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THE EUROPEAN UNION LAW REALITY IN CYPRUS: ONLY SOUTH, WHAT ABOUT THE NORTHERN PART?

Fetine YILDIRIMTÜRK*

Abstract

The consequences and influences of separate referenda held in 2004, the reflections of it have been great importance for the case of Cyprus. Especially, after the membership of Cyprus, the case of Cyprus turned its face under the European Union policies. In currently, Cyprus is a divided country within European Union and the problem of Cyprus directly affects values and rules of European Union. This paper argues that despite the legal results of referenda; evaluate inherent rights of Turkish and Greek Cypriots' and the conditions of TRNC under the European Union law. It's also maintained, previous and today's policies and regulations of European Union respecting the issue of rights and daily life practices of Turkish Cypriots in Northern part of Cyprus.

Key Words: Cyprus, European Union, Turkish Cypriots, Greek Cypriots, EU membership, isolations

AVRUPA BİRLİĞİ KIBRIS'TA GERÇEK HUKUKU: GÜNEY-KUZHEY PARÇA NELERDİR?

Özet

Avrupa Birliği üyeliği kapsamında, 2004 yılında Kıbrıs Türk ve Rum toplumu için düzenlenen referandumun etkileri ve yansımaları, Kıbrıs sorunu konusunda büyük önem arz etmiştir. Referandum sonuçlarından sonra ve özellikle Kıbrıs'ın (Güney Kıbrıs) Avrupa Birliği üyeliğinden sonra, Kıbrıs davası, Avrupa Birliği politikaları altında yeni bir döneme girmiştir. Günümüzde Kıbrıs, Avrupa Birliği içinde bölünmüş ve iki farklı devlet ile yönetilen tek ülke olarak varlığını sürdürmektedir. Bu durum, Avrupa Birliği politika ve uygulamaları kapsamında Kıbrıs sorununu, adada farklı devlet sisteminde yaşayan Kıbrıslıların AB üyeliği sonrasında elde edilen yasal hak ve özgürlüklerini kurallarını etkilemektedir. Bu makale referandum sonrasında Türk ve Rumların Avrupa Birliği hukuku ve politikalarına göre Kıbrıs'ın kuzeyinde yaşayan Kıbrıslıların yaşam pratiklerini değerlendirmektedir.

Anahtar Kelimeler: Kıbrıs, Avrupa Birliği, Kıbrıslı Türkler, Kıbrıslı Türkler, AB Üyeliği, izolasyonlar

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Giriş

The year 2004 opened new circumstances for the case of Cyprus, and it has been accepted as milestones of the Cyprus problem. Since 2004, especially after the consequences of referenda, is the turning point of Cyprus problem. Because of the referenda, on behalf of the International Community, it was the first time for Turkish Cypriots could express their decisions and to declare their opinions. Furthermore, in account of their ‘yes’ votes, they took respect by both United Nations and European Union. Therefore, since 2004 gave another shape to history for Turkish Cypriots and they took the chance to be able to live in better conditions. The reason can be defined as 2004 when the European Union took its role over the case of Cyprus because of Cyprus’ official membership. Therefore, EU started applying direct policies not only for Southern Cyprus but also for Northern Cyprus in 2004.

Regarding as consequences of referenda, European Union announced to give privileges and also promises for Turkish Cypriots because of their ‘yes’ votes for unification of island and membership of European Union. From 2004 until today, almost all Turkish Cypriots have same ID and passports like Greek Cypriots, but their rights are not equal. Additionally, today, only the southern Cyprus accepting as legal member of EU which is an idea isolating the Northern part of the Cyprus.

In respect of this information, the paper intends to analyze; firstly, despite of the fact that Turkish Cypriots have European Union passports, which means they are already EU citizens, to which extend the rights of European Union citizenship principles are not being applied directly over them, unlike Greek Cypriots. If, both Turkish and Greek Cypriots have the same European Union passports, then EU law has to be applied equally for each community. Or, assume that; if the EU fails to implement its legal implementations towards Turkish Cypriots, unlike Greek Cypriots despite of the same passports, is it incompatible with the principles of EU law or is it operating in appropriate with the EU law? On the other point; how the European Union law does affect the Cypriot society in the south, and what are the legal consequences of EU accession for the northern part. If the Cyprus is a divided country, which kind of either policies and laws of EU should apply each part of the Cyprus? Especially, deal with the consequences of referenda, to which extent the policies of European Union should affect the special position of Turkish Republic of Northern Cyprus such as European Union shall introduce another solution plans respecting as TRNC and Turkish Cypriots or not. The paper aims to answer to these questions with a legal framework. In connection with those questions, the paper intends to evaluate and criticize the policies of European Union since 2004 over the case of Cyprus based on rights of Turkish Cypriots.

Brief Historical Background:

The Cyprus conflict has been complicated and had a long historical background. For instance, consideration of Cyprus’ current agenda, it is still protecting its important role scheduled in the international agenda. Therefore, previously we should have focused on the history of the Cyprus to be able to understand either ‘what the reasons of Cyprus’ current position were’ or ‘how Cyprus does become today’s unsolvable state statute’. Consequently, the paper continues to give brief historical information to manage a better understanding and evaluating the situations in the Cyprus.

