SCOTLAND AND EUROPE: STATE OF THE DEBATE ON BREXIT

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Scotland's European debate is unsurprisingly dominated by Brexit. While the United Kingdom as a whole voted to leave the European Union in the 2016 referendum, Scotland voted by 62% to remain in the EU. Scottish politicians are largely pro-European, and all five parties represented in the Scottish Parliament supported continued EU membership in 2016. Since the referendum, the Parliament has passed motions in favour of protecting Scotland's place in the EU, safeguarding Scotland's devolution of powers settlement from Brexit, holding a second EU referendum in the UK, and revoking the UK's withdrawal if a no-deal Brexit materialises.

The Scottish Parliament was (re)established in 1999 under the aegis of the UK Parliament in London. Within this system of devolution, the Scottish Parliament and the Scottish Government have competence in all areas that are not specifically reserved to the UK level. Since foreign affairs, including relations with the EU, are indeed reserved, Scotland's political institutions have not been entitled to a formal role in the Brexit negotiations.

At the same time, EU membership of course significantly transcends the traditional domain of foreign policy and involves areas where Scotland does manage its own affairs, including the environment, fisheries and agriculture. Should the UK leave the EU, its departure would therefore have a direct impact on the functioning of Scotland's politics.

Scotland, Brexit and the UK constitution

In practice, the opinion of the Scottish Government is that the UK Government has not meaningfully involved it in the Brexit negotiations. Intergovernmental relations between the UK Government and the devolved governments are largely asymmetric, based on precedent and established conventions, and reflect the absence a formal written UK constitution. Structures such as the Joint Ministerial Committee, intended to coordinate policy and reach consensus where needed, do not function adequately in the view of both the Scottish Government and its counterpart the Welsh Government.

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The differences which have emerged between the Scottish Government and the UK Government concern not only the negotiations themselves, but the domestic implications of Brexit. An important illustration is the flagship UK legislation to implement Brexit, the EU Withdrawal Act 2018. The Scottish Parliament refused to provide its consent to this legislation, according to the convention, yet it was passed by the UK Parliament regardless.

The prospect of Brexit has therefore challenged Scotland's system of governance. Divisions over Brexit policy externally towards the EU, and the way in which Brexit has been carried out internally within the UK, have brought about persistent constitutional conflict between the Scottish and UK levels. Despite the UK's competence on external affairs, it would still have been possible to involve the Scottish Government more substantively in the Brexit process while maintaining a common UK position to the EU. Instead, the mechanics of Brexit have demonstrated weaknesses in Scotland's devolved settlement and its role in the UK, which will eventually require to be resolved.

In the longer term, constitutional reform would appear necessary to ensure the sustainability of the UK's union between England and Scotland. That reform could likely involve the creation of a codified written constitution and a formal role for Scotland's political institutions in major UK-level policy making. In truth, appetite or interest for such reform in London is minimal – but not recognising the growing political divide between Edinburgh and London could have strategic consequences.

Scotland and the future EU-UK relationship

Provided that the UK does leave the EU, on the basis of a negotiated withdrawal, attention will turn to constructing the future EU-UK relationship. The negotiations on that future relationship will take years, and the end result could prove significantly different from the aspirations in the non-binding political declaration. While it will remain to be seen what role the Scottish Government will have in those negotiations, past experience suggests it will be limited. Nevertheless, Scotland has markedly different priorities than England on relations with the EU.

In contrast to UK politics, Scottish politics operates with a broad consensus on the importance and benefits of the free movement of people. Scotland is dependent on inward EU migration to sustain its population, and Scottish political leaders have provided much more positive narratives on immigration than elsewhere in the UK. With its near two-thirds majority in favour of continued EU membership, Scotland's pro-European outlook is reflected across parties and on both sides of the Scottish independence debate.

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Brexit would leave Scotland as a sub-state nation of a third country to the EU. That status would make it challenging for Scotland to have relevance in the EU and to remain part of European debates. However, Scottish society will continue to have expertise and ideas to offer in Europe, such as in renewable energy, environment management, higher education and research, and domestic human rights.

The Scottish Government has opened new offices, called Innovation and Investment Hubs, in Berlin, Paris and Dublin, and expanded its longstanding presence in Brussels. These offices provide venues for Scotland to build its European networks and partnerships, not just in investment and trade, but in research and education, arts and culture, and other areas of common interest.

In wider European policy, the Scottish Government is currently developing an Arctic strategy, which is intended to bring a Scottish perspective to the challenging and opportunities facing the Arctic region – in fields such as shipping, fisheries and renewable energy, Scotland has interests to draw on and expertise to put forward. These initiatives among others demonstrate a continued European commitment, and a desire to remain part of the conversation on the future of Europe.

Brexit and the Scottish independence debate
While the consequence of Brexit would be to push Scotland further away from the EU, Scottish politics and society do not seek that outcome. The European question has therefore become a major point of divergence between Scotland and England. The process of the Brexit negotiations and the domestic preparations for Brexit have exposed and deepened fault lines in the UK's structures of governance and the role of the nations of the UK in constitutional policy.

