

Cyprus and the EU: catalyst for negotiations or settlement?

Nathalie Tocci¹

Centre for European Policy Studies, Brussels

Throughout the 1990s and up until late 2001, the EU variable in the Cyprus conflict failed to trigger a settlement on the island. Yet, with the resumption of direct talks between the two Cypriot leaders, the EU is faced with a unique opportunity to actively encourage the search for peace in Cyprus. This article provides some tentative ideas about what external actors and the EU in particular can do in order to sustain and encourage these positive dynamics. The EU factor could still act as a 'catalyst' to settle in Cyprus provided it sent the adequate signals and positive incentives to the conflicting parties. What incentives could the EU offer to Turkey, the Turkish Cypriots and the Greek Cypriots in order to encourage a settlement on the island by the end of 2002?

In early December 2001, a historic event took place. Upon the invitation of the Turkish Cypriot leader, Glafcos Clerides crossed the buffer zone to dine with Rauf Denktaş in northern Cyprus. The 'dinner diplomacy' continued throughout December and early January. On January 16 the two leaders resumed direct talks, stalled since the summer of 1997. The common understanding is that the approaching EU deadline for the accession of the Republic of Cyprus was one of the critical factors inducing the Turkish Cypriot and Turkish sides to re-embark upon a peace process. What still remains unclear is whether there is sufficient will on all sides to actually reach settlement by the end of 2002. The present article provides some tentative ideas about what the EU, as the most influential external actor in Cyprus today, could do to encourage the talks to reach a successful conclusion.

What became increasingly clear to Ankara and Lefkosa by late 2001 was that the accession of Cyprus to the EU in the near future was inevitable. Whether or not the two communities agreed upon a settlement, the Republic of Cyprus, together with the other first wave candidates, would enter the Union by 2004. The current European Commission has made it its mission to realise the historic EU eastern enlargement before the end of its term in 2004. Out of 12 negotiating candidates, Cyprus is amongst the most advanced candidates, having provisionally closed 24 out of the 29 negotiating chapters. Moreover, even if some member states may still have deep reservations concerning the accession of Cyprus as a divided island, the Greek Parliament (as well as the European Parliament more recently) made it clear that it would not ratify enlargement unless Cyprus was included in it. Given the historic importance of this fifth enlargement, the EU is effectively left with no choice but to accept the membership of Cyprus even prior to a settlement, despite the repercussions this may have on its relations with Turkey and the stability of the eastern Mediterranean as a whole.

It is within this context that the current Turkish Cypriot opening should be interpreted. The 'stick' of EU membership of a divided Cyprus induced a change in the Turkish Cypriot position supported by Ankara. But what are the underlying motives behind it? There seem to be two likely and not exclusive explanations. The first is tactical: Ankara and Lefkosa, well aware of the enlargement timetable, may believe that a re-launching of the talks could put a spanner in the works of the Greek Cypriot EU

¹ Research fellow at the Centre for European Policy Studies in Brussels

membership drive, or at least reduce the international blame on the Turkish side for a failure of the peace efforts. The second, more benevolent motive would be that the Turkish Cypriot leadership, supported by Turkey, having appreciated the current trends, is sincerely pushing for a just and lasting settlement on the island. The truth probably lies between these two extremes. A mix of tactics and real desire for a settlement may be pushing the Turkish Cypriot leadership to re-launch the process.

The precise mix is closely linked to decision-makers' attitudes both in Lefkosa and Ankara towards the EU. If Cyprus were to enter the Union without a political settlement, the likelihood of future inclusion of both northern Cyprus and Turkey in the EU would be reduced significantly. Those decision-makers who truly see their peoples' future in Europe are bound to seriously push for an early settlement on the island. Those who do not are more likely to act for purely tactical reasons. Today it is difficult to ascertain which trend will prevail within decision-makers' circles.

Time is indeed running short with Cyprus expected to sign an Accession Treaty with the Union by 2003, leaving the rest of that year for the ratification process in EU member state parliaments. The question tackled in the following section is what could external actors and the EU in particular do in order to sustain and encourage these positive dynamics. In other words, the EU factor could still act as a 'catalyst' to settle in Cyprus provided it sent the adequate signals and positive incentives to the conflicting parties. What incentives could the EU offer to Turkey, the Turkish Cypriots and the Greek Cypriots in order to encourage a settlement on the island by the end of 2002?

