkey and whose fathers were born in Cyprus sums up to 3.072,
- (iv) The number of persons, whose mothers and fathers were born in Turkey sums up to 42. 572.

As outlined above; the TRNC citizens, whose parents are from Turkey, constitute the important population exchange in Cyprus. The number of immigrants from Turkey continues to increase yearly. This is because the Turkish nationals do not require any passport in order to travel to or reside in North Cyprus but just their ID numbers. Furthermore, if a person-Turkish national- resides in North Cyprus for only five years, he/she becomes entitled for the nationality of the TRNC. All these play an important factor in motivating the Turkish nationals in immigrating to North Cyprus. Generally, the Turkish nationals are from the underdeveloped regions, such as, the eastern regions of Turkey where there are problems

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<sup>82</sup> Turkish Republic of Northern Cyprus, Population Census, 2006.

<sup>83</sup> Ibid.

regarding security and the socio-economic situation. In other words, by moving here, the life standards of these people become relatively better than their previous life standards in Turkey.<sup>84</sup>

This may provide an insight for the reader in determining the diversity of the population size between the original Turkish Cypriots and the Turkish citizens who moved from Turkey and are now residing in the northern part of Cyprus. The pace and intensity of the number of immigrants from Turkey is continuing on a small scale yet lessened as of 1983 for several reasons. This is due to reasons such as socio-economic migration<sup>85</sup> because of the motherland status of Turkey. Additionally, most of the economic facilities in North Cyprus are financed by Turkey. According to the current news, approximately 45.000 Turkish national workers work in different fields in TRNC especially in the construction sector.<sup>86</sup> In short, the economic reason is the most important factor that would encourage Turkish nationals to immigrate to North Cyprus.<sup>87</sup>

On the other hand, the Turkish citizens who carry the TRNC passport encounter many problems regarding their citizenship rights. For example, if a person was born in Cyprus and his/her mother and father were born in Turkey, he/she is not entitled to demand any rights from the government of Cyprus. Moreover, if a person was born in Cyprus and one of his his/her parent was born in Turkey, he/she is not entitled to become a holder of the Republic of Cyprus passport. Finally, if a person who was born in Cyprus, is the holder of the Republic of Cyprus passport on marrying with a person who is a Turkish national, his/her wife or husband, and children as well, are not entitled to demand any citizenship rights from the Republic of Cyprus. Briefly speaking, the government of ROC naturally rejects the presence of the Turkish nationals in Cyprus.

At present, while negotiations continue between the leaders of the Turkish and Greek Cypriots for the reunification of the island, the President of ROC declared that: “All Turkish nationals should return to Turkey if we accept to reunite the island with the north Cyprus

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<sup>84</sup> Constitution of Turkish Republic of Northern Cyprus, 1985, Citizenship, Chapter Two.

<sup>85</sup> Hatay, M., 2007, Is Turkish Cypriot Population Shrinking? : An Overview of the Ethno-Demography of Cyprus in the Light of the Preliminary Results of the 2006 Turkish Cypriot Census, Nicosia/Oslo: PRIO.

<sup>86</sup> *Halkın Sesi*, 5 July 2008.

<sup>87</sup> Colak Yilmaz, Identity and Citizenship Among Turkish Immigrants in Northern Cyprus, Mire Koc Research Projects (2006-2007).

government’’.<sup>88</sup> This declaration clearly explains that the Turkish nationals constitute one of the basic problems for the northern government of Cyprus during negotiations.

In conclusion, the Republic of Cyprus does not accept the presence of any of the citizens coming from Turkey. The most important way to understand the citizenship right granted by the Republic of Cyprus is when a person must prove that his/her mother and father was born in Cyprus. In other words, Turkish Cypriots have to prove with their birth certificates that their parents were born in Cyprus.<sup>89</sup>

### **3.3. Citizens of Cyprus: Turkish Republic of Northern Cyprus**

Since the declaration of TRNC in 1983, the northern part of Cyprus continued to exist as unrecognized as is. This is because in 1983, the United Nations enunciated, in Resolution 541, concerning the attempts for the establishment of an independent state that the “Turkish Republic of Northern Cyprus,” is an invalid state and that the Resolution 541 (1983) “*Calls upon all States not to recognize any Cypriot state other than the Republic of Cyprus*’’.<sup>90</sup> According to the statements in Resolution 541 (1983), international isolations have been initiated by all the states-except Turkey in compliance with the declaration of the United Nations . These isolations, however, had an adverse effect directly on the rights of the Turkish Cypriots. For instance, Turkish Cypriots are not able to represent themselves before any international Organization and cannot partake in any social, political, economic activity at the international arena. As a result, when the current status in the North Cyprus is examined, we can see that the Turkish Cypriots are still under austere isolations. This shows the incapacity and unwillingness of the European Union towards the abolition of the isolations on the Turkish Cypriot residents in North Cyprus. One of the motives to do so might be because Cyprus is an official member state of the EU and in this respect the European Union is not able to lead neutral policies towards the Republic of North Cyprus. Clearly, it depends on the method of decision making system which requires unanimity or the majority of the votes, but in general, the European Union is not able to administrate unbiased policies in favour of the Turkish Cypriots.

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<sup>88</sup> *Kibris Gazetesi*, 03.08.2009.

<sup>89</sup> The Treaty of Establishment 1960, Annex D.

<sup>90</sup> United Nation Security Council Resolution 541, 1983.

As stated in the first chapter, under the light of the referenda results, the European Commission<sup>91</sup> has announced that the isolations and embargoes would be removed in the northern part of Cyprus (TRNC) in line with the yes votes of the Turkish Cypriots. Nonetheless, the current situation of North Cyprus does not reveal so. When evaluated, we see that the Turkish Cypriots are still under strict embargoes and isolations. This is a solid proof of the incapacity and unwillingness of the European Union in attaining success in lifting the isolations in North Cyprus.

On the other hand, when the legal status of TRNC is evaluated, it is seen that the Turkish Cypriots should continue their lives under strict international isolations and embargoes both politically and economically. However, when the economic embargoes are considered, Brewin stated that, “technically, the political bodies of the EU have never taken a resolution prohibiting against the Turkish Cypriots from exporting to EU. Exports from the northern part of Cyprus to the EU are completely legal. They are subject to the general tariff rates like third country products.”<sup>92</sup> This statement unilaterally might be true as the EU accepts TRNC government as a third world country. Nevertheless, TRNC has totally a different state status from the perspective of the EU, which does not consider it having a third country status. The main reason is that the TRNC is seen as an occupied territory with its political problems on legal basis. Therefore, the European Union could not perform its economic policies through the northern part of Cyprus as it does with the other third world countries.

Additionally, Talmon stated that “politically, the present restrictions are direct consequences of the 1983 declaration of independence: hence, the Turkish Cypriot leadership has created this sort of “self-isolation” by forcing its exporters to use “TRNC” seals which are not recognised internationally”.<sup>93</sup> Briefly, the citizens of the Turkish Republic of Northern Cyprus are not recognized at the international arena.

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<sup>91</sup> Commission Proposes Comprehensive Measures to End Isolations on Turkish Cypriots, date. 07.07.2004, Ref: IP/04/857.

<sup>92</sup> Brewin, Chirstopher (1999b), Turkey, Greece and the European Union' in Cyprus. The Need for New Perspectives, ed. Clement H. Dodd. Huntington: Eothen Press.

<sup>93</sup> Talmon Stefon (2001), The Cyprus Question Before the European Court of Justice.

