

Cyprus Settlement Initiative Project

**Addressing the Settlement of Self-Determination Conflicts through
Complex Power-Sharing: The case of Cyprus**

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CONTENTS

Preface and Acknowledgements.....	4
I. Background to the Project.....	6
II. Introduction.....	7
III. Summary of Proceedings.....	8
IV. Conclusions.....	56
Appendices.....	58

PREFACE AND ACKNOWLEDGEMENTS

The ECMI Cyprus Settlement Initiative was conceived in the days before the 14 December 2003 election in Northern Cyprus. When the election ended in deadlock and protracted negotiations involving the Turkish Government took place over the New Year and into January 2004, the Cyprus Team of the European Centre for Minority Issues (ECMI) continued to monitor the developments closely. After the announcement on 11 January 2004 of a coalition effort between the Republican Turkish Party and the Democratic Party followed by the subsequent 25 January 2004 announcement by Turkey's Prime Minister Erdogan in Davos that Turkey wanted resumption of the Cyprus talks on the basis of Secretary General Kofi Annan's Plan, the ECMI Cyprus Team decided to launch the Cyprus Settlement Initiative. There was a clear sense at this point that with Cyprus becoming a member of the European Union (EU) in May 2004, the world was ready to seize this historic opportunity to reunite the island.

As the unification negotiations began on 19 February 2004 in Nicosia, the ECMI set out to organize a knowledge transfer seminar on 6 March 2004 in Antalya, Turkey. The ECMI is particularly grateful to Dr. Jan Asmussen for having facilitated the contacts to the leadership of Northern Cyprus as well as having kept in contact when possible with the UN negotiator Alvaro de Soto to inform the Project Team of the latest developments. We are also thankful to the speakers and chairpersons during the Antalya Seminar who came from several continents and from far away at very short notice. Thanks are also due to ECMI Director Marc Weller for setting this initiative in motion and to our colleagues Chris Decker and Marnie Lloyd for contributing with manpower. The dedication and hard work of Visiting Research Associate Tankut Soykan was instrumental in getting the event off the ground and vital to the success of the event.

The project was made possible by the generous support of the Carnegie Corporation of New York and in collaboration with the Centre for International Studies at the University of Cambridge, UK.

This report covers the first of two events under the ECMI's Cyprus Settlement Initiative. It aims to highlight the main issues discussed and to summarize the results. I thank Tankut Soykan for having co-operated on this report, collecting the material from the proceedings and organizing it into a draft report.

Dr. Tove H. Malloy

ECMI Senior Research Associate

Flensburg, October 2004

I BACKGROUND TO THE PROJECT

The aim of the ECMI Cyprus Settlement Initiative was to assist the authorities of Northern Cyprus in understanding the ramifications of adopting the so-called Annan Plan for Cyprus prior to becoming a member of the EU. The Plan was proposed by the UN Secretary General, Kofi Annan and formed the basis for the resumed negotiations in February and March 2004. The project targeted members of the Northern Cypriot negotiation team, high-level policy and decision-makers in Northern Cyprus as well as opinion forming groups and individuals. The rationale for the project was a perceived need in the Northern Cypriot leadership and authorities for support in understanding the ramifications of adopting the Annan Plan. This need did not appear to have been addressed by international actors. The general assumption in the international society had been that with the Republic of Cyprus set to enter the EU on 1 May 2004, the population of Southern Cyprus would adopt the Annan Plan's structure of power sharing whereas the population in the North appeared reluctant. Thus, among the outputs envisaged for the project was (1) a greater overall understanding of the Annan Plan within the leadership of Northern Cyprus as early as possible in the negotiation process, (2) improved technical understanding of specific issues and aspects of the Annan Plan, (3) empowerment of the negotiation team as well as the supporting technical committees in the negotiation process, and (4) improved networking opportunities for the Northern Cypriot authorities with international experts. To this end one seminar and one workshop were held and one network of experts was launched.

Capitalizing on the political climate favourable toward working out a settlement for Cyprus, a constitutive event was held on 6 March 2004 in Antalya, Turkey where the ECMI convened eminent experts in the fields of international law, EU law, conflict resolution, power-sharing mechanisms, property issues, negotiation processes with experience from the Balkans and other conflicts areas to interface with members of the negotiation team and related public officials. The aim of the "FIRST Technical Expert Seminar on Complex Power-Sharing Mechanisms in Cyprus" was to identify areas of concern to the negotiation team that would be the focus of follow-on workshops with individual experts as well as to launch the international network, the Cyprus Settlement Support Network (CSSN), which includes the attending experts

and policy makers as well as academics, practitioners and institutions that have the expertise and knowledge useful for the issues at stake in the Cyprus settlement. The Seminar identified two key areas, property returns and derogations under international law, which the authorities of the Northern Cyprus requested the ECMI to address immediately while negotiations were under way. Thus, the “SECOND Technical Expert Seminar on Complex Power-Sharing Mechanisms in Cyprus” was held on 21 March 2004 in Nicosia, Cyprus where high level officials interfaced in an intensive workshop with experts on property issues and international law.

Addressing the Settlement of Self-Determination Conflicts through Complex Power-Sharing: The case of Cyprus

II INTRODUCTION

With negotiations on the basis of the Annan Plan, complex power-sharing mechanisms were again on the agenda for the re-unification of Cyprus. Complex power-sharing mechanisms constitute an alternative approach which seeks to go beyond the traditional juxtaposition of consociational or integrative models and provide a more open approach in terms of a matrix of tools. This matrix covers multi-level governance, political representation, autonomy regimes, special rights for communities, moderating conflicts of authority, executive representation and generating equal opportunities. However, complex power-sharing arrangements cannot be achieved, nor will they take root in a society, unless they are understood, supported, and most crucially, developed further by local constituents. Hence, the parties directly involved in an attempted settlement must be enabled to take ownership of their own process and settlement. Putting the Northern Cypriot negotiation teams in this position was the overall aim of the FIRST Technical Expert Seminar on Complex Power-Sharing Mechanisms in Cyprus.

Thus, on 6 March 2004 approximately fifteen members of the Northern Cypriot negotiation team, representatives of Northern Cyprus’ leadership, the municipality of Lefkosa, civil society as well as the Turkish political establishment met with a number of international experts to discuss the Annan Plan for the reunification of Cyprus. The key note address was given by Mr. Yasar Yakis, Chairman of the Turkish

Parliamentary Commission on EU Accession and formerly Turkey's Minister for Foreign Affairs. The ECMI Director Marc Weller presided over the proceedings.

The Seminar addressed a number of critical issues which had been identified as potentially disturbing to the balance between the two communities. In a dynamic and constructive atmosphere, four panels addressed respectively aspects of the negotiation process, complex power mechanisms, property claims and managing returns, as well as Cyprus in the EU.

III SUMMARY OF PROCEEDINGS

The Seminar was held in Lara Yolu, Antalya, Turkey, on Saturday, 6 March 2004. The ECMI Director, and Deputy Director of Centre for International Studies at the University of Cambridge, Marc Weller, initiated the Seminar with greetings addressed to the visiting experts, the officials from the TRNC leadership, Northern Cyprus and Turkey. Mr. Weller wished success to the seminar and stressed that the revival of negotiations on the basis of the Annan Plan created a very significant opportunity for the two peoples of Cyprus to enter the EU on 1 May 2004 under a re-unified federal state. He noted that if this opportunity was successfully exploited, it would also contribute to the progress of Turkey's accession to the EU. He further remarked that the title of the institution of which he is the Director does not mean that organizers of the Seminar consider Turkish Cypriots a minority. The ECMI is not a minority advocacy organization, but rather a research and action oriented institution which focuses on ethno-political conflict and dispute resolution mechanisms within the wider European area.

Key Note Speech: Turkey's Approach to the Annan Plan

Honourable Yaşar Yakış, Chairman of the Turkish Parliamentary Commission on EU Accession and formerly Turkey's Minister for Foreign Affairs, gave the opening keynote speech with a special emphasis on the importance of the parties' goodwill in the settlement of the Cyprus problem. He stated that with this understanding, Turkey had recently taken the initiative to resume the negotiation process based on the conviction that the parties on the island would negotiate through the good offices of the UN Secretary-General to reach an agreement before 1 May 2004. As a result of

this initiative, Secretary-General Kofi Annan had invited the parties to New York on 10 February 2004 to make an agreement on the resumption of negotiations. According to the agreement reached on 13 February 2004, Turkish Cypriot and Greek Cypriot leaders would seek to agree on changes and to complete the Plan in all respects by 22 March 2004. In the absence of an agreement between those parties, the Secretary General would convene a meeting on 22 March, with the participation of both motherlands, Turkey and Greece, in order to finalize the text by 29 March 2004. If matters were not resolved by that date, the Secretary-General would use his discretion to finalize the text, which would be submitted to the people of Cyprus in two separate and simultaneous referenda. Mr. Yakış stated that in that period he believed the Turkish Republic of Northern Cyprus (TRNC) and Turkey would support the mission of good offices of the Secretary-General. He added that reaching a lasting peace on the island with a settlement that would satisfy both parties had to be the collective aim of the international community. Once such an agreement was achieved, Mr. Yakış stated, “it has to be guaranteed that its provisions shall be fully implemented.” He stressed that following a settlement, a new state of affairs of a United Cyprus Republic had to be effectively accommodated by the EU and the agreement could not easily be undone at a later date. It was therefore his view that at least until Turkey’s accession to the EU, certain derogations from EU law should be allowed to realize the full implementation of the agreement. The requirements of the EU *acquis* should not be used as an excuse to violate the agreement that the parties had reached after lengthy discussions. In closing, he pointed out that this was the only way to secure the hard gained compromise; and that the discussions during the Seminar on the implementation of the Annan Plan under the EU law would be particularly interesting and enlightening in this respect.

First Panel: The Negotiation Process

The aim of the first panel was among others to discuss the practical problems that would arise during the negotiations, including the risks involved in opening the Annan package, the possibility of deferring implementation of some controversial aspects of the package, as well as ramifications of Cyprus EU membership in the absence of a settlement. Hans Henrik Bruun, formerly Ambassador for Denmark to Turkey, chaired the first panel of the Seminar. Before introducing Oliver Richmond, Lecturer in International Relations at the University of St. Andrews, UK, Mr. Bruun underlined

the role of the EU in the settlement of ethnic conflicts and the promotion of peace and security in the region. Mr. Bruun stated that Turkish modernization should also take into account this aspect of Europeanization. Having quoted from Ataturk's well-known saying "Peace in our land, peace on Earth," he noted that the European Project should be considered as a peace project as well.

Oliver Richmond: Negotiation Techniques and Evaluation of the Cyprus Peace Process

Oliver Richmond's presentation focused on the implications of the current conduct of Cyprus negotiations based on the fourth version of the Annan Plan. He started by giving a brief introduction to the theory of negotiation. He noted that the aim of negotiation is to re-organize the balance of power in a manner that is acceptable to all sides, thus creating stability in the relationship. While a change in the perception of the conflict as zero-sum would be the optimum outcome, it is more likely that the parties will be increasingly motivated by the need to alter the balance of power in their favour, and in this process change the stakes into items that can be used to benefit their own party. It is only when all sides perceive that they would be better off with an agreement that negotiations will begin. The process is based on the trading of concessions, assumptions of rationality, and maximization of value by each side. This is further complicated by the adversarial relations between the sides. Because of this, confidentiality and truthfulness are vital as at least a minimum level of trust must be created; however, the implication of this is that deceit and revelation also carry significance as tactics.

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Mr. Richmond continued by explaining that negotiation is composed of bargaining, which depends on traditional coercive diplomacy, and may be successful in the short term after a conflict ended, but often breaks down when the *status quo* changes, due either to domestic or international factors. It can easily lead to stalemate, as the parties in conflict may find it almost impossible to reach the level of co-operation needed for an exchange of concessions. This is because there must be two elements present for negotiations to take place: paradoxically, these elements are common and conflicting interests. As a result, negotiation relies on the conflicting

parties having a desire for a solution, attempting to control non-rational and emotional impulses that tend to be provoked by conflict situations, and expressing a certain amount of flexibility within the confines of their perceptions of each other's ability to do the other harm. Because of this, in the course of negotiations, concessions are lightly offered as they cannot easily be withdrawn, leading to immobility.

According to Mr. Richmond, there are nine conditions for successful negotiations:

- A hurting stalemate and a ripe moment;
- A clear mandate from constituencies and a capacity to represent those constituencies;
- Relative parity in the positions of the disputants;
- Willingness to compromise and discuss alternatives;
- Comprehensive approach but with a willingness to defer certain issues;
- Use of deadlines to overcome inertia;
- Outside support and consensus;
- Bottom-up/grass-roots representation
- The support of a coalition of mediators who concur on approach and can provide significant benefits in the event of an agreement.

