Dilemmas of the Contradictory EU Membership of the Republic of Cyprus and Turkey-EU Relations

Güney Kıbrıs Rum Yönetiminin Çelişkili Avrupa Birliği Üyeliğinin İkilemleri ve Türkiye Avrupa Birliği İlişkileri

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Abstract

The "Republic of Cyprus" became an EU Member State on May 1, 2004, without a comprehensive settlement of the Cyprus problem. The country became a member without having full control over all the areas that it claimed to be under its jurisdiction, which contradicts the basic principles of the EU. This admission also constitutes a clear and evident clash with the principles of international law on which it is claimed that the EU is founded. By accepting the unilateral application of the Greek Cypriots, the international agreements related to the sui generis situation of Cyprus have been discredited by the EU. Moreover, with this decision, the final settlement of the Cyprus problem becomes more complicated than before and Turkey-EU relations become more asymmetric in favor of the latter. Deriving from these points, this article analyzes and demonstrates the paradoxes of the contradictory EU membership of the RoC, which is the most controversial membership decision ever made within the EU. Furthermore, the negative implications of this decision for the Cyprus negotiation process and on Turkey-EU relations are also examined.

Öz

Güney Kıbrıs Rum Yönetimi (GKRY), Kıbrıs sorununun çözümü olmadan 1 Mayıs 2004 tarihinde Avrupa Birliği (AB) üyesi olmuştur. Üstelik adı geçen ülke egemenliği altında olduğunu iddia ettiği toprakların tamamının üzerinde kontrolu olmamasına rağmen AB üyesi olmayı başarmıştır. Bu karar AB prensipleriyle çeliştiği gibi AB ülkelerinin üzerine inşa ettiklerini iddia ettikleri uluslararası hukuk prensiplerine de aykırıdır. AB, GKRY'nin tek yanlı başvurusunu kabul ederek, Kıbrıs Adasının uluslararası antlaşmalardan gelen kendine özgü (sui generis) karakterini de ortadan kaldırmış olmuştur. İlave olarak, bu kararla birlikte Kıbrıs sorununun çözümü artık olduğundan daha karmaşık bir hal almış ve Türkiye-AB ilişkileri de AB leyhine assimetrik hale getirilmiştir. Bu noktalardan hareketle bu makale AB'nin bugüne değin almış olduğu en tartışmalı karar olan Güney Kıbrıs'ın çelişkili AB üyeliğinin tutarsızlıklarını incelemiştir. Buna ek olarak, bu yanlış kararın Türkiye-AB ilişkileri üzerindeki olumsuz etkileri de ortaya konulmuştur.

1. Introduction

Historically speaking, the social contract and obligation to international law have formed the basis of social formation in modern Europe[1]. According to the

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1 For instance, *see* the views of Emerich de Vattel, Emerich, *The Law of the Land*, 2nd Edition, Victoria, Penguin 1992, p. 104-108, and

social contract concept, only people who are under contract could trust each other and honor their mutual obligations.[2] In this sense, when one analyzes the formation and development of the European Union (EU), it could be put forward that the key concept is obedience to international law. Moreover, the EU rules and principles clearly stipulate that the 'same principles' will be applied to all candidate countries during the EU negotiation process without any exemption. It is claimed that there is no space for 'bargaining' in the membership process. A candidate country must comply with the criteria of membership.

Having underlined all this, although the so-called "Republic of Cyprus"[3] (hereafter RoC) has not asserted its sovereignty over the Turkish Cypriot controlled area since 1964, the RoC became an EU Member State on May 1, 2004, without a comprehensive settlement being achieved over the Cyprus problem. Therefore, the RoC became a member without having full control over all the areas that it claimed to be under its jurisdiction. This reality alone contradicts the basic principles of the EU regarding the free movement of people, goods, and services, the freedom of residence as well as the application of the common EU policies. Furthermore, there is little doubt that the admission of the RoC into the EU before the final settlement of the Cyprus problem has made the attainment of a solution on the island more complicated than ever, if not impossible.