To sum up, the main problem facing TRNC and its citizens lays in the political and legal hardship and the European Union endeavours to administer several financial aid programmes<sup>94</sup> towards the betterment of north Cyprus' economic and social conditions.

### **3.4. Citizens of Cyprus versus Citizens of Europe**

As mentioned throughout the study, the Turkish and Greek Cypriots both have the right to possess and use the same passport. Furthermore, as stated under the Article 17<sup>95</sup>; 'the citizens of the member states shall not replace their own nationalities', in the case of Cyprus, all citizens of the island, who have the passport of the Republic of Cyprus, are originally able to exercise their own rights through the EU. This can be interpreted as being entitled to the possession of the EU citizenship rights since 2004. In line with the Cyprus case, the purpose of the following parts of the study is to find out the legal European citizenship rights of the Turkish Cypriots. The main reason may be thoroughly be comprehended when Protocol No 10 on Cyprus<sup>96</sup> is examined.

As outlined under Article 1<sup>97</sup>, it has been made clear that the *acquis communautaire* will not be applied to the northern part of Cyprus until a political settlement is acquired. This, briefly, means that the EU Law is not directly applicable to North Cyprus, whereas it is to the other part of Cyprus; however, this provision affects the EU citizenship rights of the Turkish Cypriots. Hopefully, the political situation in Cyprus will gradually change and the EU laws and rules will be applied for the island as a whole. In line with this issue, the European Union has declared that, 'this suspension should not affect the personal rights of the Turkish Cypriots as EU Citizens. They are the citizens of a member state, the Republic of Cyprus, even though they may live in the northern part of Cyprus which is not under the governance of the Cyprus government.'

However, we the Turkish Cypriots are not devoid of the benefits of bearing the Cypriot nationality or the EU passport. As mentioned in the first chapter, according to the referenda results, the European Union decided to establish a European Commission support office in the

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<sup>94</sup> Agricultural, educational, reconstruction projects are funding by European Commission.

<sup>95</sup> See chapter two.

<sup>96</sup> The Protocol No 10 on Cyprus, 2003, Article 1.

<sup>97</sup> *Ibid.*

Northern part of Cyprus. The main aim of this office is to support the process of advancement and development of the Turkish Cypriots' community and provide further cooperation between North Cyprus and the EU. In conjunction to this several development or cooperation projects took place in order to provide new opportunities in favour of the Turkish Cypriots.

On the other hand, the Turkish Cypriots, holding the Cyprus passport, are, as individuals, able to have the same rights as the other European citizens. However, a problem occurs in this respect: the Turkish Cypriots, unlike the other European citizens, are not able to practice those rights in, North Cyprus. For instance, if a Turkish Cypriot person is the holder of the Cyprus passport and prefers living in one of the European countries, he/she is subject to and derives the same rights with the other European citizens.<sup>98</sup>

According to Hoffmeister; due to the suspension of the *acquis communautaire* in the northern part of Cyprus, the institutions of the EU are not able to apply any legal process in that territory. However, the Turkish Cypriots, who are EU citizens, are considered to be within the scope of the citizenship law of the Republic of Cyprus. As the Turkish Cypriots are able to exercise the EU citizenship rights, they are able to benefit from the freedoms arising from the citizenship status when travelling to, residing or working in another EU Member State. In short, the Turkish Cypriots are able to practice their citizenship rights, the same as that of the other European citizens, with the passports issued by the authorized bodies of the Republic of Cyprus. The critical point here is that, these rights should not be in question in the Northern part of Cyprus.<sup>99</sup>

Shortly speaking, when the European citizenship rights possessed by the Turkish Cypriot community are evaluated, it is observed that “the suspension of the *acquis* in Protocol 10 does not exclude the Turkish Cypriots, living in Northern Cyprus, from the EU citizenship rights unless the activities performed by exercising these rights are related to TRNC territory. Therefore, as the Turkish Cypriots, who are the EU citizens, they are entirely entitled to benefit from, *inter alia*, the four freedoms of the EC Treaty outside the TRNC area’’.<sup>100</sup>

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<sup>98</sup> Such as travel fee –access the Schengen area, right to vote-the European Parliament elections and educational-study in Europe by reduction of tuition fee... etc.

<sup>99</sup> Hoffmeister Frank, 2006, Legal Aspects of the Cyprus Problem, Annan Plan and EU Accession, Matirus Nijgof Publisher, Leiden-The Netherlands.

<sup>100</sup> Human Rights of Turkish Cypriots, 2007, Ari Movement, Turkey.



- **Green Line Regulation:**

As mentioned above, the Northern part of Cyprus is under the influence of the Protocol No 10. Accordingly, this chapter is finalized by the analyses regarding the content and the implications of the Green Line Regulation.

The Green Line Regulation<sup>101</sup>, which is the new cross line policy, is valid for all the EU citizens including the citizens of the Republic of Cyprus as well as the third world country nationals who legally reside in the northern part of Cyprus. However, the critical point of this regulation is as follows: all the EU citizens and the third world country nationals, who entered the island through the Government Controlled Areas, are able to exercise their crossing rights.<sup>102</sup> This means that according to the Green Line Regulation, a person should firstly enter into the island through the southern government controlled part of the island before passing on to the North from the UN Buffer zone.

On the other hand, the regulation provides a new ground for the legal bilateral trade agreements for the marketing goods between North Cyprus and EC market.<sup>103</sup> In short, until a political settlement which will lead to the withdrawal of the suspension of *acquis* on the northern part of the island is reached in Cyprus; the EU Law shall apply to the Green Line which means, it provides the legal basis of the Green Line Regulation.<sup>104</sup>

As outlined in the second chapter, according to Article 18 of the EC Treaty, every EU citizen has the “right to move and reside freely within the territory of the Member States, without being subject to the limitations and conditions laid down”. In this respect, the Green Line Regulation, which is the basic legal document-under the EU Law basis provides free movement of the persons through the line.<sup>105</sup>

As stated in the content of this chapter, all details would target the European Union law not to apply directly towards the northern part of Cyprus. In this respect, the border link has been

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<sup>101</sup> Council Regulation (EC) No 866/2004, OJ L 161 of 30 .04.2004.

<sup>102</sup> Green Line Regulation, (EC) No 866/2004, OJ L 161 of 30 .04.2004, Art 2.

<sup>103</sup> Ibid.

<sup>104</sup> Skoutaris Nicos (2008), “the Application of the Acquis Communautaire in the Areas Not Under the Effective Control of the Republic of Cyprus: The Green Line Regulation, Common Market Law Review 45: 727-755, the Netherlands.

<sup>105</sup> Ibid.

established between the northern and southern part of Cyprus enabling the mobility of the individuals since 2003. Its main reason is to provide accession of the Turkish Cypriots to the EU via the southern part of Cyprus which is the EU part. Now, it's time to emphasize on the future aspects related with the European citizenship rights of the Turkish Cypriots. Therefore, the study prefers to interpret the Art 18<sup>106</sup> which regulates free movement of persons within Europe. This is a quite accurate example displaying the rights of the Turkish Cypriots in northern Cyprus.

The first and most obvious explanation arises from the question: “what will happen if the Republic of Cyprus decides to shut down the access gates between the two parts of Cyprus?” and, furthermore,” how will this attitude affect the rights of the Turkish Cypriots when the issue is evaluated together with the Art. 18?”. In cases where any changes are made by the government of the Republic of Cyprus, they should be accepted by the European Commission before their enforcement in order to prevent contradictions. Within one month, the Commission may suggest the reconsideration of this Regulation in line with the security concerns based on the national and the EU rules.<sup>107</sup> In this respect, the decision made by the government of the Republic of Cyprus should be approved by the Commission in case of any further changes.

