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# EUDO CITIZENSHIP OBSERVATORY

## *COUNTRY REPORT: CYPRUS*

Nicos Trimikliniotis

January 2010  
Revised April 2010



European University Institute, Florence  
Robert Schuman Centre for Advanced Studies  
EUDO Citizenship Observatory

***Report on Cyprus***

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**Robert Schuman Centre for Advanced Studies**  
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# Cyprus

Nicos Trimikliniotis

## 1 Introduction

Mapping out the complex historical, structural, politico-legal and cultural setting that has generated a specific kind of citizenship in the context of Cyprus is no easy task. In fact, we cannot speak of a citizenship policy as such; such a policy has never been formally declared or publicly discussed, save for times in which the media hysterically criticised the granting of citizenship.<sup>1</sup> It is, however, possible to deduce a policy from the practices since independence (Trimikliniotis 2000, 2009a).

In an area of 9,251 square kilometres the total population of Cyprus is around 754,800, of whom 666,800 are Greek-Cypriots (living in the Republic of Cyprus-controlled area). Upon independence in 1960, Turkish-Cypriots constituted 18 per cent of the population, whilst the smaller ‘religious groups’, as referred to in the Constitution—consisting of Armenians, Latins, Maronites and ‘others’ (such as Roma)—constituted 3.2 per cent of the population. It is the third-largest island in the Mediterranean; its geographical position, in the far eastern part of the Mediterranean Sea, historically adjoining Europe, Asia and Africa, has been both a blessing and a curse. Invaders and occupiers for centuries sought to subordinate it for strategic reasons, and this was followed by British colonial rule.

It became an independent Republic in 1960. In the post-colonial years, there was inter-communal strife and constant foreign intervention of one kind or another until 1974, when a coup by the Greek military junta and EOKA B<sup>2</sup> was used as a pretext for an invasion by the Turkish army and the subsequent division of the island (Hitchens 1997; Attalides 1979). Turkey still occupies 34 per cent of the territory, whilst 162,000 Greek-Cypriots remain displaced in the southern part of the country and 80,000 Turkish-Cypriots remain in the northern, occupied territories. Attempts to resolve the Cyprus problem have not been successful. Following the overwhelming rejection of a UN plan to resolve the problem by the Greek-Cypriots, and its overwhelming endorsement on 24 April 2004 by the Turkish-Cypriots, Cyprus entered the EU in a state of limbo. Cypriot policymakers still hope that the policy of accession to the EU will eventually act as a catalyst in the effort to find a settlement, but in the immediate aftermath of the referenda the two sides were divided about how to proceed (Hannay 2005; Palley 2005, Pericleous 2009, Varnava & Faustmann 2009).<sup>3</sup> The election of Demetris Christofias as President of the Republic of Cyprus in February 2008 has given new impetus to solving the partition problem. Direct negotiations between Cyprus’ two leaders, the Greek-Cypriot Demetris Christofias and the Turkish-Cypriot Mehmet Ali Talat, both left-wingers, began in September 2008 and have continued ever since. The two leaders have agreed on the parameters

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<sup>1</sup> This occurred when the government decided to grant citizenship to children of Turkish-Cypriots married to settlers in 2004 and 2005.

<sup>2</sup> This was an illegal terrorist organisation launched allegedly to campaign for *enosis*, i.e. union with Greece; it carried out bombings, murders of civilians and tried several times to assassinate President Makarios (Droussiotis 1994).

<sup>3</sup> These are two contrasting approaches regarding the referendum on 24 July 2004 and they have implications on how to proceed if a solution is to be found.

of the future solution; it will be a bi-zonal, bi-communal federation with a single sovereignty, territory and citizenship (see Trimikliniotis, 2009b). To evaluate the question of citizenship, one is forced to view the ever-present ‘Cyprus problem’ in the historical and politico-social context of the island and the wider troubled region of the near Middle East. While the ‘Cyprus problem’ persists and the *de facto* divide continues, the politics of ‘citizenship’ has not been frozen in time. Citizenship has played a central role in political discourse, both during and following the referendum on the UN plan in April 2004. The particular construction of the Republic of Cyprus was such that the struggle for legitimacy was elevated to the primary struggle for control of the state. In this conflict the two communal leaderships, the Greek-Cypriots and the Turkish-Cypriots, sought to materialise their ‘national aspirations’: for Greek-Cypriots the aim for *enosis* (union with Greece), and for the Turkish-Cypriots the goal of *taksim* (partition) would continue post-independence. The very concept of citizenship was not only ethnically/communally defined by the Constitution, but it was also a sharply divisive issue between the Greeks and Turks, acquiring strong ethnic and nationalistic overtones (see Tornaritis 1982; Chrysostomides 2000; Trimikliniotis 2000, 2009a and 2009b).

## 2 History of citizenship policy since 1945

### 2.1 The national subject under the colonial spell: ‘Modernising’ the millet system, divide and rule and the rise of irredentist nationalism

Following the opening of the Suez Canal in 1864, the British persuaded the Ottomans to cede Cyprus to the UK.<sup>4</sup> The British colonialists took over from the Ottoman rulers by Order in Council on 7 October 1878. They immediately embarked on a programme of ‘modernisation’ from above and from outside by introducing an administrative system superseding Ottoman law with English law. Britain formally annexed Cyprus in 1914, following Turkey’s support for Germany in the First World War; in 1923, under the Treaty of Lausanne, Turkey formally relinquished all its claims to Cyprus and it became a Crown Colony in 1925.

In the historical setting prior to the modern era,<sup>5</sup> ‘identity’ was not based on ‘ethnicity’: the notion of ‘citizenship’ did not exist under Ottoman rule outside the ‘millet system’, which is explained below. This implied that the Ottomans basically recognised the religious leaders of the flock, who spoke for their community and collected taxes for the Ottoman administration (Katsiaounis 1996; Kyrris 1980).<sup>6</sup> With the annexation of Cyprus by Britain, Cypriots became ‘natives of the colony’, but the essential characteristics of the Ottoman millet system, a system which was based on communal organisation and leadership along the lines of faith, were the bases upon which the faith-groups would be ‘modernised’ as ethnic communities. Hence, the Muslim community and Christian-Orthodox community millets were gradually ‘modernised’ by the British administrator. There was a transformation of the quasi-

<sup>4</sup> In return for protection from the expansionist aims of Russia and an annual payment to Turkey of the sum of £12,000.

<sup>5</sup> The ‘modernisation’ began before the British arrived in Cyprus; however, it was intensified with the arrival of the British colonists at the end of the nineteenth and the beginning of the twentieth century (see Katsiounis 1996).

<sup>6</sup> Such were the privileges granted to the Cypriot Greek Orthodox Church of Cyprus that the Archbishop of Cyprus had direct recognition from the Sultan, as ethnarchic leader, the *millet bashi*.

medieval community elites into ‘ethno-communal’ elites: on the one hand, the traditional religious leader of the Christian Orthodox flock, the archbishop, became the leader of the Greek community and, on the other, the old Ottoman administrators, who represented the fusion of the political and religious order of the sultanate-caliphate at local level, were transformed into the new political leadership of the Turkish community. The Cypriot ‘natives of the colony’ were thus gradually ethnicised. Nevertheless, the leaders of the autocephalous Greek Orthodox Church retained their ‘ethnarchic role’ (i.e. political leadership of the flock), despite a serious challenge from the mass secular movement AKEL (the Progressive Party for the Working People) from the 1940s onwards (Katsiaounis 2007). Moreover, the old Ottoman administrators were eventually transformed into the Kemalist elite, following the rise of Mustafa Kemal to power in the Turkish Republic (which succeeded the Ottoman Empire).<sup>7</sup>

## 2.2 Moments of (in)dependence: Ethno-communal citizenship and the nationalising of legally divided subjects (1959–1963)

The establishment of the Republic of Cyprus marks an important development in the history of Cyprus, as the island became an independent republic for the first time since antiquity, albeit in a limited way (see Attalides 1979; Faustmann 1999). The anti-colonial struggle had started in the 1930s.<sup>8</sup> The four-year armed campaign by the Greek-Cypriot EOKA (1955–59) for *enosis* and the Turkish-Cypriot response for *taksim* brought about a regime of ‘supervised’ independence, with three foreign ‘guarantor’ nations (the UK, Turkey and Greece).

The Cyprus Constitution, adopted under the Zurich-London Accord of 1959, contains a rigorous bi-communalism, whereby the two ‘communities’, Greek-Cypriots, who made up 78 per cent of the population, and Turkish-Cypriots, who accounted for 18 per cent of the population, share power in a consociational system. Citizenship is strictly ethno-communally divided. There are also three other minority groups who have the constitutionally recognised status of ‘religious groups’: the Maronites, the Armenians and the Latins. In addition, there is a small Roma community, registered mostly as part of the Turkish-Cypriot community, but never recognised as a minority group (Trimikliniotis & Demetriou 2009).