Deriving from these points, this article analyzes and demonstrates the paradoxes of the contradictory EU membership of the RoC, which is the most controversial membership decision made ever made within the EU. Moreover, the negative implications of this decision on the Cyprus problem and on Turkey-EU relations are also examined. Simply stated, it is argued that the paradoxical membership of the RoC has not only paralyzed the Cyprus negotiation process, preventing a peaceful settlement of the problem, but has also made Turkey-EU relations more asymmetric than ever.

2. The Contradictory EU Membership of the RoC

When the RoC applied for full EU membership, the Greek Government's argument was voiced by then Foreign Minister Georgios Iacovou as "the island's political situation should not have an effect on the country's EU membership application as in the case of East and West Germany".[4] Nevertheless, this claim

John, Westlake, *International Law*, Cambridge, Cambridge University Press 1904.

2 Jean-Jacques Rousseau, *The Social Contract and Other Later Political Writings*, Translated by Victor Gourevitch, Cambridge, Cambridge University Press 1997.

3 The Republic of Cyprus is not officially recognized by Turkey. In this article it is used by the internationally recognized name.

4 Rauf R. Denktaş, "Turkish Cypriot Memorandum Addresses to the Council of Ministers of the European Communities in respect of an "Application" for membership by "the Republic

is inappropriate and the Cyprus case does not bear similarities with the case of Germany. First of all, there are two different nations living on the island with two different ethnic roots, religions, languages, and cultures. Furthermore, when East Germany was incorporated into Germany, no claims were made by any country regarding the territorial scope of the membership and there were no problems regarding the authority and jurisdiction of the new state. More importantly, there was not a legitimacy problem, since East Germans gave full consent to being part of the EU.

The Cyprus case, however, was completely different from the German case because the RoC became a member without having full control over all the areas that it claimed were under its jurisdiction. This reality alone contradicts the basic principles of the EU regarding the free movement of people, goods, and services, the freedom of residence as well as the application of the common EU policies. The admission of the RoC into the EU also constitutes a clear and evident clash with the principles of international law, which is one of the main principles on which the EU was founded. By accepting the unilateral application of the Greek Cypriots, the international agreements related to the *sui generis* situation of Cyprus have been discredited by the EU.

From the perspective of international law, the membership of the RoC to the Union clashes with the founding constitution of the RoC that was accepted in 1959-1960 through the London and Zurich agreements. First of all, Article 8 of the London and Zurich Agreements, which defines the basic structure of the RoC and Article 50 of the RoC Constitution, emphasizes that:

The President and the Vice President separately or conjointly, shall have the right of final veto on any law or decision concerning foreign affairs, except the participation of the Republic of Cyprus in international organizations and pacts of alliance in which Greece and Turkey both participate, or concerning defense and security.

Similarly, Article 1 of the Treaty of Guarantee, which is one of the founding and fundamental constitutive treaties of the RoC, declares that:

The Republic of Cyprus undertakes to ensure the maintenance of its independence, territorial integrity and security, as well as respect for its constitution. It undertakes not to participate, in whole or in part, in any political or economic union with any State whatsoever. It accordingly declares prohibited any activity likely to promote, directly or indirectly, either union with any other State or partition of the island.

of Cyprus", in Necati M. Ertegün, (ed.) *The Status of the Two Peoples in Cyprus*, Third Edition, Nicosia, TRNC Ministry of Foreign Affairs Press 2005, p. 47.

Therefore, as these articles of the Constitution make very clear, from the international law perspective, even if both Greece and Turkey are members of aninternational organization that Cyprus would also like to join, either the President (who should be a Greek Cypriot) or Vice President (who should be Turkish Cypriot) have theright to veto this decision. Since Turkey is not a member of the EU, and the view of the Turkish Cypriot leadership was not taken into account, the RoC's membership application contradicts the principles of international law.

Secondly, Cyprus could not become a member of any political or economic organization of which both Turkey and Greece are not members. Since the EU membership refers to becoming a part of an economic and political union, there is an evident clash with the aforementioned principle. As argued by Mandelson, Article 1 of the Treaty of Guarantee specifically refers to this condition within the context of the clauses of the Treaty.[5] Additionally, the waiver or amendment of the aforementioned international obligations requires the consent of both the Turkish Cypriots and the three guarantor powers (the United Kingdom, Greece, and Turkey) independently. Even if the United Kingdom and Greece might have given their consent, since Turkey's consent is missing, any amendment could not be valid. Furthermore, this principle was implemented for the political, economic and social balance between Turkey and Greece in Cyprus. Nevertheless, the membership of Cyprus to the EU has broken this balance in favor of Greece and Greek Cypriots, as it again constitutes a clear clash with international law and the constitution of the RoC.