At present, the Turkish Cypriots can cross the borders to the southern part of Cyprus and they can travel all around Europe via international airports. Closing down the border links between the two parts of Cyprus may cause problems regarding the rights of the Turkish Cypriots under Art 18. This may abolish the European citizenship rights of the Turkish Cypriots and took them back to the time before 2003. Here, I would like to point out that the rights of the Turkish Cypriots will never be in the same status as it was before.

The most critical issue is that they are the European citizens who do not live under a territorial basis. If we return to issue of closing down the boarder gates, the Turkish Cypriots will show a preference towards travelling all around Europe via Turkish airports in Turkey as they did before. For instance, let's suppose a person who would like to travel to Netherlands; s/he firstly would depart from Turkey and then travel to the Netherlands without the requirement of any visa since they have the EU passport. As mentioned above, there are no discriminations regarding the issuing of the Republic of Cyprus passports.

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<sup>106</sup> Treaty of EC, 1957.

<sup>107</sup> Green Line Regulation, (EC) No 866/2004, Article 10.

In conclusion, if the Republic of Cyprus decides to close the access gates and block the mobility between the two communities of Cyprus against the Green Line Regulation, it will not affect the personal rights of the Turkish Cypriots because the Turkish Cypriots bear the European nationality obtained from the European Union. On the other hand, the European Commission would never approve of any such policy that would violate the rights of the Turkish Cypriots. If the Commission decides to close down the borders in line with the decision of ROC, it would violate the Art. 18.<sup>108</sup>

In brief, the EC decided to execute the Art. 18 by introducing the Green Line Regulation, so in any case, any rules related with the abolishment of the Green Line rules would mean the violation of the European Union rules and regulations. The Commission should adopt a policy which would avoid diminishing the citizenship rights of the Turkish Cypriots.

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<sup>108</sup> Treaty of EU, 2002, Art 18.

### 3.5. Conclusion

To sum up, according to Protocol No 10 on Cyprus issue, the EU agreed that the *acquis communautaire* would not apply for the northern part of Cyprus until a settlement is reached. This means that, for the Turkish Cypriots, the abolishment of the isolations and embargoes on the road to adaptation of the EU integration policies is a strictly limited case. In another words, this constitutes a difficult case for the EU to lift all the restrictions against the Turkish Cypriots who are sharing all the European Citizenship rights that are the same with the other European citizens. For this reason, there are several factors which impede the formation of a direct link between the North Cyprus and the European Union.

When these factors are taken into consideration, they will impede further direct aids from the EU to the Turkish Cypriots, basically resulting from the veto power of Cyprus because the financial aids require unanimity of votes. Taking this into consideration, both Cyprus and Greece are the official member states of the European Union, so originally the policies of these two countries are not willing to support the economic and social development pacts for either the North Cyprus or for the Turkish Cypriots.

Additionally, the European Union decision making institutions can not, independently, send its positive approaches<sup>109</sup> over the North Cyprus. The problem may be explained as follows: one side of the EU is an official member state of the EU, unlike the other side. Therefore, North Cyprus is subject to an unequal respect from the EU and this leads to an increase in the disparity between the North and South Cyprus against the future dimensions of the Cyprus Dilemma.

In conclusion, the Green Line Regulation has been put into action with respect to the Turkish Cypriots' mentality<sup>110</sup> for the EU membership. From another point of view, when the EU citizenship rights of the Turkish Cypriots and the results of Protocol No 10 are in question, it may be stated that the Green Line Regulation has been put into action while possessing the same effectiveness with the EU Law in order to provide better social and economic conditions

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<sup>109</sup> Such as direct political and economic link between government of North Cyprus and institutions of EU.

<sup>110</sup> Because they indicate that, they are willing for reunification of Cyprus via the EU membership.

for the Turkish Cypriots in terms of the EU Citizenship rights. For instance, the Green Line Regulation has been prepared in order to reduce the isolations on the Turkish Cypriot community in Cyprus.

As it is, they, at the very least, have the right to access the southern part of Cyprus freely and attend the EU market in order to obtain more economic freedom. However, there are several restriction policies executed by the Republic of Cyprus: the purpose of these policies is to impede, especially, the economic relations between the Turkish Cypriots community and the EU member states. The Republic of Cyprus may easily be effective on the European Institutions by its veto power for the purpose of impeding further economic aids from the European Union in favour of the Turkish Cypriots' Community.

Cyprus is one of the official member states of the European Union; therefore, the Republic of Cyprus is not willing to support the economic and social development pacts for neither North Cyprus nor the Turkish Cypriots. Thus, it may be stated that the economic aim of the Green Line Regulation has neither been achieved nor executed effectively because of the barriers built by the Greek Cypriot community.

The next chapter of the study will though roughly analyse the status of the Turkish Cypriots with the European citizenship<sup>111</sup>. It will indicate more argumentative sources based on either the status or rights of the Turkish Cypriots for the concept of the European citizenship.

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<sup>111</sup> Related with the social and economic rights which derives from EU citizenship.

# Chapter Four: Is it only the South in EU?

## 4.1. Introduction

The final chapter of the study will analyse the discrepancy between the Turkish and Greek Cypriots on the island, and further, evaluate the different status of the Turkish Cypriots in terms of the European Citizenship rights, mainly focusing on the equities of the Turkish Cypriot community, which is not within the same scope of either the other European Citizens or Greek Cypriots. For this reason, chapter four, will concentrate on the divergent status of the European Citizenship rights between the Turkish and Greek Cypriots. In the light of this information regarding discrepancy, the different aspects of EU citizenship rights in the two regions of Cyprus will be evaluated according to the sources mentioned in the first and second chapters based on the statements by UN and EU obtained, as a result of the referenda results. From this point on, the study will, solely, be based on the present status of the Turkish Cypriots.

The previous chapter contains the reflections of the Protocol 10 on the Turkish Cypriot community. In regard to the European citizenship rights of the Turkish Cypriots, the President of North Cyprus, Mehmet Ali Talat, remarked that the Turkish Cypriots are not European Citizens and further stated that the Turkish Cypriots, moreover are experiencing hardship due to the ownership of the EU passport because of the suspension of the *acquis*, thus conducting an impediment for the Turkish Cypriots in entering EU with their existing political identity or having access to it from their own territory. Nevertheless, certain citizenship rights of the European citizenship have been acquired in various fields.<sup>112</sup>

Secondly, Mr. Nami<sup>113</sup> commented on the Turkish Cypriots' position under the light of the resolutions of the institutions of EU and pointed out to the fact that the European Union, by allowing a state, with international problems, accession into EU even while the leaders of EU had their discrepancies in the argument, had violated all human rules because of this outlandish mentality. Fundamentally, the Turkish Cypriots may not have joined the EU with their native

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<sup>112</sup> Interview with the President of North Cyprus-Turkish Republic of Northern Cyprus, 03.07.2009.

<sup>113</sup> Interview with the Member of the Parliament of the TRNC and Special Representative of the President of TRNC, Mehmet Ali Talat 10.06.2009.

land, but this does not affect their European citizenship status at all. At present, the Turkish Cypriots are the official citizens of EU, with the exception that the *acquis* is inapplicable in their own territory. This explicitly exemplifies how the territorial factor in the application of the *acquis* of EU affects the individual rights of its citizens. The purpose of the final chapter of this study is then to highlight in detail the European citizenship rights of the Turkish Cypriots.