Considering these conditions, Mr. Richmond claimed that in the Cyprus peace negotiations there existed many of the parameters required for a successful deal. He pointed out that the accession of the Republic of Cyprus to the EU on 1 May 2004 made the maintenance of the *status quo* impossible. He also stressed that there was a clear mandate from the constituencies to negotiate a solution although it was not clear whether the leadership had any intention to highlight the same issues that constituencies did. Moreover, he stated that although negotiations would continue until the last minute to maximize gains and minimize losses, there seemed to be willingness to compromise in both sides. The principles of the agreement were clear and agreed, and the focus of talks was concentrated on the technicalities. He noted that there was a deadline after which other actors, and most probably the UN Secretary-General, would fill in the blanks on any issues outstanding. He also indicated that there was strong international support, from the European states, the USA and other regional actors for the settlement of the Cyprus problem. He finally

stated that all actors in the dispute were brought to the table and representation of all constituent communities was guaranteed.

Next Mr. Richmond explained that what was required in the context of Cyprus negotiations was a division between principles and technical details. The negotiating teams should not lose sight of the fact that as long as the technicalities that were being discussed were not confused with the principles of the agreement, which were already implicitly agreed by virtue of the failsafe mechanisms that had been incorporated in the process with the various deadlines, progress could be made. Furthermore, the strategy of vetoing the discussion of particular issues in a specific way should be avoided: rather it would be more productive to link issues in order to trade concession within negotiating margins.

According to Mr. Richmond, success of the agreement in Cyprus should be seen initially in limited terms, which would be to produce compromise on the most pressing issues, while facilitating EU entry and assistance in the institutionalization of the settlement, and of the stability and prosperity of the island over time. Therefore, he suggested that the parties avoid a technical victory that would upset any agreement on principles.

A further phenomenon which can be observed from implementation processes in many other cases where a peace agreement has been agreed is the attempt to renegotiate aspects of that agreement during the implementation phase. According to Mr. Richmond, flexibility must be shown because some renegotiation is inevitable even as part of the process of constitutional evaluation.

Discussion

After Mr. Richmond's presentation the discussion concentrated on the implications of the EU's decision permitting the accession of the Republic of Cyprus to the Union independent of the outcome of the negotiation process. The participants from both Turkey and Northern Cyprus argued that this attitude of the EU put them in a disadvantageous situation vis-à-vis Greece and the Republic of Cyprus. Many participants felt that since the Greek Cypriots were already admitted to the EU as the only legitimate government of the island, there was no sufficient incentive to

compromise on the Greek side. The Northern Cypriot leadership therefore felt that the Greek Cypriot Government was not demonstrating any cooperative efforts. One expert noted that even though it might be felt at first glance that the Greek Cypriots did not have sufficient incentives to reach a compromise, this did not reflect the real situation. There was growing international pressure on the Greek Cypriots and Greece to play a constructive role in the negotiation process. Moreover, he argued that if the negotiation process failed due to the unwillingness of the Greek side, there would be certain legal and political consequences. In particular, the Greek Government's claim that the Government of the Republic of Cyprus represents all Cypriots including the Turkish Cypriots in the north will be questionable.

Second Panel: Allocation of Power and State Design

The aim of the second panel was to revisit recent examples of complex-power-sharing settlements and to identify the principal types of settlements and the experiences of

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implementation with the purpose of discussing the overall structure and design of the Annan Plan against this background. The panel was chaired by Christopher Decker, Research Associate at ECMI. He began by stating that the Annan Plan envisaged a new state of affairs of Cyprus where Greek Cypriots and Turkish Cypriots would essentially live side by side as good neighbours in their own states and separately govern

their own, while they would speak with single voice to the outside world and in the EU. For this purpose, it formulated a bi-zonal and bi-communal federal state based on complex power-sharing arrangements. The designation of power in this state would cover multi-level governance, political representation, autonomy regimes, special rights for communities, moderating conflicts of authority, executive representation and generating equal opportunities.

Anthony Obershall: Conditions of Successful Complex Power-Sharing Arrangements: a Comparison between the Annan Plan and the Dayton Peace Agreement

Tony Obershall began his presentation with a critical analysis of Complex Power-Sharing Arrangements in the Dayton Peace Agreement. He stated that the political

dilemma for Bosnia and Herzegovina (BiH) in these past nine years was how to establish a single state with workable governance, ethnic co-operation and tolerance among a people divided into three major nationalities, three religions, two alphabets and now also three languages, after a destructive war during which about half of the population was forced to become refugees or internally displaced.

According to Mr. Obershall, consociational democracy, which lays the foundations of complex power-sharing arrangements, is a mode of governance for societies deeply divided on ethnicity, religion, and/or language. It assumes permanent distinct identities and group memberships which organize politics in a federal state. It institutionalizes power-sharing on matters of common interest which are assumed to be few (like foreign affairs, currency) and devolves a high degree of autonomy to ethnic, religious or linguistic groups (ethnic groups in short) for running their own affairs on all matters. In consociational power-sharing all significant ethnic groups participate in political decision making at the state level, resulting in a grand coalition executive branch, and in which all groups accept proportionality for political representation, appointments to public offices and resource allocation. These devices are often supplemented by a minority veto or parallel consent on vital matters, such as changing internal jurisdiction boundaries or federal structure of the state. The purpose of power-sharing is for each group to have a sense of security and to be treated equally in public affairs.

Mr. Obershall emphasized that consociationalism works best when ethnic groups are territorially concentrated, as in Switzerland, Canada and Belgium. He also argued that the political elites in the grand coalition share a consensus on the desirability of a single state and on the proportionality principle. With territorial concentration, most public goods and services, like policing and courts, are provided on a single, mono-

ethnic basis, as are most institutions, like schools and health services. Despite linguistic, religious or ethnic differences, political leaders and citizens in each group have a sense of common identity which makes widely shared consensus on vital matters at the state level, such as defence, currency and foreign policy. However, when

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ethnic groups are mixed in the same territory, group autonomy needs to be institutionalized in more complex fashion. Group rights to organize schooling and cultural life without resource to penalties have to be grounded. Non-discrimination in employment and other matters and some mode of power-sharing in local governance and public agencies are required as well. In Belfast in Northern Ireland where the population is divided on sectarian lines but lives in mixed urban environment, for instance, the nationality and religious affiliation of the police does matter a great deal to the citizens even though all of them speak the same language.

The post-war situation of BiH significantly differentiates from that of the stable examples of complex-power sharing arrangements in Western Europe. The civil war which led to the displacement of half of the population of BiH resulted in largely ethnically homogenous territories controlled by the ethno-nationalist leaders and political parties that fought during the ethnic strife. While the NATO-led military intervention stopped further ethnic cleansing and spread of the conflict to the neighbouring countries, the international community sought to preserve the unity of BiH and signal to the border states and nationalities that secession, coercive state formation and border changes were not acceptable. However, the leading international actors, such as the US, Germany, France, Russia and the EU, had to recognize the internal division of BiH along the military lines between the Croat-Bosniac Alliance and the Serb forces in order to get the adversaries to sign the agreement. Therefore, in the Dayton Peace Agreement in 1995 they adopted an extreme form of decentralization and consociational power-sharing for the BiH state in light of the existing divisions. The land of BiH was divided into two territorial units, the Federation and Republika Srpska and the Federation of BiH. The Federation was further divided into ten cantons, five Bosniac, three Croat and two mixed. The two mixed cantons were even further split by the Croats and Bosniacs into separate parallel structures. All state functions, except foreign policy, foreign trade, monetary policy, immigration, international crime and international communications, were devolved to the mono-ethnic units. At the central state level, power was shared among the three constituent peoples, namely the Bosniacs, Croats and Serbs. The two assemblies were one third Bosniac, one third Croat and one third Serb. The Presidency, the Council of Ministers, the Constitutional Court had similar proportions.

Mr. Obershall further argued that given the enormous international efforts, the Bosnia experience in democratic power-sharing is somewhat disappointing. Since the ethno-national parties which are in charge of the implementation of the Dayton Peace Agreement do not cooperate with one another, the functions of the central state are kept delayed and blocked. Since the decision making process must take place first at the state, then the entity and finally the cantonal level, legislative and executive procedures are extremely long and tortuous. Delay is welcomed by ethnic parties, but

A big question on relocation is whether this slow speed and the many limitations are going to be acceptable to the Greek Cypriots dislocated thirty years ago, and whether it might create a backlash against the Annan Plan and the emergence of cross-community co-operation.

frustrates international actors. The drafters of the agreement had envisaged that the re-building of the heterogeneous BiH population through the return of refugees and internally displaced persons would create in the future necessary conditions for elite co-operation. In this way, moderate political parties and leaders would have more chance to get power. However, local authorities affiliated with ethno-nationalist parties showed enormous resistance to the refugee return process, by passing laws on seizing “abandoned”

property, destruction of official records and imposing expensive and convoluted bureaucratic procedures for property recovery. Local police turned a blind eye and sometimes instigated these crimes, with the approval of the local authorities.

However, after the death of Croat President Tudjman and the exit of President Milosevic from power in Serbia, some changes in the political climate of BiH started to take place. Croatia and Serbia stopped financing the separated armed forces of ethnic Croats and Serbs in BiH. Thus, the Bosnian Croat and Serb political leaders gave up their earlier hopes that the Dayton Peace Agreement was a temporary way station to uniting with their Serbian and Croatian kin-states and they began to invest some political capital into making BiH a viable state. This helped the settlement of contention between the international actors and local authorities on refugee and internally displaced persons return, local administration reform, foundation of a common army and police force, economic reform, education and media. After the resistance of the ethno-nationalists was broken in 2001 and 2002, the return of half of 2 million refugees was made possible. Now, the Bosnian society is much more

heterogeneous than at the time that Dayton Peace Agreement was signed, because the political and social environment is more attractive to minorities. The leaders of the dominant parties and the Bosnian people in general agree on joining European institutions.

As to the lessons that can be drawn on the Bosnian experience for the re-unification of Cyprus and the Annan Plan, Mr. Obershall pointed out that Articles 2-6 of the Plan establishes an extreme mode of consociational power-sharing, as the Dayton Agreement did for BiH. The federal government is limited, where northern and southern constituent states of a Cyprus Federation would have wide powers and a great deal of autonomy. All federal institutions, Senate, Chamber, Supreme Court, Presidential Council conform to strict ethnic proportionality rule on membership and

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voting, which safeguards the political equality of the Turkish Cypriot community. Internal citizenship and political rights are *de facto* and *de jure* vested in two constituent communities' membership, though some minorities (the Maronites, the Latins and the Armenians) are recognized as well. In effect, the federal constitution recognizes the sharp political division that resulted from the conflicts and fighting of

1965-74 era. According to Mr. Obershall, as in the case of BiH, the success of this Plan depends highly on the co-operation of the Greek Cypriot and Turkish Cypriot elites and peaceful relocation of Cyprus population.

Consociational governance in the Annan Plan assured that Turkish Cypriots, consisting 19 per cent of the population, would not be overwhelmed by the Greek Cypriot majority and not be a national minority. Therefore, the Plan would provide the Turkish Cypriots with blocking powers, and the temptation is that they will be used, as in BiH, for defensive purposes to prevent more sharing and unity in Cyprus. What is lacking in the constitutional design are incentives for a cross-community movement with a shared vision for a more multi-ethnic society and a political will and opportunity to realize that vision in multi-ethnic ethnic and multi-national EU and global economy. The power-sharing safeguards need to be complemented by greater incentives for a win/win political force that unites rather than separates the two

communities, precisely what is lacking in BiH. It would be possible, under the Annan Plan, for a North-South coalition to emerge, but its chances of success would be greater with an electoral system that allows for cross-voting and other devices for cross-ethnic collaboration.

The relocation of population is a highly contentious issue, as we have seen in BiH. It is clouded in uncertainty because the territory transfer, numbers of likely returnees, the rate of returns, and changing ethnic mix in destination localities are estimates at this point. Because Article 3 puts numerical restrictions on the volume and rate of returns, and because property repossession is restricted by many conditions and delays, Mr. Obershall expected the numbers of returnees to be relatively small and gradual. A significant question on relocation is whether this slow speed and the many limitations are going to be acceptable to the Greek Cypriots dislocated thirty years ago, and whether it might create a backlash against the Annan Plan and the emergence of cross-community co-operation. Does the Plan provide for a returnee-friendly environment, assuming that some relocation will take place and change villages and cities from mono-ethnic to multi-ethnic?

In concluding, Mr. Obershall addressed the issue of discrimination. Article 4 states that there shall be no ethnic discrimination against any person and that Greek and Turkish Cypriots living in “specified villages in the other constituent states shall enjoy cultural, religious and educational rights, and shall be represented in the constituent state structure.” According to Mr. Obershall, this is admirable, but as we have seen in BiH, minority representation in local government, in the police and in public agencies, and non-discrimination in public funding for minority institutions such as schools are also important for co-operation in a multi-ethnic local jurisdiction. As a practical matter, complementing individual rights with state support for group rights on cultural autonomy and political power-sharing is not practical for very small minorities. However, in time, as relocation increases the multi-ethnic mix of population in local jurisdictions, the issue of minority integration at the sub-state level will become more salient, and some thought needs to be given to changing demographics in a united Cyprus in relation to minority rights and equality, beyond the Annan Plan. The Reconciliation Commission mentioned in Article 11, may well have to play an important, long term, leading role in this process.