In summary, the RoC's admission into the EU clashes with the international treaties and the rule of law that the European countries widely advocated throughout history, especially following the post-Westphalian order. Furthermore, the crux of the problem is highlighted by two contradictory conclusions; if the EU still accepts the 1960 Treaty of Guarantee and Constitution as valid, then the admission of the RoC automatically contradicts with the international treaties and the rule of law. On the other hand, if the EU considers 1960 settlements to no longer be valid, this means that only the Greek side of Cyprus has become an EU member, which could pave the way for the recognition of the Turkish Republic of Northern Cyprus (TRNC).

Arguably, the main reason for the aforementioned paradox is Greece's earlier admission to the EU in 1981. This membership imposed an important constraint on Turkey-EU relations as it also gives a comparative advantage

5 Maurice. H. Mandelson "The application of 'The Republic of Cyprus' to join the European Union", in Ertekün, Necati Münür (ed.) *The Status of the Two Peoples in Cyprus*, Third Edition, Nicosia, TRNC Ministry of Foreign Affairs Press, 2005, p. 177.

to Greece on the issue of the RoC's membership.[6] With the membership of Greece, it was inevitable that the EU could not remain neutral towards the Cyprus problem. Greece not only attempted to block the normalization of the Turkey-EU relations from the mid-1980s onwards, but also blockaded the EU's economic incentives for Turkey, and utilized all possible instruments within the EU in order to support the membership aspirations of the RoC.

For instance, on March 6, 1995, Greece lifted its veto on the Customs Union agreement with Turkey in return for the guarantee that the RoC's accession negotiations would begin within six months. Similarly, on December 10-11, 1999 the European Council Helsinki Summit asserted that the political settlement in Cyprus would not constitute a precondition for the membership of the RoC to the EU. In return, Greece lifted its veto on the Turkish official candidacy. Finally, as a response to Greece's threats of vetoing the accession of Central and East European states (if Cyprus was excluded from the first wave of enlargement), on December 12-13, 2002 the European Council of Copenhagen declared that Cyprus would become a member of the EU from May 1, 2004, regardless of the status of a resolution to the Cyprus problem.[7] Therefore, it is evident that during each of the stages leading to Turkey's admission into the EU, Greece has used its membership advantage and forced the EU to compromise in regard to the RoC's membership to the Union.

To sum up, the Helsinki Summit declaration that enabled the admission of Cyprus into the EU was controversial. The accession of the Greek Cypriot administration into the EU as the sole representative of the whole island before a final settlement has been achieved is the main source of asymmetric negotiations in Cyprus. This argument could be further developed under three main points.

First of all, based on this decision, the EU authorities approved all the previous policies of the Greek Cypriot administration including the dismissal of the Turkish Cypriots from the legislative, executive, and judiciary organs of the RoC. The Greek Cypriot administration is accepted as the legitimate 'successor' of the 1960 Republic. At the same time, the Turkish Cypriot side's

6 For the examination of the Turkish-Greek relations *see* Hüseyin Işıksal, "An Analysis of the Turkish-Greek Relations from Greek 'Self' and Turkish 'Other' Perspective: Causes of Antagonism and Preconditions for Better Relationships", *Alternatives: Turkish Journal of International Relations*,1, No. 3, 2002, p. 116-135.