## **4.2. Rights Arising from European Citizenship**

The concept of the European citizenship is a distinct concept and has been explained in the second chapter of the study where it was identified via several sources. Taking this into account, the notion of the European Citizenship is strengthened by building trust for a secure environment amongst the nations of Europe. In other words, trust is one of the necessary elements for attaining the highest level of the European Citizenship policy.<sup>114</sup>

Based on this, the study will continue to analyse the different applications of the European Citizenship rights for the Turkish Cypriots when compared with the rights of the Greek Cypriots. For this purpose, the study is divided into two main subtitles: (i) Democratic and Human Rights, (ii) Social and Economic Rights. The last chapter starts with the democratic rights of the Turkish Cypriots and progressing towards the social and economic rights.

### **4.2.1 Democratic Rights**

The study endeavours to articulate the democratic and human rights of the citizens living in the TRNC, Northern Republic of Cyprus, aboard the European Union level. As mentioned in chapter three, all Cypriots<sup>115</sup> can legally bear the Cypriot passports- regardless of being Turkish or Greek. However, being a Turkish or Greek Cypriot under the concept of the European Citizenship rights shows an inconsistency which requires further analysis.

In accordance with the democratic rights, which inherently arise from the European citizenship status, the study favours to quote one of the statements of Mr. Ozdil Nami<sup>116</sup>: “A major disadvantage faced by the Turkish Cypriots is the infringement of their basic democratic right to have their voice fully heard through their democratically elected

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<sup>114</sup> Follesdal Andreas, 2008, Equality of Education and Citizenship: Challenges of European Integration, Vol. 27, No. 5, Study in Philosophy and Education, pp. 335-354.

<sup>115</sup> Related with the Treaty Concerning the Establishment of Republic of Cyprus, 16 August 1960, Annex D (Nationals of Cyprus).

<sup>116</sup> Member of the Parliament of the TRNC and Special Representative of the President of TRNC, Mehmet Ali Talat.

representatives.’’ At this point, it is time to focus on the democratic and human rights of the Turkish Cypriots arising from their European Union citizenship.

As introduced in chapter two, related with the scope of the Article 2<sup>117</sup> and the rights outlined as: *‘voting active and passive rights in European and local elections’*, do not apply to the Turkish Cypriots. In the presence of the territorial division, it is impossible for the Turkish Cypriots to exercise their voting rights in their own state, the TRNC. The basic reason is the fact that only the Republic of Cyprus is accepted as an official EU member state according to Protocol 10 on Cyprus.<sup>118</sup> In this respect, the Turkish Cypriots are not able to exercise their democratic or political rights, their own basic citizenship rights, in their own state. Two different applications on this issue will be mentioned.

Firstly, despite the lack of democratic relations between the Republics of North and South, if one bares a Cypriot nationality, that person should be able to vote in the European Parliament elections by crossing the border to South Cyprus-Green Line Regulation-. That is to say, a person who lives in North Cyprus-under the governance of TRNC- and has a Cypriot passport should be allowed to cross the border line –similar to crossing the border of a foreign country- and exercise his/her democratic rights-EU citizenship rights- in the Republic of Cyprus.

- **European Parliament:**

At present, the question emerges on the predicament of the rights of the Turkish Cypriots which have no proximity to conform to the EU law. This is because a person needs to cross the border to vote in another state which is not his/her original state. For instance, if the Turkish Cypriots like to exercise their inherent democratic rights like voting for the European Parliament elections, they should do so under another government; the Republic of Cyprus. Needless to say, this clearly exhibits the problems the Turkish Cypriots have been facing since the accession of Cyprus into the European Union. Additionally, it denotes the characteristics of Cyprus as a member state of EU.

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<sup>117</sup> Treaty of EU, 1992, Art. 18.

<sup>118</sup> The Protocol No 10 on Cyprus, 2003, Article 1.



The study also focuses on the election process followed by the ‘European Parliament’, as outlined below:

*“The European Parliament shall draw up a proposal for elections by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States. The Council shall, acting unanimously after obtaining the assent of the European Parliament, which shall act by a majority of its component members, lay down the appropriate provisions, which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements.”<sup>119</sup>*

Taking this into consideration, it would be appropriate to say that the EU does not provide any separate electoral list for the Turkish Cypriots resulting from the factual situation after 1974. The main reason for this attitude is because the formation of a separate electoral list would violate Protocol No. 10 in Cyprus. Accordingly, a different system must be sought after in order to embrace the Turkish Cypriots in the democratic process in the government-controlled areas.<sup>120</sup>

There is a critical point in line with Protocol No 10 in Cyprus for the territorial restriction<sup>121</sup> and personal rights of the Turkish Cypriots. For instance, a territorial restriction, which results in the suspension of the northern part of Cyprus, is taken into consideration; this can lead to the democratic rights of the Turkish Cypriots. At this point, the question whether there is a link between territorial issue and the right to vote for the European Parliament arises. The question is answered in Protocol No. 10 which influences the rights of the Turkish Cypriots as they do not feel as part of their own country in moral values. The conflict between the territorial restriction and personal rights does not affect the individual rights of the Turkish Cypriots. In case of Cyprus, since the declaration of Protocol 10, EU law cannot provide an equal status for the Turkish Cypriots as done for the Greek Cypriots. This could be the reason why the Turkish Cypriots cannot use their voting rights within the territory of the northern part of Cyprus.

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<sup>120</sup> Hoffmeister Frank, 2006, Legal Aspects of the Cyprus Problem, Annan Plan and EU Accession, Matirus Nijgof Publisher, Leiden-The Netherlands.

<sup>121</sup> Protocol No, 10 on Cyprus, Art. (1).

On the contrary the Article (1) Protocol 10 does not restrict the Turkish Cypriots in crossing the border-Green Line- on the Election Day in order to participate in the election process as the Greek Cypriots.<sup>122</sup> This made the Turkish Cypriot community the only group with the EU citizenship who do not possess any form of representation in the EP. It would not be wrong to say that the Turkish Cypriots are represented by the Greek Cypriot MEPs.<sup>123</sup>

When the last European Parliament elections in Cyprus is analysed, and compared with the results of the last European Parliament elections in Cyprus, which took place under the liability of the Cyprus Government, it was observed that the participation was around %40.<sup>124</sup> However, the participation from the Northern part of Cyprus was only 117 Turkish Cypriots voting for the EP election although 747 Turkish Cypriots were known to have been registered on the election list. Additionally, looking at the regional analysis in South Cyprus, it is clearly seen that the Turkish Cypriots residing in Pile, the bi-communal village, did not partake in the election. For instance, from the 13 Turkish Cypriots registered on the list only three voted for the EP.<sup>125</sup>

As a result, one may conclude that the ‘suspension of the *acquis* for the Northern part of Cyprus’, did not have any influence on the individual or private rights of Turkish Cypriots, holding the Republic of Cyprus passport. Regarding Protocol 10, there is no link between the territorial aspects and personal European rights that stated that; ‘persons can cross the borders freely, without being subject to any restrictions’.

In conclusion, the Council of Europe Parliamentary Assembly (PACE) invited the Turkish Cypriot community to participate as the ‘‘Elected Representatives of the Turkish Cypriot Community’’, however, they were impeded from the right to vote.<sup>126</sup> This means that their status at the Council of the Europe Parliamentary Assembly was of an observatory nature.<sup>127</sup>

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<sup>122</sup> Ibid.