In 1960, the Republic of Cyprus was established with the support by three guarantor states which were: (1) United Kingdom, (2) Greece and (3) Turkey. Nonetheless, the republic could only continue nearly three years. During 1963, because of the tensions among Turks and Greeks, the Republic of Cyprus became unworkable. Afterwards, considering as the strict relations and tensions between two communities, the United Nations decided to send Peace-Keeping forces (UNFICYP) to island, which targeted to achieve tenderize relations between them, in accordance with the UN Security Council Resolution 186 (1964). In 1974, Greece,

with the collaboration of Greek Cypriot conflict groups, put their disruptive plans on the process, which was called as ENOSIS. The ENOSIS operated a coup d'état against A. Makarios, the Greek President of Cyprus Republic to unite Cyprus with Greece.

According to, Turkey took its position in the Cyprus and made military intervention to Cyprus (under the framework of the Treaty of Guarantee). Turkish intervention aim was preventing the aim which is based on 'Cyprus should become a part of Greece' that was introduced by Greece. As a result of this act, in 1975, Turkish Federated State of Cyprus (TFSC) was created by Turkish Community support of Turkish forces (Turkey) on the territory where Turkish Cypriots live. This was describing that, as a result of Turkish military intervention, two parts occurred in Cyprus in 1964.

From 1975-1983, nothing peaceful was achieved between Turks and Greeks in the Cyprus, overall any peaceful solutions despite of bi-communal negotiations sponsored by the United Nations. Therefore, the Turkish Cypriots decided to replace Turkish Federated State of Cyprus (TFSC) with the creation of new independent state. In 1983, Turkish Republic of Northern Cyprus (TRNC) was established and announced as an independent state, which controls the Northern part of the island and the Republic of Cyprus continued over the South part of the island. However, after the establishment of Turkish Republic of Northern Cyprus, UN Security Council Resolution of 550 (1984), called as TRNC an illegal republic and it assumed that all states avoid from recognizing TRNC.

The Turkish Republic of Northern Cyprus: Illegal and Unrecognized State:

The paper continues to evaluate the case of Turkish Republic of Northern Cyprus under the principles of International Law Community. Clearly, the International Law Community is not an unchanging entity, such as new states emerged and old ones might fall down, regards as world' changing agenda. Furthermore, an International Law is not composed of any universal structures; for example; it does not include any general convention.

In contrast, the 'Montevideo Convention on Rights and Duties of States (1993)' is accepted as the basic convention of International Law which provides regulations for the principles of statehood. Because of the principles of the International Law; every state has to consist of all principles of statehood for being an international state status. According to the basic articles of 'Montevideo Convention on Rights and Duties of States', follow as Article one: that mentioned the conditions of statehood which is accepted as states have to follow process of statehood. In line with Article one defines how states are able to reach an international state position under the eyes of International Law. Concerning as Article one based on four criteria's of statehood principle as simply, those principles are describing; how an entity becomes a state position legally. (1) 'A permanent population'; that means, settled population but the size of population does not matter. (2) 'A define territory'; indicates that (i) states have their border lines of its own territories, (ii) they have their own jurisdictions but of course the size of territory does not a matter. (3) 'A government' assumes that; states must have (i) their own central government such as operating as political body and have an (ii) effectiveness of government to provide an effective control of territory. (4) 'Capacity to enter into relations with other states', it is defined; independence in external relations which means the state must be independent and sovereign and it must be impossible to subject any authority in its territory by another state. (Malanczuk, 1997)

In summary, if the criteria of statehood are necessary for states to have an independent personality, Republic of Northern Cyprus may be called as an independent state under the principle of statehood. In fact, the question appeared; 'how TRNC can be defined as recognized state under those principles'. The question may be answered as follows; (i) it has a stable population (approximately 200.000), (ii) it has a defined territory that was defined in the case of Green Line (1964) by United Nations peace keeping forces (iii) it has an effective

government that is ruled by democratic constitution which prohibits any acts against the principles of rule of law and (iv) in 1974, Turkish military invasion in Cyprus was compatible under the Treaty of Guarantee because Turkey was one of the guarantor states and had a right to intervene island if it observes acts against Turkish Cypriots. When the TRNC was established (1983), that was not a result of Turkish intervention, it was a result of UN policies which failed in the solution the case of Cyprus (Aksar, 2001).

According to the case of recognition of state, it is necessary for all states to have full international sovereignty and legal personality. Therefore, states need an international legal personality to be able to establish bilateral relations with other states. Furthermore, the legal process or legalization process also involves the human rights of individuals, so legal process has also importance beyond any doubt for individuals to understand and defend their rights. The reason is that, if a state has international legal personality and is recognized as a state, the citizens directly have international legal personalities. For instance, an international legal person has a statue in international law, and it brings validity in particular factual situations. Considering as an issue of human rights which is accepted as basic rights of individuals, the recognized states must protect human rights of their citizens. Also, states have to manage special and effective protection to its individual members that is also mentioned in the 'Universal Declaration of Rights of Peoples' (1976).

On the other hand, along with the United Nations' declarations about the case of recognized states: states called as non-recognized if they cause or support any illegal acts, such as mainly; (i) secession, (ii) discrimination and (iii) against rights to self-determinate of individuals. On the other point, the 'Stimson Doctrine' which was prepared by the American Secretary of State, has very important contributions to the international law especially in defining non-recognized states. Along with the 'Stimson Doctrine'; *"since an aggressor state cannot acquire territory by conquering another state and forcing it to sign a treaty of cession, it must follow a fortiori that an aggressor cannot acquire territory by conquest alone. Some authors indeed argue that such annexation cannot even be recognized as legal by other states."* (Malanczuk, 1997, p.152)

In connection with the intention of this paper, it is defined as in what reasons TRNC is an example of non-recognized state. First and foremost, Turkish Republic of Northern Cyprus case is not a situation as null and void; it has different reasons to become an unrecognized state. In spite of having all criteria's of statehood, it is only recognized by Turkey. Turning back to the brief history of Cyprus, as mentioned the under previous title; when genocide was started by Greece and Greek Community under the ENOSIS plan, Turkey the made military intervention to Cyprus in line with the right from the Treaty of guarantee to prevent Cyprus becoming a part of Greece. Additionally, the second military intervention was held by Turkey to enlarge safe heaven areas for Turkish Cypriots. Simultaneously, Cyprus was separated as north and south parts by the creation of buffer zone (Green Line).