7 Lauren Mc Laren-Meltem Müftüler Baç, "Turkish Parliamentarians' Perspectives on Turkey's Relations with the European Union", in Ali Çarkoğlu, and Barry Rubin (eds.) *Turkey and the European Union: Domestic Politics, Economic Integration and International Dynamics,* London, Frank Cass. 2003, p. 205. *See* also Economist, "A Survey of European Union Enlargement", 19 May 2001, Neill Nugent, "EU Enlargement and the Cyprus Problem", *Journal of Common Market Studies*, 38, No. 1, 2000, p. 135, and Amikam Nachmani, *Turkey: Facing a New Millennium*, Manchester, Manchester University Press 200, p. 66.

political existence and economic condition were regarded as non-existent. The equivalent attempts for the adoption of the *acquis* and economic accession into the EU were not formulated for the Turkish Cypriots as a constituent political community and the partner of a prospective federation. This means that the Turkish Cypriots were degraded to a minority status and their political rights and equal community status in the island (that originated from the international treaties) have been discredited by the EU. In accordance with the international treaties, ideally, both communities had to participate in the decision-making process of this crucial decision at least by separate referendums. In consequence, this crucial political mistake could lead to the permanent division of the island.

Secondly, although the EU had asked the Central and Eastern European countries to settle their border and minority disputes before their accession through the Balladur Stability pact, the Cyprus problem did not constitute an obstacle for membership of the RoC. Through the membership of the RoC, the EU actually accepted a state that does not even enjoy full jurisdiction and the territory that it claims to rule. This incidence demonstrates that the EU could be selective on a set of principles and criteria that are applied for the candidate countries in accordance with its interests. This makes the moral arguments that are advanced in European circles highly questionable.[8]

Thirdly, the EU did not put any pressure on the RoC government to achieve a solution to the Cyprus problem. Accordingly, the RoC's membership makes it even harder to find a fair and lasting solution in Cyprus. As stressed by Ziya Öniş, the EU required a more balanced approach towards the Cyprus problem and should have set explicit standards for the Greek Cypriot government to resolve its disputes with the North as a necessary step for accession to full membership.[9]At the present time, the Greek Cypriot administration has no pressure, challenge, or incentive to compromise on a settlement of the Cyprus problem.[10]

3. The UN Annan Plan and the Testimony of the EU's Controversial Decision

The Cyprus problem did not move closer to a resolution with the United Nations (UN) Secretary-General Kofi Annan's proposed Plan. The Plan (which

8 Semin Suvarierol, "The Cyprus Obstacle on Turkey's Road to Membership in the European Union," in Ali Çarkoğlu, and Barry Rubin (eds.) *Turkey and the European Union: Domestic Politics, Economic Integration and International Dynamics,* London, Frank Cass. 2003, p. 65.

9 Ziya Öniş, "Domestic Politics, International Norms and Challenges to the State: Turkey-EU Relations in the post-Helsinki Era", in Ali Çarkoğlu, and Barry Rubin (eds.) *Turkey and the European Union: Domestic Politics, Economic Integration and International Dynamics,* London, Frank Cass. 2003, p.24.

10 "The Case of Loizidou vs. Turkey". Article 50. *HUDOC.* European Court of Human Rights web page available at http://cmiskp.echr.coe.int.

is commonly known as the Annan Plan) was the end result of the mandate given by the Security Council to the UN Secretary General. The Security Council gave full support to the plan as stated in the resolution in the following words:

(The Security Council) Gives its full support to the Secretary's General's balanced plan of 26 February 2003 as a unique basis for further negotiations, and calls on all concerned to negotiate within the framework of the Secretary-General's Good Offices, using the plan to reach a comprehensive settlement.

The Annan plan was drafted, reformed, amended, and finalized in accordance with "the vision of a settlement contained in Security Council resolutions" in a period that extended four and a half years.[11] It was the most comprehensive and detailed plan for a solution of the Cyprus problem that was prepared after the evolutionary five drafts following mutual consultation with each side's leadership. The first draft was proposed on November 11, 2002 and was based on feedback from the leadership of the two communities. The final version (fifth draft) of the Plan was completed on March 31, 2004 and was put into separate simultaneous referenda on both sides on April 24, 2004. Therefore, the Annan Plan represented a historic opportunity for the comprehensive and final settlement of the long-lasting Cyprus problem and for the re-unification of the island.

