

EUROPEAN MODELS FOR A NEW PARTNERSHIP IN CYPRUS

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Since 1968, not only Turkish Cypriot and Greek Cypriot leaders but also Ankara and Athens, the UN, the USA, Britain and NATO have tried within their capacity and in line with their own interests to solve the Cyprus problem.

The basis of all talks and negotiations since then has been the political equality and co-founder partnership principle of the two Cypriot peoples so that neither of them should be in a position to impose its hegemony on the other.

Years followed years, proximity talks followed direct talks and vice versa but the only result so far has been failure. Since 4 December 2001, an initiative by the Turkish Republic of Northern Cyprus (TRNC) President, Rauf Denktaş, has placed before us a new opportunity, which subsequently seems to have run into serious difficulties as a result of the Greek Cypriot side's insistence on not accepting the formation of a new partnership state based on two equal Cypriot constituent states. This attitude amongst the Greek Cypriot leaders has been particularly obvious since the so-called Annan Plan was submitted on 11 November 2002. The UN Secretary-General's plan, according to reliable sources, was prepared mostly by the British, assisted by the Americans, and taking into consideration their own national interests. Despite its reference to the Swiss and Belgian models, it merely pays lip service to those models on vital issues such as the sovereignty of cantons in Switzerland and the basic provisions of the Belgian model as regards foreign policy and linguistic separation have been completely ignored. Thus, it does nothing to address Turkish Cypriot fears regarding sovereignty and territorial integrity.

We have had high hopes and sad disappointments all along since 1968. The new hope created at the beginning of the most recent talks has now given way to more cautious feelings and serious doubts about their outcome.

By reading the Greek press and considering what sources close to Glafcos Clerides and other Greek Cypriot political leaders are stating publicly, one can easily conclude that there are serious difficulties in setting up a new partnership, based on new and modern concepts, such as the type of governmental system which is successfully applied in some European countries, like Switzerland and, particularly, in Belgium.

These two European countries have settled their communal differences, basically on the principle of accepting absolute political equality and sovereignty among their communities, states or cantons, which I will venture to explain as much as possible. However, before that,

let me draw your attention to a few facts that might help you to understand and compare properly the above European models with Cyprus.

A FEW FACTS TO BE RECALLED

First, we have to recall that sovereignty in Cyprus was transferred by Britain in 1960 to the newly created Republic, which had been established on the basis of a co-founder partnership of Turkish Cypriot and Greek Cypriot communities. This proves the fact that sovereignty was transferred to both communities equally –not to either the Turkish Cypriots or the Greek Cypriots alone. Therefore, both communities were entitled to share sovereignty over the island.

Second, both Cypriot communities were, and still are, entitled to the right of self-determination, as the British Foreign Secretary and the Colonial Secretary declared and as the British Parliament acknowledged on 19 December 1956. By this, the Turkish Cypriot community, no less than the Greek Cypriot community, should be recognised as having the right to self-determination.¹

The third irrefutable fact, as the then British Foreign Secretary, Selwyn Lloyd, underlined in Parliament, is that “For Turkey, Cyprus is an offshore island covering the approach to its southern ports.” Alan Lennox-Boyd elaborated on this further, saying: “I cannot see how it is anything other than logical to grant a community with such close interests with Turkey, and only 40 miles away, the same rights as we are prepared to recognise should go to the Greek Community.”²

The fourth fact is that according to Article I of the Treaty of Guarantee, the Republic of Cyprus has undertaken to respect its constitution and “it undertakes not to participate, in whole or in part, in any political or economic union with any state whatsoever. It accordingly declares prohibited any activity likely to promote, directly or indirectly, either union with any other State or partition of the Island.” This provision has now been included in the Annan Plan as well and is one of the basic legal reasons for the Turkish rejection of the Greek Cypriots’ accession to the European Union.³

The most crucial fact is that the Greek Cypriot side was not satisfied with the 1960 set-up and attempted unilaterally and by force of arms to alter both the constitution and the international Agreements. Towards the last days of 1963, they imposed political and economic embargoes on the Turkish Cypriot people and for 11 years forced them to live in ghettos covering only three percent of the island. This was followed by the 15 July 1974 Enosis Coup and subsequent Turkish Military Intervention, which halted the Greek invasion at the frontiers of the present dividing line.