In that regard, EU membership provided a common European level which mitigated or solved many of the questions which are now re-emerging about political and policy differences within the UK nations. Whether those differences ultimately culminate in another Scottish independence referendum, or indeed a majority for independence in such a referendum, remains to be seen – other factors will also form part of that debate.

From a Scottish perspective, it is difficult to argue that the current prospect for future EU-UK relations is desirable, or that the strain of Brexit on Scotland's political rights is sustainable. Change in some form, whether independence, constitutional reform or another alternative, will to some degree be inevitable. For Scotland's European debate, the challenge will be to maintain the European conversation beyond Brexit and demonstrate Scotland's pro-European outlook, despite the wider UK's difficult relationship with the EU.

IF YOU RUN IN THE WRONG DIRECTION, SPEED DOES NOT MATTER

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The world has entered the era of painful and dangerous paradigm shift, which creates serious long-term risks for this country, and for that reason, the urgent need for transformation and methodical development of the new model and industries in order to preserve the prosperity of the people and Cyprus' place in the "first world".

It is always an extremely difficult task to identify the right economic niches to target as potential engines of growth. But at a deeper level there are two critical factors, which stand behind long economic cycles, define the shape of the future, and therefore, can serve as a useful compass. These are demography and technology.

The "baby-boomers" born in the 1950-60s are now retiring. Millions of people, whose massive borrowing and spending was driving the international economy in the 1980s and the 1990s now ending their active economic lives and this will have a profound impact on demand and consumption patterns, particularly in the Western world. Another issue with the "baby boomers" is that they live longer, and therefore require unprecedented level of health care and end-of-life care, which will place a very heavy burden on the social welfare systems of many countries.

At the other extreme end of the spectrum are poor and developing countries, especially, across Africa and the broader Middle East, which are undergoing a demographic explosion. For the purpose of comparison, the average fertility rate across the EU is 1,4-1,5 while in sub-Saharan Africa it is 5. Almost 40% of the Middle Eastern population are under the age of thirty, and they are living with increasingly acute water and land shortages, which are likely to be the driving factors behind waves of migration from the region for many years to come. Unfortunately, due to religious and ethnic tensions as well as institutional collapse and social strife in many parts of the region, it seems doomed to remain the area of protracted violence and humanitarian tragedy for a long time. The situation for the region will also be aggravated by the growing energy independence of the United States from the Middle Eastern

supplies. Shale oil and gas revolution in the US as well as continued advances in technology help the US to gradually transform itself into an energy exporter and start competing on the international market for customers. This will have profound impact on the global market and geopolitics, given the size of the US economy and the role it plays as a net energy importer.

But shale oil/gas industry is not the only sector, in which technological revolution is taking place. The US and other major advanced economies are on the way to gradual reducing of their dependence on foreign-manufactured, low value-added goods as well as foreign-originated intermediary services. Roughly 10% of the US GDP is already generated by the new-age industrial sectors based on robotics, AI, bio, nanotechnologies, new materials and the new principals of management and operation. Costs are falling slowly so that, for example, production costs in some French new-age manufacturing segments are already as low as in Brazil. Manufacturing is gradually returning back to the rich consumer countries. The rather slow process is will probably take ten to fifteen years but its impact on cheap-labour developing countries - as well as some industries, which flourished during the previous era - will be profound. One of them is shipping, a sector which rose on the back of global trade by transporting, mainly, cheap manufactured goods from the poor countries to the rich. The return of manufacturing to consumer countries is bound to reduce the scale of this sector, and while shipping will not disappear, it will have to adapt and transform, and it will shrink in size. Countries generating income from ship registration fees will see their income drop as a consequence.

At the same, advances in IT and communication sectors coupled with AI/robotics-based technologies are fundamentally transforming banking and financial system as we know it. These new technologies are making the system more transparent, bringing sellers and consumers into direct contact, and many of the functions that are conducted today by lawyers and accountants will gradually be replaced by automatic execution and verification technologies powered by AI. The first successful experiments on the execution of insurance contracts have already been conducted. While not every technology will take-off, the direction in which the next technological wave moving is clear.

These technological transformations represent the direct risk to any business model based on the *provision of intermediary services,* where income comes, primarily, from transaction fees. The new technological wave will be the era of producers and high value-added knowledge-intensive service providers, who will be selling and delivering their products and services *directly* to the *final consumer*. Cyprus must therefore start gradually move from the provision of low value-added *intermediary* services and climb up the value chain.

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Calling for the transformation is easy. Developing the plan and rolling it out is the difficult part and for any new knowledge-intensive sector to take off in Cyprus, two conditions must be met: *massive capital investments, and a high concentration of technical expertise*. The country lacks both, and it is therefore vital to have a serious societal debate on how such a transformation can be achieved.

One model worth considering is the transformation of Cyprus into an international administration and logistical hub for international *medical aid, relief and disaster management NGOs.*

Demographic, social-economic, military and environmental factors, unfortunately will intensify the risk of regional wars and humanitarian tragedies during the ongoing global paradigm shift.