According to the second military intervention and also separation of Cyprus, Turkey is responsible for its acts under an the International Law. Because International Law Community declared that Turkey's second military intervention violated the Article 1 of Treaty of Guarantee:

ARTICLE I:

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 declares prohibited any activity likely to promote, directly or indirectly, either union with any other State or partition of the Island.

According to this article, Turkey's act was accepted as a separation the by International Law Community. In briefly; that's the reason why Turkey is responsible in the case of Cyprus

and why Turkish Republic of Northern Cyprus is an illegal and unrecognized state. Additionally, the establishment of TRNC (15 November 1983), in 18 November 1983, the United Nations Security Council adapted Resolution 541 that announced that TRNC is an unacceptable state and called that it has to be withdrawn.

On behalf of the UN Security Council Resolution 541 in 1983, it called all states not to recognize the TRNC because of its illegal statue. For that reason, after three days from the establishment of TRNC, UN called upon: “Concerned at the declaration by the Turkish Cypriot authorities issued on 15 November 1983 which purports to create an independent state in northern Cyprus, Considering that this declaration is incompatible with the 1960 Treaty concerning the establishment of the Republic of Cyprus and the 1960 Treaty of Guarantee, Considering, therefore, that the attempt to create a ‘*Turkish Republic of Northern Cyprus*,’ is invalid, and will contribute to a worsening of the situation in Cyprus.” (United Nations Security Council Resolution 541, 1983)

In conclusion, in 1983 the Turkish Republic of Northern Cyprus was established, but today the Republic Of Cyprus is recognized as whole island and surely has an international legal personality unlike TRNC. In contrast, ROC has not an effective control over the whole island (not able to control the northern part of the island). The TRNC case does not address the null and void; it is called as invalid that was because of illegality of military intervention and separated territory of the island by Turkey. Therefore, International Community refuses to recognize Turkish Republic of Northern Cyprus as a state, the reason is; International Community accepted that Turkey established its own illegal base overall the Northern part of Cyprus. On the other aspect that, the position of TRNC is not an entity that can be recognized, it is adapted as a kind of non-recognized state because of it is kind of secession act against an entity. For those reasons, in that case, there is the lack of clear provisions about self-determination. Moreover, there is no any international document which is accepted either two community or two people within the Cyprus, so this is another problem of recognition of TRNC. To sum up, the Turkish Republic of Northern Cyprus is an example of the lack of independence of new entity due to not recognized by other states (only by Turkey).

The Perspective of European Union: The Case of Cyprus:

In 1990, the government of the Republic of Cyprus applied for the membership of the European Union, representing the whole island. Afterwards, to see the future of Cyprus, especially not by the European Union, but the United Nations started reconsidering its roles and missions in Cyprus. Because, the UN Secretary General proclaimed the necessity of finding a peaceful solution between two communities before Cyprus becomes a full member of the European Union. Upon these, particularly, from 1990-1993, United Nations Secretary General prepared such plans which offered new peace mission solutions. Those plans would work on collaboration of Turkish and Greek Cypriots under the same agreement to be able to abolish problems for the future of Cyprus. In contrast, two communities’ leaders did not reach any agreements under the United Nations framework agreements.

Since 1997, when Kofi Annan became the new General Secretary of United Nations, the recent peaceful progress reports have restarted. Especially, from 1999-2001 due to the decisions of Helsinki Summit those included as; the European Union was trying to establish new floor for both Turkey and Turkish Cypriots (Verney and Ifantis, 2009). It would suggest that the policies of the European Union started to give further responds through the Cyprus Problem. The reason of this act is that, European Union was demanding to solve the problem in Cyprus before Cyprus’ official accession to the European Union membership, in favour of its enlargement project. Because the European Union never accepted any divided country within the union, it is not compatible with the European Union policies. For example, considering as the enlargement history of European Union, Belgium and The Northern Ireland

are the best examples to be able to evaluate European Union's effective policies with respect to divided society policies.

Consequently, the European Union took its real role during 2002-2004 after Helsinki Summit. During these years, EU put Cyprus Problem onto a table to the solve problems between Turkish and Greek Cypriots' governments before the date of major enlargement of the European Union (2004). The European Union was demanding to solve Cyprus problem, until the official membership date of the Cyprus (1 May 2004). Therefore, during 2002-2004, in reality it's the first time European Union policies were concentrated on the solution of Cyprus Problem under the assistance of UN Secretary Council.

In conclusion, especially after Helsinki and (2002) Copenhagen Summits until 2004 were really important years for Cyprus's future deal with; the continuation of either unification or separation. During these years were the first time for Turkish Cypriot government and citizens to be able to express their own voices on the eyes of the International Community. On the other hand, it may be announced that the two communities ever came closer for unification before as they did during 2002-2004. The results of at the end of the elections both in Turkey and North Cyprus, new leaders were elected who are in favour of the European Union and their slogans through as the unification of the island as soon as possible. Therefore, after the election of new political leaders, the process started to a different way based on unification comparing the old leaders' policies.