The present de facto situation on both sides of Cyprus is the direct result of violations of the constitution and the agreements aimed at achieving a wholly Greek Cypriot state and uniting it with Greece. As the Turkish intervention in 1974 stopped the realisation of this Hellenic aspiration and provided the conditions for the security of both communities in which two separate states have been created, any attempt to settle the Cyprus problem has to be based on these realities.

During the course of the present top-level negotiations, not only the Turkish Cypriot and Greek Cypriot leaders and the two motherlands but also, particularly, the UN and the EU

should be very careful when they do or say something about a future settlement. It is very regrettable that a few top-level EU officials responsible for enlargement adopted such an attitude and made such provocative statements that one wonders if the EU really wants to contribute to a just and viable settlement or has dubious thoughts and biased aims.

The UN Secretary-General, Kofi Annan's statement read to Clerides and Denktas on 12 September 2000 on the occasion of the proximity talks is worth mentioning here. He said:

“In the course of the talks, I have ascertained that the parties share a common desire to bring about, through negotiations in which each represents its side –and no-one else– as the political equal of the other, a comprehensive settlement enshrining a new partnership on which to build a better future in peace, security and prosperity on a united island.

...I have concluded that the equal status of the parties must and should be recognised explicitly in the comprehensive settlement.”

This approach was re-emphasised in Annan's plan of 11 November but without the safeguards on foreign policy and linguistic separation enshrined in the Belgian Model.

PROF. ELEZAR'S DELIBERATIONS

Having briefly introduced the background to the facts of Cyprus, I will now elaborate on certain European models that, by the implementation of which, neither side would be able to impose its hegemony on its partner. I think the Swiss model and, more particularly, the Belgian system of government have many provisions that appear to be appropriate models for a future Cyprus settlement. Professor Daniel J. Elazar, who was in Cyprus for the US Embassy to investigate any thinking that might help to advance a solution, in an interview published in Philelefteros newspaper on 3 January 1998, stated clearly that it was up to the people of the constituent states to decide in every case what they want to allocate to each constituent government or what they want to have shared among governments.⁴

He also explained how federal states during recent years have decided to re-arrange their system on confederal provisions, taking into consideration the fact that a confederation will have a better chance of staying together because it demands less of its members. According to Prof. Elazar, Canada and even the US are moving towards a system of confederation. For instance, since the 1960s, the American federal government has recognised that states are more efficient in dealing with foreign economic affairs than the federal government. So, the states have taken the lead in America in import-export arrangements with foreign countries. State governors or officials go on trade missions, the states open offices in Brussels or in Tokyo and they conclude trade agreements. This is accepted in Annan's plan for both Cypriot states, but refused by the Greeks.

In Canada, for instance, which has a federal government like that in the USA, it has been realised that Quebec Province has some special interests in foreign affairs and therefore the Foreign Ministry has been re-organised in such away that Canadian embassies now have special facilities to serve the Provinces to meet their needs in that respect.

In response to a question suggesting the Central Bank should be under the control of the central government, Prof. Elazar stated, “Banking is usually done that way. But there are some exceptions. For example, Great Britain. There, there is the Bank of England and a

separate Bank of Scotland, but they coordinate their policies so there will be only one national economic policy, but they print their own bank notes. Technically they are separate currencies even though they coordinate of course very closely because in Great Britain, in any country these days, one has to have a common economic policy.”⁵ In fact, in Scotland, three Banks (the Bank of Scotland, the Royal Bank of Scotland and the Clydesdale Bank) are entitled to print their own, different, Scottish bank notes. Prof. Elazar continued, “Even in the United States, there is not one Central Bank, but there are 13 Federal Reserve districts, each of which has its own bank but there is a common economic advisory board and so forth.”⁶

Replying to a question as to whether in a small country like Cyprus similar provisions on separate taxation by the states would create problems, Prof. Elazar commented that, other than certain taxes, “it might be best to allow each of the constituent units to decide how much money is needed and how they will be collected. It depends on circumstances and the people involved.”⁷

He also explained why breaking away from a confederation is not as easy as it is from a federation, saying that a federal system is like a piece of wood or steel. It can be broken if and when you bend it further than its molecules can support it. So, sometimes, a confederation will have a better chance of staying together because it demands less of its members.