Cyprus' geographic proximity to the major risk zones of the Middle East, Africa and Southern Asia, availability of modern logistical infrastructure, stability/safety and relatively low cost of operations make it a solid candidate to become a major hub for NGOs as well as national and inter-governmental organizations dealing with medical relief and disaster management operations in zones of humanitarian catastrophes.

The Government must develop a package of incentives as well as undertake a targeted diplomatic offensive to attract such entities from all around the world to open their regional and international offices on the island. That should involve administrative and medical personnel, logistical operations via local ports/airports, storage of aid inventory/supplies, and possibly their training facilities as well.

The NGOs are not-for-profit organizations with access to multi-billion donor resources from all over the world (private, corporate, national and inter-governmental). They would have to be given incentives and assistance to open on the island *medical rehabilitation centres and sanatoriums*, where victims of wars and catastrophes could be brought for treatment. The operations of such medical rehabilitation centres could be financed from the *not-for-profit capital* of donors. The NGO sector has one significant advantage over the private one: its operations do not depend on profitability and stock market crashes. NGOs do not close their operations when disaster strikes. On the contrary, their activities intensify during periods of instability. Cyprus could thus create additional industry with "counter-cyclical" economic characteristic.

Apart from the income the country could generate from the presence of NGO offices, personnel and logistical operations, the main objective of this plan would be to encourage the medical services industry and related sectors to take-off on the island. The country does not have enough available capital to

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invest on its own and, at present, it is not a very competitive destination for investors in medical sector due to the lack of large-scale concentrated medical expertise.

For such an industry to take-off, it requires *large concentration of doctors and patients.* By opening rehabilitation centres on the island, financed by not-for-profit capital, medical NGOs could help the country to create the needed "fertile soil" for the sector.

A concentration of medical expertise, infrastructure and patients at a later stage will inevitably start attracting private capital, pharmaceutical and medical supplies companies as well as private investments in related segment such as laboratories, R & D activities, international start-up financing in medical services and equipment manufacturing.

Cyprus has a chance to become an international hub in a specialized area such as the conflict and catastrophe medicine, which would help the country to push its economy further up the value chain and drive deeper technological transformation in others sectors.

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THE IMPACT OF EU FOREIGN POLICY ON SMALL MEMBER STATES: MALTA AND CYPRUS

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Consonant with small state foreign policy behaviour, small states are said to address a more limited scope of foreign policy issues, limiting the latter to their immediate geographic area.[1] Therefore, the participation of small states in EU foreign policy is often regarded as a very challenging one. This is due to the inherent weaknesses of small states and the 'complex system of collective European policy making'[2], which is said to tax the administrative capacity of small EU Member States. Upon joining the EU, however, Malta and Cyprus immediately started addressing their most pressing foreign policy issues; irregular migration for Malta and the Cyprus Question for the Republic of Cyprus.

With EU membership the foreign policy reality of Malta and Cyprus changed overnight. As EU Member States these small island states extended the southern border of the EU and became part of the EU's external border. Thus, as consonant with Small State Theory, Malta and Cyprus sought to increase their 'politics of scale'[3] by participating in EU foreign policy. The re-assurance provided by the EU is of great importance to Malta and Cyprus, especially due to their geo-strategic location in the Mediterranean which is in close proximity to the volatile region of the Middle East and North Africa. The impact of participating in EU foreign policy led to several adaptations in the national administrative structures. These adaptations allowed both countries to manoeuvre the EU's multi-level governance. Interestingly, EU accession meant that Malta and Cyprus also started dealing with foreign policy matters that were not on their national agenda. This meant that the constraints of a

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[1] Hey. J., 2003. Small States in World Politics: Explaining Foreign Policy Behaviour, London: Lynne Rienner Publishers, pp. 5.

[2] Tonra, B., 2000. Denmark and Ireland. The foreign policies of European Union Members in Manners, I., Whitman R., G., 2000, pp. 229.

[3] Ginsberg, H., R., 1999. Conceptualizing the European Union as an International Actor: Narrowing the Theoretical Capability- Expectations Gap.

small country participating in the EU foreign policy began influencing national 'foreign policy institutions and procedures'[4] and 'foreign policy substance'.[5]

