

# A Functional Cyprus Settlement: The Constitutional Dimension

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**Tim Potier**

**A Functional Cyprus Settlement:  
the Constitutional Dimension**



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## Foreword

The first work on this volume began in the Spring of 2004, immediately after the 24<sup>th</sup> April referendum. At that time, although there was extreme disappointment in the failure to reunify the island, there was at least hope that the momentum could be kept up and talks resume at the earliest. In the end, it was not to be.

After an interval of just over one year, in the late Fall of 2005, work commenced on the volume in earnest. It was not anticipated that it would be so lengthy and take so long to complete. This has been the product of the need to 'heavily revise' a Plan that is deeply flawed, in the detail, for both communities.

There is a misperception that any changes to the current text will be at the expense of the Turkish Cypriots. This is very wrong. Rather, the volume (covering only a portion of the Plan) demonstrates the literally dozens of places where the rights of the Turkish Cypriots are compromised / prejudiced in the Plan's provisions. Yet, it is feared that they have simply stopped reading it.

On many points during the last three years, the Greek Cypriot side has made its case well. The volume has been written with one eye constantly focussed on these concerns. If they can demonstrate willingness to improve the text for the other community also, any future negotiations should succeed with the vast majority of Greek Cypriot demands satisfied.

This volume attempts to do two things. First, identify the countless errors, gaps and inconsistencies in the current Plan. Second, to present a compromise acceptable to both sides. The volume contains hundreds of textual amendments, all fully explained. The end product offers, in the opinion of the author, a highly functional settlement.

There is enormous resistance within the Greek Cypriot community to return to the rejected Plan. It must, however, be acknowledged that the author has had no other reference point. Although having a reference point, as the volume proves, does not have to give rise, merely, to cosmetic changes.

Any country's settlement will be different. It is not good enough to borrow, for the sake of convenience, the formulas of others. The mere fact that they work in another society, does not mean that they are either ideal or should, automatically, work elsewhere. Scholars need to start thinking again.

The volume may address only Cyprus, but it contains ideas that may prove of lasting value / be adapted to other current and future conflicts. If it makes no difference in helping to solve the 'Cyprus problem', at any least energy expended ought not to have been in vain.

What follows is not an easy read. It will require as much perseverance from the reader, as it has required perseverance from the author, but if it can have secured for us all a deeper level of thinking, then both reader and author will have been the beneficiary.

*Tim Potier, 24<sup>th</sup> April 2007.*

## Introduction

A Cyprus settlement still eludes. Three years have passed since the referendum, the leaders of the two communities have met just once and no new negotiations have been held. Whilst this lack of progress is regrettable, it does not have to be fatal. The prospects for reunification are still high.

The international community may have viewed the run-up to Cyprus' European Union accession, on 1<sup>st</sup> May 2004, as *the* moment to reunify the island. Towards the end of that process, nothing else mattered; but providence often conspires against the best-laid plans. With the benefit of hindsight, the result ought to have been predicted.

The Greek Cypriots had never been prepared for the type of settlement first issued on 11<sup>th</sup> November 2002. Having lived through it, this author can vouch for the deep shock that publication of the Annan Plan caused. This never dissipated. Consequently, by the 24<sup>th</sup> April 2004, the Greek Cypriots were not ready to make the types of compromises required, being convinced that a settlement could be secured founded on 'European principles' (and in line with the *acquis communautaire*). At the other end of the spectrum, the Turkish Cypriots sensed, through their efforts, that Rauf Denktaş's root-and-branch opposition to the Plan was so much at variance with their aspirations that his authority had been fatally emasculated. Such attitudes were to be proved correct, but, tragically for them, their demonstrations came too late. The Greek Cypriots perceived a certain insincerity in their too sudden conversion in favour of reunification, calculating that this 'Turkish Plan' contained too much of the connivance of Ankara and its allies in it.

The eighteen month period after the referendum was a horrible one within the Greek Cypriot community, a time of extreme disappointment for the Turkish Cypriots. In the former community, a civil war atmosphere prevailed. It is no exaggeration to maintain that friendships were lost and families divided over the outcome. For the latter community, many briefly discarded stereotypes concerning the Greek Cypriots were removed from storage. Yet, each was proud of what it had done, being quite vicious towards anyone who dared qualify their satisfaction.

As far as the Greek Cypriots became concerned, the Annan Plan was dead, for the Turkish Cypriots it was the only Plan – they had voted 'yes', so it was simply a matter for the others to change their mind. Both opinions were, of course, wrong. By the entry of the third year following the referendum, certain changes began to be observed. Rather than being on course towards realising a 'European solution', nothing had been achieved and Turkey had commenced accession negotiations. Meanwhile, the much-touted lifting of the trade and flight restrictions appeared as distant, from realisation, as ever. The confidence of both sides was knocked.

Finally, after an interval of over two years, the leaders of the two communities (Tassos Papadopoulos and Mehmet Ali Talat) met, on 8<sup>th</sup> July 2006, under the auspices of United Nations Under-Secretary-General for Political Affairs Ibrahim Gambari, and having committed to the unification of Cyprus based on a bi-zonal,

bi-communal federation and political equality, agreed, by the end of July, to have settled and begun a two-track process involving discussion by technical committees of issues affecting the day-to-day life of the people and, concurrently, consideration by working groups of substantive issues, both of which would contribute to a comprehensive settlement. In the end, the deadline was missed and, to date, neither has got off the ground.

Eventually, though, talks *will* restart. However, when they do restart it might be for the last time.

Extreme fatigue, diplomatically, has set in over the 'Cyprus problem' as the period since the referendum has become extended. It has become increasingly acknowledged, albeit with considerable reluctance, that if the two sides are unable to agree next time then all avenues will have been exhausted. What would follow any such failure is not clear. It would, almost certainly, not lead, automatically, to the recognition of a second State on the island, but it would, almost certainly, be the trigger for a range of countries to commence normal trading relations with the north, which would inevitably lead, after a period, to the development of normal diplomatic relations; and which, by then, irrespective of any declarations or not, *would*, once and for all, have settled the 'Cyprus problem'.

On the other hand, this does not have to occur. The process need not fail.

For it to succeed, both communities have to swallow one bitter pill. The Greek Cypriot side will have to acknowledge that adjustments to any 'current' settlement shall require of them a willingness to confer, on the Turkish Cypriots, concessions of their own. The Turkish Cypriot side, by contrast, will have to acknowledge that certain parts of the 'current' settlement are objectionable and should be objectionable to any self-respecting European society.

The Annan Plan was not what the 'founding fathers' in Rome set out to build. It may not be discarded, because it has been delivered, but it does not have to be, in its detail, the final word.

Despite this colossal undertaking, the author would like to be optimistic. Sadly, he is not. Cypriots are masters of hurting each other. They fail to admit that nothing is ever permanent and that imperfection can with good argument, faith and understanding (towards the other) be remedied. At the end of the day, all that is required is the will and a certain level of trust. Yet, if this remains absent, no settlement Plan will either be accepted or succeed.

Time *has* healed. Both communities are today, if only they realised it, much more reconciled, both to each other and the complexion of any reunification. Yet, time (as it always is) will be condemning towards those who opt for narrowness. Much work has still to be done, but that work must begin now. The ideas contained in this volume are the product of thousands of hours of careful thought. At every moment, the best interests of both communities are all that have been considered.

Solutions can be found to even the most taxing of equations. All that is required is desire and determination.

Good luck!