Florian Bieber: Federalism and the Annan Plan: Division of Competences and Co-decision Process

Florian Bieber focused on the characteristics of the “new” federal structures of Cyprus under the Annan Plan, by comparing them with the federalism of the 1960 Constitution. The design of the central government in the 1960 Constitution is generally criticised as being conceived not as a process based on compromise and mutual accommodation but as a static amalgamation of check and balances which gives rise to constitutional deadlock. It was therefore questionable whether and to what extent the division of competences and co-decision process in the Annan Plan establish a workable federal state.

According to Mr. Bieber, one of the features that distinguish the “New Federalism” of Cyprus from the 1960 Constitution is that the Annan Plan would provide the federal

The proposed agreement allocates all state functions which are not vested in the federal state to the Turkish and Greek Cypriot Constituent States.

government minimal functions which are only necessary for a sovereign member of the international community and an EU member state as well as necessary because of the nature of an issue, such as communications. In the course of drafting of the 1960 Constitution, the interspersed demographic settlement of the Turkish and Greek communities throughout the island precluded the

establishment of a territorial federalism. Therefore, compared to the provisions of the Annan Plan, the 1960 Constitution allocated more power to the federal government. However, ethnic violence between the two communities after the collapse of the constitution in 1963 and the military intervention of Turkey in 1974 in response to the Athens-sponsored coups d’Etat changed this situation dramatically, creating two ethnic homogenous regions in the south and north. This made it possible to found a federal state where Greek Cypriots and Turkish Cypriots separately govern their own affairs in their own territories, while they still share the same state. Accordingly, after 1974 all peace proposals not only included the bi-communality principle, but also the bi-zonality principle. Thus, the risk of ethnic confrontation is minimized as much as possible. As in the case of many territorial federal states, the Annan Plan affords the federal state limited competences only on the issues of foreign policy, international trade, monetary policy, citizenship, immigration, joint finances, serious crimes and

Union State Competences in a Comparative Perspective				
<i>Competence</i>	Cyprus	BiH	SiM	Belgium
Foreign policy	Yes	Yes	Yes	Yes
Foreign trade	Yes	Yes	Yes	Yes
Defense	No	Yes	Yes	Yes
Monetary	Yes	Yes	No	Yes
Citizenship	Yes	Yes	Yes	Yes
Serious Crimes	Yes	Yes	Partly	Yes
Joint Finances	Yes	Yes	Yes	Yes
Communication	Yes	Partly	Partly	Yes

communications. Since the Plan requires the demilitarization of Cyprus, the competency of the federal state does not cover defence policies. In this respect, the proposed agreement allocates all state functions which are not vested in the federal

state to the Turkish and Greek Cypriot Constituent States.

Under the new Constitution co-decision making mechanisms at the federal state level seek to establish special procedures which entail the consent of both communities on critical issues, without leading to the deadlock of constitution. For this purpose, unlike the 1960 Constitution, the new Constitution does not allow any single person to veto any decision, and no separate majorities are required for any decisions, except those decisions on the amendment of constitution. However, federal decisions may need some support of representatives from both constituent states or some decisions may require a special majority. The special majority requirement is designed for decisions that have serious implications on the vital interests of ethnic groups, such as some foreign policy issues, aviation, federal budget, immigration, citizenship, water resources, taxation and election of Presidential Council. According to Article 25 (2), a special majority consists of at least two-fifths of sitting senators from each constituent state, in addition to a simple majority of deputies present and voting. Mr. Bieber identified this alternative method of power-balance as “positive veto”. It must be noted that although the Plan required a special majority for only specified issues in the constitution, it nonetheless entailed approval of a minimum number of representatives from both constituent states for all decisions of the federal government. The aforementioned provision also provides that on the issues other than those listed, the Parliament could reach a decision by the approval of both chambers with simple majority, including one quarter of senators present and voting from each constituent state. Similarly, according to the Constitution although the Presidential Council would strive to reach all decisions by consensus, if it failed, it would make decisions by

Co-decision Making at the Union State Level		
Competence	Special Majority	Simple Majority
Foreign policy	X	
EU relations		x
Monetary		x
Budget/Taxes	X	
Resources	X	
Aviation	X	
Communication		x
Citizenship	x	
Serious crimes		x
Others		x

simple majority, provided that it includes at least one member from each constituent state.

Moreover, in order to obtain the consent of both communities, co-decision processes needed mediation and arbitration between the two chambers of federal parliament, between one or both constituent state and federal government, and between

the two constituent states. Article 25 (3) of the new Constitution, for instance, stipulated that the law should provide for a conciliation mechanism between the chambers of parliament. Likewise, Article 16 (3) and (4) required that the constituent states and the federal government endeavour to coordinate or harmonize their policy and legislation, including through agreements, common standards and consultations wherever appropriate. Those mediation and arbitration mechanisms and procedures might include political mediation and legal arbitration and consultation. Political mediation, which might take place both before and after passing of decisions, entailed the existence of moderate political elites organized through political parties and non-governmental organizations in both ethnic groups. The new Constitution requisited legal consultation between the constituent states and the federal government, in particular, on the decisions related to the relations of Cyprus with other states and EU. Article 18 (2) maintained that the constituent states be consulted on federal decisions on external relations that affect their competences. Similarly, in Section 9 of the Federal Law on the Conduct of EU Relations, it was stated that in determining the position of Cyprus, the Minister of EU Relations shall request the opinion of the federal authorities or public bodies, competent in respect of the matter under consideration, and the views of constituent state representatives. In addition, the

In order to obtain the consent of both communities, co-decision processes need mediation and arbitration between the two chambers of federal parliament, between one or both constituent state and federal government, and between the two constituent states.

new Constitution would introduce legal arbitration as a last resort in order to prevent institutions from being paralyzed. Article 36 (2) stipulated that the Supreme Court shall have exclusive jurisdiction over disputes between the constituent states, between one or both constituent states and the federal government and between organs of the federal government. To make the Supreme Court an

efficient legal arbitration institution, its composition was designed, by the Annan Plan, in a way that it included three international judges, in addition to three judges hailing from each constituent state. It must be noted that before the collapse of 1960 Constitution, the Supreme Court included only one international judge and this one was not able to resolve constitutional deadlock, albeit his relentless efforts.

Mr. Bieber further stated that although the Plan constituted adequate divisions of competences and workable co-decision mechanisms, more considerations should be given to the status of minorities, electoral systems and evolutionary mechanisms of the state structure. He pointed out that the Plan did not clarify the status and rights of minorities in the federal state and constitute states, except for prohibiting discrimination and recognizing the autonomy of certain Turkish and Greek Cypriot villages. In this regard, it would be better if the constitution contained stronger provisions promoting tolerance and cultural diversity throughout the island. Bieber also concurred with Mr. Obershall's opinion that the lack of cross-voting or other alternative voting models in the Plan might create some problems in the implementation of the new Constitution. According to Mr. Bieber, to reduce Turkish Cypriot apprehensions about the resettlement of Greek Cypriots under the Turkish Cypriot administration, the Plan unlinked residency and voting rights at the federal level, excluding cross-voting from the state design. However, cross-voting would be necessary in order to force political parties to seriously take into account the interests and concerns of the two Cypriot communities. In concluding, Mr. Bieber stated that although a transition period was envisaged under the Annan Plan, certain mechanisms and periods should also have been established in order to evaluate and review the functionality of the federal state. In this regard, he suggested a 'rendez-vous' for evaluation of the Plan.

Anna Jarstad: Consociational Theory and Ethnic Quotas in the Future Re-Unified Cyprus: Striking a balance between a functional state and the equality of two constituent states

Anna Jarstad discussed whether ethnic quotas in the Parliament and the Presidential Council of the United Cyprus Republic (UCR) would establish a democratic and functional state. She defined ethnic quotas in the federal legislative and executive organs as a method of electoral design, explicitly stated in legal documents, stipulating group-based political representation for a group that is distinguished from the rest of the people of the state by an ethnic criterion. According to Ms. Jarstad, by a reconstruction of Arend Lijphart's theory on consociationalism, ethnic quotas can be designed through two causal mechanisms. The first mechanism levels the power balance of contending groups by permanent inclusion in government. The second mechanism reduces the number of conflict issues to be agreed on jointly, by decentralization of decision-making to the respective ethnic groups. These mechanisms can prevent ethnic violence as long as decision-making processes are functional and compatible with the principles of democracy and human rights.

Ms. Jarstad further stated that there are some prosperous, clearly peaceful and democratic states where ethnic quotas serve to enhance representation of ethnic groups, for example Belgium, Switzerland and New Zealand. From the point of view of conflict management it was worth noting that also in several other states target groups for ethnic quotas are not involved in violent conflicts (Bosnia-Herzegovina, Columbia, Croatia, India, Jordan, Lebanon, Romania and Slovenia for example). She suggested general recommendations which intend to make ethnic quotas more democratic and functional. Ethnic quotas enhancing a zero-sum game and thus blocking decision-making should be avoided. Therefore, the scope of issues subject to the approval of each group, in other words 'vital interests of each group', should be identified as narrowly as possible. In order to strike a sustainable and fair balance between different ethnic groups, fixed quotas and gerrymandering should also be eschewed. Previous experience has shown that constrained power of the larger group is not sufficient for the protection of smaller groups. Rather, incentives for cross-ethnic co-operation should be included, such as political structures with multiple entities to facilitate coalitions between different ethnic and political groups. For this

purpose closed ethnic rolls and electorates should be avoided and cross-ethnic voting allowed. A bi-cameral system may also contribute to balance different constitutional principles, namely political equality of groups and individual rights. Finally, the constitution should provide mechanisms for incremental development of rules of governance to adjust ethnic representation in parallel to the changing priorities of a given society.

The new electoral system also provides incentives for all parties to include Maori candidates.

The contemporary ethnic quota system in New Zealand was an example of democratic quotas. Maori, the original inhabitants of New Zealand, were targeted for quotas in parliament in 1867. Since 1993 the electoral law stipulates that the number of Maori seats depend on how many people that have registered on the Maori electoral roll, as opposed to the General electoral roll. The number of quota seats has gradually increased to seven of the total number of 120 members of parliament. In addition, Maoris are elected on party lists making the total number of Maori in parliament amount to around fifteen. This means that Maori are slightly over-represented.

The new electoral system also provides incentives for all parties to include Maori candidates. In 1996 New Zealand adopted the Mixed Member Proportional system (MMP) which is also used in Germany, New Zealand, Bolivia, Italy, Mexico, Venezuela, and Hungary. In MMP a portion is elected by plurality-majority methods, usually from single-member districts, while the remainder is constituted by PR lists. The PR seats are used to compensate for any disproportionality produced by the district seat results while single-member districts ensure that voters have some

geographical representation (Peter Harris and Ben Reilly, eds., 1998, *Democracy and Deep-Rooted Conflict: Options for Negotiators*, Stockholm: International Institute for Democracy and Electoral Assistance, p. 195). Thus, the voters have two votes, one for

Examples of Countries with Ethnic Quotas in Parliaments		
<i>State</i>	<i>Total number</i>	<i>Quotas</i>
Belgium	Senate 71	French 29 Flemish 41 German 1
BiH	House of Peoples 15	Bosniak 5 Croat 5 Serb 5
Croatia	House of Representatives 127	Croat Diaspora 6 Serb 1 Italian 1 Hungarian 1 Czech/Slovak 1 Other 1
Cyprus	House of Representatives 80	Greek 56 Turkish 24 (vacant since 1963)
Romania	Chamber of Deputies 345	Minorities 18
Slovenia	National Assembly 90	Hungarian 1 Italian 1

a geographical area, and one for a political party. In New Zealand the party vote determines each parties share of Parliament's 120 seats and the electorate vote determines who will represent the voters' electorate in Parliament. Thus, there are two sets of electoral districts covering the entire country: if there are seven Maori quota seats, there will be seven Maori electoral districts covering the entire country. Those registered on the Maori roll vote for a Maori candidate representing their district. The voters mark the representative they prefer. This is the majority method in single-member districts. Those registered on the General roll vote for

candidates representing the one of the 62 general districts where they live. In addition all voters cast their other vote on a political party. There are now 51 list MPs. These are elected to parliament from lists of candidates nominated by the political parties (<http://www.elections.org.nz/>).

Maori now have a real impact on politics in New Zealand. Maori votes have determined the outcome of the elections at several occasions. The more than 150 years old long dispute over land is now being settled by economic compensation, a formal apology and an act of reconciliation. More and more people are learning Maori and taking up Maori customs. There are no purely Maori parties, but all political parties in parliament have Maori placed among the top candidates on the lists.

The New Zealand case demonstrates that ethnic quota systems can be both flexible and democratic by taking the individual choice of political orientation into account. In New Zealand it is possible to identify one's political orientation in ethnic terms, but it is also possible to keep ethnicity a private matter, to change ethnopolitical orientation and to have a non-ethnic political identity. However, in the case of Cyprus, finding the most democratic constitution is not the main priority. At the heart of the conflict are preoccupations with security matters, the functionality of a joint government and the political status of the two main population groups.