<sup>123</sup> Turkish Cypriots, the Excluded European Citizens, 2008, Turkish Cypriots Human Rights Foundation, Nicosia, North Cyprus.

<sup>124</sup> Yeniduzen, 08.06.2009.

<sup>125</sup> Kibris, 08.06.2009.

<sup>126</sup> Turkish Cypriots, the Excluded European Citizens, 2008, Turkish Cypriots Human Rights Foundation, Nicosia, North Cyprus.

<sup>127</sup> Turkish Cypriots, the Excluded European Citizens, 2008, Turkish Cypriots Human Rights Foundation, Nicosia, North Cyprus.

### **4.3. Social and Economic Rights**

The study continues with the analysis of the ‘social and economic’ rights of the Turkish Cypriots. This analysis is classified under three basic subtitles: (i) education (ii) culture and sports and (iii) economy. These will help to clear out the main differences between the two communities of Cyprus. Consequently, at the end of this part, the reader will clearly be able to define the different status of the Turkish Cypriots when compared with Greek Cypriots.

#### **4.3.1. Education**

The European Education System has an extensive coverage at the European Level, especially for the integration process between the member states. Additionally, the European Union focuses on more coherent education policies in order to address the democratic and open European citizenship on intercultural basis in the education systems.<sup>128</sup>

The most obvious example of one of the new educational projects of EU, the ‘Bologna Process’, provides further educational service throughout its whole member states. According to the Bologna Declaration, educational co operations simultaneously enhance the European citizenship and provide for its citizens the ability to achieve and develop more stable, peaceful and democratic societies. Moreover, the ‘Bologna Process’ is an important educational facility aiming to create a “European Higher Education Area” by 2010 and its objective is to establish compatible and comparable education prerequisite to the situation aroused from crossing the borders of EU.<sup>129</sup> According to the Bologna Process, the universities in the northern part of Cyprus perform activities in accordance with its standards in order to achieve higher educational levels in line with the Bologna Process.<sup>130</sup>

However, they do not possess the right to use the World List of Universities as well as the World Higher Education Database. For this reason, the publications of all the universities in North Cyprus are not listed in reference publications which are stated at the International Handbook of Universities. Furthermore, in connection with the international publication databases, the Turkish Cypriot Universities neither grant their students the diploma known as the ‘European Diploma’ or provide the European Credit Transfer System (ECTS), as in the

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<sup>128</sup> Stavroula Philippou, *On the Borders of Europe: Citizenship Education and Identity in Cyprus*, *Journal of Social Science Education*, 1-2007.

<sup>129</sup> Hanna David, 2005, ‘Cyprus’ *The Search for A Solution*, I.B. Tauris, New York- United States.

<sup>130</sup> Arslan and Güven, *Universities in North Cyprus and the Right to Education*, Presented at the 38. International Congress of Asian and North African Studies, ICANAS 38, 10-15 September 2007.

government of Cyprus.<sup>131</sup> The main reason is connected with the political status of the government of TRNC. In other words, despite the legitimate establishment of TRNC, its educational system cannot have full access to the direct academic links of the universities in the member states of the European Union<sup>132</sup> whereas those in ROC do. Furthermore, the European Commission renders support for the educational rights of the Turkish Cypriots via EC Support Office (in north Nicosia). For this purpose, EC has prepared a project regarding educational support programmes in order to give opportunities to interested students who would like to continue their education in one of the member states of EU. As a result, Turkish Cypriot students are able to have a chance to study in EU universities by benefiting from the financial aid of EC.<sup>133</sup>

The reasons can be listed as: (i) the legitimacy of the republic of North Cyprus and (ii) Protocol No 10 on Cyprus. The Protocol No. 10, the suspension of *acquis communautaire*, has an impact over the educational rights of the Turkish Cypriots who prefer studying in North Cyprus. For instance, if a student likes to continue studying, he/she will face problems related with the acceptance and recognition of the diploma in the European Union education system.

#### **4.3.2. Culture and Sport**

The legitimacy of North Cyprus similarly, has an adverse effect on the international representations of the Turkish Cypriots in cultural and sportive events. The Turkish Cypriots are experiencing restrictions and isolations in the sportive and cultural activities imposed by the International Community. Regardless of their EU identity, the Turkish Cypriots, in reality, can not participate in any international sports and cultural events or competitions. For example, they can not participate in Olympic and Commonwealth Games, and World and European sporting competitions, such as, World Cup, European Cup, in soccer as a team or individually since 1963.<sup>134</sup> The Turkish Cypriots are stripped off their cultural and sportive rights by the International Community, along with all the others. Besides, despite the results of the referenda and EU citizenship rights, EU is not striving in any form to remove the isolations and embargoes on the Turkish Cypriots.

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<sup>131</sup> Turkish Cypriots, the Excluded European Citizens, 2008, Turkish Cypriots Human Rights Foundation, Nicosia, North Cyprus.

<sup>132</sup> Such as student exchange programmes.

<sup>133</sup> <http://www.benavrupadaokumakistiyorun.eu/>

<sup>134</sup> Turkish Cypriots, the Excluded European Citizens, 2008, Turkish Cypriots Human Rights Foundation, Nicosia, North Cyprus.

### 4.3.3. Economic

Because of its status, the TRNC is heavily dependent on Turkish economic support and its economical issues are basically related with transportation and direct trade. Flying to Northern Cyprus is somewhat problematic due to the legal status of TRNC which forbids any form of direct transportation and trade activities because all flights to Northern Cyprus must currently land in countries that recognize it only. Moreover, TRNC's seaports had been declared closed to all shipping by the Republic of Cyprus and it is not permissible to use them in North Cyprus.<sup>135</sup> Herein, the study continues with the economic policies and strategies the European Union has been applying to the North Cyprus since 2004.

- **Financial Aid and Direct Trade Regulation**

The “Direct Trade Regulation” was on EU’s agenda because of the 2004 referenda results. This regulation aimed at eliminating the barricades and enable Northern Cyprus products to be exported to EU member states in order to support the economic welfare for the Turkish Cypriots.<sup>136</sup> In this respect, the European Union prepared the Financial Aid Regulation’ (FAR),<sup>137</sup> as mentioned in the first chapter, which was adopted in 2006, in contrast to the “Direct Trade Regulation” (DTR)<sup>138</sup> which has not been adopted yet. <sup>139</sup> Accordingly, the European Commission took into account the two regulations all of which were supported by Turkey, UK, and Netherlands. The government of ROC fore saw no problems regarding FAR, but not for DTR. Thus, rejecting to discuss DTR due to the anticipated issues, like Varosha, Famagusta port and properties.<sup>140</sup> As a result, DTR, which was to bring economic solidarity for north Cyprus, has not been applied since. The main reason arises from the fact that DTR would allow direct trade through the port of Famagusta-it will be managed by the Commission in line with the authorization of ROC. Furthermore,

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<sup>135</sup> See the case laws in Chapter two: Case 219/98 and the Case 432/92.

<sup>136</sup> Commission Proposes Comprehensive Measures to End Isolations on Turkish Cypriots, date. 07.07.2004, ref:IP/04/857.

<sup>137</sup> COUNCIL REGULATION (EC) No 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community and amending Council Regulation (EC) No 2667/2000 on the European Agency for Reconstruction. OJ L 65/5 dd 27.02.2006.