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<sup>7</sup> The beginning of the twentieth century saw a conflict between the ‘traditionalists’ and the ‘modernists’ in the Turkish-Cypriot community; a battle that was decisively won by the modernists (Anagnostopoulou 2004, Nevzat 2005).

<sup>8</sup> The 1920s saw the radicalisation of workers and the rise of the trade union movement on the left (largely Greek-Cypriot but bi-communal from its inception) and the radicalisation of the Greek-Cypriot right. By 1931 there were the first mass riots against the British which ended with the burning of the Governor’s residence, known as the Octovirana. In the 1940s, the left had risen as a mass movement and competed with the church for leadership of the anti-colonial movement (Katsiaounis 2007). By the mid 1950s the church re-established its authority with EOKA. EOKA (*Ethniki Organosis Kypriou Agoniston*, National Organisation of Cypriot Fighters) was the Greek-Cypriot nationalist organisation which started a guerrilla campaign against British colonial rule aimed at self-determination and union with Greece (*enosis*). The political leadership of EOKA was the church.

### 2.3 The ‘national’ rift: Collision and division between Greek-Cypriots and Turkish-Cypriots (1963–1974)

In 1963, following a Greek-Cypriot proposal for amendment of the Constitution, the Turkish-Cypriot political leadership ‘withdrew’ from the government. Since then, the administration of the Republic has been carried out by the Greek-Cypriots. Inter-communal strife ensued until 1967. In 1964, the Supreme Court ruled that the functioning of the government must continue on the basis of the ‘law of necessity’, or, better yet, the ‘doctrine of necessity’, in spite of the constitutional deficiencies created by the Turkish-Cypriot leadership withdrawal from the administration.<sup>9</sup> The short life of consociation did not manage to generate a strong enough inter-communal or trans-communal citizenship. This brief period of peaceful inter-communal political co-existence was tentative; we cannot therefore speak of a ‘citizenship policy’ as such, above and beyond the politics of the Cyprus conflict and the separate national aspirations of Greek- and Turkish-Cypriots, who continued to work towards *enosis* and *taksim* respectively, even after independence. Although *de jure* the Republic continued to exist as a single international entity, with the collapse of the consociationist power-sharing, the Republic in practice was controlled by the Greek-Cypriots. The Turkish-Cypriot leadership exercised *de facto* power within small enclaves throughout the territory of the Republic. This was a situation aptly called ‘the first partition’ by one scholar (Droussiotis 2005). The fierce fighting between 1963 and 1967 was followed by efforts at reconciliation until 1974, but these efforts failed.

### 2.4 The *de facto* partition: 1974–2003 following the invasion and occupation

Since 1974 the northern part of Cyprus, some 35 per cent of its territory, has been under Turkish occupation and outside the control of the Cypriot government. Some 100 Greek-Cypriots inhabit the northern territory, whilst only a few hundred Turkish-Cypriots continue to live in the government-controlled south (ECRI 2001, 2006; Kyle 1997). However, since the end of May 2003 the regime in the occupied territories has allowed Turkish-Cypriots to visit the Republic-controlled south—on the condition that they return before midnight—and Greek-Cypriots to visit the north—on the condition of passport inspection and with restrictions on their stay.

During this 30-year period the *de facto* partition meant that in effect there were two separate ‘stories’ about citizenship: the story of the Greek-Cypriots, who lived in the reduced territory of the internationally recognised Republic of Cyprus, and that of the Turkish-Cypriots, who lived under an unrecognised regime. Turkish-Cypriots are entitled to citizenship of the Republic of Cyprus and tens of thousands have obtained a passport. However, the vast majority of Turkish-Cypriots did not have access to the authorities of the Republic and were not allowed to cross over to the ‘other side’ by the occupying regime. Up to April 2003 there were few opportunities for ordinary Greek-Cypriots and Turkish-Cypriots to meet; while Greek-Cypriots did not have access to the occupied territories, Turkish-Cypriots were not

<sup>9</sup> The case was *Attorney General of the Republic v Mustafa Ibrahim and Others* (1964) Cyprus Law Reports 195 (see also Nedjati 1970; Loizou 2001).

allowed by the regime in the north to enter the area controlled by the Republic.

The period between 1974 and 2003 was characterised by the attempts of the break-away regime to consolidate partitionism in Cyprus (Dodd 1993). In spite of the efforts to reach an agreement on a solution based on the ‘High Level Agreements’ of 1977 and 1979,<sup>10</sup> the Turkish side continued its route towards separatism. The ‘Turkish Republic of Northern Cyprus’ (TRNC), a regime recognised only by (and heavily dependent on) Turkey, was declared in 1983.

The constitution of the unrecognised TRNC provides for an ethno-religious-based citizenship, to a large extent reproducing the provisions of the Republic of Cyprus (Dodd 1993). However, TRNC nationals cannot make use of the citizenship of an unrecognised state. Therefore, many Turkish-Cypriots sought passports from Turkey (see Kadirbeyoglu 2009) and the Republic of Cyprus particularly after accession to the EU. In the late 1990s, the TRNC leadership attempted to criminalise access to the passport of the Republic of Cyprus, but such efforts were subsequently abandoned as the numbers of Turkish-Cypriots seeking passports grew and there was a reversal of this policy once the Annan Plan (version 1) was first introduced in late 2002. In fact, many Turkish-Cypriot politicians now criticised the authorities of the Republic of Cyprus for failing to respond quickly enough to ensure the swift and full provision of access to citizenship, passports and the public goods that are available to the nationals of the Republic of Cyprus.

During the post-1974 period the Republic of Cyprus attempted to reinforce its legitimacy claiming that Turkish-Cypriot citizens enjoy full and equal rights under the Republic’s Constitution, such as general civil liberties and the rights provided by the European Convention on Human Rights (ECHR) as well as other human rights, save for those provisions that have resulted from (a) the ‘abandoning’ of the governmental posts in 1963–1964 and (b) the consequences of the Turkish invasion. The ‘doctrine of necessity’ would apply to allow for the effective functioning of the state, whilst the relevant provisions of the Constitution would be temporarily suspended, pending a political settlement (see further Chrysostomides 2000; Loizou 2001). However, Turkish-Cypriot citizens of the Republic had been denied their electoral rights since 1964, a matter which was found to be in violation of the European Convention on Human Rights,<sup>11</sup> save for the European Parliament elections in 2004. A new law was passed to at least partially remedy the situation before the parliamentary elections in May 2006.

Republic of Cyprus governments have always maintained that Turkish-Cypriots are entitled to full citizenship rights and to citizenship of the Republic. The children of Cypriots who now reside in the occupied territories or abroad and were born after 1974 are entitled to citizenship (as with Greek-Cypriots and ‘others’). The bureaucratic elements involved are due to the non-recognition of any documentation (e.g. birth certificates) from the TRNC.<sup>12</sup> The policy regarding the treatment of Turkish-Cypriots, who are Republic of Cyprus citizens, is rather contradictory. This reflects the complexity of the Cyprus conflict and the constant conflict for legitimacy and recognition. Inevitably, ‘the discourse of recognition’ (Constantinou & Papadakis

<sup>10</sup> These agreements set the basis for a bi-communal and bi-zonal federal republic following the invasion.

<sup>11</sup> See *Aziz v Republic of Cyprus* (ECHR) App. No. 69949/01. The full text of the judgement is available on the website of the European Court of Human Rights: [www.echr.coe.int](http://www.echr.coe.int).

<sup>12</sup> Hence the requirements to produce documents relating to birth of their Cypriot parents prior to 1974.



2002) spilled over into citizenship politics, interfering with the official policy of ‘rapprochement’. Ultimately, the consequences of the situation resulted in a failure properly to treat ordinary Turkish-Cypriots as ‘strategic allies’, in the context of independence from the Turkish-Cypriots’ nationalistic leadership, who are perceived as ‘mere pawns of Ankara’. Even today, the Republic of Cyprus seems to be failing to address certain basic matters: since Turkish is an official language of the Republic, allowing Turkish-Cypriots to communicate with government officials in their own language and making the laws, regulations and forms available in Turkish is a matter that could have been resolved, without much difficulty, and would protect the Republic from claims of discrimination and unconstitutionality (Trimikliniotis & Demetriou 2008). Moreover, the enjoyment of all rights, including the right to property (of those Turkish-Cypriots who fled their homes in 1963, 1967 and 1974), could have been handled with greater sensitivity and care, so that the Turkish-Cypriots, who are Cypriot citizens, would feel more welcome. At the same time, one has to appreciate the context, particularly the massive displacement of 162,000 Greek-Cypriots from the north, many of whom are housed in Turkish-Cypriot properties.

