



## OVERVIEW OF THE CONSTITUTION

The Republic of Cyprus was born in the early hours of 16 August 1960. On that date the Republic's constitution was signed by the 1st Governor of the Colony of Cyprus, Sir Hugh Foot, the Consul-General of Greece, George Christopoulos, his Turkish counterpart, Turel, and Archbishop Makarios and Dr. Fazil Kutchuk on behalf of the Greek Cypriot and Turkish Cypriot communities.

The range of signatories reflected the fact that the constitution of Cyprus did not emanate from the free will of its people, who were not consulted either directly or through their ad hoc elected representatives, but from the Zurich Agreement between Greece and Turkey. The terms of that agreement, outlined in the last chapter, were included in the constitution as fundamental Articles, which could not be revised or amended.

The constitution was drafted by the Joint Constitutional Commission created under Part VIII of the London Agreement of 19 February 1959. It comprised representatives of Greece, Turkey, the Greek Cypriot community and the Turkish Cypriot community. But the structure of the constitution again reflected the Zurich Agreement, with various provisions from the 1950 Greek constitution also incorporated along with the provisions of the European Convention of Human Rights in respect of fundamental rights and liberties.

Two main principles underpinned the constitutional structure agreed at Zurich. The first recognised the existence of two communities on the island - the Greek and the Turkish - who, despite their numerical disparity, were given equal treatment. The rights of Cypriots and other communities which made up the island's population were conspicuously ignored.

The second principle, that of partial communal autonomy, aimed at ensuring the participation of each community in the exercise of government, and at avoiding the domination of the larger Greek Cypriot community in administrative matters. These two principles permeated the entire constitutional structure.

### The Constitutional Structure

Under Article 1 of the constitution it is provided that Cyprus will be an independent and sovereign Republic with "a President who shall be Greek and a Vice-President, who shall be a Turk, elected by the Greek and Turkish communities of Cyprus respectively (Article 1).

Under the constitution the Greek Cypriot community comprises all citizens of Greek origin. This includes those whose mother tongue is Greek and those who share Greek cultural traditions or are members of the Greek Orthodox Church (Article 2 (1)). The Turkish community comprises all citizens of the Republic who are of Turkish origin, whose mother tongue is Turkish, who share Turkish cultural traditions or who are Moslems (ibid paragraph (2)).

Citizens of the Republic who did not come under the above provisions were given three months to exercise the option of becoming, for constitutional purposes, a member of the Greek or Turkish community. Under this arrangement the Armenian, the Latin and Maronite religious orders opted to belong to the Greek Community.

The 1960 constitution accorded equal status to the Greek and Turkish languages. All legislative, executive and administrative acts and documents, were to be drafted in both languages, while judicial proceedings were to be conducted and judgments drawn up in the language of the parties concerned (Art. 3 and 18C). In addition equal rights to fly the national flag of the respective mother countries (Art. 4) and celebrate the respective national holidays were granted (Art.5).

Both communities were given the right of maintaining a special relationship with Greece and Turkey, including the right to receive subsidies for educational, cultural, athletic and charitable institutions, and of obtaining and employing schoolmasters, professors or clergymen provided by the Greek or Turkish government (Art. 108).

The entrenched communal character of the constitution was confirmed by the voting systems. All elections were to be conducted on the basis of separate communal electoral lists (Art. 63 and 94) and separate voting (Art. 1, 39, 62, 86, 173, and 178). A Communal Chamber exercising legislative and administrative power on certain restricted communal subjects - such as religious affairs, educational and cultural matters, and over communal taxes and charges levied to provide for the needs of bodies and institutions under the control of the Chamber (Art. 86 to 90) was established for each community.

The establishment of separate municipalities for the Greek and Turkish inhabitants in five of the six largest towns was provided by Article 173, while in other localities special provisions were made for the constitution of municipal organs in accordance, as far as possible, with the rule of proportional representation of the communities. However, for town planning purposes the establishment of planning authority comprising seven Greek and three Turkish members was permitted. The authority's decisions were to be taken by an absolute majority though no decision could be taken in respect of a Greek or Turkish community without the support of at least four or two of the community's members of the Authority (Article 176).

## **The main organs of the Republic**

The same distinctions between the two communities were adopted with regard to the organs of the Republic exercising political and other State powers.