The *sui generis* case of Cyprus' enlargement presented additional vulnerabilities when the country joined the EU. This was so as Cyprus entered the EU as a divided state with a constrained foreign policy that remained focused on the unsolved Cyprus Problem. Furthermore, the country was also affected by the outcome of the referendum, and the EU's immediate approach in strengthening relations with the Turkish Cypriot Community and Turkey. The main change that occurred with respect to the Cyprus Problem during accession negotiations was the involvement of the EU in this long-standing matter. Indeed, this meant that safeguarding Cyprus' sovereignty became paramount considering the EU's ability to have a determining influence on the Cyprus Problem. Therefore, Cyprus' foreign policy focus has seen it project its national interests on matters such as the Direct Trade Regulation and Turkey's EU accession, with such issues having a direct effect on the sovereignty of the Republic of Cyprus. Following EU membership, the Republic of Cyprus concentrated its foreign policy resources on Turkey as this country posed a security threat for it. This threat emanated out of Turkey's lack of recognition of the Republic of Cyprus and its territorial waters. Indeed, the security threat could be described as a 'hard' security threat as Turkish troops are to this day stationed in the Republic of Cyprus, albeit located in Northern Cyprus. The response to this matter has seen the country projecting its interests at the EU level, with the country's foreign policy relying on the EU's protection and influence. Furthermore, Cyprus has also become attuned to social constructivism which is the basis of EU foreign policy. Through social constructivism actors at EU level choose courses of action that are appropriate, legitimate and focus on the appropriateness of behaviour and persuasion.[6] Cyprus' cooperation, such as vis-à-vis the EU-Turkey Agreement in 2016, also represents a form of bargaining-power and preservation of national security, given that the closer the ties between Turkey and the EU will increase the EU's 'power of attraction as a solution to the Cyprus issue'.[7]

When it comes to Malta, on the other hand, a pressing foreign policy priority manifested during accession negotiations. This was the new 'soft' security threat of irregular migration. Given that irregular migration to Malta seemed to have been triggered by the country's accession to the EU, Malta became very active on an EU level in attempting to alter the Dublin System. As an EU

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[4] Baun, M., Marek, D., eds., 2013. The New Member States and the European Union- Foreign Policy and Europeanization, Oxon: Routledge, pp. 3.

[5] Alecu de Flers, N., 2012. EU foreign policy and the Europeanization of neutral states: comparing Irish and Australian foreign policy, Oxon: Routledge, pp. 46.

[6] Schimmelfennig, F. and Sedelmeier, U., 2004. Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe, Journal of European Public Policy, 11:4, pp. 667.

[7] Christou, G., 2002. The European Union and Cyprus: The Power of Attraction as a Solution to the Cyprus Issue, Journal of Ethnopolitics and Minority Issues in Europe, Issue 2/2002.

Member State, Malta's foreign policy priority became that of influencing EU legislation in order to change a *status quo* which saw an unfair burden placed on Member States found at the periphery of the EU border. Furthermore, Malta's limited resources and geo-strategic location at the periphery of Europe led the country to seek the EU's protection. The analysis of Malta's main foreign policy priority proved to be more challenging than that relating to the Republic of Cyprus. The threat of irregular migration is faced by several other EU Member States, all of which were also projecting their national interests onto EU foreign policy. Therefore, it was not always clear cut which EU Member State had managed to influence a given outcome. However, one cannot renege the fact that, for the past fourteen years, Malta adopted a highly proactive approach on this matter at EU level.[8] In line with Smart State Strategies, Malta's lobbying in relation to irregular migration has been consistent and clear. Malta has lobbied the different EU institutions, it has utilised bilateral relations and coalition building to reinforce the country's lobbying and has also projected its interests in Mediterranean regional organisations and international organisations. Malta has also established itself as a credible state in this respect, something evidenced by the fact that the EUREMA pilot project was specifically implemented for Malta and by other events, such as the decision to locate EASO in Malta and the European Council's Valletta Summit on migration held in 2015.

Although it is difficult to determine the exact level of Europeanization for both Malta and Cyprus, evidence has shown that these small states have been willing to utilise EU foreign policy as their main foreign policy vehicle. This involvement in EU foreign policy in relation to their most important foreign policy areas has led to a willingness of Europeanization.[9] However, even though there is this is element of Europeanization, national foreign policy interests are still at the core for both countries. The foreign policy priorities for both Malta and Cyprus are the outcomes of 'the fundamental realities of geography, historical experience, state size and power resources and perceived vulnerabilities.'[10] Even though, the EU's bureaucratic foreign policy-making system is known to put pressure on the limited resources of small states' foreign policy, both countries safeguarded national foreign policy interests and have actively projected these interests with the aim of influencing EU foreign policy.

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[8] Fiott, D., 2010. How Europeanized has Maltese foreign policy become, Mediterranean Quarterly, Vol. 21 Issue 3, pp. 104-118.

[9] Wong, R. and Hill, C. ed., 2011. National and European Foreign Policies, Towards Europeanization. Oxon: Routledge, pp. 211.

[10] Baun, M., Marek, D., eds., 2013. The New Member States and the European Union- Foreign Policy and Europeanization, Oxon: Routledge, pp. 221.

THE IMPORTANCE OF DIPLOMATIC PRESENCE FOR EFFECTIVE DIPLOMACY: THE CASE OF CYPRUS

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The importance of maintaining diplomatic missions abroad is two-fold. To begin with, diplomatic presence encapsulates a great deal of symbolism. Establishing diplomatic ties and opening an embassy is among the first moves of a newly established state in search of international recognition. Hence, diplomatic representation is – to this day –largely a symbol of statehood.