## 2.5 New issues for citizenship and citizenship policies

In the 1990s and early 2000s, a number of key issues opening up the question of citizenship and requiring a declared and consistent policy emerged.

First, the arrival of migrant workers, who today make up over 20 per cent of the total working population of the island, is a significant factor altering the ethnic makeup of the population. Although the initial design was that they should be ‘temporary’, they seem to be a permanent feature of Cypriot society (Matsis & Charalambous 1993; Trimikliniotis 1999; Trimikliniotis & Pantelides 2003; Trimikliniotis & Demetriou 2007).

Second, the arrival of Roma, who are classified as Turkish-Cypriots, from the poorer (occupied) north in the south between 1999 and 2002 created a panic of about the south being ‘flooded’ with ‘gypsies’. In spite of the fact that we are dealing with a group of Cypriots, who moved to the south, the reaction of the authorities, the media and the public at large displayed a hostile attitude as if they were undesirable ‘alien citizens’. Studies indicate that there is wide-spread resentment by the local Greek-Cypriot residents of the Turkish-speaking Roma coming to their neighbourhood in Limassol and ‘causing trouble’. There is evidence of discrimination against Roma in the Republic (Spyrou 2003; Trimikliniotis 2003; Trimikliniotis & Demetriou 2009a and 2009b), as they are generally viewed with suspicion by Greek-Cypriots, but also by Turkish-Cypriots. The arrival of large numbers in the south was greeted with fear and suspicion,<sup>13</sup> particularly when the then-Minister of Justice and Public Order alleged that they may well be ‘Turkish spies’,<sup>14</sup> whilst the Minister of the Interior assured Greek-Cypriots that the authorities ‘shall take care to move them to an area that is far away from any place where any people live’, in response to the

<sup>13</sup> M. Hadjicosta, ‘Fears over gypsy influx’, *The Cyprus Weekly*, 13–19 April 2001. [www.domresearchcenter.com](http://www.domresearchcenter.com).

<sup>14</sup> J. Matthews, ‘More gypsies crossing from north as Koshis warns about spies’, *The Cyprus Mail*, 3 April 2001. [www.domresearchcenter.com](http://www.domresearchcenter.com)

racially motivated fears of local Greek-Cypriot residents.<sup>15</sup> The socio-economic position of this generally destitute group renders them particularly vulnerable and dependent on welfare; the rights that derive from their citizenship status were thus mediated by the way various state authorities approached them (e.g. their lifestyle and harassment means that many do not have the necessary documents for claiming citizenship such as birth certificates, identity cards, etc.). Hence the failure to take into account the socio-economic conditions of the Roma may result in the denial of the right to obtain a passport, as was found in cases investigated by the Cyprus Ombudsman.<sup>16</sup>

Third, the opening of the ‘borders’ which allowed many thousands of Turkish-Cypriots to visit the south was generally greeted by both Turkish-Cypriots and Roma residing in the south with relief and optimism.<sup>17</sup> However, there was a tense atmosphere generated in the run-up to and aftermath of the referendum on the Annan plan to reunite the island on 24 April 2004, the rejection of which by the Greek-Cypriots has given rise to nationalist sentiment in the south (see Hadjidemetriou 2006, Pericleous 2009). The political atmosphere has drastically changed since the presidential election in February 2008 and the new negotiations to resolve the problem. Nevertheless, as long as there is no settlement, unease about the legal, political, socio-economic and everyday consequences of the de facto partition will remain.

The fourth issue concerns the children of settlers who are married to Turkish-Cypriots. This is a highly controversial issue as it brings out the conflict over the nature of the Cyprus problem: the Turkish policy of colonising the north seems to be a major obstacle to a solution. There is a misguided conflation of the internationally-condemned policy of an aggressor country, with the fact that we are also dealing with some basic rights and humanitarian issues relating to the rights of children and individuals who marry, found families and continue with their lives. The granting of citizenship rights to children and spouses of Turkish-Cypriots is an important political issue which has increasingly taken up the headlines and is discussed in the last section of this chapter. Moreover, the condemnation of a war crime (colonisation) must not be conflated and confused with issues regarding the conditions of sojourn and living conditions of poor undocumented workers, who are primarily present to be exploited as cheap foreign labour (see Hatay 2008; Faiz 2008). Finally, the issue of gender has become an important issue as regards citizenship. The position of women in the processes of nation-building and nationalism raises the crucial question of a gendered Cypriot citizenship, which one scholar referred to as

<sup>15</sup> The Minister of the Interior at the time, Mr. C. Christodoulou, now Governor of the Central Bank, said that he would not reveal the options discussed, because, ‘in this country, when it comes to illegal immigrants or gypsies (moving into an area), everyone reacts’. See ‘Our reaction to gypsies raises some awkward questions’, *The Cyprus Mail*, 10 April 2001, [www.domresearchcenter.com](http://www.domresearchcenter.com).

<sup>16</sup> A Turkish-Cypriot woman filed a complaint because her application to be registered in the Republic’s Citizens Record was rejected, on the basis that the birth of her mother had not been recorded in the Republic’s archives. The complainant’s mother had been born to Roma parents who failed to register her birth. It was also noted that the complainant was inconvenienced for several months due to bad advice by government officials as to the procedure with regard to her registration. In addition, she complained about the rejection of her application to enrol her child in school because the child did not have a birth certificate from the Republic. Following the Commissioner’s report on the matter, her child was finally enrolled in school.

<sup>17</sup> They thought that they could no longer be singled out, targeted and harassed and there was a general feeling of optimism and rapprochement (Trimikliniotis 2003).

‘the one remaining bastion of male superiority in the present territorially divided state’ (Anthias 1989: 150). This last ‘bastion’ was formally abolished with an amendment of the citizenship law in 1999 (No. 65/99), which introduced entitlement to citizenship for descendants of a Cypriot mother and a non-Cypriot father. The reluctance of Cypriot policymakers to amend the citizenship law, allegedly due to the concern about upsetting the state of affairs as it existed prior to 1974, cannot withstand close examination. After all, there have been seven amendments to the citizenship law prior to the amendment No. 65/99. It is apparent that the issue of gender equality had not been a particularly high political priority. Besides, in the patriarchal order of things, the role of Cypriot women as ‘symbolic reproducers of the nation’, particularly in the context of ‘national liberation’, as transmitters of ‘the cultural stuff’, required that potential association and reproduction of women with men outside the ethnic group must be strictly controlled (Anthias 1989: 151).

## **2.6 The rise of trans-communal subjectivity: Challenging the ethno-communal boundaries**

On 23 April 2003 there was a sudden decision by the authorities of the unrecognised TRNC to partially lift the ban on freedom of movement partially. This took most observers by surprise (Demetriou 2007), as the TRNC was abandoning the long-term vigorous opposition to Greek-Cypriot and Turkish-Cypriot contacts. The Turkish-Cypriot leadership allowed for a course of action which the peace and rapprochement movement had been advocating for years; yet the move was certainly a surprise. The issue of ‘passport control’ between the check points became an issue of tension between Greek-Cypriot politicians and media and their Turkish-Cypriot counterparts. However, this bureaucratic measure, which attempts to force on people the issue of ‘recognition’ has become part of the ‘struggle for legitimacy and recognition’ between the two political regimes, even though it is up to states and international organisations to recognise them. Cross-boundary contacts and interaction opened up new possibilities for citizenship policy, as the barbed-wire at last became penetrable.

The fluidity of the situation allows greater scope for citizens' initiatives aiming at reunification (see Demetriou 2006, 2007) and has opened up the debate on reconciliation in Cyprus (Kadir 2007; Sitas, Latif & Loizou 2007; Trimikliniotis 2007). The current measures cannot be a substitute for a settlement; it is an awkward state of limbo, whereby the 'citizens' are divided along ethnic lines, even though all Turkish-Cypriots are entitled to citizenship in the Republic of Cyprus and many thousands have actually acquired citizenship and passports. The contact since 2003 has created a pattern whereby a consistent number of persons cross over for work, leisure or other activities, estimated at about 20 per cent of the population.<sup>18</sup> The Third Report on Cyprus by the European Commission against Racism and Intolerance (ECRI) notes that a large number of Turkish-Cypriots have been issued with Cypriot passports (35,000), identity cards (60,000) and birth certificates (75,000), all of which are relevant figures as far as Cypriot citizenship is concerned (ECRI 2006: para. 78).