## **Executive power**

The Zurich Agreement set out the framework of executive authority in the new Republic, though with significant loopholes. In the event of the temporary absence or incapacity of the President, the Agreement stipulated that the President of the House of Representatives, who was to be a Greek Cypriot would take over. The Vice-President of the House, a Turkish Cypriot would play a similar role in relation to the Vice-President. The Agreement also stipulated that the President would appoint seven Greek Cypriot Ministers and the Vice-President three Turkish Cypriot Ministers. However, the Zurich Agreement was unclear as to whether the Vice-President would have the same powers in every respect as those of the President. This matter was tackled by the Joint Constitutional Commission. After long and hard negotiations, the Commission agreed that the President should be Head of State enjoying the authority to receive the credentials of diplomatic representatives, to sign the credentials of the diplomatic envoys, to confer honours and to represent the Republic in all its official functions (Article 37). The Vice-President, as Vice-Head of State, was to be entitled to be present at all such official functions (Article 39). Apart from his official functions, the President was also given the right to prepare the agenda for, convene and preside over meetings of the Council of Ministers (Articles 55 and 56). The Vice-President was given the right to suggest subjects for inclusion in the agenda, propose the convening of meetings and to attend. Neither the President nor the Vice-President were given the right to vote at such meetings (Articles 48(b) and 49(b)).

Although the President and the Vice-President of the Republic were not granted executive power except on the specific matters stipulated in Articles 47, and 49 of the Constitution, where they had a right to act either jointly or separately, they did enjoy the right to "ensure the executive power". For this purpose they were jointly responsible for establishing a Council of Ministers (Article 46), with the Ministry of Foreign Affairs, the Ministry of Defence or the Ministry of Finance being entrusted to a Turkish Cypriot. The President and the Vice-President were also given the right to terminate the appointment of any Minister designated by themselves. (Article 59).

The President and the Vice-President of the Republic were granted considerable authority in relation to the legislature, including either conjointly or separately, a right of final veto on any law or decision of the House of Representatives relating to foreign affairs, defence and security (in areas stipulated in Article 50). Furthermore, they have, either separately or conjointly, the right to return any law or decision of the House of Representatives (Article 51.2), or any decision of the Council of Ministers (Article 57.2).

The President and the Vice-President of the Republic are required to promulgate a law or decision of the House of Representatives by publication in the official Gazette of the Republic within 15 days of notification unless they choose to exercise their right of veto, their right to return the legislation or to refer it to the Supreme Constitutional Court for a ruling on its constitutionality (Articles 138, 140 and 141).

Finally, the President and the Vice President of the Republic exercise the prerogative of mercy, the right of remission, commutation or suspension of any sentence in respect of members belonging to their respective Communities (Article 53).

The main organ for the exercise of the executive power under the 1960 Constitution is the Council of Ministers, which enjoys all the residuary of executive power other than that specifically reserved for the President and the Vice-President of the Communal Chambers.

## Legislative Power

The legislative power of the Republic is exercised by the House of Representatives in all matters not expressly reserved for the Communal Chambers (Art. 61). The 1960 Constitution stipulated that there should be 50 Deputies of which 70%, that is to say 35, were to be elected by the Greek Community and 30% that is to say 15, by the Turkish Community. Under a special law the number of Deputies in the House of Representatives has since been increased to 80. The Deputies are elected for five years (Article 62 and 65.1).

Under the 1960 Constitution, the President of the House of Representatives was to be a Greek Cypriot elected by Greek Cypriot Deputies, and the Vice-President a Turkish Cypriot elected by Turkish Cypriot Deputies. Both were to be elected separately at the same meeting, following an election. In case of vacancy in either office an election was required to fill it. In the case of temporary absence or incapacity of the President or the Vice-President of the House, their functions were to be performed by the eldest Deputy of the respective community (Article 72). In the composition of any parliamentary committee, the proportional representation of the two communities (Article 73) was to be adhered to.

A simple majority vote of the Deputies present is required for laws and decisions passed by the House of Representatives under the 1960 Constitution, except in the case of modification of the Electoral Law, the adoption of any law relating to the municipalities or of any law imposing duties or taxes. In such cases a separate simple majority of Greek Cypriot and Turkish Cypriot Deputies is required (Article 78).