<sup>138</sup> *Proposal for a Council Regulation on special conditions for trade with those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control*, European Commission, COM (2004), 466 final.

<sup>139</sup> Turkish Cypriots, The Excluded European Citizens, 2008, Turkish Cypriots Human Rights Foundation, Nicosia, North Cyprus.

<sup>140</sup> Christou George, (2006), Cyprus and the EU: Two years later, The International Spectator, 41:2, 19-31.

when returning the region of Varosha back to ROC, the protection of the Greek Cypriot properties in the North will be averted by the acceptance of DTR by Greek Cypriots.<sup>141</sup>

In the path of ending the isolations for North Cyprus, the DTR may be defined as the most important regulation for the Turkish Cypriot community via direct trade facilities. Because the Green Line Regulation does not allow direct trade activities from the northern part of Cyprus to the European Customs Territory like in DTR. The Green Line Regulation provides free movement of goods and services only via ports under ROC.<sup>142</sup>

In short, the execution of DTR, which was blocked by ROC, is based on the unanimous voting it requires because ROC declared that the acceptance of DTR would result in some kind of recognition of North Cyprus.<sup>143</sup> Therefore, despite the successful practice of the Financial Aid Regulation, the Direct Trade Regulation has been blocked from putting into process by the Greek Cypriots government because of several reasons.

- **Direct Air Links**

On the other hand, direct air links are significantly important for the economy of North Cyprus. In particular, for its tourism which contributes a lot to its economic development. However, due to the restrictions on the direct air link between TRNC and other states, the economic situation of North Cyprus is being affected adversely.

The study prefers to deal with the case law that is based on the direct flights between North Cyprus (Ercan airport) and United Kingdom. The case has been filed against the British High Court by Cyprus Turkish Airlines and its UK tour operator (CTA Holidays). The case was about the removal of the direct flight embargoes on North Cyprus which would result in opening the direct air link between North Cyprus and UK. Normally, the airplanes of CTA have to land at Turkey first, and then fly to UK resulting in an increase in the duration of flights (approximately two hours) as well as the consumption of fuel which would have a direct effect on the ticket prices and the amount of air pollution in a negative way.

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<sup>141</sup> Skoutaris Nicos (2008), The Application of the Acquis Communautaire In The Areas Not Under The Effective Control of the Republic of Cyprus: The Green Line Regulation, Common Market Law Review, Vol. 45, No. 3, 727-756.

<sup>142</sup> Human Rights of Turkish Cypriots, 2007, Ari Movement, Turkey.

<sup>143</sup> Brus M., Akgun M., Blockmans S., Tiryaki S., Hoogen T., Douma W. (2008), A Promise to Keep: Time to End the International Isolations of Turkish Cypriots.

CTA assumed that allowing direct flights between North Cyprus and UK would bring a huge symbolic recognition to the divided island. At the end of the judgment, the British High Court rejected direct flights from North Cyprus to UK because of the possible recognition status of the TRNC government<sup>144</sup> as with the declaration of the TRNC in 1983, the British government declared that there is only one Cypriot state in Cyprus and it is the Republic of Cyprus.

Article 6<sup>145</sup>

*No scheduled international air service may be operated over or into the territory of a contracting State, except with the special permission or other authorisation of that State, and in accordance with the terms of such permission or authorisation.*

As outlined above, the Republic of Cyprus as the only recognized representatives of the whole island, rejected to grant permission to the scheduled flights from Erchan airport (North Cyprus). In case of the United Kingdom's acceptance of the direct flights from Erchan to UK, this would result in the violation of the fact that ROC is the only government of Cyprus. Briefly, the government of UK is obliged not to recognise the government of TRNC, so it refuses to recognize the territories under the control of the TRNC government.<sup>146</sup> Southern Cyprus responded positively to the outcome of the case. Declarations in the newspapers summarized the contentment of ROC as being the only sovereign state in the Cyprus having control over both territorial and sea levels and this will not be the last case which would by legislation award in favour of ROC against the interventionist part of Cyprus.<sup>147</sup>

Briefly speaking, the economic activities, in North Cyprus, are barred with isolations in favour of the Republic of Cyprus by the international states. Additionally, every attempt to remove the isolations on the Turkish Cypriots in order to establish direct economic links between the North of Cyprus and the European Union causes nothing but further political dilemmas. It would not be wrong to say that the main problem is caused by the unique state sovereignty of Cyprus since 1960s; the ROC is accepted as the official government in Cyprus, so all new policies related to the north of Cyprus must be approved by the government of Greek Cypriots. In other words, the unwilling reunification policies of ROC would result in worse prospects for the reintegration of the two communities.

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<sup>144</sup> Kibris Newspaper, 29.09.2009.

<sup>145</sup> The Chicago Convention, 1947.

<sup>146</sup> In the High Court of Justice Queen's Bench Division Administrative Court, Between the Queen on the Application of CTA Holidays and Secretary of State for Transport and the Republic of Cyprus, 2009.

<sup>147</sup> Kibris Newspaper, 30 July 2009

#### **4.4. Conclusion:**

Firstly, as mentioned previously in chapter three, the Turkish Cypriots are compelled to strive under heavy embargoes and restrictions. Turkish Cypriots are not able to access equal opportunities in terms of the European Citizenship rights had they preferred to stay in the northern part of Cyprus. Secondly, as said in chapter four, when compared with the Greek Cypriots, Turkish Cypriots are given less jurisdiction; that is to say, there is almost nil political and democratic right in favour of the Turkish Cypriots living in the northern part of Cyprus.

On the other hand, all the sources regarding the educational rights of the Turkish Cypriots clarify enough the legal recognition condition of North Cyprus. This directly affects its international recognition as well as the acceptance of its universities. Equal opportunities may not be in question for the Turkish Cypriot students if they want to access international and European educational institutions which constitute one of the most significant milestones for their future success.

In addition to these, when the cultural and sportive rights are evaluated, it is seen that the Turkish Cypriots are not able to represent themselves internationally in order to exchange cultural aspects with other states. As for the economic restrictions the Turkish Cypriots are suffering from, they are bound to deal with the underdeveloped economic activities in north Cyprus, in contrast to the better economic conditions of the Greeks.

In the light of these, it is not difficult to conclude that all these are tightly connected to each other. For instance, at present, more than 40.000 students receive education in the universities of North Cyprus. This means that the higher education sector supports the economic development of the state for 40%. Therefore, any negative impact on the higher education system will negatively affect all the sectors of the Turkish Cypriot economy as well.

Looking from another angle; the 2004 referendum result indicated that the Turkish Cypriots desired the 'reunification of the island and removal of the isolations'. In this respect, the promises of UN and EU, after the referendum process, for the 'removal of the isolations on the Turkish Cypriots, should urgently be put into action, otherwise, the status of the Turkish Cypriots will become worse. It is a basic reality that education and economy can play a decisive role in order to attain opportunities in all the fields so as to be able to compete and



integrate with the other nations globally. In conclusion, the ‘suspension of the *acquis* in North Cyprus’, does not have any influence on the individual or private rights of the Turkish Cypriots who bear the passport of the Republic of Cyprus. When Protocol 10 is evaluated, it is seen that there is no link between the territorial aspects and personal European rights because people are able to cross the borders freely and without being subject to any restrictions.