On the other hand, on behalf of the solution process, the UN Secretary General, Kofi Annan, prepared a well constructed plan which is known as 'Annan Plan' in November 2002. The context of the Annan Plan included all demanding issues from both Turkish and Greek communities in the cases of their arguments or discussions which were started with the bi communal negotiations (1975-2002).

Unsurprisingly, at the end of the bi-communal meetings and discussions by Turkish and Greek leaders, the results were the same as before which means they could not reach on agreement on agreement, so the end of the negotiations did not reach any peaceful achievement over the Cyprus problem (2002-2003).

In April 2003, the Cyprus signed the European Union Treaty of Accession (Protocol No 10 on Cyprus) together with the nine other European states as representing the whole island. Simultaneously, the European Union Enlargement Commission declared as; the EU policies over the Cyprus still continue until to find an acceptable peaceful solution for the unification of island. Expectantly, regarding the treaty as the Treaty of Accession (Protocol No 10 on Cyprus), EU agreed on that: the principle of *acquis-communitaire* would not apply Northern part of the Cyprus until the solution.

Treaty of Accession 2003 (Protocol No 10 on Cyprus):
Article 1:

1. The application of the *acquis* shall be suspended in those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise an effective control.

In fact, the Turkish Republic of Northern Cyprus would be out of the European Union rules and regulations until the unification with Republic of Cyprus. However, after the Treaty of Accession yet it was not meant the end of the negotiation period between the two leaders. They were still continuing until Cyprus' official date of European Union membership by the forces of EU and UN. For instance, in 21 March 2004, after two year negotiation period, the Annan Plan finalized by United Nations Secretary General, Kofi Annan. Plus of this, both the European Union and United Nations a second chance for Turkish and Greek Cypriots to vote the last version of Annan Plan.

In conclusion, from 2003-2004, both external and internal changes were at the scheme on behalf of the Cyprus problem. For instance, regarding domestic changes, elections took place

in each part, both Turkish and Greek communities elected their new presidents. Nevertheless, cooperation with the assistance of European Union and United Nations, negotiations were restarted by the new leaders of two sides. In this timeline, in 2004, there was a Summit in New York, and both sides agreed to finalize the Annan Plan before 1 May 2004.

Considering as the Annan Plan, an attached article was one of the main articles to be able to understand and evaluate its context.

Article 2:

a. The United Cyprus Republic is an independent state in the form of an indissoluble partnership, with a federal government and two equal constituent states, the Greek Cypriot State and the Turkish Cypriot State. Cyprus is a member of the United Nations and has a single international legal personality and sovereignty. The United Cyprus Republic is organised under its Constitution in accordance with the basic principles of rule of law, democracy, representative republican government, political equality, bi-zonality, and the equal status of the constituent states.

As stated above; dealing with the Annan Plan very briefly was suggesting to two communities: bi communal and bi-zonal peaceful governance system in the Cyprus, respecting the two communities' basic fundamental rights in a peaceful manner.

The results of Referenda and Accession of Cyprus in the European Union:

In 24 April 2004, referenda took place simultaneously both in South and North Cyprus. All citizens of all Cyprus voted the last version of Annan Plan on the same day. On that date, Cypriots were looked like writing history for the future of Cyprus. Because, considering the previous weeks of the referenda International Community focused on the case of Cyprus. For instance, the world governments and International Organizations were announcing speeches about Cyprus. Especially, those days were special for Turkish Cypriots to be able to take attentions by International Community; because they never find any chance to achieve to express their decisions. For example, in some special days (before special decision days) more than 80.000 of Turkish Cypriots (their population was nearly 200.000) met at the capital city of Nicosia and was shouting 'yes for peace'. This is described as, Turkish government and Turkish Cypriots were leading propagandas based on peace and unification of island under the framework of Annan Plan. In contrast, Greek government's slogan was calling as 'No for Annan Plan'. Above all, the results of the plan was ended as expectations: Turkish Republic Northern Cyprus accepted the Annan Plan by 64.9 percent of 'yes' votes, in contrast, the Republic of Cyprus rejected plan by 74.8 percent of 'no' votes (*Cyprus Mail*, April 25, 2004).

After the referenda results, the case of Cyprus had became a problematic state now not for only United Nations, especially for European Union. Respecting as the referenda results, the UN Secretary General Kofi Annan reported that:

"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 Council can give a strong lead to all States to cooperate 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. Not for the purposes of affording recognition or assisting secession, but as a positive contribution to the goal of reunification. (para. 93)"

On the other hand, Council of European Union stated an outcome of the referenda following as:

“The Turkish Cypriot community have expressed their clear desire for a future within the European Union. The Council is determined to put an end to the isolation of the Turkish Cypriot community and to facilitate the reunification of Cyprus by encouraging the economic development of the Turkish Cypriot community. The Council invited the Commission to bring forward comprehensive proposals to this end, with particular emphasis on the economic integration of the island and on improving contact between the two communities and with the EU.”

Afterwards, in 1 May 2004, Cyprus became an official member state of the European Union, representing the whole island.