The basis for the Agreement on a Comprehensive Settlement of the Cyprus Problem proposed by the UN Secretary-General Kofi Annan (The Annan plan) was intended to be a compromise between the Turkish Cypriot and the Greek Cypriot positions in order to promote democracy and peace. The main point in the respective positions are that the Turkish Cypriot side stressed equality, security and recognition, whereas the predominant Greek Cypriot position was to maintain sole recognition, have access to the northern territory, right to return, majority rule and "workability" of the constitution.

Whether the ethnic quotas envisaged under the Annan plan, version 26 February 2003, establish a workable and democratic state, striking a just and durable balance between demands of the Greek Cypriots and the Turkish Cypriots, was explored in the light of Ms. Jarstad's guiding recommendations. The Foundation Agreement stipulated that the UCR would be organized under its constitution in accordance with the basic principles of rule of law, democracy, representative republican government, political equality, bi-zonality, and the equal status of the constituent states. According to the new constitution each constituent state would possess identical powers, functions and sovereignty. The Annan plan also guaranteed effective representation of each state in all federal institutions in coordination with the federal government and the other constituent state. According to Article 22 of the constitution, the Parliament would consist of two houses, the Senate and Chamber of Deputies. While the composition of the Senate according to this version of the Annan plan was based on equal representation of the two constituent states (24+24), the Chamber of Deputies was designed in accordance with the proportionality principle (no more than 75 per

cent of the Deputies may hail from one constituent state). The Maronite, Latin and Armenian would be represented by no less than one deputy. While ordinary decisions of

the Senate were to be taken by simple majority, the issues enlisted in the constitution required the approval of at least two-fifths majority of senators. Ms. Jarstad described this special majority vote as a 'hidden veto'. In the Chamber of Deputies all decisions

The Plan also guarantees effective representation of each state in all federal institutions in coordination with the federal government and the other constituent state.

were to be taken by simple majority. Similar to the Chamber of Deputies, the executive power vested in the Presidential Council was proportionally designed, providing four seats for the Greek Cypriot State and two for the Turkish Cypriot State. According to the constitution, the President and the Vice-President

may not hail from the same constituent state. The members of the presidential Council would rotate so that for every ten months served by a Turkish Cypriot as President or Vice-President, a Greek Cypriot member would serve two terms. All members of the Presidential Council were to be elected on a single list with the support of at least ten Senators from each constituent state. Decision-making was by consensus if possible, otherwise simple majority provided at least one positive vote from each state.

As Mr. Bieber had previously noted, Ms. Jarstad asserted that ethnic quotas in the Annan plan struck a fair and durable balance between political equality, democratic representation and functional government. However, she raised some concerns about the elite-driven peace process in which little attention was paid to explaining the Annan plan to the people. This may lead to an increased gap between people and the elected representatives and also to political apathy. The lack of political visions on the mutual benefits of a joint state hinders co-operation between the two peoples. She also suggested that the lack of Cypriot ownership of the peace process, and blame avoidance, were obstacles for a functioning settlement. She further pointed to the risk that if the negotiators on either side rejected the Annan plan and the people voted in favour, a problem of accountability would arise and internal division after the referendum could be grave.

Discussion

The after-presentation discussion concentrated on the problem of political equality of the Turkish Cypriots under the Annan Plan. One participant argued that although in all previous peace proposals bi-zonality and bi-communality were recognized as the two very important conditions of a sustainable and fair settlement in Cyprus, the Annan Plan watered down the bi-communality principle, allowing the return of many Greek Cypriots to the North with a right to vote for candidates of the Turkish Cypriot State as well as participate in local level elections. This would give power to the Greek Cypriots to influence the politics of the Turkish Constituent State and lead to the domination of the Turkish Cypriots by the Greek Cypriots in medium term. Other participants worried that in this way the Greek Cypriots would be able to change the Constitution more easily. Concerns about the exclusion of veto power of the Turkish Cypriot representative in the Presidential Council were also raised. One participant maintained that without any veto power the Turkish Cypriots would be easily reduced to minority status.

Third Panel: Property Claims and Managing Returns

The aim of the third panel was to review the technical ways which could be deployed to address property returns after a prolonged period of administration of a divided territory and put these in the perspective of how to manage returns. Thus, it would consider how other settlements or settlement plans have dealt with the need to address property restitution, returns after restitution as well as displacement in connection with property restitution. This was arguably the most controversial issue of the Seminar. The panel was chaired by Mr. Jayson Taylor, Deputy Head of Reconstruction and Return Task Force (RRTF) of the Office of High Representative in BiH and Herzegovina. Before he introduced the speakers of the panel, he made some valuable comments on the provisions of the Annan Plan related to the return of Greek Cypriots to the Turkish Constituent State in light of the work of the RRTF.

Jayson Taylor: Return of Displaced Persons as an Instrument of Reconciliation: Cases of BiH and Cyprus

At the outset, Jayson Taylor underlined that the formulas for returns and property claims in Cyprus and BiH were fundamentally different. In fact, he argued that the Cyprus return provisions could be considered as running counter to the trend

developed in BiH. The General Framework Agreement for Peace in BiH, more commonly known as the Dayton Peace Agreement, had afforded displaced persons and refugees an unqualified “right to have restored to them property of which they were deprived during the course of the hostilities and to be compensated for any property that cannot be restored.” In this respect, the resolution of property claims and reintegration of refugees and displaced person within a single society was asserted as an essential element of the reconciliation process in BiH. Therefore, the Dayton Peace Agreement had placed a special emphasis on the settlement of property claims and return issues. Mr. Taylor delineated the following principles as ruling norms of Bosnia return provisions:

- Applicable legislation prioritized the rights of pre-conflict owners and possessors over “current users” i.e. temporary occupants;
- No specific enforcement legislation, adopted on the basis of the Agreement, allowed claimants to seek compensation for the loss of use or income deriving from real property;
- Rights to Alternative Accommodation were subject to greater restrictions and expressly linked to priority rights of pre-war occupants (i.e. Dispossessed Owners) when repossessing their property; and
- No initial financing for the Compensation Fund was provided for under the Dayton Agreement.

By 1997, attempting to adjust to the situation on the ground, the international community, through the Peace Implementation Council, authorized the creation of the multi-agency Reconstruction and Return Task Force, or RRTF, to join efforts and accelerate the property claim resolution and return process through a collective exercise of its individual mandates.

It brought together as co-chairs the worldwide mandate and experience on humanitarian issues of UNHCR and the powers under the Dayton Agreement to issue final and binding decisions of the High Representative. Decisions which included the enactment of harmonizing legislation and the removal from office of obstructionist officials.

Reconciliation, by necessity, is a complex forensic process that operates within an international legal context and which must acknowledge new facts on the ground and any new rights acquired since the moment of initial dislocation.

Together with partner agencies which included the OSCE, the EU, donor governments, NATO's Stabilization Forces, and the UN's Police Task Force, and CRPC, the RRTF coordinated all efforts refugee and displaced persons.

The approach adopted by the RRTF and its member agencies was to transform the process of return and property claim resolution from a political issue into a "rights based" rule of law process, guaranteed by Dayton. Together, the RRTF agencies coordinated with its domestic counterparts to ensure:

- Non-discriminatory resolution and enforcement of property claims
- Freedom of movement across former lines of confrontation to reclaim and return to pre-conflict homes
- Coordinated reconstruction projects integrated with income generation projects and infrastructure repair; and
- Legislative reforms designed to ensure non-discriminatory access to social benefits upon return and more generally, designed to facilitate the exercise of free choice about returns.

By 1999, the resolution of property claims and housing reconstruction in support of return accelerated markedly. Significant factors in the acceleration were due to

- Greater guarantees of security and freedom of movement across former lines of confrontation and between formerly divided parts of the country;
- Better statistical tracking of claims, enforcement and the movement of those displaced;
- Strengthened enforcement mechanisms, including criminal sanctions for nonfeasance for those obstructing implementation of repossession decisions and harmonized legislation throughout the territory of BiH; and
- Allocation of sufficient resources from the international community, and subsequently by the parties themselves, to undertake intense monitoring of the implementation of the Agreement's provision on property and returns.

Although much has been accomplished since then, including nearly 1 million returns, the legal repossession of over 220,000 properties and the rehabilitation of over 140,000 homes, implementation of Dayton's Annex VII provisions on return and

property claims remains a qualified success. As many as 350,000 still seek durable solutions either within BiH or in countries of refuge.

In concluding, Mr. Taylor argued that the future Federal Government of Cyprus and its constituent states, together with partners in the international community, would have to ensure that operational procedures are established as soon as practicable.

These procedures should provide for:

- The exchange of information necessary to resolve property claims;
- A uniform process of review;
- Mechanisms to ensure that claimants are informed, in a timely manner, on all steps necessary to exercise their rights under the Agreement;
- Mechanisms to track compliance on the ground in a manner that allows the responsible authorities to identify problems, and develop solutions; and to
- Sanction responsible officials who do not fulfil their obligations under law.

Moreover, according to Mr. Taylor efforts to build confidence among the citizens of a United Cypriot Republic must rely on a process that is transparent, impartial and fair. He also noted that reconciliation, by necessity, is a complex forensic process that operates within an international legal context and which must acknowledge new facts on the ground and any new rights acquired since the moment of initial dislocation. That process must also be sufficiently flexible to address factual, legal and operational challenges unforeseen at the time the Agreement was reached. To the extent the Foundation Agreement does not provide such guarantees, the Agreement might fail to garner the necessary support in the upcoming referenda. After concluding, Mr. Taylor introduced the first speaker of this panel, Prof. Hans Van Houtte, Head of the Former Commission for Real Property Claims in BiH.

Hans van Houtte: Restoration of Property Rights in Post-conflict Situations: the Experience of Bosnian and Herzegovina

Mr. van Houtte concentrated on the work and structure of mass property claims commissions established by the agreement of the parties to an ethnic conflict. In this regard, van Houtte discussed lessons learned from the Former Commission for Real

Property Commission in BiH (CRPC) and related these to the context of the Annan Plan.

Van Houtte first sketched the history of the CRPC which was created by the Dayton Agreement that ended the hostilities between Bosniacs, Croats and Serbs in BiH in 1995. The CRPC continued to carry out its mandate until December 31, 2003. During this very sensitive and risky period, the Commission issued 300,000 final and binding decisions which were most often taken by consensus. It was mandated to deal with only real property claims based on involuntarily and forced transfer of possession since the beginning of the civil war on April 1, 1992.

Van Houtte emphasized that in order to guarantee the efficiency and impartiality of mass property claims commissions, their structure of composition should be very carefully designed. The CRPC offered interesting features in this respect.

It was designed as a public international institution, independent from the domestic law of the country where the properties of claimants were located. Consequently, the Commission was not subject to the domestic law of BiH but to international law. Thus, legislative and political developments could not jeopardise the independence and efficiency of such body. However, the international status of the CRPC was limited in time. Art. 9 of Annex VII stated that after five years all commissioners would be appointed by the Presidency of the Republic and the responsibility for financing and operation of the Commission would be transferred to the BiH Government, unless agreed otherwise.

The composition of the CRPC also sought to secure its independence and impartiality. It consisted of three international and six national members. The international commissioners were appointed by the president of European Court of Human Rights. The Federation of BiH appointed two Bosniacs and two Croat commissioners, and the Republika Srpska appointed two Serb commissioners. The Commission set up an administration of over 250 staff members based either in the headquarters or in one of the regional claim collection offices throughout BiH and abroad. The vast majority of the staff was locally recruited; only a few international staff members were hired to oversee the claim collection and claim determination operations.

The settlement of real property disputes in post-conflict societies is a delicate and risky task. Therefore, both international and national commissioners and staff were granted international protection respectively as diplomatic agents and members of the staff of a mission under the Vienna Convention on Diplomatic Relations. However, the national commissioners and local staff were not granted specific immunities and protection by the Dayton Agreement. In fact, they were more easily and frequently exposed to the pressure of the local community. In order to guarantee the independence of its national members and local staff, the Commission included in the Headquarters Agreement with the Republic of BiH that the national commissioners and staff would enjoy the immunities and protection under the Vienna Convention to the extent necessary for them to fulfil their tasks.

According to van Houtte, adequate application and decision procedures regarding real property claims must be developed in order to guarantee the efficiency and impartiality of mass claims commissions. The CRPC's earliest task was therefore to draft regulations laying down the claims registration procedure and substantive standards for claim determination. The Commission sought to formulate the most practical methods in the settlement of real property disputes created by the ethnic cleansing campaigns during the civil war.

According to the regulations, persons who were displaced within BiH and who took refuge outside the country could lodge a claim at the Commission's claim collection offices respectively in BiH and in the country where they resided for the real properties that they lost in the course of conflict. Since this procedure involved a large number of individuals, the Commission launched an information campaign on the real property claim process through brochures, radio announcements, TV spots and individual consultant services at the very beginning of the operations. A comprehensive, detailed and user-friendly claim form, which contained all the necessary information for the efficient processing of the claims, was also developed. In the first stage of claim application, the prospective claimant would be interviewed by a Commission staff member checking whether a claim fell within the Commission's mandate. In the meantime, the claimant would be informed both orally and in writing about the claim procedure. As the Commission was operating in a post-

war context, up to one third of claimants were not in a position to submit adequate documents providing their property rights. In these cases, the claimant needed to give all possible information about the claimed property. This information was immediately entered into a claims computer database.