According to Prof. Elazar, Canada, which was named as a confederation but had been a federation for many years, is moving now in the direction of becoming a real confederation.

EVOLUTION TOWARDS BALANCE AND EQUALITY

In continental Europe, we come across similar evolutions towards de-centralised governmental systems that are particularly successful in creating stability and a viable balance between different communities within the frontiers of certain states. Switzerland and, particularly, Belgium are good models to be considered.

Here, before going any further, I must underline another fact; that there is no model in the world which can be picked up and applied direct to a situation in order to solve its problems. Federal or confederal systems are sui generis and as Murray Forsyth, a professor of political science at the University of Leicester in the United Kingdom, stated, the more you look at them in detail, the more you see that they are adapted to that particular situation.

“It is a myth to think that there is some ‘splendid model’ that can be applied quickly to any situation that will solve it... It has to be adapted to the particular needs of the particular peoples and countries concerned. It must fit the realities and the situation as closely as possible.”⁸

His talk in Nicosia was based on the Swiss and Belgian models. Considering that Belgium has lately adopted a bi-communal system of government composed of two main components with a central government in Brussels, it is worth examining it and finding out how we in Cyprus could adapt parts of that system to our existing situation. Therefore, I will pick up some ideas from Prof. Forsyth’s deliberations.

He says that federalism is developing in certain parts of Europe.

The unification of Germany is based on the extension of the West German federal system to Eastern Germany as well.

Since 1993, Belgium, which was a Unitary State, has been, and officially is called, a federal state. On the other hand, Spain, which was a highly centralised state under the Franco regime, is turning itself into a federal structure.

There is no question that there has been a strong upsurge since the early 1990s to turn Europe into some form of federal structure.

But there has been an opposite development in Eastern Europe. First, the Soviet Union, which was a federal structure, collapsed in 1990-91. Then Czechoslovakia disintegrated into two separate states and the Yugoslav Federation into more than three independent states, where a new federation has been recently formed between Kosovo and Montenegro. However Prof. Forsyth underlines the fact that these were not federal states in the real sense. They were highly centralised totalitarian regimes. A highly centralised, unitarist, Communist Party was in power. So he says, "The failures of federalism, in Eastern Europe, were not a reflection on the incapacity of federalism. These failures basically belong to Communism, which was in no way friendly towards the idea of a real federal state."⁹

If we look at Switzerland we see that it took that country hundreds of years to evolve its present system. First, the thirteen German-speaking cantons formed a single organ or Congress to combine their efforts in security, welfare and health for a better life. Later in the nineteenth century, the French-speaking and finally the Italian-speaking areas of Switzerland joined the confederation on the basis of equality.

The Swiss constitution provides full equality for all cantons and its 3rd Article runs as follows:

"The cantons are sovereign so far as their sovereignty is not limited by the federal constitution and as such they exercise all the rights which are not delegated to the federal government."

The sovereignty of the federal government has been achieved by delegating some sovereignty from the cantons to the centre, by agreement and without giving up their own sovereignty, which they retain. As such, Prof. Forsyth maintains that "they have an element of statehood and their powers of statehood are original and not delegated."¹⁰

The centre cannot simply assume power, because its powers are delegated, described and limited. In order to increase its power, the centre should ask for further delegation from the cantons; whereas the powers of cantons are developing, as it were, and can go on developing, because they are not limited.

According to Prof. Forsyth in his address to the conference, "Switzerland is a federal state, but it is one in which the cantons are very strongly entrenched and are very powerful. They are very real units, far more real units than American states. The Swiss union has to argue its case for the delegation of more power and it can not take things for granted."¹¹

It is not only sovereignty but also the principle of the linguistic equality of each canton that contributed to the formation of the Swiss model.