After Cyprus’ membership, the European Union Enlargement Commissioner Günter Verheugen said:

“As the Turkish Cypriot community expressed overwhelming support for the UN Plan to reunify Cyprus, it would have been unfair, to say the least, to leave it out in the cold. The Commission is therefore happy to propose an aid and trade scheme, which, if adopted by the Council, will foster the economic development of the northern part of the island. It will also build new bridges between the two communities and thus keep alive hopes of the reunification of Cyprus”.

In 26 April 2004, dealing with the result of the referenda, the European Council stated that it was “determined to put an end to the isolation of the Turkish Cypriot community and to facilitate the reunification of Cyprus by encouraging the economic development of the Turkish Cypriot community”. The Council assume that

“invited the Commission to bring forward comprehensive proposals to this end, with particular emphasis on the economic integration of the island and on improving contact between the two communities and with the EU”.

As stated above, regarding as this statement opened new hopes for the future of Turkish Cypriots. In conclusion, considering the referenda results, it helped to change the perspectives of European Union over Turkish Cypriots. This means, the European Commission started to rethink its policies over TRNC government and especially for Turkish Cypriots. For instance, since 2004 (after referenda), European Commission started supporting Turkish Cypriots financially, such as financial aids to North Cyprus to improve economic and social conditions of Turkish Cypriots. For instance, European Union opened its European Commission office in Nicosia (the capital city of both TRNC and ROC). This office works on arranging EU financial aids for Turkish Cypriots. Moreover, it is working towards the aim that deals with, trying to keep Turkish Cypriots close to the European Union identities and policies. In mean time, in 2006 the EU financial aid regulation was accepted to provide further economic development of Turkish Cypriots dealing with the economic integration of whole island and preparation of the acquit communautaire for Turkish Cypriots. For example, an establishment aim of European Commission office (liaison office) in Northern part of the Cyprus based on harmonization EU legislation for Turkish Cypriots under the EU standards. (Hoffmeister, no date)

The European Commission Report on the financial aids towards Turkish Cypriots:

“It proposed a regulation establishing financial support for the economic development of the Turkish Cypriot community and for improving contacts between the two communities. The envelope amounts to €259 million for the period 2004-2006. It will put a particular emphasis on alignment with EU legislation and policies, reconciliation and confidence building measures, social and economic development, development of infrastructure and people to people contacts. This regulation has to be adopted by unanimity by the Council after consultation of the European Parliament.”

All of these new circumstances are proving that; EU mentality gradually changing through Turkish Cypriots and European Union promised to minimize Turkish Cypriots suffering from the isolations and embargoes. Considering with that point, any attempt to remove

isolations over Turkish Cypriots, increase the importance of Turkish part of Cyprus and simultaneously, increase the negative policies of Greek Cypriots. Because of all positive policies of EU towards Turkish Cypriots are unacceptable by Greek Cypriot. Therefore, previously EU can declared its certain policies over Turkish Cypriots and will be able to create more secure environment for unification of island such as establishing real process between Turkish Cypriot government and EU has regard as EU implementation process for normalization relations among them (Christou 2006).

EU Law: The Case of Turkish Cypriots:

The year 2009, the Northern part of Cyprus is continuing to its sovereignty as illegal and unrecognized state despite of reports of European Union. As stated in the previous part of the paper, regarding as the consequences of referenda, European Commission announced that, 'isolations and embargoes will lift in the Northern part of the Cyprus (TRNC) in line with 'yes' votes of Turkish Cypriots. In contrast, related with the current position of North Cyprus, Turkish Cypriots are still under the strict embargoes and isolations. This has been shown as; incapacity of European Union can achieve abolishing isolations over North Cyprus on behalf of Turkish Cypriots. Since 2004, the European Union only send financial aids for the development of the economy of North Cyprus, no more policies operating for the rights of Turkish Cypriots. Moreover, the issue of abolishing isolations are directly affecting the rights of Turkish Cypriots, because (i) they have not got any educational rights dealing with European standard, (ii) they can not express themselves in any International Organization, (iii) they can not attend any social and cultural activity in International area, (iv) there are no any direct flights from North Cyprus, because of this, they can not trade and travel freely and so fourth. To sum up, all of these examples explain that which kind of policies EU apply over the rights of Turkish Cypriots.

European Citizenship:

The Article 17 (defining European citizenship) defines as the basic rights of European citizens. However, in line with the case of Cyprus, this article only applies towards Greek Cypriots. Despite of Turkish Cypriots have the same ID and passports like Greek Cypriots, Turkish Cypriot citizens can not benefit from the rights of European citizens. In mean time, only original Cypriots can have the European ID and passport which means, who's each parents was born in Cyprus, not come from Turkey or somewhere else. Therefore, this is defined as Greek and Turkish Cypriots have the same origins if they have the same ID and passports. In contrast, EU law does not apply for both sides equally so in short Turkish Cypriots can not find a chance to use all benefits of European citizenship. If we give up all political history of Cyprus and just focus on the outcome of referenda, all citizens of the island decided the future of Cyprus. This does not mean the leaders of government's choice; this is the choice of people. In fact, Turkish Cypriot people vote for (i) unification, (ii) European Union, (iii) their never achieved rights of self-determination. Even based on the article which is mentioned that 'EU Law suspended in north part of Cyprus', this is indirectly against the voice, the rights of Turkish Cypriot people. This is not really suitable with the European Union Law, there is ineffective, inconsistent effect for identity of Turkish Cypriots.