From a practical point of view, maintaining a diplomatic mission is conducive to effectively practicing diplomacy on the ground. The technological revolution and the rapid development of transportation have made communications as well as travel much more accessible. One could argue – perhaps rightly so – that physical presence is gradually becoming redundant as the new technologies are embedded to day-to-day diplomatic practice. Nevertheless, having bold diplomatic presence abroad remains relevant, as it enhances the international footprint of a state in the global arena.

The challenge of cost-efficiency: the paradigm of Cyprus
Maintaining a robust diplomatic network can be particularly challenging for small states in their quest to be a visible and effective global actor. Size may pose constraints both in financial terms as well as with regard to human capital. This in turn affects the resources allocated for the exercise of diplomacy. A smaller foreign service means in effect a smaller network of delegations abroad and often also understaffed missions. Consequently, a limited number of people is called to cover a wide portfolio of thematic areas from a constantly growing international policy agenda. As a result, foreign service staff both in capital and abroad is faced with increased workload. The majority of these employees are called to manage multiple hats simultaneously, which leads to a reduced capacity to focus and/or specialise in targeted policy areas, so as to effectively address the relevant needs.

This model is not unknown to Cyprus. The Cypriot foreign service has ca. 180 embassies, consulates-general, delegations and representations worldwide.[1] Of these ca. 45 are resident bilateral missions, i.e. embassies located in the country to which the Head of Mission is accredited. Furthermore, many of these missions are staffed with only one diplomat, whereas in many cases the Head of Mission is in parallel accredited to range of other states and/or international organisations.

Parallel accreditation has long served as a midway solution to foreign services with somewhat limited capacity in the sense that by employing this option a state can spare the resources, while retaining the symbolism explained above. The effectiveness of parallel accreditation, however, becomes questionable, if the latter is ultimately narrowed down to presenting credentials and attending an occasional reception or two. Parallel accreditation may substitute diplomatic presence on the ground if utilised effectively, but just as any substitute, the extent to which it can compensate for actual presence is rather limited.

Tackling effectiveness

Ceteris paribus and in the absence of a drastic turnaround in the existing terms of reference, the challenges described above are likely to persist. What is then crucial is how to reframe the mindset and design a course of action within which effective diplomacy will be strategically developed. Against this backdrop, it is time to step away from the spirit of symbolism that diplomatic missions have traditionally carried with them and rather take a functionalist approach.

In spite of the groundbreaking technological advancements, diplomatic presence continues to have significance. The importance of reinforcing the diplomatic network cannot be overlooked when it comes to forging new or strengthening existing ties, as well as to tackling effectively national, regional and global challenges. Therefore, establishing new missions worldwide will continue to be on the agenda of the foreign service, notwithstanding its size or other capacity limitations. At the same time, the opening of a new mission needs to be mapped out in a strategic and targeted manner. And vice-versa: downgrading or closing missions should also be considered among the available options and in light of a continuous reassessment of needs and reshuffling of priorities.

A foreign service has to operate in flexibility to remain relevant to the needs of the state and the citizens it serves. At the same time, this needs to be coupled with a long-term vision and effectuated within a framework of strategic planning. In this vein, it is paramount for a country with constraints

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[1]
http://www.mfa.gov.cy/mfa/mfa2016.nsf/All/E7B02DB1A4FCC593C2258029002F4057?OpenDocument

such as the ones described above to capitalise on its comparative advantages in an effort to minimise the impact of its inherent limitations.

To begin with, by actively taking part in and shaping the agenda of effective multilateralism. A small state may also consider making use of the multilateral context to enhance bilateralism by promoting its own bilateral agenda in the margins of a multilateral structure. Cyprus in particular has two additional instruments in its toolbox. On one hand, the new type of *minilateralism* which has recently emerged at the regional level in the form of a more vigorous, quasi-institutionalised trilateral engagement. On the other hand, Cyprus's EU membership. The latter gives access to the extensive network of EU delegations, which Cyprus can use as proxies and as a source of information in the absence of a national delegation, as well as to the diplomatic missions of fellow EU member states for consular assistance, which unrepresented EU citizens are entitled to request.

All in all, diplomatic presence remains relevant today and is important for the effective practice of diplomacy. The impact of the limitations states face as regards their adequate representation abroad can be mitigated by making strategic choices in a flexible spirit and a targeted manner that takes into account the comparative advantages at hand within the specific context. For diplomatic representation should go well beyond mere symbolism; it should rather be geared towards tangible and quantifiable results.

THE NEW ERA OF THE CIVIL JUSTICE SYSTEM IN CYPRUS

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The 1954 Civil Procedure Rules (hereinafter referred to as the 'Rules') governs Cyprus's civil justice system. However, since the Rules have not been revised as a whole, the English Rules of the Supreme Court 1883 that were in force in 1960 when Cyprus gained its independence alongside the White Book editions of that period continue to be of relevance in the Cypriot civil procedure. The Rules were initially written in English and the amendments were made in Greek with no overall official translation creating ambiguity, inconsistency, and linguistic issues, which subsequently undermine the law's certainty and clarity.