Interestingly, according to the Demographic Survey Report (PIO 2006: 12), the population of Cyprus was estimated at 854,300 at the end of 2005 (compared to 837,300 at the end of the previous year), of whom 766,400 lived in the territories under the control of the Republic; by the end of 2008 there were 796,900 persons, according to the Statistical Service of Cyprus. Turkish-Cypriots were said to be 87,000 persons, Greek-Cypriots 656,000 and foreign citizens 110,000. The same report estimated, on the basis of data from Turkish Cypriot sources, that about 58,000 Turkish Cypriots had emigrated since 1974. The number of 'illegal settlers from Turkey' was said to be 'most probably in the range of 150–160,000, which is estimated on information of significant<sup>19</sup> arrivals of Turks in the occupied area' (PIO 2006: 11).<sup>20</sup> The population issue remains a hotly contested one, not only between the two communities, but also within the Turkish-Cypriot community (see Hatay 2008; Faiz 2008).

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<sup>18</sup> Research by the College of Tourism in April 2004 is indicative of this trend. Various research surveys since show that the actual percentages of crossing remain at the level of 15–20%.

<sup>19</sup> The term 'significant' is not explained in the Demographic Report of 2005. See also the Statistical Service of Cyprus  
<http://www.mof.gov.cy/mof/cystat/statistics.nsf/All/8FAB138A3A20E5AAC2257643002A4D70?OpenDocument&sub=1&e=>

<sup>20</sup> The study by Hatay (2005) shows significantly lower figures for settlers and higher numbers for Turkish-Cypriots.

### 3 The Current Citizenship regime

#### 3.1 Main modes of acquisition and loss

Following the annexation of Cyprus by the UK,<sup>21</sup> all Ottoman citizens who were born in or normally resided in Cyprus became British subjects.<sup>22</sup> From that day the basic law regarding the granting of citizenship in Cyprus was the British Citizenship and Status of Aliens Act 1914 and later the British Citizenship Act 1948. Post-independence, Article 198 of the Constitution of the Republic of Cyprus, and Annex D of the Treaty of Establishment, which was annexed to the Constitution, regulated the initial determination of the citizenry and the granting of citizenship. Annex D was implemented with independence, as required by Article 195, which provides for the general principle of international law that all residents of the former colonial territory would automatically become citizens of the Republic (Tornaritis 1982: 35; Loizou 2001: 441).<sup>23</sup> Article 198.1(b) provided that ‘any person born in Cyprus, on or after the date of the Constitution coming into force, shall become a citizen of the Republic if on that date his father has become a citizen of the Republic or would but for his death have become such a citizen under the provisions of Annex D of the Treaty of Establishment.’

This was the case until the enactment of the main Law on Citizenship in 1967.<sup>24</sup> In 2002, a new Law on the Population Data Archives No. 141(I)/2002 unified all provisions regarding the archiving of births and deaths, registration of residents, registration of constituent voters and the registration of citizens. It also introduced special provisions for the issuing of passports and travel documents and refugee identity cards. The new Law has so far been amended four times; however, none of these changes affected the acquisition and loss of citizenship.<sup>25</sup> Together with Annex D this law currently regulates the acquisition and loss of Cypriot citizenship.

Cypriot policy-makers have followed the ‘mixed’ principle that combines *ius soli* and *ius sanguinis* (Tornaritis 1982: 38-39). However, *ius sanguinis* is far more important in the regulations than *ius soli*, as Cypriot descent is the primary criterion for acquisition of citizenship as will be shown below. Citizenship can be acquired automatically, by registration and by naturalisation, but at the core of citizenship policy remains the notion that all persons of Cypriot descent are entitled to apply.

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<sup>21</sup> The Cyprus (Annexation) Order-in-Council 1914, No. 1629 Statutory Rules and Orders Rev. (1948), vol. V, pp. 577-578. The order can also be found in Cyprus, (1920), Handbook No. 65 in the series, London: HMSO.

<sup>22</sup> The Cyprus (Annexation) Order-in-Council 1917, No. 1374 S.R & O. and The Cyprus (Annexation) Order-in-Council 1914, No.1629 S.R & O. Rev. (1948), vol. V, pp. 578-582.

<sup>23</sup> The provisions of Annex D are quite detailed, governing different categories of persons, and set out the basic structure of citizenship acquisition that was to follow also in the subsequent legislation on the subject (Tornaritis 1982: 33-41).

<sup>24</sup> Law No. 43/67, as amended by Laws No. 1/72, 74/83, 19(I)/96, 58(I)/96, 70(I)/96, 50(I)/97, 102(I)/98, 105(I)/98, 65(I)/99, 128(I)/99, 168(I)/2001.

<sup>25</sup> With laws No. 65(I)/2003, 76(I)/2003, 62(I)/2004 and 13(I)/2006.

### *Acquisition by descent*

A person born in Cyprus or abroad on or after 16 August 1960 automatically acquires Cypriot citizenship provided that at the time of his or her birth either of the parents was a citizen of the Republic or, in the case that the parent(s) were deceased at the time of his or her birth, either of them was entitled to acquire citizenship had he or she not been deceased. In cases of permanent residents abroad, this provision is not applicable unless the child's birth is registered in the prescribed manner.<sup>26</sup> This general rule is subject to two exceptions referred to in section 3.2 (below).

### *Acquisition via registration*

The following persons are entitled to be registered as Cypriot citizens upon application to the relevant Minister:

1. Citizens of the United Kingdom and Colonies or a country of the Commonwealth,<sup>27</sup> who are of Cypriot descent,<sup>28</sup> provided that they:

- ordinarily reside in Cyprus and/or resided for a continuous period of twelve months in Cyprus or a shorter period that the Minister may accept under special circumstances of any specific case, immediately before the date of the submission of their application,

- or are serving in the civil or public service; are of good character; intend to remain in the Republic, or depending on the circumstances, continue serving in the civil or public service (sub-s. 110(1) Law on the Population Data Archives No. 141(I)/2002 ); and

- sign an official confirmation of loyalty to the Republic.

2. Spouses or widow(er)s of persons who were citizens of the Republic, or spouses of persons who, had they not been deceased, would have become or would have had the right to become citizens of the Republic, provided that they:

- ordinarily reside in Cyprus and/or resided there for a period not less than three years;<sup>29</sup>

- are of good character;

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<sup>26</sup> Sects. 109(1) and (2) of Law No. 141(I)/2002 provide for the procedure and the appropriate forms. In cases where the applicant is underage, the application can be made by a parent.

<sup>27</sup> For Sub-sect. 110, 'a country of the Commonwealth' includes every country excluding the Republic of Cyprus, on the date of entry into force of the Law, which is a member of the British Commonwealth, and additionally includes Ireland and any other country that has been declared by an Order of the Council of Ministers as a Commonwealth country for the purposes of this section.

<sup>28</sup> For the purposes of Sub-sect 110, a person of Cypriot descent is defined as any person born in Cyprus and whose parents ordinarily resided in Cyprus at the time of his or her birth and includes every person that descends from these persons.

<sup>29</sup> There are also specific provisions allowing the minister to take measures after less than three years, but it is restricted to a minimum of two years. Also, for the purposes of this subsection 'ordinary residence' requires at least six months stay in Cyprus but in any case the total residence in Cyprus during the preceding three years prior to submission of the application must not be less than two years.

- intend to remain in the Republic, or depending on the circumstances, continue serving in the civil or public service of the Republic or the educational service of the Republic or the Police force of the Republic even after registration as citizens of the Republic (Sub-section 110(2)); and sign an official confirmation of loyalty to the Republic.

3. Underage children of any citizen. In this case the application for citizenship has to be submitted by the parent or the guardian of the child.

A person who has renounced his or her citizenship of the Republic or has been deprived of it may not be registered as citizen of the Republic according to Section 110, but may still be registered with the approval of the minister (Sub-section 110(4)). Persons who have been registered under this section become citizens of the Republic from the date of their registration (Sub-section. 110(5)). This provision places Cypriot descent at the core of the right to acquire citizenship; spouses and under-age children who are resident in Cyprus can apply but their application is treated as dependent on the person of Cypriot origin. Moreover, there is an issue of how the rights of spouses and dependents are implemented. In fact, the practice of the immigration authorities of deporting migrants who have been living in Cyprus for several years continued in spite of criticism from legal circles, from human rights NGOs, from the Ombudsman and from the Commissioner for Legislation.<sup>30</sup> Within a time span of only a few weeks, the Court cancelled deportation orders in numerous instances.<sup>31</sup>

*Acquisition via naturalisation (πολιτογράφηση (politográphese))*

A non-Cypriot who resides lawfully in the Republic may acquire citizenship via discretionary naturalisation if he or she fulfils all of the following conditions formulated in Table 3 annexed to the law (Sub-section 111):

1. He or she has lawfully resided in the Republic of Cyprus for the entire duration of twelve months immediately preceding the date of application;
2. Over and above the twelve months referred to above, during an additional continuous period of seven years in the period immediately prior to this, the applicant must have ordinarily resided in the Republic, or have been serving in the civil or public service of the Republic, or a combination of both options, for periods amounting in total to no less than four years;

<sup>30</sup> L. Leonidou, 'Authorities in the dock over treatment of immigrants', *The Cyprus Mail*, 15 January 2006.