## REFERENCES:

### Books, articles, reports

1. Aksar Yusuf, (2001), *The European Court of Human Rights and The Cyprus Problem*.
2. Arnall Anthony, 2006, *The European Union and Its Court of Justice*, Second Edition, New York, Oxford University Press.
3. Arikan, Harun, (no date), *Good Neighbourliness condition for EU Membership: The EU Policy Towards The Cyprus Conflict and Its Security Implications*.
4. Arslan and Güven (2007), *International Law in Cyprus Problem*, Presented at the 38. International Congress of Asian and North African Studies, ICANAS 38, 10-15 September 2007.
5. Arslan and Güven, (2007), *Universities in North Cyprus and the Right to Education*, Presented at the 38. International Congress of Asian and North African Studies, ICANAS 38, 10-15 September 2007.
6. Asle Toje, *The Consensus-Expectations Gap: Explaining Europe's Ineffective Foreign Policy*, Vol. 39, No.1, Oslo, 2008.
7. Brus M., Akgun M., Blockmans S., Tiryaki S., Hoogen T., Douma W. (2008), *A Promise to Keep: Time to End the International Isolations of Turkish Cypriots*.
8. Brewin, Christopher (1999b), *Turkey, Greece and the European Union' in Cyprus. The Need for New Perspectives*, ed. Clement H. Dodd. Huntington: Eothen Press.
9. Camp Glen D., (1980), *Greek-Turkish Conflict over Cyprus*, *Political Science Quarterly*, Vol. 95, No. 1, pp. 43-70, The Academy of Political Science.
10. Castillo Antonio Lopes, 2006, *Citizenship of the Union and Fundamental Rights in the Constitution of the EU, The Governing European Under Constitution*, Springer, Berlin, Germany.
11. Chalmer D., Hadjiemmanuil C., Monti G., Tomkins A., 2006, *European Union Law, Text and Materials*, Cambridge University Press, UK.
12. Chalmer D., Monti G., 2008, *European Union Law, Updating Supplement*, Cambridge University Press, UK.
13. Christou George, (2006), "Cyprus and the EU: Two years later", *The International Spectator*, 41:2, 19-31.
14. Colak Yilmaz, "Identity and Citizenship Among Turkish Immigrants in Northern Cyprus", *Mire Koc Research Projects (2006-2007)*.

15. Commission proposes comprehensive measures to end isolation of Turkish Cypriot community, 2004.
16. Coppieters, Huysseune, Emerrson, Tocci, Vahl, 2003, *European Institutional Models as Instruments of Conflict Resolution in the Divided States of the European Periphery*.
17. COUNCIL REGULATION (EC) No 866/2004 of 29.4.2004 on a regime under Article 2 of Protocol No 10 of the Act of Accession as amended by Council Resolution (EC) No 293/2005 of 17 February 2005.
18. *Cyprus Mail*, April 25, 2004
19. Delanty Gerard, (2007), ‘‘European Citizenship: A Critical Assessment’’, *Citizenship Studies*, Vol. 11, No 1, p. 63-72.
20. Diez Thomas, 2002, Why the EU Can Nonetheless Be Good for Cyprus, *Journal on Ethnopolitics and Minority Issues in Europe*, Issue 2.
21. Duner Bertil, 1999, Cyprus: North is North and South is South, *Security Dialogue*, Vol. 30, No. 4, 486-496.
22. Drusotis Makarios (2008), ‘‘Kibris 1963-1964 İlk Bolunme’’, *Galeri Kultur Yayinlari*, Nicosia, North Cyprus.
23. Emmert F., 2000, *European Union Law, Cases*, Kluwer Law International, The Netherlands.
24. Eralp Doga Ulas and Beriker Nimet, 2005, Assessing the Conflict Resolution Potential of the EU: The Cyprus Conflict and Accession Negotiations, *Security dialogue*, 36 (2). pp. 175-192.
25. EUROBAROMETER 67 PUBLIC OPINION IN THE EUROPEAN UNION (SPRING 2007), NATIONAL REPORT, EXECUTIVE SUMMARY.
26. European Council Regulation (EC) No 866/2004.
27. *European Council Regulation (EC) No 389/2006*.
28. Follesdal Andreas, 2008, Equality of Education and Citizenship: Challenges of European Integration, Vol. 27, No. 5, *Study in Philosophy and Education*, pp. 335-354.
29. Follesdal Andreas, 2001, Union Citizenship: Unpacking The Beast of Burden, [Law and Philosophy](#), Vol. 20, No. 3, pp. 313-343
30. Gnesetto, Nicole (1994). *Lessons from Yugoslavia*, Chaillot Paper No. 14, Paris, Institute for Security Studies.

31. Grabbe Heather, 1999, A Partnership for Accession?\_The Implications of EU Conditionality for the Central and\_East European Applicants', Robert Schuman Centre Working Paper 12, San Domenico di Fiesole (FI): European University Institute.
32. Grabbe Heather, 2002, 'European Union Conditionality and the *Acquis Communautaire*, International Political Science Review, Vol. 23, No. 3, 249-268.
33. Green Line Regulation, 2003.
34. Gurel and Ozersay, (2006), "Cyprus and the Politics of Property", Mediterranean Politics. Vol. 11, No3, 349-369.
35. Hatay, M., 2007, *Is Turkish Cypriot Population Shrinking? : An Overview of the Ethno-Demography of Cyprus in the Light of the Preliminary Results of the 2006 Turkish Cypriot Census*, Nicosia/Oslo: PRIO.
36. Hatay, M. 2005, Beyond Numbers, An Inquiry into the Political integration of Turkish 'Settlers' in Northern Cyprus, Nicosia/Oslo: PRIO.
37. Hanna David, 2005, 'Cyprus' The Search for A Solution, I.B. Tauris, New York-United States.
38. Henry L. (2004),Crisis Event After The Referanda: What's Next in Cyprus.
39. Hoffmeister Frank, 2008, Three years after EU accession– the practical effect of European law in Cyprus, V Policy - Croatian Yearbook of European Law and Policy.
40. Hoffmeister Frank, 2006, Legal Aspects of the Cyprus Problem, Annan Plan and EU Accession, Matirus Nijgof Publisher, Leiden-The Netherlands.
41. Horspool M., Humphreys M., 2006, European Union Law, Fourth Edition, Core Text Series, Oxford University Press, USA.
42. Human Rights of Turkish Cypriots, 2007, Ari Movement, Turkey.
43. İnanç, G., 2007, *Büyükelçiler Anlatıyor: Türk Demokrasisinde Kıbrıs (1970-1991)* (Ambassadors Telling: Cyprus in Turkish Democracy (1970-1991)), İstanbul: Türk İş Bankası Kültür Yay.
44. In the High Court of Justice Queen's Bench Division Administrative Court, Between the Queen on the Application of CTA Holidays and Secretary or State for Transport and the Republic of Cyprus, 2009.
45. Ilhan Ebru and Seyrek Murat Demir, 2007, The Human Rights of Turkish Cypriots.
46. Kadritzke Niels, 2008, Cyprus — Kypros or Kibris or both?, Le Monde diplomatique.
47. Kaliber Alper, 2005, The Cyprus Case, Security Dialogue, Vol. 36, No. 3, pp. 297-315.