The Functional Review of the Courts System of Cyprus is a project contracted by the Structural Reform and Support Service of the European Commission that was conducted by a Review Team from the Institute of Public Administration, Ireland and published a report in March 2018 (hereinafter referred to as the 'Functional Review Report'). Further, an Expert Group under the leadership of Lord Dyson after consideration and comments by a Cypriot Rules Committee produced another report in May 2018 on the Review of the Rules of Civil Procedure in Cyprus (hereinafter referred to as the 'Report'). Both reports outline the chronic delays in the system, namely that the length of court proceedings in Cyprus is among the highest in the EU. The length of such delays varies between districts and can range from one to seven years while there is an additional delay of up to five years on appeal. The reports identify further inefficiencies of the system such as the insignificant use of Alternative Dispute Resolution (ADR) methods, the inefficient use of judicial and courtroom time, the lack of a set standard procedural process, and the inconsistent application of the Rules. Other factors contributing to the inadequacy of the system include the absence courtroom security, poor infrastructure, and lack of an electronic register of cases. It is suggested that most of these problems undermine the rule of law and the right to a fair trial under the ECHR.

The Functional Review Report recommended inter alia to establish a review group to specifically investigate the introduction of revised arrangements for the hearing of appeals, including the establishment of a second tier Court of

Appeal. The development of a Judicial Training School and the introduction of objective criteria for the recruitment, assessment and promotion of judges is also very important. Additionally, a proposed e-justice system envisages a comprehensive networked computerisation of all major aspects of court administration and hearings which will be implemented in all courts and court offices. Moreover, a Commercial Court is expected to commence operation in 2018/2019. In addition to high value commercial cases, the court will also assume the admiralty jurisdiction of the District Courts.

Regarding the rules of procedure, the first recommendation of the Report by the Expert Group under the Chairmanship of Lord Dyson was that amendments must be made *en bloc* rather than piecemeal. In England, Lord Woolf was the head of the committee that modernised civil procedure with the introduction of Civil Procedure Rules in 1998. His innovation came in the form of the CPR's overriding objective which introduced a new concept of justice, one that was 'committed to proportionality rather than… an unalloyed commitment to the achievement of what Woolf described as substantive justice'.[1] Accordingly, the Report also provides recommendations regarding the incorporation of the overriding objective and case management provisions of the English Civil Procedure Rules into the Cypriot Rules.

Another recommendation made relates to the introduction of three pre-action protocols, i.e. a series of steps that must be taken by a person before bringing a claim to court: (1) a general pre-action protocol governing all proceedings not covered by their own specific protocol, (2) a personal injury protocol and (3) a pre-action protocol on debt. Also, it is recommended that penalties should be imposed for breach of pre-action protocols. The Report also suggested the adoption of statements of truth instead of affidavits to do away with the inconvenience of affidavits. If affidavits will be retained, the Report recommends the practice that all affidavits be sworn before the Registrar must stop, and such swearing must be allowed to take place before other persons, for example practising lawyers. Also, the Report suggested that the judiciary should advocate towards Alternative Dispute Resolution (ADR) and give encouragement to mediate. Furthermore, the Report proposed three tracks, depending on the amount in dispute and the complexity of the case: (1) low value claims, (2) intermediate claims and (3) all other claims. The more complex a case, the more points of contact there will be with the court. It was also recommended that the English CPR Part 36 rule be followed but in a considerably simplified form. This is a mechanism for the claimant to make an offer to settle with severe costs consequences if the offer is refused and the claimant achieves at trial a more favourable judgment than his offer and vice versa.

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[1] John Sorabji, 'The Road to New Street Station: Fact, Fiction and the Overriding Objective', (2012) 86 European Business Law Review 77.

The Rules Committee correctly indicated that in drafting new rules, Cyprus' culture and customs must be taken into consideration. For example, the English system is designed to operate in an environment with law firms with large numbers of employees, while the largest firms in Cyprus do not have more than 20 partners and most practitioners are sole practitioners. Also, the per capita income in Cyprus is lower than in England and monetary penalties as well as costs must be adjusted in a way not to hinder the right of access to justice. Additionally, the failings that have been observed within the English system ought to be carefully considered in any effort to emulate such a system. For instance, case management in England has been entirely undermined by judicial discretion. As Adrian Zuckerman argues, 'instead of abiding by the management directions that it has given, the court is willing to reconsider them so as to ensure that the defaulting party's case is not defeated on procedural grounds and without a proper determination of the substantive merits. The result is that notwithstanding the assertion of court control of the litigation process, the court remains reluctant to enforce adherence to its own management orders.'[2]

Additionally, it is proposed that the American experience of the Rocket Docket system be taken into consideration. Such system provides a policy for judges to consent to almost no extensions. It may be argued that Cypriot lawyers may face difficulties in adhering to such a strict system. However, since cases in the Supreme Court are almost always heard on their fixed date, it could be argued that Cypriot lawyers could indeed be able to adjust to such a system.

It is suggested that should the contemplated reform finally materializes in the right way, it could constitute a positive development for the future of Cyprus and its citizens. A draft set of rules will be released in May 2019. As it has been argued, the Cypriot state of affairs must be taken into account, while problems made during the English reform period must not be repeated. By that means, Cyprus' respect to the rule of law will be evident and its profile as a place to conduct businesses will improve on an international level.