There are restrictions on the Three Freedoms (freedom of movement, settlement and land ownership). The cantons have full jurisdiction over these freedoms. Those coming in and wanting to settle in one canton have to learn the language of that canton and send their children to school in the language of the canton. The same applies in Belgium, but with further restrictions. Such measures are taken to guarantee that each canton will not be drastically altered either demographically or linguistically. Sadly, Annan has completely ignored this vital aspect.

So, in brief, the distinct features of Switzerland which handle the problems of heterogeneity are the principles of territoriality, sovereignty and linguistic equality. The Upper Chamber is also based on equality of the cantons. Although laws are passed at the centre, they are executed at canton level. The federal government is comparatively small in terms of its administration and it has fewer officials than the cantons, because the cantons are doing the administrative work of the centre.

THE BELGIAN EXPERIENCE AND SYSTEM

In Belgium, the federal system has been formed over the last 30 years and two distinct linguistic communities, French speaking Walloons and Dutch speaking Flemings, have their own separate territories and states. One is in the north of the country and the other in the south, and together with the Brussels capital region, the country is divided into three parts territorially and communally.

The Belgian model is the newest such system in Europe, having developed peacefully and by consensus over the last 30 years. Out of Belgium's population of 10 million, approximately 60 percent speak Dutch, 40 percent French and under one percent German; even this one percent have similar community rights.

The present system in Belgium has been reached through constitutional reforms, which transformed the unitary state into a federal one. While the confederal establishment in Switzerland transformed into a federal system by way of delegation of power to the centre, in Belgium, the centre devolved its power to the communities and regions.

If we look into the process and requirements that turned the centralised Belgian system into a federal one, we see that the French-speaking Walloons were on top and they governed the state whereas the Dutch-speaking Flemings were the underdogs and they were kept down. This caused the rise of Flemish nationalism based on linguistic, cultural and ethnic differences. It began with a linguistic movement demanding that Flemish (Dutch) be accepted and spoken in government offices including courts, schools, etc. Later, in the 1960s, they demanded cultural autonomy as well.

On the other hand, the economy of the Walloons in the south started worsening, which obliged them to co-operate with the Flemings for a better life. To achieve this, they had to accept the demands of Flemish nationalism and consequently to concede to the linguistic, cultural and administrative division of the country between the two communities based on equality and separate sovereignty.

On this point, I want to draw attention to the fact that, in order to achieve this kind of sovereign equality for each community and region, the parties concerned should first develop a sense of common cause; a common vision that would serve the interests of each of them on

an equal basis. If they do not, any efforts to accommodate all sides peacefully within a federal system are bound to fail.

The Walloons and the Flemings felt the necessity to co-operate for a common cause, to reconcile nationalism and the economy and to create bridges between the two communities in order to prosper on equal terms while enjoying equally their separate identities and sovereignty within their own territories.

In Belgium there are;

- three communities: Flemish, French and German, based on their separate languages.

There are also;

- three regions: Flanders, Wallonia and the Brussels capital area, where the two communities meet.

Each region has its own institutions and legislative and executive organs.

The three communities deal more with socio-economic matters than the capital, Brussels. They control the economy and economic decision-making, the mining and steel industries, and almost all matters concerning the present and future economy of Belgium. In addition, all linguistic, educational, cultural, welfare and health matters are dealt with by the communities. For example, the Flemish community and region has close relations with its neighbouring countries and has exercised its right to conclude treaties on cultural co-operation, education at university level, economic and environmental management of cross-border rivers, etc., and to appoint its own diplomatic representation in economically important centres, such as Pretoria, Tokyo and Washington, as well as in neighbouring France, Germany and the Netherlands.¹² Equally, the Walloon community and region enjoys and exercises similar rights.

What is left for the centre are matters related to economic and monetary union. There is a single currency, and free movement of goods and services. But even on those matters, they have the same principle of territoriality in relation to the communities. The frontiers of each linguistic territory are fixed.