Motivating the Turkish Cypriots to settle the conflict prior to EU membership

In order to induce the Turkish Cypriot leadership to genuinely work towards a settlement, it is necessary to persuade the Turkish Cypriot leadership and people that a settlement within the EU could indeed serve their interests. While the stick of EU membership of a divided island may have been the principal factor explaining Rauf Denktas' return to the table, sufficiently attractive carrots are pivotal to encourage genuine Turkish Cypriot will to reach a settlement prior to membership. What carrots could be offered? The economic benefits available to north Cyprus following the EU accession of a reunified island are insufficient to encourage a change in Lefkosa's current position. Despite the considerable economic boost that EU membership would represent, sufficiently attractive political and security benefits are indispensable to a genuine change in the Turkish Cypriot position.

In addition to the Greek, Turkish and British military guarantees, which would presumably be retained in the context of a settlement, the Union could offer itself as a *non-military* guarantor of a settlement. In the event of a breach of the constitutional order, or a violation of the principles of 'liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law'ⁱ, 'the Council, acting by a qualified majority, may decide to suspend certain rights deriving from the application of the Treaty to Cyprus'ⁱⁱ. In other words, articles 6 and 7 of the EU Treaty could allow for a non-military EU guarantorship both of the constitutional order and of the respect for EU principles in Cyprus. Adding the EU as a guarantor to the new state would increase the credibility of the Treaty of Guarantee given the strong deterrent force of possible EU sanctions. While the replacement of the Turkish and Greek military guarantees by an EU military guarantee would increase the Turkish Cypriot sense of

insecurity, a complementary and non-military EU guarantee would increase both communities' confidence in the new settlement.

The Union could also offer important political benefits to the Turkish as well as Greek Cypriot community as national communities without their own separate states. The position of non-state entities can be significantly enhanced within the Union's multi-level framework of governance. Most interesting for the Turkish Cypriot community is the fact that within the EU sub-state, entities can interact directly with other member states in the Council of Ministers meetings via article 146 of the 1991 Maastricht Treaty. This article does not specify that ministers participating in Council meetings should be state ministers. Hence, ministers of federated entities can participate in Council meetings provided that in doing so they are representing the entire country. Countries such as Belgium make full use of this article. Hence, in Council meetings dealing with policy areas which the Belgian Constitution assigns either wholly or predominantly to the regions and communities, representatives of the latter governments, according to a system of rotation, are present in EU Council of Ministers meetings standing for Belgium as a whole. In the 1992 UN 'Set of Ideas' for a Cyprus settlement both communities had accepted the principle that while foreign policy would generally rest with the central level, the sub-state entities could engage in external relations in policy matters falling within their field of competence. The application of this principle within the EU multi-level governance framework could increase the EU's appeal to the Turkish Cypriot community by adding substance to previously discussed UN proposals.

In order to enhance Turkish Cypriot incentives to seek an early settlement within the EU framework, the EU could also encourage Turkish Cypriot participation in the ongoing accession negotiations prior to a settlement. The EU indeed persuaded the Greek Cypriot government to invite Turkish Cypriot representatives to the negotiations. But by extending the invitation through the recognised RoC and only mentioning Turkish Cypriot participation as members of the Greek Cypriot negotiating team, the initiative merely served to further alienate Turkish Cypriot officials and enhance the status of the recognised RoCⁱⁱⁱ. The failed initiative enhanced the perceived importance of full-fledged statehood and indivisible sovereignty within the EU rather than doing precisely the opposite. If instead Turkish Cypriot officials were invited directly to negotiations as 'politically equal' representatives of the *future* Cyprus member state, Turkish Cypriot reactions may well be different.