48. Kent Penelope, 2008, Law of European Union, Fourth Edition, Pearson Education Limited, London, Great Britain.
49. Kibris, 08.06.2009.
50. Kirisci Kemal, 2004, The December 2004 European Council Decision on Turkey: Is It a Historic Turning Point?, Middle East Review of International Affairs, Vol. 8, No. 4.
51. Lacher Hannes and Erol Kaymak, 2005, Transforming Identities: Beyond the Politics of Non-Settlement in North Cyprus, Mediterranean Politics, Volume 10, Number 2, pp. 147-166.
52. Michael Michalis S., 2007, The Cyprus Peace Talks: A Critical Appraisal, Journal of Peace Research, Vol. 44, No. 5, 587-604.
53. Nugent Neil, 2000, EU Enlargement and 'the Cyprus Problem', Journal of Common Market Studies, Vol. 38, No. 1, pp. 131-50
54. Muftuler-Bac Meltem and Guney Aylin, (2005), 'The European Union and the Cyprus Problem 1961–2003', Middle Eastern Studies, Vol 41, No 2, p.281-293.
55. European Commission, 1997:51.
56. O'Rourke Breffni, 2004, Cyprus: Failure of Referendum Means Headache For The EU.
57. Oudenaren John Van, 2005, Uniting Europe: An Intorudction to the European Union, Second Eddition, USA, Rowman and Littlwfield Publisher.
58. Ozersay K., (2004), the Excuse of State Necessity and its Implications on Cyprus Conflict, Perceptions, Vol. IX, No. 4, pp. 31-71.
59. Ozersay Kudret (2005), Separate Simultaneous Referenda in Cyprus: Was it a "Fact" or an "Illusion"?, Turkish Studies, Vol. 6, No. 3, pp. 379-399.
60. Pass Paul, 2008, Coming Closer: Prospects for Reunification in Cyprus, Newsletter of European Union Center of Excellence at Indiana University, Vol. 2, No. 3.
61. Petersmann Ernst-Ulrich, 2008, The Reform Treaty and the Constitutional Finality of European Integration, European Community Studies Association of Austria Publication Series, Vol. 11, pp.337-358.
62. *Proposal for a Council Regulation on special conditions for trade with those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control', European Commission, COM (2004), 466 final.*

63. Redmond, John (1997) From Accession towards the Application for Full Membership: Cyprus's Relations with the European Union', in Cyprus and the European Union. New Changes for Solving and Old Conflict, eds Hans-Jurgen Axt and Hans jorg Brey. Munchen: Sudosteuropa-Gesellschaft.
64. Schimmelfennig Frank, Engert Stefan, Knobel Heiko, 2003, Costs, Commitment and Compliance: The Impact of EU Democratic Conditionality on Latvia, Slovakia and Turkey, Journal of Common Market Studies, Vol. 41, Issue 3, pp. 495-518.
65. Schuibhne Niamh Nic, 2004, Legal Implications of EU Enlargement for the Individual: EU Citizenship and Free Movement of Persons, ERA - Forum vol. 3, pp. 355-369.
66. Skoutaris Nicos (2008), 'the Application of the Acquis Communautaire In The Areas Not Under The Effective Control of the Republic of Cyprus: The Green Line Regulation, Common Market Law Review Vol. 45, No. 3, 727-756.
67. Sozen A. (1998), 'Politics of Cyprus', Printed by Can Reklam, Turkey.
68. Sozen Ahmet, 2008, The Cyprus Negotiations and Basic Parameters: An Overview of the Inter-Communal Negotiations, ed. Sozen Ahmet, Famagusta, Eastern Mediterranean University Press.
69. Sozen Ahmet, 2008, The Cyprus Conflict: Looking Ahead, Eastern Mediterranean University Press, Famagusta-North Cyprus.
70. Stavroula Philippou, On the Borders of Europe: Citizenship Education and Identity in Cyprus, Journal of Social Science Education, 1-2007.
71. Talmon Stefan (2001), The Cyprus Question Before the European Court of Justice, European Journal of International Law, Volume 12, Number 4, pp. 727-750.
72. Turkish Cypriots, The Excluded European Citizens, 2008, Turkish Cypriots Human Rights Foundation, Nicosia, North Cyprus.
73. Tocci Nathalie, 2008, 'EU Incentives for Promoting Peace', Conciliation Resources.
74. Tocci Nathalie, 2008, The Missed Opportunity to Promote Reunification in Cyprus, ed. Sozen Ahmet, Famagusta, Eastern Mediterranean University Press.
75. Tocci, 2000, The 'Cyprus Question': Reshaping Community Identities and Elite Interests within a Wider European Framework, CEPS Working Document.
76. Treaty of Guarantee, Nicosia 16 August 1960.
77. Treaty of Accession, (2003) Protocol No 10 on Cyprus.

78. Treaty of Rome, 1957.
79. Treaty of Maastricht 1992.
80. Treaty of Amsterdam 1998.
81. The European Councils, 1992-1994, 86.
82. The Treaty of Concerning the Establishment of the Republic of Cyprus, 16 August 1960.
83. Turkish Republic of Northern Cyprus, Population Census, 2006.
84. The Challenge of Enlargement Commission Opinion by the Republic of Cyprus for Membership, COM (93) 313 final.
85. UNFICYP, 2008, United Nations Peacekeeping Force in Cyprus, Peace Operations, Fact Sheet.
86. UN Security Council Report (2004).
87. United Nations Security Council Resolution 541 (1983).
88. UN Security Council Resolution 186 (1964).
89. UN Security Council Resolution of 550 (1984).
90. UN Secretary General S/26026. 1993.
91. Vassiliou George, 2003, Accession to the EU and The Solution to the Cyprus Problem, *Mediterranean Quarterly*, Vol. 13, No. 1, pp.12-20.
92. Verney Susannah and Ifantis, 2009, *Turkey's Road to European Union Membership*, Routledge Press, USA.
93. Weatherill Stephen, 2007, *Cases and Materials on EU Law*, Oxford University Press, USA.
94. Weiler J. H. H., 2005, *The Constitution of Europe*, Cambridge University Press, UK.
95. Weller March, *The Crises in Kosovo 1989-1999, From the Dissolution of Yugoslavia to Rambouillet and the Outbreak of Hostilities*, *International Document and Analysis*, Volume 1, Documents and Analysis Publishing, University of Cambridge, 1999.
96. Yeniduzen, 08.06.2009.
97. Yesilada Birol A. and Sozen Ahmet, 2002, *Negotiating a Resolution to the Cyprus Problem: Is Potential European Union Membership a Blessing or a Curse?*, *Kluwer Law International*, Vol. 7, pp. 261-285.
98. Yesilada Birol A. and Sozen Ahmet, 2008, *Emperor Has No Clothes: EU's Cyprus Challenge*, ed. Sozen Ahmet, Famagusta, Eastern Mediterranean University Press.

### **Websites:**

1. Official Website of European Union : <http://europa.eu>
2. Turkish Cypriots:  
[http://ec.europa.eu/enlargement/turkish\\_cypriot\\_community/index\\_en.htm](http://ec.europa.eu/enlargement/turkish_cypriot_community/index_en.htm)
3. Republic of Cyprus:  
[http://www.cyprus.gov.cy/moa/WDD/WDD.nsf/index\\_en/index\\_en?OpenDocument](http://www.cyprus.gov.cy/moa/WDD/WDD.nsf/index_en/index_en?OpenDocument)
4. Euroactive: <http://www.euractiv.com/en/HomePage>
5. United Nations: [www.un.org](http://www.un.org)

### **Interviews:**

1. Interview with Mr. Mehmetali Talat, The President of the Turkish Republic of Northern Cyprus.
2. Interview with Mr. Ozdil Nami, Member of the Parliament of the TRNC and Special Representative of the President of TRNC Mehmet Ali Talat.
3. Interview with Mrs. Emine Erk, Previous Chair Person of the Turkish Cypriot Human Rights Foundation.