After the outcomes the of referenda, the European Union can not close its doors at least Turkish Cypriots because now they are European citizens so they must have the same EU citizenship privileges and rights. According to this argument, this is approved that, there are gaps within European law for the citizenship rights of Turkish Cypriots. In other words, the special conditions of Turkish Cypriots are not compatible under the framework of European law. Additionally, in 1 May 2004, Greek Cypriots –Republic of Cyprus- became a full member of EU, without contributing to the establishment of a new state of affairs. Moreover, since it has recognized the rights of Turkish Cypriots and Greek Cypriots to determine the future state

of affairs on the island upon an equal footing, and has accepted the two sides' separate inherent constitutive powers as confirmed by separate simultaneous referenda, the UN and the European Union are now acting inconsistently by granting Greek Cypriots the privilege to act as the sole legal player in current state of affairs (Ozersay, 2005).

On the other hand, if we make a comparison between the independence of Kosovo and Turkish Republic of Northern Cyprus, we can evaluate and criticise the policies of European Union dealing with the examples of these two countries. First and foremost, considering to the long historical background which included huge suffers and tragic events, after the date of 17 February 2008, a new era opened over Kosovo in briefly, they took a chance to be able to express themselves to the whole world. Simultaneously, regarding as its independence started taking international reaction from the world states. For instance, United States, Albania, Turkey, UK, Afghanistan, France, which were the first states declared to recognize Kosovo as an independent state. After these states, other EU member states continue to recognize its independence, which are Germany, Austria, Latvia, Estonia, Italy, Denmark, Luxembourg, Belgium, Poland, Netherlands, Slovenia, Finland, Bulgaria, Hungary and so fourth.

In contrast, EU split into two groups because three member states of EU those are Cyprus, Romania and Slovakia have said that 'they will never recognize Kosovo's independence' and Serbia and Russia are strongly against Kosovo's independence as well. For instance, Greece and Cyprus' negative policies towards Kosovo's independence were caused by the case of TRNC. Due to the position TRNC, Kosovo may open new policy ways for future of TRNC in International arena. This describes why Greece and Cyprus are still not recognizing its independence despite of policies of EU through Kosovo. In fact, the independence of Kosovo on the eyes of International Law, acceptance as independent and legal state despite of an argument about if it has all criteria's of statehood or not. In contrast, the case of TRNC, Turkish Cypriots are still suffering under the strict embargoes and isolations; they have not any international legal personality despite the fact that it has all criteria of statehood. Furthermore, the policies of European Union towards the independence of Kosovo opened a new stage for the case of TRNC.

Therefore, after Kosovo's independence declarations, based on the EU press, EU observers announced that; independence of Kosovo created an example that is not behind of time progress for TRNC. We can never take Cyprus Case on beyond policies, so EU stresses to create new policies toward the Cyprus issue as soon as possible (Kibris, 20.02.2008). Other examples of that, intellectuals like academicians started to reanalyze 'Cyprus Issue' after Kosovo's independence and being recognized by many EU countries and the US and started to press articles such as

“Certainly after the Kosovo's independence, TRNC has an advantageous position in any negotiation regarding the Cyprus question. Although Ahtisaati states that Kosovo was one of the unique cases in international area, as it clears that there are many similarities between Kosovo and Cyprus cases and even compare to example of Kosovo which has not ready to rule itself yet, the TRNC has all the abilities to run the state itself and the Turkish side proofed this in last 25 years of its declaration of being an independent state.” (Cyprus_Times, 28.02.2008)

According to these, directly another question emerged to deal with 'how the European Union directly accepted Kosovo's independence in parallel to the case of TRNC'. Therefore, Kosovo's recognition by EU opened new arguments about its policies overall the case of TRNC and the rights of Turkish Cypriots as well (Marko Attila Hoare 2008). For instance, the Russian president, Putin said:

"I don't want to offend anyone, but Northern Cyprus has been a de facto independent republic for 40 years. Why then don't you recognize it? Aren't you, Europeans, ashamed of applying double standards in solving identical problems in different parts of the world?"

According to the all of these, the paper found that, there is a lack of harmonization within the European Union and we can see the dilemmas in EU policies. Because considering as an example of Kosovo and TRNC, easily opens arguments about 'the law and regulations of European Union are inconsistent on behalf of the issue about TRNC and Turkish Cypriots or not. For instance, two entities of Cyprus and also two nationalities of Cyprus are completely different. Due to this aspect, the question emerges that 'why do not European Union respect to the separation of these two completely different communities which as seen, cannot live together in peace in the same state?' In addition, the solution of European Union for the case of Cyprus is based on reunification of the island. However, as may be understood, this solution was not accepted by Greek Cypriots although Turkish Cypriots accept it in the referenda (2004). Despite this fact, EU still supports Greek Cypriots and Turkish Cypriots are suffering. European Union should introduce new solution models which can be accepted for the future of Turkish Cypriots.

On the other point, today, The Turkish Republic of Northern Cyprus is an internationally isolated state and there are not any economic relations with other states due to embargoes, unlike Republic of Cyprus. Therefore, The European Union law and regulations are not applying equally for each part and because of this, the economic gaps between the two parts of Cyprus are increasing by day by day. The dispute between Northern and Southern part of the Cyprus is the problem of European Union because Cyprus is only divided country within EU (Pass Paul 2008). For that reason, there are clearly inconsistent policies of European Union and these are incompatible with the principles of EU law.