The Commission had necessarily to limit the scope of the claims in order to process vast numbers of claims in the most expedient and efficient manner possible. The Commission was therefore only able to recognize the ownership or property rights and had to leave it to the claimant to select the remedy of his choice once his or her ownership/property rights were recognized. On the basis of such recognition, the possessor could choose to return to the property, to receive compensation, or to obtain simple confirmation of his or her property rights. The first option, which was considered the gateway to the restoration of a multi-ethnic society in the Dayton Agreement, was chosen by 54 percent of all claimants. 24 percent of the claimants preferred to receive compensation for lost property. The rest chose the third option.

Technically, decision-making was centralized in the headquarters in Sarajevo. Decision proposals were prepared by a multi-ethnic team of more than 45 lawyers and entered into the decision software. This advanced software was specifically designed to incorporate all possible legal variation relevant to the decision-making and to ensure the most efficient and expedient processing of all claims. Afterwards four commissioners, composing the Legal Working Group, reviewed the decision proposals and presented them for adoption to the plenary session. Almost all decisions were taken by consensus at monthly plenary sessions. Although the Dayton Agreement provided that the Commission's decisions were final, the Commission deemed it wise to allow an exceptional right of reconsideration to claimants and interested third parties in the absence of accurate and reliable property records. By the end of its mandate, the Commission had adopted 300,000 final and binding decisions. Only 0.8 percent of these decisions received reconsideration requests and 0.2 percent were accepted for reconsideration.

However the implementation of the Commission's decisions by the local authorities remained a very critical issue. Under the Agreement, the Republic of BiH and its constituent states were explicitly and specifically responsible for the enforcement of

the Commission's decisions. Unfortunately, in practice local authorities were rather reluctant to carry out the international obligation undertaken by their central authority. Nonetheless, the number of rendered decisions continues to add pressure on the competent local authorities to fulfil their obligations. So far 80 percent of the CRPC decisions have been implemented.

Difficulties in the materialization of compensation requests were another problematic issue of the implementation process. It was quite a delicate matter to determine the value of the property at the outbreak of hostilities, i.e. in April 1992. It was impossible to organize specific evaluations for each property, and defining fixed rates for compensations was not an easy task. Moreover, there was no money available for the Compensation Fund.

Turning to the Annan Plan, van Houtte argued that in view of the Bosnian experience the impartiality and independence of Cyprus Property Board and the efficiency and expediency of its procedures seemed to be appropriately designed in the Annan Plan. According to the Plan, each department of the Board would consist of three international members, two Greek Cypriot and two Turkish Cypriot members. When recruiting staff members, the Board would also strive to employ persons from the Greek Cypriot constituent state and the Turkish Cypriot constituent state in equal numbers. The Plan provided for both dispossessed persons and current users of an affected property who made a significant improvement to an affected property with the right to make a claim or an application in the Property Board for reinstatement compensation or transfer of title. In the Plan, it was required that applicants were to clearly indicate whether they preferred compensation or reinstatement. If the Board decided that the claimant was entitled to reinstatement, the case would be pending until all claims for reinstatement were received, in order to determine priority. The Board would also assist dispossessed persons with the arrangement of exchange of property and release contracts.

Van Houtte underlined that settlement of property disputes in the shortest possible period as well as clarification of ambiguous issues where possible is crucial in the normalization of ethnic relations in post-conflict societies. In this regard, the one year time limitation in the Plan for the applications to the Board would serve to restrict the

period of uncertainty of property rights in Cyprus, but unlike the case of BiH, the decisions of the Cyprus Property Board were not envisaged as final and they were subject to the judicial review of a Property Court. Thus, insecurity regarding real property issues might be of long duration. In addition, calculation methods regarding the amount of compensation were quite complicated and might create uncertainty to some extent. The gap between the economies of the North and South and the long period passed between 1974 and 2004 could make any value determination to the satisfaction of both sides extremely difficult. Furthermore, if sufficient amounts of money were not received from the Donor Conference, the Compensation Fund may not be able to carry out compensation decisions. It is important to foresee problems in the implementation of the Plan's provisions regarding property claims and to make necessary adjustments in advance. Otherwise, change of procedures in the middle of an on-going process will be problematic, and it will impede the legitimacy of process.

Donna Arzt: Managing Return Issues after the Prolonged Period of Separate Administration of Divided Societies: Israel and Cyprus Cases

Donna Arzt, Syracuse University, discussed another important aspect of the return provisions of the Annan Plan: How should the return of displaced persons and refugees be addressed after a prolonged period of separate administration of different ethnic groups? In this respect, while admitting significant differences between the parameters of the Annan Plan and those of the peace proposals for the resolution of Israeli-Palestine conflict, because the latter were based on two separate states principle, not one, Ms. Arzt stated that some important lessons could be drawn from the issue of Palestinian refugee return for the settlement of Greek Cypriot refugees problem.

Ms. Arzt argued that as in the case of Cyprus dispute, the settlement of the refugee and displaced persons problems created by the events of 1948 and 1967 wars is one of the stumbling blocks to the resolution of Israel-Palestine conflict. The positions of the Greek Cypriots and the Palestinians, on the one hand, and the Turkish Cypriots and the Israelis, on the other hand, were significantly similar. Like the Greek Cypriots, the Palestinians consider the right of Palestinian refugees to return a central element of any peace settlement. They have expressed this right in terms of both the moral claim of refugees to return to homes from which they have been displaced, and by reference

to a number of UN resolutions and general principles of human rights and humanitarian law. One of the most significant UN Resolutions is General Assembly Resolution 194 (III) of December 1948, which *inter alia* pronounces that "refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date..." Moreover, Palestinian refugee rights activists have begun to refer to the Louzidou Judgment of the European Court of Human Rights for the justification of their claims. However, Israel has so far strictly rejected Palestinians' right to return, and subsequently opposed any negotiations based on the principles of the aforementioned UN Resolution and the European Convention of Human Rights. Like Denktash, the head of the Turkish Cypriot negotiation team, Israeli spokespersons have argued that since the flight of refugees constituted part of a *de facto* "population transfer" during the war of independence, Israel bears little moral responsibility for Palestinian refugees. Furthermore, mainstream Israeli politicians are virtually unanimous in their assessment that no Israeli government would ever allow any significant demographic change which threatens the Jewish identity of the state.

Despite this large gap in official positions, it is nonetheless possible to find some middle ground between moderate Israeli and Palestinian commentators. Today many Palestinian politicians and intellectuals have come to the conclusion that the right to return should be understood to mean a return to national soil (in the West Bank and Gaza), rather than a return to 1948 homes. Ziad Abu Zayyad, for example, has suggested a distinction between the right to return as a principle and the exercise of

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this right as a collective right which means to return to Palestine (national homeland) and as an individual right which implies returning to one's home owned before 1948. Rashid Khalidi has also accepted that while all Palestinian refugees and their descendants have a right to return to their homes in principle, in practice *force majeure* will

prevent most of them from being able to exercise this right. Therefore, Salim Tamari suggests that should Israel recognize the right of Palestinians and their descendants to return to their homes, in principle, the Palestinians will recognize that this right cannot be exercised inside the 1948 boundaries but in a state of Palestine (i.e. in the West

Bank and Gaza). However, as part of these mutual concessions, Israel should take into its territory several tens of thousands of refugees, particularly those who have family members living inside Israel. The responsiveness of Israelis to this position has been mixed.

On the one hand, Likud spokespersons have rejected outright even a Palestinian "return" to the West Bank and Gaza. On the other hand, a number of influential Israelis have been open to the idea, provided that Palestinians explicitly abandon claims of a right of return to 1948 areas. Mark Heller, for example, has suggested that, given the impossibility or from his perspective, undesirability of implementing any right of return to the refugees' original homes within Israel proper, Palestinian refugees would instead be free to return to a Palestinian state in the West Bank and Gaza. According to him, this can be also accompanied by the admission of some former Palestinian refugees to Israel on humanitarian grounds. Even Shimon Peres, while emphasizing the resettlement of Palestinian refugees in their current place of exile, leaves the door open for this sort of arrangement, proposing that once a permanent settlement has been achieved, the Israeli government should not prevent Palestinians from moving freely within the territories Palestinian-Jordanian confederation. Furthermore, he has stated that the success of negotiations and the positive atmosphere thus created would make it easier for Israel to show goodwill in resolving the question of family reunification. Similarly, in an unofficial 1996 understanding between Labor's Yossi Beilin and the Palestinian negotiator Abu Mazen, it was suggested that the return of Palestinian refugees would be focussed on the West Bank and Gaza.

Ms. Arzt argued that on this middle ground a comprehensive and fair settlement of Palestinian refugee problem could be worked out. For this purpose, she identified four principles of peace for Israel-Palestine conflict:

- Discussion of the issue must be forward, not backward-looking, so that age-old battles over fault and causes of dislocation of the Palestinians will not be re-litigated;
- Wherever possible, obligations of the parties to the negotiations must be made reciprocal and regionally balanced;

- International normalcy, that is, how responsible, peaceful states and their citizens are expected to behave and interact, should be the standard;
- The parties must recognize that each people, both Palestinians and Israelis, has equal rights to land, statehood, security and survival.

She emphasized that a pragmatic approach, rather than a purely legalistic one, to the Palestinian refugee problem would serve best to the interests of the parties to the conflict. Moreover, a durable and just settlement of the Palestinian refugee problem should include four elements: 1) Absorption targets for refugee receiving countries, 2) the right to choose between different options, 3) Citizenship and Rehabilitation, 4) Transitional Institutions.

Absorption targets refer to the idea that each of the Middle Eastern parties participating in the final peace treaty negotiations -which will include Israel, the Palestinian Authority, Jordan, Egypt and hopefully, Syria, Lebanon and other Arab states- as well as any Western states which offer to participate, will absorb an optimal ("target") number of refugee families which will neither be demographically, politically nor economically disruptive to it or to neighbouring states. Ms. Arzt argued that although there is currently much popular opposition in Israel to the idea that even a single Palestinian refugee should return to live within the Green Line, this sentiment can be overcome when it is presented as part of a reciprocal and regional framework for resolving the Palestinian refugee question and obtaining a full-scale peace. Israel's decision to accept Palestinian refugees could be described, instead, as the same process of "absorption" that the Arab states would concomitantly be undertaking, rather than as the oft -feared acknowledgment of a Palestinian "right" to "return." Moreover, because there will be a top limit of 75,000 returnees, Israel need not risk being overwhelmed by a massive influx of non-Jews. It should be understood that Israeli agreement to this rather small and symbolic target of 75,000 persons is essential to facilitating the final peace agreement, because only when the Arab states see that Israel at least partially recognizes Palestinian claims for return (regardless of the terminology employed) will they themselves be willing to grant citizenship to and permanently absorb their own target numbers of refugees.

In addition, Ms. Arzt argued that all refugees should be offered a fully informed, written choice of available residential and compensation options, including absorption in a state in the region, return to the Palestinian territory in the West Bank and Gaza, or, if qualified (according to criteria such as family reunification and a commitment to live in peace with their Jewish neighbours), return to their ancestral home in Israel. Each family can, in writing, rank its residential preferences, which will then be accommodated according to available spots within the regional absorption targets. Compensation (either in the form of a "reintegration allowance" or real property) for those who are eligible but who do not return to Israel, will be awarded out of a fund contributed to jointly, and without acknowledgement of fault, by Israel, Arab states, and other countries, including those in the West which are unable to absorb significant numbers of refugees.

The refugees should also be offered citizenship and full protection of their human rights in each of the absorption states, including Israel, to which they go. The resettled refugees should receive rehabilitative services, including, health care, education and job training, in order to encourage their full social, political and economic integration. Given that Palestinian refugees have, for three generations, refused absorption in most of the places they have resided, this support will play a crucial role in the process of transition to true citizenship. These services can be supported by development funds awarded to the countries on the basis of their willingness to absorb optimal target populations and administered with the assistance of UN agencies and relevant non-governmental relief organizations.

Finally, necessary transitional institutions should be created in order to facilitate the process of deciding on target numbers, residential selection options, and compensation awards -and to ensure that such selections and awards are made fairly. Four new regionally balanced bodies can be considered: a joint population commission, a compensation tribunal, a repatriation committee, and a repatriation tribunal for appeal of the committee's decisions. When all of the decisions, selections, awards, and appeals are finalized, which may take about a decade, these institutions should be phased out. Claims to property or compensation must also be extinguished, so that closure on the refugee issue can be achieved. The final settlement agreement among Israel, the Palestinians, and their neighbouring states should also include a

commitment to a similar series of periodic review meetings, during which compliance with absorption targets can be surveyed and, if necessary, numerically adjusted to fit economic and other conditions that will emerge over time. Amendments to the procedural elements of the settlement should be permitted, if they are found by mutual agreement to be necessary. Further sets of target populations may even need to be devised every five or more years. If the participants are assured that the plan is flexible and capable of adjusting to changing needs, while remaining fair, practical, and balanced, they will have the incentive to comply with it.