<sup>31</sup> Some indicative cases are the following: *Lali Jashashvili & Costas Hadjithoma v The Ministry of the Interior and the Immigration Officer and Nebojsa Micovic v. The Republic of Cyprus through the Chief Immigration Officer*, where the Supreme Court cancelled the deportation order against nationals living with their families and working in Cyprus since 1998. Another case involved the deportation order issued against the Pakistani national Mahmoud Adil when his asylum application was rejected. The deportation order was cancelled by the Court on 13 January 2006 based on the argument that the immigration authorities should have taken into account the fact that the appellant was married to a Polish (and therefore EU) citizen.

3. He or she is of good character; and
4. He or she intends to reside in the Republic.

The law also provides for acquisition of citizenship via naturalisation for students, visitors, self-employed persons, athletes and coaches, domestic workers, nurses and employees who reside in Cyprus with the sole aim of working there as well as spouses, children or other dependent persons. The prerequisites are that they must have ordinarily resided in the Republic for at least seven years and one year in the period immediately prior to the application their stay must be ‘continuous’.<sup>32</sup> There are also exceptional situations where citizenship may be granted.<sup>33</sup> However, the regime is based on discretionary power of the authorities and in particular the discretion of the Council of Ministers and the Minister of the Interior (see section 3.2 below).

### *Renunciation and deprivation of citizenship*

Any adult citizen of sound mind who is also a citizen of another state may renounce his or her citizenship by submitting a confirmation of renunciation, and the minister will take the appropriate action for the registration of such confirmation (Section 112).

Deprivation of citizenship is possible, only for citizens who acquired citizenship via registration or naturalisation, via an Order of the Council of Ministers (Section 113) under the following circumstances:

1. When it is established that the registration or certification of citizenship was obtained by deceit, false pretences or concealment of a material fact (Sub-section. 113(2)).

2. If the Council of Ministers (Sub-section 113(3)) is satisfied that: through deeds or words such a person has demonstrated a lack of loyalty to the laws of the Republic;<sup>34</sup> or, in a war fought by the Republic, such a person was illegally involved in an exchange with the enemy, has contacted the enemy or was in any way involved in any operation in which he or she knowingly assisted the enemy; or within five years from naturalisation, he or she is convicted in any country of a crime carrying a sentence of one year or more.

3. If the Council of Ministers (Sub-section 113(4)) is satisfied that the naturalised citizen has ordinarily resided in foreign countries for a continuous period of seven years. The Council of Ministers cannot deprive a person of citizenship unless it is satisfied that it is not in the public interest that the said person remains a citizen of the Republic (Sub-section 113(5)).

The above appears to be contrary to Article 5 of the 1997 European Convention on Citizenship, which Cyprus is yet to sign. In fact, the Second and Third ECRI Reports on Cyprus recommend that Cyprus signs and ratifies this Convention. In any case, there is a complaint before the Equality and Anti-discrimination Body arguing that the above provision is contrary to the general prohibition of discrimination as laid down in Article 1 of Protocol 12 to the European Convention on

<sup>32</sup> Introduced by amendment 58(1)/1996.

<sup>33</sup> Introduced by amendment 70(1)/1996.

<sup>34</sup> The Greek term used is νομιμοφροσύνη (nomimophrosine).



Human Rights, which has been ratified by the Republic of Cyprus.

It is apparent that the decisive element in the granting of citizenship is Cypriot descent which is combined with birth to form the various categories of rights provided. First, we can identify the following categories of persons of Cypriot descent:

1. Greek-Cypriots (and the three religious groups) born in the area controlled by the Republic of Cyprus: this category is not really an issue as citizenship is granted automatically.

2. In principle, the same ought to apply to Turkish-Cypriots born in Cyprus and to children who have at least one Cypriot parent. Turkish-Cypriots born in the occupied territories are automatically entitled to citizenship provided that they submit documents of their parents or grandparents issued by the Republic of Cyprus or the colonial authorities (TRNC documents are not recognised). However, in practice Article 109 of the Law No. 141(I)/2002 may result in a more discretionary regime for persons one of whose parents is a Turkish national, even if they reside in the area under control of the Republic.

3. Persons of Cypriot origin born abroad, who have one Cypriot parent, are entitled to citizenship.

4. Persons of Cypriot origin born abroad between 16 August 1960 and 11 June 1999 and whose entitlement to Cypriot citizenship is solely based on their mother being Cypriot (or being entitled to Cypriot citizenship) are not entitled to citizenship. They may, however, apply to acquire citizenship via registration.

5. Children born in Cyprus to non-Cypriot migrants who legally entered and reside in Cyprus and have acquired or would have been entitled to acquire Cypriot citizenship via naturalisation are entitled to citizenship.

6. 'Collateral' policies have been developed to use tax incentives and a national service 'discount' for men (six months if under 26 and three months if over 26 instead of the normal 25 months of national service) to attract Greek-Cypriots from abroad to live in Cyprus.

7. Second, those who are not of Cypriot origin can only acquire citizenship via naturalisation or registration. Therefore, non-Cypriots who legally entered and reside in Cyprus are not entitled to acquire Cypriot citizenship. But they can acquire citizenship by discretionary naturalisation, providing that they fulfil the required qualifications.

8. Children born in Cyprus to migrants who do not hold Cypriot citizenship or have a right to acquire it are not entitled to citizenship

### **3.2 Specific Rules and Status of Certain Groups**

#### *Acquisition by descent*

In terms of acquisition by descent for persons born in Cyprus or abroad on or after 16 August 1960, automatic acquisition of Cypriot citizenship has two exceptions:

Firstly, the current law provides that children born to parents, one of whom unlawfully entered or resides in the Republic, do not automatically become citizens of

Cyprus even if the other parent holds or would have been entitled to Cypriot citizenship. They can become citizens only following a decision of the Council of Ministers.<sup>35</sup> This amendment was apparently directed against Turkish nationals who settled in the northern part of the country currently under Turkish occupation since 1974, when Greek-Cypriot policymakers deemed politically ‘necessary’ or ‘expedient’ to take action justified as combating illegal settlement in what is perceived by Greek-Cypriots as a colonisation policy by Ankara. However, this provision is obviously discriminatory against persons who have Turkish-Cypriot descent from one parent and is contrary to the Constitution and international obligations of the Republic. Whether children of Turkish nationals should be granted Cypriot citizenship remains a hot political issue and there are conflicting accounts of which categories of persons are affected. Media reports and right-wing politicians seem to concur that the issue at stake is the granting of citizenship to children who have one Cypriot parent and another who is a settler. Nevertheless, ministry officials claim that persons falling under this category are invariably granted citizenship, albeit in a manner that does not cause strong reactions.<sup>36</sup> In any case, making a child’s citizenship conditional on the status of ‘legality’ or ‘illegality’ of one of the two parents, not only violates the rights of children, as provided for in the UN Convention for the Rights of the Child, but also constitutes discrimination against the children who are victimised by the political situation and whom the Republic has an obligation to protect and respect. Due to the lack of transparency, it is not possible to assess the implementation of this law.<sup>37</sup> The Third ECRI Report on Cyprus (2006: 8) notes that ‘citizenship has been granted by this procedure to children whose Cypriot parent was a Turkish Cypriot and whose other parent was a citizen of Turkey’; however, it also states that ‘decisions to grant citizenship have resulted in intolerant and xenophobic attitudes in public debate’.

Secondly, Section 109(3) of law 141(I)/2002 expressly prescribes that the above provisions for acquisition of citizenship do not come into force in cases where a person is born in Cyprus or abroad between 16 August 1960 and 11 June 1999, if his or her claim is based solely on his or her mother’s citizenship, or the fact that she was entitled to citizenship of the Republic. However, the law stipulates that the person (or if the person is a minor, his or her father or mother) may submit an application to the minister to be registered as a citizen of Cyprus. The Equality Body of Cyprus examined a complaint claiming discrimination on the grounds of sex/gender and citizenship (and indirectly ethnic or racial origin) for descendants of women of Cypriot origin born between 16 August 1960 and 11 June 1999.<sup>38</sup> The Equality Body

<sup>35</sup> Article 109 Population Data Archives Law No. 141(I)/2002. This clause was first introduced by Law 65(I)/1999 that came into force on 11 June 1999.