Conclusion:

The year 2009, negotiations still are being operated on behalf of the solution plans for Cyprus by leaders of two communities. Since 2004, Turkish Cypriots are living still under embargoes and isolations, which mean that the European Union failed to implement its decision over Turkish Cypriots. According to the financial aid regulation (2006), the EU still does not respond to principles of regulation. (Arslan and Guven 2007) In mean time, during 2004-2009 observing changes dealing with the opinions of Turkish Cyprus about the European Union. For instance, regarding consequences of Euro barometer 67 in 2007 (Public Opinion in the European Union) over Turkish Cypriots; It shows that the images of European Union have decreased since 2004. For example, Turkish Cypriots' level of trust in the EU was 45% in EB 66. This percentage fell to 36% in EB 67 (Euro barometer 67 in 2007) (Public Opinion in the European Union).

In fact, analyzing the case of TRNC under the principles of EU Law has been focused on Article 1 of Treaty of Accession. It is described that EU Law applies only to part which is under the control of Republic of Cyprus, and there will not be an obligation of EU Law for the other part of the island until the reunification of island. This means that, the EU legislation is suspended in the Northern part of island which is not under the effective control of the Republic of Cyprus. On the other hand, when the doors have been opened since 2003, Turkish Cypriots get their EU passports freely; today nearly all Turkish Cypriots have rights of EU citizenship.

In contrast with Greek Cypriots or other EU citizens, EU citizenship rights are not applied directly for Turkish Cypriots. Their rights are under the strict limitations. For instance, they can travel, work or reside within other European countries but in practically their rights do not work compare to Greek Cypriots. The main example is the fact that Turkish Cypriots cannot participate in the elections of European Parliament which is a unique mechanism of EU that is only composed of European citizens. In mean time, this example provides that this is conflicting

with the quality principles of EU Law. The question emerged about; the European Union accepts an identity of Turkish Cypriots in Northern part of the Cyprus or not. Because Turkish Cypriots started being supported by the financial aids of European Union after the world saw the results of referenda. Furthermore, EU opened its office in Northern part of the Cyprus, it assumes that today EU has an office under the Turkish Cypriots government (TRNC). According to all of them, EU accepted that identity of Turkish Cypriots by directly or indirectly, but this does not change the outcome of EU policies. In reality, the European Union accepted that there is another entity in Cyprus out of Greek Cypriots (Republic of Cyprus). Connected to with those assumptions, EU has played amore concrete role in compatible its rules and values. Because, respecting the principles of EU law, the case of Cyprus and position of Turkish Cypriots open new floors about examination of EU policies.

If we turn back to the Turkish Cypriot's position under the EU, today they have European citizens like Greek Cypriots or other citizens of EU. In contrast, the question emerged that; Turkish Cypriots citizenship rights are not as same as Greek Cypriots or other EU nationalities. For instance, respecting the position of Turkish Cypriots, EU citizenship rights are impossible to apply for Turkish Cypriot despite of their EU ID and passports. Due to this reason, Turkish Cypriots are not able to take the same citizenship advantages from EU like other European citizens.

In line with the Article 11 regarding as an EU enlargement policy, Cyprus dispute is another ineffective area of CFSP. Republic of Cyprus, which is the South part of the island, became member of EU in 2004 with other 9 Central and Eastern European countries. However, the north part of island still is not under the framework of EU. In fact with the referenda results in 2004 as mentioned before, Cyprus became a member of Union without Turkish Cypriots. Today, Turkish Cypriots have right to take ID and passport of Republic of Cyprus. However, they can not get benefits from life standard human rights of EU.

On the other point, reason of the failure of Annan Plan accepted as EU incapacity policy or its inability for able to force coherent policy in Cyprus. This argument proved by Greek Cypriots which joined in EU without any enforcement regulations despite of their 'no' votes so it is assumed that now the situation in Cyprus is accepted as one of the EU foreign policy failure. (Tocci, 2004)

Dealing with the current agenda in Cyprus, there has been still negotiations between both sides under UN control. Even today there is no common foreign policy toward Cyprus. Nevertheless, if Cyprus became a member as a whole island, this could also affect EU in terms of cultural integration. Because, Cyprus is a country, in which two different cultures (Muslim-Christian) exist in the same territory. EU should take more effective decisions to unify the island again because it is also important the for reputation of European Union. While the Cyprus problem continues to exist, the question emerged why Cyprus was able to become a Member State. As it mentioned in previous parts of paper, this is not compatible with EU law and its policies. This argument can be supported by the speech of the Chairman of the EU committee, M. Wissmann, declared in March 2006 in a common session with the "Délégation pour l'Union européenne" of the French National Assembly:

“...the Union should not repeat the mistake to accept States which have not solved their internal problems, as it was the case with Cyprus. This statement does not fully take into account the complex negotiating process.” (Frank Hoffmeister, no date)

If Cyprus continues its situation, EU could lose her prestige within the international arena. Although it supports peace and stability, one of her members still has a real political problem under her union. Urgently EU should create a common foreign policy toward the island and encourage both sides for re-unification.

Finalizing the paper, the case of Cyprus still protecting its special position, and now it is in the hands of European Union not the United Nations. Since 2004, Cyprus has been an official member of EU and UN declared that; UN peacekeeping forces will deploy in June 2009. Currently, the leaders of the two communities still are negotiating, but the future of the Cyprus is still unknown. After the long complicated background of the island, no one can guess any future plans. However, today's Cyprus is surely not like before because now it's the turn of European Union which is an organization accepted as the most one prestige by the International Community. But, on behalf of the case of Cyprus, EU has political gaps which are not suitable with its principles.