The centre is entitled to set the overall norms and standards for economic and legal matters. But an enormous proportion of economic power has been given to the regions and almost all powers on education, linguistic matters and others as mentioned above, in other words all residual powers belong to communities. This makes the centre weak and both the regions and communities strong.

Brussels is the third region and it separates the two ethnic units from otherwise confronting one another.

The Belgian model of power sharing among communities and regions is based on clear-cut definitions that leave no doubt about who is responsible for what. They define very clearly what function and powers belong exclusively to regions, to communities and to the centre. In Belgium, it is not enough to say that residual powers belong to the regions. The regional and communal powers are defined clearly and, thus, a long list of powers is prepared. Because

they believe strongly in equality at all levels –regional, communal and central– the centre is not superior to the others and no one level can take precedence over the others.

One striking feature of the Belgian system is related to its dealings with the EU. According to the process created by this system, Belgium's views on certain EU issues can only be finalised when both regions, Flanders and Wallonia, reach a consensus after discussing the matter between themselves. Otherwise, Belgium remains neutral on that issue. If a topic to be discussed at the EU concerns and is in the interest of one particular region, someone from that region represents Belgium.

In the same way, as regards deciding Belgian foreign policy on certain issues, both regions have to reach a consensus, otherwise the specially formulated Department P11 acts as co-ordinator between the two sides until consensus on a common foreign policy is achieved.

It has to be underlined here that it took the Belgian linguistic communities 20-30 years to sort out this system, by a long process of peaceful negotiation, persuasion, convincing and consensus.

CONCLUSION

If both sides in Cyprus seriously want to establish a new partnership state that will validate their main concerns (such as security, sovereign equality, the integrity of the new partnership republic and the integrity of their two separate states) as is the case in Belgium, and if they genuinely have common cause in prospering together and making Cyprus an EU member in compliance with the provisions of the Treaty of Guarantee and the 1960 Agreements, then the first principle to acknowledge should be that at the root of a viable lasting solution there must be two equal partners. The partners are the source of power and, as such, their power is not delegated to them; it is the partners that delegate parts of their power to the centre.

These are the basic principles without which no solution could be final, just and viable. Any imposed solution will definitely, before long, lead to a terrible situation –one as bad as, if not worse than we witnessed recently in Kosovo and in the Middle East.

I do not think a single Cypriot, Turk or Greek, would like to see Cyprus suffer such ruin, destruction and mass killings. We must all realise that this final opportunity provided by the initiative of President Denktaş, and with the concurrence of Mr. Clerides, really is the very last chance for all of us who want to see a new and united Cyprus based on the sovereign equality of its two partners.

The Swiss and Belgian models are there to be examined in great detail, not with the intention of seeing how to use them for the benefit of one side only, but to build a new state that will be a bridge of friendly relations between Greece and Turkey and a bastion of European democracy, peace and prosperity.

It is time for us to abandon our prejudices and work together for a common home for all Cypriots, based on full respect of the equal and sovereign rights of the two constituent states.

I hope we all live long enough to see it –the alternative does not bear thinking about!

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- 1 Parliamentary Debates (Hansard) 19 December 1956, Vol. 562. No. 32, col. 1272.
 - 2 Ibid., col. 1273, repeated col. 1277.
 - 3 For further reading, see Why Cyprus Entry into the European Union would be Illegal, London, 2001, the legal opinion of Prof. Maurice H. Mendelson, QC.
 - 4 Interview with Prof. Daniel J. Elazar by Tassos Anastasiades in the Greek Cypriot daily Philelefteros, 3 January 1998.
 - 5 Ibid.
 - 6 Ibid.
 - 7 Ibid.
 - 8 From his talk given on 8 April 1993 at the Cağatay Conference Hall, in Lefkoşa, TRNC, on the subject of ‘A Cyprus Solution in the Light of the Experience of Switzerland and Belgium’.
 - 9 Ibid.
 - 10 Ibid.
 - 11 Ibid.
 - 12 Flanders Foreign Policy, produced by the Flemish Administration for Foreign Affairs, March 2002.