<sup>36</sup> This information was provided by the officer of the Population Data Archives of the Ministry of the Interior, Christiana Kettani, on 15 December 2006. She stated that the standard practice of the Council of Ministers is to approve ten to fifteen applications each time there is a meeting of the Council of Ministers. Moreover, she claimed that the people affected by the Council of Ministers’ discretion are ‘persons who have a Cypriot grandparent’, but it remained unclear how this category could fall under Article 109.

<sup>37</sup> The Third ECRI Report on Cyprus (2006: 8) referred to the fact that the Cyprus Ombudsman office was investigating at the time the conformity of this procedure with national and international standards. In the end the Ombudsman’s office chose not to intervene.

<sup>38</sup> It was alleged that discrimination is ongoing as the specific provision has resulted in the perpetual and future discrimination of this category of persons and their descendants since the principle of anti-discrimination is not only momentarily applied, but it is also forward looking. It is likely that this provision is in violation of the laws against discrimination and, in particular, Law No.142(I)/2004,

(the Ombudsman in its capacity as the Equality and Anti-discrimination Body) considered that the said provision was indeed discriminatory; however, in a rather obscure decision, it refused to take any further action, due to the ‘transitory nature of the provision, to counter the situation and the expectations that had formed up to 1999 on the basis of the regime of acquiring citizenship’.<sup>39</sup> In any case, they are entitled to obtain citizenship via registration. Another mode of acquisition (Section 109(3)) is provided for persons born on or after 16 August 1960 and who are of Cypriot origin, i.e. descendants of a person who:

1. became a British citizen on the basis of the Cyprus (Annexation) Order-in-Council between 1914 and 1943; or

2. was born in Cyprus between 5 November 1914 and 16 August 1960 during which time his or her parents were ordinarily resident in Cyprus.

These persons are entitled to be registered as citizens provided that they are adults and of sound mind,<sup>40</sup> apply to the Minister<sup>41</sup> via the designated means and provide an official confirmation of loyalty to the Republic, according to the format provided in the Second Table annexed to the law.<sup>42</sup>

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which transposes the anti-discrimination *acquis* and more importantly Protocol 12. See File No. 62/2005 of the Ombudsman’s Report.

<sup>39</sup> See the Ombudsman’s Report File No. 62/2005.

<sup>40</sup> The Greek text refers to ‘πλήρης ικανότητα’ (‘pléres ikanóteta’), which literally translated means ‘full ability’, but it must be construed as meaning of ‘sound mind’, which was the old British formulation.

<sup>41</sup> The relevant minister is the Minister of the Interior.

<sup>42</sup> A number of Tables are annexed to the Law. The First Table specifies the fees for the issue of passports; the Second Table includes the format of making a formal oath of allegiance to the Republic of Cyprus; the Third Table describes the conditions for naturalisation.

### 3.3 Institutional arrangements

#### *Acquisition via naturalisation (πολιτογράφηση - politográphese)*

This report has already referred to the fact that the regime of acquisition is based on the discretionary power of the authorities. Moreover, given that there has been a policy that migrant worker permits cannot be extended beyond four years, the chance of acquiring citizenship for these groups is rather slim, unless they are married to a Cypriot or are granted leave to stay on other exceptional grounds. Cypriot authorities are very reluctant to grant citizenship to migrants. The law purporting to transpose Directive 2003/109/EC was passed in February 2007, but it is questionable whether the provisions relating to the right to access to long residence are properly transposed. The decision of the Supreme Court of Cyprus in the case of *Motilla*<sup>43</sup> has stalled the process as it excludes the vast majority of third country migrants residing in Cyprus.<sup>44</sup> The applicant was a female migrant who arrived in Cyprus in 2000 and was since lawfully working as a domestic worker. On 25 Jan 2006, i.e. as soon as the deadline for the transposition of Directive 2003/109/EC expired, the applicant applied to the Interior Minister for the status of a long term migrant, as provided by the Directive. The applicant applied to the Supreme Court appealing against the refusal of the Interior Minister to allow third country migrants on short-term contracts to benefit from the long-term residence directive. The Supreme Court, by a majority decision of nine judges against four, rejected the appeal and confirmed the Interior Minister's decision, on the ground that the fixed term duration of the applicant's visas did indeed fall within the exception of article 18Z(2) of the Cypriot Law Directive article 3(2)(e). The decision noted that the transposition of the Directive and the addition of the phrase '*as to its duration*' did not detract from the effectiveness of the Directive and that the fixed term nature of the residence visas granted to the applicant did not create a reasonable expectation 'that the person has put down roots in the country', as provided by Recital 6 to the Directive.

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<sup>43</sup> *Cresencia Cabotaje Motilla v. Republic of Cyprus through the Interior Minister and the Chief Immigration Officer*, Supreme Court Case No. 673/2006 (21 Jan 2008). Although the said Directive was not transposed into Cypriot law until 14 Feb 2007 (Law 8(I)/2007), the Court accepted that, based on the ECJ decision on the case of *Pubblico Ministero v. Tullio Ratti*, the application had to be examined in light of the said Directive and the law which subsequently transposed it.

<sup>44</sup> The Ministry's rejection of the application was based on article 18Z(2) of the Aliens and Immigration Law Cap 105, as amended by Law 8(I)/2007 purporting to transpose Directive 2003/109/EC, which excludes from the scope of the law *inter alia* 'persons whose residence permit has been officially restricted as regards its duration'. The aforesaid provision was intended to transpose Directive article 3(2)(e); however whilst the Directive states 'persons whose residence permit has been formally limited', the Cypriot law states 'persons whose residence permit has been formally limited *as to its duration*'.

In their dissenting opinion, four judges stated that the addition of the phrase ‘as to its duration’ fundamentally transform the essence of the exception provided for in Article 3(2)(e) of the Directive, since it is clear that the intention of the Directive is to exclude persons residing in the EU temporarily or on a permit which has been limited for a specific purpose, a fact evident by the examples given in the Directive article itself. The dissenting judges<sup>45</sup> referred to a conference of experts which took place in Brussels between 7-8 July 2005 where it was stated that the said exception should be interpreted restrictively (*eiusdem generis*) and in accordance with the examples given in the Directive (e.g. seasonal workers, volunteers, posted workers etc) and that the mere fact that a residence permit is of fixed duration does not place it within the exception of the Directive.<sup>46</sup> The judges did not seek the opinion of the European Court of Justice on this matter by requesting a preliminary ruling under what was then Article 234 EC. The decision has affected thousands of migrant workers who are, as a matter of policy, issued with fixed term residence visas and who are by virtue of this decision excluded from the scope of the law transposing the Directive.

The law purporting to transpose Directive 2003/109/EC does not include the restrictive criteria originally proposed for granting long-term migrants this special status such as requirements of proficiency in Greek language, history and civilisation. Such provisions were eventually dropped by the parliament following criticism by NGOs and strong trade union opposition.

In general, the naturalisation procedure has been criticised for its discretionary nature by international reports and NGOs. The Second ECRI Report on Cyprus criticised the fact that the conditions for naturalisation ‘leave a wide margin of discretion to the Naturalisation Department as concerns decisions to grant citizenship’; moreover the same Report claims that ‘there have been complaints that these decisions are sometimes discriminatory’ (ECRI 2001: 9). The same practice was criticised by the Third ECRI Report on Cyprus (2006: 8), which also notes that ‘decisions are still excessively discretionary and restrictive’ but that ‘this is reflected not only in the use made of public order considerations, but also in the application of residency and language requirements’. Several decisions by the Ombudsman have criticised a number of practices of the Population Data Archives regarding the process of granting citizenship. In particular, criticism is directed at the restrictive approach of the Director of the Population Data Archives as regards the acquisition of citizenship via registration and naturalisation; particularly critical are the decisions regarding the rejection of applications for citizenship based on marriage with Cypriots.<sup>47</sup> Moreover,

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<sup>45</sup> The dissenting opinion further states that the term ‘formally limited’ used in Article 3(2)(e) of the Directive refers to the temporary nature of a stay not related to its duration but rather to the nature of the status or the profession of the person concerned, adding that it is not up to each member state to interpret this provision in a way that alters the spirit of the Directive, in order to suit its particular immigration policy. The dissenting judges found that the fact that certain migrants are on a fixed term visa is insignificant and does not alter the fact that they have a reasonable expectation of continued residence, since the Directive requires merely lawful residence and not even the issue of a residence permit, clarifying that it is the length of the stay that creates the reasonable expectation.