The plan was composed of a 183-page document with substantial details. The scope and space of this article are limited to the detailed analysis of the plan.[12]Fundamentally, the plan envisaged the establishment of a *new state of affairs* in Cyprus and called for the reunification of the island, under the name of the *United Cyprus Republic*. This new republic would be a bi-zonal federal structure comprised of two equal constituent states; the Greek Cypriot State and the Turkish Cypriot State. The Swiss model was used for the status and relationship of the state with its federal government and its constituent states, and the Belgian model for external and EU relations.[13] Therefore, the Plan aimed to reassert the political equality of the Turkish Cypriots through the formation of a federal Turkish state. On the other hand, it would reunify the island under a single international legal personality and sovereignty, and would enable the Greek Cypriots to control a greater proportion of the island's territory. In this way, the Plan satisfied the demands of the Greek Cypriots by

11 The UN Under-Secretary General for Political Affairs, Sir Kieran Prendergast Briefing to the Security Council on June 22, 2005 para.23.

12 The latest and full version of the Plan is available at http://www.unficyp.org/media/Other%20official%20documents/annanplan.pdf
For the detailed analysis of the Annan Plan *see* Hüseyin Işıksal, "Kıbrıs Sorunu ve Annan Planı Ekseninde Çözüm Stratejileri", in İrfan Kalaycı (ed.) *Kıbrıs ve Geleceği: Ekonomi Politik Bir Tartışma,* Ankara, Nobel 2004, p. 61-76.

13 Main Articles, 2.1 and 2.2.

implying that in the case of any crises and dissolution of the Republic, the sovereignty would remain in the hands of the central state, as was in the case in 1963.

In consequence, the Annan Plan was founded upon the *de facto* realities of the island that had existed since 1963. Being different to the 1960 settlements, however,the plan tried to overcome factors that led to the collapse of the 1960 partnership through a bi-zonal federation. As a result, it did not allow either party to reach their ultimate political objectives, but satisfied the basic demands of each side. Nevertheless, as a result of the referenda that were held separately on each side, the Turkish Cypriots approved the plan with a ratio of around 65 percent while the Greek Cypriots rejected it with an overwhelming 76 percent of the votes.[14]

This result that revealed such a strong rejection of the Annan Plan could be interpreted as the Greek Cypriots not opting for the comprehensive settlement of the Cyprus problem that was based upon political equality, bi-communality, and bi-zonality. This result also demonstrated that the Greek Cypriots were not ready for the 're-sharing' of the legislative, executive, and judiciary organs with the Turkish Cypriots. In other words, the Greek side was still not ready to accept the political equality of the Turkish Cypriots, as also acknowledged by the UN Secretary-General report. In the report submitted to the Security Council on 28 May 2004, S/2004/437, at para. 86, the Secretary-General emphasized that "If the Greek Cypriots are ready to share power and prosperity with the Turkish Cypriots in a federal structure based on political equality, this needs to be demonstrated, not just by words, but by action." These referenda also demonstrated which side has a greater willingness to achieve a peaceful and fair settlement of the Cyprus problem and which side prefers the continuation of the *status quo*. As a result, the UN plan was rejected, the Cyprus problem remained unsettled, and only the Greek Cypriot side as the representative of the RoC joined the EU.

The results of the referenda also created disappointment within the EU, which actively supported the Plan. Although the Greek Cypriot government President Tassos Papadopoulos seemed supportive of the Annan Plan at the beginning of the negotiations, he called on the voters to reject the Plan only one week before the referendum. The EU commissioner Gunter Verheugen, who was then responsible for the EU enlargement, expressed his disappointment with Papadopoulos's attitude in his speech before the European Parliament on April 21, 2004 by stating:[15]

14 For the detailed analysis of the Annan Plan and 2003 North Cyprus General Elections results *see* Hüseyin Işıksal, "Kuzey Kıbrıs Seçimlerinde Kazananlar ve Kaybedenler: 14 Aralık 2003 Genel Seçimleri ve Annan Planı Referandumu Üzerine", in İrfan Kalaycı (ed.) *Kıbrıs ve Geleceği: Ekonomi Politik Bir Tartışma*, Ankara, Nobel 2004, p. 61-76.

15 http://europa-eu-un.org/article.asp?id=3421 accessed on July, 12, 2004.