This last provision was one of the factors which eventually undermined the 1960 Constitution since it meant that one Turkish Cypriot Deputy (if two of them were present and voted) could, with a negative vote, wreck any of the aforementioned legislation - including that relating to taxation. Abuse of the separate voting provisions of the constitution enabled Turkish Cypriot deputies to block a bill to extend taxation laws and decisions passed by the House of Representatives under the 1960 Constitution, except in the case of modification of the Electoral Law, the adoption of any law relating to the municipalities or of any law imposing duties or taxes. In such cases a separate simple majority of Greek Cypriot and Turkish Cypriot Deputies is required (Article 78).

On 18th December 1961, Turkish Cypriot Deputies also voted against the Income Tax Bill, which authorised direct taxation. This left the country without unitary income tax

legislation until 1966. In both cases, the Turkish Cypriot deputies voted against the legislation not because of their views on its content but in order to compel the Government to yield to their claims in areas having no connection with the matter of taxation.

## Judicial Power

The administration of justice is exercised by the island's separate and independent judiciary. Under the 1960 Constitution and other legislation in force the following judicial institutions have been established:-

- The Supreme Court of the Republic.
- The Assize Court (Permanent Assize Court for all Districts).
- District Courts.
- Military Court.
- Industrial Disputes Court.
- Rent Control Courts.
- Family Courts.

The Supreme Court is composed of thirteen judges one of whom is the President of the Court.

The Supreme Court adjudicates on all matters of constitutionality of legislation referred to it by the President of the Republic or arising in any judicial proceedings including complaints that any law or decision of the House of Representatives or the Budget is discriminatory; also on matters of conflict or contrast of power or competence between state organs and questions of interpretation of the Constitution in cases of ambiguity.

The Supreme Court is the final Appellate Court in the Republic and has jurisdiction to hear and determine appeals in civil and criminal cases from the Assize Court, District Courts as well as appeals from decisions of its own judges when sitting alone in the exercise of original and revisional jurisdiction of the Supreme Court.

It is also vested exclusively with Administrative Law revisional jurisdiction in connection with administrative or executive acts, decisions or omissions; the relevant remedy is by way of a recourse for annulment.

The Supreme Court, moreover, exercises original jurisdiction as a Court of Admiralty.

In its original jurisdiction the Supreme Court deals also, exclusively with proceedings for the issue of orders of habeas corpus, mandamus, prohibition, quo warranto and certiorari.

As a result of the enactment of the Courts of Justice (Amendment) Law 1991 (No. 136/91) there has been constituted a Permanent Assize Court as from 6/5/91 which deals with cases within the jurisdiction of an Assize Court for all districts of Cyprus. The Assize Court has unlimited criminal jurisdiction and may order the payment of compensation up to C'3.000.

There is a District Court for each district. The District Courts exercise original criminal and civil jurisdiction including jurisdiction in admiralty cases referred to them by the Supreme Court by virtue of Law 96/86 and matrimonial cases. The extent of the jurisdiction varies with the composition of the Bench. In civil matters a District Court composed of not less than two Judges has unlimited jurisdiction. A President or a Senior District Judge of a District Court sitting alone has jurisdiction up to C'10.000 and a District Judge sitting along up to C'5.000 and is also empowered to deal with any action for the recovery or possession of any immovable property (and certain other specified matters connected therewith) when the title of such property is not in dispute, irrespective of the value of the property involved; provided that a President of a District Court or a Senior District Judge sitting alone shall have jurisdiction to hear and determine any action in relation to negligence as well as in relation to compensation for the compulsory acquisition and requisition of immovable property, irrespective of the amount in dispute, unless such President or Senior District Judge, as the case may be, is of the opinion that it becomes necessary that the case be heard and determined by a Full Court consisting of not more than three judges. In criminal matters the jurisdiction of the District Court is exercised by the members sitting singly and is of a summary nature. A President or a Senior District Judge or a District Judge sitting alone has power to try any offence punishable with imprisonment up to 3 years or with a fine up to C'2.000, or with both, and may order the payment of compensation up to C'3.000.

There is a Supreme Council of Judicature, consisting of the President and Judges of the Supreme Court, entrusted with the appointment, promotion, transfers, termination of appointment and disciplinary control over all judicial officers, other than the Judges of the Supreme Court.