<sup>46</sup> This decision was widely reported in the media, since it essentially ‘freezes’ the opportunities of the vast majority of the persons entitled to acquire the long term residency, who are on a fixed duration visa. The decision was heavily criticised by human rights NGOs (press release of KISA dated 22 Jan 2008); a protest which was spontaneously held against this decision on 27 Jan 2008 led to violence by the police, to the arrest of a migrant rights supporter and to the rushing into hospital of a female migrant because of shock (KISA press conference 28 Jan 2008).

<sup>47</sup> See relevant Ombudsman Reports, Files No. 2599/2005, 1958/2005, 2059/2005, 2368/2005, 2599/2005, 2780/2005.

the decisions also highlight considerable delays in the processing of the applications, prejudice based on the religion of the applicant and the exercising of administrative discretion in the interpretation of the regulation that excludes those who have entered the country illegally from acquiring citizenship.<sup>48</sup> Also, the ‘Cyprus problem’ is often quoted as a ‘national priority’ and is invoked by Greek-Cypriot authorities as the reason for their reluctance to open up citizenship rules so as not to alter the demography, particularly in the context of the Turkish policy of settlement in the occupied northern territories. However, this does not withstand close scrutiny as numerous amendments were made to facilitate various population policies that benefit what is perceived as ‘the Greek-Cypriot interest’.

Overall, the implementation of the rules on naturalisation, along with the wide margin of discretion provided for by the legislation, is an issue of concern regarding the fairness of these policies. There is little encouragement and information for persons entitled to be naturalised and there are bureaucratic obstructions that make the application for naturalisation unattractive and cumbersome. One can explain this policy as a mixture of the colonial legacy and the keenness of the authorities to hold on to their ‘sovereignty’ concerning entry, sojourn, residence and citizenship, particularly as the protracted Cyprus conflict is often invoked as a pretext. The consequence is a restrictive regime that requires reform if it is to observe international law standards on the subject.

## **4 Current debates**

### **4.1 Europeanisation**

There is little doubt that the language of ‘Europe’ has become dominant in Cyprus as there is an orientation of political discourse and rhetoric towards Europe as a reference point.<sup>49</sup> The question is whether the process of Europeanisation has touched upon citizenship. One issue is European citizenship itself, which affects the divided Cypriot citizenship. A number of key issues relate to the right to the free movement of workers in the EU; for instance, the fact that Cyprus has not yet regulated same-sex marriages and extra-marital relationships has resulted in various forms of discrimination against lesbian, gay, bisexual and transsexual Union citizens, thus constituting effective obstacles to free movement. Another problem is the regulation of the ‘Green line’ that divides the country (see Trimikliniotis 2008).

European citizenship has different aspects relevant to the potential for transformation of the citizenship issue in Cyprus. First it may provide an all-encompassing identity that has the potential to overcome the ethnic divide between Greek-Cypriots and Turkish-Cypriots. It is argued that shared cultural experience between Greek-Cypriots and Turkish-Cypriots, often suppressed by nationalists in the past in order to focus on ethnic differences, could become a new focus as there are common aspects of identity that can unite the two communities. According to this optimistic view, EU membership may emphasise the shared culture and help in finding a solution to the Cyprus problem (Botswain 1996: 94). Moreover, EU

<sup>48</sup> See Ombudsman Report, File No. 727/2006.

<sup>49</sup> One scholar termed this as ‘the Europeanisation of political thinking’ (Theophylactou 1995: 121), whilst another scholar interpreted this as the embracing of a ‘Eurocentric ideology’ by the Greek-Cypriot political elite (Argyrou 1996: 43).

citizenship may have a positive impact on human rights as the EU is expected to act as a guarantor of rights, such as the freedom of movement, settlement and ownership of land as provided in the Treaty of Rome and in line with the '*acquis communautaire*'. 'Citizenship' would underpin rights (communal/individual) thus assisting in creating a better climate of trust and security via the operation of intergovernmental and transnational organisations of different nature and operation, such as the European Court of Justice, the European Court of Human Rights, the Council of Europe, as well as the EU which is of course by far the most advanced transnational organisation.<sup>50</sup> The Conventions of the Council of Europe and other international instruments for 'minority rights' (Thornberry 1994), although technically outside the *acquis*, could arguably be a useful mechanism from which Turkish-Cypriots stand to gain;<sup>51</sup> however, Turkish-Cypriots are not a 'minority' but a 'community' in a consociational regime (see Yakinthou 2007; 2009). Moreover, matters are, in practice, far more complicated. In the immediate aftermath of the rejection of the UN plan in April 2004 and until the beginning of 2008, the Europeanisation issues did not operate as a constructive force: the issue of EU accession had become yet another point of contestation between Greek-Cypriots and Turkish-Cypriots over the question of what kind of future 'European solution' there will be for the Cyprus problem. Inevitably, the questions of citizenship have been more or less put on hold as they are subordinate to the solution of the Cyprus problem. It has, however, returned as a key issue in the resolution of the Cyprus problem in the negotiations between the two community leaders currently taking place.

#### **4.2 Reunification, partition and settlers: Citizenship turns into a hot political issue**

This is perhaps the greatest challenge in the adventures of citizenship in Cyprus. We have already referred to some of the issues as regards the period 1974–2004 and the challenges of migration. However, the central question arises out of the latest efforts to resolve the Cyprus problem, which resulted in the UN plan known as 'the Annan Plan'.

The issue of who is entitled to citizenship is a hot political issue. In the northern territories the policy of Turkey is to 'replace' Turkish-Cypriots who emigrate with Turkish settlers from the mainland or to distort the demographic balance of the

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<sup>50</sup> It is sometimes assumed that possible 'weaknesses' in the settlement would gradually be somehow eliminated by the operation of the *acquis* and via access to the European Court of Justice and the European Court of Human Rights.

<sup>51</sup> Minority rights for 'old' ethnic minorities have a significantly long tradition of protection under various treaties and authorities, even from the last century, though these were very restricted and at the whim of the great powers (Hannum 1996: 5074). However, Article 8 of the European Convention on Human Rights guarantees the right to private and family life (which has been interpreted as to include ethnic identity) and Article 9 guarantees 'the right to freedom of thought, conscience and religion'. More specifically, Article 27 of the Covenant on Civil and Political Rights refers to the rights of 'ethnic, religious or cultural minorities' to 'enjoy their own culture, to profess and practice their own religion, or use their own language', but these are set to be extended in other areas of freedom (Hannum 1996: 62–63). However, the European 'regime' on ethnic minority groups' protection is problematic, as there is a distinct lack of enforcement mechanisms. These rights are heavily dependent upon the nation-states for implementation; in any case the mechanisms for implementation are very weak if not irrelevant (Hannum 1996).

Cyprus population by giving TRNC citizenship to a large number of settlers.<sup>52</sup> In the area under the control of the Republic of Cyprus it is estimated that there are between 15,000 to 20,000 Pontian Greeks from the former Soviet Union, a few of whom were granted citizenship, after residing for a period of seven years in Cyprus.<sup>53</sup> The demographic study conducted by the Ministry of the Interior in 2000 found that there were 10,000–12,000 Greek Pontians residing in Cyprus at the time. However, there have been changes since; in any case, Pontian organisations claim to represent 40,000–45,000 Greek-Pontians residing in Cyprus, but this figure may be exaggerated. The Annan plan contained specific provisions regarding the number of settlers who would be granted citizenship. This has proven to be a particularly sore point for the Greek-Cypriots, who eventually rejected the plan. In fact, it is widely believed that one of the reasons the Greek-Cypriots voted ‘no’ to the plan was the fear over the ‘large numbers’ of settlers who would eventually be allowed to remain.<sup>54</sup> Nevertheless, these provisions were seen by Greek-Cypriots as problematic in that they were alleged to allow for a ‘perpetual inflow of settlers’, in spite of the 5 per cent cap for any future migration from Turkey and Greece.<sup>55</sup>

In the ‘main articles’ of the Foundation Agreement of the Annan plan (Article 3) there is reference to ‘a single Cypriot citizenship’ regulated under federal law as well as the ‘internal constituent state citizenship status’ to be enjoyed by ‘all Cypriot citizens’; moreover, the plan lays out a set of complicated rules about preserving ‘identity’ (see Appendix 1). The acquisition of citizenship is regulated by an agreed constitutional law which essentially deals with the issue of settlers from Turkey. Moreover the plan envisages a federal law on ‘aliens and immigration’ (Foundation Agreement, Attachment 5, Law 1) as well as federal law for international protection and the implementation of the Geneva Convention Relating to the Status of Refugees and the 1967 Protocol on the Status of Refugees (Foundation Agreement, Attachment 5, Law 2) which, in the event of a settlement, would replace the current laws on immigration and refugees.