Another important signal would be the lifting of the EU trade restrictions on northern Cyprus. The effective EU embargo on northern Cyprus since the 1994 ECJ ruling, not only affected dramatically the economy of northern Cyprus but it reinforced the siege mentality in the north. This in turn contributed to the hardening of positions amongst the Turkish Cypriot leadership and confirmed their views that only through recognised statehood could northern Cyprus survive and prosper. The lifting of the trade restriction and the return to the pre-1994 trade practices would reduce the perception in the north that all EU promised economic gains to the Turkish Cypriots are an effective 'bribe' to encourage moderation in their negotiating positions. It would also reduce the perception of the Turkish Cypriot leadership of the importance recognised separate statehood.

Finally, the Turkish Cypriots could feel less threatened by the EU if a detailed discussion of possible transition periods and derogations on the application of the *acquis communautaire* was embarked upon immediately. Temporary restrictions to the application of the *acquis* are possible and have already been agreed upon with most current candidate countries. Furthermore, permanent derogations to the full application of the four freedoms already exist within the EU in cases such as the Swedish inhabited Aaland Islands in Finland, or southern Denmark where there are limits on the property available for German acquisition. In the current accession negotiations, Malta also secured permanent restrictions for the acquisition of second homes on the island.

Commission officials have recently hinted that the EU *acquis* would accommodate virtually any settlement between the two parties so long as there was a single Cyprus EU member^{iv}. Indeed this was a very important signal to the Turkish Cypriot leadership, and the latter explicitly declared that this was one of the factors encouraging the Turkish Cypriot side to embark upon direct talks^v. Derogations to the freedoms of property and settlement are particularly important to the Turkish Cypriots who fear being 'bought out' by their richer Greek Cypriot neighbours. Now that the EU has accepted the possibility of sui generis measures to accommodate the concerns of the Turkish Cypriots, a detailed discussion between the Union and the two Cypriot communities of the precise possibilities for these arrangements could further increase incentives to reach an agreement on the island. The EU could significantly placate Turkish Cypriot fears by suggesting that restrictions could persist until the economic imbalance on the island was redressed or until Turkey also entered the Union.

Motivating Turkey to encourage a Cyprus settlement

It is widely understood that a settlement on Cyprus will to a large extent hinge upon Turkey's own position. European and US pressure were no doubt pivotal in encouraging Ankara to support a re-start of the talks. But what positive incentives could the EU offer to encourage Ankara to genuinely work towards a settlement on the island in the coming months? In addition to a modified EU stance towards the Turkish Cypriots, Turkish attitudes towards Cyprus could alter if the EU's position towards Turkey's membership were clearer.

Full clarity concerning Turkey's future membership is impossible to achieve given the long time perspective of Turkey's accession process. The uncertainty surrounding both Turkey's economic and political reform process and the Union's own shape and size by the time of Turkey's accession, make a detailed mapping of Turkey's accession path impossible to predict. Nonetheless, the problems of uncertainty could be mitigated if Turkey were given a clear signal concerning its own accession. The EU will be unable to give Turkey a fixed date for the initiation of its accession negotiations before Turkey complies with the EU's short and medium term priorities as set out in Turkey's Accession Partnership Document. However, the EU Council in December 2002 could declare its readiness to initiate accession negotiations with Turkey after a set period of time *following* Turkey's fulfilment of the Copenhagen criteria. Such a declaration, while not granting Turkey a more advantageous treatment compared to other candidates, which indeed fulfilled the Union's criteria prior to accession negotiations, could nonetheless give Ankara a strong signal concerning the goodwill of the Union.

Motivating the Greek Cypriots to settle the conflict prior to EU membership

While there are no explicit signals of Greek Cypriot 'intransigence' it is nonetheless critical for the EU to do its utmost to ensure sufficient Greek Cypriot goodwill to reach an agreement through mutual compromise. Re-applying conditionality to the RoC with respects to a settlement of the conflict is not an option. A just and long-lasting settlement of an ethnic conflict cannot be the result of one party's policies alone. Hence, for the same reasons why it would be undesirable for Turkey's future EU membership to be hostage to a Greek and Greek Cypriot insistence on a settlement, it would be equally unjust for Greek Cypriot EU membership to depend upon Lefkosa and Ankara.