### **Public Service of the Republic**

The public service of the Republic under the 1960 settlement was to comprise 70% of Greek Cypriots and 30% of Turkish Cypriots. A Public Service Commission consisting of a Chairman and nine other members - seven Greek Cypriot and three Turkish Cypriot - appointed for a term of six years by the President and the Vice-President of the Republic, was also created. The Commission was given responsibility for allocating public office between the two Communities and appointing, promoting, transferring and retiring staff as well as exercising disciplinary control, including dismissal and removal from office. (Articles 122-125).

### **Human rights**

The definition and protection of fundamental human rights and liberties was catered for in the London Agreement rather than the Zurich Agreement. Article 5 of the Treaty of Establishment of the Republic undertook to secure for everyone within its jurisdiction, human rights and fundamental freedoms comparable to those set out in Section 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, to which Cyprus is a party.

Part II of the Constitution sets out a broad range of human rights, including all eighteen rights provided by the European Convention and its Protocols. These cover

both individual and social rights such as the right to life, prohibition of torture or inhuman or degrading treatment or punishment, prohibition of slavery or forced or compulsory labour, the right to liberty and security of person, the fair and public hearing of civil and criminal trials, the right to privacy, the right to marry, the freedom of thought and expression, the right to property, the right to education and the right to effective remedy. Other rights include the right to a decent existence and social security, the right to work, the right to enter into any contract, the right to form and join trade unions, the right to strike, the right to address written petitions or complaints to the competent authorities for a remedy, and the right of equality before the law. Justice is guaranteed to any person without any direct or indirect discrimination. (Article 28).

Like many modern constitutions, that of the Republic provides for individual duties, such as the duty to contribute to the public burdens (Article 24.1) and the duty to serve a military service (Article 10.3 (b), in addition to individual rights and liberties.

Legislative, executive and judicial authorities of the Republic are bound to secure within the spheres of their respective competence the efficient application of the provisions relating to fundamental rights and liberties. These rights cannot be regulated or restricted except by a law, or for purposes expressly set out in, for instance, where security of the Republic, constitutional order, public safety, public order or public health is threatened. Remedies for the enforcement of the fundamental rights are provided in the Constitution.

### **International treaties**

Annexed to the Zurich Agreement and the constitution are two draft Treaties, the Treaty of Guarantee and the Treaty of Alliance, concluded between the Republic and other countries. Under the former, the Kingdom of Greece, the Republic of Turkey and the United Kingdom agreed to guarantee the territorial integrity and the Constitution of the Republic, becoming Guarantor Powers for the island. The Treaty of Alliance between the Republic of Cyprus the Kingdom of Greece and the Republic of Turkey was a military alliance agreed for defence purposes. However, Turkish air force bombing of the area around Tylliria in 1963 led the Republic of Cyprus to declare that the Treaty was no longer binding. It is worth noting in the context of Cyprus' later history that under Article 185 of the Constitution the territory of the Republic is one and indivisible and the complete or partial union of Cyprus with any other state is expressly excluded.

With the exception of articles contained in Annex III, any other provision of the Constitution could be amended by a law passed with a majority comprising at least two-thirds of the total number of the Deputies belonging to both communities (Article 182.2 and 3)

### **Peculiarities of the Constitution**

It follows from the above that it is not only the manner in which the Constitution was granted, but also some of its contents notably those ruling out amendment, which offend fundamental principles of public law. Moreover, the bewildering array of

communal checks and balances was exceptionally difficult to apply. As Professor S.A. de Smith has observed:

"The Constitution of Cyprus is probably the most rigid in the world. It is certainly the most detailed and (with the possible exception of Kenya's new Constitution ) the most complicated. It is weighed down by checks and balances, procedural and substantive safeguards, guarantees and prohibitions. Constitutionalism has run riot in harness with Communalism. The Government of the Republic must be carried on, but never have the chosen representatives of a political majority been set so daunting an obstacle course by the constitution makers.

"Unique in its tortuous complexity and in the multiplicity of the safeguards that it provides for the principal majority, the Constitution of Cyprus stands alone among the constitutions of the world. Two nations dwell together under its shadow in uneasy juxtaposition, unsure whether this precariously poised structure is about to fall crashing about their ears.