The plan was rejected by the Greek-Cypriots, but remains relevant to current and possible future negotiations as the most comprehensive plan ever to be negotiated, and is therefore a valuable source of ideas on the formation of a bi-zonal, bi-communal federation (see Trimikliniotis 2009a and 2009b). In the absence of a solution, prior to the referendum and soon after, a number of public debates erupted that centred on the question of citizenship policy. The question of moving towards an effective right to citizenship by providing passports for the Republic of Cyprus has been relevant particularly since accession. For the Greek-Cypriot post-referendum

<sup>52</sup> The veteran Turkish-Cypriot leader has often been quoted saying: ‘A Turk leaves, another Turk comes’.

<sup>53</sup> It appears that in the days of the collapse of the USSR, Greek-Cypriot policy-makers toyed with the idea of bringing to Cyprus Greek-Pontians rather than other migrants, due to their ethnic origin, in part to unofficially and quietly ‘redress’ the Turkish settler policy. Officially this was never admitted by right-wingers, and nationalists regularly referred to the Pontians as the alternative to ‘an Afro-Asian’ new minority (see Trimikliniotis 1999).

<sup>54</sup> Obviously there was scaremongering and exaggeration by the Greek-Cypriot ‘No campaign’ about the figures and misinformation about the actual provisions. Palley (2005) has a chapter devoted to the subject and puts forward the case for the Greek-Cypriot side and the reasons for the Greek-Cypriot rejection as regards this issue.

<sup>55</sup> The provisions were depicted by Greek-Cypriot anti-Annan critics as rewarding the policy of colonisation. However, this is a highly complex issue which requires a detailed analysis and a resolution that bears in mind the principles of justice and international law, as well as the humanitarian, the individual rights and the personal dimensions of the problem.



political arena, an issue that became a hot political issue was the question of granting the right of citizenship to children of Turkish-Cypriots who married Turkish settlers. Right-wing media attacked the cabinet decision to grant citizenship rights to 703 people one of whose parents was a Turkish settler.<sup>56</sup> The government was forced to go on the defensive with the Minister of the Interior claiming that ‘the legislation does not allow the granting of citizenship, either to settlers or an alien from another country, who has entered the Republic illegally.’<sup>57</sup> The media as well as some members of the coalition government stated that because ‘invasion, colonisation and changing the demographic character of a country’ is a ‘war crime’,<sup>58</sup> granting citizenship to the offspring of colonisers is never justified. In fact, there are allegations that there is an unofficial moratorium on the subject to freeze the applications of children of settlers married to Cypriots; this is a practice that has been criticised by human rights organisations.<sup>59</sup> The current situation in Cyprus leaves the citizenship policy regarding this category of persons in a state of limbo. In practice, pending a resolution of the problem, the Cyprus problem is likely to predominate and colour the citizenship policy. The greatest challenge for Cypriot policymakers is to adopt a citizenship policy that enhances the possibility for reunification and thus does not consolidate and indirectly officially endorse partition.

The anomaly of the Cyprus problem has had a massive impact on the number of citizenship acquisitions. The largest figure involves Turkish-Cypriots. Most of these persons acquired citizenship after 23 April 2003 when the checkpoints were opened. Although Turkish-Cypriots had a right to Cypriot citizenship before that date, they could not make use of this right due to the war and the *de facto* partition since 1974. Between 1995 and 3 March 2009, 101,778 Turkish-Cypriots acquired birth certificates from the Republic of Cyprus; 83,372 acquired identity cards and 54,595 passports. Moreover, the number of applications for citizenship has more than doubled since Cyprus acceded to the EU and there is a backlog of some hundreds of applications pending.

The second largest group of people granted Cypriot citizenship were those who were Cypriot by descent or by origin (2,250 for category 4 and 23,932 for category 5, above). This figure reflects the favourable conditions for return migration to Cyprus, which has enjoyed a steady improvement in living standards and relative stability despite the conflict and the continuing division. Moreover, it illustrates the importance of ties with Cyprus and ethnic connections amongst the Cypriot diaspora communities abroad. Finally, it may reflect the relative success of various population policies aimed at encouraging expatriates to return to Cyprus. However, it is difficult to verify how far these incentives influenced the decision to migrate to Cyprus. It has to be noted that this category includes an unknown number of Turkish-Cypriots.

The third largest category comprises those who acquire citizenship by marriage, a total of 12,824 persons. Research shows that the large majority of these are foreign women married to Cypriot men (ratio 7:1) and that there is a preference for certain nationalities (Fulias-Souroulla 2008).

<sup>56</sup> See G. Psyllides, ‘Citizenship for settler children: Christou hits back’, *Cyprus Mail*, 1 July 2004.

<sup>57</sup> Interior Minister Andreas Christou quoted in *Politis*, 7 June 2004.

<sup>58</sup> See *Cyprus Mail*, 1 July 2004. Palley (2005) deals with the legal and political issues of the settlers. Also see Hannay (2005).

<sup>59</sup> In a press release dated 2 July 2004 the human rights NGO ‘KISA’ (Action for Equality, Support and Antiracism) expressed concern over the intolerant and racist attitudes developing around the issue of granting citizenship to these children.

The next largest group are naturalised persons (category 1). The number of naturalisations is rather small considering that there are 138,000 non-Cypriots residing in Cyprus,<sup>60</sup> which includes however over 70,000 EU citizens.<sup>61</sup> The number of non-Cypriot naturalised migrants is even smaller, since an unknown share of those naturalised are persons of Cypriot origin born in the Commonwealth prior to 1960 and who could only acquire Cypriot citizenship by naturalisation, as well as those who were deprived of Cypriot citizenship or renounced it in order to acquire the citizenship of another state. In any case, about half of those who acquire citizenship by naturalisation are Greek Pontians residing in Cyprus: it is estimated that about 400 Greek Pontians were granted Cypriot citizenship in 2004 and about 500 in 2005.<sup>62</sup>

## 5 Conclusions

The mechanics of acquisition, renunciation and deprivation of citizenship in the Republic of Cyprus revolves around Cypriot descent: persons of Cypriot origin are basically entitled to citizenship, whilst persons of non-Cypriot descent may be allowed—if they have resided in Cyprus for seven years—to apply to acquire citizenship via registration and naturalisation mechanisms. The statement of one of the very few Cypriot legal scholars dealing with the subject, Criton Tornaritis (1982: 39), that Cyprus has adopted a ‘mixed principle combining *ius soli* and *ius sanguinis*’ is not very helpful as Cypriot descent forms the core. Although we cannot locate a *declared* policy on citizenship as such in the Republic of Cyprus, what we do find instead is a practice that derives from the long-standing Cyprus conflict as well as international developments such as accession to the EU, economic development and migration, and to some extent changing attitudes, particularly as regards the question of gender. Other factors are also of relevance, such as population and immigration control, economic and welfare issues, social policy, etc. As for the unrecognised Turkish Republic of Northern Cyprus, the issue of citizenship is totally subsumed in its own ‘struggle for recognition’ and it is a mirror image of the country it broke away from and yet can never escape from, the Republic of Cyprus, with the added complications of an unrecognised ‘state of exception’.

In the context of Cyprus, citizenship policy is inevitably subordinated to the unique historical conjunctures that perpetuate the island’s protracted ethno-national conflict. In fact, the question of citizenship goes to the heart of the existence of the country’s very own ‘nation-state dialectic’ (see Trimikliniotis 2000, 2009a): the challenge for a citizenship that transcends the ethno-national conflict and the ethno-communal divide is perhaps the greatest challenge of all for this country’s European aspirations for a re-united and peaceful future. The negotiations between the two community leaders resumed in September 2008 and have raised hopes for a resolution of the dispute in a manner that will reunite the island on the basis of a bi-zoned, bi-

<sup>60</sup> Data provided by the Civil Registry Migration Department and the Population Data Archives on 3 March 2009.

<sup>61</sup> This figure was provided by the Civil Registry Migration Department and the Population Data Archives (3 March 2009). However, different numbers are produced by the Ministry of Labour and Social Insurance: according to their data only 49,639 EU citizens were residing in Cyprus in July 2008 (see Total Aliens and Europeans Data 2008, [www.mlsi.gov.cy](http://www.mlsi.gov.cy)).

<sup>62</sup> This figure was provided by the Population Data Archives, Ministry of the Interior, which was asked to comment on the categories, figures and the underlying policies (15 December 2006). There are no more recent statistics available.

communal federation with a single sovereignty, territory and citizenship. Such a solution would radically transform the citizenship issues as we have known them.

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