I am going to be undiplomatic; I personally feel that I have been cheated by the (Greek Cypriot) Government of Cyprus. For months, I have done everything I could in good faith to make it possible for the Greek Cypriot side to accept the Annan Plan on the understanding that this was what they intended to do. The Cyprus Government acted in a manner not benefiting of a country on the verge of EU membership…We have never been so close to an agreement, yet there is now little hope left. Greek Cypriot leadership had promised not to bring down a proposed agreement. But President Tassos Papadopoulos surprised everybody by pursuing a rejectionist strategy.

To sum up, the Annan Plan offered a historic opportunity for the solution of the Cyprus problem. Arguably, the Plan would have been able to satisfy the Greek side's interests in many ways. For instance, it was designed tore-unify the island under a single international legal personality and empowered Greek Cypriot dominated central federal government and sovereignty by dissolving the TRNC. Furthermore, it would have enabled the Greek Cypriots to control a greater proportion of the island's territory. According to the Plan, Turkish territories would be reduced to 29 percent from 36 percent. Moreover, the plan envisioned the return of the Greek properties, which represented 10% of the territory in the North. This would have further reduced the Turkish territory to 26 percent, which means that the Turkish Cypriots would have been obliged to give 28 percent of their existing territory to Greek Cypriots. The Plan also ensured that the Greek properties, which would not be returned to the original owners, would be compensated through exchange or reimbursement, which means that no Greek Cypriot would have been left disappointed.

Although Greek Cypriots had such incentives, they rejected the Plan with an overwhelming majority (76 percent). The best explanation for this decision is that Greek Cypriots did not want to share political power with Turkish Cypriots and opted for a unitary state where Turkish Cypriots would be a 'protected minority'. More importantly, the UN Annan Plan was also a clear testimony of the contradictory EU membership of the RoC. The Greek administration, which remains the sole internationally recognized government of Cyprus, has no pressure to accept the settlement of the problem by fair and just ways after achieving EU membership. The incentive of the already acquired EU membership further strengthened the Greek side's view that the Cyprus Problem should be settled based on their own political preferences with the support of the EU.

On the other hand, although the Turkish Cypriots said 'yes' to the UN Plan, the international embargoes imposed on them have yet to be lifted. However, the UN Secretary General Kofi Annan expressed his views related to the results of the referendum and called on the international community to

terminate the unnecessary restrictions and isolations on the Turkish Cypriots in his report to the Security Council with the following statement:[16]

The decision of the Turkish Cypriots is to be welcomed. The Turkish Cypriot leadership and Turkey have made clear their respect for the wish of the Turkish Cypriots to reunify in a bi-communal, bi-zonal federation. The Turkish Cypriot vote has undone any rationale for pressuring and isolating them. I would hope that the members of the (Security) Council can give a strong lead to all states to co-operate both bilaterally and in international bodies, to eliminate unnecessary restrictions and barriers that have the effect of isolating the Turkish Cypriots and impeding their development.

In addition to the calls of the UN Secretary-General, through various channels and statements, the EU representatives had also promised to end the isolation of the Turkish Cypriots if they voted in favor of the Annan Plan. For instance, following the Annan Plan referendum, the European Council of Foreign ministers declared on April 26, 2004 that the isolation of the Turkish Cypriots must come to an end. Similarly, the Parliamentary Assembly of the Council of Europe declared the Resolution of 1376 (2004) on the same day, which stated that:

The international community, in particular the Council of Europe and the European Union, cannot ignore or betray the expressed desire of the majority of Turkish Cypriots for greater openness and should take rapid and appropriate steps to encourage it. The Turkish Cypriots' international isolation must cease.

Despite these calls and declarations for the lifting of embargos and isolation on the Turkish Cypriots, there have been no improvements to date. Moreover, the Turkish Cypriot's 'direct' travel and trade demands continued to be ignored. Additionally, through the advantages of becoming an EU member, the RoC managed to block the European Commission's two draft regulations on the direct trade and financial assistance to the Turkish Cypriots in the post-Annan Plan era.[17] These regulations aimed to reduce the economic disparities between the North and the South of the island.[18] To sum up, the EU lost its objectivity and potential mediator role in the negotiation process and the UN Annan Plan became a testimony of the EU's controversial decision.