In concluding, Ms. Arzt argued that a similar pragmatic approach could also be adopted for the settlement of displaced persons' return claims in Cyprus, although the characteristics of two cases are quite different. Unlike the Palestinian refugees, the Greek Cypriot displaced persons are completely integrated into the Republic of Cyprus which is ruled by the Greek Cypriots. Moreover, the Annan Plan envisages a one state solution under a federal state structure. Nonetheless, as in the case of the Israel-Palestine conflict, it is obvious that unless the ongoing rhetoric on the historical and demographic facts in Cyprus is cut, it will be impossible to find a solution to the problem of displaced Greek Cypriots, and this will continue to delay the reunification of the island.

Discussion

During the discussions, the participants from Turkey and Northern Cyprus voiced criticism of the way the Annan Plan would settle the disputes regarding mass property claims and return of displaced persons. They worried that although bi-zonality and bi-community principles were recognized by the Plan, if the provisions related to property and return issues were implemented as they were in the third version of the Plan, those principles would remain only on paper and the Turkish identity of the Northern constituent state would be threatened soon after the entry into force of the Agreement. Their greatest concern was the limitations put by the Plan on the percentage of Greek Cypriots who were entitled to obtain resident status and who were entitled to receive reinstatement in the adjust territories of the Turkish Constituent State, the Plan's unequal and unfair treatment of Turkish Cypriots, and the risk that the implementation of the Plan might lead to explosion of ethnic conflicts after 30 years of armistice.

The participants were also opposed to the provisions of the Annan Plan which granted political rights to the Greek Cypriots who would return to their homes in the North. According to the Plan, in 19 years Greek Cypriots constituting up to 18% of the population of the Turkish Constituent State would be eligible to receive resident status with the right to participate in local and constituent state elections. Persons older than 65, their spouses or siblings and the former inhabitants of specified villages would not be subject to this limitation. It is however estimated that after 19 years from the Plan entering into force, Greek Cypriots settled in the North could make up to 33% of the population. Mr. Aydın Dumanoglu pointed out that inasmuch as a significant number of Turkish Settlers would lose their citizenship status in Cyprus, the proportion of Greek Cypriot electors to the rest of electors in the Turkish Constituent State would be even much higher, probably 50%. In response, one expert argued that in practice only a few numbers of Greek Cypriots would choose to re-settle in the North, because they might find it difficult to find new jobs and schooling for their children. He added that inquiries on the attitudes of Greek displaced persons demonstrated that no more than 10% intended to return permanently their homes in the Turkish Constituent States.

The evaluation method of the properties affected was another very controversial issue in this session. Some participants claimed that the Plan favoured the Greek Cypriots at the expense of the interests of the Turkish Cypriots in the calculation of property values, because the evaluation process was based on current value method. According to the Plan, the increase of value of the affected properties would be calculated in the light of the hypothesis that the events between 1963 and 1974 had not taken place. The Plan therefore suggested that the calculation of increase be based on comparative locations where property prices were not negatively affected by those events. One participant noted that inasmuch as areas that were not negatively affected by the events of 1963 and 1974 were located in the South, the current values of properties in the North would be calculated on the basis of values of comparable properties in the areas under the control of Greek Cypriot Government. The prices of the affected properties in the North would thus become much higher than their market values. In this situation, it would be almost impossible for the Turkish Cypriots to obtain the transfer of title of those properties, because they did not have enough income to pay

their current value prices. He noted that under the on-going embargo, the economy of Turkish Cyprus remained backward compared to the economy of the South.

Some Turkish Cypriot participants also claimed that the implementation of return and property provisions of the Annan Plan would cause serious economic and social problems. It was argued that inasmuch as the Plan required the suspension of any transactions and physical alterations (apart from minor or emergency maintenance) of the dispossessed Greek-Cypriot properties, the economy of northern Cyprus would be severally damaged, considering the fact that the decision process of the Property Claims Board might take years. Another source of concern was the number of Turkish Cypriots which would have to be replaced. The participants also showed concern that the economic and social problems created by the return of Greek Cypriots might easily trigger ethnic violence between two communities. However, van Houtte stated that although ethnic violence to a certain extent should be expected in the course of the implementation, those instances could be taken under control provided that the parties honour their international obligations. In addition, he emphasized that with the end of uncertainty of the property rights of the Turkish Cypriots the economic situation of the people in the North would soon be improved. There would be much more opportunities for them to end their economic and political isolation.

Mr. Yaşar Yakış pointed out that although most of the Turkish Cypriot property in the South was the property of Islamic religious foundations (*evkaf mülkü*), in the Annan Plan the properties of religious institutions, which could be reinstated, were limited to those being used for religious purposes exclusively. Thus, a considerable amount of *evkaf mülkü* which were not used for religious services were excluded from the list of properties that could be re-instated.

Fourth Panel: Cyprus and the EU

Most of the controversial issues regarding the negotiation process, power-sharing arrangements, and property claims and managing returns were also closely related to the accession of Cyprus to the EU. Therefore, the aim of the last panel was to assess the political and legal ramifications of the EU enlargement process on the settlement of Cyprus problem. The question of how and to what extent the restrictions put by the Annan Plan upon the reinstatement of Greek Cypriot properties and the re-settlement of

Greek Cypriots in the Turkish Constituent State could be implemented under the European Community law was one of the key points of this discussion. Moreover, whether the existing minority protection within the EU was sufficient to protect the interests of the Turkish Cypriot Community was argued in detail. This session was chaired by Assistant Professor Jan Asmussen, who teaches at Department of History at the Eastern Mediterranean University in Northern Cyprus. The panel began with the presentation of Professor Sid Noel, King's College, Canada, on the implications of the EU membership for the implementation of power-sharing arrangements between the Greek Cypriots and Turkish Cypriots.

Sid Noel: The Implications of EU Membership for Governmental Institutions, Political Processes, and Foreign Relations

Sid Noel pointed out that if nothing else, the Annan Plan for Cyprus provided impressive evidence of the enduring intellectual appeal of consociational power sharing. In this respect, he wished to speculate on what effects the EU membership would have on the governmental institutions, political processes and foreign relations of the Cyprus, if the island became a member of the Union as a united state envisaged under the Annan Plan.

Firstly, Noel noted that the proposed institutions were designed to be at once consociational and federal. These institutions were designed by the UN and pressed upon unwilling partners. This scenario was notoriously prone to break down, he argued. In the case of Cyprus, all of the factors that were conducive to the success of consociations were very weak, or entirely absent. The effect of EU membership would therefore be positive if the EU promoted among its member states the growth of a general European "culture of consociationalism." It would be negative if the EU promoted instead a culture of "market freedoms and individual rights." In his view it was by no means clear in the course of negotiations which direction a future Europe would take. Secondly, he cautioned that federal systems rarely work as intended, and federal constitutions – however painstakingly fashioned – are in general a poor guide to the way institutions actually operate. Mr. Noel did not foresee that Cyprus would be an exception. Jurisdictions, competencies and revenue sources that are of major importance today may quickly be overtaken by social, economic and technological change and become obsolete. New areas that are not even contemplated today may

become essential. The details of constitutions are of course important, but they usually do not dictate the future *modus operandi* of federations.

So, Mr. Noel speculated what causes the *modus operandi* of federations to change through time? Firstly, he argued, they must adjust to internal pressures of change (demographic, social, economic, and ideological). Secondly, they must adjust to changes in their external environment. Thirdly, they must adjust to the political context within which they operate. The latter exerts an especially powerful influence upon small federations, for obvious reasons. For Cyprus, this meant that the EU context would be inescapable. The three pillars established at Maastricht in 1992 (economic policy, foreign affairs and security, and justice), for example, would have a major effect, and so too would future treaties and Europe-wide policies. EU political norms, as well as EU law, would limit the Cypriots' room to manoeuvre. Assuming that the EU continued to move towards closer political integration and democratization, the Cyprus federation would have to adjust. This would likely mean, for example, that legislative power would shift both upward to Brussels and downward to the constituent states – in effect, hollowing out the powers of the central government. Something like this can already be observed in the operation of the Belgian federation. Third, some things that were intended to change might not. For example, the "transitional" arrangements proposed in the Annan Plan might prove difficult to end. Finally, the constitution assigned residual powers to the constituent states, and it was these powers that have the greatest potential for future growth. The government of Catalonia, for example, has been a pioneer in devising ways to use EU standards to enhance its own regulatory powers through the process known as "gold plating" (i.e., enhancing EU regulations to protect Catalan interests). There is no reason why a future Turkish Cypriot state could not do the same to protect its vital interests.

As to political processes, Mr. Noel argued how the EU membership could affect the competition for political power in Cyprus. He foresaw three ways:

- The harmonization or standardization of laws governing such matters as party financing, political advertising, and media use;

- The growth of more tightly integrated Europe-wide parties and party alliances in order to contest more efficiently EU parliamentary elections, which would open up new opportunities for coalition-building among parties in the smaller states and perhaps increase their overall influence; and
- The expansion of political career opportunities. For Cypriot politicians, for example, the EU would provide previously unavailable opportunities to test their ambitions and skills in the larger arena of Europe. He predicted that this would influence their behaviour in domestic politics. For example, the governments of the constituent states could be effective springboards to EU political office, allowing politicians to bypass the central government.

Mr. Noel also emphasized that EU membership would narrow the central government's opportunities for foreign policy initiatives. He argued that there is a growing trend towards common European foreign and defence policies, and the scope of common policies is likely to expand further. At the same time, however, in a "Europe of regions" where there is a widespread tendency to favour devolution, EU membership would expand the opportunities of the Cypriot constituent states to operate in the international arena, especially in matters of culture.

Taking all these factors into account, he concluded that the future of the United Cyprus would be as much shaped by the EU environment in which it had to operate as by the arrangements proposed under the Annan Plan.

Thomas Diez: Turkey, Cyprus and the EU: Remarks on a Complex Triangle

Thomas Diez, University of Birmingham, concentrated on the implications of the Cyprus settlement dispute on the progress of Turkey's accession to the EU. He argued that although a solution to the Cyprus conflict would make the opening of membership negotiations highly likely, this does not guarantee eventual Turkish membership.

According to Mr. Diez, the opening of EU membership negotiations with Turkey and a solution to the Cyprus conflict were intrinsically linked, unless the Greek Cypriots were seen as the main cause of a failure to put the Annan Plan into practice (e.g.

through a rejection in the April referendum). He pointed out that the linkage was reaffirmed in the Thessaloniki European Council in June 2003 and the European Commission's 2003 Progress Report on Turkey. However, to understand the nature of the linkage, it was important to understand how the EU works, which is often problematic. He argued that crucial to the linkage were the political Copenhagen Criteria, now part of Art. 6 TEU. These include the requirement for all new members to observe human rights, but the EU does not itself have a final measure of this. It uses rulings by the ECHR as one proxy. In his opinion, one misunderstanding was to lump the ECHR and the EU together. In fact, the ECHR's rulings have been determined in part by the successful a Greek/Greek-Cypriot definition of the Cyprus conflict in international politics and law. They were not necessarily an expression of the political will of the EU as a whole, or all EU member states. However, the ECHR rulings strengthen the Greek position within the EU, because Turkey has been ruled against several times by the ECHR in connection with what the Court sees as the occupation of northern Cyprus by the Turkish army. Mr. Diez stated that despite the temporary settlement in the Louizidou case, the general view of Turkey as an occupier has remained. However, this would change if the Annan Plan were successful. He argued that it was in this context (in addition to apathy toward the fate of the north) that some doubts arose about the referendum on the Greek-Cypriot side, as compensation under the Annan Plan would amount to less than compensation granted by the ECHR.

Mr. Diez also discussed the possible implications of the ongoing debate on the identity of the EU on the Cyprus problem. He maintained that although much has been written about the construction of a European identity against Islam, in the context of Turkish membership, it was not clear whether such arguments were backed by EU member states at large. In Germany, for instance, the Christian Democrats' stand on this were highly contested. Instead, he argued that the current process of constructing an EU identity as "normative power Europe," based on the promotion of human rights has become much more important. In this process, particular actors are singled out against which the EU's identity as a normative power is constructed. This does not only affect Turkey, but was also observable in the EU's sanctions against Austria when ruled by a coalition involving the right-wing FPÖ. According to Mr. Diez, there is therefore a great deal to be gained for Turkey if it can no longer be

constructed as obstructing human rights in Cyprus, but is seen as a force working towards a solution to the conflict, and therefore as contributing to the success of the EU's normative power. He also noted that the Annan Plan committed a unified Cyprus in the EU to work towards Turkish membership (Foundation Agreement, Art. 1 (5)). From a Turkish point of view, there should therefore be nothing to lose from a solution in Cyprus in terms of EU membership. If there would be a solution, Cyprus will have to support the membership of Turkey, which it would almost certainly obstruct if Turkey were seen as spoiling the Annan Plan. If the Greek Cypriots reject the Annan Plan, international blame will shift, and steps towards the removal of international isolation of Northern Cyprus would be very likely.