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GENİŞLETİLMİŞ ÖZET

1960'lı yıllardan beri gündemde olan ve 2003 yılında Avrupa Birliği resmi üyeliğe kabul edilen, ve adanın kuzey topraklarını temsil etmeyen 'Kıbrıs Cumhuriyeti' tartışmalı bir siyasi ikilemi ile ön plana çıkmaktadır. Kıbrıs adası 1974 yılında 'Yeşil Hat' adı verilen bir siyasi uygulama ile kuzey ve güney bölgeleri ile ortadan ikiye bölünmüş, ve bu tarihten itibaren günümüze kadar iki farklı yönetim ile yönetilen bir ada olma konumunu hala korumaktadır.

1983 tarihinde Kıbrıs'ın kuzeyinde resmen ilan edilen 'Kuzey Kıbrıs Türk Cumhuriyeti' uluslararası hukuk tarafından kabul görmemiş ve uluslararası ambargo ve izolasyon politikalarına maruz kalmaktadır. 1960'da kurulan ve şu an sadece Kıbrıs'ın güney topraklarında egemenliği olan 'Kıbrıs Cumhuriyeti' uluslararası hukuk çerçevesinde ada üzerinde yasal ve resmi olan tek devlet statüsü olarak kabul edilmektedir. Kıbrıs Cumhuriyeti 1990 yılında Avrupa Birliği üyeliği için resmi başvurusunu yapmış ve 2003 tarihinde Avrupa Birliği'ne üye devlet statüsü oy birliği ile kabul edilmiştir.

2004 yılında adanın her iki bölgesinde adanın tekrardan toprak bütünlüğünün sağlanması ve tek devlet olabilmek adına yapılan ayrı referandumun sonuçları ve etkileri, bunun yansımaları Kıbrıs için büyük önem taşımaya devam etmektedir.

Özellikle, 2004 yılında Kıbrıs'ın tam üyeliğinden sonra, Avrupa Birliği politikaları çerçevesinde 'Kıbrıs Konusu' önemli bir bölünmüş bir üye ülkesi örneği olarak dikkat çekmektedir. Avrupa Birliği'nin diğer üye ülkeleri ile karşılaştırıldığında, Kıbrıs adası toprak bütünlüğü ve birliği olmayan, iki devletli Avrupa Birliği üye ülkesi olarak hala emsalsiz özelliğini korumaya devam etmektedir. Kıbrıs adası iki bölgeye ayrılan ve iki farklı devlet ile yönetilmektedir. Kuzey bölgesi diye tanımlanan alan, Kıbrıs Türkler tarafından ve sadece Türkiye'nin tanıdığı bir idare tarafından yönetilmekte olup, güney bölgesi ise, uluslararası bir idare olarak kabul edilen, Kıbrıslı Rumların yönetimi altındadır.

Bu araştırmada temel olarak, Avrupa Hukuku kapsamında günlük pratiklerde, Avrupa vatandaşlığı hakları bakımından, Kıbrıslı Rumlar ve Kıbrıslı Türkler olarak vatandaşlık uygulamalarına yer vermektedir. Kıbrıslı Türklerin yaşadığı bölge uluslararası toplum ve Avrupa Birliği tarafından kabul görmeyen bir bölge olmasından dolayı çeşitli çelişki ve sorunlara sebep olmaktadır. Bu çalışmada, Avrupa Birliği'nin Kıbrıs adasının kuzeyinde yaşayan ve diğer üye ülkeler gibi Avrupa vatandaşlığına sahip olan Kıbrıs Türkler için yaşadıkları bölgenin dezavantajına karşın yapmış olduğu yeni önlem ve uygulamalara da yer vermektedir. Yeşil Hat Tüzüğü yönetmeliği bu uygulamaların önemli bir örnek yeni uygulamasıdır ve çalışmada hem açıklayıcı anlamda hem de analizlerinde yer almaktadır.

Günümüz Avrupa Birliği konjektürü kapsamında, Kıbrıs Avrupa Birliği içinde bölünmüş bir ülkedir ve bu bir sorun olarak kabul edildiğinde, Avrupa Birliği'nin politikalarını ve prensiplerini doğrudan etkilemektedir.

Bu araştırmada, 2014 referandumun yasal sonuçlarına rağmen; Kıbrıs'ın kuzeyinde yaşayan Kıbrıslı Türklerin Avrupa Birliği vatandaşlık haklarını Avrupa Birliği hukuku koşullarını değerlendirmektedir.

Bu çalışmanın temel amacı, Kıbrıs Türklerin doğasında sahip olduğu Avrupa vatandaşlığının temel hak ve prensiplerinin statü durumunu incelemektir. Araştırma konusu ile ilgili araştırma ve incelemeler için yasal ve bilimsel kaynaklar veri olarak kullanılmış ve Avrupa vatandaşlığı kapsamındaki yasa uygulamaları ile desteklenmiştir.

Ayrıca, bu araştırmada Kıbrıslı Türklerin Kıbrıs'ın kuzey kesimindeki haklarıyla ilgili Avrupa Birliği politikaları ve yönetmelikleri de incelemektedir. Araştırmada, iki farklı bölgede yaşayan Kıbrıslıların Avrupa Birliği vatandaşlık hakları kapsamında bölgesel eşitsizliklerinin analizleri yer almaktadır.

Uluslararası arenada Kıbrıs adasında kabul gören iki farklı ülke olduğu düşünülerek Avrupa Birliği hukuku çerçevesinde bu iki farklı ülkenin aynı vatandaşlık haklarına sahip olmasının incelenmesi yapılmıştır.