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[2] Adrian Zuckerman, 'Litigation management under the CPR: A poorly-used management infrastructure', Déirdre Dwyer (ed.) The Civil Procedure Rules Ten Years On (Oxford: Oxford University Press, 2009) 99.

CITIZENS AND THE FUTURE OF EUROPE: THE 2018 CYPRUS PRESIDENTIAL ELECTIONS

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Background

In March 1 2017, the European Commission presented its White Paper for the Future of Europe[1] that included reflections and scenarios about the future of European integration by 2025. This document presented five possible paths. Each scenario outlined a specific path of the possible development/evolution of the EU, depending on the choices made. This was followed by a pan-European effort to enact a Citizens Dialogue with the aim to engage stakeholders by presenting their ideas and thoughts on this issue, ahead of the European Parliament elections in May 2019.

EU in the Cypriot Public Discourse

This paper[2] analyzes how EU issues played out in the recent Cypriot presidential elections (February 2018). It focuses on the period from March 2017 to February 2018 and assesses empirical data derived from candidates' programmes, interviews and debates, along with party programmes and opinion surveys. While the total number of candidates was nine, we chose to focus on five candidates who were supported by parliamentary parties. We based this decision on the fact that parliamentary parties have increased access to resources, securing thus greater visibility to their candidates.

Data Collecting and Processing

The main activities included data collection and the creation of a database. These were followed by a classification and an analysis of the data.

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[1] European Commission, 'White Paper for the Future of Europe: Reflections and scenarios for the EU27 by 2025', Brussels: COM (2017) 2025 final, available at
https://ec.europa.eu/commission/sites/beta-political/files/white_paper_on_the_future_of_europe_en.pdf

[2] This paper is based on a presentation made in the context of a public event titled: 'Communicating the Future of Europe to Citizens? Insights from the 2018 Cyprus Presidential Elections', organized by the Centre for European and International Affairs (CEIA) and the Department of Politics and Governance, University of Nicosia, Cyprus in November 27 2018.

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Findings
Based on the empirical data, the EU was neither effectively nor successfully communicated to the citizens during the Cypriot presidential elections. In particular, EU related issues and therefore the EU were presented in a very limited way by the candidates' campaigns, reaching a mere 12 % (464 references). These references were categorized into seven main themes. The first thematic was related to the Cyprus issue, reaching 35,5 % (165 references), while the second thematic was associated to EU-Turkey relation, reaching 20% (92 references). Economy was the third most important thematic with which the EU was associated during the Cypriot presidential elections, reaching 19% (89 references). It contained a critique to the EU for the imposed austerity measures, deriving from the Memorandum of Understanding and appeals for a more effective utilization of European funding to kick start the economy. The forth thematic had to do with enhancing the EU's Common Security and Defense Policy as means of increasing Cyprus's security, reaching 9% (40 references). The issue of public health was the fifth most important thematic 5% (25 references). In particular, the candidates communicated the need for a more effective utilization of European funding to support the ongoing attempts to implement a Cypriot National Health System. Natural gas was the sixth most important thematic, reaching 4% (20 references). Finally, the Future of Europe was the seventh most important issue, reaching 3 % (15 references).

References to this theme were very general, expressing objectives such as establishing a more united or even a more democratic EU. We also noticed that the candidates did not place particular attention to put forward their positions in relation to the Future of Europe. Thus, there was no extensive public debate during the election period on this issue. To the limited extent that, suggestions were developed, these were not particularly explanatory. On the other hand, there were cases where candidates criticized the EU. Critique was developed around specific issues, such as the overly bureaucratic and impersonal procedures that increase distance between the EU and the citizens. All these findings highlighted the limited visibility of the EU during the Cypriot presidential elections.

The findings derived from the electoral programmes were also very restricted. There was no direct reference to the Future of Europe explaining the ongoing process of the Citizens Dialogue. Europe was also absent on a symbolic level, since only one candidate included the EU flag in his programme. On the other hand, there was a clear correlation between the electoral power of a political party and the references made to Europe. The latter were correlated to the results of the 2016 parliamentary elections. Therefore the bigger a political party was in terms of its electoral power, the greater the references it made to the EU. Besides electoral power, representation to the EU was an equally important factor. Thus, political parties who had managed to elect Members

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of the European Parliament had made more references to the EU and the Future of Europe.

Final Remarks

Based on the data drawn from the Cypriot presidential elections, the EU's position in the Cypriot public debate was extremely limited. In this context, Europe was largely absent both on a symbolic and a practical level. To the limited extent that, European issues were presented by the candidates and the parties that supported them, this was done in a very restrictive way. As a result, these issues were not communicated to citizens, as they should have. Finally, Cyprus's position on this issue was determined without sufficient citizens' input on the issue of the Future of Europe.