Nonetheless, to Mr. Diez, this did not mean that Turkey's support of the Annan Plan would automatically guarantee Turkish membership. He argued that whenever membership negotiations were opened in the past, they were ultimately brought to a successful conclusion, partly due to political commitment, partly due to costs invested in the course of negotiations, but this might not necessarily be the case with regard to Turkey. One of the reasons for this is that there was a lack of firm political commitment by the present member states, which, before 1999, had been hiding behind Greece, and now face an open choice. However, he noted that those states might find themselves normatively compelled by the previously announced principal eligibility of Turkey. According to Mr. Diez, this provides a discursive resource that can be utilised by Turkey in negotiations.

However, he drew participants' attention to two remaining controversial issues. Firstly, he noted that when the political conditions for membership were fulfilled, the real problems might begin in terms of economic and administrative capabilities, although the pre-accession strategy tries to minimise such problems. Secondly, he stated that it was still unclear the extent to which the supranational character of the EU (i.e. the binding effect of the *acquis communautaire* in the EC pillar in particular, including rulings by the ECJ) was acceptable to all Turkish political actors, and across society at large. According to Mr. Diez, this is not a factor unique to Turkey (see the continuing debates in the UK in this respect), but it is one that requires still considerable soul-searching.

Christopher Brewin: The EU and Future Implementation of the Annan Plan

Christopher Brewin's contribution, which was introduced by Thomas Diez (Prof. Brewin's unfortunately had to cancel due to medical treatment), focused on the difficulties that the EU might face in the implementation of the Annan Plan, if both communities would vote for a United Cyprus. Brewin had identified two problems regarding the implementation of the Annan Plan within the EU framework.

Firstly, he indicated that although the European Commission and the Council had made it clear that they would not stand in the way of any settlement accepted by the Cypriot communities, it would be culturally difficult for the EU institutions to respect the degree of autonomy which the Annan Plan promised to the North. In principle, the Community regulations on non-discrimination would by definition be overruled by treaty rights conferred on the North to control movements of persons and capital with a view to maintaining the Turkish Cypriot *de facto* control of that territory. In terms of personnel, members of all the Community institutions and representatives of the member states would have difficulty in reversing their historic sympathy for the claims of the Greek Cypriots to be the legitimate authority by virtue of their majority population, greater wealth and sophistication. In cases of conflict between the unitary-state view of the Greek side and the two-states views of the Turkish Cypriot side, Community employees were bound to be aware of the dangers to their careers of offending Greece as the long-standing member-state most interested in their actions, or the necessarily dominant Greek-Cypriot element in the Cypriot representation to the Communities.

Secondly, he argued that while the EU promised that it would contribute to the prosperity of the North through Structural Funds and an additional commitment of €206m in 2004-6, the implementation of these promises would raise unusual problems for the Union. In his view, the problems regarding Greek Cypriot concerns over their past loss of property and Turkish Cypriot concerns over their future loss of voting dominance in the North would be less significant than anticipated. It was likely that urbanised Cypriots would see their family homes as 'second homes' and be uninterested in political power in the villages of their ancestors. On the other hand, the EU was likely to find that while the overall burden was less than anticipated, its own financial contributions would be greater. Therefore, in the event of a united Cyprus

entering the EU, Mr. Brewin expected the United States to make a much smaller payment than the Clinton Administration would have done. The British Commonwealth and Arab states would make token contributions. Norway, Australia, New Zealand and Switzerland would contribute as expected, but would be well aware that the EU and its member states had no alternative but to pay the bulk of the shortfall. As a consequence, the EU would be less willing to pay itself for the infrastructure costs of developing tourism, though the Union might well focus its subsidies on Nicosia airport and the port of Famagusta. In other words, foreign direct investment would become almost wholly a private matter, with over-rapid development of the cheap resorts as has happened in the South. The EU would choose to regard this outcome as a matter outside their purview.

Nonetheless, he emphasized that two very important prizes of the settlement of Cyprus problem for the Turkish Cypriots and Turkey could balance the aforementioned problems. First of all, peace in Cyprus would bring concomitant recognition and prosperity for the Turkish Cypriot community. Secondly, peace between Greece and Turkey would lead to the recognition of the European aspirations of a democratic Turkey. According to Brewin, the linkage was inherent in the Turkish acceptance that the UN should fill in the blanks not agreed by negotiations, a drafting process which would undoubtedly be influenced by EU officials.

Mr. Brewin's thesis was that the European Commission representative in Cyprus had to have unusual powers if he or she would deliver the autonomy promised to the North in the face of (1) the established principles, (2) the existing balance of power in the Community institutions, and (3) the likely Greek Cypriot choice of the portfolio of EU Commissioner rather than of the Foreign Ministry.

According to Mr. Brewin, the representative should therefore report to the Council as well as to the Commission. There should not be a division between a Council role in peacemaking and a Commission role in implementing the *acquis*. He pointed out that there was a precedent for this in that M. Abou, when he was the desk officer in the European Commission for Cyprus, also reported to the Council on the peace process. Moreover, Brewin suggested that there should be one EU Representative for the whole of Cyprus (leaving aside the anomaly of the sovereign base areas). If there

were two representatives in Cyprus, it was likely that it would be the representative to the stronger and more prosperous community who would be de facto senior. However, it might be a good idea to appoint an aide to the Turkish Cypriot government from the EFTA Secretariat, somebody like Per Norberg, experienced in extracting concessions from the EU by diplomacy. The representative would also have to demonstrate his/her independence of the Greek Cypriot community. Among the provocative acts needed to reassure Turkish Cypriot and Turkish opinion, he/she might move the EU office to somewhere like the Ledra Palace, and appoint Turkish Cypriot local officials in numbers equal to their Greek Cypriot counterparts. At last but not least, the representative should endeavour to use EU funding to protect the island's beaches and hills from destruction by developers. This means that the person appointed would need sufficient clout to defend his officials, to risk offending the Greek and Greek Cypriot governments, and to reassure Turkey that the EU was not a Sèvres conspiracy.

In conclusion, Mr. Brewin underlined that if the implementation of the Annan settlement was left to the balance of local forces, or to the balance of power within the EU, then the short-term gains to the majority community would be outweighed by the danger of continued unnecessary legal, diplomatic and perhaps military contention with Turkey as the dominant but dissatisfied regional power. The analogy he drew was with the majority community's near-success in 1973 in getting the Turkish Cypriots to accept minority status, followed by the total disruption of 1974.

Roberto Toniatti: Implementation of the Annan Plan under EU law: the Problem of Derogations

In the final presentation of the Seminar, Roberto Toniatti discussed the relationship between EU law and the Annan Plan, with specific emphasis on the extent of derogations from the *acquis communautaire*. He pointed out that although Turkey and the Turkish Cypriots demanded permanent derogations enshrined in “primary law” – i.e. in a separate treaty, this was not likely, because not only the Greek Cypriots would reject such derogations, but it was also too late to make a new treaty with all present and future member states. The derogations proposed by Turkey and the Turkish Cypriots sought to exempt Northern Cyprus from the rules that allow EU citizens to settle, buy and own property anywhere in the member states. Turkish Cypriots feared

that, if the restrictions in the Annan Plan on the settlement and property ownership of the Greek Cypriots in the North were not sufficiently implemented, the Turkish Cypriot Constituent State would could be overrun by economically and numerically superior Greek Cypriots, the Constituent State thus losing its “Turkish character.”

Mr. Toniatti stated that there is a precedent in the EU permitting permanent derogations to restrict the rights of persons to acquire and hold real property in whole or certain territories of another member state. Malta, for instance, obtained a permanent derogation in its 2002 accession treaty barring foreigners from buying property on the small south Mediterranean island. Through derogations, Denmark also continued to prohibit German nationals from purchasing immovable properties in Southern Denmark, even after Denmark joined the Union. Another permanent derogation example was directly related to the protection of a minority culture within a member state. According to Finnish law, in the autonomous Åland Islands, which are dominated by ethnic Swedish people, persons who do not have regional citizenship cannot settle, work and purchase real property without permission by the competent authorities of the islands. When the 1994 Treaty concerning the Accession of Finland to the EU was adopted, it was accepted that the non-discrimination rule of the Union law would not preclude the implementation of these restrictions aimed at the protection of the Swedish identity of the Islands.

Moreover, there is a precedent allowing temporary derogations during a transitional period. Poland, for example, gained a 12-year ban on foreigners buying agricultural land after it joined the EU this year to prevent Germans buying up border areas that were once German territory. This transitional period seeks to prevent the distortion of existing ethnic composition in western Poland, because of the economic disadvantage of Polish citizens. In the context of Cyprus, Mr. Toniatti indicated that all 25 present and future EU member states had already ratified Cyprus’s accession treaty, including a protocol with an enabling clause allowing the EU to accommodate a peace settlement through a Council of Ministers’ regulation adopted by unanimity. The adoption of such regulation would enable the Unified Cyprus to obtain temporary derogations from the EU law in order to implement certain provisions of the Annan Plan.

Mr. Toniatti furthermore pointed out that there are also various power-sharing and autonomy arrangements functioning in the member states without any permanent or temporary derogation. For example, the *Südtirol* region of Italy, which is dominated by the German-speaking minority, has an autonomous status reflecting ethnic characteristic of this province. According to the Autonomy Statute for the Province, the German language has parity with the Italian language and the proportional representation of all ethnic groups in the public sector is ensured. Similarly, the indigenous Sami populations in Sweden and Finland enjoy cultural autonomy arrangements which protect their linguistic, cultural and ethnic identity. It must be noted that some unitary states, such as Spain, Italy and Belgium, gradually evolved into federal states after they joined the Union. The case of Belgium is particularly important. Belgium is today a loose federation consisting of two highly decentralized, politically equal entities divided by language, religion and culture. Yet, Belgium has a single voice in the EU, a single legal personality and single citizenship. At the same time, the model allows for sovereignty to be split between EU, federal and component entity levels without encroaching on the competences of the two communities. The representation of Belgium before the EU is determined by the topic under discussion. In matters falling under the full/partial competence of the Community or regional governments, they will have the ability to represent Belgium before EU institutions. These arrangements enable two main ethnic groups in Belgium to protect their interest and identity within the EU.

In addition, Mr. Toniatti explained that emerging standards regarding the protection of minorities within the Union would contribute to the protection of the Turkish identity of Northern Cyprus. He argued that although no explicit provision has so far been adopted by the EU to protect minority rights, the value of minority cultures within the diversity of European cultures has been increasingly recognized. This development would support the regional autonomy of Turkish Cypriots, as a culturally, linguistically and religiously distinct community.

In conclusion, Mr. Toniatti stated that not only temporary derogations, but also recent trends in the EU toward recognition of autonomy and minority rights could play a very important role in the protection of the Turkish character of Northern Cyprus.

Discussion

The discussion in the last session focused on the final presentation, the problem of derogations. The participants from Turkey and Northern Cyprus voiced concerns that if the Annan Plan was accepted by both sides, provisions of the Agreement could be undone by the European Court of Justice. One participant argued that at least until the accession of Turkey, certain derogations from the EU law should be allowed to guarantee the full implementation of the Agreement. Another participant stated that since the Turkish Cypriots refused to be considered as a minority, instead of a constituent people, minority rights protection would not meet the expectations of the Turkish Cypriots from a just and sustainable solution. On the other hand, one participant criticized the approach of the EU to the settlement of Cyprus problem, stating that accepting Cyprus as a member state before a solution, the Union, in fact, made the *de facto* division of the Island permanent. He feared that since the Greek Cypriots obtained all they wanted from the EU, they would not tend to compromise. In response to some of these concerns, Toniatti stated that since the Turkish Cypriots are numerically inferior to the Greek Cypriots, they are considered as a minority and they were entitled to enjoy minority rights. However, this does not mean that they were not, at the same time, one of the constituent peoples of the Island. Regarding derogations, another expert pointed out that transitional arrangements, which are difficult to terminate, should not be adopted in the final agreement, because such arrangements delay the normalization of ethnic relations.

Concluding Remarks

The concluding remarks were offered by Tove Malloy, Head of Department, EU, Accession and General Issues at ECMI. Ms. Malloy began by noting that the panel presentations had yielded both highly relevant questions and ignited dynamic and at times intense discussions. She noted however that the debate had been conducted in a very constructive atmosphere and had not shied away from the highly controversial issues. While the discussions had not produced revolutionizing new approaches, they had at least in a few instances seriously questioned conventional assumptions. In wishing to summarize briefly the gist of the discussions, she highlighted the following points which were worth keeping in mind in the weeks ahead while the negotiations were taking place:

- that a piecemeal method as opposed to a comprehensive settlement was to be avoided as it could stall the process
- that power-sharing and consociational agreements must be considered *ad hoc* solutions to power allocation and state design
- that urgency in decision-making and methods of valuation were the most important factors in settling property claims
- that there are collateral costs of resettling people, such as the environment and social and cultural consequences

In addition, Ms. Malloy pointed out that the presentations in the last panel had explained well that the Cyprus settlement, what ever its form, must not be seen in isolation. Indeed, it had been noted how the power of a united Cyprus might likely experience weakening even early in its existence. Thus, it would be important to understand that the power base might be siphoned away towards Brussels. Moreover, we were reminded that both the geo-politics of the region and the *problematique* of constructing an EU identity were factors not to be neglected in our overall assessment of the Cyprus issue.