4. RoC Membership Bargains on Turkey-EU Relations

The RoC's membership to the EU also fundamentally changed and endangered the future of the Turkey-EU relations. Since Turkey's applied to the EU[19] for

16 The UN Secretary General Report to the Security Council on May 28, 2004 (S/2004/437).
17 Ahmet Sözen-Kudret Özersay, "The Annan Plan: State Succession or Continuity" *Middle Eastern Studies*, 43 No. 1, 2007, p. 138.
18 a.g.m.
19 The term of the European Union came into an effect in 1991 by the Maastricht Treaty.

full membership in 1987, the European Council made it clear that Turkey's membership has a direct relationship with the peaceful settlement of the Cyprus problem. For instance, in 1987, the Foreign Affairs Committee declared that Turkey's membership application would be frozen until Turkey made significant moves towards the settlement of the Cyprus problem.[20] In 1988, the EU authorities once more stated that they would use "the new powers acquired under the Single European Act" and will veto further normalization of the Turkey-EU relations unless Turkey changes her stance on the Cyprus problem.[21] In 1989, for the first time, the European Commission officially declared that the Cyprus Problem was negatively affecting Turkey-EU relations.[22] This view was also re-affirmed during the Dublin Summit in 1990.

In more recent times, the EU's Accession Partnership Document of November 2001 stated that a resolution of the Cyprus problem must be satisfied by Turkey as a medium-term objective. Similarly, during the July 13-14, 2003 Dublin Summit, the European Council warned Turkey that it should use its political weight to achieve a solution to the Cyprus problem in accordance with the UN Security Council resolutions. The resolution of the Cyprus problem was included in the conclusion of the Copenhagen Summit in 2004 as one of the decisive factors for the future relations between Turkey and the EU. In addition to these official statements, the EU has underlined the importance of a solution in Cyprus for Turkey's membership in every progress report since 2001.

After the RoC achieved membership to the Union, the tone and political demands from Turkey regarding the Cyprus problem became more subjective than ever. In other words, RoC membership clearly moved the balance of the EU in the Greek side's favor. For instance, among the significant decisions, in the progress report of 2006, it was declared that negotiations would not be opened on eight chapters including the free movement of goods, the right of establishment and freedom to provide services, financial services, agriculture and rural development, fisheries, transport policy, customs union, and external relations relating to Turkey's restrictions regarding the RoC. Moreover, it was stated that no chapter would be provisionally closed until the Commission confirmed that Turkey had fully implemented the Additional Protocol to the Association Agreement. The Council Decision of 18 February 2008 on the principles, priorities, and conditions in the Accession Partnership stated that Turkey should actively support a viable settlement of the Cyprus problem within the UN Framework. The same report also stressed the requirement to

Nevertheless, it is used within the thesis exclusively for the European Economic Community for the reasons of simplicity.

20 Foreign Affairs Committee, 1987, p.35.

21 Mehmet, Uğur, *The European Union and Turkey: An Anchor/Credibility Dilemma*, Aldershot, Ashgate 1999, p.183.

22 a.g.e., 185.

normalize bilateral relations between Turkey and the Republic of Cyprus and the removal of all existing restrictions on Cyprus-flagged vessels as soon as possible.[23]Similar phrases appeared in all the EU's Turkey progress reports.

In the most recent Turkey progress report published by the EU in 2018, it was underlined that there was no progress on normalizing bilateral relations with the RoC. It was further stated that "Turkey has still not fulfilled its obligation to ensure full and non-discriminatory implementation of the Additional Protocol to the Association Agreement and has not removed all obstacles to the free movement of goods, including restrictions on direct transport links with Cyprus"[24] There was also emphasize on the property rights of Greek Cypriots in Northern Cyprus. It was stated that although the Immovable Property Commission (IPC) has so far paid 310 million Euro in compensation to Greek Cypriots, there should be further progress in other applications.[25] In the report, it was also mentioned that "Turkey continues to apply a discriminatory visa regime" towards the RoC and challenges the right of the RoC to exploit hydrocarbon resources in the country's Exclusive Economic Zone (EEC) "for the benefit of all Cypriots."[26] The report also criticized Turkey's veto of the RoC's application to join several international organizations, including the Organization for Economic Co-operation and Development (OECD).[27] Finally, it was stated that "as long as restrictions remain in place on vessels and aircraft registered in Cyprus, related to Cyprus, or whose last port of call was Cyprus, Turkey will not be in a position to fully implement the *acquis* relating to this chapter".[28]