### **Constitutional developments after 21 December 1963**

After the outbreak of intercommunal violence in 1963, Turkish Cypriot Ministers, Deputies and public servants refused to exercise the functions of their respective offices and effectively withdrew from the Constitution. This posed the problem of maintaining the life of the State.

In the event, the House of Representatives and Council of Ministers continued to function in the absence of the Turkish Cypriot members so long as the requisite quorum existed. Decisions continued to be taken in accordance with the constitutional provisions. But serious problems were created. For instance, from July 1963 the Supreme Constitutional Court could not sit because its Turkish Cypriot President had resigned. A similar fate befell the High Court, which was condemned to inactivity from May 1964 following the resignation of its President. Until June 1964 the Turkish District Judges also refused to attend to their duties, thereafter resuming them on a restricted basis. In the face of these pressures it was necessary to enact the Administration of Justice (Miscellaneous Provisions) Law of 1964 simply to keep the wheels of law and order in motion. The new act made legislative provisions in respect of the exercise of the judicial power formerly exercised by the Supreme Constitutional Court and the High Court. To this end, a new Supreme Court was created consisting of between five and seven members, including all existing members of the Supreme Constitutional Court and the High Court under the chairmanship of their senior member, who happened to be Turkish Cypriot. Under the 1964 Act, future vacancies were to be filled by a suitably qualified person appointed by the President of the Republic.

Regarding the functions of the High Court as a Supreme Council of Judicature in respect of the appointments, promotions, transfers and disciplinary control over the lower judiciary, a new Supreme Council of Judicature was established consisting of the Attorney-General of the Republic, the President and the two senior judges of the Supreme Court, the Senior President and the Senior District Judge and a practising advocate of at least twelve years practise elected ad hoc at a general meeting of the



Cyprus Bar Association every six months.

Although the Administration of Justice Act was attacked as unconstitutional, the Supreme Court - in the case of the Attorney-General of the Republic v. Mustafa Ibrahim (1964) - declared it as justified in view of the abnormal situation then prevailing in Cyprus. After the enactment of the law, the Turkish Cypriot judges resumed duties and the administration of justice reverted, for a brief period, to normal. However, from 2 June 1966 the Turkish Cypriot judges (including those of the Supreme Court) again refused to sit.

With regard to the Greek Cypriot Communal Chamber, financial difficulties led it to request the transfer of its competence to the Republic. For this purpose the House of Representatives passed law 12/1965. This necessitated the creation of a Ministry of Education to deal with educational matters, formerly dealt with by the Communal Chamber, concerning the Greek Community. Under the new law rights of representatives of the religious groups who had joined the Greek community - the Armenians, the Latins and the Maronites - were reserved.

Similar emergency measures, justified by the doctrine of necessity were needed to maintain the smooth functioning of the system of public administration. The refusal of the Turkish Cypriots to cooperate meant that the Public Service Commission could not function as provided in the Constitution. Therefore a Public Service Law was enacted in 1967 under which a new commission was established comprising five members, appointed by the President of the Republic, to exercise the constitutional functions of the Public Service Commission.

## **EXECUTIVE**

Cyprus is an independent sovereign Republic with a presidential system of government.

Under the 1960 Constitution, executive power is vested in the President of the Republic, elected by universal suffrage to a five-year term of office. The President exercises executive power through a Council of Ministers appointed by him. The Ministers may be chosen from outside the House of Representatives.

Each Minister is the head of his Ministry and exercises executive power of all subjects within that Ministry's domain.

### **The Ministries are:**

#### **The Ministry of Foreign Affairs**

The Ministry of Foreign Affairs is charged with the task of representing the interests of Cyprus abroad. Cyprus maintains Embassies/High Commissions in the following countries: Australia, Belgium, Bulgaria, China, Czech Republic, Egypt, France, Germany, Greece, Hungary, India, Iran, Israel, Italy, Kenya, Libya, Mexico, Russia, Spain, Sweden, Syria, United Kingdom, USA and Yugoslavia. It is represented by Missions to the Council of Europe, the E.E.C., F.A.O., UNESCO, UN-Geneva, UN-New York. It also maintains consulates at Thessaloniki, Greece and New York, USA. The Ministry of Foreign Affairs comprises eight Directorates including a Directorate for

Overseas Cypriots.