The purpose of the Seminar had been to identify areas of concern to the negotiation team of Northern Cyprus. Two salient issues had appeared early in the discussions. Firstly, the uncertainty of the status of the Annan Plan vis-à-vis Community or EU law as well as international law and whether derogations would play a role. And secondly, the various aspects of property returns not only in terms of valuation and

restitution but also in terms of demographics and cultural survival. Ms. Malloy thus announced that these two areas of concerns would be the focus of follow-on workshops. In addition, she pointed out that there were other issues which might feasibly be addressed in the future in a collaborative effort. These were reconciliation and dialogue for which there was provision in the Annan Plan, and the issue of the future of the bi-lingual city of Famagusta. Furthermore, it had been the intention to use the occasion of the Seminar to announce the launch of an international network, the Cyprus Settlement Support Network (CSSN). She noted that while the initial purpose of the Network was to support the Northern Cypriot negotiation team, the long-term idea was to nurse and maintain this Network.

Ms. Malloy finished by thanking the participants for accepting to attend even during a period of very intense and taxing political negotiations. She wished them much luck in achieving the goals they had set for their people. She also thanked the experts who had accepted to prepare and make presentations with very short notice, especially those who had travelled from quite far away. Finally, she thanked the Director of ECMI and his staff for making this event possible.

IV CONCLUSIONS

Some of the provisions which had been criticized by the participants were changed in the final version of the Plan. For instance, the provision that Greek property could be reinstated with 10% of the whole territory of the Turkish Constituent State and with 20% of any given village or municipality in the North had not been considered sufficient to protect the identity of Turkish Constituent State. In this connection, the primary concern had been that inasmuch as these limitations did not include only buildings or agricultural areas but entire land properties, it would lead in practice to the return of larger areas of territory to the Greek Cypriots. In the final version of the Plan, this provision was changed and it was adopted that individuals who lost property located in the other constituent state could get restitution of up to 1/3 of their property (in value and territory) and could be paid compensation for the rest in guaranteed bonds and appreciation certificates.

On the issue of property values, the final version of the Annan Plan changed the calculation method slightly stating that in the calculation of current values, the

comparative properties that were neither negatively, nor positively affected would be taken into account. The exact meaning of this change would, of course, need further clarification.

Finally, the issue of reinstating the properties of religious institutions was changed in the final Annan Plan. In the earlier version of the Plan those religious properties that were not used for religious purposes were excluded from the list of properties that could be reinstated. In the final Plan any religious property or property previously used for religious purposes between 1963 and 1974 could be reinstated.

APPENDIX A

PROGRAMME

- 09.15 Registration
- 09.30 Welcome Speech by Marc Weller, Director, ECMI
- 09.45 Opening Speech by Yaşar Yakış, The Head of the Turkish
Parliamentarian Commission for the Harmonization with the EU
- 10.00 **Process**
Chair: Prof. Hans Henrik Bruun, University of Copenhagen,
Denmark and former Danish Ambassador to Turkey
- Experts: Dr. Oliver Richmond, University of St. Andrews, UK
“The Significance of Negotiation Techniques in the
Settlement of Conflicts: Evaluation of Peace
Negotiations on the Resolution of Cyprus Problem”
- 10.20 Discussion
- 11.00 Coffee break
- 11.15 **Allocation of Power and State Design**
Chair: Christopher Decker, Research Associate, ECMI
- Experts: Prof. Anthony Obershall, University of North Carolina,
USA
“Recent Trends in Power-Sharing Arrangements: The
Cases of BiH and Cyprus”
- Dr. Florian Bieber, Central European University,
Hungary
“Federalism and the Annan Plan”
- Dr. Anna Jarstad, University of Uppsala, Sweden
“Consociational Theory and Ethnic Quotas in the
Future Re-Unified Cyprus: Striking a balance between a
functional state and the equality of two constituent
states”
- 12.15 Discussion
- 13.30 Lunch
- 14.30 **Property Claims and Managing Returns**

- Chair: Jayson Taylor, Deputy Head of Reconstruction and Return Task Force of the OHR, BiH
- Experts: Prof. Hans van Houtte, International Commissioner, Commission of Real Property Claims of Displaced Persons and Refugees, BiH
 “Restoration of Property Rights in post-conflict situations: the experience of Bosnian and Herzegovina”
- Prof. Donna E. Arzt, Syracuse University, USA
 “Managing return issues after a prolonged period of administration of a divided territory: the experience of Israel-Palestine conflict”
- Mr. David Fisher, Legal Officer for the Representative of the UN Secretary-General on Internally Displaced Persons, Switzerland,
 “International law and experience governing return and property compensation for IDPs”
- 15.30 Discussions
- 16.30 Coffee break
- 16.45 **Cyprus and the EU**
- Chair: Prof. Jan Asmussen, Eastern Mediterranean University, Cyprus
- Experts: Prof. Sid Noel, University of Western Ontario, Canada
 "Complex Power-sharing Arrangements under the Annan Plan: The Implications of EU Membership for Governmental Institutions, Political Processes, and Foreign Relations."
- Prof. Roberto Toniatti, University of Trento, Italy
 “Implementation of the Annan Plan under the EU Law: the Problem of Derogations”
- Dr. Thomas Diez, University of Birmingham, UK
 “How is a solution in Cyprus linked to Turkish EU membership?”
- 17.30 Discussions
- 18.30 **Concluding Remarks: “Referendum and beyond”**
 Tove Malloy, the Head of Department –Law, ECMI
- General Discussion and Summing up

APPENDIX B

LIST OF PARTICIPANTS

Experts and Chairs

Ambassador Hans Henrik Bruun
Professor Anthony Obershall
Professor Hans Van Houtte
Senior Lecturer Oliver Richmond
Professor Sid Noel
Professor Donna E. Arzt
Senior Lecturer Thomas Diez
Deputy Head Jayson Taylor
Asst. Professor Anna Jarstad
Assistant Professor Florian Bieber
Professor Roberto Toniatti
Asst. Professor Jan Asmussen

Participants

Mr. Yaşar Yakış, Head of Parliamentarian EU Commission and former Minister for Foreign Affairs, Turkey
Ali A. Dumanoğlu, Head of Joint EU Parliamentary Committee, Turkey
Mehmet Dülger, Head, Foreign Relations, Turkish Parliament
Mediha Akýþýk, Advisor, Turkish Parliament
Kutlay Erk, Mayor, Northern Nicosia, Cyprus
Mustafa Damdelen, Member of the Board, TRNC Businessmen Association, Northern Cyprus
Kudret Akay, Co-ordinator, Technical Committees to the negotiations and Advisor to Serdar Denktas, Minister for Foreign Affairs, Northern Cyprus
Raşit Pertev, Minister for Agriculture and Forest, Northern Cyprus
Ali Erel, Chairman CABP, President Turkish Chamber of Commerce, Northern Cyprus
Hüseyin Özel, Advisor to the Prime Minister, Northern Cyprus
Ahmet Fikretler, Advisor to the Prime Minister, Northern Cyprus
Mehmet Çađlar, MP and Head of Technical Committee on Constitution, Northern Cyprus
Ferdi Soyer, Secretary General, CTP, Northern Cyprus
Mustafa Gündüz, President, Turkish Chamber of Commerce, Northern Cyprus
Mustafa Akýncý, Chairman BDH, Northern Cyprus

ECMI Staff

Marc Weller, Director
Tove Malloy, Senior Research Associate, Head, EU, Accession and General Issues
Christopher Decker, Research Associate - Law
Tankut Soykan, Visiting Research Associate

APPENDIX C

BIOGRAPHIES OF EXPERTS

Donna E. Arzt is Professor of Law at the Law Faculty of Syracuse University, USA. She has published numerous articles on human rights in the Soviet Union and the Middle East and served as a consultant to the Association for Civil Rights in Israel, Human Rights Watch, and UN Special Rapporteur on population transfer. She is the author of the book, *Refugees into Citizens: Palestinians and the End of the Arab-Israeli Conflict*. Her current research pertains to the Middle East peace process, refugees, religious freedom in secular states, international criminal law and Islamic law.

Jan Asmussen is Asst. Professor at Eastern Mediterranean University, Department of History, Northern Cyprus. He previously served as the Head of Department of International Relations at Girne American University. He wrote several articles on the coexistence experience of the Turkish and Greek Cypriots in the mixed villages from a historical and sociological point of view. He is currently writing a book on the history of Cyprus.

Florian Bieber is a non-resident Research Associate at the ECMI and a recurrent Visiting Professor at the Central European University, Budapest. He also teaches at the Regional Masters Program for Democracy and Human Rights, Sarajevo. He published articles on nationalism and politics in South Eastern Europe. His research interests cover complex power-sharing arrangements, federalism and South Eastern European politics.

Hans Henrik Bruun is former Ambassador of Denmark to Turkey (1987-89). Between 1996-99 he was the Permanent Representative of the Danish government to the UN in Geneva. He is currently an Honorary Professor at Institute of Sociology, University of Copenhagen.

Thomas Diez is Senior Lecturer in International Relations Theory at the University of Birmingham, UK, and co-ordinator of EUBorderConf, an EU-funded research project on the impact of European integration and association on border conflicts. Among his publications are *The European Union and the Cyprus Conflict: Modern Conflict, Postmodern Union* (editor, Manchester University Press, 2002) and *European Integration Theory* (editor with Antje Wiener, Oxford University Press, 2003).

Anna Jarstad is Assistant Professor at the Department of Peace and Conflict Research at the University of Uppsala, Sweden. Her research interests are conflict management and conflict resolution in ethnically divided societies, democratic theory, constitutional engineering, and EU enlargement. She wrote her thesis in the Department of Peace and Conflict Research of Uppsala University on “Changing the Game: Consociational Theory and Ethnic Quotas in Cyprus and New Zealand” (Report No. 58. ISBN 91-506-1492-4, 2001).

Sid Noel is Professor of Political Science, King's College, and Co-director of the Nationalism and Ethnic Conflict Research Group at the University of Western

Ontario, Canada. His research interests are the politics of power-sharing in deeply divided societies, federalism and consociationalism, conditions conducive to the success or failure of constitutional accords. He is the co-author of *Power-sharing for Cyprus (again)? EU accession and the prospects for re-unification under a Belgian model of multi-level governance*.

Anthony Obershall is Professor Emeritus at the Department of Sociology at the University of North Carolina. His research interests are concentrated on Complex Power-Sharing and Institutions for Co-operation in Deeply Divided Societies. Apart from his various scholarly publications on the sociological aspects of ethnic conflicts and movements, he wrote articles on "Shared Sovereignty: Cooperative Institutions in Deeply Divided Societies" (1999) and "Bosnia: What Now?" (1999).

Oliver Richmond is Lecturer in International Relations at the University of St. Andrews, UK. His area of expertise is in conflict analysis and techniques for the ending of conflict, spanning mediation, conflict resolution, peacekeeping, and peace-operations. He is also interested in how critical approaches to international theory impact upon debates about conflict and peace. Apart from publishing various scholarly books on conflict resolution, he is the author of the book, *Mediating in Cyprus* (1998) and co-edited with James Kerlindsay, *The Work of the UN in Cyprus: Promoting Peace and Development*. In addition, he has authored several articles analyzing the role of the UN in the settlement of the Cyprus problem.

Jayson Taylor is an International Human Rights Lawyer who has worked on property and refugee return issues in the Balkans since 1997. In addition to serving as the Deputy Head of the Multi-Agency Return and Reconstruction Task Force, he consults on legislative reform projects related to public administration reform and property restitution.

Roberto Toniatti is Professor of comparative constitutional law and Dean of the Faculty of Law at the University of Trento. His main research interests are minority rights, multicultural citizenship, and issues of federalism and constitutional law of the European Union. Among his recent publications, see "Minorities and Protected Minorities: Constitutional Models Compared," in T. Bonazzi e M. Dunne (eds.) *Citizenship and rights in Multicultural Societies*, "Multicultural Citizenship and Education," in *European Journal for Education Law and Policy*, 2001, V, and Roberto Toniatti (ed.), *Diritto, diritti e giurisdizione: la Carta dei diritti fondamentali dell'Unione Europea*, (Cedam, Padova, 2001). He served as an expert on issues of minority protection and transborder co-operation within the South Tyrolean area as well as with the OSCE High Commissioner on National Minorities. He is also member of Member of the Editorial Board of *RATIO JURIS*, and the *International Journal of Jurisprudence and Philosophy of Law*, and serves on the Scientific Committee of the European Academy in Bolzano.

Hans Van Houtte is Professor of Law at the Catholic University of Leuven and International Commissioner of Real Property Claims Commission in Bosnia and Herzegovina. He previously worked as the President of Eritrea-Ethiopia Claims Commission. Currently, he conducts a research project on the restoration of property rights in the post-conflict situations at the Catholic University of Leuven.