However the EU could induce Greek Cypriot authorities to openly embrace some already accepted provisions concerning a future Cyprus settlement. The vague wording of the Helsinki conclusions could be specified in greater detail^{vi}. The EU could demand a Greek Cypriot declaration in favour of several principles of a future settlement as a condition of EU membership. These principles would not depart from general UN ideas on a Cyprus settlement. They would include concepts such as those of bi-zonality, bi-communality and political equality between the two communities within a unified island as defined in Boutros Ghali's 1992 Set of Ideas for example. The EU could also ask the Greek Cypriots to accept Turkish Cypriot participation in EU negotiations as the 'future representatives of the Turkish Cypriot constituent state' on a par with them. Finally, it could encourage the Greek Cypriot government to accept that any future security arrangement for Cyprus within the EU would be all-inclusive and thus comprise Turkey as well.

All these conditions should be acceptable in principle to the Greek Cypriots, in so far as they have already endorsed them in the past in the context of the UN. Nicosia should not view these conditions as betrayal by the EU, which would leave the Greek Cypriots 'hostage' to the Turks. The prospect of EU membership could in fact be considered as facilitating a Greek Cypriot acceptance of these principles. Precisely because of the considerable political and security gains accruing to the Greek Cypriots upon EU entry (which induced the RoC's application to EU membership in 1990), notions such as bi-communality, bi-zonality and political equality, official Turkish Cypriot participation in EU negotiations and Turkey's participation in Cyprus' future security system should be more acceptable to the RoC.

A formal Greek Cypriot acceptance of these conditions could increase Greek Cypriot incentives to broker a settlement prior to EU membership. By clearly accepting in the context of the EU several guidelines of a future settlement, which dismiss unitary state solutions and accept a continuing involvement of Turkey in Cyprus, Greek Cypriot incentives to reach a settlement before EU membership could increase. By agreeing upon the guidelines of a future settlement, the Greek Cypriot government would necessarily abandon all hopes for a radical reversal of the status quo in its favour post membership. As such it may be more inclined to push for an agreement in the forthcoming months. It would also create additional incentives on the Turkish Cypriot side, as the latter would be reassured of their compatriots' genuine intentions.

Throughout the 1990s and up until late 2001, the EU variable in the Cyprus conflict failed to trigger a settlement on the island. Yet, with the resumption of direct talks between the two Cypriot leaders, the EU is faced with a unique opportunity to

actively encourage the search for peace in Cyprus. A concerted effort from all of the direct parties to the conflict is of primary importance. However, a shift in EU policies towards Cyprus and Turkey could encourage these efforts. The EU could indeed prove pivotal to a successful conclusion of the current talks, thus acting as the long-hoped for ‘catalyst’ for a settlement of the decades-old conflict in Cyprus.

ⁱ Article 6.1 of the Treaty of the European Union

ⁱⁱ Article 7.3 of the Treaty of Nice, ex article 7.

ⁱⁱⁱ On 12 March 1998, President Clerides formally announced his invitation to the Turkish Cypriots to participate in accession negotiations on the occasion of the European Conference meeting in London. He stated that ‘should the Turkish Cypriot community respond favourably to this proposal they may rest assured that the points of view and opinions of their representatives will be discussed freely, seriously and in good faith, and that the conclusions reached will constitute an important element in formulating the negotiating positions of the Cypriot team’ (Statement by President Clerides relating to Turkish Cypriot Participation, 12/03/1998 www.cyprus-eu.org.cy). The wording of the invitation does not specify any mechanism to ensure an effective participation of the Turkish Cypriot representatives as ‘political equals’ to their Greek Cypriot counterparts.

^{iv} The question of derogations was hinted at both during Rauf Denktas’ meeting with Gunter Verheugen on 27 August 2001 and during Commission President Prodi’s visit to the RoC House of Representatives in October 2001.

^v Conversation with Ergun Olgun and Mumtaz Soysal (both members of the Turkish Cypriot negotiating team) in February 2002

^{vi} The Conclusions of the Helsinki Summit in December 1999 stated that while a settlement was no longer a precondition for Cyprus’ accession, in taking the final decision the European Council would take into account ‘all relevant factors’.