### **The Ministry of the Interior**

The Ministry of the Interior is charged with the task of maintaining internal security and providing general administrative services like Town Planning and Housing, Lands and Surveys, Migration, Registration, Game and Fauna Services. It also supervises the activities of the Press and Information Office.

### **The Ministry of Finance**

The Ministry of Finance is charged with the overall planning of the Republic's finances, preparation of the budgets and legislation pertaining to taxation or tax treaties with other countries or associations. It includes the following departments: Treasury, Customs and Excise, Inland Revenue, Statistics and Research, Stores, Public Administration and Personnel Department, the Government Printing Office and the Data Processing Services.

### **The Ministry of Defence**

The task of the Ministry of Defence is to protect the territory of the Republic from any potential aggressor. It is responsible for the Cyprus Army which was established in accordance with the London and Zurich Agreements and the National Guard which was formed in 1964 following the Turkish Cypriot insurgency.

### **The Ministry of Education and Culture**

The Ministry of Education and Culture is responsible for the administration of education, the enforcement of educational laws and the provision of educational facilities to pupils and students at the primary, secondary and special education levels. It is also responsible of the supervision and standardization of similar services provided by the private sector up to Higher Education. It includes the following departments: Higher and Tertiary, Secondary, Technical Services, Elementary, Scientific Research Centre, Cultural Services and the Pedagogical Institute.

### **The Ministry of Communications and Works**

The Ministry of Communications and works coordinates activities in the communication and construction fields. It comprises the department of Public Works (road construction, public building construction), Antiquities, Civil Aviation, Merchant Shipping, Postal Services, Inland Transport and Electrical and Mechanical Services.

### **The Ministry of Trade, Industry and Tourism**

The Ministry of Trade, Industry and Tourism is charged with the task of coordinating efforts for the promotion of commercial activities (export drive), Industry, Cooperative Development and Mines. It includes the department of the Official Receiver and the Registrar.

### **The Ministry of Agriculture, Natural Resources and the Environment**

The Ministry of Agriculture, Natural Resources and the Environment deals with all government activities striving for the promotion of the agricultural sector. It includes the following departments: Agriculture, Animal Husbandry, Veterinary Services, Forests, Water Development, Geological Survey, the Meteorological Service, the Agricultural Research Institute, the Land Consolidation Office and the Fisheries.

## **The Ministry of Labour and Social Insurance**

The Ministry of Labour and Social Insurance deals with all government activities having to do with industrial relations, Social Insurance, Social Welfare Services and the increase of productivity. For the latter purpose the Ministry is responsible for the running of the Productivity Centre, the Higher Technical Institute, the Hotel and Catering Institute and the Centre for the Rehabilitation of the Disabled.

## **Ministry of Justice and Public Order**

The main characteristics of 1993 was the enlargement of the scope of this Ministry's responsibilities, by bringing under it, the issues relating to public order, the Police and the Fire Service and by renaming it Ministry of Justice and Public Order.

At the same time, with a view to maximizing the effort to tackle and solve questions relating to the humanitarian aspect of the Cyprus problem, the Service for the Missing Persons and Humanitarian affairs and the Committee for the Relief of Adversely Affected Persons were transferred from the Ministry to the Presidency.

The activities of the Ministry of Justice and Public Order include law reform and monitoring of International Legal Conventions, the study and promotion, in cooperation with the Supreme Court, of Legislative and administrative measures for the unobstructed administration of Justice and the smooth functioning of courts, the study and promotion of matters relating to human rights, the supervision of the Prisons and the implementation of the penal policy and especially the policy on the treatment of offenders, the carrying out of criminology studies necessary for the shaping and implementation of the policy on the prevention and combating of crime.

The Ministry is also responsible for the coordination of the National Mechanism of Women's Rights and Youth Organization, for the supervision of the State of Archives and of the Rent Subsidisation Fund.

## **Ministry of Health**

The Ministry of Health is charged with the task of coordinating the public and private provision of medical services to the citizens of the Republic. It includes the following departments: Medical and Public Health Services, Mental Health Services, Dental Services, Pharmaceutical Services and General Laboratory.



## [Constitutional Aspects](#)

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