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SHIFTING ALLEGIANCES AND CONTESTED CITIZENSHIPS: THE TURKISH-CYPRIOT QUEST FOR SOVEREIGNTY

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Following their withdrawal from the government of the Republic of Cyprus (RoC) in 1963 and the 1974 Turkish invasion in Cyprus, the Turkish-Cypriots declared their own state in 1983 – the 'Turkish Republic of Northern Cyprus' ('TRNC'). The breakaway entity that formed in the northern part of the island remains to this day internationally unrecognized, except by Turkey. The fact that the 'TRNC' is not internationally recognized renders the Turkish-Cypriot quest for sovereignty incomplete. The Turkish-Cypriots, with their own 'TRNC' passports can only travel to a handful of countries; to travel outside these, they have to obtain alternative passports. In 2004, the RoC joined the EU and since then the citizens of the RoC enjoy the full benefits of the European citizenship – including an EU passport. The Turkish-Cypriots are able to apply for Cypriot/EU passports, as they are still considered citizens of the RoC. This finds many Turkish-Cypriots holding three passports, with the three different citizenships that come along – a 'TRNC', a Republic of Turkey and a RoC/EU one. This article examines the shifting allegiances of the Turkish-Cypriot community with regards to sovereignty in a European context, arguing that the Turkish-Cypriots employ their contested citizenships interchangeably in an ongoing quest for sovereignty.

Since its establishment in 1960, the RoC failed to secure the allegiance of its Turkish-Cypriot citizens. Following a series of inter-communal clashes in the 1960s and its withdrawal from the government and the parliament, the Turkish-Cypriot community found itself marginalized and in a quest for separate sovereignty. The events culminated in 1974 with the Turkish invasion, population transfers and physical division of the island along geographic and ethnic lines. The maimed RoC survived, as the only legitimate and internationally recognized entity on the island in the hands of the Greek-Cypriots. The Turkish-Cypriot community found itself concentrated in the northern part of the island, under Turkish military occupation and declared itself an independent state in 1983 – the 'Turkish Republic of Northern Cyprus'. The international community, with the exception of Turkey, does not recognize the 'TRNC' as a sovereign state, but recognizes the *de jure* sovereignty of the RoC over the whole island. The United Nations considers

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the 'TRNC' declaration of independence as legally invalid in several of its resolutions.

The RoC joined the EU in 2004 and its citizens enjoy the benefits of the EU citizenship. On the other side of the divide, any citizen of the 'TRNC' is entitled to citizenship of Turkey and a Turkish passport. The Turkish-Cypriots however, are also entitled to citizenship of the RoC, according to the constitution of 1960. Officially, the 'TRNC' does not recognize the legitimacy of the internationally acclaimed Republic of Cyprus and is referring to it as the 'Greek-Cypriot Administration', urging its citizens not to render it recognition by obtaining RoC passports. On the other hand though, numbers speak differently: according to the RoC Ministry of Interior, about 100.000 Turkish-Cypriots have obtained RoC passports and ID cards since 2003 and the partial lifting of restrictions on free movement across the division line. One should notice that the total number of the Turkish-Cypriots residing in 'TRNC' is approximately 150.000.

Thus, we see that more than half of the Turkish-Cypriot population of the 'TRNC' makes use of RoC passports, ID cards and the citizenship benefits that come along. Ironically, international recognition and access to the benefits of EU citizenship for the Turkish-Cypriots comes through the much-contested and often despised RoC citizenship. The RoC that they have been undermining since its inception seems to be their only vehicle to Europe.

The situation of the Turkish-Cypriot community seems to be *in limbo* concerning their civic allegiance and identity. Disappointed by the RoC between 1960 and 1974 they fell prey to the calls of Turkish nationalism for *taksim*/division and the creation of their own 'TRNC'. *De facto* statehood though is different from *de jure* and in practice, the Turkish-Cypriots are EU citizens but their territory lies outside the EU's customs and fiscal territory. The RoC joined the EU as a whole in 2004, but the EU *acquis* is suspended to the northern territories that are not under the effective control of the internationally recognized government. Therefore, it seems that the 'TRNC' has also failed to win the civic allegiance of its citizens, who have to resort to alternative citizenships and passports in order to exercise their European rights. For the time being, the issue seems to be tackled on an individual level, with the Turkish-Cypriots using their contested citizenships interchangeably in order to pursue their personal interests. But for how long? At some point, they would need to make a final decision as to where their allegiance lies.

Apart from the issue of civic allegiance, perceptions of sovereignty in both sides of the divide need to be re-evaluated, given the ongoing situation and the stalemate of the Cyprus problem. The Greek-Cypriots would need to re-consider just how sovereign the RoC is, with almost half its territory inaccessible and occupied by Turkey since 1974. The Turkish-Cypriots would

also need to ask themselves just how sovereign their 'TRNC' is, without international recognition where the 'citizens' of this entity need to resort to alternative passports in order to access their civic rights as Europeans and to participate in the international community. Unfortunately, the current *status quo* on the island seems only to perpetuate perceptions of alleged sovereignty in both sides of the divide.

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Bimonthly Electronic Newsletter