These documents make it clear that a solution to the Cyprus problem and recognition of the RoC put forward as political conditions on Turkey for EU membership, although this issue is not within the Copenhagen Criteria. Moreover, the EU officials also demonstrated that the EU has lost its objectivity on Turkey's 'red-line' foreign policy issues, such as the non-recognition of the RoC and the Exclusive Economic Zone problem in the Eastern Mediterranean. In other words, the EU only voiced Greek Cypriots political arguments in these highly debated issues. More dramatically, the RoC, as the member state of the union, is involved in all the decision-making mechanisms within the EU. Some political experts make the misleading argument that a small state like the RoC does not have a strong influence within the Union. However,

23 This statement also appears in 2005 Negotiating Framework Agreement that signed on October 3, 2005.
24 European Commission, Strasbourg, 153 final Commission Staff Working Document Turkey 2018 Report, p .6.
25 a.g.e, 30-31.
26 a.g.e, 48.
27 a.g.e,, 61.
28 a.g.e,, 78.

it should be kept in mind that the working mechanism within the EU gives 'opportunistic' chances to certain countries in order to exploit the Union for their own benefits. In other words, the organizational weaknesses and absence of unity within the decision mechanisms of the EU lead to the utilization of these weaknesses by a specific member state that is associated with the whole union. The intergovernmental nature of the EU and the requirement of any treaty of accession to be ratified by all the EU member states effectively gives all member states a veto power *after* the political decision is made at the European Council. Therefore, 'democratic consensus crises' within the EU may be utilized by EU member states for their own benefits. This is the exact situation incase of Turkey, which has been exploited by the Greek Cypriots.

To summarize, although Turkey desires to separate the Cyprus problem from its overall membership process, under the current situation, this does not seem possible. The Helsinki Summit declared that the Cyprus problem is not directly related to Turkey's membership process. Nevertheless, the functioning of the EU organs constrains this decision. With the membership of the RoC, in addition to Greece, Turkey would now face a double veto constraint. Technically speaking, both Greece and the RoC have 72 vetoes each (one for the starting of Turkey's accession negotiations, one for the opening of thirty-five *acquis communautaire* chapters, one for the closing of the thirty-five *acquis communautaire* chapters, and one for the final ratification of Turkey's membership after the complementation of all other criteria) during Turkey's admission process. All these factors have caused further asymmetry in the Turkey-EU relations in favor of the latter.

5. Conclusion

The admission of the RoC into the EU as the sole representative of Cyprus not only forms a clash with international law and the EU principles, but also causes an 'asymmetric negotiation' in Turkey's EU membership process. While the EU officially declared that Turkey should contribute to the solution of the Cyprus problem in order to become an EU member, the RoC never encountered similar preconditions for its EU membership. With this critical decision, the EU not only supported the territorial and political claims of the RoC, but also supported the embargo and isolations on the Turkish Cypriots. Therefore, the EU has become a party in the Cyprus problem rather than a mediator.

In consequence, the Greek Cypriot administration has no pressure or incentive to compromise under the current situation. Ironically, the EU membership had satisfied all the contemporary elements of unification with Greece (*enosis*)for Greek Cypriots in 21st century terms. Furthermore, the Greek Cypriots have no intention to relinquish their privileged position as the sole

recognized government of Cyprus that was further maintained after the EU membership. This development advocates the Greek side's aspiration to solve the Cyprus problem by *osmosis* through assimilation of Turkish Cypriots to the current *de facto* Greek Cypriot state of Cyprus as a 'protected minority'. Moreover, after the EU membership, the RoC became more assertive on the political demands from Turkey and Turkish Cypriots. The most contemporary demonstrations of this argument were witnessed in the Annan Plan referendum in 2004 and the Crans Montana talks in 2017, which both failed because of the Greek Cypriot administration's uncompromising attitude.

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